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BEFORE THE ARIZONA CORPORATION COMMISSION

Arizona Corporation Commission

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COMMISSIONERS

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

IN THE MATTER OF THE APPLICATION OF
 ARIZONA ELECTRIC POWER
 COOPERATIVE, INC. FOR A PARTIAL
 WAIVER OF A.A.C. R14-5-110(B)

DOCKET NO. E-01773A-03-0697

DECISION NO. 66602

ORDER

Open Meeting
 December 2 and 3, 2003
 Phoenix, Arizona
 BY THE COMMISSION:

FINDING OF FACT

1. On September 23, 2003 Arizona Electric Power Cooperative, Inc. ("AEPCO") filed an application for a partial waiver from the railroad walkway requirements contained in A.A.C. R14-5-110(B).

2. AEPCO's application states that AEPCO owns rail spur and coal unloading facilities at its Apache Generating Station (the "plant") which are used by the Union Pacific Railroad Company ("Union Pacific"). AEPCO states that the Union Pacific uses the rail spur and coal unloading facilities to deliver coal to the plant under an Industrial Track Agreement between the Union Pacific and AEPCO.

3. AEPCO states that the waiver is necessary due to certain improvements to the plant that are being undertaken by AEPCO.

4. The Commission approved AEPCO's application for financing relating to the improvements to the plant in Decision No. 65210 (September 20, 2002).

5. AEPCO states new environmental regulations will require a major reduction in opacity

Decision No. _____

1 standards at rail track coal unloading facilities. AEPCO states that the only viable way to meet these
2 new standards involves the installation of dual dust walls. AEPCO states that the seal associated
3 with the dual dust walls will "significantly reduce the effect of wind on the unloading operation and
4 will make more effective the use of dry fog type dust suppression at the railcar coal discharge
5 points." AEPCO also states that the installation of the dual dust walls will reduce the clearance from
6 the centerline of the track in a way that would violate the requirements of A.A.C. R14-5-110(B).

7 6. AEPCO notes that access to the plant is restricted to plant personnel and that appropriate
8 signs will be posted.

9 7. The Railroad Safety Section ("Safety") reviewed AEPCO's application and filed a response
10 on October 15, 2003 stating that they had no objection to the waiver.

11 8. On November 17, 2003 Safety filed a memorandum stating that Safety finds that the partial
12 waiver of R14-2-110(B) will not compromise the safety of the public, railroad personnel or plant
13 personnel. Safety also recommends that AEPCO be ordered to post conspicuous warning signs near
14 the track in question.

15 9. Safety recommends approval of AEPCO's application for a partial waiver of R14-2-110(B).

16 10. The Union Pacific was notified of AEPCO's application and did not object.

17 CONCLUSIONS OF LAW

18 1. AEPCO and the Union Pacific are public service corporations within the meaning of Article
19 XV § 2 of the Arizona Constitution.

20 2. The Commission has jurisdiction over AEPCO, Union Pacific and the subject matter of
21 AEPCO's application.

22 3. The Commission having reviewed the application and Safety's Memorandum of
23 November 17, 2003, concludes that it is in the public interest to grant AEPCO's application subject
24 to the signage requirements recommended by Staff.

25 ORDER

26 THEREFORE, IT IS ORDERED that AEPCO's application for a partial waiver of A.A.C.
27 R14-2-110(B) is granted.

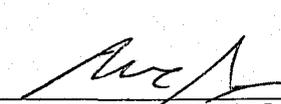
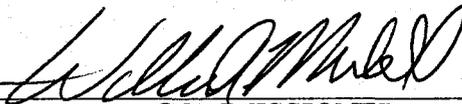
28 IT IS FURTHER ORDERED that the track clearance shall not be less than the clearance

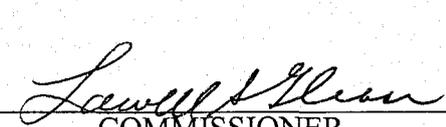
1 shown on the design schematics attached to AEPCO's application.

2 IT IS FURTHER ORDERED that AEPCO shall post conspicuous warning signs near the
3 track in question.

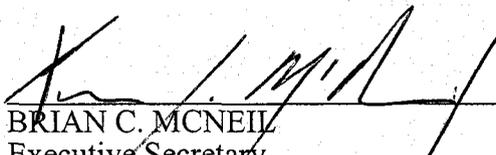
4 IT IS FURTHER ORDERED that this Decision shall be effective immediately.

5 **BY THE ORDER OF THE ARIZONA CORPORATION COMMISSION**

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8 CHAIRMAN COMMISSIONER COMMISSIONER

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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 this
15 Commission to be affixed at the Capitol, in the City of Phoenix,
16 this 9th day of December 2003.

17 
18 BRIAN C. MCNEIL
19 Executive Secretary

20 DISSENT: _____

21 DISSENT: _____

22 DRT:TJS:vk
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1 SERVICE LIST FOR:
DOCKET NO. E-01773A-03-0697

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