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BEFORE THE ARIZONA CORPORATION CO

COMMISSIONERS

Arizona Corporation Commission

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ORIGINAL

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.

DOCKET NO. E-01461A-15-0057

**STAFF'S RESPONSE TO TRICO'S  
REQUEST FOR PROCEDURAL  
ORDER**

The Utilities Division ("Staff") of the Arizona Corporation Commission ("Commission") hereby responds to the Request for: 1. Expedited Consideration and 2. Procedural Conference filed by Trico Electric Cooperative, Inc. ("Trico" or "Company") on March 11, 2015. In its motion, the Company requests expedited consideration of its application without a hearing. The Company asserts that expedited consideration is appropriate. For the reasons addressed below, Staff recommends that a Procedural Conference be held and that the Commission schedule a hearing for this matter.

**I. BACKGROUND.**

On February 26, 2015, Trico Electric Cooperative, Inc., ("Trico" or the "Company") 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 a procedural order (the "Request") in connection with its Application.

Staff recommends the Company should withdraw all but the reset of the avoided cost portion of its application and simply have the Commission consider this issue in the upcoming rate application that the Company intends to file.<sup>1</sup> However, if the Company does not withdraw its

<sup>1</sup> Staff may proceed with the processing of the Company's request for approval of a revised avoided cost rate in Trico's existing net metering tariff with a memorandum and proposed order.

1 application, then the procedural schedule in this matter should include a hearing, proper notice to the  
2 public, and an opportunity for intervention.

3 **II. THE COMMISSION SHOULD SCHEDULE A HEARING IN THIS MATTER**  
4 **BECAUSE THERE ARE LIKELY TO BE DISPUTED ISSUES OF FACT.**

5 As Trico notes in its application, the Commission is currently facing a variety of issues related  
6 to the increasing number of distributed generation ("DG") systems in Arizona. These issues involve  
7 allegations of cost shifting and under-recovery of fixed costs. Recent experience demonstrates that  
8 these allegations are strongly disputed and hotly contested.

9 In its Application, Trico asks to change the rate at which DG customers will be credited for  
10 excess energy.<sup>2</sup> Currently, Net Metering customers receive a one-for-one kWh offset, essentially  
11 crediting excess energy at a customer's retail rate; by contrast, Trico proposes to credit future excess  
12 energy from DG systems at the Company's avoided cost.<sup>3</sup> The relief sought by Trico, if granted,  
13 would change its net metering tariff significantly for all new DG customers in Trico's service area,  
14 and would replace it with a tariff that is more akin to a Qualifying Facilities tariff.<sup>4</sup> These issues are  
15 likely to attract a significant number of intervenors and public comment.<sup>5</sup> In these circumstances, a  
16 hearing is warranted.

17 Trico relies heavily on Commission Decision No. 74202 (APS's recent net metering decision)  
18 to support its assertion that its application should be processed without a hearing. The APS matter,  
19 however, is distinguishable from Trico's case. In the APS case, the Company asked for various  
20 adjustments to its rates to address cost shifts allegedly caused by net metering.<sup>6</sup> The Commission  
21 denied APS's proposed rate changes, and instead imposed an adjustment to APS's Lost Fixed Cost  
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23 <sup>2</sup> Trico's App. at 7-8.

24 <sup>3</sup> Trico's App. at 6

25 <sup>4</sup> A Qualifying Facility ("QF") is a generating facility which meets the requirements for QF status under the Public Utility  
26 Regulatory Policies Act of 1978 and part 292 of the Federal Energy Regulatory Commission's Regulations (18 C.F.R.  
27 Part 292), and which meets certification and registration requirements for QF status. A QF Tariff sets out the terms and  
28 conditions for a customer with a Qualifying Facility to sell excess energy and capacity to a utility, and to purchase  
supplementary, standby, and maintenance power from a utility.

<sup>5</sup> Trico may be attempting to ameliorate these issues by "grandfathering" existing DG customers. See Trico's App. at 7.  
This proposal, however, presents its own set of issues, such as how to determine the appropriate cut-off date and whether  
such "grandfathering" raises issues of discrimination.

<sup>6</sup> See Decision No. 74202 at 4-6.

1 Recovery (“LFCR”) mechanism, an adjuster mechanism specifically designed to address the recovery  
2 of lost fixed costs.<sup>7</sup> Although Trico correctly notes that the APS case was processed without a  
3 hearing, Trico overlooks the fact that the Commission denied the tariff changes proposed by APS,  
4 and instead elected to simply reset its LFCR.<sup>8</sup> Trico does not have an LFCR, so that avenue of relief  
5 is not available at this time.

6 Trico also cites other Commission decisions wherein rate relief was granted without a  
7 hearing.<sup>9</sup> Staff acknowledges that it is not uncommon for the Commission to process cases without a  
8 hearing. However, when parties are contesting issues of material fact—as they likely will be in this  
9 case—the better practice is to provide each interested party an opportunity to develop a case and test  
10 the Company’s assertions through cross examination.

