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BEFORE THE ARIZONA CORPORATION COMMISSION

WILLIAM A. MUNDELL
Chairman
JIM IRVIN
Commissioner
MARC SPITZER
Commissioner

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IN THE MATTER OF THE GENERIC
PROCEEDINGS CONCERNING ELECTRIC
RESTRUCTURING ISSUES

Docket No. E-00000A-02-0051

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

Docket No. E-01345A-01-0822

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

Docket No. E-00000A-01-0630

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

IN THE MATTER OF THE APPLICATION OF
TUCSON ELECTRIC POWER COMPANY FOR
APPROVAL OF ITS STRANDED COST
RECOVERY

Arizona Corporation Commission

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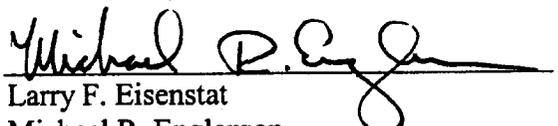
NOTICE OF FILING

Panda Gila River, L.P. ("Panda") hereby provides notice of filing the Rebuttal
Testimony of Craig R. Roach, Ph.D., as required by the Commission's procedural order in
the above-captioned matter, dated October 9, 2002.

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RESPECTFULLY SUBMITTED, Monday, November 18, 2002

PANDA GILA RIVER

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On behalf of Panda Gila River, L.P.

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BEFORE THE ARIZONA CORPORATION COMMISSION

WILLIAM A. MUNDELL
CHAIRMAN
JIM IRVIN
COMMISSIONER
MARC SPITZER
COMMISSIONER

IN THE MATTER OF THE GENERIC) PROCEEDING CONCERNING ELECTRIC) RESTRUCTURING ISSUES.))	DOCKET NO. E-00000A-02-0051
IN THE MATTER OF ARIZONA PUBLIC) SERVICE COMPANY'S REQUEST FOR A) VARIANCE OF CERTAIN) REQUIREMENTS OF A.A.C. R14-2-1606.))	DOCKET NO. E-01345A-01-0822
IN THE MATTER OF THE GENERIC) PROCEEDING CONCERNING THE) ARIZONA INDEPENDENT SCHEDULING) ADMINISTRATOR.))	DOCKET NO. E-00000A-01-0630
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
IN THE MATTER OF THE APPLICATION) OF TUCSON ELECTRIC POWER) COMPANY FOR APPROVAL OF ITS) STRANDED COST RECOVERY.)	DOCKET NO. E-01933A-98-0471

TESTIMONY OF
CRAIG R. ROACH, Ph.D.

ON BEHALF OF
PANDA GILA RIVER, L.P.

November 18, 2002

BOSTON PACIFIC COMPANY, INC.

TABLE OF CONTENTS

I. INTRODUCTION AND PURPOSE OF TESTIMONY 1

II. SUMMARY OF TESTIMONY..... 1

III. APS' NEW TESTIMONY DOES NOT RESOLVE ANY OF MY CONCERNS ABOUT ITS NEEDS ASSESSMENT OR PROCUREMENT PROPOSAL..... 3

 A. APS' proposed Code of Conduct does little to alleviate my concerns about APS running a competitive solicitation without bias toward its Affiliate. 3

 B. I disagree with APS' implication that the 2003 solicitation will not be intensely competitive, and with APS' request that it alone be given Staff's price to beat. 7

 C. I do agree that the Commission's oversight and review of the solicitation constitutes a prudence review, but only for the short duration of the contracts... .. 9

IV. DR. ROSEN'S PROPOSED RETURN TO THE INTEGRATED RESOURCE PLANNING/LEAST COST PLANNING (IRP/LCP) OF THE 1980'S AND 1990'S IS ENTIRELY UNNECESSARY. STAFF IS CLEARLY FOCUSED ON ASSURING THE COMPETITIVE SOLICITATION WILL GET THE BEST DEAL FOR ARIZONA RATEPAYERS, AND THE SOLICITATION PROCESS, IN EVERY RESPECT, IS AIMED AT ACHIEVING THE LEAST COST FOR THEM. 11

