

# **City of Tucson Commission on Climate, Energy, and Sustainability**

## **Research and Recommendations related to the 2025 TEP and City of Tucson Franchise Process**

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## Executive Summary

The City of Tucson's Commission on Climate, Energy, and Sustainability (CCES) analyzed opportunities for climate action in the new Franchise Agreement (FA) process between the City of Tucson (CoT, or City) and Tucson Electric Power Company (TEP). The current agreement is due to expire on April 15, 2026, with a one-year automatic extension, making its effective expiration date on April 15, 2027. The new franchise process will result in two or more final documents, including the FA for voter approval and an Energy Collaboration Agreement (ECA).

CCES views the outcomes of this process of adopting a new FA and ECA as critically important to meet the CoT's climate, sustainability, and resilience goals as expressed in *Plan Tucson* and *Tucson Resilient Together*. The CoT now has the rare opportunity to bring TEP to the negotiating table and secure concrete commitments to climate, such as reducing community-wide greenhouse gas (GHG) emissions, modeling pathways to net-zero emissions with clean energy resources in their 2026 Integrated Resource Plan (IRP), and establishing a climate action fund using shareholder money. This will enable the City to both act on and adapt to the climate crisis, making Tucson a happier and healthier place for all.

While creating this report, CCES studied examples from other cities that have leveraged franchise agreements to advance sustainability goals, while considering the different regulatory environments. The Commission also reviewed previous agreements passed by the City of Tucson and considered a range of issues that affected the voter response to the 2023 FA proposal in Proposition 412. Furthermore, members of CCES closely followed the CoT Energy Townhall process and incorporated participant comments into their analysis.

## Recommendations

### For The Franchise Agreement

1. Negotiate a short agreement period. Approve a 5-year period, with the option for Mayor and Council to approve two 5-year extensions, for total voter-approved term of 15 years.

### For The Energy Collaboration Agreement

2. Include a commitment from TEP to reach net-zero community-wide GHG emissions by 2045 and model pathways to net-zero emissions with clean energy resources in their 2026 Integrated Resource Plan.
3. Establish a Climate Action Fund to aid the implementation of the Climate Action Plan, composed of shareholder money provided by TEP and Fortis (TEP's parent company).
4. Establish a Climate Action Fund Oversight Committee, composed of representatives from TEP, the City, and multiple community members.
5. Require TEP to send an annual report of its progress on implementing the provisions in the ECA and reaching its net-zero goals to the City.

## General Recommendations

6. At the 5-year review periods, and at the end of the FA, the City should thoroughly review the impact and implementation progress of the ECA and solicit extensive public feedback to determine how and whether to renegotiate the ECA.

See the “Elaboration of Recommendations” section for details on these recommendations.

## The City’s Leverage in Negotiations

In the section titled “The City of Tucson’s Strong Leverage in FA Negotiations,” CCES conducts an analysis and offers reasoning as to why CCES believes that the City possesses strong leverage in the current FA negotiations. CCES recommends that the City use this strong negotiating position to their and the community’s advantage.

## Analysis of Proposition 412

In the section titled “Analysis of Proposition 412 Outcome,” CCES goes over various narratives and reasons for the failure of Proposition 412. CCES concludes with a recommendation that the City address the key pitfalls of Prop 412 – an increase in taxes and a lack of strong climate action.

## Other Sections

CCES has included various other useful analyses and pieces of information in this report but have omitted them from the executive summary for brevity. If possible, CCES encourages the reader to peruse the document in full, including the multiple sections in the Appendix that CCES has not described here.

# Elaboration of Recommendations

## Recommendation 1: A Short Franchise Agreement

A shorter franchise agreement is essential for ensuring accountability under the Energy Collaboration Agreement. Cities with strong sustainability and resilience goals, such as Minneapolis, San Diego, and Salt Lake City specifically negotiated shorter franchise agreements with their respective investor-owned utilities to ensure alignment between the city and utility.

However, CCES recognizes that Tucson/Arizona is unlike most other cities/states in that franchise agreements are required to be approved by voters and not strictly Mayor and Council (State of Arizona, 2025). While we recognize there may be some legal obstacles, **CCES recommends a 5-year FA with the option for Mayor and Council to approve up to two 5-year extensions.** This achieves two goals:

1. Such a setup would grant Mayor & Council (M&C) leverage similar to what cities in other states hold. The decision of whether or not TEP will get to retain its franchise after the first 5 years would not be based on an electoral process, but instead a select group of informed and highly-engaged officials. When they hold the power to approve a FA, M&C can extract stronger concessions from TEP because they can guarantee that their FA will be approved. This is on top of their power to let the FA lapse and force re-negotiation if TEP fails to act on their climate goals as agreed upon.
2. It would additionally reduce repeated costs of organizing an election.

