

**CITIZEN**  
communications



**ORIGINAL**

**Carl W. Dabelstein, CPA**  
Vice President, Regulatory Affairs  
Public Service Sector

2901 N. Central Ave., Ste 1660  
Phoenix, AZ 85012-2736  
Direct Dial: (602) 532-4424  
Fax: (602) 265-3415  
Email: cdabelst@czn.com

February 22, 2002

Arizona Corporation Commission

**DOCKETED**

FEB 22 2002

DOCKETED BY	<i>nae</i>
-------------	------------

AZ CORP COMMISSION  
DOCUMENT CONTROL

2002 FEB 22 P 4: 15

RECEIVED

Chairman William A. Mundell  
Commissioner Jim Irvin  
Commissioner Marc Spitzer  
Arizona Corporation Commission  
1200 West Washington  
Phoenix, Arizona 85007

**RE: DOCKET NO. E-00000A-02-0051**

Dear Commissioners:

This letter is submitted in response to the letters issued by Chairman Mundell on January 14<sup>th</sup> and January 30<sup>th</sup>, 2002, by Commissioner Spitzer on January 22, 2002, and by Commissioner Irvin on February 7, 2002, containing questions pertaining to the Arizona Corporation Commission's Electric Restructuring initiatives and questions concerning its regulatory oversight of utility holding companies operating in the State of Arizona.

It is generally known that, in 1999, Citizens Communications Company ("Citizens" or "Company") made the strategic business decision to concentrate solely on the Telecommunications Industry. In connection therewith, all of the energy and water properties comprising the Company's Public Service Sector were to be sold. Thus far, all of the water properties in the six states served have been sold, as have the gas distribution operations in Louisiana and Colorado. The remaining Sector properties, including the Gas and Electric operations in Arizona are still being offered for sale. While the duration of Citizens' continuing ownership and operation of its Arizona Electric Division is uncertain at this time, it is anticipated that some other party will succeed Citizens in the long term. That party may have different opinions with respect to various elements of the Commission's Electric Restructuring plans and Rules. Moreover, due to other competing internal resource needs, it is not possible to reply to each question with the level of detailed response it may deserve. Accordingly, rather than respond to the questions individually, with statements of position or policy recommendations, we are providing an overview of our position on the topics for which input is being sought.

Back in November 2001, State Senator Ruth Solomon requested certain information from Citizens and the other electric utilities in Arizona for the Joint Legislative Study Committee on Electric Deregulation Issues. Many of her questions are on topics that parallel those of the Commissioners that have been asked in connection with this inquiry. Accordingly, a copy of Citizens' reply to the Senator is being transmitted herewith.

I am also attaching a copy of the comments filed by Citizens on September 5, 2001, in the generic proceeding concerning the Arizona Independent Scheduling Administrator, Docket No. E-00000A-01-0630.

### **Electric Restructuring**

Citizens is somewhat unique. While it is an investor-owned utility, it is dissimilar from Arizona Public Service Company and Tucson Electric Power Company in many respects. Its Arizona electric operations more closely resemble those of a distribution co-op. Except for a small emergency back-up unit in Santa Cruz County, it is totally generation-dependent. Its service base is essentially comprised of small urban and rural customers, mostly residential and few industrial.

As a generation-dependent electric utility, there is no financial incentive for Citizens to be an advocate for the introduction of retail competition into its service territory. Nevertheless, Citizens has been, and will continue to be, an ardent and active supporter of the Commission's efforts throughout this lofty undertaking. Company employees and representatives have participated in all of the various workshops and working groups that have been established and scheduled, as well as the Desert Star project and all of the activities associated with the creation of the Arizona Independent Scheduling Administrator ("AISA"). We have done this not for our economic benefit, but because our customers have expressed a clear desire to have options, and we want to accommodate them.

