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EXCEPTION

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BEFORE THE ARIZONA CORPORATION COMMISSION

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Arizona Corporation Commission

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Commissioner  
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Commissioner

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FEB 17 1999

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IN THE MATTER OF THE COMPETITION IN ) DOCKET NO. RE-00000C-94-0165  
THE PROVISION OF ELECTRIC SERVICES )  
THROUGHOUT THE STATE OF ARIZONA. ) **TEP'S EXCEPTIONS TO**  
 ) **PROPOSED ORDER ADOPTING**  
 ) **AMENDMENTS TO THE**  
 ) **ELECTRIC COMPETITION RULES**

On February 5, 1999, the Arizona Corporation Commission's ("Commission") Hearing Division issued a Proposed Order adopting amendments to the Retail Electric Competition Rules, R14-2-1601, *et seq.* ("Rules"). Tucson Electric Power Company ("TEP" or "Company"), through undersigned counsel, hereby submits the following Exceptions to the Proposed Order. TEP makes these comments without waiver of its right to make additional comments in any future rulemaking or other proceeding. TEP also commends the Hearing Division for its efforts to evaluate and incorporate the numerous comments and concerns that were submitted by many of the participants in this proceeding.

**ARTICLE 2. ELECTRIC UTILITIES**

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

**A.5.c.** This provision should be deleted as the utility or billing entity does have the ability to do this and such bills can be estimated in accordance with R14-2-209A.8. and R14-2-1613.K.14.

**R14-2-213. Conservation**

Although TEP supports this concept, this rule should be deleted at this time for the following reasons: i) it is premature to make this requirement at this time while the Commission and the Legislature (because of SRP) need to work together to accomplish these goals on a statewide basis; ii) the Commission will be revisiting the Integrated Resource Planning Rules in light of the move to competition, (these concepts and filing requirements should be explored in the context of that

1 proceeding); iii) to achieve these goals, they should be applied to *all* utilities and ESPs (not just  
2 Class A and B utilities) and should be considered in the context of the System Benefit Charge; and  
3 iv) this requirement should be delayed until after 100 percent statewide competition has commenced  
4 and the market structure has been developed.

## 5 ARTICLE 16. RETAIL ELECTRIC COMPETITION

### 6 R14-2-1601. Definitions

7 34. In the first sentence, "whose annual usage is 100,000 kWh or less" should be deleted  
8 because all customers, regardless of usage, can be on standard offer.

9 36. The definition should add "non-nuclear" decommissioning programs and other  
10 programs approved by the Commission.

### 11 R14-2-1604. Competitive Phases

12 A.1 and 2. TEP believes that utilizing a single "non-coincident" peak has unintended  
13 consequences. Only customers with 1 MW minimum demand should be eligible for direct access.  
14 Given TEP's customer base, the non-coincident peak criterion could expand the direct access  
15 eligibility from the 1 MW customer base to well beyond the 20 percent of TEP's 1995 system retail  
16 peak demand. It would also have the effect of making the 40 kW aggregation meaningless, as well  
17 as impose additional burdens to administer. As the 20 percent cap could be easily reached, there will  
18 be customers that have loads in excess of 1 MW that will not be able to access the competitive  
19 market during the transition period.

20 A.2. In the third sentence, TEP suggests replacing "month" with "six months." Doing so  
21 will better characterize a customer whose load or usage is more consistently at least 40 kW or 16,500  
22 kWh.

### 23 R14-2-1606. Services Required To Be Made Available

24 B. TEP maintains that the provision should include a statement that all purchase power costs  
25 shall be recovered through a purchased power adjustment mechanism approved by the Commission.  
26 TEP disagrees with the statement in Appendix C that a purchased power adjustment mechanism will  
27 have the opposite effect of securing the lowest prices for standard offer customers because the UDC  
28 would have no incentive to do this if it was just a pass through. The Commission will oversee the  
29 signing of any long-term power purchases by the UDC and will have significant oversight over such  
30 transactions.

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

2 A. Delete “by means such as expanding wholesale or retail markets, or offering a wider  
3 scope of permitted regulated utility services for profit, among others.” As is, this sentence suggests  
4 that the Affected Utility use profits from “expanding [its] wholesale or retail markets” or a “wider  
5 scope of permitted regulated utility services” to mitigate stranded costs. TEP anticipates that most, if  
6 not all, new products and services in the electric industry will develop in the unregulated,  
7 competitive marketplace. The very nature of “unregulated” means that the Commission will not  
8 require that profits from such activities be used to offset costs in the regulated arena. Further, as  
9 TEP has proposed to divest itself of generation, the potential of expanding market opportunities  
10 becomes significantly limited. With respect to mitigating with regulated utility profits, this is  
11 inconsistent with cost-based, rate of return regulation.

