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Arizona Public Service Company

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November 8, 1996

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

Arizona Corporation Commission

DOCKETED

NOV 08 1996

Re: Docket No. U-0000-94-165

DOCKETED BY *ZA*

Dear Sir or Madam:

Pursuant to Procedural Order dated October 11, 1996, Arizona Public Service with other interested persons were invited to file written comments on the proposed rules to introduce retail competition in Arizona.

Attached is an original and ten copies of Arizona Public Service Company's comments. If you have any questions, please contact me at 250-2031.

Sincerely,

Barbara A. Klemstine
Manager
Regulatory Affairs

BAK/JKD/pb

Attachment

COMMENTS ON
ARIZONA CORPORATION COMMISSION
PROPOSED RULES

DOCKET NO. U-0000-94-165

ARIZONA PUBLIC SERVICE COMPANY

NOVEMBER 8, 1996

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BEFORE THE ARIZONA CORPORATION COMMISSION

RENZ D. JENNINGS
Chairman
MARCIA WEEKS
Commissioner
CARL J. KUNASEK
Commissioner

) DOCKET NO. U-0000-94-165

IN THE MATTER OF THE COMPETITION)
IN THE PROVISION OF ELECTRIC)
SERVICES THROUGHOUT THE STATE) COMMENTS OF ARIZONA
OF ARIZONA) PUBLIC SERVICE COMPANY
) ON PROPOSED RETAIL
) ELECTRIC ACCESS RULES

INTRODUCTION AND SUMMARY

The Arizona Corporation Commission (“Commission”) should delay adoption of the proposed retail electric competition rules (“Proposed Rules”) accompanying Decision No. 59870, (October 10, 1996), and for that matter, any rules unilaterally requiring retail electric competition until the loose framework for competition suggested by the Proposed Rules has been both fortified and “fleshed out” in a manner that will more properly support the fulfillment of a clear timeline resulting in full retail electric supply competition no later than the year 2003. The Proposed Rules simply fail to address the many critical threshold legal, regulatory and implementation issues that must be decided before, and not after, any attempt to drastically restructure this State's multi-billion dollar electric industry.

The Commission should promptly schedule evidentiary hearings on these issues, as required by law, so that the Commission can make the right decisions now and avoid the chaos, confusion, consumer complaints, adverse economic impact and likely delays that will otherwise surely follow. Such hearings could easily be scheduled in the first

1 quarter of 1997. This would also allow any findings, conclusions and recommendations
2 of the Commission to be reflected in the Electric Competition Study Committee Report to
3 the Arizona Legislature - currently due on or before December 31, 1997.

4 The concerns of Arizona Public Service Company ("APS" or "Company") over
5 the Proposed Rules are neither obstructionist nor merely academic. Unless carefully
6 implemented, retail access can have many significant, unanticipated, and often unintended
7 and unwanted consequences. Numerous other states are taking such an approach in
8 recognition that retail access, if not properly handled, may very well produce adverse and
9 unintended consequences for customers. In contrast, the Commission Staff has urged
10 hasty adoption of the Proposed Rules without any meaningful assessment of their
11 consequences.

12 In California, countless thousands of manhours of effort by literally hundreds of
13 parties have identified, analyzed and, in many instances are still working to resolve the
14 myriad of technical and economic issues posed by retail access despite the existence in
15 that state of an overall regulatory framework far more extensive than the Proposed Rules
16 and despite clear and unambiguous legislative support for that effort.

17 The deficiencies in the Proposed Rules are all the more unfortunate because APS
18 and the majority of other parties participating in this rulemaking support the development
19 of customer choice and fair and efficient competition. APS has aggressively advocated
20 properly structured retail access through its own comprehensive Arizona Customer
21 Choice Plan, first described to the Commission in December 1995 and later set forth in
22 more detail in the Company's June 28, 1996 filing in this Docket. APS' request for
23 prompt evidentiary hearings and a full resolution of all the critical restructuring issues will
24 speed, rather than delay the implementation of retail access because doing anything right
25 the first time always proves to be faster in the long run than trying to patch it up later in
26 some ad hoc or piecemeal fashion. As noted above, APS is committed to proceeding

1 quickly with this challenging but achievable task of doing electric competition right the
2 first time.

