

ORIGINAL

OPEN MEETING



0000103439

MEMORANDUM

RECEIVED

TO: THE COMMISSION

Arizona Corporation Commission

2010 FEB 11 P 3:45

DOCKETED

FROM: Utilities Division

FEB 11 2010

ARIZONA CORPORATION COMMISSION
SECRET CONTROL

DATE: February 11, 2010

DOCKETED BY

RE: ARIZONA PUBLIC SERVICE COMPANY – APPLICATION FOR APPROVAL TO
EXTEND COMPETITION RULES COMPLIANCE CHARGE (DOCKET NO. E-
01345A-10-0006)

On January 8, 2010, Arizona Public Service Company (“APS”) filed a Request to Extend the Competition Rules Compliance Charge (“Application”) requesting that the Commission authorize the continuation of the Competition Rules Compliance Charge (“CRCC”) established in Decision No. 67744 until the remaining balance is collected.

Background

In Decision No. 61973, dated October 6, 1999, the Commission approved a settlement agreement among APS and several other parties which established terms and conditions for the introduction of competition in generation and other competitive services. Included in the 1999 settlement agreement is language which allows for an adjustment clause which would provide “full and timely” recovery of certain “reasonable and prudent” costs related to compliance with Commission-ordered programs or directives related to the implementation of the Electric Competition Rules. The 1999 settlement agreement also required APS to file an application for the adjustment clauses by June 1, 2002, and that the adjustment clauses become effective July 1, 2004.

On May 31, 2002, APS filed an application for approval of rate adjustment mechanisms including the CRCC. Decision No. 66567, dated November 18, 2003, determined that the review and implementation of the CRCC “should occur in the rate case, as the appropriate level of costs to be recovered will be determined there.” The Decision also stated that, “We are adopting a CRCC [sic] at this time, but the specifics of the surcharge will be determined later, during the pending rate case where they can be evaluated in context of the size of the amount to be recovered.” The rate case to which the Decision refers was a general rate increase which was ultimately decided in Decision No. 67744 on April 7, 2005. Decision No. 67744 also adopted a settlement agreement. This 2005 settlement agreement included the following language about the CRCC:

86. "Included in the total test year revenue requirement is approximately \$8 million for the CRCC. APS may recover \$47.7 million plus interest calculated in accordance with paragraph 19.h through a CRCC of \$0.000338/kWh over a collection period of five years.
87. When the above amount is recovered, the CRCC will terminate immediately. If any amount remains unrecovered/over recovered after the end of the five year period, APS shall file an application with the Commission to adjust the CRCC to recover/refund the balance.
88. The CRCC shall be a separate surcharge, i.e., it shall not be included in base rates. The CRCC shall be assessed against all customers except for those served on rate schedules Solar-1 or Solar-2.
89. As part of the tariff compliance filing set forth in Paragraph 135, APS shall file a plan of administration that describes how the CRCC shall operate."

CRCC Recovery and Balance

APS implemented the \$0.000338/kWh CRCC on April 1, 2005.

APS supplied Staff with an accounting of the balance of the regulatory asset (the \$47.7 million allowed to be collected under Decision No. 66567) showing by month MWHs sold and changes in the balance from the CRCC collections and interest charges. The last recorded uncollected balance in the account was \$7.1 million at December 31, 2009. The documents indicate that at April 1, 2010, when the CRCC would normally expire, the undercollected balance will be \$5.1 million. If approval to extend the CRCC is granted, APS expects to collect the full balance by the end of September, 2010. The undercollection occurred because APS' five-year forecast of kWh sales was too optimistic.

Request

APS is requesting to collect the full balance of the regulatory asset even though the five year period set forth in Decision No. 67744 will have expired in April 2010. Staff believes such circumstances were foreseen by Decision No. 67744 and the 2005 settlement agreement because both documents include language addressing just these circumstances.

Staff believes that in keeping with Decision No. 67744 and the 2005 settlement agreement, APS should be authorized to collect the remaining balance of the regulatory asset created in that Decision. Based on current projections, the remaining balance should be collected by approximately September 2010.

