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IN THE MATTER OF THE APPLICATION OF UNS ELECTRIC, INC. FOR APPROVAL OF 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.

Docket No. E-04204A-06-0783

Notice and Filing of the

Reply Brief

of

Marshall Magruder

19 November 2007

As provided by the Procedural Orders of 1 February 2007, 27 March 2007, and 25 June 2007, 29 October 2007, and instructions on 2 October 2007, herein is the Reply Brief of Marshall Magruder.

I certify this filing has been mailed to all known and interested parties, as shown on the Service List.

Respectfully submitted on this 19th day of November 2007

MARSHALL MAGRUDER

By

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Arizona Corporation Commission
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OPENING BRIEF

OF

MARSHALL MAGRUDER

05 November 2007

**In the matter of
the**

**APPLICATION
OF UNS ELECTRIC, INC.,
FOR THE APPROVAL OF 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.**

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PART I – INTRODUCTION

1.1 Organization of this Reply Brief.

This brief provides this party's response to the Open Briefs of the other parties. This reply will respond to each party's specific areas in the form of

- a. The issue as presented by the party
- b. Facts pertaining to the issue including from the Open Briefs
- c. Testimony presented by this part on the issue
- d. Final recommendations on the issue.

In general, my testimonies and briefs concern UNS Electric interests in Santa Cruz service area. I am also considerate of the Mohave service area, and my testimonies are intended for both. Times when my focus is just on the Santa Cruz area should be obvious.

1.2 Summary of Opening Brief Recommendations for the Commission.

In my testimonies and those of other parties, facts and conclusions have proven facts and concluded with valid recommendations for the Commission to

- a. Order the Mohave and Santa Cruz service areas residential rates and small general service rates be combined, as proposed by the Company, and in my Opening Brief at 2.1 and in 3.6 herein;
- b. Order the Company to implement its proposed mandatory Time of Use rate structure for all new customers. The Commission also orders TOU rates to be available to all existing customers within 30 days without charging for the new TOU meters in my Opening Brief at 2.2 and in 3.12 herein;
- c. Order the Company to implement its proposed inverted (inclining) block rate structure as energy conservation measures in my Open Brief at 2.3 and in 3.13 herein;
- e. Order implementing the annual DSM, RES, and PPFAC rate adjustors to be effective on one date each year instead of three, so one annual customer rate change notification with implementation schedule to unify customer information process, in my Opening Brief at 2.5 and in 3.11 herein;
- f. Order the Company to implement an emergency customer notification process with first responders activated if an electricity outage occurs to any customer requiring electricity for a person on life support equipment in my Opening Brief at 2.6 and in 3.14 herein;

- g. Order the Company to prove compliance with all Articles from the City of Nogales Settlement Agreement and Commission orders include awarding of local scholarships and re-establishment a Citizens Action Council in my Opening Brief at 2.7 and in 3.4 herein;
 - h. Order the withholding \$15.5 million from rate base until the Company accomplishes all 20 utility pole replacement and 12 underground cable replacement reliability projects ordered by the Commission unless the Company can prove each such project's reliability will not be improved by these replacement projects in my Opening Brief in 2.8 and in 3.5 herein;
 - i. Order the Company to cease using loan companies as billing agents within 90 days of this order in my Opening Brief in 2.9 and in 3.18 herein;
 - j. Consider implementing the Consumer Law Center's recommendations to avoid customers from subjection to predatory loan conditions when paying utility bills in my Open Brief 2.10 and in 3.18 herein;
 - k. Understand this Company has never met the Environmental Portfolio Standard but banked over \$1.8 million in unspent customer-derived ESP funds that were not used to purchase long-term renewable energy generation sources, such as providing rebates to customers for solar electric systems or constructing renewable energy generation sites, and that most of these customer-derived funds were expended to purchased biogas from TEP as short-term expenditures in my Opening Brief in 2.11; and in 3.19 herein; and
 - j. Order the Company to rewrite the Company's Rules and Regulations in simple, plain English and Spanish, provide key portions to all customers, disseminate appropriate excerpts to new customers, building and construction companies, reformatting billing statements to increase customer understanding, and the Company absorbs customer debit and credit card fees as a business expense in my Opening Brief at 2.12 and in 3.3.17.
- These have been incorporated in my Reply Brief herein, with references.

PART II
REPLY TO THE OPENING BRIEFS
OF THE OTHER PARTIES IN TERMS OF
ISSUES, FACTS AND FINAL RECOMMENDATIONS TO THE COMMISSION

2.1 Organization of Part II.

This Part is organized based on the Open Briefs by each party, the Applicant¹ in Part III, the RUCO² in Part IV, and the ACC Staff³ in Part V.

2.2 Response to Issues Presented by the Applicant.

The following issues in the Initial Post-Hearing Brief by UNS Electric, Inc.⁴ have responses which differ from this party in Part III:

- a. Rate increase is needed based on unprecedented customer growth in 3.2;⁵
- b. Company has expended of millions to ensure safe and reliable service in 3.3;⁶
- c. Completing the Citizens-City of Nogales Settlement Agreement in 3.4;⁷
- d. Magruder Adjustments for utility pole and underground cable replacement adjustments in 3.5;⁸
- e. Consolidate Mohave and Santa Cruz rates in 3.6;⁹
- f. Impact of the PPFAC after 1 June 2008 and a PPFAC cap in 3.7.¹⁰
- g. DSM Training and Education Program in 3.8;¹¹
- h. DSM Terminology is not standard in 3.9;¹²
- i. Residential Shade Tree DSM Program should be a marketing program in 3.10¹³;
- j. DSM, EPS/RES, and PPFAC rate adjustor annual schedules in 3.11¹⁴;
- k. Mandatory Time of Use (TOU) in 3.12;¹⁵
- l. Inverted (Inclining) Block Rate Structure in 3.13;¹⁶

¹ Ex. UNSE-1, Application.

