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BEFORE THE ARIZONA CORPORATION COMMISSION DOCKETED

WILLIAM A. MUNDELL CHAIRMAN JIM IRVIN COMMISSIONER MARC SPITZER COMMISSIONER

DEC 11 2001

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DOCKETED BY [Signature]

AZ CORP COMMISSION DOCUMENT CONTROL

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

DOCKET NO. E-01345A-01-0822

PROCEDURAL ORDER

BY THE COMMISSION:

On October 18, 2001, the Arizona Public Service Company ("APS") filed a Request for a Partial Variance to A.A.C. R14-2-1606(B) and for Approval of a Purchase Power Agreement.

A Procedural Conference was held on December 5, 2001, to discuss procedural issues and the appropriate scope of this proceeding.

At the Procedural Conference, intervention was granted to Sempra Energy Resources, Duke Energy North America, LLC and Duke Energy Arlington Valley, LLC.

On December 6, 2001, APS filed its Opposition to the Application to Intervene of the Arizona Transmission Dependent Utility Group, and on the same date, the Arizona Transmission Dependent Utility Group ("ATDUG") filed its Reply.

APS argued that ATDUG had failed to assert a sufficient interest in the proceeding to warrant intervention without unduly broadening the issues. ATDUG responded that it has a competitor/customer relationship to APS and that it actively participated in the Electric Competition Rules docket that established the rule to which APS seeks a variance. We find that ATDUG may be directly and substantially affected by the proceedings, and that its participation will not unduly broaden the issues. Accordingly, its motion to intervene is hereby granted.

At the Procedural Conference, it was determined that APS would file its initial testimony on December 12, 2001; that the parties would file briefs on December 19, 2001 addressing the appropriate procedural mechanism for the Commission's consideration of this requested variance and whether and what additional due process requirements are needed; that APS will contact the parties after filing its direct testimony and initiate a meeting with the parties to discuss the issues and create a

1 list of issues that the parties agree should be addressed in this proceeding; and that the parties will
2 contact the Administrative Law Judge after such meeting, in order to schedule a subsequent
3 Procedural Conference.

4 IT IS THEREFORE ORDERED that intervention is granted to Sempra Energy Resources,
5 Duke Energy North America, LLC, Duke Energy Arlington Valley, LLC, and to the Arizona
6 Transmission Dependent Utility Group.

7 IT IS FURTHER ORDERED that APS shall file its direct testimony on or before December
8 12, 2001.

9 IT IS FURTHER ORDERED that the parties shall file briefs on the issues identified at the
10 Procedural Conference and herein, no later than December 19, 2001.

11 IT IS FURTHER ORDERED that APS shall contact the parties after filing its direct testimony
12 and initiate a meeting to discuss the issues and create a list of issues that the parties agree should be
13 addressed in this proceeding.

14 IT IS FURTHER ORDERED that a subsequent Procedural Conference will be held as soon as
15 is practical after the parties have met to identify and discuss the issues.

16 IT IS FURTHER ORDERED that discovery shall be as permitted by law and the rules and
17 regulations of the Commission, except that: any objection to discovery requests shall be made within
18 7 days¹ of receipt and responses to discovery requests shall be made within 10 days of receipt; the
19 response time may be extended by mutual agreement of the parties involved if the request requires an
20 extensive compilation effort.

21 IT IS FURTHER ORDERED that, in the alternative to filing a written motion to compel
22 discovery, any party seeking discovery may telephonically contact the Commission's Hearing
23 Division to request a date for a procedural hearing to resolve the discovery dispute; that upon such a
24 request, a procedural hearing will be convened as soon as practicable; and that the party making such
25 a request shall forthwith contact all other parties to advise them of the hearing date and shall at the
26 hearing provide a statement confirming that the other parties were contacted²

27 ¹ "Days" means calendar days.

28 ² The parties are encouraged to attempt to settle discovery disputes through informal, good-faith negotiations before seeking Commission resolution of the controversy.

1 IT IS FURTHER ORDERED that any motions which are filed in this matter and which are
2 not ruled upon by the Commission within 10 days of the filing date of the motion shall be deemed
3 denied.

4 IT IS FURTHER ORDERED that any responses to motions shall be filed within five days of
5 the filing date of the motion.

6 IT IS FURTHER ORDERED that any replies shall be filed within five days of the filing date
7 of the response.

8 IT IS FURTHER ORDERED that the Presiding Officer may rescind, alter, amend, or waive
9 any portion of this Procedural Order either by subsequent Procedural Order or by ruling at hearing

10 DATED this 11th day of December, 2001.

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14 LYNN FARMER
CHIEF ADMINISTRATIVE LAW JUDGE

15 Copies of the foregoing mailed/delivered
16 this 11th day of December, 2001 to:

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By: 
Debbi Person
Secretary to Lyn Farmer