 A. Getting capacity factors right does not require a return to IRP/LCP. 12

 B. Dr. Rosen's proposed Regulated Proxy bid is not needed. 13

 C. Contrary to Dr. Rosen's assertion, Staff's three-phased evaluation clearly includes a consideration of both transmission and generation investment. 14

V. I SHARE SEVERAL CONCERNS OVER APS' ESTIMATION OF UNMET NEEDS WITH HARQUAHALA GENERATING COMPANY, LLC'S WITNESS, TOM BRODERICK. 16

VI. RECOMMENDATIONS..... 17

1 **I. INTRODUCTION AND PURPOSE OF TESTIMONY**

2

3 Q. Please state your name, position, and business address?

4 A. My name is Craig R. Roach. I am a Partner with Boston Pacific Company, Inc.

5 My business address is 1100 New York Avenue, NW, Suite 490 East,

6 Washington, DC 20005.

7

8 Q. Are you the same Craig R. Roach who submitted Direct Testimony in this

9 proceeding on November 12, 2002 on behalf of Panda Gila River, L.P.?

10 A. Yes.

11

12 Q. What is the purpose of your Rebuttal Testimony?

13 A. The purpose of my Testimony is to respond to certain portions of the Direct

14 Testimony of (a) Mr. Steven Wheeler on behalf of Arizona Public Service

15 Company (APS), including his reliance on APS' revised Code of Conduct; (b) Dr.

16 Richard Rosen on behalf of the Arizona Residential Utility Consumer Office

17 (RUCO); and (c) Mr. Thomas Broderick on behalf of Harquahala Generating

18 Company, LLC.

19

20

21 **II. SUMMARY OF TESTIMONY**

22

23 Q. Can you summarize your overall opinion of Mr. Wheeler's Testimony?

1 A. While there are certain aspects of Mr. Wheeler's testimony with which I can
2 agree, his testimony does not resolve my concerns about APS' needs assessment
3 and procurement proposal. In addition, the proposed APS Code of Conduct
4 referenced by Mr. Wheeler does little to alleviate my concerns about APS running
5 a biased solicitation.

6
7 I do agree, however, with Mr. Wheeler that the Commission's oversight and
8 review of the competitive solicitation constitutes a prudence review.

9

10 Q. Can you summarize your overall assessment of Mr. Rosen's Testimony?

11 A. Dr. Rosen proposes a return to the Integrated Resource Planning/Least Cost
12 Planning (IRP/LCP) of the 1980's and 1990's, which I believe is entirely
13 unnecessary. Staff and other interested parties in this proceeding are focused on
14 assuring that the competitive solicitation will get the best deal for Arizona
15 ratepayers, and the solicitation process, in every respect, is aimed at achieving the
16 least cost for them.

17

18 Q. What is your overall opinion of Mr. Broderick's Testimony?

19 A. I share Mr. Broderick's concerns in many respects. Most notably, I agree that
20 APS has underestimated its unmet needs for this solicitation, and that its economy
21 energy proposal puts ratepayers at risk in a volatile Western spot market.

22

23

1 **III. APS' NEW TESTIMONY DOES NOT RESOLVE ANY OF MY**
2 **CONCERNS ABOUT ITS NEEDS ASSESSMENT OR PROCUREMENT**
3 **PROPOSAL.**

4
5 **A. APS' proposed Code of Conduct does little to alleviate my concerns**
6 **about APS running a competitive solicitation without bias toward its**
7 **Affiliate.**

8
9 Q. Do you agree with the Staff's goals that Mr. Wheeler endorsed in his testimony?

10 A. Yes. I think we can all agree with the general goals that Staff laid out and that
11 APS has endorsed in its testimony.¹ Most importantly, I agree that all of us must
12 assure an equitable, transparent and open competitive solicitation. However,
13 APS' proposed Code of Conduct gives me no comfort about APS running an
14 unbiased competitive solicitation that will achieve these goals.

15
16 Q. Are there any specific details in the Code of Conduct that concern you with
17 respect to the competitive solicitation?

