



0000114685

Transcript Exhibit(s)

Docket #(s): L-00000P-01-0117-00000

Exhibit #: S1, S2, A11, A14

5-1
admitted

BEFORE THE POWER PLANT AND
TRANSMISSION LINE SITING COMMITTEE

1
2
3 IN THE MATTER OF THE APPLICATION OF)
DUKE ENERGY MARICOPA, LLC IN)
4 CONFORMANCE WITH THE)
REQUIREMENTS OF ARIZONA REVISED)
5 STATUTES 40-360.01 ET SEQ., FOR A)
CERTIFICATE OF ENVIRONMENTAL)
6 COMPATIBILITY AUTHORIZING)
CONSTRUCTION OF A NATURAL GAS-)
7 FIRED, COMBINED-CYCLE GENERATING)
FACILITY (ARLINGTON VALLEY ENERGY)
8 FACILITY II) NEAR ARLINGTON IN)
MARICOPA COUNTY, ARIZONA)

CASE NO. 117
DOCKET NO. L-00000P-01-0117

NOTICE OF FILING
STAFF COMMENTS

9
10 The Arizona Corporation Commission's Utilities Division ("Staff") hereby files its Staff
11 Comments in this matter. The format of Staff's Comments is a Staff Memorandum reflecting its
12 views on significant issues related to this matter.

13 RESPECTFULLY SUBMITTED this 14th day of September, 2001.

14
15 *Teena Wolfe for*
16 Teena Wolfe, Attorney
Arizona Corporation Commission
17 1200 West Washington Street
Phoenix, Arizona 85007
18 Telephone: (602) 542-3402
Facsimile: (602) 542-4870

19 Pursuant to R14-3-204
20 the ORIGINAL and
twenty-five copies were
21 filed this 14th day of
September, 2001 with:

22 Docket Control
Arizona Corporation Commission
23 1200 West Washington Street
Phoenix, Arizona 85007

24
25 COPY of the foregoing
mailed/hand-delivered
26 this 14th day of September, 2001, to:

27 Thomas H. Campbell
Lewis and Roca LLP
40 North Central
28 Phoenix, Arizona 85004-4429

1 James H. Oeser
190 North Litchfield Road
2 Goodyear, Arizona 85338
Attorney for the City of Goodyear

3 Laurie A. Woodall, Chairman
4 1275 West Washington
Phoenix, Arizona 85007-2926
5 Arizona Power Plant & Transmission Line
Siting Committee

6 Neil A.M. Peters
7 P.O. Box 57
Arlington, Arizona 85322

8
9 
10 Angela L. Bennett

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

Memorandum

Date: September 14, 2001
To: Steve M. Olea, Utilities Division, Acting Director
From: Jerry D. Smith, Engineering, Electric Utility Engineer 
Through: Del W. Smith, Engineering, Supervisor
Subject: Duke Energy Arlington Valley (Phase 2), Docket No. L-00000P-01-0117

Duke Energy Maricopa, LLC (Applicant or Duke) filed via Docket No. L-00000P-99-0098 an application for a Certificate of Environmental Compatibility (CEC) for a 580 megawatt (MW) natural gas-fired combined cycle generating unit Arlington Valley Energy Facility and 2.4 mile 500 kV transmission line connecting the plant with a new Palo Verde hub switchyard named Hassayampa. Authorization to construct the requested facilities was conditionally granted on November 3, 2000 by the Arizona Corporation Commission (ACC or Commission) via Decision No. 62995. On July 13, 2001, Duke filed for an expansion of its proposed Arlington Valley Energy Facility via Docket No. L-00000P-01-0117. Scope of the proposed expansion is limited to a second combined cycle generating unit to be rated at 500 MW without duct firing or 600 MW with duct firing and inlet air chilling.

Duke met with ACC Staff on June 19, 2001, to discuss expansion of its Arlington Valley plant prior to filing its new CEC application. Staff explained that system conditions, siting statutes and expectations of projects have changed significantly since Duke's initial project was considered. Staff outlined a variety of project features and conditions that would be required of the Applicant to receive Staff support of the proposed expansion. The application filed as Docket No. L-00000P-01-0117 failed to contain the Staff recommended features and failed to address some of Staff's suggested conditions. Therefore, Staff submitted a formal data request of the Applicant on August 9, 2001. A copy of the Applicant's response to the data request is attached.

