



BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

MARC SPITZER- Chairman  
JIM IRVIN  
WILLIAM MUNDELL  
JEFF HATCH-MILLER  
MIKE GLEASON

Arizona Corporation Commission  
DOCKETED

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IN THE MATTER OF THE APPLICATION OF  
TUCSON ELECTRIC POWER COMPANY FOR  
APPROVAL OF NEW PARTIAL REQUIRMENTS  
SERVICE TARIFFS; MODIFICATION OF  
EXISTING PARTIAL REQUIRMENTS SERVICE  
TARIFF 101; AND ELIMINATION OF  
QUALIFYING FACILITY TARIFFS.

DOCKET NO. E-01933A-02-0345

IN THE MATTER OF THE APPLCIATION OF  
TUCSON ELECTRIC POWER COMPANY FOR  
APPROVAL OF ITS STRANDED COST  
RECOVERY

DOCKET NO. E-C1933A-98-0471

DECISION NO. 65751

OPINION AND ORDER

DATE OF HEARING:	October 22, 2002
PLACE OF HEARING:	Tucson, Arizona
ADMINISTRATIVE LAW JUDGE:	Jane L. Rodda
APPEARANCES:	Mr. Ray Heyman, ROSHKA, HEYMAN & DEWULF, PLC, on behalf of Tucson Electric Power Company;  Mr. Peter Q. Nyce Jr., on behalf of the Department of Defense;  Mr. Scott Wakefield, Chief Counsel, on behalf of the Residential Utility Consumer Office;  Mr. Jason Gellman, Staff Attorney, on behalf of the Utilities Division of the Arizona Corporation Commission.

**BY THE COMMISSION:**

On March 14, 2002, Tucson Electric Power Company ("TEP") filed a Motion for Clarification of Settlement Agreement ("Clarification Motion"). TEP's Clarification Motion seeks approval to clarify the Market Generation Credit ("MGC") calculation that is contained in the 1999

1 TEP Settlement approved by the Commission in Decision No. 62103 (November 30, 1999).

2 On May 10, 2002, TEP filed an Application for approval of new and updated tariffs to  
3 provide Partial Requirements Service ("PRS") to self-generation customers, sometimes called  
4 distributed generation ("DG") customers.

5 By Procedural Order dated July 10, 2002, the Administrative Law Judge consolidated the  
6 matters for hearing.

7 The Commission granted intervention to the Residential Utility Consumer Office ("RUCO"),  
8 Department of Defense ("DOD"), Arizona Cogeneration Association, Bob's Auto Supply, Inc., APS  
9 Energy Services Company, Inc., Arizona Utilities Investors Association, and the Land and Water  
10 Fund of the Rockies.

11 TEP mailed notice of its PRS tariff application to all of its customers starting with the billing  
12 cycle July 10, 2002. Notice of the Clarification Motion was mailed to all parties of record in Docket  
13 No. E-01933A-98-0471 (TEP's Stranded Cost proceeding) as well as all parties to the Commission's  
14 "Track B" proceeding.

15 TEP filed direct testimony on August 30, 2002. The Commission's Utilities Division Staff  
16 ("Staff"), the DOD and the Arizona Cogeneration Association filed testimony on September 27,  
17 2002. TEP filed rebuttal testimony on October 11, 2002.

18 The hearing convened on October 22, 2002, in Tucson. TEP, DOD, RUCO and Staff  
19 participated in the hearing.

20 TEP, DOD, and Staff filed post-hearing briefs on November 18, 2002.

#### 21 Motion for Clarification

22 The 1999 TEP Settlement Agreement authorized TEP the opportunity to recover its stranded  
23 costs through the implementation of a Competitive Transition Charge ("CTC"). The CTC is  
24 comprised of a fixed component and a floating component. The Floating CTC is calculated using a  
25 Market Generation Credit ("MGC") methodology, and changes inversely with market price.  
26 Pursuant to the 1999 TEP Settlement Agreement, the MGC is determined on a quarterly basis using a  
27 formula that incorporates various information, including the Palo Verde NYMEX futures prices.

