

# FORMAL COMPLAINT



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## BEFORE THE ARIZONA CORPORATION COMMISSION

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**WILLIAM A. MUNDELL  
CHAIRMAN**

**JIM IRVIN  
COMMISSIONER**

**MARC SPITZER  
COMMISSIONER**

**E-01933A-02-0388**

**THE UNIVERSITY OF ARIZONA'S  
PETITION FOR DECLARATORY  
ORDER DIRECTING TUCSON  
ELECTRIC POWER COMPANY TO  
MAKE AVAILABLE ALL ELECTRIC  
RATES FOR WHICH THE  
UNIVERSITY QUALIFIES.**

**DOCKET NO.** \_\_\_\_\_

### **PETITION FOR DECLARATORY ORDER AND INTERIM RELIEF**

The University of Arizona ("Petitioner" or "the University") hereby requests that the Arizona Corporation Commission ("Commission") enter an order directing Tucson Electric Power Company ("TEP") to permit Petitioner to purchase power pursuant to TEP Pricing Plans PRS-104, PRS-105 and PRE-106 (the "QF Tariffs"). The Petitioner requests that TEP be required to provide service, and honor the QF Tariffs currently on file, pending resolution of this dispute.

TEP's QF Tariffs specifically apply to customers in the TEP service area that are "Qualified Facilities" by virtue of their use of cogeneration systems. Petitioner recently installed two cogeneration facilities that will produce both electricity and heat for the

University. Petitioner undertook to build these facilities to take advantage of lower electric rates available to entities using cogeneration and in reliance on federal cogeneration regulations and TEP's Commission-approved QF Tariff rates.

Despite Petitioner's eligibility, TEP has refused its request for service under the applicable QF Tariffs. Petitioner seeks an order from the Commission directing TEP to sell power to the Petitioner, a Qualified Facility, under the TEP QF Tariffs.

### **I. BACKGROUND.**

Petitioner recently completed installation of two natural gas powered turbines that will, once operational, produce electricity for the University and will provide steam for campus heating needs. (In the summer months the steam can be channeled back into the system allowing the turbines to produce more electricity.) The Main Campus Central Heating and Refrigeration Plant ("CHRP") and the Main Campus turbine will be interconnected with TEP and will serve a portion of the University's electric power needs.

By meeting specific federal "Qualified Facility" ("QF") requirements for cogeneration facilities, the University is entitled to purchase power under TEP QF Tariffs. These QF Tariffs provide for a lower rate than the standard TEP (large customer) electric service tariff. Petitioner is a Qualified Facility by virtue of the installation and use of the two natural gas powered turbines. *See* 18 C.F.R. 292.205. The Federal Energy Regulatory Commission ("FERC") formally designated the Petitioner's cogeneration facility a Qualified Facility on December 10, 2001, and assigned the facility FERC Docket No. QF02-18-000.

On October 24, 2001, the University sent TEP a letter providing official notice of its intent to take power under TEP's QF Tariffs once its existing energy service agreements had terminated. (This letter is attached at tab 1; the QF Tariffs are attached at tab 2.) TEP responded by asserting that a Settlement Agreement between TEP and APS-Energy Services Company, Inc. ("APS-ES") dated September 8, 2000, "fully addresses the manner in which TEP will serve the UofA when its self-generation units ("CHP Facilities") become operational . . . [and] . . . service under any tariff not a part of the Agreement, including the QF Tariffs, is unacceptable to TEP." See Letter from Wallace Rickards attached at tab 3.

The Agreement relied upon by TEP settled a dispute between APS-ES, the University's energy services manager, and TEP. Because APS-ES and TEP were unable to agree upon how the University would be served and metered as a direct access customer, APS-ES filed a Petition for Declaratory Order and Waiver with the Commission to resolve the dispute. The matter settled before hearing, and the resulting Settlement Agreement – the one now cited by TEP – was signed by APS-ES and TEP and agreed to by the University. (That Settlement Agreement is attached at tab 4.)

TEP has no lawful basis for asserting that the Settlement Agreement between TEP and APS-ES forbids Petitioner from purchasing electricity under the TEP QF Tariffs. The Settlement Agreement addresses only how TEP will *meter* power purchased by the University. TEP committed in the Settlement Agreement to grandfather the University's "present totalized metering and billing at both the Main Campus and HSC regardless of

whether TEP or an electric service provider is providing electric service to the loads.” Agreement, ¶ 4. TEP also agreed to allow the University to “totalize for billing purposes” electricity used at the Central Refrigeration Building “provided that any additional metering points to be totalized meet all Commission-approved eligibility requirements of the tariff other than the 3 MW minimum.” *Id.* Essentially, TEP agreed in the Settlement Agreement to allow already existing multiple points of delivery to be treated as a single point of delivery for purposes of the University’s eligibility under the TEP tariffs.

The Agreement does not address cogeneration, nor does it comment on the University’s ability to purchase power pursuant to a TEP QF Tariff. The agreement does not expressly (or impliedly) prohibit use of the TEP QF Tariffs by the University. Indeed, the Agreement is to the contrary, stating that “[a]fter the first year the U of A may elect at any time to take service under TEP’s Large Light and Power Schedule No. 14 *or any available tariff for which it qualifies.*” Agreement ¶ L(1) (emphasis added). Thus, nothing in the Agreement between TEP and APS-ES prohibits the University from requesting service under the TEP QF Tariffs.

Historically, TEP has served the University through contracts covering three distinct points of delivery: The Main Campus, The Health Sciences Center (“HSC”), and the Central Refrigeration Building (“CRB”). These three contracts required the University to purchase power under the standard TEP tariffs. However, these contracts

have either expired, were terminated, or are about to expire.<sup>1</sup> Thus, the University is not now contractually obligated to purchase power from TEP at a set rate or for an agreed upon term.

## II. RELIEF REQUESTED.

Petitioner requests that the Commission issue an immediate order directing TEP to provide the University service pursuant to the QF Tariffs while this dispute is pending. Additionally, Petitioner requests that the Commission confirm in a final order TEP's obligation to provide service pursuant to the QF Tariffs and deny any request by TEP to increase the QF Tariff rates until 2008, the final year of a rate freeze approved by the Commission and agreed to by TEP. Petitioner does not seek to evade any applicable contractual obligation, nor does it seek access to a rate for which it does not qualify. However, Petitioner has invested substantial sums in building cogeneration facilities and is entitled to use the QF Tariff rate to recoup that investment.

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<sup>1</sup> The CRB point of delivery contract has expired. TEP and the University have been operating on a month-to-month arrangement for about one-year under TEP's Standard Rate 14. The main campus contract with TEP will expire by July 22, 2002, if not sooner. The HSC contract expired on April 22, 2000, and was effectively replaced by the Settlement Agreement between APS-ES and TEP. Under that Agreement, the University is authorized to purchase power under "*any available tariff for which it qualifies.*" Agreement, ¶ L(1).

Respectfully submitted this 23 day of May 2002.

OSBORN MALEDON, P.A.

By   
Andrew D. Hurwitz  
Joan S. Burke  
2929 North Central Avenue, Suite 2100  
Phoenix, Arizona 85012-2794

*Counsel for the University of Arizona*

Original and 10 copies of the foregoing  
filed this 23<sup>d</sup> day of May, 2002, with:

Docket Control  
Arizona Corporation Commission  
1200 West Washington  
Phoenix, AZ 85007

Copies of the foregoing hand delivered  
or faxed this 23<sup>d</sup> day of May, 2002 to:

Lyn A. Farmer, Esq.  
Chief ALJ, Hearing Division  
Arizona Corporation Commission  
1200 West Washington  
Phoenix, AZ 85007

Christopher Kempley, Esq.  
Chief Counsel, Legal Division  
Arizona Corporation Commission  
1200 West Washington  
Phoenix, AZ 85007

Steve Glaser  
Senior Vice President and COO/UDC  
Tucson Electric Power Company  
PO Box 711  
Mail Stop: OH203  
Tucson, AZ 85702

Annice Gonzala

**1**

THE UNIVERSITY OF  
**ARIZONA**®  
TUCSON ARIZONA

Facilities Management  
Building #49

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

October 24, 2001

Mr. Wallace Rickards, Director, Sales  
Tucson Electric Power  
4350 East Irvington Road  
P. O. Box 711, Mailstop OH123  
Tucson, AZ 85702

Re: University of Arizona Combined Heat and Power (CHP) Projects

Dear Mr. Rickards:

As you know, Combined Heat and Power systems are being implemented at The University of Arizona central plants, Main Campus (CHRP) and AHSC Campus (AHSC-CHRP), and as such, the University shall not continue with its existing electric service agreements for those accounts when the CHP Units come on line, and alternatively shall utilize TEP's approved QF tariffs as specified below.

