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400 W CONGRESS STE 218 TUCSON AZ 85701

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

Notice of Filing of

Reply Brief of
Marshall Magruder,
Intervenor

19 June 2007

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

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

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MARSHALL MAGRUDER

By

Marshall Magruder

Marshall Magruder

JUN 19 2007

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5 **REPLY BRIEF**
6 **OF**
7 **MARSHALL MAGRUDER**
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17 **June 19, 2007**
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20 **In**

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

27 **and**

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

31 **and**

32 **ACC Docket No. G-04204A-05-0831**
33 **In the Matter of the Inquiry into Prudence of the Gas Procurement Practices of**
34 **UNS Gas, Inc.**
35

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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.

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

1 **Q. Did you respond to ACAA Testimony?**

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

9
10 **Q. Do you agree with additional issues raised by the ACC Staff and RUCO?**

11 **A.** Yes. These additional concerns, from the Testimony of the Intervenors, pose additional
12 financial issues. They were summarized in the Magruder Initial Brief, in Table 1, which
13 compared the UNS Gas proposals with the views of the Intervenors.²

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

15 **A.** The Applicants have proposed conflicting details of the UNS Gas Demand Side
16 Management (DSM) Plan discussed in Part III of this Reply Brief that responds to the UNSE
17 Initial Brief discussions concerning DSM.³
18

19 **1.3 Additional Concerns that remain Open.**

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

- 22 a. Ensure no Double-Charging. This concern remains unresolved since the Magruder
23 Motion to Intervene. This issue was also discussed by the ACC Staff's Mr. Layton, on
24 the last day of the hearings, as an area in which he indicated deeper investigation may
25 still be necessary. This involves the complex internal payments between UniSource
26 Energy Inc. (UNS), UniSource Energy Services, Inc. (UES), Tucson Electric Power
27 Company, Inc. (TEP), UniSource Electricity, Inc. (UNSE), and UNS Gas, Inc. (UNSG), to
28 ensure that "double charging" work tasks or Administrative and General Expenses
29 (A&G) expense pancaking have not occurred. As indicated in Magruder Initial Brief, that
30 Magruder capability in this area is limited and should be accomplished using the
31 professional ACC Staff and RUCO resources.⁴
32

33
34 ² Magruder Initial Brief, Table 1 at 9-11.

35 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.

1 It is recommended that the Commission consider for resolution that:

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

- 7 b. Compliance Issues from UNS Gas Annual Code Compliance Audit. As discussed in the
- 8 Magruder Initial Brief, the ACC Staff provided the 2006 results by the ACC Pipeline
- 9 Safety Section "Code Compliance Audit" which reported five noncompliance issues, (1)
- 10 failed to follow its Quality Assurance Plan; (2) discovery of inaccessible emergency
- 11 valves, (3) inadequate pipe joining qualification of contractor personnel, (4) testing of
- 12 cathodic protection exceeding maximum timing intervals, (5) procedures failed to specify
- 13 that the interval between manual [pipeline safety] reviews is not to exceed 15 months.⁵
- 14 All are verified as now compliant, but each one is a serious SAFETY concern.

15 It is recommended the Commission consider for resolution that

- 16 1. A compliance review of the past ten years reports for UNS Gas (or predecessors)
- 17 annual Pipeline Safety Code Compliance Audits be conducted to see if a systemic,
- 18 management problem exists with Report issued to the Commission, and
- 19 2. Depending upon this audit, additional or a surprise "Code Compliance Audit", might
- 20 be in order to ensure management failures do not reoccur.
- 21

22 **1.4 Organization of this Reply Brief.**

23 **Q. How will your Reply Brief be organized?**

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

- 25 (1) UNS Gas Initial Brief Changes from its Proposal and Testimony.
- 26 (2) Intervenor Initial Brief Views (as applicable, note ACAA did not submit an Initial Brief)
- 27 (a) RUCO
- 28 (b) ACC Staff
- 29 (c) Marshall Magruder
- 30 (3) Final Recommendation(s) for Resolution of this issue.
- 31
- 32
- 33
- 34

35 ⁵ *Ibid.*

1 **Part II – Discussion of the Key Issues with Final Recommendations**

2
3 **2.1 Proposed Residential Service Charges to Vary by Season.**

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

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

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

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

13 (2) Intervenor Initial Briefs

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

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

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

21 (3) Final Recommendations for Resolution of this issue:

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

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

- 28
- 29 1. The proposed mandatory seasonal Service Charge scheme be denied, and
 - 30 2. The existing voluntary annually levelized payments scheme be retained, and
 - 31 3. The existing non-varying monthly service charge tariff scheme is retained.

