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BEFORE THE ARIZONA CORPORATION

2003 NOV 10 P 1:04

AZ CORP COMMISSION
DOCUMENT CONTROL

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COMMISSIONER
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COMMISSIONER
- 6 KRISTIN K. MAYES
COMMISSIONER

7
8 IN THE MATTER OF THE APPLICATION OF
9 ARIZONA PUBLIC SERVICE COMPANY FOR
10 A HEARING TO DETERMINE THE FAIR
11 VALUE OF THE UTILITY PROPERTY OF THE
12 COMPANY FOR RATEMAKING PURPOSES,
13 TO FIX A JUST AND REASONABLE RATE OF
14 RETURN THEREON, TO APPROVE RATE
15 SCHEDULES DESIGNED TO DEVELOP
16 SUCH RETURN, AND FOR APPROVAL OF
17 PURCHASED POWER CONTRACT.

Docket No. E-01345A-03-0437

13 IN THE MATTER OF THE APPLICATION OF
14 ARIZONA PUBLIC SERVICE COMPANY FOR
15 AN ORDER OR ORDERS AUTHORIZING IT
16 TO ISSUE, INCUR, OR ASSUME EVIDENCES
17 OF LONG-TERM INDEBTEDNESS; TO
18 ACQUIRE A FINANCIAL INTEREST OR
19 INTERESTS IN AN AFFILIATE OR
20 AFFILIATES; TO LEND MONEY TO AN
21 AFFILIATE OR AFFILIATES; AND TO
22 GUARANTEE THE OBLIGATIONS OF AN
23 AFFILIATE OR AFFILIATES.

Docket No. E-01345A-02-0707

Arizona Corporation Commission
DOCKETED

NOV 10 2003

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RUCO's RESPONSE TO STAFF'S MOTION TO CONSOLIDATE

20 On November 5, 2003, Staff of the Utilities Division ("Staff") of the Arizona
21 Corporation Commission ("Commission") filed a motion to consolidate the preliminary
22 inquiry created by the Commission's Decision No. 65796 in the Arizona Public Service
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1 Company's ("APS") financing application (Docket No. E-01345A-02-0707) with APS'
2 pending rate case (E-01345A-03-0437). RUCO opposes consolidation of the two matters.

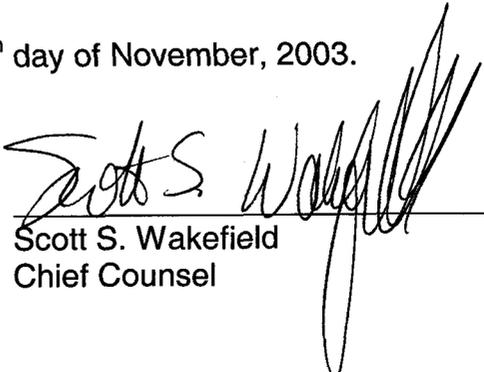
3 Decision No. 65796 ordered Staff to conduct an inquiry into APS' and its affiliates'
4 compliance with the Electric Competition Rules, Decision No. 61973, APS' Code of
5 Conduct, and applicable law. Decision No. 65976 at 44. The Commission expressed
6 concern over testimony in the APS financing hearing regarding Pinnacle West Capital
7 Corporation's ("PWCC") possible use of APS to "gain advantage in the developing
8 competitive environment." Decision No. 65976 at 34. Staff's Motion contends that,
9 because APS argued in both the financing application and in the current rate case that
10 Pinnacle West Energy Corporation ("PWEC") assets are "dedicated" to APS' customers,
11 the preliminary inquiry required by Decision No. 65796 should be consolidated into the
12 APS rate case. Staff states that "much of the same information sought for the preliminary
13 inquiry will be relevant to the issue of whether the PWEC assets should be included in
14 APS' rate base." Motion at 2.

15 The determination of whether the PWEC assets should be included in APS' rate
16 base is sure to be a complex portion of the upcoming rate case. The Commission's
17 resolution of the matter will depend on both its views of the policy of returning APS to a
18 vertically integrated utility, and a consideration of the degree to which the PWEC assets
19 are used and useful to serve APS' native load customers. In contrast, the question before
20 the Commission in the preliminary inquiry will be the appropriateness of the conduct of
21 APS and its affiliates in light of the fact that they believed that the PWEC assets were
22 necessary to meet APS' native load. It is not so much the reasonableness of that belief
23 that is at issue in the preliminary inquiry, but APS' and its affiliates' conduct based on that

1 belief. In addition, the rate case will look forward to consider the degree to which the
2 PWEC assets are used and useful to serve APS' load. The preliminary inquiry will be
3 looking backward, examining APS and its affiliates' conducts of three to four years ago.¹
4 The issue in the preliminary inquiry is not "substantially the same" as the issue in the rate
5 case. See A.A.C. R14-3-109(H).

6 The APS rate case will require the Commission to resolve a host of difficult and
7 technical matters. There is no efficiency gained by the Commission inserting into that
8 proceeding the unrelated issue of whether APS and its affiliates acted appropriately in their
9 past dealings. While the latter question is important, it should be examined separately
10 from the APS rate case.

