



0000133235

ACLPI

ARIZONA CENTER FOR LA
PUBLIC INTEREST

RECEIVED ORIGINAL

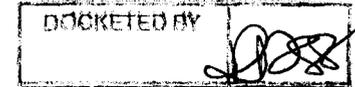
dedicated to ensuring government
accountability
and protecting the legal rights of Arizonans

2012 JAN -4 A 9a56 January 4, 2012

AZ CORP COMMISSION
DOCKET CONTROLArizona Corporation Commission
DOCKETED

JAN 4 2012

Mr. Steve Olea
 Director, Utilities Division
 Arizona Corporation Commission
 1200 West Washington
 Phoenix, Arizona 85007



Re: UNS Electric, Inc.
 Docket No.: E-04204A-09-0206

Dear Mr. Olea:

This is in response to the letter submitted to you on December 22, 2011 by counsel for UNS Electric, Inc. regarding compliance with Decision No. 71914.

That decision, dated September 30, 2010, required UNSE to develop and file with the Commission an optional rate for schools within its service territory within 90 days of the date of the decision. Decision No. 71914 at P.75, ¶ 61. The Commission's order specifically provided that UNSE "shall develop and file with the Commission an optional rate for schools within its service territory within 90 days of the date of this decision."

Now, more than a year later, UNSE claims to believe that Time-Of-Use pricing plans for small and large general service customers satisfy the requirement contained in the Commission's decision. That's clearly not the case as a little history and background associated with this decision will show.

The Arizona School Boards Association and the Arizona Association of School Business Officials intervened in UNSE's rate case for the specific purpose of advocating that school-specific programs be included in the Company's renewable energy implementation plan and school-specific energy efficiency programs in the DSM docket. Additionally, and of specific relevance to this issue, ASBA/AASBO proposed that UNSE develop a special rate for school districts that would promote more efficient use of electric energy and provide at least the opportunity for school districts to reduce their utility costs. It would include daily and seasonal incentives to shift load and thereby reduce costs for both the school districts and UNSE. Direct Testimony of Chuck Essigs, ASBA Exhibit 1 at 3.

Michael DeConcini, Director for UNSE and Chief Operating Officer for Unisource Energy Corporation and Tucson Electric Power Company, testified at the hearing that UNSE did not object to trying to develop an optional rate that would incentivize schools to shift load. Transcript, Vol. I at 43. He recognized the benefits to the Company associated with schools shifting load on a daily and a seasonal basis. *Id.* ASBA/AASBO were requesting the development of a rate similar to the rate APS had been required to develop for schools in its rate case. Given that the design of the APS optional rate for schools had not yet been completed at the time of the UNSE hearing, ASBA/AASBO requested that UNSE be directed to develop and file with the Commission an optional rate for schools within 90 days following the filing of the APS rate which could then be used as a model for a similar rate in the UNSE service territory.

By the time the reply briefs were filed in the UNSE case, APS had filed its school-specific optional TOU rate for approval with the Commission on March 31, 2010. As a result, the Commission's decision in the UNSE rate case required the development of a school-specific TOU rate within 90 days of the Commission's decision instead of 90 days after filing of the APS rate.

Instead of complying with the Commission's decision, UNSE ignored it and continues to do so. It is clear that the small and large general service time of use rates are not school-specific rates as required by the Commission's decision. The whole idea behind development of a school-specific rate was to incentivize school districts to change their school calendars to a later start date thus saving the Company costs incurred during the summer peak as the Company itself recognized in its testimony.

ASBA/AASBO have gotten nothing but inaction and delay from UNSE ever since the Commission issued its decision. Representatives of ASBA/AASBO have tried to work with UNSE to develop the school-specific rate required by the Commission's decision. There were discussions from time to time beginning in November 2010 as the emails attached to this letter demonstrate. However, it was not until November 22, 2011 that counsel for UNSE informed ASBA/AASBO for the first time that it believed that it had already complied with the Commission's decision.

In light of this background, it is clear that UNSE's belief that it has complied with the Commission's decision has no factual basis whatsoever. Nor can UNSE now be heard to complain that the time-of-use rate ordered by the Commission was not factored into the Company's revenue requirement in the rate case. As noted earlier, a properly designed TOU rate for schools that introduces seasonality will reduce UNSE's costs. More importantly, UNSE did not object to the Commission's findings or its order. If UNSE thought there was a problem with developing a specific rate for schools, the time

Mr. Steve Olea
January 4, 2012
Page 3

to raise that issue was either at the hearing or in a motion for rehearing. The Company did neither.

The Company's solution is to put this issue off to the next rate case. It is hard to see how schools will fare any better. They made a specific proposal in the last rate case and it was accepted by the Commission and the Company has decided not to comply with it. There is no reason to believe that pattern is going to change in the future.

