

# PINNACLE WEST CAPITAL CORP

## FORM 8-K (Current report filing)

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**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549**

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**FORM 8-K**

**CURRENT REPORT  
Pursuant to Section 13 or 15(d) of the  
Securities Exchange Act of 1934**

Date of Report (Date of earliest event reported): January 22, 2008

<u>Commission File Number</u>	<u>Exact Name of Registrant as Specified in Charter; State of Incorporation; Address and Telephone Number</u>	<u>IRS Employer Identification Number</u>
1-8962	Pinnacle West Capital Corporation (an Arizona corporation) 400 North Fifth Street, P.O. Box 53999 Phoenix, AZ 85072-3999 (602) 250-1000	86-0512431
1-4473	Arizona Public Service Company (an Arizona corporation) 400 North Fifth Street, P.O. Box 53999 Phoenix, AZ 85072-3999 (602) 250-1000	86-0011170

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

This combined Form 8-K is separately filed by Pinnacle West Capital Corporation and Arizona Public Service Company. Each registrant is filing on its own behalf all of the information contained in this Form 8-K that relates to such registrant and, where required, its subsidiaries. Except as stated in the preceding sentence, neither registrant is filing any information that does not relate to such registrant, and therefore makes no representation as to any such information.

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## **Item 5.02. Departure of Directors or Certain Officers; Election of Directors; Appointment of Certain Officers; Compensatory Arrangements of Certain Officers.**

### **Election of Director**

On January 23, 2008, Sue Clark-Johnson was appointed as a Pinnacle West Capital Corporation (“Pinnacle West” or the “Company”) and Arizona Public Service Company (“APS”) director, effective February 1, 2008. Ms. Clark-Johnson currently serves as the President of the Newspaper Division of Gannett Co., Inc., a position from which she will be retiring in May 2008. Under the Pinnacle West Capital Corporation 2007 Long-Term Incentive Plan (the “2007 Plan”), the Human Resources Committee of Pinnacle West’s Board of Directors approved a grant of 1,100 shares of Pinnacle West common stock to Ms. Clark-Johnson, effective February 1, 2008, consistent with Pinnacle West’s annual common stock grants to its outside directors. Ms. Clark-Johnson will serve on the Human Resources Committee, Finance, Nuclear and Operating Committee and Corporate Governance Committee of Pinnacle West’s Board of Directors.

### **Director Not Standing for Re-election**

On January 23, 2008, Jack E. Davis announced that he will not stand for re-election as a director of Pinnacle West and APS at the Annual Meeting of Shareholders to be held on May 21, 2008. As previously reported, Mr. Davis is retiring from his position as President and Chief Operating Officer of Pinnacle West and Chief Executive Officer (“CEO”) of APS effective March 1, 2008.

### **2008 Incentive Plans**

On January 23, 2008, Pinnacle West’s Board of Directors, acting on the recommendation of the Board’s Human Resources Committee (the “Committee”), approved the 2008 Pinnacle West Employee Variable Incentive Plan and the 2008 APS Employee Variable Incentive Plan (collectively, the “2008 Plans”). The 2008 Plans provide incentive award opportunities for Pinnacle West and APS employees, including the following “named executive officers” from the Company’s proxy statement relating to its May 23, 2007 Annual Meeting: William J. Post, the Company’s Chairman and CEO; and Donald E. Brandt, Pinnacle West’s Executive Vice President and Chief Financial Officer and APS’ President and Chief Financial Officer (the other named executive officers from that proxy statement have either retired or will be retiring this year and will not be participating in the 2008 Plans). As required by the Committee’s Charter, the Committee, rather than the Board, approved Mr. Post’s award opportunity.

The award opportunity for Mr. Post is based on Pinnacle West’s 2008 earnings and the award opportunity for Mr. Brandt is based on APS’ 2008 earnings, excluding, in each case, impacts from Arizona Corporation Commission rate decisions. The Committee will evaluate impacts from prior period-related adjustments on actual earnings. Once the earnings threshold is met, the achievement of the level of earnings generally determines what award, if any, the participant receives. However, the amount of the award, if any, is in the sole discretion of the

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Committee. Accordingly, the Committee may consider factors other than earnings, such as shareholder value creation, customer service, financial strength, operating performance, and safety. Subject to the foregoing, Mr. Post and Mr. Brandt each have an award opportunity of up to 150% of his base salary.

