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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

Reply Brief of Marshall Magruder, Intervenor

19 June 2007

As directed in the Procedural Order of 8 September 2006, and modified on 10 January 2007, 15 February 2007, and 31 May 2007, this Reply Brief of Marshall Magruder is submitted to all Parties as of this date.

Respectfully submitted on this 19th day of June 2007 to all parties,

Arizona Corporation Commission
DOCKETED
JUN 20 2007
DOCKETED BY nr

MARSHALL MAGRUDER

By Marshall Magruder

Marshall Magruder

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REPLY BRIEF

OF

MARSHALL MAGRUDER

June 19, 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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REPLY 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 was approved and the Magruder Direct Testimony filed on 7 February 2007, Magruder Surrebuttal Testimony filed on 4 April 2007 Magruder Summary filed on 23 April 2007, and Magruder Initial Brief of 5 June 2007.[1]

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 detailed financial issues beyond Magruder capability. In general, I am very satisfied with and concur with the conclusions of all intervening parties to date.

Some issues are very important to those who live in Santa Cruz County and its ratepayers. My efforts have been applied on those issues.

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

A. Yes. Magruder efforts have centered on several key issues and concerns expressed herein:

1. Mandatory residential Service (or customer) Charge to vary by season, ¶2.1 below.
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. A UNS Gas "Price Stabilization Policy" to be adopted by the Commission to replace Prudency Purchase Audits for future rate cases, ¶2.5 below.

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[1] Initial Brief by Marshall Magruder, of 5 June 2007 hereafter "Magruder Initial Brief"

Q. Did you respond to ACAA Testimony?

A. Yes. The Arizona Community Action Association (ACAA) submitted excellent Testimony that emphasized issues and concerns of the lower-income ratepayers. The same issues raised by ACAA exist in Santa Cruz County and help identify a sixth key issue, "Administrative Rules and Regulations Changes in "Connect' Fees, Billing Statements, Predatory Loan/Check Cashing Facilities as Billing Agents, Revised Billing Statement and R&R Publication," ¶2.6 belo, which includes the UNS Gas' program to employ "payday loan" and "check cashing" as local payment agents.

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 financial issues. They were summarized in the Magruder Initial Brief, in Table 1, which compared the UNS Gas proposals with the views of the Intervenors:[2]

Q. Are their significant issues that are not included in this Reply Brief?

A. The Applicants have proposed conflicting details of the UNS Gas Demand Side Management (DSM) Plan discussed in Part III of this Reply Brief that responds to the UNSE Initial Brief discussions concerning DSM.[3]

1.3 Additional Concerns that remain Open.

Two concerns were not explored in adequate depth during the testimonial hearings as discussed in the Magruder Initial Brief.

a. Ensure no Double-Charging. This concern remains unresolved since the Magruder Motion to Intervene. This issue was also discussed by the ACC Staff's Mr. Layton, on the last day of the hearings, as an area in which he indicated 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), UniSource Electricity, Inc. (UNSE), and UNS Gas, Inc. (UNSG), to ensure that "double charging" work tasks or Administrative and General Expenses (A&G) expense pancaking have not occurred. As indicated in Magruder Initial Brief, that Magruder capability in this area is limited and should be accomplished using the professional ACC Staff and RUCO resources.[4]

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[2] Magruder Initial Brief, Table 1 at 9-11.
[3] Initial Post-Hearing Brief of UNS Gas, Inc., of 5 June 2007 hereafter "UNSG Initial Brief", Part IV at 53-54.
[4] Magruder Initial Brief at 8.

It is recommended that the Commission consider for resolution that:

1. Separate ACC Staff and RUCO Reviews be conducted into the labor and A&G charging practices and implementation throughout all UNS Energy entities, and as
2. These reviews are assessed by the ACC Compliance Officer to either deny or confirm potential charge abuses that occur (or may not have occurred) in multi-layered organizations.

b. Compliance Issues from UNS Gas Annual Code Compliance Audit. As discussed in the Magruder Initial Brief, the ACC Staff provided the 2006 results by the ACC Pipeline Safety Section "Code Compliance Audit" which reported five noncompliance issues, (1) failed to follow its 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 [pipeline safety] reviews is not to exceed 15 months.[5] All are verified as now compliant, but each one is a serious SAFETY concern.

It is recommended the Commission consider for resolution that

1. A compliance review of the past ten years reports for UNS Gas (or predecessors) annual Pipeline Safety Code Compliance Audits be conducted to see if a systemic, management problem exists with Report issued to the Commission, and
2. Depending upon this audit, additional or a surprise "Code Compliance Audit", might be in order to ensure management failures do not reoccur.

1.4 Organization of this Reply Brief.

Q. How will your Reply Brief be organized?

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

(1) UNS Gas Initial Brief Changes from its Proposal and Testimony.

(2) Intervenor Initial Brief Views (as applicable, note ACAA did not submit an Initial Brief)

(a) RUCO

(b) ACC Staff

(c) Marshall Magruder

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

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[5] *Ibid.*

Part II – Discussion of the Key Issues with Final Recommendations

2.1 Proposed Residential Service Charges to Vary by Season.

Issue. The Company proposed to raise summer and lower winter Service Charge rates by charging higher Service Charge rates in the summer and lower Service Charge rates in the winter. The Company considers its customers in colder climates subsidize those who live in warmer areas and proposed a seasonal rate specifically to reduce their winter bills.

(1) UNS Gas Initial Brief Changes from its Testimony.

UNS Gas Initial Brief stated, "Given that Staff does not support this proposal because there is no cost basis for seasonal customer charges, the Company would accept a year-round monthly customer charge of $17."[6] [Emphasis added]

UNSG Initial Brief did not respond to the Magruder concerns about seasonal rates.

(2) Intervenor Initial Briefs

(a) RUCO stated it "opposes the Company's proposal to differentiate the monthly service charge in the winter and summer months. The choice of whether a customer prefers a levelized bill should be left with the customer, rather than being imposed across-the-board by a Commission-imposed rate design."[7]

(b) ACC Staff did not recommend in its Initial Brief any seasonal winter/summer rates.[8]

(c) Magruder stated Seasonal rates should not mandatory and such rates discriminate against low-usage ratepayers and those using energy efficiency measures.[9]

(3) Final Recommendations for Resolution of this issue:

The Company's geographic inequity issue and associated rate design philosophy are wrong should be denied. A mandatory seasonal rate structure sends the wrong signal to high-use customers by rewarding high-users by penalizing low-users. The Company "would accept a year-round monthly customer charge of $17." Except for the "of $17" which is discussed later, this issue should be closed by adopting the below recommendations:

It is recommended in this Reply Brief, as in the Magruder Initial Brief, that

1. The proposed mandatory seasonal Service Charge scheme be denied, and
2. The existing voluntary annually levelized payments scheme be retained, and
3. The existing non-varying monthly service charge tariff scheme is retained.

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[6] UNSG Initial Brief at 46.

