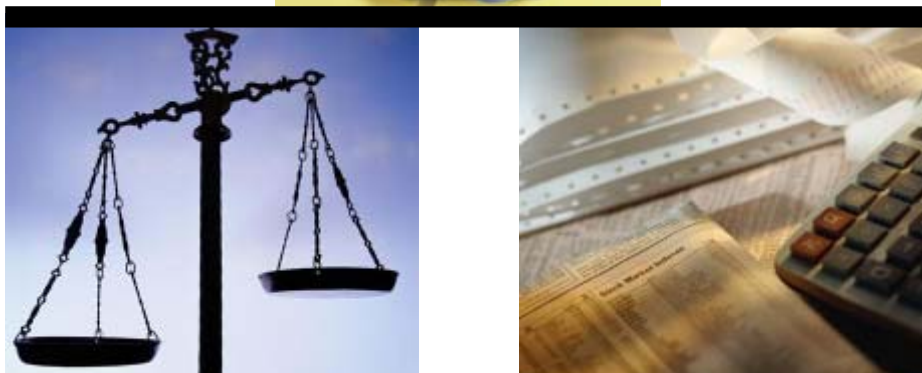


# Arizona Corporation Commission



Annual Report for  
Fiscal Year  
2004-2005

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**Commissioners**

Marc Spitzer, Chairman

Mike Gleason, Commissioner      Jeff Hatch Miller, Commissioner

Kristin Mayes, Commissioner      William A. "Bill" Mundell, Commissioner

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**Executive Director**

Brian C. McNeil

**Division Directors**

**Administration**

Michael Kearns

**Utilities**

Ernest Johnson

**Corporations**

David Raber

**Hearing**

Lyn Farmer

**Securities**

Matt Neubert

**Legal**

Christopher Kempley

**Information Technology Division**

Clark Lathrum

**Main Office**

1200 West Washington  
Phoenix, AZ 85007

**Adjunct Offices**

1300 & 1400 West Washington  
Phoenix, AZ 85007

**Southern Arizona Office**

400 West Congress Street  
Tucson, AZ 85701

Services:

Commissioners' Wing  
Executive Director  
Administration  
Legislative Liaison  
Public Information  
Hearings  
Utilities  
Legal

Services:

Corporations  
Securities

Services:

Corporations  
Hearings  
Utilities

**Pipeline & Railroad Safety**

2200 North Central, Suite 300  
Phoenix, AZ 85004

**Important Phone Numbers**

Commissioners' Wing ..... 602-542-2237  
Consumer Services -- Utilities ..... 602-542-4251  
Consumer Services -- Corporations ..... 602-542-3026  
Consumer Services -- Securities ..... 602-542-4242  
Docket Control ..... 602-542-3477  
Southern Arizona Office ..... 520-628-6554  
Listen Line (live audio of hearings/open meetings) ..... 602-542-0222  
Toll Free Listen Line (area codes 928 and 520 only) . 1-800-250-4525

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## About the Commission

The Arizona Corporation Commission was established in the Arizona Constitution. Only seven states have constitutionally formed Commissions. Arizona is one of only 13 states with elected Commissioners. In the 37 other states, Commissioners are appointed by either the governor or the legislature.

In most states, the Commission is known as the Public Service Commission or the Public Utility Commission. However, in Arizona the Commission oversees the process of incorporating or registering a company to do business in the state, registers and oversees securities offerings and dealers and enforces railroad and pipeline safety.

By virtue of the Arizona Constitution, the Commissioners function in an executive capacity; they adopt rules and regulations thereby functioning in a legislative capacity; and they also act in a judicial capacity sitting as a tribunal and making decisions in contested matters.

The Commission is required by the Arizona Constitution to maintain its chief office in Phoenix and it is required by law to conduct monthly meetings.

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## Organization

The 2002-03 fiscal year marked the expansion of the Commission from three members to five. Commissioners are elected by the people of Arizona for a four-year term, with two or three members standing for election in the statewide general election. In the case of a vacancy, the Governor appoints a Commissioner to serve until the next general election. In the 2000 General Election, the Arizona Corporation Commission was the subject of a ballot proposition seeking to expand the Commission by two seats. Voters approved Proposition 103, which expands the Commission to a total of five members and changes their terms to four-year terms with the option of serving for two consecutive terms.

Ultimate responsibility for final decisions on granting or denying rate adjustments, enforcing safety and public service requirements, and approving securities matters rests with the Commissioners.

The administrative head of the Commission is the Executive Director who serves at the pleasure of the Commissioners. He is responsible to the Commissioners for the day to day operations of all Divisions.

The Commission staff is organized into seven Divisions. The authority and responsibilities of these divisions is described in detail in this Annual Report. All Divisions are headed by a Division Director who reports to the Executive Director.

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## Mission

*To exercise exclusive state regulatory authority over public service corporations (public utilities) in the public interest; to grant corporate status and maintain public records; to ensure the integrity of the securities marketplace; and to foster the safe operation of railroads and gas pipelines in Arizona.*

**Chairman  
Jeff Hatch-Miller**

Chairman Jeff Hatch-Miller was elected to the Arizona Corporation Commission in 2002 for a two-year term. He was re-elected to a four-year term in 2004. Since his inauguration in January 2003, Hatch-Miller has worked to ensure that Arizona's electric, natural gas, telecommunications, and water infrastructure needs are met for the 21st century.

Before his election to the Corporation Commission, Hatch-Miller served in the Arizona House of Representatives for two terms, from 1999 to 2003. He represented District 26, which included parts of Phoenix, Scottsdale, Tempe, and Paradise Valley. While in the Legislature, Hatch-Miller chaired the House Energy, Utilities and Technology Committee, sponsoring key legislation on behalf of the Corporation Commission that required Arizona's electric utilities to demonstrate the future viability and reliability of transmission systems, ensuring that Arizona's increasing power needs are met. Hatch-Miller also co-chaired the Electric Industry Competition Study Committee, which convened hearings on the status of Arizona's retail electric markets.

During his first legislative term, Hatch-Miller served on the Transportation Committee, passing legislation that speeded construction of the state's highways, completing them in half the time originally proposed. He chaired the Joint Legislative Internet Study Committee, investigating issues of electronic privacy, taxation and 21st century communication systems. For his efforts, Hatch-Miller was honored as "Freshman Legislator of the Year 2000" by the National Republican Legislators Association.

From 1990 to 1996, Chairman Hatch-Miller worked for the University of Arizona where he helped rural Arizona towns improve their economic climate, keeping businesses healthy and increasing employment opportunities. For much of his professional career, he specialized in state-of-the-art corporate communications and organizational development.

Chairman Hatch-Miller graduated from the California State University at Stanislaus with a Bachelor of Arts degree and later obtained a Doctor of Education degree from the University of Northern Colorado. Early in his career, he taught at the middle school, high school and college levels.

Chairman Hatch-Miller serves his community as Vice-Chairman of the Board of Directors of the Foundation for Senior Living. He is affiliated with the National Association of Regulatory Utility Commissioners and the North American Securities Administrators Association, as well as with Toastmasters International, Scottsdale Leadership, the Arizona Historical Society, Arizona Town Hall.

A native of Modesto, California, Commissioner Hatch-Miller adopted Arizona as his home state in 1976. Though proud of his accomplishments as a public servant, he is most proud of his role as husband and father. He and his wife, Anita, have been married for 24 years, and have twin sons, Mark and Robert.

Commissioner Marc Spitzer was born in Pittsburgh, Pennsylvania and grew up in Philadelphia. After graduating from Dickinson College in Carlisle, Pennsylvania, Spitzer attended the University of Michigan School of Law. After law school, Spitzer moved to Arizona and began his career as a tax attorney.

As an attorney, Spitzer has represented taxpayers against the Internal Revenue Service. Since 1987, Spitzer has been certified as a Specialist in tax law by the Arizona Bar. In 1992, he ran for and was elected to the Arizona State Senate for District 18. Spitzer chaired the Judiciary and Finance Committees and was elected Senate Majority Leader in 1996.

Spitzer sponsored legislation on behalf of Attorneys General Grant Woods and Janet Napolitano protecting Arizona consumers from fraudulent schemes, and public agencies from antitrust violations and bid rigging. He drafted the largest tax

reduction in Arizona history, which also reformed and simplified Arizona's property tax system. He also drafted the Clean Air Amendments of 1997, which greatly improved air quality in Maricopa and Pima Counties. He sponsored a successful amendment to the State Constitution to protect the assets of pensioners.

