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Arizona Corporation Commission

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11 **BEFORE THE ARIZONA CORPORATION COMMISSION**

12 DOUG LITTLE – Chairman
13 BOB STUMP
14 BOB BURNS
15 TOM FORESE
16 ANDY TOBIN

17 IN THE MATTER OF THE APPLICATION OF
18 UNS ELECTRIC, INC. FOR THE
19 ESTABLISHMENT OF JUST AND
20 REASONABLE RATES AND CHARGES
21 DESIGNED TO REALIZE A REASONABLE
22 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

**VOTE SOLAR'S POST-
HEARING RESPONSE BRIEF**

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INTRODUCTION

2 UNS Electric (“UNSE” or “the Company”) has changed its rate design proposals
3 once again. When UNSE filed its application, it sought to eliminate net metering and
4 require customers with solar distributed generation (“DG”) to pay demand charges. In its
5 rebuttal testimony, UNSE switched plans and supported Staff’s proposal to require all
6 residential and small commercial customers to pay demand charges. UNSE also stated that
7 if those demand charges were approved, it would withdraw its net metering proposal. Now,
8 after significant public opposition, UNSE has reversed course again. In its initial post-
9 hearing brief, UNSE revealed it no longer endorses mandatory demand charges for all
10 customers and is instead asking for approval of a rate design similar to its initial proposal.

11 These changes throw into sharp relief UNSE’s attempts to single out solar customers
12 for punitive and discriminatory rate treatment. For new solar customers, UNSE seeks to
13 impose mandatory demand charges and eliminate net metering. These proposals are
14 discriminatory and violate the law. The proposals are also unnecessary, duplicative, and
15 unjust. The critical fact remains that UNSE’s solar customers are a negligible cause of
16 declining sales, cost shifts, and grid impacts. Moreover, even if that were not the case, the
17 proposals are severely flawed and should be rejected. As multiple parties have noted,
18 minimum bills and time-of-use rates are better options to address UNSE’s concerns.
19 However, if the Commission were to approve any of UNSE’s proposals targeting solar
20 customers, it is essential to fully grandfather all existing customers as of the decision date.

ARGUMENT

22 **I. DG is a Negligible Cause of Reduced Sales, Cost Shifts, and Grid Impacts.**

23 UNSE has approximately 1,800 residential net metering customers, which represents
24 2% of the Company’s overall residential customers.¹ UNSE claims these customers cause
25 numerous problems, such as declining sales, cost shifts, and grid impacts. But the evidence
26

¹ Vote Solar Initial Post-Hearing Br. 5:6–8 (Apr. 25, 2016) (“Vote Solar Br.”).

1 shows this is not the case. First, UNSE claims that DG has caused a decline in retail sales.
2 DG, however, was responsible for just 6% of the sales decline.² Second, UNSE blames DG
3 for declining usage-per-customer. Yet DG was responsible for just 3% of the decline in
4 usage-per-customer.³ Third, UNSE claims solar customers cause low-usage bills of 300
5 kilowatt-hours (“kWh”) or less. But solar customers were responsible for only 5% of those
6 low-usage bills.⁴ Fourth, UNSE claims solar customers cause a cost shift. However,
7 according to the Company’s rationale, solar customer bills accounted for just 2% of the bills
8 causing a cost shift.⁵ Finally, UNSE argues that DG causes numerous grid impacts, yet it is
9 unable to identify any actual grid impacts or related expenses attributable to DG.⁶ As these
10 facts show, there is no DG “problem” that needs to be fixed with a new rate design.

11 Throughout this case, UNSE and its allies have argued against DG and net metering
12 on broad theoretical and academic grounds. But these parties largely ignore that the actual
13 DG on UNSE’s system has a minimal impact on cost recovery and the Company’s
14 operations. For example, the Arizona Investment Council (“AIC”) broadly claims that net
15 metering creates “huge subsidies.”⁷ But nowhere does AIC attempt to quantify the actual
16 magnitude of this “huge subsidy,” much less discuss the specifics of how DG and net
17 metering actually impact UNSE. Rather than causing “huge” and unsustainable subsidies,
18 the evidence shows that net metering has helped increase solar DG growth without causing
19 significant impacts to UNSE or non-solar customers. In fact, for each problem UNSE
20 highlights regarding reduced sales and cost recovery issues, non-solar customers account for
21 94% to 98% of the problem in each instance. There is thus no valid reason to require solar
22 customers to pay mandatory demand charges or eliminate net metering.

23
24 ² *Id.* at 5:20–6:11.

