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ARIZONA CORPORATION COMMISSION

Arizona Corporation Commission
DOCKETED

JAN 11 2008

January 11, 2008

Docket Control
Arizona Corporation Commission
1200 west Washington
Phoenix, Arizona 85007

DOCKETED BY 

RE: ARIZONA PUBLIC SERVICE COMPANY – TO MODIFY DECISION NO 67744 RELATING TO THE SELF BUILD OPTION – DOCKET NO E-01345A-07-0420

Attached is the Direct Testimony of Arizona Public Service Company's witness Patrick Dinkel in the above referenced matter regarding the modification of Decision No 67744 relating to the self build option.

Sincerely,

Barbara Klemstine

BK/dst

Attachments

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DIRECT TESTIMONY OF PATRICK DINKEL
On Behalf of Arizona Public Service Company
Docket No. E-01345A-07-0420

January 11, 2008

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**DIRECT TESTIMONY OF PATRICK DINKEL
ON BEHALF OF ARIZONA PUBLIC SERVICE COMPANY
(Docket No. E-01345A-07-0420)**

12 **Q. PLEASE STATE YOUR NAME AND POSITION WITH APS.**

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A. My name is Patrick Dinkel. I am the Director of Resource Acquisitions and Renewable Energy for Arizona Public Service Company ("APS" or "Company"). I lead the APS team responsible for conducting long-term power procurement for both renewable and conventional supply-side resources. It is my responsibility to ensure that the solicitation process is conducted in a fair and transparent manner, and that the negotiations result in the best resource to meet our customer's needs.

23 **Q. WHAT IS YOUR EDUCATIONAL AND PROFESSIONAL BACKGROUND?**

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A. I received a Bachelors of Science degree from Marymount College and a Masters of Business Administration from Northern Arizona University. I joined APS in 1986. Before becoming Director of Resource Acquisitions and Renewable Energy, I was the Manager of Corporate Planning and the Manager of Business Unit Analysis and Reporting. Before that, I held various positions within APS and Pinnacle West Capital Corporation, primarily within the financial planning and budgeting areas.

101 **Q. HAVE YOU PREVIOUSLY TESTIFIED BEFORE THE ARIZONA CORPORATION COMMISSION ("COMMISSION")?**

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A. Yes, I have. I testified in support of APS's requests to both acquire the Sundance generation assets (Docket No. E-01345A-04-0407), and to include those assets in rate base in APS's last general rate case (Docket No. E-01345A-05-0816). I also testified in support of APS's request for authorization to

1 acquire additional generation resources in Yuma, Arizona (“Yuma Assets”) in
2 Docket No. E-01345A-06-0464 (“Yuma Acquisition Docket”). The Yuma
3 Acquisition Docket was the first time APS sought approval to acquire generation
4 assets in accordance with the self-build provisions of Commission Decision No.
5 67744. My testimony in the Yuma Acquisition Docket addressed the Yuma
6 Request for Proposal (“RFP”) and the evaluation process that resulted in the
7 request for authorization to acquire the Yuma Assets.

8 **Q. WHAT IS THE PURPOSE OF YOUR DIRECT TESTIMONY IN THIS**
9 **PROCEEDING?**

10 A. The key message of my testimony is to express APS’s support for the self-build
11 provisions of Commission Decision No. 67744 and the Settlement Agreement
12 adopted by that Decision. These provisions were developed as part of the
13 negotiations between the parties in the rate case proceeding that culminated in
14 Decision No. 67744. In this proceeding, APS is only seeking to improve the
15 efficiency of the approval process required by those provisions. To that end, the
16 Company is requesting that the Commission adopt a timetable for self-build
17 proceedings to facilitate certainty in the bidding process.

18 **Q. PLEASE EXPLAIN THE SELF-BUILD PROVISION INCLUDED IN**
19 **COMMISSION DECISION NO. 67744.**

20 A. Paragraph 74 of the Settlement Agreement addressed “self-build” as follows:

21 APS will not pursue any self-build option having an in-service
22 date prior to January 1, 2015, unless expressly authorized by
23 the Commission. For purposes of this Agreement, “self-build”
24 does not include the acquisition of a generating unit or interest
25 in a generating unit from a non-affiliated merchant or utility
26 generator, the acquisition of temporary - generation needed for
system reliability, distributed generation of less than fifty MW
per location, renewable resources, or the up-rating of APS

1 generation, which up-rating shall not include the installation of
2 new units.

