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UTILITY CONSUMER OFFICE

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Fife Symington
Governor

Greg Patterson
Director

Arizona Corporation Commission
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August 25, 1997

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Carl J. Kunasek, Chairman
Jim Irvin, Commissioner
Renz D. Jennings, Commissioner

Re: In the Matter of the Competition in the Provision of Electric Services Throughout the State of Arizona (Docket No. U-0000-94-165).

Dear Commissioners:

The Commission's Electric Restructuring rules are the foundation for the far-reaching changes from a monopoly market to a competitive market in the generation of electricity. RUCO agrees with the Utilities Division that the Electric Restructuring Rulemaking Docket should be reopened and further proceedings scheduled.

To date, the working groups have been instrumental in defining the issues that are involved in the restructuring of the electric industry, and in attempting to build consensus among the participants. RUCO believes that the working group process has been effective for these purposes. However, we also believe that there are crucial issues for which no consensus will ever be reached among the numerous participants with divergent positions. For the remaining contested issues, the Corporation Commission will have to make some difficult decisions to balance the interests of the incumbent utilities, the competitive providers, and the consumers.

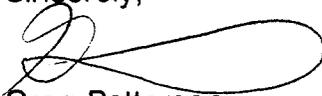
RUCO strongly urges the Commission to hold an evidentiary hearing to address the remaining contested issues. We anticipate that this hearing would be similar to the generic arbitration hearings that the Commission held for the telecommunications companies as they transitioned to a competitive market. Issues could be limited to those where there is no consensus, for example: stranded investment calculation methodology, recovery mechanisms and phase-in procedures. The hearings could be limited in a number of ways to facilitate a timely resolution of the issues, including limitations on the number of witnesses and the length of the hearing. We believe that as part of the process, the parties should be allowed to file prefiled testimony, to clarify the parties' positions and the facts upon which they rely.

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RUCO believes that an evidentiary hearing would allow the Commission to review the relevant facts and make a just and reasonable determination on these complicated issues. Furthermore, we believe that an evidentiary hearing would bring final resolution for the parties. This proposed process could abate the current litigation in which the Commission is currently enmeshed, and would diminish the possibility of further litigation. A process that includes comprehensive working group sessions, a subsequent evidentiary hearing addressing the contested issues, followed by the APA-required public hearings and comments should withstand judicial scrutiny. An evidentiary hearing would also be a means of educating the public regarding the complexity of the issues.

RUCO proposes the following process: interested parties would file prefiled testimony; an evidentiary hearing would be held in November or December of this year; or, and proposed amendments to the rules would be brought to the Commission for a vote in early 1998. Public hearings pursuant to the Arizona Procedures Act could then be held, with permanent rules adopted during the first quarter of 1998. Under this schedule, the January 1, 1999 start date for competition remains feasible.¹

Sincerely,



Greg Patterson
Director

cc: All Parties of Record

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This proposed schedule would require the Commission to stay a few sections of the current rules, which require the Affected Utilities to file certain information by the end of this year. Those services include:

- AAC R14-2-1602: Requires that each Affected Utility must file tariffs consistent with the rules by December 31, 1997.
- AAC R14-2-1606(B) Requires that each Affected Utility may file proposed tariffs to provide Standard Offer Bundled Services, by December 31, 1997. If no such tariff is filed, the rates and services in existence as of that date will be the "standard offer."
- AAC R14-2-1606(C) Requires that each Affected Utility must file Unbundled Service tariffs by December 31, 1997.
- AAC R14-2-1608(A) Requires that each Affected Utility must file non-bypassable rates or related mechanisms to recover the applicable pro-rata costs for Systems Benefits from all consumers in the Affected Utility's service area who participate in the competitive market by December 31, 1997.