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**BEFORE THE ARIZONA CORPORATION COMMISSION**

WILLIAM A. MUNDELL  
CHAIRMAN  
JIM IRVIN  
COMMISSIONER  
MARC SPITZER  
COMMISSIONER

Arizona Corporation Commission

**DOCKETED**

NOV 12 2002

AZ CORP COMMISSION  
DOCUMENT CONTROL

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IN THE MATTER OF THE GENERIC ) DOCKET NO. E-00000A-02-0051  
PROCEEDING CONCERNING ELECTRIC )  
RESTRUCTURING ISSUES )

IN THE MATTER OF ARIZONA PUBLIC ) DOCKET NO. E-01345A-01-0822  
SERVICE COMPANY'S REQUEST FOR )  
VARIANCE OF CERTAIN REQUIREMENTS )  
OF A.A.C. R14-2-1606 )

IN THE MATTER OF THE GENERIC ) DOCKET NO. E-00000A-01-0630  
PROCEEDING CONCERNING THE ARIZONA )  
INDEPENDENT SCHEDULING )  
ADMINISTRATOR )

IN THE MATTER OF TUCSON ELECTRIC ) DOCKET NO. E-01933A-02-0069  
POWER COMPANY'S APPLICATION FOR A )  
VARIANCE OF CERTAIN ELECTRIC )  
COMPETITION RULES COMPLIANCE )  
DATES )

Arizona Corporation Commission

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NOV 12 2002

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

DOCKETED BY	CAR
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**NOTICE OF FILING DIRECT TESTIMONY OF  
CURTIS L. KEBLER  
ON BEHALF OF RELIANT RESOURCES, INC.**

1 Reliant Resources, Inc., by and through its attorneys, hereby files the  
2 Direct Testimony of Curtis L. Kebler, Director, Asset Commercialization, West  
3 Region.

4 RESPECTFULLY submitted this 12th day of November, 2002.

5 MARTINEZ & CURTIS, P.C.

6  
7  
8 By 

9 Michael A. Curtis

10 William P. Sullivan

11 Paul R. Michaud

12 2712 North Seventh Street

13 Phoenix, Arizona 85006-1090

14 Attorneys for Reliant Resources, Inc.  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

1 Original and twenty-one (21) copies of the foregoing document filed with service list this  
2 12th day of November, 2002 with:

3 Docket Control  
4 Arizona Corporation Commission  
5 1200 West Washington Street  
6 Phoenix, Arizona 85007

7 Copies of the foregoing hand-delivered without a copy of the service list this 12th day of  
8 November, 2002 to:

9 William A. Mundell, Chairman  
10 Arizona Corporation Commission  
11 1200 West Washington Street  
12 Phoenix, Arizona 85007

Ernest Johnson, Director  
Arizona Corporation Commission  
1200 West Washington Street  
Phoenix, Arizona 85007

13 Jim Irvin, Commissioner  
14 Arizona Corporation Commission  
15 1200 West Washington Street  
16 Phoenix, Arizona 85007

Lyn Farmer  
Chief Administrative Law Judge  
Arizona Corporation Commission  
1200 West Washington Street  
Phoenix, Arizona 85007

17 Marc Spitzer, Commissioner  
18 Arizona Corporation Commission  
19 1200 West Washington Street  
20 Phoenix, Arizona 85007

Christopher Kempley, Chief Counsel  
Legal Division  
Arizona Corporation Commission  
1200 West Washington Street  
Phoenix, Arizona 85007

21 Hercules Dellas  
22 Aide to Chairman Mundell  
23 Arizona Corporation Commission  
24 1200 West Washington Street  
25 Phoenix, Arizona 85007

Jerry Smith  
Arizona Corporation Commission  
1200 West Washington Street  
Phoenix, Arizona 85007

26 Kevin Barley  
Aide to Commissioner Irvin  
Arizona Corporation Commission  
1200 West Washington Street  
Phoenix, Arizona 85007

Brian O'Neil, Executive Secretary  
Arizona Corporation Commission  
1200 West Washington Street  
Phoenix, Arizona 85007

Paul Walker  
Aide to Commissioner Spitzer  
Arizona Corporation Commission  
1200 West Washington Street  
Phoenix, Arizona 85007

Steve Olea, Asst. Director  
Arizona Corporation Commission  
1200 West Washington Street  
Phoenix, Arizona 85007

1 Copies of the foregoing mailed without copy of service list this 12th day of November, 2002  
2 to:

3 Lindy Funkhouser  
4 Scott S. Wakefield  
5 RUCO  
6 1110 W. Washington, Suite 220  
7 Phoenix, Arizona 85007  
8 [swakefield@azruco.com](mailto:swakefield@azruco.com)

9 Michael A. Curtis  
10 William P. Sullivan  
11 Paul R. Michaud  
12 MARTINEZ & CURTIS, P.C.  
13 2712 North 7th Street  
14 Phoenix, Arizona 85006

15 Attorneys for Arizona Municipal Power Users  
16 Association, Mohave Electric Cooperative, Inc.,  
17 Navopache Electric Cooperative, Inc., Reliant  
18 Resources, Inc. & Primesouth, Inc.;  
19 Wellton-Mohawk Generating Facility  
20 [mcurtis401@aol.com](mailto:mcurtis401@aol.com)  
21 [wsullivan@martinezcurtis.com](mailto:wsullivan@martinezcurtis.com)  
22 [pmichaud@martinezcurtis.com](mailto:pmichaud@martinezcurtis.com)

23 Walter W. Meek, President  
24 ARIZONA UTILITY INVESTORS  
25 ASSOCIATION  
26 2100 N. Central Avenue, Suite 210  
Phoenix, Arizona 85004  
[meek@auiia.org](mailto:meek@auiia.org)

Ric Gilliam  
Eric C. Guidry  
LAND AND WATER FUND OF THE ROCKIES  
ENERGY PROJECT  
2260 Baseline Road, Suite 200  
Boulder, Colorado 80302

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

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

Barbara S. Bush  
COALITION FOR RESPONSIBLE ENERGY  
EDUCATION  
315 West Riviera Drive  
Tempe, Arizona 85252

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

Rick Lavis  
ARIZONA COTTON GROWERS  
ASSOCIATION  
4139 East Broadway Road  
Phoenix, Arizona 85040

Steve Brittle  
DON'T WASTE ARIZONA, INC.  
6205 South 12th Street  
Phoenix, Arizona 85040

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

CONTINENTAL DIVIDE ELECTRIC  
COOPERATIVE  
P.O. Box 1087  
Grants, New Mexico 87020

DIXIE ESCALANTE RURAL ELECTRIC  
ASSOCIATION  
CR Box 95  
Beryl, Utah 84714

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

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

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

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

9 A.B. Baardson  
10 NORDIC POWER  
11 6464 N. Desert Breeze Ct.  
12 Tucson, Arizona 85750-0846

13 Jessica Youle  
14 PAB300  
15 SALT RIVER PROJECT  
16 P.O. Box 52025  
17 Phoenix, Arizona 85072-2025

18 Joe Eichelberger  
19 MAGMA COPPER COMPANY  
20 P.O. Box 37  
21 Superior, Arizona 85273

22 Deborah R. Scott  
23 CITIZENS UTILITIES COMPANY  
24 2901 N. Central Avenue, Suite 1660  
25 Phoenix, Arizona 85012-2736  
26 [drscott@czn.com](mailto:drscott@czn.com)

