



**ARIZONA  
CORPORATION  
COMMISSION**

**81st ANNUAL REPORT  
1992 - 1993**



## THE COMMISSIONERS

Marcia Weeks, Chairman  
Renz D. Jennings, Commissioner  
Dale H. Morgan, Commissioner

## EXECUTIVE SECRETARY

James Matthews

## DIVISION DIRECTORS

Philip R. Moulton, Administration  
Jerry Rudibaugh, Hearing  
Joan Adams Moore, Corporations  
Dee Riddell Harris, Securities  
Gary M. Yaquinto, Utilities  
Paul Bullis, Legal

Main Office  
1200 West Washington  
Phoenix, Arizona 85007

Adjunct Office  
1300 West Washington  
Phoenix, Arizona 85007

Southern Arizona Office  
400 West Congress Street  
Tucson, Arizona 85701

Services:

Commissioners  
Executive Secretary  
Administration  
Hearing  
Utilities  
Legal

Services:

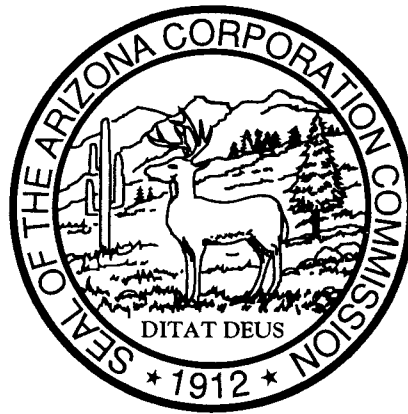
Corporations  
Securities

Services:

Corporations  
Hearing  
Utilities

# ARIZONA CORPORATION COMMISSION

81st Annual Report  
1992-93



ARIZONA CORPORATION COMMISSION  
1200 West Washington  
Phoenix, Arizona 85007



## TABLE OF CONTENTS

|                                 |    |
|---------------------------------|----|
| FOREWORD .....                  | i  |
| THE COMMISSIONERS .....         | 1  |
| THE EXECUTIVE SECRETARY.....    | 2  |
| ADMINISTRATION DIVISION .....   | 3  |
| HEARING DIVISION .....          | 6  |
| CORPORATIONS DIVISION.....      | 7  |
| SECURITIES DIVISION .....       | 9  |
| UTILITIES DIVISION .....        | 11 |
| LEGAL DIVISION .....            | 19 |
| SOUTHERN ARIZONA OFFICE.....    | 22 |
| <b>APPENDIX</b>                 |    |
| A. FINANCIAL DATA SECTION ..... | 23 |
| B. MAJOR RATE CASES.....        | 25 |

## FOREWORD

The Arizona Corporation Commission was created by Article XV of the Arizona Constitution in 1912. It is comprised of three Commissioners elected by the people of Arizona, each for a six-year term, with one Commissioner elected every two years. In the event a vacancy occurs, an interim Commissioner is appointed by the Governor to serve until the next general election.

This Annual Report addresses the transactions and proceedings of the Arizona Corporation Commission during the period July 1, 1992 - June 30, 1993. As required by Arizona Revised Statutes, this report was transmitted to the Governor of the State of Arizona, the President of the Senate and the Speaker of the House of Representatives.

Additional copies may be acquired by contacting: Office of the Executive Secretary, 1200 West Washington, Phoenix, Arizona 85007.

# COMMISSIONERS



## MARCIA WEEKS

Chairman

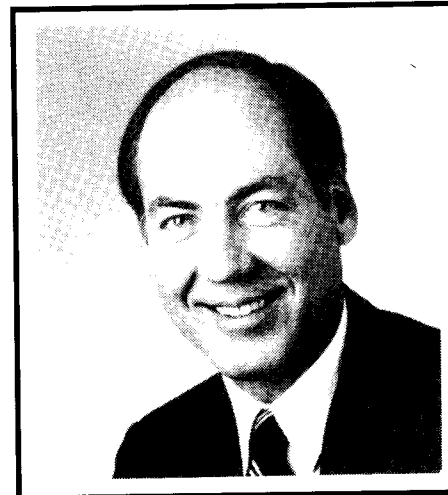
Marcia Weeks is a resident of Phoenix and was first elected to the Commission for a six-year term beginning January 1985. She is a graduate of the University of Arizona. Commissioner Weeks previously served three terms in the Arizona State Senate where she was Chairman of the Senate Finance Committee. Her current term will expire in January, 1997.



## RENZ D. JENNINGS

Commissioner

Renz Jennings, an Arizona native, was first elected to the Commission in 1985. Commissioner Jennings has a J.D. from the ASU College of Law and served three terms in the Arizona House of Representatives prior to his election to the Commission. He has been elected to a third term to run through January, 1999.



## DALE H. MORGAN

Commissioner

Dale Morgan was elected to the Commission in November, 1986 for the term beginning January, 1987. He is a graduate of the University of Tulsa and the Sparton School of Aeronautics in Tulsa, Oklahoma. Commissioner Morgan is a retired Air Force Officer with service in World War II, Korea and Vietnam. He is also a former member of the Commission staff. He was re-elected in November, 1988. His current term will expire in January, 1995.



# EXECUTIVE SECRETARY



## JAMES MATTHEWS

James Matthews has served as Executive Secretary since April 1985. Prior to that, he served as Deputy Director of the Arizona Health Care Cost Containment System and as Legislative Liaison for Governor Bruce Babbitt, as energy policy program director for the National Conference of State Legislators, and as a staff member of the Arizona House of Representatives. Mr. Matthews holds a B.A. degree from the University of New Mexico and a M.P.A. from Arizona State University. He is a graduate of the Harvard University Program for Senior Executives in State and Local Government.

The Executive Secretary is the Chief Executive Officer for the Arizona Corporation Commission. He is responsible for daily operations in all

Divisions and the development and implementation of Commission policies. The Executive Secretary's powers and duties are listed in A.R.S. §40-105.

The Executive Secretary coordinates activities for each Division, provides overall agency management and planning, coordinates public and media information and serves as inter-governmental and legislative liaison for the Corporation Commission.

Mr. Matthews has served as Chairman of the National Association of Regulatory Utility Commissioner's Subcommittee on Executive Directors, the Arizona Disease Control Research Commission and Board of Management of the Phoenix Downtown YMCA. He has written on topics relating to government agency management and public health policy. He has co-authored A Manual on Commission Organization and Operations published by the National Regulatory Institute.





## Philip R. Moulton, Director

The Administration Division plans, coordinates and directs the fiscal and administrative activities necessary to support the Commissioners, Executive Secretary and all Divisions of the Commission. The responsibilities and activities of the Division are carried out by the Business Office. The Division Director also serves as the Deputy Executive Secretary and performs the duties of the Executive Secretary during the incumbent's temporary absences.

The Administration Division supports the Office of the Executive Secretary in supervising and administering the overall activities of the Commission's Divisions and employees. The Office of the Executive Secretary performs many administrative functions in conjunction with the Division. These include: coordination of legislative activities, preparation of the Open Meeting Agendas and keeping records of all proceedings of the Commission, civic activities, and projects of benefit to the Commission.

**Legislative Activities.** The Arizona Legislature enacts new laws every year which impact the Commission and the people the agency serves. Laws which affect regulated entities, consumers of regulated services, and corporate Arizona must be monitored and, in some cases, implemented by the Commission. Because of the Commission's broad ranging authority, the Administration Division coordinates all of the Commission's legislative activities in conjunction with each Division. Additionally, the agency's budget is set by the legislature each year. The 1993 legislative session produced the following new laws of interest to the Commission.

### Utilities Division

#### Utility Repair and Assistance Fund.

SB 1314. Reinstates the Utility Repair, Replacement and Deposit (URRD) Program which "accidentally" expired on June 30. This is the program that is funded by unclaimed utility deposits.

#### Telecommunications Regulation.

SB 1314.

This bill recommends to the Commission: preferential treatment for "competitive long distance telecommunications markets;" the establishment of new classifications of telecommunications utilities; and to allow the Commission to ignore traditional rate of return regulation for such companies.

### Securities Division

#### Technology Development Authority.

SB 1105.

Creates an "Arizona Technology Development Authority" to do the following:

- improve "competitiveness";
- serve as a vehicle to promote new business growth; and
- stimulate the creation and expansion of technology-related business activity.

The duties are not clearly defined — but it is like a new state agency. An advisory board is created to run the agency. The agency must incorporate and submit annual reports. The bill says the state is not liable for any costs incurred by the agency. The bill has a self-repealing clause dated 1/1/99. As introduced, this bill included one advisory board member from the Corporation Commission. The adopted version does not.

