Arizona Corporation Commission
DOCKETED

JUL 28 2003

DOCKETED BY CAR

0000036234

BEFORE THE ARIZONA CORPORATION COMMISSION

RECEIVED
2003 JUL 28 P 4: 05
DOCUMENT CONTROL

MARC SPITZER
Chairman
JIM IRVIN
Commissioner
WILLIAM A. MUNDELL
Commissioner
JEFF HATCH-MILLER
Commissioner
MIKE GLEASON
Commissioner

IN THE MATTER OF THE GENERIC PROCEEDINGS CONCERNING ELECTRIC RESTRUCTURING	DOCKET NO. E-00000A-02-0051
IN THE MATTER OF ARIZONA PUBLIC SERVICE COMPANY'S REQUEST FOR VARIANCE OF CERTAIN REQUIREMENTS OF A.A.C. 4-14-2-1606	DOCKET NO. E-01345A-01-0822
IN THE MATTER OF THE GENERIC PROCEEDINGS CONCERNING THE ARIZONA INDEPENDENT SCHEDULING ADMINISTRATOR	DOCKET NO. E-00000A-01-0630
IN THE MATTER OF TUCSON ELECTRIC COMPANY'S APPLICATION FOR A VARIANCE OF CERTAIN ELECTRIC POWER COMPETITION RULES COMPLIANCE DATES	DOCKET NO. E-01933A-98-0471
ISSUES IN THE MATTER OF TUCSON ELECTRIC POWER COMPANY'S APPLICATION FOR A VARIANCE OF CERTAIN ELECTRIC COMPETITION RULES COMPLIANCE DATES	DOCKET NO. E-01933A-02-0069

ARIZONANS FOR ELECTRIC CHOICE & COMPETITION'S NOTICE OF FILING TESTIMONY OF KEVIN C. HIGGINS AND MICHAEL D. McELRATH

Arizonans for Electric Choice & Competition hereby provides notice of the filing of the direct testimony and exhibits of its witnesses, Kevin C. Higgins and Michael D. McElrath, in the above captioned dockets.

FENNEMORE CRAIG
PROFESSIONAL CORPORATION
PHOENIX

RESPECTFULLY SUBMITTED this 28th day of July, 2003.

FENNEMORE CRAIG, P.C.

By

C. Webb Crockett
3003 North Central Avenue
Suite 2600
Phoenix, AZ 85012
Attorneys for Arizonans for Electric Choice & Competition

1444876/23040.041

ORIGINAL +21 copies of the foregoing filed on July 28, 2003 with:

Docket Control
ARIZONA CORPORATION COMMISSION
1200 West Washington
Phoenix, Arizona

COPY hand delivered on July 28, 2003 to:

Teena Wolfe
Administrative Law Judge
ARIZONA CORPORATION COMMISSION
1200 W. Washington Street
Phoenix, Arizona 85007

Christopher Kempley, Chief Counsel
ARIZONA CORPORATION COMMISSION
1200 W. Washington Street
Phoenix, Arizona 85007

Ernest G. Johnson, Utilities Division
ARIZONA CORPORATION COMMISSION
1200 West Washington Street
Phoenix, Arizona 85007

COPY MAILED/*E-MAILED *on* July 25, 2003 to:

Scott S. Wakefield
RUCO
2828 N Central Ave, Suite 1200
Phoenix, Arizona 85004

*Michael A. Curtis
*William P. Sullivan
*Paul R. Michaud
MARTINEZ & CURTIS, P.C.
2712 North 7th Street
Phoenix, Arizona 85006
Attorneys for Arizona Municipal Power Users□ Association, Mohave Electric Cooperative, Inc., Navopache Electric Cooperative, Inc., & Primesouth, Inc.
mcurtis401@aol.com
wsullivan@martinezcurtis.com
pmichaud@martinezcurtis.com

Walter W. Meek, President
ARIZONA UTILITY INVESTORS ASSOCIATION
2100 N. Central Avenue, Suite 210
Phoenix, Arizona 85004

Rick Gilliam
Eric C. Guidry
LAND AND WATER FUND OF THE ROCKIES
ENERGY PROJECT
2260 Baseline Road, Suite 200
Boulder, Colorado 80302

Terry Frothun
ARIZONA STATE AFL-CIO
5818 N. 7th Street, Suite 200
Phoenix, Arizona 85014-5811

Norman J. Furuta
DEPARTMENT OF THE NAVY
900 Commodore Drive, Building 107
San Bruno, California 94066-5006

Barbara S. Bush
COALITION FOR RESPONSIBLE ENERGY EDUCATION
315 West Riviera Drive
Tempe, Arizona 85252

Sam Defraw (Attn. Code 00I)
Rate Intervention Division
NAVAL FACILITIES ENGINEERING COMMAND
Building 212, 4th Floor
901 M Street, SE
Washington, DC 20374-5018

Rick Lavis
ARIZONA COTTON GROWERS ASSOCIATION
4139 East Broadway Road
Phoenix, Arizona 85040

Steve Brittle
DON'T WASTE ARIZONA, INC.
6205 South 12th Street
Phoenix, Arizona 85040

COLUMBUS ELECTRIC COOPERATIVE, INC.
P.O. Box 631
Deming, New Mexico 88031

CONTINENTAL DIVIDE ELECTRIC COOPERATIVE
P.O. Box 1087
Grants, New Mexico 87020

DIXIE ESCALANTE RURAL ELECTRIC ASSOCIATION
CR Box 95
Beryl, Utah 84714

GARKANE POWER ASSOCIATION, INC.
P.O. Box 790
Richfield, Utah 84701

ARIZONA DEPT OF COMMERCE ENERGY OFFICE
3800 North Central Avenue, 12th Floor
Phoenix, Arizona 85012

ARIZONA COMMUNITY ACTION ASSOC.
2627 N. 3rd Street, Suite 2
Phoenix, Arizona 85004

TUCSON ELECTRIC POWER CO.
Legal Dept – DB203
220 W 6th Street
P.O. Box 711
Tucson, Arizona 85702-0711

A.B. Baardson
NORDIC POWER
6463 N. Desert Breeze Ct.
Tucson, Arizona 85750-0846

Jessica Youle
PAB300
SALT RIVER PROJECT
P.O. Box 52025
Phoenix, Arizona 85072-2025

Craig Marks
Deborah R. Scott
Carl Dabelstein
CITIZENS UTILITIES COMPANY
2901 N. Central Avenue, Suite 1660
Phoenix, Arizona 85012-2736

Barry Huddleston
DESTEC ENERGY
P.O. Box 4411
Houston, Texas 77210-4411

Steve Montgomery
JOHNSON CONTROLS
2032 West 4th Street
Tempe, Arizona 85281

Terry Ross
CENTER FOR ENERGY AND ECONOMIC DEVELOPMENT
P.O. Box 288
Franktown, CO 80116-0288

Larry McGraw
USDA-RUS
6266 Weeping Willow
Rio Rancho, New Mexico 87124

Jim Driscoll
ARIZONA CITIZEN ACTION
5160 E. Bellevue Street, Apt. 101
Tucson, AZ 85712-4828

William Baker
ELECTRICAL DISTRICT NO. 6
7310 N. 16th Street, Suite 320
Phoenix, Arizona 85020

Robert Julian
PPG
1500 Merrell Lane
Belgrade, Montana 59714

Robert S. Lynch
340 E. Palm Lane, Suite 140
Phoenix, Arizona 85004-4529
Attorney for Arizona Transmission Dependent
Utility Group

K.R. Saline
K.R. SALINE & ASSOCIATES
160 N. Pasadena, Suite 101
Mesa, Arizona 85201-6764

Douglas Nelson
DOUGLAS C. NELSON PC
7000 N. 16th Street, Suite 120-307
Phoenix, Arizona 85020-5547
Attorney for Calpine Power Services

*Lawrence V. Robertson Jr.
MUNGER CHADWICK, PLC
333 North Wilmot, Suite 300
Tucson, Arizona 85711-2634
Attorney for PG&E Energy Services Corp.
Lvrobertson@mungerchadwick.com

Albert Sterman
ARIZONA CONSUMERS COUNCIL
2849 East 8th Street
Tucson, Arizona 85716

*Michael Grant
GALLAGHER & KENNEDY
2575 East Camelback Road
Phoenix, Arizona 85016-9225
Attorneys for AEPCO, Graham County Electric Cooperative, and Duncan Valley Electric Cooperative.
Mmg@gknet.com

Vinnie Hunt
CITY OF TUCSON
Department of Operations
4004 S. Park Avenue, Building #2
Tucson, Arizona 85714

Ryle J. Carl III
INTERNATION BROTHERHOOD OF ELECTRICAL WORKERS, L.U. #1116
750 S. Tucson Blvd.
Tucson, Arizona 85716-5698

Robert J. Metli
CHEIFETZ & IANNITELLI, P.A.
3238 North 16th Street
Phoenix, Arizona 85016
Attorney for Citizens Communications Co.