28 Two of the indexes used in the calculation of the MGC are no longer available. One index

1 was provided by the California Power Exchange ("CALPX"), which ceased operation in January  
 2 2001. The other index was the New York Mercantile Exchange ("NYMEX") Palo Verde Electricity  
 3 Futures, which were de-listed from NYMEX in April 2002. In lieu of the indexes used for the MGC  
 4 calculation in the 1999 TEP Settlement Agreement, TEP proposes to substitute the Dow Jones Daily  
 5 Palo Verde Index ("DJPVI") for the CALPX and the Platts "Long-term Forward Assessments"  
 6 Energy Prices for Palo Verde ("Platts Energy") for the NYMEX – Palo Verde Electricity Futures.

7 TEP is also proposing to modify the timing and scope of the MGC calculation. The  
 8 calculation for the MGC under the 1999 TEP Settlement Agreement was computed using the 45<sup>th</sup>.  
 9 46<sup>th</sup> and 47<sup>th</sup> days prior to the start of a quarter. The newly proposed calculation computes the MGC  
 10 from the 30<sup>th</sup>, 31<sup>st</sup> and 32<sup>nd</sup> days prior to the beginning of each month and sets the MGC only for the  
 11 coming month.

12 TEP argues that the following language in the 1999 TEP Settlement Agreement supports that  
 13 the parties contemplated potential modifications to the MGC methodology:

14 [I]f the nature of the Palo Verde NYMEX changes such that it no longer  
 15 accurately reflects the intent of the Settlement, the Company, Staff or any  
 16 other interested party may request that an alternative index be utilized to  
 the extent such index is consistent with the Settlement.

17 Resolution

18 All interested parties were notified of the current proceeding. RUCO and Staff, who actively  
 19 participated in this proceeding, support the proposed change. No party opposed the modifications.  
 20 Staff recommended that TEP remove the word "hourly" from the calculation of the off-peak MGC  
 21 and MGC-2 (for PRS) because the Dow Jones Index provides daily figures instead of hourly figures.

22 The method for calculating the MGC pursuant to the 1999 TEP Settlement Agreement must  
 23 be modified because the indexes used to set the MGC no longer exist. TEP's proposed  
 24 modifications, to replace references to the "Palo Verde NYMEX futures price" with the Platts Energy  
 25 and to replace "California Power Exchange" with DJPVI; to change the determination of market  
 26 price from 45 days prior to each calendar quarter to 30 days prior to each calendar month; and to  
 27 remove the word "hourly" from the calculation of the off-peak MGC, are reasonable and should be  
 28 approved.



1 offer PRS-102 if modified to reflect the same changes that it proposed to PRS-101.

2 PRS-103 is "Supplementary, Backup, Maintenance and Interruptible Service for Cogeneration  
3 and Small Power Production Qualifying Facilities (QF) under 100 kW." PRS-103 provides for  
4 billing these services to be in accordance with the General Service time-of-use rate GS-76, except the  
5 rate is reduced to \$0.01 per kW for interruptible service. TEP proposes to eliminate PRS-103.  
6 Residential customers with renewable applications take service under PRS-101. Non-residential QFs  
7 would be served under TEP's proposed Pricing Plan PRS-10 "Partial Requirements Service Less than  
8 200 kW." There would be no separate tariff to provide partial requirements service for residential  
9 QFs.

10 PRS-104 is "Optional Supplementary Service for Cogeneration and Small Power Production  
11 Qualifying Facilities (QF) over 100kW." PRS-104 provides for billing for supplementary service to  
12 be in accordance with the General Service Time-of-Use Rate GS-76, Large General Service Time-of-  
13 use Rate GS-85A, or Large Light and Power Time-of-Use Rate LLP-90A. Supplementary service is  
14 for electricity purchased from TEP that is in addition to what the QF produces.

15 PRS-105 is "Optional Maintenance Service for Cogeneration and Small Power Production  
16 Qualifying Facilities (QF) over 100 kW." PRS-105 contains a monthly service charge and a fixed  
17 energy charge for energy purchased from TEP when a QF is out of service for scheduled  
18 maintenance.

19 PRS-106 is "Optional Backup Service for Cogeneration and Small Power Production  
20 Qualifying Facilities (QF) over 100 kW." PRS-106 contains a monthly service charge except that  
21 customers also taking service on PRS-105 would only pay the service charge once. For energy  
22 purchased from TEP during an unscheduled outage of the QF, there is a fixed energy charge. There  
23 is also a reservation charge based on the facility's unscheduled outage rate.

24 PRS-107 is entitled "Optional Backup Service for Self-Generation Facilities over 3 MW."  
25 Facilities do not have to be designated as QFs to qualify for service under this tariff. The rates to  
26 purchase electricity from TEP during an unscheduled outage of the facility consist of a reservation  
27 charge and a fixed energy charge.

