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AZ CORP COMMISSION
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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

7 KRISTIN K. MAYES, Chairman
8 GARY PIERCE
9 PAUL NEWMAN
10 SANDRA D. KENNEDY
11 BOB STUMP

12 IN THE MATTER OF THE APPLICATION OF)
13 ARIZONA PUBLIC SERVICE COMPANY, IN)
14 CONFORMANCE WITH THE REQUIERMENTS OF)
15 ARIZONA REVISED STATUTES §§ 40-360, *et seq.*,)
16 FOR A CERTIFICATE OF ENVIROMENTAL)
17 COMPATIBILITY AUTHORIZING THE TS-5 TO TS-)
18 9 500/230 kV TRANSMISSION LINE PROJECT,)
19 WHICH ORIGINATES AT THE FUTURE TS-5)
20 SUBSTATION, LOCATED IN THE WEST HALF OF)
21 SECTION 29, TOWNSHIP 4 NORTH, RANGE 4)
22 WEST AND TERMINATES AT THE FUTURE TS-9)
23 SUBSTATION, LOCATED IN SECTION 33,)
24 TOWNSHIP 6 NORTH, RANGE 1 EAST, IN)
25 MARICOPA COUNTY, ARIZONA.)

Docket No. L-00000D-08-0330-00138
Case No. 138

REQUEST FOR REVIEW

Arizona Corporation Commission
DOCKETED

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18 On December 29, 2008, the Arizona Power Plant and Line Siting Committee
19 (“Committee”) submitted for filing with the Arizona Corporation Commission (“Commission”)
20 its Decision and Certificate of Environmental Compatibility (“CEC”) in the above captioned
21 matter. Pursuant to A.R.S. § 40-360.07.A and B and A.A.C R14-3-214B and C, the Arizona
22 State Land Department (“ASLD”) hereby submits this request for review of the CEC issued by
23 the Committee.

24 As provided by A.R.S. § 40-360.07.B, this Request for Review is based upon the grounds
25 as stated in the following Memorandum.
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MEMORANDUM

I. INTRODUCTION

By way of background, ASLD is a state agency that was created by the State Constitution and the State Enabling Act. ASLD manages State Trust Land and maximizes the revenue for its beneficiaries. There are 13 beneficiaries of the Trust, with the Common Schools being the largest beneficiary.

This matter was commenced by Arizona Public Service's ("APS" or the "Applicant") filing on July 1, 2008, of an Application for a Certificate of Environmental Compatibility of a 500/230kV transmission lines and ancillary facilities in Maricopa County, Arizona. The line is intended to originate at the TS-5 (Sun Valley) Substation west of Phoenix, Arizona, and terminate at the TS-9 Substation.

A number of Parties intervened in the proceeding. ASLD submitted a Notice of Intervention. In addition to ASLD, intervening Parties included the Arizona Corporation Commission Staff ("Staff"), 10,000 West, L.L.C ("10K West"), City of Surprise ("Surprise") Elliott Homes ("Elliott"), Surprise Grand Vista ("Surprise GV"), the City of Peoria ("Peoria"), and several others.

The matter was the subject of extensive public hearings. Hearings were held on a total of sixteen (16) days between August 18, 2008, and December 2, 2008. ASLD was an active participant; cross-examining witnesses, submitting briefs, and filing written testimony in support of ASLD's position.

This above-captioned matter is the first time that ASLD has formally intervened in a case in front of the Committee. In previous cases, the Land Department has worked with the Utility to minimize the impact on State Trust lands. This did not occur in this case. ASLD is adamantly opposed to the CEC adopted by the Committee based upon the

1 placement of the corridor. Additionally, ASLD is opposed to the CEC as it places almost
2 all of the burden for the proposed lines upon lands held in trust by ASLD.

3 ASLD urges that the Commission find the project can not comply with the
4 provisions of A.R.S. § 40-360.06 and is not justified in the context of the Commission's
5 balancing in the broad public interest of the need for an adequate, economical, and
6 reliable supply of electric power with the desire to minimize the effect thereof on the
7 environment and ecology of the state. If the Commission finds the project does meet
8 A.R.S. § 40-360.06, ASLD would request the matter be referred back to the Committee
9 to evaluate new corridors that were not addressed during the above mentioned hearings.

