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APR 25 2002

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Commissioner

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IN THE MATTER OF THE GENERIC
PROCEEDINGS CONCERNING
ELECTRIC RESTRUCTURING

DOCKET NO. E-00000A-02-0051

IN THE MATTER OF ARIZONA
PUBLIC SERVICE COMPANY'S
REQUEST FOR VARIANCE OF
CERTAIN REQUIREMENTS OF A.A.C.
4-14-2-1606

DOCKET NO. E-01345A-01-0822

IN THE MATTER OF THE GENERIC
PROCEEDINGS CONCERNING THE
ARIZONA INDEPENDENT
SCHEDULING ADMINISTRATOR

DOCKET NO. E-00000A-01-0630

IN THE MATTER OF TUCSON
ELECTRIC COMPANY'S
APPLICATION FOR A VARIANCE OF
CERTAIN ELECTRIC POWER
COMPETITION RULES COMPLIANCE
DATES

DOCKET NO. E-01933A-98-0471

ISSUES IN THE MATTER OF TUCSON
ELECTRIC POWER COMPANY'S
APPLICATION FOR A VARIANCE OF
CERTAIN ELECTRIC COMPETITION
RULES COMPLIANCE DATES

DOCKET NO. E-01933A-02-0069

PANDA GILA RIVER, L.P.'S NOTICE OF ERRATA

Panda Gila River, L.P. ("Panda") hereby files this Notice of Errata to its Reply to Arizona Public Service Company's Response to Request for Order to Show Cause filed on April 5, 2002.

Tab One, which was intended to be certain portions of Jack Davis' March 25, 2002 Deposition Testimony, inadvertently included portions of a transcript from another

1 Commission proceeding. Attached hereto are the correct pages of that Testimony. Panda
2 requests that the parties replace those pages filed on April 5, 2002 with these attached
3 pages and counsel undersigned apologizes for any inconvenience to the Commission, the
4 Administrative Law Judge or any of the parties..

5 RESPECTFULLY SUBMITTED this 25th day of April 2002.

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8 By: 

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25th day of April, 2002, with:

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BEFORE THE ARIZONA CORPORATION COMMISSION

IN THE MATTER OF THE ARIZONA)
PUBLIC SERVICE COMPANY'S)
REQUEST FOR VARIANCE OF)
CERTAIN REQUIREMENTS OF A.A.C.)
R14-2-1606.)

DOCKET NO.
E-01345A-01-0822

DEPOSITION OF JACK E. DAVIS

Phoenix, Arizona
March 25, 2002

**DISK
ENCLOSED**

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Prepared for:

By: CAROLYN T. SULLIVAN, RPR
Certified Court Reporter
Certificate No. 50528

PANDA GILA RIVER

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1 to enter into a deal with Arizona Public Service.
2 That's one of their jobs, one of their
3 responsibilities, and we set them up that way. So it
4 wasn't a matter of I don't want to do this. It's a
5 matter of that's one of our jobs.

6 Q. (BY MR. EISENSTAT) But PWCC could have
7 suggested -- or you could have suggested that APS just
8 do an RFP, couldn't you? And that was an alternative?

9 A. We are going to do an RFP.

10 Q. I understand. But back when you decided to
11 go down the road of a Power Purchase Agreement, there
12 was no legal requirement for PWCC to do a Purchase
13 Power Agreement with APS, was there?

14 MS. DAWSON: Objection to form.

15 THE WITNESS: I don't know if there was any
16 legal requirement, but there is certainly a mandate
17 within our company what they're going to do.

18 And even -- even if you set everything aside,
19 even the RFP would be handled by Pinnacle West Capital
20 Corporation on behalf of Arizona Public Service.

21 Q. (BY MR. EISENSTAT) At any time did you
22 consider whether it would be better for PWCC to not
23 enter into the PPA with Arizona Public Service?

24 MS. DAWSON: Objection to form.

25 THE WITNESS: Well, there were certainly

1 drafts that I saw that my recommendation would be not
2 to enter in that agreement, yes. And that's why I had
3 to interject myself and say, let's understand what
4 this all means as it relates to Arizona Public
5 Service's customer.