Recommendation

Staff recommends that the Commission approve the request of APS to extend the collection of the CRCC until the remaining balance of the CRCC asset has been recovered. Staff also recommends that within 10 calendar days of the day that the regulatory asset is reduced to zero, or reduced to a level which would be uneconomic to collect, APS file in this docket as a compliance filing, a document indicating that it will no longer apply the CRCC.



Steven M. Olea
Director
Utilities Division

SMO:LAJ:lh\CHH

ORIGINATOR: Linda A. Jaress

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

BEFORE THE ARIZONA CORPORATION COMMISSION

- KRISTIN K. MAYES
Chairman
- GARY PIERCE
Commissioner
- PAUL NEWMAN
Commissioner
- SANDRA D. KENNEDY
Commissioner
- BOB STUMP
Commissioner

IN THE MATTER OF ARIZONA PUBLIC
SERVICE COMPANY REQUEST TO
EXTEND COMPETITION RULES
COMPLIANCE CHARGE

DOCKET NO. E-01345A-10-0006
DECISION NO. _____
ORDER

Open Meeting
March 2 and 3, 2010
Phoenix, Arizona

BY THE COMMISSION:

FINDINGS OF FACT

1. Arizona Public Service Company ("APS") is certificated to provide electric service as a public service corporation in the State of Arizona.
2. On January 8, 2010, APS filed a Request to Extend the Competition Rules Compliance Charge requesting that the Commission authorize the continuation of the Competition Rules Compliance Charge ("CRCC") until the remaining balance is collected.
3. In Decision No. 61973, dated October 6, 1999, the Commission approved a settlement agreement among APS and several other parties which established terms and conditions for the introduction of competition in generation and other competitive services. Included in the 1999 settlement agreement is language which allows for an adjustment clause which would provide "full and timely" recovery of certain "reasonable and prudent" costs related to compliance with Commission-ordered programs or directives related to the implementation of the Electric Competition Rules.

...

1 4. The 1999 settlement agreement also required APS to file an application for the
2 adjustment clauses by June 1, 2002, and that the adjustment clauses become effective July 1,
3 2004.

4 2. On May 31, 2002, APS filed an application for approval of rate adjustment
5 mechanisms including the CRCC. Decision No. 66567, dated November 18, 2003, determined
6 that review and implementation of the CRCC “should occur in the rate case, as the appropriate
7 level of costs to be recovered will be determined there.” The Decision also stated that, “We are
8 adopting a CRCC [sic] at this time, but the specifics of the surcharge will be determined later,
9 during the pending rate case where they can be evaluated in context of the size of the amount to be
10 recovered.”

11 3. The rate case to which the Decision referred was ultimately decided in Decision
12 No. 67744 on April 7, 2005. Decision No. 67744 also adopted a settlement agreement. This 2005
13 settlement agreement included the following language about the CRCC:

14 86. “Included in the total test year revenue requirement is approximately \$8
15 million for the CRCC. APS may recover \$47.7 million plus interest
16 calculated in accordance with paragraph 19.h through a CRCC of
\$0.000338/kWh over a collection period of five years.

17 87. When the above amount is recovered, the CRCC will terminate immediately.
18 If any amount remains unrecovered/over recovered after the end of the five
19 year period, APS shall file an application with the Commission to adjust the
CRCC to recover/refund the balance.

20 88. The CRCC shall be a separate surcharge, i.e., it shall not be included in base
21 rates. The CRCC shall be assessed against all customers except for those
served on rate schedules Solar-1 or Solar-2.

22 89. As part of the tariff compliance filing set forth in Paragraph 135, APS shall
23 file a plan of administration that describes how the CRCC shall operate.”

24 4. Decision No. 67744 and the 2005 settlement agreement set forth \$0.000338 per
25 kWh as the amount to be assessed each month over five years in order to collect \$47.7 million.

26 5. APS implemented the \$0.000338/kWh CRCC on April 1, 2005.

27 ...

28 ...

1 the period of collection of the CRCC until the CRCC regulatory asset is recovered, as discussed
2 herein.

3 ORDER

4 IT IS THEREFORE ORDERED that Arizona Public Service Company's request to extend
5 the Competition Rules Compliance Charge until the full balance of the \$47.7 million is collected is
6 approved, as discussed herein.

