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BEFORE THE ARIZONA CORPORATION COMMISSION

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AZ CORP COMMISSION
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8 IN THE MATTER OF THE APPLICATION OF
9 ARIZONA PUBLIC SERVICE COMPANY
10 FOR A HEARING TO DETERMINE THE
11 FAIR VALUE OF THE UTILITY PROPERTY
12 OF THE COMPANY FOR RATEMAKING
13 PURPOSES, TO FIX A JUST AND
14 REASONABLE RATE OF RETURN
15 THEREON, TO APPROVE RATE
16 SCHEDULES DESIGNED TO DEVELOP
17 SUCH RETURN, AND TO AMEND
18 DECISION NO. 67744

Docket No. E-01345A-05-0816

13
14 **MOTION TO MODIFY
PROCEDURAL SCHEDULE**

15 The Residential Utility Consumer Office ("RUCO") moves for the Arizona Corporation
16 Commission ("ACC") to modify the procedural schedule issued on March 28, 2006. RUCO has
17 been delayed due to circumstances beyond its control in contracting with the necessary
18 consultant(s) to assist it in its analysis and presentation of RUCO's case, and RUCO therefore
19 requests that the date for direct testimony be extended. Further, RUCO requests that the
20 number of days between the Company's rebuttal testimony filing and Staff and intervenors'
21 surrebuttal filing be extended beyond the current schedule of five working days. Finally,
22 RUCO requests that the turnaround time for discovery responses be shortened in light of the
23 abbreviated time frames of this case.
24

1 **BACKGROUND**

2 On November 4, 2005, Arizona Public Service Company ("APS") filed an application for
3 a rate increase. On February 24, 2006, the ACC's Utilities Division Staff ("Staff") filed a letter
4 stating the application was found sufficient and classifying the applicant as a Class A utility.
5 Pursuant to A.A.C. R14-2-103(B)(11)(b), direct testimony from Staff and intervenors would
6 normally be due 180 days after the application was deemed sufficient (or approximately
7 August 24, 2006).

8 On February 10, 2006, even before the application had been deemed sufficient, RUCO
9 issued a Request for Proposal ("RFP") to acquire services from a consultant to assist in its
10 analysis of the generation-related issues in the case (including the addition of the Sundance
11 plant to rate base, and the setting of the base fuel and purchased power costs). RUCO's RFP
12 initially had a response date of March 3, 2006. However, when RUCO learned that the
13 Commission Staff's RFP for similar services was outstanding and that Staff did not expect it
14 would award a contract prior to March 3, 2006, RUCO delayed the response date for its RFP
15 to March 17, 2006. Because both RUCO and Staff generally seek RFPs from the same pool of
16 consultants, RUCO believed that until Staff awarded a contract, RUCO would be unlikely to
17 receive bids from entities that might have outstanding bids with Staff.

18 Staff had not awarded a contract by March 17, 2006. As a result, RUCO received only
19 one bid in response to its RFP. RUCO has learned that Staff has subsequently awarded a
20 contract(s). RUCO has determined that it is in the best interest of the State of Arizona for
21 RUCO to cancel its February 10, 2006 solicitation and issue a new solicitation now that the
22 unsuccessful bidders to Staff's solicitation would be free to bid on RUCO's solicitation. RUCO
23 issued its new RFP on March 29, 2006, with a response date of April 12, 2006. RUCO
24 expects to award a contract under that RFP no later than April 19, 2006.

1 Late in the afternoon of Friday, March 17, 2006, Staff forwarded to RUCO and other
2 parties a procedural schedule it planned to propose to the Hearing Division on Monday March
3 20, 2006. On March 20, 2006, Staff filed that proposed schedule.

4 The Procedural Order of March 28, 2006 tracks the dates requested by Staff. The bulk
5 of Staff and intervenor testimony is to be filed on August 4, 2006, approximately three weeks
6 earlier than would normally be required in a rate case for a Class A utility. Staff and intervenor
7 testimony on rate design issues is due two weeks later, on August 18, 2006. The Procedural
8 Order provides for APS to file rebuttal testimony by noon on Friday, September 1, 2006 (the
9 day before the Labor Day weekend). Staff and intervenor surrebuttal testimony is scheduled
10 for Monday September 11, 2006, only five working days after the Company's rebuttal is filed.
11 Further, the Procedural Order provides for the standard 10 calendar day turnaround on
12 discovery requests.