6 Q. (BY MR. EISENSTAT) What analyses, if any,
7 did you do as to the benefits to Arizona's ratepayers
8 in proceeding with the PPA?

9 A. I don't recall any specific analyses from the
10 standpoint of comparing one alternative to the other
11 alternative.

12 Q. Do you recall any analyses at all with
13 respect to the benefits to APS' ratepayers of the
14 Power Purchase Agreement?

15 A. There were certainly analyses done -- and I'm
16 going to call them analyses from understanding the
17 wholesale market and recognizing that we did not want
18 to expose our customers to what other customers in the
19 West have been exposed to. And so we decided that the
20 best way to do that is to enter into an agreement that
21 after we transfer our generating assets to Pinnacle
22 West Energy, enter into an agreement to not expose
23 them to that volatility of price and also not expose
24 them to a single price -- or a single fuel source, a
25 marginal fuel source.

1 Q. Did you or anyone else --

2 A. And you don't need to do an analysis to
3 figure out what would have happened if they'd been
4 exposed in 2000, 2001.

5 Q. Had APS entered into an contract with a third
6 party for a fixed term of years and at a fixed price,
7 to what extent would Arizona Public Service have been
8 subject to fuel price volatility --

9 MS. DAWSON: Objection to form.

10 Q. (BY MR. EISENSTAT) -- as a result of that
11 contract?

12 MS. DAWSON: Objection to form.

13 THE WITNESS: From the standpoint of that one
14 particular contract, it would be -- depending on the
15 form of the contract again. I have no idea what form
16 of contract you're talking about, but we would be tied
17 to the marginal fuel, which would be gas, natural gas.
18 And, of course, that's one of the advantages that the
19 Purchased Power Agreement has, is that 70 percent
20 approximately of the fuel there is not natural gas.

21 Q. (BY MR. EISENSTAT) My question didn't say
22 natural gas. It said fuel. I mean, conceivably, you
23 could enter into a contract with a marketer that is
24 providing coal-fired supply, could you not?

25 A. With a marketer?

1 that I just at this point in time can't recall.

2 Q. What is Arizona Public Service projecting as
3 being its standard offer service requirements
4 obligation starting in 2005?

5 MS. DAWSON: Could I hear that again, please.

6 (The record was read by the court reporter as
7 requested.)

8 THE WITNESS: I can't give you the exact
9 number, but essentially, assuming no loss of retail
10 service, retail load, our PPA essentially in round
11 numbers bids out all of our load growth starting from
12 now. So you could add up 270, 270, 270. It won't be
13 exactly that, but that kind of gives you the gist.

14 Q. (BY MR. EISENSTAT) Let me try again because
15 I wasn't clear, I guess. The standard offer service
16 is service that's being provided to those retail
17 customers that decide to remain with Arizona Public
18 Service, correct?

19 A. Yes.

20 Q. And my question went to what the extent of
21 that obligation is projected to be. Retail
22 competition presumably will have certain customers go
23 to alternative suppliers, right?

24 A. That's the premise.

25 Q. Thereby reducing Arizona Public Service's

1 standard offer service obligation. What obligation is
2 Arizona Public Service projecting that it will have in
3 2005?

4 MS. DAWSON: Objection to form.

5 THE WITNESS: We have made no projections on
6 loss of retail load to a competitive supplier. I
7 thought I answered the question. So setting aside if
8 there's no loss to the competitive supplier, then our
9 proposal basically bids out each year our load growth.
10 So you can take 270 and multiply it times the

11 number of years, and that essentially gives you how
12 the standard offer load growth grows, setting aside
13 the fact we're not losing any retail customers.

14 Q. (BY MR. EISENSTAT) Let's assume that you
15 didn't have this PPA that you wanted the Commission to
16 approve and that you did, in fact, decide to enter
17 into an RFP process, to undertake an RFP process for
18 the entirety of APS' standard offer service
19 obligations. Wholly aside from whether you believe
20 you would have gotten sufficient responsive,
21 attractive offers, wholly aside from that, how long do
22 you think it would take you to issue the RFP, get in
23 the responses, evaluate them, and decide who, if
24 anyone, you want to accept?

