

BEFORE



0000120728

COMMISSION

32

Jim Irvin  
Chairman  
Renz D. Jennings  
Commissioner  
Carl J. Kunasek  
Commissioner

Arizona Corporation Commission

DOCKETED

FEB 04 1998

RECEIVED  
AZ CORP COMMISSION

FEB 4 4 06 PM '98

DOCUMENT CONTROL

DOCKETED BY	
-------------	--

IN THE MATTER OF THE )  
COMPETITION IN THE PROVISION )  
OF ELECTRIC SERVICES THROUGH- )  
OUT THE STATE OF ARIZONA )

DOCKET NO. U-0000-94-165

ACAA STRANDED COSTS  
REBUTTAL

I. SUMMARY OF ACAA'S COMMENTS

- While ACAA believes that the Rule defines stranded costs adequately and should not be changed, there are some areas which need more detail. It is possible that many of these details can be proscribed by order rather than a rule change.
- It is likely that only loose generic policies with wide parameters can be established unless the Commission and interested parties know the magnitude of stranded costs.
- ACAA suggests that it is possible to reach some compromise where the utilities get a reasonable degree of specifics in order to file at least an estimate of their stranded costs so this docket can go forward and decisions can be made to fairly balance the public interest with that of the utilities.
- ACAA disagrees with the Attorney General on their assertion that a wires charge is not an acceptable recovery mechanism for stranded costs because it would tend to limit competition by discouraging consumption. Basing a wires charge on actual consumption makes an important consumer connection; they pay for what they use. Any charge which is meters based, generally has a more negative effect on low-income consumers and other low-use consumers. They end up paying more than their fair share. They are effectively penalized for low use. From an environmental perspective, it is in the public interest to continue to encourage energy conservation. Arizona should not undermine the environment at the expense of developing and encouraging a free market.

- As we move closer to competition, a price cap is one of the most important benefits available to small consumers. ACAA has maintained that in a competitive market, there are many uncertainties and risks for small consumers. A price cap is one way to mitigate those risks. The Commission has it within their power to assure consumers of this critical benefit. Indeed, most of the parties support a price cap. Proponents of competition have said loudly and repeatedly that it will reduce prices for consumers. Therefore, there should be no opposition to a price cap. If there is, then perhaps we should be looking even closer at how small consumers could end up with the short end of the stick.
- ACAA supports the Staff position that if significantly less than 100% recovery is allowed, then a true up is not needed. And further, ACAA supports the position of Staff, Arizona Consumers Council (Cooper) and Arizonans for Electric Choice (Higgins), among others, which suggests that the optimum and maximum mitigation incentive is to allow less than 100% recovery.

## II. REBUTTAL

### **Issue 1: Rule Change**

While ACAA believes that the Rule defines stranded costs adequately and should not be changed, there are some areas which need more detail. It is possible that many of these details can be proscribed by order rather than a rule change. ACAA supports Enron's suggestion (p 25, L 16) that it is not appropriate nor should it be allowable for a utility to recover the lost revenues or the costs of special discount contracts through a stranded cost non-bypassable charge.

The Attorney General proposes changing the Rule to require licenses rather than a CC&N to encourage competition. ACAA believes that consumer protection is paramount and that if the Commission considers adopting this change that it do so with great care and deliberation. In the rush to facilitate ease of entry into the market for suppliers, consumers must not be sold out.

Enron (p 26, L 18), AUIA, AEPCO, ascertain that all customers should pay stranded costs, not just those in the competitive market, and suggests that the rule be modified to express that. ACAA believes that no such change is needed since customers not in the competitive market are and will be paying their share of stranded costs through their standard offer bundled rate. Opening the door for double dipping recovery from captive customers must be resisted and reducing the existing consumer protections in the Rule must be avoided. However, it is

acceptable to clarify that standard offer, bundled bills should contain unbundled line items, which would validate the amount recovered for stranded cost charges.

City of Tucson suggests (Coyle P 5, L 33) that the ACC order the utilities to file estimates of stranded costs before testimony concludes in this docket. ACAA agrees because it is likely that only loose generic policies with wide parameters can be established unless the Commission and interested parties know the magnitude of stranded costs. The impact of stranded costs on customer bills is vital to good public policy development.

City of Tucson (Coyle P 7, L 23) suggests changing the Rule (R-14-2-1607 A) to replace unmitigated with unmitigable. ACAA agrees with this change to clarify the level of effort required by utilities in mitigating stranded costs and proof of mitigation.

City of Tucson (Coyle P 10, L 7) raises concerns about a cost shifting issue by bill savings being offset by increases to taxes. ACAA strongly supports the City's position. Consumers should not be sold a political bill of goods which is essentially a bait and switch tactic that costs them more in the long run.

