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OPEN MEETING ITEM

22

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Executive Secretary

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February 4, 2003

E-00000A-02-0051
E-01345A-01-0822
E-00000A-01-0630
E-01933A-02-0069

TO: ALL PARTIES OF RECORD

RE: GENERIC PROCEEDINGS CONCERING ELECTRIC RESTRUCTURING ISSUES (TRACK B)
DOCKET NOS. E-00000A-00-0051 ET AL.

The enclosed Hearing Division Proposed Amendment #1, which includes a proposed Exhibit A and Exhibit B, is intended to clarify the Proposed Opinion and Order filed on January 29, 2003 in this matter.

Please include any comments on the attached in the exceptions to be filed by February 10, 2003. Thank you.

Sincerely Yours,

Teena Wolfe
Administrative Law Judge

Arizona Corporation Commission
DOCKETED

FEB 04 2003

DOCKETED BY CAR

THIS AMENDMENT:		
_____ Passed	_____ Passed as amended by	_____
_____ Failed	_____ Not Offered	_____ Withdrawn

HEARING DIVISION PROPOSED AMENDMENT # 1

TIME/DATE PREPARED: _____

COMPANY: Generic Restructuring – Track B AGENDA ITEM NO. _____

DOCKET NO. E-00000A-02-0051 et al. OPEN MEETING DATE: _____

Page 8, Line 23 ½ : INSERT, after "(Exh. S-1 6-29)":

"A copy of that section of the Staff Report is attached hereto as Exhibit A."

Page 14, Line 21 ½: INSERT the following new footnote after "existing assets." and renumber accordingly:

" Staff's updated version of Exh. S-5, discussed further below, is attached hereto as Exhibit B. Exhibit B includes the most recent estimates available of APS' and TEP's required power that cannot be produced from their own existing assets, as follows:

For APS, 1,661 MW of capacity and 639 GWH of energy for 2003; 1,935 MW of capacity and 840 GWH of energy for 2004; 2,055 MW of capacity and 1,228 GWH of energy for 2005; and 2,151 MW of capacity and 1,469 GWH of energy for 2006.

For TEP, 50 GWH of energy for 2003; 46 GWH of energy for 2004; 120 GWH of energy for 2005; and 104 GWH of energy for 2006.

Staff states that these numbers are subject to adjustment in the Pre-Solicitation process set forth in the Staff Report at pages 16-22, which pages are included in the attached Exhibit A."

Page 17, Line 5 ½: INSERT, after "December 18, 2002[7]":

"A copy is attached hereto as Exhibit B."

Page 34, Line 14 ½: INSERT, after "Exhibit S-5,":

"attached hereto as Exhibit B,"

Page 35, Line 14 ½: INSERT, after "Exhibit S-5,":

"attached hereto as Exhibit B,"

Page 36, Line 24: INSERT, after "Exhibit S-5,":

"attached hereto as Exhibit B,"

Page 37, Line 17: INSERT, after "Exhibit S-5,":

"attached hereto as Exhibit B,"

Page 68, Line 2, INSERT, after "adopted":

", as modified by the discussions and Findings of Fact herein. That section of the October 25, 2002 Staff Report is attached hereto as Exhibit A"

Page 69, Line 6, INSERT, after "market.":

"Nothing in this Decision changes the requirement of Decision No. 65154 that APS and TEP must acquire, through this competitive solicitation, any required power that cannot be produced from their own existing assets."

Page 70, Lines 5, 10, 15, and 20, INSERT, after "S-5,":

"attached hereto as Exhibit B,"

Page 70, Line 28, INSERT, before "APS"

"With the exception of the amounts of capacity and energy necessary to meet the requirement of Decision No. 65154 that APS and TEP must acquire, through this competitive solicitation, any required power that cannot be produced from their own existing assets,"

Page 75, Line 14, INSERT, after "necessary,"

"with the exception of the amounts of capacity and energy necessary to meet the requirement of Decision No. 65154 that APS and TEP must acquire, through this competitive solicitation, any required power that cannot be produced from their own existing assets,"

Page 75, Line 27, INSERT, after "Staff Report":

"and attached hereto as Exhibit A, as modified by the discussions and Findings of Fact herein"

Page 76, Line 3, INSERT, after "Staff Report":

", and attached hereto as Exhibit A,"

Page 76, Line 3, INSERT, after "adopted,"

"as modified by the discussions and Findings of Fact herein,"

Page 76, Line 4, INSERT, after "requirements":

", as modified by the discussions and Findings of Fact herein"

EXHIBIT A

D. Detailed Staff Proposed Solicitation Process

I. Scope Of 2003 Solicitation

For 2003, the solicitation will be for all load and energy requirements not served by generation owned by the utility and included in the utility's rate base as of September 1, 2002, except to the extent that such generation is providing RMR service during RMR hours or by power supplied pursuant to FERC or Commission approved contracts with affiliated and non-affiliated suppliers entered into prior to September 1, 2002. To the extent that affiliated suppliers provide service pursuant to contracts dated on or after September 1, 2002, such service will be subject to competitive solicitation except to the extent that such contract is to provide RMR service during RMR hours. To the extent that load is served pursuant to capacity or energy contracts with Qualifying Facilities or Environmental Portfolio Standard requirements, that load will also not be contestable. Any generation capacity owned by a utility that has not been included in the utility's rate base may be bid by the utility in the initial solicitation on the same terms and conditions as all other bidders, including affiliated bidders. All demand-side management commitments in place as of September 1, 2002, shall be considered in determining contestable load.

