

**Final Resolution on Unbundled Electric Price Plans and Related Matters --
April 12, 1999**

**RESOLUTION OF THE BOARD OF DIRECTORS OF
THE SALT RIVER PROJECT AGRICULTURAL
IMPROVEMENT AND POWER DISTRICT SETTING
FORTH A FINAL DECISION ON REHEARING OF
THE DECEMBER 7, 1998 RESOLUTION THAT
ADOPTED UNBUNDLED ELECTRIC PRICE PLANS
AND RELATED MATTERS.**

WHEREAS, on May 29, 1998, the State of Arizona enacted the Electric Power Competition Act ("Act"), with an effective date of August 21, 1998, to allow competition in the retail sale of electric generation and other specified electric services within the distribution service territories of public power entities, including the Salt River Project Agricultural Improvement and Power District ("SRP");

WHEREAS, the Act requires the Board of Directors of SRP ("Board") to conduct a public process and to determine the terms and conditions for implementation of competition;

WHEREAS, the Board began compliance with the Act in advance of its effective date to complete the requirements contained therein in a timely manner and to allow sufficient time for consideration of public comments and input;

WHEREAS, the Board on April 13, 1998 appointed the Customer Choice Committee to develop a recommendation to the Board on terms and conditions for implementation of competition in compliance with the Act;

WHEREAS, on August 14, 1998, following extensive public hearings and proceedings that exceeded the requirements of the Act, and based upon the recommendations of the Customer Choice Committee, the Board established terms and conditions for competitive electric services ("Terms and Conditions"), as set forth in its resolution dated August 14, 1998 ("August 14 Resolution");

WHEREAS, on September 3, 1998, pursuant to A.R.S. §30-810, Tucson Electric Power Company ("TEP"), the Land and Water Fund, the Office of the Attorney General ("Attorney General"), and the Arizona Consumers Council ("Consumers Council") (collectively "September 3 Applicants for Rehearing") each filed an application for rehearing (collectively "September 3 Applications for Rehearing") that requested reconsideration of certain aspects of the August 14 Resolution;

WHEREAS, the Board accepted and considered the September 3 Applications for Rehearing even though the August 14 Resolution was adopted prior to the effective date of the Act and A.R.S. §30-810;

WHEREAS, the Board by resolution dated September 14, 1998 granted rehearing and directed that: (i) the issues raised in the September 3 Applications for Rehearing be determined in conjunction with the proceedings to reconsider the Terms and Conditions and to establish new bundled and unbundled prices; and (ii) the Customer Choice Committee conduct a public process to hear additional evidence and argument on the issues raised in the September 3 Applications for Rehearing and report to the Board with recommendations by November 9, 1998;

WHEREAS, the Board by resolution dated October 5, 1998 directed that: (i) special Board meetings be held on November 9 and 30, 1998 to consider the September 3 Applications for Rehearing, to reconsider the Terms and Conditions, to consider new bundled and unbundled prices, and to afford interested persons a reasonable opportunity to orally present their views, questions and comments and to pose questions to management and consultants on these matters; and (ii) notice of the special Board meetings be provided;

WHEREAS, consistent with Board resolutions dated February 2, 1998, August 3, 1998, and October 5, 1998, public notice of the special Board meetings to be held on November 9 and 30, 1998 was given on October 2, 1998 by publication in a newspaper of general circulation within SRP's electric service territory and by a mailing to standard electric rate schedule customers, the governing bodies of the cities, towns and counties within SRP's distribution service area and others;

WHEREAS, on October 21, 1998, the Customer Choice Committee conducted the rehearing proceeding, following public notice, to hear the arguments and evidence of the September 3 Applicants for Rehearing and management on the issues raised in the September 3 Applications for Rehearing, and to receive public comments;

WHEREAS, a special Board meeting was held on November 9, 1998, at which time the Customer Choice Committee presented a report on the rehearing proceeding and public comments were received;

