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ORIGINAL

**BEFORE THE ARIZONA
CORPORATION COMMISSION**

IN THE MATTER OF THE
REORGANIZATION OF UNS
ENERGY CORPORATION.

Docket No. E-04230A-14-0011
Docket No. E-01933A-14-0011

**NOTICE OF FILING DIRECT
TESTIMONY OF FRANK GRIJALVA**

Pursuant to the Administrative Law Judge's Procedural Orders dated January 31, 2014 (p. 2) and April 18, 2014 (p. 1), Local Unions 387, 769, and 1116 of the International Brotherhood of Electrical Workers, AFL-CIO, CLC, by and through undersigned counsel, hereby provide notice of their filing of the attached Direct Testimony of Frank Grijalva in this docket.

RESPECTFULLY SUBMITTED this 30th day of April, 2014.

LUBIN & ENOCH, P.C.


Jarrett J. Haskovec

Attorneys for Intervenor IBEW Locals 387,
769, and 1116

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1 Original and thirteen (13) copies of
2 this Notice of Filing
3 filed this 30th day
4 of April, 2014, with:

5 Arizona Corporation Commission
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7 1200 West Washington Street
8 Phoenix, Arizona 85007-2996

9 Copies emailed this same date to:

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1 **I. INTRODUCTION.**

2
3 **Q1. Please state your name and business address.**

4 A1. Frank Grijalva. My business address is 4601 S. Butterfield Dr., Tucson, Arizona 85714.

5
6 **Q2. Please describe any office you hold with a labor organization and your recent**
7 **employment.**

8 A2. I am the Business Manager/Financial Secretary for Intervenor Local Union 1116,
9 International Brotherhood of Electrical Workers, AFL-CIO, CLC (“IBEW Local 1116”).
10 The position of Business Manager/Financial Secretary is an elected union position and,
11 due to the retirement of my predecessor, I was appointed by our Executive Board to my
12 present position in October 2007. I was reelected to my position most recently in June
13 2011. Because all IBEW local unions also have a person holding the position of
14 “President,” it is common for persons outside of our organization to believe that the
15 “President” is the principal officer of the Local. That is not the case. Article 17, §§ 4 and
16 8 of the Constitution of the International Brotherhood of Electrical Workers, AFL-CIO,
17 clearly states that, where such a position exists within the local, the Business
18 Manager/Financial Secretary is the “principal officer” of any IBEW local union.

19
20 Prior to my becoming Business Manager/Financial Secretary for IBEW Local
21 1116, I was employed by the Tucson Electric Power Company (“TEP”) for
22 twenty-two (22) years in a variety of bargaining unit positions, including as a
23 Substation Electrician and most recently as a Designer for Transmission and
24 Distribution Construction. While employed at TEP, I was a very active member
25 of IBEW Local 1116, including previously serving as the Local’s President and in
26 other positions on the Executive Board.

27

28

1 **Q3. What is the purpose of your testimony?**

2 A3. I will testify on the following topics:

- 3 1. An overview of Intervenor IBEW Locals 387, 769, and 1116 (collectively, the
4 “IBEW Locals”) and their relations with UNS Energy Corporation (“UNS
5 Energy”) and its affiliated, regulated, Arizona-based, gas-and-electric utilities;
6 2. An overview of other IBEW locals and their relations with other utility
7 subsidiaries indirectly owned or acquired by Fortis Inc. (“Fortis”); and
8 3. The IBEW Locals’ position on the proposed acquisition of UNS Energy by Fortis
9 and a consideration of the acquisition in light of the no-harm standard and the
10 public interest.
11

12 **II. OVERVIEW OF IBEW LOCALS AND THEIR RELATIONS WITH UNS**
13 **ENERGY AND THE ARIZONA UTILITIES.**
14

15 **Q4. What is IBEW Local 1116?**

16 A4. IBEW Local 1116 is the labor organization that serves as the exclusive representative for,
17 *inter alia*, approximately seven-hundred (700) non-managerial employees of TEP.
18 Among others, such represented employees at TEP include employees in the following
19 crafts and classifications: linemen/cablemen, substation electricians, fuel handlers,
20 electronics technicians, equipment servicemen, field technicians, designers, heavy
21 equipment and transport operators, maintenance electricians, maintenance mechanics, and
22 meter repairmen. IBEW Local 1116 and TEP have entered into a long series of collective
23 bargaining agreements (“CBAs”), dating back to November 16, 1937, concerning rates of
24 pay, wages, hours of employment, and other terms and conditions of employment. The
25 parties negotiate and enter into two separate CBAs, one covering the Tucson area and one
26 covering the Springerville Generating Station. The current 3-year CBAs will remain in
27 effect until at least January 3, 2016.
28

1 IBEW Local 1116 is also the exclusive bargaining representative of approximately one-
2 hundred and ten (110) employees of UNS Gas, Inc. ("UNS Gas"), a utility subsidiary of
3 UniSource Energy Services, Inc. ("UES"). In particular, IBEW Local 1116 represents all
4 of the UNS Gas employees holding the following positions: construction and
5 maintenance crewmen, customer service representatives, dispatchers, material control
6 technicians, meter readers, planners, service technicians, and utility persons. IBEW Local
7 1116 and UNS Gas are likewise parties to a CBA concerning rates of pay, wages, hours
8 of employment, and other terms and conditions of employment at UNS Gas.

