

OPEN MEETING ITEM



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COMMISSIONERS  
MIKE GLEASON - Chairman  
WILLIAM A. MUNDELL  
JEFF HATCH-MILLER  
KRISTIN K. MAYES  
GARY PIERCE



ARIZONA CORPORATION COMMISSION

22

DATE: NOVEMBER 9, 2007

DOCKET NO: E-01933A-97-0096

ORIGINAL

TO ALL PARTIES:

Enclosed please find the recommendation of Administrative Law Judge Jane Rodda. The recommendation has been filed in the form of an Order on:

TUCSON ELECTRIC POWER COMPANY  
(WAIVER)

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Administrative Law Judge by filing an original and ten (10) copies of the exceptions with the Commission's Docket Control at the address listed below by 4:00 p.m. on or before:

NOVEMBER 19, 2007

The enclosed is NOT an order of the Commission, but a recommendation of the Administrative Law Judge to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Working Session and Open Meeting to be held on:

NOVEMBER 27, 2007 and NOVEMBER 28, 2007

For more information, you may contact Docket Control at (602)542-3477 or the Hearing Division at (602)542-4250. For information about the Open Meeting, contact the Executive Director's Office at (602) 542-3931.

Arizona Corporation Commission  
DOCKETED

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DOCKETED BY

BRIAN C. McNEIL  
EXECUTIVE DIRECTOR

AZ CORP COMMISSION  
DOCKET CONTROL

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**BEFORE THE ARIZONA CORPORATION COMMISSION**

COMMISSIONERS

- MIKE GLEASON - Chairman
- WILLIAM A. MUNDELL
- JEFF HATCH-MILLER
- KRISTIN K. MAYES
- GARY PIERCE

IN THE MATTER OF THE APPLICATION OF  
 TUCSON ELECTRIC POWER COMPANY FOR  
 WAIVER OF REPORTING REQUIREMENT IN  
 DECISION NO. 60221.

DOCKET NO. E-01933A-97-0096

DECISION NO. \_\_\_\_\_

ORDER

Open Meeting  
 November 27 and 28, 2007  
 Phoenix, Arizona

**BY THE COMMISSION:**

\* \* \* \* \*

Having considered the entire record herein and being fully advised in the premises, the Arizona Corporation Commission ("Commission") finds, concludes, and orders that:

FINDINGS OF FACT

1. On March 13, 2006, Tucson Electric Power Company ("TEP") filed a request for an Order from the Commission seeking a waiver of a reporting requirement contained in a prior Commission Order.
2. In Decision No. 60221 (May 27, 1997), the Commission ordered TEP "to file with Staff, subject to a confidentiality agreement, reports on January 1 and July 1 of each year, including the projects in which it is considering investing so that Staff can act more quickly if expedited actions are required."
3. Later that same year, the Commission issued Decision No. 60480 (November 25, 1997), approving the application of TEP to organize a public utility holding company subject to certain conditions.
4. UniSource Energy Corporation ("UniSource"), a holding company, was formed, and is

1 the parent company of TEP.

2 5. Item (27) of Attachment A to Decision No. 60480 states that the holding company,  
3 TEP, and/or sister companies will provide documents to the Utilities Division Staff on an annual  
4 basis containing, among other requirements, "All new, revised and updated strategic business plans  
5 for the holding company, TEP and each sister company."

6 6. In addition, Arizona Administrative Code R14-2-805 requires UniSource to file on  
7 April 15 of each year, "a description of diversification plans for the current calendar year that have  
8 been approved by the Board of Directors." This filing is required to include "a description of plans  
9 for the utility's subsidiaries to modify or change business activities, enter into new business ventures  
10 or to acquire, merge or otherwise establish a new business entity."

11 7. TEP requests a waiver of the requirement contained in Decision No. 60221 that it file  
12 reports of investments under consideration because the information is already reported to the  
13 Commission in UniSource's other filings.

14 8. On September 26, 2006, the Commission's Utilities Division Staff ("Staff") filed a  
15 Memorandum in this matter recommending approval of the requested waiver.

16 9. TEP informs Staff that such investments required to be reported pursuant to the  
17 Decisions have not been made at the TEP level since the creation of the holding company in 1997,  
18 and that it is highly unlikely that TEP would invest in diversified interests while the holding company  
19 exists.

20 10. One of the conditions adopted in Decision No. 60480 (Attachment A, item (4)) is that  
21 "any business that TEP finds to be necessary, reasonably incidental or economically appropriate to  
22 utility operations will remain within TEP and its subsidiaries."

23 11. Staff believes that any activity within TEP or its subsidiaries would be required to be  
24 reported by TEP's holding company, UniSource, under A.A.C. R14-2-805 and well as Decision No.  
25 60480.

26 12. The two reporting requirements differ in that the holding company requirements  
27 mandate annual reports, while Decision No. 60221 requires TEP to report twice a year. Staff notes  
28 that TEP has not made its semi-annual filings for a number of years, probably since 1997 when the

1 holding company was formed. Based on its experience reviewing UniSource's filings, Staff believes  
2 that the annual reporting requirement is sufficient for the purpose of monitoring TEP's investment  
3 considerations. Staff further believes that the holding company requirements are a sufficient  
4 replacement to TEP's reporting obligation under Decision No. 60221.

5 13. Staff recommends that TEP be granted a waiver of its obligations under Decision No.  
6 60221 to report the projects in which it is considering investing to the Commission.

7 14. We find that the reporting requirements concerning contemplated investments  
8 contained in Decision No. 60221 and Decision No. 60480 and A.A.C. R14-2-805 are duplicative.  
9 We find further that the Commission receives sufficient and timely information concerning TEP's  
10 contemplated investments pursuant to the reports filed by UniSource pursuant to A.A.C. R14-2-805  
11 and Decision No. 60480 and that there would be no detriment to the public interest from granting  
12 TEP a waiver from its requirement to report on its contemplated investments pursuant to Decision  
13 No. 60221.

14 **CONCLUSIONS OF LAW**

15 1. TEP is an Arizona public service corporation within the meaning of Article XV,  
16 Section 2, of the Arizona Constitution.

17 2. UniSource is a Public Utility Holding Company pursuant to A.A.C. R14-2-801 et seq.

18 3. The Commission has jurisdiction over TEP and UniSource and over the subject matter  
19 of the application.

20 4. Staff's recommendation as set forth herein is reasonable and should be adopted.

21 5. UniSource's obligation pursuant to A.A.C. R14-2-805 and Decision No. 60480 to  
22 report investments under consideration duplicates TEP's reporting obligations under Decision No.  
23 60221.

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ORDER

IT IS THEREFORE ORDERED that Tucson Electric Power Company's request for a waiver of its reporting requirement under Decision No. 60221 concerning contemplated investments, as discussed herein, is granted.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

CHAIRMAN

COMMISSIONER

COMMISSIONER

COMMISSIONER

COMMISSIONER

IN WITNESS WHEREOF, I, DEAN S. MILLER, Interim Executive Director of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this \_\_\_\_ day of \_\_\_\_\_, 2007.

DEAN S. MILLER  
INTERIM EXECUTIVE DIRECTOR

DISSENT \_\_\_\_\_

DISSENT \_\_\_\_\_

1 SERVICE LIST FOR: TUCSON ELECTRIC POWER COMPANY

2 DOCKET NO.: E-01933A-97-0096

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