

December 3, 2014

Via FERC eFiling

Kimberly D. Bose
Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, DC 20426

Re: *Alternna Springerville LLC, et al., v. Tucson Electric Power Company*
Docket No. EL15-17-000
Answer to Complaint

Dear Ms. Bose:

Enclosed, please find Tucson Electric Power Company's Answer to the Complaint of Alternna Springerville LLC, *et al.*, submitted in the above-referenced docket. Thank you for your attention to this matter. Please direct any questions to the undersigned.

Sincerely,

/s/ Jeffrey M. Jakubiak

Jeffrey M. Jakubiak
Jason J. Fleischer
Jennifer C. Mansh

Counsel to Tucson Electric Power Company

Enclosures

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

Alterna Springerville LLC, LDVF1 TEP LLC,))	
Wilmington Trust Company, and))	
William J. Wade,))	
Complainants))	
)	
v.))	Docket No. EL15-17-000
)	
Tucson Electric Power Company,))	
Respondent))	

**ANSWER TO COMPLAINT
OF TUCSON ELECTRIC POWER COMPANY**

Pursuant to Rule 213(a) of the Commission’s Rules of Practice and Procedure,¹ Tucson Electric Power Company (“Tucson Electric”) submits this Answer to the Complaint of Alterna Springerville LLC, *et al.* filed in the captioned docket on November 7, 2014.

I. INTRODUCTION

The Commission should dismiss the Complaint forthwith as Tucson Electric has offered Complainants² transmission service to move power out of the Springerville Generating Station (“Springerville”) located in eastern Arizona in a manner fully in accordance with its obligations under the 1992 Facility Support Agreement (the “1992 FSA”) at issue.³

Yet, Complainants are not satisfied. They claim that the locations to which Tucson Electric has offered to wheel the power are not “commercially feasible,” despite the fact that

¹ 18 C.F.R. § 385.213(a) (2014).

² Complainants are Alterna Springerville LLC (“Alterna”), LDVF1 TEP LLC (“LDVF1”), Wilmington Trust Company, and William J. Wade. Owing to the trust arrangement governing Complainants’ interests in Unit 1 of the Springerville Generating Station, owner/trustees Wilmington Trust Company and William J. Wade hold certain rights under the 1992 Facility Support Agreement at issue here and/or undertook certain actions pursuant to such agreement, while owner/lessors Alterna and LDVF1 hold other rights and/or undertook other actions. In an effort to simplify this Answer, Tucson Electric at times refers to one or more of Complainants simply as “Complainants” even if such reference should technically be only to a subset thereof.

³ The 1992 FSA was submitted as Attachment D to Exhibit 1 of the Complaint.

nowhere in the 1992 FSA does that term, or any term like it, appear. Rather, Complainants want Tucson Electric to wheel the power to Palo Verde—and only Palo Verde—despite the fact that there is no available transmission capability (“ATC”) to move that power there. Additionally, Complainants accuse Tucson Electric of contractual and other violations as a result of it failing to provide Complainants firm transmission service from Springerville to Palo Verde—again, over a transmission path that presently has zero ATC.

All of Complainants’ accusations are misplaced. Rather: (i) Tucson Electric has fully complied with the terms of the 1992 FSA, (ii) its granting of transmission service to the Salt River Project Agricultural Improvement and Power District (“SRP”) had no bearing on Complainants’ transmission service request, and (iii) Tucson Electric rightfully maintained its existing rights on portions of the Springerville to Palo Verde path in order to serve reliably its native load. In addition, Tucson Electric has never actually denied Complainants’ transmission service application.⁴ Rather, the request is in limbo as a result of Complainants’ failure to provide a deposit as required by Tucson Electric’s Open Access Transmission Tariff (“OATT”).

As explained in the Complaint and herein, Complainants and other parties lease to Tucson Electric an 85.9 percent interest in Springerville Unit 1 (“SGS1”) pursuant to leases that will expire by their terms on January 1, 2015.⁵ Pursuant to the terms of those leases, Tucson Electric elected in 2013 to purchase a 35.4 percent interest in SGS1 from three of the

⁴ *Contrast* Complaint at 1 (“[Tucson Electric] has (i) denied firm transmission service. . . .”), *and id.* at 18 (“By using transmission capacity on this path for transmission of electricity from Gila River while denying transmission service needed by Alterna and LDVF1 on that path, [Tucson Electric] is violating its fiduciary duty to the Complainants under Section 2.1 of the 1992 FSA.”), *and id.* at 19 (“By denying Alterna and LDVF1 firm transmission service from SGS to Palo Verde. . . .”). *But see id.* at 14 (“Were Alterna and LDVF1 to be denied such transmission service, as [Tucson Electric] is attempting now to do. . . .”).

⁵ Tucson Electric presently owns the remaining 14.1 percent.

owner/lessors at the end of the respective lease terms, but declined to exercise its purchase option with Complainants, which hold a combined 50.5 percent interest in SGS1.⁶

For most of 2014, Tucson Electric and Complainants have engaged in extensive discussions regarding the operation of SGS1, the costs properly allocable to Complainants, and other matters including ATC. Thus far, these discussions have been largely unproductive and Complainants bring this Complaint less than two months before the leases expire—along with a host of other pleadings before the Commission in other, unrelated proceedings—in an attempt to have the Commission adjudicate a contractual dispute regarding transmission service to move Complainants’ power out of SGS1.

For the reasons set forth herein, Tucson Electric respectfully requests that the Commission dismiss the Complaint.

II. ANSWER

The Complaint lacks merit and should be dismissed, as Tucson Electric has complied with the 1992 FSA that forms the basis of the Complaint and has otherwise complied with its OATT and applicable Commission law and precedent.

A. Tucson Electric Did Not Violate the Terms of the 1992 FSA

Contrary to Complainants’ assertions, Tucson Electric has not violated the 1992 FSA by failing to grant Complainants firm transmission service, nor by granting SRP transmission service, nor by reserving firm transmission for its own load-serving needs.

⁶ Each of the SGS1 leases includes a fair market value purchase option. In 2011, Tucson Electric and all of the SGS1 owners/lessors completed a formal appraisal procedure to determine the fair market purchase price of SGS1 in accordance with the leases. Tucson Electric thereafter sought judicial confirmation of the appraisal results in Federal District Court (Case No. CV-12-00323-TUC-JGZ). In the proceeding, the SGS1 lessors/owners, including Complainants, alleged that the appraisal process failed to yield a legitimate purchase price for their appraised interest. The Court denied Tucson Electric’s petition on the grounds that the Court lacks jurisdiction in the matter. The three owners/lessors whose interest Tucson Electric elected to purchase ultimately agreed to sell their interests at the appraised value.

1. Tucson Electric Did Not Violate the Terms of the 1992 FSA in Failing to Grant Complainants Firm Transmission Service

The Complaint twists the language of the 1992 FSA in an effort to impose upon Tucson Electric an obligation and to claim rights for Complainants, which simply do not exist in the 1992 FSA. Tucson Electric has abided fully by the terms of the 1992 FSA as written and intends to continue to abide by these terms.

The Complaint alleges that Tucson Electric has violated Section 5.1 of the 1992 FSA by failing to grant Complainants firm transmission service from Springerville to Palo Verde.⁷ As quoted in the Complaint, Section 5.1 states—in its entirety:

SECTION 5.1. Wheeling Service. From and after the Lease Termination Date with respect to any Owner Trustee, Tucson [Electric] shall wheel such Owner Trustee's Entitlement Share of all Energy generated by [SGS]1 and the surpluses purchased from Tucson [Electric] and scheduled by such Owner Trustee pursuant to Section 5.7, on a firm (and not interruptible) and nondiscriminatory basis, over transmission facilities of Tucson [Electric] from [SGS]1 to a point or points of interconnection specified from time to time by Tucson [Electric] subject to such Owner Trustee's reasonable approval (each, a "Point of Interconnection") with transmission facilities owned by another utility and subject to jurisdiction under the Federal Power Act, as amended.⁸

At its fundamental core, the section requires Tucson Electric to wheel energy to one or more points of interconnection: (1) *specified by Tucson Electric* and (2) *subject only to the "reasonable approval" of Owner Trustee*—i.e., Complainants. Tucson Electric's obligation is fulfilled when it has offered to wheel power to one or more points of interconnection that provide access to transmission facilities owned by other utilities, which Tucson Electric offered. These offers should have been viewed as reasonable by Complainants.

⁷ Complaint at 15-17.

