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BEFORE THE ARIZONA CORPORATION COMMISSION

Arizona Corporation Commission

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

Docket No.

TUCSON ELECTRIC POWER
COMPANY'S TRACK B PROPOSALS

Tucson Electric Power Company ("TEP"), through undersigned counsel, in response to the Procedural Orders dated May 2, 2002 (the "Procedural Orders"), hereby submits its proposed (a) list of qualifications to act as an independent consultant/evaluator; (b) list of issues for consideration in the Track B proceeding; and (c) procedural timetable for meeting the October 21, 2002 completion date, as follows:

I. INTRODUCTION.

The Procedural Orders establish two separate, but concurrent, proceedings to address issues that have been raised in connection with the Arizona Public Service Company ("APS") and TEP requests for a variance to the Electric Competition Rules.¹ The first proceeding, "Track A", involves "the transfer of assets and associated market power issues, as well as the issues of the Code of Conduct, the Affiliated Interest Rules, and the jurisdictional issues raised by Chairman Mundell." Procedural Order I at 1-2.

¹ On May 2, 2002, the Commission issued two Procedural Orders in this matter. The eleven- page Procedural Order addressing the schedules for Track A and Track B shall be referred to as "Procedural Order I". The two- page Procedural Order addressing the TEP MGC issues shall be referred to as "Procedural Order II".

1 The second proceeding, "Track "B", is to address issues surrounding the anticipated
2 competitive solicitation of electric power and the TEP Motion for Clarification of
3 Settlement Agreement. Procedural Order I at 2; and Procedural Order II at 2.

4 The Commission has instructed interested parties to submit, on or before March 13,
5 2002, a proposed (a) list of qualified persons to act as an independent consultant/evaluator;
6 (b) list of issues for consideration in the Track B proceeding; and (c) procedural timetable
7 for meeting the October 21, 2002 completion date. The Commission has also set a
8 deadline of May 29, 2002, for filing direct testimony relevant to Track A issues.
9

10
11 A. Track B proposals should be considered in context with Track A testimony.

12 TEP believes that it is important that the Commission evaluate the Track B
13 proposals contained herein in the context of the Track A direct testimony. TEP's Track A
14 testimony (and the Commission's response thereto) may impact the current concept of
15 competitive solicitation in the wholesale electric power market. Accordingly, TEP
16 reserves the right to modify or supplement any of the proposals set forth herein.
17

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20 B. TEP requests that the Commission grant TEP's Request for Variance.

21 TEP also remains concerned that the Commission will not complete the Track A
22 and Track B proceedings in time for TEP to meet the December 31, 2002 deadline to
23 divest its generating assets and begin competitive solicitation of its power needs. In light
24 of the schedules announced in the Procedural Orders, under the best-case scenario, the
25 Commission will not rule on the generic Track B issues until October 21, 2002. The
26
27

1 Commission will then need to apply those standards and processes specifically to TEP and
2 its service territory. Assuming that there is no slippage in the generic Track B timetable,
3 TEP will only have a little more than two (2) months to participate in TEP-specific Track
4 B hearings and then implement the standards and processes ordered by the Commission.
5

6 Thus, TEP renews its request that the Commission provide TEP and the other
7 parties with clear direction by granting a variance until after the re-evaluation and, if
8 necessary, modification of the Electric Competition Rules has been completed. Additional
9 testimony in support of this request will be provided in TEP's Track A direct testimony.²
10

11 **II. LIST OF QUALIFICATIONS TO ACT AS AN INDEPENDENT**
12 **CONSULTANT/EVALUATOR.**

13 TEP understands that the Commission is contemplating hiring an independent
14 consultant/evaluator ("independent consultant") to assist in the development of a
15 competitive solicitation process. TEP appreciates the opportunity to provide the
16 Commission with input into the selection of the independent consultant.
17

18
19 TEP's first impression is that an independent consultant is not indispensable to the
20 development of a competitive solicitation process. TEP believes that there is sufficient
21 expertise among the utilities, merchants, Commission Staff and other intervenors in this
22 proceeding to establish guidelines for the competitive solicitation of electric power.
23
24 Inasmuch as there has been, up to this point in time, few competitive solicitation processes
25

26 ² TEP's Request for Variance seeks the extension of the compliance dates for A.A.C. R14-
27 2-1606.B and R-14-2-1615A until either December 31, 2003 or a date six (6) months after a final
order in the docket, whichever is later.