[7] Initial Closing Brief of the Residential Utility Consumer Office (RUCO), of 5 June 2007, at 31, hereafter "RUCO Initial Brief"

[8] Staff's Opening Brief, as corrected, of 6 June 2007, at 24-27, hereafter "ACC Staff Initial Brief"

[9] Magruder Initial Brief at 15.

2.2. Proposed Residential Service Charge Increases.

Issue. UNS Gas proposed removal of some volumetric-related gas transportation charges from the purchase gas 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 Company considers that its customers in colder climates are "subsidizing" other customers who live in desert climates.

(1) UNS Gas Initial Brief Changes from its Proposal and Testimony:

UNS Gas Initial Brief continues to propose much higher rates by adding "volumetric" costs into the fixed part of the customer's bill increasing from $7.00 per month [or $84.00 per year] to an average of $17.00 per month [or $204.00 per year]. The Company even complains it should be justified to receive $26.00 per month.[10]

UNS Gas stated that the

> "Rate designs proposed by Staff and RUCO fail to address the cross-subsidy" of the lower usage customers by the higher usage customers.[11] UNS Gas stated that the RUCO and ACC Staff "complaint that a higher customer charge reduces customers' incentive to conserve fails to recognize the impact of the remaining per-therm gas commodity charge."[12]

UNS Gas Initial Brief did not respond to any Magruder Testimonies on this issue.

(2) Intervenor Initial Brief Views.

(a) RUCO. The RUCO Initial Brief stated it

> "[D]isagrees with the Company's extreme shift of costs to the fixed charges, it [RUCO] does believe some leveling of shifting is appropriate. RUCO's proposed rate design therefore would result in 36 percent of the Company's revenue being recovered through fixed monthly charges. This is a fair-ground position between the Company's 56 percent request and the Staff's 30 percent proposal."[13]

(b) ACC Staff did not recommend any part of the proposed rate design as it shifts

> "almost all risk to the rate-payers in the future" as this is a drastic shift toward straight-fixed-variable rate design.[14]

The ACC Staff also stated:

> "The Company's proposal presents serious front end loading problem, a decoupling issue and a gradualism problem, especially with respect to the

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[10] UNSG Initial Brief, at 45-49.
[11] *Ibid.* at 44-45.
[12] *Ibid.* at 45.
[13] RUCO Initial Brief at 30.
[14] ACC Staff Initial Brief at 24.

Residential class. That class alone would see their customer charge increase by approximately 143%."[15]

Further, the ACC Staff proposed an

"[A]cross-the-board base rate increase of 11.80%, excluding the Residential CARES[16] class ... much lower than the average percentage increase proposed by UNS Gas of 21.11%. For the Residential CARES rate, Staff proposed a revenue increase of 4.54% as opposed by the 21.11% increase proposed by the Company."[17]

(c) Magruder, in Table 1 (next page), updated with Initial Brief information, shows the service charges since August 2003 and the proposals by UNS Gas, RUCO, ACC Staff, ACAA and Magruder. The applicant's schedules reflected large service charge increases for all customer rate categories.[18]

(3) Final Recommendation(s) for Resolution of this Issue.

UNSG Initial Brief remains to increase the Service Charge to $17.00 or higher. A proposed residential Service Charge to average $17.00 per month for CARES customers is unjustified. This remains unacceptable and emphasized a wrong price signal to customers. The recommendations in the Magruder Testimonies were never countered by UNS Gas with any logical, or basis arguments, thus they remain.

It is recommended, as in the Magruder Initial Brief, that

1. The Service Charge for residential customers (R-10) increase between $1.33 and $1.50 per month to no more than $8.50 per month for a 21.4% increase, and
2. The CARES (R-12) Service Charge (R-12) to remain at $7.00 a month or and
3. The RUCO or ACC Staff rate structures are used to determine for all other rate for all customer categories.

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

Issue. The Applicants requested a fixed rate charge mechanism to increase the Service Charge by including a volumetric-related cost called Throughput Additional Mechanism (TAM). The Applicant's proposed rate schedules show that customer cost per therm decreases as monthly consumption increases, an inverted and perverse price signal.

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[15] *Ibid.* at 25.
[16] CARES, the UNSG acronym for Customer Assistance Residential Energy Support Pricing Plan (R-12).
[17] *Ibid.* at 26.
[18] UNSG Initial Brief, Final Schedules volume, Schedule H-3.

Table 1 – Residential Service Charges from August 2003 Compared to the Proposed Service Charges including RUCO, ACC Staff, ACAA and Magruder Recommendations.[19]

Effective Dates	Monthly Service Charge	Annual Service Charge	Organization or Party
2001 to 10 August 2003	**$ 5.00**	**$ 60.00**	Citizens
11 August 2003 ~ Sept. 2007	**$ 7.00 [existing]**	**$ 84.00**	UNS Gas
After ACC Approval and implemented ~ October 2007			
RESIDENTIAL SERVICE CHARGE RATES (Rate R-10) and **CARES** (Rate R-12)			
Proposed by UNS Gas Residential R-10	December – March **$11.00** April – November **$20.00**	**$ 204.00**	UNS Gas
Proposed by UNS Gas Residential CARES R-12	December – March **$11.00** April – November **$20.00**	**$ 204.00**	UNS Gas
Recommendations for Residential (R-10)	**≤$8.33** **$8.34** **$8.50**	**≤$100.00** **$100.08** **$102.08**	Magruder[20] RUCO[21] ACC Staff[22]
Recommendations for Residential CARES R-12	**$7.00** **$8.34**	**$84.00** **$100.08**	Magruder,[23] ACAA[24] & ACC Staff[25] RUCO[26]

(1) UNS Gas Initial Brief Changes from its Testimony:

The Company has continuously stated it believes that TAM "is an effective means to break the link between natural gas use and revenue recovery that is fair to both the Company and the Customer."[27] The Company also stated "none of the criticisms levied against approved approving the TAM are supported by the evidence."[28]

The UNS Gas Initial Brief did not respond to Magruder Testimonies on this issue.

(2) Intervenor Initial Brief Views:

(a) RUCO Initial Brief stated the

> "Company claims it needs the TAM to eliminate the uncertainly of revenue recovery... [and] that the TAM was an attempt to move away from use of a historic test year. Neither reason justifies adoption of the TAM."[29]

And RUCO stated

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[19] Magruder Initial Brief at 19.
[20] *Ibid.*
[21] RUCO Initial Brief at Schedule Final RLM-15.
[22] ACC Staff Initial Brief at 27.
[23] Magruder Initial Brief at 19.
[24] *Ibid.* at 18.
[25] ACC Staff Initial Brief at 27.
[26] RUCO Initial Brief at Schedule Final RLM-15, at 1. [I feel this is a mistake made by RUCO and that RUCO has not uncovered it. A $7.00 per month for CARES would be in-line with other RUCO recommendations.]
[27] UNSG Initial Brief section III.A, at 50-51.
[28] *Ibid.* section III.B, at 51-53.
[29] RUCO Initial Brief at 31.