Salt Lake City agreed to a 5-year franchise agreement with their utility Rocky Mountain Power in 2016 (Salt Lake City, 2016). Previously, the city had a 25-year franchise agreement, but after adopting a goal of 100% renewable energy by 2032, they intentionally chose to negotiate a shorter term to ensure accountability between the City and utility in pursuing projects under their Clean Energy Implementation Plan. **A former sustainability staff member highlighted the importance of the shorter period** as being “essential to ensure accountability, in terms of following through on the vision, as well as creating a near-term contractual checkpoint for both the city and utility to evaluate where things stand, and if in fact we are moving forward in the right way on these goals” (Iowa Environmental Council, 2022). Staff also emphasize that “Critical to the success was Mayor Jackie Biskupski’s strategic cooperation yet **firm commitment on the term length.**” They now are in the process of negotiating a new agreement of a similarly short term (Building Electrification Institute, 2022).

In Minneapolis, the City signed a 10-year agreement in 2014 (Laney, 2021). Now in the process of renegotiating, they are again working to sign a short agreement: one with a duration of less than 10 years that would commit Xcel Energy to cut emissions by 93% by 2035 (Bosley, 2025). In San Diego, they signed a 20-year agreement with an option to exit after 10 years (City News Service, 2021); in Chicago, they signed a 15-year term with an optional extension of 5 years (City of Chicago, 2023).

These examples highlight **two key takeaways**:

1. Cities across the US have recognized the **length of a franchise agreement as a key tool for leverage** and have reduced its length to successfully extract climate concessions.

2. After signing a FA with a short term, **cities will choose to renew with a short term again**. This choice to do it again highlights the benefit and value that Cities themselves feel they gain from such short franchise agreements.

CCES further **strongly recommends against** a long period of a franchise agreement (15+ years) with no options for off-ramps, optional Mayor and Council-approved extensions, or similar mechanisms of curtailing the agreement length and forcing accountability from the utility. We have less than 25 years to reach the Intergovernmental Panel on Climate Change's guidance of net-zero emissions by 2050 (Boehm & Schumer, 2023) and the City's own goal of net-zero community-wide emissions by 2045 (City of Tucson, 2023), so giving a *carte blanche* to TEP in such a way, at such a time, would be an effective betrayal of the promises the City has made to take the climate crisis seriously and take bold action to decarbonize.

## Recommendation 2: Commitment to Reaching and Modeling Pathways to Net-Zero Emissions with Clean Energy

Given the state of federal action on climate and the rollback of the Renewable Energy Standard Tariff by the Arizona Corporation Commission (Carrico, 2024), there is now no policy requiring TEP to decarbonize. The only level of government where carbon emissions reduction goals can be pursued over the next two to four years is municipal – the City must take bold climate action and do all it can to get TEP to decarbonize given the lack of pro-climate leadership at the Arizona Corporation Commission. As we've expressed earlier, the FA and ECA must be used as a means to such an end.

This FA and ECA **would not be complete unless its underlying goal is expressly acknowledged and committed to by TEP and Fortis** – reaching net-zero emissions with clean energy resources by 2045. This should include targets to show measurable progress toward the goal of decarbonization with reliability and resilience for the community by 2045.

However, it must be acknowledged that such a commitment made by TEP cannot be legally binding, as all of its energy generation and procurement decisions must be approved by the Arizona Corporation Commission. This is typically done by TEP analyzing and laying out options in an Integrated Resource Plan (IRP), which it creates every 3 years. Thus, CCES recommends **requiring TEP to model pathways to net-zero emissions with clean energy resources in their 2026 IRP**. TEP should model the options that GDS Associates did in their Energy Sourcing Study that they just created for the City (GDS Associates Inc. et al., 2025), and investigate approaches that include, but is not limited to:

1. microgrids with solar and storage,
2. an emissions forecast over time with different generation mixes,
3. Virtual Power Plants,
4. and Distributed Capacity Procurement, as described by (Sparkund, 2025).

### Recommendation 3: Establish a Climate Action Fund using Shareholder Money from Fortis and TEP

While the City of Tucson has been seeing funding shortfalls due to the Arizona State Government’s passage of the flat tax, TEP and Fortis have been making substantial revenue. In 2024 the company reported higher earnings per share because of “new customer rates at Tucson Electric Power effective September 1, 2023 and higher retail electricity sales associated with warmer weather” (Fortis, Inc., 2024b). This creates perverse incentives: as climate change worsens, TEP and Fortis will see increasing revenue from air conditioning use from higher temperatures and the City of Tucson and its community will see higher costs through increasing temperatures and more disruptions from a changing climate.

