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**ORIGINAL** BEFORE THE ARIZONA CORPORATION COMMISSION  
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**COMMISSIONERS**

MIKE GLEASON, CHAIRMAN  
WILLIAM A. MUNDELL  
JEFF HATCH-MILLER  
KRISTIN K. MAYES  
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JUL -7 P 4: 29  
AZ CORP COMMISSION  
DOCKET CONTROL

Arizona Corporation Commission  
**DOCKETED**

JUL -7 2008

DOCKETED BY  
*MM*

IN THE MATTER OF THE FILING BY  
TUCSON ELECTRIC POWER COMPANY  
TO AMEND DECISION NO. 62103.

DOCKET NO. E-01933A-05-0650

IN THE MATTER OF THE APPLICATION  
OF TUCSON ELECTRIC POWER  
COMPANY FOR THE ESTABLISHMENT  
OF JUST AND REASONABLE RATES  
AND CHARGES DESIGNED TO REALIZE  
A REASONABLE RATE OF RETURN ON  
THE FAIR VALUE OF ITS OPERATIONS  
THROUGHOUT THE STATE OF  
ARIZONA.

DOCKET NO. E-01933A-07-0402

**REQUEST TO BE EXCUSED FROM  
APPEARING AT HEARING  
COMMENCING JULY 9, 2008**

By Procedural Order dated June 12, 2008, Kurt J. Boehm of Boehm, Kurtz & Lowry was admitted *pro hac vice* in the above-captioned matter, with the undersigned as Local Counsel for The Kroger Co., an intervenor in this matter.

The Kroger Co. is a signatory to the Settlement Agreement filed May 29, 2008 which is the subject matter of the hearing scheduled to commence Wednesday, July 9, 2008 at 10:00 a.m. and scheduled through July 16, 2008, if necessary (the "Hearing"). The Kroger Co.'s participation has been limited "to the allocation of the overall approved revenue increase to rate classes ('rate spread') and to specific rate design issues affecting general service rates," which have been resolved to the satisfaction of The Kroger Co. by the

1 Settlement Agreement. *See*, Direct Testimony and Supplemental Direct Testimony of  
2 Stephen J. Baron filed March 14, 2008 and June 11, 2008, respectively.

3 Kurt J. Boehm, Esq., who actively participated in settlement discussions and  
4 has appeared at procedural conferences on behalf of The Kroger Co., intends to appear at the  
5 July 9, 2008 hearing on behalf of The Kroger Co. Mr. Boehm is familiar with the Settlement  
6 Agreement, all pre-filed testimony, including the filings submitted in support of and in  
7 opposition of the Settlement Agreement and the desires of The Kroger Co.

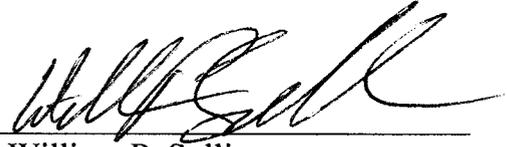
8 Based upon the pre-filed testimony submitted to date, it is anticipated that The  
9 Kroger Co.'s participation at the Hearing will also be of a limited nature, consisting of a brief  
10 opening statement, marking and moving the pre-filed testimony of Mr. Baron and, if live  
11 testimony is necessary, offering Mr. Baron for cross-examination and re-direct examination.  
12 Currently no cross-examination of witnesses is envisioned on behalf of The Kroger Co.,  
13 subject, of course, on what transpires during the hearing.

14 The appearance of the undersigned Local Counsel and Mr. Boehm at the hearing  
15 on behalf of The Kroger Co. appears to be unnecessary and unduly costly for the client. Mr.  
16 Boehm has consulted with The Kroger Co. and The Kroger Co. has no objection to  
17 undersigned Local Counsel being excused from appearing at the Hearing. Undersigned  
18 Local Counsel, however, will be available by phone (602-393-1700) and/or email  
19 (wsullivan@cgsuslaw.com) throughout the Hearing if any party or the Commission desire to  
20 communicate with undersigned Local Counsel regarding the proceedings.

21 WHEREFORE, the undersigned Local Counsel respectfully requests to be  
22 excused from appearing at the hearing in the above captioned matter scheduled to commence  
23 July 9, 2008 at 10:00 in the Tucson offices of the Arizona Corporation Commission.  
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1 DATED this 7<sup>th</sup> day of July, 2008.

2  
3 CURTIS, GOODWIN, SULLIVAN,  
4 UDALL & SCHWAB, P.L.C.