⁸ *Id.* at 13-14; 1992 FSA § 5.1 (underlining in original).

(a) The Complaint Erroneously Seeks to Equate “Commercially Feasible,” “Commercially Reasonable,” and “Reasonably Acceptable” with “Reasonable Approval”

Contrary to Complainants’ assertions, Section 5.1 of the 1992 FSA does not give them unfettered veto rights over the points of delivery offered by Tucson Electric. Rather, Complainants must act reasonably in this regard. They have not done so. Instead, Complainants twist the language of Section 5.1 and seek to impose on Tucson Electric a greater or more precise obligation than that set forth in the 1992 FSA. Specifically, Complainants seek to impose upon Tucson Electric an obligation to deliver energy to one or more locations that are “commercially feasible”⁹ or “commercially reasonable”¹⁰ or “reasonably acceptable”¹¹ to Complainants. The Complaint uses the three terms interchangeably with each other and with “reasonable approval”—the term in Section 5.1 of the 1992 FSA. But neither the term “commercially feasible” nor “commercially reasonable” nor “reasonably acceptable” appears anywhere in the 1992 FSA. Rather, the 1992 FSA simply provides that Complainants’ have an obligation to give “reasonable approval” to the point(s) of delivery specified by Tucson.

The Complaint discusses at some length a 1982 Revenue Ruling of the Internal Revenue Service (the “1982 IRS Revenue Ruling”)¹² and a 1986 R.W. Beck appraisal and memoranda¹³ but these documents are irrelevant parol evidence and have no place in the issue at hand because the terms of the 1992 FSA are clear and unambiguous.¹⁴ Complainants have not argued, nor

⁹ Complaint at 4, 9, 10, 12, 14, 23, 24.

¹⁰ *Id.* at 8, 16.

¹¹ *Id.* at 3, 4, 14, 15, 16, 19, 21, 23.

¹² *Id.* at 8-10.

¹³ *Id.* at 10-11.

¹⁴ The Commission has repeatedly “found that, when the terms of a contract are clear and unambiguous, the terms of the contract control and the Commission is not to consider parol evidence to interpret the contract’s intention.” *Duquesne Light Co. et al.*, 138 FERC ¶ 61,111 at P 25 (2012). *See also Pac. Gas & Elec. Co.*, 107

(Cont'd on next page)

could they have, that the language of Section 5.1 is ambiguous or unclear. Instead, the Complaint attempts to confuse the issue by seeking to replace the plain language found in Section 5.1 of the 1992 FSA with three terms that do not appear in the 1992 FSA. In doing so, the Complainants seek to improperly have the Commission consider extrinsic evidence as support for their assertion that the Commission should rewrite the 1992 FSA.

Even if the Commission were to conclude that this extrinsic evidence should be considered here, these documents have little, if any, probative value.

First, although the term “commercially feasible” appears in the 1982 IRS Revenue Ruling, that fact has no bearing here.¹⁵ The 1982 IRS Revenue Ruling is a specific ruling by the Internal Revenue Service for other parties, was unrelated to Springerville, and was not based on the facts or parties involved here. In addition, the 1982 IRS Revenue Ruling is not embodied in either the 1992 FSA (or even the 1986 FSA before it). Neither FSA incorporated that Revenue Ruling by reference, nor did either FSA state that it was the intent of the parties to enter into an agreement consistent with that Revenue Ruling. Simply put, the term “commercially feasible” is nowhere to be found in the 1992 FSA and there is thus no basis for Complainants to assert in any manner that Tucson Electric is obligated to deliver the energy to one or more “commercially feasible” locations.

(Cont'd from previous page)

FERC ¶ 61,154 at P 19 (2004) (“when the language of a contract is explicit and clear. . . then the court may ascertain the intent from the written terms and not go further.”); *Mid-Continent Area Power Pool*, 92 FERC ¶ 61,229 at 61,755 (2000) (when a contract’s terms are clear, it is to be construed according to its literal terms and extrinsic evidence cannot be used to alter or contradict the contract’s express terms). Similarly, under Arizona law, parol evidence may be used “[w]here. . . an ambiguity exists on the face of [a] document or the language admits of differing interpretations,” or “the contract language is ‘reasonably susceptible’ to the interpretation asserted by [the parol evidence’s] proponent.” *Johnson v. Earnhardt’s Gilbert Dodge, Inc.*, 212 Ariz. 381, 384 (2006) (internal quotations and citations omitted).

¹⁵ See Complaint at 8. The terms “commercially reasonable” and “reasonably acceptable,” however, do not appear in the 1982 Internal Revenue Service Ruling, the 1986 FSA, or 1992 FSA. It thus appears that Complainants have made these terms up from whole cloth.

Second, all of these documents date from 1986, six years before the 1992 FSA was executed. While these documents are contemporaneous with the **1986** FSA—which was amended and restated by the 1992 FSA—that original FSA did not impose on Tucson Electric any post-lease transmission obligations. Further, there is no evidence that the parties relied upon, or even considered, these documents when entering into the 1992 FSA. Thus, even if Complainants could overcome the Commission’s application of the parol evidence rule here, these documents are not probative to the issue of Tucson Electric’s transmission obligations under the 1992 FSA.

In short, the claim that delivery points nominated by Tucson Electric must be either “commercially feasible,” “commercially reasonable,” or “reasonably acceptable” is completely unfounded and the Complaint has over-reached by trying to impose upon Tucson Electric such an obligation.

(b) Tucson Electric Has Acted Reasonably in Offering San Juan and Four Corners as Points of Delivery; Complainants Have Acted Unreasonably In Rejecting These Offers

Consistent with its obligations under Section 5.1 of the 1992 FSA, Tucson Electric has offered to deliver Complainants’ SGS1 power to San Juan and/or Four Corners, and proposed other arrangements that would obviate the need for Complainants to obtain transmission service.¹⁶ Complainants rejected these offers but *Tucson Electric stands by them notwithstanding the Complaint, should Complainants choose to withdraw the Complaint.*

Both of the delivery points offered by Tucson Electric are reasonable. Unfortunately,

¹⁶ Complaint at 16 (“[Tucson Electric] has offered to transmit Alterna’s and LDVF1’s scheduled entitlement shares of energy from SGS[1] to either the San Juan Generating Station or the Four Corners Power Plant. . . .”). Let there be no doubt, Tucson Electric would grant any appropriate request by Complainants for transmission service from Springerville to Palo Verde, or any other delivery points meeting the 1992 FSA requirements, if firm ATC were available.

Complainants have acted unreasonably and in violation of the 1992 FSA by declining these offers by Tucson Electric.

Rather than approve these reasonable delivery points, Complainants insist that the “only” acceptable delivery point on Tucson Electric’s system is Palo Verde.¹⁷ They claim that only Palo Verde provides Alterna and LDVF1 with a “commercially feasible” market into which to sell their energy.¹⁸ According to the Complaint, the other delivery points offered by Tucson Electric—San Juan and Four Corners—“are too illiquid and/or would require [Alterna and LDVF1] to incur pancaked transmission rates on systems of other public utilities in order to have Alterna’s and LDVF1’s scheduled entitlement shares of energy from SGS[1] delivered to Palo Verde.”¹⁹

The Complaint highlights the unreasonable nature of Complainants’ rejection of Tucson Electric’s offer. Complainants are afraid that sales at San Juan or Four Corners will suppress prices there and/or that wheeling their energy from those locations to Palo Verde will cost too much.²⁰ In other words, Complainants are concerned that they will not get paid on a net basis as much at San Juan or Four Corners as they would at Palo Verde.

Whether Complainants could earn more at Palo Verde than at San Juan or Four Corners is not material here. Tucson Electric has ATC from Springerville to San Juan and Four Corners, both of which are reasonable delivery points, and Tucson Electric has acted reasonably in

¹⁷ *Id.* (emphasis in original).

¹⁸ *Id.* at 4 (“[Tucson Electric]’s refusal to transmit Alterna’s and LDVF1’s scheduled entitlement shares of energy to Palo Verde deprives Alterna and LDVF1 of the ability to sell electricity from their entitlement shares of SGS[1]’s output into the only markets in which the sale of such electricity is commercially feasible.”); *see also id.* at 16 (“The only delivery point on TEP’s system that is commercially reasonable for sale of energy from Alterna’s and LDVF1’s entitlement shares of electricity from SGS[1] is Palo Verde.”) (emphasis in original).

¹⁹ *Id.* at 4.

