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**BEFORE THE  
ARIZONA CORPORATION COMMISSION**

**TESTIMONY OF FREDERICK M. BLOOM**

**On behalf of**

**Commonwealth Energy Corporation**

**Docket No. E-01345A-98-0473  
Docket No. E-01345A-97-0773  
Docket No. RE-00000C-94-0165**

**JUNE 30, 1999**

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**DIRECT TESTIMONY**  
**OF**  
**FREDERICK M. BLOOM**

(Docket Nos. E-01345A-98-0473, et al.)

**I. INTRODUCTION**

**Q. WOULD YOU PLEASE STATE YOUR NAME AND BUSINESS ADDRESS?**

A. My name is Frederick Bloom and my business address is 15901 Red Hill Avenue, Suite 100, Tustin, California 92780.

**Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?**

A. I am Chairman of the Board and Chief Executive Officer of Commonwealth Energy Corporation ("Commonwealth"). In 1997, I co-founded Commonwealth, which serves about 60,000 residential, small business, commercial and industrial and government customers in California. We are actively pursuing retail electric customers in other states, including Arizona.

**Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

A. I wish to provide my observations and concerns about this Settlement Agreement proposed by Arizona Public Service Company ("APS") and some selected parties. I believe that I have a unique perspective of a competitive electric marketer that is not affiliated with a regulated utility. It is important to address what makes a competitive market for electric deregulation to succeed in Arizona. I will discuss the necessary components of a competitive electric environment in the context of the APS Settlement Agreement. I will then explain why the APS Settlement Agreement is not in the public interest unless certain provisions are changed

1 so as to allow competitors, such as Commonwealth, to compete. Later, I will address specific  
2 aspects of the Settlement that I believe should be changed.

3 **Q. WHY DO YOU BELIEVE YOUR PERSPECTIVE OF THIS SETTLEMENT IS**  
4 **UNIQUE?**

5 A. I am familiar with how to create a competitive electric market, particularly in serving  
6 residential and small business customers. Many alternative providers are affiliated with a  
7 monopoly utility. Those competitive affiliates have obvious concerns about attacking  
8 competitive barriers which might be brought to challenge their own regulated monopoly.  
9 Another reason why my views might be different is that most utility affiliates are run by  
10 former employees of their regulated monopoly. They are not actually outsiders who are  
11 trying to open up a new competitive market, nor have they the experience in framing a  
12 competitive environment.

13  
14 **II. NECESSARY COMPONENTS OF A COMPETITIVE ELECTRIC MARKET**

15  
16 **Q. PLEASE SUMMARIZE WHAT IS NEEDED FOR A COMPETITIVE RETAIL**  
17 **ELECTRIC MARKET IN ARIZONA?**

18 A. All customers of all rate classes must have the ability to choose their electric suppliers if  
19 Arizona intends to have electric competition. A visible "generation shopping credit" must be  
20 shown on the customers' bills. Consumers must have clear and concise information with an  
21 easy process for switching to alternative providers which includes the third-party verification  
22 process we proposed. The cost components of the standard offer rates must be transparent  
23 so that customers can compare their present costs to the regulated unbundled rates. Only the  
24 competitive electric service, such as generation, metering, meter reading, and billing and  
25 collection services, should be different when comparing line items between the Standard Offer  
26  
27

1 rates and billings to the competitive service prices. If customers are confused, they won't  
2 switch.

3 **Q. EXPLAIN WHAT THE ELECTRIC SERVICE PROVIDER MUST CONSIDER**  
4 **BEFORE ENTERING THE ARIZONA MARKET?**

5 A. Commonwealth needs easy access to potential customers. Entering the Arizona market will  
6 require significant investments in personnel, computers, marketing and overhead costs. A  
7 new entrant must overcome the name recognition of the local utility distribution company  
8 ("UDC"). That requires considerable start-up and ramp-up costs before the new entrant can  
9 make a profit. However, with this substantial investment, new jobs are created, it stimulates  
10 the local economy, and more economic development will occur with lower electric bills.

11  
12 **III. OVERVIEW OF THE SETTLEMENT**

13  
14 **Q. HOW DOES THIS APS SETTLEMENT RELATE TO ELECTRIC COMPETITION**  
15 **IN ARIZONA?**

16 A. APS is one of the two largest utilities in Arizona. What happens with this Settlement will  
17 dictate whether or not Commonwealth can compete in Arizona. If the Settlement is approved  
18 as written, Commonwealth will have no choice but to stay out of Arizona.

19 **Q. WHAT ARE YOUR GENERAL IMPRESSIONS OF THE APS SETTLEMENT?**

20 A. It is not really a Settlement. It is merely APS's plan to keep out competitors by creating  
21 barriers. In fact, no competitor has signed the Settlement Agreement, nor has the large  
22 majority of interested parties. If the Settlement is adopted, Commonwealth and I believe no  
23 one else will enter the Arizona market to serve most customers, particularly residential and  
24 small business and commercial users. The Settlement defeats the purpose of an open  
25 competitive environment.

1 **Q. WHAT IS YOUR PRIMARY CONCERN ABOUT THIS APS SETTLEMENT?**

2 A. I have many objections, but on its face the Settlement does not consider or even begin to  
3 promote competition for electric services. The Settlement would allow APS to write its own  
4 rules to retain monopoly power and keep out competitors.

5 **Q. WON'T RESIDENTIAL CUSTOMERS BENEFIT FROM THE "THREAT" OF**  
6 **COMPETITION?**

7 A. No, you cannot have "competition" without competitors. The Settlement eliminates the  
8 potential competitors; therefore, Arizona will not have real competition. Residential  
9 customers benefit the least, if at all, from competition if the APS Settlement is approved.  
10 RUCO apparently believes residential customers should remain captive in exchange for 1.5%  
11 rate decreases over the next five years. Although I support the rate decreases, I believe  
12 residential customers would gain more savings by dropping the barriers created by the APS  
13 Settlement and the Rules. Another point is missed by Mr. Greg Patterson in his testimony.  
14 He falsely claims that a competitive market will be available in the future to create "efficient  
15 production, better service and lower prices" for customers who choose not to change  
16 suppliers. No company has filed, and I believe none will file, to serve residential customers.  
17 With these more stringent barriers in the APS Settlement, the prospect of anyone serving  
18 residential customers is less likely if the Settlement is approved.

19 **Q. WHAT BARRIERS TO COMPETITION ARE YOU REFERRING TO?**

20 A. There are many, as Commonwealth outlined in its Comments and Response to the Rules. The  
21 lack of affiliate transaction rules is totally unacceptable. When you start with a dominant  
22 incumbent utility like APS, not having affiliate transaction rules would be "a death knell" to  
23 anyone who tries to compete.

24 Another barrier to competition is the limited access to residential customers which is  
25 controlled by APS. A third barrier is the metering requirement which is only imposed on  
26 customers seeking competitive generation, but those same customers are not required to have  
27

1 time-of-use meters if they buy Standard Offer generation from APS. If that information is so  
2 important for operating APS's distribution and transmission system, it should be mandatory  
3 for the larger load served by APS. Otherwise, it is discriminatory and clearly a barrier to  
4 keep competitors out.