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**Item 9.01. Financial Statements and Exhibits.**

**(d) Exhibits**

<u>Exhibit No.</u>	<u>Registrant(s)</u>	<u>Description</u>
10.1	Pinnacle West APS	Form of Restricted Stock Unit Agreement under the Pinnacle West Capital Corporation 2007 Long-Term Incentive Plan
10.2	Pinnacle West APS	Form of Performance Share Agreement under the Pinnacle West Capital Corporation 2007 Long-Term Incentive Plan
10.3	Pinnacle West APS	Form of Restricted Stock Agreement under the Pinnacle West Capital Corporation 2007 Long Term Incentive Plan

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## SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, each registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

PINNACLE WEST CAPITAL CORPORATION  
(Registrant)

Dated: January 28, 2008

By: /s/ Donald E. Brandt  
Donald E. Brandt  
Executive Vice President and  
Chief Financial Officer

ARIZONA PUBLIC SERVICE COMPANY  
(Registrant)

Dated: January 28, 2008

By: /s/ Donald E. Brandt  
Donald E. Brandt  
President and Chief Financial Officer



**RESTRICTED STOCK UNIT AGREEMENT  
UNDER THE  
PINNACLE WEST CAPITAL CORPORATION  
2007 LONG-TERM INCENTIVE PLAN**

**THIS AWARD AGREEMENT** is made and entered into as of \_\_\_\_\_ (the "Date of Grant"), by and between Pinnacle West Capital Corporation (the "Company"), and \_\_\_\_\_ ("Employee").

**BACKGROUND**

- A. The Board of Directors of the Company (the "Board of Directors") has adopted, and the Company's shareholders have approved, the Pinnacle West Capital Corporation 2007 Long-Term Incentive Plan (the "Plan"), pursuant to which Restricted Stock Units may be granted to employees of the Company and its Subsidiaries and certain other individuals.
- B. The Company desires to grant to Employee Restricted Stock Units under the terms of the Plan.
- C. Pursuant to the Plan, the Company and Employee agree as follows:

**AGREEMENT**

- 1. **Grant of Award.** Pursuant to action of the Committee, which was taken on the Date of Grant, the Company grants to Employee \_\_\_\_ (\_\_\_\_) Restricted Stock Units and Dividend Equivalents based on the dividends declared on the shares of Stock to which such Restricted Stock Units relate.
- 2. **Award Subject to Plan.** This Restricted Stock Unit Award is granted under and is expressly subject to all of the terms and provisions of the Plan, which terms are incorporated herein by reference, and this Award Agreement.
- 3. **Vesting of Restricted Stock Units.** The Restricted Stock Units granted hereunder will vest and no longer be subject to the restrictions of and forfeiture under this Award Agreement on \_\_\_\_ "Vesting Dates" as follows:

[To be determined]

In addition, the Restricted Stock Units will fully vest and no longer be subject to the restrictions of and forfeiture under this Award Agreement upon

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Employee's Retirement. For purposes of this Award Agreement, "Retirement" means a termination of employment which constitutes an "Early Retirement" or a "Normal Retirement" under the Pinnacle West Capital Corporation Retirement Plan.

For avoidance of doubt, no acceleration of vesting of the Restricted Stock Units will occur on a Change of Control of the Company.

4. **Payment**.

- (a) **Time and Form of Payment**. Subject to the provisions of this Award Agreement and the Plan, when a Restricted Stock Unit vests on one of the Vesting Dates set forth in clauses (a), (b), (c) or (d) of Section 3 above, the Company shall transfer to Employee in exchange for such Restricted Stock Unit either one unrestricted, fully transferable share of Stock or a cash payment equal to the Fair Market Value of one share of Stock determined as of the Vesting Date on which such Restricted Stock Unit vests. If a Restricted Stock Unit vests prior to the applicable Vesting Date due to Employee's Retirement, the transfer or payment will be deferred until the applicable Vesting Date. If no prices are reported for a particular Vesting Date, the Fair Market Value shall be determined as of the next preceding day for which prices were reported. The transfer or payment shall be made within 90 days of the applicable Vesting Date.
- (b) **Election of Form of Payment**. Within 30 days after the Date of Grant, Employee must elect to receive payment for Employee's vested Restricted Stock Units in cash or in fully transferable shares of Stock by completing and returning to the Company the election form attached to this Agreement. In the absence of a timely election by Employee, Employee will receive payment for the vested Restricted Stock Units in fully transferable shares of Stock.
- (c) **Dividend Equivalents**. In satisfaction of the Dividend Equivalent Award made pursuant to Section 1, at the time of the Company's delivery of any cash payment or fully transferable shares of Stock to Employee pursuant to Section 4(a), the Company also will deliver to Employee a cash payment equal to the amount of dividends, if any, that Employee would have received if Employee had directly owned the Stock to which the Restricted Stock Units relate from the Date of Grant to the date of the payment, plus interest on such amount at the rate of \_\_\_ percent compounded quarterly, as determined pursuant to the Plan.

5. **Termination of Award**. Except as otherwise provided in Section 3 with respect to Employee's Retirement, in the event of the termination of Employee's active employment with the Company or any of its Subsidiaries, whether due to voluntary or involuntary termination, death, disability or otherwise, Employee's right to receive and/or vest in any additional Restricted Stock Units under the Plan, if any, will terminate. Any unvested Restricted Stock Units and the related Dividend Equivalents will be forfeited effective as of the date that Employee terminates active employment with the Company or any of its Subsidiaries.

