Arizona Corporation Commission
DOCKETED
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BEFORE THE ARIZONA CORPORATION COMMISSION

CMC

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	E-01032C-00-0751 G-01032A-02-0598 E-01933A-02-0914 E-01032C-02-0914 G-01032A-02-0914 CITY OF NOGALES OPPOSITION TO PROPOSED SETTLEMENT AGREEMENT

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Intervenor City of Nogales opposes the Staff generated proposed Settlement Agreement in this matter, for the following reasons:

1. The proposed Settlement Agreement was negotiated solely between the Applicants and the ACC staff, and as a consequence does not take into account many significant issues relating to the Santa Cruz Division of Citizens.

2. The proposed Settlement Agreement does not address the lack of a municipal franchise between Citizens and the City of Nogales, and allows 365 days for the new Unisource affiliate to come up with a franchise. What happens if the City and Unisource cannot reach agreement on a new franchise? What if the voters of Nogales reject a proposed franchise? Citizens had entered into a Settlement Agreement with the City in which a new franchise was to be negotiated and put to our voters. Citizens had three years to pursue this, and did not. At minimum the ACC should add a penalty provision, or at least a provision triggering a CC&N

revocation in the event Unisource does not produce a franchise.

3. Allowing the wholesale purchase power agreement, with the adjustments Unisource seeks, is outrageous. The original agreement was entered into at a time when there is little question the wholesale energy market was being manipulated. Allowing Unisource to pocket 40% of any "savings" from a renegotiated contract is nothing less than a gift by the ACC staff to Unisource shareholders.

4. The allowance of 10% line losses in the wholesale power rate is unjustified as this level of line loss is for a distribution system, not a high voltage transmission system.

5. The proposed Settlement Agreement is far too vague about the opening of the Santa Cruz Division to competition. At minimum the area should be open to competition by December 31, 2003, not a year later. Those who can and will purchase power at rates far better than the current wholesale power purchase contract rate should be allowed to immediately do so...especially since our retail rates are already among the highest in the state.

6. The ACC staff have failed to address what will happen to our area when TEP fails to complete the new transmission line by the original ACC Order date of December 31, 2003.

The City reserves the right to make additional objections to the proposed Settlement Agreement after the hearings are held in this matter.

RESPECTFULLY SUBMITTED this 21st day of April, 2003.

Hugh Holub, Attorney
Jose Machado, City Attorney
City of Nogales, Arizona

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