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BEFORE THE ARIZONA CORPORATION COMMISSION

Arizona Corporation Commission

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CARL J. KUNASEK  
Chairman  
JIM IRVIN  
Commissioner  
RENZ D. JENNINGS  
Commissioner

DOCKETED BY 

DOCKET NO. U-0000-94-165

IN THE MATTER OF:  
COMPETITION IN THE  
PROVISION OF ELECTRIC  
SERVICES THROUGHOUT  
THE STATE OF ARIZONA

RESPONSE OF ASARCO INCORPORATED,  
BHP COPPER INC., CYPRUS CLIMAX  
METALS COMPANY AND ENRON CAPITAL &  
TRADE RESOURCES TO APPLICATIONS FOR  
RECONSIDERATION AND/OR REHEARING  
AND REQUEST FOR STAY OF DECISION  
NO. 59943

Pursuant to A.R.S. § 40-253 and A.A.C. R14-3-111, ASARCO INCORPORATED, BHP COPPER INC., CYPRUS CLIMAX METALS COMPANY, and ENRON CAPITAL & TRADE RESOURCES (collectively referred to as "ABCE" herein) hereby respond to the multiple applications for reconsideration and/or rehearing and requests for stay of the Arizona Corporation Commission's (the "Commission") December 26, 1996, Decision No. 59943 relating to the Commission's Rules Regarding Retail Electric Competition (the "Rules") which have been filed by other parties, including but not limited to those applications filed by Arizona Public Service Company, Tucson Electric Power Company, Citizens Utilities and the Residential Utility Consumer Office.

ABCE opposes the applications for rehearing and/or reconsideration and requests for stay of the Rules (collectively

1 "the Applications"). The issues raised in the Applications are  
2 merely a reiteration of the issues previously raised and considered  
3 in the numerous hearings, meetings and workshops held by the  
4 Commission prior to the issuance of the Rules. ABCE believes that  
5 the Rules represent a reasonable compromise of the numerous and  
6 varied positions, requests and demands of the many parties which  
7 appeared before the Commission during the hearings and proceedings  
8 which led to the adoption of the Rules. As the Rules now stand no  
9 party received the entirety of its requests or demands. The parties  
10 now filing the Applications say they favor competition, but in  
11 reality they hope to delay it as long as possible because they did  
12 not get every issue resolved in the way they requested.

13 Not only do the Applications raise issues previously  
14 resolved by the Commission, they seek to force the Commission to  
15 immediately make decisions on additional issues which were  
16 reasonably left for further study and future consideration by the  
17 Commission. As the Rules now stand they address the substantial  
18 majority of the issues raised by the various parties, and also  
19 provide for procedures to resolve additional issues as they arise in  
20 the future. The Rules provide for working groups to meet and make  
21 recommendations so that the Commission can then resolve issues not  
22 delineated in the Rules. Thus, contrary to the concerns voiced in  
23 the Applications, there are reasonable procedures in place to handle  
24 and resolve any remaining issues, arising in the future, without the  
25 need to delay implementation of competition completely by a stay,  
26 rehearing and/or reconsideration of the Rules in their entirety.

1           The implementation of actual competition will not commence  
2 until January 1, 1999. It is critical that the Rules and target  
3 date not be vacated in favor of months or years of additional  
4 hearings, meetings and workshops. The combination of target dates  
5 and timelines with some proposed rules already established and  
6 procedures set in place for the resolution of additional issues is  
7 vital to the continued forward movement towards competition. The  
8 granting of a stay, rehearing and/or reconsideration would unduly  
9 delay the benefits of competition to the public and allow this  
10 matter to languish in the administrative process without giving the  
11 affected utilities and consumers the necessary motivation to work  
12 together to resolve any remaining issues in a timely fashion. As  
13 with other decisions, the Commission has the ability to amend the  
14 Rules as necessary to address and accommodate any additions,  
15 concerns or proposals that may evolve through the workshops.

