

ORIGINAL

EXCEPTION



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Arizona Corporation Commission  
**DOCKETED**  
JUL 29 2016  
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**BEFORE THE ARIZONA CORPORATION COMMISSION**

**COMMISSIONERS**  
**DOUG LITTLE – CHAIRMAN**  
**BOB STUMP**  
**BOB BURNS**  
**TOM FORESE**  
**ANDY TOBIN**

IN THE MATTER OF THE  
APPLICATION OF UNS ELECTRIC,  
INC. FOR THE ESTABLISHMENT OF  
JUST AND REASONABLE RATES AND  
CHARGES DESIGNED TO REALIZE A  
REASONABLE RATE OF RETURN ON  
THE FAIR VALUE OF THE  
PROPERTIES OF UNS ELECTRIC, INC.  
DEVOTED TO ITS OPERATIONS  
THROUGHOUT THE STATE OF  
ARIZONA.

DOCKET NO. E-04204A-15-0142

**FRESH PRODUCE ASSOCIATION OF  
THE AMERICAS' EXCEPTION TO  
RECOMMENDED OPINION AND  
ORDER**

The Fresh Produce Association of the Americas (“FPAA”) hereby files its  
Exception to the Recommended Opinion and Order (“ROO”) issued by Administrative  
Law Judge Jane L. Rodda on July 20, 2016. FPAA relies upon and incorporates the  
arguments set forth in its pre-filed testimony, the testimony of FPAA witnesses at hearing,  
and FPAA’s Post-Hearing Briefs on file herein.

From the outset, FPAA must remind the Commission that it does not object “to the  
implementation of demand charges on its members” or oppose demand charges in general,

1 as the ROO perhaps unintentionally misstates in several places.<sup>1</sup> What FPAA does object  
2 to is the universal implementation of a demand *ratchet*—a related, but critically distinct,  
3 concept of rate design. The ROO recites many of the salient points that FPAA argued  
4 against demand ratchets in this proceeding, and affirms on its own accord that demand  
5 ratchets “are problematic and can create inequitable results.”<sup>2</sup> It implies more than once  
6 that demand ratchets do not properly match cost causation with revenue recovery.<sup>3</sup> It also  
7 affirms FPAA’s argument that demand ratchets send improper price signals.<sup>4</sup> Essentially,  
8 the ROO goes out of its way to highlight all the aspects of the existing problem, but stops  
9 short of actually doing anything about it, instead saying UNSE should “strongly consider”  
10 eliminating the demand ratchet in the next case. Choosing to kick that can down the road,  
11 however, comes at great expense and continuing economic harm to small- and medium-  
12 sized businesses that form the backbone of Santa Cruz County’s economy.

13 In addressing the optional MGS rate tariff that UNS Electric, Inc. (“UNSE” or  
14 “Company”) presented in its initial Post-Hearing Brief, the ROO mischaracterizes the  
15 resulting rate relief for FPAA members as an unreasonable cost-shift to other customers.<sup>5</sup>  
16 Although FPAA did not support that particular tariff proposal, FPAA strongly objects to  
17 any insinuation that helping FPAA will unfairly harm other customers. The unreasonable  
18 cost-shift is already happening now, as FPAA members (and similar counter-seasonal  
19 industrial customers) subsidize the rest of their class by paying a disproportionate share of  
20 demand-related costs during the summer months. Removing the ratchet for these users  
21 does not create a new inequity. Rather, it corrects an existing inequity that has benefitted  
22 the rest of the class for several years now. It should come as no surprise that “there are  
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24 <sup>1</sup> ROO, p. 8, lines 5-6; p. 9, lines 17-18.

25 <sup>2</sup> *Id* at p. 86, lines 15-16.

26 <sup>3</sup> *Id* at p. 86, lines 10-11, 20-21.

<sup>4</sup> *Id* at p. 87, line 2.

<sup>5</sup> *Id* at p. 85, lines 19-20.


1 other members in the MGS Class who did not intervene”, as those other members are the  
2 very beneficiaries of the subsidy presently paid by FPAA members.<sup>6</sup>

3 Lastly, the ROO briefly touches on the competition that FPAA faces from Texas,  
4 attributing much of Texas’ advantage over Arizona to “matters over which the  
5 Commission does not control, such as tax incentives.”<sup>7</sup> While it may not be a government  
6 imposed tax, *per se*, the effect of UNSE’s demand ratchet—which the ACC *does* have  
7 control over—is the same. To those produce businesses looking to expand or relocate in  
8 Santa Cruz County, the demand ratchet is viewed just like an unfair tax. It drives away  
9 new business and consequently new revenue for UNSE.

10 FPAA’s economic importance to Santa Cruz County is undisputed and even  
11 acknowledged by the ROO.<sup>8</sup> If such a large group of UNSE’s commercial customers is  
12 being hurt by an inequitable rate design today, FPAA fails to see the logic behind waiting  
13 to fix it for several more years. For the above reasons, FPAA respectfully requests that  
14 the Commission depart from the ROO and create an immediate categorical exemption  
15 from demand ratchets for counter-seasonal, low-load factor customers.

16 RESPECTFULLY SUBMITTED this 29<sup>th</sup> day of July 2016.

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25 <sup>6</sup> *Id* at p. 86, lines 7-8.

26 <sup>7</sup> *Id* at p. 85, lines 22-23.

<sup>8</sup> *Id* at p. 80, lines 18-19.

1 **ORIGINAL** and 13 **COPIES** of the foregoing  
2 filed this 29<sup>th</sup> day of July 2016, with:

3 Docket Control  
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7 **COPIES** of the foregoing mailed  
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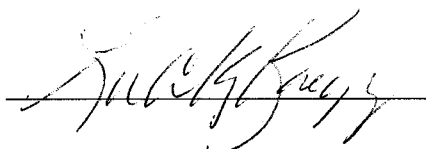


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