While there is no potential economic benefit to be realized by Citizens from the emergence of electric competition, the Company has considerable financial exposure. Substantial costs not implicit in the revenue requirements underlying current service rates have been, and will continue to be, incurred by Citizens in connection with this undertaking. Funding has been provided by Citizens in connection with the organizational costs incurred by Desert Star and the AISA. Funding of customer education programs has also been, and will continue to be, required to keep customers properly apprised of restructuring developments and

the resulting impacts and requirements. Significant legal and consulting fees, as well as substantial internal payroll, travel, and other costs, have been incurred in preparing and submitting the various mandated filings, attending hearings and conferences, and in connection with participation in the various working groups. Moreover, the Company has incurred hundreds of thousands of dollars to prepare its customer accounting and billing systems to accommodate required new processes and the additional informational needs associated with the transition to retail competition. While Citizens supports the move to retail competition, it respectfully requests that the Commission afford it a reasonable opportunity to recover the costs it incurs in connection therewith that are not being recovered through rates.

As the transition to electric competition moves forward, Citizens believes that the Commission should continue to strive for the creation of level playing fields among all market participants, and take the necessary steps to assure that consumers fully understand the potential benefits **and risks**. With respect to the former, incumbent utilities and new market participants should be treated in a consistent and equitable fashion. New participants should not be treated differently or provided economic incentives not available to the incumbent utilities. Moreover, as being the providers of last resort, the incumbents should not be unduly burdened or inequitably treated such they are economically harmed or required to compete at a disadvantage. As for the latter, consumers must be given accurate and reliable information so that they fully understand that, while the introduction of retail competition has the potential for tangible economic benefits and cost savings, as with any unregulated commodity market subject to the effects of supply and demand imbalances, there are also going to be risks of volatility and higher prices.

Thus far, for a variety of reasons, the expectations underlying the move to fully competitive retail markets have not materialized, nor has the pace of the transition occurred, as originally anticipated. Citizens has not observed any significant interest by other electric service providers in supplying power to customers in our service territory, particularly residential and small business customers. While that may ultimately change, we do not expect it to occur in the foreseeable future. Nevertheless, we continue to assert our commitment to open our service territory to retail competition as soon as possible after the conclusion of Citizens' current PPFAC matter now before the Commission.

**Holding Companies  
And Affiliated Interests**

Citizens believes that the Commission has ample authority to effectively oversee and regulate holding companies and affiliated interests of utilities operating in the State of Arizona. There is no need for any changes to be made.

The procedures covering the Commission's regulation of affiliated interests are contained in Article 8 of Chapter 2 of Title 14 of the *Arizona Administrative Code*. Such rules apply to all Class A investor-owned utilities in Arizona and cover all transactions between the respective utility and its affiliates. Commission approval is required for the creation of holding companies. There are restrictions on the types and amounts of transactions that may be made by utilities with their affiliated entities. Moreover, there are very detailed annual reporting requirements. With the authority to approve the creation of holding companies, and with the information contained in the annual informational filings combined with its ability to obtain further data through the rate case discovery process, the Commission has ample regulatory tools at its disposal to achieve effective regulatory oversight of holding companies and affiliated interests.

As a personal note, I have had the opportunity to observe over a period of many years the effectiveness of the Commission's regulatory oversight of utility holding companies and affiliated interests. Not only as an employee of a utility regulated by the Commission, but as its former Utilities Division Director in 1997, and as a consultant to the Commission for a period of nearly ten years, I have followed the manner by which the Commission has exercised its regulatory authority in a number of rate cases, including those of Citizens, Contel, Tucson Electric Power, and Qwest. Where the test-year costs and revenues associated with transactions between the respective utility and its affiliates proposed for inclusion in the determination of revenue requirements were either inappropriate or not properly reflective, adjustments, and disallowances have been ordered.

To the extent the Commission continues to have and exercise is broad regulatory authority, and the policies and procedures contained in Article 8 are rigorously enforced, Arizona consumers of utility services will be amply protected.