11 **III. TRICO’S REQUESTED RELIEF WOULD BE MORE APPROPRIATELY**  
12 **ADDRESSED IN A RATE CASE.**

13 Trico notes that it “may file a general rate application in the near future” and anticipates that,  
14 in its rate case, it will propose rate design changes to further address the unrecovered fixed cost issue.  
15 <sup>10</sup> Staff notes that addressing these issues in Trico’s next rate case, instead of this Application, will  
16 increase the remedies available to the Commission to achieve a just and reasonable resolution of the  
17 issues.

18 In the proceedings leading to Decision No. 74202 (APS’s recent net metering decision),  
19 several parties claimed that APS’s application could not be lawfully processed without a full rate  
20 case, citing *Scates v. Arizona Corp. Comm’n*, 118 Ariz. 531, 578 P.2d 612 (Ct.App. 1978).<sup>11</sup> Because  
21 APS already had an LFCR, these arguments were easily overcome. Trico, however, does not have an

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22 <sup>7</sup> Decision No. 74202 at 27-28.

23 <sup>8</sup> Furthermore, it is not accurate to imply that the APS case was either simple or expedited, despite the fact that it was  
24 processed without a hearing. To the contrary, the case was controversial and hotly contested, and it involved extended  
25 proceedings. The case took more than five months to process. It included fourteen interveners, and attracted dozens of  
26 written comments, both from parties and from members of the public. The Commission heard the case over two full days  
27 of extended open meetings, at which time the Commission considered approximately eleven amendments. *See* Decision  
28 No. 74202. Indeed, if faced with a similar APS application today, Staff would recommend that it be set for hearing to  
allow the Commission and the parties the benefits of a full proceeding.

<sup>9</sup> Trico’s Request at 3.

<sup>10</sup> Trico’s App. at 8 fn 9.

<sup>11</sup> *See, e.g.*, Solar Energy Industries Association’s Protest and Motion to Dismiss, filed on August 20, 2013 in Docket No.  
E-01345A-13-0248, at 19-20.

1 LFCR, and it is likely that opponents to its present Application will raise these Arizona ratemaking  
2 doctrines in this proceeding. Staff is not contending that a rate case is required in order to process  
3 this matter; nonetheless, it is obvious that a rate case would alleviate any allegations related to *Scates*  
4 issues, and would thereby result in a less complicated proceeding.

5 Under these circumstances, Staff respectfully suggests that Trico voluntarily withdraw all but  
6 the reset of the avoided cost portion of its Application and pursue these issues in its upcoming rate  
7 case. As a practical matter, addressing these matters twice in such a short time-frame, *i.e.*, in the  
8 present Application and then again in the upcoming rate case may not be an efficient use of  
9 resources.

10 **IV. THE COMPANY'S REASONS FOR EXPEDITED CONSIDERATION ARE**  
11 **OUTWEIGHED BY THE COMMISSION'S INTEREST IN HOLDING AN**  
12 **EVIDENTIARY HEARING.**

13 The Company provides several arguments to attempt to justify expedited consideration of its  
14 application. Two are related to "regulatory certainty" and two are related to mitigating the alleged  
15 cost shift and revenue erosion that is allegedly occurring. Without discounting the benefits of  
16 achieving regulatory certainty and avoiding customer confusion, Staff believes that the Company's  
17 reasons for expedited consideration are outweighed by the Commission's interest in holding an  
18 evidentiary hearing. In short, the Company's desire for certainty cannot outweigh the public's  
19 interest in having an opportunity to fully evaluate Trico's Application.

20 Staff acknowledges that prompt resolution of the application will likely mitigate the  
21 uncertainty over net metering in Trico's service area and help avoid tariff changes for new DG  
22 Members. The mere fact, however, that the Company's application may cause uncertainty is not a  
23 valid reason to rush its processing, especially when there is likely to be opposition to the changes that  
24 Trico is proposing.

25 In sum, the desire for certainty could be said to underlie virtually every application filed at the  
26 Commission. "Certainty" is not enough to merit expedited processing, especially of a case that is  
27 likely to attract significant attention and raise significant factual disputes.  
28

1 V. CONCLUSION.

2 If Trico does not amend its Application by withdrawing all but the avoided cost reset portion,  
3 Staff respectfully requests that the Commission issue a procedural order to schedule this matter for  
4 hearing and to address related matters. The procedural order should require the Company to provide  
5 public notice of its Application. Staff also believes that the procedural order should include a  
6 procedural schedule. Preliminarily, Staff proposed the following procedural schedule for this matter.

- 7 a. Trico's Direct Testimony and Exhibits: April 17, 2015  
8 b. Staff's and Intervener's Direct Testimony and Exhibits: May 20, 2015  
9 c. Trico's Rebuttal Testimony and Exhibits: June 3, 2015  
10 d. Hearing: Commencing: as soon as reasonably possible following Trico's Rebuttal  
11 filing (note: Staff will be unavailable for hearing on Monday, June 29, 2015)

12 RESPECTFULLY SUBMITTED this 19<sup>th</sup> day of March, 2015.

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18 Original and thirteen (13) copies of  
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