² RUCO's Closing Brief of 5 November 2007, hereafter "RUCO Closing Brief".

³ The ACC Staff's Post-Hearing Brief of 5 November 2007 with errata of 6 November 2007, hereafter "ACC Staff Post-Hearing Brief".

⁴ The Initial Post-Hearing Brief of UNS Electric, of 5 November 2007, hereafter "UNSE Post-Hearing Brief".

⁵ *Id* at 1:5-6, at 2:3-4, at 9:17-18; at 15:22-16:1; at 65:12-66:4.

⁶ *Id* at 1:5-6.

⁷ Not included.

⁸ UNSE Post-Hearing Brief at 20:11-15; 36:7-12.

⁹ *Id* at 59:5-60:2.

¹⁰ *Id* at 3:12-15; at 5:6-6:3; at 66:5-73:22.

¹¹ *Id* at 54:11-19; at 63:1-11.

¹² Not included in UNSE Post-Hearing Brief.

¹³ Not included in UNSE Post-Hearing Brief.

¹⁴ Not included in UNSE Post-Hearing Brief.

¹⁵ UNSE Post-Hearing Brief at 55:1-57:5.

- m. CARES-M and safety of life-support customers in 3.14;¹⁷
- n. Billing Payment Schedules in 3.15;¹⁸
- o. Billing Statements in 3.16;¹⁹
- p. Company Rules and Regulations in 3.17;²⁰
- q. Continuing to use “predatory” loan companies as billing agents in 3.18;²¹ and
- r. Company can meet the EPS/RES with renewable energy sources in 3.19.²²

2.3 Response to Issues Presented by the Residential Utility Consumer Office.

The responses to RUCO’s Closing Brief²³ are integrated into Part III responses.

2.4 Response to Issues Presented by the ACC Staff.

The responses to the ACC Post-Hearing Brief²⁴ are integrated into Part III responses.

¹⁶ *Id* at 57:6-58:8.

¹⁷ *Id* at 60:19-62:3.

¹⁸ *Id* at 62:23-24.

¹⁹ *Id*.

²⁰ *Id* at 63:12-17; at 63:20-64:13

²¹ Not included in UNSE Post-Hearing Brief.

²² Not included in UNSE Post-Hearing Brief.

²³ RUCO’s Closing Brief of 5 November 2007, hereafter “RUCO Closing Brief”.

²⁴ The ACC Staff’s Post-Hearing Brief of 5 November 2007 with errata of 6 November 2007, hereafter “ACC Staff Post-Hearing Brief”.

PART III
RESPONSE TO UNS ELECTRIC, INC.,
INITIAL POST-HEARING BRIEF

3.1 Introduction.

This part provides a brief response to issues from the Company's initial brief which include:

- a. The issue as presented by the party
- b. Facts pertaining to the issue including from the Open Briefs
- c. Testimony presented by this party on the issue
- d. Final recommendations on the issue.

The responses to RUCO and ACC Staff's briefs are included.

3.2 Issue: This Rate Increase is needed based on unprecedented Customer Growth.

Facts: UNSE claims that the high growth rates in both Santa Cruz and Mohave service areas is considered as one of three factors leading to this rate case filing.²⁵

Testimonies: Testimony²⁶ and Exhibits^{27, 28} show that the Santa Cruz service area has much lower growth rates that acknowledged by conflicting Company testimony.²⁹ "UNS Electric projects that its customers will continue to increase by at much as 5 to 7 percent annually."³⁰ Growth claimed by UNS Electric of 4.8% in Mohave and 5.8% in Santa Cruz Counties³¹ are inflated. The ongoing building slowdown and Demand Side Management impacts were not considered by UNSE as impacting grown or lost revenues from effective DSM Programs.³² Further, RUCO quotes several UNS Electric sources that its high growth rate has been very profitable for the Company.³³ Company doubletalk is for the audience.

Final Recommendations: Consideration should account for lower growth rates than claimed by UNS Electric, and growth impacts from to the major slowdown in the housing

²⁵ UNSE Initial Brief at 1:5-6

²⁶ Ex. M-24 (Magruder Surrebuttal) at 46:3-16

²⁷ Ex. M-5, Arizona Dept of Economic Security (DES) show population projections in 1007, 2008, 2009 and 2010 of 2.74%, 2.65%, 2.56%, 2.47% (annual average 2.65%) continually decreasing below 1.0% in 2035.

²⁸ Ex. M-6 US Census data show 26 new single family homes in 2006 constructed in Nogales, 663 new single family homes in unincorporated Santa Cruz County with lower growth in early months of 2007. Also Ex. M-23 (Magruder Supplemental) at 35:14-39:13.

²⁹ Ex. UNSE-14 (DeConcini Direct) MJD-1 at 2 shows total energy growth for 2005, 2006, 2007, 2008, 2009 and 2010 at 6.36%, -0.59%, 3.60%, 5.89%, 7.31%, 5.30% (annual average 3.68%), respectively continually decreasing to 2.00% by 2016.

³⁰ Ex. UNSE-5 (Pignatelli Direct) at 4:12-17 stated "UNS Electric projects that its customers will continue to increase by at much as 5 to 7 percent annually."

³¹ Ex. UNSE-5 (Pignatelli Direct) at 4:11-14.

³² Ex. M-13 (Magruder Supplemental) at 17:26-31.