### RICO Litigation.

SB 1197 The bill re-writes Arizona's RICO laws and limits an individual's right to file a law suite for damages done to his/her person, business or property by racketeering. Requires that a "pattern of racketeering" be involved before injury can be claimed — there must be at least two incidents of forgery, fraud, etc. within five years of each other. In order to constitute racketeering, fraudulent land schemes or securities fraud must have been perpetrated by intentional or reckless behavior. Securities fraud cannot be claimed if a person shows that he/she could not have known of an untrue statement or misleading omission. The bill prohibits the use of the words "racketeer" or "racketeering" in civil suites. The bill is prospective only — it does not apply to existing RICO cases. The bill does not affect the Corporation Commission's ability to use RICO, but it does limit individual civil cases. The "intentional or reckless behavior" test is more strict than the previous standard.

Financial Planners \* In response to the request of the investing public, particularly the retired community, for some protection from unscrupulous financial planners, legislation was proposed that would have placed regulatory oversight of this area under the duties of the Securities Division. The financial planners legislation did not pass. The Commission expects this issue to be addressed again in the 1994 Session.

**Open Meeting and Other Proceedings:** The Commission meets in five types of forums. In all instances, the activities of the Commission are controlled by the Arizona Open Meeting Law, the Commission's ex-parte rule on unauthorized communications, and the Arizona Administrative Procedures Act.

The Commission conducts formal hearings on contested matters such as rate requests, complaints, and securities violations. Evidence is collected at hearing, but no vote is taken. All decisions of the Commission are made in Open Meetings. Open Meetings are conducted after the agenda of the meeting has been made available to the public. In some limited instances, such as legal matters and personnel matters, the Commission may meet in Execu-

tive Session. Hearings, Open Meetings, and Executive Sessions, while administrative in nature, are very formal in process. The Commission usually meets prior to its regular open meetings in a more informal Special Open Meeting, referred to as a Working Session. In these publicly noticed meetings, the Commission conducts discussion on the matters to be considered at the regular open meeting. Comments may be received from the public, interested parties, and the staff of the Commission. The Commission also conducts Workshops where issues are discussed. No votes are taken or decisions made at either the Working Sessions or Workshops. The number of meetings of these various types are shown in the Hearing Division's section of this Annual Report.

**Civic Activities.** Commission employees have often been recognized for their personal efforts and contributions to fulfill civic needs. During FY 1992-93, the Commissioners and employees:

- Contributed \$6,677 to the State Employees Charitable Campaign which supports United Way Agencies, National Health Agencies, International Service Agencies and local non-affiliated agencies.
- Donated \$865 to the American Cancer Society in support of Commission staff who participated in the Annual "Climb the Mountain, Conquer Cancer" event.
- Donated twenty-two pints of blood in specially arranged blood drives held at the Commission's facilities.
- Fully supported and actively participated in Environmental improvement activities such as the "Clean Air Force" (car pools, Don't Drive One-in-Five Campaign and bus ridership), and recycling of paper and newsprint.

**Projects.** The Administration Division, under the guidance of the Executive Secretary is also the primary action office for plans, projects and material of benefit to Commission employees. During FY 1992-93:

A significant portion of the Division Director's efforts were devoted to the facilities related projects. Working with the Department of Administration, the Commission acquired 21,550 square feet of newly remodeled office space in the building adjacent to the main office. The new space at 1300 West Washington was re-configured to meet the specific needs of the Corporations and Securities Divisions. These Divisions relocated from 1200 West Washington in June 1993. The moves of the Corporations and Securities Divisions made room for the Utilities Division's relocation of the Engineering, Pipeline Safety and Railroad Safety functions in the main building, thereby eliminating the need for leased space. These moves, although planned in FY 1992-93 were accomplished early in July 1993. A backfill plan for other modifications to the main offices was also developed with work completion scheduled for FY 1993-94.

The Commission's Affirmative Action plan was updated. The plan transmitted to the Governor's Office of Affirmative Action, demonstrated that the Commission met overall parity goals. However, slight underutilization of some protected groups in certain occupational categories was determined. Hiring goals and objectives were established to correct these imbalances.

The Commission continued to fund a "Tuition Assistance" program for its employees. The objectives of the program include: improve job capability, performance and morale; encourage personal growth and

development; and provide a source of qualified personnel for advancement as vacancies occur.

## BUSINESS OFFICE

The Business Office is responsible for providing all accounting, payroll, purchasing, and personnel support for the Commission as well as budget preparation. All but budget preparation is overseen by the business office manager. The Commission's budget is developed and submitted by the Administration Division Director in coordination with the Executive Secretary and the Directors of the other Divisions of the Commission. Fiscal information related to the budget and expenditures is included in Appendix A.

The Business Office is also the Commission's main point of contact with other state agencies involving business activities. The office works closely with such state entities as the State Treasurer, General Accounting Office, State Personnel Office, and the State Purchaser's Office. During FY 1992-93, the Business Office: received and processed \$18,677,000 in revenue to the State Treasurer; issued 314 purchase orders; processed 509 travel claims; received and entered into inventory 569 items; and serviced 257 employees through personnel actions and payroll transactions.



## Jerry Rudibaugh, Chief Hearing Officer

State law confers upon the Commission the authority to hold public hearings on matters involving the regulation of public service corporations, the sale of securities, and the registration of non-municipal corporations. The Hearing Division is responsible for conducting the hearings, analyzing the evidence, and drafting recommended decisions for the Commissioners' consideration and approval.

Under the direction of the presiding Hearing Officer, proceedings are conducted on a formal basis through the taking of direct testimony, the cross-examination of witnesses, the admission of documentary and other physical evidence, and the submission of oral arguments or post-hearing briefs. Evidentiary and procedural rulings are made by the presiding Hearing Officer from the bench. Rate applications are processed under the procedural schedule established by the Hearing Officers, in order to ensure that proposed Opinions and Orders are issued in a timely manner within the framework of the Commission's "timeclock" rules.

During FY 1992-93, the 6 Hearing Officers in the Division conducted 133 public hearings, encompassing a total of 187 days. A summary of hearings is shown below.

### PUBLIC HEARINGS CONDUCTED FOR FISCAL YEAR 1992-93

| TYPE OF HEARING                           | NO. OF HEARINGS |
|---|-----------------|
| Rate Cases                                | 18              |
| Transfers/Sales                           | 15              |
| Certificates of Convenience and Necessity | 19              |
| Orders to Show Cause and Complaints       | 7               |
| Financing                                 | 4               |
| Fuel Adjustment Cases                     | 1               |

| TYPE OF HEARING  | NO. OF HEARINGS |
|--|-----------------|
| Rules (new and amended)                                | 3               |
| Adjudications  | 4               |
| Deletions  | 8               |
| Revocations  | 0               |
| Generic Hearings                                       | 0               |
| Securities Division                                    | 10              |
| Corporations Division                                  | 0               |
| Railroad/Safety Group                                  | 9               |
| Tariff   | 0               |
| Pre-Hearing Conferences                                | 14              |
| Public Comments  | 12              |
| Miscellaneous (oral arguments, motions to compel, etc) | <u>9</u>        |
| <b>TOTAL</b>   | <b>133</b>      |

Based upon the record evidence presented at public hearings, or filings made in non-hearing matters, the presiding Hearing Officer prepares a recommended order which sets forth the pertinent facts, discusses applicable law, and proposes a resolution of the case for the Commissioners' consideration. The Commission regularly holds Open Meetings to deliberate and vote upon the recommended orders. During FY 1992-93, the Hearing Division prepared a total of 148 recommended orders, 98 for cases involving a hearing and 50 for non-hearing matters, mainly expedited rate applications for small water companies.

Throughout the pendency of cases before the Commission, the presiding Hearing Officer may issue procedural orders to govern the preparation and conduct of the proceedings, including: discovery, intervention, the hearing date, filing dates, public notice, and motions. During FY 1992-93, the Hearing Division issued 300 such orders.



## Joan Adams Moore, Director

The Corporations Division is organized for those purposes outlined in Article XIV and XV of the Arizona Constitution. It is also charged with the responsibility for administering the General Corporation Code (A.R.S. §§ 10-002 et. seq.), the Limited Liability Company Act (A.R.S. §§ 29-601 et. seq.) and the State of Arizona Public Access System (Starpas).

Any organization which operates as a corporation in the State of Arizona is required to file its Articles of Incorporation and an Annual Report with the Commission. Any significant changes to Articles in the form of amendments, mergers, consolidations, dissolutions or withdrawals are also filed with this Division. All filings are public record and available for inspection. Copies of documents may be secured for a nominal fee.

Effective September 30, 1992, the Corporations Division was charged with the responsibility of filing Articles of Organization for any organization which operates as a limited liability company in the State of Arizona. Similar to corporations, any significant changes to Articles in the form of amendments, mergers, dissolution or withdrawals and Applications for Registration for foreign limited liability companies are also filed with this Division.

