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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

Arizona Corporation Commission

DOCKETED

FEB 11 2011

GARY PIERCE - Chairman
BOB STUMP
SANDRA D. KENNEDY
PAUL NEWMAN
BRENDA BURNS

DOCKETED BY ne

IN THE MATTER OF THE APPLICATION OF
TUCSON ELECTRIC POWER COMPANY FOR
APPROVAL OF ITS 2011 RENEWABLE
ENERGY STANDARD AND TARIFF
IMPLEMENTATION PLAN.

DOCKET NO. E-01933A-10-0266

DECISION NO. 72182

**ORDER AMENDING
DECISION NO. 72033**

Open Meeting
February 1 and 2, 2011
Phoenix, Arizona

BY THE COMMISSION:

Having considered the entire record herein and being fully advised in the premises, the Arizona Corporation Commission ("Commission") finds, concludes, and orders that:

FINDINGS OF FACT

1. On July 1, 2010, Tucson Electric Power Company ("TEP") filed for Commission approval its 2011 Renewable Energy Standard and Tariff ("REST") Implementation Plan.
2. On September 24, 2010, Freeport-McMoRan Copper & Gold, Inc. ("Freeport-McMoRan") and Arizonans for Electric Choice and Competition ("AECC") filed a Motion to Intervene in this docket.
3. On October 6, 2010, a Procedural Order was issued granting intervention to Freeport-McMoRan and AECC.
4. On October 13, 2010, TEP filed an update to its proposed REST Implementation Plan.
5. On November 9, 2010, the Commission's Utilities Division ("Staff") filed a Memorandum providing its recommendations for Commission action as to TEP's REST Implementation Plan, along with a Proposed Order intended to carry out those recommendations. In

1 the Memorandum, Staff recommended approval of a new School Vocational Program (“SVP”)
2 proposed by TEP, but with a reduction in requested administrative costs. (Staff Memorandum at 4,
3 13.) Staff’s Proposed Order included the same recommendations for approval of the SVP, (Proposed
4 Order at 4-5, 15), but included an ordering paragraph denying the SVP (Proposed Order at 16).

5 6. Staff’s Proposed Order was discussed extensively by the Commission at the Open
6 Meeting on November 23, 2010, but the SVP was not discussed.

7 7. At the Open Meeting on November 23, 2010, multiple amendments to Staff’s
8 Proposed Order were discussed. One of these, Newman Proposed Amendment No. 6 (“Newman No.
9 6”), was designed to add \$1,501,610 to the commercial up-front incentive budget; to add \$453,375 to
10 the commercial performance-based incentive budget; to add \$75,000 to the information systems
11 budget line item; and to increase the monthly cap on the industrial/mining customer class to recover
12 those additional funds. Newman No. 6 was expressly intended to address concerns about the impact
13 of the Davis-Monthan Air Force Base project on the rest of the commercial distributed generation
14 market and with the size of the reduction in TEP’s information systems budget line item.

15 8. After discussion, Newman No. 6 was withdrawn without a vote. (11/23/10 OM Tr. at
16 105.) The Proposed Order, as otherwise amended, was passed by a vote of five ayes and zero nays.
17 (11/23/10 OM Tr. at 106.)

18 9. Although Newman No. 6 was withdrawn and thus not approved by the Commission,
19 the changes proposed in Newman No. 6 were incorporated into Decision No. 72033, which was
20 issued on December 10, 2010. In Decision No. 72033, the provisions of Newman No. 6 are included
21 on page 18 as Findings of Fact Nos. 67 through 69 and on page 20 as the last two ordering paragraphs
22 on the page.

23 10. On December 16, 2010, Staff filed a Request for Procedural Order Nunc Pro Tunc
24 requesting that the Hearing Division issue a Procedural Order to remove from Decision No. 72033
25 Findings of Fact Nos. 67 through 69 and the last two ordering paragraphs on page 20.

26 11. On December 22, 2010, TEP filed Pricing Plans identified as complying with Decision
27 No. 72033. TEP did not reference any error in Decision No. 72033, but it appears that its Pricing
28 Plans do not adopt the increase in the monthly cap for the industrial customer class that would have

1 been adopted under Newman No. 6.

2 12. On December 29, 2010, Freeport-McMoRan and AECC filed an Application for
3 Rehearing of Decision No. 72033 to remove from the Decision the same language identified by Staff
4 in its Request for Procedural Order Nunc Pro Tunc. Freeport-McMoRan and AECC further
5 requested that pending correction of the error, enforcement of that portion of the Decision relating to
6 Newman No. 6 be stayed.

7 13. On January 12, 2011, Staff filed Staff's Second Request for Procedural Order Nunc
8 Pro Tunc, requesting that the ordering paragraph denying the SVP, on page 19 of the Decision, be
9 amended to approve the SVP, consistent with Staff's recommendations in the Memorandum and
10 Proposed Order.

11 14. At its January 18, 2011, Staff Open Meeting, the Commission voted to have the
12 Hearing Division issue a Recommended Order, for consideration at the Commission's February 1 and
13 2, 2011, Open Meeting, amending Decision No. 72033 to correct the errors identified by Freeport-
14 McMoRan and AECC's Application for Rehearing of Decision No. 72033 under A.R.S. § 40-253 and
15 identified by Staff in its Second Request for Procedural Order Nunc Pro Tunc.

16 15. It is apparent that the incorporation of the changes of Newman No. 6 into Decision
17 No. 72033 was done in error, and it is necessary and appropriate and in the public interest to correct
18 the Decision by removing those changes.

19 16. Furthermore, it is apparent that the denial of the SVP in the ordering paragraph on
20 page 19 of Decision No. 72033 was done in error, and it is necessary and appropriate and in the
21 public interest to correct the Decision by changing the denial to an approval.

22 CONCLUSIONS OF LAW

23 1. TEP is a public service corporation within the meaning of Article XV of the Arizona
24 Constitution and A.R.S. Title 40, Chapter 2.

25 2. The Commission has jurisdiction over TEP and the subject matter of its REST
26 Implementation Plan.

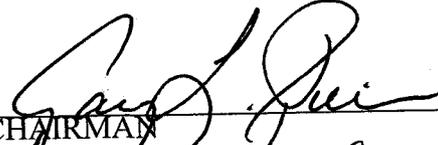
27 3. Freeport-McMoRan and AECC were granted intervention in this matter and thus have
28 standing under A.R.S. § 40-253 to file an Application for Rehearing of this matter.

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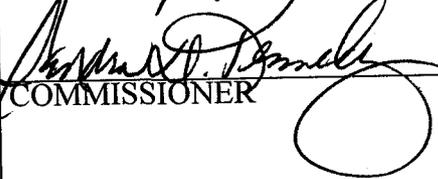
IT IS FURTHER ORDERED that all other provisions of Decision No. 72033 shall remain in effect.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.


CHAIRMAN

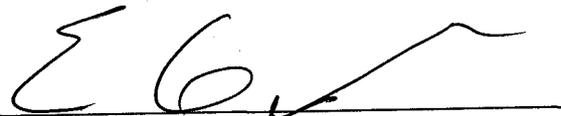

COMMISSIONER


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EXCUSED
COMM. NEWMAN
COMMISSIONER


COMMISSIONER

IN WITNESS WHEREOF, I, ERNEST G. JOHNSON, Executive Director of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this 11th day of February, 2011.



ERNEST G. JOHNSON
EXECUTIVE DIRECTOR

DISSENT _____

DISSENT _____
SNH:db

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