ORIGINAL

0000170231

**BEFORE THE ARIZONA CORPORATION**

RECEIVED

2016 MAY 10 P 4: 45

AZ CORP COMMISSION
DOCKET CONTROL

Arizona Corporation Commission
DOCKETED
MAY 10 2016
DOCKETED BY

**COMMISSIONERS**

DOUG LITTLE, Chairman
BOB STUMP
BOB BURNS
TOM FORESE
ANDY TOBIN

| | |
|---|---|
| IN THE MATTER OF THE APPLICATION OF SULPHUR SPRINGS VALLEY ELECTRIC COOPERATIVE, INC., FOR A HEARING TO DETERMINE THE FAIR VALUE OF ITS PROPERTY FOR RATEMAKING PURPOSES, TO FIX A JUST AND REASONABLE RETURN THEREON, TO APPROVE RATES DESIGNED TO DEVELOP SUCH RETURN AND FOR RELATED APPROVALS. | **DOCKET E-01575A-15-0312**<br><br>**SSVEC'S MOTION TO COMPEL INTERVENOR ENERGY FREEDOM COLATION OF AMERICA'S RESPONSES TO SSVEC'S FIRST SET OF DATA REQUESTS**<br><br>**(Expedited Oral Argument Requested)** |

CROCKETT LAW GROUP PLLC
2198 E. Camelback Road, Suite 305
Phoenix, Arizona 85016
602.441.2775

On April 28, 2016, Sulphur Springs Valley Electric Cooperative, Inc., ("SSVEC' or the "Cooperative") propounded its First Set of Data Requests on Intervenor Energy Freedom Coalition of America ("EFCA"). On May 9, 2016, EFCA submitted its responses, refusing to answer 13 of the 18 data requests in the set. For the reasons set forth herein, SSVEC seeks an order from the Arizona Corporation Commission ("Commission") compelling EFCA to fully respond to its First Set of Data Requests by May 13, 2016. Specifically, SSVEC requests that the Commission compel responses to SSVEC Data Requests 1.1 through 1.12 and 1.14.

## I. INTRODUCTION AND BACKGROUND.

On January 13, 2016, EFCA filed an application for leave to intervene ("Application") in this docket. In its Application, EFCA represented that it is a solar energy advocacy association whose membership is made up of solar companies including SolarCity Corporation, Silevo, Inc., Zep Solar, LLC, and NRG Energy, Inc., all of which "are important stakeholders in Arizona's rooftop solar industry."[1] EFCA further represented that EFCA's members "are responsible for thousands of residential, school, church, government and commercial solar installations in

[1] In its response to SSVEC Data Request 1.18, EFCA identified the following additional members: Go Solar, LLC, 1 Sun Solar Electric, LLC, and Ecological Energy Systems.

Arizona." In support of its Application, EFCA asserts that "EFCA and its members are directly and substantially affected by the Proceeding" and "Sulphur Springs Valley Electric Cooperative ("SSVEC") seeks to alter rate structures for solar customers and end the policy of net metering in its service territory, all of which will negatively impact EFCA members." The Administrative Law Judge granted EFCA's Application on January 22, 2016.

On April 28, 2016, SSVEC sent (via e-mail and regular mail) its First Set of Data Requests to EFCA comprised of 18 questions, a copy of which is attached hereto as Attachment 1. Pursuant to the Revised Rate Case Procedural Order dated October 6, 2015, objections to data requests issued after February 12, 2016 must be made within five calendar days and responses are due within seven calendar days.[2] Thus, any objections by EFCA to SSVEC's First Set of Data Requests were due by May 3, 2016 and the responses were due by May 5, 2016.

In an e-mail dated May 5, 2016, the day the EFCA responses were due, EFCA's counsel stated that he was "a bit behind" and asked counsel undersigned if he "would object to [EFCA] providing those responses on Monday [May 9, 2016]." A copy of EFCA's e-mail is attached hereto as Attachment 2. Counsel for EFCA made no mention of objections to any of SSVEC's data requests in his May 5, 2016, e-mail which was sent two days after the deadline for raising objections. In reliance upon the reasonable belief that EFCA would be providing complete answers to SSVEC's data requests on May 9, 2016, counsel undersigned consented to the requested extension of the due date.

At 6:10 PM on May 9, 2016, EFCA provided an electronic copy of its objections and answers to SSVEC's First Set of Data Requests. A copy of the responses are attached hereto as Attachment 3. EFCA refused to answer 13 of the 18 data requests that SSVEC issued. Thus, just one week before the hearing in this matter, SSVEC has been stonewalled by EFCA in its efforts to prepare to cross examine EFCA's witness at hearing. For the reasons set forth herein, SSVEC seeks an order from the Commission compelling EFCA to fully respond to the Cooperative's First Set of Data Requests.

