Exhibit No.: _____
Issue(s): Rate Design (Fuel Adjustment Clause; Off-system Sales)

Sponsoring Party: AARP

BEFORE THE PUBLIC SERVICE COMMISSION OF MISSOURI

DIRECT TESTIMONY OF RONALD J. BINZ

ON BEHALF OF AARP

Aquila Networks-MPS & L&P
Case No. ER-2007-0004

Filed: January 25, 2007

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DIRECT TESTIMONY OF RONALD J. BINZ

Q What is your name and address?

A My name is Ronald J. Binz. My business address is 333 Eudora Street, Denver, Colorado 80220-5721.

Q On whose behalf are you testifying in this case?

A I am testifying on behalf of AARP, a nonprofit, nonpartisan membership organization for people aged fifty and over. AARP provides information and resources; advocates on legislative, consumer, and legal issues; assists members to serve their communities; and offers a wide range of products and services to its members. Nationally, AARP has over thirty-six million members, including more than 778,000 members in Missouri.

Q What is your occupation?

A I am President of Public Policy Consulting, a firm specializing in energy and telecommunications regulatory matters. I provide consulting services to a variety of public-sector and private-sector clients in the energy and telecommunications industries, primarily in the regulatory arena. These have included consumer organizations, senior citizen groups, agricultural utility consumers, homebuilders, state agencies, commercial customer groups, telecommunications carriers, resellers and local governments. My consulting practice dates to 1979, except for the years 1984-1995 when I served as Colorado Consumer Counsel.

In my role as Consumer Counsel for the State of Colorado, I represented the interests of residential, small business and agricultural consumers of telecommunications

and energy before the Colorado Public Utilities Commission, the Federal Communications Commission (FCC), the Federal Energy Regulatory Commission (FERC), the courts and legislative bodies.

While Consumer Counsel I served as the President of the National Association of State Utility Consumer Advocates (NASUCA) for two years and chaired the organization's Telecommunications Committee for three years. In those roles, and as President of the Competition Policy Institute, I have testified fourteen times before Congressional committees on energy and telecommunications matters.

These have included consumer organizations, senior citizen groups, agricultural utility consumers, homebuilders, state agencies, telecommunications resellers and local governments.

I am a frequent speaker and presenter at industry, regulatory and legislative conferences and symposia. I am a member of the Harvard Electricity Policy Group and recently served on two advisory commissions to the Federal Communications Commission. My *curriculum vitae* is attached as Appendix A to this testimony.

Q What is your educational background?

A I received a B.A in Philosophy from St. Louis University in 1971. I received an M.A in Mathematics from the University of Colorado in 1977. I entered the Masters Program in Economics in 1980 and completed 27 hours of graduate work. I was researching my Masters Thesis on Regulated Industries in 1983 when I was appointed to the Public Utilities Commission by Colorado Governor Richard Lamm.

Q What is the purpose of your testimony in this case?

A I was asked by AARP to review the proposals of Aquila Networks-MPS & L&P ("Aquila" or "Company") in two areas: 1) the proposed Fuel Adjustment Clause ("FAC"); 2) the treatment of off-system energy sales within this adjustment mechanism. In this testimony I examine the Company's proposals in these areas and make recommendations to the Commission.

Q How is your testimony organized?

A First, I present an introduction to the testimony and a summary of my findings and recommendations for the Commission. Second, I summarize the Company's proposals for a Cost Adjustment Mechanism (Fuel Adjustment Clause or FAC) and for treating off-system energy sales. Third, I discuss the role and impact of cost adjustment mechanisms in utility rate making and offer an alternative approach to the Company's proposal for the Commission's consideration. Similarly, I apply the same recommendation to the treatment of off-system sales. Finally, I summarize my findings and recommendations.

I. Introduction and Summary of Testimony

Q Mr. Binz, why is this case important to AARP members in Missouri?

A From my discussions with AARP, I understand that AARP is the nation's largest membership organization representing the interests of Americans aged 50 and older and is concerned about the health, safety and financial security of older Americans. AARP advocates for affordable and accessible energy services on the federal and state levels.

AARP knows that electricity service is crucial to health and personal welfare, especially for older Americans: the ability to have air conditioning during the summer and

heat during the winter at affordable rates is absolutely necessary. AARP understands that the loss of affordable utility services would have devastating consequences.

The Company is proposing a very large base rate increase for customers in its two Missouri regions – an overall increase of $118.9 million, or about 22% above proforma revenues. For residential customers, the increase will be about 24.6% above existing rates.

My testimony is designed to ensure that, whatever level of rates the Commission decides to award the Company, the utility is left with the correct incentives to be efficient and keep its costs as low as reasonable. Aquila is proposing to modify substantially the manner in which it collects its rates by instituting a Cost Adjustment Mechanism called the Fuel Adjustment Clause or FAC. As I discuss later in the testimony, a FAC will significantly affect the Company's incentives. This has implications for rates in the future, another item of concern for AARP.

Q Please summarize your conclusions and recommendations to the Commission.

A After reviewing the Company's testimony and exhibits, I have developed the following findings and recommendations for the Commission:

- No FAC should be approved for Aquila. In general, regulators should avoid using "automatic" cost adjustment mechanisms for rate regulated companies. While there are valid arguments for and against their use, I think the balance weighs against cost adjustment mechanisms in most cases.
- Cost adjustment mechanisms should be used only for utility costs that meet three qualifications:
    - They represent a significant portion of a utility's costs;
    - They fluctuate significantly;
    - The costs are outside the utility's control.

The costs examined in this case meet the first of these criteria: fuel and purchased power costs comprise a significant portion of Aquila's total electric costs. However, these costs only partially meet the second and third criteria.

- If, despite the objections of consumer representatives, the Commission decides to adopt any cost adjustment mechanism for Aquila in Missouri, then it should be designed to retain as many of the desirable incentives of cost of service regulation as possible. These include valuable incentives for the utility to operate efficiently and to manage its power costs.

- If the Commission decides to approve an FAC for Aquila in Missouri, it should be constructed so that some significant fraction of Aquila's energy costs remains at risk. Such a feature is critical to maintain the correct incentives for the Company.

- In its proposal for treating off-system energy sales, Aquila provides the Commission with an example of a sharing mechanism that can be modified for the FAC. If the Commission approves an FAC for Aquila, it should contain a "dead band" in which there is no adjustment with a "tapered" percentage sharing outside the dead band. The Wyoming PSC recently adopted an FAC recently adopted an FAC with such desirable features.

- If the Commission adopts an incentive-based Cost Adjustment Mechanism of any kind, it should consider directing the parties to negotiate the details of implementation of the mechanism in line with principles the Commission would include in its order.

II. The Aquila Proposals

Q What is Aquila seeking in this case with respect to increased revenues?

A The Company is seeking an increase in annual base electric revenues of $118.9 million between its MPS and L&P regions. This translates into an increase of about 24.6% for residential customers.

Q What rate design proposals are made by Aquila in this case?

In its filing, the Company is proposing to institute a cost allocation mechanism called the FAC. The mechanism is designed to track the Company's expenses related to fuel and purchased power and will flow through to customers any differences between the level of these costs collected in base rates and the costs actually incurred in the future.

The FAC will be updated quarterly, based on fuel costs and purchased power costs incurred in the quarter prior to the most recent quarter. Since actual expenses may be higher or lower than the base rate level, the FAC rate increment applied to customer bills may be positive or negative. The FAC also contains a true-up mechanism to account for under-collection of over-collection of target costs subject to the mechanism. The FAC is also designed to permit the Commission, if it chooses, to flow through variations in the level of margins from the Company's off-system energy sales.

Concerning off-system energy sales, Aquila proposes to set a base level of assumed revenues in base rates equal to the average of the past three years sales. The Company proposes to "share" differences above or below the assumed base level 50-50 with ratepayers.

III. Analysis of the FAC Proposal

Q Do you recommend that the Commission adopt an energy cost adjustment mechanism for Aquila?

A. No. In general, I do not recommend that Commissions establish "automatic" cost adjustment mechanisms for regulated companies. While there are valid arguments for and against their use, I think the balance weighs against cost adjustment mechanisms in most cases. There are several reasons for my position.

First, a cost adjustment mechanism tends to dull the incentives to efficiency that cost of service regulation provides to utilities. To see why, consider that a firm operating in a competitive market is not able to change prices to accommodate changes in costs, at least not unilaterally – not until the market price changes. Pressure from cost increases requires a competitive firm to become more efficient and productive in order to maintain its profitability.

It is important that utility firms face similar pressures for efficiency. "Regulatory lag" in cost of service regulation has long been recognized as a process that mimics a comparable pressure in a competitive market. This can benefit customers and the utility alike by supplying the incentives that competition provides in other industries.

There are certainly specific situations in which regulators might usefully consider adopting cost recovery mechanisms to speed up utility cost recovery or to simplify regulatory practices. However, I do not think the situation of Aquila in Missouri is one of those cases. Those situations are usually triggered by the very poor financial health of a utility or the need to ease the burden on regulators.

Indeed, fuel adjustment clauses originated during a period when increases in certain expense items were badly hurting utility earnings and regulators were being swamped with "pancaked" rate cases. Those may be valid reasons for using cost allocation mechanisms, as long as regulators understand the trade-offs and find that the benefits obtained from using such mechanisms outweigh the damage done to the utility's incentives.

The most important thing to remember when considering whether to adopt a cost adjustment mechanism is that moving away from traditional regulatory treatment comes with a potentially large cost: a greatly lessened incentive for the utility to be efficient. In my opinion, cost adjustment mechanisms are adopted by regulators in spite of the incentives they provide, not because of them.