"First, "the mechanism would entirely remove any risk associated with revenue recovery...from conservation and from variations in weather...the Company testified that its commitment to support conservation is not dependent on whether the commission approves the TAM... Second, it is not appropriate for the Commission to guarantee a utility a certain level of revenues... no need to implement a TAM to address risks of revenue recovery... Third, the Commission should not approve the TAM in an attempt to stray from the use of the historic test year. used to establish a utility's rates is required by the Commission's Rules and by the State's Constitution... Fourth, the Commission recently rejected a similar decoupling proposal."[30]

(b) ACC Staff was clear in its Initial Brief:

"The Staff opposes the Company's proposed TAM for several reasons. First, Staff's experts testified that the type of costs traditionally recovered in an automatic adjustment clause such as TAM is skyrocketing and volatile costs... Company's proposed TAM does not meet this test...already has several revenue decoupling mechanisms...PGA...protects the Company from price hikes regardless of throughput...the Commission rejected a similar proposal by Southwest Gas...the Commission should reject the Company's proposed TAM because it:

1) shifts the risk of declining usage attributable to weather and economics from UNS shareholders to ratepayers;
2) it continues piecemeal ratemaking; and
3) it would discourage retail customers from undertaking conservation."[31]

(c) Magruder quoted Mr. Pignatelli's explanation how TAM would work.[32] Magruder stated

"UNS Gas customers can't expect to understand TAM or anything equivalent. They understand "cost of service" and "cost of natural gas" and the present billing makes that distinction."[33]

(3) Final Recommendations for Resolution of this issue.

UNS Gas continues in its Initial Brief that TAM is essential but has weak and illogical arguments for decoupling as these three intervenors agree. The customers, ratepayers will not understand what TAM means and the illogical "price signals" it is susposed to send. The Company has no financial rationale to impose TAM. The Company is fully reimbursed for all expenses, thus the TAM concept should be denied. At present, no UNS entity, including UNS Gas, has direct access to current synoptic to long-term climatological weather information on its staff so the Company can reduce any potential weather risk.[34]

Gas Initial Brief did not respond to any Magruder Testimonies on this issue.

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30 *Ibid.* at 32-33.
31 ACC Staff Initial Brief, at 28-29.
32 Magruder Initial Brief at 20.
33 *Ibid.* at 22. Also, see ACC Staff Initial Brief at 27-28 which also describes how TAM is calculated.
34 Magruder Initial Brief at 23-24.

It is recommended, as stated in the Magruder Initial Brief, that:

1. TAM as a part of rate structure be denied and
2. Either the RUCO or ACC Staff rate structure be adopted by the Commission for UNS Gas Co., neither includes TAM and
3. All seasonal or weather risk remains with the Company and
4. There be no mixing of the Service Charge and the natural gas volumetric costs in the rate schedule in order to property conduct rate cases using Test Year information and
5. UNS Gas be directed to have either a meteorologist on its staff or retained as a consultant to provide and use synoptic to climatological weather-related forecasts with weather information derived from current models and simulations, short-term synoptic forecasts, routine climatological probabilistic forecasts and long-term climatological analyses and studies in order to understand and manage weather related risks properly.

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

Issue: The Applicant wants to add volumetric charges for system usage even when a customer is not consuming gas, as a consequence of a proposed TAM, as a "transportation charge" that customers will pay as a fixed charge even without consuming natural gas."

(1) UNS Gas Initial Brief and Changes from its Testimony:

The Company's Initial Brief that it should be empowered to request TAM so

> "All customers would receive bills with identical TAM adjustments based on cumulative system usage, not their own household consumption."[35] [emphasis added]

The UNS Gas Initial Brief did not respond to any Magruder Testimonies on this issue.

(2) Intervenor Initial Brief Views.

(a) RUCO stated in its Initial Brief:

> "[C]ustomers would pay for a fixed amount of consumption, regardless of how much they actually consumed."[36]

(b) ACC Staff stated that the customer's ability to control their bills will be impeded by the proposed rate structure with TAM, and the only way a customer can avoid customer

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[35] UNSG Initial Brief at 51.
[36] RUCO Initial Brief at 31.

charges is to disconnect all gas services,[37] and that ratepayers would be required to pay for gas not used.[38]

(c) Magruder Initial Brief showed 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 almost all customers would not comprehend. This is especially not fair or reasonable for part-year residents.[39] He warns about mixing Service Charge with the cost of natural gas charges.[40]

(3) Final Recommendations for Resolution of this issue.

Under no circumstances should any ratepayer pay natural gas costs when the ratepayer is not consuming gas, such as when on vacation, when only the Service Charge applies.

It is recommended, as in the Magruder Initial Brief, that

(1) The resultant rate structure eliminate any mixing of the cost of service and the cost of product so ratepayers are charged for gas only when consuming gas and

(2) All future rate structures continue to separate service and cost of gas charges.

2.5 ACC adopts a "Price Stabilization Policy" to replace Prudency Audits.

Issue: UNS Gas proposed that the ACC to adopt an internal UNS Gas policy to replace prudency purchase audits in future rate cases.

(1) UNS Gas Initial Brief Changes from its Testimony:

The Company has continually stated in its Initial Brief that it believed

> "approving the Price Stabilization Policy is appropriate, because it would provide some up-front assurance about its planned course of action regarding future purchases."[41]

(2) Intervenor Initial Brief Views.

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

(b) ACC Staff Initial Brief stated that "applicant's gas price stabilization policy should not be approved" and that "pre-approval is not in the public interests."[42]

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[37] Magruder Initial Brief at 25, that quoted ACC testimony by ACC Staff witness Mr. Ruback.
[38] *Ibid.* where Mr. Ruback quoted from ACC Decision No. 68487 (Southwest Gas Case).
[39] *Ibid.* at 25-26, Table 3.
[40] *Ibid.* 26.
[41] UNSG Initial Brief at 63.
[42] ACC Staff Initial Brief, Section VII (all), at 30, 35.

(c) Magruder Initial Brief stated:

> "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. 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 Magruder opinion, is neither wise nor prudent."[43]

(3) Recommendations for Resolution of this issue.

The UNSG objective to avoid a prudency review with pre-approval of a policy it controls, and, even has not faithfully followed during the Test Year. A possible Commission's financial liability issue overweighs this.

It is recommended, as in the Magruder Initial Brief, that

1. The UNS Gas Price Stabilization Policy only be reviewed by the Commission for reasonableness at the time of these hearings and
2. The UNS Gas Price Stabilization Policy NOT be approved or specified in any form as a substitute for prudency audits of gas purchases in rate cases.

2.6 Administrative Rules and Regulations Changes in "Connect" Fees, Billing Schedules, Predatory Loan/Checking Cashing Facilities as Billing Agents, Revised Billing Statement, and R&R Publication

Issue. UNS Gas has proposed several administrative changes to its Rules and Regulations involving

a. Additional "connect" charges,
b. Billing schedule changes,
c. Predatory loan and check cashing facilities as bill payment agents,
d. Revised billing statement, and
e. Publication of the UNS Gas Rules and Regulations.

