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11 **BEFORE THE ARIZONA CORPORATION COMMISSION**

12 IN THE MATTER OF THE APPLICATION OF

13 ARIZONA PUBLIC SERVICE COMPANY FOR A

14 HEARING TO DETERMINE THE FAIR VALUE

15 OF THE UTILITY PROPERTY OF THE

16 COMPANY FOR RATEMAKING PURPOSES, TO

17 FIX A JUST AND REASONABLE RATE OF

18 RETURN THEREON, TO APPROVE RATE

19 SCHEDULES DESIGNED TO DEVELOP SUCH

20 RETURN, AND FOR APPROVAL OF

21 PURCHASED POWER CONTRACT

DOCKET NO. E-01345A-03-0437

22 IN THE MATTER OF THE APPLICATION OF

23 ARIZONA PUBLIC SERVICE COMPANY FOR

24 APPROVAL OF A POWER SUPPLY ADJUSTOR

25 SURCHARGE

DOCKET NO. E-01345A-05-0526

26 **POST-HEARING BRIEF OF**

PHELPS DODGE MINING

COMPANY AND ARIZONANS

FOR ELECTRIC CHOICE AND

COMPETITION

Phelps Dodge Mining Company and Arizonans for Electric Choice and Competition (hereafter collectively "AECC") hereby submit their Post-Hearing Brief in connection with the above-referenced matter.

I. Introduction

AECC participated in the above-captioned proceeding in which the Arizona Corporation Commission ("Commission") approved, in Decision No. 67744 (April 7, 2005), with modifications, the Power Supply Adjustor ("PSA") contained in the Settlement Agreement that had been entered into among the parties to the proceeding.

1 The Commission ordered the parties to submit a PSA Plan of Administration. On June 6,
2 2005, the Commission's Utilities Division ("Staff") filed a Notice of Filing Plan of
3 Administration.

4 On July 22, 2005, Arizona Public Service Company ("APS") filed with the
5 Commission an Application for Approval of a PSA Surcharge. On September 14, 2005,
6 the above captioned matters were consolidated for purposes of hearing. AECC's
7 Application to Intervene in the consolidated hearing was granted on October 19, 2005.

8 AECC moved to intervene in the consolidated hearing because it is a party to the
9 Settlement Agreement and participated in the hearing before the Commission which
10 resulted in the Commission issuing Decision No. 67744. AECC monitored the
11 consolidated proceeding out of concern that the balance of the equities that were arrived at
12 in the Settlement Agreement be maintained.

13 **II PSA Plan of Administration**

14 The PSA was a part of the negotiations of the Settlement Agreement, which
15 enabled APS to recover increases in costs of fuel and purchase power above the base cost
16 estimated in the Settlement Agreement. AECC's review of the draft of the Plan of
17 Administration, which was filed with the Commission by Staff to implement the PSA, did
18 not indicate a need for AECC to comment on the Plan. It is AECC's position that APS
19 should be able to recover PSA-related costs to which it is entitled to under the terms of the
20 Plan of Administration.

21 **III. PSA Surcharge**

22 Although the Commission made modifications to the Settlement Agreement, with
23 reference to the PSA, AECC does not believe the modifications change the essential
24 purpose of the PSA to permit APS to recover its prudent fuel and purchase power costs
25 through the PSA and associated surcharges. PSA surcharges collected from customers
26 which are later found to be imprudent would be subject to refund under the PSA.

1 **IV Conclusion**

2 AECC believes the construction of the Settlement Agreement, as urged by APS,
3 Staff and RUCO, preserves the balance of the equities which were agreed to among the
4 parties in arriving at the Settlement Agreement.

5 **RESPECTFULLY SUBMITTED** this 15th day of November 2005

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13 **ORIGINAL and 15 COPIES** of the foregoing
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19 **COPY** of the foregoing was **HAND-DELIVERED/**
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