

ORIGINAL

25



0000035890

BEFORE THE ARIZONA CORPORATION

Arizona Corporation Commission

WILLIAM A. MUNDELL  
CHAIRMAN

DOCKETED

2002 FEB -8 P 4:41

JIM IRVIN  
COMMISSIONER

FEB 08 2002

MARC SPITZER  
COMMISSIONER

DOCKETED BY

ARIZONA CORPORATION COMMISSION  
DOCUMENT CONTROL

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  
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.

DOCKET NO. E-01933A-98-0471

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 ("PPA").

A Procedural Conference was held on December 5, 2001, to discuss procedural issues and the appropriate scope of this proceeding. APS filed direct testimony on December 12, 2001, and the parties filed briefs on procedural matters on December 19, 2001.

**DISCUSSION**

In its Brief, APS argues that the variance rule is the appropriate procedural mechanism for the Commission to adjudicate APS' request. APS cites R14-2-1614(C), stating that it applies to "any" of the Electric Competition Rules. APS states that "[i]n no instance is the Commission's power to grant

1 a waiver or variance limited in any respect other than by the 'public interest,' which is a substantive  
2 determination on the merits of the proposed variance or waiver and not a limitation on the procedural  
3 process of seeking the variance or waiver." (APS Brief p. 3)

4 APS argues that the rules allow a variance; that Commission practice has been to routinely  
5 consider and grant waivers from other generally applicable rules, often without a hearing; that  
6 Arizona case law recognizes the discretion of the Commission to use utility-specific orders rather  
7 than rules of general applicability; and that to deny APS a rule variance available to other utilities  
8 would violate the equal protection provisions in the Arizona Constitution. APS believes that no  
9 additional notice requirements or constitutional due process considerations are legally necessary, and  
10 that any additional notice would be at the Commission's discretion.

11 The Residential Utility Consumer Office ("RUCO") believes that it may be prudent for the  
12 Commission to comply with the requirements of A.R.S. § 40-252 and recommends that the  
13 Commission also include the caption from the APS stranded cost docket, E-01345A-98-0473.

14 The Arizonans for Electric Choice and Competition ("AECC") urge the Commission to  
15 undertake its review of Arizona's electric policy direction, as it pertains to the future provision of  
16 standard offer service, as part of this docket, but not to re-open the issue of customer choice and the  
17 Settlement Agreement.

18 The Arizona Competitive Power Alliance ("Alliance") argues that granting the requested  
19 variance would: be a "de facto repeal of a critical provision of the Electric Competition Rules"  
20 (Alliance Brief p. 2) and would violate the rulemaking requirements of the Arizona Administrative  
21 Procedure Act; would breach the Settlement Agreement; and would violate Decision No. 61973. The  
22 Alliance believes that APS must first negotiate changes to the Settlement Agreement with the parties,  
23 and then seek an amendment to the A.A.C. R14-2-1606(B) through the rulemaking process. Further,  
24 the Alliance argues that APS must also obtain approval of any negotiated amendments to the  
25 Settlement Agreement by requesting that Decision No. 61973 be amended in a separate proceeding  
26 conducted pursuant to A.R.S. § 40-252. Finally, the Alliance requests that the Commission dismiss  
27 APS' application as legally improper; order APS to submit a Plan of Administration; and suggests  
28 that if the Commission wishes to consider issues raised by APS and the response of the other parties,

1 it should use a workshop or generic fact-finding proceeding.

2 The Arizona Transmission Dependent Utility Group ("ATDUG") discussed the  
3 appropriateness of a variance request when an approved tariff of the Commission or an order  
4 conflicts with the variance request, and also, when there is a settlement agreement among multiple  
5 parties who may have relied to their detriment on the settlement. ATDUG agrees with Staff that the  
6 transfer of generation assets to APS' affiliate should be postponed because "[o]nce that asset transfer  
7 is accomplished, the receiving entity, Pinnacle West Energy Corporation ("PWEC"), will be an  
8 exempt wholesale generator and forever beyond the reach of the Commission." (ATDUG Brief p. 3).

9 The Southwestern Power Group II, L.L.C. ("SWPG"), Toltec Power Station, L.L.C.  
10 ("Toltec"), and the Bowie Power Station L.L.C. ("Bowie"), argue that APS "cannot achieve the  
11 underlying goal of its Request for Variance without (i) an amendment to the Settlement Agreement  
12 and Addendum and (ii) an amendment to or rescission (sic) of the Commission's Decision No.  
13 61973." (Brief at pp. 2-3). SWPG, Toltec, and Bowie believe that a proceeding conducted pursuant  
14 to A.R.S. § 40-252 is appropriate to protect the rights of the signatory parties to the Settlement  
15 Agreement and to persons who could be directly and substantially affected. They also believe that  
16 the consent of the signatory parties is a prerequisite to such action.

17 In its Brief, Staff states that APS' application complies with A.A.C.R14-2-1614(C) because  
18 APS alleges that it is affected by the Rule and that the requested variance will serve the public  
19 interest. Staff believes that if the Commission were to grant APS' application for a waiver of A.A.C.  
20 R14-2-1606(B), it would also have to amend Decision No. 61973, the Commission Order that  
21 approved the Settlement Agreement. Staff states that Decision No. 61973 already granted APS a  
22 variance from the terms of 1606(B) by granting a two-year extension, and granting APS an indefinite  
23 extension would involve amending Decision No. 61973. Staff believes that APS should be required  
24 to provide broad public notice of its application, including notice to parties to Decision No. 61973  
25 and to its customers.

