

ORIGINAL



0000080452

BEFORE THE ARIZONA CORPORATION C

COMMISSIONERS

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

RECEIVED

2008 JAN 11 AM 10:48

ARIZONA CORPORATION COMMISSION
LEGAL DIVISION

320

IN THE MATTER OF THE CONSIDERATION,
PURSUANT TO A.R.S § 40-252, TO MODIFY
DECISION NO. 67744 RELATING TO THE
SELF-BUILD OPTION.

DOCKET NO. E-01345A-07-0420

NOTICE OF FILING

Staff of the Arizona Corporation Commission hereby provides notice of filing the Direct
Testimony of Barbara Keene in the above-referenced matter.

RESPECTFULLY submitted this 11th day of January, 2008.

Arizona Corporation Commission

DOCKETED

JAN 11 2008

DOCKETED BY

for

Christophe E. Kempler

Janet Wagner, Senior Staff Counsel
Robin Mitchell, Attorney
Arizona Corporation Commission
Legal Division
1200 West Washington Street
Phoenix, Arizona 85007
Telephone: (602) 542-3402

Original and thirteen (13) copies of the foregoing were filed this 11th day of January, 2008,
with:

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

Copy of the foregoing mailed this 11th day of January, 2008, to:

Deborah R. Scott
Thomas L. Mumaw
Patrick Dinkel
Barbara Klemstine
PINNACLE WEST CAPITAL
CORPORATION
P.O. Box 53999, MS 8695
Phoenix, Arizona 85072-3999

Lawrence V. Roberson, Jr.
Attorney at Law
P.O. Box 1488
Tubac, Arizona 85646
Attorneys for Mesquite/SWPG/Bowie

1 Timothy M. Hogan
ARIZONA CENTER FOR LAW IN
2 PUBLIC INTEREST
202 East McDowell Road, Suite 153
3 Phoenix, Arizona 85004
Attorneys for SWEEP and
4 Western Resource Advocates

5 Jeff Schlegel
SWEEP ARIZONA REPRESENTATIVE
6 1167 Samalayuca Drive
Tucson, Arizona 85704-3224

7 David Berry
8 WESTERN RESOURCE ADVOCATES
P.O. Box 1064
9 Scottsdale, Arizona 85252-1064

10 Steven Michel
WESTERN RESOURCE ADVOCATES
11 2260 Baseline Road, Suite 200
Boulder, Colorado 80302

12 Patrick J. Black
13 FENNEMORE CRAIG
3003 North Central Avenue, Suite 2600
14 Phoenix, Arizona 85012
Attorneys for Gila River Power, LP

15 C. Webb Crockett
16 FENNEMORE CRAIG
3003 North Central Avenue, Suite 2600
17 Phoenix, Arizona 85012
Attorneys for Phelps Dodge Mining Co.
18 and AECC

19 Scott Wakefield, Chief Counsel
RUCO
20 1110 West Washington, Suite 220
Phoenix, Arizona 85007

21 Kenneth R. Saline
22 KR SALINE & ASSOCIATES, P.L.C.
160 North Pasadena, Suite 101
23 Mesa, Arizona 85201-6764

24 Jay I. Moyes
MOYES STOREY, L.T.D.
25 1850 North Central Avenue, Suite 1100
Phoenix, Arizona 85004
26 Attorneys for Electric Generation Alliance

Michael A. Curtis
William P. Sullivan
Larry K. Udall
CURTIS GOODWIN SULLIVAN
UDALL & SCHWAB, P.L.C.
501 East Thomas Road
Phoenix, Arizona 85012-3205
Attorneys for Town of Wickenburg,
Navopache Electric Cooperative; and
Mohave Electric Cooperative

Joseph M. Paul
SYNEGY
4140 Dublin Boulevard, Suite 100
Dublin, California 94568

Michelle Livengood
TUCSON ELECTRIC POWER CO.
One South Church Avenue, Suite 200
Tucson, Arizona 85701

