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BEFORE THE ARIZONA CORPORATION COMMISSION
ARIZONA CORPORATION COMMISSION
AZ CORP COMMISSION
DOCKETED

CARL J. KUNASEK
Chairman
JIM IRVIN
Commissioner
WILLIAM A. MUNDELL
Commissioner

AUG 27 1999

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IN THE MATTER OF THE APPLICATION)
OF TUCSON ELECTRIC POWER)
COMPANY FOR APPROVAL OF ITS PLAN)
FOR 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-01933-97-0772

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

DOCKET NO. RE-00000C-94-0165

STAFF'S BRIEF

I. INTRODUCTION

On June 9, 1999, Tucson Electric Power Company ("TEP" or "Company") executed a Settlement Agreement ("Agreement") with the Arizona Residential Utility Consumer Office ("RUCO"), the Arizona Community Action Association ("ACAA"), and a group calling itself Arizonans for Electric Choice and Competition ("AECC"). Enron Corporation and/or subsidiaries of Enron Corporation were at one time members of AECC, but did not execute the Agreement and withdrew from AECC. The Agreement represents an attempt to resolve a number of issues relating to introducing competition in the electric utility industry, consistent with the efforts being pursued by the Commission and Staff over the last several years.

Pursuant to Procedural Order, the signatories provided testimony in support of the Agreement, and Staff, as well as several intervenors, submitted comments and/or testimony relating ...

1 to the Agreement. Following the evidentiary hearing, this brief is submitted, describing Staff's
2 support of modifications and approval of the Agreement.

3 Staff's testimony supports approval of the Agreement, with certain fairly narrow
4 modifications, based on meeting the Commission's objectives to introduce competition quickly,
5 while ensuring the development of a true competitive market and providing benefits to all customers
6 during the transition to competition. Staff's objectives are the same in considering this Agreement
7 as those involved in our consideration of the similar Settlement entered into by Arizona Public
8 Service Company ("APS"). The APS Settlement is currently under consideration by the
9 Commission in Docket Nos. E-01345A-98-0473, E-01345A-97-0773 and RE-00000C-94-0165.

10 As was the case with the APS Settlement, a number of parties submitted comments
11 and/or testimony advocating approval, modification, or outright rejection of the Agreement in this
12 matter. In an additional similarity, the Arizona Consumers Council ("Council"), rather than
13 providing substantive analysis of the Agreement, provided only legal objections. The Council's
14 position in this matter appears to be identical to its position with respect to the APS Settlement.
15 Staff does not believe it would be useful to replicate the briefing on legal issues herein. Therefore,
16 Staff hereby incorporates the Legal Argument section of our brief from the APS Settlement, pages
17 two through nine, in support of our position that the Commission may lawfully approve this
18 Agreement.

19 Staff also has specific recommendations which we suggest the Commission adopt in
20 the course of approving this Agreement. Those will be detailed in the following section of this brief.

21 While certain of those recommendations correspond to recommendations offered in the Legal
22 Argument section of the APS brief, they are spelled out herein to ensure clarity. Staff believes that
23 the public interest will be served by approving the Agreement, with the modifications that we are
24 proposing.

25 **II. STAFF'S PROPOSED MODIFICATIONS**

26 Staff proposes modifications to the Agreement in two areas. First, Staff did not
27 believe that the proposed "adder" was high enough. That issue was resolved during the hearing, and
28 Staff supports the "adder" rates contained in Exhibit TEP-7. In addition, consistent with our

1 recommendations in the APS matter, Staff proposes adopting unbundled rates for metering, meter
2 reading and billing that are based on TEP's embedded costs. Finally, as indicated in the
3 Introduction, Staff recommends that the Commission's approval of the Agreement contain certain
4 provisions relating to the legal arguments raised by the Council.

