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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

Arizona Corporation Commission

DOCKETED

9 **TOM FORESE, Chairman**
10 **BOB BURNS**
11 **ANDY TOBIN**
12 **BOYD DUNN**
13 **JUSTIN OLSEN**

SEP 21 2018

DOCKETED BY

14 IN THE MATTER OF THE FORMAL
15 COMPLAINT AGAINST ARIZONA
16 PUBLIC SERVICE COMPANY FILED
17 BY STACEY CHAMPION AND OTHER
18 ARIZONA PUBLIC SERVICE
19 COMPANY CUSTOMERS.

DOCKET NO. E-01345A-18-0002

**COMPLAINANT STACEY
CHAMPION'S RESPONSE TO
COMMISSIONER TOBIN'S
LETTER TO ALJ RODDA**

20 Complainant Stacey Champion, by and through counsel undersigned, hereby
21 responds to Commissioner Tobin's September 21, 2018 Letter to Administrative Law
22 Judge Jane Rodda in this Docket.

23 Commissioner Tobin has requested an interlocutory order regarding Section 40.6
24 of the Settlement Agreement approved by the Commission in Decision No. 76295.
25 Commissioner Tobin asks whether this Section has been triggered by this proceeding and
26 whether or not this Section requires the signatory parties to participate in this proceeding.
Section 40.6 provides:

The Signing Parties shall make reasonable and good faith efforts necessary

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to obtain a Commission order approving this Agreement. The Signing Parties shall support and defend this Agreement before the Commission. Subject to subsection 40.5, if the Commission adopts an order approving all material terms of the Agreement, the Signing Parties will support and defend the Commission's order before any court or regulatory agency in which it may be an issue.

What is missing from the last sentence in this Section is the word "appear." While the Signing Parties are obligated to "support and defend the Commission's order before any court or regulatory agency in which it may be an issue", the Agreement does NOT require the Signing Parties to **appear** in any such proceeding. Thus, even if the answers to Commission Tobin's questions, "(1) Did the Commission adopt an order approving all material terms of the Agreement?" and "(2) Is the Commission's order at issue in this matter?", are "yes", the Agreement still does not create an affirmative obligation on the Signing Parties to intervene in this Docket, which is consumer complaint, not a rate case.

The deadline to intervene has long since passed on May 11, 2018, and the hearing on this matter is set to begin on Tuesday, September 25, 2018. Complainant is ready to proceed. Based on the fact that NO Signing Party has intervened in Ms. Champion's Complaint¹, it would appear that they share this interpretation of Section 40.6.

RESPECTFULLY SUBMITTED this 21st day of September, 2018.

WONG 和 CARTER P.C.

By: 
Adam L. Stafford
Attorneys for Complainant Stacey Champion

¹ The sole exception being Commission Staff, which did not intervene *per se*, but is participating in this matter at the request of Chairman Forese.

1 ORIGINAL and thirteen (13) copies
2 of the foregoing filed this 21st day of
3 September, 2018, with:

4 Docket Control
5 ARIZONA CORPORATION COMMISSION
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8 COPY of the foregoing mailed/mailed
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