Michael W. Patten
J. Matthew Derstine
ROSKHA, DEWULF & PATTEN, P.L.C.
400 East Van Buren Street, Suite 800
Phoenix, Arizona 85004
Attorneys for TEP and UNS

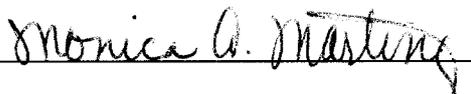
Greg Patterson
13358 East Del Timbre
Scottsdale, Arizona 85259

Daniel A. Musgrove
DEAA
c/o UNIVERSAL ENTECH, L.L.C.
3330 West Broadway Road
Phoenix, Arizona 85041-1808

Douglas V. Fant
LAW OFFICES OF DOUGLAS V. FANT
3655 West Anthem Way, Suite A-109
PMB 411
Anthem, Arizona 85068

Gary Yaquinto
Arizona Utility Investors Association
2100 N. Central Ave., Suite 210
Phoenix, Arizona 85004

Michael Grant
Gallagher & Kennedy
2575 E. Camelback Rd.
Phoenix, Arizona 85016

27
28 

BEFORE THE ARIZONA CORPORATION COMMISSION

MIKE GLEASON

Chairman

WILLIAM A. MUNDELL

Commissioner

JEFF HATCH-MILLER

Commissioner

KRISTIN K. MAYES

Commissioner

GARY PIERCE

Commissioner

IN THE MATTER OF THE CONSIDERATION,)
PURSUANT TO A.R.S. § 40-252 TO MODIFY)
DECISION NO. 67744 RELATING TO THE)
SELF-BUILD OPTION.)

DOCKET NO. E-01345A-07-0420

DIRECT

TESTIMONY

OF

BARBARA KEENE

PUBLIC UTILITIES ANALYST MANAGER

UTILITIES DIVISION

ARIZONA CORPORATION COMMISSION

JANUARY 11, 2008

TABLE OF CONTENTS

	<u>Page</u>
Introduction.....	1
Decision No. 67744 and Settlement Agreement.....	1
Summary of Staff Recommendations	6

APPENDIX

Resume of Barbara Keene

**EXECUTIVE SUMMARY
ARIZONA PUBLIC SERVICE COMPANY
DOCKET NO. E-01345A-07-0420**

This testimony addresses Staff's position concerning the self-build option for Arizona Public Service Company ("APS") that was in the Settlement Agreement approved by Decision No. 67744.

Staff recommends that no modification to Decision No. 67744 be made at this time. The self-build provisions continue to encourage APS to obtain resources to serve its customers by seeking the best options.

1 **INTRODUCTION**

2 **Q. Please state your name and business address.**

3 A. My name is Barbara Keene. My business address is 1200 West Washington Street,
4 Phoenix, Arizona 85007.

5
6 **Q. By whom are you employed and in what capacity?**

7 A. I am employed by the Utilities Division of the Arizona Corporation Commission as a
8 Public Utilities Analyst Manager. My duties include supervising the energy portion of the
9 Telecommunications and Energy Section. A copy of my résumé is provided in Appendix
10 1.

11
12 **Q. As part of your employment responsibilities, were you assigned to review matters**
13 **contained in Docket No. E-01345A-07-0420?**

14 A. Yes.

15
16 **Q. What is the subject matter of this testimony?**

17 A. This testimony will address Staff's position concerning the self-build option for Arizona
18 Public Service Company ("APS") that was approved by Decision No. 67744.

19
20 **DECISION NO. 67744 AND SETTLEMENT AGREEMENT**

21 **Q. Did Decision No. 67744 approve a settlement agreement for an APS rate case?**

22 A. Yes. Decision No. 67744 approved a settlement agreement ("Settlement Agreement")
23 with modifications in Docket No. E-01345A-03-0437.