This letter shall serve as official notification with respect to the termination of the existing service agreements. The new service agreements shall be effective at the time the interconnection is completed and the turbine's generators can continuously operate in parallel with TEP if the University so desires per the letter of commitment dated October 9, 2001. The CHP units will be connected in parallel with TEP per our application of August 7, 2001.

The project shall utilize TEP's existing tariffs, whose current versions are on file with the Arizona Corporation Commission with an effective date of July 1, 2000 including: Pricing Plan PRS-104, Optional Supplementary Service for Cogeneration and Small Power Production Qualifying Facilities (QF) over 100 kW; Pricing Plan PRS-105, Optional Maintenance Service for Cogeneration and Small Power Production Qualifying Facilities (QF) over 100 kW; and Pricing Plan PRS-106, Optional Backup Service for the CHP units and Small Power Production Qualifying Facilities, (QF) over 100 kW.

Please let me know by October 30, 2001 what additional information TEP needs before it can commence service for this project under these pricing plans. We desire to have all the necessary documents completed with TEP by December 15, 2001 and commence service as per our letter of commitment dated October 9, 2001.

Sincerely,



Al Tarcola, Director

cc: Walt Kavanagh, Assistant Director, Business Services  
Al Robles, Utility Accountant  
Tommy Thompson, University Attorney  
Joel Valdez, Senior Vice President for Business Affairs  
Joel Wagner, Director, APS Energy Services  
Bill Wilson, Assistant Director, Utilities Management & Services



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# ORIGINAL

Pricing Plan PRS-104

Optional Supplementary Service for Cogeneration and  
Small Power Production

Qualifying Facilities (QF) over 100 kW

## AVAILABILITY

Available throughout Company's entire electric service area where the facilities of the Company are of adequate capacity and are adjacent to the premises.

## APPLICABILITY

To any QF when all energy and capacity requirements in addition to that normally provided by the facility are supplied by Company at one point of delivery and through one metered service.

## CHARACTER OF SERVICE

Single or three phase, 60 Hertz, and at one standard nominal voltage as mutually agreed and subject to availability at point of delivery. Primary metering may be used by mutual agreement.

## RATE

If and when General Service Time-of-Use Rate No. 76 is approved by the Arizona Corporation Commission, the billing shall be in accordance with General Service Time-of-Use Rate No. 76, or Large General Service Time-of-Use Rate No. 85, or Large Light and Power Time-of-Use Rate No. 90. If General Service Time-of-Use Rate No. 76 is not available, the billing shall be in accordance with General Service Rate No. 10, or Large General Service Time-of-Use Rate No. 85, or Large Light and Power Time-of-Use Rate No. 90.

## TERMS AND CONDITIONS

- (1) The QF shall reimburse Company upon receipt of statement from Company for all interconnection costs in excess of the normal interconnection costs of a retail customer similarly served and situated.
- (2) The QF shall operate its electric generating equipment in accordance with Company rules, regulations, and service requirements.
- (3) The Company may require a written contract and a minimum term of contract.
- (4) The standard Rules and Regulations of the Company as on file from time to time with the Arizona Corporation Commission shall apply where not inconsistent with this rate schedule.
- (5) If a QF is served under this schedule and has also contracted for Optional QF Backup Service or Optional QF Maintenance Service, a second meter will be installed.

APPROVED FOR FILING

DECISION #: 62103

Filed By: Steven J. Glaser  
Title: Vice President, Rates and Regulatory Support  
District: Entire Electric Service Area

Tariff No.: PRS-104  
Effective: July 1, 2000  
Page No.: 1 of 1



ORIGINAL

Pricing Plan PRS-105  
Optional Maintenance Service for Cogeneration and  
Small Power Production  
Qualifying Facilities (QF) over 100 kW

AVAILABILITY

Available throughout Company's entire electric service area where the facilities of the Company are of adequate capacity and are adjacent to the premises.

APPLICABILITY

To any QF when all energy and capacity are supplied by Company at one point of delivery and through one metered service to replace generation from a facility when such facility is out of service for scheduled maintenance.

CHARACTER OF SERVICE

Single or three phase, 60 Hertz, and at one standard nominal voltage as mutually agreed and subject to availability at point of delivery. Primary metering may be used by mutual agreement.

RATE

- \* Service Charge: \$18.20 per month.  
Energy Charge: All kWh @ 5.228¢ per kWh.
- \* Not applicable if billed under the Optional Backup QF Service schedule.

TAX CLAUSE

To the charges computed under the above rate, including any adjustments, shall be added the applicable proportionate part of any taxes or governmental impositions which are or may in the future be assessed on the basis of gross revenues of the Company and/or the price or revenue from the electric energy or service sold and/or the volume of energy generated or purchased for sale and/or sold hereunder.

TERMS AND CONDITIONS

- (1) The QF shall reimburse Company upon receipt of statement from Company for all interconnection costs in excess of the normal interconnection costs of a retail customer similarly served and situated.
- (2) The QF shall operate its electric generating equipment in accordance with Company rules, regulations, and service requirements.
- (3) The Company may require a written contract and a minimum term of contract.
- (4) The standard Rules and Regulations of the Company as on file from time to time with the Arizona Corporation Commission shall apply where not inconsistent with this rate schedule.
- (5) The requirement for service shall not exceed the nameplate capacity of the QF.

APPROVED FOR FILING  
DECISION #: 62123

Filed By: Steven J. Glaser  
Title: Vice President, Rates and Regulatory Support  
District: Entire Electric Service Area

Tariff No.: PRS-105  
Effective: July 1, 2000  
Page No.: 1 of 2



**ORIGINAL**

**Pricing Plan PRS-105  
Optional Maintenance Service for Cogeneration and  
Small Power Production  
Qualifying Facilities (QF) over 100 kW**

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- (6) The frequency and duration of service may be limited so that the rates remain compensatory by ensuring that usage retains the characteristics of partial requirements service.
- (7) The performance of scheduled maintenance during certain peak hours or months shall be subject to prohibitions to avoid impairing the Company's ability to serve its full requirements customers.

APPROVED FOR FILING  
DECISION #: 62123

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Filed By: Steven J. Glaser  
Title: Vice President, Rates and Regulatory Support  
District: Entire Electric Service Area

Tariff No.: PRS-105  
Effective: July 1, 2000  
Page No.: 2 of 2



# ORIGINAL

## Pricing Plan PRS-106 Optional Backup Service for Cogeneration and Small Power Production Qualifying Facilities (QF) over 100 kW

### AVAILABILITY

Available throughout Company's entire electric service area where the facilities of the Company are of adequate capacity and are adjacent to the premises.

### APPLICABILITY

To any QF when all energy or capacity is supplied by Company at one point of delivery and through one metered service to replace energy ordinarily generated by a facility's own generation equipment during an unscheduled outage of the facility.

### CHARACTER OF SERVICE

Single or three phase, 60 Hertz, and at one standard nominal voltage as mutually agreed and subject to availability at point of delivery. Primary metering may be used by mutual agreement.

### RATE

\* Service Charge: \$18.20 per month.  
Reservation Charge:

All contracted kW per month @ \$ C per kW, where C is derived as follows:

$$\$22.00 \times \frac{A}{B} = C$$

A is the number of hours the facility's generation is inoperative in a contract year due to unscheduled maintenance. B is the number of hours in a contract year less the number of hours the facility's generation is inoperative in a contract year due to scheduled maintenance.

For billing purposes, during the first contract year the assumed value of A/B shall be 10% with a true-up based on actual data at the end of the first contract year. For the second and subsequent contract years, the value used for billing purposes shall be based on the actual value of A/B during the previous contract year.

\* Not applicable if billed under the Optional Maintenance QF Service schedule.

Energy Charge: All kWh @ 2.214¢ per kWh.

APPROVED FOR FILING

DECISION #: 602103

Filed By: Steven J. Glaser  
Title: Vice President, Rates and Regulatory Support  
District: Entire Electric Service Area

Tariff No.: PRS-106  
Effective: July 1, 2000  
Page No.: 1 of 1

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Wallace D. Rickards  
Director, Sales  
Industrial & Manufacturing

(520) 745-3423  
Fax (520) 571-4106  
wrickards@tucsonelectric.com

January 7, 2002

Mr. Al Tarcola  
Director, Facilities Management  
University of Arizona  
PO Box 210049  
Tucson, AZ 85721-0049

Subject: Electric Service for the UofA's Combined Heat and Power Facilities

Dear Mr. Tarcola,

Thank you for your response to our November 29, 2001 proposal. However, it appears that the UofA's and TEP's recollections of the meeting on October 24, 2001 are different. We recall that TEP expressed more than reluctance to the idea of the UofA using the QF Tariffs and apologize if we were unclear. To clarify, TEP asserts that QF Tariffs are not applicable to the UofA in this situation because the TEP-APSES Settlement Agreement ("Agreement"), approved and accepted by the UofA, resolved any and all pertinent issues regarding backup, maintenance and supplemental energy services provided by TEP to the UofA under PRS 104, PRS 105 and PRS 106. Let me explain.