18 A. Yes, there are a number. First, the proposed Code of Conduct does not keep the
19 Affiliate from participating in the solicitation. In fact, APS' witness, Mr.
20 Wheeler, states that both APS and Pinnacle West employees may conduct the
21 solicitation.² I find this troublesome given APS' prior actions, the obvious bias
22 toward its affiliate in the proposed PPA and in its Track B needs assessment and

¹ Direct Testimony of Steven Wheeler, Docket No. E-00000A-02-051, at page 3 lines 9 to 13, (November 12, 2002) ("Wheeler Direct").

1 procurement proposal, and the fact that Pinnacle West entities will be bidding in
2 the solicitation. The only way to ensure a fair and competitive solicitation is to
3 keep the two entities completely separate during the solicitation process.
4

5 Q. What else concerns you about Mr. Wheeler's reliance on the Code of Conduct?

6 A. As presented to the Commission, the Code does not guarantee that APS will treat
7 other merchant generation developers the same as it treats its merchant generation
8 affiliate.
9

10 Q. Can you give examples of differing treatment that could result from an inadequate
11 Code of Conduct and that would have an impact on the competitive solicitation
12 being developed in this Track B process?

13 A. Yes, two examples come to mind. First, there is no guarantee in the Code of
14 Conduct that APS will give merchant generation developers the same treatment as
15 APS' merchant affiliate when it comes to things like the arrangements for test
16 energy or other activities prefatory to commercial operation. Distinguishing
17 between generation sources on items such as test energy can have significant
18 economic ramifications.
19

20 My second example relates to APS' rights under its Full Requirements natural gas
21 contract with El Paso. The specific allocation of the rights under that contract is
22 the subject of a current FERC proceeding.³ Of relevance to this proceeding,

² Id., at page 9 line 24 to page 10 line 2.

³ El Paso Natural Gas Company, et. al., Docket No. RP00-336-005.

1 however, is the fact that APS is of the opinion that it can assign that capacity to
2 any merchant generator through a tolling arrangement.⁴ Of course, APS did not
3 mention this opinion in any of the Track B workshops or its testimony and it
4 would appear that APS intended to simply allow its merchant affiliate to claim
5 rights under the agreement.

6
7 We believe the Code of Conduct must ensure the comparable treatment of all
8 merchants, including APS' merchant affiliate, during the Track B solicitation and
9 also throughout the normal course of operations.

10

11 Q. Are there other items in the Code of Conduct that give you concern?

12 A. Yes. The proposed Code of Conduct contains several definitions of terms which
13 seem inappropriate and could be used to favor an affiliate.

14

15 First, the Code of Conduct defines an "Arm's Length Transaction" as "a
16 transaction between or among parties, each of whom acts in its own interest and
17 where the final decision is not made by a single individual."⁵ By not explicitly
18 excluding affiliates, APS misses the essence of the term "Arm's Length." A
19 company simply cannot be at arms length with itself. Affiliated entities, like APS
20 and Pinnacle West, have common interests by definition. For this reason, if given
21 discretion, APS will not take actions that go against its parent, Pinnacle West.

22

⁴ Panda Gila River L.P.'s First Set of Data Requests to Arizona Public Service Company, Docket No. E-0000A-02-0051, Supplemental Data Request 1.34.

1 Second, APS has defined "Shared Services" as services between affiliates that
2 include "energy risk management" and "system dispatch."⁶ Given APS' economy
3 energy proposal, it is concerning that system dispatch decision-making and
4 information is openly shared. Since system dispatch determines which units are
5 run based upon the cost of the unit, the Affiliate would have access to the costs of
6 APS' own units, as well as to those of the winning bidders of this solicitation. I
7 participated in the procedural conference where APS argued that the cost
8 information which would be needed by APS to run system dispatch was so
9 important and proprietary that even the outside lawyers and consultants for a
10 potential bidder should not have access to it for fear they would pass it on to
11 personnel preparing the bid. Now, in sharp contrast, Pinnacle West would have
12 immediate, routine access to this information through its role in dispatch.
13 Similarly, risk management is integral in the selection of products, and it appears
14 Pinnacle West would be dictating the means and the ends of risk management.
15 Pinnacle West, thereby, could define products which bias a solicitation toward its
16 resources.

