

ORIGINAL

INTERVENTION



0000078339

LAWRENCE V. ROBERTSON, JR.  
ATTORNEY AT LAW

P. O. Box 1448  
TUBAC, ARIZONA 85646

(520) 398-0411  
FAX: (520) 398-0412  
EMAIL: TUBACLAWYER@AOL.COM

OF COUNSEL TO  
MUNGER CHADWICK, P.L.C.

ADMITTED TO PRACTICE IN:  
ARIZONA, COLORADO, MONTANA,  
NEVADA, TEXAS, WYOMING,  
DISTRICT OF COLUMBIA

18

October 31, 2007

Arizona Corporation Commission  
**DOCKETED**

NOV -1 2007

Docket Control  
Arizona Corporation Commission  
1200 W. Washington  
Phoenix, Arizona 85007

DOCKETED BY	nr
-------------	----

Re: The Generic Investigation Into Electric Resource Planning  
Docket No. E-00000E-05-0431

To Whom It May Concern:

Enclosed for filing in the above-referenced proceeding on behalf of Mesquite Power, L.L.C., Southwestern Power Group II, L.L.C., and Bowie Power Station, L.L.C. (jointly "Mesquite/SWPG/Bowie") are the original and thirteen (13) copies of Mesquite/SWPG/Bowie's Application for Leave to Intervene.

Thank you for your assistance with regard to this matter.

Sincerely,

Angela R. Trujillo  
Secretary  
Lawrence V. Robertson, Jr.

DOCKET CONTROL  
AZ CORP COMMISSION

2007 NOV -1 P 12:20

RECEIVED

**BEFORE THE ARIZONA CORPORATION COMMISSION**

**COMMISSIONERS**

**MIKE GLEASON, Chairman**  
**WILLIAM A. MUNDELL**  
**JEFF HATCH-MILLER**  
**KRISTIN K. MAYES**  
**GARY PIERCE**

IN THE MATTER OF THE GENERIC	)	DOCKET NO. E-00000E-05-0431
INVESTIGATION INTO ELECTRIC RESOURCE	)	
PLANNING	)	APPLICATION FOR LEAVE TO
	)	INTERVENE

---

Pursuant to A.A.C. R14-3-105, Mesquite Power, L.L.C., Southwestern Power Group II, L.L.C., and Bowie Power Station, L.L.C. (“Mesquite/SWPG/Bowie”) submit this joint Application for Leave to Intervene in the above-captioned and docketed proceeding. In support of their joint Application, Mesquite/SWPG/Bowie submit the following information.<sup>1</sup>

**I.**

**IDENTITY OF APPLICANTS**

Mesquite/SWPG/Bowie have actively participated in a number of proceedings before the Commission in recent years relating to the development and maintenance of a viable competitive wholesale power market within the State of Arizona. Several of those proceedings related directly to the desire and ability of Mesquite/SWPG/Bowie to compete for current and future opportunities to provide capacity and energy at wholesale to Arizona Public Service Company (“APS”) and Tucson Electric Power Company (“TEP”) incident to the conduct of their respective operations as an electric public service corporation.

---

<sup>1</sup> Mesquite/SWPG/Bowie do not recall ever having seen a Procedural Order providing a timeline for intervention in connection with the initiation of the above-referenced and docketed proceeding. Thus, they are unsure as to whether it is necessary to file an Application For Leave To Intervene in order to be added to the official service list. However, they do so as a precautionary measure; and, in the event their request is untimely within the context of a previously-issued Procedural Order, they respectfully submit that they satisfy the “good cause” requirement of A.A.C. R14-3-105 in the circumstances of the instant proceeding.

Included among those proceedings were (i) the Track "A" proceeding, (ii) the Track "B" proceeding, (iii) APS's \$500 million financing proceeding, (iv) APS's acquisition of the Sundance Generating Station assets, (v) APS's 2003 rate case, (vi) the 2005 Power Supply Adjuster/Surcharge proceeding, (vii) APS's request for an emergency interim rate increase, (viii) TEP's request to amend Decision No. 62103, (ix) APS' 2005 rate case, (x) APS' Yuma RFP proceeding, and (xi) TEP's 2007 rate case.