28 PRS-108 is entitled "Optional Maintenance Energy Service for Self-Generation Facilities over

1 3 MW.” Facilities do not have to be designated as QFs to qualify for service under this tariff. The  
2 rate to purchase energy from TEP during a scheduled outage of the facility consists of a fixed energy  
3 charge. The energy charge is lower if the customer also takes service under PRS-107.

4 TEP proposes to eliminate PRS-103, 104, 105, 106, 107 and 108. Partial requirements  
5 customers would be served under the newly proposed PRS-10, PRS-13 or PRS-14, depending on the  
6 customer’s size.

7 TEP proposes the introduction of several new tariffs for partial requirements customers. PRS-  
8 10, entitled “Partial Requirements Service Less Than 200 kW;” PRS-13, is entitled “Partial  
9 Requirements Service From 200 kW to Less Than 3,000 kW;” and PRS-14 is for “Partial  
10 Requirements Service 3,000 kW and Greater.” These tariffs are available to nonresidential customer  
11 and are not limited to QFs.

12 TEP believes that the proposed changes to the tariffs will benefit its customers and is in the  
13 public interest because: (a) the new PRS tariffs broaden the scope of those customers who may  
14 receive PRS service; (b) the generation pricing for the new PRS tariffs provides an incentive for self-  
15 generation customers to peak-shave; (c) the PRS tariffs will allow customers to obtain back-  
16 up/standby, maintenance and supplemental generation service from a competitive electric service  
17 provider through direct access, while acquiring distribution and transmission services for delivery  
18 from TEP; and (d) PRS customers continue to remain eligible to participate in TEP’s GreenWatt  
19 program.

20 TEP asserts that its current QF tariffs, pursuant to which customers who generate their own  
21 power can receive back-up/standby and supplemental service, require the customers to be QFs, as  
22 that term is defined by Public Utility Regulatory Policies Act of 1978 (“PURPA”). TEP states that  
23 technology has changed since the implementation of the QF tariffs and there are potential self-  
24 generation customers who would need PRS but would not qualify for that service pursuant to TEP’s  
25 QF tariffs. Thus, the PRS tariffs would be available to a greater number of customers.

26 TEP argues that in addition to being able to reach an increased number of customers,  
27 economic concerns also support the tariff revisions. TEP believes that if it tried to apply full  
28 requirements service tariffs to DG customers, it would create an economic mismatch of costs and

1 revenues that would result in a revenue shortfall. TEP claims that when a customer installs a DG  
2 unit, it utilizes the incumbent utility's distribution and transmission system less. TEP's full-  
3 requirements tariffs were designed based on assumptions of full-requirement utilization by  
4 customers. If only the underlying assumptions for full customer utilization are changed, the cost to  
5 TEP of providing the transmission and distribution service will be the same, but there will be less  
6 customer usage from which TEP can recover the cost to provide the service. TEP believes that  
7 providing PRS tariffs designed for full-requirements service would provide a DG customer with a  
8 unilateral "discounted call" on generation from TEP at fixed prices. TEP argues, that its generation  
9 costs are not fixed and that generation costs vary depending upon system configuration, unit  
10 availability, load requirements, time-of-day, season, and the price of market power.

11 TEP testified that the newly proposed PRS tariffs reflect input from the Commission-  
12 sponsored Distributed Generation Interconnections Investigation ("DGI") Advisory Committee. The  
13 June 28, 2000 DGI Workgroup Final Report, recommended that the Commission "design fair and  
14 reasonable tariffs considering proper recovery of utility costs, back-up power or partial-requirements  
15 tariffs, and PURPA Qualifying Facilities while providing consistent treatment of DG relative to other  
16 consumer services." TEP believes the proposed PRS tariffs are designed to recover costs incurred by  
17 TEP to provide PRS. TEP claims it matched "cost recovery" with the "cost to serve" DG customers  
18 by: (a) allocating fixed and variable costs for the transmission and distribution system between  
19 customer, demand and energy charges based on lower system utilization by partial requirements  
20 customers; and (b) separating distribution and transmission ("delivery costs") from generation costs.

21 TEP also believes that the new PRS tariffs better reflect the intention of PURPA than the  
22 existing QF tariffs, as all similarly situated DG customers will receive the same service regardless of  
23 QF status.

