ORIGINAL

0000169940

RECEIVED

BEFORE THE ARIZONA CORPORATION COMMISSION

AZ CORP COMMISSION DOCKET CONTROL

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 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 POST-HEARING OPENING BRIEF ON BEHALF OF FREEPORT MINERALS CORPORATION, ARIZONANS FOR ELECTRIC CHOICE AND COMPETITION AND NOBLE AMERICAS ENERGY SOLUTIONS LLC**

POST-HEARING JOINT OPENING BRIEF

April 25, 2016

Arizona Corporation Commission
DOCKETED
APR 25 2016
DOCKETED BY

TABLE OF CONTENTS

Page

FENNEMORE CRAIG
A PROFESSIONAL CORPORATION
PHOENIX

Freeport Minerals Corporation, Arizonans for Electric Choice and Competition (collectively "AECC") and Noble Americas Energy Solutions LLC ("Noble Solutions"), hereby submit this Post-Hearing Joint Opening Brief in the above-captioned Docket.

INTRODUCTION

This rate case focuses on rate design, and the opportunities for choice demanded by all consumers of electricity whose options are being driven by technological innovation and a rapidly evolving market for new products and services. In that regard, the choices consumers make should be rooted in proper price signaling based on cost-of-service principles that match cost causation with cost recovery in rate design.

With this background in mind, AECC and Noble Solutions are jointly proposing a rate allocation methodology that more closely aligns rates for different customer classes with their cost of service, while adhering to the principle of "gradualism," when compared to the current rate allocation proposals offered by UNS Electric, Inc. ("UNSE" or "Company") or Commission Staff ("Staff"). A major component of AECC and Noble Solutions' proposal is the implementation of a "buy-through" program that will allow large customers an opportunity to purchase generation from the third-party providers – without harming either the Company or its ratepayers.[1] The success of this buy-through program is predicated on fixing a serious flaw in UNSE's proposed unbundled tariff design, and, since no other party has rebutted AECC and Noble Solutions' expert witness Kevin Higgins on this matter, it should be resolved in AECC and Noble Solutions' favor.

The primary driver for AECC and Noble Solutions' overall rate spread and buy-through proposal (hereinafter, the "AECC/Noble Solutions Proposal") is to not only attract new or expanding businesses, but also help UNSE *__retain__* existing customers that may be

---

[1] AECC and Noble Solutions' buy-through proposal is a modified version of UNSE's proposed Experimental Rider 14 tariff.

deciding whether to curtail operations, or re-locate their businesses in light of rising costs.[2] Large customers create jobs, and provide local communities with a tax base and corporate support of civic initiatives to further economic development.[3] Large customers also subsidize rates for residential customers, and giving these subsidy-paying customers more options over generation costs is but one way to help counter-balance the inequity that has existed for decades. [4]

The Company and other parties have expended tremendous time and resources arguing over alleged cost-shifts among residential customers with the proliferation of solar distributed generation, while ignoring the real inter-class cost shifts that help produce some of the highest commercial and industrial rates in the region.[5] Because the AECC/Noble Solutions Proposal properly balances the interests of the Company and *all* classes of customers, AECC and Noble Solutions urge the Commission to adopt both the rate allocation methodology and buy-through mechanism contained in their joint proposal as being in the public interest.

DISCUSSION

AECC and Noble Solutions submit that the evidence presented in this case demonstrates that their joint proposal for allocating the rate increase and adopting a buy-through program most properly balances the interests of the Company, its shareholders and all customer classes by:

1. Utilizing a rate spread that most effectively moves UNSE towards the goal of matching cost causation with cost recovery, while adhering to the principle of "gradualism" by reducing, but not eliminating, the amount of cross-subsidy benefitting the subsidy-receiving rate classes;

---

[2] Indeed, the Company's recent loss of two large high load-factor customers and approximately 45MW of load has had negative impacts to UNSE, its shareholders and most of all, its remaining customers. Application at p. 3.
[3] Surrebuttal Testimony ("Sb.") of Michael McElrath ("McElrath") at p. 6, ln. 3-6.
[4] Hearing Transcript ("Tr.") at p. 2048, ln.. 3-13.
[5] Direct Testimony ("Dt.") of David Hutchens at p. 5, ln. 5-7.

2. Slightly modifying the Company's own unsupported buy-through proposal (Experimental Rider 14), so that in addition to attracting new or expanding businesses, the Company can retain existing load;

3. Apportioning the reduction in UNSE's requested revenue requirement 50/50 between the subsidy-paying and subsidy-receiving classes; and

4. Fixing an uncontroverted error in the Company's unbundled rate design that, if left in place, would effectively render any buy-through proposal economically inoperable.

Following sound cost of service and rate design principles, the AECC/Noble Solutions Proposal represents the most equitable solution for addressing inter-class cross subsidies and balancing stakeholder interests incident to establishing "just and reasonable" classifications and "just and reasonable" rates, and is therefore in the public interest.

I. ADOPTING THE RATE ALLOCATION AND BUY-THROUGH PROGRAM CONTAINED IN THE AECC/NOBLE SOLUTIONS PROPOSAL IS IN THE PUBLIC INTEREST.

The AECC/Noble Solutions Proposal contains two primary components: (i) a rate allocation methodology based on UNSE's original rate allocation proposal, and (ii) a modified version of the Company's proposed Experimental Rider 14 buy-through tariff that holds the Company and other ratepayers harmless from potential non-fuel lost generation revenue. As described in more detail below, these two components collectively create a rate design that more closely matches cost causation with cost recovery between customer classes, consistent with the Company's stated goal "…to create fair and equitable rates for all customer classes under sound Cost-of-Service and Rate Design principles."[6]

A. AECC and Noble Solutions' Proposed Rate Spread Fairly Allocates UNSE's Revenue Increase Between Customer Classes While Adhering to the Principle of Gradualism.

