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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

JEFF HATCH-MILLER, Chairman
MARC SPITZER
WILLIAM A. MUNDELL
MIKE GLEASON
KRISTIN K. MAYES

IN THE MATTER OF THE GENERIC
PROCEEDING CONCERNING ELECTRIC
RESTRUCTURING ISSUES.

DOCKET NO. E-00000A-02-0051

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

DOCKET NO. E-00000A-01-0630

NOTICE OF FILING TESTIMONY SUMMARIES

Arizona Public Service Company ("APS") hereby files the Summaries of the Direct Testimony and Rebuttal Testimony of Jeffrey B. Guldner pursuant to the Procedural Order dated May 3, 2005.

RESPECTFULLY SUBMITTED this 10th day of November, 2005.

PINNACLE WEST CAPITAL
CORPORATION LAW DEPARTMENT

By: Karilee S. Ramaley
Karilee S. Ramaley
Thomas L. Mumaw

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SNELL & WILMER

By: 
Deborah R. Scott

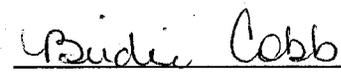
Attorneys for Arizona Public
Service Company

The original and 10 copies of the
foregoing were filed this 10th day
of November, 2005 with:

Docket Control
Arizona Corporation Commission
1200 West Washington
Phoenix, AZ 85007.

Copies of the foregoing mailed, faxed or
transmitted electronically this
10th day of November, 2005 to:

All parties of record.


Birdie Cobb
Birdie Cobb

**SUMMARY OF DIRECT TESTIMONY
OF
JEFFREY B. GULDNER
Docket E-00000A-02-0051 & Docket E-00000A-01-0630**

There have been many changes since APS' original Code of Conduct was approved in 2000 (the "2000 Code of Conduct"). In the Track A Order, Decision No. 65154 (September 10, 2002), the Arizona Corporation Commission ("Commission") directed APS to submit modifications to the 2000 Code of Conduct to expand its application to APS' interactions with an affiliate from which it wants to purchase power, as opposed to just APS' retail electric affiliate. APS submitted a proposed Code of Conduct on November 12, 2002 (the "November 2002 Code of Conduct") and the Commission's Utilities Division Staff filed a Staff Report on the November 2002 Code of Conduct on August 13, 2003. Prior to a hearing on the November 2002 Code of Conduct, a stay was issued until after the Commission decided APS' then-pending rate case and ruled on APS' request to acquire and rate base the Pinnacle West Energy Corporation ("PWEC") Arizona assets.

The acquisition and rate basing of PWEC's Arizona assets was approved in Decision No. 67744 (April 7, 2005). In addition, PWEC and its subsidiary GenWest, LLC ("GenWest") have an agreement in place to sell their Silverhawk Power Plant in Nevada to Nevada Power Company.¹ When these transactions are complete, PWEC will no longer own any generation. These changes dispel much of the concern reflected in the Track A and Track B decisions about APS' dealings with wholesale electric affiliates. Also, the rate case settlement as approved by the

¹ At the time this testimony was prepared, the agreement was pending Nevada Public Utilities Commission and FERC approval.

Commission included specific requirements relating to competitive wholesale procurement by APS.

Another issue impacting this proceeding is the uncertain status of retail electric competition in Arizona. As a result of the Arizona Court of Appeals' *Phelps Dodge* opinion in 2004,² many of the Electric Competition Rules were either vacated or remanded. Also as a result of that ruling, there currently are no certificated Electric Service Providers ("ESPs") in Arizona. Through the Electric Competition Advisory Group, the Commission has commenced a process to review and potentially modify the rules.

APS considered all of these developments in revising the November 2002 Code of Conduct. APS also sought to simplify and streamline the November 2002 Code of Conduct to create a more practically functional and understandable document. The Code of Conduct that APS is proposing is attached to my testimony as Schedule JBG-1 (the "Proposed Code of Conduct").

The vast majority of the substantive provisions in the 2000 Code of Conduct and the November 2002 Code of Conduct are unchanged. However, the Proposed Code of Conduct reflects the following:

- The Code is divided into four sections – Definitions, Basic Principles, Retail Electric Competition, and Competitive Procurement – to facilitate better training, implementation, and employee understanding of the Code.

² *Phelps Dodge Corp. v. Arizona Corporation Commission*, 1 CA-CV 01-0068 (January 27, 2004), review denied (2004).

- References to specific Electric Competition Rules have been eliminated. This provides flexibility for incorporating changes to these rules that the Commission may make in the future.
- Some definitions have been revised to make them simpler to understand or have been eliminated because they were duplicative or could be included directly in the text.
- Certain provisions were modified or reorganized to promote straightforward application when possible.
- A new section specifically covering Competitive Procurement has been added to reflect the procurement-related provisions in Decision No. 67744.

With these changes, the Proposed Code of Conduct continues to address retail electric affiliate concerns that were the core of Rule 1616³ – potential cross-subsidization and unfair discrimination – and addresses the affiliate issues discussed in the Track A and Track B proceedings relating to wholesale procurement.

³ A.A.C. R14-2-1616 (Code of Conduct).

**SUMMARY OF REBUTTAL TESTIMONY
OF
JEFFREY B. GULDNER
Docket E-00000A-02-0051 & Docket E-00000A-01-0630**

APS believes that the Company and Staff are in agreement regarding the general structure and provisions of a new Code of Conduct. APS does not oppose most of the changes recommended by Staff to the Proposed Code of Conduct, which was attached to my direct testimony as Schedule JBG-1. There also are several changes recommended by Staff that APS believes are acceptable with only minor clarifications. In addition, it is Staff's position that Pinnacle West Capital Corporation ("PWCC"), the parent corporation of APS, falls within the definition of a "Competitive Electric Affiliate." Although APS believes that it would be appropriate to exclude PWCC from the definition of a Competitive Electric Affiliate, I am proposing certain modifications to the Proposed Code of Conduct, should the Commission agree with Staff's position. Finally, I discuss clarifications to Staff's recommended definition of "Operating Employee" that would ensure that this term is not interpreted in a way that would adversely affect the provision of shared services that are recognized as appropriate in the Proposed Code of Conduct. I have attached a revised, redlined version of the Proposed Code that incorporates these revisions as Schedule JBG-1R. No other party has submitted any testimony or recommended changes to the Proposed Code of Conduct.