WHEREAS, on November 13, 1998, the Customer Choice Committee issued its Report and Recommendations to the Board of Directors on Rehearing ("November 13 Report and Recommendations on Rehearing") that recommended certain changes to the Terms and Conditions adopted in the August 14 Resolution;

WHEREAS, a special Board meeting was held on November 30, 1998, at which time the Customer Choice Committee presented its November 13 Report and Recommendations on Rehearing and public comments were received;

WHEREAS, through November 30, 1998, the Customer Choice Committee accepted written comments on its November 13 Report and Recommendations on Rehearing and on the issues raised in the September 3 Applications for Rehearing;

WHEREAS, at the special Board meeting held December 7, 1998, public comments were received on the Customer Choice Committee's November 13 Report and Recommendations on Rehearing and on the issues raised in the September Applications for Rehearing, and the Board adopted three resolutions: (i) the "Resolution Of The Board Of Directors Of The Salt River Project Agricultural Improvement And Power District Setting Forth A Final Decision On Rehearing Of The August 14, 1998 Resolution Adopting Terms And Conditions For Competitive Electric Services" ("December 7 Rehearing Resolution"); (ii) the "Resolution Of The Board Of Directors Of The Salt River Project Agricultural Improvement And Power District Setting Forth A Final Decision Adopting Revised Terms And Conditions For Competitive Electric Services" ("December 7 Revised Terms And Conditions Resolution"); and (iii) the "Resolution Of The Board Of Directors Of The Salt River Project Agricultural Improvement And Power District Adopting Unbundled Electric Price Plans And Related Matters" ("December 7 Pricing Resolution") (collectively "December 7 Resolutions");

WHEREAS, Consumers Council, on December 23, 1998, and the Attorney General and TEP, on December 28, 1998, filed Applications for Rehearing of the December 7 Resolutions (collectively "December 28 Applications for Rehearing");

WHEREAS, the Board at its meeting on January 4, 1999: (i) granted rehearing to consider the matters raised in the December 28 Applications for Rehearing, with the exception of the portion of the Attorney General's application pertaining to the Code of Conduct which was not timely; and (ii) directed the Customer Choice Committee to conduct a public process to hear additional evidence and argument on the issues raised in the December 28 Applications for Rehearing and report to the Board with recommendations by March 1, 1999;

WHEREAS, on January 6, 1999, written notice of the Board's January 4, 1999 decision was mailed to Consumers Council, the Attorney General, and TEP (collectively "December 28 Applicants for Rehearing");

WHEREAS, on January 14, 1999, public notice of rehearing, of the schedule for the rehearing proceeding, and of the Board's March 1, 1999 meeting was mailed to interested persons;

WHEREAS, on January 29, 1999, management filed its Brief in response to the December 28 Applications for Rehearing;

WHEREAS, on February 5, 1999, the Customer Choice Committee conducted the rehearing proceeding to hear the arguments and evidence of the December 28 Applicants for Rehearing and management on the issues raised in the December 28 Applications for Rehearing, and to receive public comments;

WHEREAS, on February 12, 1999, the Customer Choice Committee issued its Report and Recommendations on Rehearing of the December 7 Resolutions ("February 12 Report and Recommendations on Rehearing");

WHEREAS, through February 26, 1999, the Customer Choice Committee accepted written comments on its February 12 Report and Recommendations on Rehearing and on the issues raised in the December 28 Applications for Rehearing;

WHEREAS, a Board meeting was held on March 1, 1999, at which time the Customer Choice Committee presented its February 12 Report and Recommendations on Rehearing and public comments were received;

WHEREAS, on March 12, 1999, the Customer Choice Committee issued a Revised Report and Recommendations on Rehearing of the December 7 Resolutions ("March 12 Revised Report and Recommendations on Rehearing");