[2] Revised Rate Case Procedural Order (October 6, 2015) at 3, lines 8-13

CROCKETT LAW GROUP PLLC
2198 E. Camelback Road, Suite 305
Phoenix, Arizona 85016
602.441.2775

## II. ARGUMENT.

On April 1, 2016, EFCA pre-filed the direct testimony of witness Mark Fulmer, and on May 6, 2016, EFCA pre-filed the surrebuttal testimony of Mr. Fulmer. Included in Mr. Fulmer's direct testimony are a various assertions and arguments pertaining to the economic impact of SSVEC's rate case proposals on customers with installed distributed generation ("DG"), including the following:

- The rates proposed by SSVEC for residential DG customers ... would remove all the economic value from solar DG. This means that customers with existing DG systems would end up paying more on the new DG rate than they otherwise would on full service, and that a customer contemplating a new solar DG system would experience very long payback on their investment, often exceeding the expected 30 year life of the PV system.[3]

- [S]everal customer types exhibit usage characteristics that are similar to customers who install distributed generation.[4]

- Singling out DG customers by subjecting them to a separate tariff is not reasonable.[5]

- [T]here are variations in electricity usage across the residential customer class, and it does not make sense to differentiate a single sub-class with regard to rate design.[6]

- [SSVEC] is proposing to increase the MSAC from the current $10.25 up to $50 in four steps over four years. ... [I]t would also have a profoundly negative impact on the economics of those residential Coop members who have already installed solar DG.[7]

- [I]t is unreasonable to change price structures and materially harm customers who made good-faith investments in DG.[8]

- I found that SSVEC's proposal renders solar not cost-effective for residential customers. First, the proposed variable electric rate in Phase 4, 7.1¢/kWh, is lower than the typical solar lease rate of 9¢/kWh. This means that a customer using a no upfront-cost lease would experience negative cash flow from day one. ... Second, if a customer purchases a solar system

[3] Direct Testimony of Mark Fulmer at 3, lines 4-9.
[4] *Id.* at 6, lines 18-19.
[5] *Id.* at 7, lines 20-21.
[6] *Id.* at 8-9.
[7] *Id.* at 10-11.
[8] *Id.* at 11, lines 11-12.

CROCKETT LAW GROUP PLLC
2198 E. Camelback Road, Suite 305
Phoenix, Arizona 85016
602.441.2775

for their home, it would not pay back in a reasonable amount of time. Again, this indicates that the proposed rate will simply not work.[9]

- [T]he results for grandfathered customers are poor from the start. In the Phase I year, a 9¢/kWh lease would still result in a loss of about $90. By the time the Phase 4 rates are in effect, the results are worse: the customer on a 9¢/kWh lease would now be paying $239 more with the solar system per year than on taking full service from SSVEC under the standard Schedule R rate.[10]

- Leases would have to be offered at 5.6¢/kWh or less in order to be economic, which is well below what solar providers currently offer.[11]

On April 28, 2016, SSVEC propounded its First Set of Data Requests on EFCA requesting relevant data pertaining to leases and purchase contracts between DG customers and the members of EFCA to help SSVEC to evaluate EFCA's arguments regarding the economic impact (benefits and costs) of the rate case proposals on DG customers. The data requests were narrowly focused in both time (years 2014, 2015 and 2016) and scope (within SSVEC's service territory). The information requested by SSVEC is clearly relevant to the issues in this proceeding as it bears directly upon EFCA's arguments regarding the economics of SSVEC's proposals.

EFCA has raised objections to 13 of the 18 SSVEC data requests, but these objections are wholly without merit. EFCA asserts that the data requests "seek information that is not in the possession or control of EFCA or its agents." This is a spurious objection as EFCA is a trade association comprised of solar companies that are doing business in Arizona. EFCA speaks on behalf of these members in this proceeding. Therefore, the arguments and claims of EFCA are the arguments and claims of its members. Certainly, EFCA is in regular contact with its members and need only ask for the information requested in the data requests. Legal counsel for EFCA is also legal counsel for SolarCity Corporation, one of EFCA's largest members, if not the largest member. Where information in a data request is readily available to EFCA simply by asking its members, it is required to provide that information in response to discovery requests. EFCA agreed to this when it filed for intervention on behalf of "its members [who] are directly and substantially affected by the Proceeding."

---

[9] *Id.* at 15-16.
[10] *Id.* at 19, lines 6-10.
[11] *Id.* at 19, lines 14-15.

CROCKETT LAW GROUP PLLC
2198 E. Camelback Road, Suite 305
Phoenix, Arizona 85016
602.441.2775

Moreover, EFCA should not be allowed to hide behind a claim that its members are not directly parties to this proceeding. In support of its Application for Leave to Intervene, EFCA asserted that "EFCA and its members are directly and substantially affected by the Proceeding" and "Sulphur Springs Valley Electric Cooperative ("SSVEC") seeks to alter rate structures for solar customers and end the policy of net metering in its service territory, all of which will negatively impact EFCA members." Because EFCA asserts that its members will be "negatively impacted" by SSVEC's rate proposal in this docket, the Cooperative is entitled to probe the veracity such claims. In other words, SSVEC is entitled to conduct reasonable discovery regarding those claims.

