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E-01933A-09-0340

ORIGINAL

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2010 OCT 18 P 2:44

AZ CORP COMMISSION
DOCKET CONTROL

Westfall

Fotowatio

Arizona Corporation Commission
DOCKETED

OCT 18 2010

DOCKETED BY 

T.E.P.

Marana Solar Farm

Docket

Tucson Electric Power Company

One South Church, Suite 2030, Tucson, Arizona 85701
Post Office Box 711, Tucson, Arizona 85702

Philip J. Dion
Vice President, Public Policy

Office: (520) 884-3708
Fax: (520) 545-1471

October 8, 2010

Chairman Kristin K. Mayes
Arizona Corporation Commission
1200 W. Washington St.
Phoenix, AZ 85007

Re: Docket No. E-01933A-09-0340

Dear Chairman Mayes:

Tucson Electric Power Company ("TEP" or "Company") is in receipt of a copy of the letter sent to you by Mr. Rick Westfall dated September 17, 2010. Mr. Westfall's letter is an unfortunate attempt to have the Arizona Corporation Commission ("ACC") insert itself in the middle of his dispute with the City of Tucson and erroneously portrays TEP's communications with Mr. Westfall.

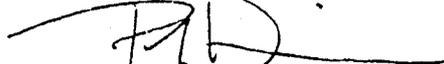
Mr. Westfall is not challenging TEP's Commission-approved solar purchase power agreement with Fotowatio Renewable Ventures ("FRV") (Decision No. 71640 (April 14, 2010)). Nor is he complaining about service provided by TEP or an alleged violation of law by TEP. In fact, Mr. Westfall is not a TEP customer. Mr. Westfall simply does not want the City of Tucson to utilize its property, and he has hired legal representation to aid him in this effort. Apparently, part of Mr. Westfall's legal strategy is to attempt to lure TEP and consequently the ACC into his dispute with the City of Tucson.

Regarding the Company's communication with Mr. Westfall, his letter is incomplete. Mr. Westfall has retained an attorney, and as such, all communication must now be made through the lawyer. Prior to his decision to retain counsel, however, Mr. Westfall was in direct communication with several representatives of TEP, including Joseph Salkowski, Director of Corporate Communications, and Carmine Tilghman, TEP's Director of Renewable Resources, who spoke with Mr. Westfall in February and March (before the April Open Meeting), and again in May of 2010, and then personally met with him on two more occasions.

In his letter, Mr. Westfall references his complaint filed with the ACC. TEP does not believe that Mr. Westfall's complaint has merit or is subject to the Commission's jurisdiction. Mr. Westfall's real complaint is against the City of Tucson.

Please do not hesitate to contact me if you have questions or would like more information.

Sincerely,



Philip J. Dion

Cc: Commissioner Kennedy
Commissioner Newman
Commissioner Pierce
Commissioner Stump
Steve Olea
Elijah Abinah
Docket Control
Rick Westfall



Carmine DeBonis Jr.
Director

Office: 520.740.6506
fax: 520.740.6878

DATE: October 4, 2010

TO: C. H. Huckelberry, County Administrator

FROM: Carmine DeBonis Jr. Development Services Director CD

RE: Fotowatio Solar Farm Project – Response to September 29, 2010 Inquiry

In response to your September 29, 2010 inquiry, the intergovernmental agreement with the City of Tucson relates to building permitting and inspection activities. The agreement essentially provides that each jurisdiction may permit and inspect its own public projects within the other's jurisdiction. The intergovernmental agreement does not cover land use or zoning code compliance.

Typically, a government may statutorily exempt itself from land use regulations for public projects with a governmental purpose. In the case of the proposed Fotowatio Solar Farm, the City is leasing the property to Fotowatio, a private company, who will generate solar power that will be sold to Tucson Electric Power. The City owned property is not being used for a governmental purpose; therefore the project is subject to County land use and zoning regulations.

Regarding an analysis of the validity of the objections raised by Mr. Rosen, the complete objection package will be submitted to the hearing administrator for consideration as part of the conditional use process. The hearing administrator normally conducts a site visit as part of the process and will evaluate the points raised in the objection. The hearing administrator can request additional information from the applicant or staff as deemed necessary to fully assess the proposal.

Please contact me if you have any questions or require additional information.

Attachment

c: John M. Bernal, Deputy County Administrator – Public Works
Lesley Lukach, Deputy County Attorney – Civil Division



MEMORANDUM

Date: September 29, 2010

To: Carmine DeBonis, Jr., Director
Development Services

From: C.H. Huckelberry
County Administrator *CHH*

Re: Fotowatio/Tucson/TEP Solar Farm and the September 22, 2010 Letter from
Attorney Dennis A. Rosen

I would appreciate more information regarding this matter as it is available.

An area of interest is our involvement in the issuance of a conditional use permit. As you know, we have a reciprocal intergovernmental agreement (IGA) with the City of Tucson regarding building codes and, I believe, land issues associated with County properties located in the City and City property located in the unincorporated area.

Does this IGA apply to this property, or is it similar to the circumstance in which the County had to comply with City zoning when leasing the Rillito Racetrack to another party for a particular land use? Is the property in question leased by the City to Tucson Electric Power, and is Tucson Electric Power required to comply with our zoning code; hence, the application and processing of the conditional use permit?

The letter from Mr. Rosen cites three objections being made by the adjacent property owner. What analysis is being undertaken to determine the validity of these objections?

I would appreciate your review and report regarding this matter.

CHH/mjk

Attachment

c: John Bernal, Deputy County Administrator for Public Works

Law Offices of Dennis A. Rosen

Dennis A. Rosen
Gayle D. Reay

1670 East River Road, Suite 124
Tucson, Arizona 85718-8900

TELEPHONE:
(520) 319-9191
FACSIMILE:
(520) 319-8284

September 22, 2010

Carmine DeBonis, Jr., Director
Tina Whittemore, Chief Zoning Inspector
PIMA COUNTY DEVELOPMENT SERVICES
201 North Stone Avenue, 1st Floor
Tucson, Arizona 58701-1207

*Via Certified Mail and
Email director@dsd.pima.gov
and Email tina.whittemore@dsd.pima.gov*

Re: Fotowatio/Tucson Water/TEP Solar Farm
Northwest Corner of West Emigh and North Sanders (305 Acres)

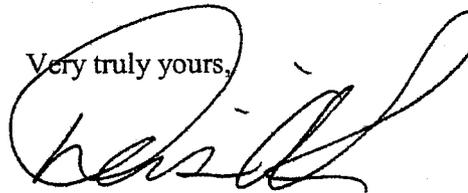
Dear Mr. DeBonis and Ms. Whittemore:

Our office has been retained by the contiguous adjoining landowner of approximately ten (10.06) acres, who is opposed to the enclosed Application for Conditional Use Permit filed by Tucson Water and/or others for this property.