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

Larry McGraw  
USDA-RUS  
6266 Weeping Willow  
Rio Rancho, New Mexico 87124

Jim Driscoll  
ARIZONA CITIZEN ACTION  
5160 E. Bellevue Street, Apt. 101  
Tucson, AZ 85712-4828

William Baker  
ELECTRICAL DISTRICT NO. 6  
7310 N. 16<sup>th</sup> Street, Suite 320  
Phoenix, Arizona 85020

Robert Julian  
PPG  
1500 Merrell Lane  
Belgrade, Montana 59714

C. Webb Crockett  
Jay L. Shapiro  
FENNEMORE CRAIG, PC  
3003 N. Central Avenue, Suite 2600  
Phoenix, Arizona 85012-2913  
Attorneys for Panda Gila River, L.P.  
[Wcrocket@fclaw.com](mailto:Wcrocket@fclaw.com)  
[Jshapiro@fclaw.com](mailto:Jshapiro@fclaw.com)

Robert S. Lynch  
340 E. Palm Lane, Suite 140  
Phoenix, Arizona 85004-4529  
Attorney for Arizona Transmission Dependent  
Utility Group  
[rslunchaty@aol.com](mailto:rslunchaty@aol.com)

K.R. Saline  
K.R. SALINE & ASSOCIATES  
Consulting Engineers  
160 N. Pasadena, Suite 101  
Mesa, Arizona 85201-6764

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

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

Lawrence V. Robertson Jr.  
MUNGER CHADWICK, PLC  
333 North Wilmot, Suite 300  
Tucson, Arizona 85711-2634  
Attorney for Southwestern Power Group, II, LLC;  
Bowie Power Station, LLC; Toltec Power Station,  
LLC; and Sempra Energy Resources  
[Lvrobertson@mungerchadwick.com](mailto:Lvrobertson@mungerchadwick.com)

Tom Wran  
Southwestern Power Group II  
[Twrav@southwesternpower.com](mailto:Twrav@southwesternpower.com)

Theodore E. Roberts  
SEMPRA ENERGY RESOURCES  
101 Ash Street, HQ 12-B  
San Diego, California 92101-3017  
[Troberts@sempra.com](mailto:Troberts@sempra.com)

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 AEPSCO, Graham County Electric  
Cooperative, and Duncan Valley Electric  
Cooperative.  
[Mmg@gknet.com](mailto:Mmg@gknet.com)

Vinnie Hunt  
CITY OF TUCSON  
Department of Operations  
4004 S. Park Avenue, Building #2  
Tucson, Arizona 85714

Ryle J. Carl III  
INTERNATION BROTHERHOOD OF  
ELECTRICAL WORKERS, L.U. #1116  
750 S. Tucson Blvd.  
Tucson, Arizona 85716-5698

Carl Dabelstein  
CITIZENS COMMUNICATIONS  
2901 N. Central Ave., Suite 1660  
Phoenix, Arizona 85012  
[cdabelst@czn.com](mailto:cdabelst@czn.com)

William J. Murphy  
CITY OF PHOENIX  
200 West Washington Street, Suite 1400  
Phoenix, Arizona 85003-1611  
[Bill.murphy@phoenix.gov](mailto:Bill.murphy@phoenix.gov)

Russell E. Jones  
WATERFALL ECONOMIDIS CALDWELL  
HANSHAW & VILLAMANA, P.C.  
5210 E. Williams Circle, Suite 800  
Tucson, Arizona 85711  
Attorneys for Trico Electric Cooperative, Inc.  
[Rjones@wechv.com](mailto:Rjones@wechv.com)

Christopher Hitchcock  
HITCHCOCK & HICKS  
P.O. Box 87  
Bisbee, Arizona 85603-0087  
Attorney for Sulphur Springs Valley  
Electric Cooperative, Inc.  
[Lawyers@bisbeelaw.com](mailto:Lawyers@bisbeelaw.com)

Andrew Bettwy  
Debra Jacobson  
SOUTHWEST GAS CORPORATION  
5241 Spring Mountain Road  
Las Vegas, Nevada 89150-0001

Barbara R. Goldberg  
OFFICE OF THE CITY ATTORNEY  
3939 Civic Center Blvd.  
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

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

3 Raymond S. Heyman  
4 Michael W. Patten  
ROSHKA HEYMAN & DEWULF, PLC  
5 400 E. Van Buren, Suite 800  
Phoenix, Arizona 85004  
6 Attorneys for Tucson Electric Power Co.  
[Rheyman@rhd-law.com](mailto:Rheyman@rhd-law.com)

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

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

12 Steven C. Gross  
PORTER SIMON  
13 40200 Truckee Airport Road  
Truckee, California 96161-3307  
14 Attorneys for M-S-R Public Power Agency

15 Donald R. Allen  
John P. Coyle  
16 DUNCAN & ALLEN  
1575 Eye Street, N.W., Suite 300  
17 Washington, DC 20005

18 Ward Camp  
PHASER ADVANCED METERING SERVICES  
19 400 Gold SW, Suite 1200  
Albuquerque, New Mexico 87102

20 Betsy Galtney  
IDAHO POWER COMPANY  
21 P.O. Box 70  
Boise, Idaho 83707  
22 [bgaltney@idahopower.com](mailto:bgaltney@idahopower.com)

23 Libby Brydolf  
CALIFORNIA ENERGY MARKETS  
24 NEWSLETTER  
2419 Bancroft Street  
25 San Diego, California 92104

26

Paul W. Taylor  
R W BECK  
14635 N. Kierland Blvd., Suite 130  
Scottsdale, Arizona 85254-2769

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  
Attorneys for PPL Southwest Generation Holdings,  
LLC; PPL EnergyPlus, LLC and PPL Sundance  
Energy, LLC  
[Jimoyes@lawms.com](mailto:Jimoyes@lawms.com)

Stephen L. Teichler  
Stephanie A. Conaghan  
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

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  
224 W. 2<sup>nd</sup> Street  
Mesa, Arizona 85201-6504

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

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

3 Patricia Cooper  
AEP/CO/SSWEP/CO  
4 P.O. Box 670  
Benson, Arizona 85602  
5 [Pcooper@aepnet.org](mailto:Pcooper@aepnet.org)

6 Steve Segal  
LEBOEUF, LAMB, GREENE, & MACRAE  
7 633 17<sup>th</sup> Street, Suite 2000  
Denver, Colorado 80202-3620

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

11 Leslie Lawner  
ENRON CORP  
12 712 North Lea  
Roswell, New Mexico 88201

13 Alan Watts  
14 Southern California Public Power Agency  
529 Hilda Court  
15 Anaheim, California 92806

16 Frederick M. Bloom  
Commonwealth Energy Corporation  
17 15991 Red Hill Avenue, Suite 201  
Tustin, California 92780

18 Margaret McConnell  
Maricopa Community Colleges  
19 2411 W. 14<sup>th</sup> Street  
Tempe, Arizona 85281-6942

20 Brian Soth  
21 FIRSTPOINT SERVICES, INC.  
1001 S.W. 5<sup>th</sup> Ave, Suite 500  
22 Portland, Oregon 92704

23 Jay Kaprosy  
PHOENIX CHAMBER OF COMMERCE  
24 201 N. Central Ave., 27<sup>th</sup> Floor  
Phoenix, Arizona 85073

Kevin McSpadden  
MILBANK, TWEED, HADLEY AND  
MCCLOY, LLP  
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  
[Psanderson@az-isa.org](mailto:Psanderson@az-isa.org)

