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BEFORE THE ARIZONA CORPORATION COMMISSION

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COMMISSIONERS

BOB STUMP - Chairman
GARY PIERCE
BRENDA BURNS
BOB BURNS
SUSAN BITTER SMITH

IN THE MATTER OF THE APPLICATION OF ARIZONA PUBLIC SERVICE COMPANY FOR APPROVAL OF AUTOMATED METER OPT-OUT SERVICE SCHEDULE 17.	DOCKET NO. E-01345A-13-0069 **PROCEDURAL ORDER**

BY THE COMMISSION:

On March 22, 2013, Arizona Public Service Company ("APS") filed with the Arizona Corporation Commission ("Commission") the above-captioned application.

Numerous public comments have been filed.

Intervention has been granted to Navopache Electric Cooperative, Inc., Mohave Electric Cooperative, Incorporated, Patricia C. Ferre, Lewis M. Levenson, Warren Woodward, Patty Ihle, Clara Marie Fritz, and the City of Sedona ("Sedona").

On April 16, 2014, Sedona filed a Motion for Procedural Order Taking Official Notice of Filings in Generic Docket E-00000C-11-0328 on Opt-Out Fees, Terms and Conditions ("Motion").

On April 25, 2014, APS filed a Response to the Motion.

On May 5, 2014, Sedona filed a Reply in Support of its Motion.

On July 24, 2014, Sedona filed a Notice of Errata and Request for Ruling on its Motion.

Motion

Sedona's Motion requests the issuance of a "Procedural Order taking official notice of the filings in Docket E-00000-11-0328 ("Generic Docket") that relate to APS' Application in this docket . . . as part of its consideration of APS' Application in this docket." The Motion further requests that the Commission consider filings made in Docket No. E-00000C-11-0328 "to the extent that they bear on the decisions the Commission makes on APS' Application."

The Motion states that in official testimony and other hearing filings, Sedona will make specific references to documents filed in Docket No. E-00000C-11-0328 pursuant to the process outlined in the Commission's Rules of Practice and Procedure set forth in the Arizona Administrative Code, specifically A.A.C. R14-3-109(T), in a timely manner to allow APS an opportunity to respond.

Sedona argues that requiring duplicate filings in this docket and in Docket No. E-00000C-11-0328 would be a "waste of time and resources." Sedona argues that granting the Motion will "foster the efficient use of time and resources of the Commission, its staff, and the parties," and will not prejudice APS.

APS's Response to the Motion

APS states in its Response that it does not object to the proper use of official notice as set forth in A.A.C. R14-3-109(T), but points out that much of the voluminous material filed in Docket No. E-00000C-11-0328 is irrelevant to APS's application in this docket, and that some relates to utilities other than APS. APS suggests that Sedona be required to identify the filings in Docket No. E-00000C-11-0328 of which it requests official notice be taken, so that APS and other parties to this docket may respond, prior to a ruling on the Motion. APS further states that it reserves the right to assert any and all applicable objections to any noticed documents and expects that if a noticed document is to be given any evidentiary weight, it will be formally admitted into the record at any hearing in this docket and be subject to cross-examination and rebuttal by APS and other parties.

Sedona's Reply in Support of its Motion

In its Reply, Sedona states that granting its Motion would not foreclose objections being raised when any particular document is offered in evidence at a hearing, and that the Motion requests official notice "only of pertinent materials filed in the Generic Docket that in fact relate to the APS Application and the Commission's decision, so that those materials are not overlooked in this docket and may be considered for whatever weight the Commission decides they deserve."

Sedona contends that APS can review the filings in Docket No. E-00000C-11-0328 and identify those which contain references to this proceeding. Sedona's Reply lists 17 docketed items filed between January 6, 2014 and March 19, 2014 which Sedona states contain references to this proceeding. However, Sedona states in its Reply that those filings are not offered at this time for

admission into the record in this docket as evidentiary materials, and further, that Sedona does not limit its request for official notice to those filings. Sedona states that "specific filings will be identified if they are to be used on an evidentiary basis and that all parties would have the opportunity to be heard on the matter."