9
10 Finally, IBEW Local 1116 represents the non-managerial workforces of Southwest
11 Energy Solutions (also a UNS Energy company), Trico Electric Cooperative, Inc., and
12 Asplundh Tree Expert Company.

13
14 **Q5. What is IBEW Local 769?**

15 A5. Local Union 769, International Brotherhood of Electrical Workers, AFL-CIO, CLC
16 ("IBEW Local 769") is one of our sister locals. IBEW Local 769 is a labor organization
17 which represents non-managerial utility workers throughout the State of Arizona. For
18 example, IBEW Local 769 is the duly elected and recognized exclusive bargaining agent
19 for the employees of the Mohave County Electric Operations of UniSource Energy
20 Services, Mohave Co-Op, Frontier Communications, and Griffith Power Plant. In
21 addition, IBEW Local 769 is the exclusive bargaining agent for nearly six hundred (600)
22 IBEW outside line workers in the State of Arizona. These outside line workers perform
23 outside line construction and maintenance work for signatory electrical contractors
24 throughout the State, including tele-data, street light and trenching. IBEW outside
25 contractors provide such services to various Arizona utilities, among other customers.
26 For instance, Sturgeon Electric is currently working in Tucson for TEP and Atkinson
27 Power is working at a substation in Mohave County for TEP. Mark Cunningham is the
28 Business Manager/Financial Secretary of IBEW Local 769. The Local's Executive Board

1 appointed him to this position in October 2013.

2
3 As it relates to this proceeding, IBEW Local 769 is the exclusive bargaining
4 representative of approximately eighty (80) employees of the Mohave County Electric
5 Operations of UNS Electric, Inc. ("UNS Electric"), another utility subsidiary of UES. In
6 particular, IBEW Local 769 represents all of the UNS Electric employees in Mohave
7 County in the following crafts and positions, among others: linemen, substation
8 electricians, power line locators, electric utility inspectors, metering technicians,
9 equipment operators, groundmen, warehouse persons, meter readers, customer care
10 representatives, engineering technicians, system operators, customer technicians, and
11 maintenance technicians. IBEW Local 769 and UNS Electric are parties to a CBA
12 concerning rates of pay, wages, hours of employment, and other terms and conditions of
13 employment covering such employees. The current 3-year agreement is set to expire, at
14 the earliest, on June 15, 2016.

15
16 **Q6. What is IBEW Local 387?**

17 A6. Like IBEW Local 769, IBEW Local 387 is a labor organization which, for the most part,
18 represents non-managerial utility workers throughout most of the State of Arizona. For
19 example, IBEW Local 387 is the duly elected and recognized exclusive bargaining agent
20 for approximately one-thousand eight-hundred (1,800) employees of Arizona Public
21 Service Company. IBEW Local 387 is also the duly elected and recognized exclusive
22 bargaining agent for a substantial number of employees of Arizona Water Company,
23 Asplundh Tree Expert Company, Graham County Electric Cooperative, Inc., Navopache
24 Electric Cooperative, Inc. (an intervenor here), and the Santa Cruz District of UniSource
25 Energy Services. G. David Vandever is the Business Manager/Financial Secretary of
26 IBEW Local 387. He was originally elected to this position on July 15, 2010 and was
27 recently reelected in July 2013.

1 As it pertains to this proceeding, IBEW Local 387 is the exclusive representative of
2 approximately twenty-eight (28) employees of the Santa Cruz District of UNS Electric.
3 In particular, IBEW Local 387 represents the UNS Electric employees in Santa Cruz
4 County who work in a variety of positions primarily related to the transmission and
5 distribution of electricity, including linemen, metermen, customer servicemen, customer
6 service planners and representatives, instrument electricians, heavy equipment operators,
7 mechanics, plant operators, pipefitters, and welders. IBEW Local 387 and UNS Electric
8 are parties to a CBA concerning rates of pay, wages, hours of employment, and other
9 terms and conditions of employment at UNS Electric for its operations in Santa Cruz
10 County. The present 3-year contract is set to expire, at the earliest, on March 1, 2017.
11

12 **Q7. Did any of the IBEW Locals participate in the proceedings related to the previous**
13 **proposed reorganization of UniSource Energy Corporation in Docket No. E-**
14 **04230A-03-0933?**

