December 21, 2017

In Reply Refer To:
Arizona Public Service Company
Docket Nos. EL17-51-000
ER17-912-002

Pinnacle West Capital Corp.
400 North Fifth Street
Mail Station 8695
Phoenix, AZ 85004

Attn: Jennifer Spina, Esq.
Associate General Counsel

Dear Ms. Spina:

1. On September 26, 2017, you submitted an Offer of Settlement, which consisted of the Joint Stipulation and Offer of Settlement (Settlement Agreement) and an explanatory statement, between Arizona Public Service Company (APS) and Navopache Electric Cooperative, Inc. (Navopache) (together, Settling Parties) in Docket No. ER17-912-002. On October 2, 2017, Navopache filed comments supporting the Settlement Agreement. On October 16, 2017, Commission Trial Staff filed comments that do not oppose the Settlement Agreement. No other comments were filed. On November 3, 2017, the Settlement Judge certified the Settlement Agreement to the Commission as an uncontested settlement.1

2. The Settlement Agreement addresses issues related to, among other things, APS’s proposed revisions to its Open Access Transmission Tariff that reduced the Post-Employment Benefits Other than Pension expense used in calculating the charges for transmission service under APS’s formula rate.

---

1 Arizona Public Service Co., 161 FERC ¶ 63,014 (2017).
3. With respect to the standard of review, article IV of the Settlement Agreement provides that:


4. Because the Settlement Agreement provides that the standard of review for changes to the Settlement Agreement is “the most stringent standard permissible under applicable law,” we clarify the framework that would apply if the Commission were required to determine the standard of review in a later challenge to the Settlement Agreement.

5. The Mobile-Sierra “public interest” presumption applies to an agreement only if the agreement has certain characteristics that justify the presumption. In ruling on whether the characteristics necessary to justify a Mobile-Sierra presumption are present, the Commission must determine whether the agreement at issue embodies either (1) individualized rates, terms, or conditions that apply only to sophisticated parties who negotiated them freely at arm’s-length; or (2) rates, terms, or conditions that are generally applicable or that arose in circumstances that do not provide the assurance of justness and reasonableness associated with arm’s-length negotiations. Unlike the latter, the former constitute contract rates, terms or conditions that necessarily qualify for a Mobile-Sierra presumption. In New England Power Generators Association v. FERC, however, the D.C. Circuit determined that the Commission is legally authorized to impose a more rigorous application of the statutory “just and reasonable” standard of review on future changes to agreements that fall within the second category described above.

---


6. The Settlement Agreement resolves all issues in dispute in this proceeding. The Settlement Agreement appears to be fair and reasonable and in the public interest, and is hereby approved. The Commission’s approval of this Settlement Agreement does not constitute approval of, or precedent regarding, any principle or issue in this proceeding.

7. This letter order terminates Docket Nos. EL17-51-000 and ER17-912-002.

By direction of the Commission.

Kimberly D. Bose,
Secretary.