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IN THE MATTER OF THE APPLICATION OF) DOCKET NO. E-01933A-980471
TUCSON ELECTRIC POWER COMPANY FOR)
APPROVAL OF ITS STRANDED COST RECOVERY.)

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.)

IN THE MATTER OF THE APPLICATION OF) DOCKET NO. E-01345A-94-0773
ARIZONA PUBLIC SERVICE COMPANY FOR)
APPROVAL OF ITS STRANDED COST RECOVERY.)

IN THE MATTER OF THE FILING OF ARIZONA) DOCKET NO. E-01345A-97-0773
PUBLIC SERVICE COMPANY OF UNBUNDLED)
TARIFFS PURSUANT TO A.A.C. R1402-1601)
et seq.)

IN THE MATTER OF COMPETITION IN) DOCKET NO. RE-00000C-94-165
THE PROVISION OF ELECTRIC SERVICES)
THROUGHOUT THE STATE OF ARIZONA)

Pursuant to the Procedural Order dated November 13, 1998, the Arizona Consumers Council hereby files the Direct Testimony of Albert Sterman.

The Arizona Consumers Council wishes to state at the outset that the time line imposed by the Commission Order does not allow for sufficient time to properly analyze the initial filings of both Tucson Electric Power Company and Arizona Public Service Company. The TEP filing arrived on Saturday, November 21, 1998 and the APS filing arrived by E-mail on November 22, 1998. Furthermore, the latter has been unavailable due to a glitch in the system. Because of time constraints, we will be unable to file our testimony in a question and answer format. Questions posed in the TEP filing were unavailable until very recently. Questions were not posed by staff or the Commission. We will attempt to respond to as many of the issues as possible.

The Arizona Consumers Council ("The Council") has major concerns about the extremely rapid schedule proposed in Staff's Request for Procedural Order ("Order") and filing deadlines. We appreciate the opportunity to address these issues that will have such a dramatic impact upon all consumers in the state of Arizona.

We appreciate the extension of the deadline. Nevertheless, the changes in hearing dates and times in the last few weeks have been most inappropriate. Due process has been lost in these confusing changes and the inability for participating stakeholders and new interested parties to accomplish a complete and open review of all the issues raised by the Settlement Agreements and the Memorandum of Understanding. We discuss only a few of the many issues.

The filings which incorporate the Settlement Agreements with Tucson Electric Power Company ("TEP") and Arizona Public Service Company ("APS") with the Memorandum of Understanding between TEP and APS appear to raise numerous issues that need to be resolved prior to implementation. The Council, representing consumer interests, strenuously objects to: 1) lack of due process in, and, the rush to judgment; 2) the determination to begin competition January 1, 1998, whether or not critical issues have been resolved; 3) the appearance that the agreements are strongly biased toward TEP and APS and against consumer interests <Note the many questions raised by the Attorney General in an effort to understand the agreements and protect the public>; 4) rejection of stakeholder input from lengthy meetings and hearings over the last three years; 5) the proposed agreements being contrary to the rules and Decision No. 60977 which provided utilities the opportunity--not certainty--to recover 100% of stranded costs.

1. The Settlement Agreements and Memorandum of Understanding essentially would create an unregulated horizontal generation monopoly, and give APS more market power in generation in the state of Arizona.

The agreements state that APS will be allowed to keep all of its own generation assets and purchase certain TEP generation assets. APS, after retaining all of its own generation and acquiring other generation, will still be permitted to recover 100% of what it claims are its stranded costs. Our question is how this protects small consumers, especially residential, from overpaying for electric generation.

Furthermore the TEP agreement also fails to protect the public. Look at the transfer of approximately \$180 million of TEP's generation for a like amount of APS's transmission capacity to Transco, TEP's new transmission monopoly. This will deny TEP the ability to sell these assets at auction at possibly better prices. John G. Paton, TEP's expert states--in exhibit B--that utilities who have divested their generation assets at auction have received prices at .24 to 5.85 above book. Thus this Agreement could deprive TEP of an opportunity to lower its stranded costs, lowering the CTC charges, and saving ratepayers.

The Agreement specifies that TEP be required to purchase 200MW of electricity from APS at an average price of \$31.00-\$35.00 MWh for the years 2001-2004. No information is provided as to the price paid for the energy and what the actual market price will be during that time frame. We are being asked to approve a long term purchase power agreement for energy that may be different than the true market price. Are these prices above, below or at market? If different, will they be adjusted? This is anti-competition and we wonder how this arrangement will serve the public.