32
33 ⁶ UNSG Initial Brief at 46.

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

35 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.

1 **2.2. Proposed Residential Service Charge Increases.**

2 **Issue.** UNS Gas proposed removal of some volumetric-related gas transportation charges
3 from the purchase gas costs and added to the fixed-part of the bill or Service Charge.

4 Customers in colder climates have higher winter gas bills than those in warmer climates but
5 UNS Gas proposed to lower the higher volume bills by increasing the Service Charge for the
6 lower volume ratepayers. The Company considers that its customers in colder climates are
7 “subsidizing” other customers who live in desert climates.

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

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

13 UNS Gas stated that the

14 “Rate designs proposed by Staff and RUCO fail to address the cross-subsidy” of
15 the lower usage customers by the higher usage customers.¹¹ UNS Gas stated
16 that the RUCO and ACC Staff “complaint that a higher customer charge reduces
17 customers’ incentive to conserve fails to recognize the impact of the remaining
per-therm gas commodity charge.”¹²

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

19 (2) Intervenor Initial Brief Views.

20 (a) RUCO. The RUCO Initial Brief stated it

21 “[D]isagrees with the Company’s extreme shift of costs to the fixed charges, it
22 [RUCO] does believe some leveling of shifting is appropriate. RUCO’s proposed
23 rate design therefore would result in 36 percent of the Company’s revenue being
24 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

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

26 “almost all risk to the rate-payers in the future” as this is a drastic shift toward
27 straight-fixed-variable rate design.¹⁴

28 The ACC Staff also stated:

29 “The Company’s proposal presents serious front end loading problem, a
30 decoupling issue and a gradualism problem, especially with respect to the
31

32 ¹⁰ UNSG Initial Brief, at 45-49.

33 ¹¹ *Ibid.* at 44-45.

34 ¹² *Ibid.* at 45.

35 ¹³ RUCO Initial Brief at 30.

¹⁴ ACC Staff Initial Brief at 24.

1 Residential class. That class alone would see their customer charge increase by
2 approximately 143%.¹⁵

3 Further, the ACC Staff proposed an

4 “[A]cross-the-board base rate increase of 11.80%, excluding the Residential
5 CARES¹⁶ class ... much lower than the average percentage increase proposed
6 by UNS Gas of 21.11%. For the Residential CARES rate, Staff proposed a
7 revenue increase of 4.54% as opposed by the 21.11% increase proposed by
the Company.”¹⁷

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

12
13 (3) Final Recommendation(s) for Resolution of this Issue.

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

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

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

25
26 **2.3 Rate Increase by Adding a Throughput Additional Mechanism (TAM) to Shift some
27 volumetric Costs to the Fixed Service Charge.**

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

32
33 ¹⁵ *Ibid.* at 25.

34 ¹⁶ CARES, the UNSG acronym for Customer Assistance Residential Energy Support Pricing Plan (R-12).

35 ¹⁷ *Ibid.* at 26.

¹⁸ UNSG Initial Brief, Final Schedules volume, Schedule H-3.

1 **Table 1 – Residential Service Charges from August 2003 Compared to the Proposed Service**
 2 **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

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

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

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

21 (2) Intervenor Initial Brief Views:

22 (a) RUCO Initial Brief stated the

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

26 And RUCO stated

27
 28 ¹⁹ Magruder Initial Brief at 19.

29 ²⁰ *Ibid.*

30 ²¹ RUCO Initial Brief at Schedule Final RLM-15.

31 ²² ACC Staff Initial Brief at 27.

32 ²³ Magruder Initial Brief at 19.

33 ²⁴ *Ibid.* at 18.

34 ²⁵ ACC Staff Initial Brief at 27.

35 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.]

36 ²⁷ UNSG Initial Brief section III.A, at 50-51.

37 ²⁸ *Ibid.* section III.B, at 51-53.

38 ²⁹ RUCO Initial Brief at 31.

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

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

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

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

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

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

28 (3) Final Recommendations for Resolution of this issue.

