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BEFORE THE ARIZONA CORPORATION COMMISSION

RECEIVED

WILLIAM A. MUNDELL
CHAIRMAN

JIM IRVIN
COMMISSIONER

MARC SPITZER
COMMISSIONER

2002 NOV 15 P 1:26

AZ CORP COMMISSION
DOCUMENT CONTROL

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. G-01032A-02-0598

CITIZENS COMMUNICATIONS
COMPANY'S MOTION FOR
PROTECTIVE ORDER Corporation Commission

DOCKETED

NOV 15 2002

DOCKETED BY *CR*

Citizens Communications Company ("Citizens") moves for the entry of an appropriate protective order with respect to confidential and proprietary documents, data, studies, materials and other information ("Confidential Information") provided by Citizens to the Residential Utility Consumer Office ("RUCO") in this proceeding. A form of Protective Agreement acceptable to Citizens -- and substantially similar to Protective Agreements executed and implemented by RUCO in previously filed cases involving Citizens' Confidential Information -- is attached as Exhibit 1. Citizens' Proposed Agreement allows RUCO access to information it seeks and maintains protection of sensitive company information.

Citizens filed its Application for a rate increase on August 6, 2002. On October 17, 2002, RUCO filed its First Set of Data Requests, which seek access to confidential and proprietary information belonging to Citizens. The Parties attempted in good faith to resolve this issue. However, because RUCO's position involves a significant change in the approach traditionally used in Commission proceedings to disclose confidential information, a determination from the Administrative Law Judge is necessary.

The Parties do not disagree about the fundamental concepts regarding confidential information. A review of the attached Exhibits 2 and Exhibit 3 (RUCO's redlined

1 counterproposal) shows that both parties agree that Citizens is entitled to the entry of a
2 Protective Order that would achieve the following legitimate objectives: (i) restrict access to
3 Citizens' Confidential Information to specific RUCO members and contracting RUCO
4 consultants who need to review such information in connection with the pending Application;
5 (ii) allow RUCO members and contracting RUCO consultants with a need to know Citizens'
6 Confidential Information to review such Confidential Information only after each such person
7 has first read the Protective Order and executed a certificate agreeing to be bound by its
8 terms; (iii) prohibit the use of such Confidential Information for any purposes other than those
9 necessary for the disposition of this docket; (iv) prohibit dissemination of Citizens'
10 Confidential Information to the public during the proceedings, (v) establish reasonable
11 procedures consistent with Arizona law by which RUCO can challenge Citizens' designation
12 of certain information or documents as Confidential Information; and (vi) assure the return to
13 Citizens of its Confidential Information at the conclusion of these proceedings.
14

15 Citizens had proffered to RUCO a form of Protective Agreement that addressed each
16 of these issues in a similar form as Citizens and RUCO had previously addressed them in
17 other proceedings before the Commission. The form of Protective Agreement proffered by
18 Citizens to RUCO was substantially identical to the form of Protective Agreement executed
19 by Citizens and RUCO in the Citizens' 1995 electric rate case, a copy of which is attached as
20 Exhibit 2. Nonetheless, RUCO stated that it was unwilling to stipulate to the form of
21 Protective Agreement to which it had previously agreed, compelling Citizens to file this
22 Motion.

23 Citizens has incorporated a number of RUCO's proposed changes into the proposed
24 Protective Agreement (Exhibit 1). What is still in dispute is a modification proposed by RUCO
25 that significantly changes the procedural approach historically utilized when an intervenor
26 challenged the proprietary nature of a document. Citizens cannot agree to this modification
27 because it puts Citizens' Confidential Information at risk of being disclosed without a
28 determination by the Administrative Law Judge or the Commission.
29

1 Citizens' proposal, which reflects past Commission practice, would provide as follows:

2
3 "The Confidential Information provided pursuant to this
4 Agreement shall not be disclosed, nor shall it be made a part
5 of the public record in this docket, or in any other
6 administrative or legal proceeding unless: (i) RUCO files a
7 motion presenting the specific grounds upon which it claims
8 that the Confidential Information should be disclosed or made
9 a part of the public record; and (ii) an assigned Hearing Officer
10 or the Commission finds that the Confidential Information or a
11 portion thereof should be made a part of the public record or
12 otherwise disclosed."

13 Section 7, Proposed Protective Agreement (Exhibit 1).

14 RUCO, however, insists on the right to release any and all of Citizens' Confidential
15 Information to the public merely by issuing written notice of its intent to publish that
16 Confidential Information, unless Citizens seeks a protective order within five business days
17 after its receipt of the written notice. Under RUCO's counterproposal:

18 "The Confidential Information provided pursuant to this
19 Agreement shall not be disclosed, nor shall it be made a part
20 of the public record in this docket, or in any other
21 administrative or legal proceeding unless: RUCO provides
22 Citizens five (5) business days written notice that information
23 designated by Citizens as Confidential Information shall be
24 subject to disclosure as a public record. Upon the expiration of
25 five (5) business days from the date written notice is received
26 by Citizens, any Confidential Information identified in the notice
27 as subject to disclosure shall become part of the public record
28 of this docket, unless Citizens initiates a protective proceeding
29 under the terms of this Agreement . . . [by filing] within five (5)
business days of receipt of RUCO's written notice, a motion
presenting the specific grounds upon which it claims that the
Confidential Information should not be disclosed or should not
be made a part of the public record"

30 RUCO Counterproposal, Exhibit 3, at Sections 7-8.

31 RUCO's counterproposal should be rejected because it is contrary to Arizona law.
32 While the Commission has broad powers that allow it access to corporate books and
33 records,¹ there are statutory safeguards to protect the confidential information provided by a

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¹ AZ CONST. article 15, section 4.