WHEREAS, in order to provide additional opportunity for the submission of public comments, SRP extended the rehearing schedule and accepted through March 29, 1999 comments on the Customer Choice Committee's March 12 Revised Report and Recommendations on Rehearing and on the issues raised in the December 28 Applications for Rehearing;

WHEREAS, public notice of the Board meeting to be held April 12, 1999 was provided to interested persons on February 22, 1999;

WHEREAS, at the Board meeting held this date, the Customer Choice Committee presented its March 12 Revised Report and Recommendations on Rehearing, public comments were received on the March 12 Revised Report and Recommendations and the issues raised in the December 28 Applications for Rehearing, and the Board adopted this resolution and the "Resolution Of The Board Of Directors Of The Salt River Project Agricultural Improvement And Power District Setting Forth A Final Decision on Rehearing of the December 7, 1998 Rehearing Resolution And the December 7, 1998 Resolution That Adopted Revised Terms And Conditions For Competitive Electric Services"; and

WHEREAS, the Board has considered the December 28 Applications for Rehearing, the oral arguments and evidence presented in support of the December 28 Applications for Rehearing, management's arguments and evidence in response to the December 28 Applications for Rehearing, the public comments, the Customer Choice Committee's reports and recommendations, and the record in the competition and rehearing proceedings in its entirety.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT AND POWER DISTRICT AS FOLLOWS:

Section 1. Recitation of Authority -- Pursuant to A.R.S. §30-801, *et seq.*, and A.R.S. §48-2301, *et seq.*, and based upon review and careful consideration of the record compiled in the competition and rehearing proceedings, the Board adopts this resolution to set forth its final decision on rehearing of the December 7 Pricing Resolution.

Section 2. Proceedings -- The Board finds as follows:

- A.** The Applications for Rehearing submitted by Consumers Council, the Attorney General, and TEP were timely filed and should be considered by the Board, with the exception of the portion of the Attorney General's application pertaining to the Code of Conduct which was not timely.
- B.** The conduct of the rehearing proceeding and the special Board meetings, and the acceptance of written and oral comments on the rehearing issues and on the Customer Choice Committee's reports, provided an extensive opportunity for public participation in the rehearing proceeding that exceeded the requirements of A.R.S. §30-810.
- C.** Public notices of the rehearing proceeding and the special Board meetings were duly provided.

Section 3. Rehearing -- The Board agrees with and adopts the discussion, findings, and recommendations of the Customer Choice Committee, as set forth in its March 12 Revised Report and Recommendations on Rehearing, which is attached to this Resolution as Exhibit 1 and incorporated by reference.

- A.** Consistent with the March 12 Revised Report and Recommendations on Rehearing, the Board hereby denies the Applications for Rehearing on all issues and, in support of that decision, finds as follows:
1. SRP's authority to set rates under A.R.S. §48-2334(E) in conjunction with its authority to establish a surcharge to recover stranded costs under A.R.S. §30-805(A)(3) provide the requisite legal basis for stranded cost recovery.
 2. Stranded cost recovery is not a disguised or converted rate increase and the Board did not falsely promise a rate decrease. There is no price increase. A.R.S. §30-805(B) and (C) expressly prohibit an increase, and SRP has complied with that law. The record demonstrates mathematically not only that a price increase has not occurred, but that SRP has reduced its bundled offer price by an overall 5.4 percent.
 3. The prices established in the December 7 Pricing Resolution are not excessive, unjust, and unreasonable, and will not produce excessive earnings.
 4. Under well-established law, a public entity that provides service to the public, such as SRP, has the right to earn a return on the property devoted to the service and to use the earned return for authorized purposes. The inclusion of a return on capital in SRP's prices is not unlawful.
 5. SRP's right to earn a return on the property devoted to public service entitles SRP to a return that is comparable to the return for investor-owned utilities.
 6. The inclusion of a return on capital in SRP's prices does not violate the Act or A.R.S. §30-805(A)(1).
 7. The use of the funds to provide support for water service in accordance with A.R.S. §48-2303(A)(6) and other legal authority does not violate the Act or A.R.S. §30-805(A)(1).
 8. The record evidence establishes that the level of prices and earnings approved in the December 7 Pricing Resolution are reasonable and appropriate.

