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April 8, 2008

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Mr. Don Brandt
President and CEO
Arizona Public Service
400 No. Fifth Street
M.S. 9042
Phoenix, AZ 85004

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Re: **Arizona Public Service Company's Application for a Rate Increase, Docket No. E-01345A-08-0172**

Dear Mr. Brandt:

On March 24, 2008, the Commission received an application for a rate increase by Arizona Public Service Company ("APS"). However, on June 28, 2007, just nine months ago, the Commission approved a 12.33 percent increase over APS' previous rates resulting in \$321,723,000 of increased revenue. The fact that APS' most recent application comes less than one year after your Company's last rate case raises questions about the filing's accordance with the Commission's Rate Case Management Rule and the historic test-year approach utilized in Arizona.

In *Arizona Corporation Commission v. Arizona Public Service Company*, 113 Ariz. 368 555 P.2d 326, the Arizona Supreme Court found that even during an inflationary period in the economy, there is no Commission rule granting utilities the right to use future test years as a basis for a rate increase. Specifically, the Court stated:

"The appellee would have us instruct the Corporation Commission that the use of the historic year device in determining fair value is unfair and lacking in due process. They opt for the use of a future test period method requiring some speculation as to future developments or they would perhaps settle for a mix of the historic year coupled with some speculations as to the future. Appellee cites no specific case authority which outlaws the historic year approach, and we have found none. Although we might be sympathetic to the problems of a rapidly expanding utility in inflationary times, we are restrained by the provisions of the constitution and our interpretation of that document. The determination of the formula to be used by the Commission falls within their legislative function. Only if the determination of the fair value is arbitrary and unfair

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at the time it is made, can the courts interfere. *Simms v. Round Valley Light & Power Company, supra*; *Arizona Corporation Commission v. Arizona Water Company, supra.*”

Likewise, the Rate Case Management Rule, A.A.C. R14-2-1-103.A.3.p, supported by case law and the Arizona Constitution, defines “test year” as “the one-year historical period used in determining rate base, operating income and rate of return. The end of the test year shall be the most recent practical date available prior to the filing.”

To this point, in the current application filed by APS with the Commission, the Company proposes to make adjustments to the historical “Test Year,” to “include the inclusion in rate base of a plant under construction at the close of the Test Year but going into service prior to July 1, 2009.”¹ Moreover, its application is based on a test year ending September 30, 2007. Please explain why APS has chosen to use a test year ending September 2007 instead of a test year ending June 30, 2008 in its application. Please include a discussion of why data from June 30, 2008 is not considered by APS to be from the “most recent practical date available to the filing.” Please also explain why the Test Year ending September 2007 meets the Rate Case Management Rule, given less than one year of available data since the Commission’s June 2007 rate case decision.

Finally, please provide APS’ interpretation of the findings contained within *Arizona Corporation Commission v. Arizona Public Service Company*, cited above.

Thank you for your attention to this matter.

Sincerely,



Kris Mayes
Commissioner

Cc: Chairman Mike Gleason
Commissioner William A. Mundell
Commissioner Jeff Hatch-Miller
Commissioner Gary Pierce
Brian McNeil
Ernest Johnson
Rebecca Wilder

¹ Application filed by Arizona Public Service Corporation, Docket No. E-01345A-08-0172. March 24, 2008, page 4.