

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2
3 COMMISSIONERS

4 TOM FORESE
5 BOB BURNS
6 ANDY TOBIN
7 BOYD DUNN
8 JUSTIN OLSON

9 IN THE MATTER OF THE APPLICATION OF TUCSON ELECTRIC POWER COMPANY DOCKET NO. E-01933A-15-0239
10 FOR APPROVAL OF ITS 2016 RENEWABLE ENERGY STANDARD AND TARIFF IMPLEMENTATION PLAN

11 IN THE MATTER OF THE APPLICATION OF TUCSON ELECTRIC POWER COMPANY DOCKET NO. E-01933A-15-0322
12 FOR THE ESTABLISHMENT OF JUST AND REASONABLE RATES AND CHARGES
13 DESIGNED TO REALIZE A REASONABLE RATE OF RETURN ON THE FAIR VALUE
14 OF THE PROPERTIES OF TUCSON ELECTRIC POWER COMPANY DEVOTED
15 TO ITS OPERATIONS THROUGHOUT THE STATE OF ARIZONA AND FOR RELATED
16 APPROVALS.

17 **PHASE TWO**
18 **CLOSING BRIEF**
19 **OF**
20 **ARIZONA INVESTMENT COUNCIL**

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28 **December 4, 2017**

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1 **I. Introduction.**

2 With the conclusion of Tucson Electric Power Company’s (“TEP”) and UNS
3 Electric Inc.’s (“UNSE”) (collectively “Companies”) Phase Two proceedings in sight,
4 the Arizona Corporation Commission (“Commission”) will soon approve a new rate for
5 exported solar power to the utilities’ grid and new rate designs for new solar DG
6 customers. Both the export rate, and the rate design, need to be calculated and
7 implemented in conformance with Decision No. 75859 In the Matter of the
8 Commission’s Investigation of Value and Cost of Distributed Generation (“VOS
9 Decision”). That decision requires the Commission to balance (a) the social and
10 economic incentives supporting new and existing solar DG; (b) the economic impact of
11 renewable energy policies on utility infrastructure and capital costs; and (c) the
12 improved technologies that allow for more accurate measures of the financial impact on
13 the parties. The initial implementation of the rates should focus on improving regulatory
14 certainty and sending a positive signal to credit rating agencies and analysts regarding
15 the regulatory environment in Arizona. To do this, the export rate must (1) gradually
16 transition customers, utilities, and the external solar industry away from full retail net
17 metering and towards a more market-based approach; (2) gradually lessen cost shifts
18 between customers with and without solar DG by improving the utilities’ ability to
19 recover from solar DG customers an equitable share of fixed grid-related costs; and (3)
20 maintain fairness among all customers, while still providing the utilities with a
21 reasonable opportunity to earn their Commission-authorized rates of return. *See*
22 *Surrebuttal Testimony of Gary Yaquinto at 3:4-14.*

23 Using the Resource Comparison Proxy (“RCP”) methodology approved in the
24 VOS Decision to establish an export rate, the Companies, Commission Staff, and RUCO
25 are advocating for RCP rate options that further the above objectives. The evidence
26 presented here established that the RCP methodology must take into account certain
27 critical inputs when setting the Year One RCP rate. First, the five year rolling average
28 of utility scale projects should only include projects from the most recent five years.

1 Second, although the VOS Decision requires the RCP to account for the benefits that the
2 utility receives to its transmission and distribution system from the utilization of solar
3 DG, when the evidence demonstrates no additional benefit has been realized, then
4 nothing should be added to the RCP. Third, a combined RCP rate should be used for
5 both TEP and UNSE. Fourth, and in accordance with the VOS Decision, the Year Two
6 RCP rate should be approved in this proceeding. Finally, it is important to base TEP's
7 and UNSE's RCP rate on the specific circumstances and data of the Companies, and not
8 model it after the export rate contained in the Arizona Public Service Company
9 Settlement Agreement. *See* Decision No. 76295 (August 18, 2017) ("APS Settlement
10 Decision").