Respectfully,



Carl W. Dabelstein

Attachments



**Citizens Utilities Company**

2901 N. Central Ave., Ste 1660  
Phoenix, AZ 85012-2736  
Direct Dial: (602) 532-4424  
Fax: (602) 265-3415  
Email: cdabelst@czn.com

**Carl W. Dabelstein, CPA**  
Vice President, Regulatory Affairs  
Public Service Sector

November 2, 2001

Senator Ruth Solomon  
Capital Complex, Senate Building  
Phoenix, AZ 85007

RE: Electric Deregulation Issues

Dear Senator Solomon:

You had requested that I provide you with information regarding the restructuring of the Electric Industry that you could utilize as Co-chair of the Joint Legislative Study Committee on Electric Deregulation. I have made every effort to provide you with current and relevant information, in response to your questions, which are set forth below.

**What is your position with respect to distributed generation and can anything be done to allow easier access to the grid?**

Citizens does not oppose the concept of distributed generation. Access to the grid already exists, however physical connections may be enhanced through the standardization of interconnection equipment requirements. Diverse ownership may degrade electrical system reliability unless uniform equipment specifications and operating agreements are developed and enforced.

**Is Arizona's dependence on natural gas for merchant plants a risk, given the volatility in natural gas prices?**

The price of natural gas is a function of the supply and demand for commodity and transportation capacity. As the dependence on gas as the primary generation fuel for new merchant plants increases relative to the availability of gas supply and transportation capacity, an upward pressure on gas prices is expected to occur.

**Has the price cap ordered by the FERC discouraged any merchants from building plants?**

Intuitively, a FERC capping of the wholesale price of electricity would likely necessitate a reduction in forecasts of future revenue streams from a new merchant plant being considered, thereby discouraging interest by potential investors. Citizens, however, is unaware of any specific decisions made with respect any to planned merchant plants as a result of the FERC price caps.

**Are there any guarantees that the gas will be available to these plants, such as all requirements contracts and who currently holds them?**

There are no guarantees of the availability or cost of gas in a de-regulated market. It is reasonable to assume that the owners of merchant power plants will attempt to secure a supply of natural gas as the generating fuel through a variety of supply sources and contractual arrangements that strike a proper balance to their investors between the mitigation of risk and risk taking. The extent to which the plant owners have accepted supply risks in their portfolio decisions, and their ability to enforce their contractual rights will ultimately be the chief determinants of fuel availability.

**Please explain the situation causing an \$85 million deficit in Citizens' PPFAC balance and how it can be prevented when the rate caps are removed in the respective service territories.**

Citizens obtains essentially all its electric power supply under a full requirements contract with Arizona Public Service Company. Citizens' electric rates include a Purchased Power Fuel Adjustment PPFAC provision. Its current basic service rates include 5.194 cents per kWh to cover the cost of power supplied by APS and delivered to Citizens' service area using wholesale transmission service contracts with the Western Area Power Administration. During the period May-August 2000, the actual average monthly per kWh cost of power obtained from APS ranged from 11.4 to 17.5 cents. At the end of September 2000, the cumulative costs of power exceeded recoveries from customers by approximately \$54.2 million. In September 2000, Citizens filed with the Arizona Corporation Commission ("ACC") an application for an increase in the variable PPFAC adjustor that would enable to Company to recover the deficit over a period of thirty-six months.

For several months after the PPFAC filing was made, the cost of power supplied by APS declined such that the under-recovered balance had remained somewhat stable. In April, however, costs again began to rise. The average per kWh cost for April and May were 11.7 and 26.6 cents, thereby causing the under-recovered balance to rise to nearly \$85 million.

In June 2001, Citizens and APS signed a new power supply agreement that fixes the cost of power at a rate of 5.8 cents per kWh for a period of seven years.

Citizens is planning to file modifications to the PPFAC filing that is pending before the ACC. That filing will reflect a change in the requested PPFAC adjustor and the period during which it would be in effect, the Company is still seeking recovery of the entire under-recovered power supply costs.