Q Please discuss your other reasons for opposing implementation of most cost adjustment mechanism.

My second reason is that cost adjustment mechanisms tend to skew choices the regulated company must make by rearranging its economic incentives. A utility is continuously faced with short-term and long-term decisions about fuel and power purchases, whether to "build or buy," etc. To the extent that an adjustment mechanism is a "thumb on the scale" for some choices in preference to others, it may induce the Company to make choices it might not otherwise make, to the detriment of the Company's customers.

My third concern with cost adjustment mechanisms relates to their fairness. Cost adjustment mechanisms shift the balance of risk between utilities and their customers; more generally, they change the balance of equities embodied in cost of service regulation. Cost adjustment mechanisms are usually applied only to costs that trend upward over time. It

would be a rare utility that would propose a cost mechanism to track decreasing costs. By removing an upward-trending cost and tracking it with a cost adjustment mechanism, the balance of fairness in ratemaking is changed. The probability that a utility will be able to exceed its authorized return is heightened, without any compensating change to benefit consumers.

Q. What policy questions should the Commission examine in determining whether to approve a cost adjustment mechanism as proposed by Aquila in this case?

A. At the outset, I suggest the Commission should address at least these three basic policy questions when deciding whether to approve a cost mechanism like the FAC:

- What is the purpose of a FAC in Missouri? What feature of regulation needs repair?
- How does the FAC modify the equities of cost of service regulation as it is currently practiced?
- How does the FAC affect the incentives facing Aquila? How can the Commission retain the desirable aspects of current regulation?

Q What types of cost are typically considered candidates for recovery through cost adjustment mechanisms?

The Aquila proposal is to establish a cost adjustment mechanism for changes in fuel costs (including fuel transportation costs) and purchased power. It is well established in utility regulation that cost adjustment mechanisms should apply only to costs that meet three criteria:

- They represent a significant portion of a utility's costs;
- They fluctuate significantly;

- The costs are outside the utility's control.

Q. Are fuel and purchased power costs a significant portion of Aquila's revenue requirement?

A. Yes, they are. Fuel costs and purchased power costs are large fraction of the Company's proposed revenue requirement in the case pending before the Commission at the current time. For example, these costs represent approximately 30% of the monthly bill for a residential customer using 1000 kWh of electricity during non-summer months in either Aquila region.

Q. Do the Company's power costs fluctuate?

A While it might be argued that fuel costs and purchased power costs will trend upward over time, I am unaware of any evidence that fuel and purchased power costs in Missouri are expected to fluctuate significantly in the intermediate future. The Company has not offered any evidence in support of the FAC proposal that shows the Company's power costs are expected to change rapidly in Missouri.

More importantly, smooth increases in over time in any cost category do not indicate that a Commission should institute a "recovery mechanism." To begin with, a utility is a dynamic entity, and profits from increased labor productivity, new technology, and increasing sales among other changes. Each of these will offset the impact of higher costs of inputs. To the extent that higher costs cannot be offset by productivity gains, increased sales, etc., the utility always has the alternative to file to increase rates. Regulators must understand that this type of pressure on a utility to become progressively more efficient is actually a *good thing*: good for customers and companies alike.

Q. Are variations in fuel and purchased power costs within the control of Aquila?

A. It is true that Aquila cannot affect two determinants of its power costs: wholesale market prices and the weather. On the other hand, there are other determinants of fuel and power costs that Aquila can influence or even control in the short-run and long-run. Here is a partial list of drivers for fuel and purchased power over which the Company exercises control or significant influence:

- Basic choices in the utility's resource plan
- The ratio of owned generation and purchased power
- Terms of wholesale contracts
- Efficiency of system operations
- Transmission system design and operation
- Degree and type of fuel risk in purchase decisions
- Hedging activities
- Demand side choices
- Advocacy for beneficial rate design proposals

Thus we see that the Company is neither passive nor powerless in the face of changing fuel and power costs. The Company shapes its power cost future by the numerous choices it makes in these areas. The Commission should tread carefully when changing the way it regulates these activities and the basic incentives provided to Aquila.

Q. What about the effect of an FAC on Aquila's incentives?

A. In many ways, regulation may have its greatest effect, not through limits on prices in the short run, but rather through the incentives it creates for utilities in the longer run. It is important to consider some of the signals that will flow from approval of the FAC.

The Commission is undoubtedly aware of the debates about incentives that cost regulation provides: examples include the Averch-Johnson effect for capital investment levels; the connection between cost regulation and quality of service; and the incentives inherent in price cap regulation.

For better or for worse, the presence of regulation in a market shapes the behavior of the market participants. While utility regulators might want to limit their role to being a substitute for the competition that is missing in these industries, it is rarely possible to limit regulation's effects that way. The question is usually not how to eliminate stray incentives in decisions but, instead, which ones to accept.

Aquila has operated in Missouri without a power cost adjustment mechanism since at least 1979. In my view, this has created a desirable risk/reward proposition for consumers and for the Company.

Under the current regulatory regime for Aquila in Missouri, fundamental decisions such as whether to "build or buy," whether and how to hedge power costs, choices of fuel acquisition strategies, and even rate design choices are shaped by the fact that differences between projected and actual power costs accrue to the benefit or detriment of shareholders between rate cases. A FAC mechanism alters in a fundamental way the risk analysis that Aquila executive will consider when making those decisions. As I will explain later in this testimony, if the Commission decides to adopt some form of a FAC in this case, it should try to retain as many of the desirable incentives of standard regulation as possible when designing the FAC.

Q Is it necessary for the Commission to adopt an FAC in order to ensure that Aquila recovers its costs?

A No. It is a common misconception that utility regulation is a "cost-plus" exercise and that a regulator's duty is to ensure that companies "recover" their costs. This is factually incorrect. Under cost of service regulation, past costs are not "recovered;" they are simply used as a guide to the future costs that new rates attempt to match. In fact, "recovering" past costs, absent a specific exception, is retroactive ratemaking. An FAC distorts the traditional ratemaking equation and essentially inoculates a future rate request of a utility from a claim of retroactive ratemaking with respect to the subject costs.

The "regulatory bargain" in Missouri is similar to that in many other states: a utility's rates are set on the basis of a reasonable projection of future costs. The traditional ratemaking method uses an adjusted "test year" to estimate the required future revenues by estimating the future costs and future level of profit required. To the extent that actual costs are lower or higher than these estimated costs, a utility's shareholders are better off (or worse off) for a period of time. If a utility can justify changing its base rates, it files a case and the Commission renders a decision. If the Commission (or another party) believes rates are systematically too high going forward, that party can file to reduce rates, and the Commission renders a decision.

Missouri utilities have functioned since 1979 without the advantage of an FAC and none to my knowledge has alleged that regulation is impossible without an FAC. The new law passed by the Missouri general assembly (SB 179) authorizes, but does not require, the Commission to approve an FAC. Importantly, SB 179 also contemplates that the Commission may modify a proposed adjustment mechanism to provide "incentives to

improve the efficiency and cost-effectiveness" of the utility's fuel and purchased power procurement activities.

Q What is AARP's overall position on the FAC for Aquila?

A For the reasons I have articulated above, AARP opposes implementation of an FAC for Aquila because of the damage such clauses do to the utility's incentives to be efficient and its impact on the fairness of regulatory bargain.

Q Mr. Binz, before discussing your recommendations concerning Aquila's FAC proposal, please discuss the rate treatment of off-system energy sales as a component of a FAC mechanism.

A Aquila proposes to include the margins from off-system sales as an "above-the-line" item, ensuring that these substantial profits are counted towards the Company's regulated revenue requirement. This is a continuation of current Commission practice that recognizes these unregulated sales and the related margins are made possible only through the use of generating plants and fuel stocks paid for by ratepayers. Through the testimony of its witness Adkins, the Company estimates margins for off-system sales at a level equal to the average of the previous three years experience. The Company proposes to credit this amount against the revenue requirement in the case.

I should also note that there is some debate in the record about the appropriate value that should be used for margins associated with off-system sales. The Missouri PSC Staff witness Harris notes that the level of the net margins has been trending up each year. Instead of using a three-year average of net margins, Mr. Harris advocates the use of a two-year average.

Q Is Aquila proposing to incorporate the margin-sharing mechanism as part of the FAC in this case?

A Yes. As explained by Aquila witness Williams, the differences between the assumed base level of sales margins and actual results (positive or negative) will be split 50-50 with rate payers and will be included in the FAC calculation.

Q What is AARP's opinion of the Aquila margin-sharing proposal and its connection to the FAC proposal?

A As with the FAC, AARP opposes the sharing mechanism proposed by Aquila to treat off-system sales as unfair to consumers. However, later in my testimony I will describe modifications to the margin-sharing structure that would make it more equitable, assuming there is interest in adopting a mechanism like this and coupling it with any FAC that the Commission might approve. It is also critical that, in any circumstance, the Commission set the base level of off-system revenues correctly.

IV. Changes to the FAC Proposal

Q Mr. Binz, please summarize your testimony to this point concerning the Company's FAC proposal.

A In general, I think the Commission should not authorize automatic cost adjustment mechanisms such as the FAC. While these mechanisms might superficially be said to track a utility's costs more accurately, their effects can be much larger and more injurious to consumers than that simple description. Adjustment clauses such as the FAC significantly reduce the pressure on a utility to be efficient, in its fuel and purchased power operations,

but more generally in all its operations. Simply put, the "cure" offered by an FAC can be worse than the "disease".

