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AZ CORP COMMISSION
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BEFORE THE ARIZONA POWER PLANT

AND TRANSMISSION LINE SITING COMMITTEE

IN THE MATTER OF THE APPLICATION OF ARIZONA PUBLIC SERVICE COMPANY, IN CONFORMANCE WITH THE REQUIREMENTS OF ARIZONA REVISED STATUES §§ 40-360, *et seq.*, FOR A CERTIFICATE OF ENVIRONMENTAL COMPATIBILITY AUTHORIZING THE TS-5 TO TS-9 500/230 kV TRANSMISSION LINE PROJECT, WHICH ORIGINATES AT THE FUTURE TS-5 SUBSTATION, LOCATED IN THE WEST HALF OF SECTION 29, TOWNSHIP 4 NORTH, RANGE 4 WEST AND TERMINATES AT THE FUTURE TS-9 SUBSTATION, LOCATED IN SECTION 33, TOWNSHIP 6 NORTH, RANGE 1 EAST, IN MARICOPA COUNTY, ARIZONA.	DOCKET NO. L-00000D-08-0330-00138 CASE NO. 138

Arizona Corporation Commission
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NOTICE OF FILING AND REQUEST FOR JUDICIAL NOTICE

During proceedings before the Arizona Power Plant and Line Siting Committee ("Committee") Committee Member and Commissioner William Mundell questioned witness Ray Williamson of the Arizona Corporation Commission ("Commission") Utilities Division Staff ("Staff") as to historic Commission decisions regarding Certificate of Environmental Compatibility ("CEC") conditions. The inquiry requested references to specific cases when the Commission had ordered requirements on CEC applicants that exceeded the reliability requirements established by the Western Electricity Coordinating Council ("WECC") and the North American Electric Reliability Corporation ("NERC"). Additionally, questions were directed to Mr. Williamson regarding the earlier line siting case #111. In reference to both inquiries, Staff hereby provides notice of filing the following response and respectfully requests Committee Chair John Foreman take judicial notice of the information related in the response.

I. Cases Approving CEC Conditions More Stringent Than WECC/NERC Require

There are two different types of conditions that the Commission has required since 2000 that go beyond WECC and NERC requirements. The first requires applicants to satisfy the single contingency outage criteria (N-1) without reliance on remedial action schemes. (WECC allows remedial action schemes, such as generation dropping, to satisfy the single contingency outage

criteria, N-1.)

The following are the cases where this condition was required:

Case No.	Project
96	Harquahala Power Plant
98	Duke-Arlington 1 Power Plant
99	Panda-Gila River Power Plant
101	Mesquite Power Plant
104	Kyrene Power Plant
105	Santan Power Plant
106	Gila Bend Power Partners Power Plant
107	Sundance Power Plant
117	Arlington Valley 2 Power Plant
118	Bowie Power Plant
133	Northern Arizona Energy Project Power Plant
135	Palo Verde Hub to N. Gila 500 kV Line

The second condition that the Commission has consistently required that exceeds WECC and NERC requirements is a condition that either requires new transmission lines to be placed a minimum of 100 feet away from the edge of existing major natural gas transportation pipeline rights of way, or the development of a mitigation/protection plan in the case when the line is placed 100 feet or less from any such pipeline right of way. This requirement goes beyond the WECC and NERC requirements.

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The following are the cases where this type of condition was required:

Case No.	Project
118	Bowie Power Plant
121	Apache-Winchester 230 kV Line
122	APS W. Valley South 230 kV Line
123	Bills -Wilmot 138 kV Line
124	Palo Verde – Pinal West 500 kV Line
125	Sandario 115 kV Interconnection
126	Pinal West – SEV/Browning 500 kV Line
131	TS-9 to Pinnacle Peak
135	Palo Verde Hub to N. Gila 500 kV Line
136	Sundance to Pinal South 230 kV Line
137	Vail Area 138 kV Line

II. Discussion Of Line Siting Case #111 As An Instance Of Commission Decisions Based On Reliability Criteria Exceeding WECC/NERC Criteria

Questions were also directed to Mr. Williamson regarding Line Siting Case #111, the 345 kV Transmission Line from Sahuarita to Nogales. (*See* transcripts from 10/21/2008, pages 1231-1236). These questions pertained to whether Case #111 would be an instance where the Committee and Commission had approved a transmission line premised on the need to improve reliable delivery of electric power to ratepayers. Mr. Williamson offered to research the record to answer these questions.

In 1999, a Commission docket was opened entitled "In the Matter of Service Quality Issues, Analysis of Transmission Alternatives and Proposed Plan of Action in the Santa Cruz Electric Division of Citizens Utilities Company" (Docket. No. E-01032A-99-0401.) The purpose of the docket was to address service problems and outages in Santa Cruz County and Nogales. In Decision No. 62011 (November 2, 1999), the Commission approved a Settlement Agreement between Citizens Communications Company ("Citizens") and Staff which directed Citizens to construct a second transmission line to Nogales by December 31, 2003 to deal with these issues. In Decision No. 64356 (January 15, 2002), the Commission amended and approved a CEC granted by the Committee to Joint Applicants Tucson Electric Power and Citizens to construct a 345 kV

Transmission Line from Sahuarita to Nogales.

Case #111, in conjunction with the settlement adopted by Decision No. 62011, represents an instance of the Commission ordering a transmission line for reliability purposes and surpassing the WECC and NERC reliability requirements in order to ensure safe and reliable service to Arizona customers.

III. Request For Judicial Notice

Staff respectfully requests that the Committee take judicial notice of these prior decisions. Staff notes that neither the statutes governing proceedings of the Committee, Arizona Revised Statutes §40-360 *et seq*, nor the administrative rules specific to the Committee, R14-3-201 *et seq*, provides that the Committee has authority to take judicial notice of evidence. However, the rules governing Commission proceedings do permit for judicial notice to be taken. *See* Arizona Administrative Code Rule R14-3-109(F).

It is Staff's belief that the rules governing Commission proceedings apply to Committee proceedings as well, unless contradicted by a comparable Committee-specific rule. The basis for this contention is the canon of statutory construction that the specific governs the general. In this sense, the Commission rules articulate the general statement of the rules governing proceedings of both the Commission and Committee. It is only where the more specific rules particular to the Committee are in conflict that the Committee rule must apply instead of the Commission rule. The presence of the Committee rules immediately following the Commission rules within the Administrative Code's provisions for practice and procedure before the Commission lends itself to the conclusion that the Committee rules are meant to be read as supplementing, and where appropriate, superseding the Commission rules.

Staff further notes that Commission decisions are citable. Likewise, the implementation of an electronic docket, the Commission's e-docket, permits for ease of locating and obtaining copies of Commission decisions such as those that have been noted earlier. It is therefore reasonable to conclude that prior Commission decisions, being readily verifiable as to existence and content, are amenable to judicial notice.

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As there is no Committee-specific rule prohibiting the Committee from taking judicial notice of prior Commission decisions, Staff respectfully requests that the Committee take judicial notice of the above included discussion of prior Commission decisions.

RESPECTFULLY SUBMITTED this 20th day of November, 2008.

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Original and twenty-five (25) copies of the foregoing filed this 20th day of November, 2008 with:

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