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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

- BOB STUMP, Chairman
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- BRENDA BURNS
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 ARIZONA CORPORATION COMMISSION
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IN THE MATTER OF THE APPLICATION
 OF ARIZONA PUBLIC SERVICE
 COMPANY FOR A HEARING TO
 DETERMINE THE FAIR VALUE OF THE
 UTILITY PROPERTY OF THE
 COMPANY FOR RATEMAKING
 PURPOSES, TO FIX A JUST AND
 REASONABLE RATE OF RETURN
 THEREON, TO APPROVE RATE
 SCHEDULES DESIGNED TO DEVELOP
 SUCH RETURN.

DOCKET NO. E-01345A-11-0224

ORIGINAL

**INITIAL POST-HEARING BRIEF
 OF
 ARIZONA PUBLIC SERVICE COMPANY
 ON
 THE FOUR CORNERS RATE RIDER**

Arizona Corporation Commission
DOCKETED
 AUG 29 2014

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August 29, 2014

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1 **I. INTRODUCTION**

2 The Arizona Corporation Commission (“Commission”) is by now quite familiar with
3 the long saga that is Four Corners. Suffice it to say that the Commission authorized
4 Arizona Public Service Company (“APS” or “Company”) to acquire Southern California
5 Edison Company’s (“SCE”) share of Four Corners Units 4 and 5 (“Four Corners
6 Acquisition”) in Decision No. 73130 (April 24, 2012). One month later, the Commission
7 approved the 2012 Settlement of the Company’s 2011 general rate case in Decision No.
8 73183 (May 24, 2012). Section X of the 2012 Settlement held the rate case open to allow
9 APS to incorporate into rates a Four Corners Rate Rider reflecting the Four Corners
10 Acquisition. On December 30, 2013, the Company filed the instant request. Using data
11 through April 30, 2014, the Four Corners Rate Rider would be \$65.44 million, or 2.33%.
12 (*See* Rebuttal Testimony of Elizabeth Blankenship, APS Exhibit 11, at Schedule EAB-4.)

13 There are only three contested issues in this proceeding: (1) Fair Value Rate of
14 Return (“FVROR”); (2) the prudence of the Four Corners Acquisition; and (3) the
15 application of the Four Corners Rate Rider to APS customers taking service under Rate
16 Rider AG-1. The evidentiary hearing addressed all three issues in detail, and the positions
17 of the various parties are clear. Thus, APS will try not to go over old ground except to the
18 extent necessary to make the following points: (1) the recommendations of the Commission
19 Utilities Division Staff (“Staff”) and intervenor Residential Utility Consumers Office
20 (“RUCO”) on FVROR are not consistent with the 2012 Settlement or Commission
21 precedent; (2) the Four Corners Acquisition was demonstrated to be prudent beyond any
22 reasonable doubt by both APS and Staff witnesses; and (3) APS’s proposed treatment of
23 AG-1 customers is fair and consistent with the 2012 Settlement. Each of the Company’s
24 positions is supported by the evidentiary record as well as the 2012 Settlement and Decision
25 Nos. 73130 and 73183.

1 **II. THE FVROR ON THE FOUR CORNERS ACQUISITION CANNOT BE**
2 **LESS THAN APS'S COST OF CAPITAL**

3 **A. It is not Possible to Keep all Elements of the 2012 Settlement Constant**
4 **and Still Allow APS the Opportunity to Recover "the Rate Base and**
5 **Expense Effects Associated with the Acquisition of SCE's Share of Units**
6 **4 and 5 ..." [Decision No. 73183, Exhibit A, Paragraph 10.3]**

