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BEFORE THE ARIZONA CORPORATION COMMISSION

Arizona Corporation Commission

2550

COMMISSIONERS

JEFF HATCH-MILLER Chairman  
WILLIAM A. MUNDELL  
MARC SPITZER  
MIKE GLEASON  
KRISTIN K. MAYES

2005 MAY 31 A 11:19

AZ CORP COMMISSION  
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DOCKETED

MAY 31 2005

DOCKETED BY [Signature]

IN THE MATTER OF THE GENERIC  
PROCEEDINGS CONCERNING ELECTRIC  
RESTRUCTURING ISSUES.

DOCKET NO. E-00000A-02-0051

IN THE MATTER OF ARIZONA PUBLIC  
SERVICE COMPANY'S REQUEST FOR A  
VARIANCE OF CERTAIN REQUIRMENTS OF  
A.A.C. R14-2-1606.

DOCKET NO. E-01345A-01-0822

IN THE MATTER OF THE GENERIC  
PROCEEDING CONCERNING THE AIROZNA  
INDEPENDENT SCHEDULING  
ADMINISTRATOR.

DOCKET NO. E-00000A-01-0630

IN THE MATTER OF TUCSON ELECTRIC  
POWER COMPANY'S APPLICATON FOR A  
VARIANCE OF CERTAIN ELECTRIC  
COMPETITION RULES COMPLAINCE DATES.

DOCKET NO. E-01933A-02-0069

PROCEDURAL ORDER

**BY THE COMMISSION:**

On May 4, 2005, Tucson Electric Power Company ("TEP" or "Company") filed a Motion for a Declaratory Order and Request for Procedural Conference in the above-captioned matters.<sup>1</sup> TEP is seeking a declaratory order stating the methodology that the Arizona Corporation Commission ("Commission") will apply to determine TEP's rates for generation service after the current Competition Transition Charge ("CTC") terminates in 2008. In its pleading, TEP claims that if the Commission intends to "rescind TEP's authorization to charge market-based rates for generation service" such change will have immediate consequences for the 1999 Settlement Agreement, the 2004 Rate Review and future TEP rate cases.

On May 17, 2005, the Residential Utility Consumer Office ("RUCO") filed a Response to TEP's Motion, and takes issue with the "foundational premise" of TEP's Motion that after December 31, 2008, TEP's generation service rates will be based on the Market Generation Credit ("MGC").

<sup>1</sup> TEP filed the same request in Docket No. E-01933A-04-0408, TEP's Rate Review.

1 RUCO believes that the Commission has not committed to market-based rates after 2008, nor does  
 2 RUCO believe the Commission needs to decide that exact treatment that will be afforded TEP's  
 3 generation assets after December 31, 2008.

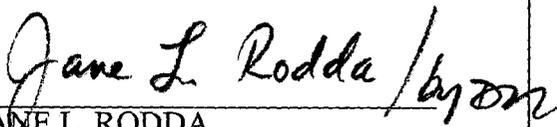
4 On May 20, 2005, Commission Staff filed a Response, arguing that the Commission should  
 5 deny TEP's Motion. In the alternative, Staff requests that the Commission order TEP to file pre-filed  
 6 testimony in support of its Motion. Staff requests that the Commission modify the Procedural Order  
 7 in the Rate Review proceeding to allow an indefinite continuance to allow Staff and other parties to  
 8 avoid preparing and filing testimony that may be mooted by TEP's supplemental filings.<sup>2</sup>

9 IT IS THEREFORE ORDERED that a **Procedural Conference** for the purpose of discussing  
 10 TEP's Motion for Declaratory Order and Staff's request for stay of the procedural schedule in the  
 11 Rate Review proceeding shall commence on **June 7, 2005, at 1:30 p.m.**, at the Commission's offices,  
 12 **1200 West Washington, Phoenix, Arizona 85007**. The telephone number for parties wishing to  
 13 participate telephonically is **(602) 542-9004**.

14 IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113-Unauthorized  
 15 Communications) continues to apply to this proceeding as it has been set for hearing.

16 IT IS FURTHER ORDERED that the Presiding Officer may rescind, alter, amend, or waive  
 17 any portion of this Procedural Order either by subsequent Procedural Order or by ruling at hearing.

18 DATED this 31<sup>ST</sup> day of May, 2005.

19  
 20  
 21   
 22 JANE L. RODDA  
 23 ADMINISTRATIVE LAW JUDGE  
 24  
 25

26 <sup>2</sup> On May 17, 2005, Arizonans for Electric Choice and Competition, Phelps Dodge Mining Company and ASARCO, Inc. (collectively  
 27 "AECC") filed a Response to TEP's Motion in Docket No. E-01933A-04-0408. AECC believes that any "uncertainty" surrounding the  
 28 Commission's future treatment of TEP's generation assets after the expiration of the 1999 Settlement Agreement was answered in the  
 Commission's Track A Order and that a declaratory order is unnecessary. On May 20, 2005, The Arizona Utility Investors  
 Association ("AUIA") filed a Response to TEP's Motion in Docket No. E-01933A-04-0408, supporting the request for a Declaratory  
 Order.

1 Copies of the foregoing mailed  
2 this 31<sup>st</sup> day of May, 2005 to:

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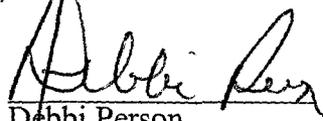
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