

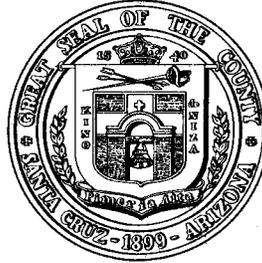


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# OFFICE OF THE SANTA CRUZ COUNTY ATTORNEY

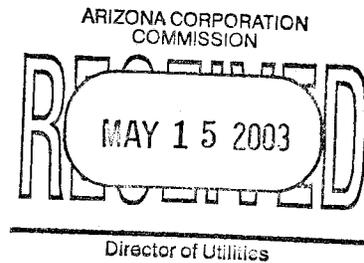
MARTHA S. CHASE  
County Attorney



Santa Cruz County Complex  
2150 N. Congress Drive, Suite 201  
Nogales, Arizona 85621  
(520) 375-7780  
FAX (520) 761-7859

May 14, 2003

Director of Utilities  
Arizona Corporation Commission  
Docket Control Center  
1200 West Washington Street  
Phoenix, Arizona 85007-2996



Re: Docket No. E-01032C-00-0751  
Docket No. G-01032A-02-0598  
Docket No. E-01933A-02-0914  
Docket No. E-01032C-02-0914  
Docket No. G-01032A-02-0914

Dear Sir/Madam:

Enclosed for filing is the original and thirteen copies of the Santa Cruz County's Closing Memorandum, in the above referenced case.

Very truly yours,

Holly J. Hawn, Deputy  
Santa Cruz County Attorney

HJH/epc  
encs.

AZ CORP COMMISSION  
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MARTHA S. CHASE  
Santa Cruz County Attorney  
Holly J. Hawn #005343  
Deputy County Attorney  
2150 N. Congress Drive, Suite 201  
Nogales, Arizona 85621  
(520) 375-7780  
Attorney for Santa Cruz County

BEFORE THE ARIZONA CORPORATION COMMISSION

IN THE MATTER OF THE APPLICATION)  
OF THE ARIZONA ELECTRIC DIVISION)  
OF CITIZENS COMMUNICATIONS )  
COMPANY TO CHANGE THE CURRENT )  
PURCHASED POWER AND FUEL )  
ADJUSTMENT CLAUSE RATE, TO )  
ESTABLISH A NEW PURCHASED POWER )  
AND FUEL ADJUSTMENT CLAUSE BANK, )  
AND TO REQUEST APPROVED )  
GUIDELINES FOR THE RECOVERY OF )  
COSTS INCURRED IN CONNECTION )  
WITH ENERGY RISK MANAGEMENT )  
INITIATIVES. )

DOCKET NO. E-01032C-00-0751

SANTA CRUZ COUNTY'S  
CLOSING MEMORANDUM

DOCKET NO. G-01032A-02-0598

IN THE MATTER OF THE APPLICATION)  
OF CITIZENS COMMUNICATIONS )  
COMPANY, ARIZONA GAS DIVISION, )  
FOR A HEARING TO DETERMINE THE )  
FAIR VALUE OF ITS PROPERTIES FOR)  
RATEMAKING PURPOSES, TO FIX A )  
JUST AND REASONABLE RATE OF )  
RETURN THEREON, AND TO APPROVE )  
RATE SCHEDULES DESIGNED TO )  
PROVIDE SUCH RATE OF RETURN. )

DOCKET NO. E-01933A-02-0914  
DOCKET NO. E-01032C-02-0914  
DOCKET NO. G-01032A-02-0914

IN THE MATTER OF THE JOINT )  
APPLICATION OF CITIZENS )  
COMMUNICATIONS COMPANY AND )  
UNISOURCE ENERGY CORPORATION FOR)  
THE APPROVAL OF THE SALE OF )  
CERTAIN ELECTRIC UTILITY AND GAS )  
UTILITY ASSETS IN ARIZONA, THE )  
TRANSFER OF CERTAIN CERTIFICATES )  
OF CONVENIENCE AND NECESSITY )  
FROM CITIZENS COMMUNICATIONS )  
COMPANY TO UNISOURCE ENERGY )  
CORPORATION, THE APPROVAL OF THE )  
FINANCING FOR THE TRANSACTIONS )  
AND OTHER RELATED MATTERS. )

Arizona Corporation Commission  
**DOCKETED**

MAY 15 2003

DOCKETED BY *CM*

MARTHA S. CHASE  
SANTA CRUZ COUNTY ATTORNEY  
Santa Cruz County Complex  
2150 N. Congress Drive, Suite 201  
Nogales, Arizona 85621  
(520) 375-7780 • FAX (520) 761-7859

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Santa Cruz County hereby files its Closing Memorandum  
in the above captioned matters.