For the foregoing reasons, ASBA/AASBO respectfully requests that the Staff require the Company to comply with the explicit terms of the Commission's order in Decision No. 71914.

Sincerely,



Timothy M. Hogan

Attorneys for ASBA/AASBO

cc: Docket Control (original and 13 copies)
Michael W. Patten
Daniel Pozefsky, RUCO
Lyn A. Farmer
Maureen A. Scott

Tim Hogan

From: Charles Essigs [cessigs@asbo.org]
Sent: Tuesday, November 02, 2010 1:51 PM
To: LLucero@tep.com
Cc: David J. Peterson (Facilities/CFO); Tim Hogan
Subject: UNS Electric Rate Case and Energy Efficiency/Renewables

Follow Up Flag: Follow up
Flag Status: Flagged

Per your request we would like to suggest that we schedule a conference call for David Peterson and myself to review possible partnerships for school districts regarding the UNS Electric Rate Case.

Tim Hogan

From: Chuck Essigs [cessigs@asbo.org]
Sent: Wednesday, July 20, 2011 7:01 AM
To: thogan@aclpi.org
Subject: FW: Best Effort recap of findings for the UniSource Schools Time-Of-Use (TOU) program
Attachments: UniSource-UNS Electric TOU TIMES-CHART 070711.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

The attached analysis from Ed Schaffer shows that UniSource did not develop a special time of use rate like APS did.....we thought per the agreement on their rate case that they were going to implement a special time of use rate for school districts.

From: Ed Schaffer [mailto:Eds@tc-az.com]
Sent: Thursday, July 07, 2011 10:54 PM
To: cessigs@asbo.org
Subject: Best Effort recap of findings for the UniSource Schools Time-Of-Use (TOU) program

Via e-mail

July 7, 2011

TO:
Dr. Chuck Essigs
Director of Governmental Affairs
Arizona Association of Business School Officials (AASBO).
2100 N. Central Avenue Suite 202
Phoenix, Arizona 85004
Telephone: 602-253-5576
E-Mail: cessigs@asbo.org

For:
Mr. Timothy Hogan
ARIZONA CENTER FOR LAW IN THE PUBLIC INTEREST.
Attorneys for: Arizona School Boards Association (ASBA) and
Arizona Association of Business School Officials (AASBO).
202 E. McDowell Rd., Ste. 153
Phoenix, Arizona 85004
Telephone: 602-258-8850
E-mail: thogan@aclpi.org

References, (not enclosed):
UniSource Energy Services, December 28, 2010 letter
Docket Control, Arizona Corporation Commission
Re: Decision 71914 (September 30, 2010), Docket No. E-04204A-09-0206.

Regarding:
Best Effort recap of findings for the UniSource Schools Time-Of-Use (TOU) program

Findings (reflected on the attached chart):

The “times” for a UniSource Electric Business customer “Time-Of-Use” (TOU) plan are exactly the same for a UniSource Schools “Time-Of-Use” (TOU) plan.

Message:

Chuck,

The attached chart shows the “times” for the “Time-Of-Use” plans.

As stated in my findings, the “times” for a UniSource Electric Business customer “Time-Of-Use” (TOU) plan are exactly the same for a UniSource Schools “Time-Of-Use” (TOU) plan..

This information was confirmed by Mr. Craig Jones, Director of Pricing, via e-mail and in a telephone conversation on July 7, 2011.

Additionally, I understood from that conversation that most schools would fall within the Large General Service Rate plan (C-22) and if switching to either “Time-Of-Use” plan would need to remain on that plan for at least one year.

A school could select either the Large General Service Time-Of-Use Rate (LGS-TOU-N) plan or the Large General Service Super Peak Time-Of-Use (LGS-Super Peak TOU-N) plan outlined in the attached chart.

This information is also listed in the above referenced December 28, 2010 letter and on the Arizona Corporation Commission Web page for UniSource Electric Tariffs.

Comments:

My findings revealed the UniSource schools Time-Of-Use (TOU) plan expected were actually the same plans offered to a UniSource Electric Business customer of a similar size.

I could not be determined if internal UniSource operational conditions or other factors were involved in the response provided by UniSource.

Additionally, without a detailed analysis of an individual schools usage it is not appropriate for me to make a blanket statement about switching to either “Time-Of-Use” plan.

As you know, UniSource is the parent corporation of UniSource “UNS” Electric and Tucson Electric Power (TEP).

With this in mind, I asked when Tucson Electric Power (TEP) might be asking the Corporation Commission for a rate increase. The answer indicated 2012.

