



BEFORE THE ARIZONA CORPORATION COMMISSION

Arizona Corporation Commission

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COMMISSIONERS

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TOM FORESE, CHAIR
JUSTIN OLSON
BOYD DUNN
BOB BURNS
ANDY TOBIN

DEC 22 2017

DOCKETED BY
[Signature]

IN THE MATTER OF THE APPLICATION OF
ARIZONA PUBLIC SERVICE COMPANY
FOR A HEARING TO DETERMINE THE FAIR VALUE OF THE UTILITY PROPERTY OF THE COMPANY FOR **RATEMAKING** PURPOSES, TO FIX A JUST AND REASONABLE **RATE** OF RETURN THEREON, [AND] TO APPROVE **RATE SCHEDULES** DESIGNED TO DEVELOP SUCH RETURN.

(Teena Jibilian, Hearing Officer)
DOCKET NO. E-01345A-16-0036
GAYER'S
MOTION TO COMPEL COMPLIANCE
WITH DECISION No. 76374
RE: DOUBLE BILLING – METER READING
Oral Argument Requested

IN THE MATTER OF FUEL AND PURCHASED POWER PROCUREMENT AUDITS FOR ARIZONA PUBLIC SERVICE COMPANY.

DOCKET NO. E-01345A-16-0123

Richard Gayer, an Intervenor herein, hereby moves the Commission to Compel APS to Comply with Decision No. 73674 by deleting the duplicate and unlawful charge for reading his analog meter. The line item for “Meter Reading” is unlawful because it duplicates and has been replaced by the one for “Non-Standard Meter Reading Charge” for customers with analog meters and non-transmitting digital meters. See Exhibit A to the Decision for Section 30 of the Settlement Agreement (“Section 30”) and for Item 8.4 (A) in Appendix M (“Item 8.4(A)”).

Gayer has communicated with APS in writing in an effort to settle this dispute, but APS has remained adamant in its position to double charge him and all other similarly situated customers for reading their analog and other non-standard meters.¹

¹ Gayer is aware that the “Meter Reading” charge eventually will be absorbed into the new Basic Service Charge, but he cannot tolerate a violation of the Decision for any period of time.

1 **Argument**

2 Section 30 provides in relevant part that “30.1 The AMI Opt-Out program will be
3 approved as proposed by APS except the fees will be changed to reflect an upfront fee of \$50 to
4 change out a standard meter for a non-standard meter and a monthly fee of \$5”.

5 Item 8.4(A) provides for nothing more than a “Monthly Meter Reading Charge of \$5.00”.
6 It does *not* say that the \$5.00 is an additional charge over and above the charge for reading smart
7 (AMI) meters. Section 30.1 uses vague language of a “monthly fee” but Item 8.4(A) clarifies
8 that to mean the total charge for reading an analog meter. Therefore, the specific provision in
9 Item 8.4(A) controls the general provision in Section 30.1. *State of Arizona v. Maricopa*
10 *Community College District Board*, No. 1 CA-CV 15-0498 App. 2017), paragraph 19 (internal
11 quotes omitted): “Basic principles of statutory interpretation instruct that “specific statutes
12 control over general statutes, and, when a general and a specific statute conflict, we treat the
13 specific statute as an exception to the general.” Accord, *Hohokam Irrigation and Drainage*
14 *District v. Arizona Public Service Company*, 201 Ariz. 356, 360-61 (App. 2001) at paragraph 14
15 (internal quotes and citations omitted): “A basic principle of statutory interpretation instructs
16 that specific statutes control over general statutes; when a general and a specific statute conflict,
17 we treat the specific statute as an exception to the general, and the specific statute controls.”

18 In addition, the process of reading smart meters differs entirely from that of reading
19 analog meters. Smart meters are read by a computer from the wireless network of smart meters
20 while non-standard meters are read by a human being, in this case from an alley near Gayer’s
21 house. These are two different methods of meter reading that have no overlapping components.
22 Therefore, the unauthorized double billing violates Decision No. 76374.²

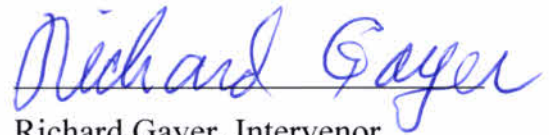
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28 ² For this Motion only, Gayer does not object to the five dollar charge.

1 **Conclusion**

2 Gayer is entitled to an Order directing APS to refund to him all past charges for “Meter
3 Reading” as well as enjoining APS from billing Gayer for that charge in the future. He also
4 requests that the Commission make its order applicable to all customers with non-standard
5 meters.

6
7 Dated: 21 December 2017


Respectfully submitted,

8 
9
10 Richard Gayer, Intervenor

11
12 **CERTIFICATE OF SERVICE**

13 On 21 December 2017, I served copies of this document on all parties to this case.

14 Dated: 21 December 2017

15 
16 Richard Gayer