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BEFORE THE ARIZONA CORPORATION COMMISSION

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AZ CORP COMMISSION
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IN THE MATTER OF THE APPLICATION OF UNS GAS, INC. FOR THE ESTABLISHMENT OF JUST AND REASONABLE RATES AND CHARGES DESIGNED TO REALIZE A REASONABLE RATE OF RETURN ON THE FAIR VALUE OF THE PROPERTIES OF UNS GAS, INC. DEVOTED TO ITS OPERATIONS THROUGHOUT THE STATE OF ARIZONA.	DOCKET NO. G-04204A-06-0463 **MOTION TO CONSOLIDATE**

UNS Gas, Inc. ("UNS Gas" or "Company"), respectfully requests that the Arizona Corporation Commission ("Commission") consolidate Docket Nos. G-04204A-06-0013 (the "PGA Case"), G-04204A-05-0831 (the "Prudence Case") and G-04204A-06-0463 (the "Rate Case"). In support of this Motion to Consolidate ("Motion"), UNS Gas states as follows:

I. Preliminary Statement.

This Motion seeks to consolidate three cases. The primary case is UNS Gas' recently filed rate case. The other two cases, the PGA Case and the Prudence Case, involve issues that are traditionally addressed in rate cases. Consolidation of the three cases is in the public interest because the resources of the Commission and participants will be best utilized by dealing with these interrelated matters in one proceeding. Consolidation is favored when cases have a common set of facts, are governed by the same standards and utilize the same witnesses. These are the very factors that warrant the consolidation of the PGA Case and the Prudence Case into the Rate Case. Moreover, while consolidation will be beneficial to the Commission and participants, no person will be prejudiced by joining these cases together.

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II. These cases should be consolidated because they are interrelated.

The Commission's rules provide for the consolidation of cases such as the PGA Case, the Prudence Case and the Rate Case when the "issues are substantially the same."[1] Accordingly, the Commission has consolidated cases that "rely upon the same law, facts, and witnesses."[2] The Arizona Rules of Civil Procedure also provide for the consolidation of cases that have a "common question of law or fact".[3]

The issues to be addressed in the PGA Case and Prudence Case are part and parcel of the Rate Case. UNS Gas' gas purchase costs and the prudence of its investments are prerequisite considerations the Commission will evaluate in reaching its determination of "just and reasonable rates". The PGA Case concerns modifications to UNS Gas' purchase gas adjustor ("PGA"). UNS Gas requested several modifications to improve the functioning of the PGA in light of increased volatility and other changes in the natural gas markets, and to rectify problems that have become evident during the history of the PGA. In particular, UNS Gas requested that the Commission modify the PGA by: (1) increasing the "bandwidth" of the PGA so that it can more accurately send price signals to customers about the cost of their gas, and to avoid running up large bank balances that customers will have to pay back later; (2) increasing the interest on the bank balance to match the interest rate UNS Gas actually pays when funding the bank balance; (3) when the PGA bank balance exceeds two times the threshold level, the bank balance should earn a return equal to the Company's weighted average cost of capital, thus recognizing that the Company's investment in funding the bank balance is no longer short-term when the bank balance is that large; (4) changing the PGA threshold to so that the threshold for over-collected and under-collected bank balances are the same; (5) holding UNS Gas harmless from any changes to the Company's capital structure resulting from the PGA bank balance; and (6) approving adequate surcharges when needed. The direct testimony filed with UNS Gas' Rate Case Application covers the same ground. The

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[1] A.A.C. R14-3-109(H).

[2] *See Utility Source, LLC*, Decision No. 67446 (Jan. 4, 2005) at 2.

[3] Arizona Rules of Civil Procedure, Rule 42(a). These rules are incorporated in the Commission's Rules. *See* A.A.C. R14-3-101(A).

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Prudence Case concerns the prudence of the Company's gas purchases. A prudence review involves determining whether the expenses were reasonable in light of the information known at the time.[4] In addition, there is a presumption that the Company's purchases are prudent.[5] The prudence of the Company's gas purchases, and the standards to be used in evaluating that prudence, are also addressed in the Company's direct testimony. Thus, all three cases are interrelated, arise out of a common set of facts, and will involve overlapping facts and witnesses.

UNS Gas' direct testimony (filed with the Rate Case Application) addresses the Company's PGA and prudence related issues. UNS Gas would use the same witnesses who filed direct testimony in the Rate Case to address these issues in the PGA Case and Prudence Case. Other parties would likely use the same witnesses for those issues in the different cases. Moreover, each of the cases is at an early stage. No procedural schedule has been issued in any of the cases. Thus, while no party will be prejudiced by consolidation, judicial and administrative economy will be served by avoiding the litigation of multiple cases on the same topic with the same witnesses.

The Commission has expressed a preference that prudence and PGA issues be resolved in rate cases. For example, in discussing the prudence of Arizona Public Service Company's action relative to the Sundance Power Plant, the Commission stated that the prudence of a "transaction may only properly be reviewed in the context of an overall rate base determination."[6] Similarly, the Commission recently rejected a request to modify a PGA based on Staff's position that "a rate case [is] a more appropriate venue for making [a] substantive change to the mechanics of how the

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[4] *See* A.A.C. R14-2-103(A)(1); *Generic Examination of Purchas Gas Adjustor Mechanisms,* Decision No. 61225 (October 30, 1998) at Findings of Fact Nos. 7 and 8; Staff Report dated June 1, 2001 in Docket No. G-00000C-98-0568 at 3.

[5] A.A.C. R14-2-103(A)(1); *State ex rel Associated Natural Gas Co. v. Public Service Comm'n of the State of Missouri*, 954 S.W.2d 520, 528 (Mo. App. 1997).

[6] *Arizona Public Service Co.,* Decision No. 67504 (January 20, 2005).

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PGA mechanism operates."[7] Finally, the Commission recently approved PGA modifications in two recent gas rate cases.[8]

III. Conclusion.

The Rate Case, the Prudence Case and the PGA Case are the very type of proceedings that should be consolidated. The cases arise out of a common set of facts, the law and witnesses overlap, and traditionally these matters have been addressed in a rate case. Administrative and judicial economy will be served by addressing these interrelated proceedings at one time and resolving issues in one decision. Accordingly, UNS Gas respectfully requests that the Prudence Case and the PGA Case be consolidated with the Rate Case.

RESPECTFULLY SUBMITTED this 20th day of July 2006.

UNS Gas, Inc.

By _____

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Original and thirteen copies of the foregoing filed this 20th day of July, 2006, with:

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[7] *Energy West, Inc.*, Decision No. 68814 (June 29, 2006) at 1.

[8] *Southwest Gas Corp.*, Decision No. 68487 (February 23, 2006); *Duncan Rural Services Corp.* Decision No. 68599 (March 23, 2006).

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