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February 13, 2015

Arizona Corporation Commission

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Re: In the Matter of Commission's Inquiry into Solar Distributed Generation
Business Models and Practices and Their Impacts on Public Service
Corporations and Their Ratepayers - Docket No. E-00000J-14-0415

Dear Chairman Bitter Smith:

Tucson Electric Power Company and UNS Electric, Inc. hereby submit the attached comments in response to your January 13, 2015 letter in this docket.

The Companies look forward to further participation in this docket.

Respectfully submitted,

Michael W. Patten
Attorney for Tucson Electric Power Company
and UNS Electric, Inc.

MWP:jh
Attachment
Original and 13 Copies Filed with Docket Control

cc: Commissioner Bob Stump
Commissioner Bob Burns
Commissioner Doug Little
Commissioner Tom Forese
Steve Olea
Janice Alward

Tucson Electric Power Company and UNS Electric, Inc.

Joint Response to Request for Comments on Solar Industry Issues

**In the Matter of the Commission's Inquiry into Solar Distributed Generation Business Models and Practices and Their Impacts on Public Service Corporations and Their Ratepayers
(Docket No. E-00000J-14-0415)**

Tucson Electric Power Company ("TEP") and UNS Electric, Inc. ("UNSE") (together, the "Companies") hereby submit these joint comments in response to Chairman Bitter Smith's January 13, 2015 letter (the "Letter") in this docket.

I. Introduction

The Companies appreciate this opportunity to provide the Arizona Corporation Commission ("Commission") with their initial perspective in response to the Letter. In order to properly assess what is in the public interest, the Companies believe the Commission's first step in this generic docket should be to set forth the list of specific issues on which it seeks more detailed information and establish the process for addressing each issue.

As discussed more fully below, the Companies believe that fact-based issues should be addressed in an evidentiary hearing conducted by the Commission's Hearing Division. This would culminate with the issuance of a Recommended Opinion and Order. Accordingly, set forth below are the issues that the Companies suggest should be the focus of the generic docket and the process that could be followed.

II. Scope of Issues for Generic Docket

A. Consumer Protection Issues

When customers do not receive the benefits they expected from third party rooftop Distributed Generation ("DG"), they frequently contact their electric utility to complain. The Companies have fielded such complaints from customers, including some who seem to have been misinformed about utility rates, anticipated savings or other DG-related issues. Among other things, customers have complained that (i) they are still being charged for service by the utility; (ii) they are not saving as much as promised by the solar provider; (iii) the operation of their DG system has been delayed; (iv) the structure of net metering is different than they understood or expected; (v) their rooftop solar equipment had malfunctioned; (vi) they were given incorrect or misleading information by solar providers; and (vii) they were told by their solar provider that their utility was delaying the installation of their net meter (when, in fact, their system had not yet passed their local government's inspection, a responsibility of their solar installer.)

As a result of these complaints, the Companies have concerns about misleading statements solar providers have made to customers about various aspects of rooftop solar DG. These statements relate to: (i) future utility rate increases and the projected savings from leasing or purchasing solar DG; (ii) the long-term costs and benefits of certain solar models; (iii) blaming the utility for delays in interconnection that are actually attributable to the solar provider; (iv) representations by solar providers that they are the preferred provider of the utility; and (v) representations by solar providers that they are a utility or are competing with a utility.

The Companies are also concerned about the safety and performance standards of solar installers, given the ongoing problems with installations that are not suitable for interconnection. The Companies also occasionally have had to upgrade grid facilities – at customer cost – before interconnecting a rooftop system. This usually arises when the system is installed before an interconnection application is submitted. As a result, the Companies are not in a position to inform the solar installer (or the customer) of the need for a transformer upgrade prior to the time the customer commits to install the system. The customer is then presented with an additional cost before the system can be interconnected.

When customer dissatisfaction stems from inaccurate information provided by a solar provider, utilities can do little beyond setting the record straight. Unfortunately, this often does little to alleviate the customers' concerns.

Moreover, the lack of a clear forum in which an individual DG customer can raise complaints and receive timely recourse exacerbates the problem of inadequate consumer protections. There have been instances where an ongoing pattern of unacceptable acts have been allowed to continue until they become too big to ignore. Customer relief is often too late to have helped the individuals who initially raised concerns or to prevent others from suffering the same fate. One recent example involved Salt River Solar and Wind, LLC (“SRSW”), which had a pattern of failing to pay incentives or failing to install systems (even though it had received significant upfront deposits). This pattern continued for a significant length of time, affecting more and more consumers, until the Arizona Attorney General’s Office finally stepped in and took action. The owner of SRSW ultimately pleaded guilty to multiple criminal charges and agreed to restitution of \$1,000,000 to victims. He is currently awaiting sentencing in Tucson. Another recent example is Stealth Solar, which had a continuing practice of illegally advertising services through deceptive telemarketing, bogus mailers, untrue promises of savings and taking government subsidies. The Attorney General intervened after receiving 50 complaints against Stealth Solar. Although the owners of Stealth Solar entered into a consent agreement that included \$92,000 restitution to victims, the restitution period stretches over many years. Both instances highlight the need for consumer protection monitoring and early intervention to avoid larger scale problems.

The Commission may pursue options to address the problems identified above. The Companies believe additional steps should be taken to improve the information consumers receive *before* they commit to a rooftop system. For example, because the Commission oversees interconnection of DG systems to the utility grid, it could require that certain information be provided to, and acknowledged by, the customer and submitted to the utility as part of the

interconnection process (in addition to the current caveats regarding potential future changes to rates). Utilities would not be required to interconnect DG systems that do not satisfy these or other conditions, including adherence to a code of conduct for solar providers.

