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January 4, 2002

VIA HAND DELIVERY

The Honorable William A. Mundell, Chairman
The Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

Arizona Corporation Commission
DOCKETED

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The Honorable Jim Irvin
The Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

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The Honorable Marc Spitzer
The Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

Re: Arlington Valley Energy Facility II Project
Docket No. L00000P-01-0117

Dear Commissioners:

Salt River Project Agricultural and Improvement District ("SRP") is the operating agent and co-owner for the Palo Verde to Kyrene Transmission Line. We have concerns about a condition affecting this line adopted by the Power Plant and Line Siting Committee ("Siting Committee") in Case 117 for the Arlington Valley Energy Facility II Project.

Background

In July of this year, Duke Energy Maricopa, L.L.C. ("Duke") filed an application for a Certificate of Environmental Compatibility ("CEC") for the construction of the Arlington Valley Energy Facility II. The proposed project includes the construction and operation of a 600-megawatt ("MW") merchant power plant that would interconnect at the Palo Verde Hub through the Hassayampa Switchyard.

As you know, Arizona Corporation Commission Staff ("Staff") recently recommended a moratorium on all pending and future CEC applications for generation proposing to interconnect

at the Palo Verde Hub. Staff has expressed concerns about security, reliability and export capacity at the Palo Verde Hub. We understand that based upon these concerns, Staff initially opposed the proposed Duke CEC.

Staff chose to support the CEC after Duke agreed to certain conditions. It is one of these conditions that triggered our interest in this matter. Condition number 16 states:

Once construction commences on the Project, Duke will pay up to \$11 million for the upgrades to the North Gila and Kyrene transmission lines set forth in the Report on the Preliminary Study for the Palo Verde Interconnection prepared for the Palo Verde Interconnectors and Western Arizona Transmission System Task Force, dated February 20, 2001 (the "WATS Study") at pages 29-31. Applicant will contact the transmission owners of the upgraded lines to determine the earliest opportunity for the transmission lines to be upgraded and Applicant will use commercially reasonable efforts to assure that such upgrades are completed before AVEF II is in commercial operation.

Issues

The condition raises two significant issues: 1.) a potential conflict with the FERC process for allocation of transmission service; and 2.) reliance on a preliminary study.

1. FERC Process. First, the condition implies that Duke obtains transmission service rights or priority in the assignment of transmission service simply by paying for system upgrades. A request for transmission service is an intricate process under the jurisdiction of Federal Energy Regulatory Commission ("FERC"). FERC Order 888, Appendix D, Pro Forma Open Access Transmission Tariff ("OATT") outlines the process for requesting transmission service.

It is our understanding that Duke and Staff will propose an amendment to address this concern. The amendment will be added to the end Condition 16 and will state:

Nothing in this paragraph is intended to preempt any Federal Energy Regulatory Commission order or regulation concerning either interconnection or transmission service, nor grants Applicant any priority in either interconnection or transmission service, nor guarantees that Applicant will receive transmission service.

We support this proposed amendment. We believe it does a great deal to address our concerns relevant to the FERC process. However, we would seek additional language to address our second issue.

2. Reliance on a Preliminary Study. SRP is also troubled that a preliminary interconnection study, by SRP, is being used as the basis for this condition. The WATS Study referenced in the condition is the first part of a two-part study that must be completed before an interconnection request can be granted. A more detailed technical study must be completed. SRP

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is concerned that Staff is relying on a specific dollar amount identified in the WATS Study without considering other necessary upgrades and technical study work which is currently underway. The modifications described in the WATS Study may not guarantee transmission capacity for Duke's Arlington Valley facilities.

We would suggest that additional language be added to the end of the proposed modification to address this concern. Specifically, we would suggest that the phrase "and does not imply that the aforementioned upgrades can be completed for \$11 million" be added to the final sentence of the proposed modification. This change would simply recognize that the dollar amounts provided in the study are estimates and that further study work has to be done.

We appreciate your consideration of our concerns.

Very truly yours,

JENNINGS, STROUSS & SALMON, P.L.C.

By



Robert R. Taylor

RRT/jah

cc: Laurie Woodall, Esq.
Mr. Jerry Smith
Jason Gellman, Esq.
Jeff Guldner, Esq.