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1 ORIGINAL

BEFORE THE ARIZONA POWER PLANT AND TRANSMISSION LINE SITING COMMITTEE

2
3 IN THE MATTER OF THE APPLICATION OF UNS
4 ELECTRIC, INC., IN CONFORMANCE WITH THE
5 REQUIREMENTS OF ARIZONA REVISED
6 STATUTES §§ 40-360, et seq., FOR A
7 CERTIFICATE OF ENVIRONMENTAL
8 COMPATIBILITY AUTHORIZING THE
9 CONSTRUCTION OF THE VAIL TO VALENCIA
10 115kV to 138kV TRANSMISSION LINE UPGRADE
11 PROJECT, ORIGINATING AT THE EXISTING VAIL
12 SUBSTATION IN SEC. 4, T.16S., R.15E., PIMA
13 COUNTY, TO THE EXISTING VALENCIA
14 SUBSTATION IN SEC. 5, T.24S., R.14E., IN THE
15 CITY OF NOGALES, SANTA CRUZ COUNTY,
16 ARIZONA.

) Arizona Corporation Commission

) Docket No. L-00000F-09-0190-00144

) Case No. 144

) Arizona Corporation Commission

DOCKETED

APR 27 2009

DOCKETED BY

AZ CORP COMMISSION
DOCKET CONTROL

2009 APR 27 A 11: 32

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PROCEDURAL ORDER

17 An application for a Certificate of Environmental Compatibility was filed in the
18 above captioned matter with docket control of the Arizona Corporation Commission
19 ("Commission") on April 21, 2009. A copy of the application was transmitted to John
20 Foreman, designee of the Attorney General of Arizona, Terry Goddard, as Chairman
21 ("Chairman") and Presiding Officer of the Arizona Power Plant and Transmission Line
22 Siting Committee ("Line Siting Committee"). A.R.S. §§ 40-360.01(B)(1) and 40-360.03.
23 As authorized by A.R.S. §§ 40-360.01(C) and (D), 40-360.04 and A.A.C. R14-3-201(E),
24 the Chairman issues the following procedural order,

18 IT IS ORDERED:

- 19 1. The Applicant and all other potential parties ("persons" within the meaning of
20 A.R.S. § 40-360(8) who intend to intervene or request to intervene pursuant to
21 A.R.S. § 40-360.05(A)) shall advise the Chairman in writing on or before the time
22 of the pre-hearing conference scheduled below if they disagree that the time limit
23 for decision on the application by the Line Siting Committee set by A.R.S. §
24 40.360.04(D) is October 19, 2009.
- 25 2. The Applicant shall arrange for the publication and posting of notice of the
26 evidentiary hearing, as agreed to at the pre-application hearing involving the
Applicant and all known potential intervenors, in a form approved by the
Chairman and circulated for approval as to form to all known potential interested
parties. In addition, the Applicant shall submit a copy of the notice and present
testimony describing the publication and posting of the notice at the evidentiary
hearing.

