

COVER SHEET



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ARIZONA CORPORATION COMMISSION
DOCKET CONTROL CENTER

RECEIVED
AZ CORP COMMISSION
DOCKET NO.

CASE/COMPANY NAME:

Duke Energy

JUN 29 10:17 PM '00 00P-99-0088

D/B/A or RESPONDENT:

DOCUMENT CONTROL

Arizona Corporation Commission

NATURE OF ACTION OR DESCRIPTION OF DOCUMENT

DOCKETED

Please mark the item that describes the nature of the case/filing:

JUN 29 2000

01 UTILITIES - NEW APPLICATIONS

DOCKETED BY JH

- | | | | |
|--------------------------|---|--------------------------|---|
| <input type="checkbox"/> | NEW CC&N | <input type="checkbox"/> | MAIN EXTENSION |
| <input type="checkbox"/> | RATES | <input type="checkbox"/> | CONTRACT/AGREEMENTS |
| <input type="checkbox"/> | INTERIM RATES | <input type="checkbox"/> | COMPLAINT (Formal) |
| <input type="checkbox"/> | CANCELLATION OF CC&N | <input type="checkbox"/> | RULE VARIANCE/WAIVER REQUEST |
| <input type="checkbox"/> | DELETION OF CC&N (TERRITORY) | <input type="checkbox"/> | SITING COMMITTEE CASE |
| <input type="checkbox"/> | EXTENSION OF CC&N (TERRITORY) | <input type="checkbox"/> | SMALL WATER COMPANY -SURCHARGE (Senate Bill 1252) |
| <input type="checkbox"/> | TARIFF - NEW (NEXT OPEN MEETING) | <input type="checkbox"/> | SALE OF ASSETS & TRANSFER OF OWNERSHIP |
| <input type="checkbox"/> | REQUEST FOR ARBITRATION
(Telecommunication Act) | <input type="checkbox"/> | SALE OF ASSETS & CANCELLATION OF CC&N |
| <input type="checkbox"/> | FULLY OR PARTIALLY ARBITRATED
INTERCONNECTION AGREEMENT
(Telecom. Act.) | <input type="checkbox"/> | FUEL ADJUSTER/PGA |
| <input type="checkbox"/> | VOLUNTARY INTERCONNECTION
AGREEMENT (Telecom. Act) | <input type="checkbox"/> | MERGER |
| | | <input type="checkbox"/> | FINANCING |
| | | <input type="checkbox"/> | MISCELLANEOUS |
| | | | Specify _____ |

02 UTILITIES - REVISIONS/AMENDMENTS TO
PENDING OR APPROVED MATTERS

- | | | | |
|--------------------------|------------------|--------------------------|--------------------|
| <input type="checkbox"/> | APPLICATION | <input type="checkbox"/> | TARIFF |
| <input type="checkbox"/> | COMPANY | <input type="checkbox"/> | PROMOTIONAL |
| <input type="checkbox"/> | DOCKET NO. _____ | <input type="checkbox"/> | DECISION NO. _____ |
| | | <input type="checkbox"/> | DOCKET NO. _____ |
| | | <input type="checkbox"/> | COMPLIANCE |
| | | <input type="checkbox"/> | DECISION NO. _____ |
| | | <input type="checkbox"/> | DOCKET NO. _____ |

SECURITIES or MISCELLANEOUS FILINGS

- | | | | |
|--------------------------|---------------------------------|-------------------------------------|---|
| <input type="checkbox"/> | 04 AFFIDAVIT | <input type="checkbox"/> | 29 STIPULATION |
| <input type="checkbox"/> | 12 EXCEPTIONS | <input type="checkbox"/> | 38 NOTICE OF INTENT
(Only notification of future action/no action necessary) |
| <input type="checkbox"/> | 18 REQUEST FOR INTERVENTION | <input type="checkbox"/> | 43 PETITION |
| <input type="checkbox"/> | 48 REQUEST FOR HEARING | <input type="checkbox"/> | 46 NOTICE OF LIMITED APPEARANCE |
| <input type="checkbox"/> | 24 OPPOSITION | <input checked="" type="checkbox"/> | 39 OTHER |
| <input type="checkbox"/> | 50 COMPLIANCE ITEM FOR APPROVAL | | Specify <u>Notice of Request etc</u> |
| <input type="checkbox"/> | 32 TESTIMONY | | |
| <input type="checkbox"/> | 47 COMMENTS | | |

