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BEFORE THE ARIZONA POWER PLANT

AND TRANSMISSION LINE SITING COMMITTEE

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4 IN THE MATTER OF THE APPLICATION
5 OF SOUTHERN CALIFORNIA EDISON
6 COMPANY AND ITS ASSIGNEES IN
7 CONFORMANCE WITH THE
8 REQUIRMENTS OF ARIZONA REVISED
9 STATUTES SECTIONS 40-360.03 AND
10 40-360.06 FOR A CERTIFICATE OF
11 ENVIRONMENTAL COMPATIBILITY
12 AUTHORIZING CONSTRUCTION OF A
13 500 kV ALTERNATING CURRENT
14 TRANSMISSION LINE AND RELATED
15 FACILITIES IN MARICOPA AND LA
16 PAZ COUNTIES IN ARIZONA
17 ORIGINATING AT THE HARQUAHALA
18 GENERATING STATION SWITCHYARD
19 IN WESTERN MARICOPA COUNTY
20 AND TERMINATING AT THE DEVERS
21 SUBSTATION IN RIVERSIDE COUNTY,
22 CALIFORNIA.

CASE NO. 130

DOCKET NO. L-00000A-06-0295-00130

NOTICE OF ERRATA

AZ CORP COMMISSION
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16 The Staff of the Arizona Corporation Commission ("Staff") hereby files the following
17 Errata to Proposed Findings of Fact, Proposed Conditions to the CEC, and Closing Argument of
18 the Arizona Corporation Commission filed on November 30, 2006. The purpose of this Errata is
19 to correct grammatical, formatting and punctuation errors in the pleading. The substance of the
20 pleading has not been changed.

21 RESPECTFULLY submitted this 5th day of December, 2006.

22
23 Arizona Corporation Commission

24 DOCKETED

25 DEC - 5 2006

26 DOCKETED BY *SM*

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3 Docket Control
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6 Phoenix, Arizona 85007

5 Electronic copies of the foregoing
6 mailed this 5th day of December,
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**BEFORE THE ARIZONA POWER PLANT
AND TRANSMISSION LINE SITING COMMITTEE**

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IN THE MATTER OF THE APPLICATION OF SOUTHERN CALIFORNIA EDISON COMPANY AND ITS ASSIGNEES IN CONFORMANCE WITH THE REQUIRMENTS OF ARIZONA REVISED STATUTES SECTIONS 40-360.03 AND 40-360.06 FOR A CERTIFICATE OF ENVIRONMENTAL COMPATIBILITY AUTHORIZING CONSTRUCTION OF A 500 kV ALTERNATING CURRENT TRANSMISSION LINE AND RELATED FACILITIES IN MARICOPA AND LA PAZ COUNTIES IN ARIZONA ORIGINATING AT THE HARQUAHALA GENERATING STATION SWITCHYARD IN WESTERN MARICOPA COUNTY AND TERMINATING AT THE DEVERS SUBSTATION IN RIVERSIDE COUNTY, CALIFORNIA.

CASE NO. 130

DOCKET NO. L-00000A-06-0295-00130

**PROPOSED FINDINGS OF FACT,
PROPOSED CONDITIONS TO THE CEC,
AND CLOSING ARGUMENT OF THE
STAFF OF THE ARIZONA
CORPORATION COMMISSION**

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The testimonial portion of hearings in the above captioned matter ("Case No. 130") concluded on October 31, 2006. However, Chairman Laurie A. Woodall ("Chairman Woodall") of the Arizona Power Plant and Transmission Line Siting Committee (the "Siting Committee") did not close the evidentiary record at that time.¹ A separate proceeding is currently pending in Docket Number E-200465A-06-0457 for an amendment of Decision No. 51170, or in the alternative, a declaration of no substantial change.² The outcome of the A.R.S. § 40-252 proceeding could affect the project proposed in Case No. 130.

In a pre-hearing procedural conference held on June 21, 2006, Chairman Woodall raised an issue regarding double circuit towers in Copper Bottom Pass. Specifically, she questioned whether towers were approved in either Line Siting Case No. 34 ("Case No. 34") or Line Siting Case No. 48 ("Case No. 48") for the Palo Verde to Devers 1 project ("PVD1"). The Applicant Southern

¹ Tr. Vol. XIV at 2892: 6-14.

² *In the Matter of the Application of Southern California, pursuant to A.R.S. § 40-252, for an Amendment of ACC Decision N. 51170 or, in the Alternative, a Declaration of no Substantial Change*, Docket No. E-20465A-06-0457, filed July 10, 2006 (the "A.R.S. § 40-252 proceeding").

1 California Edison Company (“Applicant” or “SCE”) proposes using the double circuit towers in
2 Copper Bottom Pass for a portion of the route in the Palo Verde to Devers 2 project (“PVD2”) at
3 issue in Case No. 130.³ The Staff of the Arizona Corporation Commission (the “Commission”)
4 (“Staff”) believes that if the double circuit towers are found to be a substantial change, and are not
5 subsequently approved, SCE may not use them for PVD2.

6 The Siting Committee issued a Certificate of Environmental Compatibility (“CEC”) for
7 PVD1 (Case No. 34) which was approved by the Commission in Decision No. 49226.⁴ Two
8 sections of the route approved in Case No. 34 were amended in Case No. 48 by the Siting
9 Committee.⁵ The Commission approved the amendment to the original CEC in Decision No. 51170.

10 The ascending route through Copper Bottom Pass was approved in Case No. 34. This portion of the
11 route was not addressed or changed in Case No. 48.

12 Staff asked Chairman Woodall to keep the record in Case No. 130 open until the close of the
13 evidentiary record in the A.R.S. § 40-252 proceeding. Staff wanted an opportunity to move for
14 administrative notice of the evidentiary record in the A.R.S. § 40-252 proceeding for inclusion in the
15 record of Case No. 130. SCE agreed to have the evidentiary record in the A.R.S. § 40-252
16 proceeding be administratively noticed in Case No. 130.⁶ Should it choose to do so, Staff also
17 requests an opportunity to amend this filing to include additional argument based on the evidentiary
18 record in the A.R.S. § 40-252 proceeding.

19 On October 10, 2006, Chairman Woodall issued an amended procedural order in Case No.
20 130. Chairman Woodall ordered counsel for the Applicant to meet and confer with all other parties

21 _____
22 ³ See Ex. A-27, Figure B-15; see also B-4 (“No new towers would be required through Copper Bottom Pass. When
23 DPV1 was constructed through the pass it was installed on 13 four-legged double-circuit bundled-conductor lattice
24 steel towers. The DPV2 500 kV transmission line would be located on these existing towers as a second circuit.”).

25 ⁴ *In the Matter of the Application of Southern California Edison Company, in conformance with the requirements
26 of Arizona Revised Statutes Section 40-360, et seq., for a Certificate of Environmental Compatibility for two
27 segments of the Arizona Portion of one 500 kV transmission line between the Palo Verde Nuclear Generating
28 Station (under construction) near Wintersburg, Arizona and the Devers Substation (existing) near Palm Springs,
California, Decision No. 49226, Line Siting Case No. 34, June 15, 1978.*

⁵ *In the Matter of the Application of Southern California Edison Company, in conformance with the requirements
of Arizona Revised Statutes Section 40-360, et seq., for a Certificate of Environmental Compatibility for two
segments of the Arizona Portion of one 500 kV transmission line between the Palo Verde Nuclear Generating
Station (under construction) near Wintersburg, Arizona and the Devers Substation (existing) near Palm Springs,
California, Decision No. 51170, Line Siting Case No. 48, June 16, 1980.*

⁶ Tr. Vol. XIV at 2896:18-24.

1 no later than 4:00 p.m. on November 27, 2006. The purpose of the meet and confer was to prepare a
2 mutually acceptable form of CEC. The meet and confer was held at the Commission's offices on
3 November 17, 2006. The parties agreed to language for some conditions to be included in the CEC,
4 and agreed to disagree on other conditions. The parties agreed to not discuss proposed findings of
5 fact in the meet and confer. The parties intend to propose separate findings of fact based on their
6 final recommendations for conditions to be included in the CEC.

7 In the October 10, 2006 amended procedural order, Chairman Woodall also ordered parties
8 proposing alternative provisions for the CEC to file and electronically submit their proposals by
9 November 27, 2006. She further ordered parties desiring to propose findings regarding need, and
10 desiring to file written closing arguments to do so no later than November 27, 2006.

11 During the testimonial proceedings on October 4, 2006, Chairman Woodall requested parties
12 proposing conditions to the CEC to propose additional findings of fact. She requested findings of
13 fact related to the Federal Energy Policy Act of 2005 ("EPAAct 2005").⁷ Chairman Woodall
14 specifically requested such parties to propose the following findings: 1) whether or not proposed
15 conditions either will or will not significantly reduce transmission congestion in interstate
16 commerce; and 2) whether or not proposed conditions are not economically feasible.⁸ Also on
17 October 4, 2006, Staff requested an opportunity to submit a proposed finding of fact describing its
18 position in this matter.⁹

19 Staff respectfully submits proposed findings of fact, proposed conditions, and closing
20 argument in the above captioned matter. Finally, Staff requests the opportunity to also make an oral
21 closing argument during the Committee's deliberations on January 8-9, 2007. Staff will begin with
22 its closing legal argument. We will then present its proposed findings of fact, and conclude with its
23 proposed conditions.

24 CLOSING ARGUMENT

25 Staff believes that the PVD2 project presents several issues of first impression for the
26

27 ⁷ Pub. L. No. 109-58, 119 Stat. 594 (August 8, 2005).

28 ⁸ Tr. Vol. X at 2051:7-22.

⁹ *Id.* 2048, l. 3, to 2049, l. 18.

1 Committee and the Commission. The issues of first impression include both legal and factual
2 considerations. Interstate transmission line siting is in the middle of a dramatic paradigm shift.
3 The paradigm shift is the result of new federal legislation and industry changes on subregional
4 and regional levels for the western electric transmission grid (the “Western Grid”).

5 The new federal legislation is EAct 2005, and is currently being implemented in part by
6 federal agency rulemakings. EAct 2005 creates the potential for overlap in state and federal
7 siting processes.¹⁰ It may take years for the overlap, and balance of authority between federal and
8 state siting agencies, to be reasonably coordinated and implemented. Nevertheless, Staff believes
9 that the Committee and the Commission “[need] to accommodate the western wholesale market
10 needs while still preserving and protecting the Arizona consumers’ interests” in this
11 proceeding.¹¹

12 On August 8, 2005, EAct 2005 became effective, and increased the authority of federal
13 agencies to site electric transmission facilities.¹² In particular, Section 1221 of EAct 2005
14 created backstop authority for the Federal Energy Regulatory Commission (“FERC”) to site
15 interstate transmission facilities.¹³ FERC will have discretion to use its backstop authority if state
16 siting authorities fail to act or act in certain ways.¹⁴ FERC may also invoke its backstop authority
17 if state law does not provide for consideration of interstate benefits.¹⁵ Under its backstop
18 authority, FERC may issue permits for “*construction or modification of electric transmission*
19 *facilities in a national interest electric transmission corridor [“NIETC”] designated by the*
20 *Secretary [of Energy].”*¹⁶

21 Staff requests the Committee and the Commission to consider EAct 2005 and the rules
22 promulgated under it pursuant to A.R.S. § 40-360.06(A)(9). A.R.S. § 40-360.06(A)(9) provides
23 that the Committee may consider:

24 ¹⁰ See *Regulations for Filing Applications for Permits to Site Interstate Electric Transmission Facilities*, FERC
25 Docket No. RM06-12-000, 117 FERC P 61202 at ¶ 19 (November 16, 2006) (“Order 689”).

26 ¹¹ Tr. Vol. XI at 2208:13-16 (testimony of Staff witness Mr. Jerry Smith).

27 ¹² See Pub. L. No. 109-58, 119 Stat. 594 (August 8, 2005).

28 ¹³ *Id.* at Section 1221(b).

¹⁴ *Id.* at Section 1221(b)(1)(C).

¹⁵ *Id.* at Section 1221(b)(1)(A)(ii).

¹⁶ *Id.* at Section 1221(b) (emphasis added).

1 as a basis for its action with respect to the suitability
2 of...transmission line siting plans....[a]ny additional factors *which*
3 *require consideration* under applicable *federal* and state laws
4 pertaining to any such site.¹⁷

5 Because EPA Act 2005 *may*¹⁸ provide backstop siting authority for PVD2, Staff believes it is both
6 necessary and appropriate for the Committee to consider the federal law under A.R.S. §
7 40-360.06(A)(9).

8 In addition to emerging federal law, there are several factual considerations that make this
9 proceeding a case of first impression. Staff provides an introduction to these factual
10 considerations next. Following the introduction, Staff provides legal argument supporting its
11 proposed findings of fact and proposed conditions using both state and federal law.

12 Most importantly, this proceeding is the first interstate transmission line siting in
13 Arizona, and in the West, for a transmission line that could be subject to the FERC tariff of the
14 California Independent System Operator (“CAISO”).¹⁹ As discussed in the section on need,
15 CAISO control of the PVD2 project would have significant impacts on Arizona load serving
16 entities (“LSEs”) and ratepayers. Staff and the Commission have previously supported
17 development of a different transmission planning organization that could become a regional
18 transmission organization (“RTO”)²⁰ for Arizona.²¹ Arizona utilities have also supported
19 development of WestConnect as a potential RTO for Arizona.²²

20 WestConnect is that potential RTO,²³ and its footprint includes all of Arizona.²⁴ Staff

21 ¹⁷ A.R.S. § 40-360.06(A)(9) (emphasis added).

22 ¹⁸ Staff briefs the applicability of FERC’s backstop authority to PVD2 *infra*.

