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Arizona Corporation Commission

DOCKETED

BEFORE THE ARIZONA POWER PLANT AND TRANSMISSION LINE SITING COMMITTEE

NOV 25 2009

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IN THE MATTER OF THE APPLICATION OF HUALAPAI VALLEY SOLAR LLC, IN CONFORMANCE WITH THE REQUIREMENTS OF ARIZONA REVISED STATUTES §§ 40-360.03 AND 40-360.06, FOR A CERTIFICATE OF ENVIRONMENTAL COMPATIBILITY AUTHORIZING CONSTRUCTION OF THE HVS PROJECT, A 340 MW PARABOLIC TROUGH CONCENTRATING SOLAR THERMAL GENERATING FACILITY AND AN ASSOCIATED GEN-TIE LINE INTERCONNECTING THE GENERATING FACILITY TO THE EXISTING MEAD-PHOENIX 500kV TRANSMISSION LINE, THE MEAD-LIBERTY 345kV TRANSMISSION LINE OR THE MOENKOPI-EL DORADO 500kV TRANSMISSION LINE.

Docket No. L-00000NN-09-0541-00151

Case No. 151

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AZ CORP COMMISSION
DOCKET CONTROL

PROCEDURAL ORDER

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

IT IS ORDERED:

1. 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 advise the Chairman in writing on or before the time of the pre-hearing conference scheduled below if they disagree that the time limit for decision on the Application by the Line Siting Committee set by A.R.S. § 40-360.04(D) is May 24, 2010.

- 1 2. All "persons" within the meaning of A.R.S. § 40-360(8) who intend to intervene or
2 request to intervene pursuant to A.R.S. § 40-360.05(A) that are listed as parties or
3 potential parties on pleadings or procedural orders filed by the Applicant or the
4 Chairman shall notify Docket Control of their desire to receive pleadings and
5 orders in this matter and shall regularly review the Docket Control file in this matter
6 to make sure they have received all pleadings and procedural orders relating to
7 this case. Neither the Line Siting Committee nor the Chairman has the authority to
8 direct Docket Control to send one of the 25 copies of pleadings and procedural
9 orders filed with Docket Control to prospective parties.
- 10 3. The Applicant shall arrange for the publication and posting of notice of the
11 evidentiary hearing, as agreed to at the pre-application hearing involving the
12 Applicant and all known potential interveners, in a form approved by the Chairman
13 and circulated for approval as to form to all known potential interested parties. In
14 addition, the Applicant shall submit a copy of the notice and present testimony
15 describing the publication and posting of the notice at the evidentiary hearing.
- 16 4. The Applicant shall make arrangements for the evidentiary hearing to be held at
17 the Hampton Inn & Suites, 1791 Sycamore Avenue, Kingman, AZ 86409,
18 beginning on January 12, 2010, at 9:30 a.m. and continuing, if necessary, on
19 January 13, 2010 and January 14, 2010, at 9:30 a.m. In addition, the Applicant
20 shall make arrangements for a public comment session to be held at the same
21 venue starting at 6:00 p.m. on January 12, 2010. The Applicant shall make
22 arrangements for further regular sessions, if needed, and additional public
23 comment sessions, if needed, on dates and at times to be determined later.
- 24 5. The Applicant shall contact the Chief Finance Officer of the Commission and make
25 financial arrangements regarding hotel reservations and other expenses of the
26 Line Siting Committee Members. The Applicant shall also make arrangements with
27 the Commission concerning reimbursement of the Line Siting Fund should the
expenses of the hearings exceed the application fee. A.R.S. § 40-360.10. The
Applicant shall advise the Chairman of the results of these discussions so the
necessary information may be communicated to the Line Siting Committee
Members.
6. 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 and confer, on or before the beginning of the
evidentiary hearing to determine whether any of the intervening parties have
similar interests in the application process that will allow them jointly to present
testimony on direct or cross-examination of witnesses or jointly to offer exhibits
into evidence. The Applicant shall, and any other potential party may, report to the
Chairman the results of the attempts of the parties to resolve the issues and 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.

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

8. Whenever an agenda is filed pursuant to A.R.S. § 38-431.02, all parties shall submit, at least forty-eight hours before the hearing or meeting described in the agenda, any objections, additions or corrections to the agenda, in order to bring the agenda into compliance with A.R.S. § 38-431.02, in writing to the Chairman, serve a copy upon all other parties and file a copy with Docket Control of the Commission.

9. In addition, all parties shall meet and confer as needed before, during and after the hearing to attempt to resolve any disputes amongst the parties. The parties also shall keep all other parties advised of their positions and intentions with regard to the presentation of evidence, witnesses and the application process in general to avoid delay, the presentation of repetitive evidence and any unfair advantage from surprise.

10. All parties shall prepare brief summaries of the expected direct testimony of each witness they will call. In lieu of a testimonial summary, a party may pre-file and exchange all or substantially all of the direct testimony of any witness. Testimonial summaries and pre-filed testimony should be filed no later than the last pre-hearing conference or three business days before the witness is to testify, whichever is later. Except for good cause, no witness will be allowed to testify on direct examination concerning issues not reasonably identified in the pre-filed testimony or testimonial summary.

