

OPEN MEETING ITEM



0000111478

COMMISSIONERS
KRISTIN K. MAYES – Chairman
GARY PIERCE
PAUL NEWMAN
SANDRA D. KENNEDY
BOB STUMP



Executive Director

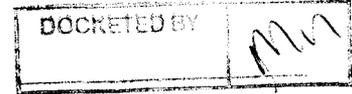
ARIZONA CORPORATION COMMISSION

Arizona Corporation Commission

DOCKETED

DATE: MAY 11, 2010
DOCKET NO.: E-01345A-08-0426
TO ALL PARTIES:

MAY 11 2010



Enclosed please find the recommendation of Administrative Law Judge Jane L. Rodda. The recommendation has been filed in the form of an Opinion and Order on:

ARIZONA PUBLIC SERVICE COMPANY
(SALE/TRANSFER)

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Administrative Law Judge by filing an original and thirteen (13) copies of the exceptions with the Commission's Docket Control at the address listed below by **4:00** p.m. on or before:

MAY 20, 2010

The enclosed is NOT an order of the Commission, but a recommendation of the Administrative Law Judge to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Open Meeting to be held on:

MAY 26, 2010 and MAY 27, 2010

For more information, you may contact Docket Control at (602) 542-3477 or the Hearing Division at (602)542-4250. For information about the Open Meeting, contact the Executive Director's Office at (602) 542-3931.

RECEIVED
2010 MAY 11 P 1:00
AZ CORP COMMISSION
DOCKET CONTROL

ERNEST G. JOHNSON
EXECUTIVE DIRECTOR

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 COMMISSIONERS

3 KRISTIN K. MAYES - Chairman
4 GARY PIERCE
5 PAUL NEWMAN
6 SANDRA D. KENNEDY
7 BOB STUMP

8 IN THE MATTER OF THE SALE AND
9 TRANSITION BY ARIZONA PUBLIC SERVICE
10 COMPANY TO ELECTRICAL DISTRICT NO. 3
11 OF CERTAIN FACILITIES IN PINAL COUNTY
12 PURSUANT TO A.R.S. § 40-285(A) AND TO
13 DELETE PORTIONS OF ITS CERTIFICATE OF
14 CONVENIENCE AND NECESSITY WITHIN
15 PINAL COUNTY.

DOCKET NO. E-01345A-08-0426

DECISION NO. _____

OPINION AND ORDER

11 DATE OF HEARING: April 2, 2009
12 PLACE OF HEARING: Phoenix, Arizona
13 ADMINISTRATIVE LAW JUDGE: Jane L. Rodda
14 IN ATTENDANCE: Kristen K. Mayes, Chairman
15 APPEARANCES: Mr. Thomas L. Mumaw and Ms. Meghan H.
16 Grabel, PINNACLE WEST LAW
17 DEPARTMENT, on behalf of Arizona Public
18 Service Company;
19 Mr. John P. Coyle, DUNCAN & ALLEN, on
20 behalf of Electrical District No. 3; and
21 Mr. Wesley Van Cleve, Staff Attorney, Legal
22 Division, on behalf of the Utilities Division of
23 the Arizona Corporation Commission.

24 **BY THE COMMISSION:**

25 * * * * *

26 Having considered the entire record herein and being fully advised in the premises, the
27 Arizona Corporation Commission ("Commission") finds, concludes, and orders that:

28 FINDINGS OF FACT

1. On August 11, 2008, Arizona Public Service Company ("APS" or "Company") filed
an application with the Commission seeking authorization to sell and transfer certain electric

1 transmission and distribution facilities in Pinal County to Electrical District No. 3 (“ED-3” or
2 “District”); and for Commission approval to delete from its Certificate of Convenience and Necessity
3 (“CC&N”), all areas contained within ED-3’s and the Ak-Chin Indian Community’s (“Ak-Chin”)
4 territories.

5 2. On August 13, 2008, ED-3 filed a request to intervene in the proceeding. On
6 September 12, 2008, the Commission granted intervention to ED-3.

7 3. On October 31, 2008, the Commission’s Utilities Division (“Staff”) notified APS that
8 its application met sufficiency requirements.

9 4. On January 5, 2009, APS and ED-3 filed a copy of their Joint Transition Plan, and
10 requested waiver of A.A.C. R14-2-203(A)(2), and the inclusion of specific language in the Order
11 authorizing the Company’s proposed treatment of certain Renewable Energy Standards (“RES”) or
12 Demand Side Management (“DSM”) projects undertaken by customers affected by the Application.

13 5. By Procedural Order dated January 22, 2009, a Procedural Conference was scheduled
14 for, and subsequently convened on, January 30, 2009, with the purpose of scheduling a hearing and
15 establishing guidelines to govern the proceeding.

16 6. On February 5, 2009, APS filed a proposed form of public notice that had been drafted
17 by APS and ED-5, and reviewed by Staff.

18 7. By Procedural Order dated February 10, 2009, the proposed form of public notice was
19 approved, a schedule for filing testimony was adopted, and the matter was set for hearing on April 2,
20 2009.

21 8. On March 17, 2009, APS filed Affidavits of Publication certifying that the required
22 public notice was published in the *Casa Grande Dispatch* newspaper on March 3, 2009, and in the
23 *Maricopa Monitor* on February 27, 2009. In addition, APS indicated that the public notice was
24 mailed to each customer affected by the transfer and all property owners in the transfer area on March
25 3, 2009.

26 9. On March 18, 2009, Staff filed a Staff Report, recommending approval of the
27 application with conditions.

28 10. On March 27, 2009, APS filed a Response to the Staff Report, indicating APS agrees

1 with each of the recommendations contained in the Staff Report and urging the Commission to adopt
2 them.

3 11. The hearing in this matter convened as scheduled on April 2, 2009, before an
4 authorized Administrated Law Judge. Daniel Froetscher, Vice President of APS' energy delivery
5 business unit testified for APS; David Benedict, ED-3's director of finance services; Kenneth Saline,
6 managing partner of K.R. Saline & Associates; Jerry Smith, manger for K.R. Saline & Associates'
7 transmission and distribution engineering function; and Jeffrey Woner, partner in K.R. Saline &
8 Associates, and manager of rates and finance, testified for ED-3; and Prem Bahl and Alexander Igwe
9 testified on behalf of Staff.

10 12. On May 14, 2009, ED-3 filed late-filed exhibits as directed during the hearing.

11 13. On June 8, 2009, the Commission's Hearing Division filed a Recommended Opinion
12 and Order ("ROO") in this matter, which was scheduled for discussion at the Commission's June 23
13 and 24, 2009, Regular Open Meeting. The Commission did not take final action on the matter during
14 its June 2009 Open Meeting.

15 14. On October 2, 2009, ED-3 filed a Motion to Admit Late-Filed Exhibits, and attached a
16 Rider for Low Income and Medical Assistance Supplemental to All Residential Price Plans (Ex ED3-
17 21); Resolution No. 2009-06 of the Board of Directors of ED-3, adopting an Amended Renewable
18 Energy Policy (Ex ED3-22); and a Term Sheet for Agreement between APS and ED-3 for Retail
19 Energy Efficiency Program Sharing. (Ex ED3-23).

20 15. On October 14, 2009, Pinal Energy LLC ("Pinal Energy") filed a Motion to Intervene
21 in this matter and a Motion to Reopen the Record. Pinal Energy owns and operates an ethanol
22 production facility in ED-3's service area. Pinal Energy claimed that its rates increased after APS
23 and ED-3 announced their proposed transfer and that as part of its evaluation of the proposed transfer,
24 the Commission did not evaluate whether APS received additional consideration in the form of
25 higher power revenue from ED-3.