EFCA also claims that the information requested by SSVEC "is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence." To the contrary, it is quickly apparent that the information requested by SSVEC in the data requests is directly relevant to the claims asserted by EFCA through its witness Mark Fulmer in this docket, as identified above. The Commission permits broad discovery in rate cases. EFCA has submitted multiple sets of data requests to SSVEC and SSVEC has responded to those data requests without objection. SSVEC is entitled to the same opportunity. EFCA's objection based upon relevance is without merit and should be rejected.

EFCA also raises an objection on that grounds that SSVEC's data requests seek "the disclosure of confidential competitive business information, the disclosure of which would give SSVEC and unfair competitive advantage over the responding parties." To the extent that the information requested by SSVEC is confidential business information of the members of EFCA, SSVEC has offered to sign the confidentiality agreement which already exists between the Cooperative and Staff and which could be expanded to include EFCA and its members. With regard to EFCA's claim that the requested information will give SSVEC an unfair competitive advantage over the parties, EFCA provides no facts to support that claim. SSVEC does not install rooftop solar systems, so it is hard to imagine how SSVEC might benefit from the information requested. Moreover, SSVEC would point out that it has provided substantial financial information regarding its operations to EFCA through responses to data requests. Discovery in

CROCKETT LAW GROUP PLLC
2198 E. Camelback Road, Suite 305
Phoenix, Arizona 85016
602.441.2775

preparation for the upcoming hearing should not be a one-way street.

With regard to SSVEC 1.1, EFCA raises the additional objection that "SSVEC has this information in its possession as a result of its interconnection process." While this may be true, SSVEC would be required to search through approximately 1,400 hard copy files to cull out the information it is seeking, whereas, the requested information is certainly readily available from EFCA's members. Given the amount of work that would be required for SSVEC to obtain the requested information, and the relative ease of obtaining the information through EFCA's members, the Cooperative submits that SSVEC 1.1 is an appropriate discovery request.

Finally, with regard to SSVEC 1.10, EFCA asserts that SSVEC "seeks the creation of documentation that does not currently exist." However, the discovery process in rate cases routinely requires parties to create some documentation that does not otherwise exist, such as tables or summaries. That has certainly been the case for SSVEC in responding to sixteen sets of Staff data requests in this docket. The information requested in SSVEC 1.10 should be relatively easy for EFCA and its members to assemble and produce. The request is limited in time (years 2014, 2015 and 2016) and pertains only to DG systems installed within SSVEC's service territory.

Counsel for SSVEC has communicated in good faith with counsel for EFCA to attempt to resolve this discovery dispute but there has been no resolution. For the reasons set forth herein, SSVEC requests that the Commission issue is order directing EFCA to respond to SSVEC Data Requests 1.1 through 1.12 and 1.14 by May 13, 2016.

## III. EXPEDITED ORAL ARGUMENT REQUESTED.

The hearing in this case is only one week away. Because time is of the essence, SSVEC requests that oral argument be scheduled at the earliest possible date on this Motion to Compel.

RESPECTFULLY submitted this 10th day of May, 2016.

CROCKETT LAW GROUP PLLC

Jeffrey W. Crockett, Esq.
2198 E. Camelback Road, Suite 305
Phoenix, Arizona 85016
Attorney for Sulphur Springs Valley Electric Cooperative, Inc.

CROCKETT LAW GROUP PLLC
2198 E. Camelback Road, Suite 305
Phoenix, Arizona 85016
602.441.2775

ORIGINAL and thirteen (13) copies filed
this 10th day of May, 2016, with:

Docket Control
ARIZONA CORPORATION COMMISSION
1200 West Washington Street
Phoenix, Arizona 85007

COPY of the foregoing hand-delivered
this 10th day of May, 2016, to:

Dwight D. Nodes, Chief Administrative Law Judge
Hearing Division
ARIZONA CORPORATION COMMISSION
1200 West Washington Street
Phoenix, Arizona 85007

Thomas M. Broderick, Director
Utilities Division
ARIZONA CORPORATION COMMISSION
1200 West Washington Street
Phoenix, Arizona 85007

COPY of the foregoing send via e-mail
this 10th day of May, 2016, to:

Janice M. Alward, Chief Counsel
Legal Division
ARIZONA CORPORATION COMMISSION
1200 West Washington Street
Phoenix, Arizona 85007
jalward@azcc.gov
rgeake@azcc.gov
wvancleve@azcc.gov
mfinical@azcc.gov
**Consented to Service by E-mail**

