

# ARIZONA STATE SENATE

## RESEARCH STAFF



TO: JOINT LEGISLATIVE AUDIT COMMITTEE

DATE: January 17, 2020

SUBJECT: Sunset Review of the Residential Utility Consumer Office

**LAURA BENITEZ**

LEGISLATIVE RESEARCH ANALYST  
COMMERCE COMMITTEE  
Telephone: (602) 926-3171

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Attached is the final report of the sunset review of the Residential Utility Consumer Office, which was conducted by the Senate Commerce Committee of Reference.

This report has been distributed to the following individuals and agencies:

Governor of the State of Arizona  
The Honorable Douglas A. Ducey

President of the Senate  
Senator Karen Fann

Speaker of the House of Representatives  
Representative Russell Bowers

Senate Members

Senator Michelle Ugenti-Rita, Chair  
Senator Sean Bowie  
Senator David C. Farnsworth  
Senator Sally Ann Gonzales  
Senator David Livingston  
Senator J.D. Mesnard  
Senator Tony Navarrete  
Senator Tyler Pace

Residential Utility Consumer Office  
Office of the Auditor General  
Arizona State Library, Archives and Public Records

Senate Resource Center  
Senate Republican Staff  
Senate Democratic Staff  
Senate Research Staff

Office of the Chief Clerk  
House Republican Staff  
House Democratic Staff  
House Research Staff

# **Senate Commerce Committee of Reference Final Report Residential Utility Consumer Office**

## ***Background***

Pursuant to [A.R.S. § 41-2953](#), the Joint Legislative Audit Committee assigned the sunset review of the Residential Utility Consumer Office (RUCO) to the Senate Commerce Committee of Reference and House Commerce Committee of Reference.

In 1983, the Legislature established RUCO to represent residential utility consumer interests before the Arizona Corporation Commission (ACC) in regulatory proceedings involving public service corporations ([A.R.S. § 40-462](#)). The Director of RUCO (Director) may: 1) research, study and analyze residential utility consumer interests; 2) present briefs, arguments, proposed rates or orders; 3) appear or intervene before hearing officers and the ACC as a party in interest; 3) participate as a party in interest in proceedings relating to public service corporation rate making or rate design; and 4) execute contracts, hire employees and employ attorneys as necessary. The Director may not participate in proceedings involving a member-owned nonprofit cooperative corporation ([A.R.S. § 40-464](#)).

RUCO must record all contacts by residential utility consumers relating to a public service corporation's quality or quantity of service to determine general consumer concerns and refer a consumer to the ACC Utilities Division Consumer Services Section. Statute requires the Director to adopt rules to carry out RUCO's statutory duties.

RUCO is statutorily set to terminate on July 1, 2020, unless legislation is enacted for its continuation ([A.R.S. § 41-3020.20](#)).

## ***Committee of Reference Sunset Review Activity***

Pursuant to [A.R.S. § 41-2954](#), the Senate Commerce Committee of Reference held a public meeting on Tuesday, January 14, 2020, to review and consider RUCO's responses to the statutorily-outlined sunset factors and receive public testimony.

## ***Committee of Reference Recommendations***

The Senate Commerce Committee of Reference recommended that RUCO be continued for eight years, until July 1, 2028.

## ***Appendices***

1. Meeting Notice
2. Minutes of the Senate Commerce Committee of Reference
3. Chairperson's letter requesting RUCO's response to sunset factors
4. RUCO's response to sunset factors

## ARIZONA STATE SENATE

### INTERIM MEETING NOTICE OPEN TO THE PUBLIC

#### SENATE COMMERCE COMMITTEE OF REFERENCE FOR THE SUNSET REVIEW OF THE RESIDENTIAL UTILITY CONSUMER OFFICE

**Date:** Tuesday, January 14, 2020

**Time:** 11:00 A.M.

**Place:** SHR 1

#### AGENDA

1. Call to Order
2. Roll Call
3. Sunset Review of the Residential Utility Consumer Office
  - a. Presentation by the Residential Utility Consumer Office
  - b. Public Testimony
  - c. Discussion and Recommendations
4. Adjourn

#### Members:

Senator Michelle Ugenti-Rita, Chair  
Senator Sean Bowie  
Senator David C. Farnsworth  
Senator Sally Ann Gonzales  
Senator David Livingston  
Senator J.D. Mesnard  
Senator Tony Navarrete  
Senator Tyler Pace

01/07/2020  
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For questions regarding this agenda, please contact Senate Research Department.  
Persons with a disability may request a reasonable accommodation such as a sign language interpreter, by contacting the Senate Secretary's Office: (602) 926-4231 (voice). Requests should be made as early as possible to allow time to arrange the accommodation.