26 16. On October 19, 2009, Staff filed a Response to ED-3's Motion to Admit the Late-filed
27 Exhibits, stating that Staff believes the additional steps taken by ED-3 address some of the larger
28 concerns raised at the June 23, 2009, Open Meeting and that Staff continues to support approval of

1 the application.

2 17. On October 22, 2009, Staff filed a Response to Pinal Energy's Motion to Intervene.
3 Staff believed that notice of the proceeding was sufficient and that the Motion to Intervene was too
4 late and that granting the Motion would unduly broaden the issues.

5 18. On October 26, 2009, APS and ED-3 filed a Joint Response to Pinal Energy's
6 Motions. They opposed intervention and reopening the record on the grounds that Pinal Energy
7 failed to offer any cause for its having failed to pursue intervention in a timely manner; failed to state
8 any facts tending to show that it is directly and substantially affected by the proceedings; and failed to
9 state any basis for its untimely request to reopen the administrative record.

10 19. On October 26, 2009, Pinal Energy filed a Response to Staff in which Pinal Energy
11 claimed that ED-3 is suffering from a "perfect storm" caused by escalating APS rates and the down-
12 turn in the economy and is struggling to pay its bills, and the Commission should reconsider whether
13 it is in the public interest to transfer APS customers to ED-3.

14 20. On November 5, 2009, Pinal Energy filed a Reply to APS and ED-3 stating that Pinal
15 Energy did not receive notice of the application, and further, that neither the notice nor the
16 application, disclosed that a fundamental part of the transaction was a new electricity requirements
17 contract between APS and ED-3.

18 21. By Procedural Order dated January 6, 2010, a Procedural Conference was set to
19 commence on January 21, 2010, for the purpose of receiving procedural recommendations and oral
20 argument from the parties with respect to the post-hearing filings and events.

21 22. On January 21, 2010, the City of Maricopa (the "City" or "Maricopa"), a customer of
22 ED-3, filed a Motion to Intervene.

23 23. The January 21, 2010, Procedural Conference convened as scheduled, with APS, ED-
24 3, Staff, Pinal Energy and the City of Maricopa appearing through counsel.

25 24. As a follow-up to the January 21, 2010, Procedural Conference, on February 4, 2010,
26 APS filed copies of its January 2008 application at FERC to increase wholesale rates charged to ED-
27 3, and Contract No. 89695 between APS and ED-3, as late-filed exhibits.

28 25. By Procedural Order dated February 22, 2010, the Motions to Intervene by Pinal

1 Energy and City of Maricopa, and Pinal Energy's Motion to Re-open the Record were denied. The
2 February 22, 2010, Procedural Order provided that Pinal Energy's and the City of Maricopa's
3 comments made in connection with their motions would be treated as public comment.

4 26. On March 2, 2010, ED-3 filed an updated comparison of estimated monthly billings
5 based on the energy profile of the APS customers.

6 27. On March 29, 2010, the Ak-Chin filed as public comment, a Resolution of the Ak-
7 Chin Indian Community Council dated March 13, 2010, in support of the proposed transfer.

8 28. Prior to the hearing in this proceeding, the Commission received six comments from
9 APS customers that would be affected by the transfer. Customers expressed concerns about their
10 ability to receive RES incentive payments, access to low income tariffs and levelized billing, and
11 concern about the size of the District and its ability to provide customer service and respond to
12 outages. Pinal Energy claimed that the transfer of APS customers to ED-3 was not in the public
13 interest because ED-3 was suffering financially because of the increased cost of its power contract
14 with APS and the downturn in the economy that slowed growth. On April 20, 2010, the Commission
15 received a copy of the resolution of the Maricopa Chamber of Commerce in support of the
16 application. On April 23, 2010, the Commission received copies of resolutions from the City of
17 Maricopa and Pinal County that also support the granting of the application.

18 Background – the Parties

19 29. APS is certificated to provide electric service in several counties in Arizona. In Pinal
20 County, APS' CC&N overlaps the service territory of ED-3 and the boundaries of the Ak-Chin.
21 Currently, APS has approximately 1,000,000 customers in Arizona, of which about 3,993 are located
22 within ED-3's service territory

23 30. ED-3 is a municipal corporation organized in 1922 by the Board of Supervisors of
24 Pinal County pursuant to the Electrical District Act, as amended pursuant to A.R.S. §§ 48-1701 to 48-
25 1822. ED-3 distributes electric power and energy to approximately 17,033 customers within its
26 service area. As a municipal corporation, ED-3 is not subject to Commission regulation.

27 31. The Ak-Chin is located within both the ED-3 and APS service areas. In 1997, pursuant
28 to Commission approval in Decision No. 60433 (September 27, 1997), Ak-Chin acquired APS'

1 electric facilities within its borders. At that time, the Ak-Chin formed Ak-Chin Energy Services
2 (“ACES”) to provide electric service to its citizens. To facilitate the process, Ak-Chin and APS
3 entered into a Maintenance and Construction Agreement and a Service Agreement authorizing APS
4 to act as the “Control Area Operator.” These agreements terminated on December 31, 2008, and
5 ACES subsequently assumed full responsibility for its operations.

6 32. APS has no customers within the Ak-Chin service area, and states it has no intention
7 of prospecting for new customers within ACES’ service territory.

8 Background – Development of Electric Service within the ED-3 Area

9 33. Prior to 1960, APS was the dominant provider of electric service to residential,
10 commercial, industrial and irrigation loads within the ED-3 service area. As a result, APS owned and
11 controlled most of the electrical infrastructure necessary for providing service in the area. At that
12 time, ED-3 primarily served irrigation pumps within its service territory.

13 34. On December 21, 1960, the Commission approved a Power Agreement between APS
14 and ED-3 whereby APS agreed to transfer its irrigation pumping customers to ED-3 and to serve
15 those customers on behalf of the District for a fixed charge. Under the agreement, APS continued to
16 serve its residential, commercial and industrial customers, while serving the irrigation customers on
17 behalf of ED-3.

18 35. In 1961, the Commission authorized APS to sell and lease back certain facilities and
19 infrastructure located within ED-3’s service area to ED-3 for the purpose of serving ED-3’s irrigation
20 customers. APS and ED-3 entered into a Lease Agreement for APS to lease ED-3’s transmission and
21 distribution facilities, and to operate and maintain the electric system within the area. APS and ED-3
22 signed a Leased Power Agreement, whereby APS sold and delivered power over the leased facilities.
23 The Lease Agreement and Leased Power Agreement resulted in APS assuming full operational
24 control over all facilities within ED-3’s service area, and APS utilizing the same facilities to serve its
25 customers as well as ED-3’s irrigation customers.

26 36. After entering into the agreements in 1961, APS constructed several facilities to serve
27 new non-irrigation customers, ranging from simple pole-mounted transformers with service drops to
28 more extensive overhead and underground distribution systems. These APS-owned facilities radiate

1 from, and are interconnected with, ED-3's facilities and are generally referred to as the "Split Ends."

2 37. The only facilities APS currently owns within the ED-3 service area are the Split
3 Ends, the Sexton Substation and an "inoperable" 69 kV transmission line.¹ APS owns several
4 transmission facilities, substations, easements and other infrastructure within Pinal County, but
5 outside of ED-3's service territory, that are not part of this proceeding.

6 38. APS was also the primary provider of electric residential, commercial and irrigation
7 service to customers in the boundaries of Electric District No. 1 of Pinal County ("ED-1"). In 1976,
8 in Decision No. 46926, the Commission authorized APS to sell its electrical distribution facilities to
9 ED-1, and for APS to lease the same facilities from ED-1 ("ED-1 Lease") for an initial period of 25
10 years. The Commission also authorized APS to sell power, energy and associated services to ED-1,
11 under a Lease Power Agreement. In 1989, ED-1's operation was consolidated into ED-3's, and ED-3
12 assumed the operations and contracts of ED-1, including the ED-1 Lease and ED-1 Lease Power
13 Agreement.