Below are the individuals at Tucson Electric Power (TEP) who play a similar role for UniSource that I had contact with in order to develop the findings and this e-mail

None of these individuals were listed in the September 2010 Corporation Commission UniSource documents.

Contact Reference Information – via phone and E-mail:

[UniSource, (“UNS Electric”) and Tucson Electric Power (TEP)]

Telephone: June 22, 2011 E-Mail: June 28, 2011	Telephone: July 5,6,7, 2011 E-Mail: July 5,6,7, 2011	Telephone: July 5, 2011 (with Craig Jones)
Melody Gilkey Compliance 520-884-3664 mgilkey@tep.com (UNS Letter; December 28, 2010)	Craig Jones Director of Pricing 520-884-3726 cjones@tep.com	Jo Smith Manager Regulatory Services 520-884-3650

Have questions, please call.

Ed Schaffer
Technology Coordinators, LLC
2116 W. Del Campo Circle
Mesa, Arizona 85202-2610

Web page: www.tc-az.com

Local Telephone: 480-962-6905
Toll Free Telephone: 1-888-474-5509
E-mail: eds@tc-az.com

Affiliations:

Arizona Association of School Business Officials (AASBO)
Arizona Rural Schools Association (ARSA)
Arizona School Board Association (ASBA)

Tim Hogan

From: Michael Patten [mpatten@rdp-law.com]
Sent: Friday, August 05, 2011 9:14 AM
To: 'Tim Hogan'
Subject: RE: Best Effort recap of findings for the UniSource Schools Time-Of-Use (TOU) program

Tim,

I have forwarded your email to the proper folks at UNSE. We will be back in touch.

Mike

From: Tim Hogan [mailto:thogan@aclpi.org]
Sent: Thursday, August 04, 2011 2:31 PM
To: Michael Patten
Subject: FW: Best Effort recap of findings for the UniSource Schools Time-Of-Use (TOU) program

Hi Mike – I wonder if you could help with this. See Chuck Essigs note below and Ed Schaffer's below that. Was a separate optional rate for schools developed that is different than the standard general service rate? Thanks.

Tim Hogan
Executive Director
Arizona Center for Law in the Public Interest
202 E. McDowell Rd., Suite 153
Phoenix, AZ 85004
Tel: (602)258-8850

From: Chuck Essigs [mailto:cessigs@asbo.org]
Sent: Wednesday, July 20, 2011 7:01 AM
To: thogan@aclpi.org
Subject: FW: Best Effort recap of findings for the UniSource Schools Time-Of-Use (TOU) program

The attached analysis from Ed Schaffer shows that UniSource did not develop a special time of use rate like APS did....we thought per the agreement on their rate case that they were going to implement a special time of use rate for school districts.

From: Ed Schaffer [mailto:Eds@tc-az.com]
Sent: Thursday, July 07, 2011 10:54 PM
To: cessigs@asbo.org
Subject: Best Effort recap of findings for the UniSource Schools Time-Of-Use (TOU) program

Via e-mail

July 7, 2011

TO:
Dr. Chuck Essigs
Director of Governmental Affairs
Arizona Association of Business School Officials (AASBO).

Tim Hogan

From: Michael Patten [mpatten@rdp-law.com]
Sent: Thursday, August 25, 2011 3:32 PM
To: 'Tim Hogan'
Subject: RE: Best Effort recap of findings for the UniSource Schools Time-Of-Use (TOU) program

Tim,

I understand that the TEP rates folks have reached out to Mr. Essigs and are expecting a call back this week, but have not yet heard from him.

Mike

From: Tim Hogan [mailto:thogan@aclpi.org]
Sent: Thursday, August 25, 2011 9:53 AM
To: Michael Patten
Subject: RE: Best Effort recap of findings for the UniSource Schools Time-Of-Use (TOU) program

Hi Mike – Have you heard anything back on this? Thanks.

Tim Hogan
Executive Director
Arizona Center for Law in the Public Interest
202 E. McDowell Rd., Suite 153
Phoenix, AZ 85004
Tel: (602)258-8850

From: Michael Patten [mailto:mpatten@rdp-law.com]
Sent: Friday, August 05, 2011 9:14 AM
To: 'Tim Hogan'
Subject: RE: Best Effort recap of findings for the UniSource Schools Time-Of-Use (TOU) program

Tim,

I have forwarded your email to the proper folks at UNSE. We will be back in touch.

Mike

From: Tim Hogan [mailto:thogan@aclpi.org]
Sent: Thursday, August 04, 2011 2:31 PM
To: Michael Patten
Subject: FW: Best Effort recap of findings for the UniSource Schools Time-Of-Use (TOU) program

Hi Mike – I wonder if you could help with this. See Chuck Essigs note below and Ed Schaffer's below that. Was a separate optional rate for schools developed that is different than the standard general service rate? Thanks.