13
14 **CONTINUATION OF DIRECT TESTIMONY FILING**

15 RUCO has made every effort to retain its consultant on the central issue in the case in a
16 timely fashion. Contrary to its usual practice, RUCO issued its RFP for consulting services
17 even before the application had been deemed sufficient. However, because the Staff had not
18 yet awarded a contract pursuant to its solicitation, potential bidders to RUCO's RFP were not
19 free to bid while their bids to Staff remained outstanding.¹ RUCO will not be able to retain a
20
21

22
23 ¹ Staff's RFP provides that offers to it may not be withdrawn after the February 15, 2006 response date.
24 RUCO does not mean to suggest that the time Staff took to evaluate its bids and award a contract was unreasonable. However, even if RUCO had not issued its original RFP until Staff had awarded its contract, RUCO would have lost nearly two full months of time since the date the application was deemed sufficient until RUCO had retained a consultant.

1 consultant until the third week in April, nearly two months after the Company's application was
2 deemed sufficient. The August 4, 2006 date for RUCO's direct testimony on the issues that
3 RUCO's consultant will analyze is insufficient to provide an opportunity for full analysis of the
4 central issues to the case. Therefore, RUCO requests that the Commission extend the date
5 for filing direct testimony by one month.

7 **SURREBUTTAL DEADLINE**

8 The Procedural Order provides for RUCO to file surrebuttal testimony 10 calendar days
9 after APS files its rebuttal testimony. Due to the fact that there are two weekends in between,
10 including the Labor Day holiday weekend, RUCO will have only five business days to review
11 the Company's rebuttal testimony and provide its response. There are 15 APS witnesses who
12 filed direct testimony. RUCO would expect at least as many witnesses to file rebuttal
13 testimony. The time allowed for RUCO to file surrebuttal testimony is barely enough to review
14 the rebuttal testimony, much less analyze it to determine whether the Company makes valid
15 points which RUCO should incorporate into its analysis.

16 RUCO finds that surrebuttal and rejoinder testimony almost always help narrow the
17 issues outstanding, provide further clarification of the parties' position on issues that remain,
18 and make the hearing more efficient. RUCO believes that by providing adequate time for
19 surrebuttal testimony by Staff and intervenors, the duration of the hearing can be shortened
20 and the Commission's decision-making process simplified to some degree. Therefore, RUCO
21 proposes that Staff and intervenors be allowed three weeks to file surrebuttal after the
22 Company's rebuttal filing.

1 **DISCOVERY RESPONSE TURNAROUND**

2 RUCO recognizes that efforts Staff has made to accelerate the processing of this
3 application by proposing to shorten the time by which Staff and intervenors would file their
4 testimony. But for its difficulties in securing a consultant described above, RUCO would be
5 willing to abide by the August 4 and August 18 dates for its direct testimony. However, RUCO
6 requests that, to the extent the a final procedural schedule is abbreviated from the normal
7 procedural schedule, discovery deadlines be shorted from the usual 10 calendar-day response
8 to a 7 calendar-day response. As always, RUCO is willing to work with APS if any particular
9 discovery deadline creates a difficulty for the Company.

10

11 **CONCLUSION**

12 RUCO requests that the Commission modify its March 28, 2006 Procedural Order to
13 provide an additional month for Staff and Intervenor direct testimony. RUCO also requests
14 that the time for Staff and Intervenor surrebuttal testimony be extended to three weeks.
15 Finally, RUCO requests that discovery responses be required to be provided within seven
16 calendar days. Because the March 28, 2006 Procedural Order requires APS to begin noticing
17 customers of the existing schedule soon, RUCO requests that the Commission address this
18 motion as expeditiously as possible. RUCO is willing to notify parties if the Commission
19 desires to convene a Procedural Conference on an expedited basis.

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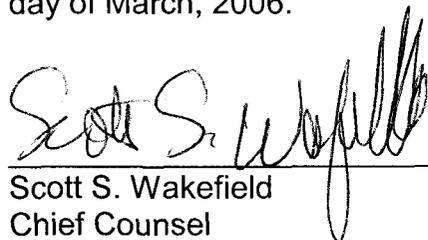
RESPECTFULLY SUBMITTED this 30th day of March, 2006.

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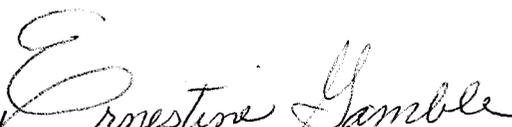
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