6. **Section 409A Compliance**.

- (a) **Purpose of this Provision**. Section 409A of the Code imposes a number of requirements on "non-qualified deferred compensation" plans and arrangements. Based on regulations issued by the Internal Revenue Service, the Company has concluded that this Award of Restricted Stock Units is subject to Section 409A. As a result, unless the Plan and this Award Agreement are administered to comply with the new rules, Employee

will be required to pay an additional 20% tax (in addition to regular income taxes) on the compensation provided by this Award Agreement. In addition, under Section 409A additional interest will be payable.

- (b) **Compliance with Section 409A**. The Company intends to comply with Section 409A by assuring that all amounts to which Employee becomes entitled hereunder are payable at a specified time or pursuant to a fixed schedule within the meaning of Treas. Reg. § 1-409A-3(a)(4). As a result, no payment or transfer shall be made to Employee prior to the applicable Vesting Date. The provisions of this Section 6(b) apply to all amounts due pursuant to this Award Agreement.
  - (c) **Miscellaneous Payment Provisions**. If the Company fails to make a payment (including a transfer of Stock), either intentionally or unintentionally, within the period required by Section 4, but the payment is made within the same calendar year, it will be treated as made within the period required by Section 4 pursuant to Treas. Reg. § 1.409A-3(d). In addition, if a payment is not made due to a dispute in payments, payments can be delayed in accordance with Treas. Reg. § 1.409A-3(g).
  - (d) **Ban on Acceleration or Deferral**. Under no circumstances may the time or schedule of any payment made or benefit provided pursuant to this Award Agreement be accelerated or subject to a further deferral except as otherwise permitted or required pursuant to regulations and other guidance issued pursuant to Section 409A of the Code.
  - (e) **No Elections**. Employee does not have any right to make any election regarding the time or form of any payment due under this Award Agreement other than the election described in Section 4(b).
  - (f) **Compliant Operation and Interpretation**. The Plan and this Award Agreement shall be administered in compliance with Section 409A and each provision of the Award Agreement and the Plan shall be interpreted, to the extent possible, to comply with Section 409A.
7. **Tax Withholding**. Any and all payments made pursuant to this Award Agreement shall be subject to applicable tax withholding requirements and employment taxes. Employee must pay, or make arrangements acceptable to the Company for the payment of any and all required federal, state, and local income and payroll tax withholding. Employee may satisfy any such tax withholding obligation by paying the amount in cash or by check. In the alternative, Employee may elect to have the Company withhold shares of Stock having a Fair Market Value on the date of withholding sufficient to cover the withholding obligation. Within 30 days after the Date of Grant, Employee must elect, on the election form described in Section 4(b), to satisfy any tax withholding obligation by paying the amount in cash or by check or by having the Company withhold shares of Stock having a Fair Market Value on the date of withholding sufficient to cover the withholding obligation. In the absence of a timely election by Employee, Employee's tax withholding obligation will be satisfied through the Company's withholding shares of Stock as set forth above.
8. **Continued Employment**. Nothing in the Plan or this Award Agreement shall be interpreted to interfere with or limit in any way the right of the Company to terminate Employee's employment or services at any time. In addition, nothing in the Plan or this Award Agreement shall be interpreted to confer upon Employee the right to continue in the employ or service of the Company.

9. **Voting Rights** . Employee is not entitled to voting rights with respect to shares of Stock by virtue of this Award. If the Committee, in its discretion, issues Stock in settlement of Employee's Restricted Stock Units, Employee will have voting rights with respect to such shares of Stock.
10. **Non-Transferability** . Neither this Award nor any rights under this Award Agreement may be assigned, transferred, or in any manner encumbered except by will or the laws of descent and distribution, and any attempted assignment, transfer, mortgage, pledge or encumbrance except as herein authorized, will be void and of no effect.
11. **Definitions: Copy of Plan and Plan Prospectus** . To the extent not specifically defined in this Award Agreement, all capitalized terms used in this Award Agreement will have the same meanings ascribed to them in the Plan. Employee will receive a copy of the Plan and the related Plan Prospectus. In the event of any conflict between the terms and conditions of this Award Agreement and the Plan, the provisions of the Plan shall control.
12. **Amendment** . Except as otherwise provided in the Plan, this Award Agreement may be amended only by a written agreement executed by the Company and Employee.
13. **Choice of Law** . This Award Agreement will be governed by the laws of the State of Arizona, excluding any conflicts or choice of law rule or principle that might otherwise refer construction or interpretation of this Award Agreement to another jurisdiction.

An authorized representative of the Company has signed this Award Agreement as of the Date of Grant.

