BEFORE THE ARIZONA CORPORATION C(

COMMISSIONERS
DOUG LITTLE - Chairman
BOB STUMP
BOB BURNS
TOM FORESE
ANDY TOBIN

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 OF 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 **STAFF'S OPENING BRIEF**

The Utilities Division ("Staff") of the Arizona Corporation Commission ("ACC" or "Commission") hereby submits its opening post-hearing brief in the above captioned matter.

I. INTRODUCTION.

UNS Electric, Inc. ("UNSE" or "Company") is an Arizona public service corporation principally engaged in the generation, transmission and distribution of electricity for sale in Arizona pursuant to Certificates of Convenience and Necessity issued by the Commission.[1] UNSE provides electric service to approximately 93,000 customers within Santa Cruz and Mohave counties in Arizona.[2] On May 5, 2015, the Company filed an application with the Commission for a rate increase. UNSE's current rates were authorized in Decision No. 74235 (December 31, 2013) based on a test year ending June 30, 2012.[3]

According to its application, since its last rate case, the Company has experienced several events that require rate relief. These events include the purchase of a 25% interest in the Gila River Power Plant Unit #3 ("Gila River") and a variety of other system investments that have increased the Company's original cost rate base ("OCRB") by $161 million. The Company's case also presents a number of significant rate design issues.

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[1] Exhibit UNSE-1 at 10.
[2] *Id.* at 3.
[3] *Id.* at 2.

UNSE's current rates are designed to recover a substantial portion of its fixed costs volumetrically on a per-kilowatt-hour ("kWh") basis. UNSE claims that it has experienced a significant decline in sales due to the curtailment of operations by certain large customers, the effects of increased energy efficiency ("EE") and distributed generation ("DG"), and the slow pace of economic recovery.[4] UNSE contends that its lower overall kWh sales have led to an under-recovery of fixed costs. This inability to recover fixed costs is compounded by the Company's inclining block rate structure, which exacerbates these effects.[5] In addition, UNSE complains that its Lost Fixed Cost Recovery ("LFCR") mechanism does not recover all of the lost fixed costs associated with meeting the Commission's Renewable Energy Standard and EE rules.[6] As a result, UNSE asserts that it is necessary to change its rate design to ensure that all customers pay a more equitable share of their fixed costs.[7]

In this brief, Staff will address its position regarding UNSE's Revenue Requirement, Cost of Capital, Rate Design, Net Metering tariff, Economic Development Rider ("EDR"), PPFAC, and Rules and Regulations.

II. REVENUE REQUIREMENT.

Only three of the parties to this action address the revenue requirement: UNSE, RUCO and Staff. These parties have now agreed to accept the increase in base rate revenues of $15.1 million, as most recently recommended by RUCO.[8] The Company prepared and filed on April 4, 2016, updated Schedules A, B, C, D, G and H-1 through H-4 which reflect the $15.1 million revenue increase. Staff accepts those schedules.

Initially, UNSE requested an increase in base rate revenues of $22.6 million, or approximately 15.4 percent, based on UNSE's adjusted retail electric revenues at current rates of $147.1 million.[9] The Company noted that this increase would be offset by a proposed $14.9 million reduction in fuel costs due to the Company's acquisition of a 25 percent interest in Gila River, lower power market

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[4] Exhibit UNSE-1 at 2, 3, 4 and 6.
[5] *Id.*
[6] *Id.* at 4:26 – 5:2.
[7] *Id.* at 5:3-6.
[8] TR at 143.
[9] Exhibit UNSE-1.

costs, and adjustments to test year sales, as well as $4.3 million in transmission costs currently being recovered through the Transmission Cost Adjustor ("TCA"). The Company asserted that the combination of these elements would result in a $3.5 million retail revenue increase.