I am enclosing a booklet that shows the impact to my client's property which, contrary to the Application for Conditional Use Permit, certainly will affect my client's current residence, at least in the following manner:

1. Glare. There will be glare generated into my client's property;
2. Privacy. Because employees will be walking along the fence and there will be security cameras, my client's privacy will be impacted;
3. Diminished Value. As you can see from the enclosed booklet, looking at what will be the planned project, will severely impact my client's enjoyment of their residential property.

Very truly yours,



Dennis A. Rosen

DAR:acr
Enclosure

c: Charles H. Huckelberry, Pima County Administrator, *Via Email* chh@pima.gov



ZONING ENFORCEMENT DIVISION
201 N. Stone Avenue, 1st Floor
Tucson, Arizona 85701-1207
(520) 740-6675

APPLICATION FOR CONDITIONAL USE PERMIT

OWNER: Tucson Water (Contact: Asia Philbin) PHONE: 520-837-2240

ADDRESS: 310 West Alameda Street CITY: Tucson ZIP: 85701

APPLICANT (if not owner) FRV Tucson Solar, LLC PHONE: 415-728-4334

APPLICANT EMAIL ADDRESS: shilpa.shah@frv.com s/arson@RBF.com (520) 396-0012

ADDRESS: 44 Montgomery Street, Suite 2200 CITY: San Francisco ZIP: 94104

PROPERTY ADDRESS: NW Corner of W. Emigh & North Sanders (no site address) ZONE: RH

TAX CODE(S): 215

TOWNSHIP, RANGE SEC.: T12S, R11E, SEC20

LOT DIMENSIONS: 5280' x 2640' LOT AREA: 305 acres

TYPE OF USE PROPOSED FOR PROPERTY (BE SPECIFIC) : See attached response

STATE THE REASONS WHY THE USE IS PROPOSED AND WHY YOU THINK IT WOULD BE COMPATIBLE WITH THE SURROUNDING AREA:

See attached response

ESTIMATED STARTING DATE: November 2010 ESTIMATED COMPLETION DATE: December 2011

THE FOLLOWING DOCUMENTS ARE REQUIRED:

1. Preliminary Development Plan
 - a. 5 copies are needed for Type I (\$834.00 zoning fee)
 - b.** 10 copies are needed for Type II (\$1532 zoning fee)
 - c. 10 copies are needed for Type III (\$1961.00 zoning fee)
5 - 24" X 36" and 5 - 11" X 17"

(Make check payable to Pima County Treasurer)
2. Assessor's Map showing location and boundaries of the property.
3. Assessor's Property Information showing ownership of the property.
4. Letter of Authorization if applicant is not the owner
5. Floor Plan that pertains to interior access or use if required
6. Biological Impact Report ** - For Type 2 or 3 permit requests

I, the undersigned, represent that all the facts in this application are true to the best of my knowledge.

Timothy Lascker
Signature of Applicant

9/15/2010
Date

Timothy Lascker
Print Name

415-229-8812
Applicant Phone Number

Applicant agrees to provide staff with written proof of notice to the United States Fish and Wildlife Service of this conditional use request at least 15 days prior to the date of the public hearing. Failure to do so may result in cancellation of the public hearing. In addition, the applicant or authorized representative must appear in person at the public hearing to present the request, otherwise the case may be dismissed.

Please initial here: TJL

OFFICE USE ONLY

Case #: _____ Case Title: _____

Type: _____ Fee: _____ Receipt Number: _____ Hearing Date: _____

Notification Area: _____ Sections: _____

Zoning Approval: _____

Special Conditions: _____

A request for continuance of an advertised application or a change in original request by applicant, must be accompanied by an additional fee.

** Applicant should consult with Pima County Planning staff to determine the extent to which this requirement applies to the subject property. The Biological Impact Report pertains to expected impacts on endangered and threatened species as identified in the Sonoran Desert Conservation Plan.

Type of Use Proposed For the Property (Be Specific)

FRV Tucson Solar (FRV) is pleased to submit this application for a Conditional Use Permit for the development of a solar generation facility in Pima County. We appreciate staff's guidance to date on the review and comment for the conceptual site plan as well as their direction regarding the submittal of this Conditional Use Permit application.

The subject property is approximately 304.578 gross acres and is generally located north and west of the northwest corner of Sanders Road and Emigh Road. The property is currently zoned Rural Homestead (RH) which generally provides for very low density residential housing and limited commercial uses on a minimum lot size of 4 acres. The solar generation facility is permitted in the RH zone with a Conditional Use Permit.

FRV is proposing to construct a 20 megawatt (MW), emission-free solar photovoltaic (PV) solar energy generation facility on the 305-acre site currently owned by Tucson Water. FRV will lease the property from Tucson Water. The system will generate solar power that will be sold to Tucson Electric Power (TEP) to fulfill its Renewable Energy Standard and Tariff (REST) requirements. The system will generate over 50,000 MWh of solar power annually, enough to power 3,500 homes. Power generated from this facility will be delivered to the electricity grid approximately ½ mile from the subject property.

FRV has obtained Arizona Corporation Commission (ACC) approval for the project and hopes to begin construction on this site in December of 2010 and have the system operational one year later in December of 2011.

The proposed technology for the FRV site includes PV solar panels mounted on horizontal axis trackers that rotate with the sun's position in the sky to optimize electricity production. The typical photovoltaic array is 409 square feet. At their tallest orientation, the panels will be 6-8 feet high depending upon final system design and tilt position at a given time in the day. PV solar panels absorb light so there will be no glare and the trackers operate with little to no noise. Construction activity will generate noise from drilling when the foundations are prepared on site.

The PV system will cover approximately 250 acres of the 305 acre site. Fifty-five acres or 18% of the site is designated as open spaces and landscape buffer areas. Buffer yards are provided on all sides of the project and are consist with the setback requirements prescribed by the RH zoning district.

Vehicular access is provided from Sanders Road leading to a small substation and operations and maintenance building located on the east side of the subject property. There will be no vehicular access proposed from Emigh Road which therefore minimizes vehicular activity and intrusion to the handful of homes to the south of the subject property.

The FRV site will generate 200-250 jobs during the construction of the facility. Once the system becomes operational, 6-8 permanent jobs will be created for maintenance and security of the facility.

