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BEFORE THE ARIZONA CORPORATION COMMISSION

DOUG LITTLE CHAIRMAN	BOB STUMP COMMISSIONER	BOB BURNS COMMISSIONER
TOM FORESE COMMISSIONER	ANDY TOBIN COMMISSIONER	

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 NO. E-01575A-15-0312** **ENERGY FREEDOM COALITION OF AMERICA POST-HEARING BRIEF**

ENERGY FREEDOM COALITION OF AMERICA

POST-HEARING BRIEF

July 14, 2016

Arizona Corporation Commission
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Energy Freedom Coalition of America ("EFCA"), through its undersigned counsel, hereby submits its Post-Hearing Brief.

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Sulphur Springs Valley Electric Cooperative, Inc. ("SSVEC" or the "Company") is proposing unprecedented rate design changes that, if approved, would all at once: (1) wipe away any and all economic benefit to SSVEC customers derived from distributed generation rooftop solar ("DG"); (2) eliminate the utility's successful and cost effective net metering ("NEM") program; and (3) fail to grandfather and protect existing DG customers from substantial rate increases.

SSVEC is asking the Commission to impermissibly discriminate against DG customers by increasing the monthly charges for new and existing customers by *387%.* SSVEC also seeks to eliminate retail NEM and banking, and place DG customers in a class separate from all other residential ratepayers. SSVEC makes this application without supporting its proposals with the required studies and supports. The proposed R-DG and R-DG E rate would be calamitous for ratepayers looking to utilize DG to save money on electricity in SSVEC's service territory. Eliminating NEM has already been shown to have the power to kill the solar industry as evidenced by the adoption of similar tariffs in Nevada. As a result of SSVEC's legal failures, the following proposals in its application should be denied:

- The R-DG and R-DG E rates,
- The elimination of retail rate net metering,
- The substantial customer charge increases, which would be applicable to all DG customers, including existing customers who were *incentivized* by SSVEC to go solar, and
- The proposal to treat solar customers as a separate rate class.

II. SUMMARY OF ARGUMENT AND PROPOSED FINDINGS

In each of the following Sections, the various aspects of SSVEC's proposal will be discussed outlining the policy and legal reasons that each must be rejected. Instead, the Commission should find based on the record that the current rate design and NEM policies for DG customers be

maintained. Additionally, the Commission should declare that: 1) no showing has been made to treat DG customers differently from non-DG customers; 2) the current retail rate NEM should remain in place; and 3) to the extent any changes are made impacting DG customers, those customers that have made an application to interconnect to the grid prior to the issuance of an order in this docket must have the current rate design and NEM arrangement fully grandfathered. In addition, the Commission should consider permitting SSVEC to increase its volumetric rate in an amount necessary to cover the amount of any revenue increase that the Commission deems just and reasonable while minimizing the amount of any such increase that is passed onto customers via an increase in the fixed monthly customer charge. This will ensure that customers are able to continue to control their energy bills, and are encouraged to consume efficiently.

III. SSVEC'S APPLICATION IS LEGALLY DEFICIENT AND CANNOT BE APPROVED BECAUSE SSVEC DID NOT PERFORM STUDIES AND ANALYSES REQUIRED BY COMMISSION RULES.

As a matter of law, SSVEC seeks to improperly impose charges on DG customers that it is not imposing on customers without DG. In order to carry its burden and permit adoption of rates that single out DG customers, SSVEC has the burden of proof and it: (1) *must* demonstrate that such differential treatment is just, reasonable, and nondiscriminatory; and (2) *must* introduce solar-specific cost of service studies and benefit-cost analyses proving the disparate treatment is warranted.[1]

Because the proposed rate for DG customers represents a marked departure from prior rates for DG customers and from the rates proposed for non-DG customers, the studies and analyses needed to support adoption of such rates must be substantive and well-supported with actual data. SSVEC did not provide the documentation required by law to support its proposal. Indeed, its witnesses clearly admitted that it did not perform a solar cost of service study on residential customers nor did it perform a cost-benefit analysis.[2] But even if it had conducted the study and analysis, it still would have failed to carry its legal burden because it could not possibly demonstrate that such disparate treatment of its customers was just, reasonable, and non-discriminatory.

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[1] A.R.S. § 40-250(A), and (C); A.A.C. R14-2-2305 (emphasis added); *see also* Ariz. Const. art. XV, § 3; *Tucson Elec. Power Co. v. Ariz. Corp. Comm'n*, 132 Ariz. 240, 243, 645 P.2d 231, 234 (1982).

[2] Lambert Tr., Vol II at 340:3-6, 343.

Finally, SSVEC's Application includes schedules that do not comply with the Commission's Rules. As a result, the Application was incomplete and did not provide information required by Rule.

A. SSVEC Admits it did not Undertake the Legally Required Benefit-Cost Analysis.

A benefit-cost analysis is a detailed evaluation of the benefits and costs of a proposal within a utility's service territory. Benefit-cost analyses help quantify the overall value a proposed change provides ratepayers, utilities, and other stakeholders over a specified period of time. Many states and utilities alike have commissioned benefit-cost studies to better understand the value of DG in particular to help guide ratemaking decisions. In Arizona, these analyses are a requirement of the net metering rules before rates singling out DG customers can be implemented. SSVEC's Chief Executive Officer readily admitted under oath that SSVEC did not perform the legally required benefit-cost analysis.[3] As a result, SSVEC's Application is legally deficient and cannot be approved.

A.A.C. R14-2-2305 provides:

> Any proposed charge that would increase a Net Metering Customer's costs beyond those of other customers with similar load characteristics or customers in the same rate class that the Net Metering Customer would qualify for if not participating in Net Metering shall be filed by the Electric Utility with the Commission for consideration and approval. *The charges shall be fully supported with cost of service studies and benefit/cost analyses*. The Electric Utility shall have the burden of proof on any proposed charge." (Emphasis added).

This Rule sets out clear and unambiguous requirements that SSVEC *must* meet before it can be permitted to subject solar customers to different rates than non-DG customers. Despite the fact that the Commission's own Rules clearly *require* solar-specific "cost of service studies and benefit/cost analyses," SSVEC admitted under cross examination, and it is uncontroverted in the record, that it did not perform the benefit-cost analysis required by law.

> Mr. Rich: *Let me confirm, SSVEC has never performed a cost-benefit analysis for solar – for rooftop solar. Correct?*
>
> Mr. Huber: *Correct.*[4]

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[3] Huber Tr., Vol. I at 190:9-13.
[4] *Id.*

In sum, SSVEC admits it has not provided the information that it is required by law to provide in order to justify its proposed discriminatory treatment of NEM customers. This discriminatory treatment, therefore, cannot be approved.

