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**BEFORE THE ARIZONA CORPORATION COMMISSION**

Arizona Corporation Commission
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COMMISSIONERS

JEFF HATCH-MILLER, Chairman
WILLIAM A. MUNDELL
MARC SPITZER
MIKE GLEASON
KRISTIN K. MAYES

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| IN THE MATTER OF:<br><br>AVIS READ, individually, on behalf of all similarly situated,<br><br>COMPLAINANTS,<br><br>vs.<br><br>ARIZONA PUBLIC SERVICE COMPANY,<br><br>RESPONDENT. | DOCKET NO. E-01345A-04-0657 |
| IN THE MATTER OF THE APPLICATION OF ARIZONA PUBLIC SERVICE COMPANY FOR A DECLARATORY ORDER REGARDING BILL ESTIMATION PROCEDURES. | DOCKET NO. E-01345A-03-0775<br><br>DECISION NO. **68112**<br><br>**OPINION AND ORDER** |

DATES OF HEARING: October 14, 2004, January 28, February 2 (Public Comments), Feburary 4, and April 7, 2005

PLACE OF HEARING: Phoenix, Arizona

ADMINISTRATIVE LAW JUDGE: Lyn Farmer

IN ATTENDANCE: Jeff Hatch-Miller, Chairman
William A. Mundell, Commissioner
Marc Spitzer, Commissioner
Mike Gleason, Commissioner
Kristin K. Mayes, Commissioner

APPEARANCES: Mr. Barry Reed, ZIMMERMAN REED; Mr. David A. Rubin, THE RUBIN LAW FIRM; and Mr. Jeffrey M. Proper, Attorney at Law, on behalf of the Complainant;

Mr. Thomas L. Mumaw, PINNACLE WEST CAPITAL CORPORATION, PNW LAW DEPARTMENT and Mr. William J. Maledon and Ms. Debra A. Hill, OSBORN MALEDON, P.A., on behalf of Arizona Public Service Company; and

Ms. Janet Wagner, Staff Attorney, Legal Division, on behalf of the Utilities Division of the Arizona Corporation Commission.

**BY THE COMMISSION:**

On June 4, 2002, Avis Read filed a complaint in the Superior Court of the State of Arizona against Arizona Public Service Company ("APS"), alleging that APS had failed to read her meter for months at a time, that APS' estimates of her energy consumption tended to result in higher bills, that APS' estimated bills did not accurately reflect actual usage and demand, and that APS had intentionally engaged in this conduct. The Complaint also alleged that APS had not employed a sufficient number of meter readers, had systematically failed to read customer meters, had arbitrarily estimated electric consumption and demand resulting in overcharging, and that APS had failed to obtain the Arizona Corporation Commission's ("ACC") approval of its estimating procedures in violation of Arizona Administrative Code ("A.A.C.") R14-2-210(A)(5).[1]

On October 23, 2003, APS filed an application requesting a declaratory order finding that its past and present procedures for bill estimation either are exempt from or comply with the requirements of A.A.C. R14-2-210 and R14-2-1612 ("Application for Declaratory Order").

On September 9, 2004, Avis Read ("Complainant"), on her own behalf and on behalf of a class of customers of APS filed a complaint ("Complaint") against APS, raising allegations similar to those raised in the Superior Court Complaint. On September 20, 2004, APS filed its Response to the Complaint stating that the claims are without merit and that the estimated bills that were sent to the Complainant consistently underestimated the amount of electricity consumed.

By Procedural Order issued November 2, 2004, the Application for Declaratory Order and the Complaint were consolidated.

In its Direct testimony filed on January 24, 2005, Staff indicated that its chief concern with the Complaint was not how the bills were estimated, but that APS did not send Mrs. Read a bill for five months; that when the bills were eventually rendered, they were unreasonably confusing; and that the large amount of the bill created a financial burden, but APS was not willing to work on an extended payment plan for any time longer than three months. Staff concluded that the plain language of R14-2-210(A)(5)(a) indicates that the rule was intended to apply to APS. Staff noted that

[1] The Complaint was subsequently dismissed without prejudiced.

APS had Commission-approved bill estimation procedures for Rate Schedules EC-1 and ECT-1R, but that APS apparently had not implemented those methods and was in non-compliance with those tariffs. (Rowell Direct pp 12-13).

Staff found that APS had failed to comply with R14-2-210(A)(5)(a); it failed to send bills on a monthly basis; and it failed to comply with its EC-1 and ECT-1R tariffs. Staff recommended fines of $953,000 for APS' failure to follow its tariffs and $20,000 for APS' failure to send bills. Staff recommended that in addition to the recommendations contained in the December 28, 2004 Staff Inquiry into the Usage Estimation, Meter Reading, and Billing Practices of APS ("Staff Inquiry") initial report by Staff consultants, APS should: refund overestimated demand charges totaling at least $171,686 plus interest; change its current methodology for estimating demand to one using customer-specific, prior month kW to estimate demand; and commence an internal audit of its compliance with Commission rules and Commission-approved tariffs. Staff further recommended that for the next five years, APS be required to submit verification to the Commission that APS is in compliance with its tariffs dealing with billing practices and with Commission rules on billing practices.

In Rebuttal testimony, APS witness David Rumolo testified that the settlement in the APS rate case had two elements that would reduce the number of demand estimations in the future: residential Schedule EC-1 would be eliminated; and the proposed Schedule E-32 would eliminate the demand charge for general service customers with demands of 20 kW or less[2]. APS also disagreed with some of Staff's recommendations, including crediting customers for estimated demand readings and the internal auditing on bill estimation, metering, and billing practices, as well as the use of an independent auditor.

On February 25, 2005, Staff filed a Proposed Settlement Agreement ("Settlement Agreement") behalf of APS, the estate of the Complainant, and Staff. The Settlement Agreement is attached hereto as Attachment A.