For solicitations during 2003, each utility may contract for energy and capacity deliveries for differing time periods in order to test the efficiency of this process for acquiring short-term, medium-term and long-term contracts. While it is anticipated that during 2003 each utility will primarily require peaking capacity and energy with contract terms of one to three years, if, in the judgment of the utility, market conditions or economic opportunities dictate contract terms longer than three years, it will be the responsibility of the utility to enter into such contracts as are reasonable. For resource planning purposes each utility must demonstrate that its power supply portfolio contract durations are adequately diversified and that its portfolio's structure mitigates both cost and reliability risks appropriately.

Based on information available at this time, contestable loads for each utility for each year through 2006 are estimated to be:

CAPACITY (MW)

	2003	2004	2005	2006
APS[1]	1951	2289	2628	2898
TEP[2]	242	309	441	488

ENERGY (MWH)

	2003	2004	2005	2006
APS[3]	6,566,910	7,704,591	8,845,638	9,754,436
TEP[4]	345,300	345,460	388,460	389,460

The above capacity numbers for APS were provided by APS at the August workshop and were used by Staff to derive the energy numbers. Staff was subsequently informed by APS that the numbers provided at the August workshop required revision. In response to a data request from Staff, APS provided revised capacity and energy numbers on October 23, 2002. Staff has not had time to review and analyze these numbers for inclusion in the Staff report by the October 25, 2002 publication date. APS' response to Staff's data request is included in this report as Appendix Two.

II. Roles & Responsibilities

A. Utility

[1] Source: From data provided by APS at the August Workshop.
[2] Source: From data provided by TEP at the August Workshop, plus 95 MW of combustion turbines that are not presently in rate base.
[3] Assumes 38.6% average annual load factor for all contestable capacity.
[4] From August data provided by TEP plus 95 MW combustion turbines at 40% average annual load factor.

Absent evidence of abuse, the utility will be responsible for preparing the solicitation and conducting the solicitation process. Acquisition of energy and capacity to meet the needs of customers remains the responsibility of the utility, and the utility shall use accepted business standards for acquiring these resources, as it does when it buys all other products used in providing service.

B. Bidders

In order for the Solicitation to attract wide participation, the process must be accepted as fair, open and transparent. To achieve this, prospective bidders, and interested persons who agree to keep certain information confidential, will have the opportunity to review supporting data and draft documents in advance of the solicitation being distributed to bidders. All bidders and other interested persons may provide comments to the utility, the Independent Monitor or the Staff regarding the completeness or quality of the information provided. Bidders and interested parties may also provide comments to the utility, the Independent Monitor or the Staff regarding the process being employed or the decisions made regarding execution of the solicitation process.

All bidders will be required to consent to use appropriate alternative dispute resolution practices, specified by the utility and fully disclosed in the Solicitation materials if a dispute arises.

Each bidder must agree to permit the Commission Staff to inspect any generating facility the bidder owns or controls from which it proposes to provide capacity or energy to any Arizona utility pursuant to any contract awarded as a result of this solicitation.

1. Access to data

Bidders will have the opportunity to review non-restricted information used by the utility in preparation for the solicitation, as well as draft solicitation materials, before the solicitation is released. Bidders may provide comments to the Staff and the Independent Monitor regarding the materials at any time before the bidders' conference.

2. Opportunities to contribute & review

One or more bidders' conferences will be held so that all interested parties will have the opportunity to ask questions directly of the utility as well as to identify any deficiencies in the solicitation documents or supporting data. The bidders' conference will be held at least 10 days before the release of the solicitation.

Each utility shall schedule at least one bidders' conference prior to the distribution of its solicitation materials in final form to answer questions and to receive comments and suggestions regarding the materials to be distributed from interested persons. The first bidders' conference must occur no later than February 15, 2003.

Bidders will be invited to review non-proprietary materials produced by the utility and to address comments or inquiries to the utility, Staff or the Independent Monitor regarding those materials at any time between the release of reports, plans or drafts and the conclusion of the bidders' conference.

