



ORIGINAL

DEPARTMENT OF THE AIR FORCE
HEADQUARTERS AIR FORCE CIVIL ENGINEER SUPPORT



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13 March 2006

Lieutenant Colonel Karen S. White
Chief, Utility Litigation Team
139 Barnes Drive Ste 1
Tyndall AFB FL 32403

Docket Control Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, AZ 85007

Re: Docket No. E-01345A-06-0009

Dear Sir/Ma'am

Enclosed please an original and fourteen copies of a letter to Commissioner Mayers sent this date to the Commissioner and all parties to this docket. I've also enclosed a self-addressed, stamped envelope for return of one of the copies after you've stamped it.

Thank you for your assistance in this matter.

Sincerely,

KAREN S. WHITE, Lt Col, USAF
Chief, Utility Litigation Team

Attach: Letter to Commissioner Mayes
+ 14 copies

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DEPARTMENT OF THE AIR FORCE
HEADQUARTERS AIR FORCE CIVIL ENGINEER SUPPORT AGENCY

13 March 2006

Lt Col Karen White
Chief, Air Force Utility Litigation
& Negotiation Team
139 Barnes Drive, Suite 1
Tyndall AFB FL 32403

Commissioner Kristin K. Mayes
Arizona Corporation Commission
1200 West Washington
Phoenix, AZ 85007-2996

Dear Commissioner Mayes,

1. On February 9, 2006, you asked all parties to file responses to several questions that you posed regarding Arizona Public Service (APS) Company's Application for an Emergency Interim Rate Increase (Docket No. E-01345-06-009). Specifically, you asked for the parties' positions on whether the commission should limit consideration of only those fuel costs that have already been incurred by APS, as well as the impact of the proposed interim rate increase along with the total rate increase impact from 1 April 2005 until 1 April 2006.
2. Arizona's case law is clear that the Commission has the authority to grant an interim rate increase. (See, e.g., *Naco Water Company, LLC*, Decision No. 67984, citing Op. Atty. Gen 71-17; *RUCO v. ACC and Rio Verde Utilities, Inc.*, 199 Ariz. 588; 20 P.3d 1169 (2001); *Scates v. ACC*, 118 Ariz. 531; 578 P.2d 612 (1978)). That same body of case law sets out the findings that the Commission should make when determining that interim rates are appropriate. *Id.* Specifically, the Commission should use interim rates in those "limited circumstance where an emergency exists, a bond has been posted guaranteeing a refund to the utility's subscribers if any payments are made in excess of the rates eventually determined by the Commission and where a final determination of just and reasonable rates is to be made by the Commission after it values a utility's property." *Scates* at 535.
3. Given the above-mentioned standard for granting interim rates, the first issue appears to be whether there is an "emergency" that would allow the Commission to grant interim rates. According to past Commission decisions and Attorney General Opinion 71-17, "interim or emergency rates are proper when either all or any one of the following conditions occur: when sudden changes brings hardship to a Company; when the Company is insolvent; or when the condition of the Company is such that its ability to maintain service pending a formal rate determination is in serious doubt." *Naco Water Co., supra*, at *4. In its application, Arizona Public Service Company cites an "operating cash flow emergency" and "imminent downgrade to "junk bond" status" as the reasons they contend an "emergency" exists. The company sets out testimony to support the assertion that APS faces a "substantial operating cash flow deficiency" due to "fuel prices...especially but not exclusively natural gas, that have skyrocketed well past

those anticipated.” The Company describes the “hardship” that these fuel prices have caused as a “heavy burden on the Company’s cash resources,” leading to the threat of imminent downgrading of APS debt securities to “junk bond status.” 2

4. If the Commission agrees that the spike in fuel costs constitutes a sudden change that has brought a hardship to the Company, then approval of interim rates would be appropriate under the standards set out by Arizona case law. If, however, the Commission believes that APS’ current financial situation has been ameliorated by the recently enacted PSA 4 mil adjustor, and the deferral of costs in excess of the \$776 million cap, then the Commission should find that there is no “emergency” situation, and hence, interim rates would not be appropriate. Federal Executive Agencies’ position is that APS has not addressed the sufficiency of the actions already taken, and therefore the Commission should find in favor of the rate payers and declare the recently enacted measures to be an adequate financial bridge, negating any “emergency” that may have existed when APS filed the request for emergency rate relief.

