

Docket



0000028686

ARIZONA CORPORATION COMMISSION

DOCKETED

JAN 15 2002

DOCKETED BY [Signature]

BEFORE THE ARIZONA POWER PLANT AND TRANSMISSION LINE SITING COMMITTEE

IN THE MATTER OF THE APPLICATION )
OF DUKE ENERGY ARLINGTON VALLEY, )
L.L.C. IN CONFORMANCE WITH THE )
REQUIREMENTS OF ARIZONA REVISED )
STATUTES §40-360.03 AND §40-360.06 )
FOR A CERTIFICATE OF )
ENVIRONMENTAL COMPATIBILITY )
AUTHORIZING THE CONSTRUCTION )
OF A NATURAL GAS-FIRED, COMBINED )
CYCLE GENERATING FACILITY )
(ARLINGTON VALLEY ENERGY FACILITY )
II) NEAR ARLINGTON IN MARICOPA )
COUNTY, ARIZONA )

Docket No. L-00000P-01-0117

Case No: 117

Decision No. 64357

DECISION OF THE ARIZONA POWER PLANT AND TRANSMISSION LINE SITING COMMITTEE AND CERTIFICATE OF ENVIRONMENTAL COMPATIBILITY

Pursuant to notice given as provided by law, the Arizona Power Plant and Transmission Line Siting Committee ("Committee") held public hearings at the Quality Inn, Phoenix, Arizona on October 15, 2001 and October 16, 2001 in conformance with the requirements of Arizona Revised Statutes Section 40-360, et seq., for the purpose of receiving public comment and evidence, and deliberating on the Application of Duke Energy Arlington Valley LLC ("Duke") for a Certificate of Environmental Compatibility ("Certificate") in the above-captioned case.

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

- Laurie A. Woodall Chairman, Designee for Arizona Attorney General Janet Napolitano, Office of the Attorney General
Ray Williamson Designee of the Chairman of the Arizona Corporation Commission

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Mark McWhirter	Designee for the Director of the Energy Office of the Arizona Department of Commerce
Richard Tobin	Deputy Director, Arizona Department of Environmental Quality
Gregg Houtz	Designee for the Director of the Arizona Department of Water Resources
Hon. Mike Whalen	Appointed Member
Mike Palmer	Appointed Member
Margaret Trujillo	Appointed Member
A. Wayne Smith	Appointed Member
Jeff McGuire	Appointed Member

Thomas Campbell and Michael Denby of Lewis and Roca LLP represented the Applicant. Staff of the Arizona Corporation Commission ("Staff") noticed their intervention as a party, and were represented by Janice Alward. The City of Goodyear and Neil A.M. Peters were granted intervenor status. Neil A.M. Peters appeared pro per. The City of Goodyear did not appear. There were no other interventions or limited appearances.

At the conclusion of the hearing and deliberations, the Committee (i) having received and considered the Application, the appearances of Applicant and each of the intervenors; the evidence, testimony and exhibits presented by Applicant and the intervenors, respectively; and public comments; (ii) being advised of the legal requirements of Arizona Revised Statutes Sections 40-360 to 40-360.13; (iii) upon consideration of the factors identified in Arizona Revised Statutes Section 40-360.06; and (iv) in accordance with A.A.C. R14-213, upon motion duly made

and seconded, voted (10 in favor, 0 opposed) to make the following findings and to grant Applicant the following Certificate of Environmental Compatibility:

The Committee finds that the record contains substantial clear and convincing evidence regarding the need for an adequate, economical and reliable supply of electric power and how Applicant's proposed Arlington Valley Energy Facility II (AVEF II) would contribute towards satisfaction of such need without causing material adverse impact to the environment.