PINNACLE WEST CAPITAL CORPORATION

By: \_\_\_\_\_

Its: \_\_\_\_\_

**Pinnacle West Capital Corporation**  
**RESTRICTED STOCK UNIT AWARD**  
**ELECTION FORM**  
**INFORMATION ABOUT YOU**

**Last**

**First**

**Middle Initial**

**Employee ID#**

**1. PAYMENT ELECTION**

In accordance with the terms of the Pinnacle West Capital Corporation 2007 Long-Term Incentive Plan and pursuant to Section 4(b) of the Award Agreement, I hereby elect to receive payment for the Restricted Stock Units that vest on the dates set forth below in the following form (place an "X" in the "Cash" column or in the "Stock" column for each of the years set forth below):

Vesting Date	Cash	Stock
_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>

Note: If you elected to receive payment in the form of Stock for any vested Restricted Stock Units, complete Section 2.

**2. TAX WITHHOLDING ELECTION**

If I elected above to receive payment in the form of Stock for any vested Restricted Stock Units, I hereby elect to satisfy any tax withholding obligation associated with my receipt of Stock in exchange for my Restricted Stock Units in the following form (place an "X" in the "Cash" column or in the "Stock" column):

**Cash**  
(I will write a check on the vesting date  
for my taxes that are due)

**Stock**  
(The Company should withhold shares of my  
stock to cover my taxes)

\_\_\_\_\_  
PARTICIPANT NAME (PLEASE PRINT)

\_\_\_\_\_  
PARTICIPANT SIGNATURE

\_\_\_\_\_  
DATE

**IMPORTANT NOTE: Please complete and return this Election Form to \_\_\_\_\_ at Mail Station \_\_\_\_\_**



**PERFORMANCE SHARE AGREEMENT  
UNDER THE  
PINNACLE WEST CAPITAL CORPORATION  
2007 LONG-TERM INCENTIVE PLAN**

**THIS AWARD AGREEMENT** is made and entered into as of \_\_\_\_\_, \_\_\_\_\_ (the "Date of Grant"), by and between Pinnacle West Capital Corporation (the "Company"), and \_\_\_\_\_ ("Employee").

**BACKGROUND**

- A. The Board of Directors of the Company has adopted, and the Company's shareholders have approved, the Pinnacle West Capital Corporation 2007 Long-Term Incentive Plan (the "Plan"), pursuant to which Performance Share Awards may be granted to employees of the Company and its Subsidiaries and certain other individuals.
- B. The Company desires to grant to Employee a Performance Share Award under the terms of the Plan.
- C. Pursuant to the Plan, the Company and Employee agree as follows:

**AGREEMENT**

1. **Grant of Award.** Pursuant to action of the Committee, which was taken on the Date of Grant, the Company grants to Employee \_\_\_\_\_ ( \_\_\_\_\_ ) Performance Shares and Dividend Equivalents based on the dividends declared on the Performance Shares. The Performance Shares granted under this Section 1 are referred to in this Award Agreement as the "Base Grant."
  2. **Award Subject to Plan.** This Performance Share Award is granted under and is expressly subject to all of the terms and provisions of the Plan, which terms are incorporated herein by reference, and this Award Agreement.
  3. **Performance Period.** The Performance Period for this Award begins January 1, \_\_\_\_\_ and ends December 31, \_\_\_\_\_.
  4. **Payment.**
    - (a) **Performance Shares Payable In Stock.** As soon as practicable in the fiscal year immediately following the end of the Performance Period, but in no event later than December 31 of such fiscal year, the Company will determine the Company's Earnings Per Share Growth Rate (as defined herein) as compared to the Earnings Per Share Growth Rate of the Index set forth on Attachment A (the "Index") over the Performance Period and will deliver to Employee one (1) share of the Company's Stock for each then-outstanding Performance Share under this Award Agreement. For avoidance of doubt, no acceleration of Performance Shares or the Performance Period will occur on a Change of Control of the Company.
    - (b) **Retirement.** In the case of Employee's Retirement (as defined herein) during the Performance Period, Employee shall be deemed to have been
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employed by the Company through the end of the Performance Period and Employee will receive the Stock and Dividend Equivalents, if any, to which Employee is entitled at the time specified in this Section. For purposes of this Award Agreement, “Retirement” means a termination of employment which constitutes an “Early Retirement” or a “Normal Retirement” under the Pinnacle West Capital Corporation Retirement Plan.

- (c) **Dividend Equivalents** . In satisfaction of the Dividend Equivalent Award made pursuant to Section 1, at the time of the Company’s delivery of Stock to Employee pursuant to Subsection 4(a) above, the Company also will deliver to Employee a cash payment equal to the amount of dividends, if any, declared on the number of shares of Stock equal to the number of shares of Stock delivered to Employee from the Date of Grant to the date of the payment, plus interest on such amount at the rate of \_\_\_ percent, compounded quarterly, as determined pursuant to the Plan.

