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Arizona Corporation Commission

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AZ CORP COMMISSION  
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BEFORE THE ARIZONA CORPORATION COMMISSION

DOUG LITTLE  
CHAIRMAN

BOB STUMP  
COMMISSIONER

BOB BURNS  
COMMISSIONER

TOM FORESE  
COMMISSIONER

ANDY TOBIN  
COMMISSIONER

11 **IN THE MATTER OF THE ) DOCKET NO. E-04204A-15-0142**  
12 **APPLICATION OF UNS ELECTRIC, )**  
13 **INC. FOR THE ESTABLISHMENT )**  
14 **OF JUST AND REASONABLE )**  
15 **RATES AND CHARGES DESIGNED )**  
16 **TO REALIZE A REASONABLE )**  
17 **RATE OF RETURN ON THE FAIR )**  
18 **VALUE OF THE PROPERTIES OF ) EXPEDITED MOTION TO COMPEL**  
19 **UNS ELECTRIC, INC. DEVOTED TO )**  
20 **ITS OPERATIONS THROUGHOUT )**  
21 **THE STATE OF ARIZONA, AND )**  
22 **FOR RELATED APPROVALS. )**

19 The Alliance for Solar Choice (“TASC”), by and through its undersigned counsel, hereby  
20 makes its Expedited Motion to Compel (the “Motion”). This Motion is being filed in accordance  
21 with A.A.C. R14-3-101(A) and (C) and Ariz. R. Civ. P. 37(a). TASC is requesting that an order  
22 be issued compelling UNS Electric, Inc. (“UNSE”) to provide a response to Data Request 10.1,  
23 furnished upon UNSE on March 1, 2016.

24 **I. Background.**

25 On March 1, 2016, TASC furnished its Tenth Set of Data Requests to UNSE (“Data  
26 Requests”) in the above-referenced proceeding (the “Proceeding”).

27 The Data Requests included as request number 10.1 (the “Request”) the following:  
28

1 Provide copies of *all written communications between UNS and any other*  
2 *utilities* regarding UNS Rate Case (No. E-04204A-15-0142) including  
3 discussions of strategy, testimony, exhibits, positions and joint efforts relating  
4 to the docket. Include all emails, attachments thereto, notes of meetings,  
5 memorandums, letters, work papers or other documents and communications  
6 responsive to the forgoing request. Please include responsive documents and  
7 communications between any of your employees, experts, or consultants and  
8 the corresponding utility.

9 (Emphasis added). TASC also requested that the response to all requests contained in the Data  
10 Requests be responded to within seven days.

11 On March 4, 2016, UNSE objected to the Request on the basis of relevancy. On March 7,  
12 2016, TASC's legal counsel met and conferred with UNSE counsel to renew its Request for a  
13 response. The UNSE legal counsel again declined to furnish the communications responsive to the  
14 Request.

15 As set forth below, the communications and documents asked for in the Request are  
16 relevant and may contain mitigating information. Accordingly, an order should be issued  
17 compelling a response to this Request.

## 18 **II. Analysis.**

19 "A trial court has broad discretion in ruling on disclosure and discovery matters . . . ."  
20 *Marquez v. Ortega*, 231 Ariz. 437, 441, ¶ 14, 296 P.3d 100, 104 (App. 2013). "Parties may obtain  
21 discovery regarding any matter, not privileged, which is relevant to the subject matter involved in  
22 the pending action, whether it relates to the claim or defense of the party seeking discovery or to  
23 the claim or defense of any other party." Ariz.R.Civ.P. 26(b). Additionally, parties have a duty to  
24 disclose even information that is damaging or unfavorable to its position. *See* Ariz.R.Civ.P. 37(d).  
25 In sum, when a party fails to make reasonable disclosure or respond to a reasonable discovery  
26 request, the moving party "may apply for an order compelling disclosure or discovery."  
27 Ariz.R.Civ.P. 37(a).

28 TASC and several other parties in this proceeding have advanced a theory that this rate  
case is being used by utilities such as UNSE as a means to implement harsh penalties on their  
customers that own or lease distributed generation solar systems ("DG Solar"). It is argued that  
not only does UNSE stand to benefit from the adoption of its proposed rate mechanism, but so too

1 do all other traditional utility companies. In essence, TASC believes (and argues in the proceeding)  
2 that if UNSE is successful in its rate proposal, other traditional utilities will use it as a model for  
3 stamping out DG Solar in their respective rate cases.

