

ORIGINAL

ORIGINAL



0000060557

GALLAGHER & KENNEDY

P.A.

ATTORNEYS AT LAW

MICHAEL M. GRANT
DIRECT DIAL: (602) 530-8291
E-MAIL: MMG@GKNET.COM

RECEIVED

2001 DEC -7 P 4: 16

AZ CORP COMMISSION
DOCUMENT CONTROL

2575 EAST CAMELBACK ROAD
PHOENIX, ARIZONA 85016-9225
PHONE: (602) 530-8000
FAX: (602) 530-8500
WWW.GKNET.COM

November 5, 2001

VIA EMAIL & U.S. MAIL

Ms. Laurie Woodall
laurie.woodall@ag.state.az.us
Chair, Siting Committee
Office of the Attorney General
1275 West Washington
Phoenix, Arizona 85007

Arizona Corporation Commission

DOCKETED

DEC 07 2001

DOCKETED BY	
-------------	--

Re: *Allegheny's Revised Proposed Certificate;*
Docket No. L-00000AA-01-0116, Case No. 116

Dear Ms. Woodall:

Enclosed and filed with Docket Control is a revised form of Certificate Allegheny proposes be adopted by the Committee and Commission in relation to its Application in Case No. 116.

Differences between this proposed Certificate and the one filed on November 1, 2001 (Exhibit A-14) are summarized as follows:

- Allegheny's commitment to construct a solar photovoltaic array is stated in Condition 2.
- Conditions 3, 4 and 5 pertain to water issues raised by the Committee and also are responsive to issues stated in ADWR Director Smith's letter to you dated November 21, 2001.
- Conditions 6 and 8-23 reflect Allegheny and Staff's agreement on virtually all issues pertaining to issuance of the Certificate (although Staff is considering a slight wording change on Condition 11). Condition 7 is Allegheny's position on Staff's "two transmission" line issue. The parties have agreed to submit testimony to the Committee concerning their differences on this remaining subject.

Ms. Laurie Woodall
December 7, 2001
Page 2

- Conditions 27, 31, 32, 34 and 38 are either new or reflect wording changes to prior conditions responsive to issues raised by Committee members at the November 13-14 hearings.

Finally, at the September 4 hearing, Member Wayne Smith had suggested Allegheny explore alternate routes for the short transmission line. That subject was addressed by Mr. Simpson at the last hearing (TR, p. 306:9 - p. 308:15). If the Committee wants to issue alternate route authority, we suggest the following language:

Applicant is also granted two alternate routes for the associated 500 kv transmission line and interconnection switchyard to and along the section lines one mile east and one mile west of Ave 75 East to the point of interconnection with the Devers Palo Verde transmission line.

That language could be added, at the Committee's option, at the end of the paragraph on page 3, line 2 of the revised proposed Certificate.

Very truly yours,

GALLAGHER & KENNEDY, P.A.



By:
Michael M. Grant

ORIGINAL and 25 copies filed this
7th day of December, 2001
with Docket Control.

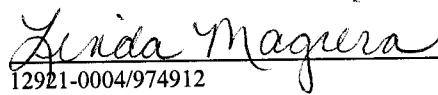
COPY mailed this 7 day of
~~November~~, 2001 to:
~~NOVEMBER~~

Jason D. Gellman, Esq.
Legal Division
Arizona Corporation Commission
1200 West Washington
Phoenix, Arizona 85007

Ms. Laurie Woodall
December 7, 2001
Page 3

James D. Vieregg, Esq.
Morrison & Hecker, L.L.P.
1850 North Central Avenue
Phoenix, Arizona 85004

Mark R. Wolfe, Esq.
Adams, Broadwell, Joseph & Cardozo
Suite 900
651 Gateway Boulevard
South San Francisco, California 94080


12921-0004/974912

GALLAGHER & KENNEDY, P.A.
2575 E. CAMELBACK ROAD
PHOENIX, ARIZONA 85016-9225
(602) 530-8000

1 **BEFORE THE ARIZONA POWER PLANT AND TRANSMISSION**
2 **LINE SITING COMMITTEE**

3
4 IN THE MATTER OF THE APPLICATION OF
5 ALLEGHENY ENERGY SUPPLY COMPANY, LLC
6 FOR A CERTIFICATE OF ENVIRONMENTAL
7 COMPATIBILITY FOR CONSTRUCTION OF A
8 1,080 MW (NOMINAL) GENERATING FACILITY
9 IN SECTION 35, TOWNSHIP 3 NORTH, RANGE
10 11 WEST IN LA PAZ COUNTY, ARIZONA AND
11 AN ASSOCIATED TRANSMISSION LINE AND
12 SWITCHYARDS BETWEEN AND IN SECTION 35,
13 TOWNSHIP 3 NORTH, RANGE 11 WEST AND
14 SECTIONS 23-26, TOWNSHIP 3 NORTH, RANGE
15 11 WEST ALSO IN LA PAZ COUNTY, ARIZONA.