5 **A. Unbundled Rates for Metering, Meter Reading and Billing**

6 Staff recommends that TEP's unbundled metering, meter reading, and billing rates
7 should be increased from the rates filed with this Settlement to the rates that were filed with TEP's
8 November 1998 Settlement. The higher rates reflect a full allocation of the Company's embedded
9 distribution costs to the metering, meter reading, and billing functions. The June 1999 Settlement
10 rates were "adjusted downward", according to the response to Staff Data Request No. LS-7. (Tr. at
11 382). The Company's rationale for making this adjustment was that the customer charge in the
12 previous rate case had been designed to collect metering, meter reading, billing and the customer
13 service drop costs, and the newly filed charges were those that had been included in this customer
14 charge. This is not a legitimate reason to make this adjustment. In this case, the Company has
15 refunctionalized administrative and general expense, which has created a higher Transmission and
16 Distribution ("T&D") rate, 2.6 cents. (Tr. at 383). The metering and billing charges should reflect
17 this new functionalization and be consistent with the 2.6 cents. It is true that the recommended
18 treatment would mean that the remaining distribution customer charge would be lower than the
19 service drop cost found in either the present cost study or the previous cost study. However, the
20 Company will still recover those costs in the energy portion of its distribution rate. This is clear
21 because the distribution rates as a whole have been designed to recover the full amount of the
22 distribution costs claimed in the Settlement. If Staff's suggestion is followed, the Company still
23 collects all of their distribution costs, and the competitive market has an opportunity to compete for
24 metering, meter reading, and billing services. There is no harm in collecting part of service drop
25 costs in an energy charge.

26 **B. Modifications Relating to Legal Arguments**

27 As was mentioned in the Introduction, Staff believes the Commission may lawfully
28 approve the Agreement in this matter. The basis for Staff's view is described more fully in our brief

1 in the APS Settlement matter, which we have incorporated by reference rather than replicating it in
2 this brief. Staff recommends that the Commission modify the Agreement in order to clarify its
3 approval in several regards. These recommendations are consistent with those offered by Staff in
4 connection with the APS Settlement.

5 First, neither the Commission nor Staff were active in negotiating the TEP
6 Agreement. Staff recommends that the Commission decline to make itself a party to the Agreement,
7 as specified by Section 13.3. Consistent with our recommendation in APS, Staff believes that the
8 Commission should condition approval of this Agreement on a reservation of regulatory authority,
9 except as necessary to implement the Agreement. The Commission should specifically find that it
10 does not become a party to the Agreement and that approval is a regulatory order, not the creation
11 of a contract. While the Commission may wish to waive certain requirements, as Staff has
12 recommended in this proceeding, the order approving this Agreement should not purport to
13 supercede subsequent Commission orders. Thus, the Commission should decline to approve Section
14 14.3 of the Agreement.

15 Similarly, this Agreement contains asymmetric rate change provisions. Sections 5.1
16 and 13.4 would act to permit TEP to seek rate increases under certain circumstances, while appearing
17 to foreclose rate changes from Commission initiative. As was suggested in connection with the APS
18 Settlement, Staff recommends that the Commission condition its approval of the Agreement on
19 allowing Commission or Staff initiated rate changes under conditions paralleling those provided for
20 the utility. Such circumstances would at least include unforeseen revenue increases and petitions
21 pursuant to A.R.S. § 40-246. It should also be made clear that the rate case contemplated in Section
22 5.2 of the Agreement could include both increases and decreases in T&D rates by class, subject to
23 maintaining a cap on total rates (Tr. at 381-82).

24 In addition, the Commission should clarify the nature of its approval of securitization,
25 as provided by Section 2.1(g) of the Agreement. The Commission should make it clear that, despite
26 the approval of the Agreement, securitization will require consideration and further order by the
27 Commission.

28 ...

1 Finally, consistent with the testimony of Staff witness Ray Williamson, the
2 Commission should defer consideration of the requested waiver from Condition Nos. 23 and 25 of
3 Decision No. 60480, the Holding Company order. As Mr. Williamson testified, these conditions are
4 more appropriately considered in the context of considering permanent Codes of Conduct (Direct
5 Test. of Ray Williamson, Ex. S-2 at 4-5).

6 **III. CONCLUSION**

7 Staff applauds the efforts of the parties in negotiating this Agreement. It resolves
8 many of the contentious issues surrounding electric restructuring in a fair and reasonable manner.

9 Staff's recommendations are intended to improve the Agreement, without upsetting the delicate
10 balance of interests arrived at during the negotiations. Raising the metering, meter reading and
11 billing rates, as suggested by Staff, is essential to enable the establishment of a true competitive
12 market in these services which the Commission has found to be competitive. Adopting Staff's
13 recommendations will ensure that the Commission's approval of this Agreement is lawful, while
14 preserving flexibility for the Commission as a regulatory body.

15 Staff recommends that the Commission approve this Agreement, subject to the
16 modifications supported by Staff. Approval with modification is in the public interest.

17 RESPECTFULLY SUBMITTED this 27th day of August, 1999.

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19 

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