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ARIZONA CORP. COMM
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IN THE MATTER OF THE APPLICATION OF
UNS GAS, INC. FOR ESTABLISHMENT OF
JUST AND REASONABLE RATES AND
CHARGES DESIGNED TO REALIZE A
REASONABLE RATE OF RETURN ON THE
FAIR VALUE OF THE PROPERTIES OF UNS
GAS, INC. DEVOTED TO ITS OPERATIONS
THROUGHOUT THE STATE OF ARIZONA.

Docket No. G-04204A-06-0463

Notice of Filing of

Surrebuttal Testimony of
Marshall Magruder,
Intervenor

4 April 2007

IN THE MATTER OF THE APPLICATION OF
UNS GAS, INC. TO REVIEW AND REVISE ITS
PURCHASED GAS ADJUSTOR.

Docket No. G-04204A-06-0013

IN THE MATTER OF THE INQUIRY INTO THE
PRUDENCE OF THE GAS PROCUREMENT
PRACTICES OF UNS GAS, INC.

Docket No. G-04204A-05-0831

As directed in the Procedural Order of 8 September 2006, modified on 10 January
2007 and 15 February 2007, the Surrebuttal Testimony of Marshall Magruder is submitted to
all Parties as of this date.

Respectfully submitted on this 4th day of April 2007 to all parties.

Arizona Corporation Commission
DOCKETED

APR -5 2007

DOCKETED BY NR

MARSHALL MAGRUDER

By Marshall Magruder
Marshall Magruder

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SURREBUTTAL TESTIMONY
OF
MARSHALL MAGRUDER

April 4, 2007

In

ACC Docket No. G-04204A-06-0463
In the Matter of the Application of UNS Gas, Inc. for Establishment of Just and Reasonable Rates and Charges Designed to Realize a Reasonable Rate of Return on the Fair Value of the Properties of UNS Gas, Inc. devoted to its Operations Throughout the State of Arizona,

and

ACC Docket No. G-04204A-06-0013
In the Matter of the Application of UNS Gas, Inc. to Review and Revise its Purchased Gas Adjustor

and

ACC Docket No. G-04204A-05-0831
In the Matter of the Inquiry into Prudence of the Gas Procurement Practices of UNS Gas, Inc.

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1 **SURREBUTTAL TESTIMONY BY MARSHALL MAGRUDER**

2
3 **Part I – Background and Key Issues**

4
5 **1.1 Background.**

6 **Q. What has been your involvement in this case to date?**

7 **A.** On 10 January 2007, my Motion to Intervene of 16 November 2006 was approved and the
8 Magruder Direct Testimony filed on 7 February 2007. Two sets of Data Requests were
9 submitted to the Applicant. The first's data response was too late for the Direct Testimony
10 and the response to the second set were received just prior to this Surrebuttal Testimony.

11 **Q. How did the Applicants respond to your Direct Testimony?**

12 **A.** No direct responses to my Direct Testimony¹ were in the Applicant's Rebuttal; however, in a
13 reply to my second Data Request Set, the applicants indicated their rebuttal testimonies also
14 pertained to mine and that the applicant's Rejoinder Testimony should address many the
15 concerns in my Direct Testimony and, I would expect, issues in this Surrebuttal Testimony.

16
17 **1.2 Key Concerns.**

18 **Q. Can you summarize the concerns in your Direct Testimony?**

19 **A.** Yes, the following are some of the key concerns expressed in my Direct Testimony and
20 expanded herein:

- 21 1. Residential Service (or customer) Charges to vary by season in 2.1 below.
- 22 2. Residential Service (or customer) Charge increases in 2.2 below.
- 23 3. Increased rates by Adding a Throughput Additional Mechanism (TAM) to shift some cost
24 volumetric cost to the Service Charge in 2.3 below.
- 25 4. Usage charges in TAM when not using gas in 2.4 below
- 26 5. Internal UNS Gas "Price Stabilization Policy" to be adopted by the ACC to replace
27 Prudency Purchase Audits for future rate cases in 2.5 below.

28 **Q. Will you respond to ACAA's Direct Testimony and First Set Data Request Responses?**

29 **A.** Yes. The Arizona Community Action Association's (ACAA) excellent Testimony and Data
30 Request Response was located on the ACC website. The discussions in this Surrebutal
31 Testimony, integrate ACAA's Testimony and its Response to UNS Gas' First Data Request
32

33
34 ¹ Direct Testimony by Marshall Magruder, dated 6 February 2007, hereafter "Magruder T." followed by page
35 number and lines, when appropriate.

1 and concerns. Upon review of the ACAA Testimony; the following additional key concern was
2 identified.

3 6. Changes in Past Due, Penalty, Suspension, Notice of Termination Dates after Billing in
4 2.6 below.

5
6 **Q. Have you identified additional concerns in the Direct Testimony by the ACC Staff and
7 RUCO?**

8 **A.** Yes. These additional issues, from the Direct Testimonies of other Intervenors, pose
9 additional concerns that have resulted in my response and are summarized as below: and
10 numbered sequentially with those in my Direct Testimony, and summarized in Table 1 below
11 of UNS Gas proposals in their Application:

- 12 7. Deletion of base cost of gas and only uses PGA for gas prices.
- 13 8. Change PGA bandwidth and then eliminate.
- 14 9. Recommended costs of natural gas at **\$0.1862/therm** (with higher Service Charge)
15 compared to the present **\$0.3004/therm**.
- 16 10. Citizens Acquisition Adjustment: amortized charges.
- 17 11. Construction Work in Progress (CWIP) into base rate and CWIP property taxes.
- 18 12. Rate base expenses for GIS
- 19 13. Rate base working capital expenses.
- 20 14. Fleet fuel expenses with "early 2006" fuel prices.
- 21 15. Growth percentages being used instead of actual numbers.
- 22 16. Corporate expenses for the unsuccessful KKR, et al, acquisition.
- 23 18. Out of Test year charges that were added to base rate expenses.
- 24 19. Customer service cost increases by use of the TEP Call Center.

25 **Q. Are their additional concerns that will be not be included in this Surrebutal Testimony.**

26 **A.** The Applicants Rebuttal Testimony has resulted in the identification of additional concerns,
27 in particular the proposed Demand Side Management (DSM) Plan, which was a
28 Supplemental Exhibit to the Rebuttal Testimony of UNS Gas' Denise Smith.² Since this filing
29 is for "informational purposes" it will not be reviewed herein as oral questions during the
30 hearings should be all that is needed to respond to my concerns. Mostly, these concerns are
31 about the limited approach being established and the lack of more programs, actions by the
32 Company, and additional DSM coordination efforts.

33
34 ² "Supplemental Exhibit to the Rebuttal Testimony of Denise Smith," dated 23 March 2007, as Exhibit DAS-
35 3, hereafter "UNSG-DSmith, SR., Exhibit DAS-3."

1
2 **1.3 Organization of this Surrebuttal Testimony.**

3 **Q. How will your Surrebuttal Testimony be organized?**

4 **A.** Each of the above key concerns will be presented and discussed in terms of

5 (1) Direct Testimony and proposals by the Applicant

6 (2) Direct Testimony by Intervenors, including

7 (a) RUCO,

8 (b) ACC Staff,

9 (c) ACAA, and

10 (d) Marshall Magruder

11 (3) Rebuttal Testimony by the Applicant to these Direct Testimonies.

12 (4) Recommendations for resolution of these concerns in this Surrebuttal Testimony.

13
14 **Q. Can you briefly summarize the differences between the Direct Testimony by the Applicant and Direct Testimony of Intervenors?**

15
16 **A.** The Table below, in summary form, shows the results that are provided below (using the same numbers as above).