DOCKET NO. L-00000AA-01-0116

CASE NO. 116

16 ***CERTIFICATE OF ENVIRONMENTAL COMPATIBILITY***

17 Pursuant to notice given as provided by law, the Arizona Power Plant and
18 Transmission Line Siting Committee (the "Committee") held public hearings in Parker and
19 Phoenix, Arizona, on September 4, 2001, November 13-14, 2001 and December 13-14, 2001, in
20 conformance with the requirements of Ariz. Rev. Stat. § 40-360, et. seq., for the purpose of
21 receiving public comment and evidence and deliberating on the application of Allegheny Energy
22 Supply Company, LLC, or its assignees ("Allegheny" or "Applicant"), for a Certificate of
23 Environmental Compatibility ("Certificate") authorizing construction of a 1080 MW (nominal)
24 generating facility and an associated transmission line and switchyards in La Paz County,
25 Arizona (the "Project"), all as more particularly described and set forth in the Application (the
26 "Application").

27 The following members and designees of members of the Committee were
28 present on one or more of the hearing days:

1	Laurie Woodall	Chairman, Designee for Arizona
2	Richard Tobin	Attorney General, Janet Napolitano
3	Gregg Houtz	Department of Environmental Quality
4	Ray Williamson	Department of Water Resources
5	Mark McWhirter	Arizona Corporation Commission
6	Michael Palmer	Department of Commerce
7	Jeff McGuire	Appointed Member
8	Wayne Smith	Appointed Member
9	Michael Whalen	Appointed Member

7 Applicant was represented by Michael M. Grant and Todd C. Wiley of
8 Gallagher & Kennedy, P.A. Arizona Corporation Commission Utilities Division Staff ("Staff")
9 was represented by Christopher C. Kempley and Jason D. Gellman. Intervenor Arizona Unions
10 for Reliable Energy ("Unions") was represented by James D. Vieregg of Morrison & Hecker,
11 L.L.P. and Mark R. Wolfe of Adams, Broadwell, Joseph & Cardozo. La Paz County, by its
12 County Attorney R. Glenn Buckelew, filed a notice of limited appearance in support of the grant
13 of Allegheny's Application.

14 At the conclusion of the hearing, after consideration of the Application, the
15 evidence and the exhibits presented, the comments of the public, the legal requirements of Ariz.
16 Rev. Stat. §§ 40-360 to 40-360.13 and in accordance with A.A.C. R14-3-213, upon motion duly
17 made and seconded, the Committee voted to make the following findings and to grant Allegheny
18 the following Certificate of Environmental Compatibility (Case No. 116):

19 The Committee finds that the record contains substantial evidence regarding the
20 need for an adequate, economical and reliable supply of electric power and how the Project
21 would contribute towards satisfaction of such need without causing material adverse impact to
22 the environment.

23 Applicant and its assignees are granted a Certificate authorizing the construction
24 of a 1,080 MW (nominal) electric generating plant as more particularly described in Section

1 4(a)(i) of the Application and an associated 500 kv transmission line and switchyards as more
2 particularly described in Section 4(b)(i) of the Application and Exhibit G-7.

3 This Certificate is granted upon the following conditions:

4 1. Applicant and its assignees will comply with all existing applicable air and
5 water pollution control standards and regulations, and with all existing applicable ordinances,
6 master plans and regulations of the state of Arizona, the county of La Paz, the United States and
7 any other governmental entities having jurisdiction, including but not limited to the following:

8 a. all zoning stipulations and conditions, including but not limited to
9 any landscaping and dust control requirements and/or approvals;