1 public service corporation to the Commission. Arizona law provides that “[n]o information
2 furnished to the commission by a public service corporation, except matters specifically
3 required to be open to public inspection, **shall be open to public inspection or made**
4 **public except on order of the commission entered after notice to the affected public**
5 **service corporation**, or by the commission or a commissioner in the course of a hearing or
6 proceeding” (emphasis added).² Indeed, “[a]ny officer or employee of the commission who
7 knowingly divulges any such information is guilty of a class 2 misdemeanor.”³

8 Arizona law clearly expresses an intent to safeguard information provided by a public
9 service corporations such as Citizens. RUCO’s counterproposal must be rejected because it
10 would purport to give RUCO the right to publish Citizens’ confidential information by merely
11 by giving notice of its intent to publish the information.
12

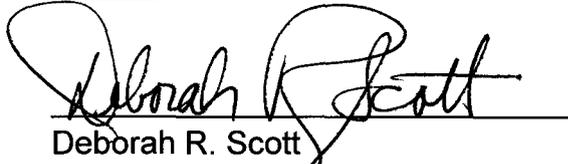
13 In addition, RUCO’s proposal does not limit either the timing or scope of RUCO’s right
14 to issue written notice of its intent to publish Citizens’ Confidential Information. RUCO’s
15 proposal would give Citizens just five business days to object, and it would require Citizens to
16 “present the specific grounds” as to why each item designated as Confidential Information
17 should be protected from disclosure. This proposal has the potential to become a tactical
18 mechanism that could disadvantage Citizens. For example, RUCO could issue written notice
19 of its intent to publish all of Citizens’ Confidential Information one week before the hearing on
20 Citizens’ Application, causing Citizens to shift its focus from rate case preparation to
21 defending in detail the “specific grounds” why each matter was designated as Confidential
22 Information. If Citizens failed to meet the five day deadline, RUCO could publish Citizens’
23 Confidential Information with impunity.
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29 ² A.R.S. Section 40-204.C

³ A.R.S. Section 40-204.D.

1 For the foregoing reasons, Citizens respectfully requests that the Administrative Law
2 Judge approve the form of Protective Agreement that is attached as Exhibit 1.

3 RESPECTFULLY SUBMITTED this 15th day of November, 2002.

4
5 

6 Deborah R. Scott
7 Associate General Counsel, Western Region
8 Citizens Communications Company
9 2901 N. Central Avenue, Suite 1660
10 Phoenix, Arizona 85012
11 (602) 532-4433
12 drscott@czn.com

1 Original and thirteen copies filed this
2 15th day of November, 2002, with:

3 Docket Control
4 Arizona Corporation Commission
5 1200 West Washington
6 Phoenix, Arizona 85007

7 Copies of the foregoing mailed/delivered
8 this 15th day of November, 2002, to:

9 Scott Wakefield
10 Residential Utility Consumer Office
11 1110 West Washington, Suite 220
12 Phoenix, Arizona 85007

13 Lyn Farmer
14 Chief Administrative Law Judge
15 Hearing Division
16 Arizona Corporation Commission
17 1200 West Washington
18 Phoenix, Arizona 85007

19 Christopher Kempley
20 Chief Counsel, Legal Division
21 Arizona Corporation Commission
22 1200 West Washington
23 Phoenix, Arizona 85007

24 Ernest Johnson
25 Director, Utilities Division
26 Arizona Corporation Commission
27 1200 West Washington
28 Phoenix, Arizona 85007

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Flagstaff, Arizona 86001

Raymond Mason
Citizens Communications Company
3 High Ridge Park
Stamford, CT 06905

By: Mary Appolito

EXHIBIT 1

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BEFORE THE ARIZONA CORPORATION COMMISSION

WILLIAM MUNDELL
Chairman
JIM IRVIN
Commissioner
MARC SPITZER
Commissioner

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. G-01032A-02-0598

**CITIZENS' PROPOSED
PROTECTIVE AGREEMENT**

The Residential Utility Consumer Office ("RUCO") has requested access to certain documents, data, studies, and other materials, some of which Citizens Communications Company, Arizona Gas Division. ("Citizens" or "Company") alleges are of a proprietary, confidential or legally protected nature ("Confidential Information").

