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MEMORANDUM

TO: Docket Control Center

FROM: Ernest G. Johnson  
Director  
*for* Utilities Division

DATE: September 27, 2006

RE: STAFF REPORT ANALYZING THE MERITS OF GILA BEND POWER PARTNERS LLC APPLICATION TO EXTEND EXPIRATION DATES FIVE YEARS FOR CERTIFICATES OF ENVIRONMENTAL COMPATIBILITY GRANTED IN DOCKET NOS. L-00000V-00-0106 AND DOCKET NO. L-00000V-01-0109

Attached is the Staff Report that considers the merits of granting a five year extension to a power plant Certificate of Environmental Compatibility ("CEC") and a transmission line CEC as requested by Gila Bend Power Powers, L.L.C. ("GBPP"). Utilities Division Staff ("Staff") concludes that a reasonable presumption of need continues to exist for both the GBPP power plant and its 500 kV Watermelon Switchyard and 500 kV transmission line projects. Therefore, Staff recommends the Commission conditionally grant GBPP the five year extension it requests for the expiration date of each respective CEC.

Although GBPP requests extensions of five years for its CECs granted by the Commission, GBPP has not demonstrated that it is complying timely and in good faith with all of the original conditions placed on its CECs. Furthermore, the Commission has broadened and refined CEC compliance conditions placed on more recently certificated power plant and transmission projects. Under these circumstances, it is reasonable to require GBPP to comply with amended and new conditions that are similar to those placed on more recently granted CECs. Therefore, Staff recommends that if the Commission grants the five year extensions requested by the GBPP, that the amended and new conditions provided in EXHIBIT A and EXHIBIT B of this report be adopted both as remedy to non-compliance findings reported herein and to make GBPP CECs' conditions comparable with recent cases approved by the Commission.

EGJ:RGG:JDS:tdp

Originators: Bob Gray and Jerry D. Smith

Arizona Corporation Commission

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**STAFF REPORT  
UTILITIES DIVISION  
ARIZONA CORPORATION COMMISSION**

**GILA BEND POWER PARTNERS LLC  
DOCKET NO. L-00000V-00-0106 and  
DOCKET NO. L-00000V-01-0109**

**APPLICATIONS FOR CEC EXPIRATION EXTENSIONS**

**SEPTEMBER 27, 2006**

## STAFF ACKNOWLEDGMENT

This Staff Report was prepared by Jerry Smith and Bob Gray of the Arizona Corporation Commission Utilities Division. It considers the merits of granting a five year extension to a power plant CEC and a transmission line CEC as requested by Gila Bend Power Powers, L.L.C. It documents numerous areas of consideration regarding the transmission and generation infrastructure proposed by the two CECs. In the conclusions of this report, Staff proffers a recommendation to extend the CEC expiration dates with modified and new conditions. Failure to comply with such new conditions and pre-existing CEC conditions could be considered grounds for the Commission vacating the CEC for the respective project.



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## **PURPOSE OF STAFF REPORT**

On March 7, 2006, Gila Bend Power Partners, L.L.C. ("GBPP") filed an Application for Extension of Certificate of Environmental Compatibility ("CEC") for authorization to construct transmission facilities granted in Arizona Corporation Commission ("ACC" or "Commission") Decision No. 63552. On the same date, GBPP filed a similar Application for Extension of its CEC, Request for Expedited Treatment, and, to the Extent Necessary, an Interim Extension for authorization to construct a power plant in accordance with Decision No. 63762. In both applications the request is to extend the expiration date of the CEC five years.

This staff report considers the merits of granting the five year extension to each CEC as requested. It documents numerous areas of consideration regarding the transmission and generation infrastructure proposed by the two CECs. In the conclusions of this report, Utilities Division Staff ("Staff") proffers a recommendation to extend the CEC expiration dates with modified and new conditions. Failure to comply with such new conditions and pre-existing CEC conditions could be considered grounds for the Commission vacating the CEC for the respective project.

