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BEFORE THE ARIZONA CORPORATION COMMISSION

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Commissioner - Chairman
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Commissioner
CARL J. KUNASEK
Commissioner

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IN THE MATTER OF THE APPLICATION
OF ARIZONA PUBLIC SERVICE
COMPANY FOR APPROVAL OF ITS PLAN
FOR STRANDED COST RECOVERY

DOCKET NO. E-01345A-98-0473

IN THE MATTER OF THE FILING OF
ARIZONA PUBLIC SERVICE COMPANY
OF UNBUNDLED TARIFFS PURSUANT TO
A.A.C. R14-2-1601 et seq.

DOCKET NO. E-01345A-97-0773

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

DOCKET NO. RE-00000C-94-0165

**AECC'S MOTION TO STRIKE PRE-
FILED TESTIMONY OF APS WITNESSES
DR. WILLIAM H. HEIRONYMUS AND
JOHN H. LANDON**

ASARCO Incorporated, Cyprus Climax Metals Company, Inc., Enron Corp. and Arizonans for Electric Choice and Competition (collectively "AECC"), hereby move for an order striking the Testimony of Dr. William H. Heironymus dated January 9, 1998 ("Heironymus Testimony") and the Rebuttal Testimony of John H. Landon dated February 4, 1998 ("Landon Testimony"), both of which were filed in the above-captioned dockets by APS on November 20, 1998. This motion is supported by the following Memorandum of Points and Authorities.

...
...

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **ARGUMENT**

3 On November 13, 1998, APS was ordered to pre-file testimony in support of its
4 November 4, 1998 Settlement Agreement with the Arizona Corporation Commission Staff
5 ("APS/Staff Settlement"), no later than 4:00 p.m. on November 20, 1998. On that date, APS
6 merely resurrected the Heironymus Testimony and the Landon Testimony, both of which had
7 previously been filed by APS in support of its recommended stranded cost recovery
8 methodology. In their testimonies, Dr. Heironymus and Mr. Landon go to great lengths to justify
9 adoption of a net lost revenues methodology for stranded cost recovery, including, directly
10 refuting the pre-filed testimony of other parties to the stranded cost proceedings which concluded
11 on June 22, 1998 with a decision by the Commission rejecting the net lost revenues methodology
12 for calculating stranded cost recovery. See Decision No. 60977 (June 22, 1998). Amazingly,
13 APS made no effort to even modify this second-coming of the Heironymus Testimony and
14 Landon testimony to reflect either the Commission's decision regarding stranded costs or the
15 existence of the APS/Staff Settlement.

16 It follows that neither the Landon Testimony nor the Heironymus Testimony support the
17 APS/Staff Settlement. Furthermore, the re-filing of the Heironymus Testimony and Landon
18 Testimony, without any revision to reflect support for the APS/Staff Settlement, impedes the
19 ability of intervenors' to prepare for the eventual hearing on this agreement. The central issue in
20 that hearing will be whether the approval of the APS/Staff Settlement is in the public interest.
21 The calculation of stranded costs using a calculation methodology previously rejected by the
22 Commission is neither relevant to that issue nor supportive of the settlement. As such, the
23 intervenors are being deprived of an opportunity to evaluate the reasons APS seeks approval of
24 the settlement

25 Frankly, AECC submits that the filing of such testimony by APS at this juncture is little
26 more than a transparent and belated attempt to challenge the Commission's rejection of the net

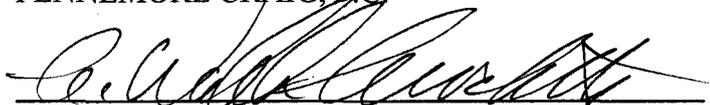
1 lost revenues methodology espoused by APS' witnesses. Obviously, a collateral attack on the
2 Commission's previous decision is inappropriate at this time.¹ Moreover, APS' actions illustrate
3 that APS has nothing more than the self-serving testimony of its President Jack E. Davis to offer
4 in support of the settlement.

5 **RELIEF REQUESTED**

6 Based on the foregoing, AECC urges the Chief Hearing Officer schedule a hearing
7 regarding this motion at the earliest possible date and, thereafter, issue an order striking the
8 Heironymus Testimony and the Landon Testimony and to preclude APS from calling either of
9 these witnesses at the hearing regarding the APS/Staff Settlement.

10 DATED this 24th day of November, 1998.

11 FENNEMORE CRAIG, P.C.

12
13 By 

C. Webb Crockett

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17 ORIGINAL AND TEN COPIES
18 of the foregoing hand-delivered
19 this 24th day of November, 1998, to:

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

22 TWO COPIES OF THE FOREGOING
23 hand-delivered this 24th day
of November, 1998 to:

24 Jerry Rudibaugh, Chief Hearing Officer
25 Hearing Division

26 ¹ In fact, APS has already filed an appeal of the Commission's Decision No. 60977.

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2 Phoenix, Arizona 85007

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4 of November, 1998 to:

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