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BEFORE THE ARIZONA CORPORATION COMMISSION

14 IN THE MATTER OF THE
15 APPLICATION OF ARIZONA
16 PUBLIC SERVICE COMPANY
17 FOR APPROVAL OF ITS 2010
18 ENERGY EFFICIENCY
19 IMPLEMENTATION PLAN

Docket No. E-01345A-08-0172

**COMMENTS OF FREEPORT-MCMORAN
COPPER & GOLD INC. AND ARIZONANS FOR
ELECTRIC CHOICE AND COMPETITION ON
PROPOSED ORDER FOR ARIZONA PUBLIC
SERVICE COMPANY'S APPLICATION FOR
APPROVAL OF ITS 2010 ENERGY
EFFICIENCY IMPLEMENTATION PLAN**

20 Freeport-McMoRan Copper & Gold Inc. and Arizonans for Electric Choice and
21 Competition (hereafter collectively "AECC") hereby submit their Comments in
22 connection with the above captioned matter.

23 AECC has reviewed the Staff's Transmittal Memorandum and proposed Order
24 ("Order") and takes exception to:

25 A) The language in the proposed Order that appears on Page 17 at lines 16-1/2
26 through 18-1/2 as being inconsistent with the language agreed to on Page 1 at Paragraph
No. 4 in Attachment C of the Settlement Agreement. The notification by December 1st
makes Self-Direction funding reserved from the current year; the tracking then continues
into the next year. The prohibition against retroactive funding is for prior budget years.
No one could qualify in 2010 pursuant to the proposed Order as drafted, which is clearly
not the intent of the Settlement Agreement.

AECC requests that the language that appears on Page 17 at lines 16-1/2 through

1 18-1/2 be replaced with the language as agreed to in Attachment C of the Settlement
2 Agreement on Page 1 at Paragraph No. 4. as follows:

3 "4. Self Direction funds will be reserved for tracking purposes for the
4 calendar year the Self Direction election is received by APS, such
5 election must be received on or before December 1st. There will be
6 no retroactive Self Direction funds set aside from prior budget
7 years since the books were closed prior to the customer's election."

8 B) The language in the proposed Order that appears on Page 17 at lines 27
9 through 28 as being inconsistent with the language agreed to on Page 1 at Paragraph No.
10 6 in Attachment C of the Settlement Agreement.

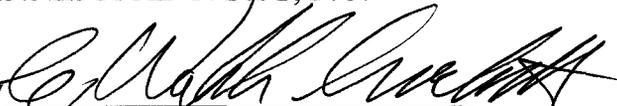
11 AECC requests that the language that appears on Page 17 at lines 27 through 28 be
12 replaced with the language as agreed to in Attachment C of the Settlement Agreement on
13 Page 1 at Paragraph No. 6 as follows:

14 "6. If the energy efficiency project is not completed within two years
15 of the Self Direction election date, then the Self Direction funds
16 from the first calendar year from the Self Direction election will not
17 be available to the Customer and will revert to the program
18 account." (Emphasis added.)

19 AECC requests that the proposed Order be amended to incorporate the requested
20 changes set forth above.

21 RESPECTFULLY SUBMITTED this 11th day of December 2009.

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ORIGINAL and 13 COPIES of the foregoing
FILED this 11th day of December 2009 with:

Docket Control
ARIZONA CORPORATION COMMISSION
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