7 If the Four Corners Acquisition could have been incorporated into APS rates without
8 modifying certain related aspects of the 2012 Settlement and Decision No. 73183, it would
9 not have been necessary to keep the rate case docket open in the first place. For example,
10 Paragraph 3.1 of the 2012 Settlement proposes a specific non-fuel revenue increase for
11 APS, as does Finding of Fact No. 40 in Decision No. 73183 – a figure that must necessarily
12 be further increased to reflect the "rate base and expense effects associated with the
13 acquisition of SCE' share of Units 4 and 5." Paragraph 3.2 of the 2012 Settlement as well as
14 Finding of Fact No. 35 in Decision No. 73183 set forth a specific fair value, and in the case
15 of the latter, an original cost rate base. Both of these numbers also necessarily increase
16 when the Four Corners Acquisition is included in APS rates. Although not expressly
17 delineated in the 2012 Settlement, implicit in the 2012 Settlement revenue requirement
18 were allowances for property taxes, depreciation, etc., which also necessarily increase to
19 reflect the costs of the Four Corners Acquisition. (*See* Snook, Tr. at 438:12-25)

20 FVROR is simply another figure from the 2012 Settlement and Decision No. 73183
21 that necessarily changes by including the Four Corners Acquisition in rate base. As
22 demonstrated by APS Witness Snook in his Rebuttal Testimony, FVROR is the result of a
23 calculation involving: (1) Original Cost Rate Base; (2) the Weighted Average Cost of
24 Capital ("WACC"); (3) the "Fair Value Increment" (Fair Value Rate Base – Original Cost
25 Rate Base); and (4) the return allowed (in this case, 1%) on the Fair Value Increment.

$$26 \text{ FVROR} = \frac{[(\text{WACC} \times \text{Original Cost Rate Base}) + (1\% \times \text{Fair Value Increment})]}{\text{Fair Value Rate Base}}$$

27 (*See* Rebuttal Testimony of Leland Snook, APS Exhibit No. 5, at 3.) As one can see, any
28 change in the Company's Original Cost Rate Base will necessarily change the FVROR. It is
basic math – not Mr. Snooks's opinion.

1 In Mr. Snook's Rejoinder Testimony, he used the same numbers taken from the 2012
2 Settlement and Decision No. 73183 and showed that viewing FVROR as what Staff witness
3 Kalbarczyk termed a "financing and capital structure issue" rather than a rate base issue
4 (*See* Surrebuttal Testimony of Dennis Kalbarczyk, Staff Exhibit 3, at 4), the same 6.09%
5 FVROR of return is calculated pre-Four Corners Acquisition as well as the same 6.14%
6 FVROR post-Four Corners Acquisition. (*See* Rejoinder Testimony of Leland Snook, APS
7 Exhibit No. 6, at 4) These findings by Mr. Snook are no mere coincidence but rather
8 mathematical facts, proving that whether FVROR is a "financing and capital structure
9 issue" as Staff Witness Kalbarczyk suggests or a rate base issue as discussed in APS
10 Witness Snook's Rebuttal Testimony, the result is the same. All the numbers used by Mr.
11 Snook in his calculations of the 2012 Settlement's FVROR, as well as the FVROR post-
12 Four Corners acquisition, in both his Rebuttal and Rejoinder Testimonies come directly
13 from the revenue requirement figures stated in the 2012 Settlement and Decision No.
14 73183. Thus, the idea that the FVROR was specifically negotiated by and agreed to by the
15 Parties independently of each of its inputs just does not add up.

16 **B. Staff and RUCO's Proposed FVROR Would Not Recover the Cost of**
17 **Capital Associated with the Four Corners Acquisition.**

18 There is really no debate on this point. Both Staff witness Kalbarczyk and RUCO
19 witness Mease conceded the obvious – their proposed FVRORs are less than the WACC
20 found by the 2012 Settlement and Decision No. 73183. (*See* Mease, Tr. at 573:23-74:12;
21 Kalbarczyk, Tr. at 648:11-49:3 and also Staff Exhibit 20) And be clear about it, the 2012
22 Settlement and Decision No. 73183 determined the Company's WACC every bit as much
23 as if the number 8.33% had appeared in the respective documents. Both the 2012 Settlement
24 and Decision No. 73183 specifically find the Company's debt/equity ratio
25 (46.06%/53.94%), its Cost of Equity (10 %) and Cost of Debt (6.38%). Paragraphs 5.1 and
26 5.2 of the 2012 Settlement; Decision No. 78183 at Findings of Fact Nos. 37 and 38.
27 Establishing WACC is a simple and indisputable mathematical calculation once all the
28 necessary inputs are established. *See* APS Exhibit 4.