- 1 3. The Applicant shall make arrangements for the evidentiary hearing to be held at
2 the Esplendor Resort at Rio Rico, 1069 Camino Caralampi, Rio Rico, Arizona
3 85648, beginning on June 2, 2009, at 9:30 a.m. and continuing on June 3, 2009,
4 beginning at 8:30 a.m., and continuing, if needed, on June 4, 2009, at 9:30 a.m.
5 In addition, the Applicant shall make arrangements for a public comment session
6 to be held at the same venue starting at 6:00 p.m. on June 2, 2009. The
7 Applicant shall make arrangements for further regular sessions, if needed, and
8 additional public comment sessions, if needed, on dates and at times to be
9 determined later.
- 10 4. The Applicant shall contact Michael Kearns, Chief Finance Officer of the
11 Commission (602-542-3931), and advise him of the Applicant's position
12 concerning reimbursement of the Line Siting Fund should the expenses of the
13 hearings exceed the application fee, and to discuss financial arrangements
14 regarding hotel reservations and other expenses of the Line Siting Committee
15 Members. A.R.S. § 40-360.10. The Applicant shall advise the Chairman of the
16 results of these discussions so the necessary information may be communicated
17 to the Line Siting Committee Members.
- 18 5. The Applicant and all other potential parties ("persons" within the meaning of
19 A.R.S. § 40-360(8) who intend to intervene or request to intervene pursuant to
20 A.R.S. § 40-360.05(A)) shall meet and confer, on or before the beginning of the
21 evidentiary hearing to determine whether any of the intervening parties have
22 similar interests in the application process that will allow them jointly to present
23 testimony on direct or cross-examination of witnesses or jointly to offer exhibits
24 into evidence. The Applicant shall, and any other potential party may, report to
25 the Chairman the results of the attempts of the parties to resolve the issues and
26 to determine if common interests exist that will allow parties to jointly present
evidence and argument or to avoid repetition of testimony and argument at the
hearing.
6. The parties and any other potential parties ("persons" within the meaning of
A.R.S. § 40-360(8) who intend to intervene or request to intervene pursuant to
A.R.S. § 40-360.05(A)) shall not communicate with any member of the Line
Siting Committee about any procedural matters or any factual issues or legal
issues relating to the Application while the Application is pending before the Line
Siting Committee. The only exception is the parties may communicate with the
Chairman, during the time the Application is pending, about procedural matters
relating to the preparation of the Application for hearing, the hearing on the
Application and the decision on the Application by the Line Siting Committee.
Communication of the parties with the Chairman about any procedural matters,
during the time an Application is pending, shall be in writing with a copy of the

1 writing to all parties or known potential parties ("persons" within the meaning of
2 A.R.S. § 40-360(8) who have expressed an intention to intervene or request to
3 intervene pursuant to A.R.S. § 40-360.05(A)), or shall be on the record at a pre-
4 application hearing, at a procedural hearing or at the hearing on the application.
5 Any party who initiates any written communication sent to the Chairman shall
6 file, with docket control of the Commission, a copy of the communication,
7 including its distribution list, within 10 days of sending the communication.

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- 9
- 10 7. Whenever an agenda is filed pursuant to A.R.S. § 38-431.02, all parties shall
11 submit, at least forty-eight hours before the hearing or meeting described in the
12 agenda, any objections, additions or corrections to the agenda, in order to bring
13 the agenda into compliance with A.R.S. § 38-431.02, in writing to the Chairman,
14 serve a copy upon all other parties and file a copy with docket control of the
15 Commission.
- 16
- 17 8. In addition, all parties shall meet and confer as needed before, during and after
18 the hearing to attempt to resolve any disputes amongst the parties. The parties
19 also shall keep all other parties advised of their positions and intentions with
20 regard to the presentation of evidence, witnesses and the application process in
21 general to avoid delay, the presentation of repetitive evidence and any unfair
22 advantage from surprise.
- 23
- 24 9. All parties shall prepare brief summaries of the expected direct testimony of each
25 witness they will call. In lieu of a testimonial summary, a party may pre-file and
26 exchange all or substantially all of the direct testimony of any witness.
27 Testimonial summaries and pre-filed testimony should be filed no later than the
28 last pre-hearing conference or three business days before the witness is to
29 testify, whichever is later. Except for good cause, no witness will be allowed to
30 testify on direct examination concerning issues not reasonably identified in the
31 pre-filed testimony or testimonial summary.
- 32
- 33 10. All parties shall meet, confer and exchange all exhibits the party plans to offer in
34 evidence before the hearing or before they are referred to in testimony or offered
35 in evidence. The Applicant shall, and other parties may, provide one or more
36 three ring binders for the Chairman and each member of the Line Siting
37 Committee to hold exhibits at the beginning of the hearing and as needed during
38 the hearing. Each party shall prepare a numbered list of the exhibits and a copy
39 of all exhibits suitable for placement in the binders that have been exchanged
40 with the other parties that each party expects to offer in evidence at the hearing
41 for the Chairman and each Line Siting Committee member. The exhibits shall be
42 provided at the beginning of the hearing and during the hearing before reference

1 to the exhibit is made in the hearing. Except for good cause, no exhibit that was
2 not exchanged with the other parties shall be considered at the hearing. Any
3 exhibit to which reference is made during any hearing that is not offered or
4 admitted into evidence shall be provided to the court reporter at the evidentiary
5 hearing for inclusion in the record unless it is withdrawn, and the Chairman
6 determines its filing is not necessary to an understanding of the actions of the
7 Committee.

