



0000099361

**Arizona Corporation Commission - Docket No. L-00000F-09-0190-00144 - Case #144 - Vail
Public Comment**

Dear Chairman Foreman and Members of the Arizona Power Plant and Transmission Line Siting Committee,

I am a customer of Trico and a resident of "New Tucson" in the Vail area, located due east of the proposed project. I have volunteered for many organizations and love my community. It was just ten years ago that I boarded a bus with other parents of diverse backgrounds and rode to Phoenix to advocate in front of the Arizona State Legislature for the first high school in the Vail Unified District. We have always had to work hard to express our needs and to be heard. I write today with the following concerns.

1. Public outreach by the utility companies. In Line Site Case 144 there was no public meeting held in Vail or Corona de Tucson. This is especially of concern as Trico has plans to construct a new substation in our neighborhood in the next year.

2. Views along Interstate Ten. As there is little to no commercial activity in the Vail area, it is largely a commuting population. I am a night worker at the US Postal Service Cherry bell Location. My commute is almost entirely on Interstate Ten from the Vail/Wentworth Exit to Kino Parkway. On my trip to work, the brightly lit Vail Substation sits on my left, to the south. On my return trip, depending on the season, my sunrise is marred by several large steel four legged structures, and transmission lines and various brown poles to the south, on my right. How many are enough?

3. Potential use of the Vail Substation as a gas fired power plant. TEP had the land up zoned by the City of Tucson for this purpose. This was fought by Mary Ann Cleveland, a Rita Ranch activist (see attached article) How many more lights will be required if this CEC is approved and how many lights will be required in the future if TEP builds its gas fired power plant. What are the environmental risks? It appears as if the industrial blight that Mary Ann feared is becoming a reality.

4. Structure color. I request any new transmission structures installed next to existing lattice structures be constructed of dull grey galvanized steel. In natural areas with sky and mountains as a backdrop I would also request dull grey galvanized steel. If I am going to have to see more towers I prefer that they are the same color. In some places the violent contrast of the black poles crossing the interstate is not appealing at all. It seems that it would make more sense to build on the existing steel structures as there are so many of them and they are so large. Why not use what is already there?

As the member of a family in a growing region already threatened by many environmental polluters, I believe and request that our community should have a proactive role in transmission planning, (particularly since the Vail Substation is projected to have many projects in the next few years) and request that a Citizens' Advisory Council, comprised of various community associations, emergency responders, and environmental groups be added to the conditions of the Certificate of Environmental Compatibility, should it be granted.

Thank you,
Dated this 10th day of June 2009


Ken Lamb
2954 E. Cardenas Dr.
Vail, AZ 85641

Arizona Corporation Commission
DOCKETED

DOCKETED BY 

RECEIVED
2009 JUN 15 P 3:39
ARIZONA CORPORATION COMMISSION
DOCKET CONTROL

Pursuant to AAC R14-3-204
Original and 25 copies of the foregoing are filed with
Docket Control (26 copies)
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007-2927

Tucson Weekly

CURRENTS - FEATURE

July 05, 2001

The Next Generation

Twenty potentially harmful proposed electricity plants jolt Arizona into a new era of power politics.

by [Tim Vanderpool](#)

Sunrise spills like a broken yolk over Picacho Peak, as Jon Shumaker stalks the furrowed ground that's consumed his life.

If a group called Toltec Power Station LLC has its way, he says, this remote patchwork of cotton farms south of Casa Grande will soon be home to four smoke-belching power generators, pumping up to 2,000 megawatts of electricity into the commercial wholesale market. The enormous plant would span 215 acres sandwiched between Picacho Peak State Park on the east, the Sawtooth Mountains to the west, and the brand new Ironwood Forest National Monument on the south and west.

Nearby, an International tractor rumbles through a field, and a crop-dusting plane dips and rises above a carpet of green. Over the din, Shumaker, an archaeologist by training, describes how he's been single-handedly forced onto a gargantuan learning curve, attending relentless hearings and reading through enough legalese to swamp an army of lawyers, simply to make sure Toltec doesn't shove its way toward state approval like "greased lightning."

