

CONSUMER PROTECTION

1. *Electric Competition Rules* (Maricopa County Superior Court)

In December, 1999, the Center on behalf of the Arizona Consumers Council filed a complaint in the trial court alleging that the Electric Competition Rules enacted by the Arizona Corporation Commission violated the Arizona Constitution because they allow competing utility companies to charge market-determined rates. Article 15 § 3 of the Arizona Constitution requires the Arizona Corporation Commission to prescribe rates for public service corporations. Article 15, § 14 requires that rates charged by public service corporations be based upon the fair value of the utility's property devoted to public service. The Council alleges that market-determined rates violate those provisions. The complaint has not yet been served.

The complaint was served and the case was consolidated with numerous actions that were already pending concerning the constitutionality of the rules that had been filed principally by electric cooperatives. Certain substantive decisions had already been made in the consolidated cases prior to consolidation of the Center's case. Judge Campbell issued a decision in June holding that the Electric Competition Rules were unconstitutional because they do not require a finding of fair value when establishing the rates for electric service providers in violation of Article 15, § 14. There is a substantial dispute between the parties over the meaning of Judge Campbell's decision and competing forms of judgment have been lodged with the court.

After judgment was entered, the parties appealed to the Arizona Court of Appeals. The Court heard oral argument in January 2002 and has yet to issue a decision..