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ARIZONA CORPORATION COMMISSION

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MEMO

Arizona Corporation Commission
DOCKETED
JUL 09 2015
DOCKETED BY MLB

To: Arizona Corporation Commission, Docket Control

From: Office of Chairman Susan Bitter Smith

Date: July 9, 2015

Re: Trico
E-01461A-15-0057

Chairman Bitter Smith's office has received the attached letter from Mark Holohan of ARISEIA regarding the above captioned docket. A copy is available on eDocket.

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AZ CORP COMMISSION
DOCKET CONTROL

AriSEIA
ARIZONA SOLAR ENERGY INDUSTRIES ASSOCIATION

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July 9, 15

Arizona Corporation Commission
Chairman Susan Bitter Smith
Commissioners Bob Stump, Bob Burn, Tom Forese, Doug Little
1200 W. Washington
Phoenix, Az 85007-2996

Dear Chairman Bitter Smith and Commissioners,

Please accept this letter as a plea for help from an industry in need of your leadership and intervention. As you know, the rooftop solar industry in Arizona is an industry under attack from the entrenched utility monopolies serving this state. After a farcical hearing process, SRP imposed solar pricing structures that, according to recent updates on the Arizona Goes Solar website, have resulted in only 86 applications for residential solar being made to SRP in the last six months with only three of those contracts actually leading to installation. Within a few short months of SRP rendering rooftop solar uneconomical, six regulated Arizona utilities have brought forward proposals seeking to deprive their customers of any economically viable use of rooftop solar.

On March 23, 2015, we wrote a letter to the Chairman calling on the Commission to help the rooftop solar industry deal with Arizona's regulated utilities' latest tactic: the imposition of unilateral cutoff dates. As explained in that letter, Trico, and since then TEP and UNS along with SSVEC, instituted so called "cutoff dates" which are

dates after which the utilities are telling all new solar customers that specific new -- yet unapproved-- solar tariffs will be retroactively applied to them after the Commission makes a decision at some future time.

Further, TEP has taken the extraordinary step of withdrawing its request to end net metering while continuing to tell customers that sign up for solar after June 1, 2015, that TEP is going to push the Commission to retroactively apply any new solar fees and charges to those customers. This move is specifically designed to chill the installation of solar even though there is no precedent at the Commission on which TEP could reasonably make the case that the Commission would ever support retroactively changing rates on a particular artificial sub-class of customers based on an entirely arbitrary date. The idea that the Commission, while adjudicating TEP's rate case sometime in late 2016 or later, would decide that it will end grandfathering for solar customers on the arbitrary date of June 1, 2015, is absurd and TEP should not be able to poison the solar well with such ridiculousness. To add insult to injury, TEP has noted that it is unlikely to have this new, yet retroactive, rate approved until sometime in 2017. This means that the entire southern Arizona solar industry is in limbo because TEP has announced it will be asking the Commission to make a wildly arbitrary decision in some two years' time.

The impact of a cutoff date is that a potential customer must make a decision and perform economic analysis as if the request in the Application has already been granted even though the Applications are outlandish and designed specifically to make solar uneconomical. As a result of these cutoff dates, these utilities' service territories are essentially dead.

This means that nearly all Southern Arizona utility ratepayers, and a substantial portion of those from northern Arizona as well are being deprived of the ability to choose to economically generate some of their own power using clean renewable solar energy. Solar is essentially dead in Tucson, Oro Valley, South Tucson, Marana, Nogales, Kingman, Lake Havasu City and other cities and towns merely because the

utilities serving those territories say so with absolutely no regulatory oversight. Quite simply, this should be stopped.

One could argue that by allowing TEP, UNS, SSVEC, and Trico to threaten retroactive tariff changes on their own customers, this Commission has actually ceded its authority to these utilities on this important issue. This will cost Arizonans jobs as the SRP debacle already demonstrated. This will deprive ratepayers of the ability to use solar to control their own energy usage and save money. Don't forget, current Rules make net metering the law of the land in Arizona. The utilities may not like that, but they must follow the law and should not be permitted to take actions that undermine the law without ACC oversight.

Don't forget also that even when the ACC ultimately rejects the TEP, UNS, SSVEC, and Trico proposals, unless the utilities are told this threat of retroactivity will not stand, there is nothing to stop them from immediately filing another retroactivity-threatening Application the day after the ACC rejects those that are currently pending. In essence, the utilities could kill the solar industry forever by merely repeatedly asking the Commission to kill the solar industry.