As part of the transfer of a portion of its generation capacity to APS, TEP will receive certain APS's transmission units. These assets will be transferred to Transco, TEP's transmission facility. The agreement suggests that TEP may also acquire transmission facilities of SRP and AEPCO. How will these transfers effect stranded cost recovery and consumer rates?

How will making TEP's Transco, the monopoly ISO, be good for the ratepayers? What provisions are being made to ensure maintenance of transmission lines, as well as their safety and reliability? Will there be layoffs that could affect maintenance and service?

2. APS will be allowed to keep all generation assets including those acquired from TEP and still recover 100% of its stranded costs. This does not conform to Decision 69077, pp. 11-12, option 1. In order to collect 100% of stranded costs, a utility must divest all generation assets. The definition does not mention transmission distribution or ancillary assets. If fact when the Co-ops filed to have metering costs covered under stranded costs, staff specifically rejected that move. If the rules do not specifically include an asset as being stranded, how can we now declare those transmission lines as divested generation assets?

Under the proposed recovery methodology there might not be justification of stranded costs. The proposed recovery methodology was rejected in the approval of the rules and under Decision No. 60977. These state that only those utilities which divest all generation assets could be given 100% of stranded costs. Is this a back door approach to changing the rules?

The settlement states that stranded costs should be securitized but it does not state how much of the stranded costs will be securitized. What will the CTC be? What effect will the CTC have on standard offer customers after the onset of full competition? What happens if the CTC does not cover stranded costs during the transition? Will payment of the securitized bonds go beyond the transition period? What will be its impact? Who will pay? How much? For how long? Will those who remain on standard offer after full competition have to pay a CTC in addition to their contribution in bundled service? TEP's Dean E. Criddle— on p. 5—says in his direct testimony that all residential ratepayers will pay the securitized charge as a separate line item. While we may not agree on many other issues, we insist that the CTC be a separate line item.

Option 2 of Decision no. 60977 states that the other way to recover stranded costs is through a Transaction Revenue Methodology which would provide "sufficient revenues necessary to maintain financial integrity..." This is based on the utility not divesting its generation assets. Furthermore the decision states that the risks of stranded cost recovery will be shared between ratepayers and shareholders. What do the Agreements provide for residential, small business, rural, low income and other vulnerable consumers?

3. Suppose that the creation of Transco, TEP's to be regulated transmission monopoly, is in the best interests of public policy and electric consumers. What do TEP and other transmission utilities give up and get in return? How do the consumers of the state benefit? What are the details?

Transferring TEP's partial generation assets in Four Corners, Navajo and other generating facilities to APS at book value appears to defeat the intent of divestiture under the rules. The remaining generation assets of TEP, if and when and if divested, may not bring the highest prices unless completed in the early stages of restructuring. Costs to consumers could therefore be higher.

6. Regarding Net Revenues Lost as a methodology, we agree with the Attorney General. Specifically see comments on pp. 8 - 10, which are included here by reference. The Net Revenues Lost methodology may be advantageous to the utilities but it overcharges consumers because it distorts prices. Given the situation consumers will be saddled with higher stranded costs.

7. Securitization of stranded costs has been discussed in meetings, hearings and by the Commission. It was rejected. It is not even mentioned in R14-2-1601 Definitions. It was not one of the issues listed for discussion in Docket RE-00000C-94-0105, or any subsequent Docket, Order or discussion until the proposed Settlement Agreement. Securitization would probably impose a new tax on the citizens of the state of Arizona in order to pay off the bonds. Securitization might place the full faith and credit of the state of Arizona hostage for payment of the bonds plus interest and costs. The utilities would receive a huge windfall and saddle ratepayers for payment of bonds and interest for years to come.

The agreements allow APS stranded costs with little or not oversight by the Commission. This is of particular concern because of APS market power.

8. We have all been through a very exhausting, costly and time consuming exercise for the past three years. These APS and TEP Agreements and the Memorandum of Understanding, if approved, would negated all the work of the past three years. While we recognize the political and economic constraints in operation at this time, we note due process has not been served with the extreme rush to judgement about these complicated matters.

RESPECTFULLY SUBMITTED NOVEMBER 30, 1998

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Original and ten copies filed this

30th Day of November, 1998 with:

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Note: Because of the expedited schedule for the hearings on these matters, copies were not mailed to all Parties in Docket Nos. E-01345A-98-0473, E-01345A-98-0773, RE-00000C-94-0165, E-01933A-98-0471, and E-01993A-97-0772. Anyone wishing a copy should contact Al Sterman @ 1-520-327-0241, Phyllis Rowe, President, 265-9625, or Jean McDermott @ 870-5093.