

ORIGINAL

EXCEPTION



0000172132

BEFORE THE ARIZONA CORPORATION COMMISSION

2 COMMISSIONERS

3 DOUG LITTLE - Chairman
4 BOB STUMP
5 BOB BURNS
6 TOM FORESE
7 ANDY TOBIN

Arizona Corporation Commission

DOCKETED

JUL 29 2016

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8 IN THE MATTER OF THE APPLICATION OF
9 UNS ELECTRIC, INC. FOR THE
10 ESTABLISHMENT OF JUST AND
11 REASONABLE RATES AND CHARGES
12 DESIGNED TO REALIZE A REASONABLE
13 RATE OF RETURN ON THE FAIR VALUE OF
14 THE PROPERTIES OF UNS ELECTRIC, INC.
15 DEVOTED TO ITS OPERATIONS
16 THROUGHOUT THE STATE OF ARIZONA
17 AND FOR RELATED APPROVALS.

DOCKET NO. E-04204A-15-0142

**WAL-MART STORES, INC.'S
EXCEPTIONS TO RECOMMENDED
OPINION AND ORDER**

14 Wal-Mart Stores, Inc. ("Walmart") hereby files these Exceptions to the Recommended
15 Opinion and Order filed in this matter on July 20, 2016 (the "RO&O").

16 Walmart has three stores in UNS Electric Inc.'s ("UNSE") service territory, which
17 currently take service on the Large Power Service schedule ("LPS"). UNSE proposes to move
18 these stores to the Large General Service schedule ("LGS") as part of this proceeding. Exh.
19 Walmart-2 at 4 (Hendrix direct).

21 **ALTERNATIVE GENERATION SERVICE**

22 As part of the settlement agreement of the application of UNS Energy to be acquired by
23 Fortis (approved in Decision No. 74689 (August 12, 2014)), UNSE agreed to propose a "buy-
24 through" tariff available to LPS customers. Decision No. 74689, Exhibit A, Attachment A,
25 Condition No. 31. UNSE proposed Experimental Rider 14, Alternative Generation Service
26 ("AGS") in this proceeding. UNSE therefore proposed that the AGS would be available for a

1 maximum of 10 MW of peak load, that it be available for no more than four years, and that it
2 would be available only to LPS and LPS-TOU customers with peak demands of 2,500 kW or
3 more. Exh. UNSE-31 at 56-57 (Jones). While UNSE proposed AGS to satisfy its commitments
4 under the settlement agreement, it did not support implementation of the tariff. Exh. UNSE-31 at
5 56 (Jones).

6 Freeport Minerals Corporation and Arizonans for Electric Choice and Competition
7 (collectively, "AECC"), Noble Americas Energy Solutions LLC (collectively with AECC,
8 "AECC/Noble") and Walmart each proposed certain modifications to AGS. Nucor Corp. also
9 found one or more of the AGS proposals to be a workable option for a buy-through tariff. The
10 RO&O declines to adopt any buy-through proposal, based on concerns that a buy-through tariff
11 may adversely impact UNSE's other customers. RO&O at 96.

12 An AGS program would not harm other non-AGS customers. Rather, an AGS program
13 would replace UNSE's own wholesale market purchases with those of the customers
14 participating in AGS, and shift the risk of the UNSE's wholesale market purchases from the its
15 ratepayers to the AGS customers. Exh. Walmart-2 at 9 (Hendrix). There is ample evidence in
16 Arizona from Arizona Public Service Company's AG-1 program, and in various other
17 jurisdictions from around the country (including in the territory in New York served by Central
18 Hudson which is also owned by Fortis) and the world (including provinces of Alberta and
19 Ontario in Canada, where Fortis operates distribution utilities) that permitting customers to
20 choose their generation service providers is an effective way for customers to manage their
21 electricity needs to better suit their business needs. Exh. Walmart-3 at 6 (Hendrix).

22 The Commission should modify the RO&O to adopt a buy-through tariff. Additionally,
23 rather than limiting AGS to only the LPS and LPS-TOU classes, AGS should be available to all
24 commercial and industrial customer classes. UNSE objected to allowing all rate classes to
25 participate, because the Fortis settlement specified only that a buy-through program be proposed
26 for the LPS class. Exh. UNSE-32 at 52 (Jones). Nothing about the Fortis settlement prohibited

1 the Commission from requiring that a buy-through program be available to a broader class of
2 customers, however. Allowing a significant number of customers the opportunity to participate
3 in AGS would attract more generation service providers and create a more robust and vibrant
4 marketplace from which AGS customers could obtain their electric generation service. Exh.
5 Walmart-2 at 7 (Hendrix).

