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6 **BEFORE THE ARIZONA CORPORATION COMMISSION**

7 IN THE MATTER OF THE APPLICATION
8 OF ARIZONA PUBLIC SERVICE
COMPANY FOR DETERMINATION OF
9 PRUDENCE AND APPROVAL OF
RATEMAKING TREATMENT RELATED
10 TO NATURAL GAS INFRASTRUCTURE

DOCKET NO. E-01345A-05-0895

**APPLICATION FOR LEAVE TO
INTERVENE**

11
12 Pursuant to A.A.C. R14-3-105, El Paso Natural Gas Company (“EPNG”) applies to the
13 Arizona Corporation Commission (the “Commission”) for an order granting EPNG leave to
14 intervene in the above-captioned proceeding. EPNG asserts that it has a direct and substantial
15 interest in these proceedings, and that its intervention will not broaden or unduly delay a decision
16 by the Commission on the merits of the application. Instead, its intervention will be in the public
17 interest as it will assist the Commission in determining the central issue in this docket – the
18 prudence of Arizona Public Service Company’s (“APS”) requested cost recovery, including the
19 rate premium APS has agreed to pay under the agreements at issue.

20 1. **Introduction.**

21 On December 16, 2005, APS filed an application (“Application”) with the Commission
22 for pre-approval of an Expansion Agreement and Transportation Agreement between APS and
23 Transwestern Pipeline Company, LLC (“Transwestern”) – and associated costs – as reasonable
24 and prudent. Such a determination would provide APS a guarantee of full recovery of those costs
25 through future retail electric rates.
26

1 APS asserts that its request is made pursuant to the Commission's Policy Statement
2 Regarding New Natural Gas Pipeline and Storage Costs ("Policy Statement"), issued on
3 December 18, 2003. The Policy Statement recognizes that "[t]raditionally Arizona utilities have
4 not sought and the Commission has not granted pre-approval of cost recovery from participation
5 in infrastructure projects or other projects," and that the "preferred method" of picking the most
6 cost-effective project is the "traditional approach" whereby utilities file for cost recovery after
7 incurring infrastructure costs. Although the Policy Statement also recognizes alternate
8 approaches, including filings by Arizona utilities for pre-approval of costs in cases where such
9 pre-approval may assist in the development of natural gas infrastructure in Arizona, the
10 Commission was careful to point out that changing the dynamics of cost recovery through
11 alternate approaches is "something which should be done very carefully," and should not be done
12 "to the detriment of [utilities'] customers through increased rates or degradation of service." The
13 Policy Statement also recognizes that "the region's natural gas consumers and infrastructure
14 developers play a fundamental role in determining how to best address the region's infrastructure
15 needs."¹ As a natural gas "infrastructure developer" committed to serving Arizona customers,
16 EPNG believes that intervention in this particular proceeding is consistent with this fundamental
17 role and the public interest.

18 The Policy Statement is the result of the Commission's April 15, 2003 Notice of Inquiry
19 on the Issue of Arizona Corporation Commission Policy and Action on Natural Gas Infrastructure
20 Matters in Arizona ("NOI"). EPNG participated in the proceedings and on September 25, 2003,
21 filed its Comments in Response to the September 10, 2003 Workshop ("NOI Comments").²
22 EPNG responded to many of the issues identified in the Strawman Proposal authored by
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24 _____
25 ¹ The Commission typically determines prudence within the context of a rate case.

26 ² EPNG and Copper Eagle Gas Storage, LLC were jointly developing a natural gas storage facility in western Maricopa County at the time the Comments were filed.

1 Commission Staff, including the need for diversity (e.g., infrastructure or supply), long-term
2 planning, and the central issue to be addressed in this proceeding – pre-approval of cost recovery.

3 2. **EPNG has a Direct and Substantial Interest in These Proceedings.**

4 It is clear from both the NOI and Policy Statement that EPNG – the major transporter of
5 natural gas in Arizona – has a direct and substantial interest in these proceedings. The
6 Commission’s review of APS’s Application could affect EPNG’s continued planning and future
7 development of its own infrastructure in Arizona. APS is requesting that the Commission
8 approve a rate “premium” to provide for “reliability, flexibility and competitively-priced
9 options.” This premium is alleged to be the total cost differential between the estimated
10 combined costs of transportation and natural gas supply along Transwestern’s proposed pipeline,
11 when compared to the costs of obtaining transportation service and natural gas supply through
12 EPNG’s existing infrastructure. By APS’s own calculations, the cost of transportation on
13 Transwestern will be approximately eighteen percent (18%) higher than the cost of transportation
14 on EPNG, requiring ratepayers to bear approximately \$5.7 million per year of increased
15 transportation costs. Application at 10. However, APS claims that these higher transportation
16 costs are practically offset by lower commodity costs. *Id.* In short, the Commission is being
17 asked to approve a rate premium to the extent that the higher transportation costs associated with
18 Transwestern’s pipeline project are prudent in order to help ensure the pipeline’s construction. If
19 a premium is approved in this proceeding, EPNG will be directly and substantially affected, along
20 with APS’s ratepayers.