³³ RUCO Closing Brief at 23:1-17.

market to continue throughout 2008. UNS Electric has a growth issue is because new customers are not charged enough for their services. UNS Electric loses money with each new installation and must charge existing ratepayers true costs to makeup the difference.

3.3 Issue: Company has Expended Millions to Ensure Safe and Reliable Service.

Facts: UNSE claims that service reliability have increased; however, the ACC Staff Report shows significant distribution reliability decreases since the acquisition by UniSource Energy.³⁴ Distribution reliability has always been the dominant source of outages in Santa Cruz service area.³⁵ For example, the System Average Interruption Duration Index (SAIDI) was 68.4 minutes in 2004, 89.3 minutes in 2005 and 153.1 minutes in 2006. Eight of the previous ten years had outage durations shorter than 2006.³⁶ In 2004, UNS Electric had distribution reliabilities in the second quartile (above average 50% to 75%) decrease to the bottom quartile (in the lowest 25% of national average) by 2006,³⁷ more than weather effects.

Testimonies: UNS Electric claims reliability has improved in the Santa Cruz area.³⁸ Magruder disagrees that there has been a significant improvement in distribution reliability.

Final Recommendation: Magruder Opening Brief Recommendation 6³⁹ is in the ROO.

3.4 Issue: Completing the Citizens-City of Nogales Settlement Agreement.

Facts: In 1999, Citizens (now UNS Electricity) and the City of Nogales signed a Settlement Agreement to after a series of outages.⁴⁰ The Agreement resolved a Formal Complaint by the City of Nogales to the Commission with a series of measures intended to improve both the reliability and relationships between the Company and the City. This Settlement Agreement was approved by the Commission and implements in ACC Order No. 61793 on 29 June 1999. Incomplete actions include awarding an annual 4-year \$3,500 per year scholarship/loan and re-establishing the Citizens Advisory Council to enhance local communications, especially in view of the extensive rate changes, including a large PPFAC increase in June 2008, DSM programs, REST and associated rate adjustments.

Testimonies: The City of Nogales Settlement Agreement remains partially incomplete and an in-depth compliance audit should be accomplished by the Commission, in particular, the annual awarding of scholarships and re-establishing the CAC to keep the public informed.

³⁴ Magruder Opening Brief at 20:30-21:10; 22:4-5.

³⁵ *Id* at 21:8-10, 22:4-5 and Ex. M-23 (Magruder Supplemental) at 46:9-48:20.

³⁶ Ex. M-23 (Magruder Supplemental) at 48:12-20.

³⁷ Magruder Opening Brief at 20:31 to 21:7.

³⁸ Ex. UNSE-X (Beck Direct) at 2:12:16.

³⁹ Magruder Opening Brief at 22:24-25.

⁴⁰ *Ib* at 19:1-20:9, "2.8 Recommend Completing the Citizens-City of Nogales Settlement Agreement",

Final Recommendations: Magruder Opening Brief Recommendations 1 and 2⁴¹ are in the Recommended Opinion and Order (ROO).

3.5 **Issue: Magruder Adjustments for Utility Pole and Underground Cable Replacements**

Facts: In 1999, Citizens submitted Plans of Action to (POAs) the Commission to make reliability improvements as previously ordered by the Commission.⁴² These plans included improvements in all elements of the Santa Cruz electricity system.⁴³ Citizens POA was in a Settlement Agreement between the ACC Staff and Citizens.⁴⁴ The POA was implemented by an ACC Order.⁴⁵ Some elements of this POA were completed⁴⁶, while others remain incomplete.⁴⁷ In particular, 20 utility pole replacement projects and 12 underground cable replacement projects, located in subdivisions throughout the service area.⁴⁸ These 32 reliability projects were to have been completed by the end of 2003, after UniSource acquired Citizens.⁴⁹ A review of all the work tasks completed since August 2003 showed no work was related to any of these 32 projects.⁵⁰ This review also determined UNS Electric claimed expenditures for \$282,440.41 for work done prior to the acquisition date by Citizens.⁵¹ Citizens POA included specific numbers of poles or feet of cable, with annual budgets for each totaling \$15,561,520.⁵² Some were over budget early in 1999.⁵³ Others were never started.⁵⁴ Others are unknown. The replacement poles and cables are specific reliability improvements.

Testimonies: No UNS Electric testimonies have responded to the Facts until the Post-Hearing Brief.⁵⁵ UNS Electric claims “no supporting evidence justifying his proposed

⁴¹ *Id* at 20:1-9.

⁴² *Id* at 20:13-14. The ACC Order was No. 61383.

⁴³ Ex. M-23 (Magruder Supplemental) at 26:5-35:12.

⁴⁴ *Id* at 26:10-12 that quoted UNSE-X (Beck Direct) at 4:18-20.

⁴⁵ *Id* at 26:11-13.

⁴⁶ *Id* at 30:1-8; at 45:23-46:8; Ex. UNSE-X (Beck Direct) at 4:13-5:1.

⁴⁷ *Id* at 30:9-35:12.

⁴⁸ *Id* at 30:14-35:12; 31 at Table 5, 33 at Table 6.

⁴⁹ *Id* at 30:15-16; at 30:26-17; at 33:5.

⁵⁰ *Id* at 31:19-33-1 (replaced cable); 33:31-34:20 (replacement poles); at

⁵¹ *Id* at 34:23-35:3; at 49:11-13.

⁵² *Id* at 31 Table 5; at 33 Table 6.

⁵³ *Id* at 31 Table 5 Project IDs 2, 4, 5, 9, 16; at 33:13-17, Table 6 Project IDs 2, 3, 6.