14 39. The Lease Agreement between APS and ED-3 expired on October 21, 2001, and ED-
15 3 assumed operational control over its electrical facilities. The Federal Energy Regulatory
16 Commission ("FERC") issued an opinion on the termination of the agreement, stating that "it is clear
17 from the terms of the Lease Agreement that operational control over ED-3's transmission system
18 reverted to ED-3 upon termination of that agreement, ED-3 is a transmitting utility and there is no
19 evidence that it cannot properly operate and maintain its transmission system." APS and ED-3
20 mutually agreed to terminate the ED-1 Lease effective March 29, 2002.

21 40. After it assumed full control over its system in 2001, ED-3 began serving residential,
22 commercial and industrial loads that had previously been served by APS. Since that time, ED-3 has
23 made capital improvements to serve its load, which has grown from 400 irrigation customers to over
24 17,000 residential, commercial and irrigation meters. As a result, the electric system within ED-3's
25 service area is a mix of ED-3 and APS owned facilities. ED-3 owns the sub-transmission system,
26 distribution substations and most of the area's distribution system, with APS owning Split Ends, the
27

28 ¹ Although the 69 kV line is not operable as a transmission line, it is being utilized as part of the distribution system.

1 Sexton Substation and the inoperable 69 kV transmission line.

2 41. In early 2002, FERC requested that APS and ED-3 negotiate the rates, terms and
3 conditions of how ED-3 would deliver energy and power to APS' retail loads that were being served
4 through the ED-3 system. On March 1, 2002, APS and ED-3 entered into a Settlement Agreement
5 that: 1) provided for the sale of APS facilities within the ED-3 boundaries to ED-3 (subject to
6 Commission approval); 2) resolved the rates, terms and conditions for transmission services to APS
7 retail loads served via the ED-3 system; and 3) resolved the termination of the ED-1 Lease and
8 provided for the termination of APS' Lease Agreement with ED-1 and ED-3 upon the sale of the
9 specific assets.

10 42. In order to effectuate the 2002 Settlement Agreement, on April 15, 2002, APS filed an
11 application seeking Commission authorization to sell and transfer its assets within the ED-3 service
12 area.² Under the 2002 Settlement Agreement, APS would have sold all of its assets within the
13 District, but would have retained its existing customers as well as the right to prospective customers
14 within the District. Pinnacle West, APS' parent, would have wheeled energy over ED-3's system for
15 delivery to APS' retail customers within the District. After discussions between APS, ED-3 and
16 Staff, it became apparent that the 2002 Settlement Agreement did not go far enough to solve the
17 operative problems of having overlapping providers, and APS voluntarily agreed to withdraw the
18 2002 Application.

19 43. Since 2001, APS and ED-3 have co-existed within the ED-3 service area, with both
20 entities serving all types of customers. Each entity has constructed facilities to serve their respective
21 loads.

22 44. Within the overlap area, customers and developers have their choice of receiving
23 electric service from either APS or ED-3. The result of having overlapping service areas has led to
24 confusion and operational inefficiencies and potential safety weaknesses. When there are outages, it
25 is not always readily apparent which utility should respond, with the result that both entities might be
26 required to dispatch repair crews.³ APS and ED-3 assert that having overlapping responsibilities as

27 _____
28 ² Docket No. E-01345A-02-0285.

³ Transcript of 4/2/09 Hearing ("Tr.") at p. 63.

1 provider of last resort has complicated planning infrastructure.

2 The 2007 Supplemental Agreement

3 45. On September 20, 2007, APS and ED-3 entered into a "Supplemental Agreement to
4 the Implementation of the Settlement Agreement" (the "Supplemental Agreement") to fully resolve
5 the operational inefficiencies and safety concerns existing within the District as a result of the dual
6 and overlapping operations of APS and ED-3. The Supplemental Agreement provides for: 1) APS to
7 sell portions of its electric distribution system located within or immediately adjacent to the ED-3
8 service area at the net book value of the assets at the time of the transfer; and 2) for APS to
9 discontinue service to current and prospective customers within the proposed ED-3 service area.

10 46. Pursuant to the Supplemental Agreement, ED-3 will become the sole provider of
11 electric service within and around its District. The Supplemental Agreement provides for APS to sell
12 all of its facilities to ED-3, and for the Commission to cancel that portion of APS' CC&N that
13 overlaps the ED-3 service area. ED-3 will assume full responsibility for the operation and
14 maintenance of all electric infrastructure in the ED-3 service area. APS and ED-3 believe the
15 Supplemental Agreement resolves the complex issues with the intermingled infrastructure, as well as
16 the difficulties associated with separate utilities serving the same territory.

17 47. The legal description of APS' CC&N area to be deleted is attached hereto as Exhibit
18 A.

19 48. On August 22, 2008, APS mailed a letter to each customer within the affected area,
20 informing them of its application with the Commission. In addition, APS and ED-3 made joint
21 presentations to the City Council of Maricopa on July 15, 2008, and October 21, 2008; and on
22 October 6, 2008, APS mailed a second letter advising each customer within the proposed ED-3
23 service area of two town hall meetings held at Stanfield on October 23, 2008, and Maricopa on
24 October 28, 2008.

25 49. In addition, APS and ED-3 maintain a website that is devoted to educating the public
26 about the application and responding to inquiries directed at APS and ED-3 about the matter. The
27 website has a page devoted to Frequently Asked Questions about the APS/ED-3 sale.

28 50. On January 21, 2009, Ak-Chin responded to APS' request to cancel its CC&N

1 overlapping the Ak-Chin community. The letter states that the “Ak-Chin Council has voted to
2 indicate to APS and to the Commission its agreement with the request for deletion of Ak-Chin from
3 APS CC&N.”

4 The Transaction
5 Sale of Assets

6 51. APS seeks, *inter alia*, authorization to sell and transfer the Split Ends to ED-3. APS
7 reports that the Split Ends, which were acquired at an original cost of \$19,646,489, had a net book
8 value of \$13,071,499, as of October 2007. The sales price of the Split Ends will be their net book
9 value at the time of the transaction. Thus, the final sales price will not be known until closing.⁴ APS
10 estimated a net gain of \$8,824 from its aggregate sale to ED-3.

11 52. APS contends that the sale will clarify responsibility for operating and maintaining
12 the system, improve the safe operation of the system by defining these responsibilities, eliminate
13 customer confusion resulting from the combined (and convoluted) ownership, and will further the
14 public policy goal of resolving disputes through settlement.

15 53. APS asserts also that if the sale and transfer is not approved, there remains the risk that
16 ED-3 will chose to serve new and existing customers by bypassing the current APS infrastructure and
17 constructing its own duplicative lines, which could cause the Split Ends to be abandoned, and APS
18 ratepayers could be burdened with the related stranded costs as well as the cost of removal. APS
19 contends that because ED-3 owns the majority of assets and serves the majority of customers in the
20 affected area, it makes sense for ED-3 to be the sole provider in the area.

21 54. APS argues further that the proposed sale is consistent with previous Commission
22 orders and is in the public interest.

23 55. APS owns the Sexton Substation which is located at the intersection of Highway 84
24 and Anderson Road in Pinal County. ED-3 owns a 69 kV transmission line that enters and exits the
25 Sexton Substation. APS owns a second 69kV line that extends east from the substation that is
26 currently inoperable as a transmission line, but supports facilities that are used to serve residential
27

28 ⁴ Tr. at p. 29.

1 and commercial customers.⁵

2 56. APS contends that the sale of the substation and inoperable 69kV line will not hinder
3 its ability to serve its customers because the line is not in service and does not serve existing
4 customers. APS states the lines and associated structures only support ED-3's infrastructure, and not
5 APS' operations.