The Company wants to change its billing rules and regulations to be aligned with other UNS entities, **citing a 25-year old 1982 regulation**,[44] significantly decreasing allowed days before disconnection of service. The Company actively promotes pay-day loan and check cashing facilities as bill paying agents. This is extremely prejudicial to lower income

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[43] Magruder Initial Brief, at 30

[44] *Ibid.* at 32. A.A.C R-14-2-310.C was last updated in 1982 according to the appropriate "historical" note. If this rule has not been enforced with UNS Gas (or Citizens), UNS Electric, TEP or Southwest Gas in these 25-years, implementation at this time should require more than a weak administrative rationale.

customers. Table 2 below compares these policy changes. The result is a change from 40 to 20 days, after the Due Date, before possible termination of service.

(1) UNS Gas Initial Brief Changes from its Testimony:

a. Additional "connect" charges. The Company Initial Brief summarized resolution of changes to four additional "connect" charges which involve this issue.[45] The Company also proposed that two of its additional recommendations now be denied which involved eliminating the Incremental Contribution Study (ICS) which would reduce income by $1.2 million per year, and eliminating the $250 mandatory cost for excess flow valves after July 2008.[46]

b. Billing Schedule. The Company's Initial Brief states it

> "proposes to modify its billing terms to conform its payment terms with the Arizona Administrative Code [R14-2-310.C]. RUCO argues that this is unreasonable. RUCO, is, in effect, arguing that the Commission's own rules on this issue are unreasonable."[47]

The Company's Initial Brief goes through the timeline from when the meter is read, also the same as Due Date, to service suspension.[48]

The Company Initial Brief did not respond to the Magruder testimonies which showed a different schedule (i.e., Table 2 below), based on understanding the revised rules.

c. Predatory Loan and Check Cashing Facilities as Bill Payment Agents. The Company Initial Brief states:

> "UNS Gas will conduct further inquires about predatory practices at payday loan business upon receiving specific information [unknown, unspecified] from the ACAA. UNS Gas is not encouraging any customers to obtain loans from these operations and ACAA presets no evidence to the contrary. UNS Gas covers any [agent's; not customer's check cashing or bill paying] fees related to the payment of gas bills at locations where it does not have an office. Further, the Company will continue its efforts to provide low-income customers with numerous options for paying their bills."[49] [inserts for accuracy, completeness and clarity]

During oral testimony Mr. Gerry Smith stated up to 790 UNS Gas bills were paid in one month at single month to a loan/check cashing agent.

The Company's Initial Brief did not respond to Magruder Testimony or Exhibit M-1.

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[45] UNSG Initial Brief, section VI.A, at 59-60.
[46] *Ibid.* at 59.
[47] *Ibid.* at 60.
[48] *Ibid.*
[49] *Ibid.* at 57.

d. Revised Billing Statement. UNS Gas has not responded to the Magruder oral testimony on this issue, in particular, to a most offensive statement printed on each UNS Gas bill:

> **"To reconnect Service after Non-Payment Pay your bill (cash only) at ACE American's Cash Experience or authorized agents"**[50]
>
> This is offensive. Why does UNS Gas push that company on its billing statement?

e. Publication of the R&Rs. UNS Gas Initial Brief did not respond to Magruder testimony on this issue; however, earlier Rejoinder Testimony gives some Company's views on this issue.

(2) Intervenor Initial Brief Views.

(a) RUCO stated the following about proposed Rules and Regulations

a., c., d., and e. These issues were not included in RUCO Initial Brief.

b. Billing schedule changes. RUCO initial Brief stated

> "The Company's proposal is consistent with the minimum requirements of the Commission's rules, but the only advantage to the Company that it could identify for adopting the changes was that it would bring consistency to the three affiliated utilities that are served by the consolidated call center operated by another of the affiliates."[51]

RUCO continues:

> "RUCO opposes these changes. The proposed payment dates so short that a customer could go on vacation and come home to find his gas shut off. Customers have contacted RUCO about the proposed change and expressed their opposition to it. ... Further, the Company is already being compensated (and will continue to be as a result of this proceeding) for the delay between the time bills are rendered and when they are paid as a result of its working capital allowance... the Company receives no particular benefit from the proposed change. Despite its claim that the shorter payment periods would be consistent with the affiliated electric companies, consistency across the affiliated utilities can not be fully accomplished... Therefore, even with the proposed change, call center agents would have to deal with the different issues faced by gas and electric customers... Changing the payment schedule would provide at most a *de minimus* benefit to the Company. Further, the Company is not harmed by the current schedule. However, customers perceive that they are harmed by the proposed change. Therefore, the Commission should not grant the request for the abbreviated billing terms... "[52]

(b) ACC Staff did not comment on any of these issues in its Initial Brief. However, earlier, the ACC Staff recommended approval of the proposed reduced billing schedule (b.) and that a

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[50] Magruder Initial Brief, at 37
[51] RUCO Initial Brief, at 34.
[52] *Ibid.* at 34-35.

"a temporary six-month transition period should help alleviate any hardship on customers from this change in billing terms."[53]

(c) ACAA did not submit an Initial Brief; however, prior ACAA Testimony covered two issues:

b. Billing Schedule. ACAA stated lower income customers usually do not have a checking account, credit cards, 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 this class of customers, when using "payday" loan services driving, even more customers to predatory, onerous lenders.[54]

"Twenty days is an absolutely reasonable timeframe in which to pay UES, ten days simply is not."[55]

c. Predatory Loan and Check Cashing Facilities at Bill Payment Agents. 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. Additional ACAA evidence showed that a $325 loan costs the pay-day loan taker pays an average of $793 total payments, which is, on average, a payback twice the original loan.[56]

ACAA included the **UES "Cash Payments Agents" webpage**[57] in its Testimony that shows ACE Cash Express locations at

- Bullhead City,
- Camp Verde,
- Chino Valley,
- Cottonwood,
- Golden Valley ($1.00 fee)
- Kingman ($1.00 fee),
- Lake Havasu City,
- 3 in Nogales (2 with $1.00 fees),
- Prescott and
- Prescott Valley.

Other billing agents include Ozark "Advanced Quick Cash" in Flagstaff, with other non-payday loan payment agents in Winslow, Show Low, and Sedona.[58]

(d) Magruder Initial Brief and subsequent information below discussed these concerns;

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[53] Magruder Initial Brief, at 34.
[54] *Ibid.*
[55] *Ibid.*
[56] *Ibid.* at 34-35.
[57] See http://uesaz.com?Customersvc/PaymentOptions/Agents/asp verified on 18 June 2007, added new entry for Golden Valley.
[58] *Ibid.* at 35.

a. Additional "connect" charges. Based on UNS Gas Initial Brief, there are two open issues (1) elimination of the Incremental Contribution Study (ICS) and (2) mandatory costs for excess flow valves. During the hearings I presented personal information concerning an earlier ICS when I purchased Magruder home over ten years ago. I never recovered any of Magruder "contribution." There are two classes of ICS-customers, namely, individuals or subdivision contractors. Individuals maybe "infilling" between other residences or making short line additions. Individuals have a much lower probability of seeing any of their contributions returned compared to a subdivision builder. Elimination of a contribution return increases overall cost of a residence; almost *de minimus* in a long-term mortgage.

