

ORIGINAL

OPEN MEETING



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MEMORANDUM  
RECEIVED

TO: THE COMMISSION 2010 JAN -5 A 11: 36  
FROM: Utilities Division  
DATE: January 5, 2010

ARIZONA CORPORATION COMMISSION  
DOCKET CONTROL

RE: IN THE MATTER OF THE APPLICATION OF MESQUITE POWER LLC, OR THEIR ASSIGNEES(S), IN CONFORMANCE WITH THE REQUIREMENTS OF ARIZONA REVISED STATUTES 40-360 ET SEQ., FOR A CERTIFICATE OF ENVIRONMENTAL COMPATIBILITY AUTHORIZING CONSTRUCTION OF A NATURAL GAS-FIRED, COMBINED CYCLE GENERATING FACILITY ("MESQUITE PROJECT") LOCATED SOUTH OF ELLIOT ROAD, APPROXIMATELY ONE MILE EAST OF WINTERSBURG ROAD AND APPROXIMATELY 37 MILES WEST OF THE PHOENIX METROPOLITAN AREA, NEAR ARLINGTON IN MARICOPA COUNTY, ARIZONA (DOCKET NO. L-00000S-00-0101-00000 - CASE NO. 101)

On December 5, 2000, the Commission issued Decision No. 63232 which granted a Certificate of Environmental Compatibility ("CEC") to Mesquite Power LLC ("Mesquite"). As part of the CEC, Mesquite was ordered to comply with several conditions, including the Condition Number 11 (ii): "Implement a comprehensive revegetation program designed to restore portions of the water property with plant communities similar to the adjacent desert lands".

On October 30, 2009, the Commission granted Mesquite a CEC for its "Solar Gen-Tie" application in Decision No. 71320. On November 3, 2009, Mesquite filed a request under A.R.S. § 40-252 for amendment of its CEC granted in Decision No. 63232 to allow for development of its solar project on portions of the "Water Property". Mesquite's request for amendment of Decision No. 63232 states that it is necessary to eliminate the revegetation requirement because it is incompatible with the installation and operation of photovoltaic solar panels on the portions of the "Water Property".

On November 30, 2009, Mesquite's request for amendment of its CEC was placed on a Commission Open Meeting agenda for consideration of whether to reopen Decision No. 63232 pursuant to A.R.S. § 40-252. The Commission voted to grant Mesquite's request to reopen Decision No. 63232 to consider amending Mesquite's CEC concerning the revegetation condition in its CEC.

Arizona Corporation Commission

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JAN -5 2010

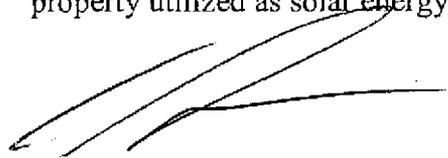
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THE COMMISSION

January 5, 2010

Page 2

Staff recommends that CEC Condition Number 11 (ii) be modified so that the comprehensive revegetation program shall not be applicable to those portions of the water property utilized as solar energy facilities.



Steven M. Olea  
Director  
Utilities Division

SMO:KDB:lhmvMA

Originator: Kimberly Battista

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**BEFORE THE ARIZONA CORPORATION COMMISSION**

KRISTIN K. MAYES  
Chairman  
GARY PIERCE  
Commissioner  
PAUL NEWMAN  
Commissioner  
SANDRA D. KENNEDY  
Commissioner  
BOB STUMP  
Commissioner

IN THE MATTER OF THE APPLICATION )  
OF MESQUITE POWER LLC, OR THEIR )  
ASSIGNEES(S), IN CONFORMANCE )  
WITH THE REQUIREMENTS OF )  
ARIZONA REVISED STATUTES 40-360 ET )  
SEQ., FOR A CERTIFICATE OF )  
ENVIRONMENTAL COMPATIBILITY )  
AUTHORIZING CONSTRUCTION OF A )  
NATURAL GAS-FIRED, COMBINED )  
CYCLE GENERATING FACILITY )  
("MESQUITE PROJECT") LOCATED )  
SOUTH OF ELLIOT ROAD, )  
APPROXIMATELY ONE MILE EAST OF )  
WINTERSBURG ROAD AND )  
APPROXIMATELY 37 MILES WEST OF )  
THE PHOENIX METROPOLITAN AREA, )  
NEAR ARLINGTON IN MARICOPA )  
COUNTY, ARIZONA. )

DOCKET NO. L-00000S-00-0101-00000  
(CASE NO. 101)

DECISION NO. \_\_\_\_\_

**ORDER AMENDING**

**DECISION NO. 63232**

Open Meeting  
January 12 and 13, 2010  
Phoenix, Arizona

BY THE COMMISSION:

Having considered the entire record herein and being fully advised in the premises, the Arizona Corporation Commission ("Commission") finds, concludes, and orders that:

**FINDINGS OF FACT**

1. On December 5, 2000, the Commission issued Decision No. 63232 which granted a Certificate of Environmental Compatibility ("CEC") to Mesquite Power LLC ("Mesquite").