# ARIZONA STATE SENATE

## SENATE COMMERCE COMMITTEE OF REFERENCE FOR THE SUNSET REVIEW OF THE RESIDENTIAL UTILITY CONSUMER OFFICE

Minutes of the Meeting  
January 14, 2020  
11:00 a.m., Senate Hearing Room 1

### **Members Present:**

Senator Michelle Ugenti-Rita, Chair  
Senator Sean Bowie  
Senator David C. Farnsworth  
Senator Sally Ann Gonzales  
Senator David Livingston  
Senator J.D. Mesnard  
Senator Tony Navarrete

### **Members Excused:**

Senator Tyler Pace

### **Staff:**

Laura Benitez, Senate Research Analyst

Chairman Ugenti-Rita called the meeting to order at 11:07 a.m. and attendance was taken.

## **SUNSET REVIEW OF THE RESIDENTIAL UTILITY CONSUMER OFFICE**

### **Presentation by the Residential Utility Consumer Office**

**Jordy Fuentes, Director, Residential Utility Consumer Office**, gave opening remarks and introduced Cheryl Fraulob, Administrative Officer, at the Residential Utility Consumer Office. Mr. Fuentes explained a PowerPoint presentation entitled "Residential Utility Consumer Office" (Attachment A) and distributed a handout entitled "Residential Utility Consumer Office, Presentation before the Senate Commerce Committee of Reference, January 14, 2020" (Attachment B). Mr. Fuentes answered questions posed by the Committee.

**Senator Navarrete** offered comments.

Mr. Fuentes offered comments.

**Senator Livingston** offered comments.

Mr. Fuentes answered additional questions posed by the Committee.

### **Public Testimony**

Senator Ugenti-Rita put out a call for public testimony.

**Stacy Champion, representing herself**, testified on the Sunset Review of the Residential Utility Consumer Office and answered questions posed by the Committee.

### **Discussion and Recommendations**

The Committee discussed the Sunset Review of the Residential Utility Consumer Office.

Senator Farnsworth offered comments.

**Senator Farnsworth moved that the Committee of Reference recommend the Residential Utility Consumer Office be continued for eight years, until July 1, 2028. The motion CARRIED by voice vote.**

Attached is a form noting the individual who submitted a Speaker Slip on the agenda item (Attachment C).

Attached is a list noting the individual who registered their position on the agenda item (Attachment D).

There being no further business, the meeting was adjourned at 12:25 p.m.

Respectfully submitted,

Toy Brown  
Committee Secretary

(Audio recordings and attachments are on file in the Secretary of the Senate's Office/Resource Center, Room 115. Audio archives are available at <http://www.azleg.gov>)

## RESIDENTIAL UTILITY CONSUMER OFFICE

SERVING ARIZONA'S RESIDENTIAL UTILITY CONSUMERS SINCE 1983

*Arizona Senate  
Commerce Committee of Reference*

Jordy Fuentes  
Director

January 14, 2020



## RUCO'S ROLE

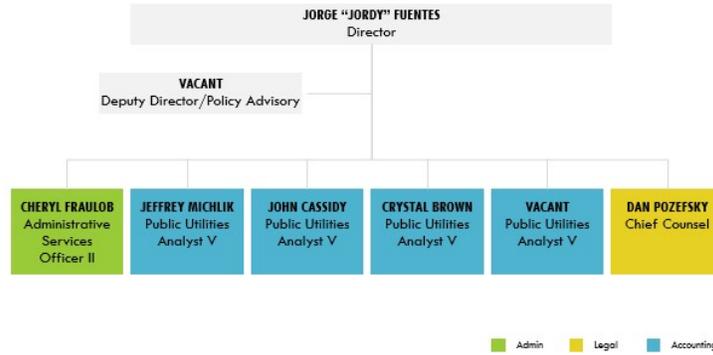
### **Our Mission Statement:**

Professionally represent residential utility customers in regulatory proceedings before the Arizona Corporation Commission, advocating for fair and reasonable utility rates and quality utility services, in a dynamic utility environment.

### **Our Stakeholders and Customers:**

The Residential Utility Consumer Office's stakeholders and customers are the residential customers of public service corporations, regulated by the Arizona Corporation Commission, excluding customers of member-owned non-profit cooperatives.

## ORGANIZATIONAL CHART



## BUDGET & FUNDING

- Not a General Fund Office
- 100% of Funding from Assessment

EXPENDITURE CATEGORIES	APPROVED 2019	APPROVED 2020
PERSONAL SERVICES	\$757,700	\$757,700
EMPLOYEE EXPENSES	\$250,100	\$253,700
ALL OTHER	\$189,800	\$192,200
PROFESSIONAL WITNESS	\$145,000	\$145,000
TOTAL	\$1,342,600	\$1,348,600

## INTERVENTION

- RUCO intervenes formally in rate cases based on a number of factors. These include:
  - Number of residential customers affected by the application
  - Relative magnitude of the requested rate increase
  - Duration of time since the utility’s last rate increase
  - Potential for the individual issues in the case to affect other utilities (precedent)
  - Number and relative magnitude of potential issues in the application
  - Consistency of the application with Commission precedent
  - Number of calls or complaints from the public concerning the application
  - Level of available resources that can be devoted to the application (current case load, staffing, consultant budget, etc.)
  - Potential for success in influencing the outcome of the case (assess RUCO’s success rate on similar issues)
  - Novelty of potential issues apparent in the application

## IMPACT

### Rate Cases

- \$560 million dollars in savings over last three fiscal years!!

