

# PINNACLE WEST CAPITAL CORP

## FORM 8-K (Current report filing)

Filed 03/26/01 for the Period Ending 03/21/01

Address	400 NORTH FIFTH STREET MS8695 PHOENIX, AZ 85004
Telephone	602 250 1000
CIK	0000764622
Symbol	PNW
SIC Code	4911 - Electric Services
Industry	Electric Utilities
Sector	Utilities
Fiscal Year	12/31

# PINNACLE WEST CAPITAL CORP

## FORM 8-K (Unscheduled Material Events)

Filed 3/26/2001 For Period Ending 3/21/2001

Address	400 NORTH FIFTH STREET . PHOENIX, Arizona 85004
Telephone	602-379-2500
CIK	0000764622
Industry	Electric Utilities
Sector	Utilities
Fiscal Year	12/31

# SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

## 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): March 21, 2001

## PINNACLE WEST CAPITAL CORPORATION

(Exact name of registrant as specified in its charter)

Arizona  
(State or other jurisdiction  
of incorporation)

1-8962  
(Commission  
File Number)

86-0512431  
(IRS Employer  
Identification Number)

400 North Fifth Street, P.O. Box 53999, Phoenix, Arizona 85072-3999  
(Address of principal executive offices) (Zip Code)

(602) 250-1000  
(Registrant's telephone number, including area code)

NONE  
(Former name or former address, if changed since last report)

**ITEM 7. FINANCIAL STATEMENT, PRO FORMA FINANCIAL INFORMATION AND EXHIBITS**

(c) Exhibits.

The Registrant hereby files the following Exhibits to its Registration Statement on Form S-3 (No. 333-52476) which was declared effective on January 11, 2001.

Exhibit No. -----	Description -----
1.1	Underwriting Agreement and related Terms Agreement, each dated March 21, 2001, in connection with the offering of \$300,000,000 of 6.40% Senior Notes due 2006.
4.1	First Supplemental Indenture dated as of March 15, 2001, relating to the issuance of \$300,000,000 of 6.40% Senior Notes due 2006.
4.2	Specimen of Note of 6.40% Senior Notes due 2006.

## **SIGNATURES**

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

**PINNACLE WEST CAPITAL CORPORATION**  
(Registrant)

Dated: March 26, 2001 By: Barbara M. Gomez Barbara M. Gomez Treasurer

**Exhibit 1.1**

**PINNACLE WEST CAPITAL CORPORATION**

**SECURITIES**

**UNDERWRITING AGREEMENT**

March 21, 2001

Salomon Smith Barney Inc.  
Banc of America Securities LLC

BNY Capital Markets, Inc.  
Credit Suisse First Boston Corporation  
As Representatives of the Several Underwriters c/o Salomon Smith Barney Inc.  
388 Greenwich Street, 34th Floor  
New York, New York 10013

Dear Sir or Madam:

1. INTRODUCTION. Pinnacle West Capital Corporation, an Arizona corporation (the "Company"), proposes to issue and sell from time to time up to \$500,000,000 in aggregate principal amount of its unsecured debentures, notes or other evidences of indebtedness (the "Securities") registered under the registration statement referred to in Section 2(a). The Securities will be issued under the Indenture, dated as of December 1, 2000, between the Company and The Bank of New York, as Trustee, (the "Indenture"), as amended and supplemented by one or more Supplemental Indentures between the Company and the Trustee (each, a "Supplemental Indenture") (the Indenture as amended and supplemented by such Supplemental Indentures being sometimes hereinafter referred to as the "Indenture"). The Securities will be issued in one or more series, which series may vary as to interest rates, maturities, redemption provisions, selling prices, and other terms, with all such terms for any particular issue of the Securities being determined at the time of sale. Particular issues of the Securities may be sold from time to time to one or more of the firms to whom this Agreement is addressed, and to such other purchasers as the Company shall designate and as shall agree in writing to comply with the terms and conditions of this Agreement, for resale in accordance with the terms of offering determined at the time of sale. The Securities involved in any such offering are hereinafter referred to as the "Purchased Securities," the party or parties that agree to purchase the same are hereinafter referred to as the "Underwriters" of such Purchased Securities, and the representative or representatives of the Underwriters, if any, specified in a Terms Agreement referred to in Section 3 are hereinafter referred to as the "Representatives."

2. REPRESENTATIONS AND WARRANTIES OF THE COMPANY. In connection with each offering of the Purchased Securities, the Company represents and warrants to, and agrees with, the Underwriters that:

(a) A registration statement (No. 333-52476) relating to \$500,000,000 of the Securities was filed with the Securities and Exchange Commission (the "Commission") and has become effective. Such registration statement, as amended at the time of the Terms Agreement referred to in Section 3 relating to the Purchased Securities, together with any related 462(b) registration statement or amendment thereto, is hereinafter referred to collectively as the "Registration Statement" and such prospectus, as supplemented as contemplated by Section 3 to reflect the terms of the Purchased Securities and terms of offering thereof, including all material incorporated by reference therein, is hereinafter referred to as the "Prospectus."

(b) Each part of the Registration Statement relating to the Securities, when such part became effective, conformed in all material respects to the requirements of the Securities Act of 1933 (the "Act"), the Trust Indenture Act of 1939 (the "Trust Indenture Act") and the rules and regulations (the "Rules and Regulations") of the Commission and did not include any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein not misleading, and on the date of each Prospectus Supplement referred to in Section 3, the Registration Statement and the Prospectus will conform in all material respects to the requirements of the Act, the Trust Indenture Act and the Rules and Regulations, and at such date none of such documents will include any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein not misleading; provided, however, that the foregoing does not apply to (a) statements in or omissions from any such documents based upon written information furnished to the Company by any Underwriter specifically for use therein or (b) that part of the Registration Statement that consists of the Statement of Eligibility and Qualification (Form T-1) under the Trust Indenture Act of 1939 of The Bank of New York, as Trustee under the Indenture.

(c) No approval or consent of a public body or authority is necessary for the execution and delivery of the Supplemental Indenture relating to the Purchased Securities or the validity of the issuance and sale of the Purchased Securities, except as may be required under state securities or blue sky laws.

3. PURCHASE AND OFFERING. The obligation of the Underwriters to purchase, and the obligation of the Company to sell, the Purchased Securities will be evidenced by an exchange of facsimile transmission or other written communications (the "Terms Agreement") at the time the Company determines to sell the Purchased Securities. The Terms Agreement shall specify (by incorporation by reference or otherwise) the party or parties that will be Underwriters, the principal amount to be purchased by each, the purchase price to be paid by the Underwriters, any compensation or commissions to be paid to Underwriters, the offering price, and the terms of the Purchased Securities not already specified in the Indenture, including, but not limited to, interest rates, maturity, redemption provisions, and sinking fund requirements, if any. The Terms

Agreement shall also specify (by incorporation by reference or otherwise) the time and date of delivery and payment (the "Closing Date"), the place of delivery and payment, and any details of the terms of offering that should be reflected in the prospectus supplement relating to the offering of the Purchased Securities (the "Prospectus Supplement"). It is understood that the Underwriters will offer the Purchased Securities for sale as set forth in the Prospectus. The obligations of the Underwriters to purchase the Purchased Securities shall be several and not joint. Except as may otherwise be set forth in the Terms Agreement, the Purchased Securities will be in definitive form and in such denominations and registered in such names as the Underwriters may request.

4. COVENANTS OF THE COMPANY. In connection with each offering of Purchased Securities, the Company covenants and agrees with the several Underwriters that:

(a) The Company will advise the Underwriters or the Representatives promptly of any proposed amendment or supplementation of the Registration Statement, or the Prospectus. The Company will also advise the Underwriters or the Representatives of the institution by the Commission of any stop order proceedings in respect of the Registration Statement or of any part thereof, and will use its best efforts to prevent the issuance of any such stop order and to obtain as soon as possible its lifting, if issued.

(b) If, at any time when a prospectus relating to the Purchased Securities is required to be delivered under the Act, any event occurs as a result of which the Prospectus as then amended or supplemented would include an untrue statement of a material fact, or omit to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading, or if it is necessary at any time to amend or supplement the Registration Statement or the Prospectus to comply with the Act, the Company promptly will prepare and file with the Commission an amendment or supplement that will correct such statement or omission or an amendment that will effect such compliance.

(c) As soon as practicable, but not later than 18 months, after the date of the Terms Agreement relating to the Purchased Securities, the Company will make generally available to its security holders an earning statement or statements (which need not be audited) covering a period of at least 12 months beginning after the effective date of the Registration Statement (as defined in Rule 158(c) under the Act), which will satisfy the provisions of Section 11(a) of the Act and the rules and regulations thereunder.

(d) The Company will furnish to the Underwriters or the Representatives such copies of the Registration Statement (including one copy of the Registration Statement for each Representative, or for each Underwriter if there are no Representatives, and for the counsel for the Underwriters, which is signed and includes all exhibits), any related preliminary prospectus supplements and the Prospectus, including all amendments or supplements to such documents, as may be reasonably requested.

