



*original*

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**IN THE MATTER OF THE APPLICATION OF UNS ELECTRIC, INC., IN CONFORMANCE WITH THE REQUIREMENTS OF ARIZONA REVISED STATUTES §§ 40-360 *et seq.*, FOR A CERTIFICATE OF ENVIRONMENTAL FOR A ENVIRONMENTAL COMPATIBILITY FOR THE VAIL TO VALENCIA 115 KV TO 138 KV TRANSMISSION LINE UPGRADE PROJECT, ORIGINATING AT THE EXISTING VAIL SUBSTATION IN SEC. 4, T.16S., R.15E., PIMA COUNTY, TO THE EXISTING VALENCIA SUBSTATION IN SEC. 5, T.24S., R.14E., IN THE CITY OF NOGALES, SANTA CRUZ COUNTY, ARIZONA**

Arizona Corporation Commission

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

Case #144

**RECEIVED**

JUN 29 2009

**Notice of Filing of Potential Exhibits**

ARIZONA CORP. COMM  
400 W CONGRESS STE 218 TUCSON AZ 85701

By

Elizabeth Buchroeder-Webb (Elizabeth Webb)

On behalf of herself, Elizabeth Webb provides notice that the following documents may be introduced as an exhibit during the continuation of the evidentiary hearing.

EW-18. A-F (9 Pages Total) which includes the following taken from previously disclosed documents available online, from data requests, new agency correspondence and may include other relevant previously disclosed information-Consisting of:

- **Correspondence** between Susan Bernal, BLM Realty Specialist, Tucson Field Office and Intervener Webb. Formatted for conservation purposes and to still be in an easily readable font size. Originally formatted copy will be available for viewing at the hearing. (A, 2 pages)
  - **UNS Electric, Inc. Responses to Ms. Webb's Requests EW-14a-g.** Dated June 23<sup>rd</sup> 2009. Formatted for printing conservation purposes and to still be in an easily readable font size. Originally formatted copy will be available for viewing at the hearing. (B, 3 pages)
  - **UNS Electric, Inc.** Response to Ms. Webb's first set of Data Request, Dated May 21, 2009. (C, 1 Page)
  - **Data Request EWebb1 dated May 15<sup>th</sup> 2009.** (D, 1 Page)
  - **Data Request EWebb14 dated June 12<sup>th</sup> 2009** (E, 1 Page)
- Excerpt from PP 46 and 47** of the BLM National Environmental Policy Act Manual regarding Non Federal and Federal Connected actions and analysis required. Full manual will be available at hearing for viewing. As previously disclosed, the manual may be viewed online at:  
[http://www.blm.gov/pgdata/etc/medialib/blm/wo/Information\\_Resources\\_Management/policy/blm\\_handbook.Par.24487.File.dat/h1790-1-2008-1.pdf](http://www.blm.gov/pgdata/etc/medialib/blm/wo/Information_Resources_Management/policy/blm_handbook.Par.24487.File.dat/h1790-1-2008-1.pdf) (F, 1 page)

*Additional notice provided to the Docket of potential exhibits previously disclosed to the Parties electronically.*

- Information that may be found on TEP's website on Transmission Line Projects: Applicable excerpts to be given at hearing if they are to be used

<http://www.tep.com/company/news/TransProjects.asp>

Arizona Corporation Commission

and UNS Electric Website on Transmission Line Projects

**DOCKETED**

<http://uesaz.com/Company/News/index.asp>

<http://uesaz.com/Company/News/TransProjects.asp>

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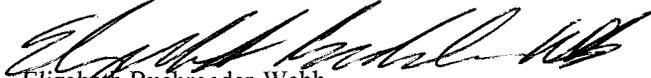
2009 JUN 30 P 12:32  
DOCKET CONTROL

**RECEIVED**

Copies of this information have been provided via email to the Applicant's attorneys and Intervener Magruder.

Dated this 29<sup>th</sup> day of June 2009

ELIZABETH BUCHROEDER-WEBB



Elizabeth Buchroeder-Webb  
17451 E. Hilton Ranch Rd.  
Vail, Arizona 85641  
(520)247-3838 vailaz@hotmail.com

Pursuant to AAC R14-3-204

Original and 25 copies of the foregoing are filed with

Docket Control (26 copies)  
Arizona Corporation Commission  
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Phoenix, Arizona 85007-2927

**Service List:**

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Marshall Magruder  
Intervener  
PO Box 1267  
Tubac, Arizona 85646-1267

## EXHIBIT EW-18

Re: Questions from the Vail Area and the Vail to Valencia Electric Project  
From: Susan\_Bernal@blm.gov  
Sent: Fri 6/26/09 5:44 PM  
To: Vail Arizona (vailaz@hotmail.com)  
Cc: Linda\_Hughes@blm.gov

1 attachment

Obtaining...pdf (239.5 KB)

Elizabeth, here are answers to your questions for both of your emails.