3 APS asks the Commission now to carefully consider and fairly decide the
4 legitimate issues of reliability, obligation to serve, historic regulatory commitments,
5 significant economic consequences to state and local government, and financial impacts
6 on various customer groups.¹ Identifying and resolving the many complexities of retail
7 access now will provide a far more effective and workable retail access program, will
8 avoid unnecessary delays, and will better serve the public interest. Moreover, it will not
9 prevent Arizona consumers from reaping whatever benefits retail access may provide
10 simply because other states in the West may currently appear to be deregulating at a
11 faster pace, when in reality, detail analysis of the issues over several years has been the
12 basis of their structural frameworks.

13 APS' views on the Proposed Rules' deficiencies have been generally cataloged in
14 previous filings in this docket, which are incorporated herein by reference.² The
15 remainder of these comments will highlight some of the Company's more significant
16 concerns with the Proposed Rules. The Company intends to file additional comments on
17 November 27, 1996, and possibly thereafter, and to appear at the oral proceedings
18 scheduled by the Commission.

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22 ¹ Despite Staff assertions to the contrary, no party has had an opportunity to engage in any meaningful
23 public dialogue with Staff over the Proposed Rules, which were first unveiled in slightly altered form on
24 August 28, 1996. The minimal previous activities in the Competition Docket consisted of generally one-
25 way expressions of unsupported positions and the concerns or desires from private parties or special interest
26 groups. Moreover, Staff's cursory Economic Impact Statement was never discussed with, or shown to, the
parties until it was filed in the Docket Control on October 1, 1996. APS is unaware of any substantive
rulemaking that has gone through such an accelerated procedural process.

² These filings include the "Exceptions of Arizona Public Service Company to Recommended Order on
Proposed Retail Access Rule", dated October 7, 1996, "Comments of Arizona Public Service Company on
Commission Staff's Draft Rule", dated September 12, 1996, and "Response to Staff's Questions on
Competition and Industry Restructuring", dated June 28, 1996.

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I.
THE COMMISSION CAN NOT "GO IT ALONE" IN EITHER AUTHORIZING
OR IMPLEMENTING RETAIL ELECTRIC COMPETITION

The Commission has yet to present any legal authority for the proposition that it can, by regulation, reverse the legislatively created policy of regulated monopoly or issue CC&Ns not authorized by statute. No one has explained how the Commission can ignore the rights of existing certificate holders to notice and to an evidentiary hearing under A.R.S. § 40-252. Moreover, the Commission has failed to acknowledge that the Arizona Legislature has a critical role to play, not only with regard to the shift in a fundamental public policy of the past eighty (80) years (and not only with regard to municipal and other utilities not presently under the Commission's jurisdiction), but in providing the Commission with the legal tools to supervise and control the transition to full competition without either impairing that competition with needless regulatory restrictions or burdening incumbent providers with disparate regulatory treatment.

In addition to the Commission's lack of authority to unilaterally void APS' legislatively granted exclusive right to serve or to amend APS' CC&N without compliance with the notice and hearing provisions of A.R.S. § 40-252, the Proposed Rules would force APS to interconnect its facilities and grant the use thereof to competitors. The Commission's sole claim of authority regarding the joint use of electric facilities is A.R.S. § 40-332. That provision clearly is applicable only to those arrangements necessary to serve the respective PSC's exclusive service areas - not to facilitate competition between PSCs, something which the Supreme Court noted in James P. Paul that the Legislature had already expressly rejected.