RESPECTFULLY submitted this 14 day of May, 2003.

MARTHA S. CHASE  
SANTA CRUZ COUNTY ATTORNEY

By Holly J. Hawn  
Holly J. Hawn, Deputy  
Santa Cruz County Attorney  
2150 N. Congress Drive, Suite 201  
Nogales, Arizona 85621  
Telephone (520) 375-7780  
Facsimile (520) 761-7859

MEMORANDUM

Santa Cruz County is a small, mostly rural county  
situated on Arizona's border with Mexico. Though it is rich  
in scenic beauty, cultural heritage and diversity as well as  
economic potential, the County and its residents must struggle  
with the reality of severe economic challenge. As noted by  
more than one Intervenor in this case, Santa Cruz County  
suffers from high unemployment and consequently a high  
percentage of families and seniors struggling to live on  
reduced incomes. Unemployment, which is in double digit  
percentages nearly year round, reaches its height in the  
summer months with the percentage of unemployed in excess of  
25% in the City of Nogales and 20% countywide. These are the  
same months in which utility usage and consequently bills are  
the highest in Southern Arizona (Transcript Vol. I, page 233,  
line 21 - p. 234, line 4). Economic development which leads  
to more and better jobs is naturally a constant goal for any  
community but it is especially crucial to Santa Cruz County.

**MARTHA S. CHASE**  
**SANTA CRUZ COUNTY ATTORNEY**

Santa Cruz County Complex  
2150 N. Congress Drive, Suite 201  
Nogales, Arizona 85621  
(520) 375-7780 • FAX (520) 761-7859

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With this as a backdrop, Santa Cruz County has carefully examined the Settlement Agreements at issue. Like the RUCO staff, "affordability" is a major concern to Santa Cruz County (Transcript Vol. III p. 537, line 19-16; RUCO Exhibit 1, page 8, lines 9-17). Rate hikes of approximately 21-22% in both the gas and electric residential service will have a major impact upon many residents' of Santa Cruz County ability to pay for the basic necessities of life such as food and medications. Rate increases at even higher rates for commercial and industrial enterprises will have a detrimental effect upon economic growth and the potential for an expanded job market.

Santa Cruz County also looks, of course, to the Corporation Commission to scrutinize the Settlement Agreement. Article 15 §3 of the Arizona constitution provides in part:

The Corporation Commission shall have full power to, and shall, prescribe just and reasonable classifications to be used by public service corporations within the State for service rendered therein, and make reasonable rules, regulations, and orders, by which such corporations shall be governed in the transactions of business within the State, . .

It should be noted from the outset that Joint Applicant Unisource, through the testimony of Mr. Pignatelli (Vol. I, page 74, line 19 - page 75, line 2), indicates that this agreement has little room for modification. It is unfortunate that Mr. Pignatelli seeks to hold the Commission and rate payers "hostage" to this agreement as it currently exists with such a statement. By its own terms the settlement agreement recognizes the authority of the commission to order modifications (Exhibit JA-6 p. 6 sec. 3). It is to be hoped

**MARTHA S. CHASE**  
**SANTA CRUZ COUNTY ATTORNEY**

Santa Cruz County Complex  
2150 N. Congress Drive, Suite 201  
Nogales, Arizona 85621  
(520) 375-7780 • FAX (520) 761-7859

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that the Joint Applicants recognize that changes may be necessary to fulfill the constitutional requirement of just and reasonable rates and charges as well as the mandate that the agreement be in the public interest.

