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BEFORE THE ARIZONA CORPORATION COMMISSION

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LEGAL DIV.  
ARIZ. CORPORATION COMMISSION

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 COMMENTS ON  
OUTSTANDING ELECTRIC  
COMPETITION ISSUES

Pursuant to the Arizona Corporation Commission's ("Commission") Procedural Order dated January 6, 1999 in the above-referenced matter, Tucson Electric Power Company ("TEP" or "Company") hereby submits its comments on the outstanding issues that must be resolved before retail electric competition may commence in Arizona.

The Procedural Order requested comments on the following:

- what issues still need to be resolved in the electric industry restructuring;
- the order in which the issues should be resolved;
- the method (such as informal discussions by parties, hearings, combinations, etc.) and timing to resolve the issues identified; and
- any agreements/disagreements/clarifications to the January 4, 1999 joint proposal of RUCO and the Attorney General.

TEP's comments on these issues are incorporated in its recommendations as set forth below:

**L TEP'S BASIC POSITION**

On January 11, 1999, the Commission issued Decision No. 61311 ("Decision") which stayed the Retail Electric Competition Rules ("Rules"). In connection therewith, the Commission found:

The Commission enacted the initial Rules on December 26, 1996, and specifically assured all parties that "while competition is approaching rapidly, the transition to competition will allow time to address these issues and resolve them in a timely fashion. The Commission originally proposed that electric competition was to begin on January 1, 1999. Unfortunately, the Commission has failed to adequately address the issues

1 necessary to begin implementing competition in the electric industry in a  
2 timely or consistent manner. Consumers and stakeholders should not bear  
3 additional liabilities from the Commission's action in electric competition.

4 TEP believes that while the stay will afford the Commission and interested parties an  
5 opportunity to resolve the critical issues necessary for competition to commence, it should not be  
6 used as a license to revisit issues that have been resolved unless the Commission is desirous of such  
7 changes. TEP has been a supporter of the electric competition movement from the beginning. It has  
8 expended considerable time, effort and expense in participating in the process and preparing the  
9 Company and its customers for competition. The Company believes that in order to minimize delays  
10 and to bring about competition as expeditiously as possible, the existing Rules should be used as a  
11 starting point to build upon to achieve the ultimate market structure that will bring about  
12 competition. However, in order to start this process and before a procedural schedule similar to the  
13 one posited by RUCO and the Attorney General can be set, certain threshold issues must be  
14 answered by the Commission. To this end, TEP proposes the following four-step process to  
15 accomplish this:

- 16 1. The Commission must decide certain threshold issues before the process may move  
17 forward;
- 18 2. The Commission must decide certain fundamental issues upon which filings will be  
19 based;
- 20 3. Parallel proceedings to resolve remaining issues; and
- 21 4. Implementation phase.

22 **II. FIRST STEP – THE COMMISSION MUST DECIDE CERTAIN THRESHOLD**  
23 **ISSUES BEFORE THE PROCESS MAY MOVE FORWARD**

24 A. Stranded Cost – From TEP's perspective, the most crucial issue that must be resolved  
25 before competition may commence is recovery of stranded costs of the Affected Utilities. TEP  
26 believes that it has a legal right to a determination of stranded cost and assurance of its recovery  
27 before its exclusive CC&N may be amended or modified. The determination of stranded cost, and  
28 the Competition Transition Charge ("CTC") that will be collected from customers to provide  
29 stranded cost recovery, is necessary before unbundled distribution rates can be set.

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1           On June 22, 1998, the Commission issued Decision No. 60977 (the "Stranded Cost  
2 Order"), which required each Affected Utility to file a plan for stranded cost recovery. The Decision  
3 provided Affected Utilities two options: (i) Divestiture/Auction Methodology; or (ii) Transition  
4 Revenues Methodology. Divestiture/Auction Methodology requires the Affected Utilities to  
5 determine stranded costs by reference to market values determined by selling all generation assets.  
6 The Transition Revenues Methodology is designed to provide Affected Utilities "sufficient revenues  
7 necessary to maintain financial integrity." Only the Divestiture/Auction Methodology permits an  
8 opportunity for the Affected Utility to recover 100 percent of its stranded costs. Recovery of all  
9 stranded costs is crucial to TEP's financial future. Accordingly, on August 21, 1998, pursuant to the  
10 Stranded Cost Order, the Company filed its plan for stranded cost recovery choosing the  
11 Divestiture/Auction Methodology. In order to eliminate capital obligations associated with divested  
12 assets, low cost financing based on the CTC (securitization) was included as a crucial component in  
13 the Company's plan.