C. Independent Monitor

1. Overview

To assist the Staff and to assure all parties to the Solicitation for power supplies that the process employed is conducted in a transparent, effective, efficient and equitable manner, an Independent Monitor will be appointed by the Staff of the Commission to oversee the conduct of the Solicitation. The Independent Monitor will be selected by the Staff and will work at the Staff's direction. Any person expecting to participate in the solicitation process may suggest to the Staff any individual to serve as the Independent Monitor. The utility will retain the Independent Monitor selected by the Staff and will be responsible for all related costs. The Independent Monitor shall submit all invoices to the Staff for review. The Staff shall forward the invoices to the utility with a recommendation as to payment.

The Independent Monitor will be responsible for:

- monitoring all communications regarding the solicitation by and among the utility and any bidders or potential bidders;
- evaluating the adequacy, accuracy and completeness of all solicitation materials, and the quality of the evaluations conducted;
- monitoring any negotiations conducted by the utility and any bidder;
- assisting the Staff in developing the "prices to beat" and such other tasks as required;
- advising the Staff and the utility of any issue affecting the integrity of the solicitation process and providing the utility an opportunity to remedy the defect identified;
- periodically submitting status reports to the Commission and the Staff on the solicitation being conducted, noting any deficiencies identified in the preparation of solicitation materials, maintenance of records, communications with bidders, or in evaluating or selecting bids;
- advising the Commission and the Staff of significant unresolved issues as they arise;
- after bids have been selected, preparing and submitting a report to the Commission detailing the Independent Monitor's observations and findings relating to the conduct of the solicitation and any recommendations for improvements of the solicitation process employed in the initial solicitation; and
- making all written status reports and the final reports to the Commission available to any person having an interest in the solicitation.

The Independent Monitor shall have full access to all materials used in or relating to the Solicitation. The utility shall make its personnel available for consultation with the Independent Monitor as requested. The Independent Monitor shall attend, in person or telephonically, any negotiations conducted with bidders.

Following the bidders conferences and before the distribution of the solicitation materials, the Independent Monitor shall submit a status report to the Commission and the Staff noting any unresolved issues that could impair the equity or appropriateness of the solicitation process.

2. Post Selection Requirements

Subsequent to the final bid selections and prior to announcing the selection of winning bids, the utility shall meet with the Staff and the Independent Monitor to review its bid evaluations and to explain the basis for its selections. Within 3 days of the selection of winning bids, the Independent Monitor will file with the Commission a status report identifying the winning bids and outlining any deficiencies noted in the solicitation process.

The Independent Monitor will also file with the Commission a report on the fairness and effectiveness of the solicitation within 14 days of the selection of winning bids. In that report, the Independent Monitor will describe the process employed and will evaluate the utilities' conformity with the process requirements. If the Independent Monitor finds that the utility unfairly or erroneously conducted the solicitation, the report should so state. If the Independent Monitor believes that the selection process was flawed, the report submitted should detail the Independent Monitor's basis for such belief.

D. Staff

Throughout the solicitation process, the Staff and Independent Monitor will review data, review draft solicitation materials, and monitor the solicitation process. The Staff will observe the solicitation process, but will not approve any action or certify any aspect of the solicitation activities. If any disagreement concerning the solicitation occurs, the Staff or the Independent Monitor will promptly notify the utility of its concern and discuss the matter with the utility.

The Staff, in conjunction with the Independent Monitor, will be responsible for reviewing the resource plans, the price and cost forecasts, and the network transmission assessment to encourage the utility to develop comprehensive supporting data, and advise the Commission should the utility fail to address the information needs of the solicitation process. Also, the Staff

and the Independent Monitor will review forecast data provided by interested parties and compare it to the forecasts provided by the utility when assessing the system needs.

E. Commission

The Commission may upon request of the Independent Monitor or at such time or times as it deems appropriate, suspend or terminate the Solicitation in order to remedy any defect in the solicitation process identified by the Independent Monitor. The Commission may order the utility conducting the Solicitation to make changes to the solicitation process it deems necessary to promote effectiveness, reasonableness, and fairness.

In the event that the Independent Monitor finds that the utility failed to conduct the solicitation in an equitable manner, the Commission, after notice and hearing, may, among other things, disallow the recovery of costs of power incurred pursuant to contracts entered as a result of this Solicitation as well as the costs of conducting the solicitation or bar any bidder inequitably awarded a contract as a result of the solicitation from bidding in any subsequent solicitation. If the Commission finds that the utility failed to conduct an appropriate solicitation, it may order that a new solicitation, conducted by an independent party, be commenced forthwith.

III. Pre-Solicitation

A. Overview of process

In order to be ready to conduct a solicitation by March 1, 2003, as required by the Track A order, the utility must assemble information supporting the determination of products to be solicited and the amount of each product that is needed. The utility must be prepared to evaluate, without delay, all offers presented, including offers to deliver power to points that may differ from the utility's requested points of interconnection. The required data typically collected in the ordinary course of business will serve as the basis for all information to be provided to the Staff, Independent Monitor and bidders, though some will need to be modified to be suitable for the

solicitation. To facilitate a timely solicitation, the utility should begin assembling the necessary information without delay.