B. SSVEC did not Perform the Required Cost of Service Study on Solar Customers.

A cost of service study considers all the costs and services that a utility provides to its ratepayers, and is used to determine how those respective costs may be recovered from customers with similar usage characteristics. The cost of service study is a tool that informs fair allocation of costs to ratepayers, and is necessary for assigning cost responsibilities to customers in a manner that's fair and equitable. Although generally conducted on a rate class basis, in this instance SSVEC proposes the creation of a new customer class (DG customers) without a cost of service study looking at that class.

SSVEC's failure to perform a cost of service study for DG customers is yet another violation of A.A.C. R14-2-2305,.[5] In fact, even Staff witness Paladino stated that "it would have been helpful to see a subclass in the cost of service study that actually showed revenue coming in from DG customers compared to costs even if the costs were the same as the residential class, the non-DG class of customers."[6] It would have been more than merely helpful to see that information, it was actually a legal requirement that SSVEC failed to meet.

Just like SSVEC's failure to provide the required benefit-cost analysis, this deficiency in its Application requires that the Commission reject all aspects of the Application that call for discriminatory treatment of DG customers. The law requires SSVEC to prepare two studies to support its Application and it prepared neither. As a result, the Application cannot be approved.

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[5] Huber Tr., Vol. II at 302:7-21 (admitting that SSVEC's lost fixed costs are predicated on assumptions about the number of kWh generated by DG); Lambert Tr., Vol. II at 340:3 – 347:25, 353:3-6 (admitting that much of the actual data included in SSVEC's analyses and studies were estimates and that the load factor assigned to DG customers was the same load-factor applied to non-DG customers, not the actual load factor for DG customers).

[6] Paladino Tr., Vol. III at 712:11-18.

C. SSVEC's Application Fails to Include Information Required by A.A.C. § R14-2-103, Resulting in Prejudice to DG Customers.

During the testimony of SSVEC expert Hedrick on May 18, 2016, it became apparent that SSVEC's Schedule H-5.2 was incomplete and failed to comply with the requirements of A.A.C. § R14-2-103. According to SSVEC's own expert, Schedule H-5.2 of the Application lacks data regarding the "actual billed energy" necessary to develop a bill frequency report for DG customers, as A.A.C. § R14-2-103 requires. Without this data, Schedule H-5.2 cannot be used to determine the number of DG customers who would fit into various blocks and be subject to various charges proposed by SSVEC.

As a result, SSVEC's Application lacked sufficient information to create a billing frequency report specific to DG customers. Therefore, all parties in this case were deprived of the necessary information to accurately draw its own conclusions or rebut those of SSVEC.

Section R14-2-103(B) imposes a requirement that "[t]he substantive information requested, both on the Appendix schedule and in the body of this General Order . . . *must* be contained on the applicant's schedules together with the titles and schedule numbers provided in the Appendix."[7] Schedule H-5 must show "billing activity by block for each rate schedule."[8] As Staff witness Paladino agreed, Schedule H-5.2 of SSVEC's Application fails to do just that for DG customers.[9] Rather, Schedule H-5.2 "reflects the kilowatt-hours delivered" or "delivered load activity" not "the additional kilowatt-hours generated and banked and used."[10] Even according to SSVEC's expert, "the customer's actual billed energy is going to be considerably different than what [Schedule H-5.2 shows.]"[11]

Schedule H-5.2 does not contain sufficient information to be used in conjunction with Schedule H-4.02 to determine how many DG customers fall into the various consumption blocks.[12] Additionally, SSVEC witness Hedrick conceded that, given the lack of information, the schedules do not provide a way by which to discern how many DG customers received

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[7] (Emphasis added.)
[8] A.A.C. § R14-2-103, Appendix.
[9] Paladino Tr., Vol. III at 715:4-13.
[10] Hedrick Tr., Vol. II at 416:20-24.
[11] Hedrick Tr., Vol. II at 416:24 – 417:1.
[12] Hedrick Tr., Vol. II at 416:20 – 417:1; Hedrick Tr., Vol. V at 1081:20-24, 1091:1 – 1092:16.

monthly bills in *any* particular amount.[13] This means that despite SSVEC's references to DG customers with zero usage or low usage bills, there is no evidence in this docket to support how many such customers even exist in the materials prepared and submitted by SSVEC. Schedule H-5.2 certainly does not support SSVEC's claims in this regard. Making the failure to provide the requisite information even more egregious, Hedrick acknowledged that though difficult, such information could have been ascertained by SSVEC and included in the Application.[14] SSVEC ultimately made a conscious choice not to gather and submit this required information and in so deciding, failed to meet its burden of proof.

Further, SSVEC's Application not only fell short and failed to include required information, but it also included inaccurate information, specifically that in the context of Schedule H-5.2.[15] Therefore, in preparing their case, neither EFCA nor any other party had available to it the accurate or total amount of information required to be furnished by SSVEC pursuant to the Arizona Administrative Code. As such, no party was afforded the opportunity to fairly and accurately present its case to the Commission and as a result, were greatly prejudiced in this proceeding.

A.A.C. § R14-2-103 clearly requires this information, specifically Schedule H-5.2, to be complete and accurate.[16] In this case, it was not. Therefore, given the Company's failure to comply with the requirements of the Arizona Administrative Code and that such failure resulted in prejudice to EFCA (and all other parties to this proceeding), EFCA requests the Commission dismiss the Application in its entirety or at a minimum, as it pertains to DG customers.

D. SSVEC did not Carry its Burden in Justifying Discriminatory DG Proposals.

In addition to the deficiencies in SSVEC's Application as set forth above, the limited information the Company did submit is insufficient to justify its request and carry its burden of

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[13] Hedrick Tr., Vol. II at 438:11-22.

[14] Hedrick Tr. Vol. V at 1082:11-14, 1098:22 – 1101:8.

[15] Huber Tr., Vol. II at 280:15 – 281:3; Hedrick Tr., Vol. V at 1107:21 – 1109:12.

[16] SSVEC attempts to excuse its failure to comply with these Rules due to Staff's finding that the Application was "sufficient" to promulgate this hearing. *See* Hedrick Tr., Vol. V at 1105:9-15. Staff is not authorized to and cannot grant immunity from subsequent legal challenges to the sufficiency of an application especially when, as here, the failure of the Company to comply with applicable mandates was not revealed until the parties engaged in cross-examination of the Company's witnesses.

proof. Very little actual data was introduced to support SSVEC's DG-related proposals and most arguments it makes are supported by questionable or disproven assumptions. For example, SSVEC admitted that it based its allegations of lost fixed costs on assumptions about how much energy is being produced by DG customers without using any actual data of the energy produced by such customers to support its claim.[17]

SSVEC's assumptions about the kWh generated per kW of DG are unsupportable when subject to scrutiny and differed significantly from the assumptions used by Staff. In fact, Staff assumed 1,678 kWh per kW; a number supported by the National Renewable Energy Laboratory.[18] In contrast, SSVEC assumed approximately 2,100 kWh per kW in calculating its alleged lost fixed costs. [19] When pressed on the issue, SSVEC's expert Hedrick admitted that he had no source for this key assumption and admitted that if his assumptions were high, SSVEC's lost fixed costs would also be high.[20] Hedrick also admitted he had no source upon which he based SSVEC's assumed 25% capacity value for DG solar.[21] SSVEC's assumptions regarding how much energy is being generated by DG facilities are not only baseless and unsupported, but the estimate means that the system would be generating on average of 25% every day of the year, which is high by almost any standard. Yet these assumptions are essential to SSVEC's claimed lost fixed costs.

