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September 24, 1996

Arizona Corporation Commission
DOCKETED

The Honorable Fife Symington
Governor of Arizona
1700 W. Washington
Phoenix, AZ 85007

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Dear Governor Symington:

I was surprised to receive your letter requesting a delay in moving toward a competitive marketplace. For the past two years the Commission has been meeting with all the affected stakeholders to determine the fairest most efficient way to open the market to customer choice. Only once have I seen representatives from the Governor's office related to restructuring. That was when your Director of the Office of Telecommunications Policy and your Executive Assistant for Criminal Justice appeared at our September 18 electric competition workshop for an hour or so. Later that day, we received both a letter dated September 12 from Representative Groscost and your faxed letter dated September 13.

Sections of the two letters have exactly the same wording, and the tone of both letters reflects the position of those with a vested interest in obstructing the introduction of competition. You may recall that Representative Groscost's 1995 legislation, H.B. 2134, would have required the Commission to have completed restructuring by now. Thus, it is mystifying that Representative Groscost and you now want us to delay restructuring.

Given your interest in protecting property interests of utilities, I can only conclude that you have been approached by those same utility interests to intervene on their behalf. I cannot speculate on what has motivated you to take their side of this issue and attempt to slow the introduction of competition to Arizona. I only wish that you had studied this issue with the same intensity the Commission has over the past two years before you decided to insert yourself. If you had, I am sure you would agree that it's time to open the market to customer choice.

The Arizona Legislative Study Committee, which is made up of many of the same parties involved at the Commission, has yet to meet. It will take many meetings of the Committee and many months after that before the Committee will have the knowledge and information to make recommendations. Those recommendations very

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likely will not be enacted based on past performances of such committees. The Corporation Commission has been fully engaged in this subject for over two years. We have aired the issues and have crafted proposed rules that provide for a thoughtful transition to competition. When you talk of cooperation, you seem to suggest that the Commission is obligated to participate in the legislative process, but neither the Governor's office nor the Legislature has any responsibility to be involved in the Commission's process.

The framers of Arizona's Constitution sought to insulate the oversight of utilities from Executive and Legislative interference. In sum, the framers mistrusted the monopolistic utility's ability to meet behind closed doors with either the Governor or the legislators. They wanted a process that operated out in the open and free from the deal-making that goes on within the Executive or Legislative branches of government.

I don't believe you have chosen your words carefully in your letter when you suggest that the Commission is "frivolously" moving to institute competition. Indeed, for two years the Commission has had over one hundred participants giving stakeholder input, identifying and fleshing out issues, and including the power system reliability concerns raised in your letter. I personally have participated in dozens of meetings and discussions at the national level as well as participating in the committee work of our national organization, the National Association of Regulatory Utility Commissioners, to develop the guiding principles governing transition to market-based competition. Based on this experience, I believe the Commission should set forth the important principles, give fair opportunities for all affected parties to have input, and to move forward in a logical and consistent manner. Guidance from other restructuring undertakings is: don't stay in the transition too long.

Restructuring is taking place all around us and quickly. California will begin to open its markets to competition in 1998. Legislation to introduce competition throughout the country by 2000 will be a front burner in the next Congress. The Federal Energy Regulatory Commission has already moved to open markets in such a way as to put additional pressure on states to open markets to retail competition. The importance of these activities, particularly those of our western neighbor, California, will have a dramatic effect throughout the region. And, as you must know, in competitive markets, size matters. California utilities are large and so are the industrial users: some of the best deals in restructuring will be struck in the early stages of competition. If we are to advantage Arizona customers, large and small, we need to position Arizona for timely entrance into the competitive market.

The Corporation Commission and the Legislature share responsibility in creating an efficient marketplace. Both branches of government are created by the Arizona Constitution. The Commission's obligation is to oversee investor-owned utilities and

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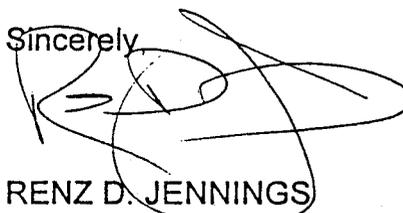
cooperatives. The Legislature has legislative authority over the municipalities including the Salt River Project. There is a reason to cooperate. The Legislature will have a difficult job focusing on the complex ground rules through which the Salt River Project opens up its markets and operates outside its present territory. The Commission will certainly be interested in giving whatever guidance it can.

I want to reassure you and the utility interests you're representing that I believe the utilities have every legal right and they should have every expectation to be treated fairly by the Commission. And they will be. It is also clear the dawn of customer choice is here and competition will end the single-source provider system. The new system will be built around efficiency, reliability, fairness and that amount of public oversight required of an industry so affected with the public interest.

Reliability of the electric system is of paramount importance whether or not the industry is restructured. Indeed, even though the proposed rules address reliability issues, neither the Commission rules under consideration, nor anything the Legislature might do, are timely enough to deal with the reliability component. That is why, after the August 10, 1996 outage, I immediately called a meeting of important western power interests to review the events that led to the outages and committed to a process of enhancing the reliability of the transmission system. It is also the reason why I directed our staff to form a technical committee on reliability issues and report back before the end of the year. I have been an active participant during the last few years in regional and national groups that are examining and debating the issue of electric system reliability.

Finally, the risks of moving forward with a well-thought out plan are minimal compared to the strategy of the delay you suggest. Instead we should build on the work the Commission has done. It provides a thoughtful, responsible, measured, effective, and informative basis for legislative debate on the best way to open up the rest of the marketplace to competition. In that regard, I believe the Commission will be ready to assist the Legislature as it takes up the issues that the Commission alone cannot.

Sincerely,



RENZ D. JENNINGS
Chairman

cc: Representative Jeff Groscost