21 Because APS redacted the pricing provisions of its contract with Transwestern, EPNG has
22 been unable to verify the amount of the rate premium APS has agreed to pay. The redactions by
23 APS also have limited the information available to EPNG so that it can analyze the basis for APS
24 assumed savings in commodity costs – an assumption that appears questionable given that EPNG
25 already provides access to the same supply basins accessed by Transwestern, and to additional
26 supply sources as well. In any event, based on the limited information available at this time, it is

1 clear that this proceeding will directly affect EPNG's interests in several respects. First, it could
2 cause APS, a current customer of EPNG, to use Transwestern for a portion of its existing loads
3 even though, based on the information available at the present time, EPNG can provide the same
4 or superior service at a lower cost. Second, APS's filing may require EPNG to consider
5 alternatives in long-term planning for future construction in Arizona. Finally, approval of a rate
6 premium may affect EPNG's ability to compete with other developers of natural gas
7 infrastructure in capital markets for the financing of facilities.

8 3. **EPNG's Participation Will Not Broaden the Issues or Unduly Delay a**
9 **Decision by the Commission on the Merits of the Application.**

10 EPNG supports the Commission's efforts to encourage the development and construction
11 of natural gas infrastructure in Arizona. *See e.g.*, NOI Comments. The pre-approval of costs is
12 the central policy issue addressed by this proceeding, and the Commission is being asked to
13 determine whether the Expansion Agreement, Transportation Agreement and related costs
14 represent prudently incurred expenses that APS should be allowed to recover from ratepayers.
15 Since each separate request for cost recovery is likely to present a unique set of circumstances,
16 the Policy Statement requires that APS's Application be closely scrutinized to determine whether
17 "specific requests for cost recovery proposals are appropriate to the circumstances for each
18 individual application."

19 In this particular Application, APS provides conclusions regarding a cost comparison it
20 allegedly has performed using EPNG's and Transwestern's future transportation rates. However,
21 APS does not explain and/or provide supporting documentation for the assumptions on which its
22 conclusions are based, including but not limited to: (1) the assumed reservation charge levels for
23 EPNG and Transwestern; (2) the assumed usage rate levels for EPNG and Transwestern; (3) the
24 assumed fuel rates for EPNG and Transwestern; (4) the assumed services to be provided by
25 EPNG and Transwestern; or (5) the assumed commodity prices available from natural gas sellers
26 on the EPNG and Transwestern systems. Intervention is necessary in order for EPNG to

1 effectively review the extent and accuracy of the economic analysis conducted by APS, a review
2 that will ultimately aid the Commission in determining whether the requested cost recovery is
3 prudent. Indeed, EPNG is uniquely situated to assist the Commission in determining the
4 reasonableness of the estimates and, thereby, the prudence of APS's requested cost recovery.

5 The Commission favors an open and transparent decision making process. EPNG's
6 contribution to the overall analysis and public review can assist the Commission in determining
7 whether the amount of the rate premium APS is requesting to pass through to Arizona ratepayers
8 represents an acceptable rate for purposes stated in the Policy Statement, and is otherwise
9 consistent with Arizona law. EPNG's intervention will be limited in scope to the issues being
10 addressed in this proceeding – issues that go directly to the prudence of the Expansion
11 Agreement, Transportation Agreement and APS's related costs, and whether pre-approval of
12 these costs will serve the public interest.

13 4. **Conclusion.**

14 The Commission traditionally affords interested parties intervention in Commission
15 proceedings, and the requirements of A.A.C. R14-3-105 are liberally construed for this purpose.
16 For the reasons set forth herein, EPNG respectfully requests that the Commission issue an order
17 granting this Application for Leave to Intervene as in the public interest. All communications in
18 connection with the above-captioned proceedings should be directed to:

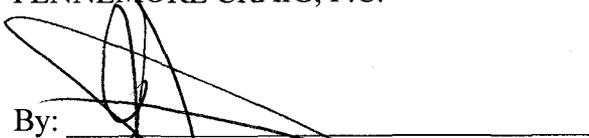
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RESPECTFULLY SUBMITTED this 13th day of January, 2006.

FENNEMORE CRAIG, P.C.



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ORIGINAL and 13 copies of the foregoing
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COPY of the foregoing hand-delivered
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