*William J. Murphy
CITY OF PHOENIX
2631 S. 22nd Avenue
Phoenix, Arizona 85009
Bill.murphy@phoenix.gov

*Russell E. Jones
WATERFALL ECONOMIDIS CALDWELL HANSHAW & VILLAMANA, P.C.
5210 E. Williams Circle, Suite 800
Tucson, Arizona 85711
Attorneys for Trico Electric Cooperative, Inc.
Rjones@wechv.com

*Christopher Hitchcock
HITCHCOCK & HICKS
P.O. Box 87
Bisbee, Arizona 85603-0087
Attorney for Sulphur Springs Valley Electric Cooperative, Inc.
Lawyers@bisbeelaw.com

Andrew Bettwy
Debra Jacobson
SOUTHWEST GAS CORPORATION
5241 Spring Mountain Road
Las Vegas, Nevada 89150-0001

Barbara R. Goldberg
OFFICE OF THE CITY ATTORNEY
3939 Civic Center Blvd.
Scottsdale, Arizona 85251

Bradford A. Borman
PACIFICORP
210 S. Main St.
Suite 2000
Salt Lake City, Utah 84140-2300

Timothy M. Hogan
ARIZONA CENTER FOR LAW IN THE PUBLIC INTEREST
202 E. McDowell Rd., Suite 153
Phoenix, Arizona 85004

Marcia Weeks
18970 N. 116th Lane
Surprise, Arizona 85374

John T. Travers
William H. Nau
272 Market Square, Suite 2724
Lake Forest, Illinois 60045

Timothy Michael Toy
WINTHROP, STIMSON, PUTNAM & ROBERTS
One Battery Park Plaza
New York, New York 10004-1490

*Raymond S. Heyman
Michael W. Patten
ROSHKA HEYMAN & DEWULF, PLC
400 E. Van Buren, Suite 800
Phoenix, Arizona 85004
Attorneys for Tucson Electric Power Co.
Rheyman@rhd-law.com

Chuck Miessner
NEV SOUTHWEST LLC
P.O. Box 711, Mailstop-DA308
Tucson, Arizona 85702-0711

Billie Dean
AVIDD
P O Box 97
Marana, Arizona 85652-0987

Steven C. Gross
PORTER SIMON
40200 Truckee Airport Road
Truckee, CA 96161-3307
Attorneys for M-S-R Public Power Agency

Donald R. Allen
John P. Coyle
DUNCAN & ALLEN
1575 Eye Street, N.W.,, Suite 300
Washington, DC 20005

Ward Camp
PHASER ADVANCED METERING SERVICES
400 Gold SW, Suite 1200
Albuquerque, New Mexico 87102

Betsy Galtney
IDAHO POWER COMPANY
P.O. Box 70
Boise, Idaho 83707

Libby Brydolf
CALIFORNIA ENERGY MARKETS NEWSLETTER
2419 Bancroft Street
San Diego, California 92104

Paul W. Taylor
R W BECK
14635 N. Kierland Blvd., Suite 130
Scottsdale, AZ 85254-2769

James P. Barlett
5333 N. 7th Street, Suite B-215
Phoenix, Arizona 85014
Attorney for Arizona Power Authority

*Jay I. Moyes
MOYES STOREY
3003 N. Central Ave., Suite 1250
Phoenix, Arizona 85012
Attorneys for PPL Southwest Generation Holdings, LLC; PPL EnergyPlus, LLC and PPL Sundance Energy, LLC
Jimoyes@lawms.com

Stephen L. Teichler
Stephanie A. Conaghan
DUANE MORRIS & HECKSCHER, LLP
1667 K Street NW, Suite 700
Washington, DC 20006

Kathy T. Puckett
SHELL OIL COMPANY
200 N. Dairy Ashford
Houston, Texas 77079

Peter Q. Nyce, Jr.
DEPARTMENT OF THE ARMY
JALS-RS Suite 713
901 N. Stuart Street
Arlington, Virginia 22203-1837

Michelle Ahlmer
ARIZONA RETAILERS ASSOCIATION
224 W. 2nd Street
Mesa, Arizona 85201-6504

Dan Neidlinger
NEIDLINGER & ASSOCIATES
3020 N. 17th Drive
Phoenix, Arizona 85015

Chuck Garcia
PNM, Law Department
Alvardo Square, MS 0806
Albuquerque, New Mexico 87158

Sanford J. Asman
570 Vinington Court
Dunwoody, Georgia 30350-5710
*Patricia Cooper
AEPCO/SSWEPCO
P.O. Box 670
Benson, Arizona 85602
Pcooper@aepnet.org

Steve Segal
LeBoeuf, Lamb, Green & Macrae
633 17th Street
Suite 2000
Denver, CO 80202-3620

Holly E. Chastain
SCHLUMBERGER RESOURCE
MANAGEMENT SERVICES, INC.
5430 Metric Place
Norcross, Georgia 30092-2550

Leslie Lawner
ENRON CORP
712 North Lea
Roswell, New Mexico 88201

Frederick M. Bloom
Commonwealth Energy Corporation
15991 Red Hill Avenue, Suite 201
Tustin, California 92780

Margaret McConnell
Maricopa Community Colleges
2411 W. 14th Street
Tempe, Arizona 85281-6942

Brian Soth
FIRSTPOINT SERVICES, INC.
1001 S.W. 5th Ave, Suite 500
Portland, Oregon 92704

Jay Kaprosy
PHOENIX CHAMBER OF
COMMERCE
201 N. Central Ave., 27th Floor
Phoenix, Arizona 85073

Kevin McSpadden
MILBANK, TWEED, HADLEY AND
MCCLOY, LLP
601 S. Figueroa, 30th Floor
Los Angeles, California 90017

M.C. Arendes, Jr.
C3 COMMUNICATIONS, INC.
2600 Via Fortuna, Suite 500
Austin, Texas 78746

*Patrick J. Sanderson
ARIZONA INDEPENDENT
SCHEDULING
ADMINISTRATOR ASSOCIATION
P.O. Box 6277
Phoenix, Arizona 85005-6277
Psanderson@az-isa.org

*Roger K. Ferland
QUARLES & BRADY STREICH
LANG, L.L.P.
Renaissance One
Two North Central Avenue
Phoenix, Arizona 85004-2391
Rferland@quarles.com

Charles T. Stevens
ARIZONANS FOR ELECTRIC
CHOICE & COMPETITION
245 W. Roosevelt
Phoenix, Arizona 85003

Mark Sirois
ARIZONA COMMUNITY ACTION
ASSOC.
2627 N. Third Street, Suite 2
Phoenix, Arizona 85004

*Jeffrey Guldner
Jeff Guldner, Esq.
SNELL & WILMER
400 E. Van Buren,
One Arizona Center
Phoenix, Arizona 85004-0001
jguldner@swlaw.com

*Thomas L. Mumaw
Pinnacle West Capital Corporation
P.O. Box 53999 MS8695
Phoenix, AZ 86072-39999
thomas.mumaw@pinnaclewest.com

Steven J. Duffy
RIDGE & ISAACSON PC
3101 N. Central Avenue, Suite 740
Phoenix, Arizona 85012

*Greg Patterson
5432 E. Avalon
Phoenix, Arizona 85018
Gpatterson@aol.com

*John Wallace
Grand Canyon State Electric Co-op
120 N. 44th Street, Suite 100
Phoenix, Arizona 85034-1822
Jwallace@gcseca.org

Steven Lavigne
DUKE ENERGY
4 Triad Center, Suite 1000
Salt Lake City, Utah 84180

Dennis L. Delaney
K.R. SALINE & ASSOC.
160 N. Pasadena, Suite 101
Mesa, Arizona 85201-6764

*Kevin C. Higgins
ENERGY STRATEGIES, LLC
30 Market Street, Suite 200
Salt Lake City, Utah 84101
KHiggins@Energystrat.com

*Michael L. Kurtz
BORHM KURTZ & LOWRY
36 E. Seventh Street, Suite 2110
Cincinnati, Ohio 45202
Mkurtzlaw@aol.com

David Berry
P.O. Box 1064
Scottsdale, Arizona 85252

*William P. Inman
Dept. of Revenue
1600 W. Monroe, Room 911
Phoenix, Arizona 85007
InmanW@revenue.state.az.us

*Robert Baltes
ARIZONA COGENERATION ASSOC.
7250 N. 16th Street, Suite 102
Phoenix, Arizona 85020-5270
Bbaltes@bvaeng.com

*Jana Van Ness
APS
Mail Station 9905
P.O. Box 53999
Phoenix, Arizona 85072-3999
Jana.vanness@aps.com

David Couture
TEP
4350 E. Irvington Road
Tucson, Arizona 85714

*Kelly Barr
Jana Brandt
SRP
Mail Station PAB211
P.O. Box 52025
Phoenix, Arizona 85072-2025
Kjbarr@srpnet.com
Jkbrandt@srpnet.com

Randall H. Warner
JONES SKELTON & HOCHULI PLC
2901 N. Central Avenue, Suite 800
Phoenix, Arizona 85012

John A. LaSota, Jr.
MILLER LASOTA & PETERS, PLC
5225 N. Central Ave., Suite 235
Phoenix, Arizona 85012

Peter W. Frost
Conoco Gas and Power Marketing
600 N. Dairy Ashford, CH-1068
Houston, Texas 77079

Joan Walker-Ratliff
Conoco Gas and Power Marketing
1000 S. Pine, 125-4 ST UPO
Ponca City, Oklahoma 74602

*Vicki G. Sandler
C/o Linda Spell
APS Energy Services
P.O. Box 53901
Mail Station 8103
Phoenix, Arizona 85072-3901
Linda_spell@apses.com

*Lori Glover
STIRLING ENERGY SYSTEMS
2920 E. Camelback Rd., Suite 150
Phoenix, Arizona 85016
Lglover@stirlingenergy.com

