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AZ CORP COMMISSION  
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Arizona Corporation Commission  
**DOCKETED**

JAN 08 2007

Attorneys for Intervenor IBEW Local 1116

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BEFORE THE ARIZONA

CORPORATION COMMISSION

IN THE MATTER OF THE FILING BY  
TUCSON ELECTRIC POWER COMPANY  
TO AMEND DECISION NO. 62013

Docket No. E-01933A-05-0650

DIRECT TESTIMONY OF  
RYLE J. CARL III

Pursuant to the Administrative Law Judge's Procedural Order (p. 2) dated November 1, 2006, Local Union 1116, International Brotherhood of Electrical Workers, AFL-CIO, CLC ("IBEW Local 1116"), by and through undersigned counsel, hereby provides notice of its filing of the attached Direct Testimony of Ryle J. Carl III in this docket.

RESPECTFULLY SUBMITTED this 8<sup>th</sup> day of January, 2007.

LUBIN & ENOCH, P.C.

Nicholas J. Enoch, Esq.

Attorney for Intervenor IBEW Local 1116

Original and thirteen (13) copies  
of IBEW Local 1116's Notice filed  
this 8<sup>th</sup> day of January, 2007, with:

Arizona Corporation Commission  
Docket Control Center  
1200 West Washington Street  
Phoenix, Arizona 85007-2996

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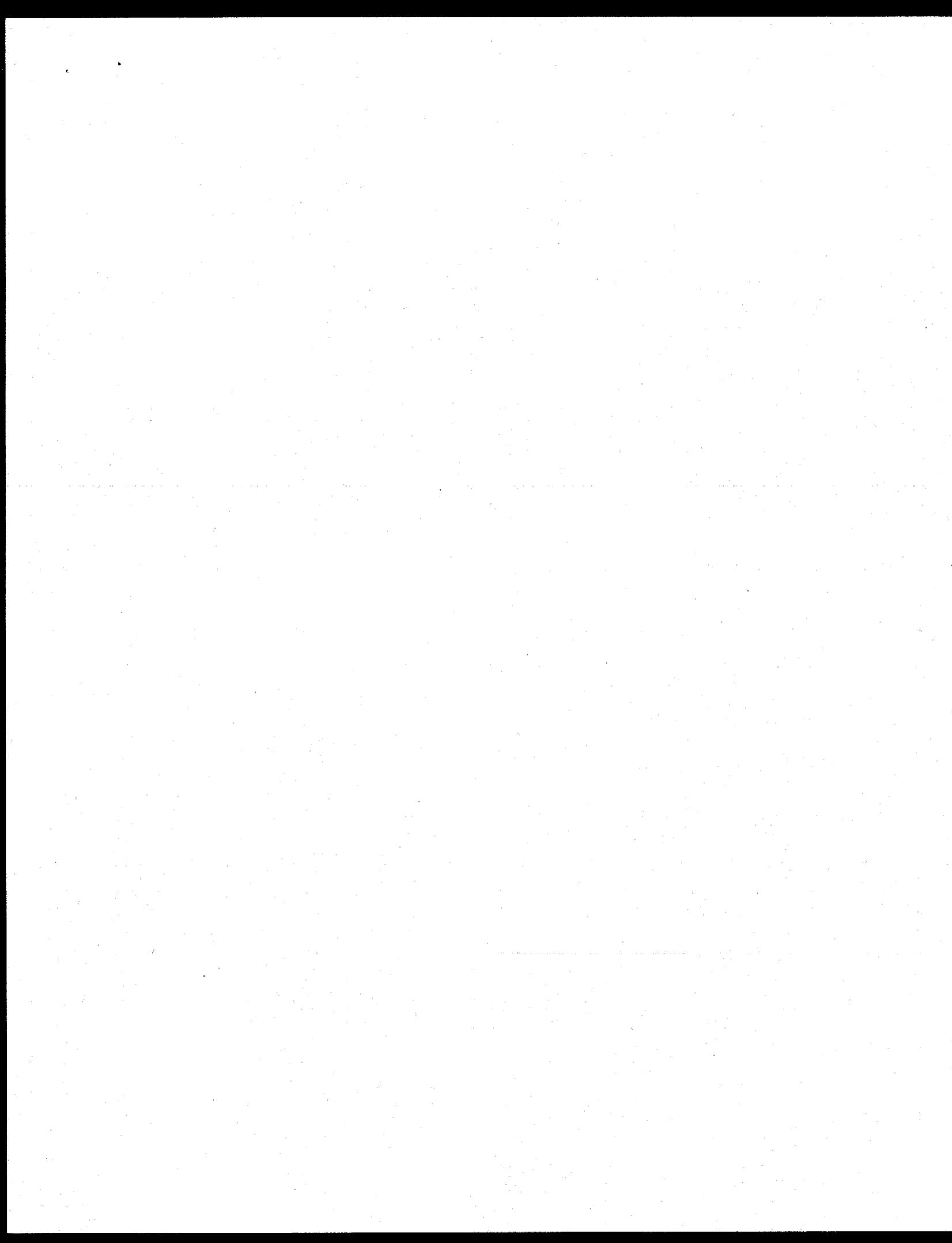
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27