4 These concerns are not unfounded. Indeed, in this proceeding, the following  
5 representations have been made by UNSE witnesses or principals that exemplify TASC's  
6 concerns.

- 7 • In UNSE's Rebuttal Testimony filed on January 19, 2016, expert witness Carmine  
8 Tilghman submitted testimony stating that "the fact is the cost-shift due to DG  
9 [Solar] is a growing problem." UNSE Notice of Filing Rebuttal Testimony ("UNSE  
10 Rebuttal"), Rebuttal Testimony of Carmine Tilghman, p. 3, lns. 25-26.
- 11 • David Hutchens, the President of UNSE testified that he did not know whether staff  
12 members of UNSE had been in contact with APS despite claiming that rate design  
13 policy decisions for UNSE are made solely by him. *See* Docket No. E-04204A-15-  
14 0142 Reporter's Transcript of Proceedings ("Transcript"), Vol. II, p. 395, lns. 17-  
15 23; p. 408, lns. 1-16; p. 440, lns. 5-21 (March 3, 2016).
- 16 • Kentton C. Grant, an expert witness for UNSE, also testified that it would be in the  
17 best interest of utility companies, at least in the short term, to stop DG Solar  
18 installation. *See* Transcript, Vol. III, p. 513, ln. 8 - p. 514, ln. 8.

19 Further, the motivation for the rate mechanism at bar in this Proceeding, as well as the  
20 nature of the utility industries' support of it, is relevant and meaningful. Arizona Public Service  
21 Company's ("APS") own legal counsel raised this very issue during the hearing when he himself  
22 asked Mr. Hutchens "I am going to ask you today as you are sitting on the stand why the company  
23 is sticking to those proposals . . . Why are we here for three weeks? Why is [UNSE] sticking by  
24 its guns?" Transcript, Vol. II, p. 275, ln. 11 - p. 276, ln. 10. Later, APS' legal counsel specifically  
25 inquired whether Mr. Hutchens had "discussed UNSE's proposals with regard to rate design or net  
26 metering with anybody at APS?" *Id.* at p. 278, lns. 14-24. Though Mr. Hutchens denied having  
27 discussed the rate proposal directly with APS, Mr. Hutchens admitted that he is unaware of  
28 whether such conversations occurred between the utilities' respective staff. *Id.* The documents

1 responsive to the Request would therefore be the sole means of shedding light on any such  
2 conversations. Note that by way of his own questioning, APS's counsel has admitted the relevancy  
3 of the communications between the utilities. Further, UNSE did not object to these questions at  
4 the hearing.

5         Additionally, five newspapers articles (attached hereto as **Exhibit A**) have recently linked  
6 UNSE's efforts in this Proceeding with the efforts of other traditional utilities in the State,  
7 recognizing the vested interest other utilities have in the passage of UNSE's rate mechanism  
8 proposal. If the other utilities have participated in the development of this rate mechanism, or have  
9 ulterior motives for supporting it, then TASC should be permitted to discover such motives and  
10 acts and be afforded the opportunity to introduce the same into the record.

11         “For discovery purposes, the information sought need only be reasonably calculated to lead  
12 to the discovery of admissible evidence.” *Brown v. Superior Court In & For Maricopa County*,  
13 137 Ariz. 327, 332, 670 P.2d 725, 730 (1983) (internal quotation omitted). In the instant case, the  
14 communications and documents exchanged between UNSE and other utilities are relevant in that  
15 they can shed light on whether, as Mr. Grant suggested in Mr. Grant's admission, there is a  
16 concerted effort to by the utilities to stop DG Solar installation through these mechanisms to help  
17 their own bottom lines. It is also relevant as to whether these utilities agree, as Mr. Tilghman  
18 submitted, that DG Solar is a “growing problem” that must be stopped in its tracks. Indeed, such  
19 communications and documents may even expose damaging or unfavorable information, such as  
20 whether the rate-mechanism at bar was developed in conjunction with other utilities to benefit their  
21 industry to the detriment of the solar industry.

22         Accordingly, TASC's request for an order compelling UNSE to respond to the Request  
23 should be granted. The Request is relevant and reasonably calculated to lead to the discovery of  
24 admissible evidence. Indeed, the evidence sought to be unearthed has bearing on a matter that has  
25 already been raised without objection in this hearing (and in fact, this issue was raised for the first  
26 time in the hearing by APS). The response could also lead to the discovery of evidence unfavorable  
27 UNSE, which both companies are already obligated to disclose. Thus, this Motion should be  
28

1 granted and the documents and communications responsive to the Request disclosed as soon as  
2 possible.

