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June 3, 1999

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**VIA FEDERAL EXPRESS**

Docket Control  
Arizona Corporation Commission  
1200 West Washington  
Phoenix, Arizona 85007-2996

Arizona Corporation Commission

**DOCKETED**

JUN 04 1999

Re: Docket No. RE-00000C-94-0165

DOCKETED BY	<i>MY</i>
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Dear Docket Control:

Enclosed for filing is an original and ten (10) copies of the Reply Comments of the Center for Energy and Economic Development and Western Fuels Association, Inc..

In addition, we have enclosed an additional copy of the Reply Comments to be stamped "filed" and returned to us in the self-addressed envelope we have provided.

Thank you.

Sincerely,

Daneé Gaines  
Law Clerk

cc: Service list

**BEFORE THE ARIZONA CORPORATION COMMISSION**

IN THE MATTER OF COMPETITION IN ) DOCKET NO. RE-00000C-94-0165  
THE PROVISION OF ELECTRIC )  
SERVICES THROUGHOUT THE )  
STATE OF ARIZONA )  
\_\_\_\_\_ )

**REPLY COMMENTS OF THE CENTER FOR ENERGY AND ECONOMIC DEVELOPMENT  
AND WESTERN FUELS ASSOCIATION, INC.**

Pursuant to the Procedural Order issued in this docket by the Commission dated April 21, 1999, the Center for Energy and Economic Development (CEED) and Western Fuels Association, Inc. (WFA) submit these reply comments in response to the May 14, 1999 comments submitted by the Land and Water Fund of the Rockies ("LAW Fund"). CEED's and WFA's comments are limited to the issue of disclosure requirements pertaining to "resource portfolio composition, fuel mix and emissions characteristics" as set forth in the LAW Fund comments.

CEED and WFA previously set forth their reasons for opposing these types of disclosure requirements in their February 15, 1999 exceptions in the current docket. CEED and WFA incorporate those comments herein and believe they provide a complete response to all issues raised by the LAW Fund except one new issue involving model disclosure rules that is raised for the first time in the present docket by the LAW Fund comments.

Attached to the Law Fund comments are a set of draft model rules that the LAW Fund says are currently under consideration by something called the "Consumer Information Disclosure Project." Law Fund Comments, p. 3. That project is identified as being initiated by the "Committee on Regional Power Cooperation" and the Western

Conference of Public Service Commissioners and as being assisted by the “National Council on Competition and the Electric Industry.”<sup>1</sup> Id. The LAW Fund comments nowhere recommend that the Commission adopt the attached set of model rules which evidently are not in final form. Id. To the contrary, the LAW Fund offers specific language changes it would make to this Commission’s disclosure rule, and these changes do not involve adopting the model rules. Law Fund Comments, p. 4. The LAW Fund comments seem to state that the draft model rules are relevant to the present proceeding in the context of its recommendation that the Commission establish a workshop on the issue of defining “system purchases.” Law Fund Comments, p. 3.

Nevertheless, to the extent the draft model rules have now been placed before the Commission in the current docket, CEED and WFA hereby register their vigorous protest to those rules being considered at this late date in the proceedings of this docket. In at least one critical respect of concern to CEED and WFA, those rules go far beyond anything that this Commission, in all the years this docket has been open, has ever considered in connection with disclosure requirements.

The draft model rules provide “options” for public service commissions to adopt involving various types of consumer information, including options for disclosure of information pertaining to “supply mix” and “environmental impacts.” See draft model rules, §3. These options cover disclosure of resource mix and emissions. These issues (although

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<sup>1</sup> Despite being major energy industry participants in the West, neither WFA nor CEED has ever been formally notified of or asked to participate in the development of these rules.

not the model rules) have been addressed in this docket and CEED and WFA have filed comments on them, most recently in their February 15, 1999 exceptions. The options, however, also provide for a model rule governing "explanation of environmental impacts" that goes far beyond merely quantifying emissions. See draft model rules, §6.6. This option is completely new in this docket.

The option involving "explanation of environmental impacts" is set forth in Appendix C to the model rules. Such Appendix C contains a chart that electric sellers would be required to send to all consumers setting forth a summary description of environmental impacts of electric generation using fossil fuels, nuclear power and hydroelectricity. For instance, the chart informs consumers that:

Carbon dioxide is a major contributor to global climate change, which may cause droughts and floods, raise sea level, and threaten forests, crops, and fish and wildlife habitat. Coal and oil, and to a lesser extent natural gas, are the principal sources of CO<sub>2</sub> from power generation.

Similar allegations are made about sulfur dioxide, nitrogen oxide, spent nuclear fuel and hydro impacts.

The possibility that this Commission might adopt a requirement at this point of the current proceeding forcing electric sellers to present electric consumers with these types of statements would be completely objectionable on both procedural and substantive grounds. CEED and WFA vigorously dispute the accuracy and completeness of the factual allegations made as to the environmental impacts of coal-fired electricity contained in the draft model rules and, as a matter of Arizona law and due process under the U.S. Constitution, demand adequate notice that such requirement is under consideration and a

full contested case hearing before this type of requirement is adopted. There is absolutely no factual basis in the record of this proceeding supporting the allegations of environmental impacts, and there has been no process whatsoever whereby the efficacy of such allegations has been tested.

Because CEED and WFA do not understand the model rules to be under consideration for adoption at this time, we will not submit the voluminous material that we are prepared to submit on the issue of the asserted environmental impacts of carbon dioxide, sulfur dioxide and nitrogen oxides. Some of the reasons why CEED and WFA believe that the model rule on environmental impacts would require disclosure to consumers of inaccurate information are contained in CEED's and WFA's February 15, 1999 exceptions and in the attached model disclosure rules for coal-fired electric generation. However, CEED and WFA are also prepared to submit, at the proper time, a large amount of scientific and technical information that will show that coal-fired electric generation does not have the type of environmental impact alleged in the model rules, that coal-fired generation does not pose a risk of dangerous global warming and that coal-fired generation and the production of carbon dioxide produce positive environmental impacts.

In sum, CEED and WFA urge the Commission not to consider the model rules attached to the LAW Fund comments.

Dated: February 15, 1999

Western Fuels Association, Inc.

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Respectfully submitted,

The Center for Energy and Economic  
Development

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**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing REPLY COMMENTS OF THE CENTER FOR ENERGY AND ECONOMIC DEVELOPMENT AND WESTERN FUELS ASSOCIATION, INC., in Docket No. RE-00000C-94-0165, was served, via first class mail, this 13<sup>th</sup> day of August, 1997 to each person on the attached service list.



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