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BEFORE THE ARIZONA CORPORATION COMMISSION

1
2 WILLIAM A. MUNDELL
3 Chairman
4 JIM IRVIN
5 Commissioner
6 MARC SPITZER
7 Commissioner

Arizona Corporation Commission
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AZ CORP COMMISSION DOCUMENT CONTROL

8 IN THE MATTER OF THE APPLICATION OF
9 ARIZONA PUBLIC SERVICE COMPANY FOR
10 AN ORDER OR ORDERS AUTHORIZING IT TO
11 ISSUE, INCUR, OR ASSUME EVIDENCES OF
12 LONG-TERM INDEBTEDNESS; TO ACQUIRE A
13 FINANCIAL INTEREST OR INTERESTS IN AN
14 AFFILIATE OR AFFILIATES; TO LEND MONEY
15 TO AN AFFILIATE OR AFFILIATES; AND TO
16 GUARANTEE THE OBLIGATIONS OF AN
17 AFFILIATE OR AFFILIATES.

Docket No. E-01345A-02-0707

STAFF'S RESPONSE TO APS EMERGENCY MOTION TO MODIFY PROCEDURAL ORDER

18 The Arizona Corporation Commission Utilities Division ("Staff") hereby respectfully requests
19 that the Emergency Motion of the Arizona Public Service Company ("APS" or "Company") to
20 Modify Procedural Order of October 9, 2002 be denied. Staff supports the Chief Administrative Law
21 Judge's procedural schedule (as outlined in the Procedural Order issued in the above-captioned
22 proceeding on October 9, 2002). Staff urges the Commission to reject the procedural schedule
23 proposed by APS in its October 10, 2002 Emergency Motion. The APS proposed schedule is not
24 appropriate for the following reasons.

25 The procedural schedule suggested by APS is not reasonable. First, the APS schedule only
26 gives Staff a little over a month to prepare its testimony. APS filed this application on September 16,
27 2002. Under the APS schedule, APS proposes to file its direct testimony on October 11, 2002. APS
28 required almost a month to prepare testimony for their own application. Also, APS already has all
the information available relating to its application. Staff does not have these same advantages, yet
APS allows little more than a month for Staff to complete discovery and prepare testimony. The APS
testimony in this matter was submitted at 4:30 p.m. on the Friday before a holiday weekend.

APS' application is an unusual request with many complex issues. As indicated at the
Procedural Conference in this matter, Staff needs to conduct extensive discovery before it can file
testimony. At this time, Staff has still not received complete responses to its first set of data requests.

1 In fact, Staff and APS have not reached agreement on a Protective Agreement and Staff has not
2 received any information considered to be confidential by APS. As a result, Staff needs more time to
3 prepare its testimony than the 35 days allowed under the APS schedule.

4 The procedural schedule suggested by APS fails to consider the far reaching implications that
5 this case will have on the competitive market. In this case, APS is proposing to use its own assets to
6 support the assets of a competitor. For the first time ever in this context, the Commission will have to
7 consider the appropriateness of APS guaranteeing the financing of an unregulated affiliate. There
8 should not be a rush to judgment on questions of this magnitude.

9 The procedural schedule proposed by APS fails to give cognizance to other, competing
10 matters pending before the Commission. The Citizens Communications Electric Division case
11 involving its Purchased Power and Fuel Adjustment Clause is currently scheduled to be heard
12 commencing on December 9, 2002. Conducting these two hearings contemporaneously would
13 appear to be undesirable, if not impossible. The APS proposed schedule is unreasonable and should
14 be rejected by the Commission.

15 Staff will comply with whatever procedural schedule is ultimately adopted in this matter. We
16 believe that the previously established procedural schedule will allow APS and its affiliates the
17 opportunity to present their case in support of the financing in a timely manner. The extent,
18 complexity and importance of the issues raised suggest that an undue rush should be avoided. The
19 fact that discovery disputes already exist and that complete responses to Staff's first set of discovery
20 have not as yet been obtained, provides further evidence that the difficulties of this proceeding might
21 be best served by the currently established procedural schedule.

22 RESPECTFULLY SUBMITTED this 15th day of October, 2002.

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2 foregoing filed this 15th day of
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