1 In Decision No. 53537 (April 27, 1983) at page 15, the Commission stated:

2 “[t]he beginning point of our inquiry [concerning FVROR] must be the cost
3 of capital. It is difficult to imagine a situation in which a reasonable return
4 on FVRB [Fair Value Rate Base] would yield less than the cost of capital
which comprises that rate base.” [Emphasis in original.]

5 Neither Staff nor RUCO has cited any Commission decision since *Arizona Water Company*
6 that established a FVROR that did not, at a minimum, recover the utility’s WACC. (See
7 Mease, Tr. at 573:23-74:12; Yaquinto, Tr. 540:4-20) Adopting Staff’s or RUCO’s position
8 runs contrary to the express language of *Arizona Water Company*, resulting in a return on
9 FVROR that is very significantly less than the WACC. As *Arizona Water Company* holds,
10 such an outcome is “difficult to imagine.” (See Decision No. 53537)

11 **C. Staff and RUCO’s Proposed FVRORs on the Four Corners Acquisition**
12 **Would be Less than the Return Agreed to in the 2012 for APS’s Pre-**
13 **Existing Share of the Same Generating Units.**

14 As difficult as it was for Staff and RUCO to explain why every other asset in the
15 Company’s \$5,662,998,000 Test Year Original Cost Rate Base (Decision No. 73183 at
16 Finding of Fact No. 35) was permitted to earn at least the APS WACC in Decision No.
17 73183, but the Four Corners Acquisition should not, it is harder still to understand this
18 discrepancy when one considers that the Company’s pre-existing investment in precisely
19 the same two generating units would be treated more favorably than the Four Corners
20 Acquisition. (See Rebuttal Testimony of Leland Snook, APS Exhibit 6, at 5.) What is so
21 different about the 48% of Four Corners Units 4 and 5 acquired from SCE – an acquisition
22 both Staff and RUCO agree was prudent – compared to the Company’s pre-existing share
23 of Units 4 and 5? Of course, there is no difference except that under Staff’s and RUCO’s
24 recommendations, APS would not recover the “rate base effects” of the Four Corners
25 Acquisition – a result contrary to Paragraph 10.3 of the 2012 Settlement and Decision No.
26 73183.
27
28

1 **III. THE COMPANY'S ACQUISITION OF SCE'S INTEREST IN FOUR**
2 **CORNERS WAS PRUDENT**

3 An investment is prudent when it is "reasonable and not dishonest or obviously
4 wasteful." A.A.C. R14-2-103(A)(3)(I). Investments "shall be presumed to have been
5 prudently made" absent clear and convincing to the contrary. *Id.* APS has conclusively
6 demonstrated not only here, but also in the original Four Corners docket where APS
7 requested and received the Deferral Order referenced in these proceedings, that the Four
8 Corners Acquisition was reasonable and prudent. (*See* Decision No. 73130)

9 No "clear and convincing" evidence was presented in this proceeding to rebut this
10 presumption. Indeed, the overwhelming majority of the evidence demonstrates that this
11 transaction was prudent. With the exception of the Sierra Club, whose chief concern is
12 addressed briefly below, all parties who addressed prudence agreed that the transaction was
13 undoubtedly prudent.