## **FRAMEWORK OF ENGINEERING ASSESSMENT**

Engineering Staff member, Jerry Smith, was the Commission's Staff Witness in the Arizona Power Plant and Transmission Line Siting proceedings for both original CEC applications. Mr. Smith took several steps to prepare this Staff analysis of the present CEC extension applications. He began by reacquainting himself with the scope of facilities authorized by each original CEC. He then reviewed conditions associated with each CEC. GBPP's self-certification letters dated February 27, 2006 were also reviewed. Mr. Smith concluded his preparation for this assessment by reviewing GBPP's applications for extension and their May 5, 2006 response to the ACC's procedural order issued April 7, 2006.

The framework of this engineering assessment is built upon several key considerations. Staff starts with a consideration of GBPP's compliance with its present CEC conditions. Reasonableness of continuing a presumption of need for the GBPP proposed transmission and generation facilities over the next five years is then considered. Finally, Staff considers conditions needed to assure that GBPP fully explores all opportunities for its projects in a publicly informed manner if the extension is granted.

## **CEC COMPLIANCE STATUS**

The CEC granted by Decision No. 63552 authorizes construction of a gas-fired combined cycle power plant, switchyard and related facilities. The capacity rating of the power plant is to be a nominal 845 megawatts ("MW"). Condition No. 10 of the CEC requires that the power plant switchyard be designed utilizing a breaker and one half design scheme.

The CEC granted by Decision No. 63762 authorizes construction of a 500 kV Watermelon Switchyard and a 500 kV line along Watermelon Road from that switchyard to the GBPP power plant switchyard. This CEC also authorizes the attachment of an existing 230 kV circuit on the new 500 kV structures. The structures for the 500 kV line are to be designed and constructed to accommodate a future upgrade of the 230 kV circuit to 500 kV.

GBPP's May 5, 2006 report indicates that no generator or turbine has been placed on order. In fact, no evidence has been provided that any power plant, power plant switchyard, or new transmission line equipment related to the two subject CECs have been placed on order. Nor does GBPP's report indicate any bilateral contracts have been entered into with any electric utility for the prospective sale of the plant's output.

GBPP does report a total financial investment of over \$19,000,000 in the project to date. However, a significant portion of that financial investment has been expended at the Hassayampa Switchyard which is not directly germane to the two CECs in question. A \$750,000 investment in the construction of a Watermelon Switchyard structure is the only investment to date in equipment authorized by Decision Nos. 63552 and 63762.

CEC conditions generally fall within one of six categories: 1) ongoing regulatory obligations, 2) construction prerequisites, 3) requirements to be fulfilled prior to operation, 4) construction management obligations, 5) operational compliance obligations, and 6) CEC expiration date for authorized construction. Only conditions falling within the first three categories are applicable at this time since GBPP construction of the facilities authorized by Decision Nos. 63552 and 63762 has not commenced. GBPP compliance with conditions falling within the first three categories is relevant to the Commission's consideration of extending the expiration dates of the two CEC.

The GBPP power plant CEC granted via Decision No. 63552 has 18 conditions. Nine of those conditions are applicable at this time. GBPP reports three applicable compliance activities in its March 8, 2006 self-certification letter for the power plant CEC.

1. GBPP reports that it is a member of the Western Electricity Coordinating Council ("WECC"), a successor to the Western States Coordinating Council. GBPP's continued membership in WECC partially fulfills Condition No. 5. However, a WECC Reliability Criteria Agreement or Reliability Management System Generator Agreement still must be filed with the Commission prior to commencing commercial operation.
2. GBPP reports it has entered into a Development Agreement with the Town of Gila Bend regarding the power plant site conditions and landscaping. This complies with the requirements of Condition No. 11 and partially fulfills the requirements of Condition No. 1.

3. The CEC granted to GBPP in Decision No. 63762 for a 500 kV line from the plant to Watermelon Switchyard fulfills the requirements of Condition No. 15.