5. **Performance Criteria and Adjustments** .

**Adjustment of Base Grant** . The Base Grant will increase or decrease based upon the Company’s “Earnings Per Share Growth Rate” as compared to the Earnings Per Share Growth Rate of the Index during the Performance Period, as follows:

If the Company’s Earnings Per Share Compound Growth Rate Over The Performance Period As Compared to the Index is:	The Number of Performance Shares will be:
90 <sup>th</sup> Percentile or Greater	2 X Base Grant
75 <sup>th</sup> Percentile	1.5 X Base Grant
50 <sup>th</sup> Percentile	Base Grant
25 <sup>th</sup> Percentile	0.5 X Base Grant
Less than 25 <sup>th</sup> Percentile	None

If intermediate percentiles are achieved, the number of Performance Shares awarded will be prorated (partial shares will be rounded down to the nearest whole share when applicable) . For example, if the Company’s Earnings Per Share Growth Rate during the Performance Period places the Company’s performance in the 80th percentile, then the number of Performance Shares would be increased to 1.667 multiplied by the Base Grant. In no event will Employee be entitled to receive a number of Performance Shares greater than 2 times the Base Grant, even if the Company’s Earnings Per Share Growth Rate during the Performance Period places the Company’s performance higher than the 90th percentile. Attachment B provides a generic example of the operation of an Award granted under this Award Agreement.

6. **Earnings Per Share Growth Rate** . “Earnings Per Share Growth Rate” for the Performance Period is the compounded annual-growth rate (CAGR) of a company’s earnings per share from continuing operations, on a fully diluted basis, during the Performance Period; provided, however, that for purposes of calculating the Company’s Earnings Per Share Growth Rate, SunCor Development Company’s earnings from discontinued operations will be considered earnings from continuing operations for each fiscal year during the Performance Period. Only those companies which were in the Index at both the beginning and the ending of the Performance Period will be considered. The Earnings Per Share Growth Rate of the companies in the Index will be determined using an independent third party data system. If the Index is discontinued, the Committee shall select the most comparable index then in use for the sector comparison. In addition, if the sector comparison is no longer representative of the Company’s industry or business, the Committee shall replace the Index with the most representative index then in use.

Once the CAGR of the Company and all relevant companies in the Index have been determined, the member companies will be ranked from greatest to least CAGR. Percentiles will be calculated based on a company's relative ranking. For example, company 1 out of 26 companies is given a percentile of 96.2% ( $1.0 - 1/26$ ). Percentiles will be carried out to one (1) decimal place. If the Company is not in the Index, then its percentile will be interpolated between the companies listed in the relative ranking. These calculations will be verified by the Company's internal auditors.

