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BEFORE THE ARIZONA CORPORATION COMMISSION

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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 **INITIAL POST-HEARING BRIEF OF THE SOUTHWEST ENERGY EFFICIENCY PROJECT**

I. Introduction

The Southwest Energy Efficiency Project (SWEEP) is in partial opposition to the proposed Settlement Agreement. SWEEP participated fully in the settlement discussions, which were open, transparent, and fair to all parties to this Docket. In particular, SWEEP appreciated the efforts of Steve Olea of Commission Staff and the efforts of the Tucson Electric Power Company (TEP) in working through many challenging issues.

While there is much to like in the proposed Settlement Agreement, SWEEP is in partial opposition to the Settlement Agreement for two main reasons:

(1) The proposed lost fixed cost revenue recovery (LFCR) mechanism, which inadequately reduces utility disincentives to energy efficiency, and therefore

results in fewer opportunities for customers to reduce their energy bills. SWEEP supports the implementation of full revenue decoupling, which better aligns the utility's financial interest with the interests of its customers.

(2) The significant increase in the residential monthly basic service charge, which represents an increase greater than 40% for many customers, including the R-01 residential customers, and will limit the ability of customers to reduce their utility bills.

SWEEP supports the energy efficiency program and cost recovery provisions in the Settlement Agreement, in Section VII, that would restore cost-effective energy efficiency programs for customers and would ensure that TEP customers receive energy efficiency services to reduce their utility bills, consistent with the resource need documented in the TEP 2012 Integrated Resource Plan. These energy efficiency programs provide significant and cost-effective benefits to customers, the economy, the electric system, and the environment,[1] including substantial reductions in water use and air pollution.[2]

II. SWEEP supports the energy efficiency program and cost recovery provisions in Section VII of the Settlement Agreement. The energy efficiency program provisions in the Settlement Agreement help to resolve the difficult situation TEP customers have experienced as a result of cuts and suspensions to TEP's existing energy efficiency programs in 2012.[3] These Settlement Agreement provisions would restore cost-effective energy efficiency programs that help customers reduce their utility bills; have the strong support of TEP customers; are in the public interest; and support local jobs.[4]

For decades, TEP's cost-effective energy efficiency programs have helped customers save energy and money.[5] As public comment and customer letters in the docket demonstrate, customers want and strongly support these energy efficiency programs and services that help them reduce their utility bills and that deliver important

[1] Schlegel Direct Testimony, Page 4, Lines 10-28.
[2] Schlegel Direct Testimony, Page 5, Lines 32-41.
[3] Schlegel Direct Testimony, Pages 6-9.
[4] Schlegel Direct Testimony, Pages 4-9.
[5] Schlegel Direct Testimony, Page 5, Lines 88-22.

and substantial customer, economic, environmental, and utility system benefits.[6] As evidence, over 75% of the customers and builders who spoke during the public comment hearing on March 4, 2013, commented on energy efficiency, and 100% of them supported energy efficiency programs.[7] In addition, public comment on July 11, 2012, and written comment on TEP's 2011-2012 Energy Efficiency Implementation Plan all demonstrate strong customer and stakeholder support for the restoration and expansion for TEP's energy efficiency programs.[8]

The program cutbacks and suspensions experienced in 2012 and early 2013 prevented customers from realizing the benefits of cost-effective energy efficiency programs, including important opportunities to save money on their energy bills.[9] Customers receive the savings and benefits of cost-effective energy efficiency programs only when the programs are adequately funded and are actually implemented in the field. There is no benefit to customers from talking about supporting energy efficiency in the abstract. The Commission must act to approve funding and programs in order for customers to receive the savings and benefits.

In this proceeding, the Commission should approve the program and cost-recovery provisions in Section VII of the Settlement Agreement that fully restore and enhance cost-effective energy efficiency programs that benefit customers, TEP customers strongly support, and are necessary for meeting the resource need as documented in the TEP 2012 Integrated Resource Plan. To TEP's credit, TEP began initial restoration of energy efficiency programs on March 1, 2013, consistent with the terms of the Settlement Agreement Section 7.3, which is an important step forward in the interest of customers.

III. TEP's 2012 Integrated Resource Plan demonstrates a need for increased energy efficiency resources for TEP customers.