*Jeff Schlegel
SWEEP
1167 Samalayuca Drive
Tucson, Arizona 85704-3224
Schlegelj@aol.com

*Howard Geller
SWEEP
2260 Baseline Rd., Suite 200
Boulder, Colorado 80302
Hgeller@swenergy.org

*Mary-Ellen Kane
ACAA
2627 N. 3rd Street, Suite Two
Phoenix, Arizona 85004
Mkane@azcaa.org

*Aaron Thomas
AES NewEnergy
350 S. Grand Avenue, Suite 2950
Los Angeles, California 90071
Aaron.thomas@aes.com

Theresa Mead
AES NewEnergy
P.O. Box 65447
Tucson, AZ 85728

*Peter Van Haren
CITY OF PHOENIX
Attn: Jesse W. Sears
200 W. Washington Street, Suite 1300
Phoenix, Arizona 85003-1611
Jesse.sears@phoenix.gov

*Robert Annan
ARIZONA CLEAN ENERGY
INDUSTRIES ALLIANCE
6605 E. Evening Glow Drive
Scottsdale, Arizona 85262
Annan@primenet.com

Curtis L. Kebler
RELIANT RESOURCES, INC.
8996 Etiwanda Avenue
Rancho Cucamonga, California 91739

*Philip Key
RENEWABLE ENERGY
LEADERSHIP GROUP
10631 E. Autumn Sage Drive
Scottsdale, Arizona 85259
Keytaic@aol.com

*Paul Bullis
OFFICE OF THE ATTORNEY
GENERAL
1275 W. Washington Street
Phoenix, Arizona 85007
Paul.bullis@ag.state.az.us

*Laurie Woodall
OFFICE OF THE ATTORNEY
GENERAL
15 S. 15th Avenue
Phoenix, Arizona 85007
Laurie.woodall@ag.state.az.us

*Donna M. Bronski
CITY OF SCOTTSDALE
3939 N. Drinkwater Blvd
Scottsdale, Arizona 85251
Dbronski@ci.scottsdale.az.us

*Larry F. Eisenstat
Frederick D. Ochsenhirt
DICKSTEIN SHAPIRO MORIN &
OSHINSKY LLP
2101 L Street, NW
Washington, DC 20037
Eisenstatl@dsmo.com
Ochsenhirtf@dsmo.com

*David A. Crabtree
Dierdre A. Brown
TECO POWER SERVICES CORP.
P.O. Box 111
Tampa, Florida 33602
Dacrabtree@tecoenergy.com
Dabrown@tecoenergy.com

*Michael A. Trentel
Patrick W. Burnett
PANDA ENERGY INTERNATIONAL
INC
4100 Spring Valley, Suite 1010
Dallas, Texas 75244
Michaelt@pandaenergy.com
Patb@pandaenergy.com

*Theodore E. Roberts
SEMPRA ENERGY RESOURCES

101 Ash Street, HQ 12-B
San Diego, California 92101-3017
Troberts@sempra.com

Jesse Dillon
PPL Services Corp.
2 N. Ninth Street
Allentown, PA 18101-1179

Gary A. Dodge
HATCH, JAMES & DODGE
10 W. Broadway
Suite 400
Salt Lake City, UT 84101

Ronald W. Grossarth
Public Service Co. of New Mexico
2401 Aztec NE
Albuquerque, NM 87107

Mark J. Smith
FPL Energy.LLC
Livermore, CA 94550

Alan R. Watts
Southern California Public Power
Authority
17132 El Cajon Avenue
Yorba Linda, CA 92886

Patrick J. Sanderson, Acting Executive
Director
Arizona Independent Scheduling
Administrator Association
P.O. Box 6562
Phoenix, AZ 85005-6562

ARIZONA REPORTING SERVICE,
INC.
2627 N. Third Street, Suite Three
Phoenix, Arizona 85004-1104

BEFORE THE ARIZONA CORPORATION COMMISSION

MARC SPITZER
Chairman
JIM IRVIN
Commissioner
WILLIAM A. MUNDELL
Commissioner
JEFF HATCH-MILLER
Commissioner
MIKE GLEASON
Commissioner

IN THE MATTER OF THE GENERIC PROCEEDINGS CONCERNING ELECTRIC	DOCKET NO. E-00000A-02-0051
IN THE MATTER OF ARIZONA PUBLIC SERVICE COMPANY'S REQUEST FOR VARIANCE OF CERTAIN REQUIREMENTS OF A.A.C. 4-14-2-1606	DOCKET NO. E-01345A-01-0822
IN THE MATTER OF THE GENERIC PROCEEDINGS CONCERNING THE ARIZONA INDEPENDENT SCHEDULING	DOCKET NO. E-00000A-01-0630
IN THE MATTER OF TUCSON ELECTRIC COMPANY'S APPLICATION FOR A VARIANCE OF CERTAIN ELECTRIC POWER COMPETITION RULES	DOCKET NO. E-01933A-98-0471
ISSUES IN THE MATTER OF TUCSON ELECTRIC POWER COMPANY'S APPLICATION FOR A VARIANCE OF CERTAIN ELECTRIC COMPETITION RULES	DOCKET NO. E-01933A-02-0069

TESTIMONY OF KEVIN C. HIGGINS

Table of Contents

Introduction 1

Overview of conclusions 4

Retail direct access 5

The role of the AISA in supporting retail direct access 12

Staff Report on the AISA 17

Supposed alternatives to the AISA 18

Summary of recommendations 19

DIRECT TESTIMONY OF KEVIN C. HIGGINS

Introduction

Q. Please state your name and business address.

A. Kevin C. Higgins, 39 Market Street, Suite 200, Salt Lake City, Utah, 84101.

Q. By whom are you employed and in what capacity?

A. I am a Principal in the firm of Energy Strategies, LLC. Energy Strategies is a private consulting firm specializing in economic and policy analysis applicable to energy production, transportation, and consumption.

Q. On whose behalf are you testifying in this proceeding?

A. My testimony is being sponsored by Arizonans for Electric Choice and Competition ("AECC"), a coalition of Arizona business customers in support of retail electric competition. AECC is a party to the respective settlement agreements with Arizona Public Service Company ("APS") and Tucson Electric Power ("TEP") that established the basis for implementing the Commission's Electric Competition Rules in those utility service territories.

Q. What is the purpose of your testimony in this proceeding?

A. I have been asked to address the matter of the continuation of the Arizona Independent Scheduling Administrator ("AISA").

Q. Have you previously testified before this Commission?

A. Yes. I have testified in a number of proceedings before this Commission, including the generic proceeding on retail electric competition (1998),[1] the hearings on the APS and TEP settlement agreements (1999),[2] the AEPCO transition charge hearings (1999),[3] the Commission's Track A proceeding (2002),[4] and the APS adjustment mechanism proceeding (2003).[5]

Q. Please describe your qualifications.

A. My academic background is in economics, and I have completed all course work and examinations toward the Ph.D. in Economics at the University of Utah, and have served on the adjunct faculties of both the University of Utah and Westminster College, teaching undergraduate and graduate courses in economics. I joined Energy Strategies in 1995, where I assist private and public sector clients in the areas of energy-related economic and policy analysis, including evaluation of electric and gas utility rate matters. In addition to my prior testimony before the Arizona Corporation Commission, I have testified numerous times on the subjects of electric utility cost-of-service, rate design, and industry restructuring before state utility regulators in Colorado, Georgia, Michigan, Nevada, New York, Oregon, South Carolina, Utah, Washington, and Wyoming.

I have had considerable involvement in transmission access issues in the southwest. On behalf of retail customers, I participated in each phase of the Desert STAR RTO formation effort, which preceded, and in many ways provided

[1] Docket No. RE-00000C-94-0165.
[2] Docket Nos. RE-00000C-94-0165, E-01345A-98-0473, E-01933A-97-0773, E-01345A-98-0471, and E-01933A-97-0772.
[3] Docket No. E-01773A-98-0470.
[4] Docket Nos. E-00000A-02-0051; E-01345A-01-0822; E-00000A-01-0630; E-01933A-02-0069; E-01933A-98-0471.
[5] Docket No. E-01345A-02-0403.

the blueprint for, the WestConnect RTO filing at FERC. As part of that effort I served as an ex-officio member of the Desert STAR Board and was elected chairman of the stakeholder advisory committee, which advised the Board. I also serve on the Board of Directors of the AISA, representing retail customers. My involvement with the AISA dates back to its inception in September 1998. As part of that involvement, I participated actively in the lengthy negotiations among the stakeholders that resulted in the AISA Protocols Manual, which was submitted to FERC on September 1, 2000.

Prior to joining Energy Strategies, I held policy positions in state and local government. From 1983 to 1990, I was economist, then assistant director, for the Utah Energy Office, where I testified regularly before the Utah Public Service Commission on utility policy matters. From 1991 to 1994, I was chief of staff to the chairman of the Salt Lake County Commission, where I was responsible for development and implementation of a broad spectrum of public policy.

A more detailed description of my qualifications is contained in Exhibit KCH-1, attached to this testimony.

Q. In providing your testimony in this proceeding, are you speaking on behalf of the AISA Board or the organization generally?

A. No, I am not. The opinions I express are my own, based on my twenty years of experience as an economist in the fields of energy and public policy. The policy recommendations I make in this proceeding are offered only on behalf of AECC.

Q. Do you receive any compensation from the AISA for your participation on the Board of Directors?

A. No, I do not. The AISA is a non-profit corporation that is governed by a stakeholder board. The only Board member who receives compensation from the AISA is the Director, who is paid for his services as an employee.