⁵⁴ During oral testimony, Magruder stated that Empty Saddles Estates (project #8) is the subdivision where he lives. It has 22 parcels, each 4.13 acres. Citizens (UNSE) plan is to replace 8,180 feet of underground cable. I have lived here over ten years. No extensive cable replacements have been observed by me or several long-term neighbors. Up our street is Palo Prado subdivision (15,520 feet) with others with old cables. Some work had been done; however, I find no neighbors believing such work has been done. Further, during ACC Docket No. E-01032A-99-0401 in August 2005, I testified with a “phase cable” cable in my hands that failed several days before. That cable should have been replaced in Project #8.

⁵⁵ Ex. M-24 (Magruder Surrebuttal) at 31:19-24.

disallowances.”⁵⁶ Magruder Supplemental and Surrebuttal Testimonies completely presented the issue which has been totally ignored by the Company since 12 July 2007⁵⁷ until their Post-Hearing Brief.

Final Recommendations: Magruder Opening Brief Recommendations 1 to 5⁵⁸ are in the ROO.

3.6 **Issue: Consolidate Mohave and Santa Cruz Rates.**

Facts: The Company proposed to consolidate the residential (including CARES and CARES-M) and Small General Service rates.⁵⁹ No rationale basis for retaining separate rates was presented.⁶⁰ All parties agree these rates are higher in the Santa Cruz than Mohave service area. All parties agree these rates should be combined to cease this “distinct inequity between Counties”.⁶¹ The ACC Staff acknowledges this inequity but does not want to consolidate now because the small current rate differential and overall rate increase while Company costs are increasing.⁶² ACC Staff wants to eliminate this differential in two rate cases because there might be a rate decrease for Santa Cruz County and “Mr. Erdwurm has presented no factual evidence to change my mind”.⁶³ This rate “inequality” has existed for decades, long before the last rate case in 1997, without justification other than being a legacy from when Citizens acquired assets in two counties. Table 1 (Rev) below shows the present rates, the Company and RUCO (combined) and ACC Staff (not combined) proposals.⁶⁴ These higher rates have negatively impacted economic development in Santa Cruz County, unfairly discriminated against one class of ratepayer, and continuation of this practice is not justified.⁶⁵

The combined rates recommended by the Company, for natural gas fuel cost ranging from \$6.00 to \$9.00, with resultant proposed residential rate increases between 6.8% and

⁵⁶ Ex. M-23 (Magruder Supplemental) at 26:4-22; at 30:1-35:12; Ex. M-24 (Magruder Surrebuttal) at 36:1-37:6; at 38:10-27; at 47:12-18; at 49:3-23.

⁵⁷ Ex. M-23 (Magruder Supplemental) at 22-50 “Part V, Issue 3, Costs to Improve Electricity Reliability in the Santa Cruz Service Area”; Ex. M-24 (Magruder Surrebuttal), at 36-50 Part V, Issue 3, same title; Magruder Opening Brief at 20:11-22:25, §2.9 “Recommend withhold \$15,561,520 from Rate Base due to incomplete Reliability Obligations on 32 Utility Pole and Underground [cable] Replacement Projects.”

⁵⁸ Magruder Opening Brief at 22:24-25.

⁵⁹ Ex. UNSE-5 (Pignatelli Direct) at 13:25-26; Ex. UNSE-17 (Erdwurm Direct) at 20:12-26; UNSE Final Schedules; UNSE Post-Hearing Brief at 59:5-60:2; Magruder Opening Brief at 7:12-10:8, “2.2 Recommend combine the residential and small business rates in Santa Cruz and Mohave Service areas.”

⁶⁰ Ex. M-23 (Magruder Supplemental) at 24:1-11; Ex. M-25 (Magruder Summary); Magruder Opening Brief at 7:12-10:8 Table 1.

⁶¹ Ex. UNSE Post-Hearing Brief at 59:21-60:2; Ex. RUCO-8 (Diaz-Cortez Direct Rate Design) at 32:1-4; RUCO Closing Brief at 24:17-19.

⁶² Ex. S-61 (Radigan Direct) at 14:1-15:5; ACC Staff Post Hearing Brief at 36:17-21.

⁶³ Ex. S-62 (Radigan Surrebutal) at 5:6-20.

⁶⁴ Magruder Opening Brief at 7:12 to 9:8, Table 1

⁶⁵ *Id* at 9:25-28

34.2% in the June 2008 to June 2009 PPFAC year.⁶⁶ These increases are in Table 1 (Rev) that now includes the new RUCO Final Schedule⁶⁷ rates prior to June 2008.

Table 1 (Rev) – Proposed Monthly Residential and Small General Service Bill Differences in the Santa Cruz and Mohave Areas at Present, Before, and After June 2008

Condition – Gas @\$7.50/MMbtu	SANTA CRUZ		MOHAVE	
	Bill in Dollars (\$)	Change from Present (%)	Bill in Dollars (\$)	Change from Present (%)
RESIDENTIAL for 1,000 kWh				
Present rates	\$104.05	Present (0%)	\$99.65	Present (0%)
ACC Staff Not Combined before June 2008	\$105.05	+1.00%	\$102.19	+2.50%
RUCO Combined before June 2008	\$100.10	-3.89%	\$100.10	-0.04%
Company Combined before June 2008	\$100.53	-3.48%	\$100.53	+1.12%
Company Combined after June 2008 with PPFAC, BMGS	\$116.34	+11.81%	\$116.34	+16.74%
SMALL GENERAL SERVICE for 5,000 kWh				
Present rates	\$692.75	0%	\$473.75	0%
ACC Staff Not Combined before June 2008	\$694.75	+0.30%	\$480.68	+1.50%
RUCO Combined before June 2008	\$601.72	-13.14%	\$601.72	+27.01%
Company Combined before June 2008	\$564.14	-18.56%	\$564.14	+19.07%
Company Combined after June 2008 with PPFAC, BMGS	\$650.18	-6.15%	\$650.18	+37.40%