State the Reasons Why The Use Is Proposed and Why You Think It Would Be Compatible With The Surrounding Area

FRV is proposing this use to develop a PV solar generation facility in order to assist in meeting the increasing demands for electricity in Arizona and the continued emphasis by elected officials and industry leaders statewide in promoting renewable energy as a supportive source of energy in the future of Arizona. The physical characteristics of this property, proximity to existing electrical grid and the rural location with limited adjacent residents collectively suggest this to be an ideal location for a PV solar generation facility.

There are numerous reasons why this proposed facility is compatible with the surrounding area and therefore supportive of a Conditional Use Permit approval from Pima County:

1) The solar generation facility site design meets or exceeds the development standards of the RH zoning district - all building setbacks far exceed the RH district requirements. All PV units are setback 616 feet from the west property line, 162 feet from the south property line, 130 feet from the north property line and 100 feet from the east property line. This far exceeds the code requirements of 50 feet for front and rear and 20 feet for sideyard setbacks. All equipment is low in massing, scale and height of equipment as noted above and is well below the prescribed standards for the RH zoning district.

2) The site will be secured from adjacent properties – 55 acres of the site (18%) is designated as open space. Enhanced vegetation will be provided in the landscape buffer areas with denser plantings of trees and shrubs adjacent to the limited adjacent residential homes. A Plant Preservation Plan mitigating Pima County protected plants will be implemented. An invasive species Control and Eradication Plan will be implemented. The site will be secured with a 6-foot chain link fence.

3) Operation characteristics – no nuisance to neighbors.

Noise - The trackers for the solar arrays generate very little sound and when coupled with the large setbacks noted, will not negatively impact surrounding property owners. Normal noises from construction activity will occur.

Glare - PV solar panels absorb light so there will be no glare generated from the solar panels.

Dust – the site was under agricultural production which is a large dust contributor. Some dust will occur during construction activity, but will conform with County dust abatement requirements and the property will be revegetated to minimize the generation of dust from occurs on the site today.

Traffic – vehicular access is provided from Sanders Road and therefore not conflicting with residential traffic utilizing Emigh Road. Once the site is operational, access to and from the site will be very limited.

Security – the site will be continually monitored for by the 6-8 employees day and night. The site is secured by a 6-foot chain link fence and will also be monitored with security cameras.

4) Environmental Considerations – The east branch of the Brawley Wash occurs along the west boundary of the site and is designated by Pima County as an Important Riparian Area. FRV is specifically maintaining these adjacent areas of their site as open spaces where the densest collection of native plants exists. A biological screening analysis of the site has been conducted and determined that no threatened or endangered species will be negatively affected. No archeological resources were found during the cultural resource inventory. No water is used in the production of the solar power. Water will only be required to wash the panels 1-2 times per year. Landscaping will be low water use species initially on a drip system but weaned off as the species mature.

8855 N Sanders Road
Tucson, AZ 85743

September 17, 2010

Pima County Board of Supervisors
130 West Congress Street, 11th Floor
Tucson, AZ 85701

Attn: Ann Day, District 1
Ramón Valdez, Chairman, District 2
Sharon Bronson, District 3
Ray Carroll, District 4
Richard Elias, District 5

Dear Supervisors,

I'd like to make you aware of "The Marana Project" (as designated by the Arizona Corporation Commission) which is slated to become my next door neighbor. This is the solar farm that will bring adjacent to my property 96,000 solar panels in the very near future. The project is scheduled to begin construction in November or December, 2010.

You, as County Supervisors, will have to approve a Conditional Use Permit that will completely override your County CLS Plan. In addition, your approval of this Project will have a totally negative impact on the value and livability of my home.

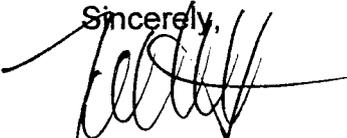
If this Conditional Use Permit is granted, I am told that this will create a Proposition 207 claim on my home and property.

I respectfully request that you review the materials I have enclosed and try and put yourselves in my position.

This will destroy the value of my home and property. I've lived in this county for 43 years. This has been my home, I've raised my children here, and hope to see my grandchildren on this property.

You are my last hope. Please help me.

