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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

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Arizona Corporation Commission
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APR 10 2015

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DOCKET NO. E-01461A-15-0057

IN THE MATTER OF THE APPLICATION
OF TRICO ELECTRIC COOPERATIVE,
INC. FOR APPROVAL OF A NEW NET
METERING TARIFF, A PARTIAL WAIVER
OF THE COMMISSION'S NET METERING
RULES AND A REVISED AVOIDED COST
RATE IN THE COMPANY'S EXISTING
NET METERING TARIFF.

**STAFF'S BRIEF PURSUANT TO
APRIL 3, 2015 PROCEDURAL
ORDER**

The Utilities Division ("Staff") of the Arizona Corporation Commission ("Commission") hereby files its brief addressing whether the relief requested under Trico Electric Cooperative, Inc.'s ("Trico" or "Company") February 26, 2015, application in this docket should be considered in a rate case proceeding. The parties to this docket were directed to file such briefs in an April 3, 2015, Procedural Order in this matter.

I. BACKGROUND.

On February 26, 2015, Trico filed an application (the "Application") with the Commission for (1) approval of a new net-metering tariff for future net metered Members, (2) approval of a partial waiver of the Commission's net metering rules, and (3) approval of a revised avoided cost rate in Trico's existing net metering tariff. On March 11, 2015, Trico filed a request for expedited consideration of its application without an evidentiary hearing and requested a procedural conference. On March 19, 2015, Staff filed a Response opposing the Company's request to expedite its Application without a hearing due to the likelihood of factual disputes between the parties. Staff also expressed the position that Trico should voluntarily withdraw all but the avoided cost portion of its

1 Application because its requested relief would be more appropriately addressed in a rate case. On
2 March 26, 2015, Trico filed a reply to Staff's Response, indicating that it opted to proceed with its
3 Application and was not agreeable to withdrawing any part of it, but that it did not object to a hearing,
4 so long as the hearing is not conducted in "conjunction with hearings on any other similar
5 applications." On April 2, 2015, the presiding administrative law judge conducted a procedural
6 conference and, on April 3, 2015, issued the Procedural Order referenced above. The parties were
7 directed to brief as follows:

8 The parties are directed to file briefs discussing the legal issues affecting whether
9 the actions requested under Trico's Application must be considered in a rate case
10 proceeding. This directive affects all aspects of Trico's request: whether a
11 proposed net metering tariff that would affect only future DG members can be
12 heard outside of a rate case proceeding; and whether modification of the existing
13 Trico net metering tariff that applies to current DG members can be heard outside
14 of a rate case hearing.¹

15 Staff believes as follows: all aspects of Trico's filing that raise disputed issues of fact *must* be
16 set for an evidentiary hearing, and the first two requests in Trico's Application raise issues that are
17 best addressed in a rate case. While Trico's requested relief may not require a rate case *per se*, Staff
18 notes that processing the Application outside of a rate case may foreclose the Commission from
19 developing an efficient, effective and fair solution to the problems alleged in Trico's Application.
20 There is a significant mismatch between the problem that Trico has identified (under-recovery of
21 fixed costs) and the relief that Trico seeks (amendments to net metering). Simply stated, Trico's
22 Application is not ripe for processing. By proposing a narrowly drawn tariff filing to address issues
23 that are broad in scope, Trico has potentially foreclosed the Commission from developing a
24 comprehensive solution to the alleged problems. The Commission should dismiss the present
25 application, except for the avoided cost reset, and order Trico to file a rate case.

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¹ April 3, 2015, Procedural Order at 3-4.

1 **II. PROCESSING TRICO'S APPLICATION OUTSIDE A RATE CASE MAY PREVENT**
2 **THE COMMISSION FROM ADOPTING A MORE HOLISTIC SOLUTION.**

3 Trico asserts in its Application that it has experienced a substantial increase in the number of
4 customers installing rooftop solar photovoltaic ("PV") systems; as a result, there has been a decline in
5 sales of kWhs and a corresponding increase in unrecovered fixed costs.

6 To counteract these results, Trico proposes to alter its net metering regime through a tariff
7 filing, which is a vehicle that is more limited in scope than a rate case. In its Application, Trico
8 suggests that the Commission approve a new net metering tariff for customers who adopt solar after
9 February 28, 2015. In this new tariff, new solar customers would be credited at Trico's avoided cost
10 for all energy sent by the customer to the utility during a month instead of using that energy to offset
11 energy purchases from the utility in that month or in subsequent months. The Company has
12 acknowledged that its requested relief will not afford a complete solution, and it intends to propose
13 comprehensive rate design changes in its next general rate case.

14 Staff recognizes that the existence of the net metering requirements may well be the catalyst
15 for under-recovery of fixed costs under the present rate design. Net metering tariffs provide an
16 incentive for customers to install rooftop solar panels. When a customer installs solar panels, the
17 number of kWhs bought from the utility will inevitably be reduced. The increasing installation of
18 rooftop solar leads to the sale of fewer kWhs to solar customers, and therefore (under the existing rate
19 design) to the under-recovery of the portion of fixed costs that would ordinarily be recovered through
20 the kWh charges.

