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BEFORE THE ARIZONA CORPORATION COMMISSION

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COMMISSIONERS

DOCKETED

JEFF HATCH-MILLER, Chairman
WILLIAM A. MUNDELL
MARC SPITZER
MIKE GLEASON
KRISTIN K. MAYES

JAN 31 2005

DOCKETED BY [Signature]

IN THE MATTER OF THE COMPLAINT OF MOHAVE ELECTRIC COOPERATIVE, INC. AGAINST UNISOURCE ENERGY CORPORATION.

DOCKET NO. E-04230A-04-0798

IN THE MATTER OF THE APPLICATION OF UNS ELECTRIC, INC. FOR AN ORDER APPROVING A TRANSFER OF A PORTION OF A CERTIFICATE OF CONVENIENCE AND NECESSITY.

DOCKET NO. E-04204A-04-0824
DOCKET NO. E-01750A-04-0824

DECISION NO. 67535

EMERGENCY ORDER FOR PROVISION OF ELECTRIC SERVICE

Open Meeting

Phoenix, Arizona

BY THE COMMISSION:

FINDINGS OF FACT

1. On November 5, 2004, Mohave Electric Cooperative, Inc. ("Mohave") filed with the Arizona Corporation Commission ("Commission") a Complaint in Docket No. E-04230A-04-0798 ("Complaint Docket") against UniSource Energy Corporation ("UniSource") alleging, among other things, that UniSource has improperly refused to provide wholesale service to Mohave under an Open Access Transmission Tariff ("OATT"), and that UniSource has refused to negotiate in good faith a system-wide border area agreement with Mohave. Mohave is a not for profit rural electric cooperative that provides electric service in portions of Mohave, Yavapai, and Coconino counties. Mohave claims in its Complaint that UniSource's actions have rendered Mohave unable to provide electric service in an economically feasible manner to a customer, Central Trucking, Inc. ("CTI"), that seeks to construct a building to conduct business in Mohave's certificated service area¹.

¹ According to Mohave, it has agreed to provide service to CTI upon payment of approximately \$600,000, which is the cost for Mohave to extend its facilities to CTI's location.

1 2. On November 15, 2004, UNS Electric, Inc. ("UNS") filed with the Commission an
2 application in Docket Nos. E-04204A-04-0824 and E-01750A-04-0824 ("Transfer Dockets") seeking
3 to have territory that was previously within the certificated service territory of UNS' predecessor,
4 Citizens Utilities Company ("Citizens"), "revert" to UNS². Mohave currently holds the Certificate of
5 Convenience and Necessity ("CC&N" or "certificate") for the territory that is in dispute, and in
6 which CTI's property is located, pursuant to Decision No. 58798 (October 14, 1994)³. UNS
7 concedes that the disputed territory is currently within Mohave's CC&N area, but contends that
8 Mohave was granted the portion of the service area in question solely for the purpose of serving a
9 specific customer, North Star Steel Company ("North Star"), which is no longer in business. UNS
10 argues that because the disputed area was previously served by Citizens, and North Star is no longer
11 in business, the CC&N area in which CTI is located should revert to UNS as Citizens' successor in
12 interest.

13 3. On November 29, 2004, UNS filed an Answer to the Complaint and Motion for
14 Dismissal. UNS reiterated the claims made in the Transfer Dockets that the agreement between
15 Citizens and Mohave to transfer the disputed area was for the provision of service to the North Star
16 plant. UNS denied the material allegations in the Complaint and asserted that it is willing and able to
17 provide immediate electric service to CTI with facilities that are adjacent to CTI's property.

18 4. On December 30, 2004, CTI filed letters in both the Complaint and Transfer Dockets
19 seeking intervention in both proceedings⁴ and requesting that the boundary dispute between Mohave
20 and UNS be resolved promptly so that CTI can construct its facility and conduct its business. CTI
21 claims that it initially requested electric service in May, 2004, but due to its inability to obtain service
22 from either Mohave or UNS, CTI has incurred considerable expense by being forced to purchase and
23 operate a generator to provide electricity to its mobile office.

24 5. On January 3, 2005, Mohave separately filed in the Complaint Docket a Motion for
25

26 ² UNS is a subsidiary of UniSource that provides electric service in Mohave County. UNS acquired the Certificate of
Convenience and Necessity of Citizens' Mohave Electric Division pursuant to Decision No. 66028 (July 3, 2003).

27 ³ In Decision No. 58798, the Commission transferred the portion of Citizens' CC&N to Mohave described in that Order
and stated that the transferred CC&N area "shall not revert to Citizens Utilities Company under any circumstances
without prior Commission approval" (*Id.* at 6).

28 ⁴ CTI was granted intervention in both dockets during a January 12, 2005 Procedural Conference.

1 Leave to File First Amended Complaint and a Response to Motion for Dismissal. In its Amended
2 Complaint, Mohave added UNS as a Respondent to the Complaint. In its Response, Mohave argues
3 that it would be improper to dismiss the Complaint given the disputed issues that exist. Mohave also
4 renewed its request for the Commission to authorize a system-wide borderline agreement that would
5 enable Mohave to promptly serve CTI and other similarly situated customers.

6 6. On January 4, 2005, Procedural Orders were issued in the Complaint and Transfer
7 Dockets scheduling a Procedural Conference in both dockets for January 12, 2005. As stated in the
8 Procedural Orders, the purpose of the Procedural Conference was to discuss “procedural issues,
9 including scheduling of testimony and hearing dates, *as well as whether settlement of the issues*
10 *raised in the Complaint may be able to be resolved through mediation with Staff’s assistance”*
11 (emphasis added).

12 7. On January 4, 2005, CTI filed a letter in the Transfer Dockets reiterating its frustration
13 with being unable to receive electric service for its business and stating that it is “being held hostage,
14 and being used as a pawn” due to the dispute between Mohave and UNS. CTI requested an
15 emergency session of the Commission to resolve the dispute and allow CTI to obtain electric service
16 in order to operate its business. A copy of CTI’s letter was also docketed in the Complaint Docket on
17 January 5, 2005.

18 8. On January 11, 2005, UNS filed a letter sent to Mohave requesting that Mohave enter
19 into an Electric Service Authorization Agreement that would allow UNS to immediately provide
20 service to CTI, on an interim basis, during the pendency of the Complaint and Transfer Dockets. The
21 UNS letter stated that if Mohave accepted its interim service proposal, neither party would be
22 waiving its rights or arguments in either of the pending proceedings.