29 UNS Gas continues in its Initial Brief that TAM is essential but has weak and illogical
30 arguments for decoupling as these three intervenors agree. The customers, ratepayers will
31 not understand what TAM means and the illogical "price signals" it is supposed to send. The
32 Company has no financial rationale to impose TAM. The Company is fully reimbursed for all
33 expenses, thus the TAM concept should be denied. At present, no UNS entity, including
34 UNS Gas, has direct access to current synoptic to long-term climatological weather
35 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.

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.

1
2 It is recommended, as stated in the Magruder Initial Brief, that:

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

14 **2.4 Gas System Usage Charges with TAM When Not Using Gas.**

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

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

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

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

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

24
25 (2) Intervenor Initial Brief Views.

26 (a) RUCO stated in its Initial Brief:

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

29 (b) ACC Staff stated that the customer's ability to control their bills will be impeded by the
30 proposed rate structure with TAM, and the only way a customer can avoid customer
31

32
33
34 ³⁵ UNSG Initial Brief at 51.

35 ³⁶ RUCO Initial Brief at 31.

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

3
4 (c) Magruder Initial Brief showed that some ratepayers have higher rates without
5 consumption; some have lower rates without consumption, and some have adjusting rates
6 without consumption and other billing impacts almost all customers would not
7 comprehend. This is especially not fair or reasonable for part-year residents.³⁹ He warns
8 about mixing Service Charge with the cost of natural gas charges.⁴⁰

9
10 (3) Final Recommendations for Resolution of this issue.

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

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

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

16 (2) All future rate structures continue to separate service and cost of gas charges.
17

18 **2.5 ACC adopts a "Price Stabilization Policy" to replace Prudency Audits.**

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

21
22 (1) UNS Gas Initial Brief Changes from its Testimony:

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

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

27 (2) Intervenor Initial Brief Views.

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

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

31
32 ³⁷ Magruder Initial Brief at 25, that quoted ACC testimony by ACC Staff witness Mr. Ruback.

33 ³⁸ *Ibid.* where Mr. Ruback quoted from ACC Decision No. 68487 (Southwest Gas Case).

34 ³⁹ *Ibid.* at 25-26, Table 3.

35 ⁴⁰ *Ibid.* 26.

⁴¹ UNSG Initial Brief at 63.

⁴² ACC Staff Initial Brief, Section VII (all), at 30, 35.

1 (c) Magruder Initial Brief stated:

2 "The Company has no profit interest in achieving the lowest gas prices for its
3 customers. Cost of gas is about two-thirds of a customer's bill. As a customer
4 and ratepayer, I expect and demand the Commission continue its sound policy of
5 holding prudency reviews and audits for all gas purchases that impact customer's
6 rates. Anything else, in Magruder opinion, is neither wise nor prudent."⁴³

6 (3) Recommendations for Resolution of this issue.

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

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

- 11 1. The UNS Gas Price Stabilization Policy only be reviewed by the Commission for
- 12 reasonableness at the time of these hearings and
- 13 2. The UNS Gas Price Stabilization Policy NOT be approved or specified in any form as
- 14 a substitute for prudency audits of gas purchases in rate cases.
- 15
- 16

17 **2.6 Administrative Rules and Regulations Changes in "Connect" Fees, Billing Schedules,**
18 **Predatory Loan/Checking Cashing Facilities as Billing Agents, Revised Billing**
19 **Statement, and R&R Publication**

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

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

27 The Company wants to change its billing rules and regulations to be aligned with other UNS
28 entities, **citing a 25-year old 1982 regulation,**⁴⁴ significantly decreasing allowed days
29 before disconnection of service. The Company actively promotes pay-day loan and check
30 cashing facilities as bill paying agents. This is extremely prejudicial to lower income
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33 ⁴³ Magruder Initial Brief, at 30

34 ⁴⁴ *Ibid.* at 32. A.A.C R-14-2-310.C was last updated in 1982 according to the appropriate "historical" note. If
35 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.

