

ORIGINAL
OPEN MEETING ITEM



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MEMORANDUM

TO: DOCKET CONTROL

FROM: Ernest G. Johnson
Director, Utilities Division

DATE: April 2, 2007

SUBJECT: In the Matter of the Application of Northern Arizona Energy, LLC for a Certificate of Convenience and Necessity Authorizing Construction of a 175 MW Natural Gas-Fired Simple Cycle Generating Facility and Associated Transmission Line to the Western Area Power Administration ("WAPA") Griffith Switchyard; Docket No. L-00000FF-07-0134-00133

On March 2, 2007, Northern Arizona Energy, LLC ("NAE") applied for a Certificate of Environmental Compatibility ("CEC") for constructing a 175 MW generating project, including the associated transmission system, in this Docket. NAE also petitioned the Arizona Corporation Commission ("Commission") to waive the statutory requirement that the Applicant submit a System Impact Study 90 days in advance of filing such Application.

Utilities Division Staff filed its Staff Report concerning the Applicant's Petition for waiver of A.R.S. 40-360.02(B) on March 23, 2007. NAE filed a response to the Staff Report on March 28, 2007.

Attached is a proposed Order to assist the Commission in its consideration of NAE's Petition at an upcoming Open Meeting.

Cc: Service List

Arizona Corporation Commission
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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

MIKE GLEASON, Chairman
WILLIAM A. MUNDELL
JEFF HATCH-MILLER
KRISTIN K. MAYES
GARY PIERCE

IN THE MATTER OF THE APPLICATION OF
NORTHERN ARIZONA ENERGY, LLC FOR A
CERTIFICATE OF CONVENIENCE AND
NECESSITY AUTHORIZING CONSTRUCTION
OF A 175 MW NATURAL GAS-FIRED SIMPLE
CYCLE GENERATING FACILITY AND
ASSOCIATED TRANSMISSION LINE TO THE
WESTERN AREA POWER ADMINISTRATION
("WAPA") GRIFFITH SWITCHYARD.

DOCKET NO. L-00000FF-07-0134-00133

DECISION NO. _____

ORDER

Open Meeting
April 11 and 12, 2007
Phoenix, Arizona Corporation Commission

BY THE COMMISSION:

FINDINGS OF FACT

1. On March 2, 2007, Northern Arizona Energy, LLC ("NAE") applied for a Certificate of Environmental Compatibility ("CEC") for constructing a 175 MW generating project, including the associated transmission system ("NAEP").

2. A.R.S. Section 40-360.02(B) provides that, at least 90 days prior to filing an Application for a CEC to site a new generating plant, the Applicant is to file a plan, otherwise known as a System Impact Study ("SIS"), with the Arizona Corporation Commission ("Commission").

3. As part of its Application, NAE petitioned the Commission for waiver of this filing requirement and to allow full consideration of the Application for the CEC for the proposed NAEP notwithstanding the omission of filing System Impact Studies 90 days in advance of the filing of such Application.

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Decision No. _____

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3 4. Under A.R.S. Section 50-360.02(C), the plan is to consist of seven parts, the first six
4 of which were provided by NAE as Exhibit 1 to its Petition. Item number 7, which has not yet been
5 provided, is to include:

6
7 "The plans for any new facilities shall include a power flow and stability
8 analysis report showing the effect on the current Arizona electric
9 transmission system. Transmission owners shall provide the technical
reports, analysis or basis for projects that are included for serving customer
load growth in their service territories."

10 5. NAE states in its Petition that a final Interconnection System Impact Study Agreement
11 was executed with the Western Area Power Administration ("WAPA") on December 22, 2006.
12 Pursuant to the Agreement, WAPA, as the transmission owner, is currently performing the SIS that
13 will examine the power flow and stability impacts of the NAEP generators on the current Arizona
14 electric transmission system.

15 6. According to NAE, WAPA could not complete these studies in time for NAE to
16 submit the results of SIS 90 days prior to filing its Application in this Docket. NAE is projecting the
17 completion of these studies in the next 60-90 days. However, NAE has no control over the timing of
18 WAPA's completion of the SIS

19 7. NAE does not want to delay its Application for CEC because the "timetable for
20 completion of the CEC and other regulatory permitting processes, and subsequent equipment
21 procurement, and construction of the project in order to timely meet those needs, requires that
22 Applicant file its CEC application and take all other reasonable efforts to commence those time-
23 consuming processes as quickly as possible."¹ Consequently, NAE is seeking a waiver of the
24 requirement to file the SIS 90-days prior to filing its Application for CEC.

