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7 *Attorney for Vote Solar*

8 **BEFORE THE ARIZONA CORPORATION COMMISSION**

9 SUSAN BITTER SMITH, Chairman
10 BOB STUMP
11 BOB BURNS
12 DOUG LITTLE
13 TOM FORESE

Docket No. E-01933A-15-0100

14 IN THE MATTER OF TUCSON ELECTRIC
15 POWER COMPANY, INC. FOR (1) APPROVAL
16 OF A NET METERING TARIFF AND (2)
17 PARTIAL WAIVER OF THE NET METERING
18 RULES.

19 **VOTE SOLAR'S RESPONSE**
20 **TO TUCSON ELECTRIC**
21 **POWER'S NOTICE OF**
22 **WITHDRAWAL OF**
23 **APPLICATION**

24 On June 19, 2015, Tucson Electric Power Company ("TEP" or "the Company")
25 withdrew its Application for approval of a new net metering tariff for new distributed
26 generation ("DG") customers and partial waiver of the Commission's net metering rules. In its
Notice of Withdrawal, TEP stated it will pursue its net metering proposal in a future rate case
that it will file by the end of 2015. On June 26, 2015, Staff filed a response stating that it did
not object to TEP's Notice of Withdrawal and recommending that the Commission
administratively close the docket.

Vote Solar supports TEP's decision to withdraw its Application, as the Company's net
metering proposal raised rate design issues that should be addressed in a rate case rather than a
separate tariff filing. However, Vote Solar is concerned by TEP's ambiguous statement in its

1 Notice regarding how the Company will amend its interconnection application disclaimer for
2 new DG customers. Because it is unclear how TEP intends to modify the disclaimer and there
3 is potential for needless confusion and a chilling effect on new DG applications, Vote Solar
4 respectfully requests that the Commission order TEP to amend the disclaimer by deleting any
5 reference to this proceeding and reinstating the disclaimer language TEP used prior to the
6 initiation of this proceeding.

7 TEP's current disclaimer for new DG customers includes (1) standard language
8 informing customers generally that the Commission may alter its rules, regulations, or
9 rates in the future; and (2) specific language informing customers of this proceeding and
10 the fact that TEP was requesting modifications to the net metering tariff effective June 1,
11 2015.¹ TEP has now withdrawn its Application and there are no pending requests for the
12 Commission to modify the current net metering tariff. As a result, the Company should
13 amend the disclaimer to delete the language referencing this proceeding.
14

15 In its Notice of Withdrawal, however, TEP made a vague and ambiguous statement
16 regarding how it will amend the disclaimer. TEP stated:

17 TEP's rate filing will request that new rates go into effect by January 1, 2017, and
18 intends to propose that its modified net metering tariff apply to DG system
19 applications submitted after 5pm on June 1, 2015. Accordingly, TEP will modify
its interconnection application disclaimer to reflect the changed circumstances.²

20 It is thus unclear how TEP intends to modify the disclaimer, and how the Company
21 intends to use June 1, 2015, as a cut-off date for future modifications to the current net
22 metering tariff. For example, Vote Solar interprets this language as indicating that TEP
23 plans to propose a June 1, 2015 grandfathering date whereby DG customers who submit
24

25 ¹ TEP's current disclaimer reflects Revised Exhibit 2 to TEP's Application and is available at:
https://www.tep.com/doc/renewable/PV/tep_attachment_a_b_06.23.2014.pdf.

26 ² TEP Notice of Withdrawal of Appl. at 2:16-2:19.

1 interconnection applications before that date would not be subject to future net metering
2 modifications in the upcoming rate case. But TEP's statement could also indicate that the
3 Company intends to seek a retroactive modification to the net metering tariff effective
4 June 1, 2015, for DG customers who submit applications after that date.³
5

6 If TEP intends to modify the current disclaimer by adding new language that references
7 a future, unfiled rate case or a potential June 1, 2015 cut-off date, the disclaimer could create
8 unnecessary confusion for new and potential DG customers and it could have a chilling effect
9 on new DG customers by creating the impression of heightened regulatory uncertainty. To
10 avoid these harms, the Commission should order the Company to amend the disclaimer by
11 deleting any reference to this proceeding and reinstating the disclaimer language TEP used
12 prior to the initiation of this proceeding. This standard disclaimer language sufficiently
13 informs new DG customers that the Commission's rules, regulations, and rates are subject to
14 future modifications, and any additional language specifically referencing TEP's intended
15 actions in a future, unfiled rate case would be speculative and unwarranted.

16 DATED this 30th day of June, 2015.

17 ARIZONA CENTER FOR LAW IN THE
18 PUBLIC INTEREST

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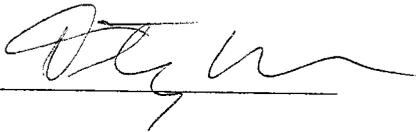
24
25 ³ Such retroactive modification to the net metering tariff, however, would violate the retroactive
26 ratemaking doctrine. See, e.g., *Mountain States Tel. & Tel. Co. v. Ariz. Corp. Comm'n*, 604 P.2d 1144,
1147 (Ariz. Ct. App. 1979).

1 ORIGINAL and 13 COPIES of the
2 Foregoing filed this 30th day of June,
2015, with:

3
4 Docketing Supervisor
5 Docket Control
6 Arizona Corporation Commission
1200 W. Washington
Phoenix, AZ 85007

7 COPIES of the foregoing
8 Electronically mailed this
30th day of June, 2015, to:

9
10 All Parties of Record

11 
12 _____