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2002 JUL 11 P 4: 02

BEFORE THE ARIZONA CORPORATION COMMISSION

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Arizona Corporation Commission

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IN THE MATTER OF THE GENERIC  
PROCEEDING CONCERNING ELECTRIC  
RESTRUCTURING ISSUES

) DOCKET NO. E-00000A-02-0051

IN THE MATTER OF ARIZONA PUBLIC  
SERVICE COMPANY'S REQUEST FOR  
VARIANCE OF CERTAIN REQUIREMENTS  
OF A.A.C. R14-2-1606

) DOCKET NO. E-01345A-01-0822

IN THE MATTER OF THE GENERIC  
PROCEEDING CONCERNING THE ARIZONA  
INDEPENDENT SCHEDULING  
ADMINISTRATOR

) DOCKET NO. E-00000A-01-0630

IN THE MATTER OF TUCSON ELECTRIC  
POWER COMPANY'S APPLICATION FOR A  
VARIANCE OF CERTAIN ELECTRIC  
COMPETITION RULES COMPLIANCE  
DATES

) DOCKET NO. E-01933A-02-0069

IN THE MATTER OF THE APPLICATION OF  
TUCSON ELECTRIC POWER COMPANY FOR  
APPROVAL OF ITS STRANDED COST  
RECOVERY

) DOCKET NO. E-01933A-98-0471

**THE ARIZONA COMPETITIVE POWER ALLIANCE'S COMMENTS TO THE  
CONTEMPLATED TEMPORARY SUSPENSION OF ELECTRIC COMPETITION RULES  
AND COMMISSION DECISIONS REQUIRING AND/OR AUTHORIZING TRANSFER OF  
GENERATION ASSETS AND RELATED IMPLEMENTATION DATES FOR TEP**

The Arizona Competitive Power Alliance ("The Alliance"), an Intervenor and party of record in the consolidated proceedings which were referenced in the Commission's July 3, 2002 Notice of a Special Open Meeting to be held on July 12, 2002, submits this written position statement in advance of that Special Open Meeting in order that the Commissioners, Staff and parties of record may be advised of some of The Alliance's concerns. Representatives of the Alliance and its members will be in attendance of the July 12, 2002, Special Open Meeting to offer oral comment as necessary or appropriate.

In its January 28, 2002, Request For a Variance ("Variance Request") Tucson Electric Power Company ("TEP") has requested a variance from the compliance dates set forth in Rule 1606(B) and Rule 1615 of the Commission's Electric Competition Rules ("ECR's"). More specifically, TEP has requested that

“. . . the compliance dates be extended to either: (a) December 31, 2003; or (b) a date six months after the Commission has issued a final order in 'In the Matter of the Generic Proceedings Concerning Electric Restructuring Issues'. . ."[the Variance Request at page 1, lines 23-25]

In addition, TEP has requested that to the extent necessary to accommodate favorable action on its Variance Request, the Commission also modify the TEP Settlement Agreement, which was approved in Decision No. 62103.

The Alliance believes that a Commission decision on TEP's Variance Request at this time would be premature. Implicit in the language of TEP's Variance Request is the presumption that the Commission will be unable to resolve various questions relating to the nature and status of the ECRs sufficiently in advance of the compliance dates called for under Rule 1606(B) and Rule 1615. However, a substantial amount of progress in that regard has been achieved in the consolidated proceedings since the January 28, 2002 filing of TEP's Variance

Request. Tangible examples of such progress are to be found in the following events: (i) the Chief Administrative Law Judge's (CALJ) May 2, 2002 Procedural Order establishing the Track "A" and Track "B" phases and procedures, which specifically pertain to implementations of Rule 1615 and Rule 1606(B), respectively; (ii) the completion of 6½ days of hearings in Track "A" on June 28, 2002; (iii) the Commission's Staff's July 1, 2002, filing of a list of Track "B" issues for use in connection with the Track "B" workshop; (iv) the parties July 10, 2002 filing of hearing briefs on Track "A" issues; (v) the anticipated decision of the CALJ on Track "A" issues on or about July 22, 2002; and (vi) the forthcoming July 24-25, 2002 Workshops on Track "B" issues.

Against this background of substantial activity and progress during the past five months, it would be premature to conclude that TEP's Variance Request must be acted upon at this time. In fact, during the recently concluded Track "A" hearings, TEP's Chief Executive Officer and policy witness, Mr. Pignatelli, acknowledged that TEP could complete the generation asset transfer required by the end of this calendar year. [See, Tr. 639, 1.3-10 ] Moreover, Mr. Pignatelli testified he did not believe that a particular variance period was necessary, as long as the Commission has ample time to consider and resolve the issues currently before it.

“ . . . I don't care if the variance is a month, I don't care if it's a year. Do it the right way. Let's not feed the frenzy.” [Tr. 640, 1.12-14]

Because of the orderly and timely manner in which the Commission, the CALJ and the Commission's Staff have proceeded thus far, there is no “frenzy”; and there is no need for a Commission decision on TEP's Variance Request at this time.

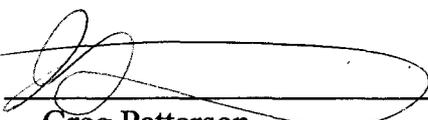
Further, it is the Alliance's position that TEP's Variance Request cannot be considered in a vacuum to the exclusion of Arizona Public Service Company's (“APS”) Request for Variance filed on October 8, 2001. Rule 1606 (B) and Rule 1615 are central to the

Commission's endeavor to facilitate the development and growth of a competitive wholesale electric market. The Commission must carefully consider the potential ramifications of such a variance for one of Arizona's major UDCs upon the other major jurisdictional UDC , and upon the progress toward the Commission's goals of benefiting Arizona consumers. It is the Alliance's position that as of this date neither TEP nor APS has met the burden of proof as to why its Variance Request should be granted.

In view of the foregoing considerations, the Alliance respectfully submits that it would be premature for the Commission to act on TEP's (or APS's) Variance Request at this time.

RESPECTFULLY submitted this 11th day of July, 2002.

ARIZONA COMPETITIVE POWER ALLIANCE .

By: 

Greg Patterson.  
Director of The Arizona  
Competitive Power Alliance