With respect to the affect of rate caps and their removal, the subject is moot during the seven-year period covered by the new APS power as the per kWh cost of power is fixed. What will occur at the end of seven years is uncertain, because it is impossible to predict the cost of power so far into the future.

**It appears, given the Citizens, AJO and San Carlos matters, that customers of entities that do not own generation are incurring higher rates as a result of deregulation. Why won't this occur across the state once all generation is moved to affiliates?**

The wholesale price for power will largely be a function of supply and demand and the term and price stability of power supply contracts, as compared to the cost of owning and operating power production facilities. The price to be paid by retail consumers will be a function of whether they opt to take power from competitive supply sources or remain standard offer customers. If the customers choose to leave their host utility, the market will set their power costs. If they remain standard offer customers, their electric rates will continue to be set by the Arizona Corporation Commission, presumably after evidentiary hearings during which the prudence of the respective utility's power supply procedures and reasonableness of its costs will be determined. Such will be the case whether the serving utility is generation dependent or has transferred generation facilities to affiliated entities.

In areas where transmission import capability is limited, the effectiveness of increases in any supply due to deregulation may be further blunted because of limited capability to access remote generation. The ACC's present rules require that the utility distribution companies retain the obligation to assure that adequate import capability is available to meet the load requirements of all distribution customers within their service areas. The construction of new lines, in compliance with this rule, is yet to be demonstrated and the actual cost or cost/benefit is yet to be determined.

**Does the unbundling of rates mean federal jurisdiction over retail generation customers? Please explain the Federal Power Act issues.**

The unbundling of rates simply means that the customers' bills contain a greater itemization of services and prices, similar to McDonalds charging for the bun and burger separately. Unbundling can be done with no change to the traditional regulatory paradigm. It does not mean that federal regulators are usurping the jurisdictional authority of state regulators over retail electric service.

Rate unbundling has become an issue with respect to electric restructuring because the provision of fully bundled electric service to some customers will cease to exist, and separate billing elements will become necessary. Under the typical electric rate unbundling scenario, current rates will be disaggregated into separate generation, transmission, and distribution components. Generation will become non-regulated. Transmission will continue to be largely regulated by the Federal Energy Regulatory Commission ("FERC"), while most distribution service will continue to be regulated by the individual states.

Standard offer customers will continue to be fully served by their host utilities and pay bills reflecting the sum of unbundled generation, transmission, and distribution charges. Customers opting to take power from other sources will pay generation charges to the alternative power supplier, transmission charges to a transmission company, and distribution charges to their host utility.

A key Federal Power Act issue is the question of regulatory jurisdiction over retail transmission service and rates. In Order No. 888, the FERC issued rules that were intended to ensure that competing power suppliers would have equal access to the lines of transmission-owning utilities. In the Order, the FERC claimed the right to regulate unbundled retail transmission service and mandated that transmission owners obtain an Open Access Transmission Tariff ("OATT") covering such service. Citizens' application for an OATT was accepted as filed by FERC on September 10, 2001.

Individual states do maintain authority over bundled retail sales that include transmission. Several state regulatory agencies appealed Order No. 888, contending that the Federal Power Act preserves state regulation over all retail transmission from generators to customers in the same state. The D.C. Court of Appeals subsequently upheld FERC jurisdiction, however, that was appealed, and the U.S. Supreme Court has since agreed to consider the matter in its upcoming session.

### **Can a state like California acquire electric infrastructure and remove federal jurisdiction over retail customers?**

The Federal Power Act gives the FERC jurisdictional authority over prices, terms, and conditions of transmission service and sales for resale in interstate commerce; approval over power pooling; and authority to require interconnection of transmission facilities. Except for the ultimate resolution of the retail transmission jurisdiction issue to be heard by the U.S. Supreme Court as previously described, the FERC does not have jurisdiction over retail electric business. That is the jurisdiction of the individual states.