In order to expedite the provision of information to RUCO – Citizens, RUCO, and any independent contracting consultants retained by RUCO for this docket - (cumulatively referred to herein as "the parties"), agree as follows:

§1. Non-Disclosure. Except with the prior written consent of the party originally designating a document to be stamped as Confidential Information, or as hereinafter provided under this Agreement, no Confidential Information may be disclosed to any person. This requirement does not prohibit RUCO from using and disclosing Confidential Information provided by Citizens in reports or documents that aggregate all information gathered from parties to this docket, provided Citizens individual disclosure is indiscernible from the aggregate report.

§2. Designation of Confidential Information. For purposes of this Agreement, all documents, data, information, studies and all other written, printed, transcribed, audio-taped or video-taped materials furnished to RUCO that Citizens claims

1 to be a trade secret, of a proprietary, confidential, or of a legally protected nature, shall be
2 designated and referred to herein as "Confidential Information". Access to and review of
3 Confidential Information shall be strictly controlled by the terms of this Agreement.

4 All Confidential Information provided to RUCO pursuant to this Agreement
5 shall be so marked by Citizens with a designation indicating its alleged trade secret,
6 proprietary, confidential or legally protected nature. The Company shall memorialize any
7 Confidential Information disclosed verbally by Citizens in writing within five (5) business
8 days of its verbal disclosure, and the writing shall be marked by the Company with the
9 appropriate designation. Any Confidential Information disclosed verbally by Citizens shall
10 be safeguarded by RUCO and its contacting consultants only during the five (5) business
11 day period during which memorialization may be provided. Citizens agrees that it will
12 carefully consider the basis upon which any information is claimed to be a trade secret,
13 proprietary, confidential, or otherwise legally protected. Citizens shall designate as
14 Confidential Information only such information as it has a good faith basis for claiming to
15 be legally protected. Information that is publicly available from any other source shall not
16 be claimed as Confidential Information under this Agreement.

17 **§3. Performance Under Agreement Does Not Result in Waiver or**
18 **Disclosure.** Execution of this Agreement by the parties and performance of their
19 obligations hereunder shall not result in waiver of any claim, issue or dispute concerning
20 the trade secret, proprietary, confidential or legally protected nature of the Confidential
21 Information provided. Neither shall the limited provision of Confidential Information by
22 Citizens pursuant to this Agreement, nor the limited provision by RUCO of Confidential
23 Information pursuant to Section 6 of this Agreement, constitute public disclosure of it.

24 **§4. Access to Confidential Information.** Prior to reviewing any
25 Confidential Information, any RUCO members or independent contracting consultants shall
26 first be required to read a copy of this Protective Agreement, and to certify by their
27 signatures on Exhibit A of this Agreement that they have reviewed the same and have
28 consented to be bound by its terms. Exhibit A of this Agreement shall contain the
signatory's full name, business address and employer, and the signatory's position with, or
relationship to RUCO. Upon their execution, any and all Exhibit A's shall be promptly

1 provided to counsel for Citizens.

2 **§5. Use of Confidential Information.** All persons who are signatories to
3 this Agreement shall neither use nor disclose the Confidential Information for purposes of
4 business or competition, or for any purposes other than those necessary for the disposition
5 of this docket, including preparation for and the conduct of any administrative or legal
6 proceeding. All persons entitled to review or afforded access to Confidential Information
7 shall keep it secure as trade secret, confidential, or legally protected information in
8 accordance with the purposes and intent of this Agreement.

9 **§6. Non-Signatories Entitled to Review.** The information provided
10 pursuant to this Protective Agreement may be disclosed to other members of RUCO by
11 any RUCO signatory to this Agreement only to the extent that disclosure is necessary to
12 the disposition of this docket. Such disclosure may be made only if the non-signatory is
13 provided with a copy of this Agreement and agrees to be bound by its terms.

14 **§7. Disclosure of Information to the Public.** The Confidential Information
15 provided pursuant to this Agreement shall not be disclosed, nor shall it be made a part of
16 the public record in this docket, or in any other administrative or legal proceeding unless: (i)
17 RUCO files a motion presenting the specific grounds upon which it claims that the
18 Confidential Information should be disclosed or made a part of the public record; and (ii) an
19 assigned Administrative Law Judge or the Commission finds that the Confidential
20 Information or a portion thereof should be made a part of the public record or otherwise
21 disclosed.

22 In these circumstances, and upon the condition that the Administrative Law
23 Judge or the Commission complies with Section 6 of this Agreement, RUCO may provide
24 to the Administrative Law Judge or the Commission the Confidential Information
25 referenced in the motion. The Confidential Information shall be both provided and kept
26 under seal for the sole purpose of permitting inspection by the Administrative Law Judge or
27 the Commission prior to ruling on the motion.

28 Notwithstanding any determination by the Administrative Law Judge or the
Commission that any Confidential Information provided pursuant to this Agreement should
be made a part of the public record or otherwise disclosed, public disclosure shall not occur

1 for a period of five (5) calendar days so that Citizens may seek judicial relief from the
2 Administrative Law Judge's or the Commission's decision.