15 A7. Yes, IBEW Locals 387 and 769 were granted intervenor status and participated in such
16 proceedings.
17

18 **Q8. Are IBEW Locals 387, 769, and 1116 separate legal entities?**

19 A8. Yes. In addition, it is well-settled that our International Union and its constituent local
20 unions, including my own, are also separate legal entities. That being said, the various
21 IBEW Locals in the State of Arizona meet on a regular basis to discuss issues of mutual
22 concern and, generally speaking, we are familiar with and supportive of each other's
23 actions.
24

25 **Q9. Do any of the IBEW Locals have a stake in this proceeding other than in their**
26 **capacity as labor organizations?**

27 A9. Yes. As a building owner in TEP's service territory, IBEW Local 1116 is also a customer
28 of TEP and thus has a direct interest in the ongoing provision of safe, reasonable, and

1 adequate service from that perspective as well.

2
3 **Q10. Do you believe TEP, UNS Electric, and UNS Gas are responsible corporate citizens?**

4 A10. Overall, yes, we do. While by no means perfect, the relationships between the IBEW
5 Locals and TEP, UNS Electric, and UNS Gas (collectively, the “Arizona Utilities”) are
6 mature and stable. When disputes pertaining to the parties’ contracts do arise between
7 any of the IBEW Locals and one of the Arizona Utilities, such disputes are generally
8 resolved through the parties’ grievance and arbitration procedures, and such resolutions
9 are final and binding on the parties. When a CBA is set to expire, rather than ultimately
10 engaging in a show of economic force and counter-force, the parties sit down and
11 negotiate a new agreement in a constructive manner; such an agreement, once reached, is
12 the product of good-faith bargaining, characterized by give-and-take exchanges, proposals
13 and counter-proposals, between the parties, that is the hallmark of collective bargaining
14 under the National Labor Relations Act. It is clear that this stability has benefitted the
15 Arizona Utilities, their employees, and customers. In my opinion, the importance of the
16 strong and stable relationships between public service corporations and their employees
17 cannot be overstated. I believe that my opinion in this regard is widely shared.

18
19 **III. OVERVIEW OF OTHER IBEW LOCALS AND THEIR RELATIONS WITH**
20 **UTILITY SUBSIDIARIES INDIRECTLY OWNED BY FORTIS.**

21
22 **Q11. Are you aware of any other IBEW locals which have collective bargaining**
23 **agreements with Fortis-owned utility subsidiaries in the U.S. or Canada?**

24 A11. Yes.

25
26 **Q12. Which IBEW locals have such agreements with Fortis-owned, regulated utilities?**

27 A12. I am aware of several IBEW locals with such agreements. I would note that at least some,
28 if not all, of the agreements referenced below are available online. First, in Canada:

- 1 • IBEW Local 636 has had agreements with Canadian Niagara Power Inc. (Ontario);
- 2 • IBEW Local 213 has had agreements (one of which is now expired, but with interest
- 3 arbitration pending at last check)¹ with FortisBC, Inc. (British Columbia);
- 4 • IBEW Local 1432 has had an agreement with Maritime Electric Co., Ltd. (Prince
- 5 Edward Island); and
- 6 • IBEW Local 1620 has had agreements with Newfoundland Power, Inc. (Newfoundland
- 7 and Labrador).

8
9 In the United States, IBEW Local 320 has had agreements with Central Hudson Gas &
10 Electric Corp. (New York), which Fortis formally acquired in June 2013.

11
12 In addition, local affiliates of a variety of other U.S.- and Canada-based labor
13 organizations have had collective bargaining agreements with Fortis-owned subsidiaries.

14
15 **Q13. As Mr. H. Stanley Marshall, President and CEO of Fortis, has summarized in his**
16 **direct testimony in this proceeding (pp. 2-3), Fortis has made a number of**
17 **acquisitions in recent years. Are you aware of any significant labor disputes**
18 **between an IBEW local and an acquired utility that have existed or developed after**
19 **a Fortis acquisition in Canada or the U.S. within the past decade?**

20 A13. With one notable exception concerning FortisBC and its relationship with IBEW Local
21 213 in British Columbia, Canada,² I am unaware of any significant labor disputes, which

22
23 ¹ See British Columbia Labour Relations Board, Collective Agreement, available at
24 <http://www.lrb.bc.ca/cas/WUH4.pdf> (accessed April 19, 2014); FortisBC, News Release: "IBEW
25 213 (electric) accepts FortisBC's Binding Interest Arbitration offer," December 16, 2013, at
[http://www.fortisbc.com/MediaCentre/NewsReleases/2013/Pages/IBEW-213-\(electric\)-accepts-F](http://www.fortisbc.com/MediaCentre/NewsReleases/2013/Pages/IBEW-213-(electric)-accepts-FortisBC%e2%80%99s-Binding-Interest-Arbitration-offer.aspx)
ortisBC%e2%80%99s-Binding-Interest-Arbitration-offer.aspx (accessed April 10, 2014).