For these reasons, I think the Commission should conclude that there is no compelling reason to approve the FAC proposal. Since an FAC will likely increase consumer costs in the longer run by reducing efficiency incentives for Aquila, the Commission should reject the use of an FAC.

Q Assuming, instead, that the Commission decides to authorize a version of the FAC, what modifications would you recommend to the Aquila proposal?

A If the Commission decides to approve a version of the FAC despite these reservations, it should modify the Company's proposal. The Missouri statute governing Cost Adjustment Mechanisms contains several qualifications on a CAM, which are designed to protect consumers. These are useful and should be (must be) included in the design of any FAC.

But there is another way in which the statute can be used by the Commission to design an FAC for Aquila that lessens some of the negative effects that could otherwise accompany an FAC. I am speaking, of course, about incentives to efficiency for the Company. The statute clearly gives the Commission authority and discretion on this point, and if any FAC is adopted, I think the Commission must exercise that discretion.

The important point is that a mechanism should induce the utility to remain efficient, using a combination of risk and reward. There is a very simple approach to doing this and a variety of more complex approaches.

Q What is the simple approach to retaining incentives while adopting an FAC?

A Recall that current regulation incorporates an estimate of fuel and purchased power costs in base rates. If actual costs are lower, the utility earns more money; if actual costs are higher than the base rate increment, the utility earns less. None of the variation from the base is added to or subtracted from base rates. Thus, current regulation is the ***0% Pass-Through Case.***

In contrast, the FAC proposed by Aquila would track every penny of differences between base rates and actual power costs. Whether over or under, the entire variation is passed through to customers in the form of an increment on the monthly bill. The Aquila proposal is the ***100% Pass-Through Case***.

Between these extremes are infinitely many middle-ground cases. It is perfectly reasonable for the Commission to apply the FAC to exactly 50% of the over/under deviation from base rates.

Q Does this mean that the utility will recover only 50% of its power costs?

A No. If the Commission approves a ***50% Pass-Through FAC***, the vast majority of Aquila's power costs will still be collected in base rates. The 50% fraction applies only to the variation from that base amount. And since the fraction applies symmetrically to cost differences, the utility will sometimes over recover, sometimes under recover, but at half the rate that happens today.

Q If the Commission applies the FAC to 50% of the variation in power costs from base rates, is it systematically making rates inexact?

A No more than rates are only estimates of future costs today. By using the 50% rule, the Commission would strike an exact middle ground between the type of regulation that has existed since 1979 in Missouri and the type of regulation proposed by Aquila in this case.

But it would be unfair to call the 50% proposal simply a middle ground. This approach maintains the same incentives for efficiency that traditional cost of service regulation provides to utilities. When faced with the choice of acting to lower its expenses, Aquila would know that it will be allowed to "keep" half of the costs savings in this approach. In contrast, under the 100% FAC proposed by the Company, any efficiency gains are taken away from Aquila at its next FAC filing.

The same logic applies in reverse. Unless a utility's bad behavior is found to be imprudent (a very high standard) it faces no consequence for incurring excess costs under the FAC. Excess costs will simply be passed through in the next FAC filing. On the other hand, if the utility is sharing its over/under power cost results, the utility faces a disincentive for bad behavior that results in higher costs because only half of such higher costs are passed through the FAC, with the balance absorbed by the Company.

Q Please describe more complex approaches to retain incentives in the context of a cost adjustment mechanism.

A A more sophisticated adjustment mechanism that maintains efficiency incentives may involve a "tapered" sharing formula and possibly a "dead band" in which there is no sharing.

Q Please illustrate this concept with an example.

A The following table is taken from the Wyoming tariff of Rocky Mountain Power (RMP), a division of PacifiCorp, which is itself a division of Mid-American Energy Holdings Company. This tariff was approved by the Wyoming PSC in May 2006.

As can be seen from the table, RMP is allowed to collect (or is required to pass through to consumers) differences in its "net power costs" according to a schedule given in the table. The company's base rates include a level of net power cost recovery (currently about $600 million) or $0.01328 per kWh for residential customers). If actual net power costs are within a "dead band" of $40 million on either side of the base amount, no adjustment is made. Outside of the dead band, the Company returns a portion of its over recovery to consumers, or passes on a portion of its under recovery to consumers. The percentages change on a sliding scale until, at the outer margin, 90% of the variations in the Company's net power costs are collected from customers or refunded to them.

Excerpt from Power Cost Adjustment Mechanism (PCAM) Tariff Rocky Mountain Power – Wyoming		
Adjusted Actual Total Net Power Costs Layer	**Customer Proportion**	**Company Proportion**
Over $200 million above Base	Company recovers 90% from Customers	Company absorbs 10%
Over $100 million and up to $200 million above Base	Company recovers 85% from Customers	Company absorbs 15%
Over $40 million and up to $100 million above Base	Company recovers 70% from Customers	Company absorbs 30%
$40 million above Base (Dead Band)	Company recovers 0% from Customers	Company absorbs 100%
$40 million below Base (Dead Band)	Company returns 0% to Customers	Company retains 100%
Over $40 million and up to $100 million below Base	Company returns 70% to Customers	Company retains 30%
Over $100 million and up to $200 million below Base	Company returns 85% to Customers	Company retains 15%
Over $200 million below Base	Company returns 90% to Customers	Company retains 10%

Note: the net power cost figures in this table refer to Company-wide power costs, including utility operations in six western states. Wyoming's share of total net power costs is approximately 14%.

Q What are the advantages of an approach like this, compared to a pass-through mechanism such as that proposed by Aquila?

A In my view, there are several advantages. First, the presence of the dead band means that the mechanism comes into play only after there is a meaningful difference between base rate costs and actual costs. This means that the original incentives I discussed earlier remain in place within the dead band.

Second, outside the dead band, the Company would still retain real incentives to control costs. If RMP is able to lower its power costs, it retains the first $40 million (the

dead band) plus 30% of the next $60 million in savings. Similar, but opposite, incentives work in the other direction.

Third, since 90% of all variations in net power costs that exceed $200 million above the base will be recovered through the mechanism, RMP is protected against very large fluctuations in the wholesale power markets, as was experienced in the western U.S. in 2000-2001. In other words, this tariff functions as a "backstop" against serious financial damage to the utility. Again, it serves this function this without completely removing incentives for the utility to be efficient during normal markets.

Q Are there useful parallels to the situation in the Aquila case?

A Yes, I think so. If the Commission wishes to create a fuel and purchased power recovery mechanism that provides meaningful efficiency incentives (and not simply collects or refunds every penny of variation), I think the Wyoming tariff provides a good starting point.

Other states have adopted fuel cost adjustment mechanisms with some of the features illustrated in the Wyoming tariff, as well as others. While the details are important and must be considered carefully, there are undoubtedly many potential arrangements of the details that would serve both Missouri consumers and Aquila well. I have included a complete copy of the Rocky Mountain Power PCAM tariff as Exhibit RJB-3.

Q Have you prepared an example of how similar principles could be applied to the FAC for Aquila in Missouri?

A Yes. The following table illustrates how the FAC could be designed in Missouri to reflect the concepts used in the Wyoming example. I have simplified the illustration to

include a "dead band" and two sharing ranges. The costs used in this example are taken from the testimony of Aquila witness Williams and apply to Aquila's MPS region.