### **What type of analysis should be done to determine whether regional and sub-regional markets are truly competitive? Market monitoring and power market issues?**

Market power is a major impediment to a truly competitive market. Market power may exist in two forms, vertical and horizontal. Vertical market power may occur when a single firm can control two related and necessary activities. This may occur in the electric utility business when one firm controls both electric generation capacity and critical transmission facilities. Market power can occur if there is an unnecessary restriction by the owner of the transmission facilities that hinder competing electric generators from gaining access to transmission facilities. Separating control of generation from control of transmission is designed to eliminate the potential for vertical market power. Having fully competitive power markets requires an easily accessible, efficient, well operating transmission system. Horizontal market power is more difficult to identify and eliminate. It occurs when a market participant acquires a sufficient share of the market such that it can exercise predatory pricing practices intended to eliminate competitors.

The FERC and state regulators are attempting to eliminate the potential for vertical market power and abuses by creating Independent System Operators and Regional Transmission Organizations. Such entities are required to monitor bulk power markets for abuses and to report all anomalies. Continuous monitoring of pricing practices, market share, and capacity availability are critical for minimizing the potential for horizontal market power.

**Does FERC have all legal powers to create competitive markets? Regional Transmission Organizations and unbundling?**

The Federal Power Act granted FERC jurisdiction over interstate transmission. There is no explicit authority for FERC to create competitive markets, however, there is implicit authority to facilitate competition. The unbundling of transmission systems and mandate to form Regional Transmission Organizations are two examples.

**Who has responsibility over transmission planning and construction?**

Under the traditional obligation to serve, utilities have been required to have sufficient facilities in place to provide safe, reliable service, in sufficient quantities and at fair prices to everyone in its service area. That includes transmission facilities. Historically, transmission systems have been planned according to established regional, state, and local criteria. Such criteria considered future transmission service needs, generation plans, the time required to build facilities, the sizing of facilities, and their most suitable locations for the efficient transfer of energy between generation sources and customer loads. These generally reflect the applicable requirements of Regional Reliability Council and the National Electric Reliability Council, which are intended to standardize the process.

Recently, the time horizons associated with transmission system planning have lengthened as a result of public opposition to new transmission lines and the

numerous uncertainties associated with permitting and certification. As the electric industry transitions from one characterized by vertically-integrated monopoly service providers to one characterized by a combination of competitive and regulated entities providing discrete service elements, the focus is on the future and the extent to which the traditional planning process must or will change. The role of the Independent System Operators and Regional Transmission Organizations in future transmission planning efforts has been a major focus of the FERC.

**What are the legal prerequisites for making competitive markets instead of cost-based markets?**

As in all commerce, there are statutes and regulation that direct behavior and impose penalties for improper behavior in the marketplace. There are also anti-trust laws that provide the framework for determining whether a company's conduct is unfair or illegal. These are at least the starting point for creating competitive markets instead of cost-based markets.

If I can be of further assistance, please do not hesitate to call me at (602) 532-4424.

Yours truly,



Carl W. Dabelstein, CPA  
Vice President, Regulatory Affairs  
Citizens Communications Company

FILED  
JUN 11 2001  
PHOENIX, ARIZONA

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

**BEFORE THE ARIZONA CORPORATION COMMISSION**

WILLIAM A. MUNDELL  
CHAIRMAN  
JIM IRVIN  
COMMISSIONER  
MARC SPITZER  
COMMISSIONER

IN THE MATTER OF THE GENERIC  
PROCEEDING CONCERNING THE ARIZONA  
INDEPENDENT SCHEDULING  
ADMINISTRATOR.

DOCKET NO. E-00000A-01-0630  
**COMMENTS OF CITIZENS  
COMMUNICATIONS COMPANY**

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

Citizens Communications Company ("Citizens") submits these Comments in response to the issues identified in the August 3, 2001 Procedural Order.

