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BEFORE THE ARIZONA CORPORATION COMMISSION

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COMMISSIONERS

2006 OCT 10 P 4: 04

JEFF HATCH-MILLER, Chairman

WILLIAM A. MUNDELL

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KRISTIN K. MAYES

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AZ CORP COMMISSION
DOCUMENT CONTROL

IN THE MATTER OF THE APPLICATION OF GILA BEND POWER PARTNERS, L.L.C., OR THEIR ASSIGNEE(S), IN CONFORMANCE WITH REQUIREMENTS OF ARIZONA REVISED STATUTES SECTIONS 40-360-01 et seq., FOR A CERTIFICATE OF ENVIRONMENTAL COMPATIBILITY AUTHORIZING THE CONSTRUCTION OF A NATURAL GAS-FIRED, COMBINED CYCLE GENERATING PLANT, SWITCHYARD, AND RELATED FACILITIES IN THE TOWN OF GILA BEND, MARICOPA COUNTY, ARIZONA, LOCATED IN THE SOUTHWEST QUARTER OF SECTION 19, TOWNSHIP 5 SOUTH RANGE 5 WEST, GILA AND SALT RIVER BASE AND MERIDIAN.

DOCKET NO. L-00000V-00-0106

IN THE MATTER OF THE APPLICATION OF GILA BEND POWER PARTNERS AND ITS ASSIGNS IN CONFORMANCE WITH THE REQUIREMENTS OF ARIZONA REVISED STATUTES 40-360.03 AND 40-360.06 FOR A CERTIFICATE OF ENVIRONMENTAL COMPATIBILITY AUTHORIZING CONSTRUCTION OF ONE 500kV TRANSMISSION LINE AND THE WATERMELON SWITCHYARD IN MARICOPA COUNTY, ARIZONA ORIGINATING AT THE PROPOSED GILA BEND POWER PARTNERS POWER PROJECT LOCATED NORTHWEST OF THE CENTER OF THE TOWN OF GILA BEND, ARIZONA (SECTION 19, TOWNSHIP 5 SOUTH, RANGE 5 WEST, G&SRB&M) AND TERMINATING AT THE PROPOSED WATERMELON SWITCHYARD SECTION 22, TOWNSHIP 5 SOUTH, RANGE 4 WEST, A DISTANCE OF APPROXIMATELY 9 MILES.

DOCKET NO. L-00000V-01-0109

Arizona Corporation Commission
DOCKETED

OCT 10 2006

DOCKETED BY
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PROCEDURAL ORDER

BY THE COMMISSION:

On April 12, 2001, the Arizona Corporation Commission ("Commission") issued Decision No. 63552 in Docket No. L-00000V-00-0106 ("Case No. 106"). Decision No. 63552 granted Gila Bend Power Partners, L.L.C. ("GBPP") a Certificate of Environmental Compatibility ("CEC" or

1 “Certificate”) authorizing construction of a natural gas-fired, combined cycle generating plant,
2 switchyard and related facilities. The CEC was granted upon 18 conditions, one of which is that the
3 authorization to construct the project will expire five years from the date the Certificate is approved
4 by the Commission unless construction is completed to the point that the plant is capable of operating
5 at its rated capacity by that time; provided, however, that prior to such expiration the facility owner
6 may request that the Commission extend the time limitation.

7 On June 21, 2001, the Commission issued Decision No. 63762 in Docket No. L-00000V-01-
8 0109 (“Case No. 109”). Decision No. 63762 granted GBPP a CEC to construct a 500 kV
9 transmission line, a 500 kV switchyard, and a 500 kV interconnection. The CEC was granted upon
10 five conditions, one of which is that the authorization to construct the facilities will expire five years
11 from the date the Certificate is approved by the Commission unless construction is completed to the
12 point that the 500 kV transmission line and 500 kV switchyard are capable of operating by that time;
13 provided, however, that prior to such expiration the applicant may request that the Commission
14 extend the time limitation.

15 On March 7, 2006, GBPP filed, in Case No. 106, an Application for Extension of Certificate
16 of Environmental Compatibility, Request for Expedited Treatment and, to the Extent Necessary, an
17 Interim Extension. GBPP requests that Decision No. 63552’s deadline for completion of construction
18 be extended until April 12, 2011, or in the alternative, that an interim extension be granted until the
19 Commission can evaluate GBPP’s request. GBPP states that it has not yet built the project authorized
20 by Decision No. 63552 because it has not been economically viable to construct an additional power
21 plant in the Palo Verde Hub area under current wholesale market conditions.

22 Also on March 7, 2006, GBPP filed, in Case No. 109, an Application for Extension of
23 Certificate of Environmental Compatibility. GBPP requests that Decision No. 63762’s deadline for
24 completion of construction be extended until June 12, 2011. GBPP states that in order for the GBPP
25 project to be viable, an extension must be granted in both Case No. 106 and Case No. 109.

