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AZ CORP COMMISSION
DOCKET CONTROL

*Attorneys for Intervenor Fresh Produce
Association of the Americas*

BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS:
SUSAN BITTER SMITH, Chairperson
BOB STUMP
BOB BURNS
DOUG LITTLE
TOM FORESE

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
PROPERTIES OF UNS ELECTRIC, INC.,
DEVOTED TO ITS OPERATIONS
THROUGHOUT THE STATE OF ARIZONA
AND FOR RELATED APPROVALS

DOCKET NO. E-04204A-15-0142

**NOTICE OF FILING
SURREBUTTAL TESTIMONY OF
KENT R. SIMER ON BEHALF OF
FRESH PRODUCE ASSOCIATION
OF THE AMERICAS**

The Fresh Produce Association of the Americas ("FPAA"), through its undersigned
counsel, hereby provides notice that it has this day filed the attached surrebuttal testimony
of Kent R. Simer.

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Arizona Corporation Commission

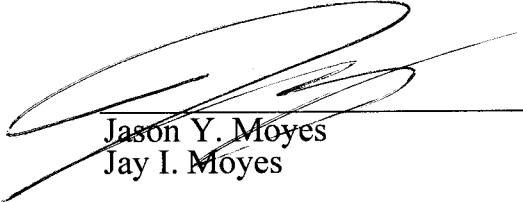
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FEB 23 2016

DOCKETED BY *KE*

1 DATED this 22^{dn} day of February 2016.

2 MOYES SELLERS & HENDRICKS

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6 Jason Y. Moyes
7 Jay I. Moyes
8
9 *Attorneys for Fresh Produce Association*
10 *of the Americas*

11 ORIGINAL and 13 COPIES of
12 the foregoing filed this
13 22nd day of February 2016 with:

14 Docketing Supervisor
15 Docket Control
16 Arizona Corporation Commission
17 1200 W. Washington
18 Phoenix, AZ 85007

19 COPIES of the foregoing
20 electronically mailed this
21 9th day of December, 2015 with:

22 All Parties of Record

23 COPIES of the foregoing
24 Mailed via Regular Mail this
25 22nd day of February 2016 to:

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1 **INTRODUCTION**

2
3 **Q. PLEASE STATE YOUR NAME, ADDRESS AND OCCUPATION.**

4 A. My name is Kent R. Simer. My business address is 160 N. Pasadena, Suite 101,
5 Mesa, Arizona. I am a Utility Rate Consultant for K. R. Saline & Associates, PLC,
6 a firm that provides electrical engineering services, management consulting, and
7 ongoing business operational services primarily to wholesale public electric
8 utilities.

9
10 **Q. DID YOU PREVIOUSLY FILE DIRECT TESTIMONY IN THIS**
11 **PROCEEDING?**

12 A. Yes, I filed Direct Testimony on rate design on December 9, 2015.

13
14 **Q. ON WHOSE BEHALF ARE YOU APPEARING IN THIS PROCEEDING?**

15 A. My Surrebuttal Testimony is filed on behalf of the Fresh Produce Association of
16 the Americas ("FPAA").

17
18 **Q. WHAT WAS THE MAIN PURPOSE OF YOUR DIRECT TESTIMONY?**

19 A. The purpose of my Direct Testimony was to introduce the FPAA and its economic
20 contributions to Santa Cruz County, as well as describe the power usage profile of
21 this large group of UNSE customers. Specifically, my testimony addressed the
22 impacts that the demand ratchet has had on FPAA's members due to their unique,
23 counter-seasonal operations. Because of the FPAA's unique operating
24 characteristics, UNSE's ratchet rate design is punitive in nature and has the
25 potential to cause a loss of this large and important customer base, which would
26 not be in the public interest. FPAA is seeking rate relief for its members and

1 similar seasonal agricultural customers through a smaller or eliminated demand
2 ratchet.