Roger K. Ferland  
QUARLES & BRADY STREICH LANG, L.L.P.  
Renaissance One  
Two North Central Avenue  
Phoenix, Arizona 85004-2391  
[Rferland@quarles.com](mailto:Rferland@quarles.com)

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  
400 E. Van Buren,  
One Arizona Center  
Phoenix, Arizona 85004-0001  
[jguldner@swlaw.com](mailto:jguldner@swlaw.com)

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

Greg Patterson  
5432 E. Avalon  
Phoenix, Arizona 85018  
[Gpatterson@aol.com](mailto:Gpatterson@aol.com)

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

John Wallace  
Grand Canyon State Electric Co-op  
120 N. 44<sup>th</sup> Street, Suite 100  
Phoenix, Arizona 85034-1822  
[Jwallace@gcseca.org](mailto:Jwallace@gcseca.org)

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  
[khiggins@energystrat.com](mailto:khiggins@energystrat.com)

Michael L. Kurtz  
BORHM KURTZ & LOWRY  
36 E. Seventh Street, Suite 2110  
Cincinnati, Ohio 45202  
[Mkurtzlaw@aol.com](mailto:Mkurtzlaw@aol.com)

David Berry  
P.O. Box 1064  
Scottsdale, Arizona 85252  
[azbluhill@aol.com](mailto:azbluhill@aol.com)

William P. Inman  
Dept. of Revenue  
1600 W. Monroe, Room 911  
Phoenix, Arizona 85007  
[InmanW@revenue.state.az.us](mailto:InmanW@revenue.state.az.us)

Robert Baltes  
ARIZONA COGENERATION ASSOC.  
7250 N. 16<sup>th</sup> Street, Suite 102  
Phoenix, Arizona 85020-5270  
[Rbaltes@bvaeng.com](mailto:Rbaltes@bvaeng.com)

Jana Van Ness  
APS  
Mail Station 9905  
P.O. Box 53999  
Phoenix, Arizona 85072-3999  
[Jana.vanness@aps.com](mailto:Jana.vanness@aps.com)

David Couture  
TEP  
4350 E. Irvington Road  
Tucson, Arizona 85714  
[dcouture@tucsonelectric.com](mailto:dcouture@tucsonelectric.com)

Kelly Barr  
Jana Brandt  
SRP  
Mail Station PAB211  
P.O. Box 52025  
Phoenix, Arizona 85072-2025  
[Kjbarr@srpnet.com](mailto:Kjbarr@srpnet.com)  
[Jkbrandt@srpnet.com](mailto:Jkbrandt@srpnet.com)

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

John A. LaSota, Jr.  
MILLER LASOTA & PETERS, PLC  
5225 N. Central Ave., Suite 235  
Phoenix, Arizona 85012

Peter W. Frost  
Conoco Gas and Power Marketing  
600 N. Dairy Ashford, CH-1068  
Houston, Texas 77079

Joan Walker-Ratliff  
Conoco Gas and Power Marketing  
1000 S. Pine,  
P.O. Box 1267 125-4 ST  
Ponca City, Oklahoma 74602  
[Joan.walker-ratliff@conoco.com](mailto:Joan.walker-ratliff@conoco.com)

Vicki G. Sandler  
C/o Linda Spell  
APS Energy Services  
P.O. Box 53901  
Mail Station 8103  
Phoenix, Arizona 85072-3901  
[Linda\\_spell@apses.com](mailto:Linda_spell@apses.com)

Lori Glover  
STIRLING ENERGY SYSTEMS  
2920 E. Camelback Rd., Suite 150  
Phoenix, Arizona 85016  
[Lglover@stirlingenergy.com](mailto:Lglover@stirlingenergy.com)

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

Jeff Schlegel  
SWEEP  
1167 Samalayuca Drive  
Tucson, Arizona 85704-3224  
[Schlegelj@aol.com](mailto:Schlegelj@aol.com)

Howard Geller  
SWEEP  
2260 Baseline Rd., Suite 200  
Boulder, Colorado 80302  
[Hgeller@swenergy.org](mailto:Hgeller@swenergy.org)

Mary-Ellen Kane  
ACAA  
2627 N. 3<sup>rd</sup> Street, Suite Two  
Phoenix, Arizona 85004  
[Mkane@azcaa.org](mailto:Mkane@azcaa.org)

Aaron Thomas  
AES NewEnergy  
350 S. Grand Avenue, Suite 2950  
Los Angeles, California 90071  
[Aaron.thomas@aes.com](mailto:Aaron.thomas@aes.com)

Theresa Mead  
AES NewEnergy  
P.O. Box 65447  
Tucson, Arizona 85728  
[Theresa.mead@aes.com](mailto:Theresa.mead@aes.com)

Peter Van Haren  
CITY OF PHOENIX  
Attn: Jesse W. Sears  
200 W. Washington Street, Suite 1300  
Phoenix, Arizona 85003-1611  
[Jesse.sears@phoenix.gov](mailto:Jesse.sears@phoenix.gov)

Robert Annan  
ARIZONA CLEAN ENERGY INDUSTRIES  
ALLIANCE  
6605 E. Evening Glow Drive  
Scottsdale, Arizona 85262  
[Annan@primenet.com](mailto:Annan@primenet.com)

Curtis L. Kebler  
RELIANT RESOURCES, INC.  
8996 Etiwanda Avenue  
Rancho Cucamonga, California 91739  
[ckebler@reliant.com](mailto:ckebler@reliant.com)

Philip Key  
RENEWABLE ENERGY LEADERSHIP GROUP  
10631 E. Autumn Sage Drive  
Scottsdale, Arizona 85259  
[Keytaic@aol.com](mailto:Keytaic@aol.com)

Paul Bullis  
OFFICE OF THE ATTORNEY GENERAL  
1275 W. Washington Street  
Phoenix, Arizona 85007  
[Paul.bullis@ag.state.az.us](mailto:Paul.bullis@ag.state.az.us)

Laurie Woodall  
OFFICE OF THE ATTORNEY GENERAL  
15 S. 15<sup>th</sup> Avenue  
Phoenix, Arizona 85007  
[Laurie.woodall@ag.state.az.us](mailto:Laurie.woodall@ag.state.az.us)

Donna M. Bronski  
CITY OF SCOTTSDALE  
3939 N. Drinkwater Blvd  
Scottsdale, Arizona 85251  
[Dbronski@ci.scottsdale.az.us](mailto:Dbronski@ci.scottsdale.az.us)

Larry F. Eisenstat  
Frederick D. Ochsenhirt  
Michael R. Engleman  
DICKSTEIN SHAPIRO MORIN & OSHINSKY  
LLP  
2101 L Street, NW  
Washington, DC 20037  
[Eisenstatl@dsmo.com](mailto:Eisenstatl@dsmo.com)  
[Ochsenhirtf@dsmo.com](mailto:Ochsenhirtf@dsmo.com)

