

ORIGINAL



0000142355

BEFORE THE ARIZONA CORPORATION COMMISSION

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

BOB STUMP
CHAIRMAN
GARY PIERCE
COMMISSIONER
BRENDA BURNS
COMMISSIONER
SUSAN BITTER-SMITH
COMMISSIONER
ROBERT BURNS
COMMISSIONER

RECEIVED
AZ CORP COM
DOCKET CONTROL

2013 FEB 14 PM 2 14

Arizona Corporation Commission

DOCKETED

FEB 14 2013

RECEIVED BY

IN THE MATTER OF THE APPLICATION OF
TUCSON ELECTRIC POWER COMPANY
FOR THE ESTABLISHMENT OF JUST AND
REASONABLE RATES AND CHARGES
DESIGNED TO REALIZE A REASONABLE
RATE OF RETURN ON THE FAIR VALUE
OF ITS OPERATIONS THROUGHOUT THE
STATE OF ARIZONA.

Docket No. E-01933A-12-0291

NOTICE OF FILING

The Residential Utility Consumer Office ("RUCO") hereby provides notice of filing the Testimony of Patrick J. Quinn in support of the Settlement Agreement, in the above-referenced matter.

RESPECTFULLY SUBMITTED this 14th day of February, 2013.

Daniel Pozefsky
Chief Counsel

AN ORIGINAL AND THIRTEEN COPIES
of the foregoing filed this 14th day
of February, 2013 with:

Docket Control
Arizona Corporation Commission
1200 West Washington
Phoenix, Arizona 85007

1 COPIES of the foregoing hand delivered/
2 mailed/emailed this 14th day of February, 2013 to:

3 Jane Rodda
4 Administrative Law Judge
5 Hearing Division
6 Arizona Corporation Commission
7 1200 West Washington
8 Phoenix, Arizona 85007

9 Janice Alward, Chief Counsel
10 Legal Division
11 Arizona Corporation Commission
12 1200 West Washington
13 Phoenix, Arizona 85007

14 Steven Olea, Director
15 Utilities Division
16 Arizona Corporation Commission
17 1200 West Washington
18 Phoenix, Arizona 85007

19 Bradley Carroll
20 Tucson Electric Power Company
21 88 E. Broadway Blvd, MS HQE910
22 P.O. Box 711
23 Tucson, Arizona 85702
24 bcarroll@tep.com

Michael Patten
Jason Gellman
Roshka DeWulf & Patten, PLC
One Arizona Center
400 E. Van Buren St., Suite 800
Phoenix, AZ 85004
mpatten@rdp-law.com
jgellman@rdp-law.com

Lawrence V. Robertson
P.O. Box 1448
Tubac, Arizona 85646
Attorney for SAHBA, EnerNOC, Inc. and
SAWUA
tubaclawyer@aol.com

C. Webb Crockett
Patrick J. Black
Fennemore Craig, PC
3003 N. Central Ave., Suite 2600
Phoenix, Arizona 85012-2913
Attorneys for Freeport-McMoRan and
AECC
wcrockett@fclaw.com

Kevin C. Higgins
Energy Strategies, LLC
215 S. State Street, Suite 200
Salt Lake City, Utah 84111
Consultant to Freeport-McMoRan and
AECC
khiggins@energystrat.com

Kurt J. Boehm
Jody M. Kyler
Boehm, Kurtz & Lowry
36 E. Seventh Street, Suite 1510
Cincinnati, Ohio 45202
Attorneys for Kroger

John William Moore, Jr.
7321 N. 16th Street
Phoenix, Arizona 85020
Attorney for Kroger

Stephen J. Baron
J. Kennedy & Associates
570 Colonial Park Drive, Suite 305
Roswell, Georgia 30075
Consultant to Kroger

Thomas L. Mumaw
Melissa Krueger
Pinnacle West Capital Corp.
P.O. Box 53999, MS 8695
Phoenix, Arizona 85072-3999
Thomas.Mumaw@pinnaclewest.com

1 Leland Snook
Zachary J. Fryer
2 Arizona Public Service Co.
P.O. Box 53999, MS 9708
3 Phoenix, Arizona 85072-3999
Leland.snook@aps.com
4 Zachary.fryer@aps.com
5 Timothy M. Hogan
Arizona Center for Law in the Public
6 Interest
202 E. McDowell Rd, Suite 153
7 Phoenix, Arizona 85004
Attorneys for SWEEP and Vote Solar
8 thogan@aclpi.org
9 Jeff Schlegel
SWEEP Arizona Representative
10 1167 W. Samalayuca Dr.
Tucson, Arizona 85704-3224
11 schlegelj@aol.com
12 Annie Lappe
Rick Gilliam
13 The Vote Solar Initiative
1120 Pearl St., Suite 200
14 Boulder, Colorado 80302
annie@votesolar.org
15 rick@votesolar.org
16 Nicholas J. Enoch
Jarrett J. Haskovec
17 Lubin & Enoch, PC
349 N. Fourth Ave.
18 Phoenix, Arizona 85003
Attorneys for IBEW Local 1116
19 Nick@lubinandenoch.com
Jarrett@lubinandenoch.com
20
Travis Ritchie
21 Sierra Club Environmental Law Program
85 Second St., 2nd Floor
22 San Francisco, California 94105
Travis.ritchie@sierraclub.org
23
24