There is no evidence that GBPP has initiated the activities required by its power plant CEC Condition Nos. 3, 4, 6, 14, and 17. Conditions 3 and 17 are related in that they require participation in state and regional transmission study forums. Condition 17 requires studies to plan the termination of a second transmission line out of the plant that serves the transmission system needs to deliver power throughout the WECC grid in a reliable manner. Condition No. 3 on the other hand requires GBPP to file studies with the Commission regarding the sufficiency of transmission capacity out of the plant. GBPP has not been an active participant in SWAT, STEP or CATS transmission study forums. Nor has GBPP filed ten year plans annually with the Commission or participated in the Commission's Biennial Transmission Assessments since receiving its CECs. Similarly, GBPP has given no indication that it has attempted to develop an ongoing relationship with an educational institute to develop research evaluating the ability of newly established vegetation to resist competition by salt cedar as required by Condition No. 14. If the CEC extension is granted, these deficiencies warrant remedy that modifies or strengthens GBPP obligations to initiate these activities and continue them on an ongoing basis until the conditions are fulfilled and the plant is operational.

The GBPP transmission line granted via Decision No. 63762 has 5 CEC conditions. Only the first three of those conditions are applicable at this time. GBPP reports no compliance activity regarding these three conditions in its March 8, 2006 self-certification letter for its transmission line CEC. Staff is concerned with GBPP's failure to comply with Condition Nos. 2 and 3.H. In its May 5, 2006 report, GBPP indicates that a \$750,000 investment was expended in the construction of a Watermelon Switchyard structure. It is highly unlikely a utility performed such construction for GBPP without some form of transmission agreement. Such construction is only authorized by GBPP's CEC. According to Condition No. 2, GBPP is obligated to provide copies of any transmission agreement with Arizona Public Service ("APS") and Salt River Project ("SRP") respectively, within 30 days. No such agreements have been filed with the Commission. Similarly, Condition No. 3.H. requires completion of the native plant survey prior to commencing construction, and if necessary, development of a plant salvage program. No such environmental activity has been reported to the Commission prior to construction of the Watermelon Switchyard structure. Once again these deficiencies warrant remedy via more definitive compliance obligations if the expiration date of the CEC is to be extended.

## **PRESUMPTION OF NEED**

"Although wholesale power market conditions have prevented GBPP from completing the Project during the past five years, GBPP believes that these cyclical market conditions will change within the next five years."<sup>1</sup> According to the 2006 WECC Power Supply Assessment, the Desert Southwest could be deficient in planned reserve margins as early as 2008. It is postulated by some parties that over the next two to three years the Arizona utilities are likely to

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<sup>1</sup> GBPP report to the Commission, May 5, 2006, page 4.

fully grow into the currently idled capacity or low capacity factor energy production of new gas fired generation constructed in Arizona since 2001. This is substantiated by the fact that APS and SRP both have Requests for Proposals ("RFPs") pending for new base load generation of 1,000 MW by the end of this decade.

There also appears to be a growing regional short term need for access to new resources being developed in the Desert Southwest. This need has been underscored by the discontinued operation of the Mohave Power Plant in southern Nevada. The construction of planned new power lines out of the Palo Verde Hub to California and Nevada will further enable transmission access between Arizona power plants and the larger western wholesale market. For example, construction of the Palo Verde to Devers 2 transmission line by 2009 will enable Southern California Edison access to 1,200 MW of the 6,500 MW of generation capacity available via recently constructed gas fired power plants in Arizona and Nevada. In fact, SCE has issued an RFP for 1,500 MW of new capacity.

The GBPP generation project is but one of 8 gas fired power plants with an authorized CEC approved by the Commission that have not been constructed. Those 8 plants total 5575 MW in capacity and their respective CECs will expire in 2007 and 2008. While the market needs for these plants are soft and ill-defined at the present time, there are signs that the industry is on the cusp of renewed interest in quick, short term, generation fixes for which these plants are well suited. All of these considerations seem to substantiate GBPP's presumption of possible need for its plant and other similar gas fired plants within the next five years.

