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Arizona Corporation Commission
DOCKETED
FEB 13 2002

Attorneys for Intervenor AZURE

DOCKETED BY

BEFORE THE ARIZONA CORPORATION COMMISSION

IN THE MATTER OF THE APPLICATION)
OF ALLEGHENY ENERGY SUPPLY)
COMPANY, L.L.C., FOR A CERTIFICATE)
OF ENVIRONMENTAL COMPATIBILITY)
FOR CONSTRUCTION OF A 1,080 MW)
(NOMINAL) GENERATING FACILITY IN)
SECTION 35, TOWNSHIP 3 NORTH,)
RANGE 11 WEST IN LA PAZ COUNTY,)
ARIZONA AND AN 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)

Docket No. L-00000AA-01-0116

Case No. 116

**AZURE'S REQUEST FOR REVIEW
AND REQUEST FOR WRITTEN
BRIEFS AND ORAL ARGUMENT**

Ariz. Rev. Stats. § 40-360.07

REQUEST FOR REVIEW

Pursuant to Arizona Revised Statutes section 40-360.07(A), Arizona Unions for Reliable Energy ("AZURE"),¹ a party intervenor in this power plant siting case, respectfully requests the Arizona Corporation Commission ("Commission") to review the January 30, 2002 decision of the

¹ AZURE is a coalition of labor unions whose members construct and maintain power plants in Arizona. AZURE was formed in part to promote the economic, environmental, and health interests of its members; to promote natural resource conservation and environmental protection; and to promote the orderly development of the areas where

1 Arizona Power Plant and Transmission Line Siting Committee (“Committee”) to grant a certificate
2 of environmental compatibility (“CEC”) to Pennsylvania-based Allegheny Energy Supply Company,
3 LLC (“applicant”), for the La Paz Generating Facility in La Paz County (“project”). The
4 Commission should modify the CEC to require the environmental and natural resource impacts of
5 this project to be fully mitigated. AZURE further requests, pursuant to section 40-360.07(B), that
6 the Commission order additional written briefs and oral argument from the parties before taking final
7 action on the CEC.

8
9 **I. BACKGROUND AND SUMMARY OF GROUNDS FOR REVIEW**

10 In determining whether to confirm, deny, or modify the Committee’s CEC, the Commission
11 must “balance, in the broad public interest, the need for an adequate, economical and reliable supply
12 of electric power with the desire to minimize the effect thereof on the environment and ecology of
13 the state.” (Ariz. Rev. Stat. § 40-360.07(B).) This balancing requirement is in many ways the crux
14 of the siting statute. It recognizes that the public’s interest in an adequate and reliable supply of
15 electricity, which only power plants can fulfill, will often conflict with the public’s co-equal interest
16 in preserving its limited stock of natural resources and protecting the quality of its environment.
17 Where this occurs, the statute requires the Commission to weigh these competing interests to
18 determine whether the need for a particular power plant justifies sacrifice of Arizona’s
19 environmental and natural resources.

20
21 Accordingly, if a proposed plant is necessary to ensure a reliable and economical energy
22 supply for Arizona, it may be appropriate to accept impacts on Arizona’s public resources and
23 environmental quality. By contrast, if a plant is not needed, *i.e.*, if the plant does not substantially
24 improve the energy supply, then it is manifestly inappropriate to sacrifice natural resources and

25
26 power plants are sited. Currently, 209 members of the unions in AZURE reside in La Paz County where this project is to be located.

1 environmental quality to support it. Arizonans should not be forced to subsidize speculative private
2 ventures by compromising their limited stock of air, water, and biological resources. Simply stated,
3 the siting statute's balancing requirement stands for the basic proposition that an unnecessary power
4 plant should not consume public environmental and natural resources unnecessarily.