He recites a litany of complaints against the proposed plant, from concerns over water use and air pollution to its placement near the nature preserves. While a Toltec official says company planners have done their best to keep impact at a minimum, through extensive hydrological studies and revegetation research on surrounding farmland slated to become fallow, Shumaker flatly disputes these claims.

"Under questioning at a public hearing, I got them to admit that (revegetating farmland) is impossible to do," he says. "They're trying to make it look like they're great stewards of the land, but their science is completely non-existent."

Worst of all, the Toltec plant would be visible from the new Ironwood Monument, including a portion of the Sawtooths rising only six miles to the west. He says a power plant with eight towering stacks cannot peaceably exist next to so much wilderness.

"Yes, I do have a real problem with the proximity of this monster to the Ironwood. We're talking about a national monument, not just some little county park." All for a merchant plant geared to serve the lucrative wholesale market, he says, and California in particular. "It's pure arrogance on their part."

He kicks at a dirt clod, and his eyes narrow on a sign announcing the coming plant.

According to Shumaker, his questions about revegetating the farmland prodded Toltec to endow a related research position at the UA. His interrogation also slowed the project's approval, at least until another public meeting planned for July 9 in Phoenix, where he says "they're going to try to annihilate me."

Meet the new face of power politics in Arizona.

JON SHUMAKER'S BATTLE is being replicated across the state, as an unprecedented stampede of 20 applications for new power plants head for hearings before the Arizona Corporation Commission. That's in addition to a plethora of companies, from Tucson Electric Power to the Public Service Company of New Mexico, seeking approval for new high-power transmission lines across the landscape.

[click to enlarge](#)



TIM VANDERPOOL

"PNM doesn't give a damn whose lives they're affecting," says John Hewitt of Stoplines, a group opposing a transmission corridor through Avra Valley.



For information on these power projects, call the Arizona Corporation Commission at (520) 628-6550.

In most cases, the energy onslaught has local citizens running for cover. And statewide, environmental groups appear overwhelmed. "It's like trying to step on ants running every direction," says Steve Brittle of Don't Waste Arizona. "It just doesn't stop."

For example, in the small town of Kingman near the Arizona-California border, residents have protested a new power plant that will pump 8.4 million gallons of water daily from their aquifer. And in the Phoenix suburb of Gilbert, neighbors like Dale Bolger unsuccessfully opposed the expansion of a Salt River Project generator.

"There are 21 schools within a three-mile radius of this one plant," Bolger says. "The company is willing to put children at risk, so they can make money selling electricity to California."

Houston-based Reliant Energy Inc.--recently attacked by California Gov. Gray Davis for alleged price-gouging--is likewise putting the finishing touches on its new Desert Basin Plant in Casa Grande.

Meanwhile in Tucson, TEP is requesting an industrial rezoning for property it owns near I-10 and Rita Ranch Road. Area neighbors fear such a rezoning will spark an industrial blight in their midst, and two 75-megawatt plants in their backyard. "The TEP guys were extremely vague about their plans at a meeting with us," says Rita Ranch activist Mary Anne Cleveland. "Then when they went before the (city) zoning folks, they said something completely different. They essentially lied about their plans."

TEP officials didn't return several phone calls seeking comment on the neighbors' concerns.

The Tucson utility is also competing with the Public Service Company of New Mexico, or PNM, to run high-voltage power lines to Mexico, which is viewed as a market of limitless proportions.

The TEP preferred plan would place 150-foot towers through the environmentally sensitive Coronado National Forest. Its second choice would have lines running adjacent to I-19, and near the communities of Tubac, Amado and Green Valley.