10 b. all applicable air quality control standards, approvals, permit
11 conditions and requirements of the Arizona Department of
12 Environmental Quality ("ADEQ") and/or other State or Federal
13 agencies having jurisdiction, and the Applicant shall install and
14 operate selective catalytic reduction and catalytic oxidation
15 technology at the level determined by the ADEQ. The Applicant
16 shall operate the Project so as to meet a 2.5 ppm NOx emissions
17 level, within the parameters established in the Title V and PSD air
18 quality permits issued by ADEQ. Applicant shall install and
19 operate catalytic oxidation technology that will produce carbon
20 monoxide ("CO") and volatile organic compound ("VOC")
21 emissions rates determined as current best available control
22 technology ("BACT") by ADEQ;

23 c. all applicable water use and/or disposal requirements of the
24 Arizona Department of Water Resources ("ADWR"), Section 6-
503 of ADWR's Third Management Plan and the ADEQ
regulations;

d. all applicable regulations and permits governing transportation,
storage and handling of chemicals.

21 2. Allegheny shall construct a 100 KW solar photovoltaic array for use in
22 conjunction with the Project's electricity use requirements. Allegheny will also participate in
23 future solar workshops conducted by the Commission.

24 3. Subject to the availability of Central Arizona Project ("CAP") water and

1 delivery facilities, Allegheny will acquire over the next 30 years directly, through another or by
2 contract with the Arizona Water Banking Authority ("AWBA") an aggregate amount of 30,000
3 acre feet of CAP water or that aggregate amount of water which may be acquired with \$3
4 million, whichever is less. The water acquired is intended to be recharged at the Vidler Recharge
5 Facility ("Vidler"), but may be recharged elsewhere by the Applicant or AWBA. Water
6 recharged shall not be subject to withdrawal by Applicant. Allegheny may also meet all or a
7 portion of its obligation hereunder by acquiring on another person or entity's behalf CAP water
8 to be used in lieu of groundwater which would have been withdrawn and used by such person or
9 entity. If Allegheny has used or recharged CAP water in relation to the Project's water needs,
10 the amount of such use or recharge shall be treated as a credit against Applicant's obligation
11 under this condition.

12 4. In consultation with the Arizona Department of Water Resources,
13 Allegheny will develop a monitoring program of monument inspection and information
14 gathering from agencies with infrastructure or jurisdiction near the plant site concerning
15 subsidence. The data gathered pursuant to the monitoring program shall be regularly reported to
16 the Department and Commission.

17 5. In the year following the commencement of groundwater withdrawals in
18 relation to the Project, Applicant shall submit annual reports to the Arizona Department of Water
19 Resources pursuant to A.R.S. 45-437.C.1 reporting the quantity of groundwater withdrawn and
20 the Notice(s) of Authority appurtenant thereto.

21 6. Authorization to construct the facility will expire five years from the date
22 the Certificate is approved by the Arizona Corporation Commission unless construction is
23 completed to the point that the facility is capable of operating at its rated capacity by that time;
24

1 provided, however, that prior to such expiration the facility owner may request that the Arizona
2 Corporation Commission extend this time limitation.

3 7. Applicant shall initially connect the 500 kV Plant Switchyard to the 500
4 kV Transmission Grid Interconnection Switchyard with a single 500 kV transmission line, but
5 shall allocate spaces in the Plant Switchyard and shall direct SCE to allocate spaces in the
6 Transmission Grid Interconnection Switchyard for (i) a second 500 kV Transmission line should
7 future reliability studies indicate that such addition is necessary to maintain reliability or (ii) a
8 second Devers/Palo Verde transmission line.

9 8. Applicant's plant interconnection must satisfy the Western Systems
10 Coordinating Council's ("WSCC") single contingency outage criteria (N-1) and all applicable
11 local utility planning criteria without reliance on remedial action such as, but not limited to,
12 reducing generator output, reducing generator unit tripping or load shedding.

13 9. The Applicant's plant switchyard shall utilize a breaker and a half scheme.

14 10. Applicant will pay up to \$25,000,000 towards upgrading transmission
15 capacity out of the Palo Verde hub in relation to the Devers Palo Verde, North Gila and Palo
16 Verde Westwing lines for delivery to Arizona markets. This may be done in one of two ways.
17 Applicant may either apply such funding for upgrades to the existing Devers to Palo Verde 500
18 kV and/or other transmission lines and switchyard facilities, as set forth in Southern California
19 Edison's (SCE's) La Paz system impact study and facilities study, or apply such funding towards
20 the building of new transmission lines out of Palo Verde. If the former option is chosen,
21 Applicant will contact SCE to determine the earliest opportunity for the transmission line to be
22 upgraded and Applicant will use commercially reasonable efforts to assure that such upgrades
23 are completed before this plant commences commercial operation.