5. However, assuming the Commission believes that APS’ current financial situation qualifies as an “emergency,” the next question is what amount of interim rate relief is appropriate. Nothing in the cases you cited in your February 9, 2006 letter suggests that recovery for costs already incurred by the utility are the only amounts that should be recoverable under an interim rate. In those cases, however, the Commission based its approval of the interim rates on the fact that costs had already been incurred by the utility company to alleviate some condition or situation which was beyond the utility’s control. APS’ application differs from those cases in that part of the application is based on fuel costs not yet incurred, without an adequate assessment of the impact of the recently enacted PSA adjustor. It is reasonable for the Commission to limit recovery to amounts necessary to relieve the emergency situation. Those recoveries should be based on amounts which are reasonably ascertainable.

6. Given that the company has recently begun collecting PSA amounts, filed an application for deferred fuel cost surcharge, and has a general rate case pending before the Commission, it is the FEA position that if the Commission believes that the financial situation qualifies as an “emergency” that the recovery should be limited to those amounts which are reasonably ascertainable and which will alleviate the emergency situation, rather than proposed fuel costs for future periods.

7. Attached is a spreadsheet which highlights the rate impact of the requested interim rate, the current PSA, and the proposed surcharges filed by APS in Docket E001345A-06-0063 on the largest FEA party, Luke Air Force Base. In addition to Luke AFB, FEA customers include all federal agencies within the APS service territory. We are currently compiling the data necessary to analyze the rate impacts to those customers.

8. A copy of this letter has been filed with the Commission, as well as sent to the other parties to the docket.



KAREN S. WHITE, Lt Col, USAF
Chief, Utility Litigation & Negotiation Team

Impact of various proposed APS increases on peak winter and summer bills for Luke Air Force Base

Month	kwh	surcharge amount \$/kwh	monthly increase	surcharge type
2006 Jan	7,845,988	0.011161	\$87,569	IR-1 (interim rate adjustment)
2005 Aug	8,350,944	0.011161	\$93,205	IR-1 (interim rate adjustment)
2006 Jan	7,845,988	0.004	\$31,384	PSA 2-1-2006
2005 Aug	8,350,944	0.004	\$33,404	PSA 2-1-2006
2006 Jan	7,845,988	0.000554	\$4,347	Amort--step 1
2005 Aug	8,350,944	0.000554	\$4,626	Amort--step 1
2006 Jan	7,845,988	0.001611	\$12,640	Amort--step 2
2005 Aug	8,350,944	0.001611	\$13,453	Amort--step 2
		total increase--Jan	\$135,940	
		total increase--Aug	\$144,688	

	old bill	new bill	% increase
2006 Jan	\$358,012	\$493,951	37.97%
2005 Aug	\$399,101	\$543,789	36.25%

A copy of the foregoing was mailed this
13th day of March 2006 to:

Lyn Farmer, Chief Administrative
Law Judge
Hearing Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

Thomas L. Mumaw
Karilee S. Ramaley
PINNACLE WEST CAPITAL
CORPORATION
P.O. Box 53999
Phoenix, AZ 85072-3999

Deborah R. Scott
Kimberly A. Grouse
SNELL & WILMER
One Arizona Center
400 E. VanBuren Street
Phoenix, AZ 85004-2202

Dan Austin
Comverge, Inc.
5509 W. Frye Road, Ste 4
Chandler, AZ 85526

Jim Nelson
12621 N. 17th Place
Phoenix, AZ 85022

Scott S. Wakefield
RUCO
1110 W. Washington, Ste 220
Phoenix, AZ 85007

Bill Murphy
Murphy Consulting
5401 N. 25th Street
Phoenix, AZ 85016

Douglas V. Fant
3655 W. Anthem Drive, Ste A109
PMB 411
Anthem, AZ 85086

Michael W. Patten
ROSHKA, DeWULF & PATTEN
One Arizona Center
400 East Van Buren Street Ste 800
Phoenix, AZ 85004

