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9 IN THE MATTER OF THE GENERIC
10 PROCEEDINGS CONCERNING ELECTRIC
11 RESTRUCTURING ISSUES

DOCKET NO. E-00000A-02-0051

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

DOCKET NO. E-01345A-01-0822

16 IN THE MATTER OF THE GENERIC
17 PROCEEDINGS CONCERNING THE
18 ARIZONA INDEPENDENT SCHEDULING
19 ADMINISTRATOR

DOCKET NO. E-00000A-01-0630

20 IN THE MATTER OF TUCSON ELECTRIC
21 POWER COMPANY'S APPLICATION FOR A
22 VARIANCE OF CERTAIN ELECTRIC
23 POWER COMPETITION RULES
24 COMPLIANCE DATES

DOCKET NO. E-01933A-02-0069

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

TRACK B POST-HEARING BRIEF

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Preliminary Statement

Pursuant to Administrative Law Judge Wolfe's instructions, PPL Southwest Generation Holdings, LLC; PPL Energy Plus, LLC; and PPL Sundance Energy, LLC (collectively "PPL") hereby submit a post-hearing brief summarizing PPL's positions on the issues raised in the Track B hearing conducted November 21 - 27, 2002. For the sake of judicial economy and efficiency, throughout these proceedings PPL has refrained from duplicating arguments and did not submit direct testimony in the Track B hearing. While not waiving any right to address any technical argument in reply or other available means, to assist the administrative law judge, PPL wishes to succinctly restate its general position regarding the over arching issues raised at the hearing. In addition, PPL will specifically brief its specific concerns, raised in the workshops and through cross-examination in the hearing, namely the combined issues of deliverability transmission constraints and RMR analysis.

Accordingly, this brief is organized into two sections. The first section addresses the specific transmission issues of concern to PPL in detail and offers recommendations that will encourage generators and utilities alike to work to help resolve these issues. The second section summarizes PPL's general position on (1) defining a utility's unmet needs, (2) identifying the types of products to be solicited, (3) selecting a suitable solicitation methodology, (4) conducting the solicitation properly, and (5) identifying and approving the best bid.

PPL recognizes the primary goal of the competitive solicitation is to achieve the best value for Arizona's consumers. Record of Transcript at p. 27:23 – 28:131:2, 63:15-17, 255:4-10, 372:10-15 (hereinafter R. at p. __"). PPL supports this goal and believes that it

1 can be accomplished if every aspect of the Commission's order in this proceeding and the
2 implementation and performance of that order is grounded in adherence to the fundamental
3 principle that must govern here: **the competitive solicitation must be open, transparent,**
4 **fair and unbiased as to all participants, and structured so as to best achieve the goal –**
5 **the best value for ratepayers** (the "Governing Principle") This Governing Principle
6 should guide the Commission's decisions on each of the following issues.
7

8 **II. Specific Transmission and RMR Issues.**

9 PPL has particular concerns regarding the transmission deliverability issues raised
10 by the contemplated competitive solicitation, and the related RMR consequences arising
11 from transmission constraints during peak demand in, and maximum imports into, the
12 Phoenix area load pocket. Those concerns have been addressed in the workshops, and in
13 PPL's cross-examination of Staff and APS witnesses during the Track B hearing. Because
14 PPL secured firm transmission rights on the Western Area Power Authority ("Western")
15 transmission system before constructing PPL's Griffith and Sundance generation facilities,
16 PPL has paid particular attention to the manner in which the incumbent utilities have
17 addressed (or, in some instances, failed to address) the capabilities of Western's component
18 of the regional integrated transmission system. R. at pp. 149:16 – 150:5.
19

20 **A. The Ongoing Transmission and RMR Studies.**

21 At the last Track B Workshop, on September 26-27, 2002, in response to a question
22 from PPL, APS stated that its transmission analysis would *not* include Western's component
23 of the transmission system. The explanation given for that exclusion was that APS did not
24 have any "control" over that portion of the system, in contrast to APS and Salt River
25 Project's ("SRP") portions of the system. That response was consistent with statements
26

1 made earlier by SRP and APS representatives during the workshops conducted by Staff
2 during the Biennial Transmission Assessment (“BTA”) process. In both instances, PPL
3 expressed its disagreements with that position to Staff, SRP and APS, and urged inclusion
4 of Western’s system in all such studies, particularly with respect to the deliverability of
5 merchant power offered in the competitive solicitation process.
6

7 It is undisputed that transmission constraints do currently limit the capacity and
8 energy that can be imported to the Phoenix area from particular generation sources, and may
9 give rise to RMR requirements inside that load pocket. R. at pp. 146:19 – 147:3. It, of
10 course, follows that the reliability of any RMR analysis for an import constrained load
11 pocket is premised on the thoroughness of the import constraint analysis. The impacts on
12 the RMR issue further heightened PPL’s interest in the transmission studies and our
13 concerns about treatment of Western’s wires and the ability of merchant generation to
14 respond to potential RMR requirements in the Phoenix area.
15