Commissioner Spitzer has served as member of the Arizona American-Italian Club, the Rotary Club 100 of Phoenix, the Sunnyslope Village Alliance, the North Central Phoenix Homeowners Association, the Arizona Chief Justice's Commission on Juvenile Crime, the Heritage Foundation and other civic organizations. He became Chairman in January 2003 and served in that capacity until January 2005 when the Commissioners selected Hatch-Miller as Chairman.

Spitzer is married to the former Jacqueline Raub, a Phoenix native, and they have a son, Bennett Alexander, born in 1995.

## Commissioner Marc Spitzer

Commissioner William A. Mundell was born at Elmendorf Air Force Base in Anchorage, Alaska. He came to Arizona from Illinois in 1968 with his parents. He graduated from Arizona State University with a Bachelor of Art's degree in political science in 1974. He earned a Juris Doctor degree from St. Mary's University in San Antonio, Texas in 1977.

Mundell has been in private practice as an attorney in Chandler, Arizona since 1977, except from 1980 to 1986 when he served as the Presiding Judge of the Chandler Municipal Court. In 1986, he resigned as judge to run for the Arizona House of Representatives.

Mundell was first elected in 1986 and served as a member of the Arizona House of Representatives from 1987 to 1992. As chairman of the House Environment Committee, he sponsored numerous pieces of legislation protecting Arizona's environment, including the state's first recycling law. Additional committee assignments included Counties & Municipalities, Natural Resources & Agriculture and Judiciary. During his tenure at the legislature, he was voted "One of Arizona's Top 10 Legislators." He was a candidate for the United States Congress in 1992.

Mundell has served as a Judge Pro Tem on the Maricopa County Superior Court. His past civic and community service memberships include vice president of public policy, Chandler Chamber of Commerce; vice president of Arizona Heritage Alliance; president of the Chandler Fraternal Order of Police Associates; chairman, the United Way, the East Valley Partnership; board of directors, Chandler Regional Hospital; the Lions Club; and the Salvation Army Advisory Board.

Governor Jane Hull appointed Mundell to the Arizona Corporation Commission on June 21, 1999, after the Arizona Supreme Court determined that the former commissioner was ineligible to hold office. In the 2000 general election, he was elected to serve out the remaining four years of his term. He became Chairman of the Commission in January 2001 and served in that capacity until January 2003. Mundell was re-elected in 2004 and his term runs through the end 2008.

Mundell presently serves on the Telecommunications and Consumer Affairs Committees of the National Association of Regulatory Utility Commissioners.

Mundell is married to Barbara R. Mundell, and has two children, Meghan and Samantha.

## Commissioner Bill Mundell

**Commissioner  
Mike Gleason**

Commissioner Gleason was elected to the Commission in 2002 for a two-year term beginning in January 2003. In 2004, Gleason ran for a full, four-year term and was elected for a term that ends in January 2008. Gleason is a resident of Sun City West in western Maricopa County. Born in Iowa, Gleason graduated from Iowa State College with a Bachelor of Science Degree in Forestry. Later, he obtained a master's degree in Range Management from Texas A&M University. He also holds a doctorate degree from Iowa State College in Plant Physiology.

Much of Gleason's career was spent in the agricultural sciences and consulting. He has resided in Mexico and France and has traveled extensively throughout the world during his professional career with such companies as Monsanto, Pacific Oilseeds, Cargill and the Rockefeller Foundation. His job duties have sent him to Peru, Kenya, Bangladesh, Senegal, Zaire, the Ivory Coast, Nigeria and Pakistan.

Gleason represented his West Valley district in the Arizona House of Representatives from 1996 through 2002. There, he served as Chairman of the Agriculture and Natural Resources Committee as well as vice chairman of the Rural and Native

American Affairs Committee. He also served on the Economic Development and International Trade, Transportation, Human Services and Rules committees. Focusing on agricultural and water issues, Gleason sponsored legislation to ensure the efficient regulation of irrigation districts, effective management of groundwater and the long term preservation of Arizona's allocation of Colorado River Water.

In furtherance of Gleason's efforts to ensure that Arizona's communities have dependable, long term water supplies, the Speaker of the House, Jim Weiers, appointed Gleason to serve as an ex officio member of the Arizona Water Banking Authority.

Gleason served as Precinct Committeeman and District Chairman before seeking elected office. He and his wife Shirley have been married for more than 50 years. Together, they have four children and several grandchildren.

Proposition 103, passed by voters in the 2000 election, expanded the Commission from three to five members and changed the term of office from a single six-year term to four-year terms with the option to run for a second term. The two new seats were phased in with an initial two-year term.

Commissioner Kris Mayes was born and raised in Prescott, Arizona. After graduating from Prescott High School and winning the prestigious Flinn scholarship, Mayes attended Arizona State University. While attending ASU, she served as editor in chief of the State Press, one of the nation's largest college newspapers and completed an internship with the Johannesburg Star in Johannesburg, South Africa. In addition, Mayes won the Truman Scholarship, the nation's top scholarship for public service, was a national finalist for the Rhodes scholarship and graduated valedictorian from ASU with a degree in political science. Also in college, Commissioner Mayes' love for politics was fostered when she interned in Washington D.C. for Congressman Bob Stump.

Mayes immediately went to work as a general assignment reporter for the Phoenix Gazette, and later as a political reporter for the Arizona Republic, covering the Arizona State Legislature. Mayes left her post at the Republic to attend graduate school at Columbia University in New York, where she earned a Master of Public Administration. While at Columbia, Kris wrote her thesis on electric deregulation.

Brian C. McNeil became Executive Director of the Arizona Corporation Commission on May 10, 1999. The Executive Director is responsible for providing overall management of the Commission.

Prior to joining the Commission, he was the Deputy Director for Budget and Policy Development in the Arizona Department of Health Services.

McNeil has also served as Senior Policy Advisor to former Governor Fife Symington, as Director of Operations and Economic Advisor at the Arizona

Following graduate school, Mayes returned to the Arizona Republic, where she was assigned to cover the 2000 presidential campaigns of Sen. John McCain, former Vice President Dan Quayle, publisher Steve Forbes and then-Governor George W. Bush. During this time Mayes co-authored a book entitled "Spin Priests: Campaign Advisors and the 2000 Race for the White House". After the presidential campaign, Mayes attended ASU College of Law and graduated magna cum laude.

Commissioner Mayes was appointed in October 2003 to fill a vacancy. She ran for and won the election to complete the vacancy term which expires in January 2006. She has devoted much of her time since the appointment to pipeline safety, renewable energy and natural gas issues.

Mayes considers reading about politics and jogging her chief hobbies, and spends a considerable amount of time in Prescott, visiting her mother Karen Mayes, who still resides in the Mile High city. Mayes has a sister, Kimberly, who is a child life specialist in California, and a brother, Kirk, who is an accountant in Boston, Massachusetts.

State Senate and as a Fiscal Analyst at the Joint Legislative Budget Committee.

McNeil earned his Master of Public Administration degree and a Bachelor of Science degree in economics from Arizona State University. McNeil is currently a Major in the U.S. Army Reserve.

In April 2003, Major McNeil was called to active duty in his capacity as an Army Reserve officer. He served as Provost Marshal of the 2nd ACR in Baghdad, Iraq. McNeil returned to the Commission in September 2003.

**Commissioner  
Kristin Mayes**

**Executive  
Director  
Brian C. McNeil**

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## Administration Division

**Michael Kearns  
Director/Deputy  
Executive  
Director**

***Mission:** To provide the executive leadership and decision-making authority for the timely resolution of matters coming before the Commission; to plan, coordinate and direct the administrative and fiscal activities necessary to support the commissioners and all the divisions of the Commission.*

The Administration Division is composed of the elected Commissioners and their staffs, the Executive Director's office and the administrative functions that provide the fiscal and administrative service necessary to support all divisions of the Corporation Commission. The division director oversees the administrative and fiscal functions and also serves as the Deputy Executive Director, performing the duties of the Executive Director during the incumbent's temporary absences.

The Executive Director's staff performs many administrative functions in conjunction with the Division. These include: preparing the open meeting agendas, keeping records of all proceedings of the Commission and coordinating civic activities and projects of benefit to the Commission.

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### Open Meetings & Other Proceedings

The Commission meets in several types of forums. In all instances, the Arizona Open Meeting Law, the Commission's ex-parte rule on unauthorized communications, and the Arizona Administrative Procedures Act govern the activities of the Commission.