	FY17	FY18	FY19
Total Utility Rate Increase Requested (Millions\$)	\$178	\$176	\$17
Total ACC Rate Increase Approved (Millions\$)	\$108	\$94	\$10
Total Annual Savings (Millions\$)	\$70	\$82	\$7
Total Savings* (Millions\$)	\$288	\$246	\$26

\*Total Savings are calculated based on the projected rate case cycle of each utility

### Non Rate Case

- Tax Cut Refunds, Value of Solar, Johnson Utilities, Water Policy, EV Policy, IRP, Demand Side Management, Retail Choice, Energy Policy, Utility Disconnects



## RESIDENTIAL UTILITY CONSUMER OFFICE

[www.azruco.gov](http://www.azruco.gov)

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1110 WEST WASHINGTON • SUITE 220 • PHOENIX, ARIZONA 85007 • PHONE: (602) 364-4835 • FAX: (602) 364-4846

Douglas A. Ducey  
Governor

Jorge ("Jordy") Fuentes  
Director

Presentation before the  
**Senate Commerce Committee of Reference**

January 14, 2020

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1. Introductory Remarks
  - a. Introduction by Jordy Fuentes, RUCO Director
2. RUCO's Role
  - a. Mission\*
  - b. Statutes\*
3. Organizational Chart\* / Staffing
4. Budget / Funding\*
5. Guidelines for Deciding Intervention\*
6. Office Impact\*
7. Concluding Remarks

\* indicates separate pages or exhibits

## MISSION

**Our Office:** The Residential Utility Consumer Office (RUCO) was established by the Arizona Legislature in 1983 to represent the interests of residential utility ratepayers in rate-related proceedings involving public service corporations before the Arizona Corporation Commission. RUCO accomplishes this charge primarily through a staff of financial analysts and attorneys. RUCO participates in a number of policy matters that also affects the rates paid by residential ratepayers.

**Our Mission Statement:** Professionally represent residential utility customers in regulatory proceedings before the Arizona Corporation Commission, advocating for fair and reasonable utility rates and quality utility services, in a dynamic utility environment.

**Our Stakeholders and Customers:** The Residential Utility Consumer Office's stakeholders and customers are the residential customers of public service corporations, regulated by the Arizona Corporation Commission, excluding customers of member-owned non-profit cooperatives.

## STATUTES

### A.R.S. § 40-461 DEFINITIONS

In this article, unless the context otherwise requires:

1. "Director" means the director of the residential utility consumer office.
2. "Office" means the residential utility consumer office.
3. "Public service corporation" means a public service corporation as defined in article XV, Section 2, Constitution of Arizona except a member-owned nonprofit cooperative corporation.