In addition, APS has proposed a new 500 kV line from the Palo Verde Hub to North Gila Substation in the Yuma area by 2012. The Commission has granted two transmission line CECs to GBPP that could serve as the foundation for an alternative to the APS project that is not solely dependent upon use of a common corridor containing the existing Hassayampa to North Gila Substation line. The Commission has authorized GBPP to build new transmission lines from Hassayampa to Jojoba Switchyard and from Watermelon Switchyard to the GBPP Switchyard. These two line segments could be coupled with the two existing APS 500 kV lines between Jojoba and Watermelon to establish a transmission path to the Palo Verde Hub that originates at the GBPP power plant site. The only portion that would remain to be sited would be a new transmission line segment between the GBPP site and North Gila. Such a new line segment would likely enable GBPP to comply with Condition No. 17 in its power plant CEC. Therefore, Staff is of the opinion that there is a reasonable presumption of transmission system need for the GBPP transmission projects within the next five years irrespective of development of the GBPP power plant.

#### **ADDITIONAL CONDITIONS NEEDED**

The CEC compliance status section of this report indicates that GBPP is deficient in complying with a number of conditions in both its power plant CEC and its transmission line CEC. Staff proposes to remedy this by amending several of the original CEC conditions with new language that is more prescriptive in content to assure the original purpose and intent of the

conditions are achieved in a timely manner. In addition, new conditions are proposed for the purpose of bringing the GBPP CEC conditions current with obligations the Commission has placed on more recent power plant projects. A more careful consideration of the implications of a power plant's natural gas fuel consumption is an example of one such contemporary topic that is at the forefront of Commission concerns today. Conditions regarding natural gas concerns are therefore proposed for the reasons outlined below by Mr. Bob Gray.

Arizona natural gas consumption has grown significantly in recent years, almost exclusively due to growing demand for natural gas as a fuel to generate electricity. According to the Energy Information Administration, gas delivered in Arizona for electricity production has increased from 26,692 MMcf in 1997 to 95,881 MMcf in 2000 to 240,314 MMcf in 2004. Natural gas is now the fuel on the margin for electricity production in the Southwest most of the time.

The GBPP project involves an 845 MW natural gas-fired, combined cycle power plant. GBPPs initial application indicated that the maximum fuel quantities for the Project are 152 million cubic feet (MMcf) per day, 4,605 MMcf/month, and 55,250 MMcf/year. A million cubic feet equals approximately 10,000 therms, so on an annual basis, the Project would burn up to 552,500,000 therms, a very significant quantity of natural gas. By comparison, Southwest Gas, the largest natural gas local distribution company in Arizona, had total sales for the twelve months ending in July 2006 of 546,887,388 therms.

Power plant consumption of natural gas can fluctuate significantly from hour to hour and day to day, due to changes in weather, demand, market conditions and other factors. Such load fluctuations can have significant impacts on the operation of the natural gas infrastructure in the Southwest, as the interstate pipeline system must be able to accommodate shipper consumption patterns. In its current rate proceeding before the Federal Energy Regulatory Commission, El Paso Natural Gas Company has cited growing demand for natural gas to generate electricity in the Southwest as a significant factor in its push to greatly tighten operational conditions on the its interstate pipeline system. The lack of any natural gas storage in Arizona and the inability to access natural gas storage facilities in southern California make it more challenging for natural gas infrastructure operators in the Southwest to accommodate fluctuating demands for natural gas.

Given the growing dependence on natural gas for electric generation in Arizona and the Southwest, Staff has more actively raised natural gas issues in recent power plant and transmission line siting cases. Therefore, new natural gas CEC conditions are proposed for the GBPP power plant. These new conditions are similar to conditions the Commission has adopted in other recent cases, such as Case No. 116 for the proposed La Paz generating facility and Case No. 114 for the proposed Wellton-Mohawk generating facility.