26
27 ² See *FortisBC*, BCLRB No. B217/2013, at 3, ¶ 12, November 8, 2013, available at
28 [http://www.lrb.bc.ca/decisions/B217\\$2013.pdf](http://www.lrb.bc.ca/decisions/B217$2013.pdf) (accessed April 19, 2014) (British Columbia
Labour Relations Board noting, by way of background, that a "a lockout was declared on June
26, 2013"); Art Harrison, Trail Daily News, "Fortis pulls plug on talks with union," August 23,

1 have resulted in a strike, lockout, or the issuance of a complaint for unfair labor practices
2 by a government agency and which have existed or developed after Fortis acquired a
3 utility in Canada or the U.S. within the past decade.
4

5 **IV. CONSIDERATION OF THE PROPOSED ACQUISITION BY FORTIS.**
6

7 **Q14. What position do the IBEW Locals take with respect to the proposed acquisition?**

8 A14. On behalf of IBEW Locals 387, 769, and 1116, I am testifying to express the IBEW
9 Locals' qualified support for Fortis Inc.'s ("Fortis") proposed acquisition, through an
10 indirect subsidiary, of UNS Energy and the Arizona Utilities. This support is tempered to
11 some degree by the concerns and reservations set forth below.
12

13 **Q15. In addition to the specific no-harm factors set forth in A.A.C. R14-2-803(C), are
14 there any other overarching considerations the Commission must take into account
15 in determining whether the proposed merger is in the public interest?**

16 A15. Yes. The Arizona Constitution expressly recognizes the status of employees of public
17 service corporations as central stakeholders and their interests as important considerations
18 for any Commission action. Article XV, Section 3 of the Arizona Constitution provides
19 in this regard that "[t]he Corporation Commission shall . . . make and enforce reasonable
20 rules, regulations, and orders for the convenience, comfort, and safety, and the
21 preservation of the health, of the employees and patrons of [public service corporations]."
22 Accordingly, any evaluation of the proposed acquisition must analyze and consider how
23 the deal would impact the Arizona Utilities' employees, their safety, and the Arizona
24 Utilities (and their employees') ability to provide safe, reasonable, and adequate service
25 to customers on an ongoing basis, among other things.
26

27
28 2013, available at <http://www.bclocalnews.com/news/220856331.html> (accessed April 19, 2014).

1 **Q16. Why do you believe the proposed acquisition is overall consistent with the no-harm**
2 **standard and otherwise in the public interest?**

3 A16. There are several reasons. First, Fortis appears to be a well-run company with
4 extensive experience managing and operating regulated utilities. We appreciate
5 the fact that Fortis has never sold an equity interest it has held in a regulated utility
6 and that it seems to take a long-term, strategic approach to growth through
7 acquisitions.

8
9 Second, Fortis will inject \$200 million in equity capital into UNS Energy, which will
10 ultimately aid TEP and UNS Electric in purchasing Unit 3 at the Gila river Power Plant in
11 December 2014.

12
13 Third, we regard the likelihood that the acquisition will improve UNS Energy's access to
14 capital (for example, by improving credit ratings and lowering borrowing costs) as a
15 benefit – ultimately, a benefit for rate payers.

16
17 Fourth, we view several of the labor-related conditions proposed in connection with the
18 merger as constructive and conducive to maintaining strong and stable labor relations in a
19 post-merger environment. Among other things:

20
21 (1) Fortis has committed to honoring the collective bargaining agreements currently in
22 effect between the Arizona Utilities and the IBEW Locals. While the IBEW Locals
23 appreciate Fortis publicly affirming that it will fulfill the contractual obligations of the
24 Arizona Utilities it is seeking to acquire, I note that all of the agreements with the IBEW
25 Locals contain successorship language providing that the agreements shall be binding on
26 any successor or assign of the utility concerned, whether by merger, consolidation, or
27 otherwise. The language in some of the agreements further expressly obligates the utility
28 concerned to make a condition of any transfer that the successor or assign shall be bound

1 by the terms of the agreements. Excerpts of the successorship provisions in the two
2 agreements between TEP and IBEW Local 1116 (one covering Tucson and one covering
3 Springerville) and the agreements between UNS Electric and IBEW Locals 387 and 769
4 are attached hereto as Exhibits A, B, C, and D respectively.