The Agreement dated September 8, 2000, supported by the UofA's letter of commitment dated September 19, 2000, fully addresses the manner in which TEP will serve the UofA when its self-generation units ("CHP Facilities") become operational. TEP's November 29, 2001 proposal was made in an effort to provide the UofA with an alternative to the agreed upon terms in the Agreement.

Further, TEP's proposal was made in response to and was an attempt to accommodate the UofA's expressed desire to baseload its CHP Facilities contrary to the provisions of the Agreement. As it currently stands, the Agreement clearly requires the UofA to follow its load on a pro-rata basis. TEP believes no further explanation is necessary regarding why service under any tariff not a part of the Agreement, including the QF Tariffs, is unacceptable to TEP. TEP and APSES discussed this several times during the lengthy negotiations that resulted in the Agreement, which contains agreed upon parameters of

service in the event the UofA installs self-generation. We have also recently discussed and clarified the issue with APSES' Joel Wagner, both in person and by telephone, and with Barbara Klemstirn, who was an integral part of the Agreement negotiations.

TEP is willing to discuss alternatives with the UofA. However, in the absence of a new or amended settlement agreement TEP believes the UofA must comply with the terms and conditions of the existing Agreement. As such, TEP respectfully denies the UofA's October 24, 2001 request to be placed on the QF Tariffs when its CHP Facilities become operational.

In an effort to further our discussions regarding whether to proceed under the terms of the Agreement or continue discussions on an alternative proposal, I have attached TEP's responses to the questions you posed in your December 19, 2001 letter.

Sincerely,



Wallace D. Rickards

cc: Joel Valdez  
Joel Wagner  
Val Agnew  
Leland Snook

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## SETTLEMENT AGREEMENT

Tucson Electric Power Company ("TEP") and APS Energy Services Corporation, Inc. ("APS-ES") hereby agree as follows:

### RECITALS

A. TEP has provided electric service to (a) the University of Arizona's ("U of A") Health Science Center ("HSC"); (b) the U of A's Central Heating and Refrigeration Plant ("CHRP" aka "CRB"); (c) the U of A's Main Campus ("Main Campus" aka "CHRP"); and (d) the University Medical Center ("UMC") pursuant to electric service agreements that have been approved by the Arizona Corporation Commission ("Commission").

B. The electric service agreement for the HSC expired on April 22, 2000 and since then TEP has served HSC pursuant to TEP's Large Light And Power Schedule No. 14.

C. The U of A has investigated entering into a new agreement for direct access electric service for the HSC.

D. APS-ES is an electric service provider and has discussed with the U of A terms and conditions for providing direct access electric service to the HSC.

E. TEP, the U of A and APS-ES have discussed how the U of A would be billed and metered in the event that HSC became a direct access customer of APS-ES.

F. Disagreement has arisen between the parties as to how the U of A would be billed and metered in the event that HSC became a direct access customer of APS-ES.

G. On or about June 5, 2000, APS-ES filed a "Petition For Declaratory Order or Waiver" ("Petition") with the Commission in Dockets Nos. E-01933A-98-0471; E-

1933A-97-0772; RE-00000C-94-0165; and E-01933A-98-0729 ("Consolidated Dockets") regarding issues that included billing and metering of direct access customers.

H. On or about June 9, 2000, TEP filed its "Response to Petition For Declaratory Order or Waiver".

I. On or about June 21, 2000, the Commission Staff filed "Staff's Request For Procedural Order" recommending that a complaint docket be opened and a hearing be scheduled on the Petition.

J. On or about June 23, 2000, APS-ES filed its "Reply of APS Energy Services Corporation, Inc. To Tucson Electric Power Company and Response to Staff Request for Procedural Order".

K. A Procedural Conference was held on July 10, 2000 in which a hearing date was scheduled and the Petition was transferred from the Consolidated Dockets to Docket No E-01933A-00-0486.

L. TEP and APS-ES now desire to settle and fully resolve the issues raised in the Petition upon the terms and conditions set forth in this Settlement Agreement.

Now therefore, in consideration of the covenants and promises contained herein and for other good and sufficient consideration, the receipt of which the parties hereby acknowledge, TEP and APS-ES agree as follows:

1. TEP shall provide and U of A shall continue to receive electric service to HSC pursuant to TEP's Large Light and Power Schedule 14 until the first day of the first new meter reading period after December 31, 2000. TEP shall provide and U of A shall receive electric service to HSC pursuant to TEP's Large Light and Power Schedule No. 90A for a period up to five (5) years, in one-year increments which shall be cancelable

by the U of A not later than sixty (60) days prior to the start of each contract year without penalty or further obligation. Electric service under Schedule 90 A will begin with the first day of the first new meter reading period after December 31, 2000. After the first year the U of A may elect at any time to take service under TEP's Large Light and Power Schedule No. 14 or any available tariff for which it qualifies. At any time, not less than twelve months after the last election, the U of A will have the right to elect service under any available tariff for which it qualifies, Billing under an election will begin the first day of the first billing cycle after notification by the U of A of the change in the election.

2. TEP will enter into a Standby Capacity Agreement with the U of A in a form that is mutually agreed upon concurrent with the 90A Agreement in paragraph 1.

3. TEP and U of A agree to terminate the CHRP aka CRB electric service agreement without penalty or further obligation upon CHRP aka CRB receiving direct access electric service from APES-ES.

4. TEP agrees to "grandfather" the U of A's present totalized metering and billing at both the Main Campus and HSC regardless of whether TEP or an electric service provider is providing electric service to the loads. TEP further agrees to allow the U of A to totalize for billing purposes at ~~CHRP~~ aka CRB, provided that any additional metering points to be totalized meet all Commission-approved eligibility requirements of the tariff other than the 3 MW minimum.

5. Provided that this Settlement Agreement is executed and the U of A and TEP consummate both the Schedule 90 A Agreement and the Standby Capacity Agreement, the U of A shall accept, and not at any time dispute the delivery of energy

over the U of A 's distribution system to UMC as long as UMC elects to receive service through a direct contractual relationship with TEP.

6. TEP offers to provide backup services for HSC and Main Campus (no sooner than January 1, 2002) if the U of A elects to self-generate for a portion of its load at either location. However, the U of A may elect to shed load automatically during planned and unplanned generating unit outages of the U of A's self-generation in lieu of purchasing backup service for part or all of the installed kW rating on the self-generating unit. TEP offers to provide backup service pursuant to the terms of its draft PRS-14 Tariff, attached as Exhibit A. The U of A may elect backup service under Exhibit A or under the provisions ultimately adopted by the Commission for similar backup service in TEP's territory. In the event TEP does not have an approved tariff for such service at the time the U of A notifies TEP of its intent to self-generate, or if such tariff is less favorable to the U of A than the terms and conditions of Exhibit A, TEP shall within 60 days either file with the Commission a backup service tariff or enter into and file with the ACC a special contract with the U of A for such service. Further, by agreeing to TEP's draft PRS-14 tariff as a default tariff for this service under this Settlement Agreement, neither TEP, the U of A nor APS-ES are precluded from taking positions at Commission proceedings regarding backup service that differ from those contained in TEP's PRS-14 tariff.

7. In the event that the U of A elects to self-generate a portion of its load at either location, the load that is still purchased exclusively from TEP will be purchased pursuant to the terms of the HSC and Main Campus Electric Supply Agreements, provided that the U of A purchases energy from TEP at an equivalent monthly load

factor, monthly load shape (with regards to Time-of-Use time periods) and annual demand profile to that demonstrated in the 12 months prior to the commercial operation date of the self-generating unit. Thereafter, the monthly load factor and monthly load shape will be equivalent to that demonstrated by the composite load (self-generation plus load served by TEP) in the same month 12 months prior (TEP will provide the U of A with 30 days advance notice for the coming month of the historical load factor and load shape). The contract year annual demand profile will be equivalent to that demonstrated by the composite load in the prior contract year (TEP will provide the U of A 30 days advance notice for the coming contract year of the contract year annual demand profile).