SSVEC also admitted that it did not calculate how much of its alleged lost revenue is actually attributable to DG customers.[22] Similarly, the Company's estimate as to a DG customer's average monthly generation of 1,026 kWh and the basis for the Company's lost fixed costs is based on guestimates. Indeed, the calculations made by Staff and the Company's witnesses are starkly different as to a DG customer's generation. Staff estimated that the average residential system provided 609 kWh output per month while the Company utilized an assumption of 1,026 kWh.[23] Staff witness Van Epps stated that was a "big difference."[24] Neither number, however, can be relied

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[17] Huber Tr., Vol II at 302:7-19.
[18] Liu Surrebuttal Test., Staff Ex. A-16 at 4:10-14.
[19] Hedrick Tr., Vol. II at 441:21-25.
[20] *Id.* at 440:20 – 441:5; 442:7 – 443:11.
[21] *Id.* at 440:15 – 441:5; Hedrick Tr, Vol. V at 2097:2-12.
[22] Hedrick Tr., Vol. II at 402:13-403:10.
[23] Van Epps Tr., Vol III at 619:13-24.
[24] *Id.* at 620: 2-7

upon because they are based on estimates and this illustrates the discrepancies and issues when using estimates instead of actual data. Tellingly, the Company made these assumptions even though it has approximately 700 production meters installed on DG systems, which would have provided actual production data.[25]

Although Hedrick used 1,013 DG customers for calculating lost fixed costs, billing data for the test year only reveals 916 (11,000 bills/12 months) DG customers while Schedules G-7.34 and 7.35 show only 907 DG customers for the test year.[26]

These estimates and assumptions are simply insufficient to support the proposed rates and differential treatment of DG customers. Staff agreed, concluding that SSVEC failed to verifiably prove that its claimed lost fixed costs and under-recovery justified the adoption of its proposed discriminatory DG rates.[27] Staff highlighted that at this time it does not know the actual under recovery amount.[28] Staff itself stated that it would not use assumptions about DG customers to justify changes in rate designs as SSVEC proposes.[29] Accordingly, SSVEC must be prohibited from adopting its proposed DG rates and fees as it failed to meet its burden and provide the requisite level of support justifying such differential treatment.

IV. SSVEC'S FIXED CUSTOMER CHARGE OF $50.00/MONTH FOR DG CUSTOMERS MUST BE REJECTED.

A. The Substantial Increase in Monthly Fixed Charge Ignores the Policy of Gradualism and Subjects Customers to Considerable Rate Shock.

SSVEC's current monthly fixed customer charges for non-DG and DG residential customers is $10.25, with DG customers paying an additional $2.70 for metering on top of that number. As part of SSVEC's Application, the Company is proposing to adopt a fixed customer charge of $25.00 per month for residential customers without DG and $50.00 per month for residential customers with DG. Not only do these proposed fixed customer charges represent an unconscionable increase for all customers, but the imposition of such fees would not be in accordance with the concept of

[25] *Id.* at 657:3-14.
[26] *See* Lambert Direct Test., SSVEC Ex. A-4 at Schedules G-7.34, 7.35 and H-5.2 thereto.
[27] Van Epps Tr., Vol. III at 550:6-14, 555:15 – 556:5, 629:14-16, 656:16-20; Paladino Tr., Vol. III at 712:11-18.
[28] Van Epps Tr., Vol III at 550:6-14, 555:15-556:5, 629:14-16; 658:5-8.
[29] Van Epps Tr., Vol. III at 689:5-8.

gradualism. This is important to highlight. If SSVEC's proposal were approved, the increase in unavoidable monthly charges for DG customers would go from $12.95 per month to $50.00. This proposal is by far the highest customer charge in Arizona and perhaps the nation. This proposed increase is extreme and does not have the ratepayers' best interest in mind.

Gradualism is an important feature of rate design because it protects ratepayers from the shock of sudden large increases. Gradualism provides for stability and predictability in a customer's bills. If the policy of gradualism is rejected, then "rate shock" becomes a destabilizing force that creates uncertainty with ratepayers. Gradualism is a hallmark of sensible rate design. Ratepayers should not be punished with massive rate increases simply because the Company decided to go sixteen years between rate cases.[30]

Staff asserted that dramatic increases to the monthly fixed charge to $50 would not be an example of gradualism.[31]SSVEC's CEO Huber was asked under cross examination if he agreed with Staff's preference for gradualism and answered, "No, I don't."[32] He rejected gradualism as "not practical" due to the unsupported assertion that DG installers are "so aggressive in their installs."[33] The reality is that the evidence showed that there are only an average of approximately *four and a half to nine* DG installs per month in SSVEC territory.[34] Yet Mr. Huber ignored these facts and painted a dire portrait by suggesting that solar DG has the potential to place the company in "financial jeopardy."[35] At the end of the day then, SSVEC is asking that the Commission abandon the longstanding principle of rate gradualism because a handful of customers per month are adopting solar in SSVEC service territory.

Staff' witness Broderick agreed that a proposed increase of the basic service charge up to $50 a month would not be an example of gradualism stating that it would be, "$500 bucks a year [in fact, the calculation results in $600.00 per year]. That's pretty significant." [36] Staff is unequivocally

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[31] Van Epps Tr., Vol III at 627.
[31] Van Epps Tr., Vol III at 627.
[32] Huber Tr., Vol II at 269:3.
[33] *Id.* at 269:13- 14.
[34]Huber Tr., Vol. I at 167:24 – 168:5; Huber Tr., Vol. II at 289:4-19.
[36] Broderick Tr., Vol IV at 819:13-17.
[36] Broderick Tr., Vol IV at 819:13-17.

opposed to such a dramatic increase.[37] Staff witness Van Epps stated that "SSVEC customers have historically enjoyed a relatively nominal customer charge [and while] Staff understands why the Company has proposed such a drastic increase, [] Staff cannot support rates based solely on under-recovery, especially when under-recovery could be easily addressed with a nominal increase in the volumetric energy rate."[38]

EFCA witness Fulmer also pointed out the ways that the Company has run afoul of gradualism. In addition to the dramatic increases for both solar and non-solar customers he noted that, "I've never seen a residential fixed charge this high in my experience, and never seen such an extreme proposal regarding the actual increase up to $50."[39] He also highlighted that the proposals to abandon the retail rate for net metering is another example of the rejection of gradualism. Fulmer testified that "[SSVEC] wants to stop crediting at around 12 and a half cents and drop it down to 2 and a half cents. That is an accelerated increase, and I can't call that gradual."[40] Fulmer testified further that both the proposed $25.00 and $50.00 flat customer charges violate the principles of gradualism, stating that the $50.00 charge in particular "is about as dramatic a violation as I think you can find. It's a 300 percent increase, and albeit it's phased in over four years, its magnitude really can't be downplayed."[41]

The Commission has done a great job in rate cases keeping gradualism as a valued component of its ratemaking policy. It would be a significant and punitive departure if the Commission were to reject gradualism because of SSVEC's hollow claims.

