

LAW OFFICES

JONES, JONES, CLOSE & BROWN
CHARTERED

A PROFESSIONAL CORPORATION

SEVENTH FLOOR - VALLEY BANK PLAZA

300 SOUTH FOURTH STREET

LAS VEGAS, NEVADA 89101-6028

CLIFFORD A. JONES
HERBERT M. JONES
MELVIN D. CLOSE, JR.
JOSEPH W. BROWN
GARY R. GOODHEART
MICHAEL E. BUCKLEY
WILL KEMP
KIRK R. HARRISON
DOUGLAS G. CROSBY
RICHARD F. JOST

J. RANDALL JONES
CHARLES H. MCCREA, SR.
JANET L. CHUBB
DOUGLAS M. CONZEN
PATRICIA J. CURTIS
KIRK B. LENHARD
WAYNE L. MORTIMER
JULIEN G. SOURWINE
DAVID L. MOUSEL
DOUGLAS A. SLOANE

TELEPHONE
(702) 385-4202

TELECOPIER
(702) 384-2276
(702) 383-0086

OF COUNSEL
LYLE RIVERA

KRISTON T. BALLARD
CARA L. BROWN
WILLIAM L. COULTHARD
DEREK C. ENCE
JAMES W. ERBECK
JOHN W. FIELD
GARY T. FOREMASTER
ANTHONY C. GORDON
KIRK D. HENDRICK
RICHARD F. HOLLEY

DAVID G. JOHNSON
JOHN E. LEACH
PAUL A. LEMCKE
MARK D. LERNER
RENEE R. REUTHER
STEPHEN M. RICE
ERIKA PALMER ROGERS
JANE A. STECKBECK
KEVIN R. STOLWORTHY
JOHN M. SULLIVAN

April 20, 1992

Henry B. Sargent, Jr.
Executive Vice President
Pennical West Capital Corp.
P.O. Box 52132
Phoenix, Arizona 85072-2132

Re: Nevada Power Company v. Monsanto Company, etal

Dear Henry:

Enclosed is a copy of the Order Amending Opinion, Denying Petition For Rehearing, And Rejecting Suggestion For Rehearing En Banc in the above-captioned case. Not only was the Defendant's Petition For Rehearing denied; the opinion as amended is actually stronger than the original issued February 5, 1992.

You perhaps remember an incident some fifteen or twenty years ago when the gas meter manufacturers were found to have conspired to fix prices in violation of the anti trust laws. The California PUC (and perhaps regulators in other states) got after every gas utility in the state to make sure that they got into the litigation and recovered something, which then was flowed back to the gas rate payers. The Nevada Power case, of course, has yet to be tried or settled, but now that the statute of limitations question has been resolved against the defendants, recovery is likely. Moreover, the damages that the electric utilities have experienced are huge; Nevada Power, which had no more than 200,000 customers at the time it began changing out PCB transformers and capacitors, has something in the neighborhood of eight to ten million dollars in special damages. APS would have many times that amount.

The electric utilities that have changed out their PCB transformers and capacitors probably have recovered the costs in rate base, and likely would have to flow through to their rate payers a substantial part of any recovery. However, if nothing else, a recovery to benefit ratepayers would be wonderful PR. And finally, an Arizona utility that goes after these defendants on its own initiative is going to be lots better off than one bullied into doing it by Marcia Weeks, wouldn't you agree?

RENO OFFICE:

333 MARSH AVENUE • RENO, NEVADA 89504
TELEPHONE (702) 348-0880 • (702) 323-8633
TELECOPIER (702) 348-0886 • (702) 323-8668

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I spoke with some of your people at APS in the summer of 1988, but apparently a decision was made not to pursue the matter at that time. However, I understand that Arizona has a six year statute of limitations on fraud. If this is so, APS would still have something over two years in which to act (assuming that APS had no knowledge of the fraud prior to my meeting with APS personnel).

I know you're not the chief legal officer, but if you are interested, you might put him/her in touch with me; I can provide a lot of information.

I know you've been through some tough times down there. I hope most of that is behind you by now.

Very truly yours,

JONES, JONES, CLOSE
& BROWN, CHARTERED


Charles H. McCrea, Sr.

CHM:jkk
Enclosure