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BEFORE THE ARIZONA CORPORATION COMMISSION

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AZ CORP COMMISSION
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10 Commissioner

Arizona Corporation Commission
DOCKETED

MAY - 7 2010

DOCKETED BY *MN*

9 IN THE MATTER OF THE
10 APPLICATION OF ARIZONA PUBLIC
11 SERVICE COMPANY, IN
12 CONFORMANCE WITH THE
13 REQUIREMENTS OF ARIZONA
14 REVISED STATUTES §§ 40-360, *et seq.*,
15 FOR A CERTIFICATE OF
16 ENVIRONMENTAL COMPATIBILITY
17 AUTHORIZING THE TS-5 TO TS-9
18 500/230kV TRANSMISSION LINE
PROJECT, WHICH ORIGINATES AT
THE FUTURE TS-5 SUBSTATION,
LOCATED IN THE WEST HALF OF
SECTION 29, TOWNSHIP 4 NORTH,
RANGE 4 WEST AND TERMINATES AT
THE FUTURE TS-9 SUBSTATION,
LOCATED IN SECTION 33, TOWNSHIP
6 NORTH, RANGE 1 EAST, IN
MARICOPA COUNTY, ARIZONA

Docket No. L-00000D-08-0330-00138

Case No. 138

A.C.C. Decision No. 70850

**ARIZONA PUBLIC SERVICE
COMPANY'S NOTICE OF FILING
BLM RIGHT-OF-WAY DENIAL**

19 Pursuant to Arizona Corporation Commission ("ACC") Decision No. 70850,
20 Arizona Public Service Company ("APS") filed an application for a right-of way across
21 United States Bureau of Land Management ("BLM") land on April 29, 2009. APS also
22 met with the BLM on several occasions following the filing of its right-of-way application
23 and explained that APS's requested right-of-way was within a transmission line corridor
24 approved by the ACC and the Arizona Power Plant and Transmission Line Siting
25 Committee after an extensive evidentiary hearing involving numerous parties and
26

1 substantial public comment. At the time APS filed its right-of-way application, the BLM
2 was engaged in a resource management planning process which the BLM anticipated
3 would be completed in mid-2009, just a few months after the APS right-of-way
4 application was filed.

5 Approximately one year after APS filed its right-of-way application, APS received
6 the attached decision from the BLM Phoenix District Office denying APS's right-of-way
7 application. It is the BLM's position that the APS right-of-way application filed on
8 April 29, 2009 is not in conformance with the objectives and decisions of the approved
9 Bradshaw-Harquahala Resource Management Plan ("RMP") which, contrary to
10 expectations, did not become final until April 22, 2010. One week after the RMP became
11 final, the BLM rejected APS's right- of- way request. APS is evaluating its options,
12 including an appeal of the BLM's rejection and an application to amend the RMP.

13 As the ACC is aware, the continuing viability of this certificated transmission
14 project is dependent on timely BLM approval of a right-of-way within the certificated
15 corridor. APS will continue to keep the ACC informed of new developments on this
16 project.

17 RESPECTFULLY submitted this 7th day of May, 2010.

18 LEWIS AND ROCA LLP

19
20
21 By 
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26 Attorneys for Arizona Public Service Company

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ORIGINAL and thirteen (13) copies
of the foregoing filed this 7th day
of May, 2010, with:

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

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COPY of the foregoing hand-delivered
this 7th day of May, 2010, to:

8

Honorable Dwight Nodes
Hearing Division

9

Arizona Corporation Commission
1200 W. Washington Street
Phoenix, Arizona 85007

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Chairman Kristin K. Mayes
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Commissioner Gary Pierce
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Commissioner Paul Newman
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Commissioner Sandra D. Kennedy
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Commissioner Bob Stump
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1 **COPY** of the foregoing
2 served electronically via e-mail
3 this 7th day of May, 2010 to:

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5 Arizona Power Plant and Transmission Line Siting Committee
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Betty J. Griffin



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Phoenix District
Hassayampa Field Office
21605 North 7th Avenue
Phoenix, Arizona 85027
www.blm.gov/az/



APR 28 2010

In Reply Refer To:
2800 (P010)
AZA-35079

CERTIFIED MAIL - RETURN RECEIPT REQUESTED NO. 7009 1410 0001 9977 4515

Decision

Arizona Public Service Company
P.O. Box 53933, Station 3016
Phoenix, Arizona 85072-3933

Application AZA-35079 Rejected

On April 29, 2009, Arizona Public Service Company (APS), filed an Application for Transportation and Utility Systems and Facilities on Federal Lands (SF299). The purpose of the application was to secure a right-of-way across public land for the TS-5 to TS-9 500/230kV power line. The following described public lands were applied for:

T. 6 N., R. 1 W., G&SRM, Arizona

- Sec. 22, S $\frac{1}{2}$ S $\frac{1}{2}$;
- Sec. 23, S $\frac{1}{2}$ S $\frac{1}{2}$;
- Sec. 25, Lots 3, 6, 8, 10, 12, N $\frac{1}{2}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$;
- Sec. 26, Lots 1, 3, 5-8, N $\frac{1}{2}$ N $\frac{1}{2}$, N $\frac{1}{2}$ SE $\frac{1}{4}$;
- Sec. 27, Lots 1, 3, 5, 7, N $\frac{1}{2}$ N $\frac{1}{2}$;
- Sec. 28, Lots 1, 3-5, N $\frac{1}{2}$, N $\frac{1}{2}$ SW $\frac{1}{4}$;
- Sec. 29, S $\frac{1}{2}$;
- Sec. 30, Lot 5, SE $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$.

T. 6 N., R. 2 W., G&SRM, Arizona
Sec. 25, E $\frac{1}{2}$ SE $\frac{1}{4}$.

T. 4 N., R. 4 W., G&SRM, Arizona

- Sec. 20, Tract 39;
- Sec. 21, Tract 39;
- Sec. 22, Tract 39;
- Sec. 29, Tract 39.

On April 22, 2010, the Record of Decision (ROD) for the Bradshaw - Harquahala Resource Management Plan (RMP) became final after being signed by the Bureau of Land Management (BLM) Arizona State Director. As we have informed APS staff, as well the City of Peoria, local developers and community associations, any decisions relating to the application filed by APS would be made after the ROD had been finalized.

The BLM Hassayampa Field Office has reviewed the application filed by APS against the Lands and Realty Management decisions in the RMP/ROD. It is the BLM's position that the application filed by APS is not in conformance with the objectives and decisions of the approved Bradshaw - Harquahala RMP. **Thus the application is hereby rejected.**

This decision may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR, Part 4, and the enclosed Form 1842-1, Information on Taking Appeals to the Interior Board of Land Appeals. If an appeal is taken, your notice of appeal must be filed in this office (at the above address) within 30 days of receipt of this decision. The appellant has the burden of showing that the decision appealed from is in error.

If you wish to file a petition pursuant to regulation 43 CFR 4.21 (58 FR 4939, January 19, 1993) or 43 CFR 2804.1 for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the Board, the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the enclosed Standards for Obtaining a Stay. Copies of the notice of appeal and the petition for a stay must also be submitted to each party named in this decision, and to the Interior Board of Land Appeals, and to the appropriate Office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.



Steven Cohn
Field Manager

Enclosures

cc: Mr. Stephen J. Burg, City of Peoria
Mr. Chad Kolodisner, Diamond Ventures
Mr. Mark Hammons, Vistancia
Mr. Jeff Dixon, Trilogy at Vistancia Community Association
Ms. Lisa Lundskow, Vistancia Village Association
Mr. Paul Herndon, Arizona Public Service Company