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[2] E-32 general service customers requiring demand readings for billing purposes will decrease from 95,000 to approximately 20,000 customers.

The key provisions of the Settlement Agreement are generally summarized as follows:[3]

Estimation Issues:

- The Parties agree that APS did not implement the demand estimation methodology contained in its Rate Schedules EC-1 and ECT-1R when it designed its bill estimation procedures for its customer information system;
- From April 1999 to the present, APS has used class average load factors to estimate demand in most instances, and the parties agree that this tends to result in a net underestimation of kW. The Parties agree that APS' class average load factor method is less accurate than the tariffed method;
- APS' use of class average load factors to estimate demand is consistent with the requirements of A.A.C. R14-2-210 but inconsistent with the provisions of Rate Schedules EC-1 and ECT-1R;
- APS' methods for estimating Mrs. Read's kW and kWh resulted in underestimation, which in turn resulted in underbills;
- APS acknowledges that it has an independent obligation to implement its Commission-approved tariffs;
- The parties agree that the use of customer specific kW from the prior month is the most accurate method for estimating demand when compared with the other kinds of methods analyzed in this proceeding;
- APS shall use customer specific kW from the prior month to estimate demand for all of its demand tariffs, when the appropriate data is available;
- Procedures are adopted for determining appropriate initial bills with demand charges;
- Procedures are adopted for estimating demand when customer-specific kW is not available;
- APS agrees to implement the demand estimation methodologies set forth in the Settlement Agreement within seven months of the Commission's approval of the bill estimation tariff;
- APS agrees to conduct a study to determine the impact of reclassifying May as a non-summer

[3] See Attachment A for the full, complete language of the settlement.

month for purposes of kWh estimation and to file the report by December 30, 2005;

- APS is not required to recalculate demand estimations that were based upon class average load factors that occurred between April 1999 and the effective date of the new kW demand estimation procedures set forth in the Settlement Agreement, except that APS shall credit all customers who between September 1, 1998 and October 1, 2003, had an actual demand reading that was lower than the immediately preceding estimate (see Exhibit A to the Settlement Agreement, estimating total potential settlement credits, not including interest, to be $2,217,232). APS will file a report with the Commission that accounts for the credits issued;
- APS shall make reasonable efforts to locate all customers who have left its system and who are entitled to credits or five dollars and greater;
- APS shall design a cost effective Access Improvement Program to achieve a reduction in the number of instances of kW and kWh estimation due to "no access" issues and shall expend $600,000 on this program (not including and separate from any ongoing or anticipated expenditures) and will submit the details of its proposed Access Improvement Program for Commission approval;
- The costs to implement the actions required by APS, as set forth in Paragraph 25 are not recoverable by APS;
- APS' estimation procedures for all rates shall be governed by a bill estimation tariff that shall be consistent with the Decision in this matter and APS shall file its bill estimation tariff for Commission review within thirty days and APS shall also amend all applicable rate schedules to remove language related to estimation procedures;
- All APS amendments to its bill estimation procedures must be filed as a tariff with the Commission.

Meter Reading Issues:

- The Parties acknowledge that customers have an obligation to provide safe and unrestricted access to the customer's electric meter in accordance with A.A.C. R14-2-209(D) and APS acknowledges that it has an obligation to undertake reasonable efforts to accomplish timely

reads of its customers' meters.

- APS estimated Mrs. Read's demand meter for the months of January, March, April, and May of 1999;
- APS acknowledges that accuracy in meter reading and in estimation of kW and kWh is an important public and regulatory policy, and that an effective way to improve the accuracy of billing is to reduce the number of times that APS estimates kW or kWh;
- In order to decrease the incidence of "no access" to customers, APS will implement the following:
    a. APS will provide the Commission with a report in six months that explains new procedures it has put in place to ensure that staffing resources are sufficient to address emergency short-term needs for meter reading shops that are either smaller or remote;
    b. APS shall revise its "No Access Meters" report to prioritize accounts to focus first on demand-billed customers when working the "no access" report and take other steps to identify and prioritize "no access" problems;
    c. APS shall develop and install a performance measure to monitor the extent to which it is complying with the Commission requirement to read meters monthly, and shall provide to the Commission a description of its performance measure and the results of its analysis within six months;
    d. APS shall modify the options in its software to prevent the Itron HHC meter readers from displaying the previous month's reading and usage;
    e. For the next six years, APS shall provide biannual reports to the Commission related to the status of the remote meter reading pilot and implementation plans;
    f. APS will implement a pilot program to evaluate whether using an auto-dialer to communicate with customers who have experienced two consecutive months of "no access" will facilitate resolution of additional "no access" accounts and shall report the results;
    g. APS shall implement a policy to ensure that meter reading supervisors or their designees periodically inspect meter locations reported as "no access" to verify that

appropriate corrective measures are taken, and APS shall file a copy of this policy within ninety days;

h. APS shall continue to participate in benchmarking studies that compare its practices to other utilities in the industry and shall provide such benchmarking analysis to the Commission and Staff on a confidential basis;

i. APS shall develop and install performance measures to document the efforts that it has taken to secure an accurate reading of the meter after the second consecutive month of estimating the customer's bill for other than weather;

j. APS shall include the use of EZ-Read as one of the steps taken to resolve a "no access" situation;

k. APS shall use available DB Microware reports to review lock-outs by route to monitor trends in lock-outs and reduce the number of "no access" meters; and

l. APS shall establish an internal process whereby, after three consecutive estimates, continued instances of consecutive estimates due to "no access" situation are reported and made visible to increasingly higher levels of APS management.