**1. State and discuss the purpose of the AISA.**

The purpose of the Arizona Independent System Administrator (AISA) is to assure that utilities that own or operate transmission facilities provide nondiscriminatory open access to transmission facilities to serve all customers as required by the Commission's Retail Electric Competition Rules. The AISA was viewed as an interim organization to be formed by the utilities to facilitate retail competition until such time that an Independent System Operator could be developed. Specifically, under the Rules, the AISA's purpose was to:

- Calculate "Available Transmission Capacity" (ATC);
- Develop and operate a statewide Open Access Same-Time Information System (OASIS);
- Implement and oversee nondiscriminatory application of operating protocols to ensure statewide consistency for transmission access;
- Provide dispute resolution to resolve claims of discriminatory treatment;
- Receive all requests for reserving and scheduling the use of Arizona transmission facilities; and

1           •       Implement a transmission planning process that included all AISA participants.

2   2.       **State and discuss the necessity of the AISA and whether it contributes to the**  
3           **development of retail competition.**

4           The AISA served a valuable function by facilitating the development of operating  
5 protocols. Those protocols constitute the basic rules for nondiscriminatory access and use of  
6 transmission facilities. The protocols were filed and accepted by FERC as part of the AISA  
7 tariff. Certain of the utilities, however, have incorporated these protocols in their Open Access  
8 Transmission Tariffs (OATT) that are filed at FERC or indicated their intent to do so. By so  
9 doing, the utilities have assured that the protocols will continue to be used whether the AISA  
10 exists or not.

11           Other than serving as the facilitator for the development of the operating protocols, the  
12 AISA has not had any direct influence on the development of retail competition in the state.

13   3.       **State and discuss the functions of the AISA.**

14           At the present time, the AISA is not in operating mode. Currently, there are no  
15 customers taking competitive service in any Affected Utility's service area. Therefore, there are  
16 no competitive capacity reservations to be made or scheduled, no disputes to be resolved and no  
17 need for a statewide OASIS. Coordinated planning of needed transmission facilities is occurring  
18 as evidenced by the Southeastern Arizona Transmission Study, completed March 2000, and the  
19 Central Arizona Transmission Study. (The transmission owners and users are presently  
20 finalizing Phase 1. Interested parties, including the Arizona Corporation Commission (ACC)  
21 staff, participated in this process.) Recent work by the ACC to complete the first Biennial  
22 Transmission Assessment and to require transmission studies to support future 10-year plans  
23 further reduces the need for implementation of a statewide transmission planning process under  
24 the auspices of the AISA.

1 4. State and discuss the costs of the AISA. (How many employees, what they do on a  
2 daily basis, etc.)

3 Approximately two years of regularly scheduled stakeholder meetings preceded the  
4 formal incorporation of the AISA as a non-profit organization in September 1998. Arizona  
5 Public Service Company (APS), Arizona Electric Power Cooperative, Citizens, Salt River  
6 Project and Tucson Electric Power Company (TEP) jointly provided funding in the amount of  
7 \$1.2 million. These funds were used to establish the formal organization, including hiring the  
8 initial staff (two people), hiring local and Washington DC attorneys, hiring a CPA Firm, and  
9 purchasing office equipment. Office space was initially provided by the Grand Canyon State  
10 Electric Cooperative Association and presently is being provided by the Western Area Power  
11 Administration.

12 The original funds were provided in the form of loans to be paid back after the AISA  
13 began to receive revenue from customers taking service under its tariff. Currently, money to pay  
14 back those loans is coming solely from retail Standard Offer Customers of Affected Utilities  
15 whose systems are open to competition. Neither the retail customers nor the Affected Utilities  
16 are receiving any useful services from the AISA. In addition to the initial funding, additional  
17 reimbursable funding for continuing operations is also being provided by APS and TEP.  
18 Citizens and AEPCO have offered to make additional payments to cover their proportionate  
19 share of such costs, but the AISA has been advised by its Washington counsel that it may not bill  
20 for or accept those payments.

