

ORIGINAL



0000163101

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

SUSAN BITTER SMITH, CHAIRMAN
BOB STUMP
BOB BURNS
DOUG LITTLE
TOM FORESE

Arizona Corporation Commission

DOCKETED

2015 APR 30 P 4:12

APR 30 2015

AZ CORP COMMISSION
DOCKET CONTROL

DOCKETED BY *RC*

IN THE MATTER OF THE APPLICATION OF) DOCKET NO. E-01461A-15-0057
TRICO ELECTRIC COOPERATIVE, INC., AN)
ARIZONA NONPROFIT CORPORATION, FOR)
(1) APPROVAL OF NET METERING TARIFFS;) **REPLY BRIEF ON**
AND (2) PARTIAL WAIVER OF THE NET) **PROCESS ISSUES**
METERING RULES.)

Trico Electric Cooperative, Inc., an Arizona not-for-profit corporation, ("Trico" or "Company"), through undersigned counsel, submits its Reply Brief in further support of proceeding with Trico's Application in this docket at this time. Trico's Member-elected board believes that the proposed modification of its net metering tariff is the appropriate gradual step at this time to reduce subsidies for distributed generation deployment and is in the best interests of Trico's Members as a whole. A rate case is not required for such modification nor should Trico's Members bear the expense of a full rate case to take this gradual step.

A. Modifying the Net Metering Tariff Will Gradually Reduce the DG Subsidies and the Cost Shift.

As set forth in its initial brief, Trico has historically supported deployment of distributed solar PV systems in its service area through payments of subsidies, even though these subsidies have been paid for by its Members. Trico also has supported gradualism in reducing those subsidies as the costs of DG deployment have declined. Its upfront incentives were cautiously reduced to zero with an eye towards maintaining gradual, yet continuing deployment of DG systems. Indeed, the Commission's REST rules compliance targets provided for gradual deployment of renewable DG.

1 However, given the steep decline in PV costs and evolving business models for DG
2 deployment, Trico recently experienced an exponential increase in the number of DG systems
3 being interconnected in its service area. This increase suggested that the time was ripe for the next
4 reduction in subsidies in order to continue gradual, not disruptive, deployment of DG systems. As
5 set forth in the initial brief, Trico's Member-elected board decided that modification of the net
6 metering tariff was the appropriate step to mitigate the lost fixed cost revenues and related cost
7 shift.

8 The proposed net metering tariff also allows the cross-subsidy cost shift issue to be
9 mitigated without incurring the significant expense of a rate case. As a Member-owned non-profit
10 organization, rate case expenses ultimately are borne by the Members. Moreover, there would be
11 numerous other complex issues unrelated to the DG cost shift that would need to be addressed in a
12 rate case. This separate docket allows interested Members to more effectively participate on the
13 net metering issue. And, as noted in the initial brief, a rate case would take much more time and
14 unduly extend the uncertainty over net metering.

15 Trico is well aware of other options to address the cross-subsidization of DG systems, such
16 as demand charges or increased customer charges. It is also fully aware that this first step of
17 modifying the net metering tariff does not fully resolve the cost shift. However, at this point,
18 Trico prefers a single, gradual step to address the unprecedented explosion of DG systems in its
19 service area. The results of this step may shed significant light on the scope of appropriate next
20 steps to be taken to maintain gradual deployment and to fully address the cost shift. Those next
21 steps likely will need to be taken in Trico's next rate.

22 Staff raises concerns that simply modifying the net metering tariff may affect "customer
23 choice" and that it does not fix the problem of existing under-recovery of fixed costs. In fact,
24 several of Staff's alternatives, such as a demand charge, may have an even larger adverse impact
25
26
27

1 on customer choice. However, the Member-elected board – representing the Member-customers
2 as a whole -- believe that the net metering proposal is an appropriate balance of such concerns.¹

3 Trico respectfully requests that the Commission defer to the gradual approach it has
4 proposed. Trico has determined that the modification of the net metering tariff is in the best
5 interests of Trico and its Members as a whole. Moreover, electric cooperatives have been treated
6 differently with respect to renewable resources under the Commission’s REST rules. Indeed,
7 A.A.C. R14-2-1814, electric cooperatives only need to submit “an appropriate plan” for acquiring
8 RECs and that plan, if approved by the Commission, would substitute to the REST rule
9 requirements, including the distributed generation requirement of A.A.C. R14-2-1805. This
10 deference to the electric cooperatives comports with the gradual approach that Trico has proposed
11 in this docket.

12 **B. The Law Does Not Preclude Modification of the Net Metering Tariff Outside a**
13 **Rate Case.**

14 Nothing in the initial briefs has changed Trico’s firm belief that the proposed modifications
15 to its net metering tariff can be done outside of a rate case. Indeed, Commission Staff has not
16 taken that position in any of its filings in the various net metering tariff dockets. Rather, Staff
17 would simply prefer to have the issue addressed in a full rate case. However, Trico is a Member-
18 owned electric cooperative and continues to believe that proceeding in this docket is in the best
19 interests of its Members as a whole. Nothing in this case would be binding in any other similar
20 docket and the circumstances and relief sought in those other dockets are simply not identical to
21 this docket.