Moreover, requirements regarding the content of solar lease and/or loan agreements could be imposed through appropriate consumer protection legislation. In light of the interrelationship between rooftop DG and the utilities, such legislation could delegate to the Commission additional consumer protection authority in this area.

The necessary and appropriate consumer protection that the Commission should consider will be dependent on the results of the Commission's investigation into this matter. An evidentiary hearing will be necessary to test the veracity of the statements made and supporting documentation provided by stakeholders in this docket. Only then can the Commission properly assess what may be necessary and in the public interest.

B. Solar Distributed Generation Business Models Under Arizona Law

The Commission should examine - in full detail through an evidentiary hearing process - the various solar rooftop business models presently being offered in Arizona, particularly with respect to residential customers.

To date, the Commission has only investigated one model for providing solar DG; a Solar Services Agreement ("SSA") used to serve certain entities - schools, government and non-profit organizations - that could not take advantage of tax credits. That proceeding (which was conducted through an evidentiary hearing) resulted in what is known as the SolarCity Decision (Decision No. 71795 (July 12, 2010)), which ordered only that "*when SolarCity Corporation provides services to a school, government, or non-profit entity, specifically limited to such an individual customer serving only a single premises of that customer, pursuant to a Solar Services Agreement as described herein, SolarCity Corporation is not acting as a public service corporation.*"¹

Although the SolarCity Decision also made generic statements about other forms of DG service, it did not address in any detail any of the other solar business models currently being offered in Arizona. It also did not include any detailed factual, legal or policy analysis sufficient to provide guidance about the appropriate level of Commission oversight (if any) of the various models, because those models were not at issue before the Commission.

Since the SolarCity Decision, the business models for providing DG - particularly to residential customers - have expanded and evolved. For example, solar DG is offered through: (i) outright cash purchases of rooftop systems by the property owner; (ii) a variety of solar lease programs (including no-down payment options and various prepaid options); and (iii) purchases of systems using financing mechanisms that are tied to system production. A full vetting of these options is critical to assess the appropriate regulatory treatment that is in the public interest.

¹ Decision No. 71795 at page 71.

Each of these business models may raise unique legal issues that are dependent on the specific factual elements. With respect to many lease options, for example, the lease payment which may be fixed or escalated, effectively guarantees a certain level of kilowatt-hour (“kWh”) production from the leased system. If production falls short, the lease payment is reduced or the lessee is otherwise compensated. SolarCity recently started a program that allows prospective customers to purchase rooftop solar PV systems from SolarCity by obtaining a loan directly from an affiliate, SolarCity Financing, LLC. Under the program, customers finance a solar system over a 30-year period and make monthly payments that are based on the system’s actual kWh production.

An evidentiary hearing conducted by the Commission’s Hearing Division would be the appropriate way to fully examine these various business models and to make factual and legal determinations.

C. Financial Implications to Ratepayers and Utilities

While the Commission has acknowledged in Decision No. 74202 (December 3, 2013) that rooftop DG adopters shift costs to non-solar adopters, the financial implications of this cost shift must be examined regardless of the form of business model. The Commission could choose to evaluate these varying impacts in this docket rather than examining on a utility-by-utility basis. However, this docket should not delay other (and perhaps interim) ways to mitigate these lost revenue and cost shift issues.

D. Utility Operational Implications

Regardless of the business model, the Companies have concerns over the operational issues that can result from the interconnection of thousands of rooftop solar systems with the utilities’ distribution system. The steps utilities must take to ensure system reliability will result in additional costs, further exacerbating the cost shift discussed above; both of these issues should be examined concurrently.

The Companies also believe that the Commission could reduce the cost of compliance with the REST Rules by modifying the “DG Carve Out” provision (A.A.C. R14-2-1805), either through a rule change or waiver as has been recently suggested by Staff in a Commission Open Meeting. In light of the proliferation of DG and the elimination of incentives, the Commission should receive evidence and determine if the DG Carve Out should either be eliminated or, at the very least, modified to remove the residential application requirement to better promote other forms of DG. This issue should also be addressed in this docket.

III. Procedure for Conducting Generic Docket

As the Commission settles on the issues to be addressed in this generic docket, an evidentiary hearing should be conducted. If so, the Hearing Division should establish a procedural schedule that allows time for formal intervention by stakeholders, and invite parties to address appropriate issues in pre-filed direct testimony, including the submission of other

relevant supporting evidence. This process would culminate with an evidentiary hearing and a Recommended Opinion and Order for the Commission's consideration.

IV. Conclusion

The Companies believe that identifying discrete issues to be addressed at an evidentiary hearing will facilitate the process for this docket and is in the public interest. The issues should include:

1. A better understanding of solar DG in Arizona, including a review of the various business models, sales practices, customer disclosures, safety, performance, licensing standards, and installation and interconnection processes;
2. The nature and scope of consumer protection issues, including a process for tracking and addressing complaints received by the Commission, the utilities and other entities;
3. Operational impacts of solar DG on the utility that may affect utility customers and the appropriate level and nature of Commission oversight and regulation to minimize any adverse impacts;
4. The appropriate level and nature of Commission or other governmental oversight of solar DG providers, including consumer protection;
5. The appropriate level and nature of Commission oversight and regulation of utility interconnection with solar DG installations;
6. The financial impacts of solar DG on the utility and its non-DG customers and how to mitigate those impacts; and
7. A determination whether the DG Carve out in the REST Rules should continue or be modified or waived.

The Companies look forward to participating in this docket.