

BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

OPEN MEETING AGENDA ITEM

JIM O'CONNOR, Chairman
LEA MÁRQUEZ PETERSON
ANNA TOVAR
KEVIN THOMPSON
NICK MYERS

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, TO APPROVE RATE
SCHEDULES DESIGNED TO DEVELOP SUCH
RETURN.

DOCKET NO. E-01345A-19-0236

**STAFF'S NOTICE OF FILING
PROPOSED ORDER ON REMAND
ADOPTING JOINT RESOLUTION**

The Legal Division Staff of the Arizona Corporation Commission ("Commission") hereby files the attached Proposed Order on Remand Adopting Joint Resolution for the Commission's consideration at the June 21, 2023, Open Meeting. On June 14, 2023, Legal Division Staff and Arizona Public Service Corporation ("APS") filed the proposed Joint Resolution that resolves the proceeding on remand that would be required by the Arizona Court of Appeals in Arizona Public Service Co. v. Ariz. Corp. Comm'n, Case No. 1 CA-CC 21-0002 and also resolves the pending Petition for Review that the Commission filed in the Arizona Supreme Court in Case No. CV-23-0086-PR.

RESPECTFULLY SUBMITTED this 19th day of June 2023./s/Maureen Scott

Robin R. Mitchell, Chief Counsel & Legal Division
Wesley C. Van Cleve, Deputy Chief – Litigation &
Appeals

Maureen A. Scott, Deputy Chief – Litigation &
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CERTIFICATE OF MAILING

On this 19th day of June 2023 the foregoing document was filed with Docket Control as Staff's Notice of Filing Proposed Order on Remand Adopting Joint Resolution, and copies of the foregoing were mailed on behalf of the Utilities Division 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.

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E-01345A-19-0236**

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2 **BEFORE THE ARIZONA CORPORATION COMMISSION**

3 COMMISSIONERS

4 JIM O'CONNOR, Chairman
5 LEA MÁRQUEZ PETERSON
6 ANNA TOVAR
7 KEVIN THOMPSON
8 NICK MYERS

9 IN THE MATTER OF THE APPLICATION OF
10 ARIZONA PUBLIC SERVICE COMPANY FOR
11 A HEARING TO DETERMINE THE FAIR
12 VALUE OF THE UTILITY PROPERTY OF THE
13 COMPANY FOR RATEMAKING PURPOSES,
14 TO FIX A JUST AND REASONABLE RATE OF
15 RETURN THEREON, TO APPROVE RATE
16 SCHEDULES DESIGNED TO DEVELOP SUCH
17 RETURN.

DOCKET NO. E-01345A-19-0236

DECISION NO. _____

ORDER ON REMAND ADOPTING
JOINT RESOLUTION

13
14 Open Meeting
15 June 21 and 22, 2023
16 Phoenix, Arizona

17 BY THE COMMISSION:

18 FINDINGS OF FACT

19 1. On November 9, 2021, the Arizona Corporation Commission ("Commission" or
20 "ACC") issued Decision No. 78317 in the above-captioned matter.

21 2. On November 24, 2021, Arizona Public Service Company ("APS" or "Company")
22 filed a petition for rehearing with the Commission, pursuant to A.R.S § 40-253 and A.R.S § 44-
23 1974 which was denied by operation of law on December 14, 2021.

24 3. APS subsequently filed a Petition for Special Action with the Arizona Supreme
25 Court. APS simultaneously filed a Notice of Appeal with the Arizona Court of Appeals on
26 December 17, 2021. By Order dated December 21, 2022, the Supreme Court fixed the time for a
27 response to the Petition and a reply by APS. The Supreme Court declined to accept jurisdiction of
28 APS's Petition for Special Action, in an order dated February 8, 2022.

_____ Decision No. _____

1 4. Both the Residential Utility Consumer Office (“RUCO”) and the Sierra Club were
2 granted intervention by the Court of Appeals.

3 5. After briefing and oral argument on March 7, 2023, the Court of Appeals issued
4 its Opinion Affirming in Part; Vacating in Part; and Remanding in Part to the Commission,
5 *Arizona Public Service Co. v. Ariz. Corp. Comm’n*, 1 CA-CC 21-0002 (“Opinion”). Of the issues
6 challenged by APS, the Court affirmed the Commission’s Fair Value Increment and base return
7 on equity determinations. However, the Court vacated the Commission’s 20 basis point reduction
8 on the Company’s return on equity as well as the SCR investment disallowance made by the
9 Commission.

