

ORIGINAL

BEFORE THE ARIZONA CORPORATION



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COMMISSIONERS

Arizona Corporation Commission

SUSAN BITTER SMITH, Chairman
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TOM FORESE

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IN THE MATTER OF THE APPLICATION OF
UNS ELECTRIC, INC. FOR THE
ESTABLISHMENT OF JUST AND
REASONABLE RATES AND CHARGES
DESIGNED TO REALIZE A REASONABLE
RATE OF RETURN ON THE FAIR VALUE OF
THE PROERTIES OF UNS ELECTRIC, INC.
DEVOTED TO ITS OPERATIONS
THROUGHOUT THE STATE OF ARIZONA
AND FOR RELATED APPROVALS.

DOCKET NO. E-042014A-15-0142

RESPONSE TO
UNS ELECTRIC'S OPPOSITION
TO ARIZONA UTILITY
RATEPAYER ALLIANCE'S
MOTION TO INTERVENE

1 The Arizona Utility Ratepayer Alliance, ("AURA"), hereby responds to the "Opposition
2 to Arizona Utility Ratepayer Alliance's Motion to Intervene" filed by UNS Electric, Inc.
3 ("UNSE"). UNSE offers no legitimate reasons why AURA should not be allowed to participate
4 fully in this proceeding. UNSE's opposition is a patent attempt to stifle legitimate, reasoned
5 advocacy concerning policy issues of great interest to the Commission and electric customers
6 throughout Arizona. It should also be noted that UNSE must especially fear AURA's
7 participation. There are many intervenors in this case who are not UNSE customers but are
8 concerned with policies the Commission may develop or refine concerning renewable energy
9 and efficiency programs. It is not surprising that it supports participation by its allies. But,
10 among those likely to take contrary views, UNSE has reserved its opposition to only AURA.

11 **I. AURA's Form Is Irrelevant**

12 UNSE has clearly expended many hours researching AURA's form, as if this were
13 somehow relevant. But UNSE seeks to elevate form over substance. It is irrelevant that AURA
14 was formed by a lobbyist, Pat Quinn. Mr. Quinn is not seeking to lobby the Commission.¹

¹ Nor could he concerning the issues being considered in this case given the Commission's Ex Parte Rule (A.A.C. R14-3-113).

1 Instead he expeditiously created AURA (using his existing LLC) and—as UNSE admits—
2 received funding from the Energy Foundation, an advocate for clean energy technology, to
3 support participation in Commission cases that could affect the markets for such technology.
4 AURA clearly has real substance.

5 **II. AURA Does Have An Actual and Substantial Interest in this Case**

6 Among other things, UNSE’s application raises several issues of state-wide interest:

- 7 • UNSE seeks to make significant changes to its rate design including to rate structures
8 for residential and small commercial customers, which could discourage continuing
9 customer energy-efficiency implementation in its service territory.
- 10 • UNSE proposes to modify its net-metering tariff to reduce so-called “subsidies,”
11 which could discourage alternative-energy usage.

12 The UNSE proceeding is the only major electric-utility rate case currently before the
13 Commission. Although not truly precedential, the Commission does seek to uniformly regulate
14 its jurisdictional electric utilities. For better or worse, this UNSE case does come first, and likely
15 will be given great weight in future Commission decisions concerning its jurisdictional utilities.

16 AURA’s interest in this case is certainly as strong as other intervenors. Arizona Public
17 Service Corporation (“APS”) has been granted intervenor status. APS is hardly a UNSE
18 customer, and asserted no special interest at all in this proceeding. Yet UNSE did not object,
19 obviously because it believed that APS would be a valuable ally. Nor is it likely that UNSE will
20 object to the pending motion to intervene filed by fellow electric utility Sulphur Springs Valley
21 Electric Cooperative, Inc. UNSE also welcomed the intervention of the Arizona Investors
22 Council (“AIC”), an organization funded and controlled by Arizona’s regulated utilities. AIC is
23 also clearly not a UNSE customer. Instead, UNSE reserves its opposition to a non-customer that
24 likely to take positions contrary to the electric-utility coalition.