Although the rate allocation proposed by UNSE in Direct Testimony continues

[6] Craig Jones ("Jones") Dt. at p. 8, ln. 20-21.

considerable inter-class subsidies, it is a step in the right direction towards achieving a better alignment of class revenue requirements and class cost of service, while remaining consistent with the principle of gradualism. [7] In that regard, several witnesses testified that properly aligning rates with the costs caused by each customer group is essential for ensuring fairness, and minimizing cross-subsidies among customers. As UNSE witness Craig Jones testifies,

> "Fair cost allocation is based on the principle of cost causation. This principle has been referred to as the gold standard of cost of service. Equitably allocating costs between the classes protects all customer classes and creates rates that attempt to assign customers the actual costs of serving them."[8]

During the course of the proceeding, UNSE agreed to reduce the requested increase in non-fuel revenue requirement by approximately $7.5M, or from $22.6M to $15.1M.[9] The most equitable division of the reduction is to apportion 50% to the subsidy-paying classes, and 50% to the subsidy-receiving classes. When applied to the Company's original rate allocation proposal – which AECC and Noble Solutions consider reasonable despite continued interclass cross-subsidies – the reduction results in an overall rate increase of 10.4% for residential customers and 9.5% for Small General Service customers. Medium General Service ("MGS") and Large General Service ("LGS") customers receive a 2.7% net decrease, while Large Power Service ("LPS") customers receive a 3.0% net decrease. A table summarizing the impacts of sharing the reduction in revenue requirement 50/50 between the subsidy-paying and subsidy-receiving classes respectively, as applied to UNSE's original rate spread, is attached hereto as Exhibit 1.[10]

Although larger customers in the MGS, LGS and LPS classes would receive a rate decrease, they will still be subsidizing the subsidy-receiving customer classes, which is

---

[7] Kevin Higgins ("Higgins") Dt. at 4, ln. 14-18

[8] Jones Dt. at p. 8, ln. 17-21.

[9] Rejoinder Testimony ("RjT") of Kenton Grant at p. 3, ln. 26 – p. 4, ln. 3.

[10] AECC/Noble Solutions Exhibit 4, [Revised KH-LF-1].

$9.1 million annually prior to the $7.5 million reduction spread to all customer classes.[11] While this proposed allocation of the revenue increase does not achieve parity, there is a clear move to increase the rates for those classes that are relatively under-recovering their allocated costs, and decrease the rates for those classes that are relatively over-recovering costs. Thus, the AECC/Noble Solutions Proposal represents *meaningful* gradualism, and not a form that perpetuates schemes for permanent cross-subsidies.[12] The goal is to avoid a rate structure that is unduly burdensome and *discriminatory*. As stated by Company witness Dallas Dukes in his Direct Testimony:

> Q. Is there one principle in rate design that is foundational or primary?
>
> A. Yes. The principle of cost causation, i.e. rates should reflect cost based recovery. The further away you get from this fundamental foundation, the closer you get to unduly burdensome and discriminatory rate structures that allow for both intra- & inter- class subsidization.[13]

B. AECC and Noble Solutions' Proposed Buy-Through Program Provides Subsidy-Paying Customers the Opportunity to Better Manage Costs While Holding the Company, its Shareholders and Customers Harmless From Potential Non-Fuel Lost Generation Revenue.

The buy-through component of the AECC/Noble Solutions Proposal is structured around UNSE's original Experimental Rider 14, with modifications that make it as similar as reasonably possible to the Alternative Generation program ("AG-1") previously approved and extended for Arizona Public Service Company ("APS"). A copy of AECC and Noble Solutions' proposed tariff is attached hereto as Exhibit 2. During the course of the hearing, several of the other parties' witnesses testified that it is important for customers to have choices as technological innovations bring new products and services to

---

[11] Higgins Dt. p. 9, ln. 14-21.
[12] *Id.*
[13] Dallas Dukes ("Dukes") Dt. at p. 9, lns. 5-9.

the market.[14] These statements hold true for both residential and commercial/industrial customers, and are consistent under the Arizona Legislature's determination that "a competitive market shall exist in the sale of electric generation service" as the public policy of the State of Arizona. *See* A.R.S. § 40-202(B).

A buy-through option will provide economic incentives that work to *retain* large customers, as evidenced by the success that AECC member Freeport Minerals Corporation recently experienced under APS' AG-1 program, and can be implemented in conjunction with (rather than as an alternate to) the Company's proposed Economic Development Rate ("EDR").[15] Carefully crafted, the AECC/Noble Solutions Proposal fully addresses concerns raised by UNSE and other parties about potential negative impacts to the Company, its shareholders and ratepayer classes due to non-fuel lost generation revenue under the program.

In connection with the foregoing, AECC and Noble Solutions' propose to modify certain components of UNSE's Experimental Rider 14 as follows:

1. *Expanding Program Eligibility Requirements is Necessary to Ensure that Customers in all Subsidy-Paying Classes Have the Opportunity to Participate in the Generation Power Market.*

Working under the 10MW cap on participation, the Commission should broaden the range of eligible customers so that all members of the subsidy-paying classes can have an opportunity to seek to procure generation service through market purchases, making it a more vibrant offering.[16] Thus, customers with a total minimum peak load size of 1MW should be allowed to aggregate several smaller loads into the 1MW minimum threshold,

[14] Tr. at p. 275, ln. 20 – p. 276, ln. 10; p. 1513, ln. 1-17; p. 1567, ln. 17-25; 1566, ln. 16 – p. 1567, ln 2.
[15] In order to qualify for the EDR, an applicant must first qualify under one of two statutory tax incentives, one of which will no longer be applicable after 2017. A.R.S. §§ 41-1525 and 41-1512. Additionally, while the EDR can help to attract new or expanding business, it cannot provide any incentives in efforts to retain existing business.
[16] Higgins Dt. at p. 5

FENNEMORE CRAIG
A PROFESSIONAL CORPORATION
PHOENIX

provided that each aggregated site is owned by the same corporate entity.[17]

There is keen interest on the part of commercial and public sector customers in participating in the competitive market for electric generation service, not only because of price and cost savings, but also because the market can provide options for those large entities that wish to power their electric needs through renewable energies, or who manage risk differently than utilities.[18] AECC and Noble Solutions' experience with the AG-1 program confirms such interest, and the opportunity should be made available to all similarly-situated UNSE customers.[19]

2. *Several UNSE Pricing Components, including its Unbundled Rate Design, Should Be Modified.*

UNSE's proposal that a buy-through customer be subject to the historical component of the PPFAC for one year is reasonable, subject to later confirmation based on specific calculations. However, the proposed management fee and continuation of certain generation demand charges are confiscatory, and should be amended.[20] The proposed \$0.004/kWh for buy-through service is six times greater than the \$0.0006/kWh management fee charged by APS for AG-1 service, and should be reduced to a more reasonable amount ranging between \$0.0006/kWh and \$0.0012/kWh.[21]

UNSE's proposed reserve capacity charge should also be modified. While some assignment of costs for generation reserves may be appropriate, the Company's proposal goes well beyond a reasonable threshold. By imposing fixed generation charges for services that a buy-through customer would not utilize, UNSE is proposing a pricing feature that does not exist in the APS AG-1 program, and would in effect be a stranded cost

[17] *Id.*
[18] McElrath Sb. at p. 6, ln 16 – 19.
[19] Tr. at p. 1173, ln. 15 – p. 1174, ln. 14.
[20] Higgins Dt. at p. 9
[21] AECC/Noble Solutions' witness Kevin Higgins testified that concerns about the APS management fee could be alleviated by doubling the fee, but certainly not increasing it six times the rate as proposed by UNSE.

