

INTERVENTION



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October 31, 2003

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Phoenix, AZ 85007

Arizona Corporation Commission
DOCKETED

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Re: Docket No. E-01345A-02-0437

In the matter of the Arizona Public Service Company's Application to determine fair value, fix rate of return, determine rates, and approve purchase power contract.

Dear Ms. Ryan:

Enclosed for filing in the above-captioned proceeding are the original and nineteen (19) copies of Southwestern Power Group II, L.L.C's and Bowie Power Station, L.L.C's Application for Leave to Intervene which is the subject of the above-referenced proceeding. Also enclosed are two additional copies to be conformed and returned to our office via EZ Messenger.

Please let me know if you have any questions, and thank you for your assistance.

Sincerely,

Lawrence V. Robertson, Jr.

enclosures

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AZ CORP COMMISSION
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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

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

Arizona Corporation Commission

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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 THEREON, TO APPROVE RATE
SCHEDULES DESIGNED TO DEVELOP
SUCH RETURN, AND FOR APPROVAL
OF PURCHASED POWER CONTRACT

DOCKET NO. E-01345A-03-0437

APPLICATION FOR LEAVE TO
INTERVENE

APPLICATION OF
SOUTHWESTERN POWER GROUP II, L.L.C. AND BOWIE POWER STATION, L.L.C.
FOR LEAVE TO INTERVENE

Pursuant to A.A.C. R14-3-105 and the Fourteenth Ordering Paragraph of the August 15,
2003 Procedural Order issued by the Administrative Law Judge in the above-captioned
proceeding, Southwestern Power Group II, L.L.C. and Bowie Power Station, L.L.C. ("SWPG/
Bowie") make this Application for Leave to Intervene ("Application") in the above-captioned

1
2 consolidated proceeding. In support of the Application, SWPG/ Bowie submit the following
3 information.

4
5 **I.**

6 **BACKGROUND INFORMATION ON APPLICANTS**

7 SWPG is a Delaware limited liability company, and is qualified to do business in the
8 State of Arizona. Bowie is a Delaware limited liability company, and is qualified to do business
9 in the State of Arizona. Bowie is wholly-owned by SWPG.

10 On March 7, 2002, in its Decision No. 64625, the Commission granted Bowie and its
11 assigns a Certificate of Environmental Compatibility ("CEC") to site and construct the following
12 facilities at a location near Bowie, Arizona:

13 A natural gas fired, combined cycle electric generating plant with
14 an operating capability not to exceed a nominal site rating of 1000
15 megawatts (MW). The facilities shall consist of up to two (2)
16 power blocks, each rated up to 500 MW nominal. Each power
17 block shall consist of (i) two combustion turbine generators (CTG),
18 (ii) two heat recovery steam generators (HRSG) and (iii) one steam
19 turbine electric generator. The plant design may also incorporate
20 supplementary or duct-firing of the HRSG for a given power
21 block. The power plant and supporting infrastructure shall be
22 located in Section 28 and a portion of Section 29, Township 12
23 South, Range 28 East, G&SRB&M.

24 That same day, in its Decision No. 64626, the Commission granted Bowie and its assigns a CEC
25 to site and construct (i) a double-circuit 345 kV transmission line, which will interconnect the
26 aforesaid electric generating facilities with the Western Systems Coordinating Council
27 ("WSCC") transmission grid at Tucson Electric Power Company's ("TEP") 345 kV Greenlee-
28 Vail transmission lines and Arizona Electric Power Company's ("AEP") 230 kV Red Tail-
Dos Candados transmission line; and (ii) a new Willow 345/ 230 kV switchyard through which
the aforesaid electrical interconnections would be accomplished.

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2 The Bowie project is in various phases of development at the present time. It is currently
3 estimated that construction of facilities will commence in 2006, and that the first power block
4 will be placed in service in 2008.
5

6 **II.**

7 **RELEVANT BACKGROUND PROCEEDINGS**

8 During 2001-2003, SWPG/ Bowie have actively participated as intervenors in several
9 proceedings relating to the Commission's ongoing efforts to facilitate the development and
10 growth of a robust competitive wholesale electric market in Arizona.¹ In these proceedings, a
11 background or peripheral issue was the question of whether the Commission should authorize
12 Arizona Public Service Company ("APS"), directly or indirectly, to receive rate base recognition
13 and ratemaking treatment of certain electric generation facilities owned by Pinnacle West Energy
14 Corporation ("PWEC"), an unregulated affiliate of APS. The issue was a very contentious one
15 for independent power producer interests, such as SWPG/ Bowie, because the inclusion of such
16 units in APS' rate base would have the effect of removing the power requirements they could
17 satisfy from those power requirements APS would otherwise look to the competitive wholesale
18 electric market to satisfy.
19
20

21 In Decision No. 65154 (Track "A" proceeding), the Commission declined APS'
22 suggestion to address the issue because (i) it was not a subject of that proceeding (ii) there was
23 insufficient evidence to support a finding, and (iii) the various parties had not had an opportunity
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25
26 ¹ These proceedings consisted of the consolidated proceedings in Docket Nos. E-00000A-02-
27 0051, E-01345A-01-0822, E-00000A-01-0630, E-01933A-02-0069 and E-01933A-98-471; and
28 Docket No. E-01345A-02-0707.

