

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 KRISTIN K. MAYES  
CHAIRMAN

3 GARY PIERCE  
COMMISSIONER

4 SANDRA D. KENNEDY  
COMMISSIONER

5 PAUL NEWMAN  
COMMISSIONER

6 BOB STUMP  
COMMISSIONER

7  
8 IN THE MATTER OF THE APPLICATION OF  
9 UNS GAS, INC. FOR THE ESTABLISHMENT  
10 OF JUST AND REASONABLE RATES AND  
11 CHARGES DESIGNED TO REALIZE A  
12 REASONABLE RATE OF RETURN ON THE  
13 FAIR VALUE OF THE PROPERTIES OF  
14 UNS GAS, INC. DEVOTED TO ITS  
15 OPERATIONS THROUGHOUT THE STATE  
16 OF ARIZONA.

Docket No. G-04204A-08-0571

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14 **RUCO'S EXCEPTIONS**

15 The Residential Utility Consumer Office ("RUCO") files these exceptions to the  
16 Recommended Opinion and Order ("ROO") issued on March 9, 2010 regarding UNS Gas,  
17 Inc.'s ("UNS Gas" or "Company") rate application. RUCO believes that overall, the ROO is  
18 fair, well-reasoned and should be approved by the Commission. While not every position  
19 advocated by RUCO was adopted, RUCO's exceptions are limited to only a single issue —  
20 increased rate base for Accumulated Deferred Income Tax ("ADIT") on stock-based  
21 compensation. The ROO provides for the exclusion of stock-based compensation for UNS  
22 Gas' test year expenses. ROO at page 32, lines 19-28. The ROO, however, erroneously  
23 allows the Company to increase rate base by \$253,257 for the ADIT associated with stock-  
24 based compensation. ROO pages 14-15. In order to be consistent, the Commission should

1 reduce the Company's rate base by \$253,257 to remove the ADIT associated with the  
 2 Company's stock-based compensation.

3 RUCO witness, Ralph Smith, recommended a net rate base reduction for ADIT of  
 4 \$196,256 consisting of the following components (some positive, some negative) of which  
 5 ADIT related to stock-based compensation amounted to \$253,257 as summarized below:

Line No.	Description	Per UNS Gas (A)	Per RUCO (B)	RUCO Proposed Adjustment (C)	[RUCO Exception] Remove ADIT Related to Stock-Based Compensation (D)
<b>Account 190</b>					
1	CIAC	\$ 2,436,909	\$ 2,436,909	\$ -	
2	Customer Advances	\$ 4,402,955	\$ 4,402,955	\$ -	
3	Customer Advances - CWIP	\$ (227,413)		\$ 227,413	
4	Dividend Equivalents	\$ 17,952		\$ (17,952)	\$ (17,952)
5	Restricted Stock	\$ 24,316		\$ (24,316)	\$ (24,316)
6	Restricted Stock - Directors	\$ 55,281		\$ (55,281)	\$ (55,281)
7	Stock Options	\$ 155,708		\$ (155,708)	\$ (155,708)
8	Vacation	\$ 169,367		\$ (169,367)	
9	Total Account 190	<u>\$ 7,035,076</u>	<u>\$ 6,839,864</u>	<u>\$ (195,211)</u>	<u>\$ (253,257)</u>
<b>Account 282</b>					
10	Net Plant ADIT	<u>\$ (17,452,856)</u>	<u>\$ (17,452,856)</u>	<u>\$ -</u>	
<b>Account 283</b>					
11	CARES Reg Asset	\$ (190,140)	\$ (190,140)	\$ -	
12	Pension	\$ 1,045		\$ (1,045)	
13	Total Account 283	<u>\$ (189,095)</u>	<u>\$ (190,140)</u>	<u>\$ (1,045)</u>	
14	<b>Net ADIT</b>	<u>\$ (10,606,875)</u>	<u>\$ (10,803,131)</u>	<u>\$ (196,256)</u>	

17 Notes and Source

A: UNS Gas workpaper UNSG0571/02839

B: Testimony of RUCO witness Ralph Smith (Ex. R-20) and RUCO Final Accounting Schedules, Schedule B-6

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 20 Moreover, and in order to be consistent, the Commission should change the language  
 21 of the ROO starting on page 15, line 6, which states: "Based on the record before us, we do  
 22 not believe that RUCO's position should be adopted on this issue because it would represent  
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1 a departure from the ADIT adopted in prior cases for UNS Gas and its affiliate companies.”<sup>1</sup>  
2 This statement, as it applies to the ADIT related to stock-based compensation, is not  
3 accurate.

4 The record is clear that ADIT related to stock-based compensation was in fact  
5 removed in UNS Gas’ last rate case. UNS Gas witness, Karen Kissinger, testified in her  
6 rebuttal (Ex A-12) at pages 3-4 that ADIT related to stock-based compensation was not  
7 allowed by the Commission as a component in UNS Gas’ last rate case because such ADIT  
8 related to an underlying expense – stock-based compensation expense – that was  
9 disallowed. Ms. Kissinger admitted that, in those circumstances, where the underlying  
10 expense was disallowed, the related adjustment to remove the ADIT was appropriate. See,  
11 UNS Gas witness Kissinger rebuttal (Ex. A-12) at pages 3-4; RUCO witness Ralph Smith  
12 surrebuttal (Ex. R-21) at pages 31-32.

13 It is therefore uncontested that the ADIT related to stock-based compensation was  
14 removed in UNS Gas’ last rate case. It is also uncontested that, under circumstances where  
15 the underlying expense is disallowed, the related ADIT should also be disallowed.