10 6. The Commission filed a Petition for Review with the Arizona Supreme Court on
11 May 8, 2023 (“Petition for Review”), seeking review of the Court of Appeals’ Opinion with
12 respect to the basis point reduction and the SCR investment disallowance. On May 15, 2023, the
13 Commission, with permission from APS, filed a Joint Motion for Procedural Order to Temporarily
14 Suspend the Procedural Schedule Associated with this Appeal or Alternatively for Extension, so
15 that the Commission and APS could engage in settlement discussions. The Supreme Court stayed
16 any action on the Petition for Review, including all applicable filing deadlines, for a period of 60
17 days. The Supreme Court set the date for a response to the Petition for Review no later than July
18 14, 2023.

19 7. At the Commission Open Meeting on March 23, 2023, and Staff Open Meetings
20 on May 30, 2023, and June 7, 2023, the Commission authorized the Legal Division Staff to engage
21 in settlement discussions with APS to resolve pending issues arising from the Court of Appeals’
22 Opinion. The settlement discussions were also intended to resolve the Commission’s pending
23 Petition for Review with the Arizona Supreme Court.

24 8. After extensive negotiations between the Legal Division Staff and APS, a proposed
25 Joint Resolution was reached. The Commission will consider the terms of the proposed Joint
26 Resolution (filed in this Docket on June 15, 2023) resolving all issues in the Opinion as well as
27 the Commission’s pending Petition for Review (hereafter, the Joint Resolution”) at the June 21-
28 22, 2023 Open Meeting.

9. The terms of the Joint Resolution, including supporting schedules (described in Attachment A to the Joint Resolution), a tariff containing the terms of a surcharge to implement the revenue collection components of the Joint Resolution (“Surcharge”) (described in Attachment B to the Joint Resolution), and bill impact estimates associated with the Surcharge (described in Attachment C to the Resolution) are fully set forth as Exhibit A to this Order.

10. The terms of the Joint Resolution, including without limitation the Surcharge, are just, reasonable, fair, and in the public interest in that they, among other things, minimize the bill impacts for customers, establish just and reasonable rates for APS customers, and prevent further litigation. The Surcharge is consistent with the Opinion, and resolves the issues related to the Commission's Petition for Review to the Arizona Supreme Court, avoiding unnecessary expense and delay. The revenue requirements, bill impacts, and Surcharge have been reviewed and confirmed by the Utilities Division Staff as accurate.

CONCLUSIONS OF LAW

1. Arizona Public Service Company is an Arizona public service corporation within the meaning of Article XV, Section 2 of the Arizona Constitution.

2. The Commission has jurisdiction over Arizona Public Service Company and the subject matter of the Joint Resolution.

3. The fair value rate base for Arizona Public Service Company for purposes of the Surcharge is \$12,241,539,000 based on the inclusion of the \$215.5 million of Selective Catalytic Reduction (“SCR”) equipment costs.

4. The Commission, having reviewed and considered the above discussed Joint Resolution, concludes that the same is in the public interest and should therefore be approved.

ORDER

IT IS THEREFORE ORDERED that the terms and conditions of the Joint Resolution, as discussed above, are just, reasonable, and in the public interest, and are hereby approved.

IT IS FURTHER ORDERED that the Surcharge of \$0.00175 per kWh (as set forth in the Joint Resolution) shall be applied to all customer bills beginning on July 1, 2023 and shall continue in effect as provided in the Joint Resolution.

1 IT IS FURTHER ORDERED that Arizona Public Service Company shall file a
2 conforming tariff for the Surcharge within thirty (30) days of the effective date of this Decision.

3 IT IS FURTHER ORDERED that APS shall provide notice to its customers of the
4 Surcharge via a bill message and website notice in a form acceptable to the Commission's Utilities
5 Division Staff.

6 IT IS FURTHER ORDERED that, for the purposes of the Surcharge, APS's fair value rate
7 base is \$12,241,539,000 based on the inclusion of the \$215.5 million of SCR costs, and that APS's
8 fair value rate base shall be updated to reflect the inclusion of remaining SCR costs as set forth
9 herein as part of the next general rate case filed by APS after Docket No. E-01345A-22-0144
10 concludes.

11 IT IS FURTHER ORDERED that this Decision shall become effective immediately.
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IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY THE ORDER OF THE ARIZONA CORPORATION COMMISSION

CHAIRMAN O'CONNOR

COMMISSIONER MÁRQUEZ PETERSON

COMMISSIONER TOVAR COMMISSIONER THOMPSON COMMISSIONER MYERS

IN WITNESS WHEREOF, I, DOUGLAS R. CLARK,
Executive Director of the Arizona Corporation
Commission, have hereunto, set my hand and caused the
official seal of this Commission to be affixed at the Capitol,
in the City of Phoenix, this _____ day of
_____, 2023.

DOUGLAS R. CLARK
Executive Director

DISSENT: _____

DISSENT: _____