17
18 **Table 1 – Areas of Concern Discussed in Various Testimonies.**

UNS Gas Direct Testimony Proposal Issue of Concern (numbered)	ACC Staff Testimony Response	RUCO Testimony Response	Magruder Testimony Response
Key Areas of Concern – Discussed in Part II			
1. Residential Service Charge to vary by season (Dec-Mar, Apr-Nov). Design rate structure so “warmer” counties (southern) cover costs in “colder” counties.	Seasonal cost differential was not recommended	Not recommended , levelized billing exists, seasonal cost differential not recommended .	Not recommended as unfair, unreasonable, inappropriate. Seasonal rates could be voluntary, not mandatory
2. Increase Residential Service Charge from \$84 per year to \$204 per year (Dec-Mar @ \$20/mon, Apr-Oct @ \$11/mon)	Recommended an annual \$102 Service Charge (raises from \$7.00 per month to \$8.50)	Recommended \$8.13 per month (\$97.56 per year)	Less than \$100 per year (<\$8.33) was recommended.
3. Increase rates by adding a Throughput Adjusted Mechanism TAM surcharge to shift some cost of natural gas to the Service Charge.	TAM process to protect company was not recommended due to being extremely unfair to consumers	Recommend TAM be denied ; it increases rates for lowest income users, reduces revenue recovery risk to zero	TAM was not recommended , suggested using professional meteorologist
4. Charges for gas usage when not using gas (part of TAM)	Not recommended	Not recommended	Not recommended

Table 1 – Areas of Concern Discussed in Various Testimonies.

UNS Gas Direct Testimony Proposal Issue of Concern (numbered)	ACC Staff Testimony Response	RUCO Testimony Response	Magruder Testimony Response
Key Areas of Concern – Discussed in Part II			
5. Adopt an internal UNS Gas "Price Stability Policy" and the ACC use it instead of prudence of purchases audit.	Not recommended to be adopted as prudent due to safe harbor and inability to follow market changes, Policy was not fully followed, only 20 purchases, most were higher than market.	Not recommended.	Not recommended, high liabilities for ACC if adopted, flawed policy as written
6. Change from 15 to 10 days before Late Fee is charged and Past Due to Cut-off from 30 to 15 days	Recommended approval after a six-month transition period	NOT RECOMMENDED	Not mentioned
Other Areas of Concern not discussed in Part II			
7. Delete basic cost of gas, use only PGA for gas prices	Agreed	Agree	Recommend a major revision to the PGA process.
8. Change PGA bandwidth and then eliminate	Need to check	Recommend twice BW do not delete	Not mentioned
9. Recommended costs of natural gas at \$0.1862/therm (+higher SC) was \$0.3004/therm	Residential at \$0.3217/therm (+3.31% or \$3.36 per month)	Residential at \$0.2892/therm	Company always gets paid for gas costs, not discussed in detail
10. Citizens Acquisition Adjustment amortized (\$248,000) of \$30,7 million permanent reduction	Not located	Amortize not approved always deny (\$248,000) (rate base adjustment #3), RBA #3	Warning in Part V that this adjustment must be watched closely to ensure the acquisition customer benefits are not lost.
11. Construction Work in Progress included in base rate and CWIP property taxes	Staff adjustment B-1 remove \$7,189,000 from rate base, C-4 reduce expense by \$363,150	Delete \$7,189,000 as it was not used, delete \$166,000 tax, RBA #4, OA #18	Not mentioned
12. Rate base expenses for GIS and amortization for deferred GIS cost	Staff adjustment B-2 remove \$897,068 from rate base, C-5 delete \$299,023	Delete \$897,000 overcharge, RBA #5, remove \$299,023 Operating Adjustment #12 (OA #12)	Not mentioned
13. Rate base working capital expenses	Staff adjustment B-3 increase rate base by \$771,000.	Add \$1.2 million (error), RBA #6	Not mentioned
14. Accumulated deferred Income Tax (ADIT)	Staff adjustment B-4 increase rate base by \$195,336.	Increased expenses by \$1,830,390, OA #22	Not mentioned.
15. Revenue Animalization	Staff adjustment C-1 add \$102,433 more revenue	Add \$110,006, OA #15	Not mentioned

Table 1 – Areas of Concern Discussed in Various Testimonies.

UNS Gas Direct Testimony Proposal Issue of Concern (numbered)	ACC Staff Testimony Response	RUCO Testimony Response	Magruder Testimony Response
Key Areas of Concern – Discussed in Part II			
16. Weather Normalization	Staff adjustment C-2 add \$1,962 to revenue	Not located	Not mentioned
17. Bad Debt Expense	Staff adjustment C-3 increase expense by \$1,263	Not located	Not mentioned
18. Incentive Compensation and SERP	Staff adjustment C-6 reduce O&M expenses by \$262,223	Delete \$278,848, OA #2; SERP decrease \$93,075, OA #11	Not mentioned
19. Emergency Bill Assistance Expense	Staff adjustment C-7 shifted \$21,600 to op expenses from DSM	Not located	Not mentioned
20. Remove Nonrecurring Severance Payment Expenses	Staff adjustment C-8 removed \$52,288 from operating expense	Not located	Not mentioned
21 Overtime Payroll Expenses	Staff adjustment C-9 reduced by \$123, 010	Not located	Not mentioned
22. Payroll Tax expenses	Staff adjustment C-10 reduced by \$13,356	Not located	Not mentioned
23. Nonrecurring FERC Rate Case Legal Expenses	Staff adjustment C-11 reduced by \$311,051	Delete \$311,051 as already recovered, OA #20	Not mentioned
24. Property Tax Expense	Staff adjustment C-12 reduced property tax by \$80,290	Decrease \$309,309, OA #7	Not mentioned
25. Worker's Compensation Expense	Staff adjustment C-13, rejected \$34,234 as unjustified.	Delete \$34,234, OA #1	Not mentioned
26. Membership and Industry Association Dues	Staff adjustment C-14 removed \$26,868	Decrease \$1,523, OA #9	Not mentioned
27. Fleet fuel expenses used early 2006 fuel prices	Staff adjustment C-15 reduced \$52,439	Delete \$67,000 overcharge, OA #17	Not mentioned
28 Postage Expense	Staff adjustment C-16 increased by \$115,095	Decrease \$153,379, OA #4	Not mentioned
29. Irate Case Expense	Not located	Decrease \$116,333, OA #8	Not mentioned
30. Uses growth percentages instead of actual numbers	Not located	Add \$110,000 to revenues	Not mentioned
31. Included corporate expenses for KKR acquisition	Not located	Replace \$130,000 with \$13,000 (error), OA #16	Not mentioned
32. Out of Test year charges to base expenses	Not located	Delete 3 invoices for \$21,000	Not mentioned
33. Increase customer service costs from \$18,000 to \$76,000 per month at TEP call center	Not located	Delete \$727,000 as services are same as under Citizens, OA #5	Not mentioned

1 **Table 1 – Areas of Concern Discussed in Various Testimonies.**

2 UNS Gas			
3 Direct Testimony Proposal	ACC Staff Testimony	RUCO Testimony	Magruder Testimony
4 Issue of Concern	Response	Response	Response
5 (numbered)			
6 Key Areas of Concern – Discussed in Part II			
7 34. Out of Pocket Expenses	Not located	Decrease \$21,120, OA #19	Not mentioned
8 35. Non-Recurring/Atypical Expenses	Not located	Decrease \$2,584	Not mentioned
9 36. Depreciation Expenses	Not located	Decrease \$324,083, OA #4	Not mentioned
10 37. Disallowance of Inappropriate and/or Unnecessary Expenses	Not located	Deny #233,347, OA #6	Not mentioned

11

12 **1.4 Minor Errata to the Direct Testimony.**

13 **Q, Did you have any minor errors in your Direct Testimony that you would want to**

14 **correct?**

15 **A.** Yes. There as a minor error.

16 a. In the Table III-1, the proposed 'winter' Service charge in the second column, last line

17 should have been "\$21.00" instead of "\$22.00". The annual Service Charge proposed by

18 UNS Gas at \$204 per year is correct. This table has the proposed rates from the customer

19 flyer, while the Voge Testimony stated \$11.00 for December-March and \$20 for April to

20 November.³ Again, the annual Service Charge is correct. This table has been corrected,

21 updated, and expanded and now is Table 2 in this surrebuttal testimony.

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34 ³ Direct Testimony of Tobin L. Voge on Behalf of UNS Gas, Inc., of 13 July 2006, page 10 at 7 to 9,

35 hereafter "UNS-Voge T."

1 **Part II – Response for Each Area of Concern.**

2
3 **2.1 Residential Service Charge to Vary by Season.**

4 UNS Gas has proposed to raise summer rates and lower winter rates so that those in colder
5 climates can stop subsidizing those who live in desert climates. This winter/summer rate
6 structure philosophy is a discriminatory concern.

