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AZ CORP COMMISSION
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BEFORE THE ARIZONA CORPORATION COMMISSION

7 BOB STUMP, Chairman
8 GARY PIERCE
9 BRENDA BURNS
10 ROBERT L. BURNS
11 SUSAN BITTER SMITH

ORIGINAL

Arizona Corporation Commission
DOCKETED

AUG 29 2014

DOCKETED BY
[Handwritten signatures]

11 IN THE MATTER OF THE APPLICATION OF)
12 ARIZONA PUBLIC SERVICE COMPANY FOR)
13 A HEARING TO DETERMINE THE FAIR)
14 VALUE OF THE UTILITY PROPERTY OF THE)
15 COMPANY FOR RATEMAKING PURPOSES,)
16 TO FIX A JUST AND REASONABLE RATE OF)
17 RETURN THEREON, TO APPROVE RATE)
18 SCHEDULES DESIGNED TO DEVELOP SUCH)
19 RETURN)

DOCKET NO. E-01345A-11-0224

INITIAL BRIEF OF ASBA/
AASBO

18 The Arizona School Boards Association ("ASBA") and the Arizona Association of
19 School Business Officials ("AASBO") submit the following brief in this matter.

20 This is an application by Arizona Public Service Company ("APS") to raise rates by
21 2.3%. APS seeks the increase to reflect its acquisition of Southern California Edison's interest in
22 Four Corners' Units 4 and 5 and the retirement of Units 1, 2 and 3. APS has identified a revenue
23 deficiency associated with the transaction of approximately \$65 million.

24 Ordinarily, a rate increase of this magnitude would only be done in the context of a full
25 rate case. Instead, in this case, the full rate case was processed by the Commission over two

1 years ago based on a test year that is now almost four years old. The decision in that case
2 ordered that the record would “remain open to allow Arizona Public Service Company to file by
3 December 31, 2013, an application for approval to adjust its rates to reflect the acquisition of
4 Four Corners Units 4 and 5...” Decision No. 73183 at 47. Presumably, the rate case was left
5 “open” on the theory that a rate increase so far removed from the last rate case is permissible if
6 the rate case is left open to use the finding of fair value from that case.

7 It almost goes without saying that leaving a rate case open to accommodate future rate
8 increases is an obviously ineffective way to circumvent Arizona’s constitutional requirements.
9 The Arizona Constitution imposes two significant constraints on the Commission’s ratemaking
10 authority. First, the Commission must find the fair value of the utility’s property dedicated to
11 public service and, second, use that finding of fair value to establish rates that are just and
12 reasonable. A rate increase that is based on only one element of the company’s cost of service
13 without an examination of all the company’s costs and revenues results in rates that are not just
14 and reasonable.

15 **I. AT A MINIMUM, THE COMMISSION MUST DETERMINE THE CURRENT**
16 **FAIR VALUE OF APS’ PROPERTY DEVOTED TO PUBLIC SERVICE**
17 **BEFORE IT CAN INCREASE RATES.**

18 Article 15, § 14 of the Arizona Constitution provides that the Commission “shall, to aid it
19 in the proper discharge of its duties, ascertain the fair value of the property within the state of
20 every public service corporation doing business therein...” “One of the Commission’s primary
21 duties is to set rates.” *U.S. West Communications Comm., Inc. v. Arizona Corporation*
22 *Commission*, 201 Ariz. 242, 246, 34 P.3d 351, 355 (2001). The Commission must find fair value
23 and consider it in establishing rates that are just and reasonable. *Id.*

24 Fair value means the value of properties at the time of the inquiry. *Simms v. Round*
25 *Valley Light & Power Co.*, 180 Ariz. 145, 151, 295 P.2d 378, 382 (1956). In finding the fair
value rate base, the only relevant original cost figure is that computed at the time of the inquiry

1 "or as near as possible thereto." *Arizona Corporation Commission v. Arizona Water Company*,
2 85 Ariz. 198, 202, 335 P.2d 412, 414 (1959).

