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1 Thomas A. Loquvam  
2 Thomas L. Mumaw  
3 Melissa M. Krueger  
4 Amanda Ho  
5 Pinnacle West Capital Corporation  
6 400 North 5<sup>th</sup> Street, MS 8695  
7 Phoenix, Arizona 85004  
8 Tel: (602) 250-3630  
9 Fax: (602) 250-3393  
10 E-Mail: [Thomas.Loquvam@pinnaclewest.com](mailto:Thomas.Loquvam@pinnaclewest.com)  
11 [Thomas.Mumaw@pinnaclewest.com](mailto:Thomas.Mumaw@pinnaclewest.com)  
12 [Melissa.Krueger@pinnaclewest.com](mailto:Melissa.Krueger@pinnaclewest.com)  
13 [Amanda.Ho@pinnaclewest.com](mailto:Amanda.Ho@pinnaclewest.com)

Arizona Corporation Commission

DOCKETED

OCT 18 2016

DOCKETED BY

10 Attorneys for Arizona Public Service Company

11 **BEFORE THE ARIZONA CORPORATION COMMISSION**

12 COMMISSIONERS

13 DOUG LITTLE, Chairman  
14 BOB STUMP  
15 BOB BURNS  
16 TOM FORESE  
17 ANDY TOBIN

17 IN THE MATTER OF THE  
18 APPLICATION OF ARIZONA PUBLIC  
19 SERVICE COMPANY FOR A HEARING  
20 TO DETERMINE THE FAIR VALUE OF  
21 THE UTILITY PROPERTY OF THE  
22 COMPANY FOR RATEMAKING  
23 PURPOSES, TO FIX A JUST AND  
24 REASONABLE RATE OF RETURN  
25 THEREON, TO APPROVE RATE  
26 SCHEDULES DESIGNED TO DEVELOP  
27 SUCH RETURN.

DOCKET NO. E-01345A-16-0036

**REPLY IN SUPPORT OF MOTION  
FOR PROCEDURAL CONFERENCE  
AND INTERIM PROTECTIVE  
ORDER**

23 IN THE MATTER OF FUEL AND  
24 PURCHASED POWER PROCUREMENT  
25 AUDITS FOR ARIZONA PUBLIC  
26 SERVICE COMPANY.

DOCKET NO. E-01345A-16-0123

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1 EFCA's Response urges the unremarkable conclusion that parties should be able  
2 to use depositions. APS has never denied that fact. But EFCA's attempt to depose  
3 Barbara Lockwood before rebuttal testimony, and even before the deadline for  
4 intervention has passed, casts doubt on EFCA's motives. And EFCA's most recent set of  
5 data requests to APS—in which EFCA seeks a copy of Ms. Lockwood's calendar since  
6 May 2015<sup>1</sup>—supports the conclusion that if an early deposition is permitted, guidance  
7 on how that deposition can proceed will head off what appears to be the beginning of  
8 EFCA's tried and true strategy of strong arm litigation tactics.

9 **I. EFCA'S MEMBERS HAVE A CONCERNING PATTERN OF ABUSING**  
10 **PROCEDURE TO ACHIEVE DELAY AND EXPAND PROCEEDINGS.**

11 EFCA is no stranger to strong arm litigation tactics. EFCA, or its predecessor  
12 entity TASC, has employed these tactics in multiple jurisdictions nationwide. The  
13 Hawaiian Public Utilities Commission all but kicked TASC out of a proceeding after a  
14 pattern of egregious conduct, finding that:

15 TASC's conduct of asserting inconsistent positions and its dubious claim  
16 of an "insufficient" record are impermissible attempts to "broaden the  
17 issues" and to "unduly delay the proceeding[.]" As such, TASC has failed  
18 to respect the commission's mandate that TASC's participation "reflect a  
19 high standard of quality, relevance, and timeliness."<sup>2</sup>

20 In Kansas, TASC was denied intervention due to its disruptive conduct:

21 Additionally, the Commission finds the voluminous and contentious  
22 nature of the responsive pleadings concerning TASC's Petition strongly  
23 suggests that the orderly and prompt conduct of the proceedings would be  
24 impaired by allowing the intervention.<sup>3</sup>

25 And this year in Nevada, TASC sought a stay of the Nevada Public Utilities  
26 Commission decision modifying net metering, citing, among other items, public  
27

28 <sup>1</sup> A copy of EFCA's Fourth Set of Data Requests to APS is attached as Exhibit A.

<sup>2</sup> Decision No. 33258, *In the Matter of Instituting a Proceeding to Investigate Distributed Energy Resource Policies*, Public Utilities Commission of Hawaii Docket No. 2014-0192 at 188 (Oct. 2015) (citations omitted).

<sup>3</sup> Order Denying Petition to Intervene of the Alliance for Solar Choice, *In the Matter of the Application of Westar Energy, Inc.*, Kansas Corporation Commission Docket No. 15-WSEE-115-RTS at 3 (June 2015). The Kansas Commission subsequently granted TASC intervention, but only in the second phase of the proceeding and only with the right to cross examine witnesses in that phase. See Order on Interventions, Kansas Commission Docket No. 15-WSEE-115-RTS (July 2015).