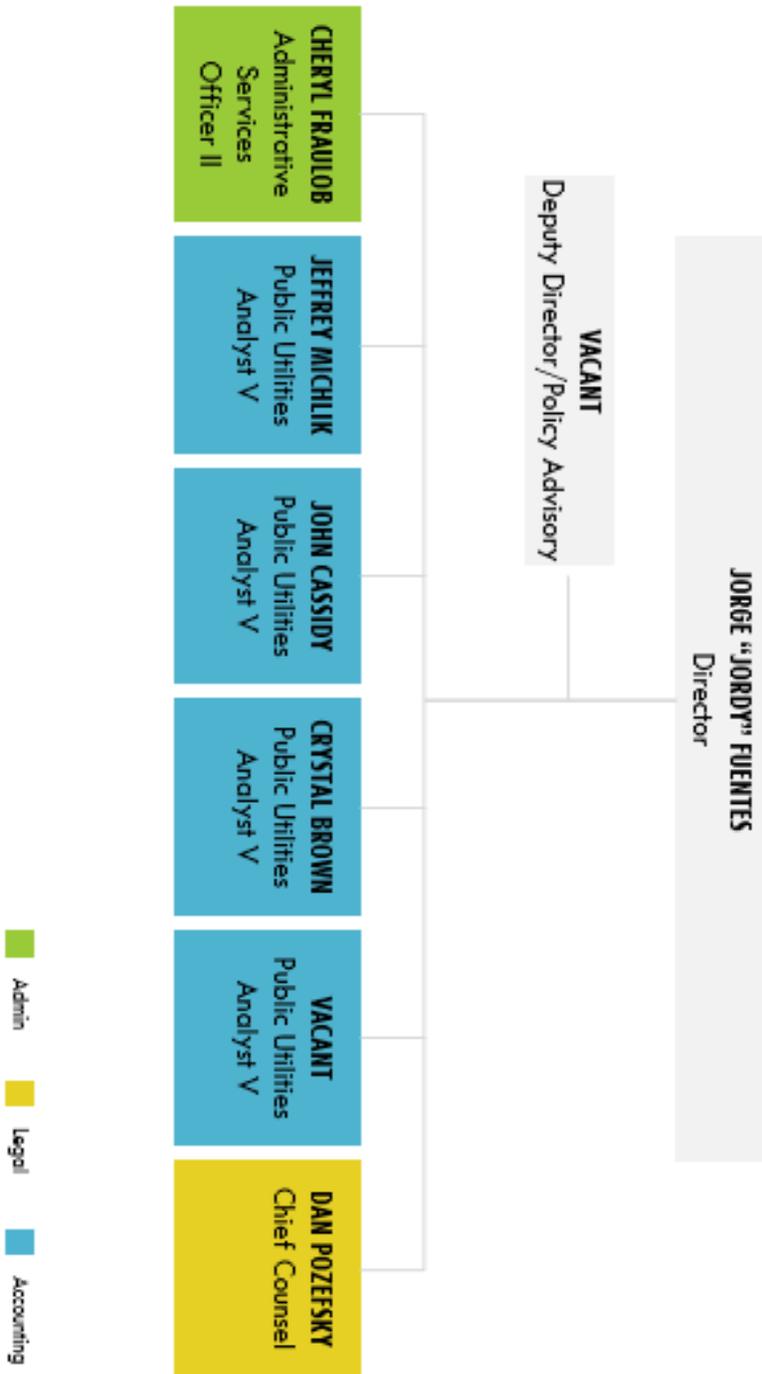
### A.R.S. § 40-462. RESIDENTIAL UTILITY CONSUMER OFFICE; DIRECTOR

1. A residential utility consumer office is established to represent the interests of residential utility consumers in regulatory proceedings involving public service corporations before the corporation commission.
2. The governor shall appoint the director of the office pursuant to section 38-211. The director serves at the pleasure of the governor. The director must possess management and administrative skills, as well as knowledge and experience relating to the regulation of utilities.

### A.R.S. § 40-464. POWERS AND DUTIES

1. The director may:
  - A. Research, study and analyze residential utility consumer interests.
  - B. Prepare and present briefs, arguments, proposed rates or orders and intervene or appear on behalf of residential utility consumers before hearing officers and the corporation commission as a party in interest and also participate as a party in interest pursuant to §§ 40-254 and 40-254.01 in proceedings relating to rate making or rate design and involving public service corporations, except that the director shall not participate in any proceedings pursuant to this paragraph involving a member-owned nonprofit cooperative corporation.
  - C. Make and execute contracts and other instruments as necessary to perform his duties.
  - D. Hire employees as necessary to carry out this article and contract for special services as needed.
  - E. Employ such attorneys as are required to represent the interests of residential utility consumers.
2. The director shall adopt administrative rules necessary to carry out the purposes of this article.
3. All contacts by residential utility consumers with regard to quality or quantity of service provided by a public service corporation shall be recorded by the office for the purpose of determining general concerns of consumers. The office may advise the consumer of other agencies that may be of further assistance and shall refer the consumer to the corporation commission utilities division consumer services section established in § 40-110.

# ORGANIZATIONAL CHART



## BUDGET

RUCO is not funded through the general tax fund. Rather, RUCO receives 100 percent of its operating budget from assessments on large utility companies that may in turn pass those charges on to their residential customers. In this way, those who benefit from RUCO's work, actually fund it. As will be shown later, the utility ratepayers who pay these small assessments should consider their money well spent. The following reflects FY2019 and the approved amount for FY 2020.

EXPENDITURE CATEGORIES	APPROVED 2019	APPROVED 2020
PERSONAL SERVICES	\$757,700	\$757,700
EMPLOYEE EXPENSES	\$250,100	\$253,700
ALL OTHER	\$189,800	\$192,200
PROFESSIONAL WITNESS	\$145,000	\$145,000
TOTAL	\$1,342,600	\$1,348,600

## FUNDING

Pursuant to A.R.S § 40-401.01, funding for RUCO is accomplished through an assessment made annually by the Arizona Corporation Commission. Each utility with annual residential revenues in excess of \$500,000, except those not required to hold Certificates of Convenience and Necessity, is assessed.

