



2100 N. Central, Ste. 210
 P. O. Box 34805
 Phoenix, AZ 85067
 Tel: (602) 257-9200
 Fax: (602) 254-4300
 Email: info@auia.org
 Web Site: www.auia.org

ORIGINAL



BEFORE THE ARIZONA CORPORATION

RECEIVED

05

COMMISSIONERS

MIKE GLEASON, CHAIRMAN 12:49
 WILLIAM A. MUNDELL
 JEFF HATCH-MILLER
 KRISTIN K. MAYES
 GARY PIERCE

ARIZONA CORPORATION COMMISSION
 DOCUMENT CONTROL

IN THE MATTER OF THE APPLICATION OF SOUTHERN CALIFORNIA EDISON COMPANY AND ITS ASSIGNEES IN CONFORMANCE WITH THE REQUIREMENTS OF ARIZONA REVISED STATUTES SECTION 40-360.03 AND 40-360.06 FOR A CERTIFICATE OF ENVIRONMENTAL COMPATIBILITY AUTHORIZING CONSTRUCTION OF A 500KV 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

Docket No.

L-00000A-06-0295-00130

Case No. 130

Arizona Corporation Commission
DOCKETED

MAY -7 2007

| | |
|-------------|----|
| DOCKETED BY | nr |
|-------------|----|

INTERVENOR'S BRIEF

Pursuant to A.R.S. 40-360.07 and the Procedural Order issued on April 20, 2007, WALTER W. MEEK, an intervenor pro se in the above-captioned matter, hereby files his brief in response to the requests for review of the Certificate of Environmental Compatibility ("CEC") granted to Southern California Edison by the Arizona Power Plant and Transmission Line Siting Committee on March 21, 2007.

Mr. Meek became a party to this proceeding because he is an owner of the common stock of Pinnacle West Capital Corporation, corporate parent of Arizona Public Service Company ("APS") and of

UniSource Energy Corporation, corporate parent of Tucson Electric Power Company ("TEP").

The ability of APS, TEP as well as the Salt River Project ("SRP"), among others, to market off-peak, off-system sales will be positively impacted by this project. One of its primary benefits is the reduction of transmission congestion east of the California border.

Furthermore, Arizona electric companies and their customers and investors are vitally interested in the operation of a robust wholesale generation market and a reliable delivery system throughout the western United States in order to obtain reasonably priced energy supplies for their needs.

An adverse decision in this matter would thwart the first objective and throw a cloud over the second.

Staff's Request for Review

Staff has not directly opposed the P.V.-Devers 2 project. Indeed, Staff's most recent Biennial Transmission Assessment ("BTA") repeatedly describes Path 49 (East of California) as a constrained path that limits the transfer capability between Arizona and California and at the Palo Verde hub. It also describes P.V.-Devers 2 as one of the potential solutions to that problem.¹

In that regard, Staff requested that the Line Siting Committee subpoena two local utility executives, Robert Kondziolka of SRP and Robert Smith of APS, to testify as ranking members of the Southwest Transmission Expansion Planning group ("STEP") and the Southwest Area Transmission group ("SWAT") to

¹ It is unfathomable that any document pertaining to transmission anywhere in the Southwest has not been introduced in this proceeding, but this intervenor cannot find that the Staff's Fourth Biennial Transmission Assessment dated January 2007 has been included in the record and, therefore, requests that the Commission take administrative notice of that document.

familiarize the Committee with transmission planning standards, path rating criteria and the specific conditions prevailing in Path 49.

However, Staff has been conflicted on its position because of concerns over reliability questions related to double-circuiting only three miles of this 97-mile-long project, the jurisdictional reach of the California ISO ("CAISO") and business and operating relationships among the Applicant and various stakeholders. Staff proposed a series of seven conditions to address these concerns and conditioned its support of the CEC on their adoption by the Committee.

As an initial matter, it is at least questionable whether any of the issues raised by Staff fall within the statutory purview of the Siting Committee. They certainly have little or nothing to do with the environment.

Nevertheless, the record shows, and Staff's own request for review demonstrates, that all of Staff's proposed conditions were thoroughly vetted by the Committee, resulting in the conditions that are a part of the CEC. In fact, the record shows that one member of the Committee voted against issuing the CEC in deference to Staff's proposals.

