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BEFORE THE ARIZONA CORPORATION COMMISSION

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~~Arizona Corporation Commission~~

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AZ CORP COMMISSION

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

DOCKET NO. U-0000-94-165

RUCO'S REQUEST FOR
EVIDENTIARY HEARING AND
PROCEDURAL ORDER

9 It is the Residential Utility Consumer Office's ("RUCO") position that a more formal fact-
10 finding process must take place so that the Commission can properly make a ruling on
11 remaining contested issues that are crucial to the electric restructuring process. RUCO
12 contends that an informed policy-making decision process dictates that the interested parties
13 should have the opportunity to formally present evidence in support of their positions and
14 interests. This is a critical step. All concerned parties should also be afforded an opportunity
15 to cross-examine witnesses and provide rebuttal evidence.

16 In the electric restructuring process, the Commission has before it the weighty task of
17 assessing the conflicting interests of many parties regarding the provision of electric power, an
18 essential resource. With such a panoply of viewpoints to assess, the Commission must have
19 access to a proper evidentiary record that identifies all the diverse parties' interests and
20 priorities. In turn, the parties are entitled to present facts in support of their positions, and the
21 Commission deserves to be exposed to a critical analysis of those facts. Therefore, RUCO is
22 filing its Request for Evidentiary Hearing and Procedural Order, so that such a proceeding may
23 be scheduled as soon as possible, to avoid delaying the implementation of competition in the
24 electric industry.¹

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¹Other parties have also contended that evidentiary hearings and/or expert testimony are necessary to resolve critical outstanding issues. See, Comments of Arizona Public Service Company on Stranded Cost Working Group Report, pp. 2, 8; Arizona Electric Power Cooperative, Inc. Comments on the Stranded Cost Working Group (Sept. 25, 1997), p. 2; City of Tucson's Response to Stranded Investment Working Group Report (requesting formal investigative proceedings, to include formation of panels and calling of expert witnesses) p. 16.

1 **BACKGROUND**

2 On December 26, 1996, the Commission adopted A.A.C. R14-2-1601 through -1616,
3 ("Retail Electric Competition Rules," or "Rules") which provide a framework for transition to
4 competition in the provision of electric generation and transmission services within Arizona.
5 Decision No. 59943. As required by the Rules, working groups comprised of stakeholder
6 representatives have been meeting under the direction of Utilities Division Staff ("Staff"), and
7 Staff has been capably and diligently preparing reports from the working groups. Working
8 groups mandated by the Rules include Customer Selection Issues, A.A.C. R14-2-1604(E)(4);
9 Unbundled Service and Standard Offer Service (including System Benefits Charges and
10 metering protocols), A.A.C. R14-2-1606(I), -1608(D), -1613(I)(3); Stranded Costs, A.A.C. R14-2-
11 1607; System Reliability and Safety, A.A.C. R14-2-1613(J); and Legal Issues, A.A.C. R14-2-
12 1616.

13 In August of 1997, based on the working group discussions that had taken place at the
14 time, Staff requested "that the Commission direct the Hearing Division to produce procedural
15 orders to establish hearings, evidentiary or otherwise, regarding any aspect of electric
16 competition that is necessary and appropriate." Decision No. 60351 at 3. The Commission
17 unanimously adopted Staff's recommendations, *id.* at 3, and authorized Staff to request
18 procedural orders from the Hearing Division in order to establish such hearings. *Id.* at 4.

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20 **LEGAL ANALYSIS**

21 **Recommendations in the working group reports clearly demonstrate the need for**
22 **efficient, timely, legislative-type evidentiary factfinding hearings.**

23 The path that the Commission chooses to follow in instituting retail electric competition
24 in this state will have a considerable effect on Arizona for years to come. For this reason it is
25 of utmost importance that the choices the Commission makes in the coming year be informed
26 choices based on verifiable facts. The most efficient and expeditious manner of obtaining
27 access to vital facts is by means of a mechanism readily available to the Commission:
28 legislative-type evidentiary hearings. Evidentiary hearings will allow interested and technically

1 knowledgeable parties to testify before the Commission and share their factual knowledge and
2 technical expertise regarding the existing mechanisms for the generation and transmission of
3 electric power, and how those mechanisms can be adapted to the new world of competition.

4 As the reports of the various working groups will show, Staff and all the group members
5 have been working steadily and diligently to produce consensus on as many items as possible.
6 The work of these individuals has been invaluable in identifying issues that are in need of further
7 inquiry and consideration. However, the magnitude of the number of issues upon which the
8 groups have been *unable* to reach consensus is indicative of the number of important issues
9 that the Commission will have to decide. Analysis of the reports shows that many groups failed
10 to reach consensus on certain issues because the treatment of some issues hinged on other
11 working groups' decisions on closely related issues. Due to the great number of unresolved
12 issues, legislative-type, factfinding evidentiary hearings are the proper forum for the Commission
13 to explore these pivotal issues.

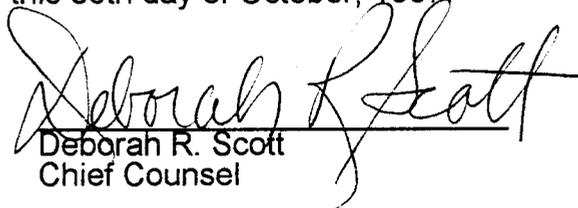
14 Some of the issues that the Commission must rule on include:

- 15 ● Should there be a phase-in or a flash-cut to competition?
- 16 ● Is January 1, 1999 a feasible "start date" for competition?
- 17 ● In a competitive market, who will serve as the energy provider of last resort?
- 18 ● Are stranded costs to be shared by investors and customers? Should only the
19 customers participating in competition pay stranded costs?
- 20 ● What is the appropriate method for calculating stranded cost? What is the
21 appropriate time period for recovering stranded cost?
- 22 ● Must customers' rates be unbundled in a revenue-neutral manner, both as
23 between customer classes and within customer classes?
- 24 ● Should the Commission consider some type of rate cap as part of a stranded cost
25 recovery program?
- 26 ● Is an Independent System Operator ("ISO") the appropriate way to safeguard
27 reliability? Can an ISO be implemented in time for the January 1, 1999 start date
28 for electric competition?

1 RUCO asserts that legislative-type factfinding hearings will not hinder or delay the
2 introduction of competition to generation and transmission of electric service in Arizona, but will
3 actually speed a smooth transition. The date for transition to electric retail competition is quickly
4 approaching. Receiving sworn testimony from technical experts will allow the Commission to
5 make informed factual determinations upon which to base its decisions on critical unresolved
6 issues. Furthermore, evidentiary hearings will reduce the likelihood of protracted litigation,
7 because the Commission's decision will be based on both an evidentiary record and the Arizona
8 rulemaking procedures.

9 For all the reasons explained above, RUCO respectfully requests that the Commission
10 set a procedural schedule for legislative-type, non-adversarial, factfinding evidentiary hearings
11 at the earliest possible date.

12 RESPECTFULLY SUBMITTED this 30th day of October, 1997.

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15 Deborah R. Scott
Chief Counsel

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