6/30/00
Date

Aviz. Center for Law/Tim Hogan
Print Name of Applicant/Company/Contact person/Respondent/Atty.
602 258 885
Phone

PLEASE SEE NOTICE ON REVERSE SIDE

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AZ CORP COMMISSION

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Arizona Corporation Commission
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JUN 29 2000

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8 **BEFORE THE ARIZONA POWER PLANT**
9 **AND TRANSMISSION LINE SITING COMMITTEE OF THE**
10 **ARIZONA CORPORATION COMMISSION**

11 In the matter of the Application of)
12 DUKE ENERGY MARICOPA, LLC in)
13 conformance with the requirements of Arizona)
14 Revised Statutes § 40-360.01 *et seq.*, for a)
15 Certificate of Environmental Compatibility)
16 authorizing the construction of a natural gas-fired,)
17 combined cycle generating plant, switchyard and)
18 related facilities and associated transmission line)
19 near Maricopa County, Arizona.)

Docket No.: L-00000P-99-0098

20 **NOTICE OF REQUEST FOR**
21 **REVIEW OF SITING**
22 **COMMITTEE'S DECISION**

23 Pursuant to A.R.S. § 40-360.07, the Arizona Center for Law in the Public Interest
24 ("Center") hereby requests review by the Arizona Corporation Commission of the Power Plant
25 and Transmission Line Siting Committee's ("Committee") decision issuing a certificate of
environmental compatibility to the Applicant in the above-captioned matter.

26 **GROUND S FOR REVIEW**

27 The law requires the Arizona Corporation Commission to ". . . balance in the broad
28 public interest, the need for an adequate, economical and reliable supply of electric power with
29 the desire to minimize the effect thereof on the environment and ecology of this state." A.R.S.
30 § 40-360.07(B). While there was evidence submitted to the Committee regarding the
31 environmental impacts of the Arlington Valley plant, the record in this case does not support the

1 need for this power plant. In the absence of such evidence, the Commission must deny the
2 certificate.

3 Even if the Applicant had demonstrated that the power plant is needed, there is no
4 guarantee that the plant will supply power to meet the needs of Phoenix or Arizona generally.
5 There is nothing in the certificate that requires the power produced by the plant to be used to
6 meet the needs of Phoenix or Arizona. If power is also needed in California or Nevada, and they
7 are willing to pay more, the Applicant will sell it to them without regard to the needs of Phoenix
8 or Arizona.
9

10 The statutes governing the Commission's review of the Committee's decision require
11 more than mere compliance with applicable environmental standards. The statute requires that
12 the environmental impacts be balanced against the need for an adequate, economical and reliable
13 supply of power. Like all the other merchant plants, some portion of the power produced by the
14 plant will be exported to California. The same is true of all the other merchant plants for which
15 applications have been or will be filed. The West Valley will become home to many such power
16 plants. The question arises as to why should Arizona water and air quality be sacrificed for
17 California's electric needs? That question was never addressed in these proceedings. If the
18 Commission fails to review these applications critically in the broader context of regional power
19 needs, Arizona will soon become the electric farm for the Southwest. But no analysis has been
20 made of how much of the power generated in Arizona is going to stay here for the benefit of
21 Arizona residents. What is needed is a comprehensive analysis of electric power needs in the
22 Southwest that is coordinated on a regional basis so that the burdens of these power plants can be
23 equitably shared throughout the region. As it stands, no one knows whether Arizona is bearing a
24
25

1 disproportionate burden in terms of its water and air quality when it comes to producing power
2 for the region.