25 ³ *Id.* at 6:12–7:3.

26 ⁴ *Id.* at 7:4–12.

⁵ *Id.* at 7:13–8:17.

⁶ *Id.* at 8:18–10:12.

⁷ AIC Initial Post-Hearing Br. 15:25 (Apr. 25, 2016) (“AIC Br.”).

1 **II. The Commission Should Not Require Solar Customers to Pay Mandatory**
2 **Demand Charges.**

3 UNSE asks the Commission to require new solar customers to pay mandatory
4 demand charges, while these charges would remain optional for other customers.⁸ During
5 the hearing, UNSE sought to require all customers to pay a mandatory demand charge. But
6 after significant concern and public opposition arose to this unprecedented proposal, UNSE
7 switched course in its initial post-hearing brief and now proposes to only require new solar
8 customers to take service under this new rate design. Yet requiring only solar customers to
9 pay the demand charge does not solve the numerous problems with mandatory demand
10 charges. Rather, it singles out solar customers for punitive and discriminatory rate
11 treatment, while the same fundamental flaws in UNSE's proposed demand charge remain.

12 **A. UNSE's demand charge proposal would discriminate against solar**
13 **customers.**

14 UNSE's attempt to impose mandatory demand charges on new solar customers
15 would violate the prohibition against discriminatory rate treatment in the Arizona
16 Constitution and the Commission's rules.⁹ UNSE has attempted to justify singling out solar
17 customers for a mandatory demand charge by claiming that doing so would reduce the
18 alleged DG cost shift and improve fixed cost recovery.¹⁰ But the evidence in this case
19 shows that solar customers are a negligible cause of these problems compared to customers
20 without solar. It would be unjust and discriminatory for a utility to single out a small
21 minority of customers for punitive rate treatment to address an alleged problem, while
22 allowing the customers who actually cause the vast majority of the problem to avoid the
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24

25 ⁸ UNSE Initial Post-Hearing Br. 5:11-18, 6:20-7:2, 20:14-16 (Apr. 25, 2016) ("UNSE Br.").

26 ⁹ Vote Solar Br. 34:5-36:14; Ariz. Const. art. XV, § 12; A.A.C. R14-2-1801(M) & R14-2-2305; see also *Town of Wickenburg v. Sabin*, 200 P.2d 342, 343 (Ariz. 1948).

¹⁰ David Hutchens Direct Test. 10:15-11:26, 13:10-27 (Ex. UNSE-3).

1 punitive rates.¹¹ Arbitrarily selecting a small subset of customers in this manner and forcing
2 only them to pay mandatory demand charges is the hallmark of discrimination. In addition,
3 even if this proposal was not discriminatory, UNSE clearly failed to meet the evidentiary
4 burden that is required by law to justify any differential charges on solar customers.¹²

5 UNSE now offers three justifications for imposing mandatory demand charges on
6 solar customers.¹³ However, none of these arguments has merit. First, UNSE claims it
7 would be reasonable to single out solar customers for different rate treatment because they
8 export excess energy to the grid and thus use the grid differently than other customers.¹⁴
9 But this factor does not justify the punitive rate design because solar customers' ability to
10 export excess energy benefits UNSE and other customers. While UNSE largely ignores this
11 fact, DG exports provide many benefits to UNSE and customers without solar, such as
12 avoided energy costs, avoided generation capacity costs, avoided transmission and
13 distribution costs, and numerous other benefits the Commission is currently analyzing in the
14 Value of Solar proceeding.¹⁵ In contrast, UNSE claims DG exports impose additional costs
15 on the Company.¹⁶ But tellingly, UNSE has been unable to quantify a single grid impact or
16 additional expense that is attributed to DG.¹⁷ UNSE's own witnesses insist these costs must
17 exist even though they can not quantify them, but such bald assertions provide insufficient
18 evidence to single out a small portion of customers for discriminatory rate treatment.¹⁸

19 Second, UNSE claims that solar customers are different than other low-usage
20 customers, such as seasonal customers and vacant homes.¹⁹ That may be true in some
21

22 ¹¹ Vote Solar Br. 35:6-18. Notably, Staff has agreed that it would be unreasonable to single
out only solar customers for a demand charge. Thomas Broderick Direct Test. 6:6-7:25 (Ex. S-16).

23 ¹² Vote Solar Br. 35:19-36:14; A.A.C. R14-2-2305.

24 ¹³ UNSE Br. 24:6-28:3.

25 ¹⁴ *Id.* at 24:22-25:14.