Reference Notes: Residential for 1000 kWh is from Ex. UNSE-44 at 1 and Small General Service for 5,000 kWh is from Ex. UNSE-44 at 3, the percent changes determined from present rates, calculated for combined before June 2008, and for combined from Ex. UNSE-44 including PPFAC, BMGS after June 2008; ACC Staff values are not for combined before June 2008 from Ex. S-61 FWR-3 at 1 and 3; no ACC Staff values were located for after June 2008 with PPFAC. RUCO rates were based on interpolation of RUCO Final Schedule Ex. RLM-17 of 8 November 2008 for residential and Ex. RLM-16 for Small General Service. The new DSM and RES rate Adjustments and various taxes and fees are not shown, thus actual bill will be higher in all cases.

Table 1 (Rev) shows pre-June 2008 ACC Staff recommended rates that do not merge the two counties rates. The closing of the residential rate difference is insignificant compared to the expected post-June 2008 anticipated increase, thus closing the residential gap from this rate case now is minor. Small General Service rates at 5,000 kWh show service area differences in the ACC Staff objection. Santa Cruz ratepayer's present bill is \$694.75 compared to Mohave at \$480.68, over a \$214 difference every month for identical services.⁶⁸

Testimonies: The Company, RUCO, and Magruder testified these rates should be combined in this rate case. The ACC Staff wants these rates combined over two rate cases.

Final Recommendation: Magruder Open Brief Recommendation 1⁶⁹ is in the ROO.

⁶⁶ Ex. UNSE-43; Ex. S-56 (R. Smith Surrebuttal) at 1.

⁶⁷ RUCO Final Schedule of 8 Nov. 2007, Ex. RLM-17 (residential) and Ex. RLM-18 (small general service).

⁶⁸ Ex. S-61 (Radigan Surrebuttal) FWR-3 at 1, 3.

⁶⁹ Magruder Opening Brief at 10:6-8.

3.7 **Issue: Impact of the PPFAC after 1 June 2008 and a PPFAC Cap.**

Facts: During Mr. Pignatelli's oral evidentiary testimony he performed some "back of the envelope" calculations concerning the impacts of the new PPFAC from 1 June 2008 to 30 May 2009 that finally explained the significant PPFAC rate changes.⁷⁰ The Company provided estimated rate impact statements on 19 September 2007.⁷¹ Essentially, the future PPFAC rate Adjustor is estimated to increase rates between 8.8% and 34.2% as the price of Permian gas varies from \$6.00 to \$9.00 per MMBtu (assuming BMGS is reclassified, if not, there is a 0.62 cents/kWh decrease).

The only variable is the PPFAC forward component, which would vary from 0.48 cents/kWh to 2.98 cents kWh for this range of gas prices.⁷²

On 28 September 2007, the ACC Staff has proposed a "cap" of 1.73 cents/kWh (based on \$7.50 per MMBtu) to limit rate shock.⁷³ The Company opposes a "cap" without a circuit breaker and incorporating a 1% of LIBOR interest rate.⁷⁴ This 1.73 cents/kWh is for \$7.50 MMBtu Permian gas in the second table in Ex. UNSE-43. 2008 PPFAC year data shows zero for "PPFAC – Existing Rate". If PPFAC year cap is reached for all 12 months, then the 2009 PPFAC year would have an entry for "PPFAC – Existing rate" of 1.73. This starts 2009 PPFAC year at 11.97 ± True-Up.⁷⁵ In my view, the 1.73 cap is added to "existing rate" for 2009 PPFAC Year. This eliminates excessive borrowing as loans are less than 12 months. A circuit breaker is not necessary, as, the Company can file for a hearing if the situation gets out of hand.

Table 1 (Rev) shows the impact the PPFAC rate Adjustor when compared to present rates. The residential PPFAC rate increases on 1 June 2008 are between 15.29% { = 11.81 - (-3.48)} in Santa Cruz and 15.62% in Mohave. The Small General Service (SGS) increase is between 12.41% (Santa Cruz) and 12.33% (Mohave). SGS has a smaller (about 3%) rate increase, compared to residential. This gives some rate relieve for Mohave County. Table 1 (Rev) shows the "capped" rates, e.g., at \$7.50 per MMBtu Permian gas.⁷⁶

Table 2 summarizes the Post-May 2008 rates by customer rate categories. Table 2 shows anticipated maximum bills for customers by category and selected sales per month.⁷⁷ The specific impacts on large general service, interruptible power, and large power customers

⁷⁰ UNSE Post-Hearing Brief at 5:6-11.

⁷¹ Ex. UNSE-43 and Ex. UNSE-44.

⁷² Ex. UNSE-43 at 1,2.

⁷³ Ex. S-6X, ACC letter of

⁷⁴ UNSE Post-Hearing Brief at 71:6-11.

⁷⁵ Ex. UNSE-43 page 2.

⁷⁶ Ex. UNSE-44 at 1, 3.

⁷⁷ *Ib* at 1-7,

were not emphasized or mentioned in some testimonies, other in the UNSE Exhibit-44 on the last days of the evidentiary hearings.

Table 2 – Proposed Monthly Differences by Rate Categories in the Santa Cruz and Mohave Areas from the Present and After June 2008.

