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AZ CORP COMMISSION  
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BEFORE THE ARIZONA CORPORATION COMMISSION

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COMMISSIONER

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11 **IN THE MATTER OF THE** )  
12 **COMMISSION'S INQUIRY INTO** )  
13 **CONSIDERATION OF** )  
14 **DEVELOPING PROCEDURES FOR** )  
15 **RATE CASES OR OTHER UTILITY** )  
16 **SPECIFIC APPLICATION** )  
17 **PROCESSES IN ORDER TO STUDY** )  
18 **AND CONSIDER RATE DESIGN** )  
19 **OPTIONS FOR ELECTRIC AND** )  
20 **GAS PUBLIC SERVICE** )  
21 **CORPORATIONS** )

**DOCKET NO. AU-00000C-14-0329**  
Arizona Corporation Commission

**DOCKETED**

OCT 20 2014

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**COMMENTS OF THE ALLIANCE FOR  
SOLAR CHOICE (TASC)**

**COMMENTS OF THE ALLIANCE FOR SOLAR CHOICE  
ON STAFF'S SAMPLE PROCESS**

**1. Introduction and Background**

ORIGINAL

TASC appreciates Staff's valiant effort to design a completely novel procedure to address rate design. Unfortunately, Staff's Sample Process ("Sample Process" or "Process") would be a costly endeavor whereby rate design decisions would be made in a vacuum. The Process would require the Commission to consider important and potentially significant increases and decreases in rates among and within certain classes without any context or understanding of what the final

1 bill impacts on customers would be. Although a utility may be able to predict what increase in  
2 revenue requirement it will seek at the outset of a rate case, there will be no certainty as to  
3 whether the Commission will approve the requested increase. Without that information, the  
4 Commission will be left to guess what the impacts of a rate increase will be on customer classes.  
5 TASC is not aware of any state regulatory commission that makes decisions about rate design  
6 prior to determining a utility's revenue requirement.

7 There is sound reasoning behind this Commission's traditional rate setting method  
8 whereby it first conducts a revenue requirement proceeding so that it can understand the utility's  
9 current fixed and variable costs, before turning to the question of how those costs should be  
10 allocated between and among classes of customers. While there may be some advantages to  
11 extending the Commission's time line to consider rate design beyond statutory deadlines, TASC  
12 believes that this objective must be accomplished without abandoning Arizona's traditional rate  
13 case procedure.

14 Although the Commission has broad discretion in establishing rates, it is required by the  
15 Arizona Constitution to ascertain the value of a utility's property in the State, i.e. to determine its  
16 revenue requirement, before determining rates. *See, e.g., Scates v. Ariz. Corp. Comm'n*, 118  
17 Ariz. 531, 534, (AZ Court App. 1978):

18 "the Commission must first determine the 'fair value' of a utility's property and use this  
19 value as the utility's rate base. The Commission then must determine what the rate of  
20 return should be, and then apply that figure to the rate base in order to establish just and  
21 reasonable tariffs."

22 (internal citations omitted). Staff's Proposal does not comply with Constitutional requirements  
23 for setting rates. Staff's Sample Process would have a utility file its proposed rate design changes  
24 eight to nine months prior to the filing of its rate case application in what it calls a "pre-filing."<sup>1</sup>  
25 Staff proposes that the company use a mix of historical and projected "numbers" (TASC assumes  
26 that by "numbers" staff means revenues and expenses).<sup>2</sup> The Process states that the utility would  
27 file its full cost of service study, presumably containing its un-vetted "numbers," along with its

28 <sup>1</sup> Staff Sample Process, 1.

<sup>2</sup> Staff Sample Process, 4 & 5.

1 proposed rate design changes and supporting testimony.<sup>3</sup> The Commission would then decide on  
2 the rate design proposal around the same time that the utility actually files its revenue  
3 requirement proposal and testimony.<sup>4</sup> Essentially, the Sample Process turns the Constitutionally-  
4 required ratemaking process on its head by reversing the typical Phase I and Phase II stages, and  
5 then introducing a mini “Phase III” process in which the Commission would actually apply the  
6 rate design decisions it made in the new Phase I (or “pre-filing”) process to actual expense and  
7 revenue information. This does not comport with Constitutional requirements.