(e) The Company will arrange or cooperate in arrangements for the qualification of the Purchased Securities for sale and the determination of their eligibility for investment



under the laws of such jurisdictions as the Underwriters or the Representatives designate and will continue such qualifications in effect so long as required for the distribution of the Purchased Securities, provided that the Company shall not be required to qualify as a foreign corporation in any State, to consent to service of process in any State other than with respect to claims arising out of the offering or sale of the Purchased Securities, or to meet other requirements deemed by it to be unduly burdensome.

(f) During the period of five years after the date of the Terms Agreement relating to the Purchased Securities, the Company will furnish to the Underwriters or the Representatives thereunder, and, upon request, each of the other Underwriters, (i) as soon as practicable after the end of each fiscal year, a balance sheet and statements of income and retained earnings of the Company as at the end of and for such year, all in reasonable detail and certified by independent public accountants, and (ii) (A) as soon as practicable after the end of each quarterly fiscal period (except for the last quarterly fiscal period of each fiscal year), a balance sheet and statement of income of the Company as at the end of and for such period, all in reasonable detail and certified by a principal financial or accounting officer of the Company, (B) as soon as available, a copy of each report of the Company filed with the Commission, and (C) from time to time, such other information concerning the Company as may reasonably be requested. So long as the Company has active subsidiaries, such financial statements will be on a consolidated basis to the extent the accounts of the Company and its subsidiaries are consolidated.

(g) The Company will pay all expenses incident to the performance of its obligations under this Agreement, and will reimburse the Underwriters for any reasonable expenses (including reasonable fees and disbursements of counsel) incurred by them in connection with the qualification of the Purchased Securities with respect to which the Terms Agreement relating to the Purchased Securities has been entered for sale, and the determination of their eligibility for investment, under the laws of such jurisdictions as the Representatives or, if there are no Representatives, the Underwriters designate, and the printing of memoranda relating thereto, and for any fees charged by investment rating agencies for the rating of the Purchased Securities.

(h) The Company will not offer or sell any other of its Securities for a period beginning at the time of execution of the Terms Agreement relating to the Purchased Securities and ending on the Closing Date relating thereto without prior consent of the Underwriter or the Representatives.

5. CONDITIONS OF THE OBLIGATIONS OF THE UNDERWRITERS. The obligations of the Underwriters to purchase and pay for the Purchased Securities will be subject to the accuracy of the representations and warranties on the part of the Company herein, to the accuracy of the statements of Company officers made pursuant to the provisions hereof, to the performance by the Company of its obligations hereunder, and to the following additional conditions precedent:

(a) The Underwriters or the Representatives shall have received a letter from DELOITTE & TOUCHE LLP, dated the date of the Terms Agreement, confirming that they

are independent certified public accountants within the meaning of the Act and the applicable published Rules and Regulations thereunder, and stating in effect that (i) in their opinion the financial statements and schedules of the Company audited by them and incorporated by reference in the Registration Statement comply as to form in all material respects with the applicable accounting requirements of the Securities Exchange Act of 1934 (the "1934 Act") and the published Rules and Regulations thereunder and

(ii) on the basis of a reading of the latest available interim financial statements of the Company, inquiries of officials of the Company responsible for financial and accounting matters, and other specified procedures, nothing came to their attention that caused them to believe that (A) the unaudited financial statements incorporated by reference, if any, in the Registration Statement do not comply as to form in all material respects with the applicable accounting requirements of the 1934 Act and the published Rules and Regulations thereunder or are not stated on a basis substantially consistent with that of the audited financial statements incorporated by reference in the Registration Statement, (B) at the date of the most recent available unaudited financial statements and at a specified date not more than five days prior to the date of this Agreement, there was any increase in the amounts of common stock, redeemable preferred stock, or non-redeemable preferred stock of the Company or any increase, exceeding \$10,000,000, in long-term debt of the Company or, at the date of the most recent available unaudited financial statements there was any decrease in net assets as compared with amounts shown in the most recent financial statements incorporated by reference in the Registration Statement, or (C) for the twelve-month period ended at the date of the most recent available unaudited financial statements there were any decreases, exceeding 3%, as compared with the twelve-month period ended at the date of the most recent financial statements incorporated by reference in the Registration Statement, in the amounts of total revenues or net income, except in all cases for increases or decreases which result from the declaration or payment of dividends, or which the Registration Statement (including any material incorporated by reference therein) disclose have occurred or may occur, or which are described in such letter.

(b) No stop order suspending the effectiveness of the Registration Statement or any part thereof shall have been issued and no proceedings for that purpose shall have been instituted or, to the knowledge of the Company or the Underwriters, shall be contemplated by the Commission.

(c) Subsequent to the execution of the Terms Agreement relating to the Purchased Securities, (i) there shall not have occurred any change, or any development involving a prospective change, in or affecting particularly the business or properties of the Company or its subsidiaries which, in the judgment of a majority in interest of the Underwriters under such Terms Agreement, including any Representatives, materially impairs the investment quality of the Purchased Securities, (ii) there shall not have occurred a suspension or material limitation in trading in securities generally on the New York Stock Exchange, (iii) there shall not have occurred a general moratorium on commercial banking activities in New York declared by either Federal or New York State authorities, (iv) no rating of any of the Company's debt securities shall have been lowered and there shall have been no public announcement that any such debt securities have been placed on

CreditWatch, Watchlist, or under any similar surveillance or review, in each case with negative implications, by any recognized rating agency, and

(v) there shall not have occurred any outbreak or escalation of major hostilities in which the United States is involved, any declaration of war by Congress or any other substantial national or international calamity or emergency if, in the judgment of a majority in interest of the Underwriters under such Terms Agreement, including any Representatives, the effect of any such outbreak, escalation, declaration, calamity or emergency makes it impractical or inadvisable to proceed with completion of the sale of and payment for the Purchased Securities.

(d) The Underwriters or the Representatives shall have received an opinion of Snell & Wilmer L.L.P., counsel for the Company, dated the relevant Closing Date, to the effect that:

(i) The Company is a corporation duly organized, validly existing, and in good standing under the laws of the State of Arizona and has full corporate power and authority to carry on its business as presently conducted;

(ii) The Purchased Securities have been duly authorized, executed, authenticated, issued, and delivered, constitute valid and legally binding obligations of the Company entitled to the benefits provided by the Indenture (except as the same may be limited by (a) general principles of equity or by bankruptcy, insolvency, reorganization, arrangement, moratorium, or other laws or equitable principles relating to or affecting the enforcement of creditors' rights generally and (b) the qualification that certain waivers, procedures, remedies, and other provisions of the Purchased Securities and the Indenture may be unenforceable under or limited by the law of the State of Arizona; however, such law does not in such counsel's opinion substantially prevent the practical realization of the benefits intended by such documents) and conform to the description thereof in the Prospectus;

(iii) The Indenture has been duly authorized, executed, and delivered, has been duly qualified under the Trust Indenture Act, and constitutes a valid and binding instrument enforceable in accordance with its terms except as the same may be limited by (a) general principles of equity or by bankruptcy, insolvency, reorganization, arrangement, moratorium, or other laws or equitable principles relating to or affecting the enforcement of creditors' rights generally and (b) the qualification that certain waivers, procedures, remedies, and other provisions of the Purchased Securities and the Indenture may be unenforceable under or limited by the law of the State of Arizona; however, such law does not in such counsel's opinion substantially prevent the practical realization of the benefits intended by such documents;

(iv) No approval, authorization, or consent of any public board or body is necessary to the validity of the issuance and sale of the Purchased Securities on the terms and conditions set forth or contemplated herein and in the Prospectus and Terms Agreement relating to the Purchased Securities or the execution and delivery of the Supplemental Indenture relating to the Purchased Securities, except as may be required under state securities or blue sky laws, as to which laws such counsel shall not be required to express an opinion;

(v) The Registration Statement has become effective under the Act, and, to the best of the knowledge of such counsel, no stop order suspending the effectiveness of the Registration Statement has been issued and no proceedings for that purpose have been instituted or are pending or contemplated under the Act, and each part of the Registration Statement relating to the Securities, when such part became effective, and the Prospectus, as of the date of the Prospectus Supplement, and each amendment or supplement thereto, as of their respective effective or issue dates, complied as to form in all material respects with the requirements of the Act, the Trust Indenture Act, and the published Rules and Regulations; such counsel has no reason to believe that any part of the Registration Statement, when such part became effective, or the Prospectus, as of the date of the Prospectus Supplement, or as of the Closing Date, or any amendment or supplement thereto, as of their respective effective or issue dates, or as of the Closing Date, contained any untrue statement of a material fact or omitted to state any material fact required to be stated therein or necessary to make the statements therein not misleading; the descriptions in the Registration Statement and Prospectus of statutes, legal and governmental proceedings and contracts, and other documents are accurate and fairly present the information required to be shown; and to the actual knowledge of those persons in the lawyer group described in such opinion, there are no legal or governmental proceedings required to be described in the Prospectus that are not described as required, nor any contracts or documents of a character required to be described in the Registration Statement or Prospectus or to be filed as exhibits to the Registration Statement that are not described and filed as required (it being understood that such counsel need express no opinion as to the financial statements or other financial data contained in the Registration Statement or the Prospectus); and

(vi) This Agreement and the Terms Agreement have been duly authorized, executed, and delivered by the Company.