The Corporations Division has limited investigatory powers and no regulatory authority. However, the Articles of Incorporation of an Arizona Corporation may be revoked if certain statutory requirements are not met. Likewise, the authority of a foreign (non-Arizona) corporation to do business in Arizona may be revoked.

As of June 30, 1993, there were 113,384 corporations; 96,271 domestic and 17,113 foreign and 1,187 limited liability companies; 1,166 domestic and 21 foreign transacting business

in the State of Arizona. The Corporations Division is comprised of six Sections, with each Section designed to perform specific functions. The Division also provides staffing in the Tucson Office of the Corporation Commission for service to the residents of Southern Arizona.

### CORPORATE FILINGS SECTION

The Corporate Filings Section approves and processes all filings directly related to Articles of Incorporation and Organization. The Section determines availability of Corporate/LLC names, processes applications filed by foreign corporations seeking authority to transact business in Arizona, and certifies copies of any and all corporate and limited liability company documents on file for introduction into court and private business transactions.

This Section works in conjunction with the Departments of Real Estate, Insurance, Banking and the Registrar of Contractors to ensure consistency between agencies relative to filing requirements. It also works closely with the office of the Secretary of State. Laws pertaining to corporate and limited liability company names are similar to those governing trade names, which are administered by the Secretary of State.

The number of documents processed by the Corporate Filings Section during FY 1992-93 were as follows:

|                                       |        |
|---------------------------------------|--------|
| Domestic Articles of Incorporation    | 14,047 |
| Foreign Applications for Authority    | 3,041  |
| Amendments                            | 4,439  |
| Certificates of Good Standing         | 6,297  |
| Certification of Orders               | 7,101  |
| Domestic and Foreign Mergers          | 731    |
| Domestic Articles of Organization     | 1,187  |
| Foreign Applications for Registration | 21     |

## ANNUAL REPORTS SECTION

The Annual Reports Section is responsible for processing all annual reports filed by corporations transacting business in Arizona. The reports are checked to ensure all statutory requirements have been met.

This Section is further responsible for recording statutory agent changes and any changes to general corporate information which occur during the year.

The Commission is authorized by A.R.S. §§10-095 and 10-1052 to revoke a domestic corporation's Articles of Incorporation or a foreign corporation's authority to transact business in Arizona if specific filing requirements are not met. Sixty days prior to revocation, the Commission must issue a notice of delinquency to the corporation. All delinquencies and revocations are handled by the Annual Reports Section.

In FY 1992-93, this Section processed the following:

|                     |         |
|---------------------|---------|
| Annual Reports      | 112,019 |
| Delinquency Notices | 11,281  |
| Revocations         | 12,307  |

## RECORDS SECTION

The Records Section is responsible for maintaining all corporation and limited liability company documents filed with the Commission. All corporate files are public record. Microfilmed files may be viewed by the public at the Customer Service Counter. Hard copies of documents can be purchased at a minimal cost per page.

The Section also provides a telephone information service for public inquiries regarding corporate status and general information. The recorded number of incoming telephone calls during FY 1992-93 exceeded 2,000 daily. An incoming WATS line is available to provide toll-free service to Arizona residents living outside the metropolitan Phoenix and Tucson areas.

The Corporation Commission acts as agent for Arizona corporations and limited liability

companies whenever either entity does not maintain a statutory agent or when the agent cannot be located. In these instances, services of process directed to the Commission are accepted and processed by the Records Section.

During FY 1992-93, the Records Section filmed over 590,000 documents; accepted service of process on behalf of 423 corporations or limited liability companies; and sold over 420,000 copies of documents on file.

## TUCSON CUSTOMER SERVICE

Residents of Southern Arizona are offered the convenience of filing their original corporate documents and obtaining corporate information directly from the Corporations Division in Tucson. The Tucson Office performs essentially the same functions as the Phoenix Office, however, all documents filed in Tucson are sent to the Phoenix Records Section for retention.

## EXPEDITING SECTION

The Expediting Section performs essentially the same function as the Corporate Filings Section, except that all business documents are examined and filed in a priority same day service at the request of the customer.

## STARPAS OPERATION

As mandated by A.R.S. § 10-129.01 and § 10-1085.01, effective September 30, 1992, the Starpas Operation (State of Arizona Public Access System) provides the capability for direct on-line computer access to the Commission's corporation and limited liability company files from remote locations. In addition, the Starpas Operations staff provides EDP support for the existing mainframe and local area network computer systems.



## Dee Riddell Harris, Director

The Securities Division is responsible for administration of the Securities Act of Arizona (the Act) and the Rules and Regulations promulgated thereunder. The Division is comprised of five sections: Corporation Finance, Enforcement, Financial Analysis, Law & Policy, and Trading & Markets.

### CORPORATION FINANCE SECTION

The Corporation Finance Section is involved in the review of applications for exemption from the registration provisions of the Act, in registering securities under the Act, and in drafting amendments to the Act and the Rules and Regulations. The Section participates in early stages of the capital formation process through its pre-filing conferences with issuers

During FY 1992-93, there were 5,676 securities offerings registered, while 151 issuers were granted exemptions from the registration requirements of the Act.

The Division continues to make its staff available to issuers through pre-filing conferences in which a potential issuer meets with members of the staff to discuss applications to register securities. The time a filing spends in the review process is significantly reduced by this program. The staff participated in 43 pre-filing conferences last year.

Small corporate issuers are eligible to register securities under the Uniform Limited Offering Registration (ULOR) program. This program has been designed to allow small companies to have affordable access to the public capital markets. During FY 1992-93, the Division registered 10 offerings under this program.

### TRADING & MARKETS SECTION

This Section is responsible for administration of licensing procedures for enforcement of the dealer and salesman provisions of the Arizona Securities Act. The Section conducts on-site examinations of dealers to ensure compliance with the Act. The Arizona Corporation Commission is authorized to deny, suspend, or revoke a dealer's or salesman's registration, to assess fines and to order rescission or restitution. During FY 1992-93, the Trading & Markets Section processed 47,729 salesmen registrations and 5,389 transfers of such salesmen between dealers. The Section also processed 1,055 dealer registrations.

### ENFORCEMENT SECTION

The Division's Enforcement Section maintains an active program in order to ensure integrity in the marketplace and to preserve the investment capital formation process, rather than permitting capital to be lost to swindles or deceptive practices.

The Arizona Corporation Commission is granted the authority by A.R.S. § 44-2032 to issue an Order to Cease and Desist, apply to the Superior Court of Maricopa County for an injunction, transmit evidence to the Attorney General who may petition the Superior Court of Maricopa County for the appointment of a conservator or receiver, and transmit evidence to the Attorney General who may directly institute, or cause to be instituted, criminal proceedings.

During FY 1992-93, the Division initiated 70 investigations and had a total of 172 cases under investigation. It instituted 33 administrative proceedings and transmitted evidence to the Attorney General which resulted in 6 civil cases involving 24 defendants and 10 criminal cases involving 15 defendants. The Securities Division makes substantial com-

mitments to its cases once litigation is commenced. Its investigators and certified public accountants become essential factors in the litigation in terms of marshaling witnesses and providing expert testimony. Because of their familiarity with the facts in the case they have investigated, the Division's attorneys are appointed Special Assistant Attorneys General to assist during litigation. A total of 195 administrative subpoenas were issued in connection with investigations of suspected failures to comply with the Act. These subpoenas resulted in the taking of 124 examinations under oath.

#### FINANCIAL ANALYSIS SECTION

The Financial Analysis Section is staffed by certified public accountants who provide accounting and financial analysis support to the other four sections. The accounting staff is called upon to review financial statements submitted by applicants for registration of securities or as dealers. The CPA's also play an integral role in developing cases for trial. Such cases, to a large degree, involve the findings and conclusions the CPA's reach as a result of their investigative accounting efforts.

#### LAW & POLICY SECTION

The responsibilities of the Law & Policy Section include: the No-Action (interpretive) letter program, rulemaking, supervision of the duty officers and drafting legislation. In

the policy area, the Section conducts investor awareness programs. Additionally, the Law & Policy staff work with the business and financial communities on capital formation issues and SEC and NASAA Small Business Conferences.

**Administrative Matters.** The Legislature considered and passed House Bill 2451 during the 1991 General Session. The Bill, subsequently signed into law by the Governor, authorized a study into the feasibility of establishing a stock exchange in Arizona and provided for the funding and regulation of such an exchange. The feasibility study was conducted and on March 31, 1992, the Arizona Stock Exchange commenced operations in Phoenix. The Exchange is an all-electronic call market, which currently has available for trading approximately 4,000 equity securities (with approximately 30 Arizona-based companies and a large number of additional companies with a strong Arizona presence). The Bill also provided for the creation of one or more public reference rooms containing information about public companies. Such a public reference room has been established at 1300 West Washington, Third Floor. It contains information about a large number of public companies which have Arizona securities holders. This information is available to investors, brokers, securities analysts, financial journalists, students and any other members of the public who may be seeking information about public companies. The public reference room is the only source of public information about certain small Arizona-based companies.





