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BEFORE THE ARIZONA CORPORATION COMMISSION

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

DOCKET NO. E-01345A-03-0437

Arizona Corporation Commission

DOCKETED

FEB 06 2004

DOCKETED BY *CAW*

**MOTION OF ARIZONA PUBLIC SERVICE COMPANY
TO AMEND RATE CASE PROCEDURAL ORDER**

Arizona Public Service Company ("APS" or "Company") hereby moves the Chief Administrative Law Judge ("CALJ") to amend her Rate Case Procedural Order of January 8, 2004 ("Procedural Order") in the above-captioned matter. Specifically, APS asks that the dates established by the Procedural Order for the filing of the Company's rebuttal testimony, the submission by Arizona Corporation Commission ("Commission") Utilities Division Staff ("Staff") and intervenors of surrebuttal testimony, and finally the filing of APS rejoinder testimony be extended by three weeks, with a corresponding three week delay in the beginning of evidentiary hearings.¹ Thus, the revised rate case schedule would be as follows:

¹ APS contacted each of the parties to this proceeding that have submitted testimony to provide them notice of the instant Motion but did not have the opportunity to attempt achieving any consensus in the admittedly short time since the filing of Staff and intervenor testimony and thus would suggest a procedural conference to address the Company's Motion.

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APS Rebuttal Testimony – March 30, 2004

Staff and Intervenor Surrebuttal Testimony – April 23, 2004

APS Rejoinder Testimony – May 7, 2004

Evidentiary Hearing Begins – May 17, 2004²

APS takes this, and what for it is virtually an unheard of, action with the greatest reluctance but finds itself in a position where the continued financial health of the Company is at stake. Moreover, the extreme and punitive nature, as well as the breadth and scope of the Staff and Intervenor testimony, are, in the Company’s experience, unprecedented in Arizona. Finally, new issues have been added to this proceeding that could not have been addressed in the Company’s original pre-filed testimony of June 27, 2003.

I. THE REQUESTED SCHEDULE MODIFICATION IS APPROPRIATE UNDER THE UNIQUE CIRCUMSTANCES PRESENTED IN THIS PROCEEDING

A. Extreme Nature of Staff and Intervenor Recommendations

The Staff recommendation in this proceeding is for a \$143 million annual decrease in the Company’s presently authorized rates. That of the Residential Utility Consumer Office calls for a reduction of “at least” \$53.6 million (and including a \$29 million increase in mandatory spending for DSM). Involuntary rate reductions of this magnitude for a major utility are, to say the least, rare even after a series of prior rate increases. For such an action to be proposed on the heels of a series of 13 rate reductions over a ten-year period for a utility with APS’ future capital needs defies explanation. Adoption of either of these recommendations would severely punish APS and cripple its ability to provide reliable service to its nearly one million Arizona customers. As promised in its 8-K with the Securities and Exchange Commission, which APS believed it was compelled to file

² APS would also agree to a similar three week extension of the time period for the ALJ and Commission’s consideration of this matter under the “time clock” provisions of A.A.C. R14-2-103.

1 before the opening of the financial markets on the Wednesday immediately following the
2 filing of Staff and Intervenor testimony, the Company intends to vigorously contest these
3 recommendations before the CALJ and the Commission with every resource at its
4 disposal. However, to do so will require some additional time if the Commission is to be
5 fully apprised of the nature and consequences (both individually and collectively) of the
6 myriad of adjustments proposed by Staff and intervenors.

7 The issue of whether or not to include Pinnacle West Energy Corporation's
8 ("PWEC") Arizona assets in the Company's rate base is the single largest issue in this
9 proceeding, and the ratemaking standards enunciated by Staff and intervenors for such
10 inclusion are, to understate the matter, inconsistent with those previously applied by the
11 Commission with respect to other APS generating resources. However, APS fully
12 expected the rate-basing of the PWEC assets to spark controversy. This issue is neither the
13 basis for this Motion nor, in and of itself, the sole or even primary justification given for
14 the Staff and intervenor recommendations. Rather, it is the magnitude and unexpectedly
15 extreme nature of many of the other adjustments proposed in the testimony that warrant
16 the additional time sought by the Company's Motion. More specifically, and only by way
17 of example, Staff's testimony has taken the following positions:

- 18 1. APS should receive the lowest return on equity presently allowed to any
19 electric utility in America.³
- 20 2. APS' Commission-authorized depreciation rates should be lowered by
21 over \$40 million annually by the use of a depreciation methodology that
22 is not only unprecedented in Arizona and a radical departure from
23 standard depreciation practices, but one which is flatly contrary to
24 Commission regulations.
- 25 3. Staff does not support implementing either a fuel or purchased power
26 adjustment mechanism, despite its previous agreement to such a
mechanism in Docket No. E-01345A-02-0403, and also despite the fact
that the remainder of Staff's recommendations both understate the level
of fuel and purchased power costs in base rates and leave APS largely
exposed to the uncertainties of what this Commission has characterized

³ This is not just the Company's opinion. Electric industry analysts have also made the same observation.

1 as a dysfunctional wholesale power market for all the additional
2 capacity and energy needed to serve its customers.