Aside from the above provisions (A.R.S. § 40-281, et seq., and 40-332), the authorization of retail electric competition will necessitate a number of additional legislative changes. These include changes to numerous provisions in Title 40 relative to public service corporations and their rights and duties, Titles 9 and 48 relative to

1 municipal utilities and special districts, Title 39 relative to competitive data, and Title 42
2 relative to property and privilege taxes.³

3 The Proposed Rules address none of these issues. While some may possibly be
4 resolved between now and 1999, others must be enacted now to fill the jurisdictional void
5 presently existing and to protect the current state and local tax base. Thus, APS views
6 the further proceedings required prior to enacting any Commission rules on electric
7 competition as the perfect opportunity to coordinate the activities of the Commission with
8 those of the recently created Legislative Electric Competition Study Committee and of
9 the Legislature itself.

10 II.
11 THE ECONOMIC IMPACT STATEMENT IS SUPERFICIAL
12 AND LEGALLY INADEQUATE

13 The Economic Impact Statement ("EIS") attached to Staff's October 1, 1996, rule
14 filing is legally inadequate and fails to support adoption of the Proposed Rules. Arizona
15 law is clear that Commission rules must be accompanied by a meaningful, comprehensive
16 and in-depth review of the Proposed Rules' impact on the economy of the State, specific
17 small business and consumer groups, political subdivisions and others who will be
18 substantially affected by the Rules. See A.R.S. § 41-1055. The statute is quite detailed in
19 terms of the information and analysis required of a state agency. This statutory
20 requirement is not simply a "make work" burden; rather, the Legislature specifically
21 intended that no new rule be adopted unless "the probable benefits of the rule outweigh
22 the probable costs of the rule." See A.R.S. § 41-1052(C)(3).

23 The cursory and superficial EIS prepared by Staff trivializes this very important
24 statutory requirement by failing to even attempt to quantify or meaningfully accessing the
25 costs and benefits of the Proposed Rules, by reciting platitudes about the alleged benefits

26 ³ Retail electric competition will also affect Title 43 (income taxes) in ways impossible to predict at present.

1 of competition (seemingly “everybody wins”), and by ignoring many of the key impacts.⁴
2 For example, the Proposed Rules could significantly impair the stream of revenues from
3 the franchise fees, income taxes, sales taxes and property taxes paid by existing utilities to
4 various state and other governmental bodies that are then used to fund the State's
5 educational system and other critical social services. The EIS fails to even identify these
6 various revenue sources, much less analyze the extent to which tax revenues may
7 substantially decrease or how essential government programs will secure alternate funds.
8 Staff merely offers the unsupported assertion that:

9
10 The Proposed Rule could reduce state revenues received from
11 public utilities as rates and, therefore, utility revenues are reduced.
12 However, to the degree that consumers respond to lower prices
13 by increasing their demand for electricity, the reduction in utility
14 revenues would be offset by additional revenues from increased
15 electricity demand. (EIS, Page 6).

16 Staff offers no indication of the extent to which prices will, in fact, be lowered as a result
17 of the Proposed Rules, whether and to what degree consumers would respond to such
18 lower prices by increasing electricity consumption, the manner in or the extent to which
19 such increased demand could “offset” the loss in tax revenues from incumbent utilities.
20 The latter consideration is especially problematic when much of the alternative generation
21 supplies may come from out-of-state or quasi-governmental agencies that are exempt
22 from many of the taxes currently paid by Arizona's utilities.

23 Arizona political subdivisions are themselves consumers (and in some instances
24 sellers, e.g., Mesa, Wickenburg, Page, etc.) of electricity. Whether the higher metering,
25 transitional and transactional costs of retail access (and the attendant reliability concerns)
26 will be totally offset or compensated for by the presumed (but certainly not guaranteed)
lower cost generation for governmental customers is certainly unknown to APS, and if

⁴ By way of comparison to Staff's nine-page EIS, the FERC prepared a Final Environmental Impact Statement of several hundred pages in conjunction with its Order 888 open access rule.

1 the Commission has made such an analysis, it has not shared it with anyone. Thus, Staff's
2 unsubstantiated assertion that "implementation of the Proposed Rule should result in no
3 increased cost to political subdivisions relative to cost changes that may otherwise occur"
4 (EIS, Page 3) cannot be credibly accepted.