22 Trico also disagrees with TASC’s assertion that modifications to Trico’s net metering tariff
23 would be single issue ratemaking. If that were the case, the approval of the initial net metering
24 tariff outside of a rate case would have been unconstitutional. However, the initial adoption of the
25
26

27 ¹ Trico would also note that it has not proposed the modified net metering tariff to address exigent financial
circumstances, but as a proactive attempt to avoid such exigent circumstance.

1 net metering tariff did not implicate the Arizona constitution or *Scates* and, as set forth in Trico's
2 initial brief, the modification of the net metering tariff also does not do so.

3 Further, the Commission does have broad discretion to consider a tariff issue inside or
4 outside of a full rate case. Commission rules provide for a number of types of tariffs to be
5 approved without a full Rule 103 rate case, such as REST tariffs, net metering tariffs, electric and
6 gas DSM tariffs, AUSF surcharges, CLEC tariffs and COPT tariffs.² The Commission has acted
7 outside of a rate case to establish the rolling average Purchased Gas Adjustor mechanism,³ to
8 approve water hook-up fees,⁴ to approve reductions in electric base rates,⁵ to approve new partial
9 requirements tariffs,⁶ and new street lighting tariffs.⁷ None of these actions required a rate case or
10 violated *Scates*. Here, Trico is not proposing an additional rate; rather it is proposing a reduced
11 credit to be paid for excess electricity that will have no impact on Trico's fair value and will not
12 increase Trico's return/margin above what was approved in its last rate case. Considering Trico's
13 application at this time does not constitute single issue ratemaking and is well within the
14 Commission's authority and discretion.

15 TASC remarkably asserts that Trico will receive a "revenue windfall" from the proposed
16 modification. However, as set forth in Trico's initial brief, the net metering tariff was adopted
17 after Trico's last rate case and acts only to erode Trico's approved rate of return/margin. The
18 proposed modification will only slow that erosion; it will not do anything to recoup revenues that
19 have already been lost.⁸

20
21
22 ² See e.g. A.A.C. R14-2-1808 (REST tariffs); A.A.C. R14-2-2406 and -2410 (Electric DSM tariffs); A.A.C.
23 R14-2-2506 and -2510 (Gas DSM tariffs); A.A.C. R14-2-2307 (net metering tariffs); A.A.C. R14-2-1110
(CLEC rate tariffs); A.A.C. R14-2-905 and -906 (COPT tariffs); see also A.A.C. R14-2-1205 and 1206
(AUSF surcharge).

24 ³ Decision No. 61225 (Oct. 30, 1998).

25 ⁴ Decision No. 66512 (Nov. 10, 2003).

26 ⁵ Decision No. 61973 (Oct. 6, 1999)(APS); Decision No. 61104 (August 28, 1998)(TEP).

27 ⁶ Decision No. 65751 (March 20, 2003)(TEP); Decision NO. 74438 (April 18, 2014)(APS).

⁷ Decision No. 68954 (Southwest Gas)(closing G-45 Street Lighting Tariff to new applicants); Decision
No. 72433 (June 27, 2011)(APS)(revised E-47 and E-58 schedules).

⁸ Moreover, the amount of revenue erosion that is mitigated depends entirely on the number of DG systems
that are deployed and interconnected to Trico's grid.

1 TASC's brief reflects a lack of understanding of the member-owned non-profit electric
2 cooperative. TASC ignores, or does not understand, that the Member-owners of Trico will benefit
3 directly if Trico is not losing revenue from net metering. Unlike an investor-owned corporation,
4 Trico has no third-party investors to bear the financial impact of the lost revenue. Trico's
5 Member-customers bear those lost fixed costs directly through lower capital credit allocations and,
6 ultimately, higher rates. Moreover, TASC fails to acknowledge that limiting the amount of lost
7 fixed cost revenues also will mitigate the cost shift that occurs through Trico's Power Cost
8 Adjustor

9 Because Arizona law does not require the net metering tariff modifications to be made in a
10 rate case, Trico's application in this docket can and should proceed. Policy considerations alone
11 should not preclude proceeding in this docket. Trico should have the opportunity to present its
12 case at a hearing as to why the net metering tariff can and should be modified at this time.

13 **C. Trico Would Review the Modified Net Metering Tariff in its Next Rate Case.**

14 Even though the modification of the net metering tariff does not need to be done in a rate
15 case, Trico wants to make clear that it would not oppose having the modified net metering tariff
16 reviewed and possibly revised in its next rate case. Trico submits that having some experience
17 with its modified net metering tariff would facilitate the consideration of both further modification
18 of the tariff as well as other options to address the cost shift. However, at this point, Trico has not
19 determined when it will be filing its next rate case and requests that it not be required to file a rate
20 case prematurely when there is an immediate option to mitigate the issue of lost fixed cost revenue
21 and the related cost shift.