To address these needs, maintain an amicable relationship, and substantively support the implementation of the City’s Climate Action Plan, **TEP and Fortis should provide shareholder funds to support the implementation of the City’s climate and resilience goals.** This money, which would not be passed onto ratepayers and would be dedicated exclusively to climate action projects, **should be in the range of millions of dollars**, and would represent a concrete and meaningful action of support by TEP to act on climate. Such a commitment, aside from its technical and implementation benefits, would also garner the goodwill necessary to get this FA approved by the voting populace.

Again, this recommendation is not without precedent. San Diego Gas & Electric agreed to pay, from shareholder funds, the city \$80 million for franchise rights, plus \$20 million into a Climate Equity Fund and \$10 million for solar rebates in underserved areas (The City of San Diego, 2021). In Chicago, ComEd agreed to provide \$100–120 million of shareholder funds for local climate initiatives (City of Chicago, 2023).

### Recommendation 4: Oversight Committee for the Climate Action Fund

Along with the establishment of a new fund comes a natural need to establish an effective method of overseeing its implementation that is responsive to the needs of the community. CCES recommends establishing a Climate Action Fund Oversight Committee.

This Committee would track and oversee all expenditures from the Climate Action Fund, and would ensure that its resources are spent exclusively on impactful climate action projects. The Committee would vote on recommending and approving expenditures for specific projects, and M&C would actively take their opinion into consideration before officially spending the money.

This Committee should be composed of members of TEP, the City, and most importantly, the community. A major flaw in the design of Proposition 412 pointed out by critics was a lack of power given to community members in the oversight commission that the Proposition would have established. This Committee should **have multiple members from the community** – far outnumbering the City and TEP representatives – that are appointed by Council Members or the City Manager. CCES further recommends that one or multiple of the seats be reserved for a youth with equal voting power, as the money that is being spent directly impacts their future.

## Recommendation 5: Annual Progress Report of Implementation of Energy Collaboration Agreement

To effectively track the actions of TEP and to scrutinize their commitments in the ECA, CCES recommends that the City require **TEP provide an annual progress report on their implementation of the provisions in the ECA**. Such a report would provide transparency and insight on the utility's actions, thereby enhancing the efficacy of the City's own actions as well as building community trust and support. The annual report should include clearly defined metrics and demonstrate year-over-year progress on aspects including, but not limited to:

1. Total GHG emissions across all three scopes (Scopes 1, 2, and 3), disaggregated by gas type (CO<sub>2</sub>, CH<sub>4</sub>, N<sub>2</sub>O, etc).
2. Megawatt-hours of new and total energy generation, reported by energy type (solar, wind, nuclear, natural gas, coal), nameplate capacity, effective (or derated) capacity, and actual utilization (capacity factor).
3. Volume and percentage of energy sourced from clean energy (solar, wind, nuclear, etc.), disaggregated by source.
4. Capital investment in clean energy projects, including community-scale and utility-scale.
5. Status of grid upgrades (e.g., smart meters, energy storage installations, transmission enhancements).
6. Installed and operational battery/storage capacity (MW/MWh).
7. Data on support for electrification of buildings and transportation (e.g., EV charging infrastructure installed).
8. Uptake in demand response, energy efficiency, rooftop solar, and low-income energy assistance programs.
9. Comparison of actual progress against year-over-year targets or milestones laid out in the ECA, with explanations for delays or deviations, if any.
10. Cost allocations and rate impacts of clean energy investments, and cost savings or efficiency gains passed on to customers.

CCES further recommends that the **City of Tucson have a section on the implementation progress of the ECA** in its existing quarterly reports of updates on climate action implementation.

## Recommendation 6: Review Periods and Renegotiation of the ECA

Each review period within the Franchise Agreement (FA) presents a critical opportunity for reflection, accountability, and bolder climate leadership. As demonstrated by the current FA renewal process, these moments generate heightened public interest and a strong community call for meaningful climate action.

In the new FA—particularly under the recommended structure that includes City Council review and reapproval every five years—the City should dedicate significant effort to evaluating the implementation of the Energy Cooperation Agreement (ECA). Importantly, this evaluation should include a robust public engagement process to gather input from community members, advocacy groups, and other stakeholders.

It must also account for evolving political conditions and regulatory developments at the state and federal levels. CCES further recommends that at this point, CCES send in a report of its own viewpoints on renewal, and that it be seriously considered. Establishing CCES as a central figure in the community around which to center conversations about climate will facilitate more structured and robust communication.