The Commission conducts formal hearings on contested matters such as rate requests, complaints and securities violations. Evidence is collected at hearings 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 executive session. Hearings, open meetings and executive sessions, while administrative in nature, are very formal in process. Comments may be received from the public, interested parties and the staff of the Commission during Open Meetings. In addition, the Commis-

sion has staff meetings, run by the Commissioners, which are posted as Open Meetings. These meetings serve as a forum to exchange information and obtain administrative guidance and policy direction from the Commissioners. The Commission also conducts workshops in which issues are discussed. No votes are taken or decisions made at the workshops.

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### Legislative Activities

The Arizona Legislature enacts new laws every year that impact the Commission and the people it serves. Laws affecting 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 Division interacts with the Office of the Governor and the Legislature on Commission funding issues, including the review of our biennial budget requests and any subsequent executive or legislative recommendations.

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### Civic Activities

Commission employees have often been recognized for their personal efforts and contributions to fulfill civic needs. During FY 2004-05, the Commissioners and employees together:

- Contributed \$15,136 in individual donations and pledges to the State Employees Charitable Campaign, which supports United Way agencies, national health agencies, international service agencies and local unaffiliated agencies;



- Brightened the holiday season for 50 needy children by buying toys and clothes through the Salvation Army's annual Christmas Angel gift drive;
- Donated 28 pints of blood in specially arranged blood drives held at the Commission's facilities;
- Donated several cases of canned food to help brighten the Christmas of needy families in the Valley;
- 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 riding) and recycling of paper, newsprint, and aluminum cans.

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.

fees paid to the Corporations and Securities Divisions for corporate filings, securities dealer, salesperson or agent registrations. During FY 2004-05 the Business Office received and processed \$45,650,398 in revenue to the State Treasurer, of which \$24,903,218 (excludes miscellaneous service charges) was deposited in the state's General Fund. Please note that compared to last fiscal year, this represents a decrease both in revenues and deposits. Fiscal Year 2003-04 data reflected a significant increase due to settlements with major Wall Street brokerage firms and a large fine levied against Qwest occurring in the same year. Penalties and fines for violations of the Securities Act or utility regulations are required to be deposited in the General Fund and do not remain within the control of the agency.

In addition to revenue deposits, the Business Office issued 655 purchase orders, 2,910 claims; received and entered into inventory 662 items; and serviced 302 employees through personnel actions and payroll transactions.

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### **Business Office**

The Business Office is responsible for providing all accounting, payroll, purchasing and personnel support for the Commission as well as budget preparation. The Commission's budget is developed and submitted by the Administration Division Director in coordination with the Executive Director and the directors of the divisions within 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 such as purchasing, budgeting and processing revenue.

The Business Office receives funds from all Commission Divisions, but primarily from

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**Fast Facts**

*The Commission deposited \$45,650,398 in revenue to the State Treasurer of which more than \$24,903,218 was deposited in the state's General Fund. As a comparison, the Commission's total funds expended for FY 2004-05 was \$22,432,154 of which \$4,945,370 was from the General Fund.*

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## Legal Division

### Christopher Kempley Chief Counsel

*Mission: To provide professional, high quality legal representation to the Corporation Commission in the performance of all of its powers and duties, except for matters pertaining to the activities of the Securities Division.*

The Legal Division represents the Commission in all matters relating to public utility regulation and in other areas not associated with the Securities Division. Securities-related legal cases are litigated by the Securities Division. Matters handled by the Legal Division fall into five general categories:

- 1) Commission dockets;
- 2) Federal regulatory dockets;
- 3) litigation;
- 4) other administrative matters; and
- 5) special projects.

#### 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 and advising the Commissioners on legal issues.

#### Federal Dockets

The Legal Division represents the Commission before various federal agencies in the following areas: electric, gas, nuclear energy, railroads, pipelines and telecommunications.

Key federal proceedings included:

- Continued implementation of the federal Telecommunications Act of 1996;
- Participation in federal dockets involving Voice over Internet Protocol (“VoIP”); and
- Participation in federal dockets involving

consumer protection measures including new Truth-In-Billing.

In addition, during FY 2004-05 the Legal Division continued to represent the Commission in Federal Energy Regulatory Commission (FERC) dockets concerning the gas and electric industries to ensure that the public interest of Arizona is considered in these matters. The Division also represented the Commission in Federal Communication Commission (FCC) dockets.

#### Litigation

The Legal Division represents the Commission before a variety of courts and either has pending or has recently concluded cases before municipal and justice 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 large majority of cases filed or pending during FY 2004-05 involved Commission decisions related to restructuring of the telecommunications and electric industries. Key appeals in telecommunications included:

- 1) Continued litigation over implementation of Sections 251 and 252 of the federal Telecommunications Act of 1996;
- 2) Litigation involving the interpretation of various provisions of Qwest’s Price Cap Plan; and
- 3) Litigation at the federal level involving actions taken by the Federal Communications Commission (“FCC”) to preempt the Commission’s authority in different areas.

The Legal Division also has been called upon to represent the Commission in Bankruptcy Court in matters involving regulated utilities.

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## **Administrative Matters**

The Legal Division counsels the Corporation Commission in the legalities of miscellaneous matters such as the Open Meeting Law, guidelines and procedures, ex-parte communications, filing requirements and a variety of similar matters.

The Corporations Division exercises responsibility in such areas as the filing of Articles of Incorporations, 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 advises the Corporation Division on these administrative matters.

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## **Special Projects**

The Legal Division participates in the adoption and revision of all rules for the Corporations Division and the Utilities Division, including the Pipeline and Railroad Safety Sections. It has also represented the Commission in litigation that has occurred following the rulemakings.

The Commission continues to be engaged in a series of proceedings related to the restructuring of the telecommunications industry. The Legal Division represents the Commission or its Staff in a variety of proceedings related to the emergence of competition in the telecommunications industry.

In July 2003, Qwest filed a request to modify its Price Cap Plan and significant staff resources were devoted to reviewing this application, filing testimony and motions related to this docket. A hearing was scheduled for February 2005. Prior to the hearing, Qwest requested that the proceeding be suspended while the parties entered into settlement discussions with Staff and the active intervenors. Legal staff participated in the discussions, which are expected to conclude in early FY 2006.

Qwest began offering long-distances service to its Arizona customers in October 2003. During FY 2004-05, the Legal Division has been monitoring Qwest's compliance with its Performance Assurance Plan. The Division also participated in the first 6 month review of Qwest's Performance Assurance Plan.

The Division also assisted the Commission and Staff in rulemaking proceedings designed to protect the interests of consumers. The Legal staff is working to finalize draft rules designed to protect customer proprietary network information ("CPNI"). The Commissioners are expected to meet to discuss these rules in early FY 2006. If approved by the Commissioners without substantive changes, the new rules will be transmitted to the Attorney General for review and certification.

The Division is also assisting the Utilities Division with a generic rulemaking and investigatory docket on Preferred Provider Agreements. Preferred Provider Agreements are typically entered into between a developer and a telecommunications provider and generally contain marketing preferences and other favorable arrangements exclusive to the telecommunications provider that is a party to the agreement.

Another rulemaking proceeding that the Division is assisting the Utilities Division with is a review of the Commission's Arizona Universal Service Fund.

The Division assisted the Staff in its review of two major merger applications in the telecommunications industry during FY 2004-05: 1) AT&T and SBC; and 2) Verizon and MCI. Both merger applications are pending.

Additionally, the Division is participating in an ongoing review of the Environmental Portfolio Standard originally established by order of the Commission in 2001. In February 2004, the Commissioners ordered the staff and interested parties to review the rules

and study several possible changes to the rules, including requiring regulated utilities to obtain a larger portion of their energy from renewable resources. These efforts will continue in FY 2005-06.

Under state statutes no utility may construct an electric power plant or transmission line without first obtaining a Certificate of Environmental Compatibility from the Power Plant and Line Siting Committee that then must be approved by the Commission. Given the number of applications being submitted and the heightened public interest in such construction, the Legal Division devotes significant resources to representing Staff in these proceedings.

In conjunction with its activities in the areas of electric competition and line and power plant siting, the Commission has been actively involved in proceedings at the Federal Energy Regulatory Commission related to the supply and interstate transmission of natural gas. Natural gas is a primary source of fuel for power plants. The Legal Division participates in those dockets in which gas supply and transportation, as well as competing rights among states to receipt of shipped gas, are at issue.

