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AZ CORP COMMISSION  
DOCUMENT CONTROL

November 13, 2000

**VIA HAND DELIVERY**

DOCKET NO. E-01773A-00-0925

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

DOCKET NO. E-01461A-00-0925

Re: *Amendment to PD Sierrita Agreements between Trico Electric Cooperative, Inc. ("Trico"), Arizona Electric Power Cooperative, Inc. ("AEPSCO") and Phelps Dodge Sierrita, Inc. ("PD Sierrita"); Docket Nos. E-01773A-\_\_\_\_\_ and E-01461A-\_\_\_\_\_.*

Dear Sir/Madam:

Pursuant to A.R.S. § 40-367, AEPSCO and Trico submit the original and ten (10) copies of the Amendment to PD Sierrita Agreements. The Amendment was negotiated as part of the Settlement Agreement among the parties which was approved by the Commission in Decision No. 62758 dated July 27, 1998. An unexecuted complete version of the Agreement has been previously supplied to Staff.

Very truly yours,

GALLAGHER & KENNEDY, P.A.

By:  
Michael M. Grant

Enclosure  
MMG/lmm  
cc: Deborah Scott (via hand delivery, w/encl.)  
Russ Jones (via mail, w/encl.)  
Webb Crockett (via mail, w/encl.)  
Dick Kurtz (via mail, w/encl.)

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AMENDMENT TO PD SIERRITA AGREEMENTS

BETWEEN

TRICO ELECTRIC COOPERATIVE, INC.,

ARIZONA ELECTRIC POWER COOPERATIVE, INC.

AND

PHELPS DODGE SIERRITA, INC., SUCCESSOR IN INTEREST TO  
CYPRUS SIERRITA CORPORATION

October 10, 2000

**AMENDMENT TO PD SIERRITA AGREEMENTS  
BETWEEN  
TRICO ELECTRIC COOPERATIVE, INC.,  
ARIZONA ELECTRIC POWER COOPERATIVE, INC.  
AND  
PHELPS DODGE SIERRITA, INC., SUCCESSOR IN INTEREST TO  
CYPRUS SIERRITA CORPORATION**

This AMENDMENT TO THE PD SIERRITA AGREEMENTS ("Amendment") is entered into by and among TRICO ELECTRIC COOPERATIVE, INC. ("Trico"), ARIZONA ELECTRIC POWER COOPERATIVE, INC. ("AEPCO"), and PHELPS DODGE SIERRITA, INC., as successor in interest to CYPRUS SIERRITA CORPORATION ("PD Sierrita"). Trico, AEPCO, and PD Sierrita are referred to individually as "Party" and collectively as "Parties". Trico and AEPCO are sometimes collectively referred to as "Sellers".

- 1 RECITALS - This Amendment is made with reference to the following facts, among others:
  - 1.1 Trico, AEPCO, and PD Sierrita are signatories to the PURCHASE AGREEMENT BETWEEN TRICO, AEPCO, AND CYPRUS SIERRITA CORPORATION ("CYPRUS") dated April 22, 1994, as amended by LETTER AMENDMENT NO. 1, dated June 27, 1994, as further amended by SECOND AMENDMENT TO THE PURCHASE AGREEMENT, dated November 17, 1995, and as further amended by THIRD AMENDMENT TO PURCHASE AGREEMENT, dated August 10, 1998 ("Purchase Agreement").
  - 1.2 Trico, AEPCO and PD Sierrita are also signatories to the CONTINGENT WELL SERVICE AGREEMENT BETWEEN TRICO, AEPCO AND CYPRUS, dated November 16, 1995, as amended by ADDENDUM NO. 1, dated April 16, 1996, and as further amended by AMENDMENT NO. 1, dated August 31, 1998 ("Well Agreement").
  - 1.3 The Parties are also signatory to a letter Re: Sierrita Power Supply Agreements, dated July 26, 1999 ("Non-Termination Letter"), by which each Party agreed to

waive its respective right to terminate either the Purchase Agreement or the Well Agreement prior to December 31, 2001.

1.4 The Parties are additionally signatory to a settlement agreement, dated May 19, 2000 ("Settlement Agreement"), by which the Parties settled their differences as to AEPCO's request for approval by the Arizona Corporation Commission of regulatory asset and competitive transition charges in Docket No. E-01773A-98-0470 (AEPCO's "Stranded Cost Case"). As a part of the Settlement Agreement, AEPCO and PD Sierrita agreed to change certain of AEPCO's rates for service to PD Sierrita under the Purchase Agreement and the Well Agreement, respectively, and to enter into an amendment to the Purchase Agreement and the Well Agreement to set forth such rate changes. The Settlement Agreement was approved by the Arizona Corporation Commission in Decision No. 62758 dated July 27, 2000.

1.5 Without affecting either the Non-Termination Letter or the Settlement Agreement, the Parties desire by this Amendment to set out: (i) the amended termination provisions of the Purchase Agreement and Well Agreement resulting from the Non-Termination Letter; and, (ii) the rate changes for the Purchase Agreement and the Well Agreement (collectively, the "PD Sierrita Agreements") contemplated by AEPCO and PD Sierrita in conjunction with the Settlement Agreement.

