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BEFORE THE ~~ARIZONA~~ CORPORATION COMMISSION

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MARC SPITZER

2004 NOV -5 A 8:08

Chairman

WILLIAM A. MUNDELL

AZ CORP COMMISSION

Commissioner

DOCUMENT CONTROL

JEFF HATCH-MILLER

Commissioner

MIKE GLEASON

Commissioner

KRISTIN K. MAYES

Commissioner

Arizona Corporation Commission

DOCKETED

NOV - 5 2004

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CAC

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

NOTICE OF FILING OF SUMMARY OF TESTIMONY OF LAWRENCE J. PETERSON

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PLEASE TAKE NOTICE THAT Constellation NewEnergy, Inc. ("CNE") hereby files the attached Summary of Testimony of Lawrence J. Peterson, and Lawrence J. Peterson's Statement of Background and Qualifications.

Mr. Peterson is needed on the panel in place of Mona Tierney, the Director of Government Affairs for CNE, because Ms. Tierney just recently learned that she must be out of the country on business during the upcoming hearings in this proceeding. Mr. Peterson has personally participated in the APS settlement negotiation meetings in this proceeding and will be adopting the testimony of Ms. Tierney filed on September 27, 2004.

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1 THE ORIGINAL AND 13 COPIES OF
2 THE FOREGOING FILED
3 this 4th day of November, 2004, with:

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

8 COPIES OF THE FOREGOING
9 HAND-DELIVERED
10 this 4th day of November, 2004, to:

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Wendy Petrus

SUMMARY OF TESTIMONY OF LAWRENCE J. PETERSON

1 My name is Lawrence J. Peterson. I am the principal employee of LJP Navitas
2 Consulting, LLC. I was retained by Constellation NewEnergy (“CNE” or “NewEnergy”)
3 in September of 2003 to support its interests in the Arizona Market and specifically the
4 APS Rate Case (Docket No. E-01345A-03-0437).

5 CNE is the retail electricity services entity within Constellation Energy Group,
6 Inc. (“Constellation Energy”). Constellation Energy is the parent company of
7 Constellation NewEnergy. CNE provides retail competitive supply service. CNE
8 currently serves approximately 10,000 MW of peak commercial and industrial retail
9 demand in 15 states and two Canadian provinces.¹ Some of the other subsidiaries of
10 Constellation Energy include wholesale generation companies, a wholesale supply group
11 and a regulated gas and electric utility, the Baltimore Gas and Electric Company.

12 CNE and Strategic Energy, LLC (“SE”) jointly sponsored testimony proffered by
13 Witness Mark Fulmer. CNE/SE have participated in the settlement conferences in this
14 docket and have determined that the settlement reflects the best negotiated outcome for
15 the issues raised by CNE/SE and the other matters at issue in this proceeding.

16 CNE’s primary objective in this case was to continue retail choice and allow the
17 opportunity for a viable retail market to develop. The key issues, as discussed in Mr.
18 Fulmer’s testimony, were to 1) insure that no new stranded costs or exit fees would be
19 imposed on direct access customers as a result of APS’s proposal to incorporate the
20 PWEC assets into ratebase, 2) provide opportunities for alternative wholesale entities to
21 bid to provide service to APS’s retail customers, 3) insure that the rates for generation
22 services reflect the costs of providing that service and that costs are not shifted from

1 generation to other components, 4) offer an alternative approach (Core/Non-Core) to how
2 APS fulfills its obligation to plan and serve all customers in their territory, and 5) insure
3 that access to and pricing of revenue cycle services and transmission services for direct
4 access and bundled customers were available in a non-discriminatory manner.

5 The proposed settlement directly addresses all of these issues except for revenue
6 cycle services and the definition of APS's obligation to serve. It was determined, by the
7 parties, that changes in retail access and the resale of revenue cycle services be addressed
8 through the Electric Competition Advisory Group (ECAG) or other similar process.
9 With respect to APS's obligation to serve, the settlement does not prohibit parties from
10 seeking to amend this provision in the future.

11 CNE had several primary concerns related to the proposals APS presented in its
12 rate case. CNE believes that the settlement reflects a balance of the various interests of
13 its supporters. CNE also believes that its issues have been given equal consideration
14 relative to the various other interests and that the settlement strikes a balance of those
15 positions.

16 First, with regard to the incorporation of the PWEC assets into APS's rate base,
17 the settlement provides for a moratorium of utility-built projects until 2015, unless
18 specifically approved by the Arizona Corporation Commission, and the settlement
19 provides for the utility to issue a request for proposal (RFP) in 2005 for 1000 MW for
20 deliveries to begin 2007.

¹ CNE serves commercial and industrial customers in California, D.C., Delaware, Illinois, Maine, Massachusetts, Maryland, Michigan, Rhode Island, New Hampshire, New Jersey, New York, Ohio, Pennsylvania and Texas, as well as in Ontario and Alberta, Canada.

1 Secondly, the settlement provides that the incorporation of the PWEC assets into
2 APS's rate base will not result in a new claim for stranded cost recovery if customers
3 served by APS decide to shop in the retail competitive supply market.

4 Thirdly, the settlement provides that in planning for service to customers in its
5 certificated area, the utility must recognize the existence of the Commission's direct
6 access program and the potential for future direct access customers.

7 Fourthly, the cost of the PWEC assets will be incorporated into the generation
8 component of rates, with only ancillaries recovered in the transmission component. The
9 Power Supply Adjustor ("PSA") will be recovered only from bundled customers, and not
10 direct access customers. The settlement provides that direct access customers will be
11 able to participate in any program for which they provide funding through the system
12 benefits charges.

13 Fifth, at issue in the proceeding was the provision of utility metering and billing
14 to direct access customers. This issue has been directed to the Electric Competition
15 Advisory Group ("ECAG"), or other similar process.

16 Lastly, CNE is a board member of the Arizona Independent Scheduling
17 Administrator. We believe the proposed Settlement preserves that important
18 instrumentality for access to the transmission system on a non-discriminatory basis.

**LAWRENCE J. PETERSON'S STATEMENT OF BACKGROUND
AND QUALIFICATIONS**

Q: Please state your name and business address.

A: My name is Lawrence J. Peterson and my business address is 5525 E. Camino Del Celador, Tucson, Arizona 85750.

Q: By whom are you employed?

A: I am the principal employee of LJP Navitas Consulting, LLC. LJP Navitas Consulting provides regulatory consulting services in the electric utility industry specializing in wholesale and retail market design and market restructuring. In addition, the firm provides placement and recruiting services in the electric utility industry.

Q: Please provide a brief description of your work history and education.

A: I am currently the principal employee of LJP Navitas Consulting. I was retained by Constellation NewEnergy in September of 2003 to support its interests in the Arizona Market and specifically the APS Rate Case (Docket No. E-01345A-03-0437), and I have personally participated in almost all of the APS settlement negotiation meetings during the course of the APS Rate Case. Prior to that, I worked for the AES Corporation from July of 1999 until July of 2003. From July of 2000 until July of 2003, I served as Managing Director of AES NewEnergy Ltd, a retail electricity provider in the United Kingdom. Prior to my assignment in the UK, I was Vice President of Business Development for AES NewEnergy in Arizona. (AES acquired NewEnergy Ventures Southwest in July of 1999). Prior to NewEnergy Ventures, I was employed by Tucson Electric power serving in the capacity of Director of Sales from March of 1997 until September of 1998. Previous to that, I worked for ARAMARK Services Corporation from 1982 until 1997 in sales marketing and operations management capacities. I hold a Bachelor's Degree from St. Cloud State University in Criminal Justice Studies.