In giving such opinion, (a) Snell & Wilmer L.L.P. may rely solely upon certificates of the Company as to any factual matters upon which any such opinions are based and may

rely on the opinion of Underwriters' counsel as to all matters governed by the law of the State of New York; and (b) the lawyer group referred to in such opinion will mean those lawyers in the offices of Snell & Wilmer L.L.P. who (i) have billed any time on the particular transaction to which such opinion relates or (ii) have billed more than ten hours to any Company matter in the twelve-month period preceding the date on which the list of such lawyers was compiled for purposes of inquiry pursuant to such opinion.

(e) The Underwriters or the Representatives shall have received from counsel for the Underwriters such opinion or opinions, dated the Closing Date, with respect to the incorporation of the Company, the validity of the Purchased Securities, the Registration Statement, the Prospectus, and other related matters as may reasonably be required, and the Company shall have furnished to such counsel such documents as they request for the purpose of enabling them to pass upon such matters. In rendering such opinion, such counsel may rely as to the incorporation of the Company and all other matters governed by the laws of the State of Arizona upon the opinion of Snell & Wilmer L.L.P.

(f) The Underwriters or the Representatives shall have received a certificate of the President or any Vice President and a principal financial or accounting officer of the Company, dated the Closing Date, in which such officers, to the best of their knowledge after reasonable investigation, shall state that the representations and warranties of the Company in this Agreement are true and correct, that the Company has complied with all agreements and satisfied all conditions on its part to be performed or satisfied at or prior to the Closing Date, that no stop order suspending the effectiveness of the Registration Statement has been issued and no proceedings for that purpose have been instituted or are contemplated by the Commission, and that, subsequent to the date of the most recent financial statements in the Prospectus, there has been no material adverse change in the financial position or results of operations of the Company and its subsidiaries except as set forth or contemplated in the Prospectus or as described in such certificate.

(g) The Underwriters or the Representatives shall have received a letter of DELOITTE & TOUCHE LLP, dated the Closing Date, which meets the requirements of subsection (a) of this Section, except that the specified date referred to in such subsection will be a date not more than five days prior to the Closing Date for the purposes of this subsection.

(h) The Company will furnish the Underwriters or the Representatives with such conformed copies of such opinions, certificates, letters, and documents as may be reasonably requested.

## 6. INDEMNIFICATION.

(a) The Company will indemnify and hold harmless each Underwriter and each person, if any, who controls such Underwriter within the meaning of the Act against any losses, claims, damages or liabilities, joint or several, to which such Underwriter or such

controlling person may become subject, under the Act or otherwise, insofar as such losses, claims, damages, or liabilities (or actions in respect thereof) arise out of or are based upon any untrue statement or alleged untrue statement of any material fact contained in any part of the Registration Statement relating to the Securities, when such part became effective, any preliminary prospectus or preliminary prospectus supplement, the Prospectus, or any amendment or supplement thereto, or arise out of or are based upon the omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading; and will reimburse each Underwriter and each such controlling person for any legal or other expenses reasonably incurred by such Underwriter or such controlling person in connection with investigating or defending any such loss, claim, damage, liability, or action; provided, however, that the Company will not be liable in any such case to the extent that any such loss, claim, damage, or liability arises out of or is based upon an untrue statement or alleged untrue statement or omission or alleged omission made in any of such documents in reliance upon and in conformity with written information furnished to the Company by any Underwriter specifically for use therein. This indemnity agreement will be in addition to any liability which the Company may otherwise have.

(b) Each Underwriter will severally indemnify and hold harmless the Company, each of its directors, each of its officers who have signed the Registration Statement, and each person, if any, who controls the Company within the meaning of the Act, against any losses, claims, damages, or liabilities to which the Company or any such director, officer, or controlling person may become subject, under the Act or otherwise, insofar as such losses, claims, damages, or liabilities (or actions in respect thereof) arise out of or are based upon any untrue statement or alleged untrue statement of any material fact contained in any part of the Registration Statement relating to the Securities, when such part became effective, any preliminary prospectus or preliminary prospectus supplement, the Prospectus, or any amendment or supplement thereto, or arise out of or are based upon the omission or the alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading, in each case to the extent, but only to the extent, that such untrue statement or alleged untrue statement or omission or alleged omission was made in reliance upon and in conformity with written information furnished to the Company by such Underwriter specifically for use therein; and will reimburse any legal or other expenses reasonably incurred by the Company or any such director, officer, or controlling person in connection with investigating or defending any such loss, claim, damage, liability, or action. This indemnity agreement will be in addition to any liability which such Underwriter may otherwise have.

(c) Promptly after receipt by an indemnified party under this Section of notice of the commencement of any action, such indemnified party will, if a claim in respect thereof is to be made against the indemnifying party under this Section, notify the indemnifying party of the commencement thereof; but the omission so to notify the indemnifying party will not relieve it from any liability that it may have to any indemnified party otherwise than under this Section. In case any such action is brought against any indemnified party, and it notifies the indemnifying party of the commencement thereof, the

indemnifying party will be entitled to participate therein and, to the extent that it may wish, jointly with any other indemnifying party similarly notified, to assume the defense thereof, with counsel satisfactory to such indemnified party (who shall not, without the consent of the indemnified party, be counsel to the indemnifying party), and after notice from the indemnifying party to such indemnified party of its election so to assume the defense thereof, the indemnifying party will not be liable to such indemnified party under this Section for any legal or other expenses subsequently incurred by such indemnified party in connection with the defense thereof other than reasonable costs of investigation. An indemnifying party shall not be liable for any settlement of a claim or action effected without its written consent, which shall not be unreasonably withheld.

(d) If the indemnification provided for in this Section is unavailable or insufficient to hold harmless an indemnified party for any loss, claim, damage, liability, or action described in subsection (a) or (b) above, then each indemnifying party shall contribute to the amount paid or payable by such indemnified party as a result of the losses, claims, damages or liabilities referred to in subsection (a) or (b) above on the following basis: (1) if such loss, claim, damage, liability, or action arises under subsection (a) above, then (i) in such proportion as is appropriate to reflect the relative benefits received by the Company on the one hand and the Underwriters on the other from the offering of the Securities or (ii) if the allocation provided by clause (i) above is not permitted by applicable law, in such proportion as is appropriate to reflect not only the relative benefits referred to in clause (i) above but also the relative fault of the Company on the one hand and the Underwriters on the other in connection with the statements or omissions which resulted in such losses, claims, damages or liabilities as well as any other relevant equitable considerations; and (2) if such loss, claim, damage, liability, or action arises under subsection (b) above, then in such proportion as is appropriate to reflect the relative fault of the Company on the one hand and the Underwriter on the other in connection with the statements or omissions which resulted in such losses, claims, damages or liabilities as well as any other relevant equitable considerations. For the purposes of clause (1) above, the relative benefits received by the Company on the one hand and the Underwriters on the other shall be deemed to be in the same proportion as the total net proceeds from the offering (before deducting expenses) received by the Company bear to the total underwriting discounts and commissions received by the Underwriters. For the purposes of clauses (1) and (2) above, the relative fault shall be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or the omission or alleged omission to state a material fact relates to information supplied by the Company or the Underwriters and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such untrue statement or omission. The amount paid by an indemnified party as a result of the losses, claims, damages or liabilities referred to in the first sentence of this subsection (d) shall be deemed to include any legal or other expenses reasonably incurred by such indemnified party in connection with investigating or defending any action or claim which is the subject of this subsection (d). No person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Act) shall be entitled to contribution from any person who was not guilty of such fraudulent

misrepresentation. The Underwriters' obligations in this subsection (d) to contribute are several in proportion to their respective underwriting obligations and not joint.

7. **DEFAULT OF UNDERWRITERS.** If any Underwriter or Underwriters default in their obligations to purchase Purchased Securities pursuant to this Agreement and the Terms Agreement and the principal amount of Purchased Securities that such defaulting Underwriter or Underwriters agreed but failed to purchase is ten percent (10%) or less of the principal amount of Purchased Securities to which such Terms Agreement relates, the Underwriters or the Representatives may make arrangements satisfactory to the Company for the purchase of such Purchased Securities by other persons, including any of the Underwriters, but if no such arrangements are made by the Closing Date the nondefaulting Underwriters shall be obligated severally, in proportion to their respective commitments hereunder and under such Terms Agreement, to purchase the Purchased Securities that such defaulting Underwriter or Underwriters agreed but failed to purchase. If any Underwriter or Underwriters so default and the aggregate principal amount of Purchased Securities with respect to which such default or defaults occur is more than the above-described amount and arrangements satisfactory to the remaining Underwriters and the Company for the purchase of such Purchased Securities by other persons are not made within thirty-six hours after such default, the Terms Agreement will terminate without liability on the part of any non-defaulting Underwriter or the Company, except as provided in Section 8. As used in this Agreement, the term "Underwriter" includes any person substituted for an Underwriter under this Section. Nothing herein will relieve a defaulting Underwriter from liability for its default.