26 ¹⁵ Vote Solar Br. 41:19-42:5.

¹⁶ UNSE Br. 25:3-10.

¹⁷ Vote Solar Br. 8:18-10:12.

¹⁸ *See, e.g.*, Tr. 1252:19-1253:10 (Tilghman Test.).

¹⁹ UNSE Br. 25:16-26:16.

1 regards, but this argument sidesteps the fundamental issue with these low-usage customers.
2 UNSE's concern is that low-usage customers create fixed cost recovery issues under its
3 current rates.²⁰ But UNSE admits that solar customers represent a very small proportion of
4 these low-usage customers.²¹ In fact, solar customers accounted for just 5% of low-usage
5 bills below 300 kWh.²² Any operational differences between solar customers and the other
6 low-usage customers are irrelevant to UNSE's ultimate concern with these customers,
7 which is the fixed cost recovery issues related to their low-usage. Accordingly, it would be
8 discriminatory to identify a group of customers as the cause of a problem, and then single
9 out just 5% of those customers for a punitive rate design. Moreover, as discussed above, the
10 fact that solar customers export energy does not justify differential treatment, as the exports
11 benefit UNSE and other customers. UNSE also notes it has a responsibility to "stand ready,
12 willing and able to supply all of the DG homes' energy needs instantaneously."²³ But this is
13 no reason to discriminate against solar customers, as UNSE must do the same for seasonal
14 customers that return to Arizona or vacant homes that become occupied.

15 Third, UNSE claims that requiring solar customers to pay a demand charge would be
16 in the public interest.²⁴ This argument essentially restates UNSE's primary claim that it will
17 be unable to fully recover fixed costs if solar customers remain on existing two-part rates.
18 But focusing narrowly on solar customers in this manner obfuscates the larger picture.
19 Many customers without solar also do not pay their fair share of fixed costs. In fact, 66% of
20 UNSE's residential bills do not fully recover fixed costs.²⁵ The evidence shows that solar
21 customer bills accounted for just 2% of the bills causing a cost shift according to UNSE's
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24 ²⁰ Dukes Direct 12:8-17 (Ex. UNSE-28).

25 ²¹ Vote Solar Br. 7:4-12.

²² *Id.*

26 ²³ UNSE Br. 26:9-10.

²⁴ *Id.* at 26:18-28:3.

²⁵ Vote Solar Br. 8:6-8.

1 rationale.²⁶ Again, it would be unjust and discriminatory to single out this small portion of
2 customers for punitive rate treatment, while allowing the other 98% of customers causing
3 the same issues to stay on their current rates.

4 The Residential Utility Consumer Office (“RUCO”) also argues that singling out
5 solar customers for a mandatory demand charge would not be discriminatory because the
6 prohibition against discrimination only requires fair rates, rather than identical rates for all
7 customers in a rate class.²⁷ But the problem with UNSE’s proposal is not simply that the
8 Company has proposed different rates for solar customers. Instead, the critical fact is that
9 for every problem regarding reduced sales and cost recovery issues that UNSE identifies,
10 other customers without solar account for 94% to 98% of the problem. It is arbitrary,
11 unjust, and discriminatory to single out one small group of customers for differential
12 treatment when they are a negligible cause of the problems UNSE seeks to address.

13 RUCO also presents a laundry list of factors that it claims illustrates how solar
14 customers differ from other customers.²⁸ But merely listing how one type of customer in a
15 rate class differs from other types of customers in that class does not by itself justify
16 discriminatory rate treatment. Within the residential class, there are a wide variety of
17 customer types and one could draft a similar list highlighting the differences between rural
18 versus urban customers, customers in apartments versus single-family homes, or customers
19 with central air conditioning versus those without air conditioning. But highlighting the
20 differences between these customers would not automatically justify placing them on
21 different rates. Staff aptly warns of this approach’s danger when it cautions that “[o]nce DG
22 customers are singled out for special treatment, it sets a precedent for singling out other
23 customer categories.”²⁹

24
25 ²⁶ *Id.* at 8:13–15.

26 ²⁷ RUCO Closing Br. 5:9–19 (Apr. 25, 2016) (“RUCO Br.”).

²⁸ *Id.* at 6:1–15.

²⁹ Broderick Direct Test. 7:6–7 (Ex. S-16).

1 In sum, UNSE and other parties repeatedly claim that solar customers are
2 categorically different than other customers. But UNSE and the other parties have not
3 provided any credible evidence that the distinctions they highlight make any difference.
4 Critically, they have not shown that the approximately 1,800 UNSE solar customers cause
5 significant impacts or costs that would justify singling out new solar customers for punitive
6 rate treatment compared to the other customers who cause the vast majority of the issues
7 UNSE seeks to address.