The Commission continues to address important water issues. Staff continues to work with industry representatives to develop strategies that allow water companies interim recovery of costs of arsenic-extracting systems needed to meet federal requirements. In addition, the Legal Division represented the Commission in both administrative and civil proceedings involving various water issues. The Division participated in a complex rate case for Pine Water Company, a company that continues to be plagued by water shortages during peak summer periods.

The major cases before the Commission usually include an advisory staff assigned to act as a separate party in order to advise Commissioners and Commissioner's 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 have been in effect since FY 1992-93. The rules create an ongoing responsibility to consider and process applications and reports under the rules. The filings of applications and reports under the rules, all of which require scrutiny by Legal Division attorneys, can be expected to continue indefinitely.

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**Fast Facts**

*The major cases before the Commission usually include an advisory staff assigned to act as a separate party in order to advise Commissioners and their staff without violating the ex parte communications rule.*

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The Utilities Division monitors the operations of approximately 450 traditional utilities and about 650 new market entrants providing utility service within the State of Arizona. Article XV of the Arizona Constitution defines “public service corporations” 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.” The Commission’s regulatory responsibilities are established in the Arizona Constitution (Article XV) and the Arizona Revised Statutes (§40-201, et seq.), and further defined in the Arizona Administrative Code (Title 14, Chapter 2).

One of the Utilities Division’s major responsibilities is rate review and the determination of a reasonable return on fair value for public service corporations.

The Division reviews utility company financial records and recommends to the Commission appropriate revenue and rate requirements. With the exception of small public service corporations, these requests for rate changes must be determined in an evidentiary hearing. Regardless of the size of the public service corporation, all rate changes require approval of the Commission in an open meeting.

Staff preparation for a major rate hearing begins at 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 a hearing include a review of documents on file with the Commission; an audit of the books and records of the utility; on-site inspections of plants and facilities; discussions with utility personnel and interested parties; formulation of the staff recommendation; and preparation of written testimony and schedules.

As a result of both the electric and telecommunications industries evolving from monopolies to competitive industries, the

Utilities Division has the added responsibility of providing leadership and support in the development of competitive marketplaces. The Division works with the Commissioners and all affected stakeholders to develop equitable competitive markets that will benefit all consumers of electricity and telecommunications services.

Throughout FY 2004-05, the Division devoted significant resources to the following major efforts:

- Settlement discussions, hearings and the ultimate resolution of the Arizona Public Service Company (APS) Rate Case;
- Examination, open meetings and engineering review of the factors leading up to the fire and outage at the West Wing substation;
- Conclusion of the Commission’s investigation into whether Qwest willfully and intentionally violated state and federal regulations aimed at creating a level playing field for competitive providers;
- Drafting and review of new rules aimed at protecting private information gathered by Arizona’s telecommunications service providers;
- Hearings and open meetings related to a private equity partnership’s proposed acquisition of UniSource, parent company of Tucson Electric Power;
- Analysis and preparation of Staff’s testimony in the Southwest Gas rate case;
- Continued review of potential changes to the Commission’s Environmental Portfolio Standard;
- Preparation of Staff’s testimony in Qwest Corporation’s bid to change its price cap plan;
- Analysis of data and preparation of a staff report in the Tucson Electric Power rate review proceeding;

## Utilities Division

**Ernest Johnson  
Director**

**Mission:** *To recommend thoroughly-researched, sound regulatory policy and rate recommendations to the Commissioners, which are based on a balanced analysis of the benefits and impacts on all stakeholders and are consistent with the public interest.*



The section is also responsible for analyzing and preparing Staff recommendations for the majority of electric tariff filings, special contracts, natural gas tariff filings, telecommunications tariff filings, proposed tariff revisions and competitive telecommunication interconnection agreements. The section also processes applications for CC&Ns for competitive telecommunications firms.

The Telecom and Energy Section regularly prepares analyses and recommendations on numerous tariffs and special contracts submitted by telecommunications, electric and natural gas utilities.

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### 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. This Section monitors and conducts on-site investigations of regulated water, wastewater (sewer), telecommunications and electric companies and one irrigation company. The staff also investigates accidents and incidents involving utilities that result in service outages, property damage and consumer inquiries.

The Engineering Section assists the Consumer Services Section with the technical aspects of complaints received from utility customers. The engineers accompany Consumer Services Section personnel on investigations of such complaints. Assistance is also provided to other sections in the processing of CC&N applications for all regulated utilities.

The Engineering Section assists the Financial & Regulatory Analysis Section in the processing of rate case applications, financing applications, changes to purchased power and fuel adjusters and other cases. Inspections are performed to determine whether a utility plant is “used and useful.” The Engi-

neering Section staff also conducts cost of service studies for the utilities, including gas.

In the water/wastewater area, the engineers monitor the operation of over 400 individual water and sewer systems. These systems range in size from less than 10 connections to over several thousand connections. The engineering staff also assists in the processing of water main extension agreements.

The electrical engineers monitor 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 support Commission representatives who serve on the Arizona Power Plant and Transmission Line Siting Committee. Engineers assist in determining the environmental compatibility of newly-proposed generating stations and transmission lines.

The electrical engineers are responsible for preparing the Biennial Transmission Assessment Report and are responsible for enforcement of the Overhead Power Line Safety Law.

In the area of telecommunications, the Telecommunications Engineers review tariff filings, various telecommunications applications and evaluate the various facilities comprising the telecommunications network in Arizona. The Telecommunications Engineers also participate in the telecommunications dockets and are responsible for addressing service quality issues.

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.

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**Fast Facts**

*Staff from the Financial & Regulatory Analysis Section is primarily responsible for preparing testimony and staff reports for utility rate cases. The Telecom & Energy Section analyzes and prepares staff recommendations for the majority of tariff filings, tariff revisions and competitive telecommunication interconnection agreements. The Engineering Section performs technical reviews of all Commission-regulated utilities with the exception of gas utilities. Gas utility engineering is overseen by the Pipeline Safety Section.*



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## Safety Section

The Safety Section consists of two groups— Pipeline Safety and Railroad Safety. The Pipeline Safety Group enforces the Arizona Underground Facilities Law and oversees the construction, operation and maintenance of all intrastate and interstate natural gas, other gases, liquefied natural gas, and hazardous liquid pipeline facilities operating within the State of Arizona. The Railroad Safety Group oversees the operation and maintenance of all railroad operations, track maintenance and railroad/street grade crossings.

### Pipeline Safety Group

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

The Pipeline Safety Group enforces pipeline safety standards and operating practices applicable to the transportation of gas and hazardous liquids by pipeline and the operation of liquefied natural gas facilities. Inspections are conducted on all interstate gas transmission and interstate hazardous liquid pipeline facilities.

Inspections and operations audits are conducted on all intrastate natural gas transmission/distribution pipelines, intrastate hazardous liquid pipelines, intrastate liquefied natural gas facilities and master meter natural gas system operations, such as apartments, mobile home parks, schools and other gas distribution systems at the point beyond the utility company meter. The Pipeline Safety Group also enforces the Arizona Underground Facilities Law, otherwise known as the “Blue Stake” Law.

As a result of these responsibilities, the Pipeline Safety Group monitors the activities of five interstate natural gas transmission pipelines, one interstate hazardous liquid pipeline, 18 major intrastate gas pipeline operations, two intrastate liquefied natural gas facilities, nine intrastate gas transmission pipelines, three intrastate hazardous liquid

pipelines and 1,129 master meter natural gas operations.

Pipeline safety became a major issue in the hearts and minds of Arizonans with the July 30, 2003 with the rupture of an 8” Kinder Morgan pipeline that runs between Phoenix and Tucson. Under authority granted to it by an agreement with the U.S. Department of Transportation, the Pipeline Safety staff handles the initial investigation and provides its findings to the federal office. The federal office handles enforcement of any penalties or fines resulting from this event.

As a result of the cause of the rupture and concerns about the structural integrity of the rest of Kinder Morgan’s system, the Pipeline Safety Group participated in additional, detailed inspections of Kinder Morgan pipelines in FY 2003-04 and FY 2004-05.

The Pipeline Safety Section this year completed a full inspection of the Kinder Morgan rights of way and a complete inspection of the company’s operation and maintenance records.

Additionally, the Section Staff completed a right of way inspection and records review of the El Paso Pipeline network in Phoenix, Tucson, Ehrenberg, Flagstaff and the Deming West Complex and Mohave Pipeline. Transwestern, Questar and the North Baja Pipeline were also inspected during this fiscal year.