24
25 **Q. Was Staff a party to the Settlement Agreement?**

26 A. Yes. Staff was a party to the Settlement Agreement, along with 21 other entities.

1 **Q. What does the Settlement Agreement contain concerning a self-build option?**

2 A. The Settlement Agreement contains the following paragraph:

3
4 74. APS will not pursue any self-build option having an
5 in-service date prior to January 1, 2015, unless expressly authorized
6 by the Commission. For purposes of this Agreement, 'self-build'
7 does not include the acquisition of a generating unit or interest in a
8 generating unit from a non-affiliated merchant or utility generator,
9 the acquisition of temporary generation needed for system
10 reliability, distributed generation of less than fifty MW per location,
11 renewable resources, or the up-rating of APS generation, which up-
12 rating shall not include the installation of new units.

13

14 **Q. What else is in the Settlement Agreement concerning the self-build issue?**

15 A. APS can seek authorization from the Commission to self-build prior to 2015, if APS can
16 show that an exception to the self-build moratorium is warranted. Paragraph 75 of the
17 Settlement Agreement lists items that APS needs to address when requesting Commission
18 authorization to self-build generation prior to 2015. Paragraph 76 reaffirms APS'
19 obligation to prudently acquire generating resources in order to serve its customers.

20

21 In place of the self-build option, Paragraph 78 required APS to issue a Request for
22 Proposals ("RFP") no later than the end of 2005 seeking long-term future resources of not
23 less than 1,000 MW for 2007 and beyond. No APS affiliate was permitted to participate
24 in that RFP. An independent monitor appointed by the Commission or Staff is required if
25 any APS affiliate participates in any other competitive solicitation for long-term resources
26 conducted by APS. In addition, Paragraph 79 provided for Staff to conduct a series of
27 workshops on power procurement issues.

28

1 **Q. How did Decision No. 67744 modify the Settlement Agreement in regard to the self-**
2 **build issue?**

3 A. Decision No. 67744 modified the definition of "self-build" to include the acquisition of a
4 generating unit or interest in a generating unit from any merchant or utility generator. The
5 Decision also requires APS to obtain the Commission's expressed approval for APS'
6 acquisition of any generating facility or interest in a generating facility pursuant to an RFP
7 or other competitive solicitation issued before January 1, 2015. That determination would
8 not be construed as signaling the ultimate regulatory treatment accorded to such
9 generating facility.

10
11 **Q. What are the merits of the provisions in the Settlement Agreement regarding the**
12 **self-build moratorium?**

13 A. Various testimonies in Docket No. E-01345A-03-0437 addressed the merits of the
14 Settlement Agreement's requirements for competitive procurement of power, including the
15 self-build provisions. In summary, these include the following:

- 16
17 ● The competitive procurement provisions are consistent with the Commission's
18 commitment to wholesale competition as expressed in its Track A and Track B
19 orders (Decision Nos. 65154 and 65743).
20
21 ● The self-build moratorium provides a substantial opportunity for merchant
22 generation to be an alternative to utility-constructed generation.
23
24 ● The pro-competitive provisions provide balance to the potentially anti-competitive
25 effects of rate basing the affiliate assets and strike a balance between market and
26 non-market approaches.

- 1 ● The self-build moratorium does not apply to temporary generation needed for
2 system reliability.
- 3
- 4 ● The self-build moratorium is subject to a safety mechanism that permits APS to
5 seek an exemption from the Commission if the wholesale market cannot cost-
6 effectively meet the needs of APS' customers.
- 7
- 8 ● The self-build moratorium provisions provide the merchant community with an
9 opportunity to compete, while at the same time preserving APS' ability to maintain
10 reliable service.
- 11

12 **Q. Have any Commission activities involving procurement of resources occurred since**
13 **Decision No. 67744?**

14 A. Yes. There have been three Commission activities that are relevant to this discussion.

15

16 **Q. What was the first activity?**

17 A. The first activity was APS' application for approval to purchase a power plant in the Yuma
18 area (Docket No. E-01345A-06-0464).