3 In Decision No. 67744, the Commission modified the Settlement Agreement's
4 definition of "self-build" to include "the acquisition of a generating unit or
5 interest in a generating unit from any merchant or utility generator", and
6 specified that self-build did not include the acquisition of temporary generation
7 needed for system reliability, distributed generation of less than fifty MW per
8 location, renewable resources, or up-rating of APS generation, which up-rating
9 shall not include the installation of new units.¹ As a result of these
10 modifications, "self-build" as defined by Decision No. 67744 can be generally
11 translated to mean asset ownership, regardless of whether the facilities are
12 constructed or acquired.

13 **Q. COMMISSION DECISION NO. 67744 SPECIFIED CERTAIN
14 REQUIREMENTS THAT APS MUST MEET IF IT PROPOSES TO SELF-
15 BUILD OR OWN GENERATION. WHAT ARE THESE
16 REQUIREMENTS?**

17 **A.** Paragraph 75 of the Settlement Agreement addressed those requirements, as
18 follows:

19 As part of any APS request for Commission authorization to self-build
20 generation prior to 2015, APS will address:

- 21 a. The Company's specific unmet needs for additional long-
22 term resources.
- 23 b. The Company's efforts to secure adequate and reasonably-
24 priced long-term resources from the competitive
25 wholesale market to meet these needs.
- 26 c. The reasons why APS believes those efforts have been
unsuccessful, either in whole or in part.

¹ Commission Decision No. 67744, Page 25.

1 d. The extent to which the request to self-build generation is
2 consistent with any applicable Company resource plans
3 and competitive resource acquisition rules or orders
4 resulting from the workshop/rulemaking proceeding
5 described in paragraph 79.

6 e. The anticipated life-cycle cost of the proposed self-build
7 option in comparison with suitable alternatives available
8 from the competitive market for a comparable period of
9 time.

10 These provisions of the Settlement Agreement were not changed by the
11 Commission in Decision No. 67744.

12 **Q. DOES APS BELIEVE THAT PROVISIONS IN COMMISSION
13 DECISION NO. 67744 PROHIBIT APS FROM MEETING ITS FUTURE
14 NEEDS THROUGH SELF-BUILD OR OWNERSHIP OPPORTUNITIES?**

15 A. No. The self-build provisions in Decision No. 67744 simply require APS to
16 acquire the Commission's approval prior to acquiring new generation facilities
17 that would be placed into service prior to January 1, 2015, but these provisions
18 do not restrict APS's opportunities. In addition, Decision No. 67744 clearly
19 affirmed the Company's obligation to meet its customers' energy needs.
20 Paragraph 76 of the Settlement Agreement specifically states that APS has an
21 obligation to prudently acquire generating resources, which includes seeking
22 Commission authorization to self-build prior to 2015. The practical effect of the
23 self-build provisions is to test the market to ascertain whether needed resources
24 can be acquired through a competitive process. In those circumstances where
25 the market is unable to provide reasonably priced generation, APS can pursue
26 the acquisition of generating resources.

**Q. WHAT ARE THE CONCERNS THAT THE COMPANY HAS ABOUT
THE TIMING OF COMMISSION AUTHORIZATIONS FOR SELF-
BUILD PROCEEDINGS?**

1 A. The self-build provisions provide no timetable for Commission action, yet the
2 timetable is a key factor in contracting for generation resources because it can
3 materially affect the price of generation. The timing of all regulatory approvals
4 must be factored into the bidder's proposal, particularly when the bid requires
5 new construction. Additionally, if there is uncertainty about regulatory review,
6 then APS and bidders must build extra time into the procurement and
7 development schedule. An extended process requires APS to go to the market in
8 advance of its preferred schedule, and in certain circumstances, requires it to
9 make commitments earlier than it might otherwise prefer. In short, uncertainty
10 regarding the timing of Commission action creates uncertainty that negatively
11 affects bidders, APS, and ultimately, APS customers.