5 The EIS also takes credit for hypothecated benefits from the Proposed Rules
6 (such as greater efficiency, technological innovation, development of low-cost new
7 resources, etc.) that are undocumented, unquantified or likely to exist, if at all, as a result
8 of changes in the wholesale competitive generation market, which is not affected by the
9 Proposed Rules. These changes (and any resultant impacts) will occur even without
10 Commission action. Moreover, the EIS never explains precisely what costs, if any, of
11 providing electric service in Arizona will be decreased as a result of the Proposed Rules
12 (or if so, whether the reduction could have occurred in a less intrusive fashion through
13 other regulatory mechanisms). Nor does Staff mention the higher capital costs likely to
14 be experienced by incumbent utilities under the Proposed Rules, the generation cost
15 increases necessitated by the uneconomic investment in mandated solar facilities, or the
16 significant economic losses if the proliferation of unregulated (or lightly regulated)
17 generation suppliers under the Proposed Rules creates a less reliable power supply that
18 increases the risk of service interruptions. The EIS fails to inform the reader that the
19 required restructuring of rates for service to customers who are unable or who decline to
20 access the competitive generation market may inevitably and unavoidably result in rate
21 increases to certain customers as competition forces services to be priced closer to cost
22 without benefit of the traditional inter and intra class subsidies previously authorized by
23 this Commission. The EIS also fails to evaluate whether services traditionally provided
24 by regulated monopolies (billing services, metering and meter reading and customer
25 information) will be more efficiently provided by competitive companies.

26 In short, the Staff's EIS fails to pass muster, both legally and as a basis of rational

1 public decision making on issues vital to every resident of this state. It fails to comply
2 with Arizona statutory requirements and it fails to inform the Commission and the public
3 about the significant public and private costs, impacts and consequences of the Proposed
4 Rules. Competition by its nature creates winners and losers -- Arizona law requires that
5 Commission fully and frankly inform the public of this inescapable fact. The Commission
6 should require its Staff to prepare an adequate EIS as soon as possible and should
7 postpone adoption of the Proposed Rules until the results (and underlying analysis and
8 workpapers) have been made available to all parties and fully considered by the
9 Commission.⁵

10
11 III.

12 THE COMMISSION SHOULD CLARIFY AND/OR MODIFY THE PROVISIONS
13 REGARDING THE RECOVERY OF STRANDED COSTS

14 APS is encouraged by the changes in the Proposed Rules (from an earlier draft)
15 that now acknowledges the Commission's obligation to assure full recovery of all
16 unmitigated stranded costs. However, there still exists several ambiguities which should
17 be addressed now to minimize the complexities and aid in the timely resolution of issues
18 in the workshop process and subsequent hearings. Therefore, the Company recommends
19 three specific changes.

- 20 1) The definition of "stranded costs" in R14-2-1601(8)
21 should be modified to delete the word "net" in determining
22 the difference between the "regulatory" value of assets and
23 the "market" value of those assets; the term "net" adds no
24 substantive meaning. In addition, calculating the "value" of
stranded costs under traditional regulation may suggest to
some that a measure other than actual book costs should be

25 ⁵ The fact that Staff's EIS makes no effort to seriously evaluate the Proposed Rules' impact on residential,
26 small business, low income and high cost (to serve) rural electric consumers is itself a sufficient reason to
redo the EIS. Failing to look for potential problems or simply assuming them out of existence or, worse yet,
just plain ignoring them does not equate to making Arizona a "leader" in retail electric competition. In
fact, it puts us that much further behind.

1 used. Therefore, the Commission should delete the term
2 "value" and focus on the recorded costs of the assets and
3 obligations in question. Next, the Proposed Rules' definition
4 allows recovery only for jurisdictional assets and
5 obligations "necessary to furnish electricity." To be
6 consistent with prior Commission practice, and to avoid the
7 claim that the Commission is establishing an unlawful
8 higher standard, the word "necessary" should be deleted
9 and in its place a phrase such as "used or useful" should be
10 inserted. Finally, "stranded costs" in the Proposed Rules
11 appears to refer only to those assets and obligations created
12 "prior to the adoption of this article." This limitation is
13 inappropriate in light of the multi-year phase in period of
14 the Proposed Rules' and the implementation costs that may
15 be associated with each phase-in period.

