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BEFORE THE ARIZONA CORPORATION COMMISSION **DOCKETED**

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

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. R14-2-1601 et seq.

DOCKET NO. E-01933A-97-0772

IN THE MATTER OF THE APPLICATION  
OF ARIZONA PUBLIC SERVICE  
COMPANY FOR APPROVAL OF ITS PLAN  
FOR STRANDED COST RECOVERY

DOCKET NO. E-01345A-98-0473

IN THE MATTER OF THE FILING OF  
ARIZONA PUBLIC SERVICE COMPANY  
OF UNBUNDLED TARIFFS PURSUANT TO  
A.A.C. R14-2-1601 et seq.

DOCKET NO. E-01345A-97-0773

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

DOCKET NO. RE-00000C-94-0165

**AECC'S RESPONSE TO STAFF'S  
REQUEST FOR RECONSIDERATION  
AND MODIFICATION OF PROCEDURAL  
ORDER**

ASARCO Incorporated, Cyprus Climax Metals Company, Inc., Enron Corp. and Arizonans  
for Electric Choice and Competition (collectively "AECC"), hereby respond to Staff's request for  
reconsideration of the November 13, 1998 Procedural Order. AECC does not object to requiring

1 the intervenors to file their testimony by 12:00 p.m. on November 30, 1998. Nor does AECC  
2 object to moving up the date for the filing of APS's, TEP's or Staff's responsive testimony.

3         However, AECC does object to Staff's request that "the formalities of a question and  
4 answer format not be required" for reply testimony and to the request that these parties be allowed  
5 to "clarify or expand on this pre-filed responsive testimony during direct examination." The clear  
6 intent of the November 13, 1998 Procedural Order was to provide intervenors adequate time to  
7 prepare testimony and to present their concerns regarding the settlement agreements to the  
8 Commission. Granting these two requests would undermine this opportunity and be prejudicial to  
9 the intervenors. The "question and answer" format is designed to avoid the need to spend extensive  
10 hearing time on direct examination. This is not mere "formality" as Staff apparently believes. It is  
11 more difficult to understand and evaluate testimony that is presented in some sort of rambling  
12 narrative.

13         Moreover, Staff's request to expand or clarify on this testimony is even more troubling.  
14 There are issues of extraordinary public importance involved in this proceeding. The intervenors  
15 are, at minimum, entitled to full disclosure of the bases for the settlement agreements in advance of  
16 the hearing. Staff wants two bites at the apple for itself and APS and TEP: both pre-filed  
17 responsive testimony (in some narrative or other unknown form) and the right to raise additional  
18 arguments during live testimony at the hearing. This is improper, and would enable Staff, (and  
19 TEP and APS) to decide which facts and argument to disclose in their pre-filed testimony and  
20 which facts and argument to conceal until the hearing. Given the gravity of this matter, complete  
21 disclosure is critical.<sup>1</sup>

22         Moreover, no hearing date has been set, and Staff has not explained how moving up the  
23 date for filing responsive testimony will expedite the hearings in this matter. If Staff, APS and TEP  
24 are concerned that they will not have enough time to properly prepare responsive testimony in a

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26 <sup>1</sup> If Staff, APS and TEP are to be given the right to "expand and clarify" their testimony during direct  
examination, that right must also be given to the intervenors.

1 manner that will allow the intervenors an adequate opportunity to prepare for the hearings, then the  
2 date for filing such testimony should not be moved up by two days. Certainly, a two-day delay is  
3 preferable to prejudicing the intervenors' ability to present their concerns regarding the settlement  
4 agreements.

5 DATED this 19th day of November, 1998.

6 FENNEMORE CRAIG, P.C.

7  
8 By

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12 ORIGINAL AND TEN COPIES  
13 of the foregoing hand-delivered  
14 this 19th day of November, 1998, to:

15 Arizona Corporation Commission  
16 Docket Control  
1200 West Washington Street  
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17 TWO COPIES OF THE FOREGOING  
18 hand-delivered this 19th day  
of November, 1998 to:

19 Jerry Rudibaugh, Chief Hearing Officer  
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22 COPY OF THE FOREGOING  
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of November, 1998 to:

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By: Mary House