- In order to improve its communication with its customers, APS will train its billing service representatives and others involved in kW and kWh estimation, meter reading, and billing processes to understand that customers value an accurate bill, to recognize that underestimation may result in problems for their customers, and will familiarize these personnel with applicable Commission rules and APS tariffs and stress the importance of adherence thereto. APS will provide Staff with a description of its training process within six months;
- APS shall provide a clearer notice on a re-billed account and will make the appropriate modifications to its billing system to implement the change no later than sixty days;
- The Settlement takes no position on the validity or the applicability of the amendment to A.A.C. R14-2-210 and for the purposes of the Settlement, the parties agree that APS should not be assessed a penalty for any alleged violations of A.A.C. R14-2-210(A)(5)(a) or

210(A)(6)(b) and that any such alleged violations do not affect the validity of any estimated bills issued before the effective date of the Commission's approval of APS' bill estimation tariff;

- If the Commission approves the Settlement Agreement, the Read Complaint will be dismissed with prejudice, provided that such dismissal shall not be deemed to preclude Mrs. Read's attorneys from seeking any attorneys fees to which they might be entitled.

Billing Issues

- APS did not send Mrs. Read any bills for five months due to implementation problems associated with its Customer Information System ("CIS");
- APS acknowledges that it has an obligation to bill each of its customers in accordance with A.A.C. R14-2-201(A);
- The Settlement Agreement is not intended to diminish or to establish any rights in any other customers who were not issued bills by APS as a result of the CIS implementation problems, nor is it intended to eliminate APS' duty to properly, accurately, and consistently apply any specific bill estimation procedures.

Compliance

- APS' Regulatory Compliance Department shall conduct an audit of APS' kW and kWh estimation, meter reading, and billing practices and those results will be certified by APS' Director of Regulatory Compliance and provided on a confidential basis to the Commission and Staff within nine months, and at least once every three years thereafter;
- APS shall conduct an internal review of its compliance program relating to all its Commission approved tariffs and shall submit a report on a confidential basis within twelve months;
- After APS submits its reports, if the Commission believes that an additional audit is required, APS shall participate in a third-party audit by an independent auditor selected by Staff and paid for by APS.

In its settlement testimony filed March 18, 2005, Staff discussed its concerns about the allegations raised in the Complaint, including: APS' meter reading resources, billing language,

demand and usage estimation practices and about the accuracy of APS' bills to its customers. Staff stated that during the course of Staff's inquiry into the billing and meter reading practices, more concerns came to light, including issues related to APS' implementation of its 1998 CIS, instances where APS failed to appropriately credit customers when a demand estimate turned out to be higher than a subsequent meter read, and APS' "apparent non-compliance with sections of rate schedules EC-1 and ECT-1R that apply to residential customers taking service through demand rates." (Jaress Settlement testimony p.2)

Staff concluded that:

- Mrs. Read, "although the recipient of poor customer service from APS," was under billed, and not over billed as alleged;
- APS' estimation practices most commonly result in underestimations, rather than overestimations;
- APS, rather than using the method for estimating demand contained in its tariffs, uses customer class average load factors in its calculation of estimated demand;
- Approximately eight percent of APS' residential customers and 93 percent of its non-residential customers are served through demand meters and this constitutes a high number of demand meters when compared to other electric utilities. Consequently, problems arising from non-access to demand meters and estimation of demand are significant in both impacts on the customer and on APS' costs of achieving a meter read; and
- Implementation of APS' new CIS caused certain deficiencies in the bill estimation process and caused APS to miss sending bills to certain customers for a limited time period.[4]

Staff testified that the Settlement Agreement addresses its concerns: meter access problems are addressed by requiring APS to invest $600,000 in the Access Improvement Program; problems with APS' demand estimation procedures are resolved by APS' agreement to use the most accurate method of those studied for estimating demand; Staff's concerns about APS' current and future

[4] Jaress Settlement testimony pp. 3-4.

compliance with Commission rules, APS' tariff and with this decision are addressed by the ongoing audits and reports to aid the Commission in its oversight of APS; Staff's concerns about confusing language on customer bills is resolved by the adoption of Staff witness Rowell's recommendations about billing language; and APS' agreement that most costs associated with training, reports, and implementation of improvements be absorbed by the Company insures that customers do not bear the costs of remediation.

Staff believes that the Settlement Agreement is in the public interest because it addresses and resolves the Complaint and problems associated with APS' meter reading and bill estimation procedures. Benefits are provided to all customers through the Access Improvement Program, and for those customers who were over billed demand charges from September, 1998 when the new CIS was implemented through September 2003, when changes were made to correct the problem, credits/refunds will be issued that are expected to total approximately $2.2 million - $2 million for general service customers and $170,000 for residential customers.

APS testified that the Settlement is a fair and reasonable compromise. Mr. Rumolo testified that it provides substantial benefits to its customers, both current and former; it should lead to a reduction in access-related bill estimation; it provides regulatory certainty and clarity, and it ends a time and resource consuming dispute.

Counsel for the Complainant in his opening statement indicated that the Settlement Agreement accomplishes what his client set out to do: an accounting and refund of actual credits to those who were overcharged and a mechanism in place going forward whereby the estimating procedures will be approved by the Commission.

Although APS stressed that its billing of estimated demand resulted in a net under billing to the Company, the important issue is the accuracy of each individual customer's bill, not whether APS' metering and billing procedures produced a net under or over estimation of all bills. The Settlement Agreement is designed to focus APS' attention upon the importance of this issue, to consistently render timely, accurate, and understandable bills to each of its customers. The Settlement Agreement puts an end to a protracted dispute and maintains Commission oversight of APS' billing and metering procedures through the tariff requirements. Accordingly, we find that the

Settlement Agreement is a reasonable resolution of the issues raised in the Complaint and the Application for Declaratory Order, and should be approved.

* * * * * * * * * *

Having considered the entire record herein and being fully advised in the premises, the Commission finds, concludes, and orders that:

**FINDINGS OF FACT**

1. On October 23, 2003, APS filed its Application for Declaratory Order requesting a declaratory order finding that its past and present procedures for bill estimation either are exempt from or comply with the requirements of A.A.C. R14-2-210 and R14-2-1612.

