

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 COMMISSIONERS

3 MARC SPITZER, Chairman
4 WILLIAM A. MUNDELL
5 JEFF HATCH-MILLER
6 MIKE GLEASON
7 KRISTIN K. MAYES

8 IN THE MATTER OF THE APPLICATION OF
9 ARIZONA PUBLIC SERVICE COMPANY FOR (1)
10 APPROVAL OF THE PURCHASE OF
11 GENERATING ASSETS FROM PPL SUNDANCE
12 ENERGY, LLC AND FOR (2) AN ACCOUNTING
13 ORDER AND DETERMINATION OF
14 RATEMAKING TREATMENT.

DOCKET NO. E-01345A-04-0407

15 IN THE MATTER OF THE APPLICATION OF
16 SUNDANCE ENERGY IN CONFORMANCE
17 WITH THE REQUIREMENTS OF ARIZONA
18 REVISED STATUTES 40-360.03 AND 40.360.06,
19 FOR A CERTIFICATE OF ENVIRONMENTAL
20 COMPATIBILITY AUTHORIZING THE
21 CONSTRUCTION OF A NOMINAL 600 MW
22 NATURAL GAS-FIRED, SIMPLE CYCLE,
23 PEAKING POWER GENERATING FACILITY IN
24 PINAL COUNTY, ARIZONA SOUTHWEST OF
25 COOLIDGE, ARIZONA.

DOCKET NO. L-00000W-00-0107

PROCEDURAL ORDER

16 **BY THE COMMISSION:**

17 On June 1, 2004, Arizona Public Service Company (“APS”) and PPL Sundance Energy, LLC
18 (“PPL Sundance”) filed a joint application seeking the approval of the Arizona Corporation
19 Commission (“Commission”) for the purchase by APS of the Sundance Generating Station and
20 associated assets.

21 On August 10, 2004, the Commission’s Utilities Division (“Staff”) filed a Request for
22 Procedural Order, setting forth proposed procedural dates.

23 A Procedural Order was issued August 11, 2004, setting a procedural conference for August
24 18, 2004 for the purpose of scheduling testimony filing dates, hearing date and other procedural
25 matters. The procedural conference was held as scheduled, and appearances were entered by APS,
26 PPL Sundance, Staff, and intervenors Residential Utility Consumer Office (“RUCO”), Arizona
27 Utility Investors Association (“AUIA”), and Tucson Electric Power Company (“TEP”). At the
28

1 procedural conference, APS and PPL reiterated the joint application's request that the Commission
2 issue a final Decision thereon before the end of 2004.

3 Based on applicants' request for a final Decision by the end of 2004, it is necessary to
4 implement a procedural schedule for this proceeding that differs from that proposed in the August 10,
5 2004 Request for Procedural Order. This request also makes it necessary to require that APS and
6 PPL Sundance arrange for expedited public notice of the hearing and expedited delivery of the
7 evidentiary hearing transcripts for this proceeding.

8 IT IS THEREFORE ORDERED that a hearing shall be held on the joint application
9 commencing on **October 4, 2004, at 9:00 a.m.** or as soon thereafter as is practical, at the
10 Commission's offices, 1200 West Washington Street, Arizona 85007.

11 IT IS FURTHER ORDERED that APS and PPL Sundance shall arrange for expedited
12 delivery of transcripts of the evidentiary hearings on the joint application.

13 IT IS FURTHER ORDERED that a pre-hearing conference shall be held on **September 30,**
14 **2004, at 10:00 a.m.,** at the Commission's Phoenix offices, for the purpose of scheduling witnesses
15 and the conduct of the hearing, and the post-hearing briefing schedule.

16 IT IS FURTHER ORDERED that the Staff Report and/or any testimony and associated exhibits
17 to be presented at hearing on behalf of Staff shall be reduced to writing and filed on or before
18 **September 17, 2004.**

19 IT IS FURTHER ORDERED that any testimony and associated exhibits to be presented at
20 hearing on behalf of intervenors shall also be reduced to writing and filed on or before **September 17,**
21 **2004.**

22 IT IS FURTHER ORDERED that any rebuttal testimony and associated exhibits to be
23 presented at hearing by APS and Sundance PPL shall be reduced to writing and filed on or before
24 **noon on September 27, 2004.**

25 IT IS FURTHER ORDERED that any surrebuttal testimony and associated exhibits to be
26 presented by the Staff or intervenors shall be presented at the hearing.
27
28

1 IT IS FURTHER ORDERED that **all filings shall be made by 4:00 p.m. on the date the**
2 **filing is due, unless otherwise indicated above.**

3 IT IS FURTHER ORDERED that any objections to any testimony or exhibits which have
4 been prefiled as of September 30, 2004, shall be made before or at the September 30, 2004 pre-
5 hearing conference.