8 11. All exhibits shall be consecutively numbered with the Applicant's exhibits
9 denominated: A-1, A-2, etc. Each intervening party will be assigned by the
10 Chairman a letter or letters of the alphabet as a preface with which to
11 consecutively number its exhibits. For example, the Commission Staff will
12 number its exhibits: CC-1, CC-2, etc.

13 12. The Applicant may make an opening statement at the beginning of the hearing of
14 no more than thirty minutes. Each other party may make an opening statement
15 of no more than five minutes.

16 13. Public comment will be heard after the opening statements and at other times set
17 by the Chairman during the hearing. See ¶ 3, above.

18 14. In the event the Chairman determines that a tour is appropriate, the Applicant
19 shall arrange for transportation of any Committee Members who wish to attend a
20 tour of the locations where facilities proposed in the application or similar facilities
21 are located. If a tour is held, it will begin at 8:30 am on June 3, 2009. The
22 Applicant shall submit to the Chairman, for approval in advance of the hearing, a
23 schedule and protocol agreed to by all parties for the tour. If all parties do not
24 agree upon the schedule and protocol for the tour, the disagreements shall be
25 submitted to the Chairman for resolution. The protocol shall identify the tour
26 route, identify the location of any stops, and identify any witnesses who will
accompany the tour. Counsel may ask brief explanatory questions of the
identified witness or witnesses during the stops about the location, what can be
seen from the location of the stop and the relevance of the location or view to the
Application in the discretion of the Chairman. All witnesses who testify on the tour
shall be sworn before their testimony. All questions and answers shall be before
a court reporter. No testimony or discussion with or between Committee
Members about the Application or matters relating to the Application will take
place, except on the record before a court reporter at the designated stops. The
protocol shall provide for access to any testimony presented at stops on a tour to
members of the public. Members of the public who wish to attend the tour shall
be encouraged to notify the parties or the appropriate staff of Arizona
Corporation Commission in advance of their intention to attend.

- 1 15. Parties may present their witnesses in panels where appropriate. A party that
2 intends to present witnesses in panels shall identify the members of any panel at
3 the time it files its witness summaries.
- 4 16. The Applicant shall make arrangements for the preparation of expedited court
5 reporter transcripts of all pre-application hearings, pre-hearing procedural
6 hearings and the evidentiary hearing, so that the transcripts are available for
7 public inspection within three working days after each hearing date, as required
8 by A.R.S. § 38-431.01D and § 40-360.04C. In addition, the Applicant shall file a
9 certification with Commission docket control that it has provided a copy of the
10 transcripts to at least two public libraries identified in the certification that are in
11 the vicinity of the application.
- 12 17. On or before the final pre-hearing procedural hearing set below, the Applicant
13 shall, and the other parties may, file proposed findings of fact, proposed
14 conclusions of law, the wording of any proposed Certificate of Environmental
15 Compatibility and the wording of any proposed conditions to the Certificate.
- 16 18. If the beginning of closing arguments and the Line Siting Committee's
17 deliberations are more than one week after the beginning of the hearing, the
18 parties shall meet and confer after the hearing begins and before closing
19 arguments concerning proposed findings of fact, proposed conclusions of law, a
20 proposed Certificate of Environmental Compatibility and the wording of any
21 proposed conditions to the Certificate. If the parties are able to agree upon part
22 or all of the proposed findings of fact, proposed conclusions of law, proposed
23 forms of a Certificate of Environmental Compatibility and proposed wording of
24 conditions to the Certificate, all that is agreed upon should be reduced to writing
25 and filed with Commission docket control. If the parties are not able to agree
26 completely, the Applicant shall, and all other parties may, file proposed findings
of fact, proposed conclusions of law, proposed wording of a Certificate of
Environmental Compatibility and proposed wording of conditions to the
Certificate on the day before the beginning of closing arguments and the Line
Siting Committee's deliberations.
19. If the Applicant or any other party proposes conditions based upon conditions
used in prior cases, each proposed condition from a prior case shall contain the
case number of the most recent prior Certificate of Environmental Compatibility
using the language approved by the Commission.
20. All witness summaries, proposed findings of fact, proposed conclusions of law,
proposed Certificates of Environmental Compatibility and proposed conditions of
Certificates, shall be filed with Commission docket control pursuant to A.A.C.
R14-3-204 and -205. If any documents that are filed are hand delivered during

1
2 the hearing, eleven copies shall be submitted to the Chairman for distribution to
3 the other Committee Members.