23 9. On January 12, 2005, the Procedural Conference was held as scheduled. During the
24 conference, a discussion with the parties was conducted regarding the possible settlement of issues
25 and how to achieve an interim solution to CTI’s immediate need for electric service. Counsel for
26 UNS represented that it could provide service to CTI within approximately 24 hours if authorized to
27 do so by the Commission. Counsel for Mohave indicated that he had not had an opportunity to
28 discuss the interim service proposal with Mohave’s principals and requested additional time to do so

1 before responding to the proposal. The administrative law judge scheduled a telephonic status
2 conference for January 14, 2005 to afford Mohave an additional opportunity to respond to the UNS
3 proposal.

4 10. On January 14, 2005, shortly before commencement of the status conference, Mohave
5 filed a letter and "Conditional Consent" which set forth terms and conditions under which Mohave
6 would agree that UNS could serve CTI. In relevant part, Mohave's proposal provided as follows:

- 7
- 8 a. Mohave consented to UNS providing service to CTI pursuant to a
Commission Order authorizing provision of such service;
- 9 b. Mohave's consent would not prejudice or waive any claim it may
have in the pending Complaint or Transfer Dockets;
- 10 c. UNS agrees to work in good faith with Mohave to develop a
mutually acceptable system-wide borderline agreement as soon as
11 possible that would render the conditional consent unnecessary;
- 12 d. UNS agrees to work in good faith on Mohave's request for a
source of power from UNS that would render the conditional
13 consent unnecessary;
- 14 e. The consent would automatically expire the earlier of 9 months
from the date of the consent offer or upon completion of the other
15 circumstances described above that would render the conditional
consent unnecessary.

16 11. The January 14, 2005 telephonic status conference was held as scheduled. During the
17 ensuing discussion, counsel for UNS and Staff expressed concerns with several of the conditions
18 proposed by Mohave. Specifically, UNS believes that the proposal would allow Mohave to maintain
19 all of its rights in the pending cases before the Commission while, in effect, requiring UNS to waive
20 its rights and arguments in both dockets. UNS claims that the proposed conditions requiring UNS to
21 negotiate with Mohave regarding a system-wide borderline agreement and for a source of power for
22 Mohave would essentially void the very claims UNS has raised with respect to the Complaint and
23 Transfer Dockets⁵. Counsel for both UNS and Staff stated that the proposed automatic expiration of
24 the consent is inappropriate and that any interim provision of service should be maintained until the
25 pending dockets have been resolved.

26 12. The Commission's authority to act to protect the public interest is derived from the
27

28 ⁵ On January 18, 2005, UNS filed a letter sent to Mohave explaining the basis of UNS' opposition to the Mohave proposal.

1 broad and plenary powers described in the Arizona Constitution. Article 15, §3, of the Arizona
2 Constitution provides in relevant part:

3 The Corporation Commission shall have full power to, and shall, prescribe
4 just and reasonable classifications to be used and just and reasonable rates
5 and charges to be made and collected, by public service corporations
6 within the State for service rendered therein, and make reasonable rules,
7 regulations, and orders, by which such corporations shall be governed in
8 the transaction of business within the State, and may prescribe the forms
9 of contracts and the systems of keeping accounts to be used by such
corporations in transacting such business, and *make and enforce
reasonable rules, regulations, and orders for the convenience, comfort,
and safety, and the preservation of the health, of the employees and
patrons of such corporations;....* (emphasis added)

10 13. The Commission's obligation to act in the public interest, by taking into account the
11 "public convenience and necessity," is also set forth in various statutes. For example, A.R.S. §40-
12 282(C) states that the Commission, in evaluating an application for a CC&N, "may attach to the
13 exercise of rights granted by the certificate *terms and conditions it deems that the public convenience
14 and necessity require*" (emphasis added). *See, also*, A.R.S. §40-332(A), which requires the
15 Commission to consider the public convenience and necessity regarding the use of one public service
16 corporation's equipment by another public service corporation.

17 14. Upon consideration of the various pleadings and arguments raised in the above-
18 captioned dockets, we believe that an emergency currently exists that requires immediate action. It is
19 undisputed that CTI has attempted to receive electric service since May 2004 from either Mohave or
20 UNS. We have attempted to allow the parties to resolve this dispute amicably but their efforts to
21 negotiate a solution have been unsuccessful, despite the efforts of our Staff to mediate the ongoing
22 dispute between the companies. It is simply unacceptable that any customer should be required to
23 wait this length of time to receive electric service.

24 15. Through the letters filed in the dockets, and statements made at the Procedural
25 Conferences, we recognize the frustration and desperation expressed by CTI's representative due to
26 the company's inability to obtain electric service under terms that would enable it to proceed with
27 construction of planned facilities in Mohave County. We will therefore order UNS to immediately
28 provision service to CTI, on an interim basis, until the issues raised in the Complaint and Transfer

1 Dockets have been resolved. UNS shall provision service to CTI in a manner that will not jeopardize
2 the ability of Mohave to serve CTI in the future, in the event Mohave would prevail in the pending
3 cases. We wish to make clear that this interim solution shall not prejudice any claims or arguments
4 that either Mohave or UNS may have regarding the pending dockets. Our determination in this
5 Decision that an emergency exists requiring immediate action should not be construed as an
6 indication of how these matters may ultimately be resolved following a full presentation of evidence
7 and legal arguments in these dockets. However, due to the public service corporations' inability to
8 resolve this matter, pending a final decision in these proceedings we will order that service be
9 provided immediately to a customer that has essentially been "held hostage" for more than 6 months.
10 UNS shall provide the ordered interim service to CTI based on UNS' tariffed rates and charges on file
11 with the Commission. We also direct UNS and Mohave to implement this Decision and negotiate the
12 disputed issues in both dockets in good faith pending completion of the litigated issues in the
13 Complaint and Transfer Dockets.

14 CONCLUSIONS OF LAW

15 1. Mohave Electric Cooperative, Inc. and UNS Electric, Inc. are public service
16 corporations within the meaning of Article XV of the Arizona Constitution and A.R.S. §§40-246, 40-
17 281, 40-282 and 40-285.

18 2. Mohave and UNS were put on notice that the Commission would take prompt action
19 in these dockets if the companies were unable to negotiate a solution that would provide immediate
20 electric service to CTI.