Duke, and its assignee(s), are hereby granted this Certificate of Environmental Compatibility authorizing construction and operation of a 600-megawatt (nominal) gas turbine/steam turbine combined-cycle merchant power plant, the key elements of which include two combustion turbine generators with inlet chilling fueled by pipeline-quality natural gas, two natural gas supplementary-fired Heat Recovery Steam Generators, one steam turbine generator set, one gas-fired (intermittent) auxiliary boiler, one surface condenser, and two mechanical draft cooling systems, together with related infrastructure, including a 500kV switchyard of ring bus design, capable of accommodating four terminals, and upgradable to a breaker and one-half design, which shall be located in Maricopa County, approximately 0.7 miles southwest of the intersection of Elliot Road and Wintersburg Road (the "Project").

This Certificate is granted upon the following conditions:

1. The Applicant will comply with all existing applicable air and waste pollution control standards and regulations, and with all existing applicable ordinances, master plans and regulations of the State of Arizona, Maricopa County, the United States, and any other governmental entities having jurisdiction, including but not limited to the following:
  - a. all zoning stipulations and conditions, including but not limited to the landscaping and dust control requirements and/or approvals;

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- b. all applicable air quality control standards, approvals, permit conditions and requirements of the Maricopa County Air Quality Control District and/or other State or Federal agencies having jurisdiction, and the Applicant shall install and operate selective catalytic reduction and catalytic oxidation technology at the level determined by the Maricopa County Air Quality Control District and approved by EPA Region IX. The Applicant shall operate its project so as to meet a 2.5 ppm NOx emissions level, within the parameters established in the Title V and PSD air quality permits issued by the Maricopa County Air Quality Control District for the plant. If technically and economically feasible, Applicant shall install and operate catalytic oxidation technology that will produce a carbon monoxide (CO) and volatile organic compound (VOC) emission rate equivalent to California's current best available control technology (BACT) standard.
- c. all applicable water use requirements of the Arizona Department of Water Resources, and Phoenix Active Management Area, including but not limited to development plan approval, certificate of irrigation grandfathered rights, and applicable management plans;
- d. all applicable water quality and disposal requirements of the Arizona Department of Environmental Quality regulations;
- e. all applicable noise control standards, and during normal operations the Project shall not exceed applicable (i) HUD or EPA residential noise guidelines or (ii) OSHA worker safety noise standards;
- f. all applicable regulations and permits governing storage and handling of chemicals.

2. This authorization to construction AVEF II will expire upon five (5) years from the date this Certificate is approved by the Arizona Corporation Commission ("Commission") unless construction is completed to the point that the facility is capable of operating at its rated capacity; provided, however, that prior to such expiration Applicant or its assignee may request that the Commission extend this time limitation.

3. Applicant will submit to the Commission an interconnection agreement with the transmission providers with whom it is interconnecting before commencing commercial operation.

4. Applicant or its affiliate company will become a member of the Western Systems Coordinating Council ("WSCC") (or its successor), and file a copy of its WSCC Reliability Criteria Agreement or Reliability Management System (RMS) Generator Agreement with the Commission.

5. Applicant will use reasonable efforts to become a member of the Southwest Reserve Sharing Group (or its successor) if commercially reasonable and if involved in the selling of wholesale power to a commercially identifiable load, thereby making Applicant's units available for reserve sharing purposes, subject to competitive pricing.

6. Subject to the Federal Energy Regulatory Commission rules and tariffs and WSCC RMS requirements, Applicant shall commit to offer as ancillary services a total 7% of its total plant capacity to the local Control Area with which it is interconnected and to Arizona's regional ancillary service market once a Regional Transmission Organization is operational, and until such time that a Regional Transmission Organization is operational, to a regional reserve sharing pool.

7. Applicant shall make commercially reasonable efforts to execute wholesale power sales to credit worthy Arizona load-serving entities serving Arizona load and to marketers providing service to those Arizona load serving entities.

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8. The Applicant shall file deed restrictions limiting the use of its property within a .50 mile radius of the generation facility (AVEF II) to non-residential uses so long as AVEF II is operational.

