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1 **GUST ROSENFELD P.L.C.**  
 2 One E. Washington, Suite 1600  
 3 Phoenix, Arizona 85004-2553  
 4 602-257-7422 Fax 602-254-4878  
 5 David A. Pennartz – 006429  
 6 dpennartz@gustlaw.com  
 7 Landon W. Loveland – 024033  
 8 lloveland@gustlaw.com

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ARIZONA CORPORATION COMMISSION  
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Attorneys for Intervenor City of Sedona

ORIGINAL

**BEFORE THE ARIZONA CORPORATION COMMISSION**

8 **COMMISSIONERS**  
 9 **BOB STUMP, Chairman**  
 10 **GARY PIERCE**  
 11 **BRENDA BURNS**  
 12 **BOB BURNS**  
 13 **SUSAN BITTER SMITH**

Arizona Corporation Commission

DOCKETED

MAY 05 2014

DOCKETED BY 

14 IN THE MATTER OF THE  
 15 APPLICATION OF ARIZONA PUBLIC  
 16 SERVICE COMPANY FOR APPROVAL  
 17 OF AUTOMATED METER OPT-OUT  
 18 SERVICE SCHEDULE 17.

Docket No. E-01345A-13-0069

**INTERVENOR CITY OF  
 SEDONA'S REPLY IN SUPPORT  
 OF MOTION FOR PROCEDURAL  
 ORDER TAKING OFFICIAL  
 NOTICE OF FILINGS IN GENERIC  
 DOCKET E-00000C-11-038 ON  
 OPT-OUT FEES, TERMS AND  
 CONDITIONS**

19 Intervenor, the City of Sedona ("Sedona") submits this Reply in support of its  
 20 request that the Arizona Corporation Commission issue a Procedural Order taking  
 21 official notice of the filings in Docket E-00000-11-038 ("Generic Docket") that relate to  
 22 APS' Application in this docket and answers the concerns raised in APS' Response to  
 23 the Intervenor's Motion. The Intervenor believes that each of the concerns raised by  
 24 APS is already addressed in the Intervenor's motion. They certainly are not foreclosed  
 25 in any way from being raised, as APS acknowledges in its closing sentence, when any  
 26 particular document is offered in evidence at a hearing. APS has claimed no prejudice

1 that would result from granting Intervenor's Motion for Procedural Order for Official  
2 Notice ("Motion").

3 1. APS objection: "Much of the voluminous material filed in [the Generic  
4 Docket] is wholly irrelevant" to APS' request for approval of Schedule 17. [APS  
5 Response, p. 1, starting at line 24]

6 Motion: Official notice is requested only of "filings in the Generic Docket  
7 [that] address APS' charges and terms and conditions under which APS'  
8 customers may 'opt-out' of having their analog electrical meter replaced by a so-  
9 called 'Smart Meter.'" The Commission is requested to consider them [the  
10 Generic Docket filings described above] "to the extent that they bear on the  
11 decisions the Commission makes on APS' Application".

12 Reply: APS responds to a much broader motion that the Intervenor did not  
13 make. The Motion for Official Notice was carefully limited to only the filings in  
14 the Generic Docket that address the APS application on Schedule 17 and to the  
15 extent that the filing bears on the decisions the Commission will make on the  
16 APS Application. Given this carefully-tailored and limited request, (A)  
17 Intervenor has not requested that the Commission take Official Notice of  
18 materials filed in the Generic Docket that are "wholly irrelevant" to the APS  
19 Application, and (B) the materials filed in the Generic Docket of which the  
20 Intervenor does request the Commission take official notice, fall outside of the  
21 APS objection. In short, the request carefully states that it requests Official  
22 Notice only of pertinent materials filed in the Generic Docket that in fact relate to  
23 the APS Application and the Commission's decision, so that those materials are  
24 not overlooked in this docket and may be considered for whatever weight the  
25 Commission decides they deserve. APS' objection, therefore, is not responsive  
26 to the Motion.

