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IN THE MATTER OF THE APPLICATION OF UNS GAS, INC. FOR ESTABLISHMENT OF JUST AND REASONABLE RATES AND CHARGES DESIGNED TO REALIZE A REASONABLE RATE OF RETURN ON THE FAIR VALUE OF THE PROPERTIES OF UNS GAS, INC. DEVOTED TO ITS OPERATIONS THROUGHOUT THE STATE OF ARIZONA.	**Docket No. G-04204A-06-0463**
IN THE MATTER OF THE APPLICATION OF UNS GAS, INC. TO REVIEW AND REVISE ITS PURCHASED GAS ADJUSTOR.	**Docket No. G-04204A-06-0013**
IN THE MATTER OF THE INQUIRY INTO THE PRUDENCE OF THE GAS PROCUREMENT PRACTICES OF UNS GAS, INC.	**Docket No. G-04204A-05-0831**

Notice of Filing of

Initial Brief of Marshall Magruder, Intervenor

5 June 2007

As directed in the Procedural Order of 8 September 2006, modified on 10 January 2007 and 15 February 2007 and verbal direction by the Administrative Law Judge, this Initial Brief of Marshall Magruder is submitted to all Parties as of this date.

Respectfully submitted on this 5th day of June 2007 to all parties.

Arizona Corporation Commission
DOCKETED
JUN -5 2007
DOCKETED BY ne

MARSHALL MAGRUDER

By Marshall Magruder

Marshall Magruder

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INITIAL BRIEF

OF

MARSHALL MAGRUDER

June 5, 2007

In

ACC Docket No. G-04204A-06-0463
In the Matter of the Application of UNS Gas, Inc. for Establishment of Just and Reasonable Rates and Charges Designed to Realize a Reasonable Rate of Return on the Fair Value of the Properties of UNS Gas, Inc. devoted to its Operations Throughout the State of Arizona,

and

ACC Docket No. G-04204A-06-0013
In the Matter of the Application of UNS Gas, Inc. to Review and Revise its Purchased Gas Adjustor

and

ACC Docket No. G-04204A-05-0831
In the Matter of the Inquiry into Prudence of the Gas Procurement Practices of UNS Gas, Inc.

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INITIAL BRIEF BY MARSHALL MAGRUDER

Part I – Background and Key Issues

1.1 Background.

Q. What has been your involvement in this case to date?

A. On 10 January 2007, the Magruder Motion to Intervene of 16 November 2006[1] was approved and the Magruder Direct Testimony filed on 7 February 2007[2], Magruder Surrebuttal Testimony filed on 4 April 2007[3] and Magruder Summary filed on 23 April 2007[4]. I participated in discovery with three data request sets exchanged with the Applicants.

Q. Do you have adequate information to produce this Brief?

A. Yes, however, the high cost of obtaining a transcript and its unavailability in the Docket e-files has precluded use of the Hearing Transcripts. Exhibits introduced during the hearings will be referenced. Since my notes maybe in error, each "Ex" will be fully referenced in a footnote when first used.

1.2 Key Issues and Concerns.

Q. Are there differences between your issues and those raised by the Commission Staff and RUCO?

A. Yes. Many diverse issues and concerns have emerged during the proceedings in this rate case. The other intervening parties, especially the Arizona Corporation Commission (ACC) Staff and the Residential Utility Consumer Office (RUCO) have completed explored most in depth, especially financial issues beyond my capability to completely explore. During discovery, the rounds of testimony, and the hearings, new issues were continually being introduced. Some were important to Santa Cruz County and its ratepayers, so additional emphasis in my efforts have been applied on those. In general, I am satisfied with and concur with the conclusions off all intervening parties to date.

Q. Will you summarize your concerns and the issues in your Testimony?

A. Yes. My efforts have centered on several few key issues and concerns expressed in my Direct, Surrebuttal and Summary Testimony as briefly documented herein:

1. Mandatory residential Service (or customer) Charge to vary by season, ¶2.1 below.

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[1] Motion to Intervene by Marshall Magruder, of 16 November 2006, hereafter "**Ex. M-5**"
[2] Direct Testimony by Marshall Magruder, of 6 February 2007, hereafter "**Ex. M-6**"
[3] Surrebuttal Testimony by Marshall Magruder, of 4 April 2007, hereafter "**Ex. M-7**"
[4] Summary Testimony by Marshall Magruder, of 23 April 2007, hereafter "**Ex. M-8**"

2. Residential Service (or customer) Charge increases, ¶2.2 below.
3. Increased rates by Adding a Throughput Additional Mechanism (TAM) to shift some volumetric cost to the Service Charge, ¶2.3 below.
4. System usage charges in TAM when not using gas, ¶2.4 below
5. Internal UNS Gas "Price Stabilization Policy" to be adopted by the ACC to replace Prudency Purchase Audits for future rate cases, ¶2.5 below.

Q. Did you respond to ACAA Testimony?

A. Yes. The Arizona Community Action Association (ACAA) excellent Direct Testimony[5], Surrebuttal Testimony[6], and Data Request Response to UNS Gas' First Data Request[7] have emphasized issues and concerns for the lower-income ratepayers. The issues raised by ACAA exist in Santa Cruz County which identified a sixth key issue, "Changes in Past Due, Penalty, Suspension, Notice of Termination Dates after Billing," ¶2.6 below.

Q. Do you agree with additional issues raised by the ACC Staff and RUCO?

A. Yes. These additional concerns, from the Testimony of the Intervenors, pose additional issues and are summarized as below. They are numbered sequentially with the above six issues discussed in Part II of this Brief. They are summarized in Table 1 below which compares the UNS Gas proposals with the views of the Intervenors:

7. Deletion of base cost of gas and only; use Purchased Gas Adjustor (PGA) for gas prices
8. Change PGA bandwidth and then eliminate
9. Recommended costs of natural gas at $**0.1862**/therm (with higher Service Charge) compared to the present $**0.3004**/therm
10. Citizens Acquisition Adjustment: amortized charges
11. Construction Work in Progress (CWIP) into base rate and CWIP property taxes
12. Rate base expenses for Geographic Information System (GIS)
13. Rate base working capital expenses
14. Accumulated Deferred Income Tax (ADIT)
15. Revenue Annualization
16. Weather Normalization

---

[5] Direct Testimony of Arizona Community Action Association. by Miquelle Scheier, of 8 February 2007, hereafter "**ACAA-1** "

[6] Arizona Community Action Association's Response to UNS, Gas, Inc's First Set of Data Requests, of 27 February 2007, hereafter "**Ex. ACAA-2**"

[7] Rebuttal Testimony of Arizona Community Action Association. by Miquelle Scheier, of 3 April 2007, hereafter "**Ex. ACAA-3**"

17. Bad Debt Expenses
18. Incentive Compensation and Senior Executive Retention Plan (SERP)
19. Emergency Bill Assistance Expense
20. Nonrecurring Severance Payment Expenses
21. Overtime Payroll Expenses
22. Payroll Tax Expenses
23. Non-Recurring FERC Rate Case Legal Expenses
24. Property Tax Expenses
25. Worker's Compensation Expenses
26. Membership and Industry Association Dues
27. Fleet Fuel Expenses Based on Early 2006 Fuel Prices
28. Postage Expenses
29. Rate Case Expenses
30. Growth Percentages Used Instead of Actual Growth
31. Corporate Expenses for the Unsuccessful KKR, et al, Acquisition
32. Out of Test Year charges added to base rate expenses
33. Increased Customer Service costs from $18,000 to $76,000 a month at TEP Call Center
34. Non-Recurring/Atypical Expenses
35. Depreciation Expenses
36. Disallowance of Inappropriate and unnecessary expenses
37. Interest Synchronization
38. Corporate Cost Allocations
39. CARES[8] Related Amortization

Q. Are their significant issues that will not be included in this Brief?

A. The Applicants proposed some details of the UNS Gas Demand Side Management (DSM) Plan as a Supplemental Exhibit to the Rebuttal Testimony of UNS Gas' Denise Smith. [Ex. UNSG-23, 3][9] Since this filing was for "`informational purposes`" [Ex. UNSG-23, 1] it will be reviewed in Part III. My response and concerns are the limited approach being considered, the lack of more programs, inaction by the Company, and additional DSM coordination efforts with UNS Electric, Inc. UNSE).

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[8] Customer Assistance Residential Energy Support (CARES) Pricing Plan (R-12) which exempts low-income customers from the PGA Surchage and freezes the proposed Service Charge at $7/month.

[9] "Supplemental Exhibit to the Rebuttal Testimony of Denise Smith," of 23 March 2007, hereafter "**Ex. UNSG-23**"

1.3 Additional Concerns that remain Open.

There are two concerns that have not been completed explored during the hearings.

a. Ensure no Double-Charging. One concern remains from my Motion to Intervene (Ex. M-5, 2 12 to 14] It was also discussed by the ACC Staff's Mr. Layton, on the last day of the hearings, as an area in which he indicated that deeper investigation may still be necessary. This involves the complex internal payments between UniSource Energy Inc. (UNS), UniSource Energy Services, Inc. (UES), Tucson Electric Power Company, Inc. (TEP), UNSE and UNS Gas, Inc. (UNSG), to ensure that "double charging" and Administrative and General Expenses (A&G) expense pancaking has not occurred. My capability to ferret out such information is limited. This is best accomplished by the ACC Staff and RUCO professional accounting resources. It is recommended that the Commission consider for resolution of this concern that a separate Staff and RUCO Review be conducted into the charging practices and implementation of the UNS Energy entities. This maybe a good way to confirm or deny potential abuses that could have occurred in this kind of multi-layered organization.

b. Compliance Issues from UNS Gas Annual Code Compliance Audit. [Ex. S-43][10] Late in the hearing the ACC Staff provided the 2006 annual results by the ACC Pipeline Safety Section for UNSG. Five noncompliance issues were reported for UNS Gas:

1. Failed to follow Quality Assurance Plan.
2. Discovery of inaccessible emergency valves.
3. Inadequate pipe joining qualification of contractor personnel
4. Testing of cathodic protection exceeding maximum timing intervals
5. Procedures failed to specify that the interval between manual reviews is not to exceed 15 months.

All have now been verified as compliant, but each of these is a SERIOUS SAFETY concern and additional, even surprise Code Compliance Audits, might be in order to ensure systemic management and administrative failures do not allow reoccurrence.

1.4 Organization of this Initial Brief.

Q. How will your Initial Brief be organized?

A. Each key issue will be summarized and presented in terms of

(1) UNS Gas Proposal and Testimony.

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[10] Memorandum to Ernest Johnson, Director of Utilities, from Robert Miller, Pipeline Safety Supervisor, Re: UniSource Rate Case, of 24 April 2007, hereafter "**S-43**"

(2) Intervenor Testimony (as applicable)

(a) RUCO

(b) ACC Staff

(c) ACAA

(d) Marshall Magruder

(3) Recommendation(s) for Resolution of this issue.