B. SSVEC's Proposed DG Rate Design is Punitive.

By its own admission, SSVEC's proposed fixed customer charges would result in an approximate 143% increase in fixed fees to non-DG residential customers and a *387% increase* for DG customers.[42] The proposed $25.00 fixed customer charge itself would represent the highest such

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[37] Paladino Tr., Vol. III at 718:8-12; Broderick Tr., Vol IV at 819:22-24.
[38] Van Epps Surrebuttal Test., Staff Ex. 10 at 4:1-9 (stating further that "a $50 customer charge would be a significant policy change."); Van Epps Tr., Vol. III at 627:5-16.
[39] Fulmer Tr., Vol IV at 863:10-24.
[40] Fulmer Tr., Vol. IV at 864:9-12.
[41] Fulmer Tr., Vol. IV at 863:12-24.
[42] Huber Tr., Vol. I at 120:15-23, 126:12-15.

charge in Arizona (except for the $50.00 charge also being proposed for DG customers herein).[43] Imposition of such fees would be punitive and will lead to drastic financial consequences for ratepayers.

Finally, this proposal is especially punitive in nature when applied to DG customers. Staff witness Broderick testified that this entire proposal "would have to" slow the growth of DG in SSVEC's territory and theorized that the DG plan was potentially "designed" to accomplish just such a goal.[44] Van Epps agreed with this conclusion.[45] Another Staff witness, Liu, frankly opined that "[s]olar DG would not be an economically viable investment option for customers [in the event of the adoption of the $50.00 charge] . . . ."[46]

While SSVEC may argue the increase is implemented over four years, no rational customer would invest in DG during those years when they know that their electric bill will dramatically increase, with the fixed charge, eventually almost quintupling by year four. The fear of a massive reduction in DG adoption if this charge is adopted is not illusory or theoretical. EFCA witness Fulmer recounted, for example, that when Salt River Project (SRP) adopted rates that had the effect of raising DG customer bills by approximately $50.00 per month, DG installation decreased by as much as 98 percent.[47] For the above-referenced reasons, Staff and EFCA unequivocally oppose the imposition of this excessive and discriminatory fixed charge for DG customers and it should be denied.[48]

V. NET METERING MUST REMAIN AT THE RETAIL RATE

A. The NEM Rules Do Not Legally Permit a Waiver.

Unlike other provisions of the Commission's Rules, the NEM Rules do not include a provision permitting a waiver. Other Sections, like the Commission's Renewable Energy Standard and Tariff and Electric Energy Efficiency Standards, include specific subparts permitting the

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[43] Paladino Tr., Vol. III at 718:1-7; Fulmer Tr., Vol. IV at 863:5-9.
[44] Broderick Tr., Vol. IV at 792:22 – 793:3.
[45] Van Epps Tr., Vol. III at 622:5-12.
[46] Liu Tr., Vol. V at 991:13-20.
[47] Fulmer Tr., Vol. IV at 858:20 – 859:8 (also testifying that when the State of Nevada made changes to eliminate NEM similar to those proposed by SSVEC here, the DG industry suffered a significant decline in DG adoption).
[48] Paladino Tr., Vol. III at 718:8-12; Broderick Tr., Vol. IV at 819:22-24.

granting of a waiver.[49] The NEM Rules do not include such a provision. As a result, the Commission cannot waive the Rules and the Company's proposed elimination of NEM must be rejected.

The Benefit-Cost Analysis Fully Supports the Retail Rate as the Correct Rate for NEM and Demonstrates that the Proposed Avoided Cost Rate Undercompensates the Value of NEM Exports.

The only effective way to evaluate the true value of DG, and the corresponding export rate, is through a benefit-cost analysis. This analysis is the only tool that considers of a full range of elements when determining compensation for DG users for exported power. By considering more elements in the value calculation, a more accurate result may be reached because a complete range of stakeholder interests are available for comparison. Indeed, EFCA witness Fulmer considered six elements drawn directly from an Integrated Resource Plan ("IRP") in formulating the benefit-cost analysis included in this docket. IRP filings reflect a complete "picture" of a utility and its market environment on a forward-looking basis. While acknowledging differences between the SSVEC system and UNS Electric, Fulmer testified that "I believe that were I to conduct an analogous analysis [of SSVEC], my conclusion would be similar."[50]

Fulmer's benefit-cost study is the only examination of the benefits and costs of DG in the evidentiary record in this case and that examination fully supports the current NEM program. EFCA witness Fulmer provided a complete examination of NEM in the recent Unisource Electric, Inc., ("UNSE") rate case.[51] This analysis was based on UNSE's own 2014 Integrated Resource Plan and included the categories of DG benefits set forth by Commissioner Little in the Value of Solar Docket.[52] Fulmer calculated the full value of DG using the IRP while assuming a south-facing PV array and alternatively a west-facing PV array.

Fulmer's full analysis revealed a value of solar as follows:[53]

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[49] *See* A.A.C. R14-2-1816 & R14-2-2419, respectively.
[50] Fulmer Direct Test., EFCA Ex. 6 at 15.
[51] *See* Fulmer Direct Test., EFCA Ex. 6 at 12 – 15; Docket No. E-04204A-15-00142, Surrebuttal Test. of Mark Fulmer for The Alliance for Solar Choice, dated February 23, 2016, at 30-40.
[52] *See* Commission Docket No. 14-0023, Comm'r Little Letter dated December 22, 2015, at 1-2.
[53] *See* Docket No. E-04204A-15-00142, Surrebuttal Test. of Mark Fulmer for The Alliance for Solar Choice, dated February 23, 2016, at 34, Table 2.

Categories Set Forth by Commissioner Little	UNSE IRP Analysis ($/MWh)	UNSE IRP Analysis with West facing arrays ($/MWh)
Avoided Energy Costs	$50.44	$50.44
Generation Capacity Savings	$40.16	$77.62
Transmission Capacity Savings	$2.78	$5.15
Distribution Capacity Savings,	$0.00	$2.00
Environmental Benefits – avoided Greenhouse gases	$6.76	$6.76
Total Avoided Costs	$100.13	$141.97
Incremental integration Costs	($4.55)	($2.00)
With integration costs	$95.58	$139.97
Avoided environmental externalities	$40.28	$40.28
With Emissions Costs	**$135.86**	**$180.25**

The table above shows the results of Fulmer's analysis, and includes additional appropriate savings and cost factors which enable a more accurate cost comparison on a dollar per megawatt hour basis.. Under Fulmer's complete valuation of DG considering costs and benefits, he found that the levelized benefits of solar DG are on the order of 10-14 cents/kWh (or $100-$140/MWh), which is indicated under Total Avoided Costs. On the bottom line, after accounting for the benefits of avoided air emissions, the value of solar is approximately 13.6-18 cents/kWh (or $136-$180/MWh).