5 **Q. DO YOU HAVE OTHER CONCERNS ABOUT THE SETTLING PARTIES**  
6 **WRITING THEIR OWN RULES FOR COMPETITION?**

7 A. Yes. The Agreement says the settling parties may rewrite the terms and conditions of the  
8 Settlement in the future, under Section 1.3. Commonwealth and other competitors are left  
9 out, as is the entire public and the Commission. This is another reason why I believe the  
10 Agreement is not in the public interest.

11 **Q. ARE THERE INSTANCES WHERE APS'S SETTLEMENT IS PROMOTING AN**  
12 **UNLEVEL PLAYING FIELD?**

13 A. Yes. APS is participating in the retail electric market in California under its set of rules  
14 resulting from AB 1890. APS is an active participant in the Western Power Trading Forum,  
15 a group of alternative providers, who are advocating ways to improve competition in  
16 California. Although APS has requested California's rules be modified to improve  
17 competition, APS has through its Settlement Agreement proposed a set of rules for Arizona  
18 which are more utility-friendly than the California rules. This is simply inconsistent with fair  
19 play.

20 **Q. PLEASE EXPLAIN THE DIFFERENCES BETWEEN CALIFORNIA AND**  
21 **ARIZONA.**

22 A. California allows for 100% direct access. Arizona's approach, as would be confirmed in this  
23 Settlement, restricts customer access with participation percentages and load aggregation  
24 limits. California has uniform rules across most of the state. Arizona has different rules in  
25 its two largest service areas. California allows for third-party oral verification of switching.  
26 Arizona requires a "wet" signature before a customer may change providers. California has  
27

1 strict affiliate transaction rules; whereas Arizona has none. California allows new entrants  
2 access to all meters, but Arizona limits access to meters greater than 40 kW. These are some  
3 of the differences that make marketing in California much easier than in Arizona.

4 **Q. PLEASE EXPLAIN WHAT YOU HAVE LEARNED FROM YOUR EXPERIENCE**  
5 **IN CALIFORNIA AND HOW ARIZONA MIGHT BENEFIT FROM THAT**  
6 **CALIFORNIA EXPERIENCE.**

7 A. I recommend that Arizona should adopt what has worked well in California and avoid that  
8 which has not. First, California has a generation credit but it doesn't really create a  
9 competitive retail market. It is tied to the California Power Exchange and there is not enough  
10 "head room" for competitors after paying the competitive transition charge ("CTC").  
11 Competitors and consumers don't know the facts, so they merely offer a discount. Arizona  
12 should avoid California's experience and make sure there is a transparent generation shopping  
13 credit based on the actual costs APS uses in its Standard Offer rates.

14 Second, California uses the avoided cost approach in setting the metering and billing credits.  
15 That means the utility uses the last incremental savings it would experience if someone else  
16 would provide that service. It doesn't reflect the average cost to the utility, so that is why  
17 the utility uses such low numbers in giving a credit if the customer buys from someone else.  
18 APS's tariff appears to be using the same approach for those metering and billing credits.

19 Third, California requires electric service providers to install meters on commercial and  
20 industrial customers, even though they do not have to do so for the customers they sell  
21 generation to. This gives the utility lower marketing and operating costs and drives up the  
22 costs of their competitors.

23 Fourth, the utility can disconnect if their customer does not pay. ESP's cannot. The utility  
24 has virtually no risk because of their deposits. The ESPs have all the risk because the  
25 consumer can continue using power until the agreement termination notice is effective and  
26 the deposit doesn't cover that period. Arizona has adopted the same approach as California.

1 The consensus in the electric industry is that California's regulations seriously inhibit  
2 competition in California. Only 130 thousand meters out of 15 million meters have switched  
3 in 18 months, and over 100 thousand switched because of "green power." Over 300  
4 registered to sell competitive services in California, and now less than 10 remain. That is  
5 proof that the California approach has not worked. Of those, only one is not a utility affiliate  
6 – that is Commonwealth.

7 **Q. HOW HAS COMMONWEALTH BEEN ABLE TO COMPETE IN CALIFORNIA**  
8 **UNDER THESE RESTRICTIONS?**

9 A. Commonwealth can only compete in California because of its "green power" program. It has  
10 a pool of funds, similar to Arizona's system benefit charge, which is used to credit customers  
11 with 1.5 cents per kWh if they select "green power." This creates an "artificial" market with  
12 these rebates being used to subsidize the limited transition to competitive electric services.  
13 No company in California would be selling to small customers without the "green program."  
14 Arizona does not have a "green program" and I'm not suggesting that it should have one.  
15 But with the market barriers similar to California and no "green program," I cannot foresee  
16 anyone entering the Arizona electric market to service residential and small business and  
17 commercial customers.

18 **Q. WHICH STATE WOULD YOU RECOMMEND AS HAVING THE BEST**  
19 **ELECTRIC COMPETITIVE MODEL?**

20 A. Pennsylvania has the best approach that I know of. It has a well-defined and fixed generation  
21 shopping credit. For example, PECO has a 5.65 cents per kilowatt per hour shopping credit  
22 with 5.15 cents for generation and a half cent for transmission. That generation shopping  
23 credit is based on the actual costs of generation to the utility. The utility's costs are  
24 unbundled from the generation costs, and what is left over is the generation shopping credit.  
25 Pennsylvania allows for ease of switching through third-party verification. Pennsylvania has  
26 no metering requirement; it is optional with the customer. As a consequence, over 500  
27

1 thousand meters have switched to competitive services, out of 5 million, during the first 6  
2 months. Pennsylvania has shown that electric competition can work if there is a clear price  
3 signal, ease of transaction, and a willingness to drop market barriers.

4 **Q. WILL RESIDENTIAL AND SMALL CUSTOMERS BE AFFORDED AN**  
5 **OPPORTUNITY TO SAVE MONEY UNDER THE AGREEMENT?**

6 A. It is difficult to tell, but it is highly unlikely that residential and small customers will save  
7 money under the Settlement. I have at least three reasons: the difference between the Palo  
8 Verde wholesale generation cost and Commonwealth's retail market price might be too slim  
9 if any, the time and cost of calculating any savings will likely be too high, and without a  
10 generation shopping credit, customers will be confused or persuaded by APS or its affiliate  
11 that Commonwealth as a new entrant doesn't understand how those costs are calculated.

12 I have reviewed the Palo Verde firm and non-firm prices for 1998 because that is the price  
13 that will likely set the Arizona wholesale price. On the surface, I must add to that PV  
14 generation cost the transmission costs (and losses), the independent system operator (or  
15 independent system administrator) charge, and APS's direct access tariffs. Then I need to  
16 compare those costs to APS's existing rates and analyze those differences to see if I can cover  
17 marketing costs and overhead and start-up costs and still earn a profit. For example, if PV  
18 generation is 3 cents per kWh, transmission is one-half cents, the ISO charge is another one-  
19 half cents, Commonwealth's cost is 4 cents before considering the marketing and overhead  
20 costs. If default customers who don't switch are being charged 3 cents for generation,  
21 Commonwealth cannot compete.