24 Department of Defense

25 The DOD states that there is no need to replace TEP's currently approved QF and PRS tariffs  
26 at this time. DOD states there are only 31 customers taking service under TEP's QF tariffs, 30 of  
27 whom, are small, renewable-source generators on PRS-101. There is one contract customer on PRS-  
28 106. DOD argues the Company is not experiencing a revenue shortfall from its current QF

1 customers, and because it has no pending applications for QF or PRS service, it is unlikely the  
2 Company will experience revenue shortfalls in the future. The DOD argues there is no compelling  
3 evidence to suggest that the newly proposed PRS tariffs provide a satisfactory substitute for the case-  
4 by-case approach to PRS service at this time.

5 The DOD also claims that the PRS tariffs were developed based on faulty assumptions. First,  
6 TEP assumes PRS customers with 10 percent load factors should be required to pay distribution and  
7 transmission costs that are equal to those costs allocated to full requirements customers with load  
8 factors ranging from 48 percent to 83 percent. DOD argues that this assumption results in excessive  
9 demand charges to PRS customers. In pricing the PRS tariffs, DOD argues TEP ignored the load  
10 factor/coincident factor relationship, thereby doubling, or tripling, the distribution and transmission  
11 demand charges properly allocable to PRS customers.

12 Second, DOD asserts that in developing its PRS rates, TEP reclassified portions of its energy-  
13 related unbundled rates to demand charges, but provided no explanation for this reclassification.  
14 DOD claims this assumption revises TEP's unbundled rates to the detriment of PRS customers, and  
15 this rate design modification exacerbates the excessive level of demand charges in the proposed PRS  
16 tariffs. Consequently, DOD argues, the competitive advantages afforded direct access customers are  
17 not available to PRS customers.

18 Finally, DOD states the new tariffs require PRS customers to be responsible for demand  
19 charges ratcheted at 100 percent for a period of 23 months. DOD claims this assumption requires  
20 PRS customers to pay excessive demand charges, and could result in demand charges to PRS  
21 customers that exceed those charged to full requirements customers. TEP's full requirements Rate 13  
22 and 14 contain ratchet provisions of 50 percent and 67 percent, respectively, for a period of 11  
23 months.

24 DOD argues that the high level of charges included in the proposed PRS tariffs make most QF  
25 or DG projects economically unfeasible. According to the DOD, if Fort Huachuca decided to self-  
26 generate it would be required to pay TEP approximately \$860,000 annually for a few days of  
27 transmission service.

28 DOD further argues that the data used to develop the PRS tariffs is stale. The load research

1 was conducted in 1994 and the cost of service study was performed in 1996. DOD advocates  
2 revising the PRS tariffs based on updated load research and cost of service studies, which it believes  
3 could be done within the revenue constraints of the 1996 general rate case.

4 TEP argues that the Commission has approved TEP's ratemaking methodology in every  
5 docket that has come before it in the past 15 years, and the Commission has rejected the DOD's  
6 criticism. TEP argues the DOD did not present any evidence to justify TEP or the Commission  
7 abandoning long accepted ratemaking practices.

8 Staff's Position

9 Staff believes that TEP should not be allowed to eliminate tariffs previously implemented for  
10 qualifying cogeneration and small power producing facilities. (PRS-103 through PRS-108), as  
11 previously established by Commission Decision in response to PURPA. Staff supports, however,  
12 implementation of the new partial requirements service tariffs PRS-10, PRS-13 and PRS-14, with  
13 certain modifications. Staff also supports the proposed changes to PRS-101 and PRS-102, as long as  
14 qualifying cogeneration and small power producing facilities are eligible for service under those  
15 tariffs.

16 Staff does not deny the necessity of partial requirements tariffs for facilities that do not  
17 qualify under PURPA, but Staff believes at this time there is still a place for the QF tariffs. Staff  
18 recognizes TEP's difficulty with the existing QF tariffs that do not reflect all of the changes in  
19 providing electric service which have occurred at both the Federal and State level. Staff notes there  
20 have been many changes such as FERC Order 888, which affect the pricing of services to qualifying  
21 facilities and how utilities purchase power from these facilities. Staff does not believe these concerns  
22 justify eliminating the QF tariffs.