David A. Crabtree  
Dierdre A. Brown  
TECO POWER SERVICES CORP.  
P.O. Box 111  
Tampa, Florida 33602  
[Dacrabtree@tecoenergy.com](mailto:Dacrabtree@tecoenergy.com)  
[Dabrown@tecoenergy.com](mailto:Dabrown@tecoenergy.com)

Michael A. Trentel  
Patrick W. Burnett  
PANDA ENERGY INTERNATIONAL INC  
4100 Spring Valley, Suite 1010  
Dallas, Texas 75244  
[Michaelt@pandaenergy.com](mailto:Michaelt@pandaenergy.com)  
[Patb@pandaenergy.com](mailto:Patb@pandaenergy.com)

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25  
26

Jesse Dillon  
PPL Services Corp.  
2 N. Ninth Street  
Allentown, Pennsylvania 18101-1179  
Jadillon@pplweb.com

Gary A. Dodge  
HATCH, JAMES & DODGE  
10 W. Broadway, Suite 400  
Salt Lake City, Utah 84101  
Gdodge@hjdllaw.com

Robert J. Metli  
CHEIFETZ & IANNITELLI, P.A.  
3238 N. 16<sup>th</sup> Street  
Phoenix, Arizona 85016

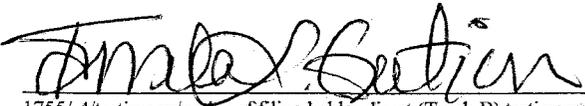
Thomas L. Mumaw  
Senior Attorney  
Pinnacle West Capital Corporation  
P.O. Box 53999 MS 8695  
Phoenix, AZ 85072  
Thomas.Mumaw@pinnaclewest.com

Ronald W. Grossarth  
Public Service Co. of New Mexico  
2401 Aztec Road NE  
Albuquerque, NM 87107  
rgrossa@pnm.com

Christopher Kempley, Chief Counsel  
ARIZONA CORPORATION COMMISSION  
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



1755/-4/testimony/notice of filing kebler direct (Track B) testimony.01112.02

BEFORE THE ARIZONA CORPORATION COMMISSION

WILLIAM A. MUNDELL  
CHAIRMAN  
JIM IRVIN  
COMMISSIONER  
MARC SPITZER  
COMMISSIONER

IN THE MATTER OF THE GENERIC ) DOCKET NO. E-00000A-02-0051  
PROCEEDING CONCERNING ELECTRIC )  
RESTRUCTURING ISSUES )

IN THE MATTER OF ARIZONA PUBLIC ) DOCKET NO. E-01345A-01-0822  
SERVICE COMPANY'S REQUEST FOR )  
VARIANCE OF CERTAIN REQUIREMENTS )  
OF A.A.C. R14-2-1606 )

IN THE MATTER OF THE GENERIC ) DOCKET NO. E-00000A-01-0630  
PROCEEDING CONCERNING THE ARIZONA )  
INDEPENDENT SCHEDULING )  
ADMINISTRATOR )

IN THE MATTER OF TUCSON ELECTRIC ) DOCKET NO. E-01933A-02-0069  
POWER COMPANY'S APPLICATION FOR A )  
VARIANCE OF CERTAIN ELECTRIC )  
COMPETITION RULES COMPLIANCE )  
DATES )

IN THE MATTER OF THE APPLICATION OF ) DOCKET NO. E-01933A-98-0471  
TUCSON ELECTRIC POWER COMPANY FOR )  
APPROVAL OF ITS STRANDED COST )  
RECOVERY )

DIRECT TESTIMONY OF CURTIS L. KEBLER

On Behalf of

RELIANT RESOURCES, INC. ("RELIANT")

NOVEMBER 12, 2002

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1 Q. PLEASE STATE YOUR NAME, BUSINESS ADDRESS AND  
2 OCCUPATION.

3 A. My name is Curtis L. Kebler. My business address is 8996 Etiwanda Avenue,  
4 Rancho Cucamonga, California 91739-9662. I am Director, Asset  
5 Commercialization, West Region for Reliant Resources, Inc. ("Reliant").  
6

7 Q. PLEASE DESCRIBE YOUR PROFESSIONAL QUALIFICATIONS AND  
8 EXPERIENCE.

9 A. A summary of my professional qualifications and experience is included in the  
10 Statement of Qualifications attached as Appendix A to my testimony.  
11

12 Q. HAVE YOU PREVIOUSLY TESTIFIED BEFORE THE ARIZONA  
13 CORPORATION COMMISSION?

14 A. I offered testimony on behalf of Reliant Resources, Inc. in the Arizona Public  
15 Service Company ("APS") Request for Variance matter and in the Track A  
16 matter, both of which are a part of this consolidated Docket.  
17

18 **I. SUMMARY OF TESTIMONY**

19 Q. WHAT IS THE PURPOSE OF YOUR DIRECT TESTIMONY IN TRACK B?

20 A. First, Reliant thanks Staff and all the parties to Track B for their efforts and  
21 participation in the various workshops conducted to establish a competitive  
22 solicitation process for the initial solicitation to be conducted in March of  
23 2003. Staff is to be commended for the *Staff Report on Track B: Competitive*  
24 *Solicitation* issued October 25, 2002 ("Staff Report"). My testimony focuses  
25 on areas where Reliant believes the general competitive solicitation process  
26 outlined in the Staff Report and the specific processes outlined by Arizona

1 Public Service Company ("APS") and Tucson Electric Power Company  
2 ("TEP") should be modified for the initial competitive solicitation to be  
3 conducted next year.

4 In particular, I will discuss:

- 5 1. Why it is inappropriate for both APS and TEP to rely exclusively on  
6 a Request For Proposal ("RFP") process, without use of an auction  
7 process during the initial solicitation;
- 8 2. Why prompt Commission prudence evaluation of awarded contracts  
9 is important to provide the level of regulatory certainty needed to  
10 allow the competitive solicitation process to minimize costs and  
11 maximize economic efficiency;
- 12 3. Why the "price to beat" concept is unnecessary where the utility  
13 adequately defines the product to be solicited and is unworkable  
14 where the product is not defined;
- 15 4. Why the Affiliated Code of Conduct needs some additional  
16 clarification; and
- 17 5. Why the utility's dispatch methodology, the structure and proposed  
18 treatment of ancillary services in the solicitation process, and the  
19 treatment of Reliability Must Run (RMR) all raise additional  
20 concerns  
21

22 I have also included an edited redline version of that portion of the Staff Report  
23 dealing with the description of the Texas competitive electricity market (page  
24 49) to correct certain factual misstatements. Finally, Reliant agrees with the  
25 Staff Report's assessment that it is not necessary to discuss or resolve Least  
26

1 Cost Planning, Demand Side Management and Environmental Risk Mitigation  
2 in this proceeding.  
3

4 **II. A SIGNIFICANT PORTION OF THE UNMET NEEDS SHOULD**  
5 **BE ACQUIRED THROUGH AUCTION**

6 Q. THE DIRECT TESTIMONY OF BOTH APS AND TEP INDICATE THAT  
7 THEY INTEND TO INITIALLY RELY EXCLUSIVELY ON RFPS TO  
8 SOLICIT BIDS. DOES RELIANT SUPPORT THE USE OF RFPS AS THE  
9 EXCLUSIVE INITIAL SOLICITATION PROCEDURE?