2. On May 26, 2004, APS filed an Amended Application for Declaratory Order.

3. On August 6, 2004, APS filed a Second Amended Application for Declaratory Order.

4. On September 9, 2004, Complainant, on her own behalf and on behalf of a class of customers of APS filed a Complaint against APS.[5] The Complaint alleged that "APS has systematically deceived and overcharged Complainant and the class in the sale of electricity to them, by systematically failing to follow legally required procedures regarding estimated charges for electricity services; by billing estimated demand readings as if they were actual readings of demand for the month being billed; and by charging the class for electricity using estimating procedures not approved by the Arizona Corporation Commission as required by law, but arbitrarily invented by APS employees."

5. The class complaint was brought on behalf of a "class consisting of all current and former residential and business APS customers in Arizona who, since January 1, 1999, have been, or in the future will be, subject to improper estimation and billing procedures on demand meters not approved" by the ACC.[6]

6. On November 2, 2004, a procedural order was issued consolidating these matters and setting them for hearing on January 20, 2005.

7. On November 23, 2004, APS and the Complainant filed direct testimony.

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[5] Mrs. Read passed away on October 14, 2004, and her estate has proceeded with this Complaint.

[6] By Procedural Order issued January 6, 2005, the Commission determined that it was unnecessary to certify a class in order to address any relief that may be found necessary.

8. On December 17, 2004, Staff filed a Motion to Extend Filing Deadline requesting additional time for filing its Staff Report.

9. On December 21, 2004, APS filed its Response to Staff's Motion requesting a corresponding extension of time for filing subsequent prefiled testimony and exhibits.

10. On December 28, 2004, Staff filed its Staff Report "Staff Inquiry into the Usage Estimation, Meter Reading, and Billing Practices of Arizona Public Service Company".

11. On January 5, 2005, a telephonic procedural conference was held to discuss the procedural schedule for these matters, and by Procedural Order issued January 6, 2005, the procedural schedule was modified as requested by APS, the hearing was set for February 2, 2005, and APS was order to publish notice of the hearing and Staff was directed to post the notice and its testimony/Staff Report on the ACC's website.

12. On January 24, 2005, Staff filed its direct testimony, APS filed its rebuttal and APS docketed its Notice of Publication which indicated that the required notice was published in *The Arizona Republic* on January 15, 2005.

13. On January 28, 2005, a telephonic procedural conference was held pursuant to request by APS and a Procedural Order was issued granting APS' request for a suspension of the procedural schedule in order to allow it and the parties to discuss settlement of these consolidated matters.

14. The February 2, 2005 noticed hearing date was held to take public comment and no members of the public appeared to make public comment.

15. On February 25, 2005, Staff filed a Proposed Settlement Agreement on behalf of APS, the estate of the Complainant, and Staff. The Settlement Agreement is attached hereto as Attachment A.

16. On March 2, 2005, a Procedural Order was issued setting the consolidated matters for hearing on the Settlement Agreement.

17. The hearing was held on April 7, 2005 before a duly authorized Administrative Law Judge of the Commission at its offices in Phoenix, Arizona. The Complainant, APS, and Staff appeared through counsel, and APS and Staff presented witnesses who testified in support of the Settlement Agreement. On April 18 and 20, 2005, APS and the Complainant's attorneys,

respectively, filed information with the Commission about their time and expense litigating these matters.

18. As of October 18, 2004, APS had over one million meters installed in the field of which approximately 175,000 were on accounts billed on a demand rate, and APS employed approximately 158 meter readers.

19. Billing on non-demand accounts is based on accumulated usage, so that when a bill is estimated one month, the next month's "actual reading" will be used to "true-up" and charge for the actual usage. Billing on demand accounts requires a read and resetting of the demand on the meter each month, so if an estimated demand is used, there is no way to "true-up" a demand charge the following month.

20. Prior to implementing a new CIS in September, 1998, APS used a customer-specific load factor demand estimating methodology and in March 1999, APS began using class average load factors to estimate demand for residential customers and certain general service customers.

21. Based upon its analysis of five different demand estimation methodologies, Staff concluded that the use of class average load factors is the least accurate method of estimating demand, and that the use of customer specific kW from the prior month is the most accurate method of estimating demand.

22. The number of estimated bills can be reduced by improved access to customer meters.

23. Customers value and expect to receive timely, accurate, and understandable bills for electric usage.

24. The findings contained within the Settlement Agreement are incorporated herein.

25. The Settlement Agreement addresses and resolves the issues raised in the Complaint and in the Application for Declaratory Order in a fair and reasonable manner.

## CONCLUSIONS OF LAW

1. Arizona Public Service Company is a public service corporation within the meaning of Article XV of the Arizona Constitution and A.R.S. §§ 40-202, 203, 245, 248, 321, 322, and 361.

2. The Commission has jurisdiction over Arizona Public Service Company and the subject matter of the Complaint and application.

3. Notice of the application was provided in accordance with the law.

4. APS is required to implement and follow its tariffs on file with the Commission.

5. The Settlement Agreement resolves all matters raised by the Complaint and in the Application for Declaratory Order (as amended) in a manner that is just and reasonable, and promotes the public interest.

**ORDER**

IT IS THEREFORE ORDERED that the Settlement Agreement attached hereto as Attachment A, is approved.

IT IS FURTHER ORDERED Arizona Public Service Company shall comply with all the terms of the Settlement Agreement, including timely filing all reports/audits and issuing credits to its customers.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

CHAIRMAN COMMISSIONER

COMMISSIONER COMMISSIONER COMMISSIONER

IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive Director of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this 9th day of Sept., 2005.