21 3. The Commission has jurisdiction over Mohave and UNS, and the subject matter of the
22 above-captioned Complaint and Transfer Dockets.

23 4. Pursuant to the authority vested in the Commission under Article XV, §3, of the
24 Arizona Constitution, to make and enforce reasonable rules, regulations, and orders for the
25 convenience, comfort, and safety of the customers of Mohave and UNS, it is reasonable and
26 appropriate under the unique facts and circumstances presented to direct UNS to provision immediate
27 electric service to CTI, on an interim basis, until the above-captioned Complaint and Transfer
28 Dockets have been resolved and without prejudice to any claims or arguments that either Mohave or

1 UNS may have in those dockets.

2 5. The determination that an emergency exists requiring immediate action to protect the
3 public interest shall not be construed as an indication of how these matters may ultimately be
4 resolved following a full presentation of evidence and legal arguments in the above-captioned
5 dockets.

6 **ORDER**

7 IT IS THEREFORE ORDERED that UNS Electric, Inc. shall immediately provision electric
8 service to CTI, on an interim basis, at its tariffed rates and charges on file with the Commission, until
9 the issues raised in the above-captioned Complaint and Transfer Dockets have been resolved. UNS
10 Electric, Inc. shall initiate such service within three (3) business days of the effective date of this
11 Decision.

12 IT IS FURTHER ORDERED that this interim solution shall not prejudice any claims or
13 arguments that either Mohave Electric Cooperative, Inc. or UNS Electric, Inc. may have regarding the
14 pending Complaint and Transfer Dockets. Our determination in this Decision that an emergency
15 exists requiring immediate action to protect the public interest should not be construed as an
16 indication of how these matters may ultimately be resolved following a full presentation of evidence
17 and legal arguments in these dockets.

18 IT IS FURTHER ORDERED that UNS Electric, Inc. and Mohave Electric Cooperative, Inc.
19 are directed to implement this Decision and negotiate the disputed issues in both dockets in good faith
20 pending completion of the litigated issues in the Complaint and Transfer Dockets.

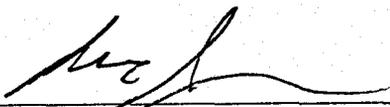
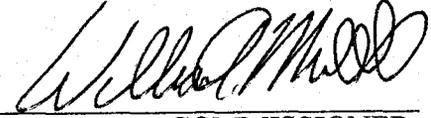
21 IT IS FURTHER ORDERED that Central Trucking, Inc. is granted intervention in both of the
22 above-captioned dockets.

23 ...
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25 ...
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27 ...
28 ...

1 IT IS FURTHER ORDERED that the Hearing Division is directed to issue a Procedural Order
2 for the purposes of scheduling submission of testimony, hearing dates, and any other necessary
3 procedural matters.

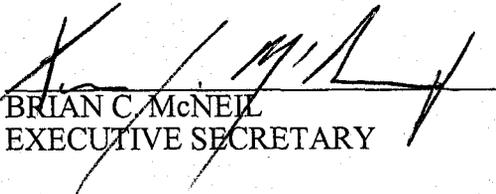
4 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

5 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

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7   
8 CHAIRMAN COMMISSIONER COMMISSIONER

9
10  
11 COMMISSIONER COMMISSIONER

12 IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive
13 Secretary of the Arizona Corporation Commission, have
14 hereunto set my hand and caused the official seal of the
15 Commission to be affixed at the Capitol, in the City of Phoenix,
16 this 31st day of Jan., 2005.

17 
BRIAN C. McNEIL
EXECUTIVE SECRETARY

18 DISSENT _____

20 DISSENT _____

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1 SERVICE LIST FOR:

UNS ELECTRIC, INC. AND MOHAVE ELECTRIC
COOPERATIVE, INC.

2

3 DOCKET NOS.:

E-04204A-04-0824, E-01750A-04-0824 and E-04230A-
04-0798

4

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SRP Santan Expansion Project

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Quarterly Report

L-00000B-00-0105

JANUARY 2005



Prepared for
The Arizona Corporation Commission

Submitted by
Salt River Project

Arizona Corporation Commission
DOCKETED

JAN 31 2005

DOCKETED BY

ORIGINAL

SALT RIVER PROJECT

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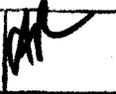
KELLY J. BARR, ESQ.

Manager, Regulatory Affairs & Contracts

January 31, 2005

Arizona Corporation Commission
DOCKETED

JAN 31 2005

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Chairman Jeff Hatch-Miller
Commissioner William A. Mundell
Commissioner Marc Spitzer
Commissioner Mike Gleason
Commissioner Kristin K. Mayes
Arizona Corporation Commission
1200 West Washington
Phoenix, Arizona 85007

Re: Docket No. L-00000B-00-0105, Decision No. 63611

Dear Commissioners:

Enclosed please find SRP's thirteenth quarterly report on the status of the Santan project. This report provides up-to-date information and documentation on the status of SRP's efforts to comply with each condition contained in the Certificate of Environmental Compatibility (CEC).

As always, please feel free to contact me if you have any additional questions or concerns.

Sincerely,



Kelly J. Barr

Enc.

cc: Lyn Farmer, Chief Administrative Law Judge (via Docket Control distribution)
Ernest Johnson, Utilities Director (via Docket Control distribution)
Brian Bozzo, Compliance and Enforcement Mgr. (via Docket Control distribution)
Chris Kempley, Legal Director (via Docket Control distribution)
Brian McNeil, Executive Secretary
Docket Control – original plus 25 copies

Richard H. Silverman, General Manager
Richard M. Hayslip, Manager, Environmental, Land, Risk Management & Telecom

QUARTERLY UPDATE

1 **BEFORE THE ARIZONA POWER PLANT**
2 **AND TRANSMISSION LINE SITING COMMITTEE**

3 In the matter of the Application of Salt)
4 River Project Agricultural Improvement and)
5 Power District in conformance with the)
6 requirements of Arizona Revised Statutes)
7 Sections 40-360-03 and 40-360.06, for a)
8 Certificate of Environmental Compatibility)
9 authorizing the Expansion of its Santan)
10 Generating Station, located at the intersection)
11 of Warner Road and Val Vista Drive,)
12 in Gilbert, Arizona, by adding 825 megawatts)
13 of new capacity in the form of three combined)
14 cycle natural gas units, and associated)
15 intraplant transmission lines.)