19

20 **Q. Were issues concerning procurement raised during the proceeding?**

21 A. Yes. Some of the intervenors raised issues regarding APS' conduct in its solicitation.
22 They felt that an independent monitor should have been appointed to oversee the RFP
23 process because APS had prepared its direct build alternative estimate during the course of
24 the RFP. An APS employee who had access to confidential bids had prepared APS' direct
25 build alternative estimate, and APS did not complete the estimate until after selection of
26 the superior bid in the RFP process. APS then requested Commission authority to proceed

1 either with the superior bidder or with the APS direct build alternative. Although
2 Paragraph 78 of the Settlement Agreement requires an independent monitor if an APS
3 affiliate participates in a competitive solicitation, no APS affiliate had bid in the Yuma
4 RFP.

5
6 **Q. What was the second Commission activity relevant to this discussion?**

7 A. The second activity was the APS rate case that resulted in Decision No. 69663 (June 28,
8 2007). Decision No. 69663 ordered that a new docket be opened to consider modifying
9 Decision No. 67744 relating to the self-build option. This resulted in the opening of the
10 current docket.

11
12 **Q. What was the third Commission activity relevant to this discussion?**

13 A. The Commission recently issued Decision No. 70032 which adopted Recommended Best
14 Practices for Procurement ("Best Practices").

15
16 **Q. Are there any inconsistencies between the Settlement Agreement and the Best
17 Practices?**

18 A. No. However, the Best Practices go beyond the Settlement Agreement in that the Best
19 Practices include (1) a provision to have an independent monitor used for all RFP
20 processes for procurement of new resources and (2) a provision for the utility to provide
21 the independent monitor, one week prior to the bid submittal deadline, a copy of any bid
22 proposal prepared by the utility or its affiliate, or any benchmark or reference cost the
23 utility has developed against which to evaluate the bids. Staff believes that the Best
24 Practices appropriately address the issues raised by the intervenors in the Yuma
25 proceeding.

26

1 **Q. Is APS required to follow the Best Practices?**

2 A. No. The Best Practices are not prescriptive, but Staff believes that they provide a means
3 by which procedures for obtaining new resources are fair, transparent, and result in the
4 most economical resources being selected. It is Staff's expectation that APS would follow
5 the Best Practices. Failure to do so could be considered in a prudence determination.
6 Certainly, if APS were to follow the Best Practices, it might be able to avoid the issues
7 that it faced in the Yuma proceeding. Although the Best Practices are not mandatory, they
8 could become mandatory if they are incorporated in the rulemaking on Resource Planning
9 that is currently underway.

10

11 **Q. Has anything changed that causes Staff to no longer support the Settlement**
12 **Agreement in regard to the self-build provisions?**

13 A. No. Staff continues to support the Settlement Agreement. The self-build provisions
14 continue to encourage APS to obtain resources to serve its customers by seeking the best
15 options.

16

17 **Q. Does Staff recommend any changes to Decision No. 67744 in regard to the self-build**
18 **issue?**

19 A. No. Staff does not recommend any changes to Decision No. 67744 at this time because
20 Staff continues to support the Settlement Agreement.

21

22 **SUMMARY OF STAFF RECOMMENDATIONS**

23 **Q. Please summarize Staff's recommendation.**

24 A. Staff's recommendation is that no modification to the Settlement Agreement or Decision
25 No. 67744 be made at this time.

1 **Q. Does this conclude your direct testimony?**

2 A. Yes, it does.

RESUME

BARBARA KEENE

Education

B.S. Political Science, Arizona State University (1976)
M.P.A. Public Administration, Arizona State University (1982)
A.A. Economics, Glendale Community College (1993)

Additional Training

Management Development Program - State of Arizona, 1986-1987
UPLAN Training - LCG Consulting, 1989, 1990, 1991
various seminars, workshops, and conferences on ratemaking, energy efficiency, rate design, computer skills, labor market information, training trainers, and Census products

Employment History

Arizona Corporation Commission, Utilities Division, Phoenix, Arizona: Public Utilities Analyst Manager (May 2005-present). Supervise the energy portion of the Telecommunications and Energy Section. Conduct economic and policy analyses of public utilities. Coordinate working groups of stakeholders on various issues. Prepare Staff recommendations and present testimony on electric resource planning, rate design, special contracts, energy efficiency programs, and other matters. Responsible for maintaining and operating UPLAN, a computer model of electricity supply and production costs.

