



OPEN MEETING ITEM



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EXECUTIVE SECRETARY

ARIZONA CORPORATION COMMISSION 2002 JUL 30 A 10: 26

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Arizona Corporation Commission

DOCKETED

JUL 30 2002

DATE: July 30, 2002

DOCKET NOS: E-04072A-01-0988 and E-03662A-0319

TO ALL PARTIES:

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Enclosed please find the recommendation of Administrative Law Judge Teena Wolfe. The recommendation has been filed in the form of an Order on:

DYNEGY ENERGY SERVICES, INC. and ILLINOVA ENERGY PARTNERS, INC.
(CC&N CANCELLATION)

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Administrative Law Judge by filing an original and ten (10) copies of the exceptions with the Commission's Docket Control at the address listed below by 4:00 p.m. on or before:

AUGUST 8, 2002

The enclosed is NOT an order of the Commission, but a recommendation of the Administrative Law Judge to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Working Session and Open Meeting to be held on:

AUGUST 20 AND 21, 2002

For more information, you may contact Docket Control at (602)542-3477 or the Hearing Division at (602)542-4250.

BRIAN C. McNEIL
EXECUTIVE SECRETARY

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

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

5
6 IN THE MATTER OF THE APPLICATION OF
DYNEGY ENERGY SERVICES, INC. FOR A
7 CERTIFICATE OF CONVENIENCE AND
NECESSITY TO PROVIDE COMPETITIVE
8 RETAIL ELECTRIC SERVICES AS AN
ELECTRIC SERVICE PROVIDER PURSUANT
TO A.A.C. R14-2-1601 *ET SEQ.*

DOCKET NO. E-04072A-01-0988

9
10 IN THE MATTER OF THE APPLICATION OF
ILLINOVA ENERGY PARTNERS, INC. FOR
11 CANCELLATION OF ITS A CERTIFICATE OF
CONVENIENCE AND NECESSITY TO
12 PROVIDE COMPETITIVE RETAIL ELECTRIC
SERVICES AS AN ELECTRIC SERVICE
13 PROVIDER PURSUANT TO A.A.C. R14-2-1601
ET SEQ.

DOCKET NO. E-03662A-02-0319

ORDER

14 Open Meeting
August 20 and 21, 2002
15 Phoenix, Arizona

16 **BY THE COMMISSION:**

17 On December 18, 2001, Dynegy Energy Services, Inc. ("Dynegy" or "Applicant") filed with
18 the Arizona Corporation Commission ("Commission") an application for Certificate of Convenience
19 and Necessity ("CC&N" or "Certificate") to provide retail electric services as a load serving entity in
20 all areas in the State of Arizona that the Commission has designated as open to retail competition.

21 On April 11, 2002, the Commission's Utilities Division Staff ("Staff") filed a letter informing
22 Dynegy that its application was administratively complete.

23 On April 26, 2002, Dynegy filed in Docket No. E-03662A-02-0319 an application to cancel
24 the CC&N of Illinova Energy Partners, Inc. ("IEP"), that was granted in Decision No. 61707 (May
25 13, 1999). Dynegy stated that it absorbed IEP into its organization with the merger of Dynegy and
26 the parent company of IEP in February of 2000, and that IEP is no longer doing business.

27 On May 3, 2002, Staff filed a consolidated Staff Report in these dockets, recommending
28 approval of Dynegy's application after a hearing, and recommending approval of the request for

1 cancellation of IEP's CC&N.

2 Our May 6, 2002 Procedural Order consolidated the above-referenced matters, set a hearing
3 date of July 11, 2002, and set an intervention deadline of June 21, 2002. The May 6, 2002 Procedural
4 Order was mailed to the Electric Competition service list. No requests for intervention were filed.

5 On July 2, 2002, Staff filed a Motion for Procedural Order Vacating Hearing in which it
6 requested the opportunity to conduct discovery on certain events related to Dynegy that had
7 transpired subsequent to the filing of its Staff Report, and that the hearing scheduled for July 11, 2002
8 be vacated to allow time for discovery and for the filing of a revised Staff Report.

9 By Procedural Order of July 9, 2002, the hearing was continued, with a new hearing date to
10 be set following the filing of a revised Staff Report.

11 On July 10, 2002, Dynegy filed a letter requesting withdrawal of its application for a CC&N.

12 On July 16, 2002, Staff filed a memorandum in these dockets recommending that Dynegy's
13 application for a CC&N be withdrawn and that the docket be administratively closed. Staff further
14 recommended that the application to cancel the CC&N of IEP be granted.

15 Staff's recommendations that the Commission allow withdrawal of Dynegy's application for a
16 CC&N, and that the Commission cancel IEP's CC&N, are reasonable.

17 * * * * *

18 Having considered the entire record herein and being fully advised in the premises, the
19 Commission finds, concludes, and orders that:

20 **FINDINGS OF FACT**

21 1. On December 18, 2001, Dynegy filed with the Commission an application for a
22 CC&N to provide retail electric services as a load serving entity in all areas in the State of Arizona
23 that the Commission has designated as open to retail competition.

24 2. On April 11, 2002, Staff filed a letter informing Dynegy that its application was
25 administratively complete.

26 3. On April 26, 2002, Dynegy filed an application to cancel IEP's CC&N.

27 4. Dynegy absorbed IEP into its organization with the merger of Dynegy and the parent
28 company of IEP in February of 2000, and IEP is no longer doing business.

- 1 4. Dynegy should be allowed to withdraw its application for a CC&N.
- 2 5. The application to cancel IEP's CC&N should be granted.
- 3 6. The Commission may approve the application without a hearing.

ORDER

5 IT IS THEREFORE ORDERED that the request by Dynegy Energy Services, Inc. to
6 withdraw its application filed on December 18, 2001 for a Certificate of Convenience and Necessity
7 to provide retail electric services is hereby granted.

8 IT IS FURTHER ORDERED that the request by Dynegy Energy Services, Inc. to cancel the
9 Certificate of Convenience and Necessity granted to Illinova Energy Partners, Inc. in Decision No.
10 61707 (May 13, 1999) is hereby granted.

11 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

12 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

13
14
15 CHAIRMAN

COMMISSIONER

COMMISSIONER

16
17 IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive
18 Secretary of the Arizona Corporation Commission, have
19 hereunto set my hand and caused the official seal of the
20 Commission to be affixed at the Capitol, in the City of Phoenix,
21 this ____ day of _____, 2002.

22 _____
BRIAN C. McNEIL
EXECUTIVE SECRETARY

23 DISSENT _____
24 TW:mlj

1 SERVICE LIST FOR:

DYNEGY ENERGY SERVICES, INC. AND
ILLINOVA ENERGY PARTNERS, INC.

2

DOCKET NOS.

E-04072A-01-0988 ET AL.

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4 Barry Huddleston
DYNEGY ENERGY SERVICES, INC.
5 1000 Louisiana Street, Suite 5800
Houston, Texas 77002

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Christopher Kempley, Chief Counsel
7 Legal Division
ARIZONA CORPORATION COMMISSION
8 1200 West Washington Street
Phoenix, Arizona 85007

9

Ernest Johnson, Director
10 Utilities Division
ARIZONA CORPORATION COMMISSION
11 1200 West Washington
Phoenix, Arizona 85007

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