17
18 Third, the definition of "Extraordinary Circumstances"⁷ seems inappropriate. Of
19 course, in an emergency, APS should use whatever means are necessary to
20 resolve the problem and to ensure system reliability. However, it should be noted
21 that any contract APS signs as part of this solicitation should include an

⁵ APS Code of Conduct, at page 1.

⁶ Id., at page 3.

⁷ APS Code of Conduct, at page 2.

1 emergency service clause and, thus, in emergency situations all generators would
2 be treated equally, i.e., subject to the same protocols.

3

4 Q. Are there any other sections of the Code that require clarification?

5 A. Yes. There are several other areas that raise concerns and I believe should be
6 clarified, such as (a) Section II. Applicability of Code of Conduct;⁸ (b) Section
7 IX. Separation Requirements;⁹ and (c) Section XII. Financing Arrangements.¹⁰

8 The fact that the Policies and Procedures are not provided here also raises
9 concern.

10

11 **B. I disagree with APS' implication that the 2003 solicitation will not be**
12 **intensely competitive, and with APS' request that it alone be given**
13 **Staff's price to beat.**

14

15 Q. Does APS express concerns with the Staff Report?

16 A. Yes. Mr. Wheeler is concerned about the Track B timeline.

17

18 Q. What is APS' concern with the Track B timeline?

19 A. Mr. Wheeler is concerned that the Staff's timeline is problematic and states,
20 "[m]any otherwise interested bidders may have already sold forward their

⁸ Id., at page 3.

⁹ Id., at page 6.

¹⁰ Id., at page 8.

1 capacity for 2003 by this time, or market prices may have turned unexpectedly
2 higher.”¹¹

3

4 Q. Do you agree with Mr. Wheeler’s concern?

5 A. No. I see little reason for concern given the glut of power plant capacity (by the
6 end of 2003 this will amount to about 6,500 MW, not including Pinnacle West’s
7 assets) that is under construction in APS’ service territory. My client alone could
8 fill the full unmet need in 2003, and, with so many other generators in the area,
9 including Pinnacle West’s Redhawk and new West Phoenix units (for 1,644
10 MW), there will surely be intense competition at the time of Staff’s proposed
11 solicitation. Mr. Wheeler is also forgetting that the risk of losing capacity and
12 energy sales for four years to another competitor will likely keep price bids
13 competitive in 2003.

14

15 Q. Does APS have other concerns with the Staff Report?

16 A. Yes. Mr. Wheeler is concerned with the viability of Staff’s price to beat and
17 wants Staff to show APS its price to beat.¹²

18

19 Q. Should the price to beat be disclosed to APS?

20 A. No. This information should be disclosed uniformly; that is, either all parties
21 receive the information or none do. While, I can sympathize with some of the
22 concerns raised about the calculation of the price to beat, the possibility that APS’

¹¹ Wheeler Direct, at page 6 lines 2 to 3.

¹² Wheeler Direct, at page 8 lines 7 to 24.

1 Affiliate would obtain this information is too great and would unfairly bias the
2 solicitation.

3

4 **C. I do agree that the Commission's oversight and review of the**
5 **solicitation constitutes a prudence review, but only for the short**
6 **duration of the contracts.**

7

8 Q. Is there any aspect of APS' testimony with which you agree?

9 A. Yes. While I disagree with much of APS' testimony, there is, one area of
10 agreement. I agree with Mr. Wheeler that the Commission's oversight and review
11 of the competitive solicitation constitutes a prudence review.¹³

12

13 Q. How is prudence determined?

14 A. Generally, an action is deemed prudent if it was arrived at using a reasonable
15 decision-making process given the facts known, and knowable, at the time of the
16 decision.