Q. Can you summarize what you see as differences among the Applicant and Intervenors?

A. A summary of these differences[11] is shown in Table 1 are in summary format to show differences for these 39 issues. All are expected to be in RUCO and ACC Staff Initial Briefs in detail. Their final views may differ. ACAA views and issues are discussed in Part II.

Table 1 – Summary of Some Key Issues and Differences Among Applicant and Intervenors.

UNS Gas Proposal and Issues	ACC Staff Views[12]	RUCO Views[13]	Magruder Views
Key Issues of Concern – Discussed in Part II of this Brief			
1. Residential Service Charge to vary by season (Dec-Mar, Apr-Nov). Design rate structure so "warmer" counties (southern) cover costs in "colder" counties.	Seasonal cost differential was **not recomended**	Levelized billing exists, seasonal cost differential was **not recommended.**	**Not recommended** as unfair, unreasonable, and inappropriate. Seasonal rates could be voluntary, not mandatory. See ¶2.1.
2. Increase Residential Service Charge from $**84** per year to $**204** per year (Dec-Mar at $**20**/mon, Apr-Oct at $**11**/mon)	Recommended an annual $**102** Service Charge (raises from **$7.00** per month to **$8.50** per month)	Recommended $**8.13** per month ($**97.56** per year)	Less than $**100** per year (or ≤$**8.50** per month) recommended. See ¶2.2.
3. Increase rates by adding a Throughput Adjusted Mechanism TAM surcharge to shift some system cost of natural gas to the Service Charge.	TAM process to protect company was **not recommended** due to being extremely unfair to consumers	**Recommend TAM be denied**; it increases rates for lowest income users, reduces revenue recovery risk to zero	TAM was **not recommended**, also suggested using professional meteorologist. See ¶2.3.
4. Charges for gas system usage when not using gas (part of TAM)	**Not recommended**	**Not recommended**	**Not recommended** See ¶2.4.

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[11] The comments in this table are provided as generalized information and not referenced. Views by other parties may differ in detail, thus no conclusions but only general comparisons are intended by this table, as each party is independent, to show differences between the Applicant and various Intervenors.

[12] Summary of Direct, Supplemental, and Surrebuttal Testimony of Ralph C. Smith for the Arizona Corporation Commission, of 17 April 2007, Executive Summary, 1-3,. Note: NOI is net operating income.

[13] Direct Testimony of Rodney L. Moore on Behalf of the Residential Utility Consumer Office, of 17 April 2007, hereafter "**Ex. RUCO-3**"; Surrebuttal Testimony of Rodney L. Moore on Behalf of the Residential Utility Consumer Office, of 4 April 2007, hereafter "**Ex. RUCO-4**"; Direct Testimony of Marylee Diaz Cortez on Behalf of the Residential Utility Consumer Office, of 9 February 2007, hereafter "**Ex. RUCO-5**" and Surrebuttal Testimony of Marylee Diaz Cortez on Behalf of the Residential Utility Consumer Office, of 4 April 2007, hereafter "**Ex. RUCO-6**"

Table 1 – Summary of Some Key Issues and Differences Among Applicant and Intervenors.

UNS Gas Proposal and Issues	ACC Staff Views[12]	RUCO Views[13]	Magruder Views
5. Adopt an internal UNS Gas "Price Stability Policy" and for the ACC to adopt it and delete of prudency of purchases audit in future rate cases.	**Not recommended** to be adopted as prudent due to safe harbor and inability to follow market changes, Policy was not fully followed, only 20 purchases, most were higher than market.	**Not recommended.**	**Not recommended**, high liabilities for ACC if adopted, flawed policy as written. See ¶2.5.
6. Change from **15** to **10** days before Late Fee is charged and Past Due to Cut-off from **30** to **15** days	**Recommended approval** after a six-month transition period	**NOT RECOMMENDED**	**Not Recommended**. See ¶2.6.
Other Significant Issues and Concerns that are NOT discussed in Part II			
7. Delete basic cost of gas, use only PGA for gas prices	Agreed, set base cost to zero	Agreed	A major revision to the PGA process was recommended.
8. Change PGA bandwidth and then **eliminate**	Recommended **retain** Bandwidth	Recommend **retain** at twice Bandwidth	Not discussed
9. Recommended costs of natural gas at $**0.1862**/therm (+ higher $17/month SC) was $**0.3004**/therm	Residential (R-10, R-12) at $**0.3217**/therm (+3.31% or $3.36 per month)	Residential (R-10, R-12) at $**0.29668**/therm (+2.28% or $1.16 per month)	Company will always recover its costs for gas costs, not discussed in detail
10. Citizens Acquisition Adjustment amortized ($248,000) of $30,7 million permanent reduction	Not specifically located in testimony	Amortize not approved always **deny** ($248,000) (rate base adjustment #3), RBA #3	Warned this adjustment must be closely watched to ensure the acquisition customer benefits are not lost. [Ex. M-6, Part V]
11. Construction Work in Progress included in base rate and CWIP property taxes and depreciation	Staff adjustment B-1 **remove** $7,189,231 from rate base, C-4 **add** $222,981 to NOI	**Delete** $7,189,000 as it was not used, delete $166,000 tax, RBA #3, OA #18	Not discussed
12. Rate base expenses for GIS and amortization for deferred GIS cost	Staff adjustment B-2 **remove** $897,068 from rate base, C-5 **add** $183.606 to NOI	**Delete** $897,000 overcharge, RBA #5, remove $299,023 Operating Adjustment #12 (OA #12)	Not discussed
13. Rate base working capital expenses	Staff adjustment B-3 **increase** rate base by $776,874	**Add** $1.2 million (error), RBA #6	Not discussed
14. Accumulated deferred Income Tax (ADIT)	Staff adjustment B-4 **increase** rate base by $195,336.	**Increased** expenses by $1,830,390, OA #22	Not discussed.
15. Revenue Annualization	Staff adjustment C-1 **add** $62,896 to NOI	**Add** $110,006, OA #15	Not discussed
16. Weather normalization	Staff adjustment C-2 **add** $1,205 to NOI	Not specifically located in testimony	Not discussed
17. Bad Debt expenses	Staff adjustment C-3 **decrease** NOI by $776	Not specifically located in testimony	Not discussed
18. Incentive compensation and SERP	Staff adjustment C-6 **add** $164,204 to NOI	**Delete** $278,848, OA #2; SERP **decrease** $93,075, OA #11	Not discussed

Table 1 – Summary of Some Key Issues and Differences Among Applicant and Intervenors.

UNS Gas Proposal and Issues	ACC Staff Views[12]	RUCO Views[13]	Magruder Views
19. Emergency bill assistance expenses	Staff adjustment C-7 **decrease** NOI by $13,263	Not specifically located in testimony	Not discussed
20. Non-recurring severance payment expenses	Staff adjustment C-8 resolved, no change	Not specifically located in testimony	Not discussed
21 Overtime payroll expenses	Staff adjustment C-9 **add** $75,531 to NOI	Not specifically located in testimony	Not discussed
22. Payroll tax expenses	Staff adjustment C-10 **add** $5,740 to NOI	Not specifically located in testimony	Not discussed
23. Nonrecurring FERC rate case legal expenses	Staff adjustment C-11 **add** $190,992 to NOI	**Delete** $311,051 as already recovered, OA #20	Not discussed
24. Property Tax expenses	Staff adjustment C-12 **add** $49,300 to NOI	**Decrease** $309,309, OA #7	Not discussed
25. Worker's Compensation expenses	Staff adjustment C-13, **add** $21,020 to NOI	**Delete** $34,234, OA #1	Not discussed
26. Membership and industry association dues	Staff adjustment C-14 **add** $16,498 to NOI	**Decrease** $1,523, OA #9	Not discussed
27. Fleet fuel expenses based on early 2006 prices	Staff adjustment C-15 **add** $7,772 to NOI	**Delete** $67,000 overcharge, OA #17	Not discussed
28 Postage expenses	Staff adjustment C-16 **add**$15,979 to NOI	**Decrease** $153,379, OA #4	Not discussed
29. Rate case expenses	Staff adjustment C-19 **add** $70,612 to NOI	**Decrease** $116,333, OA #8	Not discussed
30. Used growth percentages instead of actual growth	Not specifically located in testimony	**Add** $110,000 to revenues	Not discussed
31. Included corporate expenses for KKR acquisition	Not specifically located in testimony	Replace $130.000 with $13,000 (error), OA #16	Not discussed
32. Out of Test year charges added to base expenses	Not specifically located in testimony	**Delete** 3 invoices **Decrease** $21,120, OA #19	Not discussed
33. Increase in customer service costs from $18,000 to $76,000 per month at TEP call center	Not specifically located in testimony	**Delete** $727,000 as services are same as under Citizens, OA #5	Not discussed
34. Non-recurring/Atypical expenses	Not specifically located in testimony	**Decrease** $2,584	Not discussed
35. Depreciation expenses	Not specifically located in testimony	**Decrease** $324,083, OA #4	Not discussed
36. Disallowance of Inappropriate and unnecessary expenses	Not specifically located in testimony	**Deny** #233,347, OA #6	Not discussed
37. Interest synchronization	Staff adjustment C-17 **add** $118,168 to NOI	Not specifically located in testimony	Not discussed
38. Corporate Cost allocations	Staff adjustment C-18 **add** $7,838 to NOI	Not specifically located in testimony	Not discussed
39. CARES Related Amortization	Staff Adjustment C-20 **add** $271,097 to NOI	Not specifically located in testimony	Not discussed

Part II – Discussion of the Issues with Recommendations

2.1 Proposed Residential Service Charges to Vary by Season.

Issue. The Company proposed to raise summer and lower winter Service Charge rates. The Company considers its customers in colder climates are "subsidizing" those who live in desert climates.

(1) UNS Gas Proposal and Testimony.