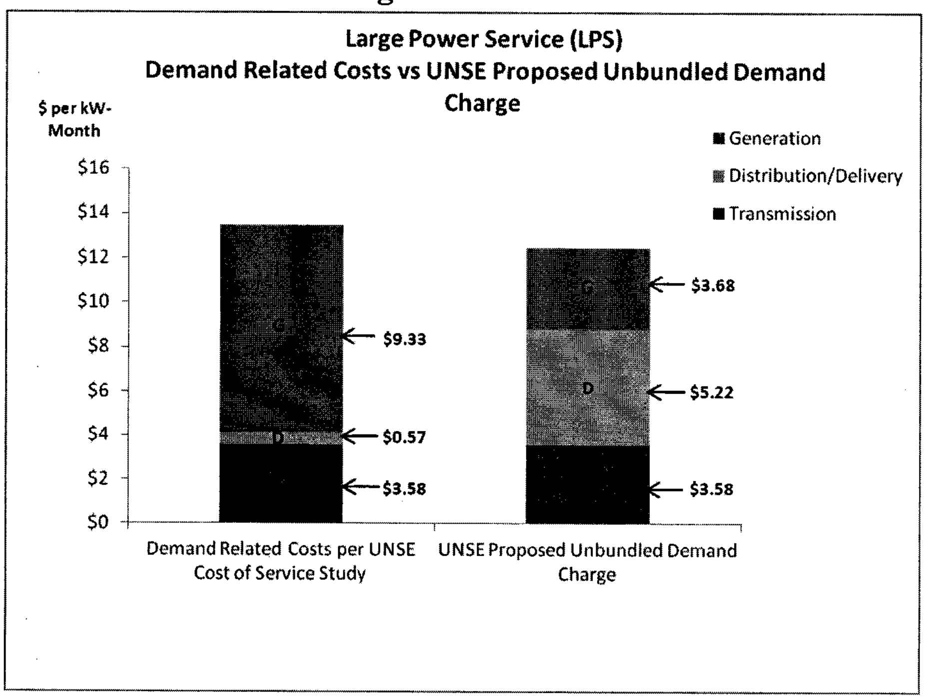
charge.[22] A stranded cost charge may be appropriate when customers are allowed to permanently leave the utility's system for market participation, but this is not the case with respect to any of the buy-through proposals offered in this proceeding.

Finally, UNSE's proposed $20 per MWh mark-up charge to the Down Jones Electricity Palo Verde Daily Index price for replacement power is excessive, and should be significantly reduced to no greater than $4 per MWh.[23]

3. *UNSE's Unbundled Rate Design is Seriously Flawed, and Inconsistent with the Fundamentals of Proper Unbundled Rate Design.*

UNSE's unbundled rate design is seriously flawed in that the Company is attempting to recover fixed generation related costs in the Local Delivery component of the demand charge, which is contrary to the fundamentals of proper unbundled rate design. This problem is illustrated in Figure KCH-1 of Mr. Higgins' Direct Testimony.

Figure KCH-1



---

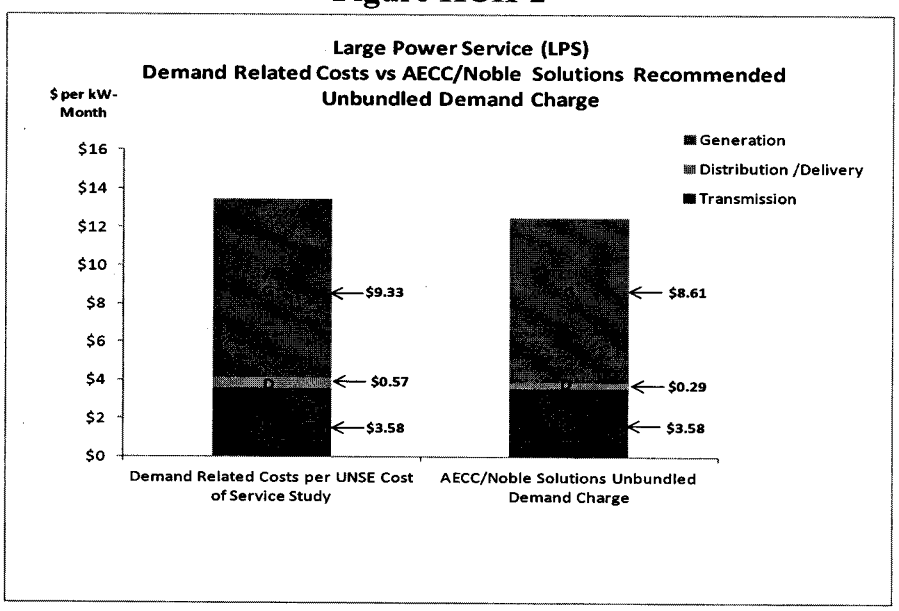
[22] Higgins Dt. at 21

[23] *Id.* at p. 25, ln. 1-8

A well designed unbundled tariff is essential to implement a buy-through program because customers in such a program purchase their generation service from third parties, making it necessary that the other unbundled rate components they pay accurately reflect the cost of that service.[24]

Figure KCH-1 clearly demonstrates that while UNSE's transmission costs are properly aligned between the bundled and unbundled rates, the Local Delivery demand charge and Generation Capacity demand charge are _entirely inconsistent_ with the Company's CCOSS. With a buy-through rate, the customer is able to bypass either all, or a significant portion of, the unbundled generation charge. By UNSE's proposed shifting generation costs onto the Local Delivery charge, which buy-through customers would still have to pay, any potential cost savings for such customers would be lost. The solution is to properly match rates with cost, as shown on Figure KCH-2.[25]

Figure KCH-2



[24] *Id.* at p. 25, ln. 21-23.

[25] Figure KCH-2 was prepared using the bundled rates proposed by UNSE in its direct filing. After UNSE revised its revenue requirement in its rebuttal filing, Mr. Higgins updated his recommended unbundled rates in Exhibit KCH-SR-3. The same principles used in Exhibit KCH –SR-3 should be applied to the lower revenue requirement proposed by UNSE in its rejoinder filing and the final revenue requirement approved by the Commission in this proceeding.