RUCO initially recommended rates that would produce total operating revenue of $164.298 million, an increase of $12.271 million or 8.07 percent from the RUCO-adjusted test year revenue of $152.027 million. RUCO's recommended revenue would provide operating income of $18.147 million and a 5.26 percent return on the $345.131 million RUCO-adjusted Fair Value Rate Base ("FVRB").[10]

Staff made a number of adjustments to rate base and operating income and initially recommended that UNSE be authorized a base rate increase of no more than $18.1 million on adjusted FVRB. This is an average revenue increase of approximately 12.0 percent to adjusted test year revenues of $154.9 million.[11]

In its rebuttal testimony, the Company accepted some of Staff adjustments, as well as Staff's recommended revenue increase of $18.5 million.[12] In its Surrebuttal testimony, Staff made additional adjustments and corrections in response to the Company's Rebuttal testimony. The overall impact of Staff's additional adjustments changes Staff's recommended base rate increase from $18.128 million to $15.360 million, or a reduction of $2,768,000.[13] RUCO, in its Surrebuttal testimony, recommended a revenue increase of $17.207 million. Subsequently, RUCO proposed a revenue increase of $15.1 million, which both Staff and the Company have accepted.[14]

III. COST OF CAPITAL.

The Company initially requested a 10.35 percent return on equity, a capital structure of 52.83 percent common equity and 47.17 percent long-term debt, and a fair value rate of return ("FVROR") of 6.22 percent.[15] Although the Company continued to support these numbers in its Rebuttal testimony, it did state that it would not oppose Staff's recommendations related to the return on equity

[10] Exhibit RUCO-1 at 4.
[11] Exhibit S-1 at 8.
[12] Exhibit UNSE-12 at 6.
[13] Exhibit S-2 at 5.
[14] Exhibit UNSE-48; TR at 322, 444, 564, 571-572 and 593.
[15] Exhibit UNSE-22 at 3, 49 and 62.

("ROE") and fair value increment as long as the approved overall revenue increase and rate design provides UNSE a reasonable opportunity to earn its authorized ROE.[16]

Staff recommended that the Commission grant UNSE a 9.5 percent cost of equity and 0.50 percent fair value increment.[17] This is the same cost of equity and fair value increment awarded to UNSE in Commission Decision No. 74235, issued on December 31, 2013. Staff further recommended that the Commission approve the capital structure as proposed by the Company without any modifications/changes.[18]

RUCO initially recommended that the Commission adopt an 8.35 percent cost of common equity, a 5.48 percent fair value increment, and the capital structure proposed by the Company.[19] In its Surrebuttal testimony, RUCO revised its recommendations, and proposed a 9.13 percent cost of common equity, a 5.48 percent fair value increment, and the capital structure proposed by the Company.[20] However, by the time of the hearing, RUCO had agreed to adopt Staff's 9.5 percent cost of equity and 0.50 percent fair value increment.[21]

Only two other witnesses addressed cost of capital: Mr. Woolridge on behalf of TASC and Mr. Chriss on behalf of Walmart. TASC recommends an ROE of 8.75 percent, and disagrees with UNSE's, RUCO's, and Staff's recommendation of a 9.5 percent ROE.[22] TASC Witness Mr. Woolridge cites the current low interest rate environment for his position,[23] although he concedes that over time the companies in his proxy group average a 10 percent ROE.[24]

Wal-Mart does not propose a specific ROE, but instead asserted that the 10.35 ROE proposed by the Company is too high. Wal-Mart's witness, Mr. Chriss, concluded that the Commission should approve a ROE no higher than the current ROE of 9.5 percent,[25] and at hearing, he acknowledged that Wal-Mart could accept the 9.5 ROE that UNSE, RUCO and Staff had recommended.[26]

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[16] Exhibit UNSE-23 at 79.
[17] Exhibit S-3 at 6, 11.
[18] *Id.* at 9.
[19] Exhibit RUCO-3, at 2-3.
[20] Exhibit RUCO-4, at 2-3.
[21] TR at 185-186.
[22] TR at 3494.
[23] Exhibit TASC-23 at 4.
[24] TR at 3497-3798.
[25] Exhibit Wal-Mart-1, at 4; TR at 782.
[26] TR at 782.