17

18 Q. Why would the Commission's approval of the solicitation process constitute a
19 prudence review?

20 A. When the Commission approves the process used by APS in soliciting its unmet
21 needs, it will have effectively determined that the process constituted reasonable
22 decision-making. Further, given that prudence can only be judged with the facts
23 known or knowable at the time of the decision, the Commission would not benefit

1 from waiting and reviewing the contracts at a later date; that is, hindsight cannot
2 be used to judge prudence.

3

4 Q. What information should the Commission use in weighing the prudence of the
5 contracts?

6 A. While the Commission should use all known or knowable information at the time
7 of its decision, as I proposed in my Direct Testimony, the Commission should
8 give great weight to the Independent Monitor's report when making its prudence
9 determination. Specifically, the Independent Monitor's report should contain a
10 specific approval or disapproval of the process undertaken and the final contracts
11 awarded. If the Independent Monitor disapproves of the outcome, the
12 Commission should be reluctant to rule that the outcome was prudent.

13

14 Q. Can you give the Commission perspective on judging the prudence of the
15 contracts at this time?

16 A. Yes. For perspective, note that because these contracts are for a short duration,
17 the burden of judging prudence is far less dramatic for the Commission than
18 judging the prudence of a 29-year contract, as was the case with the Affiliate
19 PPA. In addition, the Commission should be reassured with a pay-per-
20 performance PPA obtained through a competitive solicitation because it would
21 have three important elements: (1) a set termination date; (2) penalties for failure
22 to perform; and (3) fixed or fixed-formula prices.

23

¹³ Id., at page 6 line 25 to page 7 line 5.

1

2 IV. DR. ROSEN'S PROPOSED RETURN TO THE INTEGRATED
3 RESOURCE PLANNING/LEAST COST PLANNING (IRP/LCP) OF THE
4 1980'S AND 1990'S IS ENTIRELY UNNECESSARY. STAFF IS CLEARLY
5 FOCUSED ON ASSURING THE COMPETITIVE SOLICITATION WILL
6 GET THE BEST DEAL FOR ARIZONA RATEPAYERS, AND THE
7 SOLICITATION PROCESS, IN EVERY RESPECT, IS AIMED AT
8 ACHIEVING THE LEAST COST FOR THEM.

9

10 Q. Was RUCO's witness Dr. Rosen present at any of the Staff sponsored workshops
11 on Track B?

12 A. No he was not.

13

14 Q. Did RUCO make its position on the competitive procurement process clear during
15 those sessions?

16 A. Unfortunately no.

17

18 Q. Can you summarize the thrust of Dr. Rosen's testimony?

19 A. Yes. Dr. Rosen wants the competitive solicitation to be done in the context of the
20 Integrated Resource Planning/Least Cost Planning (IRP/LCP) regime of the 1980s
21 and 1990s.¹⁴ Indeed, Dr. Rosen recommends that least cost planning should be

¹⁴ Direct Testimony of Richard Rosen, Docket No. E-00000A-02-051, at page 8 lines 9 to 12, (November 12, 2002) ("Rosen Direct").

1 the "most important organizing principle around which the entire Track B process
2 must be structured."¹⁵

3

4 Q. Do you agree?

5 A. No. It is not necessary to return to IRP/LCP. Dr. Rosen's testimony should be
6 rejected in this regard.

7

8 Q. Do you agree that IRP/LCP is the only way to protect ratepayers?

9 A. No, not at all. Staff made it clear throughout the workshops that its number one
10 goal in the development and implementation of a solicitation process was to
11 ensure ratepayer benefit.

12

13 Q. What evidence does Dr. Rosen offer to support his suggested return to IRP/LCP?

14 A. Dr. Rosen provides no evidence, *per se*, but he appears to rely on three points: (a)
15 a concern about using the right capacity factors; (b) the need for a Regulated
16 Proxy bid; and (c) the alleged failure to consider both generation and transmission
17 investments.

18

19 **A. Getting capacity factors right does not require a return to IRP/LCP.**

20

21 Q. Please comment on Dr. Rosen's first point.

22 A. First, Dr. Rosen drives most of his proposal with a concern over getting the
23 capacity factors right for comparison of the various bids.¹⁶ This is a legitimate

¹⁵ Rosen Direct, at page 13 lines 13 to 15.

