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February 13, 2006

HAND DELIVERED

Teena Wolfe
Administrative Law Judge
Hearing Division
Arizona Corporation Commission
1200 W. Washington
Phoenix, AZ 85007

Re: *Recommended Opinions and Orders; Items 7 and 8 on the February 14, 2006 Open Meeting Agenda; Docket No. E-04100A-02-0261*

Dear Ms. Wolfe:

We have reviewed the Recommended Opinions and Orders ("ROOs") on this matter and greatly appreciate your and Hearing Division's assistance in promptly moving them to the February 14 Open Meeting Agenda. We do request two changes in the ROOs.

First, at page 8, ll. 1-3, the final ordering paragraphs instruct SWTC to file executed financing documents within 30 days of obtaining the financing. The loan documents, however, were executed in the summer of 2002 and have already been filed with the Commission as a compliance condition under Decision No. 64991 (p. 5, ll. 10-12). No new loan documents will be executed in connection with these projects. Instead, a draw request will be made under the existing documents and, for that reason, we request that the final ordering paragraph(s) of the ROOs on p. 8, ll. 1-3 be deleted.

Second, at Finding 21, Conclusion 5 and the First Ordering Paragraph, the ROOs discuss and order SWTC to adhere to a "plan" to increase equity as a percentage of total capital. However, in Findings 19 and 20, the ROOs correctly note that in last August's rate case decision (No. 68072), the Commission did not order any specific plan or equity percentage but did instruct SWTC to file a new equity analysis later this year which would consider several issues (Findings 37-39, Decision No. 68072). It is not known at this time what the analysis will indicate, what action the Commission may take on that filing and when it will address the subject. Because no "plan" is in effect at this time, the reference to adherence to a plan in this

order is confusing. For that reason, we would ask that the phrase "if SWTC adheres to a plan to increase equity as a percentage of total capital" be deleted from the ROOs at p. 6, ll. 16-17 and p. 7, l. 2 and similar language be deleted at the end of the First Ordering Paragraph at p. 7, ll. 11-12.

Once again, your and Staff's assistance in expediting this matter is greatly appreciated.

Very truly yours,

GALLAGHER & KENNEDY, P.A.

By:
Michael M. Grant

MMG/plp
15169-1/1331435

Original and 13 copies filed with Docket Control this 13th day of February, 2006.

cc (hand delivered): Ernest Johnson, Director, Utilities Division
James Dorf, Utilities Division