1. Did TEP, or Unisource Electric, Transcon or any representatives have an initial conversation with your office where it was indicated that it would be a relatively simple process that might involve a Categorical Exclusion or simple Environmental Assessment? How does your process work typically?

*Our office had a brief telephone discussion with Mike Warner of Transcon nearly a year ago, and he was advised that a right-of-way application would be required if they plan to cross public lands at the Nogales Tap, and more than likely an EA would be required covering the entire project.*

*Per federal regulation 43 CFR 2800, the process starts with a preapplication meeting for a proposed right-of-way on public land, and the applicant can submit a SF-299 Application Request for a Right of Way Grant to the BLM. BLM then processes the application by beginning the NEPA process. The NEPA process begins with scoping of the issues and determining what level of NEPA analysis would be required. The NEPA is written (either by BLM or a contractor) and presented to the Field Manager to make a Decision on what alternative to select. Keep in mind this is a very generalized description of the project. I've attached a pamphlet below that describes what is needed to obtain a ROW from the BLM. (See attached file: ObtainingaROWPamphlet.ss04-08-05.pdf)*

2. If the preferred alignments are chosen by the Line Siting Committee (which has already had three days of hearings and the next one is July 8th 2009) and are on BLM land, what level of NEPA process would be needed or how would the process be started?

*See answer in red to #1 above.*

3. Would it affect the entire project, or just the small area of BLM near the Nogales Tap and the Santa Cruz County Complex?

*If the line has to cross federal land and cannot continue without a BLM ROW permit, then the entire line (regardless of ownership) would be analyzed in the environmental document. However, the BLM ROW Grant and any stipulations or mitigation would only apply to BLM land.*

4. Does Unisource Electric have to do anything to dismantle their existing site with BLM at the Nogales tap?

*Yes, if their line exists on public lands they will need to advise us and provide a reclamation plan for the removal of the facilities.*

*If there was no NEPA analysis done for the line they plan to dismantle, BLM would determine what level of NEPA would be required. (43 FR 2807.19)*

### Second Email Responses:

1. Is it true that the BLM would not require an amendment to the existing authorization?

**No, if there are substantial changes made to an existing facility from what was granted, the right-of-way holder will need to submit a new application along with preparing new NEPA analysis. (43 CFR 2807.20)**

I have also received a data request back from UNS Electric stating that (I cannot cut and paste this imaged PDF into my hotmail today for some reason)

"Citizens Electric Company was not granted a ROW at the Nogales Tap for reasons unknown to UNS Electric. Neither WAPA nor BLM compelled UNS Electric to obtain a ROW grant at the Nogales Tap. The project requested here does not involve the Nogales Tap so no ROW grant is necessary for the Nogales Tap for the project".

2. The question I have though is this. If BLM granted a ROW to UNS or Citizens in Nogales, did they also grant a ROW for the lines and or poles leaving the Nogales Tap and heading south? (or is that right on the border of the property line? My GIS map from home from the County website are not that clear)

**I have completed a records search and found that BLM never issued a right-of-way Grant to UNS/TEP/Citizen for their line into and out of the WAPA substation.**

**I have recently been in contact by Unisource and they have asked to meet with our office regarding the unauthorized line and their proposed Vail project.**

Their legal department also stated that it believes that no amendment to an existing ROW would be required to remove equipment. Is this true?

**No, if the right-of-way holder elects to remove facilities and cease using the lands for what BLM granted, the right-of-way would be terminated. The holder would be required remove all facilities and restore the right-of-way area. (43 CFR 2807.19)**

Susan D. Bernal  
U.S. Department of Interior  
Bureau of Land Management  
Realty Specialist, TFO  
12661 E. Broadway  
Tucson, AZ 85748  
520-258-7206  
Fax: 520-258-7238

## EXHIBIT EW-18

UNS ELECTRIC, INC.  
RESPONSES TO MS. WEBB'S  
REQUESTS – EWEBB 14  
L-00000F-09-0190-00144  
June 23, 2009

**Data Request E Webb 14a** If UNS Electric is granted the CEC in LS Case 144, and will conduct the appropriate level of NEPA analysis once one alignment has been approved by the Arizona Power Plant and Transmission Line Siting Committee, how will it present reasonable alternatives as required in the NEPA process? Please be specific.

