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ARIZONA CORPORATION COMMISSION

2003 JUL 28 P 12:36

July 28, 2003

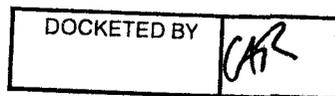
ARIZONA CORPORATION COMMISSION
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Mr. John W. Acer, J.D.
President
Arizona Interfaith Coalition of Energy
P.O. Box 17051
Phoenix, Arizona 85011-0051

Arizona Corporation Commission
DOCKETED

JUL 28 2003

Re: Time-of-Use Rate
Docket No. E-01345A-03-0437



Dear Mr. Acer:

Thank you for taking the time to express your position on the Time-Of-Use (TOU) rates for religious organizations. Because of your yeoman work in the past, TOU rates have been established for APS and SRP.

Unlike the state legislature or city council, the Commission is a quasi-judicial body, which requires me and the other Commissioners to follow a strict set of rules and procedures. We make our decisions based on evidence and testimony contained in the official record.

Unfortunately, the Commission cannot adjust rates, including TOU rates, outside the context of full-blown rate case. I will spare you the full recitation of the many legal reasons, but we are bound by the state Constitution and several litigated cases.

As you know, APS has filed an application with the Commission to increase its rates. Without doubt, the issue of TOU rates will be part of the APS rate case proceeding. With that in mind, I have placed your letter in the pending APS docket so that it will become part of the official record. If you want to advance your position further, I would suggest you become an intervener in the APS rate case.

Thank you for sharing your viewpoint with me. Please contact me if you have further thoughts about TOU rates.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Jeff Hatch-Miller".

Jeff Hatch-Miller
Arizona Corporation Commission

Cc: Docket Control

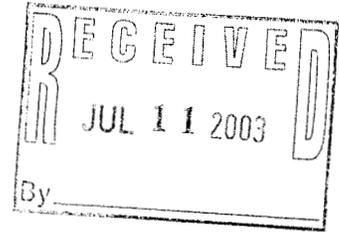
AZ - ICE

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The Honorable Jeff Hatch-Miller
Commissioner, Arizona Corporation Commission
1200 West Washington
Phoenix, AZ 85007

E-01345A 03-04/37

RE: Statewide Time-Of-Use ("TOU") Rate for qualifying
501 (c)(3) organizations

Dear Commissioner Hatch-Miller:

On July 9, 2003, the Board of Directors of the Arizona Interfaith Coalition On Energy ("AZ-ICE") directed that this letter be sent to all five members of the Arizona Corporation Commission, and that the Commission be requested to establish a Time-Of-Use ("TOU") rate such as is described in this letter as is reasonable. This TOU rate first became a Commission subject for discussion in July, 2002.

Although all Members of the Commission are familiar with this matter as a result of prior contacts by AZ-ICE, a short recapitulation is appropriate. Electric utilities classify religious congregations, such as those which AZ-ICE represents, as small businesses and charge them small business rates. These rates tend to be On-Peak rates, charged "24/7", year in-year out. From the beginning of the electric utility industry it was organized to give On-Peak performance only during periods of highest demand. During periods of lesser demand, such as nighttime or week-ends, generators were shut down. During longer periods, maintenance and other work done on idle equipment. Such periods were designated Off-Peak.

Costs of operation are significantly reduced during Off-Peak periods. The rate system does not harm or discriminate against customers whose times of operation coincide with those of the utility, full blast during On-Peak periods, and shut down during Off-Peak periods.

In the eastern States, it was determined early on that customers whose operations did not coincide time wise with those of the utility, resulted in their being charged On-Peak rates for their operations during the utility Off-Peak period, and that such charges were unsupportable and discriminatory. Religious congregations were among those customers discriminated against because their operations were primarily at night and on week-ends. These questions were litigated, and resulted in decisions that such discrimination was prohibited by the U.S. Constitution. That is now the law of the land throughout the United States, and applies to the operations of all electric utilities in Arizona, "governmentally or user owner" or "privately held".

It must ever be kept in mind that the religious congregations are covered because they are 501 (c)(3) utility

Honorable Jeff Hatch-Miller
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customers whose operations are predominantly Off-Peak, and not because they are religious congregations or organizations.

In 1985, AZ-ICE began to challenge utility On-Peak rates. This was necessary to have the law respecting TOU rates in the U.S. applied to utility rates in Arizona. After six rate hearings, the top officials of Arizona Public Service ("APS") all agreed to the institution of an Off-Peak rate for the religious congregations it serves, and other customers. The Arizona Corporation Commission then unanimously established the APS E-20 TOU rate. Two years later Salt River Project ("SRP"), after its own series of hearings and examination of evidence, established its E-32 TOU rate which benefits the religious congregations it serves as customers, and other customers.

APS, the largest regulated electric utility in the State, and SRP, the largest unregulated electric utility in the State, provide excellent case studies of the rationale for TOU rates, as well as mountains of exhibits and testimony relevant to the subject. Their attorneys, bond counsel, accountants, etc., thoroughly examined and challenged the need for such a rate, and finally agree such was required by law.

The Arizona Corporation Commission has a unique opportunity to establish a uniform TOU rate for all electric utilities over which it has jurisdiction, and in so doing make it available to those customers whom it can benefit. This would bring the electric utility rates into compliance with the law in all respects.

Further, such action would also provide a usable model for unregulated electric utilities and their customers to follow in setting up their own rates, by giving them assurance that their actions conform to legal requirements.

Respectfully submitted,



John W. Acer, J.D.
President, AZ-ICE

JWA/hkm