26 By Procedural Order issued January 22, 2002, the Commission has opened a generic docket  
27 on electric restructuring (Docket No. E-00000A-02-0051) ("generic docket"), and has established  
28 deadlines for interested parties to respond to questions raised by Commissioners.

1 By Procedural Order issued January 25, 2002, a Procedural Conference was scheduled to  
2 discuss the procedural posture and schedule in this matter.

3 On January 28, 2002, Tucson Electric Power Company also filed a Request for a Variance  
4 (Docket No. E-01933A-02-0069).

5 On January 30, 2002, Staff filed a Response to the Procedural Order establishing the generic  
6 docket and requested consolidation of all related electric competition dockets, including the generic  
7 docket, the APS variance request, the TEP variance request, the AISA inquiry, and the TEP request  
8 to amend its market generation credit, Docket No. E-01933A-98-0471. Staff also suggested that it be  
9 allowed to review the other parties' initial responses and then submit a report. The Staff Report  
10 would summarize the positions taken by the various parties, include discussion on any omitted items,  
11 and develop policy recommendations.

12 On January 31, 2002, APS filed its Response to Staff's January 30, 2002 filing, objecting to  
13 the consolidation of all related electric dockets. APS asked for the prompt consideration of its  
14 Application and believes that the various pending proceedings identified by Staff have not been  
15 shown to be legally interdependent.

16 At the January 31, 2002 Procedural Conference, the parties argued their positions on  
17 consolidation and the procedural timeframes for filing testimony and for hearing.

18 On February 1, 2002, APS filed its Supplemental Brief on Application of A.R.S. § 40-252 to  
19 this Proceeding ("Supplemental Brief"). APS argues that a finding that APS' filing invokes A.R.S. §  
20 40-252 is unnecessary at this time, as the procedures for notice and hearing for its "variance request"  
21 can be identical to those pursuant to an A.R.S. § 40-252 proceeding. APS also incorporated its  
22 November 26, 2001 Reply to Staff's Response and re-argued the points it made in its previous filings:  
23 the Electric Competition Rules specifically include any variances granted thereto; no party to the  
24 Settlement Agreement has alleged that the APS filing required a change to either the settlement or to  
25 Decision No. 61973; that the Commission has granted variances to the Electric Competition Rules  
26 without complying with the procedural requirements of Decision No. 61973; casting the proceeding  
27 as one arising under § 40-252 "may also severely limit or even render moot the Commission's ability  
28 to act in the public interest"; and that the reference to § 40-252 "could be portrayed and construed as

1 the Commission attempting to in some way 'reopen' the 1999 APS Settlement" and could "produce a  
2 severely negative financial impact on the Company given the heightened scrutiny being given to the  
3 credit quality of public utilities." (APS Supplemental Brief pp. 3-4).

4 On February 4, 2002, Panda Gila River, L.P. ("Panda") filed its Response to APS'  
5 Supplemental Brief. In response to APS' citation of Decisions Nos. 63316 and 63364, Panda states  
6 that whether or not Decision No. 61973 must be amended requires a case-by-case analysis, and the  
7 fact that amendment of the environmental portfolio standard in Decision No. 63364 did not require  
8 amendment of Decision No. 61973, is irrelevant to whether § 40-252 should be complied with in this  
9 docket. Panda argues that the fact that none of the parties to the Settlement have alleged that Decision  
10 No. 61973 must be amended is meaningless, because Decision No. 61973 is a "decision of the  
11 Commission that any person is entitled to rely upon." (Panda Response p. 3) Finally, Panda argues  
12 that APS' concern that by invoking A.R.S. § 40-252, the Commission may reopen the Settlement  
13 which may threaten the financial stability of APS, is a "scare tactic" that is "nothing more than an  
14 attempt to limit the scope of the Commission's decision to only those issues raised by APS regardless  
15 of what is in the best interest of the other parties and the citizens of Arizona." (Panda Response p. 3)  
16 Panda requests that the Commission reject the Supplemental Brief of APS.

17 On February 4, 2002, the Alliance filed its Response to APS' Supplemental Brief. The  
18 Alliance argues that "A.R.S. § 40-252 provides the sole procedural mechanism by which a decision  
19 of the Commission can be altered or amended. The Commission rule, A.A.C. R14-2-1614(C), only  
20 provides a means by which a party can seek an exemption from certain of the Commission Electric  
21 Competition Rules; it does not and cannot be used to circumvent the exclusive statutory procedure for  
22 amending a Commission decision under A.R.S. § 40-252." (Alliance Response p. 2, emphasis  
23 original). The Alliance distinguishes the two other Decisions cited by APS as involving variances  
24 that would not compel the Commission to amend Decision No. 61973 nor any other decision, and  
25 neither would have required the "*de facto* repeal of the rule from which an exemption was sought."  
26 (Alliance Response p. 2) The Alliance says that APS asserts that "the parties to the Settlement  
27 Agreement always intended that APS be able to escape its obligations under the Settlement  
28 Agreement by unilaterally obtaining an exemption from the rule incorporating those obligations."

1 (Alliance Response p. 2) The Alliance believes that the language of the Addendum to the Settlement  
2 Agreement where it states that no future Commission “order, rule or regulation” should be construed  
3 as conflicting with the Settlement, as expressing an opposite intent. The Alliance also asserts that  
4 APS is not prejudiced procedurally, and that APS’ assertion of a possible adverse financial impact  
5 should have already occurred because APS filed the variance request and because of the scope of  
6 inquiry under the generic electric docket.