At public hearings in Nogales on May 7 and 8 concerning TEP's transmission line plan, Emilio Falco, an astronomer with hopes to construct a home near one proposed path, raised the type of question leveled at other expansion-minded power companies across the state. "Your preferred alternative route passes right over where we plan to build our house," he said. "Do you expect to negotiate away our house?"

On June 11, PNM officials heard similar comments in the Marana High School auditorium, over their plans to blaze a megawatt transmission corridor through Avra Valley. "PNM doesn't give a damn whose lives they're affecting," said John Hewitt, a valley resident and member of Stoptlines, a group opposing the project. Hewitt said the New Mexico company's stubbornness reminded him of a country song. "My question to PNM is this: What part of no don't you understand?" The audience of 200 roared in support.

SUCH COMMUNITY CONCERNS are well-founded, according to Ellen Berman, president of the Consumer Energy Council of America Research Foundation in Washington, D.C. "Companies are seizing opportunities (under electricity deregulation), which is not inherently bad," she says. "But the worry is, what are the environmental consequences, and what are the price benefits?"

In Arizona, where the vast majority of pending plants are geared toward western wholesale markets, the environmental consequences are likely to include dirty air, reduced water supplies and countless eyesores. The price benefits, if any, are a gambler's paradise.

This tsunami of power projects comes amid vigorous encouragement from the administration of President George W. Bush, and the mood among energy companies, as one observer puts it, "is to get going while the going is good."

Indeed, on May 18 the president ordered federal agencies to speed up approvals for refineries and power plants. This order came a day after the release of his energy plan, a blueprint that he said will balance energy development with environmental concerns. "We don't want either of them snarled in bureaucratic tangles, as local governments or entrepreneurs seek permit after permit from agency after agency."

Bush then asked citizens to help silence his critics. "When you hear these folks--it doesn't matter what side of the debate they're on--who are willing to kind of castigate somebody who may have a good idea, stand up and let them have it," he said while touring western hydroelectric projects.

Bush didn't specify which citizens he was referring to.

But even the bully pulpit has its limits. On June 18, the Federal Energy Regulatory Commission approved a price "mitigation" plan, aimed at reducing sudden whole electricity rate hikes in California and other western states, including Arizona.

This comes after intense criticism of the FERC's inaction as Californians saw their electricity bills mushroom--despite the commission's mandate to ensure "just and reasonable" consumer electricity prices.

The commission's new strategy is to limit power prices, tying them to a formula based on the efficiency of power generation. It also restricts energy providers from withholding electricity from the market simply to spike prices.

This plan falls just short of introducing price caps, a move Bush has ardently opposed, saying it would only reduce incentives for new plant construction.

Arizona Gov. Jane Hull has also opposed price caps. At a February energy conference in Oregon with other western governors, Hull said such limits would "undermine our deregulation efforts and discourage investment in power plants."

And, echoing the president, Hull said that "We need to keep a balance between environmental concerns and reliable power."

But the question lingers: How much reliable power is enough? And when does the environmental havoc wreaked by a surge in power projects outweigh reliability worries?

Basic math lends a clue. According to industry watchers, if all the planned plants are built, within two years Arizona will have enough power to serve 20 million people. This in a state where the population hovers between five and six million.

ON MAY 9, SEVERAL environmental and consumer groups called for a full analysis of Arizona's energy needs before further plants are approved by the Arizona Corporation Commission.

Airing their concerns to the ACC were organizations ranging from the Grand Canyon Trust in Flagstaff to the Phoenix-based Arizona Center for Law in the Public Interest.

In the past, the ACC conducted regular inventories of Arizona's energy needs, said Rick Moore, program officer with the Trust. And Tim Hogan from the Center for Law cautioned that "No one is minding the store while all these plants are being approved."

The power plant boom has also prompted at least three lawsuits by the Center against the ACC. "State law governing the siting of power plants requires the commission to balance the need for an adequate, economical supply of power against the environmental impacts that the plants will have," Hogan told the *Tucson Weekly*. The legal action is meant to highlight that responsibility, he says.