1 confusion. The Nevada Commission admonished TASC because it had been its  
2 members SolarCity and Sunrun, and not the public, who had been making statements  
3 about customers being confused:

4 The Commission notes TASC's concerns about customer confusion based  
5 on the media coverage of these Dockets. The Commission shares those  
6 concerns because the media coverage predominantly mischaracterizes and  
7 misrepresents that final Order. Unfortunately, those mischaracterizations  
8 and misrepresentations have almost exclusively come from quotes and  
9 sourced information from SolarCity and Sunrun representatives. These  
10 rooftop solar companies appear to be confusing their own customers with  
11 this misinformation.<sup>4</sup>

12 A similar story has played out in Arizona. In each of the four rate cases in which  
13 EFCA has participated this year—UNS, TEP, Trico, and Sulphur Springs Valley  
14 Electric—EFCA was involved in some form of dispute, discovery or otherwise. In the  
15 UNS rate case, TASC filed an expedited motion to compel.<sup>5</sup> In the SSVEC rate case,  
16 EFCA resisted discovery, and after the Presiding Officer ordered EFCA to comply,  
17 sought reconsideration of that order.<sup>6</sup> In TEP's rate case, EFCA unsuccessfully sought to  
18 strike RUCO's testimony.<sup>7</sup> And in the Trico rate case, EFCA unsuccessfully sought to  
19 compel discovery, and then sought reconsideration of the order denying its request.<sup>8</sup>

20 It is entirely appropriate for parties to exercise their rights in contested  
21 proceedings. And each of the instances referenced above might appear reasonable if  
22 viewed in isolation. But doing something on occasion, when it is the last option, is a far

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23 <sup>4</sup> *In re Application of Nevada Power Co.*, Docket Nos. 15-07041 & 42, 2016 WL 284379, \*22, ¶73  
24 (Nev. P.U.C. January); *see also* Order on Reconsideration and Rehearing, Docket Nos. 15-07041 & 42 at  
25 ¶ 282 (Nev. P.U.C. Feb. 2016) (admonishing TASC, SolarCity and Sunrun for misconduct and stating  
26 that "the Commission cannot base its decisions on misperceptions that are largely the product of an  
27 active effort to mislead ratepayers through the dissemination of inaccurate information.").

28 <sup>5</sup> TASC's Expedited Motion to Compel, *In the Matter of UNS Elec.*, Docket No. E-04204A-15-0142  
(Ariz. Corp. Comm'n Mar. 8, 2016).

<sup>6</sup> EFCA's Response to SSVEC's Motion to Compel, *In the Matter of the Appl. of Sulphur Springs Valley  
Elec. Coop., Inc.*, Docket No. E-01575A-15-0312 (Ariz. Corp. Comm'n May 11, 2016) and EFCA's  
Motion to Clarify and Reconsider the Procedural Order Granting SSVEC's Motion to Compel and  
Extending Time Clock (May 19, 2016).

<sup>7</sup> EFCA's Motion to Strike Testimony of Lon Huber, *In the Matter of the Appl. of Tucson Elec. Power  
Co.*, Docket No. E-01933A-15-0322 (Ariz. Corp. Comm'n Aug. 29, 2016).

<sup>8</sup> EFCA's Motion for Expedited Consideration of Motion to Compel Response to Fourth Data Requests  
4.1, 4.2, 4.4-4.10, 4.14, and 4.15, *In the Matter of the Appl. of Trico Elec. Coop. Inc.*, Docket No. E-  
01461A-15-0363 (Ariz. Corp. Comm'n Aug. 11, 2016), and EFCA's Motion to Reconsider the Order  
Denying the Motion to Compel the Response to Fourth Data Request 4.1 (Aug. 31, 2016).

1 cry from doing it time after time, proceeding after proceeding, in a calculated and  
2 strategic manner to disrupt and delay proceedings. APS's motion is fundamentally a  
3 request that reasonable guidelines and parameters be put in place early to prevent an  
4 ever-escalating war of motions and cross-motions that are inevitable when one party  
5 begins a campaign of scorched earth litigation and the other party (or parties)  
6 increasingly find they have no choice but to respond in kind.

7 **II. ROUTINELY APPLYING THE BOILERPLATE TACTICS OF CIVIL**  
8 **LITIGATION IS INCONSISTENT WITH THE NATURE OF MODERN**  
9 **RATE CASES.**

10 APS has never denied that parties can use depositions. Indeed, depositions may  
11 be needed before this matter reaches hearing. The issue on which APS requests a  
12 procedural conference is the how, why, and when of those depositions. This is  
13 particularly true because the basis of, legal support for, and context behind EFCA's  
14 Response is civil litigation in superior court, proceedings that are dramatically different  
15 than administrative proceedings before the ACC.

16 Civil lawsuits in superior court emerge from past events that are static. Either the  
17 light was green or it wasn't; either the defendant was speeding or she wasn't.  
18 Depositions in these proceedings are designed (and even needed) to lock in a witness's  
19 recollection of events so that the witness's testimony at trial does not change. Litigants  
20 have no other reliable means to learn what a witness might say at trial other than  
21 depositions. And depositions are needed because litigants are strictly limited in how  
22 much written discovery they can conduct.