Thomas A. Loquvam
Thomas L. Mumaw
Melissa M. Krueger
PINNACLE WEST CAPITAL CORPORATION
P.O. Box 53999, MSW 8692
Phoenix, Arizona 85072
Attorneys for Arizona Public Service Company
thomas.loquvam@pinnaclewest.com
**Consented to Service by E-mail**

Thomas A. Harris, Chairman
ARIZONA SOLAR ENERGY INDUSTRIES ASSOCIATION
2122 W. Lone Cactus Drive, Suite 2
Phoenix, Arizona 85027
Tom.Harris@AriSEIA.org
**Consented to Service by E-mail**

CROCKETT LAW GROUP PLLC
2198 E. Camelback Road, Suite 305
Phoenix, Arizona 85016
602.441.2775

COPY mailed via First Class U.S. Mail
this 10th day of May, 2016, to:

Garry D. Hays
THE LAW OFFICES OF GARRY D. HAYS, P.C.
2198 E. Camelback Road, Suite 305
Phoenix, Arizona 85016
Attorney for Arizona Solar Deployment Alliance

Michael W. Patten
SNELL & WILMER, L.L.P.
One Arizona Center
400 E. Van Buren Street, Suite 1900
Phoenix, Arizona 85004
Attorney for Trico Electric Cooperative, Inc.

Kerri A. Carnes
ARIZONA PUBLIC SERVICE COMPANY
P.O. Box 53999, MS 9712
Phoenix, Arizona 85072

Court S. Rich, Esq.
ROSE LAW GROUP PC
7144 E. Stetson Drive, Suite 300
Scottsdale, Arizona 85251
Attorney for Energy Freedom Coalition of America

CROCKETT LAW GROUP PLLC
2198 E. Camelback Road, Suite 305
Phoenix, Arizona 85016
602.441.2775

# ATTACHMENT 1

CROCKETT
LAW
GROUP

**Jeffrey W. Crockett**
Attorney at Law

**direct** 602.441.2775
**fax** 602.466.3493
**mobile** 602.999.4188
**email** jeff@jeffcrockettlaw.com

April 28, 2016

**VIA E-MAIL AND FIRST CLASS MAIL**

Court S. Rich, Esq.
ROSE LAW GROUP PC
7144 E. Stetson Drive, Suite 300
Scottsdale, Arizona 85251
E-mail: CRich@roselawgroup.com

***Re: Sulphur Springs Valley Electric Cooperative, Inc.'s First Set of Data Requests to Energy Freedom Coalition of America in Docket No. E-01575A-15-0312***

Dear Court:

Enclosed please find Sulphur Springs Valley Electric Cooperative, Inc.'s First Set of Data Requests to Energy Freedom Coalition of America ("EFCA") in the above-referenced docket. Please provide EFCA's responses within **seven (7) calendar days** of the date of this letter. Also, please provide the name, title and business address of each person supplying information that forms the basis of the response provided.

These data requests are continuing in nature and EFCA's answers and any documents supplied in response thereto should be supplemented with any additional information or documents that come to EFCA's attention, or the attention of EFCA members, after providing the initial response.

Please send EFCA's responses to me via electronic delivery, including all attachments, at jeff@jeffcrockettlaw.com.

Very truly yours,

CROCKETT LAW GROUP PLLC

Jeffrey W. Crockett

Enclosure
cc (with enclosure): Creden Huber
Kirby Chapman
Jack Blair

**CROCKETT LAW GROUP PLLC**
2198 East Camelback Road • Suite 305
Phoenix, Arizona 85016
www.jeffcrockettlaw.com

**SULPHUR SPRINGS VALLEY ELECTRIC COOPERATIVE INC.'S**
**FIRST SET OF DATA REQUESTS TO ENERGY FREEDOM COLATION OF AMERICA**
**DOCKET NO. E-01575A-15-0312**
**APRIL 28, 2016**

---

SSVEC 1.1 For each of the years 2014, 2015 and 2016 year-to-date, provide the number of rooftop solar systems that were leased to a customer by each member of the Energy Freedom Coalition of America ("EFCA") within the service area of Sulphur Springs Valley Electric Cooperative, Inc. ("SSVEC"). Please show the number of systems leased by each EFCA member separately and provide the totals by year and in the aggregate.

SSVEC 1.2 For each of the years 2014, 2015 and 2016 year-to-date, provide the number of rooftop solar systems that were purchased by a customer and installed by each member of EFCA within the service area of SSVEC. Please show the number of systems sold and installed by each EFCA member separately and provide the totals by year and in the aggregate.

SSVEC 1.3 Does any member of EFCA install solar rooftop systems within SSVEC's service pursuant to any contract which is neither a lease nor a purchase agreement? If so, describe the contact and for each of the years 2014, 2015 and 2016 year-to-date, provide the number of rooftop solar systems that were installed by each member of EFCA within the service area of SSVEC pursuant to such contacts. Please show the number of systems installed by each EFCA member separately and provide the totals by year and in the aggregate.