22 **D. Updates to the Avoided Cost Credit are Routinely Approved without a Hearing.**

23 There is no valid reason to delay updating Trico's avoided cost rate. That rate is used in
24 connection with Trico's existing net metering tariff. As set forth in Trico's initial brief, as well as
25 the briefs of Staff and others, such updates are reviewed and approved on a regular basis without a
26 hearing. Staff has reviewed the standard information for determining the avoided cost rate as
27

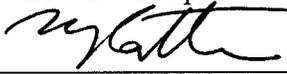
1 defined in A.A.C R14-2-2302(1) and prepared a Staff Report and proposed order. The
2 Commission should approve the proposed order.

3 **E. Relief Requested.**

4 Because the law does not require that modification of the net metering tariff to be done is a
5 rate case, Trico requests that the Commission proceed with this docket on the merits and:

- 6 1. Approve Trico's updated avoided cost rate and
7 2. Set a procedural schedule for a hearing on the proposed net metering tariff.

8 RESPECTFULLY SUBMITTED this 30th day of April, 2015.

9 Trico Electric Cooperative, Inc.
10 By 
11 Michael W. Patten
12 Jason D. Gellman
13 SNELL & WILMER
14 One Arizona Center
15 400 East Van Buren Street, Suite 1900
16 Phoenix, Arizona 85004
17
18 Attorneys for Trico Electric Cooperative, Inc.

16 Original and thirteen copies of the foregoing
17 filed this 30th day of April, 2015, with:

18 Docket Control
19 Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

20 Copy of the foregoing hand-delivered
21 this 30th day of April, 2015, to:

22 Jane L. Rodda
23 Administrative Law Judge
24 Hearing Division
25 Arizona Corporation Commission
400 West Congress
Tucson, Arizona 85701

26
27

- 1 Wesley Van Cleve
Robert Geake
2 Legal Division
Arizona Corporation Commission
3 1200 West Washington Street
Phoenix, Arizona 85007
4
- 5 Steve Olea
Director, Utilities Division
Arizona Corporation Commission
6 1200 West Washington Street
Phoenix, Arizona 85007
7
- 8 Garry D. Hays
Law Offices of Garry D. Hays, P.C.
1702 E. Highland Ave., Suite 204
9 Phoenix, AZ 85016
- 10 Michael A. Curtis, Esq.
William P. Sullivan, Esq.
11 Curtis, Goodwin, Sullivan,
Udall & Schwab, P.L.C.
12 501 East Thomas Road
Phoenix, AZ 85012-3205
13
- 14 Tyler Carlson
Peggy Gillman
Mohave Electric Cooperative, Inc.
15 P.O. Box 1045
Bullhead City, AZ 86430
16
- 17 Court S. Rich
Rose Law Group pc
7144 E. Stetson Drive, Suite 300
18 Scottsdale, AZ 85251
- 19 Robert B. Hall
4809 Pier Mountain Place
20 Marana, AZ 85658
- 21 Robyn L. Interpreter
Susan B. Montgomery
22 Montgomery & Interpreter, PLC
4835 E. Cactus Road, Suite 210
23 Scottsdale, AZ 85254
- 24 Paul O'Dair
Navopache Electric Cooperative, Inc.
25 1878 W. While Mountain Blvd.
Lakeside, AZ 85929
26
- 27 Kristen K. Mayes
3030 North 3rd Street, Suite 200
Phoenix, AZ 85012

1 Kevin M. Koch
P.O. Box 42103
2 Tucson, AZ 85733

3 Bradley S. Carroll
Tucson Electric Power Company
4 88 East Broadway Blvd., MS HQE910
5 P. O. Box 711
Tucson, AZ 85702

6 Mark Holohan, Chairman
7 Arizona Solar Energy Industries Association
2122 W. Lone Cactus Dr., Suite 2
8 Phoenix, AZ 85027

9 Thomas A. Laquvam
Pinnacle West Capital Corporation
10 P.O. Box 53999, MS 8695
Phoenix, AZ 85072

11 Gregory Bernosky
12 Arizona Public Service Company
P.O. Box 53999, MS 9708
13 Phoenix, AZ 85072

14 Jeffrey W. Crockett
Brownstein, Hyatt, Farber Schreck, LLP
15 One East Washington Street, Suite 2400
Phoenix, AZ 85004

16 Credan Huber, Chief Executive Officer
17 Jack Blair, Chief Member Services Officer
Sulphur Springs Valley Electric Cooperative, Inc.
18 311 East Wilcox Drive
Sierra Vista, AZ 85635

19
20 By *Jacklyn Howard*

21

22

23

24

25

26

27