6 IT IS FURTHER ORDERED that the parties shall prepare a brief, written summary of the
7 pre-filed testimony of each of their witnesses and shall file each summary at least two working days
8 before the witness is scheduled to testify.

9 IT IS FURTHER ORDERED that copies of summaries should be served upon the Presiding
10 Officer, the Commissioners, and the Commissioners' aides as well as the parties of record.

11 IT IS FURTHER ORDERED that intervention shall be in accordance with A.A.C. R14-3-105,
12 except that all motions to intervene must be filed on or before September 7, 2004.

13 IT IS FURTHER ORDERED that discovery shall be as permitted by law and the rules and
14 regulations of the Commission, except that: any objection to discovery requests shall be made within
15 5 days¹ of receipt and responses to discovery requests shall be made within 7 days of receipt; the
16 response time may be extended by mutual agreement of the parties involved if the request requires an
17 extensive compilation effort; and no discovery requests shall be served after October 1, 2004.

18 IT IS FURTHER ORDERED that discovery requests, objections, and answers may be served
19 electronically.²

20 IT IS FURTHER ORDERED that, in the alternative to filing a written motion to compel
21 discovery, any party seeking resolution of a discovery dispute may telephonically contact the
22 Commission's Hearing Division to request a date for a procedural hearing to resolve the discovery
23 dispute; that upon such a request, a procedural hearing will be convened as soon as practicable; and
24 that the party making such a request shall forthwith contact all other parties to advise them of the
25

26 _____
27 ¹ "Days" means calendar days. The date of receipt of discovery requests is not counted as a day, and requests
received after 4:00 p.m. MST will be considered as received the next business day.

28 ² If requested by the receiving party, and the sending party has the technical capability, service electronically is
mandatory.

1 hearing date and shall at the hearing provide a statement confirming that the other parties were
2 contacted.³

3 IT IS FURTHER ORDERED that any motions which are filed in this matter and which are
4 not ruled upon by the Commission within 10 days of the filing date of the motion shall be deemed
5 denied.

6 IT IS FURTHER ORDERED that any responses to motions shall be filed within five days of
7 the filing date of the motion.

8 IT IS FURTHER ORDERED that any replies shall be filed within five days of the filing date
9 of the response.

10 IT IS FURTHER ORDERED that the Company shall provide public notice of the hearing in
11 this matter, in the following form and style with the heading in no less than 18 point bold type and the
12 body in no less than 10 point regular type:

13 **PUBLIC NOTICE OF HEARING ON THE APPLICATION FOR APPROVAL OF THE**
14 **PURCHASE OF GENERATING ASSETS FROM PPL SUNDANCE ENERGY, LLC**
15 **BY ARIZONA PUBLIC SERVICE COMPANY AND FOR AN ACCOUNTING ORDER AND**
DETERMINATION OF RATEMAKING TREATMENT
DOCKET NUMBER E-01345A-04-0407 AND L-00000W-00-0107

16 On June 1, 2004, Arizona Public Service Company, (“APS”) and PPL Sundance
17 Energy, LLC (“PPL Sundance”) filed a joint application seeking the approval of the
18 Arizona Corporation Commission for the purchase by APS of the Sundance
19 Generating Station and associated assets. The joint application also seeks clarification
20 or modification of Condition No. 16 of the CEC the Commission issued in Decision
21 No. 63863 (July 9, 2001). Copies of the joint application are available at APS’ office
22 [insert address and telephone number] and the Commission’s offices at 1200 West
23 Washington, Phoenix, Arizona, for public inspection during regular business hours.

24 The Commission will hold a hearing on this matter beginning October 4, 2004 at 9:00
25 a.m. at the Commission’s offices, 1200 West Washington, Phoenix, Arizona. Public
26 comments will be taken on the first day of the hearing. Written public comments may
27 be submitted via email (visit <http://www.cc.state.az.us/utility/cons/index.htm> for instructions),
28 or by mailing a letter referencing Docket Number E-01345A-04-0407 et al. to:
Arizona Corporation Commission, Consumer Services Section, 1200 West
Washington, Phoenix, AZ 85007.

The law provides for an open public hearing at which, under appropriate
circumstances, interested parties may intervene. Intervention shall be permitted to any
person entitled by law to intervene and having a direct and substantial interest in the

³ The parties are encouraged to attempt to settle discovery disputes through informal, good-faith negotiations before seeking Commission resolution of the controversy.