B. Data Collection

Prior to preparation of solicitation materials, supporting data shall be assembled by the utility and provided to the Staff and the Independent Monitor for their review at the earliest date practicable. These data shall include resource plans, load, price, and cost forecasts, and a network transmission assessment containing such information and in formats acceptable to the Staff, designed to facilitate the solicitation process. Once the Staff and the Independent Monitor have completed their review, the following data shall be made available to bidders expressing intent to bid and who have signed a confidentiality agreement: load forecasts, resource plans, needs assessments, and transmission assessments, as appropriate. Price and cost forecasts for power supplies and fuel costs prepared by, or available to the utility, will not be made available to bidders. Bidders may provide comments to the Staff or Independent Monitor on the quality or completeness of any information provided at any time.

In preparation for the solicitation, each utility shall prepare a list of potential bidders to whom bid materials will be sent. That list should be as expansive as is reasonable. Once assembled, that list is to be provided to the Staff and the Independent Monitor and posted on the solicitation website. Identified potential bidders are to be contacted and invited to submit a letter of intent to bid. Prospective bidders not identified by the utility will be added to the bidders list by submitting a letter of intent to bid.

C. Resource Plans

Prior to the first solicitation, each utility that will solicit power during 2003 must provide to the Staff and the Independent Monitor its current 10-year load and energy forecast and resource plan. Utility personnel must be made available to discuss the load forecast and resource plans with the Staff and the Independent Monitor.

The Resource Plan must describe all power sources currently employed to meet load including: generation owned by the utility, existing power supply contracts with affiliated and non-affiliated utilities, planned additions and retirements, contract expirations, loads to be met through the use of demand side management and contracts to satisfy the Environmental Portfolio Standard. The Resource Plan should identify RMR plants, the hours during which such plants are RMR, and the criteria employed to determine RMR. Additionally, the Resource Plan should detail the utility's planned outage schedule and any planned unavailability of power from contract suppliers. Planned reserve requirements shall also be specifically identified.

The utility will review with the Staff and the Independent Monitor the adequacy of resources committed to serve expected loads and the reliability of the resources planned to serve that load.

Based on the utility's load and energy forecast and the resource plan, the utility will develop a needs assessment. The needs assessment will be designed to identify specific capacity and energy needs and such other services and/or facilities as may be needed over the term of the load forecast.

The load forecast, resource plan and needs assessment will be reviewed with the Staff and the Independent Monitor.

D. Price & Cost Forecasts

Each utility will provide to the Staff and the Independent Monitor its four-year forecast of its power supply costs from its existing power sources.

Each utility shall provide to the Staff and the Independent Monitor the forecast of fuel prices that the utility used in preparation of its power supply costs and all other fuel forecasts relied on, or reviewed by, the utility.

Additionally, each utility shall provide to the Staff and the Independent Monitor a four-year forecast of the prices of wholesale power products, including both capacity and energy products by season and time period, in Western wholesale markets for delivery in Arizona prepared by an independent source that makes such estimates available in the normal course of its

business. Each utility shall also provide to the Staff and the Independent Monitor copies of all other forecasts of the prices of wholesale power supplies in Western wholesale markets for delivery in Arizona in the possession of or reviewed by the utility. The utility shall identify the source of each such forecast, and explain the strengths and weaknesses of each of the forecasts supplied.

Potential bidders may also submit wholesale price forecasts to the Staff. Those forecasts must clearly identify the source of the forecast and all assumptions relied on in preparing the forecast.

All forecasts provided will remain confidential and will serve as the basis for certain evaluative and review purposes as are discussed later in this document. During the reviews described above, the Staff and the Independent Monitor will examine the assumptions relied on in making the forecasts and assessments presented.

E. Deliverability Qualifications

The utility must provide Staff and the Independent Monitor with a listing of each committed use of its transmission capacity for the period over which resources are to be solicited.

The utility will perform and submit for review by the Staff and the Independent Monitor a network transmission assessment of the maximum resource capacity that can be physically and reliably accommodated simultaneously at all technologically feasible interconnection and delivery points. Such transmission limitations are to be used as a guide in the evaluation of deliverability of specific combinations of bid resource capacity and energy.

Upon completion of this review, the utility will be responsible for preparing and conducting a solicitation that encourages multiple bidders to respond to the solicitation. The specifics of products to be solicited, contract terms and conditions, terms of the confidentiality agreement, and the specific solicitation mechanics to be employed will be at the discretion of the utility. In any event, the process must be designed to promote acquisition of reliable power at reasonable costs over the long term.

F. Identification of Products

Each utility shall determine the specific products it will contract for in order to maintain an appropriately structured power supply portfolio. For 2003, utilities may request bids for firm power (e.g. on-peak and off-peak, annual or seasonal, capacity and energy blocks), and unit contingent supplies, as appropriate. Additionally, to the extent required, solicitations for ancillary services including, but not limited to, load following or spinning reserves, may be undertaken. It is, anticipated that bidders will provide all ancillary services required to support their bids. If the utility provides ancillary services to any generating asset not in its rate base, the utility shall make those ancillary services available to all bidders on the same terms and at the same price as available to those assets.

