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BEFORE THE ARIZONA CORPORATION C.

COMMISSIONERS

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

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Arizona Corporation Commission

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AUG 30 2012

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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  
EXCEPTIONS**

Pursuant to Arizona Administrative Code Rule R14-3-110(B), the Arizona Corporation Commission ("Commission") Utilities Division Staff ("Staff") submits these Exceptions to the Recommended Opinion and Order ("ROO") dated August 21, 2012.

The ROO largely adopts the Updated Plan that Tucson Electric Power Company's ("TEP" or "Company") submitted. Staff continues to recommend that the Commission reject the adoption of TEP's Updated Plan and instead adopt Staff's recommendation. However, if the Commission chooses to adopt the ROO, Staff recommends that several modifications be made.

**1. Interim Performance Incentive**

Staff respectfully disagrees with the adoption of the Updated Plan's modifications to the Company's Demand Side Management Surcharge ("DSMS") to implement a new Interim Performance Incentive. The Interim Performance Incentive allows the Company to collect a projected \$3,283,854. However, owing to the floor and ceiling incorporated into the Updated Plan TEP may recover a Performance Incentive as high as \$3.9 million. Staff's recommendation, based upon the Performance Incentive methodology approved in TEP's last rate case decision, Decision No. 70628 (December 1, 2008), would permit a Performance Incentive of \$902,986.

Additionally, the Updated Plan's methodology is structured to use both net benefits in Part 1 of the metric and other performance metrics in Part 2 which, among other things includes net benefits per dollar spent. This structural change to the Performance Incentive gives rise to concerns whether the Company is receiving too much incentive for too little demonstrable savings to the ratepayer

1 owing to potential double counting of net benefits between the two Parts of the metric and thereby  
2 providing a double recovery of those dollars. The consideration of additional metrics under Part 2  
3 does not counterbalance this concern as Staff noted that payment associated with most of the  
4 additional metrics need not be substantiated with direct, measurable and verifiable kWh savings.  
5 Staff's concern regarding the ROO's adoption of the Updated Plan's Interim Performance Incentive  
6 is heightened in light of the floor and ceiling on payments which exacerbates the potential that the  
7 Company's incentive to achieve savings is not aligned to produce anticipated savings.

8         There is no need to change the methodology for calculating the Performance Incentive in this  
9 proceeding. TEP has a pending rate case application. *See* Docket No. E-01933A-12-0291. Staff  
10 maintains that the appropriate context in which to consider a change to the Performance Incentive as  
11 significant as is contemplated by the Updated Plan is within a rate case where the matter is in a  
12 posture that allows consideration of the full impacts of such a change and the Commission has  
13 available the full range of options with which to deal with those impacts. The increase in the  
14 Performance Incentive that TEP proposes and the ROO adopts is unwarranted at this time.

15         Staff believes that if the Commission is inclined to modify the DSMS to change the method of  
16 calculating the Performance Incentive from what was established within Decision No. 70628 that the  
17 preferred method to do so would be to adopt Staff's Alternative Recommendation 2. Staff's  
18 Alternative 2 would order the Company to continue the DSMS as it was applied in 2010 and maintain  
19 the DSMS until it is superseded by the treatment the Commission approves in TEP's pending rate  
20 case application. As stated in Staff's Rebuttal Testimony, under Alternative 2, the measures and  
21 programs recommended by Staff in its Proposed Order would be approved to provide TEP with an  
22 enhanced range of options on which to focus its energy efficiency efforts.

## 23         **2. Demand Side Management Surcharge Rate Design**

24         Further, Staff believes that the ROO's adoption of the Updated Plan's rate design, which  
25 produces disproportionately higher rates on a single rate class, is concerning. As noted in the Direct  
26 Testimony of Staff witness Julie McNeely-Kirwan, the transition to a percentage of bill recovery  
27 method has a rate shifting impact. The ROO acknowledges that there will be a rate impact on the  
28 small commercial class of customer and then explains that the impact is appropriate due to cost of

1 service considerations. Staff believes that the shifting of rate impacts which the ROO proposes is an  
2 issue best resolved within the context of a rate case.

3 Staff observed throughout the proceeding that the class most immediately affected by this  
4 facet of the Updated Plan is the only rate class that was not specifically represented by a party to the  
5 Updated Plan. As noted in Ms. McNeely's prefiled testimony, rate cases have multiple factors  
6 elevating their suitability for resolving issues of shifting rate impacts, including greater participation  
7 by interveners and public commenters as well as more regulatory tools for identifying and resolving  
8 potential problems or inequities.

9 **3. Conclusion**

10 Staff believes that the recommendations provided by Staff witness Ms. McNeely provide a  
11 reasonable, appropriate, and fair resolution to the Company's Energy Efficiency Implementation Plan  
12 filing. Staff continues to support its recommendations as filed.

13 RESPECTFULLY SUBMITTED this 30<sup>th</sup> day of August, 2012.

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22 **Original and thirteen (13) copies of**  
23 **the foregoing filed this 30<sup>th</sup> day of**  
24 **August, 2012, with:**

25 Docket Control  
26 Arizona Corporation Commission  
27 1200 West Washington Street  
28 Phoenix, Arizona 85007

29 **Copy of the foregoing mailed this**  
30 **30<sup>th</sup> day of August, 2012, to:**

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