IV. RATE DESIGN.

A. Development of Staff's Rate Design Proposal.

In its application, UNSE's proposed rate design included (i) an increased basic service charge ("BSC") for residential and small commercial customers; (ii) elimination of the third volumetric rate tier for residential customers; (iii) an optional three-part rate structure for residential and small commercial customers that includes a monthly service charge, a demand component and a volumetric energy component; and (iv) a mandatory three-part rate structure for partial requirements customers, including new users of solar arrays and other DG equipment. The Company asserts that these proposals will update and modernize the Company's rate design, better align rate design with cost causation, reduce inter- and intra-class inequities, reduce the level of cross subsidies, and enhance its ability to recover its fixed costs.[27]

In response to UNSE's application, other parties have submitted a broad range of rate designs that best reflect their particular interests. While a certain degree of self-interest is understandable, Staff does not have the luxury of focusing its rate design proposal so narrowly. Instead, Staff is tasked with developing a rate design that is fair and equitable for all parties, including the Company.

In this case, UNSE initially proposed a three-part rate design (customer, demand and energy charges) that would be mandatory for all new DG customers and optional for other Residential and Small General Service ("SGS") customers.[28] The Company posited that these rate design changes were needed to better align the Commission's policies with the Company's need for fixed cost recovery.[29] In addition, for new DG customers, the Company also proposed monthly bill credits for any excess energy delivered to its system.[30]

After a review of UNSE's application, Staff, determined that the Company was presented with a "problem," i.e., a significant pattern of declining sales caused by economic conditions coupled with an existing rate design that assumes the recovery of substantial fixed costs through the kWh charge.[31] In response, Staff formulated a "comprehensive solution,"[32] a long-term rate design plan

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[27] Exhibit UNSE-1 at 8.
[28] Exhibits S-5 at 26; UNSE-3 at 10; UNSE-28 at 16 and 19.
[29] Exhibits S-5 at 26; UNSE-3 at 10.
[30] Exhibit S-5; UNSE-3 at 15.
[31] TR at 3589.

that would give UNSE rate stability through a demand charge, provide customers with a significant degree of control of their utility bills going forward,[33] and reduce subsidies to the extent possible.[34]

Preliminarily, Staff believes that rates should be based on costs derived from class cost of service studies ("CCoSS"), not only at the class level but also at the individual unit cost level.[35] In this instance, Staff recommends the use of the Average and Excess-Non-Coincident Peak ("NCP") methodology which the Company proposed.[36] In addition, Staff's proposed rate design embraces the concept of gradualism to temper the short-term impact of rate changes. Staff's proposals are also consistent with evolving metering technology and customer information capabilities.[37]

Staff's recommended rate design includes a mandatory transition for Residential and SGS customers (including DG customers) from the present two-part rates to a Three-Part TOU rate, i.e., customer, demand and energy charges ("three-part rates).[38] Staff believes that its proposed rate design offers all customers better opportunities to react to clearer cost signals and to control their bills.[39] It is designed to increase the choices available to customers, as compared to the existing two-part rate design.[40]

Staff's initial recommendation for a mandatory transition to the three-part rate design was interrelated with and conditioned upon the following mitigation measures: (1) gradualism in class allocations of increased costs to serve; (2) gradualism in class allocations of demand costs that reduce the kW demand charge in this case; (3) a ceiling on kW demand incorporated into tariffs at a 15 percent load factor; (4) a thorough, widely available and thoughtful customer education program; (5) a carefully designed rate migration implementation process; (6) an opportunity to adjust the rate design by leaving the case open for 18 months; (7) a kW demand measurement period not shorter than one hour and measured only during on-peak hours; (8) various useful post-case compliance

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[32] TR at 3590.
[33] TR at 3590.
[34] TR at 3591.
[35] Exhibit S-5 at 2, 10.
[36] Exhibit S-5 at 3.
[37] *Id.* at 10.
[38] Exhibit S-6 at 6.
[39] Exhibit S-6 at 6.
[40] TR at 2715.

requirements; and (9) disclosure of intentions and general aspirations of how rate design may evolve in the future under three-part rates.

