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BEFORE THE ARIZONA CORPORATION COMMISSION

Arizona Corporation Commission

AZ CORP COMMISSION

DC

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COMMISSIONER

SEP 18 3 32 PM '98 SEP 18 1998

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DOCUMENT CONTROL

IN THE MATTER OF THE COMPETITION IN) DOCKET NO. RE-00000C-94-0165
THE PROVISION OF ELECTRIC SERVICES)
THROUGHOUT THE STATE OF ARIZONA) COMMENTS ON PROPOSED FINALIZATION OF
EMERGENCY RULES AMENDING RULES ON
ELECTRIC COMPETITION

Pursuant to the Arizona Corporation Commission's (Commission's) Procedural Order dated August 11, 1998, the Arizona Transmission Dependent Utility Group individually and collectively¹ provides the following initial comments on the proposal to consider finalizing the emergency Rules adopted in August.

EXIT FEE

In its June 22, 1998 Opinion and Order, Decision No. 60977, the Commission stated (p.19):

"Several of the parties expressed an interest in an exit fee that would enable them to make an up-front buy out of their portion of stranded costs. We will order each Affected Utility to develop a discounted stranded costs exit methodology that a customer may choose to determine an amount in lieu of making monthly payments. The methodology should be developed with input from interested parties and approved by the Commission."

¹ Aguila Irrigation District, Ak-Chin Indian Community, Buckeye Water Conservation and Drainage District, Central Arizona Water Conservation District, Electrical District No. 3, Electrical District No. 4, Electrical District No. 5, Electrical District No. 7, Electrical District No. 8, Harquahala Valley Power District, Maricopa County Municipal Water District No. 1, McMullen Valley Water Conservation and Drainage District, Roosevelt Irrigation District, City of Safford, Tonopah Irrigation District, Wellton-Mohawk Irrigation and Drainage District.

1 We reminded the Commission of this provision in the Order this summer
2 before adoption of the emergency Rules. However, the emergency Rules did not
3 make provision for or adopt a provision concerning exit fees. In many
4 situations, especially in rural areas, having this exit fee process will
5 allow minor shifts in customer service without protracted financial
6 implications. Some of these types of transactions are already occurring even
7 before stranded cost rules can be implemented. The Rules need to reflect
8 what the Commission ordered in June. This is especially true now, when we
9 find that Arizona Public Service Company considers making an exit fee
10 proposal within its stranded costs proposal as "impractical" (p.27 -
11 Testimony of John H. Landon, Ph.D., August 21, 1998 attached to APS stranded
12 cost filing). Since APS itself has negotiated one or more exit fees already,
13 this statement is indefensible and in direct violation of the June 22 Order.

13 BURDEN OF PROOF

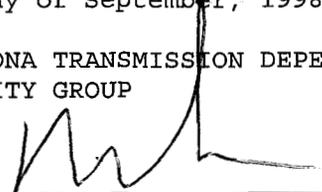
14 We have previously noted that the Rules are totally devoid of guidance
15 on the burden of proof required under various processes that require
16 documentation. The most obvious are stranded costs, mitigation efforts, and
17 systems benefits charges. The definition of stranded costs uses the
18 qualifier "verifiable". R14-2-1601(39). Yet the Rules are devoid of
19 explanation of that concept. Stranded cost estimates must be "fully
20 supported" by analyses and by records. R14-2-1607.C. Systems benefits
21 charges must be supported by "adequate support documentation". R14-2-1608.B.
22 Yet the Commission has stated that Affected Utilities must "demonstrate they
23 have aggressively pursued mitigation efforts. As a result, the Affected
24 Utility has a high burden of proof regarding its mitigation efforts." (June
25 22 Order, p.14) (emphasis supplied). Is there a separate yardstick for
mitigation that is more severe than that for stranded cost estimates? Is
there a lesser burden to demonstrate the adequacy of systems benefits charges
than there is for either stranded costs or mitigation efforts? Should not

1 the utility be held to the same high standard of proof throughout since all
2 of these charges and decisions materially affect rates that will be charged
3 to consumers that cannot be avoided?

4 At the very least, the Rules need to reflect what the Commission
5 ordered in June, that is, that a high burden of proof is required concerning
6 mitigation efforts. Ideally, that high burden of proof would apply across
7 the board to all non-bypassable charges and their elements, such as
8 mitigation efforts.

8 RESPECTFULLY SUBMITTED this 18th day of September, 1998.

9 ARIZONA TRANSMISSION DEPENDENT
10 UTILITY GROUP

11 By 

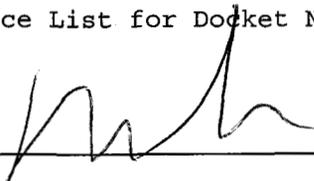
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14 Original and 10 copies of the
15 foregoing filed this 18th day
16 of September, 1998 with:

16 Docket Control
17 Arizona Corporation Commission
18 1200 West Washington Street
19 Phoenix, Arizona

18 Copies of the foregoing mailed
19 this 18th day of September, 1998,
20 to:

20 Service List for Docket No. RE-00000C-94-0165

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