BRIAN C. McNEIL
EXECUTIVE DIRECTOR

DISSENT _____

DISSENT _____

LF:mj

SERVICE LIST FOR: ARIZONA PUBLIC SERVICE COMPANY

DOCKET NOS.: E-01345A-04-0657 and E-01345A-03-0775

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# PROPOSED SETTLEMENT AGREEMENT

Arizona Public Service Company ("APS" or "the Company"), the Estate of the late Mrs. Avis Read ("Read"), and the Arizona Corporation Commission Staff ("Staff") (collectively, "the Parties") hereby propose settlement of the following matters currently pending before the Arizona Corporation Commission ("Commission"): APS' Application for a Declaratory Order, Docket No. E-01345A-03-0775; Read's Formal Complaint, Docket No. E-01345A-04-0657 (including any matters raised in the related Superior Court case previously brought by Mrs. Read); and Staff's Inquiry into APS' Usage Estimation, Meter Reading, and Billing Practices. These matters shall be collectively referred to as the "Bill Estimation Matter." The following numbered paragraphs are intended to resolve all issues associated with the Bill Estimation Matter.

## RECITALS

1. The purpose of this Agreement is to settle all issues presented by the Bill Estimation Matter in a manner that will promote the public interest. The Parties agree that the terms of this Agreement will serve the public interest by providing a just and reasonable resolution of the issues presented by the Bill Estimation Matter.

2. The Parties agree that the negotiation process undertaken in this matter was open to all Parties and provided all Parties with an equal opportunity to participate. All Parties were notified of the settlement process and encouraged to participate.

3. APS acknowledges the concerns raised by Staff regarding APS' failure to implement the demand estimation procedures set forth in Rate Schedules EC-1 and ECT-1R, notwithstanding APS' contention that these tariffs were implemented up until the time that APS implemented its 1998 customer information system. APS expresses its regret over its failure to properly implement these tariffs and states its intention to fully implement all Commission-approved tariffs in the future.

4. APS acknowledges the concerns raised by Staff regarding APS' failure to send Mrs. Read a monthly bill from September 1999 to January 2000 with respect to Mrs. Read's non-demand account, notwithstanding APS' contention that its failure to bill Mrs. Read was the result of complications associated with the implementation of its customer information system. APS expresses its regret over its failure to send Mrs. Read timely bills during those months and states its intention to use all reasonable efforts to provide monthly bills to all customers in the future.

5. APS acknowledges that there were instances when it did not obtain access to Mrs. Read's meter and that Staff has concerns about whether APS made all reasonable efforts to resolve those access issues, notwithstanding APS' contention that it could not obtain access to the meter. APS acknowledges that it could have done more to obtain

access to Mrs. Read's meter and states its intention to work to decrease the number of "no access" meters in the future.

## I. ESTIMATION ISSUES

6. The Parties agree that APS did not implement the demand estimation methodology contained in Rate Schedules EC-1 and ECT-1R when it designed its bill estimation procedures for its customer information system. The demand estimation methodology set forth in those schedules provides for the use of customer specific kW from the last actual read in order to estimate a customer's demand.

7. From April 1999 to the present, APS has used class average load factors to estimate demand in most instances. The Parties agree that this estimation method tends to result in a net underestimation of kW. The Parties also agree that the use of this estimation method resulted in a greater overall net underbilling for customers subscribing to Rate Schedules EC-1 and ECT-1R than would have resulted had APS implemented the estimation methodology set forth in those schedules. The Parties agree that APS' class average load factor method is less accurate than the tariffed method. Specifically, for the statistical samples of customers with known kW considered in this proceeding, the use of the tariffed method to estimate kW resulted in a greater central tendency toward the known kW of the sample groups than the use of APS' class average load factor method.

8. APS' use of class average load factors to estimate demand is consistent with the requirements of A.A.C. R14-2-210 but inconsistent with the provisions of Rate Schedules EC-1 and ECT-1R.

9. APS' methods for estimating Mrs. Read's kW and kWh resulted in underestimation, which in turn resulted in underbills.

10. APS acknowledges that it has an independent obligation to implement its Commission-approved tariffs.

11. The Parties agree that the use of customer specific kW from the prior month is the most accurate method for estimating demand of those methods analyzed in this proceeding, by which the Parties mean that, for the statistical samples of customers with known kW considered in this proceeding, the use of customer specific kW from the prior month to estimate kW resulted in a greater central tendency toward the known kW of the sample groups than the use of any of the other estimation methods considered in this proceeding, including APS' class average load factor method.

12. When the appropriate data is available, APS shall use customer specific kW from the prior month to estimate demand for all of its demand tariffs.

13. Customer-specific kW from the prior month will not be available if the prior month's bill was an initial bill or an estimated bill.

14. For initial bills covering a period of fewer than eleven days, APS will not bill demand. The customer's bill will consist of a prorated basic service charge, and kWh will be trued up in the subsequent bill. For initial bills covering a period of eleven or more days, demand will be estimated using actual premises history from the prior month. If no demand exists for the prior month or if the prior month's demand was estimated, APS will estimate demand using the actual kW reading from the same month of the prior year at the same premises. If it is determined that the general characteristics of the previous customer vary significantly from those of the current customer or if there is no kW history for the premises, APS will estimate kW by first estimating kWh and then applying a class average load factor to estimate kW. Any initial bills issued in any of the circumstances described in this paragraph shall contain a clear description of the charges depicted in the bill. APS shall collaborate with Staff to develop appropriate language for each of these circumstances.

15. If the prior month's customer-specific kW is not available, APS will use the customer's kW from the same month of the prior year as the basis for the estimated demand reading. If this customer-specific historical information is not available, APS will estimate kW based upon premises-specific history, using the actual kW reading from the last month at the same premises. If this information is not available, APS shall use the actual kW reading from the same month of the prior year at the same premises. If none of the above customer-specific or premises-specific information is available, APS will estimate kW by first estimating kWh and then applying a class average load factor to estimate kW.