8. **SURVIVAL OF CERTAIN REPRESENTATIONS AND OBLIGATIONS.** The respective indemnities, agreements, representations, warranties, and other statements of the Company or its officers and of the Underwriters set forth in or made pursuant to this Agreement will remain in full force and effect regardless of any investigation, or statement as to the results thereof, made by or on behalf of the Underwriters or the Company or any of its officers or directors or any controlling person, and will survive delivery of and payment for the Purchased Securities. If any Terms Agreement is terminated pursuant to Section 7, or if for any reason a purchase pursuant to any Terms Agreement is not consummated, the Company shall remain responsible for the expenses to be paid or reimbursed by it pursuant to Section 4 and the respective obligations of the Company and the Underwriters pursuant to Section 6 shall remain in effect.

9. **NOTICES.** All communications hereunder relating to any offering of Purchased Securities will be in writing, and, if sent to the Underwriters, may be mailed, delivered, or telecopied and confirmed to the Representative first named in the Terms Agreement relating to such Purchased Securities or the Underwriters at their addresses furnished to the Company in writing for the purpose of communications; provided, however, that any notice to an Underwriter pursuant to Section 6 will be mailed, delivered, or telecopied and confirmed to each such Underwriter at its own address. All communications hereunder to the Company shall be mailed to the Company, Attention: Treasurer, at P.O. Box 53999, Phoenix, Arizona 85072-3999, or delivered, or telecopied and confirmed to the Company at 400 North Fifth Street, Phoenix, Arizona 85004.



10. **SUCCESSORS.** This Agreement will inure to the benefit of and be binding upon the parties hereto and the Underwriter or Underwriters as are named in any Terms Agreement and their respective successors and the officers and directors and controlling persons referred to in Section 6, and no other person will have any right or obligation hereunder.

11. **REPRESENTATION OF UNDERWRITERS.** The Representatives, if any, may act for the Underwriters in connection with any offering to which a Terms Agreement may relate, and any action under this Agreement or such Terms Agreement taken by the Representatives jointly or the Representative first named in such Terms Agreement in such capacity will be binding upon the Underwriters of Purchased Securities to which such Terms Agreement relates.

12. **EXECUTION IN COUNTERPART.** This Agreement and any Terms Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, but all such respective counterparts shall together constitute a single instrument.

If the foregoing is in accordance with your understanding of our agreement, kindly sign and return to us the enclosed duplicate hereof, whereupon it will become a binding agreement between the Company and the Underwriters in accordance with its terms.

Very truly yours,

**PINNACLE WEST CAPITAL CORPORATION**

By: Barbara M. Gomez

Name: Barbara M. Gomez Title: Treasurer

The foregoing Underwriting Agreement  
is hereby confirmed and accepted as  
of the date first above written.

Salomon Smith Barney Inc.  
Banc of America Securities LLC  
BNY Capital Markets, Inc.  
Credit Suisse First Boston Corporation

By: Yukari Saegusa

(Salomon Smith Barney Inc.)

## TERMS AGREEMENT

March 21, 2001

Pinnacle West Capital Corporation  
400 North Fifth Street  
Phoenix, Arizona 85004

Attention: Treasurer

Dear Sir:

Pinnacle West Capital Corporation (the "Company") hereby agrees to sell to the several Underwriters (the "Underwriters") listed in the Company's Prospectus Supplement (the "Prospectus Supplement") of even date herewith relating to \$300,000,000 in aggregate principal amount of its 6.40% Senior Notes due 2006 (the "Purchased Securities"), and the Underwriters hereby agree to purchase, severally and not jointly, at a purchase price of 99.209% of the principal amount thereof plus any accrued interest from the date of original issuance, the respective principal amounts of Purchased Securities set forth opposite the names of the Underwriters in the Prospectus Supplement. The sale of the Purchased Securities by the Company and the purchase thereof by the Underwriters shall be made on the basis of the representations, warranties, and agreements contained in the Underwriting Agreement (the "Underwriting Agreement"), dated March 21, 2001, relating to the issuance and sale of up to \$500,000,000 of the Company's Securities under the Company's Indenture, and shall be subject to the terms and conditions set forth in such Underwriting Agreement. The provisions of the Underwriting Agreement are incorporated herein by reference. As contemplated by Section 3 of the Underwriting Agreement, certain terms of the Purchased Securities are described in the Prospectus Supplement.

The Underwriters propose to offer the Purchased Securities to the public in the manner and upon the terms set out in the Prospectus Supplement.

On March 27, 2001 the Company will deliver the Purchased Securities to the Underwriters in book-entry form through the facilities of the Depository Trust Company at the office of the Company, 400 North Fifth Street, Phoenix, Arizona 85004, against payment of the purchase price by transfer of funds by Fed Wire from the Underwriters to the Company's account at a bank in Phoenix, Arizona designated by the Company. Such purchase price will be deemed to have been received by the Company upon the Company's receipt of the Fed Wire reference number relating to such transfer of funds. Closing shall occur at the office of the Company, 400 North Fifth Street, Phoenix, Arizona, at 8:00 a.m. Phoenix time, on March 27, 2001, or at such other time and date as the Underwriters and the Company may agree upon in writing, such time and date being referred to as the "Closing Date." All of the Purchased Securities referred to in

**TERMS AGREEMENT**

Page 2

this paragraph shall be in global form and registered in the name of Cede & Co. and deposited with the Depository Trust Company, as depository.

If the foregoing is acceptable to you, please sign below and transmit evidence of such signing to Salomon Smith Barney Inc. at your earliest convenience. At that point, the agreement signified hereby will constitute the Terms Agreement, as described in the Underwriting Agreement, with respect to the \$300,000,000 of Purchased Securities referred to herein.

All capitalized terms herein, not otherwise defined herein, are used as defined in the Underwriting Agreement. This agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, but all such respective counterparts shall together constitute a single instrument.

Very truly yours,

**SALOMON SMITH BARNEY INC.  
BANC OF AMERICA SECURITIES LLC  
BNY CAPITAL MARKETS, INC.  
CREDIT SUISSE FIRST BOSTON CORPORATION**  
(As Representatives of the Several  
Underwriters)

By: Yukari Saegusa  
(Salomon Smith Barney Inc.)

Confirmed and accepted as  
of the date first above written.

**PINNACLE WEST CAPITAL CORPORATION**

**By Barbara M. Gomez**  
Name: Barbara M. Gomez

Title: Treasurer

**Exhibit 4.1**

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**PINNACLE WEST CAPITAL CORPORATION**

**TO**

**THE BANK OF NEW YORK**

**TRUSTEE**

**First Supplemental Indenture**

**Dated as of March 15, 2001**

To

**Indenture**

**Dated as of December 1, 2000**

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**6.40% Senior Notes due 2006**

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FIRST SUPPLEMENTAL INDENTURE, dated as of March 15, 2001, between Pinnacle West Capital Corporation, a corporation duly organized and existing under the laws of the State of Arizona (herein called the "Company"), having its principal office at 400 North Fifth Street, Phoenix, Arizona 85004, and The Bank of New York, a New York banking corporation, as Trustee (herein called the "Trustee") under the Indenture dated as of December 1, 2000 between the Company and the Trustee (the "Indenture").

## **RECITALS OF THE COMPANY**

The Company has executed and delivered the Indenture to the Trustee to provide for the issuance from time to time of its unsecured debentures, notes or other evidences of indebtedness (the "Securities"), said Securities to be issued in one or more series as in the Indenture provided.

Pursuant to the terms of the Indenture, the Company desires to provide for the establishment of a new series of its Securities to be known as its 6.40% Senior Notes due 2006 (herein called the "Notes due 2006"), the form and substance of such Notes due 2006 and the terms, provisions, and conditions thereof to be set forth as provided in the Indenture and this First Supplemental Indenture.

All things necessary to make this First Supplemental Indenture a valid agreement of the Company, and to make the Notes due 2006, when executed by the Company and authenticated and delivered by the Trustee, the valid obligations of the Company, have been done.

## **NOW, THEREFORE, THIS FIRST SUPPLEMENTAL INDENTURE WITNESSETH:**

For and in consideration of the premises and the purchase of the Notes due 2006 by the holders thereof (the "Holders"), and for the purpose of setting forth, as provided in the Indenture, the form and substance of the Notes due 2006 and the terms, provisions, and conditions thereof, it is mutually agreed, for the equal and proportionate benefit of all Holders of the Notes due 2006, as follows:

## **ARTICLE ONE**

### **GENERAL TERMS AND CONDITIONS OF THE NOTES DUE 2006**

SECTION 101. There shall be and is hereby authorized a series of Securities designated the "6.40% Senior Notes due 2006" limited in aggregate principal amount to \$300,000,000, except as mentioned below, which amount shall be as set forth in any Company Order for the authentication and delivery of Notes due 2006. The Notes due 2006 shall mature and the principal shall be due and payable together with all accrued and unpaid interest thereon on April 1, 2006, and shall be issued in the form of registered Notes due 2006 without coupons. The Company may, without the consent of the Holders, issue additional Notes due 2006 having the same ranking and the same interest rate, maturity and other additional terms as the Notes due 2006. Any such additional notes would, together with the previously issued Notes due 2006, constitute a single series of Securities under the

Indenture. Any reference herein to the limitation in aggregate principal amount of the Notes due 2006 shall take account of any such issuance and the limitation (originally \$300,000,000) shall be adjusted accordingly.

