

INTERVENTION



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MUNGER CHADWICK, P.L.C

ADMITTED TO PRACTICE IN:  
ARIZONA, COLORADO, MONTANA,  
NEVADA, TEXAS, WYOMING,  
DISTRICT OF COLOMBIA

May 12, 2006

Colleen Ryan, Supervisor  
Docket Control  
Arizona Corporation Commission  
1200 W. Washington  
Phoenix, AZ 85007

Re: Tucson Electric Power Company  
Docket No. E-01933A-06-0560

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2006 MAY 15 P 4: 18  
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Dear Ms. Ryan:

Enclosed for filing in the above-captioned proceeding on behalf of Mesquite Power, L.L.C., Southwestern Power Group II, L.L.C., Bowie Power Station, L.L.C. and Sempra Energy Solutions are the original and thirteen (13) copies of an Application for Leave to Intervene.

Also enclosed are two additional copies of the Application to be conformed and returned to our office in the enclosed addressed and stamped envelope.

Please let me know if you have any questions and thank you for your assistance.

Sincerely,

Lawrence V. Robertson, Jr.

# INTERVENTION

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BEFORE THE ARIZONA CORPORATION COMMISSION

2006 MAY 15 P 4: 18

AZ CORP COMMISSION  
DOCUMENT CONTROL

COMMISSIONERS

**JEFF HATCH-MILLER, Chairman**  
**MARC SPITZER**  
**WILLIAM A. MUNDELL**  
**MIKE GLEASON**  
**KRISTIN K. MAYES**

IN THE MATTER OF THE FILING BY TUCSON ) DOCKET NO. E-01933A-05-0650  
ELECTRIC POWER COMPANY TO AMEND )  
DECISION NO. 62103 ) APPLICATION FOR LEAVE TO  
INTERVENE

Pursuant to A.A.C. R14-3-105, Mesquite Power, L.L.C., Southwestern Power Group II, L.L.C., Bowie Power Station, L.L.C. ("Mesquite/SWPG/Bowie") and Sempra Energy Solutions ("SES") submit this Application for Leave to Intervene in the above-captioned proceeding. In support of their joint Application, Mesquite/SWPG/Bowie and SES submit the following information.

I.

IDENTITY OF APPLICANTS

Mesquite/SWPG/Bowie have actively participated in a number of proceedings before the Commission in recent years relating to the development and maintenance of a viable competitive wholesale power market within the State of Arizona. Several of those proceedings related directly to the desire and ability of Mesquite/SWPG/Bowie to compete for current and future opportunities to provide capacity and energy at wholesale to Tucson Electric Power Company ("TEP") incident to the conduct of its operations as an electric public service corporation.

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1  
2 Included among those proceedings were (i) the Track "A" proceeding and (ii) the Track "B"  
3 proceeding.  
4

5 SES is a retail energy service provider which has served retail end-use electric  
6 commercial and industrial customers in the United States and Mexico since 1999. In Decision  
7 No. 61742, dated June 4, 1999, the Commission granted Sempra Energy Trading ("SET") a  
8 certificate of convenience and necessity ("CC&N") to provide retail electric services as an  
9 Electric Service Provider in all areas of the State of Arizona which the Commission had  
10 designated as open to retail electric competition. Such areas included, and continue to include,  
11 TEP's currently certificated electric service area. In Decision No. 65123, dated August 23, 2002,  
12 the Commission transferred the Electric Service Provider CC&N previously granted to SET to  
13 SES. Subsequently, the viability of that CC&N was placed into doubt by the Phelps Dodge  
14 decision. Accordingly, on March 16, 2006, SES filed an Application with the Commission for a  
15 new Electric Service Provider CC&N which would, inter alia, authorize SES to offer competitive  
16 retail electric services within TEP's electric service area. That Application is now the subject of  
17 Docket No. E-03964A-06-0168, and TEP has been granted Intervenor status therein.  
18  
19

20 II.

21 NATURE OF APPLICANTS' INTEREST  
22 IN ABOVE-CAPTIONED PROCEEDING

23 In the Track "A" and Track "B" proceedings, the Commission clearly indicated that one  
24 of its policy goals was to foster the development and maintenance of a viable competitive  
25 wholesale power market within the State of Arizona. That policy goal has been reiterated by the  
26  
27  
28

1  
2 Commission in subsequent proceedings in recent years in which TEP and  
3 Mesquite/SWPG/Bowie were parties.