The disposition of proceeds is governed by A.R.S § 40-409. All monies collected under this assessment are paid to the State Treasurer, RUCO's portion is then placed in RUCO's Revolving Fund. Monies in the fund are used, subject to legislative appropriation, to operate the Office, pursuant to A.R.S § 40-461. Appropriated funds, not spent by the end of the fiscal year, do not revert to the General Fund. Those funds revert to the RUCO Revolving Fund and are used to calculate the ratepayer assessment for the next fiscal year. Based on the information available at the end of FY 2019, the assessment for FY2020 was \$1,348,600.

## **GUIDELINES FOR DECIDING INTERVENTION**

Following are a number of guidelines and factors used by RUCO during its initial assessment of utility filings and applications for purposes of determining case intervention.

1. Number of residential customers affected by the application
2. Relative magnitude of the requested rate increase
3. Duration of time since the utility's last rate increase
4. Potential for the individual issues in the case to affect other utilities  
(precedent)
5. Number and relative magnitude of potential issues in the application
6. Consistency of the application with Commission precedent
7. Number of calls or complaints from the public concerning the application
8. Level of available resources that can be devoted to the application (current case load, staffing, consultant budget, etc.)
9. Potential for success in influencing the outcome of the case (assess RUCO's success rate on similar issues)
10. Novelty of potential issues apparent in the application

## IMPACT

RUCO always formally intervenes in the larger utility rate cases, where revenues from residential customers exceeds \$500,000. Occasionally, RUCO intervenes in smaller rate cases, when there are available resources and compelling reasons for doing so, based on the set of factors outlined previously. The following table illustrates RUCO’s impact on rate increase requests over the past three fiscal years. The savings for ratepayers is approximately \$560 million dollars.

	<b>FY17</b>	<b>FY18</b>	<b>FY19</b>
Total Utility Rate Increase Requested (Millions\$)	\$178	\$176	\$17
Total ACC Rate Increase Approved (Millions\$)	\$108	\$94	\$10
Total Annual Savings (Millions\$)	\$70	\$82	\$7
Total Savings* (Millions\$)	\$288	\$246	\$26

\*Total Savings are calculated based on the projected rate case cycle of each utility

In addition to rate cases, RUCO’s impact can be seen in non-rate case related proceedings as well. RUCO has spent significant amounts of time, over the last few years, working on policy issues that directly affect residential customers. Examples of these policy issues include:

- Advocating for hundreds of millions of dollars in rate reductions for customers based on the Tax Cuts and Jobs Act (TCJA), passed in December 2017.
- Litigating the Value of Solar docket and Johnson Utilities Order to Show Cause Hearing to protect residential ratepayers.
- Taking part in the passing of comprehensive water policies to strengthen small struggling water companies throughout the state.
- Participating in a stakeholder processes developing an electric vehicle policy aimed at promoting electric vehicle adoption and electric utilities Energy Efficiency and Integrated Resource Planning processes advocating for residential ratepayers.
- Advocating for residential ratepayers interests in workshops held by the Commission evaluating electric retail competition and clean energy policy.
- Improving health and safety protections for Arizona’s vulnerable communities related to utility disconnects for non-payment.



## Arizona State Senate

June 13, 2019

Director Jorge Fuentes  
Residential Utility Consumer Office  
1110 W. Washington St., Suite 220  
Phoenix, Arizona 85007

Dear Director Fuentes:

The sunset review process prescribed in Title 41, Chapter 27, Arizona Revised Statutes, provides a system for the Legislature to evaluate the need to continue the existence of state agencies. During the sunset review process, an agency is reviewed by legislative committees of reference. On completion of the sunset review, the committees of reference recommend to continue, revise, consolidate or terminate the agency.

The Joint Legislative Audit Committee (JLAC) has assigned the sunset review of the Residential Utility Consumer Office to committees of reference comprised of members of the Senate Commerce Committee and the House of Representatives Commerce Committee.

Pursuant to A.R.S. § 41-2954, the committee of reference is required to consider certain sunset factors in deciding whether to recommend continuance, modification or termination of an agency. Please provide your agency's response to the factors listed below:

1. The objective and purpose in establishing the agency and the extent to which the objective and purpose are met by private enterprises in other states.
2. The extent to which the agency has met its statutory objective and purpose and the efficiency with which it has operated.
3. The extent to which the agency serves the entire state rather than specific interests.
4. The extent to which rules adopted by the agency are consistent with the legislative mandate.
5. The extent to which the agency has encouraged input from the public before adopting its rules and the extent to which it has informed the public as to its actions and their expected impact on the public.
6. The extent to which the agency has been able to investigate and resolve complaints that are within its jurisdiction.
7. The extent to which the attorney general or any other applicable agency of state government has the authority to prosecute actions under the enabling legislation.
8. The extent to which agencies have addressed deficiencies in their enabling statutes that prevent them from fulfilling their statutory mandate.
9. The extent to which changes are necessary in the laws of the agency to adequately comply with the factors listed in A.R.S. § 41-2954.

