

## CENTER IN HEARINGS TO OPPOSE DRAMATIC CHANGE IN ELECTRICITY PRICING FOR CONSUMERS

**T**he Center has been busy fighting a proposed rate increase that has the potential to adversely impact the way that all Arizona consumers pay for their electricity. The proposal, which involves so-called “demand charges,” is currently before the Arizona Corporation Commission in a rate case filed by UNS Electric, Inc. last year. UNS, which serves about 93,000 customers in Santa Cruz and Mohave counties, is owned by Canada-based Fortis Inc., which also owns Tucson Electric Power (TEP). Demand charges, where power bills are based on each customer’s highest usage level in a billing period, are a common feature of commercial power rates, but they have never been mandated for Arizona residential ratepayers who have a more limited ability to manage and reduce their maximum demand. Rather, most residential ratepayers in Arizona have paid a fixed monthly charge plus rates based on usage. Demand charges would add a third billing element that could dramatically increase UNS consumers’ electric bills.

The Center intervened in the case to represent Arizona Community Action Association, the Southwest Energy Efficiency Project and Western Resource Advocates. Initially UNS sought to impose the demand charges solely to solar customers. However, the Commission staff recommended that demand-charge rates be mandatory for all UNS residential customers and UNS is now backing that proposal.

The Center’s clients oppose UNS’s proposal on two critical grounds. First, under the proposed three tier rate structure, residential customers will bear the brunt of the higher bills which will disproportionately impact low income households. UNS rural customers generally earn lower incomes than their urban counterparts, as Mohave and Santa Cruz counties have seen a slow economic recovery. According to Tim Hogan, “through no fault of their own, we have residential customers with lower-than-average income who are now being asked to absorb an 8 percent increase.” No other major utilities in the United States require all residential customers to pay mandatory demand charges. However, if UNS’s proposal is approved, it is almost inevitable that the other Arizona utilities will follow suit.

Second, UNS has also proposed cutting its “net metering” rate — the rate at which it credits rooftop solar customers for excess power they produce — to what it pays for wholesale renewable power. Currently, net metering gives rooftop solar customers the right to be compensated for the excess energy they send to the grid at retail rates. It has proven to be a keystone solar policy that has been implemented in the vast majority of states, providing customers with a clean and economical alternative to electricity generated from fossil fuels. If this change is approved, it could have a devastating impact on Arizona’s solar industry.

Notably, this change in the Net Metering rate is similar to what TEP proposed in its own rate case filed in November. TEP has proposed moving rooftop solar customers to a rate that is based on demand charges and cuts the credit rate for excess solar generation. However, at this point, TEP has not pushed to mandate demand charges for all residential customers. Clearly, depending on what happens with the UNS case, that is likely to change.

Bottom line, the UNS and TEP proposals pose a dire threat to rooftop solar in Arizona because they would severely undercut the economics of solar and diminish the value solar provides to customers. Recent experience shows just what is at stake. When Arizona’s Salt River Project instituted a mandatory demand charge for rooftop solar customers last year, applications for new rooftop solar installations decreased by over 95%. And when Nevada recently decided to eliminate net metering and increase fixed charges for solar customers, the local solar industry was decimated as solar companies laid off hundreds of employees and reduced their investment in the state.

Hearings on UNS’s rate case are scheduled to continue before a Corporation Commission administrative judge through most of March. The judge will then issue a recommended order that the full Corporation Commission will consider, probably by mid-summer.

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## JOIN US ON APRIL 30 FOR OUR ANNUAL PHOENIX EVENT

**T**his year, the Center's annual event will be held on Saturday, April 30 at The Vintage 45 from 6:00 p.m. to 10:00 p.m. This venue, which is recently renovated, is an exciting new event space in the historic Phoenix Warehouse District

Once again we will have a hosted bar and food from Arizona Taste. Instead of a sit down dinner, we will have passed hors d'oeuvres and elegant food stations set up throughout the gallery.

As long-time Center supporters know, at this event we always try to recognize the work of people and organizations who have dedicated themselves to important public interest issues. This year, we will be presenting our Public Interest Award to Robert and Jeanann Bartels in recognition for their long time support of and involvement in numerous progressive legal efforts including the Arizona Capital Representation Project, the Arizona Justice Project, and the Center.

The evening's entertainment will include live music and, of course,

we will once again have our live and silent auctions. Last year's silent auction featured over 100 items, ranging from original artwork to one-of-a-kind jewelry pieces.

Guests will also have an opportunity to bid on wines from all over the world, musical instruments, and golf outings. This year's live auction will once again feature fabulous vacation packages.