23 ¹⁹ Tr. Vol. XIII at 2604:7-10. Note that CAISO’s control area was created by merging the control areas of Pacific
24 Gas & Electric Company, Southern California Edison Company, San Dègo Gas & Electric, and the City of
25 Pasadena. *Id.* at 2601:22 to 2602:2.

26 ²⁰ RTOs and Independent System Operators (“ISOs”) provide similar functions.

27 ²¹ *See, e.g.* the testimony of Staff witness Mr. Jerry Smith, Tr. Vol. X at 2175:13-15 (“We’re simply trying to
28 preserve the integrity of opportunity for the WestConnect RTO once it forms. . .”).

²² *See* Tr. Vol. VII at 1570:3 to 1571:15.

²³ WestConnect is in the process of developing a Virtual Control Area to test how members may merge their control
areas. *See* Attachment A (http://www.westconnect.com/init_virtualcontrol.php).

²⁴ *See* Attachment B (<http://www.westconnect.com/aboutwc.php>). Also note that WestConnect’s footprint is a
subregional planning area. *See* Attachment C (http://westconnect.com/init_regionalplan.php). *See also* the
testimony of Staff witness Mr. Jerry Smith, Tr. Vol. XI at 2341:6-10 (“WestConnect is in the process of
developing a tariff rate to be submitted to FERC that would accomplish the purpose of consolidating the
transmission tariffs in the WestConnect footprint on an exploratory basis to see what degree it would work
effectively for WestConnect.”).

1 urges the Committee and the Commission to prevent the PVD2 project from expanding CAISO's
2 footprint into the footprint of a future WestConnect RTO. Arizona should determine its energy
3 future instead of passively allowing SCE and CAISO to do so. Arizona's energy future should
4 include choosing a RTO that best serves the needs of its LSEs and ratepayers.

5 Another factual consideration that is an issue of first impression in Arizona is whether
6 double circuit towers may be used for two 500 kV lines. SCE proposes to use thirteen double
7 circuit towers located in Copper Bottom Pass and one double circuit tower located at the Palo
8 Verde Hub.²⁵ The double circuit towers are currently being currently operated as single circuit
9 towers for the PVD1 500 kV line. The use of double circuit towers for two 500 kV lines has
10 never been approved in Arizona. The use of double circuit towers requires the PVD2 project to
11 use a Special Protection Scheme ("SPS") to meet WECC reliability standards.²⁶

12 A SPS is necessary to ensure reliability if "a common event result[s] in multiple lines
13 being put out of service."²⁷ California siting authorities have routinely approved use of a SPS for
14 co-locating multiple lines.²⁸ However, this Committee and this Commission have "not been
15 supportive of use of special protection schemes for new installations."²⁹ Staff believes that there
16 is sufficient legal authority for the Committee and the Commission to require reliability standards
17 that exceed WECC standards.³⁰ Accordingly, Staff proposed conditions to maintain Arizona's
18 reliability standards. Arizona's reliability standards are necessary to sufficiently protect Arizona
19 ratepayers and the public interest.

20 A related reliability standard for two Extra High Voltage ("EHV") lines in a single

21 _____
22 ²⁵ See Ex. A-1, Application for a CEC at Intro-1 and at 2, section 4.2.1.2. See also *Amendment to Southern
California Edison Company's Application*, Docket No. E-20465A-06-0457. See also Ex. A-2, Tab 1 at 19.

23 ²⁶ See, e.g. Tr. Vol. XI at 2238:4-13. See also Ex. S-30, Tab 9 at 4 ("Staff understands the proposed SPS is required
24 for a simultaneous outage of both the existing line and the proposed line between Palo Verde and Devers. Such an
outage must be considered by WECC criteria as a credible outage because both lines are on common structures for
a three mile section through Copper Bottom Pass as depicted in Figure 3.3.").

25 ²⁷ Tr. Vol. XI at 2230:17-21.

26 ²⁸ *Id.* at 2238:22-24.

27 ²⁹ *Id.* at 2238:12-19. See also Ex. S-29, Tab 9 at 4 ("In fact, the ACC has adopted a policy position in prior power
plant and transmission line siting cases and via its Biennial Transmission Assessment ("BTA") process that an SPS
should not be considered an acceptable technical option when proposing new electric infrastructure in Arizona.").

28 ³⁰ Staff witness Mr. Jerry Smith testified that "in Arizona we have been raising the bar of expectations of our utilities
to provide quality of service beyond the minimum requirement of WECC standards." Tr. Vol. XI at 2301:25 to
2302:3.

1 corridor and terminating in common stations is the appropriate physical separation of the lines. If
2 the Committee and the Commission site PVD2 in the same physical corridor as PVD1, a
3 common event could result in both lines going out of service at the same time. Staff has
4 consistently stated that it has “[reliability] concerns regarding the Palo Verde Hub and associated
5 transmission system.”³¹ As in the past, Staff urges the Committee and Commission to ensure
6 “[m]itigation of system risks associated with extreme Hub outage events.”³² Although separation
7 issues have been raised in the past, there are no current reliability standards. However,
8 “separation guidelines are [currently] being reinvestigated and reconsidered by WECC.”³³

9 The final factual consideration that is critical in this proceeding is the determination of
10 need pursuant to A.R.S. § 40-360.07(B). The determination of need must balance Arizona’s
11 need for PVD2 with the need for the project on subregional and regional levels. SCE proposed
12 PVD2 to meet the economic needs of California and CAISO ratepayers.³⁴ Under its FERC tariff,
13 CAISO may approve a transmission line that promotes economic efficiency or system
14 reliability.³⁵

15 Although CAISO evaluates economic need, the California Public Utilities Commission
16 (“CPUC”) has authority to site transmission lines in California. The CPUC issued its final
17 “Opinion on Methodology for Economic Assessment of Transmission Projects” on November 9,
18 2006.³⁶ Because the CPUC has not yet issued a Certificate of Public Convenience and Necessity
19 (“CPCN”) for PVD2, this new standard may be used for the project in California. Staff
20 addresses this new standard in the section on need.

21 The Arizona standard set out in A.R.S. § 40-360.07(B) requires need to be determined
22 “for an adequate, economical and reliable supply of electric power.” Obviously PVD2 must meet

23 ³¹ Ex. S-30, Tab 10 at 3.

24 ³² *Id.*

25 ³³ Tr. Vol. XI at 2303:10-14.

26 ³⁴ Tr. Vol. V at 967:6-10.

27 ³⁵ CAISO FERC Tariff, Third Replacement Volume No. 1, Original Sheet No. 317, Section 24.1 (“The ISO will
28 determine that a transmission addition or upgrade is needed where it will promote economic efficiency or maintain
System Reliability as set forth below.”).

³⁶ *Order Instituting Investigation on the Commission’s Own Motion into Methodology for Economic Assessment of
Transmission Projects*, Investigation 05-06-041, Decision 06-11-018, CPUC (November 9, 2006) (“CPUC
Methodology for Economic Assessment”).

1 two different State standards in order to be permitted. Therefore, the determination of need for
2 the project is unique for this Committee and Commission. Additionally, Staff believes that the
3 facts regarding economic need demonstrate a need for California and CAISO ratepayers, but not
4 for Arizona ratepayers.³⁷ Accordingly, Staff proposed conditions to ensure resource adequacy
5 and reliability to offset the potential for net economic costs to Arizona ratepayers.

6 **I. The Committee has authority to consider interstate benefits, and to consider need**
7 **under the balancing test of A.R.S. § 40-360.07(B).**

8 Staff believes that the Committee and the Commission may consider economic, resource
9 adequacy, and reliability effects on Arizona ratepayers under both state and federal law. These
10 factual considerations are necessary to determine need for a proposed project. State and federal
11 law require a determination of need, and provide for the above factual considerations. This
12 proceeding presents a unique challenge to both the Committee and the Commission. The factual
13 record requires balancing need for Arizona ratepayers with need for California and CAISO
14 ratepayers.

15 Staff urges the Committee and the Commission to carefully consider the public interests
16 of Arizona ratepayers as required by Arizona law. However, Staff also urges the Committee and
17 the Commission to consider the public interests of “reliable operation of the bulk-power
18 system”³⁸ on subregional and regional levels. In addition to reliability, the Committee and the
19 Commission should consider the efficient economic operation of the southwestern and western
20 grids.

21 Arizona LSEs and generators operate not only in the Arizona market, but also in
22 subregional and regional markets. Arizona benefits from participation in the larger markets.
23 Therefore, the Committee and Commission should site projects that not only provide local
24 benefits, but also provide subregional and regional benefits.

25 In this section, Staff provides legal argument about the Committee’s authority under

26 ³⁷ Tr. Vol. XII at 2407:24 to 2408:20 (testimony of Staff witness Mr. Matt Rowell).

27 ³⁸ See Pub. L. No. 109-58, 119 Stat. 594 (August 8, 2005), Section 1211(a)(4) (“The term ‘reliable operation’
28 means the elements of the bulk-power system within equipment and electric system thermal, voltage, and stability
limits so that instability, uncontrolled separation, or cascading failures of such system will not occur as a result of
a sudden disturbance, including a cybersecurity incident, or unanticipated failure of system elements.”).

1 Arizona law to consider (1) economic, resource adequacy and reliability impacts on Arizona
2 ratepayers; and (2) interstate benefits of the proposed project. In the next section, Staff provides
3 legal argument on factual determinations necessary and appropriate under emerging federal law.

4 The statutory procedure for line siting in Arizona is a two-step process.³⁹ The Committee
5 issues a CEC after considering the factors listed in A.R.S. § 40-360.06. The Commission then
6 may approve or modify the Committee's decision. The Commission's decision must be based on
7 the record developed by the Committee.⁴⁰ Although the Commission must consider the factors
8 in A.R.S. § 40-360.06, it must also conduct a balancing test pursuant to A.R.S. § 40-360.07(B).
9 The balancing test requires the Commission to "balance, in the broad public interest, *the need for*
10 *an adequate, economical and reliable supply of electric power* with the desire to minimize the
11 effect thereof on the environment and ecology of the state."⁴¹

12 A.R.S. § 40-360.07(B) requires the Committee to develop a record to enable the
13 Commission to fulfill its statutory duties. Recent case law also permits the Committee to
14 consider need and the balancing test in A.R.S. § 40-360.07(B), should it choose to do so. In
15 *Grand Canyon Trust v. Arizona Corporation Commission*, 210 Ariz. 30, 107 P.3d 356 (App.
16 2005), the Court of Appeals of Arizona noted that:

17 The factors the Siting Committee must consider in deciding
18 whether to issue a CEC are set forth in A.R.S. § 40-360.06. ***These***
19 ***factors contain sufficient breadth to allow the Siting Committee***
20 ***to consider the need for power as a factor in considering a CEC***
21 ***application should it choose to do so.*** The statute also allows the
22 Siting Committee to "impose reasonable conditions upon the
23 issuance of a" CEC. A.R.S. § 40-360.06(A).⁴²

24 Staff urges the Committee to consider need in this proceeding. Some of the parties
25 disagree about the extent of environmental impact PVD2 may cause. However, any
26 environmental impact would be contrary to the public interest if there is no need for the project.

25 ³⁹ See A.R.S. § 40-360.07(A) ("No utility may construct a plant or transmission line within this state until it has
26 received a certificate of environmental compatibility from the committee with respect to the proposed site,
27 affirmed and approved by an order of the commission. . . .").

27 ⁴⁰ A.R.S. § 40-360.07(B).

27 ⁴¹ *Id.* (emphasis added).

28 ⁴² *Grand Canyon Trust v. Arizona Corporation Commission*, 210 Ariz. at 35, 107 P.3d at 361, n. 7 (emphasis
added).

1 Therefore, Staff believes that it is generally appropriate and necessary for the Committee to
2 consider need.

3 In this case, it is essential. There is great disagreement on the three components of need
4 identified in A.R.S. § 40-360.07(B). Moreover, Chairman Jeff Hatch-Miller and Commissioner
5 Kris Mayes specifically requested findings of fact on need.⁴³ As Chairman Jeff Hatch-Miller
6 pointed out “[u]nder ARS § 40-360.06 (A)(9), the Line Siting Committee can consider other
7 additional factors it deems important in its deliberations.”⁴⁴ Both *Grand Canyon Trust, supra*,
8 and A.R.S. § 40-360.06(A)(9) provide sufficient authority for the Committee to consider need
9 and to conduct the balancing described in A.R.S. § 40-360.07(B).

10 The above standard is relatively easily articulated. The difficult task before this
11 Committee is how to apply the standard to complex and often contrary facts. Staff requests the
12 Committee to apply the standard in determining whether to approve the project; and in
13 determining reasonable conditions for a CEC if it approves the project. Staff believes that the
14 factual record reflects great uncertainty for Arizona’s public interest and ratepayers.

15 Because of the uncertainty, Staff urges the Committee to carefully consider the weight of
16 the evidence for each of the three components of need described in A.R.S. § 40-360.07(B).
17 Furthermore, Staff requests the Committee to weigh the evidence for the three components as a
18 whole. For example, if the Committee determines that there is less compelling evidence for one
19 of the components, it should require more compelling evidence for other components.

20 In the section on need, Staff argues that there is insufficient evidence for each of the three
21 components to establish a need for this project. As a result, Staff cannot support the project as
22 proposed. Staff proposed conditions that it believes will enhance the reliability of Arizona’s
23 transmission system.

24 If the Committee adopts Staff’s proposed conditions, it still cannot support the project.

25 ⁴³ Committee Ex. 1, *See* Commissioner Kris Mayes letter to the docket dated May 10, 2006 at 1, n. 1 (“I am asking
26 that the Line Siting Committee include in its recommendation to the Commission findings regarding the need for
27 this line in Arizona.”); *see also* Chairman Jeff Hatch-Miller’s letter to the docket dated May 10, 2006 at 2 (“I
28 request that the Line Siting Committee include testimony in the evidentiary record regarding the direct tangible
benefits (i.e., reliability, operational or economic) that Arizona electric customers would enjoy if the DPV2
Project were constructed and operational.”).