Because no party has rebutted Mr. Higgins' testimony that the Company's proposal is contrary to the fundamentals of proper unbundled rate design, the Commission should adopt AECC and Noble Solutions proposed unbundled rate design.

4. *AECC and Noble Solutions' Funding Mechanism for a Buy-Through Program Holds the Company, its Shareholders and Other Customers Harmless Against Potential Non-Fuel Lost Generation Revenue.*

UNSE's agreement to reduce the amount of the requested revenue increase provides the perfect opportunity for the Commission to fund a buy-through program that holds the Company, its shareholders and other customers harmless against potential non-fuel lost generation revenue. AECC and Noble Solutions propose to fund the buy-through program in the amount of $908,000 annually, to be taken directly from the eligible customer classes' (MGS, LGS and LPS) portion of the 50% share in the $7.5M reduction of requested revenue increase, or $3,706,646.[26] *See* Exhibit 1. The remaining $2,852,646 would be spread among the program-eligible customer classes to reduce the overall rate impacts in this case.[27] If the buy-through program is not fully subscribed, then the revenues set aside that turn out to be superfluous would be deferred and returned to the eligible classes through a suitable rate adjustor like the PPFAC, or in some future regulatory proceeding.[28]

While this funding mechanism can work with *any* revenue spread allocation ultimately adopted by the Commission in this proceeding, the most equitable solution includes AECC and Noble Solutions' proposed 50/50 split of the reduction in requested revenue increase.

---

[26] The $908,000 funding proposed by AECC and Noble Solutions is greater than the $331,200 identified by UNSE because AECC and Noble Solutions propose different reserve capacity charges and unbundled rates. Higgins Dt. at 6.
[27] Program-eligible customers include those that can aggregate loads up to 1MW.
[28] Higgins Dt. at p. 24, ln. 5-8.

FENNEMORE CRAIG
A PROFESSIONAL CORPORATION
PHOENIX

C. Concerns About The Mechanics of AECC and Noble Solutions' Buy-Through Proposal Are Not Supported by the Record in this Proceeding.

UNSE and the Arizona Investment Council ("AIC") oppose AECC and Noble Solutions' buy-through proposal due to alleged potential negative impacts on the Company, its shareholders and customers. AIC in particular argues that the Commission should wait until it can evaluate the results of APS' AG-1 pilot program before determining that a buy-through is appropriate for UNSE or any other electric utility that the Commission regulates.[29]

UNSE and AIC contend that the $908,000 may not be enough to cover the Company's potential non-fuel lost generation revenue, though UNSE failed to specify how this amount would result in any under-recovery given the Company's own estimates on lost non-fuel generation revenue.[30] However, as already demonstrated in Section I.B.4 herein, AECC and Noble Solutions' funding solution places all cost responsibility for a buy-through on program-eligible customers.[31]

Additionally, under cross-examination, UNSE witnesses confirmed that 10MW represents a small percentage of the Company's overall market purchases for generation in relation to its peak period and average demand, and any "returning customer" could be re-integrated into its system within a year.[32] While any new program is likely to create some administrative challenges, the Commission should not let the "perfect be the enemy of the good" – a phrase used when describing UNSE's proposed three-part rate design for residential customers.

UNSE and AIC also focus on the $908,000 offset, and contend that by removing it

---

[29] Dt. of Gary Yaquinto ("Yaquinto") at p. 13, ln. 8-11.

[30] *See* UNSE Response to Staff DR 2.118 [75% of estimated lost non-fuel revenue =$331,200]; Tr. at 2008, ln 17-23.

[31] Company witness Craig Jones speculates that reducing the amount of generation that UNSE must procure from the market by 10MW might negatively affect the purchase price, which in turn would impact all customers; however, he provides no support for this position on potential fuel-related costs.

[32] Tr. at p. 2021 at ln. 17 – p. 2022, ln. 5; Tr. at 2022, ln. 20 – p. 2023, ln. 9.

from the reduction in requested revenue increase – AECC and Noble Solutions' funding mechanism actually *will* harm those program-eligible customers that are unsuccessful in a lottery to secure a portion of the available 10MWs. While it is true that customers in the MGS, LGS and LPS would receive a slightly lower rate impact absent the funding proposed for a buy-through program, the fact remains (and UNSE agreed) that under the overall AECC/Noble Solutions Proposal, those same customers will see better results on rates when compared to the rate allocations proposed by both UNSE or Staff – irrespective of whether they successfully participate in the buy-through or not. As stated by witness Craig Jones under cross-examination:

> Q. Mr. Jones, isn't it true that commercial and industrial customers are still better off under Mr. Higgins' proposal as opposed to the proposal of the company, irrespective of whether they take a buy-through or not?
>
> A. I agree.[33]

D. Concern Over Timing in Regards to Adoption of a Buy-Through Tariff for UNSE and Others is Without Merit.

It is clear that the Commission has the authority under A.R.S. § 40-252 to amend any previous decision or order to address issues that might arise after this rate case is concluded.[34] Therefore, concern about any party's ability to raise – and the Commission's authority to address and resolve – issues concerning a buy-through tariff is simply inconsistent with Arizona law. By contrast, it will be roughly three to four years until UNSE files its next rate application, and the opportunity to establish a rate offering designed to encourage economic development and rate stability in the Company's service territory again exists.[35]

AIC asserts that "serious flaws" in the AG-1 program based on information

[33] Tr. 2694, ln. 9-14.

[34] "The commission may at any time, upon notice to the corporation affected, and after an opportunity to be heard as upon a complaint, rescind, alter or amend any order or decisions made by it." A.R.S. §40-252.

[35] Tr. at p. 2638, ln. 23 – p. 2639, ln. 3.

provided during the discovery process in this proceeding should raise red flags for the Commission.[36] Upon closer examination, however, one such alleged flaw in fact is a direct result of APS' own desire to settle its last rate case, while the other alleged flaw, if true, can be easily resolved. With respect to the former, the alleged under-recovery of approximately $16.8M in generation revenue by APS (and its shareholders) from November 2012 to May 2015, is the result of a negotiated settlement agreement.[37] No such settlement agreement exists in this case, and the AECC and Noble Solutions buy-through proposal is funded by the eligible customer classes, not UNSE or its shareholders.[38] The latter alleged "serious flaw" is an inadequate management fee, which AIC contends does not fully recover APS' costs to administer the AG-1 program.[39] In that regard, Mr. Higgins testified that it might be reasonable to double the fee, as AIC suggests, if the information supports such a request in the upcoming APS rate case hearing.[40]

Ironically, AIC requests that the Commission take a cautious and prudent approach to adopting a buy-through program for UNSE, yet at the same time encourages the Commission to approved an "unprecedented" 3-part rate design for all residential consumers that includes a mandatory demand charge.[41] The import of AIC's position is that innovation and change is good when it benefits a utility, but not when it benefits consumer choice and lower generation costs. Given this double standard, AIC's position should be given very little weight in this proceeding.