6 Further, UNSE simultaneously proposes to shrink the LPS class, by moving ten LPS
7 customers (including Walmart) to the LGS class. Exh. Walmart-3 at 5 (Hendrix). As a result,
8 only 4 customers will remain in the LPS and LPS-TOU classes. *Id.* and Exh. Walmart-2 at 6
9 (Hendrix); Tr. at 2032:10 – 2033:7 (Jones). Nothing about the operational characteristics of
10 Walmart's three locations in the UNSE service territory will have changed since the time of the
11 Fortis settlement – only the definition (by UNSE's tariff) of an LPS customer. Given these
12 circumstances, at the very least, AGS should be available to all LPS and LGS customers.

13 In addition, the program cap of a buy-through should be set at 150 MW, rather than the
14 10 MW proposed by UNSE. The 10 MW limit is completely arbitrary and not justified by
15 UNSE. Exh. Walmart-2 at 7 (Hendrix). UNSE's proposed cap, along with the limited number
16 of proposed customers eligible, would severely restrict the number of generation service
17 providers that would be interested in participating in the AGS program. Exh. Walmart-2 at 7
18 (Hendrix direct). A program cap of 150 MW is appropriate, as UNSE is already purchasing
19 175MW from the wholesale power market. Exh. Walmart-2 at 7 (Hendrix). Allowing 150 MW
20 to participate in AGS would significantly reduce UNSE's reliance on the wholesale market and
21 transfer the market risk to customers who are willingly participating in the AGS program, while
22 sheltering UNSE's other ratepayers from market risk and volatility related to its wholesale
23 purchases. Exh. Walmart-2 at 7 (Hendrix). Even after its recent acquisition of Gila River Unit 3
24 Generating Station, UNSE relies on wholesale market purchases to a greater extent than other
25 Arizona electric utilities. Exh. Walmart-2 at 8 (Hendrix).

26 The Commission should establish the threshold for a customer's participation in AGS at

1 1,000 kW. This minimum size would ensure that the participant is sufficiently large enough to
2 be a sophisticated user of electricity and not require any consumer protection requirements. Exh.
3 Walmart-2 at 6 (Hendrix). Further, a customer should be allowed to aggregate utility accounts
4 within its corporate family to meet the peak demand threshold. This will allow participating
5 customers to leverage economies of scale to reduce their generation supply costs. Exh. Walmart-
6 2 at 6 (Hendrix).

7 The Commission should not restrict the AGS program to 4 years, as UNSE had proposed.
8 Limiting the term of a buy-through program to 4 years eliminates the ability of customers to
9 purchase long-term contracts, especially for off-site renewable contracts like solar and wind, due
10 to the length of contract term needed by renewable developers to build new projects. Exh.
11 Walmart-2 at 7-8 (Hendrix). Many customers would like to purchase more renewables than
12 UNSE's forecasted 5% Utility Scale Renewables of its total resource mix. *Id.* Adopting a buy-
13 through program without a limited term will enable customers to purchase large scale off-site
14 renewables if they desire and it fits their business needs. *Id.* And such purchases of additional
15 renewable resources through the AGS program would be at the AGS customer's own choosing
16 and cost, and would not harm any other UNSE customer. *Id.*

17 UNSE proposes a management fee for the AGS tariff of \$0.0040 per kWh. Exh. UNSE-
18 31 at Exhibit CAJ-4, AGS Tariff Original Sheet No. 714-2 (Jones). While UNSE should be
19 allowed to recover the actual just and reasonable costs of providing AGS services, UNSE has not
20 provided any documentation supporting its proposed management fee. Exh. Walmart-2 at 6
21 (Hendrix). The Commission should approve a cost-based management for the AGS.

22 23 **CONCLUSION**

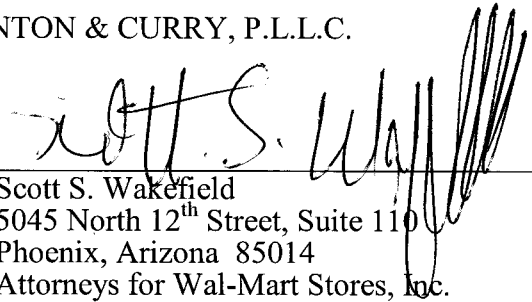
24 The Commission should modify the RO&O to approve a buy-through program of 150
25 MW that is available to at least all LPS and LGS customers (if not all commercial and industrial
26 customers) with demand of 1,000 kW or greater, and permit aggregation of accounts within a

1 corporate family to meet that threshold. The program should not be limited to a specific
2 duration, and should provide a fair management fee to cover UNSE's costs of providing the
3 program.

