

ORIGINAL

205



BEFORE THE ARIZONA POWER PLANT AND LINE SITING

IN THE MATTER OF THE APPLICATION) CASE NO. 116
 OF ALLEGHENY ENERGY SUPPLY) DOCKET NOS: L-00000D-01-0116
 COMPANY, L.L.C., FOR A CERTIFICATE) L-00000B-01-0116
 OF ENVIRONMENTAL COMPATIBILITY)
 FOR CONSTRUCTION OF A 1,080 MW)
 (NOMINAL) GENERATING FACILITY IN)
 SECTION 35, TOWNSHIP 3 NORTH,) **STAFF'S RESPONSE TO APPLICANT'S**
 RANGE 11 WEST IN LA PAZ COUNTY,) **MOTION TO STRIKE**
 ARIZONA AND ASSOCIATED)
 TRANSMISSION LINE AND)
 SWITCHYARDS BETWEEN AND IN)
 SECTION 35, TOWNSHIP 3 NORTH,)
 RANGE 11 WEST AND SECTIONS 23-26,)
 TOWNSHIP 3 NORTH, RANGE 11 WEST)
 ALSO IN LA PAZ COUNTY, ARIZONA.)

Arizona Corporation Commission

DOCKETED

NOV 08 2001

DOCKETED BY	<i>nae</i>
-------------	------------

AZ CORP COMMISSION DOCUMENT CONTROL

2001 NOV -8 P 3:37

RECEIVED

Staff of the Utilities Division of the Arizona Corporation Commission

("Commission Staff") herein gives its position on the motion to strike filed by Allegheny Energy Supply Company, L.L.C. (hereinafter "Applicants").

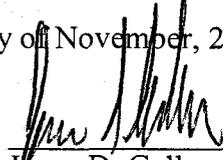
Commission Staff believes that the Committee should not strike the pre-filed comments filed by Arizona Unions for Reliable Energy (hereinafter "Intervenors") in their entirety. Under A.R.S. § 40-360.06(A), the Committee may approve, deny, and/or impose reasonable conditions upon issuing a certificate of environmental compatibility ("CEC"), based on the nine factors listed in under the statute. It is logical to include air quality issues, pollutants, visual impacts and water issues as amongst the myriad of factors the Committee may consider as to whether the Applicant's proposed project should be approved, denied, or approved subject to certain conditions. Without commenting on the substantial merit of the evidence or the amount of weight that this Committee should give Intervenors' case, Staff believes that the issues raised by the pre-filed comments and testimony of Intervenors witnesses should be admissible. This position is supported by the historical and statutory notes to the line siting statutes that state the following:

1 The legislature further finds that present practices,
2 proceedings and laws relating to the location of such utility
3 facilities may be inadequate to protect environmental
4 values and take into account the total effect on society of
5 such facilities.

6 *See Laws 1971, Ch. 67, § 1.*

7 To the degree that Intervenors are asking this Committee to place specific conditions on
8 Applicants' proposed project that would encroach on the jurisdiction of other entities having
9 primary jurisdiction to over a particular pollution source, that would be violative of A.R.S. § 40-
10 360.06©. However, to the degree that Intervenors raise specific matters to justify their positions
11 involving issues that could be relevant to this Committee in making its ultimate decision in
12 accordance with A.R.S. §§ 460.06(A) and 460.07(B), the matter should be admissible and given
13 appropriate weight in this Committee's discretion.

14 RESPECTFULLY SUBMITTED this 8th day of November, 2001.

15 
16 _____
17 Jason D. Gellman
18 Attorney, Legal Division
19 Arizona Corporation Commission
20 1200 West Washington Street
21 Phoenix, Arizona 85007
22 602/542-3402
23 e-mail: jgellman@cc.state.az.us

24 Original and twenty five copies
25 of the foregoing filed this
26 8th day of November, 2001 with:

27 Docket Control
28 Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

Copies of the foregoing
mailed this 8th day of
November, 2001 to:

Michael M. Grant, Esq.
Todd C. Wiley, Esq.
Gallagher & Kennedy
2575 East Camelback Road
Phoenix, AZ 85016-9225

1 James D. Vierreg, Esq.
2 Morrision & Hecker, L.L.P.
3 Suite 1600
4 2800 North Central Avenue
5 Phoenix, AZ 85004-1047

6 and
7 Marc D. Joseph, Esq.
8 Mark R. Wolfe, Esq.
9 Adams, Broadwell, Joseph & Cardozo
10 651 Gateway Blvd, Suite 900
11 South San Francisco, CA 94080

12 *Diola R. Kizis*

13

14 Secretary to Jason D. Gellman

15
16
17
18
19
20
21
22
23
24
25
26
27
28