---

[36] While conceding that the information provided by APS about its AG-1 program in response to data requests had not been subject to cross-examination, AIC nonetheless offers such responses to support its claim that a buy-through program would hurt UNSE and its shareholders.

[37] Yaquinto Sb. at p. 4, ln 14-18 .

[38] "Harm" is a relative term, and APS shareholders have gained a nearly 50% increase in the stock value, while APS' valuation has increased by nearly $2 billion during the life of the AG-1 program. AECC/Noble Solutions Exhibits 6 & 7.

[39] Yaquinto Sb. at p. 6, ln 18-20.

[40] Tr. at p. 1127, ln. 1-2.

[41] Mr. Jones also acknowledged the similarity between AIC's timing argument and that of solar advocates who argue that adopting a 3-part rate design with a mandatory demand charge is premature until the Commission considers the evidence presented in its Value of Distributed Generation matter. Tr. at p. 2638, ln. 11-22.

II. UNSE'S AND COMMISSION STAFF'S RATE ALLOCATION PROPOSALS DO NOT RESULT IN JUST AND REASONABLE RATES FOR LARGE CUSTOMERS.

Matching cost causation with cost recovery has been a principle theme in this rate case. UNSE and other parties have expended tremendous resources to "fix" alleged intra-class cost shifts among residential ratepayers to address the growth of distributed solar generation (solar rooftops), while largely ignoring the inter-class cost shifts that have existed for decades, with particular detriment to larger customers. While the Company's original rate design proposal signaled a willingness to begin addressing the inequity of inter-class subsidies, it has since been modified in its Rebuttal and Rejoinder testimony to further benefit the residential customer class to the point that "gradualism" acts as an impediment to any meaningful change, and instead perpetuates a scheme that results in ongoing and significant cross-subsidies by larger customers.

Commission Staff's proposal is dramatically worse, and fails to adhere to the very principles expressed by its witness, Howard Solganick, who testified that "There should be an upper bound of 150 percent for any class' percentage increase in revenue compared to the overall percentage increase in revenue."[42] As addressed more fully below, the evidence demonstrates that neither proposal provides large customers with just and reasonable rates as required under Arizona law.

A. UNSE's Current Rate Allocation Proposal Does Not Go Far Enough to Gradually Move Cost Causation Closer to Cost Recovery on an Inter-Class Level in Any Meaningful Way.

In its original rate spread recommendation, the Company proposed a dispersed rate change by customer class. To recover its requested overall 15.3% non-fuel revenue increase, Residential, SGS and Lighting customers would receive a 27.9%, 22.4% and 13.9% non-fuel percentage increase, respectively, although the net rate impacts, after

[42] Howard Soganick ("Solganick") Dt. at p. 22.

taking account of fuel cost reductions, would be considerably lower. At the same time, MGS and LGS customers were proposed to receive a near zero non-fuel revenue change, and LPS customers would have received a 10.5% non-fuel decrease.[43] The operative effect of this rate allocation would still result in a cross-subsidization by members of the MGS, LGS and LPS classes to the Residential and SGS classes, in the amount of approximately $9.1M annually.[44] According to Company witness Craig Jones, average cost of service returns on proposed rates (under the Company's original proposal) would be 12.96% for the MGS and LGS classes, and 9.06% for the LPS class.[45]

However, in its revised and current rate allocation proposal, UNSE is now proposing to incorporate the $7.5 reduction in the requested revenue increase and apply the ***entire reduction, plus another $58,263 dollars***, towards alleviating the previously proposed rate increase impact on the Residential and SGS classes. As a consequence, the average cost of service return for MGS and LGS customers increases from 12.96% to 18.30%, and from 9.06% to 18.42% respectively, when comparing UNSE's current proposal to its original proposal.[46] Additionally, residential customers would only receive a net percentage increase of 6.2%, and SGS a 5.0% increase. Meanwhile, the subsidy-paying MGS and LGS classes would receive a net percentage increase of 1.9% and LPS would receive a net increase 1.3%. These figures highlight the fact that UNSE's proposed allocation of the $7.5M reduction of its requested revenue increase benefits the Residential and SGS customer classes, while MGS, LGS and LPS customers would be burdened with rates that do not come close to cost of service, nor make any meaningful move in that direction under the principle of "gradualism." By contrast, when considering the alleged intra-class cross-subsidies between residential customers who utilize solar and those who

[43] Higgins Dt. Table KCH-1.
[44] Id., Table KCH-2.
[45] Jones Dt., Exhibit CAJ-2.
[46] Jones RjT, Exhibit CAJ-RJ-1.

do not, any homage the Company pays to "gradualism" is thrown out the window with a three-part rate designed to immediately eliminate any intra-class subsidy.[47]

UNSE' current rate allocation strays far away from the sound ratemaking principle of matching cost causation with cost recovery on an inter-class level, and ignores the long-term benefits or proper ratemaking that Company witness David Hutchens suggests the Commission employ when determining rate structure.[48] As such, UNSE's rate proposal should be rejected because it does not provide larger customers with just and reasonable rates as required under Arizona law.

B. Commission Staff's Rate Allocation Proposal is Arbitrary and Provides No Assurance that UNSE's Rates Will Take Even a Small Step In The Direction of Cost-Based Rates for Large Customers.

