

OPEN MEETING ITEM

EXCEPTION

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

JACK ROSE
EXECUTIVE SECRETARY



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MEMORANDUM

TO: All Parties to the Electric Deregulation Docket
FROM: Commissioner-Chairman Jim Irvin *[Signature]*
DATE: June 1, 1998
RE: Stranded Cost Issue; RE-00000C-94-165

Arizona Corporation Commission
DOCKETED

JUN 01 1998

DOCKETED BY *[Signature]*

I am sadly disappointed that Commissioner Kunasek and his assistant, Jerry Porter, have chosen to make baseless accusations in their attempt to undermine the process of restructuring the electric industry within the state of Arizona. Like Commissioner Jennings, I know of no instance where any provision of the state's strict Open Meeting law was violated by either myself, or any other commissioner for that matter.

The stranded-cost docket matters are subject to the ex-parte communication rule, meaning that I am not allowed to discuss the issue with my fellow Commissioners, or members of staff, outside of a formally noticed Open Meeting. I have done nothing to violate this rule. But to further suggest -- as Commissioner Kunasek insinuates -- that I have violated the Open Meeting law by discussing with staff, or any party or members of the public, issues (outside stranded-cost docketed matters) relating to proposed changes to the Commission's current restructuring rules, displays an inherent misapplication of the Open Meeting law. As I have declared numerous times; staff must take the initiative and develop a proposal so that we -- all participants -- can discuss facts and figures instead of theories and ideas.

I do not care to reiterate the statements offered by Commissioner Jennings in his May 26, 1998 memorandum on this topic. I can only add that I encouraged staff, along with Executive Secretary Jack Rose, to discuss with members of the Legislature and other interested parties, some compromise that would blend the two approaches into one workable regulatory regime. Attempting to avoid jurisdictional battles and countless lawsuits seems appropriate if electric competition is to successfully take hold.

I, along with Commissioners Jennings and Kunasek, are serving the people of Arizona at a pivotal time in utility regulation. Competition is only months away, and I am committed to developing a framework which can facilitate implementation of concrete rules for market participants. Our ultimate goal is to ensure cheaper, quality power for all consumers while maintaining system reliability. In this effort, I will continue to focus on substantive issues to promote effective regulatory change. I invite Commissioner Kunasek to do the same. Interestingly enough, Commissioner Kunasek has indicated that he is working on a deregulation plan of his own. As Chairman, I applaud this effort, not only because it can add to our marketplace of ideas, but because it demonstrates what this Commission should be doing; working on solving issues rather than creating new ones.