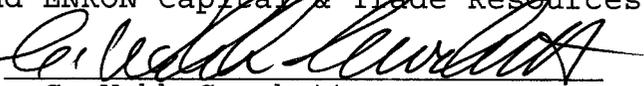
16           It is vital to the Arizona economy that the Rules  
17 providing for competition be implemented as soon as possible in  
18 light of the fact that other states, such as California, have  
19 already adopted rules and have begun to implement competition.  
20 Thus, those states have a substantial start on moving into the era  
21 of competition. Permitting other states to move into competition  
22 well ahead of Arizona disadvantages not only the consumers in this  
23 State, but also the Arizona businesses who will be attempting to  
24 compete with businesses from other states. Therefore, the  
25 Commission should not delay implementation of the Rules by  
26 rehearing, reconsideration or stay.

1           Because ABCE believes that the Rules establish a workable  
2 compromise of all the parties' different positions, ABCE requests  
3 that each of the Applications for reconsideration and/or rehearing  
4 and request for stay of the Rules be denied. With the Rules in  
5 place and the procedures set forth for continued workshops on  
6 additional issues, the affected utilities and the other parties now  
7 have a framework within which to work towards a common goal with  
8 established time frames and incentives. If the public is to realize  
9 the benefits of competition in the provision of electric services  
10 within the next few years, it is important that the process not be  
11 stalled and reverted back to ground zero by a stay, rehearing and/or  
12 reconsideration.

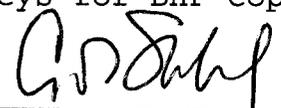
13           ABCE respectfully submits that the parties should move  
14 forward and that the Applications for stay, rehearing and/or  
15 reconsideration of Decision No. 59943 should be denied.

16           RESPECTFULLY SUBMITTED this 28th day of January, 1997.

17           FENNEMORE CRAIG, P.C.  
18           Two N. Central Avenue, Suite 2200  
19           Phoenix Arizona 85004-2390  
20           Attorneys' for ASARCO Incorporated  
21           Cyprus Climax Metals Company  
22           and ENRON Capital & Trade Resources

23           By   
24           C. Webb Crockett

25           STREICH LANG  
26           A Professional Association  
27           Renaissance One  
28           Two N. Central Avenue  
29           Phoenix, Arizona 85004-2391  
30           Attorneys for BHP Copper Inc.

31           By   
32           Louis A. Stahl

1 CERTIFICATE OF SERVICE

2 The original and ten (10) copies of the foregoing document  
3 were filed with the Arizona Corporation Commission on this 28<sup>th</sup>  
4 day of January, 1997, and copies of the foregoing were mailed this  
5 28<sup>th</sup> of January, 1997, to:

6 Charles R. Huggins  
7 Arizona State AFL-CIO  
8 110 N. 5th Avenue  
9 P.O. Box 13488  
10 Phoenix, AZ 85002

11 David C. Kennedy  
12 Law Offices of David C.  
13 Kennedy  
14 100 W. Clarendon, Suite 200  
15 Phoenix, AZ 85012-3523

16 Richard L. Sallquist  
17 Ellis, Baker & Porter, P.C.  
18 2111 E. Highland, Suite 355  
19 Phoenix, AZ 85016-4734

20 Michael A. Curtis  
21 William P. Sullivan  
22 Martinez & Curtis, P.C.  
23 2712 N. 7th Street  
24 Phoenix, AZ 85006

25 Thomas C. Horne  
26 Michael S. Dulberg  
Horne, Kaplan & Bistrow, P.C.  
40 N. Central Ave., Ste. 2800  
Phoenix, AZ 85004

Larry R. Braber, V.P.  
Utility Services  
Cyprus Metals Company  
9100 E. Mineral Circle  
Englewood, CO 80112

Barbara S. Bush  
Executive Director  
Coalition for Responsible  
Education  
315 W. Riviera Drive  
Tempe, AZ 85252

Beth Ann Burns  
Associate General Counsel  
Citizens Utilities Company  
2901 N. Central Avenue,  
Suite 1660  
Phoenix, AZ 85012