UNS Gas proposed mandatory seasonal residential Service Charge rates to vary by season. During the months of December to March the Service Charge will be $11.00 per month and during April to November raised to $20.00 per month.[14] UNS Gas' Voge stated

> "I recognize that customers in the warmer climates have grown accustomed to having their usage more steeply subsidized by customers in cold climates. Therefore, we have proposed setting the residential customer charge at $20.00 in the months of April through November and reducing that charge to $11.00 in the four remaining winter months. This would help levelize bills across all 12 months, allowing customers to more easily budget for their bills. Customers in colder regions also would benefit from a lower customer charge during months when the commodity portions of their bills pose the largest problem."
> [Ex. UNSG-18, 10 at 5 to 12][15]

Further, UNS Gas Testimony stated

> "the average residential customer pays an annual margin of $292, $133 more than the $159 paid by the average residential customer in Lake Havasu...the Flagstaff customer is contributing a larger share of the cost."
> [*Ibid*, 8 at 16 to 20]

Mr. Voge stated that

> "cross subsidization that occurs when usage within customer classes varies significantly based on geography and climate."
> [*Ibid*, 8 at 16 to 20]

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[14] The August 2006 "billing insert" to ratepayers concerning this rate case stated $9.00 per month for the four winter months of December through March and $21.00 per month for the other eight months from April through November. The annual total is the same at $204, this averages o$17.00 per month. The present rate is $7.00 per month, or $84.00 per year to the proposed $204.00 per year, an increase of 143%. The Service Charge prior to 11 August 2003 was $5.00 per month or $60.00 per year. Thus, from 10 August 2003 to August 2007, the Service Charge is proposed to **increase 308% or 77% per year.** [Ex. M-7, 11 at footnote]

[15] UNSG, Direct Testimony of Tobin L. Vogue on Behalf of UNS Gas, Inc. of 13 July 2006, hereafter "[**Ex. UNSG-18**]"

Mr. Pignatelli Rebuttal repeats the Company's plan to discriminate against his customers who chose to live in warmer climates by stating

> "Under UNS Gas' current rate design, cold-weather customers - particularly high-use customers - subsidize warm-weather customers"
> [UNSG-2, 12 at 17 to 19][16]

And again

> "the company's proposal seasonal rates so that cold-weather customers would not subsidize warm-weather customers to the degree that subsidization is occurring now. We also want to send significantly more accurate price signals through rates."
> [*Ibid.* 12 at 21 to 24]

UNS Gas Rebuttal Testimony by Mr. Erdwurn missed the Magruder comments on the winter versus summer rates and continues Mr. Voge rate design:

> "because the [UNS Gas] rate design proposals made by the company were aimed at helping reduce a grossly unfair subsidy to customer in low-use, desert communities from customers in higher use communities like Flagstaff. The public interest demand an end of this inequity."
> [Ex. UNSG-19, 13 at 22 to 25][17]
> "...This means that residents in the colder community of Flagstaff will end up paying more than the Company requires to serve them, because customers in desert communities use little gas, and pay less than the cost to serve them."
> [*Ibid.* 4, at 2 to 6]

The Erdwurm Rebuttal Testimony responses to a question and implies that no Intervenors have addressed the geographic subsidy by stating:

> "Q. Did any intervenor witness address the geographic subsidy that you identified in your Direct Testimony?
> A. No, neither Staff nor RUCO directly address this rate design inequity in their Direct Testimonies. Both RUCO and Staff state that their respective proposals generate more revenues through the customer charge than is currently generated. However, the proposed $1.50 per month increase by Staff and the $1.13 per month by RUCO for residential customers results in the continued subsidization of fixed costs by customers in cold climates."
> [*Ibid.* 11, at 22 to 27]

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[16] Rebuttal Testimony by James S. Pignatelli on Behalf of UNS Gas, Inc. of 16 March 2007, hereafter "**Ex. UNSG-2**"

[17] Rebuttal Testimony of D. Bentley Erdwurm on Behalf of UNS Gas, of 16 March 2007, hereafter "**Ex. UNSG-19**"

(2) Intervenor Testimony

(a) RUCO stated any seasonal rates could be voluntary, not mandatory. Ms Diez stated that the proposed Winter/Summer rate structure

> "This aspect of he Company-proposed rate design further acerbates the perverse price signal that results from nearly doubling the percentage fixed revenue and decreasing the commodity charge...The higher summer fixed charges will further flatten any price signal possible from the Company's rate design by equalizing summer and winter bills. UNS Gas already offers a levelized billing program and RUCO believes the choice of whether a customer prefers a levelized program should be left with the customer and UNS Gas should concentrate greater efforts to ensure that customers are aware of the availability and advantages of the levelized bill option." [emphasis added
> [Ex. RUCO-5, 29 at 19 to 30 at 6]

Further, RUCO recommended

> "eliminate the Company-proposed summer and winter rate structure differential."
> [*Ibid.* 33 at 19 and 20]

(b) ACC Staff did not recommend higher fixed rates, for example, Mr. Steven Ruback Direct Testimony stated:

> "The composite residential charge is $17.00 a month; this is a 143% increase the existing Residential charge of $7.00. The Commission should not accept the Company's proposals to increase the customer charges as UNS has requested, or to create a seasonal charge. The composite residential charge of $17.00 violates the basic rate design criterion of gradualism. The seasonal customer charges are also not appropriate because customer costs included in the customer charge does not change by season."
> [Ex. S-23, 5 at 1 to 9][19]

Mr. Ruback recommended

> "UNS proposed rate design proposes to recover more of its costs from higher fixed charges. I recommend that the rates proposed by UNS' be rejected."
> [*Ibid*, ES 1, 1st subparagraph]

(c) ACAA stated:

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[19] Direct Testimony of Steven W. Ruback on Behalf of the Arizona Corporation Commission Utilities Division Staff, of 23 February 2007, hereafter "**Ex. S-23**"

"As to the question of whether ACC agrees that the proposed rate design avoids having customers in colder climates subsidize those in warmer climates, we have not undertaken that analysis in this case except in the context of large versus lower consumer of gas."
[Ex. ACAA-2, 4]

The below ACAA statement shows all seasons are important to ratepayers:

"Utility bill assistance is the only resource available for a family to stay warm in the winter and cool in the summer."
[Ex. ACAA-1, 7 at 3rd paragraph]

(d) Marshall Magruder was concerned about this issue in his Motion to Intervene. [Ex. M-5, 2 at 1 to 4] He stated seasonal rates could be voluntary and the negative impacts of mandatory summer/winter rate differences, as beneficial for "those who have higher usage costs in the winter" [Ex. M-6, 9 at 22] The proposed rates discriminate against low-usage ratepayers and also those using energy efficiency measures.

Magruder also stated:

"The factors mentioned in Part IX of the Pignatelli Testimony [Ex. UNSG-1, 19 at 20 to 22 at 9][20] are extremely detrimental to residents in warmer parts of the UNS Gas service area, in particular Santa Cruz County...Cost of utilities is an important factor for potential new customers...deliberately designing a rate structure that goes against the climate reality of southern Arizona is [unreasonable] ..."
[Ex. M-6, 10 at 6 to 13]

UNS Gas has a voluntary "level" rate plan for residential ratepayers. A second "levelization" function fails to send the right pricing signal to high-usage customers. He concluded

"Only an "annual" rate should be approved by the Commission with the Company authorized to charge higher "summer" or "winter" or "level" or "actual" monthly charges...let the customers chose how they prefer to pay the bill...Mandated seasonal charges discriminate against a large number of customers in warmer areas to benefit other who choose to live where it is colder."
[*Ibid.* 14 at 7 to 12]

(3) Recommendations for Resolution of this issue:

UNSG continues to push to discriminate against those who live in warmer areas.

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[20] Direct Testimony by James Pignatelli on Behalf of UNS Gas, Inc. of 13 Jul 2006, hereafter "**Ex. UNSG-1**"

Ratepayers choose to live in warm or cold climates. Concerns about seasonal rate discrimination in Magruder's Testimony [Ex. M-6, 8 at 24 to 11 at 14] were not discussed in UNS Gas' Rebuttal or Rejoinder.

The geographic inequity issue and rate design philosophy is wrong and should be denied. The proposed rate structure sends the wrong signal to high-use customers by rewarding high-users by penalizing low-users. [Ex. M-5, 1 at 31 to 34]

It is recommended:

1. That the proposed mandatory seasonal residential Service Charge be denied.
2. That the existing voluntary annually levelized payments scheme, that includes Service Charge, be retained
3. That the existing non-varying monthly service charge be retained.

2.2. Proposed Residential Service Charge Increases.

Issue. UNS Gas proposed removal of some volumetric-related gas transportation charges from the purchase gas (PGA) costs and added to the fixed-part of the bill or Service Charge. Customers in colder climates have higher winter gas bills than those in warmer climates but UNS Gas proposed to lower the higher volume bills by increasing the Service Charge for the lower volume ratepayers. The opposite should be true. Natural gas is a limited natural resource. Those who use more should pay more that those who use less. This is a principle of energy efficiency, economics, and demand reduction programs.

(1) UNS Gas Proposal and Testimony:

UNS Gas witness Mr. Voge Direct Testimony stated:

"The proposed average customer charges of $17 for residential customers, $20 for commercial customers and $120 for industrial customers would align more closely to the true costs of providing monthly distribution service to those classes. In this way, these higher charges would reduce the inequities borne by high usage customers. Under our proposed rate design, the average residential customer in Flagstaff would pay an annual margin of $333, while the average Lake Havasu customer would pay $250 - just $83 less than the Flagstaff customer. This represents a significant reduction from the cross subsidy that Flagstaff customers currently bear."

[UNSG-18, 9 at 18 to 25]

UNS Gas witness Mr. Erdwurm Rebuttal supported the proposed rate structure by stating:

"The UNS Gas proposal to shift more cost recovery from a volumetric rate to a monthly customer charge is an attempt to send the appropriate price signal and alleviate the disparity

that currently exists between our cold and warm climate customers."

[Ex. UNSG-19, 10 at 20 to 23]

Mr. Erdwurm Rejoinder stated disagreed with Magruder Surrebuttal, where

"Q. In his surrebuttal, Mr. Marshall Magruder states on line 19, page 15 [*sic.* page 14] that the Company's proposed rate design rewards high users by penalizing low users. Do you agree?

A. No. Currently, low-use customers are being subsidized. Customers in colder climates like Flagstaff are paying more than their fair share. The Company's proposal merely helps eliminate this inequity. The Company could have justified even higher [than $17/month] customer charges, but moderated them in the interest of 'gradualism.' [emphasis added]

[Ex. UNSG-20, at 18 to 24]

(2) Intervenor Testimony.

(a) **RUCO** witness Ms. Diaz Cortez Testimony stated

"RUCO recommends the Commission reject the biased winter/summer rates, doubling of the revenue allocated to the fix charge, and the TAM."

[Ex. RUCO-5, 34 at 2 to 4]

RUCO also proposed a new Service Charge rate schedule which stated

"An in-depth discussion of RUCO's proposed rate design is contained in the testimony of Ms Diaz Cortez. In summary, for residential customers, RUCO proposes a single basic service charge (not season differentiated) of $8.13 and a commodity based charge of $0.2892 per therm."

[Ex. S-23, 3 at 9 to 11]

(b) **ACC** Staff witness Mr. Ruback clearly stated

"The Company is proposing a staggering increase in the fixed customer charges for all classes of service. The most extreme customer charge proposal is the Company's request to increase the Residential customer charge by more than 185%, during the summer period and 57% percent in the winder period. "I recommended that UNS' rate design be rejected for the reasons stated in my testimony."

[*Ibid.* 11 at 5]

ACC Staff witness Mr. Ruback also stated

"The purpose of my rate design testimony is to provide an overview as to why UNS' proposal should be rejected."