5
6 (2) The local management of the Arizona Utilities will continue to make decisions
7 concerning staffing levels and hiring practices and will negotiate future collective
8 bargaining agreements with the IBEW Locals. All other things being equal, we believe
9 that local management is more likely to be sensitive to, and in touch with, local issues and
10 concerns and the realities in Tucson, Flagstaff, Nogales, Kingman, Lake Havasu City, and
11 Springerville than executives living and working thousands of miles away would be.

12
13 (3) Fortis has also made the following qualified commitment with respect to maintaining
14 its current level of employment:

15 To provide continuity in the management and staffing of the Arizona Utilities,
16 and ensure that the necessary human resources are maintained to continue the
17 delivery of safe and reliable service to customers, the current level of
18 employees of the Arizona Utilities (union and management) will be retained
19 for a period of at least two years following the closing under their respective
20 current conditions of employment, subject to changes in the ordinary course of
21 business. The Arizona Utilities reserve the right to take disciplinary and any
22 other actions it determines necessary or appropriate within their existing labor
23 agreements and employee relations practices. The Arizona Utilities also agree
24 to file a report with the Commission within 30 days after the first two
25 anniversary dates of the merger's closing comparing the level of union and
26 management employees on the anniversary date to the levels on the date upon
27 which the merger is closed.

28 Exh. BVP-7 to Direct Testimony of Barry V. Perry. While we have some concerns about
this commitment, we agree it is important to "provide continuity in the management and
staffing of the Arizona Utilities" and to "ensure that the necessary human resources are
maintained to continue the delivery of safe and reliable service to customers."

**Q17. Now, you listed the maintenance of employee levels and reporting obligations
proposed to be in effect for two (2) years after the merger as a benefit of the merger.**

1 **Do you have any reservations or concerns about any aspect of this commitment?**

2 A17. Yes, we do. We are concerned about the lack of clarity as to the scope and precise extent
3 of any obligation undertaken in this regard as well as the limited duration of the
4 obligation.

5
6 **Q18. Please explain what you mean by a lack of clarity as to the scope and extent of any**
7 **obligations flowing from this term.**

8 A18. Certainly. Fortis has committed to maintaining employee levels for two (2) years post-
9 merger, “subject to changes in the ordinary course of business.” Frankly, with the
10 additional qualifying language, it is unclear what precise commitment or obligation Fortis
11 is undertaking here. This phrase is extremely open-ended, its terms are ill-defined, and
12 the commitment is candidly potentially illusory. In effect, it is like saying, “We commit
13 not to engage in lay-offs or other measures to reduce the workforce for two years, unless
14 we feel we should.” A Fortis-owned subsidiary could invoke this business justification to
15 opt out of its commitment to maintain employment levels based on minimally-changed
16 circumstances and with no immediate oversight or check in place. This commitment is
17 further qualified as follows: “The Arizona Utilities reserve the right to take disciplinary
18 and any other actions it determines necessary or appropriate within their existing labor
19 agreements and employee relations practices.” While the IBEW Locals do not deny the
20 Arizona Utilities have the right to take disciplinary actions *vis-à-vis* particular employees
21 *where the utility concerned can show just or proper cause* for such actions under the
22 terms of the contracts with the Locals, this provision goes farther than simply reserving
23 that right. It also reserves the right to take “any other actions it determines necessary or
24 appropriate within their existing labor agreements and employee relations practices.”
25 Under several of the CBAs with the Arizona Utilities, this could include the right to lay
26 employees off. Again, it is difficult to see precisely what Fortis is committing to in this
27 regard. Indeed, it hardly appears to constrain the company at all.

1 **Q19. Please explain what concerns you about the limited duration of this commitment.**

2 A19. In recent years, it is clear that the Arizona Utilities have undertaken significant cost-
3 saving measures in an effort to control Operations and Maintenance (“O&M”) expenses,
4 including, for certain of the Arizona Utilities, reducing employee levels, limiting the
5 replacement of employees lost to attrition, and curtailing overtime.

6
7 For instance, in support of its 2011 application for a rate increase, the General Manager
8 for UNS Gas noted that between December 31, 2008 and December 31, 2010, UNS Gas
9 reduced its workforce by thirteen (13) positions, or six percent (6%) of its overall
10 workforce.³ He further observed that UNS Gas was, at the time of the filing of his
11 testimony in April 2011, “close to the employment levels that the Company had in 2005,”
12 in part due to a selective replacement of personnel lost due to attrition.⁴ UNS Gas saved
13 \$130,000 in budgeted overtime in 2010 alone.⁵ Finally, he noted that UNS Gas
14 “constantly ask[s] our employees to do more” in light of the then-prevailing economic
15 conditions.⁶ Along these same lines, I noted in my pre-filed direct testimony in the same
16 UNS Gas rate case that, as of November 2011, there were approximately ten (10) less
17 bargaining unit employees than there were in June 2009 (a reduction from approximately
18 110 down to 100 bargaining unit employees, or a 9.1% reduction).