1 that have been implemented (and with limited experience with which to judge their long
2 term success) TEP is not entirely convinced that an independent consultant would have
3 incrementally more experience in developing appropriate policies and procedures than the
4 participants in this docket.
5

6 Nevertheless, if the Commission is determined to hire an independent consultant to
7 assist it, then TEP believes that the following criteria should be followed to ensure that the
8 consultant selected is experienced and independent:
9

- 10 1. The independent consultant does not have a financial interest in and is not
11 representing any utility, ESP or merchant power provider certificated in
12 Arizona (or whose application for a certificate is pending) or who owns or is
13 constructing a power plant in the State.
14
- 15 2. The independent consultant has prior experience in developing policies and
16 procedures for competitive solicitation in the electric power industry.
17
- 18 3. The independent consultant has prior experience with wholesale power
19 markets in the Southwest Region of California, Nevada, Arizona and New
20 Mexico.
21
- 22 4. The independent consultant is not representing any Regional Transmission
23 Organization, Independent Systems Organization or the Federal Energy
24 Regulatory Commission.
25
26
27

1 TEP has not contacted any potential independent consultants to determine if they
2 are interested in fulfilling the role or if they meet the criteria.³ TEP will provide any
3 names it may have of potential independent consultants directly to Commission Staff.
4

5 **III. LIST OF ISSUES.**

6
7 One of the lessons learned from the prior Electric Competition Rules proceedings is
8 that it is virtually impossible, at the onset, to anticipate all of the issues that will arise and
9 need to be addressed. Consequently, TEP does not claim that its list of issues contains all
10 of the issues that should be addressed or may present themselves in the future. However,
11 TEP has identified some fundamental, although generic, issues that the Commission will
12 need to resolve as it seeks to develop a process for competitive solicitation of electric
13 power in the State.
14

15
16 In submitting this list, TEP has only sought to identify generic issues, rather than
17 explain its position on those issues. Accordingly, TEP reserves the right to modify and
18 supplement this list of issues and to state its position in subsequent pleadings.
19

20 Again, TEP believes that it is important that the proposed Track B issues be
21 analyzed in connection with the Track A issues. In fact, the solution to many of the Track
22 B issues is dependent upon the Commission's resolution of the Track A issues. As one
23

24
25
26 ³ TEP did not contact any specific individuals so as to avoid the possibility that its
27 communication would be viewed as an attempt to influence the potential consultants' view and
thereby jeopardize its independence.

1 example, how the Commission resolves the issues surrounding the divestiture of
2 generation assets will have an impact on many aspects of competitive solicitation.

3
4 Listed below are four (4) general Track B issue areas with related sub-issues:

5 **1. What is the Competitive Solicitation Process?**

- 6
- 7 a) When should the competitive solicitation process begin?
- 8
- 9 b) How will the competitive solicitations be disseminated?
- 10
- 11 c) What percentage of a utility's power requirements should be obtained
12 through the competitive solicitation process?
- 13
- 14 d) Should the percentage of a utility's power requirement obtained through the
15 competitive solicitation process be established at one time or should it be
16 phased-in?
- 17
- 18 e) How will the competitive solicitation percentage be calculated?
- 19
- 20 f) Will a utility be subject to penalties if it does not meet the competitive
21 solicitation percentage?
- 22
- 23 g) If a utility exceeds the annual competitive solicitation percentage, will the
24 excess carry over to next year?
- 25
- 26 h) What requirements, if any, should be imposed on the purchase of power that
27 is obtained outside of the competitive solicitation process?

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- i) What are the time frames for initiating and completing the steps of the competitive solicitation process?
 - j) Who will determine the components of each utility's portfolio of competitively solicited purchases?
 - k) What are the criteria and process for determining which offer(s) in response to competitive solicitations should be selected by a utility?
 - l) What mechanism will be in place for dispute resolutions related to competitive solicitations?
 - m) What protections will be in place to maintain the confidentiality of utility and participant information?
 - n) In the event that a supplier of power defaults on the obligation to provide the power, how will replacement energy be obtained?
 - o) How should the competitive solicitation process factor alternative delivery and transmission points?
 - p) Will the competitive solicitation process utilize the "Western Systems Power Pool umbrella agreement" or similar agreements?
- 2. What types of products will be subject to competitive solicitation?**
- a) Will the competitive solicitation process include financial and physical options?
 - b) Will the competitive solicitation percentage include standard block purchases through a broker or power pool?