...

1           2.       As part of the CEC, Mesquite was ordered to comply with several conditions,  
2 including the Condition Number 11 (ii): "Implement a comprehensive revegetation program  
3 designed to restore portions of the water property with plant communities similar to the adjacent  
4 desert lands".

5           3.       On October 30, 2009, the Commission granted Mesquite a CEC for its "Solar Gen-  
6 Tie" application in Decision No. 71320.

7           4.       On November 3, 2009, Mesquite filed a request under A.R.S. § 40-252 for  
8 amendment of its CEC granted in Decision No. 63232 to allow for development of its solar project  
9 on portions of the "Water Property". Mesquite's request for amendment of Decision No. 63232  
10 states that it is necessary to eliminate the *revegetation requirement* because it is incompatible with  
11 the installation and operation of photovoltaic solar panels on the portions of the "Water Property".

12           5.       On November 30, 2009, Mesquite's request for amendment of its CEC was placed  
13 on a Commission Open Meeting agenda for consideration of whether to reopen Decision No.  
14 63232 pursuant to A.R.S. § 40-252. The Commission voted to grant Mesquite's request to reopen  
15 Decision No. 63232 to consider amending Mesquite's CEC concerning the revegetation condition  
16 in its CEC.

17           6.       Commission Staff ("Staff") recommends that the Commission grant Mesquite's  
18 request to amend Decision No. 63232 by modifying CEC Condition Number 11 (ii) for  
19 revegetation because the requirement is incompatible with the installation and generation of  
20 photovoltaic panels for portions of the water property utilized as solar energy facilities.

21           7.       Staff recommends that CEC Condition Number 11 (ii) be modified by the  
22 following new language shown in bold.

- 23           (ii)       Implementation of a comprehensive revegetation program designed  
24 to restore portions of the water property with plant communities  
25 similar to the adjacent desert lands. **The comprehensive**  
26 **revegetation program shall not be applicable to those portions**  
27 **of the water property utilized as solar energy facilities and**  
28 **Applicant may modify the comprehensive revegetation**  
**program accordingly.**

1           8.       The Commission finds that Staff's proposed amendment of CEC Condition Number  
 2 11 (ii) should be adopted because the revegetation requirement is incompatible with the  
 3 installation and generation of photovoltaic panels for the portions of the water property utilized as  
 4 solar energy facilities.

CONCLUSIONS OF LAW

6           1.       The Commission has jurisdiction over the subject matter of Mesquite's CEC and its  
 7 request to amend Decision No. 63232 pursuant to ARS § 40-252.

8           2.       Notice and an opportunity to be heard have been provided to the interested parties.  
 9 It is in the public interest to amend Decision No. 63232 to modify CEC Condition Number 11 (ii)  
 10 for revegetation because the requirement is incompatible with the installation and generation of  
 11 photovoltaic panels for the portions of the water property utilized as solar energy facilities.

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ORDER

IT IS THEREFORE ORDERED that Decision No. 63232 is amended to modify CEC Condition Number 11 (ii) concerning revegetation to remove the requirement for the portions of the water property utilized as solar energy facilities because the requirement is incompatible with the installation and operation of photovoltaic solar panels.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

**BY THE ORDER OF THE ARIZONA CORPORATION COMMISSION**

CHAIRMAN

COMMISSIONER

COMMISSIONER

COMMISSIONER

COMMISSIONER

IN WITNESS WHEREOF, I, ERNEST G. JOHNSON, Executive Director of the Arizona Corporation Commission, have hereunto, set my hand and caused the official seal of this Commission to be affixed at the Capitol, in the City of Phoenix, this \_\_\_\_ day of \_\_\_\_\_, 2010.

\_\_\_\_\_  
ERNEST G. JOHNSON  
EXECUTIVE DIRECTOR

DISSENT: \_\_\_\_\_

DISSENT: \_\_\_\_\_

EGJ:KDB:lhmvJMA

1 SERVICE LIST FOR: MESQUITE POWER, LLC  
2 DOCKET NO.: L-00000S-00-0101-00000

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10 Arizona Corporation Commission  
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13 Ms. Janice M. Alward  
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