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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

RECEIVED
FEB 17 1 P 3
ARIZONA CORPORATION COMMISSION
DOCUMENT CONTROL

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

DOCKET NO. RE-000001-94-0165

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

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

DOCKET NO. E- 01575A-98-0472

**ARIZONANS FOR ELECTRIC
CHOICE AND COMPETITION'S
RESPONSE TO STAFF'S REQUEST
FOR OFFICIAL NOTICE**

Arizonans for Electric Choice and Competition ("AECOC") hereby responds to the

DOCKETED

FEB 17 2004

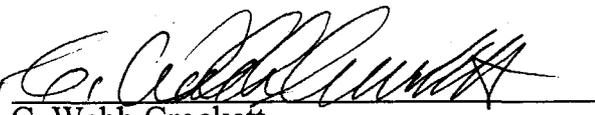
DOCKETED BY

1 request of Arizona Corporation Commission Staff ("Staff") that the Hearing Division take
2 official notice of the Arizona Court of Appeals' Opinion regarding the Commission's
3 Electric Competition Rules, filed January 27, 2004. See Phelps Dodge Corp. v. Ariz.
4 Elec. Power Cooperatives, No. 1 CA-CV 01-0068 (Ariz.Ct.App. Jan. 27, 2004).

5 AECC does not object to Staff's request that the Hearing Division take notice of
6 the Court's Opinion. However, AECC does object to Staff's request that the proceedings
7 involving determination of stranded cost of the Distribution Cooperatives continue to be
8 stayed. Whether a review of the Court's decision in the above-referenced case will be
9 sought, or if sought will be granted, is not a sufficient argument, in light of the Court's
10 discussion of A.A.C. R14-2-1602¹, to support continuing to stay the proceedings in the
11 above-referenced cases. AECC, therefore, requests that the Hearing Division reject the
12 request of Staff that the above-captioned dockets continue to be stayed.

13 RESPECTFULLY SUBMITTED this 17th day of February 2004.

14 FENNEMORE CRAIG

15
16 By 
17 C. Webb Crockett
18 Attorneys for Phelps Dodge Mining Company,
19 Successor in Interest to Cyprus Climax Metals
Company; ASARCO Incorporated;
Cyprus Climax Metals Company; and
Arizonans for Electric Choice and Competition

20 **ORIGINAL and 23 COPIES**
21 of the foregoing **hand-delivered**
22 this 17th day of February, 2004 to:

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

25
26 ¹See Phelps Dodge Corp. v. Ariz. Elec. Power Cooperatives, No. 1 CA-CV 01-0068
WL 117253 (Ariz.Ct.App. Jan. 27, 2004) at 49, ¶ 87.

1 **COPY** of the foregoing ⁴
hand-delivered this 17 day
2 of February, 2004 to:

3 **MARC SPITZER, Chairman**
Arizona Corporation Commission
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Phoenix, Arizona 85007

5 **WILLIAM A. MUNDELL, Commissioner**
Arizona Corporation Commission
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9 1200 West Washington
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10 **MIKE GLEASON, Commissioner**
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11 1200 West Washington
12 Phoenix, Arizona 85007

13 **KRISTIN K. MAYES, Commissioner**
Arizona Corporation Commission
14 1200 West Washington
Phoenix, Arizona 85007

15 **Jane L. Rodda**
16 Administrative Law Judge
Hearing Division
17 Arizona Corporation Commission
1200 West Washington
18 Phoenix, Arizona 85007

19 **Ernest Johnson, Director of Utilities**
Utilities Division
20 Arizona Corporation Commission
1200 West Washington
21 Phoenix, Arizona 85007

22 **Janet Wagner, Attorney**
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By: Mary Bollington
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