7. **Termination of Award** . This Award Agreement will terminate and be of no further force or effect on the date that Employee is no longer actively employed by the Company or any of its Subsidiaries, whether due to voluntary or involuntary termination, death, retirement, disability, or otherwise, except as specifically set forth in Section 4. Employee will, however, be entitled to receive any Stock and Dividend Equivalents payable under Section 4 of this Award Agreement if Employee's employment terminates after the end of the Performance Period but before Employee's receipt of such Stock and Dividend Equivalents.
  8. **Section 409A Compliance** .
    - (a) **Purpose of this Provision** . Section 409A of the Code imposes a number of requirements on "non-qualified deferred compensation" plans and arrangements. Based on regulations issued by the Internal Revenue Service, the Company has concluded that this Performance Share Award is subject to Section 409A. As a result, unless the Plan and this Award Agreement are administered to comply with the new rules, Employee will be required to pay an additional 20% tax (in addition to regular income taxes) on the compensation provided by this Award Agreement. In addition, under Section 409A additional interest will be payable.
    - (b) **Compliance with Section 409A** . The Company intends to comply with Section 409A by assuring that all amounts to which Employee becomes entitled hereunder are payable at a specified time or pursuant to a fixed schedule within the meaning of Treas. Reg. § 1.409A-3(a)(4). As a result, any payment or transfer to Employee shall be made at the time specified in Section 4. The provisions of this Subsection 8(b) apply to all amounts due pursuant to this Award Agreement.
    - (c) **Miscellaneous Payment Provisions** . If a payment is not made due to a dispute in payments, payments can be delayed in accordance with Treas. Reg. § 1.409A-3(g).
    - (d) **Ban on Acceleration or Deferral** . Under no circumstances may the time or schedule of any payment made or benefit provided pursuant to this Award Agreement be accelerated or subject to a further deferral except as otherwise permitted or required pursuant to regulations and other guidance issued pursuant to Section 409A of the Code.
    - (e) **No Elections** . Employee does not have any right to make any election regarding the time or form of any payment due under this Award Agreement.
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- (f) **Compliant Operation and Interpretation**. The Plan and this Award Agreement shall be administered in compliance with Section 409A and each provision of the Award Agreement and the Plan shall be interpreted, to the extent possible, to comply with Section 409A.
9. **Tax Withholding**. Any and all payments made pursuant to this Award Agreement shall be subject to applicable tax withholding requirements and employment taxes. Employee must pay, or make arrangements acceptable to the Company for the payment of any and all required federal, state, and local income and payroll tax withholding. Employee may satisfy any such tax withholding obligation by paying the amount in cash or by check. In the alternative, Employee may elect to have the Company withhold shares of Stock having a Fair Market Value on the date of withholding sufficient to cover the withholding obligation. Within 30 days after the Date of Grant, Employee must elect, by providing written notice to the Company, to satisfy any tax withholding obligation by paying the amount in cash or by check or by having the Company withhold shares of Stock having a Fair Market Value on the date of withholding sufficient to cover the withholding obligation. In the absence of a timely election by Employee, Employee's tax withholding obligation will be satisfied through the Company's withholding shares of Stock as set forth above.
  10. **Continued Employment**. Nothing in the Plan or this Award Agreement shall be interpreted to interfere with or limit in any way the right of the Company to terminate Employee's employment or services at any time. In addition, nothing in the Plan or this Award Agreement shall be interpreted to confer upon Employee the right to continue in the employ or service of the Company.
  11. **Voting Rights**. Employee is not entitled to voting rights with respect to shares of Stock by virtue of this Award. Upon issuance of Stock in settlement of Employee's Performance Share Awards, Employee will have voting rights with respect to such shares of Stock.
  12. **Non-Transferability**. Neither this Award nor any rights under this Award Agreement may be assigned, transferred, or in any manner encumbered except by will or the laws of descent and distribution, and any attempted assignment, transfer, mortgage, pledge or encumbrance except as herein authorized, will be void and of no effect.
  13. **Definitions: Copy of Plan and Plan Prospectus**. To the extent not specifically defined in this Award Agreement, all capitalized terms used in this Award Agreement will have the same meanings ascribed to them in the Plan. Employee will receive a copy of the Plan and the related Plan Prospectus. In the event of any conflict between the terms and conditions of this Award Agreement and the Plan, the provisions of the Plan shall control.
  14. **Amendment**. Except as otherwise provided in the Plan, this Award Agreement may be amended only by a written agreement executed by the Company and Employee.
  15. **Choice of Law**. This Award Agreement will be governed by the laws of the State of Arizona, excluding any conflicts or choice of law rule or principle that might otherwise refer construction or interpretation of this Award Agreement to another jurisdiction.

An authorized representative of the Company has signed this Award Agreement as of the Date of Grant.

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PINNACLE WEST CAPITAL CORPORATION

By: \_\_\_\_\_

Its: \_\_\_\_\_

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## **Attachment A**

The Index will be the S&P 1500 Super Composite Electric Utility Index.

## **Attachment B**

### **Generic Example (Performance Share Award)**

#### **ASSUMPTIONS:**

- Employee is granted 500 Performance Shares, which constitutes Employee's "Base Grant."
- During the Performance Period, the Company's Earnings Per Share Growth Rate is in the 88.3 percentile compared to the Index.

#### **CALCULATION OF EMPLOYEE'S STOCK PAYMENT:**

- Based on the Company's achievement of the 88.3 Percentile during the Performance Period, to be determined as soon as practicable after the end of the fiscal year immediately following the end of the Performance Period, Employee will receive 971 shares of Stock, calculated as follows:
  - o 750 shares of Stock as a result of the Company's Earnings Per Share Growth Rate meeting at least the 75th Percentile (1.5 X Base Grant) plus
  - o 221 shares of Stock as a result of the Company's Earnings Per Share Growth Rate achieving 13.3/15 of the Percentile increase between the 75th and 90th Percentile ( $13.3/15 \times 250$ ) shares, with the 250 shares representing the Stock opportunity between the 75th and 90th Percentiles). (Note:  $13.3/15 \times 250$  shares = 221.67 shares and must be rounded down to 221 shares.)



**RESTRICTED STOCK AGREEMENT  
UNDER THE  
PINNACLE WEST CAPITAL CORPORATION  
2007 LONG-TERM INCENTIVE PLAN**

**THIS AWARD AGREEMENT** is made and entered into as of \_\_\_\_\_, \_\_\_\_\_ (the "Date of Grant"), by and between Pinnacle West Capital Corporation (the "Company"), and «Name» ("Employee").