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- c) How will power produced by “must-run” generators be considered in the competitive solicitation process?
 - d) Should the competitive solicitation percentage consist of block energy purchases, purchases shaped like the utility’s load or a combination thereof?
- 3. What will be the role of the Commission in the Competitive Solicitation Process?**
- a) What will be the duties and responsibilities of the independent consultant?
 - b) Does the acceptance of the competitive solicitation process by the independent consultant constitute a finding of prudence for the costs incurred by the process?
 - c) What will be the scope, terms and effect of a utility’s purchase power adjustment clause?
- 4. What issues will affect the Participants to the competitive solicitation process?**
- a) How will potential suppliers become qualified participants in the competitive solicitation process?
 - b) Will potential suppliers be required to obtain a certificate of convenience and necessity, permit or other authorization from the Commission?
 - c) Will potential suppliers be required to submit proposal fees or bonds?
 - d) What safeguards will be established to insure that “affiliate generators” are not discriminated against in the competitive solicitation process?

1 e) Will the Commission keep a list of qualified suppliers?

2 **IV. PROPOSED PROCEDURAL SCHEDULE.**

3 It is important that any final Commission rulings (or rules) regarding the
4 competitive solicitation requirements that apply to TEP be based not only on generic
5 (Arizona electric industry-wide) information, but also upon TEP-specific evidence. TEP's
6 system and customers have unique characteristics that must be factored into the
7 competitive solicitation process is going to be fair and realistic.
8
9

10 Therefore, TEP recommends that after the Commission has conducted a Track B
11 "generic" hearing, a separate hearing be conducted to consider TEP-specific evidence and
12 to adapt the competitive solicitation process thereto. Accordingly, TEP believes that the
13 components of its procedural schedule are critical—even if the dates of the hearings must
14 be extended. And, TEP believes that a variance to the Electric Competition Rules (with
15 regard to divestiture of assets and competitive solicitation) is prudent to provide all parties
16 with ample time to resolve the Track A and Track B issues and implement the
17 Commission's standards.
18
19

20 TEP is also mindful that the Track A hearing is scheduled for June 14, 2002. TEP
21 believes that it is important that the parties file Track B testimony after the Track A
22 hearing has concluded in order to be able to respond to the evidence presented on the
23 Track A issues.
24
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1 **A. Track B Generic Hearing**

2 Submittal of Issues and Procedure—May 13, 2002

3
4 Procedural Schedule Issued—May 28, 2002

5
6 Round 1 Generic Testimony—July 1, 2002

7
8 Round 2 Generic Testimony—July 15, 2002

9
10 Procedural Conference—July 29, 2002

11
12 Hearing—August 5, 2002

13
14 Briefs—August 26, 2002

15
16 Recommended Order – September 20, 2002

17
18 Order Re: Competitive Solicitation Process—October 21, 2002 Special Open
19 Meeting

20 **B. TEP-Specific Hearing**

21
22 Testimony Re: TEP specific issues— approximately November 11, 2002 (three
23 weeks after the Generic Track B Order)

24
25 Rebuttal Testimony Re: TEP specific issues—November 25, 2002

26
27 Procedural Conference—December 12, 2002

Hearing Re: TEP-specific issues—December 16, 2002

Briefs—January 13, 2003

Recommended Order – February 3, 2003

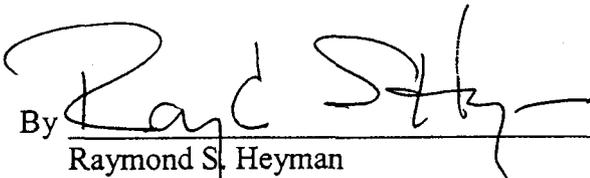
Order Re: TEP-specific competitive solicitation process—February 20, 2003

Special Open Meeting

TEP recognizes that, alternatively, the Commission may determine that it will amend the Electric Competition Rules subsequent to its rulings in the generic Track B proceeding. TEP submits that its specific data can be submitted either in the TEP-Specific Hearing or in the rulemaking proceeding and that the Electric Competition Rules can be amended in such a fashion as to apply specifically to the TEP system and customers. Accordingly, the time table TEP has set for the TEP Specific Hearing could be adapted for a rulemaking proceeding, if necessary.

Respectfully submitted this 13th day of May, 2002.

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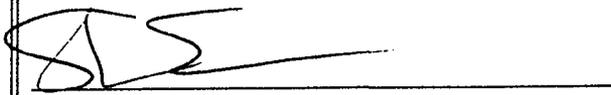
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