SSVEC 1.4 For the leased systems identified in the response to SSVEC 1.1 above, how many of the system leases have a <u>fixed</u> <u>monthly</u> fee over the life of the lease? For each lease, list the monthly fee, the total fees to be collected over the life of the lease, the EFCA member's cost of the installed equipment for the lease, and the total profit for the lease expressed in dollars, percent and rate of return.

SSVEC 1.5 For the leased systems identified in the response to SSVEC 1.1 above, how many of the system leases have payments that <u>increase</u> <u>annually</u>. For each lease, list the beginning monthly fee, the amount of the increase of the monthly fee over the life of the lease (as dollars and as a percentage), the total fees to be collected over the life of the lease, the EFCA member's cost of the installed equipment for the lease, the total profit for the lease expressed in dollars, percent and rate of return. List the monthly fee, total fee collected over the life of the lease, cost of installed equipment for the lease and the total profit for the lease expressed in dollars, percent and rate of return.

SSVEC 1.6 For the leased systems identified in the response to SSVEC 1.1 above, what is the Cost per Watt for each system (calculated as total lease cost / system DC watts) over the life of the lease.

SSVEC 1.7 For the leased systems identified in the response to SSVEC 1.1 above, what is the average cost per kWh produced by each system (per each year of the term of the lease for those leases where the monthly payment increases each year).

SSVEC 1.8 For the purchased systems identified in the response to SSVEC 1.2 above, what is the Cost per Watt for each system (calculated as purchase cost / system DC watts)? List the EFCA member's cost of installed equipment for the purchased system, the total installation cost and total profit for the purchased system expressed in dollars, percent and rate of return.

SSVEC 1.9 For the purchased systems identified in the response to SSVEC 1.2 above, what is the average cost per kWh produced by each system?

SSVEC 1.10 For the systems identified in the responses to SSVEC 1.1, 1.2 and 1.3, provide copies of all versions of all lease agreements and all purchase agreements used by each EFCA member for the years 2014, 2015 and 2016 year-to-date. In addition, provide the discourse documentation as required by Arizona law for each system leased or sold. For every lease or purchase, provide a table by month for the renewable energy credit (REC) purchase agreements entered into between EFCA and its members implementing distributed solar generation. By "renewable energy credit (REC) purchase agreement" SSVEC means the agreement(s), no matter the name, whereby the EFCA member received up front incentives from SSVEC or provided by SSVEC to the residential customers, and performance-based incentives to commercial customers, during the period of time that SSVEC offered direct cash incentives in exchange for RECs to those installing rooftop solar systems. For the period when SSVEC did not offer incentives in exchange for RECs, list by lease and purchase agreements RECs provided and who received them.

SSVEC 1.11 For the systems identified in the responses to SSVEC 1.1, 1.2 and 1.3, provide the work papers and all documentation presented to the buyer (or internal documents) showing the payback and rate of return to each EFCA member.

SSVEC 1.12 For each of the years 2014, 2015 and 2016 year-to-date, please provide:

a. The total number of customers of each EFCA member interconnected to SSVEC's system on the day of the rate application filed in this case expressed in total number and as a percent of the total number of EFCA member residential customers leases and purchases by EFCA members;

b. The total number of customers of each EFCA member interconnected to SSVEC's system during each month of the years 2014, 2015 and 2016

year-to-date expressed in total number and as a percent of total number of the EFCA member residential customers by EFCA member; and

c. A list of the various upfront incentive levels that customers of EFCA members received, the time period incentives were offered at each level, and the number of customers receiving the incentive at each level by EFCA member.

SSVEC 1.13 Provide copies of any and all cost/benefit analyses that EFCA or any of EFCA's members have performed with regard to net metered solar devices, either within or outside of SSVEC's service territory. Include all work papers supporting any analyses provided.

SSVEC 1.14 For each of the following categories of customers, please provide the number of residential lease customers falling into the category expressed as both a total number and a percent of the total number of EFCA member residential customers and also indicate how many of the residential customers identified in each category are net metered solar customers:

a. Those with an average monthly generation above 1000 kWh;
b. Those with an average monthly generation between 901 - 1000 kWh;
c. Those with an average monthly generation between 801 - 900 kWh;
d. Those with an average monthly generation between 701 - 800 kWh;
e. Those with an average monthly generation between 601 - 700 kWh;
f. Those with an average monthly generation between 501 - 600 kWh;
g. Those with an average monthly generation between 401 - 500 kWh;
h. Those with an average monthly generation between 301 - 400 kWh;
i. Those with an average monthly generation between 201 - 300 kWh;
j. Those with an average monthly generation between 101 - 200 kWh;
k. Those with an average monthly generation at or below 100 kWh.