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

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

4 a. Additional "connect" charges. The Company Initial Brief summarized resolution of
5 changes to four additional "connect" charges which involve this issue.⁴⁵ The Company
6 also proposed that two of its additional recommendations now be denied which involved
7 eliminating the Incremental Contribution Study (ICS) which would reduce income by
8 \$1.2 million per year, and eliminating the \$250 mandatory cost for excess flow valves
9 after July 2008.⁴⁶

10 b. Billing Schedule. The Company's Initial Brief states it
11 "proposes to modify its billing terms to conform its payment terms with the
12 Arizona Administrative Code [R14-2-310.C]. RUCO argues that this is
13 unreasonable. RUCO, is, in effect, arguing that the Commission's own rules on
14 this issue are unreasonable."⁴⁷

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

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

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

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

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

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

32
33 ⁴⁵ UNSG Initial Brief, section VI.A, at 59-60.
34 ⁴⁶ *Ibid.* at 59.
35 ⁴⁷ *Ibid.* at 60.
⁴⁸ *Ibid.*
⁴⁹ *Ibid.* at 57.

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

3
4 **"To reconnect Service after Non-Payment Pay your bill (cash only) at ACE
5 American's Cash Experience or authorized agents"⁵⁰**

6 This is offensive. Why does UNS Gas push that company on its billing statement?

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

10 (2) Intervenor Initial Brief Views.

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

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

13 b. Billing schedule changes. RUCO initial Brief stated

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

18 RUCO continues:

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

30 (b) ACC Staff did not comment on any of these issues in its Initial Brief. However, earlier, the
31 ACC Staff recommended approval of the proposed reduced billing schedule (b.) and that a
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34 ⁵⁰ Magruder Initial Brief, at 37

35 ⁵¹ RUCO Initial Brief, at 34.

⁵² *Ibid.* at 34-35.

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

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

4 b. Billing Schedule. ACAA stated lower income customers usually do not have a checking
5 account, credit cards, or the ability to pay on-line. This schedule is a challenge for those
6 who have to pay in cash and need to arrange transportation. This leads to this class of
7 customers, when using "payday" loan services driving, even more customers to
8 predatory, onerous lenders.⁵⁴

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

11 c. Predatory Loan and Check Cashing Facilities at Bill Payment Agents. ACAA Testimony
12 included information about pay-day loan companies. In Arizona loans totaling over \$875
13 million, at an average loan amount of \$325, with an average fee of 17.27% with an APR
14 of 460% resulted in nearly \$155 million in loan fees collected in 2005. Additional ACAA
15 evidence showed that a \$325 loan costs the pay-day loan taker pays an average of \$793
16 total payments, which is, on average, a payback twice the original loan.⁵⁶

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

- 19
- 20 • Bullhead City,
 - 21 • Camp Verde,
 - 22 • Chino Valley,
 - 23 • Cottonwood,
 - 24 • Golden Valley (\$1.00 fee)
 - 25 • Kingman (\$1.00 fee),
 - 26 • Lake Havasu City,
 - 27 • 3 in Nogales (2 with \$1.00 fees),
 - 28 • Prescott and
 - 29 • Prescott Valley.

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

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

33 ⁵³ Magruder Initial Brief, at 34.

34 ⁵⁴ *Ibid.*

35 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.

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

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

16 b. Billing Schedule. Billing schedules in the UNSG Initial Brief⁵⁹ do not agree with prior
17 testimony, Table 2 (next page) or the reworded rules (R&R Sec. 10.c and 11.e).⁶⁰ RUCO
18 also has a different interpretation. The Company never responded to Table 2 in various
19 forms in the Magruder Testimonies, Initial Brief or Exhibit M-1 that reports local concerns
20 on first page of the *Arizona Daily Star* about billing schedule changes.

21 The Due Date is defined at date bill is rendered, or later of (1) postmark date, (2)
22 mailing date, or (3) billing date shown on bill; however the billing date shall not differ
23 from postmark or billing date by more than two days. UNS Gas uses "drive by"
24 automated meter reading equipment reports its meter readings on a real time basis to
25 the Company by wireless communications. Company billing usually has that bill in the
26 mail that day or the following day. There is a week window in which a gas meter is read.

27 Bills are not due the same date each month, as they depend on when the meter is
28 read. As a result, the Due Date can be on eight (8) or more different monthly dates.
29 This compounds financial planning for those on set pay periods (weekly, semi-monthly,
30 etc.). UNS Gas and UNS Electricity bill due dates are independent. Monthly utility due
31 dates vary from month to month. Most credit card Due Dates are 20 days after mailing;
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34 ⁵⁹ UNSG Initial Brief, at 60.