14 APS witnesses Jeff Guldner and James Wilde addressed prudence for the Company.
15 Mr. Guldner testified that "[p]reserving [APS's] investment in the Four Corners generating
16 station not only maintains a diverse generation portfolio . . . it also provides over \$400
17 million in customer benefits, \$225 million in economic benefit to local communities,
18 employs over 800 people, greatly supports the Navajo Nation, and reduces plant emissions
19 . . . thereby promoting a cleaner environment." (*See* Guldner, Tr. at 49:19 - 50:1; APS Ex.
20 3.) Mr. Wilde, Director of Resource Planning, likewise testified that the transaction
21 provides a benefit of over \$400 million to customers, saving customers over \$400 million as
22 compared to the next best generation option. (*See* Wilde, Tr. at 478:18-21, 479:11-14)

23 Staff witness James Letzelter testified that he "spent a great deal of time" reviewing
24 the financial implications of the acquisition. (*See* Letzelter, Tr. at 582:21-23) He concurred
25 with APS's conclusion that the Four Corners Acquisition was prudent despite reaching a
26 different conclusion than APS as to the value of the net present benefits of the deal to APS
27 customers. Mr. Letzelter's analysis concluded the acquisition provided \$315 million in net
28 present value to customers as compared to APS's \$425 million, a difference explained by

1 variations in the forecasted cost of natural gas and carbon emissions. (*See* Letzelter, Tr. at
2 582:19-583:1, Staff Exhibit 1 at 13, 16)

3 Mr. Letzelter closely reviewed APS's analytics and performed his own analysis that
4 conclusively demonstrated a 90 percent chance that the Four Corners Acquisition would
5 have a positive value to customers of between "\$97 million and \$512 million" and that
6 there was a "greater than 99 percent chance that the acquisition will have a positive net
7 present value" over the next best generation option. (*See* Letzelter, Tr. at 588:5-15, 596:19-
8 597:12, and Staff Ex. 18) Importantly, Mr. Letzelter's analysis carefully considered the
9 two key factors affecting the value of this transaction – natural gas prices and potential
10 costs of compliance with future proposed environment regulations regarding carbon
11 emissions and intensity. Even considering the potential uncertainty surrounding these two
12 variables, Mr. Letzelter concluded the transaction would "produce substantial economic
13 benefits in the future" and "was a prudent investment." (*See* Letzelter, Tr. at 590:13-15, 24-
14 25).

15 The benefits and value of the Four Corners Acquisition are, however, much broader
16 than economics—a fact recognized by Mr. Letzelter. He concluded that the transaction
17 preserved 800 jobs at the plant and mine, preserved APS's prior investment in Units 4 and
18 5, provided needed fuel diversity, provided necessary additional base-load resources given
19 the retirement of Units 1, 2, and 3, and resulted in major environmental benefits. (*See* Staff
20 Exhibit 1 at 16) In short, Letzelter concluded that "the timing of APS' acquisition was
21 prudent considering the economic benefits, resource requirements and risk." (*See* Letzelter,
22 Tr. at 588:16-23)

23 The Sierra Club was the only party that even questioned the prudence of the
24 acquisition. The testimony of Staff witness Mr. Letzelter and APS witness Mr. Wilde
25 demonstrated that the Sierra Club's criticisms are unfounded and may properly be
26 disregarded. Specifically, the Sierra Club's witness Dr. Hausman challenged APS's natural
27 gas forecast and carbon price forecast and the robustness of APS's economic analysis. Dr.
28

1 Hausman did not, however, offer an alternative calculation of the net present value of the
2 Four Corners transaction (*See* Hausman, Tr. at 269:19-21), did not propose an alternative
3 gas forecast for consideration, and did not propose an alternative carbon price. (*See*
4 Hausman, Tr. at 269:19-25, 270:1-7)