16 In direct testimony in the Track B hearing staff indicated that the import constraints
17 that the Commission has previously identified for the Phoenix area “are a reflection of an
18 APS/SRP assessment of their system capabilities and exclude the Western Area system
19 interface...” R. at p. 149:16-20. Fortunately, however, as a result of the workshops and the
20 Commission’s directives from the Track A portion of this docket, and the BTA process, *new*
21 transmission studies are to be conducted by the utilities in preparation for the competitive
22 solicitation. Those studies are to be available by January 31, 2003. By written request to
23 Staff, PPL sought an opportunity for participation in those studies; but that request was not
24 granted. Again, our concern was insurance of full and fair incorporation of Western’s
25 component in the system analyses, and a transparent study process.
26

1 During the Track B hearing, in response to cross examination by PPL, both APS and
2 Staff witnesses confirmed that, *contrary* to earlier responses in the BTA and Track B
3 workshops, all three entities that own portions of the integrated transmission system capable
4 of importing energy into the Phoenix load pocket – APS, SRP, and Western – were going to
5 participate in the transmission import and RMR studies called for by the Commission
6 preparatory to the competitive solicitation. R. at pp. 148:25 – 150:5, 590:17 – 591:8.
7

8 These studies are intended to refine and update deliverability and import limits and
9 determine “the hours and the magnitude of RMR conditions, which has as much bearing on
10 the competitive solicitation process as the transmission constraint itself.” R. at pp. 151:25 –
11 152:3. In the Track B hearing, Staff remarked:

12 [W]e have prescribed in the RMR study requirements a very extensive
13 evaluation that looks at alternatives to the status quo of continuing to rely on
14 local generation. So we are expecting the utilities to evaluate alternative
15 solutions in terms of transmission enhancements, or taking advantage of
16 other resources, generation resources other than their own local generation.
17 R. at p. 152:3 – 11.

18 Thus, on or about January 31, 2003, when the transmission and RMR study is due for
19 completion, all parties should have access to information that more accurately describes the
20 entirety of the transmission system currently capable of serving the Phoenix load pocket. It
21 should better refine the circumstances under which RMR conditions may exist and help
22 quantify, and possibly even resolve, some RMR issues.

23 **B. Public Participation in the Transmission Study Process.**

24 Because the results of the transmission and RMR study will define deliverability
25 limits and RMR requirement, the importance of the studies cannot be overstated. Incorrect
26 results could deny consumers access to lower cost energy and/or higher cost RMR capacity
and energy payments. The thoroughness and integrity (not in the moral sense, but in the

1 physical, i.e., its full and accurate integration of *all* elements of the system and their
2 functional capabilities) of the study is paramount to the ability of the solicitation to achieve
3 the stated goal and to conform to the Governing Principle of fairness and openness.

4 As confirmed by informal communication with the utilities and Western, the studies
5 are being driven by APS with input from SRP and Western. See also R. at pp. 148:11 –
6 149:1. The study is not being conducted “openly,” as to all parties. The process will only
7 be “open” to the extent that other interested parties and the rest of the public have a
8 *meaningful* opportunity to review and comment upon, and fairly influence the final contents
9 of, the *results* of the study at the very earliest opportunity. 148:15 – 23. Because several of
10 the merchant generator intervenors and possibly other interested parties have different
11 perspectives and experience with RMR conditions from other regions of the country and the
12 world, and PPL’s consultants have extensive experience with the local transmission system,
13 they may be able to offer solutions to resolve RMR issues or plans that can help lower the
14 costs to consumers associated with import constraint conditions. Thus, it is imperative that
15 the Commission’s order in Track B address the substance and timing of non-utility
16 participation in review and comment on the study, and that substantive response and
17 modification, if called for by the informed and credible comments from recognized
18 authorities, be required. The critical impact of the studies upon the competitive solicitation
19 and its economic impacts on Arizona ratepayers mandate that such a meaningful “peer
20 review” component be built into the process as part of the Commission’s order.

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24 **C. RMR Requirements Should Be Openly Solicited.**

25 Provided that the public’s comments are fairly and adequately addressed and the
26 resulting RMR study reaches reasonable conclusions concerning transmission constraints,

1 this study can form the basis for the solicitation process to take into account RMR
2 conditions. PPL strongly supports Staff's position that RMR requirements should be
3 included in the competitive solicitation. R. at p. 176:6-7. Under genuine RMR conditions,
4 all generation within the load pocket or generation that can somehow deliver energy into the
5 load pocket under those conditions, should be able to compete in a fair and open manner to
6 supply RMR energy and capacity to APS. See R. at p. 408:9-14. That competition should
7 be part of the initial Track B solicitation.
8

9 **D. Monitoring of Dispatch.**

10 Finally, once the RMR conditions are quantified, the Commission should continue to
11 monitor the situation. Active monitoring may lead to a better understanding of the physical
12 constraints and solutions to help resolve the RMR condition, and deter any biased operation
13 of the system.
14