Arizona officials say they've already responded to the power boom by tightening review procedures for the new plants. When the Corporation Commission recently approved one generator near Gila Bend, it included toughened air quality standards equivalent to those of coastal California.

Those standards include catalytic converters and other state-of-the-art technology to reduce emissions of carbon monoxide, particulates and organic compounds. "I think this does show there's a different level of scrutiny, in terms of collective impact of all these plants," says Heather Murphy, a commission spokeswoman.

Calls to ACC Chairman William Mundell for comment were not returned.

Still, the state's standards correlate with federal air and water quality standards laws, says Richard Tobin, deputy director of the Arizona Department of Environmental Quality. As plants go through the planning process, he says his department reviews them for compliance.

Tobin says new plant operators must show a commitment to actually improving overall air quality in their area. This can mean anything from the installation of high-tech pollution controls to simply paving nearby roads to reduce dust. Nor, he says, is the ADEQ asleep at the wheel. "Our folks are very committed to the job they do, and they're holding the utility companies' feet to the fire."

And while the sheer number of new generators under review has strained the agency's resources, "Plants meant to serve state residents are given priority," he says.

The *Weekly* has also been told that the Arizona Attorney General's office will be looking into the rash of new plant applications, though details of this investigation were not available at press time.

You Gotta Have Friends

UNFORTUNATELY, LYING BEHIND this high-tech surge—with its enormous investments and potential for environmental calamity—is one factor that's been around since mankind first harnessed the energy of fire: plain old politics.

TEP's proposal for stringing transmission lines into Mexico is a good example of how political influence might be bought and sold to further Arizona's power industry.

Since TEP's plan and that of its competitor, PNM, include linkage with the power grid of a foreign country, the plans require approval from the federal Department of Energy with what's called a presidential permit.

Near the time its plan was released on August 17, TEP hired longtime local public relations executive Steve Lynn as director of corporate relations and communications. Lynn is also a former assistant director of the City of Tucson's Department of Human and Community Development.

In addition to his TEP duties, Lynn currently wields enormous clout as chairman of the Arizona Independent Redistricting Commission, which is charged with redrawing the state's congressional boundaries.

As coincidence would have it, the public-relations veteran is also a longtime friend of Fifth District Congressman Jim Kolbe, having worked both as a volunteer and paid consultant on Kolbe campaigns.

Now in his ninth term, the congressman sits on several House committees that oversee border issues, from the Subcommittee on Foreign Operations, Export (which he chairs), to the Subcommittee on Commerce, Justice, State and Judiciary, which funds agencies ranging from the Immigration and Naturalization Service and the Drug Enforcement Administration to the International Boundary and Water Commission.

As its name implies, the latter commission oversees water and boundary issues along the U.S.-Mexico border. According to a federal official who asked to remain anonymous, as an organ of the U.S. State Department, "the IBWC must sign off on any presidential permits" for international power lines.

Finally, Kolbe also serves on the House Interior Subcommittee, which monitors the U.S. Forest Service. This oversight of course includes the Coronado National Forest, where TEP hopes to string its huge power lines.

In his roles on these various committees, Kolbe obviously has many opportunities to affect the presidential permitting process for TEP's transmission line proposal.

When asked whether he had discussed the project with his friend Steve Lynn, or with any other TEP officials, Kolbe responded by e-mail, through his press aide, Neena Moorjani. Rather than directly answer questions about specific discussions, the congressman wrote that "I have had numerous meetings on this matter with a full range of groups, individuals, and government agencies (federal, state, and local).

"I am following the matter closely as it goes through the public participation process seeking to ensure that federal agencies are response [sic] to the community," he said. "The current process is a public process, which I hope everyone with interest in this matter will participate."

Still, this isn't the end of cozy relationships. Serving alongside Lynn on the highly powerful, five-member redistricting committee is Dan Elders, owner of DRE and Associates, a Tucson landscape architecture and environmental consulting firm.

