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BEFORE THE ARIZONA POWER PLANT AND
TRANSMISSION LINE SITING COMMITTEE

IN THE MATTER OF THE APPLICATION)
OF THE SOUTHWEST TRANSMISSION)
COOPERATIVE, INC., OR ITS)
ASSIGNEES, FOR A CERTIFICATE OF)
ENVIRONMENTAL COMPATIBILITY FOR) DOCKET NO.
THE SWTC AND CAP JOINT PROJECTS) L-00000CC-09-0543-00152
CONSISTING OF THREE ELEMENTS:)
(1) A NEW SINGLE-CIRCUIT 115KV) Case No. 152
TRANSMISSION LINE CONNECTING)
SWTC'S NEW 115KV LINE NEAR NORTH)
LOOP SUBSTATION (CASE NO. 149))
TO THE EXISTING RATTLESNAKE)
SUBSTATION AND UPGRADE OF THE)
RATTLESNAKE SUBSTATION TO ADD A)
SWITCHYARD; (2) A NEW DOUBLE-)
CIRCUIT 115KV TRANSMISSION LINE)
FROM THE EXISTING SANDARIO)
SUBSTATION TO THE EXISTING CAP)
TRANSMISSION LINE; AND (3) A NEW)
SINGLE-CIRCUIT 115KV)
TRANSMISSION LINE CONNECTING)
THE EXISTING VALENCIA SUBSTATION)
TO THE CAP TRANSMISSION LINE AT)
SPREADER TAP AND EXPANSION OF)
THE VALENCIA SUBSTATION TO ADD A)
SWITCHYARD.) PREHEARING
) CONFERENCE

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Prepared for:
THE SITING COMMITTEE

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1 BE IT REMEMBERED that the above-entitled
2 matter came on to be heard before the Arizona Power
3 Plant and Transmission Line Siting Committee, 1275 West
4 Washington Street, Phoenix, Arizona, commencing at
5 2:00 p.m. on the 2nd of February, 2010.

6

7

BEFORE: JOHN FOREMAN, Chairman

8

9 APPEARANCES:

10

For the Applicant Southwest Transmission Cooperative:

11

GALLAGHER & KENNEDY
By Mr. Michael M. Grant
2575 East Camelback Road, 11th Floor
Phoenix, Arizona 85016

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14 For CalPortland Company:

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RIDENOUR, HIENTON, KELHOFFER & LEWIS, P.L.L.C.
By Mr. Scott S. Wakefield
201 North Central Avenue, Suite 3300
Phoenix, Arizona 85004

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20 Also present:

21

Ms. Tara Williams, Assistant to Chairman Foreman

22

23

COLETTE E. ROSS
Certified Reporter
Certificate No. 50658

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1 CHMN. FOREMAN: Let's go on the record. This is
2 the time scheduled for a prehearing conference in the
3 Arizona Power Plant and Transmission Line Siting
4 Committee Case No. 152.

5 Let me ask you gentlemen to identify yourselves
6 for the record.

7 MR. GRANT: Judge Foreman, good afternoon. Mike
8 Grant of Gallagher & Kennedy on behalf of Southwest
9 Transmission Cooperative.

10 MR. WAKEFIELD: And Scott Wakefield from
11 Ridenour, Hienton, Kelhoffer & Lewis on behalf of
12 CalPortland Company.

13 CHMN. FOREMAN: All right. And, counsel, we
14 received your request for leave to intervene and
15 participate this morning.

16 From reading the language, it does not appear
17 that you wish to present testimony. Is that true?

18 MR. WAKEFIELD: We do want the opportunity, if
19 necessary. We are still communicating with Southwest on
20 issues trying to narrow issues. If we get them all
21 narrowed, then it won't be necessary. But, otherwise,
22 we expect we would have one witness testifying about
23 CalPortland's location, their operations and how the
24 multiple miles of the transmission line that cross their
25 lands would potentially impact their operations.

1 CHMN. FOREMAN: Okay. Now, the date of your
2 application here is less than ten days before the date
3 of the hearing. You were aware of that?

4 MR. WAKEFIELD: I thought I was in time. But I
5 apologize if I wasn't, and I must have missed that
6 particular deadline in the procedural order.

7 CHMN. FOREMAN: Actually, I think it is also
8 found in the rules of the Line Siting Committee that
9 were adopted by the Corporation Commission, specifically
10 Rule R14-3-204(A).

11 So does the applicant have a position with
12 regard to the intervention?

13 MR. GRANT: Well, Judge, obviously the
14 intervention is untimely. We got our first contact re
15 the intervention just on Friday afternoon, so three or
16 four days ago.