6 57. APS has agreed to sell the Sexton Substation and the related 69kV line to ED-3 at a
7 negotiated sales price of \$100,000. APS acquired the Sexton Substation for \$206,236, and in June
8 2007, the Sexton Substation had a net book value of \$85,448. The inoperable 69 kV line was
9 installed in 1974 at an original cost of \$19,294, and is fully depreciated. Staff states that based on the
10 foregoing, it appears that APS will receive an immaterial gain from the sale of the Sexton Substation
11 and the related 69 kV line.

12 Cancellation of CC&N

13 58. APS and ED-3 believe that cancelling that portion of APS' CC&N that overlaps the
14 ED-3 territory will fully resolve the difficulties associated with two utilities serving the same area.
15 APS further believes that deleting the areas will minimize its reliance on ED-3 for wheeling and
16 interconnection to serve its customers in those areas. APS and ED-3 agree that the deletion will
17 clearly eliminate APS' responsibility for construction, operations and maintenance of electrical
18 infrastructure in the proposed ED-3 service area. APS would cease to be a provider of last resort
19 within ED-3's service area, and ED-3 will assume full responsibility for providing electric service to
20 the affected customers.

21 Staff's Engineering Analysis

22 59. Staff's inquiry to the Commission's Corporations Division confirmed that APS is in
23 good standing.

24 60. Staff's search of the Consumer Service data base identified four opinions in 2008
25 opposing the proposed sale and transfers to ED-3. Staff did not receive any opinions or complaints
26 concerning this matter in 2009.

27

28

⁵ Tr. at p. 75.

1 61. The Commission's Engineering Staff finds that the proposed transfer of the Split Ends
2 and the Sexton Substation to ED-3 is appropriate and reasonable from a network and system
3 perspective. Staff notes the APS and ED-3 systems are currently intermingled which creates
4 confusion, prospective safety hazards, operational inefficiencies and duplicity of system maintenance.
5 Staff states that the proposed sale will eliminate the inherent difficulties associated with the two
6 utilities maintaining intermingled facilities, by clearly defining responsibilities for the area's
7 infrastructure. Staff found that because the Sexton Substation and the related inoperable 69 kV line
8 have limited use by APS, the sale of these facilities will not impair APS' ability to serve outside the
9 proposed ED-3 service area. Staff's analysis also indicates that the sale and transfer of the Split Ends
10 will not negatively impact APS' ability to continue to provide reliable service outside the District.
11 Staff also agrees with APS that the proposed sale will avert the prospect of abandonment of these
12 facilities, and the risk of APS incurring significant removal costs. Based on its investigation, Staff
13 concludes that the sale of the Split Ends and the Sexton Substation is in the public interest.

14 62. Staff finds that ED-3's system is capable of serving the load that would be transferred
15 from APS. APS and ED-3 have jointly confirmed that most of the sub-transmission and distribution
16 system currently being employed in serving both utilities' loads in the proposed ED-3 service area is
17 owned, operated and maintained by ED-3. Further, ED-3 has been augmenting its system by
18 engaging in significant capital investment within its service territory. Staff concludes that ED-3 has
19 the technical capacity to serve the current and prospective loads within its proposed service territory.

20 63. Staff notes that with a few notable exceptions, the facilities being transferred to ED-3
21 are dedicated to serving only customers in the transfer area. The exceptions are several areas outside
22 of the ED-3 boundary, including Mobile that will still be served by APS, using the ED-3 system.
23 ED-3 will wheel power for APS to serve the customers that APS will be keeping.

24 64. Ak-Chin currently serves its community through ownership of ACES, which receives
25 operational support from APS. Ak-Chin has indicated its willingness to obtain similar technical
26 support from ED-3, and ED-3 has assured Ak-Chin of the same quality of service previously
27 provided by APS. Staff concludes that deletion of Ak-Chin from APS' CC&N will not impair
28 electric service to Ak-Chin.

1 65. Based on its engineering analysis, Staff concludes that from a technical, safety and
2 reliability stand-point, APS' proposal to sell its Split Ends, Sexton Substation and the related deletion
3 of APS' CC&N overlapping the proposed ED-3 and Ak-Chin service areas is in the public interest.

4 Joint Transition Plan

5 66. The Joint Transition Plan outlines the process for the transfer of APS' customers to
6 ED-3. APS and ED-3 state they are working closely to ensure a smooth and timely transition.

7 67. APS developed a Community Outreach Plan which involved the development of a
8 website⁶ for contacting and educating affected customers and mailing letters with pertinent
9 information to customers as well as organizing the aforementioned town hall meetings.

10 68. APS and ED-3 state that if the Commission approves the application, they will provide
11 affected customers written notice of the approval which will indicate the exact date on which APS'
12 customers will be transferred to ED-3, how APS' final meter reading will be conducted, and
13 information regarding the treatment of customer deposits, line extension advances, and credit or debit
14 balances with APS.

15 69. APS states that the balance of any customer deposits will be applied to the last bill,
16 and any remaining balance will be refunded to the pertinent customer. In the event that the customer
17 has inadequate deposit to pay the last bill, the customer will be appropriately billed for the shortfall.
18 All credit balances will be refunded, while debit balances will be billed. In addition, APS will refund
19 line extension deposits to all eligible customers upon the transfer of assets to ED-3.

20 70. APS states that the proposed notice of approval will provide affected customers with a
21 listing of ED-3's current rates, programs, and deposit and credit policies. The notice will indicate
22 that if the deadline for transfer to ED-3 expires, and an affected customer has not voluntarily
23 transferred to ED-3, such customer will automatically be placed on ED-3's rate that is most
24 comparable to that customer's rate with APS. APS commits that the notice will contain information
25 on how to obtain more information from APS and ED-3, and will advise customers enrolled in
26 special programs offered by APS, such as equalizer and automatic payment to indicate their interest

27
28 ⁶ www.aps.com/ED-3.

1 in participating in similar programs offered by ED-3.

2 71. APS will provide ED-3 with all operational information necessary for the transition of
3 its assets and customers to ED-3. APS states that it will transfer to ED-3 the following information:

- 4 (a) Map of the area, including GIS⁷ maps, wall maps, one-line and cabinet detail;
5 (b) Right-of-way, survey and easement information;
6 (c) Meter locations, routes, and other relevant metering information;
7 (d) Location of regulators, capacitor banks, reclosers, switches, and fuses; and
8 (e) Equipment records.

9 72. Upon Commission approval of the application, APS states it will be necessary to
10 transfer pertinent customer information to ED-3. For residential customers, such information may
11 include customer name, contact information, identification number, usage pattern, meter number and
12 code, rates and programs, participation in medical monitoring program, and other information
13 necessary for ED-3 to serve the affected customers. For non-residential customers, APS states it may
14 be required to transfer similar information as well as data such as business identification number,
15 federal tax ID, and identities of officers. Because of the sensitive nature of certain personal and
16 business information, ED-3 promises to take commercially reasonable steps to protect and preserve
17 the confidentiality of all customer specific information APS provides, in accordance to ED-3's
18 privacy policy and applicable law.

19 73. APS is concerned that it may be prohibited from providing customer specific
20 information to ED-3 without a waiver from the Commission from the requirements of A.A.C. R14-2-
21 203(A)(2). This rule states that customer specific information cannot be released by a utility
22 "without specific prior written customer authorization unless the information is requested by a law
23 enforcement or other public agency, or is requested by the Commission or its staff, or is reasonably
24 required for legitimate account collection activities, or is necessary to provide safe and reliable
25 service to a customer."

26 74. APS requests that the Commission grant it: (a) a waiver pursuant to A.A.C. R14-2-
27

28 ⁷ Geographic Information System.

1 212(I) from the requirements of A.A.C. R14-2-203(A)(2) for all customers affected by this filing and
2 for the sole purpose of effecting the transaction contemplated herein, or (b) a declaration that such
3 transfer of customer specific information does not require a waiver from A.A.C. R14-2-203(A)(2)
4 since such transfer is “reasonably required for account collection activities” or is “necessary to
5 provide safe and reliable service.”

