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BEFORE THE ARIZONA CORPORATION COMMISSION

Arizona Corporation Commission

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AZ CORP COMMISSION
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IN THE MATTER OF THE GENERIC
PROCEEDINGS CONCERNING ELECTRIC
RESTRUCTURING ISSUES.

Docket No. E-00000A-02-0051

**TUCSON ELECTRIC POWER
COMPANY'S COMMENTS ON
STAFF'S RESPONSE TO JANUARY 22,
2002 PROCEDURAL ORDER**

Tucson Electric Power Company ("TEP" or "Company"), through undersigned counsel, hereby submits its comments to "Staff's Response to January 22, 2002 Procedural Order" ("Staff Response") as follows:

I. Introduction.

TEP, although not a formal party or intervenor in all of the pending dockets that are the subject of the Staff Response, is very interested in providing its input as the Commission re-evaluates electric competition in Arizona.¹

TEP was a strong proponent of electric competition and an active participant in the development and implementation of the Electric Competition Rules. However, TEP concurs with the Commissioners in the belief that the circumstances surrounding electric competition (nationwide and in Arizona) now warrant a comprehensive review of the impact of the Electric Competition Rules on the electric industry in the State.

¹ Insomuch as (a) TEP is not a party to the APS Variance Docket; (b) the Staff Response was filed in this docket; and (c) the APS Response was captioned in this docket, TEP believes that it is most appropriate to respond to the Staff Response by filing comments thereon in this docket.

1 **II. The Motion for Clarification of Settlement Agreement and TEP Request**
2 **for a Variance should proceed in their own dockets to a speedy**
3 **resolution.**

4 TEP filed its Motion for Approval of Clarification of Settlement Agreement on
5 December 4, 2001 (“Motion for Clarification”).² The Motion for Clarification merely
6 addresses the fact that the California Power Exchange no longer exists and, therefore,
7 cannot be used in calculating TEP’s market generation credit. All parties to the TEP
8 Settlement Agreement agreed to the clarification.

9 TEP filed its Request for a Variance on January 28, 2002 (“TEP Request for
10 Variance”) in A.C.C. Docket No. E-01933A-02-0069. The TEP Request for a Variance
11 simply proposes a mechanism whereby the Commission would extend the compliance
12 dates for the 50% bid requirement in A.A.C. R14-2-1606.B and the generation separation
13 requirement in A.A.C. R14-2-1615.A either one year or until after the Commission has
14 completed its review of electric restructuring.

15 The Staff Response suggests that the Motion for Clarification, TEP Request for a
16 Variance, APS Request for a Variance (A.C.C. Docket No. E-01365A-01-0822) and AISA
17 case (A.C.C. Docket No. E-00000A-01-0630) should be consolidated in this docket. At
18 the January 31, 2002 Procedural Conference held in the APS Variance Docket, Staff
19 indicated that while it proposed that dockets would be consolidated, at least some of the
20 proceedings in those dockets would be separately scheduled and conducted.

21 TEP prefers that the Motion for Clarification and TEP Request for a Variance not
22 be consolidated with any other docket. Both are simple and straightforward and can be
23 resolved without the complexities of the other suggested dockets. A prompt resolution of
24 the Motion for Clarification will provide the parties to the TEP Settlement Agreement with
25 the certainty of knowing how the market generation credit is to be calculated. Similarly, a

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27 ² The Motion for Clarification was filed in A.C.C. Docket Nos. E-01933A-98-0471; E-01933A-
 97-0772; E-0193A-99-0729; and RE-00000-94-0165.

1 timely determination of the TEP Request for a Variance will provide TEP with necessary
2 direction concerning the 50% bid requirement and generation separation requirement.
3 Given that these requirements are to be met by December 31, 2002, TEP must commit
4 substantial resources and capital to comply with this deadline. Further, certain actions that
5 TEP will need to take in order to comply with the requirements will have permanent and
6 irrevocable implications on the operations of the Company. TEP will have to proceed to
7 meet the requirements if the TEP Request for a Variance is consolidated and not resolved
8 until all the other dockets suggested by Staff have been completed.

9 **III. If Consolidation is ordered, then the Commission should take action to**
10 **address TEP's ongoing obligations under the Electric Competition**
11 **Rules.**

12 In the event that the Commission decides to consolidate the Motion for Clarification
13 and TEP Request for a Variance with the other dockets suggested by the Staff Response,
14 TEP requests that the Commission take the appropriate steps to address the ongoing
15 obligations facing the Company such as the implementation of the 50% bid requirement
16 and generation separation requirement. TEP does not believe that it would be in the best
17 interests of its customers, shareholders or the public in general for it to implement the 50%
18 bid requirement and generation separation requirement, without knowing whether the
19 Commission will keep, amend or repeal the Electric Competition Rules and related orders.

20 **IV. Conclusion.**

21 TEP believes that the prudent course for the Commission to follow at this time is to
22 proceed to a prompt resolution of both the Motion for Clarification and the TEP Request
23 for a Variance in their own dockets, rather than to consolidate them with the other dockets
24 suggested in the Staff Response.
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1 Respectfully submitted this 4th day of February, 2002.

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