23 Rate case proceedings before the ACC lie in stark contrast. Instead of testifying at  
24 trial for the first time, rate case witnesses file extensive written testimony before the  
25 hearing. Often, parties exchange multiple rounds of written testimony responding in  
26 detail to the other parties' positions. Moreover, instead of needing to use depositions  
27 because of finite written discovery, parties in ACC proceedings can propound written  
28 discovery in quantities that far exceed the limits on written discovery in civil litigation.

1 And unlike typical civil litigation, ACC rate case proceedings fundamentally concern  
2 prospective events, and hinge on expert opinion regarding the meaning and impact of  
3 those events. By contrast, civil litigation hinges on findings of fact, such as whether a  
4 witness saw an event or a party had a particular motive. Instead of adjudicating rights  
5 between private litigants, rate cases adjudicate the public interest. Through rate cases,  
6 the Commission reaches policy conclusions about what a utility's future revenue  
7 requirement should be and how that revenue requirement should be collected from  
8 customers.

9 And this raises perhaps the greatest difference between ACC and civil litigation,  
10 and it is an inconvenient truth that EFCA ignores in its Response: in ACC rate cases,  
11 parties' substantive positions can and do change by the time rebuttal or surrebuttal  
12 testimony is filed. Whereas in civil litigation, parties allege a single set of facts  
13 throughout a proceeding, parties to ACC rate cases can change their positions in rebuttal  
14 in the pursuit of better public policy and as part of a broader effort to stimulate  
15 compromise in the settlement process. Discovery in ACC proceedings is not about  
16 committing a witness to a specific recollection of events. Instead, it is about the  
17 gathering of facts to support an argument concerning what is in the public interest. The  
18 setting of rates is fundamentally legislative in nature,<sup>9</sup> and it is not uncommon for parties  
19 to modify their positions in rebuttal testimony in response to the direct testimony of  
20 other parties.

21 This is what EFCA misses. The point is not that depositions should be precluded  
22 in this proceeding. Indeed, depositions might be needed at some point in this proceeding.  
23 But depositions of APS witnesses before rebuttal testimony are simply inconsistent with  
24 the nature of ACC proceedings. And if parties change their position in subsequent  
25 rounds of testimony, it could render early depositions of limited use or even moot. This  
26 would constitute a significant waste of resources. It would also thwart EFCA's stated  
27

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28 <sup>9</sup> *State ex rel. Corbin v. Ariz. Corp. Comm'n*, 174 Ariz. 216, 218, 848 P.2d 301, 304 (Ct. App. 1992).

1 purpose of discovering Ms. Lockwood’s “personal relationship” with her testimony. If  
2 EFCA takes Ms. Lockwood’s deposition before rebuttal, and APS changes its  
3 substantive position on key issues raised in this rate case, the “personal relationship” that  
4 EFCA discovered before rebuttal could become useless. Depositions in ACC rate cases  
5 could be permitted under appropriate circumstances. But their use should also be  
6 tailored to the nature of the proceeding in question, and not blindly used in a manner  
7 designed for the world of civil litigation.

8 **III. EFCA’S STATED CONCERNS ABOUT LATE DEPOSITIONS ARE**  
9 **EASILY MANAGED.**

10 EFCA claims that depositions in 2017 will be too late because Ms. Lockwood  
11 might take the full 30 days to read and sign the deposition transcript. This is a red  
12 herring. After the deposition, EFCA would possess, and be able to use, the transcript.  
13 Although the ability to read and sign is an important safety net, it is exceedingly rare for  
14 a witness to substantively modify even a portion of a deposition transcript. In any event,  
15 APS is willing to work with EFCA on timing, and will voluntarily reduce the 30 day  
16 read and sign time period to 14 days if timing is really EFCA’s concern.

17 EFCA also states that it needs to depose Ms. Lockwood to prepare its testimony  
18 that is due on December 21, 2016. That is the deadline for intervenors’ direct testimony  
19 regarding revenue requirement issues.<sup>10</sup> Ms. Lockwood, however, is not a revenue  
20 requirement witness. She is a policy witness who offers in her testimony a roadmap of  
21 APS’s rate case. Her testimony does not include the specific technical details regarding  
22 APS’s direct case, much less its revenue requirement proposal. EFCA’s conclusory  
23 statement that it must take her deposition to prepare its case—before propounding any  
24 written discovery needed to answer any questions not addressed by the over 1,000 data  
25 request responses available—rings hollow. That EFCA did not seek to depose any  
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27 \_\_\_\_\_  
28 <sup>10</sup> That EFCA intends to expand its participation beyond issues related to rate design only adds to the concerns described above.

1 witness in the four rate cases this year, each involving substantially the same issues  
2 raised by APS in this proceeding, further supports this conclusion.

3 In APS's opinion, the better course for facilitating an orderly discovery process  
4 would be for (i) parties to first seek what information they can through written data  
5 requests; and if depositions are still necessary (ii) conduct depositions within reasonable  
6 guidelines. Depositions can be a valid discovery tool, but in a policy-driven proceeding  
7 that already has over 25 intervenors, the unfettered use of depositions could quickly  
8 spiral out of control.