22 For each customer, Commonwealth will have to conduct a rate comparison and that will add  
23 additional costs to the transaction. Commonwealth must overcome this while APS has all the  
24 information and presence in the Arizona market.

25 With all this confusion as to how the potential savings might be calculated, APS will have the  
26 upper hand in telling its customers not to switch. At the same time Commonwealth must  
27

1 compete with APS's affiliate, who may have former employees from APS who understand  
2 the nuances of APS's tariffs.

3  
4 **IV. THE SETTLEMENT IS NOT IN THE PUBLIC INTEREST**

5  
6 **Q. THE PARTIES CLAIM THE SETTLEMENT IS IN THE PUBLIC INTEREST.**  
7 **WHAT IS YOUR OPINION?**

8 A. The Settlement is not in the public interest, the only interest being protected is that of APS  
9 and perhaps the other signatory parties. They claim that the rate reductions are in the public  
10 interest. Perhaps they are, but we don't know if those reductions are enough or properly  
11 allocated. We need a cost-of-service rate study that is current before anyone can say these  
12 rate reductions are in the public interest. That study must allocate those costs among the  
13 Standard Offer elements as listed in the Rules, particularly A.A.C. R 14-2-1606.C.2. Any  
14 utility would be glad to give a 1.5% rate reduction if it should actually be 3% or more. This  
15 is all the more important because this limited rate reduction would last for the next 5 years.

16 **Q. ARE THERE OTHER REASONS WHY YOU BELIEVE THIS AGREEMENT IS**  
17 **NOT IN THE PUBLIC INTEREST?**

18 A. Yes, several. The settling parties claim that this Agreement will move Arizona to retail  
19 competition faster and so the Commission should approve it as being in the public interest.  
20 This is clearly false. This Agreement will delay competition, because it limits choice for  
21 residential and small customers and creates barriers to competition. Only APS and its  
22 competitive affiliate (APS Energy Services) will be able to move faster towards competition  
23 in Arizona and other states.

24 **Q. THE SETTLING PARTIES CLAIM THAT ECONOMIC DEVELOPMENT AND**  
25 **THE ENVIRONMENT WILL BENEFIT FROM THIS SETTLEMENT. WHAT IS**  
26 **YOUR OBSERVATION?**

1 A. The settling parties claim the Agreement is in the public interest because economic  
2 development and the environment will benefit from guaranteed rate reductions and the  
3 continuation of renewable and energy efficiency programs. These sound like arguments for  
4 continuation of the APS monopoly and not for competitive electric markets. Those rate  
5 reductions should be ordered if APS is collecting more than its cost-of-service - - even  
6 outside of this settlement proceeding. In reality, economic development will be stifled by not  
7 giving small and medium business customers competitively priced services just like their  
8 bigger competitors. As far as renewable and energy efficiency programs, Commonwealth is  
9 a leading proponent of "green" power which it markets competitively in California. APS  
10 claims that it is in the public interest to collect its cost of renewable and energy efficiency  
11 program through the system benefit charges which are paid by all customers. This is a  
12 subsidy to the APS monopoly so it can compete against Commonwealth. Those services  
13 should be sold competitively and not be used as an argument as being in the public interest.

14 **Q. DO YOU HAVE OTHER REASONS FOR BELIEVING THAT THIS SETTLEMENT**  
15 **IS NOT IN THE PUBLIC INTEREST?**

16 A. Yes. Universal service coverage for low-income assistance programs and the provider of last  
17 resort "obligation" are used by APS and the settling parties to claim that this Agreement is  
18 in the public interest. These low-income programs should be maintained but should not be  
19 the basis for keeping out competitors. In fact, those low-income programs should be  
20 transferable to any ESP who serves those customers. As far as the provider of last resort,  
21 those services should be opened up to competition. It is ironic that APS raises the barriers  
22 in keeping out competitors and then on the other hand it claims that no one wants to serve  
23 customers and therefore it should be the provider of last resort and the Agreement is in the  
24 public interest. Robust competition is in the public interest as pronounced by the Arizona  
25 Legislature and the Commission. The Settlement does not promote competition and therefore  
26 it is not in the public interest.

1 Q. IS IT IN THE PUBLIC INTEREST TO RESOLVE LITIGATION RELATING TO  
2 THE ELECTRIC COMPETITION RULES?

3 A. Of course, but any party can and perhaps will appeal this Settlement and maybe the Rules.  
4 The only interest being served are those of APS and perhaps the other settling parties,  
5 because they could go about their business under the Settlement while litigation continues and  
6 competitors and residential and small business customers are denied the benefits of  
7 competition. Because the Settlement is unfair, and I believe not in the public interest,  
8 litigation may be the only recourse short of leaving Arizona's electric market to its incumbent  
9 monopoly utilities.

10 Q. THE SETTLING PARTIES CLAIM IT IS IN THE PUBLIC INTEREST FOR APS  
11 TO RECOVER ITS REGULATORY ASSETS AND STRANDED COSTS WITHOUT  
12 A GENERAL RATE PROCEEDING. WHAT IS YOUR IMPRESSION OF THAT  
13 CONCLUSION?

14 A. It is incomprehensible to understand how it is in the public interest to order the payment of  
15 money by APS' captive customers without a rate proceeding and review of the numbers.  
16 APS should be required to file its cost-if-service, others should be able to analyze those  
17 numbers, and an open hearing should be held. Only after this unbundling of transmission,  
18 distribution and generation costs can the public and Commission know if these regulatory  
19 assets and stranded generation cost are valid. Anything short of this process is not in the  
20 public interest.

21 Q. THE AGREEMENT CALLS FOR OPENING RETAIL ACCESS ON JULY 1, 1999  
22 IN THE APS SERVICE AREA. IS THIS A VALID REASON FOR APPROVING  
23 THE AGREEMENT?

24 A. No. This July 1 date will be passed even before the hearing is held. It is clearly an attempt  
25 to create the illusion of competition and urgency. As discussed before, no one is prepared to  
26  
27

1 compete under the Rules as written or this Settlement Agreement, except for APS's  
2 competitive affiliate because it gains an unfair-advantage under the Settlement Rules.  
3

4 **V. PHASE IN PROCESS AND BARRIERS TO COMPETITION FOR RESIDENTIAL**  
5 **AND SMALL CUSTOMERS**  
6

7 **Q. THE SETTLEMENT REFERS TO THE PHASE-IN PROCESS FOR ALLOWING**  
8 **RESIDENTIAL CUSTOMERS TO SIGN UP. WHAT IS YOUR OPINION ABOUT**  
9 **THIS PROCESS?**

10 A. Limiting residential customer access discriminates against that particular class of electric user.  
11 They have the most to lose of all customers, if this Settlement is approved. APS claims that  
12 is has over 680,000 residential customers and it would allow only 34,000 of them to sign up  
13 on a first-come, first-serve basis. APS should not have the ability to control customer choice  
14 or dictate how competitors might market and provide savings to those customers. As we  
15 learned in California, switching by residential customers is a gradual process. Nevertheless,  
16 customers and competitors should not have to be concerned about some arbitrary quarter  
17 limit controlled by the utility. Furthermore, the Rules say a minimum 5% of residential  
18 customers must receive competitive electric service by October 1, 1999. I believe it won't  
19 be possible to meet that objective. But if more residential customers want to save on their  
20 electric bills, they should be allowed to switch without resorting to artificial limits.  
21 Commonwealth would like to help the Commission meet its goal in making electric  
22 competition available to residential customers.