6 75. Staff agrees with APS and ED-3 that transfer of pertinent customer specific
7 information from APS to ED-3 will be necessary to facilitate seamless transition of affected
8 customers from APS to ED-3. Staff also believes that if APS’ request to transfer customer
9 information is denied in this proceeding, and ED-3 is placed in a position to have to independently
10 obtain the same information from affected customers, the transition may be burdened with costs
11 related to data collection. Based on the fact that customer information will be “necessary to provide
12 safe and reliable service” to the affected customers, Staff concludes that the waiver sought by APS
13 may not be necessary in this proceeding. Staff states further that if the Commission finds that a
14 waiver is required in this instant case, Staff recommends that the Commission grant APS a waiver
15 from the requirements of A.A.C. R14-2-203(A)(2), pursuant to A.A.C. R14-2-212(I).

16 Treatment of Renewable Energy Standards or Demand Side Management Program

17 76. APS anticipates that some customers who might be eligible and have requested
18 participation in Commission approved RES or DSM programs may be transferred to ED-3 prior to
19 completion or their projects. APS suggests that customers whose RES or DSM projects are in the
20 process of being completed prior to transfer to ED-3 should be encouraged to continue such projects
21 and receive the applicable incentives from APS, even after the transfer to ED-3, subject to certain
22 conditions.

23 77. For RES projects, APS proposes that if it has received a customer’s application for
24 incentives under any of the Commission approved programs and the customer has been given
25 reservation for an RES qualifying installation prior to being transferred to ED-3, APS will grant the
26 customers such incentives, contingent upon: (a) the customer completes the requested installation and
27 related interconnection of the requested RES project before or within twelve (12) months from the
28 date of the Commission approves this application; and (b) the Commission Order in this proceeding

1 authorizes APS to continue to pay incentives to APS customers subsequent to being transferred to
2 ED-3, and permits APS to credit such incentives to APS RES distribution generation targets.

3 78. APS proposed that if a customer located within the proposed ED-3 Service Area has
4 applied for an incentive under the Commission approved DSM programs, and the application is
5 pending prior to Commission approval of its application, that the Commission authorize APS to
6 complete the project under the following conditions: (a) the customer completes the requested
7 installation and related interconnection of the requested DSM project before or within twelve (12)
8 months from the date the Commission approves this application; and (b) the Commission Order in
9 this proceeding authorizes APS to continue to pay incentives to APS' customers, subsequent to being
10 transferred to ED-3, and permits APS to recover the related costs under APS' DSM Adjustment
11 Clause and claim the energy savings resulting from such project for all DSM related regulatory
12 requirements.

13 79. Staff states it has reviewed APS' proposal to fulfill its prior commitment to current
14 customers seeking incentives under RES and/or DSM programs. Staff finds that it is reasonable that
15 APS completes pending RES and DSM projects, even after the Commission approves this filing and
16 the affected customers have been transferred to ED-3. Staff believes this proposal will mitigate the
17 concerns expressed by some customers wanting to participate in RES or DSM programs. Further,
18 Staff finds that the two conditions proposed by APS are reasonable. Staff recommends approval of
19 APS' proposed RES and DSM transition plan, contingent upon the two conditions set forth above.

20 80. ED-3 has a Solar Program with incentives that are similar to those offered under APS'
21 renewable programs. ED-3 caps its residential rebates to \$15,000 and its commercial rebates at
22 \$25,000.⁸ ED-3 has indicated that it is in the process of developing DSM programs for its customers.

23 81. On October 2, 2009, ED-3 filed a copy of Resolution 2009-06 of the ED-3 Board of
24 directors ("Amended Renewable Energy Policy"), adopted on July 22, 2009. The Amended
25 Renewable Energy Policy provides that ED-3 adopts a policy to evaluate the acquisition of supply
26 form Eligible Renewable Energy Resources and Distributed Renewable energy Resources (both as
27

28 ⁸ Ex. ED-3 16.

1 defined in A.A.C. R14-2-1802), with the objective of acquiring an energy supply from such resources
2 comparable to the Annual Renewable Energy requirement set forth in A.A.C. R14-2-1804 by
3 December 31, 2018, to the maximum extent feasible, consistent with ED-3's purposes, the Federal
4 IRP requirements, ED-3's size, and the economic needs and objectives of its consumers.

5 82. ED-3 states that the Amended Renewable Energy Policy supplements ED-3's existing
6 policy that addresses a number of energy conservation efforts, including assisting its largest customer
7 decrease power consumption through an irrigation efficiency program, a compact Fluorescent Light
8 discount program, an HVAC rebate program, energy efficiency audits, and use of automated
9 metering infrastructure.⁹

10 83. ED-3 also filed the Term Sheet for Agreement between APS and ED-3 for retail
11 energy efficiency program sharing ("Energy Efficiency Services Sharing Agreement").¹⁰ ED-3 states
12 the short-term objective of the Energy Efficiency Sharing Agreement is to make APS' current energy
13 efficiency programs available to all ED-3 customers immediately upon the approval of the
14 Commission to the proposed transaction. ED-3 states the longer term objection is to provide ED-3
15 with a platform from which it can develop its own diverse portfolio of similar energy efficiency
16 programs. The term sheet provides that APS will allow all ED-3 customers to participate in APS'
17 current portfolio of energy efficiency programs, through which ED-3's customers will be provided
18 with incentives and rebates, customer training and technical assistance, and education regarding the
19 APS programs. ED-3 states that over the next two years, ED-3 will establish its own contracts with
20 service providers and agencies to develop freestanding ED-3 programs.

21 84. APS reports that approximately 190 of its customers within the ED-3 service area are
22 currently enrolled in its Low Income Assistance Programs ("LIAP"), through rate schedules E-3 and
23 E-4. At the time of the hearing, ED-3 did not have an equivalent low income discount. At that time
24 ED-3 agreed to provide low income discounts to customers who are currently enrolled in the APS
25 LIAP, in amounts equal to the benefit received by such low income customers, under APS schedules
26 E-3 and E-4.

27 _____
28 ⁹ ED-3 October 2, 2009 Motion to Admit Late-filed Exhibits.

¹⁰ Ex ED-3 23

1 85. Staff found that ED-3's commitment to hold low income customers harmless if the
2 Commission approved the transfer from APS to ED-3 was reasonable.

3 86. In late-filed Exhibit ED-3 21, ED-3 provided a copy of its revised low income and
4 medical assistance rider, Rate No. 13, Low Income and Medical Assistance Rider Supplemental to
5 All Residential Price Plans (Effective 7/1/2009). Under the revised schedule, ED-3 states it will
6 provide both (e) the transferring APS residential "split ends" customers and (ii) any future customers
7 residing at an address served by APS as of the date of a final Commission Order approving the
8 Application in this proceeding, the benefit of low income and medical assistance rates (both standard
9 and time-of-use). ED-3 states that earlier concerns about coordinating various APS discount levels
10 with ED-3's billing software have been resolved in favor of a simple percentage discount of 16
11 percent for low income customers, and 25 percent for customers eligible for the medical assistance
12 discount, and that on an overall basis, the discount levels are comparable to those available under the
13 APS program.¹¹

14 87. ED-3 has agreed to assume all remaining outstanding obligations of APS to its
15 customers, if any.¹² APS, however, will pay any outstanding line extension refunds.¹³

16 88. The District has a legal boundary and a service area boundary. All landowners within
17 its legal boundary, whether they receive service from the District or APS, are assessed for being in
18 the District. District customers located outside the legal boundary do not have voting rights, nor is
19 their property subject to assessment.¹⁴

20 89. APS customers transferring to ED-3 will not automatically be subject to District
21 property tax assessments. According to ED-3, any customer currently who is transferred from APS
22 may seek voting rights under the District's Bylaws by voluntarily petitioning to be included within
23 the District's legal boundary. Upon approval, such customers would be subject to property tax
24 assessment for the ED-3's statutory costs.