[*Ibid.* 11 at 8 to 10]

ACC Staff witness Mr. Ralph Smith presented a new rate structure. For residential customers,

> "the recommended customer charge of $8.50 per month, would result in UNS Gas collecting approximately 36 percent of the revenue via fixed charges."
> [Ex. S-26, 6 at 9 to 10][21]

(c) **ACAA** responded to the Service Charge concern with

> "to urge the Commission to hold low-income customers harmless in the rate case by increasing the [CARES] R12 discount to an amount commensurate with an residential rate increase the Company may be awarded, and in particular to reject the Company's proposed structure for R12, which reduces the discount to larger, colder climate users."
> [Ex. ACAA-1, 2 at 1st paragraph]

(d) **Magruder** Testimony noted four years ago in August 2003, the

> "Service Charge was increased by 40% [from $5.00 per month to $7.00 per month] when the company transitioned from Citizens UNS Gas. At that time there was also a 22% rate increase for the cost of natural gas."
> [Ex. M-5, 1 at 26 to 29 and Ex. M-6, 9 at 7 to 9]

The applicant proposed to increase the Service Charge for all customer categories. The Residential Service Charge changes from prior to 11 August 2003 and the Company and Intervenor recommendations are shown in Table 2.

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[21] Supplemental Direct Testimony of Ralph C. Smith on Behalf of The Arizona Corporation Commission, Utilities Division Staff, Concerning Rate Design and Bill Impact Analysis, of 23 February 2007, hereafter "**Ex. S-26**"

Table 2 – Residential Service Charges from August 2003 Compared to the Proposed New Service Charges including Recommendations by RUCO, ACC Staff, and Magruder.
[RUCO-4, Supp Table RLM-15; Ex. S-26 (entire), and Ex. M-6, 9 at 2 to 6]

Effective Dates	Monthly Service Charge	Annual	Organization
Prior to 11 August 2003	$ 5.00	**$ 60.00**	Citizens
11 August 2003 ~July 2007	$ 7.00	**$ 84.00**	UNS Gas
After Approval, about August 2007			
Proposed by UNS Gas	December – March $11.00 April – November $20.00	**$ 204.00**	UNS Gas
Recommended by RUCO	$8.34 (R10)	**$100.08**	RUCO
Recommended by ACC Staff	**$8.50 (R10)**	**$102.00**	ACC Staff
Recommended by Magruder	≤$8.33 (R10)	**≤$100.00**	Magruder
CARES Recommendations	$7.00 (R12)	**$84.00**	All but RUCO[22]

The Magruder Direct Testimony stated:

> "The **proposed 340% Service Charge increase** over the 3 to 4 years under UNS Gas ownership is not justified or explainable to ANY ratepayer. There has not been that amount of significant capital improvement. In Pignatelli Testimony, he states 'we project that the number of UNS Gas customers will increase as much as 5-10% annually.' [*Pignatelli Testimony*, 1 at 26]" [emphasis as in original]
> [Ex. M-6, 9 at 9 to 14]

Magruder Direct Testimony concludes

> "the proposed Service Charge is clearly too high"
> [*Ibid.* 14 at 6]

And he recommended

> "reduce the proposed Service Charge to the order of $100 per year or less."
> [*Ibid.* 15 at 11]

(3) Recommendations for Resolution of this Issue.

UNSG wants increase the Service Charge to $17.00 or higher according to Mr. Erdwurm's Rejoinder, well above that recommended by RUCO, ACC Staff and Magruder for residential customers (see Table 2). The proposal remains unacceptable and sends the wrong price signals to the customers. The Company would receive a higher rate of return because this is a percentage of the fixed rate. This is a backdoor way to increase the

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[22] RUCO recommended $8.34 or $100.08 per year Service Charge for CARES (R-12). [Ex. RUCO-4, Supp Table RLM-15, lines 4 and 5]

company's profits. Nothing in the rate structure can reduce the rate disparity between cold and warm climates. Only the weather can do that...

A Service Charge increase of $1.50 per month for residential customers (R10) is a 21.4% increase (1.50/7.00) since the August 2003 rate case and a 70.0% increase (3.50/7.00) since before August 2003. This remains a significant Service Charge increase.

It is recommended that

1. The Service Charge for residential customers (R-10) increase $1.50 per month to $8.50 per month for a 21.4% increase.
2. The CARES (R-12) Service Charge (R12) to remain at $7.00 a month or zero change.
3. That either RUCO [Ex. RUCO-3, Supp RLM-15] or ACC Staff rate structures [Ex. S-26, entire] determine all other rates for all customer categories.

2.3 Rate Increased by Adding a Throughput Additional Mechanism (TAM) to Shift some volumetric Costs to the Fixed Service Charge.

Issue. The Applicants want higher fixed rate charges than the customary Service Charge to include a volumetric-related cost for customers. The proposed rate schedules show customer savings for higher monthly usage per therm as discussed in the Magruder request to intervene. [Ex. M-5, 1 at 31 to 34]

(1) UNS Gas Proposal and Testimony:

The UNS Gas Application in the rate case stated

> "the proposed rate design and related Throughput Adjustor Mechanism ("TAM") will better align the fixed and variable costs of service with the rates paid by the customers causing those costs [sic] and is in the public interest."
> [UNSG Application, 4 at 20 to 22][23]

Mr. Pignatelli testified about how TAM would work

> "Just as the PGA fluctuates to account for variations in the cost of gas, the TAM would be adjusted to account for changes in usage per customer ("UPC"). The under-recovery of costs due to reduced UPC in any period would be "trued-up" in future periods through use of a volumetric surcharge. Similarly, any over-recovery would be refunded to customers through a volumetric credit on future bills. In this way, both the Company and its customers would enjoy a more equitable, reliable and balanced collection of volumetric costs."
> [Ex. UNSG-1, 22 at 1 to 19]

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[23] UNS Gas "Application, of 13 July 2007, ACC Docket No. G-04204A-06-0463, 4 at 20 to 22, hereafter "**UNSG Application**" This document does not appear to have been formally entered as an Exhibit.

Mr. Voge testified

> "...the continued use of a volumetric charge to recover a portion of the Company's fixed costs carries another concern: the uncertainty of recovery. If actual usage strays from the anticipated level used to establish that volumetric rate, customers could end up paying too much or too little for that portion of their service. Since usage is driven largely by weather trends during home heating season, particularly cold winters typically produce a swell in UNS Gas' margin revenues. Meanwhile, warm weather, effective conservation efforts or anything else that reduces consumption below anticipated levels leads to an under-recovery of the Company's costs. Eliminating such uncertainty would benefit both the Company and its customers..."
> [Ex. UNSG-18, 11 at 6 to 14]

Mr. Voge also testified the TAM

> "...in the period following a colder than normal period, customers will receive a credit to the volumetric margin rate. This credit reimburses the customer for the non-commodity portion of the relatively high cold winter gas bill."
> [*Ibid*, 14 at 20 to 23]

Mr. Pignatelli's Rebuttal Testimony stated

> "UNS Gas has provided substantial evidence to justify approval of its proposed Throughput Adjustment Mechanism ("TAM") that decouples the Company's dependence on natural gas consumption to meet its revenue requirement and allows it the opportunity to earn its authorized rate of return."
> [Ex. UNSG-2, 3 at 1 to 4]

Mr. Erdwurm's Rebuttal Testimony has lots of words about "decoupling" but none were significant enough to quote. [Ex. UNSG-19, 14 at 21 to 19 at 15; M-7, 20 at 27 to 28]

Mr. Erdwurm stated that this adjustment mechanism [TAM] is almost insignificant:

> "...the annual [TAM] adjustment to the margin rate will likely be less than one cent per therm. The cost of natural gas at 60 to 70 cents per therm will continue to provide strong incentive for conservation."
> [*Ibid.* 16 at 5 to 7]

(2) <u>Intervenor Testimony</u>

(a) **RUCO** testified that

> "The TAM would true-up customer usage to match the billing determinants authorized in this rate case. In other words, customers would pay for a fixed amount of consumption regardless of how much they actually consumed. The Company claims it needs this mechanism to "mitigate" the risk of revenue recovery."

[Ex. RUCO-5, 30 at 15 to 20]

RUCO, in responding to the question would TAM "mitigate" the risk of revenue recovery, RUCO stated:

> "No. This mechanism would *entirely remove* any risk associated with revenue recovery, not just merely mitigate it. In combination with the proposed fixed charge shift, and the biased summer/winter rate proposal, it would also send a perverse price signal that tells customers they will pay the same whether they use large quantifies of gas or no gas at all. It also would guarantee UNS Gas' revenue recovery."
> [*Ibid.* 31 at 2 to 7]

In response to the question of appropriateness for the regulator of a monopoly public service company to "guarantee" revenues, RUCO's response was "No." [*Ibid.* 15 at 9 to 11]

RUCO stated "the Commission denied the proposed [Southwest Gas] decoupling mechanism" in ACC Decision No. 64887." [*Ibid.* 32 at 18 to 22][24] RUCO also recommended denial of the TAM decoupling mechanism. [*Ibid.* 33 at 14 to 16]

(b) **ACC Staff** witness Ruback Testimony stated in the Executive Summary

> "The Commission should reject the proposed Throughput Adjustment Mechanism ("TAM"), because it is inequitable to ratepayers. The TAM shifts the risk of declining usage attributable to weather, economics and conservation from UNS Gas to ratepayers. There is a precedent for rejection of a Rate Decoupling Mechanism such as TAM. I also recommend that the Commission reject the implementation of the TAM because it is piecemeal ratemaking."
> [Ex. S-23, iii at 2nd paragraph]

ACC Staff witness testified

> "The proposed regulator mechanism [TAM] is risk-reducing to the company as it transfers a portion of the risk from shareholders to ratepayers."
> [Ex. S-36, 15 at 6 to 11][25]

(c) **ACAA** testified

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[24] It is noted that a Southwest "'decoupling' mechanism (CMT) was rejected by the ACC as CMT was inconsistent with the public interest and was not sound regulatory policy (Southwest Gas; Decision No. 68487; Docket No. G-01551A-04-0876)." [Ex. S-23, 17 at 18 to 21]

[25] Direct Testimony and Exhibit of David C. Parcell on Behalf of the Commission Staff, of 9 February 2007, hereafter "**Ex. S-36**"

"...customers eligible for the R12 discount should also be held harmless from any increases in the Throughput Adjustor Mechanism (TAM)."

[Ex. ACAA-1, 10 at 1st paragraph]

(d) **Magruder** testified

"It is not the Commission's responsibility to manage risk for seasonal variations. Weather temperature risk factors are foreseen, expected, and predicable; good management always takes all factors into account when making decisions. Any rate structure, based on passing the responsibility of risk management of seasonal variations to the Commission should not be considered. In other hearings, I have asked his employees if there were a meteorologist on staff at UniSource. The response ...there has not been one, but that [the Operations Center] staff did check the Internet for weather information. Without such expertise used daily for risk management decisions, this corporation will continue to be ill-informed about the operational environment in short- and long-term planning and decision making."

