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BEFORE THE ARIZONA CORPORATION COMMISSION

Arizona Corporation Commission

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Commissioner

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MARC SPITZER
Commissioner

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IN THE MATTER OF THE APPLICATION OF TUCSON ELECTRIC POWER COMPANY FOR APPROVAL OF NEW PARTIAL REQUIREMENTS SERVICE TARIFFS; MODIFICATION OF EXISTING PARTIAL REQUIREMENTS SERVICE TARIFF 101; AND ELIMINATION OF QUALIFYING FACILITY TARIFFS.

DOCKET NO. E-01933A-02-0345

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

DOCKET NO. E-01933A-98-0471

**ARIZONA CORPORATION
COMMISSION STAFF'S CLOSING
BRIEF**

Staff of the Utilities Division ("Staff") of the Arizona Corporation Commission ("Commission") hereby submits its closing brief in the above-captioned matter. Staff believes that Tucson Electric Power Company ("TEP") should not be allowed to eliminate tariffs previously implemented for qualifying cogeneration and small power producing facilities, numbered PRS-103 through PRS-108 inclusive, as previously established by Commission Decisions in response to the Public Utilities Regulatory Policies Act ("PURPA"). Staff does support implementation of the new partial requirements service tariffs labeled as PRS-10, PRS-13 and PRS-14, with the modifications described by Staff in its pre-filed direct testimony. Staff also supports the proposed changes by TEP to the partial requirements service tariffs PRS-101 and PRS-102, as long as qualifying cogeneration and small power producing facilities are eligible for service under those tariffs. Finally, Staff supports the proposed changes to the market generation credits in Docket No. E-01933A-98-0471. The following highlights Staff's position on the contested issues.

The major issue for Staff in this case is whether the Qualifying Facilities ("QF") Tariffs should be eliminated as TEP has requested. TEP proposes to substitute the QF Tariffs with new

1 Partial Requirements Service ("PRS") Tariffs from this point forward¹. TEP argues that these new
2 tariffs will benefit all customers because they better respond to market conditions and are more
3 inclusive of those facilities that do not meet the requirements under the PURPA as qualified
4 cogeneration or small power producer facilities. Staff does not deny the need to have tariffs for those
5 facilities that do not qualify under PURPA, and largely supports the implementation of the PRS
6 Tariffs. However, Staff believes that there is still a place for the QF Tariffs, even in today's rapidly
7 fluctuating electric restructuring landscape.

8 Staff recognizes the difficulty that TEP faces. They have QF Tariffs that do not necessarily
9 reflect all of the changes in providing electric service, which have occurred at both the Federal and
10 State level. There have been many changes, such as FERC Order 888, which affect the pricing of
11 services to qualifying facilities and how utilities purchase power from these facilities. These
12 concerns were reflected via the testimony of Mr. Leland R. Snook of TEP². However, this does not
13 justify the elimination of the QF Tariffs. As Mr. Snook seemed to acknowledge during the hearing,
14 the issue with the QF Tariffs is incorporating the changes going on at the state and federal levels and
15 reflecting those changes into the tariffs. (T.R. at 33). It does not follow that the QF Tariffs must be
16 eliminated because of what has previously occurred.

17 The portion of the PURPA addressing cogeneration and small power producers encourages
18 the use of renewable sources of energy and promotes energy efficiency³. In response to the PURPA,
19 the Commission approved Decision Nos. 52345 and 56271; these decisions were to implement
20 policies to encourage the development of cogeneration and small power producing facilities⁴. Both
21 decisions recognized the need to establish guidelines on the provision of supplementary, standby and
22 maintenance power to these qualifying facilities and to establish pricing practices for determining
23 appropriate costs to those facilities, as well as to establish pricing guidelines for the utilities purchase
24 of power from these qualifying facilities.

25 It may be true that these decisions might not currently reflect all of the present realities of the

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27 ¹ The QF Tariffs refer to the following tariffs that TEP seeks to eliminate via their application: PRS-103, PRS-104, PRS-105, PRS-106, PRS-107
and PRS-108. TEP also seeks to modify PRS-101 and PRS-102. Staff has requested in their case that qualified cogeneration facilities under
PURPA still be included under PRS-101 and PRS-102. The PRS Tariffs refers to the new PRS-10, PRS-13 and PRS-14 tariffs. Technically, PRS-
107 and PRS-108 do not apply exclusively to qualifying facilities, but are being sought to be eliminated per TEP's application in this case.

