

REHEARING 1/19/99



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BEFORE THE ARIZONA CORPORATION COMMISSION

AZ CORP COMMISSION

Dec 31 3 54 PM '98

DOCUMENT CONTROL

Arizona Corporation Commission

DOCKET NO. RE-000000DC-94-0165

DEC 31 1998

DOCKETED BY [Signature]

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. )

**RUCO'S APPLICATION FOR REHEARING OF DECISION NO. 61272**

Pursuant to A.R.S. § 40-253, the Residential Utility Consumer Office ("RUCO") requests that the Arizona Corporation Commission ("Commission") rehear the matters decided in Decision No. 61272, docketed December 11, 1998. Decision No. 61272 adopted permanent amendments to Rules R14-2-1601 *et seq.* ("Retail Electric Competition Rules") and to R14-2-203 *et seq.* ("Electric Utilities Rules").

In Decision No. 61071 (August 10, 1998), the Commission adopted modifications to the Retail Electric Competition Rules and the Electric Utilities Rules ("Amended Rules") on an emergency basis and ordered the Hearing Division to schedule oral proceedings on the Amended Rules. Pursuant to the Commission's August 11, 1998 Procedural Order, interested parties were permitted to file written comments on the Amended Rules up through October 8, 1998. On September 18, 1998, RUCO filed its comments on the Amended Rules. Other parties also filed initial and responsive comments. Public comment hearings were held on October 7 and 8, 1998. On November 24, 1998, the Utilities Division Staff ("Staff") of the

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1 Commission filed additional comments in which Staff proposed additional modifications to the  
2 Amended Rules.

3         On November 25, 1998, the Commission issued Decision No. 61257, in which it  
4 ordered the Hearing Division to issue, on or before December 4, 1998, "...a recommended  
5 order approving final amendments to the Retail Electric Competition Rules..." Decision No.  
6 61257 also ordered that the normal ten day time frame for filing exceptions was to be  
7 reduced to five days.  
8

9         On December 4, 1998, the Hearing Division issued the Commission's Opinion and  
10 Order, as directed by Decision No. 61257. At the same time, the Chief Hearing Officer  
11 issued a Procedural Order which indicated that, upon issuance of Decision No. 61257, the  
12 Hearing Division "stopped all analysis on the Rules and prepared an Opinion and Order that  
13 adopts all of Staff's proposed amendments to the Rules."  
14

15         On December 9, 1998, RUCO filed its Exceptions to the proposed Opinion and Order.  
16 On December 11, 1998, the Commission entered Decision No. 61272, which adopted  
17 permanent amendments to the Retail Electric Competition Rules and the Electric Utilities  
18 Rules.  
19

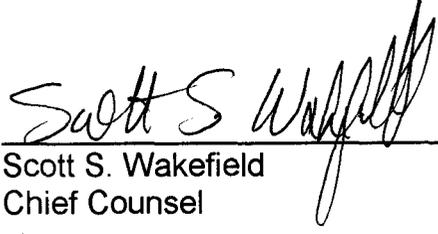
20         Arizona Revised Statutes § 41-1024(C) requires that, before adoption of a rule, an  
21 agency shall consider the written submissions from the public. In Decision No. 61071, the  
22 Commission directed the Hearing Division to schedule oral proceedings in this matter. In its  
23 Procedural Order of August 11, 1998, the Hearing Division scheduled such oral proceedings,  
24 and established deadlines for written comments.  
25

26         RUCO urges the Commission to rehear Decision No. 61272, because it failed to give  
27 adequate consideration to the comments offered by the parties pursuant to the August 11,  
28

1 1998 Procedural Order. Decision No. 61257 pre-empted the Hearing Division from  
2 completing its analysis of the comments offered by the parties, including RUCO. The  
3 Commission, in an attempt to adopt final rules quickly, failed to grant the interested parties  
4 the due consideration which A.R.S. § 41-1024(C) requires.  
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6 In addition, RUCO incorporates its comments of September 18, 1998, to the extent  
7 they were not agreed to by Staff in its November 24, 1998 additional comments, and RUCO's  
8 Exceptions of December 9, 1998, as additional bases for the Commission to rehear Decision  
9 No. 61272.

10 RESPECTFULLY SUBMITTED this 31<sup>st</sup> day of December, 1998

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