12 **Q. WHAT ARE THE RISKS TO THE BIDDER?**

13 A. Bidders proposing to construct new facilities generally will not make the
14 significant investments needed to move forward with a project until regulatory
15 approval is obtained. For instance, a bidder may not be able to obtain financing,
16 secure a plant site, or order equipment until a fully binding contract is in place.
17 If the contract is premised upon regulatory approval, as is required by the self-
18 build provisions of Decision No. 67744, then the bidder must wait until APS has
19 obtained final approval from the Commission. Currently, bidders must make
20 assumptions about the timeframe for Commission approval in the proposals.
21 They can either price premiums into their bids to cover the uncertainty, or, when
22 the actual timeframe for Commission approval varies significantly from the
23 expected timeframe, the bid provided to the Company may need to be refreshed
24 due to fluctuations in commodity prices, labor prices, resource availability, or
25 interest rates. This increased risk associated with unknown timeframes for
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1 regulatory approval will ultimately be factored into the price paid by the
2 Company, which in turn impacts the rates our customers pay.

3 When a bid is based upon an existing facility, whether a sale or a purchased
4 power agreement, bidders are concerned about how the market value of their
5 resources changes over time. Regardless of whether a bid is for an existing or
6 new facility, the length of the procurement schedule is a fundamental factor
7 affecting risk, because there is a greater exposure to such things as market
8 changes, commodity price movements, and inflation as time goes on.

9
10 **Q. WHAT ARE THE IMPACTS TO THE COMPANY?**

11 A. The impacts to the Company are two-fold: APS is exposed to uncertainties in
12 bidder pricing, as well as in the timing of resource additions. Certainty in the
13 timing for the Commission approval process allows the Company to more
14 efficiently manage the overall procurement process, and effectively take
15 advantage of market opportunities so that it can acquire the most preferable
16 generation resources. It also improves the efficiency of the planning and
17 procurement process, which provides APS with greater price certainty.

18 **Q. THE COMMISSION RECENTLY APPROVED "BEST PRACTICES FOR**
19 **PROCUREMENT" ("BEST PRACTICES"). DO THESE PRACTICES**
20 **PROVIDE THE COMMISSION WITH CERTAIN ASSURANCES**
21 **REGARDING THE INTEGRITY OF THE PROCUREMENT PROCESS?**

22 A. Yes. The Commission adopted Best Practices (Commission Decision No.
23 70032, issued December 4, 2007), which address the acceptable methods of
24 procurement and the role of an Independent Monitor ("IM"). These procurement
25 guidelines, as well as the use of an IM, will provide the Commission and
26 stakeholders with assurances that the process for obtaining new resources is fair,
transparent, and results in the most preferable resources being selected. With the

1 assurances provided by these Best Practices, APS is requesting that applications
2 for approval of self-build opportunities should be approved in a defined
3 timeframe.

4 **Q. WHAT DOES APS PROPOSE IN REGARDS TO A TIMETABLE FOR**
5 **SELF-BUILD PROCEEDINGS?**

6 A. APS believes that the Commission should establish two paths with different
7 timeframes for Commission approval of APS self-build or ownership
8 applications in response to an RFP solicitation. The first path would stipulate a
9 90-day timeframe for a Commission decision, and would apply to applications
10 the Company files where APS has complied with Best Practices, and the
11 application includes a written acknowledgement of such compliance by the
12 IM. In those cases, the Company would file for approval and provide the
13 supporting documents, including the IM report, so an evidentiary hearing would
14 not be necessary. The second path would adopt a 180-day timeframe. The 180-
15 day timeframe would apply in the event that the IM or an intervening bidder
16 identified material concerns regarding the fairness of the procurement process,
17 or if an IM is not involved in the process. Under these circumstances, an
18 evidentiary hearing may be necessary, making a 180-day timeframe for a
19 decision more appropriate. To assure certainty for all interested parties, within
20 thirty (30) days of the Company's filing, the Hearing Division should issue a
21 procedural order that indicates which timeframe applies.

22 **Q. DOES THAT CONCLUDE YOUR DIRECT TESTIMONY?**

23 A. Yes, it does.
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