9. From the period beginning 30 days from the date a Certificate of Environmental Compatibility is approved by the Commission, continuing until the generation facility's construction has been completed, Applicant, subject to applicable county regulations, shall erect and maintain at the project site a sign of not less than 15 feet by 10 feet dimensions or of a size at the maximum dimensions for such signs permitted by the local governmental authority, advising:

- that the site has been approved for the construction of a 600 megawatt generating facility
- the expected date of completion of the facility
- if the facility is not timely completed pursuant to the Certificate of Environmental Compatibility, the Applicant would have to seek an extension of the certificate or again pursue approval from the Power Plant Line Siting Committee before it could construct the project. This would afford persons residing in the project's vicinity an opportunity to express their viewpoint through public comment and/or by formally intervening in the application approval process.

10. Where feasible, Applicant shall make commercially reasonable efforts to invite, and shall give full consideration to, bids from qualified local and in-state construction subcontractors for construction of the Project.

11. The Applicant shall operate its evaporation pond so that any salt residue contained therein shall not cause damage to crops grown on fields adjacent to the Project site.

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12. Applicant shall use a zero discharge system for its cooling water, subject to existing regulatory requirements.

13. Applicant shall use low profile structures, moderate stacks, neutral colors, compatible landscaping and low intensity directed lighting for the plant. Applicant shall use non-reflective conductors and towers.

14. Applicant shall implement a Land Management Plan that includes:

- (i) Installation of a professionally designed landscape plan for the entrance of the facility and along both sides of Elliot Road.
- (ii) A comprehensive revegetation program that will restore a large portion of the property with plant communities similar to the adjacent desert lands.
- (iii) A partnership with The Arizona Game and Fish Department to provide enhanced wildlife habitat on lands that border Centennial Wash.
- (v) An annual report (for six years) submitted to the Arizona Corporation Commission setting forth the status of the Land Management Plan.
- (v) Including Mr. Neil A.M. Peters, intervenor, and other interested parties, in implementation discussions and shall keep them informed of all aspects of the land management plan.

15. Applicant will convene a workshop in early 2002 to address gas transportation reliability and capacity issues, both short term and long term. Participants will include other Arizona gas-fired power plant owners and wholesale gas transportation providers. The initial workshop will identify issues and establish a timeline for producing a report to the Arizona Corporation Commission in 2002. This topic will be reviewed in subsequent workshops

convened by the Applicant in 2003 and 2004. These workshops will allow for public participation.

16. Once construction commences on the Project, Applicant will pay up to \$11,000,000 for the upgrades to the North Gila and Kyrene transmission lines set forth in the Report on the Preliminary Study for the Palo Verde Interconnection prepared for the Palo Verde Interconnectors and Western Arizona Transmission System Task Force, dated February 20, 2001 (the "WATS Study") at pages 29-31. Applicant will contact the transmission owners of the upgraded lines to determine the earliest opportunity for the transmission lines to be upgraded and Applicant will use commercially reasonable efforts to assure that such upgrades are completed before AVEF II is in commercial operation.

17. Applicant shall participate in good faith in state and regional transmission study forums, such as the Central Arizona Transmission Study, to terminate a second transmission line out of the Arlington Valley Energy Facility that serves the transmission system grid needs to deliver power throughout the Western Systems Coordinating Council grid in a reliable manner. Applicant shall take all commercially reasonable efforts to ensure that such transmission line shall be timely constructed in accordance with the needs of the integrated transmission grid, although Applicant is not required by this Decision to build, finance, operate or own such transmission line.