12 F. TEP disagrees with the self-generation exclusion. If the Rule is not modified to  
13 ensure that customers who choose to self-generate are responsible for stranded costs just as any other  
14 existing customer, a potentially large and improper economic incentive for self-generation will be  
15 created. This is due to the ability of such customers to avoid stranded cost charges. The result of the  
16 Rule as written will be to significantly increase uneconomic self-generation, while increasing  
17 stranded cost burdens on customers who purchase their power in the competitive marketplace.

18 **R14-2-1608. System Benefits Charges**

19 A. TEP believes that direct access implementation costs, non-nuclear decommissioning  
20 programs, as well as other programs subsequently approved by the Commission, should be included  
21 in the System Benefits Charges.

22 **R14-2-1612. Rates**

23 A. This section raises a “Constitutional red flag” in that the Commission is having the  
24 market determine that rates are just and reasonable rates instead of the Commission. TEP suggests  
25 that this section be deleted.

26 **R14-2-1614. Reporting Requirements**

27 TEP questions the need for the amount of information currently set forth below and has  
28 suggested amendments accordingly. This amount of information will be difficult to compile and  
29 increase the costs, that ultimately customers will be required to pay.

30 ...

1 **R14-2-1616. Separation of Monopoly and Competitive Services**

2 A. TEP believes that it will be unable to separate its generation and transmission assets  
3 by January 1, 2001, and, therefore, suggests that the date be 2003. Moreover, there may be lease and  
4 bond restrictions on the Company's ability to comply with this. Therefore, TEP has suggested that  
5 *specific* waiver language be inserted to address this concern.

6 **R14-2-1617. Affiliate Transactions**

7 A.1. TEP believes that this section can be eliminated because the provisions of A.2 contain  
8 all of the necessary safeguards.

9 A.6. TEP believes that there is no purpose to be served by this provision except to  
10 disadvantage smaller corporate entities such as TEP. It makes a presumption that separation is  
11 appropriate in all instances when the Commission has always had the ability to review affiliate  
12 relationships under the Affiliate Rules. What this does is to deny day-to-day expertise necessary to  
13 efficiently carry out responsibilities to different entities. So long as proper allocation and conflict  
14 policies are in effect, this provision is unnecessary. TEP has, therefore, proposed alternative  
15 language to address this issue. If the Commission is not inclined to adopt this amendment, at the  
16 very least, the Rules should provide for a waiver by the Commission upon a demonstration by the  
17 Affected Utility that appropriate procedures have been implemented that ensure that the utilization of  
18 common board members and corporate officers does not allow for the sharing of confidential  
19 information with affiliates or otherwise circumvent the purpose of these Rules.

20 A.7. As the Commission is moving towards a competitive marketplace, TEP believes that  
21 the transfer of goods and services should be based upon the fair market value of such goods and  
22 services.

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

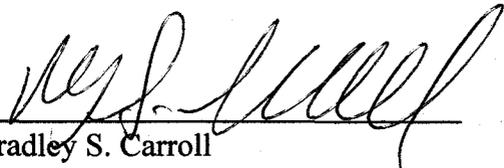
24 TEP believes that, in theory, disclosing a load-serving entity's resource mix may be a worthy  
25 goal from society's perspective. However, from a practical standpoint, the costs and efforts required  
26 to track and administer such things as composition of the resource portfolio, the fuel mix of that  
27 portfolio and its emission characteristics are at least substantial, and more than likely burdensome,  
28 from the customer's, as well as the load-serving entity's perspective. If, in the future, technological  
29 advances regarding developing and tracking such information make it readily available, the costs of  
30 disclosing it may not be prohibitive, but such is not the case at present. Accordingly, TEP is

1 recommending amendments to this section that will provide customers appropriate and relevant  
2 information without over burdening the load serving entity. Additionally, the amendments recognize  
3 that the Western Conference of Public Service Commissioners are developing a tracking mechanism  
4 that could be used on a regional basis.

5 \* \* \* \* \*

6 RESPECTFULLY SUBMITTED this 17th day of February, 1999.

7 TUCSON ELECTRIC POWER COMPANY

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16 **Original and ten copies of the foregoing**  
17 **filed this 17th day of February, 1999, with:**

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22 **Copy of the foregoing hand-delivered**  
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8 Distribution list for  
9 Docket No. RE-00000C-94-0165

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