8 This proposal creates additional work and expense for all parties and results in favoring  
9 investor owned utilities (“IOUs”) and disadvantaging interveners and customers. The Sample  
10 Process would allow IOUs to launch assaults at solar and other forms of customer-sited  
11 generation, through a protracted, disjointed, and untested approach. Arizona’s IOUs have made it  
12 clear that they view solar distributed generation as a competitive threat to their traditional  
13 business model and are likely to seek discriminatory fixed and demand charges for customer  
14 generators in the near future. Without first examining an IOUs’ most current expenses and  
15 revenues, it is not possible to determine the impact that any proposed rate design changes could  
16 have on customers or to ensure that fundamental rate design principles are considered.

17  
18 **2. The Commission Can Not Consider Foundational Rate Principles Such as**  
19 **Gradualism, Rate Stability, Effectiveness, and Fairness Outside of a General Rate**  
20 **Case**

21  
22 In designing rates, regulators seek to balance a host of competing and conflicting  
23 objectives and interests. Because some rate design principles require the Commission to  
24 consider the practical effect that rate design changes will have on various customers and  
25 customer classes, it is important to make such decisions in the context of a general rate case  
26 where actual bill impacts can be determined and considered.

27  
28 <sup>3</sup> Staff Sample Process, 6, 7 & 8.

<sup>4</sup> Staff Sample Process, 14 -16.

1 The foundational work of James C. Bonbright is often cited to in rate design proceedings  
2 before this and other commissions across the country. In discussing criteria for a sound rate  
3 structure, Mr. Bonbright explains,

4 . . . rate structure problems are far more complex than problems of a fair return  
5 even though the latter are by no means elementary...[in part] it is due to the  
6 necessity, faced alike by public utility managements and by regulating agencies,  
7 of *taking into account numerous conflicting standards of fairness and*  
8 *functional efficiency in the choice of the rate structure ... the wise choice must*  
9 *be that of wise compromise*; And in reaching this compromise, the practical rate  
10 expert would look in vain to any general theory of public utility rates, at least in  
11 its present stage of development, for a scientific method of reaching the optimum  
12 solution.<sup>5</sup>

13  
14 In designing a sound rate structure, Mr. Bonbright encourages regulators to keep in mind the  
15 following list of desirable attributes:

- 16 1. "Practical" attributes of simplicity, understandability, *public acceptability*,  
17 and feasibility of application
- 18 2. Freedom from controversies as to proper interpretation
- 19 3. *Effectiveness in yielding total revenue requirements* under the fair return  
20 standard
- 21 4. *Revenue stability* from year to year
- 22 5. *Stability of the rates themselves*, with a minimum of unexpected changes  
23 seriously adverse to existing customers. (I.E.: "the best tax is an old tax")
- 24 6. Fairness of the specific rates in your portion then of *total costs of service*  
25 among the different consumers
- 26 7. Avoidance of undue discrimination in rate relationships

27  
28  

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<sup>5</sup> Principles of Public Utility Regulation, James C. Bonbright, Columbia University Press, p. 288-89.

1 8. Efficiency of the rate classes and rate blocks in discouraging wasteful use of  
2 service while promoting all justified types and amounts of use:

3 a. In the control of the total amounts of service supplied by the company

4 b. In the control of the relative uses of alternative types of service<sup>6</sup>

5 (Emphasis added).  
6

7 Some of these more general and policy oriented considerations such as discrimination,  
8 efficiency, and promotion of certain types of uses could be contemplated outside of a rate case.  
9 But many of the more practical considerations such as public acceptability, effectiveness in  
10 yielding total revenue requirements, and the overall stability of revenues and rates can only be  
11 meaningfully considered after the revenue requirements stage of a rate case is completed and  
12 total costs of service can be examined. In other words, the Commission must have an accurate  
13 and fully vetted picture of the Company's actual costs and revenues before it can determine what  
14 the practical bill impacts on various customer groups will be under various rate design proposals.  
15 Only with this "full picture" in mind can the Commission strike a compromise between  
16 Bonbrights' competing rate design attributes such as stability and gradualism with broader more  
17 theoretical attributes such as fairness and undue discrimination.

