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1 Court S. Rich AZ Bar No. 021290
2 Rose Law Group pc
3 7144 E. Stetson Drive, Suite 300
4 Scottsdale, Arizona 85251
5 Direct: (480) 505-3937
6 Fax: (480) 505-3925
7 *Attorney for The Alliance for Solar Choice*

BEFORE THE ARIZONA CORPORATION COMMISSION

SUSAN BITTER SMITH
CHAIRWOMAN

BOB STUMP
COMMISSIONER

BOB BURNS
COMMISSIONER

TOM FORESE
COMMISSIONER

DOUG LITTLE
COMMISSIONER

11 **IN THE MATTER OF THE**)
12 **APPLICATION OF SULPHUR**)
13 **SPRINGS VALLEY ELECTRIC**)
14 **COOPERATIVE, INC. FOR**)
15 **APPROVAL OF A NEW NET**)
16 **METERING TARIFF SCHEDULE**)
17 **NM-2 AND REVISIONS TO THE**)
18 **EXISTING NET METERING TARIFF**)
19 **SCHEDULE NM.**)

DOCKET NO. E-01575A-15-0127

**THE ALLIANCE FOR SOLAR
CHOICE'S (TASC) REPLY BRIEF**

Arizona Corporation Commission
DOCKETED

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I. Introduction

20 As explained in TASC's Opening Brief, because Sulphur Springs Valley Electric Cooperative,
21 Inc., ("SSVEC") requests to raise revenue from a rate increase on solar customers, its proposal
22 must be heard in the context of a rate case proceeding. TASC provided several reasons why a rate
23 case is necessary, in its Initial Brief. SSVEC's Opening Brief continues to raise baseless
24 arguments that fly in the face of reason and common sense. In its Brief, SSVEC maintains that it
25 can pursue single-issue ratemaking, that cooperatives should be --despite the lack of any legal
26 basis-- held to a lesser standard in all matters before the Commission, and that a rate case is not a
27 better forum to review rate design polices.

1 This Commission has ably solved rate recovery issues through full rate cases. Single-issue
2 ratemaking is prohibited by case law. The alleged cost shift, in this instance, does not rise to an
3 emergency that would necessitate interim rates or else SSVEC would have sought such a treatment.
4 The assertion by SSVEC that “there is no reason why a rate case is inherently better than this
5 docket” strains incredulity.

6
7 SSVEC’s Brief is full of weak claims and tenuous arguments. TASC responds to each claim in
8 turn.

9
10 **A. SSVEC Is Wrong When It Says That Net Metering Rates May Be Adjusted Outside**
11 **Of A Rate Case**

12
13 As outlined in TASC’s Opening Brief, Arizona’s Constitution prohibits the single issue ratemaking
14 sought by SSVEC. In its Brief, SSVEC did not even mention *Scates v. Arizona Corp. Commission*,
15 much less assess the case’s tests for proper ratemaking. In *Scates*, the court held that the
16 Commission “is required by our Constitution to ascertain the value of a utility’s property within
17 the State in setting just and reasonable rates.”¹ Therefore, the Commission must “determine the
18 ‘fair value’ of a utility’s property and use this value as the utility’s rate base”² and then “determine
19 what the rate of return should be, and then apply that figure to the rate base in order to establish
20 just and reasonable tariffs.”³

21
22 How is the Commission able to make these determinations without knowing all of the relevant
23 facts necessary for a rate case? SSVEC’s last rate case was filed in September 2013 with a 2012
24 test year. The rate case was streamlined and approved in March 2014. Even if SSVEC were in
25 fact suffering from a revenue deficit, it is doing so with stale rates based on a calculated rate base

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27
28 ¹ *Scates v. Arizona Corp. Commission*, 578 P.2d 612, 615 (Ariz. Ct. App. 1978) (citing Ariz. Const. art. 15, 14).

² *Id.* at 615

³ *Id.*

1 that is three years old. The single issue of whether or not SSVEC can charge new rates, for new
2 solar customers, should not, and legally cannot, be examined within a regulatory vacuum.

3
4 **B. This Net Metering Proposal Is Single-Issue Ratemaking**

5
6 SSVEC asserted in its Opening Brief that it is “suffering harm”⁴ and “will continue to suffer
7 harm.”⁵ Most companies in a similarly dire predicament would consider continued “harm” to be
8 an appropriate pretext for filing a rate case or, in the case of an emergency, seeking interim rates
9 as a rate case is prepared. SSVEC appears to contend that as long as rooftop solar is the cause of
10 its alleged under-recovery problem, SSVEC does not have to address the issue in a rate case where
11 it and every other utility in the state have always dealt with non-rooftop solar related recovery
12 issues.