10. The extent to which the termination of the agency would significantly affect the public health, safety or welfare.
11. The extent to which the level of regulation exercised by the agency compares to other states and is appropriate and whether less or more stringent levels of regulation would be appropriate.
12. The extent to which the agency has used private contractors in the performance of its duties as compared to other states and how more effective use of private contractors could be accomplished.
13. The extent to which the agency potentially creates unexpected negative consequences that might require additional review by the committee of reference, including increasing the price of goods, affecting the availability of services, limiting the abilities of individuals and businesses to operate efficiently and increasing the cost of government.

Additionally, please provide written responses to the following:

1. Identify the problem or the needs that the agency is intended to address.
2. State, to the extent practicable, in quantitative and qualitative terms, the objectives of the agency and its anticipated accomplishments.
3. Identify any other agencies having similar, conflicting or duplicative objectives, and an explanation of the manner in which the agency avoids duplication or conflict with other such agencies.
4. Assess the consequences of eliminating the agency or of consolidating it with another agency.

Your response should be received by September 1, so we may proceed with the sunset review and schedule the required public hearing. Please submit the requested information to:

Molly Graver  
Arizona State Senate  
1700 West Washington  
Phoenix, Arizona 85007

Thank you for your time and cooperation. If you have any questions, please feel free to contact me at 602-926-4480 or Molly Graver, Senate Research Analyst, at 602-926-3171.

Sincerely,



Senator Michelle Ugenti-Rita

cc: Representative Jeff Weninger, House Commerce Committee, Chair  
Paul Benny, House Commerce Committee, Analyst



## RESIDENTIAL UTILITY CONSUMER OFFICE

[www.azruco.gov](http://www.azruco.gov)

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Douglas A. Ducey  
Governor

Jorge C. Fuentes  
Director

August 30, 2019

The Honorable Michelle Ugenti-Rita  
Arizona State Senator  
1700 W. Washington Street  
Phoenix, Arizona 85007

Dear Senator Ugenti-Rita:

Thank you for giving me the opportunity to provide you and the Committee of Reference information regarding the efforts of the Residential Utility Consumer Office ("RUCO") in representing Arizona ratepayers before the Arizona Corporation Commission. Every year, our efforts save Arizona families and individuals millions of dollars on their utility bills.

Below are RUCO's responses to your inquiry into the sunset factors. We respectfully request that the Committee of Reference recommend continuance of RUCO.

1. The objective and purpose in establishing the agency and the extent to which the objective and purpose are met by private enterprises in other states.

RUCO's statutory responsibility, found in ARS §40-462, states:

- A. A residential utility consumer office is established to represent the interests of residential utility consumers in regulatory proceedings involving public service corporations before the corporation commission.
- B. The governor shall appoint the director of the office pursuant to §38-211. The director serves at the pleasure of the governor. The director must possess management and administrative skills, as well as knowledge and experience relation to the regulation of utilities.

Since 1983, the mission of the Residential Utility Consumer Office (“RUCO”) has been to represent Arizona families and individuals before the Arizona Corporation Commission when electric, natural gas, water, sewer and telecommunications utilities request to increase the rates they charge their customers.

Utilities that are regulated by the Corporation Commission are monopolies. Their customers cannot shop around for the best deal. If their utility isn’t providing safe drinking water or reliable electricity, they are unable to choose different providers.

When utilities ask the Corporation Commission for rate increases, they file an application with all their financial records, consisting of volumes and volumes of information. They are at times represented by in-house counsel and most retain outside counsel to present their best case. Often, large businesses, like Walmart, Freeport McMoran or the U.S. Department of Defense hire attorneys to represent their individual interests and argue their positions for or against the utility and residential ratepayers. However, until 1983, there was nobody that advocated on behalf of the average Arizona family.

Currently, 43 states, the District of Columbia, Barbados, Puerto Rico, and Jamaica have independent agencies that acts as consumer advocates, representing residential ratepayers. The average Arizona resident does not have the time or financial resources to hire legal counsel to argue on their behalf. A 2004 study by the National Regulatory Research Institute at Ohio State University concluded “[t]he independent consumer advocates established by state statutes have a distinct function among consumer representatives. They have the funding and expertise that many private consumer interest groups lack.” It is for this reason, the Arizona Legislature created RUCO to give a voice to Arizonans.

2. The extent to which the agency has met its statutory objective and purpose and the efficiency with which it has operated.

Historically, RUCO was staffed with ten employees. In an effort to reduce costs, for the last several years, RUCO has been staffed with eight employees. RUCO’s current approved position breakdown consists of a Director, Deputy Director, attorney, three financial analysts, and an administrative assistant.