Rate Category	Sales per month	Santa Cruz		Mohave	
		Total Bill in \$	Change from Present in %	Total Bill in \$	Change from Present in %
Residential	1,000 kWh	\$116.34	+11.81%	\$116.34	+16.74%
Residential (CARES)	1,000 kWh	\$108.34	+15.69%	\$108.34	+20.80%
Small General Service	5,000 kWh	\$650.18	-6.15%	\$650.18	+37.40%
Large General Service	50,000 kWh	\$5,098.86	+25.36%	\$5,093.96	+25.39%
Interruptible Power	100,000 kWh	\$8,276.71	+33.91%	\$8,276.71	+33.91%
Large General Service	100,000 kWh	\$9,651.82	+26.31%	\$9,651.82	+26.33%
Large Power Svc (<69 kV)	950,000 kWh	\$76,078.71	+56.52%	\$80,563.83	+53.46%

Purchase Power Condition – Permian Gas at \$7.50/MMBtu
Ref: Ex. UNSE-44 at 1-6.

Testimonies: The PPFAC rate increase has significant impacts on all rate categories.

Final Recommendation: This party recommends the ACC Staff PPFAC cap of 1.73 cents/kWh be implemented for the 2008 PPFAC Year without an unnecessary circuit breaker.

3.8 Issue: DSM Training and Education Program.

Facts: The Company has proposed a variety of DSM programs,⁷⁸ with one program for training and outreach. Each DSM program's budget includes an educational and training component.⁷⁹ Combining these into one integrated training and education program provides synergy, cross-training benefits, commonality of terminology and outreach efforts, reduces redundancy, and other benefits.⁸⁰ For example training and education will also support Time of Use (TOU) and other general training needs.⁸¹

Testimonies: Magruder recommended all education and training be one program without budgetary changes. The Company wants individual education and training programs.

Final Recommendations: That the Company re-considers its position on education and training programs including Magruder Recommendation 1⁸² in the final ROO.⁸³

3.9 Issue: DSM Terminology is not standard.

Facts: The DSM terms Energy Conservation, Energy Efficiency, and Demand Reduction are overlapping and contrary to DOE definitions.⁸⁴ The draft ACC Staff memo on

⁷⁸ See ACC Docket No. E-04204A-07-0365, UNSE DSM Program Portfolio, Attachment 1; Ex. M-24 (Magruder Surrebuttal) at 12:1 to 31:29, "Part III, Issue 1 – Demand Side Management Programs".

⁷⁹ *Id.*

⁸⁰ Ex. M-24 (Magruder Surrebuttal) at 15:16-24; at 19:7-20-27.

⁸¹ UNSE Post-Hearing Brief at 54:14-19.

⁸² Magruder Opening Brief at 15:2-3.

⁸³ Ex. M-24 (Magruder Surrebuttal) at 19:29-20:25.

this subject contains the terms used by UNSE.⁸⁵ The Company does not consider it can change these ACC terms.

Testimonies: The Company does not agree with the changes recommended.

Final Recommendation: Magruder Opening Brief Recommendation 2⁸⁶ is in the ROO.

3.10 Issue: Residential Shade Tree DSM Program should be a Marketing Program.

Facts: The Company proposed a Residential Shade Tree DSM Program.⁸⁷ This program provides \$30 rebates for each palo verde or mesquite (5 gallon) tree located within 15-feet of a residence's East, South or West wall but the rebate costs ratepayers \$65 to process.⁸⁸ Other than doubtful performance measures, Magruder opposes this program as it also provides "shade trees" for community support such as schools, roads, and parks, that are not covered is a ratepayer-funded DSM "residential" program.⁸⁹ Magruder recommends this program be denied.

Testimonies: The Company supports this program, Magruder this program be denied.

Final Recommendation: Magruder Opening Brief Recommendation 3⁹⁰ is in the ROO.

3.11 Issue: DSM, EPS/RES, and PPFAC Rate Adjustor Annual Schedules.

Facts: There are three variable rate adjustors that result from this rate case: DSM, EPS, and PPFAC Adjustors. Each has its own review process which might result in three annual rate adjustments for ratepayers. The ACC Staff proposed a method to fund the Company's DSM programs that will be determined in ACC Docket No. E-04204A-07-0365⁹¹, The EPS/REST program is according to A.A.C. R14-2-1618 was filed by the Company on 12 October 2007 with 180 days for the Commission to determine a RES Adjustor rate. The PPFAC filing will be in early 2008. There is no integration in these three adjustor programs.⁹² No other parties commented on this issue. None of these three adjustors are presently known.

Testimonies: The annual rate adjustor processes (PPFAC, RES, and DSM) must be coordinated so customers are given proper advance notice; each adjustor is properly reviewed and approved, with one date to be used for these annual adjustments.

⁸⁴ Magruder Opening Brief at 13:20-33.

⁸⁵ Ex. UNSE-58 (D. Smith Surrebutal) at 11:17-24.

⁸⁶ Magruder Opening Brief at 15:4-7.

⁸⁷ UNSE DSM Program Portfolio, Attachment 6.

⁸⁸ *Id*; and Ex. M-22 (Magruder Direct) at 33:23-29.

⁸⁹ Ex. M-22 (Magruder Direct) at 34:24-25:21.

⁹⁰ Magruder Opening Brief at 15:8-10.

⁹¹ ACC Staff Post-Hearing Brief at 41:21-42:2, 42:6-10; 43:7-45:25.

⁹² *Id* at 15:11-16:12, "2.6 Recommendations concerning annual DSM, RES, and PPFAC Rate Adjustors".

