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BEFORE THE ARIZONA CORPORATION

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GARY PIERCE
Commissioner

AZ CORP COMMISSION
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PAUL NEWMAN
Commissioner

SANDRA D. KENNEDY
Commissioner

BOB STUMP
Commissioner

IN THE MATTER OF THE
APPLICATION OF ARIZONA PUBLIC
SERVICE COMPANY, IN
CONFORMANCE WITH THE
REQUIREMENT OF ARIZONA
REVISED STATUTES §§ 40-360, *et seq.*,
FOR A CERTIFICATE OF
ENVIRONMENTAL COMPATIBILITY
AUTHORIZING THE TS-5 TO TS-9
500/230kV TRANSMISSION LINE
PROJECT, WHICH ORIGINATES AT
THE FUTURE TS-5 SUBSTATION,
LOCATED IN THE WEST HALF OF
SECTION 29, TOWNSHIP 4 NORTH,
RANGE 4 WEST AND TERMINATES AT
THE FUTURE TS-9 SUBSTATION,
LOCATED IN SECTION 33, TOWNSHIP
6 NORTH, RANGE 1 EAST, IN
MARICOPA COUNTY, ARIZONA

DOCKET NO. L-00000D-08-0330-
00138

CASE NO. 138

**JOINT REQUEST FOR WRITTEN
BRIEFING AND ORAL ARGUMENT**

Arizona Corporation Commission

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Pursuant to A.R.S. § 40-360.07.B., Intervenor City of Peoria, Diamond Ventures, Inc., Vistancia, LLC and Vistancia Homeowners Associations (collectively, the "Parties") jointly request that the Arizona Corporation Commission (the "Commission") require written briefs and that the Parties be allowed to present oral argument at the hearing in this matter to address the issues raised in the Applicant APS' Request for Review (the "Request"). The Parties make this request for the following reasons:

1 1. The Certificate of Environmental Compatibility (“CEC”) was issued by the
2 Power Plant and Transmission Line Siting Committee (the “Committee”)
3 after 15 days of hearing involving the presentation of 28 witnesses, dozens
4 of exhibits and extensive deliberation by the Committee. APS’ Request
5 seeks to amend the CEC in a significant manner contrary to the Committee’s
6 findings that either will or could substantially adversely impact the Parties.
7 APS, not surprisingly, characterizes the issues raised by its Request as
8 “limited” and, as a result, APS does not request written briefs or oral
9 argument. The Parties strongly disagree with APS. To the extent that APS
10 is asking the Commission to undo significant decisions made by the
11 Committee, the Parties affected by APS’ Request believe they should be
12 offered the opportunity to explain why the CEC should not be substantially
13 modified as APS requests. The Parties further believe that written briefing
14 and oral argument would be helpful to the Commission to the extent that
15 there may be some minor modifications to the CEC that the Parties do not
16 contest.

17 2. APS states that its Request raises important policy considerations best
18 addressed by the Commission. The Parties agree that important policy
19 considerations are at issue and because they will be directly and adversely
20 impacted if the Commission modifies the CEC as APS requests, the Parties
21 should be afforded an opportunity to present their positions regarding those
22 policy considerations in written briefs and oral argument. APS’
23 characterization of the policy questions selectively focuses the relevant
24 considerations to those that support its objectives in direct contradiction to
25 the policy judgments made by the Committee after hearing all of the
26 evidence. A full and complete presentation of all relevant and applicable
27 considerations is necessary for the Commission to make informed policy
28 decisions. This can only be accomplished if the Parties are allowed to file

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written briefs and present oral argument.

3. APS contends that the “contingency” it requests is necessary so that the Bureau of Land Management may conduct an “alternatives analysis” to satisfy the requirements of the National Environmental Policy Act 42 U.S.C. §§ 4321 to 4370f. APS’ legal analysis and conclusions are incomplete and incorrect. Again, briefing and oral argument are necessary to ensure that the Commission is fully informed when making its decision.
4. APS’ discussion of the relevant portions of the evidentiary record supporting its Request is limited and incomplete. Written briefing and oral argument is necessary to ensure that the Commission’s final decision is based on a full and complete understanding of all relevant portions of the record.

The foregoing list of reasons supporting the Parties’ request is not intended to present a complete list of all issues that would be addressed in written briefs and oral argument if required by the Commission. These reasons demonstrate, however, why written briefing and oral argument is necessary for the Commission to be fully informed in making its final decision on the CEC. Accordingly, the Parties respectfully request the Commission to require written briefs and oral argument to address the issues raised in APS’ Request for Review.

RESPECTFULLY SUBMITTED this 20th day of January, 2009.

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1 Original and 25 copies were filed this
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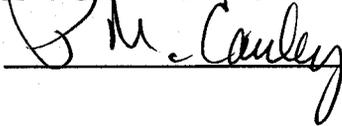
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