28



1 Q1. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

2 A1. Ryle J. Carl III. My business address is 750 South Tucson  
3 Boulevard, Tucson, Arizona 85716-5689.  
4

5 Q2. PLEASE DESCRIBE YOUR RECENT EMPLOYMENT.

6 A2. I am the Business Manager/Financial Secretary for Intervenor  
7 Local Union 1116, International Brotherhood of Electrical  
8 Workers, AFL-CIO, CLC ("IBEW Local 1116"). The position of  
9 Business Manager/Financial Secretary is an elected union  
10 position, and I was elected to my present position in 1993.  
11 Because all IBEW local unions also have a person holding the  
12 position of "President," it is common for persons outside of  
13 our organization to believe that the "President" is the  
14 principal officer of the Local. That is not the case.  
15 Article 17, §§ 4 and 8 of the Constitution of the  
16 International Brotherhood of Electrical Workers, AFL-CIO,  
17 clearly states that the Business Manager/Financial Secretary  
18 is the "principal officer" of any IBEW local union.

19  
20 Prior to my becoming Business Manager/Financial  
21 Secretary for IBEW Local 1116, I was employed by the  
22 Tucson Electric Power Company ("TEP") for twenty-three  
23 (23) years in a variety of bargaining unit positions,  
24 the last of which was as a subforeman in line  
25 construction. While employed at TEP, I was a very  
26 active member of IBEW Local 1116, including previously  
27 serving as the Local's President.  
28

1 Q3. WHAT IS IBEW LOCAL 1116?

2 A3. IBEW Local 1116 is the labor organization which serves as  
3 the exclusive representative for, *inter alia*, approximately  
4 six hundred seventy-five (675) non-managerial workers at  
5 TEP. IBEW Local 1116 and TEP have entered into a long  
6 series of collective bargaining agreements dating back to  
7 November 16, 1937 concerning rates of pay, wages, hours of  
8 employment, and other terms and conditions of employment.  
9

10 Q4. DO YOU BELIEVE TEP IS A RESPONSIBLE CORPORATE CITIZEN?

11 A4. Absolutely. While by no means perfect, the relationship  
12 between IBEW Local 1116 and TEP is one which is mature and  
13 stable. It is clear that this stability has benefitted TEP,  
14 its employees, and customers. In my opinion, the importance  
15 of the strong and stable relationship between a public  
16 service corporation and its employees cannot be overstated.  
17 I believe that my opinion in this regard is widely shared.  
18

19 During a recent hearing before this Commission *In the matter*  
20 *of UniSource's Reorganization*, Docket No. E-04230A-03-0933,  
21 James S. Pignatelli, the President and Chief Executive  
22 Officer of both TEP and its parent company, UniSource Energy  
23 Corporation ("UniSource"), recognized that the harmonious  
24 relationship between the IBEW Local 1116 and UniSource  
25 inevitably leads to a stable work environment which, in  
26 turn, helps the preservation of health and safety for the  
27 employees of UniSource. Mr. Pignatelli defined the public  
28 interest as, *inter alia*, providing a safe and secure working

1 environment for the employees.  
2

3 Mr. Pignatelli also agreed with the notion that acrimonious  
4 relations between a public service corporation and the  
5 certified representative of its employees will almost  
6 certainly hinder the company's ability to provide safe,  
7 reasonable, and adequate service. He also acknowledged that  
8 an acrimonious relationship may also impair the ability of  
9 the public service corporation to attract capital at fair  
10 and reasonable terms. I share Mr. Pignatelli's views in  
11 this regard.  
12

13 **Q5. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

14 A5. As you know, Article XV, §3 of the Arizona Constitution  
15 expressly states that the interests of public service  
16 employees are on par with those of patrons. It reads as  
17 follows:

18 The corporation commission shall have full  
19 power to, and shall ... make reasonable  
20 rules, regulations, and orders, by which such  
21 [public service] corporations shall be  
22 governed in the transaction of business  
23 within the State, and ... make and enforce  
24 reasonable rules, regulations, and orders for  
25 the convenience, comfort, and safety, and the  
26 preservation of the health, of the **employees**  
27 and patrons of such corporations[.]  
28

1 On behalf of its own members, as well as several hundred  
2 thousand patrons of TEP, IBEW Local 1116 believes this  
3 proceeding provides it with a unique and timely opportunity  
4 to express to this Commission our growing concern regarding  
5 what we believe to be a marked deterioration in the  
6 reliability and safety of TEP's operations, as well as an  
7 opportunity to clearly identify what we believe to be one of  
8 the primary causes of said deterioration, to wit, TEP's  
9 cross-subsidization of UniSource.

10  
11 To be clear, IBEW Local 1116 fully believes that TEP should  
12 and must receive a fair rate of return on the fair value of  
13 *its* property, and we fully support its efforts to achieve  
14 that goal. In calculating what that is, however, IBEW Local  
15 1116 strongly urges this Commission to truly focus its  
16 attention on the issue of TEP's cross-subsidization of  
17 UniSource. Only by doing so with much more detail than has  
18 been explored in previous proceedings can this Commission  
19 ever really come to terms with what a fair rate of return  
20 for TEP actually is.

21  
22 **Q6. YOU ASSERT THAT THERE HAS BEEN A MARKED DETERIORATION IN THE**  
23 **RELIABILITY AND SAFETY OF TEP'S OPERATIONS. CAN YOU PROVIDE**  
24 **THE COMMISSION WITH SOME SPECIFIC EXAMPLES?**

25 **A6.** Certainly. The following are just several illustrations of  
26 the problems we have recently encountered:

27  
28 1. The electric shop at the Sundt Power Generation station

1 has a backlog of over nine hundred (900) work orders,  
2 many of them related to safety.

3 2. The Unit 3 cooling tower at Sundt was allowed to  
4 deteriorate to the point that employees were not  
5 allowed to access it for fear it would collapse. A  
6 structural engineer would not sign off on its safety or  
7 stability.

8 3. A limit was put upon the number of full-time employees  
9 that is unrealistically low. Indeed, substation  
10 maintenance is now so far behind that a member of  
11 management stated to us that "... we could double the  
12 staff and work 24/7 and never catch up with the  
13 manufacturers' suggested maintenance."

14 4. A new employee cannot be hired until one leaves, even  
15 though the training period for some jobs, such as  
16 Troubleman, is measured in years.

17 5. The transformer at the Sears substation suffered a  
18 catastrophic failure and burst into flames, putting  
19 police and fire first responders in danger as well as  
20 employees and members of the public. What makes this  
21 even more troubling is the fact that an employee  
22 reported to management a lack of cooling/insulating oil  
23 approximately 1 and 1/2 years beforehand.

24 6. A substantial percentage of the vehicle fleet is  
25 routinely out of service due to lack of state-required  
26 inspections and maintenance.

27 7. TEP management was so desperate for System operation  
28 supervisors that they promoted apprentices that had not

1 yet completed their training programs.

2 8. The number of customer service representatives who are  
3 trained to answer 911 emergency calls is dangerously  
4 low. TEP management reportedly said "we don't have  
5 enough staff to train."

6 9. There have been massive underground water leaks at the  
7 Irvington plant that led to shutting down water supply  
8 to the operations center on January 3, 2007 and  
9 bringing in portable toilets. The inspection of the  
10 supply lines was inadequate or nonexistent.

11 10. The Winchester substation project was millions of  
12 dollars over budget and instead of being a "turn key"  
13 project as the contractor bid and TEP paid for, TEP  
14 employees spent many months correcting mistakes before  
15 they were able to bring it online.

16 11. There are currently only twenty-five (25) linemen  
17 working at TEP. Likewise, there are only four (4)  
18 journeyman metermen that install and maintain meters  
19 that measure the amount of power we supply to other  
20 utilities and commercial customers. These are  
21 remarkable figures given the size of a utility such as  
22 TEP.

23 12. An energy management system was put into place that  
24 changes the position of switches on the computer  
25 mapping when an update, restore, or re-boot is  
26 performed. This makes a mistake very likely that could  
27 cause a large outage, damage equipment, or result in an  
28 injury or fatality. The system cannot be operated

1           until someone physically checks the position of the  
2           switch which extends outage times. The operations  
3           supervisors express an extreme amount of frustration  
4           over this.