7 (a) Direct Testimony and Proposal by the Applicant

8 UNS Gas proposed seasonal residential Service Charge rates are mandated to vary
9 by season. During the months of December to March the Service Charge will be \$11.00 per
10 month and during April to November raised to \$20.00 per month.⁴ UNS Gas' Voge stated

11 "I recognize that customers in the warmer climates have grown accustomed to
12 having their usage more steeply subsidized by customers in cold climates.
13 Therefore, we have proposed setting the residential customer charge at \$20.00 in
14 the months of April through November and reducing that charge to \$11.00 in the
15 four remaining winter months. This would help levelize bills across all 12 months,
16 allowing customers to more easily budget for their bills. Customers in colder
17 regions also would benefit from a lower customer charge during months when the
18 commodity portions of their bills pose the largest problem."⁵

19 Further, UNS Gas Testimony stated

20 "the average residential customer pays an annual margin of \$292, \$133 more than
21 the \$159 paid by the average residential customer in Lake Havasu... '[T]he Flagstaff
22 customer is contributing a larger share of the cost."⁶

23 Mr. Voge stated that

24 "[C]ross subsidization that occurs when usage within customer classes varies
25 significantly based on geography and climate."⁷

26 (b) Direct Testimony by Intervenors, including RUCO, ACC Staff, ACAA, and Magruder

27 (1) RUCO stated that any seasonal rates could be voluntary, not mandatory. Ms Diez
28 stated that the proposed Winter/Summer rate structure "

29 ⁴ It should be noted that the August 2006 "billing insert" about this rate case sent to customers, stated
30 \$9.00 per month for the four winter months of December through March and \$21.00 per month for the
31 other eight months from April through November. The annual totals for both are the same at \$204 or an
32 average of \$17.00 per month. The present rate is \$7.00 per month, for an increase from \$84.00 per year
33 to the proposed \$204.00 per year, an increase of 143% since the last Service Charge increase in August
34 2003 when the Service Charge was \$5.00 per month or \$60.00 per year and now \$204.00 per year. Thus,
35 from August 2003 to August 2007, the Service Charge will have been **increased 308% or 77% per year.**
[emphasis added]

⁵ UNSG-Voge T. 10 at 5 to 12"

⁶ *Ibid.*, 8 at 16 to 20.

⁷ *Ibid.* 7 at 11 to 13.

1 "This aspect of he Company-proposed rate design further acerbates the perverse
2 price signal that results from nearly doubling the percentage fixed revenue and
3 decreasing the commodity charge.... The higher summer fixed charges will further
4 flatten any price signal possible from the Company's rate design by equalizing
5 summer and winter bills. UNS Gas already offers a levelized billing program and
6 RUCO believes the choice of whether a customer prefers a levelized program
7 should be left with the customer and UNS Gas should concentrate greater efforts
8 to ensure that customers are aware of the availability and advantages of the
9 levelized bill option.⁸ [Underlining added for emphasis.]

Further, RUCO recommended

"eliminate the Company-proposed summer and winter rate structure differential."⁹

10 (2) ACC Staff did not recommend seasonal rates, for example, Mr. Steven Ruback stated,

11 "The composite residential charge is \$17.00 a month; this is a 143% increase the
12 existing Residential charge of \$7,00. The Commission should not accept the
13 Company's proposals to increase the customer charges as UNS has requested, or
14 to create a seasonal charge. The composite residential charge of \$17.00 violates
15 the basic rate design criterion of gradualism. The seasonal customer charges are
16 also not appropriate because customer costs included in the customer charge do
17 not change by season."¹⁰

Mr. Ruback recommended

18 "UNS proposed rate design process to recover more of its costs from higher fixed
19 charges. I recommend that the rates proposed by UNS' be rejected."¹¹

20 (3) ACAA stated:

21 "As to the question of whether ACC agrees that the proposed rate design avoids
22 having customers in colder climates subsidize those in warmer climates, we have
23 not undertaken that analysis in this case except in the context of large versus lower
24 consumer of gas."¹²

The below ACAA statement shows all seasons are important to ratepayers:

25 "[U]tility bill assistance is the only resource available for a family to stay warm in the
26 winter and cool in the summer."¹³

27
28
29
30 ⁸ Direct Testimony of Marylee Diaz Cortez on Behalf of the Residential Utility Consumer Office, dated 9
February 2007, page 29 at 19 to page 30 at 6, hereafter "RUCO-Diaz-Cortez T."

31 ⁹ *Ibid.* 33 at 19 and 20.

32 ¹⁰ Direct Testimony of Steven W. Ruback on Behalf of the Arizona Corporation Commission Utilities Division
Staff, dated 23 February 2007, hereafter "ACC-Ruback T."

33 ¹¹ ACC-Ruback T. page [iii], at Executive Summary, first numbered paragraph.

34 ¹² Arizona Community Action Association's Response to UNS, Gas, Inc's First Set of Data Requests, dated
27 February 1997, fourth page.

35 ¹³ Direct Testimony of Arizona Community Action Association. by Miquelle Scheier, dated 8 February 2007,
page 7, third paragraph, hereafter "ACAA-Scheier T. "

1 (4) Marshall Magruder stated seasonal rates could be voluntary and the negative
2 impacts of mandatory summer/winter rate differences, as only “those who have higher
3 usage costs in the winter”¹⁴ will benefit, thus the proposed rates discriminate against a
4 selective group of ratepayers and those using energy efficiency measures. He also stated:

5
6 “The factors mentioned in Part IX of the Pignatelli Testimony are extremely
7 detrimental to residents in warmer parts of the UNS Gas service area, in particular
8 Santa Cruz County, which is warmer due to its geographic location. Cost of utilities is
9 an important factor for potential new customers, those considering moving in the
10 area. By deliberately designing a rate structure that goes against the climate reality of
11 southern Arizona is contrary to fair and just treatment of consumers. Suppose I want
12 to live in Snowflake. It is obvious utility bills will be higher there due to its geographic
13 location when compared to Santa Cruz County. Proposing a rate structure to
14 penalize such logic should not even be considered.”¹⁵

15 UNS Gas has a voluntary “level” rate plan for all residential ratepayers, thus a second
16 “levelization” function fails to send a pricing signal to high-usage customers. He concluded

17 “The season choice should not be mandatory. Only an “annual” rate should be
18 approved by the Commission with the Company authorized to charge higher
19 “summer” or “winter” or “level” or “actual” monthly charges. The result is the same; let
20 the customers chose how they prefer to pay the bill... Mandated seasonal charges
21 discriminate against a large number of customers in warmer areas to benefit other
22 who choose to live where it is colder.”¹⁶

23 (c) Rebuttal Testimony by the Applicant.

24 Mr. Pignatelli still wants to discriminate against his customers who chose to live in
25 warmer climates by stating

26 “[U]nder UNS Gas’ current rate design, cold-weather customers – particularly high-
27 use customers – subsidize warm-weather customers” show again this policy... the
28 company’s proposal seasonal rates so that cold-weather customers would not
29 subsidize warm-weather customers to the degree that subsidization is now occurring
30 now. We also want to send significantly more accurate price signals through rates.¹⁷

31 UNS Gas Rebuttal Testimony by Mr. Erdwurm¹⁸ missed the Magruder comments on the
32 winter versus summer rates and continues Mr. Voge rate design philosophy:

33 “[B]ecause the [UNS Gas] rate design proposals made by the company were aimed
34 at helping reduce a grossly unfair subsidy to customer in low-use, desert
35

31 ¹⁴ Magruder T. 9 at 22.

32 ¹⁵ *Ibid.* 10 at 6 to 16.

33 ¹⁶ *Ibid.* 14 at 7 to 12.

34 ¹⁷ Rebuttal Testimony by James S. Pignatelli on Behalf of UNS Gas, Inc. dated 16 March 2007, hereafter
35 “UNSG-Pignatelli R.”.

¹⁸ Rebuttal Testimony of D. Bentley Erdwurm on Behalf of UNS Gas, dated 16 March 2007, hereafter
“UNSG-Erdwurm R.”.

1 communities from customers in higher use communities like Flagstaff. The public
2 interest demand an end of this inequity.”¹⁹ ...