TEP's 2012 Integrated Resource Plan (IRP) documents the need for future resources to meet the needs of TEP customers, including capacity resources, and the role

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[6] Schlegel Direct Testimony, Page 5, Lines 32-41.
[7] See Docket E-01933A-12-0291.
[8] See Docket E-01933A-11-0055.
[9] Schlegel Direct Testimony, Page 8, Lines 10-20.

of energy efficiency programs in meeting the resource need.[10] These facts and documentation in the TEP 2012 IRP address some of the issues raised by Commissioner Pierce in his letter dated February 1, 2013, regarding energy efficiency, TEP's need for future resources, and the TEP 2012 Integrated Resource Plan. Specifically, without energy efficiency, TEP would have a significant remaining resource requirement that it would need to meet, and TEP would need to meet this remaining requirement by investing in other more costly energy resources, thereby resulting in higher total costs for customers.[11] Indeed, TEP estimates its cost for energy efficiency over the 2012-2020 time horizon to be $23/MWh.[12] Notably, the next most affordable energy resource costs $83/MWh, which is significantly (more than 3.5 times) more expensive than energy efficiency.[13]

The need to invest in cost-effective energy efficiency is completely justified based on TEP's actual customer needs as established and documented in TEP's 2012 IRP. In fact, TEP should be planning to achieve more energy efficiency than has been proposed in the Settlement Agreement based on the resource needs and resource options identified in the TEP IRP.[14] If TEP under-invests in the energy efficiency documented in the 2012 IRP, and then has to add other more costly resources to substitute for the lower-cost energy efficiency resources identified in the TEP IRP, the total costs for TEP customers will be higher.

IV. SWEEP continues to support energy efficiency program cost recovery using either amortization or expensing.

SWEEP continues to support energy efficiency program cost recovery using either amortization or expensing, and acknowledges that there are pros and cons to each approach.[15] In this proceeding, SWEEP supports the Energy Efficiency Resource Plan (EERP) in Section VII in the Settlement Agreement. The Settlement Agreement

[10] Schlegel Testimony in Partial Opposition to the Proposed Settlement Agreement, Pages 5-6.
[11] Schlegel Testimony in Partial Opposition to the Proposed Settlement Agreement, Pages 5-12.
[12] See TEP's October 31, 2012 Rate Case Technical Conference presentation on its Energy Efficiency Resource Plan, which corrected the cost of energy efficiency in TEP's 2012 IRP.
[13] Schlegel Testimony in Partial Opposition to the Proposed Settlement Agreement, Pages 9-10.
[14] Schlegel Testimony in Partial Opposition to the Proposed Settlement Agreement, Pages 5-12.
[15] Schlegel Direct Testimony, Page 9, Lines 33-43.

proposes the EERP, which would amortize the energy efficiency program costs as a regulatory asset and recover those costs over five years through the TEP Demand Side Management Surcharge (DSMS) rather than in its base rates.[16]

SWEEP also responded to some related issues raised in Commissioner Pierce's letter dated February 1, 2013. The amortization proposal for the EERP is not ratebasing, even though it was labeled as such in Commissioner Pierce's letter. The EERP should not be confused with ratebasing or with how TEP would recover an investment in a generation plant. Again, under the EERP, TEP would amortize and recover the energy efficiency program costs over a five-year period using a regulatory asset.[17]

This lack of precise terminology has apparently caused some to perceive that TEP would receive large earnings or a high return on investment from its investments in energy efficiency. The facts are that this perception is not true. TEP under the EERP does not have a large or significant financial incentive to invest more in energy efficiency, and TEP would not be receiving a financial windfall for funding energy efficiency.[18] During this hearing TEP and Staff witnesses have confirmed this fact, that TEP would not receive large earnings and would not be encouraged to over-invest in energy efficiency.[19]

V. The proposed Settlement Agreement limits the Commission from fully exploring the policy options for better aligning the utility interest with the customer and public interests and for addressing utility financial disincentives to energy efficiency. The Commission should substitute full revenue decoupling in place of the lost fixed cost revenue recovery mechanism proposed in the Settlement Agreement.

Specifically, the Settlement Agreement limits the Commission's consideration of full revenue decoupling. Full revenue decoupling is a superior option for the treatment of utility financial disincentives to energy efficiency compared to lost fixed cost recovery (LFCR).

