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NEW APPLICATION

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BEFORE THE ARIZONA CORPORATION COMMISSION  
2000 JUL 11 A 10:35

CARL J. KUNASEK  
CHAIRMAN CORP COMMISSION  
JIM IRVIN DOCUMENT CONTROL  
COMMISSIONER  
WILLIAM A. MUNDELL  
COMMISSIONER

DOCKET NO. E-01933A-00-0486

IN THE MATTER OF THE APPLICATION )  
OF TUCSON ELECTRIC POWER )  
COMPANY FOR APPROVAL OF ITS )  
STRANDED COST RECOVERY AND FOR )  
RELATED APPROVALS, )  
AUTHORIZATIONS AND WAIVERS. )  
OF ARIZONA )

IN THE MATTER OF THE FILING OF )  
TUCSON ELECTRIC POWER COMPANY )  
OF UNBUNDLED TARIFFS PURSUANT )  
TO A.A.C. R14-2-1606, *et seq.* )

IN THE MATTER OF THE COMPETITION )  
IN THE PROVISION OF ELECTRIC )  
SERVICES THROUGHOUT THE STATE )  
OF ARIZONA. )

TUCSON ELECTRIC POWER COMPANY )  
APPLICATION FOR APPROVAL OF ITS )  
PROPOSED DIRECT ACCESS SERVICE )  
FEES AND ITS PROPOSED )  
AMENDMENTS TO ITS RULES AND )  
REGULATIONS )

PETITION FOR DECLARATORY ORDER OR WAIVER

APS Energy Services Corporation, Inc., ("Petitioner") hereby requests that the Arizona Corporation Commission ("Commission") enter an order interpreting both its Electric Competition Rules (A.A.C. R14-2-1601, *et seq.*, and those provisions of Article 2, Chapter 2, Title 14 that were amended to facilitate retail electric competition) and the Tucson Electric Power Company ("TEP")

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BEFORE THE ARIZONA CORPORATION COMMISSION  
2000 JUL 11 A 10:35

CARL J. KUNASEK  
CHAIRMAN CORP COMMISSION  
JIM IRVIN DOCUMENT CONTROL  
COMMISSIONER  
WILLIAM A. MUNDELL  
COMMISSIONER

2000 JUN -5 P 4 39

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CORP COMMISSION  
DOCUMENT CONTROL

JUN 06 2000

ARIZONA CORP. COMM.  
HEARING DIVISION

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IN THE MATTER OF THE APPLICATION  
OF TUCSON ELECTRIC POWER  
COMPANY FOR APPROVAL OF ITS  
STRANDED COST RECOVERY AND FOR  
RELATED APPROVALS,  
AUTHORIZATIONS AND WAIVERS.  
OF ARIZONA

DOCKET NO. E-01933A-98-0471

IN THE MATTER OF THE FILING OF  
TUCSON ELECTRIC POWER COMPANY  
OF UNBUNDLED TARIFFS PURSUANT  
TO A.A.C. R14-2-1606, *et seq.*

DOCKET NO. E-01933A-97-0772

IN THE MATTER OF THE COMPETITION  
IN THE PROVISION OF ELECTRIC  
SERVICES THROUGHOUT THE STATE  
OF ARIZONA.

DOCKET NO. RE-00000C-94-0165

TUCSON ELECTRIC POWER COMPANY  
APPLICATION FOR APPROVAL OF ITS  
PROPOSED DIRECT ACCESS SERVICE  
FEES AND ITS PROPOSED  
AMENDMENTS TO ITS RULES AND  
REGULATIONS

DOCKET NO. E-01933A-98-0729

PETITION FOR DECLARATORY ORDER OR WAIVER

APS Energy Services Corporation, Inc., ("Petitioner") hereby requests that the Arizona Corporation Commission ("Commission") enter an order interpreting both its Electric Competition Rules (A.A.C. R14-2-1601, *et seq.*, and those provisions of Article 2, Chapter 2, Title 14 that were amended to facilitate retail electric competition) and the Tucson Electric Power Company ("TEP")

# ARIZONA CORPORATION COMMISSION

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RECEIVED TUCSON, ARIZONA 85701

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## FAX COVER SHEET

DATE 7-13-00

TO: Sally

COMPANY/DIVISION: ACC Docket Control

COMPANY FAX NUMBER: (602) 364-0644

FROM: Jane Rodda

DIVISION ACC Tucson Office Hearing

REMARKS THESE DOCUMENTS SHOULD BE FILED IN

NEW DOCKET E-1933A-00-0486

TOTAL NUMBER OF PAGES 35  
(INCLUDING COVER PAGE)