This is the only evidence derived from a benefit-cost analysis introduced in this case on the value of DG solar and it clearly reveals that the Company's proposal to compensate exports at avoided cost significantly undercompensates NEM exports.

Further, Staff, understanding the potential for severe repercussions to DG as a result of undercompensating NEM exports, has now withdrawn its original NEM recommendation.[54] As Staff has highlighted, "[v]ariations in the billing methodologies and the export rate can have drastic effects on the value to prospective solar customers."[55] Compensating NEM customers at SSVEC's current retail residential energy rate equates to 12.6 cents per kWh. Under Fulmer's evaluation, this

[54] Van Epps Tr., Vol. III at 646:17 – 647:1.
[55] Van Epps Surrebuttal Test., Staff Ex. S-10 at 5:23-24.

figure is squarely in the range of total net benefits provided by DG, and when avoided emissions are taken into account, the 12.6 cent figure is actually slightly below the range of net benefits provided by DG. Regardless, pro-solar advocates do not seek an above-retail value for their exported energy. Rather, they seek a 1:1 offset of energy imports from the utility by energy exports from their solar system because it is the simplest way to account for their exported energy and it is clearly within the range of exported DG value. Therefore, NEM should be continued at the retail rate because it is correctly valued, as the only evidence that analyzes the costs and benefits of solar in this case, it supports the current NEM program. SSVEC's proposal is not supported by the evidence.

B. SSVEC's Analysis is Flawed and does not Include all Benefits of Solar.

SSVEC did not conduct any benefit-cost analysis crediting DG for all the avoided costs and benefits it creates. SSVEC's cost-of-service analysis is backwards-looking, short-sighted, and fails to take into account the long-term benefits DG provides.[56] In other words, its analysis is designed to entirely ignore DG benefits and conclude that NEM should be changed.

To determine the full scope of the benefits realized by the adoption of DG systems, it is imperative to engage in a forward-looking analysis that considers and accounts for the full range of costs avoided by the utility.[57] SSVEC failed to engage in such analysis or credit DG with the full range of avoided costs (some of which have been articulated by Commissioner Little and are included in the preceding table). Instead, SSVEC simply attempted to compensate DG customers at a rate derived using a backwards-looking approach predicated on the rate charged by the Company's wholesale provider(s) during the prior twelve months.[58]

It does not make sense to use wholesale power purchases as a comparison to distributed generation. Wholesale power is raw, unrefined power. It's not ready for delivery to an end use customer. On the contrary, wholesale power has to be transported through the transmission system, powered down via a substation, and then delivered through the distribution grid before it reaches its final customer. During this journey, energy is lost as it travels these great distances from power plant to end-use consumer via a concept referred to as "line loss." The end-use customer pays for all of

[56] Fulmer Direct Test., EFCA Ex. 6 at 12:16 – 13:4.
[57] *Id.* at 12:16 – 13:9.
[58] *Id.* at 13:1-2.

these steps in the transportation process. That's why the end product electricity costs the full retail rate, rather than the wholesale rate.

It is self-evident that such a process is wasteful. And this wholesale energy was very likely purchased from a non-renewable, polluting generation source such as a coal or natural gas power plant, each of which also consume significant amounts of water. In contrast, clean distributed generation is generated and consumed at or near the source where it was generated with no water use. So when it's generated, DG energy is ready for immediate use and consumption. It doesn't require powering up or down, nor does it have to travel great distances over very expensive transmission networks. In most instances, it satisfies the load of the home or business that generated it. And if there's surplus distributed generation, it satisfies the load of very close neighbors, travelling the path of least resistance. Distributed generation is efficient and it's clean. It satisfies the same needs as the electrons generated from a traditional power plant many miles away. Further, when a DG customer exports power to another customer, that other customer pays *the utility*, not the DG producer, the full retail rate for that energy. So the utility still benefits at the full retail rate when customers consume distributed generation, yet the utility wants to reduce the value of that energy credited to the DG customer.

SSVEC entirely ignores one crucial side of the equation when it refuses to credit DG with the values of: (1) avoided energy costs; (2) avoided generation capacity costs; (3) avoided transmission costs; (4) avoided distribution costs; and (5) environmental benefits including greenhouse reductions and decreased water demands.[59] Again, if the value of all of those benefits is summed, it results in a range of 9-14 cents per kWh. SSVEC itself recognizes that the distributed nature of DG systems over a large geographic area is itself a benefit of DG.[60]

SSVEC did not consider or assign any value to DG in its cost-of-service study.[61] Hedrick assigns a zero figure for the value of these DG benefit categories without: 1) a DG-specific cost of

[59] Fulmer Direct Test, EFCA Ex. 6 at 13:8 – 14:21; Huber Tr., Vol. II at 300:19 – 302:14.
[60] Hedrick Tr., Vol. II at 436:2-6.
[61] Lambert Tr., Vol II at 339:13-16.

service study, 2) actual usage data from DG customers, 3) accounting for future avoided energy and fuel costs, or 4) review of SSVEC's latest Integrated Resource Plan ("IRP").[62]

The Company's analysis is also flawed because it: (1) is limited to backwards looking load reduction impacts and not on future benefits to the grid; (2) ignores potential generation capacity savings to AEPCO and thus rate savings to SSVEC; and (3) ignores that DG load reduction reduces wear and tear on the transmission and distribution grid helping to avoid the replacement or installation of new costly infrastructure equipment.

In an avoided cost analysis, it is imperative that *all* costs avoided by the utility as a result of DG adoption be considered when determining a rate for reimbursement. Indeed, in its 2015-2016 board-approved transmission plan, the California Independent System Operator cancelled $*192 million* worth of planned subtransmission projects due to load-reducing impacts of distributed energy resources.[63] SSVEC simply failed to account for all avoided costs, instead predicating its proposed rate solely on wholesale energy costs.[64] Accordingly, EFCA witness Fulmer was the only witness to provide a comprehensive analysis of all avoided costs. When accounting for all long-term avoided costs, the value of NEM is between 9.5-14¢/kWh.[65]

C. NEM is a Simple and Easily Understandable Mechanism.

The retail rate for NEM is a simple and elegant design of ratemaking. It makes perfect sense for ratepayers to be paid the same price for power they produce as they are asked to pay for the power produced by the utility.