21 The budget report for June indicates that the AISA presently has approximately \$174,000  
22 in assets and \$1,353,000 in liabilities. Current operating expenses are approximately \$50,000  
23 per month, excluding re-payment of its debt to the Affected Utilities. During calendar year 2001,  
24 AISA expects to spend \$638,000, as compared with income of \$562,000 (excluding

1 Miscellaneous Income). The average cost per MWh currently reflected in AISA billings is 1.66  
2 cents.

3 AISA staff appears to be principally occupied producing bills to the Affected Utilities,  
4 generating financial reports, preparing agendas and minutes of board meetings, making  
5 contingency plans and making interim arrangements to take care of bills. In the recent past, there  
6 has been an insufficient number of board members in attendance at meetings, which has  
7 prevented the organization from conducting business. Notwithstanding the fact that its tariff has  
8 been accepted at FERC, the AISA continues to incur additional expense associated with other  
9 matters at FERC.

10 5. **State and discuss the need to continue the AISA. (If the AISA is terminated, how**  
11 **will independent transmission oversight be managed?)**

12 There is no present need for the AISA to continue. Transmission access is provided  
13 under the utilities' Open Access Transmission Tariffs. One of the service schedules in those  
14 tariffs is Retail Network Integration Service, which incorporates the Protocols Manual and  
15 references the dispute resolution procedure set out in the AISA's by-laws. If the AISA were to  
16 cease operations, transmission reservations would still occur as described in the AISA Protocols  
17 Manual. If a competitive customer or competitive scheduling coordinator had a complaint, and  
18 the AISA no longer existed, the dispute resolution procedure in the Affected Utility's OATT  
19 would apply.

20 6. **State and discuss the timing and procedures for terminating the AISA. (Discuss the**  
21 **legal ramifications of withdrawing funding)**

22 The AISA Articles of Incorporation envisioned that the organization would have no more  
23 than a five-year life.<sup>1</sup> Provisions for "winding-up" were included in its 205 Compliance filing at

24 <sup>1</sup> AISA Articles of Incorporation, Section I.

1 FERC for two of the Affected Utilities, APS and TEP, who have signed the AISA-TP  
2 Agreement. Section 14 of that document states:

3 The surviving provisions shall include, but not be limited to: (i) those provisions  
4 necessary to permit the orderly conclusion, or continuation pursuant to another  
5 agreement, of transactions entered into prior to the termination of or withdrawal  
6 from this Agreement; (ii) those provisions necessary to conduct final billing,  
7 collection, and accounting with respect to all matters arising hereunder; and (iii)  
the indemnification and limitation of liability provisions as applicable to claims  
arising or accruing prior to the effective date the TP's [transmission provider] of  
withdrawal from *or termination of Az ISA operations or dissolution*. [Emphasis  
added].

8 Because Salt River has not chosen to participate in the AISA, it has an unresolved claim for  
9 repayment of the funds advanced to create the AISA. For the companies under ACC  
10 jurisdiction, the presumption is that funds advanced by them could be recovered in a future rate  
11 case because they were complying with a Commission Order in creating the AISA.<sup>2</sup> If the ACC  
12 were to allow the Affected Utilities to cease funding the AISA, the "winding-up" process would  
13 commence and steps would be taken to cancel the AISA tariff at FERC.

14 **7. State and discuss the AISA relationship to and with Desert Star.**

15 The ACC rule (R14-2-1609) that requires the Affected Utilities to create the AISA also  
16 includes a statement that the Commission supports the development of an Independent System  
17 Operator (ISO).<sup>3</sup> The rules further contemplate that the AISA would be an interim organization  
18 whose assets and duties would be transferred to an ISO as the ISO becomes able to carry out  
19 those functions.<sup>4</sup> At this point in time, there is no AISA relationship to or with Desert Star  
20 (DSTAR), which is the only currently proposed multi-state, wholesale, regional transmission

21

---

22 <sup>2</sup> Rule R14-1609 G.