3 Moreover, there has been no analysis done of the most economical way to produce power
4 for the region and particularly for Arizona citizens. It may well be that there is no economical
5 reason why the power plants need to be built in Arizona at all. But certainly, before that decision
6 can be made, the Commission should have a clear understanding of the cost impacts on Arizona
7 citizens associated with the location of the power plants. If all of the power produced in Arizona
8 is exported to California, then there can be no economical reason for approving the location of
9 the plants in this state.
10

11 Under the competitive regime established by the Commission, the fact is that the power
12 produced in Arizona will be sold wherever it fetches the highest price. Whether that's
13 California, Arizona, Nevada or elsewhere in the region, nobody knows. It is conceivable that all
14 the power produced by this plant as well as the others will be exported to other areas. There is
15 nothing in the Committee's certificate that would prohibit such a result.

16 In effect, the power plant and transmission line siting process has become a race. The
17 applications are considered in the sequence in which they were filed. The Committee apparently
18 does not believe that its job is to determine whether or not the power plant is actually needed or
19 whether it is economical. Therefore, as long as the environmental impacts are minimized, the
20 Committee will continue to approve as many power plant applications as are filed.
21

22 It is clear that a more rational process is needed and it is up to the Commission to
23 establish it. There are many questions that should be answered before any further power plant
24 applications are approved. They include: 1) How much power is actually needed in Arizona?
25 2) Where is the power needed in Arizona? 3) When is the power needed? 4) Can the power be

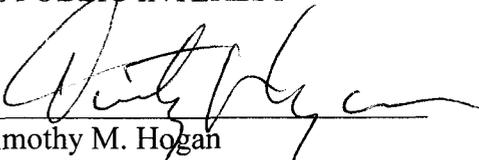
1 obtained elsewhere more economically? 5) Do the transmission facilities exist that are
2 necessary to get the power to where it is needed? 6) How much of the generating capacity
3 proposed for installation in Arizona will be sold elsewhere? 7) Are there other alternatives
4 besides the construction of power plants which have adverse environmental impacts to generate
5 the power that is needed? 8) If the market will not evaluate other alternatives to the production
6 of power, should the Commission consider whether demand side management programs need to
7 be established to minimize the need for power plants? 9) If transmission facilities are needed,
8 how much will they cost and who is going to pay for them?
9

10 Instead of evaluating each one of these power plants in a vacuum as if no other
11 applications had preceded it or will follow it, the Commission needs to answer these questions
12 before it can appropriately determine whether any specific power plant should be approved.
13 Without a plan against which to evaluate the many applications the Commission will receive, the
14 process and decision-making is nothing more than a guessing game. The Commission is
15 uniquely situated to bring some sanity to the process by establishing a proceeding to evaluate the
16 broader questions that arise as a result of the many power plant applications. In the meantime,
17 the Commission should deny the applications until they can be properly evaluated against the
18 need for the power that is proposed and whether it is the most economical response to that need.
19

20 Finally, the Certificate should be revised to correct the clear error appearing on page 2
21 indicating that the Center was not a party to this proceeding. The Center became a party when it
22 filed its notice of intent pursuant to A.R.S. § 40-360.05(A)(3). There is no requirement for a
23 party to appear at the hearing in order to maintain its status as a party. Once the notice is filed,
24 the Committee lacks the authority to alter a party's status and deprive it of rights conferred by
25 A.R.S. § 40-360.07.

1 RESPECTFULLY SUBMITTED this 30th day of June, 2000.

2
3 ARIZONA CENTER FOR LAW IN
THE PUBLIC INTEREST

4
5 By 

6 Timothy M. Hogan
202 E. McDowell Rd., Suite 153
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7
8 ORIGINAL and 25 COPIES of
9 the foregoing filed this 30th day
of June, 2000, with:

10 Docketing Supervisor
11 Docket Control
12 Arizona Corporation Commission
1200 W. Washington
Phoenix, AZ 85007

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14 mailed this 30th day of
15 June, 2000 to:

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