There are better ways to influence the value of net metering transactions including well-designed minimum bills and properly-designed time-of-use rates.[66] These alternate mechanisms help to ensure that the utility recovers sufficient revenue to compensate for its investments while preserving customer economics that allows every day individuals to enjoy the benefits of distributed solar generation. If the Commission's simple, but workable retail rate is tossed out in favor of a

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[62] Hedrick Surrebuttal Test., SSVEC Ex. A-6 at 18-21.
[63] Fulmer Surrebuttal Test., EFCA Ex. 7 at 8, Ex. MEF-1 thereto.
[64] Fulmer Direct Test., EFCA Ex. 6 at 12:6-9; Lambert Tr., Vol. II at 339:13-16.
[65] *Id.* at 15:1-4.
[66] Van Epps, Tr. Vol III, 641:1-24.

constantly changing Avoided Cost rate,[67] then the DG market would be riven with confusion on the part of potential adopters. Thus, any changes in economics of DG should be made in a way that preserves retail NEM and assigns additional credits or charges through other ratemaking techniques if such adjustments are deemed needed.

VI. DG CUSTOMERS ARE NOT SUFFICIENTLY DIFFERENT FROM OTHER RESIDENTIAL CUSTOMERS AND SHOULD NOT BE PLACED INTO A SEPARATE RATE CLASS.

SSVEC should not be permitted to create a separate discriminatory class for customers who use DG with retail NEM. SSVEC argues that DG customers should be put into a separate rate class because they allegedly have different load profiles from other customers in the residential class. But the same could be said for many other sets of customers that are currently also a part of the residential customer class.[68] Other demand-side technologies can also produce significant changes in customers' load profiles.[69] Energy efficiency measures such as high efficiency HVAC systems, smart thermostats, weatherization measures, and the use of smart appliances, particularly when used in concert, can alter a residential customer's load profile significantly. Non-energy efficient measures can also impact load profiles, including electric heated swimming pools or hot tubs, customers using natural gas for heating or cooking instead of all electric appliances and customers utilizing multiple non-efficient air-conditioning units or refrigerators. The Company's rush to transform rate design to saddle DG customers with increased charges and reduced export compensation despite a lack of evidence is a clear indicator that the Company merely aims to stop its customers from generating some of their own power with DG. The company perceives DG as competition. And indeed, it is economic competition for the first time in the history of monopoly utilities.

SSVEC witness Hedrick conceded that the Company's proposals would adversely affect the solar DG market. He stated, "it's certainly going to change the economics" and he added later, "does it reduce the amount that a customer with installed DG is going to be compensated, the answer is

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[67] *See* SSVEC Application, Ex. A-1 at attachment 4 at 65 (Avoided Cost calculated based on rolling prior 12 months of sales to Company and updated every year in May).
[68] Fulmer Direct Test., EFCA Ex. 6 at 7:15-21.
[69] Fulmer Direct Test., EFCA Ex. 6 at 7:15-21.

definitely yes."[70] Staff witness Broderick agreed that the new rates will slow DG adoption in SSVEC's territory and argued that they *may even be purposely designed to do so*.[71] Individuals have the right to generate their own energy as much as they have the right to grow their own food. Utilities can only assign costs to customers that it can *prove* cause those costs. SSVEC has not met that burden because distributed generation *causes* no costs. On the contrary, it alleviates them. No utility should be allowed to economically punish its customers who seek these legitimate ends as SSVEC seeks to do here.

The Company is seeking drastic rate design changes alleging that DG customers are shifting costs to others.[72] Despite this allegation, the only evidence submitted in the case on this point indicates that of 11,000 total bills sent to DG customers, only 126 reflect a zero usage. Whereas there were 14,344 zero-usage bills in the same period for *non-DG* residential customers.[73] Further, 98.5% of SSVEC customers under 200 kW are non-DG customers.[74] SSVEC's argument is that it is losing tremendous amounts of revenue from customers that generate their own electricity, rather than buy it from SSVEC. But these figures clearly demonstrate that customers *without* DG are the primary cause of reduced utility revenues. DG customers therefore cannot be the sole or primary cause of SSVEC's lost revenues. Finally, the only benefit-cost study in the record supports that DG is not creating a cost shift and that the benefits match any costs.

SSVEC's discriminatory motive is also shown by the fact that SSVEC has not offered to create a separate rate schedule for any other sub-classes of residential customers other than DG, even though many other customers undertake various measures to change their demands on the distribution system.[75] Even though other residential customers have participated in energy efficiency measures, demand response programs, installed newer appliances, and are even seasonal customers, SSVEC does not propose that they be treated any differently than any residential customers that have not adopted such measures.[76]

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[70] Hedrick Tr., Vol II at 398: 1-20.
[71] Broderick Tr., Vol IV at 792:20-793:3, 825:4-10.
[72] Jones Tr., Vol. XI at 2542:5-12.
[73] Huber Tr., Vol. I at 160:10-161:1.
[74] Hedrick Tr., Vol II at 416:1-12.
[75] Fulmer Direct Test., EFCA Ex. 6 at 7:15-21.
[76] Fulmer Direct Test., EFCA Ex. 6 at 7:18-21.

A review of other statistics is even more telling as to the absurdity of singling out DG customers. SSVEC alleges the average solar customer is paying a bill of $36 per month, which is an amount that is equal to or greater than the amount paid by about 20 percent of SSVEC's non-DG residential customers.[77] To put it in perspective, 20 percent of the Company's 41,500 residential customers amounts to about 8,300 customers paying an average bill equal to or less than the average monthly bill of a solar customer.[78] At the current monthly adoption rate for DG installations, it would take about 75 years for the solar customers to reach that same number of 8,300 customers.[79] Similarly, approximately 60 percent of the non-DG customers' bills are below the cost to actually serve those customers.[80] In terms of customers, that is equivalent to about 24,900 customers paying below the cost of service.[81] Further, the Company did not even consider the lost fixed costs due to seasonal customers.[82] Due to the fact that the bills for such customers are extremely low most of the year, they are not paying their full cost of service because they pay virtually no volumetric rates—the primary mechanism by which the utility recovers its fixed costs. The utility's costs to serve the seasonal customers are the same as the family that's home all the time. The difference is that the family that is home all the time regularly pays average or high volumetric rates, thus *does* pay for its average cost of service. A large customer class (like the residential class) inevitably has these inequities amongst its customers. But SSVEC has not proposed changing the rate design for these two types of customers illustrated above, despite the fact that these types of customers greatly outnumber residential DG customers and have much more of an impact on the utility's revenue. Staff recognizes this as well, stating that the Company's under recovery as "a product of reduction in sales of kWh. So yes, they can be attributable to a number of different things."[83] The Company's focus on DG is misplaced, discriminatory, and unreasonable.[84]

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[77] Fulmer Tr., Vol IV at 845:15-25.
[78] Fulmer Tr., Vol IV at 846:1-12.
[79] Fulmer Tr., Vol IV at 846:1-12.
[80] *See* Lambert Direct Test., SSVEC Ex. A-4 at Schedule H-5.0 thereto.
[81] Fulmer Tr., Vol IV at 847:8-12.
[82] Hedrick Tr., Vol II at 415-416; (Seasonal customers (AKA "snow birds") can have a significant negative impact on a utility's revenues. A utility invests the same amount of money to wire a house for seasonal customers as it does to wire a house for a family that is home most of the year. The seasonal customers are rarely home, so they never turn on any appliances.)
[83] Van Epps Tr., Vol III at 623 – 624; *see also* Van Epps Tr., Vol II at 577:20-24.
[84] Fulmer Tr., Vol IV at 846:1-12.