## Gary M. Yaquinto, Director

The Utilities Division monitors the operations of 447 public service corporations providing utility service within the State of Arizona. The Division reviews utility company finances and recommends to the Commission revenue requirements and rates and charges to be collected.

These regulatory responsibilities and authorities are fully defined in Article XV of the Arizona Constitution and § 40-201, et seq., Arizona Revised Statutes; they are further defined in the Arizona Administrative Code Title 14, Chapter 2. Article XV of the Arizona Constitution defines "Public Service Corporations" (public utilities) as those furnishing gas, oil, or electricity for light, fuel or power; water for irrigation, fire protection, or other public purposes; or those transmitting messages or furnishing telegraph or telephone service.

A major portion of the Utilities Division's responsibility is rate review and the determination of a reasonable return on fair value for public service corporations. A.R.S. §40-250 requires that all public service corporations obtain Commission approval before establishing or changing any rate, fare, toll, rental charge, classification, contract, practice, rule or regulation. With the exception of small public service corporations with gross operating revenues derived from intrastate operations of less than \$250,000, all such authority granted must be determined in a public hearing before the Commission. Regardless of the dollar amount of gross operating revenues, all rate changes require approval of the Commission in an Open Meeting. Preparation for a major rate hearing begins from the time of the utility's initial filing, and takes approximately four to six months before the hearing takes place. Work

efforts between the time of filing and hearing include a review of past Commission actions, a review of documents on file with the Commission, an audit of the books and records on the utility, discussions with utility personnel and other interested parties, formulation of the staff recommendation and an analysis of the impacts of the recommendation, and preparation of written testimony and schedules. The Commission had several major proceedings during FY 1992-93 which are individually described in Appendix B.

Arizona utility law may be distinguished as comprising enabling powers and directive powers.

**Enabling Powers.** Utility companies must secure Commission approval before undertaking certain actions. The Commission is authorized to issue or to deny certificates of public convenience and necessity prior to the construction of a utility facility, to approve or disapprove the issuance of securities and long-term indebtedness, and to approve or disapprove the sale of utility assets and transfers of certificates.

**Directive Powers.** The Commission is authorized to exercise continual review over the operations of the utilities and to act when necessary to further the public interest. This authority includes control over rates, accounting practices, evaluations and service standards. Books and records of utilities are audited for ratemaking purposes. Utility owned plants are inspected for proper construction and design, and also for ratemaking purposes as related to reconstruction costs. Engineers investigate electrical incidents. Railroad Safety and Pipeline Safety investi-

gate rail and pipeline incidents and emergency situations. The Utilities Division Staff is also responsible for ensuring that utilities are in compliance with Arizona law and Commission directives.

The Utilities Division consists of six sections which fulfill the staff's responsibilities. These sections include Accounting and Rates, Economics and Research, Engineering, Safety, Consumer Services, and Administrative Services. The Division oversees the following number of utilities:

|                                   |          |
|-----------------------------------|----------|
| Investor-owned electric utilities | 5        |
| REA electric cooperatives         | 11       |
| Gas utilities                     | 9        |
| Telecommunications companies      | 32       |
| Water utility companies           | 352      |
| Sewer companies                   | 37       |
| Irrigation companies              | <u>1</u> |
| TOTAL                             | 447      |

#### ACCOUNTING AND RATES SECTION

The Accounting and Rates Section provides independent analyses of the financial, rate and other requests filed by utilities for Commission approval. These requests include proposals for rate changes and new tariff provisions, requests for financing authority, fuel and purchased power adjustor revisions, applications for utility purchases and asset transfers, applications for certificates of convenience and necessity, special contract approvals, and special accounting requests. The Section provides recommendations on the various requests only after considering the impact of the recommendation on ratepayers, utility owners, the long-term financial integrity of the utility, the economic conditions present in the service territory, and the quality, reliability and safety of the utility's service.

In addition to responding to formal utility requests, technical assistance is provided to other sections within the Utilities Division when required to respond to questions of utilities, customers, utility management or the public at large. Additionally, the Section staff members interacts with outside expert consul-

tants, who provide assistance to Section members or supplement the work of Section staff. The Section staff provides expert testimony in the areas of revenue requirements, including investment level, revenues, and expenses; cost of capital, including the proper portion of debt and equity financing, and the appropriate cost of debt and equity; rate design; and other technical accounting and finance areas. The Section is responsible for developing general policy recommendations for Commission consideration in the areas of accounting, finance, and ratemaking which impact on water, wastewater, electric, gas and telecommunications utilities.

While a large portion of the Section's resources during FY 1992-93 were devoted to water industry matters, Accounting and Rates staff also participated in a number of proceedings involving major gas, electric, and telecommunications utilities. Staff members were actively involved in the review and examination of issues pertaining to the increasingly important area of utility diversification. Section staff provided expert testimony and assistance in analyzing Arizona Water Company, Southwest Gas Corporation, Tucson Electric Power Company and Citizens Utilities Company - Arizona Electric Division.

The Section has established procedures and processes to implement the "affiliated interest rules" which are applicable to certain public service corporations regulated by the Commission. The rules govern the formation of public utility holding companies, as well as diversification by public utilities. The rules were adopted by the Commission in March 1990, but implementation was delayed due to a court challenge. The litigation was successfully challenged by the Commission in the Supreme Court and in July 1992 the Attorney General certified the rules. The Section has processed several applications for waiver from certain aspects of the rules, as well as acted on specific transactions encompassed by the rules during this fiscal year.

## ECONOMICS AND RESEARCH SECTION

The Economics and Research Section analyzes economic and policy issues pertaining to the Commission's regulation of investor-owned utilities and rural electric cooperatives. The staff uses a variety of computer models and quantitative techniques to assist in the evaluations. Recommendations are presented to the Commission through staff reports and sworn testimony.

A major share of the Section's efforts during the past year was focused on reviewing electric utility resource plans. The staff analyses identified renewable resource technologies and additional demand side management programs, monitoring, and evaluation as areas needing additional attention. The staff also conducted independent load forecasts for electric utilities and compared its results with the utility forecasts. In addition, demand side management activities carried out by electric utilities increased over the year and the Section reviewed those activities. Major conservation programs include efficient lighting, efficient motors, shade trees, energy efficient new homes, and various education programs.

The Section coordinated a Task Force to provide the Commission with recommendations on how to incorporate environmental and other externalities in electric utility resource planning. The Commission accepted the Task Force report and the staff is now preparing to draft proposed rules to implement the Task Force recommendations.

During the past year, the staff, in conjunction with the Arizona Department of Commerce Energy Office prepared a brochure on installation of photovoltaics entitled "The Solar Electric Option (Instead of a Power Line Extension)". Section staff members also published technical articles in Transportation Research A and the Journal of Economic Issues. Also during the last year, staff prepared and the testimony and analyses on rate design issues and conservation programs for Sulphur Springs Valley Electric Cooperative, Graham County Electric Cooperative, Arizona Electric Power Cooperative, Tucson Electric

Power Company and Citizens Utilities Company.

The Commission must review public service corporations' offers of new services and changes in rates, terms, and conditions of existing services. The Economics and Research Section evaluated approximately one hundred such tariff filings during the past year and made formal recommendations to the Commission in each case. The majority of these tariff filings concerned introduction of new telecommunications services and changes to existing telecommunications services. The Section also reviewed special contracts between electric utilities and industrial customers.

The Section completed its analyses on a two year, before and after study of the effects of various residential conservation measures on about 150 houses in the Phoenix area. Increased attic insulation and shade trees were found to be cost effective residential retrofit conservation measures. In addition, energy savings are greater for conservation measures installed in less energy efficient house. Finally, the Economics and Research Section continues to use several large computer models to help it evaluate electric utility costs and to forecast the demand for electricity.

## ENGINEERING SECTION

The Engineering Section conducts technical reviews of all Commission regulated utilities (except gas, which is done by the Pipeline Safety Group) to assure compliance with accepted service, safety, maintenance, performance and regulatory standards. The engineering staff monitors and conducts on-site investigations of 352 water companies (400 separate systems), 37 wastewater (sewer) companies, 32 telecommunications companies, 16 electric utilities, and 1 irrigation company. The staff also investigates accidents and incidents involving utilities that result in service outages, property damage, and injuries.

The Engineering Section assists the Consumer Services Section with the technical aspects of complaints that are received from utility customers. The engineers accompany Consumer Services personnel on investigations of such complaints. Assistance is also provided to the Consumer Services Section in the processing of Certificate of Convenience and Necessity (CC&N) applications for all regulated utilities.