SSVEC 1.15 Provide all work papers supporting the pre-filed direct testimony of Mark Fulmer in this docket.

SSVEC 1.16 Provide a copy of each data request that EFCA has issued to any party in this docket and a copy of the response(s) to the data request(s).

SSVEC 1.17 Provide a copy of each data request that EFCA has received from any party in this docket and a copy of EFCA's response(s) to the data request(s).

SSVEC 1.18 Identify all members of EFCA as of the date of your response to this data request.

# ATTACHMENT 2

## Jeff Crockett

**From:** Court Rich <CRich@roselawgroup.com>
**Sent:** Thursday, May 05, 2016 2:42 PM
**To:** Jeff Crockett
**Cc:** Hopi Slaughter
**Subject:** SSVEC fist data request of EFCA.

Jeff,
I have our response to ssvec's first data request of EFCA due today. With the UNS issue and VOS docket, I am a bit behind. Would you object to us providing those responses on Monday? Let me know and I appreciate your consideration.

Court S. Rich
Rose Law Group, pc
cell: 602.741.3794

Sent from my iPhone

# ATTACHMENT 3

ROSE LAW GROUP pc
RICH ■ HURLEY ■ CARTER

**COURT S. RICH**
7144 E. Stetson Drive, Suite 300
Scottsdale, Arizona 85251
Phone 480.505.3937 Fax 480.505.3925
CRich@roselawgroup.com
www.roselawgroup.com

May 9, 2016

**SENT BY ELECTRONIC MAIL**
*jeff@jeffcrockettlaw.com*

Jeffrey W. Crockett
Crockett Law Group

**RE: EFCA's Response to SSVEC's First Set of Data Requests**
**SSVEC Rate Case Docket No. E-01575A-15-0312**

Dear Jeff:

Please find attached the Energy Freedom Coalition of America's ("EFCA") response to SSVEC's First Set of Data Requests in the above-referenced matter.

Should you have any questions or comments, please feel free to contact me directly at 480-505-3937.

Sincerely,

/s/ Court S. Rich
Court S. Rich

Attachment

**ENERGY FREEDOM COALITION OF AMERICA'S REPONSE TO SULPHUR SPRINGS VALLEY ELECTRIC COOPERATIVE INC.'S FIRST SET OF DATA REQUESTS DOCKET NO. E-01575A-15-0312**

---

SSVEC 1.1 For each of the years 2014, 2015 and 2016 year-to-date, provide the number of rooftop solar systems that were leased to a customer by each member of the Energy Freedom Coalition of America ("EFCA") within the service area of Sulphur Springs Valley Electric Cooperative, Inc. ("SSVEC"). Please show the number of systems leased by each EFCA member separately and provide the totals by year and in the aggregate.

**RESPONSE: Objection. This request seeks information that is not in the possession or control of EFCA or its agents. EFCA further objects that this request is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Without waiving the forgoing objections and upon information and belief, EFCA avers that SSVEC has this information in its possession as a result of its interconnection process.**

SSVEC 1.2 For each of the years 2014, 2015 and 2016 year-to-date, provide the number of rooftop solar systems that were purchased by a customer and installed by each member of EFCA within the service area of SSVEC. Please show the number of systems sold and installed by each EFCA member separately and provide the totals by year and in the aggregate.

**RESPONSE: Objection. This request seeks information that is not in the possession or control of EFCA or its agents. EFCA further objects that this request is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Furthermore, EFCA objects to this request in that it seeks the disclosure of confidential competitive business information, the disclosure of which would give SSVEC an unfair competitive advantage over the responding parties.**

SSVEC 1.3 Does any member of EFCA install solar rooftop systems within SSVEC's service pursuant to any contract which is neither a lease nor a purchase agreement? If so, describe the contact and for each of the years 2014, 2015 and 2016 year-to-date, provide the number of rooftop solar systems that were installed by each member of EFCA within the service area of SSVEC pursuant to such contacts. Please show the number of systems installed by each EFCA member separately and provide the totals by year and in the aggregate.

**RESPONSE: Objection. This request seeks information that is not in the possession or control of EFCA or its agents. EFCA further objects that this request is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Furthermore, EFCA objects to this request in that it seeks the disclosure of confidential competitive business information, the disclosure of which would give SSVEC an unfair competitive advantage over the responding parties.**

SSVEC 1.4 For the leased systems identified in the response to SSVEC 1.1 above, how many of the system leases have a fixed monthly fee over the life of the lease? For each lease, list the monthly fee, the total fees to be collected over the life of the lease, the EFCA member's cost of the installed equipment for the lease, and the total profit for the lease expressed in dollars, percent and rate of return.

