

ORIGINAL



0000000730

BEFORE THE ARIZONA CORPORATION

RECEIVED

2003 NOV 17 P 2:44

AZ CORP COMMISSION  
DOCUMENT CONTROL

COMMISSIONERS

MARC SPITZER, Chairman  
WILLIAM A. MUNDELL  
JEFF HATCH-MILLER  
MIKE GLEASON  
KRISTIN K. MAYES

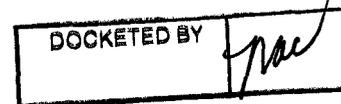
IN THE MATTER OF THE APPLICATION OF ARIZONA PUBLIC SERVICE COMPANY FOR A HEARING TO DETERMINE THE FAIR VALUE OF THE UTILITY PROPERTY OF THE COMPANY FOR RATEMAKING PURPOSES, TO FIX A JUST AND REASONABLE RATE OF RETURN TEHREON, TO APROVE RATE SCHEDULES DESIGNED TO DEVELOP SUCH RETURN, AND FOR APPROVAL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

Docket No. E-01345A-03-0437

Arizona Corporation Commission

DOCKETED

NOV 17 2003



IN THE MATTER OF THE APPLICATION OF ARIZONA PUBLIC SERVICE COMPANY FOR AN ORDER OR ORDERS AUTHORIZING IT TO ISSUE, INCUR, OR ASSUME EVIDENCES OF LONG-TERM INDEBTEDNESS; TO ACQUIRE A FINANCIAL INTEREST OR INTERESTS IN AN AFFILIATE OR AFFILIATES; TO LEND MONEY TO AN AFFILIATE OR AFFILIATES; AND TO GUARNATEE THE OBLIGATIONS OF AN AFFILIATE OR AFFILIATES

Docket No. E-01345A-02-0707

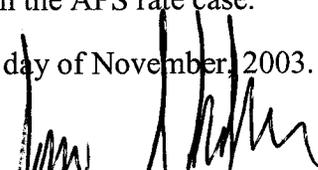
**REPLY TO APS' AND RUCO'S  
RESPONSES TO STAFF'S MOTION  
TO CONSOLIDATE**

Staff of the Utilities Division ("Staff") of the Arizona Corporation Commission ("Commission") hereby replies to the responses from both the Arizona Public Service Company ("APS") and the Residential Utility Consumer Office ("RUCO").

With regard to the response from APS, Staff has no objection to simply moving the preliminary inquiry from the APS Financing Case (Docket No. 01345A-02-0707) to this rate case, rather than formally consolidating the APS Financing Case with this rate case. Staff believes APS' recommended proposal captures the essence of Staff's request and that either Staff's proposal or APS' counterproposal would achieve the same effect.

1 Staff respectfully disagrees with RUCO's assertion that the issues in the preliminary inquiry  
2 and this rate case are not substantially the same. Both the preliminary inquiry and this rate case will  
3 address APS' allegations that the PWEC assets were dedicated to APS customers. The exploration of  
4 the intent of the PWEC assets, the timing of when those generation assets were to be built, and how  
5 those assets were represented to outside entities are fundamental avenues of exploration that are vital  
6 in both proceedings. RUCO does not argue that the same information sought in this rate case is  
7 irrelevant to the preliminary inquiry. Rather, RUCO argues that the two matters are easily separated.  
8 While Staff does agree with RUCO that the ratebasing of PWEC assets will be a complex portion of  
9 the rate case, the delineation between this rate case and the preliminary inquiry is not as easily  
10 separated as RUCO purports in its response. Should Staff find that APS' conduct was noncompliant  
11 with the electric competition rules, that finding could tip the scales in favor of not ratebasing the  
12 PWEC assets. Alternatively, Staff may find that ratebasing the PWEC assets should be done for  
13 independent reasons despite the noncompliance, yet recommend other remedies in the rate case that  
14 rectify the noncompliance. Hence, the issues presented by the preliminary inquiry and the rate case  
15 are related and consolidation of these matters will avoid unnecessary duplication. Therefore, Staff  
16 requests consolidation of the preliminary inquiry with the APS rate case.

17 RESPECTFULLY SUBMITTED this 17<sup>th</sup> day of November, 2003.

18  
19   
20 Christopher C. Kempley, Chief Counsel  
21 Janet F. Wagner, Attorney  
22 Jason Gellman, Attorney  
Arizona Corporation Commission  
1200 West Washington  
Phoenix, Arizona 85007  
(602) 542-3402

23 Original and 15 copies of the foregoing  
24 filed this 17 day of November, 2003, with:

25 Docket Control  
26 Arizona Corporation Commission  
1200 West Washington  
Phoenix, AZ 85007

27  
28 Copy of the foregoing mailed this 17  
day of November, 2003, to:

1 Thomas L. Mumaw  
2 Karilee S. Ramaley  
3 Pinnacle West Capital Corporation  
4 P. O. Box 53999, MS 8695  
5 Phoenix, AZ 85072-3999  
6  
7 Jeffrey B. Guldner  
8 Faraq Sanei  
9 Snell & Wilmer  
10 One Arizona Center  
11 400 East Van Buren  
12 Phoenix, AZ 85004-0001  
13 Attorneys for Arizona Public Service  
14  
15 Jay L. Shapiro  
16 Patrick J. Black  
17 Fennemore Craig, P.C.  
18 3003 N. Central, Suite 2600  
19 Phoenix, AZ 85012  
20 Attorneys for Panda Gila River  
21  
22 Raymond S. Heyman  
23 Michael W. Patten  
24 Roshka Heyman & DeWulf  
25 One Arizona Center  
26 400 E. Van Buren, Suite 800  
27 Phoenix, AZ 85004  
28 Attorneys for UniSource Energy Services  
29  
30 Deborah R. Scott  
31 Unisource Energy Services  
32 One South Church Street, Suite 200  
33 Tucson, Arizona 85702  
34  
35 Mr. Curtis Kebler  
36 Reliant Resources, Inc.  
37 8996 Etiwanda Avenue  
38 Rancho Cucamonga, CA 91739  
39  
40 Lawrence V. Robertson, Jr.  
41 Munger Chadwick, P.L.C.  
42 National Bank Plaza  
43 333 North Wilmot, Suite 300  
44 Tucson, AZ 85711  
45 Attorneys for Southwestern Power Group II,  
46 Bowie Power Station and Mesquite Power  
47  
48 Larry F. Eisenstat  
49 Michael R. Engleman  
50 Frederick D. Ochsenhirt  
51 Dickstein Shapiro Morin & Oshinsky, LLP  
52 2102 L Street, N.W.  
53 Washington, D.C. 20037

Jesse A. Dillon  
PPL  
2 North Ninth Street  
Allentown, PA 18101

Walter W. Meek, President  
Arizona Utility Investors Association  
2100 N. Central, Suite 210  
Phoenix, AZ 85004

Scott S. Wakefield  
Chief Counsel  
RUCO  
1110 W. Washington, Suite 220  
Phoenix, AZ 85007

Jana Brandt  
Kelly Barr  
Regulatory Affairs and Contracts  
Salt River Project  
Mail Station PAB221  
P. O. Box 52025  
Phoenix, AZ 85072-2025

C. Webb Crockett  
Fennemore Craig, P.C.  
3003 N. Central, Suite 2600  
Phoenix, AZ 85012  
Attorneys for AECC and Phelps Dodge

Mr. Brian Walker  
Reliant Energy Wholesale Group  
Post Office Box 286  
Houston, TX 77001

Theodore E. Roberts  
Sempra Energy Resources  
101 Ash Street, HQ 12-B  
San Diego, CA 92101-3017

Greg Patterson  
Arizona Competitive Power Alliance  
916 West Adams, Suite 3  
Phoenix, AZ 85007

Major Allen G. Erickson  
AFCES A/ULT  
139 Barnes Drive, Suite 1  
Tyndall AFB, Florida 32403-5319  
Attorney for FEA

1 Michael A. Curtis  
2 William P. Sullivan  
3 Martinez & Curtis, P.C.  
4 2712 North Seventh Street  
5 Phoenix, AZ 85006

6 Jay I. Moyes  
7 Moyes Storey  
8 3003 N. Central, Suite 1250  
9 Phoenix, AZ 85012

10 Roger K. Ferland  
11 Quarles & Brady Streich Lang LLP  
12 Renaissance One  
13 Two North Central Avenue  
14 Phoenix, AZ 85004-2391

15 Timothy M. Hogan  
16 Arizona Center for Law in the Public Interest  
17 202 E. McDowell Road, Suite 153  
18 Phoenix, Z 85004  
19 Attorneys for Western Resource Advocates

20 Paul R. Michaud  
21 Martinez & Curtis, P.C.  
22 2712 North Seventh Street  
23 Phoenix, AZ 85006-1090  
24 Attorneys for Constellation NewEnergy, Inc.,  
25 Strategic Energy, L.L.C. and Dome Valley  
26 Energy Partners, LLC

27 Daniel W. Douglass, Esq.  
28 Law Offices of Daniel W. Douglass, A.P.C.  
6303 Owensmouth Avenue, 10<sup>th</sup> Floor  
Woodland Hills, CA 91367-2262  
Attorneys for Constellation NewEnergy, Inc.,  
Strategic Energy, L.L.C.

S. David Childers  
Low & Childers, P.C.  
2999 North 44<sup>th</sup> Street, Suite 250  
Phoenix, AZ 85018  
Attorney for Arizona Competitive  
Power Alliance

James M. Van Nostrand  
Stoel Rives, LLP  
900 SW Fifth Avenue, Suite 2600  
Portland, OR 97204

David Berry  
Western Resource Advocates  
P. O. Box 1064  
Scottsdale, AZ 85252-1064

Michael L. Kurtz  
Boehm, Kurtz & Lowry  
36 E. Seventh Street, Suite 2110  
Cincinnati, OH 45202  
Attorneys for Kroger Company and  
Town of Wickenburg

Bill Murphy  
Murphy Consulting  
2422 E. Palo Verde Drive  
Phoenix, AZ 85016  
Consultant for Arizona Cogeneration Assn.

Robert W. Geake  
Arizona Water Company  
P. O. Box 29006  
Phoenix, AZ 85038-9006

Andrew W. Bettwy  
Bridget A. Branigan  
Southwest Gs Corporation  
5241 Spring Mountain Road  
Las Vegas, NV 89150

Nicholas J. Enoch  
Lubin & Enoch, P.C.  
349 North Fourth Avenue  
Phoenix, AZ 85003  
Attorneys for IBEW Locals 387, 640 and 769

Cynthia Zwick  
Executive Director  
Arizona Community Action Association  
2627 North Third Street, Suite 2  
Phoenix, AZ 85004

Eric C. Guidry  
Western Resource Advocates  
2260 Baseline Road, Suite 200  
Boulder, CO 80302