Staff submits that the use of three-part rates will ensure that DG customers contribute to the recovery of the fixed costs of the infrastructure that they continue to use. The addition of a demand charge and its resulting revenue stream reduces the required energy charge within any rate structure given the same revenue requirement. Should the Commission retain net metering, use of three-part rates will have an impact on the buy-back rate due to the reduced energy charge. A decision to forego three-part rates would necessitate a reconsideration of whether net metering is overcompensating DG customers.[41]

The Company agrees that Staff's "proposed long-term rate design plan eliminates the need for multiple rate case proceedings to implement initial three-part rates for all of its customers by: including the proposal of transitional volumetric rates, a transition and education period, "first-step three-part rates (i.e. only collecting a small portion of demand-related costs in this case with a goal of gradually updating the demand rate over forthcoming rate cases); and leaving rate design open for an extended period of time to allow for any significant unintended bill impact and revenue consequences to be addressed."[42]

UNSE further acknowledges that Staff's proposal, in conjunction with acceleration of the installation of the Company's automated meter reading system and its transition plan, enables the three-part rate design to be approved for all customers in this case.[43] UNSE concurs with Staff's rationale for moving all Residential and SGS customers to three-part rates because they better inform customers considering new technologies, including DG, about the bill impacts of their technology choices; they make significant progress towards all the issues arising from the proliferation of DG; and they reflect cost causation better than rates that rely primarily on energy charges to recover fixed costs.[44] Staff believes that three-part rates do not cure every problem at the onset, but provide a foundation for the future.[45] Moreover, contrary to assertions made by certain intervenors, Mr.

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[41] Exhibit S-6 at 12, 13.
[42] Exhibit UNSE-29 at 4, 5.
[43] *Id.* at 5.
[44] Exhibit UNSE-29 at 5.
[45] Exhibit S-6 at 12.

Solganick asserts that the three-part rate design is designed to increase the choices available to customers compared to the existing two-part design,[46] and allows customers additional options to save because they can decide to spread out their load differently than they do now.[47] Under the proposed three-part design, customers' choices include reducing their energy consumption, smoothing out the intensity of their usage, and/or shifting the timing of their usage.[48] As Mr. Broderick testified, demand rates provide customers with "a very powerful tool" to control their energy consumption and electric bills.[49]

Staff also recommends that the transition to mandatory three-part rates occur with this rate case. According to Mr. Solganick, a significant portion of the utility industry has had advanced metering for some time. This technology allows utilities to begin to accumulate information about customer usage.[50] However, many companies do not use this technology to provide usage information to their customers.[51] As a result, Mr. Solganick recommends that UNSE adopt three-part rates now in order to send the proper price incentives to customers and to align rates with costs.[52] In addition, by adopting these rates in this case, the Company's significant pattern of declining sales will be addressed.[53] However, Staff also recommended that the Company develop and implement a transition plan to provide Residential and SGS customers with information and education before the transition to three-part rates takes place.[54]

V. COST OF SERVICE/REVENUE ALLOCATIONS.

At the heart of the rate design proposed by Staff is the concept that rates should be based on costs, with a long-term goal of gradually moving all classes to cost of service.[55] Under the current rate design, the Residential class is being subsidized by other classes of customers.[56] To bring the Residential class to parity would require a class revenue increase of 116 percent; to bring the SGS

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[46] TR at 2715.
[47] TR at 2734.
[48] TR at 2715.
[49] TR at 3591.
[50] TR at 2746.
[51] TR at 2747.
[52] TR at 2748.
[53] TR at 3589.
[54] Exhibit S-6 at 6.
[55] Exhibit S-4 at 10.
[56] *Id.* at 24; Exhibit HS-4

class to parity would require a class increase of 14.7 percent. Given the magnitude of these percentages, Staff proposes a gradual transition toward a long-term goal of parity.

When determining class revenue allocations, Staff believes that the Commission should consider each class' relative position (from the CCoSS) along with certain qualitative issues, such as economic conditions for consumers, the business climate, and past cost allocation practices. The relative size of each customer class will limit the degree to which the Commission can increase cost allocations in any single rate case. For example, the new Medium/Large General Service class is almost five times larger than the SGS class. The Residential class is six times larger than the SGS class and larger than all other classes combined.[57]

Staff modeled various revenue allocations using Staff's recommended revenue requirement:[58]

- Proportional to the Company's proposed revenue allocation percentages
- Equal percentage increase (across the board by revenue)
- Moving all classes to the same return (UROR equals 1.000)
- Moving the Residential and Small General Service classes 50 percent of the amount needed to reach parity (and increase all other classes by an equal 10.1 percent)
- Moving the Residential and Small General Service classes 60 percent of the amount needed to reach parity (and increase all other classes by an equal 6.3 percent)
- Moving the Residential and Small General Service classes 67.7 percent of the amount needed to reach parity (and increase all other classes by an equal 3.7 percent)
- Moving the Residential and Small General Service classes 75 percent of the amount needed to reach parity (and increase all other classes by an equal 0.5 percent)