18 Furthermore, without a clear picture of the utility's current costs, it would be very  
19 difficult for the Commission to determine how such costs should be fairly apportioned among  
20 and between customer classes based on cost causation principles. In the near future, IOUs will  
21 likely seek to revise how they collect fixed and variable costs from customers. But without a  
22 current picture of the magnitude of such fixed and variable costs, including a thorough  
23 understanding of how and why they are incurred, rate design decisions apportioning those costs  
24 will not reflect reality.

25 Instead of trying to change the way rates are historically set, TASC believes that the  
26 Commission should continue to rely on its regular practice of considering a utility's rate design  
27 after parties have had an opportunity to fully evaluate and litigate its revenue requirements,

28 <sup>6</sup> Principles of Public Utility Regulation, James C. Bonbright, Columbia University Press, p. 291.

1 including its actual costs and revenues. Only in this way can the Commission carefully weigh  
2 the competing rate design considerations when considering proposed changes.

3  
4 **3. Staff's Sample Process Would Increase Costs and Specifically Prejudice Intervenors**  
5 **While Providing IOUs With an Inherent Advantage**  
6

7 Staff's Sample Process states that it "may substantially increase rate case expenses."<sup>7</sup>  
8 While Staff may have been referring specifically to the utility's rate case expenses, intervenors  
9 face the same problem. Any protracted rate design proceeding will ultimately limit parties'  
10 ability to meaningfully participate by imposing significant cost barriers.

11 Under the Sample Process, intervenors will have to continue to participate all the way  
12 through the rate case to make sure that IOUs properly implement the pre-filing rate design  
13 decisions. Intervenors will want to monitor the Company's and other parties' positions in case  
14 they propose changes or modifications to rate design decisions based on new information or  
15 changed circumstances. Intervenors will also be keenly interested in the total bill impacts, which  
16 will only be knowable at the end of the rate case. Under a traditional rate proceeding, some  
17 parties that only have an interest in the rate design portion of the case would not substantially  
18 participate until that phase. But under the Sample Process those parties would need to fund their  
19 participation for up to eight additional months.

20 Staff proposes to remedy the increase in the Company's rate case expenses and its effect  
21 on customers by suggesting that if Sample Process is adopted, the "Company shall agree to  
22 forego any rate case expense that is associated with this new process."<sup>8</sup> This protection is  
23 appropriate to ensure that customers are not funding the utility's fight against Solar DG or its  
24 efforts to maintain its monopoly status in the face of changing customer attitudes. However, this  
25 customer protection measure does nothing to protect the ability to participate of those intervenors  
26 who may have to shoulder substantial additional expenses in order to test this new procedure.

27  
28 <sup>7</sup> Staff Sample Process, 20.

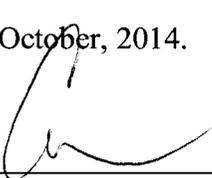
<sup>8</sup> Staff Sample Process, 20

1 Arizona's IOU's have the funding, the internal staff, and the desire to outspend their  
2 competitors in a protracted rate design proceeding. However, many intervenors are not so well  
3 equipped to absorb the costs of such a process. Because the IOUs can absorb these additional  
4 costs using their own internal staff, the Sample Process would have the effect of unfairly  
5 favoring the utility companies and silencing other interested stakeholders. Because Staff  
6 acknowledges that its Sample Process may substantially increase rate case costs, it should not be  
7 adopted.

8  
9 **4. There Are Alternative Solutions to Allow the Commission to Consider Rate Design**  
10 **Policy Issues Outside of a Formal Rate Case.**

11  
12 To the extent that the Commission wants or needs to solicit comments and briefs on  
13 various rate design principles without the pressure of statutory deadlines, it can exercise its  
14 powers of investigation to open an investigatory or miscellaneous docket or to solicit briefs and  
15 comments from interested stakeholders through this proceeding. TASC encourages an open  
16 discourse on these important policy issues.

17  
18 Respectfully submitted this 14th day of October, 2014.

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