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RECEIVED

IN THE MATTER OF THE APPLICATION OF SALT RIVER PROJECT, OR THEIR ASSIGNEE (S), IN CONFORMANCE WITH THE REQUIREMENTS THE ARIZONA REVISED STATUTES 40-360.03 AND 40-360.06 FOR A CERTIFICATE OF ENVIRONMENTAL COMPATIBILITY AUTHORIZING THE CONSTRUCTION OF NATURAL GAS-FIRED, COMBINED CYCLE GENERATING FACILITIES AND ASSOCIATED INTRAPLANT TRANSMISSION LINES, SWITCHYARD IN GILBERT, ARIZONA LOCATED NEAR AND WEST OF THE INTERSECTION OF VAL VISTA DRIVE AND WARNER ROAD

RESPONSE TO SRP'S REQUEST FOR PROCEDURAL CONFERENCE BY INTERVENOR CATHY LOPEZ AND RENEWED REQUEST FOR CONTINUANCE

CASE NO. 105 Arizona Corporation Commission DOCKET NUMBER L00000B-00-0105

OCT 10 2000

DOCKETED BY [Signature]

Intervenor Cathy Lopez hereby responds to Applicant Salt River Project's Request for Procedural

Conference as follows:

1. Follow up on the Request of Ray Heyman to consolidate the interests of the fourteen intervenors:

RESPONSE: I object to this request for many reasons. First, this request has been argued and an order from the chairman was entered on record at the hearing held on September 14, 2000 before the Power Plant and Transmission Line Siting Committee denying this request. As I stated on the record at the hearing on September 14, 2000:

... There are different people here from different walks of life that have different perspectives on the Santan expansion plant, and that experience and involvement is going to come across a little bit different from everyone that is going to speak. And I would ask that you would entertain the idea of letting each individual intervenor speak on their respective issues of concern, and also take into consideration that we don't want to waste your time. We're not here to waste your time, we just here to let you know what our issues and concerns are ... (See hearing transcript page 22, lines 9 through 22)

Second, Mr. Sundlof stated on the record at the hearing on September 14, 2000:

... It is good to actually see this level of public involvement here, because that's exactly the point of what SRP has been trying to do over the past many months, is involve as many members of the public to provide as much educational material as possible, and get the most extensive process in the history, a consensus of what the community wants, looking at all aspects of the community, the town of Gilbert, the surrounding areas, the businesses, the residents near and far. . . (See hearing transcript page 132, lines 8 through 18)

Third, this Committee must look at what SRP and is really asking from this Committee relating to this issue. I am of the opinion that SRP is really asking this Committee to limit the public involvement of each intervenor by restricting their individual rights to present material facts, testimony including presentation of evidence and cross-examination of any witness. Americans across this country are encouraged to get involved in their community. This involvement would certainly include getting involved in a proposed power plant in their backyards.

Fourth, as previously stated on the record by all intervenors who made an appearance at the September 14, 2000 Hearing, we all respect the basic principle that this committee does not want to hear repetitive information presented by evidence, testimony or cross-examination. I believe that the individual intervenors did not abuse the order of the chairman in the presentation of material facts, testimony including presentation of evidence and cross-examination of any witness. However, for this committee to limit the rights of any intervenor to discuss, object, cross-examine or present evidence is simply inequitable and therefore such request should again be denied.

2. SRP's Request to withdraw its testimony on the polling and survey efforts of The Summit Group.

RESPONSE: I object to this request for many reasons. First, I made the Applicant well aware of the issues and problems surrounding the polling results on many occasions. I would direct this committee's attention to the first exhibit filed with my Notice of Filing Exhibits dated September 21, 2000 and filed with the Arizona Corporation Commission. This exhibit is a newspaper article relating to the polling and survey efforts conducted by SRP's consultant The Summit Group. On August 29, 2000 I attended a document review at SRP. Intervenor Jennifer Duffany also attended this document review. I brought this article with me to the document review and SRP made a copy of this article. I also discussed this article with Terry Lonon at SRP and Randy Dietrich. Intervenor, Jennifer Duffany also discussed this article with Terry Lonon and Randy Dietrich. Mrs. Duffany indicated to SRP that a representative and/or employee of SRP had also visited their home. Mrs. Duffany confirmed that this representative became argumentative with her husband because he was not in favor or supportive of SRP's expansion plans for the Santan plant.

Second, even though I requested any and all information relating to the polling and survey efforts by The Summit group and/or SRP, these records were not made available to me until 9/12/00 and again on 9/14/00. This is confirmed in my testimony on record during the September 14, 2000 Hearing. (See hearing transcript page 126, lines 12-18 and page 127, lines 10-15)

Third, the Applicant proceeded with the testimony of Mr. David Areghini regarding the polling survey efforts even in light of the issues and problems surrounding this survey. This committee should look at this issue very carefully. The applicant has and will proceed with any evidence and/or testimony, which serves to support their position until someone, questions the validity of such evidence or testimony of their witnesses. I believe the applicant intentionally did not provide me in advance with any documentation regarding the polling results because of the validity of such documentation.

