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Arizona Corporation Commission
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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
TUCSON ELECTRIC POWER COMPANY FOR
APPROVAL OF ITS 2016 RENEWABLE
ENERGY STANDARD IMPLEMENTATION
PLAN

DOCKET NO. E-01933A-15-0239

IN THE MATTER OF THE APPLICATION OF
TUCSON ELECTRIC POWER COMPANY 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 TUCSON ELECTRIC
POWER COMPANY DEVOTED TO ITS
OPERATIONS THROUGHOUT THE STATE OF
ARIZONA AND FOR RELATED APPROVALS

DOCKET NO. E-01933A-15-0322

**MOTION TO STRIKE TESTIMONY
OF LON HUBER**

The Energy Freedom Coalition of America (“EFCA”) hereby files this Motion to Strike
Testimony of Lon Huber.

On August 22, 2016, Judge Rodda issued a Procedural Order (the “Order”) ordering that;
1) “issues related to changes to net metering and rate design for new DG customers shall be
deferred to a Phase 2 of the evidentiary hearing at a date to be determined, but which will convene

1 following a final decision in the Value of DG docket;” and 2) “the portions of the Surrebuttal and
2 Rejoinder testimony related to Phase 2 shall be filed at a date to be determined.”¹

3 On August 24, 2016, the undersigned attorney for EFCA became aware that RUCO witness
4 Lon Huber may be intending to file testimony related specifically to proposed alternatives to net
5 metering (“NEM”). That same day a message was left for RUCO counsel, Jordy Fuentes, to
6 initiate a discussion and to make sure that RUCO was aware of the Order. On August 25, 2016,
7 Mr. Fuentes and EFCA’s counsel had a conversation whereby RUCO was informed of EFCA’s
8 concerns that RUCO would be expanding the scope of the proceeding in violation of the Order if
9 it filed testimony related to changes to net metering and solar customer rate design.

10 Nevertheless, on August 25, 2016, RUCO filed the Surrebuttal Testimony and Settlement
11 Testimony of Lon Huber (the “Huber Testimony”). The Huber Testimony includes six pages of
12 discussion of RUCO’s proposed “RPS Credit Option”² and a page of discussion arguing for the
13 imposition of a meter fee exclusively on distributed generation solar (“DG”) customers.³

14 Both of these sections of testimony clearly and unequivocally “relate to” net metering and
15 DG rate design and, therefore, according to the Order, are to be discussed in Phase 2 of this Docket.
16 The PO did not provide the parties discretion on this issue. As set forth above, the Order states
17 that surrebuttal and rejoinder testimony “related to changes to net metering and rate design for new
18 DG customers” is not to be filed in Phase 1. The Order stated that such testimony “shall be filed
19 at a date to be determined.”⁴

20 The rationale for this decision is obvious. Judicial economy and efficiency suggests that a
21 single hearing on related issues can be more efficient than multiple hearings on the same issues.
22 In fact, the Order itself makes this same point very succinctly stating that moving the issues to
23 Phase 2, “will benefit judicial economy and reduce the burden of multiple hearing appearances for
24 many of the parties.”⁵

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27 ¹ Order, 2:23-3:3. (emphasis added)

² See Huber Testimony, at 7:3-12:2.

28 ³ *Id.* at 13:1-18

⁴ Order, 3:1-3. (emphasis added)

⁵ Order, 2:12-16.

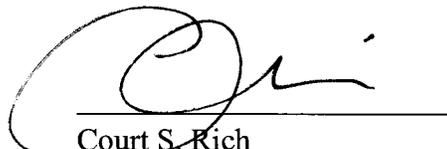
1 The Huber Testimony is obviously “related to changes to net metering and rate design for
2 new DG customers” as it both proposes specific charges applicable only to DG customers and
3 proposes a procedure for crediting the output from DG systems. For example, RUCO’s RPS Credit
4 Option proposes a compensation level for DG energy. Clearly, the rate paid for this electricity is
5 related to the benefits and costs of DG and those issues are plainly “related to” NEM and solar rate
6 design. Permitting these portions of the Huber Testimony in Phase 1 will take the Phase 1
7 proceeding down the exact path that the Order was attempting to avoid.

8 RUCO argues that because the Commission instituted a small meter fee in the UNSE Rate
9 Case and adopted an optional RPS Credit Rate that means those items should be discussed in Phase
10 1 despite the language of the Order. In trying to argue why its testimony is somehow appropriate,
11 RUCO simply ignores that neither the meter fee, nor the RPS Bill Credit Option even would have
12 been before the Commission in the UNSE Rate Case had they not been discussed in the context of
13 changes to NEM and solar rate design. To be clear, these two proposals cannot be talked about in
14 a bubble and were not discussed and vetted in a bubble in the UNSE Rate Case. Suggestions that
15 these proposals, out of the many proposals put forward in this case and others, are capable of fairly
16 being discussed without a broader discussion of the value of DG solar, the impact on DG
17 ratepayers, cost of service, and many other issues are not credible.

18 It would be grossly unjust for RUCO to be permitted to introduce evidence supporting its
19 proposals related to NEM and DG in Phase 1.

20 WHEREFORE, EFCA respectfully requests that an order be entered striking page 7, line
21 3, through page 12, line 2 and page 13, lines 1 through 18 of the Huber Testimony and clarifying
22 that the RPS Bill Credit Option and a DG meter fee will not be the subject of Phase 1 of this
23 proceeding.

24 **RESPECTFULLY SUBMITTED** this 29th day of August, 2016.

25
26 
27 Court S. Rich
28 Rose Law Group pc
Attorney for EFCA

1 **Original and 13 copies filed on**
2 **this 14th day of August, 2016 with:**

3 Docket Control
4 Arizona Corporation Commission
5 1200 W. Washington Street
6 Phoenix, Arizona 85007

7 *I hereby certify that I have this day served a copy of the foregoing document on all parties of*
8 *record in this proceeding by regular or electronic mail to:*

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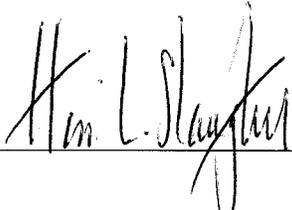
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