



BEFORE THE ARIZONA CORPORATION COMMISSION

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Arizona Corporation Commission

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AZ CORP COMMISSION
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SEP 27 2006

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IN THE MATTER OF ARIZONA PUBLIC
SERVICE COMPANY – APPLICATION FOR
AUTHORIZATION TO ACQUIRE POWER
PLANT

DOCKET NO. E-01345A-06-0464

APS'S RESPONSE IN OPPOSITION
TO APPLICATION FOR LEAVE TO
INTERVENE

Arizona Public Service Company (“APS” or “Company”) hereby files its Response in Opposition to the Application for Leave to Intervene filed by the Distributed Energy Association of Arizona (“DEAA”). In its application, DEAA provides no arguments in support of its request for intervention beyond a general and unsupported assertion that its interests might be affected by the outcome of the proceeding. Indeed, DEAA offers even less support for its request to intervene than did Mesquite Power, L.L.C, Southwestern Power Group II, L.L.C., and Bowie Power Station, L.L.C., and the Arizona Competitive Power Alliance (collectively, the “Merchants”). DEAA does not assert that it or any of its members submitted a response to the Company’s request for proposals (“RFP”) for the Yuma area or would be in a position to meet the indisputable need for additional resources to meet the needs of our Yuma customers. Nor does DEAA allege any specific factual basis why its belated participation in this proceeding, other than as a member of the public, is necessary to protect even their alleged interests.¹

¹ As DEAA indicates in its request for intervention, DEAA represents entities “engaged in the research, development and marketing of distributed generation.” Particularly worthy of note, therefore, is that Section 74 of the Settlement Agreement approved in Decision No. 67744 (April 7, 2005) specifically carves out from the self build moratorium distributed generation of 50 MW or less. And although Article XVII of the Settlement Agreement addresses distributed generation, those provisions are not implicated by Company’s Application in this docket.

1 APS's Application for Authorization to Acquire Power Plant ("APS's Application") is
2 a straightforward request for the Arizona Corporation Commission ("Commission") to
3 authorize the Company to proceed with the acquisition of the necessary generating resources
4 to meet its customers' needs in the Yuma load pocket. As the Company indicated in its
5 Response in Opposition to Motion to Dismiss filed September 22, 2006, any delay in
6 reaching a decision regarding APS's Application not only could threaten reliability in Yuma,
7 but clearly will have an adverse economic effect on APS and its customers, irrespective of the
8 eventual outcome of that decision. The global market for peaking generation facilities
9 already is experiencing upward price pressure due at least in part to increasing demands for
10 peaking generation in California. Those price pressures will only continue to increase and
11 will affect both APS and any other potential supplier of power in Yuma.

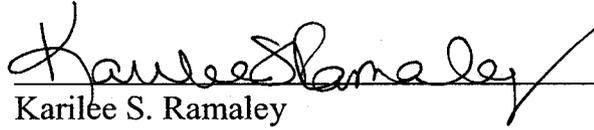
12 As the Company noted previously, APS has provided Commission Staff with detailed
13 information regarding the RFP process and the Company's analysis of the responses to the
14 RFP. DEAA has not raised any factual issues relating to APS's RFP process nor has DEAA
15 alleged any specific concerns with the Company's selection of the self-build proposals as a
16 result of a lengthy RFP process in which the market (including DEAA) was provided
17 repeated opportunities to submit a proposal to meet the Company's needs. Mere status as a
18 signatory to the Settlement Agreement does not, in and of itself, give rise to the type of direct
19 and substantial interest that warrants their participation in this proceeding. Any concerns they
20 may have over the application of the criteria under the Settlement Agreement to their
21 constituents in future RFP's is much broader and general than the scope of this proceeding.
22 Accordingly, this is not the proper proceeding for addressing those generic concerns.

23 APS opposes intervention by DEAA for the reasons stated previously in its responses
24 to prior applications for intervention filed by Merchants, because DEAA has failed to
25 demonstrate a legitimate and substantial interest in the proceeding, and because they have not
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1 identified why their participation as a member of the public is not adequate to address any
2 concerns they have with this. DEAA's Application for Leave to Intervene should be denied.²

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4 RESPECTFULLY SUBMITTED this 27th day of September, 2006.

5 PINNACLE WEST CAPITAL CORPORATION

6 
7 Karilee S. Ramaley

8 Thomas L. Mumaw

9 Attorneys for Arizona Public Service Company

10 The original and 13 copies of the foregoing were
11 filed this 27th day of September, 2006 with:

12 Docket Control
13 Arizona Corporation Commission
14 1200 West Washington
15 Phoenix, Arizona 85007

16 A copy of the same served by email or
17 first class mail this same date to:

18 All Parties of Record

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27 ² Should the Commission determine that, despite the above discussion, DEAA should be granted intervention, that
28 intervention should be limited in scope to avoid any delay of, or broadening of the issues in, this proceeding beyond those
already resulting from the intervention by Merchants.