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OPEN MEETING ITEM

ORIGINAL

410

MEMORANDUM

RECEIVED

TO: THE COMMISSION

FROM: Donald R. Thompson  
Supervisor, Railroad Safety Section

DATE: November 17, 2003

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

2003 NOV 17 P 2:13

ARIZONA CORPORATION COMMISSION  
DOCUMENT CONTROL

E-01773A-03-0697

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

AEPSCO states that it the waiver is necessary due to certain improvements to the plant that are being undertaking by AEPSCO. The Commission approved AEPSCO's application for financing relating to the improvements to the plant in Decision No. 65210 (September 20, 2002). AEPSCO states new environmental regulations will require a major reduction in opacity standards at rail track coal unloading facilities. AEPSCO states that the only viable way to meet these new standards involves the installation of dual dust wall. AEPSCO states that the seal associated with the dual dust wall will "significantly reduce the effect of wind on the unloading operation and will make more effective the use of dry fog type dust suppression at the railcar coal discharge points." AEPSCO also states that the installation of the dual dust walls will reduce the clearance from the centerline of the track in a way that would violate the requirements of A.A.C. R14-5-110(B).

AEPSCO notes that access to the plant is restricted to plant personnel and that appropriate signs will be posted. The Railroad Safety Section ("Safety") reviewed AEPSCO's application and filed a response on October 15, 2003 stating that they had no objection to the waiver. Safety finds that the partial waiver of R14-2-110(B) will not compromise the safety of the public, railroad personnel or plant personnel. Safety also recommends that AEPSCO be ordered to post conspicuous warning signs near the track in question.

Staff has attached a proposed order granting the partial waiver.

Arizona Corporation Commission

DOCKETED

NOV 17 2003

DOCKETED BY	<i>Mac</i>
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1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2  
3 COMMISSIONERS

4 MARC SPITZER - Chairman  
5 WILLIAM A. MUNDELL  
6 JEFF HATCH-MILLER  
7 MIKE GLEASON  
8 KRISTIN K. MAYES

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

DOCKET NO. E-01773A-03-0697

DECISION NO. \_\_\_\_\_

ORDER

12 Open Meeting  
13 December 2 and 3, 2003  
14 Phoenix, Arizona  
15 BY THE COMMISSION:

16 FINDING OF FACT

17 1. On September 23, 2003 Arizona Electric Power Cooperative, Inc. ("AEPCO") filed an  
18 application for a partial waiver from the railroad walkway requirements contained in A.A.C. R14-5-  
19 110(B).

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

25 3. AEPCO states that it the waiver is necessary due to certain improvements to the plant that are  
26 being undertaking by AEPCO.

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

5. AEPCO states new environmental regulations will require a major reduction in opacity  
standards at rail track coal unloading facilities. AEPCO states that the only viable way to meet these

Decision No. \_\_\_\_\_

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

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

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

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

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

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

#### 16 CONCLUSIONS OF LAW

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

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

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

#### 24 ORDER

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

27 IT IS FURTHER ORDERED that the track clearance shall not be less than the clearance  
28 shown on the design schematics attached to AEPCO's application.

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

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

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

CHAIRMAN	COMMISSIONER	COMMISSIONER
COMMISSIONER	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 this Commission to be affixed at the Capitol, in the City of Phoenix, this \_\_\_\_\_ day of \_\_\_\_\_, 2003.

\_\_\_\_\_  
BRIAN C. MCNEIL  
Executive Secretary

DISSENT: \_\_\_\_\_

DISSENT: \_\_\_\_\_

DRT:TJS:vk

- 1 SERVICE LIST FOR:  
DOCKET NO. E-01773A-03-0697
- 2
- 3 Mr. Michael M. Grant  
Gallagher & Kennedy, P.A.  
2575 East Camelback Road
- 4 Phoenix, Arizona 85016-9225
- 5 Mr. Freddie Chung  
Union Pacific Railroad Company
- 6 Slover, CA 92316
- 7 Mr. Richard Gonzales  
Union Pacific Railroad Company
- 8 Slover CA 92316
- 9 Mr. Ernest G. Johnson  
Director, Utilities Division
- 10 Arizona Corporation Commission  
1200 West Washington
- 11 Phoenix, Arizona 85007
- 12 Mr. Christopher C. Kempley  
Chief Counsel
- 13 Arizona Corporation Commission  
1200 West Washington
- 14 Phoenix, Arizona 85007

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