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ARIZONA PUBLIC SERVICE COMMISSION

6 Attorneys for Intervenors
 7 IBEW Locals 387, 640 & 769

8 **BEFORE THE ARIZONA**
 9 **CORPORATION COMMISSION**

10 IN THE MATTER OF THE
 11 APPLICATION OF ARIZONA PUBLIC
 12 SERVICE FOR A HEARING TO
 13 DETERMINE THE FAIR VALUE OF
 14 THE UTILITY PROPERTY OF THE
 15 COMPANY FOR RATEMAKING
 PURPOSES, TO FIX A JUST AND
 REASONABLE RATE OF RETURN
 THEREON, AND TO APPROVE RATE
 SCHEDULES DESIGNED TO
 DEVELOP SUCH RETURN.

Docket No. E-01345A-08-0172

**POST-HEARING BRIEF FOR
IBEW LOCALS 387, 640, AND 769**

16 Pursuant to the directive of Chief Administrative Law Judge Lyn Farmer,
 17 Intervenors Local Union 387, International Brotherhood of Electrical Workers, AFL-CIO,
 18 CLC ("IBEW Local 387"), Local Union 640, International Brotherhood of Electrical
 19 Workers, AFL-CIO, CLC ("IBEW Local 640"), and Local Union 769, International
 20 Brotherhood of Electrical Workers, AFL-CIO, CLC ("IBEW Local 769"), by and through
 21 undersigned counsel, hereby submit their Post-Hearing Brief in this docket.

22 **I. POSITION OF IBEW LOCALS 387, 640, AND 769 WITH RESPECT TO**
 23 **THE PARTIES' SETTLEMENT AGREEMENT**

24 IBEW Locals 387, 640, and 769 are fully and unqualifiedly supportive of the
 25 settlement agreement reached by the parties in this matter and accordingly urge this
 26 Commission to adopt the agreement in its present form and in its entirety.

27 The above IBEW Locals cannot emphasize enough how remarkable an
 28 achievement it is to reach an agreement among so many groups with such divergent and

1 often competing interests and objectives. In reaching the settlement, there was, as the
2 parties and most of the intervenors noted during the hearings, a great deal of give and
3 take. Compromises abounded, and solutions were devised that could not likely or readily
4 be crafted in a litigated case. The result is a package deal that fully twenty-two (22)
5 signatories, representing many different interests and viewpoints, found sufficiently
6 agreeable in light of the uncertainties, rigidity, and costs of litigation and that the
7 signatories believe produce just and reasonable rates for Arizona Public Service
8 Company's ("APS") customers while still promoting the public interest.

9 **II. SECTION X OF THE SETTLEMENT AND APS' LINE EXTENSION**
10 **POLICY**

11 As noted above, IBEW Locals 387, 640, and 769 urge the Commission to approve
12 the settlement agreement as currently constituted and in its entirety. However, due to the
13 emergence of suggested modifications to APS' line extension policy, a policy that is
14 addressed in Section X of the proposed settlement,¹ during the hearings in this docket, the
15 above IBEW Locals believe such matters merit some further discussion here.

16 Under the settlement agreement, the current policy regarding customer payments
17 for and the construction of line extensions would be maintained, subject to specific and
18 enumerated modifications. The current policy "expressly permit[s] customers to hire
19 contractors for trenching, conduit, and backfill necessary for the extension," as noted in
20 the settlement agreement (p. 19), but reserves the province of electrical, particularly
21 overhead, work related to such an extension for qualified, in-house personnel or select,
22 APS-approved third-party contractors (Tr. 647:2-9; 665:19-24; 1376:1-19; 1380:14-21).
23 The settlement offers the following modifications to the existing policy in an effort to
24 promote price transparency, fairness, and consistency: "[a] clarified definition of Local
25 Facilities; [a] Schedule of Charges; A statement that quotes provided to customers will be

26 ¹ IBEW Locals 387, 640, and 769 consider the provisions of Section X to be material
27 terms of the settlement agreement.

1 itemized; and [p]rocedures for refunding amounts to customers when additional
2 customers connect to the line extension.” (Settlement Agreement, p. 18). Such
3 modifications may properly be characterized as improvements to the present policy
4 designed to address customer concerns regarding pricing and other issues (Tr. 470:5-13;
5 475:15-21; 649:19 – 650:8; 654:1 – 655:11; 705:17 – 706:3).

6 Currently, the APS crews that construct most line extensions under this policy are
7 comprised of skilled, knowledgeable, and experienced tradespeople, including
8 journeyman linemen, who have served, at a minimum, a four-year apprenticeship
9 consisting of at least 8,000 hours of on-the-job training (Tr. 633:14-18; 1371:1 – 1373:2;
10 1374:4-15; 1376:5-9).² These crews are trained to ensure that their work, including line
11 extensions, conform to all government- and utility-imposed standards (Tr. 1374:19 –
12 1375:4), and they are familiar with and conduct themselves in accordance with APS’
13 work and safety rules (Tr. 646:17 – 647:1). At present, an APS crew working on a line
14 extension site completes all phases of the project, including construction, inspection, and
15 maintenance (Tr. 1376:1-4). APS crews perform such specialized work regularly and
16 repeatedly (Tr. 1374:12-15).

17 APS crews have a proven track record of safe and reliable performance on line
18 extension work, a track record that, when considered in combination with their skills,
19 training, experience, and pride in their work, inspires confidence in those who supervise
20 and those who work in such crews alike (Tr. 633:6 – 634:6; 1373:3-8; 1374:16-18). In
21 fact, no witness, including Mr. Froetscher, could recall any fatality or other serious
22 accident occurring in the context of line extension work at APS (Tr. 634:7-18).

