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Memorandum
From the office of
Commissioner Bob Burns
Arizona Corporation Commission
1200 W. WASHINGTON
PHOENIX, ARIZONA
(602) 542-3682

Arizona Corporation Commission

DOCKETED

JAN 18 2018

DOCKETED BY

TO: Docket Control
DATE: January 18, 2018
FROM: Commissioner Bob Burns
SUBJECT: ARIZONA PUBLIC SERVICE COMPANY (Docket No. E-01345A-18-0003)

The attached letters, one to the Arizona State Senate President and one to the Speaker of the Arizona House of Representatives, have also been individually addressed and mailed to each member of the Arizona State Legislature. Below is a list of the Legislative Members to which this letter has been sent.

Copies have also been mailed or e-mailed to each party in the docket. In addition, these letters are also being placed in Docket No. E-01345A-18-0002.

Senator Steve Yarbrough
-- President
Senator Sylvia Allen
Senator Nancy Barto
Senator Sonny Borrelli
Senator Sean Bowie
Senator David Bradley
Senator Kate Brophy McGee
Senator Judy Burges
Senator Olivia Cajero Bedford
Senator Lupe Contreras
-- Minority Whip
Senator Andrea Dalessandro
Senator Karen Fann
Senator Steve Farley
-- Assistant Minority Leader
Senator David C. Farnsworth
Senator Gail Griffin
-- Majority Whip

Senator Katie Hobbs
-- Minority Leader
Senator John Kavanagh
-- President Pro Tempore
Senator Sine Kerr
Senator Juan Mendez
Senator Robert Meza
Senator Catherine Miranda
Senator Lisa Otondo
Senator Jamescita Peshlakai
Senator Warren Petersen
Senator Frank Pratt
Senator Martin Quezada
-- Minority Whip
Senator Steve Smith
Senator Bob Worsley
Senator Kimberly Yee
-- Majority Leader

Representative Javan D. Mesnard -- Speaker
Representative John M. Allen
Representative Lela Alston
Representative Richard C. Andrade
Representative Brenda Barton
Representative Wenona Benally
Representative Isela Blanc
Representative Reginald Bolding
Representative Russell Bowers
Representative Paul Boyer
Representative Kelli Butler
Representative Noel W. Campbell
Representative Mark A. Cardenas
Representative Heather Carter
Representative Cesar Chavez
Representative Ken Clark
Representative Todd A. Clodfelter
Representative Regina E. Cobb
Representative Douglas Coleman
Representative David L. Cook
Representative Eric Descheenie
Representative Kirsten Engel
Representative Mitzi Epstein
Representative Diego Espinoza
Representative Eddie Farnsworth
Representative Charlene R. Fernandez
-- Minority Whip
Representative Mark Finchem
Representative Randall Friese
-- Assistant Minority Leader
Representative Rosanna Gabaldon
Representative Sally Ann Gonzales
Representative Travis W. Grantham

Representative Daniel Hernandez
Representative Drew John
Representative Anthony T. Kern
Representative Jay Lawrence
Representative Vince Leach
Representative David Livingston
Representative Ray D. Martinez
Representative Darin Mitchell
Representative Paul Mosley
Representative Tony Navarrete
Representative Jill Norgaard
Representative Becky A. Nutt
Representative Kevin Payne
Representative Gerae Peten
Representative Pamela Powers Hannley
Representative Rebecca Rios
-- Minority Leader
Representative Tony Rivero
Representative Macario Saldate
Representative Athena Salman
Representative Don Shooter
Representative Thomas R. Shope
-- Speaker Pro Tempore
Representative David Stringer
Representative Maria Syms
Representative Bob Thorpe
Representative Ben Toma
Representative Kelly Townsend
-- Majority Whip
Representative Michelle Udall
Representative Michelle B. Ugenti-Rita
Representative Jeff Weninger

COMMISSIONERS
TOM FORESE – Chairman
BOB BURNS
ANDY TOBIN
BOYD DUNN
JUSTIN OLSON



BOB BURNS
Commissioner

ARIZONA CORPORATION COMMISSION

January 18, 2018

Representative Javan D. Mesnard -- Speaker
Arizona House of Representatives
1700 W. Washington Street
Phoenix, AZ 85007

RE: ARIZONA PUBLIC SERVICE COMPANY
RATE CASE COMPLAINT DOCKET NO. E-01345A-18-0002
INCOME TAX EXPENSE DOCKET NO. E-01345A-18-0003

Honorable Representative Mesnard -- Speaker,

In recent days, I have been approached by several Legislators questioning me regarding the Arizona Corporation Commission's ("ACC") process for and interrelationship of the two referenced dockets for Arizona Public Service Company ("APS"). I am writing this letter to hopefully clearly explain the Commission's process for these two dockets and make clear that although both dockets are for APS, the two dockets are not related and will be processed separately.

Docket No. E-01345A-18-002 is a complaint that was filed by Ms. Stacy Champion. She filed the complaint per Arizona Revised Statute 40-246, which among other things, states that the ACC shall entertain a complaint against an ACC-regulated utility regarding the reasonableness of that utility's rates and charges if the complaint is signed by at least 25 consumers or prospective consumers of that utility.