When a utility requests an increase in rates, that “rate case” can take up to 18 months before final resolution. During that time, RUCO examines the company’s financial records, tax receipts and business dealings. We prepare written testimony, which includes analysis on the company’s cost of capital, a recommended return on equity that will attract Wall Street investors, and a fair rate design that does not unduly burden the residential ratepayer. RUCO also has an interest in encouraging and promoting cost effective and reliable goals and policies. We provide expert witnesses who testify on RUCO’s behalf. RUCO’s legal counsel defends our position at the hearings before an Administrative Law Judge, before the Commissioners when they make a final

determination on the case in an Open Meeting, and, if the Commission's decision is appealed, before the Arizona Court of Appeals.

In fiscal years 2017 through 2019, RUCO participated in over 32 rate cases. This is not counting the many other policy rate case related matters that directly affect residential ratepayers, such as electric vehicles, clean energy policies, retail competition, and complex accounting concepts. In those fiscal years, the regulated utilities asked for a total rate increase of over \$400 million annually. RUCO, through its advocacy, was able to reduce that requested amount to about \$212 million annually. This is a projected actual bill savings of well over \$630, during that rate case cycle. These savings were made possible with a RUCO budget, during that same time period, of just over \$4 million dollars.

Some specific examples include, finding where a utility had not properly accounted for some revenue streams, which were producing an over collection for the utility. This questionable accounting was remedied and refunds, in the form of checks, were given to thousands of customers. Additionally, through fair and consistent advocacy, RUCO has persuaded the Commission, to approve lower Cost of Capital recommendations that are more in line with market and industry rates. The lower Cost of Capital awards have saved ratepayers millions of dollars. RUCO, through its advocacy, has also been successful in persuading the Commission that many of its regulatory accounting mechanisms and policies are unfair to ratepayers. The Commission has slowly been moving towards more balanced positions and RUCO has been an integral part of the process. RUCO has been a strong advocate for consumers in other aspects of ratemaking - through its advocacy and legal team, RUCO was able to help customers of a troubled utility start receiving safe and reliable drinking water. Something that had not been happening for years.

3. The extent to which the agency serves the entire state rather than specific interests.

RUCO's advocacy is based on proper legal intervention and forensic accounting analysis. The Arizona Constitution requires utility rates be set using the fair value regulatory framework. RUCO's advocacy seeks to protect and benefit the public at large rather than the interests of well-organized stakeholders, by ensuring uniform utility adherence to the fair value regulatory framework and generally accepted accounting principles, so as to promote fair and reasonable rates throughout the state.

4. The extent to which rules adopted by the agency are consistent with the legislative mandate.

RUCO's legislative mandate is clear and concise. There has never been a need to adopt agency Rules to further clarify or implement the legislative mandate.

5. The extent to which the agency has encouraged input from the public before adopting its rules and the extent to which it has informed the public as to its actions and their expected impact on the public.

Not applicable because RUCO has never adopted agency Rules.

6. The extent to which the agency has been able to investigate and resolve complaints that are within its jurisdiction.

RUCO does not typically handle individual complaints. The Corporation Commission has a consumer affairs section dedicated for this purpose. Instead, RUCO represents Arizonans as a whole when appearing before the Corporation Commission in utility matters. However, in certain situations, where an issue may affect many residential ratepayers, RUCO has investigated the root cause of an issue. RUCO also has convened working groups to try and develop solutions to a wide spread problem, such as the recent highly publicized electric disconnection issue.

7. The extent to which the attorney general or any other applicable agency of state government has the authority to prosecute actions under the enabling legislation.

The Attorney General has no authority to act on RUCO's behalf. In the past, RUCO has consulted with the A.G.'s office for advice dealing with personnel matters, the Arizona Procurement Code, and public records requests.

8. The extent to which agencies have addressed deficiencies in their enabling statutes that prevent them from fulfilling their statutory mandate.

RUCO's statutory authority is found in ARS §40-464. RUCO has rarely needed to appear before the Legislature to request an amendment to its enabling statutes. Over the last 26 years, RUCO's statutes have been amended only four times:

Laws 1987, Ch. 222, §2

Laws 1991, Ch. 247, §4

Laws 1994, Ch. 73, §2

Laws 2001, Ch. 133, §1

9. The extent to which changes are necessary in the laws of the agency to adequately comply with the factors listed in A.R.S. § 41-2954.

No additional statutory changes are needed at this time.

10. The extent to which the termination of the agency would significantly affect the public health, safety or welfare.

The decision to continue, modify, or terminate RUCO is completely within the discretion of the Legislature. You have the important task of creating a well-run and efficient state government structure. The question is whether RUCO provides a valuable and cost effective service to the people of this state.

As stated above, with an appropriation of a little over \$4 million dollars over a three year period, RUCO employees will have saved Arizona ratepayers well over \$630 million dollars during that rate case cycle. These types of savings are not outliers. They are well within RUCO's regular course of business.