3 **III. Conclusion.**

4 For the reasons stated above, TASC's Motion compelling UNSE to provide a response to  
5 the Request should be granted.

6  
7 Respectfully submitted this 8<sup>th</sup> day of March, 2016.

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12 Rose Law Group pc  
13 Attorney for TASC  
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1 **Original and 13 copies filed on**  
2 **this 8th day of March, 2016 with:**

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6 Phoenix, Arizona 85007

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

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1 **EXHIBIT A**

2 **PHOENIX BUSINESS BLOG**

3 *Why APS is intervening in an electricity rate case in Nogales*

4 Feb 25, 2016, 1:15pm MST

5 By Eric Jay Toll

6 <http://www.bizjournals.com/phoenix/blog/business/2016/02/why-aps-is-intervening-in-an-electricity-rate-case.html>

7 If you're not at the table, someone else is going to eat your lunch.

8  
9 That old adage is as good as any to explain why Arizona Public Service Co. intervened in a rate case involving a big power company in a small town, Nogales.

10  
11 What comes out of the Arizona Corporation Commission for UNS Energy and its new rate structure may be a precedent for utility bills for Phoenix-area businesses during the next 12 to 24 months.

12  
13 The question won't be whether rates go up, but how rates will be structured as utilities look increasingly at demand charges that bill customers based on the amount of power they are using at a given time.

14  
15 "Historically, utility rates were simply determining how much revenue was needed to generate and deliver power, and then coming up with a way to distribute that cost across all customers," said Greg Bernosky, deputy director of state regulation and compliance for APS. "Today, utilities need to cover both fixed and variable revenues, so the focus is going to be on revenue generation that matches customer demand."

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19 There are three of these rate cases coming down the pike that will affect almost every resident and business in the state.

20  
21 With renewable energy and emerging technologies in the picture, utility companies want a rate structure that would have customers managing their energy use. The 2016 rate cases are not just about solar, but about all emerging technologies.

22  
23 Bernosky said APS supports some rate structures designed into the UNS Energy proposal, but wants to be sure any ACC action for the power company serving Santa Cruz and Mohave counties do not become precedents that adversely impact APS' planned June 1 rate case submittal.

24  
25  
26 UNS Energy, Santa Cruz and Mohave counties; Tucson Electric Power Co., Pima County; and Arizona Public Service Co., most of Arizona, including the Phoenix area, are all involved in rate cases this year. Bernosky said APS typically submits a new rate case every 3 to 4 years.

27  
28 UNSE is already before the commission, TEP is pending its first hearing March 1, and APS is due to submit by June 1.



1           **ARIZONA DAILY STAR**

2           *Rate case may change how we pay for power*

3           March 05, 2016 3:00 pm

4           By David Wincher

5           [http://tucson.com/business/local/rate-case-may-change-how-we-pay-for-power/article\\_9911596f-7159-5584-9339-855b01cc9f34.html](http://tucson.com/business/local/rate-case-may-change-how-we-pay-for-power/article_9911596f-7159-5584-9339-855b01cc9f34.html)

6           Arizona utility regulators are considering a plan backed by UNS Electric Inc. to  
7 fundamentally change the way its ratepayers pay for electricity — and perhaps set a precedent for  
8 similar changes at Tucson Electric Power Co. and other state-regulated utilities.

9           But the proposal before the Arizona Corporation Commission, which will play out over the  
10 next several months, is drawing fire from customers and consumer groups who say the plan will  
11 make it hard for ratepayers to avoid major bill increases.

12           At issue are so-called “demand charges,” which are on the table in a rate case filed last year  
13 by UNS, which serves about 93,000 customers in Santa Cruz and Mohave counties and, along with  
14 TEP, is owned by Canada-based Fortis Inc.

15           Under rates with demand charges — a common feature of commercial power rates that has  
16 never been mandated for Arizona residential ratepayers — power bills are based on each  
17 customer’s highest usage level in a billing period.

18           Up to now, most residential ratepayers in Arizona have paid what is essentially a two-part  
19 bill: a fixed monthly charge plus rates based on usage.

20           Demand charges would add a third billing element, along with relatively lower usage-based  
21 rates.

22           UNS originally proposed imposing a three-part bill with demand charges on customers  
23 with grid-connected solar arrays and small commercial customers to try and recover revenue for  
24 fixed costs like transmission it says those customers largely avoid.