²⁰ *Id.* at 16.

offering those locations as points of delivery. It is Complainants that have been unreasonable in rejecting these offers and instead insisting on delivery to Palo Verde. As noted, “reasonable approval,” as that term is used in Section 5.1 of the 1992 FSA, does not mean “commercially feasible,” or “commercially reasonable” or even “reasonably acceptable” as Complainants would have the Commission believe.

**(c) San Juan and Four Corners Are “Commercially Feasible”
Points of Delivery**

Even if the Commission were to find that the term “reasonable approval” under Section 5.1 of the 1992 FSA equates to “commercially feasible,” or one of the other terms used by Complainants, it should find that San Juan and Four Corners are both commercially feasible points of delivery.

As explained in the attached Affidavit of Michael Bowling (“Bowling Affidavit”), San Juan and Four Corners are both liquid locations and the prices at Four Corners for spot transactions are similar to prices for energy traded at Palo Verde.²¹ Further, presentations of the Commission’s Office of Market Oversight have shown spot prices at Four Corners during the period 2009 to 2013 *being higher* at times than those at Palo Verde.²² In addition, as explained by Mr. Bowling, owing to the ability of entities to move power between Four Corners, San Juan, Palo Verde, and other locations in the Southwest, the offering of additional power at San Juan

²¹ The Bowling Affidavit is attached hereto as Attachment 1. There are no published index prices at San Juan from which Mr. Bowling was able to conduct an analysis similar to the analyses he performed for Four Corners.

²² See *Southwest Annual Average Bilateral Prices*, <http://www.ferc.gov/market-oversight/mkt-electric/southwest/elec-sw-yr-pr.pdf> (last visited Dec. 2, 2014); *2013 State of the Markets*, Presentation at Commission Open Meeting of March 20, 2014, Agenda Item No. A-3, at Slide 9 (archived at <http://www.ferc.gov/market-oversight/reports-analyses/st-mkt-ovr/2013-som.pdf> (last visited Dec. 2, 2014)).

and/or Four Corners may very well lead to additional demand at Four Corners in order to take advantage of this newly offered power.²³

Complainants' assertion that San Juan and Four Corners are not "commercially feasible" locations is simply not supported by the data. Complainants are thus unreasonable in their rejection of San Juan and Four Corners as delivery points and in their unsupported demand for delivery of their output to Palo Verde.

2. Tucson Electric Did Not Violate the Terms of the 1992 FSA in Granting SRP's Transmission Service Requests

The Complaint alleges that Tucson Electric has violated Section 2.1 of the 1992 FSA by granting firm transmission service to SRP.²⁴ This argument also lacks merit.

Section 2.1 of the 1992 FSA states in pertinent part that "Tucson [Electric] agrees. . . not to take any action, including any modification or amendment to or waiver of the Project Documents, thereunder or permit any action to be taken thereunder which would have any adverse effect on any Owner Trustee or on its respective Undivided Interest."²⁵ Tucson Electric's grant of transmission service to SRP, however, did not adversely affect Complainants.

As explained in the attached Affidavit of Ed Beck, the transmission rights granted by Tucson Electric to SRP on the Springerville-Coronado Line did not undermine Complainants' efforts to obtain firm transmission service from Springerville to Palo Verde. The path to Coronado and the path to Palo Verde radiate out in separate directions from Springerville (the former to the Northwest and the latter to the South).²⁶ As also explained by Mr. Beck, the

²³ Bowling Affidavit at 4.

²⁴ Complaint at 17-19.

²⁵ 1992 FSA § 2.1.

²⁶ See map included as Exhibit A to Attachment 2, Affidavit of Ed Beck.

transmission rights awarded to SRP over the Springerville-Coronado Line had (and continue to have) no bearing on the calculation of ATC between Springerville and Palo Verde.²⁷

The mere fact that the Springerville-Coronado Line is part of the “San Juan-Springerville-Vail Transmission System,”²⁸ as defined in a participation agreement between joint owners Tucson Electric and Public Service Company of New Mexico (“PNM”), has no impact on the ATC between Springerville and Palo Verde. As discussed by Mr. Beck and shown on Exhibit A to his Affidavit, the Springerville-Coronado Line is essentially a radial line off of the “trunk” that runs from San Juan to Springerville and then through Vail to Palo Verde. Use of this radial line does not affect the ATC between Springerville and Palo Verde that is the subject of Complainants’ concern.²⁹ Tucson Electric admits that there is no ATC at this time for firm transmission from Springerville to Vail, but this fact is not in any way the result of SRP’s transmission rights over the Springerville-Coronado Line. Even if SRP had no transmission rights over the Springerville-Coronado Line, there would still be no ATC for firm transmission from Springerville to Vail.

B. Complainants Are Not Due the Same Rate as that Charged by Tucson Electric to SRP

Tucson Electric and SRP entered into certain transmission service agreements (“TSAs”) as a “stopgap” measure so that SRP could wheel power to its load pending the consummation of a transaction pursuant to which Tucson Electric will sell SRP an undivided interest in the Springerville-Coronado Line (the “Transaction”).³⁰ The rates provided by Tucson Electric to

²⁷ Beck Affidavit at 3-4.

²⁸ See Complaint at 17, 19.

²⁹ Beck Affidavit at 3-4.

³⁰ See generally *Tucson Elec. Power Co.*, Docket No. ER15-124-000 (filing of TSAs); *Tucson Elec. Power Co.*, Docket No. EC15-31-000 (application for FPA section 203 approval of the Transaction).

SRP under the TSA reflects the costs that SRP would incur as a partial owner of the Springerville-Coronado Line and are part and parcel of the larger Transaction. Thus no undue discrimination has occurred.³¹ Further, the points of receipt and delivery under the TSAs are not the same as those sought by Complainants. Thus, even were it not for the TSAs being unique, Complainants would not be entitled to a similar rate.

1. Background of the TSAs

In and around 2003, Tucson Electric was developing Springerville Units 3 and 4, for Tri-State Generation and Transmission Association (“TSGT”) and SRP respectively. SRP purchased 100 MW of the output of Springerville Unit 3 from TSGT and intended to develop Springerville Unit 4 for its own needs. Tucson Electric and SRP thus recognized the need for SRP to obtain a firm transmission path out of Springerville so it could move this power to load. Accordingly, and in accordance with an interconnection study between Tucson Electric and SRP, Tucson Electric agreed in 2003 to construct upgrades to the Springerville-Coronado Line, paid for by SRP, which would provide the capacity needed for SRP to deliver the output of SRP’s planned Springerville Unit 4 and the additional 100 MW that SRP had purchased from TSGT. Tucson Electric and PNM (as joint owners of the San Juan-Springerville-Vail Transmission System) also agreed ultimately to transfer a *pro rata* share of ownership in the upgraded path to reflect SRP’s payment for the incremental capacity created in the Springerville-Coronado Line as a result of the upgrades.

Springerville Unit 3 entered commercial service in July 2006 and Springerville Unit 4 entered commercial service in December 2009. In March 2010, Tucson Electric and SRP recognized that consummation of the Transaction was not imminent, yet SRP needed firm

³¹ *Contrast* Complaint at 20.

transmission to wheel power from Springerville to its native load. Accordingly, they entered into a TSA (the “2010 TSA”) to move 523 MW from Springerville to Coronado.

In recognition of the fact that the 2010 TSA was merely a “stopgap” measure pending consummation of the Transaction, the parties agreed that Tucson Electric would charge a rate on terms “economically equivalent” to the costs that SRP would incur as a partial owner of the Springerville-Coronado Line after consummation of the Transaction. Because the San Juan-Springerville-Vail Transmission System is jointly owned by Tucson Electric and PNM, the transfer of ownership to SRP required modifications to the transmission system participation agreement between Tucson Electric and PNM. The negotiation process between the three parties to work out the details of such modifications extended over several years.³² During the time that, while the parties continued to work towards finalization of the Transaction, Tucson Electric and SRP extended the 2010 TSA on several occasions and then entered into three “back to back” TSAs starting March 16, 2013. The most recent TSA was entered into on September 19, 2014 (the “September 2014 TSA”).

2. The September 2014 TSA

By its terms, the September 2014 TSA is to run until the earlier of: (i) September 17, 2015 or (ii) the date of consummation of the Transaction. This TSA provides for 623 MW of firm, bidirectional, point-to-point transmission service over the Springerville-Coronado Line. Under this TSA, Tucson Electric is to charge SRP \$19,012 per month, plus an allocable portion of the operating and maintenance costs that Tucson Electric incurs as a partial owner of the line

³² Tucson Electric filed an Amended and Restated San Juan-Springerville-Vail Participation Agreement on October 30, 2014, in Docket No. ER15-251-000.