Arizona Corporation Commission, Utilities Division, Phoenix, Arizona: Public Utilities Analyst V (October 2001-May 2005), Senior Economist (July 1990-October 2001), Economist II (December 1989-July 1990), Economist I (August 1989-December 1989). Conduct economic and policy analyses of public utilities. Coordinate working groups of stakeholders on various issues. Prepare Staff recommendations and present testimony on electric resource planning, rate design, special contracts, energy efficiency programs, and other matters. Responsible for maintaining and operating UPLAN, a computer model of electricity supply and production costs.

Arizona Department of Economic Security, Research Administration, Economic Analysis Unit: Labor Market Information Supervisor (September 1985-August 1989), Research and Statistical Analyst (September 1984-September 1985), Administrative Assistant (September 1983-September 1984). Supervised professional staff engaged in economic research and analysis. Responsible for occupational employment forecasts, wage surveys, economic development studies, and over 50 publications. Edited the monthly **Arizona Labor Market Information Newsletter**, which was distributed to about 4,000 companies and individuals.

Testimony

Resource Planning for Electric Utilities (Docket No. U-0000-90-088), Arizona Corporation Commission, 1990; testimony on production costs and system reliability.

Trico Electric Cooperative Rate Case (Docket No. U-1461-91-254), Arizona Corporation Commission, 1992; testimony on demand-side management and time-of-use and interruptible power rates.

Navopache Electric Cooperative Rate Case (Docket No. U-1787-91-280), Arizona Corporation Commission, 1992; testimony on demand-side management and economic development rates.

Arizona Electric Power Cooperative Rate Case (Docket No. U-1773-92-214), Arizona Corporation Commission, 1993; testimony on demand-side management, interruptible power, and rate design.

Tucson Electric Power Company Rate Case (Docket Nos. U-1933-93-006 and U-1933-93-066) Arizona Corporation Commission, 1993; testimony on demand-side management and a cogeneration agreement.

Resource Planning for Electric Utilities (Docket No. U-0000-93-052), Arizona Corporation Commission, 1993; testimony on production costs, system reliability, and demand-side management.

Duncan Valley Electric Cooperative Rate Case (Docket No. E-01703A-98-0431), Arizona Corporation Commission, 1999; testimony on demand-side management and renewable energy.

Tucson Electric Power Company vs. Cyprus Sierrita Corporation, Inc. (Docket No. E-0000I-99-0243), Arizona Corporation Commission, 1999; testimony on analysis of special contracts.

Arizona Public Service Company's Request for Variance (Docket No. E-01345A-01-0822), Arizona Corporation Commission, 2002; testimony on competitive bidding.

Generic Proceeding Concerning Electric Restructuring Issues (Docket No. E-00000A-02-0051), Arizona Corporation Commission, 2002; testimony on affiliate relationships and codes of conduct.

Tucson Electric Power Company's Application for Approval of New Partial Requirements Service Tariffs, Modification of Existing Partial Requirements Service Tariff 101, and Elimination of Qualifying Facility Tariffs (Docket No. E-01933A-02-0345) and Application for Approval of its Stranded Cost Recovery (Docket No. E-01933A-98-0471), Arizona Corporation Commission, 2002, testimony on proposals to eliminate, modify, or introduce tariffs and testimony on the modification of the Market Generation Credit.

Arizona Public Service Company's Application for Approval of Adjustment Mechanisms (Docket No. E-01345A-02-0403), Arizona Corporation Commission, 2003, testimony on the proposed Power Supply Adjustment and the proposed Competition Rules Compliance Charge.