11 For the reasons set forth below, Arizona Investment Council ("AIC") urges the
12 Commission to adopt a Year One RCP rate of 9.73 cents per kilowatt hour (kWh),
13 approve a Year Two RCP rate of 8.76 cents per kWh to take affect no later than 12
14 months after the effective date of this order, and approve rate designs that include a Grid
15 Access Charge and DG Meter charge.

16 **II. Using the most up to date and accurate solar pricing data available to both**
17 **TEP and UNSE to calculate the Resource Comparison Proxy Rate**
18 **appropriately implements the Commission's intention in the Value of Solar**
Decision.

19 **A. The most recent five year rolling average of utility scale projects**
20 **should be used to calculate the RCP rate.**

21 A five year rolling average allows for fresh data to be used and represents a
22 reasonable proxy for DG solar exports that is closer to current cost levels. The VOS
23 Decision concluded that "Staff's Resource Comparison Proxy methodology, with a five-
24 year rolling average (based on projects with in-service dates within the last five-years)
25 [would] provide the strongest and most flexible tool to inform [the Commission's]
26 determinations in rate cases regarding the appropriate level of compensation for rooftop
27 solar exports." VOS Decision at 148:1-6. TEP and UNSE have up-to-date cost
28

1 information (through 2017) on their own utility scale projects and PPAs, and therefore
2 this actual data should be used in the calculation.

3 The parties hotly debated whether the data for the “five year average” should
4 include the most recent five years or instead the five years ending with the test year,
5 throughout the Phase 2 proceeding. The VOS Decision makes conflicting statements
6 regarding this issue. The majority of references to the “five year rolling average” do not
7 refer to a test year. *See* VOS Decision at 148:4-5, 149:9, 149:15, 150:27-28, 153:12-13,
8 170:25-26, 171:12-13, and 171:28-172:1. However, in two instances the decision reads,
9 “within the five years up to and including the test year of the rate case.” *See* VOS
10 Decision at 153:15-16 and 172:3-4. Typically, these different methodologies would not
11 yield a materially different result. In this case, however, the significant delay between
12 the Companies’ test years and the Commission’s decision concerning the export rate
13 makes using the test year as the last year in the average a poor proxy for current costs.

14 UNSE’s test year ended December 2014 and TEP’s test year ended June 2015.
15 To set the RCP rate using the end of the test years as the last year in the five year rolling
16 average would mean using data from 2009 and 2010 to set rates that would take effect in
17 2018. This makes no sense given the Commission’s goal to move towards current
18 market-based rates.

19 Additionally, using old and stale data from an inappropriate five year period only
20 exacerbates the problems that the VOS Decision and the RCP rate intends to solve –
21 appropriately valuing exported solar and reducing the cost shift between non-solar and
22 solar DG customer. *See* Surrebuttal Testimony of Gary Yaquinto at 5:13-16. Solar
23 projects costs continue to decline. Therefore including more expensive projects from
24 seven or eight years ago ignores the more recent less expensive projects. Rebuttal
25 Testimony of Dallas Duke at 17:4-6. The solar advocates’ methodology does not correct
26 the cost-shift, and instead perpetuates it. The VOS Decision did not intend to handcuff
27 rate-making to utilizing stale data.

28

1 Given the policy objectives set forth in the VOS Decision, the Commission
2 should use the Companies’ most recently available data, up through 2017, to calculate
3 the RCP. However, AIC recognizes that other parties, including Staff, the Companies’,
4 VoteSolar, and RUCO, agreed that using a five-year period ending in 2016 is
5 reasonable. *See* Surrebuttal Testimony of Brianna Kobor at 15:24-25, Surrebuttal
6 Testimony of Lon Huber at 12:2-8; Surrebuttal Testimony of Ralph Smith at 8:18.
7 Given this agreement by a wide range of stakeholders, AIC can also support the use of a
8 five-year rolling weighted average that ends December 31, 2016.