9. No legal conflict of interest arose from the participation of Board members of the SRP Agricultural Improvement and Power District (“District”) who also serve as Board members of the Salt River Valley Water Users Association (“Association”) in the determinations of stranded costs and return on capital contained in the December 7 Pricing Resolution.
 10. The record evidence establishes that SRP will incur stranded costs as a direct result of competition. SRP’s recovery of stranded costs and assessment of the CTC are lawful and consistent with the provisions of the Act and A.R.S. §30-805(A)(3).
 11. The pricing proceeding was legislative in nature, and met or exceeded applicable statutory requirements. SRP provided adequate time for interested persons to prepare for the pricing proceeding. SRP afforded interested persons sufficient opportunity to prepare and present comments and evidence on pricing matters. The conduct of the pricing proceeding did not violate federal or state constitutional due process rights.
 12. The pricing proceeding was legislative in nature, and met or exceeded applicable statutory requirements. Discovery and cross-examination are not required by the law for legislative proceedings or specifically by statute for SRP’s pricing proceedings. The conduct of the pricing proceeding did not violate federal or state constitutional due process rights.
 13. SRP’s pricing proceeding was legislative in nature and the comments and arguments that were presented in the proceeding by management and interested persons constitute evidence and became part of the evidentiary record even though not they were not sworn statements. As a result, there is evidence in the record to support the findings and decisions made by the Board.
- B.** In addition to the findings and recommendations contained in the March 12 Revised Report and Recommendations on Rehearing, the Board, in further support of the decision and findings set forth in Section 3(A) of this resolution, finds as follows:
1. No legal conflict of interest arose from the participation of dual members of the District and Association Boards in the determinations of stranded costs and return on capital for the further reason that the conflict of interest statutes expressly include as a “remote interest”, not subject to disclosure, the following: “That of a recipient of public services generally provided by the

incorporated city or town, political subdivision or state department, commission, agency, body or board of which he is a public officer or employee, on the same terms and conditions as if he were not an officer or employee.” A.R.S. § 38-502(10)(g).

2. We want to be clear on the imposition of the CTC. Customers who do not switch energy suppliers are being charged cost-based energy prices. As long as the customer remains as a standard-offer SRP customer, the components of the cost-based energy price, the CTC, and the market-based energy component, are identified *because of the unbundling requirement of the statute*. The CTC is assessed as a non-bypassable charge *only* to those customers who choose an alternative energy supplier.
3. The total generation price currently being charged to customers (including the CTC and the market based component of generation) is cost based and is justified by SRP’s authority to charge cost-based prices to its customers.
4. The prices are set at a level reasonably necessary for SRP to maintain adequate financial integrity and to have reasonable access to competitive markets. The prices are nondiscriminatory and reflect the just and reasonable price for providing the service. Distribution prices do not consider the profits or losses associated with electric generation service. The CTC is allocated among customer classes in a manner consistent with the current price treatment of the stranded assets, in order to effect a recovery of unmitigated stranded costs that is in substantially the same proportion as the recovery of similar costs from customers or customer classes under current prices.

Section 4. Rejection of Arguments -- The Board rejects all arguments and positions advanced by participants in the rehearing proceeding that are contrary to or inconsistent with the findings and directives adopted by this resolution.

Section 5. Record -- The Board hereby incorporates by reference the records in the pricing, competition, and rehearing proceedings in their entirety, including, without limitation, all of the material in the information room, management's proposals and comments, the consultants' reports, the comments of customers and the public, the reports of the Customer Choice Committee, the transcripts of the proceedings and meetings, and the Board's resolutions.

Section 6. Effective Date -- The effective date of this resolution is April 12, 1999.