



0000071471

THE ARIZONA CORPORATION COMMISSION

19



Arizona Utility Investors Association

2100 N. Central, Ste. 210  
P. O. Box 34805  
Phoenix, AZ 85067  
Tel: (602) 257-9200  
Fax: (602) 254-4300  
Email: swpr@amug.org

VIN  
CHAIRMAN  
RENZ D. JENNINGS  
COMMISSIONER  
CARL J. KUNASEK  
COMMISSIONER

RECEIVED  
AZ CORP COMMISSION

DEC 23 11 57 AM '97

DOCUMENT CONTROL

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

DOCKET NO.  
U-00094165

MOTION TO AMEND PROCEDURAL ORDER

The Arizona Utility Investors Association (AUIA, Petitioner) hereby petitions this Commission to amend its Procedural Order in the above captioned matter to permit cross-examination of witnesses by Parties who are not represented by legal counsel. As its cause for relief, Petitioner states as follows:

I.

On August 1, 1994, AUIA was granted leave to intervene in this matter. Since that time, Petitioner has participated fully in these proceedings, including all of the deliberations of the Stranded Cost Recovery Working Group and its subcommittees.

II.

On December 1, 1997, the Commission issued a Procedural Order which set an evidentiary hearing on generic issues related to stranded cost recovery for February 9, 1998.

III.

The issue of stranded cost recovery is central to the financial interests of utility shareholders and bondholders. No other party has its property and investment at risk in this proceeding.

IV.

At a procedural conference on December 9, 1997, Chief Hearing Officer Jerry L. Rudibaugh asserted that cross examination at the evidentiary hearing would be conducted only by attorneys. Petitioner objected to this restriction on grounds that retaining legal counsel would create an impossible financial burden.

V.

Mr. Rudibaugh's response at the procedural conference was to encourage parties who are unrepresented by counsel to align themselves with parties who are so represented. This response is reflected in the Commission's First Amended Procedural Order dated December 11, 1997. Mr. Rudibaugh also has limited each party to 30 minutes of cross-examination per witness.

Arizona Corporation Commission

DOCKETED

DEC 23 1997

DOCKETED BY [Signature]

VI.

The effect of this procedure is that those who can afford legal counsel will have opportunities to challenge dubious testimony and elicit responses favorable to their views while those who are not so privileged will be cast in the role of spectators or given very short shrift. This procedure changes the previous rules of conduct in the competition docket in which all parties have been encouraged to participate fully with or without legal counsel.

VII.

Since the December 9 procedural conference, Carl W. Dabelstein has resigned as Director of the Utilities Division of the Corporation Commission.

VIII.

Upon information and belief, Petitioner asserts that Mr. Dabelstein was prompted to resign, in whole or in part, by a directive which prohibited him from filing professional testimony on behalf of his Division in the forthcoming stranded cost hearing.

IX.

Upon information and belief, Petitioner asserts that the Commission intends, and so informed Mr. Dabelstein, that Staff testimony will be prepared by an external consultant to be chosen by the Chairman and/or Executive Secretary.

X.

Upon information and belief, Petitioner asserts that these directives are expressly intended to repudiate the Staff's previously filed comments and recommendations on stranded cost recovery as reflected in the Report of the Working Group on Stranded Cost Recovery dated September 30, 1997, all to the detriment of investors in the Affected Utilities.

XI.

With these recent developments, it is even more imperative that AUIA be granted due process and be permitted to examine witnesses with regard to the depth of knowledge and sources of information they bring to bear on the issue of stranded cost recovery in Arizona.

WHEREFORE, your Petitioner moves this Commission to amend the Procedural Order in this matter to:

- a) Permit all parties to this proceeding to conduct cross-examination of witnesses, or
- b) Grant a waiver specific to the Petitioner.

RESPECTFULLY SUBMITTED this 23rd day of December, 1997.

  
Walter W. Meek, President

## CERTIFICATE OF FILING AND SERVICE

The original and ten (10) copies of the foregoing Motion were filed this 23rd day of December, 1997, with:

Docket Control  
Arizona Corporation Commission  
1200 W. Washington Street  
Phoenix, AZ 85007

A copy of the foregoing Motion was hand delivered this 23rd day of December, 1997, to:

James M. Irvin, Chairman  
Renz D. Jennings, Commissioner  
Carl J. Kunasek, Commissioner  
Jack Rose, Executive Secretary  
Jerry L. Rudibaugh, Chief Hearing Officer  
Paul A. Bullis, Chief Legal Counsel  
Arizona Corporation Commission  
1200 W. Washington Street  
Phoenix, AZ 85007

A copy of the foregoing Motion was mailed this 23rd day of December, 1997, to each person or organization included on the current service list.

  
\_\_\_\_\_  
Walter W. Meek