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BEFORE THE ARIZONA CORPORATION COMMISSION RECEIVED

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Arizona Corporation Commission

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OCT 14 2014

ORIGINAL

REC'D CORP COMMISSION
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IN THE MATTER OF THE JOINT APPLICATION OF UNS ELECTRIC, INC. AND UNS GAS, INC. FOR A FINANCING ORDER AUTHORIZING VARIOUS FINANCING TRANSACTIONS.

DOCKET NO. E-04204A-13-0447
DOCKET NO. G-04204A-13-0447

PROCEDURAL ORDER

BY THE COMMISSION:

On December 18, 2013, UNS Electric, Inc. ("UNS Electric") and UNS Gas, Inc. ("UNS Gas") (collectively, the "Companies") filed with the Commission pursuant to A.R.S. §§ 40-301 and 40-302, a Joint Application for Financing ("Application") requesting that the Commission authorize the Companies to: (1) refinance their joint revolving credit facility that expires November 2016; (2) increase the amount of credit available under one or more revolving credit facilities to each company, individually, from \$70 million to \$100 million; (3) refinance long-term indebtedness maturing in August 2015; (4) increase the amount of long-term indebtedness outstanding at UNS Electric by up to \$80 million and at UNS Gas by up to \$50 million; (5) finance the purchase of an interest in Gila River Unit 3 ("Gila River") by allowing UNS Electric to issue additional debt up to \$35 million and accept new equity contributions up to \$35 million; (6) provide security for any such financing transactions; and (7) enter into these financings through December 31, 2019.

On September 17, 2014, the Commission's Utilities Division ("Staff") filed its Staff Report which recommended approval of the financing request subject to a number of conditions.

On October 9, 2014, the Companies filed Comments on Staff Report ("Comments"). In their Comments, the Companies stated that specific language included in two of Staff's recommendations create significant concerns for the Companies, and also that the Companies believe they need additional ordering language (beyond Staff's recommendations) in order to be able to fully utilize the authority recommended by Staff. The Companies attached proposed ordering paragraphs that purport

1 to incorporate Staff's recommendations, as modified to address the Companies' concerns. The filing
2 indicated that Staff has no objections to the Commission adopting the proposed modified ordering
3 paragraphs.

4 Two of the proposed modified conditions would benefit from clarification prior to the
5 preparation of a Recommended Order. Consequently, the parties are requested to respond to the
6 questions below.

7 First, Staff's original Recommendation 11 provided that any authority granted be conditioned
8 upon the Companies having at least 40 percent equity and being in full compliance with their debt
9 covenants including but not limited to the required "Interest Earned Ratio" of 2.50. In their
10 Comments, the Companies state that complying with the new financial ratio tests could restrict their
11 abilities to access the revolving credit facility when needed and that if the new ratio tests are
12 adopted, additional ordering language should be included to specify exactly how those ratios would
13 be calculated.

14 Proposed Ordering Paragraph # 10 provides:

15 Conditioning any borrowing under a credit agreement authorized in (2) above
16 upon the borrowing entity being in full compliance with the covenants contained
17 in such agreement, which based upon the terms of the credit agreement in effect
18 as of the date of the Order, would be expected to contain a limitation on
indebtedness that is approximately equivalent to a requiring equity equal to or
greater than 35% of total capital;¹

19 The effect of the requested modification is to reduce Staff's original recommendation that the
20 Companies have at least a 40 percent equity ratio in order to access the credit facility.² The
21 Companies appear to argue that a 40 percent equity ratio is too restrictive, and that in the past
22 revolving credit facilities have not been subject to financial ratio tests. Although the Comments
23 indicate that Staff agrees with the proposed modifications, it is not clear whether Staff agrees for the
24 same reasons as the Companies. The record would benefit from an express explanation from Staff
25 about the appropriateness of the modified condition.

26 ...

27 _____
28 ¹ The referenced item number 2 refers to the new revolving credit facility.

² The proposed modified conditions retain the 40 percent equity ratio for the issuance of long-term debt.

1 Furthermore, proposed Ordering Paragraph #11 does not impose a condition that the
2 Companies should maintain a 35 percent equity ratio in order to access the revolving credit facility,
3 but rather limits the borrowing under the credit agreement to any covenants contained in the
4 agreement (which currently require equity equal to 35 percent). It is unknown if the new credit
5 facility will contain the same limitation. Should the order authorizing the new revolving credit
6 facility specifically contain a condition addressing a minimum equity ratio (e.g. 35 percent)? If not,
7 why not?

8 Second, Staff's recommendation 8 would have "[t]he Commission cancel all previously
9 authorized but unused borrowing authority." In the Companies' Comments, they state that as
10 written, Staff's Recommendation 8 could have the inadvertent effect of canceling the Companies'
11 unused revolving credit capacity at the time a new financing order is issued and that if the
12 Companies cannot access the revolving line of credit while negotiating a new facility, it could
13 impair their liquidity.

14 Proposed Ordering Paragraph # 20 provides:

15 Ordering that the authorization to issue long-term debt, enter into one or more
16 credit agreements for revolving credit facilities in the Order shall replace the
17 existing authorization of Decision No. 71917, and that such authorization
terminate upon the effective date of the Order except that all existing agreements
and obligations incurred under lawful authorizations shall remain valid;³

18 Will the parties please clarify whether proposed Ordering Paragraph # 20 is intended to
19 replace Staff's recommendation # 8; verify that the "such" underlined above refers to the
20 authorization contained in Decision No. 71917; and check if there is a word(s) missing in the first or
21 second lines? As proposed, it could be argued that the two parts of proposed Ordering Paragraph #
22 20 negate each other. Do the parties believe that the proposed language is not ambiguous and
23 accomplishes the stated goal of allowing access to the existing credit facility until there is a new
24 credit agreement? Should the exception be limited to the revolving line of credit facilities? Would it
25 be more clear or would it be problematic if the last portion of the provision were to read "except that
26 UNS Electric, Inc. and UNS Gas, Inc. may continue to utilize their existing authorized agreements for
27

28 ³ Emphasis added.

1 revolving credit facilities until the earlier of the execution of the new credit facility authorized herein
2 or the expiration of the existing credit facility”?

3 The parties should file written responses to these questions by October 31, 2014, and either
4 party may request a Procedural Conference to discuss this request if desired.

5 IT IS THEREFORE ORDERED that **the Companies and Staff** shall **file their Responses** to
6 this Procedural Order by **October 31, 2014**.

7 IT IS FURTHER ORDERED that the Presiding Officer may rescind, alter, amend, or waive
8 any portion of this Procedural Order either by subsequent Procedural Order or by ruling at hearing.

9 DATED this 14th day of October, 2014.

10 
11 JANE L. RODDA
ADMINISTRATIVE LAW JUDGE

12 Copies of the foregoing mailed
13 this 14th day of October, 2014 to:

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