3 Upon expiration of the five (5) day period, the RUCO shall release the
4 information to the public unless Citizens has received a stay or determination from a court
5 of competent jurisdiction that the records, data, information or study are proprietary and are
6 not public records subject to disclosure under A.R.S. § 39-101 et seq.

7 In the event that the RUCO becomes legally compelled (by deposition,
8 interrogatory, request for documents, subpoena, civil investigative demand or similar
9 process) to disclose any of the Confidential Information, RUCO shall provide Citizens with
10 prompt written notice of such requirement so that Citizens may seek an appropriate
11 remedy and/or waive compliance. Citizens agree that upon receipt of such notice, Citizens
12 will either undertake to oppose disclosure of the Confidential Information or waive
13 compliance with this Agreement. In the event that disclosure of the Confidential
14 Information is ordered, the RUCO agrees to furnish only that portion of the Confidential
15 Information that is legally required.

16 **§8. No Preclusion of Evidentiary Objections.** In the event that disclosure
17 of Confidential Information occurs in accordance with Section 6 of this Agreement, the
18 provision of such information by Citizens pursuant to this Agreement shall not limit the right
19 of Citizens to object to its relevance or admissibility in proceedings before the Commission.

20 **§9. Return of Confidential Information.** Upon the final disposition of any
21 administrative or legal proceeding arising in or from this docket, all Confidential
22 Information, copies thereof, and notes made by signatories to this Agreement shall be
23 returned to Citizens.

24 **§10. No Admission of Privileged or Confidential Status.** By participating
25 in this Agreement, RUCO and its contracting consultants are neither admitting nor agreeing
26 with Citizens that any of the materials or communications designated as Confidential
27 Information are, either in fact or as a matter of law, a trade secret or of a proprietary,
28 confidential or legally protected nature.

§11. Non-Termination. The provisions of this Agreement shall not terminate
at the conclusion of this proceeding.

DATED this _____ day of _____ 2002.

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RESIDENTIAL UTILITY CONSUMER OFFICE

CITIZENS COMMUNICATIONS CO.

By _____

By _____

Scott Wakefield
Residential Utility Consumer Office
1110 West Washington Street, Ste 220
Phoenix, Arizona 85007
(602) 364-4839

Deborah R. Scott
Associate General Counsel
2901 N. Central, Ste. 1660
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EXHIBIT "A"

I have read the foregoing Protective Agreement dated _____, 2002, in Docket No G-01032A-02-0598 and agree to be bound by the terms and conditions of such Agreement.

Name

Signature

Employer or Firm

Business Address

Position or relationship with the
Residential Utility Consumer Office

Date

EXHIBIT 2

1 BEFORE THE ARIZONA CORPORATION COMMISSION

2 RENZ D. JENNINGS
CHAIRMAN
3 MARCIA WEEKS
COMMISSIONER
4 CARL J. KUNASEK
COMMISSIONER

COPY

5
6 IN THE MATTER OF THE APPLICATION
OF CITIZENS UTILITIES COMPANY,
7 ARIZONA ELECTRIC DIVISION, FOR A
HEARING TO DETERMINE THE FAIR
8 VALUE OF ITS PROPERTIES FOR
RATEMAKING PURPOSES, TO FIX A JUST
9 AND REASONABLE RATE OF RETURN
THEREON, AND TO APPROVE RATE
10 SCHEDULES DESIGNED TO PROVIDE
SUCH RATE OF RETURN.

DOCKET NO. E-1032-95-433

11
12 **PROTECTIVE AGREEMENT**

13 The Residential Utility Consumer Office ("RUCO") has submitted to Citizens
14 Utilities Company ("Company") discovery requests seeking access to certain documents, data,
15 studies, and other material, some of which the Company may claim to be a trade secret, or
16 of a proprietary, confidential, or legally-protected nature. In order to expedite the provision
17 of the requested information, the Company and RUCO agree to the following Protective
18 Agreement ("Agreement"):

19 1. Designation of Protected Information

20 All documents, data, information, studies, and other written, printed, transcribed,
21 audio-taped or video-taped materials sought by RUCO through interrogatories, requests for
22 information, depositions, subpoenas, or other modes of discovery which the Company claims
23 to be a trade secret, or of a proprietary, confidential, or legally-protected nature shall be
24 marked "Confidential" and, unless otherwise subject to objection, shall be furnished or made
25 available subject to the terms of this Agreement ("Protected Information").

26 Protected Information may be made available for inspection and review if it contains
27 highly sensitive documents or information, from which limited notes may be taken for
28

1 reference purposes only. Such notes shall not constitute a verbatim or substantive transcript
2 of the Protected Information.

3 Any data or information claimed to be a trade secret, or of a proprietary,
4 confidential, or legally-protected nature which the Company verbally provides to RUCO or
5 the independent contracting consultants it has retained for purposes of this proceeding shall
6 be memorialized in writing by the Company within 7 days of such disclosure. Such writing
7 shall be marked "Confidential" and shall be Protected Information subject to the terms of
8 this Agreement. RUCO and its independent contracting consultants shall safeguard such
9 verbally provided data or information in accordance with the terms of this Agreement during
10 the 7-day period allowed for memorialization.