8 **B. UNSE's demand charge proposal remains fatally flawed.**

9 As multiple parties and a large swath of UNSE customers have made clear, the
10 Company's mandatory demand charge proposal is fatally flawed for numerous reasons.³⁰
11 Specifically, the demand charge proposal is flawed because (1) there is little evidence that
12 residential customers can effectively respond to a demand charge, (2) the demand charge
13 would cause significant bill increases to low-usage customers, and (3) the demand charge
14 would not accurately reflect cost causation.³¹ UNSE's recent decision to only require solar
15 customers to pay this charge, rather than all customers, does nothing to mitigate or eliminate
16 these significant flaws. For UNSE's proposed demand charge, solar customers are similarly
17 situated to other customers regarding their ability to fully understand and effectively
18 respond to the charge. This is because the demand charge would apply during non-daylight
19 hours, so a DG system would do little to reduce peak demand. Consequently, every
20 argument against mandatory demand charges that has been made to date in this case remains
21 applicable if only solar customers are required to pay the charge.³²

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24 ³⁰ See, e.g., Vote Solar Br. 26:1-34:4.

25 ³¹ *Id.*

26 ³² Ironically, although RUCO supports a mandatory demand charge for solar customers, it effectively highlights why the demand charge is poorly designed and why a mandatory demand charge should not be approved in this case. RUCO Br. 7:14-10:16. All of the concerns expressed by RUCO remain applicable if the demand charge is only mandatory for solar customers.

1 Arizona Public Service Company (“APS”) and AIC attempt to offer support for
2 demand charges generally, but their arguments are also without merit. AIC insists that
3 demand charges will not operate as an unavoidable fixed cost.³³ But one of UNSE’s own
4 witnesses, Dr. Edwin Overcast, has contradicted AIC by characterizing demand charges as
5 fixed charges in a recent article.³⁴ Moreover, the evidence AIC offers to support this
6 contention is unpersuasive. AIC states that APS witness Ahmad Faruqui discussed four
7 reports showing customers effectively responding to a demand charge.³⁵ But these reports
8 all involved optional demand charges.³⁶ UNSE and Staff have made clear that comparing
9 customer responses to optional rates with mandatory rates is unhelpful, as the customers
10 who self-select onto demand charges are the customers who would likely benefit under the
11 optional rate design.³⁷

12 Next, APS and AIC point to APS’s optional demand charge as evidence that
13 customers can effectively respond to demand charges.³⁸ But once again, only customers
14 who would benefit under APS’s optional demand charge would be likely to opt-in to this
15 rate. And significantly, approximately 40% of the APS customers who did opt-in to this
16 rate actually increased their on-peak demand.³⁹ Thus, APS’s optional demand rate tells little
17 about whether customers would effectively respond to a mandatory demand charge and, if
18 anything, it casts serious doubts on whether they would be able to do so.

19 When UNSE and Staff proposed mandatory demand charges for all customers, they
20 developed numerous safeguards, educational objectives, and mitigation measures to help
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23 ³³ AIC Br. 14:10.

24 ³⁴ Ex. Vote Solar-4; Tr. 1458:5–24 (Overcast Test.).

25 ³⁵ AIC Br. 14:22–28.

26 ³⁶ Briana Kobor Surrebuttal Test. 38:6–15 (Ex. Vote Solar-7).

³⁷ Vote Solar Br. 29:3–7; Tr. 1511:10–21 (Overcast Test.).

³⁸ APS Initial Post-Hearing Br. 6:10–7:2 (Apr. 25, 2016) (“APS Br.”); AIC Br. 14:18–20.

³⁹ Vote Solar Br. 29:9–13.

1 transition customers to this new and more complicated rate.⁴⁰ But it is unclear whether
2 UNSE intends to follow-through on these measures now that it is proposing mandatory
3 demand charges only for new solar customers. While it is unlikely these safeguards would
4 be sufficient to prevent dramatic and unexpected outcomes, to the extent these safeguards
5 would be helpful, they remain as important now as under UNSE's and Staff's earlier
6 proposals. Thus, if the Commission were to approve UNSE's proposal, it should ensure that
7 solar customers receive the same safeguards and mitigation measures that other customers
8 would have received under the earlier proposals.