1 Settlement Agreement, approved and modified by Decision No. 62103 (November 30, 1999), as  
2 requiring TEP to allow the University of Arizona ("U of A") to continue to be served and metered  
3 as a direct access customer in the same manner as it has been served and metered for years by TEP  
4 as a standard offer customer. Alternatively, Petitioner would ask that the Commission waive  
5 compliance by TEP and the U of A's designated Electric Service Provider ("ESP") with any such  
6 rules and regulations as the Commission finds would prevent such continued service to the U of A.  
7 Such rules and regulations may include, but are not limited to: A.A.C. R14-2-210 (B) (1); R14-2-  
8 1609; and R14-2-1612 (K) (3). In addition, for the reasons set forth below, Petitioner requests that  
9 the Commission direct TEP to permit the U of A to remain on Rate 14 until January 1, 2001, or  
10 alternatively, until fourteen weeks after the Commission has acted on this Petition.

#### 11 I. BACKGROUND

12 The U of A's Health Science Center ("HSC") is currently being provided standard offer  
13 service by TEP under Rate 14 pursuant to a contract. That contract expired on April 22, 2000.  
14 TEP has indicated that a Rate 14 contract that expires under terms of that tariff will be  
15 automatically extended up to ninety days to allow a customer to evaluate and choose an offer from  
16 an ESP or to resign a Rate 14 contract. Otherwise, the customer will be placed on TEP's Rate 13.

17 To qualify for Rate 14, a customer's load must be 3 MW or greater. Combining of  
18 multiple service points is permitted if agreed to in the Rate 14 contract or otherwise authorized by  
19 TEP's tariffs. HSC is served at the substation level. There are five feeders that serve the U of A  
20 and the University Medical Center ("UMC"). These multiple points of delivery are for TEP's  
21 exclusive benefit. HSC would be better served through a single delivery point. Each of the five  
22 feeders are metered in the substation. The distribution system is owned by the U of A. Since  
23 1995, TEP has totaled up the five meter measurements at the substation and subtracted the UMC  
24 load, which is separately metered by TEP downstream of the five feeder meters, using the  
25  
26

1 remainder load to bill HSC.<sup>1</sup> TEP has now taken the position that the U of A must install thirty-  
2 plus additional metering points to meter the load at the HSC if (and only if) it elects direct access.<sup>2</sup>

3 TEP has also taken the position that when (and only when) a customer on Rate 14 chooses  
4 an ESP and goes to direct access, the combining of multiple service points, as is currently the  
5 practice, will no longer be allowed. On the other hand, if the customer and TEP enter into a new  
6 Rate 14 standard offer agreement, the customer can continue to receive totalized billing. The loss  
7 of this benefit would mean that nearly half of the HSC load would no longer qualify for the  
8 unbundled Rate 14. If that portion of the load were required to take service under TEP's  
9 unbundled Rate 13, the annual revenue requirement for HSC would increase by approximately  
10 \$415,000. This, along with the additional metering costs, would eliminate the economic ability of  
11 the U of A to choose direct access.

## 12 II. RELIEF REQUESTED

13 TEP will no doubt cite some or all of the regulations listed above as prohibiting the  
14 metering and billing of the HSC in the manner described.<sup>3</sup> Petitioner does not interpret any of  
15 these regulations as requiring a change in how the U of A's usage at HSC is metered or billed. It  
16 was Petitioner's understanding that under the TEP Settlement Agreement, and the unbundled rates  
17 approved in it, a customer would be eligible to remain on the same rate, albeit the unbundled  
18

19 \_\_\_\_\_  
20 <sup>1</sup> Prior to 1995, UMC was not a separate customer of TEP. The UMC operates in facilities leased from the U of A and  
21 was just another part of U of A's total load. In 1995, the U of A agreed to permit UMC to negotiate its own service  
22 agreement with TEP and allowed TEP to serve UMC over U of A distribution facilities, never dreaming, of course,  
that this accommodation to UMC and TEP would later provide TEP an excuse to increase its rates by some half a  
million dollars a year and also require the U of A to incur the cost of installing additional metering points for the HSC  
facility.

23 <sup>2</sup> TEP's position is similar to insisting that a residential customer separately meter his air conditioning, his lighting, his  
pool pump, etc.

24 <sup>3</sup> TEP may also object to this arrangement because it would require TEP to provide billing information from one of its  
25 standard offer customers, UMC, to the certified MRSP of the ESP serving U of A. UMC has already granted its  
26 written consent for such transfer of data in the attached agreement with U of A. Moreover, Petitioner is willing to pay  
TEP a reasonable cost-based fee for providing the UMC's data, and the Commission should authorize such in this  
proceeding, subject to a Staff review for reasonableness prior to its actual implementation.

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version, when the customer cl  
specifically provided that: "At  
administered, insofar as possibl  
Settlement Agreement." That sa  
Agreement is unavoidable, then a  
If the method by which HS  
by TEP's tariffs and did not conflic  
require a change in that process as a  
services to the U of A has not change  
attempt to prevent a customer from choosing direct access. Using the unbundled version of the  
same rate will guarantee that a customer pays the same amount to TEP that was inherent in the  
Rate 14 standard offer rate.