Case No. 105

Docket No. L-00000B-00-0105

Decision No. _____

11 **CERTIFICATE OF ENVIRONMENTAL COMPATIBILITY**

12 Pursuant to notice given as provided by law, the Arizona Power Plant and
13 Transmission Line Siting Committee (the "Committee") held public hearings at the
14 Dobson Ranch Inn, 1644 South Dobson Road, Mesa, Arizona, on September 14, 2000,
15 and various days following, in conformance with the requirements of Arizona Revised
16 Statutes section 40-360 *et seq.*, for the purpose of receiving evidence and deliberating
17 on the Application of Salt River Project Agricultural Improvement and Power District
18 ("Applicant") for a Certificate of Environmental Compatibility in the above-captioned
19 case (the "Application").

20 The following members or designees of members of the Committee were present
21 for the hearing on the Application:

22 Paul A. Bullis Chairman, Designee for Arizona Attorney General Janet
23 Napolitano

24 Steve Olea Designee of Chairman of the Arizona Corporation
25 Commission

- 1 Richard Tobin Designee for the Arizona Department of Environmental
Quality
- 2
- 3 Dennis Sundie Designee for the Director of the Department of Water
Resources
- 4 Mark McWhirter Designee for the Director of the Energy Office of the Arizona
Department of Commerce
- 5
- 6 George Campbell Appointed Member
- 7 Jeff Mcguire Appointed Member
- 8 A. Wayne Smith Appointed Member
- 9 Sandie Smith Appointed Member
- 10 Mike Whalen Appointed Member

11 The Applicant was represented by Kenneth C. Sundlof, Jr., Jennings, Strouss &
12 Salmon PLC. There were seventeen intervenors: Arizona Utilities Investor Association,
13 by Ray Heyman; Arizona Corporation Commission Staff, by Janice Alward; Arizona
14 Center for Law in the Public Interest, by Timothy Hogan, Mark Kwiat, Elisa Warner,
15 David Lundgreen, Cathy LaTona, Sarretta Parrault, Mark Sequeira, Cathy Lopez,
16 Michael Apergis, Marshal Green, Charlie Henson, Jennifer Duffany, Christopher
17 Labban, Bruce Jones and Dale Borger. There were a number of limited appearances.

18 The Arizona Corporation Commission has considered the grant by the Power
19 Plant and Line Siting Committee of a Certificate of Environmental Compatibility to SRP
20 and finds that the provisions of A.R.S. §40-360.06 have complied with, and, in addition,
21 that documentary evidence was presented regarding the need for the Santan Expansion
22 Project. Credible testimony was presented concerning the local generation deficiency in
23 Arizona and the need to locate additional generation within the East Valley in order to
24 minimize transmission constraints and ensure reliability of the transmission grid. The
25 evidence included a study that assessed the needs of the East Valley. The analysis

1 found that the East Valley peak load currently exceeds the East Valley import capability
2 and within the next 5 years the East Valley load will exceed the load serving capability.

3 Additional testimony was presented regarding SRP's projected annual 3.7% load
4 growth in its service territory. By 2008, SRP will need approximately 2700 MW to meet
5 its load. This local generation plant will have power available during peak periods for
6 use by SRP customers.

7
8 At the conclusion of the hearing and deliberations, the Committee, having
9 received and considered the Application, the appearance of Applicant and all
10 intervenors, the evidence, testimony and exhibits presented by Applicant and all
11 intervenors, the comments made by persons making limited appearances and the
12 comments of the public, and being advised of the legal requirements of Arizona Revised
13 Statutes Sections 40-360 to 40-360.13, upon motion duly made and seconded, voted to
14 grant Applicant the following Certificate of Environmental Compatibility (Case No. L-
15 00000B-00-0105):

16 Applicant and its assignees are granted a Certificate of Environmental
17 Compatibility authorizing the construction of an 825 megawatt generating facility
18 consisting of three combined cycle units with a total net output of 825 megawatts
19 together with related infrastructure and appurtenances, in the Town of Gilbert, on
20 Applicant's existing Santan Generating Station site, and related switchyard and
21 transmission connections, as more specifically described in the Application (collectively,
22 the "Project"). Applicant is granted flexibility to construct the units in phases, with
23 different steam turbine configurations, and with different transmission connection
24 configurations, so long as the construction meets the general parameters set forth in the
25 application.

1 This certificate is granted upon the following conditions:

- 2 1. Applicant shall comply with all existing applicable air and water pollution
3 control standards and regulations, and with all existing applicable
4 ordinances, master plans and regulations of the State of Arizona, the
5 Town of Gilbert, the County of Maricopa, the United States, and any other
6 governmental entities having jurisdiction.

7 ***Status ~ The final Aquifer Protection Permit (APP) was issued with an
8 effective date of August 11, 2004. However, due to specific discharge
9 monitoring requirements imposed by the final APP for the RWCD
10 outfall, an APP permit amendment was prepared and submitted to
11 ADEQ on October 25, 2004 to address those specific issues. SRP
12 anticipates that the 30-day public notice and comment period for the
13 permit amendment will be issued any day.***

14 ***The Reuse Permit was finalized as of the end of December 2004 and
15 final payment has been received by the ADEQ. SRP received the final
16 permit as of January 13, 2005.***

17 ***SRP has finalized the Operating Agreement with RWCD and submitted
18 the agreement to them on January 17, 2005. The Operating Agreement
19 needs to be finalized and in-place between SRP and RWCD so that SRP
20 access to the RWCD outfall can be utilized for sampling and monitoring
21 as stipulated in the above permits.***

- 22 2. This authorization to construct the Project will expire five (5) years from
23 the date the Certificate is approved by the Arizona Corporation
24 Commission unless construction of the Project is completed to the point
25 that the project is capable of operating at its rated capacity; provided,
however, that Applicant shall have the right to apply to the Arizona
Corporation Commission for an extension of this time limitation.

***Status ~ Construction of Unit 5 is 99% complete. In October 2004,
major start-up activities began for Units 5A and 5B and will continue
until the commercial operation of the units. Start-up activities refer to
the process of testing the various components of the units and
ensuring the different equipment parts operate in coordination. The
first phase of start-up, which included the first time natural gas was
ignited in the combustion turbines and the "steam blows" of the piping,
have been completed. Physical observations and checks of each piece
of equipment, system, hardware, pipe and wire as well as start-up of the
remaining systems are in progress. The next phase of the start-up
process includes restarting the units for tuning, further testing and
steam turbine operation. Unit 5 remains on schedule for commercial
operation by April 30, 2005. Unit 6 is 45% complete and is scheduled
for commercial operation by April 30, 2006.***

- 1 3. Applicant's project has two (2) approved transmission lines emanating
2 from its power plant's transmission switchyard and interconnecting with
3 the existing transmission system. This plant interconnection must satisfy
4 the single contingency criteria (N-1) without reliance on remedial action
5 such as a generator unit tripping or load shedding.