**RESPONSE:** This depends on what route is granted by the Committee and/or approved by the Commission. If the North Route in Segment 1A is selected, then UNS Electric believes the level of analysis may be that which involves a simple Environmental Assessment. BLM would then be only obligated to consider a no-action alternative (i.e. leaving the existing line as is) and the North Route. If the South Route is selected in Segment 1A no BLM land is affected and BLM would not be involved.

**RESPONDENT:** Mike Warner, Transcon Environmental, Inc.

UNS ELECTRIC, INC.  
RESPONSES TO MS. WEBB'S  
REQUESTS – EWEBB 14  
L-00000F-09-0190-00144  
June 23, 2009

**Data Request E Webb 14b** In the Application (UNS-1) under Agency Stakeholder Meetings it lists a meeting on July 7 2009 with Angel Mogel of BLM. What is the correct date of the meeting?

**RESPONSE:** July 7, 2008

**RESPONDENT:** Mike Warner, Transcon Environmental, Inc.

UNS ELECTRIC, INC.  
RESPONSES TO MS. WEBB'S  
REQUESTS – EWEBB 14  
L-00000F-09-0190-00144  
June 23, 2009

**Data Request E Webb 14c** When did TEP/UNS Electric or its assigns meet with the BLM Tucson Regional planning office/personnel ?

**RESPONSE:** Transcon Environmental, Inc. under the direction of UNS Electric discussed the Project with Tucson Field Office personnel during the Summer, 2008.

**RESPONDENT:** Mike Warner, Transcon Environmental, Inc.

UNS ELECTRIC, INC.  
RESPONSES TO MS. WEBB'S  
REQUESTS – EWEBB 14  
L-00000F-09-0190-00144  
June 23, 2009

Data Request E Webb 14d      What was the date Citizens reassigned their BLM grant to UNS Electric at the Nogales Tap. **Please provide documentation.** If was not reassigned please state. If Citizens did not have a BLM grant, please state why.

RESPONSE:      BLM manages the land surrounding the Nogales Tap – owned by Western Area Power Administration (“WAPA”). Citizens Utilities Company was not granted a ROW by BLM for the original connection, for reasons unknown to UNS Electric. Neither BLM nor WAPA have compelled UNS Electric to obtain a ROW grant. The Project requested here does not involve the Nogales Tap, so no ROW grant for the Nogales Tap is necessary for the Project.

RESPONDENT:      Mike Warner, Transcon Environmental, Inc. and Ed Beck, UNS Electric, Inc.

UNS ELECTRIC, INC.  
RESPONSES TO MS. WEBB'S  
REQUESTS – EWEBB 14  
L-00000F-09-0190-00144  
June 23, 2009

Data Request E Webb 14e      Has UNS Electric applied for a modification to an existing agreement (or applicable name) with BLM to remove its equipment from the Nogales substation?

RESPONSE:      UNS Electric would object to the question to the extent it is vague and or ambiguous as to what “existing agreement” the request is referring to. Without waiving the objection, if the question is referring to a ROW grant by BLM, then see the response to Data Request E Webb 14d above. Further, UNS Electric does not believe an amendment to a ROW grant would be needed to remove equipment from the Nogales substation.

RESPONDENT:      Legal Counsel for UNS Electric.

UNS ELECTRIC, INC.  
RESPONSES TO MS. WEBB'S  
REQUESTS – EWEBB 14  
L-00000F-09-0190-00144  
June 23, 2009

Data Request E Webb 14f If UNS Electric does not have a current agreement with the BLM at the Nogales substation, please explain, **with documentation.**

RESPONSE: See Response to Data Request E Webb 14 d above. Further, should the connection remain to the Nogales Tap, UNS Electric would likely seek to obtain a ROW grant with BLM for the connection to the Nogales Tap, if necessary.

RESPONDENT: Ed Beck, UNS Electric, Inc. and Mike Warner, Transcon Environmental, Inc.

UNS ELECTRIC, INC.  
RESPONSES TO MS. WEBB'S  
REQUESTS – EWEBB 14  
L-00000F-09-0190-00144  
June 23, 2009

Data Request E Webb 14g As the BLM application for right of way requires the applicant to describe the probable effects on the population in the area, including the social, economic and rural lifestyles and the A.R.S. 40-360.06. offers factors to be considered in issuing a certificate of environmental compatibility A-9. Any additional factors which require consideration under applicable federal and state laws pertaining to any such site. How were cumulative impacts and future and foreseeable projects considered in public outreach for this project?

