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Mark Sequeir
Citizens Opposed to SanTan
2236 East Saratoga Street
Gilbert, Arizona 85296
(480)503-4877

Chairman, COST

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 VALVISTA AND WARNER ROAD.

**Closing Arguments before the ACC Power Plant and Line Siting Committee
Case # L00000B-00-0105**

Intervenor Mark Sequeira, Citizens Opposed to SanTan

The COST

You have heard the facts presented before this committee. You have heard the arguments based on those facts. Have you heard ALL the facts? We don't know. You must judge from the evidence you've heard whether or not SRP has proved their case and that adding three new power plants to the center of a residential area of Gilbert will do no harm. If SRP has not proven their case then I ask you to reject their application and wait until such time as SRP submits an application that can assure you that their proposed expansion is compatible.

You will recall that SRP's attorney, Mr. Sundlof, in his opening statement claimed that he was going to show you three topics in his presentation before this committee with an EMPHASIS ON COMMUNICATION WITH THE PUBLIC: 1. The Need 2. That it was supported by the community 3. Environmentally compatible with the community

Sundlof re: The need

Please consider that Mr. Sundlof stated in his opening re. NEED, that either we build these new plants or we will get miles of new transmission lines. You have heard in testimony that we will be getting new lines regardless of whether SanTan is allowed an expansion or not. It was further brought out in testimony that SanTan will not solve our long-term power needs. I stress that this committee never heard the complete solution as to how SRP was going to meet this need or how SanTan would benefit this overall plan. It was not shown that if additional generating facilities were built outside of the Valley that they could not be of such size that SanTan would be unnecessary. SRP has mentioned reliability concerns re:

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Thursday, December 21, 2000

Arizona Corporation Commission

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Why you should allow 3 new plants to be built so close to residents; However SRP already has a 300 megawatt facility on site to boost power. They will also soon have Kyrene with a new 250 megawatt plant. There is also SunDance/Coolidge which will take pressure off SanTan alone having to be the source of this power. They are adding two 230kv lines and 600megawatts by 2002.

Has SRP proven the need? I've seen slides and powerpoint presentations but has this committee seen actual documents or questioned witnesses to the exact amount of power SRP needs both off-peak and on-peak? Did SRP prove usage by showing actual documents. Did they even prove that last year they had 3 days or 11 days of record usage? Did they prove that last year they ran the plant 50+% of the time?

Shouldn't SRP and the Line Siting Committee be looking at long-term solutions including upgrading transmission lines into the Valley so that power currently being generated in Arizona can stay in Arizona? We all understand the Western regions power needs but that is why there are currently 13 other power plants (merchant plants) seeking approval of the ACC. I do not believe that SRP has proven the need for more generation. They have proven the need for power. However they are already generating the power. Please deny this application and wait until SRP can submit a plan to get the power they are already generating into substations throughout the Valley.

SRP never demonstrated that they were trying to get surplus power that they currently sell to other states into the East Valley. Currently SRP uses Arizona's resources to supply 20% of California's energy and 13% of their industrial power through NewWest and NRG. When new merchant plants begin coming online in Arizona, SRP will have more freedom to use their power locally.

Sundlof re: Community support

I think that this committee understands (through both testimony and exhibits) that this plant is not supported in the community. At best our community is strongly divided and confused regarding claims of education dollars, etc. You have heard in direct testimony that SRP hired the most powerful political consultants in Arizona to run an information campaign in sleepy Gilbert. I ask you why SRP would think this was necessary. SRP felt the need to counteract local communities that were opposed by creating their own 'support' including promises regarding dollars to Gilbert schools. You have heard that this is the biggest concern of Gilbert residents. SRP was obviously informed of the same. You have also heard under testimony from a person who works in school finance, Lou Wiegand, who told you that SRP can't make good on their claim to help Gilbert schools. SRP decided to go ahead with it's information campaign regardless, even after they were alerted to the facts.

There is no consensus in our community. Not just individuals who agree or disagree, the public's support or lack of it, but sharp division, bitterness against town government, disillusionment with SRP and their practices. There could be a consensus. If there was a better long-term plan. One that addressed transmission rather than generation. Or even a plant for plant exchange as in Kyrene. There would still be individuals who would be unhappy. SRP would likely be unhappy. But everyone could live with the solution. Some people would still sell their homes. Others would choose other communities when shopping for homes. But happily or unhappily we could live with that solution. No one wants additional power lines or larger ones. But if that was a real solution I think the community is mature and responsible enough to accept the committee's decision.

A look at the exhibit featuring emails and letters to SRP (including comment cards from are open houses) shows that the majority of residents oppose the proposed expansion.