9 **III. The Commission Should Not Eliminate Net Metering.**

10 UNSE asks the Commission to eliminate net metering for new solar customers in its
11 service territory.⁴¹ However, the Commission should not approve UNSE's net metering
12 proposal because the proposal would violate the Commission's rules codifying net
13 metering.⁴² In addition, the proposed Renewable Credit Rate is severely flawed and should
14 be rejected because (1) it would unreasonably conflate distributed solar and utility-scale
15 solar, (2) it would subject net metering customers to undue pricing uncertainty and
16 volatility, (3) UNSE did not analyze the value of DG and whether the Renewable Credit
17 Rate would appropriately compensate DG exports, and (4) it would be premature to approve
18 UNSE's proposal before the Commission completes the pending Value of Solar docket.⁴³

19 UNSE criticizes net metering because it compensates customers with solar for their
20 DG exports at retail rates, rather than wholesale rates.⁴⁴ UNSE also complains that solar
21 customers have the ability to "bank" excess energy during the shoulder season and then use
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24 ⁴⁰ See, e.g., Craig Jones Rebuttal Test. 6:10-8:3 (Ex. UNSE-32); Staff Opening Br. 6:15-7:2
(Apr. 25, 2016) ("Staff Br.").

25 ⁴¹ UNSE Br. 30:4-36:2.

26 ⁴² Vote Solar Br. 12:4-14:19.

⁴³ *Id.* at 14:20-22:9.

⁴⁴ UNSE Br. 30:12-14.

1 those credits during summer months.⁴⁵ However, these two features of net metering—retail
2 rate compensation and “banking” excess energy for future billing periods—are the
3 fundamental principles of net metering and are codified in the Commission’s rules.⁴⁶
4 Remarkably, UNSE and its allies criticize Vote Solar and other intervenors for not
5 attempting to “provide a justification” for compensating DG exports at retail rates.⁴⁷ Net
6 metering is the law in Arizona, even if UNSE prefers that was not the case. A utility cannot
7 violate existing regulations because it has policy disagreements with those regulations.
8 Accordingly, when Vote Solar and other intervenors oppose UNSE’s attempt to violate the
9 law, they do not have to “provide a justification” for the existing regulations.

10 Moreover, the “partial waiver” of the regulations that UNSE requests is inappropriate
11 for several reasons.⁴⁸ First, the Commission should not grant a “partial waiver” of the net
12 metering regulations when UNSE is actually seeking to eliminate net metering for all future
13 solar customers.⁴⁹ Second, it would be inappropriate for the Commission to amend or
14 revisit its statewide net metering regulations in the context of this UNSE-specific rate case.

15
16 ⁴⁵ *Id.* at 30:14–20.

17 ⁴⁶ Vote Solar Br. 12:4–14:19.

18 ⁴⁷ *See, e.g.*, AIC Br. 20:10–13 (quoting UNSE witness Tilghman rejoinder testimony at 4).

19 ⁴⁸ *See* UNSE Br. 35:1–10.

20 ⁴⁹ Vote Solar Br. 13:14–14:12. APS and AIC mischaracterize net metering in an attempt to
21 downplay the significance of UNSE’s proposal. For example, APS and AIC claim the Company’s
22 proposal would not eliminate net metering because the reduced Renewable Credit Rate would
23 apply to DG exports, while DG consumed on-site would be “credited” at the retail rate. APS Br.
24 9:13–10:6; AIC Br. 16:15–17. This is incorrect. Cutting the compensation rate for DG exports in
25 half would eliminate net metering because the “net” in net metering refers to a customer’s ability to
26 net out energy exports and energy purchases, which necessarily requires retail rate compensation
for exports. Vote Solar Br. 12:6–13:13; *see also* Oxford Dictionaries,
http://www.oxforddictionaries.com/us/definition/american_english/net-metering (last visited May
10, 2016) (defining “net metering” as “[a] system in which solar panels . . . are connected to a
public-utility power grid and surplus power is transferred onto the grid, allowing customers to
offset the cost of power drawn from the utility.”).

Similarly, APS claims “[t]he important thing is to fix the most obvious shortcoming of
NEM, which is the gross overpricing of export energy” at retail rates. APS Br. 10:19–21. But
rather than presenting a shortcoming in need of fix, retail rate compensation for DG exports is the
cornerstone of net metering. Discarding this foundational principle would eviscerate net metering,
not “fix” it.