(based on the principle that these are the costs SRP would incur as a partial owner of the line).³³ As negotiated by Tucson Electric and SRP, and as stated in Section 8.1 of the September 2014 TSA, this charge represents the parties' best estimate of the costs that would be incurred by SRP should it own an undivided interest in the line pursuant to the Transaction. Thus, the September 2014 TSA was designed to replicate, as close as practicable, the economics of the Transaction during its pendency.

3. Tucson Electric Has Not Unduly Discriminated Against Alterna and LDVF1, Nor Are Alterna or LDVF1 Owed a Discount for Transmission Service

The Complaint alleges that:

It is unreasonable and unduly discriminatory for [Tucson Electric] to be offering to provide transmission service to [SRP] over the same portion of its transmission system as that which would be used to deliver electricity on behalf of Alterna and LDVF1 at rates which are substantially lower than those offered to Alterna and LDVF1.³⁴

Based on this claim, the Complaint states that “[Tucson Electric] should be required to offer transmission service to Alterna and LDVF1 at discounted rates that are commensurate with those being charged to [SRP].”³⁵ Complainants are mistaken on several fronts and their request should be denied.

First, the line over which Tucson Electric is providing SRP transmission service is not “the same portion of [Tucson Electric’s] transmission system as that which would be used to deliver electricity on behalf of Alterna and LDVF1. . . .”³⁶ The Springerville-Coronado Line is

³³ See September 2014 TSA § 8.1, filed as FERC Service Agreement No. 356 of Tucson Electric Power Company in Docket No. ER15-124-000 on Oct. 17, 2014.

³⁴ Complaint at 20.

³⁵ *Id.*

³⁶ *Id.*

part of the San Juan-Springerville-Vail Transmission System, but is a radial line off of the trunk of the San Juan-Springerville-Vail 345 kV line.³⁷ Transmission service on the Springerville-Coronado Line over which SRP takes service is fully separate from service from Springerville to Palo Verde over which Alterna and LDVF1 seek service. Complainants are thus factually mistaken and misleading in stating that SRP is taking service over “the same portion of [the Tucson Electric] transmission system”³⁸ as that over which they seek service.

Second, Tucson Electric has not otherwise acted improperly in granting transmission service to SRP. Commission policy expressly permits discounting of transmission service. Consistent with this policy, Tucson Electric agreed to provide service to SRP over the Springerville-Coronado Line at a charge based on SRP’s intent to become a partial owner of the line, and only over that line. Commission policy does not require that Tucson Electric offer the same discount over other lines,³⁹ yet this is what Complainants seek. As noted, the Springerville-Palo Verde path over which Alterna and LDVF1 seek to take transmission service is fully separate and apart from the Springerville-Coronado Line. Thus, notwithstanding any discount offered or provided by Tucson Electric on the Springerville-Coronado Line, it is not required to offer or provide that same discount (or even one similar to it) on the transmission path sought by Alterna and LDVF1.

³⁷ See Beck Affidavit at Ex. 1 (map of Arizona transmission system).

³⁸ Complaint at 20.

³⁹ See Order No. 888-A, FERC Stats. & Regs. ¶ 31,048 at 30,180 (1997) (explaining that transmission path “discount[s] will be limited to those unconstrained paths that go to the same point(s) of delivery as the discounted service being provided on the transmission provider’s system.”).

C. Tucson Electric Has Not Unduly Discriminated Against Complainants or in Favor of its Own Generation

In a series of disjointed statements, the Complaint alleges that Tucson Electric “granted an undue preference to its own generation with regard to transmission access”⁴⁰ and violated Attachment C of its OATT by failing to “set aside” sufficient and “reasonably acceptable. . . [t]ransmission capacity. . . for [Tucson Electric] to fulfill [its] commitment” under the 1992 FSA.⁴¹ Both allegations lack merit. Tucson Electric requires continued use of the Springerville to Vail portion of the Springerville to Palo Verde path to serve reliably its native load obligations, just as it has used that path since before it established its OATT.

1. Tucson Electric Needs the Springerville to Palo Verde Path to Serve Native Load

As discussed briefly in the Complaint and extensively in Tucson Electric’s application in Docket No. EC14-88-000 which is currently pending before the Commission, Tucson Electric presently owns and holds leases in SGS1, a 424.8 MW (nameplate) generating unit.⁴² The leases will all expire on January 1, 2015, but Tucson Electric will be purchasing additional ownership interests in SGS1 totaling 35.4 percent at the time the leases expire.⁴³ Insofar as Tucson Electric presently leases all of SGS1, the combination of the lease expirations and purchases of interests will result in a decrease of approximately 215 MW (nameplate) in Tucson Electric’s generating capacity at SGS1.

⁴⁰ Complaint at 2. *See also id.* at 5 (“[Tucson Electric] unduly discriminates against Alterna and LDVF1 and provides an undue preference to generation owned by [Tucson Electric] and others.”).

⁴¹ *Id.* at 21. It is unclear precisely to what “commitment” the Complaint refers, but Tucson Electric believes the Complaint is referring to Section 5.1 of the 1992 TSA, discussed above.

⁴² More specifically, Tucson Electric currently owns 14.1 percent of SGS1 and leases the remaining capacity of the unit. SGS1 has summer net dependable capability of 387 MW.

⁴³ *See Tucson Elec. Power Co.*, 143 FERC ¶ 62,120 (2013) (approving purchase of leased interests pursuant to FPA section 203).

Tucson Electric is a traditional, vertically-integrated electric utility in a state that lacks retail open access. As such, Tucson Electric has significant load obligations and is required to plan and operate its system in manner that ensures the efficient, cost-effective, and reliable service of this load. In order to compensate for this loss of generating capacity at SGS1, Tucson Electric will soon acquire a 75 percent interest in the 550 MW (net) Block 3 of the Gila River Power Station (“Gila Block 3”) located in Gila Bend, Arizona.⁴⁴ But to use this Gila Block 3 power to serve load, Tucson Electric must wheel this power “home” over a congested transmission system.

The Gila River Power Station is located to the west of Tucson Electric’s load while the Springerville Generating Station is located to the east. Ideally, Tucson Electric would bring all of its power from Gila Block 3 onto its system from the west, but there is insufficient transmission capacity to do so. Accordingly, Tucson Electric has made arrangements to wheel a portion of the Gila Block 3 power over third-party lines to Coronado (to the northeast of its load) and then to Springerville where this power has been designated to replace the portion of SGS1 that Tucson Electric will no longer control. This power, together with Tucson Electric’s owned share of power from SGS1, will utilize transmission capacity that has historically been set aside for Tucson Electric to move SGS1 power to its service territory in order to serve its native load.

Bringing this power from Springerville to Tucson Electric’s load will necessarily use segments of the transmission line that interconnects Springerville and Palo Verde—the same transmission line over which Complainants seek transmission service. Unfortunately, that line has zero ATC and has had zero ATC since Tucson Electric first adopted an OATT in 1996.

⁴⁴ Tucson Electric will acquire a 75 percent ownership interest in Gila Block 3 and its affiliate, UNS Electric, Inc., will acquire the remaining 25 percent interest. *See generally Tucson Elec. Power Co., et al.*, 149 FERC ¶ 61,056 (2014) (approving under FPA section 203 the purchase and sale of Gila Block 3).

Tucson Electric did not “take. . . transmission capacity”⁴⁵ on the Springerville to Palo Verde path in order wheel power from Gila Block 3 to load. Rather, all that Tucson Electric has done here is substitute certain of its SGS1 rights as a network resource with a portion of Gila Block 3 in order to continue to serve this same load.

Congress and the Commission have recognized the importance of native load obligations and, thus, the rights of load-serving entities to use—and to reserve—transmission to serve native load.

The Commission recognized such priority of native load in Order No. 888 and its progeny.⁴⁶ In the very passage of Order No. 888-A quoted at length in the Complaint, the Commission recognized that the right of first refusal by existing transmission customers is not absolute. Rather, it held that “Order No. 888 permits utilities to reserve existing transmission capacity to serve the needs (current and reasonably forecasted) of its existing native load (retail) customers.”⁴⁷ In Order No. 888-B, the Commission clarified that this reservation may extend also to the transmission provider’s “wholesale native load growth and network customers’ load growth.”⁴⁸

⁴⁵ Complaint at 3-4 (“[Tucson Electric] plans to take that transmission capacity after the Lease Agreements expire and dedicate that capacity to carrying energy from its own recently-acquired asset, the Gila River Power Station. . .”).