23 **Q. WHY IS CUSTOMER ACCESS SO IMPORTANT TO COMMONWEALTH?**

24 A. Limiting customer change out will make our advertising dollars less efficient. Restricting the  
25 customers who may purchase competitive electricity raises Commonwealth's transaction  
26 costs. Those higher costs in obtaining customers creates a barrier to entry.  
27

1 **Q. HOW WOULD YOU PROPOSE TO SERVE THESE RESIDENTIAL CUSTOMERS?**

2 A. Commonwealth has extensive experience in consumer marketing and the personnel and  
3 computer technology in which to handle the switching to meet these minimum requirements.  
4 As we discussed in our Comments and Responses to the Rules, a third-party oral verification  
5 process should be implemented so that customers who wish to switch may easily do so. At  
6 the same time, this verification process protects against slamming. I strongly urge the  
7 Commission to adopt the changes we recommended.

8 **Q. DOES THE APS RESIDENTIAL PHASE-IN PROGRAM CONFLICT WITH THE**  
9 **RULES?**

10 A. Yes. APS' plan creates a maximum of 8,750 residential customers during any quarter. The  
11 Rules provide for a minimum. The APS plan also uses the old percentage of 1¼% per quarter  
12 which was changed under the present Rules which has an increasing minimum percentage  
13 which shows 5% by October 1, 1999. This further illustrates how APS discriminates against  
14 the small user and why the Settlement is not in the public interest.

15 **Q. IF THE RULES CONFLICT WITH THE SETTLEMENT AGREEMENT, WON'T**  
16 **THE RULES CONTROL?**

17 A. Normally yes. In my business experience, private agreements must comply with state law.  
18 Here the settling parties are asking the Commission to make the Settlement Agreement  
19 control over the Commission's Electric Competition Rules. This is clearly against the public  
20 interest. APS should not be able to force the Commission to give up its rule-making and rate-  
21 making powers and then let APS write its own rules on how its customers and competitors  
22 may participate in the electric competition market. Although I'm not a lawyer, this smacks  
23 of an anti-trust violation. Again, the Settlement says APS and the settling parties do not even  
24 have to comply with Arizona's anti-trust law if its approved by the Commission. This is an  
25 unbelievable request by these settling parties.

1 **VI. UNBUNDLED COSTS MUST BE BASED ON APS's PRESENT COST OF SERVICE**

2  
3 **Q. THE AGREEMENT CALLS FOR THE STANDARD OFFER BILLS TO BE**  
4 **UNBUNDLED TO THE EXTENT REQUIRED BY THE RULES. IS THIS**  
5 **ADEQUATE FOR PROMOTING COMPETITION AND PROTECTING THE**  
6 **PUBLIC INTEREST?**

7 A. No, for several reasons. First, the Arizona Electric Competition Rules require that the  
8 Standard Offer tariff be disaggregated into (a) electricity, with the sub-components of (i)  
9 generation, (ii) competition transition charge (CTC), and (iii) must-run generation charge, (b)  
10 delivery, with the subclasses of (i) distribution, (ii) transmission, and (iii) ancillary services,  
11 and (c) other, which includes (i) metering services, (ii) meter reading service, and (iii) billing  
12 and collection, and (d) system benefits. A.A.C. R14-2-1606.C.2. APS asks the Commission  
13 to waive this requirement in Section 2.1 of the Agreement.

14 Second, the public is left out of the process of determining how APS intends to unbundle  
15 those costs, which will be paid by both the Standard Offer customers and those that buy  
16 competitive services. This ratemaking and all consumers and competitors are entitled to  
17 review and challenge how APS makes those allocations.

18 Third, APS would have the incentive to push many of those costs over to the distribution  
19 charge so that customers and competitors would have little or no "head-room" for generation  
20 savings and sales. APS already claims that its charges for Standard Offer customers will not  
21 be the same as it intends to charge customers who seek competitive services. This is  
22 unacceptable, and clearly indicates an anticompetitive and discriminatory rate is intended to  
23 be imposed on customers seeking alternative providers.

24 Fourth, this cost-of-service study must be completed before the Commission approves APS's  
25 allocation and interested parties should have an opportunity to review and challenge those  
26 numbers and how they are allocated. This is particularly important because the standard offer  
27

1 unbundled tariff will determine the "generation shopping credit" available to those customers  
2 who seek competitive generation.

3 Fifth, APS intends to unveil its "imputed" generation shopping credit only after this  
4 Agreement has been approved. If that credit is small or insignificant, it cannot be challenged  
5 even if APS has been paying more for its generation than is reflected in the Standard Offer  
6 bill and to be used as the generation shopping credit.

7 **Q. HAS APS INCLUDED ITS STANDARD OFFER UNBUNDLED BILL**  
8 **COMPONENTS WITH THIS SETTLEMENT?**

9 A. No, APS has not provided any illustration of its billing components for its Standard Offer or  
10 for that matter, for those customers who decide to purchase competitive services. We have  
11 no idea what those cost components might be in APS's proposed billing format, including any  
12 generation shopping credit.

13 **Q. WHY SHOULD APS UNBUNDLE ITS COSTS SO AS TO SHOW A GENERATION**  
14 **SHOPPING CREDIT?**

15 A. The generation shopping credit is the only way in which customers will know if they have the  
16 opportunity to save on their power bills and whether or not competitors can compete. APS  
17 said in its Consumer Guide to Deregulation that the "market generation credit" will be  
18 separated and shown on their power bills. Obviously, a breakdown of each of those cost  
19 components, as itemized in the billing format under the Rules, is needed so that all APS  
20 customers and competitors can be sure that APS is not overcharging under its regulated rates  
21 and that there is no cost shifting. If there is no shopping credit, customers will be confused  
22 and misinformation will likely occur as to how much savings customers will actually be  
23 receiving. If there is confusion, customers won't switch and there won't be any competition  
24 in Arizona.

25 **Q. WHAT SHOULD BE INCLUDED IN THE GENERATION SHOPPING CREDIT?**  
26  
27

1 A. The generation shopping credit should be based on the full cost of APS's generation costs to  
2 its Standard Offer customers. It should include such items as APS's full cost of energy,  
3 capacity, ancillary services, Must-Run Generating Units, relevant taxes, reserves, transmission  
4 service (or the applicable independent system administrator or independent systems operator),  
5 marketing, and administrative and general costs, and the applicable rate of return. If any of  
6 these costs are left out of the shopping credit, customers who buy competitive generation will  
7 be paying both APS and the alternative provider for those same services. Furthermore, it  
8 subsidizes APS' generation costs and limits or prohibits potential competitors like  
9 Commonwealth from entering the market and attempting to make a small profit.