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28 ¹ NAE Petition at p. 3.

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3 8. As NAE notes in its Petition, at p. 5, A.R.S. Section 40-360.02(E) gives the
4 Commission discretion to consider an Application, despite the fact that the Applicant has not filed a
5 Plan in compliance with subpart (C) thereof, upon good cause shown.

6 9. Commission Staff ("Staff") filed a Staff Report in response to NAE's request for
7 waiver on March 23, 2007. Staff indicated that it had reviewed NAE's request for waiver, and based
8 upon its consideration of the preliminary discussions NAE has had with WAPA regarding the
9 expected lack of impact of NAEP on the adjacent system transmission interconnection, recommended
10 that the Commission grant a conditional waiver to NAE.

11 10. Staff recommended that the Commission condition its waiver on NAE's agreement to
12 waive the 180 day period for issuance of the CEC and the statutory timeframe for granting the CEC.
13 In its Petition, NAE had agreed to an extension of the 180 day period for issuance of the CEC and the
14 statutory time period for grant of its CEC for a reasonable period of time as may be necessary due to
15 the delay in submitting the SIS. Staff further recommended that the deadline for issuance of the CEC
16 by the Committee be extended through November 27, 2007, or 90 days after the SIS is submitted to
17 Staff by NAE, whichever is later, and that the statutory timeframe for granting the CEC be extended
18 as well. Staff noted that waiver of the 180 day timeframe is necessary in order to allow Staff
19 sufficient time to review the SIS once it is submitted by NAE and also allow the Arizona Power Plant
20 and Transmission Line Siting Committee sufficient time to review Staff's analysis of the SIS.

21 11. NAE submitted a response to Staff's recommendation on March 28, 2007. NAE states
22 that it is confident that a full 90-day extension will likely not prove necessary. It therefore urged
23 Staff to consider modifying its recommendation to leave the specific length of any extension open,
24 preferring that the condition specifically provide for an extension "up to 90 days, as Staff may
25 reasonably deem necessary based on the facts and circumstances at the time, prior to any final vote
26 on the issuance of a CEC by the Committee."

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3 12. We find Staff's recommendations to be reasonable. Since NAE has no control over
4 WAPA's completion of the SIS, Staff needs a reasonable amount of time to review the SIS along
5 with its other duties, and the Committee needs adequate time to consider Staff's conclusions and
6 recommendations after Staff's SIS review.
7

8 **CONCLUSIONS OF LAW**

9 1. The Commission has jurisdiction of this matter under A.R.S. Section 40-360.02(E).

10 2. Under A.R.S. Section 40-360.02(E), the Commission has discretion to waive the
11 requirement that an Applicant submit an SIS 90 days prior to filing an Application for CEC, upon
12 good cause shown.

13 3. Good cause having been shown by the Petitioner NAE, it is reasonable for the
14 Commission to grant its waiver request conditioned upon an extension of the 180 day period for CEC
15 issuance and the statutory timeframe for grant of the CEC.

16 4. Staff's findings and recommendations, which are set forth herein, are reasonable and
17 should be adopted.
18

19 **ORDER**

20 IT IS THEREFORE ORDERED that NAE's request for waiver of the requirement to file a
21 SIS 90 days prior to submission of its Application for CEC is hereby granted conditioned upon an
22 extension of the 180 day period for CEC issuance and the statutory time frame for grant of the CEC,
23 as recommended by Staff in Finding of Fact No. 10.

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IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY THE ORDER OF THE ARIZONA CORPORATION COMMISSION

CHAIRMAN COMMISSIONER COMMISSIONER

COMMISSIONER COMMISSIONER

IN WITNESS WHEREOF, I BRIAN C. McNEIL, Executive Secretary of the Arizona Corporation Commission, have hereunto, set my hand and caused the official seal of this Commission to be affixed at the Capitol, in the City of Phoenix, this ___ day of April, 2007.

BRIAN C. McNEIL
Executive Secretary

DISSENT: _____

DISSENT: _____

EGJ:PB:MAS

Service List for Docket No. L-00000FF-07-0134-00133:

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