19
20 Likewise, prior to the economic downturn, IBEW Local 769 formerly represented about
21 one hundred (100) employees of UNS Electric. Over the course of the past half-dozen or
22 so years, the company chose not to fill a number of positions that were vacated. As a
23 result, employment levels were reduced by approximately twenty (20) so that IBEW

24
25 ³ Direct Testimony of Nathan C. Shelley, at p. 5, l. 14 to p. 7, l. 2 (G-04204A-11-0158).

26 ⁴ *Id.*

27 ⁵ *Id.*

28 ⁶ *Id.*

1 Local 769 now represents eighty (80) employees, a twenty-percent (20%) reduction in
2 bargaining unit positions.

3
4 The same is true for the UNS Electric workforce represented by IBEW Local 387.

5 Whereas, in 2007, UNS Electric employed approximately thirty-four (34) employees in
6 Nogales who were represented by IBEW Local 387, today – seven (7) years later – there
7 are only about twenty-eight (28) bargaining unit employees remaining in Santa Cruz
8 County. This loss of six (6) employees or positions within the bargaining unit represents
9 a 17.6% reduction.

10
11 The IBEW Locals' concerns about guarding against any potential future reductions in
12 overall employment are compounded by the reality that the Arizona Utilities will be
13 facing waves of retirements within the next few years among many of their most
14 experienced and highly skilled employees. In other words, not only have the number of
15 employees who daily, directly, and substantially contribute to the provision of safe and
16 reliable service to customers been reduced in recent years in order to control operating
17 costs during a time of limited growth in sales and customer bases. Instead, the Arizona
18 Utilities will face a further loss of employees – including many of those with extensive
19 experience, expertise, and institutional knowledge – due to impending retirements. For
20 example, in its 2012 general rate case, TEP recently acknowledged that it will need to
21 address this issue in the years to come. It noted that fully forty percent (40%) of its 469
22 energy service delivery employees will be eligible to retire between 2012 and 2016.⁷
23 Even more troubling than the sheer magnitude of anticipated retirements is that “[t]he
24 majority of these retirement-eligible employees hold skilled craft positions, making their

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28 ⁷ Direct Testimony of Michael J. DeConcini, at p. 19, ll. 10-16 (Docket No. E-01933A-12-0291).

1 replacement much more difficult.”⁸

2
3 Allow me to give one example to illustrate this concern. As I noted in my pre-filed direct
4 testimony, filed in December 2012 in Docket No. E-01933A-12-0291, TEP employs
5 journeyman substation electricians whose duties include performing preventative and
6 corrective maintenance of substation transformers; transformer Load Tap Changers; Gas
7 Oil, Vacuum & Air Circuit Breakers; Circuit Switchers; and Motor Operated Switches,
8 among other things. Substation journeymen also test substation transformers, perform
9 infrared inspections and oil sampling for lab analysis, and construct new substations with
10 all of this equipment from the ground up. Finally, these journeymen respond to after-hour
11 callouts whenever equipment malfunctions.

12
13 When journeymen substation electricians who have worked at TEP for a decade or more
14 retire – a set of circumstances TEP will increasingly face in the years to come – they take
15 with them their experience, skill, and knowledge about the TEP system, company culture
16 (including its positive safety culture), operating procedures, and applicable safety rules
17 and standards, among other things. Thirty-one percent (31%) of the employees in this
18 classification were retirement eligible as of December 2012, and by the end of 2016, fully
19 fifty percent (50%) of these journeymen will be retirement eligible. However, replacing
20 such key electrical workers by hiring upon their retirement simply will not work. To
21 become a substation journeyman, one must complete a one-year pre-apprenticeship that
22 includes course work and testing, followed by an additional 8,000 hours, or
23 approximately four (4) years, of on-the-job training with not less than 640 hours of
24 related classroom instruction and further rounds of testing. It generally takes even longer
25 to hone one’s skills and develop additional expertise. Accordingly, TEP and the other
26 Arizona Utilities should not only be maintaining overall employee counts; instead, they

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28 ⁸ *Id.*

1 have an interest in actively investing in employee recruitment and training to address the
2 anticipated loss of skilled craft and other employees to retirement.

3
4 Cutting O&M costs in order to keep overall budgets in line has its limits obviously. The
5 Arizona Utilities did a good job managing costs during the economic downturn.
6 However, at some point, waves of successive cuts necessarily erodes a utility's ability to
7 provide safe, reasonable, and adequate gas and electric service. Our concern is that
8 further reductions in employee levels would impair the Arizona Utilities' ability to
9 provide fundamental services, particularly as growth picks up. Accordingly, and against
10 this backdrop, it is important to guard against such an eventuality and to ensure it does
11 not occur, particularly in light of the pressure Fortis will likely face to provide an
12 immediate return on investment to its investors following the consummation of the
13 merger. While Fortis's commitment to maintain employee levels for two (2) years is a
14 start in this regard, we do not believe it goes far enough to mitigate this risk adequately.