23 Staff states the portion of PURPA addressing cogeneration and small power producers  
24 encourages the use of renewable sources of energy and promotes energy efficiency. In response to  
25 PURPA, the Commission adopted Decision Nos. 52345 (July 27, 1981) and 56271 (December 15,  
26 1985) to implement these policies and encourage the development of cogeneration and small power  
27 producing facilities. Although these Decisions might not reflect all of the current realities of the  
28 electric market and the QF tariffs might be outdated in some respects, Staff argues the fact remains

1 that PURPA encourages certain kinds of cogeneration and small power production facilities that  
2 utilize renewable sources and/or promote energy efficiency and conservation. Staff argues PURPA is  
3 still in effect. Staff asserts there is still a desire to treat qualified facilities differently from non-  
4 qualifying facilities on account of the efficiency and fuel diversity benefits. Although from TEP's  
5 perspective serving qualifying and non-qualifying facilities are the same, there are societal benefits  
6 that warrant encouraging qualified facilities. For the foregoing reasons, Staff supports retaining the  
7 existing QF tariffs. However, Staff is amenable to looking at whether those QF tariffs need to be  
8 updated in light of the new realities of the electric market.

9 Staff supports the implementation of the new PRS tariffs if modified, and is not opposed to  
10 qualifying facilities having the option to be served under either the QF tariffs or the PRS Tariffs.  
11 Staff recommends that TEP revise PRS-10 (which provides PRS to customers under 200 kW that are  
12 not QFs), PRS-13 (which provides PRS for customers from 200 kW to less than 3,000 kW that are  
13 not QFs), and PRS-14 (which provides PRS to customers from 3,000kW and greater) to lower the  
14 delivery rates by considering savings, such as reduced need for additional transmission capacity, to  
15 TEP from having self-generation facilities in its service territory. Staff also recommends revising the  
16 PRS tariffs to conform with Decision No. 56271, which requires supplementary power be priced at  
17 the otherwise applicable rate, so that customers on PRS-10 would not pay more on PRS-10 than on  
18 the otherwise applicable tariff.

19 Staff recommends that PRS-101 not be changed to exclude cogeneration facilities, but finds  
20 all the other proposed changes to PRS-101 to be acceptable. Staff asserts that Sec. 292.304 of  
21 FERC's regulations regarding PURPA requires utilities to have in effect standard rates for purchases  
22 from QFs of 100kW or less. Staff believes that to remove cogeneration facilities from PRS-101  
23 would be in violation of both FERC's regulations and the Commission's order.

24 TEP believes that Staff's reasons for keeping the QF tariffs in place are based only on  
25 hypothetical concerns about what might occur without stating that negative results from eliminating  
26 the QF tariffs would, in fact, occur. TEP believes that by keeping the existing QF tariffs, TEP would  
27 be sending inappropriate pricing signals to potential PRS customers.

28

1 Resolution

2 TEP makes a case for the desirability of having partial requirements service tariffs that apply  
3 to self generation customers who are not necessarily QF's under PURPA. No party objects to that  
4 concept. Staff and DOD object to specific components of the newly proposed PRS tariffs and Staff  
5 objects to eliminating the current QF tariffs. DOD believes that the new PRS tariffs unfairly shift  
6 costs to DG customers. Staff believes that the delivery costs are too high and that the price of  
7 supplementary power does not comply with Commission Decision No. 56271's mandate that  
8 supplementary power be priced at the otherwise applicable rate. Staff supports the introduction of the  
9 new PRS tariffs, but only if modified as Staff recommends. Staff further believes that the existing  
10 QF PRS tariffs should not be eliminated because they were enacted as a result of Commission  
11 Decision Nos. 52345 and 56271 to comply with PURPA's goal of encouraging co-generation and  
12 small energy producers.

13 No party to this proceeding presented evidence on how many customers would be able, or  
14 would want, to take PRS pursuant to the newly proposed tariffs. Staff testified that it was difficult to  
15 determine the effect of the new tariffs on TEP's revenue because they are structured so differently  
16 from the existing QF tariffs. The implication of TEP being concerned that the existing QF tariffs  
17 may result in a revenue shortfall is that the new PRS rates are going to be higher. The probability  
18 that the proposed PRS rates will be higher than current rates. Staff's questions about possible delivery  
19 cost savings from self-generators, and the unknown demand for such service make it impossible for  
20 the Commission to approve the proposed tariffs as presented at this time. The parties to this  
21 proceeding did not present evidence that would allow the Commission to fully determine if the  
22 proposed price is reasonable or if there will be an effect on revenue.