**RESPONSE: Objection. This request seeks information that is not in the possession or control of EFCA or its agents. EFCA further objects that this request is irrelevant, not reasonably calculated to lead to the discovery of admissible evidence, and is unduly burdensome. Furthermore, EFCA objects to this request in that it seeks the disclosure of confidential competitive business information, the disclosure of which would give SSVEC an unfair competitive advantage over the responding parties.**

SSVEC 1.5 For the leased systems identified in the response to SSVEC 1.1 above, how many of the system leases have payments that increase annually. For each lease, list the beginning monthly fee, the amount of the increase of the monthly fee over the life of the lease (as dollars and as a percentage), the total fees to be collected over the life of the lease, the EFCA member's cost of the installed equipment for the lease, the total profit for the lease expressed in dollars, percent and rate of return. List the monthly fee, total fee collected over the life of the lease, cost of installed equipment for the lease and the total profit for the lease expressed in dollars, percent and rate of return.

**RESPONSE: Objection. This request seeks information that is not in the possession or control of EFCA or its agents. EFCA further objects that this request is irrelevant, not reasonably calculated to lead to the discovery of admissible evidence, and is unduly burdensome. Furthermore, EFCA objects to this request in that it seeks the disclosure of confidential competitive business information, the disclosure of which would give SSVEC an unfair competitive advantage over the responding parties.**

SSVEC 1.6 For the leased systems identified in the response to SSVEC 1.1 above, what is the Cost per Watt for each system (calculated as total lease cost / system DC watts) over the life of the lease.

**RESPONSE: Objection. This request seeks information that is not in the possession or control of EFCA or its agents. EFCA further objects that this request is irrelevant, not reasonably calculated to lead to the discovery of admissible evidence, and is unduly burdensome. Furthermore, EFCA objects to this request in that it seeks the disclosure of confidential competitive business information, the disclosure of which would give SSVEC an unfair competitive advantage over the responding parties.**

SSVEC 1.7 For the leased systems identified in the response to SSVEC 1.1 above, what is the average cost per kWh produced by each system (per each year of the term of the lease for those leases where the monthly payment increases each year).

**RESPONSE: Objection. This request seeks information that is not in the possession or control of EFCA or its agents. EFCA further objects that this request is irrelevant, not reasonably calculated to lead to the discovery of admissible evidence, and is unduly burdensome. Furthermore, EFCA objects to this request in that it seeks the disclosure of confidential competitive business information, the disclosure of which would give SSVEC an unfair competitive advantage over the responding parties.**

SSVEC 1.8 For the purchased systems identified in the response to SSVEC 1.2 above, what is the Cost per Watt for each system (calculated as purchase cost / system DC watts)? List the EFCA member's cost of installed equipment for the purchased system, the total installation cost and total profit for the purchased system expressed in dollars, percent and rate of return.

**RESPONSE: Objection. This request seeks information that is not in the possession or control of EFCA or its agents. EFCA further objects that this request is irrelevant, not reasonably calculated to lead to the discovery of admissible evidence, and is unduly burdensome. Furthermore, EFCA objects to this request in that it seeks the disclosure of confidential competitive business information, the disclosure of which would give SSVEC an unfair competitive advantage over the responding parties.**

SSVEC 1.9 For the purchased systems identified in the response to SSVEC 1.2 above, what is the average cost per kWh produced by each system?

**RESPONSE: Objection. This request seeks information that is not in the possession or control of EFCA or its agents. EFCA further objects that this request is irrelevant, not reasonably calculated to lead to the discovery of admissible evidence, and is unduly burdensome. Furthermore, EFCA objects to this request in that it seeks the disclosure of confidential competitive business information, the disclosure of which would give SSVEC an unfair competitive advantage over the responding parties.**

SSVEC 1.10 For the systems identified in the responses to SSVEC 1.1, 1.2 and 1.3, provide copies of all versions of all lease agreements and all purchase agreements used by each EFCA member for the years 2014, 2015 and 2016 year-to-date. In addition, provide the discourse documentation as required by Arizona law for each system leased or sold. For every lease or purchase, provide a table by month for the renewable energy credit (REC) purchase agreements entered into between EFCA and its members implementing distributed solar generation. By "renewable energy credit (REC) purchase agreement" SSVEC means the agreement(s), no matter the

name, whereby the EFCA member received up front incentives from SSVEC or provided by SSVEC to the residential customers, and performance-based incentives to commercial customers, during the period of time that SSVEC offered direct cash incentives in exchange for RECs to those installing rooftop solar systems. For the period when SSVEC did not offer incentives in exchange for RECs, list by lease and purchase agreements RECs provided and who received them.