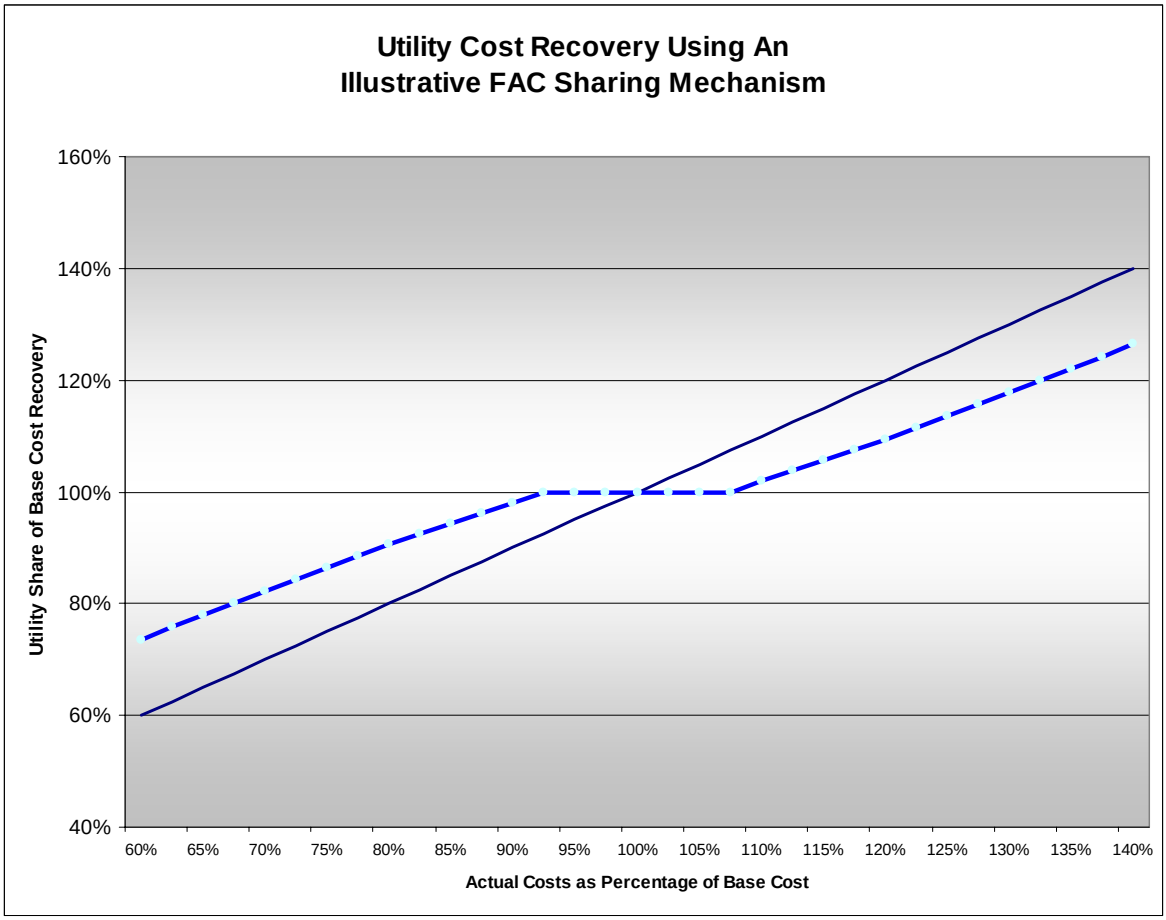
Illustrative Sharing Mechanism for Aquila Missouri FAC Assumed Fuel Cost in Base Rates: $0.0287 (MPS region)			
Actual Fuel Cost (%)	**Actual Fuel Cost ($)**	**Customer Portion**	**Company Portion**
Over 40% above base	Over $0.01148 above base	Company recovers 95% from customers	Company absorbs 5%
Over 20% and up to 40% above base	Over $0.00574 and up to $0.01148 above base	Company recovers 85% from customers	Company absorbs 15%
Over 7.5% and up to 20% above base	Over $0.00215 and up to $0.00574 above base	Company recovers 75% from customers	Company absorbs 25%
Up to 7.5% above base	Up to $0.00215 above base	Company recovers 0% from customers	Company absorbs 100%
Up to 7.5% below base	Up to $0.00215 below base	Company returns 0% to customers	Company retains 100%
Over 7.5% and up to 20% below base	Over $0.00215 and up to $0.00574 below base	Company returns 75% to customers	Company retains 25%
Over 20% and up to 40% below base	Over $0.00574 and up to $0.01148 below base	Company returns 85% to customers	Company retains 15%
Over 40% below base	Over $0.01148 below base	Company returns 95% to customers	Company retains 5%

For convenience, I have included a copy of this table, along with a comparable table for the L&P region in Exhibit RJB-1.

Q Would you quantify the impact of this illustrative sharing arrangement in terms of the percentage of fuel and power costs collected by the subject utility?

A Yes. The following graph, which is also included as Exhibit RJB-2, shows percentage of total fuel and purchase power costs that would be collected by Aquila under a variety of assumptions. The chart shows that, if FAC actual costs were within 7.5% of base costs, this falls within the dead band and no additional amount would be collected or refunded through the FAC. If, however, actual costs were 30 percent above base costs, Aquila would collect 75% of the amounts between 7.5% and 20.0% plus 85% of the

amounts between 20% and 30%, for a total of 117.9% of base rates. On the other hand, if actual costs were 30 percent below base costs, Aquila would collect 82.1% of base costs. Similar calculations are shown for other assumptions.



In conclusion, this tariff mechanism functions like traditional regulation for relatively small departures from base rates (+/- 7.5%); however, it functions as a financial backstop if there are large departures in actual costs from projected costs that are included in base rates. In my view this is superior to the situation where all cost differences (up or down) are passed through the FAC, destroying all incentives for the utility to be efficient in its fuel and purchased power activities.

Q If, despite objections of the parties, the Commission decides to include a margin-sharing of off-system sales within the FAC, what changes do you recommend the Commission make to the sharing proposal described in Aquila's testimony?

A I wish to repeat that it is perfectly defensible to continue the practice of including a fixed level of margin revenue in base rates. However, if the Commission decides to consider a margin-sharing proposal for off-system sales, it can build incentives into the structure, similar to the discussion about the FAC. One way to do this is simply to include the best estimate of future sales margins in base rates, and then credit or debit the FAC balance with any difference between base margins and actual margins. The sharing percentages for the FAC, discussed above, would then apply to the FAC balance including off-system sales.

In its proposal, Aquila has done something similar, except that the sharing applied to off-system sales is 50/50, while the "sharing" applied to the FAC is 100/0, with the Company collecting or absorbing the entire amount. I think this is fundamentally unfair. If the Commission allows Aquila to adopt a FAC with no sharing, then the same principle should apply to margins.

Q Do you have any other recommendations to the Commission on these issues?

A Yes. If the Commission wishes to adopt either an incentive-based FAC or margin-sharing mechanism, the Commission should consider ordering the parties to negotiate the details of implementation. In my experience, the implementation details of incentive-based mechanisms can be complex and are better left to technical negotiations.

If the Commission takes this route, I suggest that it would decide the basic elements of an FAC, including whether to include a "dead band" and whether to include "tapered" sharing percentages, with general guidance to the parties. The parties would then, in technical negotiations, be responsible to develop tariffs to implement the Commission's order. These tariffs would be filed by Aquila for the Commission's consideration of whether the tariffs comport with the Commission's order.

V. Summary of Testimony

Q Mr. Binz, please summarize your recommendations.

A Here are my findings and recommendations:

- No FAC should be approved for Aquila. In general, regulators should avoid using "automatic" cost adjustment mechanisms for rate regulated companies. While there are valid arguments for and against their use, I think the balance weighs against cost adjustment mechanisms in most cases.

- Cost adjustment mechanisms should be used only for utility costs that meet three qualifications:

    - They represent a significant portion of a utility's costs;

    - They fluctuate significantly;

    - The costs are outside the utility's control.

  The costs examined in this case meet the first of these criteria: fuel and purchased power costs comprise a significant portion of Aquila's total electric costs. However, these costs only partially meet the second and third criteria.

- If, despite the objections of consumer representatives, the Commission decides to adopt any cost adjustment mechanism for Aquila in Missouri, then it should be designed to retain as many of the desirable incentives of cost of service regulation as possible. These include valuable incentives for the utility to operate efficiently and to manage its power

costs.

- If the Commission decides to approve an FAC for Aquila in Missouri, it should be constructed so that some significant fraction of Aquila's energy costs remains at risk. Such a feature is critical to maintain the correct incentives for the Company.

- In its proposal for treating off-system energy sales, Aquila provides the Commission with an example of a sharing mechanism that can be modified for the FAC. If the Commission approves an FAC for Aquila, it should contain a "dead band" in which there is no adjustment with a "tapered" percentage sharing outside the dead band. The Wyoming PSC recently adopted an FAC recently adopted an FAC with such desirable features.

- If the Commission adopts an incentive-based Cost Adjustment Mechanism of any kind, it should consider directing the parties to negotiate the details of implementation of the mechanism in line with principles the Commission would include in its order.

Q Does this conclude your testimony?

A Yes.

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of the Tariff Filing of Aquila, Inc., to Implement a General Rate Increase for Retail Electric Service Provided to Customers in its Aquila Networks—MPS and Aquila Networks—L&P Missouri Service Areas.	))))))	**Case No. ER-2007-0004** Tariff No. YE-2007-0001

AFFIDAVIT OF RONALD J. BINZ

STATE OF COLORADO)
) ss
CITY AND COUNTY OF DENVER)

Ronald J. Binz, being first duly sworn on his oath states:

1. My name is Ronald J. Binz. I work in Denver, Colorado and am President of Public Policy Consulting.

2. Attached hereto and made a part hereof for all purposes is my Direct Testimony on Behalf of AARP consisting of 28 pages, Attachment A and Exhibits RJB-1 to RJB-3, which have been prepared in written form for introduction into evidence in the above-referenced docket.

3. I hereby swear and affirm that my answers contained in the attached testimony to the questions therein propounded are true and correct.

Ronald J. Binz

Ronald J. Binz
333 Eudora Street
Denver, Colorado 80220
303-393-1556 (O)

Employment History

1995-present President, Public Policy Consulting

Consultant, specializing in energy and telecommunications regulatory policy issues. Assignments include strategic counsel to clients and research and testimony before regulatory and legislative bodies. Since 1995, a wide range of clients has included: consumer advocate offices, rural electric utilities, senior citizen advocacy groups, industrial electric users, homebuilders, telecommunications resellers, an incumbent local exchange company, low-income advocacy organizations, and municipal utilities.

1996-present President and Policy Director, Competition Policy Institute

Competition Policy Institute is an independent non-profit organization that advocates state and federal policies to bring competition to energy and telecommunications markets in ways that benefit consumers. Duties include: determining the organization's policy position on a wide range of telecommunications and energy issues; conducting research, producing policy papers, presenting testimony in regulatory and legislative forums, hosting educational symposia for state regulators and state legislators.

.1984-1995 Director, Colorado Office of Consumer Counsel

Director of Colorado's first state-funded utility consumer advocate office. By statute, the OCC represents residential, small business and agricultural utility consumers before state and federal regulatory agencies. The office has been a party to more than two hundred legal cases before the Colorado Public Utilities Commission, the Federal Communications Commission, the Federal Energy Regulatory Commission and the courts. Annual office budget is $1 million.

Managed a staff of eleven, including attorneys, economists, and rate analysts who conduct economic, financial and engineering research in public utility matters.

Testified as an expert witness on subjects of utility rates and regulation. Negotiated rate settlement agreements with utility companies. Regularly testified before the Colorado general assembly and spoke to professional business and consumer organizations on utility rate matters. Consulted with advisory board of consumer leaders from around the state.