In identifying the products to be contracted for, the utility will specifically define the capacity and energy sought on a time-differentiated basis and the periods for which services will be purchased. The solicitation materials will contain the terms and conditions proposed by the utility, including the right of the utility to reject all bids and to amend the request for service without notice. The solicitation materials shall include a model contract.

IV. Preparation Of Initial Solicitation

A. Overview

The materials to be provided to potential bidders shall be prepared by the utility and shall be developed in a manner that facilitates the preparation of responsive and competitive bids. The materials must be accurate and sufficiently detailed so that no bidder is afforded an undue advantage. The terms and conditions must be reasonable and commercially acceptable and must be reviewed by the Independent Monitor and the Staff.

B. Solicitation Material Content

The utility will have responsibility for preparing all solicitation materials. The materials will be prepared in a timely manner so that the Staff and the Independent Monitor will have time to review the documents and suggest changes, before they are provided to interested parties for comment.

The utility will prepare bid packages that contain a description of the specific products to be acquired, the capacity and energy to be acquired, the bidding method to be employed (e.g. Request for Proposal or Descending Clock Auction), a copy of the contract to be executed, the preferred delivery points, the evaluation criteria to be used, bid fees (if any), credit requirements, due dates and such other information as may be appropriate.

It will be the responsibility of the utility to prepare draft solicitation materials and to discuss these drafts with the Staff and the Independent Monitor prior to distributing them in draft form to potential bidders. These drafts will include but will not be limited to: the specific power supply products sought, points of delivery, a model contract and confidentiality agreement, the bid requirements, pre-qualification requirements, creditworthiness requirements, the solicitation method to be employed, information describing the utility and its forecast load, and the evaluation criteria to be used.

In the Solicitation materials the utility will describe in detail how it will conduct bidding, such as how many rounds of bids will be accepted, Descending Clock Auction procedures, etc. The utility may specify that bids must be firm and for how long bids must be open after the auction is completed. If a Request for Proposal is used, a utility may specify that bids must be valid for up to 30 days.

Price caps or auction reserve prices may be established by the utility. Any caps or auction reserve prices established must be disclosed to and discussed with the Staff and the Independent Monitor before the solicitation occurs. No limitations are to be placed on the maximum or minimum capacity or energy that any bidder may bid for or provide.

The solicitation materials will also describe the criteria to be used to select winning bids and the weighting, if any, to be placed on each criterion.

The following criteria may be used to evaluate bids:

- Delivered price
- Deliverability
- Reliability
- Creditworthiness
- The source(s) of power for unit contingent products
- System benefits
- Exceptions to bid specifications and/or model contract terms and conditions
- Other criteria as appropriate and made publicly available

The bid package prepared by the utility should specify preferred delivery points and, if available, equivalent delivery points and any incremental costs the utility will incur if bidders deliver to those equivalent delivery points. The utility shall disclose to the bidders the existence of the network transmission assessment previously provided to the Staff and the Independent Monitor, and disclose that the assessment will be used in evaluating equivalent delivery points. The solicitation materials will specify the process the utility will use to identify whether any constraints would be created on its system as a result of deliveries to any alternative delivery point, how it will estimate the cost and time required to relieve the constraint, and the costs a bidder will incur to mitigate the constraint.

The bid materials will also describe the Supplier information to be provided and the dates when such information is due. This requirement may include a demonstration of the bidder's experience in providing services and evidence of the bidder's creditworthiness. Utilities shall require bidders to provide a description of the sources of electricity they intend to use to supply service.

The bid materials will specifically describe the credit support acceptable to the utility both as to form and amount. However, bidders may provide alternative credit support arrangements

and, if equivalent to that specified, the utility must evaluate the proposal as it would a conforming bid. Equivalent credit support arrangements may include, but will not be limited to, appropriate parental or affiliate guarantees.

Bid materials will also include:

- A draft Confidentiality Agreement
- Identification of any pre-qualification requirements
- Identification of any bid fees

C. Communications

Only those employees, officers, directors or contractors of the utility or its affiliates specifically assigned by January 1, 2003, to prepare the solicitation materials or to evaluate bids received, may participate in the preparation of solicitation materials or evaluation of bids. All persons assigned to the solicitation by the utility shall be subject to a standard of conduct established for the purpose of maintaining a separation between the utility and any affiliated entity or person. Persons who work for an affiliate, parent, or part of the utility involved in the sale or marketing of resources from generating assets owned by the utility shall not participate in the solicitation preparation or evaluation of bids, or have any contact regarding the solicitation with any personnel assigned to conduct the solicitation, except on the same terms as any other bidder.

