

Arizona Corporation Commission
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DISSENTING OPINION

AZ CORP COMMISSION

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**MATTER: In the Matter of the Competition in the Provision of Electric Services
Throughout the State of Arizona**

Deregulation of the generation portion of the electric industry has the potential to reduce customer bills slowly at first and more quickly over time provided the Commission establishes rules that will fairly spread benefits to all classes of ratepayers. Deregulation will of course present challenges for customers, providers and for that matter regulators. For more than 86 years, consumers in Arizona have had no choice in who their electric provider would be. Common sense dictates that such a fundamental change will take time to understand and it's in this infancy period that small consumers are most vulnerable.

At the outset let me say that there is no one way to deregulate that is the right way. Almost any course we choose will be laden with unforeseen challenges and mistakes that will need to be resolved as we move forward in this endeavor. Our challenge as regulators is to understand that as complex as this issue is for us that it is even more confusing to most residential consumers. We must temper our excitement for deregulation with the understanding that too much too soon can be overwhelming and can pose threats of higher rates and less reliable power for many consumers.

The rules passed by this Commission fail in a number of aspects. First, it attempts to do too much too soon. While many consumer advocates insist that residential consumers have access to competitive electricity on the same timeline and terms as large companies such as Intel and the mines the reality is that most are not prepared to make these choices. However, I am in full agreement with all consumer advocates who have insisted on guaranteed rate reductions during the transition period. There must be a shared benefit for small consumers during the time they are held captive.

My proposal provided a modest reduction for small consumers each year they were held captive. It is simply not tenable for us to all but guarantee lower rates to large customers in the formative years while promising only to continue to work with providers to provide similar benefits to small consumers. Further, at the end of two years, it is my view that most consumers will still not be prepared to take advantage of competitive rates and will opt for the standard offer that will provide no additional rate reductions or corresponding benefits.

Second, the issue of stranded investment remains a complex issue with no real decision on what it will be and how much it will cost. It's difficult to evaluate the efficacy of the rule without

having some idea of what the likely cost consequences are for the stranded investment decision. The key with stranded investment is to make the decision as easy as it can be. In Arizona, we are fortunate to have high growth and rapidly depreciating generation facilities. In most cases time heals all wounds. With the exception of Tucson Electric Power (TEP), Arizona utilities can cure their stranded investment problem with an orderly phase in that would include a competitive transition charge (CTC) equal to the difference between the utilities total cost of producing power for the customer less the avoided cost associated with not having to serve the exiting customer. This would be paid by exiting customers during the transition period.

Instead the Commission's decision will require companies to divest or seek transition revenue in order to recover their stranded investment. Divestiture itself can be an expensive undertaking and could end up increasing the level of stranded investment that is to be borne by consumers. Divestiture just doesn't work in most cases. With the exception of TEP, electric providers in this state will most likely seek transition revenue. No one knows what that is nor do we understand what cost components are likely to be recovered. The time for resolving the stranded investment issues starts well before competition begins. To date, we've solved nothing. I fear that in the end we will see numerous lawsuits challenging the level of transition revenue that may later be approved. This could have the effect of putting the deregulation process on a track too slow for all participants.

Third, the solar portfolio is too large. The rate impact could be as much as 6% for customers across the board. Further, the existing requirement at full build out will require more solar than is currently available in all of the Western United States. I offered amendments that would have reduced the cost to consumers by allowing a credit towards the solar requirement for water heating, which in many cases is the single largest use of electricity in the home. Solar water heating is one-fourth the cost of photovoltaics. Further, my approach would have calculated the solar requirement based only on competitive energy sales, thereby further reducing its impact.

Finally, much time and effort has been expended in an effort to bring SRP within the Commission's jurisdiction. The reason given is based on a false premise that in order to have competition we must elevate the cost of power provided by certain utilities such as SRP in order to have a level playing field. This effort extends beyond the rules adopted here at the Commission and includes a plea made by Chairman Irvin to federal authorities to remove all "advantages" that SRP now enjoys. This would have the net effect of increasing rates for some 650,000 power users and two million domestic water users. Instead, our efforts should be focused on reducing rates to create a level playing.

For these reasons I respectfully dissent.