RESPONSE: UNS Electric would object to the question as it is vague and ambiguous, as to what is meant by "cumulative impacts and future and foreseeable projects considered in public outreach for this Project" in relationship to the BLM ROW application. Without waiving the objection, the public outreach and notification process for the Project is described in Exhibit UNS-1 (the Application) at Ex. J, as well as in Mr. George Miller's testimony provided to the Committee June 4, 2009. As indicated on the record, comments and concerns from the public were incorporated into the analysis of alignments. UNS Electric believes both proposed routes in Segment 1A to be environmentally compatible under A.R.S. § 40-360.06.A., but the decision rests with the Committee and the Commission.

RESPONDENT: Legal Counsel for UNS Electric.

**EXHIBIT  
EW-18**

UNS ELECTRIC, INC.  
RESPONSES TO MS. WEBB'S  
FIRST SET OF DATA REQUESTS  
L-00000F-09-0190  
May 21, 2009

Data Request E Webb I. Has the applicant UNS Electric or TEP (for the area within TEP's territory), and/or its assigns had any contact with the BLM regarding the NEPA process in regard to the proposed Vail to Valencia project at any stage of development of the project?

Data Request E Webb Ia. What was the specific outcome with supporting documentation

RESPONSE: The BLM was contacted about the proposed project. NEPA compliance was not initiated for the project because alternative alignments exist which avoid BLM land and it was not clear that BLM land would be crossed by the approved CEC route. UNS Electric has committed to conduct the appropriate level of NEPA analysis once an alignment has been approved by the Arizona Power Plant and Transmission Line Siting Committee. Initial conversations with the BLM have indicated that the approval of the alternative alignment north of the Nogales Tap would be a relatively simple process and may involve a **Categorical Exclusion** or a simple Environmental Assessment that would involve the area directly impacted by the Project. The remainder of the proposed project alignments would not be subject to BLM review and approval.

RESPONDENT: Mike Warner and Ed Beck

## EXHIBIT EW-18

May 15<sup>th</sup> 2009

To:

Jason D. Gellman  
Roshka DeWulf & Patten, PLC  
One Arizona Center  
400 East Van Buren, Suite 800  
Phoenix, AZ 85004  
Phone: 602-256-6100  
Fax: 602-256-6800  
email: [jgellman@rdp-law.com](mailto:jgellman@rdp-law.com)

From Elizabeth Buchroeder-Webb  
17451 E.H Hilton Ranch Rd.  
Vail, AZ 85641  
Phone 247-3838  
Email [vailaz@hotmail.com](mailto:vailaz@hotmail.com)

### **Date Requests from Intervener Webb re Line Site Case 144 Vail to Valencia**

DataRequestEWebb1. Has the applicant UNS Electric or TEP (for the area within TEP's territory) and/or its assigns had any contact with the BLM regarding the NEPA process in regard to the proposed Vail to Valencia project at any stage of development of the project?

DataRequestEWebb 1a. What was the specific outcome with supporting documentation.

EW-18 D (1 of 1)

## EXHIBIT EW-18

Elizabeth Webb  
Civilian Intervener  
17451 E. Hilton Ranch Rd.  
Vail, AZ 85641  
(520) 247-3838

12 June 2009

Sent via email and USPS

Jason D. Gellman  
Roshka DeWulf & Patten, PLC  
One Arizona Center  
400 East Van Buren, Suite 800  
Phoenix, AZ 85004  
Phone: 602-256-6100  
Fax: 602-256-6800  
email: [jgellman@rdp-law.com](mailto:jgellman@rdp-law.com)

CC  
Marc Jerden  
Unisource Energy Corporation  
One South Church  
Suite 200  
Tucson, AZ 85701  
Email: [mjerden@tep.com](mailto:mjerden@tep.com)

Re: Vail to Valencia Case # 144 Docket # Docket No. L-00000F-09-0190-00144  
New and Request for Complete Data Requests:

Request for Complete Information on previous Data Request E Webb 1 sent May 15<sup>th</sup>, answered May 21<sup>st</sup>.

I asked, has the applicant UNS Electric or TEP (for the area within TEP's territory, and or its assigns had any contact with the BLM regarding the NEPA process in regard to the proposed Vail to Valencia project at any stage of development of the project?