The mandatory excess flow value cost should be recovered from the contractor or new homeowner, when installed. If this value is to be installed in a current ratepayer, then using a $10.00 per month for 25 months would be reasonable way to incrementally but completely recover this cost, with any interest to be considered in the next rate case.

b. Billing Schedule. Billing schedules in the UNSG Initial Brief[59] do not agree with prior testimony, Table 2 (next page) or the reworded rules (R&R Sec. 10.c and 11.e).[60] RUCO also has a different interpretation. The Company never responded to Table 2 in various forms in the Magruder Testimonies, Initial Brief or Exhibit M-1 that reports local concerns on first page of the *Arizona Daily Star* about billing schedule changes.

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. UNS Gas uses "drive by" automated meter reading equipment reports its meter readings on a real time basis to the Company by wireless communications. Company billing usually has that bill in the mail that day or the following day. There is a week window in which a gas meter is read.

Bills are not due the same date each month, as they depend on when the meter is read. As a result, the Due Date can be on eight (8) or more different monthly dates. This compounds financial planning for those on set pay periods (weekly, semi-monthly, etc.). UNS Gas and UNS Electricity bill due dates are independent. Monthly utility due dates vary from month to month. Most credit card Due Dates are 20 days after mailing;

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59 UNSG Initial Brief, at 60.
60 Magruder Initial Brief, Table 4, at 31

due on same date each month, sometimes 50 or more days after a credit card purchase..

Table 2 – Changes in Proposed Termination Dates for UNS Customers.[61]

Action**	Notice	Present Policy	Change	Proposed Policy
Day Meter is Read ≈ DUE DATE	Bill	15 Days after **Due Date**	**5 days earlier**	10 days after Bill is **Due Date**
Penalty Charge Starts (Assessed)	None	15 Days after **Due Date**	**5 days earlier**	10 days after **Due Date**
Bill is **Past Due**	None	No payment within 30 days after **Due Date**	**15 days earlier**	15 days after **Due Date**
Suspension of Service Notice/ **Termination Notice**	Written notice by 1st Class Mail	No payment within 30 days after **Due Date**	**15 days earlier**	No payment within 15 days after **Due Date**
		And 10 days prior to **Termination Date****	**20 days earlier**	And 5 days prior to Termination Date**
Earliest Service can be Terminated = TERMINATION DATE	None	No payment within 40 days of **Due Date**	**20 days earlier**	No payment within 20 days of **Due Date**

* Normally within 1 day of the gas meter being read that can vary by 8 or more monthly dates between billings.
** A bankruptcy court may require a more stringent schedule.

c. Predatory Loan and Check Cashing Facilities as Bill Payment Agents.

The implementation of this reduced billing schedule, when coupled with the Company emphasis on using predatory loan and check cashing facilities as bill payment agents, has caused considerable angst by TEP and Southwest Gas customers locally. Enclosure (1) provides a recent *Tucson Citizen* editorial on this issue. Our Arizona State Legislative representative, Marian McClure has tired to get a bill through the legislature to reduce the impact of these "agents", sometimes on all four-corners of the same intersection.

The Magruder Initial Brief stated:

"Any reliance of co-located payday and expensive check cashing facilities where utility bills are paid in cash [required by UNS Gas] 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."[62]

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[61] 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.

[62] Magruder Initial Brief, at 36.

The National Consumer Law Center published *Utilities and Payday Lenders: Convenient Payments, Killer Loans* this June.[63] Enclosure (2) provides a copy of the Recommendations from this report on utilities relationships with predatory lenders.

d. Revised Billing Statement. The Magruder Initial Brief supported the oral testimony on this issue. Fourteen suggestions were recommended in the Initial Brief to improve readability and understandability of all elements necessary for effective compliance using this monthly statement and communications media from the Company.

e. Publication of the UNS Gas Rules and Regulations. As was clearly demonstrated in the Magruder Testimonies, the complexity and wording is required to be simplified into "plain" legally-compliant English, at eight-grade level or lower, because 19.4% of the adults in Santa Cruz County have less than ninth grade reading level.[64]

(3) Final Recommendations for resolution of these issues.

a. Additional "connect" charges. It is recommended that

1. The Incremental Contribution Study (ICS) process be eliminated in the R&Rs and tariffs so that each individual and builder/developer pays for all gas lines and
2. All customers requiring the mandated excess flow valves have the first $250 cost amortized over the first 25 months after installation with any additional costs to be considered at the next rate case and
3. The five UNS Gas recommended "connect" charge changes be approved.[65]

b. Billing Schedule. It is recommended that:

1. The proposed billing changes in payment schedules be denied in R&R Sec. 10.C and
2. If the new billing schedule changes are not denied, then the ACC Staff's recommendation for a six month delay be imposed under the following conditions:
   i. The notice of this change be included in a minimum of three different billing notices to customers before implementation and
   ii. This notice be published at least three times in local newspapers and

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[63] Although this document was issued after the hearings, its data are current and is readily available at www.consumerlaw.com ACAA Executive Director Cynthia Zwick is acknowledged in assisting in the preparation of this excellent document.

[64] Magruder Initial Brief, at 35.

[65] UNS Gas Initial Brief, at 58 (all three bullets) and 59 (first two bullets).

iii. This notice be in "plain" English/Spanish with graphics to facilitate understanding and include the required post-termination process, e.g., the actual amount of the required deposit, that is, the two-highest bills in the previous twelve months.

3. All future UNS Gas bills have printed in **bold** with the actual calendar dates for
   (1) BILL DUE DATE,
   (2) LATE PAYMENT PENALTY START DATE, and
   (3) SERVICE TERMINATION DATE FOR NONPAYMENT.
4. The proposed change to R&R Sec. 11.B.1.d be denied and the original version remain as presently stated for "Terminations Without Notification".

c. Predatory Loan and Check Cashing Facilities as Bill Payment Agents. It is recommended that:

1. Because this Company relies on payday loan/check cashing facilities, it is ill-serving its customers. New bill payment agents **shall** be found to replace all payday loan/check cashing facilities within the three months, of if not, then the Company **shall** be directed to consider new incentives for bill payment agents, and, if payday loan/check cashing facilities are not been replaced within **six** months, a Company employee **shall** be on-site during designated days each week at each customer town or city to receive bill payments in any legal form at no charge to the customer and
2. All charges to UNS customers for using a credit or debit card **shall** be eliminated when paying by phone (as a service provided by this public service company and at company expense, if any) and
3. The ACC will open a "generic" docket to consider the seven recommendations from the National Consumer Law Center, from enclosure (2) within two months, slightly reworded, to match the situation in Arizona:
   (i) The ACC **shall** prohibit all Arizona public service companies (utilities) or their agents from entering into arrangements to pay for bill collection services from financial service companies or other lenders that lend money at exorbitant rates, defined as when an annual percentage rate is above 36 percent.
   (ii) The ACC **shall** require all utilities with over 750 customers, to maintain company-operated and staffed service centers, including counters for in-person bill payments using cash, at locations convenient for customers throughout the utility service area, at a minimum of one day per week.