13
14 In fact, SSVEC concedes that its ratemaking proposal, limited to this single-issue, “may not
15 provide complete relief.”⁶ SSVEC all but admits this is really just single issue ratemaking when
16 it says its proposal is nothing more than a “first step.”⁷ In this case the words “first step” are
17 synonymous with “single issue.” If the utility is not even going to allege its proposal is anything
18 other than a single discrete issue that cannot fully address its alleged problem, how can the
19 Commission conclude this is anything other than single issue ratemaking?

20
21 Instead of incremental “steps,” as SSVEC advocates, the Commission should heed *Scates* and
22 require a full rate case to complete a full analysis of the numerous issues at play in utility
23 ratemaking and not just the single “first step” issue that SSVEC has isolated.

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⁴ SSVEC Initial Brief dated July 31, 2015, page 3, line 24

28 ⁵ Id. at 3, 25

⁶ Id. at 4, 1

⁷ Id. at 4, 2

1 **C. The Commission Cannot Abrogate Its Regulatory Obligations Just Because SSVEC**
2 **Believes It Deserves “Latitude” And “Deference”**

3
4 SSVEC argues that “[b]ecause cooperatives are governed by an elected board of directors that is
5 directly accountable to the rate payer members, the Commission gives greater latitude and
6 deference to the decisions of cooperative boards.”⁸ TASC begs to differ. Under the Arizona
7 Constitution, Article 15, Section 3, the Commission has the power to regulate public service
8 corporations, including SSVEC. The Commission does not defer to public service cooperatives,
9 it regulates them.

10
11 Noticeably absent from SSVEC’s Brief is any citation to support its contention that the
12 Commission has the legal authority to judge SSVEC by a different standard where the law does
13 not provide for such deviation. In fact, SSVEC’s reference to Rules (R14-2-107) permitting
14 streamlined rate filings by cooperatives proves that no different standard is applied. If the
15 Commission simply had the ability to willy-nilly treat cooperatives differently than other public
16 service corporations as SSVEC asserts, the Commission would not have needed to pass specific
17 rules applicable to cooperatives. Instead, it could simply have reviewed cooperatives’ requests
18 under the current Rules while giving them absolute deference and bending the Rules to fit their
19 requests.

20
21 We should not create nor accept a dangerous precedent that the Commission should “defer” to any
22 public service corporation. In furthering the argument that the Commission does not have
23 constitutional obligations, SSVEC asserts the Commission “should honor”⁹ the board of directors
24 “decision” to assess a fee on new solar customers. Any ultimate decision should be determined
25 by the Commission and then only after a thoroughly developed rate case.

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⁸ Id. at 4, 18-19

⁹ Id. at 4, 27

1 **D. If A Cost Shift Is Indeed Harmful And Growing Quickly Then A Rate Case Is The**
2 **Best Way To Solve The Problem**

3
4 SSVEC cited a “dramatic and alarming increase in unrecovered fixed costs attributable to net
5 metered members.”¹⁰ Their proposed solution is to change certain rates for a certain artificially
6 created class of customers. The purpose of the proposal is to make adopting DG a more expensive
7 and financially harmful option for SSVEC customers. That purpose goes above and beyond the
8 recoupment of allegedly under-recovered costs.

9
10 Further, SSVEC argues that a “rapid increase in rooftop PV systems has shifted, and continues to
11 shift, the recovery of those fixed costs to members who have not installed PV systems.”¹¹ The
12 argument is completely baseless because SSVEC does not show how or when non-DG customers
13 are shouldering the burden of a cost shift. Since the last rate case there has not been any fees
14 assessed on non-DG customers. If SSVEC intended to state that the alleged cost-shift may be
15 recovered from non-DG customers at the next rate case then that underscores the point that these
16 issues should be addressed in a rate case.

17
18 In fact, Staff argued in its Reply Brief that the Commission “could increase the monthly minimum,
19 apply a demand charge, introduce new rate schedules, or authorize a lost fixed cost recovery
20 mechanism, among other possibilities.”¹² The only way that fixed costs recovery would be shifted
21 over to non-DG customers is if the Commission decides to do so. Perhaps, the Commission will
22 decline or decide to do so, per its regulatory power. But, SSVEC is misguided at best, or
23 disingenuous at worst, when it blames DG customers for costs to be shifted over to non-DG
24 customers when no determination has been made yet.

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¹⁰ Id. at 5, 8

¹¹ Id. at 5, 12-14

¹² Staff Reply Brief, dated July 31, 2015, page 3, lines 13-15.

1 **E. SSVEC's Criticism Of Long-Standing Ratemaking Policy Highlights That These**
2 **Issues Should Be Discussed In A Rate Case**

3
4 SSVEC's Initial Brief provided a historic overview of how traditional ratemaking is conducted.

