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BEFORE THE ARIZONA CORPORATION COMMISSION
Arizona Corporation Commission

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IN THE MATTER OF THE GENERIC PROCEEDINGS CONCERNING ELECTRIC RESTRUCTURING ISSUES

Docket No. E-00000A-02-0051

IN THE MATTER OF ARIZONA PUBLIC SERVICE COMPANY'S REQUEST FOR A VARIANCE OF CERTAIN REQUIREMENTS OF A.A.C. R14-2-1606

Docket No. E-01345A-01-0822

IN THE MATTER OF THE GENERIC PROCEEDING CONCERNING THE ARIZONA INDEPENDENT SCHEDULING ADMINISTRATOR

Docket No. E-00000A-01-0630

IN THE MATTER OF TUCSON ELECTRIC POWER COMPANY'S APPLICATION FOR A VARIANCE OF CERTAIN ELECTRIC COMPETITION RULES COMPLIANCE DATES

Docket No. E-01933A-02-0069

IN THE MATTER OF THE APPLICATION OF TUCSON ELECTRIC POWER COMPANY FOR APPROVAL OF ITS STRANDED COST RECOVERY

RESPONSE OF PANDA GILA RIVER, L.P. TO STAFF'S REQUEST FOR A PROCEDURAL ORDER TO GOVERN TRACK B

Pursuant to the Second Procedural Order On Track B Issues, issued September 24, 2002, Panda Gila River, L.P. ("Panda") files the following statement of contested issues and proposed procedural schedule. Panda believes that resolution of the issues identified below, which are a clarification of the items on the list of contested issues identified in the Track B Workshops, and on the schedule set forth herein will allow for implementation of a competitive procurement process by March 1, 2003.

1 **CONTESTED ISSUES**

2 At the September 25 and 26, 2002 Workshops, the Staff and its consultants identified the
3 following contested issues for the Track B hearing:

- 4 1. APS' unmet needs for next 3 to 5 years
- 5 2. Price to Beat
- 6 3. ACC approvals
- 7 4. 3rd party solicitation manager / duties
- 8 5. Code of Conduct
- 9 6. Establish a least cost planning process
- 10 7. Demand Side Management and Environmental Risk Mitigation Process

11 Panda generally agrees that each of these constitute a contested issue, but believes that they
12 require some further clarification for purposes of determining the procedural schedule. For
13 example, the issue relating to APS' unmet needs for the next 3 to 5 years should be clarified so
14 that it is clearly understood to mean the capacity and energy needs of APS to meet all its
15 requirements that are not met by currently-owned APS generation operating in a manner
16 consistent with past operations. This issue was supposed to be addressed in the Track B
17 Workshops but APS has backed away from the capacity and energy numbers it previously
18 supplied to Commission Staff, has challenged the capacity numbers included in the Staff proposal
19 and has not supplied estimates of energy needs. Obviously, the amount of APS' (and TEP's)
20 capacity and energy needs is the central issue to be determined by the Commission in this Track
21 B proceeding. In this regard, however, there is a disconnect between the current Staff Proposal
22 and the list of contested issues as the current proposal would require the submission of a resource
23 plan and needs assessment after the Track B hearing, leaving the selection of the form of the
24 ultimate procurement process to the purchasing utility. This procedural proposal is inconsistent
25 with the Track A Order, which requires that the "amount of power, the timing, and the form of
26 procurement **shall be determined** in the Track B proceeding." Decision No. 65154 at 33.

1 [emphasis added]. Thus, at least for the initial solicitation, the goal of Track B is not simply to
2 determine the mechanism for determining the amount of power and form of procurement, but to
3 actually make those determinations. Given this requirement, the procedural schedule must be
4 established to accommodate the submission of sufficient information for the Commission to make
5 a "needs-assessment" and "product determination" itself. The schedule proposed below by Panda
6 would accomplish these objectives if the parties work together.

7 The second issue requiring clarification is the use of a 3rd Party solicitation manager /
8 duties. Panda raised this issue in the context of the Staff proposal, which delegates much
9 authority to the purchasing utility to develop and undertake the competitive solicitation process
10 itself. While that would normally not be a problem, in this case both of the purchasing utilities
11 have, or likely will have, unregulated affiliates bidding in the solicitation process. Panda
12 therefore proposed that much of the solicitation work, especially the "needs assessment," be
13 conducted by an independent, unbiased 3rd party. To the extent that the Commission adopts the
14 procedural schedule referenced below and makes the determination of the utilities' individual
15 needs and the products to be procured as a part of the Track B hearing as required under the Track
16 A Order, the significance of this issue is somewhat diminished and would relate primarily to the
17 operation of the actual solicitation in instances where there will be an affiliated bidder involved.

18 **PROPOSED PROCEDURAL SCHEDULE**

19 Based upon the foregoing, Panda proposes the following procedural schedule:

20 October 25, 2002 - Submission of Staff Report;

21 November 1, 2002 - Submission of APS' Long-Term Resource Plan, Needs Assessment
22 and product procurement proposal together with supporting testimony;

23 November 22, 2002 - Submission of testimony of the other intervening parties addressing
24 the Staff report and the APS Long-Term Resource Plan, Needs Assessment and product
25 procurement proposal;

26 December 6, 2002 - Responsive Testimony of Staff and APS;

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December 16, 2002 - Hearing

CONCLUSION

Panda remains willing to continue discussions regarding any or all of the above listed issues with the parties and Staff in an effort to further resolve or define the scope of the Track B hearing. Nevertheless, absent success in those negotiations, the issues and procedural schedule outlined above provide the Commission the best opportunity to resolve the Track B issues in a timely manner and Panda requests that the Procedural Schedule detailed herein be implemented.

RESPECTFULLY SUBMITTED this 1st day of October 2002.

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