18. Applicant shall construct a 500kV switchyard of ring bus design and capable of accommodating four terminals and upgradable to a breaker and one-half design if so required by local regional reliability criteria. Two of the terminals will be used to connect to the phases of the

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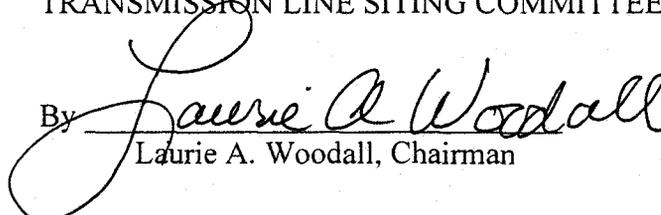
Applicant's project designated as AVEF I and AVEF II each consisting of 600 MW of generation. The remaining two terminals will provide for connection to the transmission grid, *i.e.*, one for the transmission connection currently under construction to the Hassayampa switchyard associated with AVEF I and one for a future transmission line to be terminated elsewhere. The switchyard shall be of conventional open air design consisting of high voltage power circuit breakers, disconnect switches, grounding switches, potential transformers, surge arrestors, steel structures and protective relaying. Nothing in this order precludes Applicant from seeking reimbursement for these switchyard costs from future users of the switchyard. Applicant shall file a late-filed exhibit describing the switchyard, including its location and a diagram of the facility.

19. Applicant's Project shall be designed and constructed to accommodate two transmission lines emanating from its power plant's transmission switchyard and interconnecting with the existing transmission system. One of these will interconnect with the Hassayampa 500 kV switchyard. This plant interconnection must satisfy the single contingency outage criterion (N-1) after the second transmission line interconnecting with the transmission grid is complete, without reliance on remedial action such as generator unit tripping or load shedding.

GRANTED this 15 day of Nov, 2001.

ARIZONA POWER PLANT AND  
TRANSMISSION LINE SITING COMMITTEE

By

  
Laurie A. Woodall, Chairman

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

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3 WILLIAM A. MUNDELL  
Chairman  
4 JIM IRVIN  
Commissioner  
5 MARC SPITZER  
Commissioner  
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8 IN THE MATTER OF THE APPLICATION )  
OF DUKE ENERGY ARLINGTON VALLEY ) DOCKET NOS. L-00000P-01-0117  
9 L.L.C. IN CONFORMANCE WITH THE )  
REQUIREMENTS OF ARIZONA REVISED )  
10 STATUTES §40-360.03 AND §40-360.06 )  
FOR A CERTIFICATE OF ENVIRONMENTAL )  
11 COMPATIBILITY AUTHORIZING THE ) **DECISION NO.** \_\_\_\_\_  
CONSTRUCTION OF A NATURAL GAS- )  
12 FIRED, COMBINED CYCLE GENERATING )  
FACILITY (ARLINGTON VALLEY ENERGY )  
13 FACILITY II) NEAR ARLINGTON IN )  
MARICOPA COUNTY, ARIZONA )  
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15 The Arizona Corporation Commission ("Commission") has conducted its review, as  
16 prescribed by A.R.S. § 40-360.07. Pursuant to A.R.S. § 40-360.07(B), the Commission, in  
17 compliance with A.R.S. § 40-360.06 and in balancing the broad public interest, the need for an  
18 adequate, economical and reliable supply of electric power with the desire to minimize the effect  
19 thereof on the environment and ecology of this state:

20 The Commission finds and concludes that the Certificate of Environmental Compatibility  
21 ("CEC") issued by the Arizona Power Plant and Transmission Line Siting Committee is granted as  
22 modified and amended by this Order.

23 The Commission modifies Condition Number 16 as follows:

24 16. Once construction commences on the Project, Applicant will pay up to \$11,000,000  
25 for the upgrades to the North Gila and Kyrene transmission lines set forth in the  
26 Report on the Preliminary Study for the Palo Verde Interconnection prepared for the  
27 Palo Verde Interconnectors and Western Arizona Transmission System Task Force,  
28 date February 20, 2001 (the "WATS Study") at pages 29-31. Applicant will contact

1 the transmission owners of the upgraded lines to determine the earliest opportunity  
2 for the transmission lines to be upgraded and Applicant will use commercially  
3 reasonable efforts to assure that such upgrades are completed before AVEF II is in  
4 commercial operation. Nothing in this paragraph is intended to preempt any Federal  
5 Energy Regulatory Commission (FERC) order or regulation concerning either  
6 interconnection or transmission service, nor grants Applicant any priority in either  
7 interconnection or transmission service, nor guarantees that Applicant will receive  
8 transmission service.