*TEP - Disputed issues?  
APS-ES*

*Proposal for reasonable  
discovery schedule*

*re-filed testimony  
hearing*

*TEP - Raising standing issue?*

lement Agreement  
strued and  
ions of this  
the Settlement  
uld be requested.  
rs was permitted  
interpreted to  
ne cost to TEP to provide regulated  
EP should not be allowed to charge more in an  
Rate 14 standard offer rate.

Petitioner asks the Commission to construe its Electric Competition Rules in a manner that allows for competition rather than prohibiting it. If the Commission believes that it has adopted rules and passed orders that both authorize and require the sort of actions suggested by TEP, Petitioner asks the Commission to expressly waive compliance with such rules or orders by TEP and any ESP providing service to the U of A. By effectively "grandfathering" existing instances of consolidated billing, TEP would be treated consistently with Arizona Public Service Company, which recently agreed (with the Commission's approval) to such "grandfathering."<sup>4</sup>

Additionally, due to the need for the U of A to receive clarification and/or waivers to economically be able to choose direct access, Petitioner requests the Commission to extend the ninety-day grace period to match that treatment afforded ESA customers in the Settlement Agreement whose contracts are expiring this year. Specifically, Section 1.4 of the TEP Settlement Agreement indicates that "Electric Service Agreements" ("ESA") in place as of the end of January

<sup>4</sup>U of A would likely qualify for combined billing under APS Schedule 4 independent of any "grandfathering." This is because the customer (U of A) could be served and metered at a single point of delivery (the substation).

1 2000 (which turned out to be what the Settlement Agreement termed "the Commencement Date")  
2 that expired during 2000 could, at the customer's option, be automatically renewed up to January  
3 1, 2001. Alternatively, the Commission should extend the ninety-day "grace period" to a date  
4 fourteen weeks after consideration of the instant Petition. That will give Petitioner and the U of A  
5 sufficient time to arrange for the additional substation metering, phone lines, etc., necessary for  
6 direct access. Moreover, TEP believes that by merely refusing to renew a Rate 14 customer's  
7 contract, and even if that customer has no ability to select direct access, it can force the customer  
8 on to its much higher Rate 13 schedule. This makes absolutely no sense and is a practice that the  
9 Commission should prohibit as anti-competitive.

### 10 III. CONCLUSION

11 The ninety-day grace period allowed U of A for the Rate 14 contract that expired April  
12 22nd is fast approaching. It will require any ESP at least fourteen weeks to set up service, and the  
13 HSC, once demoted from standard offer Rate 14 to standard offer Rate 13, will only thereafter be  
14 eligible for unbundled Rate 13, which would then make direct access uneconomic. For this  
15 reason, Petitioner asks the Commission to rule expeditiously on its Petition.

16 RESPECTFULLY SUBMITTED this 5th day of June, 2000.

17 SNELL & WILMER, L.L.P.

18  
19 By: Thomas L. Mumaw  
20 Thomas L. Mumaw  
21 One Arizona Center  
22 Phoenix, Arizona 85004-2202  
23 602-382-6396

24 Attorneys for Petitioner

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CERTIFICATE OF SERVICE

The original and ten (10) copies of the foregoing document were filed with the Arizona Corporation Commission on this 5th day of June, 2000, and service was completed by mailing, e-mailing or hand-delivering a copy of the foregoing document this 5th day of June, 2000, to all parties of record herein.

  
HOLLY BOERNER

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**BEFORE THE ARIZONA CORPORATION COMMISSION**

CARL J. KUNASEK  
CHAIRMAN  
JIM IRVIN  
COMMISSIONER  
WILLIAM A. MUNDELL  
COMMISSIONER

IN THE MATTER OF THE APPLICATION OF  
TUCSON ELECTRIC POWER COMPANY FOR  
APPROVAL OF ITS STRANDED COST  
RECOVERY AND FOR RELATED APPROAVLS,  
AUTHORIZATIONS AND WAIVERS

DOCKET NO. E-01933A-98-0471

IN THE MATTER OF THE FILING OF TUCSON  
ELECTRIC POWER COMPANY OF  
UNBUNDLED TARIFFS PURSUANT TO A.A.C,  
R14-2-1606, et seq.

DOCKET NO. E-01933A-97-0772

IN THE MTTER OF THE COMPETITION IN THE  
PROVISION OF ELECTRIC SERVICES  
THROUGHOUT THE STATE OF ARIZONA.

DOCKET NO. RE-00000C-94-0165

TUCSON ELECTRIC POWER COMPANY  
APPLICATION FOR APPROVAL OF ITS  
PROPOSED DIRECT ACCESS SERVICE FEES  
AND ITS PROPOSED AMENDMENTS TO ITS  
RULES AND REGULATIONS.