6 **Status ~ SRP has completed the activity required by this condition.**

- 7 4. Applicant shall use reasonable efforts to remain a member of WSCC, or
8 its successor, and shall file a copy of its WSCC Reliability Criteria
9 Agreement or Reliability Management System (RMS) Generator
10 Agreement with the Commission.

11 **Status ~ SRP is currently a member of the WECC, the successor to the
12 WECC, and plans to continue its membership with the WECC.**

- 13 5. Applicant shall use reasonable efforts to remain a member of the
14 Southwest Reserve Sharing Group, or its successor.

15 **Status ~ SRP is currently a member of the Southwest Reserve Sharing
16 Group and plans to continue its membership.**

- 17 6. Applicant shall meet all applicable requirements for groundwater set forth
18 in the Third Management Plan for the Phoenix Active Management Area.

19 **Status ~ SRP is in compliance with all requirements for groundwater, as
20 set forth in the Third Management Plan for the Phoenix Active
21 Management Area.**

- 22 7. With respect to landscaping and screening measures, including the
23 improvements listed in the IGA, Applicant agrees to develop and
24 implement a public process consistent with the process chart (Exhibit 89)
25 presented during the hearings, modifying the dates in the IGA with the
Town of Gilbert, if necessary, to correspond with the schedule in Exhibit
89.

The new Community Working Group (CWG) will consist of 12 members, selected as follows: one member selected by the Town of Gilbert, four members selected by neighborhood homeowner associations, four representatives selected by intervenors, and three members selected by SRP (not part of the aforementioned groups) who were part of the original community working group. Applicant and landscaping consultants shall act as advisors to the CWG. CWG meetings shall be noticed to and be open to the general public. The initial meeting shall take place on an evening or weekend in the Town of Gilbert.

The objective of the CWG shall be to refine the landscaping and mitigation

1 concept plans submitted during these hearings (Exhibit 88). The CWG shall
2 work to achieve appropriate visual mitigation of plant facilities and to
3 facilitate the design and installation of the concept plan components so as to
4 maximize the positive impact on the community and to increase, wherever
5 possible, the values of the homes in the neighboring areas. The refinement
6 of the mitigation plans shall be reasonably consistent with the planning
7 criteria of the Town of Gilbert, the desires of neighboring homeowner
8 associations, and the reasonable needs of Applicant.

9 Applicant shall retain an independent facilitator, acceptable to the CWG, to
10 conduct the CWG meetings. It shall be the role of the facilitator to assist in
11 initial education and in conducting an orderly and productive process. The
12 facilitator may, if necessary, employ dispute resolution mechanisms.

13 The CWG shall also assist in establishing reasonable maintenance
14 schedules for landscaping of Applicant's plant site in public-view areas.

15 Applicant will develop with the Town of Gilbert a continuous fund, to be
16 administered by the Town of Gilbert, to provide for the construction and
17 maintenance of off-site landscaping in the areas depicted in the off-site
18 landscaping concepts as developed by the CWG in an amount sufficient to
19 fund the concepts in Exhibit 88 or concepts developed by the CWG,
20 whichever is greater.

21 **Status ~**

22 **Onsite Landscaping Program ~**

23 ***SRP has completed nearly all of the landscaping at the site. The only
24 work not completed involves the northeast area and the southeast
25 corner of the project site that must be left available for construction
access or installation of underground utilities associated with the plant
construction and final work in the "Trails Area". Landscaping work in
the northeast and southeast areas will be completed following the
completion of Unit 6 construction.***

***In the "Trails Area" to the east of the power plant, work is nearing
completion, with final work on the equestrian path and minimal
landscaping touches yet to be completed. Fencing is complete, with
the exception of the fencing around Well D, which will be completed
within the next month. The "Trails Area" includes a horse trail, unpaved
equestrian resting areas complete with benches for the horse's rider,
and a shared use path, surrounded by decorative masonry walls, path
lighting, and new plantings of trees and shrubs.***

Home Owners' Association (HOA) Offsite Landscaping Program ~

***SRP has completed the initial funding for this program, providing a one-
time payment to eighteen HOAs in the area for use in providing
additional landscaping to help mitigate views of the power plant. SRP
will make annual payments to the HOAs for twenty years for off-site***

1 **landscaping maintenance. SRP provided the first maintenance payment**
2 **for each HOA in August 2004.**

3 **Individual County Landscaping Program ~**
4 **SRP has completed this program.**

- 5 8. The visual mitigation efforts shall be in general compliance with the plans
6 and concepts presented in these proceedings and constitute a commitment
7 level by Applicant. Applicant will not reduce the overall level of mitigation as
8 set forth in its Application and this proceeding, except as may be reasonably
9 changed during the CWG process. The Town of Gilbert shall approve the
10 plans agreed to by the CWG.

11 **Status ~ SRP has satisfied the visual mitigation requirements as**
12 **initially set forth in the Application and the proceeding and further**
13 **refined and expanded during the CWG process. SRP's mitigation**
14 **efforts also include the items specified in the SRP/Town of Gilbert**
15 **Intergovernmental Agreement.**

- 16 9. Applicant shall, where reasonable to do so, plant on site trees by the fall of
17 2001. Because planting of trees must await the improvement of Warner
18 Road and the design and construction of berms, this condition will largely
19 apply to trees on the East side of the site, and some of the trees on the
20 North side. All landscaping will be installed prior to the installation of major
21 plant equipment such as, but not limited to, exhaust stacks, combustion
22 turbines, and heat recovery steam generators, except where delays are
23 reasonably necessary to facilitate construction activities.

24 **Status ~ As noted in condition 7, nearly all of the landscaping work at**
25 **the site has been completed. Following the completion of Unit 6**
 construction, the landscaping work in the northeast area and the
 southeast corner of the project site will be able to be completed. The
 "Trails Area" to the east of the power plant is expected to be completed
 by February.