Based upon this modeling, the present and prior CCoSS, the impact of the purchase of Gila River, and the relative impacts between classes, Staff recommends that the revenue requirement be allocated by increasing the Residential and SGS classes by 50 percent of the amount needed to reach parity and increasing all other classes by an equal 10.1 percent. Under Staff's recommended revenue allocation, the Residential and SGS classes receive 58.3 percent and 7.3 percent, respectively, of the

[57] Exhibit S-4 at 22.
[58] *Id.* at 23; Exhibit HS-4.

overall increase, as compared to the Company's proposal of 91.2 percent and 11.8 percent for those two classes, respectively. Under Staff's proposal, all classes receive an increase, while the Company's proposal decreased the revenue requirement for the Large Power Service class. [59]

Initially, the Company proposed allocating 91 percent of its requested $22.5 million increase to the Residential class, 11.8 percent to the SGS class, small amounts to the Medium/Large General Service classes, and a reduction to the Large Power Service class. The Company, in an effort to address Staff's concerns, proposed a modified revenue allocation in which the increase for the Residential class is $15.9 million, which is 86 percent of the proposed $18.4 million increase.[60]

Although the Company purports to move closer to Staff's allocation, its modified revenue allocation proposal is only a small change from its original proposal. Even under the Company's latest revenue allocation proposal, it still will take two cases (the present and the next one) to move to cost-based rates. Further, the Company's proposed revenue allocation has not recognized the disproportionate impacts between the present CCoSS and the prior one. For all of these reasons, Staff urges the adoption of its revenue allocation: the Residential and SGS classes should receive increases of 58.3 percent and 7.3 percent, respectively.

Mr. Solganick described the impact of the Company's use of Staff's suggestion by comparing the original Schedule G-2 and the Company's revised Schedule G-28 for the Large Power Service class' Proposed Sales Revenue. The original filing (line 20 of Schedule G-2) proposed class revenues of $6.604 million, while revised Schedule G-28 proposed revenues of $6.777 million, an increase of less than 3 percent. A similar comparison for the Residential class shows a decrease of less than 0.2 percent.

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[59] Exhibit S-4 at 24; Exhibit HS-4.
[60] Exhibit UNSE-31; Exhibit CAJ-R-1.

VI. BASIC SERVICE ("CUSTOMER") CHARGE.

The Company has accepted Staff's proposed $15.00 BSC as long as the Commission adopts an acceptable three-part rate structure for all Residential and SGS customers.[61]

VII. DEMAND CHARGE.

After some initial differences, UNSE and Staff eventually agreed to an On-Peak demand charge of $5 for Residential and SGS customers. Also, UNSE and Staff have agreed to use a one hour interval for billed demand measurement only during on-peak periods. UNSE and Staff have also agreed to a 15% minimum load factor for purposes of calculating the demand charge.[62] This temporary measure is intended as a transitional mechanism to address some parties' concerns with an atypical customer's usage causing demand charge spikes which should be phased out in time.[63]

VIII. VOLUMETRIC CHARGE.

Staff's recommended volumetric energy rates are governed by season and usage and are set forth in Staff's proposed revisions to the Company's Schedule H-4, which has been filed pursuant to the request of the Administrative Law Judge at the hearing. This Schedule H-4 was prepared by the Company at Staff's request using Staff's suggested rate design and revenue allocations.[64] A summary of Staff's proposed revisions is set forth below.

Staff notes that larger commercial and industrial ("C&I") customers were modeled using Staff's proposed revenue allocation, suggested customer charges and the resulting demand and energy changes to meet the revenue allocation. There is no change in the basic rate design, which is a three-part rate. Where Staff did not propose a specific rate design or intra-class revenue allocation the Company's methodology was used. These customers are subject to varying changes in the Base Fuel under the Company's proposed fuel cost allocation. The Company said the changed fuel allocations were sent to Staff for comment previously.