Sedona clarifies that it is requesting official notice now in order to "permit consideration of the one-time filing of the submittals containing pertinent information without those submitting them being forced to file duplicates in the APS Docket as well," and that "[i]t is unnecessary and would be unduly burdensome to those citizens, to the parties and to the Commission and its staff, to mandate that those citizens and others in interest must re-file their submittals [in Docket No. E-00000C-11-0328] in the APS docket."

Official Notice of Public Comment

While Sedona does not use the term "public comment" in its pleadings, the Motion seeks official notice in this docket of the public comment filings made in Docket No. E-00000C-11-0328. The Commission welcomes public comments in order to aid in its determination on applications filed by utilities, and in its consideration of issues in generic dockets. However, the public comments filed in Docket No. E-00000C-11-0328 are quite voluminous, and it is incumbent upon movant Sedona to inform the Commission, in this docket, of the specific public comments filed in Docket No. E-00000C-11-0328 which Sedona believes are pertinent to the subject matter of the application in this docket and which Sedona believes the Commission should consider in this docket.

Public comments do not constitute evidence, and taking official notice of public comments does not grant them evidentiary status. If any party wishes to present evidence in a Commission proceeding, the evidence must be specifically identified and presented at an evidentiary hearing, and will be subject to cross-examination and rebuttal by all parties to the evidentiary proceeding.

IT IS THEREFORE ORDERED that official notice is taken in this docket of public comments filed in Docket No. E-00000C-11-0328 pertaining to the subject matter of the application filed in this docket on March 22, 2013, by Arizona Public Service Company. However, it is incumbent upon movant the City of Sedona to inform the Commission, in this docket, of the specific public comments filed in Docket No. E-00000C-11-0328 which the City of Sedona believes are

pertinent to the subject matter of the application in this docket and which the City of Sedona believes the Commission should consider in this docket.

IT IS FURTHER ORDERED that taking official notice of public comments filed in Docket No. E-00000C-11-0328 shall not be construed in any way as granting evidentiary status to the public comments.

IT IS FURTHER ORDERED that the Administrative Law Judge may rescind, alter, amend, or waive any portion of this Procedural Order either by subsequent Procedural Order or by ruling at hearing.

DATED this 28th day of July, 2014.

TEENA JIBILIAN
ADMINISTRATIVE LAW JUDGE

Copies of the foregoing mailed/delivered
This 28th day of July 2014, to:

Thomas L. Mumaw
Melissa M. Krueger
PINNACLE WEST CAPITAL CORPORATION
400 North 5th Street, MS 8695
Phoenix, AZ 85004
Attorneys for APS

Michael A. Curtis
William P. Sullivan
CURTIS, GOODWIN, SULLIVAN, UDALL & SCHWAB, PLC
501 East Thomas Road
Phoenix, AZ 85012-3205
Attorneys for Navopache and Mohave

Tyler Carlson, Chief Operating Officer
Peggy Gillman, Manager of Public Affairs and Energy Services
MOHAVE ELECTRIC COOPERATIVE, INCORPORATED
P.O. Box 1045
Bullhead City, AZ 86430

Charles R. Moore, Chief Executive Officer
NAVOPACHE ELECTRIC COOPERATIVE, INC.
1878 West White Mountain Blvd.
Lakeside, AZ 85929

Patricia C. Ferre
P.O. Box 433
Payson, AZ 85547

Lewis M. Levenson
1308 East Cedar Lane
Payson, AZ 85541

Warren Woodward
55 Ross Circle
Sedona, AZ 86336

Patty Ihle
304 E. Cedar Mill Road
Star Valley, AZ 85541

Clara Marie Fritz
6770 W. Hwy 89A, #80
Sedona, AZ 86336

David A. Pennartz
Landon W. Loveland
GUST ROSENFELD PLC
One East Washington, Suite 1600
Phoenix, AZ 85004
Attorneys for the City of Sedona

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

Steven M. Olea, Director
Utilities Division
ARIZONA CORPORATION COMMISSION
1200 West Washington Street
Phoenix, AZ 85007

By: _____
Tammy Velarde
Assistant to Teena Jibilian