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BEFORE THE ARIZONA CORPORATION COMMISSION

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COMMISSIONERS  
DOUG LITTLE, Chairman  
BOB STUMP  
BOB BURNS  
TOM FORESE  
ANDY TOBIN

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

Arizona Corporation Commission  
**DOCKETED**  
AUG 31 2016

DOCKETED BY

**RUCO'S RESPONSE TO EFCA'S MOTION TO STRIKE**

The Residential Utility Consumer Office ("RUCO") hereby responds to EFCA's Motion to strike the Testimony of Lon Huber on Rate Design as follows.

RUCO believes, based on the intent of Phase 2, previous Commission action, and the illogical consequences of EFCA's broad interpretation of the procedural order language, that EFCA's motion should be denied without hesitation.

EFCA argues that the Commission is bound by a broad interpretation of the ALJ's Procedural Order of August 22, 2016 which provided that "issues related to changes to net metering and rate design for new DG customers shall be deferred to Phase II of the

1 evidentiary hearing....” (Emphasis added) EFCA fails to acknowledge that Phase 2 in this  
2 case is patterned after Phase 2 created in the UNS Electric rate case. Phase 2 in that case  
3 was created to provide a forum to hear arguments on issues directly impacted by the, soon  
4 to be completed, Value of Solar docket. This is intuitive enough that two other intervenors,  
5 from the solar industry, submitted testimony on the very same topics that EFCA is  
6 demanding be stricken from RUCO witness Huber’s testimony.

7 EFCA’s sole argument hinges on the single word “related” and the complete  
8 disregard of the following two words, “changes to,” in the Ordering paragraph. If one takes  
9 such an expansive view of the term “related,” as EFCA suggests, then there are very few  
10 remaining issues before us. If it was truly the ALJ’s intent, to fixate on the word “related,”  
11 and ignore “changes to” right after it, and actually move to Phase 2 all issues that broadly  
12 “relate to’ net metering and DG rate design,” there would be very little need for a Phase I.  
13 See EFCA Motion to Strike at 2. To illustrate this point, the value proposition of net  
14 metering, as has been shown, is impacted by rate design. Therefore, even setting rates for  
15 non-DG customers would need to be pushed into Phase 2. Revenue allocation, revenue  
16 requirement, and fixed charges are examples of other issues that “relate to’ net metering  
17 and DG rate design,” and would need to be moved to Phase 2.

18 Where does this line of reasoning stop? Ironically, the issue of the fixed charge,  
19 which EFCA is not asking to be moved to Phase 2, is more closely related to net metering  
20 and rate design for new DG customers, than the RPS Credit option. By a utility increasing  
21 the fixed charge of a rate, the volumetric charge component of a rate necessarily is  
22 reduced. This is especially true with two-part rates. This reduction would be considered a  
23 change to rate design and it would affect new DG customers. This reduction in the  
24 volumetric charge also directly affects the retail rate a customer pays for power. Such a

1 reduction in retail rate, directly reduces net metering, which is based on the retail rate.  
2 Thus, there is a clear direct link between fixed charges and rate design for new DG  
3 customers and net metering. Yet, EFCA failed to request that Mr. Huber's testimony on  
4 fixed charges also be stricken. This fixed charge reasoning alone defeats EFCA's  
5 argument to have portions of Mr. Huber's testimony stricken.

6 In surrebuttal testimony, RUCO addressed specific issues that were supported  
7 unanimously by Commissioners in UNS Electric's already completed portion of their rate  
8 case, and left testimony on its many options for DG rate design and reforms to net  
9 metering for Phase 2. Yet, EFCA argues, these small portions of Mr. Huber's surrebuttal  
10 testimony should be stricken even though all five commissioners approved implementation  
11 of these policies before a Phase 2 proceeding. EFCA is simply attempting to manipulate  
12 the spirit and intent of Phase 2, by way of a very broad interpretation of the ALJ's  
13 Procedural order, which frankly only serves to continue EFCA/TASC's go-to strategy of  
14 delay, cloud, and maintain the status quo.

15 Even if the ALJ's chooses to interpret the language of the Procedural Order broadly,  
16 the RPS Credit option is not a rate nor does it change net metering. EFCA displays a willful  
17 ignorance of the RPS Credit Option by characterizing it as such. The RPS Credit option is  
18 a compensation mechanism. Most importantly, it is optional. A new DG customer, when  
19 choosing this option, selects any one of the Company's existing rate offerings, available to  
20 all customers. No rate is created or modified. Again, the crediting mechanism is not  
21 affected by changes to the net metering rules. A customer selecting the RPS Credit option  
22 is compensated at a predetermined rate for a contractual term of 20 years. Net metering  
23 could change or completely go away and the RPS Credit option compensation would  
24 remain unchanged. The RPS Credit option also starts at a value very close to the retail

1 rate so it is not reliant on the Value of Solar docket for the time being. Thus, there is no  
2 direct link between the RPS Credit option and “changes to net metering and rate design for  
3 new DG customers.”