DOCKET NO. E-01933A-98-0729

**PROCEDURAL ORDER**

**BY THE COMMISSION:**

On June 5, 2000, APS Energy Services, Inc. filed a "Petition of Declaratory Order or Waiver" in which it requested the Arizona Corporation Commission ("Commission") to interpret the Electric Competition Rules and the Tucson Electric Power Company ("TEP") Settlement Agreement approved in Decision No. 62102 (November 30, 1999) as requiring TEP to allow the University of Arizona to continue to be served and metered as a direct access customer in the same manner as it has been serviced and metered by TEP as a Standard Offer customer.

On June 9, 2000, TEP filed a Response to the Petition, taking the position that APSES' Petition should be treated as a Complaint, and that the Commission set an evidentiary hearing schedule.

On June 21, 2000, the Commission Utilities Division Staff ("Staff") filed a Request for Procedural Order for the limited purpose of requesting that a complaint docket be opened and that a hearing schedule be set to allow the Commission to receive evidence on the record to make an

## DOCKET NO. E-01933A-98-0471 ET AL.

1 informed decision. Staff stated that TEP should be ordered to maintain its present service  
2 arrangements to all customer (s) pending a Commission decision.

3 On June 23, 2000, APSES filed a Reply to TEP and a Response to Staff stating that the facts  
4 are not at issue and an evidentiary hearing is not necessary, but in the event the Commission believed  
5 that additional information was required that an expedited hearing, without the need for discovery or  
6 pre-filed testimony be set.

7 On June 28, 2000, TEP filed a Joinder to Staff's Request for Procedural Order reiterating the  
8 need for a hearing and suggesting a pre-hearing conference be scheduled to determine the issues and  
9 establish a schedule for discovery and pre-filed testimony. TEP supported Staff's position that the  
10 University of Arizona be provided service on the same terms and conditions as its current written  
11 arrangement until this matter is resolved by the Commission.

12 It is evident from the filings that some sort of hearing will be necessary to resolve this matter  
13 and that a pre-hearing conference for the purpose of establishing the issues and determining whether  
14 a reasonable discovery and pre-filed testimony schedule is required would be helpful.

15 IT IS THEREFORE ORDERED that a pre-hearing conference in this matter shall commence  
16 on July 10, 2000 at 1:30 p.m., at the Commission's offices, Room 222, 400 West Congress, Tucson,  
17 Arizona.

18 IT IS FURTHER ORDERED that Tucson Electric Power Company shall continue to provide  
19 service to the University of Arizona pursuant to its current written arrangement pending the  
20 Commission's resolution of this matter.

21 DATED this 30th day of June, 2000.

22  
23   
24 JANE L. RODDA  
ADMINISTRATIVE LAW JUDGE

25 Copies of the foregoing mailed  
this 30th day of June, 2000 to:

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 By:   
 Juanita Gomez  
 Secretary to Jane L. Rodda

Jan 10  
June

BEFORE THE ARIZONA CORPORATION COMMISSION  
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CARL J. KUNASEK  
Chairman  
JIM IRVIN  
Commissioner  
WILLIAM A. MUNDELL  
Commissioner

JUN 21 2000

ARIZONA CORPORATION COMMISSION  
HEARING DIVISION

IN THE MATTER OF THE APPLICATION  
OF TUCSON ELECTRIC POWER COMPANY  
FOR APPROVAL OF ITS STRANDED  
COST RECOVERY AND FOR RELATED  
APPROVALS, AUTHORIZATIONS AND  
WAIVERS.

DOCKET NO. E-01933A-98-0471

IN THE MATTER OF THE FILING OF TUCSON  
ELECTRIC POWER COMPANY OF  
UNBUNDLED TARIFFS PURSUANT TO  
A.A.C. R14-2-1602, *et seq.*

DOCKET NO. E-01933A-97-0772

IN THE MATTER OF COMPETITION  
IN THE PROVISION OF ELECTRIC  
SERVICES THROUGHOUT THE STATE  
OF ARIZONA.

DOCKET NO. RE-00000C-94-0165

TUCSON ELECTRIC POWER COMPANY  
APPLICATION FOR APPROVAL OF ITS  
PROPOSED DIRECT ACCESS SERVICE  
FEES AND ITS PROPOSED AMENDMENTS  
TO ITS RULES AND REGULATIONS.