5 In the current case, the Committee heard a great volume of testimony, from experts
6 representing Commission Staff and AZURE, regarding both the need for the La Paz project and its
7 impacts on the environment. On the question of need and reliability, Staff and AZURE experts were
8 in full agreement that: (a) the La Paz project is not at all needed to assure an adequate or economical
9 supply of electricity to Arizona consumers; (b) the project will actually impair the reliability of
10 Arizona's transmission system by increasing congestion at the Palo Verde hub; and (c) if allowed to
11 connect at the hub, the project would displace generation from other clean burning, combined-cycle
12 power plants, leaving older, more polluting plants in operation. Staff and AZURE witnesses further
13 agreed that transmission system upgrades required by Southern California Edison and funded by the
14 applicant would be inadequate to assure the reliability, safety, and security of the system at the Palo
15 Verde hub.
16

17 On the question of environmental impact, AZURE's witnesses, who included holders of
18 doctorates in groundwater hydrology, environmental engineering, and biology, testified at length that
19 the project would have several significant adverse impacts on the environment, and would consume
20 large quantities of fresh water resources unnecessarily. However, AZURE's experts also testified
21 that most of these impacts could be mitigated or avoided entirely if the applicant were to implement
22 the same measures routinely implemented by other power plants in Arizona, California, and Nevada.
23 These include:
24

- 25 • A dry cooling system such as those used at other similar projects throughout the arid
26 West. A dry system would reduce the project's need to pump groundwater from the

1 Harquahala Valley aquifer by 95 percent, and would therefore not only avoid
2 unnecessary consumption of Arizona's scarce fresh water resources, but would
3 eliminate potentially significant drawdown and subsidence impacts in the aquifer as
4 well.

- 5 • A zero liquid discharge crystallizer ("ZLDC") system, which also is or will be in use
6 at several other combined-cycle merchant power plants in California and elsewhere.
7 A ZLDC eliminates the need to discharge cooling tower blowdown wastewater into
8 evaporation ponds by converting the liquid into solid matter that can be disposed of in
9 an ordinary landfill. A ZLDC thus eliminates all risk of harm to birds and wildlife
10 from exposure to the toxins in the wastewater discharged to the project's sixty acres
11 of evaporation ponds.
- 12 • Implementation of air pollutant emissions limits equivalent to the federal lowest
13 achievable emission rate ("LAER") standard. Such pollution controls would reduce
14 the project's impacts on local air quality and would, in addition, avoid potentially
15 significant impacts on visibility in nearby wilderness areas.
- 16 • An on-site urea-to-ammonia generation system, which produces ammonia for the
17 project's selective catalytic reduction ("SCR") system. Such a system would avoid
18 the public health risk associated with the transportation of aqueous ammonia on the
19 state's public roads, and its storage at the project. The applicant here is using such
20 systems at two of its coal-fired power plants in the Eastern U.S.

21 At the close of testimony, Commission Staff urged the Committee to deny the CEC outright on
22 grounds the project would pose an unacceptable risk to the Arizona's transmission system. AZURE
23 did not seek denial, but sought conditions requiring implementation of all the foregoing
24 mitigation/avoidance measures. By a 9 to 1 vote, with Commission designee Ray Williamson voting
25 'no,' the Committee approved the CEC. Although Committee Chair Woodall, and Mr. Williamson
26 both voted to impose a dry cooling condition, and Mr. Williamson also voted to impose a LAER
requirement, the Committee voted to grant the CEC without the conditions listed above.

On review, the Commission will see quickly that the Committee's action was inconsistent
with the Commission's obligation to balance the need for the project against its environmental
impacts.² The record establishes, first, that the La Paz project is not needed to provide Arizona with

² Some members of the Committee have stated that it this Commission's duty, but not the Committee's, to consider the issue of a project's need in deciding whether to grant a CEC.