Fourth, SRP's argument that the work of The Summit Group does not relate to any environmental issues in a Siting Committee case is unfounded. For SRP to now take the position and to tell this committee, all the intervenors that the work of The Summit Group does not relate to environmental issues in a line siting case is in direct controversy of A.R.S. 40-360.06 A (6) and (9).

A.R.S. 40-360.06 Factors to be considered in issuing a certificate of environmental compatibility:

- A. The committee may approve or deny an application and may impose reasonable conditions upon the issuance of a certificate of environmental compatibility and in so doing shall consider the following factors as a basis for its action with respect to the suitability of either plant or transmission line siting plans:
 6. The total environment of the area.
 9. Any additional factors which require consideration under applicable federal and state laws pertaining to any such site.

The lifestyle, which I am afforded, deals directly with quality of life. For SRP to argue that the polling results does not relate to environmental issues is ridiculous. The word *environment* (noun) is defined as:

- Surrounding or associated matters that influence or modify a course of development....

I would argue that the proposed expansion of the Santan plant and its surrounding areas or associated matters will influence and most definitely modify a course of development which is my life and the lives of thousands of residents of Gilbert.

If SRP wants to now get technical on the on the relevant meaning of the word "environment," the following is a short list of words, which are synonyms of the word environment:

- surroundings, setting, situation, atmosphere, location, conditions, circumstances, state of affairs, ambiance, context

Fifth, SRP's argument that exhibits were shown but **not** introduced into evidence is outrageous. Mr. Areghini provided detailed testimony regarding the polling efforts and results as reflected in the hearing transcript. The testimony of Mr. Areghini was based upon SRP's exhibits A-26 through A-29. Reference is made to the testimony of Mr. Areghini and these exhibits at the hearing transcript pages 185-199. While it is noteworthy to point out that I will not address each and every page of the hearing transcript where Mr. Areghini testified to the polling results including cross-examination, but will point out that the record speaks for itself.

Sixth, this Committee must look at what SRP is really asking regarding the withdrawal of testimony. I am of the opinion that SRP is again trying to dictate to this Committee what SRP alone perceives as relevant evidence to the issues at hand and when their own evidence blows up in their face, they again want to control what is relevant to this Committee. I would remind this Committee that SRP presented this evidence and now that the evidence does not work to their benefit they want to remove all testimony, all cross-examination by members of this committee and all cross-examination by the individual intervenors. To grant SRP's motion to remove from the record this testimony, cross-examination and all evidence relating or regarding this testimony would not serve in the best interest of these proceedings and would make a mockery of these proceedings.

Finally, I would request this committee enter its order requiring SRP to make available Mr. Crusa from The Summit Group to testify regarding the polling efforts and results as SRP agreed on record during the September 14, 2000 hearing.

3. The request that extensive material be made available to the members of the Siting Committee.

RESPONSE: Of course I object to this request. Administrative proceedings were designed for flexibility. SRP argues that it should not make available to the committee extensive material, most of which SRP argues has **little** relevance to the proceedings and none of which SRP intends to introduce as exhibits at the hearing. Upon reviewing SRP's records, I believe that the power from this plant will be sold on the open market. This statement is confirmed in SRP's 2000 Annual Report at page 20 entitled 1. Basis of Presentation – The Company. In further support of the statement that SRP plans to sell power on the open market, reference is made to the following statement which is referenced at page 20 of SRP's 2000 annual report:

On May 1, 1997, the District established a wholly-owned, taxable subsidiary, New West Energy Corporation (New West), to market, at retail, energy produced by the District that may be rendered surplus by retail competition in Arizona in the supply of generation (See Note 3).

It is important to note that SRP representations to the general public have consisted of statements made by SRP that 100% of the power from this plant will be used for the east valley. Until recently that statement has now been revised to indicate that SRP may during off-peak times sell the power generated from this plant. Hence, my request that any and all public awareness materials be made available to this committee. While there are many issues of conflicting information and statements made by SRP surrounding the expansion of the proposed plant, my request for this material to be made available to this committee is based upon what I perceive as misrepresentation of material facts to the general public by SRP.

Based upon the foregoing, below is a list of documents I believe most **relevant** to these proceedings and which I believe should be made available to this committee:

1. All Minutes from the Power Committee meetings from 1991 through the current. Most of these records have been provided to me. These records tell a story of SRP's plans and actions taken over the past ten years. My argument would be that in order for this committee to verify the validity of statements SRP has made in their CEC application and to verify the statements SRP plans to introduce into evidence these records should be made available to this committee to verify the truth of the matters in these proceedings. These materials do cover a lengthy time period and for this committee to comprehend these material during a hearing is a task that would be simply overwhelming.
2. All Minutes from the Board of Directors meetings from 1991 through the current. Most of these materials have not been provided to me as of this date. Again these records tell a story of SRP's plans and actions taken over the past ten years. My argument would be that in order for this committee to verify the validity of statements SRP has made in their CEC application and to verify the statements SRP plans to introduce into evidence these records should be made available to this committee to verify the truth of the matters in these proceedings. These materials do cover a lengthy time period and for this committee to comprehend these material during a hearing is a task that would be simply overwhelming.
3. EPG's complete file and materials presented at each CWG meeting, OPEN house or any other meeting relating or regarding the San Tan Expansion Plant. This includes all Boards, all digital files, etc. Some of this information has been made available to me. Remember this is SRP's consultant who assisted with the community-working group, open house presentations, meeting with governmental agencies, and assistance with the SRP's CEC application. My argument would be that in order for this committee to verify the validity of statements SRP has made in their CEC application and to verify the statements SRP plans to introduce into evidence these records should be made available to this committee to verify the truth of the matters in these proceedings. These materials do cover a lengthy time period and for this committee to comprehend these material during a hearing is a task that would be simply overwhelming.
4. Business Plans:
 - A. Any and all business plans of SRP relating or regarding the need for power from 1990 through 2000.
 - B. Any and all business plans of SRP relating of regarding the need for power from 2000-2020.

No Business plans have been made available and SRP has objected on the grounds that such information is proprietary and confidential information. SRP made available load projection reports for selected years. These records tell a story of SRP's plans and actions taken over the past ten years. My argument would be that in order for this committee to verify the validity of statements SRP has made in

their CEC application and to verify the statements SRP plans to introduce into evidence these records should be made available to this committee to verify the truth of the matters in these proceedings. These materials do cover a lengthy time period and for this committee to comprehend these material during a hearing is a task that would be simply overwhelming.

- 5 EPA, State, County AND THE Town of Gilbert Communications. On this issue I have requested the following:
- a) Any and all communications with EPA, any division of the State of Arizona and any division of the county of Maricopa relating or regarding the Santan Expansion Project.
 - b) Any and all environmental reports, health and welfare reports relating or regarding the Santan Expansion Project.
 - c) Any and all communication with the Town of Gilbert relating or regarding the Santan Expansion Project.

SRP's response to the above documents I have requested is "**there are no written communications.**" If this Committee would be inclined to believe this statement I would again direct their attention to my Notice of Filing Exhibits dated September 21, 2000 and filed with the Arizona Corporation Commission. Throughout these exhibits there are numerous communications in writing between SRP and the Town of Gilbert.

Based upon the foregoing, this committee should order that SRP provide to me and this committee copies of all documents which I have requested for the purposes of denying or granting SRP's CEC application.

4. Resolution of Discovery Disputes with Intervenor Cathy Lopez.

RESPONSE: First, SRP argues that the communications between SRP and its customers including e-mail communications are privileged communications under an expectation of privacy. This argument is weak in the fact that SRP established a *public* web site and e-mail address to answer questions relating or regarding the public process of the Santan Expansion Project. The key here is "public process" not "private process."

Second, SRP argues the Electric Power Competition Act affirms this expectation of privacy and makes it unlawful for SRP to release customer information without the customer's consent. This argument is also weak in that I am not requesting records as a competitor. This information was sought and gathered under the public process of this plant as stated in SRP's CEC application. While I have suggested that SRP redact information relating to the names or addresses of any customer and if any account information is contained within such communications this information certainly can be redacted and produced.

Third, SRP argues that answers to individual customer questions have little or no relevance to the environmental issues facing the Siting Committee is without merit. I would argue that information provided to the general public regarding the proposed expansion of this plant is certainly relevant as SRP has carefully manipulated information to the general public time and time again. My testimony before this committee will prove the SRP's disclosure and dissemination of materials to the general public through advertisement, public open houses and public awareness is far from reality. An example of this would be the public polling efforts and results as presented during the September 14, 2000 hearing before this committee. (i.e. The Summit Group)

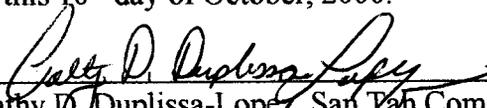
Fourth, I would like to also direct this committee's attention other applicant's CEC applications where they have chosen to provide copies of public comments within their CEC application. This practice of including public comment forms would certainly go against SRP's claims for the producing such information.

Fifth, SRP would like to discuss additional issues regarding the scope and duration of discovery. I would agree that a full discussion and order from this committee would be in the best interest of these proceedings regarding outstanding discovery and additional discovery request. Reference is made to all SRP's Data Request and my Data Request to SRP, which is incorporated herein by reference.

5. Scheduling Matters.

I believe that SRP's request to discuss scheduling time frames for the various presentations would serve in the best interest of these proceedings. I object to SRP request that these proceedings be completed on October 25, 2000. The grounds for this objection is that documents requested and which I have not received has and will place me in an unfair advantage to properly prepare for additional proceedings. I would request that this committee schedule any additional hearings 30 days from the last date which I and this committee receives requested documentation from SRP. This would include postponement of the October 25, 2000 hearing as a result of SRP's failure to provide requested documentation.

RESPECTFULLY SUBMITTED this 10th day of October, 2000.



Cathy D. Duplissa-Lopez, San Tan Community
Working Group and Resident of Gilbert, Arizona

Original and 25 copies filed
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