During FY 2004-05, the Pipeline Safety Group inspected 19 major intrastate natural gas distribution pipeline operators, 7 intrastate gas transmission pipeline operators, 3 intrastate hazardous liquid pipeline operators, 2 intrastate liquefied natural gas operators, 2 interstate gas transmission operators and one interstate hazardous liquid pipeline operator and conducted 17 construction inspections, 34 specialized inspections and 148 incident investigations. The Pipeline Safety Group conducted 474 comprehensive inspections, 93 specialized

• • • • •  
**Fast Facts**

*During FY 2004-05, the Pipeline Safety Group completed a full inspection of the Kinder Morgan rights of way and a complete inspection of the company’s operations and maintenance records.*



inspections, 495 follow-up inspections and 175 construction inspections of master meter natural gas distribution systems.

Also during FY 2004-05, the Pipeline Safety Group investigated 179 reported violations of the Underground Facilities Law, issued 38 notices of violations and collected \$57,000 in fines.

Staff also received 1,003 notices of incidents from pipeline operators and pipeline operators shut off gas service to 58 master meter gas systems requiring repair.

During FY 2004-05, the Pipeline Safety Group provided 18 training workshops for 273 operators of master meter gas systems and assisted master meter operator personnel by making available to them pipe locating and leak detection equipment. Staff conducted 32 Blue Stake training classes for more than 1,800 attendees and also presented two specialized training classes for major pipeline operators.

The Pipeline Safety Group in conjunction with the U.S. Department of Transportation's Transportation Safety Institute, presented two one-day seminars: "Small Gas Operations" and "Hazardous Liquid Pipeline Operations."

### **Railroad Safety Group**

The Railroad Safety Group enforces the Federal Safety Standards for track, signal, motive power and equipment, railroad operating practices, and the shipment of hazardous material by rail. The Railroad Safety Group is also responsible for inspection and review of industrial track, and rail-highway crossing construction projects. In addition to its main office in Phoenix, two Rail Safety Consultants are located in the Tucson office and one in Kingman. This staffing arrangement provides the Commission and the citizens of Arizona with quick response to any rail incident, as well as direct contact for more routine matters.

During FY 2004-05, the Group inspected 1,337 miles of track, 3,570 freight cars, 161 locomotives, 327 crossings and 55 industrial track facilities. It also made 3,329 inspections of manufacturers that ship and receive hazardous materials by rail. Additionally, 784 signal and train control devices were inspected. The group investigated 93 railroad accidents and 57 complaints received from other governmental agencies, railroad employees or 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, about \$43,360,155 in federal funds and \$3,590,011 in state funds have been spent or encumbered to improve safety warning devices on public rail-highway crossings throughout the state.

Commission staff, in conjunction with the Federal Highway Administration and the Arizona Department of Transportation, conducts an annual review of certain public rail-highway crossings throughout the state and prepares a list of crossings to be considered for improvement using federal and state funds. From the list, the Commission publishes an array of about 15 of those crossings. The array is then submitted to the cities, towns, and/or counties to make applications for funding.

The Group is also very active in the National Operation Lifesaver Program, a public awareness program that promotes rail-highway crossing and trespasser 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 around the country.

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**Fast Facts**  
.....  
*During FY 2004-05,  
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Group inspected  
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55 industrial track  
facilities. Additionally,  
784 signal and train  
control devices were  
inspected.*  
.....

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### **Consumer Services Section**

The Consumer Services Section investigates and arbitrates complaints from the public

regarding operation, billings, terminations and quality of service and facilities of public service corporations.

The Section engaged in the following activities during FY 2004-05:

**Public Comment Meetings:** In an effort to provide consumers an opportunity to voice their concerns and opinions on proposed rate increases and the quality of service of the public utilities serving them, the Consumer Services Section conducts public comment meetings. When a public utility files an application for a rate increase, the Consumer Services Section assists in the review of the application for sufficiency. It also receives and responds to customer service problems and comments. If necessary, the Consumer Services Section organizes a public comment meeting prior to the rate hearing. These meetings have proven to be beneficial to the public utilities in establishing better communications between them and their customers. During FY 2004-05, the Consumer Services Section organized 33 public comment meetings.

**Arbitration:** When the public utility and the consumer are not able to agree on the resolution of the consumer's complaint, a representative from the Utilities Division will conduct an independent arbitration to resolve the complaint. During FY 2004-05, the Consumer Services Section conducted 11 arbitrations.

**Meter Testing:** The Consumer Services Section, tests water meters when the accuracy of the meter reading is questioned. During FY 2004-05, the Consumer Services Section tested 58 meters.

**Field Investigations:** On-site field investigations are sometimes needed in order to resolve a dispute. These investigations may entail an inspection of the physical plant of the public utility, a review of its books and records, and verbal interaction with the customer and the public utility. Consumer

Services conducted 16 field investigations in FY 2004-05.

**Small Water Company Workshops:** These one-day workshops are held throughout the state. The objective is to provide information to water company owners and operators on a variety of topics, to share the Commission's expertise and to answer any questions or concerns they might have regarding the regulated portion of their companies. The Section conducted eight workshops in FY 2004-05.

**Complaints & Inquiries:** The following table lists the total complaints and inquiries handled by the Consumer Services Section in FY 2004-05 by utility type and complaint or inquiry type:

|                               |       |
|-------------------------------|-------|
| Communication Companies ..... | 2,031 |
| Sewer Companies .....         | 20    |
| Water Companies .....         | 620   |
| Electric Companies .....      | 982   |
| Gas Companies .....           | 377   |
| TOTAL .....                   | 4,030 |

|                               |       |
|-------------------------------|-------|
| Billing issues .....          | 1,473 |
| Deposit issues .....          | 156   |
| New service issues .....      | 283   |
| Service issues .....          | 295   |
| Quality of service .....      | 792   |
| Disconnect/termination .....  | 329   |
| Repair issues .....           | 182   |
| Rate case items .....         | 5     |
| Rates/tariffs .....           | 182   |
| Other issues .....            | 80    |
| Misc/Non-jurisdictional ..... | 253   |
| TOTAL .....                   | 4,030 |

These totals represent verbal, written and e-mail complaints or inquiries.

**Fast Facts**

*During the 2004-05 fiscal year, the Consumer Services Section held 33 public comment sessions, conducted 16 field investigations, 8 workshops and assisted with 11 arbitrations.*

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## Compliance & Enforcement Section

The purpose of the section is to ensure that utilities comply with the provisions of the Arizona Revised Statutes, Commission rules and Commission orders.

The Compliance Section is responsible for: tracking compliance relative to annual report filings, filings made pursuant to Commission rules and orders and administering the annual regulatory assessment.

During FY 2004-05, the Compliance Section reported the following compliance actions:

- 893 annual reports were mailed to utilities and monitored for filing.
- 641 compliance actions were entered into the compliance database for monitoring.
- 1,123 compliance filings were made by utilities in response to the requirements of Commission Decision or Rules.
- 130 utilities were required to remit an annual assessment, which was monitored for compliance. (Lower this fiscal as a result of minimum gross revenues being raised to \$500,000.)
- 11 Non-compliance notices were sent to utilities that failed to comply with filing requirements.

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## Information Technology Section

The Information Technology (IT) Section became a stand-alone division of the Arizona Corporation Commission on July 1, 2003 when IT operations were consolidated across the Commission. Please see a separate section of this report for an update on IT Division activities.

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## Administrative Services Section

The Administrative Services Section provides general and complex administrative and clerical support to Director's office and the following Sections: Financial & Regulatory Analysis; Telecom & Energy; Engineering, and Consumer Services. The Section provided support for the successful installation of new software, development of computer training and conversion of system databases.

Administrative support staff provide the following services: format and process open meeting items, staff reports, testimony and correspondence; maintain various databases; process, scan and link tariff files for posting on the web; process interconnection agreements; scan monthly decisions for Division use; provide research; distribute mail and internally generated documents; and provide general customer service.

In addition, the Section maintains a multimedia library used by Commission employees. The library contains legal, technical and reference publications; federal and state documents; telecommunications videotapes; computer programs and self-improvement courses. The library specializes in utility-related information.

