

ORIGINAL



0000036981

BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

Arizona Corporation Commission

2003 OCT 28 A 11:19

DOCKETED

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

OCT 28 2003

AZ CORP COMMISSION
DOCUMENT CONTROL

DOCKETED BY *CA*

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

DOCKET NO. E-00000A-02-0051

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

DOCKET NO. E-01345A-01-0822

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

DOCKET NO. E-00000A-01-0630

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

DOCKET NO. E-01933A-02-0069

PROCEDURAL ORDER

BY THE COMMISSION:

September 10, 2002, the Commission issued Decision No. 65154 in these consolidated dockets. Decision No. 65154 ordered that Arizona Public Service Company ("APS") and Tucson Electric Power Company ("TEP") submit modifications to their existing Codes of Conduct.

On November 12, 2002, TEP filed a letter with the Commission stating that neither TEP nor its parent, UniSource Energy, has a competitive electric service provider, a separate generation affiliate, or an affiliate involved in the marketing and trading of wholesale power. TEP stated that no modifications to its Code of Conduct are necessary.

Also on November 12, 2002, APS filed modifications to its Code of Conduct.

On March 14, 2003, the Commission issued Decision No. 65743 in these consolidated

1 dockets. Decision No. 65743 directed the Commission's Utilities Division Staff ("Staff") to file
2 reports in these dockets on the Codes of Conduct previously filed by APS and TEP, within 60 days of
3 the Independent Monitor's final reports. Decision No. 65743 stated that the Staff Reports should
4 include, but not be limited to, an analysis of the Standards of Conduct developed for the Track B
5 solicitations, their applicability to the respective Codes of Conduct filed by APS and TEP, and
6 recommendations regarding their incorporation into the Codes of Conduct. Decision No. 65743
7 provided that hearings would be scheduled on the Codes of Conduct following the filing of those
8 Staff Reports.

9 Staff filed a Staff Report in these dockets on August 13, 2003.

10 A Procedural Order was issued scheduling a Procedural Conference for October 3, 2003, for
11 the purpose of discussing the procedural schedule for hearings on the APS and TEP Codes of
12 Conduct.

13 The Procedural Conference was convened as scheduled. APS, TEP, Panda Gila River, LLP
14 ("Panda"), the Arizona Utilities Investors Association ("AUIA"), the Residential Utility Consumer
15 Office ("RUCO") and Staff entered appearances.

16 TEP

17 In the Staff Report, Staff stated that TEP currently does not have an affiliate that sells
18 wholesale or competitive retail electricity. Staff further stated that because TEP's new affiliates
19 resulting from its purchase of Citizens Communications' electric and gas divisions are regulated by
20 the Commission, a Code of Conduct is not necessary between TEP and those affiliates, but that Staff
21 will monitor the situation and if warranted, will make a recommendation for a Code of Conduct in the
22 future. Staff therefore recommended that a hearing on the TEP Code of Conduct is not necessary at
23 this time, but that if sometime in the future, TEP were to have an affiliate that sells wholesale or
24 competitive retail electricity, then TEP should file, within 60 days of the formation or acquisition of
25 the affiliate, a revised Code of Conduct for Commission approval.

26 At the Procedural Conference, TEP agreed with Staff's recommendation regarding the TEP
27 Code of Conduct issue. APS, Panda, AUIA and RUCO took no position on the Staff
28 recommendation. Under the circumstances, it is reasonable to await either a Staff recommendation

1 regarding the need for revisions to TEP's Code of Conduct, or a filing by TEP of a revised Code of
2 Conduct due to formation or acquisition of a competitive electric affiliate, prior to setting a Code of
3 Conduct hearing for TEP.

4 APS

5 At the Procedural Conference, APS stated that the hearing on modifications to its Code of
6 Conduct should take place after the conclusion of their pending rate case. In support of its position,
7 APS stated that there have been a number of changes within APS since its November 12, 2002 filing
8 of proposed modifications to its Code of Conduct, and also asserted that the outcome of its pending
9 rate case would influence what provisions would need to be included in any Code of Conduct.