The Engineering Section assists the Accounting and Rates Section in the processing of rate case applications, financing applications, purchase power and fuel adjustors, and other cases. The Engineering staff perform plant inspections to determine whether utility plant is used and useful and to establish reconstruction cost new (RCN) values to be used in rate proceedings. The Engineering Section Staff also conducts cost of service studies.

The electrical engineers provide continued surveillance of the operation and maintenance of all generating and transmission resources within Arizona. This includes the nation's largest nuclear plant, the Palo Verde Nuclear Generating Station, located approximately 50 miles west of Phoenix. The Engineers also assist the Commission in its role as a member of the Power Plant and Line Siting Committee to determine the environmental compatibility of newly proposed generating station and electrical transmission lines

In the area of telecommunications, the telecommunications engineer reviews tariff filings, CC&N applications, and evaluates the facilities comprising the telecommunications network in Arizona.

In addition, the Engineering Section maintains a computer aided design (CAD) program for producing detailed utility service area maps for use by the Commission and the general public.

#### **SAFETY SECTION**

The Safety Section consists of two groups: Pipeline Safety and Railroad Safety. The Sec-

tion monitors pipeline and railroad safety standards and practices.

#### **Pipeline Safety Group**

The Pipeline Safety Group operates its main office in Phoenix. The Group also staffs offices in Tucson and Prescott.

The Pipeline Safety Group enforces safety standards and practices applicable to the transportation of gas and hazardous liquids by pipeline. Inspections are conducted on interstate gas transmission and hazardous liquid pipeline facilities, intrastate natural gas transmission/distribution pipelines, interstate hazardous liquid pipelines and master meter natural gas systems operations, such as apartments, mobile home parks, schools and other gas distribution systems at the point beyond the gas utility company meter. The Group is also involved in the enforcement of the Arizona Underground Facilities, or "Blue Stake" Law.

As a result of these responsibilities, the Pipeline Safety Group monitors the activities of three interstate natural gas transmission pipelines, three interstate hazardous liquid pipelines, twelve major intrastate gas utility operations, one intrastate natural gas transmission pipeline, three intrastate hazardous liquid pipelines, and 1,270 master meter natural gas operations.

During FY 1992-93, the Group inspected twelve major intrastate gas utility operators, one intrastate gas transmission operator, three interstate gas transmission operators, three intrastate hazardous liquid pipeline operators, and three interstate hazardous liquid pipeline operations. The Pipeline Safety Group completed 1002 comprehensive inspections and 210 specialized inspections, 216 follow up inspections and 202 construction inspection of master meter natural gas distribution systems.

Also during FY 1992-93, the Pipeline Safety Group investigated 107 reported violations of

the Underground Facilities Law, 84 notices of violations were issued and \$11,300 in fines were collected. Staff also received 236 notices of incidents from pipeline operators, and pipeline operators shut off gas service to 96 master meter gas systems requiring repair.

The Pipeline Safety Group provided 17 training workshops during the year for operators of master meter gas systems, and assisted master meter operator personnel by making available to them pipe location and leak detection equipment. During FY 1992-93, the group also conducted 3 Blue Stake training classes.

The Pipeline Safety Group and the U.S. Department of Transportation, Transportation Safety Institute presented three industrial training seminars. The Pipeline Safety Group also assisted with training classes taught at the Transportation Safety Institute in Oklahoma City, Oklahoma.

The Pipeline Safety Group also provided natural gas safety education material to private and public schools and civic organizations to assist them in safety education efforts.

#### Railroad Safety Group

The Railroad Safety Group enforces track, freight car, motive power equipment, carrier operation practices, hazardous material shipments by rail and other railroad safety standards of the Federal Railroad Administration (FRA). The Railroad Safety Group is also responsible for inspection and review of industrial track, rail-highway crossings and new railroad construction projects. In addition to its main office in Phoenix, one Railroad Safety Inspector is located in Tucson. This provides the Commission with a direct contact for Southern Arizona citizens and rail transportation operators and provides a means for timely response to rail incidents.

Railroad Safety Inspectors inspected 718 miles of track, 4,677 freight cars, 370 locomotives, 1,601 crossings and 40 industrial track facilities. They also made 137 operating practices inspections and 718 inspections of

manufacturers that ship and receive hazardous materials by rail. The Railroad Safety Group investigated 94 railroad accidents and 47 complaints received from other governmental agencies, railroad employees and the public.

The Commission administers the State's share of monies dedicated to improving rail-highway crossing safety devices. Since the inception of this federal/state program in July 1977, \$22,700,000 in federal funds and \$1,994,830 in state funds have been spent or encumbered to improve safety warning devices on public rail-highway crossings throughout the state. Commission staff, with the Federal Highway Administration and the Arizona Department of Transportation, conducts an annual review of public rail-highway crossings throughout the state and prepares a list of crossings to be improved with federal and state funds. The list is submitted to the Commission for its review with the top twenty rail-highway crossings being the goal for improvement on an annual basis. The list is then submitted to the cities, towns and/or counties to make applications for funding.

The Railroad Safety Group participates in the National Operation Lifesaver Program, a public awareness program that promotes rail-highway crossing safety. The Commission's award winning video, "Operation Lifesaver", is widely used in the Arizona High School Driver Education and Driver Survival Programs, as well as other driver safety programs, throughout the country.

In FY 1992-93, the Railroad Safety Group obtained FRA certification for its Hazardous Materials Inspector. This certification greatly enhances the Commission's enforcement capability where the shipment of hazardous materials by rail is concerned.

## CONSUMER SERVICES SECTION

The Consumer Services Section investigates complaints regarding the operation, service and billings of public service corporations in compliance with statutes, Orders of the Commission, approved tariffs, and Commission Rules and Regulations.

During FY 1992-93, the Consumer Services Section, in addition to responding to and resolving complaints and inquiries, has administered the Consumer Services Assistance Program, public comment meetings and mediation proceedings. The Section also participated in the preparation of rate case staff reports from the perspective of service quality.

**Public Comment Meetings.** In an effort to provide customers an opportunity to voice

their concerns and opinions on the rates or quality of service of the public utilities serving them, the Consumer Services Section conducts Public Comment Meetings. When a utility files for a rate review, the Consumer Services Section monitors and responds to customer service problems and comments. In many cases, Section staff arranges for a Public Comment Meeting. These Public Comment Meetings have been beneficial in establishing a dialogue between utility companies and the customers. During FY 1992-93, Section staff conducted 16 Public Comment Meetings.

**Mediation meetings.** The Consumer Services Section also conducts mediation meetings between customers and utility companies when informal complaints have not been resolved. Staff conducted 17 mediation proceedings, which led to dispute resolutions in each case.

The following tables list a comparison of inquiries handled by the Consumer Services Section during FY 1990-91, 1991-92, and 1992-93.

|                          | <u>1990-91</u> | <u>1991-92</u> | <u>1992-93</u> |
|--------------------------|----------------|----------------|----------------|
| Water Companies          | 2,006          | 4,331          | 2,852          |
| Electric Companies       | 1,740          | 3,096          | 1,951          |
| Gas Companies            | 516            | 1,178          | 566            |
| Communications Companies | 3,287          | 3,325          | 5,658          |
| Sewer Companies          | <u>205</u>     | <u>94</u>      | <u>195</u>     |
| <b>TOTAL</b>             | <b>7,754</b>   | <b>12,024</b>  | <b>11,222</b>  |
|                          | <u>1990-91</u> | <u>1991-92</u> | <u>1992-93</u> |
| Service Inquiries        | 1,256          | 2,989          | 3,112          |
| New Service Inquiries    | 570            | 801            | 710            |
| Billing Inquiries        | 2,389          | 3,410          | 1,843          |
| Deposit Inquiries        | 347            | 988            | 495            |
| Other Inquiries          | <u>3,192</u>   | <u>3,836</u>   | <u>5,062</u>   |
| <b>TOTAL</b>             | <b>7,754</b>   | <b>12,024</b>  | <b>11,222</b>  |

## ADMINISTRATIVE SERVICES SECTION

In addition to providing general administrative support, the Administrative Services Section designs and maintains databases; designs and maintains computerized filing systems; provides research; provides a system for distribution of mail and internally generated documents; provides support service for copying and binding of all Division testimony and filings; administers the assessment program from which the Utilities Division and Legal Division's funds are provided; maintains the annual reports, tariffs and other filings for all regulated utilities; maintains the Division Compliance Program; and maintains the Division Library.

**Compliance.** Through a computerized database designed and established by the Administrative Services Section, staff monitored 195 compliance items and generated 683 compliance documents.

