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REHEARING 6-19-01

ORIGINAL

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

CASE NO. 105
DOCKET NUMBER
L00000B-00-0105

2001 MAY 30 P 1:2

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AZ CORP COMMISSION
DOCUMENT CONTROL

MOTION FOR RECONSIDERATION

Arizona Corporation Commission

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MAY 30 2001

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Pursuant to A.R.S. 40-360.07 C), Intervenors, hereby request the Arizona Corporation Commission to reconsider its May 1, 2001 decision to grant the confirm The Power Plant and Line Siting Committee February 14, 2001 Decision.

I. INTRODUCTION - GROUNDS FOR MOTION TO RECONSIDER:

The Arizona Corporation Commission along with the Power Plant and Line Siting Committee failed and refused to consider the paramount issue at stake in these proceedings by not properly applying A.R.S. 40-360.06. The Arizona Corporation Commission along with the Committee failed to consider each and every factor as a basis for its action with respect to the **suitability** of this plant as specifically set forth in A.R.S. 40-360.06 (A) 1-9, (B)(C) and (D). This Request for Review is not intended to address each and every request for review but to be considered as a guideline for the review.

II. ENVIRONMENTAL IMPACT VS. NEED

The Arizona Corporation Commission and the Committee heard testimony regarding the environmental impact the plant expansion would have upon the community yet choose to ignore the testimony and evidence presented by the Intervenors and their witnesses during the hearings. The testimony was submitted under oath and is a part of the record in these proceedings. As outlined below, each and every impact upon the community had to be considered in its entirety respecting the reasons why the applicant should **not** have received a green light for a certificate of environmental compatibility

II. COMPATIBILITY

While the Applicant continually skirted the issue of compatibility, the Arizona Corporation Commission and the Committee also failed to fully address the issue of compatibility before its vote and in giving the green light for the issuance of a "certificate of **environmental compatibility**". The irony of this entire proceeding should have been focused on suitability and environmental impact before voting in favor of a certificate of environmental compatibility. This was paramount, yet the Arizona Corporation Commission and the Committee failed to taken into consideration the issue of compatibility or suitability.

The Intervenors pointed out time and time again the Applicant's attempt to purchase a certificate of environmental compatibility by means of gifts or expensive plant mitigation. This was inappropriate and not within the meaning of the Statutes and as such the Arizona Corporation Commission and the Committee failed to take into consideration all the evidence and testimony along with full and detailed discussions of the true concerns the intervenors presented.

The applicant did not present one shred of evidence that the proposed expansion would be compatible to this community and the Intervenors suspect the reasons the Applicant avoided the entire issue of compatibility is because the Applicant knows their plans are not compatible to the surrounding community. The essence of the word "compatibility" is defined as well matched, well suited, and complementary. We do not believe that the proposed expansion is well matched, well suited, or complementary to the surrounding community. The first clue that the Arizona Corporation commission and the Committee should not have given a green light for the issuance of a certificate of compatibility is and was the Applicant's suggestion that spending millions and millions of dollars to help in the offsets and mitigation of damages for the proposed plant expansion. These millions of dollars proposed by the applicant are to be spent on some items which may help in very few setoffs of damages and some items are what the Intervenors have called nothing less than very expensive gifts in exchange for votes of support of the proposed plant expansion.

The Arizona Corporation commission and the Committee failed to look at the Applicant's proposed expenditures to determine which items had any direct relevancy to the proposed plant. Furthermore, if common sense was applied it should have been determined the proposed expenditures/conditions do not justify the need outweighing the environmental impact on this community.

Finally, the Arizona Corporation commission and the Committee failed to consider all the evidence of record relating to the plant's expansion and its contribution to the existence of a public nuisance and its continued contributions to the cause of harm to the residents of this community. The Arizona Corporation commission and the Committee failed to act responsible and failed to protect the health and welfare of this community.

a) ZONING AND LAND USE – IMPROPER ZONING AND NO RESIDENTIAL BUFFER

In 1996 SRP sold off their 18+-acre property they initially purchased for **residential buffer** knowing this area was being developed for several master planned communities. This action on behalf of SRP was irresponsible. While this issue was also brought to the attention of The Committee, they never asked any questions, made any inquiry into the reasoning behind the sale even in light of the property being **environmentally contaminated**. Without a residential buffer sufficient enough in size to protect the health and welfare of the residents this will jeopardize the health and welfare of the surrounding community. What will it take for the Arizona Corporation Commission to investigate the land being **environmentally contaminated**?

b) QUALITY OF LIFE AND OUR ENVIRONMENT

Many of the master planned residential communities in this area contain open spaces, parks, and a walk to school elementary school. There is light retail at the corners of Val Vista and Warner Roads with the remaining surrounding area residential. There are no junkyards, manufacturing plants or industrial areas surrounding this community. While we were aware that the corners at Val Vista Drive and Warner Roads were undeveloped but planned for light retail many residents did not know or were they disclosed the existence of the plant.

The Arizona Corporation Commission and the Committee did not hear any evidence or testimony that SRP, their attorneys, consultants, expert witnesses, or employees would want to live next to or raise their families next to this plant. The simple truth is that the record speaks for itself on this issue. As in testimony before All across this country people are attempting to protect and preserve their neighborhoods including their quality of life. The Applicant is suggesting that spending millions of dollars to help in offsets of enormous damages which they will be afflicting on the

surrounding neighborhood is justified. The Applicant's expansion is nothing less than stealing the private property rights of each individual homeowner.

c) HEALTH AND WELFARE ISSUES

The Committee heard testimony from both SRP and the intervenors on this issue. While SRP banks on the sole testimony of their expert witness Sheri Libicki indicating there are "indiscernible" affects" on the expected emissions from the proposed plant, the Committee improperly replied upon such testimony. For the record, we believe The Committee simply was incapable of dealing with the health issues due to the lack of adequate health professionals available to assist The Committee.