Tim Hogan
Executive Director
Arizona Center for Law in the Public Interest
202 E. McDowell Rd., Suite 153
Phoenix, AZ 85004
Tel: (602)258-8850

Tim Hogan

From: Tim Hogan [thogan@aclpi.org]
Sent: Saturday, October 01, 2011 7:10 AM
To: 'mpatten@rdp-law.com'
Cc: 'Chuck Essigs'
Subject: FW: Unisource

Mike – Please see Chuck’s message below.

Tim Hogan
Executive Director
Arizona Center for Law in the Public Interest
202 E. McDowell Rd., Suite 153
Phoenix, AZ 85004
Tel: (602)258-8850

From: Chuck Essigs [mailto:cessigs@aaasbo.org]
Sent: Saturday, October 01, 2011 7:04 AM
To: 'Tim Hogan'
Subject: RE: Unisource

Thanks...they should call me on my cell at 480 861 5407

From: Tim Hogan [mailto:thogan@aclpi.org]
Sent: Friday, September 30, 2011 6:20 PM
To: 'Chuck Essigs'
Subject: FW: Unisource

Tim Hogan
Executive Director
Arizona Center for Law in the Public Interest
202 E. McDowell Rd., Suite 153
Phoenix, AZ 85004
Tel: (602)258-8850

From: Michael Patten [mailto:mpatten@rdp-law.com]
Sent: Friday, September 30, 2011 5:42 PM
To: 'Tim Hogan'
Subject: RE: Unisource

Tim,

I have asked UNSE to contact Chuck again. Should be next week.

Mike

From: Tim Hogan [mailto:thogan@aclpi.org]
Sent: Wednesday, September 28, 2011 6:22 AM
To: Michael Patten
Cc: 'Chuck Essigs'
Subject: FW: Unisource

Mike – We don't seem to be making any progress on this. Can you suggest somebody he can contact? Thanks.

Tim Hogan
Executive Director
Arizona Center for Law in the Public Interest
202 E. McDowell Rd., Suite 153
Phoenix, AZ 85004
Tel: (602)258-8850

From: Chuck Essigs [<mailto:cessigs@aesbo.org>]
Sent: Wednesday, September 28, 2011 6:09 AM
To: 'Tim Hogan'
Subject: RE: Unisource

They called and I returned the call and left a message but got no response. Any suggestion on who I should now contact?

From: Tim Hogan [<mailto:thogan@aclpi.org>]
Sent: Friday, September 23, 2011 3:43 PM
To: cessigs@aesbo.org
Subject: Unisource

Hi Chuck – Have you met with them yet? Are these issues resolved? Let me know, thanks.

Tim Hogan
Executive Director
Arizona Center for Law in the Public Interest
202 E. McDowell Rd., Suite 153
Phoenix, AZ 85004
Tel: (602)258-8850

Tim Hogan

From: Michael Patten [mpatten@rdp-law.com]
Sent: Thursday, December 22, 2011 1:02 PM
To: 'Tim Hogan'
Subject: RE: Unisource Rate Case

Tim,

Just a heads up that we are going to file something in the docket explaining why we believe we have complied with the rate case decision.

Mike

From: Tim Hogan [mailto:thogan@aclpi.org]
Sent: Friday, December 09, 2011 2:52 PM
To: Michael Patten
Cc: 'Chuck Essigs'
Subject: FW: Unisource Rate Case

Mike – What's the status of this?

Tim Hogan
Executive Director
Arizona Center for Law in the Public Interest
202 E. McDowell Rd., Suite 153
Phoenix, AZ 85004
Tel: (602)258-8850

From: Tim Hogan [mailto:thogan@aclpi.org]
Sent: Friday, December 02, 2011 9:45 AM
To: 'mpatten@rdp-law.com'
Cc: 'Chuck Essigs'
Subject: FW: Unisource Rate Case

Mike – Here's Chuck's email describing the company's response. That's not my understanding of the Commission's decision. The decision required UNS to develop and file an optional rate for schools within 90 days. Am I missing something?

Tim Hogan
Executive Director
Arizona Center for Law in the Public Interest
202 E. McDowell Rd., Suite 153
Phoenix, AZ 85004
Tel: (602)258-8850

From: Chuck Essigs [mailto:cessigs@asbo.org]
Sent: Wednesday, November 30, 2011 3:25 PM
To: 'Tim Hogan'
Subject: Unisource Rate Case

After discussions on the Time of Use Rate issue we have been told that program will not be implemented for schools. Our understanding was that a special program would be put in place for schools. However, we are being told that

development of a program is not required and no program for schools will be implemented. The only option will be the Time of Use program that is available for schools is the program that is available for all. commercial users.