⁴⁴ *Id.*

1 The evidence on resource adequacy and economic benefits demonstrates that the project may
2 have net costs to Arizona ratepayers. Because of the uncertainty and the direction of the
3 evidence for these two components, Staff does not support the project. However, Staff will not
4 oppose the project if its conditions are adopted and ensure reliability benefits for Arizona.

5 Staff's unusual position is based upon the reality that Arizona currently participates in,
6 and needs to continue to participate in, subregional and regional markets. The evidence appears
7 to support significant economic benefits for California and CAISO ratepayers.

8 In *Grand Canyon Trust, supra*, the Court of Appeals of Arizona held that the
9 Commission may consider interstate need for power in determining need for a project.⁴⁵ The
10 Committee and Commission have authority to consider the need of California and CAISO
11 ratepayers and should do so. On the other hand, Staff does not believe such authority requires
12 the Committee and Commission to ignore Arizona's public interest and ratepayers.

13
14 **II. Even though it is unclear whether FERC could have backstop authority over PVD2,**
15 **the Committee should consider the legal standards under EAct 2005 and FERC**
16 **rulemakings.**

17 Prior to EAct 2005, "authority to site transmission lines and grant the power of eminent
18 domain for the construction of new transmission facilities has been exercised by the states."⁴⁶
19 Section 1221(b) provides authority to FERC to accept jurisdiction for siting interstate
20 transmission lines under certain conditions. The statutory authority appears to be discretionary.⁴⁷

21 On June 16, 2006, FERC issued a Notice of Proposed Rulemaking ("NOPR") to establish rules
22 for implementing its authority under Section 1221.⁴⁸ FERC issued its final rule in Order 689 on
23 November 16, 2006.

24 ⁴⁵ *Grand Canyon Trust*, 210 Ariz. at 36-37, 107 P.3d at 3662-3663.

25 ⁴⁶ Ex. S-30, Tab 7, *Protocol Among the Members of the Western Governors Association, the U.S. Department of the*
26 *Interior, the U.S. Department of Agriculture, the U.S. Department of Energy, and the Council on Environmental*
27 *Quality Governing the Siting and Permitting of Interstate Electric Transmission Lines in the Western United*
28 *States* (June 23, 2002) at 1, ¶ A.3.

⁴⁷ EAct 2005, Section 1221(b) ("[T]he Commission *may*, after notice and an opportunity for hearing, issue one or
more permits for construction or modification of electric transmission facilities in a national interest electric
transmission corridor. . . .") (emphasis added). See also Order 689 at 19, ¶ 31 (discussing the Commission's
authority as discretionary).

⁴⁸ See FERC Docket No. RM06-12-000 at 71 FR 36258 (June 26, 2006); FERC Stats. & Regs. ¶ 32,605 (2006).

1 Also in accordance with EAct 2005, FERC issued two other NOPRs. Although Order
2 689 is the most relevant FERC decision for this Committee to consider, Staff urges the
3 Committee to consider legal principles articulated in the other two NOPRs. Staff next discusses
4 the legal standards in the latter two NOPRs, and then discusses FERC's backstop authority.

5 **A. FERC legal standards for balancing stakeholder interests; and creating**
6 **coordinated, open and transparent transmission planning on subregional and**
7 **regional levels.**

8 Staff does not believe that the legal standards cited in the NOPRs below are binding
9 authority on the Committee or the Commission. Nevertheless, Staff requests the Committee and
10 the Commission to consider the standards pursuant to A.R.S. § 40-360.06(A)(9).

11 ***1. The Committee and the Commission should balance all stakeholder interests,***
12 ***including both consumer and investor interests.***

13 On July 20, 2006, FERC issued a final rulemaking in Docket No. RM06-4-000. The
14 purpose of the rulemaking was to "promot[e] transmission investment through pricing reform."⁴⁹
15 FERC's decision in Docket No. RM06-4-000 is Order 679. Section 1241 of EAct 2005
16 required FERC to conduct the rulemaking.⁵⁰

17 In Order 679, FERC recognized that impacts on ratepayers must be considered for
18 siting new transmission. In Paragraph 20, FERC held:

19 The incentives adopted by this Final Rule are properly understood
20 only in the context of the traditional regulatory principles they seek
21 to further. The longstanding rule is that utility rate regulation must
22 adequately balance both consumer and investor interests. ***It is not***
23 ***enough to ensure that investors are properly compensated, and it***
24 ***is not enough to ensure that consumers are protected against***
25 ***excessive rates. Our policies must ensure both outcomes and, in***
26 ***doing so, strike the appropriate balance between these twin***
27 ***objectives.*** In striking that balance, the courts have recognized that
28 there is no single formula for establishing a just and reasonable
rate."⁵¹

24 _____
25 ⁴⁹FERC Docket No. RM06-4-000, *Promoting Transmission Investment through Pricing Reform*, 71FR 43294 (July
31, 2006), 116 FERC 61, 057 (2006) (July 20, 2006)

26 ⁵⁰See EAct 2005, Section 1241(a) ("Not later than 1 year after the date of enactment of this section, the
27 Commission shall establish, by rule, incentive-based (including performance-based) rate treatments for the
28 transmission of electric energy in interstate commerce by public utilities *for the purpose of benefiting consumers*
by ensuring reliability and reducing the cost of delivered power by reducing transmission congestion.") (emphasis
added).

⁵¹*Notice of Proposed Rulemaking re Preventing Undue discrimination and Preference in Transmission Service*

1 FERC explained that it will follow traditional regulatory principles by balancing the interests of
2 consumers and investors.

3 The traditional regulatory principles followed by FERC are similar to the principles
4 followed by the Commission.⁵² Moreover, the Commission has the same incentives as FERC to
5 ensure adequate investment in transmission facilities in Arizona and throughout the Western
6 Grid. The balancing test set out in A.R.S. § 40-360.07(B) is sufficiently broad for consideration
7 of traditional balancing between the interests of consumers and investors.

8 In the proceeding before the Committee, evidence has been presented on both
9 consumer and investor interests. Consumer interests include the interests of Arizona ratepayers,
10 and California and CAISO ratepayers. Investor interests include the interests of SCE, and utility
11 and merchant generators located at the Palo Verde Hub.

12 In the section on need, Staff discusses evidence that demonstrates a clear imbalance
13 among the stakeholders in this case. California and CAISO ratepayers, SCE and Palo Verde Hub
14 generators will be clear winners. For the project as proposed, Arizona ratepayers are likely to
15 incur net economic costs without clear offsetting benefits. As a result, Staff proposes conditions
16 necessary for protecting the public interests of Arizona ratepayers.

17 **2. SCE did not adequately use a coordinated, open and transparent planning**
18 **process.**

19 On May 19, 2006, FERC issued another NOPR in Docket Nos. RM05-25-000 and
20 RM05-17-000. This rulemaking is for "Preventing Undue Discrimination and Preference in
21 Transmission Service" and was initiated because of changes in EPAct 2005. FERC is proposing
22 to amend Order No. 888's pro forma Open Access Transmission Tariff, or OATT ("OATT
23 NOPR"). FERC held at Paragraph 52:

24 Specifically, Order No. 888 does not require sufficient
25 coordination, openness, and transparency in transmission planning
26 to ensure that new infrastructure is constructed to meet the needs of
27 all eligible customers on a not unduly discriminatory basis.
***Without adequate coordination and open participation, market
participants have minimal input or insight into whether a***

28 ⁵² Under RM05-25, et al., 18 CFR 35 & 37, 115 FERC 61,211 ¶ 52 (May 19, 2006).

⁵² A.R.S. Const. Art 15 (emphasis added).

1 *particular transmission plan treats all loads and generators*
2 *comparably.* To ensure that truly comparable transmission service
3 is provided by all public utility transmission providers, *including*
4 *RTOs and ISOs, we propose to amend the pro forma OATT to*
5 *require coordinated, open, and transparent transmission*
6 *planning on both a sub-regional and regional level.”⁵³*

7 Staff believes that neither the Applicant’s planning process nor its evidence meets the
8 standard to “treat *all loads* and generators comparably.” For example, Staff does not believe that
9 the Applicant sought “adequate coordination and open participation” of all market participants,
10 especially those in Arizona.

11 Staff recognizes that an individual project may create some economic winners and
12 some economic losers. Staff also recognizes that transmission projects should be viewed on a
13 sub-regional and regional level. Therefore, one project may be balanced by another project or
14 projects. The hope is that disparities between winners and losers will eventually be minimized, if
15 not eliminated. In other words, all market participants should share equally in the benefits and
16 costs of an integrated grid.

17 However, Staff does not believe dramatic differences should exist for an individual
18 project like PVD2. If dramatic differences exist, the comparability standard discussed by FERC
19 is not met. Furthermore, dramatic differences are completely unnecessary if an alternative
20 project or projects can meet market needs without creating such differences.

21 Staff witness Mr. Jerry Smith testified about Staff’s disappointments in the planning
22 process used by SCE. Mr. Smith testified that he believes SCE’s process appears inconsistent
23 with the Interstate Transmission Line Siting Protocol of the Western Governor’s Association
24 (“WGA”) (“WGA Siting Protocol”).⁵⁴ The WGA Siting Protocol included four broad policy
25 positions. The positions are consistent with Paragraph 52 of FERC’s OATT NOPR and relevant
26 to facts in the record.

27 ⁵³ *Notice of Proposed Rulemaking re Preventing Undue discrimination and Preference in Transmission Service*
28 *Under RM05-25, et al.*, 18 CFR 35 & 37, 115 FERC 61,211 ¶ 52 (May 19, 2006). (emphasis added).

⁵⁴ *See Ex. S-30, Tab 7, Protocol Among the Members of the Western Governors Association, the U.S. Department of*
the Interior, the U.S. Department of Agriculture, the U.S. Department of Energy, and the Council on
Environmental Quality Governing the Siting and Permitting of Interstate Electric Transmission Lines in the
Western United States (June 23, 2002).

1 The purpose of the WGA Siting Protocol is development of “a coordinated, interstate
2 review of proposed interstate transmission facilities [to] enable identification and considerations
3 of interstate needs, facilitate the construction of needed transmission, and ensure that the public
4 interest is protected.”⁵⁵ The Western Governors believe that its Protocol will expedite siting and
5 construction of transmission lines “to better ensure adequate, affordable and reliable electricity
6 supply to Western consumers.”⁵⁶ Finally, the WGA stated that a coordinated joint review
7 process must include “all affected governmental entities with authority for siting and permitting
8 interstate transmission facilities.”⁵⁷ The latter policy is necessary to preserve and protect local
9 authority.⁵⁸

10 Mr. Smith testified that the Protocol requires assembling a team of individuals from
11 siting authorities in each state.⁵⁹ He stated that the purpose of the Protocol is to provide the same
12 information at the same time to all state citing authorities for a project. A team of siting officials
13 could timely assemble and distribute information to all involved states.⁶⁰ Mr. Smith opined that
14 SCE did not meet the standards of the Protocol. He stated:

15 In this case, we have not had that type of team form. We have not
16 had the same witnesses, the same information provided in the
17 CPUC or the Arizona proceedings. We’re having different
18 information provided. When we’re talking about an interstate
19 transmission project, this is viewed as something that’s of value
20 and interest in the region, not just to an individual state. And so I
21 have to say I’m disappointed in how the proceedings are being
22 scheduled whereby the Arizona siting process is wedged in the
23 middle of a three-phase effort in California. The first two phases
24 have concluded, the first being the initial consideration by the
25 CPUC, followed by the environmental work, which is now
26 concluded. And then once we have concluded our process, the
27 CPUC will ultimately make the determination in California.⁶¹

28 The record has at least three different examples of the Committee and the
Commission receiving information after other siting authorities received the same information.

25 ⁵⁵ *Id.* at 2, Policy Position B.4.

26 ⁵⁶ *Id.* at 2, Policy Position B.3.

27 ⁵⁷ *Id.* at 2, Policy Position B.2.

28 ⁵⁸ *Id.* at 3, Objective C.7.

⁵⁹ Tr. Vol. X at 2165:24 to 2166. *See also* Ex. S-30, Tab 7 at 3 (Implementation statement D.1.a.).

⁶⁰ Tr. Vol. X at 2166

1 The first example arose on August 15, 2006. Staff discovered that SCE issued a request for
2 offers (“RFO”) for 1,500 MW of new generation from an internet press release.⁶² The RFO is
3 important because it affects resource adequacy for both Arizona ratepayers and California
4 ratepayers. It is also relevant for how PVD2 may be used by SCE.

5 The press release stated that “[o]n July 20, the California Public Utilities Commission
6 approved a plant that allowed the costs of new generation contracts to be allocated to all
7 customers within [SCE’s] service territory.”⁶³ The RFO requires the generation to meet a
8 delivery date of no later than August 1, 2010.⁶⁴ Generation facilities at the Palo Verde Hub
9 appear to meet the bid requirements.⁶⁵ SCE witness Mr. Holmes testified that if generators at the
10 Palo Verde Hub meet the bid requirements, “they could apply for this RFO.”⁶⁶

11 The second example arose on October 3, 2006. Staff is on an email service list for
12 SCE’s application for a CPCN before the CPUC. On October 3, 2006, Staff received an email
13 from the Administrative Law Judge (“ALJ”) in the case. The email addressed testimony
14 provided by SCE on July 10, 2006.