Q. Have you ever performed any services for the AISA as a consultant?

A. No, I have not. As a Board member, I would view such activity as a conflict of interest. Consequently, I have never sought, nor have I ever been offered, any consulting work with the AISA.

<u>Overview of conclusions</u>

Q. What general conclusions have you reached concerning the future role of the AISA in supporting retail direct access in Arizona?

A. The AISA is essential for retail direct access and should be retained until an RTO is operational in Arizona. The AISA Board has responded to the current lack of retail direct access activity in Arizona by downsizing the AISA to the minimum size practicable that still retains the critical mass needed to keep the entity intact. This approach keeps the important option of direct access available to Arizona customers, to be utilized as the opportunity to shop improves.

Retail direct access is an important and hard-won right held by Arizona electric customers. Even though, in recent years, the underlying economics have not supported using direct access service in Arizona, it remains a valuable option going forward. Significant proposed increases in APS' standard offer rates, the scheduled phase-out of stranded cost charges, the commitment to a retail

competition business model demonstrated by a number of national retail suppliers, and the substantial increase in the supply of regional generation will combine to make direct access service a more economically-viable choice going forward.

Direct access service cannot work without a transmission rights regime that addresses the unique characteristics of retail service. Mere reliance on a transmission provider's Open Access Transmission Tariff (OATT), which is designed for wholesale service, does not accomplish the objective of ensuring non-discriminatory access in a state direct access program. Retail service can be accommodated in a properly-designed Regional Transmission Organization (RTO), but such an entity is years away from operation in Arizona.

Absent an RTO, the AISA is essential to ensure non-discriminatory access to transmission for retail service in Arizona. Its protocols are balanced, its scope is modest, its costs are low, and it has completed the hard work of successful stakeholder negotiation and the earning of FERC approval. If the AISA were scrapped today, reconstructing something like it in the future would take years of negotiations and cost millions of dollars. I say this as someone with first-hand experience in negotiating each of the protocols in the AISA tariff.

In sum, the valuable retail direct access rights of Arizona customers should remain intact, and the AISA should be retained until an RTO is operational in the state.

<u>Retail direct access</u>

Q. When was retail direct access first available in Arizona?

A. The Electric Competition Rules adopted by the Commission established a schedule for phasing in direct access service starting in 1999. However, prior to implementation, a host of contested issues needed to be resolved, including the utility claim that direct access violated the "regulatory compact," as well as the companion claim from each utility that it was entitled to hundreds of millions of dollars in "stranded cost." These contested issues were resolved with the approvals of the APS and TEP settlement agreements, which occurred on October 6, 1999 and November 30, 1999, respectively. The APS Settlement Agreement provided that direct access service would be phased in starting July 1, 1999 and would be available to all APS customers on January 1, 2001. The TEP Settlement Agreement provided that direct access service would be phased in starting sixty days after Commission approval of the settlement (i.e., January 29, 2000) and would be available to all TEP customers on January 1, 2001. Consequently, both the APS and TEP territories have been entirely open to direct access service for any retail customer (excluding those on special contracts) for the past two-and-a-half years.

Q. Have any Arizona customers used direct access service?

A. Yes. I am aware that a number of customers have taken direct access service in the APS, TEP, and Salt River Project (SRP) territories. However, with the run-up in wholesale energy prices associated with the California energy crisis of 2000-01, the direct access customers in the APS and SRP territories returned to standard offer service. The direct access customers in the TEP territory have also returned to standard offer service, although in my opinion their return had more to

do with problems associated with TEP's inconsistent interpretation of the stranded cost charge calculation. Those problems have since been resolved, but TEP customers have not returned to direct access service.

Although Arizona customers are not currently utilizing direct retail access service, APS and SRP customers have benefited from its availability, as the anticipation of its competitive threat provided the impetus for retail rate reductions in those territories when direct access service was introduced. Today, the implicit threat from this option provides an incentive for utilities to control costs and temper requested rate increases.

Q. Is retail direct access proceeding in other states?

A. Yes. Retail direct access is proceeding in a number of other states. Significant competitive retail market penetration is occurring in the Northeast, as well as in Michigan, Illinois, Ohio, and Texas. Published reports indicate that 33 percent of total retail energy in Maine[6], 25 percent of total retail energy in Massachusetts[7], and 21 percent of total retail energy in New York[8] is being provided by retail direct access service. In Commonwealth Edison's territory in Illinois, about 10,000 customers are reported to be participating in direct access service in order to save money relative to the standard offer tariff.[9] And in Michigan, Detroit Edison estimates that 2003 direct access load will be 5.3

[6] Maine Public Utility Commission, Maine Market Migration to Competitive Electricity Providers as of June 1, 2003, http://www.state.me.us/mpuc/electric%20restructuring/migrationrates.htm.
[7] Massachusetts Division of Energy Resources (DOER), January 2003 Electric Power Customer Migration Report, http://www.state.ma.us/doer/pub_info/migrate.htm.
[8] New York State Public Service Commission, January, 2003 NYS Electric Retail Access Migration Reports http://www.dps.state.ny.us/Electric_RA_Migration_01_03.htm.
[9] *Chicago Tribune*, July 1, 2003.

1 million MWH, about 11 percent of its retail load.[10] One published report
2 estimates that Texas customers saved $900 million in the first year of direct
3 access service.[11]
4 These results indicate to me that when the conditions are conducive to it,
5 retail direct access can move forward successfully.
6 **Q. What is your assessment of the prospects of retail direct access in Arizona?**
7 A. There is a convergence of developments that should make retail direct
8 access service more attractive in Arizona in the relatively near future. These
9 include: (1) a proposed rate increase in the APS territory of 9.8 percent, which, to
10 the extent approved, would make competitive power relatively more attractive;
11 (2) the scheduled termination of the stranded cost charges in the SRP territory on
12 May 31, 2004 and in the APS territory on December 31, 2004, which will remove
13 an artificial economic impediment to shopping; (3) the commitment to a retail
14 competition business model demonstrated by a number of national retail
15 suppliers, which has shown an impressive resiliency in the aftermath of the
16 California energy crisis; and (4) the development of significant new generation in
17 Arizona and the surrounding region, which should improve the competitive
18 prospects in the local wholesale market.
19 **Q. How do stranded cost charges impede retail direct access in Arizona?**

---

[10] Michigan Public Service Commission, Case No.U-13808, Detroit Edison Exhibit A-27, Schedule MEC-4.

[11] Comments of Rebecca Klein, Chairman of the Public Utilities Commission of Texas, on Page 2 of the Spring 2003 *Texas Power Pages*, http://www.powertochoose.org/publications/powerpagesvol3.pdf. Also, as reported in the February 2003 edition of "Report Card on Competition" published by the PUCT, http://www.puc.state.tx.us/electric/projects/25645/rptcrd/feb03rptcrd.pdf.

A. Arizona customers who wish to purchase power from a competitive supplier must pay an extra charge to their local utility that compensates the utility for "stranded costs," which are the net costs of generation incurred under traditional regulation that are believed to be otherwise unrecoverable in a competitive market.[12] This charge adds to the cost of the competitive transaction, making it more difficult for competitors to compete with the utilities' standard offer service.

The assurance of stranded cost recovery is addressed in the Electric Competition Rules.[13] Provisions establishing specific stranded cost charges (typically referred to as a "Competitive Transition Charge" or CTC) were included in both the APS and TEP settlement agreements, as well as in a settlement agreement negotiated between customers and SRP in 1998.

Currently, the SRP stranded cost charge adds about 0.67 cents per kwh to the cost of a direct access transaction for a customer with a load under 1000 kw, and 0.43 to 0.47 cents per kwh for a customer with a load that is 1000 kw or greater. This charge is scheduled to expire on May 31, 2004.

In the APS territory, the stranded cost charge currently adds about 0.3 cents per kwh to the cost of a direct access transaction for a commercial or industrial customer.[14] On January 1, 2004, this cost will drop to about 0.2 cents per kwh. The APS stranded cost charges are scheduled to expire on December 31, 2004.

---

[12] The Electric Competition Rules limits this recovery to prudent assets and obligations incurred prior to December 26, 1996. It also includes certain costs associated with generation divestiture, employee severance and re-training, and other approved transition and restructuring costs. R14-2-1601.39.
[13] R14-2-1607.

The prospects for retail direct access should improve when these artificial economic barriers to shopping expire.

Q. Does TEP have a stranded cost charge?

A. Yes, although TEP's stranded cost charge has a fundamentally different design than APS or SRP, in that the TEP charge moves inversely with the wholesale market price of power. TEP's stranded cost charge will also be in place a longer time, as it does not expire until December 31, 2008. However, an important component of the TEP stranded cost calculation known as the "Adder" is subject to revision in 2004 pursuant to the terms of the TEP Settlement Agreement. In my opinion, the TEP adders are currently set too low. Properly adjusting them can provide more opportunity for retail direct access to proceed in the TEP territory.

Q. What is the current situation regarding the construction of new generation in Arizona and the surrounding region?

A. In the last two years, 6775 megawatts of new generation has come on line in Arizona. Another 2690 megawatts are under construction in and near Arizona that are scheduled to come on line before the end of 2004. This is an impressive growth in supply. While this generation is being built with the wholesale market in mind, not all of it is likely to be successfully subscribed to wholesale contracts. Consequently, I expect that a significant amount of these resources will be available for competitive retail suppliers to sell to retail access customers.