25           The utility also has proposed cutting its “net metering” rate — the rate at which it credits  
26 rooftop solar customers for excess power they produce — to what it pays for wholesale renewable  
27 power.

28           But the Corporation Commission’s own staff went a step further, recommending that  
demand-charge rates be mandatory for all UNS residential customers. UNS is now backing that  
proposal, as initial hearings in the case began last week.

          In its own rate case filed in November, TEP has proposed moving rooftop solar customers  
to a rate based on demand charges and cutting the credit rate for excess solar generation, but the  
utility has not pushed to mandate demand charges for all residential customers.

1 UNS says it needs to recover more revenue than it can simply from usage-based charges,  
2 citing a 4 percent decline in residential usage from 2012 to 2014, the recent loss of some major  
3 commercial customers and the addition of new power-generation resources.

4 “We are proposing a more fair rate design to better align rates with costs,” Michael Patten,  
5 an attorney representing UNS, said at the hearings last week in Tucson.

6 Under the plan, the UNS residential basic monthly charge would rise to \$15 from \$10 now.  
7 The average UNS home customer would pay an estimated \$4.82 per month, or about 6 percent,  
8 more during a transitional period with two-part rates, then an additional \$1.65 monthly if the  
9 demand charges kick in as planned by next spring, Patten said.

10 But opponents — including a state consumer watchdog agency, advocates for low-income  
11 ratepayers and solar-industry advocates — say the changes are too drastic and would be punitive,  
12 particularly to low-income customers.

13 Others say the move is premature amid separate, pending commission proceedings probing  
14 the actual unrecovered costs of rooftop solar customers.

15 “This case will most likely be a landmark case in the annals of the Corporation  
16 Commission,” said Dan Posefsky, general counsel to the state Residential Utility Consumer Office.

17 “No matter what the reason, making a completely new rate design mandatory on any group  
18 of customers, absent an emergency, is never in the public interest,” he said.

19 Tim Hogan, a representative for environmental and low-income ratepayer groups, noted  
20 that, partly because of UNS’s “antiquated” rate structure, residential customers will bear the brunt  
21 of the higher bills.

22 He noted that UNS rural customers generally earn lower incomes than their urban  
23 counterparts, as Mohave and Santa Cruz counties have seen a slow economic recovery.

24 AARP also has filed comments in the case, contending the move to demand charges would  
25 disproportionately affect seniors and other low-use customers.

26 “Through no fault of their own, we have residential customers with lower-than-average  
27 income who are now being asked to absorb an 8 percent increase,” said Hogan, who represents the  
28 Arizona Community Action Association, the Southwest Energy Efficiency Project and Western  
29 Resource Advocates.

30 A solar-industry advocate said the UNS plan, including the proposed net-metering cut, is  
31 simply another example of utilities attacking rooftop solar, also known as distributed generation,  
32 to protect their monopoly businesses.

33 “Demand charges hurt distributed generation and protect utility revenue. That’s why  
34 they’re here,” said Court Rich, an attorney for The Alliance for Solar Choice. “It’s not in their  
35 interest to let people generate some of their own power.”

1 Rich said cutting net-metering rates will kill off new rooftop solar development in UNS  
2 territory, citing a 98 percent drop in such installations after the Salt River Project imposed a  
3 demand charge and cut credits to solar customers last year.

4 But UNS's Patten says the time is now to change the company's rate structure.

5 Patten said measures are in place to minimize the impact of the new rates on customers on  
6 special low-income rates, and promised a push to educate consumers on ways to curtail their peak  
7 usage.

8 A UNS study of 180,000 power bills showed that about a third of customers will see a  
9 slight drop in their bills under the demand-charge plan, he added.

10 UNS's proposal is also backed by the Arizona Investment Council and Arizona Public  
11 Service Co., the biggest state-regulated utility.

12 APS attorney Thomas Mumaw said the utility has had a voluntary residential demand-  
13 charge rate for some 40 years and about 120,000 customers use that rate.

14 But during a public-comment session at the outset of public hearings on Tuesday, a parade  
15 of consumers and representatives of civic and consumer groups said the imposition of demand  
16 charges on struggling residential customers would be devastating.

17 Tom Sheahan, a retired Mohave County sheriff, noted that his county is made up of some  
18 40 small communities that are still struggling to recover from the recession.