7 IT IS FURTHER ORDERED that within 10 calendar days from the day that the
8 Competition Rules Compliance Charge is reduced to zero, or reduced to a level which would be
9 uneconomic to collect, Arizona Public Service Company shall file in this docket as a compliance
10 filing, a document indicating that it is no longer applying the CRCC.

11 IT IS FURTHER ORDERED that this Decision shall be become effective immediately.

12 **BY THE ORDER OF THE ARIZONA CORPORATION COMMISSION**

13
14 _____
CHAIRMAN

COMMISSIONER

15
16 _____
COMMISSIONER

COMMISSIONER

COMMISSIONER

17
18 IN WITNESS WHEREOF, I, ERNEST G. JOHNSON,
19 Executive Director of the Arizona Corporation Commission,
20 have hereunto, set my hand and caused the official seal of
21 this Commission to be affixed at the Capitol, in the City of
Phoenix, this _____ day of _____, 2010.

22
23 _____
ERNEST G. JOHNSON
EXECUTIVE DIRECTOR

24
25 DISSENT: _____

26
27 DISSENT: _____

28 SMO:LAJ:lh\CHH

1 SERVICE LIST FOR: Arizona Public Service Company
 2 DOCKET NO. E-01345A-10-0006

3 Mr. Thomas L. Mumaw
 4 Ms. Deborah R. Scott
 Pinnacle West Capital Corporation
 5 Post Office Box 53999, MS 8695
 6 Phoenix, Arizona 85072-3999

7 Ms. Kimberly Grouse
 Snell & Wilmer
 8 One Arizona Center
 400 East Van Buren
 9 Phoenix, Arizona 85004-0001

10 Mr. Leland R. Snook
 Manager, Regulatory Compliance
 11 Arizona Public Service Company
 12 Mail Station 9905
 Post Office Box 53999
 13 Phoenix, Arizona 85072

14 Mr. Jay L. Shapiro
 15 Mr. Patrick J. Black
 Fennemore Craig, P.C.
 16 3003 North Central Avenue, Suite 2600
 Phoenix, Arizona 85012
 17 Attorneys for Panda Gila River

18 Mr. Lawrence V. Robertson, Jr.
 19 Munger Chadwick, P.L.C.
 Post Office Box 1448
 20 Tubac, Arizona 85646
 Attorneys for Southwestern Power Group II,
 21 Bowie Power Station and Mesquite Power

22 Mr. Michael A. Curtis
 23 Mr. William P. Sullivan
 Mr. Larry Udall
 24 Martinez & Curtis, P.C.
 2712 North Seventh Street
 25 Phoenix, Arizona 85006

26 Attorneys for Town of Wickenburg

Mr. Gary Yaquinto, President
 Arizona Utility Investors Association
 2100 North Central Avenue, Suite 210
 Phoenix, Arizona 85004

Mr. Daniel Pozefsky
 Chief Counsel
 RUCO
 1110 West Washington, Suite 220
 Phoenix, Arizona 85007

Mr. C. Webb Crockett
 Fennemore Craig, P.C.
 3003 North Central Avenue, Suite 2600
 Phoenix, Arizona 85012
 Attorneys for AECC and Phelps Dodge

Mr. Theodore E. Roberts
 Sempra Energy Resources
 101 Ash Street, HQ 12-B
 San Diego, California 92101-3017

Mr. Greg Patterson
 Arizona Competitive Power Alliance
 916 West Adams, Suite 3
 Phoenix, Arizona 85007

Lieutenant Colonel Karen S. White
 AFLSA/JACL-ULT
 139 Barnes Drive, Suite 1
 Tyndall AFB, Florida 32403-5319
 Attorney for FEA

Mr. Michael L. Kurtz
 Mr. Kurt J. Boehm
 Boehm, Kurtz & Lowry
 36 East Seventh Street, Suite 1510
 Cincinnati, Ohio 45202
 Attorneys for Kroger Company

Mr. Robert W. Geake
 Arizona Water Company
 Post Office Box 29006
 Phoenix, Arizona 85038-9006

1 Mr. Timothy M. Hogan
2 Arizona Center for Law in the Public Interest
3 202 East McDowell Road, Suite 153
4 Phoenix, Arizona 85004
5 Attorneys for Western Resource Advocates
6 and Southwest Energy Efficiency Project

