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Condition Re. Compensation to Real Property Owners 48

A. SRP Liable for Consequential Damages: SRP shall be liable to property owners who own property located within two miles of the Santan Power Plant for any diminution in the value of the property owners' real property attributable directly or indirectly to the Santan Power Plant expansion.

B. Compensation Escrow: SRP shall set aside within 90 days of the Commission's approval of the Santan Power Plant expansion, \$300,000,000 (the "Compensation Escrow"). (This figure is calculated on the basis of 15,000 residential lots located within a two-mile radius of the Santan Power Plant with an average value of \$170,000 experiencing an estimated average loss in equity or value of \$20,000.) The funds in the Compensation Escrow shall be placed in an interest-bearing account. For the duration of the Compensation Escrow, the funds shall remain available exclusively for the purpose of compensating real property owners who live within a two-mile radius of the Santan Power Plant who, (1) at any time prior to five years following the completion of the Santan Power Plant expansion; (2) initiate a legal action or administrative proceeding against SRP which results in an award, finding, order or judgment that the real property owners have suffered a compensable diminution in the value of their real property as a direct or indirect consequence of the Santan Power Plant expansion. SRP shall make deposits into the Compensation Escrow if necessary from time to time to maintain a minimum balance of \$50,000,000 in the fund. Any funds remaining in the Compensation Escrow after all timely filed claims have been fully adjudicated or resolved, shall revert to SRP.

C. Administrative Procedure: SRP shall engage in good faith negotiations with the Intervenor(s) or their designee(s) to establish an administrative claims procedure by which real property owners who own property within a two-mile radius of the Santan Power Plant may, at their election, make a claim for compensation from the Compensation Escrow for damages resulting as a direct or indirect consequence of the Santan Power Plant expansion.

D. Attorneys' Fees and Costs: Any real property owner who initiates a legal action or administrative proceeding against SRP seeking damages arising from the construction or operation of the Santan Power Plant expansion, shall, if successful, be entitled to seek and recover from SRP their reasonable attorney's fees and costs incurred in the successful prosecution of their claims, regardless of the nature of the legal theory upon which the claim is based.

E. Non-Limitation of Remedies: The funds set aside pursuant to Subsection B are intended to ensure the existence of a fund to compensate aggrieved real property owners for damages arising as a consequence of the Santan Power Plant expansion. Neither the Compensation Escrow nor any elective administrative claims procedure shall limit the amount of available compensation or the processes, procedures or remedies available to those seeking relief against SRP for damages caused directly or indirectly by the Santan Power Plant expansion.

Arizona Corporation Commission
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Condition (Alternative): Preservation of Legal Claims

A. SRP Liable for Consequential Damage: SRP shall be liable to property owners who own property located within two miles of the Santan Power Plant for any diminution in the value of the property owners' real property attributable directly or indirectly to the Santan Power Plant expansion.

B. Waiver of Specified Defenses: SRP shall waive any defenses it may have against any aggrieved person who may have a legal or equitable claim against SRP arising from the adverse affects, on health, or property values resulting directly or indirectly from the Santan Power Plant expansion, which defense is based upon or relates in any way to the administrative approval of the Santan Power Plant expansion application. In addition, SRP shall waive any available statute of limitations defense for a period of six years from the completion of the Santan Power Plant expansion.