25 90. ED-3 has committed to treat all customers it serves equally whether they are located
26

27 ¹¹ ED-3 October 2, 2009 Motion for Admission of Late-filed Exhibits at pp 6-7.

¹² Ex ED-3 4 Jeffrey Woner testimony at p. 7; Tr. at pp. 68-69.

¹³ Tr. at p. 68.

28 ¹⁴ Tr. at pp 110-111.

1 within the District's legal boundaries or not. ED-3 testified that currently, it serves customers who
2 are both located within and outside its legal boundaries, and it avows that it does not and will not
3 discriminate against current or prospective customers on any basis, whether or not the customer has
4 voting rights or the property is included in the Distract. ED-3 indicates it will waive all requirements
5 for establishment of new service, such as customer security deposits and establishment fees, for APS
6 customers transferring to ED-3 under this application. ED-3 will require affected APS customers
7 who become delinquent on payments after transferring to ED-3 to provide a security deposit.

8 91. Staff states it has reviewed the APS/ED-3 Transition Plan and finds that it is
9 reasonable and acceptable. Staff finds that the Transition Plan will facilitate ease of transitioning
10 current APS customers to ED-3.

11 Financial Analysis

12 92. As of June 2008, APS projected a net gain from the sale of its assets to ED-3 that
13 ranged from \$5,728 to \$8,824, after accounting for income tax. APS has requested that because the
14 gain is minimal and immaterial, and consistent with Decision Nos. 60481, 61708 and 69670, the
15 Commission should authorize it to record the gain and report it as part of its Sale of Utility Property
16 (Net Gains) quarterly report.

17 93. Staff's analysis indicates that APS' projected net gain could increase as accumulated
18 depreciation grows over time, if the agreed-upon sales price remains constant. Staff agrees, however,
19 with APS that the net gains in this proceeding will be immaterial, and further that the standard fifty-
20 fifty sharing of the gain in the disposition of assets should apply in this proceeding. Staff
21 recommends that the Commission approve APS' request to defer customers' share of any gain from
22 the proposed sale of assets, and report such gain as part of its quarterly filing in Sale of Utility
23 Property (Net Gains) quarterly report.

24 94. ED-3 provided an updated bill impact analysis utilizing current APS rates approved in
25 Decision No. 71448 (January 1, 2010).¹⁵ ED's analysis indicates that on an annual average basis,
26 under APS' current tariff E-12 (non TOU), a residential customer with an average consumption is
27

28 ¹⁵ Filed on March 2, 2010.

1 billed \$195.37 monthly, while under ED-3's Residential Service-01 (Overhead) tariff, a customer
2 with the same usage would be billed \$191.62 monthly. Under the APS tariff, the average residential
3 customer would receive a monthly bill of \$250.37 during the summer months and \$140.35 during the
4 winter months. Under ED-3's tariff, a residential customer with average usage is billed \$208.95
5 during the summer months and \$174.27 during the winter months.

6 95. For residential customers on the Time of Use tariff under APS' Schedule ET-1, the
7 monthly average bills are \$171.26 on an annual average, \$198.83 during the summer months, and
8 \$143.68 during the winter months. Under ED-3's tariff, Residential Service-01 TOU, the same
9 customer would be billed at \$170.50 on an annual average, \$193.58 during the summer months and
10 \$147.42 during the winter months.

11 Staff's Conclusions and Recommendations

12 96. Staff agrees with APS and ED-3 that intermingling electrical facilities owned and
13 operated by separate utilities within the same service area creates operational difficulties, safety
14 concerns and confusion amongst customers. Staff finds that the sale of APS' Split Ends, Sexton
15 Substation and the related inoperable 69 kV line will not impair APS' ability to continue to service its
16 customers outside the proposed ED-3 service area. Further, Staff finds that the Transition Plan
17 proposed by APS and ED-3 will minimize any difficulty associated with transferring current APS
18 customers to ED-3. Staff also finds ED-3's pledge to serve its current and prospective customers
19 under the same terms and conditions, to be reasonable and acceptable. More specifically, Staff
20 agrees with ED-3's promise to hold current APS low income customers receiving services under
21 LIAP harmless. Staff finds that ED-3's current rates are comparable to APS' and that affected
22 customers will experience an immaterial bill impact upon transfer to ED-3.

23 97. Staff recommends as follows:

- 24 (a) That the Commission grant APS' request to sell and transfer its Split Ends, Sexton
25 Substation and the related inoperable 69 kV transmission line to ED-3
26 (b) That the Commission cancel APS' CC&N overlapping the proposed ED-3 service
27 area.
28 (c) That the Commission cancel APS' CC&N overlapping the AK-Chin.

- 1 (d) That if the Commission finds that a waiver is required for APS to transfer specific
2 customer information to ED-3, for the sole purpose of effectuating the transfer of
3 affected customers from APS to ED-3, that the Commission grant APS a waiver
4 from the requirements of A.A.C. R14-2-203(A)(2), pursuant to A.A.C. R14-2-
5 212(I).
- 6 (e) That the Commission authorize APS to complete pending RES projects under the
7 following conditions: (a) the customer completes the requested installation and
8 related interconnection of the requested RES project before or within twelve (12)
9 months from the date the Commission approves this application; and (b) the
10 Commission Order in this proceeding authorizes APS to continue to pay incentives
11 to APS' customers, subsequent to being transferred to ED-3, and permits APS to
12 credit such incentives to APS' RES distribution generation targets.
- 13 (f) That the Commission authorize APS to complete pending DSM projects under the
14 following conditions: (1) the customer completes the requested installation and
15 related interconnection of the requested DSM project before or within twelve (12)
16 months from the date the Commission approves this application; and (2) the
17 Commission Order in this proceeding authorizes APS to continue to pay incentives
18 to APS' customers, subsequent to being transferred to ED-3, and permits APS to
19 recover the related costs under APS' Demand Side Management Adjustment
20 Clause and claim the energy savings resulting from such project for all DSM
21 related regulatory requirements.
- 22 (g) That APS file with the Commission's Docket Control, as a compliance item in this
23 docket, a copy of all documents evidencing the sale and transfer of its assets to
24 ED-3, no later than 90 days from the close of the transaction;
- 25 (h) That APS file with the Commission's Docket Control, as a compliance item in its
26 docket, a report showing the net gain resulting from the sale of its assets to ED-3,
27 no later than 90 days from the close of the transaction.
- 28 ...

1 Analysis and Resolution

2 98. ED-3 has been providing service to the affected area for many years and has the
3 technical and financial ability to operate the electrical assets and to serve the customers to be
4 transferred from APS.

5 99. The Commission concurs with APS, ED-3 and Staff that the sale and transfer of assets
6 and the deletion of the portion of APS' CC&N that overlaps the District and Ak-Chin is in the public
7 interest. This solution resolves a long-standing situation that is rife with operational and safety
8 issues.

9 100. Staff's recommendations are reasonable and should be adopted.

10 101. On balance, we believe that the best resolution of the operational difficulties that have
11 arisen as a result of the overlapping service areas is to transfer the APS customers to ED-3 as well as
12 the electrical assets, rather than to grandfather the existing customers as APS customers. To have a
13 relatively few APS customers in an area where APS does not hold the CC&N would create new
14 inefficiencies. All parties advocated transferring the customers and the assets. The attraction of
15 allowing the existing APS customers in the affected area to remain with APS is to give them access
16 to APS' DSM and RES programs. The parties attempted to address this issue by proposing that APS
17 customers who make an application to APS prior to the effective date of this Order receive the
18 benefits of the DSM or RES programs even after they become ED-3 customers under certain
19 conditions. This recommendation is reasonable and allows customers to take advantage of APS
20 programs that could benefit them. We find, however, that in order to ensure that customers have
21 adequate time to make use of these programs, eligible customers should be permitted to make
22 application to APS within 90 days of the date they are sent notice that the transaction was approved,
23 and the twelve month installation period should run from the date they make application. We believe
24 this is a reasonable compromise, and with this minor modification to the proposal, the transfer of
25 assets and customers to ED-3 is in the public interest. Including the customers, as well as assets, will
26 reduce the administrative burdens and customer confusion that would result from having a finite and
27 relatively small number of APS customers served by ED-3.