9 The Commission modifies the CEC to add the following six conditions:

- 10 20. The Applicant shall construct and operate the proposed Arlington Valley Energy  
11 Facility II (AVEF II) as a dry-cooled generating facility.
- 12 21. The Applicant shall participate in the Central Arizona Water Conservation District's  
13 Agua Fria Recharge Project, in cooperation with the Arizona Water Banking  
14 Authority. The Applicant shall recharge 1,000 acre-feet/year of water through the  
15 recharge project for the useful life of the AVEF II facility, subject to reasonable  
16 limitations on costs and availability of water supplies. If the Applicant earns long-  
17 term storage credits from its participation in the Agua Fria Recharge Project, it shall  
18 not reclaim those credits in any manner whatsoever.
- 19 22. The Applicant shall operate its project so as to meet a 2.5 ppm Nitrogen Oxide (NOx)  
20 emissions level, within the parameters established in the Title V and PSD air quality  
21 permit issued by Maricopa County for the plant. Applicant shall install and operate  
22 catalytic oxidation technology that will produce a carbon monoxide (CO) emission  
23 rate equivalent to California's best available control technology (BACT) and  
24 collateral reductions in volatile organic compounds (VOC) and condensable  
25 particulate matter.
- 26 23. If during the first twenty years of commercial operation of the AVEF II facility (a)  
27 an air quality permit is issued in Environmental Protection Agency (EPA) Region IX  
28 requiring a combined-cycle combustion turbine generator located in an area having

1 the same designation at that time (attainment or nonattainment) as the AVEF II  
2 facility site to control NOx emissions to a level less than 2.5 ppm, and (b) the  
3 Commission or the Applicant has determined that use of the technology required to  
4 comply with such lower standard would be economically feasible for the AVEF II  
5 facility, then within twenty-four months of such determination, Applicant shall install  
6 and operate control technology to control NOx emissions at the AVEF II facility to  
7 such lower standard. Applicant shall not be required to install new control technology  
8 more than once every ten years.

9 24. The Applicant, its successor(s) or assignee(s) shall submit a self-certification letter  
10 annually, identifying which conditions contained in the CEC as amended, have been  
11 met. Each letter shall be submitted to the Utilities Division Director on August 1,  
12 beginning in 2002, describing conditions which have been met as of June 30.  
13 Attached to each certification letter shall be documentation explaining, in detail, how  
14 compliance with each condition was achieved. Copies of each letter, along with the  
15 corresponding documentation, shall also be submitted to the Arizona Attorney  
16 General and the Directors of the Arizona Department of Environmental Quality,  
17 Department of Water Resources, and Department of Commerce Energy Office.

18 25. If the Applicant, its successor(s) or assignee(s) after notice and hearing, is found to  
19 have failed to comply with any conditions herein, the Commission shall impose  
20 appropriate sanctions up to and including the revocation of the authority to construct  
21 facilities granted by this Commission Decision, which would result in the CEC being  
22 rendered null and void in its entirety.

23 26. The Commission is approving this CEC as a package of inter-related requirements  
24 and conditions that must all remain in force in order to merit Commission approval.  
25 If the Applicant, its successor(s) or assignee(s) pursue a legal challenge of any  
26 condition herein, the authority to construct facilities granted by this Commission  
27 Decision shall be revoked and the Certificate rendered null and void in its entirety  
28 without further order of the Commission.

APPROVED AS AMENDED BY ORDER OF THE  
ARIZONA CORPORATION COMMISSION.

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*William A. Mudd*  
CHAIRMAN

*Brian C. McNeil*  
COMMISSIONER

*[Signature]*  
COMMISSIONER

IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive Secretary of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this 5<sup>th</sup> day of January, 2002.

*[Signature]*  
BRIAN C. McNEIL  
EXECUTIVE SECRETARY

DISSENT \_\_\_\_\_