It is of utmost important that at these review periods, the City not just rubber stamp the renewal of the FA. Instead, it **must undertake a rigorous and transparent process of assessing the whether the ECA is meeting its goals** – and if not, undertake the long and hard work of negotiating stronger terms, demanding accountability, and flexing its political muscles. At these 5-year review periods, the City would be on a similar negotiation footing as Salt Lake City, San Diego, and Minneapolis because the renewal would be dependent upon M&C, and not a city-wide election. M&C would have the ability to make firm commitments to TEP that they can deliver on – and they should use this leverage to its maximum.

# Appendix

## The City of Tucson's Strong Leverage in FA Negotiations

Since the negotiation and defeat of Prop 412 in 2023, multiple developments have shifted leverage toward the City.

The first relates to municipalization. In 2014, Minneapolis secured a 100% renewable energy commitment from Xcel Energy in part because the utility feared a growing municipalization effort in Boulder, CO—another city it served (McCoy, 2022). Today, TEP's parent company, Fortis Inc., faces a comparable situation: a serious municipalization push targeting one of its subsidiaries, Central Hudson, in New York's Hudson Valley. In 2024, the New York State Legislature introduced a bill to municipalize the utility (Kinniburgh, 2024). Although it did not pass, the proposal marks a credible attempt to shift another Fortis-owned utility to public ownership, certainly worrying Fortis and prompting them to reduce the likelihood of municipalization in Tucson. And as discussed earlier, the threat of municipalization was key to enabling strong FAs to be adopted in other cities. Already, Tucson has a similar municipalization effort, with advocates are pointing to lower consumer costs and stronger climate action as justifications for public power (Cree, 2025). As Lee Ziesche, the spokesperson of the Tucson chapter of the Democratic Socialists of America, noted, “fifty-four million people get their electricity from a publicly owned utility, and they not only tend to be cheaper, they tend to be more reliable and better on climate action” (Robbins, 2025). Since Prop 412, this campaign has gained in reach, power, and influence, having garnered more than 3,400 signatures (Cree, 2025) and held multiple rallies (Alder, 2025).

Second, following the lobbying from the public power campaign and the broader climate community, the City committed \$300,000 to commission an Energy Sourcing Study from GDS Associates, which found that both Community Choice Energy and municipalization would save money for the City and ratepayers. For utilities, the franchise agreement represents an almost existential question of their continued operation and profit — and in Tucson, the technical case has already been made that separating from TEP may be better. TEP, clearly threatened, has issued statements attacking the “profoundly flawed” study as delivering “false promises” in order to “[drive] a wedge” between the City and TEP and support a “hostile takeover” (Tucson Electric Power, 2025b). Notably, GDS has publicly stood its ground, saying that they trust their results (Cree, 2025).

Third, the City has taken great pains to publicize the results of the study as well as bring in the community in the creation of the franchise agreement. They have held multiple town halls across the City at various times, in both English and Spanish (Staubs, 2025), and have let this process play out over a longer amount of time than they did Prop 412. This places the City in a better negotiating position, as they can speak more confidently to the community's support of an eventual FA and ECA (assuming enough time is provided for the drafts of those to be circulated and iterated once drafted).

Finally, TEP's CEO, Susan Gray, has already signaled openness to collaboration, stating, "we should be working together to address our city's long-term needs" (Tucson Electric Power, 2025b). Fortis, too, has publicly committed to reaching net-zero GHG emissions by 2050 (Fortis, Inc., 2025a). This alignment of interests—paired with growing public pressure—places the City in a strong negotiating position.

When considered as a whole, the City has a strong amount of leverage and is in a great position to negotiate – especially when compared to its position when drafting negotiating Prop 412 in 2023. Tucson can now position municipalization as the progressive option while presenting a franchise agreement with strong climate provisions as a moderate compromise. Prop 412's failure has already demonstrated that the City of Tucson's residents won't vote for an agreement that doesn't meaningfully address climate and that increases prices, and it is well-demonstrated that the Climate Action Plan is popular amongst Tucsonans. **So, the City has the legitimate standing to deliver a clear message to TEP: this FA must both address climate as well as deliver shareholder-provided funds.** CCES recommends that the City and its elected officials unabashedly flex this leverage during negotiations.

## Analysis of Proposition 412 Outcome

Proposition 412 was the last attempt to pass a franchise agreement with TEP. It would renew TEP's FA for 25 years more and raise the franchise fee by 0.75% to fund climate action and undergrounding powerlines. It was defeated by voters in a special election in May 2023.