16. APS shall implement the demand estimation methodology set forth in Paragraphs 12-15 of this Agreement within seven months of the Commission's final approval of APS' bill estimation tariff. APS may use its existing bill estimation procedures until APS has completed the implementation required by Paragraphs 12-15, and bills issued before such implementation will not be invalidated for being based upon APS' bill estimation procedures as they exist as of the date of this Agreement, except as set forth in Paragraphs 19 through 21. Nothing in this Agreement shall be construed as eliminating APS' duty to properly, accurately, and consistently apply any specific bill estimation procedure.

17. APS shall conduct a study to determine the impact of reclassifying May as a non-summer month for purposes of kWh estimation. By December 30, 2005, APS shall file a report with the Commission that describes the results of this study and that discusses whether revisions to APS' bill estimation procedures are desirable.

18. APS shall not be required to recalculate demand estimations that are based upon class average load factors and that occurred between April 1999 and the effective date of the new kW demand estimation procedures specified in Paragraphs 12-15. Demands estimated pursuant to APS' existing or prior class average load factor estimation methodology shall not be subject to subsequent adjustment for being based upon this methodology, except as specified in Paragraphs 19 through 21. Nothing in this

Agreement shall be construed as eliminating APS' duty to properly, accurately, and consistently apply any specific bill estimation procedure.

19. APS acknowledges that, due to implementation problems associated with its customer information system, some of its demand estimates were higher than the subsequent reads. APS shall credit all customers who, between September 1, 1998 and October 1, 2003, had an actual demand reading that was lower than the immediately preceding estimate. An estimate of these credits is set forth in Exhibit A. Credits shall include interest at the established one year Treasury Constant Maturities rate, effective on the first business day of each year, as published on the Federal Reserve Website. Credits for general service customers shall be adjusted to prevent double credits for the same adjustment and to reflect ratchet demands and contract demands. APS' calculations of these credits shall be reviewed in the audit required by Paragraph 39 and, if the Commission determines that the audit referred to in Paragraph 41 is necessary, in the audit contemplated by that paragraph. Within thirty days after the conclusion of APS' implementation of Paragraphs 19 through 21, APS shall file a report with the Commission that accounts for the credits issued pursuant to this Agreement.

20. APS shall make reasonable efforts to locate all customers who have left its system and who are entitled to credits greater than or equal to $5.00 pursuant to Paragraph 19. APS shall confer with Staff in order to determine the specific efforts that APS will undertake to locate these customers. In order to be eligible for a credit, a customer who has left APS' system must contact APS within 180 days after the conclusion of APS' location efforts undertaken pursuant to this paragraph. If a customer who is entitled to a credit greater than or equal to $5.00 cannot be located, APS shall add the amount of the credit to the expenditures required by Paragraphs 22 through 24.

21. APS shall not be required to locate customers who have left its system and who are entitled, pursuant to Paragraph 19, to credits under $5.00. Such credits shall be added to the amount of expenditures required by Paragraphs 22 through 24.

22. APS shall design a cost effective Access Improvement Program to achieve a reduction in the number of instances of kW and kWh estimation due to "no access" issues. Unless otherwise ordered by the Commission, the Program shall apply solely to specific remedies, such as moving meters or installing appropriate meter-reading technologies, for customer premises where access to the meter is a recurring problem. Meter reading technologies applied in these circumstances shall include, but shall not be limited to, remote ports or similar devices, advanced metering systems, and enhanced radio technology. Expenditures made pursuant to this Program shall have a direct, measurable effect upon APS' ability to obtain access to premises where access is a recurring problem.

23. APS shall expend $600,000 on the program described in Paragraph 22, and these expenditures must be separate from any ongoing or anticipated expenditures. The $600,000 may be increased pursuant to Paragraphs 20 and 21. Expenditures

associated with this Program shall be limited to implementing the measures set forth in Paragraph 22.

24. APS shall submit the details of its proposed Access Improvement Program to the Commission for approval within sixty days of the Commission's decision in this case. After Commission review and approval, APS shall implement the Program over the next six months. No later than fifteen months after the conclusion of the Program's implementation, APS shall file a report with the Commission that addresses the impact of the Program and that details and verifies the Program's expenditures. APS' report shall contain, among other things, a comparison of the number of estimated bills per thousand bills issued during the twelve months following the Program's implementation to the number of estimated bills per thousand bills issued during 2004. Expenditures associated with this Program shall be examined in the audits set forth in Paragraphs 39 and 41.

25. The following items shall not be recoverable:

a. Any amounts expended pursuant to Paragraphs 19 through 24.

b. Any training costs specifically attributable to implementing Paragraphs 12 through 15. This provision is not intended to preclude APS from seeking cost recovery of any reasonable and prudent training costs that are not specifically associated with implementing Paragraphs 12 through 15.

c. Any costs of the audits, reviews, or reports required by Paragraphs 39 through 41.

d. Any amounts expended in order to comply with Paragraphs 12-15 to implement CIS changes that are related in any way to estimating demand for residential customers. This provision is not intended to preclude APS from seeking cost recovery of any reasonable and prudent costs of implementing CIS changes that are solely applicable to general service customers.

e. Any one-time costs of implementing Paragraphs 32(b), 32(d), 32(k), and 33(b), and all other costs associated with implementing Paragraphs 32 and 33 incurred within 36 months after the Commission's decision in this matter.

26. APS shall amend all applicable rate schedules to remove language related to estimation procedures. APS' estimation procedures for all rates shall be governed by a bill estimation tariff that shall be consistent with the Commission's decision in this matter. APS shall file its bill estimation tariff for Commission review within thirty days after Commission approval of this Agreement.

27. For the purposes of APS' bill estimation procedures, the ten circumstances set forth in Exhibit A to the January 24, 2005 testimony of Staff Witness Matthew Rowell

shall be considered to be part of APS' bill estimation procedures, and APS shall adopt all Staff recommendations contained in that Exhibit A.

