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**DG POWER**

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January 25, 2007

By Facsimile; Original by U.S. Mail AZ CORP COMMISSION  
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The Honorable Teena Wolfe  
Administrative Law Judge  
Arizona Corporation Commission  
1200 West Washington Street  
Phoenix, AZ 85007

Arizona Corporation Commission  
**DOCKETED**

JAN 26 2007

Re: Docket E-01345A-06-0464

DOCKETED BY nr

Dear Judge Wolfe:

There are two matters that I believe must be brought to your attention.

In its Post-Hearing Brief, APS states that "DG Power is a power plant developer, which means it builds and sells power plants. It is not a part of the competitive wholesale market, which is a market for energy." Fn. 13. "...developers are not a part of the competitive wholesale market, the intended beneficiary of Paragraphs 74-76 of the Settlement". Br. at 10:9-10. This is factually incorrect and contrary to my testimony. DG Power Intl LLC acted as developer of the bid submitted by Yucca Units 5 & 6, LLC ("Yucca"), the project company, in accordance with standard industry practice. Yucca is an "exempt wholesale generator" under FERC standards. The many proposals we submitted pursuant to the RFP included long-term Power Purchase Agreements, and thus the bidder at all times was a "competitive wholesale market" participant even though we also offered a build-transfer alternative. The fact that DG Power does not and Yucca will not engage in "merchant" activity (selling power into the spot market) does not remove either of them from the protections of the Settlement Agreement.

With respect to the February 1 deadline for entering binding agreements with GE and making deposits by February 1 (Br., fn. 3), GE has extended an offer to APS and DG Power to hold its pricing and delivery dates until late February, to allow time for the ACC to render its decision. DG Power and Yucca appreciate that extension of time, and expect that APS will accept the proposal as well.

Very truly yours,

  
Dale E. Fredericks

C: Karilee S. Ramaley, Esq.  
Lawrence V. Robertson, Esq.  
Jay I. Moyes, Esq.

DG Power International LLC

916 Southwood Blvd, Suite 1B  
Mailing Address: P.O. Box 9300 - Incline Village, NV 89452  
Phone: (775) 232-9850 Fax: (925) 943-1164

Incline Village, NV 89451