SECTION 102. The Notes due 2006 shall be issued in certificated form, except that the Notes due 2006 shall be issued initially as a Global Security to and registered in the name of Cede & Co., as nominee of The Depository Trust Company, as Depository therefor. Any Notes due 2006 to be issued or transferred to, or to be held by, Cede & Co. (or any successor thereof) for such purpose shall bear the depository legend in substantially the form set forth at the top of the form of Note due 2006 in Article Two hereof (in lieu of that set forth in Section 204 of the Indenture), unless otherwise agreed by the Company, such agreement to be confirmed in writing to the Trustee. Such Global Security may be exchanged in whole or in part for Notes due 2006 registered, and any transfer of such Global Security in whole or in part may be registered, in the name or names of Persons other than such Depository or a nominee thereof only under the circumstances set forth in Clause (2) of the last paragraph of Section 305 of the Indenture, or such other circumstances in addition to or in lieu of those set forth in Clause (2) of the last paragraph of Section 305 of the Indenture as to which the Company shall agree, such agreement to be confirmed in writing to the Trustee. Principal of, and premium, if any, and interest on the Notes due 2006 will be payable, the transfer of Notes due 2006 will be registrable and Notes due 2006 will be exchangeable for Notes due 2006 bearing identical terms and provisions, at the office or agency of the Company in the Borough of Manhattan, The City and State of New York; PROVIDED, HOWEVER, that payment of interest may be made at the option of the Company by check mailed to the registered holder at such address as shall appear in the Security Register.

SECTION 103. Each Note due 2006 will bear interest at the rate of 6.40% from March 27, 2001 or from the most recent Interest Payment Date (as hereinafter defined) to which interest has been paid or duly provided for until the principal thereof is paid or made available for payment, payable on April 1 and October 1 of each year (each, an "Interest Payment Date"), commencing on October 1, 2001, to the person in whose name such Note due 2006 or any Predecessor Security is registered, at the close of business on the March 15 or September 15, as the case may be, whether or not a Business Day, immediately preceding the Interest Payment Date. Any such interest installment not punctually paid or duly provided for shall forthwith cease to be payable to the registered holders on such regular record date, and may be paid to the person in whose name the Note due 2006 (or one or more Predecessor Securities) is registered at the close of business on a special record date to be fixed by the Trustee for the payment of such defaulted interest, notice whereof shall be given to the registered holders of the Notes due 2006 not less than ten days prior to such special record date, or may be paid at any time in any other lawful manner not inconsistent with the requirements of any securities exchange on which the Notes due 2006 may be listed, and upon such notice as may be required by such exchange, all as more fully provided in the Indenture.

The amount of interest payable for any period will be computed on the basis of a 360-day year of twelve 30-day months. Interest will accrue from March 27, 2001 to, but not including, the relevant payment date. In the event that any date on which interest is payable on the Notes due 2006 is not a Business Day, then payment of interest payable on such date will be made on the next

succeeding day which is a Business Day (and without any interest or other payment in respect of any such delay), in each case with the same force and effect as if made on such date. A "Business Day" shall mean any day, except a Saturday, a Sunday or a legal holiday in The City of New York on which banking institutions are authorized or required by law, regulation or executive order to close. SECTION 104. The Company may redeem the Notes due 2006 at any time, in whole or in part, upon notice as provided in the Indenture, at a redemption price equal to the greater of (1) the principal amount being redeemed or (2) the sum of the present values of the remaining scheduled payments of principal and interest on the Notes due 2006 being redeemed, discounted to the redemption date on a semi-annual basis (assuming a 360-day year consisting of twelve 30-day months) at the Treasury Yield plus 30 basis points, plus in each case accrued interest to the redemption date.

"Treasury Yield" means, for any redemption date, the rate per annum equal to the semi-annual equivalent yield to maturity of the Comparable Treasury Issue, assuming a price for the Comparable Treasury Issue (expressed as a percentage of its principal amount) equal to the Comparable Treasury Price of the redemption date.

"Comparable Treasury Issue" means the United States Treasury security selected by an Independent Investment Banker as having a maturity comparable to the remaining term of the Notes due 2006 that would be utilized, at the time of selection and in accordance with customary financial practice, in pricing new issues of corporate debt securities of comparable maturity to the remaining term of the Notes due 2006.

"Independent Investment Banker" means Salomon Smith Barney Inc. or its successor or, if Salomon Smith Barney Inc. or its successor is unwilling or unable to select the Comparable Treasury Issue, one of the remaining Reference Treasury Dealers appointed by the Trustee after consultation with the Company.

"Comparable Treasury Price" means, for any redemption date, (1) the average of the bid and asked prices for the Comparable Treasury Issue (expressed in each case as a percentage of its principal amount) on the third business day preceding the redemption date, as set forth in the daily statistical release (or any successor release) published by the Federal Reserve Bank of New York and designated "Composite 3:30 p.m. Quotations for U.S. Government Securities" or (2) if that release (or any successor release) is not published or does not contain those prices on that business day, (A) the average of the Reference Treasury Dealer Quotations for the redemption date, after excluding the highest and lowest Reference Treasury Dealer Quotations for the redemption date, or (B) if the Company obtains fewer than four Reference Treasury Dealer Quotations, the average of all of the Quotations.

"Reference Treasury Dealer Quotations" means, for each Reference Treasury Dealer and any redemption date, the average, as determined by the Trustee, of the bid and asked prices for the Comparable Treasury Issue (expressed in each case as a percentage of its principal amount) quoted in writing to the Trustee by the Reference Treasury Dealer at 5:00 p.m. on the third business day preceding the redemption date.



"Reference Treasury Dealer" means (1) each of Salomon Smith Barney Inc. and any other primary U.S. Government Securities dealer in New York City (a "Primary Treasury Dealer") designated by, and not affiliated with, Salomon Smith Barney Inc. and their respective successors, provided, however, that if Salomon Smith Barney Inc. or any of its designees ceases to be a Primary Treasury Dealer, we will appoint another Primary Treasury Dealer as a substitute and (2) any other Primary Treasury Dealer selected by the Company.

If the Company elects to redeem less than all the Notes due 2006 and the Notes due 2006 are at the time represented by a Global Security, then the Depository will select by lot the particular interest to be redeemed. If the Company elects to redeem less than all of the Notes due 2006, and the Notes due 2006 are not represented by a Global Security, then the Trustee will select the particular Notes due 2006 to be redeemed in a manner it deems appropriate and fair.

The Trustee shall be under no duty to inquire into, may conclusively presume the correctness of, and shall be fully protected in acting upon the Company's calculation of any Redemption Price.

The Company shall give the Trustee written notice of the Redemption Price, promptly after the calculation thereof.

Notwithstanding Section 1104 of the Indenture, any notice of redemption given pursuant to said Section with respect to the foregoing redemption need not set forth the Redemption Price but only the manner of calculation thereof.

SECTION 105. The Notes due 2006 shall be defeasible pursuant to Section 1302 or 1303 of the Indenture.

## **ARTICLE TWO**

### **FORM OF NOTES DUE 2006**

SECTION 201. The Notes due 2006 and the Trustee's certificate of authentication to be endorsed thereon are to be substantially in the following forms:

**Form of Face of Security:**

UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY, A NEW YORK CORPORATION ("DTC"), TO PINNACLE WEST CAPITAL CORPORATION OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE, OR PAYMENT, AND ANY CERTIFICATE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR IN SUCH OTHER NAME AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC (AND ANY PAYMENT IS MADE TO CEDE & CO. OR TO SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC), ANY TRANSFER, PLEDGE, OR OTHER USE

**HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN.**

**PINNACLE WEST CAPITAL CORPORATION**

**6.40% Senior Note due 2006**

No. \_\_\_\_\_ \$300,000,000  
**CUSIP No. 723484AB7**

Pinnacle West Capital Corporation, a corporation duly organized and existing under the laws of Arizona (herein called the "Company", which term includes any successor Person under the Indenture hereinafter referred to), for value received, hereby promises to pay to Cede & Co., or registered assigns, the principal sum of Three Hundred Million Dollars on April 1, 2006, and to pay interest thereon from March 27, 2001 or from the most recent Interest Payment Date to which interest has been paid or duly provided for, semi-annually in arrears on April 1 and October 1 in each year, commencing October 1, 2001, at the rate of 6.40%, until the principal hereof is paid or made available for payment.