14           Although TEP is willing to expeditiously proceed with its stranded cost filing, it is  
15 unclear as to whether the Commission intends to revisit the Stranded Cost Order to: (i) provide other  
16 methodologies for stranded cost recovery that would provide the opportunity for 100 percent  
17 recovery; and/or (ii) change the parameters of the Divestiture/Auction Methodology set forth in the  
18 Stranded Cost Order. If the Commission does either of these, it must do so *before* a procedural  
19 schedule can be set with respect to the previous stranded cost filings of the Affected Utilities. In  
20 order to provide direction and certainty to the process, the Commission should, as soon as possible,  
21 issue an order outlining its intent with respect to this issue. If the Commission will not be changing  
22 the Stranded Cost Order, TEP will stand by its August 21, 1998 filing<sup>1</sup> and request that a procedural  
23 schedule be set (subject to the discussion below on unbundled tariffs) to bring the matter to hearing.  
24 If the Commission determines to revisit the issues covered by the Stranded Cost Order (through a re-  
25 opening of the generic stranded cost proceeding or through some other proceeding), then that  
26 proceeding must be completed *first* so that TEP can determine whether it will need to amend its  
27 August 21, 1998 filing before a procedural schedule can be set.

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30 <sup>1</sup> This assumes that the Commission will permit securitization of TEP's stranded costs following divestiture if it is shown that securitization will result in the least cost to customers.

1 B. Amendments to Article 15 of the Arizona Constitution – It has been reported that the  
2 Commission may be concerned that it does not have the legal authority to implement retail electric  
3 competition absent Arizona Constitutional changes. The Commission should make this threshold  
4 determination before it starts moving the process forward because: (i) no constitutional change  
5 would take place before voters have an opportunity to approve a constitutional amendment in  
6 November 2000, and there is no assurance that such a constitutional amendment would be approved  
7 by Arizona voters; (ii) the parties would be able to shift their efforts towards the drafting and  
8 adoption of such an amendment; and (iii) there would be no reason to spend additional time, money  
9 and effort in the short term until legal authority is vested in the Commission.

10 **III. SECOND STEP – THE COMMISSION MUST DECIDE CERTAIN FUNDAMENTAL**  
11 **ISSUES UPON WHICH FILINGS WILL BE BASED**

12 Once the following issues are addressed, Affected Utilities will be in a position to file final  
13 stranded cost plans and unbundled tariffs to be considered at hearings:

14 A. Market Structure – To date, the Commission has not established the ultimate market  
15 structure in the retail electric industry that it intends to have to bring about electric competition. Due  
16 to the diversity of stakeholders and their vested interests, market structure needs to be addressed  
17 because it will affect how certain subsequent crucial issues are dealt with including, but not limited  
18 to, unbundled rates, market power consideration and divestiture considerations. In order to  
19 encourage an efficient competitive marketplace, all stakeholders should state for the record their  
20 vision of the structure of the competitive marketplace in Arizona. Testimony should be filed and a  
21 hearing on the market structure should occur. Each stakeholder's plan should include the following  
22 items:

- 23 • structures and timetables for AZ/Regional-PX development;
- 24 • ISA/ISO development;
- 25 • corporate structure of utilities;
- 26 • pricing and requirements for must-run generation;
- 27 • restrictions and/or actions to limit market power; and
- 28 • funding and cost recovery of implementing a new market structure.

29 The Commission should adopt an orderly plan for competition that truly benefits  
30 customers and encourages competition without unduly burdening the Affected Utilities. Such a plan

1 should include a long-term vision brought to fruition via practical, short-term goals and critical  
2 milestones. Key dates and deadlines should be determined for creating the new marketplace. After  
3 hearings on these issues, the findings should ultimately be made part of amendments to the Rules.

4 B. Unbundled Tariffs – To achieve consistency in the Arizona retail electric market, the  
5 methodology of unbundling current tariffs needs to be addressed. Key issues the Commission  
6 should address include the following:

- 7 • must-run generation;
- 8 • incremental credit approach versus functional unbundling of rates;
- 9 • standardized system benefits charges;
- 10 • the market price of generation;
- 11 • the purpose and calculation of a market-generation credit;
- 12 • ITC and CTC charges and true-up procedures;
- 13 • transmission revenue requirements, *i.e.* FERC vs. Commission jurisdictional  
14 allocation;
- 15 • administrative & general expense allocations, bundled versus unbundled and  
16 pre-divestiture versus post-divestiture;
- 17 • new fees as part of direct access; and
- 18 • assured recovery of implementation expenses.

19 Technical conferences with Staff to set the ground rules for unbundling should be  
20 held prior to scheduling hearings for the unbundled tariff filings, which will ultimately have to be  
21 amended. The technical conferences would expedite the process of unbundling, provide consistency  
22 between utilities and help develop a competitive marketplace more efficiently. This process is  
23 necessary before hearings can be scheduled on the Affected Utilities' stranded cost/unbundled tariff  
24 filings.