Staff is proposing a revenue spread by customer class that would result in an inter-class cross-subsidy of nearly $11.9 million.[49] Although Staff expert witness Harry Solganick advocates for a ceiling of 150 percent for any class percentage increase in revenue compared to the overall percentage increase in revenue, Staff's proposal actually ignores this mitigation measure. If Staff had employed this measure, then its recommended non-fuel increase for Residential customers would be 18.48%, not 14.34%, and the subsidy paid to residential customers would be approximately $3 million less than what Staff is currently proposing.[50] Indeed, Mr. Solganick describes Staff's recommended revenue allocation as a "buffer to the Residential, Small General Service and Lighting classes from the full effects of the Company's proposed change in cost allocation methodology."[51]

Staff's proposal to set increases to selected classes to half of what is required to attain parity without linking it to other measurements such as the system average increase,

[47] Even Staff is concerned about the lack of "gradualism" inherent in the three-part rate design. Broderick Sb. at p. 3.
[48] Tr. at 372, 14-17.
[49] Higgins Sb.at p. 7, ln. 9-11.
[50] Id. at p. 8, ln 6-10.
[51] Solganick Rebuttal ("Rb") at 4.

or the relationship to the increase levied on the subsidy-paying classes, is arbitrary and unreasonable. For instance, according to Mr. Solganick, the system average non-fuel increase under Staff's proposed revenue increase is 12.32%.[52] For the SGS class, an increase of 22.32% would be required to attain full parity. Thus, Staff's proposal to increase the SGS class by half, or 11.16%, represents *less* than the system average for a subsidy-receiving class. When a subsidy-receiving class gets a better-than average increase, there should be cause for concern in the rate allocation being proposed.[53] By contrast, MGS and LGS customers, which warrant a non-fuel rate *reduction* of 8.85% to attain parity, wind up with a non-fuel *increase* of 10.12%. This revenue formulation clearly demonstrates that when a subsidy-receiving class get an increase that is *below* the system average, classes are not moving toward parity in any meaningful way.

In addition, Staff's revenue allocation proposal ignores several factors behind UNSE's proposed non-fuel rate increase, such as the Company's acquisition of the Gila River Unit 3 facility, reduction in base fuel costs to customers and the absorption of the Transmission Cost Adjustor (TCA). As a result, the class rate impacts depicted by Staff are incomplete. These deficiencies are illustrated in Table KCH-SR-4, which depicts the net change in range when you factor in all the other considerations previously mentioned, and keep the kilowatt-hour sales for each class constant. Table KCH-SR-4, attached hereto as Exhibit 3, demonstrates how the net rate impacts on the subsidy-receiving classes are dramatically lower than the impacts of the non-fuel increases Staff focused on in isolation in Exhibit HS-4. Because Staff's revenue allocation proposal in effect *increases* inter-class cross-subsidization, it should be rejected as arbitrary, unreasonable and contrary to the sound ratemaking principle of matching cost causation with cost recovery.

---

[52] Exhibit HS-4.

[53] Higgins Sb. at p. 9, ln. 11-21.

CONCLUSION

The ability of large customers to obtain generation service from the competitive market is not only consistent with the public policy of the state, but enhances economic incentives designed to attract, expand and retain large businesses that provide jobs, a robust tax base and corporate support for civic initiatives in several Arizona communities. Furthermore, fundamental principles of sound ratemaking policy dictate that the Commission design a rate structure that more closely aligns cost causation with cost recovery, with a long-term view to achieve parity in cost-based rates. At the same time, the Commission must – in connection with its determination of what is in the public interest – consider innovations in technology that are helping to reshape how consumers purchase and consume electricity through a wider variety of choice in products and services, similar to the changes made in the telecommunications industry over the last two decades. Indeed, UNSE witness Overcast agrees that buy-through programs represent an electric industry example of the "emerging mixed monopoly and competition model" that has its origins in the telecommunications industry.[54] The AECC/Noble Solutions Proposal most effectively balances the need to adapt and change to meet customer needs, while remaining true to the fundamentals of sound ratemaking, gradualism and cost-based rates.

[54] Tr. at 1568, ln. 1- p. 1572, ln. 6.

RESPECTFULLY SUBMITTED this 25th day of April, 2016.

FENNEMORE CRAIG, P.C.

By: ______________________

Patrick J. Black
C. Webb Crockett
2394 E. Camelback Road, Suite 600
Phoenix, Arizona 85016
Attorneys for Freeport Minerals Corporation and Arizonans for Electric Choice and Competition
wcrocket@fclaw.com
pblack@fclaw.com

By: ______________________ for

Lawrence V. Robertson, Jr.
Of Counsel, MungerChadwick PLC
Attorney for Noble Americas Energy Solutions LLC

ORIGINAL and 13 copies filed this 25th day of April, 2016 with:

Docket Control
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

COPY of the foregoing hand-delivered/mailed this 25th day of April, 2016 to:

Jane Rodda
Administrative Law Judge
Arizona Corporation Commission
400 W. Congress
Tucson, Arizona 85701-1347

Janice M. Alward, Chief Counsel
Legal Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

Thomas Broderick, Director
Utilities Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

COPY mailed/emailed
this 25th day of April, 2016 to:

Parties of record

By: [signature]

EXHIBIT 1

Summary of AECC/Noble Solutions Proposed Late-Filed Revenue Spread by Customer Class

Line No.	Description (a)	Amount (b)	
1	UNSE Direct Filing Requested Revenue Increase =	$22,621,008	
2	UNSE Rejoinder Filing Requested Revenue Increase =	$15,099,716	
3	UNSE Reduction in Requested Revenue Increase =	($7,521,292)	= Ln 2 - Ln 1
	AECC/Noble Solutions Recommended Distribution of Reduction in Requested Revenue Increase:		
5	50% Applied to Subsidy Receiving Class =	($3,760,646)	= 50% x Ln 3
6	50% Applied to Subsidy Paying Classes =	($3,760,646)	= 50% x Ln 3
7	Reduction of Subsidy Paying Classes Amount Applied to Experimantal Rider 14 Costs [1] =	$908,000	
8	Net Reduction Applied to Subsidy Paying Classes =	($2,852,646)	= Ln 6 + Ln 7

Note 1: This amount would be used to recover any reduction in fixed generation revenues that arise from implementation of the Experimental Rider 14. Any unused funds would be returned to MGS/LGS/LPS customers in a future regulatory proceeding.

AECC/Noble Solutions Recommended Spread of UNSE's Requested Rejoinder Revenue Increase

Line No.	Customer Class (a)	Current Adjusted Test Year Margin Revenue (b)	Percentages for Spreading Revenue Reduction[2] (c)	UNSE As-Filed Base Dollar Change (d)	Spread of Reduction in Revenue Increase (e)	AECC/ Noble Recommended Base Dollar Change (f)
9	Residential	33,425,187	83.4%	$20,556,648	($3,137,196)	$17,419,453
10	Small General Service	6,136,594	15.3%	$2,664,336	($575,964)	$2,088,373
11	Medium/Large General Service	26,394,695	89.2%	$26,345	($2,544,898)	($2,518,553)
12	Large Power Service	3,191,840	10.8%	($771,829)	($307,748)	($1,079,577)
13	Lighting	505,944	1.3%	$75,592	($47,487)	$28,105
14	Sub-Total	69,654,260		22,551,092	(6,613,292)	15,937,800
15	Experimental Rider 14 Reserve				(908,000)	($908,000)
16	Total				(7,521,292)	15,029,800

Note 2: Shaded cell percentages apply to AECC/Noble reduction (see Ln. 5) for subsidy receiving classes. Non-shaded cells percentages apply to AECC/Noble reduction (see Ln. 8) for subsidy paying classes.