4 The proposed meter charge for DG customers also is not a rate. It is an additional  
5 charge for a sub-class of customers that require additional hardware and services. The  
6 charge would sit on top of whatever rate a new DG customer selected and is not tied to the  
7 rate. Also, there is no direct link between the kWh to kWh offset net metering rests upon  
8 and the proposed meter charge. As such, the proposed meter charge is not directly  
9 “related to changes to net metering and rate design for new DG customers” and the Value  
10 of Solar docket also will not help inform the Commissioners, when implementing this  
11 charge.

12 Probably the most important point that can be made in favor of RUCO’s argument is  
13 the very recent Commission precedent created in UNSE Decision, Decision No. 75697. It  
14 was docketed on August 18, 2016. The Procedural Order was docketed on August 22,  
15 2016. Procedurally, the UNSE case is virtually identical to the present case. In UNSE, the  
16 Commission deferred the rate design and net metering issues, directly impacted by the  
17 Value of Solar docket, to a Phase 2 proceeding and approved the exact same measures in  
18 question that RUCO addresses in Mr. Huber’s testimony in the interim. See Decision No.  
19 75697 at 118, and 142. Now, EFCA wants to either simply ignore the Commission’s  
20 actions in Decision No. 75697 or apply an unreasonably broad interpretation of the  
21 Procedural Order which would have the effect of hand-cuffing the Commission from taking  
22 interim action which it clearly felt compelled to do in the UNSE case.

23 In UNSE, the Commission could not have been clearer in describing its desire to  
24 take action on these issues as soon as possible, yet pushing to Phase 2 complicated

1 issues directly related to net metering and rate design for new DG customers until after the  
2 Value of Solar docket is completed. For instance, the Commission stated the following in  
3 its Decision:

4 While we believe it is important to incorporate the results of the Value of DG docket  
5 into our consideration of the DG issues specific to UNSE, *we also believe that the second  
6 phase of this proceeding should not be unnecessarily delayed.*

7 *Mere adherence to the status quo, as Arizona moves into an era dominated by the  
8 changes and opportunities of increased distributed generation on the grid, is unlikely to  
9 serve the public interest.*

10 Furthermore, we are concerned that outdated rate designs may contribute to under-  
11 recovery of fixed costs and may not adequately reflect cost causation. Sending correct  
12 price signals to customers, avoiding misaligned subsidies and incentivizing efficiencies and  
13 innovation are critical if peak system load is to be reduced and efficient use of system  
14 resources is to be achieved-goals which benefit all rate payers. *Moreover, in light of the  
15 existence of a cost-shift from DG to non-DG customers, we urge the swift completion of  
16 the Value of DG docket so that equity for all customers - solar and non-solar alike - may be  
17 attained before the cost-shift increases as DG penetration grow. As a matter of principle  
18 and of policy, requiring the purchase of excess solar DG power whether it is actually  
19 needed and compensating excess solar at the retail rate no matter when the excess power  
20 is received, or treating kWhs delivered during less -valuable off-peak periods the same as  
21 kWhs delivered during a system peak, may not represent efficient use of system resources  
22 or an equitable long-term solution for ratepayers. Public policy should not be ossified and  
23 competition, choice, innovation and market-based solutions are the preferred approach as  
24 we enter a new era dominated by customer-sited technologies and the grid upgrades and  
25 innovations that enable such technologies to exist and flourish. *Potentially modernizing net  
26 metering policies based on data-drive conclusions reached in the Value of DG docket is  
27 part and parcel of the mission of ensuring rates that are just and reasonable and in the  
28 public interest.**

29 We believe that deferring consideration of the mandatory three-part rates applicable  
30 to solar DG is warranted in order to consider the treatment of DG solar in a holistic manner  
31 and to avoid having multiple classes of DG customers, each subject to different rate  
32 treatment, due to the timing of when they elected the solar option. *However there is one  
33 aspect of the DG rate design that we believe should be modified at this time. The record in  
34 this docket reflects that each DG customer requires a second meter, and that there are  
35 additional fixed costs associated with that second meter. (Emphasis Added)*

36 The Commission, obviously felt that the "status quo" was not in the public interest  
37 regarding DG rate design and net metering, and took some interim steps to address it by  
38 approving the small net meter charge and RUCO's RPS credit option. RUCO does not  
39 believe that the Commission, through the subject Procedural Order in this case intended to

1 obligate itself to the "status quo" and limit its ability to act in the public interest pending  
2 Phase 2 in this case.

