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BEFORE THE ARIZONA CORPORATION COMMISSION RECEIVED

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3 WILLIAM A. MUNDELL
CHAIRMAN
4 JIM IRVIN
COMMISSIONER
5 MARC SPITZER
COMMISSIONER

E-00000A-02-0051
E-01345A-01-0822
E-00000A-01-0630
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AZ CORPORATION COMMISSION
DOCKETED

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7 IN THE MATTER OF THE GENERIC
8 PROCEEDINGS CONCERNING ELECTRIC
RESTRUCTURING ISSUES.

Docket No. E-00000A-02-0051 BY

**TUCSON ELECTRIC POWER
COMPANY'S RESPONSE TO THE
PROCEDURAL ORDER DATED
FEBRUARY 14, 2002**

9
10 Tucson Electric Power Company ("TEP"), through undersigned counsel, hereby
11 submits its Response to the Procedural Order dated February 14, 2002 (the "Procedural
12 Order") as follows:

13 The Procedural Order references that the Arizona Competitive Power Alliance (the
14 "Alliance"), in its application for leave to intervene, raised a concern regarding the
15 potential impact of the TEP Request for a Variance on TEP's pending request for approval
16 to construct Springerville Unit 4 (the "Springerville Unit 4 case").

17 TEP believes that the Alliance's concern is based upon a misunderstanding of (a)
18 TEP's intention regarding the TEP Request for a Variance; and (b) the Springerville Unit 4
19 case. Simply stated, there is no connection between the TEP Request for a Variance and
20 the Springerville Unit 4 case.

21 TEP has never indicated that it would seek a permanent variance or waiver of
22 A.A.C. R14-2-1606.B, the Electric Competition Rules' competitive bidding requirement
23 (the "bidding requirement"). The TEP Request for Variance only asks that the deadline for
24 implementation of the bidding requirement be extended until the Commission completes
25 its review of the Electric Competition Rules.

26 The Alliance fails to account for the fact that even if TEP had intended to file a
27 request for a permanent variance of the bidding requirement, the Commission would have

1 to approve the request. Thus, no permanent variance to the bidding requirement could be
2 granted unless the Commission first determined that such a variance would be in the public
3 interest. Consequently, the interests of all affected parties, including the Alliance would be
4 sufficiently protected in the event that such a request would be made.

5 Moreover, whether the Commission grants or denies the TEP Request for Variance
6 will not affect TEP's plans to construct Springerville Unit 4. The Alliance did not
7 participate in the Springerville Unit 4 case and is apparently unaware of the evidence and
8 testimony presented therein. It is clear from the record of that case that Springerville Unit
9 4 will not provide a motivation for TEP to request a permanent variance of the bidding
10 requirement. Springerville Unit 4 will be built primarily to meet the needs of TEP's
11 contract and wholesale customers, not standard offer customers. At the hearing in the
12 Springerville Unit 4 case, TEP's Chairman, Mr. James Pignatelli, stated that neither Units
13 3 nor 4 would be built without firm contracts for the unreserved portions of the output and
14 that the units would not be built at any risk to TEP's ratepayers. [Springerville Unit 4
15 case, Tr. 356:8-17, 399:19-400:24, 669:8-25, 681:9-14, 751:4-13] Thus, Springerville
16 Unit 4 will not have a material impact on the bidding process for generation to serve
17 Standard Offer customers within TEP's service territory.

18 The Alliance's concern seems to be based upon assumptions that are not valid. To
19 the extent that the Alliance assumed TEP intended to tie a request for a permanent variance
20 to the construction of Springerville Unit 4, TEP has indicated that is not the case. To the
21 extent that the Alliance assumed that its rights would not be protected if TEP would ever
22 request a permanent variance, that protection already exists in the form of the
23 Commission's approval authority. And, to the extent that the Alliance assumed that the
24 majority of the output from Springerville Unit 4 would be committed to Standard Offer
25 customers and not to contract and wholesale customers, the Alliance misunderstood the
26 need for the unit.

27

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