10 **Q. WHAT OTHER CONCERNS DO YOU HAVE REGARDING APS'S LACK OF**  
11 **UNBUNDLED NUMBERS?**

12 A. General and administrative ("G&A") costs of utilities are significant. Without a cost-of-  
13 service study that shows how those costs are allocated, some G&A costs associated with  
14 generation might be shifted to the distribution charge. APS has created its competitive  
15 affiliate, APS Energy Services, and some of those G&A costs should be reduced because a  
16 part of the marketing and business development personnel, overhead and other costs have  
17 been transferred over to its affiliate. APS retains the unsupervised flexibility of moving those  
18 charges around within the company and between it and APS Energy Services. For example,  
19 if its competitive sales does not go as planned, it might shift some of those people back to  
20 APS or expand its Standard Offer discount marketing efforts. This is not acceptable, and only  
21 a cost-of-service study underpinning the tariffs will prohibit these potential abuses.

22 **Q. WOULD A COST-OF-SERVICE ANALYSIS DELAY COMPETITION?**

23 A. No, but APS uses that argument so that it can get another five years (until July 1, 2004) under  
24 its current rate structure. Given the changes in APS and the electric market in general, those  
25 costs may be significantly different than in the present rates for APS. Furthermore, filing of  
26 the cost-of-service for those regulated services should be readily available from APS  
27

1 management. It would be imprudent for APS to negotiate this Settlement without having  
2 those cost figures. The process could be expedited, and continually monitored to be sure that  
3 there is no cost-shifting among APS's functions (e.g. transmission, distribution and  
4 generation) or between APS's regulated services and its competitive affiliate.

5 **Q. SHOULD CUSTOMERS WITH MORE THAN THREE MEGAWATT USAGE BE**  
6 **REQUIRED TO GIVE APS ONE-YEAR ADVANCE NOTICE BEFORE**  
7 **RETURNING TO THE STANDARD OFFER SERVICE?**

8 A. No. This further illustrates the continued monopoly generation aspects of this Settlement  
9 Agreement. Generation is to be opened to the competitive market. This Section 2.3 exposes  
10 the illusion of this artificial transition to a completely competitive generation market. By  
11 relying on the Standard Offer for big customers, the Settlement really does not foster a full  
12 transition to market-valued generation. The settling customers are merely getting a regulated  
13 tariff break and will likely pursue a special discount from the APS or buy generation from  
14 APS's affiliate. In addition, this Section 2.3 refers to "a direct access supplier" and not to an  
15 Electric Service Provider, which implies that all large customers of more than 3 megawatts  
16 may purchase from non-ESPs. All alternative suppliers should play by the same rules.

17 **Q. SHOULD APS BE ALLOWED TO CHANGE RATES SCHEDULES OR SERVICE**  
18 **TERMS AND CONDITIONS?**

19 A. No, because APS could unilaterally request a rate or term change that drive up costs to keep  
20 competitors out. In Section 2.5 of the Agreement, APS would retain the flexibility of using  
21 excess revenues to make special deals or engage in anti-competitive transactions, or impose  
22 new terms and conditions on alternative suppliers. APS claims this Settlement avoids a rate  
23 proceeding. But APS retains the hammer on customers and competitors in that they must  
24 continue to monitor and challenge changes proposed by APS. Consumers and competitors  
25 should have the same right to request changes to rate schedules and service terms and  
26 conditions so that APS charges its true costs in providing regulated services. This one-sided  
27

1 provision is anticompetitive and against the public interest. As I said before, a rate  
2 proceeding is a must which unbundles APS's functions and before APS charges its monopoly  
3 tariffs to all customers.

4 **Q. SHOULD APS BE ALLOWED TO PASS ITS COST OF COMPETING TO ALL OF**  
5 **ITS CUSTOMERS?**

6 A. Absolutely not. APS is asking the Commission to allow it to accrue and recover electric  
7 competition costs from all of its customers, starting on July 1, 2004. Under this Section  
8 2.6(3), both the standard offer customer and those that purchase competitive service would  
9 be subsidizing APS so that it can compete at a lower cost. This is a proposed break for the  
10 APS shareholders and it reduces customer savings and potential profit margin for  
11 competitors. This is a form of a never ending CTC which would allow APS to create another  
12 profit center while recovering "a reasonable return" on those deferred costs. The Commission  
13 should not allow recovery of any APS costs relating to its transition to competition.

14  
15 **VII. STRANDED COSTS SHOULD BE DETERMINED ONLY AFTER APS**  
16 **UNBUNDLES ITS RATES**

17  
18 **Q. PLEASE EXPLAIN YOUR UNDERSTANDING OF STRANDED COSTS.**

19 A. Under the Arizona Corporation Commission Rules (A.A.C. R14-2-1602.35), it is my  
20 understanding that stranded cost is defined as the "verifiable net difference" between the "net  
21 original cost" of generation assets and the market value of those assets "directly attributable  
22 to the introduction of competition" under the Rules. In addition to generation, stranded costs  
23 might include regulatory assets, fuel contracts and purchased power contracts, as I read the  
24 Rules. I believe that there can be no stranded cost until customers actually leave the APS  
25 generation supply. With all the barriers and anticompetitive conditions in the Rules and  
26  
27

1 Settlement, I don't see how APS could claim it now or will in the future have any stranded  
2 cost.

3 **Q. DOES THE SETTLEMENT INCLUDE THE VERIFIABLE NET DIFFERENCE**  
4 **BETWEEN THOSE GENERATION COSTS AND THEIR MARKET VALUES?**

5 A. No, the Settlement does not list the generation plants' net original costs, nor their market  
6 values. It appears APS and a selected group of the parties merely negotiated a number. Those  
7 figures must be analyzed in the appropriate stranded cost proceeding as previously proposed.

8 **Q. SHOULD APS BE GIVEN A REASONABLE OPPORTUNITY TO RECOVER ITS**  
9 **UNMITIGATED AND LEGITIMATE STRANDED COSTS?**

10 A. Yes, but first the barrier to entry must be dropped and alternative providers must be given a  
11 fair opportunity to compete. Second, there must be a stranded cost proceeding to actually  
12 assess the reasonableness or legitimate nature of the stranded costs claimed by APS in the  
13 Settlement. Those costs cannot be determined until APS unbundles its rates. It would not be  
14 in the public interest for APS to negotiate a speculative stranded cost figure with a few of the  
15 other parties, particularly when all customers will be affected and the CTC might squeeze  
16 competitors out.