4
5 RESPECTFULLY SUBMITTED this 29th day of July, 2016.

6
7 HIENTON & CURRY, P.L.L.C.

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9 By



Scott S. Wakefield
5045 North 12th Street, Suite 110
Phoenix, Arizona 85014
Attorneys for Wal-Mart Stores, Inc.

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this 29th day of July, 2016 with:

Docket Control
Arizona Corporation Commission
1200 W. Washington Street
Phoenix, AZ 85007

COPY of the foregoing HAND-
DELIVERED this 29th day of July, 2016 to:

Dwight Nodes
Chief Administrative Law Judge
Hearing Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

Jane Rodda
Administrative Law Judge
Hearing Division
Arizona Corporation Commission
400 W. Congress
Tucson, AZ 85701-1347
jrodda@azcc.gov

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

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

1 COPY of the foregoing mailed/e-mailed this
2 29th day of July, 2016 to:

3
4 Bradley S. Carroll
5 UNS Electric, Inc.
6 88 E. Broadway, MS HQE910
7 PO Box 711
8 Tucson, AZ 85702
9 bcarroll@tep.com
10 **Consented to Service by Email**

11 Michael W. Patten
12 Jason D. Gellman
13 Snell & Wilmer LLP
14 One Arizona Center
15 400 E. Van Buren Street
16 Phoenix, AZ 85004
17 Attorneys for UNSE
18 mpatten@swlaw.com
19 jgellman@swlaw.com
20 jhoward@swlaw.com
21 docket@swlaw.com
22 **Consented to Service by Email**

23 Daniel W. Pozefsky, Chief Counsel
24 RUCO
25 1110 W. Washington, Suite 2200
26 Phoenix, AZ 85007
dpozefsky@azruco.gov
Consented to Service by Email

Nucor Steel Kingman LLC
c/o Doug Adams
3000 W. Old Hwy 66
Kingman, AZ 86413

Robert J. Metli
Munger Chadwick PLC
2398 E. Camelback Road, Suite 240
Phoenix, AZ 85016
Attorneys for Nucor
rjmetli@mungerchadwick.com
Consented to Service by Email

Lawrence V. Roberson, Jr.
PO Box 1448
Tubac, AZ 85646
Attorney for Noble Solutions
tubaclawyer@aol.com

Court S. Rich
Rose Law Group PC
7144 E. Stetson Drive, Suite 300
Scottsdale, AZ 85251
Attorneys for TASC
crich@roselawgroup.com
Consented To Service By Email

Thomas A. Loquvam
Melissa M. Krueger
Pinnacle West Capital Corporation
PO Box 53999, MS 8695
Phoenix, AZ 85072-3999
Thomas.Loquvam@pinnaclewest.com
Melissa.Kruger@pinnaclewest.com
Consented to Service by Email

<p>1 2 3 4 5</p>	<p>Eric J. Lacey Stone Mattheis Xenopoulos & Brew, PC 1025 Thomas Jefferson St. NW 8th Floor, West Tower Washington DC 2007-5201 Attorneys for Nucor EJL@smxblaw.com <u>Consented to Service by Email</u></p>	<p>Timothy M. Hogan Arizona Center for Law in the Public Interest 514 W. Roosevelt Street Phoenix, AZ 85003 Attorneys for SWEEP, Vote Solar, WRA and ACAA thogan@aclpi.org <u>Consented to Service by Email</u></p>
<p>6 7 8 9</p>	<p>Michael Alan Hiatt Earthjustice 633 17th Street, Suite 1600 Denver, CO 80202 mhiatt@earthjustice.org jtauber@earthjustice.org <u>Consented To Service By Email</u></p>	<p>Gregory Bernosky Arizona Public Service Company PO Box 53999, M 9712 Phoenix, AZ 85072-3999 gregory.bernosky@aps.com</p>
<p>10 11 12 13 14</p>	<p>Rick Gilliam Director of Research and Analysis The Vote Solar Initiative 1120 Pearl Street, Suite 200 Boulder, CA 80302 rick@votesolar.org <u>Consented to Service by Email</u></p>	<p>Jeff Schlegel SWEEP Arizona Representative 1167 W. Samalayuca Drive Tucson, AZ 85704-3224 schlegelj@aol.com</p>
<p>15 16 17 18</p>	<p>Jill Tauber Managing Attorney, Clean Energy program Chinyere A. Osula, Associate Attorney Earthjustice Washington DC Office 1625 Massachusetts Avenue, NW, Suite 702 Washington DC 20036-2212</p>	<p>Ellen Zuckerman SWEEP Senior Associate 4231 E. Cataline Drive Phoenix, AZ 85018 ezuckerman@swenergy.org</p>
<p>19 20 21 22</p>	<p>Ken Wilson Western Resource Advocates 2260 Baseline Road, Suite 200 Boulder, CO 80302 ken.wilson@westernresources.org <u>Consented to Service by Email</u></p>	<p>C. Webb Crockett Patrick J. Black Fennemore Craig, PC 2394 E. Camelback Road, Suite 600 Phoenix, AZ 85016-3429 Attorneys for AECC wcrockett@fclaw.com pblack@fclaw.com <u>Consented To Service By Email</u></p>
<p>23 24 25 26</p>		

