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Arizona Corporation Commission

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6 IN THE MATTER OF THE) DOCKET NO. E-01933A-02-0345
7 APPLICATION OF TUCSON) APS ENERGY SERVICES'
8 ELECTRIC POWER COMPANY FOR) RESPONSE TO TUCSON ELECTRIC
9 APPROVAL OF NEW PARTIAL) POWER CO.'S RESPONSE TO APS
10 MODIFICATION OF EXISTING) ENERGY SERVICES' PETITION TO
11 PARTIAL REQUIREMENTS SERVICE) INTERVENE, ETC.
12 TARIFF 101; AND ELIMINATION OF)
13 QUALIFYING FACILITY TARIFFS)

14 APS Energy Services (APSES), through undersigned counsel, hereby responds to Tucson
15 Electric Power Company's (TEP's) Response to APS Energy Services Inc. Petition to Intervene and
16 Protest of Tariff filing (APSES Petition and Protest) as follows:

17 APSES reiterates its Request for Relief that the Commission summarily dispose of that portion of
18 TEP's application to eliminate the existing QF rates and modify them, in effect, by increasing them (by
19 our estimates as much as one hundred and eighty percent (180%), to affected customers. APSES
20 requests a hearing be held to review the new partial requirements tariffs and, if not rejected summarily, to
21 review the rate increase to the QF tariffs.

22 I. SUMMARY REJECTION OF TEP'S REQUEST TO ELIMINATE, MODIFY AND INCREASE THE
23 EXISTING QF TARIFFS PLAINLY AND CLEARLY VIOLATES THE 1999 RATE SETTLEMENT
24 AGREEMENT.

25 TEP's response suggests a novel interpretation of the Amended Settlement Agreement dated
December 1, 1999 (1999 Settlement Agreement). TEP minces words by suggesting a "third" type of rate

1 unbundled tariff or even a special contract ("Electric Service Agreement" or "ESA" in
2 TEP's parlance). Where QF tariffs so singled out in 1999? Of course not, because they
3 were part of the Standard Offer rates. Section 5.1 of said Settlement states in relevant
4 part, "TEP shall reduce rates charged to all non-ESA two percent (2%) as follows:
5 TEP's rates shall be frozen until December 31, 2008..." This rate freeze clearly includes
6 the QF tariffs approved as part of the 1999 Settlement, thus Section 13.6 is not
7 inconsistent with APSES' claims, but rather support them. As already noted in APSES'
8 Petition to Intervene, Section 13.6 of the 1999 Settlement does not allow for changes in
9 specific rate schedules or terms and conditions of service that are not revenue neutral
10 and that materially modify the existing Standard Offer or Direct Access tariffs. TEP's
11 request does both to the existing QF tariffs.

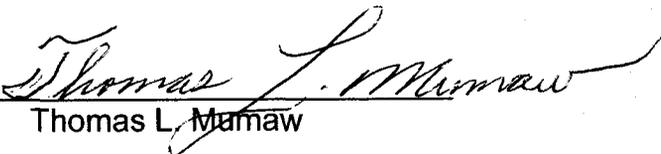
12 APSES agrees that there are no facts in dispute, but it disagrees with TEP's
13 interpretation of the plain language of the 1999 Settlement Agreement that TEP signed.
14 The Commission can reject TEP's request to modify the QF tariffs which are subject to
15 the rate freeze and which cannot be materially changed or increased.

16
17 **II. THE TEP MGC PROCEEDING DEALS WITH THE SAME ISSUES AS HERE:
18 THAT OF VIOLATION OF THE 1999 SETTLEMENT AND WHETHER THE
19 FORMULA IS APPROPRIATE.**

20 Because the TEP Motion for Clarification of Settlement Agreement and timing of
21 the hearing dealing with the Market Generation Credit (MGC) tariff change deals with
22 the same issues as APSES has with the instant application, APSES requested
23 consolidation. The TEP MGC filing materially modified the formula used to credit direct
24 access customers for the generation component of the tariff in violation of the 1999
25 Rate Settlement. The Application filed in this Docket replaces the existing QF tariffs
with ones that use the very same MGC calculation for the variable energy rate in the
tariff. If the MGC is approved in a hearing on a different track, will that prejudice the

1 parties objecting to the same changes in this Application? If so, they should be
2 consolidated. If not, then APSES does not object to dealing with this Application
3 separate from the other, so long as APSES is permitted to begin service on the existing
4 QF tariffs. This request is pending in a separate complaint.

5
6 RESPECTFULLY SUBMITTED this 10th day of June 2002.

7
8 By 
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