3 “This means that residents in the colder community of Flagstaff will end up paying
4 more than the Company requires to serve them, because customers in desert
5 communities use little gas, and pay less than the cost to serve them.”²⁰

6 The Erdwum Rebuttal Testimony responses to a question “

7 “Q. Did any intervenor witness address the geographic subsidy that you identified in
8 your Direct Testimony?

9 A. No, neither Staff nor RUCO directly address this rate design inequity in their
10 Direct Testimonies. Both RUCO and Staff state that their respective proposals generate
11 more revenues through the customer charge than is currently generated. However, the
12 proposed \$1.50 per month increase by Staff and the \$1.13 per month by RUCO for
13 residential customers results in the continued subsidization of fixed costs by customers
14 in cold climates.”²¹

15 (d) Recommendations for resolution of these concerns.

16 The UNSG continues to discriminate against those who understand colder climates
17 have higher winter energy costs. This was accounted when the ratepayer chose to live in
18 the warm/cold climate; thus, no basis exists for the proposed rate structure. Concerns about
19 seasonal rate discrimination in Magruder’s Testimony²² were omitted in UNS Gas’ Rebuttal.

20 I know of no one in Santa Cruz County who would believe UNS Gas’ saying they
21 were being subsidized by those in colder climates. This geographic inequity issue and rate
22 design philosophy is wrong and should be denied. This rate structure clearly sends the
23 wrong signal to high-use customers by rewarding high-users by penalizing low-users.

24 Recommendations:

- 25 1. The proposed seasonal rate structure elements (including TAM), including mandatory
26 summer/winter rates, should be denied.
27 2. An approved annual total Service Charge, if voluntary, could provide a seasonal option,
28 the present level payments scheme, or the varying monthly service charge.

29 **2.2. Residential Service Charge increases.**

30 UNS Gas proposed removal of some “volumetric” charges from the cost of gas and transfer
31 these cost to the Service Charge or fixed-part of the bill. Customers in colder climates have
32 higher winter gas bills than those in warmer climates but UNS Gas proposed to lower the

33 ¹⁹ *Ibid*, 13 at 22 to 25,

34 ²⁰ *Ibid*, 4 at 2 to 6.

35 ²¹ *Ibid*, 11 at 20 to 27

²² Magruder T. 8 at 24 to 11 at 14 clearly disputed the philosophy of seasonal and volumetric factors in the basic Customer Charge.

1 higher volume bills by increasing the Service Charge for the lower volume ratepayers. The
2 opposite should be true. Natural gas is a limited natural resource. Those who use more
3 should pay more than those who use less. This is a principle of energy efficiency,
4 economics, and demand reduction programs.

5
6 (a) Direct Testimony and Proposal by the Applicant.

7 UNS Gas witness Voge Testimony stated:

8 "The proposed average customer charges of \$17 for residential customers, \$20 for
9 commercial customers and \$120 for industrial customers would align more closely to
10 the true costs of providing monthly distribution costs of providing monthly distribution
11 service to those classes. In this way, these higher charges would reduce the
12 inequities borne by high usage customers. Under our proposed rate design, the
13 average residential customer in Flagstaff would pay an annual margin of \$333, while
14 the average Lake Havasu customer would pay \$250 – just \$83 less than the
15 Flagstaff customer. This represents a significant reduction from the cross subsidy
16 that Flagstaff customers currently bear."²³

17 (b) Direct Testimony by Intervenors, including RUCO, ACC Staff, ACAA, and Magruder.

18 (1) RUCO witness Ms. Diaz Cortez Testimony stated

19 "RUCO recommends the Commission reject the biased winter/summer rates, doubling of
20 the revenue allocated to the fix charge, and the TAM."²⁴

21 RUCO also proposed a new Service Charge rate schedule which stated

22 "An in-depth discussion of RUCO's proposed rate design is contained in the
23 testimony of Ms Diaz Cortez. In summary, for residential customers, RUCO
24 proposes a single basic service charge (not season differentiated) of \$8.13 and a
25 commodity based charge of \$0.2892 per therm."²⁵

26 (3) ACC Staff witness Mr. Ruback clearly stated

27 "The Company is proposing a staggering increase in the fixed customer charges for
28 all classes of service. The most extreme customer charge proposal is the Company's
29 request to increase the Residential customer charge by more than 185%, during the
30 summer period and 57% percent in the winter period. "I recommended that UNS' rate
31 design be rejected for the reasons stated in my testimony."²⁶

32 ACC Staff witness Mr. Ruback also stated

33 "The purpose of my rate design testimony is to provide an overview as to why
34 UNS' proposal should be rejected."²⁷

35 ²³ UNSG-Voge T. 9 at 18 to 25.

²⁴ RUCO-Diaz-Cortez T. 34 at 2 to 4.

²⁵ ACC-Ruback T. 3 at 9 to 11.

²⁶ *Ibid* 11 at 5

²⁷ *Ibid* 11 at 8 to 10.

1 ACC Staff witness Mr. Ralph Smith presented a new rate structure. For residential
2 customers,

3 "[T]he recommended customer charge of \$8.50 per month, would result in UNS Gas
4 collecting approximately 36 percent of the revenue via fixed charges."²⁸

5 (3) ACAA responded indirectly to the Service Charge concern; as the purpose of
6 ACAA;s Testimony is

7 "[T]o urge the Commission .to hold low-income customers harmless in the rate case
8 by increasing the R12 discount to an amount commensurate with an residential rate
9 increase the Company may be awarded, and in particular to reject the Company's
10 proposed structure for R12, which reduces the discount to larger, colder climate
11 users."²⁹

12 (4) The Magruder Testimony noted four years ago in August 2003, the

13 "Service Charge was increased by 40% [from \$5.00 per month to \$7.00 per month]
14 when the company transitioned from Citizens UNS Gas. At that time there was also
15 a 22% rate increase for the cost of natural gas."³⁰

16 The applicant proposed Service Charge increases for all customers but are most
17 significant for residential customers as summarized in Table 2 below:

18 **Table 2 Residential Service Charge History and Proposed New Service Charges³¹**

Effective Dates	Monthly Service Charge	Annual	Organization
Prior to August 2003	\$ 5.00	\$ 60.00	Citizens
August 2003 – ~July 2007	\$ 7.00	\$ 84.00	UNS Gas
After Approval, about August 2007			
<u>Proposed</u> by UNS Gas	December – March \$11.00 April – November \$20.00	\$ 204.00	UNS Gas
Recommended by RUCO	\$8.33 (R10)	\$99.96	RUCO
Recommended by ACC Staff	\$8.50 (R10)	\$102.00	ACC Staff
Recommended by Magruder	<\$8.00 (R10)	<\$100.00	Magruder
CARES Recommendations	\$7.00 (R12)	\$84.00	All Parties

26 The Magruder Direct Testimony stated:

27 The **proposed 340% Service Charge increase** over the 3 to 4 years under UNS
28 Gas ownership is not justified or explainable to ANY ratepayer. There has not been
29 that amount of significant capital improvements. In Pignatelli Testimony, he states

30
31 ²⁸ Supplemental Direct Testimony of Ralph C. Smith on Behalf of The Arizona Corporation Commission,
32 Utilities Division Staff, Concerning Rate Design and Bill Impact Analysis, dated 23 February 2007, page 6
33 at 9 to 10, hereafter "ACC-R-Smith ST."

34 ²⁹ ACAA-Scheier T. 2 at first paragraph.

35 ³⁰ Magruder T. 9 at 7 to 9.

³¹ *Ibid*, 9 at 2 to 6, with proposed monthly Service Charge corrected with RUCO, ACC Staff, and Magruder recommended Service Charge.

1 'we project that the number of UNS Gas customers will increase as much as 5-10%
2 annually.' [Pignatelli Testimony, 1 at 26]"³² [emphasis in original]

3 Magruder concluded "the proposed Service Charge is clearly too high"³³ and
4 recommended 'reduce the proposed Service Charge to the order of \$100 per year or less.'³⁴

5
6 (c) Rebuttal Testimony by the Applicant.

7 UNS Gas' Mr. Erdwurm Rebuttal supported the proposed rate structure by stating:
8 "The UNS Gas proposal to shift more cost recovery from a volumetric rate to a monthly
9 customer charge is an attempt t send the appropriate price signal and alleviate the disparity
10 that currently exists between our cold and warm climate customers."³⁵

11 (d) Recommendations for Resolution of this concern.