## **STAFF CONCLUSIONS AND RECOMMENDATION**

Staff concludes that a reasonable presumption of need continues to exist for both the GBPP power plant and its 500 kV Watermelon Switchyard and 500 kV transmission line. Therefore, Staff recommends the Commission conditionally grant GBPP the five year extension it requested for the expiration date of each respective CEC. Although GBPP requests extensions of five years for its CECs granted by the Commission, GBPP has not demonstrated that it is complying timely and in good faith with all of the original conditions placed on its CECs. Furthermore, the Commission has broadened and refined CEC compliance conditions placed on more recently certificated power plant and transmission projects. Under these circumstances, it is reasonable to require GBPP to comply with amended and new conditions that are similar to those placed on more recently granted CECs. Therefore, Staff recommends that if the Commission grants the five year extensions requested by the GBPP, that the amended and new conditions provided in EXHIBIT A and EXHIBIT B of this report be adopted both as remedy to non-compliance findings reported herein and to make GBPP CECs' conditions comparable with recent cases approved by the Commission.

GILA BEND POWER PARTNERS, L.L.C. POWER PLANT  
PROPOSED NEW AND AMENDED CEC CONDITIONS  
DOCKET NO. L-00000V-00-0106  
September 27, 2006

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Staff recommends the following language concerning amended and additional CEC conditions for GBPP's power plant project CEC be adopted by the Commission:

The Commission modifies the CEC by replacing the language of Condition 2 as follows:

2. Authorization to construct the project is extended five years from the original expiration date of February 7, 2006. Authorization to construct shall now expire February 7, 2011 unless construction is completed to the point that the plant is capable of operating at its rated capacity by that time; provided, however, that prior to such expiration the facility owner may request that the Commission extend this time limitation.

In extending the expiration date of the existing CEC approved in Decision No. 63552 the Commission adds the following nine new conditions:

19. The Applicant, its successor(s) or assign(s) shall submit a self-certification letter annually listing which conditions contained in the Certificate have been met. Each letter shall be submitted to the Commission's Utilities Division Director on August 1, beginning in 2007, describing conditions which have been met as of June 30. Applicant shall attach documents to the certification letters that explain, in detail, how compliance was achieved. Applicant shall also submit copies of each certification letter, along with corresponding documentation, to the Arizona Attorney General and the respective Directors of the Arizona Department of Water Resources and Arizona Department of Commerce, Energy Office. To the extent that a condition need only be fulfilled once, once Applicant has fulfilled said condition, Applicant need not report with respect to that condition in future self-certification letters.
20. Applicant shall demonstrate in its 2007 self-certification letter that it has initiated and is continuing action to comply with Condition Nos. 1, 3, 4, 14, and 17 or in the alternative provide an explanation of why it should not be considered as non-compliant with the subject conditions.
21. Applicant shall participate in Arizona subregional transmission planning forums such as SWAT and CATS on a regular basis and participate in each Biennial Transmission Assessment performed by the Commission.
22. Applicant shall document in its annual self-certification letter all steps taken in the previous year to seek a contract for capacity and energy production out of its

GILA BEND POWER PARTNERS, L.L.C. POWER PLANT  
PROPOSED NEW AND AMENDED CEC CONDITIONS  
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plant. This should include participation in any and all generation adequacy or planning workshops or assessments sponsored by the Commission.

23. Applicant will participate in good faith in Arizona and regional workshops and other assessments of the natural gas infrastructure.
24. Applicant shall pursue all necessary steps to ensure a reliable supply and delivery of natural gas for the Project.
25. Within five days of Commission approval of this CEC, Applicant shall request in writing that El Paso provide Applicant with a written report describing the operational integrity of El Paso's Southern System facilities from the Casa Grande Compressor Station to the Wenden Compressor Station. Such request shall include:
  - a. A request for information regarding inspection, replacement and/or repairs performed in this segment of El Paso's pipeline facilities since 1996 and those planned through 2006; and
  - b. An assessment of subsidence impacts on the integrity of this segment of pipeline over its full cycle, together with any mitigation steps taken to date or planned in the future.