23 In Decision Nos. 52345 and 56271, the Commission established policies concerning co-  
24 generation and small power production to comply with PURPA sections 201 and 210. Staff argues  
25 that because PURPA, as well as the Commission Decisions implementing its policies, are still in  
26 effect, TEP should not now eliminate the tariffs that were approved pursuant to those Decisions.  
27 Staff believes that the Commission's policy is to encourage QFs on account of their societal benefits.  
28 TEP argues the new tariffs comply with PURPA and should replace the existing tariffs that do not

1 adequately recover TEP's costs of serving these customers. Given the Commission's policies as  
 2 expressed in Decisions Nos. 52345 and 56271, the fact that the Commission has not approved the  
 3 findings of the DGI Working Group, and our disapproval of the newly proposed PRS tariffs, we find  
 4 that TEP should continue to offer PRS-103 through 108. There should be no effect on TEP's revenue  
 5 as a result of keeping these tariffs in place, as there are no customers, outside the one contract  
 6 customer, who are taking, or expected to take, power under their terms.

7 Currently, TEP has 30 DG customers taking service under PRS-101. These customers were  
 8 informed of the current application and did not object to the proposed modifications. The proposed  
 9 modifications are reasonable, and the effect on TEP's revenues of these modifications would be *de*  
 10 *minimus*. We find that PRS-101 and -102 should be modified as recommended by Staff.

11 \* \* \* \* \*

12 Having considered the entire record herein and being fully advised in the premises, the  
 13 Commission finds, concludes, and orders that:

#### 14 FINDINGS OF FACT

15 1. On March 14, 2002, TEP filed a Motion for Clarification of Settlement Agreement.  
 16 seeking approval to clarify the Market Generation Credit calculation that is contained in the 1999  
 17 TEP Settlement approved by the Commission in Decision No. 62103.

18 2. On May 10, 2002, TEP filed an Application for approval of new and updated tariffs to  
 19 provide Partial Requirements Service to distributed generation customers.

20 3. Decision No. 64868 (June 5, 2002) suspended the tariff application until October 7,  
 21 2002. Decision No. 65208 (September 20, 2002) suspended the application an additional 120 days,  
 22 until April 5, 2003, to allow the Commission to conduct a hearing and prepare a final Order.

23 4. By Procedural Order dated July 10, 2002, the Hearing Division consolidated the  
 24 matters for hearing.

25 5. TEP filed direct testimony on August 30, 2002. Staff, the DOD and the Arizona  
 26 Cogeneration Association filed testimony on September 27, 2002. TEP filed rebuttal testimony on  
 27 October 11, 2002.

28 6. The hearing convened on October 22, 2002, in Tucson, with TEP, DOD, RUCO and

1 Commission Staff participating.

2 7. TEP, DOD, and Staff filed post-hearing briefs on November 18, 2002.

3 8. The indexes used to calculate the MGC in the 1999 TEP Settlement Agreement no  
4 longer exist, and must be replaced in order to calculate the Floating CTC.

5 9. TEP proposes to modify the MGC as expressed in the 1999 TEP Settlement  
6 Agreement by substituting the Dow Jones Daily Palo Verde Index for the CALPX and the Platts  
7 Energy for the NYMEX – Palo Verde electricity prices; and modifying the timing and scope of the  
8 MGC calculation from quarterly to monthly.

9 10. No entity opposed TEP's proposal to change the indexes and calculation. Staff and  
10 RUCO support the proposed modification.

11 11. TEP's proposed modification to the MGC calculation is reasonable and should be  
12 adopted.

13 12. TEP proposes to modify existing tariffs PRS-101 and PRS-102, and eliminate tariffs  
14 PRS-103 through -108; and is seeking approval of new tariffs PRS-10, PRS-13 and PRS-14.

15 13. TEP's tariffs PRS-103 through -108 apply only to QF facilities, as defined under  
16 PURPA.

17 14. TEP's proposed PRS-10, -13 and -14 would apply to all DG customers whether QFs  
18 or not.

19 15. Staff recommends that existing PRS 103 through -108 not be eliminated, as these  
20 tariffs comply with Commission Decisions implementing PURPA.

21 16. The record does not provide sufficient information to allow a complete analysis of the  
22 proposed charges or the effect on revenues resulting from proposed PRS-10, PRS-13 and PRS-14.