16 As noted above, the ROO at page 32, lines 19-28, appropriately removes stock-based  
17 compensation from UNS Gas’ test year expenses. Consequently, removing the ADIT related  
18 to stock-based compensation is not only consistent with the treatment applied in UNS Gas’  
19 last rate case, it is also consistent with the removal of stock-based compensation in the  
20 current UNS Gas case. As both RUCO witness, Ralph Smith, and UNS Gas witness, Karen

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21 <sup>1</sup> It appears that the ALJ may have intended this statement to apply only to the ADIT components related to  
22 pension and vacation, as RUCO’s recommended removal of those ADIT components was contested by UNS  
23 Gas on the basis that they had not been removed in the prior UNS Gas rate case. See, e.g., R Smith  
24 surrebuttal (Ex. R-21) at pages 31-32; Kissinger rebuttal (Ex. A-12) at page 3. Although the ROO did not adopt  
RUCO’s recommendation on other ADIT components, for pension or accrued vacation, other than the clarifying  
revision to footnote 9, described below, RUCO is not excepting to that part of the ROO concerning ADIT relating  
to pension or vacation because the ROO states at page 15 that those issues should be more fully addressed in  
the Company’s next rate case. However, the removal of the ADIT for stock-based compensation would appear  
to be in accord with other statements in the ROO because it is consistent with the prior UNS Gas rate case (not  
a departure) and the related expense is being disallowed.

1 Kissinger, testified, removal of an ADIT component from rate base is appropriate when the  
2 underlying expense is disallowed.

3 RUCO has prepared a proposed amendment to reflect the removal of ADIT related to  
4 stock based compensation. (See Proposed Amendment 1)

5 Finally, RUCO recommends the following technical correction to footnote 9 (this does  
6 not impact the amount of UNS Gas' revenue requirement) which more accurately describes  
7 the alternative recommendation relating to the ADIT for accrued pension and vacation that  
8 was made by RUCO witness, Ralph Smith, in his surrebuttal (which was not adopted in the  
9 ROO):

Footnote 9 in the ROO reads:

10 <sup>9</sup> It appears that RUCO's position on brief reflects the direct testimony of its witness, Ralph Smith (Ex. R-20, at  
11 24), rather than Mr. Smith's subsequent surrebuttal testimony (Ex. R-21, at 36), which proposed reducing rate  
12 base by \$271,069 to reflect ADIT on accrued vacation and pension liabilities.

Footnote 9 should read:

13 <sup>9</sup> RUCO's position on brief reflects the direct testimony of its witness, Ralph Smith (Ex. R-20, at 24). Mr. Smith's  
14 subsequent surrebuttal testimony (Ex. R-21, at 36) pointed out that for UNS Gas there are accrued liability  
15 balances of \$438,776 and \$2,707 (totaling \$441,483) related to the \$169,369 and \$1,045 ADIT on accrued  
16 vacation and pensions, respectively; so, if the \$170,414 ADIT for vacation and pension was not removed, an  
17 alternative adjustment could be made to reduce rate base for the related liability balances of \$441,483. That  
18 would produce a net rate base reduction of \$271,069. [Accrued Liabilities of \$441,483 less related ADIT of  
19 \$170,414 = net rate base reduction of \$271,069]

20 RUCO has attached a proposed amendment reflecting this change. (See Proposed  
21 Amendment 2).  
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1 RESPECTFULLY SUBMITTED this 18<sup>th</sup> day of March, 2010.

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Daniel W. Pozefsky  
Chief Counsel

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1 AN ORIGINAL AND THIRTEEN COPIES  
of the foregoing filed this 18<sup>th</sup> day  
2 of March, 2010 with:

3 Docket Control  
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Phoenix, Arizona 85007

5 COPIES of the foregoing hand delivered/  
6 mailed this 18<sup>th</sup> day of March, 2010 to:

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4 By \_\_\_\_\_  
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RUCO'S  
PROPOSED AMENDMENTS

1 RUCO PROPOSED AMENDMENT 1

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3 Page 15, line 6

4 DELETE:

5 Based on the record before us, we do not believe that RUCO's position should be  
6 adopted on this issue because it would represent a departure from the ADIT adopted in prior  
7 cases for UNS Gas and its affiliate companies.

8 INSERT:

9 Based on the record before us, with the following exception, we do not believe that  
10 RUCO's position should be adopted on this issue because it would represent a departure  
11 from the ADIT adopted in prior cases for UNS Gas and its affiliate companies. The exception  
12 applies to the ADIT associated with the Company's stock-based compensation which should  
13 be removed from rate base since we are not allowing the recovery of stock-based  
14 compensation and it would be consistent with our prior decision in the Company's last rate  
15 case. The Company's rate base should be reduced by \$253,257 to remove the ADIT  
16 associated with the Company's stock-based compensation.

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MAKE ALL CONFORMING CHANGES

1 RUCO PROPOSED AMENDMENT 2

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3 Page 14, Footnote 9

4 DELETE:

5 <sup>9</sup> It appears that RUCO's position on brief reflects the direct testimony of its witness, Ralph Smith (Ex. R-20, at 24), rather than Mr. Smith's subsequent surrebuttal testimony (Ex. R-21, at 36), which proposed  
6 reducing rate base by \$271,069 to reflect ADIT on accrued vacation and pension liabilities.

7 INSERT:

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MAKE ALL CONFORMING CHANGES