

ORIGINAL OPEN MEETING AGENDA ITEM



0000141543

BEFORE THE ARIZONA CORPORATION COMMISSION

RECEIVED

COMMISSIONERS

- BOB STUMP - Chairman
- GARY PIERCE
- BRENDA BURNS
- BOB BURNS
- SUSAN BITTER SMITH

2013 JAN 22 A 11:09

ARIZONA CORP COMMISSION  
DOCKET CONTROL

IN THE MATTER OF THE APPLICATION OF  
TUCSON ELECTRIC POWER COMPANY FOR  
THE ESTABLISHMENT OF JUST AND  
REASONABLE RATES AND CHARGES  
DESIGNED TO REALIZE A REASONABLE  
RATE OF RETURN ON THE FAIR VALUE OF  
ITS OPERATIONS THROUGHOUT THE STATE  
OF ARIZONA.

DOCKET NO. E-01933A-12-0291

**STAFF'S NOTICE OF FILING  
STATUS UPDATE AND PROPOSED  
PROCESS FOR COMMISSION REVIEW  
OF PRELIMINARY TERM SHEET**

The Utilities Division Staff ("Staff") of Arizona Corporation Commission ("Commission") provides the following status update regarding settlement negotiations in the above-referenced docket. Some of the parties have reached an agreement in principle, which is set forth in the attached Preliminary Term Sheet. Staff proposes that this matter be heard at a Special Open Meeting. The hearing of this matter at a Special Open Meeting would allow the Commission to give the parties immediate input as to the settlement framework and would provide the Commission with an opportunity to give input into the direction of a settlement agreement (if the Commission believes that it is the path that should be pursued) before it is completed. Parties may comment in support or opposition to the Preliminary Term Sheet at the Special Open Meeting.

RESPECTFULLY SUBMITTED this 22<sup>nd</sup> day of January, 2013.

Robin R. Mitchell, Staff Attorney  
Charles H. Hains, Staff Attorney  
Brian E. Smith, Staff Attorney  
Legal Division  
Arizona Corporation Commission  
1200 West Washington Street  
Phoenix, Arizona 85007  
(602) 542-3402

Arizona Corporation Commission

DOCKETED

JAN 23 2013

1 Original and thirteen (13) copies  
2 of the foregoing were filed this  
22<sup>nd</sup> day of January, 2013 with:

3 Docket Control  
4 Arizona Corporation Commission  
1200 West Washington Street  
Phoenix, Arizona 85007

5 Copies of the foregoing were mailed and/or  
6 emailed this 22<sup>nd</sup> day of January, 2013 to:

7 Bradley S. Carroll  
Tucson Electric Power Company  
88 E. Broadway Blvd., MS HQE910  
8 P.O. Box 711  
Tucson, Arizona 85702  
9 Attorney for Tucson Electric Power  
[bcarroll@tep.com](mailto:bcarroll@tep.com)

10 Michael W. Patten  
11 ROSHKA DEWULF & PATTEN, PLC  
One Arizona Center  
12 400 East Van Buren Street, Suite 800  
Phoenix, Arizona 85004  
13 Attorney for Tucson Electric Power  
[mpatten@rdp-law.com](mailto:mpatten@rdp-law.com)

14 Lawrence V. Robertson, Jr.  
15 Attorney at Law  
P.O. Box 1448  
16 Tubac, Arizona 85646  
Attorney for Southern Arizona Homebuilders  
17 Association (SAHBA) and  
EnerNOC, Inc. and Southern Arizona Water  
18 Users Association (SAWUA)  
[TubacLawyer@aol.com](mailto:TubacLawyer@aol.com)

19 Daniel Pozefsky  
20 Chief Counsel  
Residential Utility Consumer Office  
21 1110 West Washington, Suite 220  
Phoenix, Arizona 85007  
22 [dpozefsky@ruco.gov](mailto:dpozefsky@ruco.gov)

23 C. Webb Crockett  
24 Patrick J. Black  
FENNEMORE CRAIG, P.C.  
3003 North Central Avenue  
25 Suite 2600  
Phoenix, Arizona 85012-2913  
26 Attorneys for Freeport-McMoRan  
and AECC  
27 [wcrockett@fclaw.com](mailto:wcrockett@fclaw.com)  
28 [pblack@fclaw.com](mailto:pblack@fclaw.com)