A protocol shall be established for all communications between the utility and all prospective bidders, regardless of whether they are affiliates or third party bidders. The protocol must prohibit the dissemination of any data to an affiliated person that are not provided to all other interested persons on equal terms and at the same time. The utility will identify to the Staff and the Independent Monitor, the information it proposes to restrict access to by bidders and other interested persons.

The Staff and the Independent Monitor will review all draft solicitation materials before they are released to the parties for their review.

Concurrently, the utility will establish the procedures it will employ to communicate with all potential bidders. That communications plan must be designed to maintain confidentiality and to provide equal access to information to all. All bidders, including utility affiliates, must be required to communicate with the utility on equal terms. The approach adopted must be shown to provide no undue advantage to any potential bidder.

By January 1, 2003, each utility shall establish and maintain a solicitation website as the medium for communicating with bidders prior to the bid date, except for confidential exchanges regarding pre-qualification and creditworthiness. Bidders will address all inquiries to the utility on the website. Each inquiry and the utility response thereto shall be posted so that all bidders have equal access to information. The website will also be used to provide timely access to data and other information, such as the bidders list and the form letter of intent to bid that bidders may use to be placed on the bidders list.

Pre-solicitation data shall be posted on the website as soon as it has been reviewed by Staff and the Independent Monitor but in no case less than 5 days before the last bidders' conference.

Bidder inquires to the Independent Monitor may also be addressed using the solicitation website. All bidder inquiries to the Independent Monitor and the response provided, regardless of how the inquiry is made, will be posted on the solicitation website for review by all bidders.

As part of the communications protocols established by the utility, each utility shall establish a system for logging all contacts between utility personnel and bidders and potential bidders. That protocol must, at a minimum, require recording the date and time of any conversation, whether telephonic or in person, the substance of that discussion and whether the Independent Monitor participated in the contact. The utility shall maintain copies of all e-mails exchanged between the utility and bidders or potential bidders, copies of all correspondence, and all such other communications as may occur regarding the solicitation, for the terms set forth below.

Each utility shall schedule one or more bidders' conferences to answer questions posed by potential bidders and to take comments regarding the adequacy and quality of the information

provided to bidders. All bidders' conferences must be completed at least 10 days before the release of the final bid package.

Based on the comments received, the utility, after consultation with the Staff and the Independent Monitor, shall make such changes, as it deems necessary and produce in final form its solicitation materials.

D. Pre-qualification

Participation in pre-qualification shall be a prerequisite to having a bid accepted. The utility shall begin pre-qualifying bidders at the same time it assembles the list of prospective bidders. As bidders indicate their intent to submit a bid, the utility shall provide all necessary documents to complete the pre-qualification and undertake the review of completed bidder submissions as they are received.

Bidders shall be pre-qualified for:

- Creditworthiness
- Deliverability
- Reliability
- Business reputation and experience

The utility shall notify bidders of their pre-qualification status no less than 14 days before bids are due. Any bidder that has not successfully pre-qualified by that date shall be afforded the opportunity to submit pre-qualification materials or to cure any failure to pre-qualify before the bid date.

The specific pre-qualification requirements are dependent on the products to be contracted for and will be established by the utility. Standards for pre-qualification, including minimum credit worthiness, shall be included in the solicitation materials. Information provided by bidders as part of the pre-qualification process is to be considered confidential.

E. Solicitation Cost

The cost of conducting each solicitation is a business expense to be borne by all bidders in a fair and equitable manner. To that end, bid fees of up to $10,000 per bidder will be permissible. To the extent that bid fees collected exceed the incremental expenses incurred by the utility to conduct the solicitation, such excess is to be refunded to all non-winning bidders pro rata up to the amount of the bid fee actually paid by the bidder. Any costs incurred by the utility in excess of bid fees collected may be considered in subsequent regulatory proceedings.

Any utility requiring the payment of bid fees will be responsible for their collection and, if required, the refund of any amounts collected in excess of the costs incurred in conducting the solicitation.

Once a solicitation is provided to potential bidders, the utility will employ the steps laid out in the following section (V. Conducting the Solicitation) for each type of solicitation.

V. Conducting The Solicitation

A. Overview

In conducting the solicitation, whether by Request for Proposal or Descending Clock Auction, the utility shall employ standard sets of requirements and evaluative tools, appropriate to the type of solicitation conducted.

Bid evaluation will be conducted by a team of personnel including representatives of the utility and the Independent Monitor. In evaluating bids, the utility shall use a standard set of evaluative criteria, including a single fuel forecast for each type of fuel. The utility will also determine creditworthiness and deliverability using criteria that are unbiased and allow differing means of providing risk mitigation. Final bid selections will be at the sole discretion of the utility.

During the solicitation process, the Independent Monitor will oversee the solicitation process to ensure compliance with process requirements and to assure that evaluations are

conducted in an unbiased fashion. The Staff may be present during bid evaluations and may observe the solicitation process at its discretion.