11. All parties shall meet, confer and exchange all exhibits the party plans to offer in evidence before the hearing or before they are referred to in testimony or offered in evidence. The Applicant shall, and other parties may, provide one or more

1 three ring binders for the Chairman and each member of the Line Siting
2 Committee to hold exhibits at the beginning of the hearing and as needed during
3 the hearing. Each party shall prepare a numbered list of the exhibits and a copy of
4 all exhibits suitable for placement in the binders that have been exchanged with
5 the other parties that each party expects to offer in evidence at the hearing for the
6 Chairman and each Line Siting Committee member. The exhibits shall be
7 provided at the beginning of the hearing and during the hearing before reference
8 to the exhibit is made in the hearing. Except for good cause, no exhibit that was
9 not exchanged with the other parties shall be considered at the hearing. Any
10 exhibit to which reference is made during any hearing that is not offered or
11 admitted into evidence shall be provided to the court reporter at the evidentiary
12 hearing for inclusion in the record unless it is withdrawn, and the Chairman
13 determines its filing is not necessary to an understanding of the actions of the
14 Committee.

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

20 13. The Applicant may make an opening statement at the beginning of the hearing of
21 no more than thirty minutes. Each other party may make an opening statement of
22 no more than five minutes.

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

25 15. In the event the Chairman determines that a tour is appropriate, the Applicant shall
26 arrange for transportation of any Committee Members who wish to attend a tour of
27 the locations where facilities proposed in the Application or similar facilities are
located. If a tour is held, it will begin at 8:00 a.m. on January 13, 2010. The
Applicant shall submit to the Chairman, for approval in advance of the hearing, a
schedule and protocol agreed to by all parties for the tour. If all parties do not
agree upon the schedule and protocol for the tour, the disagreements shall be
submitted to the Chairman for resolution. The protocol shall identify the tour 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.

1 Members of the public who wish to attend the tour shall be encouraged to notify
2 the parties or the appropriate staff of the Arizona Corporation Commission in
3 advance of their intention to attend.

4 16. Parties may present their witnesses in panels where appropriate. A party that
5 intends to present witnesses in panels shall identify the members of any panel at
6 the time it files its witness summaries.

7 17. The Applicant shall make arrangements for the preparation of expedited court
8 reporter transcripts of all pre-application hearings, pre-hearing procedural hearings
9 and the evidentiary hearing, so that the transcripts are available for public
10 inspection within three working days after each hearing date, as required by
11 A.R.S. § 38-431.01(D) and § 40-360.04(C). In addition, the Applicant shall file a
12 certification with Commission Docket Control that it has provided a copy of the
13 transcripts to at least two public libraries identified in the certification that are in the
14 vicinity of the Application.

15 18. On or before the final pre-hearing procedural hearing set below, the Applicant
16 shall, and the other parties may, file proposed findings of fact, proposed
17 conclusions of law, the wording of any proposed Certificate of Environmental
18 Compatibility and the wording of any proposed conditions to the Certificate.

19 19. If the beginning of closing arguments and the Line Siting Committee's
20 deliberations are more than one week after the beginning of the hearing, the
21 parties shall meet and confer after the hearing begins and before closing
22 arguments concerning proposed findings of fact, proposed conclusions of law, a
23 proposed Certificate of Environmental Compatibility and the wording of any
24 proposed conditions to the Certificate. If the parties are able to agree upon part or
25 all of the proposed findings of fact, proposed conclusions of law, proposed forms
26 of a Certificate of Environmental Compatibility and proposed wording of conditions
27 to the Certificate, all that is agreed upon should be reduced to writing and filed with
Commission Docket Control. If the parties are not able to agree 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.

20. 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.

21. All witness summaries, proposed findings of fact, proposed conclusions of law,
proposed Certificates of Environmental Compatibility and proposed conditions of

1 Certificates, shall be filed with Commission Docket Control pursuant to A.A.C.
2 R14-3-204 and -205. If any documents that are filed are hand delivered during the
3 hearing, eleven copies shall be submitted to the Chairman for distribution to the
4 other Committee Members.

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

27 23. 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 January 4, 2010 beginning at 3:00 p.m. at the offices of the
Attorney General of Arizona, 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;
- e. The status of the filing and exchange of witness summaries or written testimony, proposed findings of fact, proposed conclusions of law, proposed

1 Certificates of Environmental Compatibility and proposed conditions to the
2 Certificate;

- 3 f. The status of the exchange of exhibits amongst the parties;
4 g. Any objections, motions, responses and legal memoranda that have been
5 filed;
6 h. Plans and preparations for the hearing, public comment session, and tour of
7 the proposed site.

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10 IT IS FURTHER ORDERED, the Chairman may amend or waive any portion of
11 this Procedural Order by subsequent Procedural Order, by ruling at a pre-hearing
12 conference or at a hearing.

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14 DATED this 25th day of November, 2009.

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

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

23 Docket Control
24 Arizona Corporation Commission
25 1200 W. Washington St.
26 Phoenix, AZ 85007
27

1 Copy of the above was mailed
this 25th day of November, 2009 to:

2

3 Janice Alward, Chief Counsel
4 Arizona Corporation Commission
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5 Phoenix, AZ 85007
Counsel for Legal Division Staff

6

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Jana Williams

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