The interest so payable, and punctually paid or duly provided for, on any Interest Payment Date will, as provided in such Indenture, be paid to the Person in whose name this Security (or one or more Predecessor Securities) is registered at the close of business on the Regular Record Date for such interest, which shall be March 15 or September 15, as the case may be, immediately preceding the Interest Payment Date (whether or not a Business Day). Any such interest not so punctually paid or duly provided for will forthwith cease to be payable to the Holder on such Regular Record Date and may be paid to the Person in whose name this Security (or one or more Predecessor Securities) is registered at the close of business on a Special Record Date for the payment of such Defaulted Interest to be fixed by the Trustee, notice whereof shall be given to Holders of Securities of this series not less than ten days prior to such Special Record Date, or be paid at any time in any other lawful manner not inconsistent with the requirements of any securities exchange on which the Securities of this series may be listed, and upon such notice as may be required by such exchange, all as more fully provided in said Indenture.

Payment of the principal of (and premium, if any) and any interest on this Security will be made at the office or agency of the Company maintained for that purpose in The City of New York, in such coin or currency of the United States of America as at the time of payment is legal tender for payment of public and private debts; provided, however, that at the option of the Company payment of interest may be made by check mailed to the address of the Person entitled thereto as such address shall appear in the Security Register.

Reference is hereby made to the further provisions of this Security set forth on the reverse hereof, which further provisions shall for all purposes have the same effect as if set forth at this place.

Unless the certificate of authentication hereon has been executed by the Trustee referred to on the reverse hereof by manual signature, this Security shall not be entitled to any benefit under the Indenture or be valid or obligatory for any purpose.

IN WITNESS WHEREOF, the Company has caused this instrument to be duly executed under its corporate seal.

**PINNACLE WEST CAPITAL CORPORATION**

By  
**Vice President**

**Attest:**

---

**Associate Secretary**

**Form of Reverse of Security.**

This Security is one of a duly authorized issue of securities of the Company (herein called the "Securities"), issued and to be issued in one or more series under an Indenture, dated as of December 1, 2000 (herein called the "Indenture", which term shall have the meaning assigned to it in such instrument), between the Company and The Bank of New York, as Trustee (herein called the "Trustee", which term includes any successor trustee under the Indenture), and reference is hereby made to the Indenture for a statement of the respective rights, limitations of rights, duties and immunities thereunder of the Company, the Trustee and the Holders of the Securities and of the terms upon which the Securities are, and are to be, authenticated and delivered. This Security is one of the series designated on the face hereof, limited in aggregate principal amount to \$300,000,000, subject to increase as provided in Section 101 of the First Supplemental Indenture, dated as of March 15, 2001, providing for such series of the Securities.

The Securities of this series are subject to redemption upon not less than 30 days' notice by mail at the option of the Company, in whole or in part, from time to time at a Redemption Price equal to the greater of (1) the principal amount being redeemed or (2) the sum of the present values of the remaining scheduled payments of principal and interest on the Notes due 2006 being redeemed, discounted to the redemption date on a semi-annual basis (assuming a 360-day year consisting of twelve 30-day months) at the Treasury Yield plus 30 basis points, plus in each case accrued interest to the redemption date.

If notice has been given as provided in the Indenture and funds for the redemption of any Securities (or any portion thereof) called for redemption shall have been made available on the Redemption Date referred to in such notice, such Securities (or any portion thereof) will cease to

bear interest on the date fixed for such redemption specified in such notice and the only right of the Holders of such Securities will be to receive payment of the Redemption Price.

Notice of any optional redemption of Securities of this series (or any portion thereof) will be given to Holders at their addresses, as shown in the Security Register for such Securities, not more than 60 nor less than 30 days prior to the date fixed for redemption. The notice of redemption will specify, among other items, the Redemption Price or, if not then known, the manner of calculation thereof, and the principal amount of the Securities of this series held by such Holder to be redeemed.

The Company may redeem the Notes due 2006 at any time, in whole or in part, at a redemption price equal to the greater of (1) the principal amount being redeemed or (2) the sum of the present values of the remaining scheduled payments of principal and interest on the Notes due 2006 being redeemed, discounted to the redemption date on a semi-annual basis (assuming a 360-day year consisting of twelve 30-day months) at the Treasury Yield plus 30 basis points, plus in each case accrued interest to the redemption date.

"Treasury Yield" means, for any redemption date, the rate per annum equal to the semi-annual equivalent yield to maturity of the Comparable Treasury Issue, assuming a price for the Comparable Treasury Issue (expressed as a percentage of its principal amount) equal to the Comparable Treasury Price of the redemption date.

"Comparable Treasury Issue" means the United States Treasury security selected by an Independent Investment Banker as having a maturity comparable to the remaining term of the Notes due 2006 that would be utilized, at the time of selection and in accordance with customary financial practice, in pricing new issues of corporate debt securities of comparable maturity to the remaining term of the Notes due 2006.

"Independent Investment Banker" means Salomon Smith Barney Inc. or its successor or, if Salomon Smith Barney Inc. or its successor is unwilling or unable to select the Comparable Treasury Issue, one of the remaining Reference Treasury Dealers appointed by the Trustee after consultation with the Company.

"Comparable Treasury Price" means, for any redemption date, (1) the average of the bid and asked prices for the Comparable Treasury Issue (expressed in each case as a percentage of its principal amount) on the third business day preceding the redemption date, as set forth in the daily statistical release (or any successor release) published by the Federal Reserve Bank of New York and designated "Composite 3:30 p.m. Quotations for U.S. Government Securities" or (2) if that release (or any successor release) is not published or does not contain those prices on that business day, (A) the average of the Reference Treasury Dealer Quotations for the redemption date, after excluding the highest and lowest Reference Treasury Dealer Quotations for the redemption date, or (B) if we obtain fewer than four Reference Treasury Dealer Quotations, the average of all of the Quotations.

"Reference Treasury Dealer Quotations" means, for each Reference Treasury Dealer and

any redemption date, the average, as determined by the Trustee, of the bid and asked prices for the Comparable Treasury Issue (expressed in each case as a percentage of its principal amount) quoted in writing to the Trustee by the Reference Treasury Dealer at 5:00 p.m. on the third business day preceding the redemption date.

"Reference Treasury Dealer" means (1) each of Salomon Smith Barney Inc. and any other primary U.S. Government Securities dealer in New York City (a "Primary Treasury Dealer") designated by, and not affiliated with, Salomon Smith Barney Inc. and their respective successors, provided, however, that if Salomon Smith Barney Inc. or any of its designees ceases to be a Primary Treasury Dealer, we will appoint another Primary Treasury Dealer as a substitute and (2) any other Primary Treasury Dealer selected by the Company.

If the Company elects to redeem less than all of Notes due 2006 and the Notes due 2006 are at the time represented by a Global Security, then the Depository will select by lot the particular interest to be redeemed. If the Company elects to redeem less than all of the Notes due 2006, and the Notes due 2006 are not represented by a Global Security, then the Trustee will select the particular Notes due 2006 to be redeemed in a manner it deems appropriate and fair.

The Securities of this series will not be subject to any sinking fund.

In the event of redemption of this Security in part only, a new Security or Securities of this series and of like tenor for the unredeemed portion hereof will be issued in the name of the Holder hereof upon the cancellation hereof.

The Indenture contains provisions for defeasance at any time of the entire indebtedness of the Security or certain restrictive covenants and Events of Default with respect to this Security, in each case upon compliance with certain conditions set forth in the Indenture.

If an Event of Default with respect to Securities of this series shall occur and be continuing, the principal of the Securities of this series may be declared due and payable in the manner and with the effect provided in the Indenture.

The Indenture permits, with certain exceptions as therein provided, the amendment thereof and the modification of the rights and obligations of the Company and the rights of the Holders of the Securities of each series to be affected under the Indenture at any time by the Company and the Trustee without the consent of such Holders in certain limited circumstances or with the consent of the Holders of 66-2/3% in principal amount of the Securities at the time Outstanding of each series to be affected. The Indenture also contains provisions permitting the Holders of specified percentages in principal amount of the Securities of each series at the time Outstanding, on behalf of the Holders of all Securities of such series, to waive compliance by the Company with certain provisions of the Indenture and certain past defaults under the Indenture and their consequences. Any such consent or waiver by the Holder of this Security shall be conclusive and binding upon such Holder and upon all future Holders of this Security and of any Security issued upon the registration

of transfer hereof or in exchange herefor or in lieu hereof, whether or not notation of such consent or waiver is made upon this Security.

As provided in and subject to the provisions of the Indenture, the Holder of this Security shall not have the right to institute any proceeding with respect to the Indenture or for the appointment of a receiver or trustee or for any other remedy thereunder, unless such Holder shall have previously given the Trustee written notice of a continuing Event of Default with respect to the Securities of this series, the Holders of not less than 25% in principal amount of the Securities of this series at the time Outstanding shall have made written request to the Trustee to institute proceedings in respect of such Event of Default as Trustee and offered the Trustee reasonable indemnity, and the Trustee shall not have received from the Holders of a majority in principal amount of Securities of this series at the time Outstanding a direction inconsistent with such request, and shall have failed to institute any such proceeding, for 60 days after receipt of such notice, request and offer of indemnity. The foregoing shall not apply to any suit instituted by the Holder of this Security for the enforcement of any payment of principal hereof or any premium or interest hereon on or after the respective due dates expressed herein.

