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BEFORE THE ARIZONA CORPORATION COMMISSION

HEARINGS  
AZ CORP COMMISSION

Aug 5 4 25 PM '99

Arizona Corporation Commission

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DOCKETED

Chairman

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Commissioner

WILLIAM A. MUNDEN

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*WAM*

Commissioner

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

) DOCKET NO. E-10345A-98-0473

IN THE MATTER OF THE FILING OF ARIZONA PUBLIC SERVICE COMPANY OF UNBUNDLED TARRIFS PURSUANT TO A.A.C. R14-2-1602 ET SEQ.

) DOCKET NO. E-10345A-97-0773

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

) DOCKET NO. RE-00000C-94-0165  
) **POST HEARING BRIEF OF NEV  
) SOUTHWEST, L.L.C.**

NEV Southwest, L.L.C. ("NEV Southwest"), through undersigned counsel, submits this Post-Hearing Brief concerning Arizona Public Service Company's ("APS") Settlement Agreement dated May 17, 1999 ("Settlement Agreement") in the consolidated matters captioned above. In support hereof, NEV states as follows.

**I. INTRODUCTION.**

Although NEV Southwest had limited discussions with APS and other parties, it was not party to the negotiations which resulted in the proposed Settlement Agreement. It was also apparent from opening comments of PG&E Energy Services and the testimony of APS witness Jack Davis that virtually all ESPs who have shown an interest in serving in Arizona were excluded from the negotiations. Staff appeared to be excluded as well.

1           Consequently, the concerns of Staff and potential competitors -- which were directed at  
2 ensuring a vibrant, competitive energy market in Arizona -- were not adequately addressed in  
3 the Settlement Agreement. As a result, NEV Southwest does not believe the Settlement  
4 Agreement as proposed is in the public interest because it will not foster a viable competitive  
5 market or provide meaningful benefits to customers who choose competition. NEV Southwest  
6 would support the Agreement only with the changes recommended herein.

7 **II.    NEV'S SPECIFIC CONCERNS ABOUT THE SETTLEMENT AGREEMENT.**

8           **A.    Competitive Shopping Credits Are Too Low.**

9           As discussed in its filed comments, NEV Southwest believes the proposed generation  
10 shopping credits are too low for many customers to enjoy any meaningful benefit from  
11 competition. This conclusion was shared by other parties to these proceedings, including Staff,  
12 Enron, PG&E and Commonwealth. It appears that the proposed shopping credits provide low  
13 savings for many customers and, in some cases, appear to be lower than the typical wholesale  
14 cost of energy.  
15

16           APS has approached unbundled rates and stranded costs from a bottom-up approach, as  
17 opposed to a market generation credit method. In this approach, separate unbundled charges are  
18 determined for various components of electric service including distribution, metering, meter  
19 reading, billing, transmission, ancillary services, system benefits, and the charge for stranded  
20 cost (CTC). The embedded generation charge (above stranded cost) is therefore not computed  
21 directly. Rather, it consists of what is left over after subtracting all other charges from the total  
22 standard offer rate.  
23

24           The level of the shopping credit is critical to competition because it determines the  
25 potential savings for a customer who chooses to access the competitive market. The potential  
26 savings from competition is the shopping credit compared with the generation price that a  
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1 competitive supplier will offer. This competitive price will include the competitive wholesale  
2 generation cost plus a margin to cover additional costs and return.

3 If the potential savings are at least moderate, then more customers will be enticed to  
4 choose competition, and the electric market in Arizona will be given a good, healthy launch. If  
5 potential savings are very low or negative then few customers will choose a competitive option  
6 and the competitive electric market in Arizona will flounder.

7 In his rebuttal testimony, APS witness Jack Davis charged that higher shopping credits  
8 would simply mean higher profits for competitive suppliers. NEV Southwest strongly  
9 disagrees. Our experience in other states shows that increased credits translate directly into  
10 higher customer participation in the competitive market and, therefore, higher customer savings.  
11 Thus, NEV Southwest supports the increased shopping credits recommended by Staff.

12 Staff, however, recommended that the increased shopping credits be financed through a  
13 longer recover period for stranded costs. NEV Southwest does not support this solution because  
14 it would unduly delay the long-term benefits of competition. Furthermore, the standard offer  
15 should be a passive safety net for customers who cannot find a competitive provider.  
16

17 The standard offer may be needed for many residential customers for a period of time.  
18 Residential customers may be slower to move to competition due to lack of awareness, lower  
19 perceived benefits, or a higher level of uncertainty. In addition, some competitive suppliers  
20 may not aggressively pursue this market due to the higher costs of customer acquisition, energy  
21 supply and delivery, and operations. Therefore, NEV supports reductions in the standard offer  
22 rate for residential customers.  
23

24 On the other hand, commercial and industrial customers are not likely to have the same  
25 concerns or reluctance to access the competitive market. Therefore, standard offer rate  
26 reductions are not as necessary for those customer segments. NEV Southwest recommends that  
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1 the proposed rate reductions for non-residential customers be scaled back or eliminated. The  
2 excess funds should be used to finance a higher shopping credit for commercial and industrial  
3 customers.