1 analytic concern. However, given that the bids will come primarily from new
2 combined cycle plants, I just do not see that this is a major analytic hurdle. A
3 head-to-head comparison, based on a single capacity factor, can take us a long
4 way towards the right answer. Moreover, the screening curve approach that I
5 discussed in the Workshops and in Panda Gila River's Strawdog is a good way to
6 compare the bids at multiple capacity factors to see if there is any difference
7 among bidders. If additional analysis is still required, production simulation
8 modeling can be used to sort through a short list of bids. This is all routine and
9 does not require a return to elaborate IRP/LCP techniques, nor should it be
10 allowed to slow this solicitation.

11

12 **B. Dr. Rosen's proposed Regulated Proxy bid is not needed.**

13

14 Q. What is Dr. Rosen's second point in support of returning to IRP/LCP?

15 A. Dr. Rosen argues that APS needs to develop a bid on a "regulated cost-of-service
16 basis."¹⁷ He refers to this as a "proxy." I will refer to this as his "Regulated
17 Proxy."

18

19 Q. Do you agree?

20 A. No. Dr. Rosen's Regulated Proxy bid is not necessary. Cost-plus offers simply
21 do not provide the same risk protections and reliability guarantees that are
22 standard in pay-for-performance PPAs. Moreover, the costs of a cost-plus

¹⁶ Id., at page 10 line 19 to page 11 line 19.

¹⁷ Rosen Direct, at page 8 line 23.

1 regulated asset are often understated and never guaranteed. This makes a cost-
2 plus offer difficult to compare, and more importantly, simply inferior.

3
4 Q. Do you think the Commission would agree?

5 A. Yes. For the future, the old-line, cost-plus way is "out" and pay-per-performance
6 PPAs are "in" because they offer a better deal to consumers in terms of price, risk
7 and reliability. I see the Track A Order endorsing this with its requirement that
8 APS competitively procure capacity and energy that it cannot produce from its
9 existing assets.¹⁸ Even APS does not propose a procurement for cost-plus
10 products.

11
12 Q. Is there a real-world bid that could be used instead of Dr. Rosen's Regulatory
13 Proxy?

14 A. Yes. APS maintained that it is the Affiliate's Redhawk and new West Phoenix
15 units that were built to serve APS' standard offer load. Bids from these already-
16 built plants are the appropriate basis of comparison to other bids; not a
17 hypothetical, new cost-plus unit.

18
19 **C. Contrary to Dr. Rosen's assertion, Staff's three-phased evaluation**
20 **clearly includes a consideration of both transmission and generation**
21 **investment.**

22
23 Q. What is Dr. Rosen's third point in support of going back to IRP/LCP?

1 A. His third point is his assertion that Staff's proposal fails to consider both
2 generation and transmission.¹⁹

3

4 Q. Is Dr. Rosen right?

5 A. No. Dr. Rosen is wrong to suggest that Staff fails to outline a procedure in which
6 both generation and transmission investment are considered. Indeed, the process
7 Dr. Rosen outlined for doing this is exactly what Staff is suggesting in its three-
8 phase approach. Staff states:

9 "The first should be to rank order the bids by price using valuation
10 methods that equalize volumetric and or duration differences on a price
11 basis . . . Phase Two should, to the extent not determined during pre-
12 qualification, evaluate deliverability using the network transmission
13 assessment previously provided to the Staff and the Independent Monitor.
14 . . . If a bid imposes delivery costs on the utility, the bid price as evaluated
15 should be adjusted to reflect those costs and a new rank order established.
16 . . . During Phase Three all other factors not previously considered are to be
17 evaluated. These include evaluations of creditworthiness, experience and
18 proposed exceptions to model contract terms and/or conditions."²⁰
19

20 Clearly, Phase Two is an assessment of transmission expansion costs, if any, with
21 the generation bids.

22

23

¹⁸ Decision No. 65154, Docket No. E-00000A-02-0051, at Finding Of Fact 36, (September 10, 2002).

¹⁹ Rosen Direct, at page 22 line 13 to 17.