15 SCE witness Ms. Cabbell testified about the potential increase in capacity of PVD2 to
16 accommodate the Desert Southwest Project.⁶⁷ SCE was in ongoing negotiations with the sponsor
17 of the Desert Southwest Project as of July 20, 2006.⁶⁸ At that time, it was possible that the
18 Desert Southwest Project could become a joint project with PVD2,⁶⁹ increasing the capacity to
19 2340 megawatts (“MWs”).⁷⁰ SCE did not provide any information on the project to Staff until
20 we raised the issue at hearing. The information is relevant to this proceeding because it could
21 affect the capacity and costs of PVD2. SCE witness Ms. Cabbell further testified that

22 ⁶¹ *Id.* at 2166:11 to 2167:3.

23 ⁶² *See* Ex. S-9.

24 ⁶³ *Id.*

25 ⁶⁴ Ex. S-19 at 3.

26 ⁶⁵ *Id.* at 9, Section B.11.3 and Exhibit B.11.3 (delivery points for transmission lines includes Deves-Palo Verde 500
kV Line).

27 ⁶⁶ Tr. Vol. VII at 1505:1 to 1507: 23.

28 ⁶⁷ *See* Ex. S-30, Tab 18 at 452: 9-24 and 453:24 to 454:19.

⁶⁸ *Id.* at 452:9-19.

⁶⁹ *Id.* at 455:13-25.

⁷⁰ *Id.* at 453:24 to 454:19.

1 construction could begin prior to WECC giving a new rating for PVD2.⁷¹

2 The third example arose during Staff's investigation for the A.R.S. § 40-252
3 proceeding. In its application, SCE stated that the United States Department of the Interior,
4 Bureau of Land Management ("BLM") required it to construct double circuit towers in Copper
5 Bottom Pass in its ROW grant. SCE provided Exhibit A-10 to evidence the requirement.⁷² The
6 1981 BLM ROW grant provides:

7 Discussions were held between representatives of SCE and BLM
8 District personnel concerning double-circuit towers through the
9 Copper Bottom Pass area. It has been determined, based upon
field examination of the terrain through this Pass, towers B-837
through B-849 require double-circuits.

10 However, BLM issued two ROW grants. The 1981 BLM ROW grant was the second
11 grant, and only amended the two sections of the total route. BLM issued the first ROW on
12 February 1, 1980 ("1980 BLM ROW").⁷³

13 Section 18.e of the 1980 BLM ROW provided:

14 Through Copper Bottom Pass and the Pass between Burnt
15 Mountain and the Bighorn Mountains the Grantee will be required
16 to either, (1) construct double-circuit towers upon granting of the
17 right-of-way, or (2) agree to replace the single-circuit towers with
double-circuit towers on the same alignment if a second major
transmission line is needed.⁷⁴

18 The 1980 BLM gave SCE the choice of building double circuit towers initially, or when a second
19 single circuit system was constructed. The 1980 BLM ROW included the choice for double-
20 circuit towers for Copper Bottom Pass *and* the pass between Burnt Mountain and the Bighorn
21 Mountains. The 1981 BLM ROW did not address the latter pass.

22 SCE's proposal for PVD2 is to build a second single-circuit tower in the pass.⁷⁵ SCE
23 witness Mr. Ahumada testified the Company contacted BLM about the condition.⁷⁶ He also
24 testified that the Company will not seek a waiver of the condition in the first ROW grant.⁷⁷ Mr.

25 ⁷¹ *Id.* at 454:26 to 455:12. Note that the rating is actually for Path 49 and not PVD2 individually.

26 ⁷² *See* Ex. A-10 (BLM July 21, 1981 ROW record of decision) ("1981 BLM ROW").

27 ⁷³ *See* Ex. S-33.

28 ⁷⁴ *Id.* at 12.

⁷⁵ Tr. Vol. XIV at 2878:3-15.

⁷⁶ *Id.* at 2878:18-23.

⁷⁷ *Id.* 2879:20 to 2880:2.

1 Ahumada explained that an amendment to the PVD1 ROW was not necessary because it was not
2 required in the proposed amendment for the PVD2 ROW.⁷⁸

3 Following the conclusion of the testimonial portion of this proceeding, Staff contacted
4 both the Palm Springs Office and the Phoenix Office of the BLM to verify that a waiver was not
5 needed. Initially, the Palm Springs Office informally told Staff that its personnel were unaware
6 of the issue. Subsequently, the Palm Springs Office informed Staff that a waiver is necessary.
7 On November 22, 2006, Staff formally requested BLM to provide a letter for Staff to file in this
8 docket.⁷⁹ Staff would like the record to correctly reflect the status of SCE's right-of-way grant
9 for the Burnt Mountain Pass.

10 **B. FERC backstop authority.**

11 Section 1221 of EPAct 2005 provides FERC with discretionary jurisdiction to issue
12 construction permits under three sets of conditions.⁸⁰ FERC's jurisdiction is limited to siting of
13 transmission facilities in designated NIETCs.⁸¹ In Order 689, FERC stated that consideration of
14 an application does not equal acceptance of jurisdiction.⁸² FERC also stated that, if it exercises
15 jurisdiction, it will consider State findings as it conducts its review.⁸³

16 FERC did not specifically state when it will determine jurisdiction after the filing of an
17 application. Instead, FERC affirms that an intervenor may raise the issue of jurisdiction, or
18 timing of jurisdiction, in an application for intervention. It then states that "[t]he Commission
19 will make a jurisdictional determination and address comments and protests *in a subsequent*
20 *order issued on the merits* of the proposed project."⁸⁴ Apparently, FERC may delay making a
21 jurisdictional determination until it considers the merits of an application. Obviously, if an
22 application is filed, a State could spend significant resources defending its decision.

23 Some of the commenters in the rulemaking claimed that FERC "should not have

24 ⁷⁸ *Id.* 2878:5-15.

25 ⁷⁹ See Attachment No. D (November 22, 2006 email). Staff had conversations with Mr. John Kalish, Project
26 Manager for the BLM in the EIR/EIS environmental review process. Staff's request was made to Mr. Kalish.

26 ⁸⁰ See Order 689 at 8, ¶ 14. See also *infra*.

27 ⁸¹ EPAct 2005, Section 1221(b).

27 ⁸² *Id.* at 19, ¶ 32.

28 ⁸³ Order 689 at 63, ¶ 125.

28 ⁸⁴ *Id.* at 19, ¶ 32 (emphasis added).

1 jurisdiction where a State denies siting approval for valid reasons under State law, such as the
2 projection of environmental resources, the health and safety of its citizens, or if better
3 alternatives are identified through the process.”⁸⁵ FERC held that “a reasonable interpretation of
4 the language in the context of the legislation supports a finding that withholding approval
5 *includes denial of an application.*”⁸⁶

6 Commissioner Suede G. Kelly wrote a strong partial dissent. Commissioner Kelly
7 argued that FERC’s holding is preemption.⁸⁷ She pointed out that, if Congress intended to
8 preempt State siting authority, “surely, it would have said so in unmistakable terms.”⁸⁸

9 On the other hand, FERC held that:

10 The Commission expects all potential applicants under [Federal
11 Power Act] section 216 to act in good faith as it relates to State
12 jurisdiction. Although the Commission may exercise jurisdiction
13 in all instances where a State has withheld approval for more than
14 one year, *the Commission, in determining whether to do so, will
15 weigh heavily clear evidence that an applicant has abused the
16 State process.*⁸⁹

17 Thus, FERC could make a jurisdictional determination early in its review of an application
18 depending on the evidence.

19 Below Staff discusses evidence in this proceeding that may raise FERC jurisdictional
20 issues. Because FERC jurisdiction is uncertain, Staff requests the Committee and the
21 Commission to make specific findings of fact related to the jurisdictional standards in EPAct
22 2005 and FERC rules.

23 In certain circumstances, FERC will have initial jurisdiction to issue a construction
24 permit. Only one of those circumstances is relevant in this proceeding. Section
25 1221(b)(1)(A)(ii) requires a State to have authority to consider interstate benefits of proposed

26 ⁸⁵ *Id.* at 15, ¶ 25.

27 ⁸⁶ *Id.* at 16, ¶ 26.

28 ⁸⁷ *Id.* Commissioner Kelly’s Partial Dissent at 3. *Cf.* EPAct 2005 at 391, Section 1221(g) (“STATE LAW.—
Nothing in this section precludes any person from constructing or modifying any transmission facility in
accordance with State law.”).

⁸⁸ *Id.* See also Attachment No.E (WGA’s Policy Resolution 05-30, dated November 8, 2005) at 2, Section B.1
 (“However, the provisions for preemption of state transmission siting laws and designation of corridors on Federal
lands also hold the potential for unproductive Federal interference in state and local land use decisions and
undercutting State energy policies.”).

⁸⁹ *Id.* at 13, ¶ 22 (emphasis added).

1 transmission facilities. As stated above, *Grand Canyon Trust, supra*, provides the Committee
2 and the Commission with authority to consider interstate benefits. Thus, FERC would not
3 exercise its jurisdiction over PVD2 based on a lack of authority to consider the project's
4 interstate benefits.

5 FERC could exercise jurisdiction over PVD2 following Arizona's siting process. The
6 threshold issue is whether PVD2 is in a NIETC. If PVD2 is in a NIETC, then the jurisdictional
7 standard in Section 1221(b)(1)(C) would apply.

8 In Paragraph 11 of Order 689, FERC stated that the Department of Energy ("DOE")
9 issued its National Electric Transmission Congestion Study ("Congestion Study") on August 8,
10 2006.⁹⁰ Section 1221(a) required the Congestion Study to be completed one year following the
11 effective date of EAct 2005. Section 368(a) of EAct 2005 also requires designation of
12 NIETCs for the eleven Western States no later than two years after August 8, 2005.⁹¹

13 As part of the process for designating NIETCs, DOE is working with the U.S.
14 Departments of Interior, Agriculture and Defense ("PEIS Agencies") to prepare a programmatic
15 environmental impact statement ("PEIS"). The PEIS Agencies will use the PEIS to designate the
16 NIETCs in eleven Western States. A draft PEIS was issued on June 9, 2006.⁹² The final PEIS
17 and designation of NIETCs will be issued in August, 2007.⁹³

18 During FERC's rulemaking, several entities, including the WGA, requested FERC to
19 delay its rulemaking until the PEIS Agencies designated NIETCs.⁹⁴ FERC declined to delay its
20 rulemaking and held, "[w]hile *the Commission has no authority to issue a permit unless a facility*
21 *is in a National Corridor*, this does not affect the Commission's ability to put in place the filing
22 requirements that will apply once National Corridors are designated."⁹⁵ FERC also declined to
23 "define what constitutes a National Corridor and whether the designation is a permanent one."⁹⁶

24
25 ⁹⁰ Order 689 at 6, ¶ 11.

26 ⁹¹ EAct 2005, Section 368(a).

27 ⁹² See attachment No. F.

28 ⁹³ See Ex. S-7.

⁹⁴ Order 689 at 6, ¶ 12.

⁹⁵ *Id.* (emphasis added).

⁹⁶ *Id.* at 7, ¶ 13.

1 FERC explained:

2 The Commission declines to make such rulings. DOE, not the
3 Commission, is responsible for designating and defining the
4 National Corridors under EAct 2005. Thus, it would be
5 inappropriate for the Commission to establish an independent
6 definition in the Final Rule or opine on whether a corridor
7 designation is a permanent one.⁹⁷

8 The Congestion Study found the path from Arizona⁹⁸ to the WECC transmission path 26
9 (“SP26”) to be a “critical congestion area.”⁹⁹ The Congestion Study only designated the east-to-
10 west direction as congested. It also cited a California Energy Commission strategic plan. The
11 plan found that PVD2 was “needed in the near term.”¹⁰⁰ Figure 5.3 identified four major tie lines
12 from EOR to SP26, including PVD1.¹⁰¹ Based on the information cited in the Congestion Study,
13 one could argue that the NIETC will be all of Path 49.

14 However, the draft PEIS identified a corridor from Phoenix to California that follows
15 Interstate 10 (“I-10”).¹⁰² Furthermore, BLM districts in Arizona have begun incorporating the
16 I-10 corridor in their resource management plans.¹⁰³ Based on this information, one could argue
17 that the NIETC will be the I-10 corridor.

18 Therefore, it is uncertain whether PVD2 is in a NIETC. If PVD2 is in a NIETC, FERC
19 could exercise jurisdiction if the Committee and the Commission withholds approval or
20 conditions the CEC contrary to the standard in Section 1221(b)(1)(C)(ii).

21 If the Committee and the Commission do not approve the CEC, FERC would likely find
22 that Arizona withheld approval. Section 1221(b)(1)(C)(i) provides that FERC has jurisdiction if:

23 The State commission or entity with siting authority withholds
24 approval of the facilities for more than one year after an application
25 is filed or one year after the designation of the relevant national
26 interest electric transmission corridor, whichever is later. . . .

27 As stated above, FERC equates “withholds approval” to “denial.” Thus, if the Committee and

28 ⁹⁷ *Id.*

⁹⁸ WECC refers to the Arizona side of the transmission grid as Path 49 or East-of-River (“EOR”). U.S. Dept. of Energy, *Nat’l Transmission Congestion Study*, Section 5.3, pp. 44-47 (August 2006).

⁹⁹ U.S. Department of Energy, *National Electric Transmission Congestion Study* (August, 2006) at 45.

¹⁰⁰ *Id.*

¹⁰¹ *Id.* at 46.

¹⁰² Ex. S-7.

¹⁰³ See Ex. S-3, Ex. S-4, Ex. S-5, Ex. S-6 and Ex. S-8.

1 the Commission deny approval for a CEC, FERC could exercise jurisdiction. Of course, FERC's
2 exercise of jurisdiction based on denial could be challenged.