7 On February 6, 2002, Sempra Energy Resources (“Sempra”) filed its Opposition to Arizona  
8 Public Service Company’s Attempted Filing of Supplemental Brief. Sempra argues that APS is not  
9 acting in compliance with the December 19, 2001 Procedural Order, which contemplated the filing of  
10 only one brief, and that APS has not shown good cause to extend the time to allow filing reply briefs.  
11 Sempra also cites the arguments contained in the Panda and Alliance filings as support to deny APS’  
12 request for leave to supplement its February 1, 2002 filing.

### 13 ANALYSIS

14 A.A.C. R14-2-1614(C) allows the Commission to consider variations or exemptions from the  
15 terms or requirements of any of the rules. APS’ application does assert the elements necessary for a  
16 variance request. Additionally, in order for the Commission to take the action APS requests  
17 (approval of the proposed PPA), Commission Decision No. 61973 must be amended. As Staff points  
18 out, APS was originally granted a variance from the terms of R14-2-1606(B) in Decision No. 61973,  
19 and any additional variations will require appropriate amendments to Decision No. 61973. Although  
20 APS cites to previous Commission Decisions Nos. 63316 and 63364<sup>1</sup> and argues that there is  
21 precedent for not requiring a § 40-252 proceeding, the circumstances of this proceeding are different.  
22 In neither of those dockets did any party allege that granting the application would violate the  
23 Settlement Agreement or Decision No. 61973, and the issue was not raised or addressed. Although  
24 APS argues that the Commission has a practice of granting waivers, it did not acknowledge or  
25 address the distinguishing differences with this Request – that its variance is contested and that there  
26 are allegations that what APS is requesting was specifically and particularly rejected in Decision No.

27  
28 <sup>1</sup> Presumably, APS meant to refer to Decision No. 63354 (February 8, 2001).

1 61973 and in the Settlement Agreement to which it was a party.

2 Both the Decision and the Settlement Agreement state that APS will obtain power for  
3 standard offer customers pursuant to the Electric Competition Rules. Decision No. 61973 states:  
4 “Power for Standard Offer Service will be acquired in a manner consistent with the Commission’s  
5 Electric Competition Rules.” (p. 10), and the Addendum to Settlement Agreement provides that  
6 “[a]fter the extensions granted in this Section 4.1 have expired, APS shall procure generation for  
7 Standard Offer customers from the competitive market as provided for in the Electric Competition  
8 Rules. An affiliated generation company formed pursuant to this Section 4.1 may competitively bid  
9 for APS’ Standard Offer load, but enjoys no automatic privilege outside of the market bid on account  
10 of its affiliation with APS.” (Addendum to Settlement Agreement, p. 3). Clearly, APS agreed to, and  
11 the Commission’s Decision approving the Settlement Agreement as modified by the Commission,  
12 required APS to procure generation for Standard Offer customers from the competitive market  
13 consistent with the Electric Competition Rules. The fact that APS has requested a “variance” from  
14 the Electric Competition Rule that directs how power purchased for standard offer service is to be  
15 acquired, clearly shows that the PPA is not consistent with the Electric Competition Rules.

16 Further, the variances that the Commission agreed to in the Settlement Agreement (Section  
17 4.1.1, the two-year extension of time to separate assets and the “similar two-year extension”  
18 authorized “for compliance with A.A.C. R14-2-1606(B)”) and granted in Decision No. 61973, were  
19 obviously bargained-for terms of the Settlement Agreement. In fact, one of the parties to the  
20 Decision, but not a signatory to the Settlement Agreement, requested that a provision be “explicitly  
21 stated in the Agreement”, to reflect APS’ intent to procure generation for standard offer customers  
22 from the wholesale generation market as provided for in the Electric Competition Rules, as well as  
23 the understanding that the affiliate generation company could bid for APS’ standard offer load under  
24 an affiliate FERC tariff, but that there would be no automatic privilege outside of the market bid.,  
25 (Decision No. 61973 at p.9) The Commission agreed and ordered APS to “include language as  
26 requested.” APS has not recognized that parties to the docket resulting in Decision No. 61973 also  
27 have due process rights, even though they may not be signatories to the Settlement Agreement.  
28 Further, it is possible that the Commission may take some action that requires amending Decision

1 No. 61973, but that does not implicate the Settlement Agreement.

2 APS initiated and proposed this change in how it is to obtain its power for standard offer  
3 service. By filing the application, APS asked the Commission to take this action, and the issue is not  
4 whether the Commission should “speculate now as to whether the Commission can or will  
5 substantively amend Decision No. 61973 in a manner that somehow implicates Section 40-252.” The  
6 issue is how to insure that all interested parties’ rights to due process are protected while allowing the  
7 parties to develop a record for the Commission to consider when making its ultimate determination.

8 APS’ argument that the Commission finding that APS’ application required proceeding  
9 according to A.R.S. § 40-252 “could be portrayed and construed as the Commission attempting to in  
10 some way ‘reopen’ the 1999 APS Settlement” is misdirected. It is APS, not the Commission, that  
11 initiated this action requesting the Commission change the way that APS will procure power for  
12 Standard Offer Customers.

