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BEFORE THE ARIZONA CORPORATION COMMISSION

- MARC SPITZER, Chairman
- WILLIAM A. MUNDELL, Commissioner
- JEFF HATCH-MILLER, Commissioner
- MIKE GLEASON, Commissioner
- KRISTIN K. MAYES, Commissioner

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 2004 JAN 29 P 4: 32
 AZ CORP COMMISSION
 DOCUMENT CONTROL

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IN THE MATTER OF COMPETITION
 IN THE PROVISION OF ELECTRIC
 SERVICES THROUGHOUT THE
 STATE OF ARIZONA.

DOCKET NO. RE-00000C-94-0165

IN THE MATTER OF THE STRANDED
 COST FILING AND REQUEST FOR A
 WAIVER OF CERTAIN PORTIONS OF
 THE RULES FILED BY TRICO
 ELECTRIC COOPERATIVE, INC.

DOCKET NO. E-01461A-98-0466

IN THE MATTER OF THE STRANDED
 COST FILING AND REQUEST FOR A
 WAIVER OF CERTAIN PORTIONS OF
 THE RULES FILED BY MOHAVE
 ELECTRIC COOPERATIVE, INC.

DOCKET NO. E-01750A-98-0467

IN THE MATTER OF THE STRANDED
 COST FILING AND REQUEST FOR A
 WAIVER OF CERTAIN PORTIONS OF
 THE RULES FILED BY GRAHAM
 COUNTY ELECTRIC COOPERATIVE,
 INC.

DOCKET NO. E-01749A-98-0468

IN THE MATTER OF THE STRANDED
 COST FILING AND REQUEST FOR A
 WAIVER OF CERTAIN PORTIONS OF
 THE RULES FILED BY DUNCAN
 VALLEY ELECTRIC COOPERATIVE,
 INC.

DOCKET NO. E-01703A-98-0469

Arizona Corporation Commission
DOCKETED

JAN 29 2004

DOCKETED BY

1 IN THE MATTER OF THE STRANDED
2 COST FILING AND REQUEST FOR A
3 WAIVER OF CERTAIN PORTIONS OF
4 THE RULES FILED BY SULPHUR
5 SPRINGS VALLEY ELECTRIC
6 COOPERATIVE, INC.

DOCKET NO. E- 01575A-98-0472

**REPLY OF PHELPS DODGE
MINING COMPANY, SUCCESSOR
IN INTEREST TO CYPRUS CLIMAX
METALS COMPANY, ASARCO INC.
AND ARIZONANS FOR ELECTRIC
CHOICE AND COMPETITION, ON
REQUEST FOR THE SCHEDULING
OF A HEARING TO DETERMINE
THE STRANDED COSTS OF THE
DISTRIBUTION COOPERATIVES
AND TO OPEN THEIR SERVICE
TERRITORIES TO COMPETITION,
TO STAFF'S RESPONSE**

(Procedural Conference Requested)

10 Phelps Dodge Mining Company, Successor in Interest to Cyprus Climax Metals
11 Company, ASARCO Incorporated, and Arizonans for Electric Choice and Competition
12 (collectively "AECC"), hereby files this Reply to the Arizona Corporation Commission
13 Staff's ("Staff") Response in the above-referenced matter. Staff finds it "disturbing" that
14 the Commission could expend time and resources to a process that may be made irrelevant
15 by subsequent amendments to the Retail Electric Competition Rules ("Rules"), and
16 concludes that absent some "compelling" reason, it would be unwise to initiate stranded
17 cost proceedings under the existing Rules. For the reasons stated below, AECC must
18 respectfully disagree with Staff's position.

19 **DISCUSSION**

20 Retail competition and direct access opportunities for retail customers continues to
21 be the public policy of the Commission. Despite the fact that Decision No. 65154
22 (instructing Staff to re-examine the Rules) was issued on September 10, 2002, the initial
23 public workshop to discuss possible rule revisions did not occur until December 19, 2003.
24 Further, this ECAG workshop lasted merely fifteen (15) minutes, and did not result in any
25 substantive discussion of possible rule revisions outside what has already been previously
26 submitted in written comments. AECC asserts that opportunities for direct access

1 transactions in the Distribution Cooperatives' service territories should not be held
2 hostage to conjecture and supposition regarding *possible* changes, or to the regulatory lag
3 that has occurred in "re-visiting" the Rules. Indeed, retail competition opportunities are
4 ripe given a renewed interest by some electric service providers to provide direct access,
5 based in part due to an abundance of electric generation capacity in the state. *See* AECC
6 Reply to Responses of Distribution Cooperatives ("Reply") at 3.

7 Since the Commission has suspended Arizona Electric Power Cooperative's
8 ("AEPKO") annual re-setting process of its Competition Transition Charge, AECC's
9 Motion is appropriate given AEPKO's continued over collection of competition
10 transitions costs. *Id.* at 5. The fact that AEPKO continues to enjoy a negative CTC
11 should illustrate that it is highly unlikely that the Distribution Cooperatives have incurred
12 much, if any, stranded costs. Therefore, it would seem logical that the Commission would
13 want to provide retail consumers in the Distribution Cooperatives' service territories an
14 opportunity to secure direct access power in order to avoid paying costs that have yet to be
15 justified.

16 Finally, AECC also disagrees with the notion that it is requesting that the
17 Commission "begin" proceedings in the above-referenced matters. AECC's Motion
18 merely requests that the Commission schedule the "resumption" of hearings that will
19 result in the opening of the Distribution Cooperatives' respective territories to retail
20 competition, as has been done for both investor-owned (APS, TEP) and public power
21 (SRP) utilities. While AECC appreciates Staff's position that the parties do not have
22 unlimited resources, it believes that the prospect of direct access transactions in a climate
23 where retail buyers of electricity can take advantage of lower power costs is compelling
24 enough to resume stranded cost proceedings under the existing rules.

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CONCLUSION

AECC's Motion to schedule hearings to determine the Distribution Cooperatives' stranded costs, and to open their service territories to competition, is consistent with and will further the Commission's public interest goals. AECC requests that a procedural conference be held to discuss the merits of its Motion.

RESPECTFULLY SUBMITTED this January 29, 2004.

FENNEMORE CRAIG

By 

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ORIGINAL and 23 COPIES
of the foregoing **hand-delivered**
this 29th day of January, 2004, to:

Arizona Corporation Commission
Docket Control
1200 West Washington Street
Phoenix, Arizona 85007

1 **COPY** of the foregoing
2 **hand-delivered** this 29th day
of January, 2004, to:

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