---

[14] This calculation assumes a 65 percent load factor. The exact charge is $1.30 per kw-month for General Service and $1.51 per kw-month for Extra-Large General Service.

Q. There is occasional discussion about limiting or eliminating the right of Arizona customers to take retail direct access service. Do you believe that would be a wise course of action?

A. Absolutely not. The right to retail direct access is important and was hard-won. It has been in place for most Arizonans since January 1, 2001, and it constitutes a valuable option going forward. There is no reason for these rights to be expropriated or diminished.

Q. What kinds of obstacles did customers overcome in gaining retail direct access rights?

A. There were numerous obstacles to gaining the right to retail direct access service in Arizona. Among the major roadblocks were: (1) utility contentions that direct access service violated the utilities' rights as monopolists pursuant to their certificates of convenience and necessity; (2) utility claims for stranded cost recovery totaling over a billion dollars; and (3) utility claims that implementation would be onerous, thereby necessitating the development of phase-in plans. The litigation, workshops, and rulemaking processes devoted to these and other issues consumed several years. Yet, in the end, each of these major obstacles was addressed and/or removed through the implementation of the settlement agreements. If these hard-won rights were taken away from customers now, it would wipe out that considerable effort and expense – without good cause. The right to shop for power should remain in the portfolio of choices available to customers.

<u>The role of the AISA in supporting retail direct access</u>

Q. What is the basic function of the AISA?

A. The basic function of the AISA is to support the provision of non-discriminatory retail access to the transmission system in Arizona to facilitate retail direct access service.

Q. Why is this function necessary?

A. For retail direct access to succeed, competitive suppliers must be able to deliver power to retail customers fairly and efficiently. To do so, suppliers must use the transmission system to bring power from generation facilities to the local distribution systems in which their retail customers reside. In carrying out this objective, there are three primary challenges to overcome: (1) the transmission system is often owned by the incumbent utility with which the supplier is competing, raising the possibility that the competitive suppliers and their customers may not be treated fairly; (2) there are numerous instances, such as existence of congested transmission paths, in which technical and/or commercial considerations require that a policy or protocol be in place to treat competing transmission users equitably; and (3) the standard OATT-based transmission regime was developed with wholesale transactions in mind, and does not address the unique circumstances that arise when implementing a state retail direct access program.

For these reasons, if retail access is to succeed, it is necessary that there be an independent entity that has the responsibility to adequately address these primary challenges. It is widely recognized that this can be accomplished through

a properly-designed RTO. However, an RTO is not yet in place in Arizona, and it will be years before one is operational in the state. In fact, it has been reported that WestConnect, the RTO proposed for Arizona, may not be fully operational until 2011.[15] Arizona developed the AISA for the specific purpose of facilitating direct access by addressing these primary challenges for the period that is prior to the establishment of an operational RTO.

Q. By what means does the AISA address these three "primary challenges"?

A. The AISA provides a series of protocols in its FERC-approved tariff that are designed to treat competing retail users fairly and which are specifically intended to address the unique characteristics of a state retail access program. The AISA also provides a forum for resolving disputes efficiently as well as for modifying the protocols, if necessary, to respond to changed circumstances. With this structure, the primary forum for resolving disputes and debating the response to changed circumstances is in Phoenix, not Washington. This means greater local control and less-expensive, timelier resolution of issues.

The AISA has approval from FERC for Phase I of its tariff. The AISA will remain in Phase I until the direct access load in Arizona exceeds 300 MW and the Board adopts a business plan to implement more extensive Phase II activities. Moving beyond Phase I to Phase II would also require FERC approval.

Phase I was designed to address the key issues associated with facilitating retail direct access without incurring significant operating costs. The emphasis in

[15] "Staff Report for the Generic Proceeding Concerning the Arizona Independent Scheduling Administrator," May 30, 2003. p. 7.

Phase I is on dispute resolution and ensuring compliance with the Protocols Manual.

Q. What protocols are contained in the AISA tariff?

A. The AISA tariff contains protocols that address allocation of retail network transmission, transmission scheduling, ancillary services, must-run generation, energy imbalances, emergency operations, and after-the-fact checkout.

Q. Please illustrate how the AISA protocols address problems that are unique to retail direct access.

A. We can use the Allocated Retail Network Transmission Protocol to illustrate how the AISA tariff addresses the special circumstances of retail direct access.

When Arizona was developing its Electric Competition Rules, APS initially advanced the position that retail access customers would be offered non-discriminatory access to transmission pursuant to the APS OATT. While on the surface, such a position may seem reasonable, what it really meant was that when a customer chose a competitive supplier, the customer's supplier was free to apply for transmission service under the terms of the OATT, and the requested transmission could be procured *to the extent it was available*. However, in Arizona, the most desirable transmission paths tended to be already fully reserved, and APS indicated up-front that it would not relinquish any share of the transmission over such paths that were being used for APS bundled service customers. In other words, any APS customer that wanted to shop for competitive

generation needed to forfeit the use of the most desirable transmission paths and go to the "back" of the transmission line, where they would apply to use the paths they had forfeited, only to be told that the forfeited paths were fully reserved by others. Clearly, such an approach would have made retail access unworkable out of the gate. The approach was particularly troubling in light of the fact that those same desirable transmission paths were being used – and would continue to be used – to bring utility bundled service to that same customer, so long as the customer eschewed competitive service. This problem illustrates the folly of simple reliance on the utility's OATT to implement retail direct access.

Q. So where does the AISA Allocated Retail Network Transmission Protocol come into play?

A. Wisely, the Commission recognized that the OATT was inadequate to resolve the problem of retail transmission allocation, and in the Electric Competition Rules directed that transmission was to be allocated to retail direct access customers on a pro-rata basis. In other words, retail customers would not be required to forfeit the more desirable transmission paths when they purchased competitive power; instead, transmission rights would "follow the load." The responsibility for developing the transmission allocation protocol and securing its approval at FERC was assigned to the AISA.

The Allocated Retail Network Transmission Protocol resulted from the AISA stakeholder negotiations to develop a protocol that would ensure transmission rights "followed the load." In so doing, the AISA stakeholders, with the particular cooperation of APS, TEP, and AEPCO, developed an approach that

will be especially useful to facilitating direct access service in its initial stages. This approach provides a simple mechanism that allows competitive suppliers to consolidate their transmission requirements onto paths that connect loads to liquid trading hubs (e.g., Palo Verde) up to certain pre-specified limits,[16] during the AISA Phase I operation. This mechanism is critical to the future success of retail direct access in Arizona. It is highly unlikely that it could have been developed except under the auspices of an independent entity such as the AISA.

Q. Is the Allocated Retail Network Transmission Protocol the only example of how the AISA protocols address problems that are unique to retail direct access?

A. No. While it is, perhaps, the most fundamental example of addressing the special characteristics of retail direct access, it is not the only important example in the Protocols Manual. Other important examples include protocols to address reliability must-run generation, energy imbalances, and transmission scheduling.

Q. Why should the AISA be retained in light of the fact that there are no customers in Arizona currently taking retail direct access service?

A. The AISA Board has responded to the current lack of retail direct access activity in Arizona by downsizing the AISA to the minimum size practicable that still retains the critical mass needed to keep the entity intact. The staffing has been reduced from 2.0 FTEs to 0.75 FTE, and the operating budget cut 54 percent to $154,000 per year. As I indicated in the overview to my testimony, proposed increases in standard offer rates, the scheduled phase-out of stranded cost charges,

[16] The terms of this mechanism are described in the AISA Protocols Manual, section V.4 See specially V.4.3.4.

the survival of national suppliers committed to competitive retail service, and the substantial increase in the supply of regional generation will combine to make direct access service a more economically-viable choice going forward. Exercising this choice will not be viable without the AISA.

The hard work of establishing workable transmission access protocols and a forum for overseeing them is accomplished. If the AISA is terminated, replicating these protocols (and re-gaining FERC approval for the entity) would be time-consuming and expensive.

To put the matter into perspective, APS has just proposed raising rates $175,000,000 per year. Clearly, spending $154,000 per year to ensure that there is fair transmission access for competitive retail supply options is money well spent.

Staff Report on the AISA

Q. Have you reviewed the Staff Report on the AISA issued May 30, 2003?

A. Yes, I have.

Q. Do you concur with the conclusions in that report?

A. In large part, yes. In particular, I agree with the conclusion that if retail access is to be a viable option for Arizona customers, then "Arizona will need the AISA or some substitute organization to perform the functions that were originally intended to be performed by an ISA."[17] I also believe that the following points in the report are worth emphasizing:

- The primary opponents of the AISA are those organizations that will be adversely impacted by competition.[18]

[17] "Staff Report for the Generic Proceeding Concerning the Arizona Independent Scheduling Administrator," May 30, 2003. p. 4.
[18] Ibid., p. 7.

- Proposals to abandon the AISA now in favor of an RTO are not well founded, as an RTO will not commence operation before 2007, and may well not be fully operational until 2011.[19]

- The AISA is a necessary, but not a sufficient condition needed to encourage retail competition in Arizona. If the AISA is closed, it would provide another barrier to Arizona's attempt to attract competitive Electric Service Providers.[20]

These points are well taken.

Supposed alternatives to the AISA

Q. Are you aware of alternatives to the AISA that have been proposed from time to time?

A. Yes. In my experience with transmission access issues in the southwest, I have heard advocated a number of alternatives to the AISA. Among them are: (1) Abandon the AISA, because an RTO will soon be in place; and (2) Now that the protocols are developed and referenced in the APS and TEP OATTs, disband the AISA and rely on the utility's OATT provisions.