**BACKGROUND**

- A. The Board of Directors of the Company (the "Board of Directors") has adopted, and the Company's shareholders have approved, the Pinnacle West Capital Corporation 2007 Long-Term Incentive Plan (the "Plan"), pursuant to which awards of Restricted Stock may be granted to employees of the Company and its Subsidiaries and certain other individuals.
- B. The Company desires to grant Restricted Stock to Employee under the terms of the Plan.
- C. Pursuant to the Plan, the Company and Employee agree as follows:

**AGREEMENT**

- 1. **Grant of Award.** Pursuant to action of the Committee, which was taken on the Date of Grant, the Company grants to Employee «Number» shares of Restricted Stock (the "Restricted Shares") and Dividend Equivalents based on the dividends declared on the Restricted Shares.
- 2. **Award Subject to Plan.** This Restricted Stock Award is granted under and is expressly subject to all of the terms and provisions of the Plan, which terms are incorporated herein by reference, and this Award Agreement.
- 3. **Restrictions on Restricted Shares.** Employee agrees to not sell, transfer, pledge, exchange, hypothecate, grant any security interest in, or otherwise dispose of, any Restricted Shares before the date on which the restrictions lapse under Section 4, or enter into any agreement or make any commitment to do so. Any attempted sale, transfer, pledge, exchange, hypothecation or disposition of the Restricted Shares shall be null and void, and the Company shall not recognize or give effect to such transaction on its books and records (including the books and records of the Company's transfer agent) or recognize the person or persons to whom such sale, transfer, pledge, exchange, hypothecation or disposition has been made as the legal or beneficial owner of the Restricted Shares.
- 4. **Lapse of Restrictions.** Subject to the other conditions in this Agreement, the restrictions on the Restricted Shares described in Section 3 will lapse and the Restricted Shares will vest and no longer be subject to forfeiture under this Award Agreement on \_\_\_\_\_ "Vesting Dates" as follows:

[To be determined]

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For avoidance of doubt, no acceleration of vesting of the Restricted Shares will occur on a Change of Control of the Company or upon Employee's Retirement. For purposes of this Award Agreement, "Retirement" means a termination of employment which constitutes an "Early Retirement" or a "Normal Retirement" under the Pinnacle West Capital Corporation Retirement Plan.

5. **Acknowledgements and Representation of Employee**. By accepting the Restricted Shares, Employee hereby acknowledges the following:
- (a) **Further Limitations on Disposition**. Employee understands and acknowledges that Employee may not make any sale, assignment, transfer or other disposition (including transfer by gift or operation of law) of all or any portion of the Restricted Shares except in accordance with this Award Agreement.
  - (b) **Section 83(b) Election**. Employee understands that Section 83 of the Code taxes as ordinary income the difference between the amount paid for the Restricted Shares and the Fair Market Value of the Restricted Shares as of the date any restrictions on the Restricted Shares lapse. In this context, "restriction" means the restrictions set forth in Section 3 hereof. Employee understands that Employee may elect to be taxed at the time the Restricted Shares are granted rather than when and as the restrictions on the Restricted Shares lapse and the Restricted Shares vest by filing an election under Section 83(b) of the Code with the Internal Revenue Service within 30 days from the Date of Grant. Employee understands that failure to make this filing timely shall result in the recognition of ordinary income by Employee on the Fair Market Value of the Restricted Shares at the time such restrictions lapse and the Restricted Shares vest.
- EMPLOYEE ACKNOWLEDGES THAT IT IS EMPLOYEE'S SOLE RESPONSIBILITY, AND NOT THE COMPANY'S, TO TIMELY FILE THE ELECTION UNDER SECTION 83(b) OF THE CODE, EVEN IF EMPLOYEE REQUESTS THAT THE COMPANY OR ITS REPRESENTATIVES MAKE THIS FILING ON EMPLOYEE'S BEHALF.***
6. **Transfer and Payment**.
- (a) **Time and Form of Payment**. As permitted by the Plan, the Company will not deliver to Employee any certificates or other evidence of ownership with respect to the Restricted Shares. Subject to the provisions of this Award Agreement and the Plan, when the restrictions on a Restricted Share lapse on the Vesting Date described in Section 4 above, the Company shall transfer to Employee in exchange for such Restricted Share one unrestricted, fully transferable share of Stock. The transfer shall be made within 60 days of the applicable Vesting Date.
  - (b) **Dividend Equivalents**. In satisfaction of the Dividend Equivalent Award made pursuant to Section 1, at the time of the Company's delivery of fully transferable shares of Stock to Employee pursuant to Section 6(a), the Company also will deliver to Employee a cash payment equal to the amount of dividends, if any, declared on the number of shares of Stock equal to the number of fully transferable shares of Stock delivered to Employee from the Date of Grant to the date of the payment, plus interest on such amount at the rate of \_\_\_ percent compounded quarterly, as determined pursuant to the Plan.
7. **Termination of Award**. In the event of the termination of Employee's active employment with the Company or any of its Subsidiaries, whether due to voluntary or involuntary termination, death, disability or otherwise, Employee's right to receive
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and/or vest in any additional Restricted Shares under the Plan, if any, will terminate. Any unvested Restricted Shares and the related Dividend Equivalents will be forfeited effective as of the date that Employee terminates active employment with the Company or any of its Subsidiaries.

