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BEFORE THE ARIZONA CORPORATION COMMISSION

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Arizona Corporation Commission

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COMMISSIONERS

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

IN THE MATTER OF THE FORMAL COMPLAINT
AGAINST ARIZONA PUBLIC SERVICE
COMPANY FILED BY STACEY CHAMPION AND
OTHER ARIZONA PUBLIC SERVICE COMPANY
CUSTOMERS.

(Jane Rodda, Hearing Officer)

DOCKET NO. E-01345A-18-0002

**RICHARD GAYER's
RESPONSE TO APS's
ANSWER TO REVISED
CHAMPION COMPLAINT**

Richard Gayer, a party to this Docket, hereby submits his own Response to APS's Answer to the Revised Champion Complaint.

APS states that "A.R.S. section 40-246 does not provide for a rehearing of a rate case" (Answer at 7:26-27) and that 40-246 does not "identify a remedy for a showing made under the statute's terms" (*id.*, at 8:2-3), but provides no authority for its assertion except the bare language of the statute. Assuming *arguendo* that APS may be correct, a simple but effective remedy still exists: rescind and abrogate Decision 76295 and return to the rate structure in effect before August 18, 2017. A new rate structure can be considered in the next general rate case that may begin on or after June 1, 2019 (*id.*, at 2:13), or even sooner.¹

That was the procedure followed in APS Docket 13-0069, wherein the Commission granted Woodward's and Ferre's Application for Rehearing in Decision 75047 and "rescinded and abrogated" Decision 74871 (page 5, lines 11-12).

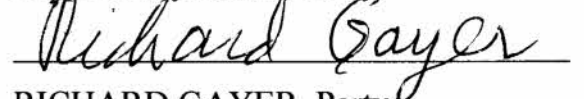
¹ If the Decision is completely vacated, then Gayer believes it is possible that a new general rate case may be commenced at any time.

1 In the early stages of the APS Rate Case, Docket 16-0036, both RUCO and the
2 Commission's staff stated that APS did not need a rate increase. In the executive summary of
3 Frank Radigan's direct testimony at page ii at lines 14-16 (emphasis added, docketed on
4 December 22, 2016), he states that: "RUCO recommends allowing all adjustor revenues to be
5 transferred to base rate which results in RUCO's recommended net base rate *decrease* of \$24.6
6 million". Similarly for the Staff, the executive summary of Ralph Smith's direct testimony
7 (emphasis added, docketed on December 28, 2016 at first page, not numbered) states that "Staff
8 is proposing that there be *no rate change* other than to roll in the revenues associated with the
9 Adjustor Mechanisms."²

10 APS finally argues that "the only relevant questions can be whether the ratemaking
11 *process* was followed correctly" (Answer at 8:16-17, emphasis added). But given that the
12 process, a settlement discussion, was conducted in secret and not based on evidence, the process
13 itself was flawed as a deprivation of due process.

14 Dated: 12 April 2018

Respectfully submitted by,



RICHARD GAYER, Party
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19 **CERTIFICATE OF SERVICE BY ELECTRONIC MAIL**

20 On 12 April 2018, I served copies of this document via electronic mail on everyone on
21 the Service List in this case.


RICHARD GAYER

28 ² ROCU and Staff later surrendered to APS and supported the Settlement Agreement.