Q. What is your assessment of these alternatives?

A. The argument to abandon the AISA because an RTO will soon be in place was a theme advocated by SRP several years ago. Of course, it is now 2003 and an operational RTO is still several years off. In fact, the Staff report states that some indications are that an RTO may not be fully operational in Arizona until 2011. Adopting this abandonment alternative would ensure that incumbent utilities could raise their prices significantly without fear of losing customers to retail suppliers. It would be far wiser to ensure that the RTO is operational before

[19] Ibid., p. 7.

[20] Ibid., p. 8.

disbanding the AISA, so that the RTO would be in a position to assume responsibility for overseeing transmission access for competitive retail service.

Q. What about the alternative of relying on the AISA protocols as now included in the APS and TEP OATTs?

A. This alternative is also highly flawed. The first problem is credibility. FERC was willing to accept the terms of the AISA tariff in part because it was the product of a stakeholder effort. Eliminating the role of the stakeholders going forward (by eliminating the AISA) would create a policy vacuum that would severely impair the ability of Arizona stakeholders to jointly develop transmission access solutions that are responsive to changing conditions. Second, and as important, once the authority over the protocols was abandoned by the AISA and ceded to the individual utilities, as required by this alternative, nothing would prevent any of the utilities from unilaterally proposing onerous new terms in the protocols and re-filing them at FERC. Stakeholders who objected to the changes would then have to take up the fight in Washington. This alternative is a recipe for extensive and expensive litigation, and for shifting the forum for issue resolution from Phoenix to the District of Columbia.

<u>Summary of recommendations</u>

Q. Please briefly summarize your recommendations to the Commission.

A. Retail direct access is an important and hard-won right held by Arizona electric customers. This right should not be expropriated or diminished. Even though, in recent years, the underlying economics have not supported using direct access service in Arizona, it remains a valuable option going forward. The AISA

is essential for retail direct access, and it should be retained until an RTO is operational in Arizona. At its current downsized level, costs are kept to a minimum while still retaining the critical mass needed to keep the entity intact.

Q. Does this conclude your direct testimony?

A. Yes, it does.

1444112/23040.041

KEVIN C. HIGGINS
Principal, Energy Strategies, L.L.C.
39 Market St., Suite 200, Salt Lake City, UT 84101
(801) 355-4365

Vitae

PROFESSIONAL EXPERIENCE

Principal, Energy Strategies, L.L.C., Salt Lake City, Utah, January 2000 to present. Responsible for energy-related economic and policy analysis, regulatory intervention, and strategic negotiation on behalf of industrial, commercial, and public sector interests. Previously Senior Associate, February 1995 to December 1999.

Adjunct Instructor in Economics, Westminster College, Salt Lake City, Utah, September 1981 to May 1982; September 1987 to May 1995. Taught in the economics and M.B.A. programs. Awarded Adjunct Professor of the Year, Gore School of Business, 1990-91.

Chief of Staff to the Chairman, Salt Lake County Board of Commissioners, Salt Lake City, Utah, January 1991 to January 1995. Senior executive responsibility for all matters of county government, including formulation and execution of public policy, delivery of approximately 140 government services, budget adoption and fiscal management (over $300 million), strategic planning, coordination with elected officials, and communication with consultants and media.

Assistant Director, Utah Energy Office, Utah Department of Natural Resources, Salt Lake City, Utah, August 1985 to January 1991. Directed the agency's resource development section, which provided energy policy analysis to the Governor, implemented state energy development policy, coordinated state energy data collection and dissemination, and managed energy technology demonstration programs. Position responsibilities included policy formulation and implementation, design and administration of energy technology demonstration programs, strategic management of the agency's interventions before the Utah Public Service Commission, budget preparation, and staff development. Supervised a staff of economists, engineers, and policy analysts, and served as lead economist on selected projects.

Utility Economist, Utah Energy Office, January 1985 to August 1985. Provided policy and economic analysis pertaining to energy conservation and resource development, with an emphasis on utility issues. Testified before the state Public Service Commission as an expert witness in cases related to the above.

Acting Assistant Director, Utah Energy Office, June 1984 to January 1985. Same responsibilities as Assistant Director identified above.

Research Economist, Utah Energy Office, October 1983 to June 1984. Provided economic analysis pertaining to renewable energy resource development and utility issues. Experience includes preparation of testimony, development of strategy, and appearance as an expert witness for the Energy Office before the Utah PSC.

Operations Research Assistant, Corporate Modeling and Operations Research Department, Utah Power and Light Company, Salt Lake City, Utah, May 1983 to September 1983. Primary area of responsibility: designing and conducting energy load forecasts.

Instructor in Economics, University of Utah, Salt Lake City, Utah, January 1982 to April 1983. Taught intermediate microeconomics, principles of macroeconomics, and economics as a social science.

Teacher, Vernon-Verona-Sherrill School District, Verona, New York, September 1976 to June 1978.

EDUCATION

Ph.D. Candidate, Economics, University of Utah (coursework and exams completed, 1981).

> Fields of Specialization: Public Finance, Urban and Regional Economics, Economic Development, International Economics, History of Economic Doctrines.

Bachelor of Science, Education, State University of New York at Plattsburgh, 1976 (cum laude).

Danish International Studies Program, University of Copenhagen, 1975.

SCHOLARSHIPS AND FELLOWSHIPS

University Research Fellow, University of Utah, Salt Lake City, Utah 1982 to 1983.
Research Fellow, Institute of Human Resources Management, University of Utah, 1980 to 1982.
Teaching Fellow, Economics Department, University of Utah, 1978 to 1980.
New York State Regents Scholar, 1972 to 1976.

EXPERT TESTIMONY

"In the matter of the application of Consumers Energy Company for a financing order approving the securitization of certain of its qualified cost," **Michigan** Public Service Commission, Case No. U-13715. Direct testimony submitted April 8, 2003. Cross examined April 23, 2003.

"In the Matter of the Application of Arizona Public Service Company for Approval of Adjustment Mechanisms," **Arizona** Corporation Commission, Docket No. E-01345A-02-0403. Direct testimony submitted February 13, 2003. Surrebuttal testimony submitted March 20, 2003. Cross examined April 8, 2003.

"Re: The Investigation and Suspension of Tariff Sheets Filed by Public Service Company of Colorado, Advice Letter No. 1373 – Electric, Advice Letter No. 593 – Gas, Advice Letter No. 80 – Steam," **Colorado** Public Utilities Commission, Docket No. 02S-315 EG. Direct testimony submitted November 22, 2002. Cross-answer testimony submitted January 24, 2003.

"In the matter of the application of The Detroit Edison Company to implement the Commission's stranded cost recovery procedure and for approval of net stranded cost recovery charges," **Michigan** Public Service Commission, Case No. U-13350. Direct testimony submitted November 12, 2002.

"Application of South Carolina Electric & Gas Company: Adjustments in the Company's Electric Rate Schedules and Tariffs," Public Service Commission of **South Carolina**, Docket No. 2002-223-E. Direct testimony submitted November 8, 2002. Surrebuttal testimony submitted November 18, 2002. Cross examined November 21, 2002.

"In the Matter of the Application of Questar Gas Company for a General Increase in Rates and Charges," **Utah** Public Service Commission, Docket No. 02-057-02. Direct testimony submitted August 30, 2002. Rebuttal testimony submitted October 4, 2002.

"The Kroger Co. v. Dynegy Power Marketing, Inc.," **Federal Energy Regulatory Commission**, EL02-119-000. Affidavit filed August 13, 2002.

"In the matter of the application of Consumers Energy Company for determination of net stranded costs and for approval of net stranded cost recovery charges," **Michigan** Public Service Commission, Case No. U-13380. Direct testimony submitted August 9, 2002. Rebuttal testimony submitted August 30, 2002. Cross examined September 10, 2002.

"In the Matter of the Application of Public Service Company of Colorado for an Order to Revise Its Incentive Cost Adjustment," **Colorado** Public Utilities Commission, Docket 02A-158E. Direct testimony submitted April 18, 2002.

"In the Matter of the Generic Proceedings Concerning Electric Restructuring Issues," **Arizona** Corporation Commission, Docket No. E-00000A-02-0051, "In the Matter of Arizona Public Service Company's Request for Variance of Certain Requirements of A.A.C. R14-2-1606," Docket No. E-01345A-01-0822, "In the Matter of the Generic Proceeding Concerning the Arizona Independent Scheduling Administrator," Docket No. E-00000A-01-0630, "In the Matter of Tucson Electric Power Company's Application for a Variance of Certain Electric Competition

Rules Compliance Dates," Docket No. E-01933A-02-0069, "In the Matter of the Application of Tucson Electric Power Company for Approval of its Stranded Cost Recovery," Docket No. E-01933A-98-0471. Direct testimony submitted March 29, 2002 (APS variance request) and May 29, 2002 (market power). Cross examined June 21, 2002.

"In the Matter of Savannah Electric & Power Company's 2001 Rate Case," **Georgia** Public Service Commission, Docket No. 14618-U. Direct testimony submitted March 15, 2002. Cross examined March 28, 2002.

"Nevada Power Company's 2001 Deferred Energy Case," Public Utilities Commission of **Nevada**, PUCN 01-11029. Direct testimony submitted February 7, 2002. Cross examined February 21, 2002.