10 A. No. While Reliant recognizes the RFP solicitation process is an appropriate  
11 method for securing a portion of the unmet needs of APS and TEP, Reliant  
12 supports the use of an auction process to secure a significant portion (at least a  
13 third) of those unmet needs in the initial solicitation, as well as for economy  
14 and short-term energy purchases. Reliant believes an auction process achieves  
15 Staff's goal of a transparent process that results in cost savings for ratepayers.<sup>1</sup>  
16 An auction process can be readily developed that is equitable and auditable, yet  
17 flexible and is easily understood by all participants.<sup>2</sup> Auctions are particularly  
18 well suited for soliciting products that are easily standardized or are already  
19 part of a liquid wholesale market. The types of products described by both  
20 APS and TEP, such as the 25 MW blocks of capacity and capacity with  
21 minimum energy purchases during specific time periods, the call options, and  
22 the economy and short-term energy purchases as described by Mr. Carlson on  
23 behalf of APS, are the types of products that can be readily standardized.  
24

25 <sup>1</sup> Staff Report at p. 1, l. 4.

26 <sup>2</sup> Criteria established by Staff for an acceptable competitive solicitation process in the Staff Report  
at p. 1, ll. 8-14.

1 Q. PLEASE FURTHER EXPLAIN WHY AN AUCTION SHOULD BE  
2 UTILIZED FOR A SIGNIFICANT PORTION OF THE COMPETITIVE  
3 SOLICITATION.

4 A. First, a properly devised auction will accomplish the goals I mentioned above  
5 and discussed at pages 1 and 3 of the Staff Report, including the facilitation of  
6 an open, transparent, and fair solicitation. Second, suppliers will typically  
7 compete on price. All other facets of the product will be determined by a  
8 standard contract. This will provide the Commission and Staff greater ease in  
9 determining the prudence and reasonableness of the contracts. In turn,  
10 Arizona's consumers can be assured that the prices are efficient and the lowest  
11 available for those products. Finally, the auction provides Staff an indicator of  
12 what actual market prices exist at the time of the solicitation. This is possible  
13 because the suppliers are only competing on one variable. By way of contrast,  
14 a less-standard RFP product can result in many subjective and deal-specific  
15 criteria that may make it difficult to compare options. With an auction, all of  
16 that subjective measurement is standardized and consolidated with only price  
17 changing among and between the various participants. This transparency  
18 should further ease the Commission's prudence review of the competitive  
19 solicitation products and provide the Commission and Staff a potential  
20 benchmark for determining the prudence of non-standard solicitation products.  
21 Finally, it is important that the auction process be utilized in this initial  
22 solicitation to allow the Commission to examine the pros and cons of the  
23 auction process against the RFP process.  
24  
25  
26

1 Q. DID APS PROPOSE USING AN AUCTION PROCESS IN THEIR  
2 NOVEMBER 4, 2002 FILING IN THIS DOCKET?

3 A. No, but APS witness Thomas Carlson did suggest an auction process similar to  
4 the proposal APS made in their July 1, 2002 filing was actively being  
5 considered for a solicitation in 2004.

6  
7 Q. COULD APS UTILIZE AN AUCTION PROCESS FOR THEIR FIRST  
8 SOLICITATION?

9 A. Reliant believes APS could very easily use an auction process for a significant  
10 portion of their initial solicitation. This is particularly evident when one  
11 considers the standard nature of the products for which APS is proposing to  
12 solicit contracts. Each of these products—capacity, capacity plus energy, and  
13 physical call options—are very good candidates for a standard auction process.  
14 As both the Commission and Staff have mentioned in previous hearings and  
15 workshops, there is a surplus of wholesale generation available in Arizona's  
16 market today. An open, transparent, and fair solicitation promotes the  
17 utilization of this surplus wholesale generation for the benefit of Arizona's  
18 consumers. By allowing firms to compete head-to-head as suppliers of these  
19 products, the Commission can rest assured that the results will represent the  
20 best possible price for consumers.  
21

22 Q. APS CLAIMS THERE IS INSUFFICIENT TIME TO INSTITUTE AN  
23 AUCTION PROCESS FOR THIS FIRST SOLICITATION. DO YOU  
24 AGREE?

25 A. No. APS' testimony stated that the short time frame for the solicitation does  
26 not allow for the development of the appropriate software and controls for an

1 automated auction. However, there are alternatives available that can  
2 accomplish the same results. As an example, a manual process with sealed  
3 bids submitted and posted in an open meeting can be immediately used. Other  
4 auction styles are available that can result in very similar outcomes. An open  
5 auction has an advantage over the RFP process since there is no additional  
6 negotiation. For example, in a RFP process with unit-backed capacity many  
7 substantive contract terms beyond price still must be negotiated after the initial  
8 selection. These include scheduling rights, maintenance schedules, availability  
9 guarantees, heat rate guarantees, and capacity guarantees, just to name a few.  
10 Not only can it take weeks or even months to resolve these issues, the ultimate  
11 resolution can change the cost and value of the product to Arizona's  
12 consumers. An auction process avoids these difficulties by standardizing a  
13 portion of the requirements up front, just as APS has suggested doing on a  
14 short-term basis, and thereby ensures Arizona's consumers receive the truly  
15 competitively priced product.  
16

17  
18 Q. WOULD AN OPEN, TRANSPARENT, AND FAIR AUCTION BE  
19 APPROPRIATE FOR APS' PROPOSED ECONOMY AND SHORT-TERM  
20 ENERGY PURCHASES?

21 A. Yes. The development of a simple but transparent auction for APS' proposed  
22 economy and short-term energy purchases has several benefits. First, an open  
23 and transparent process ensures that competition determines an efficient price  
24 for the product solicited. Secondly, the efficient pricing outcome should assist  
25 both the Commission and APS in any prudency review of the proposed  
26 economy energy purchases. APS would have the assurance that it was

1           procuring the most efficient price available from the market. Finally, an open,  
2           transparent, and fair auction for economy and short-term energy purchases will  
3           mitigate concerns regarding the dispatch of utility affiliate generating assets  
4           over other regional suppliers that I discuss later in my testimony.  
5

6           Q. PLEASE DESCRIBE A METHOD BY WHICH APS MIGHT USE AN  
7           AUCTION FOR ECONOMY AND SHORT-TERM ENERGY PURCHASES?

8           A. A relatively simple method would utilize a "bid stack" for the supply of day-  
9           ahead, month-ahead, or 45-day-ahead economy energy purchases. The utility  
10          could utilize a standard contract for the product it wishes to procure through  
11          economy energy. The utility would then accept sealed or electronic bids. Bids  
12          received would be reviewed by utility staff members certified as not having  
13          contact with persons involved in the bid development of the utility affiliate,  
14          except for the submission of the bid. The use of a standard contract allows  
15          suppliers to bid only just one variable: price. Thus, the bids are stacked and  
16          ranked by price, with the lowest bids selected, in merit order, to supply the  
17          economy energy needs of the utility.  
18

19          Q. WOULD THE INDEPENDENT MONITOR NEED TO BE INVOLVED IN  
20          EVERY TRANSACTION WHERE APS PROCURES ECONOMY OR  
21          SHORT-TERM ENERGY?