[Ex. M-6, 10 at 20 to 28]

Magruder also testified

"Using the proposed mechanism, a Throughput Adjustment Mechanism (TAM), UNS Electric states that the TAM "will allow UNS Gas to implement the comprehensive energy conservation program proposed in this filing." This statement is without merit. Customers notice higher and lower bills and when too high, conservation is the easiest way to lower bills. Lowering the thermostat, full loads in gas clothes dryers, less hot water usage are all understood. UNS Gas can't expect customers to understand TAM or anything equivalent. They understand "cost of service" and "cost of natural gas" and the present billing makes that distinction; however the PGA and surcharges are not very clear. Mr. Voge's Testimony also failed to resolve these difficulties."

[*Ibid.* 12 at 19 to 26]

Magruder's concluded that

"mixing cost of service and product cost is contrary to best practices, common sense, and will make tracking costs too difficult...transmission and distribution operational costs are dependent upon volumetric demand...the conceptual process presented is without merit...the proposed rate structure using Throughput Adjustment Mechanism (TAM) is not sound...there is no relationship between TAM and conservation...TAM does not dampen the swing of natural gas prices...use of TAM will make billing costs less comprehensible than the present process."

[*Ibid.* 25 at 22 to 34]

Magruder recommended to

"...remove all seasonal risk from ratepayers
...eliminate any mixing of the cost of service and the cost of product and continue separation of service and product charges
...delete the Throughput Adjusted Mechanism (TAM) concept."
[*Ibid.* 26 at 9 to 29]

(3) Recommendations for Resolution of this issue.

UNS Gas states that TAM is essential but has weak arguments for decoupling. The Company can become more efficient through the implementation of reduced consumption. Mr. Erdwurm's Rebuttal Testimony included several exhibits from the gas industry and regulatory associations. After reading, these UNSG conclusions are not convincing. The arguments by RUCO and ACC Staff clearly show of the impacts that such a "decoupling" mechanism would have on UNS Gas' ratepayers.

It is recommended

1. That any decoupling concept, such as TAM, be denied and
2. That either the RUCO or ACC Staff rate structure be adopted by the Commission for UNS Gas Co.
3. That all seasonal risk remains with the Company.
4. That there should be no mixing of the Service Charge and the natural gas costs in the rate schedule.

2.4 Gas System Usage Charges with TAM When Not Using Gas.

Issue: Applicant wants additional charges for gas system usage when a customer is not consuming gas. This would be a consequence of using the proposed TAM. In the Magruder Surrebuttal, this issue was titled "Gas Usage Charged with TAM When Not Using Gas" [Ex. M-7, 21 at 13] which is changed to "Gas System Usage Charges..."to clarify that TAM has transportation charges that customers will pay even when not consuming any natural gas."

(1) Applicant Proposal and Testimony:

Mr. D. Bentley Erdwurm's Rejoinder Testimony stated

"Q. In his Surrebuttal, Mr. Marshall Magruder on line 13, page 22 [*sic.* page 21] has a title that reads 'Gas Usage Charged with TAM When Not Using Gas.' Please Comment.
A. The title is wrong. Customers are never charged gas costs under TAM."
B. [Ex. UNSG-20, 9 at 1 to 3]

(2) Intervenor Testimony.

(a) **RUCO** has proposed a rate design that

"will not result in customers having to pay for therms they did not use and adheres to the undesirability of the proposed decoupling mechanism."
[Ex. RUCO-5, 34 at 23 to 35 at 3]

(b) **ACC Staff** witness Ruback responded to the question "do customer charges impede the ability of customers to control their bills" using the proposed rate structure?" with

"Customer charges are inelastic. Inelasticity is an inappropriate concept to build into a tariff design. Unlike commodity charges, which provide customers the opportunity to control their bills by changing the amount of gas used or peak demand imposed on the system, a customer charge does not change with reduced consumption or less demand. The only way a customer can avoid customer charges is to discontinue all gas service." [emphasis added]
[Ex. S-23, 8 at 17 to 21]

Mr. Ruback quoted from the ACC Decision No. 68487 where the Commission disapproved the Southwest decoupling mechanism

"The likely effect of adopting the proposed CMT would be a disincentive to undertake conservation efforts because ratepayers would be required to pay for gas not used in prior years... There is also concern that there could be a dramatic impact that could be experienced by customers faced with a surcharge for not using enough gas the prior year." [emphasis added]
[*Ibid.* 18 at 4 to 9]

And

"'The Company is requesting that customers provide a guaranteed method of recovering authorized revenues, thereby virtually eliminating the Company's attendant risk. Neither law nor sound public policy requires such a result and we [ACC Staff] decline to adopt the Company's CMT in this case.'" [emphasis added]
[*Ibid.* 18 at 10 to 13]

(c) **ACAA** did not respond directly to this issue.

(d) **Magruder** Testimony showed in Table 3 that some ratepayers have **higher rates** without consumption; some have **lower rates** without consumption, and some have **adjusting rates** without consumption and other billing impacts. This is not reasonable for part-year winter or summer residents, as high percentage throughout the UNSG service area. [Ex. M-6, 9 at 33 to 35 and Ex. M-7, 22 at 11 to 17]

Table 3. Impact of Service Charge Rate Changes with TAM for Full Year and Pert-Time Seasonal Residents.
[Ex. M-6, 9 at 24 to 31 and Ex. M-7, 22 at 11 to 17]

Season / Resident	Winter	Spring and Fall	Summer
Full year	Lower Monthly rate to reduce winter bill	Rate adjusted to lower winter bill	Higher Monthly rate reduce winter bill
Part-Time Summer only	Higher Monthly rate without gas consumed	Rate adjusted without consumption	Higher Monthly rate when gas is consumed
Part-Time Winter only	Lower Monthly rate to reduce winter bill	Rate adjusted without consumption	Lower Monthly rate without consumed

Magruder Testimony illustrated this with an example:

> "For a practicable example, I can see from my window the El Paso Natural Gas (EPNG) line easement and the interconnecting substation to the local UNS Gas main and service lines for my home. EPNG is paid by UNS Gas to supply natural gas to the substation for local distribution. When natural gas is consumed it is reasonable to pay EPNG transmission and distribution charges for the volume of natural gas delivered to my home. Conversely, it is not reasonable, fair or just to charge for transporting gas via EPNG's line when I use no natural gas...The combining of any transportation (or volumetric charges) that are not absolutely fixed UNS Gas infrastructure expenses in the "fixed" part of the billing mixes and muddles the entire billing process which then will not be objective, auditable, or traceable." [emphasis added]
> [Ex. M-6, 11 at 25 to 35 and Ex. M-7, 22 at 17 to 26]

(3) Recommendations for Resolution of this issue.

Under no circumstances should a ratepayer pay natural gas costs when the rate-payer is not using gas, such as when on vacation, only a fixed Service Charge applies.

It is recommended that

(1) That the resultant rate structure eliminates any mixing of the cost of service and the cost of product and

(2) That any future rate structures continue separate service and cost of gas charges.
[Ex. M-6, 15 at 22 to 23 and Ex. M-7, 23 at 3 to 4]

2.5 Adopt UNS Gas "Price Stability Policy" by the ACC to Replace Prudency Purchase Audits.

Issue: UNS Gas wants the ACC to adopt an internal policy to replace prudency purchase audits in future Rate Cases.

(1) Applicant Proposal and Testimony:

The UNSG Application requested that

> "The Company's Price Stabilization Policy concerning gas purchases should be prospectively approved to provide Commission guidance for the Company's gas procurement practices."
>
> [Ex. UNSG-Application 5 at 1 to 3]

And that the ACC

> "Issue a final order approving UNS Gas' Price Stabilization Policy."
>
> [*Ibid.* 6 at 4]

Mr. Pignatelli testified why his Company wants this document approved by the ACC?

> "We recommend that the Commission prospectively approve the Price Stabilization Policy. As I have indicated, prudence reviews are "after-the-fact" events that try to recreate the circumstances that existed at the time of the investment or expenditure. This can be very difficult when the period or activities in question were volatile and quickly unfolding. Rather than look at UNS Gas' procurement practices in hindsight, UNS Gas recommends that its Price Stabilization Policy be reviewed and approved by the Commission during this case for future implementation. This way the Commission can have input <u>prior</u> to UNS Gas incurring the costs for gas procurement rather than after the fact. And there will be no need for a separate non rate case-related prudency review of gas acquired pursuant to the approved methodology." [Underlined in original]
>
> [Ex. UNSG-1, 14 at 25 to 15 at 8]

And Mr. Pignatelli further requested that

> "A finding that UNS Gas' past gas procurement practices and current UNS Gas Price Stabilization Policy are <u>prudent</u>." [Underlined for emphasis]
>
> [*Ibid.* 25 at 21 to 22]

And Mr. Hutchens testified that

> "We believe that instead of the Commission attempting to second guess, after the fact, the individual acts that UNS Gas transacted in connection with gas procurement and hedging, it is more productive and beneficial to customers that the Commission review the policies and approve them prospectively. That way the Company will know the clear direction of the Commission and act accordingly. If the Company acts within the approved policies, its transactions will be conclusively <u>prudent</u>." [emphasis added]
>
> [Ex. UNSG-4, 7 at 3 to 8]

Mr. Pignatelli's Rebuttal stated

> "I am disappointed that Staff is recommending that UNS Gas' Price Stabilization Policy not be approved."
> [Ex. UNSG-2, 11 at 16 to 17]

And

> "We would re-urge our original request that the Commission approve its [UNSG] Price Stabilization Policy."
> [Ex. UNSG-2, 11 at 23 and 24]

Mr. Hutchens' Rebuttal Testimony responded to ACC witness Mr. Mendl concern that approval of the Policy would put the Company on "autopilot" and its purchasing strategy would not be continuously reviewed: "This is inconsistent with the Company's behavior and the Policy itself" and he then describes interaction with Company's internal policies. [Ex. UNSG-5, 10 at 18 to 11 at 4]

(2) Intervenor Testimony.

(a) **RUCO** did not directly discuss adoption of this plan as proof of prudent purchases.

(b) **ACC** Staff witness Mr. Jerry Mendl testified and in his Executive Summary stated

- "UNS Gas did not precisely carry out its 2005 Price Stabilization Policy.
- All the fixed price gas delivered during the 28-month audit period was purchased on only 20 days."