In the leadup and aftermath of Proposition 412, there were many community members who offered reasons to vote no for the proposition. CCES believes it was a combination of a) an increase of fees passed onto ratepayers – effectively, an indirect tax increase; b) a lack of climate action; and c) a lack of extensive and meaningful community engagement.

Before the vote, some groups advocated for voters to reject the agreement, such as “The Pima County Republican Party, ... citing rate increases” (Washington, 2023a). Furthermore, at this time, TEP was seeking a rate increase from the Arizona Corporation Commission, amplifying cost concerns. Simultaneously, climate change-focused groups also amplified the message to vote no. Groups such as the Tucson Climate Action Network, Citizens' Climate Lobby, and Arizona Youth Climate Coalition all ran public campaigns urging voters to defeat the proposition, citing weak climate measures and a rushed process with little community engagement (Washington, 2023a). Additionally, then-Council Member Steve Kozachik openly opposed the proposition, stating that too much money was going to undergrounding and not enough to climate action, and that “something nearer a 50-50 split would benefit everyone” (Foster, 2023). After the election, some pointed out “a voter turnout of less than 22% in the all-mail election” (Washington, 2023b), and it is possible that the small number of voters allowed organized groups to effectively deny the passage of the agreement.

Some members of the Arizona Youth Climate Coalition conducted an analysis, comparing voter turnout across precinct maps for Prop 412 versus the 2020 Presidential Election and Prop 411, which was a tax extension to fund road development (Sanghi, 2023). By examining voting patterns among pro- and anti-climate action voters as well as pro- and anti-tax increase voters (using Prop 411 as a rough proxy), the analysis concluded that the key factor in Prop 412's defeat was the lack of climate action, not the modest tax increase. As the author notes, “the climate-concerned electorate may not have been all the voters against Prop 412, but they were the deciding group.” The piece goes on to argue that **if TEP and the City hope to pass a new franchise agreement, earning the support of climate-conscious voters will be essential.**

What CCES concludes from these analyses is that voters will reject a proposition that includes cost increases and does not take strong climate action. Any successful agreement **must not require more money from ratepayers, must have its benefits distributed across the country, and must include more funding for and strong action on climate and community resilience.**

## Robust Stakeholder Engagement

For an eventual FA and ECA to be adopted by the Tucson populace, CCES believes that significant stakeholder and community outreach will be required. This will have to go beyond gathering input; these groups should have the influence to educate the City on its blind spots and have the power to actively shape the language. By involving these groups, they will be able to educate their own communities and build a broad base of support for the FA.

We recommend the City compile an extensive list of stakeholder groups and reach out to them. This should include those involved in the creation of TRT, present at the Energy Townhalls, etc.

The Commission is willing to shape this list and aid in the City's outreach process as needed.

## Comparison of Franchise Agreements in Tucson and Other Cities

This table shows the franchise agreements passed in other cities, what climate funding and clean energy commitments were part of the agreement, and leverage the city had in securing the commitments.

<b>City (Year) and Utility</b>	<b>Franchise Term</b>	<b>Climate Funding</b>	<b>Clean Energy Commitments</b>	<b>Context for enabling city and community goals</b>
<p><b>City: Minneapolis, MN (2014)</b></p> <p><b>Utility:</b> Xcel Energy (electric), CenterPoint Energy (gas)</p> <p>NB: As of 2025, Minneapolis is in the process of renewing for another 10 years.</p>	10 years (Building Electrification Institute, 2022)	Changed franchise fee in 2018 from 4.5% to 5% to raise funds for climate action.	100% carbon-free electricity by 2030	Xcel did not want municipalization, which was occurring in Boulder CO, which was also served by Xcel (Building Electrification Institute, 2022).
<p><b>City: Salt Lake City, UT (2016)</b></p> <p><b>Utility:</b> Rocky Mountain Power</p> <p>NB: As of 2022, Salt Lake City is in the process of renewing.</p>	5 years	No dedicated funding. Focused on energy cooperation agreement and joint projects.	100% clean energy by 2032 (Van Horn, 2016)	Pursuing both Municipalization and Enabling Legislation for Community Choice Aggregation.
<p><b>City: San Diego, CA (2021)</b></p> <p><b>Utility:</b> San Diego Gas and Electric</p>	10 years, with optional 10-year extension (City News Service, 2021)	<p>\$20M to advance city's climate equity goals.</p> <p>\$10M for solar-energy rebates in underserved neighborhoods</p>	The city's Community Choice Aggregation program <i>San Diego Community Power</i> procures energy	Competitive bidding process for franchise included interest from Berkshire Hathaway Energy and Indian Energy of Orange County (Nikolewski, 2020)
<p><b>City: Chicago, IL (2023)</b></p> <p><b>Utility:</b> Commonwealth Edison Company (ComEd)</p>	15 years, with optional 5-year extension	ComEd will provide \$100-\$120M of shareholder money to climate initiatives.	Alignment with Chicago's Climate Action Plan—62% carbon reduction by 2040 (City of Chicago, 2023)	Issued a Request for Information (RFI) to explore alternatives to ComEd and to solicit new ideas for electricity delivery and energy generation.