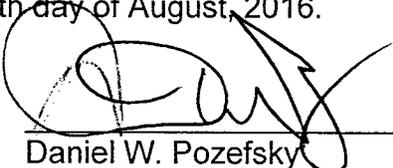
3         Interestingly, the solar industry's other big player in this case, Vote Solar addressed  
4 at length the Commission's consideration of RUCO's RPS' Credit Option and a meter  
5 charge in Phase I. See the surrebuttal testimony of Briana Kobor at 10-14, 19-20. Vote  
6 Solar offered its perspective and its recommendations regarding the RPS proposal and the  
7 net meter charge. Id. Even, Kevin Koch, an unrepresented local solar installer in the  
8 Tucson area submitted surrebuttal testimony, addressing the RPS Credit option. See the  
9 surrebuttal testimony of Kevin Koch at 2. (Perhaps even more interesting, is the fact that  
10 EFCA is not requesting that the testimony of Briana Kobor nor Kevin Koch be stricken.)  
11 EFCA could have acted similarly to Vote Solar or Mr. Koch and provided its  
12 recommendations - it surely had enough time as it admits in its motion that it knew RUCO  
13 intended to "file testimony related specifically to proposed alternatives to net metering  
14 ("NEM"). EFCA Motion at 2. But, rather than provide its recommendations and a possible  
15 solution, EFCA chose to pursue this course. By filing the motion, one could argue, that  
16 EFCA is attempting to bolster a similarly weak argument, first used in the UNS Electric  
17 case, where Mr. Rich, on behalf of his client in that case (The Alliance for Solar Choice)  
18 claimed there wasn't enough information in the record to support the RPS Credit option.  
19 That argument was quickly dismissed based on plenty of supporting evidence in that  
20 record, including cross-examination by Mr. Rich himself. If EFCA's motion is approved, it  
21 will ultimately restrict the Commission and delay its ability to address the "status quo" and  
22 the public interest. Further, it will reward non-constructive behavior that is quickly  
23 becoming the modus operandi of certain members of the solar industry.

24

1           However, if the motion is dismissed, it is likely that EFCA will ask for the ability to  
2 respond, in supplemental written testimony, to the two topics which it failed, by its own  
3 choice, to cover. RUCO strongly suggests that EFCA, not be rewarded by being allowed to  
4 file a late supplemental response to the testimony, after having ample time to read and  
5 understand all the other parties' surrebuttal testimony.

6           For all of the above reasons, the Commission should dismiss EFCA's motion and  
7 not strike any portion of Mr. Huber's testimony. The Commission should also not allow  
8 EFCA the opportunity to file supplemental testimony on this issue.

9           RESPECTFULLY SUBMITTED this 31th day of August, 2016.

10   
11 Daniel W. Pozefsky  
12 Chief Counsel

13  
14  
15 AN ORIGINAL AND THIRTEEN COPIES  
16 of the foregoing filed this 31th day  
17 of August, 2016 with:

18 Docket Control  
19 Arizona Corporation Commission  
1200 West Washington  
Phoenix, Arizona 85007

20 COPIES of the foregoing hand delivered/  
21 mailed this 31th day of August, 2016 to:

22  
23 Michael W. Patten  
24 Jason D. Gellman

Snell & Wilmer LLP  
One Arizona Center

1 400 E. Van Buren Street  
Phoenix, AZ 85004  
2 [mpatten@swlaw.com](mailto:mpatten@swlaw.com)  
[bcarroll@tep.com](mailto:bcarroll@tep.com)  
3 [jhoward@swlaw.com](mailto:jhoward@swlaw.com)  
[docket@swlaw.com](mailto:docket@swlaw.com)  
4 **Consented to Service by Email**

5 Barbara La Wall  
Charles Wesselhoft  
6 Pima County Attorneys Office  
32 N. Stone Ave., Suite 2100  
7 Tucson, AZ 85701  
[Charles.Wesselhoft@pcao.pima.gov](mailto:Charles.Wesselhoft@pcao.pima.gov)  
8 **Consented to Service by Email**

9 C. Webb Crockett  
Patrick J. Black  
10 Fennemore Craig, P.C.  
2394 E. Camelback Rd, Suite 600  
11 Phoenix, AZ 85016  
[wcrockett@fclaw.com](mailto:wcrockett@fclaw.com)  
12 [pblack@fclaw.com](mailto:pblack@fclaw.com)  
**Consented to Service by Email**