Sincerely,



Rick Westfall
520-907-6969

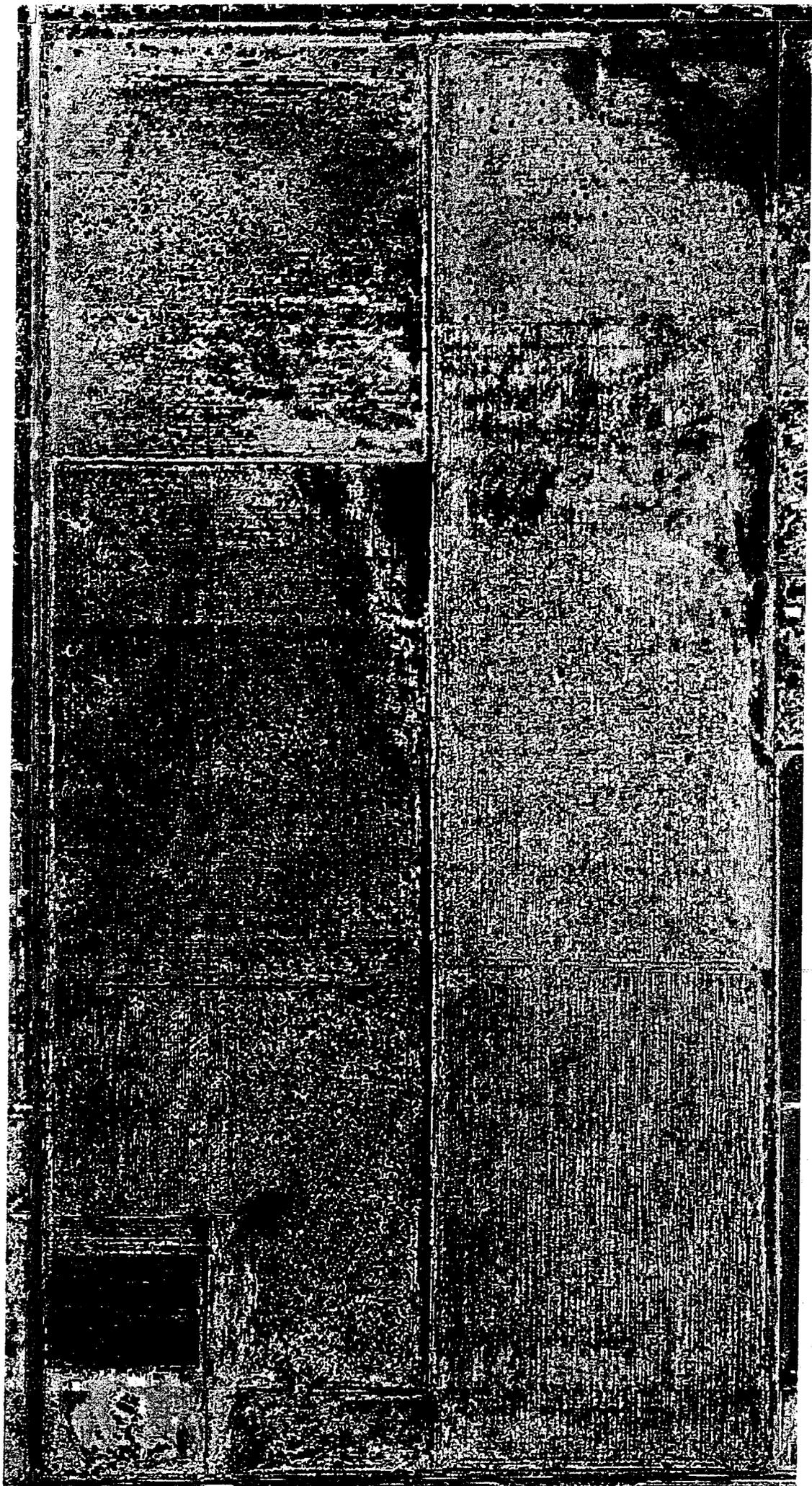
CHU FARM

(approximately 305 acres)

SANDERS

EMIGH

WET



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BEFORE THE ARIZONA CORPORAT

IN THE MATTER OF THE APPLICATION)	DOCKET NO.
OF TUCSON ELECTRIC POWER COMPANY)	E-01933A-09-0340
FOR APPROVAL OF ITS RENEWABLE)	
ENERGY STANDARD AND TARIFF)	AGENDA ITEM NO. U-23
IMPLEMENTATION PLAN.)	
)	OPEN MEETING

RECEIVED
 2010 APR 14 A 11:17
 AZ CORP COMMISSION
 DOCKET CONTROL

At: Phoenix, Arizona
 Date: April 1, 2010
 Filed: APR 14 2010

REPORTER'S TRANSCRIPT OF PROCEEDINGS
AGENDA ITEM NO. U-23

Arizona Corporation Commission
DOCKETED
 APR 14 2010

DOCKETED BY	<i>[Signature]</i>
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ARIZONA REPORTING SERVICE, INC.
 Court Reporting
 Suite 502
 2200 North Central Avenue
 Phoenix, Arizona 85004-1481

By: MICHELE E. BALMER
 Certified Reporter
 Certificate No. 50489

Prepared for:

ACC

ORIGINAL

1 BE IT REMEMBERED that an Open Meeting was held at
2 the Arizona Corporation Commission, 1200 West Washington
3 Street, Phoenix, Arizona, commencing at 10:00 a.m. on the
4 1st day of April, 2010.

5

6 BEFORE: KRISTIN K. MAYES, Chairman.
7 GARY PIERCE, Commissioner (Telephonic)
8 PAUL NEWMAN, Commissioner
9 SANDRA D. KENNEDY, Commissioner
10 BOB STUMP, Commissioner

11 Shaylin Bernal, Secretary
12 Carolyn Buck, Secretary

13

14 PARTICIPANTS:

15 For the Arizona Corporation Commission:

16 Mr. Robert Gray

17

18 For Tucson Electric Power Company:

19 Mr. Philip J. Dion
20 Mr. David Hutchens

21

22

23

24

25

MICHELE E. BALMER
Certified Reporter
Certificate No. 50489

1 (10:50 a.m.)

2 CHMN. MAYES: We'll go to 23, TEP's application
3 for approval of its RES plan, contracts and projects, and
4 that is a Staff item as well. Mr. Gray.

5 MR. GRAY: Madam Chair, Commissioners, Bob Gray
6 with Commission Staff. This item is a filing by TEP
7 requesting approval of a number of purchased power
8 agreements and projects. This stems out of the 2010 TEP
9 REST plan filing that the Commission addressed at the
10 January Open Meeting. And Staff has reviewed the projects
11 and is recommending that the Commission not provide full
12 approval, but that the Commission identify that the
13 projects are compatible with TEP's energy portfolio and
14 that they meet the definitions of eligible renewable
15 energy resources under the REST rules.

16 Staff further recommends that the Commission not
17 find -- make findings on the prudence or provide a full
18 approval of the contracts at this time.

19 CHMN. MAYES: Okay. Thank you, Mr. Gray.

20 And Mr. Dion, and then we have someone who has
21 come to provide public comment on this item, too.

22 MR. DION: Thank you, Madam Chairman. Phil Dion
23 on behalf of Tucson Electric Power. We support this. We
24 look forward to moving -- look forward to moving forward
25 on these projects. I appreciate Staff's effort on this as

1 well.

2 CHMN. MAYES: Okay, thank you. And then I have
3 Rick Westfall. Rick, and thank you for coming back. I
4 know you also had to stay and -- or came yesterday, and we
5 got behind schedule. So we apologize for that.

6 MR. WESTFALL: Thank you, Madam Chairman,
7 Commissioners. My name is Rick Westfall. I live at 8855
8 North Sanders in Tucson, Arizona. I am adjacent to the --
9 and I'm going to refer specifically to the TEP solar farm,
10 because I don't have any other name for it.

11 CHMN. MAYES: The Marana project.

12 MR. WESTFALL: The Marana project. If any of you
13 have seen a site map, you will understand that this
14 literally encompasses my entire property and my back door,
15 which I have lived at for almost 17 years.

16 When I started to find out about this, literally
17 within this year, and the lease was approved on
18 February 17, I began gathering information. TEP was very
19 cooperative. Carmine Tilghman was extremely helpful.
20 Fotowatio, who is the developer for other words, has
21 contacted me this week and provided some things for me.

22 With that in mind, I sent multiple e-mails and
23 phone calls to each of you and only received response from
24 two or three of you. Others I have not received anything
25 yet. Chairman Mayes, Commissioner Kennedy, and

1 Commissioner Pierce responded. Mr. Newman, I have heard
2 nothing from your -- Commissioner Newman, I have heard
3 nothing from your office or Commissioner Stump.

4 COM. NEWMAN: We're hear today listening to you
5 interact.

6 MR. WESTFALL: So what I have tried to do is
7 gather as much information about this project as I can,
8 because I have concerns about my family, my property, and
9 my community. With that, we've been seeking information,
10 and slowly but surely we've started to receive some.