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[61] Exhibit S-6 at 11; UNSE-29 at 7 UNSE-4 at 8.
[62] Exhibits UNSE-29 at 7; S-17 at 2, 12.
[63] Exhibits UNSE-29 at 7; S-17 at 13.
[64] The PPFAC and Base Fuel were from the Company as Staff offered no position on these.

Revised Schedule H-4 pages 2a and 3a demonstrates that Staff's three-part rate design along with the expected fuel cost changes results in a predicted impact of less than $6 for residential customers assuming that they do not change their usage patterns. Small and very small customers will see increases of $8.60 and $6.64 respectively in the summer and lower amounts in the winter. The primary cause of this impact is the increase in the Basic Service Charge from $10 to $15. Customers that change their usage in response to the demand charge will see lower impacts.

Revised Schedule H-4 page 1 shows the impact of the proposed transition two part rate along with the expected fuel cost changes results in a predicted impact of less than $6 for residential customers.

Revised Schedule H-4 pages 6a and 7a demonstrates that Staff's three-part rate design along with the expected fuel cost changes results in a predicted decrease for larger residential CARES customers assuming that they do not change their usage patterns. The primary cause of this impact is the increase in the CARES discount to $17. Small and very small customers will see increases of $ 5.60 and $3.99 respectively in the summer and lower amounts in the winter. The primary cause of this impact is the increase in the Basic Service Charge from $4.90 to $15. Customers that change their usage in response to the demand charge will see lower impacts.

Revised Schedule H-4 page 4 shows the impact of the proposed transition two part rate along with the expected fuel cost changes results in a predicted impact of less than $2 for residential CARES customers, except those with very small usage which will see a $2.15 increase.

Revised Schedule H-4 page 8a and 9a demonstrates that Staff's three-part rate design along with the expected fuel cost changes results in a predicted winter decrease and summer increases of less than $2 for residential CARES MEDICAL customers assuming that they do not change their usage patterns. The primary cause of this impact is the increase in the CARES discount to $27. Customers that change their usage in response to the demand charge will see lower impacts.

Revised Schedule H-4 page 5 shows the impact of the proposed transition two part rate along with the expected fuel cost changes results in a predicted impact of less than $2 for residential CARES customers.

Revised Schedule H-4 pages 17a and 18a demonstrates that Staff's three-part rate design along with the expected fuel cost changes results in a predicted impact of less than $13.50 for small general service customers assuming that they do not change their usage patterns. Small and very small customers see these increases. The primary cause of this impact is the increase in the Basic Service Charge from $14.50 to $25.

Revised Schedule H-4 page 16 shows the impact of the proposed transition two part rate along with the expected fuel cost changes results in a predicted impact of less than $10 for small general service customers. The primary cause of this impact is the increase in the Basic Service Charge from $14.50 to $25.

IX. TRANSITION PERIOD/MIGRATION PROCESS.

UNSE recommends and Staff agrees that the transitional two-part rates that are based on the $15.1 million non-fuel revenue increase should go into effect as of the approval of the decision in this matter and that the transition of all Residential and SGS customers to the mandatory three-part demand rates should begin in the Spring of 2017.[65] According to Mr. Solganick, it was Staff's recommendation that the transition occur after customer education and data are available to customers so the implementation will occur with knowledge and continuing support.[66] Based on his extensive experience, Mr. Solganick believes that a utility must take the time, give people information, work through the details, use multiple media sources, and then implement the rate such that everybody knows what is coming and how they can, if they wish, react to a rate change.[67] In this case, Mr. Solganick is confident that the presently approximated nine month proposed transition period is more than adequate (based on an expected June 2016 decision timeframe), especially given the Company's proposed education and information programs.[68]

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[65] Exhibit UNSE-29 at 11.
[66] TR at 2716-2717.
[67] TR at 2720-2721.
[68] TR at 2722.

X. EDUCATION AND INFORMATION.

The Company has proposed to promote customer awareness through a comprehensive communications and education campaign which is set forth in Exhibit DJD-R-1.[69] The key elements of this campaign, which Staff supports, include providing customers with access to information about their individual electric demand at least three months prior to implementing such three-part rates and providing customers with messages which focus on the definition of a demand charge. This information would explain how demand charges are calculated, potential bill impacts, and energy efficiency tips aimed at reducing customer demand. The Company intends to use a variety of communications methods, including focus groups, customer bill messages, the Company's website, social media, the customer electronic newsletter and brochures, and a new bill format.[70]

Contrary to assertions made by various intervenors, Staff is confident of the ability of customers to learn and understand demand rates, energy usage and conservation, and the effects on bills.