16 2) The Proposed Rules' "mitigation" standard should be
17 revised. The phrase "every feasible, cost-effective measure"
18 suggests a standard of perfection, measured by hindsight, that
19 is presumably unintended, is inconsistent with the
20 Commission's own definition of "prudent" and would impose
21 an unlawful restriction on a utility's entitlement to recovery of
22 stranded costs. The "duty to mitigate," to the extent it exists
23 in the competitive market, has always been recognized to be
24 one of reasonableness, not perfection, and must be judged in
25 light of what was known at the time of the decision. See,
26 e.g., West Pinal Family Health Center, Inc. v. McBryde, 162
Ariz. 546, 785 P.2d 66 (1989); A.R.S. §§ 47-2712, 2715.⁶
In addition, the Proposed Rules' mitigation example of
"offering a wider scope of services for profit" could be read
as suggesting an incumbent utility is required to evaluate
every possible lawful commercial endeavor whether or not
related to traditional utility service and pursue each expected
to be profitable. The Commission obviously did not intend to
impose such a Herculean (and patently unlawful) obligation
as a pre-condition to stranded cost recovery. APS requests
this "example" be deleted or at least substantially revised.

⁶ As a federal court recently emphasized:

The test of proper cover (the commercial equivalent of mitigation) is whether at the time and place the buyer acted in good faith and in a reasonable manner, and it is immaterial that hindsight may later prove that the method of cover used was not the cheapest or most effective.

Simeone v. First Nat'l Bank Ass'n, 73 F3d 184, 189 (8th Cir. 1996).

1 3) The Commission should clarify the nature of the
2 proceedings and the manner in which all non-mitigatable
3 stranded costs will be recovered. The Proposed Rules
4 should specify that a request for stranded cost recovery will
5 be acted upon promptly by the Commission and that the
6 factors listed in the Proposed Rules will be utilized only in
7 determining the type of recovery mechanism and the period
8 over which stranded costs will be recovered, not whether
9 all such costs are to be fully recoverable which has already
10 been determined by the Commission through the
11 aforementioned changes. For this reason, the provision in
12 Proposed R14-2- 1607(I)(8) requiring a limitation on the
13 recovery period should be stricken. As recognized in the
14 body of the rule, the recovery of stranded costs is a legal
15 right, and such recovery has already been assured.

16 IV.

17 THE COMMISSION SHOULD CLARIFY THE OBLIGATION OF "AFFECTED
18 UTILITIES TO SERVE CUSTOMERS NOT ELIGIBLE FOR RETAIL ACCESS
19 UNDER THE PROPOSED RULES

20 Although the Proposed Rules relieve APS and other "Affected Utilities" of the
21 existing obligation to serve customers having competitive choice (excepting as to
22 distribution service), i.e., 20% in 1999; 50% in 2001, and 100% in 2003, it does not
23 conversely affirm that such an obligation to provide service continues until 2003 for all
24 other non-eligible consumers. This should be clarified in the Proposed Rules so that the
25 "Affected Utilities" understand that the obligation to provide service and plan for
26 generation resources clearly exists during the phase-in period for those customers not
eligible for access.

V.

THE PROPOSED RULES DO NOT PROMOTE OR SUPPORT
RECIPROCAL OPPORTUNITIES FOR FAIR COMPETITION

The Proposed Rules do nothing to support or promote reciprocal opportunities
for "Affected Utilities" to fairly compete for sales with out-of-state utilities. At the same
time, they propose an incomplete "fix" to the problem of competition between PSCs
subject to full Commission supervision and jurisdiction and non-PSCs. Both of these

1 shortcomings could be addressed by clarifying A.A.C. R14-2- 1603, A.A.C. R14-2-1604,
2 and A.A.C. R14-2-1611, some of which changes were already proposed in the Company's
3 September 12, 1996 Comments.