No reference herein to the Indenture and no provision of this Security or of the Indenture shall alter or impair the obligation of the Company, which is absolute and unconditional, to pay the principal of and any premium and interest on this Security at the times, place and rate, and in the coin or currency, herein prescribed.

As provided in the Indenture and subject to certain limitations therein set forth, the transfer of this Security is registrable in the Security Register, upon surrender of this Security for registration of transfer at the office or agency of the Company in any place where the principal of and any premium and interest on this Security are payable, duly endorsed by, or accompanied by a written instrument of transfer in form satisfactory to the Company and the Security Registrar duly executed by, the Holder hereof or his attorney duly authorized in writing, and thereupon one or more new Securities of this series and of like tenor, of authorized denominations and for the same aggregate principal amount, will be issued to the designated transferee or transferees.

The Securities of this series are issuable only in registered form without coupons in denominations of \$1,000 and any integral multiple thereof. As provided in the Indenture and subject to certain limitations therein set forth, Securities of this series are exchangeable for a like aggregate principal amount of Securities of this series and of like tenor of a different authorized denomination, as requested by the Holder surrendering the same.

No service charge shall be made for any such registration of transfer or exchange, but the Company may require payment of a sum sufficient to cover any tax or other governmental charge payable in connection therewith.

Prior to due presentment of this Security for registration of transfer, the Company, the Trustee and any agent of the Company or the Trustee may treat the Person in whose name this

Security is registered as the owner hereof for all purposes, whether or not this Security be overdue, and neither the Company, the Trustee nor any such agent shall be affected by notice to the contrary.

All terms used in this Security which are defined in the Indenture shall have the meanings assigned to them in the Indenture.

This Security shall be governed by and construed in accordance with the law of the State of New York, without regard to conflicts of laws principles thereof.

**Form of Trustee's Certificate of Authentication.**

**CERTIFICATE OF AUTHENTICATION**

This is one of the Securities of the series designated therein referred to in the within-mentioned Indenture.

**Dated:** \_\_\_\_\_ **THE BANK OF NEW YORK**

**AS TRUSTEE**

By  
**AUTHORIZED SIGNATORY**

**ARTICLE THREE**

**ORIGINAL ISSUE OF NOTES DUE 2006**

SECTION 301. Notes due 2006 in the aggregate principal amount of \$300,000,000 (subject to increase as provided in Section 101) may, upon execution of this First Supplemental Indenture, or from time to time thereafter, be executed by the Company and delivered to the Trustee for authentication, and the Trustee shall thereupon authenticate and deliver said Notes due 2006 in accordance with a Company Order delivered to the Trustee by the Company, without any further action by the Company.

**ARTICLE FOUR**

**PAYING AGENT AND REGISTRAR**

SECTION 401. The Bank of New York will be the Paying Agent and Security Registrar for the Notes due 2006.

## ARTICLE FIVE

### SUNDRY PROVISIONS

SECTION 501. Except as otherwise expressly provided in this First Supplemental Indenture or in the form of Notes due 2006 or otherwise clearly required by the context hereof or thereof, all terms used herein or in said form of Notes due 2006 that are defined in the Indenture shall have the several meanings respectively assigned to them thereby.

SECTION 502. The Indenture, as heretofore supplemented and amended, and as supplemented by this First Supplemental Indenture, is in all respects ratified and confirmed, and this First Supplemental Indenture shall be deemed part of the Indenture in the manner and to the extent herein and therein provided.

SECTION 503. The Trustee hereby accepts the trusts herein declared, provided, created, supplemented, or amended and agrees to perform the same upon the terms and conditions herein and in the Indenture, as heretofore supplemented and amended, set forth and upon the following terms and conditions:

The Trustee shall not be responsible in any manner whatsoever for or in respect of the validity or sufficiency of this First Supplemental Indenture or for or in respect of the recitals contained herein, all of which recitals are made by the Company solely. In general, each and every term and condition contained in Article Six of the Indenture shall apply to and form a part of this First Supplemental Indenture with the same force and effect as if the same were herein set forth in full with such omissions, variations, and insertions, if any, as may be appropriate to make the same conform to the provisions of this First Supplemental Indenture.

This instrument may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, but all such counterparts shall together constitute but one and the same instrument.



IN WITNESS WHEREOF, the parties hereto have caused this First Supplemental Indenture to be duly executed, and their respective corporate seals to be hereunto affixed and attested, all as of the day and year first above written.

**PINNACLE WEST CAPITAL CORPORATION**

**Attest:**

**Betsy A. Pregulman**  
Associate Secretary

By: Barbara M. Gomez

Barbara M. Gomez Treasurer

THE BANK OF NEW YORK, as Trustee Attest:

**Remo J. Reale**  
Remo J. Reale  
Vice President

By: Walter N. Gitlin  
Walter N. Gitlin Vice President

**STATE OF ARIZONA )**

) ss.:

**COUNTY OF MARICOPA )**

On the 26th day of March, 2001, before me personally came Barbara M. Gomez, to me known, who, being by me duly sworn, did depose and say that she is the Treasurer of Arizona Public Service Company, one of the corporations described in and which executed the foregoing instrument; that she knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by authority of the Board of Directors of said corporation; and that she signed her name thereto by like authority.

**Debra L. Blondin**  
**Notary Public**

**My Commission Expires:**

June 7, 2004

**STATE OF NEW YORK )**

) ss.:

**COUNTY OF NEW YORK )**

On the 23rd day of March, 2001, before me personally came Walter N. Gitlin, to me known, who, being by me duly sworn, did depose and say that he is a Vice President of The Bank of New York, one of the corporations described in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by authority of the Board of Directors of said corporation; and that he signed his name thereto by like authority.

**William J. Cassels**  
**Notary Public**

**My Commission Expires:**

May 16, 2002

**Exhibit 4.2**

UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY, A NEW YORK CORPORATION ("DTC"), TO PINNACLE WEST CAPITAL CORPORATION OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE, OR PAYMENT, AND ANY CERTIFICATE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR IN SUCH OTHER NAME AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC (AND ANY PAYMENT IS MADE TO CEDE & CO. OR TO SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTERED

OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN.

**PINNACLE WEST CAPITAL CORPORATION**

6.40% Senior Note due 2006

No. 1

\$300,000,000  
CUSIP No. 723484AB7

Pinnacle West Capital Corporation, a corporation duly organized and

existing under the laws of Arizona (herein called the "Company", which term includes any successor Person under the Indenture hereinafter referred to), for value received, hereby promises to pay to Cede & Co., or registered assigns, the principal sum of Three Hundred Million Dollars on April 1, 2006, and to pay interest thereon from March 27, 2001 or from the most recent Interest Payment Date to which interest has been paid or duly provided for, semi-annually in arrears on April 1 and October 1 in each year, commencing October 1, 2001, at the rate of 6.40%, until the principal hereof is paid or made available for payment.

The interest so payable, and punctually paid or duly provided for, on any Interest Payment Date will, as provided in such Indenture, be paid to the Person in whose name this Security (or one or more Predecessor Securities) is registered at the close of business on the Regular Record Date for such interest, which shall be March 15 or September 15, as the case may be, immediately preceding the Interest Payment Date (whether or not a Business Day). Any such interest not so punctually paid or duly provided for will forthwith cease to be payable to the Holder on such Regular Record Date and may be paid to the Person in whose name this Security (or one or more Predecessor Securities) is registered at the close of business on a Special Record Date for the payment of such Defaulted Interest to be fixed by the Trustee, notice whereof shall be given to Holders of Securities of this series not less than ten days prior to such Special Record Date, or be paid at any time in any other lawful manner not inconsistent with the requirements of any securities exchange on which the Securities of this series may be listed, and upon such notice as may be required by such exchange, all as more fully provided in said Indenture.

Payment of the principal of (and premium, if any) and any interest on this Security will be made at the office or agency of the Company maintained for that purpose in The City of New York, in such coin or currency of the United States of America as at

the time of payment is legal tender for payment of public and private debts; provided, however, that at the option of the Company payment of interest may be made by check mailed to the address of the Person entitled thereto as such address shall appear in the Security Register.

Reference is hereby made to the further provisions of this Security set forth on the reverse hereof, which further provisions shall for all purposes have the same effect as if set forth at this place.

Unless the certificate of authentication hereon has been executed by the Trustee referred to on the reverse hereof by manual signature, this Security shall not be entitled to any benefit under the Indenture or be valid or obligatory for any purpose.

IN WITNESS WHEREOF, the Company has caused this instrument to be duly executed under its corporate seal.

**PINNACLE WEST CAPITAL CORPORATION**

**By Nancy C. Loftin**  
**Vice President**

**Attest:**

**Betsy A. Pregulman**  
**Associate Secretary**

This Security is one of a duly authorized issue of securities of the Company (herein called the "Securities"), issued and to be issued in one or more series under an Indenture, dated as of December 1, 2000 (herein called the "Indenture", which term shall have the meaning assigned to it in such instrument), between the Company and The Bank of New York, as Trustee (herein called the "Trustee", which term includes any successor trustee under the Indenture), and reference is hereby made to the Indenture for a statement of the respective rights, limitations of rights, duties and immunities thereunder of the Company, the Trustee and the Holders of the Securities and of the terms upon which the Securities are, and are to be, authenticated and delivered. This Security is one of the series designated on the face hereof, limited in aggregate principal amount to \$300,000,000, subject to increase as provided in Section 101 of the First Supplemental Indenture, dated as of March 15, 2001, providing for such series of the Securities.