#### 25 IV. THIRD STEP – PARALLEL PROCEEDINGS TO RESOLVE REMAINING ISSUES

26 TEP believes that once the Commission makes its determinations with respect to the issues  
27 set forth in Steps One and Two above, the following issues can be resolved in proceedings that can  
28 be conducted concurrently:

29 A. Stranded Cost/Unbundled Tariff Filings for each Affected Utility – Affected Utilities  
30 would be required to affirm or amend their previously filed stranded cost and unbundled tariff

1 filings. Then a procedural schedule for each Affected Utility which provides timetables for  
2 discovery, the filing of testimony and hearing dates could be established. Something similar to what  
3 was proposed by the Attorney General and RUCO could be used, however, the proposed timetable is  
4 too aggressive, in that there would be insufficient time for Staff and parties to adequately prepare for  
5 each proceeding.

6 B. Establishment of ISA/ISO – The Commission needs to reaffirm its commitment to:

- 7 • AISA/Desert STAR, which includes the development of operational protocols  
8 through a process involving all stakeholders and assurance of cost recovery of  
9 these costs; and
- 10 • maintain system reliability.

11 This reaffirmation should occur quickly so that work in these areas, as well as other  
12 operational areas, can proceed so that the proper infrastructure is in place when retail access begins.  
13 This infrastructure includes computer software, people and procedures and, in the AISA/Desert Star  
14 case, FERC approval for the necessary tariffs and OATT modifications.

15 C. Technical Conferences on Operational, Reliability and Direct Access Protocols –

16 With respect to each of the areas discussed below, formalized technical conferences should be held.  
17 At the conclusion of each technical conference, a proposed Statement of Policy should be drafted to  
18 be submitted to the Commission for its approval. If agreement between the parties is not achieved  
19 on the Statement of Policy, a party could request a hearing prior to its submission to the  
20 Commission. A hearing would be expeditiously scheduled and at the conclusion of the hearing and  
21 the final determination of the Commission, the Statement of Policy would ultimately be incorporated  
22 into the Rules. Technical conferences are necessary for at least the following issues:

- 23 • *Service Acquisition Agreement with Energy Service Providers (“ESPs”)* – A  
24 UDC will be required to establish a service acquisition agreement with any ESP  
25 requesting to offer service in the UDC territory. TEP has sent a draft agreement  
26 to the Commission and several potential ESPs for review and comment. TEP  
27 has received comments raising the following issues to be resolved:
  - 28 1. Customer Transfer Charge. Requires resolution of unbundled tariffs.
  - 29 2. Dispute resolution.
  - 30 3. Credit requirements.

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4. Consolidated billing responsibilities. For example, is the UDC responsible for the accuracy of ESP charges? How are partial payments to be distributed when a UDC consolidated bill is rendered?
5. Level of control over MSP and MRSP services by UDC.
6. UDC responsibility to protect customers from "slamming."
7. EDI formats for billing information, payment information, meter reads.
8. UDC access to load data.
9. Clarification of the obligation of a UDC to provide services requested by an ESP. PG&E Energy Services has proposed that the UDC perform all services. Is the UDC required to do so, or is it at the discretion of the UDC? If a CC&N, such as PG&E's is approved, is TEP under an obligation to serve the ESP for Schedule Coordination Services, Customer Billing Services, Metering Services and Meter Reading Services and if the UDC performs such services, are the services billed at competitive or tariffed rates?

- *Scheduling Coordinator ("SC") Agreements* – A UDC will be required to establish a scheduling coordinator agreement with any entity that will schedule energy and ancillary services on the TEP controlled grid. TEP has sent a preliminary draft agreement to the Commission and several potential ESPs for review and comment. The AISA and Arizona transmission owners are in the process of developing a single set of statewide protocols for direct access. TEP cannot proceed with an SC agreement until the ISO/ISA and system reliability issues have been resolved. These agreements are also dependent on whether or not Arizona will have a power exchange. Other issues include:

1. Requirements for services when such services can be self provided.
2. Same Day Schedules (how far in advance).
3. Definition of settlement services and prices.

- *Recovery of Costs* – Assurance of full recovery of all costs incurred by Affected Utilities to implement direct access and the mechanism and related time-frame for such recovery.

- 1 • *Definition of the Information Label requirements*
  - 2 1. What information is to be provided? System performance as a yearly
  - 3 average? Monthly average? Specific results? On a system basic or
  - 4 specific to the customer?
  - 5 2. How frequently?
- 6 • *Customer education* – The work on establishing a comprehensive customer
- 7 education program should continue and the Commission should determine how
- 8 such costs will be recovered by the UDC to the extent that it bears such costs.