10. Applicant shall operate the Project so that during normal operations the
 Project shall not exceed the most restrictive of applicable (i) HUD residential
 noise guidelines, (ii) EPA residential noise guidelines, or (iii) applicable City
 of Tempe standards. Additionally, construction and operation of the facility
 shall comply with OSHA worker safety noise standards. Applicant agrees
 that it will use its best efforts to avoid during nighttime hours construction
 activities that generate significant noise. Additionally, Applicant agrees to
 comply with the standards set forth in the Gilbert Construction Noise
 Ordinance, Ordinance No. 1245, during construction of the project. In no
 case shall the operational noise level be more than 3 db above background
 noise as of the noise study prepared for this application. The Applicant shall
 also, to the extent reasonably practicable, refrain from venting between the
 hours of 10:00 p.m. and 7:00 a.m.

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Status ~ SRP remains in compliance with all applicable noise guidelines and standards. Major start-up activities for Units 5A and 5B began in October 2004 and will continue through to commercial operation, expected for April 2005. Throughout construction of the project, residents living within a .5 mile radius of the plant have been updated as to various upcoming construction and start-up activities and possible noise and/or emissions related to such activities.

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At various times during construction of the project and start-up activities, SRP has applied for and received noise variance permits when it has been necessary to extend the hours of construction or start-up beyond those hours designated in the Gilbert Ordinance.

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11. Applicant will work with the Gilbert Unified School District to assist it in converting as many as possible of its school bus fleet to green diesel or other alternative fuel, as may be feasible and determined by Gilbert Unified School District, and will contribute a minimum of \$330,000 to this effort.

Status ~ SRP has completed the activity required by this condition.

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12. Applicant shall actively work with all interested Valley cities, including at a minimum, Tempe, Mesa, Chandler, Queen Creek and Gilbert, to fund a Major Investment Study through the Regional Public Transit Authority to develop concepts and plans for commuter rail systems to serve the growing population of the East Valley. Applicant will contribute a maximum of \$400,000 to this effort.

Status ~ The Town of Gilbert and SRP have approved Phase 2 scope of work for the Gilbert Bicycle - Pedestrian Plan. This phase is part of the overall Gilbert Transportation Study that was adopted by the Town Council in 2003. The Gilbert Transportation Study was developed to integrate with the Maricopa Association of Government's (MAG) Transit Study. Work is continuing on Phase 2 of the Gilbert study. SRP has expended approximately \$100,000 to-date to fund this effort and expects to commit the full \$400,000 to this project through its completion.

13. Within six months of approval of this Order by the Arizona Corporation Commission, Applicant shall either relocate the gas metering facilities to the interior of the plant site or construct a solid wall between the gas metering facilities at the plant site and Warner Road. The wall shall be of such strength and size as to deflect vehicular traffic (including a fully loaded concrete truck) that may veer from Warner Road to the gas-metering site.

Status ~ SRP has completed the activity required by this condition.

14. Applicant will use only SRP surface water, CAP water or effluent water for cooling and power plant purposes. The water use for the plant will be

1 consistent with the water plan submitted in this proceeding and acceptable
2 to the Department of Water Resources. Applicant will work with the Town of
3 Gilbert to attempt to use available effluent water, where reasonably feasible.

4 ***Status ~ Through December 2004, SRP had delivered a total of 50,191***
5 ***acre feet of CAP water to the Granite Reef Underground Storage Project***
6 ***(GRUSP) for future use at Santan Expansion Project (SEP) via recovery***
7 ***from any SRP owned wells (Association or District) and delivered to***
8 ***SEP from the Eastern Canal (or onsite District wells). Accordingly, SRP***
9 ***has met its target to store 30,000 acre-feet of CAP water by May 2005.***
10 ***At this time it is projected that SRP will continue to store CAP water in***
11 ***GRUSP through 2011 for recovery and use at Santan.***

- 12 15. Applicant agrees to comply with all applicable federal, state and local
13 regulations relative to storage and transportation of chemicals used at the
14 plant.

15 ***Status ~ SRP is in compliance with all applicable federal, state and local***
16 ***regulations relative to storage and transportation of chemicals used at***
17 ***the plant.***

- 18 16. Applicant agrees to maintain on file with the Town of Gilbert safety and
19 emergency plans relative to emergency conditions that may arise at the
20 plant site. On at least an annual basis Applicant shall review and update, if
21 necessary, the emergency plans. Copies of these plans will be made
22 available to the public and on Applicant's web site. Additionally Applicant
23 will cooperate with the Town of Gilbert to develop an emergency notification
24 plan and to provide information to community residents relative to potential
25 emergency situations arising from the plant or related facilities. Applicant
agrees to work with the Gilbert police and fire departments to jointly develop
on site and off-site evacuation plans, as may be reasonably appropriate.
This cooperative work and plan shall be completed prior to operation of the
plant expansion.

Status ~ SRP does and will continue to comply with all safety standards
including secondary containment for bulk materials (chemicals) and
development of evacuation procedures for plant personnel. A detailed
copy of the response plan is available at the Town of Gilbert Fire
Department as well as with the State Emergency Response Commission
(SERC) and the Maricopa County Local Emergency Planning Committee
(LEPC).

17. In obtaining air offsets required by EPA and Maricopa County, Applicant will
use its best efforts to obtain these offsets as close as practicable to the plant
site.

Status ~ SRP acquired emission reduction credits from the Phoenician
and Oak Canyon Manufacturing sufficient to satisfy the 72 ton VOC
offset requirement contained in the Santan air quality permit. In

1 **addition, SRP, in cooperation with the Maricopa County Department of**
2 **Transportation, has obtained sufficient PM10 offsets for Unit 5 by**
3 **paving roads in the east valley, starting with roads closest to the plant**
4 **site. The Maricopa County Department of Transportation will complete**
5 **all paving necessary to meet SRP's air offset requirements for Unit 6**
6 **prior to the unit becoming operational.**

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18. In order to reduce the possibility of generation shortages and the attendant price volatility that California is now experiencing, SRP will operate the facilities consistent with its obligation to serve its retail load and to maintain a reliable transmission system within Arizona.

Status ~ SRP's first priority in operating its generating stations, transmission system and distribution system is to safely supply a reliable, low cost source of power to its retail customers. The Santan Expansion Project will be operated in the same manner as current resources and is a significant element in SRP's plans to avoid the kind of price volatility that accompanied the California crisis.