Leadership role in National Association of State Utility Consumer Advocates. Member of high-level advisory boards to Federal Communications Commission (Network Reliability Council) and Environmental Protection Agency (Acid Rain Advisory Council). Frequent witness before congressional committees and invited speaker before national industry and regulatory forums.

1977-1984 Consulting Utility Rate Analyst

Represented clients in public utility rate cases and testified as an expert witness in more than twenty utility cases before regulatory commissions in Utah, Wyoming, Colorado and South Dakota. Clients included state and local governments, low income advocacy groups, irrigation farmers and consumer groups. Testimony spanned topics of telephone rate design, electric cost-of-service studies, avoided cost valuation of nuclear generation, electric rate design for irrigation customers and municipal water rate design.

1975-1984 Instructor in Mathematics

Taught mathematics at the University of Colorado, Denver and Boulder campuses. Nominated three times for outstanding part-time faculty member.

1971-1974 Manager, Blue Cross and Blue Shield

Managed major medical claims processing department. Responsibilities included budgets, hiring, training, managing supervisors, and coordinating with medical peer review committee.

Other Business Interests

1994-present Managing Partner, Trail Ridge Winery

Partner and Secretary/Treasurer of Trail Ridge Winery. Trail Ridge is a Colorado winery located in Loveland, Colorado, producing a variety of wines from Colorado-grown grapes. Duties include service on board of directors; duties of corporate secretary/treasurer; development of business plans; legislative, regulatory and other external affairs; assistance in winery operations and tasting room; assistance in public relations and marketing.

Education

M.A. (Mathematics) 1977. University of Colorado. Course requirements met for Ph.D.

Graduate courses toward M.A. in Economics 1981-1984. University of Colorado. Twenty-seven hours including Economics of Regulated Industries, Natural Resource Economics, Econometrics.

Advanced Course in Utility Regulation 1986. National Association of Regulatory Utility Commissioners.

B.A. with Honors (Philosophy) 1971. St. Louis University.

Diploma 1967. Catholic High School, Little Rock, Arkansas.

Professional Associations and Activities

Colorado Legislative Task Force on Information Policy, Gubernatorial Appointee 2000-2001

National Association of State Utility Consumer Advocates
President 1991-1992, Vice-President 1990, Treasurer 1987-1989
Chair, Telecommunications Committee 1992-1995

Network Reliability Council to the Federal Communications Commission

North American Numbering Council to Federal Communications Commission, Co-Chair

Harvard Electric Policy Group, John F. Kennedy School, Harvard University

Denver Mayor's Council on Telecommunications Policy

Exchange Carriers Standards Association Network Reliability Steering Committee

Colorado Telecommunications Working Group, Gubernatorial Appointee

Colorado Energy Assistance Foundation, Board Member, Past President

Legislative Commission on Low-Income Energy Assistance, Past President

Colorado Public Interest Research Foundation, Board Member

Colorado Common Cause, Board Member

Acid Rain Advisory Council to the Environmental Protection Agency

Outreach Committee, Western States Coordinating Council Regional Planning Committee

Total Compensation Advisory Council to the State of Colorado Department of Personnel

New Mexico State University Public Utilities Program, Faculty and Advisory Council

Aspen Institute for Humanistic Studies, Telecommunications Policy Meetings 1986-1997

Who's Who in Denver Business

Council on Economic Regulation, Past Fellow

Colorado Wine Industry Development Board, Chairman

American Vintners Association, Executive Committee, Membership Chair

Recent Regulatory Testimony and Presentations

Since 1977, Mr. Binz has participated in more than 150 regulatory proceedings before the Federal Energy Regulatory Commission, the Federal Communications Commission, State and Federal District Courts, the 8th Circuit, 10th Circuit and D.C. Circuit Courts of Appeal, the U.S. Supreme Court and state regulatory commissions in California, Colorado, Georgia, Idaho, Maine, New York, South Dakota, Texas, Utah, and Wyoming. He has filed testimony in approximately fifty proceedings before these bodies. His testimony and comments have addressed a wide variety of technical and policy issues in telecommunications, electricity, natural gas and water regulation. Following is a sample of recent testimony and presentations before regulatory commissions.

Testimony

Before the West Virginia Public Service Commission. In The Matter Of the Petition of Verizon West Virginia, Inc. To Cease Rate Regulation of Certain Workably Competitive Telecommunications Services. Case No. 06-0481-T-PacifiCorp (June 2006)

Before the Utah Public Service Commission. In The Matter Of The Division's Annual Review and Evaluation of Electric Lifeline Program, HELP Rate Design Testimony. Docket No. 04-035-21 (September 2005)

Before the Colorado Public Utilities Commission. Testimony on behalf of YMCA of the Rockies. In re: YMCA of the Rockies, Complainant v. Xcel Energy (d/b/a Public Service Company of Colorado, Respondent. Rebuttal Testimony. Docket No. 05F-167G. (September 2005)

Before the Colorado Public Utilities Commission. Testimony on behalf of YMCA of the Rockies. In re: YMCA of the Rockies, Complainant v. Xcel Energy (d/b/a Public Service Company of Colorado, Respondent. Direct Testimony. Docket No. 05F-167G. (June 2005)

Before the Michigan Public Service Commission. Testimony on behalf of the Michigan Attorney General. In The Matter Of SBC Michigan's Request For Classification Of Business Local Exchange Service As Competitive Pursuant To Section 208 Of The Michigan Telecommunications Act. Case No. U-14323. (March 2005)

Before the Colorado Public Utilities Commission. Testimony on behalf of the Colorado Office of Consumer Counsel. In the Matter of the Combined Application of Qwest Corporation for Reclassification and Deregulation of Certain Part 2 Products and Services and Deregulation of Certain Part 3 Products and Services. Docket No. 04A-411T. (February 2005)

Before the Utah Public Service Commission. In The Matter Of the Application of PacifiCorp for Approval of Its Proposed Electric Rate Schedules and Electric Service Regulation. Rate Design Testimony. Docket No. 04-035-42. (January 2005)

Before the Utah Public Service Commission. In The Matter Of the Application of PacifiCorp for Approval of Its Proposed Electric Rate Schedules and Electric Service Regulation. Revenue

Requirements Testimony. Docket No. 04-035-42. (December 2004)

Before the Colorado Public Utilities Commission. Testimony on behalf of the Building Owners and Managers Association of Metropolitan Denver (BOMA) in the Matter of The Investigation And Suspension Of Tariff Sheets Filed By Public Service Company Of Colorado With Advice Letter No. 1411—Electric Docket No. 04S-164E (October 2004)

Before the Colorado Public Utilities Commission. Testimony on behalf of Colorado Energy Consumers in the Matter of The Application of Public Service Company of Colorado for Approval of its 2003 Least-Cost Resource Plan. Docket No. 04A-214E (filed: September 2004)

Before the Colorado Public Utilities Commission. Testimony on behalf of Colorado Energy Consumers in the Matter of the Application of Public Service Company of Colorado For An Order Authorizing It To Implement A Purchased Capacity Cost Adjustment Rider In Its PUC No. 7 – Electric Tariff. Docket No. 03A-436E. (filed: March 2004)

Before the Wyoming Public Service Commission. Testimony on behalf of Wyoming Industrial Energy Consumers (WIEC) and AARP In the Matter of the Application of PacifiCorp for Approval of a Power Cost Adjustment Mechanism. Docket No. 20000- ET-03-205 (filed: January 2004).

Before the Colorado Public Utilities Commission. Testimony on behalf of the Colorado Office of Consumer Counsel Regarding The Unbundling Obligations Of Incumbent Local Exchange Carriers Pursuant To The Triennial Review Order – Initial Commission Review. Docket No. 03I-478T. (January 2004)

Before the Wyoming Public Service Commission. Testimony on behalf of AARP in the matter of The Application Of PacifiCorp For A Retail Electric Utility Rate Increase Of $41.8 Million Per Year Docket No. 20000-ER-03-198 (January 2004).

Before the Wyoming Public Service Commission. Public hearings testimony on behalf of AARP in the matter of an application by Kinder Morgan to modify the provider selection process in its Choice Gas Program. (December 2003).

Before the Public Service Commission of North Dakota. Testimony on behalf of AARP in the matter of In the Matter of the Notice of Montana-Dakota Utilities Co. for an Electric Rate Change. Case No. PU-399-03-296. (October 2003)

Before the Colorado Public Utilities Commission. Testimony in the matter of Public Service Company of Colorado's Advice Letter No. 598 – Natural Gas Extension Policy. Docket No. 02S-574G. (March 2003)

Before the Colorado Public Utilities Commission. Testimony in the remand hearings in the formal complaint case of the Homebuilders Association of Metropolitan Denver against Public Service Company. Docket 01F-071G. (January 2003)

Before the Wyoming Public Service Commission. Testimony on behalf of AARP in the matter of an application by PacifiCorp to increase rates, recover excess net power costs, and recover purchase

power costs related to the Hunter Unit 1 outage. Docket No. 20000-ER-02-184. Testimony Concerning A Proposed General Rate Increase And Surcharge For Previous Power Costs. (November 2002).

Before the Wyoming Public Service Commission. Testimony on behalf of AARP in the matter of an application by PacifiCorp to increase rates, recover excess net power costs, and recover purchase power costs related to the Hunter Unit 1 outage. Docket No. 20000-ER-02-184. Testimony Concerning Hunter Unit 1 Issues. (November 2002).