35 ⁶⁰ Magruder Initial Brief, Table 4, at 31

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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	<u>Present Policy</u>	Change	<u>Proposed Policy</u>
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 1 st 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.

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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

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.

1 The National Consumer Law Center published *Utilities and Payday Lenders:*
2 *Convenient Payments, Killer Loans* this June.⁶³ Enclosure (2) provides a copy of the
3 Recommendations from this report on utilities relationships with predatory lenders.
4

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

9 e. Publication of the UNS Gas Rules and Regulations. As was clearly demonstrated in the
10 Magruder Testimonies, the complexity and wording is required to be simplified into "plain"
11 legally-compliant English, at eight-grade level or lower, because 19.4% of the adults in
12 Santa Cruz County have less than ninth grade reading level.⁶⁴
13

14 (3) Final Recommendations for resolution of these issues.

15 a. Additional "connect" charges. It is recommended that
16

- 17 1. The Incremental Contribution Study (ICS) process be eliminated in the R&Rs and
18 tariffs so that each individual and builder/developer pays for all gas lines and
- 19 2. All customers requiring the mandated excess flow valves have the first \$250 cost
20 amortized over the first 25 months after installation with any additional costs to be
21 considered at the next rate case and
- 22 3. The five UNS Gas recommended "connect" charge changes be approved.⁶⁵
23

24 b. Billing Schedule. It is recommended that:

- 25 1. The proposed billing changes in payment schedules be denied in R&R Sec. 10.C and
- 26 2. If the new billing schedule changes are not denied, then the ACC Staff's
27 recommendation for a six month delay be imposed under the following conditions:
28 i. The notice of this change be included in a minimum of three different billing
29 notices to customers before implementation and
30 ii. This notice be published at least three times in local newspapers and
31

32
33 ⁶³ Although this document was issued after the hearings, its data are current and is readily available at
34 www.consumerlaw.com ACAA Executive Director Cynthia Zwick is acknowledged in assisting in the
35 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).

- 1 (iii) The ACC will allow utilities to sign contracts for bill payment services at additional
2 locations that enhance convenience for customers but only with supermarkets,
3 drug stores, convenience stores, other retail outlets, community groups, banks or
4 other financial service providers that do not lend money at exorbitant rates.
- 5 (iv) The ACC **shall** require all utilities to verify with the ACC the eligibility of all retail
6 service providers to act as bill payment agents. Utilities **shall** be required to verify
7 that all authorized or unauthorized bill payment agents from whom the utilities
8 accept payments do not hold ACC business or other licenses that allow them to
9 lend money at exorbitant rates.
- 10 (v) When a utility accepts payments from third parties that offer bill payment services
11 to customers but have no contracts with utilities, the ACC **shall** require utilities to
12 receive from those agents certifications that they have charged customers no
13 more than a nominal amount, not to exceed \$1.00 or 1 percent, whichever is
14 lower, for bill payment, and that those customers have NOT been solicited to take
15 out loans.
- 16 (vi) The utilities should only be allowed to close down company operated and staffed
17 service centers if they can demonstrate to the Commission that the cost of those
18 centers would put an unreasonable burden on ratepayers.
- 19 (vii) All Arizona laws and ACC financial service regulations should prohibit lenders
20 who collect utility bill payments from promoting or soliciting lending services
21 before, during or after the transaction, and from lending money at exorbitant rates
22 for use in utility bill payments. (Not an UNS Gas action)

23
24 d. Revised Billing Statement. It is recommended that

- 25
26 1. The billing statement reformatting suggestions be considered and re-designed to a
27 user-friendly format and
28 2. A new billing format shall be submitted to all parties within 30-days for comment and
29 review prior to implementation and
30 3. Any reference to payday loan or check cashing bill payment agents shall be deleted,
31 unless certified to not charge exorbitant rates in accordance with recommendation
32 c.3.v above.

33
34 e. Publication of the UNS Gas Rules and Regulations. It is recommended that:
35

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.