3 In its rulemaking, FERC was asked to "address the Commission's jurisdiction over
4 facilities that span multiple States where one State may have approved the facilities and another
5 does not."¹⁰⁴ FERC held that it "would have to review the operation of the facility as a
6 whole."¹⁰⁵ Therefore, if either the CPUC or this Committee and Commission deny approval,
7 FERC could exercise jurisdiction.

8 If the Committee and Commission condition approval of the CEC, FERC would likely
9 review the merits of the conditions prior to exercising jurisdiction. This scenario is probably the
10 basis of the language in Paragraph 32 of Order 689. Section 1221(b)(1)(C)(ii) provides that:

11 ...the State *conditions* the construction or modification of the
12 facilities in such a manner that the proposal *will not significantly*
13 *reduce transmission congestion in interstate commerce or is not*
*economically feasible.*¹⁰⁶

14 In Order 689, FERC declined to provide more specific standards for the two criteria in Section
15 1221(b)(1)(C)(ii).¹⁰⁷ FERC said that it would apply the criteria on a case-by-case basis.¹⁰⁸

16 FERC's decision did not resolve an apparent inconsistency in terms. The jurisdictional
17 standard is different than the review standard in Section 1221(b)(4). Section 1221(b)(4) uses
18 "protects or benefits consumers" rather than "economically feasible." The Committee and the
19 Commission should review the record in this proceeding using both standards.

20 Another review standard the Committee and the Commission should consider is Section
21 1221(b)(6). Section 1221(b)(6) requires that "the proposed modification will maximize, *to the*
22 *extent reasonable and economical*, the transmission capabilities of existing towers or
23 structures."¹⁰⁹ This section obviously could be applied to the double circuit towers in Copper
24 Bottom Pass.

25 ¹⁰⁴ Order 689 at 20, ¶ 35.

26 ¹⁰⁵ *Id.*

27 ¹⁰⁶ EPAAct 2005, Section 1221(b)(1)(C)(ii) (emphasis added).

28 ¹⁰⁷ Order 689 at 20, ¶ 34.

¹⁰⁸ *Id.*

¹⁰⁹ EPAAct 2005, Section 1221(b)(6) (emphasis added).

1 One of the commenters in the rulemaking asked FERC “to be mindful that a policy of
2 maximum use of existing towers and structures should be conditioned upon maintaining or
3 improving the reliability of the transmission system.”¹¹⁰ Although FERC declined to adopt a
4 bright-line test,¹¹¹ Staff believes the “to the extent reasonable” standard is not satisfied for PVD2.
5 Staff argues below that use of double circuit towers will reduce reliability.

6 Finally, another finding in Order 689 is relevant to this proceeding. In Paragraph 44,
7 FERC held that “the determinations of an independent entity, such as an RTO, should be given
8 due weight in our assessment of whether a particular facility is needed to protect or benefit
9 customers.” CAISO provided testimony in this proceeding. Thus, if FERC exercises jurisdiction
10 over PVD2, it will give “due weight” to that testimony.

11 **II. The need for PVD2 is less compelling for Arizona ratepayers than for California**
12 **and CAISO ratepayers.**

13 As discussed above, Arizona law does not provide for a CEC based on an individual need
14 factor. A.R.S. § 360.07(B) specifically requires “the need for an adequate, economical *and*
15 reliable supply of electric power.”¹¹² Arizona’s siting statute is in direct contrast with the CAISO
16 tariff. CAISO’s tariff allows projects based only on economic efficiency, and projects based only
17 on reliability.¹¹³ All three need factors must be considered in Arizona.¹¹⁴ Moreover, SCE has
18 proposed PVD2 “as a project . . . identified to lower production costs within California, *it’s a*
19 *project based on economics.*”¹¹⁵

20 Of course, the conflicting standards could be an issue for FERC backstop authority.
21 Hopefully, if FERC exercises jurisdiction, the due weight it gives to CAISO testimony will
22 recognize the differences. The Committee and the Commission does not need to consider the
23

24 ¹¹⁰ Order 689 at 23, ¶ 40.

25 ¹¹¹ *Id.* at ¶ 41.

26 ¹¹² A.R.S. § 40-360.07(B) (emphasis added).

27 ¹¹³ See S-12 at CAISO FERC Electric Tariff, Original Sheet No. 317, Section 24.1, Determination of Need
(Effective March 1, 2006) (“A Participating TO or any other Market Participant may propose a transmission
system addition or upgrade. The ISO will determine that a transmission addition or upgrade is needed where it
will promote economic efficiency *or* maintain System Reliability....”) (emphasis added).

28 ¹¹⁴ But note that CAISO could consider both.

¹¹⁵ Tr. Vol. VI at 1354:1 -5 (emphasis added).

1 different standards in deliberations for PVD2. Staff believes that all three Arizona factors must
2 be considered as a whole to satisfy “the broad public interest.”¹¹⁶ If one factor is less compelling,
3 then one or both of the other factors must be more compelling to justify siting PVD2. Below,
4 Staff addresses each need factor separately.

5 **A. The need for resource adequacy in Arizona and California.**

6 The evidence in the record does not demonstrate PVD2 is needed for resource adequacy
7 for either California ratepayers or Arizona ratepayers. Staff addresses evidence on resource
8 adequacy for California ratepayers first, and for Arizona ratepayers second.

9 **1. Resource Adequacy for California ratepayers.**

10 California currently has no requirement for resource adequacy under the CAISO tariff.
11 CAISO witness Ms. Le Vine testified that:

12 When the deregulation of electric utility industries happened back
13 in 1998, what ended up happening was that there was no
14 responsibility to serve load. Today most utilities outside of
15 California have a specific requirement from their utilities’
16 commission, or in this case I would assume it is the ACC, where
17 APS, as an example, is required to serve the load that APS has in
18 its service territory. When we deregulated in California, that
19 requirement went away.¹¹⁷

20 Ms. Le Vine testified that the CAISO reversed in part the steps California took to deregulate its
21 electric utility industry. CAISO initially took two steps to ensure that requirements to serve load
22 are in place.¹¹⁸ CAISO first required “reliability must-run to take care of the generating unit that
23 is in a certain load pocket so it doesn’t exhibit market power.”¹¹⁹ Ms. LeVine further testified
24 that:

25 Then with the advent of the energy crisis, we did put in place,
26 consistent with a FERC order, must offer waiver denials. So in
27 other words, generators in California have to go ahead and offer to
28 the California ISO their generation first before they can go ahead
and sell it someplace else. The *whole must offer waiver process is
now being replaced with the resource adequacy process* that I will
get into in a little bit.¹²⁰

26 ¹¹⁶ *Id.*

27 ¹¹⁷ Tr. Vol. XIII at 2508:2-10.

28 ¹¹⁸ *Id.* at 2508:12-25.

¹¹⁹ *Id.*

¹²⁰ *Id.* at 2508:23 to 2509:5.

1 Resource adequacy will be required with CAISO's Market Redesign and Technology
2 Upgrade ("MRTU") tariff.¹²¹ Ms. Le Vine stated that the MRTU is "a design that is set to solve
3 some of the problems that came up during the energy crisis back in 2000, 2001."¹²² Ms. Le Vine
4 explained that the MRTU will put in a mechanism to assure resource adequacy for California
5 ratepayers. The MRTU requires load serving entities ("LSEs") such as SCE to demonstrate they
6 have sufficient generation to meet their load.

7 As stated above, Staff discovered that SCE issued an RFO for 1500 MWs that could
8 include generators at the Palo Verde Hub. The RFO also provides for contracts up to 10 years.¹²³

9 The RFO appears to be part of an effort by SCE to meet its resource adequacy obligations under
10 the MRTU. The MRTU will become effective November 1, 2007.¹²⁴ The RFO includes the
11 possibility of expedited delivery by August 1, 2007. It requires all generation to be on line no
12 later than August 1, 2010.¹²⁵ Note that SCE expects to complete construction of PVD2 by
13 2009.¹²⁶ Ms. Cabbell also testified that it is possible that SCE would contract with merchant
14 generators at the Palo Verde Hub.¹²⁷

15 Ms. Le Vine testified that determination of resource adequacy will be a cooperative
16 process among CAISO, the CPUC and the California Energy Commission.¹²⁸ She also explained
17 that:

18 Only generators within the CAISO control area can be considered
19 participating generators. So presuming that the generator that your
20 in reference to is within the CAISO control area, the actual
21 resource adequacy agreement is between that generator and the
22 load-serving entity. It is not with the ISO. What ends up
23 happening is *the load-serving entity has a requirement to show us
24 that they have sufficient capacity that they have contracted with to
25 meet the resource adequacy requirement.*¹²⁹

26 ¹²¹ Ex. S-21 at 2.

27 ¹²² Tr. Vol. XIII at 2501:17-22.

28 ¹²³ Ex. S-9.

¹²⁴ Ex. S-21 at 2.

¹²⁵ Ex. S-19 at 3 of 18.

¹²⁶ Ex. A-2, Slide 20.

¹²⁷ Tr. Vol. IV at 929:4-14.

¹²⁸ Tr. Vol. XIII at 2627:14-23.

¹²⁹ *Id.* at 2639:20 to 2640:5.

1 Obviously, PVD2 could be used to meet SCE's resource adequacy requirements through the
2 RFO. SCE witness Mr. Holmes even testified as follows:

3 Q. And the question was whether this RFO seeking the 1,500
4 megawatts was taken into consideration when they did the
emissions analysis in the draft EIR.

5 A. Yes. When we developed our production studies, we have to
6 balance load growth with generation projects. And so we did
7 that, and the new generation that we assumed that would be
built within our production simulations would capture the
RFO, the new generation RFO, Staff Exhibit 9....¹³⁰

8 SCE provided other evidence that appears inconsistent with the above possibility. For
9 example, Mr. Pfiefenberger testified that SCE would use PVD2 as follows:

10 During the peak hours of July and August, the increase in Arizona
11 generation is only between 30 and 50 megawatts. It is 50
12 megawatts if you take the average of, you know, noon to early
13 evening hours over the two-month period. It is more like 30
14 megawatts if you actually look at the peak load day in each of those
years...Over the course of the year, the average is about 230
megawatts.¹³¹

15 The projected use of PVD2 is inconsistent with a determination that SCE *needs* the project to
16 meet its resource adequacy requirement.

17 There is more evidence that appears inconsistent with the RFO. SCE's Plan of Service
18 includes use of SPS, which would drop 2,000 MWs of load in its service territory for emergency
19 contingencies.¹³² If resource adequacy was a significant factor, why would SCE design a project
20 for 1,200 MWs, and need to drop 2,000 MWs in a contingency? Isn't resource adequacy most
21 important during a contingency? Hopefully, the California market crisis in 2000 and 2001
22 answered that question.

23 Because the evidence is contradictory, it is difficult to predict how SCE will use
24 PVD2. Moreover, as discussed below, SCE is not claiming that PVD2 is *needed* for it to meet its

25 _____
26 ¹³⁰ Tr. Vol. VI at 1355:20 to 1356:3.

27 ¹³¹ Tr. Vol. V at 1150:6-20.

28 ¹³² Tr. Vol. XIV at 2840:6-12 (SCE witness Ms. Cabbell testified that the "SPS would drop 2,000 megawatts or up to 2,000 megawatts of load in Edison's system."). *See also* Tr. IV at 873:18 to 875:1 (The SPS is for a double contingency for the simultaneous outage of PVD1 and PVD2 resulting in a loss of 3,000 MWs. The remaining 1,000 MWs would come from spinning reserves.).

1 resource adequacy requirement.¹³³ Accordingly, Staff respectfully requests the Committee and
2 the Commission to issue a finding of fact. The finding of fact should clearly state that PVD2 is
3 not proposed or needed to meet the resource adequacy needs of California ratepayers.

4 **2. Resource Adequacy for Arizona ratepayers.**

5 Even if resource adequacy could be demonstrated for California ratepayers, an
6 individual transmission project should not trade resource adequacy for one load center at the
7 expense of resource adequacy in another. Resource adequacy also should not be considered
8 independently from traditional concepts of transmission planning. Evidence in the record clearly
9 supports a finding of fact: PVD2 is not needed to meet the resource adequacy requirements of
10 Arizona ratepayers.

11 Traditional concepts of transmission planning should be recognized and used to
12 evaluate PVD2. SCE is proposing to construct a 500 kV transmission line to access and
13 transport generation 278 miles to its load.¹³⁴ This project is not about resource diversity. The
14 available generation at the Palo Verde Hub is approximately 5,000 MWs of gas-fired
15 generation.¹³⁵ Staff witness Mr. Robert Gray testified that PVD2 will likely use gas-fired
16 generation at the Palo Verde Hub to replace older gas-fired generation in California.¹³⁶ SCE
17 acknowledged the displacement in its application:

18 [CAISO] forecasts that emissions from power plants would
19 increase in Arizona and decrease in California with
20 implementation of the Proposed Project (CAISO, 2005). This
21 forecast is based on the dispatch of more modern and efficient
22 facilities in Arizona displacing older and less efficient generating
23 source[s] in California. The CAISO forecasts that with DPV2,
24 power plant NO_x emissions in Arizona would increase by 200
25 tons/year, and NO_x emissions in California would decrease by 590

23
24 ¹³³ Tr. Vol. VI at 1355:23, 1356: 8. Cf. Ex. A-27 at A-11 (“The DPV2 Project would also provide access to
25 additional capacity that can serve to meet the State’s resource adequacy requirements and lower transmission
26 system power losses.”).

25 ¹³⁴ Ex. A-27 at A-4, Section A.1.2. (230 miles from Harquahala Generating Substation to the Devers Substation, and
26 48.2 miles west of the Devers Substation).