Other items processed by the Administrative Services Section during FY 2004-05 include:

|   |       |
|---|-------|
| Annual Reports .....                    | 893   |
| Central File items .....                | 1,164 |
| Staff Reports .....                     | 221   |
| Tariffs Administratively Approved ..... | 509   |
| Testimony .....                         | 90    |

• • • • •  
**Fast Facts**

*The Utilities Division website features a wealth of consumer information with water- and energy-saving tips and answers to frequently asked questions. Access the site at [www.azcc.gov/utility](http://www.azcc.gov/utility).*

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## Corporations Division

**David Raber**  
**Director**

***Mission:** To grant corporate or limited liability company status to companies organizing under the laws of Arizona; to issue licenses to foreign corporations and LLCs that propose doing business in this state; and to maintain their files for the benefit of public record and service of process.*

The Corporations Division approves for filing all articles of incorporation for Arizona businesses; all articles of organization for limited liability companies (LLCs); grants authority to foreign corporations and LLCs to transact business in this state; propounds interrogatories, when necessary, to determine a company's lawful purpose; and may administratively dissolve corporations and LLCs that do not comply with specific provisions of Arizona law.

The Division collects from every corporation an annual report, which reflects its current status and business (nonprofit corporation reports also include a statement of financial condition); maintains this information in a format conducive to public access; responds to public questions concerning Arizona business and corporation law; and responds to the needs of the business sector by disseminating whatever information is mission critical to them in the most expedient and cost effective manner possible.

Any significant changes to Articles of Incorporation or Articles of Organization for LLCs in the form of amendments, mergers, consolidations, dissolutions or withdrawals are also filed with the Division. All filings are public record and available for inspection. Copies of documents may be secured for a nominal fee.

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

The Corporations Division is comprised of five sections, with each Section designed to perform specific functions. The division also has a Tucson Office for service to the residents of Southern Arizona.

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## Overview of Activity

As of June 30, 2005, there were a total of 432,692 corporations and LLCs transacting business in the State of Arizona.

|  |         |
|--|---------|
| Total Active Corporations & LLCs ..... | 432,692 |
| Annual Reports Mailed .....            | 148,811 |
| Annual Reports Filed* .....            | 110,755 |
| Total Phone Calls Handled .....        | 245,055 |

\*LLCs are not required to file an Annual Report and some are returned as undeliverable or rejected.

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## Corporate Filings Section

This was a record-breaking year in the Corporate Filings Section. The documents processed by the Section during FY 2004-05 were as follows:

|  |                      |
|--|----------------------|
| Domestic Articles of Incorporation ..... | 12,246               |
| Foreign Applications for Authority ....  | 2,636                |
| Amendments .....                         | 2,411 w/LLC's 10,011 |
| Domestic and foreign mergers .....       | 537                  |
| Domestic LLCs .....                      | 39,732               |
| Foreign applications for LLCs .....      | 2,481                |
| Dissolutions/Withdrawals .....           | 1,634                |

In addition to filing documents, the section fielded more than 46,567 phone inquiries.

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## Annual Reports Section

The documents processed by the Annual Reports Section during FY 2004-05 were as follows:

|                                      |         |
|--------------------------------------|---------|
| Annual Reports filed .....           | 110,755 |
| E-filed Annual Reports .....         | 20,464  |
| Original Annual Reports mailed ....  | 148,811 |
| Duplicate Annual Reports mailed .... | 17,232  |



## Securities Division

**Matthew Neubert**  
Director

**Mission:** *To ensure the integrity of the securities marketplace through investigative actions as well as the registration and/or oversight of securities, securities dealers and brokers, investment advisers and their representatives; to enhance legitimate capital formation; and to minimize the expense of regulatory compliance on legitimate business, consistent with vigorous investor protection.*

The Securities Division reviews prospective offerings of securities to ascertain that full and fair disclosure is made to potential securities investors and that the terms of offerings are not inherently fraudulent.

Securities dealers, salespersons, investment advisers and investment adviser representatives are required to register with the Division prior to conducting business in Arizona.

The Division reviews these applications and monitors the conduct of investment advisers and investment adviser representatives, dealers and salespersons; investigates possible violations of the Securities Act and Investment Act; where the evidence warrants, brings administrative or civil or refers criminal actions; and conducts programs to educate investors to protect themselves.

The Division consists of three sections:

- 1) Registration and Compliance
- 2) Enforcement
- 3) Office of the General Counsel

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### Registration & Compliance Section

Registration and Compliance reviews applications for registration and exemption filings in connection with securities transactions under the Arizona Securities Act. This Section is also responsible for the administration of the registration and licensing provisions of the Securities Act and the Investment Management Act pertaining to dealers, salesmen, investment advisers and investment adviser representatives. Staff conducts on-site examinations of dealers and investment advisers to ensure compliance with these Acts.

The Corporation Commission is authorized to deny, suspend, or revoke a registration or license, to assess fines and to order restitution.

During FY 2004-05 the Section processed 2,187 dealer and 133,508 salesman registrations.

In addition, 367 investment advisers and 2,294 investment adviser representatives were licensed and 1,104 investment advisers filed notices.

The Section conducted 72 field examinations of dealers and investment advisers.

The Section processed 18,873 applications for securities registration, 1,586 filings for various exemptions from registration and 1,529 name change requests during FY 2004-05.

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### Enforcement Section

The Securities Division maintains an active enforcement program in order to protect the integrity of the marketplace and to preserve the investment capital formation process by investigating possible violations of the Securities Act and the Investment Management Act. During FY 2004-05, the Division initiated 41 investigations and had a total of 80 cases under investigation at year-end.

The Corporation Commission is authorized to enter cease and desist orders, to assess fines and to order restitution. The Commission may also apply to the Superior Court of Maricopa County for an injunction and the appointment of a conservator or receiver. It may also transmit evidence to the Attorney General, County and United States Attorneys, who may file criminal cases.

The Securities Division makes a substantial commitment to its cases once litigation is commenced. Division attorneys litigate administrative and civil cases, assisted by special investigators, legal assistants, and certified public accountants. Because of their familiarity with the facts in a case they have investigated, Enforcement staff may also assist in criminal prosecutions of cases they refer for prosecution.

During FY 2004-05, the Division filed 21 administrative proceedings, 6 civil actions, (including 2 requests for preliminary injunctions), and assisted state and federal law enforcement agencies in obtaining 7 indictments.

During the same period, the Corporation Commission issued 31 Cease and Desist Orders against 64 Respondents based on Division actions. The Commission also ordered 35 Respondents to pay \$17,361,469 in restitution or rescission and 47 Respondents to pay \$998,683 in penalties. Three orders resulted in revocation of a securities salesman's license.

Civil matters filed by the Division resulted in a civil contempt order requiring \$26,000 in restitution be paid and \$167,875 in penalties. Criminal prosecutions assisted by Division staff resulted in 10 guilty pleas during this fiscal year with 13 defendants being ordered to pay \$20,559,636 in restitution.

These actions resulted in money being paid into Arizona's General Fund. Penalties or payments arising from securities law violations are directed by law to the Arizona General Fund and do not remain with the Corporation Commission. The Commission's funding is appropriated through the normal state budget process.

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### Office of General Counsel

The office of general counsel provides legal advice to the Securities Division and assistance to the business and financial communities and securities practitioners. Its responsibilities include administrative rulemaking; drafting and monitoring legislation relevant to the Securities Division; administering the no-action (interpretive) letter program, the in-house legal training program, and the duty officer program (response to public inquiries); and supervising and mentoring legal externs.

In FY 2004-05, the general counsel office considered and responded to five public requests for no-action letters. The office finalized one rulemaking, which enumerates the North American Securities Administrators Association statements of policy with which applicants must comply to qualify securities transactions for registration or renewal under A.R.S. Title 44, Chapter 12, Article 7.

Division duty officers responded to approximately 2,189 inquiries from the public regarding the substance of the Securities and Investment Management Acts.

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### Investor Education

The Securities Division's investor education program includes a year-round speakers bureau making presentations to civic and consumer groups.

In addition to group presentations, the Securities Division distributes investor educational materials in English and Spanish through its web site, radio and television programs, press releases and newspaper articles, and printed materials available at libraries and in the public areas of various consumer groups. Through these efforts, the Securities Division strives to equip Arizonans to make informed investment decisions and to prevent themselves from falling prey to investment scams.

The Securities Division believes an informed, educated investor is the first line of defense against investment fraud.

The Division is continuing to pursue an aggressive investor education outreach program. These efforts will continue into FY 2005-06 with Town Hall Dialogue events, radio advertising, mailings and more in-depth information added to the Commission's special investor education website: [www.azinvestor.gov](http://www.azinvestor.gov).

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**Fast Facts**

*During FY 2004-05, the Corporation Commissioners voted to approve orders against 35 respondents, ordering them to pay \$17,361,469 in restitution or rescission and ordered 47 respondents to pay \$998,683 in penalties.*

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The website was launched in FY 2004-05 and features frequently asked questions on a variety of topics, helpful brochures, investor alerts and links to enforcement actions and orders.

