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IN THE MATTER OF THE APPLICATION) DOCKET NO. E-01345A-98-0473
OF ARIZONA PUBLIC SERVICE)
COMPANY FOR APPROVAL OF ITS)
PLAN FOR STRANDED COST)
RECOVERY)

IN THE MATTER OF THE FILING OF) DOCKET NO. E-01345A-97-0773
ARIZONA PUBLIC SERVICE COMPANY)
OF UNBUNDLED TARIFFS PURSUANT)
TO A.A.C. R-14-2-1601 et. seq.)

IN THE MATTER OF COMPETITION) DOCKET NO. RE-00000C-94-0165
IN THE PROVISION OF ELECTRIC)
SERVICES THROUGHOUT THE)
STATE OF ARIZONA)

**APS' RESPONSE TO AECC'S MOTION TO
STRIKE PREFILED TESTIMONY**

In its November 24, 1998 Motion, Arizonans for Electric Choice and Competition et al., ("AECC") asked—without citation to any legal authority or argument—that the Chief Hearing Officer strike two submissions accompanying APS' prefiled testimony. AECC further requested, again without any citation to authority or argument, that the Chief Hearing Officer preclude APS from calling Drs. Hieronymus and Landon as witnesses at the trial. For the reasons set forth below, such an unwarranted (and unprecedented) attempt to exclude already admitted, relevant evidence from consideration in this proceeding must be rejected.

In its Motion, AECC fundamentally mischaracterizes the two attachments, which are the

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1 previously filed testimony (admitted into evidence) of Drs. Hieronymus and Landon in the
2 Generic Stranded Cost Proceeding. APS did not submit the documents as direct testimony, but
3 rather as existing evidence in the record of Docket No. RE-00000C-94-0165 that APS believes
4 supports aspects of the settlement. (*See* Exhibit A, APS' cover letter accompanying its prefiled
5 direct testimony in support of the settlement.) Citation to evidence and documents previously
6 made part of the record in a Commission proceeding is entirely appropriate. *See, e.g.,* Ariz.
7 Admin. Code R14-3-109 (discussing offering into evidence testimony in other Commission
8 proceedings). Both submissions are relevant to this proceeding because both discuss, among other
9 things, why stranded cost recovery is prudent and necessary—issues that have arisen already in
10 this proceeding.¹ Moreover, both documents support the principles underlying several elements of
11 the APS settlement. APS believes the existing record of the Generic Stranded Cost Proceeding,
12 including the cross-examination of Drs. Hieronymus and Landon, remains as part of the record on
13 which the Commission will rely in deciding whether or not to approve the settlement. AECC's
14 attempt to belatedly strike relevant information in this proceeding is the antithesis of the informed
15 decisionmaking required of the Commission by law.

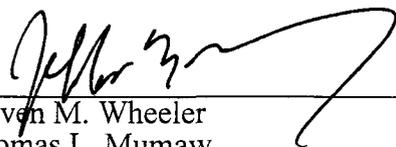
16 Thus, contrary to the mischaracterizations made in AECC's Motion, APS' recognition of
17 previously filed testimony of Drs. Hieronymus and Landon in this record is entirely appropriate.
18 Accordingly, the Chief Hearing Officer must reject AECC's unreasonable request to strike
19 relevant evidence in this proceeding, and to preclude APS from calling witnesses to support its
20 case. Although APS will not call either Dr. Landon or Dr. Hieronymus to re-sponsor prefiled
21 testimony already admitted in Docket No. RE-00000C-94-0165 as part of the Generic Stranded
22

23 ¹ Further, AECC is incorrect in asserting that the Commission "rejected" the net lost revenues
24 methodology. In Decision No. 60977, the Commission provided two options for stranded cost recovery: (1) the
25 divestiture option, and (2) an option for transition revenues or some "[other] allocation of stranded cost
26 responsibilities and risks." Decision No. 60977 at 11-12. Nothing in Decision No. 60977 forecloses a net lost
revenues methodology for "otherwise provid[ing] an allocation of stranded cost[s]." *Id.* Regardless, the APS market
generation credit approach is not the net lost revenues methodology. Moreover, Decision No. 61071 approving
"emergency" rules for electric competition (which was issued after Decision No. 60977) does not reject the net lost
revenues approach.

1 Cost Proceeding, APS is entitled to call for rebuttal any witnesses it desires, including Dr. Landon
2 and Dr. Hieronymus.

3 RESPECTFULLY SUBMITTED this 15 day of December, 1998.

4 SNELL & WILMER L.L.P.

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7 _____
8 Steven M. Wheeler
9 Thomas L. Mumaw
10 Jeffrey B. Guldner

11 Attorneys for Arizona Public Service Company
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CERTIFICATE OF SERVICE

The original and ten (10) copies of the foregoing document were filed with the Arizona Corporation Commission on this 4th day of December, 1998, and service was completed by mailing or hand-delivering a copy of the foregoing document this 1st day of December, 1998, to all parties of record herein.


James K. Dinger

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November 20, 1998

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Arizona Corporation Commission
1200 West Washington Street
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**RE: IN THE MATTER OF THE APPLICATION OF ARIZONA PUBLIC SERVICE COMPANY
FOR APPROVAL OF ITS PLAN FOR STRANDED COST RECOVERY, DOCKET
NO. E-01345A-98-0473, and**

**IN THE MATTER OF THE FILING OF ARIZONA PUBLIC SERVICE COMPANY
OF UNBUNDLED TARIFFS PURSUANT TO A.A.C. R14-2-1601 et seq., DOCKET
NO. E-01345A-97-0773, and**

**IN THE MATTER OF COMPETITION IN THE PROVISION OF ELECTRIC SERVICES
THROUGHOUT THE STATE OF ARIZONA, DOCKET NO. RE-00000C-94-0165.**

Gentlemen:

Pursuant to the Chief Hearing Officer's Procedural Order of November 13, 1998, attached herewith for filing is the direct testimony and exhibits of Jack E. Davis, President of Energy Delivery and Sales for Arizona Public Service Company ("APS"). This testimony is concurrently being served on all parties of record.

Given the Commission docket numbers for this proceeding, APS assumes that the evidentiary record previously developed in these consolidated dockets will also be part of the evidentiary record upon which the Commission will base its decision in this proceeding. In that regard, APS would direct the parties' attention to the pre-filed testimony of its witnesses John H. Landon and William H. Hieronymus in the stranded cost proceeding which culminated in Decision No. 60977, issued June 22, 1998. A copy of that pre-filed testimony is also attached hereto and is being concurrently served on all parties. If a specific request for incorporation of this testimony into the record of this proceeding is necessary, APS hereby makes such a request pursuant to A.A.C. R14-3-109.

Sincerely,

Barbara A. Klemstine

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EXHIBIT A