OPEN MEETING AGENDA ITEM

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Chairman Jeff Hatch-Miller
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Re: ***Tucson Electric Power Company***
***Motion to Amend Decision No.* 62103**
Docket E-01933A-05-0650

Dear Colleagues:

I requested that this item be pulled from the February 14 Open Meeting Calendar. The Recommended Opinion and Order ("ROO") simply denies the Motion. After my review of this matter, particularly the Chairman's October 21, 2005 letter, I believe we should engage in a discussion about whether this matter should be sent back to Hearing.

I agree with the ROO that interpretation of the 1999 Settlement and Decision No. 62103 must be based on the reasonable consequences of changed circumstances. In this and other matters, the Commission has not been blind to the seismic shift from the economic assumptions underlying the 1999 settlements, including wholesale and retail competition and commodity prices.

I am intrigued by three potential amendments to Decision No. 62103. First, this proceeding is appropriate to review the Commission's Renewable Energy Standard and Demand Side Management programs as applied to Tucson Electric Power. Second, the Energy Cost Adjustment Clause ("ECAC") represents an intriguing means to govern commodity costs and to mitigate their impact on customers. The ECAC offers the opportunity for the Company to "manage" what is now a critical component of its business. Good management of the ECAC yields benefits to shareholders, poor management the reverse. In either case, the ratepayers are shielded from the fuel volatility and the fear of price spikes beyond their control. While I still have some fundamental questions about the application of the ECAC, it is precisely those questions that need to be answered on the record so the Commission can make an informed decision in this matter.

Finally, and perhaps most important, the TEP ratepayers should not be subjected to further uncertainty. The future of the Company and its ratepayers should be resolved promptly after an evidentiary hearing on these (and perhaps other) points.

For the foregoing reasons, I do not subscribe to the view that "nobody contends anything is going to happen between now and January 2009." (ROO at 10). Failure to address renewable energy, demand side management, the ECAC, the many loose threads from 1999, or to let TEP and its ratepayers know the score, are profound and negative consequences of "doing nothing".

I believe the Commission should "do something" and begin substantive work on these pressing matters.

Very truly yours,

Marc Spitzer
Commissioner

cc: Docket Control
Parties on Record
Brian McNeil
Heather Murphy