23 <sup>3</sup> Rule R14-2-1609 C.

23 <sup>4</sup> Rule R14-2-1609 F.

24

1 organization applicable to Arizona. Its tariff will address all transmission related issues required  
2 by FERC. Currently, there are no DSTAR processes that address deliveries to retail customers  
3 under state rules. It is not expected that retail deliveries, under diverse retail competition state  
4 rules, will be addressed by a multi-state regional transmission organization. When deliveries of  
5 competitive energy at the retail level in Arizona occur, these transactions will be covered by an  
6 Affected Utility's unbundled tariffs, filed with the ACC, and its OATT rates, filed with FERC.

7 **8. State and discuss the AISA relationship to and with any regional (multi-state) ISO**  
8 **or RTO that will serve Arizona.**

9 The AISA has no present or prospective relationship with a multi-state RTO for the  
10 reasons cited above. It appears that the FERC is now advocating a much larger geographic area  
11 for a Western RTO organization than DSTAR would cover. A larger geographic area would  
12 exacerbate the problems that are associated with a multi-state organization, particularly the  
13 difficulty a multi-state RTO faces in dealing with diverse retail competition rules promulgated by  
14 each of the various states within its operating area.

15 **9. Address the legal ramifications of the APS and TEP settlement agreements if those**  
16 **utilities are no longer required to support the AISA.**

17 Citizens has no comment on this subject.

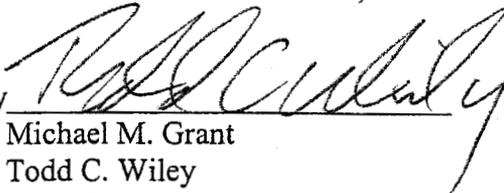
18 **10. State and discuss any other relevant/pertinent information that you believe the**  
19 **Commission should consider regarding the AISA.**

20 Until there are sellers willing to provide competitive energy to retail customers at  
21 substantially lower costs than the incumbent utilities, there is little justification for an  
22 organization such as the AISA to exist. Such sellers currently do not exist. A major component  
23 of power supply cost is and will continue to be the cost of production, yet the primary focus of  
24 the AISA has been on the access to and use of existing wires. A better use of the funding and  
resources would be to promote the construction of economical energy supply resources in places

1 that otherwise are limited by transmission and to seek ways to eliminate barriers that prohibit  
2 construction of needed new transmission. Citizens recommends that the AISA be terminated.

3 DATED this 5<sup>th</sup> day of September, 2001.

4 GALLAGHER & KENNEDY, P.A.

5 By 

6 Michael M. Grant  
7 Todd C. Wiley  
8 2575 East Camelback Road  
9 Phoenix, Arizona 85016-9225  
10 Attorneys for Citizens Communications  
11 Company

12 **Original** and ten copies filed this  
13 5<sup>th</sup> day of September, 2001 with:

14 Docket Control  
15 Arizona Corporation Commission  
16 1200 West Washington  
17 Phoenix, Arizona 85007

18 **Copies** of the foregoing mailed  
19 this 5<sup>th</sup> day of September, 2001 to:

20 Pat Sanderson  
21 Post Office Box 6277  
22 Phoenix, Arizona 85005

23 Christopher Kempley, Esq.  
24 Arizona Corporation Commission  
1200 West Washington  
Phoenix, Arizona 85007

Steve Olea  
Acting Director  
Utilities Division  
Arizona Corporation Commission  
1200 West Washington  
Phoenix, Arizona 85007

1 Deborah Scott, Esq.  
Citizens Communications Company  
2 Suite 1660  
2901 North Central Avenue  
3 Phoenix, Arizona 85004

4  
By: Lisida Marquez  
5 3099-0005/952691

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24