9 **IV. IF DEPOSITIONS PROCEED, REASONABLE LIMITATIONS ARE**  
10 **NEEDED.**

11 APS has a good faith reason to believe that EFCA does not seek to depose Ms.  
12 Lockwood as part of a routine effort to gather information in this proceeding. EFCA did  
13 not notice a single deposition in any of the Arizona rate cases this year, even though  
14 they involved substantially the same requests to modernize residential rate design. Nor  
15 has EFCA sought to understand APS's position through the less intrusive and less  
16 burdensome process of issuing data requests. Moreover, EFCA seeks to depose an APS  
17 representative prominently involved in APS's recently-filed complaint against  
18 Commissioner Robert Burns before the November 8 election.

19 The potential for mischief is simply too high. If EFCA is permitted to engage in  
20 early depositions, reasonable parameters are needed to minimize ongoing discovery  
21 disputes. In its response, EFCA claims to not understand what it means for discovery to  
22 be directly related to written testimony. That EFCA is unwilling to adopt even this  
23 reasonable parameter only underscores APS's belief that EFCA seeks this deposition as  
24 part of a broader strategy to engage in improper litigation tactics. EFCA's reliance on  
25 the traditional standard that discovery is limited to relevant information, or information  
26 reasonably calculated to lead to the discovery of admissible evidence proves the point.  
27 Nearly all evidence is admitted at Commission proceedings, subject to the Presiding  
28

1 Officer's discretion. Pairing this reality with the traditional discovery standard means  
2 that EFCA can inquire into virtually any topic

3 But letting EFCA inquire into virtually any topic would shatter any reasonable  
4 confines of this proceeding. Instead of a focus on revenue requirements, rate design, and  
5 the public interest, parties will be forced to focus (in discovery, in written testimony, and  
6 at the hearing) on every distracting topic EFCA can dream up in an effort to derail an  
7 ultimate decision on the merits. To prevent this, APS proposes that if depositions  
8 proceed, they should be subject to the following specific guidelines:

- 9 • Good cause for depositions to occur after rebuttal testimony;
- 10 • No depositions until after the date for intervention has passed;
- 11 • Reasonable efforts to constrain questions to a witness's written testimony;
- 12 • No inquiry into matters that are the gravamen of ongoing proceedings in superior  
13 court or other external investigations;
- 14 • One deposition per witness; and
- 15 • Depositions of individuals who submit pre-filed written testimony only.

16 Regarding the deposition of Ms. Lockwood in particular, APS requests that EFCA be  
17 limited to a four hour deposition, and that if other parties seek to depose Ms. Lockwood,  
18 the total amount of time she can be deposed by all parties be limited to eight hours.

19 **V. CONCLUSION**

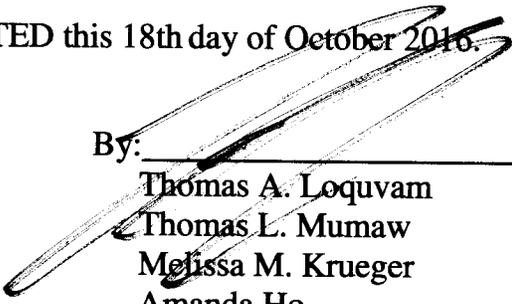
20 APS has had its rates set by the Commission since Arizona became a state, and  
21 has seen the rate case procedure evolve over time. In 1976, when pre-filed testimony  
22 was rare, the Commission's current procedural rules became effective. Unsurprisingly,  
23 A.A.C. R14-3-109(M), which concerns prepared testimony, provides only that the  
24 Commission "may order the pre-filing and service of testimony" before it is read from  
25 the stand into the record. And it is only "[i]f the presiding officer deems that substantial  
26 saving in time will result, he may direct prepared testimony be copied into the record  
27 without reading."

28

1 Since then, of course, pre-filed testimony has become the norm. Yet the  
2 procedural rules, which separately reference the use of depositions as contemplated by  
3 the Rules of Civil Procedure, have not changed to reflect reality.<sup>11</sup> APS is committed to  
4 an open, transparent, and fair rate case process in which all parties have reasonable  
5 access to the information they need. But the use and potential abuse of gaps in the  
6 Administrative Code to obtain a perceived tactical advantage only risks wasting  
7 resources and undermining the integrity of the rate case process. APS requests that a  
8 procedural conference be convened to discuss the most efficient and appropriate way to  
9 proceed with discovery in this matter.

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28

RESPECTFULLY SUBMITTED this 18th day of October 2016.

By: 

Thomas A. Loquvam  
Thomas L. Mumaw  
Melissa M. Krueger  
Amanda Ho  
Attorneys for Arizona Public Service Company

ORIGINAL and thirteen (13) copies  
of the foregoing filed this 18th day of  
October 2016, with:

Docket Control  
ARIZONA CORPORATION COMMISSION  
1200 West Washington Street  
Phoenix, Arizona 85007

<sup>11</sup> APS notes that Chairman Little recently wrote a letter to Docket No. AU-00000E-16-0270 indicating that how the Commission's procedural rules overlap with the Rules of Civil Procedure should be reviewed and possibly updated. See Proposals from Commissioners for a Revised Scope of Work at p. 12 (Oct. 12, 2016).