13 In order for the variance APS requests to be granted by the Commission to have meaning or  
14 applicability, the Commission Decision must be amended. Accordingly, in addition to proceeding as  
15 a request for a rule variance, this matter should be processed as an application to amend a  
16 Commission Decision pursuant to A.R.S. § 40-252. By denominating the application as a request to  
17 amend Decision No. 61973 and by proceeding to take evidence, the Commission is not taking or  
18 proposing any action which would be inconsistent with the provisions of the Settlement Agreement.  
19 Several parties have alleged that APS’ filing for approval of the proposed PPA is inconsistent with  
20 the Settlement Agreement, and that approval of the PPA would violate the Settlement Agreement and  
21 Decision No. 61973. These allegations are serious as they may ultimately affect or limit what action,  
22 if any, the Commission may take. For those reasons, APS is strongly encouraged to meet with the  
23 parties to Decision No. 61973 and this matter and resolve these issues.

24 Pursuant to A.A.C. R14-3-101, the Commission now issues this Procedural Order to govern  
25 the preparation and conduct of this proceeding.

26 IT IS THEREFORE ORDERED that Dockets Nos. E-00000A-02-0051; E-01345A-01-0822;  
27 E-00000A-01-0630; E-01933A-02-0069; and E-01933A-98-0471 are hereby consolidated.

28 IT IS FURTHER ORDERED that Staff shall file its Staff Report in the generic docket on or

1 before March 22, 2002.

2 IT IS FURTHER ORDERED that APS' application will proceed under the schedule  
3 established in this Procedural Order.<sup>2</sup>

4 IT IS FURTHER ORDERED that in addition to APS' request to process its request as a  
5 variance of a Commission Rule, the application should also be processed pursuant to A.R.S. § 40-  
6 252.

7 IT IS FURTHER ORDERED that the **hearing in the APS matter shall commence on April**  
8 **29, 2002 at 10:00 a.m.**, or as soon thereafter as is practical, at the Commission's offices, 1200 West  
9 Washington Street, Phoenix, Arizona 85007.

10 IT IS FURTHER ORDERED that public comments will be taken on the first day of hearing.

11 IT IS FURTHER ORDERED that a **pre-hearing conference in the APS matter shall be**  
12 **held on April 25, 2002 at 10:00 a.m.**, at the Commission's Phoenix offices, for the purpose of  
13 scheduling witnesses and the conduct of the hearing.

14 IT IS FURTHER ORDERED that intervention in the APS matter shall be accordance with  
15 A.A.C. R14-3-105, except that **all motions to intervene must be filed on or before March 22,**  
16 **2002.**

17 IT IS FURTHER ORDERED that Staff and Intervenor testimony and associated exhibits to be  
18 presented at hearing in the APS matter shall be reduced to writing and filed on or before **noon on**  
19 **March 29, 2002.**

20 IT IS FURTHER ORDERED that Company rebuttal testimony and associated exhibits to be  
21 presented at hearing in the APS matter shall be reduced to writing and filed on or before **noon on**  
22 **April 22, 2002.**

23 IT IS FURTHER ORDERED that any objections to any testimony or exhibits which have  
24 been prefiled as of April 25, 2002, shall be made before or at the April 25, 2002 pre-hearing  
25 conference.

26  
27  
28 <sup>2</sup> The procedural schedule for the TEP applications will be set in a separate Procedural Order and will proceed on a  
different track from the APS application.

1 IT IS FURTHER ORDERED that all testimony filed shall include a table of contents which  
2 lists the issues discussed.

3 IT IS FURTHER ORDERED that any substantive corrections, revisions, or supplements to  
4 pre-filed testimony shall be reduced to writing and filed no later than five days before the witness is  
5 scheduled to testify.

6 IT IS FURTHER ORDERED that the parties shall prepare a brief, written summary of the  
7 pre-filed testimony of each of their witnesses and shall file each summary at least two working days  
8 before the witness is scheduled to testify.

9 IT IS FURTHER ORDERED that copies of summaries should be served upon the Presiding  
10 Officer, the Commissioners, and the Commissioners' aides as well as the parties of record.

11 IT IS FURTHER ORDERED that APS shall provide public notice of the hearing in this  
12 matter, in the following form and style, with the heading in no less than 24 point bold type and the  
13 body in no less than 10 point regular type:

14  
15 **PUBLIC NOTICE OF ARIZONA PUBLIC SERVICE COMPANY'S REQUEST FOR**  
16 **APPROVAL OF A PURCHASE POWER AGREEMENT WITH ITS AFFILIATE,**  
17 **PINNACLE WEST CAPITAL CORPORATION, AND FOR ANY REQUIRED**  
18 **ASSOCIATED WAIVERS/AMENDMENTS NECESSARY PURSUANT TO THE ELECTRIC**  
**COMPETITION RULES AND COMMISSION DECISIONS.**  
**DOCKET NO. E-01345A-01-0822.**

19 On October 18, 2001, Arizona Public Service Company ("APS" or  
20 "Company"), filed an application for approval of a long-term purchase  
21 power agreement between APS' affiliate, Pinnacle West Capital  
22 Corporation ("Agreement") and for the required associated  
23 waivers/amendments necessary pursuant to the Electric Competition Rules  
24 and Commission Decisions with the Arizona Corporation Commission  
25 ("Commission"). The Commission will hold a hearing on this matter  
26 beginning April 29, 2002, at 10:00 a.m. at the Commission's offices, 1200  
27 West Washington Street, Phoenix, Arizona 85007. Public Comments will  
28 be taken in Phoenix on the first day of hearing.

