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**BEFORE THE ARIZONA CORPORATION COMMISSION
RECEIVED**

COMMISSIONERS

GARY PIERCE, Chairman
BRENDA BURNS
PAUL NEWMAN
SANDRA D. KENNEDY
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2011 FEB 17 A 9:53
ARIZONA CORP COMMISSION
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Arizona Corporation Commission

DOCKETED

FEB 17 2011

DOCKETED BY

VIKTOR PETER POLIVKA,) **DOCKET NO. E-01933A-10-0340**
)
) **COMPLAINANT**) **RESPONSE TO TEP**
) **MOTION IN LIMINE**
) **vs.**)
)
) **TUCSON ELECTRIC POWER COMPANY,**)
)
) **RESPONDENT.**)
)
)

Hereby Viktor Peter Polivka, Complainant respectfully requests the Administrative Law Judge to deny the issuance of an Order denying Complainant demand for production of Documents regarding "similar system" and precluding Complainants testimony on any Demands for production. Tucson Electric Power Company has from the onset "DENIED" the existence of such "similar system", yet now it "finally produced" that at least one such system does indeed "EXIST". However, the system "referred to" by Mr. Lindsey was indeed a Sunny Boy battery back ups system and not as a Xantrex 4548 Hybird inverter, as evidence attached to the Motion. Therefore, there is strong evidence that "more than one Battery system is indeed in the SunShare Program. Furthermore, up to this date, TEP only Acknowledged that the "ONLY" Xantrex 4548 inverter is the one TEP uses for demonstration Purposes to potential SunShare customers. Complainant reserves his right to "discovery" to have access to any and all information regarding the approval process to the TEP SunShare Program, which is indeed a public record, since the incentive funds are derived from a mandated Tariff (Tax) paid by every TEP customer. Complainant is entitled to seek a Statement f rom the customer, as per the Constitutional "due process" at the hearing as well as submitting Mr. Lindsey to a cross examination or any witness TEP uses in this

1 complaint. Apparently TEP does not keep accurate records on who is approved or disapproved
2 for the Sun Share Program. Incentive payment was indeed made to the “participating customer”
4 and unless this incentive was paid out “ in petty cash” there indeed are records of all checks

5 Finally, the “On Grid Residential Application” submitted by TEP is also questionable, since the
6 customers name and address are indeed “relevant” to authenticate the document and that it is not
7 merely a “fabricated” document in an attempt to deceive the ACC and the Complainant,
8 far too many “inconsistencies” already exist in the entire complaint already exist. This needs to be
9 clarified. When Complainant was “ offered” an “incentive” TEP offered him the sum of \$4,000.
10 for his 5,040 Watt Off Grid System, yet the “presented document” reveals that TEP paid out to
11 “other system” customer \$6,080 for a 3,040Watt system . Further inconsistency is when
12 TEP installed a Net Meter on Complainant s home , yet TEP stated in the past, that Net Meter
13 could not be installed, since the system needed a “city inspection first“! Also, inspecting the
14 attached document, the Residential Solar Electric (PV) Rebate Calculations, “other system”
15 was charged with a Net Metering rate of \$0.202 cents per Wh for all the grid derived
16 electricity for 10 years! That is a “premium rate of 370% more ”,above standard electric rates.

17 Payment is indeed “negotiable” and uniformly not equally available to all participants!
18 What is the “determining factor “ for incentive payments? There is also the
19 not yet answered “question” was the Respondents Motion for Limine indeed filed in a timely
20 fashion? Does TEP enjoy “special privileges” as a Monopoly, or do they have to comply to the
21 law as any other Arizona resident. TEP did not see it fit to “ask for an extension of time?”

22 The “original” 21 Motion for Summary Judgment was filed by Complainant on
23 December 22, 2011, 50 days ago...

22
23 **RESPECTFULLY SUBMITTED, this 15th day of February 2011**
24 By 
25 **Viktor Peter Polivka, Complainant Pro Se**