25 A. Let me see if I understand your question.

1 No. 1, am I to assume that APS' generation sources
2 would be divested?

3 Q. Yes.

4 A. So that would happen by the end of the year?

5 Q. Yes.

6 A. No. 2, I need to set aside all knowledge of
7 the market knowing that I can't bid 100 percent of my
8 load. Am I supposed to assume that?

9 Q. I think you're supposed to assume that you
10 don't answer the question as to what the RFP will
11 result in until you issue one. So I think in
12 fairness, you should take my question as it is
13 intended to be taken, which is: How long will it take
14 you to do an RFP without trying to prejudge the
15 results of it?

16 A. I think to do an RFP, if I understand your
17 question, for approximately 6,000 to 6,200 megawatts,
18 which would include reserves, which is not a
19 requirement of the rules, by the way, wasn't even
20 discussed in the rules, you're talking about a process
21 that's six months in length, eight months in length.

22 Q. Six to eight months?

23 A. Yeah, that kind of time frame for that kind
24 of megawatts and the thinness of the market.

25 Q. Let's try and take the steps of that process.

1 What's the first step in undertaking an RFP?

2 A. Well, I think the first step of undertaking
3 an RFP is to decide what your need is.

4 Q. You just said 6,000 megawatts.

5 A. You asked me the steps. The first step is
6 trying to decide what our need is.

7 And the second step I would say would be to
8 try to determine who's eligible to bid on it.

9 The third step would be -- amongst other
10 steps, would be how do we want to go out for a bid?
11 What kind of tranche do we want? Do we want to bid it
12 as one block or blocks that fit our needs?

13 Those would be some of the things that would
14 be considered in an RFP. What minimum credit would we
15 require? Would we accept fixed price contracts or not
16 fixed price contracts? Would we expect the contracts
17 to be variable volume or not variable volume?

18 Q. Those are all considerations in terms of what
19 goes into the actual request for proposals?

20 A. Yes. Those go into consideration of what the
21 request for proposal would like. Whether each one of
22 those goes into every request, I couldn't say that.

23 Q. How long does it normally take to decide what
24 your need is?

25 MS. DAWSON: Objection to form.

1 THE WITNESS: Well, we know what our -- I
2 mean, in terms of accuracy, you have to worry about
3 your accuracy, but we know what our needs are for this
4 year within a certain band of accuracy. We do
5 forecasts out in time, so at any point in time, we
6 have some indication of what our needs are.

7 Q. (BY MR. EISENSTAT) You said that the whole
8 process takes seven to eight months?

9 A. I think it would.

10 Q. And I'm trying to break it down.

11 A. Well, you're asking me to be a heck of a lot
12 more scientific than I can be.

13 Q. I'm just trying to figure out why you said
14 six to eight as opposed to three to four or nine to
15 12.

16 A. To me, the timing has to do with the
17 quantities and how you want to go out into the market.
18 Do I want to go out, as I said earlier, in one big
19 tranche or several tranches? I think the needs are
20 known, but how you want to go out and get it is not so
21 known. How much peaking do I want to get? How much
22 intermediate do I want to get? How much base load do
23 I want to get? What delivery points do I want to
24 deliver at?

25 Q. Once you've determined what it is you wanted

1 and how you would actually go out for bid, how long do
2 you think it would take to evaluate whatever responses
3 you receive to the RFP?

4 A. The length of time of evaluation would be
5 directly proportional to the complexity of the RFP and
6 the complexity of the people who respond, whether or
7 not they even responded properly to the RFP. And
8 quite frankly, what would happen after that, at least
9 that's happened in many cases that I'm aware of so far
10 is what happens after the RFP is a negotiation
11 process.

12 Q. I assume it would depend to some extent on
13 how many people actually bid?

14 A. Well, certainly narrow down the number of
15 bidders would be part of it. But I think probably the
16 more lengthy process is those that you sit down and
17 negotiate with, what those discussions entail and the
18 result of those discussions, which may be -- even the
19 270 megawatt case and not in your hypothetical case,
20 may be the same problem.

21 Q. Let me ask you this: Let's say you were to
22 do an RFP. And as a result of the eligibility
23 requirements or for whatever reason, no one bid into
24 it. So you didn't have anything to evaluate. Kind of
25 makes your job easier.