The law provides for an open public hearing at which, under appropriate  
circumstances, interested parties may intervene. Intervention shall be  
permitted to any person entitled by law to intervene and having a direct  
and substantial interest in the matter. Persons desiring to intervene must  
file a written motion to intervene with the Commission, which motion

1 should be sent to the Company or its counsel and to all parties of record,  
2 and which, at the minimum, shall contain the following:

3 1. The name, address, and telephone number of the proposed  
4 intervenor and of any party upon whom service of documents is to be made if  
5 different than the intervenor.

6 2. A short statement of the proposed intervenor's interest in the  
7 proceeding (e.g., a customer of the Company, a shareholder of the  
8 Company, etc.)

9 3. A statement certifying that a copy of the motion to intervene has  
10 been mailed to the Company or its counsel and to all parties of record in  
11 the case.

12 The granting of motions to intervene shall be governed by A.A.C.R14-3-  
13 105, except that all motions to intervene must be filed on or before March  
14 22, 2002. The granting of intervention, among other things, entitles a  
15 party to present sworn evidence at hearing and to cross-examine other  
16 witnesses. However, failure to intervene will not preclude any person  
17 from appearing at the hearing and making a statement on such person's  
18 own behalf.

19 The Commission does not discriminate on the basis of disability in  
20 admission to its public meetings. Persons with a disability may request a  
21 reasonable accommodation such as a sign language interpreter, as well as  
22 request this document in an alternative format, by contacting Shelly Hood,  
23 ADA Coordinator, voice phone number 602/542-3931, E-mail  
24 shood@cc.state.az.us. Requests should be made as early as possible to  
25 allow time to arrange the accommodation.

26 IT IS FURTHER ORDERED that the Applicant shall cause the above notice to be published  
27 at least two days in a daily newspaper of general circulation in its service territory, with publication to  
28 be completed as soon as possible but not later than February 15, 2002, and shall provide copies of the  
above notice to its customers by mailing either in bill inserts or other mailing, no later than March 12,  
2002.

IT IS FURTHER ORDERED that the Applicant shall file certification of mailing and  
publication as soon as practicable after the mailing and publication have been completed but not later  
than March 22, 2002.

IT IS FURTHER ORDERED that notice shall be deemed complete upon mailing and  
publication of same, notwithstanding the failure of an individual to read or receive the notice.

1 IT IS FURTHER ORDERED that any interested person who has not been granted party  
2 status in any of the above-captioned dockets that wishes to remain on the service list for these  
3 dockets, shall file such a request with Docket Control<sup>3</sup> no later than March 1, 2002.

4 IT IS FURTHER ORDERED that any party who wishes to accept service via electronic email  
5 shall file such a document with the Commission, indicating how such service should be effected.

6 IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113-Unauthorized  
7 Communications) applies to this proceeding as the matter is now set for public hearing.

8 IT IS FURTHER ORDERED that the time periods specified herein shall not be extended  
9 pursuant to Rule 6(a) or (e) of the Rules of Civil Procedure.

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

12 DATED this 8<sup>th</sup> day of February, 2002.

  
LYN FARMER  
CHIEF ADMINISTRATIVE LAW JUDGE

13  
14  
15  
16  
17  
18 Copies of the foregoing mailed/delivered  
this 8<sup>th</sup> day of February, 2002 to:

19  
20 Jana Van Ness  
ARIZONA PUBLIC SERVICE CO.  
State Regulations, Station 9905  
21 P.O. Box 53999  
Phoenix, Arizona 85072-3999  
22  
23 Lindy Funkhouser  
RUCO  
2828 N Central Ave, Suite 1200  
24 Phoenix, Arizona 85004  
25  
26 Michael A. Curtis  
MARTINEZ & CURTIS, P.C.  
12 North 7th Street  
Phoenix, Arizona 85006

Attorneys for Arizona Municipal Power Users=  
Association, Mohave Electric Cooperative, Inc. &  
Navopache Electric Cooperative, Inc.  
  
Walter W. Meek, President  
ARIZONA UTILITY INVESTORS ASSOCIATION  
2100 N. Central Avenue, Suite 210  
Phoenix, Arizona 85004  
  
Rick Gilliam  
LAND AND WATER FUND OF THE ROCKIES  
2260 Baseline Road, Suite 200  
Boulder, Colorado 80302

27  
28 <sup>3</sup> The Hearing Division will maintain the service list.

1 Terry Frothun  
2 ARIZONA STATE AFL-CIO  
3 5818 N. 7th Street, Suite 200  
4 Phoenix, Arizona 85014-5811

5 Norman J. Furuta  
6 DEPARTMENT OF THE NAVY  
7 900 Commodore Drive, Building 107  
8 San Bruno, California 94066-5006

9 Barbara S. Bush  
10 COALITION FOR RESPONSIBLE ENERGY  
11 EDUCATION  
12 315 West Riviera Drive  
13 Tempe, Arizona 85252

14 Sam Defraw (Attn. Code 00I)  
15 Rate Intervention Division  
16 NAVAL FACILITIES ENGINEERING  
17 COMMAND  
18 Building 212, 4<sup>th</sup> Floor  
19 901 M Street, SE  
20 Washington, DC 20374-5018