Michelle Livengood
UNISOURCE ENERGY SERVICES
One South Church Street, Ste 200
Tucson, AZ 85702

Timothy M. Hogan
ARIZONA CENTER FOR LAW IN
THE PUBLIC INTEREST
202 E. McDowell Road, Ste 153
Phoenix, AZ 85004

Tracy Spoon
SUN CITY TAXPAYERS
ASSOCIATION
12630 N. 103rd Ave Ste 144
Sun City, AZ 85351

Walter Meek
ARIZONA UTILITY INVESTORS
ASSOCIATION
2100 N. Central Avenue, Ste 210
Phoenix, AZ 85004

Michael L. Kurtz
Kurt J. Boehm
BOEHM, KURTZ & LOWRY
36 East Seventh Street, Ste 1510
Cincinnati, OH 45202
Attorneys for The Kroger Co.

C. Webb Crockett
Patrick J. Black
FENNEMORE CRAIG
3003 North Central Avenue, Ste 2600
Phoenix, AZ 85012-2913
Attorneys for Phelps Dodge Mining
Company and Arizonans for Electric
Choice and Competition

Donna M. Bronski
Deputy City Attorney
3939 N. Drinkwater Blvd
Scottsdale, AZ 85251

Christopher Kempley, Chief Counsel
Legal Division
ARIZONA CORPORATION
COMMISSION
1200 West Washington Street
Phoenix, AZ 85007

Ernest G. Johnson, Director
Utilities Division
ARIZONA CORPORATION
COMMISSION
1200 West Washington
Phoenix, AZ 85007

Jay I. Moyes
Moyes Storey Ltd.
1850 N. Central, Suite 1100
Phoenix, AZ 85004
Attorneys for AzAg Group

Kenneth R. Saline, P.E.
K.R. Saline & Assoc., PLC
160 N. Pasadena, Suite 101
Mesa, AZ 85201

Theodore E. Roberts
Sempra Energy Resources
101 Ash Street, HQ 12-B
San Diego, CA 92101-3017
Attorney for Mesquite Power

Michael W. Patten

J. Matthew Derstine
Laura E. Sixkiller
Roshka DeWulf & Patten, PLC
One Arizona Center
400 East Van Buren, Suite 800
Phoenix, AZ 85004
Attorneys for UniSource Energy
Services

David Berry
Western Resource Advocates
P.O. Box 1064
Scottsdale, AZ 85252-1064

Eric C. Guidry
Western Resource Advocates
2260 Baseline Road, Suite 200
Boulder, CO 80302

Lawrence V. Robertson, Jr.
P.O. Box 1448
Tubac, AZ 85646
Attorney for Southwestern Power
Group 11, Bowie Power Station &
Mesquite Power

Robert W. Geake
Vice President and General Counsel
Arizona Water Company
P.O. Box 29006
Phoenix, AZ 85038-9006

Michael A. Curtis
William P. Sullivan
K. Russell Romney
Curtis, Goodwin, Sullivan, Udall &
Schwab
2712 North Seventh Street
Phoenix, AZ
Attorneys for Town of Wickenburg

Cynthia Zwick
Executive Director
Arizona Community Action Association
2700 N. Third Street, Suite 3040
Phoenix, AZ 85004

Nicholas J. Enoch
Jarrett J. Haskovec
Lubin & Enoch, P.C.
349 North Fourth Avenue
Phoenix, AZ 85003
Attorneys for IBEW Locals 387, 640,
769

Greg Patterson
916 West Adams, Suite 3
Phoenix, AZ 85007

S. David Childers
Low & Childers, P.C.
2999 North 44th Street, Suite 250
Phoenix, AZ 85018
Attorney for Arizona Competitive Power
Alliance

By: 
KAREN S. WHITE, Lt Col, USAF