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Arizona Corporation Commission
DOCKETED
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Attorneys for Intervenors IBEW Locals 387, 1116, and 769

BEFORE THE ARIZONA CORPORATION COMMISSION

DOCKETED BY

**IN THE MATTER OF THE
COMMISSION'S INVESTIGATION OF
VALUE AND COSTS OF DISTRIBUTED
GENERATION.**

Docket No.: E-00000J-14-0023

**REPLY BRIEF ON BEHALF OF
INTERVENORS IBEW LOCAL UNIONS
387, 1116, AND 769**

Pursuant to the directive of Administrative Law Judge, Teena Jibilian, Intervenors, the International Brotherhood of Electrical Workers, AFL-CIO, CLC ("IBEW Locals") Local Unions 1116, 387, and 769, by and through undersigned counsel, hereby submit their Reply Brief in this docket.

I. IT IS THE ROLE OF THE LEGISLATURE VIA THE LEGISLATIVE PROCESS TO DECIDE IF CONTINUING TO SUBSIDIZE THE ROOFTOP SOLAR INDUSTRY IS NECESSARY.

Distilling the parties' positions advanced throughout this proceeding down to the most basic level reveals that the solar advocates flatly challenge the breadth and depth of the Corporation Commission's powers under the Arizona Constitution in relation to the inherent, reserved powers of the Arizona Legislature. That is, the solar advocates are transparently

1 attempting to meld into the Corporation Commission’s ratemaking process intangible,
2 unmeasurable, and many uncertain benefits (which result in the subsidization of rooftop solar
3 companies) for the purpose of gaining preferential market treatment. This exercise offends the
4 Arizona Constitution. The constitutional power and authority of the Corporation Commission is
5 delineated by Article 15, § 3 of the Arizona Constitution. Section 3 provides that:

6 The corporation commission shall have full power to, and shall, prescribe just and
7 reasonable classifications to be used and just and reasonable rates and charges to
8 be made and collected, by public service corporations within the state for service
9 rendered therein, and make reasonable rules, regulations, and orders, by which
10 such corporations shall be governed in the transaction of business within the state,
11 and may prescribe the forms of contracts and the systems of keeping accounts to
12 be used by such corporations in transacting such business, and make and enforce
13 reasonable rules, regulations, and orders for the convenience, comfort, and safety,
14 and the preservations of the health, of employees and patrons of such
15 corporations; Provided, that incorporated cities and towns may be authorized by
16 law to exercise supervision over public service corporations doing business
17 therein, including the regulation of rates and charges to be made and collected by
18 such corporations; Provided further, that classifications, rates, charges, rules,
19 regulations, orders, and forms or systems prescribed or made by said corporation
20 commission may from time to time be amended or repealed by such commission.

21 Glaringly absent from the Corporation Commission’s powers is the authority to subsidize
22 private, unregulated companies at the expense of and to the detriment of many ratepayers. In
23 fact, such a proposition runs directly afoul of the Corporation Commission’s mandate to
24 “prescribe just and reasonable classifications to be used and just and reasonable rates and charges
to be made . . .” because it is inherently unjust. Ariz. Const. Art. 15, § 3. Perhaps it even runs
afoul of the gift clause. Ariz. Const. Art. 9, § 7. This subsidization results in rooftop solar
customers “getting a free ride on the system.” (Overcast Hearing Testimony, Tr. 849:9). Almost
every party in this matter agrees that there is a considerable cost shift from rooftop solar
customers to non-rooftop solar customers. (*See, e.g.*, Huber Hearing Testimony, Tr. 1494:1-6;
Exhibit TEP-3 (Overcast Direct Testimony) at 36; Solganick Testimony, Tr. 1337; 9-10; and

1 Exhibit AIC-2 (O'Sheasy Direct Testimony) at 19:1-3). Baking non-economic and societal
2 benefits into rate design will only serve to exacerbate this injustice because those benefits are not
3 quantifiable, are unknown, and may never even come to fruition.