28. If APS wishes to amend any of its bill estimation procedures in the future, it must file them as a tariff filing with the Commission.

## II. METER READING ISSUES

29. The Parties acknowledge that customers have an obligation to provide safe and unrestricted access to the customer's electric meter in accordance with A.A.C. R14-2-209(D), and APS acknowledges that it has an obligation to undertake reasonable efforts to accomplish timely reads of its customers' meters.

30. APS estimated Mrs. Read's demand meter for the months of January, March, April, and May of 1999.

31. APS acknowledges that accuracy in meter reading and in estimation of kW and kWh is an important public and regulatory policy. APS also acknowledges that an effective way to improve the accuracy of billing is to reduce the number of times that APS estimates kW or kWh.

32. APS will implement the following provisions in order to decrease the incidence of "no access" to customer meters:

a. APS shall provide evidence to the Commission that new procedures have been put in place to ensure that staffing resources are sufficient to address emergency short-term needs for meter reading shops that are either smaller or remote. A report that describes the new procedures and explains how they reduce the potential for "skipped" meter readings due to staffing resource issues will be provided to the Commission within six months of a decision in this matter.

b. APS shall revise the "No Access Meters" report, KM06R20, to provide the following additional features:

--Report the present number of consecutive months that the meter reading department could not access the meter so that the Administrative Coordinator can track the steps required for each month of access problems and prioritize the APS response.

--Report the other instances that the meter reading department was unable to read the meter during the previous twenty-four months to simplify identification of recurring "no access" problems at the same premises.

--Prioritize accounts to focus first on demand-billed customers when working the "no access" report. APS should compile and maintain these reports for purposes of the audits required by Paragraphs 39 and 41.

c. APS shall develop and install a performance measure to monitor the extent to which APS is complying with the Commission requirement to read meters each month (no less than twenty-five days after the last meter read and no more than thirty-five days after the last meter reading). APS shall provide to the Commission a description of its performance measure and the results of its analysis within six months of a decision in this matter.

d. APS shall change the options settings in the Itron software in all locations so that the Itron HHC used by meter readers in each of the APS meter read shops no longer includes the last month's usage and the last month's meter reading. This feature shall be disabled throughout APS' service territory within thirty days of a decision in this matter.

e. For the next six years, APS shall provide the Commission with biannual reports related to the status of the remote meter reading pilot and implementation plans. The reports shall provide a description of the meter reading technology being implemented, APS' plan for implementation, the number and type of customers involved in the pilot program, the costs associated with implementation, and the operational efficiencies associated with implementation.

f. APS will implement a pilot program to evaluate whether using an auto-dialer to communicate with customers who have experienced two consecutive months of "no access" will facilitate resolution of additional "no access" accounts. Such calls will be made within ninety-six hours before the scheduled read date, will indicate the time frame in which the next read is scheduled to occur, and will indicate that the schedule may be subject to change. APS' failure to call a customer in the circumstances described in this paragraph shall not relieve the customer of the obligation to provide APS with unrestricted access to the meter. APS shall maintain records on the number of instances that the auto-dialer is used to call customers in these circumstances so that one may determine whether use of the auto-dialer improves APS' access to "no access" meters. For the twelve months following Commission approval of this Agreement, the results of this practice shall be reported to the Commission in quarterly reports, beginning with the quarter ending September 30, 2005.

g. APS shall be required to implement a policy to ensure that meter reading supervisors or their designees periodically inspect meter locations reported as "no access" to verify that appropriate corrective measures are taken. APS shall file a copy of this policy within ninety days of a decision in this matter.

h. APS shall continue to participate in benchmarking studies that compare its practices to other utilities in the industry. APS shall provide such

benchmarking analysis to the Commission and Staff on a confidential basis within ninety days of the completion of such studies.

i APS shall develop and install performance measures to document the efforts that it has taken to secure an accurate reading of the meter after the second consecutive month of estimating the customer's bill for other than weather.

j. APS shall specifically include the use of EZ-Read as one of the steps taken to resolve a "no access" situation.

k. APS shall utilize available DB Microware reports to review lock-outs by route to monitor trends in lock-outs and reduce the number of "no access" meters.

l. APS shall establish an internal process whereby, after three consecutive estimates, continued instances of consecutive estimates due to "no access" situations are reported and made visible to increasingly higher levels of APS management.

33. APS shall implement the following provisions in order to improve its communications with its customers:

a. APS shall train its Billing Service Representatives and others involved in kW and kWh estimation, meter reading, and billing processes to understand that customers value an accurate bill. APS shall also train them to recognize that the underestimation of kW and kWh may result in problems for their customers. Finally, APS shall develop training procedures to familiarize these personnel with applicable Commission rules and APS tariffs. These procedures shall stress the importance of APS' adherence to Commission rules and tariffs. APS shall provide Staff with a description of its training process within six months of a Commission decision in this matter.

b. APS shall provide a clearer notice on a re-billed amount. Such notice shall clearly state that the new bill replaces the previously issued bill and that the customer should only pay the reissued bill amount. APS shall make the appropriate modifications to its billing system to implement this change no later than sixty days after a final Commission decision in APS' pending rate case, Docket No. E-01345A-03-0437.

34. This Settlement takes no position on the validity or the applicability of the amendments to A.A.C. R14-2-210. For purposes of this Settlement, the Parties agree that APS should not be assessed a penalty for any alleged violations of A.A.C. R14-2-210(A)(5)(a) or 210(A)(6)(b) and that any such alleged violations do not affect the validity of any estimated bills issued before the effective date of the Commission's approval of APS' bill estimation tariff.

35. If the Commission approves this Settlement, the Read Complaint shall be dismissed with prejudice, provided that such dismissal shall not be deemed to preclude Mrs. Read's attorneys from seeking any attorneys' fees to which they might be entitled

under applicable law. This paragraph shall not be construed as an admission by any party that attorneys' fees are appropriate in any forum.