1 an adequate, economical, and reliable supply of electricity. The record establishes further that the
2 project would significantly impair the security and reliability of the state's transmission system by
3 aggravating an already serious congestion problem at the Palo Verde hub. Thus, not only would the
4 project provide no energy supply benefit whatsoever to Arizona consumers, it would impose a
5 serious reliability risk upon them. Against this backdrop, the record also establishes that the
6 project's consumption of scarce fresh water resources, its impacts on air quality, public health, and
7 visibility, and its toxic effects on birds and wildlife, all of which are substantial, can be avoided or
8 mitigated simply by adopting the same measures, identified above, that other merchant power plants
9 have throughout the West.
10

11 When the Commission completes its review of this record, the outcome of the statutory
12 balancing requirement will be clear: if this patently unnecessary project is to be built, it must not
13 consume water resources or degrade environmental quality any more than absolutely necessary.
14 Any impacts that can be avoided, must be avoided. The Commission should modify the CEC to
15 require the project to include each of the impact mitigation measures proposed by AZURE.
16 Arizonans current and future deserve nothing less.

17 The following sections summarize the issues in this case. If permitted by the Commission,
18 AZURE will elaborate on these issues in a brief.

19 **II. THE PROJECT WILL IMPAIR THE RELIABILITY OF ARIZONA'S**
20 **TRANSMISSION SYSTEM.**

21 Corporation Commission Staff and AZURE each presented expert witnesses to testify
22 regarding the project's impacts on Arizona's transmission system. Both witnesses agreed that: (1) a
23 serious transmission constraint currently exists at the Palo Verde hub; (2) existing transmission
24 facilities are inadequate to accommodate the output from the La Paz project; and therefore (3) the La
25 Paz project, if allowed to connect, would adversely impact the reliability of that system. Both
26

1 witnesses agreed further that the project would likely displace, or “strand” generation from newer
2 clean-burning, combined-cycle powerplants, leaving older, more polluting plants in operation. This,
3 in turn, would create an additional unnecessary adverse impact on air quality.

4 These conclusions are supported by an October 19, 2001 Systems Impact Study conducted
5 for the project by Southern California Edison and reviewed by the California Independent System
6 Operator. That study, which is in the record, also concluded that existing facilities were inadequate
7 to accommodate the La Paz project’s output. Alarming, the study reached this conclusion without
8 taking into account the several thousand megawatts of new generation planned to utilize the Palo
9 Verde hub in the next few years. Once this additional generation is considered in tandem with the
10 existing transmission constraint, the impacts of the La Paz project are even worse.

11 Staff’s and AZURE’s witnesses also agreed that any facilities upgrades recommended by
12 Southern California Edison in its forthcoming Facilities Study cannot be relied upon to alleviate this
13 problem. Those upgrades will, by definition, be designed to protect Edison’s own internal
14 transmission system, not the interconnected system upon which Arizona consumers rely. As Staff
15 noted in hearings, Edison is not looking out for the interests of Arizona ratepayers. In addition, any
16 upgrades at the Palo Verde hub will simply cause the further enlargement of a hub which is already
17 too large from a safety and security standpoint. Palo Verde hub is arguably the largest commercial
18 hub in North America, yet no meaningful system security measures or reliability criteria are
19 currently in place. As Staff’s witness aptly observed, “the question is how many eggs do you put in
20 the basket, particularly when the basket is sitting on a three-legged stool.” (RT 1259:22-25.)

21
22 **III. THE PROJECT IS NOT NEEDED TO ASSURE AN ADEQUATE, ECONOMICAL
23 AND RELIABLE SUPPLY OF ELECTRIC POWER.**

24 Even if the project did not pose an undue risk to system reliability, there would still be no
25 reason for Arizonans to sacrifice resources in order to build it. The record shows that Arizona
26