9 **B. Zero transmission and distribution capacity costs have been avoided**
10 **due to residential solar DG in TEP’s and UNSE’s service territories.**

11 The Companies’ analysis concluded that the installation of DG avoided zero
12 transmission and distribution capacity costs. The VOS Decision ordered the RCP
13 methodology to include any additional benefits of avoided transmission and distribution
14 capacity into the weighted average. VOS Decision at 170:28-171:1, 171:13-14, 171:6-9.
15 If no additional benefit is realized, however, then no value should be added to the RCP
16 calculation. *See* Rejoinder Testimony of Dallas Dukes at 15:7-16. Staff thoroughly
17 reviewed the Companies’ analysis and agrees with the “zero” conclusion. In describing
18 the rigorousness of the review, Mr. Smith stated that Staff was “extremely skeptical
19 about the zero amount, and we have scoured the record and asked extensive discovery.
20 [Staff] tried to keep a totally open mind about all this evidence that is being presented
21 here. And based on that, [Staff came] to the conclusion that there is no basis for an
22 amount other than zero.” Hearing Testimony of Ralph Smith at 1201:13 – 1202:3.
23 RUCO’s analysis also concluded that the transmission and distribution adder should be
24 zero. *See* Surrebuttal Testimony of Lon Huber at 17:15 – 18:3. While the VOS
25 Decision requires the inclusion of any benefits to the transmission and distribution
26 capacity in calculating the RCP, it does not require the inclusion of benefits that do not
27 exist. Staff’s, RUCO’s, and the Companies’ proposed RCP rates include zero
28 adjustment for avoided transmission and distribution capacity because no evidence

1 supported the addition of any amount for such avoided capacity. The Commission
2 should not adjust the RCP in any amount for these non-existent benefits. .

3 **C. The same RCP rate should be set for both TEP and UNSE.**

4 AIC supports setting one RCP rate—9.73 cents per kWh—for both TEP and
5 UNSE. The Companies are part of the same corporate family, share company
6 management and operations resources, as well as some facilities. Additionally, utilizing
7 a combined RCP rate will reduce administrative burdens and regulatory lag.

8 The VOS Decision also requires the use of pricing data from other photovoltaic
9 projects in Arizona when actual recent PPA or utility owned data is not available for a
10 specific utility. *See* VOS Decision at 152:6-11. UNSE is a relatively small company
11 with few utility scale solar resources of its own. Therefore it is logical to use data from
12 its sister company to fill in the gaps for the RCP calculation. *See* Surrebuttal Testimony
13 of Lon Huber at 11:2-22. Moreover, to set different rates for TEP and UNSE without
14 using appropriate proxy data creates an illogical result. The Alliance for Solar
15 Choice/Energy Freedom Coalition of America recommends an RCP for TEP/UNSE of
16 12.5 cents per kWh based on inappropriate proxy data and unnecessary adders.
17 Surrebuttal Testimony of Thomas Beach at 19:1-9. That RCP rate for UNSE would be
18 higher than its average residential rate, furthering the cross-subsidization of solar
19 customers by non-solar customers. Such a result misconstrues the policy goals of the
20 VOS Decision and rate-making in general.

21 **D. The Year Two RCP rate should take effect sooner rather than later.**

22 AIC supports an initial combined RCP of 9.73 cents per kWh with the RCP Year
23 Two rate to take effect 12 months after a decision in this matter at a combined rate of
24 8.76 cents per kWh. Setting the RCP rate to more closely reflect market-based costs is
25 important to mitigate the cost shift between solar and non-solar customers. And,
26 because the 2017 costs data is known, approving the Year Two RCP rate now
27 encourages administrative efficiency and reduces regulatory lag.

