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JUN 14 1 17 PM '99

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June 11, 1999

Arizona Corporation Commission  
**DOCKETED**

JUN 14 1999

DOCKETED BY [Signature]

Ms. Nancy Kole  
Docket Control Division  
Arizona Corporation Commission  
1200 West Washington  
Phoenix, Arizona 85007

**RE: Docket Nos. E-01645A-98-0473, E-01345A-97-0773, and  
RE-00000C-94-0165**

Dear Ms. Kole:

Enclosed for filing are the original and eleven (11) copies of Enron Corp's Motion to Amend Procedural Order To Establish Revised Procedural Dates in the above matters. Please return a conformed copy to my office in the enclosed self-addressed envelope.

Please let me know if you have any questions regarding the above or the enclosed materials.

Sincerely,

[Signature: Lawrence V. Robertson, Jr.]

Lawrence V. Robertson, Jr.

LVR:djb

Enclosures

ORIGINAL

BEFORE THE ARIZONA CORPORATION COMMISSION

RECEIVED  
AZ CORP COMMISSION

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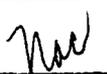
CARL J. KUNASEK  
Commissioner-Chairman  
JIM IRVIN  
Commissioner  
RENZ JENNINGS  
Commissioner

Arizona Corporation Commission

DOCKETED

JUN 14 1999

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IN THE MATER 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 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

**ENRON CORP'S MOTION TO AMEND PROCEDURAL ORDER  
TO ESTABLISH REVISED PROCEDURAL DATES**

Pursuant to R14-3-106(k), Enron Corp ("Enron") hereby moves for an order (i) amending the Procedural Order issued on May 25,1999 in the above-captioned proceedings, and (ii) establishing revised procedural dates. In support of its motion, Enron offers the following considerations.

...

...

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**I.**  
**COMPLEXITY OF ISSUES AND RAMIFICATIONS OF DECISION THEREON**  
**REQUIRE MORE TIME FOR ANALYSIS AND CONSIDERATION**

The May 25, 1999 Procedural Order was issued in response to a May 17, 1999 filing made by Arizona Public Service Company ("APS"). The subject of that filing was a May 14, 1999 Settlement Agreement entered into by APS, Residential Utility Consumer Office ("RUCO"), Arizona Community Action Association ("ACAA") and Arizonans For Electric Choice and Competition ("AECC"). In connection with its May 17, 1999 application, APS requested the issuance of a procedural schedule therein proposed and Commission approval of the appended Settlement Agreement. The May 25, 1999 Procedural Order adopted each of the significant procedural dates proposed by APS, with the exception of scheduling the commencement of hearings one day later than proposed; and "filled-in" certain other procedural mileposts.

Apparently not considered was the amount of time that participants, who were not signatory parties to nor supporters of the Settlement Agreement, might need to analyze and evaluate that agreement and prepare for a public hearing thereon. As the May 25, 1999 Procedural Order notes

"The Proposed Settlement contains resolutions to the stranded costs and unbundled rate issues." [page 1 at lines 17-18]

These are not inconsequential matters. To the contrary, their resolution will have a profound effect upon the ability of new entrants (such as Enron) to effectively enter and compete in the heretofore exclusive electric service areas of the largest Affected Utility in the State of Arizona. As the Commission and its hearing Division and Staff are acutely aware, stranded costs and unbundled tariffs have been among the most contentious ongoing issues before the Commission since its issuance of Decision No. 59943 in December, 1996. Moreover, due to a series of delays and significant revisions in the Commission's promulgation of the competitive electric rules during the

1 past two and one-half years, these threshold issues have not been postured for effective consideration  
2 and resolution until very recently. That posturing occurred in the form of an April 21, 1999  
3 Procedural Order which the May 25, 1999 Procedural Order has suspended indefinitely as to APS.  
4 [see page 4 at lines 23-24]  
5

6 Presumably the signatory parties to the Settlement Agreement are prepared to proceed to  
7 hearing on the basis of the truncated schedule provided for in the May 25, 1999 Procedural Order.  
8 This is not surprising inasmuch as they are supportive of the provisions and impact of the Settlement  
9 Agreement. A similar observation presumably can be made as to the non-signatory entities whose  
10 names appear in Footnote No. 1 of the May 25, 1999 Procedural Order, although a question may exist  
11 as to how knowledgeable they are as to the contents and ramifications of the Settlement Agreement.  
12

13 However, it is to be noted, and significantly so, that none of the Electric Service Providers  
14 certificated to date by the Commission have signed the Settlement Agreement nor (to Enron's  
15 knowledge) expressed their support for the same. Yet these are the same entities whose participation  
16 must be effective if a viable competitive market is to be established in APS's heretofore exclusive  
17 electric service areas.  
18

19 Enron will not presume to speak for these other new entrants. However, in the case of itself,  
20 it knows it needs more time to conduct discovery, develop its own testimony and exhibits, and  
21 prepare for hearing than is currently provided for in the May 25, 1999 Procedural Order. As a  
22 consequence, it is herein requesting that the procedural dates set forth in the aforesaid order be  
23 extended by sixty (60) calendar days in each instance as to all dates which remain to be reached as  
24 of this juncture.  
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**II.**  
**SETTLEMENT AGREEMENT DOES NOT REQUIRE A  
COMMISSION DECISION BY A DATE CERTAIN**

In its May 17, 1999 application, APS states "the Settlement Agreement contemplates Commission approval no later than August 1, 1999." [see page 2 at lines 7-8] That is one way to construe the language which appears at Article 6.1 of that document. Another is that any party has the option to withdraw if such approval is not forthcoming by that date. However, that represents a significant departure from the approach taken in the abortive APS Settlement Agreement of last year, which provided the agreement was void and of no effect if Commission approval was not received by a specified date certain.

Moreover, Article 6.1 of the May 14, 1999 Settlement Agreement further creates the option to withdraw in the event the Commission fails to approve the agreement by August 1, 1999 "without modification." [emphasis added] In effect, this is a transparent attempt to hold the proverbial gun to the Commission's head. Against this background, a Commission order revising the May 25, 1999 Procedural Order in the manner herein requested would appear to create no more risk to a meaningful onset of competition than does a serious examination by the Commission of the Settlement Agreement on the merits. Under either situation, one or more signatory parties could withdraw from the Settlement Agreement. However, Enron seriously questions whether any would actually withdraw simply because of a sixty (60) day extension in the remaining procedural dates. Rather, it would appear too much time and effort has been invested for them not to stay the course for an additional few months.

1 WHEREFORE, Enron Corp hereby requests that the Commission (or its Hearing Division)  
2 issue an order amending the May 25, 1999 Procedural Schedule and providing for a sixty (60) day  
3 extension of each of the remaining procedural dates therein specified.  
4

5 DATED this 11<sup>th</sup> day of June, 1999.

6 Respectfully submitted,  
7 ENRON CORP

8 By Lawrence V. Robertson Jr

9 Lawrence V. Robertson, Jr.  
10 MUNGER CHADWICK, P.L.C.  
11 National Bank Plaza  
12 333 North Wilmot, Suite 300  
13 Tucson, Arizona 85711  
14 Its Attorney

15 A copy of the foregoing mailed  
16 this 11th day of June, 1999, to:

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18 Thomas L. Mumaw  
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24 Attorneys for APS

25 Hon. Jerry Rudibaugh  
26 Chief Hearing Officer  
27 Arizona Corporation Commission  
28 1200 West Washington  
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