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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.)

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

DOCKET NO. RE-00000C-94-0165

PG&E ENERGY SERVICES CORPORATION'S POST-HEARING BRIEF

**I.
INTRODUCTION**

Pursuant to R14-3-109(R) of the Commission's Rules of Practice and Procedure, and the Chief Hearing Officer's Directive, PG&E Energy Services Corporation ("PG&E ES") herein submits its Post-Hearing Brief in the above-captioned proceedings.

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**II.
DISCUSSION**

AUG 30 1999

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A. Deferral of Commission Action:

As a part of its Opening Statement, PG&E ES expressed its belief that the Commission should defer action upon the proposed Settlement Agreement and the related Standard Offer and Unbundled Tariff proposals pending its completion of the current rulemaking process involving the

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1 revised Electric Competition Rules which were adopted by Decision No. 61634 on April 23, 1998.
2 It was PG&E ES's view at that time that completion of the rulemaking process would allow the
3 Commission to establish comprehensive and clear regulatory policies and regulations governing the
4 introduction of retail electric competition, thereby insuring implementation of the Electric
5 Competition Rules on a uniform and consistent state-wide basis. The alternative was the
6 introduction of competition through a patchwork pattern of ad hoc settlement agreements involving
7 individual Affected Utilities, such as has been proposed for the service areas of Tucson Electric
8 Power Company ("TEP") and Arizona Public Service Company ("APS"). From a public policy
9 perspective, such an alternative is clearly less desirable.
10

11
12 Nothing which subsequently occurred during the public hearings in the above-captioned
13 proceedings, nor the two and one-half weeks which have elapsed since the commencement of those
14 hearings, has altered PG&E ES' view on this matter. Rather, it continues to believe that the
15 comprehensive nature of the deferral approach which it recommends, and the consistency in
16 application of regulatory policies and regulations which would result, are well worth the trade-off
17 for a slight additional delay in the onset of retail electric competition.
18

19 Significant in this regard is the issuance on August 26, 1999 of the recommended Opinion
20 and Order for completing the rulemaking process involving the revised Electric Competition Rules
21 which were the subject of Decision No. 61634. That Opinion and Order has tentatively been
22 scheduled for consideration by the Commission at its Working Session and Open Meeting on
23 September 14-15, 1999. Moreover, and significantly, as therein noted.
24

25 "The Proposed Modifications [recommended by the Hearing Division] are not
26 substantive. Adoption of the Proposed Modifications will allow the Commission to
27 more effectively implement the restructuring of the retail electric market by
28 providing stakeholders with the details of the structure and process of the
introduction of competition into Arizona's electric industry." [emphasis added]

Two observations may be made in light of this development. First, the Commission is in the

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1 final stage of the aforesaid rulemaking and will soon be in a position to complete the process.
2 Second, the completion of that process will provide it with a comprehensive set of policies and
3 regulations governing the introduction of retail electric competition in the service area of each
4 Affected Utility on a consistent basis.

5
6 Against this background, the aforementioned "patchwork" and "ad hoc" alternative should
7 clearly be avoided and rejected. In this regard, it should be remembered that the discussions which
8 produced the proposed Settlement Agreement were initiated by the Speaker of the Arizona House
9 of Representatives, and he substantially influenced, if not determined, who would participate in such
10 discussions.¹ Undoubtedly, he had his own motives and objectives. However, it is the Commission
11 who will bear the ultimate responsibility for how well retail electric competition is introduced into
12 the State of Arizona. Thus, it should not allow either the content or the timing of its decisions on
13 that subject to be driven by the agenda of a legislator.

14
15 **B. A "Directional" Improvement:**

16 In the event the Commission should decide to consider the proposed Settlement Agreement
17 at this time, PG&E ES would note that, directionally speaking, it does represent an improvement
18 over what has been proposed in the Settlement Agreement involving APS. For example, it does
19 provide for the transfer of generation assets at market value. While PG&E ES would prefer strict
20 adherence to the rule calling for the transfer price to be the higher of fair market value or depreciated
21 book value of the assets in question, based on the unique circumstances surrounding TEP's
22 generating assets and the associated lease obligations, PG&E ES does not believe that a transfer at
23 market value will result in the affiliated transferee generating company obtaining a significant unfair
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27 ¹TEP witness Pignatelli testified to this effect during his appearance on August 11, 1999.
28 APS witness Davis offered similar testimony during the previously held hearings involving APS' proposed Settlement Agreement.

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competitive advantage in the market place.

In addition, the proposed Settlement Agreement contemplates the use of a "tracking account" in connection with collection of the competitive transition charge ("CTC") incident to the recovery of stranded costs, with the CTC ending when the appropriate amount has been collected. Again, this represents an improvement over the approach reflected in the APS Settlement Agreement.

Similarly, the absence of a provision requiring direct access customers to provide lengthy advance notice of an intent to return to Standard Offer status represents an improvement over the approach proposed by APS.

Finally, the revisions to the "Adder" and associated strata agreed to by the signatory parties to the Settlement Agreement during the hearing also represent a directional improvement. PG&E ES is unable to conclude at this time if such revisions are sufficient to allow the entry of meaningful and sustained competition into TEP's service area, but they are a step in the right direction.

C. Code of Conduct:

Section 7.1 of the proposed Settlement Agreement provides TEP file an Interim Code of Conduct with the Commission to govern transactions between TEP and its affiliates pending Commission approval of "a final Code of Conduct for TEP in accordance with the Electric Competition Rules." On July 21, 1999, TEP made such a filing.

As previously noted in the discussion in Section II. A above, it appears that the Commission is very close to taking final action on the revised Electric Competition Rules which were the subject of Decision No. 61634. However, as a precautionary measure, PG&ES recommends that the Commission follow the suggestion of its Chief Hearing Officer in the August 26, 1999 proposed Opinion and Order on the proposed APS Settlement Agreement. Therein he has recommended that the Commission's Hearing Division establish an expedited procedural schedule for allowing all the

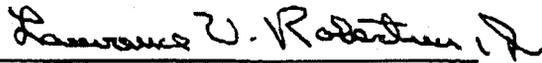
1 interested parties to be heard with regard to the proposed Interim Code of Conduct which APS has
 2 filed. Of course, this would be unnecessary in this instance if the Commission adopts PG&E ES's
 3 recommended deferral of any action on TEP's proposed Settlement Agreement pending completion
 4 of the current rulemaking on the revised Electric Competition Rules.²

5
 6 **III.**
CONCLUSION

7
 8 For the reasons discussed above in Section II A, PG&E ES urges the Commission to defer
 9 taking any action upon the proposed Settlement Agreement until the rulemaking involving the
 10 revised Electric Competition Rules which were the subject of Decision No. 61634 has been
 11 completed.

12 Dated this 30th day of August, 1999.

13 RESPECTFULLY SUBMITTED,

14 

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 28 ²PG&E ES intends to make a similar recommendation in Exceptions it will file to the August 26, 1999 proposed Opinion and Order on the APS Settlement Agreement.

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