The Securities of this series are subject to redemption upon not less than 30 days' notice by mail at the option of the Company, in whole or in part, from time to time at a Redemption Price equal to the greater of (1) the principal amount being redeemed or (2) the sum of the present values of the remaining scheduled payments of principal and interest on the Notes due 2006 being redeemed, discounted to the redemption date on a semi-annual basis (assuming a 360-day year consisting of twelve 30-day months) at the Treasury Yield plus 30 basis points, plus in each case accrued interest to the redemption date.

If notice has been given as provided in the Indenture and funds for the redemption of any Securities (or any portion thereof) called for redemption shall have been made available on the Redemption Date referred to in such notice, such Securities (or any portion thereof) will cease to bear interest on the date fixed for such redemption specified in such notice and the only right of the Holders of such Securities will be to receive payment of the Redemption Price.

Notice of any optional redemption of Securities of this series (or any portion thereof) will be given to Holders at their addresses, as shown in the Security Register for such Securities, not more than 60 nor less than 30 days prior to the date fixed for redemption. The notice of redemption will specify, among other items, the Redemption Price or, if not then known, the manner of calculation thereof, and the principal amount of the Securities of this series held by such Holder to be redeemed.

The Company may redeem the Notes due 2006 at any time, in whole or in part, at a redemption price equal to the greater of (1) the principal amount being redeemed or (2) the sum of the present values of the remaining scheduled payments of principal and interest on the Notes due 2006 being redeemed, discounted to the redemption date on a semi-annual basis (assuming a 360-day year consisting of twelve 30-day months) at the Treasury Yield plus 30 basis points, plus in each case accrued interest to the redemption date.

"Treasury Yield" means, for any redemption date, the rate per annum equal to the semi-annual equivalent yield to maturity of the Comparable Treasury Issue, assuming a price for the Comparable Treasury Issue (expressed as a percentage of its principal amount) equal to the Comparable Treasury Price of the redemption date.

"Comparable Treasury Issue" means the United States Treasury security selected by an Independent Investment Banker as having a maturity comparable to the remaining term of the Notes due 2006 that would be utilized, at the time of selection and in accordance with customary financial practice, in pricing new issues of corporate debt securities of comparable maturity to the remaining term of the Notes due 2006.

"Independent Investment Banker" means Salomon Smith Barney Inc. or its successor or, if Salomon Smith Barney Inc. or its successor is unwilling or unable to select the Comparable Treasury Issue, one of the remaining Reference Treasury Dealers appointed by the Trustee after consultation with the Company.

"Comparable Treasury Price" means, for any redemption date, (1) the average of the bid and asked prices for the Comparable Treasury Issue (expressed in each case as a percentage of its principal amount) on the third business day preceding the redemption date, as set forth in the daily statistical release (or any successor release) published by the Federal Reserve Bank of New York and designated "Composite 3:30 p.m. Quotations for U.S. Government Securities" or (2) if that release (or any successor release) is not published or does not contain those prices on that business day, (A) the average of the Reference Treasury Dealer Quotations for the redemption date, after excluding the highest and lowest Reference Treasury Dealer Quotations for the redemption date, or (B) if we obtain fewer than four Reference Treasury Dealer Quotations, the average of all of the Quotations.

"Reference Treasury Dealer Quotations" means, for each Reference Treasury Dealer and any redemption date, the average, as determined by the Trustee, of the bid and asked prices for the Comparable Treasury Issue (expressed in each case as a percentage of its principal amount) quoted in writing to the Trustee by the Reference Treasury Dealer at 5:00 p.m. on the third business day preceding the redemption date.

"Reference Treasury Dealer" means (1) each of Salomon Smith Barney Inc. and any other primary U.S. Government Securities dealer in New York City (a "Primary Treasury Dealer") designated by, and not affiliated with, Salomon Smith Barney Inc. and their respective successors, provided, however, that if Salomon Smith Barney Inc. or any of its designees ceases to be a Primary Treasury Dealer, we will appoint another Primary Treasury Dealer as a substitute and (2) any other Primary Treasury Dealer selected by the Company.

If the Company elects to redeem less than all of Notes due 2006 and the Notes due 2006 are at the time represented by a global security, then the Depository will select by lot the particular interest to be redeemed. If the Company elects to redeem less than all of the Notes due 2006, and the Notes due 2006 are not represented by a global security, then the Trustee will select the particular Notes due 2006 to be redeemed in a manner it deems appropriate and fair.

The Securities of this series will not be subject to any sinking fund.

In the event of redemption of this Security in part only, a new Security or Securities of this series and of like tenor for the unredeemed portion hereof will be issued in the name of the Holder hereof upon the cancellation hereof.

The Indenture contains provisions for defeasance at any time of the entire indebtedness of the Security or certain restrictive covenants and Events of Default with respect to this Security, in each case upon compliance with certain conditions set forth in the Indenture.

If an Event of Default with respect to Securities of this series shall occur and be continuing, the principal of the Securities of this series may be declared due and payable in the manner and with the effect provided in the Indenture.

The Indenture permits, with certain exceptions as therein provided, the amendment thereof and the modification of the rights and obligations of the Company and the rights of the Holders of the Securities of each series to be affected under the Indenture at any time by the Company and the Trustee without the consent of such Holders in certain limited circumstances or with the consent of the Holders of 66-2/3% in principal amount of the Securities at the time Outstanding of each series to be affected. The Indenture also contains provisions permitting the Holders of specified percentages in principal amount of the Securities of each series at the time Outstanding, on behalf of the Holders of all Securities of such series, to waive compliance by the Company with certain provisions of the Indenture and certain past defaults under the Indenture and their consequences. Any such consent or waiver by the Holder of this Security shall be conclusive and binding upon such Holder and upon all future Holders of this Security and of any Security issued upon the registration of transfer hereof or in exchange herefor or in lieu hereof, whether or not notation of such consent or waiver is made upon this Security.

As provided in and subject to the provisions of the Indenture, the Holder of this Security shall not have the right to institute any proceeding with respect to the Indenture or for the appointment of a receiver or trustee or for any other remedy thereunder, unless such Holder shall have previously given the Trustee written notice of a continuing Event of Default with respect to the Securities of this series, the Holders of not less than 25% in principal amount of the Securities of this series at the time Outstanding shall have made written request to the Trustee to institute proceedings in respect of such Event of Default as Trustee and offered the Trustee reasonable indemnity, and the Trustee shall not have received from the Holders of a majority in principal amount of Securities of this series at the time Outstanding a direction inconsistent with such request, and shall have failed to institute any such proceeding, for 60 days after receipt of such notice, request and offer of indemnity. The foregoing shall not apply to any suit instituted by the Holder of this Security for the enforcement of any payment of principal hereof or any premium or interest hereon on or after the respective due dates expressed herein.

No reference herein to the Indenture and no provision of this Security or of the Indenture shall alter or impair the obligation of the Company, which is absolute and unconditional, to pay the principal of and any premium and interest on this Security at the times, place and rate, and in the coin or currency, herein prescribed.

As provided in the Indenture and subject to certain limitations therein set forth, the transfer of this Security is registrable in the Security Register, upon surrender of this Security for registration of transfer at the office or agency of the Company in any place where the principal of and any premium and interest on this Security are payable, duly endorsed by, or accompanied by a written instrument of transfer in form satisfactory to the Company and the Security Registrar duly executed by, the Holder hereof or his attorney duly authorized in writing, and thereupon one or more new Securities of this series and of like tenor, of authorized denominations and for the same aggregate principal amount, will be issued to the designated transferee or transferees.

The Securities of this series are issuable only in registered form without coupons in denominations of \$1,000 and any integral multiple thereof. As provided in the Indenture and subject to certain limitations therein set forth, Securities of this series are exchangeable for a like aggregate principal amount of Securities of this series and of like tenor of a different authorized denomination, as requested by the Holder surrendering the same.

No service charge shall be made for any such registration of transfer or exchange, but the Company may require payment of a sum sufficient to cover any tax or other governmental charge payable in connection therewith.

Prior to due presentment of this Security for registration of transfer, the Company, the Trustee and any agent of the Company or the Trustee may treat the Person in whose name this Security is registered as the owner hereof for all purposes, whether or not this Security be overdue, and neither the Company, the Trustee nor any such agent shall be affected by notice to the contrary.

All terms used in this Security which are defined in the Indenture shall have the meanings assigned to them in the Indenture.

This Security shall be governed by and construed in accordance with the law of the State of New York, without regard to conflicts of laws principles thereof.

### **CERTIFICATE OF AUTHENTICATION**

This is one of the Securities of the series designated therein referred to in the within-mentioned Indenture.

Dated: March 27, 2001 THE BANK OF NEW YORK  
**AS TRUSTEE**

**By Walter N. Gitlin**  
**AUTHORIZED SIGNATORY**