

ORIGINAL **SOUTHWESTERN**
Power Group II, LLC
An Energy Company - Alliance Builder



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Docket No. L-00000BB-01-0118-00000

December 28, 2007

Arizona Corporation Commission
DOCKETED

DEC 28 2007

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

DOCKETED BY 

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ARIZONA CORPORATION
COMMISSION

Subject: Bowie Power Station, L.L.C. 2007 Self-Certification Letter
(Decision Nos. 64625, 64626 and 69339)

Dear Mr. Johnson:

Pursuant to Condition No. 24 of Decision No. 64625 and Condition No. 11 of Decision No. 64626, Bowie Power Station, L.L.C. ("Bowie") submits this Letter of Self-Certification ("Letter") for the year 2007.

Bowie received an extension of both Certificates of Environmental Compatibility ("CEC" or "CECs") granted in Decision Nos. 64625 and 64626, on February 20, 2007 in Decision No. 69339. This Decision extended both of Bowie's CECs through December 31, 2010. In filing this Letter with the Commission, Bowie certifies compliance with all the Conditions imposed by Decision Nos. 64625, 64626 and 69339.

Bowie has been advised by the Arizona State Land Department ("ASLD") that both a portion of the transmission alignment and the location of the Willow Substation, which is the subject of Decision No. 64626, will require adjustments to comply with ASLD requirements. In this regard, Bowie has consulted with the Commission's Staff regarding the possibility of a future amendment to Decision No. 64626 that would reflect these route and site adjustments to those originally approved by the Commission. In such event, it is Bowie's belief that the amendment would not result in a substantial change to the original sightings approved in Decision No. 64626.

In addition Bowie advises the Commission that the power plant aspect of the project commenced construction in 2007. In that regard, attached is a copy of a letter dated November 1, 2007, from the Arizona Department of Environmental Quality that recognizes the construction status of the project. Bowie currently anticipates the first phase of the power plant, nominally 500 megawatts, will achieve commercial operation by the third quarter of 2010.

Bowie has remained fully compliant with all Conditions throughout 2007 with respect to both CECs as originally granted and thereafter extended. As the project's activity increases, Bowie will continue to remain in compliance with the Conditions that are the subject of Decision Nos. 64625, 64626 and 69339.

Please direct any questions that may arise from this report to the undersigned at (602) 808-2004.

Sincerely,



Tom C. Wray
Manager, Transmission and Generation Projects

Attachment (1)
Cc: File

Docket Control
David Getts, Southwestern Power Group
Kevin Torrey, Esq., Legal Division, Arizona Corporation Commission
Prem K. Bahl, Utilities Division, Arizona Corporation Commission
Jennifer Boucek, Designee for Office of Attorney General
Ed Ranger, Designee for Director of Arizona Department of Environmental Quality
Gregg Houtz, Designee for Director of Arizona Department of Water Quality
Doug Eberhart, Designee for Chairman of Arizona Corporation Commission
Mark Ellery, Designee for Director of Arizona Department of Commerce:
Energy Department
Lawrence V. Robertson, Jr., Esq., Counsel for Southwestern Power Group



Janet Napolitano
Governor

ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY

1110 West Washington Street • Phoenix, Arizona 85007-2935
(602) 771-2300 • www.azdeq.gov



Stephen A. Owens
Director

CERTIFIED MAIL RETURN RECEIPT REQUESTED

November 1, 2007

David Getts, Manager
Bowie Power Station LLC
3610 N 44th Street, Ste 250
Phoenix, AZ 85018

Subject: Commencement of Construction of the Bowie Power Station

Dear Mr. Getts:

The Arizona Department of Environmental Quality (ADEQ) is in receipt of your letter, dated October 23, 2007, documenting the steps that Bowie Power Station LLC (Bowie) has taken towards construction of the natural gas fired power plant granted Air Quality Permit Number 34918. As you know, the air permit was issued on March 13, 2006. In accordance with Arizona Administrative Code R18-2-402.D.4 (Condition II.B.1 of Attachment "B" of Permit Number 34918) the Director is required to terminate a permit if the proposed construction is not begun within 18 months of issuance. Your letter was submitted to demonstrate that Bowie "commenced construction" of the power plant prior to September 13, 2007.

"Commence" as applied to the construction of a source is defined by Arizona Administrative Code (A.A.C.) R18-2-101.27:

[T]he owner or operator has all necessary preconstruction approvals or permits and either has:

- a. Begun, or caused to begin, a continuous program of actual on-site construction of the source, to be completed within a reasonable time; or
- b. Entered into binding agreements or contractual obligations, which cannot be cancelled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be completed within a reasonable time.

The Department has reviewed the submitted information and finds that Bowie has demonstrated that all preconstruction approvals or permits have been obtained. Bowie has not begun actual on-site construction, therefore, your letter was submitted to demonstrate that Bowie has entered into binding agreements or contractual obligations to undertake a program of actual construction that cannot be cancelled or modified without substantial loss. The Department finds that several of the costs cited by Bowie demonstrating that a substantial loss would be incurred are not appropriate in determining if construction was commenced. Specifically, the present value of the pre-tax cash flow (\$210 million) and the cost of real estate purchased by Bowie (\$1.8 million) are not considerations for determining substantial loss with regard to commencing construction.

Northern Regional Office
1801 West Route 66 • Suite 117 • Flagstaff, AZ 86001
(928) 779-0313

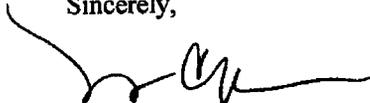
Southern Regional Office
400 West Congress Street • Suite 433 • Tucson, AZ 85701
(520) 628-6733

The Department does agree, however, that the purchase of the two turbines (at a cost of \$78 million) should be considered toward the determination of substantial loss. In addition, the contract Bowie has signed with MMR Constructors, Inc (MMR) has a minimum cancellation fee of \$4 million. Moreover, the Department is aware that on-site construction has not yet begun in large part because Bowie pursued approval to construct and operate an innovative coal fired power plant rather than the natural gas fired power plant and only recently concluded that a coal fired plant would not be feasible. The Department recognizes the extensive time and money that have been invested in the attempt to gain approval of the coal fired plant.

In light of these costs, and the overall project cost of \$800 million, the Department finds that Bowie has entered into binding agreements that would result in substantial loss, and therefore has commenced construction of the Bowie Power Station.

If you have any questions please contact Trevor Baggio at (602) 771-2321.

Sincerely,

A handwritten signature in black ink, appearing to read 'Nancy C. Wrona', with a long horizontal flourish extending to the right.

Nancy C. Wrona, Director
Air Quality Division

NCW: tb4

cc: Kathleen Stewart, EPA Region IX