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1 ORIGINAL

2 BEFORE THE ARIZONA POWER PLANT AND TRANSMISSION
3 LINE SITING COMMITTEE

4 IN THE MATTER OF THE APPLICATION
5 OF HUALAPAI VALLEY SOLAR LLC, IN
6 CONFORMANCE WITH THE
7 REQUIREMENTS OF ARIZONA REVISED
8 STATUTES §§ 40-360.03 AND 40-360.06,
9 FOR A CERTIFICATE OF
10 ENVIRONMENTAL COMPATIBILITY
11 AUTHORIZING CONSTRUCTION OF THE
12 HVS PROJECT, A 340 MW PARABOLIC
13 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

APPLICATION FOR
RATIFICATION AND
RECONSIDERATION OF
INTERVENTION REQUEST

Arizona Corporation Commission

DOCKETED

JAN 21 2010

DOCKETED BY

14 Introduction

15 To ensure that the Certificate of Environmental Compatibility in this matter is free of any
16 procedural questions or concerns, Hualapai Valley Solar L.L.C. ("HVS") requests that the
17 Arizona Power Plant and Transmission Line Siting Committee ("Committee") reconvene to
18 address two issues. First, HVS requests that the Committee ratify the legal action made to grant
19 the Certificate of Environmental Compatibility. Second, HVS requests that the Committee
20 reconsider the question of whether to grant intervenor status to those individuals who requested it.

21 Discussion

22 I. Ratification would resolve any potential concerns relating to compliance with the
23 Arizona Open Meeting Law.

24 HVS respectfully requests that pursuant to A.R.S. § 38-431.05, the Committee ratify the
25 legal action taken by the Committee on January 13, 2010. HVS believes that such action is
26

1 appropriate to validate the Committee's vote in light of a potential concern regarding the Arizona
2 Open Meeting Law.

3 At an evidentiary hearing and open meeting held on January 12, 2010, the Chairman of the
4 Committee instructed individuals attending the meeting that "recording is inappropriate."
5 Transcript ("Tr.") at 5:12. The Chairman indicated that he was concerned about the possibility of
6 multiple transcripts of the proceeding, and therefore asked attendees "not to record these
7 [proceedings] unless you're willing to accept at the beginning that you're going to record them all
8 and provide transcripts to the Commission." *Id.* at 5-6. The Open Meeting Law allows "any
9 person in attendance" at an open meeting to record the meeting with a "tape recorder" or by any
10 other means, unless there is "active interference with the conduct of the meeting." A.R.S. § 38-
11 431.01(F).

12 To avoid any contention that the legal action taken by the Committee at the January 13
13 meeting is null and void pursuant to A.R.S. § 38-431.05, it may be appropriate for the Committee
14 to ratify that action.

15 Section 38-431.05(B) specifies the steps for ratification.

16 **II. Allowing intervention would address any potential concerns relating to public**
17 **participation.**

18 At the hearing, the Chairman asked whether there were motions from the Committee
19 members to allow two individuals to participate as parties in the hearing. Committee Member
20 Barry Wong so moved, but the motions died for lack of a second. Tr. at 12:4-18. As a result,
21 these two individuals presented testimony under oath as Committee witnesses, but did not cross
22 exam other witnesses. Tr. at 15:11-22.

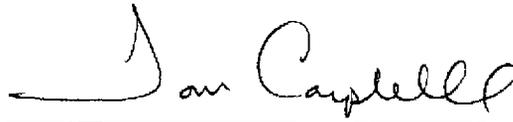
23 Although HVS believes the Committee has the discretion not to grant intervention
24 pursuant to A.R.S. § 40-360(A)(4), HVS requests that the Committee reconsider intervention in
25 this case. Granting intervention would be consistent with Commission practice to encourage
26 intervention and would remove any concerns about the individuals' participation.

1 **Conclusion**

2 HVS requests that in order to avoid delay with this matter, this application be considered
3 in conjunction with the Committee's next meeting, which is scheduled for January 26 and 27,
4 2010. In the event the Committee decides to grant intervention, HVS will have as many of its
5 witnesses available as possible for cross examination at that time.

6 Respectfully submitted this 21st day of January, 2010.

7 LEWIS AND ROCA LLP

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17 **ORIGINAL** and twenty-five (25) copies
18 of the foregoing filed this 21st day
19 of January, 2010, with:

20 The Arizona Corporation Commission
21 Utilities Division – Docket Control
22 1200 W. Washington Street
23 Phoenix, Arizona 85007

24 **COPY** of the foregoing served via electronic
25 mail this 20th day of January, 2010, to:

26 John Foreman, Chairman
Arizona Power Plant and Transmission Line Siting Committee
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