9 D. Legislation – The Commission should work with the Legislature with respect to  
10 amendments to HB 2663, as well as other Title 40 changes necessary to bring about an efficient  
11 marketplace. This includes ensuring that there is parity between those public service corporations  
12 regulated by the Commission, and public power entities such as Salt River Project. All participants  
13 in the State should be operating on a “level playing field,” which is not the case today.

14 E. Rulemaking – The Rules should be reopened for additional comment and to receive  
15 changes ordered by the Commission with respect to the resolution of the above issues.

#### 16 V. **FOURTH STEP – IMPLEMENTATION PHASE**

17 Once all of the issues have been resolved, emergency rules should be filed to codify the  
18 findings from these proceedings and to make other necessary changes. This could be followed up by  
19 a permanent rulemaking proceeding. Concurrently, there should be sufficient time permitted to  
20 allow the Affected Utilities to make the necessary adjustments to their systems to accommodate  
21 direct access. However, in light of the “Year 2000” (“Y2K”) issue (for which the Commission has  
22 recently opened a generic docket), in no event should competition commence between November 1,  
23 1999 and April 1, 2000.<sup>2</sup> The Affected Utilities must be in a position to respond to unexpected Y2K  
24 issues that might arise that could jeopardize the operation, reliability and safety of the system. The  
25 Affected Utilities should not be in a position of dealing with competition transition problems and  
26 potential Y2K problems simultaneously. TEP is committed to working as expeditiously as possible  
27 to accommodate whatever timeframes are deemed appropriate by the Commission. However, TEP

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29 <sup>2</sup> The reason 90 days is necessary at the beginning of the year 2000 is because of the leap year which is an additional  
30 Y2K variable.

1 requests that adequate, fair and appropriate timeframes are established in between filing dates and  
2 proceedings since this has been a problem in the past.

3 **VI. SERVICE LISTS**

4 There has been confusion with respect to service lists for different electric competition  
5 proceedings. TEP, therefore, makes the following suggestion to help minimize this confusion:

6 A. Generic Electric Competition Proceeding – TEP suggests that the Commission issue a  
7 Procedural Order to all parties currently on the Commission’s service list for the generic docket.  
8 The Procedural Order should require each party to file with the Commission a request to remain on  
9 the service list, specify their current name, mailing address, telephone number, facsimile number and  
10 e-mail address (if applicable.) Each party should be permitted only one designated entity which in  
11 most cases should be their attorney. Upon receipt of this information, the Commission should issue  
12 a revised service list. Any subsequent party wishing to be added to the service list would be required  
13 to apply for intervention.

14 B. Other Proceedings – All other specific proceedings should be designated with  
15 different captions and docket numbers. With the exception of existing proceedings (such as stranded  
16 cost or unbundled tariff dockets), parties wishing to be on the service list should apply for  
17 intervention in each of these proceedings.

18 **VII. SETTLEMENT PROCESS**

19 TEP also supports a settlement process to resolve certain issues specific to the Affected  
20 Utilities such as stranded cost and unbundled tariffs. This does not negate, however, the need for the  
21 Commission to resolve Step One and Step Two issues first.

22 **VIII. CONCLUSION**

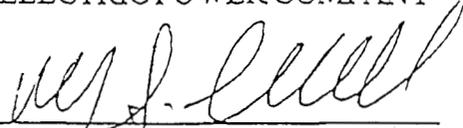
23 The past few years have given the parties in the electric competition proceedings the  
24 opportunity to further increase their knowledge base through the exchange of information and, in  
25 some cases, rethink their positions. Although it is important for all parties to proceed with electric  
26 industry restructuring issues expeditiously, it is equally important that they do so thoughtfully and

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1 efficiently to the benefit of all. The issues are complex, and in most cases, interrelated. TEP is  
2 committed to working with the Commission and all parties to bring about competition in an  
3 expeditious and equitable manner.

4 RESPECTFULLY SUBMITTED this 19th day of January, 1999.

5 TUCSON ELECTRIC POWER COMPANY

6  
7 By: 

8 Bradley S. Carroll  
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13 **Original and ten copies of the foregoing**  
14 **filed this 19th day of January, 1999, with:**

15 Docket Control  
16 ARIZONA CORPORATION COMMISSION  
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18 Phoenix, Arizona 85007

19 **Copy of the foregoing hand-delivered**  
20 **this 19th day of January, 1999, to:**

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Copies of the foregoing sent via U.S. Mail  
this 19th day of January, 1999, to:

Current Service List for Docket No. RE-00000C94-0165

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Secretary for Bradley S. Carroll