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BEFORE THE ARIZONA CORPORATION COMMISSION

MARC SPITZER
CHAIRMAN
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KRISTIN K. MAYES
COMMISSIONER

Arizona Corporation Commission
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IN THE MATTER OF COMPETITION IN THE PROVISION OF ELECTRIC SERVICES THROUGHOUT THE STATE OF ARIZONA	DOCKET NO. RE-00000C-94-0165
IN THE MATTER OF THE STRANDED COST FILING AND REQUEST FOR A WAIVER OF CERTAIN PORTIONS OF THE RULES FILED BY MOHAVE ELECTRIC COOPERATIVE, INC.	DOCKET NO. E-01750A-98-0467
IN THE MATTER OF THE FILING BY MOHAVE ELECTRIC COOPERATIVE, INC. OF UNBUNDLED AND STANDARD OFFER SERVICE TARIFFS PURSUANT TO A.A.C. R14-2-1606.	DOCKET NO. E-01750A-97-0701 DEC #61308
IN THE MATTER OF THE STRANDED COST FILING AND REQUEST FOR A WAIVER OF CERTAIN PORTIONS OF THE RULES FILED BY TRICO ELECTRIC COOPERATIVE, INC.	DOCKET NO. E-01461A-98-0466
IN THE MATTER OF THE FILING BY TRICO ELECTRIC COOPERATIVE, INC. OF UNBUNDLED AND STANDARD OFFER SERVICE TARIFFS PURSUANT TO A.A.C. R14-2-1606.	DOCKET NO. E-01461A-97-0696
IN THE MATTER OF THE STRANDED COST FILING AND REQUEST FOR A WAIVER OF CERTAIN PORTIONS OF THE RULES FILED BY GRAHAM COUNTY ELECTRIC COOPERATIVE, INC.	DOCKET NO. E-01749A-98-0468

GALLAGHER & KENNEDY, P.A.
2575 E. CAMELBACK ROAD
PHOENIX, ARIZONA 85016-9225
(602) 530-8000

IN THE MATTER OF THE STRANDED COST FILING AND REQUEST FOR A WAIVER OF CERTAIN PORTIONS OF THE RULES FILED BY DUNCAN VALLEY ELECTRIC COOPERATIVE, INC.	DOCKET NO. E-01703A-98-0469
IN THE MATTER OF THE STRANDED COST FILING AND REQUEST FOR A WAIVER OF CERTAIN PORTIONS OF THE RULES FILED BY SULPHUR SPRINGS VALLEY ELECTRIC COOPERATIVE, INC.	DOCKET NO. E-01575A-98-0472
IN THE MATTER OF THE FILING BY SULPHUR SPRINGS VALLEY ELECTRIC COOPERATIVE, INC. OF UNBUNDLED AND STANDARD OFFER SERVICE TARIFFS PURSUANT TO A.A.C. R14-2-1606.	DOCKET NO. E-01575A-97-0706

DUNCAN AND GRAHAM'S SUPPLEMENTAL RESPONSE TO THE AECC APPLICATION FOR HEARING SCHEDULING

The Cooperatives submit this supplement to their response to the AECC Application to Schedule a Hearing on the stranded costs of Duncan and Graham.

On January 27, 2004, the Arizona Court of Appeals, Division One issued its Decision in Phelps Dodge Corporation et. al v. Arizona Electric Power Cooperative, Inc., 1 CA-CV 01-0068 (the "Decision"). The Cooperatives would request that the Administrative Law Judge take official notice of the Decision, which pertains to the Commission's Electric Competition Rules. The Decision, among other things, invalidates certain rules on constitutional, statutory or Administrative Procedure Act grounds, affirms certain others and vacates all Commission decisions previously issued which granted Certificates of Convenience and Necessity to ESP's. Although Petitions for Review of the Decision may be filed with the Arizona Supreme Court, the further uncertainty concerning the Rules and other aspects of electric competition created by the

Decision reinforces the arguments made both by the Cooperatives and Staff that the Application should be denied and the Cooperatives' stranded cost cases should not, at this time, be scheduled for hearing.