This is the Center's only fundraising event of the year in the Phoenix area, so please make every effort to attend and join the fun. Tickets are \$150 each and are available by contacting the Center at (602) 258-8850 or you can register online at our website, [www.aclpi.org](http://www.aclpi.org). If you would like to attend but the ticket price is too steep, please let us know. We often have a limited number of tickets available at no cost.

Also, let us know if you have something that you can donate for the silent and/or live auction. Popular items include frequent flier miles, vacation timeshares, sporting event tickets, sports memorabilia, wine, jewelry, or gift certificates. We hope to see you there!

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The Center would  
like to thank  
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### DMAFB continued...

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health impacts —particularly the health impacts to children; and environmental justice issues.

The plaintiffs are seeking an objective and thorough environmental analysis as the law requires, including the identification of potential mitigation measures that could lessen the adverse impacts; they are not asking the court to stop the TFT program altogether. The government's answer to the Complaint is due April 25, 2016.

## UPDATE ON LAWSUIT CHALLENGING LEGISLATIVE BAN ON CITIES' REGULATION OF PLASTIC BAGS

Last Fall, we told you about a case that we filed on behalf of Lauren Kuby, a member of the Tempe City Council, to challenge Senate Bill 1241 which was signed into law on April 13, 2015.

SB 1241 prohibited cities and towns from regulating the sale, use or disposition of “auxiliary containers” including single use plastic bags that are commonly used in many grocery stores and other retail outlets. The legislation also bans cities and towns from requiring a business owner to report energy usage and consumption to promote energy efficiency. This practice is commonly referred to as “energy benchmarking.”

In the lawsuit the Center alleged that the legislation was unconstitutional on three grounds. First, it combined multiple subjects into a single bill which violated the single subject provision in Article 4 of the Arizona Constitution. Single use plastic bags

and energy benchmarking have nothing in common and should have been addressed in separate bills. Second, the bill violated the title requirement of the Arizona Constitution that requires that the subject of a bill be expressed in the title. In this case, the title of the bill was “relating to energy regulatory prohibition” which failed to provide notice that it involves prohibiting cities from regulating single use plastic bags. Finally, the lawsuit contended that SB 1241 violated the home rule provision of the Arizona Constitution which prohibits the legislature from dictating matters of local concern to charter cities in Arizona. The regulation of plastic bags is a matter of local concern because it impacts trash collection, waste management and recycling - - all of which have historically been matters under the control of Arizona cities.

In response to our Complaint, the State filed a motion to dismiss

arguing that Councilmember Kuby did not have standing to assert the three claims. Shortly thereafter, several industry groups who support the legislation moved to intervene and oppose the lawsuit. The parties agreed to have the Court first resolve the Motion to Intervene and then take up the issue of standing.

On March 4th, we received notice that the Superior Court denied the Motion to Intervene. However, in the meantime, the Arizona legislature passed two separate bills, which the Governor has signed, making it illegal for local governments to regulate plastic bags or adopt energy benchmarking. The new bills get around the single-subject provisions that SB 1241 violated, but they continue to violate the home rule provision. Consequently, our challenge will continue based on that claim.

## Center Sues Air Force Over Noise Impacts of Visiting Units at Davis Monthan AFB

On January 22, 2016 the Center filed a lawsuit in federal court challenging the U.S. Air Force's failure to adequately evaluate the environmental impacts—especially noise impacts—of a plan to expand the training program for visiting units at Davis-Monthan Air Force Base. The approved action will increase the annual number of sorties flown by visiting units at the base to 2,326. This represents a dramatic increase in the number of sorties flown by visiting units in recent years. The lawsuit asks the court to declare the Environmental Analysis inadequate

and order the USAF to prepare an Environmental Impact Statement.

The training program, formerly known as Operation Snowbird, began in 1972 as a wintertime-only program for A-7 and F-100 aircraft units from out of state. Over the years, the Air Force not only expanded the program to year-round, but also opened the training program to a wide range of aircraft from all over the world, including F-18s and F-15s which are significantly louder than the A-10s stationed at DMAFB. The Air Force implemented that expansion without undertaking the federally-required environmental analysis to evaluate the impact that it

would have on the surrounding environment—in particular the long-established neighborhoods located within DM's flight pattern. This lack of environmental compliance came to light several years ago, and in response to public outcry, the USAF agreed to undertake the required analysis, albeit more than 30 years late.

The EA prepared by the USAF, however, fails to comply with the law's requirements. Among other deficiencies, the EA fails to adequately analyze: the cumulative impacts of the TFT program; the noise impacts; the

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