City of Tucson (Coyle P 5, L 6) recommends that the Rule be clarified that utilities do not have a automatic right to 100% full recovery based on the regulatory compact nor should consumers pay 100%. ACAA is in support.

### **Issue 2: When should utilities file?**

AEPCO states that filing is not possible without specifics in the Rule. City of Tucson, among others, believes it is impossible to determine public policy without knowing the magnitude of stranded costs. Neither the Commission nor interested parties have enough information about the magnitude of stranded costs to suggest or make prudent policy decisions. The only parties who know for sure what the range of stranded costs could be are the utilities. Participating in this docket is rather like playing blackjack, with the utilities as the dealer. They can see our cards, but we can't see all of theirs. The rest of us are just guessing when to hit or stay. ACAA suggests that it is possible to reach some compromise where the utilities get a reasonable degree of specifics in order to file at least an estimate of their stranded costs so this docket can go forward and decisions can be made to fairly balance the public interest with that of the utilities.

### **Issue 3: What costs should be included and how should they be calculated?**

ACAA supports the position of several parties that calls for net calculation of stranded costs and that stranded costs should be eligible for recovery only if they are deemed to have been economic. This requires the utility to take responsibility for its uneconomic decisions.

ACAA opposes the net revenue lost approach and the stock market approach to calculating stranded costs and supports the position of Arizona Consumers Council (Sterman, P 3).

**Issue 4: Limitation on calculation period?**

No position.

**Issue 5: Limitation on recovery period?**

ACAA supports the City of Tucson (Coyle P 32, L 28) recommendation that the time period for recovery be decided after the utilities have filed stranded costs estimates. It is difficult to say how long the recovery period should be without knowing how much we are talking about. However, in general, most of the parties agree that five years is acceptable.

**Issue 6: Who should pay and how; any exclusions?**

ACAA disagrees with the Attorney General on their assertion that a wires charge is not an acceptable recovery mechanism for stranded costs because it would tend to limit competition by discouraging consumption. Basing a wires charge on actual consumption makes an important consumer connection; they pay for what they use. Any charge which is meters based, generally has a more negative effect on low-income consumers and other low-use consumers. They end up paying more than their fair share. They are effectively penalized for low use. From an environmental perspective, it is in the public interest to continue to encourage energy conservation. Arizona should not undermine the environment at the expense of developing and encouraging a free market.

**Issue 7: Should there be a true-up?**

Depending on the method selected for calculating stranded costs a true-up may not be necessary. ACAA supports the Staff position that if significantly less than 100% recovery is allowed, then a true up is not needed.

**Issue 8: Should there be a rate cap/price freeze?**

As we move closer to competition, a price cap is the one of the most important benefits available to small consumers. ACAA has maintained that in a competitive market, there are many uncertainties and risks for small consumers. A price cap is one way to mitigate those risks. The Commission has it within their power to assure consumers of this critical benefit. Indeed, most of the parties support a price cap. Proponents of competition have said loudly

and repeatedly that it will reduce prices for consumers. Therefore, there should be no opposition to a price cap. If there is, then perhaps we should be looking even closer at how small consumers could end up with the short end of the stick.

**Issue 9: What factors should be considered for mitigation?**

ACAA supports the position of Staff, Arizona Consumers Council (Cooper) and Arizonans for Electric Choice (Higgins), among others, which suggests that the maximum mitigation incentive is to allow less than 100% recovery.

Kevin Higgins also suggests using profits from non-regulated activities for mitigation; but the Attorney General disagrees. ACAA suggests that profits generated through use of facilities paid for by ratepayers should be shared with ratepayers by using those profits to mitigate stranded costs.

**Original and ten copies of the foregoing filed this 4<sup>th</sup> day of February, 1998 in**

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

**Copies of the foregoing delivered this 4<sup>th</sup> day of February, 1998 to:**

Jerry L. Rudibaugh  
Chief Hearing Officer  
Arizona Corporation Commission  
1200 West Washington Street  
Phoenix, AZ 85007

James M. Irvin  
Chairman  
Arizona Corporation Commission  
1200 W. Washington  
Phoenix, AZ 85007

Carl J. Kunasek  
Commissioner  
Arizona Corporation Commission  
1200 W. Washington  
Phoenix, AZ 85007

Renz D. Jennings  
Commissioner  
Arizona Corporation Commission  
1200 W. Washington  
Phoenix, AZ 85007

Paul Bullis  
Chief Council  
Arizona Corporation Commission  
1200 West Washington  
Phoenix, AZ 85007

David Jankovsky  
Interim Utilities Division Director  
Arizona Corporation Commission  
1200 West Washington Street  
Phoenix, Arizona 85007

**Copies of the foregoing mailed this 4<sup>th</sup> day of February, 1998 to:**

Christopher Hitchcock  
Hitchcock, Hicks and Conlogue  
P.O. Box 87  
Bisbee, AZ 85603-0087

