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2003 MAY 15 P 3:10

AZ CORP COMMISSION
DOCUMENT CONTROL

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

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

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

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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
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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.

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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

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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

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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.

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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.

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

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