B. Bid Evaluation

Bid evaluations should be conducted in three phases. The first should be to rank order the bids by price using valuation methods that equalize volumetric and or duration differences on a price basis. In the case of a Descending Clock Auction for firm power at fixed prices, only pre-qualified bids will be rank ordered. In the case of unit contingent Requests for Proposals or for non-conforming offers, approaches to valuing the bids that determine an equivalent per MWh net present value of the cost of the bid to the utility by using approved annuity-based approaches may be employed.

Phase Two should, to the extent not determined during pre-qualification, evaluate deliverability using the network transmission assessment previously provided to the Staff and the Independent Monitor. To the extent practicable, network resource status should be assigned to appropriate bids. Network service is to be provided pursuant to each utility's OATT. Bidders may propose delivery to alternative points (i.e. points other than those specified). In such case, the utility shall determine the deliverability of the capacity and energy bid using its best efforts. If a bid imposes delivery costs on the utility, the bid price as evaluated should be adjusted to reflect those costs and a new rank order established. If the bidder is prepared to mitigate those costs at its expense, no such adjustment need be made. All assessments of alternative delivery points shall be provided to the Staff and the Independent Monitor prior to the selection of winning bids.

During Phase Three all other factors not previously considered are to be evaluated. These include evaluations of creditworthiness, experience and proposed exceptions to model contract terms and/or conditions.

To the extent necessary, the utility may conduct post bid negotiations with selected bidders to clarify bid terms or to resolve issues relating to exceptions noted in submitted bids. Additionally, the utility may conduct final negotiations with selected bidders to resolve any other

issues that may arise. All such meetings are to be attended, in person or telephonically, by the Independent Monitor to assure that no undue advantage is afforded any bidder. Based on the evaluations conducted, the utility will, after consultation with the Independent Monitor, and discussion with Staff, select the winning bids.

C. Request for Proposal Bid Evaluation Procedures

Bids in response to a Request for Proposal are confidential and are to be submitted in sealed envelopes to be opened simultaneously at the Commission in the presence of the utility's bid evaluators, assigned Staff personnel, and the Independent Monitor. RUCO may also attend. Bids submitted may not be withdrawn for up to 30 days or until rejected by the utility.

Bid evaluation will be conducted by a team of personnel including representatives of the utility and the Independent Monitor. During the evaluations, the Staff may be present. Final bid selections will be at the sole discretion of the utility.

If the utility determines that all bids submitted are to be rejected, it will notify all bidders of its decision to reject all bids within 21 days of the day bids were opened.

D. Descending Clock Auctions Bid Evaluation Procedures

All bids are confidential and must be firm until the auction has been completed. Electronically submitted bids must be secured and may not be reviewed except in the presence of the Independent Monitor. If feasible, bids will be reviewed at the offices of the Commission. The Staff and RUCO may also attend. However, no person selling or which may sell energy in competitive markets may review the bids (except of course for utility personnel assigned to the solicitation.)

E. Terms Required for Staff Recommendation

Based on the utility's forecasts of its power supply cost, the submitted forecast of wholesale power supply in Arizona, and such other information as it deems appropriate, the Staff, assisted by the Independent Monitor, shall establish "prices to beat" for each product solicited for

each utility. The "prices to beat" established by the Staff will be used for the purpose of determining whether the Staff will recommend without further analysis a finding that prices contained in any contract meeting the conditions outlined below are reasonable. For contracts not meeting the "prices to beat" conditions outlined below, the Staff will, after further analysis, make findings and recommendations relating to prudence, reasonableness and used and usefulness as appropriate in any subsequent proceedings as scheduled by the Commission.

In any subsequent proceedings to recover the cost of power purchased pursuant to contracts entered as a result of the initial solicitation, the Staff will, without further analysis, recommend the Commission find the prices contained in such contracts are reasonable if the Monitor determines the solicitation was conducted appropriately and the following conditions are met:

- For contracts with durations of three years or less, the Staff will recommend without further analysis approving contract prices when such prices in each year of the contract are less than the "prices to beat" established by the Staff and permit, at the utility's sole discretion, extension of the contract for the same number of years at comparable prices and on the same terms.
- For contracts with durations longer than three years but less than eight years, the Staff will recommend without further analysis that the Commission find the prices contained in any contract reasonable when, in each year of the contract delivery period, prices for power are less than the "prices to beat" established by the Staff pursuant to the following schedule:
    - Contracts of 4 years if contract prices are less than the "prices to beat" by 4% or more during each year
    - Contracts of 5 or 6 years if contract prices are less than the "prices to beat" by 6% or more during each year

- Contracts of 7 years if contract prices are less than the "prices to beat" by 10% or more during each year.

- For contracts not meeting the conditions outlined above, the Staff reserves the right to challenge the prudence, reasonableness or usefulness of the contract entered.

