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BEFORE THE ARIZONA CORPORATION COMMISSION

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Arizona Corporation Commission

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

DOCKETED BY *JH*

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

DOCKET NO. U-0000-94-165

MOTION OF ARIZONA PUBLIC
SERVICE COMPANY TO AMEND
PROCEDURAL ORDERS

Arizona Public Service Company ("APS" or "Company") hereby asks that the present procedural schedule in this matter be amended to extend from February 2, 1998, until February 7, 1998, the deadline for APS and other "Affected Utilities" to file rebuttal testimony. This extension is exactly equal to that requested by Staff and granted both to Staff and to other non-"Affected Utilities" by the Third Amended Procedural Order. In addition, the Company's initial review of the testimony filed by other "Affected Utilities" indicates a need to address by way of rebuttal certain new issues raised by such testimony.

EXTENSION OF THE FILING DATE FOR STAFF AND INTERVENOR TESTIMONY WARRANTS AN EQUAL EXTENSION FOR "AFFECTED UTILITIES"

Not including Staff, some nine intervenors have indicated that they would be filing the testimony of between 12 and 15 witnesses in this proceeding. With one possible exception, it is safe to surmise that all the intervenor testimony will be adverse to the interests of "Affected Utilities" such as APS. Thus, quite aside from the issue of whether Staff, let alone the other intervenors, were justified in seeking a further delay in filing their initial testimony in this

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1 proceeding,¹ APS should be entitled to the same period of time to prepare rebuttal testimony as
2 was agreed to by the parties and the Presiding Officer at the December 9, 1997, Procedural
3 Conference. As it stands, Staff and intervenors not only receive two separate opportunities to
4 rebut the "Affected Utilities," they would now receive a longer period of time to prepare their
5 first rebuttal than do the "Affected Utilities" for their **only** such opportunity and **over twice as**
6 **long** to prepare intervenors' second round of rebuttal. Moreover, APS is all but precluded by
7 the current schedule from conducting discovery on even this initial Staff and intervenor rebuttal
8 testimony. This is clearly unfair and unwarranted.

9 APS realizes that this extension will give parties only a weekend to review its rebuttal
10 prior to the hearing beginning. However, the Presiding Officer can partially compensate for this
11 by deferring cross-examination on the Company's rebuttal testimony until later in the hearing.
12 In this regard, it should also be remembered that it was not that many years ago that all rebuttal
13 testimony was conducted orally from the witness stand - a practice still followed in many
14 Commission proceedings to this day. Lastly, it was not the Company's actions that first
15 necessitated any change in the procedural schedule set forth in the December 11th Procedural
16 Order.

17 **APS WILL NEED TO FILE SOME REBUTTAL TO THE POSITIONS**
18 **ASSERTED BY OTHER "AFFECTED UTILITIES"**

19 If there was ever any belief on the part of the Commission that all "Affected Utilities"
20 are in complete agreement on the issues identified by the Presiding Officer in his Procedural
21 Orders, even the most cursory review of the testimony filed this past January 9th should dispel
22 such belief. There are clearly substantive differences between the positions of, for example,
23 Citizens and Tucson Electric, and that of the Company. Thus, an already arduous task of
24 preparing rebuttal testimony has been further complicated.

25 _____
26 ¹ The Presiding Officer will remember that at the December 9th Procedural Conference, he had initially
determined that such testimony would be due concurrently with that of the "Affected Utilities."

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CONCLUSION

APS asks nothing more than what the non-utility parties have already received. Although APS has no desire to postpone the presently scheduled date, and does not believe such postponement to be necessary, it nevertheless must ask to be given at least the same opportunity to protect its rights as was agreed to earlier.

RESPECTFULLY SUBMITTED this 13th day of January, 1998.

SNELL & WILMER L.L.P.

by Thomas L. Mumaw

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Original and ten copies of the foregoing hand-delivered this 13th day of January, 1998, to:

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