3
4 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY TODAY?**

5 A. The purpose of my Surrebuttal Testimony is to respond to the Rebuttal Testimony
6 of UNSE witness Craig Jones and, in particular, the existing 75% ratchet
7 “compromise” by recommending a solution that FPAA believes would be an
8 acceptable compromise that better follows the rate setting practice of tying cost-
9 causation to causers.

10
11 **Q. PLEASE SUMMARIZE MR. JONES’ POSITION REGARDING FPAA’S
12 REQUEST TO LOWER OR ELIMINATE THE DEMAND RATCHET FOR
13 SEASONAL AGRICULTURAL CUSTOMERS.**

14 A. In his Rebuttal Testimony, Mr. Jones offers that the current 75% ratchet design
15 implemented for Large General Service (“LGS”) customers and proposed for
16 Medium General Service (“MGS”) customers offers a “compromise and moves the
17 rates in the direction that improves the allocation and cost recovery from customers
18 within the rate class”¹. Mr. Jones believes FPAA’s request is contrary to the
19 desires of UNSE’s goal of designing rates that allocate cost recovery to the cost
20 causer.

21 **Q. DO YOU AGREE WITH MR. JONES THAT A 75% DEMAND RATCHET
22 IS AN ACCEPTABLE COMPROMISE?**

23 A. I do not. I believe the demand ratchet recommended for the new MGS rate class is
24 unnecessary. While Mr. Jones’ assertion that a 75% ratchet moves rates in the
25 direction that improves allocation and cost recovery is true, it does not justify a

26 ¹ Rebuttal Testimony of Craig Jones, Page 36.

1 75% ratchet. The 75% ratchet was a compromise reached through settlement
2 discussions in the previous rate case and no other justification was relied upon. The
3 MGS rate customer group is being proposed in this proceeding for the first time;
4 therefore, it is appropriate for this Commission to consider whether the 75% is
5 appropriate for the MGS customers. Given the general rate design of the MGS
6 customer group, UNSE's lack of justification for how they set a demand ratchet,
7 energy conservation goals generally accepted by this Commission, and annual
8 system load characteristics, I believe that a ratchet is neither not justified nor
9 needed.

10
11 **Q. MR. JONES STATES THAT A DEMAND RATCHET IS A "COMMON**
12 **METHOD OF ASSIGNING THE ACTUAL DEMAND THAT A**
13 **CUSTOMER PLACES ON THE SYSTEM." DOES THE DEMAND**
14 **RATCHET DO THIS?**

15 **A.** No it does not. As Nucor Steel witness Dr. Jay Zarnikau correctly points out, "the
16 tariffs that UNS Electric applies to its largest customers apply a complicated set of
17 alternatives that distort the connection between how and why the utility's demand
18 costs are incurred and how the demand costs are paid by these customers."² The
19 75% demand ratchet being proposed for MGS customers only serves to further
20 distort how customers are charged and obscures their actual demand on the system.
21 Though the 75% demand ratchet does give customers some level of credit for
22 system diversity at the time of the system's coincident peak, it does not correlate to
23 what the customer's actual contribution is to the system peak.

24
25
26 ² Direct Testimony of Nucor witness Dr. Jay Zarnikau, pg 10.

1 **Q. IS THERE A COMPROMISE SOLUTION THAT FPAA MEMBERS**
2 **COULD SUPPORT?**

3 **A.** I believe that a demand ratchet is not necessary for FPAA members and other
4 similar seasonal agricultural customers in Santa Cruz County on the basis that
5 system characteristics do not justify the need. However, any compromise solution
6 that includes a demand ratchet should justify the ratchet percentage. The sample
7 data discussed in my direct testimony indicated that FPAA members' summer
8 loads (*i.e.*, four summer coincident peaks) are approximately 51% of the FPAA
9 members' annual peak load. Any compromise ratchet should not exceed the ratio
10 of the four summer coincident peaks to annual peak load or 51%, if my sample data
11 is representative of the entire group.³