10 **II. THE APPLICANT DID NOT PROVIDE ENOUGH CORRIDOR**
11 **ALTERNATIVES**

12 As mentioned above, ASLD is opposed to the placement of the corridor as
13 adopted by the CEC. This proposed corridor is in the northern portion of the study area
14 for this line. This corridor bifurcates land controlled by ASLD and will cause severe
15 economic damage to the beneficiaries of the Trust administrated by ASLD.

16 From ASLD's perspective, the most troubling portion of the adopted corridor is
17 Segment 3 of the preferred route as further described on page 5, lines 16-24 of the CEC
18 ("Segment 3"). This portion of the corridor bifurcates ASLD lands. Allowing the
19 corridor to be placed along Segment 3 renders large swaths of ASLD lands almost useless
20 due to the location of the proposed lines and Highway 74. Allowing this corridor in its
21 current form would cause irreparable harm to beneficiaries of the Trust.

22 There are several alternatives to the corridor that were dismissed due to the
23 Applicant not noticing additional corridors. The alternatives would have less impact on
24 the land controlled by ASLD. In fact, one of the members of the Committee brought
25 forward several new corridors on the last day of the hearings. These new corridors were
26

1 almost unanimously accepted by the interveners. The Applicant did not bring forward
2 enough proposed corridors from which the Committee could choose. This is not a
3 NIMBY argument. In fact, over 80% of line touches land controlled by ASLD. The
4 concern from ASLD is placing the line in a manner that does not cause severe harm to the
5 beneficiaries of the Trust. The alignment in the CEC unfortunately causes severe harm to
6 ASLD land. It is the belief of ASLD, however, that there are several alternatives that can
7 be used by the applicant that would not have the same severe impact.

8 III. GAME AND FISH OPPOSITION

9 On August 11, 2008, the Applicant received comments from the Arizona Game
10 and Fish Department (“GFD”) regarding the proposed CEC. GFD wrote that they were
11 “strongly opposed” to Segment 3, which they describe as the “northern portions” of the
12 preferred route.¹ GFD went on further to say the line would create a “large barrier to
13 wildlife” and cause a degrading of “quality habitat.” It is unclear what weight the
14 Committee gave these comments. The “strong opposition” of GFD is important to take
15 into consideration based upon A.R.S. § 40-360.06(A)(2). Additionally, it is the belief of
16 ASLD that this case presents the first time that two state agencies are opposed to a line
17 siting case in front of this Commission.

18 IV. CONCLUSION

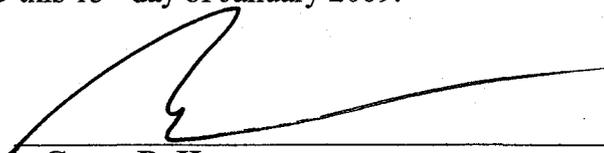
19 ASLD understands the long process endured by all parties in this proceeding. The
20 Department recognizes the amount of effort put forth by the Committee members, the
21 Commission staff, and all the interveners. It is with this backdrop that ASLD must
22
23

24 ¹ The August 11, 2008 was introduced into evidence by the Applicant. A copy is attached to this filing for ease of
25 reference.
26

1 request the Commission to deny the CEC or send it back to the Committee to explore
2 other alternatives.

3 ASLD has a fiduciary duty to beneficiaries of the Trust. This duty is not one
4 ASLD takes lightly, just as it does not take lightly intervening in a matter in front of this
5 Commission. The current alignment in the CEC causes irreparable damage to the
6 beneficiaries of the Trust, not the least of which is the education system in Arizona.
7 There are several options that would not cause this harm; however, the applicant did not
8 provide them to the Committee. For the reasons stated above, ASLD requests that the
9 Commission review the CEC as approved by the Committee. The Commission should
10 either reject the CEC or send it back to the Committee to explore other alignments.

11 RESPECTFULLY SUBMITTED this 13th day of January 2009.

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