22          A. Not necessarily. Once an open, transparent, and fair auction process is in  
23          place, where only price determines the winner, any improper behavior should  
24          be readily identifiable. Therefore, the Independent Monitor's function can be  
25          limited to periodic review.  
26

1 Q. DID TEP PROPOSE AN AUCTION PROCESS IN THEIR NOVEMBER 4,  
2 2002 FILING IN THIS DOCKET?

3 A. No. According to the testimony of David Hutchens, TEP will use a RFP to  
4 procure fixed price firm on-peak energy, fixed price firm super-peak energy,  
5 index-priced unit contingent capacity and energy, and non-spin ancillary  
6 service capacity. For the same reasons discussed above, TEP could utilize an  
7 auction process for their first solicitation.  
8

9 Q. ARE YOU SUGGESTING THAT APS AND TEP RELY SOLELY ON AN  
10 AUCTION PROCESS TO PROCURE THEIR UNMET NEEDS?

11 A. Not necessarily. A significant portion of the utilities' unmet needs should be  
12 obtained through an auction process. To the extent that the utilities in Arizona  
13 need products that are easily standardized or are already part of a liquid  
14 wholesale generation market, an auction is a reasonable method of obtaining  
15 the product through robust competition. If the utility is in need of a specialized  
16 product, especially one that cannot be standardized, then it is appropriate to  
17 look to other methods of procurement, such as a RFP. Ultimately, the  
18 Commission should expect that a balanced utility portfolio will reflect multiple  
19 product types procured through the most appropriate means for those products.  
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1           **III. THE COMMISSION SHOULD PROVIDE PROMPT PRUDENCY**  
2           **REVIEW**

3           Q. UNDER STAFF'S PROPOSAL, DOES THE COMMISSION HAVE A ROLE  
4           IN THE APPROVAL OF THE CONTRACTS SIGNED AS A RESULT OF  
5           THE COMPETITIVE SOLICITATION?

6           A. Yes. However, under Staff's proposal the timing of the Commission's review,  
7           both as to the manner in which the solicitations were conducted and the  
8           appropriateness of the power supplies purchased, is totally discretionary.<sup>3</sup> The  
9           undetermined timeline in the prudency review creates significant and  
10          unnecessary risk for the utility, the suppliers, and Arizona's consumers.

11  
12          Q. DESCRIBE THE UNCERTAINTY CREATED BY THE UNDETERMINED  
13          TIMELINE FOR PRUDENCY REVIEW.

14          A. Without a definitive schedule for determining the prudence of the wholesale  
15          suppliers' contracts: 1) utilities will not know whether they can recover the  
16          costs of the suppliers' contract; 2) utilities are likely to include "regulatory out"  
17          clauses in their competitive solicitation contracts; taking away the parties'  
18          certainty regarding the contract, including the term thereof; and 3) ultimately,  
19          these uncertainties are translated into higher solicitation prices borne by  
20          Arizona's utilities and greater risks for Arizona's consumers. Suppliers' bids  
21          are impacted when the review and approval of contracts is lengthy. Providing  
22          the parties involved in the competitive solicitation with certainty of the  
23

24  
25          <sup>3</sup> Report at p. 4, l. 26 through p. 5, l. 2. Staff does suggest that the Commission should "review the  
26          contracts entered into as a result of the solicitation at such time as the utility seeks to recover the  
        associated costs from customers". Staff Report at p. 36, ll. 20-22. As discussed in my testimony,  
        such a delay in obtaining Commission prudency review increases costs and is unnecessary.

1 outcome in a timely manner will assure the most efficient outcome and the best  
2 possible prices for Arizona's consumers.

3  
4 Q. HOW CAN THIS UNCERTAINTY BE MITIGATED?

5 A. The Commission and Staff can mitigate the uncertainty by determining the  
6 prudence of any competitive solicitation product within a time frame  
7 dependent on the solicitation method being used by the utility. Where the  
8 Independent Monitor finds an auction process is transparent and fairly  
9 conducted, Staff's certification of the results as reasonable and prudent and the  
10 Commission acceptance or rejection of Staff's certification should be  
11 completed within five (5) business days. Where the Independent Monitor  
12 makes the same findings for any Request for Proposal ("RFP") process, Staff's  
13 certification of the result as reasonable and prudent and the Commission  
14 acceptance or rejection of Staff's certification should be completed within  
15 thirty (30) days, recognizing the potential for non-standard contracts in a RFP  
16 solicitation.

17  
18 Q. DOES THE PARTICIPATION OF AN INDEPENDENT MONITOR  
19 PROVIDE ADDITIONAL CERTAINTY TO AN OPEN, TRANSPARENT,  
20 AND FAIR OUTCOME?

21 A. Yes. The participation of the Independent Monitor and its role as described in  
22 the Staff Report enhances the Commission's ability to determine the prudence  
23 of the competitive solicitation contracts in a timely manner. Staff has done a  
24 commendable job in augmenting the role of the Independent Monitor to ensure  
25 an open, transparent, and fair outcome. Certainty in the outcome is further  
26 provided by the Independent Monitor's ability to petition the Commission for

1 suspension or termination of a solicitation, which it deems to be flawed and the  
2 Commission's ability to order such changes as it deems necessary to promote  
3 effectiveness, reasonableness and fairness<sup>4</sup> at any point in the solicitation  
4 process.

5  
6 **IV. THE "PRICE TO BEAT" IS UNNECESSARY FOR**  
7 **STANDARDIZED PRODUCTS (THE SUBJECT OF MOST**  
8 **AUCTIONS) AND PROBABLY UNWORKABLE FOR NON-**  
9 **STANDARDIZED PRODUCTS (USUALLY SECURED**  
10 **THROUGH RFPS)**

11 Q. WHAT IS THE PURPOSE OF THE "PRICE TO BEAT" ACCORDING TO  
12 THE STAFF REPORT?

13 A. Staff developed the price to beat concept "to provide certainty of Staff support  
14 for cost recovery as an alternative to an expedited review process."<sup>5</sup>

15 Q. SHOULD THE "PRICE TO BEAT" AS PROPOSED IN THE STAFF  
16 REPORT PROVIDE ANY CAUSE FOR CONCERN?

17 A. Yes. As proposed, the price to beat could artificially cap the market price  
18 based upon forecasts regardless of whether they reflect actual market  
19 conditions or the characteristics inherent in the products available through  
20 competitive solicitation. The use of a price to beat creates a time lag for any  
21 potential change in the market from the time of the price forecast to the time of  
22 the ultimate procurement. These changes could significantly alter the outcome  
23

24 <sup>4</sup> Staff Report at p. 12, ll. 5-9. As a result, the Staff's Report provision for post-solicitation  
25 remedies after notice and hearing, such as disallowing the recovery of cost of power incurred  
26 pursuant to contracts entered as a result of an inequitable solicitation (Staff Report at p. 12, ll. 10-  
16) is unnecessary.

<sup>5</sup> Staff Report at p. 35, ll. 22-27.

1 of the solicitation compared to Staff's expectations. These changes could, in  
2 the eyes of Staff, create an "unsuccessful" solicitation despite the fact that the  
3 outcome is representative of current market conditions.

4  
5 Q. WHAT OTHER DIFFICULTIES DOES THE USE OF A "PRICE TO BEAT"  
6 CREATE?