Michael Grant  
Gallagher & Kennedy  
2600 N. Central  
Phoenix, AZ 85004-3020

Roderick McDougall, City Attorney  
Jesse Sears, Assistant Chief Counsel  
200 W. Washington St., #1300  
Phoenix, AZ 85003-1611

William J. Murphy  
200 W. Washington St., #140  
Phoenix, AZ 85003-1611

Andrew Bettwy  
Southwest Gas Corporation  
5241 Spring Mountain Road  
Las Vegas, NV 89102

Debra Jacobsen  
Southwest Gas Corporation  
5241 Spring Mountain Road  
Las Vegas, NV 89102

Suzanne M. Dallimore  
Anti-Trust Unit Chief  
Department of Law Building  
1275 West Washington Street  
Phoenix, AZ 85007

Norman J. Furuta  
Engineering Field Activity West  
Naval Facilities Engineering Command  
900 Commodore Dr., Building 107  
San Bruno, CA 94066-5006

Carl W. Dabelstein  
2211 E. Edna Ave  
Phoenix, AZ 85022

Michael Block  
Goldwater Institute  
Concourse Level  
201 N. Central  
Phoenix, AZ 85004

Larry K. Udall  
AZ Municipal Power Users  
2712 N. 7th Street  
Phoenix, AZ 85006-1090

Jessica Youle  
Salt River Project  
P.O. Box 52025 - PAB 300  
Phoenix, Arizona 85072-2025

Lawrence V. Robertson Jr.  
Munger Chadwick PLC  
333 N. Wilmot, Suite 300  
Tucson, AZ 85711-2634

Tom Broderick  
PG & E Energy Services  
6900 E. Camelback Rd. # 700  
Scottsdale, AZ 85251

Lex Smith  
Michael Patten  
Brown & Bain PC  
2901 N. Central Avenue  
Phoenix, Arizona 85001-0400

Deborah Scott, Chief Counsel  
RUCO  
2828 N. Central Ave. Ste. 1200  
Phoenix, Arizona 85004

Craig Marks  
Citizens Utilities Company  
2901 N. Central Ave., # 1660  
Phoenix, Arizona 85012-2736

Vinnie Hunt  
City of Tucson  
Department of Operations  
4004 S. Park Ave., Building #2  
Tucson, AZ 85714

Barbara Klemstine  
Arizona Public Service Co  
Law Department, Station 9909  
P.O. Box 53999  
Phoenix, Arizona 85072-3999

Bradley Carroll  
Tucson Electric Power Compa  
P.O. Box 711  
Tucson, Arizona 85702

Rick Gilliam  
Land & Water Fund of the Rockies  
2260 Baseline, Suite 200  
Boulder, Colorado 80302

Dan Neidlinger  
Neidlinger & Associates  
3020 North 17th Drive  
Phoenix, Arizona 85015

Michael Curtis  
William Sullivan  
Martinez & Curtis, P.C.  
2716 N. 7th St.  
Phoenix, AZ 85006

Douglas Nelson  
7000 North 16th Street  
Suite 120-307  
Phoenix, Arizona 85020

Phyllis Rowe  
Arizona Consumers Council  
6841 N. 15th Place  
Phoenix, AZ 85014

Barbara R. Goldberg  
Office of The City Attorney  
3939 Civic Center Blvd.  
Scottsdale, AZ 85251

Albert Sterman  
Arizona Consumers Council  
2849 E. 8th Street  
Tucson, Arizona 85716

Terry Ross  
Center for Energy and Economic  
Development  
7853 E. Arapahoe Court, Suite 2600  
Englewood, CO 80112

Bill Meek  
President  
AZ Utilities Investors Assn.  
2100 N. Central Ave., # 210  
Phoenix, Arizona 85004

Thomas Pickrell  
AZ School Board Assn.  
2100 N. Central Avenue  
Phoenix, Arizona 85004

Elisabeth S. Firkins  
IBEW L.U. #1116  
750 S. Tucson, Blvd.  
Tucson, AZ 85716

C. Webb Crocket  
Fennemore Craig  
3003 N. Central Ave, # 2600  
Phoenix, AZ 85012-2913

Choi Lee  
Phelps Dodge Corp.  
2600 N. Central Avenue  
Phoenix, Arizona 85004-3014

Russell E. Jones  
O'Conner, Cavanaugh, Molloy, Jones  
33 N. Stone Ave., Suite 2100  
P.O. Box 2268  
Tucson, AZ 85702

Myron L. Scott  
1628 E. Southern Ave. #9-328  
Tempe, AZ 85282-2179

By: Betty & Pruitt  
ACAA

Robert S. Lynch  
340 East Palm Lane, Suite 140  
Phoenix, AZ 85004-4529

Ken Saline  
K.R. Saline & Associates  
P.O. Box 30279  
Mesa, AZ 85201