26 ¹³⁵ See Tr. Vol. IV at 910:17 to 911:15 (2004 Statement to CAISO about 6,500 MWs of available merchant
27 generation at the Palo Verde Hub may not include 1,500 MW of generation from Red Hawk. Red Hawk is now
28 an APS owned facility. Tr. Vol. V at 1140:6-8.). The available merchant generation at the Palo Verde Hub is
gas-fired. See Tr. Vol. X at 2089:18 to 2091:4.

¹³⁶ Tr. Vol. X at 2094:18 to 2099:11.

1 tons/year, for a net decrease of 390 tons/year.¹³⁷

2 Why replace local generation using the same fuel type 278 miles from the load pocket?
3 Although planning the location of generation can be complicated, the rule of thumb is to place it
4 as close as possible to the load. Committee witness Mr. Kondziolka “I do like [the] thought
5 about more local generation”¹³⁸ Mr. Kondziolka explained:

6 So it’s a very – what I consider complex way of looking at it, but
7 it’s not just where you put the generation. It’s also the type of
8 generation that you install and the way you interconnect the
9 generation into the transmission system, that would affect the
10 overall results....simply adding generation would not necessarily
11 change the answer, because it does include the characteristics of
12 the generation as well....Some generation [needs to come on line
13 in] just 30 minutes.¹³⁹

14 Natural gas-fired generation has the same operating characteristics in California that it does in
15 Arizona. Displacement of generation with similar characteristics is insufficient justification for a
16 278-mile 500 kV transmission line.

17 CAISO also testified about the benefit of local generation. Ms. Le Vine described
18 problems with a generation poor load pocket on the San Francisco peninsula. She stated that
19 transmission lines were an inefficient solution to serving the load. In particular, she stated:

20 To the extent that one of our problem areas actually is the San
21 Francisco peninsula, up on the peninsula there is a high density of
22 load demand. A lot of people live there. It is very concentrated.
23 But there are very few – there is only, actually, one generator left at
24 the moment on the peninsula....The problem we have in San
25 Francisco is there is [sic] a couple transmission lines in and one
26 generator sitting there. So in order for the generation actually to
27 serve the houses and the load in that area, it is becoming more and
28 more of an issue....”¹⁴⁰

29 Evidence in the record also demonstrates that PVD2 could cause resource adequacy
30 problems for Arizona ratepayers. Several witnesses testified that Arizona load would “grow”
31 into the excess generation at the Palo Verde Hub shortly after PVD2 would go into service. The

32 _____
33 ¹³⁷ Ex. A-27 at D.11-27, Section D.11.4.

34 ¹³⁸ Tr. Vol. VII at 1666:6-21.

35 ¹³⁹ *Id.* at 1659:3 to 1666:21 (Gas-fired generation is on the margin because of its quick ramp up time. *See* Tr. Vol.
36 X at 2068:11-14).

37 ¹⁴⁰ Tr. Vol. XIII at 2544:21 to 2545:24.

1 Residential Utility Consumer Office ("RUCO) witness Mr. Ahearn testified:

2 Let's take these utility executives at their word, that in the 2011,
3 between now and the 2011 time frame, Arizona would have
4 absorbed this excess capacity and after 2011 is going to need to
5 build additional capacity.¹⁴¹

6 Staff witness Mr. Gray agreed that Arizona utilities could grow into the excess capacity by about
7 2010.¹⁴² Staff witness Mr. Matt Rowell confirmed Mr. Gray's testimony:

8 And it is Staff's opinion that, you know, the analysis we have done
9 indicates there is really no fundamental need for the project in
10 Arizona. Arizona is faced with the prospect of tremendous load
11 growth. We have utilities that need to serve that growing load.
12 And we don't see the PVD2 project really helping that at all. The
13 real purpose of the line is to move energy out of Arizona into
14 California.¹⁴³

15 SCE claims that PVD2 will improve Arizona's access to renewable energy resources.

16 But the evidence it provides is contradictory and speculative. SCE witness Mr. Pfeifenberger
17 testified:

18 Improved access to renewable resources. There are two
19 components to that. One is DPV2 itself directly improves access
20 of Arizona utilities to renewable resources that are being developed
21 and can be developed in California. ...And transmission projects
22 that I think are facilitated by DPV2, such as TransWest Express
23 and the Project Zia...are needed to provide access of Arizona
24 utilities to low cost renewable resources."¹⁴⁴

25 However, other witnesses did not completely agree with him, and Mr. Pfeifenberger clarified
26 some of the possibilities on cross-examination.

27 Mr. Pfeifenberger admitted that Arizona has access to renewable resources in California
28 without PVD2. The path is constrained from east to west, but not west to east.¹⁴⁵ RUCO witness
29 Mr. Ahearn testified that California renewable resources will be necessary to meet the portfolio
30 standards in California. Therefore, they would not likely be available for Arizona ratepayers.¹⁴⁶

31 Committee witnesses Mr. Kondziolka and Mr. Smith both testified that TransWest and

32 _____
33 ¹⁴¹ Tr. Vol. VIII at 1782:8-12.

34 ¹⁴² Tr. Vol. X at 2106:23 to 2107:14.

35 ¹⁴³ Tr. Vol. XII at 2408:5-13.

36 ¹⁴⁴ Tr. Vol. V at 1132:21 to 1133:19.

37 ¹⁴⁵ Tr. Vol. VI at 1204:2-17.

38 ¹⁴⁶ Tr. Vol. VIII at 1792:19-25.

1 Project Zia are not dependent upon PVD2. They did state, however, that PVD2 and the
2 developmental projects are complementary.¹⁴⁷ Does PVD2 increase resource adequacy in
3 Arizona because of independent projects that are merely complementary? Such a finding would
4 not be reasonable.

5 **B. The need for economical supplies of electric power in Arizona and California.**

6 SCE is proposing PVD2 as a project that will reduce costs of generation for California.
7 SCE is *not* proposing PVD2 as a project to reduce costs of generation in Arizona. SCE clearly
8 articulated the goal of the project in its Application:

9 [T]he DPV2 project is primarily driven by the need to provide
10 additional high-voltage electrical transmission infrastructure to
11 enhance competition among energy suppliers, and *increase*
12 *reliability of supply*¹⁴⁸, *which will enable California utilities to*
13 *reduce energy costs to customers by about \$1.1 billion over the life*
of the project. Specifically, DPV2 will increase transmission
capacity by 1,200 megawatts (MW), allowing California access to
cost-effective energy in the southwestern United States, and
*thereby displacing higher-cost generation in California.*¹⁴⁹

14 Below, Staff first discusses the need for economical supplies of electric power in California, and
15 then we discuss the need in Arizona.

16 **1. The need for economical supplies of electric power in California.**

17 No party disputes that PVD2 is economically beneficial for California ratepayers.
18 CAISO ratepayers will incur \$650 million of costs in 2005 dollars,¹⁵⁰ and California ratepayers
19 will receive a savings of about \$1.1 billion.¹⁵¹ The critical question for the Committee and the
20 Commission is whether these economic benefits satisfy the standard for need required by A.R.S.
21 § 40-360.07(B). As the project is proposed by SCE, the evidence in the record requires an
22 unequivocal “no.”

23 The need for economical supplies of power in California does not offset the potential
24 effects on Arizona ratepayers. As discussed above, PVD2 could harm resource adequacy in

25 ¹⁴⁷ Tr. Vol. X at 2016:21 to 2017:24.

26 ¹⁴⁸ Note that reliability of supply is not the same thing as reliability of the EHV transmission system.

27 ¹⁴⁹ Ex. A-27 at A-7, Section A.2 Purpose and Need for the Proposed Project.

28 ¹⁵⁰ Ex. A-27 at A-15 (“The 2005 present value revenue requirements for DPV2 is estimated at \$650 million”).

¹⁵¹ See also Ex. A-27 at A-14 (“SCE determined that the lifecycle benefits of DPV2 are greater than the lifecycle costs of constructing and operating DPV2.”).

1 Arizona. As discussed next, PVD2 could result in net increases in rates for Arizona ratepayers.
2 Therefore, Staff proposes reliability conditions to offset lack of need for resource adequacy, and
3 the lack of need for lower cost generation in Arizona.

4 Before moving on to Arizona needs, it is important to discuss why generation may be
5 less expensive to locate in Arizona compared to California. Moreover, the benefits to locate
6 generation in Arizona are not just for current needs, but are also projected for future needs. In its
7 Application, SCE states that a benefit of PVD2 is to access “areas where generation has been
8 more easily sited and constructed.”¹⁵² In its Congestion Study, DOE also recognized:

9 Given local opposition to new power plants and the limited new
10 plant construction over the past decade, it is questionable whether
11 enough new generation will be built within the region soon enough
12 to meet reliability requirements. Thus, imports are likely to be
13 needed to ensure adequate capacity resources for area reliability.
Imports also provide economic benefits: access to lower-cost
generation....and efficient gas-fired units could reduce and
stabilize the cost of supplying electricity to [California]
consumers.¹⁵³

14 Additionally, the California Energy Commission currently does not project any significant
15 capacity additions in California from 2007 through 2010.¹⁵⁴

16 The evidence suggests that the economic benefits of PVD2 to California ratepayers are
17 primarily less stringent siting and permitting in Arizona. This economic justification does not
18 meet the need standards of A.R.S. § 40-360.07(B). Staff also believes that arbitraging varying
19 State laws should not be sufficient to satisfy standards in EPAct 2005. It should be considered
20 market manipulation, rather than creating economic efficiency of the bulk-power system. The
21 issue is not adequately addressed in EPAct 2005 or FERC’s rulemakings. Thus, it is uncertain
22 how the new federal law will apply to such projects.

23 ***2. The need for economical supplies of electric power in Arizona.***

24 SCE and Staff present economic studies to determine the economic costs and benefits
25 of PVD2 to Arizona ratepayers. Staff witness Mr. Rowell testified that current economic models

26 _____
27 ¹⁵² Ex. A-27 at A-7.

¹⁵³ Congestion Study at 46.

28 ¹⁵⁴ See Ex. S-17 and Ex. S-18 (California Energy Commission, Final Staff Report, Summer 2006 Electricity Supply
and Demand Outlook (June 29, 2006 Revised Demand)).

1 are insufficient to accurately predict precise numbers for benefits and costs.¹⁵⁵ He recommended
2 that the Committee and Commission focus more on the direction of benefits and costs.¹⁵⁶ Mr.
3 Rowell testified that Staff witness Mr. Rajat Deb created a model based on the Western Grid. He
4 drew a general conclusion based on the model that there is an economic benefit for the Western
5 Grid, but an economic detriment for Arizona.¹⁵⁷

6 Nevertheless, Mr. Rowell presented the numeric output of the modeling. Mr. Deb's
7 model predicted a net economic costs to Arizona ratepayers of approximately \$242 million.¹⁵⁸
8 But Mr. Rowell explained that Arizona relies less heavily on spot, wholesale markets for
9 generation than California.¹⁵⁹ Arizona utilities include a significant portion of their generation in
10 their cost-of-service because they own generation.

11 Therefore, Arizona ratepayers would pay rates that rely less on spot prices than
12 California ratepayers.¹⁶⁰ However, Mr. Rowell testified that Arizona's electric utility industry
13 could change in the future and be more reliant on spot prices.¹⁶¹ Mr. Deb's analysis showed that
14 the spot prices at the Palo Verde Hub would increase by \$2.90 per megawatt hour ("MWh") in
15 2010.¹⁶² This increase is approximately 5%.¹⁶³

16 In contrast to Staff's analysis, SCE claims that PVD2 provides net economic benefits
17 to Arizona ratepayers. SCE witness Mr. Pfeifenberger presented an analysis that layered on
18 suggested benefits to the production cost modeling performed by SCE. In Slide 58a, Mr.
19 Pfeifenberger presented his analysis.¹⁶⁴ He quantified benefits for Arizona that fall outside
20 production modeling, but did not quantify similar costs. The alleged benefits included items
21 such as renewable resource access, improved investment climate, and liquidity benefits. Mr.

22
23 ¹⁵⁵ Tr. Vol. XII at 2466:5 to 2468:13. *See also Id.* at 2394:24.

24 ¹⁵⁶ *Id.*

25 ¹⁵⁷ *Id.* at 2469:19 to 2470:7.

26 ¹⁵⁸ Ex. S-25 at 9.

27 ¹⁵⁹ Tr. Vol. XII at 2397:4 to 2398:11.

28 ¹⁶⁰ *Id.* (In other words, rates for Arizona ratepayers would increase, but probably by less than \$242 million).

¹⁶¹ *Id.* at 2404:6 to 2405:3.

¹⁶² Ex. S-25 at 10.

¹⁶³ Tr. Vol. VII at 2413:6-23.

¹⁶⁴ *See* Ex. A-14, Slide 58a.

1 Pfeinberger claims that these benefits result in net economic benefits to Arizona ratepayers in the
2 amount of \$213 million.¹⁶⁵

3 Staff witness Mr. Rowell testified that the claimed benefits were highly speculative
4 and not subject to accepted methods of quantification.¹⁶⁶ RUCO witness Mr. Ahearn also
5 questioned the claimed benefits of access to California renewable resources (approximately \$130
6 million for lifecycle and \$48 million from 2009-2015.).¹⁶⁷

7 The CPUC Methodology for Economic Assessment (“CPUC Order”) also addressed
8 deficiencies in the CAISO economic assessment. The CPUC stated that “As the DPV2 analyses
9 demonstrate, benefit projects can vary widely based on relatively minor variations in key
10 parameters and modeling conventions.”¹⁶⁸ The CPUC held in its Order that it would not provide
11 a rebuttable presumption for CAISO’s economic methodology, i.e. the TEAM approach.¹⁶⁹ The
12 CPUC Order provided 6 general guidelines. Two are especially relevant to PVD2: (1) “The
13 perspective of CAISO ratepayers is of primary importance in CPCN proceedings, although there
14 is value in reviewing benefit-cost results from other perspectives as well”; and (2) “In addition to
15 energy benefits, other economic effects of a transmission project may be considered, including
16 economic effects that may not be quantifiable.”¹⁷⁰

17 Staff urges the Committee and the Commission to likewise consider the perspective
18 of Arizona ratepayers the primary importance in this proceeding. And, like the CPUC, the
19 Committee and the Commission should also consider the interstate benefits. Staff addressed the
20 economic benefits to California ratepayers above. Accordingly, Staff respectfully requests the
21 following finding of fact: The evidence supports a finding of economic benefit to California
22 ratepayers, but does not sufficiently demonstrate Arizona ratepayers have an economic need for
23 PVD2.