Staff's current position appears to be that two of the Committee's conditions are acceptable as written, but the other five should be revised to conform to Staff's concerns. Those decisions rest with the Commission, but they certainly do not change the fact that Staff has consistently pointed to East of California as a seriously constrained transmission path and to P.V.-Devers 2 as a legitimate – and this intervenor maintains the best – solution to that problem.

Sierra Club's Request for Review

The Sierra Club attacks the CEC on environmental grounds, which is to be expected, and on the question of need. Taken as a whole, Sierra asks this

Commission to adopt a myopic and parochial view of the statutory language governing line siting and to ignore the big picture of planning and investment imperatives that are driving energy decisions today.

Sierra's first gambit is to declare the CEC invalid on its face because the document does not itemize the specific considerations that address each of the nine factors enumerated in A.R.S. § 40-360.06(A). This is definitely a unique objection.

As a participant in nearly all of the contentious power plant and line siting cases during the last ten years, this intervenor has never witnessed a CEC that slavishly recited exhibits, testimony or conditions that applied to the specific elements listed in the statute, nor has any party ever insisted on it. In fact, the statute does not require it. Instead, it requires only that the Committee (1) "approve or deny an application" and (2) is allowed to "impose reasonable conditions" in issuing the CEC. The statute's listed nine factors are stated "as a basis for" the Committee's two required actions.

Certainly the record of this proceeding, in addition to the contents of the CEC, provides more than adequate evidence that the Committee did have a basis for its decision and conditions. However, the Applicant is far better equipped to discuss that record than this intervenor.

It is worth noting that the final form of the CEC was approved by the Committee on an 8-3 vote – a remarkable consensus given the complexity of the jurisdictional, economic, reliability and environmental issues addressed in the proceeding. None of the three dissenting members of the Committee cited an environmental concern as the basis for his no vote.

Sierra's base case is that construction of P.V.-Devers 2 would be incompatible with the purpose of the Kofa National Wildlife Refuge and would inflict damage on Kofa's environment. This, in spite of the facts that:

- The proposed transmission route follows an existing natural gas pipeline right-of-way that includes an access road for its entire length.
- The new transmission line parallels an existing 500 kV line that has been in place for 25 years.
- The existing line has a series of 13 double circuit poles already in place through a rugged and sensitive area called Copper Bottom Pass that will accommodate the new line without further disturbance to the landscape.

Despite these mitigating factors, Sierra does not want P.V.-Devers 2 placed in the existing corridor. This unyielding position exposes a serious flaw in Sierra's reasoning that did not go unnoticed by Committee members:

If P.V.-Devers 2 were forced into a new transmission corridor – regardless of the location – it would multiply the visual and other environmental impacts compared with those in the existing corridor. This would be true even if the line were built right down the median of Interstate 10.

Perhaps because it recognized this logical flaw, the Sierra Club decided to attack the economic and operational need for the project.

Sierra dutifully noted that in *Grand Canyon Trust v. Arizona Corporation Commission*, 210 Ariz. 30, 107 P.3d 356 (App. 2005), the court held that the Commission is not required to determine the need for the project based only on the power needs of in-state consumers, but may look beyond state borders as well. Sierra concedes that the evidence demonstrates that economic benefits will flow to California. But, it argues that the benefits are too minimal to justify the perceived environmental impact.

Regardless, however, of this Sierra Club interpretation of the data, it is evident that SCE would not commit the funds for this project, nor would California regulators permit utility customers to pay for it, if they weren't convinced of its value.

On the Arizona side, P.V.-Devers 2 will greatly assist local utilities in selling off-peak, off-system power, benefiting their ratepayers. Currently, according to BTA 4, transmission from Palo Verde to California is inadequate to allow all Palo Verde Hub generation full access to the California market. BTA 4 projects that future transfer capability will be adequate, but that includes and requires the 1,200 MW of capacity gained from P.V.-Devers 2 beginning in 2009.²

However, the big picture goes beyond these considerations. Arizona is the fastest growing electricity market in the country. For example, APS' peak load is rising at a compound rate of four percent a year. That means that Arizona will need thousands of megawatts of new capacity in the next two decades.

Arizona utilities will reach outside the state for much of that need. But, some of it, including renewable resources, should be built in Arizona, including possibly a portion of the 6,000 MW of capacity that has already been licensed but not yet built here. Investors, however, will not build where they have constrained access to outside markets. That would be precisely the effect of rejecting P.V.-Devers 2.