12 It is obvious UNSG still is pressing to increase the Service Charge (customer charge)
13 to \$17.00, well above that recommended by RUCO, ACC Staff and Magruder for residential
14 customers as summarized in Table 1. The proposal remains unacceptable, will NOT send a
15 correct price signal to the customers, and will permit a higher rate of return to the utility, as
16 this is calculated as a percentage of the fixed rate. This is a backdoor way to increase the
17 company's profits. Nothing in the rate structure can reduce the rate disparity between cold
18 and warm climates but the weather, which is beyond the control of this Commission.

19 It is recommended the Service Charge for residential customers (R10) be increased
20 as shown by the consensus of RUCO, ACC Staff and Magruder about an increase of \$1.50
21 per month. This results in an annual residential service charge between \$99.96 and \$102
22 per year, or about a 21.4% increase since the last August 2003 rate case and a 70.0%
23 increase since before July 2003. This remains a high Service Charge increase.

24 The CARES (R12) Service Charge is recommended by all to stay at \$7.00 a month.

25
26 **2.3 Rate Increased by Adding a Throughput Additional Mechanism (TAM) to Shift Some**
27 **volumetric Costs to the Fixed Service Charge.**

28 (a) Direct Testimony and Proposal by the Applicant.

29 The UNS Gas Application in the rate case stated
30
31

32 ³² *Ibid*, 9 at 9 to 14.

33 ³³ *Ibid*, 14 at 6.

34 ³⁴ *Ibid*, 15 at 11.

35 ³⁵ UNSG-Erdwurm R. 10 at 20 to 23.

1 "[T]he proposed rate design and related Throughput Adjustor Mechanism ("TAM")
2 will better align the fixed and variable costs of service with the rates paid by the
3 customers causing those costs and is in the public interest."³⁶

4 Mr. Pignatelli testified how TAM would work

5 "Just as the PGA fluctuates to account for variations in the cost of gas, the TAM
6 would be adjusted to account for changes in usage per customer ("UPC"). The
7 under-recovery of costs due to reduced UPC in any period would be "trued-up" in
8 future periods through use of a volumetric surcharge. Similarly, any over-recovery
9 would be refunded to customers through a volumetric credit on future bills. In this
10 way, both the Company and its customers would enjoy a more equitable, reliable
11 and balanced collection of volumetric costs."³⁷

12 Mr. Voge testified

13 "The continued use of a volumetric charge to recover a portion of the Company's
14 fixed costs carries another concern: the uncertainty of recovery. If actual usage
15 strays from the anticipated level used to establish that volumetric rate, customers
16 could end up paying too much or too little for that portion of their service. Since usage
17 is driven largely by weather trends during home heating season, particularly cold
18 winters typically produce a swell in UNS Gas' margin revenues. Meanwhile, warm
19 weather, effective conservation efforts or anything else that reduces consumption
20 below anticipated levels leads to an under-recovery of the Company's costs.
21 Eliminating such uncertainty would benefit both the Company and its customers."³⁸

22 Mr. Voge also testified the TAM "credit reimburses the customer for the non-
23 commodity portion of the relatively high cold winter gas bill."³⁹

24 (b) Direct Testimony by Intervenors, including RUCO, ACC Staff, ACAA, and Magruder.

25 (1) RUCO testified that

26 "The TAM would true-up customer usage to match the billing determinants
27 authorized in this rate cast. In other words, customers would pay for a fixed
28 amount of consumption regardless of how much they actually consumed. The
29 Company claims it needs this mechanism to "mitigate" the risk of revenue
30 recovery."⁴⁰

31 And responding to would TAM "mitigate" the risk of revenue recover, stated:

32 "No. This mechanism would *entirely remove* any risk associated with revenue
33 recovery, not just merely mitigate it. In combination with the proposed fixed charge
34 shift, and the biased summer/winter rate proposal, it would also send a perverse price
35

36 UNS Gas "Application, dated 13 July 2007, ACC Docket No. G-04204A-06-0463, 4 at 20 to 22, hereafter
37 "UNSG-Application." It is noted a Southwest "decoupling" mechanism (CMT) was rejected by the ACC as
38 CMT was inconsistent with the public interest and was not sound regulatory policy (Southwest Gas;
39 Decision No. 68487; Docket No. G-01551A-04-0876)." From ACC-Ruback T. 17 at 18 to 21.

37 UNSG-Pignatelli T. 22 at 1 to 9.

38 UNSG-Voge T. 11 at 3 to 14.

39 *Ibid*, 14 at 21 to 23.

40 RUCO-Diaz Cortez T. 30 at 15 to 20.

1 signal that tells customers they will pay the same whether they use large quantities of
2 gas or no gas at all. It also would guarantee UNS Gas' revenue recovery."⁴¹

3 In response to the appropriateness for the regulator of a monopoly public service
4 company to "guarantee" revenues, RUCO's response was "No."⁴² Also, RUCO stated "the
5 Commission denied the proposed [Southwest Gas] decoupling mechanism" in ACC
6 Decision No. 64887."⁴³

7 RUCO recommended denial of the TAM decoupling mechanism."⁴⁴

8
9 (2) ACC Staff witness Ruback Testimony summarized in the Executive Summary stated
10 "The Commission should reject the proposed Throughput Adjustment Mechanism
11 ("TAM"), because it is inequitable to ratepayers. The TAM shifts the risk of declining
12 usage attributable to weather, economics and conservation from UNS Gas to
13 ratepayers. There is a precedent for rejection of a Rate Decoupling Mechanism such
14 as TAM. I also recommend that the Commission reject the implementation of the
15 TAM because it is piecemeal ratemaking."⁴⁵

16 ACC Staff witness testified

17 "The proposed regulator mechanism [TAM] is risk-reducing to the company as its
18 transfers a portion of the risk from shareholders to ratepayers."⁴⁶

19 (3) ACAA testified

20 "[C]ustomers eligible for the R12 discount should also be held harmless from any
21 increases in the Throughput Adjustor Mechanism (TAM)."⁴⁷

22 (4) Magruder testified

23 "It is not the Commission's responsibility to manage risk for seasonal variations.
24 Weather temperature risk factors are foreseen, expected, and predicable; good
25 management always takes all factors into account when making decisions. Any rate
26 structure, based on passing the responsibility of risk management of seasonal
27 variations to the Commission should not be considered. In other hearings, I have
28 asked his employees if there were a meteorologist on staff at UniSource. The
29 response has been that there is not been one, but that staff did check the Internet for
30 weather information. Without such expertise used daily for risk management

31 ⁴¹ *Ibid*, 31 at 2 to 7.

32 ⁴² *Ibid*, 15 at 9 to 11.

33 ⁴³ *Ibid*, 32 at 18 to 22.

34 ⁴⁴ *Ibid*, 33 at 14 to 16.

35 ⁴⁵ ACC-Ruback T. Executive Summary, page iii, second paragraph.

⁴⁶ Direct Testimony and Exhibit of David C. Parcell on Behalf of the Commission Staff, dated 9 February 2007, 15 at 6 to 11, hereafter "ACC-Purcell T."

⁴⁷ ACAA-Scheier T. 10 at first paragraph.

1 decisions, this corporation will continue to be ill-informed about the operational
2 environment in both short- and long-term planning and decision making."⁴⁸

3 Magruder also testified

4 "Using the proposed mechanism, a Throughput Adjustment Mechanism (TAM), UNS
5 Electric states that the TAM "will allow UNS Gas to implement the comprehensive
6 energy conservation program proposed in this filing." This statement is without
7 merit. Customers notice higher and lower bills and when too high, conservation is
8 the easiest way to lower bills. Lowering the thermostat, full loads in gas clothes
9 dryers, less hot water usage are all understood. UNS Gas can't expect customers
10 to understand TAM or anything equivalent. They understand "cost of service" and
11 "cost of natural gas" and the present billing makes that distinction; however the
12 PGA and surcharges are not very clear. Mr. Voge's Testimony also failed to resolve
13 these difficulties."⁴⁹

14 Magruder's concluded that

15 "mixing cost of service and product cost is contrary to best practices, common sense,
16 and will make tracking costs too difficult ... transmission and distribution operational
17 costs are dependent upon volumetric demand ... the conceptual process presented is
18 without merit ... the proposed rate structure using Throughput Adjustment Mechanism
19 (TAM) is not sound ... there is no relationship between TAM an conservation ... TAM
20 does not dampen the swing of natural gas prices ... use of TAM will make billing
21 costs less comprehensible than the present process."⁵⁰

22 Magruder recommended to

23 "[R]emove all seasonal risk from ratepayers .. eliminate any mixing of the cost of service
24 and the cost of product and continue separation of service and product charges ... delete
25 the Throughput Adjusted Mechanism (TAM) concept."⁵¹

26 (c) Rebuttal Testimony by the Applicant.