⁴⁶ See generally *Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Services by Public Utilities; Recovery of Stranded Costs by Public Utilities and Transmitting Utilities*, Order No. 888, FERC Stats. & Regs. ¶ 31,036 (1996), *order on reh’g*, Order No. 888-A, FERC Stats. & Regs. ¶ 31,048, *order on reh’g*, Order No. 888-B, 81 FERC ¶ 61,248 (1997), *order on reh’g*, Order No. 888-C, 82 FERC ¶ 61,046 (1998), *aff’d in relevant part sub nom. Transmission Access Policy Study Group v. FERC*, 225 F.3d 667 (D.C. Cir. 2000), *aff’d sub nom. New York v. FERC*, 535 U.S. 1 (2002).

⁴⁷ Order No. 888-A, FERC Stats. & Regs. ¶ 31,048 at 30,198. Although Commission policy provides that utilities should state in the preexisting contract that the right of first refusal is limited by forecasted native load needs, *id.*, utilities should not be held to this requirement in the case of contracts, like the 1992 FSA, that predate the establishment of the Commission’s policy. See, e.g., *So. Co. Servs. Inc., v. FERC*, 416 F.3d 39, 47 (D.C. Cir. 2005); *Tex.-N.M. Power Co. v. El Paso Elec. Co.*, 108 FERC ¶ 63,045 at P 60 (2004).

⁴⁸ Order No. 888-B, 81 FERC ¶ 61,248, at 62,084.

In addition, Congress has recognized the importance of firm transmission to serve native load. In the Energy Policy Act of 2005, Congress added FPA section 217(b)(2) which states, *inter alia*, “Any load-serving entity. . . is entitled to use the firm transmission rights. . . in order to deliver the output [of generating facilities] to the extent required to meet the service obligation of the load-serving entity.”⁴⁹ Further, section 217(k) states: “An entity that to the extent required to meet its service obligations exercises rights described in [section 217](b) shall not be considered by such action as engaging in undue discrimination or preference under this chapter.”⁵⁰ As characterized by the Commission:

The intent of section 217(k) is to preserve the use of certain firm transmission rights to the extent required to meet the service obligations of a class of specified utilities. ***The statute thus protects these utilities’ continued use of protected firm transmission rights during periods of constraint or emergency, when service might not otherwise be available.***⁵¹

If Tucson Electric acted in the manner Complainants’ desire, it might lack sufficient transmission capacity to serve its native load. It is nonsensical, and inconsistent with Order Nos. 888, *et al.*, and FPA section 217, to think that Complainants believe Tucson Electric should put its load at risk by giving Complainants point-to-point transmission rights over this line when

⁴⁹ 16 U.S.C.S. § 824q(b)(2).

⁵⁰ 16 U.S.C.S. § 824q(k). Section 217(f) states that “[n]othing in this section shall provide a basis for abrogating any contract or service agreement for firm transmission service or rights in effect as of August 8, 2005.” *Id.* at § 824q(f). Tucson Electric, however, is not seeking to abrogate Complainants’ rights under the 1992 FSA. *Contrast* Complaint at 23 (“the Commission has no intention of allowing public utilities to abrogate transmission contracts. . .”). Rather, it seeks merely to limit Complainants’ rights to the unambiguous terms of the 1992 FSA.

⁵¹ *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890-A, 121 FERC ¶ 61,297 at P 541 (2007) (emphasis added).

that transmission capacity has been and will continue to be needed by Tucson Electric to serve its native load.⁵²

2. Tucson Electric’s OATT Does Not Require a “Set Aside”

The Complaint alleges that Tucson Electric violated its OATT by failing to “set aside” sufficient “[t]ransmission capacity. . . for [Tucson Electric] to fulfill [its] commitment” under the 1992 FSA.⁵³ While the 1992 FSA may be a pre-Order No. 888 grandfathered agreement, Attachment C of the OATT, cited by Complainants, does not actually require a set aside for grandfathered agreements. Rather, it merely states that ATC is to exclude any capacity set aside for such agreements.⁵⁴ It does not provide for what types of agreements require a set aside nor how any such set aside is to be determined. Thus, any obligation to actually set aside must come from some authority other than Attachment C. Complainants’ attempts to find such authority in Order No. 888, however, are misplaced.

3. Complainants Do Not Hold a ROFR for the Springerville to Palo Verde Path

Complainants assert that they enjoy “a right of first refusal (“ROFR”) to continue to take transmission service from their existing transmission provider upon the expiration of their contract.”⁵⁵ While not stated expressly, the clear implication of this statement is that Complainants believe they hold a ROFR from Tucson Electric for the Springerville to Palo

⁵² *Cf. id.* at P 680 (“The Commission has long required that firm point-to-point customers share the same curtailment priority as network customers and the transmission provider serving native load *except in the limited circumstance when it would require the shedding of bundled retail load.*”) (emphasis added).

⁵³ Complaint at 21.

⁵⁴ These provisions state that ATC for a given path is to exclude, among other things, “firm capacity set aside for grandfathered transmission service and contracts for energy and/or transmission service, where executed prior to the effective date of the [Tucson Electric] OATT.” Tucson Electric OATT, Att. C § IV(i). Neither Attachment C nor any other provision of the OATT, however, states when and in what manner transmission for pre-Order No. 888 grandfathered agreements is to be set aside.

⁵⁵ Complaint at 22.

Verde path. To the contrary, they do not enjoy such a ROFR as they are not existing transmission customers of Tucson Electric.

The sections of Order No. 888 and 888-A cited and quoted by Complainants discuss ROFRs by *existing* transmission customers, not the rights of an entity that contracted for transmission 22 years in the future but did not actually take such service yet (which is the case with Complainants). In addition, the cited discussion in Order No. 888 was in the context of existing *bundled* service customers that presumably have load obligations, not merchant generators seeking to wheel power to a commercially optimal location for profitmaking purposes (which, again, is the case with Complainants).⁵⁶

Even if Complainants qualify as existing customers by virtue of the 1992 FSA's provision for *future* transmission service, Order Nos. 888, *et al.*, still do not direct the outcome Complainants seek. First, the ROFR established in Order Nos. 888, *et al.*, is not absolute. Rather, this right may be circumscribed by "the needs (current and reasonably forecasted) of its existing native load (retail) customers."⁵⁷ Second, even if Complainants enjoy some ROFR, that right does not extend to any path they desire. Rather, Commission policy dictates that the ROFR is limited to the path on which the customer is already taking service.⁵⁸ Thus, at best, Complainants' ROFR would be for *some* transmission rights from Springerville to the edge of Tucson Electric's system, not for the specific Springerville to Palo Verde path they seek here.

⁵⁶ Further, the leases provided Tucson Electric a purchase option at the end of their term that, if exercised, would have obviated the need for Complainants to obtain transmission service. *See supra* n.5.

⁵⁷ Order No. 888-A, FERC Stats. & Regs. ¶ 31,048 at 30,198. Although Order No. 888-A indicates that utilities should state clearly in the preexisting contract that the ROFR is limited by forecasted native load needs, *id.*, utilities should not be held to this requirement in the case of contracts, like the 1992 FSA, that predate Order No. 888 *et al.*. *See, e.g., So. Co. Servs.* 416 F.3d at 47; *El Paso*, 110 FERC at P 60.

⁵⁸ *See* Order No. 888, FERC Stats. & Regs. ¶ 61,036 at 31,694 (specifying that "existing customers should have a [ROFR] to capacity they previously used. . . .").

Tucson Electric has offered Complainants such rights (*i.e.*, from Springerville to San Juan and/or Four Corners) and thus fulfilled any ROFR obligation.

4. The Set Aside Sought by Complainants Would Run Afoul of Commission Policy Against Transmission Hoarding

Complainants' argument, taken to its logical end, would require Tucson Electric to withhold transmission capacity throughout its system so that Complainants could choose, at a time convenient to them, from a menu of possible paths. Such action would be contrary to the Commission's overarching goal of Order No. 888 of promoting open access to transmission,⁵⁹ and could be considered impermissible transmission hoarding.⁶⁰

As noted, the 1992 FSA does not specify the point of delivery to which Complainants are entitled. The only way Tucson Electric could have set aside sufficient capacity on its system to satisfy Complainants, it appears, would have been to set aside sufficient capacity *on each and every path out of Springerville to each and every point of interconnection of Tucson Electric's system with neighboring ones*. Such a "shotgun set aside" would harm the marketplace as it would "over-reserve" transmission capacity—and thus withhold it from the marketplace—pending Complainants' decision as to which precise path they want.