²⁰ Staff Report on Track B: Competitive Solicitation, Docket No. E-00000A-02-0051, at page 23 line 5 to 25, (October 25, 2002).

1 V. I SHARE SEVERAL CONCERNS OVER APS' ESTIMATION OF UNMET
2 NEEDS WITH HARQUAHALA GENERATING COMPANY, LLC'S
3 WITNESS, TOM BRODERICK.
4

5 Q. Can you please explain the areas in which you agree with Mr. Broderick?

6 A. Yes, there are five areas. First, I agree with Mr. Broderick that APS' forecasts
7 reflect "a persistent under forecasting as opposed to frequent alternating back and
8 forth in accuracy."²¹ As stated in my Direct Testimony, if APS' under forecasting
9 leads to greater expense or lower reliability for its ratepayers, APS should be
10 subject to a finding of imprudence. In addition, when an under forecast is
11 discovered the additional capacity and energy must be competitively procured
12 under the Track A Order.

13
14 Second, I argue that APS has significantly underestimated its unmet energy needs.
15 Mr. Broderick offers supporting evidence that, when APS was intending to
16 purchase from Pinnacle West, it reduced the generation of APS' older gas and oil
17 units.²² In addition, he found that APS' planned purchases from Pinnacle West
18 were substantially higher than its unmet needs calculations.²³ Similarly, my
19 testimony discusses the difference between the power APS would have procured
20 from its Affiliate PPA versus its current estimate of unmet needs.
21

²¹ Direct Testimony of Thomas Broderick, Docket No. E-00000A-02-051, at page 9 lines 4 to 5, (November 12, 2002) ("Broderick Direct").

²² Broderick Testimony, at page 11 line 19 to page 12 line 15.

²³ Id., at page 12 line 16 to page 13 line 4.

1 Third, I agree with Mr. Broderick's point that RMR generation should be
2 eliminated from the determination of unmet needs.²⁴

3
4 Fourth, I share Mr. Broderick's concern over APS' economy energy proposal, and
5 like him, believe that it will unnecessarily subject consumers to the risks of a
6 volatile spot market.²⁵

7
8 Finally, I agree that Staff should require that APS calculate unmet needs based on
9 the energy and capacity that "cannot be **economically** supplied from generation
10 assets already included in the utility's rate base."²⁶ This, of course, increases
11 unmet energy needs, but also, as Mr. Broderick suggests, may justify retirement
12 of APS' older oil and gas units. This, in turn, would increase APS' unmet
13 capacity needs.

14
15
16 **VI. RECOMMENDATIONS**

17
18 Q. What are your recommendations based on your Testimony?

19 A. I have two recommendations with respect to APS. First, I recommend that the
20 Commission provide support for a detailed review of APS' proposed Code of
21 Conduct. At a minimum, the Commission should require that (a) APS exclude its
22 Affiliate from any participation in conducting the solicitation; and (b) APS treat

²⁴ Id., at page 16 line 23 to page 17 line 7.

²⁵ Id., at page 19 lines 23 to 25.

1 all Merchants comparably at all times and on all transactions including, but not
2 limited to, test energy and the allocation of Full Requirements natural gas. The
3 Commission should also require APS to redefine the terms "Arm's Length,"
4 "Shared Services," and "Extraordinary Circumstances."

5

6 Second, I recommend that the Commission reject Mr. Wheeler's suggestion that
7 APS be provided with Staff's price to beat.

8

9 Q. Do you have additional recommendations?

10 A. Yes. I have two others.

11

12 I also recommend that the Commission consider its review of the solicitation
13 process and the resulting contracts as representing a prudence review if approved
14 by the independent monitor.

15

16 Finally, I recommend that the Commission reject Dr. Rosen's proposal that we go
17 back to an Integrated Resource Planning/Least Cost Planning framework. This is
18 unnecessary because Staff's solicitation process is clearly focused on getting the
19 best deal for the consumer.

20

21 Q. Does this conclude your Testimony?

22 A. Yes.

23

²⁶ Broderick Direct, at page 26 lines 23 to 24.