1 11. Prior to construction of any facilities, Allegheny shall provide to the
2 Commission the system impact study and the facilities study performed by Southern California
3 Edison regarding the La Paz project. To the extent that these studies do not provide the
4 following information, Allegheny shall provide the Commission additional technical study
5 evidence that sufficient transmission capacity exists to accommodate the full output of the
6 Project and that the full output of the Project will not compromise the reliable operation of the
7 interconnected transmission system. The SCE studies or additional supplemental technical study
8 shall include a power flow and stability analysis report showing the effect of the full output of
9 the Project on the planned Arizona electric transmission system and shall document physical
10 flow capability for the full output of the plant to its intended market. In addition, Allegheny
11 must provide the Commission with updates of the information required in this condition not
12 more than one year and not less than three months prior to commercial operation of the full
13 output of the plant.

14 12. Prior to construction of any Project transmission facilities, Applicant shall
15 provide the Commission with copies of the transmission interconnection and transmission
16 service agreement(s) it ultimately enters into with SCE or any transmission provider(s) with
17 whom it is interconnecting, within 30 days of execution of such agreement(s).

18 13. Applicant will become and remain a member of WSCC, or its successor,
19 and file an executed copy of its WSCC Reliability Management System (RMS) Generator
20 Agreement with the Commission. Membership by an affiliate of Applicant satisfies this
21 condition only if Applicant is bound by the affiliate's WSCC membership.

22 14. Applicant shall apply to become and, if accepted, thereafter remain a
23 member of the Southwest Reserve Sharing Group or its successor, thereby making its units
24

1 available for reserve sharing purposes, subject to competitive pricing.

2 15. Applicant shall offer for Ancillary Services, in order to comply with
3 WSCC RMS requirements, a total of up to 10% of its total plant capacity to (A) the local Control
4 Area with which it is interconnected and (B) Arizona's regional ancillary service market, (i) once
5 a Regional Transmission Organization (RTO) is declared operational by FERC order, and (ii)
6 until such time that an RTO is so declared, to a regional reserve sharing pool.

7 16. Within 30 days of the Commission decision authorizing construction of
8 this project, Applicant shall erect and maintain at the site a sign of not less than 4 feet by 8 feet
9 dimensions, advising:

- 10 a. That the site has been approved for the construction of a 1,080 MW
11 (nominal) generating facility;
- 12 b. The expected date of completion of the facility; and
- 13 c. Phone number for public information regarding the project.

14 In the event that the Project requests an extension of the term of the certificate prior to completion
15 of the construction, Applicant shall use reasonable means to directly notify all landowners and
16 residents within one-mile radius of the project of the time and place of the proceeding in which the
17 Commission shall consider such request for extension. Applicant shall also provide notice of such
18 extension to La Paz County.

19 17. Applicant shall first offer wholesale power purchase opportunities to credit-
20 worthy Arizona load-serving entities and to credit-worthy marketers providing service to those
21 Arizona load-serving entities.

22 18. Pursuant to applicable Federal Energy Regulatory Commission ("FERC")
23 regulations, Applicant shall not knowingly withhold its capacity from the market for reasons other
24

1 than a forced outage or pre-announced planned outage. Allegheny shall not be required to operate
2 its Project at a loss.

3 19. In connection with the construction of the project, Applicant shall use
4 commercially reasonable efforts, where feasible, to give due consideration to use of qualified
5 Arizona contractors.

6 20. Applicant shall continue to participate in good faith in state and regional
7 transmission study forums to identify and encourage expedient implementation of transmission
8 enhancements, including transmission cost participation as appropriate, to reliably deliver power
9 from the Project throughout the WSCC grid in a reliable manner.

10 21. Applicant shall participate in good faith in state and regional workshops and
11 other assessments of the interstate pipeline infrastructure.

12 22. Applicant shall pursue all necessary steps to ensure a reliable supply and
13 delivery of natural gas for the Project.

14 23. Within five days of Commission approval of this CEC, Applicant shall
15 request in writing that El Paso Natural Gas Company ("El Paso") provide Applicant with a written
16 report describing the operational integrity of El Paso's Southern System facilities from mileposts
17 660-670. Such request shall include:

- 18 a. A request for information regarding inspection, replacement and/or
19 repairs performed on this segment of El Paso's pipeline facilities
20 since 1996 and those planned through 2006; and
21 b. An assessment of subsidence impacts on the integrity of this segment
22 of pipeline over its full cycle, together with any mitigation steps
23 taken to date or planned in the future.
24

1 Applicant shall file El Paso's response under this docket with the Commission's Docket Control.
2 Should El Paso not respond within thirty (30) days, Applicant shall docket a copy of Applicant's
3 request with an advisory of El Paso's failure to respond. In either event, Applicant's responsibility
4 hereunder shall terminate once it has filed El Paso's response or Applicant's advisory of El Paso's
5 failure to respond.