XI. RATE CASE LEFT OPEN FOR 18 MONTHS.

UNSE and Staff agree that the Rate Design portion of this docket should remain open to address any rate design issues and/or unintended consequences occasioned thereby. Staff wants to be able to address any discrepancies between estimated and actual kW demands.[71] Staff submits that such timeframe would allow for the passage of enough time to fairly and accurately determine if significant discrepancies exist.[72]

XII. NET METERING.

Staff recommends continuing the present net metering tariffs without change in this case based on UNSE's acceptance of a full migration to three-part rates and provided they are approved.[73]

In addition, Staff recommends the adoption of two additional mitigation measures. First, for customers that had rooftop solar or applied for it by June 1, 2015, Staff is proposing a 15 percent bill credit that would be funded by a separate surcharge recoverable from all customer classes. This

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[69] Exhibit UNSE-29 at 9.
[70] *Id.* at 9- 10.
[71] Exhibit S-17 at 11.
[72] *Id.*
[73] *Id.* at 8.

surcharge would remain in place until reviewed at least in the next rate case.[74] Staff presumes that it will last until roughly the 2035 period proposed by UNSE.[75] Mr. Broderick emphasized that Staff considers this measure to be mitigation provided for rooftop solar customers and is not grandfathering.[76] Mr. Broderick pointed out further that Staff is not wedded to the June 1, 2015 date and that a date as late as the decision in this matter would be acceptable.[77]

As a second mitigation measure, Staff initially proposed a 15 percent up-front credit to customers who install solar within the first six months after the transition to three-part rates.[78] However, based on Staff witness Liu's calculations and feedback received on this topic, Staff now recommends that this credit should be $400/kW for any rooftop solar customer that installs solar within the stated six month period.[79]

XIII. ALTERNATIVE RATE DESIGN.

Mr. Broderick acknowledged at hearing that Staff has presented an alternative rate design with a rate with possible two tiers/phases in the recently filed Sulphur Springs Valley Electric Cooperative, Inc. ("SSVEC") rate case (Docket No. 15-0312).[80] Among the distinguishing differences between UNSE and SSVEC, is that SSVEC is neither prepared to nor interested in adopting three part rates. Staff's belief is that the utility's cooperation is key to successfully implementing three part rates. Without the necessary cooperation in transition efforts, including the education of customers, three part rates proposed in this matter are inappropriate for SSVEC. [81]

Also, Mr. Broderick posited that, if an alternative two-part rate design were to be considered for UNSE, he believes some modification to net metering would be appropriate with a renewable credit replacing banking.[82] Mr. Broderick suggested that the renewable credit for UNSE would need to be at least 7 cents/kWh if a non-mandatory three-part rate [or] two-part rates similar to those

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[74] TR at 3594, 3709.
[75] TR at 3594.
[76] TR at 3595.
[77] TR at 3595.
[78] TR at 3595.
[79] TR at 3595.
[80] TR at 3597.
[81] TR at 3597-3598.
[82] TR at 3713.

proposed in SSVEC were adopted.[83] According to Mr. Broderick, the suggested 7 cent/kWh renewable credit was based on a midpoint between short-term avoided costs and the retail price.[84] Nevertheless, Mr. Broderick reiterated his belief that the three-part rate structure better follows the cost of service study than a two-part rate design.[85]

XIV. MISCELLANEOUS ISSUES.

A. Economic Development Rider.

The Company has proposed an Economic Development Rider ("EDR") to encourage business growth in its service territory. The EDR would be available to certain commercial customers who meet economic development criteria, including a projected peak demand of 1,000 kW or more and a load factor of 75 percent or higher. These customers would receive discounts detailed in the EDR, Rider 13. All discounts and other costs would be borne by UNSE and would not be passed on to customers.[86]

Assuming that the energy costs are not significant, Staff would support this limited (volume and time) program to increase employment in the service territory. Staffs support does not extend to any request for recoupment of the lost incremental revenues absent a supporting record in some future proceeding.[87]

B. UNSE Rules and Regulations.

UNSE proposed a number of modifications to its Rules and Regulations. Staff reviewed those changes and made suggested revisions during the course of the pre-filed testimony in this case.[88] UNSE has submitted a redline version to Staff reflecting the changes addressed in pre-filed testimony and at hearing and submitted it to Staff for review. With one minor exception, Staff has determined that this document is acceptable.