26 On March 20, 2006, the Commission’s Utilities Division Staff (“Staff”) filed a memorandum
27 in these dockets. Therein, Staff requested that, in response to GBPP’s request for expedited
28 treatment, Case. No. 106 and Case No. 109 be consolidated, and that GBPP’s request for an interim

1 extension of time be granted. Staff requested that the April 12, 2006 and June 12, 2006 time
2 deadlines be temporarily extended to December 31, 2006, in order to allow Staff sufficient time to
3 properly review GBPP's time extension requests and to issue a Staff Report; to allow sufficient time
4 for a hearing, if it is determined that a hearing is required; and to allow time for Commission review
5 of any proposed order. Staff requested that its Staff Report be due no earlier than July 28, 2006.

6 At the Commission's Open Meeting on April 4, 2006, the Commission directed the Hearing
7 Division to issue a Procedural Order comporting with Staff's recommendations in the March 20,
8 2006 filing. The Commission further directed that the Procedural Order require GBPP to make an
9 additional filing for Staff review regarding the factual circumstances underlying GBPP's requests.

10 By Procedural Order dated April 7, 2006, pursuant to the April 4, 2006 Open Meeting
11 directive, Cases Nos. 106 and 109 were consolidated for the purpose of evaluating the extension
12 requests. The April 7, 2006 Procedural Order extended the authority to construct granted in Decision
13 Nos. 63552 and 63762 until December 31, 2006. The Commission ordered GBPP to file by May 5,
14 2006, detailed information supporting its request for extension of the expiration of authority to
15 construct granted in Decision No. 63552 and Decision No. 63762. In addition, Staff was directed to
16 file a Staff Report, including a recommendation for the appropriate procedure for reaching a
17 Commission Decision on GBPP's requests by August 15, 2006.

18 On August 14, 2006, Staff requested an extension until September 29, 2006 to file its Staff
19 Report because the assigned Commission staff person had taken a medical leave of several weeks.
20 By its Response to Staff's request filed August 15, 2006, GBPP did not object to Staff's requested
21 extension.

22 Staff filed its Staff Report on September 27, 2006. The Staff Report concludes that a
23 reasonable presumption of need continues to exist for both the GBPP power plant and its 500 kV
24 Watermelon Switchyard and 500 kV transmission line projects. Thus, Staff recommends that the
25 Commission conditionally grant GBPP the five year extension it requests for the expiration date of
26 each respective CEC. The Staff Report concludes also that GBPP has not demonstrated that it is
27 complying timely and in good faith with all of the original conditions placed on its CECs.
28 Furthermore, Staff notes, the Commission has broadened and refined CEC compliance conditions

1 placed on more recently certificated power plant and transmission projects. Staff believes that it is
 2 reasonable to require GBPP to comply with amended and new conditions that are similar to those
 3 placed on more recently granted CECs. Therefore, Staff recommends that if the Commission grants
 4 the five year extensions requested by GBPP, that the amended and new conditions set forth in
 5 Exhibits A and B of the Staff Report be adopted both as remedy to the non-compliance findings
 6 concerning current conditions and to make GBPP CECs' conditions comparable with recent cases
 7 approved by the Commission. Staff further recommends that failure to comply with the new
 8 conditions and pre-existing CEC conditions could be considered grounds for the Commission to
 9 vacate the CEC for the respective project.

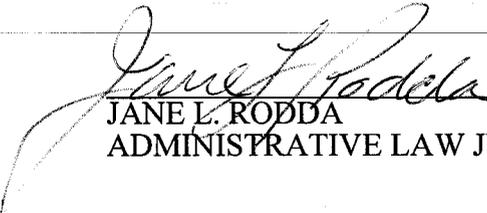
10 In order to make a final determination of GBPP's extension requests by December 31, 2006,
 11 the Commission must act expeditiously. In the event a hearing is required, it must be scheduled for
 12 no later than November 2006. The Staff Report makes no recommendation concerning the need for a
 13 hearing. The Commission may consider this matter without a hearing if no party requests one.

14 IT IS THEREFORE ORDERED that Gila Bend Power Partners, L.L.C.'s shall **file any**
 15 **comments or objections to the Staff Report** no later than **October 16, 2006**. Gila Bend Power
 16 Partners, L.L.C.'s comments shall indicate whether it is requesting a hearing on Staff's findings and
 17 recommendations. If Gila Bend Power Partners, L.L.C. agrees to comply with Staff's
 18 recommendations, it should expressly indicate such agreement in its filed comments.

19 IT IS FURTHER ORDERED that unless a party requests a hearing in this matter, the
 20 Commission may make a final determination of the extension requests without a hearing. Any
 21 interested party shall file comments or objections to the Staff Report or request a hearing no later than
 22 October 16, 2006.

23 IT IS FURTHER ORDERED that the Presiding Officer may rescind, alter, amend, or waive
 24 any portion of this Procedural Order either by subsequent Procedural Order or by ruling at hearing.

25 Dated this 6th day of October, 2006

26
 27 
 28 JANE L. ROBDA
 ADMINISTRATIVE LAW JUDGE

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this 6th day of October, 2006 to:

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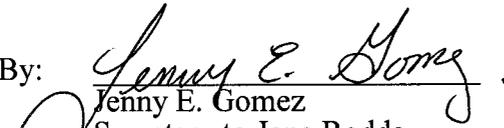
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