13 Kevin Higgins  
14 Energy Strategies, LLC  
215 South State Street, Suite 200  
15 Salt Lake City, Utah 84111

16 Nicholas J. Enoch  
Jarrett J. Haskovek  
17 Emily A. Tornabene  
Lubin & Enoch, PC  
18 349 N. Fourth Ave.  
Phoenix, AZ 85003  
19 Attorneys for IBEW Local 1116

20  
21  
22 Lawrence V. Robertson, Jr.  
23 P.O. Box 1448  
Tubac, AZ 85646  
24 Attorney for Noble Solutions and SAHBA

[tubaclawyer@aol.com](mailto:tubaclawyer@aol.com)  
**Consented to Service by Email**

Meghan H. Grabel  
Osborn Maledon, PA  
2929 N. Central Ave., Suite 2100  
Phoenix, AZ 85012  
Attorneys for AIC  
[mgrabel@omlaw.com](mailto:mgrabel@omlaw.com)  
**Consented to Service by Email**

Gary Yaquinto  
Arizona Investment Council  
2100 N. Central Ave., Suite 210  
Phoenix, AZ 85004  
[gyaquinto@arizonaaic.org](mailto:gyaquinto@arizonaaic.org)  
**Consented to Service by Email**

Court S. Rich  
Loren Ungar  
Rose Law Group, PC  
7144 E. Stetson Dr., Suite 300  
Scottsdale, AZ 85251  
Attorney for TASC & EFCA  
[crich@roselawgroup.com](mailto:crich@roselawgroup.com)  
**Consented to Service by Email**

Timothy M. Hogan  
Arizona Center for Law in the Public  
Interest  
514 W. Roosevelt St.  
Phoenix, AZ 85003  
Attorney for Vote Solar, ACAA, WRA and  
SWEEP  
[thogan@aclpi.org](mailto:thogan@aclpi.org)  
**Consented to Service by Email**

Rick Gilliam  
The Vote Solar Initiative  
1120 Pearl St., Suite 200  
Boulder, Co 80302  
[rick@votesolar.org](mailto:rick@votesolar.org)  
**Consented to Service by Email**

Briana Kobor  
Vote Solar  
360 22<sup>nd</sup> St., Suite 730  
Oakland, CA 94612

1 [briana@votesolar.org](mailto:briana@votesolar.org)  
**Consented to Service by Email**

2

3 Michael Hiatt  
4 Katie Dittelberger  
5 Earthjustice Rocky Mountain Office  
6 633 17<sup>th</sup> St., Suite 1600  
7 Denver, CO 80202  
8 [mhiatt@earthjustice.org](mailto:mhiatt@earthjustice.org)  
9 [kdittelberger@earthjustice.org](mailto:kdittelberger@earthjustice.org)  
10 **Consented to Service by Email**

11 Craig A. Marks  
12 Craig A. Marks, PLC  
13 10645 N. Tatum Blvd., Suite 200-676  
14 Phoenix, AZ 85028  
15 [Craig.Marks@azbar.org](mailto:Craig.Marks@azbar.org)  
16 **Consented to Service by Email**

17 Pat Quinn  
18 Arizona Utility Ratepayer Alliance  
19 5521 E. Cholla Street  
20 Scottsdale, Arizona 85254

21 Thomas A. Loquvam  
22 Pinnacle West Capital Corp.  
23 P.O. Box 53999, MS 8695  
24 Phoenix, AZ 85072  
[Thomas.Loquvam@pinnaclewest.com](mailto:Thomas.Loquvam@pinnaclewest.com)  
**Consented to Service by Email**

25 Kerri A. Carnes  
26 Arizona Public Service Company  
27 P.O. Box 53072, MS 9712  
28 Phoenix, AZ 85072  
29 [Kerri.Carnes@aps.com](mailto:Kerri.Carnes@aps.com)  
30 **Consented to Service by Email**

31

32

33 Travis Ritchie  
34 Sierra Club Environmental Law Program  
85 Second St., 2<sup>nd</sup> Floor  
San Francisco, CA 94105

[Travis.ritchie@sierraclub.org](mailto:Travis.ritchie@sierraclub.org)  
**Consented to Service by Email**

Scott Wakefield  
Hienton & Curry, PLLC  
5045 N. 12h St., Suite 110  
Phoenix, AZ 85014  
Attorney for Wal-Mart

Steven W. Chriss  
Wal-Mart Stores, Inc.  
2011 S.E. 10<sup>th</sup> St.  
Bentonville, AR 72716

Ken Wilson  
Western Resource Advocates  
2260 Baseline Rd, Suite 200  
Boulder, CO 80302

