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BEFORE THE ARIZONA CORPORATION COMMISSION RECEIVED

1
2 WILLIAM A. MUNDELL Arizona Corporation Commission
3 Chairman
4 JIM IRVIN
5 Commissioner
6 MARC SPITZER
7 Commissioner

DOCKETED

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8 IN THE MATTER OF THE GENERIC
9 PROCEEDINGS CONCERNING ELECTRIC
10 RESTRUCTURING

DOCKET NO. E-00000A-02-0051

11 IN THE MATTER OF ARIZONA PUBLIC
12 SERVICE COMPANY'S REQUEST FOR VARIANCE
13 OF CERTAIN REQUIREMENTS OF A.A.C. 4-14-2-
14 1606

DOCKET NO. E-01345A-01-0822

15 IN THE MATTER OF THE GENERIC PROCEEDING
16 CONCERNING THE ARIZONA INDEPENDENT
17 SCHEDULING ADMINISTRATOR

DOCKET NO. E-00000A-01-0630

18 IN THE MATTER OF TUCSON ELECTRIC POWER
19 COMPANY'S APPLICATION FOR A VARIANCE
20 OF CERTAIN ELECTRIC POWER COMPETITION
21 RULES COMPLIANCE DATES

DOCKET NO. E-01933A-98-0471

22 ISSUES IN THE MATTER OF TUCSON ELECTRIC
23 POWER COMPANY'S APPLICATION FOR A
24 VARIANCE OF CERTAIN ELECTRIC
25 COMPETITION RULES COMPLIANCE DATES.

DOCKET NO. E-01933A-02-0069

26 **NOTICE OF WITHDRAWAL OF CERTAIN TESTIMONY AND PLEADINGS
BY
ARIZONA PUBLIC SERVICE COMPANY**

On April 19, 2002, Panda Gila River, L.P. ("Panda") filed a Motion to Compel the production by Arizona Public Service Company ("APS" or "Company") of certain confidential and competitively sensitive documents which Panda alleged were directly related to certain portions of the Company's as-of-yet unrepresented direct testimony or to

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1 the variance request itself. In Panda's Motion, it requested either those documents or that
2 certain portions of the Company's Application and testimony be stricken.

3 At the request of the Chief Administrative Law Judge ("ALJ") of the Arizona
4 Corporation Commission ("Commission"), and with the assistance of Staff counsel, APS
5 presented a compromise proposal to Panda to resolve this dispute. Before Panda had an
6 opportunity to respond to the Company's proposal, the Commission acted to stay the
7 Company's variance request on April 25, 2002.

8 APS takes the strongest exception to the notion that it cannot defend its request for
9 a variance as being in the public interest without forfeiting the ability to keep confidential
10 trade secrets from its competitors. This information, if disclosed to Panda and the other
11 merchant plant intervenors, would give them an advantage in any competitive bidding
12 process - an advantage that would be translated into higher costs for APS customers.
13 Indeed, the value of such information in a competitive bidding scenario was cited by the
14 merchant plant intervenors in their objection to providing similar-type information to the
15 Company in response to APS data requests. But, the Commission's action of April 25 has
16 effectively mooted the underlying basis for Panda's data requests and the purpose for
17 which the Company filed the testimony objected to by Panda. APS therefore withdraws
18 those portions of its pre-filed direct testimony and of its request for variance as are
19 identified on Exhibit E to the Motion.

20 RESPECTFULLY SUBMITTED this 1st day of May 2002.

21 SNELL & WILMER L.L.P.

22 

23 Thomas L. Mumaw
24 Jeffrey B. Guldner
25 Faraz Sanei

26 Attorneys for Arizona Public Service Company

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Original and 18 copies of the foregoing
filed this 1st day of May, 2002, with:

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

Copies of the foregoing mailed, faxed or
transmitted electronically this 1st
day of May, 2002, to:

All parties of record


Judith Borrego

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