15
16 **Q20. Do you have any recommendations for addressing these concerns?**

17 A20. Yes, we do. The IBEW Locals recommend that the Joint Applicants' commitment to
18 maintain employee levels, and the concomitant reporting obligations, be extended from
19 two (2) to four (4) years as a condition of the approval of the merger. The language
20 employed in conveying the terms of the commitment to maintain employee levels should
21 also be reviewed and reexamined to address the concerns highlighted above.

22
23 **Q21. Are you aware of any precedent for a Fortis commitment to extend the no-lay-off
24 period to more than two (2) years in the context of an acquisition?**

25 A21. Yes, I am. Last year, Fortis indirectly acquired Central Hudson Gas & Electric
26 Corporation ("Central Hudson"). The acquisition, which was Fortis's first acquisition of
27
28

1 a regulated utility in the U.S., became effective on June 26, 2013.⁹ In the context of that
2 proceeding, the Recommended Decision cited concerns relating to “workforce
3 uncertainty” and the possibility of a post-acquisition downsizing as part of its rationale
4 for recommending a rejection of the acquisition bid, notwithstanding the presence of a
5 commitment of Fortis – strikingly similar to those made here – to maintain employee
6 levels (union and non-union) for two (2) years post-merger and to report on employee
7 levels for two (2) years following the merger.¹⁰ Fortis offered to extend its “no lay-off”
8 commitment for both union and non-union employees from two (2) to four (4) years.¹¹ In
9 approving the takeover bid, the New York Public Service Commission accepted this
10 unilateral enhancement, required Fortis to likewise extend the reporting requirement on
11 employee levels from two (2) to four (4) years, and conditioned the approval of the
12 merger on such enhancements, among others.¹² Such measures are reasonable steps to
13 ensure that Fortis is adequately invested in and committed to the continued success and
14 vitality of the Arizona Utilities.

15
16 **Q22. Does this conclude your testimony?**

17 **A22. Yes.**

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24 ⁹ See Direct Testimony of H. Stanley Marshall, at p. 3, ll. 16-19 (Docket Nos. E-04230A-
25 14-0011/E-01933A-14-0011); NYPSC Case 12-M-0192, Order Authorizing Acquisition Subject
to Conditions, June 26, 2013 (hereinafter “Central Hudson Acquisition Order”).

26 ¹⁰ Central Hudson Acquisition Order, at 4, 32-33.

27 ¹¹ *Id.* at 48.

28 ¹² *Id.* at 50-52, 58-59.

EXHIBIT A

Labor Agreement

between



Tucson Electric Power

and

Local Union 1116
of the
International Brotherhood
of
Electrical Workers



Affiliated with the American Federation of Labor
and
The Congress of Industrial Organizations

January 21, 2013 - January 3, 2016
Tucson, Arizona

AGREEMENT

THIS AGREEMENT, made and entered into this 21st day of January 2013 between TUCSON ELECTRIC POWER COMPANY hereinafter call the "Company" and Local Union No. 1116 of the INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS (AFL-CIO), hereinafter called the "Union." THIS AGREEMENT shall bind the successors and the assigns of the Company by merger or consolidation as to the provisions and territory covered by this Agreement with respect to all Bargaining Unit employees.

WITNESSETH. That:

IT IS HEREBY AGREED between the Company and the Union that this Agreement constitutes the entire agreement between the parties, and previous agreements are hereby superseded.

EXHIBIT B

Labor Agreement

between

Tucson Electric Power Company
Springerville Generating Station



and

Local Union 1116
of the
International Brotherhood
of
Electrical Workers

Affiliated with the American Federation of Labor
and
The Congress of Industrial Organizations

January 21, 2013 - January 3, 2016
Springerville, Arizona

AGREEMENT

THIS AGREEMENT, made and entered into this twenty first day of January 2013 between TUCSON ELECTRIC POWER COMPANY *SPRINGERVILLE GENERATING STATION*, hereinafter called the "Company" and Local Union No. 1116 of the INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS (AFL-CIO), hereinafter called the "Union." This Agreement shall bind the Successors and Assigns of the Company by merger or consolidation as to the provisions and territory covered by this Agreement with respect to all Bargaining Unit employees.

WITNESSETH, That:

IT IS HEREBY AGREED between the Company and the Union that this Agreement constitutes the entire agreement between the parties, and previous agreements are hereby superseded.

