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BEFORE THE ARIZONA CORPORATION COMMISSION
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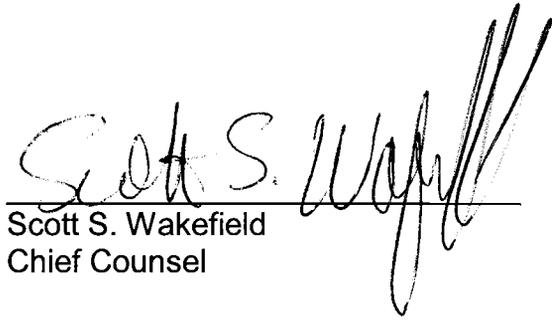
IN THE MATTER OF SEMpra ENERGY
SOLUTIONS APPLICATION FOR A
CERTIFICATE OF CONVENIENCE AND
NECESSITY FOR COMPETITIVE RETAIL
ELECTRIC SERVICES.

Docket No. E-03964A-06-0168

NOTICE OF FILING

The Residential Utility Consumer Office ("RUCO") hereby provides notice of filing the
Surrebuttal Testimony of Stephen Ahearn in the above-referenced matter.

RESPECTFULLY SUBMITTED this 7th day of February 2008.



Scott S. Wakefield
Chief Counsel

AN ORIGINAL AND THIRTEEN COPIES
of the foregoing filed this 7th day
of February 2008 with:

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Arizona Corporation Commission
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Phoenix, Arizona 85007

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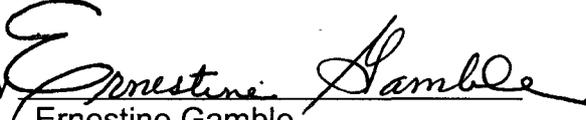
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By 
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ARIZONA PUBLIC SERVICE COMPANY

DOCKET NO. E-01345A-07-0420

SURREBUTTAL TESTIMONY

OF

STEPHEN AHEARN

ON BEHALF OF

THE

RESIDENTIAL UTILITY CONSUMER OFFICE

FEBRUARY 4, 2008

1 **INTRODUCTION**

2 Q. Please state your name and business address for the record.

3 A. My name is Stephen Ahearn. My business address is 1110 West
4 Washington, Suite 220, Phoenix, Arizona 85007.

5

6 Q. Have you previously filed testimony in this docket?

7 A. Yes, I filed direct testimony on July 3, 2007 and rebuttal testimony on
8 January 17, 2008.

9

10 Q. What is the purpose of your surrebuttal testimony?

11 A. I am responding to the rebuttal testimony filed by other parties on January
12 17, 2008.

13

14 Q. From your review of the rebuttal testimonies, have the issues been
15 narrowed in this matter?

16 A. Yes. There is now a consensus among most of the parties to this case
17 that the over-riding issue is the public interest. In particular, there is
18 agreement that the public interest is at risk from the granting of the
19 application.

20

21

22 Q. Do you have any response to the Staff rebuttal testimony?

23 A. Staff has clarified its position and identified difficulties with retail
24 competition, including risks to customers who remain with standard offer

1 service, such that it no longer is recommending approval of Sempra's
2 application. This latest round of testimony from the Staff aligns squarely
3 with those provided by RUCO and New West Energy.

4
5 Q. AECC witness Higgins claims that RUCO's opposition to Sempra's
6 application is "outside the boundaries" of Arizona's public policy. Do you
7 have a response?

8 A. Mr. Higgins citing of statutory language for guidance as to what is within or
9 "outside the boundaries" of public policy evidences a misunderstanding of
10 the primacy of the Corporation Commission with respect to investor-
11 owned utility matters in the state of Arizona. The Commission has both the
12 authority and the obligation to consider public interest in this proceeding,
13 and regardless of prior Commission policy on retail competition, if this
14 Commission decides it is not in the public interest now, nothing prevents it
15 from changing course. Further, my counsel advises me that any
16 expressions of legislative intent to the effect that retail competition is a
17 favored market structure do not bind the Commission. As the first CC&N
18 application in the years since the realities of the hazards of retail
19 competition have become manifest, this application raises the issue of
20 whether retail competition is appropriate, and the Commission should
21 consider whether such a market model is in the public interest at this time.
22 The Commission is free to determine whether the reality of events in
23 intervening years informs the debate, and indeed, whether what was once

1 thought to hold promise for Arizona consumers now represents more of a
2 threat to their interests.

3

4 Q. AECC witness Higgins characterizes your position as “if someone can
5 benefit from a competitive deal, then...it must have come at someone
6 else’s expense.” Do you have a response?

7 A. As a representative for a select group of customers that might benefit from
8 the application, Mr. Higgins might be expected to draw such a conclusion
9 and attempt to influence decision-makers by putting words in my mouth
10 that I did not speak. However, I do not subscribe to a zero-sum philosophy
11 in utility regulation. That a subset of customers in a non-residential
12 consumer class is presented an opportunity for saving money is not in
13 itself a reason for concern to me. If, however, the conditions necessary to
14 provide those select customers that opportunity imperils the interests of
15 residential customers, then I do have concern. My earlier testimonies, and
16 those of the Staff and New West Energy, share that concern. Mr. Higgins
17 and his client are apparently alone in being unconcerned about the public
18 interest in this matter.

19

20 Q. Has RUCO changed position on whether retail competition is good for
21 residential consumers?

22 A. Mr. Higgins’ specific argument accuses me of revisionism by “...imply[ing]
23 that RUCO was not a supporter of retail competition prior to his [my]

1 tenure.” In fact, I made no reference in my testimony to the participation of
2 former RUCO director(s) in earlier discussions regarding deregulation /
3 competition. Instead, my direct testimony plainly states that residential
4 consumers—irrespective of the past actions of their past advocates—
5 never asked that the utility regulatory compact be exchanged for the sort
6 of new paradigm that has infected other jurisdictions. I stand by that
7 assertion. Mr. Higgins asks the Commission to turn a blind eye to the
8 actual experience of other jurisdictions that embraced the experiment and
9 apparently would have the Commission make decisions based on a stale
10 record underpinned by hypotheticals that has since been superseded by
11 observable reality.

12
13 Q. AECC witness Higgins suggests that your support for load reductions
14 through DSM is inconsistent with your position in this proceeding. Do you
15 agree?

16 A. No. Mr. Higgins would equate system load reductions through outside-the-
17 utility transactions to actual overall load reductions attributed to DSM
18 programs. This is an apples-to-oranges comparison, one I adequately
19 addressed in my rebuttal testimony.

20
21 ..

22 ..

1 Q. AECC Witness Higgins suggests that Arizona's competitive framework is
2 conservative because customers are not required to take service at
3 market prices. Are Arizona customers protected from the danger inherent
4 in retail competition because they can remain on a cost-based standard
5 offer rate?

6 A. No. Even Standard Offer customers who take service from their
7 incumbent utility at a cost-based rate (though that rate will be influenced
8 by market prices to the extent the utility has acquired resources from the
9 market) will be subject to a risk of increased costs due to the departure of
10 other customers who were contributing to the utility's fixed costs. When
11 some customers leave the incumbent, the customers who are left behind
12 will be forced to shoulder increased, though cost-based, rates.

13
14 Q. Does this conclude your testimony?

15 A. Yes.