21 Rick Lavis  
22 ARIZONA COTTON GROWERS ASSOCIATION  
23 4139 East Broadway Road  
24 Phoenix, Arizona 85040

25 Steve Brittle  
26 DON=T WASTE ARIZONA, INC.  
27 6205 South 12th Street  
28 Phoenix, Arizona 85040

29 COLUMBUS ELECTRIC COOPERATIVE, INC.  
30 P.O. Box 631  
31 Deming, New Mexico 88031

32 CONTINENTAL DIVIDE ELECTRIC  
33 COOPERATIVE  
34 P.O. Box 1087  
35 Grants, New Mexico 87020

36 DIXIE ESCALANTE RURAL ELECTRIC  
37 ASSOCIATION  
38 CR Box 95  
39 Beryl, Utah 84714

40 GARKANE POWER ASSOCIATION, INC.  
41 P.O. Box 790  
42 Richfield, Utah 84701

ARIZONA DEPT OF COMMERCE  
ENERGY OFFICE  
3800 North Central Avenue, 12th Floor  
Phoenix, Arizona 85012

Christopher J. Emge  
ARIZONA COMMUNITY ACTION ASSOC.  
2627 N. 3rd Street, Suite 2  
Phoenix, Arizona 85004

TUCSON ELECTRIC POWER CO.  
Legal Dept – DB203  
220 W 6<sup>th</sup> Street  
P.O. Box 711  
Tucson, Arizona 85702-0711

A.B. Beardson  
NORDIC POWER  
4281 N. Summerset  
Tucson, Arizona 85715

Jessica Youle  
PAB300  
SALT RIVER PROJECT  
P.O. Box 52025  
Phoenix, Arizona 85072-2025

Joe Eichelberger  
MAGMA COPPER COMPANY  
P.O. Box 37  
Superior, Arizona 85273

Craig Marks  
CITIZENS UTILITIES COMPANY  
2901 N. Central Avenue, Suite 1660  
Phoenix, Arizona 85012-2736

Barry Huddleston  
DESTEC ENERGY  
P.O. Box 4411  
Houston, Texas 77210-4411

Steve Montgomery  
JOHNSON CONTROLS  
2032 West 4th Street  
Tempe, Arizona 85281

Terry Ross  
CENTER FOR ENERGY AND  
ECONOMIC DEVELOPMENT  
P.O. Box 288  
Franktown, Colorado 80116-0288

DOCKET NO. E-01345A-01-0822

1  
2 Clara Peterson  
AARP  
3 HC 31, Box 977  
Happy Jack, Arizona 86024  
4  
5 Larry McGraw  
USDA-RUS  
6266 Weeping Willow  
6 Rio Rancho, New Mexico 87124  
7 Jim Driscoll  
ARIZONA CITIZEN ACTION  
8 5160 E. Bellevue Street, Apt. 101  
Tucson, AZ 85712-4828  
9 William Baker  
ELECTRICAL DISTRICT NO. 6  
10 P.O. Box 16450  
Phoenix, Arizona 85011  
11 John Jay List  
General Counsel  
12 NATIONAL RURAL UTILITIES  
COOPERATIVE FINANCE CORP.  
13 2201 Cooperative Way  
Herndon, Virginia 21071  
14 Robert Julian  
PPG  
15 1500 Merrell Lane  
Belgrade, Montana 59714  
16  
17 C. Webb Crockett  
FENNEMORE CRAIG, PC  
18 3003 N. Central Avenue, Suite 2600  
Phoenix, Arizona 85012-2913  
19 Attorneys for Asarco, Inc., Cyprus Climax Metals  
Co., Enron, Inc. and AAEC  
20 Robert S. Lynch  
340 E. Palm Lane, Suite 140  
21 Phoenix, Arizona 85004-4529  
22 Attorney for Arizona Transmission Dependent  
Utility Group  
23 K.R. Saline  
24 K.R. SALINE & ASSOCIATES  
Consulting Engineers  
25 160 N. Pasadena, Suite 101  
Mesa, Arizona 85201-6764  
26  
27  
28

Carl Robert Aron  
Executive Vice President and COO  
ITRON, INC.  
2818 N. Sullivan Road  
Spokane, Washington 99216  
  
Douglas Nelson  
DOUGLAS C. NELSON PC  
7000 N. 16th Street, Suite 120-307  
Phoenix, Arizona 85020-5547  
Attorney for Calpine Power Services  
  
Lawrence V. Robertson Jr.  
MUNGER CHADWICK, PLC  
333 North Wilmot, Suite 300  
Tucson, Arizona 85711-2634  
Attorney for PG&E Energy Services Corp  
  
Albert Sterman  
ARIZONA CONSUMERS COUNCIL  
2849 East 8th Street  
Tucson, Arizona 85716  
  
Michael Grant  
GALLAGHER & KENNEDY  
2575 East Camelback Road  
Phoenix, Arizona 85016-9225  
Attorneys for AEPCO, Graham County Electric  
Cooperative, and Duncan Valley Electric  
Cooperative.  
  
Suzanne Dallimore  
Antitrust Unit Chief  
Department of Law Building  
ARIZONA ATTORNEY GENERAL'S OFFICE  
1275 West Washington Street  
Phoenix, Arizona 85007  
  
Michael Patten  
ROSHKA HEYMAN & DEWULF  
400 E. Van Buren, Suite 800  
Phoenix, Arizona 85004  
Attorneys for Morenci Water & Electric, Ajo  
Improvement Illinova Energy Partners, Sempra  
Energy Trading Phelps Dodge Corp.  
  