Had the 1992 FSA specified a precise point of delivery or firm transmission path to which Complainants would have been entitled, Tucson Electric would have acted accordingly.

⁵⁹ See generally Order No. 888, FERC Stats. & Regs. ¶ 61,036 at 31,635. See also *Ariz. Pub. Serv. Co.*, 137 FERC ¶ 61,023 at P 12 (2011) (lauding proposed tariff revisions insofar as they "will promote greater access to generation capacity across multiple transmission systems, encourage greater and more efficient use of the electric transmission system, and reduce costs to customers."); *NorthWestern Corp.*, 136 FERC ¶ 61,119 at P 9 (2011) (same).

⁶⁰ Order No. 888, FERC Stats. & Regs. ¶ 31,036 at 31,692-93 (recognizing transmission hoarding as an anticompetitive practice); see also *DTE River Rouge No. 1, LLC v. Detroit Edison Co.*, 91 FERC ¶ 61,139 at 61,536-37 (2000) (same).

But setting aside firm transmission on all possible paths would have been contrary to Commission policy against hoarding of transmission.

III. COMMUNICATIONS

Persons to whom correspondence and communications concerning this proceeding should be addressed are as follows. Tucson Electric respectfully requests that these individuals be placed on the Commission's official service list in this proceeding and requests waiver of the Commission regulations to the extent necessary.⁶¹

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⁶¹ Tucson Electric respectfully submits that, insofar as it is the named Respondent, it need not file a Motion to Intervene in this proceeding. To the extent necessary, Tucson Electric moves to intervene in this proceeding pursuant to 18 C.F.R. § 385.214 as it will be directly affected by the outcome of the proceeding and has an interest in the proceeding which cannot be adequately represented by any other entity.

IV. CONCLUSION

WHEREFORE, for the foregoing reasons, Tucson Electric respectfully requests that the Commission dismiss the Complaint without further proceedings.

Respectfully submitted,

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Dated: December 3, 2014
New York, NY

Attachment 1
Bowling Affidavit

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

Alterna Springerville LLC, LDVF1 TEP LLC,)	
Wilmington Trust Company, and)	
William J. Wade,)	
Complainants)	
)	
v.)	Docket No. EL15-17-000
)	
Tucson Electric Power Company,)	
Respondent)	

**AFFIDAVIT OF MICHAEL BOWLING
ON BEHALF OF TUCSON ELECTRIC POWER COMPANY**

I. INTRODUCTION

My name is Michael Bowling and my business address is Tucson Electric Power Company, 88 East Broadway Blvd., Tucson, Arizona. I currently hold the position of Director, Wholesale Marketing & Operations at Tucson Electric Power Company (“Tucson Electric”). I have held this position since February 2014.

I received a B.S. in Electrical Engineering from the University of Arizona in 1992 and a Master’s Degree in Business Administration from the University of Phoenix in 1997. I have worked at Tucson Electric since 1992. In this time, I have held the positions of Substation Engineer, Energy Trader, Trading Supervisor, Manager of Energy Trading, Manager of Wholesale Marketing & Operations and my current position as Director of Wholesale Marketing & Operations.

In my current position, I am responsible for all aspects of wholesale marketing for Tucson Electric, UNS Electric, Inc. and UNS Gas, Inc. I thus have professional expertise and personal knowledge of the matters discussed in this Affidavit.

II. PURPOSE OF AFFIDAVIT

I submit this Affidavit in support of the Answer of Tucson Electric to the Complaint (“Complaint”) of Alterna Springerville LLC, LDVF1 TEP LLC, Wilmington Trust Company, and William J. Wade (jointly, “Complainants”) filed in the captioned proceeding on November 7, 2014. More particularly, I explain that, contrary to Complainants’ assertions, selling the output of the Springerville Generating Station (“Springerville”) at the Four Corners trading hub (“Four Corners”) and San Juan trading hub (“San Juan”) is commercially feasible.

III. FEASIBILITY OF SELLING POWER AT SAN JUAN AND FOUR CORNERS

Contrary to Complainants’ assertions, selling Springerville output at San Juan and/or Four Corners is commercially feasible. Indeed, trading at these hubs is liquid and the prices observed at Four Corners are equivalent to, if not higher than, those at Palo Verde.

A. Power Trading in the Southwest Generally

Unlike in the East, Midwest, and California, there is no independent system operator or regional transmission organization that operates power markets in the Southwest. Rather, power is traded bilaterally, as it has been for many years. Much of this trading occurs around various “hubs” where there are large power plants (which are often jointly owned) and/or large clusters of transmission lines that can be used to wheel the traded power in or out of the hub. More recently, the Intercontinental Exchange (“ICE”) has established an electronic platform for trading at some of these hubs, which substitutes for the need for parties to call each other to negotiate deals or to work through brokers. These transactions through ICE are still bilateral transactions, however, as ICE is not a counterparty but just a trading platform.

Two of the larger trading hubs in the Southwest are Palo Verde and Four Corners. Palo Verde is defined, for trading purposes, as the cluster of generation units surrounding and including the switchyard of the 3,300 MW Palo Verde Nuclear Generating Station, located about

45 miles west of Phoenix, Arizona. That switchyard interconnects with a variety of 500 kV transmission lines owned by multiple parties that interconnect with points throughout the Southwest. Four Corners, for trading purposes, is defined as the cluster of 345 kV and 500 kV transmission lines located in northwestern New Mexico that intersect near the 2,040 MW Four Corners Generating Station. The Four Corners hub is also adjacent to the 1,850 MW San Juan Generating Station, which also offers trading opportunities.

B. Power Trading at Palo Verde and Four Corners

Power trading is robust at both Palo Verde and Four Corners. In my 19 years in the Wholesale Marketing Department at Tucson Electric, I have personally traded and/or overseen the trading of large amounts of power at both locations. In my personal experience, both hubs are liquid, although a greater volume of trading occurs at Palo Verde than at Four Corners. Still, I do not consider Four Corners to be “thin.”

For purposes of this Affidavit, I have collected and analyzed recent data from Palo Verde and Four Corners, both from ICE and Platts. All of this data indicates that Four Corners is a liquid trading hub and historical prices at Four Corners are comparable to those at Palo Verde. I thus disagree with the assertion in the Complaint that Four Corners is not liquid and/or that it is not “commercially feasible” for the sale of power from Springerville.

1. ICE Data

ICE is a platform that provides for the trading of, among other things, spot power at Palo Verde and Four Corners. Trading occurs in 25 MW increments and ICE reports the average prices and total volumes of the products traded on the platform. Many entities, including Tucson Electric, use this index price as the basis for physical and/or financial power transactions.

Table 1 attached hereto shows the results of my analysis of trading of these ICE products—peak and off-peak at both Palo Verde (“PV”) and Four Corners (“FC”)—for the

period January 1, 2013, through September 30, 2014. As shown therein, the average on-peak and off-peak prices at Palo Verde and Four Corners are similar. Palo Verde does have a significantly higher average trading volume on ICE, but that does not mean that Four Corners is not liquid.

In my experience, there is a certain “if you build it, they will come” element to power trading in the Southwest. Because power can be moved between these hubs and around the Southwest generally, if power is offered at one location where trading has not been particularly strong, demand may shift to that location in order to take advantage of this new supply. Thus, rather than suppressing prices at the location where the power is offered, the offer may incent demand and thus support prices. Further, ICE is just one trading platform. A good deal of power trading in the Southwest still occurs either directly between parties or through brokers. Thus, the data in Table 1 understates the volume of power traded at these two hubs. In addition, as noted above, Four Corners is adjacent to the San Juan trading hub which offers additional trading opportunities (even though ICE does not have a San Juan product).

2. Platts Data

Platts replaced Dow Jones around September 2013 as one of the most looked-to indices for power trading. Unlike ICE, Platts is not a trading platform, nor is it a broker or a trader. Rather, it is a reporting service that publishes price indices for power trading at various locations based on information provided to it by market participants. Two of the locations for which Platts publishes this index are Palo Verde and Four Corners. As with the ICE indices, many entities, including Tucson Electric, use the Platts index price as the basis for physical or financial power transactions.