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

26. In order to comply with WECC RMS requirements, Applicant shall offer as Ancillary Services a total of 10% of its total plant capacity to:
  - a. The local control area with which it is interconnected and
  - b. Arizona's regional ancillary services market,
    - i. once a Regional Transmission Organization (RTO) is declared operational by FERC order, and
    - ii. until such time that an RTO is so declared, to a regional reserve sharing pool.

GILA BEND POWER PARTNERS, L.L.C. POWER PLANT  
PROPOSED NEW AND AMENDED CEC CONDITIONS  
DOCKET NO. L-00000V-00-0106  
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27. In extending the expiration date of the Certificate the Commission considers the Certificate to be a package of inter-related requirements and conditions that must all remain in force in order to merit Commission approval. If the Applicant, its successors(s) or assignee(s) pursue a legal challenge of any condition herein, the authority to construct facilities granted by this Commission Decision shall be revoked and the Certificate rendered null and void in its entirety without further order of the Commission.

GILA BEND POWER PARTNERS, L.L.C.  
WATEMELON SWITCHYARD AND TRANSMISSION LINE  
PROPOSED NEW AND AMENDED CEC CONDITIONS  
DOCKET NO. L-00000V-01-0109  
September 27, 2006

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Staff recommends the following language concerning amended and additional CEC conditions for GBPP's transmission line project CEC be adopted by the Commission:

The Commission modifies the CEC by replacing the language of Conditions 5 as follows:

5. Authorization to construct the project is extended five years from the original expiration date of April 11, 2006. Authorization to construct shall now expire April 11, 2011 unless construction is completed to the point that the 500 kV line and 500 kV switchyard are capable of operating at that time; provided, however, that prior to such expiration the facility owner may request that the Commission extend this time limitation.

In extending the expiration date of the existing CEC approved in Decision No. 63762 the Commission adds the following four new conditions:

6. The Applicant, its successor(s) or assign(s) shall submit a self-certification letter annually listing which conditions contained in the Certificate have been met. Each letter shall be submitted to the Commission's Utilities Division Director on August 1, beginning in 2007, describing conditions which have been met as of June 30. Applicant shall attach documents to the certification letters that explain, in detail, how compliance was achieved. Applicant shall also submit copies of each certification letter, along with corresponding documentation, to the Arizona Attorney General and the respective Directors of the Arizona Department of Water Resources and Arizona Department of Commerce, Energy Office. To the extent that a condition need only be fulfilled once, once Applicant has fulfilled said condition, Applicant need not report with respect to that condition in future self-certification letters.
7. Applicant shall demonstrate in its 2007 self-certification letter that it has initiated and is continuing action to comply with Condition Nos. 1, 2, and 3.H. or in the alternative provide an explanation of why it should not be considered as non-compliant with the subject conditions.
8. Applicant shall annually file ten year plans with the Commission in accordance with A.R.S. § 40-360-2.A., participate in Arizona subregional transmission planning forums such as SWAT and CATS on a regular basis, and participate in each Biennial Transmission Assessment performed by the Commission.
9. In extending the expiration date of the Certificate the Commission considers the Certificate to be a package of inter-related requirements and conditions that must all remain in force in order to merit Commission approval. If the Applicant, its

GILA BEND POWER PARTNERS, L.L.C.  
WATEMELON SWITCHYARD AND TRANSMISSION LINE  
PROPOSED NEW AND AMENDED CEC CONDITIONS  
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successors(s) or assignee(s) pursue a legal challenge of any condition herein, the authority to construct facilities granted by this Commission Decision shall be revoked and the Certificate rendered null and void in its entirety without further order of the Commission.