In addition to ignoring under recovery from low-use customers, the Company did not consider the fact that its service area lost a greater proportion of its population between 2010 and 2014 than all but two other Arizona cities.[85] In fact, Sierra Vista (the largest city in the SSVEC service area) alone lost three percent of its population during that time frame.[86] Thus, it is much more likely that the underlying economic condition in SSVEC's service territory is the more significant cause of SSVEC's under recovery of fixed charges rather than the amount of lost sales that they attribute to the solar customers.

Indeed, Staff notes that "there are a number of customer segments that operate in a fashion similar to DG customers"[87] and that "[v]ariations in usage among customers in the same class have increased for a number of reasons (including seasonal customers, vacant homes, and distributed generation)."[88] Given the clear lack of justification for differential treatment, the Commission should reject SSVEC's attempts to implement the same.

VII. EVIDENCE SUPPORTS THAT THE COMPANY'S PROPOSED DG TARIFFS AND CHANGES TO NEM WOULD ELIMINATE THE ABILITY OF CUSTOMERS TO USE DG TO SAVE MONEY.

The choice to go solar, whether to be environmentally conscious or to save money, has to make economic sense to the individual customer. DG customers make substantial investments to either purchase PV or enter into long term leases to generate solar power. After the DG system is installed, the reduced payments to the utility act as the return on the solar investment, paying the customer back for his or her sizable investment over a period of time. This period of time is defined as the "payback period" or the period of time it takes for the customer to break even on his or her investment. If the payback period is too long in duration, then a customer would likely make a wiser investment elsewhere and not purchase a solar system at all.

If implemented, these rates would eliminate all economic benefits of solar or even over charge solar customers for their investments, frustrating the entire objective of saving money. Staff witness Liu analyzed the payback period for proposed Company tariff Schedule R-DG, which would

[85] Fulmer Tr., Vol IV at 846:15-23.
[86] Fulmer Tr., Vol IV at 846:15-23.
[87] Van Epps Direct Test., Staff Ex. S-9 at 10:2-5.
[88] Paladino Direct Test., Staff Ex. S-7 at 6:21-21.

apply to new DG customers. His analysis reveals that the payback period under this rate is approximately 34.1 years for an average DG customer.[89] Similarly, EFCA witness Fulmer, who used Lawrence Berkeley National Laboratory data for DG installation cost, also found the payback periods for the R-DG-E, the proposed rate for existing DG customers, to be greater than 30 years.[90] It makes no sense for a customer to purchase a DG system with 34.1-year payback period when the DG system life is not even that long. As a result, these proposed changes can be expected to deprive customers of their right to save money by generating some of their own power using DG. Note, the R-DG-E rate refers to existing customers, who, under the new rates, will now have to pay $50 per month in fixed charges. These customers, particularly early adopters, will experience a longer payback than initially anticipated, essentially having the rug pulled out from under them under these new rates. It is unrealistic for these customers to have anticipated that they would be subject to such drastically different and discriminatory rates, particularly because they were incentivized by SSVEC to go solar.

Further, under an internal rate of return ("IRR") analysis looking at the investment return of a DG system, Liu found that the IRR was a shockingly low 1.9% for an average DG customer under the proposed Schedule R-DG.[91] As highlighted by Liu, 1.9 percent IRR for an average customer under the Schedule R-DG is lower than all the prevailing rates of return for a long-term investment, which would render DG a financially infeasible investment option for customers.[92]

Similarly, if DG customers leased a DG system and were under the R-DG-E rate or new DG customers leased under the R-DG rate, they would lose money on their investment *every* month. As shown by Mr. Liu, the monthly net payoff under a lease would be a *loss* of $11.51 or $30.66 every month under the R-DG-E and R-DG rates, respectively, for the average DG customer.[93]

The changed economics to DG as result of the proposed rates would make investments in DG significantly less cost effective and result in payback periods longer than the useful life of the

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[89] Liu Rebuttal Test, Staff Ex. 12 at 7, Table 2.
[90] Fulmer Direct Test., EFCA Ex. 6 at 20, Table 5.
[91] Liu Rebuttal Test, Staff Ex. 12 at 9, Table 3.
[92] Liu Rebuttal Test, Staff Ex. 12 at 11:20-24.
[94] Fulmer Direct Test., EFCA Ex. 6 at 18-20; Broderick Tr., Vol IV at 792:20 – 793:3, 825:4-10.

DG systems themselves.[94] In other instances where actions similar to those proposed herein, as with the SRP territory and in Nevada, the market for rooftop solar has essentially grounded to a halt. SSVEC's proposed tariffs will have the same effect and drastically reduce the implementation of DG solar in its service territory.

VIII. SSVEC'S GRANDFATHERING PROPOSAL IS ILLEGAL AND SHOULD BE REJECTED.

A. The April 15, 2015, Cutoff Date Violates Commission Precedent.

This proposed cutoff date is more than a year *before* the hearings in the docket even commenced and violates past Commission decisions on grandfathering. There is no sound basis to start implementing retroactive rates in this docket. Instead, this docket should follow precedent which means any new rates to be imposed on any or all classes should be done so with an effective date that takes place *after* the Commission's ultimate vote in this proceeding. There are numerous examples of the Commission protecting customers from rate changes that would retroactively disadvantage them.[95]

B. Commissioners have Indicated Clear Support for Grandfathering.

At the August 2015 Open Meeting, now-Chairman Little and the Commission's General Counsel, Janice Alward, confirmed their opinions that retroactive ratemaking would be illegal. The following back and forth occurred at the TEP REST Plan hearing, Docket # E-01933A-15-0100 on August 18, 2015:

> Little: In your experience, Ms. Alward, how many times has the Commission approved retroactive rate structures? I'm not looking for a precise number but is it frequent, non-frequent, nearly non-existent?
>
> Alward: I would have to say, in all the many years, it's nearly non-existent.
>
> Little: So, what you're saying is there's no meaningful

[94] Fulmer Direct Test., EFCA Ex. 6 at 18-20; Broderick Tr., Vol IV at 792:20 – 793:3, 825:4-10.

[95] Corporation Decision # 74202 (deciding that "[r]esidential customers who either have a DG system installed on their homes now, or who submit an application and a signed contract with a solar installer to APS by December 31, 2013, shall have their system grandfathered under the current net metering policies… ."; Corporation Decision # 55228 (all customers with pre-existing technology were grandfathered when a new rate was adopted instead of placed on a new plan as Staff recommended); Corporation Decision # 73183 (Commission declines to apply retroactive REST surcharge rates on customers that already received REST incentives); Commission Decision # 71285.