2 **AGREEMENT** - In consideration of the premises and mutual covenants contained herein, the Parties agree as follows:

2.1 **DEFINITIONS** - Terms with initial capitalization used in this Amendment that also appear in the Purchase Agreement or Well Agreement shall have the same meaning as in the Purchase Agreement or Well Agreement, as applicable, unless otherwise defined herein.

2.2 **EFFECTIVE DATE AND TERM** - This Amendment shall be effective upon its execution and delivery by the Parties and its approval by RUS and ACC (collectively, "Condition Precedent"), and shall remain in effect concurrently

with the later of either the term of the Purchase Agreement or the term of the Well Agreement, as such term of such agreements is amended by this Amendment; provided, however that the provisions of this Amendment that apply solely to the Purchase Agreement shall terminate contemporaneously with the Purchase Agreement, and the provisions of this Amendment that apply solely to the Well Agreement shall terminate contemporaneously with the Well Agreement. In the event that the Condition Precedent is not satisfied prior to December 31, 2000, solely because RUS and/or ACC approvals have not been obtained for the rates set forth herein, and neither RUS nor ACC has disapproved or refused to approve such rates, such rates shall be deemed to be in effect on January 1, 2001, on a temporary basis pending such approval(s). Should RUS or ACC subsequently disapprove such rates, or require any material changes or material modifications of this Amendment that are unacceptable to any Party, this Amendment shall become null and void and shall not be binding on any Party for any purpose. In the event of such disapproval(s) or unacceptable requirement(s) for change or modification, the Parties shall negotiate in good faith to modify, within 60 days of the receipt of RUS and/or ACC written notice of such disapproval or unacceptable requirement for change or modification, this Amendment so as to attempt to secure all such approvals.

2.3 MODIFICATIONS TO PD SIERRITA AGREEMENTS - The PD Sierrita Agreements are hereby amended as follows:

2.3.1 Section 5.1 of the Purchase Agreement shall be deleted in its entirety and replaced to read as follows:

"5.1 The effective date of this Agreement shall be 12:01 a.m., June 1, 1994, or 12:01 a.m. of the day next following the day upon which the conditions set forth in Section 5.3 are satisfied, whichever occurs last. This Agreement shall remain in effect through December 31, 2001, and shall continue in effect thereafter until and unless terminated by any Party having provided six (6) months prior written notice of termination to

each of the other Parties; provided that all obligations to pay money that were incurred prior to such termination shall continue after termination until satisfied. "

2.3.2 In EXHIBIT A of the Purchase Agreement, the paragraph under "Monthly Energy Charge" shall be deleted in its entirety and replaced to read as follows:

"Monthly Energy Charge:

The Monthly Energy Charge for energy associated with the Capacity and delivered hereunder during the Billing Month shall be equal to the product of the following applicable Monthly Energy Charge Rate ("MECR") times such energy in KWH:

2.3.4 Subsection C of Section II of the Well Agreement shall be deleted in its entirety and replaced to read as follows:

"C. TERM - This Well Agreement shall remain in effect through December 31, 2001, and shall continue in effect thereafter until and unless terminated by any Party having provided six (6) months prior written notice of termination to each of the other Parties; provided that all obligations to pay money that were incurred prior to such termination shall continue after termination until satisfied."

2.3.5 Subparagraph 1.2 of Subsection I of Section II of the Well Agreement shall be deleted in its entirety and replaced to read as follows:

3 MISCELLANEOUS - The following provisions are made a part of this Amendment:

3.1 Sellers shall submit this Amendment to RUS and to ACC promptly upon execution and shall diligently pursue written approvals of this Amendment by RUS and ACC. PD Sierrita shall diligently work with Sellers to provide information needed by RUS and ACC that is not otherwise available to Sellers, to support approval by RUS and ACC of this Amendment; provided, to the extent that any information furnished to RUS or to ACC by PD Sierrita is confidential, PD Sierrita shall have the right to condition furnishing such information to RUS or ACC on RUS and ACC keeping such information confidential.

3.2 As amended by this Amendment, the Purchase Agreement and the Well Agreement shall remain in full force and effect.

3.3 This Amendment shall neither supersede nor otherwise set aside the Non-Termination Letter nor the Settlement Agreement, both of which shall remain of full force and effect in accordance with their respective terms.

4 SIGNATURES - The officers of the Parties designated below are duly authorized to execute this Amendment on behalf of their respective entities.

IN WITNESS WHEREOF, this Amendment is hereby executed as of this 3<sup>rd</sup> day of November, 2000.

PHELPS-DODGE SIERRITA, INC.

By: Robert J. Wishart  
Robert Wishart

Date: 10/25/00

Its: President

TRICO ELECTRIC COOPERATIVE, INC.

By: George P. Davies  
George P. Davies

Date: 11/3/00

Its: President

ARIZONA ELECTRIC POWER COOPERATIVE, INC.

By: Donald W. Kimball  
Donald W. Kimball

Date: 10/11/00

Its: Executive Vice President and Chief Executive Officer