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BEFORE THE ARIZONA CORPORATION COMMISSION

2009 JUN 12 AM 11:06

AZ CORP COMMISSION
DOCUMENT CONTROL

- 1
- 2 JEFF HATCH-MILLER
- 3 Chairman
- 4 WILLIAM A. MUNDELL
- 5 Commissioner
- 6 MARC SPITZER
- 7 Commissioner
- 8 MIKE GLEASON
- 9 Commissioner
- 10 KRISTIN K. MAYES
- 11 Commissioner
- 12
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IN THE MATTER OF THE APPLICATION)
 OF SALT RIVER PROJECT)
 AGRICULTURAL IMPROVEMENT AND)
 POWER DISTRICT ON BEHALF OF ITSELF)
 AND ARIZONA PUBLIC SERVICE)
 COMPANY, SANTA CRUZ WATER AND)
 POWER DISTRICTS ASSOCIATION,)
 SOUTHWEST TRANSMISSION COOPER-)
 ATIVE, INC. AND TUCSON ELECTRIC)
 POWER IN CONFORMANCE WITH THE)
 REQUIREMENTS OF ARIZONA REVISED)
 STATUTES SECTION 40-360, et. seq., FOR A)
 CERTIFICATE OF ENVIRONMENTAL)
 COMPATIBILITY AUTHORIZING)
 CONSTRUCTION OF THE PINAL WEST TO)
 SOUTHEAST VALLEY/BROWNING)
 PROJECT INCLUDING THE CONSTRUC-)
 TION OF TRANSMISSION LINES FROM)
 PINAL WEST TO THE BROWNING SUB-)
 STATION AND OTHER INTERCONNEC-)
 TION COMPONENTS IN PINAL AND)
 MARICOPA COUNTIES, ARIZONA.)

Docket No. L00000B-04-0126

Case No. 126

**Applicant's Response to Vanguard Properties' Response to the
 Statement Regarding Exclusion of New Evidence and
 Reply to Applicant's and Staff's Response to Same**

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23 Applicant moves to strike the response of Vanguard Properties as it is not

24 contemplated by procedural order issued On June 27, 2005.

25 This filing is another unsanctioned attempt to introduce new evidence and/or new

26

1 arguments into the record. The June 27, 2005 Procedural Order states in relevant part:

2 This statutory provision clearly sets forth that the kind of
3 review that the Commission is allowed to make in reaching
4 its decision on this matter is limited to a review of the record
5 created by the proceedings before the Committee. That
6 record is closed, and additional testimony and evidence
cannot be considered by the Commission when making its
decision on the certificate.

7 Opportunities for argument and briefing have been clearly established by the
8 Commission through the oral argument opportunities and briefing schedules. The
9 Vanguard filing is simply an unsanctioned filing. The June 27, 2005 procedural order
10 states in relevant part:

11 IT IS THEREFORE ORDERED that the parties shall file
12 concise written briefs, containing citations to the record, with
13 the Commission to assist it in complying with the provisions
14 of § 40-360.06 and balance in the board public interest, the
15 need for an adequate, economical and reliable supply of
16 electric power with the desire to minimize the effect thereof
on the environment and ecology of this state, no later than
July 7, 2005.

17 IT IS FURTHER ORDERED that **oral arguments by the**
18 **parties** to the proceeding shall be held before the
19 Commission on **Wednesday, July 13, 2005, at 9:00 a.m.**, in
20 the Commission's Hearing Room, 1200 West Washington,
Phoenix, Arizona.

21 Because the record in this case is closed, and the filing is not contemplated by the
22 procedures set forth in this case, Applicant requests that Vanguard Properties' response

23 //

24 //

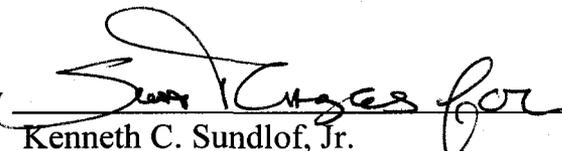
25 //

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1 be stricken.

2 Dated this 12th day of August, 2005.

3 JENNINGS, STROUSS & SALMON, P.L.C.

4 By  for

5 Kenneth C. Sundlof, Jr.
6 The Collier Center, 11th Floor
7 201 East Washington Street
8 Phoenix, Arizona 85004-2385
9 Attorneys for Salt River Project
Agricultural Improvement and Power
District

10 ORIGINAL and 40 copies of the
11 foregoing filed on this 12th day of
12 August, 2005 with

13 Docket Control
14 Arizona Corporation Commission
15 1200 W. Washington
16 Phoenix, AZ 85007

17 Copy of the foregoing delivered
18 electronically and mailed on this 12th day
19 of August, 2005, to:

20 All parties of record

21 By 