19. Beginning upon operation of the new units, Applicant will establish a citizens' committee, elected by the CWG, to monitor air and noise compliance and water quality reporting. Applicant will establish on-site air and noise monitoring facilities to facilitate the process. Additionally Applicant shall work with Maricopa County and the Arizona Department of Environmental Quality to enhance monitoring in the vicinity of the plant site in a manner acceptable to Maricopa County and the Arizona Department of Environmental Quality. Results of air monitoring will be made reasonably available to the public and to the citizens' committee. Applicant shall provide on and off-site noise monitoring services (at least on a quarterly basis), testing those locations suggested by the citizens' committee. The off-site air monitoring plan shall be funded by the Applicant and be implemented before operation of the plant expansion.

Status ~ The Santan Neighborhood Committee (SNC) toured the Santan Power Plant (including the Santan Expansion Project) on Saturday, January 15, 2005 and held a meeting at Santan on January 19, 2005 which included training on air emission data. The environmental data such as air, noise and water quality compliance will be available on the Santan Website for the public's and SNC's review after the units begin commercial operation.

20. Applicant will explore, and deploy where reasonably practicable, the use of available technologies to reduce the size of the steam plumes from the unit cooling towers. This will be a continuing obligation throughout the life of the plant.

Status ~ SRP explored the option of reduced plume cooling towers via the specification and bidding process for this equipment but found the

1 *limited availability, prohibitive cost and additional height requirements*
2 *of the plume abatement technology to supersede the potential benefits*
3 *at this time. SRP will continue to monitor cooling tower technology.*

- 4 21. SRP will, where practicable, work with El Paso Natural Gas Company to use
5 the railroad easements for the installation of the new El Paso gas line.

6 *Status ~ SRP's current plans are to sell the SEP lateral to a third party.*
7 *SRP sent out a Request for Expression of Interest (Requests for*
8 *Interest) in late July 2004 to various parties that might be interested in*
9 *purchasing the lateral. SRP is currently reviewing the interested*
10 *parties' proposals and is close to making a final selection for the sale of*
11 *the lateral.*

- 12 22. Other than the Santan/RS 18 lines currently under construction, Applicant
13 shall not construct additional Extra High Voltage transmission lines (115kV
14 and above) into or out of the Santan site, including the substation on the site.

15 *Status ~ SRP has no plans to construct additional Extra High Voltage*
16 *transmission lines (no new circuits 115kv and above) into or out of the*
17 *Santan site or substation on the site. However, some of the existing*
18 *circuits may be bundled in the future as required.*

- 19 23. Applicant will replace all Town of Gilbert existing street sweepers with
20 certified PM10 efficient equipment. A PM10 efficient street sweeper is a
21 street sweeper that has been certified by the South Coast Air Quality
22 Management District (California) to comply with the District's performance
23 standards under its Rule 1186 (which is the standard referenced by the
24 Maricopa Association of Governments).

25 *Status ~ SRP has completed the activity required by this condition.*

- 26 24. Applicant shall work in a cooperative effort with the Office of Environmental
27 Health of the Arizona Department of Health Services to enhance its
28 environmental efforts.

29 *Status ~ A representative of the Arizona Department of Health Services*
30 *has agreed to serve on the Santan Neighborhood Committee. The*
31 *representative will provide technical assistance and expertise to the*
32 *citizens committee mentioned in condition 19. Such assistance will*
33 *cover air, noise, and water quality issues and their impact on public*
34 *health.*

- 35 25. Applicant shall operate, improve and maintain the plant consistent with
applicable environmental regulations and requirements of the Environmental
Protection Agency, the Arizona Department of Environmental Quality,
Maricopa County and the Town of Gilbert.

1 **Status ~ SRP has an environmental management system (EMS)**
2 **designed to assure compliance with applicable laws and regulations.**
3 **The Santan Generating Station is already integrated in the SRP EMS.**
4 **Procedures and Environmental Information Management Systems**
5 **(EIMS) will be modified to incorporate the new requirements associated**
6 **with the Santan Expansion Project. Plant personnel will receive training**
7 **on the new requirements and a formal audit will be conducted within**
8 **one year of plant startup.**

- 9 26. Applicant shall actively work in good faith with Maricopa County in its efforts
10 to establish appropriate standards relative to the use of distillate fuels in
11 Valley generating facilities.

12 **Status ~ SRP has completed the activity required by this condition.**

- 13 27. Applicant shall install continuous emission monitoring equipment on the new
14 units and will make available on its website emissions data from both the
15 existing and new units according to EPA standards. Applicant shall provide
16 information to the public on its website in order to assist the public in
17 interpreting the data, and provide viable information in a reasonable time
18 frame.

19 **Status ~ SRP has installed continuous emission monitoring equipment**
20 **on the new units. Once the units become operational, SRP will provide**
21 **emissions data for the existing and new units on its website.**

- 22 28. Applicant will comply with the provisions of the Intergovernmental
23 Agreement dated April 25, 2000 between Applicant and the Town of Gilbert,
24 as modified pursuant to this Certificate.

25 **Status ~ There are eight SRP obligations noted on the IGA. The status**
26 **of each obligation is as follows:**

27 **Improvements to Warner Road and Val Vista Road ~ These**
28 **improvements are complete.**

29 **Screening of the Plant ~ All of the screening, with the exception of the**
30 **northeast area and the southeast corner of the project site, is complete.**
31 **The two areas of the site remaining to be landscaped must be left**
32 **available for construction access and installation of underground**
33 **utilities associated with the power plant construction. Screening in**
34 **these areas will be completed upon completion of Unit 6 construction.**

35 **Trail Extension ~ In the "Trails Area" to the east of the power plant,**
36 **work is nearing completion, with final work on the equestrian path and**
37 **minimal landscaping touches yet to be completed. Fencing is**
38 **complete, with the exception of the fencing around Well D, which will be**
39 **completed within the next month. The "Trails Area" includes a horse**
40 **trail, unpaved equestrian resting areas complete with benches for the**
41 **horse's rider, and a shared use path, surrounded by decorative**

1 *masonry walls, path lighting, and new plantings of trees and shrubs.*

2 **Rerouting of Canal at Ray Road** ~ *This canal modification is complete.*

3 **Training Tower Removal** ~ *This training tower was removed in the fall of 2000.*

4 **Revegetation Along New RS 18 Line** ~ *SRP has restored any vegetation*
5 *damaged or destroyed along the RS 18 line as a result of the*
6 *construction of the line.*

7 **Dust Control Along Canals** ~ *SRP is in compliance with applicable PM-*
8 *10 standards along SRP canal banks.*

9 **Offsite Tree Planting** ~ *The offsite landscaping programs are complete.*
10 *See Condition 7 status for more details.*

- 11 29. During the proceeding neighbors to the plant site raise significant concern
12 about the impact of the plant expansion on residential property values. In
13 performing each of the conditions in this order Applicant, in conjunction
14 where applicable, with the Town of Gilbert and the plant site neighbors, shall
15 consider and attempt to maximize the positive effect of its activities on the
16 values of the homes in the surrounding neighborhoods.