4 Protecting rooftop solar companies from what their advocates allege could be a total
5 decimation of their businesses has no place in ratemaking. Instead, ratemaking consists of
6 determining the prudence of utility investment, calculating fair value of utility plant and the
7 weighted cost of capital, establishing a revenue requirement for a utility, allocating utility costs
8 among customer classes, and designing rates for the recovery of those costs. The proper venue
9 to address the solar advocates' concerns regarding their viability in this market is the Arizona
10 Legislature through the normal legislative processes.

11 **II. ASSESSING THE BENEFITS OF DISTRIBUTED GENERATION OVER**
12 **A 20-30 YEAR TIME PERIOD IS IMPOSSIBLE, AND VALUING**
13 **INTANGIBLE BENEFITS TRIGGERS AN INFINITE INQUIRY.**

14 Another flaw in the positions advanced by the solar advocates is that the Corporation
15 Commission should adopt a value of solar methodology that analyzes benefits (including the
16 infinite number of intangible benefits and costs) over a 20+ year time period. This type of
17 forecasting is illogical, nonsensical, and impossible. Rendering firm assessments as to the future
18 benefits and costs of rooftop solar is a task bordering on alchemy. This is because the crystal
19 ball is always cloudy. There is no telling what the rooftop solar industry will look like in two
20 decades. What can be predicted with near certainty, however, is that rooftop solar will change
21 dramatically over the next several decades. What history repeatedly tells us is that innovation is
22 everywhere. A simple example of this is the transformation of the mobile phone industry over
23 the past three decades. It's simply not possible to know what the future of rooftop solar holds.
24

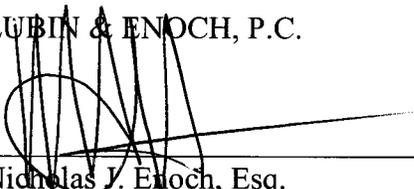
1 Not only is forecasting hypothetical benefits and costs 20+ years impossible, projecting
2 intangible and unmeasurable benefits triggers an infinite inquiry. For example, how can a value
3 be placed on the dangers rooftop solar units present to public utility workers? How can a value
4 be attributed to the dangers rooftop solar units pose to firefighters? Attached hereto as Exhibit A
5 is a chart outlining just several of potential costs and benefits that could be considered in peeling
6 back the endless layers in such an inquiry. It is for this reason that only measurable, tangible
7 benefits and costs should be considered in ratemaking.

8
9 **III. CONCLUSION**

10 For the foregoing reasons, the IBEW Locals respectfully request that the Corporation
11 Commission adopt a methodology that does not continue the subsidization of rooftop solar
12 companies and only attributes value and cost to tangible, measurable benefits.

13 RESPECTFULLY SUBMITTED this 5th day of August, 2016.

14 LUBIN & ENOCH, P.C.

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17 _____
18 Nicholas J. Enoch, Esq.
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20 Original and thirteen copies of the IBEW Locals' Response Brief filed this 5th day of August,
21 2016, with:

22 Arizona Corporation Commission
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Copies of the foregoing transmitted electronically or mailed this same date to those identified on
the attached service list for this docket.

/s/ Cristina Gallardo-Sanidad

EXHIBIT A

VALUE OF SOLAR



How, and to what extent, do we attribute value to short-term jobs provided to residential DG installers in Arizona, given the fact they are amongst the lowest paid compared to their counterparts across the country?

How do we attribute a value to the dangers associated with public utility employees having to interact and work with residential DG?

How do we attribute a value to the yet-to-be invented and deployed technologies - and the jobs associated therewith - that could (and, in all likelihood, will) displace and make obsolete the 2016 version of residential DG?

How and why does the ACC promote the private solar industry when it is not a central stakeholder as set forth in Article XV, § 3 of the Arizona Constitution?

What value do we place on the ACC's departure from a traditional COS analysis to a VOS analysis given the attendant regulatory expense that would place upon the ACC, its staff, RUCO and, in turn, Arizona taxpayers?

How do we attribute a value to the dangers posed by residential DG to firefighters?

How do we attribute a value to the environmental cost associated with producing, transporting, and disposing of residential solar panels?

What value do we place on the moral hazard associated with grandfathering existing residential DG customers?

Illustrative Costs & Benefits of DG (but from whose perspective?)

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