Terrance A. Spann, Esq.
General Attorney
Regulatory Law Office (JALS-RL/IP)
U.S. Army Legal Services Agency
9275 Gunston Rd, Suite 1300
Fort Belvoir, Virginia 22060-5546
Terrance.a.spann.civ@mail.mil

Michael M. Grant
Gallagher & Kennedy, PA
2575 E. Camelback Rd
Phoenix, Arizona 85016
Attorney for AIC
mmg@gknet.com

Gary Yaquinto
President and CEO
Arizona Investment Council
2100 N. Central Ave., Suite 210
Phoenix, Arizona 85004
gyaquinto@arizonaic.org

Cynthia Zwick
1940 E. Luke Ave.
Phoenix, Arizona 85016
czwick@azcaa.org

Court S. Rich
Rose Law Group, PC
6613 N. Scottsdale Rd, Suite 200
Scottsdale, Arizona 85250
Attorney for SEIA
crich@roselawgroup.com

Michael L. Neary
Executive Director
Arizona Solar Energy Industries
Association
111 W. Renee Drive
Phoenix, Arizona 85027

By Cheryl D Frouloub
Cheryl Frouloub

TUCSON ELECTRIC POWER COMPANY

DOCKET NO. E-01933A-12-0291

DIRECT TESTIMONY
OF
PATRICK J. QUINN
ON
SETTLEMENT AGREEMENT

ON BEHALF OF
THE
RESIDENTIAL UTILITY CONSUMER OFFICE

FEBRUARY 14, 2013

TABLE OF CONTENTS

1
2
3
4
5
6
7
8
9

EXECUTIVE SUMMARY.....i
INTRODUCTION..... 1
THE SETTLEMENT PROCESS..... 2
SUMMARY OF TESTIMONY 5
SETTLEMENT PROVISIONS 5
PUBLIC INTEREST 6
FOUR AREAS OF IMPORTANCE 7

EXECUTIVE SUMMARY

1
2 The Arizona Residential Utility Consumer Office ("RUCO") presents the
3 direct testimony of RUCO Director Patrick J. Quinn in support of the
4 Proposed Settlement Agreement on Tucson Electric Power Company's
5 request for a permanent rate increase. Mr. Quinn recommends that the
6 Arizona Corporation Commission adopt the Proposed Settlement
7 Agreement for the following reasons:
8

9 The Proposed Settlement Agreement reflects an outcome that is fair to
10 both the consumer and Tucson Electric Power Company and is in the
11 public interest.
12

13 The Proposed Settlement Agreement is a comprehensive settlement
14 agreement. Its terms settle a wide range of issues that were of significant
15 interest to several of the intervenors.
16

17 RUCO supports the Proposed Settlement Agreement in its entirety
18 because it contains numerous benefits to the consumer which will be
19 discussed in Mr. Quinn's testimony.
20

21 The Proposed Settlement Agreement resolves four areas of importance to
22 RUCO in the underlying rate case which included the amount of the rate
23 increase for basic consumers, the net operating loss issue, the
24 depreciation reserve issue and capital expenditures for distribution plant.
25 All of these issues were addressed satisfactorily in the Proposed
26 Settlement Agreement and will be explained more fully in Mr. Quinn's
27 testimony.
28

1 **INTRODUCTION**

2 **Q. Please state your name, occupation and business address for the**
3 **record.**

4 A. My name is Patrick J. Quinn. I am the Director of the Arizona Residential
5 Utility Consumer Office ("RUCO"). My business address is 1110 W.
6 Washington Street, Suite 220, Phoenix, Arizona 85007.

7
8 **Q. Please state your educational background and qualifications in the**
9 **utility regulation field.**

10 A. I have a BS in Mathematics and a MBA from the University of South
11 Dakota. Additionally, I have 30 plus years of experience in the
12 Telecommunications Industry and the Consulting business dealing with
13 utility regulation. I have testified over 50 times before state and federal
14 regulatory commissions on issues including finance, economics, pricing,
15 policy and other related areas.

16
17 **Q. What is the purpose of your testimony?**

18 A. The purpose of my testimony is to explain RUCO's support of the Tucson
19 Electric Power Company ("TEP") Proposed Settlement Agreement
20 ("Agreement").