DOCKET NO. E-01933A-98-0729

STAFF'S REQUEST FOR PROCEDURAL ORDER

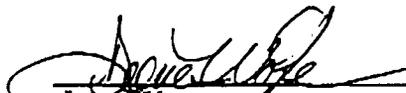
On June 5, 2000, APS Energy Services Corporation ("APSES") filed a document with the Commission entitled "Petition for Declaratory Order or Waiver" ("Petition"). In the Petition, APSES requested that the Commission enter an order interpreting both the Electric Competition Rules and the Tucson Electric Power Company ("TEP") Settlement Agreement as approved by Decision No. 62103 (November 30, 1999). In the alternative, APSES requested that the Commission waive compliance by TEP and the Electric Service Provider serving the University of Arizona ("U of A") with certain Commission rules. APSES further requested that the Commission direct TEP

1 to permit the U of A to remain on Rate 14 until January 1, 2001, or alternatively, until fourteen  
2 weeks after the Commission action on the Petition.

3 Staff hereby responds to the Petition for the limited purpose of requesting that a complaint  
4 docket be opened on this matter and that a hearing schedule be set in order to receive evidence on  
5 the record to inform a Commission determination on the disputed issues. The issues presented by  
6 the Petition are complex, involve potentially disputed facts, and are therefore properly the subject  
7 of a formal complaint proceeding. Because the issues are related to access to competitive services,  
8 Staff believes that the complaint should be processed as expeditiously as possible. In addition, Staff  
9 believes that TEP should be ordered to allow the customer(s) to maintain its present service  
10 arrangements pending a Commission decision resolving this dispute.

11 Although Staff does not endorse the position of any party to this dispute, Staff is available  
12 to provide technical assistance to the Administrative Law Judge if requested.

13  
14 RESPECTFULLY SUBMITTED this 21<sup>st</sup> day of June, 2000.

15  
16  
17  
18   
19 Janet Wagner  
20 Teena Wolfe  
21 Attorneys, Legal Division  
22 Arizona Corporation Commission  
23 1200 West Washington Street  
24 Phoenix, Arizona 85007  
25 (602) 542-3402

26 The original and ten (10) copies  
27 of the foregoing were filed  
28 this 21<sup>st</sup> day of June, 2000, with:

29 Docket Control  
30 Arizona Corporation Commission  
31 1200 West Washington Street  
32 Phoenix, Arizona 85007

33 Copies of the foregoing were  
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35 June, 2000, to:

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All Parties of Record in  
Docket No. RE-00000C-94-0165

  
Angela L. Bennett

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BEFORE THE ARIZONA CORPORATION COMMISSION <sup>Hearing</sup>

CARL J. KUNASEK

Chairman

AZ CORP COMMISSION  
DOCUMENT CONTROL

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JIM IRVIN

Commissioner

JUN 09 2000

WILLIAM A. MUNDELL

Commissioner

ARIZONA CORPORATION COMMISSION  
HEARING DIVISION

IN THE MATTER OF THE APPLICATION OF ) DOCKET NO. E-01933A-98-0471  
TUCSON ELECTRIC POWER COMPANY FOR )  
APPROVAL OF ITS STRANDED COST )  
RECOVERY AND FOR RELATED APPROVALS, )  
AUTHORIZATIONS AND WAIVERS. )

IN THE MATTER OF THE FILING OF TUCSON ) DOCKET NO. E-01933A-97-0772  
ELECTRIC POWER COMPANY OF )  
UNBUNDLED TARIFFS PURSUANT TO A.A.C. )  
R14-2-1602 *et seq.* )

TUCSON ELECTRIC POWER COMPANY ) DOCKET NO. E-01933A-99-0729  
APPLICATION FOR APPROVAL OF ITS )  
PROPOSED DIRECT ACCESS SERVICE FEES )  
AND ITS PROPOSED AMENDMENTS TO ITS )  
RULES AND REGULATIONS )

IN THE MATTER OF THE COMPETITION IN ) DOCKET NO. RE-00000C-94-0165  
THE PROVISION OF ELECTRIC SERVICES )  
THROUGHOUT THE STATE OF ARIZONA. ) RESPONSE TO PETITION FOR  
DECLARATORY ORDER OR  
WAIVER

Tucson Electric Power Company ("TEP" or "Company"), through undersigned counsel,  
hereby responds to the "Petition for Declaratory Order or Waiver" ("Petition") filed by APS Energy  
Services Corporation, Inc. ("APSES"), in the dockets captioned above, as follows:

The Petition is a thinly-masked attempt by APSES to circumvent true competition by asking  
the Commission to, in this singular instance, interpret or modify its rules in favor of APSES' own  
marketing plans and schedules.<sup>1</sup> APSES does not (nor in good faith could it) claim that TEP has

<sup>1</sup> In reality, APSES lacks standing to assert claims that are actually tariff issues between TEP and its  
customer, the University of Arizona. APSES' newly assumed role as surrogate petitioner for the