Other items processed by the Administrative Services Section during FY 1992-93 include:

|                    |         |
|--------------------|---------|
| Staff Reports      | 99      |
| Testimony          | 22      |
| Open Meeting items | 156     |
| Central File items | 1,246   |
| Telephone calls    | 83,174  |
| Copies             | 549,053 |

**Library** The Administrative Services Section also maintains a multimedia library used by Commission employees and the public, containing research materials which include legal, technical and reference publications as well as federal and state documents, with special emphasis on utility-related issues. In addition, the library has videotapes on telecommunications, computer programs and self-improvement courses. During FY 1991-92, staff designed a computer database to catalog all library items. During FY 1992-93, staff completed and put on line all remaining book material. At the present time 2,172 books and 95 periodicals have been catalogued.

During FY 1992-93, the library processed and received 1,592 items.

**Docket Control Center.** In Fiscal Year 1980-81, the Commission requested and obtained legislative approval to establish a docket control function to ensure the integrity and security of the official Commission record. The Docket Control Center was officially established in 1981, operating under the Office of the Executive Secretary. In July 1990, the responsibilities of the Docket Control Center were transferred to the Utilities Division.

The Docket Control Center maintains the official records for the Utilities and Securities Divisions of the Corporation Commission. In this regard, Docket Control's functions are similar to a court clerk's office. The Docket Control Center also assists the public and staff in retrieving the files and transcripts of cases for use in research.

Effective October 1, 1991, a new computerized case management system for processing all dockets was designed and implemented by staff. Major activities accomplished during FY 1992-93 include the following:

|                                      |        |
|--------------------------------------|--------|
| Applications for Hearings Processed  | 371    |
| Filings Docketed and Distributed     | 4,137  |
| Research Activities/Assisting Public | 5,131  |
| Case Management System               |        |
| Maintenance Actions                  | 15,721 |
| Daily Updates of Pending Actions     | 9,090  |

**Annual Assessments.** The Division collects an annual assessment from public service corporations, as established by A.R.S. §§ 40-401 and 40-401.01. The total revenue collected by assessment during FY 1992-93 was as follows:

|                                 | UTILITIES          |                   |                    |
|---------------------------------|--------------------|-------------------|--------------------|
|                                 | REV. FUND*         | RUCO**            | TOTAL              |
| Electric                        | \$3,513,450        | \$ 427,842        | \$3,941,292        |
| Telephone                       | 1,334,575          | 228,384           | 1,552,959          |
| Gas                             | 568,685            | 126,146           | 694,831            |
| Water                           | 93,447             | 27,710            | 121,157            |
| Sewer                           | 14,630             | 4,864             | 19,494             |
| Cellular Tele-<br>phone Service | <u>163,540</u>     | <u>0</u>          | <u>163,540</u>     |
| <b>TOTAL</b>                    | <b>\$5,688,327</b> | <b>\$ 814,946</b> | <b>\$6,503,273</b> |

NOTE: Assessment rates were computed as follows:

\*0.1535 percent of intrastate total gross operation revenue.

\*\*0.0586 percent of intrastate residential gross operating revenue.

**Open Meetings.** The Commission conducts Open Meetings on a regularly scheduled basis for the purpose of decision making. During FY 1992-93, the following Utilities items were submitted to the Commission for deliberation:

|                 | <u>Elec</u> | <u>Gas</u> | <u>Irr</u> | <u>Wtr/<br/>Sewer</u> | <u>Tel/<br/>Comm</u> | <u>RR</u> | <u>Other</u> | <u>Total</u> |
|-----------------|-------------|------------|------------|-----------------------|----------------------|-----------|--------------|--------------|
| Rates           | 2           | 3          | 31         | 0                     | 0                    | 0         | 0            | 36           |
| Financing       | 16          | 1          | 10         | 0                     | 0                    | 0         | 0            | 27           |
| Fuel Adjustors  | 1           | 4          | 2          | 0                     | 0                    | 0         | 0            | 7            |
| Tariffs         | 5           | 6          | 17         | 1                     | 104                  | 0         | 0            | 133          |
| Certificates*   | 1           | 32         | 1          | 3                     | 0                    | 0         | 0            | 38           |
| Grade Crossings | 0           | 0          | 0          | 0                     | 0                    | 11        | 0            | 11           |
| OSC             | 0           | 5          | 2          | 0                     | 0                    | 0         | 0            | 7            |
| Complaints      | 2           | 2          | 5          | 0                     | 3                    | 1         | 0            | 13           |
| Other           | 15          | 7          | 14         | 1                     | 14                   | 0         | 4            | 55           |
| <b>TOTAL</b>    | <b>42</b>   | <b>29</b>  | <b>113</b> | <b>3</b>              | <b>124</b>           | <b>12</b> | <b>4</b>     | <b>327</b>   |

\*New, Extensions, Deletions, Transfers





## Paul Bullis, Chief Counsel

The Legal Division was established in July of 1983 under A.R.S. §40-106 to provide legal representation to the Corporation Commission in performance of all of its powers and duties, except for matters pertaining to the activities of the Securities Division.

The mission of the Legal Division is to provide professional, high quality and timely legal counsel and representation to the Commission in an efficient and effective manner.

Matters handled by the Legal Division fall into five categories: Commission dockets, Federal regulatory dockets, litigation, other administrative matters, and special projects. A brief description of these categories is listed below:

**Commission Dockets.** Utility companies throughout the state apply to the Commission for approval before undertaking certain activities such as the provision of service to the public, the modification of service territory or the implementation of rate increases. The Commission is also authorized to exercise continual review over the operations of public service corporations and to act when necessary to further the public interest.

Legal Division representation in these matters is varied and includes representing the Utilities Division position, advising the Commissioners on legal issues, advising the Consumer Services Section on both docketed and undocketed matters involving consumer complaints, and advising the Commissioners on action that may need to be taken as a result of possible violation of the rules and regulations governing certain public service corporations.

**Federal Dockets.** The Legal Division represents the Corporation Commission before various federal agencies that have interstate or concurrent regulatory authority in the following areas: electric, gas, nuclear energy, railroads, pipelines and telecommunications. These agencies include the Federal Communications Commission, the Federal Energy Regulatory Commission, the Nuclear Regulatory Commission, the Department of Transportation - Office of Pipeline Safety, and the Federal Railroad Administration.

**Litigation.** The Legal Division represents the Commission before a variety of courts and either has pending or has recently concluded cases before municipal courts, county Superior Courts, the state Court of Appeals and the State Supreme Court, as well as before various federal district and appeals courts including the United States Supreme Court. The Legal Division also appears in Bankruptcy Court in matters involving regulated utilities. Two utilities filed for bankruptcy protection during FY 1992-93. Those proceedings will continue into the next fiscal year and perhaps beyond, requiring continuing involvement by the Legal Division.

**Administrative Matters.** The Legal Division represents the Corporations Division in matters arising out of responsibilities given the Corporation Commission under Arizona Corporations Law. Such matters include the filing of Articles of Incorporation, certificates of Disclosure, and Annual Reports which must be submitted to the Commission by every corporation doing business within the State of Arizona. The Legal Division counsels the Corporation Commission in the legalities of miscellaneous matters such as the Open Meeting Law, guidelines and procedures for parte communications, filing requirements and a variety of similar matters.

**Special Projects.** The Legal Division participates in the revision of all rules that pertain to the Corporations Division and the Utilities Division, including the Pipeline and Railroad Safety Groups. During FY 1992-93, the following rulemaking proceedings were either initiated or ongoing: rulemaking related to customer owned pay telephones; rulemaking adopting rate case management processes; rulemaking related to alternative operator service providers; rulemaking related to the regulation of public utility companies with unregulated affiliates; and amendments of underground facilities rules. In addition to participating in the rulemaking proceedings, the Legal Division has been responsible for representing the Commission in litigation that has occurred following the rulemakings. Both the Railroad Safety rules (which became effective in FY 1991-92) and the affiliated interest rulemakings resulted in litigation during FY 1992-93.

The demands on the Legal Division continued at the high levels established during previous years. Several of the State's major utilities had cases before the Commission during FY 1992-93, which tested the resources of the Legal Division.

The largest utility rate case decided during the fiscal year was the rate review of Southwest Gas Corporation ("Southwest"). Although Southwest sought a rate increase for both of its Arizona operating divisions, the Legal Division was instrumental in obtaining a dismissal by the Commission of the request for an increase in rates for the Southern Division. The case was fully decided in July 1993, although Southwest has appealed a portion of the decision.

Issues surrounding Tucson Electric Power Company ("TEP") continued to consume substantial resources during FY 1992-93, as they had during prior fiscal years. The Commission acted on TEP's request for approval of financing in furtherance of its attempt to achieve an out-of-court financial restructuring. This was the most complex financing and application ever presented to the Com-

mission, and required substantial efforts by the Legal Division. In January 1993, shortly after approval of the financing application, TEP filed an application for an increase in rates. The rate application also contained two separate requests for interim increases, both of which required immediate and substantial attention. Significant efforts were also expended in preparation for a July 1993 hearing.