(iii) The ACC will allow utilities to sign contracts for bill payment services at additional locations that enhance convenience for customers but only with supermarkets, drug stores, convenience stores, other retail outlets, community groups, banks or other financial service provides that do not lend money at exorbitant rates.

(iv) The ACC **shall** require all utilities to verify with the ACC the eligibility of all retail service providers to act as bill payment agents. Utilities **shall** be required to verify that all authorized or unauthorized bill payment agents from whom the utilities accept payments do not hold ACC business or other licenses that allow them to lend money at exorbitant rates.

(v) When a utility accepts payments from third parties that offer bill payment services to customers but have no contracts with utilities, the ACC **shall** require utilities to receive from those agents certifications that they have charged customers no more than a nominal amount, not to exceed $1.00 or 1 percent, whichever is lower, for bill payment, and that those customers have NOT been solicited to take out loans.

(vi) The utilities should only be allowed to close down company operated and staffed service centers if they can demonstrate to the Commission that the cost of those centers would put an unreasonable burden on ratepayers.

(vii) All Arizona laws and ACC financial service regulations should prohibit lenders who collect utility bill payments from promoting or soliciting lending services before, during or after the transaction, and from lending money at exorbitant rates for use in utility bill payments. (Not an UNS Gas action)

d. Revised Billing Statement. It is recommended that

1. The billing statement reformatting suggestions be considered and re-designed to a user-friendly format and
2. A new billing format shall be submitted to all parties within 30-days for comment and review prior to implementation and
3. Any reference to payday loan or check cashing bill payment agents shall be deleted, unless certified to not charge exorbitant rates in accordance with recommendation c.3.v above.

e. Publication of the UNS Gas Rules and Regulations. It is recommended that:

1. The Company publish a new reader-friendly, plain English UNS Gas Rules and Regulations after review and approval by the ACC Staff, and
2. A Spanish-version of the R&Rs be approved by the ACC Staff within the next six months and kept current with the English version and
3. As a minimum, ALL customers will receive a copy or R&R sections shown in Table 3:

Table 3. Minimum Distribution Requirements of the UNS Gas R&Rs.

Section	Present Customer	New Customer	Builders or Contractors	When Provided (note 1)
1. Applicability of Rules and Regulations and Descriptions of Service	Yes	Yes	Yes	Within 30 days
2. Definitions	Yes	Yes	Yes	Within 30 days
3. Establishment of Service	If applicable	Yes	Yes	When applying for service
4. Minimum Customer Information Requirements	Yes	Yes	Yes	Within 30 days
5. Master Metering	No	No	Yes	When applying for service
6. Service Lines and Establishment	No	No	Yes	When applying for service
7. Extension of Lines	No	If applicable	Yes	When applying for service
8. Provision of Service	Yes	Yes	No	Within 30 days
9. Meter Reading	Yes	Yes	No	Within 30 days
10. Billing and Collection	Yes	Yes	No	Within 30 days
11. Termination of Service	Yes	Yes	No	Within 30 days
12. Administrative and Hearing Requirements	Yes	Yes	If applicable	Within 30 days
13. Budget Billing Payment Plan	Yes	Yes	No	Within 30 days
14. Curtailment Plan	Yes	Yes	No	Within 30 days
15. Rates and Unit Measurement	Yes	Yes	No	Within 30 days
16. Gas Meter Testing and Maintenance Plan	No	No	No	Not required
Note 1. "Within 30 days" means a copy of this section shall be provided to the designated receiver within 30 days after approval of the Rules and Regulation section or whenever this section is updated within 30 days or when applying for service.				

Part III – Final Response to the Demand Side Management Program in this Docket.

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

A. The applicants have not made clear the UNS Gas DSM program. Testimony is conflicting and significant changes have occurred since completion of the testimonial hearings. Two new DSM filings have been submitted after the hearings were completed[66] which are not in the record for this UNS Gas case hearings. **These latest two filings related to DSM were not considered in this Reply Brief as they have not been entered into the record for this UNSG Rate Case, ACC Docket No. G-04204A-06-0463, et al,**

Q. 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 is an example of conservation.

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

DR reduces energy peak demands such as when the utility remotely changes a thermostat setting specifically to reduce peak demand consumption.[67]

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

A. The UNS Gas DSM program focuses on EE, reduces emphasis on conservation[68] and has no emphasis on DR. Four DSM options have been proposed in the record. A gas company has less options available than an electricity company to reduce demand.

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[66] See UNS Gas filing of 4 May 2007with the ACC, "UNS Gas, Inc.'s Demand-Side Management Program Portfolio Plan G-04204A-07-0274" and Unisource Energy Service UES) letter of 13 June 2007 to the ACC Docket Control, "UNS Electric, Inc's Demand Side Management Program Portfolio Filing", ACC Docket No. E-04024A-07-_____" Neither document has been entered into the record for these proceedings.

[67] Magruder Initial Brief, at 38

[68] An existing home energy audit is to be replaced by an online survey system. In Magruder opinion this will be less effective; however, is less expensive. Magruder experience with home energy audits has been very positive, and effective as actions recommended and taken did lower Magruder 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.

UNS Electricity will have a DSM program. The Magruder Initial Brief states that an integration of the UNSG and UNSE DSM programs may be proposed in the future. An integrated UES (UNSG and UNSE) DSM program would achieve greater beneficial results.[69]

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

A. Mr. Gary Smith 7-page Direct Testimony gave some general DSM information and a cost recovery mechanism proposal with two-page summary. Mr. Smith's 12-page Rebuttal Testimony has DSM related discussions in response to ACAA, ACC Staff and RUCO. Mr. Smith's details in his Direct Testimony earlier (July 2006) and the DSM Programs (May 2007) are inconsistent.[70]

Another source of UNS Gas DSM information is the Rebuttal Testimony of Denise Smith[71], Rejoinder Testimony[72], and an "informational supplemental" filing.[73]

A third source of UNS Gas DSM information, not in the record of this proceeding, is the "UNSG filing for a DSM Docket" of 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."

UNS Gas DSM information is also in a UES[74] filing for a UNS Electric DSM Docket of 13 June 2007 and it is not in the record for this proceeding. The cover letter of this (non-record) document requests "details regarding the DSM programs can be considered in a separate proceeding."

