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Arizona Corporation Commission

ARIZONA CORPORATION COMMISSION RECEIVED DOCKETED

2000 MAY 17 P 12:15 MAY 17 2000

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2 CARL J. KUNASEK
CHAIRMAN
3 JIM IRVIN
COMMISSIONER
4 WILLIAM A. MUNDELL
COMMISSIONER
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AZ CORP COMMISSION DOCUMENT CONTROL DOCKETED BY Jm

6 IN THE MATTER OF THE JOINT APPLICATION
7 BETWEEN CITIZENS UTILITIES COMPANY,
8 INC. AND CAP ROCK ENERGY CORPORATION
9 FOR THE APPROVAL OF THE SALE OF
CERTAIN ELECTRIC UTILITY PROPERTIES IN
ARIZONA AND THE TRANSFER OF THE CC&N
FROM CITIZENS AND THE ARIZONA
ELECTRIC DIVISION TO CAP ROCK ENERGY.

DOCKET NO. E-03851A-00-0163
E-01032A-00-0163
E-01032B-00-0163
E-01032C-00-0163

PROCEDURAL ORDER

10 **BY THE COMMISSION:**

11 On April 10, 2000, Mr. Marvin Lustiger filed a Request to Intervene ("Request") in the
12 above-captioned matter.¹ On May 1, 2000, Citizens Utilities Company ("Citizens") filed an
13 Objection to the Request. On May 4, 2000, Mr. Lustiger filed a Reply to the Objection.

14 In the Request, Mr. Lustiger indicated he owned property in the area served by Citizens. Mr.
15 Lustiger asserted that he has a multimillion dollar action pending against Citizens in the Federal
16 Court. Mr. Lustiger argued that the transfer of certificates could adversely affect the use and value of
17 his properties.

18 Citizens argued that the Request should be denied since Mr. Lustiger has failed to
19 demonstrate that he will be "directly and substantially affected by the proceeding." Citizens asserted
20 that Mr. Lustiger had not even alleged he is a Citizens electric customer. According to Citizens, that
21 should be the initial threshold to be considered as being potentially directly and substantially affected.
22 Citizens also argued that Mr. Lustiger had not demonstrated that his interest would not be adequately
23 represented by the Utilities Division Staff ("Staff") of the Arizona Corporation Commission
24 ("Commission") or the Residential Utility Consumer Office ("RUCO"). Lastly, Citizens asserted that
25 the main question will be whether CAP Rock Energy Corporation is a fit and proper entity to succeed
26 to Citizens' Certificate of Convenience and Necessity ("CC&N").

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28 ¹ On April 21, 2000, Mr. Lustiger filed a second Application to Intervene.

1 In his Reply, Mr. Lustiger asserted that the proposed sale and transfer is based upon hidden
2 agreements which need to be made public. Further, Mr. Lustiger opined that Citizens knows the legal
3 description of every one of the thousands of acres of land Mr. Lustiger owns in Mohave County. Mr.
4 Lustiger asserted that the value of his assets will be affected by this proceeding. Mr. Lustiger opined
5 that the Objection to his Request is frivolous.

6 Based on the above, we find that Mr. Lustiger is "directly and substantially affected" by this
7 proceeding and should be granted intervention.

8 IT IS THEREFORE ORDERED that the Request to Intervene in this matter by Mr. Marvin
9 Lustiger is hereby granted.

10 DATED this 17th day of May, 2000.

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JERRY L. RUDIBAUGH
CHIEF HEARING OFFICER

15 Copies of the foregoing mailed/delivered
16 this 17th day of May, 2000 to:

17 Craig A. Marks
18 Associate General Counsel
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9 By: 
10 Brenda Sanchez
11 Secretary to Jerry L. Rudibaugh

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