Elders was among those who later appointed Steve Lynn to the group, and selected him as chairman. Elders told a local daily newspaper that he chose Lynn because of the PR executive's communication and consensus-building abilities.

In turn, Elder's firm was hired by TEP to conduct *environmental impact studies* on the transmission line project, and Elders testified under oath on the utility's behalf during the May transmission line hearings in Nogales.

But following his own appointment to the commission, Elders portrayed himself as a political babe in the woods. "Gee whiz, I'm probably right there with George Bush," he told the *Arizona Daily Star*. "If someone asked me who the president of X, Y or Z was, I wouldn't have a clue. I don't know the political pundits or who the movers and shakers are."

Elders did tell the *Star*, however, that among his first notes of congratulation was one from Kolbe.

Contacted by the *Weekly*, Elders said that he publicly disclosed his business relationship with TEP to the Arizona Secretary of State's office while being considered for the redistricting committee, and that he has only had one conversation "of a general nature" with Congressman Kolbe since his appointment

He says any linkage between himself, Lynn and Kolbe "is of such a tenuous nature" that "it doesn't deserve comment."

Numerous calls to Lynn for comment were not returned.

However, the Kolbe/Lynn/Elders triad certainly provides ample opportunity for a juicy, last-minute quid pro quo: Under a draft map of *newly drawn Congressional boundaries* released in June, Kolbe will lose a large portion of his Catalina Foothills constituents. In turn, according to the draft, he would acquire a chunk of Tucson's south side, a portion of the Tohono O'odham Nation, and a slice of Santa Cruz County. None are considered particularly fertile ground for a Republican seeking reelection to a 10th term.

Observers are awaiting release of the final boundaries, to determine whether Lynn and Elders will be more kind to the Congressman in that version.

Regardless, Kolbe's Web site proclaims, in no uncertain terms, the congressman's opposition to an earlier transmission line route proposed by TEP's competitor, PNM. That route would have cut through the heart of his district, near Sonoita and Patagonia. There has been no specific comment from Kolbe's office about his position on PNM's newly proposed Avra Valley route.

Is this an insider's game? Ask Emilio Falco, the astronomer. "It seems pretty obvious what is going to happen," he said after the Nogales meeting. "Of course, TEP is going to get what they want."

More Lines of Power

THE FIRST STEPS in granting approval for power lines and plants in Arizona involve the ACC's Line Siting Committee. Committee meetings are meant to gather public opinion, and evidence about environmental impacts of a project. They are conducted like a court of law, with testimony and questioning under oath.

The committee is comprised of representatives from various state agencies, including the Corporation Commission, the Department of Environmental Quality and the Department of Commerce. Corporation commissioners also appoint six members representing the public, though one position is currently vacant.

Laurie Woodall of the Arizona Attorney General's office chairs the committee on behalf of Attorney General Janet Napolitano.

Following hearings on particular projects, a majority of committee members either rejects the project, or grants approval in the form of a Certificate of Environmental Compatibility.

Environmental and consumer advocates say the Line Siting Committee has a pro-business tilt. But Woodall says its diverse membership ensures that all viewpoints are represented.

"It's a common prejudice to somehow believe that everything that's involved in government ... that there must be something sort of cynical about it," she says. "But that has not been my observation." Woodall says Arizona law requires that "one member shall represent cities, one shall represent counties, one shall be actively involved in agriculture." As a result, "I think this board has an extraordinary number of representatives of the public."

Once the Line Siting Committee makes its call, the matter is forwarded to the ACC for a final decision. Calls to ACC Chairman William Mundell for comment on this process were not returned. But when the commission approved the Gila Bend plant with tightened environmental requirements in early April, Mundell told the *Arizona Republic* that "the pendulum has swung toward protecting the environment."

There have since been questions about whether officials from the Gila Bend project accurately listed planned emissions.

And in May, when activist groups aired their concerns before the ACC, Commissioner Marc Spitzer reiterated that he and fellow regulators were very dedicated to balancing power needs with environmental impacts.

