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July 22, 1998

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**VIA FACSIMILE AND HAND-DELIVERED**

Arizona Corporation Commission  
**DOCKETED**

JUL 22 1998

Ray Williamson, Acting Director  
Utilities Division  
Arizona Corporation Commission  
1200 West Washington Street  
Phoenix, Arizona 85007

DOCKETED BY *trub*

Re: Tucson Electric Power Company's Comments on Staff's Second Draft of  
Proposed Revisions of the Retail Electric Competition Rules  
Docket No. RE-00000-94-0165

Dear Mr. Williamson:

Tucson Electric Power Company ("TEP" or "Company") is in receipt of the Second Draft of the Proposed Revisions of the Retail Electric Competition Rules dated July 10, 1998 ("Proposed Rules") and appreciates the opportunity to provide comments in respect thereof. Given the time constraints, these comments do not represent an exhaustive analysis of the Proposed Rules, but rather a general overview of what the Company considers the most critical issues.

**R14-2-1604. Competitive Phases.**

A.1. TEP believes that the addition of "non-coincident" peak has unintended consequences. TEP has always interpreted this section to require a 1 MW minimum demand for customers to be eligible. This change would expand the one MW customer base well beyond the 20 percent threshold. It would also have the affect of making the 40 kw aggregation meaningless, as well as impose additional burdens to administer. TEP supports going back to the original language of this Proposed Rule.

A.2. In the third sentence, TEP suggests replacing "month" with "six months." Doing so better characterizes a customer whose load or usage is more consistently at least 40 kw or 16,500 kwh.

**R14-2-1607. Recovery of Stranded Cost of Affected Utilities.**

A. Delete "by means such as expanding wholesale or retail markets, or offering a wider scope of services for profit, among others." As is, this sentence suggests that the Affected Utility use profits from "expanding [its] wholesale or retail markets," or a "wider scope of services" to mitigate stranded costs. It is unclear whether the markets and services mentioned are regulated or unregulated (*i.e.*, competitive). TEP anticipates that most, if not all, new products and services in the electric industry will develop in the unregulated, competitive marketplace. The very nature of "unregulated" means that the Commission will not require that profits from such activities be used to offset costs in the regulated arena.

F. If this statement means that a customer can avoid the Competition Transition Charge ("CTC") by bypassing the transmission and distribution system, including through means which are uneconomic, TEP believes it is unwise to include such a statement. Giving customers the opportunity to avoid the CTC will strongly incent them to do so, and unfairly shift costs to customers who remain on the T&D system. Therefore, TEP suggests the Commission explicitly exclude T&D bypass as an acceptable means of reducing or avoiding CTC responsibility. TEP also suggests the Commission be specific regarding which types of demand reduction are and are not acceptable for reducing a customer's CTC responsibility.

**R14-2-1608. System Benefits Charge.**

TEP believes that either this section, or the definition of System Benefits Charge, should incorporate competitive access implementation and evaluation program costs in the System Benefits Charge. The Proposed Rules do not mention who will be responsible for paying for competitive access implementation costs. TEP believes that all Affected Utility customers should pay for the substantial costs of implementing and evaluating the new marketplace, because a) restructuring was ordered by the Commission, and b) all customers and market players potentially stand to benefit from it.

**R14-2-1617. Electric Affiliate Transaction Rules.**

*General.* TEP believes that this section should not be adopted at this time. There needs to be further input by the Affected Utilities with respect to the implications of these Proposed Rules from both a financial and operational perspective, as well as an assessment as to whether they give a competitive advantage to non-Affected Utilities.

A.1. TEP believes that this section can be eliminated because the provisions of A.2. contain all of the necessary safeguards. It is also unclear as to its purpose in light of A.2.

A.6. TEP believes there is no purpose to be served by this provision except to disadvantage smaller corporate entities such as TEP. It makes a presumption that separation is appropriate in all instances when the Commission has always had the ability to review affiliate relationships under the Affiliate Rules. There is no practical reason to limit board and officer

roles to two entities when by serving on one entity (such as the holding company) gives effective oversight and control over all entities. What this does, however, is to deny day-to-day expertise necessary to efficiently carry out responsibilities to different entities. So long as proper allocation and conflict policies are in effect, this provision is unnecessary. At the very least, the Proposed Rule should provide for a waiver by the Commission upon a demonstration by the Affected Utility that appropriate procedures have been implemented that ensure that the utilization of common board members and corporate officers does not allow for the sharing of confidential information with affiliates or otherwise circumvent the purpose of this Rule.

D. This is an example of something that applies to Affected Utilities that should also apply to new market entrants. Otherwise, new market entrants are being provided a competitive advantage.

**R14-2-1618. Disclosure Information.**

TEP currently does not possess the means necessary to automatically produce the Information Disclosure Label outlined in the Proposed Rule. Significant time, money and resources will need to be expended in order to accomplish this requirement. TEP suggests that this requirement be deleted from the Proposed Rules at this time so that further comment and study can be undertaken.

**R14-2-210. Billing and Collection.**

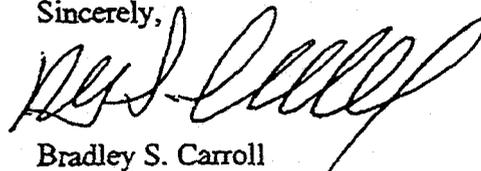
All references to "LDCs" should be changed to "UDCs".

**Conclusion**

TEP also requests that Staff re-evaluate TEP's July 6, 1998 comment letter with respect to other comments not specified above and not included in the July 10, 1998 Second Draft.

Please do not hesitate to contact me if you have any questions.

Sincerely,



Bradley S. Carroll  
Counsel, Regulatory Affairs

BSC/kj

cc: Docket Control (Original and 10 copies)