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

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

4 **A.** The applicants have not made clear the UNS Gas DSM program. Testimony is
5 conflicting and significant changes have occurred since completion of the testimonial
6 hearings. Two new DSM filings have been submitted after the hearings were
7 completed⁶⁶ which are not in the record for this UNS Gas case hearings. **These latest**
8 **two filings related to DSM were not considered in this Reply Brief as they have not**
9 **been entered into the record for this UNSG Rate Case, ACC Docket No. G-04204A-**
10 **06-0463, et al,**

11 **Q. What are your feelings about DSM?**

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

- 13 (1) Energy Conservation,
14 (2) Energy Efficiency (EE), and
15 (3) Demand Reduction (DR).

16 Conservation is using less energy by choice. One chooses to lower a thermostat to
17 reduce gas consumption before leaving home for work is an example of conservation.

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

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

22
23 **Q. In general, what is your opinion of the UNS Gas DSM program?**

24 **A.** The UNS Gas DSM program focuses on EE, reduces emphasis on conservation⁶⁸ and has
25 no emphasis on DR. Four DSM options have been proposed in the record. A gas company
26 has less options available than an electricity company to reduce demand.
27

28
29
30 ⁶⁶ See UNS Gas filing of 4 May 2007 with the ACC, "UNS Gas, Inc.'s Demand-Side Management Program
31 Portfolio Plan G-04204A-07-0274" and Unisource Energy Service (UES) letter of 13 June 2007 to the ACC
32 Docket Control, "UNS Electric, Inc's Demand Side Management Program Portfolio Filing", ACC Docket
33 No. E-04024A-07-_____" Neither document has been entered into the record for these proceedings.

34 ⁶⁷ Magruder Initial Brief, at 38

35 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.

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

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

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

10 Another source of UNS Gas DSM information is the Rebuttal Testimony of Denise
11 Smith⁷¹, Rejoinder Testimony⁷², and an "informational supplemental" filing.⁷³

12 A third source of UNS Gas DSM information, not in the record of this proceeding, is the
13 "UNSG filing for a DSM Docket" of 4 May 2007. This document is

14 "substantively similar" to Ex. UNSG-23 and "reflects many of the recommendations
15 made by parties in the [UNSG] Rate Case Docket and has been further refined after
16 additional consideration by the Company."

17 UNS Gas DSM information is also in a UES⁷⁴ filing for a UNS Electric DSM Docket of 13
18 June 2007 and it is not in the record for this proceeding. The cover letter of this (non-record)
19 document requests "details regarding the DSM programs can be considered in a separate
20 proceeding."

21 These DSM filings have variously inconsistent DSM Programs, each with different details.

22 The Company requested the UNSG DSM Programs be included in this Rate Case.⁷⁵

23
24 **Q. Can you describe the UNS Gas DSM Programs?**

25 **A.** UNSG has requested a "survey" be conducted prior to starting these programs to gather data
26 and information necessary for program management. The Company also has proposed a
27 DSM Adjustor rate charge for all customers fund its entire DSM Program. The following
28 UNSG DSM program summary is based on information in the record of this proceeding.⁷⁶

29
30 ⁶⁹ Magruder Initial Brief at 38.

31 ⁷⁰ *Ibid.* at 38-39.

32 ⁷¹ Rebuttal Testimony of Denise A. Smith on Behalf of UNS Gas, Inc. of 16 March 2007, Ex. UNSG-21.

33 ⁷² Rejoinder Testimony of Denise A. Smith on Behalf of UNS Gas, Inc. of 11 April 2007, Ex. UNSG-22.

34 ⁷³ Supplemental Exhibit in Rebuttal Testimony of Denise Smith of 23 March 2007, Ex. UNSG-23.

35 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 new programs and expanded others:

1
2 a. Low-Income Weatherization (LIW) Program. UNSG has a weak LIW program for those
3 under the poverty income level in the CARES (R-12) low-income tariff rate. ACAA
4 testified that 25.4% in Santa Cruz County are eligible for CARES and LIW. Magruder
5 Exhibit M-9 showed only 28.3% of those for eligible for CARES are participating.⁷⁷ Very
6 few receive (up to \$2,000) LIW home improvements to make their homes more efficient.
7 A total of 6 homes in 3 of the northern counties received LIW in one year. For six
8 months in 2004, UNSG spend \$77,600 on CARES marketing and admin while providing
9 \$74,400 on CARES programs, with an over 100% for overhead rate.⁷⁸ Management
10 problems appear in the existing LIW program. An "Expanded" LIW funding is also first
11 proposed in the UNSG Initial Brief.⁷⁹