These DSM filings have variously <u>inconsistent</u> DSM Programs, each with different details. The Company requested the UNSG DSM Programs be included in this Rate Case.[75]

Q. Can you describe the UNS Gas DSM Programs?

A. UNSG has requested a "survey' be conducted <u>prior</u> to staring these programs to gather data and information necessary for program management. The Company also has proposed a DSM Adjustor rate charge for all customers fund its entire DSM Program. The following UNSG DSM program summary is based on information in the record of this proceeding.[76]

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69 Magruder Initial Brief at 38.
70 *Ibid.* at 38-39.
71 Rebuttal Testimony of Denise A. Smith on Behalf of UNS Gas, Inc. of 16 March 2007, Ex. UNSG-21.
72 Rejoinder Testimony of Denise A. Smith on Behalf of UNS Gas, Inc. of 11 April 2007, Ex. UNSG-22.
73 Supplemental Exhibit in Rebuttal Testimony of Denise Smith of 23 March 2007, Ex. UNSG-23.
74 UniSource Energy Services (UES), the holding company for UNS Gas, is not a party to these hearings.
75 Magruder Initial Brief at 39, UNSG Initial Brief at 53-54.
76 *Ibid.* These program descriptions are from UNSG Rejoinder as UNSG Initial Brief did not describe the same programs and used the following <u>new</u> <u>programs</u> and <u>expanded</u> <u>others</u>:

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. Magruder Exhibit M-9 showed only 28.3% of those for eligible for CARES are participating.[77] Very few receive (up to $2,000) 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 CARES marketing and admin while providing $74,400 on CARES programs, with an over 100% for overhead rate.[78] Management problems appear in the existing LIW program. An "Expanded" LIW funding is also first proposed in the UNSG Initial Brief.[79]

b. UNSG Energy Smart Home (ESH) Program, The UNS Gas program requires DOE ENERGY STAR® Home certification. UNSG provides builders a $400 rebate. Federal and Arizona provide income tax credits for energy efficient homes. The AZ income tax credit is 5% of construction cost of qualified energy efficient homes, a significant tax incentive, usually greatly exceeding $400. 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 conducted by third-party RESNET-certified energy raters selected by the builder.[80]

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.[81]

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1. Residential Furnace Retrofit Program (not described in testimony)
2. Residential New Construction Home Program (which maybe a new title for the Energy Smart Home (ESH) Program
3. Commercial HVAC Retrofit Program (not described in testimony)
4. Commercial Gas Cooking Efficiency Program (not specifically described in testimony but appears to be related to one of the Commercial and Industrial (C&I) Efficiency Programs.
5. Expanded Low-Income Weatherization Program (LIW), now being reclassified as a DSM program but not considered as such during the completed hearings.

Note: Energy Audits were not included in the DSM Plan discussed in the UNSG Initial Brief.

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

[78] UNS Gas Response to Mr. Magruder's Second Set of Data Requests of 29 March 2007, "Ex. M-3"

[79] UNS Gas Initial Brief at 53 and Magruder Initial Brief, at 39.

[80] Magruder Initial Brief at 40.

[81] *Ibid.*

d. Commercial and Industrial (C&I) Efficiency Program has incentives for non-residential facilities with (1) high-efficiency space heating, (2) service water heating, or (3) commercial cooking equipment and systems.[82]

e. On-line Energy Audits are to replace the present "in-home" energy audits.[83]

Q. What are your recommendations to these UNSG DSM Program?

A. At the present time, all details about these programs conflict. All parties need improved information. Program details have been greatly modified from the UNSG Testimonies and Initial Brief without basis and it is questionable what is really being proposed.

It is recommend that:[84]

(1) UNSG submits the "survey" details to the ACC Staff and RUCO soonest, for financial review, scope of the survey, and approval of the survey study tasks and accomplishment criteria, schedule and milestones, and funding plan and resources needed for major tasks.

a. This should be completed by the ACC Staff and RUCO and submitted to all parties prior to 1 August 2007, including ACAA and other affected low-income agencies since the LIW Program is being reviewed.

b. The ALJ must have adequate time to consider any recommended DSM programs and possible funding, if any, for inclusion in a Recommended Opinion and Order (ROO) to be issued on or after 20 August 2007.

(2) The RUCO and ACC Staff's review should recommend not later than 1 August 2007, a specific DSM Adjustor for each rate category for each DSM Program so that a specific DSM Adjustor can be objectively determined, allocated, and totaled for each rate category and available in adequate time to be included in ROO for this UNS Gas Rate Case. If this can not be accomplished for any reason, then no DSM Adjustor shall be authorized.

(3) All parties file their comments, if necessary, within 10 days after the latest of the RUCO and ACC Staff Reviews. Each party could file ROO review comments, after the ROO has been issued.

(4) The separate UNSG DSM and UNSE DSM dockets

a. Be combined as a separate case or, in the alternative, the UNSG DSM docket could be combined into the ongoing UNS Electric Rate Case (E-042404A-06-0783) which is on a schedule with hearings programmed for mid-September hearings.

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[82] *Ibid.*

[83] *Ibid.*

[84] *Ibid.* at 40. These are recommendations have a few minor modifications from the Magruder Initial Brief.

b. The integration of the UNSG and UNSE programs should be assessed during one case, not as two separate cases, with the DSM Adjustor allocated to each utility.

(5) DO NOT fund any actual UNSG DSM programs (other than LIW) or studies until open, public hearings have been held and that

a. All parties to this case, are also designated as potential parties to the UNSG/UNSG DSM dockets, however,

b. Fund the LIW program at level requested in the UNSG Initial Brief, at $135,000[85] and

c. `A combined UNS Gas and UNS Electric DSM proceeding take testimony, review, and make recommendations for ALL UES DSM programs including associated funding and allocation of DSM costs to a separate DSM Adjustor for each rate category and

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

(7) "In-home Energy Audits" for a minimum of 1,000 homes a year continue and not be eliminated due to their positive beneficial value. This minimum could be combined with a similar UNSE "in-home audit" program.

a. UNSG to submit an "In-Home Energy Audit" Program and funding requirements as a DSM Program prior to any subsequent DSM hearings.

b. It is requested UNSG consider include a "Commercial Energy Audits" DSM program.

Q. Do you recommend that the DSM Program be assessed for its effectiveness? [Ex. M4][86]

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 is measured by the success of a program in achieving results, such as market effects, compared to its costs.

b. Educational Programs. Utility will 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; however, potential cost-effectiveness should be estimated.

d. Low Income Programs: Measures for low-income programs shall be cost-effective.

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[85] UNSG Initial Brief at 53.

[86] Excerpt from ACC Staff Report on DSM Policy, Docket No. E-00000A-02-0051, et al, Ex. M-4 This response reflects this Magruder Exhibit M-4.

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 required semi-annual DSM Reports.

This reporting shall include status of each DSM Program 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 not successful.

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

Table 4. 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.

It is recommended that

1. The Cost-Effectiveness values for each bullet in the above Table 4 be annotated and provided during any subsequent DSM hearings and
2. The semi-annual DSM reports include these values and track trends of each for every DSM program.