5           13. The utility infrastructure has obviously not kept pace  
6           with customer growth which, in turn, has lead to  
7           multiple customer voltage complaints to this Commission  
8           from the Vail area.

9           14. A customer care and billing system was purchased and  
10          went millions of dollars over budget. Other utilities  
11          have reportedly spent years trying to make it work  
12          properly.

13  
14       **Q7. DOES IBEW LOCAL 1116 HAVE ANY SUPPORTING DOCUMENTATION**  
15       **PERTAINING TO THE ILLUSTRATIONS YOU JUST MENTIONED?**

16       A7. Yes. Because these specific matters are not directly  
17       related to the issue presented in this case, we have chosen  
18       not to file these materials as associated exhibits with my  
19       testimony. It goes without saying, however, that if the  
20       Commission or any of the parties would like to review any of  
21       these items, we would be more than happy to make them  
22       available or, as appropriate, file them as exhibits in this  
23       proceeding.

24  
25       **Q8. ON APRIL 20, 2006, THIS COMMISSION ISSUED AN ORDER WHICH**  
26       **STATED, INTER ALIA, THAT THIS PROCEEDING "SHALL ADDRESS ...**  
27       **THE VIABILITY OF THE 1999 SETTLEMENT IN LIGHT OF THE TRACK**  
28       **A, TRACK B, AND THE PHELPS DODGE DECISION, (INCLUDING A**

1 DISCUSSION AND PRESENTATION OF EVIDENCE REGARDING THE  
2 PARTIES' OPINIONS OF WHETHER TEP WILL BE ABLE TO CHARGE  
3 MARKET-BASED RATES OR COST-OF-SERVICE RATES AFTER 2008) [.]”  
4 WHAT POSITION, IF ANY, DOES IBEW LOCAL 1116 TAKE WITH  
5 RESPECT TO THESE PARTICULAR LEGAL ISSUES?

6 A8. While certainly interesting from a historical and  
7 intellectual standpoint, IBEW Local 1116 believes that there  
8 is, in fact, no real need for the Commission to tackle these  
9 legal issues in the manner suggested by your question.

10  
11 Arizona law, in particular A.R.S. §40-252, very clearly  
12 states that this Commission may at any time rescind, alter,  
13 or amend any order or decision made by it, and that when the  
14 order making such rescission, alteration, or amendment is  
15 served upon the corporation affected, it is effective as an  
16 original order or decision. That being the case, it is not  
17 at all clear to IBEW Local 1116 what purpose, if any, would  
18 be served by the Commission and parties getting bogged down  
19 in a lengthy discussion and debate regarding the present  
20 viability of the 1999 Settlement and/or a prospective  
21 interpretation of its current terms in the year 2009 and  
22 beyond. Instead, IBEW Local 1116 urges this Commission to  
23 simply skip over this needless exercise and, in so doing,  
24 proceed directly to the real question presented in this  
25 matter, to wit, determining a fair rate of return on the  
26 fair value of TEP's property and entering an appropriate  
27 order setting rates to achieve that goal. Because the  
28 Commission is free to change its Decision 62103 in any way

1 it seems fit provided, of course, that it is in the public  
2 interest, IBEW Local 1116 believes it simply makes no  
3 difference how one interprets the provisions of the  
4 settlement currently in effect.

5  
6 **Q9. DO YOU HAVE ANY FINAL THOUGHTS?**

7 Q9. Yes. IBEW Local 1116 recognizes that any public service  
8 corporation is entitled to a fair rate of return on the fair  
9 value of its property, no more and no less. It goes without  
10 saying that it costs a substantial amount of money for a  
11 public service corporation to hire, train, and maintain a  
12 highly skilled work force. Similarly, it costs a great deal  
13 of money for any public service corporation to preserve the  
14 safety and health of its employees and patrons. IBEW Local  
15 1116 believes that the Commission should provide TEP with  
16 whatever rate relief and structure is necessary to help  
17 ensure that TEP will be able to meet its commitments to its  
18 employees and customers in the years to come. In so doing,  
19 however, the Commission should pay special attention to  
20 whether UniSource is being inappropriately enriched at the  
21 expense of TEP and, in turn, its patrons.

22  
23 **Q10. DOES THIS CONCLUDE YOUR TESTIMONY?**

24 A10. Yes.

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