Final Recommendations: Magruder Opening Brief Recommendations 1, 2, and 3⁹³ are in the ROO.

3.12 Issue: Mandatory Time of Use (TOU).

Facts: The Company proposed a mandatory TOU program for residential and small general service ratepayers to be mandatory for new customers or ones with significant service changes with new TOU meters provided by these new ratepayers.⁹⁴ RUCO and Magruder support the proposed TOU rate structure.⁹⁵ The ACC Staff did not recommend TOU be mandatory as proposed.⁹⁶ RUCO and Magruder agree with the Company's mandatory TOU requirements.⁹⁷ RUCO includes some logical TOU "interview" conditions with reasonable exceptions for mandatory TOU exclusions.⁹⁸ Magruder believes current customers changing to TOU should have meter costs absorbed by the Company.

Testimonies: The Company proposed new TOU rate structures should be approved and the Company should provide this service capability within 30-days of a customer's request.

Final Recommendations: Magruder Opening Brief Recommendations 1 to 4⁹⁹ are in the ROO along with the mandatory RUCO exceptions.¹⁰⁰

3.13 Issue: Inverted (Inclining) Block Rate Structure.

Facts: The Company proposed an inverted block rate program for residential and small general service ratepayers.¹⁰¹ Magruder supports the inverted block rate structure.¹⁰² The ACC Staff does not recommend the inverted block rate structure at this time due to the relatively small recommended rate increase and customer service charge increases but agrees with the concept.¹⁰³ RUCO agrees with the inverted block rate structure in the RUCO rate design.¹⁰⁴ Magruder agrees with this Company's proposal.¹⁰⁵

⁹³ *Id* at 16:5-12.

⁹⁴ Ex. UNSE-17 (Erdwurm Direct) at 17:13-19:20; Ex. UNSE-18 (Erdwurm Rebuttal) at 11:8-14:3.

⁹⁵ Ex. RUCO-8 (Diaz-Cortez Direct Rate Design) at 4:4-5:22; Magruder Opening Brief at 10:17-18.

⁹⁶ Ex. S-62 (Radigan Surrebuttal) 3:20-6.

⁹⁷ RUCO Closing Brief at 24:17-19.

⁹⁸ Ex. RUCO-8 (Diaz-Cortez Direct Rate Design) at 5:1-14.

⁹⁹ Magruder Opening Brief at 10:29-34.

¹⁰⁰ Ex. RUCO-8 (Diaz-Cortez Direct Rate Design) at 5:1-14.

¹⁰¹ Ex. UNSE-17 (Erdwurm Direct) at 17:13-19:20; Ex. UNSE-18 (Erdwurm Rebuttal) at 11:8-14:3.

¹⁰² Magruder Opening Brief at 11:1-13:2, "2.4 Recommend an "inverted block" rate structure for residential and small general service rates."

¹⁰³ Ex. S-61 (Radigan Direct) at 13:11-22; ACC Staff Post-Hearing Brief at 37:9-16.

¹⁰⁴ Ex. RUCO-8 (Diaz-Cortez Direct Rate Design) at 3:19-4:2.

¹⁰⁵ Magruder Open Brief at 12:6-7.

Testimonies: The Company's proposed inverted block rate structure should be approved. Denial of a customer conservation measure is not in the customer's best interest.

Final Recommendations: Magruder Opening Brief Recommendations 1 and 2¹⁰⁶ are in the ROO.

3.14 Issue: CARES-M and Life-Support Safety.

Facts: The CARES-M tariff is for low income customers on life-support systems. The Company is responsible for the safety of its electricity customer and can not terminate services for these customers.¹⁰⁷ The Company has no way to determine impacts of an outage on its customers on life-support equipment.¹⁰⁸ Actions are necessary to implement such a system with first responders.¹⁰⁹ The Company did not directly respond but erroneously thought Magruder recommended that the Company provide backup power for all on life-support.¹¹⁰

Testimonies: There is no existent UNSE notification program for those on life-support during an electrical outage. This is a critical human safety concern. The Company has a responsibility to prevent loss of life during an electrical outage. A simple solution exists.

Final Recommendations: Magruder Opening Brief Recommendations 1 to 4¹¹¹ are in the ROO.

3.15 Issue: Billing Payment Schedules.

Facts: The Company proposed to change the billing schedule to reduce customer confusion between UNS Gas and UNS Electric.¹¹² The Company proposed to move up its billing due date from 15 days to 10 days. This does not conform to the A.A.C.¹¹³ All five utilities ACC-regulated utilities have different billing schedules and processes in the A.A.C. Confusion can not be eliminated. Customers are in the Company's Rules and Regulations. After many attempts, Magruder and the Company still do not agree on the same interpretation for billing events based on the wording in the R&Rs.¹¹⁴ All parties recommended denial of the change. Also, when a customer uses a debit or credit card online to pay their bill, a company third-party contractor charges \$3.98 for this service. This is contrary to other debit/credit card

¹⁰⁶ Magruder Opening Brief at 12:32-13:2.

¹⁰⁷ *Id* at 16:14-18:33, "2.7 Recommendations for customers on Life-Support Equipment during an outage".

¹⁰⁸ Ex. UNSE-19 (Ferry Rejoinder) at 6:18-26

¹⁰⁹ Magruder Opening Brief at 16: 28-17:8.

¹¹⁰ Ex. UNSE-19 (Ferry Rejoinder) at 6:17-18.

¹¹¹ Magruder Opening Brief at 18:25-33.

¹¹² Ex. UNSE-18 (Ferry Initial) at 24:15-26; Ex. UNSE-19 (Ferry Rejoinder) at 5:8-23.