[Ex. S-20, ES 1][26]

And Mr. Mendl's Executive Summary recommended that:

> "The Commission should not approve UNS Gas' request to approve its 2006 Gas Price Stabilization Policy.
> - The 2006 Price Stabilization Policy would allow UNS Gas to stabilize prices using call options and collars which could add to the cost without commensurate benefit to ratepayers.
> - Approval of the Policy would create a safe harbor that would increase the resistance of UNS Gas to change policies when conditions warranted.
> - If the Commission considers approving the Price Stabilization Policy, it should require UNS Gas to provide a detailed explanation of how it would monitor the markets and make changes for the ratepayers' benefit.
> - If the Commission considers approving the Price Stabilization Policy, it should condition the approval to

[26] Redacted Direct Testimony of Jerry E. Mendl on Behalf of Arizona Corporation Commission Staff, of 16 February 2007, hereafter '**Ex. S-20**"

be valid only as long as the conditions underlying the policy are valid.

- If the Commission considers approving the Price Stabilization Policy, it should require UNS Gas to show that any premiums anticipated for hedging instruments are reasonable and serve the objectives of stabilizing prices while minimizing costs.
- If the Commission considers approving the Price Stabilization Policy, it should require UNS Gas to provide a corrected copy of the Policy."

[*Ibid.* ES 2]

(c) **ACAA** did not discuss this issue.

(d) **Magruder** testified that the Price Stabilization Policy

"UNS Gas is proposing that the Commission 'approve' UNS Gas' Price Stabilization Policy. This is an internal policy, under internal control. It could be modified at any time by the company; no assurance that this will not be the case is given. Exhibit DGH-1 is for 2006 thus is already outdated by a newer 2007 version. Their Application needs updating. The mandatory compliance verb "shall" is used once in the entire document. Exhibit DGH-1 is vague..."

[Ex. M-6, 10 at 29 to 34]

And Magruder further testified

"Without mandatory provisions, an internal practice such as this is unsatisfactory and definitely should not replace the detailed audits accomplished by ACC Staff and RUCO in all rate proceedings. In fact, <u>suggesting that this weak document replace the prudency audit has no merit</u>. If the Commission allows this document to replace their reviews, liability for any poor decisions or losses based on this practice could cause significant liabilities to the Commission instead of shareholders. Shareholders are the ones who should absorb losses." [Underlined for emphasis]

[*Ibid.* 11 at 2 to 8]

And Magruder concluded

"The proposed internal "UNS Gas Price Stabilization Policy" is under total UNS Gas control; therefore, <u>any</u> Commission approval might incur inappropriate liability to the Commission. Further, significant clarification as to the applicability of this policy is missing."

[*Ibid.* 14 at 15 to 17]

And Magruder recommended:

"Make major changes to the UNS Gas Price Stability [*sic*, Stabilization] Policy including adding an ACC reasonableness

process review. Eliminate any indication that the ACC will approve the UNS Gas Price Stability [*sic*, Stabilization] Policy."

[*Ibid.* 15 at 17 to 19]

And Magruder, in his Surrebuttal, with a bit of scorn, hypothesized

"After reviewing the Pignatelli and Hutchens' Rebuttals, in summary, they say 'Trust me...Believe me...Everything will be A-OK...hurray, we don't have to do any more prudency audits ...This company plan will cover both us...if you approve...we can sue...if we lose money...oh well, the ACC approved...it.'"

[Ex. M-7, 26 at 2 to 6]

(3) Recommendations for Resolution of this issue.

The Company has no profit interest in achieving the lowest gas prices for its customers. Cost of gas is about two-thirds of a customer's bill, then, as a customer and ratepayer, I expect and demand the Commission continue its sound policy of holding prudency reviews and audits for all gas purchases that impact customer's rates. Anything else, in my opinion, is neither wise nor prudent.

The UNSG Rebuttals did not respond to the impact of "ACC approval" and potential liability for ratepayers and the Commission if and/or when the "policy" was not followed, as has already been shown in ACC witness Mendl Testimony. [Ex. S-20, ES 1 and 2]

It is recommended

1. That the UNS Price Stabilization Policy be reviewed by the Commission for reasonableness and
2. That this Company document should NOT be approved or specified as a substitute for prudency audits of all gas purchases in future rate cases.

2.6 Changes in Past Due, Penalty, Suspension, Notice of Termination Dates after Billing.

Issue. Both RUCO and ACC testified this important change in the "Rules and Regulations* (R&R) will have serious impacts for lower income customers.

(1) UNS Gas Proposal and Testimony:

The Testimony of UNS Gas witness Mr. Gary Smith stated

"'billing terms', the due date for bills for gas service was changed to ten days from the date the bill is rendered. Any payment not received within this time shall be considered past due and may be subject to a late payment penalty charge. The date for all past due bills for gas service was changed to be due and payable within fifteen days. Any payment not received within this time shall be considered delinquent and the customer will be issued a suspension of service notice. This

change was made to align UNS Gas' Rules and Regulations with the Arizona Administrative Code."

[Ex. UNSG-15, 19 at 15 to 21[27]

Mr. Smith included a clean and redline versions of the proposed the Rules and Regulations (R&R) as Exhibit GAS-2. [Ex. UNSG-15, Exhibit GAS-2, Sections 10.C and 11.E]

Table 4 compares the present and proposed policy changes. The result is a change from 40 to 20 days, after the Due Date, before termination of service, with other actions also occurring earlier as shown.

The Due Date is defined at date bill is rendered, or later of (1) postmark date, (2) mailing date, or (3) billing date shown on bill; however the billing date shall not differ from postmark or billing date by more than two days.

Table 4 – Changes in Proposed Termination Dates for UNS Customers.[28]

Action**	Notice	Present Policy	Proposed Policy	R&R Reference
Bill Due	Bill	15 days after Due Date	10 days after Due Date	Sec. 10.C.1 page 51
Penalty Charge Starts (Assessed)	None	15 days after Due Date	10 days after Due Date	Sec. 10.C.1 page 51
Bill is **Past** Due	None	No payment within 30 days after Due Date	15 days after Due Date	Sec. 10.C.3 page 51
Suspension of Service Notice/ **Termination Notice**	Written notice by 1st Class Mail	No payment within 30 days after Due Date	No payment within 15 days after Due Date	Sec. 10.C.3 page 51
		And 10 days prior to Termination Date**	And 5 days prior to Termination Date**	Sec. 11.E page 62
Service can be Terminated	None	No payment within 40 days after Due Date	No payment within 20 days of Due Date	Sec. 10.C.4 page 51

** A bankruptcy court may require a more stringent schedule.

Also in the proposed Rules and Regulations (R&R) in 11.B.1.d, under "Termination of Service Without Notice" the fourth condition "d" was proposed to read as follows (in redline form):

"d. The Customer has failed to comply with the curtailment procedures imposed by the Company ~~during supply shortages~~ in accordance with Company's Pricing Plans ~~Tariffs~~."

[Ex. UNSG-15, JAS-2, 59, at para 11.B.1.d (redlined version)]

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27 Direct Testimony by Gary A. Smith on Behalf of UNS Gas, Inc, of 13 July 2006, hereafter "**Ex. UNSG-15**"

28 This table was derived to understand these R&R sections. No simple timeline is shown the R&R and definitions are inconsistent. It is very difficult to understand this procedure. Basic principles used for human factors engineering and public communications are not being followed.

The Rebuttal Testimony by Gary Smith stated these due dates met the specifications of Arizona Administrative Code R-14-2-310.C. He testified one has10 days to pay the bill before it is late and another 15 days before a late fee applies.

> "Only then would the bill be considered delinquent...and the Company would not commence suspension of service procedures unless it did not receive payment for a delinquent bill after five days. So the Customer has a total of 30 days after a bill receipt to pay his or her bill before a notice of shut-off is issued, a customer could have several days before gas is actually disconnected."
> [Ex. UNSG-16, 4 at 19 to 25][29]

The billing term section in A.A.C R-14-2-310.C was last updated in **1982**, 25-years ago, and for this quarter of a century, the existing billing date structure has been in place without undue impacts on the Company or the customer. This issue made the first page of the *Arizona Daily Star* [Ex. M-1, A-1][30] when first being implemented by TEP after 25-years on a slightly relaxed billing schedule. This section of the A.A.C. is quoted below and is substantially the same as the proposed rewording [Ex. M-2][31] in the R&Rs:

> "C. Billing terms
> 1. All bills for utility services are due and payable no later than 10 days from the date the bill is rendered. Any payment not received within this time-frame shall be considered past due.
> 2. For purposes of this rule, the date a bill is rendered may be evidenced by:
> a. The postmark date
> b. The mailing date
> c. The billing date shown on the bill (however, the billing date shall not differ from the postmark or mailing date by more than two days).
> 3. All past due bills for utility services are due and payable within 15 days. Any payment not received within this time-frame shall be considered delinquent.
> 4. All delinquent bills for which payment has not been received within five days shall be subject to the provisions of the utility's termination procedures.
> 5. All payments shall be made at or mailed to the office of the utility's duly authorized representative."[32]

In Mr. Gary Smith's Rejoinder, he stated:

> "In response to Mr. Magruder's specific recommendations:

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[29] UNSG Rebuttal Testimony of Gary A. Smith on Behalf of UNS Gas, Inc, hereafter "**Ex. UNSG-16**"
[30] *Arizona Daily Star*, "Save Utilities? Earlier shutoff, deposit lurk?" 30 April 2007, hereafter "**Ex. M-1**"
[31] UNS Gas, Inc. Rules and Regulations, Section No. 10, Billing and Collection, C. Billing Terms, page 45 of 66, Draft, hereafter "**Ex. M-2**"
[32] Arizona Administrative Code R-14-310.C, obtained 3 April 2007 from http://www.azsos.gov/public_services/Table_of_Contents.htm [Ex. M-7, 28, footnote 89]

(1) The Company believes that the Rules and Regulations, especially in their modified form, are reader-friendly, accurate and helpful to the customer.
(2) The Company has considered the impact of its changes. To that end, it has agreed with the Staff recommendation that a six month waiver would be implemented with regarding to billing timeframe changes.
(3) Again, the proposed change to Section 11.B.1.d is not substantive and was made to make the Rules and Regulations easier to read and understand.
(4) With regard to the recommendation that a Spanish-version of the new Rules and Regulations also be approved by the Commission, the Company would be happy to translate the Rules and Regulations. As they will be the same as the English version, assuming the Commission approves the Rules and Regulations in this proceeding, further approval will not be necessary.
(5) With regard to Mr. Magruder's recommendation that all customers receive a copy of the new Rules and Regulations within 30 days of ACC approval or upon becoming a new customer, to do so would be extremely costly and such cost would ultimately be borne by the ratepayer. The Rules and Regulations are available publicly on both the Company's and the Commission's websites."

[Ex. UNSG-17, 7 at 12 to 8 at 2][33]

(2) Intervenor Testimony

(a) **RUCO** stated the proposed Rules and Regulations

"Shortened the period of time customers have to pay their gas bills before a late fee is assessed from 15 days to 10 days and to short[en] the time customers have to pay a past due bill prior to notice of shut-off from 30-days to 15-days."