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[83] TR at 3598, 3713.
[84] TR at 3713.
[85] TR at 3713.
[86] Exhibit UNSE-28 at 30-32.
[87] Exhibit S-4 at 52.
[88] See, generally, Staff Exhibits S-13 and S-14.

C. PPFAC.

Only one issue exists between Staff and UNSE regarding the PPFAC: whether it should be applied on a per kWh basis or on a percentage of bill basis.[89] The Company proposes applying the adjustor on a percentage basis, arguing that it is simpler to do so. As proposed by UNSE in this rate case, each customer class rate schedule has an unbundled rate component titled Base Power. Time-of-use rate schedules have separate Base Power rates for on-peak and off-peak times. Rate schedules with seasonal rates have additional Base Power rates. UNSE is proposing that the PPFAC rate be set as a percentage to be applied to the Base Power component(s) of each rate schedule. Currently, the PPFAC rate is simply a kWh rate that is multiplied by the monthly kWh used by each customer.[90] Staff believes that using a percentage method adds unnecessary complexity, and it may shift costs among customer classes. Therefore, Staff supports continuation of a per kWh charge.

D. Customer Assistance Residential Energy Support Program ("CARES") (Low Income Customers).

Staff supports the Company's extended CARES plan, which increases the monthly discount to $17 for qualifying customers and to $27 for medical customers. These increases will bring the total CARES discount to approximately $1.2 million per year, and are intended to take effect upon implementation of the three-part rates.[91] The increases in the monthly discounts are intended to offset the proposed rate increases expected in this case.[92] Under this proposal, CARES customers will get a bill like anyone else, and the easily transparent discount would then be applied. Staff has committed to monitor the CARES program during the final rate design development.[93]

XV. CONCLUSION.

It is clear from the record that many alternative rate designs and opinions relative thereto have been presented by the parties to this case. Staff maintains that its proposed mandatory three-part TOU rate design and accompanying recommendations should be approved. That mandatory three-part TOU rates have not been previously adopted in other regulated jurisdictions should not be an

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[89] TR at 3506.
[90] Exhibit S-8 at 3.
[91] TR at 2718, 2833, 2834.
[92] TR at 2718.
[93] TR at 2718, 2834.

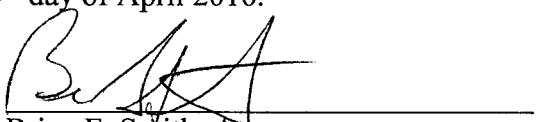
impediment to their adoption by the ACC. Courts commonly recognize that a regulatory agency is free to select or reject a particular method as long as it is reasonable and not unlawful:

> As to the department's ordering that all classes of customers share equally the cost of making the reduced rate available, we repeat again the principle that when alternative methods are available, the department is free to select or reject a particular method as long as its choice does not a have a confiscatory effect or is not illegal.

Am. Hoechest Corp. v. Dep't of Pub. Util., 379 Mass. 408, 399 N.E.3d 1 (1980) (citations omitted). Rate design is a function peculiarly within the expertise of the Commission.[94] The Commission has a "range of legislative discretion" in setting rates, and as long as that discretion is not abused, the court cannot substitute its judgment for that of the commission as to what is a "just and reasonable rate." *Ariz. Corp. Comm'n v. State ex rel. Woods*, 171 Ariz. 286, 294, 830 P.2d 807, 815 (1992).

Based on the foregoing and the evidence presented herein, Staff submits that the proposed mandatory three-part TOU rates should be adopted by the Commission as they are in the public interest and will result in just and reasonable rates for the Company and its customers.

RESPECTFULLY SUBMITTED this 25th day of April 2016.



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[94] *See U.S. Steel Corp. v. Pa. Pub. Util. Comm'n*, 37 Pa. Comwlth. 195, 209, 390 A.2d 849, 856 (1978).

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