17 **Q. SHOULD THE CTC BE FOR A LIMITED PERIOD?**

18 A. Definitely. This Agreement allows for the collection of the competition transition charge  
19 through December 31, 2004. Any amount less than \$350 million net present value that is  
20 unrecovered would be ruled over into a rate increase on July 1, 2004. The Agreement allows  
21 for two CTC charges to be collected for the last 6 months of the year 2004 and then the rate  
22 increase would continue for an unlimited time. The Agreement does not mention how  
23 customers who actually pay the overage or underage would receive the credit or surcharge  
24 during that extended CTC period.

25 **Q. DO YOU SEE OTHER PROBLEMS WITH THIS CARRIER-OVER CTC**  
26 **ARRANGEMENT?**

1 A. Yes, APS customers give an interest-free loan to APS if it over collects the CTC before  
2 December 31, 2004, but if APS under collects then APS gets a reasonable return. APS assumes  
3 no risk and it has no incentive to mitigate its stranded costs. This stranded cost recovery  
4 mechanism is not in the public interest.

5 **Q. WHAT OTHER PROBLEMS DO YOU SEE WITH THE STRANDED COST**  
6 **PROVISION UNDER ARTICLE III OF THE AGREEMENT?**

7 A. APS might be able to sell some or all of its generation above its book value or even the net  
8 original cost basis that is in the Rules. Consequently, most of the generation that APS claims  
9 might be potentially stranded will not occur. As a result, the \$350 million net present value of  
10 stranded costs appear to be very high and perhaps it should be negative - - in which case, APS  
11 should give customers a distribution credit.

12 **Q. HOW WILL THE CTC AFFECT COMPETITION?**

13 A. A higher CTC means there is less "head-room" for generation shopping credits. In other  
14 words, customers save less, shareholders gain more, and competitors earn less or no profit.

15 **Q. SHOULD THE CTC INCLUDE THE REGULATORY ASSET CHARGE?**

16 A. Of course, regulatory assets is one component of a stranded cost as I read the Electric  
17 Competition Rules. That has been the consistent position of the utilities in the past.  
18 Apparently, APS is trying to hide the higher CTC by shifting the regulatory asset charge into  
19 the distribution charge. In essence, APS is raising the distribution charge so that it will not have  
20 to revisit the legitimacy of these regulatory assets, because the distribution charge will continue  
21 until there is a cost-of-service rate case. Customers should know what they are paying for and  
22 why. To hide the regulatory assets within the distribution charge is against the public interest.

23 **Q. DO YOU HAVE OTHER PROBLEMS WITH INCLUDING THE REGULATORY**  
24 **ASSET CHARGE WITHIN THE DISTRIBUTION CHARGE?**

25 A. Absolutely. The APS regulatory assets include coal mining reclamation costs and the financing  
26 of generation, according to APS's testimony. These are generation costs which are subject to  
27

1 competition. This gives APS an anti-competitive advantage in marketing its generation because  
2 all APS customers, including those that might purchase from Commonwealth must pay for  
3 APS's generation cost. This is the type of cost-shifting Commonwealth fears. This cross-  
4 subsidy is clearly anti-competitive. APS is increasing its distribution charge so as to lower its  
5 generation costs so as to keep out competitors and charge higher distribution charges to all  
6 Arizona customers. These regulatory assets must be closely examined and the public should  
7 be assured that they are legitimate and if so, they should be included in the CTC.

8 **Q. DO YOU HAVE ANY OTHER CONCERNS ABOUT THE STRANDED COST**  
9 **PROVISION IN THE AGREEMENT?**

10 **A.** Yes. Section 3.5 says that the Commission's approval would mean an "irrevocable promise"  
11 for recovery of APS's regulatory assets and stranded costs which would survive the expiration  
12 of the Agreement and bind future commissions. As I mentioned before, APS wants to write its  
13 own competition rules. This appears to me as a laymen to be an unlawful delegation of the  
14 Commission's authority to APS and an illegal restriction on the decision making powers of  
15 future Commissioners. It is also not clear why the "irrevocable promise" must extend beyond  
16 this Agreement or how it might relate to future stranded costs or regulatory assets that might  
17 be claimed by APS. This also conflicts with the Commission's position in this proceeding and  
18 the U.S. West Communication case, in which the Commission argued successfully that there  
19 is no regulatory contract. Approval of this Settlement would establish a new precedent with  
20 far reaching implications on claims by other electric utilities and public service corporations  
21 regulated by the Commission.

22  
23 **VIII. AFFILIATE TRANSACTION RULES MUST BE IN PLACE**

24  
25 **Q. YOU EXPRESSED CONCERNS ABOUT THE LACK OF AFFILIATE**  
26 **TRANSACTION RULES. PLEASE EXPLAIN.**

1 A. The Agreement would allow APS to form any affiliate and the Commission would be required  
2 to approve that arrangement. APS could transfer any "competitive service assets" to its affiliate  
3 at book value. I strongly oppose the use of book value. A market-based value must be used  
4 and those assets should be sold at auction or appraised value. If any generation asset is not  
5 sold, the market price for the sold generation could be used in setting the value for unsold  
6 generation assets, such as APS's interest in the Palo Verde Nuclear plants. Any net proceeds  
7 above book value should go to pay down the stranded cost. The way APS has structured this  
8 Agreement, its shareholders would get that benefit and the customers would be saddled with  
9 a higher than otherwise CTC charge. Under the Settlement, APS's shareholders would receive  
10 all the profit if it decides to sell some of its generation. All customers would still have to pay  
11 the high CTC.

12 **Q. DO YOU HAVE OTHER CONCERNS ABOUT THIS CORPORATE STRUCTURE**  
13 **PROVISION UNDER ARTICLE IV IN THE AGREEMENT?**

14 A. Yes, it would grant APS an additional 2 years in which to separate its competitive assets from  
15 the regulated services. What this means is that APS would have until 2003 in which to cross-  
16 subsidize its competitive services. This delay gives APS the option to solicit customers for its  
17 competitive affiliate or make special discount deals to retain them under APS's standard offer.  
18 Depending on where the customer goes, APS can decide how to transfer its assets. This seems  
19 anticompetitive because no other competitor has this option.

20 **Q. WHAT IS YOUR SOLUTION TO THIS CORPORATE STRUCTURE ISSUE?**

21 A. First, APS should not engage in any competitive services until it has functionally separated its  
22 competitive services from the regulated function and until rigid affiliate rules are in place. As  
23 a future competitor, I will be buying "wire" distribution services from APS as well as perhaps  
24 other regulated services. I need to be assured that there is a "brick and mortar" separation  
25 between personnel facilities, information and payments I make to APS as a regulated provider,  
26 as compared to APS as my competitor through its affiliate. Only a fool would deal with a  
27

1 monopoly which controls a majority of my costs and has a competitive affiliate that could  
2 destroy my business without recourse. The affiliate transaction rules must be reinstated so that  
3 we all know what is lawfully permissible.