17 I would stress that Southwest Transmission
18 Cooperative has had numerous conversations and meetings
19 with CalPortland. So we obviously knew of their
20 existence but we were assuming they weren't going to
21 intervene, and then heard on Friday afternoon. It is
22 untimely, as you point out, under the rules.

23 The statute indicates a little more flexibility
24 and discretion in the Chair of the Committee and the
25 Committee to grant intervention at any time. I never

1 have known precisely which one might trump the other.

2 CHMN. FOREMAN: Well, since the legislature
3 authorized the writing of the rules I have always taken
4 the position that the statute takes precedent over the
5 rule. And the rule -- and the statute does say at any
6 time.

7 MR. GRANT: I think basically any person at any
8 time that the Committee deems fit or the Chair deems
9 fit.

10 CHMN. FOREMAN: Well, the statute appears to
11 grant to the Committee decision about intervention, at
12 least that's the way I read 40-360.05(A)(4). So my
13 practice is to allow the Committee to make the decision
14 in any event. Sometimes I make a recommendation and
15 sometimes I don't. The rule appears to be inconsistent
16 with the statute in a couple places and this is one of
17 them.

18 So it seems to me the most important thing here
19 is whether or not we are going to end up having to delay
20 the hearing because of the intervention, request to
21 intervene, and whether that's the choice, and so the
22 reason I was asking the question about testimony and so
23 on.

24 MR. WAKEFIELD: Your Honor, I am familiar with
25 the fact that the hearing is scheduled to begin on

1 Monday and that there is a requirement to file summary
2 testimony no later than tomorrow. We intend to be there
3 for the hearing on Monday. If we need to put our
4 witness on, he will be ready on Monday and we will file
5 summary testimony no later than tomorrow.

6 CHMN. FOREMAN: Okay.

7 MR. GRANT: Judge, that was my understanding as
8 well, that there was -- they were not going to seek any
9 delay in the testimony.

10 I also was aware that the Committee, quite
11 honestly, has been very liberal granting intervention.
12 So we do not object to the intervention. As
13 Mr. Wakefield indicated, I am hopeful that the clients
14 can work -- and there seems to be some sort of a
15 misunderstanding on a couple issues; I am hopeful the
16 clients may work out their differences. But it would
17 seem that they are prepared to timely proceed. So had
18 it involved a delay, I think my objection would have
19 been more strenuous.

20 CHMN. FOREMAN: Help me to understand exactly
21 what it is CalPortland would like the CEC to say.

22 MR. WAKEFIELD: There are potential impacts from
23 the location of the line and the requirements regarding
24 the poles and how close an easement can get to the
25 poles, things like that, that could have impacts on

1 CalPortland's operations.

2 They not only have a cement plant there but they
3 also mine the cement inputs on the property and ship
4 them via conveyor belt across the property. And they
5 want to make sure they understand as quickly as possible
6 what the impacts of the line would be on those
7 operations so they can plan accordingly. And so they
8 are wanting confirmation from the company of how quickly
9 the company would be able to provide them information
10 about, for instance, where pole placements will
11 ultimately be and working together to reach agreement on
12 pole placement and line height. They have tall trucks
13 that need to go underneath the line at various points.
14 They want to make sure that there is accommodations for
15 how they use their property.

16 CHMN. FOREMAN: I would hope we don't have a
17 problem with drooping lines. But placement of poles, is
18 it just a matter of we want to know, we want you to put
19 a stake in the ground where the poles are going to go by
20 such and such a date? Is that --

21 MR. WAKEFIELD: That's part of it. And they
22 also want an understanding of how close to that pole
23 then will they be able to mine, you know; I mean, if
24 they are digging a 60-foot hole, can they do that within
25 what distance of that pole without impacting the

1 structural integrity of the pole. Obviously they are
2 not intending to undertake operations that will damage
3 the pole or the line but they need to understand what
4 the limitations then are on their use of the property so
5 that they don't interfere with the operation of the line
6 or the construction of the line.

7 MR. GRANT: And, Judge, as I had indicated, I
8 know that Southwest had met with CalPortland four times
9 last year, the most recent being mid November, and has
10 assured them that they are aware of their operations in
11 the area, will accommodate them reasonably, be sensitive
12 to their concerns.