1 UNSE's net metering proposal should also be rejected because the Company has
2 admitted that it would be duplicative to eliminate net metering and require solar customers
3 to pay a demand charge. Earlier, when UNSE supported mandatory demand charges for all
4 customers, it conceded that the demand charge "would eliminate the need to specifically
5 address the current NEM policy."⁵⁰ Similarly, UNSE witness Carmine Tilghman testified at
6 the hearing that if UNSE implemented mandatory demand charges, "it would not be
7 necessary to immediately address the net metering policy."⁵¹ While the demand charge
8 proposal has now changed, UNSE still seeks to require new solar customers to pay a
9 mandatory demand charge. Thus, UNSE's reasoning would continue to apply, and its
10 attempt to eliminate net metering while also requiring solar customers to pay a demand
11 charge would be unnecessary, duplicative, and punitive. Accordingly, if the Commission
12 were to approve the requested demand charges for solar customers, it should leave the
13 current net metering program in place.

14 In addition to being illegal and unnecessarily duplicative, UNSE's net metering
15 proposal should not be approved because the Renewable Credit Rate is significantly flawed.
16 The Renewable Credit Rate would set the compensation for DG exports based on utility-
17 scale solar prices. UNSE and its allies claim that wholesale utility-scale solar prices are a
18 reasonable proxy for DG compensation because distributed solar and utility-scale solar
19 provide similar benefits to UNSE.⁵² Illustrative of this argument, AIC claims that
20 comparing distributed and utility-scale solar "involves an 'apples to apples' comparison."⁵³

21 However, comparing distributed solar to utility-scale solar is not an "apples to
22 apples" comparison, and UNSE and its allies have repeatedly downplayed the many
23

24 ⁵⁰ Carmine Tilghman Rebuttal Test. 3:16-18 (Ex. UNSE-26). Staff agrees that a mandatory
demand charge would address UNSE's concerns with net metering. See Staff Br. 7:3-9.

25 ⁵¹ Tr. 1267:16-20; see also Tr. 1517:9-11 (Overcast testifying: "The three-part rate does
solve the problem when it's properly designed").

26 ⁵² See, e.g., UNSE Br. 31:20-33:11.

⁵³ AIC Br. 18:5-6.

1 significant differences between these two distinct resources. For example, numerous
2 geographically-dispersed distributed solar systems provide benefits that a single centralized
3 utility-scale facility does not, such as greater capacity benefits, greater avoided distribution
4 costs and grid services, and greater local employment benefits.⁵⁴ In addition, the
5 Commission's rules state that a distributed solar system (1) must be installed on the
6 customer's premises, (2) must be intended primarily to provide part or all of the customer's
7 on-site electricity use, and (3) cannot be sized larger than 125% of the customer's load.⁵⁵
8 Utility-scale solar projects do not face these regulatory constraints on the solar panels'
9 location, purpose, and size. Moreover, a utility-scale solar developer can market the solar
10 power to multiple entities, while a residential customer with rooftop solar has just one
11 possible purchaser for their solar power: the utility. Because of these differences, it would
12 be unreasonable to compensate solar customers for the excess energy they generate and send
13 to the grid based on utility-scale wholesale prices.⁵⁶

14 **IV. The Commission Should Not Approve RUCO's Alternative Proposals.**

15 In its direct testimony, RUCO offered an alternative proposal that would require
16 solar customers to take service under one of three new rates. RUCO's initial proposals were
17 flawed and unnecessarily complicated, and thus the Commission should not approve those
18 proposals.⁵⁷

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21 ⁵⁴ Vote Solar Br. 15:11-16:3.

⁵⁵ A.A.C. R14-2-2302(13)(a), (13)(b), (13)(d).

⁵⁶ Vote Solar Br. 15:1-19:2. Staff suggests that if the Commission does not approve
22 mandatory demand charges, UNSE should compensate DG exports at 7¢/kWh. Staff Br. 15:19-
23 16:4. While that export rate would be an improvement on the 5.84¢/kWh compensation rate UNSE
24 proposes, it has little basis in fact. Staff explains that it selected 7¢/kWh because it is the
25 "midpoint between short-term avoided costs and the retail price." *Id.* at 16:2. However, before the
26 Commission reduces the compensation rate for DG exports, it is imperative that it analyze the full
benefits and costs of DG. Vote Solar Br. 20:5-22:9. Setting the compensation for DG exports
based on a midpoint between two other values would not appropriately value or compensate solar
customers for the excess energy they send to the grid.

⁵⁷ Vote Solar Br. 40:4-44:9.