11 Some of the things that are very promising is
12 that it's going to create literally a new job field in
13 this community. I know that the county and the City of
14 Tucson, the Town of Marana, everyone has a stake and an
15 interest in this. And it would have been nice if we had
16 known a little sooner some more about it, some of the
17 things that are taking place and what is happening.

18 I don't think that it affects near the people
19 that it normally would, but literally I am the only
20 adjacent property owner to this piece of property, and at
21 this point haven't had the opportunity to discuss it with
22 very many people, or really get any hard answers or see
23 what is going to be there. But if it continues, there's
24 going to be 96,000 of their PV panels become my immediate
25 neighbors in the very near future. And I would like to be

1 able to find out a little more about it. We're obviously
2 headed that way and green is going to be good, but as I
3 sat here yesterday -- and I must admit, I have never
4 attended a Corporation Commission meeting before. I'm
5 amazed today to see that Mr. Dion is even standing and not
6 in a full body cast. But with that said --

7 COM. NEWMAN: He was treated very nicely
8 yesterday.

9 MR. WESTFALL: You scared John Q. Public to
10 death. There's plenty of suits in here, and I was trying
11 to run the tally in my head. They need to sit on each
12 side so I can see who is on the teams.

13 I'm just amazed that you're standing, and I hope
14 I never meet you in an alley.

15 With that said, this is obviously where we're
16 headed. We need to be sensitive to the people that are
17 involved. It needs to be a win/win situation for
18 everybody, and I appreciate that.

19 Those are my comments and my feelings, and I
20 wanted to make sure that they were part of the record.

21 CHMN. MAYES: Okay. And we appreciate you coming
22 up and taking the opportunity to provide public comment.
23 And as for Mr. Dion, we do put these guys through their
24 paces. We put utilities through their paces, but there's
25 a lot of members of the public here, and I think they

1 would want us to do that. So if he's a little beat up,
2 then, well, that's what the Constitution calls for.

3 But wait a second, real quickly. Have you
4 received information from the utility and from, I believe
5 it's the City of Tucson, to your satisfaction about the
6 project? I'm a little confused about what you said today.
7 It seems like you're supportive but you have reservations.
8 So if there's information that you're not getting, then
9 maybe we can work on that today.

10 MR. WESTFALL: There has not been any information
11 disseminated at this point, as I understand it.

12 CHMN. MAYES: To you personally or --

13 MR. WESTFALL: There's been discussions that
14 have -- like I said, it did not even begin until
15 February 17, and after -- that was the evening. And I may
16 be off a day or so on the lease, whenever the lease was
17 approved by the City of Tucson.

18 You've got four or five government entities
19 involved here and two private companies, and a large -- as
20 I understand it, this is one of the largest solar projects
21 in the country, and it's just about shovel ready. Short
22 of some permitting, I mean, we're within six or eight
23 months, and it's one of the largest ones in the country.
24 And at this point there's little or no information. And I
25 don't think it's anybody's fault that it's happened. I

1 mean, I don't know what the process is. That's why I'm
2 here and it's why I've tried to contact everybody so I
3 could find out what the process was so I would have input
4 on it.

5 CHMN. MAYES: And let me just -- I'll go to
6 Mr. Dion in a second -- but Mr. Westfall, one of the
7 reasons that there may not have been as much process
8 surrounding this solar project as there might have been a
9 larger one, an even larger one, my guess is it doesn't
10 have to go through our line siting process, which means --

11 MR. WESTFALL: That's what I understand, yes,
12 ma'am.

13 CHMN. MAYES: And it's a legal issue. I mean,
14 it's a pure statutory, legal issue that for only projects
15 that are thermal and 100 megawatts or higher have to go
16 through the siting process. That being said, that doesn't
17 mean that these folks shouldn't have reached out to you.

18 So Mr. Dion, can you react?

19 MR. DION: Madam Chairman, yes, I can. I know
20 that Mr. Westfall has been in contact with Mr. Tilghman,
21 who is in our resource planning division. And I certainly
22 will contact Mr. Westfall to see what else he needs. The
23 other part of the project is the developer's project. And
24 until they lease that land and until they get all of those
25 approvals, I'm not sure the information that they can

1 provide Mr. Westfall. So until those first things begin
2 to happen as far as the movement towards the development
3 of this project, until some of those things are taken care
4 of, then the information that we do have as well is
5 preliminary.

6 But I will work with him. I will work with -- I
7 will continue to work with him. Mr. Tilghman has done
8 some of that. We will continue to that. And as more of
9 these pieces -- as the puzzle gets put together, we'll
10 also have a better snapshot as well. They had to get this
11 land, they had to get the leases, they had to move through
12 the city. There were a number of things that had to be
13 done in order for the project to really begin to take its
14 full shape.

15 CHMN. MAYES: Okay. And we'll go to Commissioner
16 Newman. He's on the board.

17 But Mr. Westfall, so your property is -- abuts
18 the project directly, or can you describe that a little
19 more?

20 MR. WESTFALL: If you will take -- does somebody
21 have a blank piece of paper, and I can show you very
22 quickly. I'll be happy to give this to whoever would
23 like.

24 If this is a 305-acre piece of property, I own
25 the southeast corner at the section corner, everything.

1 COM. NEWMAN: How big is your property?

2 MR. WESTFALL: Mine is 10.6 acres. And the way
3 that they've come so far -- and again, my purpose here
4 today is not to lay blame with TEP. That's not it. TEP
5 has cooperated to this point. Everybody -- it's like
6 dancing with a couple of 800-pound gorillas. Everybody is
7 trying to figure out how to get this done, but everyone is
8 afraid to make the first move until they see where
9 everything is headed.

10 I have no complaints with anyone at this point,
11 other than maybe in the next project they should be out
12 working with the community. And I don't mean just them.
13 I mean whoever it is. There's a lot of pieces to this
14 deal.

15 CHMN. MAYES: Yeah.

16 MR. WESTFALL: There is a lot. But as I said,
17 we're in a very beautiful rural setting. I have thousands
18 of acres around me that are vacant and have been that way.
19 And like I said, I'm going on 17 years. I have raised my
20 family there. This is -- I have been in this community
21 for 30 years down there.

22 I am concerned about 96,000 neighbors, which is
23 how many PV panels are going to be going up, that's a
24 given, and how it's going to be handled. That's not a
25 problem for TEP. It's not a problem for Fotowatio. It's

1 a feeling that I have that I'm concerned about, and I want
2 to make sure that it's in the record somewhere.

3 When I started having a little consternation was
4 when I was trying to find more information, and I didn't
5 get it. I mean, TEP did what they could. Fotowatio did
6 what they could. Mr. Gray -- is that correct? -- was very
7 helpful. I spoke with him and he was very helpful, so
8 your Staff has worked well. There's just a few things
9 that could be smoothed out somewhere.