4 21. Within five business days after the hearing concludes and the Committee renders
5 its decision, the parties shall meet and confer in person or electronically to
6 determine if they can agree upon the final wording of a proposed Certificate of
7 Environmental Compatibility. If the parties can agree upon the final wording of a
8 proposed Certificate of Environmental Compatibility, Applicant shall file forthwith
9 the agreed upon proposed Certificate of Environmental Compatibility to the
10 Chairman for signature. If the parties are not able to agree upon a proposed
11 form of Certificate of Environmental Compatibility, the Applicant shall file, and
12 the other parties may file, within ten days after the date of the decision of the
13 Committee, those portions of the proposed Certificate of Environmental
14 Compatibility upon which the parties agree. The Applicant also shall file, and any
15 other party also may file, its understanding of any disputed portions of the
16 proposed Certificate of Environmental Compatibility. All proposed forms of the
17 Certificate of Environmental Compatibility and any objections or proposed
18 revisions shall be filed with docket control of the Commission, and a copy shall
19 be hand delivered to the office of the Chairman at 1275 W. Washington,
20 Phoenix, Arizona. Objections or suggestions that are not timely filed shall be
21 considered waived. The copy of the proposed Certificate of Environmental
22 Compatibility filed by the Applicant and any proposed revisions filed by the
23 parties that are served upon the Chairman shall include an electronic file
24 containing the wording of the proposed language in a format compatible with
25 Microsoft© Word word processing program.

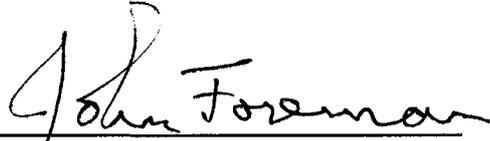
26 22. The Applicant and all other potential parties ("persons" within the meaning of
A.R.S. § 40-360(8) who intend to intervene or request to intervene pursuant to
A.R.S. § 40-360.05(A)) shall meet with the Chairman for a final pre-hearing
conference on May 26, 2009 beginning at 10:00 am at the offices of the Attorney
General of Arizona at 1275 W. Washington, Phoenix, Arizona. Parties may
appear by telephone with the prior permission of the Chairman. At the final pre-
hearing conference, the Chairman will review with the parties:

- a. The publication and posting of notices of the hearing;
- b. The proposed agenda for the evidentiary hearing;
- c. Any notices to intervene, applications to intervene, and applications to make a limited appearance;
- d. The status of attempts to narrow the issues at the evidentiary hearing or to agree to language in the proposed findings of fact, proposed conclusions of law, proposed Certificates of Environmental Compatibility and proposed conditions to the Certificate;

- 1 e. The status of the filing and exchange of witness summaries or written
2 testimony, proposed findings of fact, proposed conclusions of law,
3 proposed Certificates of Environmental Compatibility and proposed
4 conditions to the Certificate;
5 f. The status of the exchange of exhibits amongst the parties;
6 g. Any objections, motions, responses and legal memoranda that have been
7 filed;
8 h. Plans and preparations for the hearing, public comment session, and tour
9 of the proposed site.

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13 IT IS FURTHER ORDERED, the Chairman may amend or waive any portion of
14 this Procedural Order by subsequent Procedural Order, by ruling at a pre-hearing
15 conference or at a hearing.
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21 DATED this 27th day of April, 2009

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John Foreman
Assistant Attorney General
Chairman
Arizona Power Plant and Transmission
Line Siting Committee
john.foreman@azag.gov

21 Pursuant to A.A.C. R14-3-204,
22 The Original and 25 copies were
23 filed this 27th day of April, 2009 with:

24 Docket Control
25 Arizona Corporation Commission
26 1200 W. Washington St.
Phoenix, AZ 85007

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Copy of the above mailed
this 27th day of April, 2009 to:

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