Consider Mayor Dunham's comments before this committee. She doesn't like the plant and "doesn't think any community would want one as a neighbor. That's just common sense." Why is that? According

to SRP the air is going to be better. And they are spending all this money doing landscaping, etc. She also stated that the concerns expressed to you are genuine. Yet she also realizes the town's need for revenue and doesn't want brown-outs in summer. She is divided. She further stated that had she been on the Council when the land surrounding the plant was rezoned, that she "would not have allowed residential so close to the plant." You have seen written testimony that former Councilman, Phil Long was on various committees at the time and that when the issue of rezoning surrounding property came up, that SRP was not present and did not object. They made a choice at that time to not fight rezoning to residential of agricultural property, to rezone their current property or seek additional acres for transition or buffer. This is SRP's fault. It has to do with planning and it should not be put back on 35,000 residents at this time. Mayor Dunham said that the past is the past, but I have to disagree. Because NOW these young families are there. Just as the current facility was already there. They must be considered.

SRP's presentation and exhibits frequently mentioned cost of alternatives yet I failed to see environmental cost/social cost as a factor on their graphs. (Such as #86-4) What of the cost to area families? Is that not a concern? If the majority of young families invested their life savings in a home and now face either loss of equity, slowed equity or the cost of selling and moving - Who is paying for the expansion? Please DO NOT force area residents to pay the extra \$120,000, 000. at 20,000 homes x \$6,000. each. It is not responsible and it is sad that SRP (known for their customer satisfaction) are the ones suggesting this.

I ask you if the philosophy of the "few suffering for the sake of the many" is good public policy? Is it good planning? Please note that this philosophy would fit well in Stalin's Russia. I do not believe that it represents our republic or our ideals.

SRP decided to drop the area of 'public process' when it was realized that it would be closely examined. Mr. Sundlof's opening claimed that one-third of his argument would be based on the 'public process' and support in the community. I'd like the committee to consider what testimony was presented regardless of SRP's dropping the issue. Deliberate information that was crafted to influence area residents even when SRP knew the facts to be different. Information that was withheld from the community by Janeen Rohovit, etc. Information that was not published on their website or in mailers so that area homebuyers could make an informed choice. Information that was consistently withheld even after the direction of the Chairman, Mr. Bullis, instructed all parties to comply.

Currently, members of the community are speaking with attorneys regarding individual lawsuits against area homebuilders, the Town of Gilbert, SRP and real estate agents regarding the lack of disclosure. There is also the issue of a class action suit that is being explored. And the suit that will be brought regarding whether or not SRP has the legal jurisdiction to build a power plant without the Town of Gilbert's permission in regards to the power side of the company versus water. These suits are not in the best interests of the Town or it's residents. However, many residents feel as if they have no choice. Hearing their issues and particular circumstances I believe that they have the grounds for their various courses of action. SRP never proved to this committee the legal jurisdiction that they claim. Did they prove that right as a power company from past precedent or otherwise? Is it not in the committee's best interest to determine whether SRP does indeed have the right to build three new plants?

Sundlof re: Environmental compatibility

I would ask you to look over my enclosed testimony with special attention being given to the zoning/compatibility issues involved. Please look up and read the references cited. And then decide if this plant can be permitted in Gilbert, let alone a residential area within Gilbert. If SRP's plans CONTRADICT the documents and agreements that the Town has agreed should reflect the personality and neighborhood of our community, CAN IT BE COMPATIBLE?

SRP decided that the Kyrene facility wasn't compatible and downsized it together with the City Council.

Kyrene is a better site for such an expansion than SanTan. There is pre-existent heavy industry on two sides and a buffer/transition zone(s) between the plant and area homes. And there is much less risk due to accidents. As they say, "There is a first time for everything."

Mr. Sundlof stated in his opening that "the views would be minimal to none after screening". You have heard in direct testimony that trees will not hide the stacks that will be visible from the U.S. 60 (CEC application, E-4, Regional area, last line), that they will be the highest structures in the entire town, that there are few structures over two stories anywhere in Gilbert and that the trees will not even hide the 90 foot high HRSGs for another 10 or 20 years after they are planted.

There are noise concerns at continuous levels of 48-50db. The level is consistent with soft music playing in a home. I don't appreciate listening to others' music. And I know that those looking to buy a home won't either. This was not the case when the current owners bought their homes. Furthermore it is not consistent with what is there now. Concerns over venting in the middle of the night at 70+db. This presents a nuisance and is loud enough to cause "widespread complaints" and "several threats of legal action or strong appeals to local officials to stop noise" according to SRP. Should this be allowed simply because SRP already had a plant onsite? One that cannot be largely heard or seen? SRP decided to present only about one and a half minutes of direct testimony to noise and noise-related concerns. And only two very basic powerpoint slides. Yet they had noise studies done and knew the reaction. SRP could have easily demonstrated sound levels yet did not. Neither did they submit noise levels to the Town.

You heard testimony that if this project was submitted to the Design and Review Board of the Town of Gilbert or the Town Council that it would be rejected. That any expansion such as this plant would have to come into compliance with current zoning laws. This plant cannot be environmentally compatible with Gilbert if it cannot pass our zoning laws and general plan. Selective use was made of the Gilbert General Plan yet it was not included in the application because if it was read in it's entirety it would be clear that the site (on agricultural land) would not fit into Gilbert's vision for the future. And remember that the General Plan is not a 'binding' document as the zoning and 'Land Use Classifications' are. Sequeira exhibit #23 which is the amended Unified Land Development Code (Which was published in the Tribune, Tuesday, September 19, 2000) clearly demonstrates that this plant is not in conformance with Town planning. Consider that Mr. Petit, Asst. Mgr. of the Town of Gilbert was instructed to speak only to the issue of the IGA and not planning due to legal issues surrounding the plant and SRP's intended use.

