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May 22, 1998

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Mr. Ray T. Williamson
Acting Director, Utilities Division
Arizona Corporation Commission
1200 West Washington
Phoenix, AZ 85007

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Director of Utilities

Re: Attorney General's Comments to the May 19, 1998 Statement of Position of the Arizona Corporation Commission Staff re: Electric Restructuring

Dear Mr. Williamson:

The following are the Attorney General's comments to the Statement of Position of the Arizona Corporation Commission Staff re: Electric Restructuring.

Page 1:

- After heading "A. Stranded Cost" add an additional goal: "To facilitate competition." Add to the second goal after the words "stranded cost" the words "consistent with the move to competition."

- Last paragraph, at the end of the third sentence, after the words "cause shown" add the words "consistent with facilitating competition."

Page 2:

- At the end of the fourth paragraph, that begins "Special contract customers...", add "No such arrangements shall create barriers to competition."

- Fifth paragraph, at the end of the first sentence, after the words "fair and reasonable" add "and consistent with facilitating competition." Also, add the following new next sentence: "The books and management of the affiliate shall be entirely separate from those of the Affected Utility."

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Page 2 continued:

- The Attorney General's Office objects to the sixth paragraph that begins with "If an Affected Utility can demonstrate..." Preserving a failing firm is entirely inconsistent with competition. Stranded cost recovery after divestiture of generation assets is the remedy.
- After heading "B. Affiliate Rules" add another goal: "To advance competition."

Page 3:

- First paragraph, first sentence, after the word "Utilities" add the words "divest or", before the words "create separate corporate affiliates." In the second sentence, after the word "reasonable" add the sentence: "The books and management of the affiliate shall be entirely separate from those of the Affected Utility."
- In the third paragraph, first sentence, after the words "between the" add "regulated."
- In the fourth paragraph, first sentence, after the word "between" add "regulated."
- Add the following sentence before heading "C...": "The Commission does not intend to regulate non-affiliated competitive firms."
- Add another goal under heading "C. Implementation of Competition": "To eliminate regulatory barriers to competition."

Page 4:

- Add another goal under heading "D. Metering and Billing": "To remove regulatory barriers to competition and to new technology."
- First paragraph, after "1. Metering." Comment: The Commission has no jurisdiction over companies who are not electric service providers but who wish to develop and sell new technology and/or customer services. Limiting those who can provide metering to "agents" of AUs or ESPs is a regulatory barrier to entry. The Commission should set the transitional standards for metering such as capability of taking appropriate power and safety of the connection, but not limit who can provide it or the technology involved.

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Page 5:

- Second paragraph, under "2. Billing." Question: Why must all disconnects and connects go through the Affected Utility? If a competitive firm can manage these, why not allow it to do so, to minimize potential barriers to non-AU firms.

- Last paragraph, why is the "Affected Utility" the provider of last resort? Doesn't this complicate the stranded cost issues and risk continued vertical integration of monopoly utilities? It seems that the fully-regulated distribution companies could contract for power and provide it as a last resort to maximize accountability in the transition.

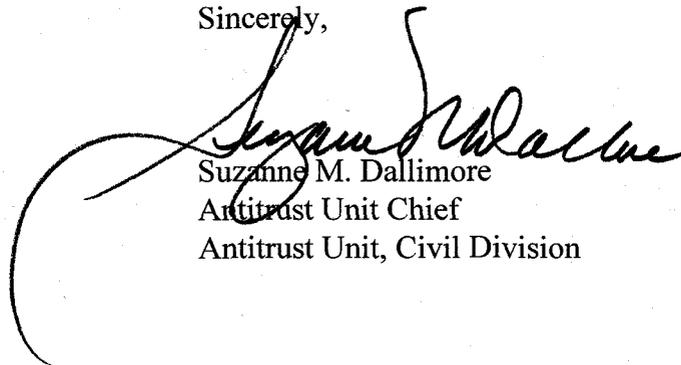
Page 6:

- After first paragraph, add the words "for customers for whom competitive retail service is not available or who choose standard offer."

- After heading "F. Transmission and Dispatch": add to the first goal after the word "non-discriminatory" the word "open."

- At the end of the page add "11. Facilitating competition."

Sincerely,



Suzanne M. Dallimore
Antitrust Unit Chief
Antitrust Unit, Civil Division