4 **Q. ARE YOU SAYING THAT FUTURE CODE OF CONDUCT TO BE PROPOSED BY**  
5 **APS IS INADEQUATE?**

6 A. Absolutely. It isn't worth the paper that it will eventually be written on by APS. If the affiliate  
7 transaction rules are not reinstated, the Commission will in essence be asking the "fox to guard  
8 the hen house." APS would never claim it violated its code of conduct. No one would know  
9 if that code was complied with. Competitors and the Commission don't have the resources to  
10 "play word games" over how the APS-drafted code is to be interpreted or enforced.

11 **Q. WHAT IS YOUR IMPRESSION OF APS PURCHASING ELECTRICITY FROM ITS**  
12 **EXEMPT WHOLESALE GENERATOR AFFILIATE AT "MARKET BASED"**  
13 **RATES?**

14 A. Amazement and disbelief come to mind. This illustrates the far reaches of this Agreement.  
15 APS claims that it should be able to shift its generation assets over to a paper affiliate at book  
16 value and buy that generation for its standard offer customers (or special discount customers)  
17 or sell it to its competitive affiliate. APS claims this will not violate Arizona's anti-trust law,  
18 not be an unfair competitive advantage, and be in the public interest. I disagree with all of those  
19 conclusions. Why bother with this bogus arrangement, because it only drives up the CTC  
20 charge which all customers would have to pay for APS's lawyers in preparing that paperwork.  
21 This Section 4.4 illustrates why the Commission should order divestiture of competitive electric  
22 service assets because the monopoly-oriented APS does not understand how market-based rates  
23 are determined through open competition.

1 **IX. APS IS GRANTED COMPETITIVE ADVANTAGES**

2  
3 **Q. WHAT COMPETITIVE ADVANTAGES ARE GIVEN APS UNDER THE**  
4 **AGREEMENT?**

5 A. APS starts out with name recognition in its service area. It can offer discounts or sell  
6 competitive generation through an affiliate in its service area, customers won't really know if  
7 they are buying from APS or its affiliate. Only APS will know how the costs are being shifted  
8 to grant those discounts. Residential customers will likely bear higher costs if APS gives special  
9 deals to preferred customers. APS could give a standard offer discount to a customer in its  
10 service area and then sell generation through its competitive affiliate to that customer's business  
11 which are in the Salt River Project's or Tucson Electric Power Company's service area.

12 **Q. ARE THERE OTHER COMPETITIVE ADVANTAGES APS WILL RECEIVE UNDER**  
13 **THE AGREEMENT?**

14 A. Yes, APS's control of all its generation through an affiliate gives it market power. APS is a  
15 major provider of generation in Arizona. It could sell that power to its standard offer  
16 customers, to its competitive affiliate, to retail customers in areas outside of its service area,  
17 to retail customers in California, to competitors, and in the wholesale market. Other  
18 competitors, such as Commonwealth, would likely purchase some power from APS. By  
19 controlling such a large percentage of generation in Arizona, APS could control the price of  
20 competitive generation.

21 **Q. HOW CAN APS GAIN A COMPETITIVE ADVANTAGE BY BEING THE PROVIDER**  
22 **OF LAST RESORT?**

23 A. APS splits the process by setting the competitive transition charge ("CTC") in the Agreement,  
24 but yet the Settlement allows them to market their excess generation subsidized by the CTC to  
25 customers Commonwealth wishes to serve. APS's competitive affiliate is guaranteed a profit.  
26 APS can go back for a rate increase if it cannot sell all of its generation. APS recovers all of  
27

1 its costs relating to electric competition under Article II of the Agreement. APS incurs no risk  
2 in entering the competitive market. To resolve this, all ESPs should be able to sell generation  
3 to Standard Offer customers and APS should not be able to raise any rate during the transition  
4 to full competition. If APS was required to auction its "provider of last resort" asset, it is  
5 conceivable that income would more than offset the stranded costs it is claiming.

6 **Q. DOES APS HAVE A COMPETITIVE ADVANTAGE WITH RESPECT TO DEPOSITS**  
7 **AND TERMINATING ELECTRIC SERVICE?**

8 A. Definitely. APS starts out with inside information on the credit history of a customer. If that  
9 customer is a credit risk, it will keep that customer under its standard offer. If it is a credit-  
10 worthy customer, it will pursue that customer through its competitive affiliate. Under the  
11 Electric Competition Rules, the deposit is not large enough to pay the electric bills if the  
12 customer defaults and ESPs cannot terminate service for nonpayment. This gives APS a  
13 competitive advantage because it has the inside credit status of the customer and it has the  
14 option of serving that customer either under its standard offer or through its affiliate, depending  
15 on the customer's payment and credit history. APS is risk free and only it has these advantages.

16 **Q. IS THERE OTHER CUSTOMER INFORMATION WHICH GIVES APS AN**  
17 **ADVANTAGE?**

18 A. Yes, APS has access to the customers power usage history. By reviewing that history, APS  
19 can target those customers that have attractive load factors or volumes for discount or  
20 competitive sales through its affiliate. That preferred customer list rests solely with APS and  
21 it is anticompetitive because competitors don't have access to that information. Competitors  
22 must guess which customers might have "marketable" load, request written authorization of  
23 that information (which is disclosed to APS), and then try to reach an agreement. Even though  
24 APS claims it will write its own code of conduct, this information might already be shared with  
25 APS's affiliate. All competitors should receive any information, such as prospect lists and

26 customer

1 load data, that APS Energy Services has already received. No future data should be shared  
2 between APS and APS Energy Services, except as required under the Rules.  
3

#### 4 X. DEADLINES

5  
6 **Q. THE AGREEMENT CONTAINS AN AUGUST 1, 1999 DEADLINE FOR**  
7 **COMMISSION APPROVAL, WHAT IS YOUR OBSERVATION?**

8 A. APS and the other settling parties want to limit public input. As I mentioned earlier, APS is  
9 writing its own rules through this Agreement. The Commission has taken several years to make  
10 sure that everyone would have a fair opportunity to choose and compete. Because of all the  
11 barriers and anti-competitive effects, it is apparent that the settling parties do not want to give  
12 anyone enough time to assess the full impact of this Agreement. If it remains unmodified, it will  
13 bind future Commissioners through the year 2004 and beyond. These are far reaching  
14 consequences. APS, of course, would not like to give up the competitive advantages it has  
15 created for itself in this Agreement.

