

DOCKETED



0000071442

NOV 14 1997

BEFORE THE ARIZONA CORPORATION COMMISSION

AZ CORP COMMISSION

Nov 14 4 22 PM '97

DOCKETED BY

JH

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

DOCKET NO. U-0000-94-165

ECC'S OBJECTIONS TO RUCO'S REQUEST
FOR EVIDENTIARY HEARING AND
PROCEDURAL ORDER

DOCUMENT CONTROL

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

The Electric Competition Coalition ("ECC") opposes the Request for Evidentiary Hearing and Procedural Order filed by the Residential Utility Consumers Office ("RUCO") on October 30, 1997. ECC respectfully urges the Arizona Corporation Commission to deny RUCO's Request as being unnecessary, unwarranted and not in compliance with the Commission's Rules. RUCO filed an application for rehearing of the Commission's rules on electric competition and then filed an appeal in Superior Court. Under the administrative and statutory rules, the original order remains in effect. See A.R.S. §§ 40-253 and -254. By allowing evidentiary hearings of an adjudicatory nature would move this process back to the beginning and give RUCO procedural rights not recognized in the law.

The "formal fact-finding process" through evidentiary hearings would remove the Commissioners from their flexibility in making public policy. Further delay and substantial costs would be incurred by consumers and all interested parties. Once a contested matter is set for public hearing, "no person shall make or cause to be made an oral or written communication, not on the public record, concerning the substantive merits of a contested proceeding to a Commissioner or Commission employee involved in the decision-making process for that proceeding." A.A.C. R14-3-113.C.1.

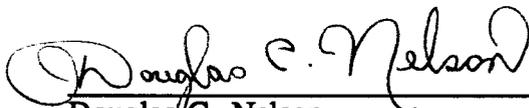
Furthermore, the rules preclude the Commissioners or any Commission employee in the decision-making process from requesting or considering any unauthorized communication concerning the merits of the proceedings. A.A.C. R14-3-113.C.2.

1 The Commission has used its legislative authority in this ratemaking process in order to
2 receive public input and expedite the process. The issues raised by RUCO do not lend
3 themselves to a formal hearing process in which expensive experts would articulate the positions
4 of their clients. Instead, the Commission could order open meetings in which to receive sworn
5 testimony of interested parties to address the working group reports and to comment on the
6 issues raised by RUCO. Hearings may occur later as contemplated in the Electric Competition
7 Rules. When the utilities file their unbundled rates or seek recovery of stranded costs, then
8 hearings should be held on a utility-by-utility basis. The hearing officer would apply the Rules
9 and the policies of the Commissioners in making recommendations to the Commissioners.
10 A.A.C. R14-2-1606.B.1 (standard offer tariffs); R14-2-1607.I (recovery of stranded costs); R14-
11 2-1608.C (system benefits charge); R14-2-1612.F (rates).

12 Finally, an order approving RUCO's request would likely lead to further
13 litigation as to the nature of these proceedings and further delay the benefits of competitive
14 generation for Arizona customers.

15 DATED this 13th day of November, 1997.

16 Respectfully submitted,

17 
18 _____

19 Douglas C. Nelson
20 Douglas C. Nelson, P.C.
21 7000 North 16th Street
22 Suite 120-307

23 Attorney for Electric Competition Coalition
24
25
26
27
28