1 simply does not need the 1,080 MW of output from the La Paz project to ensure an adequate,
2 economic, and/or reliable supply of electricity. Based on Western States Coordinating Council load
3 growth projections, the approximately 5,700 MW of new generating capacity under construction in
4 Arizona and expected to be on line within the next two years *by itself* is sufficient to provide reliable
5 service to Arizona through the year 2008. When the approximately 7,900 MW of capacity from
6 other plants recently licensed by the Commission is added to the mix, reliability is assured even
7 farther into the future. Thus, if the La Paz project were not built, there still would be ample
8 generation capacity to satisfy projected loads for more than a decade while also assuring a robust
9 competitive margin. Not surprisingly, therefore, the record contains no evidence that the applicant
10 has contracts or obtained any other firm commitments for the sale of output from the project. On the
11 contrary, the evidence the applicant has presented on the question of need consists mainly of
12 conjecture that some of the power plants recently licensed in Arizona and elsewhere might not be
13 built. The La Paz project is a speculative venture in the truest sense of the term.

15 In sum, in the absence of a clear demonstration of need -- and in the presence of a clear
16 demonstration of risk to the integrity of the system -- the statutory balance tips decisively in favor of
17 maximum avoidance of environmental degradation and resource consumption. Again, any adverse
18 impacts that can be avoided, must be avoided.

19 **IV. A DRY COOLING SYSTEM WILL AVOID THE NEEDLESS CONSUMPTION OF**
20 **SCARCE FRESH WATER RESOURCES AND ADVERSE IMPACTS TO THE**
21 **HARQUAHALA AQUIFER.**

22 The Committee heard testimony from AZURE witness Kenneth Schmidt, Ph.D., a
23 groundwater hydrologist who has studied aquifers and evaluated groundwater pumping proposals in
24 Arizona for over three decades. Dr. Schmidt testified that the impacts from the La Paz project's
25 pumping of up to 6,500 acre-feet per year of groundwater for cooling purposes, all from one small
26

1 parcel of land, had not been adequately studied and could cause significant subsidence and draw-
2 down impacts on the underlying aquifer. While an ADWR hydrologic model of the Harquahala
3 basin relied upon by the applicant showed no significant impacts, that model was neither designed
4 nor intended to predict drawdown impacts on a localized basis, particularly in the area of the basin
5 where pumping would occur for this project. As Dr. Schmidt explained, an aquifer pump test would
6 ordinarily be performed at the site of pumping in order to obtain accurate localized parameters for
7 aquifer transmissivity and storage capacity *before* running the model. No such test was done in this
8 case. As a result, a large-scale, regional model was used to predict local, particularized, site-specific
9 drawdown impacts. The model's conclusion that no significant impacts would result from pumping
10 6,500 acre-feet/year is therefore not reliable.

12 What is certain, however, is that that any impacts to the aquifer can be all but entirely
13 avoided by using a dry cooling system similar to those in use at other similar power plants
14 throughout the arid West. A dry system would reduce the project's water needs by as much as 95
15 percent, thereby avoiding not only potentially serious drawdown and subsidence impacts on the
16 aquifer, but the permanent loss of up to 6,175 acre-feet/year of scarce freshwater resources as well.³

17 In this case, the applicant refused dry cooling on grounds it was too costly. Yet AZURE
18 witness J. Phyllis Fox, Ph.D., an environmental engineer with over thirty years of experience,
19 established beyond question that dry cooling is as economically feasible for the La Paz project as it
20 is for the large number of similar projects whose developers are using it voluntarily. Using data
21 obtained from dry cooling vendors and power plant developers, Dr. Fox prepared a cost analysis
22 showing that the cost differential for a dry cooling system on the La Paz project was not nearly as
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24
25 ³ The Committee did impose a condition mandating recharge of 60,000 acre-feet of water over the thirty-year life
26 of the project, using Central Arizona Project Water. While this may mitigate aquifer impacts to some extent, it provides
no water conservation benefit at all. Furthermore, it is "subject to availability" of CAP water, which is by no means
guaranteed.

