



Arizona Utility  
Investors Association

2100 N. Central, Ste. 210  
P. O. Box 34805  
Phoenix, AZ 85067

Tel: (602) 257-9200  
Fax: (602) 254-4300

Email: info@auia.org  
Web Site: www.auia.org

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BEFORE THE ARIZONA CORPORAT.

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2003 DEC 29 P 3:02

AZ CORP COMMISSION  
DOCUMENT CONTROL

**Marc Spitzer**  
Chairman  
**William A. Mundell**  
Commissioner  
**Mike Gleason**  
Commissioner  
**Jeff Hatch-Miller**  
Commissioner  
**Kristin Mayes**  
Commissioner

IN THE MATTER OF THE APPLICATION OF  
ARIZONA PUBLIC SERVICE COMPANY FOR  
A HEARING TO DETERMINE THE FAIR  
VALUE OF THE UTILITY PROPERTY FOR  
RATEMAKING PURPOSES, TO FIX A JUST  
AND REASONABLE RATE OF RETURN  
THEREON, TO APPROVE RATE  
SCHEDULES DESIGNED TO DEVELOP  
SUCH RETURN, AND FOR APPROVAL OF  
PURCHASED POWER CONTRACT.

DOCKET NO.  
E-01345A-03-0437

JOINDER

**AUIA'S JOINDER IN SUPPORT OF ARIZONA PUBLIC  
SERVICE COMPANY'S OPPOSITION TO MOTION  
OF COMPETITIVE POWER ALLIANCE**

The Arizona Utility Investors Association (AUIA) hereby joins  
in the opposition of Arizona Public Service Company (APS) to the  
Motion of the Arizona Competitive Power Alliance (Alliance) to  
extend the schedule or bifurcate the issues in APS's pending rate case.

AUIA is filing this Joinder largely due to time constraints. AUIA  
did not receive a copy of the Alliance Motion until the morning of  
December 23, less than 48 hours from the deadline for a response  
under the terms of the procedural order in this matter. It was not  
delivered electronically. At the time of receipt, AUIA was involved as  
a party in a hearing in another rate case before this Commission and  
was unable, under the circumstances, to file a response of its own.

Arizona Corporation Commission  
**DOCKETED**

DEC 29 2003

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1           If this ill-timed Motion serves any interest, it is that of certain “stealth”  
2 members <sup>1</sup> of the Alliance rather than the interest of utility ratepayers. AUIA urges  
3 the Commission to reject the Alliance Motion and to allow APS’s RFP and its rate  
4 case to proceed according to their current schedules.

5           In addition to adopting the arguments put forward in APS’s response, AUIA  
6 offers the following comments in support of its position:

7           **The Motion is Deficient.**

8           The Alliance Motion requires the Commission and other parties to accept  
9 certain facts or conclusions about APS’s RFP, such as the assertion that it is too small  
10 in scale. <sup>2</sup> However, according to APS’s response, the RFP contains no limit on the  
11 amount of capacity that can be bid by a respondent to the RFP. AUIA and, we  
12 suspect, other parties have not been privy to the content or the terms of the RFP  
13 and have no way to verify the Alliance claims in a timely manner, absent an  
14 examination of the RFP. The Motion did not include a verified copy of the RFP and  
15 is deficient in that respect.

16           **The Motion States Facts That Are Not In Evidence**

17           The Alliance Motion makes assertions for which there is no factual basis in  
18 this proceeding. For example, the Motion asserts that some 1,700 Megawatts of  
19 plant capacity are proposed to be included in rate base when “These units were built  
20 originally by PWEC as unregulated merchant generating units...”<sup>3</sup> There is  
21 absolutely no evidence in this proceeding to support that claim. The Motion  
22 contains numerous assertions that have no evidentiary support. Indeed, if the  
23 Alliance wishes to establish an evidentiary record for such claims, the appropriate  
24 forum is the APS rate case and the Alliance should work toward a speedy conclusion  
25 of the rate proceeding on the established schedule.