12 b. UNSG Energy Smart Home (ESH) Program, The UNS Gas program requires DOE
13 ENERGY STAR® Home certification. UNSG provides builders a \$400 rebate. Federal
14 and Arizona provide income tax credits for energy efficient homes. The AZ income tax
15 credit is 5% of construction cost of qualified energy efficient homes, a significant tax
16 incentive, usually greatly exceeding \$400. The ESH program promotes DOE ENERGY
17 STAR® performance requirements and requires on-site inspections and field testing of a
18 random sample of homes to these ENERGY STAR® standards. These inspections are
19 conducted by third-party RESNET-certified energy raters selected by the builder.⁸⁰

20 c. Efficient Home Heating Program requires 90% or greater Annual Fuel Utilization
21 Efficiency (AFUE)-rated gas-fueled furnaces for residential or multi-family homeowners.
22 Rebates are given based on cost of furnace, location, and AFUE value.⁸¹
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27 1. Residential Furnace Retrofit Program (not described in testimony)
28 2. Residential New Construction Home Program (which maybe a new title for the Energy Smart Home
29 (ESH) Program)
30 3. Commercial HVAC Retrofit Program (not described in testimony)
31 4. Commercial Gas Cooking Efficiency Program (not specifically described in testimony but appears to
32 be related to one of the Commercial and Industrial (C&I) Efficiency Programs.
33 5. Expanded Low-Income Weatherization Program (LIW), now being reclassified as a DSM program but
34 not considered as such during the completed hearings.

35 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.*

- 1 d. Commercial and Industrial (C&I) Efficiency Program has incentives for non-residential
2 facilities with (1) high-efficiency space heating, (2) service water heating, or (3)
3 commercial cooking equipment and systems.⁸²
4 e. On-line Energy Audits are to replace the present “in-home” energy audits.⁸³

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

6 **A.** At the present time, all details about these programs conflict. All parties need improved
7 information. Program details have been greatly modified from the UNSG Testimonies and
8 Initial Brief without basis and it is questionable what is really being proposed.
9

10 It is recommend that:⁸⁴

- 11 (1) UNSG submits the “survey” details to the ACC Staff and RUCO soonest, for financial
12 review, scope of the survey, and approval of the survey study tasks and accomplishment
13 criteria, schedule and milestones, and funding plan and resources needed for major tasks.
14 a. This should be completed by the ACC Staff and RUCO and submitted to all parties
15 prior to 1 August 2007, including ACAA and other affected low-income agencies
16 since the LIW Program is being reviewed.
17 b. The ALJ must have adequate time to consider any recommended DSM programs
18 and possible funding, if any, for inclusion in a Recommended Opinion and Order
19 (ROO) to be issued on or after 20 August 2007.
20 (2) The RUCO and ACC Staff’s review should recommend not later than 1 August 2007, a
21 specific DSM Adjustor for each rate category for each DSM Program so that a specific
22 DSM Adjustor can be objectively determined, allocated, and totaled for each rate category
23 and available in adequate time to be included in ROO for this UNS Gas Rate Case. If this
24 can not be accomplished for any reason, then no DSM Adjustor shall be authorized.
25 (3) All parties file their comments, if necessary, within 10 days after the latest of the RUCO
26 and ACC Staff Reviews. Each party could file ROO review comments, after the ROO has
27 been issued.
28 (4) The separate UNSG DSM and UNSE DSM dockets
29 a. Be combined as a separate case or, in the alternative, the UNSG DSM docket could
30 be combined into the ongoing UNS Electric Rate Case (E-042404A-06-0783) which is
31 on a schedule with hearings programmed for mid-September hearings.
32

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34 ⁸² *Ibid.*

35 ⁸³ *Ibid.*

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

1 Each cost-effectiveness test has a targeted audience and purpose.

2 The Commission previously decided that the "Societal Test" will be used for its decision
3 making. Cost-effectiveness tests should always be assessed prior to implementing any DSM
4 program, periodically updated during implementation, and reported to the Commission in the
5 required semi-annual DSM Reports.

6 This reporting shall include status of each DSM Program as to meeting each cost-
7 effectiveness goal, and if success is not being achieved, then additional investigation to
8 determine the "value" of that DSM Program. Meeting or exceeding the "test" goals should be
9 the minimum demanded for a program, and shall be used as the criteria for changes,
10 including possible termination, when not successful.