27 Mr. Pignatelli's Rebuttal Testimony stated

28 "UNS Gas has provided substantial evidence to justify approval of its proposed
29 Throughput Adjustment Mechanism ("TAM") that decouples the Company's
30 dependence on natural gas consumption to meet its revenue requirement and allows
31 it the opportunity to earn its authorized rate of return."⁵²

32 Mr. Erdwurm's Rebuttal Testimony has lots of words about "decoupling" but none
33 were significant enough to quote.⁵³ He did state

34 ⁴⁸ Magruder T. 10 at 20 to 28.

35 ⁴⁹ *Ibid*, 12 at 18 to 26.

⁵⁰ *Ibid*, 25 at 22 to 34.

⁵¹ *Ibid*, 26 at 9 to 29.

⁵² UNSG-Pignatelli R. 3 at 1 to 4.

⁵³ UNSG-Erdwurm R. 14 at 21 to 19 at 15.

1 "[T]he annual adjustment to the margin rate will likely be less than one cent per
2 therm. The cost of natural gas at 60 to 70 cents per therm will continue to provide
3 strong incentive for conservation."⁵⁴

4 (d) Recommendations for Resolution of this concern.

5 UNS Gas still believes TAM is essential but weak arguments for decoupling si the
6 Company can become more efficient through the implementation of customer conservation
7 measures. I'm sorry, this is not logical. Mr. Erwum's Rebuttal Testimony also includes
8 several exhibits from the gas industry and regulatory associations. After reading, UNSG
9 conclusions are not convincing. The Arguments by RUCO and ACC Staff clearly show of the
10 negative impacts that such a "decoupling" mechanism on UNS Gas' ratepayers.

11 It is recommended that any decoupling concept, such as TAM, be denied and that
12 the RUCO or ACC Staff rate structure be adopted by the ACC for UNS Gas.

13 **2.4 Gas Usage Charged with TAM When Not Using Gas.**

14 (a) Direct Testimony and Proposal by the Applicant.

15 Not discussed.

16 (b) Direct Testimony by Intervenors, including RUCO, ACC Staff, ACAA, and Magruder.

17 (1) RUCO has proposed a rate design that

18 "[Q]ill not result in customers having to pay for therms they did not use and adheres to
19 the undesirability of the proposed decoupling mechanism."⁵⁵

20 (2) ACC Staff witness Ruback responded to the question "do customer charges impede
21 the ability of customers to control their bills" using the proposed rate structure?" with

22 "Customer charges are inelastic. Inelasticity is an inappropriate concept to build into
23 a tariff design. Unlike commodity charges, which provide customers the opportunity
24 to control their bills by changing the amount of gas used or peak demand imposed on
25 the system, a customer charge does not change with reduced consumption or less
26 demand. The only way a customer can avoid customer charges is to discontinue all
gas service."⁵⁶ [emphasis added]

27 He also quoted from the ACC Decision No. 68487 where the Commission
28 disapproved the Southwest decoupling mechanism

29 "The likely effect of adopting the proposed CMT would be a disincentive to undertake
30 conservation efforts because ratepayers would be required to pay for gas not used in
31 prior years."⁵⁷ and "There is also concern that there could be a dramatic impact that
could be experienced by customers faced with a surcharge for not using enough gas

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33 ⁵⁴ *Ibid*, 16 at 5 to 7.

34 ⁵⁵ RUCO-Diaz Cortez T. 34 at 23 to 35 at 3.

35 ⁵⁶ ACC-Ruback T. 8 at 15 to 21.

⁵⁷ *Ibid*, 18 at 4 to 6.

the prior year.”⁵⁸ And “The Company is requesting that customers provide a guaranteed method of recovering authorized revenues, thereby virtually eliminating the Company’s attendant risk. Neither law nor sound public policy requires such a result and we decline to adopt the Company’s CMT in this case.”⁵⁹ [emphasis added]

(3) ACAA did not respond directly to this issue.

(4) The Magruder Testimony, in Table 3 showed some will have higher rates without consumption, some lower rates without consumption, some have adjusting rates without consumption and further changes. This is not reasonable for the winter-only or summer-only residents, as high percentage of the UNS Gas customers are part-year residents.⁶⁰

Table 3, Impact of Service Charge Rate Change for Full Year and Seasonal Residents.⁶¹

<u>Season Resident</u>	Winter	Spring/Fall	Summer
Full year	Lower Monthly rate to reduce winter bill	Rate adjusted to lower winter bill	Higher Monthly rate reduce winter bill
Summer only	Higher Monthly rate without gas consumed	Rate adjusted without consumption	Higher Monthly rate when gas is consumed
Winter only	Lower Monthly rate to reduce winter bill	Rate adjusted without consumption	Lower Monthly rate without consumed

Testimony also tried to make the easier to understand with an example:

For a practicable example, I can see from my window the El Paso Natural Gas (EPNG) line easement and the interconnecting substation to the local UNS Gas main and service lines for my home. EPNG is paid by UNS Gas to supply natural gas to the substation for local distribution. When natural gas is consumed it is reasonable to pay EPNG transmission and distribution charges for the volume of natural gas delivered to my home. Conversely, it is not reasonable, fair or just to charge for transporting gas via EPNG’s line when I use no natural gas. It is false charging to require one to pay EPNG transportation and distribution volumetric charges when a customer does not use any natural gas. The combining of any transportation (or volumetric charges) that are not absolutely fixed UNS Gas infrastructure expenses in the “fixed” part of the billing mixes and muddles the entire billing process which then will not be objective, auditable, or traceable.⁶²

(c) Rebuttal Testimony by the Applicant.

No response was noted to this issue.

(d) Recommendations for Resolution of this concern

⁵⁸ *Ibid*, 18 at 7 to 9.

⁵⁹ *Ibid*, 18 at 12 to 13.

⁶⁰ *Ibid*, 18 at 4 to 6.

⁶¹ Magruder T. at 9 at 25 to 31, where this table is labeled Table III-2 and with a slightly different title.

⁶² *Ibid*, 11 at 32 to 36.

1 Under no circumstances should a ratepayer pay for natural gas costs when the rate-
2 payer is not using gas, such when on vacation, when only a fixed Service Charge applies.

3 It is recommended the resultant rate structure "Eliminate any mixing of the cost of
4 service and the cost of product and continue separation of service and product charges."⁶³

5
6 **2.5 Internal UNS Gas "Price Stability Policy" to be Adopted by the ACC to Replace**
7 **Prudency Purchase Audits during Future Rate Cases.**

8 (a) Direct Testimony and Proposal by the Applicant.

9 The UNSG Application requested that

10 "The Company's Price Stabilization Policy concerning gas purchases should be
11 prospectively approved to provide Commission guidance for the Company's gas
12 procurement practices."⁶⁴

13 And that the ACC

14 "Issue a final order approving UNS Gas' Price Stabilization Policy."⁶⁵

15
16 Mr. Pignatelli testified why his Company wants this document approved by the ACC?

17 "We recommend that the Commission prospectively approve the Price Stabilization
18 Policy. As I have indicated, prudence reviews are "after-the-fact" events that try to
19 recreate the circumstances that existed at the time of the investment or expenditure.
20 This can be very difficult when the period or activities in question were volatile and
21 quickly unfolding. Rather than look at UNS Gas' procurement practices in hindsight,
22 UNS Gas recommends that its Price Stabilization Policy be reviewed and approved
23 by the Commission during this case for future implementation. This way the
24 Commission can have input e r to UNS Gas incurring the costs for gas procurement
25 rather than after the fact. And there will be no need for a separate non rate case-
26 related prudency review of gas acquired pursuant to the approved methodology."⁶⁶
27 [Underlined for emphasis]

28 And Mr. Pignatelli further requested that

29 "A finding that UNS Gas' past gas procurement practices and current UNS Gas
30 Price Stabilization Policy are prudent."⁶⁷ [Underlined for emphasis]

31 And Mr. Hutchens testified that

32 "We believe that instead of the Commission attempting to second guess, after the
33 fact, the individual acts that UNS Gas transacted in connection with gas procurement
34 and hedging, it is more productive and beneficial to customers that the Commission
35

63 *Ibid*, 15 at 22 to 23.