1 violated any Commission rule or regulation. Indeed, the Petition is not a formal complaint. See  
2 A.A.C. R14-3-106.A; R14-3-106.L. The Petition is not a request that a rule-making proceeding be  
3 conducted to modify the existing competition rules applicable to all electric utilities in the state.  
4 Instead, APSES has crafted a pleading of its own devise, the Petition, that is targeted at TEP and is  
5 intended to change the operation of the Commission's Competition Rules, only as they would apply  
6 to APSES servicing portions of the load at the University of Arizona.  
7  
8

9 APSES does not want to engage in competition by the Commission's Competition Rules, it  
10 wants to do so by its own rules. Suspiciously, the Petition does not request that the Commission  
11 hold any type of evidentiary hearing or rulemaking proceeding to resolve the issues raised in the  
12 Petition. Instead, APSES would have the Commission rule solely based upon the Petition.  
13

14 However, TEP has a different view of how it must operate in connection with the two issues  
15 raised in the Petition: (1) totalization of meters (TEP believes that absent a tariff for metering or  
16 billing totalization, totalization is prohibited. Contrary to APS, TEP does not have a totalization  
17 tariff); and (2) direct access metering (TEP believes that each premises should be metered  
18 separately). The time and place for submitting the evidence in support of the parties' differing  
19 views, and to resolve them, is in a formal complaint proceeding or, alternatively, a rule-making  
20 proceeding. standards  
21  
22

23 The Commission should be wary of the Petition, and any other attempt by APSES or  
24 another Energy Service Provider ("ESP"), to manipulate the Competition Rules on a piecemeal  
25 basis under the color of "enhancing competition". The precedent that the Commission sets in this  
26  
27

28  
29 University of Arizona is further evidence that APSES is trying to manipulate the Competition Rules  
30 to its own marketing advantage, in contradiction to the benefits of market-place competition.

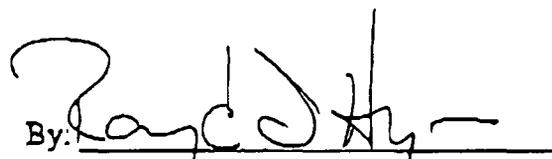
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case will have a very real impact on a myriad of Competition Rules and established Direct Access Service Request ("DASR") procedures.

TEP has met, and will continue to meet, with APSES to attempt to resolve the issues in the Petition. However, in the event that the parties can not resolve the issues raised in the Petition among themselves, then TEP respectfully requests that the Commission set an evidentiary hearing (in the form of a formal complaint proceeding) and establish a procedural schedule for discovery and the filing of testimony in connection therewith; or, in the alternative, initiate rule-making proceedings to change the Competition Rules for all utilities doing business in this state. However, under no circumstances should the Commission set the dangerous precedent of changing the Competition Rules based upon the mere filing of a "Petition" by an ESP.

RESPECTFULLY SUBMITTED this 9<sup>th</sup> day of June, 2000.

ROSHKA HEYMAN & DEWULF, PLC

By: 

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2 filed this 9<sup>th</sup> day of June, 2000, with:

3 Docket Control  
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7 Copy of the foregoing hand-delivered  
8 this 9<sup>th</sup> day of June, 2000, to:

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24 Copy of the foregoing mailed  
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BEFORE THE ARIZONA CORPORATION COMMISSION

CARL J. KUNASEK  
CHAIRMAN  
JIM IRVIN  
COMMISSIONER  
WILLIAM A. MUNDELL  
COMMISSIONER

IN THE MATTER OF THE APPLICATION  
OF TUCSON ELECTRIC POWER  
COMPANY FOR APPROVAL OF ITS  
STRANDED COST RECOVERY AND FOR  
RELATED APPROVALS,  
AUTHORIZATIONS AND WAIVERS.  
OF ARIZONA

DOCKET NO. E-01933A-98-0471

IN THE MATTER OF THE FILING OF  
TUCSON ELECTRIC POWER COMPANY  
OF UNBUNDLED TARIFFS PURSUANT  
TO A.A.C. R14-2-1606, *et seq.*

DOCKET NO. E-01933A-97-0772

IN THE MATTER OF THE COMPETITION  
IN THE PROVISION OF ELECTRIC  
SERVICES THROUGHOUT THE STATE  
OF ARIZONA.

DOCKET NO. RE-00000C-94-0165

TUCSON ELECTRIC POWER COMPANY  
APPLICATION FOR APPROVAL OF ITS  
PROPOSED DIRECT ACCESS SERVICE  
FEES AND ITS PROPOSED  
AMENDMENTS TO ITS RULES AND  
REGULATIONS

DOCKET NO. E-01933A-98-0729

REPLY OF APS ENERGY SERVICES CORPORATION, INC.  
TO TUCSON ELECTRIC POWER COMPANY  
AND  
RESPONSE TO STAFF REQUEST FOR PROCEDURAL ORDER

APS Energy Services Corporation, Inc., ("Petitioner") hereby submits to the Arizona  
Corporation Commission ("Commission") its joint Reply to the Response of Tucson Electric

1 Power Company ("TEP") and to the Request of Commission Staff for a Procedural Order,  
2 respectively filed in the above dockets on June 9 and June 21, 2000.