25 Customer status is clearly not dispositive for other intervenors. UNSE has not objected
26 to interventions by the following non-customers:

- 27 • Southwest Energy Efficiency Project;
28 • Vote Solar;

- 1 • Noble Americas Energy Solutions LLC;
- 2 • Western Resource Advocates; and
- 3 • Arizonans for Electric Choice and Competition.

4 As noted in their applications, the Commission has previously approved participation by these
5 non-customers in multiple proceedings involving renewable energy and energy efficiency.

6 Finally, far ahead of the pack in the irony race, non-customer UNSE previously sought
7 and received intervenor status in the APS net-metering docket.² UNSE claimed with no support
8 at all: “The Companies are directly and substantially affected by the issues to be addressed
9 in this proceeding.”³ In contrast, AURA identified the issues of particular concern and how they
10 could affect renewable energy and energy efficiency interests.

11 **III. UNSE’s Dog Did not Bark**

12 In *Silver Blaze*,⁴ the key clue noted by Sherlock Holmes was that a stable dog did not
13 bark.

14 I had grasped the significance of the silence of the dog, for one true inference invariably
15 suggests others. The Simpson incident had shown me that a dog was kept in the stables,
16 and yet, though some one had been in and had fetched out a horse, he had not barked
17 enough to arouse the two lads in the loft. Obviously the midnight visitor was someone
18 whom the dog knew well.⁵

19 This inference allowed Holmes to reason that the horse Silver Blaze had in fact been stolen by
20 the putative murder victim, John Straker, the horse’s trainer.

21 Silence is also key to dispose of UNSE’s Opposition. UNSE obviously spent a great deal
22 of time and effort researching and writing its Opposition. Yet, UNSE ultimately could provide
23 only four examples where the Commission had denied intervention because the party did not
24 have a “clear and substantial” interest in the case. Three of the examples concerned CC&N
25 cases where the issues are very narrow and state-wide policies are not involved. The only rate
26 case offered was the Far West case from 2012 concerning intervenor Spartan Homes. However,

² Docket No. E-01345A-13-0248.

³ August 5, 2013, Motion to Intervene in Docket No. E-01345A-13-0248. Based on similar vague assertions, sister-company Tucson Electric Power Company also intervened in APS’s last rate case. Docket No. E-01345A-11-0224.

⁴ Doyle, Sir Arthur Conan, Memoirs of Sherlock Holmes, Adventure 1, public domain, <http://www.inform.umd.edu/EdRes/ReadingRoom/Fiction/Doyle/Memoirs/silver-blaze>.

⁵ *Id.*, no page number available (emphasis added).

1 UNSE failed to look further in eDocket. If it had, UNSE would have seen that Spartan Homes
2 was in fact granted intervenor status just one week later on September 4, 2012. UNSE would
3 also have seen that there were no issues of state-wide importance in the Far West case.

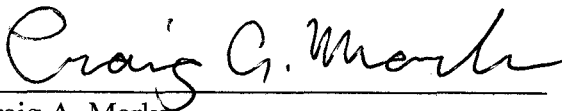
4 The record is silent and the Commission should, like Holmes, infer from that silence and
5 conclude that precedent is against UNSE's Opposition. In fact, the Commission rarely if ever
6 denies timely intervention in a utility rate case.

7 **IV. Conclusion: UNSE's Opposition Should Be Denied**

8 AURA's form is irrelevant. Its substance is that of party with its own views concerning
9 the policy issues in this case, with funding by a national renewable-energy advocacy group.

10 AURA's interest in this case is as clear and substantial as many of the parties whose
11 interventions UNSE has tacitly supported, including those of its allies. The Commission should
12 not allow it to selectively oppose the intervention of a party likely to take contrary positions to
13 those of UNSE and its allies. Finally, Commission precedent supports the position that the
14 Commission rarely if ever denies timely intervention in a utility rate case.

15 Respectfully submitted on October 9, 2015, by:

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