Data Request E Webb 1a: What was the specific outcome with supporting documentation?

Response:

*NEPA compliance was not initiated for the proposed project because alternate alignments exist which avoid BLM land and it was not clear that BLM would be crossed by the approved CEC route. UNS Electric has committed to conduct the appropriate level of NEPA analysis once an alignment has been approved by Arizona Power Plan and Transmission Line Siting Committee. Initial conversations with BLM have indicated that the approval of the alternative alignment north of Nogales Tap would be a relatively simple process and may involve a Categorical Exclusion or a simple Environmental Assessment that would involve the area directly impacted by the project. The remainder of the project of the proposed project alignments would not be subject to BLM review and approval." (Information provided by Mike Warner and Ed Beck)."*

This answer was not complete. **I asked for supporting documentation, which was to support statement of fact.** Again, I will ask for supporting documentation for my initial data request, dated 15 May 2009.

Here are my supplemental questions to my original data request....

EW-18 E (1 of 1)

# EXHIBIT EW-18

January 2008

BLM/WO

Bureau of Land Management (BLM) National Environmental Policy Act Program Office of the Assistant Director, Renewable Resources and Planning (WO-200) 1849 C Street NW, Mail Stop 1050LS Washington, DC 20240

email: NEPA@blm.gov

Available at BLM's Printed Materials and Distribution Section (PMD) Fax Number 303-236-0845 or BLM\_NCS\_PMDS@blm.gov Cover Photograph – Grand Staircase Escalante National Monument by Peg Sorensen

Excerpt from handbook available online from

BLM Manual website [http://www.blm.gov/wo/st/en/info/regulations/Instruction\\_Memos\\_and\\_Bulletins/blm\\_handbooks.html](http://www.blm.gov/wo/st/en/info/regulations/Instruction_Memos_and_Bulletins/blm_handbooks.html) -link provided by Ms. Mogel, Phoenix Office.

[http://www.blm.gov/pgdata/etc/medialib/blm/wo/Information\\_Resources\\_Management/policy/blm\\_handbook.Par.24487.File.dat/h1790-1-2008-1.pdf](http://www.blm.gov/pgdata/etc/medialib/blm/wo/Information_Resources_Management/policy/blm_handbook.Par.24487.File.dat/h1790-1-2008-1.pdf)

(page 46 ) 46 H-1790-1 - NATIONAL ENVIRONMENTAL POLICY ACT HANDBOOK – (Public)

(paragraph 3) As with a Federal connected action, you must, at a minimum, demonstrate that you have considered the non-Federal connected action in the NEPA document for the proposed action (40 CFR 1508.25) (i.e., describe the connected action and its relationship to the proposed action, including the extent to which the connected action and its effects can be prevented or modified by BLM decision-making on the proposed action).

If the connected non-Federal action and its effects can be prevented by BLM decision-making, then the effects of the non-Federal action are properly considered indirect effects of the BLM action and must be analyzed as effects of the BLM action (40 CFR 1508.7, 40 CFR 1508.25(c)).

For example,

*You receive a right-of-way request from a private company to build a road across BLM-managed land to provide access to adjacent private land, on which the company plans to create and operate a quarry. The creation and operation of the quarry cannot proceed unless the road is constructed. The road cannot be constructed without the grant by BLM of a right-of-way. The grant of the right-of-way must be analyzed as a BLM action: the BLM can grant or deny the right-of-way request. The construction of the road and the creation and operation of the quarry are connected actions.*

*Alternatives: You must analyze the proposed action of granting the right-of-way, and consider the alternative of denying the right-of-way (the No Action alternative) and any other reasonable alternatives related to the right-of-way request. Because the construction of the road, and the creation and operation of the quarry would not be BLM actions, you do not need to consider alternatives to the road construction and creation and operation of the quarry.*

BLM MANUAL Rel. 1-1710 Supersedes Rel. 1-1547 01/30/2008 47

Page 47

*Direct and Indirect Effects: You must analyze the direct and indirect effects of granting the right-of-way. You must also analyze the direct and indirect effects of constructing the road and creating and operating the quarry, because these effects could be prevented by a BLM decision to deny the right-of-way request, and therefore are properly considered indirect effects of the BLM right-of-way grant.*

*Cumulative Effects: You must analyze the cumulative impact of the right-of-way grant, the road construction, and quarry creation and operation, taking into account the effects in common with any other past, present, and reasonably foreseeable future actions.*

(end of topic on connected actions)

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EW-18 F-(1 of 1)