Generic Proceeding Concerning Electric Restructuring Issues, et al (Docket No. E-00000A-02-0051, et al), Arizona Corporation Commission, 2003-2005; Staff Report and testimony on Code of Conduct.

Arizona Public Service Company Rate Case (Docket No. E-01345A-03-0437), Arizona Corporation Commission, 2004; testimony on demand-side management, system benefits, renewable energy, the Returning Customer Direct Assignment Charge, and service schedules.

Arizona Electric Power Cooperative Rate Case (Docket No. E-01773A-04-0528), Arizona Corporation Commission, 2005; testimony on a fuel and purchased power cost adjustor, demand-side management, and rate design.

Trico Electric Cooperative Rate Case (Docket No. E-01461A-04-0607), Arizona Corporation Commission, 2005; testimony on the Environmental Portfolio Standard; demand-side management; special charges; and Rules, Regulations, and Line Extension Policies.

Arizona Public Service Company (Docket Nos. E-01345A-03-0437 and E-01345A-05-0526), Arizona Corporation Commission, 2005; testimony on the Plan of Administration of the Power Supply Adjustor.

Arizona Public Service Company Emergency Rate Case (Docket No. E-01345A-06-0009), Arizona Corporation Commission, 2006; testimony on bill impacts.

Arizona Public Service Company Rate Case (Docket Nos. E-01345A-05-0816, E-01345A-05-0826, and E-01345A-05-0827), Arizona Corporation Commission, 2006; testimony on funding for renewable resources, net metering, green pricing tariffs, and a Power Supply Adjustor surcharge.

Tucson Electric Power Company Filing to Amend Decision No. 62103 (Docket No. E-01933A-05-0650), Arizona Corporation Commission, 2007, testimony on demand-side management, time-of-use, direct load control, and renewable energy.

Publications

Author of the following articles published in the *Arizona Labor Market Information Newsletter*:

"1982 Mining Employees - Where are They Now?" - September 1984

"The Cost of Hiring" and "Arizona's Growing Industries" - January 1985

"Union Membership - Declining or Shifting?" - December 1985

"Growing Industries in Arizona" - April 1986

"Women's Work?" - July 1986

"1987 SIC Revision" - December 1986

"Growing and Declining Industries" - June 1987

"1986 DOT Supplement" and "Consumer Expenditure Survey" - July 1987

"The Consumer Price Index: Changing With the Times" - August 1987

"Average Annual Pay" - November 1987

"Annual Pay in Metropolitan Areas" - January 1988

"The Growing Temporary Help Industry" - February 1988
"Update on the Consumer Expenditure Survey" - April 1988
"Employee Leasing" - August 1988
"Metropolitan Counties Benefit from State's Growing Industries" - November 1988

"Arizona Network Gives Small Firms Helping Hand" - June 1989

Major contributor to the following books published by the Arizona Department of Economic Security:

Annual Planning Information - editions from 1984 to 1989
Hispanics in Transition - 1987

(with David Berry) "Contracting for Power," *Business Economics*, October 1995.

(with Robert Gray) "Customer Selection Issues," *NRRI Quarterly Bulletin*, Spring 1998.

Reports

(with Task Force) *Report of the Task Force on the Feasibility of Implementing Sliding Scale Hookup Fees*. Arizona Corporation Commission, 1992.

Customer Repayment of Utility DSM Costs, Arizona Corporation Commission, 1995.

(with Working Group) *Report of the Participants in Workshops on Customer Selection Issues*," Arizona Corporation Commission, 1997.

"DSM Workshop Progress Report," Arizona Corporation Commission, 2004.

(with Erin Casper) "Staff Report on Demand Side Management Policy," Arizona Corporation Commission, 2005.

"Staff Report on Interconnection for the Generic Investigation of Distributed Generation," Arizona Corporation Commission, 2007.