Part IV – Reply Brief Summary

Q. Would you please summarize this Reply Brief?

A. This brief outlines six issues and provides recommendations that show the Applicant generally has remained immobile and unresponsive to most all 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 the proposed rate structure 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 by the Company against the warmer regions is an inappropriate way to lower rates for colder areas.
- The mixing of cost of service with product costs will make accounting and audits almost impossible if the TAM adjustment is adopted.
- Risks are borne by the company and not by the ratepayers in this monopolistic environment, especially for reasonably predictable elements, such as weather.
- Demand Side Management requires a quality-focused implementation team, which appears lacking in planning to date, to be cost-beneficial.
- That separate DSM hearing be combined with UNS Electric before any new DSM Program funding is approved, including the DSM Adjustor.
- Any reliance on pay-day loan centers as billing agents for this public service company must be denied as a minimum measure to protect its most vulnerable ratepayers from predatory lending which will be more significant as there is 50% less between time of meter reading and shutoff.
- And that all recommendations herein are considered for adoption.

Q. Does this conclude your Reply Brief?

A. Yes.

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Enclosure (1)

"Utilities send poor into the lion's den – Tucson Electric Power, SW Gas direct people who need to pay their bills quickly to payday lenders"

by
BILLIE STANTON
Tucson Citizen
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If you're so poor or broke that it's tough to pay your utility bills, the last thing you need is a payday loan with interest of 360 percent or more.

But payday lenders are where two utilities send folks who need to pay in cash, quickly, before the gas or electricity is shut off.

Tucson Electric Power Co. and Southwest Gas Corp. say payday lenders are the only widely and conveniently located sites that will take cash payments.

Eddie Basha isn't buying it, and neither am I. His Food City and Bashas' are the only Arizona grocery stores that take cash payments from utility customers. "It's costly to do it, because in the grocery business, everything revolves around labor," Basha says.

Still, it depends on what kind of business you want to run. "It really is, more than anything else, a convenience for the customer," he says. "And whatever way we can best serve our customers, we try to do it."

That's what utilities claim, too. But they're not doing customers any favors by sending them to payday lenders.

Yet utilities nationwide are doing just that, the National Consumer Law Center reported last week. At ACE Cash Express, Tucson's top taker of such payments, **employees' pay is partly based on how many loans** they make, says its federal securities Form 10K.

ACE's Web site invites customers to also pay telephone bills from T-Mobile, Verizon Wireless and Sprint PCS.

But convenience can be costly. A Gallup, N.M., cashier who borrowed $200 to pay her electric bill because "it was so easy to do" wound up paying $510 in fees on the payday loan over six months, The New York Times reported Dec. 23.

Nationwide, **almost 1 in 4 utility bills is paid in person**, says Dennis Smith of Chartwell Inc., an industry research firm.

They're usually **cash**, paid by customers with low incomes and education, and by minorities - all people less likely to have bank accounts, the law center reports. Their communities have limited banking services - unless you count payday lenders, which are ubiquitous in poor neighborhoods.

In 2000, when TEP moved its headquarters to a downtown high-rise without lobby space or convenient parking, it arranged for payments to be taken by check-cashing stores, spokesman Joe Salkowski said.

Arizona legalized payday lending the same year, and check cashers quickly morphed into payday lenders.

TEP, which gets about 5 percent of its payments from this venue, now is seeking different pay stations, Salkowski said. "We work closely with our low-income (people's) advocates, and we've heard the concern they've raised," he said.

Not so Southwest Gas.
It contracts with Western Union to set up payment sites, and 37 percent of its 648 pay stations statewide are payday lenders, spokeswoman Libby Howell said.

Arizona utility customers pay a $1 fee per bill payment for this service.

If people "merely come in to pay their gas bill," Howell said, "we don't want them to be solicited for a loan. However, we've received no customer complaints."

Reminded that unsophisticated poor people are unlikely to complain, Howell merely murmured assent.

Among Southwest Gas pay stations, 33 percent are at Bashas' and Food City, and 11 percent are at small markets and convenience stores.

If some convenience stores take the payments, why not all?
If Bashas' and Food City can, why not all grocery stores? Why not Walgreens stores, which pepper Tucson?

And for customers with checking accounts, why not their bank or credit union?

"How hard would it be?" asked Kelly Griffith, deputy director of the Southwest Center for Economic Integrity.

It's easy for payday lenders, which continue to proliferate in poor neighborhoods in the 38 states that permit them.

These lenders, whose 24,000 U.S. outlets made $40 billion in loans in 2005, cite high risks. The industry, which gave $2.9 million to political campaigns and committees last year, lobbies on the need to protect "consumer choice," "financial rights" and "your control of your money."
Arizona legislators heard those arguments this year when Rep. Marian McClure, R-Tucson, unsuccessfully pushed reforms.

Despite their arguments, though, payday lenders near military bases wreaked such havoc that a federal law enacted last year limits interest to 36 percent on loans to military personnel.

Civilian poor people be damned, evidently.
Utilities' practice of sending poor customers into the lion's den is an outrage.

"Your most vulnerable consumers are the exact folk payday lenders are looking for," Griffith said. "And it's unconscionable."

Tucson Citizen Editorial Board blog: Legislators' shameful behavior
Billie Stanton may be reached at 573-4664 and bstanton@tucsoncitizen.com. [Emphasis added]

Enclosure (2)

Recommendations
From

Utilities and Payday Lenders: Convenient Payments, Killer Loans[87]

1. `State regulators should prohibit utilities or their agents from entering into arrangements to pay for bill collection services from financial service companies or other lenders that lend money at exorbitant rates (typically, an annual percentage rate above 36 percent).

2. `State regulators should require utilities to maintain company operated and staffed service centers, including counters for in-person bill payments using cash, at locations convenient for customers throughout utility service territories.

3. `Regulators should allow utilities to sign contracts for bill payment services at additional locations that enhance convenience for customers but only with supermarkets, drug stores, convenience stores, other retail outlets, community groups and banks or other financial service providers that do not lend money at exorbitant rates.

4. Regulators should require utilities to verify the eligibility of all retail service providers to act as bill payment agents. Utilities should be required to verify that all authorized or unauthorized bill payment agents from whom utilities accept payment do not hold licenses that allow them to lend money at exorbitant rates.

5. `When utilities accept payments from third parties that offer bill payment services to customers but have no contracts with utilities, regulators should require utilities to receive from those agents certifications that they have charged customers no more than a nominal amount (typically, $1 or 1 percent of the amount due, whichever is lower) for bill payment, and that those customers have not been solicited to take out loans.

6. `Utilities should only be allowed to close down company operated and staffed service centers if they can demonstrate that the cost of those centers would put an unreasonable burden on ratepayers.

7. `State and federal laws and financial services regulations should prohibit lenders who collect utility bill payments from promoting or soliciting lending services before, during or after the transaction, and from lending money at exorbitant rates for use in utility bill payments.

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[87] By the National Consumer Law Center, 77 Summer Street, 10th Floor, Boston, MA 02110 www.consumerlaw.org June 2007, at 27-28.