6 24. Applicant shall operate the Project so that during normal operations the
7 Project will not exceed (i) U.S. Department of Housing and Urban Development ("HUD") or
8 Federal Transit Administration ("FTA") residential noise guidelines or (ii) Occupational Safety
9 and Health Administration ("OSHA") Worker Safety Noise Standards.

10 25. Applicant will use low profile structures and stacks, non-reflective and/or
11 neutral colors on surface materials and low intensity directive/shielded lighting fixtures to the
12 extent feasible for the Project.

13 26. Allegheny will fence the generating facility and evaporation ponds to
14 minimize effects of plant operations on terrestrial wildlife and will keep the berms surrounding
15 the evaporation ponds clear of vegetation to limit pond attractiveness to birds.

16 27. In consultation with the Arizona Game & Fish Department, Applicant will
17 develop a monitoring and reporting plan for the evaporation ponds. The plan will include the
18 type and frequency of monitoring and reporting to the Game & Fish Department and the U.S.
19 Fish and Wildlife Service.

20 28. Allegheny will continue cactus ferruginous pygmy owl surveys through
21 the Spring of 2002, based on established protocol. If survey results are positive, the U.S. Fish
22 and Wildlife Service and Arizona Department of Game and Fish will be contacted immediately
23 for further consultation.

24

1 29. Allegheny will retain a qualified biologist to monitor all ground
2 clearing/disturbing construction activities. The biological monitor will be responsible for
3 ensuring proper actions are taken if a special status species is encountered (e.g., relocation of a
4 Sonoran desert tortoise).

5 30. Applicant will salvage mesquite, ironwood, saguaro and palo verde trees
6 removed during project construction activities and use the vegetation for reclamation in or near
7 its original location and/or landscaping around the plant site.

8 31. Allegheny will retain an Arizona registered landscape architect to develop
9 a landscape plan for the perimeter of the generating facility. The landscape plan will use native
10 or other low water use plant materials. The Applicant will continue to consult with La Paz
11 County regarding the landscape plan.

12 32. Allegheny will use a directional drilling process to bore under Centennial
13 Wash in constructing the gas pipeline to minimize potential impacts to the mesquite bosque
14 associated with the wash.

15 33. The Applicant will continue to consult with La Paz County in relation to
16 its comprehensive planning process to develop appropriate zoning and use classifications for the
17 area surrounding the Project.

18 34. Allegheny will use its best efforts to avoid the two identified cultural
19 resource sites. If Sites AZ S:7:48 and 49 (ASM) cannot be avoided by ground disturbing
20 activities, the Applicant will continue to consult with the State Historic Preservation Office to
21 resolve any negative impacts which usually entails preparing and implementing a data recovery
22 research design and work plan.

23 35. If a federal agency determines that all or part of the Project represents a
24

1 federal undertaking subject to review under the National Historic Preservation Act, Allegheny
2 will participate as a consulting party in the federal compliance process (i.e., 36 C.F.R. 800) to
3 reach a finding of effect and to resolve adverse effects, if any.

4 36. Should cultural features and/or deposits be encountered during ground
5 disturbing activities, Allegheny will comply with A.R.S. § 41-844, which requires that work
6 cease in the immediate area of the discovery and that the Director of the Arizona State Museum
7 be notified promptly.

8 37. If human remains or funerary objects are encountered during the course of
9 any ground disturbing activities related to the development of the subject property, Applicant
10 shall cease work and notify the Director of the Arizona State Museum in accordance with Ariz.
11 Rev. Stat. § 41-865.

12 38. Allegheny will retain a qualified archaeologist to monitor ground
13 clearing/disturbing construction activities and to appropriately instruct workers on detection and
14 avoidance of cultural resource sites.

15 GRANTED this _____ day of _____, 2001.

16 ARIZONA POWER PLANT AND
17 TRANSMISSION LINE SITING COMMITTEE

18 By _____
19 Laurie Woodall, Chairwoman

20 12921-0004/947199 v6