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Arizona Corporation Commission
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COMMISSIONER SPITZER PROPOSED AMENDMENT TO ARIZONA CORPORATION COMMISSION DOCUMENT CONTROL

TIME/DATE PREPARED: 10:45 A.M. / AUGUST 19, 2002

COMPANY: ARIZONA ELECTRIC DIVISION OF CITIZENS COMMUNICATIONS COMPANY

DOCKET NO. E-01032C-00-0751 OPEN MEETING DATE: AUGUST 21, 2002

AMENDMENT TO JULY 16, 2002 PROCEDURAL ORDER

PAGE 9, DELETE LINES 1 THROUGH 15 AND INSERT THE FOLLOWING:

This case will impact the interests of thousands of Arizona ratepayers not parties to the proceeding. Affected ratepayers must be assured as to the transparency and propriety of this Commission's deliberations, and our scrutiny of an alleged conflict of interest is broader than would be applied to a non-government adversary proceeding. Brown & Bain's representation raises an issue regarding the public perception of this Commission's deliberative process. We find that the Counties' arguments for disqualification of the entire firm have merit and are persuasive. The Counties point out that an inherent conflict may arise as a result of Brown & Bain's continued representation because the firm's remaining non-witness attorneys would face a dilemma between representing the client's interests and the interests of the firm. The potential for "divided loyalties" is simply too great in the event that factual evidence presented at the hearing raises a conflict that requires counsel to choose between the client's interests and those of a partner in his firm. Such a possible conflict during the course of the hearing means the Commission could be faced with resolving this same issue again at a later date, thereby imposing additional hardship on the parties and causing further delay in this proceeding. Accordingly, the law firm of Brown & Bain shall be disqualified from representing Citizens in this proceeding.

IT IS THEREFORE ORDERED that the law firm of Brown & Bain is disqualified from representing Citizens in this proceeding.

IT IS FURTHER ORDERED that Citizens shall file in this docket as soon as is practical the appearance of substitute counsel as well as an indication of when Citizens will be prepared to proceed in this matter. After substitute counsel has entered an appearance, a Procedural Order will be issued scheduling a Procedural Conference for purposes of discussing discovery deadlines, timelines for filing supplemental testimony, and other relevant procedural matters.