1 COPY of the foregoing emailed / mailed  
2 this 18th day of October 2016, to:

3 Albert Acken  
4 Ryley Carlock & Applewhite  
5 One N. Central Ave., Ste 1200  
6 Phoenix, AZ 85004-4417

Janice Alward  
Legal Division  
Arizona Corporation Commission  
1200 W. Washington  
Phoenix, AZ 85007

6 Brendon Baatz  
7 Manager  
8 ACEEE  
9 529 14th Street N.W., Suite 600  
10 Washington, DC 20045-1000

Stephen Baron  
Consultant  
J. Kennedy & Associates  
570 Colonial Park Drive, Suite 305  
Roswell, GA 30075

10 Patrick Black  
11 Attorney  
12 Fennemore Craig  
13 2394 East Camelback Road, Suite 600  
14 Phoenix, AZ 85016

Kurt Boehm  
Attorney  
BOEHM, KURTZ & LOWRY  
36 East Seventh Street, Suite 1510  
Cincinnati, OH 45202

13 Thomas Broderick  
14 Utilities Division  
15 Arizona Corporation Commission  
16 1200 W. Washington  
17 Phoenix, AZ 85007

Bradley Carroll  
Assistant General Counsel, State  
Regulatory  
Tucson Electric Power Company  
88 East Broadway Blvd.  
Mail Stop HQE910  
P.O. Box 711  
Tucson, AZ 85702

18 Steve Chriss  
19 Senior Manager, Energy Regulatory  
20 Analysis  
21 Walmart Stores  
22 2001 Southeast 10th Street  
23 Bentonville, AR 72716-5530

Jody Cohn  
Attorney  
Boehm, Kurtz & Lowry  
36 E. Seventh St., Suite 1510  
Cincinnati, OH 45202

22 C. Webb Crockett  
23 Attorney  
24 Fennemore Craig  
25 2394 East Camelback Road, Suite 600  
26 Phoenix, AZ 85016

Brittany L. DeLorenzo  
Corporate Counsel  
IO DATA CENTERS, LLC  
615 N. 48th St.  
Phoenix, AZ 85008

1 Jim Downing  
PO Box 70  
2 Salome, AZ 85648

Greg Eisert  
Director Government Affairs  
Chairman  
Sun City Homeowners Association  
10401 W. Coggins Drive  
Sun City, AZ 85351

4 Nicholas Enoch  
5 Attorney  
Lubin & Enoch, P.C.  
6 349 North Fourth Ave.  
7 Phoenix, AZ 85003

Giancarlo Estrada  
Kamper, Estrada and Simmons,  
LLP  
3030 N. Third St., Suite 770  
Phoenix, AZ 85012

8 Patricia Ferre  
9 P.O. Box 433  
10 Payson, AZ 85547

Richard Gayer  
526 W. Wilshire Dr.  
Phoenix, Arizona 85003

11 Jason D. Gellman  
12 Snell & Wilmer LLP  
13 400 E. Van Buren Street, Suite 800  
14 Phoenix, AZ 85004

Al Gervenack  
Director  
Property Owners & Residents  
Association  
13815 Camino del Sol  
Sun City West, AZ 85372

15 Meghan Grabel  
16 Attorney for AIC  
17 Osborn Maledon, P.A.  
18 2929 North Central Avenue  
19 Phoenix, AZ 85012

Tom Harris  
Chairman  
Arizona Solar Energy Industries  
Association  
2122 W. Lone Cactus Dr. Suite 2  
Phoenix, AZ 85027

20 Chris Hendrix  
21 Director of Markets & Compliance  
22 Wal-Mart Stores, Inc.  
23 2011 S.E. 10th Street  
24 Bentonville, AR 72716

Kevin Hengehold  
Energy Program Director  
Arizona Community Action  
Association  
2700 N. 3rd St., Suite 3040  
Phoenix, AZ 85004

1 Kevin Higgins  
2 Energy Strategies, LLC  
3 215 South State Street, Suite 200  
4 Salt Lake City, UT 84111

Timothy Hogan  
Attorney  
Arizona Center for Law in the  
Public Interest  
514 W. Roosevelt St.  
Phoenix, AZ 85003

5 Teena Jibilian  
6 Assistant Chief Administrative Law  
7 Judge  
8 Arizona Corporation Commission  
9 1200 W. Washington  
10 Phoenix, AZ 85007

Alan Kierman  
Director of Real Estate & Special  
Counsel  
IO Data Centers  
615 N. 48th Street  
Phoenix, AZ 85008

11 Briana Kobor  
12 Program Director  
13 Vote Solar  
14 360 22nd Street, Suite 730  
15 Oakland, CA 94612

Samuel L. Lofland  
Ryley Carlock & Applewhite  
One N. Central Ave., Ste 1200  
Phoenix, AZ 85004-4417

16 Craig Marks  
17 Attorney  
18 AURA  
19 10645 N. Tatum Blvd. Ste. 200-676  
20 Phoenix, AZ 85028

Jay Moyes  
Moyes Sellers & Hendricks Ltd.  
1850 N. Central Ave., Suite 1100  
Phoenix, AZ 85004

21 Jason Moyes  
22 Moyes Sellers & Hendricks Ltd.  
23 1850 N. Central Ave., Suite 1100  
24 Phoenix, AZ 85004

Michael Patten  
Attorney  
SNELL & WILMER L.L.P.  
One Arizona Center  
400 E. Van Buren Street, Suite  
1900  
Phoenix, AZ 85004-2202