19 "Many people there live on Social Security or have had no wage increases, so any increase  
20 to the demand charge will hit those areas very hard," he said.

21 Marshall Magruder, a UNS customer who lives in Tubac, said residential customers are ill-  
22 equipped to understand special rates.

23 "The demand charge is not measurable by ratepayers. It's a back-door charge that is based  
24 on company data they don't see," said Magruder, a retired engineer who has been active in several  
25 Corporation Commission cases.

26 Jim Patterson, president of Santa Cruz Valley Citizens Council, agreed. "The average  
27 residential users are not really able to gauge the additive effect on daily usage," he said.

28 Hearings on UNS's rate case are scheduled to continue before a Corporation Commission  
administrative judge through next week.

The judge will then issue a recommended order that the full Corporation Commission will  
consider, probably by mid-summer.

1           **PHOENIX BUSINESS JOURNAL**

2           *APS intervenes in southern Arizona solar rate battle*

3           February 23, 2016 3:34 pm

4           By Eric Jay Toll

5           <http://www.bizjournals.com/phoenix/blog/energy-inc/2016/02/aps-intervenes-in-southern-arizona-solar-rate.html>

6           Arizona Public Service Co. is intervening in solar rates for a southern Arizona case in front  
7 of the Arizona Corporation Commission. The utility has filed sworn testimony backed with  
8 findings from a study on solar lease rates by SolarCity.

9           With its own rate design case planned for June submittal, APS has been glued to a pending  
10 rate case for UNS Energy in Nogales. Although UNS has around 93,000 customers compared to  
11 more than 1.2 million APS customers, the ACC decision on how UNS charges for rooftop solar  
likely sets the precedent for APS.

12           APS hired a renewable energy expert trained at Massachusetts Institute of Technology and  
13 who once was on the staff of the National Renewable Energy Laboratory. Cory Welch, director of  
14 energy practice at Navigant Consulting, is serving as an APS expert witness arguing that solar  
15 rooftop installation companies are taking advantage of the change in tax credits and depreciation  
to increase project returns on invested capital to as much as 80 percent

16           Tom Harris, new president of Arizona Solar Industry Association, said the group was aware  
17 APS had commissioned a study looking at the rates of return for publicly traded companies, but  
that AriSEIA had not seen a copy of the report.

18           The Navigant study is submitted as sworn testimony in the UNS Energy rate case. It means  
19 that the APS expert will be on the witness stand, under oath, and open to cross examination from  
20 SolarCity, AriSEIA and other rate case interveners.

21           The fact that the study is submitted as sworn testimony didn't impress attorney Court  
22 Rich of the Rose Law Group, Scottsdale, an AriSEIA board member and legal counsel for the  
Alliance for Solar Choice.

23           "Under the new UNS and APS supported rates, solar would be rendered valueless to  
24 consumers," said Rich. "It would take over 55 years to get paid back for an investment in solar if  
25 these rates are adopted. We know how this plays out as we have seen the devastating results in  
SRP territory here at home and in Nevada."

26           Rich said it ironic APS was submitting data-driven testimony to the ACC about a southern  
27 Arizona power company's rate proposals on the same day the Federal Energy Regulatory  
28 Commission announced it was investigating the use of data in setting southern Arizona wholesale  
power rates.

1 "There is absolutely no relationship between the two, they are completely different issues,"  
2 said Jim McDonald, APS spokesman. "Anyone who doesn't understand the difference, doesn't  
3 know the electric utility business."

4 APS sworn testimony said using lease rates charged by SolarCity in the Nogales area shows  
5 the company was gaining a 40 percent project return on installations under the old solar installation  
6 tax credit in 2015. APS data from Navigant says in the sworn testimony Feb. 23 that with the bonus  
7 depreciation and new tax law, SolarCity's increasing rates give the company an 80 percent project  
8 return.

9 Harris stresses only SolarCity leases were used for generating the conclusions in the APS  
10 study.

11 FERC announced an investigation Feb. 22 that questions data APS used for establishing  
12 federally regulated wholesale rates it charges for power sold to other utility companies in the  
13 Tucson area. The investigation does not address rates for retail and commercial power users in the  
14 APS service area, which are regulated by the ACC.  
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1           **YAHOO! FINANCE**

2           *[EXCERPT] Edited Transcript of PNW earnings conference call or presentation 19-Feb-*

3           *16 4:00pm GMT*

4           February 19, 2016 12:33 pm

5           <http://finance.yahoo.com/news/edited-transcript-pnw-earnings-conference-173339698.html>

6           

7           [In APS' latest earnings call (as Pinnacle West), Don Brandt, Chairman, President and CEO said:]

8           

9           “UNS Electric is the first in line, with hearings set to begin on March 1 in Tucson. We are an active intervener in the UNS case, since it is an important forum to discuss rate design.