"2001 Puget Sound Energy Interim Rate Case," **Washington** Utilities and Transportation Commission, Docket Nos. UE-011570 and UE-011571. Direct testimony submitted January 30, 2002. Cross examined February 20, 2002.

"In the Matter of Georgia Power Company's 2001 Rate Case," **Georgia** Public Service Commission, Docket No. 1400-U. Direct testimony submitted October 12, 2001. Cross examined October 24, 2001.

"In the Matter of the Application of PacifiCorp for Approval of Its Proposed Electric Rate Schedules and Electric Service Regulations," **Utah** Public Service Commission, Docket No. 01-35-01. Direct testimony submitted June 15, 2001. Rebuttal testimony submitted August 31, 2001.

"In the Matter of Portland General Electric Company's Proposal to Restructure and Reprice Its Services in Accordance with the Provisions of SB 1149," Public Utility Commission of **Oregon**, Docket No. UE-115. Direct testimony submitted February 20, 2001. Rebuttal testimony submitted May 4, 2001. Joint testimony regarding stipulation submitted July 27, 2001.

"In the Matter of the Application of APS Energy Services, Inc. for Declaratory Order or Waiver of the Electric Competition Rules," **Arizona** Corporation Commission, Docket No.E-01933A-00-0486. Direct testimony submitted July 24, 2000.

"In the Matter of the Application of Questar Gas Company for an Increase in Rates and Charges," **Utah** Public Service Commission, Docket No. 99-057-20. Direct testimony submitted April 19, 2000. Rebuttal testimony submitted May 24, 2000. Surrebuttal testimony submitted May 31, 2000. Cross examined June 6 & 8, 2000.

"In the Matter of the Application of Columbus Southern Power Company for Approval of Electric Transition Plan and Application for Receipt of Transition Revenues," Public Utility Commission of **Ohio**, Case No. 99-1729-EL-ETP; "In the Matter of the Application of Ohio

Power Company for Approval of Electric Transition Plan and Application for Receipt of Transition Revenues," Public Utility Commission of **Ohio**, Case No. 99-1730-EL-ETP. Direct testimony prepared, but not submitted pursuant to settlement agreement effected May 2, 2000.

"In the Matter of the Application of FirstEnergy Corp. on Behalf of Ohio Edison Company, The Cleveland Electric Illuminating Company, and the Toledo Edison Company for Approval of Their Transition Plans and for Authorization to Collect Transition Revenues," Public Utility Commission of **Ohio**, Case No. 99-1212-EL-ETP. Direct testimony prepared, but not submitted pursuant to settlement agreement effected April 11, 2000.

"2000 Pricing Process," **Salt River Project** Board of Directors, oral comments provided March 6, 2000 and April 10, 2000.

"Tucson Electric Power Company vs. Cyprus Sierrita Corporation," **Arizona** Corporation Commission, Docket No. E-000001-99-0243. Direct testimony submitted October 25, 1999. Cross examined November 4, 1999.

"Application of Hildale City and Intermountain Municipal Gas Association for an Order Granting Access for Transportation of Interstate Natural Gas over the Pipelines of Questar Gas Company for Hildale, Utah," **Utah** Public Service Commission, Docket No. 98-057-01. Rebuttal testimony submitted August 30, 1999.

"In the Matter of the Application by Arizona Electric Power Cooperative, Inc. for Approval of Its Filing as to Regulatory Assets and Transition Revenues," **Arizona** Corporation Commission, Docket No. E-01773A-98-0470. Direct testimony submitted July 30, 1999. Cross examined February 28, 2000.

"In the Matter of the Application of Tucson Electric Power Company for Approval of its Plan for Stranded Cost Recovery," **Arizona** Corporation Commission, Docket No. E-01933A-98-0471; "In the Matter of the Filing of Tucson Electric Power Company of Unbundled Tariffs Pursuant to A.A.C. R14-2-1601 et seq.," Docket No. E-01933A-97-0772; "In the Matter of the Competition in the Provision of Electric Service Throughout the State of Arizona," Docket No. RE-00000C-94-0165. Direct testimony submitted June 30, 1999. Rebuttal testimony submitted August 6, 1999. Cross examined August 11-13, 1999.

"In the Matter of the Application of Arizona Public Service Company for Approval of its Plan for Stranded Cost Recovery," **Arizona** Corporation Commission, Docket No. E-01345A-98-0473; "In the Matter of the Filing of Arizona Public Service Company of Unbundled Tariffs Pursuant to A.A.C. R14-2-1601 et seq.," Docket No. E-01345A-97-0773; "In the Matter of the Competition in the Provision of Electric Service Throughout the State of Arizona," Docket No. RE-00000C-94-0165. Direct testimony submitted June 4, 1999. Rebuttal testimony submitted July 12, 1999. Cross examined July 14, 1999.

"In the Matter of the Application of Tucson Electric Power Company for Approval of its Plan for Stranded Cost Recovery," **Arizona** Corporation Commission, Docket No. E-01933A-98-0471; "In the Matter of the Filing of Tucson Electric Power Company of Unbundled Tariffs Pursuant to A.A.C. R14-2-1601 et seq.," Docket No. E-01933A-97-0772; "In the Matter of the Application of Arizona Public Service Company for Approval of its Plan for Stranded Cost Recovery," Docket No. E-01345A-98-0473; "In the Matter of the Filing of Arizona Public Service Company of Unbundled Tariffs Pursuant to A.A.C. R14-2-1601 et seq.," Docket No. E-01345A-97-0773; "In the Matter of the Competition in the Provision of Electric Service Throughout the State of Arizona," Docket No. RE-00000C-94-0165. Direct testimony submitted November 30, 1998.

"Hearings on Pricing," **Salt River Project** Board of Directors, written and oral comments provided November 9, 1998.

"Hearings on Customer Choice," **Salt River Project** Board of Directors, written and oral comments provided June 22, 1998; June 29, 1998; July 9, 1998; August 7, 1998; and August 14, 1998.

"In the Matter of the Competition in the Provision of Electric Service Throughout the State of Arizona," **Arizona** Corporation Commission, Docket No. U-0000-94-165. Direct and rebuttal testimony filed January 21, 1998. Second rebuttal testimony filed February 4, 1998. Cross examined February 25, 1998.

"In the Matter of Consolidated Edison Company of New York, Inc.'s Plans for (1) Electric Rate/Restructuring Pursuant to Opinion No. 96-12; and (2) the Formation of a Holding Company Pursuant to PSL, Sections 70, 108, and 110, and Certain Related Transactions," **New York** Public Service Commission, Case 96-E-0897. Direct testimony filed April 9, 1997. Cross examined May 5, 1997.

"In the Matter of the Petition of Sunnyside Cogeneration Associates for Enforcement of Contract Provisions," **Utah** Public Service Commission, Docket No. 96-2018-01. Direct testimony submitted July 8, 1996.

"Questar Pipeline Company," **Federal Energy Regulatory Commission**, Docket No. RP95-407. Direct testimony prepared, but withheld subject to settlement. Settlement approved July 1, 1996.

"In the Matter of Arizona Public Service Company's Rate Reduction Agreement," **Arizona** Corporation Commission, Docket No. U-1345-95-491. Direct testimony prepared, but withheld consequent to issue resolution. Agreement approved April 18, 1996.

"In the Matter of the Application of PacifiCorp, dba Pacific Power & Light Company, for Approval of Revised Tariff Schedules and an Alternative Form of Regulation Plan," **Wyoming**

Public Service Commission, Docket No. 2000-ER-95-99. Direct testimony submitted April 8, 1996.

"In the Matter of the Application of Mountain Fuel Supply Company for an Increase in Rates and Charges," **Utah** Public Service Commission, Case No. 95-057-02. Direct testimony submitted June 19, 1995. Rebuttal testimony submitted July 25, 1995. Surrebuttal testimony submitted August 7, 1995.

"In the Matter of the Investigation of the Reasonableness of the Rates and Tariffs of Mountain Fuel Supply Company," **Utah** Public Service Commission, Case No. 89-057-15. Direct testimony submitted July 1990. Surrebuttal testimony submitted August 1990.

"In the Matter of the Review of the Rates of Utah Power and Light Company pursuant to The Order in Case No. 87-035-27," **Utah** Public Service Commission, Case No. 89-035-10. Rebuttal testimony submitted November 15, 1989. Cross examined December 1, 1989 (rate schedule changes for state facilities).

"In the Matter of the Application of Utah Power & Light Company and PC/UP&L Merging Corp. (to be renamed PacifiCorp) for an Order Authorizing the Merger of Utah Power & Light Company and PacifiCorp into PC/UP&L Merging Corp. and Authorizing the Issuance of Securities, Adoption of Tariffs, and Transfer of Certificates of Public Convenience and Necessity and Authorities in Connection Therewith," **Utah** Public Service Commission, Case No. 87-035-27; Direct testimony submitted April 11, 1988. Cross examined May 12, 1988 (economic impact of UP&L merger with PacifiCorp).

"In the Matter of the Application of Mountain Fuel Supply Company for Approval of Interruptible Industrial Transportation Rates," **Utah** Public Service Commission, Case No. 86-057-07. Direct testimony submitted January 15, 1988. Cross examined March 30, 1988.

"In the Matter of the Application of Utah Power and Light Company for an Order Approving a Power Purchase Agreement," **Utah** Public Service Commission, Case No. 87-035-18. Oral testimony delivered July 8, 1987.