				Additionally: compliance with Illinois 2021 Climate and Equitable Jobs Act, a multi-year long political campaign to extract concessions from ComEd, and an exposed bribery scheme (Lydersen, 2023).
<b>Tucson, AZ</b> ; Prop 412 (2023, proposal) / Tucson Electric Power  <i><u>NB: Not Adopted</u></i>	25 years	0.75% fee on electric bills split between undergrounding and climate action plan (Miranda, 2023)	100% renewable energy for city owned facilities announced in parallel efforts	Desire from TEP to have a new franchise agreement 3-years ahead of expiration.

CCES identified some major takeaways from the comparing these agreements. CCES has already highlighted two – a short franchise length and shareholder money for funding – but here CCES discusses two more.

First, the prospect of turning to alternative utilities (like in San Diego) or pursuing municipalization (as in Minneapolis, Salt Lake City, and Chicago) gave the respective city leverage and negotiating power. CCES contends that Tucson is now in a similarly advantageous situation and possesses the bargaining power necessary to negotiate an impactful FA and ECA, should the City and its elected officials choose to exercise it. Further details are provided in the section titled “The City of Tucson’s Strong Leverage in FA Negotiations.”

Second, this FA and ECA should be seen as a first step that sets the stage for a stronger clean energy agreement in the future. As costs of clean energy fall further and as need for climate action becomes clearer, utilities will be more open to looking into ways to enter mutually beneficial agreements. In Minneapolis and Salt Lake City, they have begun new FAs that are just as impactful as their original versions, while retaining a short length to preserve the City’s leverage and ensure accountability from the Utility. As an even stronger example, Salt Lake City’s FA process set the stage for the passage of the Community Renewable Energy Act at the state level (Salt Lake City, 2019), thus empowering cities across the whole state to achieve 100% clean energy quickly and independently.

## Analysis of Line Siting Concerns

The CCES Subcommittee looked at information related to line siting and undergrounding. The issue was important during the Proposition 412 election. No comments about this topic were brought up at CoT Energy Future Townhall events as of the writing of this document. Because there are no significant climate or resiliency impacts related to this issue, CCES has no recommendations.

The Commission understands that this is an important issue to some voters, especially around the Sam Hughes and University of Arizona area. It would be prudent for the City to engage these voters for the successful passage of a franchise agreement.

## Arizona's Energy Regulation and Implications for Tucson

While the City of Tucson holds significant leverage in its negotiations with Tucson Electric Power (TEP), any resulting agreements must operate within the boundaries of Arizona's legal and regulatory framework. These were carefully considered in the creation of the report. For the reader's reference, a high-level outline is provided below.

### State Regulatory Authority

Arizona is a vertically integrated, regulated monopoly state. TEP, as an investor-owned utility, is overseen by the constitutionally-established Arizona Corporation Commission (ACC), which holds broad exclusive authority over electricity rates, energy generation and procurement decisions, and utility Integrated Resource Plans (IRPs). Because of this structure, the City of Tucson cannot independently mandate that TEP use a specific mix of energy resources or impose new rates through a franchise agreement. Any provisions that impact rates or require significant capital investment by the utility must ultimately be reviewed and approved by the ACC.

### Franchise Approval and Term Limits

The Arizona Constitution requires that any new, extended, or renewed franchise must be approved by a majority vote of the municipality's qualified electors. In other words, Tucson's voters have the final say on the franchise agreement with TEP. This adds a political layer to what can be included – provisions that might be seen as too costly or controversial could risk voter rejection (as happened with Proposition 412 in 2023). The requirement for a public vote inherently constrains extreme terms; the deal needs to appeal to voters as a fair trade-off.

### Municipalization Option

Tucson retains the legal authority to pursue municipalization—that is, to form a public electric utility by condemning TEP's local distribution assets and compensating the company accordingly. While full municipalization is difficult, the City can include language in the FA preserving the legal right to explore this path or purchase the system in the future. Such clauses, as used in cities like Chicago, can provide additional leverage during negotiations.