7 A. Determining the price to beat is administratively difficult. The Staff Report  
8 states that Staff and Independent Monitor will establish a price to beat for  
9 "each product solicited for each utility."<sup>6</sup> Based upon the proposals of APS  
10 and TEP, this will mean the determination of at least 6 different prices to beat;  
11 this number can be further multiplied by however many different term lengths  
12 are included in the procurements. The task of determining multiple prices to  
13 beat is not only onerous, but is further complicated by the difficulty in  
14 comparing the price to beat for the procurement of any non-standard product.  
15 There is no clear method of comparing a non-standard product to a price  
16 forecast.

17  
18 Q. CAN EFFICIENT PRICES BE PROVIDED TO CONSUMERS WITHOUT A  
19 "PRICE TO BEAT"?

20 A. Yes. By focusing on a transparent solicitation process, whether an auction for  
21 standard products or properly designed RFPs for non-standard products, the  
22 Commission and Staff can be assured that the solicitation outcome itself  
23 represents an efficient price under current market conditions and should  
24 provide the lowest price to Arizona's consumers for the products solicited.  
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<sup>6</sup> Staff Report at p. 24, ll. 27-28.

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Q. ARE THERE OTHER REASONS STAFF SHOULD FEEL COMFORTABLE WITH THE OUTCOME OF A COMPETITIVE SOLICITATION WITHOUT USING A "PRICE TO BEAT"?

A. Yes. As I mentioned previously, the Independent Monitor plays a significant role throughout the procurement process to ensure that whatever solicitation process is implemented creates an open, transparent, and fair solicitation to supply the utilities' unmet needs. Certainty provided by the Independent Monitor's participation, combined with the Commission's prompt prudence review, renders a price to beat unnecessary.

V. AN AFFILIATE CODE OF CONDUCT NEEDS TO PROTECT AGAINST AFFILIATE CONTACT THROUGHOUT THE SOLICITATION DEVELOPMENT PROCESS AND IN SHORT-TERM ENERGY TRANSACTIONS

Q. DOES RELIANT BELIEVE AN AFFILIATE CODE OF CONDUCT IS NECESSARY FOR THE COMPETITIVE SOLICITATION?

A. Yes. To the extent an affiliate of any Arizona utility wants to participate in the utility's competitive solicitation, including economy and short-term energy transactions, clearly defined firewalls should be in place to protect the competitive process. As I have mentioned previously, a transparent and fair process that leads to an efficient market outcome is in the best interest of Arizona's consumers.

///  
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///

1 Q. DOES RELIANT HAVE ANY SUGGESTIONS TO STRENGTHEN THE  
2 CODE OF CONDUCT AS CURRENTLY PROPOSED?

3 A. Yes. The Staff Report provides a workable template for a Code of Conduct in  
4 the competitive solicitation. Reliant suggests that additional consideration be  
5 given to the exposure and role of utility employees who work on its  
6 procurement. The deadline of January 1, 2003 for the utility to establish its  
7 "procurement team" suggested in the Staff Report ignores the substantial work  
8 that is already being performed by the utilities employees in preparation of the  
9 solicitation. Reliant submits that the Code of Conduct must require the utility  
10 demonstrate that those who worked on the procurement, including its  
11 development, execution, and review, did not have any improper contact with  
12 any utility affiliate that is participating in the competitive solicitation.  
13 Members of the procurement team should be required to attest that they have  
14 no knowledge of the products or offers of any affiliate participating in the  
15 competitive solicitation. This will provide greater assurance to all participants  
16 that no party has an unfair advantage throughout the solicitation. As discussed  
17 later, Reliant is also concerned that short term energy purchases could be  
18 conducted to favor an affiliate. The Code of Conduct must insure that the bid  
19 stack, dispatch and procurement decisions are made on a non-discriminatory  
20 basis and that the affiliate's employees are not provided access to information  
21 or decision makers that would provide the affiliate an unfair competitive  
22 advantage to the affiliate.  
23  
24

25 ///

26 ///

1           **VI. OTHER TROUBLESOME ASPECTS OF APS' PROPOSAL**

2           Q.    YOU PREVIOUSLY DISCUSSED THE LACK OF AN AUCTION PROCESS  
3                IN APS' SOLICITATION PROPOSAL. ARE THERE OTHER ASPECTS OF  
4                APS' PROPOSAL THAT CONCERN YOU?

5           A.    Yes. The utility's dispatch methodology, the structure and proposed treatment  
6                of ancillary services in the solicitation process, and the treatment of Reliability  
7                Must Run (RMR) all raise additional concerns.

8  
9           Q.    DESCRIBE YOUR CONCERN REGARDING APS' DISPATCH  
10                METHODOLOGY.

11           A.    APS' reliance on economy and short-term energy purchases brings into  
12                question how it plans to dispatch the assets under its control and those  
13                available to APS from the market. It is in the best interest of Arizona's  
14                consumers that the dispatch of energy be done on a non-discriminatory  
15                economic basis. APS has not specified whether APS or one of its affiliates will  
16                be making the dispatch decisions in APS' control area. Reliant submits that the  
17                Commission should ensure that until a Regional Transmission Organization  
18                ("RTO") is in place, an affiliate of APS is not the control area operator and that  
19                all dispatched units be treated in a non-discriminatory manner.  
20

21  
22           Q.    DESCRIBE YOUR CONCERN REGARDING THE LACK OF AN  
23                ANCILLARY SERVICES MARKET IN APS' PROPOSAL.

24           A.    The Staff Report states "bidders will provide all ancillary services required to  
25                support their bids."<sup>7</sup> APS' proposal does not mention this provision or how it  
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<sup>7</sup> Staff Report at p. 16, l. 8.

1 plans to address it. Arizona's current market structure does not provide for a  
2 competitive ancillary services market. Furthermore, many standard products  
3 do not include ancillary services in addition to the standard product.  
4 Ultimately, ancillary services would need to become an unbundled control area  
5 product to create a market for these services. Otherwise, the suppliers in the  
6 region must rely on the control area operator for ancillary services. While  
7 Reliant strongly supports the development of a competitive ancillary services  
8 market, it is premature for Staff to expect suppliers to provide "all ancillary  
9 services required to support their bid" when no market for such services  
10 currently exists.  
11

12 Q. DESCRIBE YOUR CONCERNS REGARDING THE TREATMENT OF  
13 RMR UNITS AND FORECASTS.

14 A. Reliant has two concerns regarding the status of RMR in this proceeding.  
15 First, based upon the testimony of Peter Ewen, APS will not be able to provide  
16 a determination of RMR hours until well after a decision in the Track B  
17 process is rendered. This means that the actual amount of capacity and energy  
18 available for procurement will not be known until after the Commission has  
19 made a decision in this proceeding. To resolve this uncertainty, APS should be  
20 required to provide an estimate of its RMR hours in this proceeding and be  
21 required to justify any changes it later proposes for the actual solicitation.  
22

23 Q. WHAT IS YOUR SECOND CONCERN REGARDING THE TREATMENT  
24 OF RMR IN APS' PROPOSAL?

25 A. The testimony of Thomas Carlson states that capacity or energy for RMR not  
26 supplied by APS could be solicited separately from the original unmet needs

1 solicitation. It may be less expensive for a unit that is already supplying  
2 capacity and energy to provide the RMR services as long as they meet all the  
3 technical requirements. By removing this element from the standardized  
4 solicitation proposal, APS is ignoring an option to provide less expensive  
5 services from a competitive supplier for the benefit of Arizona's consumers.  
6

7 **VII. DETERMINATION OF UNMET NEEDS**

8 Q. DOES RELIANT HAVE A POSITION REGARDING THE AMOUNT OF  
9 UNMET NEEDS INCLUDED IN THE UTILITIES' INITIAL COMPETITIVE  
10 WHOLESALE GENERATION SOLICITATION?