[Ex. RUCO-5, 35 at 15 to 18]

RUCO proposed action for this concern was:

"The proposed changes are unreasonable. The proposed payment due dates are so short that a UNS Gas customer on vacation could forseeably come home and find their gas shut-off. Since gas is a vital service to many, a more flexible payment schedule should prevail. As a regulated utility UNS Gas already receives a working capital allowance to bridge differences between receipt of revenues and payment of expenses, and should not have to impose unreasonable payment terms on its customers. RUCO recommends the Commission deny the proposed changes in payment due dates." [underlined for emphasis]

[*Ibid.* 35 at 21 to 36 at 6]

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[33] Rejoinder Testimony of Gary A. Smith on Behalf of UNS Gas, Inc., of 11 April 2007, hereafter "**Ex. UNSG-17**"

(b) **ACC Staff** witness Ralph Smith stated for the proposed changes to Section 10.C of the proposed R&R

> "Staff agrees with the UNS Gas-proposed changes to Section 10.C. In order that these changes not present a hardship on UNS Gas customers, there should be a six month waiver in the late penalty charge. The company has proposed to reduce the number of days, from 15 to 10, as the period a customer may avoid a late payment penalty. For the first six months, the penalty should be waived for day 10. After the initial 6 months, the Company should be able to charge the penalty after day 10. This temporary six-month transition period should help alleviate any hardship on customers from this change in billing terms."
> [Ex. S-25, 68 at 8 to 15][34]

And Mr. Ralph Smith stated for the proposed changes in Section 11.E of R&R

> "In general, Staff supports the standardization of tariff provisions for rules and regulations from the UniSource Energy Companies, including UNS Gas. Staff does not object to the UNS Gas' proposed revision to Section 11.E; however, Staff is concerned that the shortening of notice time could present a hardship to customers. Therefore, Staff recommends that during the first six months after the notification provisions are approved, the Company allow affected customers the current ten calendar days to respond to a termination of service notice before actually disconnecting the customers. After six months, the new terms in Section 11.E would be enforceable as stated."
> [*Ibid.* 70, 5 to 12]

(c) **ACAA** Testimony, briefly summarized, stated lower income customers usually do not have a checking account or the ability to pay on-line. This schedule is a challenge for those who have to pay in cash and need to arrange transportation. This leads to the using "payday" loan services driving even more customers to predatory, onerous lenders.

> "Twenty days is an absolutely reasonable timeframe in which to pay UES, ten days simply is not."
> [Ex. ACAA-1, 14]

ACAA Testimony included information about pay-day loan companies. In Arizona loans totaling over $875 million, at an average loan amount of $325, with an average fee of 17.27% with an APR of 460% resulted in nearly $155 million in loan fees collected in 2005.

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[34] Direct Testimony of Ralph C. Smith for the Arizona Corporation Commission, of 9 February 2007, Executive Summary, hereafter "**Ex. S-25**"

[36] I have two insurance companies (automobile and home) whose policies in "plain English." These policies all legal requirements with simple, easy to understand, English. Replace the attorneys by professional technical writers for these rules to language comprehensible by less-educated customers. This should lead to better customer understanding and higher compliance than what is now incomprehensible for most college graduates. Direct technical legal quotes from the A.A.C. are not acceptable for customers and must be translated into "plain English. [Ex. M-7, 29 footnote 90]

[Ex. ACAA-1, "Loans: Financial Quicksand" Appendix 2] Additional evidence introduced by ACAA shows that a $325 loan costs the pay-day loan taker pays an average of $793 total payments, which is, on average, the payback is over twice the original loan. [Ex. ACAA-1, "Loans: Financial Quicksand" Appendix 2, Finding #1]

ACAA also included a UES "Cash Payments Agents" webpage in its Testimony that shows ACE Cash Express locations in Bullhead City, Camp Verde, Chino Valley, Cottonwood, Kingman ($1.00 fee), Lake Havasu, 3 in Nogales (2 with $1.00 fees), Prescott and Prescott Valley. Also Ozark 'Advanced Quick Cash' in Flagstaff, with other non-payday loan payment agents in Winslow, Show Low, and Sedona. [*Ibid.* "UES newsrelease webpage "UES to Close Four Walk-in Lobbies; Customers will have a Variety of Options Available for Payments and Customer Service" at http://uesaz/company/news/PressReleases/Release/Template.asp?idRec=284]

(d) **Magruder** Direct Testimony did not discuss this concern; however, the Surrebuttal did and included the recommendations used below. In particular, re-writing the Rules and Regulations in "plain" English is necessary.[36] The proposed R&Rs are misleading with undefined terms and very difficult to understand by a layman. As customary, when communicating with the public, an eight-grade reading level skills is used by sophisticated organizations.[37] It was noted during these hearings 19.4% of the population of Santa Cruz County has less than nine years of education. [Ex. ACAA-1, "Poverty in Arizona" 22 at Table] The above Rejoinder comments by Mr. Gary Smith [Ex. UNSG-20, 6 at 16 to 8 at 2] are why many UNSG customers are confused about the R&Rs, make excessive phone calls to the Call Center, and have difficulties knowing when they are required to pay their bills and how to work with the Company.

The Magruder Surrebuttal requested consideration be given to continue using the present billing schedule because it is more likely to be understood by the customers. There are many below poverty-line struggling to make including every utility, car, medical and rent payments, and, if this is not possible to deny the proposed billing schedule changes, then implement after the six-month temporarily notification period while the Company informs its customers several times in various media of the new billing schedule details. [Ex. M-7, 29 at 26 to 30 at 2]

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[37] The *National Geographic* magazine, DoD technical manuals, and most newspapers use sixth to eight grade reading skill levels. [Ex. M-7, 29 footnote 91]

Any reliance of co-located payday and expensive check cashing facilities where utility bills are being paid in cash is an unethical temptation at three locations designated by the Company in Nogales, Santa Cruz County, the smallest Arizona county, where 24.5% of our population lives below the poverty line. [Ex. ACAA-1, "Poverty in Arizona" 13 at Table]

The deletion of a proposed change to R&R Section 11.B.1.d, back to the original wording directly from the A.A.C. is still being contested in the Mr. Gary Smith's Rejoinder. [Ex. UNSG-20, 7 at 18 to 19] Clarity is not improved by this proposed change.

Also, a few days prior to the Magruder Oral Testimony, I received a new formatted UNS Gas bill. As a human factors educated systems engineer [Ex. M-5, Exhibit A[38], 17 to 26], I admonished the Company for reducing clarity and readability of their re-formatted customer bills. The following were suggested then for implementation with this rate case:

a. The change from the san serif font "Arial" to "New Times Roman" format has reduce readability as the new font is smaller and harder to read than Arial used in the prior format. New Times Roman font is optimized to minimize printer's ink.
b. The center-justified paragraphs are much harder to read than standard left-justified. In general, center-justified is only used for short, 2 or 3 lines, titles.
d. The backside is almost impossible to read due to the very light color used in printing is almost an 'invisible ink.' Change to a darker ink color on the backside.
d. A "MESSAGE" area should be used to provide customers notices and information. It should include the actual DUE DATE (based on rendered billing date], actual DATE WHEN LATE PENALTY STARTS, and the actual EARLIEST CUTOFF DATE FOR NON-PAYMENT in **bold** print. Ensure holidays are accounted when computing dates
e. Bill "definitions' should on the side where the bill is shown as in the prior format.
f. Company Name and physical address be returned to the upper left of the bill to facilitate users' understanding of which UES utility sent the bill and the location of its serving office for that customer. Most will not understand the color code differences for UNSE and UNSG. The bill "return" address is for the bill and not where a customer would go to pay or discuss a bill.
g. In line 1, there is a new customer 10 digit number that replaced a 7-digit customer number. Lower on the bill, under "service number" a different number is used. Please use only ONE customer ID number for a customer or make any other billing code differences very clear, such as used for multiple accounts on the same bill. The shorter the ID numbers will have lower error rates when used on a payment checks or calls to the Call Center.
h. The phone numbers for local offices should be returned to the bill with office hours.
i. The "statement information" is now on the backside and is not on the front where the bill is shown. These two should be located next to each other.
j. Remind customers in the Message or a note that when shutoff occurs that the two highest monthly payments (in the prior year) are required for a 12-month deposit before return of service. Compute and provide the Security Deposit amount in this note. This should also reduce calls to the Call Center.

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[38] The MS in Systems Management (USC, 1981) includes minors in Human Factors and Managing R&D which is essential for effective training system design, computer screen layouts, and cognitive engineering analyses. [Ex. M-6, 17 at 4]

k. "SNAP" is used on bills without definition for SNAP Date. Its meaning is unknown.
l. The new note "**To reconnect Service after Non-Payment: Pay your bill (cash only) at ACE American's Case Experience or authorized agents**" appears to direct customers to these pay-day loan and check-cashing companies. Recommend removal of any reference to pay-day loan and check cashing companies.
m. The Company must provide a way for customers to use a credit or debit card for bill payment on the phone without additional credit card charges to ratepayers which is now required by the current credit card service agent.
n. And, finally, the 25% longer form should be reduced back to 8.5x11-inch paper previously used to reduce paper waste. The added blank space was not used.

(3) Recommendations for resolution of this issue.

It is recommended

1. That because the Company relies on payday loan/check cashing facilities is ill-serving its customers and inappropriate. Other bill payment agents should be found. If payday loan/check cashing facilities are not replaced within the next six months, the Company be directed to revise either the 45 cents it pays per bill to agents or determine other incentives for bill payment agents, and, if not implemented within 12 months, a Company employee may need to be on-location during weekdays at each customer town or city.
2. That the Company publish a new, completely reader-friendly, plain English UNS Gas Rules and Regulations after review and approval by the ACC Staff.
3. That the proposed change to Section 11.B.1.d be denied and the original version remain as presently stated for "Terminations Without Notification".
4. That A Spanish-version of the R&Rs be approved by the ACC within the next six months.
5. That ALL customers receive a copy of the new R&Rs, within 30 days after ACC approval of this Rate Case, and by all new customers prior to providing service.
6. That the changes in payment schedules be denied since this A.A.C. rule has been in effect since 1982 without adversely impacting this Company. If not denied, then the ACC Staff's recommendation for a six month delay be imposed under the following conditions:
   a. That at three different billing notices be included to customers before implementation.
   b. That ALL UNS BILLS include in bold type the actual DUE DATE, DATE LATE PAYMENT PENALTIES START, and EARLIEST SERVICE TERMINATION DATE FOR NONPAYMENT. This should already be on customers bills.
7. That the suggestions for reformatting the billing statement into a more user-friendly format are implemented and a new billing format submitted to the ACC Staff, RUCO, ACAA, and me within 30-days for comment and review prior to implementation.
8. That the charges for using a credit or debit card be eliminated when paying by phone.

