

EXCEPTION



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OPEN MEETING AGENDA ITEM

ORIGINAL

BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS:

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

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IN THE MATTER OF THE APPLICATION
OF ARIZONA PUBLIC SERVICE
COMPANY FOR A HEARING TO
DETERMINE THE FAIR VALUE OF THE
UTILITY PROPERTY OF THE COMPANY
FOR RATEMAKING PURPOSES, TO FIX A
JUST AND REASONABLE RATE OF
RETURN THEREON, TO APPROVE RATE
SCHEDULES DESIGNED TO DEVELOP
SUCH RETURN, AND FOR APPROVAL OF
PURCHASED POWER CONTRACT.

DOCKET NO. E-01345A-03-0437

IN THE MATTER OF THE APPLICATOIN
OF ARIZONA PUBLIC SERVICE
COMPANY FOR APPROVAL OF A POWER
SUPPLY ADJUSTOR SURCHARGE.

DOCKET NO. E-01345A-05-0526

"EXCEPTIONS" TO RECOMMENDED
OPINION AND ORDER

Pursuant to A.A.C. R14-3-110 (B) and the January 4, 2006 transmittal letter from the Executive Director of the Commission, Southwestern Power Group II, L.L.C., Mesquite Power, L.L.C. and Bowie Power Station, L.L.C. ("SWPG/Mesquite/Bowie") hereby submit their "Exceptions" to the recommended Opinion and Order prepared by Chief Administrative Law Judge Farmer in the above-captioned proceeding.

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4 As the recommended Opinion and Order notes and discusses at length, the central issue
5 before the Commission in the above-captioned proceedings at this juncture is what did the
6 Commission intend with respect to the Power Supply Adjuster and the related surcharge
7 mechanism which the Commission approved in connection with its issuance of Decision No.
8 67744 on April 7, 2005 in Docket No. E-01345A-03-0437. In that regard,
9 SWPG/Mesquite/Bowie would observe that Judge Farmer either "has it right" or she does not as
10 to what the Commission intended; and the Commission will let all concerned know how "close
11 to the mark" she is when it considers and acts upon her recommended Opinion and Order.
12 SWPG/Mesquite/Bowie do not presume to know what the Commission intended.

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15 However, SWPG/Mesquite/Bowie do know that when they expressed their support for
16 the Settlement Agreement which was the subject of Decision No. 67744, and of which the Power
17 Supply Adjuster and the related surcharge mechanism were a part, they were motivated by a
18 desire that Arizona Public Service Company ("APS") be placed in a position where it would
19 remain an active an (investment grade quality) credit-worthy purchaser of power through the
20 competitive wholesale power market in Arizona. In that regard, as the Commission is aware,
21 recent reports indicate that certain securities rating agencies currently have APS's financial
22 circumstances, and in particular its availability to timely recover fuel and purchased power
23 expenses, under careful review. Furthermore, SWPG/Mesquite/Bowie believed that the nature
24 and manner of operation of the Power Supply Adjuster and the related surcharge mechanism
25 should be such as to maintain a financial incentive for APS to look to the wholesale power
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2 market in Arizona in connection with a discharge of the company's public service obligation.
3 That motivation and belief upon the part of SWPG/Mesquite/Bowie continue to this day.
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5 Accordingly, SWPG/Mesquite/Bowie respectfully request that the Commission (a) take
6 the aforementioned considerations into account as it reviews Judge Farmer's recommended
7 Opinion and Order, and (b) carefully consider what the impact of Judge Farmer's conclusions
8 and recommendations would have upon [i] the ability of APS to remain an (investment grade
9 quality) credit-worthy purchaser of wholesale power, and [ii] its incentive to satisfy its power
10 supply needs from the competitive wholesale power market.
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14 Dated this 12th day of January, 2006.
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17 Respectfully submitted,

18
19 Lawrence V. Robertson, Jr.
20 Attorney for Southwestern Power
21 Group II, L.L.C. and Bowie
22 Power Station, L.L.C.

23 And

24 Theodore Roberts
25 Lawrence V. Robertson, Jr.
26 Attorneys for Mesquite
27 Power, L.L.C.
28

By: Lawrence V. Robertson, Jr.
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Original and 15 copies of the
foregoing Exceptions filed on this
13th day of January, 2006, with:

Docket Control
Arizona Corporation Commission C/O 400 W. Congress, Suite 218
Tucson, Arizona 85701

Copy of the foregoing emailed/mailed this
13th day of January, 2006 to all parties of
record