Before the Colorado Public Utilities Commission. Comments on behalf of the Colorado Energy Assistance Foundation. Docket No. 02R-196G. In the Matter of the Proposed Repeal and Reenactment of the Rules Regulating Gas Utilities. (November 2002)

Before the Colorado Public Utilities Commission. Testimony on behalf of Colorado Energy Assistance Foundation and Catholic Charities of the Archdiocese of Denver. Docket No. 02A-158E. In the Matter of the Application of Public Service Company of Colorado for an Order to Revise its Incentive Cost Adjustment. (April 2002)

Before the Idaho Public Utilities Commission. Testimony on behalf of Astaris, in the matter of Case No. IPC-E-01-43 concerning the buy back rates under an electric load reduction program. (January 2002)

Before the Colorado Public Utilities Commission. Testimony in matter of the investigation of Advice Letters 579 and 581 of Xcel Energy on behalf of Homebuilders Association of Denver. Dockets 01S-365G and 01S-404G. (January 2002)

Before the Colorado Public Utilities Commission. Testimony in the formal complaint case of the Homebuilders Association of Metropolitan Denver against Public Service Company. Docket 01F-071G. (August 2001)

Before the Colorado Public Utilities Commission. Testimony in the matter of the investigation and suspension of Advice Letter No. 566 of Xcel Energy on behalf of the Homebuilders Association of Metropolitan Denver. Docket No. 00S-422G. (November 2000)

Before the American Arbitration Association. In the Matter of Univance Telecommunications, Inc. v. Venture Group Enterprises, Inc. Arbitration No. 77 Y 147 00099 00 (November 2000)

Testimony of Ronald Binz at FCC Public Forum on SBC/Ameritech merger (May 1999)

Docket No. 97-106-TC -- Testimony of Ron Binz before New Mexico State Corporation Commission on Investigation Concerning USWest's Compliance with Section 271(c) of the Telecommunications Act (July 1998)

Before the Colorado Public Utilities Commission. Testimony Concerning the Investigation of Telephone Numbering Policies. (March 1998)

Docket No. 6717-U X Testimony before the Georgia Public Service Commission Concerning the Service Provider Selection Plan of Atlanta Gas Company. (January 1997)

Case 96-C-0603 and Case 96-C-0599--Testimony of Ronald J. Binz on behalf of CPI before the New York State Public Service Commission concerning the Bell Atlantic/NYNEX Merger (November 1996)

Docket No. 96-388 - Direct Testimony of Ronald J. Binz, CPI, On Behalf of the Office of the Public Advocate (October 1996) State of Maine, Public Utilities Commission Joint Petition of New England Telephone and Telegraph Company and NYNEX Corporation for Approval of the Proposed Merger of a Wholly-Owned Subsidiary of Bell Atlantic Corporation into NYNEX Corporation.

Application No. 96-04-038 - Direct Testimony of Ronald J. Binz, CPI, On Behalf of Intervener, Utility Consumers Action Network (September 1996) Before the Public Utilities Commission of the State of California In the Matter of the Joint Application of Pacific Telesis Group (Telesis) and SBC Communications (SBC) for SBC to Control Pacific Bell (U 1001 C), Which Will Occur Indirectly as a Result of Telesis' Merger With a Wholly Owned Subsidiary of SBC, SBC Communications (NV) Inc.

Presentation to Federal-State Joint Board on Universal Service (April 12, 1996)

Testimony before the Texas Public Utility Commission on the Integrated Resource Planning Rule (March, 1996)

Presentations

"Looking Back on the 1996 Telecom Act." Presentation to CLE International, Telecommunications Law. (December 2003)

"How to Pay for Gas Line Extensions." Presentation to CLE International, Energy Regulatory Law. (October 2003)

"Are Telecommunications Customers Expecting Too Much Customer Service?" Presentation to the National Association of Regulatory Utility Commissioners (July 2003)

"Will We Need Regulatory Attorneys in Ten Years?" Presentation to CLE International. Denver, Colorado. December 2002.

"Section 271: Is it a '10' for Consumers?" Presentation to the National Association of State Utility Consumer Advocates. Chicago, Illinois. November 2002

"CLEC Market Share--What do the Numbers Say?" Presentation to the Regional Oversight Committee of Qwest state regulators. Santa Fe, New Mexico. April 2002

"Public Utility Regulation and Low Income Issues," Presentation of Ron Binz before the Colorado Public Utilities Commission on behalf of the Colorado Energy Assistance Foundation, December 5,

2001.

"Some Natural Gas Issues," Presentation by Ron Binz for the Western Conference of Public Service Commissioners, June 14, 2000.

"Consumer Issues in Natural Gas Unbundling" -- Presentation of Ron Binz before the National Association of Regulatory Utility Commissioners (November 9, 1999)

Ron Binz Presentation to the 25th Annual Rate Symposium on Competition for small customers in natural gas markets (April 27, 1999)

"Best Practices in Telecommunications Regulation"; Presentation before NARUC Communications Committee and National Regulatory Research Institute at NARUC Winter Meeting (February 1999)

Congressional Testimony

United States House of Representatives Judiciary Committee, November 1999. Testimony concerning H.R. 2533, The Fairness in Telecommunications License Transfer Act of 1999.

United States Senate Judiciary Committee; Antritrust, Business Rights and Competition Subcommittee, April 1999. Testimony concerning S.467, The Antitrust Merger Review Act.

United States Senate Commerce Committee, Telecommunications Subcommittee, May 1998. Testimony in oversight hearings concerning the performance of the Common Carrier Bureau of the Federal Communications Commission.

United States Senate Judiciary Committee, Washington, D.C., September 1996. Presented testimony on behalf of the Competition Policy Institute on the competitive impact of proposed mergers of Regional Bell Operating Companies.

United States House of Representatives Subcommittee on Telecommunications and Finance of the Committee on Commerce, May 1995. Testimony presenting NASUCA=s position on H.R. 1555 by Representative Fields.

United States Senate Subcommittee on Antitrust, Washington, D.C., September 1994. Testimony presenting NASUCA's position on S. 1822 by Senator Hollings.

United States House of Representatives Subcommittee on Telecommunications and Finance of the House Energy and Commerce Committee, Washington, D.C., February 1994. Presented testimony on H.R. 3636.

United States House of Representatives Subcommittee on Economics and Commercial Law, Washington, D.C., October 1992. Supplemental testimony presenting NASUCA's position on

legislation concerning the Modified Final Judgment introduced by Representative Brooks.

United States House of Representatives Subcommittee on Telecommunications and Finance, Washington, D.C., October 1991. Testimony on RBOC entry into telecommunications manufacturing and information services.

United States House of Representatives Subcommittee on Economics and Commercial Law, Washington, D.C., August 1991. Testimony presenting NASUCA's position on possible federal legislation concerning the Modified Final Judgment.

United States Senate Subcommittee on Energy Regulation and Conservation, Denver, Colorado, April 1991. Testimony presenting NASUCA's position on federal legislation concerning regulation of the natural gas industry, introduced by Senator Wirth.

United States Senate Communications Subcommittee, Washington, D.C., February 1991. Testimony on behalf of NASUCA concerning S.173, telecommunications legislation introduced by Senator Ernest Hollings.

United States Senate Communications Subcommittee, Washington, D.C., July 1990. Testimony on behalf of NASUCA concerning S.2800, telecommunications legislation introduced by Senator Conrad Burns.

United States House of Representatives Subcommittee on Telecommunications and Finance, July 1988. Testimony on the FCC Price Cap proposal.

Legislative Testimony

New Mexico State Legislature, Joint Oversight Committee on Regulation. November 2003. Testimony concerning the appropriate regulatory treatment of mid-sized telecommunications carriers.

Wyoming State Legislature, Senate Committee on Corporations, Elections & Political Subdivisions. February 2003. Testimony on legislation to create a division of utility consumer advocate within the Wyoming Public Services Commission.

Colorado General Assembly. March 2004. Testimony on the impact on retail utility rates of a renewable energy portfolio standard.

Colorado State Senate and Colorado House of Representatives 1984-1995. Frequent witness on variety of energy and telecommunications issues.

Georgia State Legislature Interim Committee on Natural Gas Competition. Fall 1996. Testimony on the consumer impacts of restructuring the natural gas industry in Georgia.

Iowa General Assembly, Des Moines, Iowa, November 1992. Testimony on legislation concerning incentive regulation.

American Legislative Exchange Council, November 1999. "The Changing Role of Public Utilities Commissions"

American Legislative Exchange Council concerning Rights-of-Way and Competition in Telecommunications, July 1998.

American Legislative Exchange Council Committee on Rights of Way. Testimony on rights of way policies, taxation and telecommunications development. May 1998.

Publications

Mr. Binz has published two reports, funded by the Energy Foundation, of the impact of a renewable energy standard in Colorado:

The Impact of the Renewable Energy Standard in Amendment 37 on Electric Rates in Colorado. **(September 2004)**

The Impact a Renewable Energy Portfolio Standard On Retail Electric Rates In Colorado. **(February 2004)**

Mr. Binz is the co-author of two major reports on electric industry restructuring:

Navigating a Course to Competition: A Consumer Perspective on Electric Restructuring.

Addressing Market Power: The Next Step in Electric Restructuring.

In the telecommunications area, Mr. Binz published a major discussion paper entitled ***Qwest, Consumers and Long Distance Entry: A Discussion Paper.***

These publications (along with copies of other testimony and reports) are available at the Public Policy Consulting website: www.rbinz.com.