SRP refused to fund any independent studies for the Town or area residents to assure homeowners and families that the plant would not harm them or their loved ones economically, physically, etc.

Area residents (when it was disclosed) were assured when they bought homes that SanTan was a peaking plant that ran only a few days a year to meet demand. I believe that the testimony shows that this was the intended use of SanTan when it was first constructed. Any usage beyond that original intent should be rejected.

Conclusion

SRP's application was and is preliminary and incomplete. It doesn't address area concerns. It doesn't solve our energy problems. It doesn't show alternatives and why they shouldn't be considered. SRP's studies were limited both in scope and direction. SRP failed to prove that their public process was either sincere or successful. They have repeatedly refused offers to look for solutions with the local community, HOAs or COST. They have also represented this hearing before the public incorrectly (Sequeira exhibit

exhibit # 8) as well as stated that they did not ask Mr. Petit to testify because "they were no longer going to talk about polling." What did Mr. Petit have to do with polling? He's the Asst. Town Manager and would speak to planning and land use and discussions with the Town of Gilbert.

The Town has not come out in support of these new plants. At least in front of the community. WHY? They have also found legal ways to address the issue without being liable. Is it because they fear an unpopular stance? Especially with more people opposing the plant than voted for the last Town Council?

In Tempe, SRP decided to minimize the plant expansion. There was the same need for power and the same 'environmental issues' at stake.

SRP failed to notify area residents when they were buying their homes so they could make an informed choice based on publically available factual data both pro and con and failed to seek (or restrict) zoning changes years ago that might justify this expansion.

SRP has claimed that the new plants will have no effect on the environment (Including property values). Who is going to pay for this plant? SRP has still not offered to guarantee to area residents that they will not be forced to pay the difference between SanTan and the alternative outside of Town. I understand that this would be 'precedent-setting,' but so is putting the fourth largest power plant with the wrong zoning into a residential neighborhood. SRP in good faith should offer to set up an escrow account that would exist to settle any damages occasioned by the expansion.

There are alternatives. According to testimony there is still a window for SRP to plan upgrades to the 230kv lines coming into the Valley. Without 'brownouts.' This may be the most 'elegant' solution. Although we won't be happy, it will at least solve the problem. There is also room out by SunDance/Coolidge that could easily tie into the planned lines. These and other alternatives would be more costly but not to just a few. It would be the cost of business that we would all equally share. It would also be the most 'sound' decision as far as wise planning, considering future growth and current land use surrounding the facility. Creating and protecting communities that are pleasing and desirable in the East Valley. Randy Dietrich has also stated in testimony that they would be planning to develop another power plant and transmission lines into town at the next site on their list of alternative locations.

The CAT study is just being completed.

SRP claims in their closing that they "have properly mitigated the air, noise, water,..." Have they? Have they proven that noise won't be a factor or nuisance? Proven that offsets would come from Gilbert (They cannot due to the LACK of industry)? That the four pollutants that will increase will not harm area asthma sufferers? That increasing the pollution to 310 days (85%) from 105 (30%) will not harm those same or other residents (When it is more likely to occur on 'no-burn' or ozone warning days)?

SRP's conditions leave too much room and don't go far enough. If you give SRP the 'benefit of the doubt', what recourse will area homeowners have?

If it was anybody else besides SRP, they could not pass the test of environmental compatibility because they wouldn't be able to get past the Town's standards and practices for noise, height, transition zones, buffer, risk,...(Sequeira exhibit #30, Gilbert Unified Land Development Code, 1.61, Ch. 1, pg 38, C-6) What makes SRP different? Why do they have a lesser burden than APS or any other company? The reason this committee has not heard a case of this kind before is that NO OTHER company would be able to build a plant in a residential neighborhood and in Tempe SRP realized that it was not a good idea.

SRP was unable to rebut the testimony of COST or other intervenors or prove that ours claims were untrue.

Please do not turn back the hands of time. Zoning was created to protect people from industry and it's effects. That is why we now all live in suburbs. If this plant sounds like a nuisance and looks like a nuisance it most likely is because it is a nuisance. Please say no to SRP.

I would ask you again to look at exhibit #5. A family lives in each one of those specks. Some of them have invested everything in the hopes of making a better life for their family and their children's future. If you cannot guarantee these families that no harm will come to them, if there is even a slight possibility in your mind that this expansion could hurt the families that live in those specks, please reject this application. Please give as much protection to those who are currently part of the environment as the current plant enjoys. It is grandfathered. So are they.

I had stated in my opening that I would present three arguments against the expansion: 1. Problems with SRP and their disclosure to the public 2. Concerns about placing this facility in a residential area 3. The need vs. power sales and alternatives I will leave it to this committee to decide what weight to place on the arguments presented. I believe that they are compelling and factual.

Thank you for your time and commitment,

Mark Sequeira
Intervenor