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William P. Sullivan  
7 501 East Thomas Road  
8 Phoenix, Arizona 85012-3205  
9 Designated Local Counsel for  
10 The Kroger Co.  
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PROOF OF AND CERTIFICATE OF MAILING

I hereby certify that on this 7th day of July, 2008, I caused the foregoing document to be served on the Arizona Corporation Commission by delivering the original and fifteen (15) copies of the above to:

Docket Control  
Arizona Corporation Commission  
1200 West Washington  
Phoenix, Arizona 85007

COPY of the foregoing delivered via electronic mail/mail this 7<sup>th</sup> day of July, 2008 to:

Jane Rodda, Esq.  
Administrative Law Judge  
Arizona Corporation Commission  
[JRodda@azcc.gov](mailto:JRodda@azcc.gov)

Janet Wagner, Esq.  
Robin Mitchell, Esq.  
Nancy L. Scott, Esq.  
Arizona Corporation Commission  
Legal Division  
[JWagner@azcc.gov](mailto:JWagner@azcc.gov)  
[RMitchell@azcc.gov](mailto:RMitchell@azcc.gov)  
[NScott@azcc.gov](mailto:NScott@azcc.gov)  
[rosorio@azcc.gov](mailto:rosorio@azcc.gov)  
[mfinical@azcc.gov](mailto:mfinical@azcc.gov)

Ernest G. Johnson  
Director, Utilities Division  
[aigwe@azcc.gov](mailto:aigwe@azcc.gov)  
[cbuck@azcc.gov](mailto:cbuck@azcc.gov)  
[tford@azcc.gov](mailto:tford@azcc.gov)  
[bkeene@azcc.gov](mailto:bkeene@azcc.gov)

Daniel Pozefsky, Esq.  
Residential Utility Consumer Office  
[dpozefsky@azruco.gov](mailto:dpozefsky@azruco.gov)  
[egamble@azruco.gov](mailto:egamble@azruco.gov)

1 C. Webb Crockett, Esq.  
Patrick J. Black, Esq.  
2 FENNEMORE CRAIG, PC  
[wcrockett@fclaw.com](mailto:wcrockett@fclaw.com)  
3 [pblack@fclaw.com](mailto:pblack@fclaw.com)  
4 [khiggins@energystrat.com](mailto:khiggins@energystrat.com)

5 Michael Grant, Esq.  
Gallagher & Kennedy  
6 [mmg@gknet.com](mailto:mmg@gknet.com)  
[gyaquinto@arizonaaic.org](mailto:gyaquinto@arizonaaic.org)

7 Peter Q. Nyce, Jr.  
8 General Attorney-Regulatory Office  
Department of the Army  
9 [Peter.nyce@us.army.mil](mailto:Peter.nyce@us.army.mil)

10 Dan Neidlinger  
Neidlinger & Associates  
11 [dneid@cox.net](mailto:dneid@cox.net)

12 Nicholas J. Enoch  
Lubin & Enoch, PC  
13 [Nicholas.enoch@azbar.org](mailto:Nicholas.enoch@azbar.org)

14 Lawrence Robertson  
15 [tubaclawyer@aol.com](mailto:tubaclawyer@aol.com)

16 Thomas Mumaw  
Barbara A. Klemstine  
17 Arizona Public Service Company  
[Barbara.klemstine@aps.com](mailto:Barbara.klemstine@aps.com)  
18 [Meghan.grable@pinnaclewest.com](mailto:Meghan.grable@pinnaclewest.com)  
[Susan.casady@aps.com](mailto:Susan.casady@aps.com)

19 Robert J. Metli  
20 Snell & Wilmer, LLP  
[rmetli@swlaw.com](mailto:rmetli@swlaw.com)  
21

22 Christopher Hitchcock  
Law Offices of Christopher Hitchcock  
23 [Lawyers@bisbeelaw.com](mailto:Lawyers@bisbeelaw.com)

24 Timothy Hogan  
Arizona Center for Law in the Public Interest  
25 [thogan@aclpi.org](mailto:thogan@aclpi.org)

1 Jeff Schlegel  
2 SWEEP Arizona Representative  
3 schlegelj@aol.com

4 David Berry  
5 Western Resource Advocates  
6 azbluhill@aol.com

7 Michael L. Kurtz, Esq.  
8 Kurt J. Boehm, Esq.  
9 Boehm, Kurtz & Lowry  
10 KBoehm@bkllawfirm.com  
11 mkurtz@bkllawfirm.com

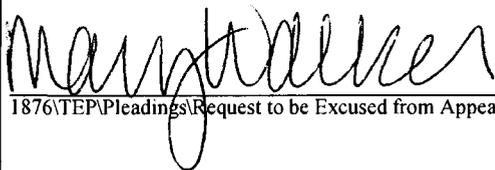
12 Greg Patterson  
13 Arizona Competitive Power Alliance  
14 Gpatterson3@cox.net

15 Cynthia Zwick  
16 czwick@azcaa.org

17 Michelle Livengood  
18 Raymond S. Heyman  
19 Tucson Electric Power Company  
20 mlivengood@tep.com  
21 rheyman@uns.com  
22 dcouture@tep.com

23 Billy L. Burnett, P.E.  
24 3351 North Riverbend Circle East  
25 Tucson, Arizona 85750

John E. O'Hare  
3865 North Tucson Blvd.  
Tucson, Arizona 85716



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