Part III – Preliminary Response to the Demand Side Management Program.

Q. Why do you have DSM as a separate part of this Brief?

A. The applicants have not made clear the details for the UNS Gas DSM program. Testimony is conflicting, changes have occurred since the Direct Testimony by Mr. Gerry Smith on this subject. A new DSM filing has been submitted after the hearings were completed.[39]

Q. In general, what are your feelings about DSM?

A. I am a strong proponent for all three elements of DSM:

(1) Energy Conservation,

(2) Energy Efficiency (EE), and

(3) Demand Reduction (DR).

Conservation is using less energy by choice. One chooses to lower a thermostat to reduce gas consumption before leaving home for work.

EE uses less energy with more efficiently-designed systems such as an automated thermostat that adjusts its settings to reduce gas consumption at pre-set times.

DR reduces energy peak demands when the utility remotely changes a thermostat setting specifically to reduce peak demand.

Q. In general, what is your opinion of the UNS Gas DSM program?

A. The UNS Gas DSM program focuses on EE, with little emphasis on conservation[40] and no information about DR. Only four of many DSM options are proposed. However, this is a natural gas company, with fewer options than an electricity company to lower consumption. UNS Electricity will have a DSM program. The Integration of UNSG/UNSE DSM programs may be proposed in the future. An integrated UES DSM program would achieve more results.

Q. What is the status of UNS Gas DSM filings to date?

A. In Mr. Gary Smith Direct Testimony, seven-pages discuss general DSM information and a cost recovery mechanism proposal [Ex. UNSG-15, 11 at 11 to 18 at17] with two-page summary [*Ibid.* Exhibit GAS-1]. Mr. Smith's 12-page Rebuttal Testimony [EX. UNSG-16] has DSM related discussions on almost every page in response to ACAA, ACC Staff and RUCO.

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[39] See UNS Gas filing of 4 May 2007with the ACC, "UNS Gas, Inc.'s Demand-Side Management Program Portfolio Plan G-04204A-07-_____". This document has not been entered into the record for these proceedings. Hereafter, "**UNSG filing for a new DSM Docket**"

[40] An existing home energy audit is to be replaced by an online survey system. In my opinion this will be less effective; however, is less expensive. My experience with home energy audits has been very positive, and effective as actions recommended and taken did lower my energy consumption over 30%. It was that personal interactions with the energy auditor that will be lost by an online survey, which "may" be taken by some and not by those who do not have online services or do not speak English.

Mr. Smith's discussion's discussion of the details of his Direct Testimony earlier (July 2006) and the DSM Programs (May 2007) brings out many differences.

A second source of UNS Gas DSM information is the Rebuttal Testimony of Denise Smith [Ex. UNSG-21][41], her Rejoinder Testimony [Ex. UNSG-22][42], and an "informational supplemental" filing [Ex. UNSG-23, Exhibit DAS-3].

The third source of UNS Gas DSM information is the "UNSG filing for a new DSM Docket" on 4 May 2007. This document is

> "substantively similar" to Ex. UNSG-23 and "reflects many of the recommendations made by parties in the [UNSG] Rate Case Docket and has been further refined after additional consideration by the Company."
> [UNSG filing for a New DSM Docket, 1 at first paragraph]

All of these DSM filings have similar and inconsistent DSM Programs, each with different details. The first two sets request that UNSG DSM Programs be included in this Rate Case.

Q. Can you describe the UNS Gas DSM Programs?

A. UNSG has requested a "survey' be conducted prior to staring these programs and proposed a DSM Adjustment rate charge to fund its entire DSM Program. The following UNSG DSM programs are summarized from its Rebuttal Testimony.

a. Low-Income Weatherization (LIW) Program. UNSG has a weak LIW program for those under the poverty income level in the CARES (R-12) low-income tariff rate. ACAA testified that 25.4% in Santa Cruz County are eligible for CARES and LIW. [Ex. ACAA-1, 5 at 2nd para] Magruder showed only 28.3% of those for eligible CARES are participating. [Ex. M-9][43] Only few receive up to $2,000 in LIW home improvements to make their homes more efficient. A total of 6 homes in 3 of the northern counties received LIW in one year. For six months in 2004, UNSG spend $77,600 on marketing and admin while providing $74,400 in CARES rate decreases, an over 100% for overhead rate. [Ex. M-3, 5 at Table totals][44] Management problems appear in the existing LIW program. More LIW funding is proposed.

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[41] Rebuttal Testimony of Denise A. Smith on Behalf of UNS Gas, Inc. of 16 March 2007, hereafter "**Ex. UNSG-21**"

[42] Rejoinder Testimony of Denise A. Smith on Behalf of UNS Gas, Inc. of 11 April 2007, hereafter "**Ex. UNSG-22**"

[43] Number of UNS Customers Living at or Below the Poverty Level and Who Could be Possible CARES Participants, no date, hereafter "**Ex. M-9**"

[44] UNS Gas Response to Mr. Magruder's Second Set of Data Requests of 29 March 2007, MM DR 2-9, hereafter "**Ex. M-3**"

b. UNSG Energy Smart Home (ESH) Program, similar to TEP Guaranteed Home Program. The TEP all-electric home program does not apply for natural gas customers. The UNS Gas program requires DOE ENERGY STAR® Home certification. UNSG provides builders a $400 rebate. Federal and state income tax credits on federal exist for energy efficient homes. The AZ income tax credit is 5% of construction cost of qualified energy efficient homes, a significant tax incentive. The ESH program promotes DOE ENERGY STAR® performance requirements and requires on-site inspections and field testing of a random sample of homes to these ENERGY STAR® standards. These inspections are to be conducted by a third-party RESNET-certified energy raters selected by the builder.

c. Efficient Home Heating Program requires 90% or greater Annual Fuel Utilization Efficiency (AFUE)-rated gas-fueled furnaces for residential or multi-family homeowners. Rebates are given based on cost of furnace, location, and AFUE value.

d. Commercial and Industrial (C&I) Efficiency Program has the incentives of non-residential facilities with high-efficiency space heating, service water heating, and commercial cooking equipment and systems.

e. On-line Energy Audits are replaced "in-home" energy audits.

Q. What are your recommendations for UNSG DSM Program?

A. At the present time, details about these programs conflict and all need improvement based on the expenses planned for implementation, therefore, I recommend that:

(1) UNSG submits the "survey" details to the ACC Staff soonest, for financial review, scope of the survey, and approval of the survey study and funding plan. This should be completed by the ACC Staff and submit the review results prior to 1 July 2007 to all parties in this docket. The ALJ should be able to include in a Recommended Opinion and Order (ROO).

(2) That the ACC Staff's review recommend DSM Adjustment for each rate category so that the DSM Adjustment can be included in this UNS Gas Rate Case.

(3) That all parties make their comments known, if different, as ROO review comments.

(4) That the third documentation set, either by expedited UNSG DSM hearings be planned or, in the alternative, the UNSG DSM docket can be combined into the ongoing UNS Electric Rate Case (E-042404A-06-0783) which is on a slower schedule. In my opinion, the latter is preferred, as integration of the UNSG and UNSE programs can be assessed.

(5) Not to fund any actual UNSG programs until after open, public hearings have been held, with all parties to this case, also designated as potential parties to the UNSG DSM docket.

(6) That ESH program train and qualify local county/city building inspectors to meet the ENERGY STAR Home requirements, using RESNET personnel, as required.

(7) That in-home Energy Audits be continued not eliminated due to their value.

Q. Do you recommend that the DSM Program be assessed for its effectiveness? [Ex. M4][45]

A. Most definitely, yes. The standard cost-effectiveness analyses commonly used for DSM programs may not be appropriate, as determined for specific programs, including:

a. Market Transformation Programs. Cost-effectiveness shall be measured by the success of a program in achieving results, such as market effects compared to its costs.

b. Educational Programs. Utility shall estimate the energy and peak demand saving results from educational efforts to raise energy use awareness and energy saving opportunities.

c. Research and Development (R&D) and Pilot Programs: Individual R&D and pilot programs usually do not have to demonstrate cost-effectiveness.

d. Low Income Programs: Measures included in low-income programs shall be generally cost-effective.

Each cost-effectiveness test has a targeted audience and purpose. The Commission previously decided that the "Societal Test" will be used for its decision making. Cost-effectiveness tests should always be assessed prior to implementing any DSM program, periodically updated during implementation, and reported to the Commission in the semi-annual DSM Reports. This reporting shall include status as to meeting each cost-effectiveness goal, and if success is not being achieved, then additional investigation to determine the "value" of that DSM Program. Meeting or exceeding the test goals should be the minimum demanded for a program, and shall be used as the criteria for changes, including possible termination when unsuccessful.

The cost-effectiveness tests to be determined for each program include the following

Table 5. Comparison of DSM Program Cost-Effectiveness (Cost-Benefit) Tests

Test / Attribute	Participant Test	Utility Cost Test	Total Resource Cost Test	Societal Test
COST	• Incentives received • Bill reductions	• Avoided utility costs	• Avoided utility costs	• Avoided utility costs • Avoided environmental impacts
BENEFIT	• Bill increases • Incremental participant costs	• Incremental utility costs, including incentives paid by utility	• Incremental utility costs, excluding incentives paid by utility • Incremental participant costs	• Incremental utility costs, excluding incentives paid by utility • Incremental participant costs

The utility can use all four of these or other standard cost-benefit tests; however, the common test elements should remain constant between tests for the same time frame.

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[45] Excerpt from ACC Staff Report on DSM Policy, Docket No. E-00000A-02-0051, et al, page 17, hereafter "**Ex. M-4**" This entire response if from this page.

Part IV – Initial Brief Summary

Q. Would you please summarize this Brief?

A. This brief outlines six issues of significant concern and provides recommendations in Part II that show the Applicant has remained immobile, stationary, and almost unresponsive to any beneficial changes related to its customers since its original Application. Some final thoughts:

- Without removal of the critical rate structural flaws, the proposed customer rates will be unfair and unreasonable and should be denied.
- The approval of the RUCO or ACC Staff rate structures would be reasonable and fair, to both the Company and its customers.
- The deliberate and continuous discrimination campaign in the Company's Testimony against the warmer regions, such a Santa Cruz County, and Lake Havasu, is an inappropriate and almost unethical way to lower rates for colder areas.
- The mixing of cost of service with product costs will make correct accounting and audits almost impossible if the TAM adjustment is adopted.
- Risks must be borne by the company and not by the ratepayers in the monopolistic environment, especially for reasonably predictable elements, such as weather.
- Demand Side Management requires a quality-focused implementation team, which appears lacking in (informative) planning to date, to be cost-beneficial.
- Any reliance on pay-day loan centers as billing agents for a public service company must be avoided as a measure to protect its most vulnerable ratepayers from predatory lending which will be more significant as there is 50% less time to shutoff.

Q. Does this conclude your Initial Brief?

A. Yes.