> precedent for retroactive rate changes, in this Commission.
>
> Alward: That's true. And, typically, case law across the country, as well as here, would be against retroactive ratemaking as a ratemaking principle.
>
> Little: It would almost in fact be an ex-post-facto type situation, would it not?
>
> Alward: Yes, it could be viewed that way. [96]

Commissioners Bob Burns and Little followed this exchange by expanding their own statements and thoughts to outline why they are against retroactive rates and charges.

> Burns: On the discussion of whether or not the Commission ever does a retroactive rate increase, I agree that it probably doesn't happen. But, the message that gets sent out if the utility is sending out to their customers, a notice that they are going into a rate case, and they going to consider asking for a retroactive rate increase. That's a notice everyone reads and sees, they don't hear and understand that it doesn't really happen at the Commission. We don't have that newsletter ability. They have a much easier method of notifying the public, even if it's not something that might come to pass.[97]
>
> Little: I would just like to echo the comments of Commissioner Burns… I think in the absence of any specific rulemaking. I would agree that is probably inappropriate to have companies putting out grandfather dates that says this is the date we are going to stick in the sand and it is going to be a retroactive increase. I would say that precisely because of what Ms. Alward just shared with us. It is inappropriate to do that, because it simply has no precedent at the Commission. And I would strongly encourage all utilities, in the state of Arizona, not just electric utilities, but all utilities, to avoid trying to communicate that message to their ratepayers."[98]

Accordingly, the Commission should avoid retroactive rate making and any changes to NEM should be in effect as of the date of a decision in this docket.

C. SSVEC's Grandfathering Proposal is Facially Improper.

In an astonishing and unprecedented move, SSVEC's proposed "grandfathering" plan leaves the grandfathered DG customer *in a worse financial place than a new DG customer*. The illogical nature of such a proposal cannot be overstated. To be clear, Mr. Huber testified that SSVEC's

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[96] ACC hearing for Commission Docket No. E-01933A-15-0100, at 4:11:55 – 4:13:03.
[97] *Id.* at 4:13:03 – 4:14:27.
[98] *Id.* at 4:14:28 - 4:15:17.

grandfathering proposal "means that [existing DG customers are] getting special treatment."[99] Despite this claim of "special treatment," this proposal actually leaves those grandfathered customers *worse off.*

To illustrate the problematic outcome of SSVEC's grandfathering proposal, it is helpful to look to the actual impact on those that have already adopted solar. According to SSVEC, average customers with DG today are paying $36.36 per month but would be paying $76.11 per month after they are "grandfathered."[100] In fact, the grandfathered DG customer would be paying *more than* the average of $65.51 per month that a DG customer without the grandfathering protection would pay.[101]

This grandfathering proposal, if adopted, would lead to unjust and outrageous results for existing DG customers and should be rejected.

D. The Commission Encouraged DG Adoption and Should Support Adopters.

The Company paid its members upfront payments of thousands of dollars to encourage them to adopt DG,[102] but now is proposing to change the rules for those customers that invested in good faith. It is a classic bait and switch to punish those that did exactly what was asked of them. The ACC currently authorizes incentives for any number of different programs. Why would customers participate in an incentive program going forward if they knew that it may ultimately result in them being stuck in an uneconomical and bad deal in the long run? The Commission's ability to guide future customer behavior is at stake when it decides to grandfather or not grandfather customers who do exactly what the Commission asked of them.

IX. STAFF'S FALLBACK PROPOSAL SHOULD NOT BE ADOPTED.

To the extent Staff has offered an alternative rate,[103] it must also be rejected for several of the reasons discussed above. Staff Witness Van Epps originally submitted in his direct testimony that the Commission could pick any export rate between the avoided cost and retail rates for NEM exports. Staff and SSVEC have not, however, performed *any* analysis that supports this arbitrarily suggested number. Such a rate for NEM would be based on sheer conjecture and based on "some

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[100] Huber Tr., Vol. I at 197:3-5.
[100] Huber Tr., Vol. I at 197:3-5.
[101] Huber Tr., Vol. I at 197:23 – 198:2.
[102] Huber Tr., Vol. I at 194:13-17, 195:1-3.
[103] Van Epps Direct Test., Staff Ex. 9 at 7:1-21.

midpoint" grabbed from "thin air" between short term avoided DG costs and the retail SSVEC rate. Staff has now withdrawn its proposal but nonetheless, such an arbitrary proposal should be rejected by the Commission.

X. CONCLUSION.

For the reasons stated above, the following actions should be taken:

(1) The Commission should find that SSVEC failed to meet its burden of proof imposed pursuant to A.A.C. § R14-2-2305 and reject any proposal that treats DG customers differently than other residential customers;

(2) This docket should not recognize or provide for the creation of a separate class for DG residential customers;

(3) The Commission should place no weight on the Cost of Service Study provided in this docket with regard to valuing DG, and should reject all DG-only rate proposals due to SSVEC's failure to provide all accurate schedules as required by A.A.C. § R14-2-103;

(4) Decline to "waive" SSVEC's compliance with NEM requirements as SSVEC is not legally permitted to waive such compliance;

(5) Reject SSVEC's lost fixed cost calculations for lack of credible support and decline to adopt the proposed R-DG and R-DG E rates that were allegedly designed in an effort to recover these erroneously calculated lost fixed costs;

(6) Reject the proposed increases to the fixed customer charge for residential DG and non-DG customers, or in the alternative, approve only one reasonable increase to the current fixed customer charge equally applicable to all residential customers (both DG and non-DG customers);

(7) This docket should reject proposals to set compensation rates premised on a proxy of wholesale energy rates and reject Tariff NM-1;

(8) Banking of NEM credits should be permitted to continue;

(9) Regardless of any action taken in this docket, all DG customers that have submitted interconnection applications for DG systems prior to the final Order issued in this rate case should be grandfathered and continue to utilize currently-implemented rate design and NEM and be subject

to currently-existing rules and regulations impacting DG. Additionally, grandfathered customers should not be subjected to any increase in fixed customer charges adopted herein for new DG customers;

(10) All rate proposals offered by Staff should be rejected; and

(11) The Commission should find a more equitable and gradual method of helping SSVEC recover the increase in revenue that it seeks. EFCA recommends the implementation of modest volumetric rate increases to allow for much more gradual rate impacts. SSVEC should create experimental rates focused on time-of-use and design a rate that reflects peak load considerations on its system and if successful, propose a full roll out of such rate designs in its next rate case. These rate design alternatives would preserve customer choice for SSVEC members, reduce future rates, and enable SSVEC to remain financially healthy.

Respectfully submitted this 14th day of July, 2016.

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Original and 13 copies filed on
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