11 A. Reliant has not, at this time, undertaken an independent analysis of the level of  
12 unmet needs quantified by APS and TEP in their November 4, 2002 filings, in  
13 this Track B proceeding. It is Reliant's understanding that the direct testimony  
14 of other parties to this proceeding will address the amount of unmet needs  
15 included in the utilities' initial competitive wholesale generation solicitations.  
16 Reliant reserves its right to comment on the utilities amount of unmet needs  
17 subject to competitive wholesale generation solicitation after reviewing the  
18 parties' testimony submitted on November 12, 2002.  
19

20 **VIII. TECHNICAL CORRECTIONS TO THE STAFF REPORT'S**  
21 **DESCRIPTION OF THE TEXAS RESTRUCTURING PROCESS**

22 Q. DO YOU PROPOSE ANY TECHNICAL CHANGES TO THE STAFF  
23 REPORT?

24 A. Yes. Appendix B contains an edited redline version of that portion of the Staff  
25 Report dealing with the description of the Texas restructuring process.  
26

1 Appendix B clarifies and corrects certain factual information about that  
2 process.

3  
4 **IX. CONCLUSION**

5 Q. PLEASE SUMMARIZE RELIANT'S CONCLUSIONS AND  
6 RECOMMENDATIONS FOR THE INITIAL COMPETITIVE  
7 SOLICITATION.

8 A. Reliant believes the utilities should utilize an open and transparent process to  
9 ensure a fair solicitation that results in a balanced portfolio served by efficient  
10 market-based results. The Commission should urge the utilities to use an  
11 auction process for a significant portion of their solicitation where standard  
12 products are being procured. For the initial solicitation, Reliant recommends  
13 not less than a third of the unmet needs be acquired through an auction process.  
14 Furthermore, the Commission must recognize the importance of certainty and  
15 timeliness in the approval process of the competitive solicitation award  
16 contracts. By applying the recommendations included in this testimony, the  
17 Commission can facilitate a robust wholesale electricity market in Arizona that  
18 provides the benefits of competition the state's electricity consumers.

19  
20 Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?

21 A. Yes.  
22  
23  
24  
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APPENDIX A

STATEMENT OF QUALIFICATIONS

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2  
3 Curtis Kebler is Director, Asset Commercialization West Region for Reliant  
4 Resources, Inc. Reliant is a competitive provider of electricity and energy services to  
5 wholesale and retail customers in the U.S. and Western Europe. Mr. Kebler is  
6 responsible for representing Reliant's commercial interests on a broad range of  
7 technical and policy issues before various regulatory, legislative, and industry  
8 organizations in the Western U.S. He coordinates and implements the company's  
9 policies relating to restructured western region electricity markets and Regional  
10 Transmission Organizations, and oversees the performance of research and analysis  
11 and the development of studies and reports on western energy markets.

12 Mr. Kebler has more than 15 years experience in the energy industry and has broad  
13 knowledge of the structure, operation and performance of California's natural gas and  
14 electric power markets. From 1985 to 1997, Mr. Kebler worked for Southern  
15 California Edison Company in a variety of positions and was actively involved in the  
16 restructuring of California's natural gas industry and following that the restructuring  
17 of the state's electricity industry. From 1997 to 1999, Mr. Kebler worked for the  
18 California Power Exchange and was actively involved in all aspects of the start-up  
19 and initial operation of that corporation.

20 Mr. Kebler has a Bachelor of Science degree in nuclear engineering from the  
21 University of California. He is a member of the Board of Directors of the  
22 Independent Energy Producers Association and the Western Power Trading Forum  
23 and serves as Reliant's representative on numerous industry associations and  
24 committees.  
25  
26

**APPENDIX B**

**Texas**

**Background**

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3  
4 Restructuring legislation was enacted in 1999 in Texas to restructure the Texas  
5 electric industry allowing retail competition. The bill required retail competition to  
6 begin by January 2002. Under retail competition in Texas, default service for  
7 residential and small commercial consumers, ("Price to Beat" or "PTB" service) and  
8 Provider of Last Resort ("POLR") service are two separate services provided by  
9 separate Retail Electric Providers ("REPs"). PTB service is provided by the affiliate  
10 of the incumbent utility – the Affiliated Retail Electric Provider ("AREP") – for  
11 customers who elect PTB service or those customers who have had their service  
12 disconnected due to non-payment. The provider of POLR service is chosen via a  
13 competitive bid process or lottery. POLR service is intended primarily as a temporary  
14 service for those customers whose REP has exited the market.

15 Texas retail electricity Rrates wereare frozen from 1999 to the end of 2001 or 3 years,  
16 and then a 6 percent reduction will is be required for PTB residential and small  
17 commercial consumers. This will remain the "price to beat" remains for five years after  
18 retail competition begins and may be adjusted up to twice a year to reflect significant  
19 changes in the market price of natural gas and purchased energy to serve retail  
20 customers or until utilities lose 40 percent of their consumers to competition. The  
21 AREP can provide competitive service to residential and small commercial customers  
22 the earlier of January 2005 or when it loses 40 percent of residential and/or small  
23 commercial customers to other REPs.

24 Utilities were required to must unbundle into 3 separate categories, using separate  
25 companies or affiliate companies, the generation, the distribution and transmission, and  
26 the retail electric provider – using separate companies or affiliate companies. Power

1            ~~generation companies are Utilities will be limited to owning and controlling not more~~  
2            ~~than 20 percent of installed generation capacity located in or capable of delivering to in~~  
3            ~~their region (ERCOT).~~

4            ~~The PUC adopted rules for the provider of last resort for when competition began in~~  
5            ~~early 2002. The provider of last resort is required to provide to consumers no longer~~  
6            ~~served by their provider of choice service at a fixed price. A competitive bidding~~  
7            ~~process will designate the last resort providers for each consumer class. Bidding was~~  
8            ~~completed by June 1, 2001.~~

9            ~~During 2001, generation affiliates of the utilities in Texas began the process of~~  
10           ~~auctioning part of their generating capacity as described below. The auction is~~  
11           ~~designed to increase the pool of available power for new retail suppliers entering the~~  
12           ~~market, prevent market power, and promote competition in electricity markets.~~

13           Wholesale solicitation

14           ~~As part of the restructuring of the Texas electricity market, generation affiliates of the~~  
15           ~~utilities in Texas are required to acquire sell at auction entitlements to at least 15% of~~  
16           ~~their installed generation capacity until the AREP loses 40% of their residential and~~  
17           ~~small commercial consumers to competitive REPs or 2007, whichever occurs first.~~  
18           ~~requirement through auction. The purpose of the auction is to promote~~  
19           ~~competitiveness in the wholesale market through increased availability of generation~~  
20           ~~and increased liquidity. The AREP is not allowed to purchase capacity in this auction.~~  
21           ~~The utility has the responsibility to procure the necessary capacity and energy,~~  
22           ~~adhering to the rules established by ERCOT. Capacity in addition to the mandated~~  
23           ~~capacity auction is procured through solicitation and secured by bilateral contracts.~~

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