11 2. Use of Protected Information

12 All persons who may be entitled to review, or who are afforded access to, Protected
13 Information pursuant to this Agreement shall treat the Protected Information as constituting
14 a trade secret or being of a proprietary, confidential, or legally-protected nature and shall
15 neither use nor disclose the Protected Information for any purpose other than the
16 preparation and conduct of this proceeding, and then solely in accordance with the terms
17 of this Agreement.

18 The Protected Information shall not be used in any manner that might foreseeably
19 result in or require disclosure of such materials or the information contained therein to non-
20 signatories to this Agreement, other than to authorized representatives of the Company,
21 except as provided in paragraphs 4 and 5 of this Agreement.

22 3. Nondisclosure Agreement

23 Any employees of RUCO or its independent contracting consultants who are to be
24 accorded access to Protected Information for purposes of this proceeding shall first be
25 required to read a copy of this Agreement and to certify by their signatures in the format
26 indicated on Exhibit A, attached hereto and incorporated herein by reference, that they have
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1 reviewed the Agreement and consent to be bound by its terms. The certification shall
2 contain the signatory's full name, employer and business address, and the signatory's position
3 with, or relationship to, RUCO. The certification shall be provided to counsel for the
4 Company before any disclosure is made. Protected Information shall not be disclosed to any
5 person who has not agreed to the terms of this Agreement by submitting a certification in
6 the form of Exhibit A, except as provided in paragraphs 4 and 5 of this Agreement.

7 4. Non-Signatories Entitled to Review

8 The Protected Information provided pursuant to the terms of this Agreement may
9 be disclosed to other employees of RUCO by any RUCO signatory to this Agreement only
10 to the extent such disclosure is necessary to the disposition of this docket. Such disclosure
11 may be made only if the non-signatory is provided with a copy of this Agreement and agrees
12 to be bound by its terms.

13 5. Disclosure of Protected Information

14 Unless the Company has given its written consent, no portion of the Protected
15 Information shall be submitted to, or publicly filed with, the Arizona Corporation
16 Commission ("Commission") in this proceeding, or otherwise disclosed in any manner,
17 unless: (a) RUCO files with the Commission, as early as practicable before any proposed
18 use or disclosure, a motion which sets forth specific grounds upon which it claims that the
19 Protected Information should be made part of the public record; and (b) the Presiding
20 Hearing Officer or the Commission rules that the Protected Information, or any portion
21 thereof, may be disclosed. Upon such motion, the Protected Information sought to be
22 disclosed may be provided by RUCO, under seal, to the Presiding Hearing Officer or the
23 Commission pursuant to paragraph 4 of this Agreement for the sole purpose of permitting
24 its inspection and review prior to ruling on the motion.

25 Notwithstanding any determination by the Presiding Hearing Officer or the
26 Commission that the Protected Information or any portion thereof should be made part of
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1 the public record or otherwise disclosed, public disclosure shall not occur for a period of 7
2 days in order to afford the Company an opportunity to seek administrative or judicial review
3 of the ruling.

4 6. Copies, Transcriptions, and Notes

5 Any copies made of the Protected Information and any notes, transcriptions, extracts,
6 or summaries thereof in any form, mechanical, electronic, or otherwise, shall be considered
7 to be Protected Information subject to the terms of this Agreement and shall be surrendered
8 to the Company upon final disposition of any administrative or legal proceeding arising in
9 or from this docket.

10 7. No Admission or Privileged or Confidential Status

11 By entering into this Agreement, RUCO and its independent contracting consultants
12 neither admit nor agree with the Company that any of the Protected Information is, either
13 in fact or as a matter of law, a trade secret, or of a proprietary, confidential, or legally-
14 protected nature.

15 8. Performance Under Agreement Does Not Result in Waiver or Disclosure

16 Execution of this Agreement by the Company and RUCO, and performance of their
17 obligations thereunder, shall not result in the waiver of any claim, issue, or dispute
18 concerning the trade secret, proprietary, confidential, or legally-protected nature of any
19 Protected Information provided. Neither the limited provision of Protected Information by
20 the Company pursuant to this Agreement nor the limited provision by RUCO of Protected
21 Information pursuant to paragraph 4 of this Agreement shall constitute public disclosure.

22 9. No Preclusion of Evidentiary Objections

23 The disclosure of Protected Information required by the Presiding Hearing Officer
24 or the Commission pursuant to paragraph 5 of this Agreement shall not limit the right of
25 the Company to object to the relevance or admissibility of the Protected Information in
26 proceedings before the Commission.

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10. Survivability

The confidentiality of the Protected Information is to be preserved both during and after final disposition of any administrative or legal proceeding arising in or from this docket. The terms of this Agreement shall survive and remain in full force and effect after the termination of any such matter. The terms of this Agreement shall supersede any conflicting provisions in prior confidentiality agreements which would permit disclosure of Protected Information in instances in which this Agreement would not.