U S West Communications ("US West") also filed a rate increase application during FY 1992-93, asking for a substantial revenue increase. US West rate cases are among the most complex and time and resource consuming proceedings to face the Commission. The issues to be addressed involve not only those common to most large utilities, but also many specific to the telecommunications industry. This case is expected to be completed in FY 1994-95, and will consume tremendous amounts of Legal Division resources throughout its pendency before the Commission.

Other major proceedings to which the Legal Division resources were devoted during FY 1992-93 include: the Citizens Utilities Company request for a rate increase for its Arizona Electric Divisions, which was heard during FY 1992-93; rate applications of the Arizona Electric Power Co-operative and several of its member rural electric co-operatives; rate applications by Arizona Water Company and Paradise Valley Water Company, and multiple proceedings involving Consolidated Utilities, Ltd., which have added complexity due to Consolidated's recent filing for bankruptcy protection.

All the major cases before the Commission require an advisory staff to be assigned to act as a separate party in order to advise Commissioners and Commissioners' staff without violating the ex-parte communications rule. Thus, in each of the above instances, in addition to the need for legal staff as counsel for Utilities Division staff, additional Legal Division personnel are assigned to advise the Commissioners.

The Commission's rules relating to transactions with unregulated affiliates went into effect during FY 1992-93. The Legal Division expended considerable effort assisting in the interpretation and implementation of the rules. Several applications and numerous reports were filed under the rules, all of which required scrutiny by attorneys in the Legal Division. Now that the rules are in effect, these activities can be expected to continue indefinitely.

Resource Planning continues to be an important area of concern to the Commission, as it impacts not only the utilities the Commission regulates, but also the future of the resources and environment of the State. The Commission's efforts with respect to Resource Planning demanded considerable resources

from the Legal Division during FY 1992-93. Task forces established in the previous fiscal year, dealing with costs to be included in the total societal costs of planned generation additions and issues related to flexible hook-up fees, were active and produced final reports and recommendations for the Commission. One result of these reports was the establishment of a working group to begin the process of creating rules that address the task forces' recommendations. The resource planning effort is an ongoing one into the indefinite future, requiring significant commitments of time and personnel from Legal Division.



As noted in several areas of this Annual Report, the Corporation Commission maintains a Southern Arizona Office in Tucson. This office provides many of the same services as the offices in Phoenix. Sections of the Corporations and Utilities Divisions as well a Hearing Officer from the Hearing Division are located in Tucson.

Workload and achievements continued to increase in all sections. During FY 1992-93, the Corporations Section processed more than 1,600 filings of Articles of Incorporation and 9,200 Annual Reports. The office continued to experience an increase in all types of services to Southern Arizona business entities including the processing of 300 applications under the new Limited Liability Company Act.

Tucson Personnel assigned to the Utilities Division provided many consumer oriented

services, prepared staff input to rate cases, conducted railroad safety training and inspections, and fulfilled pipeline safety requirements.

The Hearing Officer in Tucson conducts hearings on matters of interest to residents and utilities located in Southern Arizona. In addition to holding hearings in Tucson, the Hearing Officer often travels to and conducts hearings in the Southern Arizona communities affected by the proceeding..

Not only does availability of the Tucson Office provide a convenience to Southern Arizona residents, it facilitates better state-wide accomplishment of Corporation Commission responsibilities. Therefore, opportunities for enhanced operation are continually evaluated.

# CORPORATION COMMISSIONERS SINCE STATEHOOD



|                            |            |                     |
|----------------------------|------------|---------------------|
| A.W. Cole                  | Democrat   | 1912-1917           |
| W.P. Geary                 | Democrat   | 1912-1915           |
| F.A. Jones                 | Democrat   | 1912-1919           |
| Amos A. Betts              | Democrat   | 1917-1933/1938-1945 |
| David F. Johnson           | Democrat   | 1919-1924           |
| Loren Vaughn               | Democrat   | 1921-1932           |
| W.D. Claypool              | Democrat   | 1925-1930           |
| Charles R. Howe            | Democrat   | 1931-1936           |
| Wilson T. Wright           | Democrat   | 1933-1953           |
| John Cumnard               | Democrat   | 1933-1934           |
| W.M. Cox                   | Democrat   | 1935-1940           |
| William Peterson           | Democrat   | 1941-1946           |
| William Eden               | Democrat   | 1944-1947           |
| William T. Brooks          | Democrat   | 1947-1958           |
| Yale McFate                | Democrat   | 1947-1948           |
| Mt Simms                   | Democrat   | 1949-1958           |
| Timothy D. Parkman         | Republican | 1954                |
| John H. Barry              | Democrat   | 1955-1956           |
| E.T. "Eddie" Williams, Jr. | Democrat   | 1957-1968           |
| George F. Senner, Jr.      | Democrat   | 1959-1962           |
| A.P. "Jack" Buzard         | Democrat   | 1959-1962           |
| John P. Clark              | Republican | 1963-1964           |
| Milton J. Husky            | Democrat   | 1965-1970           |
| Dick Herbert               | Democrat   | 1965-1971           |
| Charles Garland            | Republican | 1969-1974           |
| Russell Williams           | Republican | 1970-1974           |
| Al Faron                   | Republican | 1970-1976           |
| Ernest Garfield            | Republican | 1973-1978           |
| Bud Tims                   | Republican | 1975-1983           |
| Jim Weeks                  | Democrat   | 1977-1982           |
| Stanley Akers              | Republican | 1979-1980           |
| John Ahearn                | Democrat   | 1980-1981           |
| Diane McCarthy             | Republican | 1981-1984           |
| Richard Kimball            | Democrat   | 1983-1985           |
| Junius Hoffman             | Democrat   | 1984                |
| Marianne Jennings          | Republican | 1984                |
| Renz Jennings              | Democrat   | 1985 - present      |
| Marcia Weeks               | Democrat   | 1985 - present      |
| Sharon Megdal              | Democrat   | 1985-1986           |
| Dale Morgan                | Republican | 1987 - present      |

# APPENDIX A



**Fiscal Resources.** Through the budget process, the Arizona Corporation Commission has continued to identify fiscal resource requirements to meet its constitutional and statutory responsibilities. The Commission receives funding through several sources: the State General Fund, the Utility Regulation Revolving Fund, the Arts Trust Fund, the Securities Regulatory and Enforcement Fund, the Public Access Fund, Federal Grants and in FY 1992-93, received program start-up funding associated with the Limited Liability Company Act. The first three sources require legislative appropriation. The Administration and Hearing Divisions as well as the Railroad Safety Group of the Utilities Division are funded entirely from the General Fund. In addition to General Funds, the Corporations Division is the recipient of funding from the Arts Trust Fund, Public Access Fund and the FY 1992-93 Limited Liability Company Act Funds. The Securities Division receives General Funds as well as a portion of the fees it collects through the Securities Regulatory and Enforcement Fund. The Utilities, excluding the Railroad Safety Group, and the Legal Divisions are funded through the Utili-

ty Regulation Revolving Fund which derives its money from assessments on public service corporations. The Federal Grants are obtained as a reimbursement to the Pipeline Safety Group within the Utilities Division for accomplishment of certain federal responsibilities.

Historically, the Commission has generated more revenue from securities and broker registrations, corporation filing fees and miscellaneous service charges than its General Fund requirements. All revenue of this type flows to the State General Fund and is used to defray state government operating costs. The assessment on public service corporations is based on the appropriation approved by the Arizona Legislature and is computed and assessed by the Utilities Division.

The following tables portray revenue and expense data for FY 1991-92 (Actual), FY 1992-93 (Report Year Actual), and FY 1993-94 (Estimated).