The above-described recommendations by the Staff do not constitute a finding by the Staff that any contract was prudent or that the utility's power supply portfolio was prudently structured. The Staff reserves the right to contest the reasonableness of any recommended contract on its non-price terms or the utility's portfolio in its entirety in any future proceeding. Additionally, contracts not meeting the above stated standards will not automatically be viewed by Staff as unreasonable or imprudent. The reasonableness and prudence of contracts not meeting the above criteria will need to be evaluated by Staff in subsequent proceedings.

The "prices to beat" set by the Staff will not be disclosed. After final bid selections are announced, the Staff will identify those winning bids that have met the conditions set forth above.

VI. Post Selection Requirements

Within 14 days of the selection of winning bids, the utility will submit to the Commission a detailed report on the process employed to conduct the solicitation and an explanation of the basis for selecting the winning bids. To the extent that confidential information is to be provided it should be noted.

Within 3 days of the selection of winning bids the Independent Monitor will submit a status report on the solicitation process employed by the utility to the Commission. Within 14 days of the completion of the solicitation, the Independent Monitor will submit to the Commission the report described in Section II C 2 above.

Each utility shall maintain a complete record of all materials developed for, generated during or used in conducting the solicitation for the life of the longest contract, plus 5 years. The retained records shall include, but not be limited to, reports, internal and external communications, analyses, contracts, forecasts, bids submitted, questions received from bidders

and the answers provided in response, and resource plans. These materials will be available to the Staff. To the extent that the material is not subject to a confidentiality agreement, these materials will be available to the bidders upon reasonable terms and conditions.

Sometime after the completion of each utility's initial solicitation, the Commission Staff will commence a review of the utility's power supply portfolio to examine the prudence of that utility's planning and procurement practices, and to determine the effectiveness and efficiency of the solicitation process employed.

Also, sometime after the completion of the initial solicitation, the Commission Staff will commence a proceeding to review the solicitation process described in this document and will recommend such changes to the process as may be appropriate. Any refinements will be intended to improve the process and to enhance the development of a robust wholesale energy market in Arizona. Additionally, that proceeding will address the planning for future solicitations at such time and for such amounts of capacity and energy as may be needed.

E. Solicitation Timelines

On the following pages we have presented Solicitation Timelines for the two primary solicitation methodologies discussed at the workshops: The Descending Clock Auction (as proposed by APS in its initial comments on Track B Issues) and a more traditional Request for Proposals approach to power supply acquisitions. The timelines illustrate the time periods during which various required tasks are expected to be completed in order to assure that adequate power supplies are available by July 1, 2003.

The timelines were reviewed with the workshop participants and there was a general consensus that they captured the major tasks that will need to be undertaken and that in the aggregate the tasks could be completed within the allotted timeframes.

STAFF REVISED CONTESTABLE LOADS ESTIMATE
GENERIC ELECTRIC RESTRUCTURING - TRACK B
DOCKET NO. E-00000A-02-0051, ET AL

CAPACITY (MW)

YEAR	2003	2004	2005	2006
Net Unmet Reliability Needs[1]	1661	1935	2055	2151
APS Phoenix Resources[2]	660	660	660	660
APS Yuma Resources[3]	139	139	139	139
APS	**2460**	**2734**	**2854**	**2950**
TEP Retail Load[4]	1890	1956	1993	2030
-Transmission Import Limit[5]	-1132	-1132	-1132	-1132
TEP	**758**	**824**	**861**	**898**

ENERGY (GWH)

YEAR	2003	2004	2005	2006
Net Unmet Reliability Needs[1]	639	840	1228	1469
APS Phoenix Supplied[2]	37	90	165	263
APS Yuma Supplied	0	0	0	0
Economy Purchase[6]	3705	4033	6695	6948
APS	**4381**	**4963**	**8088**	**8680**
Unmet Needs[7]	50	46	120	104
Local RMR Generation Supplied[8]	183	213	253	276
Economy Purchases[9]	210	429	223	181
TEP	**443**	**688**	**596**	**561**

[1] Schedule PME-1, Peter M. Ewen, November 4, 2002 adjusted to include 15% reserves for all load.
[2] Work Papers, APS Metro Phoenix Reliability Must Run Estimates, Peter M. Ewen, November 4, 2002, page 76.
[3] Schedule PME-9, Peter M. Ewen, November 4, 2002.
[4] Exhibit 5, Track B Needs Assessment and Procurement Proposal, David Hutchins, November 4, 2002.
[5] Ibid, existing capability with no local generation plus 182 MW for Saguaro to Tortolita 500 kV line #2 in 2003.
[6] Schedule PME-13, Peter M. Ewen, November 4, 2002.
[7] Exhibit 1, Track B Needs Assessment and Procurement Proposal, David Hutchins, November 4, 2002.
[8] TEP Must-Run Summary (12/12) based on Nov. 2 Load Forecast.
[9] TEP Purchase Power Summary (12/12) based on Nov. 2 Load Forecast.