The nature of any settlement agreement is that of a contract. It is necessary that "consideration" be given and received for the contract to be effective. It is this concept that has caused difficulty between Santa Cruz County and Joint Applicants. Santa Cruz County is cognizant of the approximately 135 million dollar "write off" of the uncollected PPFAC balance and believes that this is appropriate. Joint applicants, in their testimony spent much time justifying the "new contract" and its purchased power price as well as its decision to forgo resolution with FERC regarding disputed contract language that contributed to the PPFAC balance. Santa Cruz County is still troubled with the effect the dysfunctional market existent in both the gas and electric arenas played in contributing to the costs Citizens incurred. Articles such as Magruder, Exhibit 1, contribute to the perception that Citizens was unfairly taken advantage of in what turned out to be a dysfunctional market. The implications of the phrase "Little California" - as applied to Citizens service area, are not positive (Vol. III, page 528, line 18 - page 529, line 16). Commissioner Mundell's questions to Mr. Meek are particularly telling (Vol. III, page 533, line 17- page 534, line 14) regarding the legitimacy of the concerns related to the electric and gas market of

**MARTHA S. CHASE**  
**SANTA CRUZ COUNTY ATTORNEY**

Santa Cruz County Complex  
2150 N. Congress Drive, Suite 201  
Nogales, Arizona 85621  
(520) 375-7780 • FAX (520) 761-7859

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2000-2001. In any event, Joint Applicants assert that "forfeiture" of the PPFAC balance is consideration given. If this balance should not have been incurred, it is not consideration for the Settlement Agreement.

The Settlement Agreement further makes no concession to rate payers relating to the original request of the Joint Applicants regarding the electrical side of the charges to rate payers. (Vol. III p.575 lines 9-15) This level of increase will also be exacerbated by the charge to rate payers for the additional cost of the new transmission line in Santa Cruz County that has been ordered by the Commission (Vol. I page 90, line 14).

Another area of the Settlement Agreement that concerns Santa Cruz County is the provision calling for a 60 percent/40 percent split of any savings resulting from a renegotiated power purchase price with Pinnacle West/APS. It is understood that in the negotiation process there is "give and take" for each of the participants and the agreement must be examined as a whole. It is extremely difficult, however, to justify passing 40 percent of any realized savings to Unisource when this is a pass through cost to rate payers who are being asked to absorb rate increases in excess of 20% for residential gas and electric service as well as new transmission line charges yet to be determined. It is not in the public interest to approve the provision which RUCO has called a "windfall" (Vol. III p. 545 line 20 - p 546, line 12). Unisource has been unable to justify the allocation of 40% potential savings to

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it other than to say it is "appropriate" (Vol. I p. 191, lines 7-11) or defensible based upon the aggravation factor in dealing with APS. (Vol. I p. 98, line 18-24). Representatives of Citizens have testified that negotiations with Pinnacle West/APS are currently in progress and that there is room for improvement in the existing contract. (Vol. I, page 191, lines 7-11). It is the request of Santa Cruz County that the proposal made by RUCO, regarding the split of any savings, be approved.

CONCLUSION

At the beginning of the hearing in this case on May 1, 2003, Santa Cruz county stated in its opening that it was most concerned about the economic impact of this Settlement Agreement upon its residents and businesses due to the severity of the rate and charge increases proposed. The need for a fair rate of return for the utility company versus the public interest in accompanying affordable rates is a delicate balance. The detrimental economic impact, however, of utility rate and charge hikes in excess of 20% are obvious. While increases for gas and electrical service are to be expected, an attempt must be made to keep those increases to reasonable levels so that consumers do not have to make the choice between using air cooling systems and taking life saving medication. Such choices are a too common reality in a community that struggles with economic problems.

**MARTHA S. CHASE  
SANTA CRUZ COUNTY ATTORNEY**

Santa Cruz County Complex  
2150 N. Congress Drive, Suite 201  
Nogales, Arizona 85621  
(520) 375-7780 • FAX (520) 761-7859

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It is the request of Santa Cruz County that modifications be made to the Settlement Agreement which would lessen the burden of the proposed price increases upon consumers of electric and gas service by lowering the percentage rate and charge increases and passing through to consumers 90% of any realized savings resultant from the Pinnacle West/APS contract renegotiation. Santa Cruz County believes that these adjustments will help result in a Settlement Agreement that properly reflects the balance between the utility company's need for a fair rate of return and public's need for affordable utility service.