Kevin C. Higgins, Principal  
Energy Strategies, LLC  
215 South State Street  
Suite 200  
Salt Lake City, Utah 84111  
Consultant to Freeport-McMorRan  
and AECC  
[KHiggins@Energystrat.com](mailto:KHiggins@Energystrat.com)

Kurt J. Boehm  
Jody M. Kyler  
BOEHM, KURTZ & LOWRY  
36 East Seventh Street, Suite 1510  
Cincinnati, Ohio 45202  
Attorneys for Kroger  
[kboehm@BKLawfirm.com](mailto:kboehm@BKLawfirm.com)  
[jkyler@BKLawfirm.com](mailto:jkyler@BKLawfirm.com)

John William Moore, Jr.  
MOORE, BENHAM & BEAVER  
7321 North 16<sup>th</sup> Street  
Phoenix, Arizona 85020  
Attorney for Kroger Co.  
[jmoore@mbmblaw.com](mailto:jmoore@mbmblaw.com)

Stephen J. Baron  
J. Kennedy & Associates  
570 Colonial Park Drive, Suite 305  
Roswell, Georgia 30075  
Consultant to Kroger Co.  
[sbaron@jkenn.com](mailto:sbaron@jkenn.com)

Thomas L. Mumaw  
Melissa Krueger  
Pinnacle West Capital Corporation  
P.O. Box 53999, MS 8695  
Phoenix, Arizona 85072-3999  
[Thomas.Mumaw@pinnaclewest.com](mailto:Thomas.Mumaw@pinnaclewest.com)  
[Melissa.Krueger@pinnaclewest.com](mailto:Melissa.Krueger@pinnaclewest.com)

1 Leland Snook  
2 Zachary J. Fryer  
3 Arizona Public Service Company  
4 P.O. Box 53999, MS 9708  
5 Phoenix, Arizona 85072-3999  
6 [Leland.Snook@aps.com](mailto:Leland.Snook@aps.com)  
7 [Zachary.Fryer@aps.com](mailto:Zachary.Fryer@aps.com)

8 Timothy M. Hogan  
9 ARIZONA CENTER FOR LAW IN THE  
10 PUBLIC INTEREST  
11 202 E. McDowell Road, Suite 153  
12 Phoenix, Arizona 85004  
13 Attorneys for SWEEP and Vote Solar  
14 Initiative  
15 [thogan@aclpi.org](mailto:thogan@aclpi.org)

16 Jeff Schlegel  
17 SWEEP Arizona Representative  
18 1167 W. Smalayuca Drive  
19 Tucson, Arizona 85704-3224  
20 [schlegelj@aol.com](mailto:schlegelj@aol.com)

21 Annie C. Lappe  
22 Rick Gilliam  
23 The Vote Solar Initiative  
24 1120 Pearl Street, Suite 200  
25 Boulder, Colorado 80302  
26 [annie@votesolar.org](mailto:annie@votesolar.org)  
27 [rick@votesolar.org](mailto:rick@votesolar.org)

28 Nicholas J. Enoch  
Jarrett J. Haskovec  
LUBIN & ENOCH, P.C.  
349 North Fourth Avenue  
Phoenix, Arizona 85003  
Attorneys for IBEW Local 1116  
[Nick@lubinandenoch.com](mailto:Nick@lubinandenoch.com)  
[Jarrett@lubinandenoch.com](mailto:Jarrett@lubinandenoch.com)

Travis Ritchie  
Sierra Club Environmental Law Program  
85 Second St., 2<sup>nd</sup> Floor  
San Francisco, CA 94105  
Attorney for Sierra Club  
[travis.ritchie@sierraclub.org](mailto:travis.ritchie@sierraclub.org)

Terrance A. Spann  
General Attorney  
Regulatory Law Office (JALS-RL/IP)  
Office of the Judge Advocate General  
U.S. Army Legal Services Agency  
9275 Gunston Road, Suite 1300  
Fort Belvoir, VA 22060-5546  
[terrance.a.spann.civ@mail.mil](mailto:terrance.a.spann.civ@mail.mil)

Michael M. Grant  
GALLAGHER & KENNEDY, P.A.  
2575 East Camelback Road  
Phoenix, AZ 85016-9225  
Attorneys for AIC  
[mmg@gknet.com](mailto:mmg@gknet.com)