**RESPONSE: Objection. This request seeks information that is not in the possession or control of EFCA or its agents. EFCA further objects that this request is irrelevant, not reasonably calculated to lead to the discovery of admissible evidence, is unduly burdensome, and seeks the creation of a documentation that does not currently exist. Furthermore, EFCA objects to this request in that it seeks the disclosure of confidential competitive business information, the disclosure of which would give SSVEC an unfair competitive advantage over the responding parties.**

SSVEC 1.11 For the systems identified in the responses to SSVEC 1.1, 1.2 and 1.3, provide the work papers and all documentation presented to the buyer (or internal documents) showing the payback and rate of return to each EFCA member.

**RESPONSE: Objection. This request seeks information that is not in the possession or control of EFCA or its agents. EFCA further objects that this request is irrelevant, not reasonably calculated to lead to the discovery of admissible evidence, and is unduly burdensome. Furthermore, EFCA objects to this request in that it seeks the disclosure of confidential competitive business information, the disclosure of which would give SSVEC an unfair competitive advantage over the responding parties.**

SSVEC 1.12 For each of the years 2014, 2015 and 2016 year-to-date, please provide:

a. The total number of customers of each EFCA member interconnected to SSVEC's system on the day of the rate application filed in this case expressed in total number and as a percent of the total number of EFCA member residential customers leases and purchases by EFCA members;

b. The total number of customers of each EFCA member interconnected to SSVEC's system during each month of the years 2014, 2015 and 2016 year-to-date expressed in total number and as a percent of total number of the EFCA member residential customers by EFCA member; and

c. A list of the various upfront incentive levels that customers of EFCA members received, the time period incentives were offered at each level, and the number of customers receiving the incentive at each level by EFCA member.

**RESPONSE A-C: Objection. This request seeks information that is not in the possession or control of EFCA or its agents. EFCA further objects that this request is irrelevant, not reasonably calculated to lead to the discovery of admissible evidence, and is unduly burdensome. Furthermore, EFCA objects to this request in that it seeks the disclosure of confidential competitive business information, the disclosure of which would give SSVEC an unfair competitive advantage over the responding parties.**

SSVEC 1.13 Provide copies of any and all cost/benefit analyses that EFCA or any of EFCA's members have performed with regard to net metered solar devices, either within or outside of SSVEC's service territory. Include all work papers supporting any analyses provided.

**RESPONSE: EFCA objects to any portion of this request that seeks information that is not in the possession or control of EFCA or its agents. Without waiving this objection, EFCA points SSVEC to the pre-filed testimony of Mark Fulmer which includes the only information responsive to this request.**

SSVEC 1.14 For each of the following categories of customers, please provide the number of residential lease customers falling into the category expressed as both a total number and a percent of the total number of EFCA member residential customers and also indicate how many of the residential customers identified in each category are net metered solar customers:

a. Those with an average monthly generation above 1000 kWh;
b. Those with an average monthly generation between 901 - 1000 kWh;
c. Those with an average monthly generation between 801 - 900 kWh;
d. Those with an average monthly generation between 701 - 800 kWh;
e. Those with an average monthly generation between 601 - 700 kWh;
f. Those with an average monthly generation between 501 - 600 kWh;
g. Those with an average monthly generation between 401 - 500 kWh;
h. Those with an average monthly generation between 301 - 400 kWh;
i. Those with an average monthly generation between 201 - 300 kWh;
j. Those with an average monthly generation between 101 - 200 kWh;
k. Those with an average monthly generation at or below 100 kWh.

**RESPONSE A-K: Objection. This request seeks information that is not in the possession or control of EFCA or its agents. EFCA further objects that this request is irrelevant, not reasonably calculated to lead to the discovery of admissible evidence, unreasonably vague, and is unduly burdensome. Furthermore, EFCA objects to this request in that it seeks the disclosure of confidential competitive business information, the disclosure of which would give SSVEC an unfair competitive advantage over the responding parties.**

SSVEC 1.15 Provide all work papers supporting the pre-filed direct testimony of Mark Fulmer in this docket.

**RESPONSE: See work papers of Mark Fulmer by dropbox link provided in email:**

**Fulmer Workpapers table 5.xlsx**

SSVEC 1.16 Provide a copy of each data request that EFCA has issued to any party in this docket and a copy of the response(s) to the data request(s).

**RESPONSE: See the enclosed dropbox link provided in the response email:**

**EFCA's First Set of Data Requests to APS**
**EFCA's First and Second Set of Data Requests to Staff**
**EFCA's First Set of Data Requests to Trico**

SSVEC 1.17 Provide a copy of each data request that EFCA has received from any party in this docket and a copy of EFCA's response(s) to the data request(s).

**RESPONSE: See the enclosed dropbox link provided in the response email:**

**Staff's First Set of Data Requests to EFCA**

SSVEC 1.18 Identify all members of EFCA as of the date of your response to this data request.

**RESPONSE: SolarCity Corporation, Silevo, LLC, Zep Solar, LLC, NRG Energy, Inc., Go Solar, LLC, 1 Sun Solar Electric, LLC, and Ecological Energy Systems.**