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BEFORE THE ARIZONA CORPORATION COMMISSION

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Arizona Corporation Commission

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IN THE MATTER OF THE APPLICATION OF
TUCSON ELECTRIC POWER COMPANY
FOR APPROVAL OF ITS 2011-2012 ENERGY
EFFICIENCY IMPLEMENTATION PLAN.

DOCKET NO. E-01933A-11-0055

**STAFF'S NOTICE OF FILING
PROCEDURAL RECOMMENDATIONS**

Utilities Division Staff ("Staff") recognizes that arriving at a procedural schedule for this matter may be difficult, not for the least reason being the multitude of options for consideration. At the recent procedural conference in this matter, three separate alternatives were discussed: (1) consideration of the full gamut of recommendations; (2) consideration of only the TEP modified plan; and (3) consideration of the TEP modified plan in conjunction with select additional matters such as the limited waiver. In an effort to assist the ALJ in determining the appropriate scope for this proceeding, Staff provides the following recommendations.

A. Consideration Of All Recommendations Is The Best Option.

Staff's preferred procedural outcome would be Option 1, a consideration of the entire range of recommendations. Staff further recommends consolidating this matter with TEP's upcoming rate case. Staff recommends against proceeding under Options 2 or 3. Staff contends that the public interest will be better served by a consideration of the entire range of recommendations.

Both Options 2 and 3 appear to be designed to preclude Commission adoption of Staff's recommendations. The public interest could be harmed by a process that precludes the possibility that Staff's recommendations could be adopted as an outcome. Staff is the only party that must consider all affected interests and that is not limited to serving just one constituency.

It has been suggested that Staff could introduce evidence related to its recommendations irrespective of the scope of the proceeding. Placing such evidence in the record, however, may not

1 alone be sufficient to support Commission adoption of Staff's alternatives. If the scope of the
2 proceeding is narrowly defined, parties may tailor their litigation strategies around that specific
3 scope. If the Commission were then inclined to adopt one of Staff's alternatives, parties may argue
4 that, due to the limited scope of the hearing, they did not have notice that they needed to present
5 evidence to challenge Staff's alternatives. It would be unfortunate for the matter to proceed to open
6 meeting on the basis of a record developed around Options 2 or 3 only to find that the Commission
7 would like to consider Option 1 and that procedural concerns interfere with the Commission's ability
8 to adopt the Option 1 recommendations.

9 Confining the scope of the evidentiary hearing to consider only one of the many
10 recommendations presented may hinder the Commission should it choose to act on Staff's
11 recommended alternatives. Staff is aware that it can attempt to submit evidence related to its
12 alternative recommendations notwithstanding the scope of the proceeding. However, inclusion of
13 Staff's alternatives as non-actionable evidence may not be sufficient to put Staff's alternatives before
14 the Commission for consideration.

15 TEP's modified plan contemplates the expenditure of \$24,739,193 in program costs and
16 \$7,246,379 in interim performance incentives. In light of the amount of ratepayer money at stake in
17 this matter, Staff suggests that it is more appropriate to consider all the recommendations in a single,
18 measured proceeding. The public interest may be compromised by rushing to a determination in a
19 proceeding that is limited in scope.

20 **B. Consolidation Of This Proceeding With TEP's Upcoming Rate Case Is The Most**
21 **Practical Option.**

22 Various parties for different reasons have noted that aspects of the recommendations raised in
23 this proceeding will affect rates. For example, a dispute has arisen with respect to rate design
24 implications related to the TEP modified plan. Some parties have argued that certain components of
25 recommendations may only be considered within the context of a rate case, such as consideration of
26 the Authorized Revenue Recovery True-Up mechanism. Other aspects of the recommendations have
27 drawn criticism as constituting retroactive ratemaking, such as the possibility of a deferral account to
28

1 track TEP's expenditures so that its interim performance incentives can be considered within the
2 upcoming rate case.

3 Hearing these matters within the context of a rate case would resolve these concerns.
4 Moreover, consideration of these matters within a rate case best situates the Commission to arrive at
5 such resolutions as it deems most appropriate. It is within a rate case that the Commission has the
6 maximum flexibility to determine the full scope of TEP's rates in a comprehensive manner.
7 Consolidating this matter with TEP's impending rate case is therefore the most practical option.

8 **C. Conclusion.**

9 For the reasons discussed above, Staff recommends adopting the procedural course that
10 encompasses a global consideration of the recommendations and issues presented in this matter.
11 Staff further recommends that the hearing take place as part of or be consolidated with TEP's
12 upcoming rate case.

13 RESPECTFULLY SUBMITTED this 25th day of April, 2012.

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22 **Original and thirteen (13) copies of**
23 **the foregoing filed this 25th day of**
24 **April, 2012, with:**

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