4 **B. Credits For Revenue Cycle Services Are Not Fair.**

5 As discussed in its filed comments, NEV Southwest is concerned about the credits for  
6 ESP metering, meter reading, and billing proposed in the Direct Access Tariffs. While we have  
7 not conducted a study on the issue, NEV Southwest suspects that the credits are too low and are  
8 not equal to the concomitant charges in the standard offer tariffs. NEV Southwest's concern is  
9 that competitive customers will not be given a credit equal to APS' cost of providing these  
10 services as reflected in the standard offer tariffs. APS explained, both in the direct testimony of  
11 Alan Propper and in his cross-examination, that the credits competitive customers receive for  
12 revenue cycle services are based on APS' marginal avoided costs of not having to serve that  
13 customer.  
14 customer.

15 NEV Southwest believes this is unfair because competitive customers would pay  
16 substantially higher for the same service compared with standard offer customers. Furthermore,  
17 APS would continue to charge competitive customers a substantial amount for the service (the  
18 embedded cost above the marginal credit) even though the customers are receiving the service  
19 from a competitive supplier. NEV Southwest believes the credits should be closer to APS's  
20 actual cost of delivering these services, which is the fully loaded average cost, not the marginal  
21 avoided cost as proposed.  
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**C. Corporate Structure Should Be Expressly Stated.**

As supported by the cross-examination of Mr. Davis, it appears that APS intends to establish a generation affiliate under Pinnacle West, not under APS. Furthermore, it appears that APS intends to procure generation for standard offer customers from the wholesale generation market as provided for in the pending Competition Rules. The affiliate generation company could bid for APS' standard offer load under an affiliate FERC tariff, but there would be no automatic privilege outside of this market bid. NEV Southwest supports these concepts and recommends that they be explicitly stated in the Settlement Agreement. Our concern over affiliate transactions also applies to the relationship among APS, the affiliate generation company, and APS Energy Services, APS' competitive marketing affiliate. NEV Southwest recommends that APS file an affiliate tariff at FERC to accommodate the transactions between APS, the affiliate generation company, and APS Energy Services.

**D. The One-Year Wait To Return To Standard Offer Should Be Amended.**

As discussed in NEV Southwest's filed comments, the Settlement Agreement proposes that customers above 3 MW be required to give one-year's notice before returning to standard offer service. NEV Southwest believes this is not appropriate and should be excluded from the Settlement Agreement. APS may be concerned that returning customers may cause an unexpected shocks to APS' energy procurement requirements. However, it does not require that industrial customers moving into APS' service territory give one-year's notice before commencing service, even though such customers would create a similar shock. NEV Southwest recommends that a better way to address this concern is to discontinue standard offer service for all customers greater than 3 MW after 2001.

APS may also have a concern that competitive customers could switch back to standard offer service during the summer months when competitive market prices may be high. NEV

1 Southwest recommends that this concern be addressed by discontinuing future standard offer  
2 service as mentioned above.

3 **III. RECOMMENDATIONS.**

4 NEV would support the Agreement with the following recommended changes:

5 1. Increase the shopping credits to a level which provides meaningful savings to  
6 competitive customers. NEV supports the levels recommended by Staff.

7 2. Finance the increased shopping credits by reducing or eliminating the proposed  
8 rate reductions for commercial and industrial customers, while keeping the residential rate  
9 reduction as proposed.

10 3. Increase the credits for revenue cycle services such as metering and billing. The  
11 credits should be closer to APS's actual cost of delivering these services, which is the fully  
12 loaded average cost, not the marginal avoided cost as proposed.

13 4. Expressly state APS's intentions regarding its corporate structure as discussed  
14 herein.

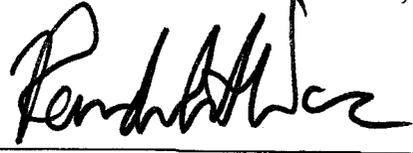
15 5. Eliminate the requirement that customers with more than 3 MW of load give  
16 one-year's notice before returning to standard offer service. Instead, standard offer service  
17 should be eliminated for this customer class after 2001.

18 **IV. CONCLUSION.**

19 NEV Southwest concurs that there are substantial public interest benefits from resolving  
20 the issues addressed herein through settlements between APS and other interested parties,  
21 including NEV Southwest. In particular, a settlement would enable competition to begin sooner  
22 in Arizona than if these issues were resolved through other procedures. While NEV Southwest  
23 does not believe the Agreement as written is in the public interest, it would support the  
24 Agreement with the recommended changes provided herein.  
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1 RESPECTFULLY SUBMITTED this 5th day of August, 1999.

2 ROSHKA HEYMAN & DeWULF, PLC

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1 **Original and ten copies of the foregoing**  
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