28 ² See Direct Testimony of Leland Snook at 3-5; T.R. at 32-33.

³ For a full explanation of the purposes behind the PURPA see H.R. Rep. No. 95-543 (1977) and S. Rep. No. 95-141 (1977).

⁴ See Direct Testimony of Barbara E. Keene at 3-4.

1 electric restructuring landscape. It may also be true that the QF Tariffs might be outdated in certain
2 aspects. However, the fact remains that the PURPA is to encourage certain kinds of cogeneration
3 and small power production facilities that utilize renewable sources and/or promote energy efficiency
4 and conservation. That law is still in effect. Commission Decision Nos. 52345 and 56271 reflect the
5 policies and goals the Commission sought to achieve and those fundamentals are also still ripe today.
6 (T.R. at 99-100). There is still a desire to treat qualified cogeneration and qualified small power
7 producers differently from non-qualifying facilities, as defined under PURPA, because of the
8 efficiency and fuel diversity benefits achieved by those qualifying facilities⁵. Even though TEP, from
9 its perspective, might be able to serve non-qualifying facilities the same as qualifying facilities, Mr.
10 Snook acknowledges that differences exist between qualifying facilities from non-qualifying
11 facilities from a customer perspective. (T.R. at 43). For instance, Ms. Barbara Keene of Staff
12 testified that qualifying facilities have societal benefits, such as reduced pollution, fuel
13 diversification, and more efficient utilization of energy resources. (T.R. at 85). The PURPA has set
14 forth a policy to encourage these types of cogeneration and small power production because of the
15 benefits they give. That policy should be adhered to by the Commission.

16 Staff believes the existing QF Tariffs should not be eliminated for the reasons above. This
17 does not mean Staff would not be amenable to looking at whether those QF Tariffs need to be
18 updated in light of the new realities of electric restructuring. Staff understands that the DGI Working
19 Group was focusing on QF Tariffs as one of many issues, and understands that TEP is in a difficult
20 situation given that future distributed generation workshops have not occurred⁶. However, given that
21 PURPA is still in effect, the federal statutes and rules regarding qualified cogeneration and qualified
22 small power production are still in effect, and Commission Decision Nos. 52345 and 56271 are still
23 in effect, Staff does not believe eliminating the QF Tariffs is the proper route to take.

24 Staff is not opposing the implementation of the PRS tariffs for TEP's partial requirements
25 service customers who do not qualify under PURPA; Staff is merely proposing modifications to

26 5 Ms. Keene testified during the hearing that "there is federal support to PURPA that does give [qualifying facilities] certain advantages" and "there
27 are social benefits for a customer that uses renewables and cogeneration, and those benefits are not the same as with the self-generation user that is
not using renewables for cogeneration." See T.R. at 84-85.

28 6 The DGI Working Group did come to some conclusions regarding distributed generation, but stressed the need for additional workshops. See
Exhibit S-2 ("Distributed Generation and Interconnection Investigations") at 2, 12; T.R. at 99. Staff does not ignore the need to update issues and
policies in Commission Decision Nos. 52345 and 56271. However, TEP proposes the elimination of tariffs set up to encourage qualifying facilities.
Staff does not believe elimination of the QF Tariffs is consistent with the objectives and recommendations of the DGI Working Group.

1 those tariffs⁷. Nor is Staff opposing qualifying facilities having the option to be served under either
2 the QF Tariffs or the PRS Tariffs. (T.R. at 97). However, Staff does believe that because of the
3 special status given to qualifying facilities under PURPA and per Commission Decision Nos. 52345
4 and 56271, the QF Tariffs should remain in effect. For the above reasons, Staff requests that the
5 Commission adopt its recommendation and preserve the QF Tariffs.

6 RESPECTFULLY SUBMITTED this 15th day of November, 2002.

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7 See Direct Testimony of Barbara E. Keene at 10-13. Staff supplemented this testimony with answers to questions proffered by Administrative Law Judge Jane Rodda as to how supplemental power should be priced. T.R. at 93. Another concern is that the proposed PRS Tariffs may have higher rates. Because of how significantly different the PRS Tariffs are structured, it was difficult for Staff to make an exact determination. T.R. at 95-96. This testimony lends further support that the QF Tariffs should remain in place.