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Arizona Consumer Council comment on the APS Loan RECEIVED
Docket # E—1345A-02-0707

Statement prepared for the Arizona Corporation Commission
Public Hearing, January 8, 2003, 10 a.m. 2003 JAN -8 A 11: 35

“When a steamroller is coming down the road, you have three choices: Get out of the way, run to stay ahead of it, or lie down and get your clothes pressed.”

John Hall, ASU Professor

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The Arizona Consumers Council has chosen to “run to stay ahead” of your APS Loan decision. People might say that isn’t very smart. However, we think it appropriate. We ask you to give more thought to consumers as you consider this issue.

We find staff comments very interesting. They suggest that the proposed APS Loan is not really good policy.

“APS has significant needs for capital for regulated utility operations over the coming years and issuing debt to loan to PWEC or PWCC will diminish APS’ ability (bonding capacity) to obtain APS’ own required debt capital.” Arizona Corporation Commission Direct Testimony of John S. Thornton, Jr., #-01345A-02-0707, page 1

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(it) “represents an approximate 22 percent increase in debt without any corresponding increase in revenue-producing utility assets.” *Ibid.*, page 2 JAN 08 2003

“The debt and the assets should normally be held by the same enterprise to be consistent with sound financial principles.” *Ibid.*, page 6

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These judgments are pretty basic. This loan is not a very good idea.

Nevertheless, staff judges that customers of APS would be better off if the loan issue and the Track A Appeals by APS were resolved together. Financial costs or benefits to customers are not detailed.

So far, we have been running behind the steamroller. Now we will attempt to run ahead of it. The Arizona Consumers Council asks the Commission to make sure that customers of APS and consumers in general are held harmless if APS is allowed to loan money to its affiliates.

We support the conditions detailed by John S. Thornton, Jr., *Ibid.*, pages 11 and 12. In particular, conditions (4), (6) and (7) are critical to consumers. Number four uses interest earned to offset rates in the future. Number six extracts any demonstrable increase in APS’ cost of capitol from future rate cases. The words ‘extract’ and ‘exclude’ have different connotations. In our view, increases for APS’ cost of capitol resulting from the loans, should be completely excluded from rate base. Number seven requires APS to maintain a common equity ratio of 40 percent. Its ancillary requirement that APS

page 2, Arizona Consumers Council comment on the APS Loan, January 8, 2003

discontinue dividend payments --if payment would reduce the equity ratio --is important to consumers also. We also oppose a guarantee.

We stress consumers' need for a full-blown rate case with respect to APS. The \$125M Bridge loan (Decision # 65434) and this \$500M loan should both be excluded from rates. The consumer must also be justly considered as prudence, used and usefulness, reasonable operating costs, fair return and fair value are used to determine rate base. Consideration of customers and fair value must also be factored into any analysis of "stranded investment". For your information, we are also opposed to automatic fuel adjusters.

We remind you that the Arizona Consumers Council challenged both the APS and TEP Settlement Agreements because they did not adequately analyze the financial aspects of the companies to determine a "fair value". We do not feel that the Commission can meet its constitutional requirements without thorough financial analysis and determination of fair value. We are opposed to settlements which hide deals-- whether good or bad from a consumer standpoint. The important business of this Commission should be conducted in the public eye.

This Commission can also make its business easier for ordinary citizens without highly paid attorneys to represent them. For example, in the determination of the electric deregulation rules, we were noticed, we were invited to information meetings, and a hearing officer actually allowed us to present our testimony without an attorney speaking for us.

Chairman Mundell and Commissioners, you should know that two of us who are on the notice list did not receive agendas for this meeting. We would also appreciate notification of special meetings. We recently sent you a letter thanking you for your slamming and cramming rules. We would have attempted to be here to testify if we had been aware of the meeting.

Returning to the APS Loan case, we support staff suggestions and would like to see better insulation, or a "fire wall", between APS and its affiliates as well as other distribution companies from their affiliates in similar circumstances.

Consideration is being given to APS because of national and local economic factors. It is important that the customers, the residential and other small consumers of electricity, also be factored into the rate equation. If the billion dollar companies are having difficulty with capitol and costs, it should be clear that small consumers are also having a very difficult time.

Page 3, Arizona Consumers Council comment on the APS Loan, January 8, 2003

We encourage the Commissioners to build a special benefit for customers into this APS' Loan arrangement. The commissioners should demand 1) that APS keep a "fire wall" between itself and its affiliates, 2) that a settlement of APS challenges serves the customers, 3) that staff conditions are followed in such a way that the public has access to the monitoring that takes place at the Commission.

Last but not least, we are asking that APS keep its costs low and affordable for small consumers. We ask the Commission to help protect customer interests.

Thank you for your consideration.

Barbara Sherman
Executive Director
Arizona Consumers Council