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BEFORE THE ARIZONA CORPORATION COMMISSION

JIM IRVIN
Commissioner - Chairman
RENZ D. JENNINGS
Commissioner
CARL J. KUNASEK
Commissioner

IN THE MATTER OF THE
COMPETITION IN THE PROVISION OF
ELECTRIC SERVICES THROUGHOUT
THE STATE OF ARIZONA.

DOCKET No. RE-00000-C-94-165

Arizona Corporation Commission

DOCKETED

MAY 14 1999

DOCKETED BY	MY
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**ASARCO INCORPORATED, CYPRUS CLIMAX METALS
COMPANY AND ARIZONANS FOR ELECTRIC
CHOICE AND COMPETITION'S WRITTEN COMMENTS
ON PROPOSED ELECTRIC COMPETITION RULES
ISSUED IN DECISION NO. 61634**

May 14, 1999

Submitted by:
FENNEMORE CRAIG
Attorneys for ASARCO Incorporated, Cyprus
Climax Metals Company and Arizonans for
Electric Choice and Competition

1 Pursuant to the Chief Hearing Officer's Procedural Order dated April 21, 1999, ASARCO,
2 Incorporated, Cyprus Climax Metals Company and Arizonans for Electric Choice and Competition
3 (collectively "AECC") hereby file their written comments regarding the proposed Electric
4 Competition Rules issued in Decision No. 61634 on April 14, 1999. Although several of AECC's
5 prior recommendations for modification to the Electric Competition Rules were not adopted by the
6 Corporation Commission, AECC will not restate those recommendations but will incorporate them
7 by reference in these comments. With one additional exception, the rules provide a framework for
8 the restructuring of Arizona's electric utility industry and the introduction of competition in the sale
9 of electric power. This exception involves the Corporation Commission's elimination of the
10 Affiliate Transaction restrictions, formerly R14-2-1616. AECC submits that the Electric
11 Competition Rules must contain Affiliate Transaction rules to provide consumers appropriate
12 safeguards in the competitive marketplace. For this reason, and for the reasons set forth below,
13 AECC joins in and fully supports the separately filed Comments of Enron Corp. Pursuant to
14 Procedural Order filed May 13, 1999, which comments explain the need for Affiliate Transaction
15 restrictions in the Electric Competition Rules.

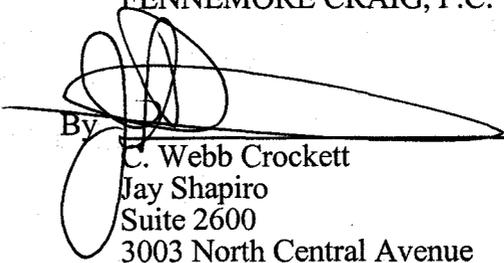
16 Enron correctly points out that the Affiliate Transaction restrictions which have been
17 deleted from the Electric Competition Rules were designed to prevent Affected Utilities from
18 abusing or unfairly exerting market power due to their inherent and historical monopoly positions
19 in Arizona. Such concerns are clearly lessened by requiring an Affected Utility and any marketing
20 affiliate to operate as separate corporate entities keeping separate books and records. In contrast,
21 such concerns are exacerbated by the Corporation Commission's new Stranded Cost rule. That rule
22 does not require Affected Utilities to divest generation assets, leaving Affected Utilities with a
23 tremendous competitive advantage and thus, market power.

24 Although the Electric Competition Rules currently require each Affected Utility to submit a
25 proposed Code of Conduct, Enron's concerns regarding the absence of uniformity among the
26 Affected Utilities' Codes of Conduct are well founded. In the absence of such uniformity,

1 interested persons, including customers and Electric Service Providers, will be left guessing as to
2 which types of activities are allowed for each individual Affected Utility and its affiliates. For
3 these reasons, as Enron points out, both FERC and regulatory commissions in other states have set
4 forth clear standards regarding Affiliate Transaction rules and Codes of Conduct. Therefore,
5 AECC joins Enron Corp. in urging the Corporation Commission to return appropriate Affiliate
6 Transaction rules and Code of Conduct requirements to the Electric Competition Rules. Incumbent
7 utilities must not be allowed to write their own rules of conduct to the detriment of consumers
8 throughout the State.

9 RESPECTFULLY SUBMITTED this 14th day of May, 1999.

10 FENNEMORE CRAIG, P.C.

11
12
13 By 

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16 Suite 2600
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19 Attorneys for ASARCO Incorporated,
20 Cyprus Climax Metals Company, Enron Corp. and
21 Arizonans for Electric Choice and Competition

22 ORIGINAL AND TEN COPIES
23 of the foregoing hand-delivered
24 this 14th day of May, 1999, to:

25 Arizona Corporation Commission
26 Docket Control
1200 West Washington Street
Phoenix, Arizona 85007

27 COPY OF THE FOREGOING
28 hand-delivered this 14th day
29 of May, 1999 to:

30 Jim Irvin
31 Commissioner - Chairman
32 Arizona Corporation Commission
33 1200 West Washington
34 Phoenix, Arizona 85007

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3 Phoenix, Arizona 85007

4 Carl J. Kunasek
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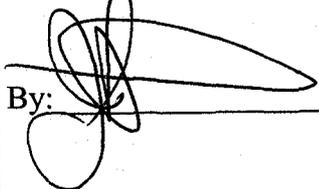
7 Jerry Rudibaugh, Chief Hearing Officer
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16 COPY OF THE FOREGOING
mailed this 14th day of May, 1999 to:

17 RE-00000C-94-0165 Service List

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19 By: _____
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21 910780

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