17 **Status** ~ *Conditions 7, 9 and 28 address SRP's comprehensive*
18 *landscaping plan that was developed by SRP's landscape architect and*
19 *approved by the CWG. Almost all of the landscaping at the project site*
20 *has been completed and funding for off-site landscaping has been*
21 *completed as well. The landscaping provides attractive features and*
22 *was designed to maximize the positive effect on the surrounding*
23 *neighborhoods.*

- 24 30. Applicant shall construct the auxiliary boiler stack at such height as may be
25 determined by air modeling requirements. Applicant shall situate the
auxiliary boiler stack so that it is not visible from off the plant site.

Status ~ *This condition is no longer applicable as SRP has decided not*
to use an auxiliary boiler so no auxiliary boiler stack will be necessary.

31. Applicant will construct the heat recovery steam generators ("HRSG")
approximately 15 feet below grade and will construct the HRSGs so that the
overall height of the HRSG module from the natural grade is no more than
80 feet.

Status ~ *SRP has completed the activity required by this condition.*

32. Applicant will complete the installation of the dry low NOX burners on the
existing units prior to the construction of the new units.

1 **Status ~ SRP has completed the activity required by this condition.**

- 2 33. Applicant shall not transfer this Certificate to any other entity for a period of
3 20 years from the date of approval by the Corporation Commission, other
4 than as part of a financing transaction where operational responsibilities will
5 remain with Applicant, and where Applicant will continue to operate the plant
6 in accordance with this Certificate.

7 **Status ~ SRP has no plans to transfer this Certificate to another entity.**

- 8 34. Applicant shall post on its website, when its air quality permit application is
9 submitted to the Maricopa County Environmental Services Department.
10 Also, Applicant shall post on its website any official notice that may be
11 required to be posted in newspapers for its air quality permit application.

12 **Status ~ SRP has completed the activity required by this condition.**

13 GRANTED this ____ day of February, 2001

14 ARIZONA POWER PLANT AND TRANSMISSION
15 LINE SITING COMMITTEE

16 _____
17 By Paul A. Bullis
18 Its Chairman

- **CO – 2 ppm w/o duct firing; 2 ppm w/ duct firing**
- **NOx – 2 ppm w/o duct firing; 2 ppm w/ duct firing**
- **VOC – 1 ppm w/o duct firing; 2 ppm w/ duct firing**
- **PM10 - .01 lb/mmBtu**

36. Due to the plant's location in a non-attainment area, the Applicant shall not use diesel fuel in the operation of any combustion turbine or heat recovery steam generator located at the plant.

Status ~ Since the issuance of the ACC order for the SEP Certificate of Environmental Compatibility, SRP has not burned diesel oil in the existing Santan generating units. The new generating units associated with the SEP will not have oil-burning capability.

On March 3, 2004, the Maricopa County Environmental Services Department issued a revision to SRP's air quality permit to allow for the use of ultra low sulfur fuel as an emergency fuel in the existing units. The conditions in the air quality permit are identical to the requirements for emergency fuels contained in Maricopa County's new air quality rule for existing power plants (Rule 322). In addition, the revised air permit includes a separate condition stating that SRP cannot use the fuel unless previously authorized by the ACC. SRP will continue to fully comply with Condition 36 of the CEC that prohibits the use of diesel fuel in any Santan unit unless amended by the ACC on an emergency basis at some future time.

37. In obtaining emissions reductions related to Carbon Monoxide (CO) emissions, Applicant shall, where technologically feasible, obtain those emission reductions onsite to the Santan Expansion Project.

Status ~ SRP has completed the activity required by this condition.

38. Beginning upon commercial operation of the new units, Applicant shall conduct a review of the Santan Generating facility operations and equipment every five years and shall, within 120 days of completing such review, file with the Commission and all parties in this docket, a report listing all improvements which would reduce plant emissions and the costs associated with each potential improvement. Commission Staff shall review the report and issue its findings on the report, which will include an economic feasibility study, to the Commission within 60 days of receipt. Applicant shall install said improvements within 24 months of filing the review with the Commission, absent an order from the Commission directing otherwise.

Status ~ SRP will comply with the requirement for a review of technology that will reduce plant emissions every 5 years after commercial operation of the new units and will report such findings to the Commission and all parties in this docket.

1 39. Applicant shall provide \$20,000 to the Pipeline Safety Revolving Fund on
2 an annual basis, thus improving the overall safety of pipelines throughout
3 the State of Arizona.

4 ***Status ~ In March 2004, a check for \$20,000 was sent to the Arizona
5 Corporation Commission, for deposit in the Pipeline Safety Revolving
6 Fund. This check satisfies compliance with this condition for the year
7 ending April 30, 2004. Subsequent checks will be distributed in the
8 March/April timeframe each year.***

9 40. Where feasible, Applicant shall strive to incorporate local and in-state
10 contractors in the construction of the three new generation units for the
11 expansion project.

12 ***Status ~ Every effort has been made to incorporate local contractors for
13 this project. Over one hundred-eleven local or in-state contractors have
14 been engaged on jobs completed or in progress.***

15 41. Applicant shall construct a 10-foot high block wall surrounding the
16 perimeter of the Santan plant, and appropriately landscape the area
17 consistent with the surrounding neighborhood, unless otherwise agreed to
18 by the Salt River Project and the Citizens Working Group.

19 ***Status ~ SRP has completed the activity required by this condition.***

20 **APPROVED AS AMENDED BY ORDER OF THE ARIZONA CORPORATION
21 COMMISSION**

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Chairman

Commissioner

Commissioner

In Witness hereof, I, Brian C. McNeil,
Executive Secretary of the Arizona
Corporation Commission, set my hand
and cause the official seal of this
Commission to be affixed this ____ day
of _____, 2001.

By: _____

Brian C. McNeil
Executive Secretary

Dissent: _____