Table 2 attached hereto shows the result of my analysis of Platts daily published index prices for Palo Verde and Four Corners for the period January 1, 2013, through September 30,

2014. Similar to the ICE data, these data show average on-peak and off-peak prices at Palo Verde and Four Corners are not vastly different. Indeed, in some months and quarters, the on-peak prices at Four Corners are materially higher than at Palo Verde.

IV. CONCLUSION

This concludes my Affidavit.

Table 1. ICE Daily Average Data								
	On-Peak				Off-Peak			
	\$/MWh		Volume		\$/MWh		Volume	
	PV	FC	PV	FC	PV	FC	PV	FC *
Jan 2013	\$31.52	\$30.63	16,338	2,192	\$25.60	\$24.85	4,439	1,050
Feb 2013	\$31.75	\$31.01	18,000	1,524	\$27.55	\$28.68	6,014	680
Mar 2013	\$33.38	\$33.71	10,723	1,600	\$27.89	\$28.19	9,618	682
2013 Q1 Avg	\$32.22	\$31.78	15,021	1,772	\$27.01	\$27.24	6,690	804
Apr 2013	\$37.46	\$36.73	10,246	1,785	\$29.36	\$27.40	4,520	1,163
May 2013	\$38.03	\$38.09	14,723	1,450	\$26.37	\$24.47	7,742	615
Jun 2013	\$38.48	\$41.72	9,856	1,621	\$27.38	\$25.02	5,207	1,350
2013 Q2 Avg	\$37.99	\$38.85	11,608	1,619	\$27.70	\$25.63	5,823	1,043
Jul 2013	\$48.13	\$52.80	11,526	1,365	\$27.19	\$26.73	5,523	867
Aug 2013	\$38.36	\$42.78	17,185	2,229	\$26.11	\$25.61	5,477	1,271
Sep 2013	\$36.75	\$38.02	17,100	2,240	\$27.84	\$26.85	6,807	1,067
2013 Q3 Avg	\$41.08	\$44.53	15,270	1,944	\$27.05	\$26.40	5,936	1,068
Oct 2013	\$34.18	\$33.52	16,459	2,042	\$28.19	\$26.50	7,503	1,318
Nov 2013	\$32.72	\$33.31	16,992	2,400	\$27.87	\$26.26	7,225	1,288
Dec 2013	\$44.85	\$45.96	16,000	1,550	\$37.17	\$32.73	10,890	720
2013 Q4 Avg	\$37.25	\$37.59	16,484	1,997	\$31.08	\$28.50	8,540	1,109
Jan 2014	\$40.19	\$41.52	15,200	1,978	\$34.13	\$33.11	6,735	1,059
Feb 2014	\$61.15	\$53.01	20,200	3,530	\$48.68	\$43.40	10,071	2,656
Mar 2014	\$42.15	\$39.11	15,015	2,317	\$33.11	\$28.38	8,994	2,533
2014 Q1 Avg	\$47.83	\$44.55	16,805	2,608	\$38.64	\$34.96	8,600	2,082
Apr 2014	\$40.84	\$38.26	12,385	2,021	\$33.15	\$29.39	3,520	1,644
May 2014	\$42.22	\$39.75	9,077	1,167	\$31.40	\$29.29	4,961	1,870
Jun 2014	\$45.18	\$46.13	10,832	1,325	\$33.72	\$29.34	4,087	2,033
2014 Q2 Avg	\$42.75	\$41.38	10,765	1,504	\$32.76	\$29.34	4,189	1,849
Jul 2014	\$45.72	\$48.12	12,062	933	\$33.68	\$31.75	6,329	760
Aug 2014	\$41.56	\$42.63	17,246	1,981	\$32.93	\$28.81	8,858	750
Sep 2014	\$40.80	\$39.47	16,080	2,033	\$32.62	\$27.16	7,640	2,029
2014 Q3 Avg	\$42.69	\$43.41	15,129	1,649	\$33.08	\$29.24	7,609	1,180

* Excludes hours with no trades.

Table 2. Platts Daily Average Data					
	On-Peak		Off-Peak		
	PV	FC	PV	FC	
Jan 2013	\$ 31.55	\$ 30.85	\$ 25.45	\$ 25.72	
Feb 2013	\$ 31.82	\$ 30.99	\$ 27.74	\$ 27.48	
Mar 2013	\$ 33.21	\$ 33.72	\$ 27.61	\$ 28.02	
2013 Q1 Avg	\$ 32.19	\$ 31.85	\$ 26.93	\$ 27.07	
Apr 2013	\$ 37.43	\$ 37.00	\$ 29.41	\$ 27.93	
May 2013	\$ 38.01	\$ 37.59	\$ 26.40	\$ 24.83	
Jun 2013	\$ 38.65	\$ 39.66	\$ 27.56	\$ 26.14	
2013 Q2 Avg	\$ 38.03	\$ 38.08	\$ 27.79	\$ 26.30	
Jul 2013	\$ 48.59	\$ 50.88	\$ 27.47	\$ 27.26	
Aug 2013	\$ 38.41	\$ 42.24	\$ 26.17	\$ 25.84	
Sep 2013	\$ 36.62	\$ 38.64	\$ 27.71	\$ 27.07	
2013 Q3 Avg	\$ 41.21	\$ 43.92	\$ 27.12	\$ 26.72	
Oct 2013	\$ 34.13	\$ 33.32	\$ 28.53	\$ 26.86	
Nov 2013	\$ 23.78	\$ 33.67	\$ 30.56	\$ 29.82	
Dec 2013	\$ 44.82	\$ 48.29	\$ 40.62	\$ 42.86	
2013 Q4 Avg	\$ 34.24	\$ 38.43	\$ 33.24	\$ 33.18	
Jan 2014	\$ 40.23	\$ 41.88	\$ 34.20	\$ 33.61	
Feb 2014	\$ 61.66	\$ 63.50	\$ 48.10	\$ 45.76	
Mar 2014	\$ 42.19	\$ 39.24	\$ 33.68	\$ 28.23	
2014 Q1 Avg	\$ 48.03	\$ 48.21	\$ 38.66	\$ 35.87	
Apr 2014	\$ 40.84	\$ 38.65	\$ 33.17	\$ 29.60	
May 2014	\$ 42.25	\$ 41.23	\$ 31.40	\$ 29.02	
Jun 2014	\$ 45.30	\$ 46.40	\$ 34.60	\$ 31.80	
2014 Q2 Avg	\$ 42.80	\$ 42.09	\$ 33.06	\$ 30.14	
Jul 2014	\$ 46.47	\$ 48.78	\$ 34.46	\$ 34.73	
Aug 2014	\$ 41.51	\$ 41.94	\$ 33.63	\$ 30.77	
Sep 2014	\$ 40.84	\$ 39.46	\$ 32.82	\$ 27.66	
2014 Q3 Avg	\$ 42.94	\$ 43.39	\$ 33.64	\$ 31.05	

Attachment 2
Beck Affidavit

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

Alterna Springerville LLC, LDVF1 TEP LLC,)	
Wilmington Trust Company, and)	
William J. Wade,)	
Complainants)	
)	
v.)	Docket No. EL15-17-000
)	
Tucson Electric Power Company,)	
Respondent)	

**AFFIDAVIT OF ED BECK
ON BEHALF OF TUCSON ELECTRIC POWER COMPANY**

I. INTRODUCTION

My name is Ed Beck and my business address is Tucson Electric Power Company, 88 East Broadway, Tucson, Arizona 85701. I currently hold the position of Director, Project Management and Land Resources at Tucson Electric Power Company (“Tucson Electric”). I have held this position since August 2014.

I received a Bachelor of Science degree in Civil Engineering in 1979 and a Master’s Degree in Business Administration in 1983 from the University of Arizona. I am a Registered Professional Engineer in the State of Arizona and a member of the American Society of Civil Engineers. In addition, I have served on various task force and committee assignments related to transmission in the region.

I have worked in the electric utility industry for 35 years. Before assuming my present position, I was Director of Transmission Administration at Tucson Electric. In that position I was responsible for contracts, including transmission contracts involving the company. Prior to that, I was Manager of Line Siting Services at Tucson Electric. In that capacity I was

responsible for all aspects of transmission siting projects for the company. Prior to that, I was Superintendent of Planning and Contracts for Tucson Electric. In that capacity, I was responsible for the company's transmission and distribution system planning and transmission system contracts, including justification and timing for new facilities such as 138 kV substations, high voltage and extra-high voltage transmission lines and distribution lines. In this capacity, I was also primarily responsible for the implementation of Tucson Electric's Open Access Transmission Tariff ("OATT"), including drafting the company's first OATT and serving as the primary representative in Tucson Electric's settlement negotiations of its OATT rates.