1 matter. Persons desiring to intervene must file a written motion to intervene with the
2 Commission, which motion should be sent to APS and PPL Sundance or their counsel
and to all parties of record, and which, at the minimum, shall contain the following:

- 3 1. The name, address, and telephone number of the proposed intervenor
4 and of any party upon whom service of documents is to be made if
different than the intervenor.
- 5 2. A short statement of the proposed intervenor's interest in the
6 proceeding (e.g., a customer, stockholder of APS or PPL Sundance,
etc.).
- 7 3. A statement certifying that a copy of the motion to intervene has been
8 mailed to APS and PPL Sundance or their counsel and to all parties of
record in the case.

9 The granting of motions to intervene shall be governed by A.A.C. R14-3-105, except
10 that all motions to intervene must be filed on or before September 7, 2004. For
11 information about requesting intervention, visit the Arizona Corporation
12 Commission's webpage at <http://www.cc.state.az.us/utility/forms/index.htm>. The
granting of intervention, among other things, entitles a party to present sworn evidence
13 at hearing and to cross-examine other witnesses. However, failure to intervene will
14 not preclude any customer from appearing at the hearing and making a statement on
15 the customer's own behalf.

16 The Commission does not discriminate on the basis of disability in admission to its
17 public meetings. Persons with a disability may request a reasonable accommodation
18 such as a sign language interpreter, as well as request this document in an alternative
19 format, by contacting the ADA Coordinator, Yvonne McFarlin, at
20 ymcfarlin@cc.state.az.us, voice phone number 602/542-3931. Requests should be
21 made as early as possible to allow time to arrange the accommodation.

22 IT IS FURTHER ORDERED that APS and PPL Sundance shall cause the above notice to be
23 published at least once in a newspaper of general circulation in all its service territories, with
24 publication to be completed no later than August 30, 2004.

25 IT IS FURTHER ORDERED that APS and PPL Sundance shall file certification of
26 publication as soon as practicable after publication has been completed.

27 IT IS FURTHER ORDERED that notice shall be deemed complete upon publication of same,
28 notwithstanding the failure of an individual to read or receive the notice.

IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113 - Unauthorized
Communications) applies to this proceeding as the matter is now set for public hearing.

IT IS FURTHER ORDERED that the time periods specified herein shall not be extended
pursuant to Rule 6(a) or (e) of the Rules of Civil Procedure.

IT IS FURTHER ORDERED that the Administrative Law Judge may rescind, alter, amend or

1 waive any portion of this Procedural Order by subsequent Procedural Order or by ruling at hearing.

2 Dated this _____ day of August, 2004

5 _____
TEENA WOLFE
ADMINISTRATIVE LAW JUDGE

6
7 The foregoing was mailed/delivered
this _____ day of August, 2004 to:

8 Thomas L. Mumaw
9 Karilee S. Ramaley
PINNACLE WEST CAPITAL CORP.
10 P.O. Box 53999, MS 8695
Phoenix, Arizona 85072-3999

11 Jeffrey B. Guldner
12 Kimberly A. Grouse
SNELL & WILMER
13 One Arizona Center
400 E. Van Buren Street
14 Phoenix, Arizona 85004-2202
Attorneys for Arizona Public Service Company

15 Scott S. Wakefield, Chief Counsel
16 RUCO
1110 W. Washington, Ste. 220
17 Phoenix, AZ 85007

18 Walter M. Meek
Arizona Utility Investors Association
2100 N. Central Avenue, Ste. 210
19 Phoenix, AZ 85004

20 Raymond S. Heyman
21 Laura Sixkiller
ROSHKA HEYMAN & DEWULF
22 One Arizona Center
400 East Van Buren Street, Ste. 800
23 Phoenix, AZ 85004

24 Deborah R. Scott
Tucson Electric Power Company
25 One South Church Avenue, Ste. 200
Tucson, AZ 85701

26 Christopher Kempley, Chief Counsel
27 Legal Division
ARIZONA CORPORATION COMMISSION
1200 West Washington Street
28 Phoenix, AZ 85007

1 Ernest G. Johnson, Director
Utilities Division
2 ARIZONA CORPORATION COMMISSION
1200 West Washington Street
3 Phoenix, AZ 85007

4 ARIZONA REPORTING SERVICE
2627 N. Third Street, Ste. Three
5 Phoenix, AZ 85004-1003

6
7 By: _____
Debbi Person
Secretary to Teena Wolfe
8

9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28