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BEFORE THE ARIZONA CORPORATION CC
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AZ CORP COMMISSION
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Arizona Corporation Commission

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

DOCKET NO. E-01345A-06-0464

STAFF'S REPLY TO APS'
SEPTEMBER 22, 2006 RESPONSE

On July 13, 2006, Arizona Public Service Company ("APS") filed an application for authorization to acquire a power plant, Docket No. E-01345A-06-0464. APS' application seeks Arizona Corporation Commission ("Commission") approval to acquire a new generation resource within APS' Yuma load pocket.

On July 28, 2006, Mesquite Power, LLC; Southwestern Power Group II, LLC; and Bowie Power Stations, LLC collectively, ("Intervenors") filed a Motion to Dismiss APS' application or, in the alternative, a request for procedural conference. The Arizona Competitive Power Alliance also an intervenor, subsequently joined in that Motion.

Subsequently, the ALJ convened a procedural conference to hear argument on that Motion and to discuss the appropriate processing of this application.

After the procedural conference, APS and the Intervenors attempted to develop a mutually acceptable procedure for processing this case. On September 22, 2006, APS filed its Response to the Intervenors' July 28, 2006 Motion. In that Response, APS indicated that the parties had been unable to agree on a procedure for processing this case. APS also opposed the Intervenors' request for an evidentiary hearing and opposed the Intervenors' proposal to use an independent monitor to evaluate APS' application in this matter.

On October 17, 2006, the Administrative Law Judge issued a procedural order that, among other things, requires Arizona Corporation Commission Staff ("Staff") to respond to APS' September 22, 2006 Response. This pleading is hereby provided in accordance with that procedural order.

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1 A. Request for Evidentiary Hearing

2 The Intervenors have requested an evidentiary hearing in this matter. From Staff's
3 perspective, an evidentiary hearing is not essential to allow Staff to present its case and/or process
4 APS' application. Nonetheless, Staff does not oppose the Intervenors' request for an evidentiary
5 hearing, and further notes that a denial of a party's request for a hearing at this early stage of the
6 proceeding may have due process implications. As the proceeding progresses, the Intervenors will
7 have an opportunity to conduct discovery and present their position. If at that time there appear to be
8 no disputed issues, then it may be appropriate to forego a hearing. However, it may be premature to
9 foreclose the possibility of a hearing if Intervenors at this time believe that a hearing is necessary to
10 allow them to appropriately process their case.

11 B. Independent Monitor

12 The Intervenors have proposed the use of an independent monitor to evaluate APS'
13 application in this case. Although Intervenors have not set forth all of the details underlying their
14 proposal, Intervenors apparently contemplate obtaining an independent consultant, who would be
15 approved by either the Commission or Staff, overseen by Staff, and paid for by Intervenors and APS.
16 Staff is not conceptually opposed to the use of an independent monitor. However, Staff believes that,
17 in this proceeding, an independent monitor is not necessary to ensure a thorough evaluation of APS'
18 application and may serve to substantially lengthen the proceeding. Staff therefore suggests that an
19 independent monitor is not necessary in this proceeding. However, if the Commission or the ALJ
20 were to reach the opposite conclusion, Staff would then request a procedural conference so that the
21 details underlying the use of the independent monitor may be determined.

22 C. Conclusion

23 Although Staff is not requesting a hearing in this matter, Staff does not oppose the
24 Intervenors' request for a hearing at this time. Staff believes that an independent monitor is not
25 necessary in this proceeding. However, if the Commission were to reach a contrary conclusion, Staff

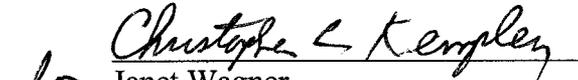
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1 would request a procedural conference so that the parameters regarding the independent monitor may
2 be ascertained.

3 RESPECTFULLY submitted this 25th day of October, 2006.

4 
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10 Original and thirteen (13) copies
11 of the foregoing were filed this
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