7 Mr. S. David Childers
8 Low & Childers, P.C.
9 2999 North 44th Street, Suite 250
10 Phoenix, Arizona 85018

11 Ms. Cynthia Zwick
12 Executive Director
13 Arizona Community Action Association
14 2627 North Third Street, Suite 2
15 Phoenix, Arizona 85004

16 Ms. Coralette Hannon
17 AARP Department of State Affairs
18 6705 Reedy Creek Road
19 Charlotte, North Carolina 28215

20 Ms. Rebecca C. Salisbury
21 56th Fighter Wing JA
22 7383 North Litchfield Road
23 Luke AFB, Arizona 85309-1540
24 Attorney for Federal Executive Agencies

25 Mr. Eric C. Guidry
26 Western Resource Advocates
27 2260 Baseline Road, Suite 200
28 Boulder, Colorado 80302

Mr. Jeff Schlegel
SWEEP Arizona Representative
1167 West Samalayuca Drive
Tucson, Arizona 85704-3224

Mr. Jay I. Moyes
Moyes Storey, Ltd.
1850 North Central Avenue, Suite 1100
Phoenix, Arizona 85004
Attorneys for PPL Sundance and PPL
Southwest Generation Holdings

Mr. Bill Murphy
Murphy Consulting
5401 North 25th Street
Phoenix, Arizona 85016
Consultant for Arizona Cogeneration Assn.

Ms. Bridget A. Branigan
Southwest Gas Corporation
5241 Spring Mountain Road
Las Vegas, Nevada 89150

Mr. J. William Moore
Attorney at Law
1144 East Jefferson
Phoenix, Arizona 85034

Mr. David Berry
Western Resource Advocates
Post Office Box 1064
Scottsdale, Arizona 85252-1064

Mr. James M. Van Nostrand
Stoel Rives, LLP
900 SW Fifth Avenue, Suite 2600
Portland, Oregon 97204

Ms. Katherine McDowell
Stoel Rives, LLP
900 SW Fifth Avenue, Suite 2600
Portland, Oregon 97204

Mr. George M. Galloway
Arizona Competitive Power Alliance
900 SW Fifth Avenue, Suite 2600
Portland, Oregon 97204

Nicholas J. Enoch
Lubin & Enoch, P.C.
349 North Fourth Avenue
Phoenix, Arizona 85003
Attorneys for IBEW Locals 387, 640 and 769

Mr. Marvin S. Cohen
Sacks Tierney, P.A.
4250 North Drinkwater Boulevard, 4th Floor
Scottsdale, Arizona 85251-3693
Attorneys for Contellation NewEnergy, Inc.
And Strategic Energy, LLC

1 Jesse A. Dillon
PPL Services Corporation
2 Two North Ninth Street
3 Allentown, Pennsylvania 18101

4 Mr. Paul R. Michaud
Michaud Law Firm, P.L.C.
5 23 Crimson Heights Road
Portland, Connecticut 06480
6 Dome Valley Energy Partners

7 Mr. Robert Annan
8 Annan Group
6605 East Evening Glow Drive
9 Phoenix, Arizona 85262

10 Mr. Theodore E. Roberts
Sempra Energy Resources
11 101 Ash Street, HQ 12-B
12 San Diego, California 92101

13 Ms. Donna M. Bronski
Deputy City Attorney
14 City Attorney's Office
15 3939 Drinkwater Boulevard
Scottsdale, Arizona 85251

16 Mr. Kenneth R. Saline, P.E.
17 K.R. Saline & Assoc., PLC
160 North Pasadena, Suite 101
18 Mesa, Arizona 85201

19 Mr. Robert J. Metli
20 Snell & Wilmer L.L.P.
400 East Van Buren
21 Phoenix, Arizona 85004-2202

22 Mr. Sean Seitz
23 President
American Solar Electric, Inc.
24 1475 North Scottsdale Road, Suite 410
25 Scottsdale, Arizona 85257

26 Mr. David Crabtree
Teco Power Services
27 Post Office Box 111
Tampa, Florida 33601-0111
28

Mr. Raymond S. Heyman
Senior Vice President and General Counsel
UniSource Energy Services
One South Church Street, Suite 1820
Tucson, Arizona 85701

Mr. Steven M. Olea
Director, Utilities Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

Ms. Janice M. Alward
Chief Counsel, Legal Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007