16 **Q. WHAT WOULD HAPPEN IF THE COMMISSION WOULD MODIFY THIS**  
17 **AGREEMENT OR NOT MEET THE AUGUST 1, 1999 DEADLINE?**

18 A. Settlements are negotiated all the time. This is the second written Agreement APS has  
19 negotiated in the last few months. Before there is a settlement, APS must negotiate with  
20 alternative providers, particularly those that have a serious interest in marketing to all customers  
21 in Arizona. This Settlement has not considered the impacts on competition, because it has not  
22 included providers with experience in the electric competitive market. Consequently, the  
23 Commission should reject this Settlement and urge the settling parties to negotiate with  
24 alternative providers and also reinstate the expedited schedule for establishing the stranded  
25 costs, standard offer and unbundled tariffs and reinstate the affiliate transaction rules.  
26  
27

1  
2  
3 **XI. DIRECT ACCESS TARIFFS**

4 **Q. DO YOU HAVE COMMENTS REGARDING THE DIRECT ACCESS TARIFFS?**

5 A. Yes, the "basic delivery service" charge should be eliminated. With unbundled tariffs, there is  
6 no need for noncost-based charges such as this basic delivery service component. APS and the  
7 other utilities should be encouraged to focus on the distribution or other specific service they  
8 are providing and the costs associated with that service. This is the only way to force APS to  
9 focus on cost efficiencies. Allowing these fringe extra charges encourages cost-shifting and the  
10 padding of expenditures. If this charge is made on all residential customers, APS would be  
11 collecting an extra \$6.85 million per month without attributing that charge to any function.  
12 This is a windfall to APS's shareholders and should be rejected as not being in the public  
13 interest.

14 **Q. HOW DO THESE DIRECT ACCESS TARIFFS ADDRESS THE GENERATION  
15 SHOPPING CREDIT?**

16 A. The direct access tariffs do not include a generation shopping credit. APS apparently does not  
17 wish to disclose how much unbundled generation costs are actually being paid by its customers.  
18 As I mentioned before, an actual cost-of-service study to unbundle these transmission,  
19 distribution, generation, and other activities performed by APS is needed. Otherwise, APS  
20 could have manipulated those costs. The public needs to know if these total costs add up.  
21 Customers need to be able to make an informed comparison of these unbundled elements and  
22 be assured that they will pay the same – except for that component they might purchase from  
23 a competitor. The Commission needs to perform its obligation to the public in assuring them  
24 that these regulated rates are "just and reasonable" and not use numbers negotiated by APS  
25 with a couple selected parties.

26 **Q. WHAT ARE YOUR OBSERVATIONS REGARDING THE METERING, METERING  
27 READING OR CONSOLIDATED BILLING CREDITS?**

1 A. These credits are meaningless. The billing credit is 30 cents per month, not even enough to  
2 cover the cost of a postage stamp. APS's billing costs per customer are obviously more than  
3 30 cents per month. Edison in California uses \$1.41 per month and it has been proven that  
4 amount doesn't cover the billing costs of personnel, paper, postage and overhead. APS should  
5 not be able to use these arbitrary credits, it should credit customers the full allocated cost-of-  
6 service associated with each of these metering, meter reading, or consolidated billing functions.  
7 This low billing credit clearly shows that APS has shifted some of those costs to some other  
8 function.

9 **Q. WHAT ARE YOUR COMMENTS ABOUT THE DIRECT ACCESS GENERAL**  
10 **SERVICE TARIFF?**

11 A. The rate structure is too complex. It does not give a clear price signal to customers because  
12 of the staging of kilowatt and kilowatt per hour costs. As I mentioned previously, the basic  
13 delivery service charge must be deleted because it is not reflective of any costs directly incurred  
14 by APS.

15 **Q. IN REFERENCE TO THE EXTRA LARGE GENERAL SERVICE DIRECT ACCESS**  
16 **TARIFF, WHAT ARE YOUR COMMENTS?**

17 A. Again the basic delivery service charge should be deleted as corresponding to any actual cost-  
18 of-service performed by APS and allocated to a particular function.

19  
20 **XII. CONCLUSION AND SUMMARY**  
21

22 **Q. SHOULD THE COMMISSION APPROVE THIS AGREEMENT WITHOUT**  
23 **MODIFICATION?**

24 A. No, the Commission should reject this APS Settlement Agreement in its entirety. It could then  
25 encourage those self-appointed settling parties to negotiate with all interest groups, and in the  
26  
27

1 meantime, the Commission should establish the hearing schedule on APS's unbundled tariffs  
2 and stranded costs.

3 **Q. SHORT OF REJECTING THE SETTLEMENT IN TOTAL, PLEASE SUMMARIZE**  
4 **YOUR CONCLUSIONS AND RECOMMENDATIONS.**

5 A. I recommend that the Settlement Agreement be modified with these changes:

- 6 1. Customer Access (Sec. 1.2): All APS customers should have immediate access to  
7 electric competition, not just a few, on the effective date of the Settlement. APS's self-  
8 imposed limits conflicts with the Rules. The Rules should include the third-party oral  
9 verification process so that customers can easily switch to alternative providers.
- 10 2. Unbundled Tariffs (Sec. 2.1): All costs of APS must be clearly defined so that  
11 customers are assured that they are paying the true cost for services they purchase from  
12 APS. This requires a current cost-of-service analysis subject to the ratemaking  
13 procedures of the Commission which could occur in an expedited manner. The  
14 transmission and distribution charges must be the same for unbundled Standard Offer  
15 rates and the Direct Access rates. There must be a pro rata cost allocation, including  
16 G&A, overhead and allowed return, on both the unbundled Standard Offer rates and the  
17 Direct Access rates.
- 18 3. Generation Shopping Credit (Art. II): APS should not be able to set its own distribution  
19 rates by not disclosing what its costs of generation is for standard offer customers. The  
20 standard offer must be unbundled so that the appropriate costs for distribution,  
21 transmission, generation and other services are clearly segregated. Otherwise  
22 competitive customers will likely be subsidizing the generation costs of APS which it  
23 might sell back to its standard offer customers or to other customers in or outside of  
24 Arizona.
- 25 4. Stranded Costs (Art. III): Selection of the \$350 million stranded cost figure does not  
26 relate to any prior evidence or testimony in these proceedings. Substantial evidence and  
27

1 testimony indicate that APS may have negative stranded costs associated with its  
2 generation. The Commission should determine the assumptions and basis any stranded  
3 cost recovery, after it has unbundled the functional costs of APS and conducted a  
4 hearing on stranded costs.

5 5. Regulatory Assets (Art. III): Regulatory assets must be verified and included as part  
6 of the competitive transition charge, not as a component of the distribution charge.

7 6. Affiliate Transaction Rules (Art. IV): The recently deleted affiliate transaction rules  
8 should be reinstated. APS should not be able to compete, either by offering discount  
9 rates to standard offer customers or through its competitive affiliate, until those affiliate  
10 rules are in place and the rates are unbundled as indicated above.

11 7. Divestiture of Generation Assets (Secs. 4.2 & 4.4): APS should be prohibited from  
12 transferring its generation assets to a “paper” affiliate. APS should be required to divest  
13 itself of generation assets, by auction and appraisal, so as to avoid the market power  
14 retained by APS in its service area and Arizona in general.

15 8. Waiver of Commission Statutes (Sec. 4.3): Arizona laws pertaining to APS should not  
16 be waived, and Commonwealth questions whether or not the Commission has the  
17 authority to waive laws passed by the Arizona legislature that protect consumers and  
18 competitors.

19 9. Arizona Statutes and Commission Rules (Sec. 7.1): The Arizona statutes and  
20 Commission rules should control, not the terms and conditions negotiated by APS with  
21 a few of its customers.

22 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

23 **A.** Yes, it does.  
24  
25