10 And it's a huge project. I mean, it may not be
11 huge in terms of what TEP does or UniSource or whatever,
12 but to me it's gigantic.

13 CHMN. MAYES: Okay. Commissioner Newman.

14 COM. NEWMAN: Yeah. I just wanted to -- I also
15 wanted to give you a perspective a little bit about how
16 these plans come about. The utilities have a lot of
17 discretion on how they're going to meet our mandate of
18 getting more renewable energy by certain dates. And yes,
19 we have plans and we work with Staff on plans, but in
20 many, many cases we -- well, in all cases we don't --
21 we're not involved in the negotiations over those plans.
22 The first time we sit down is in hearings and talk about
23 what they're doing and what they're not doing and reject
24 or accept their plans.

25 So, you know, I knew about this project because,

1 actually, I had talked to -- the mayor of Tucson is
2 actually interested in this project, too, and so I had
3 known about this project. But where it was or how it was,
4 I don't know.

5 What I was going to ask you about was you're not
6 saying that you're against the project per se, but would
7 you have setbacks? Or what is it that would make your
8 life easier, if there is anything that can make your life
9 easier. I just want to -- I need to ask you that
10 question.

11 MR. WESTFALL: And I guess at this point I can't
12 answer that question, because I haven't seen anything
13 other than a picture.

14 COM. NEWMAN: Okay.

15 MR. WESTFALL: I know that in my discussions with
16 Fotowatio, I asked for them to arrange for us to visit a
17 site similar that would be representative of what we're
18 going to get. I guess in -- there's other people that
19 need to be involved because of the way the property line
20 is fit, but really, I am the only adjacent property owner.
21 Everything else has natural boundaries or manmade
22 boundaries that prohibit them from that. Like I said,
23 this is the property. That's all there is to it.

24 COM. NEWMAN: Well, I'm a former county
25 supervisor, a former legislator, so I'm looking at this

1 from sort of a zoning standpoint of would you want to see
2 the solar systems from your backyard, or would you like to
3 be walled? That's an example of something --

4 MR. WESTFALL: Again, I think we're getting the
5 cart before the horse there, but there's going to have to
6 be something that is done to cover that. There is some
7 extra property in this section that is not being
8 completely utilized, but I don't -- in part with this
9 approval, and I think everything is hinged on today's
10 approval, yesterday's approval, whatever it is.

11 And I'm not even sure the approval is an
12 approval. I mean, when you read it, you're not sure if
13 it's approved or not approved, and we're expecting these
14 people to invest hundreds of millions of dollars and
15 there's really no real guidance for them. We kind of like
16 it, but we don't like it, and we're not sure that you're
17 paying the right price, but maybe you should go ahead and
18 do it anyway.

19 COM. NEWMAN: Well, these projects that are
20 picked by TEP have been -- there are thousands of projects
21 out there in Arizona, believe it or not, in all of
22 Arizona. There are an incredible amount of people who
23 like to build solar and wind projects here, and only a few
24 get through the cracks. In fact, we have lots of
25 complaints about that.

1 But what I would suggest to you is that because
2 it's proprietary involving the contract that will be
3 signed by TEP with another -- several other entities, most
4 likely, that you almost have to work with them. But you
5 have my good faith statement today saying that, you know,
6 I will make sure -- I'm actually going to make sure that
7 Mr. Dion works with you, because I understand what you're
8 facing.

9 And it will also go through the Tucson
10 authorities as well that will have setback requirements.
11 And I know for something like this, on the County Board of
12 Supervisors, we would have been looking at fencing, you
13 know, appropriate fencing, nice fencing, you know, things
14 like that to help. But that is something that is going to
15 have to be passed to the mayor and council and the
16 Planning and Zoning Commission of Tucson. So yes, it's
17 going to be a long process.

18 But to say that these projects won't go ahead,
19 they're speculative in some ways because there needs to be
20 capitalization, everything needs to all fit together. But
21 if TEP is saying yes to this project, they think it's a
22 really good project, they've reviewed hundreds of
23 projects, and this project came to the top of the fore,
24 for whatever reason. So it will, in all likelihood,
25 happen if this economy provides enough capital for this

1 project.

2 So you have my office now to talk to about --
3 make sure that everyone's dotting their i's and their t's
4 at the planning commission, and I will work with Mr. Dion
5 to make sure that happens. I'm doing that just because I
6 think I should.

7 MR. WESTFALL: Commissioner Newman, I appreciate
8 it. I think you're the only one south of Maricopa.

9 COM. NEWMAN: Yes. I'm sort of the southern
10 Arizona.

11 MR. WESTFALL: And being from Bisbee, you
12 understand our lifestyle and how things are.

13 COM. NEWMAN: Yes.

14 MR. WESTFALL: And I live on a very unique piece
15 of property. Again, TEP has not done anything that's
16 wrong. I'm not here to complain about the way they've
17 done things. As I said, I will commend Carmine Tilghman.
18 He's done a good job. The issue is that we've got a town
19 that wants to annex it because they want to be green.
20 We've got a county that wants to keep it because they want
21 to be green.

22 COM. NEWMAN: I was thinking about that.

23 MR. WESTFALL: We've got the City of Tucson that
24 wants to participate because they get a little revenue
25 from some property. And I'm really the only one that's

1 getting affected in all of this. And so I just wanted to
2 make sure that there was a record here. There's seven
3 800-pound gorillas and me, and I can't really hold my own
4 against those seven.

5 CHMN. MAYES: Well, I think so far you have. And
6 we are making a record. Your words are being transcribed.

7 Commissioner Kennedy has a question.

8 COM. KENNEDY: Madam Chairman, Mr. Dion, I'm not
9 sure if I missed this or not. Can you kind of walk me
10 through TEP's process for working with adjacent landowners
11 on projects such as this?

12 MR. DION: Madam Chairman, Commissioner Kennedy,
13 essentially it's very similar to the process that you will
14 see and you do see in the CEC process. It's basically
15 that same process.

16 I think the gentleman to my left has done an
17 excellent job in showing how this one is a lot different
18 than some of the normal CEC processes that we have.
19 There's a good deal of government interest that has
20 affected and will continue to affect this process.

21 But I do commit to -- we will continue to work
22 with him, and that's in our best interest to do that, as
23 well as his.

24 COM. KENNEDY: Okay. Madam Chairman, Mr. Dion,
25 so I'm hearing you say that he missed his phone call or he

1 missed his letter in the mail saying that this project was
2 going to commence?