Gary Yaquinto  
President and CEO  
Arizona Investment Council  
2100 North Central Avenue, Suite 210  
Phoenix, AZ 85004  
[gyaquinto@arizonaic.org](mailto:gyaquinto@arizonaic.org)

Cynthia Zwick  
1940 E. Luke Avenue  
Phoenix, AZ 85016  
[czwick@azcaa.org](mailto:czwick@azcaa.org)

Court S. Rich  
ROSE LAW GROUP, PC  
6613 N. Scottsdale Road, Suite 200  
Scottsdale, AZ 85250  
Attorney for Solar Energy Industries  
Association (SEIA)  
[crich@roselawgroup.com](mailto:crich@roselawgroup.com)

Michael L. Neary  
Executive Director  
Arizona Solar Energy Industries Association  
(AriSEIA)  
111 W. Renee Dr.  
Phoenix, AZ 85027  
[mneary@arizonasolarindustry.org](mailto:mneary@arizonasolarindustry.org)

Robert J. Metli, Esq.  
MUNGER CHADWICK, PLC  
2398 E. Camelback Road, Suite 240  
Phoenix, AZ 85012  
Attorneys for Opower, Inc.  
[rjmetli@mungerchadwick.com](mailto:rjmetli@mungerchadwick.com)

Rachel Gold  
Senior Regulatory Analyst  
Opower  
642 Harrison Street, Floor 2  
San Francisco, CA 94110  
[rachel.gold@opower.com](mailto:rachel.gold@opower.com)



**Tucson Electric Power Company Rate Case**  
**Preliminary Settlement Term Sheet**  
January 22, 2013

The following is a summary of certain material terms to which some parties to the Tucson Electric Power (“TEP” or “Company”) rate case, Docket No. E-01933A-12-0291, have preliminarily agreed as a general settlement framework. This Term Sheet does not create a binding agreement of any kind.

**A. Base Rate Increase**

TEP will receive a non-fuel revenue increase of \$76,194,000. This does not include the change in fuel revenue.

**B. Residential Bill Impact**

Upon the effective date of the new rates, the average monthly bill for the average residential customer will increase by less than \$3.00. This overall impact reflects a base rate increase, as well as reductions in the Purchased Power and Fuel Adjustment Clause (“PPFAC”) rate and Demand Side Management (“DSM”) surcharge resulting from the adoption of the proposed Energy Efficiency Resource Plan.

**C. Cost of Capital**

Return on Equity: 10.0%

Embedded Cost of Debt: 5.18% long term/1.42% short term

Return on Fair Value Increment of rate base: 0.68%

Capital Structure: 56.5% debt (55.97% long term/0.53% short term) and 43.5% common equity (actual test-year capital structure)

**D. PPFAC**

TEP’s existing PPFAC will continue except that broker fees, lime costs and sulfur credits will now be recovered through the PPFAC. TEP will also credit 100% of proceeds from the sale of SO<sub>2</sub> allowances to the PPFAC. TEP will continue to recover its base purchased power and fuel costs through base energy rates as determined by the Commission in this case.

TEP will seek Commission authorization to defer TEP’s April 1, 2013 PPFAC rate adjustment until the effective date of new rates in this docket.

TEP agrees to make a one-time credit of \$3 million to the PPFAC related to prior sulfur credits.

## **E. Energy Efficiency**

TEP will implement an Energy Efficiency Resource Plan (“Plan”), as proposed by Staff, which is intended to treat energy efficiency and demand-side management similar to a generation resource. Under this Plan, TEP will invest (just as TEP does with other conventional energy resources) in cost-effective energy efficiency programs that have been approved by the Commission and earn the rate of return established in this case on that investment, after providing documentation that the expected energy savings have been achieved. The investment costs and the return on the investments will be recovered through an after-the-fact DSM surcharge. Other provisions in the Plan include:

- 5-year amortization of energy efficiency investments.
- Adoption of pending EE implementation plan programs and pro-rata budget as recommended by Staff in Docket No. E-01933A-11-0055 and approve the corresponding DSM surcharge.
- Closure of Docket No. E-01933A-11-0055.
- TEP will voluntarily resume program levels at budgets previously approved by the Commission beginning March 1, 2013, and shall recover such costs through the Plan.
- Any customer who can demonstrate an active DSM program and whose single site usage is 25 MW or greater may file a petition with the Commission for an exemption from the DSM adjustor and if approved, will be removed from the EES denominator. The parties are not required to support any such petition and some parties may plan to oppose any such petition.