## III. BILLING ISSUES

36. APS did not send Mrs. Read any bills for five months from September 1999 to January 2000 due to implementation problems associated with its CIS, which became operational in September, 1998.

37. APS acknowledges that it has an obligation to bill each of its customers in accordance with A.A.C. R14-2-210(A).

38. This Agreement is not intended to diminish or to establish any rights in any other customers who were not issued bills by APS as a result of APS' CIS implementation problems, nor is this Agreement intended to eliminate APS' duty to properly, accurately, and consistently apply any specific bill estimation procedure.

## IV. COMPLIANCE

39. APS' Regulatory Compliance Department shall conduct an audit of APS' kW and kWh estimation, meter reading, and billing practices after the Commission issues a final order in this matter and at least once every three years thereafter. These audits shall also address APS' compliance with the provisions set forth in this Agreement, any Commission order resulting therefrom, and Commission tariffs, rules, and regulations regarding estimation, meter reading, and billing. The results of the audit shall be certified by APS' Director of Regulatory Compliance. The results of the audit along with any management response shall be provided on a confidential basis to the Commission and Staff. APS shall either implement the audit's recommendations or provide the Commission with a written explanation as to why any recommendations were not implemented. APS shall complete the initial audit required by this paragraph and file a copy of the audit report, along with any management response, with the Commission no later than nine months after Commission approval of this Agreement. Subsequent audit reports conducted pursuant to this paragraph shall be filed within thirty days of the completion of the audit.

40. APS shall conduct an internal review of its compliance program relating to all Commission-approved tariffs and shall submit a report on a confidential basis to the Commission and its Staff within twelve months of the Commission's approval of this Agreement. Such report shall include a description of all programs, processes, and organizations utilized by APS to educate employees about tariff provisions and to ensure compliance. The report will address APS' ongoing plans to ensure compliance with Commission tariffs, any specific changes or additions to current practices that may be necessary to ensure compliance, and the implementation plan for any recommended modifications.

41. Within thirty days after the completion of the actions referred to in Paragraphs 39 and 40, APS shall file a report with the Commission that fully describes the results of those actions and the Company's compliance efforts in this matter. If, after consideration of those items, the Commission believes that an additional audit is required, APS shall participate in a third-party audit by an independent auditor selected by Staff and paid for by APS. This audit shall evaluate whether the Company's meter reading, billing practices, estimation methods, and related management processes are adequate and whether APS has appropriately conducted the actions required by Paragraphs 39 and 40. The audit shall also evaluate whether the Company has complied with the Commission's decision in this matter. The Commission will establish the timing and budget for the independent audit at the time that it determines its necessity.

## V. MISCELLANEOUS PROVISIONS

42. APS shall withdraw the testimony of APS Witness Alan Kessler. APS may offer the Accion Report through the testimony of another witness who is not affiliated with the Accion Consulting Group. All other filed testimony and exhibits shall be accepted into the Commission's record as evidence.

43. Each provision of this Agreement is in consideration and support of all other provisions, and it is expressly conditioned upon acceptance and approval by the Commission without change. Unless the Parties to this Agreement otherwise agree, if the Commission does not accept and approve this Agreement according to its terms, it shall be deemed withdrawn by the Parties, and the Parties shall be free to pursue their respective positions without prejudice.

44. This Agreement represents the Parties' mutual desire to compromise and settle all disputed claims in a manner consistent with the public interest. This Agreement represents a compromise of the positions of the Parties. Acceptance of this Agreement is without prejudice to any position taken by any party, and none of the provisions may be referred to, cited, or relied upon by any other party as precedent in any proceeding before this Commission, any other regulatory agency, or any court of law for any purpose except in furtherance of the purposes and results of this Agreement.

45. All negotiations relating to or leading to this Agreement are privileged and confidential, and no party is bound by any position asserted in negotiations, except to the extent expressly stated in this Agreement. As such, evidence of conduct or statements made in the course of negotiation of this Agreement are not admissible as evidence in any proceeding before the Commission, any other regulatory agency, or any court.

46. This Agreement represents the complete agreement of the Parties. There are no understandings or commitments other than those specifically set forth herein. The Parties acknowledge that this Agreement resolves all issues that were raised in the Bill Estimation Matter and is a complete and total settlement between the Parties.

47. Each Signatory Party will support and defend this Agreement and any Commission order approving this Agreement before the Commission, before any other regulatory agency, or before any court in which it may be at issue. This Agreement shall not be construed to require the Commission to participate in any proceeding related to the recovery of attorneys' fees in this or any related matter.

Dated this 25th day of February 2005.

Arizona Corporation Commission Staff

By: _____
Ernest Johnson
Utilities Division Director
1200 West Washington Street
Phoenix, Arizona 85007-2927

Arizona Public Service Company

By: _____
Steven Wheeler
Executive Vice President of
Customer Service and Regulation
400 North Fifth Street
Phoenix, AZ 85072

Estate of Avis Read

By: _____
Barry G. Reed
Zimmerman Reed P.L.L.P.
14646 N. Kierland Blvd., Suite 145
Scottsdale, Arizona 85254

47. Each Signatory Party will support and defend this Agreement and any Commission order approving this Agreement before the Commission, before any other regulatory agency, or before any court in which it may be at issue. This Agreement shall not be construed to require the Commission to participate in any proceeding related to the recovery of attorneys' fees in this or any related matter.

Dated this 25th day of February 2005.

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## Exhibit A

### Estimate of Potential Settlement Credits

### September 1, 1998 through October 1, 2003

| General Service[1] | Residential | Total[2] |
|---|---|---|
| $2,045,546 | $171,686 | $2,217,232 |

Notes:

[1] Does not reflect any potential reductions due to account review. Actual Credits will reflect any reductions due to double credits for same adjustment, ratchets and/or contract demands.

[2] Does not include interest which would be calculated in accordance with Paragraph 19.