Summary of AECC/Noble Solutions Proposed Late-Filed Revenue Spread by Customer Class

Line No.	Customer Class (a)	UNSE Rebuttal Current Adjusted Test Year Base Revenue (b)	AECC/ Noble Solutions Proposed Base Dollar Change (c)	AECC/ Noble Solutions Proposed Base Percent Change (d)	AECC/ Noble Solutions Net Dollar Change (Year 2) (e)	AECC/ Noble Solutions Net Percent Change (Year 2) (f)
17	Residential	$78,169,265	$17,419,453	22.3%	$8,097,604	10.4%
18	Small General Service	$12,461,200	$2,088,373	16.8%	$1,181,208	9.5%
19	Medium/Large General Service	$56,334,006	($2,518,553)	-4.5%	($1,497,300)	-2.7%
20	Large Power Service	$7,446,668	($1,079,577)	-14.5%	($220,575)	-3.0%
21	Lighting	$547,038	$28,105	5.1%	$31,563	5.8%
22	Sub-Total	$154,958,178	$15,937,800	10.3%	$7,592,501	4.9%
23	Experimental Rider 14 Reserve		($908,000)		($908,000)	
24	Total	$154,958,178	$15,029,800	9.7%	$6,684,501	4.3%

EXHIBIT 2

Experimental Rider – 14

Alternative Generation Service (AGS)

AVAILABILITY

Available throughout the Company's entire electric service area at all points where facilities of adequate capacity and required phase and suitable voltage are adjacent to the sites served. This rider is available for standard offer Customers who have single service point or Aggregated Peak Load of 1,000 kW or more and are served under rates MGS, MGS-TOU, MGS-TOU-S, LGS, LGS-TOU, LGS-TOU-S, LPS, LPS-TOU, or LPS-TOU-S. Each participating meter must have attained a maximum demand of 200 kW or greater measured at least once during the previous 12 months at the time of application for service under this rate rider schedule.

Customers must have interval metering, advanced metering infrastructure, or an alternative in place at all times under this rider. Customers shall comply with all applicable federal, state, and local laws, regulations, ordinances and codes governing the production and/or sale of electricity.

All provisions of the Customer's applicable standard offer rate will apply in addition to this Experimental Rider-14, except as modified herein. This rider shall be available until the start of the first rate effective period (following a general rate case) occurring no less than four years from the effective date of Experimental Rider-14, unless extended by the Arizona Corporation Commission. Total program participation shall be limited to 10 MW of customer load.

For purposes of this rider, the following notes and/or definitions apply:

1. Aggregated Peak Load means the sum of the maximum metered kW for each of the Customer's aggregated metered accounts over the previous 12 months, as determined by the Company and measured at the Customer's meter(s) at the time of application for service under this rate rider schedule.
2. Customer means a metered account or set of aggregated metered accounts that meets the eligibility requirements for service and enrollment as an aggregated load for service, under this rate rider schedule.
3. Generation Service means wholesale power delivered to UNS Electric by a Generation Service Provider.
4. Generation Service Provider means a third party entity that provides wholesale power to the Company on behalf of a Customer. This entity must be legally capable of selling and delivering wholesale power to the Company.
5. Imbalance Energy means the difference between the hourly delivered energy from the Generation Service Provider and the actual hourly metered loads for each Customer for all Customers that have selected the Generation Service Provider under this rider. Imbalance energy will be calculated by the Company.
6. Imbalance Service means the calculation and management of the hourly deviations in energy supply for imbalance energy.
7. Standard Generation Service means power provided by the Company to a retail Customer in conjunction with transmission and delivery services, at terms and prices according to a retail rate other than Experimental Rider-14.
8. Total Load Requirements means the Customer's hourly load including losses from the point of delivery to the Company's transmission system to the Customer's sites for the duration of the contract.

CHARACTER OF SERVICE

The service shall be three-phase, 60 Hertz, and at the Company's standard transmission or distribution voltages that are available within the vicinity of the Customer's premises.

CUSTOMER PARTICIPATION PROCESS

The Company shall establish an initial enrollment period during which Customers can apply for service under this rider. If the applications for service are greater than the program maximum amount, then Customers shall be selected for enrollment through a lottery process as detailed in the program guidelines, which may be revised from time-to-time during the term of this rider.

AGGREGATION

Eligible customers may be aggregated if they have the same corporate name, ownership, and identity. In addition, (1) an eligible franchisor customer may be aggregated with eligible franchisees or associated corporate accounts, and (2) eligible affiliate customers may be aggregated if they are under the same corporate ownership, even if they are operated under multiple trade names.

DESCRIPTION OF SERVICES AND OBLIGATIONS

The Customer shall apply for service under this rider.

The Company shall conduct the enrollment process in accordance with the provisions of this rider.

The Customer shall select a Generation Service Provider to provide Generation Service in accordance with the timeline specified in the program guidelines.

The Company shall enter into a contract with the Generation Service Provider to receive delivery and title to the power on the Customer's behalf.

The Generation Service Provider shall provide to the Company on behalf of the Customer firm power sufficient to meet the Customer's Total Load Requirements for each of the elected metered accounts, and will attest in its contract with the Company that this condition is met. For the purposes of this rider, "firm power" refers to generation resources identified in Western System Power Pool Schedule C or a reasonable equivalent as determined by the Company.

Any incremental costs or penalties incurred by the Company as the result of actions or inactions of the Generation Service Provider will be the responsibility of the Customer to pay or arrange for resolution of, or service under this rider will be terminated immediately and the provisions of the section referring to the Default of the Generation Service Provider will be applied.

The Company shall provide transmission, delivery and network services to the Customer according to normal retail electric service.

The Company will settle with the Generation Service Provider for Imbalance Service and other relevant costs on a monthly basis according to the program guidelines.

The Generation Service Provider shall bill the Company the monthly billed amounts for each Customer for Generation Service and Imbalance Service according to the program guidelines.