13 This is an issue you always run into. Until we
14 get the certificate of environmental compatibility you
15 don't really go to final engineering process. I mean
16 obviously you wait. So we can't tell CalPortland with
17 precision, okay, the -- and I believe there is about 1.7
18 miles involved here -- that this pole will be precisely
19 here and this pole will be precisely here. But we have
20 given them a number of assurances that we understand
21 their operations. We have negotiated. We have gotten
22 the right-of-way, for example, valued.

23 So, as I say, we were kind of surprised when
24 Friday afternoon we learned of their interest in it but
25 remain hopeful that if we perhaps reduce those

1 assurances to writing that that will take care of the
2 situation. If I sound a little confused, it is because
3 I am. But we are willing to continue to talk.

4 CHMN. FOREMAN: Okay. Is this, and I am trying
5 to understand the controversy obviously by asking these
6 questions, is this an issue of corridor width? Are you
7 wanting, for example, to put it on one side of the
8 corridor, mine the other side and then move it back over
9 to the other side, or is it a matter of trying to place
10 the right-of-way in a location that would be outside the
11 area that would be mined?

12 MR. WAKEFIELD: Corridor width is one of the
13 aspects of the issue that, in order to maximize the
14 ability to mine the property, obviously CalPortland
15 would like the narrowest corridors as are possible to
16 sustain the line and yet maximize their opportunity to
17 mine the property as close as they can to the line
18 without interfering with it. So trying to get an
19 understanding of what is the actual width of the
20 corridor that's necessary is part of the issue.

21 CHMN. FOREMAN: What is the substance that's
22 mined?

23 MR. WAKEFIELD: They are the inputs to cement,
24 which my client identified several of them yesterday. I
25 have to look at my notes. Calcium carbonate, or

1 limestone; aluminum oxide, and which I guess is also
2 shale; iron oxide; silica oxide.

3 CHMN. FOREMAN: Is the deposition of these
4 materials uniform all away across the area that we are
5 talking about or is there a bit of it here and a bit of
6 it there?

7 MR. WAKEFIELD: Your Honor, I am sorry, I have
8 no idea. You are at a technical level beyond my
9 understanding.

10 MR. GRANT: Judge, and I am sorry, I don't
11 either, other than the fact they do have a conveyor
12 belt. In fact, we have a Google Earth flyover for the
13 Committee. And at that portion, you will see the
14 conveyor belt that exists. And it runs along, and, I am
15 sorry, I am a little fuzzy here, it, I believe, runs
16 along an existing TEP transmission facility. This line
17 in all respects parallels existing transmission lines.
18 And I believe it is a TEP facility. This is the
19 conveyor belt, and then the Southwest transmission line.
20 What I am not certain about is whether or not the TEP
21 facility may be on the other side of the road. But the
22 bottom line is the location is known where the line will
23 be. And, number, two, the width of the right-of-way is
24 a maximum of 75 feet, as we have stated in the
25 application.

1 So, again, I am not sure what the mystery or
2 confusion is about. But, you know, we will, we are
3 trying to work through it.

4 CHMN. FOREMAN: Okay. All right. It sounds to
5 me like we have a discrete issue that is not something
6 that's going to require substantial increases in
7 testimony. It is something that's just going to require
8 making a decision about how to solve the problem. Would
9 that be fair?

10 MR. GRANT: I think, I think that's true, if the
11 parties don't get together. I mean the standard form
12 Conditions 20 and 21 sort of go to this, the requirement
13 to meet with landowners in good faith and that kind of
14 thing. Hopefully there won't, this issue won't require
15 any fine tuning to those conditions at all. They will
16 be taken care of by us in the next couple, three days
17 and that will take care of it. Maybe some adjustments
18 to those two conditions might be required. I don't
19 know. But I think you are correct, this is not, these
20 really are not large environmental issues or
21 disagreement about routing. It is more sort of
22 accommodating the landowner over whose property we will
23 have a right-of-way.

24 MR. WAKEFIELD: Judge Foreman, just, I would
25 agree this is a very discrete issue. And I don't think

1 it is going to take a lot in the way of testimony and we
2 are very hopeful that we can at least narrow the issues
3 over the next few days.

4 CHMN. FOREMAN: Okay. Please keep me informed
5 of the status. I will probably be leaving to drive down
6 Sunday evening. So I would like some kind of status
7 update Friday afternoon.

8 MR. WAKEFIELD: Okay.

9 MR. GRANT: Okay.

10 CHMN. FOREMAN: From one or both of you.

11 MR. GRANT: Would e-mail be sufficient?

12 CHMN. FOREMAN: E-mail would be more than
13 sufficient.

14 MR. GRANT: Okay.

15 CHMN. FOREMAN: And I would appreciate a draft
16 CEC with conditions if you don't have one -- with
17 language for the conditions that you are particularly
18 interested in -- if you don't have one today.