During FY 2004-05, for the seventh consecutive year, the Securities Division participated in “Financial Literacy 2010” – a campaign targeting high school personal finance teachers across America. The Financial Literacy program is designed to improve the financial skills of secondary school students by equipping personal finance teachers with better teaching tools.

The Securities Division also provided speakers for the annual Arizona Council on Economic Education Stock Market Game. This program enables students from grade school to high school to become acquainted with important concepts such as due diligence and the relationship between risk and reward. The students learn how capital markets function by simulating purchases and sales of securities and are able to track their “portfolios” following their investments in the Wall Street Journal.

The Securities Division continually works to develop partnerships with which to further educational efforts, including the Maricopa Elder Abuse Prevention Alliance, Elder Fraud Prevention Task Force and the JumpStart Coalition.

• • • • •  
**Fast Facts**

*The Division launched a new consumer-focused website featuring general and targeted educational material for investors of all knowledge levels.*

*View the site at*

*[www.azinvestor.gov](http://www.azinvestor.gov).*

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## Hearing Division

**Lyn Farmer  
Chief Hearing  
Officer**

**Mission:** *To conduct hearings/ arbitrations, analyze the evidence and draft recommended decisions for the Commissioners' consideration and approval.*

The Hearing Division exercises the Commission's authority to hold public hearings and arbitrations on matters involving the regulation of public service corporations, the sale of securities and the registration of non-municipal corporations. Under the direction of the presiding Administrative Law Judge, proceedings are conducted on a formal basis through the taking of sworn 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 Administrative Law Judge from the bench. Rate and Certificate of Convenience and Necessity ("CC&N") applications are processed under the procedural schedule established by the Administrative Law Judges, in order to ensure that proposed Opinion and Orders are issued in a timely manner within the framework of the Commission's "timeclock" rules.

During FY 2004-05, the seven Administrative Law Judges in the Division conducted 161 public hearings/arbitrations, encompassing a total of 247 days.

Based upon the record evidence presented at public hearings, or filings made in non-hearing matters, the presiding Administrative Law Judge 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 2004-05, the Hearing Division prepared a total of 153 recommended orders, 85 for cases involving a hearing and 68 for non-hearing matters, mainly rate applications for small water companies, CC&N applications and extensions of CC&Ns.

While cases are pending before the Commission, the presiding Administrative Law Judge

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 2004-05, the Hearing Division issued 441 such orders.

During FY 2004-05, significant dockets were resolved including Arizona Public Service Company's ("APS") rate case requesting a rate increase, the acquisition of and rate base treatment of its affiliate's power plant, and a fuel and purchased power adjustor; APS' acquisition of the PPL Sundance Plant; the proposed takeover of UniSource Energy by a private equity partnership, Saguaro Utility Group; Duncan Valley Electric Cooperative's rate case; Graham County Utilities Gas Division's rate case; Pine Water Company's rate case; a review of Qwest's Quality Assurance Plan; and the transfer of AUSS and Johnson Utilities Company;

During FY 2004-05, Hearings were also held on the Customer Proprietary Network Information ("CPNI") Rulemaking; Chaparral City Water Company's rate case; APS bill estimation and meter investigation/complaint; Arizona Water rate case; Trico Electric Cooperative's rate case; Arizona Electric Power Cooperative's rate case; and Southwest Transmission Cooperative's rate case. These matters will be resolved in FY 2005-06.

During FY 2004-05, Dockets were opened and in process on APS' Plan of Administration for its Power Supply Adjustor ("PSA"); nine Arizona Water CC&N extension applications; Arizona-American's Arsenic Recovery Mechanism proceeding; Southwest Gas Company's rate case; Qwest's Price Cap Plan Settlement Agreement; Arizona Public Service Company's Code of Conduct; Yucatan Resorts; Arizona-American Water Company's rate case; TEP's Motion to Reopen Decision No. 62103, (1999 Settlement Agreement focusing on stranded costs, rate moratorium and unbundled rates); and

Line Site Case No. 111, concerning the need for a transmission line to Santa Cruz County. Decisions on these matters are expected to be issued in FY 2005-06.

During FY 2004-05, the Hearing Division, together with the IT Division, finalized development and implemented an electronic docket database – E-Docket – to view docketed images and manage data related to the Commission’s Utilities and Securities dockets. E-Docket is undergoing internal testing and will be available via the internet to parties and the general public to read and monitor filings at the ACC. The estimated launch date is September 2005.

As to FY 2004-06, the Hearing Division anticipates a heavy hearing workload related to the APS rate case filed in November 2005; APS’ application for a PSA surcharge; water company rate cases, the Qwest Price Cap Plan review; rulemaking and generic dockets; as well as other significant telecommunications and water company rate and financing cases related to compliance with the new federal maximum arsenic levels.

The following public hearings were held during FY 2004-05:

.....  
**Fast Facts**  
*E-Docket is undergoing internal testing and will be available via the internet to parties and the general public to read and monitor filings at the ACC. The estimated launch date is September 2005.*  
 .....

| <b>Type of Hearing</b>  | <b>Number</b> |
|---|---------------|
| Pre-Hearing Conferences .....                                 | 38            |
| Orders to Show Cause and Complaints .....                     | 16            |
| Certificates of Convenience and Necessity .....               | 27            |
| Rate Cases .....  | 20            |
| Securities Division .....                                     | 4             |
| Miscellaneous (oral arguments, motions to compel, etc.) ..... | 11            |
| CC&N Extensions .....   | 19            |
| Transfers/Sales .....   | 15            |
| Railroad/Pipeline Safety Group .....                          | 10            |
| Public Comments .....   | 22            |
| Rules (new and amended) .....                                 | 2             |

|                                  |            |
|----------------------------------|------------|
| Arbitration .....                | 4          |
| Generic Investigations .....     | 3          |
| Deletions .....                  | 2          |
| Tariff .....                     | 0          |
| Line Extensions/Agreements ..... | 0          |
| Financing .....                  | 3          |
| Adjudications .....              | 3          |
| Line Siting .....                | 0          |
| <b>TOTAL .....</b>               | <b>199</b> |

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**Docket Control Center**

In FY 1980-81, the Commission requested and obtained legislative approval to establish a docket control center to ensure the integrity and security of official Commission records.

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 Clerk of the Court’s office. The Docket Control Center also assists the public and staff in retrieving the files and transcripts of cases for use in research.

During FY 2004-05, the Docket Control Center processed the following documents:

|  |        |
|--|--------|
| Responses to Inquiries/<br>Research/Assistance .....                     | 13,500 |
| Filings docketed & distributed .....                                     | 11,200 |
| Opinion and Orders/Administrative<br>Closures processed and mailed ..... | 1,260  |
| New applications input .....   | 1,120  |
| Open Meeting items processed .....                                       | 730    |
| Certifications .....   | 80     |
| Transcripts logged & microfilmed<br>Utilities .....                      | 460    |
| Securities .....   | 0      |
| Corporations .....   | N/A    |

On July 1, 2003 the Information Technology Division, hereafter referred to as the IT Division, began to serve the entire Arizona Corporation Commission. Prior to its formation, the Securities Division, Corporations Division, Utilities Division and Administration Division had their own IT departments with the specialists from the Administration Division assisting Hearing and Legal as necessary. It became clear to the Commission leadership that there were opportunities to improve the use of staff and resources so the IT Division was formed.

Early challenges included consolidating the various IT teams, identifying specialties and specific talents and establishing an organizational structure that maximized the talents of its staff. Fiscal year 2003-04 also marked the launch of a centralized Help Desk to respond to and track requests for assistance or problem solving by Commission staff.

The staff is organized into three specialty areas:

- Systems -- Representing the personnel who focus on network hardware and integration.
- Support -- Help Desk staff who troubleshoot, train and respond to requests for help from agency-wide staff.
- Development -- Specialists in software and computer programming who develop, maintain and enhance the various systems used by the staff and the general public.

Significant resources were devoted to consolidating four disparate e-mail systems and servers into one centralized system using the same software platform.

One of the Commission's goals is to facilitate access to case information by the public. In FY 2003-04, the IT Division started planning and implementing the steps necessary to process docketed items electronically so that an intelligent, web-accessible interface could

be built allowing the public to search for information on cases in front of the Commission. Scanning with optical character recognition software, bar-coding and database development were key steps toward achieving this plan. Significant staff hours were devoted to programming, development and testing of the system during this fiscal year. By the end of FY 2004-05, the e-Docket system was ready for internal testing and a "soft launch." The full public launch of e-Docket will take place in the first quarter of FY 2005-06.