Full revenue decoupling is important not only for full, enthusiastic utility support of energy efficiency programs but also for activities that reduce energy bills including

[16] Schlegel Testimony in Partial Opposition to the Proposed Settlement Agreement, Pages 12-13.
[17] Schlegel Testimony in Partial Opposition to the Proposed Settlement Agreement, Pages 12-13.
[18] Schlegel Testimony in Partial Opposition to the Proposed Settlement Agreement, Page 13.
[19] Testimony of David Hutchens and Steve Olea.

those not directly linked to the Company's portfolio of energy efficiency programs, such as utility support for building energy codes and appliance standards, broad energy education and marketing, state and local government energy conservation efforts, and federal energy policies.[20]

Full revenue decoupling also allows for bill adjustments in both a positive and negative direction, and therefore decoupling could result in either a credit (e.g., as sales increase as the economy recovers) or a charge on the customer bill. In contrast, the proposed LFCR mechanism represents an automatic rate increase. Further, the LFCR mechanism does not provide a credit when experienced revenues are higher than forecasted, such as when electricity sales increase because of an improved economy.[21]

Therefore the Settlement sends mixed signals, and LFCR does not adequately align TEP's financial incentives with the interests of customers.

SWEEP instead recommends that the Commission substitute full revenue decoupling in place of the lost fixed cost revenue recovery mechanism proposed in the Settlement Agreement because full revenue decoupling more completely and effectively reduces utility company disincentives for the support of activities that eliminate energy waste and reduce utility bills, while lost fixed cost revenue recovery does not.[22]

VI. The Settlement Agreement's proposal to significantly increase the monthly basic service charge is not in the interest of customers.

The Settlement Agreement proposes to increase TEP's current basic service charge from ~\$7.00-\$8.00 per month to ~\$10.00-\$11.50 per month.[23] For the vast majority of residential customers the increase will be greater than 40% (e.g., a \$3 per month increase, from \$7 to \$10 per month for R-01 customers). This increase is certainly not gradualism, and the increase in the fixed charge will limit the ability of customers to reduce their utility bills.[24]

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[20] Schlegel Testimony in Partial Opposition to the Proposed Settlement Agreement, Pages 12-14; Schlegel Direct Testimony, Pages 16-17.
[21] Ibid.
[22] Ibid.
[23] Settlement Agreement, Attachment J.
[24] Schlegel Testimony in Partial Opposition to the Proposed Settlement Agreement, Page 15.

SWEEP maintains that higher basic service charges are not in the public interest and are not in the interest of customers.[25] It is important for customers to be able to maximize savings from energy efficiency, and a higher monthly service charge limits that ability. Specifically, customers who reduce their utility bills by increasing energy efficiency will still have to pay the entire $3 per month increase in the basic service charge – there is no way for customers to reduce or mitigate this rate increase. Increasing the basic service charge mutes the price signal to customers by reducing the amount of utility bill cost savings that customers experience when they conserve energy or become more energy efficient. A higher basic service charge also reduces the customer incentive to engage in energy efficiency opportunities because customers can affect only a smaller portion of their total utility bills. Monthly basic service charges also have a tendency to fall disproportionately on smaller customers – who can often least afford them.[26]

VII. Energy efficiency is a reliable resource that is planned, evaluated, and reported in an appropriate manner. The savings and costs of energy efficiency programs, and program cost-effectiveness, are planned, reviewed, analyzed, verified, evaluated, and reported to ensure accuracy and reliability.

During the TEP rate case hearings questions were asked about the reliability and accuracy of energy efficiency savings, costs, and cost-effectiveness. Several witnesses addressed these questions, and Mr. Schlegel answered the questions during his oral testimony on March 8, 2013. Mr. Schlegel's answers described the utility and Commission processes, the evaluation and measurement approaches, and the use of independent third-party evaluation contractors.

In terms of the utility and Commission processes, energy efficiency programs are:

- Pre-planned. Utilities use the results of the most recent evaluations and field experience to develop the Energy Efficiency Implementation Plans. Stakeholders, including Staff, can provide input to and review the draft Plan, including during the Demand Side Management (DSM) collaborative meetings.

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[25] Ibid.

[26] Schlegel Rate Design Direct Testimony, Pages 3-4; Schlegel Testimony in Partial Opposition to the Proposed Settlement Agreement, Page 15.

- Planned. Utilities develop and file the final Energy Efficiency Implementation Plans using the most recent evaluation results and the best available information from actual field experience (e.g., the most recent costs of energy efficiency measures).
- Reviewed by Staff, Parties, and Stakeholders. Commission Staff and interested parties and stakeholders review and analyze the Energy Efficiency Implementation Plans, and Staff prepare Staff Reports for Commission consideration.
- Approved by the Commission. The Energy Efficiency Implementation Plans are reviewed and approved by the Commission.
- Verified. Utilities verify the actual measures and quantities of measures installed, the costs of the measures, and the actual energy efficiency program costs.
- Evaluated. Independent third-party evaluation contractors evaluate and measure the results of energy efficiency programs, using evaluation approaches and techniques that are widely accepted by the industry and regulators across the country.
- Reported. The results of the verifications and evaluations are reported in the Annual Reports filed by the utilities on March 1st of each year. These Annual Reports are available for Commission and Staff review; and interested parties, including SWEEP, also review the Reports.