The Legislature created RUCO to give average Arizona families a voice when utilities ask the Corporation Commission to increase the rates they charge. Admittedly, the Corporation Commission is constitutionally tasked with balancing the interests of both the ratepayers and the utility, when calculating rates. However, in these types of proceedings there are many different ratepayers. Balancing the needs of all ratepayers becomes difficult, especially when they have diverging interests. Without RUCO, there would be nobody solely representing the interests of residential ratepayers as a whole.

Additionally, RUCO spends significant time and resources representing the interests of residential ratepayers, with respect to special interest groups. These special interest groups intervene in rate cases and other proceedings, much like RUCO. They are well funded and they regularly seek to expand their influence. In many instances, they are advocating for programs or policies that benefit their financial supporters, rather than residential ratepayers. When this occurs, RUCO seeks to mitigate any negative impacts to residential ratepayers.

In accomplishing its work, RUCO places no burden on the State's General Fund. RUCO does not receive any general fund appropriation. Instead, RUCO is funded through an assessment on large utilities which is placed into the RUCO Revolving Fund. In fact, the existence of RUCO has at times helped the State improve its financial position because the Legislature has been able to sweep funds from RUCO to be used in the general fund.<sup>1</sup>

11. The extent to which the level of regulation exercised by the agency compares to other states and is appropriate and whether less or more stringent levels of regulation would be appropriate.

RUCO does not regulate. Instead, the Corporation Commission is the regulatory body over utilities. Our job is to represent the interests of residential ratepayers before the Commission and the Commission exercises its regulatory authority over the utilities.

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<sup>1</sup> The Legislature swept \$173,400 from the RUCO Revolving Fund in FY 2009, \$219,400 in FY 2010, and \$60,000 in FY 2019.

12. The extent to which the agency has used private contractors in the performance of its duties as compared to other states and how more effective use of private contractors could be accomplished.

Every year, RUCO is appropriated \$145,000 in a special line item to hire expert witnesses. Special witnesses allow RUCO to operate more efficiently by not having to keep as many experts permanently on staff. More importantly, special witnesses allow RUCO to participate in more cases before the Commission.

13. The extent to which the agency potentially creates unexpected negative consequences that might require additional review by the committee of reference, including increasing the price of goods, affecting the availability of services, limiting the abilities of individuals and businesses to operate efficiently and increasing the cost of government.

RUCO is unable to identify how its advocacy could potentially create unexpected negative consequences. RUCO recognizes that residential ratepayers benefit from having safe, reliable, and affordable utility services. Healthy and stable utilities are critical to providing safe and reliable service. While affordable rates are critical to the long-term viability of the service. A healthy regulatory climate balances the need for affordable rates with the needs of safe reliable service. RUCO continuously advocates for a healthy regulatory climate, where healthy utility services are supported and utility rates are fair and affordable.

Additional questions to be answered:

1. Identify the problem or the needs that the agency is intended to address.

As discussed above, RUCO is statutorily charged with representing Arizona families and individuals before the Corporation Commission and an explanation of our purpose and effectiveness is provided in answers to Questions #1 and #2 above.

2. State, to the extent practicable, in quantitative and qualitative terms, the objectives of the agency and is anticipated accomplishments.

Please see the answer to Question #2.

3. Identify any other agencies having similar, conflicting or duplicative objectives, and an explanation of the manner in which the agency avoids duplication or conflict with other such agencies.

No other agency has RUCO's objective of only representing the residential ratepayer before the Corporation Commission. The Commission, itself, is required to balance the interests of both the utility and all ratepayers (residential, commercial and industrial). However, in establishing an evidentiary record in any given rate case from which the

Commission can balance the interests, it is RUCO who provides the facts and circumstances solely from the residential ratepayers' point of view. While there may be an overlap of interests, the relationship between the Commission and RUCO is symbiotic. Without RUCO, the question how forcefully could the Commission advocate for the interests of the Arizona family without compromising its duty to consider the interests of the utility and other ratepayers?

4. Assess the consequences of eliminating the agency or of consolidating it with another agency.

Approximately 43 other states have a similar office that represents families and individuals before their state's utility regulatory body.<sup>2</sup> Eliminating RUCO would remove the ability of Arizona families and individuals to make effective and competent legal arguments before the Commission on their behalf. The Commission would be forced to rely solely on the efforts of its own Staff (which must balance the interests of both the utility and all ratepayers) and any individual comments the Commissioners receive through letters or at public hearings.

Sincerely,

A handwritten signature in cursive script that reads "Jorge C Fuentes".

Jorge C. Fuentes  
Director

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<sup>2</sup> Other states call their RUCO-like agency a "Citizens Utility Board" or the "Office of the Consumer Advocate".