1           2.     APS objection:     Some of the material filed in the Generic Docket  
2 “does not even relate to APS, but rather to other electric utilities.” [APS Response, p. 1,  
3 starting at line 26]

4           For both the **Motion** and **Reply**, see #1 above.

5           **Reply**: The **Motion** only requests that materials in the Generic Docket that  
6 address the terms and conditions of Smart Meter “opt-out” under the APS  
7 Application and bear on the Commission’s decision on the APS Application  
8 should be officially noticed. The Motion does not request that official notice be  
9 taken of material in the Generic Docket that relate to other matters, including  
10 other utility companies if the information has no bearing on the APS Application.  
11 Again, APS attempts to greatly expand the scope of the **Motion** and objects to  
12 the overbreadth which does not actually exist.

13           3.     APS objection:     APS suggests that the City first identify those filings  
14 in the Generic Docket of which it requests the Commission to take Official Notice.  
15 [APS Response, p. 1, starting at line 27]

16           **Motion**:     The Motion does identify a limited category of filings to which it is  
17 addressed. The discussions above plainly identify parameters for official notice.  
18 Another very evident parameter is that of time. The Generic Docket was opened  
19 years before APS filed its application for approval of Schedule 17. The historical  
20 material that Intervenor believes, based on knowledge gained to-date, would also  
21 be applicable in this docket are those that informed the Commission on the  
22 decision (#69736) regarding installation of automated meters and the potential  
23 for utilities to come before the Commission with suggested fees for recovery of  
24 certain actual, reasonable costs.

25           Specifically with regard to the APS Application for approval of Schedule 17, by  
26 way of example, the Intervenor’s Motion identified that 17 of the 26 filings made

1 in 2014 in the Generic Docket to date of the Motion had addressed the “opt-out”  
2 terms and conditions and/or APS Application. As APS easily can do and likely  
3 has already done, Intervenor went back to the docket and reviewed the 26 filings  
4 in 2014 and identifies for APS the 17 which contain references to this  
5 proceeding. They are:

<u>NUMBER</u>	<u>DATE FILED</u>
0000150650	01/06/2014
0000150851	01/16/2014
0000150852	01/16/2014
0000150205	02/05/2014
0000150206	02/05/2014
0000150239	02/07/2014
0000150274	02/10/2014
0000150295	02/11/2014
0000150345	02/14/2014
0000151237	02/18/2014
0000151238	02/18/2014
0000151263	02/20/2014
0000151295	02/21/2014
0000151388	02/26/2014
0000151524	03/03/2014
0000151531	03/04/2014
<u>0000151866</u>	<u>03/19/2014</u>

17 submittals January 1, 2014 through March 19, 2013

Motion filed on 4/16/2014.

1 It should be noted that these filings are not offered by Intervenor at this time for  
2 admission into the record in this docket as evidentiary materials. (See #4 and  
3 Conclusion below). Also, the Official Notice request is not limited to these  
4 filings made by the date of the Motion or even to those filings made in 2014.  
5 Filings are received frequently, often on a weekly and daily basis. The Motion  
6 plainly anticipates that specific filings will be identified if they are to be used on  
7 an evidentiary basis and that all parties would have the opportunity to be heard  
8 on the matter. Therefore, the Motion makes no request that raises the point  
9 objected to by APS and the Response again is not responsive to the Motion.

10 4. APS objection: APS reserves the right to assert applicable objections  
11 to any noticed documents and “expects that if a Noticed document is to be given any  
12 evidentiary weight, it will be formally admitted into the record” at a hearing and be  
13 “subject to cross-examination and rebuttal by APD and other parties.” [APS Response,  
14 p. 2, starting at line 6]

15 Motion: This objection or “reservation” again is in response to something  
16 not contained in the Motion. The Motion states: “Specific references to  
17 documents filed in the ‘Generic’ Docket that may be made in the official  
18 testimony and other hearing filings pursuant to the process outlined in Subsection  
19 T, will be provided in a timely manner to permit APS an opportunity to respond  
20 under provisions of the anticipated Scheduling Order.”