4  
5 The above-captioned proceeding is the result of a combination of (i) a Motion to Amend  
6 Decision No. 62103, filed by TEP pursuant to A.R.S. § 40-252, and (ii) the Commission's  
7 Decision No. 68669, which provided for the conduct of a hearing pursuant to A.R.S. § 40-252 to  
8 address the following matters:

9  
10 "The hearing, at a minimum, shall address the following issues,  
11 including but not limited to: the viability of the 1999 Settlement in  
12 light of the Track A, Track B and the *Phelps Dodge* decisions,  
13 (including a discussion and presentation of evidence regarding the  
14 individual parties' opinions of whether TEP will be able to charge  
15 market-based rates or cost-of-service rates after 2008), the  
16 proposals outlined in TEP's original application, Demand Side  
17 Management, Renewable Energy Standards, and Time of Use  
18 tariffs." [Decision No. 68699, page 11, lines 21-26] [Emphasis  
19 added]

20 At this juncture, it is impossible to determine the extent to which the Commission's  
21 consideration of TEP's 1999 Settlement Agreement "in light of the Track A [and] Track B"  
22 decisions may entail a re-examination of those decisions as well, if at all. However, it is  
23 conceivable that an interpretation and/or application of those decisions in this proceeding might  
24 directly and substantially affect the interests of Mesquite/SWPG/Bowie in the maintenance and  
25 viability of a competitive wholesale electric market in both TEP's service area and the State of  
26 Arizona as a whole. Thus, they clearly have a direct and substantial interest in the outcome of  
27 the above-captioned proceeding.

28 Similarly, SES could be directly and substantially affected by the outcome of the above-  
captioned proceeding. It is to be remembered that the 1999 Settlement Agreement which is a  
subject of TEP's Motion to Amend Decision No. 62103 was intended, inter alia, to facilitate the

1  
2 introduction of retail and wholesale electric competition into TEP's electric service area. The  
3 "viability" of that Settlement Agreement is now before the Commission within the context of a  
4 contested proceeding, and is difficult (if not impossible) at this juncture to predict what issue(s)  
5 may be raised by the parties or decision(s) made by the Commission in this proceeding which  
6 could affect how retail electric competition in the future will be conducted in TEP's electric  
7 service area. Thus, as previously indicated, SES has a direct and substantial interest in the  
8 instant proceeding.  
9

10 Further, and in connection with the foregoing, it is worthwhile to note that in issuing  
11 Decision No. 68669, the Commission stated that  
12

13 "Subsequent proceedings [in this docket] should be open to all,  
14 including those not parties to the original Settlement." [Decision  
15 No. 68669, page 11, lines 2-3] [Emphasis added]

16 III.

17 APPLICANTS' INTERVENTION WILL

18 NOT UNDULY BROADEN THE ISSUES

19 TO BE CONSIDERED

20 As of this juncture, Mesquite/SWPG/Bowie and SES do not anticipate a need to raise any  
21 new issues of their own. Rather, they contemplate participating in the proceeding and addressing  
22 those issues which may exist at this time, or which may hereafter be raised by the Commission's  
23 Staff and/or other parties. Thus, their intervention will not unduly broaden the issues to be  
24 considered.  
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IV.

CONCLUSION

WHEREFORE, for the reasons discussed above, Mesquite/SWPG/Bowie and SES hereby request that the Commission issue a Procedural Order in the above-captioned proceeding (i) granting their joint request for intervention, and (ii) according them status and full rights as parties of record.

Dated this 12<sup>th</sup> day of May 2006.

Respectfully submitted,  
Lawrence V. Robertson, Jr.  
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Group, II, L.L.C and Bowie  
Power Station, L.L.C

and

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Original and thirteen (13) copies of the foregoing mailed this \_\_\_\_ day of May, 2006 to:

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A copy of the same served by e-mail or first  
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