28

1 The VOS Decision specifically states the RCP rate will be set in a rate case, and
2 that the formula for annual updates should be approved at the same time. Specifically,
3 the VOS Order states the RCP:

4 . . . [the rate] will be updated annually after it is initially set in
5 a rate case proceeding or separate rate design phase. At the
6 time the initial DG export rate is set, a Plan of Administration
7 that provides the mechanism for annual modifications to that
8 initial rate also will be adopted. The annual updates
accomplished between rate cases should be formulaic. VOS
Decision 151:26-152:1.

9 In the circumstances of this case, AIC supports the Year Two RCP rate taking effect 12
10 months after the effective date of this rate case order *only* if the lower combined RCP
11 rate of 9.73 cents per kWh is adopted. Otherwise, a quicker reduction in the RCP rate,
12 by July 2018, is warranted and appropriate.

13 Here, if the Commission imposes a higher initial RCP rate, it is likely that the
14 decision would be based upon data that has not captured the dramatic recent decreases in
15 solar costs – a fact established by the evidence. *See* Hearing Testimony of Ralph Smith
16 at 1217:14-16. Straightforwardly applying the 12-month trailing formula would then
17 “lock in stone” the initial RCP rate’s failure to utilize current solar cost data. Plainly
18 that is not the result envisioned by the Commission in the VOS Decision. Indeed, given
19 the 10 percent reduction limitation,¹ the longer time frame before the Year Two RCP
20 rate takes effect would only perpetuate the unfair subsidization that the VOS Decision
21 sought to reduce. Re-setting the rate in July 2018 (as opposed to twelve months after the
22

23 [A]ll the evidence [p]resented here shows that the cost of utility scale solar has been declining.
24 And it has declined rather significantly through – when you start incorporating updates of the
25 five year period [], the 10 percent limitation is going to become very important on determining
26 what the incremental RCP rates are. . . The July 1 date, I think part of the reason for that is that
27 the data for the five years ending through December 31, 2017 will be available. . . other
28 witnesses have talked about the unanticipated delays in processing this part of the proceeding.
So I guess Staff doesn’t view the delays that have occurred here as being any reason to delay
implementing the further updates of the RCP rate on an appropriate annual schedule based on
whether the information is available and can be reviewed.” Hearing Testimony of Ralph Smith
at 1215-1216:19-16.

1 order) would be appropriate given the delays that have occurred in this case and would
2 be consonant with the “reduction of cost-shift” goals of the VOS Decision. This earlier
3 triggering of the annual-update mechanism is not foreclosed by the language of the VOS
4 Decision and makes sense in the unique circumstances of these rate cases.

5 **III. TEP’s and UNSE’s RCP rate should be based on the evidence presented in**
6 **this proceeding and not on the RCP contained in APS’s Settlement**
7 **Agreement.**

8 It is inappropriate to compare APS’s RCP rate reached in a settlement to a rate for
9 TEP and UNSE. APS’s RCP rate was set during APS’s rate case, which occurred in a
10 single phase and over the normal rate case prosecution time frame. Additionally, APS’s
11 RCP rate was set within the parameters of a fully settled rate case, where represented
12 parties with fulsome industry understanding reached a mutually acceptable compromise.
13 In any case, looking to APS’s RCP rate is unnecessary here, where a robust record has
14 been established to calculate the appropriate RCP rate for TEP and UNSE through two
15 phases of proceedings.

16 APS’s rate case took 413 days. There was no issue over what years to include in
17 the rolling five year average when calculating APS’s RCP. APS could use its test year
18 data to set the RCP rate because its rate application was prosecuted within a much
19 shorter timeframe.

20 In contrast, UNSE’s and TEP’s rate cases have already taken 914 and 728 days
21 respectively – and still do not have final orders. If the RCP rate is set any later than
22 March 1, 2018, UNSE will have waited more than 1000 days since it originally filed its
23 rate application.