First, Sheri Libicki was not qualified to testify regarding medical issues, as she does not hold a license to practice medicine. A review of Sheri Libicki's credentials will reflect she simply is not qualified to testify relating to health issues. What The Committee failed to rely upon was the written statements of the following qualified medical doctors which supported the health risks and dangers associated with the plant expansion:

1. J.T. Danforth, M.D.;
2. Carlin G. Bartschi, M.D.;
3. Randy H. Lavitt, M.D., and
4. Gary G. Auxier, M.D.

The Committee also failed to rely upon the testimony of the following doctors:

1. Dr. Christopher Labon; and
2. Dr. Todd Taylor.

Maricopa County does not meet current federal air quality standards. According to the American Lung Association's State of the Air 2000 covers county by county static's related to exposure and assigns grades to ozone air pollution, based on ozone monitoring data from 1996-1998. Data are based on information available through the EPA. It is no surprise that Maricopa County received an "F". It is also no surprise that the Santan Generating Station ranks among one of the top contributors in pollution in the Gilbert area.

Each and every emission from this plant is a major source of pollutants which is controlled under Title V. Each and every emission from this plant can have serious

and deadly affects upon "the at risk groups" and can contribute to breathing problems in healthy children and adults. It is undisputed that the emissions from this plant will have an adverse affect on children. This Committee must look at the data from EPA, the American Lung Association, and the Department of Public Health. Countless studies have shown that environmental pollutants which children are exposed will have serious health consequences. These studies have shown that because children's systems are still developing they are more susceptible to environmental threats. SRP's plans to expand are nothing less than a threat to each and every child surrounding this plant. We all know that there are alternatives available to SRP but big business does not concern itself with the protection of children. It is the responsibility of each parent to protect their children and in this case it is also the responsibility of this Committee to ensure the protection of the children in this community.

While SRP has not addressed the economic factors of health costs associated with their own environmental pollutants, I believe the Committee was required to look at the health cost and its impacts the emissions from this plant will have on this community. The cost of asthma to the U.S. economy was estimated to be 6.2 billion in 1990. SRP did not perform a health impact study nor did they indicate they would perform one. We requested the health impact study be performed but the Committee once again failed to properly address this issue. What are the health affects? We can only assume that a third party unbiased health impact study would certainly change many claims SRP has attempted to persuade The Committee that there is no "indiscernible" affects from the emissions of this plant.

While SRP has recently taken steps to clean up the NOx emissions at Santan due in large part and in to achieve lower NOx emissions as a result of the combined existing and proposed plant emissions. Four out of Five emissions will **significantly increase** and they are CO, PM10, VOCs and Sox.

For SRP to claim that the emissions from this plant will not contribute or cause any adverse health affects to children or adults surrounding this plant is nothing less than irresponsible and a total disregard in the protection of human health and welfare. Even more upsetting is the fact that The Committee failed to require studies or have some knowledge about the health affects upon this community and in giving a green light for the expansion.

Finally, and according to the Arizona Republic February 28, 2001 front page, the recent U.S. Supreme Court decision on Tuesday, February 26, 2001 set clean air standards at a level that best protects health, not the corporate bottom line in a unanimous ruling sweeping implications for the nation's environment. This

Commission must review, research and determine the health affects upon this community before the issuance of a certificate of environmental capability. I would encourage each of the Commissioners to thoroughly research this case.

d) PROPERTY VALUE ISSUES

Again, SRP paid a lot of money for two property valuation reports. These reports were performed on a very limited scope and for a certain conclusion. The fact of the matter is SRP is not willing to place any guarantees on property valuation as a direct result of their proposed plant expansion. If any Committee member drove around the surrounding residential communities, they would or should have come to the conclusion that residents have spent a lot of money and time in the upkeep and improvement of their homes. We are not talking about lower level housing or government housing here; we are talking about upper middle class neighborhoods. The Committee has heard statements on the record that people have already lost the sale of their homes as a direct result of the proposed plant.

Recently, the Maricopa County Assessor's office released a statement indicating their opinion that the home surrounding the plant will loose property values as much as 15%. Once again, The Committee failed and refused to fully discuss this issue.

The Arizona Corporation commission and the Committee failed to fully discuss the property value impact and any solutions to this problem. The intervenors spent a lot of time and money in the presentation if how the Arizona Corporation commission could achieve a fair and equitable means of property valuation and this issue was never dully discussed.

Intervenors argue that The Committee failed and refused to consider the appropriate conditions offered by the Intervenors in the proceeding. Without restating all the conditions submitted by the Intervenors, the Intervenors believe that the Arizona Corporation commission and the Committee failed to consider some of the most important conditions of the plant expansion as follows:

1. Independent Health Impact Study.
2. Health concerns
3. Real Property Damages – Compensation.
4. Santan plant expansion versus the Kyrene plant expansion.
5. Alternatives to the expansion of the plant.
6. Noise and nuisance issues.
7. Resolution adopted by the Town of Gilbert regarding resident concerns.

8. Ordering the parties to dispute resolution.

Respectfully submitted this 29 day of May 2001.

Mary Keest

CM Lafone

Original and copies filed with the
Arizona Corporation Commission
this 29 day of May 2001 with copies to:

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By Mary