Parochial views of need and myopic statutory assessments will not get us through the energy crisis that is coming. The need to access renewable resources and combat the effects of global warming will force western utilities into huge regional partnerships to develop new resources and ship energy where it is needed.

² BTA 4 @ 59.

Transmission has to cross state lines. Similarly, investment also has to cross borders to make expensive and risky clean energy projects feasible.

Currently, western transmission projects are being studied that could involve up to 7,000 miles of transmission line and up to 12,000 MW of capacity. And that doesn't yet count 6,000 MW of wind energy that is trying to find a way out of New Mexico into Arizona, Nevada and Southern California.

States which are actively involved in these plans include Montana, Wyoming, Washington, Oregon, Utah, Nevada, California, Arizona and New Mexico.

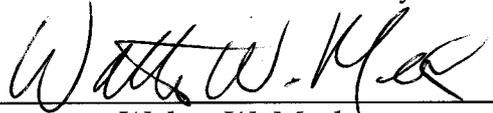
Summary

It is very difficult to quantify precisely the long-term benefits of P.V.-Devers 2, but that does not change the fact that they exist. Arizona needs new energy resources. By expanding the export capability of the Palo Verde hub, P.V.-Devers 2 will encourage that investment.

In the grand scheme of things, P.V.-Devers 2 is an important strand in the growth of the larger western grid, which will benefit consumers throughout the region. And, in the meantime, P.V.-Devers 2 could be the lynchpin that determines whether Southern California utilities can participate in projects like TransWest Express or APS' 250 MW solar trough power plant in Arizona.

With its own energy future in the balance, Arizona certainly does not want to be known as the state that turned down an interstate transmission project because someone mistakenly thought the local payoff wasn't big enough.

RESPECTFULLY SUBMITTED this 7th day of May, 2007.



Walter W. Meek

Original and 25 copies of the foregoing
filed this 7th day of May, 2007, with:

Docket Control
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

Copies of the foregoing hand-
delivered this 7th day of May, 2007, to:

Christopher Kempley, Esq.
Legal Division
Arizona Corporation Commission
1200 West Washington
Phoenix, Arizona 85007

Keith Layton, Esq.
Legal Division
Arizona Corporation Commission
1200 West Washington
Phoenix, Arizona 85007

Ernest Johnson, Esq.
Utilities Division
Arizona Corporation Commission
1200 West Washington
Phoenix, Arizona 85007

Copies of the foregoing mailed
this 7th day of May, 2007, to:

Laurie A. Woodall, Esq.
Office of the Attorney General
1275 West Washington
Phoenix, Arizona 85007

Thomas Campbell, Esq.
Albert H. Acken, Esq.
Lewis and Roca
40 North Central Avenue
Phoenix, Arizona 85004-4429

Michael D. Mackness, Esq.
Southern California Edison
2244 Walnut Grove Avenue
P.O. Box 800
Rosemead, California 91770

Scott S. Wakefield, Esq.
RUCO
1110 West Washington, Suite 220
Phoenix, Arizona 85007

Karilee Ramaley, Esq.
Pinnacle West Capital Corporation
P.O. Box 5399, M.S. 8695
Phoenix, Arizona 85072-3999

Kelly J. Barr, Esq.
SRP Law Department
P.O. Box 52025, PAB 221
Phoenix, Arizona 85072-2025

Timothy M. Hogan, Esq.
202 East McDowell Road, Suite 153
Phoenix, Arizona 85004

Kenneth M. Frakes, Esq.
Court S. Rich, Esq.
Rose Law Group
7272 East Indian School Rd., Suite 360
Scottsdale, Arizona 85251-3951

William D. Baker, Esq.
Ellis & Baker
7301 North 16th Street, Suite 102
Phoenix, Arizona 85020

Larry K. Udall, Esq.
Curtis, Goodwin, Sullivan, et al.
501 East Thomas Road
Phoenix, Arizona 85012-3205

Patrick Black, Esq.
Fennemore Craig
3003 North Central Avenue, Suite 2600
Phoenix, Arizona 85012

Laura Sixkiller
Roshka Dewulf & Patten
400 East Van Buren, Suite 800
Phoenix, Arizona 85004-2262

Donald Begalke
P.O. Box 17862
Phoenix, Arizona 85011-0862