8. In the event that the U of A elects to self-generate a portion of its load at either location, the U of A will designate 30 days prior to the start of the contract year a prescribed Annual Contract Demand for HSC and/or Main Campus as appropriate. In the event the U of A takes less than the prescribed amount of energy in a given billing month according to the equivalent load factor, load shape and annual demand profile described in paragraph 7 above, the U of A shall pay TEP for capacity and energy as if the prescribed amount of energy had been delivered pursuant to paragraph 1. If the U of A takes more than the prescribed amount of capacity or energy in a given billing month, the U of A shall pay TEP for additional capacity and energy under the backup provisions in paragraph 6.

9. In the event the U of A elects Direct Access service and installs self-generation, the U of A may choose to take Direct Access service subject to paragraphs 7 and 8 above or according to the rules and guidelines of the Commission. In the event the

U of A desires to return to Standard Offer service, the U of A may choose to take service under the provisions of paragraphs 6, 7, and 8 of this agreement.

10. TEP agrees that a Direct Access customer shall be permitted to return to Standard Offer Rate 14, or any non-frozen Standard Offer tariff if it meets all Commission approved eligibility requirements. Eligibility requirements can include the entry into by the customer of a contract for Standard Offer service on terms and conditions at least as favorable to the customer as those enjoyed by the customer prior to seeking Direct Access service. In any such contract, there shall be a minimum one-year term. The terms of this paragraph 8 are subject to any subsequent Commission decisions. Additionally, the terms of this paragraph apply to Standard Offer tariffs only and are not applicable to contracts that provide for a discount to Standard Offer tariffs.

11. Upon execution of this Settlement Agreement and its approval if required by the Commission, the execution by the U of A of a letter of concurrence with this Settlement Agreement, and the execution by TEP and U of A of the Agreements in paragraphs 1 and 2 above and the approval by the Commission of those Agreements if necessary, APS-ES shall move the Commission to dismiss the Petition, with prejudice. TEP and APS-ES agree as between themselves to bear their own costs, disbursements and expenses of any kind incurred in connection with the Petition.

12. This Settlement Agreement shall be binding upon and inure to the benefit of any heirs, successors, predecessors, assigns, employees, shareholders, agents or sureties of TEP and APS-ES and to the U of A as an intended 3<sup>rd</sup> party beneficiary.

13. TEP and APS-ES warrant and guarantee that person whose signature appears hereof as their respective representative has been duly authorized and has the full authority to execute this Settlement Agreement.

14. This Settlement Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, and all of which shall constitute one and the same agreement.

15. This Settlement Agreement is intended to be an integrated agreement, and the terms hereof are contractual and not a mere recital.

16. This Settlement Agreement shall in all respects be interpreted, and enforced and governed by, the laws of the State of Arizona.

SUBSCRIBED AND SWORN to before me this 8<sup>th</sup> day of September, 2000.

TUCSON ELECTRIC POWER COMPANY

By: \_\_\_\_\_

Its: \_\_\_\_\_

APS ENERGY SERVICE CORPORATION, INC.

By: Victor Sandler

Its: President

13. TEP and APS-ES warrant and guarantee that person whose signature appears hereof as their respective representative has been duly authorized and has the full authority to execute this Settlement Agreement.

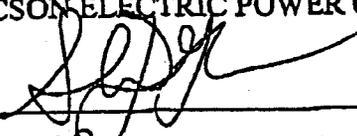
14. This Settlement Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, and all of which shall constitute one and the same agreement.

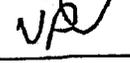
15. This Settlement Agreement is intended to be an integrated agreement, and the terms hereof are contractual and not a mere recital.

16. This Settlement Agreement shall in all respects be interpreted, and enforced and governed by, the laws of the State of Arizona.

SUBSCRIBED AND SWORN to before me this 8<sup>th</sup> day of September, 2000.

TUCSON ELECTRIC POWER COMPANY

By: 

Its: 

APS ENERGY SERVICE CORPORATION, INC.

By: \_\_\_\_\_

Its: \_\_\_\_\_

## Exhibit A

**DRAFT**

**Pricing Plan PRS-14  
Partial Requirements Service  
3,000 kW and Greater**

**AVAILABILITY**

In all territory served by the Company at all points where facilities of adequate capacity and the required phase and suitable voltage are adjacent to the premises served and when all applicable provisions described herein have been met. Service outside the Company's service territory shall be subject to the interconnection costs under the Terms and Conditions of this Pricing Plan.

**APPLICABILITY**

Applicable to any non-residential customer requiring partial requirements services, supplemental power, standby power, maintenance energy, or excess service in addition to regular electric requirements obtained from any service other than the Company. Applicable to customers with an aggregate partial requirements service load from 3,000 and higher. Not applicable to resale service, breakdown service, or where on-site generation is used only during a utility outage.

**CHARACTER OF SERVICE**

The service shall be three-phase, 60 Hertz, and shall be supplied directly from any 46,000 volt, or higher voltage, system through distribution facilities used exclusively to serve PRS-14 customers at a delivery voltage of not less than 2,400/4,160 volts and delivered at a single point of delivery unless otherwise specified in the contract.

**BUNDLED PRICES**

The monthly bill will consist of delivery charges and market-based generation charges.

***Delivery Charges***

	Summer Billing Months	Winter Billing Months
Demand Charge, All kW	\$ 3.26	\$ 3.26
Energy Charge—per kWh	\$ 0.004764	\$ 0.003897

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Title: Vice President, Rates and Regulatory Support  
District: Entire Electric Service Area +

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## Exhibit A

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**Pricing Plan PRS-14  
Partial Requirements Service  
3,000 kW and Greater**

***Market-based Generation Charges***

Generation-related charges will be billed at a monthly market-based price dependent upon time of day. The price will be based upon a modified Market Generation Credit mechanism plus an additional procurement charge of 10% of the total generation-related charges. On-peak market-based generation charges will be developed using the NYMEX on-peak delivery hours for a Palo Verde contract and will apply in those on-peak hours. Off-peak generation charges will be based on an on-peak NYMEX Palo Verde contract converted to an off-peak charge using the ratio of off-peak to on-peak prices from the California Power Exchange. See Schedule MGC-2 for details.

***Arizona Independent Scheduling Administrator (AISA) Charge***

A charge of \$0.00004473 per kWh shall, subject to FERC authorization, be applied for costs associated with the implementation of the AISA in Arizona (applies to scheduling coordinators; not billed to end-use customers).

***Minimum Bill***

The Minimum Bill is equal to:

$$\text{Contract Demand} * \text{Demand Charge per kW.}$$

**TERMS AND CONDITIONS*****Contract***

The Customer shall contract for a term and a Contract Demand not less than 3,000 kW.

***Direct Assignment of Interconnection Costs--Option 1***

Prior to construction, the Customer will advance to the Company the total amount of the estimated interconnection construction costs directly related to distribution and transmission service. The Company will refund to the Customer 40% of the additional annual revenue received under this tariff for each of the first five years of metered use. The refund, without interest, will be made one month after each full year of service.

The Customer may enter a five-year finance agreement with the Company where the Company will purchase, install, and maintain any incremental non-distribution system or non-transmission system equipment necessary for partial requirements service. The Company reserves the right to perform or subcontract all installation and maintenance functions through the term of the contract. For service after the term of the agreement, the Customer is responsible for maintenance, repair, and replacement of all incremental facilities.

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## Exhibit A

**DRAFT**

**Pricing Plan PRS-14  
Partial Requirements Service  
3,000 kW and Greater**

***Direct Assignment of Interconnection Costs—Option 2***

Prior to construction, the Customer will advance to the Company the total amount of the estimated interconnection construction costs directly related to distribution and transmission service. The Company will refund to the Customer 40% of the additional annual revenue received under this tariff for each of the first five years of metered use. The refund, without interest, will be made one month after each full year of service.

The Customer will furnish, install, and maintain incremental non-distribution system or non-transmission system equipment at his expense. The equipment must meet the standards of the Company's Electric Service Requirements.

***Direct Assignment of Incremental Interconnection Costs***

In the event that either the maximum clock-hour demand in the billing month or the maximum clock-hour demand in the preceding 23 billing months exceeds the Minimum Contract Demand and the Company must expand facilities to meet the additional load, the Customer shall pay for the cost of the incremental facilities.