## II.

### **NATURE OF APPLICANTS' DIRECT AND SUBSTANTIAL INTEREST IN INSTANT PROCEEDING**

In the Track "A" and Track "B" proceedings, the Commission clearly indicated that one of its policy goals was to foster the development and maintenance of a viable competitive wholesale power market within the State of Arizona. That policy goal has been reiterated by the Commission in subsequent proceedings in recent years in which APS, TEP and Mesquite/SWPG/Bowie were parties. An illustrative example is Article IX ("Competitive Procurement of Power") of the August 18, 2004 Settlement Agreement in APS' 2003 rate case, which was approved by the Commission in Decision No. 67744 on April 7, 2005. Mesquite/SWPG/Bowie were active participants in APS' 2003 rate case, including the settlement negotiations, and they are signatory parties to the aforesaid Settlement Agreement.

As noted in the October 2, 2007 Draft Staff Report on Competitive Procurement Issues For The Generic Investigation Into Electric Resource Planning ("Draft Staff Report"), the above-captioned and docketed proceeding was initiated in response to Decision No. 67744 and Paragraph 79 (in Article IX) of the aforesaid Settlement Agreement. Moreover, as further noted in the Draft Staff Report, a purpose of the instant proceeding is

"...to focus on developing needed infrastructure and developing a flexible, timely and fair competitive procurement process." [Draft Staff Report, Executive Summary, quoting Paragraph 79, Settlement Agreement]<sup>2</sup>

---

<sup>2</sup> In the past, individually, Mesquite/SWPG/Bowie have submitted responses to one or more competitive power procurements conducted by APS and TEP.

Clearly, Mesquite/SWPG/Bowie will be directly and substantially affected by any substantive decision(s) by the Commission resulting from the instant proceeding, whether such decision(s) are in the form (i) of adoption of some type of Recommended Best Practices For Procurement, as suggested in the Draft Staff Report, and/or (ii) a subsequent rulemaking on procurement issues.<sup>3</sup> For, as stated in the Draft Staff Report,

“It is Staff’s intention to continue to facilitate competitive wholesale market options for the acquisition of resources to serve electric consumers.” [Draft Staff Report, Executive Summary] [emphasis added]

Accordingly, as it pertains to Mesquite/SWPG/Bowie, the requirement of A.A.C. R14-3-105(A) has been satisfied.

### III.

#### **APPLICANTS’ INTERVENTION WILL NOT UNDULY BROADEN THE ISSUES PRESENTED**

As of this juncture, Mesquite/SWPG/Bowie do not anticipate a need to raise any new issues of their own. Rather, they believe that the issues they wish to address have either already been raised in the Draft Staff Report and the resource planning workshops conducted by the Commission’s Staff on April 25, 2007, May 23, 2007 and July 13, 2007. As a consequence, Mesquite/SWPG/Bowie’s intervention will not unduly broaden the issues to be considered. Accordingly, the requirements of A.A.C. R14-3-105 (B) have been satisfied as well.

### IV.

#### **CONCLUSION**

WHEREFORE, for the reasons discussed above, Mesquite/SWPG/Bowie hereby request that the Commission issue a Procedural Order in the above-captioned proceeding, if necessary, (i) granting their joint request for intervention, and (ii) according them status and full rights as parties of record.

---

<sup>3</sup> In this regard, on October 19, 2007, Mesquite/SWPG/Bowie filed Comments On The Draft Staff Report On Competitive Procurement Issues with the Commission.

Dated this 31<sup>st</sup> day of October 2007.

Respectfully submitted,  
Lawrence V. Robertson, Jr.  
Attorney for Southwestern Power  
Group, II, L.L.C and Bowie  
Power Station, L.L.C

and

Theodore Roberts  
Lawrence V. Robertson, Jr.  
Attorneys for Mesquite  
Power, L.L.C. and Sempra  
Energy Solutions LLC

By: Lawrence V. Robertson, Jr.  
Lawrence V. Robertson, Jr.  
P. O. Box 1448  
Tubac, Arizona 85646  
Phone: (520) 398-0411  
Facsimile: (520) 398-0412

Original and thirteen (13) copies of the  
foregoing mailed this 31<sup>st</sup> day  
of October, 2007 to:

Docket Control Division  
Arizona Corporation Commission  
1200 West Washington Street  
Phoenix, Arizona 85007

A copy of the same served by e-mail or first  
class mail this same date to service list:

ARJ.