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<sup>1</sup> According to the Motion at Page 3, Note 2, it may or may not represent the views  
of any particular member with respect to any issue and any Alliance member that is  
a party to this proceeding may take different positions from those presented here.  
In other words, The Commission has no way of knowing which, if any, members of  
the Alliance support this Motion and which do not.

<sup>2</sup> See Motion, Page 9, L. 21

<sup>3</sup> See Motion, Page 3, L. 23 –Page 4, L. 4

1           **Lack of Nexus**

2           The Motion tries but fails to establish a credible nexus between the RFP and  
3 this proceeding by arguing that responses to the RFP and the outcome of the RFP  
4 process will prejudice the rate case in favor of APS.<sup>4</sup> Specifically, the Motion claims  
5 that the RFP seeks to “test” the wholesale market that APS witnesses discuss in their  
6 direct testimony.<sup>5</sup> and that the results available to APS will allow it to enrich its  
7 rebuttal testimony in the rate case.<sup>6</sup> The fact is that APS is under a continuing  
8 mandate from this commission, most recently affirmed in the Track B Order, to  
9 obtain for its customers a reliable supply of electricity at reasonable cost.<sup>7</sup> That is  
10 exactly what APS is trying to accomplish through the RFP. There is no Commission  
11 rule barring paranoia on the part of the Alliance, but beyond that, there is no  
12 evidence presented in the Motion to support the allegation that the RFP process will  
13 contaminate the rate case.

14           **Irreparable Damage Would Accrue to Equity Owners**

15           APS argues effectively in its response that ratepayers would be badly served  
16 by any delays imposed on the RFP process or the resolution of the rate case. In the  
17 latter instance, APS asserts correctly that unjustified delays in the imposition of new  
18 rates could result in negative consequences from the credit rating agencies.. AUJA  
19 agrees, but would like to add that a delay in the resolution of the rate case, as  
20 proposed by the Alliance, or a partition of the rate base issues would likely result in  
21 irreparable damage to the equity owners of APS. By the end of next summer, APS  
22 rates will have been frozen in a downward mode for five years. In the meantime,  
23 shareholders have invested many hundreds of millions of dollars in new facilities on  
24 which they have yet to earn any return. Any unnecessary delay in resolving these  
25 issues would be unfair and confiscatory to Pinnacle West shareholders.

26           **Conclusion**

27           For the reasons cited herein and in the Response filed by APS, the  
28 Commission should reject the Alliance Motion and its proposed remedies and allow  
29 the RFP and the rate case to proceed on their respective schedules.

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<sup>4</sup> See Motion, Page 6, L. 11 – P. 7, L. 4

<sup>5</sup> Id.

<sup>6</sup> See Motion, Page 14, L. 5 - 9

<sup>7</sup> See Decision No. 65743, Page 72

1 Respectfully Submitted this 29<sup>th</sup> Day of December, 2003

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Walter W. Meek, President

**CERTIFICATE OF SERVICE**

An original and 13 copies of the foregoing Joinder filed this 29<sup>th</sup> day of December, 2003, with:

Docket Control  
Arizona Corporation Commission  
1200 W. Washington Street  
Phoenix, AZ 85007

Copies of the foregoing Joinder was delivered this 29<sup>th</sup> day of December, 2003, to:

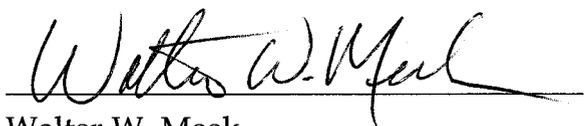
Christopher Kempley, Esq., Legal Division  
Lyn Farmer, Esq., Hearing Division  
Ernest Johnson, Esq., Utilities Division  
Arizona Corporation Commission

A copy of the foregoing Joinder was mailed this 29<sup>th</sup> day of December, 2003, to:

Thomas L. Mumaw, Esq.  
Pinnacle West Capital Corporation  
P.O. Box 52132  
Phoenix, AZ 85072-2132

David S. Childers, Esq.  
Low & Childers, P.C.  
2999 N. 44<sup>th</sup> Street, Suite 250  
Phoenix, AZ 85018

Parties of Record



Walter W. Meek