3 TEP has misconstrued the original intent of the Petition. Petitioner sought neither special  
4 treatment nor to initiate new rulemaking. Petitioner did not wish even to have its Petition  
5 construed as a complaint against TEP. It is seeking an interpretation by the Commission of the  
6 Commission's own rules and of the Commission's own order in Decision No. 62103 (November  
7 30, 1999), and if, and only if necessary, a waiver by the Commission of the Commission's own  
8 rules as they would be applied in one specific instance.<sup>1</sup> TEP has not disputed any of the relevant  
9 facts nor cited any authority for its stated positions. Ordinarily, the Commission does not require  
10 an evidentiary hearing under such circumstances.

11 If the Commission nevertheless believes additional information is required to resolve this  
12 matter, and that the more general issues of direct access metering, consolidated billing, direct  
13 access tariff availability, and TEP's own rules and regulations should be addressed by the  
14 Commission concurrently with reviewing the specific circumstances facing the U of A, Petitioner  
15 asks that an expedited hearing be set without the need for either discovery or prefiled testimony -  
16 limitations on which are within the Commission's discretion under A.A.C. R14-3-101. After all,  
17 the fundamental issues are still the same regardless of the name attached to this proceeding:

- 18 (1) Can a TEP customer on Standard Offer tariff schedule "X" move freely to  
19 Direct Access tariff schedule "X" as was intended by Decision No. 62103?
- 20 (2) Can a TEP customer whose bill is being "totalized" under Standard Offer  
21 service receive the same manner of billing under Direct Access service?
- 22 (3) Can a customer whose load is being completely and accurately measured  
23 using one metering configuration under Standard Offer service use the same metering  
24

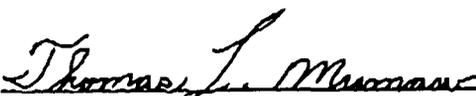
25 <sup>1</sup> Petitioner agrees that it is the University of Arizona ("U of A") that is, in this case, the primary victim of  
26 TEP's attempts to prevent competition by the imposition of unreasonable and unauthorized conditions on  
Direct Access customers. TEP Response at footnote 1. This does not mean that Petitioner is unaffected or  
lacks legal standing to bring this matter to the Commission's attention.

1 configuration under direct access rather than being required to pay for  
2 cost-prohibitive and unnecessary sub-metering of its usage?  
3 Petitioner believe that Decision No. 62103 and the Retail Electric Competition Rules answer each  
4 of these questions in the affirmative.

5 Petitioner also strongly urges adoption of Staff's recommendation that the U of A be  
6 permitted to continue to receive Standard Offer electric service under Rate 14 and using the  
7 existing metering configuration and billing practices pending final resolution of the Petition.<sup>2</sup> See  
8 Staff Request at 2. This will alleviate the pressure caused by the ninety-day TEP "grace period"  
9 discussed in the Petition, a unilaterally-imposed window of decision that is scheduled to slam shut  
10 on the U of A by approximately July 21st.

11 RESPECTFULLY SUBMITTED this 23rd day of June, 2000.

12 SNELL & WILMER, L.L.P.

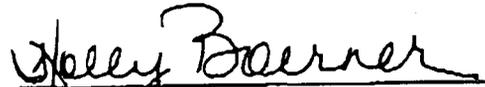
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14 By:   
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16 One Arizona Center  
17 Phoenix, Arizona 85004-2202  
18 602-382-6396

19 Attorneys for Petitioner APS Energy Services  
20 Corporation, Inc.  
21  
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23  
24  
25

26 <sup>2</sup> As noted in the Petition, if the Commission rules favorably on Petitioner's request, Petitioner would then ask that such standard offer service be continued for a period of at least fourteen weeks thereafter.

CERTIFICATE OF SERVICE

The original and ten (10) copies of the foregoing document were filed with the Arizona Corporation Commission on this 23rd day of June, 2000, and service was completed by mailing, e-mailing or hand-delivering a copy of the foregoing document this 23rd day of June, 2000, to all affected parties of record herein.