23 17. TEP proposes to modify PRS-101 and PRS-102 by changing the purchase rates to  
24 market-based rates, requiring customers to conform to applicable interconnection requirements, to  
25 eliminate time-of-use net metering, and to increase the availability of net-metering to single solar  
26 electric systems and small wind generators to 10kW and below.

27 18. Staff supports TEP's proposed changes to PRS-101 and PRS-102, except that Staff  
28 opposes the proposed elimination of co-generators from being able to avail themselves of the tariff.

1 Staff believes that to remove cogeneration facilities from PRS-101 and 102 would be in violation of  
2 both FERC's regulations and Commission Decisions Nos. 52345 and 56271.

3 **CONCLUSIONS OF LAW**

4 1. TEP is a public service corporation within the meaning of Article XV of the Arizona  
5 Constitution and A.R.S. §§ 40-250.

6 2. The Commission has jurisdiction over TEP and of the subject matter of the  
7 applications.

8 3. Notice of the proceeding was given in accordance with the law.

9 4. The proposed tariffs PRS-10, PRS-13 and PRS-14 are reasonable, fair and in the  
10 public interest if approved on an experimental basis.

11 5. The proposed modifications to PRS-101 and PRS-102, as further modified by Staff's  
12 recommendations to include QF co-generation facilities, are reasonable, fair and equitable, would not  
13 have a substantial effect on TEP's revenues, and are in the public interest.

14 6. The proposed modification to the calculation of the MGC is fair and reasonable and  
15 should be adopted.

16 **ORDER**

17 IT IS THEREFORE ORDERED that Tucson Electric Power Company's Application for  
18 elimination of tariffs PRS-103, PRS-104, PRS-105, PRS-106 and PRS-107 is denied.

19 IT IS FURTHER ORDERED that the proposed tariffs PRS-10, PRS-13 and PRS-14 are  
20 approved on an experimental basis.

21 IT IS FURTHER ORDERED that QFs shall have the option of taking partial requirements  
22 service under either the existing or the experimental tariffs.

23 IT IS FURTHER ORDERED that Tucson Electric Power Company's Application for  
24 approval of modifications to tariffs PRS-101 and PRS-102 is approved as modified by the discussion  
25 herein.

26 IT IS FURTHER ORDERED that Tucson Electric Power Company's Motion for Clarification  
27 of Settlement Agreement is granted consistent with the discussion herein.

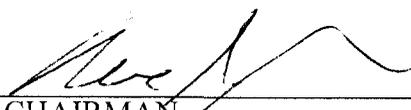
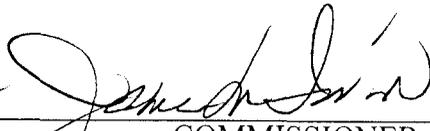
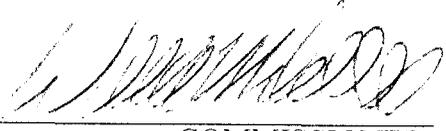
28 IT IS FURTHER ORDERED that no later than June 1, 2004, in conjunction with its filing

1 requirements under paragraph 5.2 of the 1999 Settlement, Tucson Electric Power Company shall  
2 submit appropriate information to the Commission regarding service under the experimental tariffs  
3 consistent to allow the Commission to monitor whether those tariffs continue to be in the public  
4 interest and to determine if the Commission should order a true-up of revenues collected under the  
5 experimented tariffs.

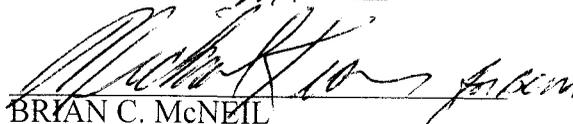
6 IT IS FURTHER ORDERED that Decision No. 62103, which approved the 1999 TEP  
7 Settlement Agreement shall be modified consistent with our Decision herein to modify the  
8 calculation of the MGC.

9 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

10 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

11  
12     
13 CHAIRMAN COMMISSIONER COMMISSIONER  
14    
15 COMMISSIONER COMMISSIONER  
16  
17

18 IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive  
19 Secretary of the Arizona Corporation Commission, have  
20 hereunto set my hand and caused the official seal of the  
21 Commission to be affixed at the Capitol, in the City of Phoenix,  
22 this 20<sup>th</sup> day of MARCH, 2003.

23   
24 BRIAN C. McNEIL  
25 EXECUTIVE SECRETARY

26 DISSENT \_\_\_\_\_

27 DISSENT \_\_\_\_\_

28 JR:mlj

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