BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

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IN THE MATTER OF THE GENERIC INVESTIGATION OF REGULATORY AND RATE INCENTIVES FOR GAS AND ELECTRIC UTILITIES	Docket Nos. E-00000J-08-0314 G-00000C-08-0314 **COMMENTS OF FREEPORT-MCMORAN COPPER & GOLD INC. AND ARIZONANS FOR ELECTRIC CHOICE AND COMPETITION REGARDING DRAFT ACC POLICY STATEMENT REGARDING UTILITY DISINCENTIVES TO ENERGY EFFICIENCY AND DECOUPLED RATE STRUCTURES**

Freeport-McMoRan Copper & Gold Inc. and Arizonans for Electric Choice and Competition (hereafter "AECC") hereby submit these Comments Regarding the Draft ACC Policy Statement regarding Utility Disincentives to Energy Efficiency and Decoupled Rate Structures in connection with the above referenced matter. These Comments are filed in response to the correspondence filed in the Docket by Chairman Kristin K. Mayes on October 18, 2010.

AECC COMMENTS REGARDING THE DRAFT ACC POLICY STATEMENT REGARDING UTILITY DISINCENTIVES TO ENERGY EFFICIENCY AND DECOUPLED RATE STRUCTURES

I. Primary Objections and Concerns

AECC notes that its primary objections and concerns regarding decoupling are cited in the Draft Policy Statement on pages 7-8, and 22. AECC does not intend to repeat its general objections and concerns in these comments, but will reference certain specific concerns in recommending clarifications to the Draft Policy Statement.

II. Policy Statement 3 & 7

Policy Statement 7 encourages utilities to develop rate designs that support energy efficiency and "work well in tandem with decoupling (or alternative mechanisms)." AECC notes that there are rate designs appropriate for larger customers that support energy efficiency that can be adopted in lieu of decoupling for these customers. Specifically, a rate design in which the energy charge does not include any fixed costs, known as a Straight Fixed Variable (SFV) rate design, accomplishes the same objective as decoupling, in that it does not create financial disincentives for the utility to encourage energy efficiency. This is because there is no loss of fixed cost recovery to the utility when kilowatt-hour usage is reduced. At the same time, SFV rate design avoids the negative unintended consequences of decoupling, such as rate increases due to recession-induced usage reduction and rate adjustments due to changes in "usage per customer" that are attributable to changes in the composition of the customer class rather than any improvement in energy efficiency. SFV can be achieved by properly aligning customer-related costs with the customer charge, demand-related costs with the demand charge, and energy-related costs with the energy charge. This is not only feasible for industrial and many commercial customers, it is desirable as a principle of sound rate design.

For these reasons, AECC encourages the Commission to amend the third sentence of Policy Statement 3 as follows:

"Some form of decoupling, or utility financial incentives and/or rate design must be adopted to encourage aggressive use of demand side management programs…"

III. Policy Statement 4

AECC assumes that the reference to "revenue per customer decoupling" is intended to refer to "fixed-cost recovery per customer decoupling." It is probably useful to make this clarification in the policy statement. (Strictly, speaking "revenue per customer" includes energy cost recovery. There is no reason to keep "revenue per customer" constant when energy usage declines, as the utility's energy costs will also be reduced.)

AECC reiterates its position that maintaining a constant "revenue per customer" or "fixed-cost recovery per customer" is not an appropriate rate design objective for classes of customers that have few customers, have heterogeneous populations, and/or whose class composition shows a wide range of usage levels, such as Rates 34/35 and the largest Rate 32 customers. The fixed-cost recovery per customer of these classes will be very sensitive to the *composition* of these customers; for example, the opening or closing of a copper mine would impact such a calculation without at all being representative of utility-sponsored conservation programs. Similarly, the migration into Rates 34/35 from Rate 32 will impact fixed-cost recovery per customer in Rates 34/35 in an arbitrary manner. Changes in the overall economy are far more likely to influence fixed-cost recovery per customer for such classes than energy conservation programs. Application of decoupling to these customers would result in undue changes in rates in response to factors that are unrelated to energy conservation. This would be particularly unfortunate since the primary objectives of decoupling can be accomplished for these customers through rate design, as discussed above.

AECC recommends the following addition to the first sentence of Policy Statement 4: "While other decoupling models are appropriate in general, <u>fixed-cost recovery</u> per customer decoupling may be well suited for Arizona as it responds to customer growth and is better suited to address the issues associated with customer growth, <u>although it may not be appropriate for all customer classes</u>."

IV. Policy Statement 10

If decoupling is adopted, AECC recommends that rate changes be no more frequent than annually. Changing rates on a monthly or quarterly basis undermines the ratemaking objective of rate stability and negatively impacts customer energy budgeting. Moreover, a certain portion of monthly/quarterly changes are likely to be in opposite directions and would cancel each other out if a longer measurement period is used.

V. Policy Statement 11

AECC supports and appreciates the flexibility shown in Policy Statement 11 that allows utilities to propose and justify different treatment for certain customer classes. As discussed above in these comments, utility disincentives to support energy conservation can be remedied through rate design for some customer classes by removing fixed cost recovery from the energy charge. This policy statement retains the critical flexibility necessary to accomplish this.

VI. Policy Statement 13

If decoupling surcharges and surcredits are adopted, they should not cause subsidies to flow between customer classes or between customers and the utility. AECC recommends adding the following sentence to the end of Policy Statement 13: "Decoupling surcharges and surcredits should be designed to be revenue neutral within any rate schedule for which they are applied."

RESPECTFULLY SUBMITTED this 28th day of October 2010.

FENNEMORE CRAIG, P.C.

By: ______________________

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ORIGINAL and 13 COPIES of the foregoing **FILED** this 28th day of October 2010 with:

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