**ADDITIONAL NOTES**

1. Summer billing months are May through October and winter billing months are November through April.
2. There shall be a \$13.50 charge for the initial establishment of each new service for each customer. There shall be a \$13.50 charge for the re-establishment of each service for each customer.
3. The Billing Demand in any month is the greater of (i) the maximum clock-hour demand in that month or (ii) the maximum clock-hour demand in the preceding 23 billing months, or (iii) the Contract Demand as set forth by mutual agreement. The Contract Demand shall be based on the sizing of facilities and anticipated load requirements.
4. The standard Rules and Regulations of the Company as on file from time to time with the Arizona Corporation Commission shall apply where consistent with this Pricing Plan.
5. Optional Pricing Plans are or may become available for certain classes of customers. Upon application for service or upon request the Company will assist the Customer in selecting the Pricing Plan best suited to the Customer's requirements, but the Company does not guarantee that customers will be served under the most favorable Pricing Plan. Upon written notification of any material changes in the Customer's installation, load conditions, or use of service, the Company will assist in determining if a change in Pricing Plans is desirable, but not more than one such change in Pricing Plans will be made within any twelve month period.

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District: Entire Electric Service Area +

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## Exhibit A

**DRAFT**

**Pricing Plan PRS-14  
Partial Requirements Service  
3,000 kW and Greater**

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6. To the charges computed under the above Pricing Plan, including any adjustments, shall be added the applicable proportionate part of any taxes, governmental impositions, or ACC-mandated assessments which are or may in the future be assessed on the basis of gross revenues of the Company and/or the price or revenue from the electric energy or service sold and/or the volume of energy generated or purchased for sale and/or sold hereunder.
7. Service under this rate shall require a bidirectional time-of-use demand meter or a metering arrangement that will perform a similar function.
8. Transmission and Ancillary Services are priced pursuant to the Company's Open Access Transmission Tariff (OATT). Energy Imbalance service is currently charged pursuant to the Company's OATT, which is subject to change pursuant to AISA protocols. A loss factor adjustment (5.4%) shall be made for Transmission and Ancillary Services.

**RELATED SCHEDULES**

- Must-Run Generation – Rider No. 2
- Transmission and Ancillary Services – Rider No. 3
- Fixed CTC by Class – Rider No. 4
- Transmission Credit – Rider No. 5
- Market Generation Credit for Partial Requirements Services – Schedule MGC-2.

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**EXHIBIT A**  
**Schedule MGC-2**  
**Tucson Electric Power Company**  
**Market Generation Credit (MGC) Calculation**  
**For Partial Requirements Services**

### Introduction

The purpose of the Market Generation Credit (MGC) for Partial Requirements Services is to establish a price at which TEP's partial requirements customers will purchase supplemental energy under Rates PRS-1, PRS-2, and PRS-3. The Market Generation Credit (MGC) for Partial Requirements Services is a refinement based on the MGC methodology per TEP's Settlement Agreement, Section 2.1(d).

The monthly MGC amount shall be calculated in advance and stated as both an on-peak value and an off-peak value. The monthly on-peak MGC component shall be equal to the Market Price multiplied by one plus the appropriate line loss (including unaccounted for energy ("UFE")) amount. The Market Price shall be equal to the Palo Verde NYMEX futures price, except when adjusted for the variable cost of TEP's must-run generation. The Market Price shall be determined 45 days prior to each calendar quarter using the average of the most recent three (3) business days of Palo Verde NYMEX settlement prices. The off-peak MGC component shall be determined in the same manner as the on-peak component, except that the Palo Verde futures price will be adjusted by the ratio of off-peak to on-peak hourly prices from the California Power Exchange of the same month from the preceding year. The market price shall reflect the cost of serving a one hundred percent (100%) load factor customer. If the nature of the Palo Verde NYMEX changes such that it no longer accurately reflects the intent of the Settlement, the Company, Staff or any other interested party may request that an alternative index be utilized to the extent such index is consistent with the Settlement.

### Calculations

Three steps are outlined below for the calculation of the MGC. None of the steps are excludable for any customer type. Acronyms are defined in the Glossary at the end of this document.

#### 1. Calculating the on-peak MGC

Palo Verde Electricity futures prices can be found at the New York Mercantile Exchange website at [www.nymex.com](http://www.nymex.com). For the estimation quarter, the futures prices for the 15th, 16th, and 17th business days prior to the start of a new calendar month are used. The simple average (or arithmetic mean) is calculated for these three days for the estimation month.

$$MGC_{ON,i} = \frac{\sum (NYMEX)_i}{3} \quad (\text{Equation 1})$$

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The calculation is illustrated in the table below.

Futures Prices per MWh	Jan-2000
11/17/1999	\$25.80
11/16/1999	\$26.90
11/15/1999	\$27.75
Average	\$26.82

**2. Calculating the off-peak MGC**

The off-peak MGC is determined by multiplying the on-peak MGC value by the off-peak price weighting factor (WEIGHT), where WEIGHT is equal to the simple average of all hourly off-peak prices from the California Power Exchange, Zone AZ3, in the same month of the previous year, divided by the simple average of all hourly on-peak prices from the California Power Exchange, Zone AZ3, in the same month of the previous year. Off-peak and on-peak hours are defined by NYMEX in the estimation month.

$$MGC_{OFF,i} = MGC_{ON,i} * WEIGHT_i \quad \text{(Equation 2)}$$

where

$$WEIGHT_i = \frac{PX_{OFF,i}}{PX_{ON,i}} \quad \text{(Equation 3)}$$

where

$$PX_{OFF,i} = \frac{\sum(AZ3_{OFF,i})}{OFFHOURS_i} \quad \text{(Equation 4)}$$

and

$$PX_{ON,i} = \frac{\sum(AZ3_{ON,i})}{ONHOURS_i} \quad \text{(Equation 5)}$$

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Historical hourly prices can be obtained from the California Power Exchange website at <http://208.152.75.40/dareport/default.asp> under the Hourly Zonal Prices Constrained Report for AZ3 electricity prices.

**3. Loss-adjusting the MGC**

The on-peak MGC and the off-peak MGC must be adjusted for line losses. The appropriate line loss adjustment factor (LLAF) for a large industrial customer is 1.0515; for all other customers, the appropriate factor is 1.0919.

$$MGC_{LOSS-ON,i} = MGC_{ON,i} * LLAF \quad \text{(Equation 6)}$$

$$MGC_{LOSS-OFF,i} = MGC_{OFF,i} * LLAF \quad \text{(Equation 7)}$$

This calculation produces the final value for the Market Generation Credit.



EXHIBIT A  
Schedule MGC-2  
Tucson Electric Power Company  
Market Generation Credit (MGC) Calculation  
For Partial Requirements Services

GLOSSARY

<b>AZ3<sub>OFF</sub></b>	Hourly off-peak prices on the California Power Exchange.
<b>AZ3<sub>ON</sub></b>	Hourly on-peak prices on the California Power Exchange.
<b>California Power Exchange</b>	A private non-profit, public benefit corporation created through state legislation to provide an efficient competitive auction for energy on an open and nondiscriminatory basis.
<b>LLAF</b>	Line-loss adjustment factor.
<b>MGC</b>	Market Generation Credit.
<b>MGC<sub>LOSS-ON</sub></b>	MGC <sub>ON</sub> adjusted for line losses, including unaccounted for energy, on TEP's generation and energy delivery systems.
<b>MGC<sub>LOSS-OFF</sub></b>	MGC <sub>OFF</sub> adjusted for line losses, including unaccounted for energy, on TEP's generation and energy delivery systems.
<b>MGC<sub>OFF</sub></b>	MGC <sub>ON</sub> weighted by the ratio of off-peak to on-peak hourly prices on the California Power Exchange.
<b>MGC<sub>ON</sub></b>	Average of the NYMEX prices on days appropriate for the calculation of the MGC.
<b>New York Mercantile Exchange</b>	The world's largest physical commodity futures exchange, and leading trading forum for energy and precious metals in North America.
<b>NYMEX</b>	Daily settlement price of an electricity futures contract based on delivery of energy at the Palo Verde switchyard in Arizona, traded on the NYMEX Division of the New York Mercantile Exchange.
<b>ONHOURS</b>	Number of total monthly on-peak hours as defined by New York Mercantile Exchange. On-peak hours are defined as hour ending 0700 through hour ending 2200 Monday through Saturday.
<b>OFFHOURS</b>	Number of total monthly off-peak hours as defined by New York Mercantile Exchange. Off-peak hours are defined as hour ending 2300 through hour ending 0600 Monday through Saturday. All Sunday hours are considered off-peak.
<b>PX<sub>OFF</sub></b>	Simple average of all off-peak prices on the California Power Exchange.
<b>PX<sub>ON</sub></b>	Simple average of all on-peak prices on the California Power Exchange.