5
6 *"Historically, SSVEC and similar cooperatives have recovered the costs of*
7 *providing service to residential members through rates with a monthly service*
8 *availability charge and an energy charge applied to the monthly energy*
9 *consumption. The monthly service availability charge approved by the Commission*
10 *has historically been an amount that was well below the total justifiable customer-*
11 *related cost of providing service per customer. The energy charge has historically*
12 *been designed to recover the remainder of costs to provide service not included in*
13 *the service availability charge which include a portion of the customer-related*
14 *costs, all of the fixed distribution demand costs, their fixed wholesale demand costs*
15 *and the variable energy costs.*¹³

16
17 SSVEC went on to bemoan the fact that "this structure has functioned well historically" but that it
18 "does not provide for the appropriate recovery of the costs to provide service to customers that
19 have solar distributed generation facilities."¹⁴

20
21 The SSVEC description of a faulty "structure" is a damning indictment of the way traditional
22 ratemaking functions in modern times. Even so, SSVEC would have the Commission ascertain
23 that even though more than one hundred years of ratemaking policies have become obsolete we
24 should not even undertake a rate case to confirm this conclusion or look broadly at solutions.

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27
28 ¹³ SSVEC Initial Brief, page 5, lines 22-28 thru page 6, lines 1-2.

¹⁴ Id. at page 6, lines 4-8

1 **F. Staff Said These Issues Should Be Examined In A Rate Case**

2
3 Staff bluntly stated that SSVEC's application "appears to exclude several key issues" which
4 disrupts the Commission's ability to develop "an effective and fair solution to all aspects of the
5 problem."¹⁵ Staff makes a strong point that "a short-term, specific, narrow solution... would be
6 more effectively addressed through a combination of thoroughly evaluated solutions."

7
8 Despite SSVEC's pessimism about the rate design ratemaking process, there are a "full range of
9 options"¹⁶ (as Staff surmised) if the Company is even able to prove the existence of the alleged
10 cost-shift in an evidentiary proceeding. In a full rate case, all customers could be affected by rate
11 design solutions that the Commission could propose if it determines that a cost shift (maybe due
12 to energy efficiency, changing customer behavior or economic conditions) does exist. SSVEC's
13 cost shift argument is really a matter of rate design policy and needs to be evaluated in the context
14 of evidentiary proceedings.

15
16 **II. Conclusion**

17
18 SSVEC's proposal is single-issue ratemaking. When a company claims that it is under-earning, it
19 must not be able to get a rate increase without a full and fair rate case that affords due process to
20 all classes of customers that might or should be affected while permitting a broad look at the issue
21 and alternative solutions. Despite SSVEC's claims to the contrary, all rules and established
22 ratemaking procedures do not go out the window just because an alleged under-recovery is
23 associated with the adoption of rooftop solar.

24
25 Also, SSVEC cannot get a procedurally improper rate increase because it believes it is entitled to
26 legally unsupportable "deference" from a regulatory body that has constitutional obligations. And,
27 the company that claims it is experiencing the loss of revenue "at an alarming rate" has a multitude

28 ¹⁵ Staff Initial Brief, page 3, lines 5 & 7

¹⁶ Id. at page 3, line 12

1 of reasons to apply for a rate case. Rate cases are meant to provide an overall, holistic view of the
2 public service corporation, utilizing an entire test year as a snapshot to determine rates. SSVEC
3 provides no reason why that procedure should be abandoned here.

4
5 Respectfully submitted this 14th day of August, 2015

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8 _____
9 Court S. Rich
10 Rose Law Group pc
11 Attorney for TASC
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2 **this 14th day of August, 2015 with:**

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

6 Copy of the foregoing sent by electronic and regular mail to:

7 Janice Alward
8 Arizona Corporation Commission
9 1200 W. Washington Street
10 Phoenix, Arizona 85007

Gregory Bernosky
Arizona Public Service Company
PO Box 53999, MS 9708
Phoenix, Arizona 85072

10 Tom Broderick
11 Arizona Corporation Commission
12 1200 W. Washington Street
13 Phoenix, Arizona 85007

Thomas Loquvam
P.O. Box 53999, MS 8695
Phoenix, Arizona 85072

13 Dwight Nodes
14 Arizona Corporation Commission
15 1200 W. Washington Street
16 Phoenix, Arizona 85007

Charles Moore
Navopache Electric Cooperative, Inc.
1878 W. White Mountain Blvd.
Lakeside, Arizona 85929

16 Michael Curtis
17 501 E. Thomas Road
18 Phoenix, Arizona 85012-3205

Paul O'Dair
Navopache Electric Cooperative, Inc.
1878 W. White Mountain Blvd.
Lakeside, Arizona 85929

19 Jeffrey Crockett
20 Crockett Law Group PLLC
21 1702 E. Highland Avenue, Suite 204
22 Phoenix, Arizona 85016

J. Tyler Carlson
P.O. Box 1045
Bullhead City, Arizona 86430

22 Mark Holohan
23 Arizona Solar Energy Industries Association
24 2122 W. Lone Cactus Drive, Suite 2
25 Phoenix, Arizona 85027

Peggy Gillman
Mohave Electric Cooperative, Inc.
P.O. Box 1045
Bullhead City, Arizona 86430

26 By: 
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