4 Specifically, the Commission should limit the ability of an "electric service
5 provider" to obtain a CC&N under A.A.C. R14-2-1603 to those entities that would
6 thereby become subject or agree to be subject to the Commission's full regulatory
7 jurisdiction. This not only resolves a potential conflict between A.A.C. R14-2-1603 and
8 R14-2-1611 (wherein municipal utilities, special districts and all other manner of non-PSC
9 entities are clearly excluded from retail electric competition), it broadens the scope of
10 A.A.C. R14-2-1603 to exclude other electric service providers not regulated by the
11 Commission such as tribal utilities and federal agencies (e.g., WAPA) until and unless
12 they become or agree to be subject to exactly the same degree of Commission regulation
13 as "Affected Utilities".

14 The Company's second proposed clarification to A.A.C. R14-2-1603 would be to
15 add the following as an additional filing requirement for obtaining a CC&N: "A detailed
16 description of the degree to which the Applicant has provided or is willing to provide
17 comparable access to competitors from Arizona to its existing non-Arizona service area
18 or to its existing and future customers outside Arizona." While not making interstate
19 reciprocity a "condition" for obtaining an Arizona CC&N, which provision may be in
20 conflict with federal law, it would make reciprocity a factor which the Commission could
21 consider in determining whether or not the certification of a specific applicant to provide
22 competitive services is in the public interest. APS is aware of no legal authority that
23 would prevent the Commission from making such a public interest evaluation of new
24 market entrants.

25 A.A.C. R14-2-1604 needs to be modified by adding the words "from certificated
26 electric service providers" after the word "supply" in the second line of subsections (A),

1 (B) and (D). This makes it clear that only Commission certificated providers can compete
2 in Arizona.

3 APS also recommends a number of modifications to A.A.C. R14-2-1611, which it
4 believes to be consistent with the above-described changes to A.A.C. R14-2-1603:

5
6 A.A.C. R14-2-1611(B): delete first comma and add
7 words "as of the effective date of this Article" after
8 "Commission" but before the second comma and insert the
9 word "and" prior to "which";

10 A.A.C. R14-2-1611(C): add words "presently unregulated
11 by the Commission" after word "utilities" in line 3; strike
12 words "of Arizona political subdivisions or municipal
13 corporations" from the same sentence; make the same
14 changes to lines 6 and 7;

15 A.A.C. R14-2-1611(D): delete present language and
16 substitute the following:

17 An Arizona electric service provider not subject to
18 the jurisdiction of the Commission as of the
19 effective date of this article may participate in
20 competitive generation supply pursuant to this
21 Article if and only if it becomes subject to or
22 agrees to be subject to full regulation by the
23 Commission in the same manner as an Affected
24 Utility.

25 VI.
26 THE PROPOSED RULES IGNORE IMPORTANT ISSUES
REGARDING THE IMPLEMENTATION OF RETAIL ELECTRIC COMPETITION

Nothing will be more damaging to the cause of increasing competition in the
provision of electric service than an unstructured introduction of customer choice caused
by unresolved technical issues such as metering and scheduling or because of customer
confusion and disillusionment from the results of competitive choice. In point of fact, the
metering and scheduling technology necessary to allow thousands of APS customers to
have retail access does not currently exist, nor is there any assurance that it will exist by

1 1999 or, if so, at what cost and with what level of availability. Other jurisdictions that
2 have promised early retail access to residential and small commercial customers such as
3 California and Great Britain have likewise found the challenge greater than first thought
4 and, after far more study and analysis than has been the case in Arizona, appear no closer
5 to a solution.

6 The Commission Order initiating this rulemaking process, Decision No. 59870
7 states that:

8 It is the expectation of the Commission that the rates
9 for Standard Offer service will not increase, relative to
10 existing rates, as a result of allowing competition. Any
11 rate increase proposed by an Affected Utility for
Standard Offer service must be fully justified through a
rate case proceeding.

12 This is an "expectation" for which there is absolutely no evidentiary basis. It
13 completely ignores the likely effects of rate restructuring on the provisions of standard
14 offer and unbundled services as ordered by the Proposed Rules themselves (and the cost
15 shifting that results from the self-selected rate process) and assumes stable or declining
16 generation, transmission and distribution unit costs for the indefinite future which is an
17 unlikely consequence.