24 If UNSE had followed a similar time frame as APS, its first RCP rate would have
25 been set in June 2016 with its Year Two RCP rate currently in effect. Instead, UNSE
26 will not have an RCP rate set until March 2018. If data from the test year is used, as
27 advocated by the solar parties, the Commission would be setting a rate in 2018 that
28 could have been set almost two years before. This runs contrary to the intent of the VOS

1 Decision. Further, as noted above – and unlike the APS RCP rate – the parties here have
2 developed a robust record based on the actual circumstances of TEP and UNSE in order
3 to set the RCP rate.

4
5 **IV. The rate design supported by the Companies, Staff, and RUCO should be**
6 **adopted because it reduces the cross-subsidization between solar and non-**
7 **solar customers.**

8 It is necessary for solar DG customers to pay a Grid Access Charge and a DG
9 Metering Fee because it recovers necessary fixed grid costs from solar DG customers
10 and begins to lessen the cross-subsidization between the two customer groups.

11 TEP and UNSE can have different rate designs for solar DG and non-solar DG
12 customers because the Commission concluded in the VOS Decision that “[r]ooftop solar
13 DG customers are partial requirements customers. . . [and] are a separate class of
14 customers.” VOS Decision at 174:15-17. Separate classes of customers require separate
15 considerations during the rate making process. While the Commission did not explicitly
16 say *how* solar DG customers should be treated, it did conclude that “[t]he ratemaking
17 implications of this separate class treatment are to be determined in each utility’s rate
18 case supported by a fully vetted cost of service analysis.” *Id.* at 174:17-19. Here, TEP
19 and UNSE submitted open and transparent cost of service analyses, and reasonable rate
20 designs for solar DG customers supported by those cost of services studies.

21 The Companies, Staff, and RUCO agree on substantially all of the solar DG rate
22 design issues, including a DG meter charge and a DG Grid Access Charge. *See*
23 *Rejoinder Testimony of Dallas Dukes at 5:17-20.* Use of a DG Meter Charge and a DG
24 Grid Access Charge will recover a portion of the necessary fixed grid costs incurred in
25 serving solar DG customers. Assessment of these charges will afford the Companies
26 with a reasonable opportunity to recover their authorized revenue requirement without
27 shifting costs from solar-customers to non-solar customers. Therefore, AIC urges the
28 Administrative Law Judge to adopt the rate design supported by TEP, UNSE, Staff and
RUCO.

1 **V. Conclusion.**

2 The concept of gradualism played a key role in both the TEP and UNSE
3 proceedings as well as the VOS proceeding. Historically, gradualism in rate-making
4 focuses on minimizing or mitigating bill increases for existing customers. However, in
5 the VOS proceeding, the concept of gradualism was expanded to include mitigating the
6 risk to the solar industry because of regulatory changes to the export rate and rate
7 design. The RCP rate and new rate design options will have no impact on *existing* net
8 metering customers because they will be able to stay on their current rate. The new rate
9 merely offers a reasonable reduction in subsidies afforded to *new* solar DG customers.

10 The Commission should set the Year One RCP rate at 9.73 cents per kWh for
11 both TEP and UNSE solar DG customers, as well as approve the Year Two RCP rate at
12 8.76 cents. Additionally, the Commission should approve the rate designs that include a
13 Grid Access Charge and DG Meter Fee supported by the Companies, Staff, and RUCO.
14 The combination of the RCP rate and the rate design provides regulatory certainty,
15 affords the Companies a reasonable opportunity to earn their authorized returns, and
16 send a positive price signal to credit and rating analysts. The combination is also fair to
17 both new and existing solar DG customers, mitigates the cost-shift currently occurring
18 between solar DG customers and non-solar customers, and provides a gradual transition
19 away from net metering.

20 RESPECTFULLY SUBMITTED this 4th day of December, 2017.

21
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9 All Parties of Record pursuant to the
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