21
22 ...

23

1 **Q. Have you participated in other settlement negotiations?**

2 A. Yes. I have participated in settlement negotiations in other matters that
3 have come before the Arizona Corporation Commission (“ACC” or
4 “Commission”) both from the utility and consumer side. The majority of
5 these negotiations have resulted in reaching an accord with the utility and
6 the other settling parties, leading to the signing and supporting of a
7 settlement agreement. On the other hand, I have walked away from
8 settlement talks when negotiations produced a result I could not support. I
9 have been involved in three recent negotiations where I represented
10 RUCO. Two have resulted in settlements and the third RUCO found was
11 not in the best interest of residential ratepayers and did not settle. RUCO
12 does not enter into settlements lightly. RUCO will not agree to settle
13 simply as a means of avoiding litigation. However, in this matter,
14 negotiations did produce reasonable and fair terms that RUCO can and
15 does support.

16
17 **THE SETTLEMENT PROCESS**

18 **Q. Was the negotiation process that resulted in the Settlement**
19 **Agreement a proper and fair process?**

20 A. Yes. The Agreement is the result of numerous hours of negotiation and a
21 willingness among the parties to compromise. The negotiations were
22 conducted in a fair and reasonable way that allowed each party the
23 opportunity to participate. All intervenors had an opportunity to participate

1 in every step of the negotiation. Notice for each scheduled meeting was
2 sent to all parties electronically. Persons were able to participate via
3 teleconference, if necessary. Furthermore, TEP created a secure website
4 that allowed all parties to view all documents submitted as part of
5 settlement negotiations. All parties were allowed to express their positions
6 fully.

7
8 On January 18, 2013, Staff filed a Notice of Status and Preliminary Term
9 Sheet which reflected the terms of the negotiations up to that date. The
10 Commission held a Special Open Meeting on January 23, 2013, to review
11 the Preliminary Term Sheet and have the opportunity to ask questions of
12 any of the intervenors. RUCO, along with the other parties, attended the
13 Special Open Meeting and answered questions posed by the ACC
14 Commissioners.

15
16 By RUCO's count, 18 parties participated in the Agreement. These
17 participants represent a wide range of interests from mining interests,
18 governmental entities, business and retail interests, industrial interests,
19 low income advocates, union representatives, Commission Staff ("Staff")
20 and RUCO.

1 **Q. Did all the parties sign the Agreement?**

2 A. No. At the very end, a handful of parties choose not to sign the
3 Agreement. These parties have the opportunity to file testimony to explain
4 their reasons why they ultimately did not sign the Agreement.

5

6 **Q. Why is a negotiated settlement process an appropriate way to**
7 **resolve this matter?**

8 A. By its very nature, a settlement finds middle ground that the parties can
9 support. All the parties that participated in the settlement talks were
10 sophisticated parties who were well seasoned in the ACC's regulatory
11 processes and veterans of the negotiating table. The fact that so many
12 parties representing such varied interests were able to come together to
13 reach consensus illustrates the balance, moderation and compromise of
14 the document.

15

16 Settlement negotiations began only after each party had the opportunity
17 to analyze TEP's Application, file its direct testimony and read the direct
18 testimony of other Intervenors. Of course, the Agreement in no way
19 eliminates the ACC's constitutional right and duty to review this matter and
20 to make its own determination whether the Agreement is truly balanced
21 and the rates are just and reasonable.

22

23

1 **SUMMARY OF TESTIMONY**

2 **Q. Please summarize your testimony.**

3 A. The Agreement reflects an outcome that is fair to both the consumer and
4 TEP and is in the public interest. Furthermore, this is a comprehensive
5 agreement. Its terms settle a wide range of issues that were of significant
6 interest to several of the intervenors.

7
8 RUCO supports the Agreement in its entirety because it contains
9 numerous benefits to the consumer. I will list those benefits later. There
10 were four areas of importance that needed to be resolved in the
11 Agreement before RUCO could become a signatory. They were the
12 amount of the rate increase for basic consumers, the net operating loss
13 issue, the depreciation reserve issue and capital expenditures for
14 distribution plant. All of these were addressed satisfactorily in the
15 Agreement and will be explained later in my testimony

16

17 **SETTLEMENT PROVISIONS**

18 **Q. In summary, what are the benefits to the residential consumer?**

19 A. The benefits to the residential consumer are as follows:

20

- 21 • Consumer base rate increase under \$3 for the first year. (1)
22 • Return on equity of 10%, RUCO's recommendation. Resulted in lower
23 revenue requirement than TEP requested. (4.2)