21 Staff, however, is not convinced that Trico's proposed vehicle for addressing these issues is
22 consistent with the broader interests of the public. Altering the applicable net metering tariff, in a
23 precise technical sense, does not *directly* address the *existing* under-recovery of fixed costs. It instead
24 appears to simply hold them constant. And although Trico's proposal may prevent the development
25 of *additional* under-recovery of fixed costs, it does so at the expense of customer choice. By altering
26 its net metering tariff, Trico would reduce the incentive for customers to adopt solar installations.
27 Trico's proposal is akin to treating the symptoms, while avoiding the ultimate cure.

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1 Staff contends that the under-recovery of fixed costs is fundamentally a rate design issue.
2 Possible solutions could include increasing the monthly minimum, applying a demand charge,
3 introducing new rate schedules, or other possibilities. The solutions could address rates for all
4 customers not just those with rooftop solar because under-recovery of fixed costs may also result
5 from energy efficiency and anything else that reduces kWh sales. The important point, however, is
6 that under-recovery of fixed costs is a rate design issue, and rate design issues are best handled in rate
7 cases where more tools are available. Trico has stated that it intends to file a full rate case in the near
8 future. Under these circumstances, it is appropriate to defer these issues to that case.

9 If Trico is experiencing an under-recovery of fixed costs, it is in the best interests of all—
10 Trico, its ratepayers, and interested parties alike—to address these issues in a comprehensive fashion.
11 By raising these issues in a tariff filing, Trico appears to foreclose the solutions that would be most
12 effective in addressing the identified problems. It is possible that Trico may perceive narrow relief to
13 be in its best interests, but it is unlikely to be in the broader public interest. These issues can and
14 should be addressed in a comprehensive way in a rate case.

15 At the April 3, 2015, procedural conference, Trico's counsel implied that the present case is
16 intended to deal with exigent circumstances. Staff would note that Trico's Application does not
17 contain any allegations to support such an assertion. If Trico finds itself in urgent or emergency
18 circumstances, it should amend its Application to set forth those allegations. Staff recognizes that
19 interim rate matters are typically processed very quickly in order to ensure that customers will
20 continue to receive adequate service.

21 Since what the Company is proposing in its Application is only a partial fix, and only one
22 possible approach, Staff believes that processing the Company's Application may prove to be
23 limiting as to what possible solutions can be proposed and ultimately adopted by the Commission. It
24 is Staff's position that addressing these broad issues is better accomplished in a full rate case.
25 Importantly, the Company's current rates have been in effect since August 2009. Staff believes that
26 the Commission should dismiss Trico's Application, without prejudice, and order Trico to file a
27 general rate case.

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1 **III. THE COMPANY'S REQUEST FOR A CHANGE TO THE AVOIDED COST RATE IS**
2 **NOT LIKELY TO REQUIRE A HEARING ABSENT ALLEGATIONS OF**
3 **DISPUTED FACTS.**

4 In its Application, the Company requested approval of a revised avoided cost rate in Trico's
5 existing net metering tariff. These avoided cost resets are typically addressed through a Staff
6 memorandum and proposed order. The ALJ indicated that the parties should address "whether
7 modification of the existing Trico net metering tariff that applies to current DG members can be
8 heard outside of a rate case hearing."² Trico's net metering tariff is a mechanism that in effect
9 dictates how energy produced by a DG member's PV system is to be treated and how that customer is
10 to be compensated annually for excess energy produced. Under the current net metering rules, the
11 DG Member is compensated at the end of a twelve-month period based on the Annual Average
12 Avoided Cost for all excess kWh that was generated but not used. The Company is merely seeking to
13 update its avoided cost rate as part of this Application. Historically, the Commission has updated
14 utility avoided costs through a memorandum and proposed order prepared by Staff. Although Staff
15 does not believe that this aspect of the Application necessitates a full rate case, it may require a
16 hearing if a party raises a contested issue of fact. If this were to occur, then this portion of the
17 Application should be set for a hearing in order to resolve any contested issues.

18 **V. CONCLUSION.**

19 Based upon the foregoing, Staff believes the Commission should dismiss Trico's Application
20 without prejudice, and require Trico to file a rate case application. In the event the Commission
21 desires to address these issues in this Application then an evidentiary hearing should be held, with
22 notice and opportunity to intervene. Staff does not believe the avoided cost reset portion of the

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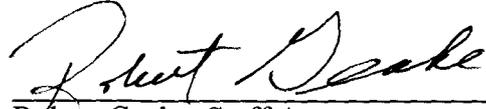
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² April 3, 2015, Procedural Order at 3-4.

1 Application requires an evidentiary hearing unless there are factual issues in dispute. If there are
2 factual issues in dispute, then this portion of the Application may also require a hearing.

3 RESPECTFULLY SUBMITTED this 10th day of April, 2015.

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