

THIS AMENDMENT:		 0000035354
_____ Passed _____	Passed as amended by _____	
_____ Failed _____	Not passed _____	_____ Withdrawn _____

SPITZER PROPOSED AMENDMENT # 1

TIME/DATE PREPARED August 26, 2002 / 4:00 p.m.

COMPANY: ARIZONA PUBLIC SERVICE AGENDA ITEM NO. 2
 COMPANY AND TUCSON ELECTRIC
 POWER COMPANY

DOCKET NO. E-00000A-02-0051; OPEN MEETING DATE: August 27, 2002
 E-01345A-01-0822; E-00000A-01-0630;
 E-01933A-02-0069;

MARKET POWER ISSUE

PAGE 21, LINES 20.5 THROUGH 21.5

AFTER: "We find that APS and TEP"

DELETE: "have market power and would transfer that market power to their affiliates upon divestiture."

AND INSERT: "are in a position which seems to imply market power, yet both have been found by the Federal Energy Regulatory Commission ("FERC") to not have market power and the studies presented in this matter differ in scope and methodology to such an extent that we cannot find sufficient evidence to dispute the FERC finding. However, we believe that there is sufficient reason for concern in this regard and that the public interest argues for waiving the A.A.C Rule 14-2-1615.A requirement of divestiture."

PAGE 21, LINE 25

AFTER: "we adopt Staff's recommendations"

DELETE REMAINDER OF SENTENCE

AND INSERT: "numbers 1 and 5 in their entirety, reject at this time numbers 2 and 3 and accept the logic of number 4 for the most part. Our analysis of number 4 is best dealt with in the 'Divestiture' issue. We will require APS and TEP to produce market power studies accompanied by market power mitigation plans with any future applications to divest assets."

PAGE 28, LINE 3.5

AFTER: "for measuring market power"

INSERT: "yet we continue to believe that the scope and methodology of such a study must be agreed upon by all parties before this Commission can find that APS and TEP have market power"

Arizona Corporation Commission
DOCKETED

AUG 26 2002

DOCKETED BY	<i>AM</i>
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PAGE 28, LINE 11

DELETE FINDING OF FACT 23

AND INSERT NEW FINDING OF FACT 23: "The waiver of the asset transfer requirements of A.A.C. Rule 14-2-1615.A serves the public interest and recognizes the current state of the wholesale market in Arizona."

PAGE 28, LINE 13.5

AFTER: "transfers"

INSERT: "as contemplated in prior Commission Decisions and A.A.C. Rule 1615.A"

PAGE 28, LINE 15.5

AFTER: "that market"

INSERT: "without recognizing its current uncertainty and limitations"

PAGE 28, LINE 19

AFTER: "to transfer"

DELETE: "its"

AFTER: "assets"

INSERT: "beyond what is ordered in this Decision"

PAGE 29, LINE 12.5

AFTER: "be modified"

INSERT: "as directed herein"

AND DELETE REMAINDER OF SENTENCE

PWEC Generation Issue

PAGE 25, LINE 24

AFTER: "should be transferred to APS."

DELETE REMAINDER OF PARAGRAPH

AND INSERT: "There is no evidence before this Commission which supports APS' claim that the Redhawk units were designed, financed, interconnected or intended to be anything other than 'merchant plants'. Therefore, the Commission will not authorize APS to acquire the Redhawk units from PWEC. The issues regarding West Phoenix units 4 and 5 are more complex: their ability to replace and/or greatly reduce reliance on older, more polluting plants within the metropolitan Phoenix area and their location within the Phoenix Valley constrained zone support this Commission's finding that when APS purchases West Phoenix 4 and 5 it should be allowed to make application to recover costs incurred by such acquisition. Even though this Commission is allowing APS to purchase West Phoenix 4 and 5, it should be understood that this Commission is not inclined to continue supporting reliance on RMR generation within constrained zones when better options, i.e. increased transmission capacity, exist."

PAGE 28, LINES 4 and 5

DELETE: "18. APS has market power in its Phoenix Valley and Yuma load pockets. 19. TEP has market power in its Tucson load pocket."

PAGE 28, LINE 6

DELETE: "APS and TEP's market power today and if their generation assets are transferred, their affiliates would have market power in the future."

AND INSERT: "APS and TEP may have market power today in their Phoenix Valley, Yuma and Tucson load pockets, respectively. Full divestiture of their generating assets would eliminate the jurisdictional ability of this Commission to ensure that such market power does not and will not exist in the future. Thus, we find that the provisions of A.A.C. Rule 14-2-1615.A requiring full divestiture are, at this time, not in the public interest."

PAGE 28, LINE 7.5

AFTER: "market power cannot be mitigated"

DELETE: "through"

AND INSERT: "solely through reliance on"

DIVESTITURE ISSUE

PAGE 23, LINE 4

AFTER: "must be modified"

AND INSERT: "in the following manner: TEP is granted its request for a waiver of A.A.C. Rule 14-2-1615.A. APS is granted a waiver of A.A.C Rule 14-2-1615.A and both companies are hereby directed to cancel any plans to divest interests in any generating assets. APS and TEP shall file applications within 30 days for the proposed recovery of any costs incurred thereby as well as a schedule for the retirement of their older and higher polluting plants. Furthermore, given its location within a constrained area and ability to replace older, more polluting generating units within the Phoenix Valley area, we authorize APS to acquire from PWEC West Phoenix units 4 and 5. APS shall file an application for the proposed recovery of costs incurred in that transfer. Should either company wish to pursue the divestiture outlined in Rule 1615.A in the future, they should file applications to that effect for Commission consideration"

PAGE 23, LINE 11

AFTER: "to stay the asset transfer provisions"

INSERT: "as outlined above"

AND DELETE REMAINDER OF SENTENCE

PAGE 23, LINE 22.5

DELETE: "time extensions"

AND INSERT: "waivers and actions"

AFTER: "should allow"

DELETE: "the"

AND INSERT: "the market power issue and any necessary future"

PAGE 30, LINES 12 THROUGH 14.5

DELETE FINDING OF FACT 43

AND INSERT NEW FINDING OF FACT 43: "The issue of transferring certain PWEC generating assets, namely West Phoenix units 4 and 5, is inextricably linked to the issues of this proceeding. The costs of such a transfer shall be addressed in this Commission's review of any APS application to recover the costs of such an acquisition."

Competitive Solicitation Issue

PAGE 29, LINE 24

AFTER: "at the same time protecting ratepayers."

INSERT: "We direct the parties to continue their efforts in Track B of this proceeding to develop a competitive solicitation process that can begin by January 1, 2003."

Compliance Cost Issue

PAGE 30, LINE 20.5

INSERT NEW FINDING OF FACT 46: "In compliance with past Decisions of this Commission we recognize that APS and TEP have undertaken actions in compliance with Orders and Rules of this Commission. Given that the Commission is now waiving certain of those requirements, the costs of compliance should now be addressed. We therefore direct APS and TEP to file within 30 days applications for the recovery of costs incurred in compliance with our prior Decisions and Rules relating to the issues contained in this Order."