Illustrative Sharing Mechanism for Aquila Missouri FAC

Assumed Fuel Cost in Base Rates: $0.0287 (MPS region)

Actual Fuel Cost (%)	Actual Fuel Cost ($)	Customer Portion	Company Portion
Over 40% above base	Over $0.01148 above base	Company recovers 95% from customers	Company absorbs 5%
Over 20% and up to 40% above base	Over $0.00574 and up to $0.01148 above base	Company recovers 85% from customers	Company absorbs 15%
Over 7.5% and up to 20% above base	Over $0.00215 and up to $0.00574 above base	Company recovers 75% from customers	Company absorbs 25%
Up to 7.5% above base	Up to $0.00215 above base	Company recovers 0% from customers	Company absorbs 100%
Up to 7.5% below base	Up to $0.00215 below base	Company returns 0% to customers	Company retains 100%
Over 7.5% and up to 20% below base	Over $0.00215 and up to $0.00574 below base	Company returns 75% to customers	Company retains 25%
Over 20% and up to 40% below base	Over $0.00574 and up to $0.01148 below base	Company returns 85% to customers	Company retains 15%
Over 40% below base	Over $0.01148 below base	Company returns 95% to customers	Company retains 5%

Illustrative Sharing Mechanism for Aquila Missouri FAC

Assumed Fuel Cost in Base Rates: $0.0215 (L&P region)

Actual Fuel Cost (%)	Actual Fuel Cost ($)	Customer Portion	Company Portion
Over 40% above base	Over $0.0086 above base	Company recovers 95% from customers	Company absorbs 5%
Over 20% and up to 40% above base	Over $0.0043 and up to $0.0086 above base	Company recovers 85% from customers	Company absorbs 15%
Over 7.5% and up to 20% above base	Over $0.00161 and up to $0.0043 above base	Company recovers 75% from customers	Company absorbs 25%
Up to 7.5% above base	Up to $0.00161 above base	Company recovers 0% from customers	Company absorbs 100%
Up to 7.5% below base	Up to $0.00161 below base	Company returns 0% to customers	Company retains 100%
Over 7.5% and up to 20% below base	Over $0.00161 and up to $0.0043 below base	Company returns 75% to customers	Company retains 25%
Over 20% and up to 40% below base	Over $0.0043 and up to $0.0086 below base	Company returns 85% to customers	Company retains 15%
Over 40% below base	Over $0.0086 below base	Company returns 95% to customers	Company retains 5%

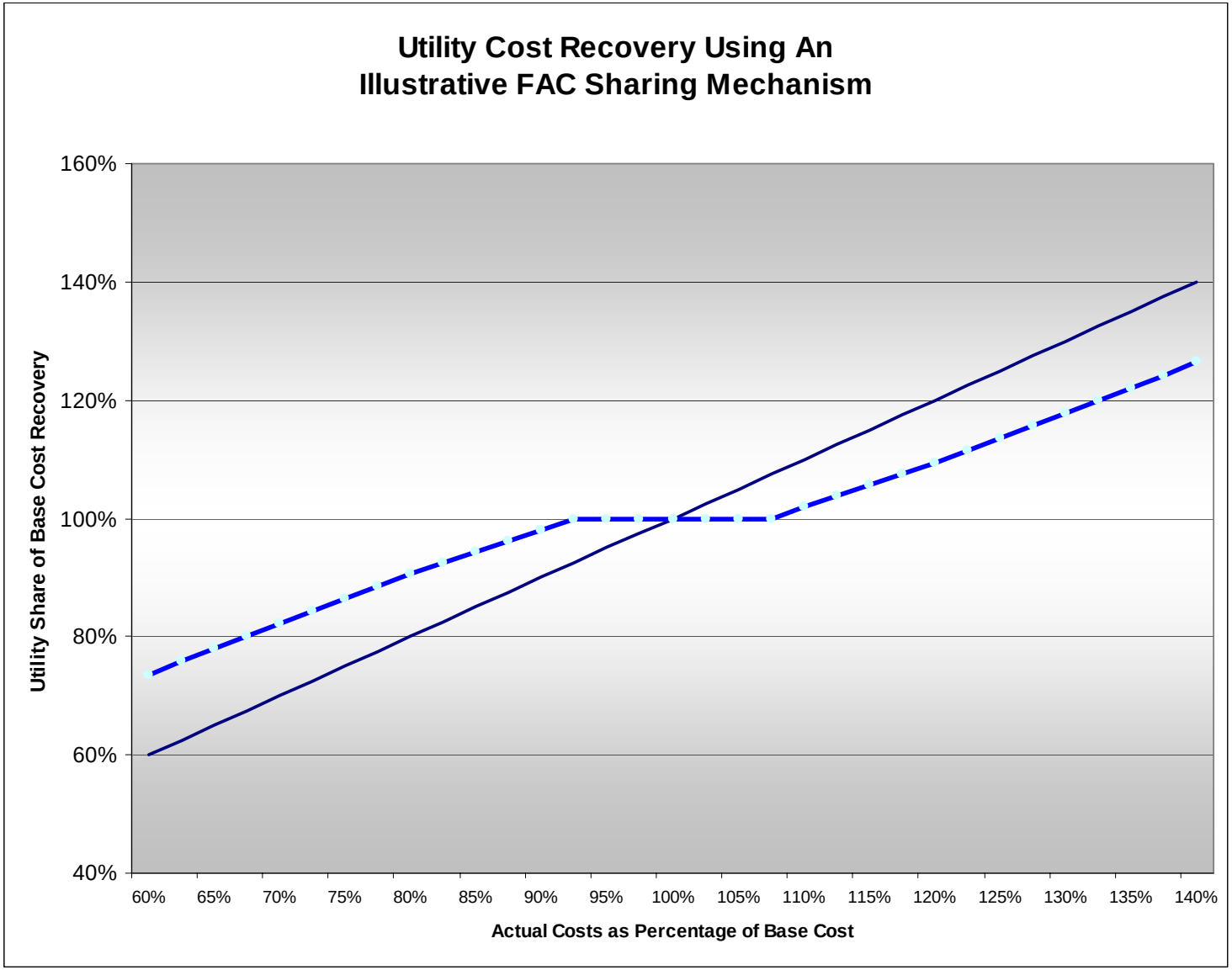

Utility Cost Recovery Using An
Illustrative FAC Sharing Mechanism
Utility Share of Base Cost Recovery
160%
140%
120%
100%
80%
60%
40%
60%
65%
70%
75%
80%
85%
90%
95%
100%
105%
110%
115%
120%
125%
130%
135%
140%
Actual Costs as Percentage of Base Cost

EXHIBIT RJB-3

Excerpt from Electric Tariff of
Rocky Mountain Power - Wyoming

8 Pages

ROCKY MOUNTAIN POWER

Original Sheet No. 94-1

P.S.C. WYOMING NO. 9

NPC PCAM Tariff
Schedule 94

Available

In all territory served by the Company in the State of Wyoming.

Applicable

All retail tariff rate schedules shall be subject to two normally scheduled rate elements, a Base Net Power Costs (NPC) charge and Deferred NPC Adjustment that together recover total net power costs including fuel, purchased power (including NPC financial hedges), wheeling, and sales for resale for natural gas and electricity and excluding other NPC costs not specifically modeled in the Company's production cost model.

Definitions and Basic Concepts:

NPC Rate Effective Period shall be the 12 month period beginning April 1, 2007 and extending through March 31, 2008 in the first PCAM application filed on or before February 1, 2007. In each succeeding PCAM application, the NPC Rate Effective Period shall be the 12-month period beginning April 1st and extending through March 31st following the NPC Comparison Period. The Company may file and the Commission may approve PCAM applications with amortization periods for deferred amounts longer than 12 months to reflect extraordinary circumstances.

NPC Comparison Period shall be the five-month historic period beginning July 1, 2006 through November 30, 2006 in the first PCAM application filed on February 1, 2007. In each succeeding PCAM application, the NPC Comparison Period shall be the historic 12-month period beginning December 1 and extending through November 30th prior to the NPC Rate Effective Period.

Base NPC is calculated by taking the sum of the monthly total Company NPC as approved by the Commission in a stipulated agreement or as a result of the most recent Wyoming general rate case (GRC). The Base NPC shall be recovered from all retail tariff rate schedules through the unbundled rate elements as set forth in this Schedule. The Base NPC shall reflect an Embedded Cost Differential (ECD) adjustment.

(continued)

Definitions and Basic Concepts *(continued)***:**

Adjusted Actual NPC: Adjusted Actual NPC is the annual sum of the monthly total Company amounts properly recorded in FERC Account Numbers: 501 (Steam Power Generation – Fuel), 503 (Steam Power Generation – Steam from other Sources) and 547 (Other Power Generation – Fuel) for coal, steam and natural gas purchased and or sold; 555 (Purchased Power), 565 (Wheeling); and 447 (Sales for Resale). Adjustments shall be made to actual costs that are consistent with the Company's production dispatch model, to remove prior period accounting entries made during the accrual period, and to include applicable Commission-adopted adjustments from the

most recent general rate case. Hydro normalization, forced outages and other operational volatility circumstances shall be excluded from adjustment because these unpredictable events result in net power cost volatility that the PCAM captures for rate making purposes.

Deferred NPC Adjustment is a charge applicable to all retail tariff rate schedules as set forth in this schedule. The Deferred NPC Adjustment is calculated by taking the sum of the monthly differences between the Adjusted Actual NPC and the corresponding monthly Base NPC adjusted for the Revenue Variation Adjustment, and adjusted to reflect the prorated total Company Dead Band, Sharing Proportions, and Wyoming Allocated Share and include Symmetrical Interest accrual on the Customer Proportion of net Deferred NPC Adjustment balances outside of the Dead Bank.