25 Greg Patterson  
26 Attorney  
27 Munger Chadwick  
28 916 West Adams Suite 3  
Phoenix, AZ 85007

Daniel Pozefsky  
Chief Counsel  
RUCO  
1110 W. Washington, Suite 220  
Phoenix, AZ 85007

29 Steven Puck  
30 Director Government Affairs  
31 Sun City Homeowners Association  
32 10401 W. Coggins Drive  
33 Sun City, AZ 85351

Pat Quinn  
AURA  
5521 E. Cholla St.  
Scottsdale, AZ 85254

|    |                                                                                            |                                                                                                            |
|----|--------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------|
| 1  | Kaitlyn A. Redfield-Ortiz<br>Lubin & Enoch, P.C.<br>349 N. 4th Avenue<br>Phoenix, AZ 85003 | Court Rich<br>Attorney<br>Rose Law Group, pc<br>7144 East Stetson Drive, Suite 300<br>Scottsdale, AZ 85251 |
| 2  |                                                                                            |                                                                                                            |
| 3  |                                                                                            |                                                                                                            |
| 4  | Rob Robbins<br>President                                                                   | Lawrence V. Robertson, Jr.<br>Attorney At Law                                                              |
| 5  | Property Owners & Residents<br>Association                                                 | 210 Continental Road, Suite 216A<br>Green Valley, AZ 85622                                                 |
| 6  | 13815 Camino del Sol<br>Sun City West, AZ 85372                                            |                                                                                                            |
| 7  |                                                                                            |                                                                                                            |
| 8  | Jeff Schlegel<br>SWEEP                                                                     | Sheryl A. Sweeney<br>Ryley Carlock & Applewhite                                                            |
| 9  | 1167 W. Samalayuca Dr.<br>Tucson, AZ 85704                                                 | One N. Central Ave., Ste 1200<br>Phoenix, AZ 85004-4417                                                    |
| 10 |                                                                                            |                                                                                                            |
| 11 | Gregory W. Tillman<br>Senior Manager, Energy Regulatory<br>Analysis                        | Emily A. Tornabene<br>LUBIN & ENOCH, PC                                                                    |
| 12 | Wal-Mart Stores, Inc.<br>2011 S.E. 10 <sup>th</sup> Street<br>Bentonville, AR 72716        | 349 North Fourth Avenue<br>Phoenix, AZ 85003                                                               |
| 13 |                                                                                            |                                                                                                            |
| 14 |                                                                                            |                                                                                                            |
| 15 | Scott Wakefield<br>Attorney                                                                | Anthony Wanger<br>President                                                                                |
| 16 | Hienton & Curry, P.L.L.C.<br>5045 N. 12th Street, Suite 110<br>Phoenix, AZ 85014-3302      | IO Data Centers<br>615 N. 48th Street<br>Phoenix, AZ 85008                                                 |
| 17 |                                                                                            |                                                                                                            |
| 18 |                                                                                            |                                                                                                            |
| 19 | Charles Wesselhoft<br>Deputy County Attorney<br>Pima County                                | Ken Wilson<br>Western Resource Advocates                                                                   |
| 20 | 32 North Stone Ave., Suite 2100<br>Tucson, AZ 85701                                        | 2260 Baseline Road, Suite 200<br>Boulder, CO 80302                                                         |
| 21 |                                                                                            |                                                                                                            |
| 22 |                                                                                            |                                                                                                            |
| 23 | Warren Woodward<br>200 Sierra Road<br>Sedona, AZ 86336                                     | Gary Yaquinto<br>President & CEO<br>Arizona Investment Council                                             |
| 24 |                                                                                            | 2100 N. Central Avenue, Suite 210<br>Phoenix, AZ 85004                                                     |
| 25 |                                                                                            |                                                                                                            |
| 26 |                                                                                            |                                                                                                            |
| 27 |                                                                                            |                                                                                                            |
| 28 |                                                                                            |                                                                                                            |

1 Ellen Zuckerman  
2 Senior Associate  
3 4231 E. Catalina Drive  
4 Phoenix, AZ 85018

Cynthia Zwick  
2700 N. 3rd Street, Suite 3040  
Phoenix, AZ 85004

5 Thomas A. Jernigan  
6 Federal Executive Agencies - U.S.  
7 Airforce Utility Law Field Support  
8 Center  
9 139 Barnes Drive, Suite 1  
10 Tyndall Air Force Base, FL 32403

Karen S. White  
139 Barnes Drive, Suite 1  
Tyndall AFB, FL 32403

11 Chinyere Ashley Osuala  
12 David Bender  
13 Earthjustice  
14 1625 Massachusetts Ave. NW, Suite 702  
15 Washington, DC 20036

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# EXHIBIT A

ROSE  
LAW GROUP<sub>pc</sub>  
RICH ■ HURLEY ■ CARTER

**COURT S. RICH**  
7144 E. Stetson Drive, Suite 300  
Scottsdale, Arizona 85251  
Phone 480.505.3937 Fax 480.505.3925  
CRich@roselawgroup.com  
www.roselawgroup.com

October 7, 2016

**SENT BY ELECTRONIC MAIL ONLY**

Thomas Loquvam - Thomas.Loquvam@pinnaclewest.com  
Thomas Mumaw – Thomas.Mumaw@pinnaclewest.com  
Melissa Krueger – Melissa.Krueger@pinnaclewest.com  
Pinnacle West Capital Corporation Law Dept.

