

JIM IRVIN
COMMISSIONER- CHAIRMAN
RENZ D. JENNINGS
COMMISSIONER
CARL J. KUNASEK
COMMISSIONER

OPEN MEETING ITEM

EXCEPTION 12

JACK ROSE
EXECUTIVE SECRETARY



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AZ CORP COMMISSION

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ARIZONA CORPORATION COMMISSION

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DOCUMENT CONTROL

June 1, 1998

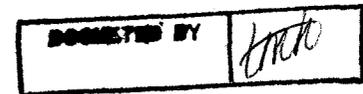
RE-00000C-94-0165

Mr. Ray Williamson
Director, Utilities Division
1200 West Washington
Phoenix, AZ 85007

Arizona Corporation Commission

DOCKETED

JUN 01 1998



Dear Ray:

I'm in receipt of the staff proposal dated May 29, 1998. The transmittal states that the recommendations were developed on a review and consideration of the entire electric competition record. The letter further states that "Staff's proposal has also been influenced by input from various stakeholders." To assist me in consideration of these matters at the scheduled June 3, 1998 Open Meeting, please provide the following to my office **no later than 12 noon, June 2, 1998.**

- 1) Cite and provide relevant copies of the specific Staff testimony, by page and related exhibit, which support your position on generation divestiture, transfer of competitive assets and rate reductions for affected utilities, as well as an economic impact statement on divestiture, which demonstrates it is in the best interest of the Arizona consumer;
- 2) Provide a copy of Staff's economic model or financial analysis, which supports the ability to reduce affected utilities retail rates by 3 to 5 percent, yet simultaneously increase the rate of capital recovery via competitive transition charges for the following: system benefit charges, provider of last resort charges, solar charges, low income assistance charges and, of course, stranded investment;
- 3) For those positions that have been "influenced by input from various stakeholders," identify the specific "position" and the stakeholder group that influenced the Staff position.

Mr. Ray Williamson

June 1, 1998

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As you are no doubt aware, the process used to develop Staff's proposal troubles me. I share the concern of many interested stakeholders that the process may be tainted by illegal communications between Commissioners and Staff regarding agreements on how stranded investment will be resolved. Although my interpretation of the Ex Parte rule is different than that given by general counsel (I believe that stranded investment is part of the rule making exception), I have and will continue to respect the rule and expect others to do so as well.

I am particularly troubled by reports that Mr. Rose represented that he had support from all commissioners for the proposal and at other times, two votes for such a resolution. Contrary to Commissioner Jennings's assertion that there may have been one overstatement, I have heard from a number of parties that such statements were made at different times. To wit: Citizens Utilities, Mike Grant, APS, City of Tucson, Stan Barnes, Greg Patterson, Webb Crockett, Tom Broderick, members of the commission staff and others. As I have said before, either Mr. Rose was not truthful, Commissioner's Irvin and Jennings committed to a proposal without understanding the implications of stranded investment, or there was an illegal communication.

Given the importance of the issue and potential due process violations should the proposal be approved. Additionally, I submit the attached list of questions to help resolve the matter prior to any action being taken by this commission. It is my firm belief that restructuring should be done in the light of day, open to all.

Please have the appropriate parties respond by noon on June 2nd.

Sincerely,



Carl J. Kunasek
Commissioner

CJK/bgm

Enclosures

Questions for Mr. Williamson-

As Acting Director for the Utilities Division, did Mr. Rose direct you to alter the process, that is, bring forward this new proposal?

Were you provided any assurance by Mr. Rose that the Commission Majority supported this new policy?

Did Mr. Dickerson write this proposal?

Did Mr. Dickerson meet with Commissioner's Irvin and Jennings on this proposal?

Does Mr. Dickerson report to you or Mr. Rose?

Questions for Mr. Dickerson-

When did you meet with Commissioner Irvin and Jennings?

Were you directed by Mr. Rose to have those meetings?

What was the nature of those discussions?

Was divestiture discussed?

Are you the author of the May 19th Staff Proposal?

Did you ever discuss the conversations you had with the Commissioners with other members of staff?

Were you directed by Mr. Rose to undertake this process?

Questions for Mr. Grant-

Have you met with Mr. Rose on his new proposal?

Did Mr. Rose indicate he discussed the proposal with Commissioners, and had the Commissioners support for it?

Were there other Utilities Division Staff members present?

Were there other industry representatives present?

Please describe the outcome of the meeting.

Questions for Mr. Post-

Have you met with Mr. Rose on his new divestiture proposal?

Did Mr. Rose tell you that he spoke with the Commissioners and had their support his divestiture proposal?

Were there other Utilities Division Staff members present?

Were other people there?

Please describe the outcome of the meeting.

Questions for Mr. Rose-

What stakeholder groups did you meet with?

How did you select which group to meet with and those that would not be in attendance?

Did you inform any stakeholder group that you had discussed this new staff proposal with the Commissioners and indicate that they were in support of it?

Have you discussed the divestiture proposal with Commissioners Jennings and Irvin?

Did you direct Mr. Dickerson to meet with the Commission Majority to discuss the new divestiture proposal?

Did you direct Mr. Dickerson to try and meet with me for the purpose of discussing the Divestiture proposal?

What analysis and support from the record of evidence are you citing to support this new divestiture proposal?

You indicated in meetings that you had support for your proposal, how was that support given and what was it for?

Questions for Craig Marks of Citizens Utilities

Have you or a representative of your company met with Mr. Rose to talk about his proposal, specifically to discuss divestiture and stranded investment?

Did Mr. Rose provide any assurance that he met with Commissioners and had their support for his divestiture proposal?

Are you aware of other parties that had a similar experience with Mr. Rose?