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**ANDY TOBIN**  
**COMMISSIONER**

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## **ARIZONA CORPORATION COMMISSION**

October 12, 2017

Salt River Project Agricultural  
Improvement and Power District  
101 W Operations Dr.  
Tempe, AZ 85281

Arizona Public Service Company  
400 N 5<sup>th</sup> St  
Phoenix, AZ 85004

Tucson Electric Power Company  
88 E Broadway Blvd  
Tucson, AZ 85701

Nevada Power Company  
7155 S Lindell Rd.  
Las Vegas, NV 89118

Bureau of Reclamation  
6150 W. Thunderbird Rd.  
Glendale, AZ 895306

Re: Navajo Generating Station ("NGS")

Dear Parties,

Peabody Energy Company recently announced Lazard Asset Management Company has identified several highly qualified potential investors who have expressed interest in purchasing NGS. I read these reports with great interest given the importance of NGS to Arizona's energy history and future, and the critical role NGS plays in the Navajo, Hopi, and statewide economies.

The Department of Energy's recent proposed rulemaking demonstrates that the future of NGS is a national concern impacting the resiliency of the nation's electric grid. *See* Grid Resilience Pricing Rule, Department of Energy, 18 CFR Part 35, Docket No. RM17-3-000. Power plants like NGS are critical to national security, given the need for energy sources that can withstand major fuel disruptions caused by unforeseen disasters, and continue to provide reliable energy services. The recent and devastating natural disasters in places like Houston, Florida, and Puerto Rico confirm that our nation's power system must maintain healthy and secured baseload generators to meet energy demands. Indeed, any deterioration or disruption of NGS operations in the near future presents a national security risk that must be avoided. A study presented to the Commission this year shared that NGS can be competitive until 2040.

Given the importance of the future of NGS, and the progress that appears to have been made in identifying potential buyers, it is critical that NGS remain a marketable asset through the end of the lease term. Any neglect by one lawfully in possession of property, to the prejudice of the estate or interest of another, gives rise to an action for waste under Arizona law. *Jowdy v. Guerin*, 10 Ariz. App. 205, 208 (App. 1969). Moreover, Arizona law prohibits one from interfering with business expectancies by causing a third party to not enter a business relation with another. *Campbell v. Westdahl*, 148 Ariz. 432, 438 (App. 1985).

The current owners of NGS are expected to govern themselves accordingly. I trust that the NGS facilities will be properly maintained through the expiration of the lease while Lazard Asset Management Company markets the sale to potential investors. I further anticipate that the current owners will take any and all necessary steps to prevent waste at NGS, perform required maintenance, and ensure the plant remains a marketable asset through the end of the lease.

Sincerely,



Andy Tobin  
Commissioner

Cc: The Navajo Tribe of Indians  
The United States, Department of Interior, Bureau of Reclamation  
The Governor of the State of Arizona  
The U.S. Department of Energy  
The U.S. Senate Delegation of Arizona  
The U.S. House of Representatives Delegation of Arizona  
Speaker Mesnard of the Arizona House of Representatives  
President Yarbrough of the Arizona State Senate