**RE: Energy Freedom Coalition of America's Fourth Set of Data Requests to  
Arizona Public Service Company. Dockets: E-01345A-16-0036; 16-0123**

Dear Messrs. Loquvam and Mumaw and Ms. Krueger:

Please find enclosed the Fourth Set of Data Requests from Energy Freedom Coalition of America ("EFCA") to Arizona Public Service Company ("APS") in the above-referenced matter. These requests are submitted pursuant to EFCA's intervention in this Docket(s).

These data requests are continuing, and your answers or any documents supplied in response to these data requests should be supplemented with any additional information or documents that come to your attention after you have provided your initial responses. Please respond within **ten (10)** calendar days. Should you require additional time, please contact me immediately.

Please send electronic copies of your responses, including all attachments, to: Court Rich crich@roselawgroup.com and Hopi Slaughter – hslaughter@roselawgroup.com.

Should you have any questions or comments, please feel free to contact me directly at 480-505-3937.

Sincerely,

/s/ Court S. Rich  
Court S. Rich

Attachment

cc: Stephanie Layton – Stephanie.Layton@aps.com  
Leland Snook – Leland.Snook@aps.com  
Kelly Hauert – Kelly.Hauert@aps.com  
Kerri Carnes – Kerri.Carnes@aps.com

**ENERGY FREEDOM COALITION OF AMERICA'S  
FOURTH SET OF DATA REQUESTS  
TO ARIZONA PUBLIC SERVICE COMPANY  
APS DOCKET E-01345A-16-0036; E-01345A-16-0123**

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**GENERAL INSTRUCTIONS**

1. All information is to be divulged that is in your possession, custody or control, or the possession, custody, or control of your attorneys, investigators, agents, employees, or other representatives, or which you may discover through reasonable inquiry.

2. If you cannot answer a Data Request in full and have exercised thorough diligence in an attempt to secure the information requested, then you must so state. You must also explain to the fullest extent possible the specific facts concerning your inability to answer the Data Request and supply whatever information or knowledge you have concerning any unanswered portion of the Data Request.

3. If your answer to any Data Request is "unknown," "not applicable," or any other similar phrase or answer, state the following:

- a. Why the answer to that Data Request is "unknown" or "not applicable";
- b. The efforts made to obtain answers to the particular Data Request; and
- c. The name and address of any person who may know the answer.

4. Where a Data Request requires you to state facts you believe support a particular allegation, contention, conclusion or statement, set forth with particularity:

- a. All facts relied upon;
- b. The identity of all lay and expert witnesses who will or may be called to testify with respect to those facts.

5. If you contend that the answer to any Data Request is privileged, in whole or in part, or if you object to any Data Request, in whole or in part, state the reasons for such objection and identify each person having knowledge of the factual basis, if any, on which the privilege is asserted.

6. Where an individual Data Request calls for an answer that involves more than one part, each part of the answer should be clearly set out so that it is understandable.

7. These Data Requests are intended as continuing Data Requests which require that you supplement your answers setting forth any information within the scope of the Data Requests as may be acquired by you, your agents, attorneys or other representatives following the service of your original answer.

8. Unless a specific question indicates otherwise, these Data Requests refer to the time period from January 1, 2016 through the date of the response.

**ENERGY FREEDOM COALITION OF AMERICA'S  
FOURTH SET OF DATA REQUESTS  
TO ARIZONA PUBLIC SERVICE COMPANY  
APS DOCKET E-01345A-16-0036; E-01345A-16-0123**

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**DEFINITIONS**

As used in these Data Requests the following terms have the meanings set forth below:

1. "You" or "your" refer to and are meant to include, Arizona Public Service ("APS") and all of its agents, attorneys, investigators, employees, representatives, officers, directors, managers, members, subsidiaries, and parent companies, and separate answers should be given for each.

2. "Document" refers to any physical or electronic thing containing information or from which information can be discerned including, without limitation, any affidavit, agreement, appraisal, audio tape, bank trust, book, bid, book of account, cd-rom, check, computer disk, contract, correspondence (sent or received), declaration of trust, deed, deposition, diagram, diary, drawing, e-mail, instrument, invoice, lease, ledger, memorandum, memorandum of lease, note, notes of conversation (typed or written), outline, paper pamphlet, partnership agreement, photograph, receipt, recording (whether or not transcribed), report, statement, study, text message, transcript, trust instrument, visual depiction, voicemail, voucher, and any other such physical objects and things and any data compilation(s) from which information can be obtained, translated through dictation devices into reasonably usable form when translation is practicably necessary. "Document" or "Documents" further include any and all "*original*" or "*duplicate*" "*writings*," "*recordings*" or "*photographs*" (as those italicized terms are defined in Rule 1001 of the Arizona Rules of Evidence<sup>1</sup>), whether stored electronically or in traditional paper files and including (but not limited to) all "*writings*" and "*recordings*" memorializing or constituting any communications, data, files or information stored on any computer, computer software, computer programs, computer system, or electronic media, of every kind and description, however produced or reproduced, WHETHER DRAFT OR FINAL, including (but not limited to) all communications, documentation, letters, correspondence, e-mail, Internet Web Pages, memoranda, notes, films, transcripts, contracts, agreements, licenses, memoranda or notes of telephone conversations or personal conversations, telephone messages, microfilm, telegrams, books, newspaper articles, magazines, advertisements, marketing materials, periodicals,