The Company shall bill the Customer for the Generation Service Provider's charged amounts and remit the amounts to the Generation Service Provider including any applicable taxes and assessments.

The Customer will be responsible for paying for the cost of the power provided by the Generation Service Provider, as specified in the contract and this rider and will be subject to disconnection in the manner consistent with the Company's Rules and Regulations for the equivalent retail service in the event of non-payment or late payment.

RATE

All provisions, charges, and adjustments in the Customer's applicable retail rate schedule will continue to apply except as follows:

1. The Base Power Charge will not apply.
2. The unbundled Generation component of the Demand Charge will not apply.
3. The Purchased Power and Fuel Adjustment Clause (PPFAC) will not apply, except that the Historical Component will apply for the first twelve months of service under this rider.

Experimental Rider-14 charges determined and billed by the company:

1. A monthly Management Fee of $0.0006 per kWh applied to the Customer's metered kWh.
2. A monthly Reserve Capacity charge equal to the applicable unbundled Generation component of the Demand Charge will be applied to 15% of the Customer's monthly billed kW.
3. An initial charge or credit for fuel hedging costs, as described herein.
4. Returning Customer charge, where applicable, as described herein.
5. Generation Service Provider Default charge, where applicable, as described herein.

Experimental Rider-14 Generation Service and Imbalance Service charges billed by the Company include:

1. Generation Service charges shall be charged at a rate specified in the contract between the Customer and the Generation Service Provider.
2. Imbalance Service charges shall be charged at a rate greater than $0.00 per kWh and less than or equal to the rate that the Company charges the Generation Service Provider for Imbalance Service as specified herein.

DELIVERY OF POWER TO THE COMPANY'S SYSTEM

Power provided by the Generation Service Provider must be firm power as defined above and delivered to the Company at a point of delivery as agreed to by the Company. The Generation Service Provider is responsible for the cost of transmission service to deliver the power to the Company's delivery point.

SCHEDULING

The Company shall serve as the scheduling coordinator. The Generation Service Provider shall provide monthly schedules of hourly loads along with day-ahead hourly load deviations from the monthly schedule to the Company according to the program guidelines. Line losses, in the amount of 3.3%, from the point of delivery to the Customer's sites shall be either scheduled or financially settled.

IMBALANCE SERVICE

The Company will provide Imbalance Service according to the terms and provisions in the Company's Open Access Transmission Tariff, Schedule 4. Imbalance Energy will be based on the Generation Service Provider's portfolio of Customer loads.

PPFAC AND HEDGE COST TRUE-UP

The Customer will be subject to the Purchased Power and Fuel Adjustment Clause (PPFAC) - historical component for the first twelve months of service under this rider. The Customer will also pay for the hedge cost associated with the Customer's Standard Generation Service at the time the Customer takes service under this rider. For the purpose of this rider, the Company will determine the applicable pro rata hedge cost based on the market price for hedge costs at the time the Customer takes service under this rider.

CONTRACT TERM AND REQUIREMENTS

The term of the contract with the Generation Service Provider shall be for not less than one year and shall not exceed the termination date of this rider.

The Generation Service Provider and Customer will enter into a contract or contracts with the Company, stating the pertinent details of the transaction with the Generation Service Provider, including but not limited to the scheduling of power, location of delivery, and other terms related to the Company's management of the generation resource.

DEFAULT OF THE THIRD PARTY GENERATION SERVICE PROVIDER

In the event that the Generation Service Provider is unable to meet its contractual obligations, the Customer must notify the Company and select another Generation Service Provider within 60 days. Prior to execution of any new power contract, the Company shall provide the required power to the Customer, which will be charged at the Dow Jones Electricity Palo Verde Daily Index price for the power delivery date plus $10 per MWh. In addition, all other provisions of this rider will continue to apply.

If the Customer is unable to select another Generation Service Provider within sixty days, the Customer will automatically return to Standard Generation Service, and be subject to the conditions below.

RETURN TO COMPANY'S STANDARD GENERATION SERVICE

Customer may return to the Company's Standard Generation Service under their applicable retail rate schedule without charge if:

(1) they provide one year notice (or longer) to the Company; or (2) if this rider is discontinued at the end of the 4-year experimental period; or (3) the Commission terminates the program prior to the end of the initial 4-year experimental period. Absent one of these three conditions, the Company will provide the Customer with generation service at the Dow Jones Electricity Palo Verde Daily Index price for the power delivery date plus $4 per MWh until the Company is reasonably able to integrate the Customer back into their generation planning and provide power at the applicable retail rate schedule. This transition will be at the Company's determination but no longer than 1 year. The returning Customer must remain with the Company's Standard Generation Service for at least 1 year.

CREDIT REQUIREMENTS

A Generation Service Provider or its parent company must have at least an investment grade credit rating or demonstrate creditworthiness in the form of either a 3rd-party guarantee from an investment grade rated company, surety bond, letter of credit, or cash in accordance with the Company's standard credit support rules.

UNS ELECTRIC STATEMENT OF CHARGES

For all additional charges and assessments approved by the Arizona Corporation Commission see the UNS Electric Statement of Charges which is available on UNS Electric's website at www.uesaz.com.

TAX CLAUSE

To the charges computed under this rider, including any adjustments, shall be added the applicable proportionate part of any taxes or governmental impositions which are or may in the future be assessed on the basis of gross revenues of the Company and/or the price or revenue from the electric energy or service sold and/or the volume of energy generated or purchased for sale and/or sold hereunder.

RULES AND REGULATIONS

The standard Rules and Regulations of the Company as on file with the ACC shall apply where not inconsistent with this rider.

EXHIBIT 3

Table KCH-SR-4
Summary of Staff Proposed Revenue Spread by Customer Class

Customer Class	UNSE Rebuttal Current Adjusted Test Year Base Revenue	Staff Proposed Base Dollar Change	Staff Proposed Base Percent Change	Staff Net Dollar Change (Year 2)	Staff Net Percent Change (Year 2)
(a)	(b)	(c)	(d)	(e)	(f)
Residential	$78,169,265	$10,563,000	13.51%	$1,241,152	1.6%
Small General Service	$12,461,200	$1,328,500	10.66%	$421,336	3.4%
Medium/Large General Service	$56,334,006	$5,435,055	9.65%	$6,456,308	11.5%
Large Power Service	$7,446,668	$746,486	10.02%	$1,605,487	21.6%
Lighting	$547,038	$54,959	10.05%	$58,417	10.7%
Total	$154,958,178	$18,128,000	11.70%	$9,782,701	6.3%