Vinnie Hunt  
CITY OF TUCSON  
Department of Operations  
4004 S. Park Avenue, Building #2  
Tucson, Arizona 85714

1 Steve Wheeler  
2 Thomas M. Mumaw  
3 SNELL & WILMER, LLP  
4 One Arizona Center  
5 400 E. Van Buren Street  
6 Phoenix, Arizona 85004-0001  
7 Attorneys for APS  
8  
9 Elizabeth S. Firkins  
10 INTERNATION BROTHERHOOD OF  
11 ELECTRICAL WORKERS, L.U. #1116  
12 750 S. Tucson Blvd.  
13 Tucson, Arizona 85716-5698  
14  
15 Carl Dabelstein  
16 2211 E. Edna Avenue  
17 Phoenix, Arizona 85022  
18  
19 Roderick G. McDougall, City Attorney  
20 CITY OF PHOENIX  
21 Attn: Jesse Sears, Assistant Chief Counsel  
22 200 W Washington Street, Suite 1300  
23 Phoenix, Arizona 85003-1611  
24  
25 William J. Murphy  
26 CITY OF PHOENIX  
27 200 West Washington Street, Suite 1400  
28 Phoenix, Arizona 85003-1611  
29  
30 Russell E. Jones  
31 WATERFALL ECONOMIDIS CALDWELL  
32 HANSHAW & VILLAMANA, P.C.  
33 5210 E. Williams Circle, Suite 800  
34 Tucson, Arizona 85711  
35 Attorneys for Trico Electric Cooperative, Inc.  
36  
37 Christopher Hitchcock  
38 HITCHCOCK HICKS & CONLOGUE  
39 P.O. Box 87  
40 Bisbee, Arizona 85603-0087  
41 Attorney for Sulphur Springs Valley  
42 Electric Cooperative, Inc.  
43  
44 Andrew Bettwy  
45 Debra Jacobson  
46 SOUTHWEST GAS CORPORATION  
47 5241 Spring Mountain Road  
48 Las Vegas, Nevada 89150-0001  
49  
50 Barbara R. Goldberg  
51 OFFICE OF THE CITY ATTORNEY  
52 3939 Civic Center Blvd.  
53 Scottsdale, Arizona 85251

Bradford A. Borman  
PACIFICORP  
201 S. Main, Suite 2000  
Salt Lake City, Utah 84140

Timothy M. Hogan  
ARIZONA CENTER FOR LAW  
IN THE PUBLIC INTEREST  
202 E. McDowell Rd., Suite 153  
Phoenix, Arizona 85004

Marcia Weeks  
18970 N. 116th Lane  
Surprise, Arizona 85374

John T. Travers  
William H. Nau  
272 Market Square, Suite 2724  
Lake Forest, Illinois 60045

Timothy Michael Toy  
WINTHROP, STIMSON, PUTNAM & ROBERTS  
One Battery Park Plaza  
New York, New York 10004-1490

Stephanie A. Conaghan  
DUANE, MORRIS & HECKSCHER LLP  
1667 K Street N.W., Suite 700  
Washington, D.C. 20006-1608

Raymond S. Heyman  
Randall H. Warner  
ROSHKA HEYMAN & DEWULF, PLC  
400 E. Van Buren, Suite 800  
Phoenix, Arizona 85004  
Attorneys for NEV Southwest, L.L.C.

Chuck Miessner  
NEV SOUTHWEST LLC  
P.O. Box 711, Mailstop-DA308  
Tucson, Arizona 85702-0711

Billie Dean  
AVIDD  
P O Box 97  
Marana, Arizona 85652-0987

Raymond B. Wuslich  
WINSTON & STRAWN  
1400 L Street, NW  
Washington, DC 20005

DOCKET NO. E-01345A-01-0822

1 Steven C. Gross  
2 PORTER SIMON  
3 40200 Truckee Airport Road  
4 Truckee, California 96161-3307  
5 Attorneys for M-S-R Public Power Agency

6 Donald R. Allen  
7 John P. Coyle  
8 DUNCAN & ALLEN  
9 1575 Eye Street, N.W., Suite 300  
10 Washington, DC 20005

11 Ward Camp  
12 PHASER ADVANCED METERING SERVICES  
13 400 Gold SW, Suite 1200  
14 Albuquerque, New Mexico 87102

15 Theresa Drake  
16 IDAHO POWER COMPANY  
17 P.O. Box 70  
18 Boise, Idaho 83707

19 Libby Brydolf  
20 CALIFORNIA ENERGY MARKETS  
21 NEWSLETTER  
22 2419 Bancroft Street  
23 San Diego, California 92104

24 Paul W. Taylor  
25 R W BECK  
26 2201 E. Camelback Rd Suite 115-B  
27 Phoenix, Arizona 85016-3433

28 James P. Barlett  
5333 N. 7<sup>th</sup> Street, Suite B-215  
Phoenix, Arizona 85014  
Attorney for Arizona Power Authority

Jay I. Moyes  
MOYES STOREY  
3003 N. Central Ave., Suite 1250  
Phoenix, Arizona 85012

Stephen L. Teichler  
DUANE MORRIS & HECKSCHER, LLP  
1667 K Street NW, Suite 700  
Washington, DC 20006

Kathy T. Puckett  
SHELL OIL COMPANY  
200 N. Dairy Ashford  
Houston, Texas 77079

Andrew N. Chau  
SHELL ENERGY SERVICES CO., LLC  
1221 Lamar, Suite 1000  
Houston, Texas 77010

Peter Q. Nyce, Jr.  
DEPARTMENT OF THE ARMY  
JALS-RS Suite 713  
901 N. Stuart Street  
Arlington, Virginia 22203-1837

Michelle Ahlmer  
ARIZONA RETAILERS ASSOCIATION  
137 E. University Drive  
Mesa, Arizona 85201

Dan Neidlinger  
NEIDLINGER & ASSOCIATES  
3020 N. 17<sup>th</sup> Drive  
Phoenix, Arizona 85015

