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BEFORE THE ARIZONA CORPORATION COMMISSION Arizona Corporation Commission 251

COMMISSIONERS

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AUG 29 2006

JEFF HATCH-MILLER, Chairman  
WILLIAM A. MUNDELL  
MIKE GLEASON  
KRISTIN K. MAYES  
BARRY WONG

AZ CORP COMMISSION  
DOCUMENT CONTROL

DOCKETED BY	<i>NR</i>
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IN THE MATTER OF THE FILING BY TUCSON  
ELECTRIC POWER COMPANY TO AMEND  
DECISION NO. 62103

DOCKET NO. E-01933A-05-0650

PROCEDURAL ORDER

**BY THE COMMISSION:**

On September 12, 2005, Tucson Electric Power Company ("TEP" or the "Company") filed a Motion with the Arizona Corporation Commission ("Commission"), pursuant to A.R.S. § 40-252, to amend Decision No. 62103 (November 30, 1999). As described by the Company, TEP desired to amend Decision No. 62103 to provide for:

- (a) The extension, beyond December 31, 2008, of the existing TEP rate freeze at TEP's Base Rate;
- (b) The retention of the current Competitive Transition Charge ("CTC") amortization schedule;
- (c) The agreement of TEP not to seek rate treatment for certain generation assets; and
- (d) The implementation of a mechanism to protect TEP and its customers from energy market volatility, to be effective after December 31, 2008.

On April 20, 2006, the Commission issued Decision No. 68669 which reopened Decision No. 62103 and the 1999 Settlement Agreement pursuant to A.R.S. §40-252. In Decision No. 68669, the Commission directed the Hearing Division to schedule a hearing to consider amending Decision No. 62103, and that at a minimum, "the hearing should address the following issues, including but not limited to: the viability of the 1999 Settlement in light of the Track A, Track B and the *Phelps Dodge*<sup>1</sup> decisions, (including a discussion and presentation of evidence regarding the individual

<sup>1</sup> *Phelps Dodge Corp. v. Arizona Electric Power Co-op, Inc.*, 207 Ariz. 95, 83 P.3d 573 (App. 2004).

1 parties' opinions of whether TEP will be able to charge market-based rates or cost-of-service rates  
2 after 2008), the proposals outlined in TEP's original application, Demand Side Management,  
3 Renewable Energy Standards, and Time of Use tariffs."

4 By Procedural Order dated June 1, 2006, this matter was set for hearing to commence on  
5 January 8, 2007.

6 On August 18, 2006, pursuant to the June 1, 2006 Procedural Order, TEP filed the direct  
7 testimony of James Pignatelli. Mr. Pignatelli's testimony presented two alternative proposals to  
8 charging market-based generation service rates in 2009. TEP asserts that both proposals require an  
9 amendment to the 1999 Settlement Agreement. These proposals appear to deviate from TEP's initial  
10 proposal as described in its request to amend Decision No. 62103. One of the proposed alternatives  
11 contemplates a three-year phase-in of market-based generation rates, and the other contemplates cost-  
12 of service regulation for generation service.

13 Mr. Pignatelli's testimony raises the question whether the timeline and scope of the  
14 proceeding as described in the June 1, 2006 Procedural Order remain realistic. It also raises the issue  
15 of whether the public notice as set forth in that Procedural Order is an accurate description of the  
16 issues under consideration as part of this proceeding, and whether that notice should be revised and  
17 redistributed.

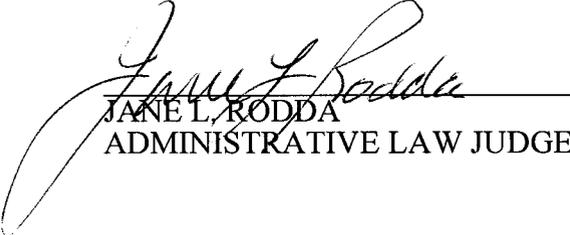
18 IT IS THEREFORE ORDERED that interested parties shall file by September 11, 2006,  
19 comments and recommendations on whether the procedural guidelines and schedule set forth in the  
20 June 1, 1006 Procedural Order remain appropriate and realistic and whether additional public notice  
21 is required or advisable.

22 IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113-Unauthorized  
23 Communications) continues to apply to this proceeding and shall remain in effect until the  
24 Commission's Decision in this matter is final and non-appealable.

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

3 DATED this 28<sup>th</sup> day of August, 2006

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6   
JANE L. RODDA  
ADMINISTRATIVE LAW JUDGE

7 Copies of the foregoing mailed  
8 this 28<sup>th</sup> day of August, 2006 to:

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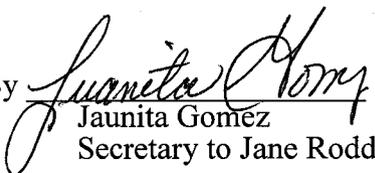
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By   
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Secretary to Jane Rodda