



0000112770

ORIGINAL

RECEIVED  
BEFORE THE ARIZONA CORPORATION COMMISSION

2000 JUN -5 P 4: 38

Arizona Corporation Commission  
DOCKET

JUN 05 2000

AZ CORP COMMISSION  
DOCUMENT CONTROL

DOCKETED BY: [Signature]

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

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

**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")

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.

1 version, when the customer chose an alternate supplier. Moreover, that Settlement Agreement  
2 specifically provided that: "Any future order, rule or regulation shall be construed and  
3 administered, insofar as possible, so as not to conflict with the specific provisions of this  
4 Settlement Agreement." That same section goes on to state that if conflict with the Settlement  
5 Agreement is unavoidable, then a waiver of the subsequent order, rule, etc., should be requested.

6 If the method by which HSC was metered and billed for the past five years was permitted  
7 by TEP's tariffs and did not conflict with Commission rules, why should they be interpreted to  
8 require a change in that process as a result of direct access. The cost to TEP to provide regulated  
9 services to the U of A has not changed, and TEP should not be allowed to charge more in an  
10 attempt to prevent a customer from choosing direct access. Using the unbundled version of the  
11 same rate will guarantee that a customer pays the same amount to TEP that was inherent in the  
12 Rate 14 standard offer rate.

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

20 Additionally, due to the need for the U of A to receive clarification and/or waivers to  
21 economically be able to choose direct access, Petitioner requests the Commission to extend the  
22 ninety-day grace period to match that treatment afforded ESA customers in the Settlement  
23 Agreement whose contracts are expiring this year. Specifically, Section 1.4 of the TEP Settlement  
24 Agreement indicates that "Electric Service Agreements" ("ESA") in place as of the end of January  
25

26 <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  
25  
26

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

842172

06/02/00 15:08 FAX 602 744 5133  
06/02/00 FRI 15:02 FAX 15206219499

APS ENERGY SERVICES  
U OF AZ FACILITIES MGT

002/002

002

Facilities Management  
Building #49

THE UNIVERSITY OF  
**ARIZONA**  
TUCSON ARIZONA

1331 E. 5th Street  
P.O. Box 210049  
Tucson, Arizona 85721-0049

June 1, 2000

**CONFIDENTIAL**

MEMORANDUM

**TO:** Steve Brigham, Director, UMC Facilities Management

**FROM:** Al Tarcola, Director, Facilities Management

**SUBJECT:** Permission for Interval and Billing Data Related to Electrical Utility

Via this letter, the University of Arizona is requesting permission for access to monthly UMC Interval and Billing data from Tucson Electric Power Company which is utilized to accurately bill the University for its electric consumption. This request is also in accordance with Section 5.9, page 11, of the Lease and Conveyance Agreement dated November 5, 1984 (see attached).

Bruce J. Norton, CFO

  
\_\_\_\_\_  
UMC Signature Concurrence

6/2/00  
Date

cc: Tom Thompson  
Joel Valdez

AT/sw

