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BEFORE THE ARIZONA CORPORATION COMMISSION

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COMMISSIONERS

Arizona Corporation Commission

2015 AUG 13 A 11: 25

SUSAN BITTER SMITH - Chairman DOCKETED

BOB STUMP

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AZ CORP COMMISSION
DOCKET CONTROL

BOB BURNS

DOUG LITTLE

TOM FORESE

DOCKETED BY

IN THE MATTER OF THE APPLICATION OF
UNS ELECTRIC, INC. FOR THE
ESTABLISHMENT OF JUST AND REASONABLE
RATES AND CHARGES DESIGNED TO
REALIZE A REASONABLE RATE OF RETURN
ON THE FAIR VALUE OF THE PROPERTIES OF
UNS ELECTRIC, INC. DEVOTED TO ITS
OPERATIONS THROUGHOUT THE STATE OF
ARIZONA AND FOR RELATED APPROVALS.

DOCKET NO. E-04204A-15-0142

ORIGINAL

PROCEDURAL ORDER

BY THE COMMISSION:

On May 5, 2015, UNS Electric, Inc. (“UNSE” or “Company”) filed an Application with the Arizona Corporation Commission (“Commission”) for a rate increase. By Procedural Order dated June 22, 2015, the matter was set for hearing to commence on March 1, 2016, and other procedural guidelines were established, including invocation of Arizona Administrative Code (“A.A.C.”) R14-3-113 (the Commission’s “ex parte rule”).

On July 16, 2015, the Arizona Investment Council (“AIC”) filed a Motion for Leave to Intervene and to Supplement the Procedural Order to Clarify Application of the Ex Parte Rules.¹ AIC is a membership organization of Arizona utilities and individuals who hold stock or debt in Arizona utilities. AIC believes that the Commission’s ex parte rule should apply to both the intervening membership association and each of its members, and seeks Commission explicit clarification of the rule’s application.

There were no comments or objections to AIC’s request to clarify application of the ex parte rule.

A.A.C. R14-3-113, Unauthorized communications, provides in substantive part:

A. Purpose. It is the purpose of this rule to assist the members of the Arizona

¹ AIC’s intervention was granted on July 29, 2015.

1 Corporation Commission and its employees in avoiding the possibility of
2 prejudice, real or apparent, to the public interest in proceedings before the
3 Commission.

4 B. Application. The provisions of this rule apply from the time a contested matter
5 is set for public hearing. The provisions of this rule do not apply to rule
6 making proceedings.

7 C. Prohibitions.

8 1. No person shall make or cause to be made an oral or written
9 communication, not on the public record, concerning the substantive
10 merits of a contested proceeding to a commissioner or commission
11 employee involved in the decision-making process for that proceeding.

12 2. No commissioner or commission employee involved in the decision-
13 making process of a contested proceeding shall request, entertain, or
14 consider an unauthorized communication concerning the merits of the
15 proceeding.

16 3. The provisions of this rule shall not prohibit:

- 17 a. Communications regarding procedural matters;
18 b. Communications regarding any other proceedings;
19 c. Inter-agency or non-party communications regarding purely
20 technical and legal matters;
21 d. Communications from the general public; and
22 e. Communications among hearing officers, non-party staff and
23 commissioners.


24 In general, *ex parte* communications are prohibited in order to ensure that decisions are
25 founded on admitted evidence, with all the protections to due process that entails, and so that facts
26 and circumstances which are not introduced as evidence do not influence the conclusion.² It would
27 undermine the purpose of the rule to avoid real or apparent prejudice to fairness and the public
28 interest if individual members of an intervening membership organization were allowed to attempt to
influence the outcome of a proceeding through direct off-the-record communications with
Commissioners, their advisors, and other Commission employees to whom the rule applies. Notably,
applying the rule to individual members of intervening membership organizations does not prevent
on-the-record (i.e. public) communications by affected members.

IT IS THEREFORE ORDERED that A.A.C. R14-3-113 (*ex parte* rule) applies to individual
members of intervening membership organizations.

² See *State ex rel. Corbin v. ACC*, 693 P.2d 363, 367 (Ariz. App. 1984).

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

3 DATED this 13th day of August, 2015.

4
5 
6 JANE L. RODDA
ADMINISTRATIVE LAW JUDGE

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