28 102. Staff has indicated that arguably, APS does not need to obtain a waiver of A.C.C.

1 R14-2-203(A)(2) in order to transfer confidential customer information to ED-3 because such
 2 information is “. . . necessary to provide safe and reliable service.” Although we find Staff’s
 3 conclusions to be reasonable, in an abundance of caution and in order to ensure that APS has
 4 authority to effect the transfer of customer information as part of this transaction, we approve a
 5 waiver of R14-2-2-3(A)(2) pursuant to R14-2-212(I). In its late-filed exhibit, ED-3 provided
 6 information about its policy concerning the confidentiality of customer information. Based upon this
 7 information and ED-3’s testimony, we believe that ED-3 will protect the privacy of its customers.¹⁶

CONCLUSIONS OF LAW

8
 9 1. APS is an Arizona public service corporation within the meaning of Article XV,
 10 Section 2, of the Arizona Constitution.

11 2. The Commission has jurisdiction over APS and over the subject matter of the
 12 application.

13 3. Notice of the application was provided as required by law.

14 4. ED-3 is capable of operating the electrical assets being transferred and providing safe
 15 and reliable service to the customers being transferred from APS.

16 5. The sale and transfer of the electrical facilities and customers, as described herein, is
 17 in the public interest.

18 6. ED-3’s need for the customer information to provide safe and reliable service for those
 19 customers being transferred from APS justifies a wavier of R14-2-202(A)(1) for the purposes of the
 20 transaction approved herein.

21 7. Staff’s recommendations, as modified herein, are reasonable and should be adopted.

ORDER

22
 23 IT IS THEREFORE ORDERED that the application of Arizona Public Service Company
 24 seeking authorization to sell and transfer certain electric transmission and distribution facilities in
 25 Pinal County to Electrical District No. 3 is approved pursuant to the conditions below.

26 IT IS FURTHER ORDERED that that portion of Arizona Public Service Company’s CC&N
 27

28 ¹⁶ Ex ED-3 18.

1 that overlaps the proposed Electrical District No. 3 service area, and the Ak-Chin Indian Community,
2 as set forth in Exhibit A hereto, is hereby cancelled.

3 IT IS FURTHER ORDERED that pursuant to A.A.C. R14-2-212(I), Arizona Public Service
4 Company is granted a waiver of R14-2-203(A) (2) for the sole purpose of effectuating the transfer of
5 affected customers to Electrical District No. 3, as approved herein.

6 IT IS FURTHER ORDERED that Arizona Public Service Company is authorized, and shall,
7 pay RES incentives to those customers being transferred to Electrical District No. 3 provided the
8 customers make application to Arizona Public Service Company within 90 days of the date notice of
9 the terms of the sale and transfer is sent, and complete the relevant RES project within twelve (12)
10 months from the date of the application. Such incentive payments by Arizona Public Service
11 Company shall be credited to Arizona Public Service Company's RES distribution generation targets.

12 IT IS FURTHER ORDERED that Arizona Public Service Company is authorized, and shall,
13 pay DSM incentives to those customers being transferred to Electrical District No. 3 provided the
14 customers make application to Arizona Public Service Company within 90 days of the date notice of
15 the terms of the sale and transfer is sent, and complete the relevant DSM installation within twelve
16 (12) months from the date of the application. Arizona Public Service Company shall recover the
17 related costs of such DSM incentives under its Demand Side Management Adjustment Clause and
18 claim the energy savings resulting from such projects for all DSM related regulatory requirements.

19 IT IS FURTHER ORDERED that Arizona Public Service Company shall file with the
20 Commission's Docket Control, as a compliance item in this docket, a copy of all documents
21 evidencing the sale and transfer of its assets to Electrical District No. 3 no later than 90 days from the
22 close of the transaction.

23 IT IS FURTHER ORDERED that Arizona Public Service Company shall file with the
24 Commission's Docket Control, as a compliance item in its docket, a report showing the net gain
25 resulting from the sale of its assets to Electrical District No. 3 no later than 90 days from the close of
26 the transaction.

27 ...

28 ...

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

IT IS FURTHER ORDERED that Arizona Public Service Company shall mail notice of the terms of this approval to the affected customers no less than 30 days prior to the effective date of the transfer, such notice to be reviewed and approved by Commission Staff.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

CHAIRMAN _____ COMMISSIONER

COMMISSIONER _____ COMMISSIONER _____ COMMISSIONER

IN WITNESS WHEREOF, I, ERNEST G. JOHNSON, Executive Director of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this _____ day of _____, 2010.

ERNEST G. JOHNSON
EXECUTIVE DIRECTOR

DISSENT _____

DISSENT _____

1 SERVICE LIST FOR: ARIZONA PUBLIC SERVICE COMPANY

2 DOCKET NO.: E-01345A-08-0426

3

4 Thomas L. Mumaw
5 Meghan H. Grabel
6 ARIZONA PUBLIC SERVICE COMPANY
7 P.O. Box 53999
8 Phoenix, AZ 85072-3999

9 Paul R. Orme
10 LAW OFFICES OF PAUL R. ORME, P.C.
11 H.C. 63, Box 3042
12 Mayer, AZ 86333-9702
13 Attorneys for Electrical District No. 3 of Pinal County

14 Paul M. Breakman
15 John P. Coyle
16 DUNCAN & ALLEN
17 1575 Eye Street, NW, Suite 300
18 Washington, DC 20005-1105

19 Craig A. Marks
20 CRAIG A. MARKS, PLC
21 10645 North Tatum Boulevard, Suite 200-676
22 Phoenix, AZ 85028
23 Attorney for Pinal Energy

24 Denis M. Fitzgibbons
25 FITZGIBBONS LAW OFFICES, PLC
26 1115 East Cottonwood Lane, Suite 150
27 PO Box 11208
28 Casa Grande, AZ 85130
Attorneys for City of Maricopa

Janice Alward, Chief Counsel, Legal Division
ARIZONA CORPORATION COMMISSION
1200 West Washington Street
Phoenix, AZ 85007-2927

Steve Olea, Director, Utilities Division
ARIZONA CORPORATION COMMISSION
1200 West Washington Street
Phoenix, AZ 85007

25

26

27

28

Revised Attachment E
10/16/08

**Legal Description of APS's CC&N within Proposed ED-3 Service Area
To Be Deleted**

The described areas illustrate the boundary of the APS CNN.

Township 4 South, Range 2 East of the Gila and Salt River Meridian, Pinal County, Arizona,
All of Sections 13 to 19, 21, 22, 23, 26, 27, 28, 33, 34, 35.

Township 4 South, Range 3 East of the Gila and Salt River Meridian, Pinal County, Arizona,
All of Sections 13 to 29 and 33 to 36;

EXCEPT the following:

The SW4 and the S2 of the SE4 of Section 18, and
The NW4 and the S2 of Section 19, and
The W2 of the NW4 and the S2 of Section 29, and
The S2 of the NW4 and the S2 of Section 33.

Township 4 South, Range 4 East of the Gila and Salt River Meridian, Pinal County, Arizona,
All of Sections 16 to 22, 27 to 34.

EXCEPT the following:

The E2 of Section 17, and
The NE4 of Section 20, and
The N2 of Section 21, and
The N2 of Section 22.

