

Statement of Marc Spitzer Chairman, Arizona Corporation Commission

ACC Achievements and Goals

1. Fighting for our Right to Privacy

a) CPNI – Customer Proprietary Network Information

The Commission opened a rulemaking docket to protect Arizona consumers from the sale and distribution of their CPNI. CPNI includes our Social Security numbers, the telephone numbers we call and the time and duration of those calls. Telecommunications companies want to sell that information to the highest bidder – and they want to transfer it to ‘affiliated companies’ so they can target each of us with direct marketing based upon where we live and who we call, including our friends and family, the retail, entertainment and dining establishments we patronize--even our calls to religious and charitable organizations.

The potential for privacy invasion is unlimited. The Commission will consider the enactment of Administrative Rules to protect consumers’ Constitutional right to privacy without infringing on the companies’ right to commercial speech. Action we take that restrains big telecommunications companies from packaging and selling our private telephone records will result in those companies suing the Commission. I look forward to that battle.

2. Protecting Arizonans from fraudulent sales practices

a) Slamming and Cramming

The Commission adopted Regulations in 2002 that allow for the imposition of significant penalties when telecommunications companies make unauthorized changes to customers’ telephone services. The Rules also require companies to bill customers and market to customers in the language of the customer. This year in California, Qwest was found to have used English to lure Spanish-speaking customers into excessive services. Some companies have already indicated a legal battle will be launched against our Slamming and Cramming Rules. I look forward to that battle.

b) Arizona Attorney General Lawsuit

The Commission participated in the factual investigation that led to the Attorney General’s lawsuit against Qwest for violations of the Arizona Consumer Fraud Act. Calls to the Commission from aggrieved consumers formed part of the AG complaint.

3. Reliable Electricity at Stable Prices - Protecting Arizona's Electricity Market

a) Arizona is not California

(1) No blackouts

Arizona has a peak load (demand) of about 13,000 MW and over 16,000 MW of capacity (supply). The ACC Staff has conducted two thorough assessments of our transmission system and planned upgrades, industry and Staff have collaborated – not fought – on system planning and reliability.

(2) No utility bankruptcies

The Commission has acted in a timely and deliberate manner to resolve financing concerns and will continue to do so. There has not been and will not be an Arizona utility that goes bankrupt due to inattention or inaction by the Commission.

(3) No Market Impropriety by Arizona utilities

FERC has conducted numerous inquiries and investigations into the West's wholesale market – not one Arizona utility has been found to have manipulated the market and nor has any Arizona utility employee been charged with market manipulation.

(4) Not blindly following predetermined regulatory course

In December 2001, following Chairman Mundell's lead, the Commission opened a docket to review our Electric Competition Rules and Policies. As result, Arizona had an open and frank evaluation of its Electric Restructuring Rules. Changes have been made and more are likely. We will continue to apply lessons learned as we move forward towards a competitive marketplace.

b) Rate Stability and Reductions through Lawful Competition

Some Arizona ratepayers were adversely affected by the turmoil in California's market. However, consumers in the Arizona Public Service, Tucson Electric Power and Salt River Project service territories, as well as thousands of customers of Arizona's Electric Cooperatives, enjoyed not only stability but rate reductions.

4. Regulating Qwest's Rates and Charges

a) Lifeline Rate stays the same

The basic rate for telephone service in Arizona remains \$13.18. This pricing level ensures universal access to telecommunications – even the least fortunate in Arizona can afford telephone service and the security that provides.

b) Competition for Local Service

The Commission reduced Qwest's wholesale rates to promote competition and benefit consumers. Competitors have begun to offer consumers a choice. The Commission is defending its wholesale price reduction in Federal District Court.

c) Innovative “Basket Plan” for Rates

In the 2001 QWEST rate case the Commission created three ‘baskets’ of telecommunications services; essential services which are capped, wholesale services which are priced by the Commission based on cost, and competitive services which are offered by multiple companies and with prices that can be raised, but remain subject to the overall limit of return.

d) Qwest’s earnings shared with ratepayers

Qwest can increase its earnings under the Price Cap Plan, but those increased earnings can be used to reduce the prices of essential services for Arizona ratepayers.

5. Fighting Securities Fraud on behalf of Arizona Investors

a) Baptist Foundation of Arizona

In a year when investors lost billions of dollars due to accounting scandals and corporate malfeasance, the Commission hammered out a \$238 million settlement for investors in BFA. The Settlement will return nearly half of the money lost in the scheme to investors and allows them to continue to gain return of their investments from the sale of BFA assets.

b) \$283,960,826 in Civil Judgments - \$248,138,505 paid and \$5,513,706 in Restitution paid to Arizona Investors

c) Innovative Resolutions – Turn Two Trading Club

The Commission worked with a respondent and investors to arrange for the refund of investors’ funds prior to the hearing on whether violations of Arizona Securities laws had occurred.

6. Safe and Adequate Water - Ensuring Water Quality and Conservation

a) Collaborative Arsenic Costs Impact Group

The Commission’s Staff worked with water industry leaders, fellow State and Federal regulators and ratepayers to identify and manage the massive costs of complying with the new Federal arsenic in water standards.

b) Strict Enforcement of Water Quality and Safety Standards

The Commission acted against two water companies (Sabrosa Water and Diamond Valley) and one wastewater company (Casitas Bonitas) for failure to comply with health and safety standards and/or to properly manage their utilities.

7. Environmental Stewardship

a) Protecting the Air

The Commission has demanded that power plants built in Arizona exceed the federal, state and local requirements for reducing emissions and improving air quality.

b) Planning for a Clean, Reliable Energy Future

The Commission adopted the Environmental Portfolio Standard, Arizona's first such standard and one of the nation's best efforts to utilize clean, renewable energy sources such as wind, solar, landfill gas and geothermal generation within a free, competitive market.

8. Demanding Corporate Responsibility in Arizona

a) Companies in Arizona must follow the law, regardless of their size

Underpinning all of the Commission's achievements is a focus on demanding that corporations doing business in Arizona follow the law and be held accountable when they do not. Whether it is a small water company whose management decides to cut corners on water safety or a Fortune Fifty corporation that decides GAAP don't apply to them - the Commission has acted quickly and, where appropriate, levied significant penalties.

- The Commission has acted against accounting, law and securities firms that violate Arizona laws to ensure justice for Arizona citizens. These cases have received national attention.
- The Commission is currently investigating Qwest's alleged failure to comply with the 1996 Telecommunications Act by entering into secret agreements that bought off potential opponents in cases before this Commission.
- The Commission imposed significant restrictions on asset acquisitions, even those arising from bankruptcy. Arizona's 'fit and proper entity' standard has not been relaxed due to some companies' poor financial decisions and bad accounting practices.
- The Commission has appointed new operators for three water and wastewater companies that violated Arizona safety and health standards.
- The Commission opened an investigation into the wholesale electricity market in 2001 and has determined, thus far, that no Arizona utilities were involved in the market manipulation in California.
- The Commission opened an inquiry into the failure of Harquahala Generating Station to comply with the terms of its Certificate to build a generating station in western Maricopa County.

CONCLUSION

We are proud of the Commission's achievements during the past two years. The Commission's employees, from the Division Directors through the entire agency, demonstrated a commitment to public service, at times under challenging circumstances.

I believe we have the finest regulatory commission in the United States. I look forward to continuing our good work for the people of Arizona.