12
13 **Q. WHAT IS THE JUSTIFICATION FOR ELIMINATING THE DEMAND**
14 **RATCHET?**

15 **A.** The first test for determining the need for a demand ratchet is an evaluation of the
16 system load profile to see if there are substantial load swings being experienced by
17 the utility. UNSE is unique to Arizona in that it is the only electric utility in the
18 state that is bifurcated into separate, non-contiguous service territories. FPAA
19 members and similar produce distributors, who demonstrate a unique counter-
20 seasonal power usage profile, are situated in the Santa Cruz County/Nogales
21 portion of the UNSE service territory. Reviewing the system usage information in
22 UNSE's response to RUCO's informal data request⁴, the Nogales portion of
23 UNSE's system only averages a load variance of approximately 10 MW between
24 the summer and winter seasons. In other words, the average load experienced

25
26 ³ FPAA Customer Sample Data Exhibit KRS-2.

⁴ RUCO's Informal Data Requests 02 – 11-17-2015.

1 during their winter months, over the last 5 years, has been roughly 85% of the
2 average of the summer loads. This particular portion of the system, which has the
3 most cost-causation relevancy to FPAA members, does not demonstrate significant
4 swings in monthly demands at a level that would justify the need for a demand
5 ratchet. Furthermore, as illustrated in exhibit KRS-1, the annual load factor for the
6 Nogales area is higher than its Northern counterpart. The higher load factor
7 combined with the minimal seasonal variance in the Nogales area illustrates that
8 the demand ratchet is unnecessary, or should be lowered for these customers since
9 the system is more efficiently used in Nogales. Under a ratchet rate design, the
10 difference between load factors in the service territories indicates that customers
11 located in the Nogales area are subsidizing customers in the Kingman/Havas
12 areas. The load data demonstrates that the counter-seasonal power profile of
13 FPAA produce distributors' operations likely brings unique load diversity to the
14 Nogales system and improves system efficiency.

15
16 **Q. HOW COULD UNSE ELIMINATE THE DEMAND RATCHET AND STILL**
17 **ASSURE FULL COST RECOVERY?**

18 **A.** FPAA customers reside in the Nogales area and there is not a demonstrated need
19 for a demand ratchet in the area. It would be appropriate for UNSE to create a new
20 customer class for seasonal agricultural customers which would assign costs to
21 cost-causers in a more localized manner, while still maintaining the uniform nature
22 of UNSE's service territories.

1 Q. **WHAT JUSTIFICATION IS THERE FOR CREATING A SEPARATE**
2 **RATE CLASS FOR SEASONAL AGRICULTURAL CUSTOMERS?**

3 A. The justification for developing a separate rate class for seasonal agricultural
4 customers is the same as the reasoning upon which UNSE relies to create the MGS
5 customer class. In his rebuttal testimony⁵, Mr. Jones specifically states:

6 “the main purpose of creating the additional MGS rate class was to establish
7 classes of service that contained a more **homogeneous grouping of**
8 **customers** based on similar usage habits.” [Emphasis added]

9 Mr. Jones continues by saying:

10 “the Company has attempted to propose rate design and conditions relating
11 to providing services to our customers that move toward treating **like-**
12 **situated customers** in a similar manner.” [Emphasis added]

13
14 As a group, FPAA members have similar counter-seasonal power requirements,
15 generally similar load factors and share the same geographically specific cost
16 drivers that create a more like-situated, homogenous grouping of customers than
17 those of a much larger MGS customer group that encompasses many different load
18 types across the separate geographic areas to which UNSE provides service. If this
19 Commission decides that a demand ratchet is still appropriate, cost allocated based
20 on Average and Excess 4CP methods would better tie cost causation to causers if
21 FPAA members and similar counter-seasonal agricultural customers were in their
22 own customer grouping.

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26 ⁵ Rebuttal Testimony of Craig Jones, Pages 16-17.