10           The testimony we filed supports the concept of three-part rate design which incorporates

11           a fixed service charge, an energy charge, and a demand charge. This concept was also proposed

12           and supported by UNS Electric and the ACC staff. Related topics, including methodologies for

13           determining the cost to serve customers with solar and the value of solar, will be a central focus in

14           the value and cost of distributed generation docket.”

1           **THE ARIZONA REPUBLIC**

2           *Rural utility's case could have big impact on rooftop solar fees*

3           February 19, 2016 12:23 pm

4           By Ryan Randazzo

5           <http://www.azcentral.com/story/money/business/energy/2016/02/18/rural-utilitys-case-could-have-big-impact-rooftop-solar-fees/80516092/>

6           In a small case that could have a big impact, a rural electric company could set a precedent  
7 for rooftop solar fees in Arizona — and possibly alter how regular customers use electricity and  
8 are billed for it.

9           The changes could shift consumers' focus to how much power they use at once, rather than  
10 how much power they use overall during a month.

11           UniSource Energy Services, with 93,000 customers in Mohave and Santa Cruz counties, is  
12 asking state regulators to approve about \$31 more per month in fees for solar customers.

13           UniSource, which is owned by the same parent company as Tucson Electric Power, is also  
14 asking for a “demand charge” that would be based on a customer’s highest hour of power use in a  
15 month.

16           Customers would pay a basic service fee of \$15-\$20 (up from \$10 today), and like today,  
17 they would pay for the kilowatt-hours of electricity they use during the month. The demand fee  
18 would be a new third component to their bills.

19           Demand charges are common for business customers but not for residential. They  
20 discourage the use of multiple appliances at once. For example, running an air-conditioner, pool  
21 pump, dishwasher and other appliances at once during peak demand hours in the afternoon would  
22 set a high demand charge for the entire month, regardless of how conservative customers are every  
23 other day.

24           Utilities increasingly are proposing demand charges, which could reduce their peak loads  
25 during times of highest power demand and potentially reduce the amount of power they would  
26 have to deliver at any one time.

27           UniSource wants to make the demand charge an option for other residential customers  
28 without solar, but the Arizona Corporation Commission wants to go a step further. It supports  
demand charges for all residential customers.

          “The sooner a migration occurs the better for all,” said Thomas Broderick, director of the  
Corporation Commission utilities division, in his testimony.

          UniSource's non-solar customers who switched to the demand rate would pay an average  
monthly fee of \$30 for the 5 kilowatts of peak demand they average, according to a UniSource bill

1 analysis. But their bills only would be about \$100 a month, about \$5 more than they are today,  
2 because the cost of energy itself would decrease. If customers had a demand peak of 11 kilowatts  
3 at some point in the month, they would see \$80 in demand charges regardless of how much power  
4 they used.

5 UniSource, like most electric companies in the state, is regulated by the Arizona  
6 Corporation Commission. That means the decision those elected officials reach on the case will  
7 likely have some bearing on whether they allow Arizona Public Service Co., Tucson Electric  
8 Power Co. and others to raise rates and impose demand charges when they begin their own rate  
9 cases later this year.

10 UniSource hearings begin March 1. APS, the state's largest utility, is scheduled to begin a  
11 rate case in June, and utility officials have said they would seek demand charges for residential  
12 customers.

13 Because of the possible precedent, APS and several solar advocacy groups have gotten  
14 involved in the UniSource case.

15 "We've been pretty clear this is something we believe in," said Jeff Guldner, APS senior  
16 vice president of customers and regulation. "The fact this is playing out now in a utility with 90,000  
17 customers, the broader policy repercussions are pretty significant."

18 Utilities nationwide are trying to address the growth of rooftop solar power, which they  
19 contend shifts the expense of maintaining the power grid onto utility customers without solar.

20 Demand charges can help solve this problem for utilities because even if a customer  
21 generates power from solar panels, that customer can trigger a high demand charge by using  
22 appliances simultaneously after dark, when the panels are not making power.