Jeff Schlegel  
SWEEP  
1167 W. Samalayuca Dr.  
Tucson, AZ 85704

Ellen Zuckerman  
SWEEP  
1627 Oak View Ave.  
Kensington, CA 94707

Cynthia Zwick  
Kevin Hengehold  
Arizona Community Action Assoc.  
2700 N. 3<sup>rd</sup> St., Suite 3040  
Phoenix, AZ 85004

Bryan Lovitt  
3301 W. Cinnamon Dr.  
Tucson, AZ 85741

Kevin M. Koch  
P.O. Box 42103  
Tucson, AZ 85733

Karen White  
139 Barnes Dr., Suite 1  
Tyndall Air Force Base, FL 32401  
[Karen.white.13@us.af.mil](mailto:Karen.white.13@us.af.mil)

1 **Consented to Service by Email**

2 Kyle J. Smith  
3 9275 Gunston Rd, Suite 1300  
4 JALS RL/IP  
5 Fort Belvoir, VA 22060  
6 [Kyle.j.smith124.civ@mail.mil](mailto:Kyle.j.smith124.civ@mail.mil)

7 **Consented to Service by Email**

8 Jeffrey W. Crockett  
9 Crockett Law Group, PLLC  
10 2198 E. Camelback Rd, Suite 305  
11 Phoenix, AZ 85016

12 Bruce Plenk  
13 2958 N. St. Augustine Pl  
14 Tucson, AZ 85712  
15 [solarlawyeraz@gmail.com](mailto:solarlawyeraz@gmail.com)

16 **Consented to Service by Email**

17 Garry D. Hays  
18 Law Offices of Garry D. Hays, PC  
19 2198 E. Camelback Rd, Suite 305  
20 Phoenix, AZ 85016

21 Camila Alarcon  
22 Gammage & Burnham, PLC  
23 Two N. Central Ave., 15<sup>th</sup> Floor  
24 Phoenix, AZ 85004  
Attorneys for SOLON Corp.

Michele L. Van Quathem  
Law Offices of Michele Van Quathem,  
PLLC  
7600 N. 15<sup>th</sup> St., Suite 150-30  
Phoenix, AZ 85020  
Attorneys for SOLON Corp.

Greg Patterson  
Munger Chadwick  
916 W. Adams, Suite 3  
Phoenix, AZ 85007

Attorneys for AZ Competitive Power  
Alliance

Jeffrey Shinder  
Constantine Cannon LLP  
335 Madison Ave., 9<sup>th</sup> Floor  
New York, NY 10017

Richard Levine  
Constantine Cannon LLP  
1001 Pennsylvania Ave., NW  
Suite 1300 North  
Washington, DC 20004

Kurt Boehm  
Jody Kyler Cohn  
Boehm, Kurtz & Lowry  
36 E. Seventh St., Suite 1510  
Cincinnati, OH 45202  
Attorneys for the Kroger Co.

John William Moore, Jr.  
Moore Benham & Beaver, PLC  
7321 N. 16<sup>th</sup> St.  
Phoenix, Arizona 85020  
Attorney for Kroger

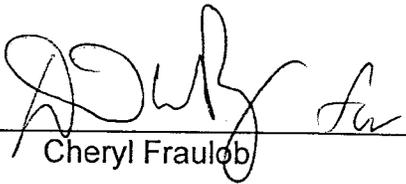
The Kroger Co.  
Attn: Corporate Energy Manager (G09)  
1014 Vine Street  
Cincinnati, OH 45202

Stephen Baron  
J. Kennedy & Associates  
570 Colonial Park Dr., Suite 305  
Roswell, GA 30075  
Tom Harris  
Arizona Solar Energy Industries Assoc.  
2122 W. Lone Cactus Dr., Suite 2  
Phoenix, Arizona 85027  
[Tom.Harris@AriSeia.org](mailto:Tom.Harris@AriSeia.org)

**Consented to Service by Email**

Robin Mitchell  
Wes Van Cleve  
Legal Division  
Arizona Corporation Commission

1 1200 W. Washington  
Phoenix, Arizona 85007  
2 [rmitchell@azcc.gov](mailto:rmitchell@azcc.gov)  
[wvancleve@azcc.gov](mailto:wvancleve@azcc.gov)  
3 [cfitzsimmons@azcc.gov](mailto:cfitzsimmons@azcc.gov)  
[legaldiv@azcc.gov](mailto:legaldiv@azcc.gov)  
4 **Consented to Service by Email**

5  
6  
7  
8  
9  
10 By   
Cheryl Fraulob

11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24