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<sup>1</sup> Rule 1001 provides, in pertinent part:

**"Rule 1001. Definitions. For purposes of this article the following definitions are applicable:**

- (1) **Writings and recordings.** "*Writings*" and "*recordings*" consist of letters, words, or numbers, or their equivalent, set down by handwriting, typewriting, printing, photostating, photographing, magnetic impulse, mechanical or electronic recording, or other form of data compilation."
- (2) **Photographs.** "*Photographs*" include still photographs, x-ray films, video tapes, and motion pictures.
- (3) **Original.** An "*original*" of a writing or recording is the writing or recording itself or any counterpart intended to have the same effect by a person executing or issuing it. An "*original*" of a photograph includes the negative or any print therefrom. If data are stored in a computer or similar device, any printout or other output readable by sight, shown to reflect the data accurately, is an "*original*".
- (4) **Duplicate.** A "*duplicate*" is a counterpart produced by the same impression as the original, or from the same matrix, or by means of photography, including enlargements and miniatures, or by mechanical or electronic re-recording, or by chemical reproduction, or by other equivalent technique which accurately reproduces the original."

**ENERGY FREEDOM COALITION OF AMERICA'S  
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bulletins, circulars, pamphlets, statements, notices, reports, rules, regulations, directives, teletype messages, minutes of meetings, lists of persons in attendance, interoffice communications, reports, summaries, financial statements, ledgers, books of account, proposals, prospectuses, schedules, organization charts, offers, orders, receipts, working papers, calendars, appointment books, diaries, time sheets, logs, movies, tapes for visual or audio reproduction, recordings, or materials similar to any of the foregoing, however denominated, and including writings, drawings, graphs, charts, photographs, data processing results, printouts and computations (both in existence and stored in memory components), and other compilations from which information can be obtained or translated, if necessary, through detection devices into reasonably usable form. THE TERM "DOCUMENT" INCLUDES ALL DUPLICATES OF A DOCUMENT WHICH CONTAIN ANY ADDITIONAL HANDWRITING, UNDERLINING, NOTES, DELETIONS, OR ANY OTHER MARKINGS, MARGINALIA OR NOTATIONS, OR ARE OTHERWISE NOT IDENTICAL COPIES OF THE ORIGINAL.

3. "Possession" and "custody" include the joint or several possession, custody or control of the above named or its agents, attorneys, employees, officers, directors, managers, members, subsidiaries, parent companies, and representatives.

4. "And" and "Or" and any other conjunctions or disjunctions used herein shall be read both conjunctively and disjunctively so as to require the provision of all information responsive to all or any part of each particular Data Request in which any conjunction or disjunction appears.

5. "Any," "Each" and "All" shall be read to be all inclusive.

6. "Relating to" or "Related to" means referring to, relating to, responding to, concerning, connected with, commenting on, in respect of, about, regarding, discussing, showing, demonstrating, memorializing, describing, mentioning, reflecting, analyzing, comprising, supporting, sustaining, constituting, evidencing, and pertaining to, whether in whole or in part.

7. Unless an individual data request specifies otherwise, the time period for these requests is January 1, 2016 through the date of the Response.

**ENERGY FREEDOM COALITION OF AMERICA'S  
FOURTH SET OF DATA REQUESTS  
TO ARIZONA PUBLIC SERVICE COMPANY  
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**DATA REQUESTS**

**EFCA 4.1** Please provide copies of all documents in APS's possession that witness Barbara Lockwood reviewed or relied upon in preparing her pre-filed written testimony in this docket.

This is an ongoing request to be supplemented with any additional data requests and responses.

**EFCA 4.2** Please provide a complete copy of Barbara Lockwood's calendar from May 2015 through the date of the response hereto.

**EFCA 4.3** Is Barbara Lockwood employed by both APS and Pinnacle West? If no, please indicate which company she is employed by. If yes, please provide the percent of her total compensation received from Arizona Public Service and from Pinnacle West during calendar year 2015 and, separately, to date in 2016.

This is an ongoing request to be supplemented with any additional data requests and responses.

**EFCA 4.4** Is APS seeking recovery in base rates or otherwise of any membership dues, contributions, or payments made to or on behalf of the Arizona Investment Council ("AIC") as part of its rate case application? If yes, please indicate the amount of the membership dues, contributions, or other payments being sought and where that request is identified in the rate case application on file with the Commission.

This is an ongoing request to be supplemented with any additional data requests and responses.

**EFCA 4.5** Please provide a list of the employees who are directly managed by (who report directly to) Barbara Lockwood and identify who Ms. Lockwood reports directly to at APS and/or Pinnacle West as applicable. Please include each identified individual's name and title and for the person who Ms. Lockwood reports to, please identify who that individual reports to and so on until reaching the Chief Executive Officer.

This is an ongoing request to be supplemented with any additional data requests and responses.