## **F. Lost Fixed Cost Recovery/Opt-Out Residential Rate/Large Customer Exclusion**

The parties support energy efficiency (“EE”) as a low cost energy resource and recognize that TEP's effective pursuit of EE and distributed generation (“DG”) will result in fixed cost revenue erosion for the Company. The parties also recognize the Commission's interest in directing EE and DG policy. The parties thus agree to adopt a Lost Fixed Cost Recovery (“LFCR”) mechanism, designed to recover only those lost fixed costs associated with the amount of EE savings and DG that is authorized by the Commission and determined to have occurred in a particular year.

The parties propose approval of an LFCR mechanism that is similar to the LFCR approved for Arizona Public Service Company (“APS”). The LFCR will have a 1% year-over-year cap. Any amount in excess of the 1% cap will be deferred for collection until the first future year in which including such costs would not cause the annual increase to exceed the 1% cap.

Residential customers will have an option to opt out of the LFCR (for example, by opting for a higher basic service charge). TEP will develop a customer outreach program to inform/educate customers about both the LFCR and the optional opt-out rates.

Large power service customers will be excluded from the mechanism, with corresponding changes to their rate schedules.

The LFCR will recover lost fixed cost from January 1, 2013 forward and the first LFCR surcharge will not go into effect until July 1, 2014.

The LFCR will be subject to periodic Commission review.

#### **G. Environmental Compliance Adjustor**

TEP will implement Staff's proposal for an environmental cost tracker (the Environmental Compliance Adjustor ("ECA")) that mirrors the existing Environmental Improvement Surcharge ("EIS") approved for APS. The ECA will recover environmental compliance costs, subject to a cap equal to 0.25 percent of total retail revenue.

#### **H. Rate Design**

TBD. The rate design portion should remain open for a period of time, not to exceed one year, if concerns develop over the rate design subsequent to the implementation of new rates.

#### **I. Springerville Unit 1**

TEP agrees with Staff's recommendation to file a report with the Commission no later than July 31, 2014, addressing the status of the Springerville Generating Station ("SGS") lease agreements and the estimated change in TEP's non-fuel revenue requirement at the conclusion of each primary lease term. Specifically, TEP commits to reporting on the following matters:

- A. The details concerning any commitments made by TEP to purchase SGS Unit 1, or any agreements entered into by TEP to otherwise retain capacity rights to SGS Unit 1, after the end of the primary lease term in January 2015;
- B. The details concerning any commitments made by TEP to purchase replacement generating resources, or any purchased power agreements entered into by TEP for replacement power, if TEP elects not to purchase or otherwise retain capacity rights to SGS Unit 1 after the end of the primary lease term in January 2015;
- C. The details concerning any commitments made by TEP to purchase the SGS Coal Handling Facilities, or any agreements entered into by TEP to extend the Coal Handling Facilities lease term, after the end of the primary lease term in April 2015; and
- D. The estimated non-fuel revenue requirement associated with each of the commitments described above, including the proposed rate treatment of any remaining balance of SGS leasehold improvements.

Based on the information in the above reporting, the Commission on its own motion or on a recommendation of a party in this case, may require TEP to explain why its rates should not be reduced through the normal Commission process.

## **J. Procurement**

TEP accepts Staff's proposed modifications to the Company's energy procurement program except the Risk Manager recommendation. The Settlement addresses the recommendation related to the sulfur credit refund as explained in the discussion under Section D. PPFAC regarding the sulfur credit.

## **K. San Juan Thermal Event (Fire)**

TEP agrees to maintain a separate accounting of all direct costs related to the thermal event at the San Juan mine and that such cost recovery, with the exception of TEP's share of the insurance deductible, be deferred until the insurance settlement has been completed. TEP shall then be eligible to put through all costs in excess of the insurance recovery subject to the standard prudence determination of all fuel costs flowed through the PPFAC. This accounting and regulatory treatment is not intended to set a precedent for future events.

## **L. Nogales Transmission Line Costs**

TEP will seek appropriate rate treatment from FERC for recovery of those costs.

## **M. Timing of Effective Rates**

The parties shall use best efforts to ensure that the Commission shall have the opportunity to discuss this matter at its June, 2013 Open Meeting and thereby issue a decision to implement new rates by July 1, 2013.