11 RESPECTFULLY SUBMITTED this 10th day of November, 2003.

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14 Scott S. Wakefield
15 Chief Counsel
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22 ¹ Even if the degree to which PWEC assets may be necessary to meet APS' load is an issue common
23 to both proceedings, the preliminary inquiry would examine the reasonableness of APS' past belief on that
24 matter.

1 AN ORIGINAL AND FIFTEEN COPIES
2 of the foregoing filed this 10th day
3 of November, 2003 with:

3 Docket Control
4 Arizona Corporation Commission
5 1200 West Washington
6 Phoenix, Arizona 85007

5 COPIES of the foregoing hand delivered/
6 mailed this 10th day of November, 2003 to:

7 Lyn Farmer, Chief Administrative Law
8 Judge
9 Hearing Division
10 Arizona Corporation Commission
11 1200 West Washington
12 Phoenix, Arizona 85007

C. Webb Crockett
Fennemore Craig
3003 North Central Avenue
Suite 2600
Phoenix, Arizona 85012

10 Christopher Kempley, Chief Counsel
11 Legal Division
12 Arizona Corporation Commission
13 1200 West Washington
14 Phoenix, Arizona 85007

Major Allen G. Erickson
AFCEA A/ULT
139 Barnes Drive
Suite 1
Tyndall AFB, Florida 32403

13 Ernest Johnson, Director
14 Utilities Division
15 Arizona Corporation Commission
16 1200 West Washington
17 Phoenix, Arizona 85007

Michael L. Kurtz
Boehm, Kurtz & Lowry
36 East 7th Street
Suite 2110
Cincinnati, Ohio 45202

16 Thomas L. Mumaw
17 Karilee S. Ramaley
18 Pinnacle West Capital Corp.
19 Law Department
20 P.O. Box 53999
21 Phoenix, Arizona 85072

Walter W. Meek
AUIA
2100 North Central Avenue
Suite 210
Phoenix, Arizona 85067

20 Jeffrey B. Guldner
21 Faraz Sanei
22 Snell & Wilmer L.L.P.
23 400 East Van Buren Street
24 Phoenix, Arizona 85004

Nicholas J. Enoch
Lubin & Enoch
349 North 4th Avenue
Phoenix, Arizona 85003

Bill Murphy
Murphy Consulting
2422 East Palo Verde Drive
Phoenix, Arizona 85016

1 Jay L. Shapiro
Patrick J. Black
2 Fennemore Craig
3003 North Central Avenue
3 Suite 2600
Phoenix, Arizona 85012
4
5 Robert W. Geake
Arizona Water Company
P.O. Box 29006
6 Phoenix, Arizona 85038
7 Andrew W. Bettwy
Bridget A. Branigan
8 Southwest Gas Corporation
5241 Spring Mountain Road
9 Las Vegas, Nevada 89150
10 Timothy M. Hogan
Arizona Center for Law
11 in the Public Interest
202 East McDowell Road
12 Suite 153
Phoenix, Arizona 85004
13 Paul R. Michaud
14 Martinez & Curtis, P.C.
2712 North 7th Street
15 Phoenix, Arizona 85006
16 Raymond S. Heyman
Laura Schoeler
17 Roshka, Heyman & DeWulf
400 East Van Buren
18 Suite 800
Phoenix, Arizona 85004
19 Deborah R. Scott
20 UniSource Energy Services
One South Church Street
21 Suite 200
Tucson, Arizona 85702
22
23
24

J. William Moore
Attorney at Law
1144 East Jefferson
Phoenix, Arizona 85034

Eric Guidry
Western Resource Advocates
2260 Baseline Road
Suite 200
Denver, Colorado 80302

Jana Van Ness
Arizona Public Service Company
Mail Station 9905
P.O. Box 53999
Phoenix, Arizona 85072-3999

Curtis Kebler
Reliant Resources, Inc.
8996 Etiwanda Avenue
Rancho Cucamonga, CA 91739

Jesse A. Dillon
PPL
2 North 9th Street
Allentown, Pennsylvania 18101

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

Brian Walker
Reliant Energy Wholesale Group
P.O. Box 286
Houston, Texas 77001

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

1 Lawrence V. Robertson, Jr.
Munger Chadwick, P.L.C.
2 National Bank Plaza
333 North Wilmot
3 Suite 300
Tucson, Arizona 85711
4
5 Larry F. Eisenstat
Michael R. Engleman
Frederick D. Ochsenhirt
6 Dickstein Shapiro Morin & Oshinsky, LLP
2102 L Street, N.W.
7 Washington, D.C. 20037
8
9 Jay I Moyes
Moyes Storey
3003 North Central Avenue
Suite 1250
10 Phoenix, Arizona 85012
11
12 Roger K. Ferland
Quarles & Brady Streich Lang LLP
Renaissance One
Two North Central Avenue
13 Phoenix, Arizona 85004
14
15 Greg Patterson
Arizona Competitive Power Alliance
5432 East Avalon
Phoenix, Arizona 85018

16
17 By 
Jennifer Rumph
18
19
20
21
22
23
24