1 Now, RUCO has also offered a new, alternative rate design solution. This alternative
2 would consist of a suite of rate design options, including (1) a traditional two-part rate with
3 a market-based export option, (2) an optional three-part rate, (3) a volumetric time-of-use
4 option, and (4) a full requirements time-of-use option.⁵⁸ Vote Solar appreciates RUCO's
5 efforts to develop an alternative rate design that attempts to improve on the earlier rate
6 design options offered by UNSE, Staff, and RUCO. And in many respects, RUCO's new
7 rate designs are a significant improvement on the earlier proposals, particularly the inclusion
8 of a time-of-use option for solar customers that does not include a demand charge.
9 Unfortunately, this option also includes a punitive \$19 monthly customer charge that is
10 unrelated to cost causation and would be unavoidable by solar customers. In addition,
11 RUCO's new rates remain unnecessary and unduly complicated, and they have not been
12 subject to discovery and a full analysis by the other parties. The facts here show that the
13 approximately 1,800 UNSE solar customers cause negligible grid impacts and cost recovery
14 issues. Moreover, there is no evidence that the pace of DG penetration in UNSE's territory
15 is increasing at a rate that will change this fact before UNSE's next rate case, or anytime in
16 the near-term. Consequently, there is no need to dramatically alter the rate design for solar
17 customers, or any other customers, at this time. Yet if the Commission and UNSE wish to
18 change the Company's rate design for residential and small commercial customers, other
19 parties' minimum bill and time-of-use proposals would be better options.

20 **V. Minimum Bills and Time-of-Use Rates Would Better Address UNSE's**
21 **Concerns.**

22 Although UNSE narrowly focuses on solar customers, its ultimate concern in this
23 rate case appears to be declining sales and cost recovery issues.⁵⁹ These issues are caused

24 ⁵⁸ RUCO Br. 13:6–15:23.

25 ⁵⁹ UNSE Br. 3:4–6 (“A large portion of the Company's fixed costs are currently recovered
26 volumetrically . . . [h]owever, sales volumes and use per customer continue to trend downward,
which has led to significant under-recovery of costs over time . . .”); *see also* Staff Br. 5:22–25
 (“Staff[] determined that the Company was presented with a ‘problem,’ i.e., a significant pattern of

1 primarily by the closure of several of UNSE's large industrial and mining customers, the
2 slow pace of economic recovery, and seasonal customers and vacant homes.⁶⁰ If the
3 Commission or UNSE wishes to address the drivers of these sales reductions, minimum
4 bills and time-of-use rates would be better options than mandatory demand charges.⁶¹

5 UNSE states it has "significant reservations about a minimum bill concept," but it
6 does not explain those reservations in its initial post-hearing brief.⁶² UNSE witness Craig
7 Jones has stated that in the Company's view, a minimum bill would not send the correct
8 price signals regarding customer charges or energy charges.⁶³ AIC makes a similar
9 argument opposing both minimum bills and time-of-use rates.⁶⁴ However, these arguments
10 assume that UNSE's proposed demand charge sends a more accurate price signal to
11 customers. But as UNSE witness Overcast admits, the proposed demand charge would not
12 accurately reflect cost-causation and would thus not send a proper price signal.⁶⁵ In
13 addition, Mr. Jones indicates that a minimum bill could "be a move in the right direction."⁶⁶
14 Accordingly, despite the "significant reservations" UNSE expressed in its brief, the
15 Commission should not summarily dismiss consideration of a minimum bill.

16 **VI. The Commission Should Not Approve UNSE's Modifications to the LFCR.**

17 UNSE has proposed to modify the Lost Fixed Cost Recovery ("LFCR") mechanism
18 by increasing the amount of fixed generation costs and non-generation demand costs
19 recovered through the LFCR, and by increasing the LFCR cap to 2%.⁶⁷ Vote Solar opposes
20 these modifications. As Vote Solar witness Briana Kobor has explained, UNSE can avoid

21
22 declining sales caused by economic conditions coupled with an existing rate design that assumes the
recovery of substantial fixed costs through the kWh charge.").

23 ⁶⁰ See UNSE Br. 3:10-15, 4:3-5, 10:1-9.

24 ⁶¹ Vote Solar Br. 44:10-48:11.

25 ⁶² UNSE Br. 30:1-2.

26 ⁶³ Craig Jones Rebuttal Test. 43:5-13 (Ex. UNSE-32).

⁶⁴ AIC Br. 6:11-24, 7:24-8:18.

⁶⁵ Vote Solar Br. 33:6-17.

⁶⁶ Craig Jones Rebuttal Test. 43:13 (Ex. UNSE-32).

⁶⁷ UNSE Br. 52:5-54:9.

