The Arizona Corporation Commission is not required to review any portion of APS’s April 2, 2015 filing in a rate case.

Over the last 30 years, it seems that entire forests have been cleared in order to provide enough paper for attorneys to argue whether or not specific adjuster clauses have been structured in order to provide an exemption to Scates’ “single-issue rate making” prohibition. This brief is no exception. However in an effort to avoid having the Adjuster tail wag the Fair Value dog, the AzCPA will first focus on two aspects of Scates that get less notice: The Commission’s decision in the underlying rate case provided 1) a substantial revenue increase 2) without any inquiry whatsoever into how the increase would affect the rate of return. (Scates v. Arizona Corporation Commission 578 P.2d 612.)
Here, the company's proposed adjustment to the LFCR is revenue neutral. Additionally, the Commission reviewed substantial evidence and concluded in Decision number 74202 that the $3.00 per KW charge was reasonable for DG customers. The AzCPA believes that upon review of evidence, the Corporation Commission has the authority to make revenue neutral rate changes without requiring a full-blown rate case and without relying on the classic Scates’ exemptions of interim rates or adjuster mechanisms.

Be that as it may, in the case at hand, the Commission did establish the LFCR adjuster mechanism in a full rate case. Furthermore, the Scates conjecture envisioned the constitutionality of the more problematic “automatic” rate adjuster mechanism. Here the Commission not only established the LFCR in a rate case, but established an LFCR adjustment procedure that requires the company to submit, Staff to review and the Commissioners to opine on additional evidence.

The AzCPA believes that the Corporation Commission’s powers are very broad and the Scates’ restrictions are quite narrow. In that case, the Commission provided a substantial rate increase based on a single issue and specifically rejected any evidence of other financial issues. Even under this rather rare and egregious fact pattern the Scates court was quick to provide exceptions in the form of interim rates or adjustment clauses. Parties over the years have attempted to narrow the constitutional authority of the Commission by converting the ruling on this extraordinary fact pattern into a Mantra that Scates prevents “Single-issue rate making.” While that Mantra may provide convenient shorthand, it should not be used to replace the actual requirements of the case. In actuality, Scates recognized that the Commission has authority to make substantial changes to a company’s rate structure even in the absence of a full-blown rate
case. The current case provides an excellent example: In its April 2nd 2015 filing APS proposes that the Corporation Commission make a revenue neutral adjustment to an adjuster mechanism that was established in a previous rate case. This after the Commission has already considered substantial evidence and concluded nearly a year ago that the adjustment APS proposes is reasonable. The Commission is well within its authority to make this adjustment outside the bounds of a rate case.

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RESPECTFULLY SUBMITTED this 22nd day May, 2015.

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