64 UNSG-Application 5 at 1 to 3.

65 *Ibid*, 6 at 4.

66 UNSG-Pignatelli T. 14 at 25 to 15 at 8.

67 *Ibid*, 25 at 21 to 22.

1 review the policies and approve them prospectively. That way the Company will know
2 the clear direction of the Commission and act accordingly. If the Company acts within
3 the approved policies, its transactions will be conclusively prudent.⁶⁸ [Underlined for
4 emphasis]

5 (b) Direct Testimony by Intervenors, including RUCO, ACC Staff, ACAA, and Magruder.

6 (1) RUCO did not directly discuss adoption of this plan as proof of prudent purchases.

7 (2) ACC Staff witness Mr. Jerry Mendl testified that

- 8 • "UNS Gas did not precisely carry out its 2005 Price Stabilization Policy.
9 • All the fixed price gas delivered during the 28-month audit period was
10 purchased on only 20 days."⁶⁹

11 And ACC Staff witness Mr. Mendl recommended that:

12 "The Commission should not approve UNS Gas' request to approve its 2006 Gas
13 Price Stabilization Policy.

- 14 • The 2006 Price Stabilization Policy would allow UNS Gas to stabilize prices
15 using call options and collars which could add to the cost without commensurate
16 benefit to ratepayers.
17 • Approval of the Policy would create a safe harbor that would increase the
18 resistance of UNS Gas to change policies when conditions warranted.
19 • If the Commission considers approving the Price Stabilization Policy, it should
20 require UNS Gas to provide a detailed explanation of how it would monitor the
21 markets and make changes for the ratepayers' benefit.
22 • If the Commission considers approving the Price Stabilization Policy, it should
23 condition the approval to be valid only as long as the conditions underlying the
24 policy are valid.
25 • If the Commission considers approving the Price Stabilization Policy, it should
26 require UNS Gas to show that any premiums anticipated for hedging instruments
27 are reasonable and serve the objectives of stabilizing prices while minimizing
28 costs.
29 • If the Commission considers approving the Price Stabilization Policy, it should
30 require UNS Gas to provide a corrected copy of the Policy."⁷⁰

31 (3) AACA did not discuss adoption of this plan.

32 (4) Magruder testified that the Price Stabilization Policy

33 "UNS Gas is proposing that the Commission 'approve' UNS Gas' Price Stabilization
34 Policy. This is an internal policy, under internal control. It could be modified at any
35 time by the company; no assurance that this will not be the case is given. Exhibit
36 DGH-1 is for 2006 thus is already outdated by a newer 2007 version. Their

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68 Direct Testimony of David G. Hutchens on Behalf of UNS Gas, Inc. dated 13 July 2006, 7 at 3 to 8,
69 hereafter 'UNSG-Hutchens T. page'.

69 Redacted Direct Testimony of Jerry E. Mendl on Behalf of Arizona Corporation Commission Staff, dated
70 16 February 2007, Executive Summary page 1, hereafter "ACC-Mendl T."

70 *Ibid*, Executive Summary page 2.

1 Application needs updating. The mandatory compliance verb "shall" is used once in
2 the entire document. Exhibit DGH-1 is vague..."⁷¹

3 And Magruder further testified

4 "Without mandatory provisions, an internal practice such as this is unsatisfactory and
5 definitely should not replace the detailed audits accomplished by ACC Staff and
6 RUCO in all rate proceedings. In fact, suggesting that this weak document replace
7 the prudency audit has no merit. If the Commission allows this document to replace
8 their reviews, liability for any poor decisions or losses based on this practice could
9 cause significant liabilities to the Commission instead of shareholders. Shareholders
10 are the ones who should absorb losses."⁷² [Underlined for emphasis]

11 And Magruder concluded

12 "The proposed internal "UNS Gas Price Stabilization Policy" is under total UNS Gas
13 control; therefore, any Commission approval might incur inappropriate liability to the
14 Commission. Further, significant clarification as to the applicability of this policy is
15 missing."⁷³

16 And Magruder recommended:

17 "Make major changes to the UNS Gas Price Stability [*sic*, Stabilization] Policy including
18 adding an ACC reasonableness process review. Eliminate any indication that the ACC
19 will approve the UNS Gas Price Stability [*sic*, Stabilization] Policy."⁷⁴

20 (c) Rebuttal Testimony by the Applicant.

21 Mr. Pignatelli's Rebuttal stated

22 "I am disappointed that Staff is recommending that UNS Gas' Price Stabilization Policy
23 not be approved."⁷⁵

24 And

25 "We would re-urge our original request that the Commission approve its Price
26 Stabilization Policy."⁷⁶

27 Mr. Hutchens' Rebuttal Testimony responded to ACC witness Mr. Mendl concern that
28 approval of the Policy would put the Company on "autopilot" and not continually review its
29 purchasing strategy was

30 "[T]his is inconsistent with the Company's behavior and the Policy itself" and he then
31 describes interaction with Company's internal policies."⁷⁷

32 ⁷¹ Magruder T. 10 at 29 to 34.

33 ⁷² *Ibid*, 11 at 2 to 8.

34 ⁷³ *Ibid*, 14 at 15 to 17.

35 ⁷⁴ *Ibid*, 15 at 17 to 19.

⁷⁵ UNSG-Pignatelli R. 11 at 16 and 17.

⁷⁶ *Ibid*, 11 at 23 and 24.

⁷⁷ Rebuttal Testimony of David G. Hutchens on Behalf of UNS Gas, Inc. dated 16 March 2007, page 10 at
18 to page 11 at 4, hereafter "UNSG-Hutchens R.".

1
2 (d) Recommendations for Resolution of this concern.

3 After reviewing the Pignatelli and Hutchens' Rebuttals, in summary, they say "Trust
4 me.. Believe me ... Everything will be A-ok ...hurray, we don't have to do any more prudency
5 audits.. This company plan will cover both us... if you approve.. we can sue.. if we lose
6 money ... oh well... you approved it"

7 The Company has no profit interest in achieving the lowest gas prices for its
8 customers. Cost of gas is about two-thirds of a customer's bill, then, as a customer and
9 ratepayer, I expect and demand that the Commission continue its sound policy of holding
10 prudency reviews and audits for all gas purchases that impact customer's rates. Anything
11 else, in my opinion, is neither wise nor prudent.

12 The UNSG Rebuttals did not respond to the impact of "ACC approval" and potential
13 liability for ratepayers and the Commission if and/or when the "policy" was not followed, as
14 has already shown in ACC witness Mendl Testimony.⁷⁸

15 I recommend the UNS Price Stabilization Policy be reviewed by the Commission for
16 reasonableness and that this Company document should NEVER be approved or specified
17 as a substitute for prudency audits of all gas purchases in future rate cases.

18 **2.6 Changes in Past Due, Penalty, Suspension, Notice of Termination Dates after Billing.**

19 Both RUCO and ACC testified this important change in the "Rules and Regulations*" (R&R)
20 will have serious impacts for lower income customers.

21
22 (a) Direct Testimony and Proposal by the Applicant.

23 The Testimony of UNS Gas witness Mr. Gary A. Smith stated "billing terms" were
24 changed in the Rules and Regulations (R&R) in order to be aligned with the Arizona
25 Administrative Code,⁷⁹ without reference. He included a clean and redline versions of the
26 proposed the "Rules and Regulations" as Exhibit GAS-2.⁸⁰ Table 5 tries to show and
27 compare the present and proposed policy changes. The result is a change from 40 days after
28 a Bill Due date to 20 Days before termination of service, with other actions also occurring
29 earlier as shown in Table 4.

30
31
32
33 ⁷⁸ ACC-Mendl T. Executive Summary, 1 and 2,

34 ⁷⁹ Direct Testimony by Gary A. Smith on Behalf of UNS Gas, Inc, dated 13 July 2006, 19 at 15 to 1 and 20
at 1 to 3, hereafter "UNSG-GASmith T."