1 A. No, I think it makes it pretty tough.

2 Q. It doesn't make the evaluation any tougher.

3 Fair point?

4 A. There would be no evaluation.

5 Q. Right. That's what I was getting at.

6 Now, how long do you think it would have
7 taken from the point where you issue the RFP or decide
8 to issue the RFP to when offers are due? How many
9 months does that take? Again, we're talking about
10 your 6,000 megawatt supply.

11 A. And you keep talking about one RFP, and I
12 keep talking about several RFPs. So let's get an
13 understanding there. I think for a load our size and
14 the market that we exist in today, we would probably
15 do it in tranches. So, in fact, you may have -- as a
16 hypothetical, we may have a base load tranche, an
17 intermediate tranche, a peak tranche, a super peak
18 tranche, and we probably wouldn't do that all at the
19 same time.

20 However, to answer your question, when
21 tranche 1 went out, if it was the base load tranche,
22 that would probably have a lot more evaluation time
23 than, say, the super peak tranche. That's why it's
24 difficult for me to sit here and tell you that it's --
25 an RFP goes out and X number of months later, there's

1 an answer. It really talks about what does the RFP
2 look like.

3 Q. My question assumed that there wasn't an
4 evaluation process because no one bid into it. So
5 from the point where you decide to issue the RFP to
6 the point where offers are due, if you want to take
7 your base load tranche, how long is the time period?

8 A. To do what?

9 Q. What I just asked.

10 MS. DAWSON: Objection to form.

11 Q. (BY MR. EISENSTAT) The time from when you
12 decide to issue the RFP to the time when offers are
13 due.

14 A. Well, I would ask -- I would think you would
15 probably want to give the parties on a base load
16 tranche somewhere between six and eight weeks to
17 respond.

18 Q. So can you answer my question? How long from
19 the time you started to the time they have to respond?

20 MS. DAWSON: Objection to form.

21 THE WITNESS: I think I answered six to eight
22 weeks.

23 Q. (BY MR. EISENSTAT) Okay. That's for the
24 whole process, then?

25 A. Let's go back to the question. You want me

1 to assume the base load tranche. And I think for the
2 base load tranche -- and, also, we're assuming there's
3 no answer -- that it would be reasonable to assume a
4 six- to eight-week time frame for them to respond.

5 Q. So you're saying that six to eight weeks to
6 respond once they receive the RFP or is it six to
7 eight weeks for the whole process from the time you
8 issue it to the time --

9 A. You're getting much more scientific. I'm
10 assuming that the United States mail or whatever would
11 deliver it within one or two days of when I send it
12 out. And their response would be gotten back to me if
13 they responded within one or two days of the day they
14 signed the response.

15 Q. Sir, I'm not trying to be unclear here. I
16 want to know how long the process takes. We can talk
17 about it now or talk about it at the hearing. I just
18 want to talk about it. I want to know how long it
19 takes from start to finish. It's a fair question.

20 A. I think it is a fair question.

21 Q. I'm trying to get a sense for the answer.

22 A. I think the answer is depending on the size
23 of the RFP and what the RFP looks like.

24 Q. We talked about the RFP being 6,000. Then
25 you said you'd probably want to do it in tranches.

1 And I said, let's do the base load.

2 A. And I think they would respond in six to
3 eight weeks.

4 Q. That's how long did it take to respond.
5 That's only part of the process. The other part of
6 the process you've identified is for you to decide the
7 need and decide who was eligible and decide how to get
8 it out for bid. That's before it's issued,
9 presumably.

10 MS. DAWSON: That's a different question.

11 THE WITNESS: That's a different question
12 than you asked --

13 Q. (BY MR. EISENSTAT) No, it's the same
14 question I've been asking, with all due respect.

15 A. I don't believe so, but --

16 MS. DAWSON: Why don't you ask him the
17 question again.

18 MR. EISENSTAT: I'll ask him the one I just
19 did.

20 Q. (BY MR. EISENSTAT) Can you answer the
21 question now, from start to finish.

22 A. Give me the starting point.

23 Q. You decide you want to issue an RFP.

24 A. Uh-huh. Till when? What's the finish point?

25 Q. Until offers are due.