10 Panda and RUCO stated that they do not expect at this time to be participating in the hearing,
11 but will be monitoring the proceedings.

12 AUIA and Staff concurred with APS that it would be appropriate to wait until completion of
13 APS' pending rate case to address the Code of Conduct issues.

14 Under the present circumstances, it appears reasonable to schedule the hearings on APS'
15 Code of Conduct following the conclusion of APS' pending rate case proceeding. However, if any
16 issues related to the APS Code of Conduct cause Staff or another party to believe that a proceeding
17 should be scheduled prior to the conclusion of the rate case, that party should make a filing in these
18 dockets so stating.

19 IT IS THEREFORE ORDERED that Staff shall monitor the situation between Tucson Electric
20 Power Company and its regulated affiliates and shall make a recommendation to the Commission for
21 revisions to Tucson Electric Power Company's current Code of Conduct if, in Staff's judgment, Staff
22 believes revisions are warranted.

23 IT IS FURTHER ORDERED that if in the future, Tucson Electric Power Company either
24 forms or acquires an affiliate that sells wholesale or competitive retail electricity, Tucson Electric
25 Power Company shall file, within 60 days of the formation or acquisition, a revised Code of Conduct
26 for Commission approval.

27
28

1 IT IS FURTHER ORDERED that the hearing on the proposed modifications to Arizona
2 Public Service Company's Code of Conduct shall be scheduled following the conclusion of its
3 pending rate case.

4 IT IS FURTHER ORDERED that if, prior to the conclusion of the pending rate case, any
5 party to these dockets believes that a proceeding should be scheduled before that time on issues
6 related to the Arizona Public Service Company's Code of Conduct, that party shall make a filing in
7 these dockets so requesting.

8 DATED this 28th day of October, 2003.

9
10
11 
12 TEENA WOLFE
ADMINISTRATIVE LAW JUDGE

13 Copies of the foregoing mailed/delivered
14 this 28 day of October, 2003 to:

15 Michael A. Curtis
16 William P. Sullivan
17 Paul R. Michaud
Martinez & Curtis PC
2712 N 7th Street
Phoenix, Arizona 85006-1090

C. Webb Crockett
Jay L. Shapiro
Patrick J. Black
Fennemore Craig
3003 N Central Ave Suite 2600
Phoenix, Arizona 85012-2913

18 Scott Wakefield
19 RUCO
1110 W Washington Suite 220
Phoenix, Arizona 85007

Lawrence V. Robertson Jr.
Munger Chadwick PLC
333 N Wilmot Suite 300
Tucson, Arizona 85711-2634

20 Walter W. Meek
21 Arizona Utility Investor Association
2100 N Central Ave Suite 210
22 Phoenix, Arizona 85004

Michael Grant
Gallagher & Kennedy
2575 E Camelback Rd
Phoenix, Arizona 85016-9225

23 A. B. Baardson
Mountain Country Co-Generation, Inc.
24 6463 N Desert Breeze Ct.
Tucson, Arizona 85750-0846

Christopher Hitchcock
Law Offices of Christopher Hitchcock PLC
P O Box AT
Bisbee, Arizona 85603-0115

25 Robert S. Lynch
26 Robert S. Lynch & Associates
340 E Palm Lane Suite 140
27 Phoenix, Arizona 85004-4551

Russell E. Jones
D. Michael Mandig
Waterfall Economidis Caldwell Hanshaw &
Villamana, P.C.
5210 E Williams Circle Ste 800
Tucson, Arizona 85711