1 great as the applicant had asserted, and would not impact the project's ability to compete in the
2 marketplace. Dr. Fox also identified the other large-scale combined cycle power plants, all situated
3 in the arid West, that are or will be using dry cooling to avoid the needless consumption of fresh
4 water, noting that all are selling into the same competitive marketplace, subject to the same
5 competitive constraints, as La Paz. In other words, the distinction between the La Paz project from
6 other projects using dry cooling is this applicant's unwillingness to spend a little more money to
7 conserve scarce water resources.

8
9 AZURE submits that any project that is not needed, and that will impair system reliability,
10 should not be allowed to consume 6,500 acre-feet per year of scarce freshwater resources
11 unnecessarily, in a desert, when dry cooling is an established and viable alternative. If it is to be
12 permitted, the project must be dry cooled.

13 **V. THE PROJECT'S EVAPORATION PONDS WILL POSE A NEEDLESS AND**
14 **AVOIDABLE RISK TO BIOLOGICAL RESOURCES.**

15 Scott Terrill, Ph.D., an ecologist and avian biologist, testified for AZURE regarding impacts
16 on birds and wildlife from the project's sixty acres of evaporation ponds. Dr. Terrill described how
17 selenium and other constituents in the cooling tower blowdown discharged to the ponds are highly
18 toxic to wildlife that will likely be attracted to the ponds in this arid environment. While he
19 acknowledged that mitigation measures proposed by the applicant might make the ponds less
20 attractive, Dr. Terrill was clear that such measures would not eliminate all biological risks. The only
21 way to avoid the risk of harm to bird and wildlife resources from exposure to toxic constituents in
22 the ponds, he testified, is to avoid using the ponds altogether.

23 Fortunately, evaporation ponds are no longer needed to dispose of power plant cooling tower
24 blowdown. ZLDC systems, which convert blowdown into dry solids, have been adopted at several
25 power plants in California and Nevada precisely in order to avoid harm to natural resources. Indeed,
26

1 evaporation ponds are increasingly becoming an outdated technology in the power plant context.
2 While ZLDCs are nominally more expensive than ponds, they certainly are not prohibitively so, as
3 evidenced by their widespread usage. Again, the only difference between the La Paz project and the
4 several other projects using ZLDCs is this applicant's unwillingness to sacrifice a modicum of profit
5 to avoid a needless risk to biological resources.

6 If the project were necessary from an energy supply or reliability standpoint, such that
7 Arizona ratepayers were receiving a tangible generating benefit, and if there was no alternative to
8 evaporation ponds, then it might be appropriate to expose Arizona's biological resources to toxic
9 evaporation ponds. In the absence of any such a benefit, it is wholly inappropriate. If this project is
10 to be licensed, it must use a ZLDC.⁴

12 **VI. AS APPROVED BY THE COMMITTEE, THE PROJECT WILL NEEDLESSLY
13 DEGRADE AIR QUALITY AND IMPAIR VISIBILITY IN NEARBY WILDERNESS
14 AREAS.**

15 AZURE witness Steven Radis, an air quality and public health risk assessment expert with
16 substantial experience working for federal and state resource agencies, testified regarding the
17 project's impacts on visibility. Mr. Radis performed an independent modeling analysis of the
18 project's air pollutant emissions, and concluded that they would significantly impair visibility in
19 some of these areas. He testified that emissions levels lower than those agreed to by the applicant
20 would be necessary in order to avoid these impacts. The Committee also heard testimony from Dr.
21 Fox that the criteria pollutant emissions limits agreed to by the applicant and imposed by the
22 Committee are substantially less stringent than limits imposed on similar large-scale natural gas-
23 fired merchant powerplants in California and elsewhere.

24
25
26 ⁴ If the project were dry cooled, the vast majority of the evaporation pond acreage would no longer be needed.

1 AZURE accordingly sought a condition that would require the applicant to reduce the
2 project's air pollutant emissions to levels equivalent to federal LAER for all criteria air pollutants.
3 Committee member Williamson also proposed a condition requiring LAER.⁵ Such a condition
4 would not only protect air quality overall to the maximum extent feasible, it would simultaneously
5 reduce or avoid visibility impacts in affected wilderness areas. The Committee, however, declined
6 to adopt the condition.