1 fixed generation costs associated with DG and energy efficiency, so those costs should be
2 excluded from the LFCR.⁶⁸ Staff and RUCO have expressed similar concerns and oppose
3 UNSE's requested modifications to the LFCR.⁶⁹

4 **VII. Fully Grandfathering Existing Solar Customers is Essential.**

5 UNSE's recent changes to its rate design proposals do not alleviate the need to fully
6 grandfather existing solar customers into any new rates. If the Commission were to require
7 solar customers to pay a mandatory demand charge, eliminate net metering, or approve any
8 other rate design changes that would make solar less economical, it is imperative that the
9 Commission fully grandfather existing solar customers.⁷⁰

10 The main point of dispute is not whether the Commission should grandfather
11 existing solar customers, but when the grandfathering deadline should be set. UNSE states
12 it "is sensitive to the significant economic decisions" that its solar customers have made.⁷¹
13 Yet UNSE requests a June 1, 2015 grandfathering deadline for the proposed demand charge
14 and the elimination of net metering, which would be more than a year prior to the
15 Commission's final decision in this case.⁷² UNSE states that as of June 1, 2015, it informed
16 new solar customers that it planned to change its solar rate design.⁷³ However, despite the
17 generalized notice, these customers would still have been unable to foresee this
18 proceeding's ultimate outcome, or how the outcome would impact the economics of their

19
20 ⁶⁸ Briana Kobor Direct Test. 46:2-15 (Ex. Vote Solar-6).

21 ⁶⁹ See UNSE Br. 52:5-54:9 (responding to Staff's arguments); RUCO Br. 17:18-18:10.

22 ⁷⁰ Vote Solar Br. 52:15-54:22. As Vote Solar has explained, UNSE's proposals would make
23 solar DG less economical, which would harm existing solar customers and slow DG growth. *Id.* at
24 48:20-52:14. Exhibit 2 to UNSE's brief shows the bill impacts of the new proposals, and UNSE
25 claims it shows that "new DG customers will experience substantial bill savings under the
Company's proposal." UNSE Br. 29:11-12. However, while solar customers may still experience
some level of bill savings under the new proposals, Exhibit 2 does not show how those bill savings
would compare to solar customers' current bill savings. Accordingly, Exhibit 2 sheds no light on
how the current proposals would impact the economics of solar.

26 ⁷¹ UNSE Br. 35:18-19.

⁷² *Id.* at 24:14-20.

⁷³ *Id.* at 35:12-36:2.

1 solar investment. Tellingly, the Company's proposals have changed significantly
2 throughout the course of this rate case. Moreover, it remains unclear how the various (and
3 duplicative) demand charge and net metering proposals will ultimately impact the
4 economics of existing DG systems. Consequently, it would be unfair and inequitable if the
5 Commission did not fully grandfather customers who applied for or installed solar between
6 June 2015 and the rate case's conclusion. Given this high level of uncertainty and the fact
7 that solar customers will not know how these new rate design proposals will actually impact
8 them until the Commission issues its final decision in this case, the Commission should set
9 the grandfathering deadline as the date of its decision. UNSE added approximately 400 new
10 solar customers during all of 2015, so grandfathering the customers who installed solar after
11 June 1, 2015, would not be overly burdensome to the Company.⁷⁴ In contrast, there are
12 strong equitable justifications for grandfathering these customers.⁷⁵

13 CONCLUSION

14 For the reasons stated above and in Vote Solar's Initial Post-Hearing Brief, the
15 Commission should not approve UNSE's proposed rate design changes for solar customers.
16 Vote Solar's specific recommendations in this case are summarized on pages 55-56 of its
17 Initial Post-Hearing Brief.

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19
20
21
22 ⁷⁴ Tr. 302:20-25 (Hutchens Test.).

23 ⁷⁵ RUCO appears to have reversed course on its recommended grandfathering deadline.
24 RUCO's direct testimony supported a grandfathering deadline based on the date of decision. RUCO
25 explained that despite the notice provided by UNSE, customers installing solar after June 1, 2015,
26 "may not fully understand the magnitude of the negative impact to this value proposition that may
come from a rate redesign." Lon Huber Direct Test. 16:21-22 (Ex. RUCO-5). Now, RUCO states
that full grandfathering should only extend to "early adopting DG customers through June 1, 2015."
RUCO Br. 17:16-17. RUCO does not explain why it apparently changed its position, and its initial
position is preferable and better reasoned.

1 DATED this 11th day of May, 2016.

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22 All Parties of Record
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26