This complaint docket is a formal complaint against a utility and, therefore, will be processed in the same manner as any other formal complaint filed at the ACC. The basic process is as follows:

1. Once a complaint is received, the ACC's Docket Control Center sends a letter to the utility informing the utility of the complaint (Docket Control sent a letter to APS on January 5, 2018). This letter requires the utility to acknowledge receipt of the complaint and to respond to the complaint within 20 days of such receipt (APS acknowledged receipt of its letter on January 10, 2018, therefore, must file its response by January 30, 2018).
2. While the utility is preparing its response, the ACC's Hearing Division will assign an Administrative Law Judge ("ALJ") to the case.

3. Once the utility files its response, the ALJ will usually set up a procedural schedule for the processing of the case. The ALJ usually develops this schedule after hearing from the parties to the case at a Procedural Conference where each party gives the ALJ their input as to how, procedurally, the case should move forward.
4. The process determined by the ALJ for moving the case forward could involve a variety of possibilities including, but not limited to, setting the matter for evidentiary hearing, scheduling oral arguments on questions of law, requiring the complainant to further define/explain his/her complaint, and/or other procedural actions.
5. If the case is sent to an evidentiary hearing, the process is similar to a court proceeding where the parties may present witnesses and cross-examine each other's witnesses. Witnesses present testimony and are cross-examined while under oath. At this hearing, the ALJ and the Commissioners may also pose questions to the parties.
6. Once the hearing is completed, the ALJ will write a recommended opinion and order ("ROO"). The ROO is based on the evidence contained in the record for the case.
7. The ROO will then be placed on an agenda for an ACC Open Meeting. At this Open Meeting, the Commissioners will consider the ROO and may either approve it as written, deny it, or approve it with modifications (the Commissioners may also send the issue back to the Hearing Division for further review).
8. Once the ACC issues its decision, if any party to the docket disagrees with the decision, that party may request that the ACC reconsider and/or rehear the case. Such a request must be made within 20 days of the effective date of a decision. If the ACC denies the request, a party that has requested reconsideration or rehearing may appeal the ACC decision in court.

Three important items should be noted here. The first deals with items #3, #4 and #5 and how that applies specifically to the APS Complaint Docket. APS is extremely familiar with the ACC process and has very experienced attorneys that have previously handled these and/or similar type cases here at the ACC. While on the other hand, Ms. Champion may not be at all familiar with the ACC's process and/or rules and, as far as I know, is not represented by an attorney that is familiar with the ACC's process (if she is represented by an attorney at all).

Second is that the above-described process does not have a timeframe specified by either rule or statute (other than that in item #1). Any timeframes will be established by the ALJ based on the Procedural Conference.

January 18, 2018
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Third is that although the APS Complaint Docket is related to the recent APS rate case, it is not being processed as part of the recent APS rate case. The APS Complaint Docket is being processed as a separate formal complaint. The question to be answered in this complaint docket by the ALJ and then the Commissioners is - has APS violated an ACC decision(s) and/or are APS's rates unreasonable? If, based on the evidence presented, the answer to either of these questions is yes, the Commissioners will then need to decide how to further proceed with this case to remedy either the APS violation and/or the unreasonable rates.

Docket No. E-01345A-18-0003 is the APS Income Tax Docket. This docket arises from the recent APS rate case, but is being processed separately from that rate case. The Settlement Agreement in the recent APS rate case contained a provision for adjusting APS's rates if there were a significant change to federal income tax rates. Because this portion of the Settlement Agreement was approved by the ACC, APS was required to file the application (APS Income Tax Docket) to reduce its rates, which APS filed on January 8, 2018.

The ACC's Utilities Division Staff ("Staff") is currently in the process of reviewing APS's income tax docket filing. The review by Staff is being done in order to ensure that APS is complying with all aspects of the income tax review requirements contained in the Settlement Agreement. Once Staff's review is complete, Staff is expected to file its findings along with a Recommended Order to be discussed by the Commissioners at an ACC Open Meeting.

Presently, the plan is that this Open Meeting should occur sometime in February. As with the Complaint Docket, the Commissioners could approve the Staff's income tax Recommended Order as written, the Commissioners could reject it, or the Commissioners could approve it with modifications.

Hopefully, the above explanations have cleared up any questions people may have with regard to the processing of the two referenced dockets. As with any other applications filed at the ACC, I have not decided how I will vote with regard to these two applications until I have had a chance to review all the evidence that will be thoroughly discussed and presented to the Commissioners.

Sincerely,



Robert L. Burns
Commissioner

cc: Docket Control Service List for Both Dockets

COMMISSIONERS
TOM FORESE – Chairman
BOB BURNS
ANDY TOBIN
BOYD DUNN
JUSTIN OLSON



BOB BURNS
Commissioner

ARIZONA CORPORATION COMMISSION

January 18, 2018

Senator Steve Yarbrough -- President
Arizona State Senate
1700 W. Washington Street
Phoenix, AZ 85007

RE: ARIZONA PUBLIC SERVICE COMPANY
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INCOME TAX EXPENSE DOCKET NO. E-01345A-18-0003

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Sincerely,



Robert L. Burns
Commissioner

cc: Docket Control Service List for Both Dockets


On this 18th day of January, 2018, the foregoing document was filed with Docket Control as a Correspondence From Commissioner, and copies of the foregoing were mailed on behalf of Bob Burns, Commissioner - A.C.C. to the following who have not consented to email service. On this date or as soon as possible thereafter, the Commission's eDocket program will automatically email a link to the foregoing to the following who have consented to email service.

Andy Kvesic
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Consented to Service by Email

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By: 
Lynn Jahnke
Executive Aide to Commissioner
Burns