"Cogeneration: Small Power Production," **Federal Energy Regulatory Commission**, Docket No. RM87-12-000. Statement delivered March 27, 1987, on behalf of State of Utah, in San Francisco.

"In the Matter of the Investigation of Rates for Backup, Maintenance, Supplementary, and Standby Power for Utah Power and Light Company," **Utah** Public Service Commission, Case No. 86-035-13. Direct testimony submitted January 5, 1987. Case settled by stipulation approved August 1987.

"In the Matter of the Application of Sunnyside Cogeneration Associates for Approval of the Cogeneration Power Purchase Agreement," **Utah** Public Service Commission, Case No. 86-2018-01. Rebuttal testimony submitted July 16, 1986. Cross examined July 17, 1986.

"In the Matter of the Investigation of Demand-Side Alternatives to Capacity Expansion for Electric Utilities," **Utah** Public Service Commission, Case No. 84-999-20. Direct testimony submitted June 17, 1985. Rebuttal testimony submitted July 29, 1985. Cross examined August 19, 1985.

"In the Matter of the Implementation of Rules Governing Cogeneration and Small Power Production in Utah," **Utah** Public Service Commission, Case No. 80-999-06, pp. 1293-1318. Direct testimony submitted January 13, 1984 (avoided costs), May 9, 1986 (security for levelized contracts) and November 17, 1986 (avoided costs); cross-examined February 29, 1984 (avoided costs), April 11, 1985 (standard form contracts), May 22-23, 1986 (security for levelized contracts) and December 16-17, 1986 (avoided costs).

OTHER RELATED ACTIVITY

Participant, Oregon Direct Access Task Force (UM 1081), May 2003 to present.

Participant, Michigan Stranded Cost Collaborative, March 2003 to present.

Board of Directors, ex-officio, Desert STAR RTO, September 1999 to February 2002.

Advisory Committee, Desert STAR RTO, September 1999 to February 2002. Acting Chairman, October 2000 to February 2002.

Board of Directors, Arizona Independent Scheduling Administrator Association, October 1998 to present.

Acting Chairman, Operating Committee, Arizona Independent Scheduling Administrator Association, October 1998 to June 1999.

Member, Desert Star ISO Investigation Working Groups: Operations, Pricing, and Governance, April 1997 to present. Legal & Negotiating Committee, April 1999 to December 1999.

Participant, Independent System Operator and Spot Market Working Group, Arizona Corporation Commission, April 1997 to September 1997.

Participant, Unbundled Services and Standard Offer Working Group, Arizona Corporation Commission, April 1997 to October 1997.

Participant, Customer Selection Working Group, Arizona Corporation Commission, March 1997 to September 1997.

Member, Stranded Cost Working Group, Arizona Corporation Commission, March 1997 to September 1997.

Member, Electric System Reliability & Safety Working Group, Arizona Corporation Commission, November 1996 to present.

Chairman, Salt Palace Renovation and Expansion Committee, Salt Lake County/State of Utah/Salt Lake City, multi-government entity responsible for implementation of planning, design, finance, and construction of an $85 million renovation of the Salt Palace Convention Center, Salt Lake City, Utah, May 1991 to December 1994.

State of Utah Representative, Committee on Regional Electric Power Cooperation, a joint effort of the Western Interstate Energy Board and the Western Conference of Public Service Commissioners, January 1987 to December 1990.

Member, Utah Governor's Economic Coordinating Committee, January 1987 to December 1990.

Chairman, Standard Contract Task Force, established by Utah Public Service Commission to address contractual problems relating to qualifying facility sales under PURPA, March 1986 to December 1990.

Chairman, Load Management and Energy Conservation Task Force, Utah Public Service Commission, August 1985 to December 1990.

Alternate delegate for Utah, Western Interstate Energy Board, Denver, Colorado, August 1985 to December 1990.

Articles Editor, Economic Forum, September 1980 to August 1981.

1443727/23040.041

BEFORE THE ARIZONA CORPORATION COMMISSION

MARC SPITZER
Chairman
JIM IRVIN
Commissioner
WILLIAM A. MUNDELL
Commissioner
JEFF HATCH-MILLER
Commissioner
MIKE GLEASON
Commissioner

IN THE MATTER OF THE GENERIC PROCEEDINGS CONCERNING ELECTRIC	DOCKET NO. E-00000A-02-0051
IN THE MATTER OF ARIZONA PUBLIC SERVICE COMPANY'S REQUEST FOR VARIANCE OF CERTAIN REQUIREMENTS OF A.A.C. 4-14-2-1606	DOCKET NO. E-01345A-01-0822
IN THE MATTER OF THE GENERIC PROCEEDINGS CONCERNING THE ARIZONA INDEPENDENT SCHEDULING	DOCKET NO. E-00000A-01-0630
IN THE MATTER OF TUCSON ELECTRIC COMPANY'S APPLICATION FOR A VARIANCE OF CERTAIN ELECTRIC POWER	DOCKET NO. E-01933A-98-0471
ISSUES IN THE MATTER OF TUCSON ELECTRIC POWER COMPANY'S APPLICATION FOR A VARIANCE OF CERTAIN ELECTRIC	DOCKET NO. E-01933A-02-0069

TESTIMONY OF MICHAEL D. McELRATH

Table of Contents

PAGE

Phelps Dodge's concern with reference to having access to the transmission system. 1

Action taken by Phelps Dodge in anticipation and support of electric competition in Arizona 2

Phelps Dodge's ability to market services and power 3

Impact of elimination of the AISA on the marketing of services and power. 3

Recommendation of Phelps Dodge 4

DIRECT TESTIMONY OF MICHAEL D. McELRATH

Q. Please state your name and business address.

A. Michael D. McElrath, One North Central Avenue, Phoenix, Arizona 85004.

Q. By whom are you employed and in what capacity?

A. Phelps Dodge Mining Company. I am currently serving in the position of Energy Manager. My duties include the planning, acquisition, and delivery of energy commodities for Phelps Dodge mines in North and South America. My duties also include coordinating the interests of Phelps Dodge Corporation and Phelps Dodge Mining Company (collectively hereafter "Phelps Dodge") in wholesale and retail regulatory proceedings at the state and national levels.

Q. On whose behalf are you providing testimony in this proceeding?

A. I am testifying as a witness for Arizonans for Electric Choice and Competition ("AECC") in support of retaining the Arizona Independent Scheduling Administrator ("AISA").

I am also testifying in this proceeding because of Phelps Dodge's concern about the impact the elimination of AISA would have on open, non-discriminatory transmission access to the transmission system.

Q. Why does Phelps Dodge have a concern with reference to having access to the transmission system?

A. Phelps Dodge has six mining operations located in Arizona. In 2002, Phelps Dodge spent in excess of $120 million to supply electric power to those mining operations. Electric power is one of the largest variable costs of copper production. In order for Phelps Dodge to have access to as many sources of

electric power as possible there must be open, non-discriminatory transmission access to the transmission system. The purpose of the AISA is to facilitate such access until a regional transmission organization becomes operational.

Q. Have you been involved in proceedings before the Arizona Corporation Commission ("Commission") relating to retail electric competition?

A. Yes. I have been active in the deregulation arena since 1994 when the Commission held its first workshop.

Q. Have you also been involved with Commission proceedings related to the AISA?

A. Yes.

Q. What has been that involvement?

A. I have participated in many workshops, meetings, hearings and negotiations in connection with the formation and operation of the organization. I presently serve on the Board of Directors of the AISA as an unpaid volunteer representing the Aggregation Class.

Q. Has Phelps Dodge taken any action in anticipation and in support of retail electric competition in Arizona?

A. Yes.

Q. What has been the nature of that action?

A. In anticipation of the commencement of retail electric competition, Phelps Dodge organized Phelps Dodge Energy Services, L.L.C. ("PDES") and obtained Federal Energy Regulatory Commission ("FERC") approval to engage in power marketing activities including the ability to charge market rates for sales of

wholesale power. In addition, PDES also obtained a FERC order that it is an exempt wholesale generator ("EWG") by reason of its leasehold interest in certain generation facilities from which PDES sells excess power when the Phelps Dodge mines do not need the power. In 2001, the Commission approved the application of Morenci Water and Electric, L.L.C., a wholly owned subsidiary of Phelps Dodge, for an Energy Services Provider ("PDM"). PDM facilitates the movement of wholesale electricity to retail industrial customers in Arizona. Phelps Dodge also constructed a 50 MW combined cycle power plant near Silver City, New Mexico in 2001 to augment its power generation base.

Q. Has PDM been able to engage in the marketing of its services and power?

A. Since PDM's organization, market conditions have not been such to warrant engagement in such activities. However, with the phase out of stranded cost charges, the addition of significant new generating capacity, and the proposed increase in rates of some utilities, conditions are changing that will make retail electric competition economical and viable.

Q. Would the elimination of the AISA affect PDM's ability to market its services and power?

A. Yes. AECC witness Kevin Higgins has discussed in some detail the impact the elimination of AISA would have on direct access and stated very eloquently the reasons for the continuation of the AISA.

Q. Does Phelps Dodge have a recommendation with reference to whether the AISA should be retained?

A. Yes.

1 **Q. What is that recommendation?**

2 A. Phelps Dodge recommends that the AISA be retained until such time as there is a

3 regional organization in place and operational.

4 **Q. Does this conclude your direct testimony?**

5 A. Yes.

6

7 1443729/23040.041