3 MR. DION: No. Let me move that to Mr. Hutchens
4 on that particular question.

5 MR. HUTCHENS: Chairman Mayes, Commissioner
6 Kennedy, this project isn't really a project until we vote
7 this approval, and that's really when the clock starts
8 ticking and that's when we would really be getting
9 involved with folks like Mr. Westfall.

10 So in this sort of design and concept phase, we
11 haven't been doing a lot of outreach. So there's plenty
12 of time. I know we want to break ground on this as quick
13 as possible, but there's plenty of time for that
14 discussion and make sure that we mitigate any effect that
15 it might have on Mr. Westfall and his property.

16 So once we say yes on this contract, then
17 Fotowatio and their folks are really going to start
18 cranking to get this done, and that's sort of when the
19 process really begins.

20 COM. KENNEDY: I understand that. I think you're
21 missing just a small piece of the puzzle. There have been
22 communications, or many communications, with lots of
23 people but Mr. Westfall or landowners around that area.
24 And I guess I'm just trying to figure out, you have been
25 communicating with governmental entities but not with

1 landowners? I just want to make sure I'm hearing that.

2 MR. HUTCHENS: Chairman Mayes, Commissioner
3 Kennedy, that's correct. We were trying to make sure that
4 this was a viable site, which meant we had to get the City
5 of Tucson who actually owns the land in the county, with
6 the City of Marana looking, you know, for annex
7 possibilities, et cetera. So we were working with those
8 folks to see whether or not this was even a viable site.
9 So we really have, to date, just got to the point of
10 whether or not this project is viable.

11 Now as soon as we -- and contractually, it
12 doesn't mean anything until we get the Commission
13 approval. After that, boom, we're off to the races. We
14 start contacting these people.

15 Now, let me caveat that with we're new to these
16 huge solar developments, as you all know. This is a very
17 big project. And we are getting some lessons learned, and
18 one of those that's coming loud and clear is we've got to
19 make sure that when we're looking at these properties,
20 whether it's us or developers, we need to make sure that
21 on the front end we're looking and seeing who we might
22 affect in adjacent property owners. And we will take care
23 of that going forward on additional projects which we hope
24 to bring to you soon.

25 COM. KENNEDY: Okay. One more question. Is

1 there anything that precludes the county, the city, TEP,
2 from doing a community outreach during the concept or
3 design phase?

4 MR. HUTCHENS: Chairman Mayes, Commissioner
5 Kennedy, no, there's not, and that's the lesson learned.

6 COM. KENNEDY: Okay. I just wanted to hear that.
7 Thank you.

8 CHMN. MAYES: Thank you, Commissioner Kennedy.

9 Thank you, Mr. Westfall. And if you could be in
10 contact with us in the future, if you have any other
11 issues, I would be very interested to see how your issues
12 are resolved by the company.

13 MR. WESTFALL: Thank you very much. I appreciate
14 your time.

15 CHMN. MAYES: Okay.

16 COM. NEWMAN: Thanks for coming up.

17 CHMN. MAYES: All right. I don't see any other
18 public comment.

19 I do have just a real quick question of Mr. Dion.
20 So you said that you support the item. And do I take it,
21 then, that that means that you will move forward with the
22 execution of the contracts that are at issue in the order?

23 MR. DION: Madam Chairman, we are ready, willing,
24 and able, yes.

25 CHMN. MAYES: Is that a yes?

1 MR. DION: Yes.

2 CHMN. MAYES: So these projects will move
3 forward, and they will be a part of your compliance with
4 the Renewable Energy Standard.

5 MR. DION: Yes.

6 CHMN. MAYES: Okay. Is there any reason for
7 hesitation in that answer?

8 MR. DION: The only caveat, Madam Chairman, is
9 that now this moves to the development part of the stage,
10 and so there's some things that if for some reason the
11 developer doesn't want to move forward, that's the only
12 qualified yes I would just like to make for the record.

13 CHMN. MAYES: Okay. All right. So did you move
14 it? I wouldn't let you move it. That's right. You tried
15 to.

16 COM. KENNEDY: Madam Chairman, I move Item U-23.

17 CHMN. MAYES: Okay. U-23 has been moved by
18 Commissioner Kennedy. Any other comments or questions?
19 Everybody okay? Okay.

20 Madam Secretary, please call the roll.

21 SECRETARY BUCK: Commissioner Kennedy.

22 COM. KENNEDY: Aye.

23 SECRETARY BUCK: Commissioner Stump.

24 COM. STUMP: Aye.

25 SECRETARY BUCK: Commissioner Newman.

1 COM. NEWMAN: Madam Chair, I was going to ask a
2 question or two. I perhaps missed my opportunity because
3 we're voting.

4 CHMN. MAYES: Yes, we are.

5 COM. NEWMAN: Well, I'm going to vote yes on
6 this, and I'll try to explain my vote with the issues that
7 I think also need to be addressed, which is I noticed in
8 this first cut of projects that have made the cut for
9 whatever reason, however your internal ratings in your
10 organization, you know, get you to the 2.5 percent
11 renewable energy by 2010, which is what we will do today.

12 As you know, I have had concerns regarding what I
13 think is a promising project in Pima County's project.
14 And you can't respond to me now, but I just wanted to make
15 sure that it's on the record that back on March 26, 2010,
16 Chuck Huckleberry wrote the ACC a letter. I never spoke
17 to Mr. Huckleberry personally, but have been trying to
18 respond to his letter.

19 His letter requests that the ACC allows -- would
20 allow \$6- to \$12 million in TEP's unused residential RES
21 funds for projects involving aggregated net metering,
22 which could help the taxpayers of Pima County.

23 So I vote yes on this, but I am not happy that we
24 have not progressed with Pima County's desire to try to
25 set up an aggregated net metering, which I think is to the

1 benefit of many, many taxpayers in Pima County. I know
2 you can't respond to it now, but I would like a response
3 in a letter.

4 And I vote yes.

5 SECRETARY BUCK: Commissioner Pierce.

6 COM. PIERCE: I vote aye.

7 SECRETARY BUCK: Madam Chair Mayes.

8 CHMN. MAYES: Well, I appreciate especially the
9 hard work of Mr. Gray for analyzing these projects. I
10 appreciate the company for putting them forward. I think
11 that they -- obviously, they comport with the vision of, I
12 think, both the company and the people of Pima County and
13 the folks who count themselves customers of TEP to do a
14 lot of solar energy in the load pocket. I think people
15 are interested in seeing solar projects close to them.
16 Maybe in one case it's a little too close for comfort, but
17 hopefully we can work through some of those issues.