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<b>Stranded Costs</b>	The difference between revenues under competition and the costs of providing service, including the inherited fixed costs from the previous regulated market.
<b>TEP</b>	Tucson Electric Power Company, a subsidiary of Unisource Energy Corp.
<b>TEP Settlement Agreement</b>	An agreement between TEP, the Arizona Residential Utility Consumer Office, members of the Arizonans for Electric Choice and Competition, and Arizona Community Action Association regarding TEP's implementation of retail electric competition, implementation of unbundled tariffs, and recovery of stranded costs.
<b>WEIGHT</b>	Ratio of off-peak to on-peak hourly prices on the California Power Exchange.



Time-of-Use Large Light and Power  
Schedule No. 90A  
Electric Service Agreement For  
University of Arizona Health Sciences Center

This Agreement entered into this 8th day of September, 2000, by and between Tucson Electric Power Company ("TEP"), an Arizona corporation, and the Arizona Board of Regents ("Board") on behalf of the University of Arizona ("Customer"), is a statement of all the terms and conditions under which electric utility service is to be provided to and purchased by the Customer for the Arizona Health Sciences Center ("AHSC") in Tucson, AZ:

In consideration of the mutual covenants of the parties as herein contained, it is agreed as follows:

**I. TERM**

The term of this Agreement ("Term") shall commence on the first day of the first new meter-reading period after December 31, 2000 and continue for up to five years in one-year increments which shall be cancelable by the Customer not later than sixty (60) days prior to the start of each contract year without obligation or penalty.

**II. FACILITIES**

A. Existing Facilities:

Each party shall furnish, install, operate and maintain the facilities over which it has authority.

B. Relocation of Facilities:

TEP will relocate existing facilities at the Customer's request if the Customer pays all costs incurred by TEP for such relocation.

C. Additional Facilities:

1. Additional facilities and each party's share of the associated cost of said facilities shall be determined by agreement.
2. If in the future the Customer desires to change significantly its load characteristics at the AHSC, it shall notify TEP in writing at least sixty (60) days prior to the planned change. Any such changes will not cause a change in the price and/or terms to the Customer for service provided under this Agreement. In the event the Customer elects to self-generate a portion of its load according to Section IV.C.4 and 5 herein, the Customer shall nominate a new Annual Contractual Demand in conjunction with the notification requirements of this Section.

**III. CHARACTER OF SERVICE**

A. Voltage:

This service shall be provided at voltages acceptable to the parties.

B. Extent of Service:

During the Term hereof, TEP agrees to supply to Customer and Customer agrees to purchase exclusively from TEP, Customer's electric power requirements for the AHSC, including the requirements of any additional service points added at the AHSC. Customer acknowledges that this Agreement shall not apply to any of the AHSC, which receives electric power from any source other than TEP. If the Customer elects to serve a portion of the electric power requirements for AHSC with self-generation, the portion of the electric power that Customer elects to continue to purchase exclusively from TEP will continue under the terms of this Agreement, subject to the provisions of Section IV.C herein. TEP will provide backup service according to the terms and conditions of the Settlement Agreement between TEP and APS-Energy Services dated September 8, 2000.

C. Rules and Regulations:

TEP agrees to provide electric service consistent with its Rules and Regulations filed with the Commission, as amended from time to time. Pricing and terms and conditions of service shall be subject to regulation in the manner and to the extent prescribed by the applicable law and by the Commission.

TEP agrees that, if it files an application for any rate change in tariffs or regulations, which may affect service hereunder, it will concurrently give the Customer written notice of such filing. In the event the Commission promulgates any regulation that affects this Agreement; the Company shall immediately give written notification to the Customer.

In the event the Customer terminates this Agreement pursuant to Section VI provided herein, the Customer may elect any TEP tariff available at that time for which it qualifies, pursuant to the terms and conditions of the elected tariff.

IV. PRICING

A. Price Schedule 90A:

Billing shall be based on the sum of customer charges, demand charges and energy charges under TEP's LL&P Time-of-Use Price Schedule No. 90A, shown in Attachment A, incorporated herein by reference. All points of delivery shall be combined prior to the calculation of demand charges.

B. Optional Price Election:

After the first year the Customer may elect, at any time, to take service under TEP's Large Light and Power Schedule No. 14 or any available tariff for which it then qualifies. At any time, not less than twelve months after the last election by the Customer, the Customer may elect to take service under any available tariff for which it qualifies. Billing under an election by the Customer will begin the first day of the first billing cycle after notification by the Customer of the change in election.

Billing shall be based on the sum of customer charges, demand charges and energy charges under the TEP Schedule elected by the Customer. All points of delivery shall be combined prior to the calculation of demand charges.

C. Monthly Billing Demand and Minimum Contractual Demand:

The applicable "Demands", which shall apply for purposes of service hereunder, unless otherwise provided herein or until modified by written agreement of the parties hereto, are as follows:

1. The Minimum Contractual Demand shall be 3.0 megawatts.
2. The Maximum Demand shall be 10.0 megawatts.
3. The On-Peak Demand used for billing purposes shall be in accordance with Attachment A incorporated herein by reference, and shall in no instance be less than the Minimum Contractual Demand.
4. In the event that the Customer elects to self-generate a portion of its load, the Customer must designate an Annual Contractual Demand 30 days prior to the commercial operation date of the self-generating unit. This contract demand can be amended according to the provisions of Section II.C.2. The Annual Contractual Demand is representative of the peak annual demand for the load to be served by TEP. Monthly billing demand will be determined in this instance by the historical annual demand profile as applied to the Annual Contractual Demand, but in no event shall be less than the Minimum Contractual Demand of 3,000 kW. The Customer must purchase energy from TEP at an equivalent monthly load factor, monthly load shape, (with regards to Time-of-Use time periods) and annual demand profile to that demonstrated in the 12 months prior to the commercial operation date of the self-generating unit. This process is illustrated in Attachment C. Thereafter, the monthly load factor and monthly load shape will be equivalent to that demonstrated by the composite load (self-generation plus load served by TEP) in the same month 12 months prior (TEP will provide the U of A with 30 days advance notice for the coming month of the historical load factor and load shape). The contract year annual demand profile will be equivalent to that demonstrated by the composite load in the prior contract year (TEP will provide the U of A with 30 days advance notice for the coming contract year of the contract year annual demand profile).
5. In the event that the Customer elects to self-generate a portion of its load, the Customer will designate 30 days prior to the start of the contract year a prescribed Annual Contract Demand. In the event the Customer takes less than the prescribed amount of energy in a given billing month according to the equivalent load factor, load shape and annual demand profile described in Section IV.C.4 above, the Customer shall pay TEP for capacity and energy as if the prescribed amount of energy had been delivered pursuant to this Agreement. If the Customer takes more than the prescribed amount of capacity or energy in a given billing month, the Customer shall pay TEP for additional capacity and energy under the backup provisions in paragraph 6 of the Settlement Agreement between TEP and APS Energy Services dated September 8, 2000.

D. Taxes and Impositions:

In addition to the foregoing, the Customer shall pay the applicable proportionate part of any taxes or governmental impositions that are or may be assessed on the basis of TEP's gross revenues and/or the revenue from any electric energy or service sold and/or the volume of energy generated or purchased under this Agreement.

V. PAYMENT

- A. All bills for services hereunder shall become due and payable in good funds by the Customer within ten (10) working days after the bill is received. Payment may be made electronically to:

**Bank One  
Tucson, Arizona  
ABA #122-100-024  
Credit Account #2002-8131  
Tucson Electric Power Company**

- B. Amounts not paid on or before the due date shall be payable with interest accruing daily at the rate of one percent (1%) per month from the due date to the date of payment pursuant to A.R.S. Section 35-342.
- C. In the event that a portion of any bill is in dispute, the undisputed amount shall be paid when due and the remainder, if any, upon determination of the correct amount, shall be paid within 10 working days after such determination with interest accruing daily at the rate of one percent (1%) per month from the original due date to the date of the payment.

VI. TERMINATION

- A. Termination by Customer:

In the event that the Customer desires to terminate this Agreement for any reason after the execution date of this Agreement and within the Term, it may do so at the end of any contract year within the Term by giving TEP not less than sixty (60) days notice prior to the start of the coming contract year.

VII. ASSIGNMENT

- A. The Right to Assign:

This Agreement and the parties' interests hereunder shall not be assignable or transferable by either party without the prior written consent of the other party, which consent will not be unreasonably withheld.

- B. Binding Effect:

1. In the event of assignment of this Agreement as herein provided, the terms and conditions of this Agreement shall be binding upon the assignees hereof.
2. This Agreement shall also be binding upon the respective parties, and their successors in the name or entity, on and after the effective date hereof.