18 VII.
19 THE SOLAR PORTFOLIO REQUIREMENTS OF PROPOSED
20 A.A.C. R14-2-1609 SHOULD BE MODIFIED

21 In its September 12th Comments, APS noted the tremendous cost this
22 requirement would impose on Arizona consumers. It also explained why this sacrifice by
23 Arizona customers might not even result in a single kw of increased solar capacity in this
24 state.⁷ APS and others have pointed out that this requirement may serve as a market
25 barrier against new entrants or, at the very least, greatly limit the number of potential
26

⁷ The Proposed Rules do not appear to specifically require that mandated solar resources be constructed in Arizona or that such resources even be used to serve Arizona consumers.

1 market suppliers in Arizona. APS has yet to see any rebuttal to these arguments.
2 Moreover, the Commission has failed to provide any cost/benefit analysis demonstrating
3 customer benefits from this proposal; indeed, it is far more likely that the millions of
4 dollars in added costs to customer bills will significantly erode whatever customer savings
5 the Proposed Rules might otherwise provide.

6 The Company's September 12th Comments made an alternative proposal that
7 carried with it the following advantages:

- 8 (1) It was far less costly to Arizona consumers and
9 the level of that cost could be determined in
10 advance.
11 (2) It would guarantee between 25 and 50 MW of
12 new solar generation in Arizona.
13 (3) It would not serve as a market barrier against
14 participation by any otherwise eligible
15 "electric service provider".
16 (4) It would not create additional legal issues as to
17 the Commission's authority to demand specific
18 investment decisions by utility management or
19 to impose penalties on "electric service
20 providers" and their customers - both of which
21 are raised by Proposed A.A.C. R14-2-1609 as
22 currently written.

23 APS would like to see more discussion of what it believes to be a clearly superior
24 proposal - one that could be adopted either in this proceeding or, perhaps more properly,
25 in the current resource planning proceeding.
26

23 CONCLUSION

24 The many significant "lessons learned" from electric restructuring efforts abroad
25 and by this country's own prior restructuring of the gas and telecommunications industries
26 reveal that the net benefits of competition can only be achieved through a reasoned and

1 properly implemented process, not one that is based on abstract economic theories or
2 well-intentioned "hopes" that competitive benefits will somehow materialize. History has
3 also proven that the ardent proponents of prompt deregulation have consistently
4 underestimated the costs and logistical difficulties of transitioning to a competitive
5 market.

6 APS urges the Commission to resist the temptation to adopt the Proposed Rules
7 until a more complete framework to support the future competitive market in Arizona is
8 determined rather than adopt some manner of a competitive framework quickly. The
9 Commission should take the time to consider and decide, with appropriate public and
10 evidentiary input, the critical competition issues raised by the parties so that its final rules
11 will be more likely to produce net positive gains for all customers and not just reallocation
12 of potentially increasing costs among "winners" and "losers." APS therefore reiterates its
13 request that the Commission defer adoption of the Proposed Rules until the hollow
14 framework for competition created thereby is more complete and substantiated by a firm
15 basis of fact.

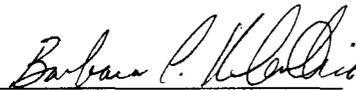
16 RESPECTFULLY SUBMITTED this 8th day of November, 1996.

17
18 SNELL & WILMER L.L.P.
19 by: Thomas L. Mumaw / SMW

20 Steven M. Wheeler, Esq.
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24 Attorneys for Arizona Public Service Company
25 and
26 Herbert I. Zinn, Esq.
Senior Attorney
Law Department
Arizona Public Service Company

CERTIFICATE OF SERVICE

The original and ten (10) copies of the foregoing document were filed with the Arizona Corporation Commission on this 8th day of November, 1996, and service was completed by mailing, hand-delivering or faxing a copy of the foregoing document this 8th day of November, 1996 to all parties of record herein.



Barbara A. Klemstine