18 You know, this will help TEP come into compliance
19 with the Renewable Energy Standard, but I think it's
20 important to remember how modest our standard is. Right
21 now our utilities will be doing a couple of percentage
22 worth of renewable energy, while the utilities in
23 California are doing between 11 and 17 percent renewable
24 energy. So despite the fact that we're moving forward, we
25 are really way behind some other states. Colorado just

1 took their renewable energy standard to 30 percent. Every
2 state surrounding Arizona now has a higher renewable
3 energy standard than ours. So while I think we are moving
4 forward judiciously, there's still a lot more that we
5 could do.

6 I vote aye.

7 By your vote of five ayes and zero noes, you have
8 approved Item No. 23.

9 (Item U-23 concluded at 11:15 a.m.)

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1 STATE OF ARIZONA)
) ss.
 2 COUNTY OF MARICOPA)

3

4 I, MICHELE E. BALMER, Certified Reporter
 5 No. 50489 for the State of Arizona, do hereby certify that
 6 the foregoing printed pages constitute a full, true and
 7 accurate transcript of the proceedings had in the
 8 foregoing matter, all done to the best of my skill and
 9 ability.

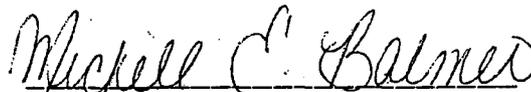
10

11 WITNESS my hand this 10th day of April, 2010.

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MICHELE E. BALMER
 Certified Reporter
 Certificate No. 50489

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ARIZONA CORPORATION COMMISSION
UTILITY COMPLAINT FORM

Investigator: Jenny Gomez

Phone: (520) 628-6550

Fax: (520) 628-6559

Priority: Respond Within Five Days

Inquiry No. 2010 - 88706

Date: 8/18/2010

Complaint Description: 19Y Other - Elec Dereg - Renewable Resource Portfolio
10Z Construction - Other

Complaint By: First: Rick Last: Westfall

Account Name: Rick Westfall

Home: (520) 907-6969

Street: 8855 N. Sanders Rd.

Work:

City: Tucson

CBR: rawestfall1@yahoo.com

State: AZ Zip: 85743

is: E-Mail

Utility Company: Tucson Electric Power Company

Division: Electric

Contact Name: [REDACTED]

Contact Phone: [REDACTED]

Nature of Complaint:

Tucson Electric Power has entered into a PPA with FRV. FRV has entered into a long term lease with Tucson Water and the City of Tucson for 305 acres to construct a PV solar facility. This facility will be connected to my property without any barriers, I am the only adjacent property owner to the site. I have contacted all of the parties about this project. This project and its location are going to ruin my property and have an adverse effect on it's value. My quality of life will be ruined by this project. I have lived on this property since 1993. I spoke in open session at the ACC hearing on April 1 2010. I feel this project is in direct violation of AZ Prop 207 2006.

When customer contacted TEP what was your response to customer? Please provide a copy of your response to customer.

Customer stated that he feels this project is in direct violation of AZ Prop 207 2006. Is this project in violation of AZ Prop 2006? Please explain.

Please contact customer and respond to ACC.

End of Complaint

Utilities' Response:

When customer contacted TEP what was your response to customer? Please provide a copy of your response to customer.

Mr. Westfall is not a Tucson Electric Power Company (TEP) customer. Moreover, his complaint is not related to service provided by TEP or a violation of law by TEP. Therefore, TEP believes that Mr. Westfall's complaint to the Arizona Corporation Commission (Commission) does not warrant investigation as it is a private property dispute between Mr. Westfall and Tucson Water.

That being said, TEP has been in regular communication with Mr. Westfall since February of 2010. The Company is aware of his objections to the City of Tucson's and Tucson Water's use of the property adjacent to his home. Mr. Westfall has spoken with several people at TEP, including: Carmine Tilghman, Director of Renewable Energy Resources; Phil Dion, Vice President of Public Policy; Joe Salkowski, Director of Corporate

ARIZONA CORPORATION COMMISSION

UTILITY COMPLAINT FORM

Communications, and Melody Gilkey, Regulatory Counsel. TEP representatives also visited personally with Mr. Westfall at his residence prior to a public meeting in Marana to discuss the solar project in question.

TEP understands Mr. Westfall's position regarding his property; he does not want the solar panels next to his home. However, Mr. Westfall does not own the land adjacent to his property. Tucson Water owns the property and Tucson Water has decided to lease it to FRV. TEP is not a party to the contracts between Tucson Water and FRV. TEP has entered into a Commission approved contract with FRV to buy the solar energy produced at the site, but that is the extent of TEP's involvement in this issue. Moreover, Mr. Westfall was at the Open Meeting where the contract was approved and he was able to voice his concerns to the Commissioners. TEP has communicated all of this information to Mr. Westfall on numerous occasions.

Currently, TEP is contractually obligated to purchase the power FRV produces, the Commission has approved the contract, and TEP needs the output to meet Commission mandated renewable energy standards. TEP cannot cancel its contract with FRV because Mr. Westfall is displeased with Tucson Water's use of its land. FRV has met with residents in the area of the solar site, including Mr. Westfall. TEP was present at the public meeting where FRV committed to Mr. Westfall and at least 20 other residents to make the site visually pleasing. TEP has not received any complaints from the other property owners surrounding the solar site, and is not aware of FRV or Tucson Water receiving any other complaints.

Customer stated that he feels this project is in direct violation of AZ Prop 207 2006. Is this project in violation of AZ Prop 2006? Please explain.

Arizona Proposition 207 was a ballot initiative passed by Arizona voters in 2006 relating to private property rights, condemnations and takings by governmental entities, and just compensation recovery methods. The solar project in question cannot be in violation of Proposition 207. Mr. Westfall's assertion is that Tucson Water leasing its property to FRV is in violation of Proposition 207, but this does not involve TEP or the Commission. Rather, this dispute is between Mr. Westfall and Tucson Water, and as far as TEP is aware, Mr. Westfall is actively engaged with Tucson Water on this issue.

End of Response

Investigator's Comments and Disposition:

8/18/10 Emailed to TEP

I called customer and left a detailed message advising him that I have received his letter and left my name and telephone number.

8/24/10

I received a call from customer and he advised that he has contacted just about every agency in town in reference to this inquiry.

8/25/10 4:00 p.m.

Customer called and wanted to know if I had received a response from TEP. I advised that I had not.

8/26/10 9:00 a.m.

I called customer and advised that I had received a response from TEP. He asked me to mail a copy to him.

Please see utility's response for details. FILE CLOSED

End of Comments

Date Completed: 8/26/2010

Inquiry No. 2010 - 88706