I have extensive knowledge of Tucson Electric's transmission system and thus have professional expertise and personal knowledge of the matters discussed in this Affidavit.

II. PURPOSE OF AFFIDAVIT

I submit this Affidavit in support of the Answer of Tucson Electric to the Complaint ("Complaint") of Alterna Springerville LLC, LDVF1 TEP LLC, Wilmington Trust Company, and William J. Wade (jointly, "Complainants") filed in the captioned proceeding on November 7, 2014. More particularly, I explain in this Affidavit that the transmission service granted by Tucson Electric to the Salt River Project Agricultural Improvement and Power District ("SRP") pursuant to the September 2014 TSA filed by Tucson Electric in Docket No. ER15-124-000 on October 17, 2014, did not in any way impact available transmission capability ("ATC") starting January 1, 2015, between Springerville and Palo Verde as sought by Complainants.

III. TUCSON ELECTRIC'S TRANSMISSION SYSTEM

Tucson Electric's transmission system consists of approximately 2,132 pole and/or circuit-miles of high voltage lines rated 138 kV to 500 kV. As illustrated in the map attached as Exhibit A hereto, the lines run in a more or less radial fashion from the Tucson, Arizona, area to

the generating facilities owned and/or leased by Tucson Electric in northern and western Arizona, and in northwestern New Mexico. Tucson Electric's transmission system was designed in this manner in order to move power from these remote generating resources to Tucson Electric's load center in and around the City of Tucson, Arizona.

IV. DETERMINATION OF AVAILABLE TRANSMISSION CAPABILITY

Tucson Electric provides open access across the entirety of its transmission system pursuant to its OATT that has been on file with the Commission in one form or another since 1996. ATC over Tucson Electric's system is determined in accordance with the provisions of Attachment C of the OATT, which took its present form effective July 16, 2012. Tucson Electric's ATC is based on path ratings developed under criteria established by the Western Electricity Coordinating Council with deductions made for committed uses under grandfathered agreements, as well as reservations under Tucson Electric's OATT.

Complainants state that "the service being provided by [Tucson Electric] to [SRP] may limit the amount of capacity that would otherwise be available to meet the needs of Alterna and LDVF1."¹ Similarly, Complainants state that "[Tucson Electric]'s agreement to provide transmission service to [SRP] may adversely affect [Tucson Electric's] ability to provide the transmission service" sought by Complainants.²

Both statements are factually unfounded.

Transmission use or awards of transmission rights over the Springerville-Coronado Line have no impact on ATC availability on the path from Springerville to Palo Verde, or for that matter from Springerville to Vail. While the Springerville-Coronado Line is part of the larger

¹ Complaint at 17.

² *Id.* at 17-18.

San Juan-Springerville-Vail Transmission System, the Springerville-Coronado Line is a radial line off of the main transmission path that runs from San Juan through Springerville and on to Vail. As a result, Tucson Electric's granting of SRP's bidirectional transmission request on the Springerville-Coronado Line (as embodied in the September 2014 TSA) had no impact whatsoever on the availability of firm transmission from Springerville to Palo Verde.

Tucson Electric calculates ATC on each segment of its transmission system separately. Any reservations on the Springerville-Coronado Line are deducted in the calculation of the ATC *for that path only* and have no impact on ATC calculations from Springerville to Palo Verde. Historically, the Springerville to Palo Verde path has been heavily used from Springerville to Vail for delivery of Tucson Electric's generation resources, including generation from the Four Corners, San Juan, and Springerville Generating Stations, to its load in Tucson. There has been no ATC on the Springerville to Vail path since the inception of Tucson Electric's OATT.

Again, even if Tucson Electric denied SRP's request for bidirectional rights over the Springerville-Coronado Line, there still would be no firm ATC from Springerville to Palo Verde. Thus, Tucson Electric's granting of SRP's request did not "crowd out" or otherwise undermine the efforts of Complainants to procure firm transmission service from Springerville to Vail and beyond to Palo Verde.

V. CONCLUSION

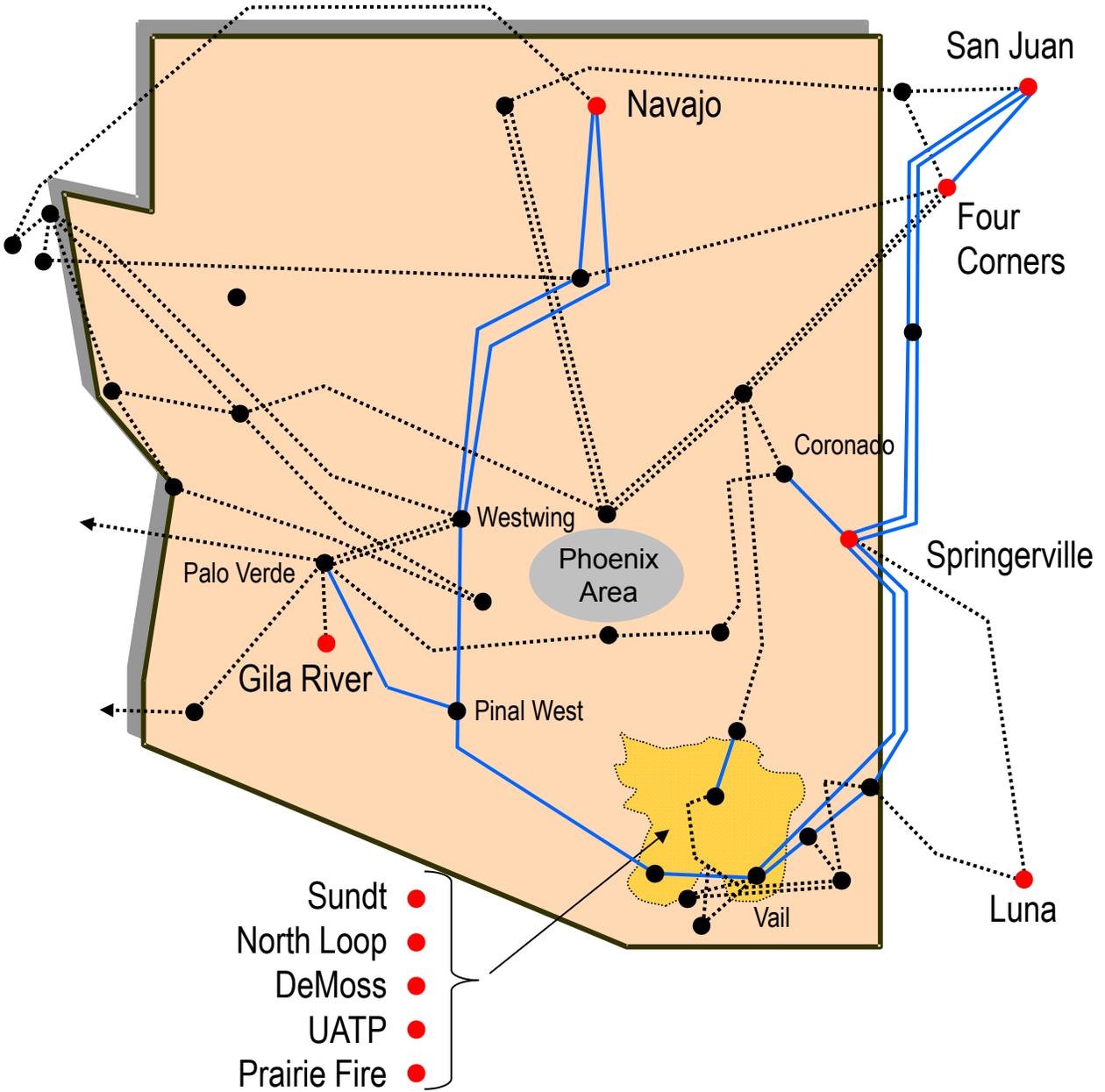
This concludes my Affidavit.

Exhibit A

Map of Tucson Electric Transmission System and Generating Resources

[See Attached]

Tucson Electric Transmission System and Generating Resources



Key

- ● Tucson Electric Transmission Lines/Generation (in whole or part)
- - - - - ● Other Transmission Lines/Generation
- Tucson Electric Service Territory

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Washington, D.C., this 3rd day of December 2014.

/s/ Jennifer C. Mansh

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