21 Reply: See # 3 above. The requirements of the official notice rule adopted  
22 by the Commission will be followed as individual documents are offered into the  
23 record as evidence. The Motion makes this plain as does this Reply.

24 CONCLUSION: APS raises no objection and makes no claim of prejudice as to the  
25 Intervenor’s Motion, as it is actually framed and very carefully limited to capture only  
26 filings made in the Generic Docket that bear on this proceeding. APS also raises no

1 claim that the legal basis stated in the Motion in inaccurate or insufficient in any  
2 respect. As stated in the Motion, the reason for requesting Official Notice now, is to  
3 permit consideration of the one-time filing of the submittals containing pertinent  
4 information without those submitting them being forced to file duplicates in the APS  
5 Docket as well. These filers are largely citizens whom are following the understanding  
6 they have as to filing their comments that bear on the Smart Meter opt-out fees, terms  
7 and conditions in the Generic Docket. It is unnecessary and would be unduly  
8 burdensome to those citizens, to the parties and to the Commission and its staff, to  
9 mandate that those citizens and others in interest must re-file their submittals in the APS  
10 docket. This is the primary reason for the official notice request. Intervenor is  
11 confident in the Commission's and ALJ's ability to discern whether particular  
12 submittals referenced later for evidentiary submittal are pertinent to the APS  
13 Application and to exclude consideration of any that might be lacking in relevance.

14 As the Applicant is not prejudiced; it has plainly reserved its rights to object to  
15 any individual document later offered for evidentiary admission into the record.  
16 Granting the motion in the manner requested will serve to keep the proceedings in the  
17 APS Docket orderly and allow the Commission to consider the filings in the Generic  
18 Docket that bear on its decision on the APS Application, nothing more. Intervenor  
19 requests that it be granted, as submitted.

20 RESPECTFULLY SUBMITTED this 5<sup>th</sup> day of May, 2014.

21 GUST ROSENFELD P.L.C.

22 By:   
23 David A. Pennartz  
24 Landon W. Loveland  
25 Attorneys for Intervenor  
26 Town of Sedona

25 ...  
26 ...

1 ORIGINAL AND THIRTEEN COPIES  
2 of the foregoing filed this 5<sup>th</sup> day  
3 of May, 2014 with:

4 Docket Control  
5 Arizona Corporation Commission  
6 1200 West Washington  
7 Phoenix, Arizona 85007

8 COPIES of the foregoing hand delivered/  
9 mailed this 5<sup>th</sup> day of May, 2014 to:

10 Thomas L. Mumaw  
11 Melissa M. Krueger  
12 Pinnacle West Capital Corporation  
13 400 North 5<sup>th</sup> Street,  
14 MS 8695  
15 Phoenix, Arizona 85004  
16 *Attorneys for Arizona Public Service*

17 Patty Ihle  
18 304 East Cedar Mill Road  
19 Star Valley, Arizona 85541

20 Tyler Carlson  
21 P.O. Box 1045  
22 Bullhead City, Arizona 86430

23 Lewis Levenson  
24 1308 East Cedar Lane  
25 Payson, Arizona 85541

26 Patricia Ferre  
P.O. Box 433  
Payson, Arizona 85547

Michael Curtis  
501 East Thomas Road  
Phoenix, Arizona 85012-3205

Charles Moore  
1878 West White Mountain Boulevard  
Lakeside, Arizona 85929

Warren Woodward  
55 Ross Circle  
Sedona, Arizona 86336

...

1 Steve Olea  
Arizona Corporation Commission  
2 1200 West Washington  
Phoenix, Arizona 85007

3

4 Janice Alward  
Arizona Corporation Commission  
5 1200 West Washington  
Phoenix, Arizona 85007

6

7 Lyn Farmer  
Arizona Corporation Commission  
8 1200 West Washington  
Phoenix, Arizona 85007-2927

9

10 Clara Marie Fritz  
60 Roca Roja Road  
11 Sedona, Arizona 86351

12

13 Marcella Adams

14

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20

21

22

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