23 "One compelling position for demand charges is, let's be careful before we target  
24 technology," Guldner said. The best rate design, he said, should be "agnostic to the technology."

25 Utilities must plan and build power plants and transmission lines for the highest power  
26 demand customers will set during the year. Demand rates encourage customers to reduce that  
27 demand, rather than focusing on the total energy they use.

28 Broderick cited the fact that demand charges have been used for some time for business  
customers as justification for moving residential customers to similar plans.

Demand charges better reflect power costs than energy-use charges alone, he said.

Demand charges are not universally supported, however. Some experts say they are too  
complicated for residential customers.

"There is a big difference between understanding how much electricity you use each month  
and how fast you use electricity in an hour," said Kenneth Wilson, an engineering fellow with  
Western Resource Advocates in Boulder, Colo., who testified in the case. "To effectively manage



1 their demand charge, customers would need to monitor individual appliances that they turn on at  
2 the same time during every hour of the day and know when large, automatic appliances (like air  
3 conditioners) are already running."

4 Salt River Project imposed a demand charge on new solar customers last year, and fewer  
5 than 100 customers have installed solar in the utility's territory since then, compared with  
6 thousands a year before that decision. But SRP, a public power company, isn't regulated by the  
7 Corporation Commission, so the decision didn't set a precedent for other utilities in the state.

8 Rooftop solar-leasing company SolarCity is suing SRP over that rate, which increased solar  
9 customer bills by about \$50 a month, saying the utility is violating the Sherman Antitrust Act.

10 The SRP rate did not affect customers who already had installed solar, and UniSource is  
11 similarly proposing to leave existing solar customers under the old rates if they applied to the  
12 utility before June 1, 2015. But the company probably would raise rates on those customers, too,  
13 if regulators approve.

14 David Hutchens, president and CEO of UNS Energy Corp., the parent company of  
15 UniSource, said he agrees with the Corporation Commission staff that existing solar customers  
16 should shift to the demand fee.

17 "Although the company originally sought to exempt most existing (solar) customers from  
18 mandatory use of three-part rates, we recognize that doing so would preserve inaccurate price  
19 signals and lock in a cost shift that increases rates for other customers," Hutchens said in his  
20 testimony in the case.

21 Hutchens said the company's analysis of the rates shows customers still will be able to save  
22 money using solar even under the new rate plan, just not as much.

23 The Alliance for Solar Choice opposes the plan and hired an expert witness.

24 "In essence, UNS is proposing to look behind the meter into someone's home (or at a  
25 minimum on their roof) to see if they are using a particular technology and then force them onto a  
26 different rate," said Mark Fulmer, principal with MRW & Associates research in Oakland, Calif.  
27 "This strikes me as unreasonably invasive of customers' privacy."

28 Hutchens dismissed the opposition.

"The testimonies filed by the Alliance for Solar Choice, Vote Solar and the Arizona Utility  
Ratepayer Alliance ignore the very real cost shift that is occurring between (solar) and (nonsolar)  
customers," Hutchens said. "Their testimonies also failed to offer an alternatives to the company's  
net-metering proposal."

APS hired an expert analyst to provide testimony in the UniSource case who said demand  
rates benefit the power grid.

1 "If policymakers wish to encourage innovative distributed technologies, demand rates offer  
2 an efficient and equitable method of doing so," said APS' expert Ahmad Faruqui, a principal with  
3 The Brattle Group.

4 To protect customers from unexpected high bills, Hutchens said UniSource proposes a  
5 transition period during which rates can be adjusted, and a "relief valve" to limit demand charges  
6 for low-load factor customers. The company expects to do away with those safeguards by its next  
7 rate hearing, Hutchens said.

8 UniSource hopes to have the rates in place by February or March 2017, and intends to  
9 supply customers with three prior months of demand data to help them understand how they use  
10 power and when they are demanding the most power.

11 Meetings for Corporation Commission members to take comments from the public were  
12 being scheduled in Lake Havasu City and Kingman, but dates were not yet set, depending on the  
13 Corporation Commissioners' schedules.

14 One commissioner newly appointed by Gov. Doug Ducey, Andy Tobin, had to recuse  
15 himself from the discussion because he has a conflict of interest. It's unlikely he will participate  
16 in the final decision.

17 After the hearings, the administrative law judge in the case will issue a recommendation  
18 on the rates, and the five commissioners will vote on the final rates. That vote likely is to  
19 come sometime late this year.  
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