1 Steve W. Chriss
2 Senior Manager, Energy Regulatory Analysis
3 Wal-Mart Stores, Inc.
4 2011 S.E. 10th Street
5 Bentonville, AR 72716-0550
6 Stephen.Chriss@wal-mart.com

7 Cynthia Zwick, Executive Director
8 Arizona Community Action Association
9 2700 N. 3rd Street, Suite 3040
10 Phoenix, AZ 85004
11 czwick@azcaa.org
12 **Consented to Service by Email**

13 Craig A. Marks
14 Craig A. Marks, PLC
15 10645 N. Tatum Blvd, Suite 200-676
16 Phoenix, AZ 85028
17 Attorney for AURA
18 Craig.Marks@azbar.org
19 **Consented To Service By Email**

20 Pat Quinn
21 President and Managing Partner
22 Arizona Utility Ratepayer Alliance
23 5521 E. Cholla Street
24 Scottsdale, AZ 85254
25 patt.quinn47474@gmail.com

26 Briana Kobor
Vote Solar
Program Director – DG Regulatory Policy
360 22nd Street, Suite 730
Oakland, CA 94612
Briana@votesolar.org
Consented to Service by Email

Timothy Sabo
Snell & Wilmer LLP
One Arizona Center
400 East Van Buren Street
Phoenix, AZ 85004
Attorneys for Trico
tsabo@swlaw.com

Meghan H. Gabel
Osborn Maladon, PA
2929 N. Central Avenue, #2100
Phoenix, AZ 85012
Attorneys for AIC
mgrabel@omlaw.com
Consented to Service by Email

Gary Yaquinto, President & CEO
Arizona Investment Council
2100 N. Central Avenue
Suite 210
Phoenix, AZ 85004
gyaquinto@arizonaic.org
Consented to Service by Email

Kevin Higgins
Energy Strategies, LLC
215 S. State Street, Suite 200
Salt Lake City, UT 84111
khiggins@energystrat.com

Jay I. Moyes
Jason Moyes
Moyes, Sellers & Hendricks, Ltd.
1850 N. Central Avenue, Suite 1100
Phoenix, AZ 85004
Attorneys for FFPA
jimoyes@law-msh.com
jasonmoyes@law-msh.com
kes@krsaline.com
Consented To Service By Email

Jeffrey W. Crockett
CROCKETT LAW GROUP PLLC
2198 E. Camelback Road, Suite 305
Phoenix, Arizona 85016-4747
Attorney for Sulphur Springs Valley
Electric Cooperative, Inc.
jeff@jeffcrockettllaw.com
kchapman@ssvec.com
Consented To Service By Email

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

<p>Robert (Kip) Martin Coogan & Martin, PC 825 North Grand Avenue, Suite 200 Nogales, AZ 85621 Attorneys for FPAA</p> <p>Tom Harris, Chairman Arizona Solar Energy Industries Association 2122 W. Lone Cactus Drive, Suite 2 Phoenix, AZ 85027 Tom.Harris@AriSELA.org <u>Consented To Service By Email</u></p> <p>Vincent Nitido Trico Electric Cooperative, Inc. 8600 West Tangerine Road Marana, AZ 85653 vnitido@trico.coop</p>	<p>Kirby Chapman, CPA Sulphur Springs Valley Electric Cooperative, Inc. 311 E. Wilcox Sierra Vista, AZ 85635 kchapman@ssvec.com</p> <p>Gary D. Hays Law Office of Garry D. Hays, PC 2198 E. Camelback Road, Suite 305 Phoenix, AZ 85016 Attorney for the Arizona Solar Deployment Alliance ghays@lawgdh.com</p>
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By: 