Township 5 South, Range 2 East of the Gila and Salt River Meridian, Pinal County, Arizona,
All of Sections 2 to 4, 10, 11, 13 to 17, 20 to 27, 32 to 36.

Township 5 South, Range 3 East of the Gila and Salt River Meridian, Pinal County, Arizona,
All of Sections 1, 2, 3, 11, 12, 16 to 21, 25 to 36;

EXCEPT the following:

The N2 of Section 25, and
The N2 of Section 26, and
The N2 of Section 27.

Township 5 South, Range 4 East of the Gila and Salt River Meridian, Pinal County, Arizona,
All of Sections 3 to 15, 22 to 36 and Tracts 37 to 52;

EXCEPT the following:

The W2 of Section 15, and
The W2 of Section 22, and
The SE4 of Section 24, and
The E2 of the E2 of Section 25, and
That portion of the NE4 of Section 25 lying north of the MARICOPA-CASA GRANDE
HWY right of way, and
Those portions of Section 27, 28, 29 and 30 lying north of the following described line:
BEGINNING at the NW corner of Tract 43; Thence North 89°07'55" East 2123.92 feet to
the NE corner of Tract 43 also being the NW corner of Tract 42; Thence North 89°56'03"
East 2620.70 feet to the NE corner of Tract 42; Thence South 00°02'28" West along the east
line of Tract 42 1814.83 feet; Thence North 89°50'01" East 1318.19 feet to a point on the

Revised Attachment E

10/16/08

west line of Tract 53; Thence North $00^{\circ}01'36''$ East 1883.45 feet to the NW corner of Tract 53; Thence South $89^{\circ}05'54''$ East 5272.86 feet to the NE corner of Tract 53; Thence South $00^{\circ}07'59''$ East along the east line of Tract 53 1808.01 feet; Thence South $89^{\circ}37'54''$ East 4235.51 feet to a point on the west line of Tract 40; Thence North $00^{\circ}01'12''$ West 1861.85 feet along the west line of Tract 40 to the NW corner of Tract 40; Thence North $89^{\circ}59'58''$ East 2601.95 feet to the NE corner of Tract 40; Thence North $00^{\circ}03'58''$ East 827.35 feet to the N4 corner of Section 27 and POINT OF TERMINUS.

Township 5 South, Range 5 East of the Gila and Salt River Meridian, Pinal County, Arizona,
The S2 of the SW4 of the SW4 of Section 31, and

That portion of Section 31 described as follows:

BEGINNING at the NW corner of Section 31; Thence East along the North line of said Section 31 50.00 feet; Thence South on a line parallel with and 50 feet east of the west line of said Section 31 to a point on the North line of the S2 of the SW4 of the SW4 of Section 31, said point also being the POINT OF TERMINUS.

Township 6 South, Range 2 East of the Gila and Salt River Meridian, Pinal County, Arizona,
All of Sections 1 to 5, 9 to 16, 22 to 27, 34, 35, 36.

Township 6 South, Range 3 East of the Gila and Salt River Meridian, Pinal County, Arizona,
All of Sections 1 to 31, 34, 35, 36.

Township 6 South, Range 4 East of the Gila and Salt River Meridian, Pinal County, Arizona,
All of Sections 1 to 36;

EXCEPT the following:

The E2 of Section 1, and

That portion lying Northeasterly of the following described line:

BEGINNING at the N4 corner of Section 12; Thence South $00^{\circ}08'22''$ East along the North-South Mid-Section line of Section 12 657.59 feet to the SW corner of the NW4 of the NW4 of the NE4 of Section 12; Thence South $44^{\circ}47'51''$ East to a POINT OF TERMINUS on the east line of the SE4 of Section 12.

Township 6 South, Range 5 East of the Gila and Salt River Meridian, Pinal County, Arizona,
All of Sections 7, 17, 18, 19, 30, 31;

EXCEPT the following:

That portion of Sections 7, 17 and 18 lying Northeasterly of the following described line:

BEGINNING at the S4 corner of Section 17; Thence North $00^{\circ}50'50''$ West along the North-South mid Section line of Section 17 1333.11 feet to the NE corner of the SE 4 of the SW4 of Section 17; Thence North $63^{\circ}40'56''$ West through Section 17 and Section 18 4472.70 feet; Thence North $44^{\circ}47'51''$ West through Sections 18 and 7 to a POINT OF TERMINUS on the west line of the SW4 of Section 7.

Township 7 South, Range 2 East of the Gila and Salt River Meridian, Pinal County, Arizona,
All of Sections 1, 10, 11, 12.

Township 7 South, Range 3 East of the Gila and Salt River Meridian, Pinal County, Arizona,
All of Sections 1, 5, 6.

Revised Attachment E
10/16/08

Township 7 South, Range 4 East of the Gila and Salt River Meridian, Pinal County, Arizona,
All of Sections 1 to 6, 8 to 17, 23 to 26, 35, 36.

Township 7 South, Range 5 East of the Gila and Salt River Meridian, Pinal County, Arizona,
All of Sections 6, 7, 9, 10, 15 to 24;

EXCEPT the following:

The W2 of Section 9.

Attachment G

**Legal Description of APS's CC&N within Ak-Chin Lands
To Be Deleted**

The described areas illustrate the boundary of the Ak-Chin Indian Community.

**Township 4 South, Range 2 East of the Gila and Salt River Meridian, Pinal County, Arizona,
All of Sections 24, 25, 36.**

**Township 4 South, Range 3 East of the Gila and Salt River Meridian, Pinal County, Arizona,
All of Sections 18, 19, 29 TO 33;**

EXCEPT the following:

- The N2 and the N2 of the SE4 of Section 18, and
- The NE4 of Section 19, and
- The NE4 and the E2 of the NW4 of Section 29, and
- The N2 of the NW4 and the NE4 of Section 33.

**Township 5 South, Range 2 East of the Gila and Salt River Meridian, Pinal County, Arizona,
All of Sections 1, 12.**

**Township 5 South, Range 3 East of the Gila and Salt River Meridian, Pinal County, Arizona,
All of Sections 4 TO 10, 13, 14, 15, 22 TO 27;**

EXCEPT the following:

- The S2 of Section 25, and
- The S2 of Section 26, and
- The S2 of Section 27.

**Township 5 South, Range 4 East of the Gila and Salt River Meridian, Pinal County, Arizona,
All of Sections 15 to 22 and 27 to 30;**

EXCEPT the following:

- The E2 of Section 15, and
- The E2 of Section 22, and

Those portions of Section 27, 28, 29 and 30 lying south of the following described line:

BEGINNING at the NW corner of Tract 43; Thence North 89°07'55" East 2123.92 feet to the NE corner of Tract 43 also being the NW corner of Tract 42; Thence North 89°56'03" East 2620.70 feet to the NE corner of Tract 42; Thence South 00°02'28" West along the east line of Tract 42 1814.83 feet; Thence North 89°50'01" East to a point on the west line of Tract 53 1318.19 feet; Thence North 00°01'36" East 1883.45 feet to the NW corner of Tract 53; Thence South 89°05'54" East 5272.86 feet to the NE corner of Tract 53; Thence South 00°07'59" East 1808.01 feet along the east line of Tract 53; Thence South 89°37'54" East 4235.51 feet to a point on the west line of Tract 40; Thence North 00°01'12" West 1861.85 feet along the west line of Tract 40 to the NW corner of Tract 40; Thence North 89°59'58" East 2601.95 feet to the NE corner of Tract 40; Thence North 00°03'58" East 827.35 feet to the N4 corner of Section 27 and **POINT OF TERMINUS.**

**ARIZONA PUBLIC SERVICE COMPANY
DOCKET NO. E-01345A-08-0426
AREA REQUESTED TO BE DELETED FROM CC&N**



DECISION NO. _____