I have reviewed Duke's application and response to Staff's data request. I suggest that ACC Staff recommend denial of the expansion project for reasons outlined below:

1. Duke's data request response fails to alleviate Staff's concerns regarding reliable gas supply and delivery capacity for the project.
2. Generation capacity of plants having approved CEC's that plan to interconnect at the Palo Verde Hub already exceeds the capability of the existing and planned transmission system interconnected at the Palo Verde Hub.
3. Connection of a second combined cycle unit to the same 2.4 mile transmission line interconnecting Arlington Valley with its transmission switchyard (Hassayampa) is in direct contradiction of Docket No. L-00000P-99-0098 testimony and negotiations between Duke and Staff regarding interconnecting Applicant's first combined cycle unit without a plant site switchyard of its own as an exception.
4. Duke's application and data request response fails to establish its market objective and composition of its intended market portfolio with sufficient specificity to allow Staff to evaluate the merits of the expansion.

5. Applicant indicates a willingness to share in local or regional ancillary service obligations only through commercially reasonable efforts or competitively participating in such ancillary service markets. This level of commitment is no longer sufficient given the electric utility industry experience over the past 18 months. The power plant industry is legally challenging all jurisdiction authority regarding pricing, obligation to run, need to coordinate planned outages with control areas or Regional Transmission Operators, and even the sharing of operational data they deem to be commercially confidential.

I further recommend that the Commission place a moratorium on all pending, or yet to be filed, CEC applications for generating units proposing to interconnect at the Palo Verde hub or with transmission lines emanating from the hub. This moratorium is needed to allow proper development and review of reliability and system security traits appropriate for large commercial hubs in Arizona and the Western Interconnection and commensurate with risks present and prevalent in today's society. This need has been underscored by the tragic and devastating terrorist attacks against the United States on September 11, 2001.

It is in the public's interest that serious consideration of such risks must take center stage for all concerned. Responsible public policy should not condone commercial interest of power plants shielding itself with WSCC reliability and system security practices not designed or applicable to the development of large commercial hubs in a restructuring electric industry. Similarly, responsible public policy should not allow transmission providers to hide behind FERC Order 888 provisions that allow them to exercise market power by not requiring that necessary transmission construction accompany a plant interconnection. Such interconnection requests should be accompanied by a transmission service obligation that ensures the reliable delivery of all power from new plants to the intended market even if the transmission provider has no vested interest in the energy being produced by the new generating plant. Transmission providers should deny interconnection of plants that cannot reliably delivery all of their energy to market without adversely impacting another pre-existing use of the transmission system.

JDS:DukeAV2.doc

Attachment: Duke Response to Staff Data Request

Thomas H. Campbell
Direct Dial: (602) 262-5723
Direct Fax: (602) 734-3841
Internet: TCampbell@lrllaw.com
Admitted in Arizona

Our File Number 38655-00008

August 27, 2001

VIA FACSIMILE
AND REGULAR MAIL

Ms. Teena I. Wolfe
Legal Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, AZ 85007

RECEIVED

AUG 28 2001

LEGAL DIV.
ARIZ. CORPORATION COMMISSION

Re: Duke Energy Arlington Vaaley, L.L.C.
Docket No: L-00000P-01-0117

Dear Ms. Wolfe:

Enclosed is the original and one copy of Duke Energy Arlington Valley's
Objections and Responses to Arizona Corporation Commission Staff's First Set of Data
Requests.

Very truly yours,

LEWIS AND ROCA LLP


Thomas H. Campbell

THC/bjg
Enclosure

cc: Madeline Coblentz (w/enc.)
H. Max Shilstone (w/enc.)
Nancy DeSchane (w/enc.)
Michael Denby (w/enc.)

RECEIVED

AUG 28 2001

LEGAL DIV.
ARIZ. CORPORATION COMMISSION

BEFORE THE ARIZONA POWER PLANT AND TRANSMISSION LINE SITING COMMITTEE

IN THE MATTER OF THE APPLICATION)
 OF DUKE ENERGY ARLINGTON VALLEY,)
 L.L.C. IN CONFORMANCE WITH THE) Docket No. L-00000P-01-0117
 REQUIREMENTS OF ARIZONA REVISED)
 STATUTES §40-360.03 AND §40-360.06)
 FOR A CERTIFICATE OF)
 ENVIRONMENTAL COMPATIBILITY) Case No: 0117
 AUTHORIZING THE CONSTRUCTION)
 OF A NATURAL GAS-FIRED, COMBINED)
 CYCLE GENERATING FACILITY)
 (ARLINGTON VALLEY ENERGY FACILITY)
 II) NEAR ARLINGTON IN MARICOPA)
 COUNTY, ARIZONA)

DUKE ENERGY ARLINGTON VALLEY, L.L.C.'S OBJECTIONS AND RESPONSES TO ARIZONA CORPORATION COMMISSION STAFF'S FIRST SET OF DATA REQUESTS

Duke Energy Arlington Valley, L.L.C. f/k/a Duke Energy Maricopa L.L.C. ("Duke") hereby submits the following objections and responses to the First Set of Data Requests submitted by Arizona Corporation Commission Staff ("Staff").