VIII. INTERPRETATION

- A. Prior Negotiations:

Except for the terms of the Settlement Agreement between TEP and APS Energy Services, dated September 8, 2000, this Agreement constitutes the entire understanding and commitment of the parties hereto and shall supersede all prior offers, negotiations and agreements, relative to service under this or any other price schedule(s). The Customer shall be liable for all service rendered prior to the effective date hereof.

B. Conflicts / Governing Law:

1. This Agreement shall be governed by the laws of the State of Arizona. The rights and obligations of the parties hereunder are subject to present and future valid laws, orders, rules and regulations of any duly-constituted authorities having jurisdiction over the parties and the subject matter of this Agreement.
2. To the extent of any inconsistency between the provisions of this Agreement and any schedule, rider, attachment or exhibit incorporated in this Agreement by reference or otherwise, or any of TEP's Rules and Regulations, the provisions of this Agreement shall control.

IX. REMEDIES:

A. Breach:

In the event of breach or anticipatory breach of any term or obligation of this Agreement by the Customer, TEP reserves the right to refuse to continue service to the Customer under the pricing provisions set forth in this Agreement. However, TEP will not so refuse unless the Customer has refused to remedy the breach or anticipatory breach within thirty (30) days after written notice to the Customer of the breach. Further, TEP will not so refuse if Customer has engaged or seeks to engage TEP in dispute resolution negotiations in accordance with paragraph IX. B.

B. Dispute Resolution:

In the event of a dispute under this Agreement, the parties will first seek to resolve the dispute through discussions between TEP's representative and the Customer's representative. If the parties' representatives are unable to resolve the dispute within 15 days, the matter will be submitted for resolution to executive officers of TEP and the Customer who have authority to act on behalf of their respective companies with respect to the subject matter of the dispute. If such officers are unable to resolve the dispute within 15 days, the parties will proceed to resolution in accordance with the Rules and Regulations of the Commission.

C. Waiver:

Failure or delay on the part of any party to exercise any right, power or privilege hereunder shall not operate as a waiver thereof.

X. AMENDMENT AND MODIFICATION

No amendment or modification of this Agreement shall be valid and binding unless made in writing and signed by an appropriate corporate officer of the respective parties.

XI. NON-DISCRIMINATION

The parties agree to be bound by applicable state and federal rules governing Equal Employment Opportunity and Non-discrimination.

XII. CONFLICT OF INTEREST

This Agreement is subject to cancellation pursuant to the provisions of Arizona Revised Statutes 38-511 regarding conflict of interest.

**XIII. STATE OBLIGATION**

The parties recognize that the performance by the Arizona Board of Regents for and on behalf of The U of A may be dependent upon the appropriation of funds by the State Legislature of Arizona. Should the Legislature fail to appropriate the necessary funds, or if the U of A's appropriation is reduced during the fiscal year, the Arizona Board of Regents may reduce the scope of this Agreement if appropriate or cancel the Agreement without further duty or obligation. The Board agrees to notify the other party as soon as reasonably possible after the unavailability of said funds comes to the Board's attention.

**XIV. NOTICE**

For purposes of any notification contemplated to be given by or to any party under this Agreement, the following shall constitute the appropriate address for delivery of such notice:

For TEP:

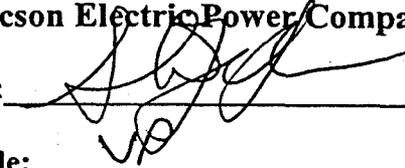
Manager - Pricing  
Tucson Electric Power Company  
4350 E. Irvington Road, OH203  
P. O. Box 711  
Tucson, Arizona 85702

For University of Arizona Health Sciences Center:

University of Arizona  
Contracting Officer  
Building 45  
P. O. Box 210045  
Tucson, AZ 85721

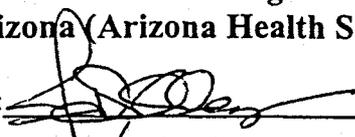
The parties indicate their understanding of and agreement to all of the above terms and conditions by signing where designated below.

**Tucson Electric Power Company**

By:  \_\_\_\_\_

Title: \_\_\_\_\_

**Arizona Board of Regents for and on Behalf of University of  
Arizona (Arizona Health Sciences Center)**

By:  \_\_\_\_\_

Title: Se. Vice President Business Affairs



**ATTACHMENT A**

**Pricing Plan LLP-90A  
Large Light and Power Time-of-Use**

AVAILABILITY

Price Schedule No. 90 shall be available for any Customer within the service territory of the Company if the Company has facilities of adequate capacity and a written contract, covering such matters as the Company and Customer shall deem appropriate. Service under this Schedule shall commence when the appropriate meter has been installed.\*

CHARACTER OF SERVICE

Service shall be three phase, 60 Hertz, and shall be supplied directly from any 46,000 volt, or higher voltage, system through distribution facilities used exclusively to serve Price Schedule No. 90 customers at a delivery voltage of not less than 2400/4160 volts and delivered at a single point of delivery unless otherwise specified in the contract.

PRICE

Monthly net bills shall reflect the following prices plus any adjustments incorporated in this Schedule:

	BILLING MONTHS	
	Summer May-Oct	Winter Nov-Apr
<b>Demand Charge per Month</b>		
On-peak demand, all kW, per kW	\$10.95	\$8.99
Shoulder demand in excess of 150% of the On-peak demand, per kW	\$7.23	N/A
Off-peak demand in excess of 150% of the On-peak demand, per kW	\$5.40	\$4.42
<b>Energy Charge</b>		
On-peak kWh	\$0.058806	\$0.058806
Shoulder kWh	\$0.049005	N/A
Off-peak kWh	\$0.041654	\$0.041654

Excess shoulder demand is defined as that positive amount (if any) by which shoulder demand exceeds 150% of on-peak period demand.

Excess off-peak demand is defined as:

- I. that positive amount by which off-peak period demand exceeds shoulder period demand (when and if shoulder period demand is greater than 150% of the on-peak period demand and off-peak period demand exceeds shoulder period demand), or;
- II. that positive amount by which off-peak period demand exceeds 150% of the on-peak period demand (when and if shoulder period demand is less than 150% of the on-peak period demand and off-peak period demand exceeds 150% of the on-peak period demand), or;
- III. zero when the above conditions in I are not met and the above conditions in II are not met.



## ATTACHMENT A

### Pricing Plan LLP-90A Large Light and Power Time-of-Use

In the event that excess shoulder and/or excess off-peak demand occur, excess shoulder demand shall be billed at the shoulder price and excess off-peak demand shall be billed at the off-peak price.

Any shoulder consumption remaining from October usage shall be billed at the summer shoulder price in following billing months.

The summer On-Peak period is 1:00 p.m. to 6:00 p.m., Monday through Friday (excluding Memorial Day, Independence Day, and Labor Day). The summer Shoulder period is 6:00 p.m. to 8:00 p.m., Monday through Friday (excluding Memorial Day, Independence Day, and Labor Day). The winter On-Peak periods are 7:00 a.m. - 11:00 a.m. and 6:00 p.m. - 9:00 p.m., Monday through Friday (excluding Thanksgiving Day, Christmas Day, and New Year's Day). All other hours are Off-Peak. If a holiday falls on Saturday, the preceding Friday is designated Off-Peak; if a holiday falls on Sunday, the following Monday is designated Off-Peak.

#### BILLING DEMAND

The billing demand shall be specified in the contract, but shall not be less than 3,000 kW. Additionally, the On-Peak billing demand shall not be less than 66.67% of the maximum On-Peak billing demand in the preceding eleven (11) months, unless otherwise specified in the contract.

#### POWER FACTOR ADJUSTMENT

Prices are subject to a discount or a charge of 1.3¢ per kW of billing demand for each 1% the average monthly power factor is above or below 90% lagging to a maximum discount of 13.0¢ per kW of billing demand per month.

#### TAX CLAUSE

To the charges computed under the above prices, including any adjustments, shall be added the applicable proportionate part of any taxes or governmental impositions which are or may in the future be assessed on the basis of gross revenues of the Company and/or the price or revenue from the electric energy or service sold and/or the volume of energy generated or purchased for sale and/or sold hereunder.

#### RULES AND REGULATIONS

The standard Rules and Regulations of the Company as on file from time to time with the Arizona Corporation Commission shall apply where not inconsistent with this Schedule.

The Company shall require a written contract and a minimum term of contract.

Optional price schedules are or may become available for certain classes of Customers. Upon application for service or upon request the Company will assist the Customer in selecting the price schedule best suited to the Customer's requirements, but Company does not guarantee that Customers will be served under the most favorable schedule. Upon written notification of any material changes in Customer's installation, load conditions, or use of service, the Company shall assist in determining if a change in schedule is desirable, but not more than one such change shall be made within any twelve month period.