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2 to present evidence on the matter. However, the Commission did invite APS to file a separate
3 application requesting approval to acquire the PWEC generation units, "if APS wishes to pursue
4 this issue"; and the Commission specified September 15, 2002 as the date by which such an
5 application should be filed. [Decision No. 65154 at page 26, lines 6-13.5; also, see page 33, line
6 27- page 34, line 5] APS elected not to make that filing.

7
8 Subsequently, in Decision No. 65743 (Track "B" proceeding), the Commission noted that
9 APS "has [since] publicly discussed its intent to seek rate base treatment of the PWEC assets in
10 the upcoming rate case." [Decision No. 65743 at page 54, lines 16-18] With regard to the
11 solicitation process that was the subject of the Track "B" proceeding, the PWEC generation
12 assets were properly treated as a part of the competitive wholesale electric market generation
13 resources from which APS would solicit proposals to serve all or portions of its "contestable
14 load," as determined in Decision No. 65743.

15
16 Similarly, in Decision No. 65796 (APS Financing proceeding) the Commission
17 authorized APS to acquire a financial interest and/or guarantee in PWEC "consistent with the
18 terms, conditions and restrictions of this Decision." [Decision No. 65796 at page 41, lines 18-20]
19 However, the Commission also expressly ordered that
20

21 ". . . the issue of Arizona Public Service Company's acquisition of
22 Pinnacle West Energy Corporation generation assets and rate base
23 treatment is not presently before us, and we make no determination
24 on those issues in this Decision." [Decision No. 65796 at page 43,
25 lines 18.5 - 20.5]

26 That issue is now squarely before the Commission for a decision in the above-captioned
27 proceeding. The interest of SWPG/ Bowie in the manner of how this issue is resolved, as well as
28 any other issues raised by APS' application which could adversely affect the Commission's

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ongoing effort to facilitate the development and growth of a robust competitive wholesale market, remains as high as it was in the Track "A," Track "B" and APS Financing proceedings in which they participated.

III.

NATURE OF APPLICANTS' INTERESTS

As discussed above, SWPG/ Bowie have devoted substantial time and effort during the 2001 - 2003 period participating in proceedings before the Commission where the questions of APS ownership and rate base treatment of PWEC's generation assets were indirectly involved. On those occasions, SWPG/ Bowie and others argued that the procedural context was inappropriate for the resolution of those questions, and that they should be addressed in a separate proceeding where they could be squarely and fully considered on the merits. The instant proceeding is of such a nature.

The ultimate effect of Commission approval of APS' proposed rate base treatment of PWEC's generation assets would be to effectively remove from APS' "contestable load" that is to be served from the competitive wholesale electric market that amount of power and energy which could be generated by the PWEC units. The same is true under APS' proposed alternative of a long-term Purchased Power Agreement with PWEC. Either way, APS' "contestable load" is reduced by a significant increment for many years to come.

Such a reduction would directly and substantially affect all present and future members of Arizona's independent power producer community, including SWPG/ Bowie. Thus, SWPG/ Bowie is substantially affected by the instant proceeding and the Commission's final decision therein.

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IV.

REQUESTED INTERVENTION WILL NOT UNDULY BROADEN ISSUES

The Arizona Competitive Power Alliance (“ACPA”) is seeking leave to intervene in the instant proceeding on behalf of its members. SWPG is an active member of ACPA, and it is among those members funding the evidentiary case that ACPA intends to present. However, because it is possible that during the course of the proceeding developments could occur which would require that SWPG/ Bowie express a view or argument as to their particular interests which might differ from that viewpoint or argument being expressed by ACPA, SWPG/ Bowie are hereby requesting leave to intervene in their own name and stead.² However, as a general rule, SWPG/ Bowie will defer to ACPA to take the lead in representing the interests and views of the independent power producer community in Arizona.

Accordingly, intervention and participation by SWPG/ Bowie would not have the effect of unduly broadening the issues presented in the above-captioned proceeding.

V.

CONCLUSION

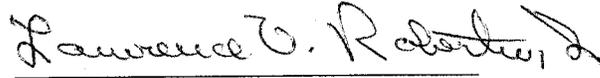
Wherefore, SWPG/ Bowie hereby request that the Commission or Administrative Law Judge assigned to the above-captioned proceeding, issue an order granting this Application, thereby according to SWPG/ Bowie all rights and privileges as an intervening party.

² SWPG/ Bowie is the only member of ACPA which currently has a certificated project in development, whereas the other members either have projects in operation or have not as yet been certificated. Thus, in this regard, its perspective is unique.

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DATED: October 31, 2003

Respectfully submitted,



Lawrence V. Robertson, Jr.
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and Bowie Power Station, LLC

Original and 19 copies of the foregoing Application for Leave to Intervene was filed this 3rd day of November, 2003 with:

Colleen Ryan, Supervisor
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1200 W. Washington
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Original and 19 copies of the foregoing Application for Leave to Intervene were mailed/emailed this 3rd day of November, 2003 to:

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