EXHIBIT C

AGREEMENT

Between

**THE INTERNATIONAL BROTHERHOOD
OF ELECTRICAL WORKERS
IBEW LOCAL UNION 387**



And

**UNS ELECTRIC, INC.
UNS GAS, INC.
SANTA CRUZ COUNTY OPERATIONS**

**UniSourceEnergy
SERVICES**

March 1, 2014 – February 28, 2017

AGREEMENT

THIS AGREEMENT, entered into this first day of March 2014 by and between UNS Electric, Inc., and UNS Gas, Inc., Santa Cruz County Operations, corporations, its successors and assigns, hereinafter referred to as the "Company" and the International Brotherhood of Electrical Workers, Local Union No. 387 of Phoenix, Arizona, affiliated with the American Federation of Labor - Congress of Industrial Organizations, hereinafter referred to as the "Union".

WITNESSETH

That for the purpose of facilitating the peaceful adjustment of differences that may arise from time to time, and to promote harmony and efficiency to the end that the Company, the Union, and the general public may mutually benefit, the parties hereto contract and agree with each other as follows:

ARTICLE I - RECIPROCAL COVENANTS AND UNION RECOGNITION

Section 1. The Company recognizes the Union as the exclusive bargaining agency for wages, hours, and other conditions of employment for all employees of the Company in the departments and classifications listed on Exhibit "A" in Santa Cruz County, Arizona only.

Section 2. This agreement shall be binding on any and all successors and assigns of the Company, whether by sale, transfer, merger, acquisition, consolidation, lease, receivership, bankruptcy or otherwise and whether the transfer be of the Company or of the Santa Cruz Operations. The Company shall make it a condition of transfer that the successor assigns shall be bound by the terms of this Agreement. It is the intent of the parties that this Agreement shall remain in effect for its full term and bind the successor or assigns of the respective parties.

Section 3. During the term of this agreement and during any period of time while negotiations are in progress between the parties hereto for the extension or renewal of this Agreement, the Company agrees that there will be no lockout.

Section 4. The Company is engaged in public service requiring continuous operations and it is agreed that recognition of such obligation of continuous service during the term of this agreement is imposed upon both the Company and the employees represented by IBEW Local 387. All grievances of employees shall be handled as hereinafter provided.

EXHIBIT D

AGREEMENT

Between

**THE INTERNATIONAL BROTHERHOOD
OF ELECTRICAL WORKERS
IBEW LOCAL UNION 769**



And

**UNS ELECTRIC, INC.
MOHAVE COUNTY ELECTRIC OPERATIONS**

**UniSourceEnergy
SERVICES**

June 16, 2013 – June 15, 2016

Certified in NLRB Cases No. 28-RC-1262 & 28-RC-6213

AGREEMENT

THIS AGREEMENT is entered into this 16th day of June, 2013 by and between the Mohave County Electric Operations of UNS Electric, Inc., an Arizona corporation, hereinafter referred to as "Company" or "Employer", and Local Union 769, International Brotherhood of Electrical Workers, affiliated with the AFL-CIO, hereinafter referred to as "Union".

Whereas, the employees of the Company agree that they will, individually and collectively, perform loyal and efficient work and service for the Company, and that they will use their influence and best efforts to protect the property of the Company and its service to the public, and that they will cooperate in promoting and advancing the welfare of the Company, and the protection of its service to the public at all times.

Whereas, the parties hereto desire to facilitate the peaceful adjustment of differences that may from time to time arise between them to promote harmony and efficiency so that the Company, the Union and the general public may benefit therefrom, and to establish rates of pay, hours, and other conditions of employment for certain hereinafter designated employees of the Company, therefore, the parties hereto agree as follows:

ARTICLE 1 RECOGNITION

1.1 For the purpose of collective bargaining with respect to rates of pay, wages, hours of employment and other conditions of employment, the Company recognizes the Union as the exclusive representative of the employees of UNS Electric, Inc., Mohave County Electric Operations, who are employed in the classifications specified in Article 27, EXHIBIT "A", for whom the National Labor Relations Board certified the Union in Cases No. 28-RC-1262 and 28-RC-6213, and where the term "Employee" or "Employees" is used in the Agreement, it refers only to individuals employed in those classifications and to those which may have been subsequently agreed upon by the parties.

1.2 Successors. This agreement shall be binding on any and all successors and assigns of the Company, whether by sale, transfer, merger, acquisition, consolidation, lease, receivership, bankruptcy or otherwise and whether the transfer be of the Company or of the Mohave County Electric Operations. The Company shall make it a condition of transfer that the successor assigns shall be bound by the terms of this Agreement. It is the intent of the parties that this Agreement shall remain in effect for its full term and bind the successor or assigns of the respective parties.

ARTICLE 2 TERM OF AGREEMENT

2.1 This agreement shall be effective as of June 16, 2013 and shall remain in full force and effect up to and including June 15, 2016 and thereafter from year to year, unless and until either the Company or the Union serves written notice on the other, at least sixty (60) days prior to said date, that it