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

12
13 **Table 4. Comparison of DSM Program Cost-Effectiveness (Cost-Benefit) Tests**

14 Test 15 Attribute	Participant Test	Utility Cost Test	Total Resource Cost Test	Societal Test
16 COST	<ul style="list-style-type: none">• Incentives received• Bill reductions	<ul style="list-style-type: none">• Avoided utility costs	<ul style="list-style-type: none">• Avoided utility costs	<ul style="list-style-type: none">• Avoided utility costs• Avoided environmental impacts
18 BENEFIT	<ul style="list-style-type: none">• Bill increases• Incremental participant costs	<ul style="list-style-type: none">• Incremental utility costs, including incentives paid by utility	<ul style="list-style-type: none">• Incremental utility costs, excluding incentives paid by utility• Incremental participant costs	<ul style="list-style-type: none">• Incremental utility costs, excluding incentives paid by utility• Incremental participant costs

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

24
25 It is recommended that

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

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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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1 **Enclosure (1)**

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

4 by
5 BILLIE STANTON
6 *Tucson Citizen*
7 Published 06.12.2007

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

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

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

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

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

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

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

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

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

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

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

35 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.

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

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

6 Not so Southwest Gas.

7 It contracts with Western Union to set up payment sites, and 37 percent of its 648 pay stations
8 statewide are payday lenders, spokeswoman Libby Howell said.

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

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

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

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

16 If some convenience stores take the payments, why not all?

17 If Bashas' and Food City can, why not all grocery stores? Why not Walgreens stores, which pepper
18 Tucson?

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

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

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

24 These lenders, whose 24,000 U.S. outlets made \$40 billion in loans in 2005, cite high risks. The
25 industry, which gave \$2.9 million to political campaigns and committees last year, lobbies on the
26 need to protect "consumer choice," "financial rights" and "your control of your money."

27 Arizona legislators heard those arguments this year when Rep. Marian McClure, R-Tucson,
28 unsuccessfully pushed reforms.

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

31 Civilian poor people be damned, evidently.

32 Utilities' practice of sending poor customers into the lion's den is an outrage.

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

35 Tucson Citizen Editorial Board blog: Legislators' shameful behavior

Billie Stanton may be reached at 573-4664 and bstanton@tucsoncitizen.com. [Emphasis added]

1 Enclosure (2)

2 Recommendations
3 From

4 ***Utilities and Payday Lenders:***
5 ***Convenient Payments, Killer Loans***⁸⁷

- 6
- 7 1. State regulators should prohibit utilities or their agents from entering into arrangements
8 to pay for bill collection services from financial service companies or other lenders that
9 lend money at exorbitant rates (typically, an annual percentage rate above 36 percent).
- 10 2. State regulators should require utilities to maintain company operated and staffed
11 service centers, including counters for in-person bill payments using cash, at locations
12 convenient for customers throughout utility service territories.
- 13 3. Regulators should allow utilities to sign contracts for bill payment services at additional
14 locations that enhance convenience for customers but only with supermarkets, drug
15 stores, convenience stores, other retail outlets, community groups and banks or other
16 financial service providers that do not lend money at exorbitant rates.
- 17 4. Regulators should require utilities to verify the eligibility of all retail service providers to
18 act as bill payment agents. Utilities should be required to verify that all authorized or
19 unauthorized bill payment agents from whom utilities accept payment do not hold
20 licenses that allow them to lend money at exorbitant rates.
- 21 5. When utilities accept payments from third parties that offer bill payment services to
22 customers but have no contracts with utilities, regulators should require utilities to
23 receive from those agents certifications that they have charged customers no more than
24 a nominal amount (typically, \$1 or 1 percent of the amount due, whichever is lower) for
25 bill payment, and that those customers have not been solicited to take out loans.
- 26 6. Utilities should only be allowed to close down company operated and staffed service
27 centers if they can demonstrate that the cost of those centers would put an
28 unreasonable burden on ratepayers.
- 29 7. State and federal laws and financial services regulations should prohibit lenders who
30 collect utility bill payments from promoting or soliciting lending services before, during or
31 after the transaction, and from lending money at exorbitant rates for use in utility bill
32 payments.

33

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