  
HOLLY BOERNER

842172  
Mumaw\PHX\851907.1

BEFORE THE ARIZONA CORPORATION COMMISSION

AZ CORP COMMISSION

CARL J. KUNASEK  
Chairman

JIM IRVIN  
Commissioner

WILLIAM A. MUNDELL  
Commissioner

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JUN 29 2000

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ARIZONA CORP. COMM.  
HEARING DIVISION

7	APPLICATION OF )	DOCKET NO. E-01933A-98-0471
8	R COMPANY FOR )	
9	DED COST )	
10	ATED APPROVALS, )	
11	IVERS. )	
12	ING OF TUCSON )	DOCKET NO. E-01933A-97-0772
13	COMPANY OF )	
14	UN. EED TARIFFS PURSUANT TO A.A.C. )	
15	R14-2-1602 et seq. )	
16	TUCSON ELECTRIC POWER COMPANY )	DOCKET NO. E-01933A-99-0729
17	APPLICATION FOR APPROVAL OF ITS )	
18	PROPOSED DIRECT ACCESS SERVICE FEES )	
19	AND ITS PROPOSED AMENDMENTS TO ITS )	
20	RULES AND REGULATIONS )	
21	IN THE MATTER OF THE COMPETITION IN )	DOCKET NO. RE-00000C-94-0165
22	THE PROVISION OF ELECTRIC SERVICES )	
23	THROUGHOUT THE STATE OF ARIZONA. )	
24	)	TUCSON ELECTRIC POWER
25	)	COMPANY'S JOINDER TO
26	)	STAFF'S REQUEST FOR
27	)	PROCEDURAL ORDER

Tucson Electric Power Company ("TEP" or "Company"), through undersigned counsel, hereby joins in support of Commission Staff's request for a procedural order to be issued in these consolidated dockets. Additionally, TEP will comment on several aspects of the "Reply of APS Energy Services, Inc. to Tucson Electric Power Company and Response to Staff Request for Procedural Order" ("APSES Response"), as follows:

TEP supports the Commission Staff request. Although APSES does not believe that it is necessary for the Commission to receive any evidence on this matter from the parties, a hearing will provide the Commission the opportunity to fully consider how the Competition Rules apply not only to this "one specific instance" but to other similar situations that will, in all probability, occur as

1 competition develops in the service territories of all Affected Utilities (and SRP) throughout the  
2 State. See APSES Response at 2:4-8. A hearing will also provide the University of Arizona with  
3 another opportunity to formally participate in this matter, if it so desires, rather than have the  
4 Commission rely on the surrogate voice of APSES.<sup>1</sup>

6 TEP also supports Commission Staff's suggestion that the University of Arizona be provided  
7 service on the same terms and conditions as its current written arrangement until this matter is  
8 resolved by the Commission. TEP has already communicated this fact to both Commission Staff  
9 and APSES. Accordingly, TEP will adhere to the same terms and conditions until this matter is  
10 resolved.  
11  
12

13 With regards to the procedure of the hearing to be scheduled in this matter, TEP makes the  
14 following requests:

15 1. In light of the fact that this matter involves TEP, the University of Arizona and  
16 facilities located in Tucson, that the hearing be conducted at the Commission's offices in Tucson,  
17 Arizona;

18 2. That the procedural schedule issued herein provide for reasonable discovery by the  
19 parties;

20 3. That APSES, as the petitioner, be required to pre-file its direct testimony and that  
21 TEP, Commission Staff and other intervenors be permitted adequate time to prepare and pre-file  
22 rebuttal testimony thereto, if necessary; and  
23

24 4. APSES has listed those issues that it determines to be fundamental to this matter. See  
25 APSES Response at 2:18-25; 3:1-2. A review of those issues reveals that they are worded in a self-  
26 serving manner and do not represent all of the issues that may need to be considered in this  
27  
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30

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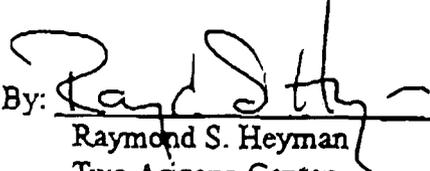
31 <sup>1</sup> On July 27, 2000, Mr. Joel Valdez of the University of Arizona sent a letter to Chairman Kunasek endorsing the APSES Petition but also indicating that it saw "no need for formal intervention by the University."

1 proceeding. TEP would recommend that the Commission schedule, at an early date, a pre-hearing  
 2 conference in which the parties can identify for the Commission those issues that should be  
 3 addressed.  
 4

5 Although APSES does not agree with the current application of the Competition Rules, TEP  
 6 will continue to work with APSES to reach a solution of this matter. However, in the event that TEP  
 7 and APSES can not come to a resolution, TEP supports Commission Staff's request for a procedural  
 8 order.  
 9

10 RESPECTFULLY SUBMITTED this <sup>28<sup>th</sup></sup> day of June 2000.

11 ROSHKA HEYMAN & DEWULF, PLC

12  
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 14 By:   
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1 Original and 10 copies of the foregoing  
2 filed this 28<sup>th</sup> day of June, 2000, with:

3 Docket Control  
4 ARIZONA CORPORATION COMMISSION  
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7 Copy of the foregoing hand-delivered  
8 this 28<sup>th</sup> day of June, 2000, to:

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