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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

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

Arizona Corporation Commission
DOCKETED
SEP 11 2006

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AZ CORP COMMISSION
DOCUMENT CONTROL

IN THE MATTER OF THE FILING BY TUCSON
ELECTRIC POWER COMPANY TO AMEND
DECISION NO. 62103.

DOCKET NO. E-01933A-05-0650
**RESPONSE TO
PROCEDURAL ORDER**

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The Arizona Utility Investors Association ("AUIA") submits this Response to the Procedural Order dated August 28, 2006 (the "Procedural Order"). In light of the testimony TEP filed on August 18, 2006, the Procedural Order requests comments and recommendations from the parties on two subjects: (1) whether additional public notice is required or advisable and (2) whether the existing procedural schedule should be modified. Neither additional notice nor any change to the current timetable is warranted.

This proceeding's core issue is "whether the Commission will adhere to the TEP 1999 Settlement Agreement's foundational premise that after December 31, 2008...TEP's generation service rates will be determined based upon the Market Generation Credit formula (i.e., market-based rates)."¹ Although TEP has discussed possible alternatives in its Motion to Amend and pre-filed direct testimony, this core issue remains unchanged. In Decision No. 68669, the Commission, pursuant to A.R.S. § 40-252, decided to take up that issue. Broad public notice of that fact and this proceeding has been published and mailed to customers.

¹ TEP Motion for Declaratory Order dated May 4, 2005, p. 4, ll. 24-27.

1 Additional notice under these circumstances is neither required nor advisable. From a
2 legal standpoint, there's no question that the basic requirements of A.R.S. § 40-252 have been far
3 exceeded. From a practical standpoint, as is the case in most Commission matters, it's likely that
4 more answers and options on the core issue will be offered and considered by the parties, the
5 Administrative Law Judge and the Commission as this proceeding moves through the balance of
6 the pre-filing, hearing, briefing and decisional stages. Requiring additional notice every time a
7 new concept or proposal surfaces would be very difficult, if not impossible, to administer.

8 AUIA also does not believe that any delay in the current procedural schedule is
9 appropriate. The Commission has ordered an "expeditious but complete review of these
10 matters." More than 16 months has elapsed since TEP filed its first pleading on this matter. The
11 current timetable allows the parties three months to conduct discovery and file testimony, which
12 is more than adequate time to comply with the Commission's directive.

13 RESPECTFULLY SUBMITTED this 11th day of September, 2006.

14 GALLAGHER & KENNEDY, P.A.

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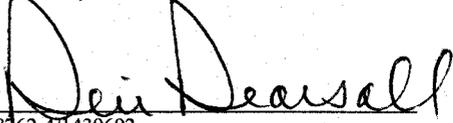
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