The Division completed and launched the e-File system for the Corporations Division in February 2004. This system allows for-profit Arizona corporations to file their Annual Reports through the Corporations Division website. At the close of FY 2004-05, 17,483 annual reports were successfully filed electronically. Additional enhancements are planned to help make the Corporations Division website more useful and functional for Arizona businesses.

Concurrent with e-Docket development, the Division also began efforts to modernize the STARPAS system (public access system for corporation and LLC filings) to make it more user-friendly and is continuing work on developing a modern graphical user interface for STARPAS.

Finally, the IT Division is researching and planning for a comprehensive case management system with options and interfaces to better assist Commissioners and staff in workflow management.

## Information Technology (IT) Division

**Clark Lathrum  
Director**

**Mission:** *To provide accurate, efficient and timely technology design, development, implementation, communications and maintenance support services to the agency and its respective divisions in support of their missions and objectives.*

**Appendix**

**Table 1**

**Commission Revenue by Source**

**Fiscal Resources:** Through the budget process, the Arizona Corporation Commission identifies 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 Funds, the Arts Trust Fund, the Investment Management Act Fund, the Public Access Fund and Federal grants. All sources except federal grants are subject to legislative appropriation. The Administration, Corporations and Hearing Divisions, as well as the Railroad Safety Section, are funded mainly by the General Fund. In addition to the General Fund, the Administration Division receives limited funding from the Utilities Regulation Revolving Fund. The Corporations Division is the recipient of funding from the Arts Trust Fund and Public Access Fund. In addition to General Fund monies, the Securities Division receives a portion of the fees it collects through the Securities Regulatory and Enforcement Fund and the Investment Management Act Fund. The Utilities Division, excluding Railroad Safety, and the Legal Division are funded through the Utility 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 Section for fulfilling certain federal responsibilities.

Historically, the Commission has generated significantly more revenue from securities and broker registrations, corporation filing fees, fines and miscellaneous service charges than its General Fund requirements. Any revenue that exceeds the Commission’s budget needs flows into the State General Fund and is used to defray the costs of state government.

| <b>Commission Revenue by Source</b>        | <b>Actual<br/>2003-04</b> | <b>Actual<br/>2004-05</b> | <b>Estimated<br/>2005-06</b> |
|--|---------------------------|---------------------------|------------------------------|
| Corporation Filing Fees*                   | 9,463,191                 | 9,679,745                 | 9,850,000                    |
| Security and Broker Fees*                  | 13,788,938                | 13,965,659                | 13,800,000                   |
| Miscellaneous Service Charges**            | 98,324                    | 136,900                   | 55,000                       |
| Fines & Forfeitures*                       | 15,325,318                | 1,257,814                 | 1,255,000                    |
| Utility Assessments***                     | 11,012,916                | 11,100,859                | 12,255,000                   |
| Pipeline Safety Revolving Fund - Fines**** |                           |                           |                              |
| Sec Regulatory & Enforcement Fund          | 2,948,179                 | 3,041,978                 | 3,083,700                    |
| Sec Investment Management Act Fund         | 1,545,289                 | 1,603,165                 | 1,635,200                    |
| Public Access Fund                         | 2,697,675                 | 4,205,879                 | 4,196,500                    |
| Federal Grant*****                         | 678,984                   | 658,400                   | 675,000                      |
| <b>TOTAL</b>                               | <b>57,558,814</b>         | <b>45,650,398</b>         | <b>46,775,400</b>            |

\*Deposited in the State General Fund

\*\* Deposited in the State General Fund & Utility Regulation Revolving Fund

\*\*\* There was a two week delay in collecting assessments, causing 2003-04 data to reflect collections for both FY 2002-03 and FY 2003-04.

\*\*\*\*Beginning in 2004, fines received for the Pipeline Safety Revolving Fund are deposited in the General Fund.

\*\*\*\*\*Federal Grant revenue reflects amounts reimbursed to the Utility Regulation Revolving Fund and to the Pipeline Safety section’s Federal Fund. Reimbursement from the Federal Government is based on calendar year, rather than the state’s fiscal year, which results in fiscal year timing differences between expenditures and reimbursement revenue receipts.

| <b>Expenditures by Budget Program</b> | <b>Actual</b>     | <b>Actual</b>     | <b>Estimated</b>  |
|---------------------------------------|-------------------|-------------------|-------------------|
|                                       | <u>2003-04</u>    | <u>2004-05</u>    | <u>2005-06</u>    |
| Administration & Hearing Divisions    | 3,642,136         | 3,645,037         | 3,802,995         |
| Corporations Division                 | 3,353,289         | 3,507,675         | 5,051,825         |
| Securities Division                   | 3,993,411         | 4,111,105         | 4,525,785         |
| Railroad Safety Section               | 564,806           | 461,891           | 549,560           |
| Pipeline Safety Section               | 1,336,658         | 1,304,518         | 1,504,820         |
| Utilities Division                    | 5,562,661         | 5,680,420         | 6,246,500         |
| Legal Division                        | 1,564,999         | 1,593,141         | 1,657,685         |
| Information Technology*               | <u>1,802,535</u>  | <u>2,128,367</u>  | <u>2,223,730</u>  |
| <b>TOTAL</b>                          | <b>21,820,495</b> | <b>22,432,154</b> | <b>25,562,900</b> |

\* Note: Information Technology became a separate Division beginning FY 2003-04.

**Table 2**  
**Expenditures by Budget Program**

| <b>Expenditures by Fund Source</b>  | <b>Actual</b>     | <b>Actual</b>     | <b>Estimated</b>  |
|-------------------------------------|-------------------|-------------------|-------------------|
|                                     | <u>2003-04</u>    | <u>2004-05</u>    | <u>2005-06</u>    |
| General Fund                        | 4,916,408         | 4,945,370         | 5,133,000         |
| Arts Trust Fund                     | 37,086            | 40,683            | 44,100            |
| Sec. Regulatory & Enforcement Fund  | 3,008,100         | 3,158,083         | 3,505,500         |
| Sec. Investment Management Act Fund | 768,968           | 793,088           | 828,200           |
| Utility Regulation Revolving Fund   | 10,992,603        | 11,181,115        | 12,078,200        |
| Public Access Fund                  | 1,781,927         | 2,063,931         | 3,623,200         |
| Pipeline Safety Revolving Fund      | ---               | 59,341            | ---               |
| Federal Funds**                     | <u>315,403</u>    | <u>190,543</u>    | <u>350,700</u>    |
| <b>TOTAL</b>                        | <b>21,820,495</b> | <b>22,432,154</b> | <b>25,562,900</b> |

\*\*Totals reflected are actual expenditures from the Pipeline Safety Section's Federal Fund only.

**Table 3**  
**Expenditures by Fund Source**

**Table 4**  
**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    |
| Mit 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         |
| Sharon Megdal               | Democrat   | 1985-1986    |
| Renz Jennings               | Democrat   | 1985-1999    |
| Marcia Weeks                | Democrat   | 1985-1996    |
| Dale Morgan                 | Republican | 1987-1995    |
| Carl J. Kunasek             | Republican | 1995-2001    |
| Jim Irvin                   | Republican | 1997-2003    |
| Tony West                   | Republican | 1999         |
| William "Bill" Mundell      | Republican | 1999-present |
| Marc Spitzer                | Republican | 2001-present |
| Mike Gleason                | Republican | 2003-present |
| Jeff Hatch-Miller           | Republican | 2003-present |
| Kristin Mayes               | Republican | 2003-present |

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### **Southern Arizona Office**

As noted in several areas of this Annual Report, the Corporation Commission maintains a southern Arizona office in Tucson at 400 West Congress Street. This office provides many of the same services as the offices in Phoenix. Sections of the Corporations and Utilities Divisions as well as a Hearing Officer from the Hearing Division are located in Tucson.

Tucson Personnel assigned to the Utilities Division provided Consumer Services staffing, prepared staff input to rate cases, conducted railroad safety training and

inspections as well as fulfilled pipeline safety requirements. The Hearing Officer in Tucson conducts hearings on matters of interest to residents 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 statewide accomplishment of Corporation Commission responsibilities.

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### **Southern Arizona Office**



**Arizona Corporation Commission**

1200 West Washington

Phoenix, AZ 85007

602-542-3076

[www.cc.state.az.us](http://www.cc.state.az.us)

**Southern Arizona Office**

400 West Congress Street

Tucson, AZ 85701

520-628-6554