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OPEN MEETING AGENDA ITEM

BEFORE THE ARIZONA CORPORATION COMMISSION

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1
2 WILLIAM A. MUNDELL
CHAIRMAN
3 JIM IRVIN
COMMISSIONER
4 MARC SPITZER
COMMISSIONER

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6 IN THE MATTER OF THE EMERGENCY
APPLICATION OF ARIZONA PUBLIC
7 SERVICE COMPANY FOR A PARTIAL
WAIVER OF A.A.C. R 14-2-804(B)(1) AND
8 (2).

Docket No. E-01345A-02-0840

Arizona Corporation Commission

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9 **RUCO filing in response to APS emergency application**

10 On November 8, 2002, Arizona Public Service Company ("APS") filed an emergency
11 application ("Emergency Application") requesting a partial waiver of A.A.C. R14-2-804(B)(1)
12 and (2) ("Rule 804") to allow APS to make short-term advances to its parent corporation
13 Pinnacle West Capital Corporation ("Pinnacle West") of up to \$125 million. APS claimed in its
14 application that the short-term advances are necessary to stabilize the financial condition of
15 Pinnacle West and its affiliates pending the Commission's decision on APS's pending
16 financing application. APS claimed that Pinnacle West may not be able to renew an existing
17 364-day bank facility that expires on November 29, 2002 as a result of the regulatory
18 uncertainty surrounding the timing of a Commission decision on the financing application and a
19 recent deterioration in capital markets. APS therefore proposes that it be permitted to either
20 loan Pinnacle West up to \$125 million for up to 364 days, or guarantee Pinnacle West's short-
21 term debt up to that amount.

22 Rule 804 prohibits a utility from lending to an affiliate or guaranteeing the liabilities of an
23 affiliate without Commission approval. The rule exists to protect the financial status of the
24 utility from degradation due to certain transactions with affiliates. Decision No. 56844 (March

1 14, 1990), Att. B pg. 2-3, 8-9 (adopting Affiliated Interest Rules). Rule 804(C) provides that,
2 prior to approval of such transactions, the Commission will determine if the transactions would
3 impair the financial status of utility, otherwise prevent it from attracting capital at reasonable
4 and fair terms, or impair the utility's ability to provide safe, reasonable and adequate service.

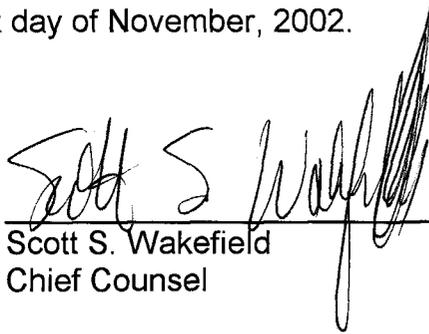
5 APS's application claims that two factors are responsible for its current predicament.
6 First, the Commission changed course regarding APS's divestiture of generation assets in
7 Decision No. 65154 (the "Track A Decision"). Second, the credit market for energy-related
8 companies is in a state of tumult.

9 While RUCO has no disagreement with the Commission's Track A decision to modify
10 APS's divestiture requirement, it also recognizes that such a modification may result in
11 adverse consequences to APS and Pinnacle West that had acted in reliance on that
12 requirement. As such, RUCO realizes that, to insure that APS and Pinnacle West do not suffer
13 irreparable harm that would also affect APS's ability to reliably serve its customers, it may be
14 appropriate for the Commission to authorize extraordinary remedies that it might not otherwise
15 consider. Further, RUCO believes that it would be prudent for the Commission to act sooner
16 rather than later, to prevent adverse impacts on service quality and to prevent the escalation of
17 the consequences that could affect APS's customers.

18 Accordingly, RUCO supports APS's Emergency Application. However, the Commission
19 must consider what protections for consumers should accompany an extraordinary remedy
20 such as the approval of the Emergency Application. RUCO believes that APS acquiring an
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1 interest in the Pinnacle West electric generation assets, as proposed by Staff, is an
2 appropriate condition for on which to base approval of the Emergency Application.¹

3 RESPECTFULLY SUBMITTED this 21st day of November, 2002.

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6 
7 Scott S. Wakefield
8 Chief Counsel

9 AN ORIGINAL AND THIRTEEN COPIES
10 of the foregoing filed this 21st day
11 of November, 2002 with:

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15 COPIES of the foregoing hand delivered/
16 mailed this 21st day of November, 2002 to:

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¹ When considering additional remedies to address the impacts of its Track A decision in the form of APS's pending financing application (Docket No. E-01345A-02-0707) or otherwise, RUCO urges the Commission to adopt appropriate safeguards to minimize customers' exposure to unnecessary risks.

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