19 MR. GRANT: Judge, I have supplied Mr. Wakefield
20 with, I think, yesterday --

21 MR. WAKEFIELD: I did get, Mr. Grant, the draft.

22 MR. GRANT: -- a proposed draft CEC.

23 CHMN. FOREMAN: Okay.

24 MR. GRANT: It is pretty much standard form
25 conditions at this point in time, maybe some nuancing

1 for our last case, 149, but... And as I -- so
2 Mr. Wakefield has that. And I am prepared to -- I will
3 file that. I thought obviously I would hold up and wait
4 and see if we can make some progress on these issues
5 that just arose.

6 CHMN. FOREMAN: Okay. We had talked at the
7 prefiling conference about the possibility of this case
8 being resolved in one day. Is that still a possibility?

9 MR. GRANT: I certainly would think so. I have
10 two witnesses.

11 CHMN. FOREMAN: The testimony that you have
12 proffered from them appeared to be pretty
13 straightforward.

14 MR. GRANT: So I, even if we perhaps have to
15 discuss something, I will yield to Mr. Wakefield as to
16 what his testimony would be, but I would be very hopeful
17 that it certainly wouldn't take long.

18 MR. WAKEFIELD: Learning for the first time
19 exactly how many Mr. Grant intended to call, I wouldn't
20 disagree. I think it is very likely that we could
21 resolve the matter with the hearing in a day.

22 CHMN. FOREMAN: If either of you change your
23 mind, let me know. As I tell the Committee members when
24 they ask how long this is going to take, all I can do is
25 give you my best guess, but my guess has to be based on

1 what data you folks provide to me. So...

2 MR. GRANT: Understood. Well, obviously we have
3 prefiled direct testimony. And, as you know, that
4 expedites that process as well.

5 CHMN. FOREMAN: Yes. Yes. All right.

6 Well, the Committee will then have to make a
7 decision about intervention. The Committee will have to
8 make a decision about the tour. And this may be an
9 issue that would interest them as far as a tour is
10 concerned or not. I don't know. We haven't taken tours
11 in the last three or four times. So I don't know how to
12 anticipate the Committee's preferences as far as tour
13 taking is concerned.

14 We will try to get started promptly. Do we
15 anticipate any significant public comment?

16 MR. GRANT: Judge, since we posted the signs
17 more than a month ago, we have had exactly three
18 telephone calls.

19 CHMN. FOREMAN: Okay.

20 MR. GRANT: One asking for information in
21 Spanish, which was provided; another asking about the
22 location, and the person said, oh, that's not close to
23 me and hung up; and a third, I can't recall what it was.
24 So to the best of my knowledge, we have received no
25 indication that there would be any public comment at

1 all.

2 CHMN. FOREMAN: Let me see the agenda.

3 MR. GRANT: Judge, let me correct that. The
4 Central Arizona Project may send a representative simply
5 to speak in favor of the project.

6 CHMN. FOREMAN: Okay.

7 MR. GRANT: Or may do that in writing. I am not
8 certain. They did want to make sure the Committee knew
9 that they were supportive of the CEC.

10 CHMN. FOREMAN: We did not schedule an evening
11 public comment session. So we will take public comment
12 during the day and proceed accordingly.

13 All right. Exhibits we have, you provided.

14 Mr. Wakefield, you said you would provide
15 testimonial summaries. And obviously if you are going
16 to propose any exhibits, we will need to have those
17 disclosed also --

18 MR. WAKEFIELD: I understand.

19 CHMN. FOREMAN: -- appropriately.

20 MR. WAKEFIELD: Yes.

21 CHMN. FOREMAN: Are there other issues that we
22 need to address here today?

23 MR. GRANT: Judge, I don't think so.

24 CHMN. FOREMAN: Mr. Wakefield.

25 MR. WAKEFIELD: None that I am aware of. Thank

1 you.

2 CHMN. FOREMAN: All right. All right. I will
3 look forward to hearing from you. Please give me a
4 progress report Friday afternoon and we will see you
5 down there Monday morning bright and early.

6 MR. GRANT: Will do.

7 MR. WAKEFIELD: Thank you.

8 (The proceeding concluded at 2:21 p.m.)

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1 STATE OF ARIZONA)
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I, COLETTE E. ROSS, Certified Reporter
 No. 50658 for the State of Arizona, do hereby certify
 that the foregoing printed pages constitute a full, true
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