\*This Schedule requires a type of meter that is not normally used; therefore, the Company makes no guarantee that meters shall be installed within any specific time. However, the Company shall make its best effort to install the special meter within a reasonable time.



## ATTACHMENT B

### On-Peak Demand

"On-Peak Demand" for the Customer in any monthly billing period shall be defined as the greatest of:

- (1) the highest clock hour demand during the on-peak time-of-use period of the monthly billing period, or
- (2) 66.67% of the highest clock hour demand during the on-peak time-of-use period of the monthly billing period in the preceding eleven months (for billings rendered after the expiration of twelve (12) or more billing months after the effective date of the Agreement), or
- (3) 66.67% of the highest clock hour demand during the on-peak time-of-use period of the monthly billing period in the months following the effective date of the Agreement (for billings rendered at or before the expiration of twelve or fewer billing months after the effective date of the Agreement), or
- (4) the minimum contractual demand, or
- (5) 3,000 kW.

In the event that the highest clock hour demand during the on-peak time-of-use period of the monthly billing period does not determine the "On-Peak Demand", the shoulder excess billing demand and off-peak excess billing demand shall be adjusted upward in the same proportions to the minimum contractual demand that they represent of the actual demand.

For instance, if the following occurs during the monthly billing period

On-peak demand = 2,400 kW  
Shoulder demand = 1,920 kW  
Off-peak demand = 960 kW,

then the following ratios occur

On-peak demand to on-peak demand = 100%  
Shoulder demand to on-peak demand = 80%  
Off-peak demand to on-peak demand = 40%.



## ATTACHMENT B

### On-Peak Demand

In this event, each of the above ratios shall be multiplied by the minimum contractual demand to produce billing demands that are in compliance with the minimum contractual demand agreed to in this contract. The billing demands would then be (assuming a minimum contractual demand of 3,000 kW)

On-peak demand	= 3,000 kW X 100%	= 3,000 kW
Shoulder demand	= 3,000 kW X 80%	= 2,400 kW
Off-peak demand	= 3,000 kW X 40%	= 1,200 kW.



## ATTACHMENT C

### Methodology for Calculating Partial Load Requirement at AHSC

This Attachment describes the Customer's obligations for the remaining load that would be served under TEP's Large Light and Power Schedule No. 90A in the event the Customer elects to self-generate a portion of its load pursuant to Section IV.C.4 of this Agreement.

The Customer must nominate an Annual Contractual Demand which is representative of the peak annual demand for the load to be served by TEP. The monthly billing demand will be determined in this instance by the historical annual demand profile as applied to the Annual Contractual Demand. A table which illustrates the historical and contractual demand and energy under a self-generation option is attached as Exhibit 1 to this Attachment C. The annual demand profile is the monthly on-peak demands expressed as a percentage of the annual on-peak demand.

In Exhibit 1, the annual demand profile for the month of June is 96%, or 7,314 kW divided by 7,614 kW (September's composite demand) expressed as a percent.

Ignoring for the moment the Minimum Contractual Demand of 3 MW, and assuming a self-generating unit of 4,614 kW, the load to be served by self-generation in June would be 4,432 kW and the load to be served from TEP would be 2,882 kW. AHSC must also take delivery of energy according to monthly load factors as shown in Exhibit 1. In June, energy sales on AHSC's historical demand profile were 4,148,800 kWh. Demand in June on AHSC's historical demand profile was 7,314 kW. To calculate the monthly load factor for June, the composite energy sales (4,148,800 kWh) are divided by the composite demand (7,314 kW) times the hours in the month (720 hours). This results in a load factor of approximately 79 percent. AHSC must abide by this load factor for the month of June in the contract year, so AHSC's contractual energy obligation in June would be 1,632,331 kWh. This calculation will be done for each month in the contract year.

According to the terms of this Agreement, the billing demand will be the higher of the Minimum Contractual Demand or the actual demand to be served by TEP as determined from the annual demand profile and the Annual Contractual Demand. Energy billed under this agreement will be based on the energy determined by the monthly load factor as determined from the annual demand profile and Annual Contractual Demand.

After determining the billable energy and seasonal demand, the mix of energy and demand among peak, off-peak, and shoulder components of the time-of-use rate must be determined. The billable energy is allocated between on-peak, off-peak, and shoulder energy according to the historical energy profile under Rate 90A in each month. For example, the on-peak energy percentage in June is 17 percent; therefore, the billable on-peak energy under the new profile for June is 278,658 kWh. The billable off-peak energy and billable shoulder energy are calculated similarly, resulting in 1,245,766 kWh and 98,350 kWh, respectively.



## ATTACHMENT C

### Methodology for Calculating Partial Load Requirement at AHSC

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The contractual on-peak demand, contractual off-peak demand, and contractual shoulder demand are determined in a similar fashion. The shares of off-peak and shoulder demands as a relative percentage of contractual on-peak demand must be determined for off-peak and shoulder time periods under the Rate 90A profile. For the month of June, the contractual on-peak demand is 2,882 kW. The percent of off-peak demand to on-peak demand for the month is 98 percent. The contractual off-peak demand is therefore 2,824 kW. The percent of shoulder demand to on-peak demand for June is 92 percent, resulting in a contractual shoulder demand of 2,651 kW.

Attachment C - Exhibit 1

University of Arizona Health Science Center  
 Contractual Demand and Energy Under Self-Generation Option

Historical Profile	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Composite Energy	3,362,400	3,080,800	3,111,200	3,331,200	3,811,200	4,148,800	4,066,400	4,352,800	4,154,400	3,637,600	3,700,000	2,955,700
On-Peak Demand	5,313	5,480	5,531	6,120	7,020	7,314	7,535	7,579	7,614	7,486	6,003	5,735
Annual Demand Profile	70%	72%	73%	80%	92%	96%	99%	100%	100%	98%	79%	73%
Hours	744	672	744	720	744	720	744	744	720	744	720	744
Load Factor Under Existing Profile	85%	84%	76%	76%	73%	79%	73%	77%	76%	65%	86%	71%
Percent of Energy On-Peak (kWh)	21%	22%	22%	22%	18%	17%	17%	17%	18%	19%	22%	22%
Percent of Energy Off-Peak (kWh)	79%	78%	78%	78%	75%	76%	77%	77%	75%	75%	78%	78%
Percent of Energy Shoulder (kWh)	0%	0%	0%	0%	6%	6%	6%	6%	6%	6%	0%	0%
On-Peak as a Percent of On-Peak	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%
Off-Peak as a Percent of On-Peak	116%	109%	107%	111%	97%	98%	99%	98%	100%	96%	111%	108%
Shoulder as a Percent of On-Peak	0%	0%	0%	0%	87%	92%	90%	90%	89%	87%	0%	0%
<b>Contractual Profile</b>												
Contractual Demand	3,000	3,000	3,000	3,000	3,000	3,000	3,000	3,000	3,000	3,000	3,000	3,000
Contractual On-Peak Demand	2,093	2,159	2,179	2,411	2,766	2,882	2,969	2,986	3,000	2,950	2,365	2,201
Total Contractual Energy	1,323,854	1,218,814	1,232,249	1,319,489	1,502,247	1,639,166	1,612,454	1,710,740	1,641,600	1,426,410	1,464,562	1,162,620
On-peak Energy (kWh)	278,009	268,139	271,095	290,288	270,404	278,658	274,117	290,826	295,488	271,018	322,204	255,000
Off-peak Energy (kWh)	1,045,845	950,675	961,154	1,029,202	1,126,685	1,245,766	1,241,590	1,317,270	1,231,200	1,069,808	1,142,358	906,849
Shoulder Energy (kWh)	0	0	0	0	90,135	98,350	96,747	102,644	98,496	85,585	0	0
On-peak Demand (kW)	2,093	2,159	2,179	2,411	2,766	2,882	2,969	2,986	3,000	2,950	2,365	2,201
Off-peak Demand (kW)	2,428	2,354	2,332	2,677	2,683	2,824	2,939	2,926	3,000	2,832	2,625	2,377
Shoulder Demand (kW)	0	0	0	0	2,406	2,651	2,672	2,688	2,670	2,566	0	0
Load Factor Under Contractual Profile	85%	84%	76%	76%	73%	79%	73%	77%	76%	65%	86%	71%
Load Served by Self-Generation	3,220	3,321	3,352	3,709	4,254	4,432	4,566	4,593	4,614	4,536	3,638	3,385