DATED: December 20, 1995

CITIZENS UTILITIES COMPANY

Beth Ann Burns
Associate General Counsel
Citizens Utilities Company
2901 N. Central Ave., Suite 1660
Phoenix, Arizona 85012

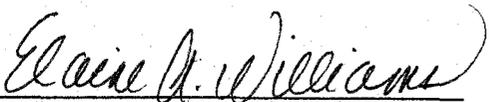

Elaine A. Williams
Chief Counsel
Residential Utility Consumer Office
1501 W. Washington St., Suite 227
Phoenix, Arizona 85007

EXHIBIT A

I have read the foregoing Protective Agreement dated December 20, 1995 in Docket No. E-1032-95-433 and agree to be bound by the terms and conditions of such agreement.

Jana Brandt
Signature

Jana Brandt
Name

RUCO
Employer or Firm

15 S 15th Ave., Suite 104
Phoenix, AZ 85007
Business Address

Util. Chief Rate Analyst
Position or Relationship with RUCO

December 20, 1995
Date

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EXHIBIT A

I have read the foregoing Protective Agreement dated December 20, 1995 in Docket No. E-1032-95-433 and agree to be bound by the terms and conditions of such agreement.

Dale H. Leavesley
Signature

DALE H. LEAVESLEY
Name

RUCO
Employer or Firm

155. 15th Ave. #104
PHOENIX AZ 85007
Business Address

Utility Sr. Rate Analyst
Position or Relationship with RUCO

20 December 1995
Date

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EXHIBIT A

I have read the foregoing Protective Agreement dated Dec 20, 1995 in Docket No. E-1032-95-433 and agree to be bound by the terms and conditions of such agreement.

Marglee Daz Cortez

Signature

Marglee Daz Cortez

Name

RUCO

Employer or Firm

15 S. 15th Ave Suite 104
Phoenix AZ 85007

Business Address

Audit Manager

Position or Relationship with RUCO

12-20-95

Date

EXHIBIT A

I have read the foregoing Protective Agreement dated December 20th 1995 in Docket No. E-1032-95-433 and agree to be bound by the terms and conditions of such agreement.

Paul R. Michaud
Signature

Paul R. Michaud
Name

RUCO
Employer or Firm

15 S. 15th Ave. Ste. #104
Phoenix, AZ 85007
Business Address

RUCO Attorney
Position or Relationship with RUCO

12/20/95
Date

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EXHIBIT 3

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BEFORE THE ARIZONA CORPORATION COMMISSION

WILLIAM MUNDELL
Chairman
JIM IRVIN
Commissioner
MARC SPITZER
Commissioner

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. G-01032A-02-0598

PROTECTIVE AGREEMENT

The Residential Utility Consumer Office ("RUCO") has requested access to certain documents, data, studies, and other materials, some of which Citizens Communications Company, Arizona Gas Division. ("Citizens" or "Company") alleges may be a proprietary, confidential or legally protected nature ("Confidential Information").

In order to expedite the provision of information to RUCO – Citizens, RUCO, and any independent contracting consultants retained by RUCO for this docket (cumulatively referred to herein as "the parties"), agree as follows:

§1. Non-Disclosure. Except with the prior written consent of the party originally designating a document to be stamped as Confidential Information, or as hereinafter provided under this Agreement, no Confidential Information may be disclosed to any person. This requirement does not prohibit RUCO from using and disclosing Confidential Information provided by Citizens in reports or documents that aggregate all information gathered from parties to this docket, provided Citizens individual disclosure is indiscernible from the aggregate report.

§2. Designation of Confidential Information. For purposes of this Agreement, all documents, data, information, studies and all other written, printed, transcribed, audio-taped or video-taped materials furnished to RUCO that Citizens claims

1 to be a trade secret, or of a proprietary, confidential, or legally protected nature, shall be
2 designated and referred to herein as "Confidential Information". Access to and review of
3 Confidential Information shall be strictly controlled by the terms of this Agreement.

4 All Confidential Information provided to RUCO pursuant to this Agreement
5 shall be so marked by Citizens with a designation indicating its alleged trade secret,
6 proprietary, confidential or legally protected nature. The Company shall memorialize any
7 Confidential Information disclosed verbally by Citizens in writing within five (5) business
8 days of its verbal disclosure, and the writing shall be marked by the Company with the
9 appropriate designation. Any Confidential Information disclosed verbally by Citizens shall
10 be safeguarded by RUCO and its contacting consultants only during the five (5) business
11 day period during which memorialization may be provided. Citizens agrees that it will
12 carefully consider the basis upon which any information is claimed to be trade secret,
13 proprietary, confidential, or otherwise legally protected. Citizens shall designate as
14 Confidential Information only such information as it has a good faith basis for claiming to be
15 legally protected. Where a part of a document, or only a part of an informational submittal
16 may reasonably be considered to be trade secret, proprietary, confidential, or otherwise
17 legally protected, Citizens shall only designate that part of such information submittal as
18 Confidential Information under this Agreement. Information that is publicly available from
19 any other source shall not be claimed as Confidential Information under this
20 Agreement. ~~Any and all electronic documents generated as a result of RUCO's viewing,~~
21 ~~analysis, production, or use of the protected material will be converted into a PDF format~~
22 ~~(Adobe Acrobat) prior to being provided to any outside party or being filed with the~~
23 ~~Commission.~~