3 In this case, there will be no fair value determination made at the time of the inquiry or as
4 near as possible to it. Instead, it is clear that the company proposes that the Commission use the
5 fair value as determined in the last rate order from more than two years ago as adjusted for the
6 acquisition of Southern California Edison's interests in Units 4 and 5 at Four Corners. That
7 means that the rate base that will be used as the basis for a rate increase in this case is based on
8 data from four years ago.

9 There has been no effort made in this case to update the fair value rate base except for the
10 Four Corners units. There have undoubtedly been numerous changes to the rate base in the last
11 four years which will not be reflected in the Commission's determination in this case.

12 Almost by definition, the Commission's determination of APS' fair value rate base in this
13 case will fail to comply with Art. 15, § 14 of the Arizona Constitution. That provision requires
14 that the fair value be ascertained at the time of the inquiry or as close to it as possible. That
15 simply has not occurred and, until it does, the Commission is constitutionally prohibited from
16 approving a rate increase.

17 **II. APPROVING A RATE INCREASE BASED ON A SINGLE CHANGE IN THE**
18 **COMPANY'S COST OF SERVICE IS UNLAWFUL.**

19 APS requests a rate increase based upon a single change in its cost of service namely the
20 acquisition of SCE's interest in Units 4 and 5 and the retirement of Units 1, 2 and 3. Single issue
21 ratemaking of this sort is prohibited in Arizona except under two very narrow circumstances
22 neither of which is applicable here. *Scates v. Arizona Corporation Commission*, 118 Ariz. 531,
23 578 P.2d 612 (App. 1978).

24 Rates are not just and reasonable if they are not based on a consideration of all of the
25 utility's costs. The only costs examined in this case are those associated with the acquisition of

1 Units 4 and 5. None of APS' other costs were examined. That is especially true with respect to
2 the return on fair value rate base." There was no evidence in this case that the return determined
3 appropriate by the Commission in the last rate order continues to be appropriate almost two and
4 half years later.

5 The fact is that no evaluation of the Company's current revenues or expenses has been
6 made since the last rate case. Singling out only one element of the Company's costs as the basis
7 for a rate increase is "fraught with potential abuse." *Scates*, 118 Ariz. at 534, 578 P.2d at 615.
8 Such a practice "must inevitably serve both as an incentive for utilities to seek rate increases
9 each time costs in a particular area rise, and as a disincentive for achieving countervailing
10 economies in the same or other areas of their operations." *Id.*

11 Staff's witness testified that his examination of the Company's financial statements was
12 cursory at best. He acknowledged that the rate increase proposed in this case would have a
13 positive impact on the Company's net income. Vol. III at 641. He further testified that the
14 Company's financial condition has been steadily and consistently improving over the last four
15 years. Vol. III at 631. And, as if to emphasize the Company's financial health, APS has stated
16 that it supported the Commission's decision to remove the requirement in Decision No. 74202
17 that APS file its next rate case in June 2015. Letter dated August 7, 2014 from Barbara D.
18 Lockwood to Commissioners in Docket No. E-01345A-13-0248.

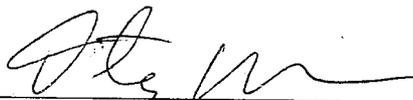
19 The Commission can examine APS' actual and projected financial statements for itself.
20 The problem, of course, is that there has been no critical evaluation of those financial statements
21 or the assumptions that underlie them as would ordinarily occur in a full rate case. APS can state
22 all they want that "there is no present concern of APS over-earning" but the truth is we will
23 never know unless there is a full examination.

24 In any event, overearning is not the issue. The issue is whether a general rate increase
25 can lawfully be imposed without a consideration of all the company's revenues and expenses.

1 Simply keeping an old rate case open to use its fair value determination without an examination
2 of all current revenues and expenses does not satisfy Arizona's constitutional requirements.

3 DATED this 29th day of August, 2014.

4
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6 THE PUBLIC INTEREST

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13 ORIGINAL and 13 COPIES filed this
14 29th day of August, 2014, with:

15 Docketing Supervisor
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18 1200 W. Washington
19 Phoenix, AZ 85007

20 COPIES of the foregoing
21 electronically mailed this
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23 All Parties of Record
24
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