

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



0000121320

JACK ROSE
EXECUTIVE SECRETARY

ARIZONA CORPORATION COMMISSION

A.C.C. - DOCKET CONTROL
Writer's Phone: (602) 542-3935
Fax: (602) 542-0752
Mail: jennings@cc.state.az.us

OCT 16 1998

October 16, 1998

**DOCUMENTS ARE SUBJECT TO
REVIEW BEFORE ACCEPTANCE
AS A DOCKETED ITEM.**

The Honorable Carl Kunasek
Arizona Corporation Commission
1200 W. Washington Street
Phoenix, AZ 85007

Docket No.: T-01051B-97-0689 &
RE-00000C-94-0165

Dear Carl:

What happened to you? You used to be a civil and measured fellow. You have become the most accusatory person I have ever known in government. And, as reluctant as I am to get into an exchange with you, your letter requires a response.

You have wrapped yourself in the mantle of the consumer's friend and professing yourself as their protector. Our records are sufficiently clear that they will not easily be deceived.

How convenient of you to support electric deregulation and then characterize stranded cost recovery as a "bailout (of) more than \$1 billion dollars of alleged uneconomic investment made by Arizona utilities"—those investments (e.g., Palo Verde) which I opposed and you supported. You think your "no" vote will continue to absolve you of any responsibility for determining whether there should be a recovery of any stranded investment.

Unlike you, I have urged staff to enter into discussions with affected parties to work out remaining issues related to restructuring, and there are many. As the Chairman of the FERC recently put it, "you can't be a true believer in competitive markets and an agnostic about market structure." You do not seem to be troubled about the market power problem associated with the vertical structure of utilities in a competitive market. But, it remains a most serious issue. The ability of the incumbent to thwart customers getting access to competitive power, perhaps even more than the stranded cost issue, will determine how successful the move to competitive markets will be. And, yes, I have asked and received briefings from staff on the purpose and progress of these discussions. I understand that you refuse to do so. I realize that this allows you to perpetuate the notion that you are out of the loop.

As you no doubt recall, I have told you privately and publicly that it's important to define the appropriate role of the Executive Secretary. In one sense the role is whatever the Commission decides his role is. But, if the role is going to be advisor to the Commissioners, then there shouldn't be a role in directing staff. The role ought to be clear. I have encouraged Jack Rose to participate with staff in settlement discussions with electric utilities related to restructuring. I have not encouraged him,

Commissioner Carl Kunasek

October 16, 1998

Page Two

nor do I want the Executive Secretary to be involved in settlements with U.S. West. And, there is a good reason. He basically supports your view and Commissioner Irvin's view on imputed revenues, PBOPS, loop costs, the relationship of the business loop vs. residential loop, and now possibly accelerated depreciation of plant, all of which means significantly higher rates. You have been laying the foundation for a Wyoming-type result where rates went from \$5 and change to \$45 and change in one fell swoop. Speaking of colors, you will have an opportunity to show your colors on the proposed depreciation settlement. You and I voted to require U.S. West to file a rate case. Why should the Commission limit its flexibility in the rate case, by deciding depreciation in advance?

When you directed a settlement behind closed doors with Lindy and Jack, that ended up buying off U.S. West by settling a law suit our lawyers said we would win, you did not raise a peep about that process. Now that you are not on good terms with Jack and Commissioner Irvin, all of the sudden these kind of negotiations are scandalous. There is one difference, and I believe it led to your falling out with Jim Irvin. When you were chairman, you alone decided what the role of the Executive Secretary was. At least on electric restructuring, a majority of Commissioners have decided what the role of the Executive Secretary should be.

In your letter you went on to accuse me of leaking a settlement document, as you put it, "to your Democrat toady, Jon Poston." Jon Poston served as this Commission's public information officer honorably for thirteen years. And, of course he left the Commission because he was on your "hit list." After your four years at the Commission, how can you not know that when settlements are proposed, they are filed in Docket Control and are available to the public? I did not leak anything to Jon Poston.

You suggest that I try to "politicize every item filed in front of this Commission." I guess I can't think of any examples. I think the only one that you may be able to come up with is where I opposed the settlements you entered into with U.S. West and the awful decision that the Commission made with respect to the cost of a loop which even drew a rebuke from Senator John McCain. Do you really expect me to keep silent on such matters? It is my responsibility to criticize decisions that I don't think are in the public interest. It is also why I criticized you for sending out a letter demanding that 41 professional employees submit their resignation after the last election, the effects of which are still being felt in high employee turnover and lowered employee morale. That I have politicized the Commission is a curious charge coming from you. You have repeatedly and publicly criticized Jim Irvin for not hiring more Republicans and by implication for getting along with a Democrat. Certainly it must be worth noting that for the twelve years that the Democrats constituted the majority on the Commission, that half of the top eight positions at the Commission were Democrats and the other half Republicans--that is until you came along and even replaced the Commission Republicans with your Republicans. Jim Irvin has been far more bipartisan in an otherwise nonpartisan agency. I would also note that on many things that I have disliked I have held my tongue. For example, just a few months

Commissioner Carl Kunasek

October 16, 1998

Page Three

after your decision to set the loop costs so high as to virtually ensure against only the most limited competition, Wayne Alcott, U.S. West's top local official, showed up at the top of the list of co-sponsors for a fundraiser for your son, Andy, who doesn't even have an opponent. Isn't there something wrong with that appearance?

In the interest of working relationships, I have limited my criticism of your aide, Jerry Porter, to matters of falsification of the public record, particularly as it pertained to the smear about the quality of water during the last campaign. No one has been more partisan, with your blessing, than Jerry Porter who in effect ran the Irvin campaign and is now running the Tony West campaign. Moreover, I did not publicly criticize you for allowing Jerry Porter to be absent for large blocks of time because he was out acquiring and managing your family's business enterprises and then bragging about all of the new acquisitions. And, like your moonlighting, big-dipper friend, Tony West, he has been doing this all while on the public's payroll.

You characterize Paul Newman as my "handpicked successor for the Commission." I did not hand pick him. I support him for the same reasons that the *Arizona Daily Star* endorsed him..."Newman is bright, idealistic, independent and articulate." And, of course, the candidate and former business associate that you support was characterized by the *Arizona Daily Star* as being "surrounded by an aura of sleaze."

You have also taken one of Mr. Newman's comments out of context. I don't believe his comment is properly interpreted as wanting to change the Open Meeting law so much as trying to figure out a way where Commissioners can work out their personal antagonisms in private so that they don't spill out in public.

And, finally, I have stated previously, that when I knew you in the Legislature you were a courteous gentleman. You have lost your ability to be collegial when you decide that it is a good approach to hurl charges at a colleague by dropping a letter in the mail and then immediately scatter-faxing it to the news media outlets.

Don't you see in any of your own behavior why it has been difficult for Jim Irvin to get along with you?

Respectfully,



RENZ D. JENNINGS
Commissioner

cc: Commissioner-Chairman Jim Irvin
Jack Rose, Executive Secretary