1 **Q. HOW COULD UNSE APPLY A REDUCED DEMAND RATCHET?**

2 A. In lieu of a separate rate class, the MGS class being proposed as a newly designed
3 rate class would include all FPAA member loads and the loads of like companies in
4 Santa Cruz County. A demand ratchet that is lower than the LGS customer group
5 could be established for this new MGS class.

6
7 **Q. DO YOU AGREE WITH MR. JONES' ASSERTION THAT MODIFYING
8 THE DEMAND RATCHET OR RATES FOR FPAA MEMBERS WOULD
9 CREATE A COST SHIFT TO OTHER CUSTOMERS?**

10 A. Yes; but it does not follow that such a cost shift is unjustified. UNSE has
11 communicated the desire to move towards cost-based rates and a more leveled
12 rate-of-return across customer groups. Though UNSE's proposed rate design in
13 this docket does move toward this goal, the proposal still shows MGS customers
14 providing a significant subsidy to other customer groups. Even though a cost shift
15 may occur, the return earned would be more in line with other rate classes and the
16 overall Rate of Return ("ROR"). I believe the changes I am recommending will
17 result in appropriate cost shifts that are in line with UNSE's goals.

18
19 **Q. WHAT BENEFITS MAY RESULT IF UNSE ACCEPTS YOUR RATE
20 RECCOMENDATION?**

21 A. The produce distribution industry is poised to expand in the coming years. Should
22 UNSE deploy rate design strategies that are better suited for the unique operations
23 of seasonal agricultural customers and that are competitive with Texas regulatory
24 practices, UNSE can help incentivize new produce distribution operations to locate
25 in the Nogales area and direct them away from establishing in other southern
26 border states. This would be in line with UNSE's economic development goals,

1 while still being based on sound rate-making principles that result in just and
2 reasonable rates.

3
4 **Q. WHAT IS THE RISK TO UNSE IF YOUR RATE RECCOMENDATION IS**
5 **NOT ACCEPTED?**

6 A. Unfortunately, the rate design proposed by UNSE in this proceeding is eliminating
7 all potential methods of rate mitigation for FPAA members. By instituting a
8 demand ratchet on the proposed MGS customer group, they are limiting or
9 eliminating customer savings opportunities that can be made through investments
10 in distributed generation, demand response, or energy efficiency technologies. The
11 time of day in which many of these technologies may be most advantageous may
12 not be coincident with when the customer registers its peak load. A demand
13 ratchet, therefore, would be prohibitive to potential capacity savings. Additionally,
14 some FPAA members have sought to enroll in UNSE's interruptible program as a
15 way to lessen the impact of the demand ratchet. This can provide a level of rate
16 relief; however, not all FPAA members would qualify and there may not be
17 adequate time for FPAA members to sign up before a potential change to the
18 interruptible program occurs as a result of this rate proceeding. Any rate relief
19 from the interruptible program would also be short-lived as UNSE is proposing to
20 lessen the benefit of this program in the immediate case and has made clear that it
21 is supportive of eliminating the program in its entirety in its next filed rate case.
22 Finally, FPAA member operations are dictated by the requirements of the seasonal
23 produce they distribute; and, like many other seasonal customers, have little ability
24 or incentive to further manage their power requirements.

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26 Absent a reduced or eliminated demand ratchet, FPAA members are therefore

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limited in their cost mitigation abilities and are left with evaluating the option of relocating to an alternative service territory. As I mentioned in my Direct Testimony, the imported Mexican produce distribution industry exists primarily in Arizona and Texas. Texas has been actively lobbying Arizona companies to make the move and has created a utility regulatory environment that has shown to be flexible and supportive of seasonal agricultural customers. FPAA members are considering moving their operations, and associated employment, out of the state as a possible cost-mitigation option. Loss of FPAA members would only serve to further the decline of UNSE loads and reduce system efficiency through the loss of the unique counter-seasonal operations of this customer group.

Q. DOES THIS CONCLUDE YOUR TESTIMONY?

A. YES.