35 ⁸⁰ UNSG GASmith, T., Exhibit GAS-2, "Rules and Regulations" Sections 10.C and 11.E.

Table 4 – Changes in Proposed Termination Dates for UNS Customers.⁸¹

Action**	Notice	Present Policy	Proposed Policy	New R&R Reference
Bill Due	Bill	15 days after Due Date	10 days after Due Date	Sec. 10.C.1 page 51
Penalty Charge Assessed	None	15 days after Due Date	10 days after Due Date	Sec. 10.C.1 page 51
Bill is Past Due	None	No payment within 30 days after Due Date	15 days after Due Date	Sec. 10.C.3 page 51
Suspension of Service Notice/ Termination Notice	Written notice 1 st Class Mail	No payment within 30 days after Due Date	No payment within 15 days after Due Date	Sec. 10.C.3 page 51
		10 days prior to Termination Date	5 days prior to Termination Date	Sec. 11.E page 62
Service can be Terminated	None	No payment within 40 days after Due Date	No payment within 20 days of Due Date	Sec. 10.C.4 page 51

* For practical purposes in this table, Due Date is defined as date bill is rendered, or later of (1) postmark date, (2) mailing date, or (3) billing date shown on bill; however the billing date shall not differ from postmark or billing date by more than 2 days.

** A bankruptcy court may require a more stringent schedule.

Also in the proposed Rules and Regulations (R&R) under “Termination of Service Without Notice” the fourth condition “d” was proposed to read as follows (in redline form):

“d. The Customer has failed to comply with the curtailment procedures imposed by the Company in accordance with Company’s Pricing Plans.”⁸²

(b) Direct Testimony by Intervenors, including RUCO, ACC Staff, ACAA, and Magruder.

(1) RUCO stated the proposed Rules and Regulations

“Shortened the period of time customers have to pay their gas bills before a late fee is assessed from 15 days to 10 days and to shorten the time customers have to pay a past due bill prior to notice of shut-off from 30-days to 15-days.”⁸³

RUCO proposed action for this concern was:

“The proposed changes are unreasonable. The proposed payment due dates are so short that a UNS Gas customer on vacation could foreseeably come home and find their gas shut-off. Since gas is a vital service to many, a more flexible payment schedule should prevail. As a regulated utility UNS Gas already receives a working capital allowance to bridge differences between receipt of revenues and payment of expenses, and should not have to impose unreasonable payment terms on its customers.

⁸¹ This table was derived by this party to try to understand these R&R sections, no simple timeline is in the R&R and word definitions are not consistent, thus it is very difficult to understand and violates basic principles for human factors engineering and public communications.

⁸² UNSG GASmith, T., Exhibit JAS-2, Section 11.B.1.d, page 59 of 81 (redlined version).

⁸³ RUCO-Diaz Cortez T. 35 at 15 to 18.

1 "RUCO recommends the Commission deny the proposed changes in payment due
2 dates."⁸⁴

3 (2) ACC Staff witness Ralph Smith stated for the proposed changes to Section 10.C of
4 the proposed R&R

5 "Staff agrees with the UNS Gas-proposed changes to Section 10.C. In order that
6 these changes not present a hardship on UNS Gas customers, there should be a six
7 month waiver in the late penalty charge. The company has proposed to reduce the
8 number of days, from 15 to 10, as the period a customer may avoid a late payment
9 penalty. For the first six months, the penalty should be waived for day 10. After the
10 initial 6 months, the Company should be able to charge the penalty after day 10. This
temporary six-month transition period should help alleviate any hardship on
customers from this change in billing terms."⁸⁵

11 And Mr. Smith also stated for the proposed changes in Section 11.E of R&R

12 "Staff supports the standardization of tariff provisions for rules and regulations from
13 the UniSource Energy Companies, including UNS Gas. Staff does not object to the
14 UNS Gas' proposed revision to Section 11.E; however, Staff is concerned that the
15 shortening of notice time could present a hardship to customers. Therefore, Staff
16 recommends that during the first six months after the notification provisions are
17 approved, the Company allow affected customers the current ten calendar days to
18 respond to a termination of service notice before actually disconnecting the
19 customers. After six months, the new terms in Section 11.E would be enforceable as
20 stated."⁸⁶

21 (3) ACAA Direct Testimony, briefly summarized, stated lower income customers usually
22 do not have a checking account or the ability to pay on-line. This schedule is a challenge for
23 those who have to pay in cash and need to arrange transportation. This leads to the using
24 "payday" loan services to drive even more customers to predatory, onerous lenders. "Twenty
25 days is an absolutely reasonable timeframe in which to pay UES, ten days simply is not."⁸⁷

26 (4) The Magruder Testimony did not discuss this concern.

27 (c) Rebuttal Testimony by the Applicant.

28 The Rebuttal Testimony by Gary Smith stated these due dates met the specifications
29 of Arizona Administrative Code R-14-2-310.C. He testified one has 10 days to pay the bill
30 before it is late and another 15 days before a late fee applies.

31 "Only then would the bill be considered delinquent...and the Company would not
32 commence suspension of service procedures unless it did not receive payment for a

33 ⁸⁴ *Ibid*, 35 at 20 to 36 at 6.

34 ⁸⁵ Direct Testimony of Ralph C. Smith for the Arizona Corporation Commission, dated 9 February 2007 page
68, hereafter "ACC-RSmith T."

35 ⁸⁶ *Ibid*, 70 at 4 to 12.

⁸⁷ ACAA-Scheier, T. 14.

1 delinquent bill after five days. So the Customer has a total of 30 days after a bill receipt
2 to pay his or her bill before a notice to shut-off is issued."⁸⁸

3 A.A.C R-14-2-310.C. is quoted below:

4 "C. Billing terms

- 5 1. All bills for utility services are due and payable no later than 10 days from the date the bill is rendered.
Any payment not received within this time-frame shall be considered past due.
6 2. For purposes of this rule, the date a bill is rendered may be evidenced by:
7 a. The postmark date
8 b. The mailing date
9 c. The billing date shown on the bill (however, the billing date shall not differ from the postmark or
mailing date by more than two days).
10 3. All past due bills for utility services are due and payable within 15 days. Any payment not received
within this time-frame shall be considered delinquent.
11 4. All delinquent bills for which payment has not been received within five days shall be subject to the
provisions of the utility's termination procedures.
12 5. All payments shall be made at or mailed to the office of the utility's duly authorized representative."⁸⁹

13 (d) Recommendations for Resolution of this concern.

14 The Rebuttal Testimony by Mr. Gary Smith appears not agree with the R&R schedule
15 nor the Arizona Administrative Code. This section of the A.A.C was last updated in 1992, so
16 the rationale for this change surely is not due to any recent Code changes. The Testimony by
17 ACC witness Ralph Smith temporarily delays both Section 10C and 11E for six-months.

18 The other R&R change in Section 11.B.1.d is significant, in that it is significantly
19 different from that part of the A.C.C, and gives broad "without" notification powers to the
20 Company without rationale. The Code must read exactly as the original R&R and A.A.C. for
21 deciding when service can be terminated without notification.

22 It is recommend that

- 23 (1) The Company writes a new, completely reader-friendly, plain language UNS Gas
24 Rules and Regulations.⁹⁰ The present edition is misleading and almost impossible to
25 understand. Recommend eight-grade reading level skills be used.⁹¹
26 (2) Consideration must be given to continue using the present schedule as it is known by
27 the customers as there are so many below poverty-line customers who are struggling
28 to make every utility, car, medical and rent payments, and if this is not possible, the

29
30 ⁸⁸ UNSG-GASmith R. 4 at 7 to 5 at 2.

31 ⁸⁹ Arizona Administrative Code R-14-310.C, obtained 3 April 2007 from
http://www.azsos.gov/public_services/Table_of_Contents.htm

32 ⁹⁰ I have two different insurance companies (automobile and home) policies with "plain English" policies that
33 meet all legal requirements using simple, easy to understand English. Get the attorneys out of writing the
34 rules for their less-educated customers to read and understand. This should lead to higher understanding
and better compliance than what is now published and not comprehensible to most college graduates.
Direct quotes from the A.A.C. are not acceptable for customers.

35 ⁹¹ *National Geographic* magazine and most newspapers use eight grade reading skill levels.