### State Preemption of Energy Policy

The Arizona Legislature has, in recent years, shown hostility to local energy mandates – for example, passing laws to preempt cities from banning natural gas in new buildings (Pontecorvo, 2020). While these don't directly affect electric franchise terms, they indicate a political climate where overtly "green" requirements might draw state-level scrutiny. The City likely cannot, for instance, require TEP to implement a program exclusive to Tucson if it contradicts state statutes or ACC policies. However, many progressive provisions can be structured in harmony with state regulations (e.g. voluntary utility programs, use of city funds, or utility shareholder contributions that do not impact regulated rates).

## Existing Franchise Fee Structure

TEP's current franchise includes a 2.25% fee that is passed through to those customers on their bills. This fee is authorized by state law as part of doing business in the city. The City has the authority to adjust this fee, introduce new surcharges, or earmark revenues for specific purposes, so long as voters approve the changes as part of the FA. The ACC does not regulate the franchise fee's existence—they treat it as a pass-through cost—but simply ensure that it's listed on bills and that the utility isn't earning profit on it. The key constraint around increasing a franchise fee to generate more money for purposes such as climate action is not legal, but political—getting the voting populace to agree to what is effectively a tax increase. Pursuing this option failed during Prop 412. This forms the basis for our focus on securing shareholder funds.

## ACC Oversight on Utility Commitments

If Tucson and TEP agree to certain progressive programs (say, a new solar program or expanded efficiency offerings in the city), the implementation might require ACC approval, especially if it involves utility expenditures recoverable via rates. The ACC has in the past approved “green tariffs” or special contracts for large customers to buy clean energy; already, the City and the University of Arizona have entered, or are in the process of entering, special agreements to use 100% clean energy on paper (University of Arizona, 2019).

The ACC is likely supportive of voluntary measures that don't raise costs for non-participants. For citywide programs, Tucson would need to craft them either as utility shareholder-funded (so they bypass ACC rate implications) or as city-funded (using franchise fees or other city resources), or structure them as opt-in programs subject to ACC program approval. It is also important to note that the ACC's composition can be politically influenced (currently fully Republican) and could either support or hinder aggressive sustainability moves, depending on whether those moves align with “safe, reliable, affordable” service or are seen as outside the ACC's mandate.

## Conclusion

In summary, Arizona's constraints mean Tucson cannot simply mandate clean energy requirements without ACC approval. However, even though franchise agreements in Arizona are typically limited to granting use of right-of-way, there is no formal legal limit on what else can be included in it (Michael et al., 2024a, 2024b). Thus, cities can negotiate franchise conditions such as fees, reporting requirements, and collaborative agreements that include GHG reduction goals, as long as they don't usurp the ACC's role on rates.

Note that if a franchise agreement lapses, the City could choose to require TEP to obtain a permit for every piece of work it wishes to do, which could increase costs, administrative burden, and lead to service uncertainties. Although not without precedent – Eugene, OR let their FA lapse and required individual permits for every piece of work after their utility refused for years to negotiate in good faith for clean

energy (Building Electrification Institute, 2022) – it is not ideal for either side, so both parties have incentive to find a mutually agreeable path.

## Compatible Fortis and TEP Goals and Policy Statements

These are Fortis and TEP environmental goals that demonstrate their commitment to a sustainable future. These are important collaboration points that have the potential to bring both Fortis and TEP in alignment with our Tucson Resilient Together goals.

### Fortis:

1. “Strategy... Our goal is to get the energy we provide as clean as possible, as fast as possible, without compromising our ability to deliver safe, reliable, affordable energy to customers... Tap into innovative solutions to provide reliable, cleaner energy” (Fortis, Inc., 2025a).
2. Target Net-Zero direct GHG emissions by 2050, 75% reduction by 2035 (Fortis, Inc., 2025b).
3. Fortis Home Page motto: “Delivering a Cleaner Energy Future - A North American Leader in Energy Delivery”.
4. About Fortis: “We believe local leadership is best for electricity and natural gas utilities, ensuring a strong focus on our customers and communities.” (Fortis, Inc., 2024a).

### TEP:

1. Net Zero by 2050 - The new goal keeps us on pace toward an 80 percent reduction in carbon dioxide (CO<sub>2</sub>) emissions by 2035, a target we set in our 2020 IRP (Tucson Electric Power, 2023).
2. Our plan accelerates TEP’s buildout of clean energy resources, with 1,520 MW of new renewable systems and storage coming online by 2030, a 44 percent increase over the level projected in the 2020 IRP (Tucson Electric Power, 2023).
3. TEP has a strong local connection and history with Tucson. “Even after 125 years of service, our growth and success remains linked to the growth and success of Southern Arizona” (Tucson Electric Power, 2025a).
4. TEP needs community support to reach its goals: 1.5 Net Zero Hero (Tucson Electric Power, 2023).