- 1 • Credits to customer's bills from the over collected balance in the
2 Purchased Power and Fuel Adjustment Clause ("PPFAC"). (6.1)
- 3 • Capping the amount that the Lost Fixed Cost Recovery ("LFCR")
4 mechanism may collect from residential ratepayers to 1% year over
5 year of total company revenues. (8.4)
- 6 • Allowing the ratepayer the choice to "opt out" of the LFCR in favor of a
7 higher base rate charge to cover fixed costs.
- 8 • The Environmental Compliance Adjustor ("ECA") will have a 0.25% of
9 revenue cap on yearly amount to be recovered. (9.1)
- 10 • Annual contribution of \$150,000 to benefit low income customers.
11 (12.3)
- 12 • Fair rate design for residential customers. (15.1)
- 13 • Net Operating Loss docket to be filed. (20.1)
- 14 • Depreciation Reserve provision. (20.2)
- 15 • Capital Expenditures for Distribution Plant. (20.4)

16
17 **PUBLIC INTEREST**

18 **Q. How is the public interest satisfied by the Agreement?**

19 A. At the most fundamental level, the Agreement satisfies the public interest
20 from RUCO's perspective in that it provides favorable terms and
21 protections for residential consumers as defined above. The Agreement
22 also satisfies the public interest by providing a fair and balanced approach
23 to addressing the Company's concerns on Environmental Protection

1 Agency ("EPA") required costs, energy efficiency costs and revenue.
2 RUCO believes that providing the Company a narrowly tailored
3 mechanism to recover lost revenue directly and solely associated with
4 Commission-mandated Energy Efficiency ("EE") and Distributed
5 Generation ("DG") programs while providing the ratepayer the ability to opt
6 out of the LFCR with a slightly higher base rate is a reasonable solution to
7 this issue. The Company can meet whatever energy efficiency
8 requirements the Commission sets through the LFCR without shifting the
9 risks of the economy, weather and other factors on to the ratepayer.

10
11 **FOUR AREAS OF IMPORTANCE**

12 **Q. You mentioned four areas of importance that are critical for RUCO to**
13 **sign on to the Agreement. Would you like to address them?**

14 **A.** Yes. One of RUCO's main priorities is to analyze monthly rate increases
15 to determine if the increases are in the best interest of the residential
16 ratepayer. Through the negotiation process in this settlement the first year
17 impact on residential consumers will be less the \$3.00 a month (3.1). This
18 increase is considerably less than was anticipated at the start of this case.
19 Future years increase will be more than \$3.00 but still less than expected.

20
21
22

1 **Q. One of your other areas is the net operating loss issue. Would you**
2 **please explain what that is?**

3 A. Yes. The accounting treatment associated with net operating loss ("NOL")
4 is an issue in most of the rate cases that have or will be coming before the
5 Commission. This was an issue in this case but because a settlement
6 was reached it was not singularly addressed. The Company has agreed
7 (20.2) to make a filing in the future to ask that a generic docket be opened
8 to address this issue going forward. The generic docket on NOL would be
9 the proper time to discuss the myriad of accounting issues that need to be
10 resolved for future rate cases.

11
12 **Q. Another concern is the issue on depreciation reserves. Please**
13 **explain this issue.**

14 A. In TEP's analysis of its depreciation reserves it was noted that there was
15 excess depreciation. Excess depreciation occurs when the actual and
16 theoretical depreciation lives are different. There was no disagreement
17 between the Company and RUCO on the amount. The only issue was
18 how fast the excess depreciation should be given back to the consumer
19 and in what form. In the negotiation process, a resolution was reached in
20 the Agreement (20.3) that allows for two possible ways of passing the
21 excess depreciation on to the consumers in the future. This solution is in
22 the best interest of the consumers and the Company.

23

1 **Q. What is your last area of concern and would you explain it?**

2 A. Yes. There are a number of factors that have been introduced into the
3 generation environment. The Commission has required that companies
4 like TEP reach a certain level of generation by renewable forms of energy.
5 Energy efficiency programs have been put in place and the EPA is setting
6 further requirements on companies to clean up coal plant emissions. All
7 of these factors, as well as normal operations, require the Company to
8 invest capital in plant. One of the issues in this case concerned the
9 Company's capacity requirements. RUCO thought that it and Staff could
10 get a better understanding of capital expenditures made by the Company
11 if we had annual presentations by the Company on their future capital
12 expenditures. Section 20.4 of the Agreement provides for that. This will
13 be of great help to RUCO for future evaluations of the Company's
14 operations.

15
16 **Q. Regarding these four areas were there any that were more critical to**
17 **RUCO's becoming a signatory?**

18 A. Yes. The NOL and Depreciation Reserve needed to be resolved before
19 RUCO could sign on and they were in the Agreement.

20
21 **Q. Does this conclude your testimony on the Agreement?**

22 A. Yes it does.