7
8 Once again, if this project were indeed needed, if it were to provide any meaningful energy
9 supply benefit to Arizonans, and there was no available means of lowering emissions, then higher
10 emission levels might be appropriate. Because that clearly is not the case here, the project must be
11 subject to the most stringent air pollution controls feasible if it is to be licensed at all.

12 **VII. THE PROJECT WILL POSE AN UNNECESSARY RISK TO PUBLIC HEALTH**
13 **FROM THE TRANSPORTATION AND STORAGE OF AMMONIA.**

14 Mr. Radis also addressed the public health risk associated with transporting ammonia by
15 truck to the project site to supply the SCR system. Mr. Radis performed a quantitative analysis that
16 evaluated the risks and consequences of transporting aqueous ammonia from likely suppliers to the
17 La Paz project site via the public highway system. The analysis showed that in the absence of
18 additional safety measures, ammonia transport to the site would carry a significant risk of an
19 accident-related spill, with corresponding impacts on public health and safety, mainly in the greater
20 Phoenix area. Although ammonia shippers are subject to safety regulations imposed by the Arizona
21 Department of Transportation, Mr. Radis's analysis showed that these regulations by themselves
22 would not eliminate all risk to public health and safety. Traffic accidents do happen.

23 Fortunately, the need to transport ammonia on public highways can be avoided by using an
24 on-site urea-to-ammonia generating system. These systems generate ammonia from urea on-site, on
25

26 ⁵ The Commission has recently imposed a LAER requirement in the Duke Arlington II case.

1 an as-needed basis, eliminating the need to truck in aqueous ammonia. While more expensive than
2 importing ammonia by truck, AZURE understands this applicant will itself deploy such systems on
3 two coal-fired power plants it operates in the Eastern United States. Because the project is not
4 needed, and because there is a clear alternative to transporting ammonia, imposing such an
5 unnecessary risk on the public is simply indefensible. If this project is to be licensed, the
6 Commission should require the applicant to use a urea-to-ammonia generation system.

7
8 **VIII. FURTHER BRIEFING AND ORAL ARGUMENT ARE NECESSARY TO FULLY**
9 **PRESENT THE EVIDENCE IN THE RECORD AND PRESENT THE ARGUMENTS**
10 **FOR FULL MITIGATION OF IMPACTS.**

11 Section 40-360.07(B) provides that the Commission “may, at the request of any party,
12 require written briefs or oral argument” following a request for review of a Committee decision.
13 Because the issues raised by AZURE and Staff are numerous, technically complex, and, we believe,
14 of critical importance to Arizona, AZURE respectfully requests the Commission to order both
15 additional briefing and oral argument in this case. Written briefs will enable the parties to point to
16 and elaborate upon specific evidence in the record and to more thoroughly describe the expert
17 testimony that was presented over several days of hearings. Oral argument, in turn, will provide the
18 Commission the opportunity to hear from the parties’ representatives directly and to pose questions
19 to them as appropriate. Granting this request will therefore enable the Commission to make the most
20 informed decision possible.

21 **IX. CONCLUSION**

22 For the foregoing reasons, AZURE requests the Commission to grant this Request for
23 Review and to modify the CEC in this proceeding to add new conditions requiring: (1) use of a dry
24 cooling system; (2) a ZLDC *in lieu* of evaporation ponds; (3) compliance with federal LAER for all
25 criteria air pollutants; and (4) an on-site urea-to-ammonia generating system. AZURE further
26

1 requests the Commission to order written briefs and oral argument prior to taking action to affirm,
2 deny, or modify the CEC in this proceeding.

3 Dated: February 13, 2002.

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21 February, 2002, with:

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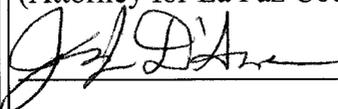
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