22 **§3. Performance Under Agreement Does Not Result in Waiver or**
23 **Disclosure.** Execution of this Agreement by the parties and performance of their
24 obligations hereunder shall not result in waiver of any claim, issue or dispute concerning
25 the trade secret, proprietary, confidential or legally protected nature of the Confidential
26 Information provided. Neither shall the limited provision of Confidential Information by
27 Citizens pursuant to this Agreement, nor the limited provision by RUCO of Confidential
28 Information pursuant to Section 6 of this Agreement constitute public disclosure of it.

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§4. Access to Confidential Information. Prior to reviewing any Confidential Information, any RUCO members or independent contracting consultants shall first be required to read a copy of this Protective Agreement, and to certify by their signatures on Exhibit A of this Agreement, that they have reviewed the same and have consented to be bound by its terms. Exhibit A of this Agreement shall contain the signatory's full name, business address and employer, and the signatory's position with, or relationship to RUCO. Upon their execution, any and all Exhibits shall be promptly provided to counsel for Citizens.

1 **§5. Use of Confidential Information.** All persons who are signatories to
2 this Agreement shall neither use nor disclose the Confidential Information for purposes of
3 business or competition, or for any purposes other than those necessary for the disposition
4 of this docket, including preparation for and the conduct of any administrative or legal
5 proceeding. All persons entitled to review or afforded access to Confidential Information
6 shall keep it secure as trade secret, confidential, or legally protected information in
7 accordance with the purposes and intent of this Agreement.

8 **§6. Non-Signatories Entitled to Review.** The information provided
9 pursuant to this Protective Agreement may be disclosed to other members of the RUCO
10 and to the Commission by any RUCO signatory to this Agreement only to the extent that
11 disclosure is necessary to the disposition of this docket. Such disclosure may be made
12 only if the non-signatory is provided with a copy of this Agreement and agrees to be bound
13 by its terms.

14 **§7. Disclosure of Information to the Public.** The Confidential
15 Information provided pursuant to this Agreement shall not be disclosed, nor shall it be
16 made a part of the public record in this docket, or in any other administrative or legal
17 proceeding unless: RUCO provides Citizens five (5) business days written notice that
18 information designated by Citizens as Confidential Information shall be subject to
19 disclosure as a public record. Upon the expiration of five (5) business days from the date
20 written notice is received by Citizens, any Confidential Information identified in the notice
21 as subject to disclosure shall become part of the public record in this docket, unless
22 Citizens initiates a protective proceeding under the terms of this Agreement. (i) RUCO
23 files a motion presenting the specific grounds upon which it claims that the Confidential
24 Information should be disclosed or made a part of the public record; and (ii) an assigned
25 Hearing Officer or the Commission finds that the Confidential Information or a portion
26 thereof should be made a part of the public record or otherwise disclosed.

27
28 ~~In these circumstances, and upon the condition that the Hearing Officer or~~

1 the Commission complies with Section 6 of this Agreement, RUCO may provide to the
2 Hearing Officer or the Commission the Confidential Information referenced in the motion.
3 The Confidential Information shall be both provided and kept under seal for the sole
4 purpose of permitting inspection by the Hearing Officer or the Commission prior to ruling on
5 the motion.

6 Notwithstanding any determination by the Hearing Officer or the Commission
7 that any Confidential Information provided pursuant to this Agreement should be made a
8 part of the public record or otherwise disclosed, public disclosure shall not occur for a
9 period of five (5) calendar days so that Citizens may seek judicial relief from the Hearing
10 Officer's or the Commission's decision.

11 _____ Upon expiration of the five (5) day period, the RUCO shall release the
12 information to the public unless Citizens has received a stay or determination from a court
13 of competent jurisdiction that the records, data, information or study are proprietary and are
14 not public records subject to disclosure under A.R.S. § 39-101 et seq.
15 In the event that the RUCO becomes legally compelled (by deposition, interrogatory,
16 request for documents, subpoena, civil investigative demand or similar process) to
17 disclose any of the Confidential Information, the RUCO shall provide Citizens with prompt
18 written notice of such requirement so that Citizens may seek an appropriate remedy
19 and/or waive compliance. Citizens agree that upon receipt of such notice, Citizens will
20 either undertake to oppose disclosure of the Confidential Information or waive compliance
21 with this Agreement. In the event that disclosure of the Confidential Information is
22 ordered, the RUCO agrees to furnish only that portion of the Confidential Information that
23 is legally required.