Vicki G. Sandler  
Arizona Public Service  
Company  
Law Department Station 9829  
P.O. Box 53999  
Phoenix, AZ 85072-3999

Steven M. Wheeler  
Thomas L. Mumaw  
Snell & Wilmer  
One Arizona Center  
400 E. Van Buren  
Phoenix, AZ 85004-0001

Norman J. Furuta  
Associate Counsel  
Department of the Navy  
900 Commodore Dr., Bldg. 107  
P.O. Box 727 (Attn: Code 90C)  
San Bruno, CA 94066-0720

Paul J. Roshka, Jr.  
Raymond S. Heyman  
Roshka, Heyman & DeWulf  
Two Arizona Center  
400 N. 5th Street, Ste. 1000  
Phoenix, AZ 85004

Columbus Electric  
Cooperative, Inc.  
P.O. Box 631  
Deming, NM 88031

1	Rick Lavis Arizona Cotton Growers Assn. 4139 E. Broadway Road Phoenix, AZ 85040	Sam DeFrawl Rate Intervention Div. Attn: Code 16R Naval Facility Engrg Command Room 10S12 200 Stoval Street Alexandria, VA 22332-2300
2		
3	Bruce Driver	
4	Eric Blank Land & Water Fund of Rockies Law Fund Energy Project 2260 Baseline, Ste. 200 Boulder, CO 80302	Myron Scott Lewis & Clark College Natural Resources Law Inst. 10015 SW Terwillinger Blvd. Portland, OR 97219
5		
6		
7	Greg Patterson, Director Residential Utility Consumer Office 2828 N. Central Ave., Ste. 1200 Phoenix, AZ 85004	Steven Glaser David Lamoreaux Tucson Electric Power Company 220 W. 6th Street Tucson, AZ 85701
8		
9		
10	Michael M. Grant Johnston Maynard Grant & Parker 3200 N. Central Ave., Ste. 2300 Phoenix, AZ 85012	Thomas R. Sheets Andrew W. Bettwy Office of Regulatory Affairs Southwest Gas Corporation 5241 W. Spring Mountain Road Las Vegas, NV 89102
11		
12		
13		
14	Jack Haenichen, Director Arizona Energy Office Arizona Department of Commerce 3800 N. Central Avenue Phoenix, AZ 85012	Bruce E. Meyerson Steptoe & Johnson 40 N. Central Ave., 24th Fl. Phoenix, AZ 85004-4453
15		
16		
17	Steve Brittle, President Don't Waste Arizona, Inc. 6205 S. 12th Street Phoenix, AZ 85040	Lex J. Smith Brown & Bain 2901 N. Central Ave. P.O. Box 400 Phoenix, AZ 85001-0400
18		
19		
20	Ajo Improvement Company P.O. Drawer 9 Ajo, AZ 85321	Duncan Valley Electric Cooperative, Inc. P.O. Box 440 Duncan, AZ 85534
21		
22	Arizona Electric Power Cooperative P.O. Box 670 Benson, AZ 85602	Graham County Electric Cooperative, Inc. P.O. Box Drawer B Pima, AZ 85543
23		
24	Dixie Escalante Rural Electric Assoc. CR Box 95 Beryl, UT 84714	Morenci Water and Electric Company P.O. Box 68 Morenci, AZ 85540
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Garkane Power Association,  
Inc.  
P.O. Box 790  
Richfield, UT 84701

Sulphur Springs Valley  
Electric Cooperative  
P.O. Box 820  
Wilcox, AZ 85644

Mohave Electric Cooperative,  
Inc.  
P.O. Box 1045  
Bullhead City, AZ 86430

Navopache Electric  
Cooperative, Inc.  
P.O. Box 308  
Lakeside, AZ 85929

Trico Electric Cooperative,  
Inc.  
P.O. Box 35970

Continental Divide Electric  
Cooperative  
P.O. Box 1087  
Grants, NM 87020

Karen Glennon  
19037 N. 44th Avenue  
Glendale, AZ 85308