- 3 4. APS nuclear decommissioning funding should be reduced, which at the
4 very least will jeopardize the tax-advantaged status of such
5 contributions, even though APS has been directed by this Commission
6 to take the fullest possible advantage of existing tax laws to minimize
7 the cost of decommissioning Palo Verde to APS customers.⁴
- 8 5. The allocation of the Company's cost-of-service between wholesale and
9 retail jurisdictions should use a methodology that is also unprecedented
10 in Arizona, contrary to decades of Commission precedent regarding
11 APS, and which, because it would never be acceptable to the Federal
12 Energy Regulatory Commission, would guarantee that APS would have
13 some millions in annual costs "stranded" between state and federal
14 regulators, with no prospect of recovery from either jurisdiction.
- 15 6. APS should be allowed only a small fraction of the funding that Staff
16 itself concedes is required to satisfy the Environmental Portfolio
17 Standard, either as it is today or as is now being recommended by Staff
18 in Docket No. RE-00000C-00-0377.
- 19 7. The Company's customers should receive the tax and capital structure
20 leverage advantages of the additional debt incurred by APS on account
21 of the PWEC assets even though those assets would not be included in
22 APS rate base and thus the associated debt would have to be repaid by
23 PWEC within a relatively short time after this case is decided.

24 That such disallowances could be proposed without any serious analysis of their
25 overall impact on the Company's financial integrity or its ability to attract the capital
26 needed to provide reliable electric service to APS customers is all the more disturbing.⁵
And to suggest that APS' cost-of service has dramatically declined since 1999 flies in the
face of common sense. The Staff and intervenor recommendations appear more directed
at punishing APS for its past success in maintaining reliable service at reasonable rates,

27 _____
28 ⁴ Staff's own testimony concedes that this recommendation would increase the total cost of
29 decommissioning to APS customers.

30 ⁵ APS recently filed a Ten-Year Plan proposing some \$1.1 billion in high-voltage transmission additions
31 alone. (Distribution and sub-transmission investment is not included in that figure.) In addition, APS is
32 presently attempting to deal with a significant short-fall in generation resources – a shortfall that reaches
33 well over 3000 MW by the end of this same ten-year horizon, even assuming acquisition of the PWEC
34 generation.

1 while still earning, for at least several years during this period, a reasonable return for
2 investors, than looking to the future needs of APS and its customers.

3 *B. Scope of Staff and Intervenor Testimony*

4 Staff and intervenors have submitted written testimony from 27 separate witnesses
5 – each adverse to the Company – presenting over 2200 pages of testimony. Staff alone has
6 11 witnesses with some 1000 pages of testimony proposing at least 33 individual
7 adjustments (not including subparts and jurisdictional/tax effects). This Staff and
8 intervenor testimony reflects some 102 sets of data requests, encompassing nearly 1700
9 questions (not including subparts), and nearly eight months of effort. For APS to
10 adequately conduct discovery and prepare rebuttal to a virtual mountain of adverse
11 testimony containing such extreme recommendations in barely five weeks is certainly
12 unreasonable.

13 *C. Additional Issues*

14 The CALJ's earlier Procedural Order dated December 19, 2003, added the
15 "preliminary inquiry" [required by Decision No. 65796 (April 4, 2003)] to this Docket.
16 Although APS did not oppose this action, it also caused new issues to be introduced into
17 the proceeding, the scope of which and the Staff position on which, could not have been
18 anticipated by the Company.

19 **II. THE REQUESTED SCHEDULE MODIFICATION IS CONSISTENT WITH**
20 **THE APPARENT GOALS OF THE PROCEDURAL ORDER**

21 The CALJ's Procedural Order struck a reasonable compromise between the desire
22 of certain intervenors to delay this matter by four months and the desire of APS for a
23 timely resolution of its Application. By granting Staff and intervenors an additional nearly
24 four weeks (on top of the nearly seven months they already had) to prepare their cases, the
25 CALJ appeared to be guided by the following considerations:
26

- 1 (1) the ability of Staff and certain intervenors to obtain what at least
2 some believed would be some potentially relevant information from
3 the pending Company RFP for new generation;
4 (2) the ability of the CALJ and the Commission to also have full access
5 to any potentially relevant information before making this critical
6 decision; and,
7 (3) the desirability of having the presently-constituted Commission,
8 several of whose members decided the Track A proceeding and the
9 majority of which decided the Track B and APS/PWEC financing
10 proceedings,⁶ to render a final ruling in this Docket by the end of
11 2004.

12 The relatively short delay requested by APS, which is less than that already granted to
13 Staff and intervenors, will not be inconsistent with any of these objectives, and APS
14 would suggest, will actually further the second, and arguably the most important of the
15 above three objectives.

16 **III. CONCLUSION**

17 APS understands it is unusual for any utility to request a delay in rate case
18 proceedings. It is perhaps unprecedented for APS. However, the Company has no choice
19 but to ask for the time necessary to provide the Commission with strongest defense
20 possible to an attack on its continued ability to serve customers and provide investors
21 with the returns necessary to retain and attract the capital that is so vital to the electric
22 infrastructure of a rapidly growing state. APS further wishes to fully and completely
23 address the additional evidentiary issues that have arisen since the original June 2003
24 filing.

25 RESPECTFULLY SUBMITTED this 6th day of February 2004.

26 PINNACLE WEST CAPITAL CORP.
Law Department

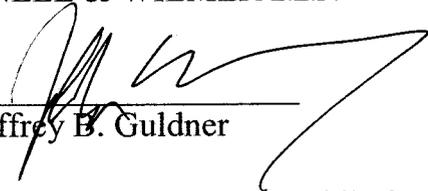

Thomas L. Mumaw
Karilee S. Ramaley

⁶ Decision Nos. 65154 (September 10, 2002), 65743 (March 14, 2003), and 65796, respectively.

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and

SNELL & WILMER L.L.P.



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Attorneys for Arizona Public Service Company

1 ORIGINAL AND 13 COPIES OF THE FOREGOING
filed this 6th day of February 2004, with:

2 Docket Control
3 Arizona Corporation Commission
1200 West Washington
4 PHOENIX, AZ 85007;

5 Copies of the foregoing mailed, faxed or
6 transmitted electronically this 6th day of
February 2004 to:

7 All Parties of Record

8
9 *Vicki DiCola*
10 Vicki DiCola

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