15 **II. General Positions.**

16 **A. Defining a Utility's Unmet Needs.**

17 The Track A Order states that *at a minimum*, utilities should competitively solicit
18 their unmet needs. The parties have interpreted the phrase "minimum unmet needs"
19 differently. APS believes that "unmet needs" includes only the energy that it physically
20 cannot meet with its own generation or resources, no matter how uneconomical that
21 generation may be relative to other resources. This interpretation implies that Arizona's
22 ratepayers will have to pay for more expensive energy produced by older, less efficient
23 and/or less environmentally clean generation units, contrary to the goal of requiring
24 competitive solicitations. See R. at pp. 27:23 – 28:131:2, 63:15-17, 255:4-10.
25
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1 Staff and the merchant intervenor parties believe that the concept of “unmet needs”
2 necessarily entails economic factors. See R. at pp. 155:18 – 156:10, 900:2-4. The concept
3 of *economic* unmet needs is the more correct policy interpretation, consistent with the goal
4 of reduced costs to consumers. Allowing the extremely efficient new generation units to
5 compete against less efficient units should result in consumer savings with less
6 environmental impact, which is in the public interest. R. at pp. 902:11 – 903:4.

7 Accordingly, the utilities should, at a minimum, solicit their economic unmet needs;
8 however, in order to maximize value for Arizona’s ratepayers, the utilities should bid **more**
9 than the economic unmet needs, as contemplated by Staff. R. at pp. 172:21 – 173:5.

10
11 **B. Identifying the Types of Products to be Solicited.**

12 The Commission must protect Arizona’s consumers from an over-reliance on the
13 spot market and enable them to benefit from the growing oversupply of low-cost generation.
14 See R. at pp. 172:21 – 173:1. Economy purchases are made on the spot market at lower
15 prices generally to offset more expensive existing resources. R. at p. 356:19-22. Utilities
16 should have the ability to purchase energy on the spot market when savings are available,
17 but these transactions should comprise only a small percentage of a utility’s energy
18 portfolio. The Commission should adopt a fair policy that allows utilities to make economy
19 purchases but prevents them from over-reliance on this strategy as a means of avoiding and
20 frustrating the essence of the competitive solicitation requirement.
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22
23 An over-reliance on economy energy could overexpose Arizona’s ratepayers to
24 greater volatility in the market. R. at pp. 779:2 – 780:8 and R. at pp. 759:15 – 760:23.

25 The Commission should require the utility to bid almost all of the energy and
26 capacity that it has most recently proposed will be met by economy energy purchases. The

1 generation secured through the bid process will displace the utility's reliance on the volatile
2 market and/or higher cost generation that the economy energy usually displaces. See R. at
3 p. 356:19 – 25.

4 A utility's energy and capacity portfolio should have a mixture of short-, medium-,
5 and long-term contracts. To maximize the consumers' benefits of this market, the utilities
6 should seek some medium- and long-term contracts to lock in longer-term benefits of the
7 current price situation.

8
9 **C. Selecting a Suitable Solicitation Methodology.**

10 To identify the best methodology for the proposed solicitation process, in Track B
11 the parties have suggested an RFP, various auctions, a combination of RFP and auction, and
12 other methods. Most of these methods or various combinations of them can work to benefit
13 Arizona's ratepayers if the solicitation process adheres to the Governing Principle, i.e., it is
14 open, transparent, and unbiased. See R. at pp. 31:2; 71:17-25, 199:24 – 200:2. As long as
15 these principles are followed, the method(s) used can be established by the utility depending
16 on what the utility deems most appropriate for the type of product being solicited. See R. at
17 pp. 129:16 – 131:16, 133:24 – 134:6.

18
19 **D. Conducting the Solicitation Properly.**

20 Each aspect of the solicitation must also comply with the Governing Principle, and
21 the Commission and an independent monitor should oversee the process to ensure that it
22 does. See R. at pp. 387:22 – 388:2. Appropriate mechanisms should also be established to
23 allow interested parties to identify issues and propose improvements to the process before,
24 during, and after bidding. See R. at p. 390:1-6.

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1 **Conclusion and Action Requested.**

2 In summary, because the ongoing RMR studies are intended to refine and update the
3 deliverability and import limits, and may materially impact the products offered for
4 solicitation, these studies must adhere to the Governing Principle. Accordingly, the RMR
5 studies must recognize all of the transmission lines owned by APS, SRP and Western that
6 can serve the Phoenix load pocket. Because the studies are not being conducted in an open
7 process, it is imperative that the Commission's order in Track B address the substance and
8 timing of non-utility participation in review and comment on the study, and that substantive
9 response and modification, if called for by the informed and credible comments from
10 recognized authorities, be required. Finally, once quantified, the RMR needs should be
11 subject to competitive solicitation.
12

13 The Commission also should continue to apply the Governing Principle so that the
14 competitive solicitation results in the best value for Arizona's consumers. At a minimum,
15 utilities should competitively solicit their economic unmet needs. To maximize consumer
16 benefits, the utilities should seek a portfolio of medium- and long-term contracts of varying
17 term length, through a solicitation process that applies, in both methodology and conduct,
18 the Governing Principle so that the best bid can be identified and expeditiously approved by
19 the utility, independent monitor, and the Commission.
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21 PPL requests that the Administrative Law Judge recommend, and the Commission
22 implement by order, imposition on the affected utilities of requirements consistent with the
23 positions stated above.
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DATED this 18th day of December, 2002.

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