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BEFORE THE ARIZONA CORPORATION COMMISSION

2002 OCT -2 P 4: 22

Arizona Corporation Commission

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

OCT 02 2002

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

DOCKET NO. E-01345A-02-0707

REPLY IN SUPPORT OF MOTION  
FOR LEAVE TO INTERVENE

14 HARQUAHALA GENERAL COMPANY, LLC'S REPLY IN  
15 SUPPORT OF ITS MOTION FOR LEAVE TO INTERVENE

16 Harquahala Generating Company, L.L.C. ("HGC") hereby files its Reply in Support of  
17 Motion to Intervene in the above-captioned proceedings. The Commission has broad discretion  
18 under Arizona Administrative Code R14-3-105 to grant intervenor status. In its Motion to  
19 Intervene, HGC has adequately demonstrated that it has a direct and substantial interest in the  
20 above-captioned proceedings and that it will not unduly broaden the issues. Not surprisingly,  
21 APS attempts to down play HGC and other proposed intervenors' interests as insufficient to  
22 obtain intervenor status, citing public utility cases from other jurisdictions involving entirely  
23 different issues. These cases are inapplicable and irrelevant because they do not address  
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1 financing applications in the context of the transition to a competitive wholesale market for  
2 generation and are based on different procedures and criteria for obtaining intervenor status.

3 In the dockets preceding APS's Application, the Commission has consistently allowed  
4 merchant generators and other interested parties to actively participate in all of these proceedings  
5 in order to provide unique information and industry insights to the Commission. See, e.g.,  
6 Decision No. 65154, Docket No. E-00000A-02-0051, dated September 10, 2002, ("Decision No.  
7 65154"). This matter is no different. Although APS characterizes this proceeding as a "financing  
8 application, plain and simple," its implications and impacts are far greater. APS's Application  
9 raises significant competitive issues beyond those involved in a typical financing application.  
10 Indeed, the issues raised by the Application go to the heart of Arizona's contribution to the  
11 establishment of a nationwide competitive wholesale market.  
12

13  
14 HGC and other proposed intervenors can bring expertise to the table that may assist the  
15 Commission in determining how the financing application will affect the emerging competitive  
16 wholesale market. In Decision No. 65154, the Commission expressly refused to consider APS's  
17 request to acquire or finance the generation units owned and built by Pinnacle West Energy  
18 Corporation ("PWEC") in that docket because the "parties [have not] had an opportunity to  
19 present evidence on the issue." See Decision No. 65154, at p. 26. Presumably, the Commission  
20 was referring the "other parties" to Docket No. E-00000A-02-0051 since APS had already  
21 introduced testimony on the issue in that Docket, our request for intervention will provide the  
22 basis for the evidence described. Specifically, under the Commission's directive, HGC is  
23 prepared to introduce testimony that the \$500,000,000 loan or guarantee from APS to PWEC  
24 would result in a minimum competitive subsidy of 150 basis points per year on the outstanding  
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1 loan balance as compared to what PWEC borrowing costs would otherwise be. At \$500,000,000,  
2 this is a subsidy of \$15,000,000 in the first year. Obviously, this goes directly to the market  
3 power issue that has been key to this proceeding.

4  
5 Moreover, although APS claims that the proposed intervenors will be adequately  
6 represented by RUCO and Staff, only merchant generators such as HGC are in a position to  
7 represent their interests as far as the impact the APS Application may have on the upcoming  
8 procurement process and development of a robust competitive wholesale market as a whole.  
9 These interests are unique to merchant generators and sufficiently distinguishable from those of  
10 the public to warrant direct participation in the proceedings.

11  
12 Finally, an order granting intervenor status will not unduly broaden the issues heretofore  
13 presented, as APS claims. The effect of APS's Application on the upcoming procurement  
14 process is highly relevant to the Commission's decision since the relief requested, if granted, will  
15 significantly impact the viability of that process. APS's fear of a "war of attrition against the  
16 Company" is specious. The Commission has more than ample authority to prevent any  
17 intervenors' activity in this docket from becoming unduly burdensome to APS or otherwise result  
18 in any "one-sided discovery fishing expedition."

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For the above-stated reasons, HGC's Motion to Intervene should be granted.

RESPECTFULLY SUBMITTED this 2<sup>nd</sup> day of October, 2002.

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filed this 2<sup>nd</sup> day of October, 2002, with:

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