**MARTHA S. CHASE  
SANTA CRUZ COUNTY ATTORNEY**

Santa Cruz County Complex  
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Nogales, Arizona 85621  
(520) 375-7780 • FAX (520) 761-7859

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The original and thirteen copies  
of the foregoing were filed  
by certified mail this 14<sup>th</sup>  
day of May, 2003, to:

Director of Utilities  
Arizona Corporation Commission  
Docket Control Center  
1200 West Washington Street  
Phoenix, Arizona 85007-2996

Copies of the foregoing mailed  
this 14<sup>th</sup> day of May,  
2003, to:

William A. Mundell  
Chairman  
Arizona Corporation Commission  
1200 West Washington  
Phoenix, Arizona 85007

Jim Irvin  
Commissioner  
Arizona Corporation Commission  
1200 West Washington  
Phoenix, Arizona 85007

Jeff Hatch-Miller  
Commissioner  
Arizona Corporation Commissioner  
1200 West Washington  
Phoenix, Arizona 85007

Ernest Johnson, Director  
Utilities Division  
Arizona Corporation Commissioner  
1200 West Washington  
Phoenix, Arizona 85007

Dwight D. Nodes  
Assistant Chief Administrative Law Judge  
Arizona Corporation Commissioner  
1200 West Washington  
Phoenix, Arizona 85007

Mike Gleason  
Commissioner  
Arizona Corporation Commissioner  
1200 West Washington  
Phoenix, Arizona 85007

**MARTHA S. CHASE  
SANTA CRUZ COUNTY ATTORNEY**

Santa Cruz County Complex  
2150 N. Congress Drive, Suite 201  
Nogales, Arizona 85621  
(520) 375-7780 • FAX (520) 761-7859

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Marc Spitzer  
Commissioner  
Arizona Corporation Commissioner  
1200 West Washington  
Phoenix, Arizona 85007

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

Christopher Kempley, Chief Counsel  
Legal Division  
Arizona Corporation Commissioner  
1200 West Washington  
Phoenix, Arizona 85007

Hugh Holub  
Nogales City Attorney  
777 N. Grand Avenue  
Nogales, Arizona 85621

Walter W. Meek, President  
Arizona Utility Investors Association  
2100 N. Central Avenue, Suite 210  
Phoenix, Arizona 85004

John White  
Deputy County Attorney  
P.O. Box 7000  
Kingman, Arizona 86402-7000

Thomas Mumaw, Esq.  
Pinnacle West Capital Corporation  
400 North 5th Street  
Phoenix, Arizona 85072-3999

Susan Mikes Doherty  
John D. Draghi  
Huber, Lawrence & Abell  
605 3rd Avenue  
New York, New York 10158

Robert J. Metli  
Cheifetz & Jannitelli, P.C.  
3238 North 16th Street  
Phoenix, Arizona 85016

**MARTHA S. CHASE  
SANTA CRUZ COUNTY ATTORNEY**

Santa Cruz County Complex  
2150 N. Congress Drive, Suite 201  
Nogales, Arizona 85621  
(520) 375-7780 • FAX (520) 761-7859

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Andrew W. Bettwy  
Southwest Gas Corporation  
P.O. Box 98510  
Las Vegas, Nevada 89193-8510

Vincent Nitido  
Tucson Electric Power  
1 South Church Avenue, Suite 1820  
Tucson, Arizona 85701

Deborah Scott  
Associate General Counsel  
Citizens Communication Company  
2901 N. Central, Suite 1660  
Phoenix, Arizona 85012-2736

Thomas H. Campbell  
Michael T. Hallam  
Lewis & Roca, LLP  
40 N. Central  
Phoenix, Arizona 85004

Marshall Magruder  
P.O. Box 1267  
Tubac, Arizona 85646

Scott S. Wakefield, Chief Counsel  
RUCO  
1110 West Washington, Suite 220  
Phoenix, Arizona 85007

Nicholas J. Enoch  
Lubin & Enoch  
349 N. 4th Avenue  
Phoenix, Arizona 85003