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Arizona Corporation Commission
DOCKETED

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July 21, 1998

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VIA TELECOPY & HAND-DELIVERY

Mr. Ray T. Williamson
Acting Director
Utilities Division
Arizona Corporation Commission
1200 W. Washington
Phoenix, AZ 85007-2996

A.C.C. - DOCKET CONTROL
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JUL 22 1998

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Re: *Comments on Docket No. RE-00000-C-94-0165; Revised Draft Retail
Electric Competition Rules (R14-2-1601 et al.)*

Dear Mr. Williamson:

We submit these comments on behalf of the following entities represented by this firm:

Aguila Irrigation District
Harquahala Valley Power District
McMullen Valley Water Conservation & Drainage District
Tonopah Irrigation District
Electrical District Number Eight
The City of Safford

None of these municipal utilities is an "Affected Utility" under jurisdiction of the Arizona Corporation Commission (the "Commission"); nevertheless, they and their customers will all be "affected" by the Commission's proposed retail electric competition rules (the "Rules") because they are totally dependent upon an Affected Utility for transmission and/or distribution wheeling services. In that capacity, each will be directly affected by the response of an Affected Utility to any provision of the Rules that allows or mandates new "wires charges."

The specific concern we address here is the inclusion of nuclear power plant decommissioning programs in the definition of "System Benefits" at R14-2-1601.33. Rule

R14-2-1608 calls for non-bypassable rates or related mechanisms to recover System Benefits costs.

It is our strongly held opinion that **nuclear decommissioning costs are not an appropriate subject of "System Benefits" treatment and never should have been.** These are clearly **generation related costs and should be recovered by the same methods as other generation related costs**, whether stranded or otherwise. Allowing recovery through wires charges, for example, means that a substantial number of Arizona electric consumers will be burdened with these costs tacked onto every resource owned or purchased that is delivered over Affected Utility (e.g., APS) wires, even though they have absolutely no interest in and may never purchase a single kilowatt hour of nuclear generation.

Our district clients have recently negotiated FERC-approved contracts with APS under which a stranded cost charge is required by APS from customers being included in the district and migrating from APS retail to district service. That stranded cost charge is negotiated and computed pursuant to FERC Rule 888 guidelines, and addresses all stranded costs related to lost APS retail generation sales to the migrating customer(s).

For example, one of our district clients, ED8, is presently advancing stranded cost payments to APS aggregating nearly \$1 million, in connection with a few customers switching from APS service to district service when they were included within the district (giving them a choice of electric providers). To now allow APS to impose a nuclear decommissioning System Benefits surcharge upon the APS wires by which those same customers are served district electricity is to allow a double recovery of APS generation-related stranded costs.

Nuclear decommissioning costs appear to be a major neglected issue where the Commission is, to use a Biblical phrase, "swallowing camels" at the same time it is "straining at gnats" on other issues of much lesser economic significance in the electric competition rules process. As reflected by the annual reports of participants in the Palo Verde Nuclear Generating Station, the magnitude of these decommissioning costs is enormous -- for example, over \$400 million (in present value dollars) for APS' share, alone! Yet no one seems to be focusing any attention on the inappropriateness of hiding these huge costs, which aggregate into the billions for all of the Palo Verde owners, as System Benefits in a little-noticed category with such relatively insignificant economic impact items as low income assistance, demand side management, renewables and environmental programs.

The anti-competitive effects of allowing nuclear decommissioning costs to be recovered in socialized, monopolized wires charges, rather than with other generation-related costs, should be blatantly obvious. It is our opinion that there are serious legal antitrust implications in this issue. Of course, the owners of Palo Verde want very much to socialize these enormous costs on as broad a base as possible. But they must not be allowed to continue to quietly hide this giant camel on the backs of every customer who may be required to use a Palo Verde owner's wires but not required to purchase Palo Verde energy.

Ray T. Williamson
July 21, 1998
Page 3

We strongly urge reconsideration of both the policy and legal implications of this issue. The time is now is to allocate this generation related burden where it belongs, as a cost of generation from the nuclear facilities. Otherwise, generation from nuclear facilities will be priced at an artificially distorted competitive advantage under other generation not afforded this unfair luxury of shifting and hiding in a wires charge an enormous generation cost. The Commission should confront and remedy this inequity.

Respectfully,



Jay I. Moyes

JIM/lkk

cc: Clients & Representatives
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