## Comparison of 2001 and 2023 Agreements

CCES reviewed the previous two Franchise agreements. This comparison is useful for considering the content of the 2025 Franchise agreement and ECA.

Differences between the current Franchise agreement (2001) and the attempted franchise agreement (2023):

9

Section	2001	2023
Section 2 - Grant of Franchise	<ol style="list-style-type: none"> <li>Refers to “necessary appurtenances”</li> </ol>	<ol style="list-style-type: none"> <li>Adds section about Electric Vehicle Supply Equipment (EVSE)</li> <li>Allows with CoT approval, without unreasonable (CoT) delays</li> <li>New EVSE language gives TEP the opportunity to expand services while preserving CoT control and oversight.”</li> <li>Refers to “necessary facilities”</li> </ol>
Section 5: Renegotiation of Terms	<ol style="list-style-type: none"> <li>5 years after date Sections subject to review 9, 16, 17, 20, 21</li> <li>only CoT can terminate</li> </ol>	<ol style="list-style-type: none"> <li>10 and 15 years after date</li> <li>More sections to review 9, 10(e), 16, 16.5, 17, 20, 21 (added the Community Resilience Fee sections)</li> <li>Either TEP or CoT can terminate (with new info about post-termination obligations - specifically with regard to Community Resilience fee collection, debt and renewal)</li> </ol>
Section 10: Franchise and Other Fees	<ol style="list-style-type: none"> <li>Franchise Fee</li> <li>2.25%- renegotiation after 3yrs if revenue falls below 90% intended level</li> <li>1/9 to low-income, undergrounding, renewables (Public Benefits Fee)</li> </ol>	<ol style="list-style-type: none"> <li>Franchise and Other Fees</li> <li>Defines “Applicable Revenues” -2.25% no renegotiation if revenue below 90% target</li> <li>1/9 to same - (PBF)</li> <li>Added Community Resilience Fee 0.75% for “climate adaptation, undergrounding, resilience hubs, EV infrastructure, etc” -to be held in interest bearing trust account - NOT a City payment - or triggers renegotiation</li> </ol>
Section 10: Franchise and Other Fees		<ol style="list-style-type: none"> <li>Adds request to have energy use data available to use more readily if technology allows</li> </ol>
Section 16.5: Community Resilience Coordination Committee		<ol style="list-style-type: none"> <li>New section.</li> <li>Added new committee - Community Resilience Committee composed of CoT and TEP (5)</li> <li>Purpose to coordinate between TEP and CoT for undergrounding, long-range planning for environment, aesthetics,</li> </ol>

		ratepayer costs, General Plan, use of Resilience funds, transmission line siting (as allowed)
Section 19: Project Design Modifications	1. If CoT needs to change a project design due to TEP right of way presence, TEP pays the cost	1. Same, but TEP pays unless CoT should have know prior to design, did not factor it in, and there is not a suitable alternative
Section 21: Undergrounding	1. Undergrounding Same - City pays costs	1. City Required Undergrounding Where Not Required by Law Same (but includes 16.5 in moratorium on relocation).
Section 30: Indemnification and Insurance	1. The Company indemnifies City unconditionally	1. New qualifier added: "Except to the extent caused by the gross negligence or willful misconduct of the City....."

## Acronyms

CCES	Commission on Climate, Energy, and Sustainability
CoT or City	City of Tucson
ECA	Energy Collaboration Agreement
FA	Franchise Agreement
GHG	Greenhouse Gas
IRP	Integrated Resource Plan
M&C	Mayor and Council
TEP	Tucson Electric Power Company
TRT	Tucson Resilient Together

## CCES Commission Members

Members of the Commission on Climate, Energy, and Sustainability at the time this report was published.

Member	Role	Appointer	Classification
Vanessa Gallego	Member, Franchise Agreement Subcommittee Member	Ward 1	None
Adriana Bachmann	Vice Chair	Ward 2	None
Ojas Sanghi	Member, Franchise Agreement Subcommittee Member	Ward 3	None
Manon Getsi	Member	Ward 5	None
Dr. James Sell	Chairperson	Ward 6	None
Garrett Weaver	Secretary, Franchise Agreement Subcommittee Chair	City Manager	None
Katherine Brown	Member, Franchise Agreement Subcommittee Member	City Manager	Environmental Organization Combating & Adapting to Climate Change
Daniel Stormont	Member	City Manager	None

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