5 In stark contrast to Dr. Hausman, who performed little or no analyses, Mr. Letzelter
6 conducted an extensive review of APS's analytics and concluded they were "based on
7 sound economic and financial principles" as well as consistent with industry practice. (*See*
8 Letzelter, Tr. at 587:9-11) Mr. Letzelter's critique of APS's analysis also found APS's gas
9 prices, which were based on the NYMEX forward market curve, reasonable and
10 conservatively low (which could understate the value of the deal to customers). Mr.
11 Letzelter also found APS's carbon prices, which were based on the carbon emissions
12 trading prices in California, too low in light of future regulatory risks (which could
13 overstate the value of the deal to customers). (*See* Staff Exhibit 1 at 9-10) To address these
14 concerns, Mr. Letzelter, in his own analysis, adjusted APS's gas and carbon forecasts.
15 Even with his price adjustments, Mr. Letzelter still concluded that the acquisition was
16 prudent, had a projected net present value of \$315 million. (*See* Staff Exhibit 1 at pp. 9-13)
17 Indeed, he testified that "it is extremely unlikely that this will turn out to be a bad deal."
18 (*See* Letzelter, Tr. at 595:13-14)

19 APS has more than met its burden of establishing that the Four Corners Acquisition
20 was reasonable, prudent and calculated to benefit APS customers. Indeed, the evidence is
21 overwhelmingly in the Company's favor.

22
23 **IV. THE COMPANY'S PROPOSED APPLICATION OF THE FOUR CORNERS**
24 **RATE RIDER TO AG-1 CUSTOMERS IS FAIR AND CONSISTENT WITH**
25 **THE 2012 SETTLEMENT**

26 Paragraph 10.3 of the 2012 Settlement indicates that the Four Corners Rate Rider
27 should be assessed on "an equal percentage basis across all rate schedules." Paragraph 17.1
28 of the 2012 Settlement authorized the AG-1 Rate Rider. Page 4 of AG-1 contains a list of
exclusions from the otherwise applicable provisions of AG-1 customers' underlying rate

1 schedules (Schedules E-34, E-35 and E-32L). (See Kalbarczyk, Tr. at 359:7-60:12) Page 4
2 of AG-1 also contains a list of additional charges only applicable to AG-1 customers. (See
3 Kalbarczyk, Tr. at 359:7-60:12)

4 APS applied the equal percentage increase (2.33%) to the same rate elements of AG-
5 1 customers' underlying rate schedules as for other E-34, E-35 and E-32L customers not on
6 AG-1. APS did not apply the increase to any of the charges listed on Page 4 as exclusions
7 to the rates from the AG-1 customer's underlying rate schedule or to any of the charges
8 only applicable to AG-1. (See Kalbarczyk, Tr. at 359:7-60:12) APS's proposal properly
9 gives the intended meaning to both Paragraphs 10.3 and 17.1 of the 2012 Settlement and
10 should be adopted by the Commission.

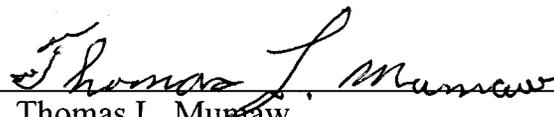
11
12 **V. CONCLUSION**

13 The Company's Application for the Four Corners Rate Rider should be granted.
14 Notwithstanding the Sierra Club's agenda-driven opposition to the Application, the only
15 significant disagreement among the parties originates either from a misapplication of
16 Decision No. 73130 or a misinterpretation of Decision No. 73183 in determining the
17 appropriate FVROR. APS has fully complied with both Decisions, and the Four Corners
18 Acquisition was and remains a good deal for APS customers, the Navajo Nation and the
19 State of Arizona.

20 The Company's proposal to apply the Four Corners Rate Rider to those services
21 directly supplied by APS to AG-1 customers and other customers similarly situated, rather
22 than assessing it on the AG-1 customer's entire bill, harmonizes two different provisions of
23 the 2012 Settlement and treats all customers eligible for AG-1 fairly.

1 RESPECTFULLY SUBMITTED this 29th day of August, 2014.

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