23
24
25 ² In addition to constructing line extensions and performing other construction and
26 maintenance tasks, these crews, which are located throughout the State of Arizona, also serve
27 other important functions, including restoring power after storms and otherwise responding to
28 emergencies throughout APS’ service territory (Tr. 1373:8-23; 1376:10 – 1377:18). Any policy
that would divert significant work away from such crews could have the unforeseen consequence
of threatening or limiting APS’ ability to respond during and after such emergency situations.

1 Such is the current state of affairs concerning line extension construction at APS.
2 There are those who nevertheless believe that the establishment of a third-party contractor
3 option would result in unqualified gains to APS customers in terms of reduced prices and
4 shorter construction times (*see, e.g.*, Tr. 589:1 – 590:1; 590:24 – 591:5). IBEW Locals
5 387, 640, and 769 respectfully suggest that it is far from clear, and certainly so on this
6 record, that any third-party contractor option would yield such gains and that such gains,
7 even if they were to materialize, would not be more than offset by safety and reliability
8 issues that are likely to emerge.

9 Under Article XV, Section 3 of the Arizona Constitution, the Arizona Corporation
10 Commission is charged with “mak[ing] and enforc[ing] reasonable rules, regulations and
11 orders for the convenience, comfort, and safety, and the preservation of the health, of the
12 employees and patrons of [public service corporations].”

13 IBEW Locals 387, 640, and 769 respectfully submit that there is no substantial
14 basis in the record for the proposition that there exist an adequate number of third-party
15 contractors who are ready, willing, and able do the specialized, utility-specific electrical
16 work necessary for line-extension projects in a manner that will ensure the safe and
17 reliable provision of electricity throughout APS’ service territory (*see* Tr. 447:23 –
18 449:22; 595:12 – 596:11; 597:12-22; 1373:24 – 1374:3).

19 Furthermore, there is no proper basis in the record for the notion that such
20 contractors could construct line extensions in a more timely manner or on a reduced-cost
21 basis compared to the existing, in-house arrangement (*see* Tr. 452:5-8; 597:16-22).
22 Indeed, several witnesses noted that even if a third-party contractor option generally
23 existed and if it were exercised, APS personnel would still have to be involved and would
24 still have to make a special trip to the project site, which could be anywhere in APS
25 service territory, in order to inspect and possibly repair the work prior to the line being
26 energized, likely resulting in additional expense and delay (Tr. 450:15 – 451:2; 699:23 –
27 700:5; 1375:5 – 1376:4).

1 Instead, the record supports a finding that APS and its employees strive to ensure
2 appropriately-staffed crews and to increase efficiency and reduce costs more generally
3 (Tr. 633:19 – 634:6; 1368:17 – 1369:1; 1369:14 – 1370:14). The record also
4 demonstrates that APS only currently charges line extension customers on a reasonable,
5 “minimum cost to serve” basis, charging only for the cost of materials and labor
6 connected with the extension and not for extra equipment installed for the purpose of
7 system planning (Tr. 356:15 – 357:5; 666:4-20; 667:14 – 668:15; 704:23 – 705:2).

8 In addition to creating issues surrounding inspections and any necessary remedial
9 work, adopting a third-party contractor option would lead to a host of other issues absent
10 the establishment of an extensively-vetted, comprehensive framework and a set of rules to
11 resolve and govern such matters. First, the essential qualifications for and the procedure
12 for selecting such contractors would have to be prescribed, and standards would have to
13 be put in place to ensure the compatibility of equipment and materials with existing
14 facilities (Tr. 657:7-15; 699:1 – 700:5; 757:5-22). Second, issues concerning the
15 applicability of work and safety rules, including APS’ accident prevention manual, would
16 have to be worked out (Tr. 646:8 – 647:1; 757:5-22). Furthermore, liability and insurance
17 issues would have to be considered and addressed (Tr. 448:24 – 449:13). Finally, even
18 with appropriate rules and procedures in place, to the extent APS is less involved with
19 planning and completing line extensions under a third-party contractor option, there exists
20 the very real possibility that reliability issues, including interrupted or inconsistent
21 service, may emerge, necessitating further upgrading of facilities (Tr. 648:11 – 649:15).

22 **III. CONCLUSION**

23 In her testimony, Intervenor Ms. Wyllie-Pecora noted that she and others were
24 concerned that the Commission’s decision to change the line extension policy in 2007
25 was made too hastily, that is, before constituents and interested parties were able to give
26 input, before a record could be developed, and before the experience of other jurisdictions
27 could be adequately studied (Tr. 445:22 – 448:23). IBEW Locals 387, 640, and 769
28

1 submit that any decision taken in these proceedings to allow a general third-party
2 contractor option would certainly and properly be subject to the same criticism inasmuch
3 as such a decision in this case would be made without the necessary factual predicate.

4 For the foregoing reasons, IBEW Locals 387, 640, and 769 respectfully request
5 that the Commission approve the settlement reached by the parties as it has been proposed
6 and agreed.

7 RESPECTFULLY SUBMITTED this 9th day of October, 2009.

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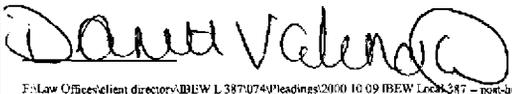
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