¹¹³ Ex. M-23 (Magruder Supplemental) at 19:19-27; ACC Staff Post-Hearing Brief at 49:22-50:2.

¹¹⁴ Magruder Opening Brief at 27:25-29; at 28:27-34; Ex. M-24 (Magruder Surrebuttal) at 32:17-34:14; Ex. RUCO-18 (Diaz-Cortez Direct) at 32:13-23.

practices used by millions of other companies. The Company should absorb this expense like all other companies do, which can be about 0.5% of a bill using modern techniques.¹¹⁵

Testimonies: The R&Rs must be revised in simple language. The proposed billing schedule and process changes denied. The proposed early schedule violates the A.A.R. Customers using credit/debit cards online should not be charged any fees.

Final Recommendations: Magruder Opening Recommendations 1¹¹⁶, 2¹¹⁷ and 3¹¹⁸ are in the ROO.

3.16 **Issue: Billing Statements.**

Facts: The Company revised its UNSE and UNSG billing statements in the summer of 2007. From a human factor's view, significant loss of clarity resulted and 14 changes were proposed to make the billing statement more "user-friendly."¹¹⁹ The Company has agreed to consider these recommendations¹²⁰ provided to the Company's attorney.

Testimonies: The Magruder testimonies showed changes to parts of billing statements reduced customer's understandability of important information being presented.

Final Recommendations: Magruder Opening Brief Recommendation 4¹²¹ is in the ROO.

3.17 **Issue: Company Rules and Regulations.**

Facts: The Company proposed revising the Company's Rules and Regulations to closer align them with other UniSource Energy companies. The present R&Rs are not easily understood, especially for those less educated.¹²² Parts of the R&Rs are not provided to customers to help understanding and compliance.¹²³ The R&Rs are unavailable in Spanish.¹²⁴

Testimonies: Administrative changes will improve the Company Rules and Regulations clarity; provide copies to meet customer's needs including minimum distribution requirements.

Final Recommendations: Magruder Recommendations 1 to 4¹²⁵ are in the ROO.

¹¹⁵ *USA Today* on 7 November 2007 (p. 3B), "Talking 'about a Revolution in transferring money online" using a Revolution Card (free for customers) and "merchants will pay 0.5% of the sale with no monthly fees." The similar Google Checkout is presently free for both users and merchants.

¹¹⁶ Ex. M-23 (Magruder Supplemental) at 20:32-33.

¹¹⁷ *Id* at 20:34.

¹¹⁸ Magruder Opening Brief at 29:8-10.

¹¹⁹ Ex. M-22 (Magruder Direct) at 40:4-9; Ex. M-23 (Magruder Supplemental) at 21:18-24; Magruder Opening Brief at 28:1-7; at 28:35-29:2.

¹²⁰ Ex. UNSE-18 (Ferry Rejoinder) at 5:25-6:2

¹²¹ Magruder Opening Brief at 29:11-12.

¹²² *Id* at 27:8 to 29:5, "2.13 Recommendations concerning Rules and Regulations".

¹²³ *Id* at 27:19-24.

¹²⁴ *Id* at 27:25.

¹²⁵ *Id* at 29:4-12.

3.18 Issue: Continuing to use “Predatory” loan companies as billing agents.

Facts: Loan companies that charge more than 36% interest (APR) are generally considered predatory. Payday loan companies used by UNSE as billing agents charge up to 400% interest (APR). Lower-income ratepayers are most vulnerable.¹²⁶ The Company testified finding billing agents to replace them has not been easy. The Consumer Law Center has recommended a way to use loan companies at billing agents provided in testimony.¹²⁷ This process will need to be implemented by the Commission.¹²⁸

Testimonies: The Company's use of predatory loan companies as billing agents is despicable and should cease as soon as possible.

Final Recommendations: Magruder Opening Brief Recommendations 1 in 2.10 and 1 in 2.11 are in the ROO.¹²⁹

3.19 Issue: Company Can Meet the EPS/RES Goals with Renewable Energy Sources.

Facts: The Company has never met the ESP standard. The Company receives about \$550,000 from customer's EPS surcharges per year, spends about \$250,000 per year on biogas, and “banks” about \$300,000 each year. The EPS bank balance exceeded \$1.8 million during the test year. If this had been expended reimbursing customers, at \$3.00 per Watt (present rebate), then 600,000 kW of renewable energy “green watts” could generate “green watts” for the long-term. In general, the Company purchased short-term biogas RECs, watts that are used once, instead of reimbursing sources to generate watt hours every day.¹³⁰

Testimonies: The Company failed to wisely use customer-contributed EPS funds to purchase long-term energy sources. It spent these funds for short-term energy credits for TEP biogas. The Company never met its annual EPS goals and solar generation goals. Excess customer-derived RES funds should purchase long-term renewable energy generation sources as a higher priority than one-time purchases of expendable biogas credits. The former accumulate watts every day. The later are one-time one-watt at a time expenses.

Final Recommendations: Magruder Opening Brief Recommendations 1 to 5¹³¹ are in the ROO.

¹²⁶ *Id* at 22:27-30:16, “2.10 Recommend Predatory Loan Companies not be Contracted as Billing Agents.”

¹²⁷ *Id* at 30.

¹²⁸ *Id* at 23:18-24:7; at 30.

¹²⁹ *Id* at 23:18-24:7, “2.11 Recommend the Commission Implement Loan Company Conditions”.

¹³⁰ *Id* at 24:9-27:6, “2.12 Recommendations Concerning a Large EPS “Bank” and RES Transition”.

¹³¹ *Id* at 30:31-31:6.