Allowing this to continue will not only have direct and immediate negative impact for ratepayers and the solar industry but will set a dangerous precedent. Will the utilities be permitted to simply outlaw behavior that may reduce their revenue by noisily threatening to make Applications for retroactive charges and taxes on those that would seek to engage in such behavior? Unless the ACC steps in, it is easy to imagine utilities using the threat of retroactive charges to stop their customers from doing anything that might cause their customers to buy less power from the utility. The following is just a sample of the types of behavior that the ACC could be sanctioning if it does nothing:

-Live in Tucson and want to install an energy efficient air conditioning unit? Sorry but TEP asked the Commission to impose a $50/month fee on you for doing that if

you do it after tomorrow. Never mind that the Commission has not ruled and might not for a year.

-Live in Lake Havasu City and want to install a NEST home system? Too bad, UNS is in the middle of a yearlong process where it asked the Commission to raise your rates if you do that and if they win, you will be retroactively charged 30% more per month.

-Live in Oro Valley and want to hook natural gas up to your currently all electric home? Sorry to report that TEP has filed an application asking that everyone who hooks up to natural gas after a certain date pay a partial exit fee of $10,000. Sure the Application may take a year and a half to adjudicate but the charge is effective on those who hooked up to natural gas on or after the date TEP filed the Application if it is approved.

The utilities will no doubt respond that they are merely doing a public service by "warning" customers of the moves they will make in the future. They will paint these expanded disclaimers as a public service to those making an investment in solar. This post hoc rationale must be rejected. First, if the utilities actually had this concern then they would not just be providing a disclaimer of this nature to solar customers but to any new customers they sign up in their service territory. Will TEP be having all new commercial customers acknowledge that TEP will be filing a rate case seeking to raise their rates in 2017? If not, why not? Don't these customers have a right to know their rates may change substantially thereby disrupting their investment-backed expectations? Will TEP be asking all new residential customers to first execute a disclaimer indicating it will be seeking a substantial rate hike effective January 1, 2017? Of course it will not be doing that because to *do so* would discourage people from moving to its service territory or opening a business in Tucson –a behavior TEP wants to promote to grow its revenue- while it is happy to provide that information to discourage customers from adopting solar –a behavior TEP wishes to snuff out completely-. Do not forget that TEP (and other

utilities) already provide solar customers with a standard disclaimer making it abundantly clear that their rates are subject to change.

Next, recent history already exposes the folly of this type of "warning." Had APS commenced "warning" customers that it would be seeking to levy a $50-$100 a month average charge on solar customers back in November of 2012, thousands of customers would not have adopted solar between then and when the Commission ultimately adopted an average $4.90 a month charge in late 2013. These customers would have been misled by warnings of a fee that ended up being a mere fraction of what was proposed. Millions in economic opportunity for the state would have been lost, companies and jobs would have been threatened, and ratepayers would have lost out on the opportunity to save millions on electric bills.

With the above context in mind and with the jobs of our members and the freedom of our customers on the line we respectfully request that the Commission immediately rectify this problem. We are hopeful that any Commission inaction to date is merely the result of a failure to appreciate the severity of the situation and the amount of authority that the Commission has unwittingly surrendered to the utilities on this issue. We are hopeful that the Commission can step up and tell the public that the decisions it makes in the pending cases will not be retroactive per the utilities' desires and will not be arbitrarily tied to random dates of the utility's choosing. The current TEP disclaimer must be modified to <u>eliminate</u> the following troublesome language from residential and business interconnections:

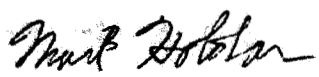
> On March 25, 2015, TEP filed an application with the Commission in Docket No. E-01933A-15-0100 proposing elimination of the monthly energy carryover (banked credits) and changes to the retail credit customers receive for all excess energy placed on the grid that would apply to distributed generation system applications submitted after 5pm on June 1, 2015 ("Proposal"). Although TEP subsequently withdrew the application on June 19, 2015, TEP

intends to include this Proposal in its upcoming rate case. The Commission may accept, reject, or modify this Proposal.'

We note also that in its 2016 REST Plan filing TEP has signaled that it is seeking approval of an additional 1,000 utility owned solar rooftop systems. This is illustrative of the difficulties that can arise when the utility is permitted to compete in provision of goods available in an otherwise competitive market. TEP should not be permitted to unreasonably harm the rooftop solar industry with one hand while seeking to expand its own business further into this otherwise competitive space.

We are hopeful that you can promptly address this situation.. Please demand that the utilities only use their previously utilized disclaimers without specific reference to a cutoff date and do not allow them to scare their customers with threats of arbitrary dates and purely speculative requests. Thank you for your leadership on this important issue.

Respectfully,



Mark Holohan
President and Board Chairman
Arizona Solar Energy Industries Association