

ORIGINAL



0000035870

BEFORE THE ARIZONA CORPORATION COMMISSION

2001 DEC 19 A 10:44

WILLIAM A. MUNDELL
CHAIRMAN
JIM IRVIN
COMMISSIONER
MARC SPITZER
COMMISSIONER

AZ CORP COMMISSION
DOCUMENT CONTROL

IN THE MATTER OF ARIZONA PUBLIC
SERVICE COMPANY'S REQUEST FOR A
VARIANCE OF CERTAIN REQUIREMENTS
OF A.A.C. R14-2-1606.

Docket No. E-01345A-01-0822

Arizona Corporation Commission

DOCKETED

DEC 19 2001

RUCO's Brief on Procedural Matters

DOCKETED BY

nae

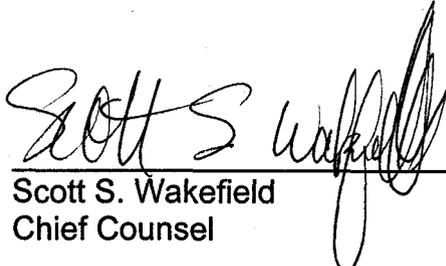
At the December 5, 2001 Procedural Conference in this matter, the Chief Administrative Law Judge requested briefs from the parties addressing the appropriate procedural mechanism for the Commission's consideration of the requested variance and whether and what additional due process requirements are needed.

The Commission's Electric Competition Rules provide for the possibility of variations or exemptions from any provision of the Electric Competition Rules (A.A.C. R14-2-1614(C)). Rule 1614(C) sets forth few procedural requirements: that the application for a variance/exemption set forth the reasons why the public interest will be served by the variance/exemption; that a variance/exemption requires an order from the Commission; and that provisions of an approved tariff or order shall trump the provisions of the Rules if there is a conflict between them.

Some parties have suggested that APS's request is inconsistent with the Settlement Agreement approved in Decision No. 61973. A.R.S. § 40-252 provides that the Commission may, upon notice to the corporation affected, and after an opportunity to be heard, rescind, alter or amend a previous order. While RUCO does not believe the requested variance is

1 inconsistent with the Settlement Agreement, it may be prudent for the Commission to comply
2 with the requirements of A.R.S. § 40-252 in consideration of the variance. RUCO
3 recommends that the Commission provide notice to all parties to the Settlement Agreement.¹
4 RUCO recommends that the Commission additionally caption this proceeding with the caption
5 from the APS stranded cost docket, E-01345A-98-0473. Finally, RUCO proposes that the
6 Commission permit Staff, RUCO and other intervenors to file testimony on or about January
7 23, 2002, and provide for surrebuttal testimony from intervenors.

8 RESPECTFULLY SUBMITTED this 19th day of December, 2001.

9
10 
11 Scott S. Wakefield
12 Chief Counsel

13
14
15
16
17
18
19
20
21
22
23
24 ¹ Arizona Community Action Association is the only party to the Settlement Agreement that is not already a party to this proceeding.

1 AN ORIGINAL AND TEN COPIES
2 of the foregoing filed this 19th day
3 of December, 2001 with:

3 Docket Control
4 Arizona Corporation Commission
5 1200 West Washington
6 Phoenix, Arizona 85007

5 COPIES of the foregoing hand delivered/
6 mailed this 19th day of December, 2001 to:

7 Lyn Farmer
8 Chief Administrative Law Judge
9 Arizona Corporation Commission
10 1200 West Washington
11 Phoenix, Arizona 85007

10 Christopher Kempley, Chief Counsel
11 Legal Division
12 Arizona Corporation Commission
13 1200 West Washington
14 Phoenix, Arizona 85007

13 Ernest Johnson, Director
14 Utilities Division
15 Arizona Corporation Commission
16 1200 West Washington
17 Phoenix, Arizona 85007

16 Thomas L. Mumaw
17 Jeffrey B. Guldner
18 Snell & Wilmer
19 One Arizona Center
20 Phoenix, Arizona 85004

19

20 By Linda Reeves
21 Linda Reeves

21

22 E:\Electric\APS-AAC R14-2-1606 (01-0822)\brief-proced mat.doc

23

24