The Cooperatives also correct certain factual misstatements contained in AECC's reply to the Staff's response. First, at page 2 of the January 29, 2004 reply, AECC states that the ECAG Rules' revision workshop lasted only 5 minutes. In fact, the December 19 workshop lasted more than two hours. Participants and Staff discussed possible revisions to several different Rules provisions.

Second, at page 3 of the reply, AECC asserts that AEPCO is overcollecting its competition transition costs and "continues to enjoy a negative CTC." Both statements are incorrect. Initially, AEPCO has never recovered <u>any</u> money through the CTC since it was authorized by the Commission in July of 2000, so it obviously can't be overcollecting competition transition costs. As for the statement that AEPCO has a "negative CTC," that also is incorrect. In Decision No. 65119, the August 2002 Commission decision which suspended the annual re-setting of the CTC, the Commission found that the data submitted by AEPCO would have required a <u>positive</u> CTC of $0.01125 had the process not been suspended. Decision No. 65119, Finding of Fact 15.

In conclusion, the Cooperatives request that the Administrative Law Judge take official notice of the Court of Appeals decision, deny the AECC application and leave these matters on inactive status.

RESPECTFULLY SUBMITTED this 9th day of February, 2004.

GALLAGHER & KENNEDY, P.A.

By Michael M. Grant

Michael M. Grant
Todd C. Wiley
2575 East Camelback Road
Phoenix, Arizona 85016-9225
Attorneys for Duncan Valley Electric Cooperative and
Graham County Electric Cooperative

Original and 29 copies filed this ___ day of February, 2004, with:

Docket Control
Arizona Corporation Commission
1200 West Washington
Phoenix, Arizona 85007

Copies of the foregoing mailed this 9th day of February, 2004, to:

Marc Spitzer, Chairman
Arizona Corporation Commission
1200 West Washington
Phoenix, Arizona 85007

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

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

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

Kristin K. Mayes Commissioner
Arizona Corporation Commission
1200 West Washington
Phoenix, Arizona 85007

Jane L. Rodda
Administrative Law Judge
Hearing Division
Arizona Corporation Commission
400 West Congress Street
Tucson, Arizona 85701-1347

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

Janet Wagner, Staff Attorney
Legal Division
Arizona Corporation Commission
1200 West Washington
Phoenix, Arizona 85007

C. Webb Crockett
Fennemore Craig
3003 N. Central Avenue, Suite 2600
Phoenix, Arizona 85012-2913
Attorneys for Phelps Dodge Mining Company, Successor in Interest to Cyprus Climas Metals Company; ASARCO Incorporated; Cyprus Climax Metals Company; and Arizonans for Electric Choice and Competition

Russell E. Jones, Esq.
Waterfall Economidis Caldwell Hanshaw & Villamana PC
Suite 800
5210 East Williams Circle
Tucson, Arizona 85711-7497
Attorneys for Trico Electric Cooperative, Inc.

Christopher Hitchcock, Esq.
Law Offices of Christopher Hitchcock PLC
Post Office Box 87
Bisbee, Arizona 85603-0087
Attorneys for Sulphur Springs Valley
Electric Cooperative, Inc.

Michael Curtis, Esq.
Paul R. Michaud, Esq.
Martinez & Curtis
2712 North 7th Street
Phoenix, Arizona 85006-1003
Attorneys for Mohave Electric Cooperative, Inc.

Jeffrey B. Guldner
Snell & Wilmer
One Arizona Center
400 East Van Buren
Phoenix, Arizona 85004-2202
Attorneys for Arizona Public Service Co.

Douglas C. Nelson
Douglas C. Nelson PC
7000 North 16th Street
Phoenix, Arizona 85020-5547
Attorneys for Commonwealth

ACAA
2627 North 3rd Street
Suite Two
Phoenix, Arizona 85004

Jack Shilling
Duncan Valley Electric Cooperative
P.O. Box 440
222 N. Highway 75
Duncan, Arizona 85534

Steve Lines
Graham County Electric Cooperative
P.O. Drawer B
9 W. Center
Pima, AZ 85543

Patricia Cooper
Arizona Electric Power Cooperative, Inc.
Post Office Box 670
1000 South Highway 80
Benson, Arizona 85602

By: Beth Oakley

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