8. **Section 409A Compliance .**

- (a) **Purpose of this Provision .** Section 409A of the Code imposes a number of requirements on “non-qualified deferred compensation” plans and arrangements. Based on regulations issued by the Internal Revenue Service, the Company has concluded that the award of Restricted Shares under this Award Agreement is not subject to Section 409A. In addition, the Dividend Equivalent Award is exempt from the requirements of Section 409A pursuant to the short-term deferral exception.
- (b) **Short-Term Deferral Exception to Section 409A .** The Company intends that the Dividend Equivalents payable pursuant to Section 6(b) will comply with the short-term deferral exception to the requirements of Section 409A of the Code, as described in Treas. Reg. § 1.409A-1(b)(4). In order to meet the requirements of the short-term deferral exception, despite any other provision of this Award Agreement to the contrary, the Dividend Equivalent payments due pursuant to this Award Agreement shall be paid at the time stated in Section 6(b). Payment of Dividend Equivalents under this Award Agreement may be delayed only in accordance with regulations issued pursuant to Section 409A.
- (c) **Ban on Acceleration or Deferral .** Under no circumstances may the time or schedule of any Dividend Equivalent payment provided under Section 6(b) of this Award Agreement be accelerated or subject to a further deferral except as otherwise permitted or required pursuant to regulations and other guidance issued pursuant to Section 409A of the Code.
- (d) **No Elections .** Employee does not have any right to make any election regarding the time or form of any Dividend Equivalent payment due under this Award Agreement.
- (e) **Compliant Operation and Interpretation .** The Plan and this Award Agreement shall be administered in compliance with Section 409A and each provision of the Award Agreement and the Plan shall be interpreted, to the extent possible, to comply with Section 409A or an exception thereto.

9. **Tax Withholding .** Any and all transfers of Stock and payments of Dividend Equivalents made pursuant to this Award Agreement shall be subject to applicable tax withholding requirements and employment taxes. Employee’s tax withholding obligation with respect to Dividend Equivalents will be satisfied through the Company’s withholding from the Dividend Equivalent payment. Employee must pay, or make arrangements acceptable to the Company for the payment of, any and all required federal, state, and local income and payroll tax withholding attributable to any and all transfers of Stock. Employee may satisfy any such tax withholding obligation attributable to any and all transfers of Stock by paying the amount in cash or by check or by directing the Company to withhold shares of Stock having a Fair Market Value on the date of withholding sufficient to cover the withholding obligation attributable to any and all transfers of Stock. Within 30 days after the Date of Grant, Employee must elect, by providing written notice to the Company, to satisfy any tax
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withholding obligation attributable to any and all transfers of Stock by paying the amount in cash, by check, or by having the Company withhold shares of Stock having a Fair Market Value on the date of withholding sufficient to cover the withholding obligation. In the absence of a timely election by Employee, Employee's tax withholding obligation with respect to transferred Stock will be satisfied through the Company's withholding shares of Stock as set forth above.

10. **Continued Employment** . Nothing in the Plan or this Award Agreement shall be interpreted to interfere with or limit in any way the right of the Company to terminate Employee's employment or services at any time. In addition, nothing in the Plan or this Award Agreement shall be interpreted to confer upon Employee the right to continue in the employ or service of the Company.
11. **Voting Rights** . Employee is [not] entitled to voting rights with respect to the Restricted Shares by virtue of this Award.
12. **Non-Transferability** . Neither this Award nor any rights under this Award Agreement may be assigned, transferred, or in any manner encumbered except by will or the laws of descent and distribution, and any attempted assignment, transfer, mortgage, pledge or encumbrance, except as herein authorized, will be void and of no effect.
13. **Definitions: Copy of Plan and Plan Prospectus** . To the extent not specifically defined in this Award Agreement, all capitalized terms used in this Award Agreement will have the same meanings ascribed to them in the Plan. Employee will receive a copy of the Plan and the related Plan Prospectus. In the event of any conflict between the terms and conditions of this Award Agreement and the Plan, the provisions of the Plan shall control.
14. **Amendment** . Except as otherwise provided in the Plan, this Award Agreement may be amended only by a written agreement executed by the Company and Employee.
15. **Choice of Law** . This Award Agreement will be governed by the laws of the State of Arizona, excluding any conflicts or choice of law rule or principle that might otherwise refer construction or interpretation of this Award Agreement to another jurisdiction.

An authorized representative of the Company has signed this Award Agreement as of the Date of Grant.

PINNACLE WEST CAPITAL CORPORATION

By: \_\_\_\_\_

Its: \_\_\_\_\_