Chuck Garcia  
PNM, Law Department  
Alvarado Square, MS 0806  
Albuquerque, New Mexico 87158

Sanford J. Asman  
570 Vinington Court  
Dunwoody, Georgia 30350-5710

Patricia Cooper  
AEP/SSWEPCO  
1000 South Highway 80  
Benson, Arizona 85602

Steve Segal  
LEBOEUF, LAMB, GREENE, & MACRAE  
633 17<sup>th</sup> Street, Suite 2000  
Denver, Colorado 80202-3620

Holly E. Chastain  
SCHLUMBERGER RESOURCE  
MANAGEMENT SERVICES, INC.  
5430 Metric Place  
Norcross, Georgia 30092-2550

Leslie Lawner  
ENRON CORP  
712 North Lea  
Roswell, New Mexico 88201

1 Alan Watts  
2 Southern California Public Power Agency  
3 529 Hilda Court  
4 Anaheim, California 92806  
5 Frederick M. Bloom  
6 Commonwealth Energy Corporation  
7 15991 Red Hill Avenue, Suite 201  
8 Tustin, California 92780  
9 Margaret McConnell  
10 Maricopa Community Colleges  
11 2411 W. 14<sup>th</sup> Street  
12 Tempe, Arizona 85281-6942  
13 Chris King  
14 UTILITY.COM INC.  
15 828 San Pablo Avenue, Suite 115  
16 Albany, California 94706  
17 Brian Soth  
18 FIRSTPOINT SERVICES, INC.  
19 1001 S.W. 5<sup>th</sup> Ave. Suite 500  
20 Portland, Oregon 97204  
21 Ian Calkins  
22 PHOENIX CHAMBER OF COMMERCE  
23 201 N. Central Ave., 27<sup>th</sup> Floor  
24 Phoenix, Arizona 85073  
25 Kevin McSpadden  
26 MILBANK, TWEED, HADLEY AND  
27 MCCLOY, LLP  
28 601 S. Figueroa, 30<sup>th</sup> Floor  
Los Angeles, California 90017  
M.C. Arendes, Jr.  
C3 COMMUNICATIONS, INC.  
2600 Via Fortuna, Suite 500  
Austin, Texas 78746  
Patrick J. Sanderson  
ARIZONA INDEPENDENT SCHEDULING  
ADMINISTRATOR ASSOCIATION  
P.O. Box 6277  
Phoenix, Arizona 85005-6277  
Roger K. Ferland  
QUARLES & BRADY STREICH LANG, L.L.P.  
Renaissance One  
Two North Central Avenue  
Phoenix, Arizona 85004-2391

Charles T. Stevens  
ARIZONANS FOR ELECTRIC CHOICE &  
COMPETITION  
245 W. Roosevelt  
Phoenix, Arizona 85003

Mark Sirois  
ARIZONA COMMUNITY ACTION ASSOC.  
2627 N. Third Street, Suite 2  
Phoenix, Arizona 85004

Jeffrey Guldner  
SNELL & WILMER  
One Arizona Center  
Phoenix, Arizona 85004-0001

Steven J. Duffy  
RIDGE & ISAACSON PC  
3101 N. Central Avenue, Suite 740  
Phoenix, Arizona 85012

Greg Patterson  
5432 E. Avalon  
Phoenix, Arizona 85018

John Wallace  
Grand Canyon State Electric Co-op  
120 N. 44<sup>th</sup> Street, Suite 100  
Phoenix, Arizona 85034-1822

Steven Lavigne  
DUKE ENERGY  
4 Triad Center, Suite 1000  
Salt Lake City, Utah 84180

Dennis L. Delaney  
K.R. SALINE & ASSOC.  
160 N. Pasadena, Suite 101  
Mesa, Arizona 85201-6764

Kevin C. Higgins  
ENERGY STRATEGIES, LLC  
30 Market Street, Suite 200  
Salt Lake City, Utah 84101

Michael L. Kurtz  
BORHM KURTZ & LOWRY  
36 E. Seventh Street, Suite 2110  
Cincinnati, Ohio 45202

David Berry  
P.O. Box 1064  
Scottsdale, Arizona 85252

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

William P. Inman  
Dept. of Revenue  
1600 W. Monroe, Room 911  
Phoenix, Arizona 85007

Robert Baltes  
ARIZONA COGENERATION ASSOC.  
7250 N. 16<sup>th</sup> Street, Suite 102  
Phoenix, Arizona 85020-5270

Jana Van Ness  
APS  
Mail Station 9905  
P.O. box 53999  
Phoenix, Arizona 85072-3999

David Couture  
TEP  
220 W. Sixth Street  
P.O. Box 711  
Tucson, Arizona 85702

Jana Brandt  
SRP  
Mail Station PAB211  
P.O. Box 52025  
Phoenix, Arizona 85072-2025

Randall H. Warner  
JONES SKELTON & HOCHULI PLC  
2901 N. Central Avenue, Suite 800  
Phoenix, Arizona 85012

Christopher Kempley, Chief Counsel  
LEGAL DIVISION  
1200 W. Washington Street  
Phoenix, Arizona 85007

Ernest G. Johnson, Utilities Division  
ARIZONA CORPORATION COMMISSION  
1200 West Washington Street  
Phoenix, Arizona 85007

ARIZONA REPORTING SERVICE, INC.  
2627 N. Third Street, Suite Three  
Phoenix, Arizona 85004-1104

By:   
Molly Johnson  
Secretary to Lyn Farmer