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1 ORIGINAL

BEFORE THE ARIZONA CORPORATION COMMISSION

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2009 OCT 23 1 A 8: 50
AZ CORP COMMISSION
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Docket No. E-01345A-08-0172

7
8 IN THE MATTER OF THE APPLICATION OF
9 ARIZONA PUBLIC SERVICE COMPANY
10 FOR A HEARING TO DETERMINE THE
11 FAIR VALUE OF THE UTILITY PROPERTY
12 OF THE COMPANY FOR RATEMAKING
PURPOSES, TO FIX A JUST AND
REASONABLE RATE OF RETURN
THEREON, TO APPROVE RATE
SCHEDULES DESIGNED TO DEVELOP
SUCH RETURN.

RUCO'S REPLY BRIEF

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15 RUCO has reviewed the Post-Hearing Brief of Barbara Wylie-Pecora and has nothing
16 further to add other than RUCO supports the Settlement Agreement in its entirety including
17 the Schedule 3 provisions.

18 RUCO would like to address one other issue it inadvertently did not address in its
19 Closing Brief. At the hearing in this matter, the Administrative Law Judge asked the parties
20 to address whether APS's bills need to include all of the unbundled items. Transcript at
21 2585.

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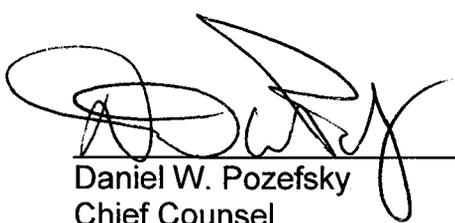
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1 The Company addressed this in its Post-Hearing Brief. *Phelps-Dodge*¹ remanded to
2 the Commission several Rules, among them A.A.C R14-2-1612, with instructions to submit
3 the rules to the Attorney General. A.A.C R14-2-1612 is one of the two Commission Rules
4 that deals with the unbundling issue. RUCO is unaware that the Commission ever submitted
5 this Rule to the Attorney General. The other unbundling rule, A.A.C. R14-2-210(B)(k), was
6 not specifically addressed by the Court. However, A.A.C R14-2-1612(A) appears to adopt
7 Rule 210 by reference. An argument could be made that R14-2-1612(A) provides enough of
8 a nexus to also remand Rule 210 but RUCO believes there is no evidence to indicate that
9 this is what the Court meant. If the Court wanted to remand 210, it would have specifically
10 done so. Moreover, Rule 210 was not challenged in the *Phelps-Dodge* case.

11 A.A.C. R14-2-210(B) requires that the Company unbundle its rates and charges for
12 billing notice purposes. RUCO agrees with the Company that APS's compliance with Rule
13 210 would need to be waived by the Commission for APS to stop issuing unbundled billings.

14 RESPECTFULLY SUBMITTED this 23rd day of October, 2009

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19 Daniel W. Pozefsky
20 Chief Counsel

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¹ *Phelps Dodge Corp. v. Arizona Elec. Power Coop., Inc.*, 207 Ariz. 95, 83 P.3d 573 (Ariz. App. Div. 1
2004), review denied (2005).

1 AN ORIGINAL AND THIRTEEN COPIES
of the foregoing filed this 23rd day
2 of October, 2009 with:

3 Docket Control
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5 COPIES of the foregoing **hand delivered**
6 this 23rd day of October, 2009 to:

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