24 ¹⁶⁵ *Id.*

25 ¹⁶⁶ Tr. Vol. XII at 2478:14-17 (“[T]he short answer is [Staff] found [the claimed benefits] to be highly
26 speculative.”); *see also Id.* at 2479:7-11 (“[I]t is difficult to the point of being impossible to really come up with a
number that is meaningful.”).

27 ¹⁶⁷ *See n. 147, supra.*

28 ¹⁶⁸ CPUC Methodology for Economic Assessment at 60.

¹⁶⁹ *Id.* at 23.

¹⁷⁰ *Id.* at 4.

1 **C. The need for reliable supplies of power in Arizona and California.**

2 In its Application, SCE claims that PVD2 “would improve the reliability of the regional
3 transmission system, providing insurance against major outages such as the loss of a major
4 generating facility or of another high-voltage transmission line.”¹⁷¹ SCE provided an example of
5 a reliability improvement and its potential benefits. It stated that “if an earthquake disabled lines
6 from the Pacific Northwest into California, then a line importing power from the Southwest, such
7 as DPV2, would provide significant benefits above what is quantified by DPV2’s economic
8 analysis.”¹⁷²

9 Staff does not disagree that PVD2 could enhance reliability on subregional and regional
10 levels. However, the project as proposed does not meet Arizona’s reliability standards.
11 Therefore, Staff believes that PVD2 as proposed does not meet the requirement of reliability in
12 A.R.S. § 40-360.07(B). In addition to Arizona’s reliability standard, EAct 2005 establishes new
13 reliability processes that could invoke FERC backstop authority.

14 Section 1211 of EAct 2005 addresses reliability standards. Section 1211(c) allows
15 FERC to certify an Electric Reliability Organization (“ERO”). Section 1211(b) gives FERC over
16 an ERO it certifies. Staff witness Mr. Jerry Smith testified that FERC certified the National
17 Electric Reliability Council (“NERC”) as the ERO.¹⁷³ NERC will set reliability standards used
18 by FERC.¹⁷⁴ EAct 2005 does not completely preempt States or RTOs from setting different
19 reliability standards.

20 Section 1211(i) is the savings provision. It states that “[t]he ERO shall have authority to
21 develop and enforce compliance with reliability standards *for only the bulk-power system.*”¹⁷⁵
22 Section 1211(i)(3) provides “Nothing in this section shall be construed to preempt any authority
23 of any State to take action *to ensure the safety, adequacy, and reliability of electric service within*
24

25 ¹⁷¹ Ex. A-27 at A-9. *See also Id.* at A-11 (“The DPV2 Project would improve reliability by increasing voltage
26 support in southern California and enhance system operational flexibility by providing CAISO operators with
more options in responding to transmission and generation outages.”).

27 ¹⁷² *Id.*

28 ¹⁷³ Tr. Vol. X at 2143:22 to 2145:9.

¹⁷⁴ *Id.*

¹⁷⁵ EAct 2005, Section 1211(i) (emphasis added).

1 *that State, as long as such action is not inconsistent with any reliability standard.*¹⁷⁶

2 Staff believes that Section 1211(i) requires the ERO to set minimum standards. We
3 further believe that Section 1211(i)(3) allows States to set higher reliability standards. CAISO
4 testified that it has the authority to and has set a reliability standards higher than WECC and
5 NERC. CAISO witness Mr. VanPelt testified:

6 Control area has the ability to establish more stringent reliability
7 standards than those forwarded by NERC or by WECC. It cannot
8 operate less stringently, it can operate more stringently. That
9 *authority was reinforced by the California legislation* that Ms. Le
Vine mentioned earlier that changed the California public utility
code that allowed Cal ISO to allow standards more stringent than
WECC and NERC but no less stringent.¹⁷⁷

10 Ms. Le Vine also testified that the CAISO FERC tariff provides similar authority.¹⁷⁸ CAISO
11 witness Mr. Lee affirmed that the ISO has implemented a standard more stringent than WECC
12 and NERC. He explained:

13 [W]ithin Cal ISO we do have one more stringent requirement than
14 the WECC and a NERC planning criteria, and that is overlapping
15 outage of a largest generating unit. And typically it covers the one
16 unit of San Onofre nuclear power plant, or Diablo Canyon nuclear
17 power plant. We would take the largest generating unit out of
18 service, readjust the system, redispatch the generation within the
Cal ISO, and then take the additional element out such as a
transmission line. So we call that as an overlapping G minus one
and N minus one. The NERC/WECC planning criteria only
require a single element outage such as a single line outage.¹⁷⁹

19 Similar to the California legislation and CAISO's tariff, A.R.S. § 40-360.07(B) gives the
20 Committee and the Commission authority to set higher reliability standards for Arizona.
21 Exercise of the authority would not be inconsistent with Section 1211 of EPAct 2005. Staff
22 urges the Committee and the Commission to continue to require higher standards to protect
23 Arizona ratepayers.¹⁸⁰

24 In this proceeding, Staff witness Mr. Jerry Smith testified that Arizona has "raised the bar
25 in terms of our expectations beyond what has traditionally been viewed as needed to meet the

26 ¹⁷⁶ EPAct 2005, Section 1211(i)(3) (emphasis added).

27 ¹⁷⁷ Tr. Vol. XIII at 2603:1-9.

28 ¹⁷⁸ *Id.* at 2603:10-22.

¹⁷⁹ *Id.* at 2560:17 to 2561:4.

¹⁸⁰ Tr. XI at 2238:13-19.

1 minimum WECC reliability criteria.”¹⁸¹ Mr. Smith specifically testified that “[T]his
2 Commission is not supportive of the use of special protection schemes for new installations.
3 And the reason for that is from a reliability standpoint, when you are having [sic] to use these
4 types of features, it is saying you are pushing the system to its limits.”¹⁸² Mr. Smith did not
5 claim that SPS are never useful. He explained that SPS “provide some real value so that you can
6 do things on a short-term basis, not something that requires an ongoing reliance on those on a
7 first level basis.”¹⁸³

8 Staff’s proposed conditions are necessary to ensure Arizona ratepayers receive reliability
9 benefits from PVD2. These benefits must be sufficient to offset the economics and resource
10 adequacy prongs of Arizona’s need test.

11 **III. The record supports Staff’s proposed conditions that are still disputed.**

12 Staff finishes its Closing Brief by address two important issues. First, Staff requests the
13 Committee and the Commission to find that its conditions (1) do not make PVD2 economically
14 infeasible; and (2) do not significantly reduce PVD2’s ability to reduce congestion in interstate
15 commerce. Staff requests these findings because the Applicant did not provide alternatives that
16 recognize Arizona’s reliability standards. Moreover, the Applicant did not provide any economic
17 analysis or flow studies that require different findings.

18 Second, Staff believes one of the more significant issues in this proceeding is the
19 potential for CAISO to expand its control area into the footprint of WestConnect. Staff witness
20 Mr. Jerry Smith testified that Staff is “simply trying to preserve the integrity of opportunity for
21 the WestConnect RTO once it forms to assure that there are no exacerbating Seams issues that
22 occur as a result of this new transmission line that [is proposed to] be under the Cal-ISO control
23 and tariff.”¹⁸⁴

24 If PVD2 is under CAISO control in Arizona, Arizona regulators, WestConnect and
25 Arizona utilities would not be able to develop their own FERC tariff for operating the portion of

26 _____
27 ¹⁸¹ Tr. Vol. X 2152: 12-19.

28 ¹⁸² *Id.*

¹⁸³ *Id.* at 2240:23 to 2241:2.

¹⁸⁴ *Id.* at 2175:13-18.

1 the line in Arizona. Representatives of CAISO testified that CAISO's control area is determined
2 by the Western Electric Coordinating Council ("WECC").¹⁸⁵ Generally, to be in the CAISO
3 control area transmission facilities must be owned by transmission operators ("TOs") as defined
4 by CAISO's tariff, and be electrically connected to the CAISO controlled grid.¹⁸⁶ Without Staff
5 condition 6(b), Arizona would concede to expansion of CAISO's authority in Arizona.

6 Generators, that choose to interconnect to a CAISO controlled line, must sign contracts
7 with the CAISO. SCE's RFO also includes this requirement. The generators would have to
8 make their capacity available to the CAISO during system emergencies. This requirement
9 supersedes contractual obligations.¹⁸⁷ Staff believes that an individual State has the authority to
10 choose the RTO it invites into its jurisdiction.

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27 ¹⁸⁵ Tr. Vol. XIII at 2601:19 to 2602:17 (testimony of Ms. LeVine and Mr. VanPelt).

28 ¹⁸⁶ *Id.*

¹⁸⁷ *See, e.g.* Ex. S-12, *See* Section 7.4.2.3 System Emergencies of CAISO's FERC tariff.

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STAFF'S PROPOSED FINDINGS OF FACT

Staff appreciates the difficulty of the decision for the Committee and the Commission in this proceeding. As described above, Staff believes that the siting process is in a dramatic paradigm shift. Staff hopes we facilitated the decision-making process by helping to develop a sufficient and adequate record. Staff also believes that its position is based on a careful consideration of the facts in the record. Staff hereby respectfully requests the Committee and the Commission to make the following findings of fact.

1. Because of the uncertainty and likely negative affects on Arizona ratepayers, Staff opposes the Application as filed. However, Staff proposed 7 conditions to the CEC that make the project acceptable. Even though the proposed conditions are adopted, Staff does not endorse or recommend the project for approval. Staff simply does not oppose the project.
2. The evidence is insufficient to demonstrate that PVD2 is needed for resource adequacy in California. PVD2 is not needed to meet the resource adequacy of Arizona ratepayers.
3. The evidence supports a finding of economic benefit to California ratepayers, but does not sufficiently demonstrate Arizona ratepayers have an economic need for PVD2.
4. Staff's conditions are necessary to ensure that Arizona ratepayers receive reliability benefits sufficient to satisfy the broad public interest as required in A.R.S. § 40-360.07(B).
5. Staff's conditions do not make PVD2 economically infeasible.
6. Staff's conditions do not reduce the benefits of PVD2 to relieve congestion in interstate commerce.

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STAFF'S PROPOSED CONDITIONS TO THE CEC

As discussed above, Staff believes that conditions to the CEC are necessary to ensure Arizona ratepayers receive reliability benefits from PVD2. The reliability benefits are necessary to offset potential net economic costs and reduced resource adequacy. Staff acknowledges that there is great uncertainty about the magnitude of the potential costs to Arizona ratepayers. However, Staff believes that the direction of the costs have been demonstrated by evidence in the record. Staff respectfully proposes the following conditions.

1. Southern California Edison agrees to make good faith efforts for the term of the Certificate, not to exceed ten years, to work within California and FERC proceedings to encourage regional access to natural gas storage facilities in California in a manner that addresses natural gas service reliability and efficiency in the region, including Arizona.
2. To ensure the second Palo Verde to Devers 500 kV transmission line does not adversely affect reliability of the Arizona Extra High Voltage (EHV) grid and power plants interconnected at the Palo Verde Hub, one of the following options must be adopted by Southern California Edison for construction of the new line:
 - a. The line must be constructed on separate towers or monopoles for its entire length and have sufficient physical separation from the existing Palo Verde to Devers line to assure a common mode outage frequency of less than one in thirty years (per NERC/WECC Planning Standards S-2) or that no cascading outages would occur for such a common mode outage (per NERC Category C.5) without the use of a special protection scheme,
 - OR**
 - b. The WECC rated Path 49 shall not be operated above a level at which a, NERC Category C.5, common mode outage of the two Palo Verde to Devers lines would cause cascading outages unless a special protection scheme were activated. Studies are to be performed annually to establish with WECC such a Path 49 Operational Transfer Capability (OTC) limit for the common mode outage of the two Palo Verde transmission lines. If the Applicant does not want to perform annual studies, the Applicant may choose to request a lower rating of the line from the appropriate regulatory authority. The lower rating must achieve the above goals.
3. The second Palo Verde to Devers 500 kV line shall terminate at the new Harquahala Junction Switchyard along with the existing Harquahala to Hassayampa 500 kV line in order to mitigate prevailing reliability risks associated with extreme contingencies in the vicinity of the Palo Verde trading hub.

1 4. To assure that prevailing Palo Verde Hub commercial practices are not compromised by
2 the transmission interconnections at Harquahala Junction Switchyard, Southern
3 California Edison must prior to commencing operation:

4 a. File with the Federal Energy Regulatory Commission and receive approval of a
5 request, on behalf of all Palo Verde Hub interconnecting parties, for modification of
6 the transmission tariff free zone at the Palo Verde Hub to include all transmission
7 lines currently interconnecting power plants to either the Palo Verde Switchyard or
8 the Hassayampa Switchyard,

9 **OR**

10 b. File with the Arizona Corporation Commission (ACC) an executed transmission
11 agreement with Harquahala Power Plant and the participants of the Palo Verde to TS5
12 transmission line that establishes that Harquahala Power Plant can schedule its full
13 capacity over the Harquahala Junction Switchyard to Hassayampa Switchyard
14 transmission line without transmission tariff costs and that all three parties will
15 assume pro-rata obligations to share in the cost of an additional transmission line
16 between these two switchyards as needed at some future date.