In terms of technical approaches, the utilities and independent third-party contractors use analysis, evaluation, and measurement approaches and techniques that produce reliable results. These technical approaches are widely accepted by the industry and have been approved by regulators across the country, and include:

- Pre/post period, treatment/comparison group studies.
- Before and after comparisons of billing data (customer billing data).
- Direct metering of energy use and impact factors such as hours of operation or peak coincidence.
- Survey of customers and market actors (e.g., builders, retailers)
- On-site field verification of measures installed and measure performance.

Independent third-party evaluation contractors, with years of experience in the field, conduct the evaluation studies to ensure objective and independent evaluation of energy efficiency programs.

The combination of effective processes, including Commission review and approval; appropriate technical approaches for analysis, evaluation, and measurement; and the role of independent third-party evaluation contractors ensure that energy efficiency programs are cost-effective, and that reported savings and costs are reliable.

VIII. Nothing in the proposed cost recovery approach should cause TEP to seek a waiver from the Commission's Electric Energy Efficiency Rule or justify Commission approval of a waiver or exemption from the Rule.[27]

The EERP is a cost recovery approach for energy efficiency programs, and a mechanism for TEP to recover its relevant carrying costs. The EERP proposal is not a major shift in energy efficiency or energy resource policy. To that end, nothing in the EERP per se directly affects the level of energy efficiency that TEP will pursue or achieve. Such proposals, discussions, and Commission approvals regarding the level of energy efficiency will still be processed through the Energy Efficiency Implementation Plans. Notably, the requirements in the Commission's Electric Energy Efficiency Rule are considered as part of the Energy Efficiency Implementation Plan process.

The Commission's Electric Energy Efficiency Rule is designed to ensure a minimum level of performance by regulated utilities in achieving cost-effective energy efficiency that lowers costs for customers and achieves other benefits for customers and the electric system, as set forth in the Rule. The Electric Energy Efficiency Rule was unanimously approved by the Commission. The benefits of cost-effective energy efficiency and the opportunities for increasing energy efficiency to benefit customers and reduce utility bills and total customer costs remain very large today. The provisions set forth by the Commission in the Electric Energy Efficiency Rule are appropriate and necessary today to ensure the minimum level of utility performance in energy efficiency. There is nothing in the EERP, or in the Settlement Agreement overall, that would justify TEP seeking a waiver or the Commission granting a waiver or permanent exemption

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[27] Schlegel Responsive Testimony, Pages 4-5.

from the EE Rule.[28] The selection of a cost-recovery approach, whether expensing or amortization/EERP, should not determine the amount of energy efficiency savings to achieve – again, these are simply cost-recovery approaches.

IX. SWEEP remains comfortable with a separate surcharge for DSM, but also supports increased transparency of utility costs and improving customer understanding regarding costs and utility bills.[29]

Mr. Kevin Higgins testified on the value of a separate DSM surcharge, discussed in Commissioner Pierce's letter, and the transparency of costs for customers. SWEEP remains comfortable with a separate surcharge for DSM. SWEEP also supports increased transparency of utility costs and improving customer understanding regarding costs and utility bills. In fact, on several occasions SWEEP has advocated that all major costs, including the costs for each type of energy resource (coal, natural gas, nuclear, renewables, energy efficiency, etc.) and the costs for other components of the bill (transmission, distribution, metering/billing, taxes, etc.) should be disclosed and displayed for customers, to increase the transparency of costs. SWEEP remains concerned that disclosing the costs of energy efficiency without disclosing the costs of other resources and components is biased, unfair, inappropriate, and does not serve to meet an objective of increased transparency for customers.[30] If the Commission prefers to not disclose and make all resource costs transparent, then the DSM surcharge should also not be displayed on the customer bill.

X. Legal Issues

SWEEP generally supports the discussion of legal issues in Section VIII of Tucson Electric Power Company's Initial Post Hearing Brief.

[28] Ibid.
[29] Schlegel Responsive Testimony, Page 5, Lines 20-33.
[30] Ibid.

RESPECTFULLY SUBMITTED this 22nd day of March, 2013.

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