24 **§8. Protective Proceedings to Prevent Disclosure to the Public.** In the
25 event that Citizens seeks to prevent public disclosure of Confidential Information pursuant
26 to Section 7 above, Citizens shall file within five (5) business days of receipt of RUCO's
27 written notice, a motion presenting the specific grounds upon which it claims that the
28

1 Confidential Information should not be disclosed or should not be made a part of the public
2 record and RUCO shall have an opportunity to respond to the motion. Citizens' motion may
3 be ruled upon by either the Commission or an assigned Commission Administrative Law
4 Judge ("ALJ"). Citizens may provide to the Commission or the ALJ the Confidential
5 Information referenced in the motion without waiver that the information should remain
6 confidential under the terms of this Agreement. Any Confidential Information so provided
7 shall be kept under seal for the purpose of permitting inspection by the Commission or the
8 ALJ prior to ruling on the motion.

9
10 Notwithstanding any determination by the ALJ or the Commission that any
11 Confidential Information provided pursuant to this Agreement should be made a part of the
12 public record or otherwise disclosed, public disclosure shall not occur for a period of five
13 (5) calendar days so that Citizens may seek judicial relief from the ALJ's or the
14 Commission's decision. Upon expiration of the five (5) day period, RUCO shall release the
15 information to the public unless Citizens has received a stay or determination from a court
16 of competent jurisdiction that the records, data, information or study are proprietary and
17 are not public records subject to disclosure under A.R.S. § 39-101 et seq.

18
19 **§9. Judicial Proceedings Related to Non-Party's Request for**
20 **Disclosure.** In any judicial action against RUCO by a non-party to this agreement seeking
21 disclosure of Confidential Information, Citizens shall join in the action as a co-defendant if
22 Citizens is not named as the real party in interest. Citizens also agrees to indemnify and
23 hold RUCO harmless from any assessment of expenses, attorneys fees or damages
24 under A.R.S. § 39-121.02 or any other law, resulting from denial of access by RUCO to
25 the information, data, records or study subsequently found to be non-confidential.

26
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28 In the event that RUCO becomes legally compelled (by deposition,

1 interrogatory, request for documents, subpoena, civil investigative demand or similar
2 process) to disclose any of the Confidential Information, RUCO shall provide Citizens with
3 prompt written notice of such requirement so that Citizens may seek an appropriate
4 remedy and/or waive compliance. Citizens agrees that upon receipt of such notice,
5 Citizens will either undertake to oppose disclosure of the Confidential Information or waive
6 RUCO's compliance with this Agreement. In the event that disclosure of the Confidential
7 Information is ordered, RUCO agrees to furnish only that portion of the Confidential
8 Information that is legally required.

11 **§810. No Preclusion of Evidentiary Objections.** In the event that
12 disclosure of Confidential Information occurs in accordance with Section 6 of this
13 Agreement, the provision of such information by Citizens pursuant to this Agreement shall
14 not limit the right of Citizens to object to its relevance or admissibility in proceedings before
15 the Commission.

16 **§911. Return of Confidential Information.** Upon the final disposition of
17 any administrative or legal proceeding arising in or from this docket, all Confidential
18 Information, copies thereof, and notes made by signatories to this Agreement shall be
19 returned to Citizens.

20 **§1012. No Admission of Privileged or Confidential Status.** By
21 participating in this Agreement, RUCO and its contracting consultants are neither admitting
22 nor agreeing with Citizens that any of the materials or communications designated as
23 Confidential Information are, either in fact or as a matter of law, a trade secret or of a
24 proprietary, confidential or legally protected nature.

25 **§13. Designated Contacts.**

26 **A. Citizens' written notice pursuant to Section 2 should be directed to:**

27 Scott S. Wakefield
28 Chief Counsel
 Residential Utility Consumer Office
 1110 W. Washington, Suite 220
 e-mail: swakefield@azruco.com

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facsimile: 602-364-4846

B. RUCO's written notice of disclosure provided in Section 7 and written notice pursuant to Section 9 should be directed to:

Deborah R. Scott, Esq.
Associate General Counsel
Citizens Communications Company
2901 N. Central Avenue
Suite 1660
Phoenix, Arizona 85012
e-mail: drscott@czn.com
facsimile: 602-265-3415

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1 **§1114. Non-Termination.** The provisions of this Agreement shall not
2 terminate at the conclusion of this proceeding.

3
4 DATED this _____ day of _____ 2002.

5
6 RESIDENTIAL UTILITY CONSUMER OFFICE

CITIZENS COMMUNICATIONS CO.

7
8
9 By _____

By _____

10 Scott Wakefield
11 Residential Utility Consumer Office
12 1110 West Washington Street, Ste 220
13 Phoenix, Arizona 85007
14 (602) 364-4839

Deborah R. Scott
Associate General Counsel
2901 N. Central, Ste. 1660
Phoenix, Arizona 85012
(602) 532-4433

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EXHIBIT "A"

I have read the foregoing Protective Agreement dated _____, 2002, in Docket No G-01032A-02-0598 and agree to be bound by the terms and conditions of such Agreement.

Name

Signature

Employer or Firm

Business Address

Position or relationship with the
Residential Utility Consumer Office

Date