**TABLE 1  
REVENUE BY SOURCE**

|  | Actual<br>1991-92   | Actual<br>1992-93   | Estimate<br>1993-94 |
|--|---------------------|---------------------|---------------------|
| Corporation Filing Fees*                       | \$3,999,900         | \$4,497,400         | \$5,000,000         |
| Security and Broker Fees*                      | 5,413,100           | 6,485,600           | 7,000,000           |
| Miscellaneous Service Charges*                 | 73,600              | 71,200              | 75,000              |
| Utility Assessments**                          | 5,529,800           | 5,688,800           | 5,643,600           |
| Pipeline Safety Revolving Fund                 | 10,000              |                     |                     |
| Fines and Forfeitures                          | 533,800             | 125,200             | 150,000             |
| Securities Regulatory & Enforcement<br>Fund*** | 1,286,900           | 961,900             | 1,468,700           |
| Arts Trust Fund****                            | 761,900             | 1,166,700           | 1,200,000           |
| Public Access Fund*****                        |                     | 367,500             | 504,000             |
| Limited Liability Fund*****                    |                     | 66,500              | 75,000              |
| Federal Grant                                  | <u>172,200</u>      | <u>201,200</u>      | <u>212,600</u>      |
| <b>TOTAL</b>                                   | <b>\$17,781,200</b> | <b>\$19,632,000</b> | <b>\$21,328,900</b> |

\* Deposited in the State General Fund

\*\* Deposited in the Revolving Fund for Utilities and Legal Divisions

\*\*\* Deposited in the Securities Regulatory and Enforcement Revolving Fund

\*\*\*\* Deposited in the Arts Trust Fund

\*\*\*\*\* Deposited in the Public Access Fund

\*\*\*\*\* Deposited in the Limited Liability Fund

**TABLE 2  
EXPENDITURES BY BUDGET PROGRAM**

|   | <u>Actual<br/>1991-92</u> | <u>Actual<br/>1992-93</u> | <u>Estimate<br/>1993-94</u> |
|---|---------------------------|---------------------------|-----------------------------|
| Administration & Hearing Divisions            | \$1,827,900               | \$1,892,900               | \$1,985,600                 |
| Corporations Division                         | 1,030,500                 | 1,380,500                 | 1,758,400                   |
| Securities Division                           | 2,729,600                 | 2,408,400                 | 2,900,000                   |
| Railroad Safety Group (Utilities<br>Division) | 432,200                   | 399,700                   | 347,800                     |
| Utilities Division                            | 4,615,400                 | 4,938,900                 | 4,761,300                   |
| Legal Division                                | <u>985,300</u>            | <u>932,700</u>            | <u>944,900</u>              |
| TOTAL   | \$11,620,900              | \$11,951,100              | \$12,698,000                |

**TABLE 3  
EXPENDITURES BY FUND SOURCE**

|  | <u>Actual<br/>1991-92</u> | <u>Actual<br/>1992-93</u> | <u>Estimate<br/>1993-94</u> |
|--|---------------------------|---------------------------|-----------------------------|
| General Fund                             | \$4,883,500               | \$4,989,600               | \$5,045,000                 |
| Arts Trust Fund                          | 25,700                    | 25,900                    | 26,800                      |
| Securities Regulatory & Enforcement Fund | 1,111,000                 | 862,700                   | 1,340,300                   |
| Utility Regulation Revolving Fund        | 5,248,500                 | 5,670,500                 | 5,493,600                   |
| Public Access Fund                       |                           | 134,800                   | 579,700                     |
| Limited Liability Fund                   |                           | 66,400                    |                             |
| Federal Grant                            | <u>172,200</u>            | <u>201,200</u>            | <u>212,600</u>              |
| TOTAL                                    | \$11,620,900              | \$11,951,100              | \$12,698,000                |

## APPENDIX B



Arizona Water Company  
Docket No. U-1445-91-227  
Decision No. 58120

On July 1, 1991, the Arizona Water Company (AWC) filed an application for a permanent increase in water rates. The scheduled hearing commenced on March 3, 1992 and concluded on March 9, 1992. The Company requested an increase in revenues of \$3,783,996. The Commission approved an increase of \$1,759,526.

Important issues in the case involved the Commission's decision to: (1) allow certain non-revenue producing plant additions made after the test year to be included in rate base; (2) disallow from rate base the deferred Central Arizona Project (CAP) charges attributable to CAP facilities not yet "used and useful;" (3) allow the Company to use the "half-year convention" of accounting for accumulated depreciation in lieu of the "year-end convention" normally utilized by Staff; and (4) require that the Company provide a "lead-lag" study in all future rate case proceedings in order to properly determine the Company's cash working capital requirement.

The difference between the revenue increase approved by the Commission and that proposed by the Company was largely determined by the Commission finding that the cost of equity proposed by the Company (13.5%) was excessive. While adopting the Company's actual capital structure (41.32% debt, 58.68% equity) as being reasonable, the Commission found that staff's proposed cost of equity (11%) more closely reflected the Company's true cost of equity capital.

Finally, in recognition of the complexity and inefficiency associated with the processing of a single rate application composed of eighteen separate water companies, the Commission adopted the Company's proposed "Three-Group Filing Concept." Pursuant to that concept, the Company may

file future rate applications on either a "total company" or "operating group basis." When filing under the operating group basis, its operations would be divided into three groups (Apache Junction, Casa Grande, and Sedona) based on geographical and existing divisional characteristics. In adopting this concept, however, the Commission stipulated that any rate application filed under the operating group basis should "preserve the individuality of the data and rates for each company within the group" in order to prevent "rate consolidation of the distinct companies within the group."

Citizens Utilities Company  
— Arizona Electric Division  
Docket No. E-1032-92-073  
Decision No. 58360

On March 12, 1992, Citizens Utilities Company — Arizona Electric Division (Citizens) filed an application requesting an increase in the rates and charges for electric service and for approval of a consolidation of the accounting records of Citizens' Mohave Electric Division (MED) and its Santa Cruz Electric Division (SCED) for bookkeeping, accounting, and ratemaking purposes, and for the establishment of a single set of tariffs and rate schedules for the two divisions.

Citizens requested an increase in revenues of \$7.8 million. The Commission approved an increase of \$2.6 million. The Commission determined that Citizens should consolidate the accounting records of the MED and SCED for bookkeeping, accounting, and ratemaking purposes. The Commission authorized three separate rate schedules for residential, small general service, and irrigation, while gradually moving toward consolidation. The monthly charge is identical for the two divisions, but with different energy rates. It was discovered that Citizens did not comply with Decision No. 55474 as it related to the calculation of Allowance for Funds Used During Construction (AFUDC), and was ordered to comply with Federal Energy Regulatory



Commission (FERC) Accounting Rules 13 and 3(17). Citizens was ordered to submit its Demand Side Management (DSM) programs to staff for pre-approval.

There were several areas of dispute in this case. A discussion of the major disputed issues follows.

Citizens' proposed cost of capital was 10.24 percent. Staff's recommended cost of capital was 9.6 percent. The proposed equity cost rates by Citizens and Staff were 12 percent and 11 percent respectively. The Commission authorized a 9.2 percent cost of capital.

The Commission agreed with the recommendation that the cost of office space and furnishings for a retired Citizens' executive, and the cost of expensive art and lavish office furnishings in the Stamford, Connecticut headquarters to be removed from rate base, as they provide no benefit to Citizens' ratepayers.

Citizens requested recovery of the costs of its Management Incentive Deferred Compensation Program. Staff recommended adjustments to remove this expense because Citizens failed to show that the awards were based on or related to attainment of cost reductions or other specific goals, which Citizens had cited as a benefit to ratepayers. The Commission agreed with this recommendation.

The Commission decreased insurance expense to disallow the premium increase associated with Citizens' decision to increase its insurance for directors and officers. The purpose of the premium increase was to fund the costs of defending various lawsuits brought by shareholders against Citizens' directors and officers in response to the disclosure that its CEO was paid a \$21.6 million compensation package in 1992. The Commission determined that, clearly, ratepayers should not pay for the increased insurance premiums used for this purpose.

The commission disallowed \$300,000 of Citizens' proposed \$551,000 of rate case expense. The expense amount was found to be excessive, and largely within Citizens' control. Management decisions such as to file consolidated rather than division-specific schedules; to spend, on average, 28 days in response time

to discovery requests; and to direct charge employee time spent working on rate cases, without oversight to ensure that excessive hours are not being billed, were cited as reasons for Citizens' excessive rate case expense.

**Southwest Gas Corporation**  
**Docket No. U-1551-92-253**  
**Decision No. 58377**

On September 3, 1992, Southwest Gas Corporation (Southwest) filed an application for an increase in rates for natural gas in its Central Arizona Division. The Company requested an increase in revenues of \$15.9 million. The Commission approved an increase of \$6.5 million.

Regarding capital structure: The Company proposed using a hypothetical capital structure, which consisted of 50 percent debt, 5 percent preferred stock, and 45 percent common equity. The Commission adopted a hypothetical capital structure containing 55 percent debt, 5 percent preferred stock, and 40 percent common equity. The cost of equity for the Company was determined by the Commission to be 10.75 percent, versus the Company proposed amount of 12.75 percent.

The Commission disallowed a portion of the capital expenditures related to the pipe replacement program in the amount of \$4.2 million. Also, the Commission adopted the cash or pay-as-you-go method of accounting for Post Retirement Benefits Other than Pensions (PBOP's) for ratemaking purposes.

The Commission determined that certain officers on the Board of Directors did not properly allocate their time spent on PriMerit Bank matters. As a result, a portion of the director's fees were disallowed for ratemaking purposes.

The Commission also disallowed \$178,459 in advertising expenses which it deemed to be promotional in nature or unnecessary and duplicative.



ARIZONA CORPORATION COMMISSION  
1200 West Washington  
Phoenix, Arizona 85007