17 5. Southern California Edison shall not object or seek to change the control area authority
18 and associated operational reliability obligations placed by the ACC upon power plants
19 originally interconnected at the Palo Verde Hub, including but not limited to, the power
20 plants that seek new interconnection with the Harquahala Junction Switchyard. Southern
21 California Edison shall not object to such power plant obligations being transferred to the
22 transmission control area to which they are interconnected in the event that they desire to
23 discontinue as a generator only control area operator.

24 6. To assure that non-discriminatory open-access transmission principles are not
25 compromised, commercial barriers to Arizona transmission users do not occur on lines
26 serving as tie lines between CAISO and the forming WestConnect RTO operational
27 footprint, and that no new seams issues between the two RTOs result from the
28 construction of the Palo Verde to Devers 2 transmission line:

a. Southern California Edison shall support an Arizona utility having operational control
of the Harquahala Junction Switchyard, the Harquahala Junction Switchyard to
Hassayampa Switchyard transmission line and the Harquahala Junction Switchyard
termination of the second Palo Verde to Devers transmission line and the Harquahala
Power Plant line. Southern California Edison shall not have operational control of the
above facilities.

b. The Applicant executes a binding written agreement with the CAISO to limit its
control area. The CAISO operational control and transmission tariff application shall
initially end at the Devers termination of the Palo Verde to Devers 2 transmission line
and may extend eastward to any future switchyard interconnecting with the line
between Devers and the Colorado River. This implies a new Southern California

1 Edison transmission tariff will be required should a future switchyard interconnect
2 occur with the Palo Verde to Devers 2 line between Harquahala Junction and the
3 Colorado River. The Applicant must file the executed agreement with the
4 Commission prior to commencing operations of the line.

- 5 7. Southern California Edison may seek approval to change the WECC rating of PVD2 or
6 Path 49 after receiving a CEC. SCE agrees that such a change is substantial under
7 Arizona law, and agrees to seek an amendment pursuant to A.R.S. § 40-252 prior to
8 beginning construction of any facilities necessary to allow and accomplish the operation
9 of PVD2 at the increased rating.

10 RESPECTFULLY SUBMITTED this 5th day of December, 2006.

11 

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13 Keith A. Layton, Esq.
14 Legal Division
15 Arizona Corporation Commission
16 1200 West Washington Street
17 Phoenix, Arizona 85007
18 (602) 542-3402

19 **Original and twenty-five (25)**
20 **copies of the foregoing filed this**
21 **5th day of December, 2006 with:**

22 Docket Control
23 Arizona Corporation Commission
24 1200 West Washington Street
25 Phoenix, Arizona 85007

26 **Electronic copies of the foregoing**
27 **mailed this 5th day of**
28 **December, 2006 to:**

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ATTACHMENT A



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Virtual Control Area

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The goal of the Virtual Control Area Work Group (VCAWG) is to investigate methods and

[Flow-Based Market Investigations](#)

technology available for coordinating control area operations to allow participating Control Areas to function as a Virtual Control Area.

[Market Monitoring](#)

[Pricing](#)

In addition the VCAWG will assess the costs associated with implementing any coordinated

[Regional Planning](#)

operations as well as potential cost savings, particularly in the areas of regulation and

[Transmission Products](#)

provision of other ancillary services.

[TTC/ATC Process](#)

The group will develop recommendations along with supporting data for presentation to the

[Virtual Control Area](#)

steering committee.

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Work Group Chairman

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- Jerry Smith, APS

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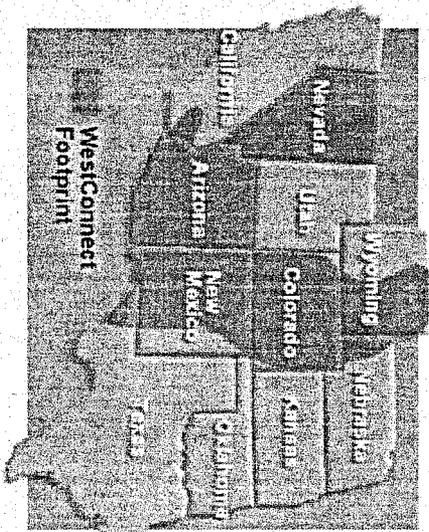
[About WestConnect](#)
[Members and Steering Committee](#)

WestConnect is composed of utility companies providing transmission of electricity in the southwestern United States.

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The members work collaboratively to assess stakeholder and market needs and to develop cost-effective enhancements to the western wholesale electricity market.

WestConnect is committed to coordinating its work with other regional industry efforts to achieve as much consistency as possible in the Western Interconnection.



[Top of page](#)

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- [«Home](#)
- [About WestConnect](#)
- [Initiatives](#)
- [Calendar](#)
- [Documents](#)
- [Links](#)
- [Contact](#)

[Log In](#)

Regional Planning

- [Initiatives Overview](#)
- [Flow-Based Market Investigations](#)
- [Market Monitoring](#)
- [Pricing](#)

The goal of the Regional Planning Work Group (RPWG) is to promote effective transmission planning within the subregion comprised of the WestConnect footprint.

- [Regional Planning](#)
- [Transmission Products](#)
- [TTC/ATC Process](#)
- [Virtual Control Area](#)

The actual planning activities are currently carried out by the [SouthWest Area Transmission Planning Group \(SWAT\)](#) and the [Colorado Coordinated Planning Group \(CCPG\)](#).

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The Regional Planning Work Group is working to have consistent principles and timelines for the two planning organizations be adopted, and ultimately to formalize a relationship with each with commitments to assist in providing resources to aid in the timely completion of the two groups planning activities.

- Work Group Chairman**
- Gary Harper, SRP

More on Westconnect Regional Planning

- [SWAT](#) (Westconnect web site)
- [Colorado Coordinated Planning Group \(CCPG\)](#) (external web site)
- [Southwest Area Transmission Planning Group \(SWAT\)](#) (external web site)

^a Top of page

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ATTACHMENT D

Keith Layton

From: Keith Layton
Sent: Wednesday, November 22, 2006 3:41 PM
To: 'jkalish@ca.blm.gov'
Cc: Chris Kempley; Dawn Wilson; Ernest Johnson; Elijah Abinah; Steven Olea
Subject: Amendment to PDV1 ROW Grant

Mr. Kalish,

Thank you for talking with us recently about Staff's concerns regarding the BLM's ROW grant for the PVD1 project. As we discussed there was a condition in the original grant that required either (1) double circuit towers, or (2) single circuit towers which would be replaced with double circuit towers if a second circuit was ever constructed. The condition applied to Copper Bottom Pass and the pass between Big Horn Mountain and Burnt Mountain.

We provided transcripts from our pending hearing on PVD2. Southern California Edison (SCE or the Company) proposed a second single circuit system in the latter pass. The Company also testified that BLM did not require an amendment to the PVD1 ROW grant to remove the condition for that pass. You informed us that the ROW grant does need an amendment. You also stated that you would require the amendment as part of the Record of Decision that is pending for an amendment for the PVD2 ROW.

It is important that the Siting Committee and the Commission have the above facts correctly reflected in the record for PVD2. Would you provide a letter that Staff could docket in our case that restates the above? Your cooperation would be greatly appreciated.

Finally, as we discussed, there is a separate matter pending before the Commission to amend SCE's permit for PVD1. In an Open Meeting on October 17, 2006, Commissioner Mundell specifically asked that discovery include identifying whether SCE or BLM initiated the 1980 amendment to the PVD1 ROW grant. If BLM has any records that address Commissioner Mundell's concern, Staff would appreciate a copy of such records.

Thank you for your cooperation. Staff looks forward to your response.

Keith

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ATTACHMENT E



**Western Governors' Association
Policy Resolution 05-30
November 8, 2005
Phoenix, Arizona**

***National Interest Transmission Corridors
and Energy Corridors in the West***

A. BACKGROUND

1. The Energy Policy Act of 2005 (EPAcT, Section 1221) directs the Secretary of Energy to conduct a study of transmission congestion within one year of enactment and every three years thereafter. After such study, the Secretary of Energy may designate national interest transmission corridors. If a developer of a proposed transmission line in a national interest corridor does not receive approval of the line from the State within one year, the Federal Energy Regulatory Commission (FERC) may preempt the State and allow the project developer to condemn land, other than Federal and State land, for the project. FERC cannot exercise this preemption authority in States that have entered into an interstate compact, unless the States in such compact disagree.
2. Section 368 of the EPAcT also requires the Secretaries of Energy, Interior, Agriculture, Commerce, and Defense, in consultation with FERC, States, Tribes and local government and other interested parties, to designate energy corridors on Federal lands for electric transmission and oil, gas and hydrogen pipelines. The agencies are to complete this task in the 11 contiguous Western States within two years and for all other states within four years.
3. EPAcT establishes a requirement that Federal agencies enter into a Memorandum of Understanding within one year to ensure timely permitting of electric transmission facilities. EPAcT also allows States to join such MOU.
4. Twelve Western Governors and four Federal agencies (Energy, Interior, Agriculture and the Council on Environmental Quality) have already signed the WGA Transmission Permitting Protocol. An agreement on interstate transmission permitting has been also been adopted by Midwestern Governors' Association.
5. The designation of national interest electric transmission corridors, the potential preemption of States in the siting of electric transmission in such corridors, and the designation of energy corridors on Federal lands will have a major impact on energy supplies to fuel the Western economy and dramatic impacts on land uses in affected areas.
6. EPAcT provides little guidance or constraint on the execution of these responsibilities by Federal agencies. For example, EPAcT provides no guidance

on how transmission congestion is to be determined by DOE. The criteria for DOE to use in identifying national interest transmission corridors are so vague as to allow DOE to designate any minor system upgrade as a national interest corridor. Alternatively, based on the generation location assumptions DOE uses to model future transmission congestion, DOE could identify future congestion on any paths in the Western Interconnection and thus potentially designate the entire region as a national interest transmission corridor.

B. GOVERNORS' POLICY STATEMENT

1. Western Governors believe that the new authorities granted to Federal agencies to evaluate transmission congestion and designate energy corridors across Federal lands can potentially help the West meet its energy needs. However, the provisions for preemption of state transmission siting laws and designation of corridors on Federal lands also hold the potential for unproductive Federal interference in state and local land use decisions and undercutting State energy policies.
2. Federal agencies should only exercise these new responsibilities in collaboration with States and regional stakeholders.
3. Western Governors request:
 - a. The Department of Energy (DOE) conduct its analysis of transmission congestion in close collaboration with States and regional stakeholders and use as the basis for its analysis, studies of historical and prospective congestion conducted by the proactive, transparent, stakeholder-driven regional transmission planning processes in the West.
 - b. DOE work closely with the Western Governors, the Western Interstate Energy Board, and the Western Interconnection Regional Advisory Board in the designation of any national interest transmission corridors and energy corridors across Federal land corridors in the West.
 - c. DOE provide assistance to States in the evaluation of interstate transmission siting compacts under Section 1221 and in the implementation of other requirements under Sections 1221 and 368 of EPA Act.
 - d. That the establishment of corridors and land use decision not impede existing energy corridors.
 - e. DOE not rule out other potential corridors and include in its evaluation potential technological enhancements
 - f. Federal agencies build on the existing WGA Transmission Permitting Protocol and Midwestern Governors Transmission Permitting and Siting Protocol rather than create a new MOU under Section 1221.

C. MANAGEMENT DIRECTIVE

1. WGA staff is directed to communicate this resolution to the appropriate Federal agencies.
2. WGA staff and the Western Interstate Energy Board are directed to collaborate with Federal agencies, Western industry organizations, and Tribes to maximize the benefits of the processes established by EPAct for evaluating transmission congestion, designating national interest transmission corridors and designating energy corridors on Federal lands.

F:\05resos\Winter Meeting Resos\energy corridors.doc



For Immediate Release

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<http://corridoreis.anl.gov>

Contacts:

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Scott Powers, (406) 896-5319

DOE – Tom Welch, (202) 586-4316

Julia Souder, (202) 586-9052

USFS – Joe Walsh, (202) 205-1294

DOD – Eileen Lainez, (703) 697-5131

**Federal Agencies Release Preliminary Map of Potential Energy Corridors
on Federal Lands in the West**

The four Federal agencies preparing to designate energy corridors on Federal lands in 11 Western States for electricity transmission and oil, natural gas and hydrogen pipelines today released a map showing preliminary corridors. The informational map was developed using comments received during a public scoping period in the Fall of 2005, and offers an update on progress in the identification of potential corridors and an opportunity for public comment on work to-date.

The Department of Energy (DOE), the Department of Interior's Bureau of Land Management (BLM), the USDA Forest Service (USFS) and the Department of Defense (DOD) are preparing a draft Programmatic Environmental Impact Statement (PEIS) to identify the impacts of designating energy corridors on Federal lands in the 11 States, as directed by Congress in Section 368 of the Energy Policy Act of 2005.

Comments and suggestions about the preliminary corridors described in the map are welcome and should be submitted to the following address no later than July 10, 2006: Julia Souder, U.S. Department of Energy 8h-033, 1000 Independence Avenue, S.W.; Washington, D.C. 20585. The opportunity to comment on the preliminary map is in addition to the opportunity for public comment on the draft PEIS, which the agencies expect to release later this year.

Energy corridors represent areas where pipelines and transmission lines may be built in the future. Designating corridors helps minimize the time it takes to site and approve projects, as well as reducing environmental effects and conflicts with other uses of Federal lands. Individual projects proposed for these corridors will be analyzed further under the National Environmental Policy Act (NEPA) for their environmental impacts.

An electronic version of the map, as well as additional information about corridor designation and the PEIS, is available on the project website: <http://corridoreis.anl.gov>. The website also provides a way to submit comments electronically.