Do such comments allow activists a better night's sleep? Steve Brittle of Don't Waste Arizona says he isn't comforted. "I don't really have a good view of (the commission) because I have seen them presented with testimony that I would call compelling, and they've ignored it."

He says the plant expansion approved for Gilbert provides "a perfect example. People put on the record plenty of information about hazards from the chemicals, such as ammonium sulfate that causes respiratory problems, all these concerns. Then commissioners told the Salt River Project they could build the huge plant, but that they couldn't burn diesel fuel. They [the commission] called that a significant environmental restriction. In terms of the potential tons and tons of pollution, that didn't really do much.

"The thing that really bothers me," Brittle says, "is when I've gone to hearings, and everything is supposed to be quasi-judicial. But it's only that way when [the commissioners] need it to be. It's really been about listening to what the corporations tell them. Then they sort of nod their heads, but you can tell they're not really listening to citizens, or the other information that's presented to them."

Back at Ground Zero

JON SHUMAKER ISN'T UNDER any illusions about his chances for killing the \$1 billion Toltec power plant project. Still, he's not about to stop trying. "There are still intact bighorn sheep herds in the Silverbell Mountains," he says. "And they move throughout those mountain ranges out there, and one of the ranges they go through is the Sawtooth Mountains. Is this really the kind of thing you want to build eight smokestacks next to?"

But Tom Wray, who spearheads the Toltec Project for the Phoenix-based Southwestern Power Group II, says the company has all its environmental ducks in a row, after conducting studies on land subsidence, water use and potential emissions. The company has also scouted how best to keep the visual impact on nearby monuments to a minimum, he says.

"I believe the nearest facility to Ironwood would be one of the transmission lines that's about nine miles (away). We've done numerous simulations of views from Picacho Peak, from different points inside Ironwood, [and the facilities and transmission lines] would be very difficult to see."

(In truth, Toltec would be roughly six miles east of the Sawtooth Mountains, which lie in the monument, and seven miles north of the core monument.)

Wray estimates that 75 to 80 percent of power produced at Toltec "would remain inside the state of Arizona for the local needs."

However, such numbers are little more than speculation in the volatile energy market; industry watchers say nearly all the new plants are aimed primarily at customers outside the state.

Like many of these planned plants, Toltec is owned by a limited liability partnership. This means that the true money behind such a project is difficult to trace. Wray refused to name Toltec's parent company. "I can't give you that information," he says. "That's one of the reasons you have limited liability companies--the owners are not disclosed."

But some digging unearthed a Louisiana company named MMR Power Group, based in Baton Rouge. Calls to MMR official Allen Boudreaux seeking comment were not returned, but a secretary confirmed that MMR owns the Toltec project.

Regardless, Wray says his company put the plant on the best spot it could find. "I would point to situations where you build plants in populated areas, which impacts those people's lives. We've bought enough land to buffer these plants from any of the homes that would still be there. And our simulations do not show visual impact from Ironwood or Picacho at all. I guess it's all in the eyes of any particular viewer."

Wildlife included.

For his part, Jon Shumaker watches the mad rush of new power projects like Toltec, and says he doesn't like what he sees. "At one hearing, this guy came up and asked me, 'If we don't build it here, where do you want to build it?' I told him I'd rather have it built in my back yard than out here. That shut him up for awhile."

The tractor is plowing its last row of the morning, as Shumaker takes a final glance around this remote battleground. He shakes his head in disgust. "It seems pretty simple to me," he says. "The more they develop next to this brand new national monument, the more they degrade the habitat out here. And where this plant is supposed to be is currently the quiet, rural, agricultural heartland of Arizona. If this goes through, Toltec is going to change the ambience of the entire area."

And like others opposing endless, well-funded power plans, he refuses to abandon his David vs. Goliath fight. "My intent is to drive a stake into the heart of this project," he says. "It's a bad project, and it's a terrible location."

[Feature archives »](#)