1 Steven C. Gross
Law Office of Porter Simon
2 40200 Truckee Airport Rd
Truckee, California 96161
3
4 Ken Bagley
R W Beck
14635 N Kierland Blvd Suite 130
5 Scottsdale, Arizona 85254-2769
6
7 Raymond S. Heyman
Michael W. Patten
Roshka Heyman & DeWulf
400 E Van Buren Suite 800
8 Phoenix, Arizona 85004
9
10 Deborah Scott
David Couture
Tucson Electric Power Co.
One South Church Street
Tucson, Arizona 85701
11
12 Steve Mendoza
Arizona Power Authority
1810 W Adams
13 Phoenix, Arizona 85007-2697
14
15 Jay I. Moyes
Moyes Storey
3003 N Central Ave Suite 1250
Phoenix, Arizona 85012-2915
16
17 Alan R. Watts
17132 El Cajon Avenue
Yorba Linda, California 92886
18
19 William D. Baker
Ellis & Baker, PC
7310 N 16th Street Suite 320
20 Phoenix, Arizona 85020
21
22 Barry M. Goldwater, Jr.
3104 E Camelback Rd Suite 274
Phoenix, Arizona 85016
23
24 Patrick J. Sanderson
Arizona Independent Scheduling Administrator Assoc.
4397 W Bethany Home Rd #1205
Phoenix, Arizona 85301
25
26 Jeffrey B. Guldner
Snell & Wilmer
One Arizona Center
Phoenix, Arizona 85004-0001
27
28

Jana Van Ness
Arizona Public Service Co.
P O Box 53999 Sta 9908
Phoenix, Arizona 85072-3999

Thomas Mumaw
Karilee Ramaley
Pinnacle West Capital Corporation
400 N 5th Street Sta 8695
Phoenix, Arizona 85004

Stacy Aguayo
APS Energy Services
400 E Van Buren St Suite 750
Phoenix, Arizona 85004

John Wallace
Grand Canyon State Electric Co-Op Ass'n Inc.
120 N 44th Street Suite 100
Phoenix, Arizona 85034-1822

Dennis L. Delaney
K.R. Saline & Associates, PLC
160 N Pasadena Suite 101
Mesa, Arizona 85201-6764

Kevin C. Higgins
Energy Strategies LLC
30 W Market Street Suite 200
Salt Lake City, Utah 84101

Roger K. Ferland
Quarles & Brady Streich Lang LLP
Renaissance One
Two N Central Avenue
Phoenix, Arizona 85004-2113

Jana Brandt
Kelly Barr
Salt River Project
Mail Station PAB221
P O Box 52025
Phoenix, Arizona 85072-2025

Michael Engelman
Dickstein Shapiro Morin & Oshinsky LLP
2101 L Street NW
Washington, DC 20037-1526

David A. Crabtree
Dierdre A. Brown
TECO Power Services Corp.
P O Box 111
Tampa, Florida 33602

1 Michal A. Trentel
Patrick W. Burnett
Panda Energy Int'l Inc.
2 4100 Spring Valley Suite 1010
Dallas, Texas 75244

3 Peter Van Haren
4 Jesse W. Sears
City of Phoenix
5 200 W Washington Street Suite 1300
Phoenix, Arizona 85003-1611

6 Laurie A. Woodall
7 Environmental Enforcement Section
Office of the Attorney General
8 1275 W Washington
Phoenix, Arizona 85007

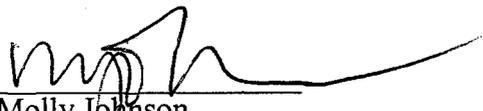
9 Donna M. Bronski
10 City of Scottsdale
City Attorney's Office
11 3939 N Drinkwater Blvd
Scottsdale, Arizona 85251

12 Theodore E. Roberts
Sempra Energy Resources
13 101 Ash Street Hq 12-B
San Diego, California 92101-3017

14 Daniel W. Douglass
15 Law Office of Daniel W. Douglass, APC
6303 Owensmouth Ave Tenth Floor
16 Woodland Hills, California 91367

17 Ernest G. Johnson, Director
Utilities Division
18 ARIZONA CORPORATION COMMISSION
1200 W Washington Street
19 Phoenix, Arizona 85007

20 Christopher Kempley, Chief Counsel
Legal Division
21 ARIZONA CORPORATION COMMISSION
1200 W Washington Street
22 Phoenix, Arizona 85007

23
24 By: 
Molly Johnson
25 Secretary to Teena Wolfe
26
27
28