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BEFORE THE ARIZONA CORPORATION COMMISSION

2003 SEP -9 A 11: 22

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

Arizona Corporation Commission

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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

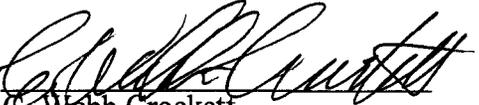
**ARIZONANS FOR ELECTRIC CHOICE & COMPETITION'S NOTICE OF FILING OF
THE SUMMARIES OF THE DIRECT AND REBUTTAL TESTIMONY OF
KEVIN C. HIGGINS AND MICHAEL D. McELRATH**

Arizonans for Electric Choice & Competition hereby provides notice of the filing of summaries of the direct and rebuttal testimony of its witnesses, Kevin C. Higgins and Michael D.

McElrath, in the above-captioned dockets.

RESPECTFULLY SUBMITTED this 9th day of September, 2003.

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SUMMARY OF THE DIRECT TESTIMONY OF KEVIN C. HIGGINS

In my direct testimony, I testify that 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.

SUMMARY OF THE REBUTTAL TESTIMONY OF KEVIN C. HIGGINS

In my rebuttal testimony, I rebut a number of arguments put forth by AEPCO witness Larry D. Huff.

Mr. Huff is seeking Commission action that would allow AEPCO to cease participation in the AISA. I estimate that at the AISA's current budget, AEPCO's participation costs about \$650 per month. I believe it is important that AEPCO continue to participate in the AISA, so that retail customers in its territory can someday benefit from the AISA when shopping for power. For this to happen, the Commission should remove the barriers to shopping created by the lack of unbundled tariffs in the distribution territories of the AEPCO member cooperatives.

Mr. Huff also proposes that future adjustments to the AISA protocols are best handled via unilateral OATT filings by the individual utilities. I counter that Mr. Huff's proposal is precisely the kind of scenario that Arizona has taken great care to avoid. It is far preferable for Arizona stakeholders to jointly develop transmission access solutions that are responsive to changing conditions. Until an RTO is in place, this is best handled under the auspices of the AISA. Mr. Huff's proposal would shift the venue of issue resolution from Phoenix to Washington.

In his critique of the AISA dispute resolution mechanism, Mr. Huff overlooks the fast-track process adopted by the AISA in which the AISA Director is empowered to make an immediate decision to address disputes that concern the implementation of the Protocols Manual. This provision for speedy resolution by a locally-based third party is a distinct advantage of the AISA's dispute resolution process. The fact that parties may still pursue due process through the FERC or courts does not detract from the merit of the AISA's dispute resolution mechanism, as Mr. Huff maintains.

**SUMMARY OF THE DIRECT TESTIMONY OF
MICHAEL D. McELRATH**

I am testifying in this proceeding in support of retaining the Arizona Independent Scheduling Administrator ("AISA"). Phelps Dodge has six (6) mining operations in Arizona and in 2002 spent in excess of \$120,000,000 to supply electric power to those mining operations. Because electric power is one of the largest variable costs of copper production, Phelps Dodge is concerned that it have access to as many sources of electric power as possible and this requires open, non-discriminatory access to the transmission system. The purpose of the AISA is to facilitate such access until a regional transmission organization becomes operational.

In anticipation of the commencement of retail electric competition Phelps Dodge organized Phelps Dodge Electric Services, L.L.C. for the purpose of engaging in electric power marketing activities. The Arizona Corporation 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 will facilitate the movement of wholesale electricity to retail customers in Arizona. Phelps Dodge also constructed a 50 MW combined cycle power plant to augment its power generation base and will sell excess power when the mines do not need the power.

Although market conditions have not warranted PDM engaging in the marketing of its services and power, conditions are changing that will make electric competition economical and viable. Phelps Dodge therefore recommends that the AISA be retained until there is a regional organization in place.

**SUMMARY OF THE REBUTTAL TESTIMONY OF
MICHAEL D. McELRATH**

My rebuttal testimony will respond to some of the arguments set forth in the direct testimony of Larry D. Huff.

First, Mr. Huff argues that the AISA is not needed now and will not be necessary in the future to facilitate retail competition. I disagree. Market conditions in the past may have made retail direct access less attractive which would account for fewer customers taking competitive services. However with the new generation coming to market, the expiration of the competition transition charges and the prospect of increases in rates by Arizona Public Service Company, conditions are changing that will make direct retail access more attractive to customers than at anytime in the past. The AISA is essential for retail direct access.

Second, I do not agree with Mr. Huff's contentions that AEPCO has fulfilled its responsibilities in relation to the AISA and that the continued participation in the AISA will simply impose costs on the member-owners without providing benefits. The member-owners have not unbundled their tariffs and until they do the customers of the member-owners will not be able to take advantage of direct access and thereby receive the full benefits of the AISA.

Mr. Huff also argues that one of the functions of AISA has already been accomplished by Arizona Public Service Company and Tucson Electric Power Company having incorporated the protocols in their OATT's. Mr. Huff states that the Protocols will be incorporated in the Southwest Transmission Power Cooperative, Inc. ("SWTC") OATT when the member-owners service territories are open for competition. Mr. Huff acknowledges however, that when the service territories are open to competition there may need be some adjustments of the protocols. He suggests that those adjustments be made by the provider, or if the provider is unwilling, through some action at the FERC. What Mr. Huff is suggesting is that disputes which could be addressed locally by utilizing the procedures of AISA instead be handled by a federal agency in Washington, D.C. Without even considering the fact that SWTC is not subject to the FERC jurisdiction, this can be a lengthy time consuming and costly process.