TABLE 1

Adjusted Actual Total NPC Layer	Customer Proportion	Company Proportion
Over $200 million above Base	Company recovers 90% from Customers	Company absorbs 10%
Over $100 million and up to $200 million above Base	Company recovers 85% from Customers	Company absorbs 15%
Over $40 million and up to $100 million above Base	Company recovers 70% from Customers	Company absorbs 30%
$40 million above Base (Dead Band)	Company recovers 0% from Customers	Company absorbs 100%

(continued)

Definitions and Basic Concepts *(continued)*:

$40 million below Base (Dead Band)	Company returns 0% to Customers	Company retains 100%
Over $40 million and up to $100 million below Base	Company returns 70% to Customers	Company retains 30%
Over $100 million and up to $200 million below Base	Company returns 85% to Customers	Company retains 15%
Over $200 million below Base	Company returns 90% to Customers	Company retains 10%

Dead Band is illustrated in Table 1 above is a total Company annual symmetrical range of plus $40 million above the base and $40 million below the base. There will be no deferral or accrual of interest for costs which fall within the Dead Band. If the NPC Comparison Period is longer or shorter than an annual period, the Dead Band shall be prorated on the basis of the applicable monthly NPC Base included in the NPC Comparison Period.

Sharing Proportion is also illustrated in Table 1 above and is the symmetrical proportion of Deferred NPC Adjustment eligible for recovery from, or repayment to customers. The Sharing Proportion shall be layered to reflect a Customer Proportion and a Company Proportion. There will be no deferral or accrual of interest for costs which are included in the Company Proportion. If the NPC comparison period is longer or shorter than an annual period, the thresholds between the various layers shall be prorated based on the number of months in the comparison period.

Revenue Variation Adjustment is equal to the ratio of actual Wyoming monthly kilowatt-hours sold divided by the Wyoming monthly kilowatt-hours assumed in the load forecast used to calculate the Base NPC rate elements.

Symmetrical Interest shall be computed on the net accumulated Deferred NPC Adjustment balance monthly at the rate determined by the Commission pursuant to Rule 241, Customer Deposits. Interest shall be paid to the Company on net Deferred NPC under-collections and interest shall be paid to Customers on net deferred NPC over-collections. Appropriate provisions for interest during the amortization period shall be included in the calculation of Deferred NPC

(continued)

NPC PCAM Tariff
Schedule 94

Definitions and Basic Concepts *(continued)***:**

Symmetrical Interest *(continued)*

Adjustments in the NPC Rate Effective Period. If the Commission implements a proposed Deferred NPC Adjustment on an interim basis, any excess charges or under charges shall be refunded to or collected from customers with interest at the rate established by the Commission pursuant to Rule 241. If the Commission approves an amortization period for a Deferred NPC balance of longer than 12 months, interest on any balance not recovered within 12 months shall be calculated based on the Company's most recent authorized weighted average cost of capital.

Wyoming Allocated Share shall be calculated using Wyoming Allocation Factors. Wyoming Allocation Factors where Wyoming's percent of total system factors prescribed for allocation of net power costs pursuant to the Revised Protocol or current Commission approved interjurisdictional allocation methodology as approved in the most recent general rate case.

Wyoming Actual Adjusted ECD is recalculated for each NPC Comparison Period. The Wyoming Actual Adjusted ECD will be calculated in the same manner that the Wyoming ECD Base was calculated except the only values that will be updated in the recalculation are the amounts from the FERC accounts included in the definition of Adjusted Actual NPC and associated megawatt hours for the NPC Comparison Period.

Wyoming ECD Base is the sum of the ECD adjustments included in the Wyoming revenue requirement as most-recently approved by the Commission either in a stipulated agreement or as a result of a GRC.

Timing

The Company shall file Deferred NPC Adjustment applications on or before February 1st of each year under normal circumstances. The implementation and effective date of the Deferred NPC Adjustment shall be April 1st of each year under normal circumstances. Nothing shall prevent the Company from filing out-of-period PCAM applications to reflect extraordinary circumstances. The Company may elect

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Timing *(continued)*

to defer recovery of a NPC under collection at its discretion and the Company may elect to defer refund of a NPC over recovery if the balance in the deferred account is less than $1 million on a Wyoming Jurisdiction allocated basis.

Deferred NPC Adjustment:

Deferred NPC for the Comparison Period shall be calculated monthly and recorded on the Company's books, based on the following formula:

Deferred NPC adjustment = ((((Adjusted Actual NPC – (Base NPC x Revenue Variation adjustment)) +/- Dead band) x Sharing Proportion) x Wyoming Allocated Share) + Symmetrical Interest.

At the end of each comparison period, the Deferred NPC Adjustment may also include an ECD Adjustment. An ECD Adjustment shall be included in the Deferred NPC Adjustment if the value of the Deferred NPC Adjustment is not zero. The ECD adjustment formula is as follows:

ECD Adjustment = (Wyoming Actual Adjusted ECD – (Wyoming ECD Base x Revenue Variation Adjustment))

The initial Base NPC will be set at $660 million on an annual basis. For purposes of the first comparison period from July 1, 2006 through November 30, 2006 as adjustment will be made in the deferral calculation, which increases the Base NPC for those months from $321 million to $336 million. If the Company has not or will not file a new general rate case prior to February 1, 2007, the Base NPC will remain $660 million for the new NPC Comparison Period starting December 1, 2006 and shall remain at that level until rates are set in the Company's next general rate case. Otherwise, the Base NPC will be revised to $700 million on an annual basis on December 1, 2006 for purposes of the deferral calculation only.

Base NPC and the Deferred NPC Adjustment shall be allocated to all retail tariff rate

(continued)

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Deferred NPC Adjustment: *(continued)*

schedules and, where applicable, to the demand and energy rate components within each schedule based on the applicable allocation factors and cost of service study relationships established in the Company's last GRC. The allocated and classified costs shall then be divided by appropriate billing determinants to calculate the specific rates set forth in this schedule for the Base NPC and Deferred NPC Adjustment. As such, the Deferred NPC adjustment will be spread to customer classes and rate elements in the same proportion as Base NPC.

Monthly Billing

All charges and provisions of the applicable rate schedule will be applied in determining a Customer's bill except that the Customer's total electric bill will be increased or decreased by an amount equal to the product of all kilowatt demand multiplied by the following dollar per kilowatt rate plus all kilowatt-hours of use multiplied by the following cents per kilowatt-hour rate:

Schedule	Delivery Voltage	Billing Units	Base NPC	Deferred NPC Adj.
2	**	Demand per kWh	0.148¢	0.000¢
		Energy per kWh	1.180¢	0.000¢
15	**	Demand per kWh	0.017¢	0.000¢
		Energy per kWh	1.186¢	0.000¢
25	Secondary	Demand in excess of 15 kW per kW	$0.89	$0.00
		Energy per kWh	1.185¢	0.000¢
	Primary	Demand in excess of 15 kW per kW	$0.87	$0.00
		Energy per kWh	1.159¢	0.000¢
33	Primary	Supp. Demand per kW	$0.78	$0.00
		Energy per kWh	1.160¢	0.000¢

(continued)

Monthly Billing (continued)

Schedule	Delivery Voltage	Billing Units	Base NPC	Deferred NPC Adj.
33	Transmission	Supp. Demand per kW	$0.77	$.000
		Energy per kWh	1.135¢	0.000¢

40	**	Demand per kW	$0.74	$0.00
		Energy per kWh	1.210¢	0.000¢
46	Secondary	On-Peak Demand per kW	$0.79	$0.00
		Energy per kWh	1.186¢	0.000¢
	Primary	On-Peak Demand per kW	$0.78	$0.00
		Energy per kWh	1.160¢	0.000¢
48T	Transmission	On-Peak Demand per kW	$0.77	$0.00
		Energy per kWh	1.135¢	0.000¢
51	**	Demand per kWh	0.017¢	0.000¢
		Energy per kWh	1.186¢	0.000¢
53	**	Demand per kWh	0.017¢	0.000¢
		Energy per kWh	1.186¢	0.000¢
54	**	Demand per kWh	0.017¢	0.000¢
		Energy per kWh	1.186¢	0.000¢
57	**	Demand per kWh	0.017¢	0.000¢
		Energy per kWh	1.186¢	0.000¢
58	**	Demand per kWh	0.017¢	0.000¢
		Energy per kWh	1.186¢	0.000¢

(continued)

Monthly Billing *(continued)*

Schedule	Delivery Voltage	Billing Units	Base NPC	Deferred NPC Adj.
207	**	Demand per kWh	0.013¢	0.000¢
		Energy per kWh	1.186¢	0.000¢
210	**	Demand per kW	$0.73	0.000¢
		Energy per kWh	1.209¢	0.000¢
211	**	Demand per kWh	0.013¢	0.000¢
		Energy per kWh	1.186¢	0.000¢

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212-1	**	Demand per kWh	0.013¢	0.000¢
		Energy per kWh	1.186¢	0.000¢
212-2	**	Demand per kWh	0.076¢	0.000¢
		Energy per kWh	1.189¢	0.000¢
212-3	**	Demand per kWh	0.076¢	0.000¢
		Energy per kWh	1.189¢	0.000¢

** Rates will be applicable for all Delivery Voltage levels.

Rules

Service under this Schedule is subject to the General Rules contained in the tariff of which this Schedule is a part, and to those prescribed by regulatory authorities.

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