GENERAL OBJECTIONS TO ALL DATA REQUESTS

1. Duke objects to each and every Request to the extent they seek information subject to the attorney-client privilege, work product doctrine or any other privilege recognized by the State of Arizona. In responding to these Requests, Duke does not waive, but preserves, all such privileges.
2. Duke objects to each and every Request to the extent they seek information that is confidential, sensitive, competitive in nature or proprietary to it. In responding to these requests, Duke does not waive, but preserves, its claim that request for customer and market information is confidential
3. Duke objects to each and every Request to the extent that they are unreasonably burdensome, overly broad or not reasonably calculated to lead to the discovery of admissible evidence.

4. Duke objects to each and every one of Staff's definitions and/or instructions to the extent they purport to abrogate any of Duke's rights, or add to any of Duke's obligations under, the Arizona Rules of Civil Procedure or the Commission's Rules.

5. Duke objects to each and every Request to the extent they impose any burden not expressly permitted under the Commission's Rules or the Arizona Rules of Civil Procedure. Specifically, Duke is not required to extract information from documents, recite information contained in documents, or perform work or analysis that Staff can perform for itself. To the extent that the burden of deriving or ascertaining the response to any Request is substantially the same for Duke and Staff, Staff may not shift such burden onto Duke.

6. Duke objects to each and every Request to the extent that they call for information already in the possession, custody and control of Staff.

7. Duke objects to each and every Request to the extent they seek information outside of Duke's possession, custody or control.

8. Duke expressly reserves the right to supplement or amend its objections and responses as necessary.

Duke incorporates the foregoing General Objections and Reservation of Right into each response as if fully set forth therein.

SPECIFIC RESPONSES TO ALL DATA REQUESTS

**DUKE ENERGY ARLINGTON VALLEY, L.L.C.'S RESPONSES TO
STAFF'S FIRST SET OF DATA REQUESTS
L-00000P-01-0117**

JDS 1-1 Do you plan on constructing a power plant transmission switchyard on the Arlington Valley site with the second phase of the plant? If not, why not?

No because Duke will use the Hassayampa switchyard.

JDS 1-2 Your application does not include a request for approval of a second transmission line out of your plant. One intervenor (City of Goodyear) seems to think otherwise. Staff has previously communicated with you the fact that Staff will not recommend approval of this application without a second transmission line out of your plant. Do you plan on building a second transmission line out of the Arlington Valley generating plant? If not, why not?

The second phase of Arlington Valley will be an expansion of the first phase. As such, the line interconnecting the first phase to the Hassayampa switchyard will also serve to interconnect the second phase. Therefore, like AVEF I, there will be multiple lines connecting to the AVEF II switchyard (*i.e.* the Hassayampa switchyard). The reason for this is two-fold.

First, the rating of the line interconnecting AVEF I and the terminal equipment at Hassayampa switchyard where the line connects are rated such that they can accommodate the additional 600MW's for AVEF II.

Second, based on reliability analysis of one line versus two line configurations, a second line does not appreciably increase the reliability of the plant. A second interconnecting line cannot be justified on either a reliability or economic basis. With only one line, the AVEF I and II aggregate generation (1200MW) will be more reliable than any one of the 1300MW Palo Verde nuclear units now existing.

JDS 1-3 Does Duke plan on proposing or participating on additional transmission lines out of the Palo Verde hub? If so, what are your plans? If not, why not?

At this time, Duke has not determined what type of transmission service arrangements need to be in place for delivery beyond the Palo

Verde/Hassayampa hub. If the power is to be marketed at the Palo Verde/Hassayampa market hub, then transmission out of the Palo Verde hub will be an issue for those parties taking ownership of the power. On the other hand, if Duke determines that (1) it wants to have firm or non-firm rights for delivery of its power to a location other than Palo Verde/Hassayampa and (2) determines that through a transmission service request to the host utility that the transmission capability out of Palo Verde/Hassayampa is insufficient to achieve delivery, then the host utility, in response to the request, is required to provide what upgrades would need to be constructed, and the associated cost of the upgrades, in order to satisfy the request.

JDS 1-4 What percentage of your plant energy production do you intend to market for Arizona consumption?

Duke does not target specific customers in its trading and marketing activities. All energy and capacity will be competitively offered to any and all credit worthy wholesale customers at Arizona locations (primarily the Palo Verde Substation).

JDS 1-5 What is the composition objective of your market portfolio regarding spot market, forward market and future market? Do you intend to pursue long term firm contracts?

Duke's precise levels of spot and forward transactions vary as market prices change. However, the majority of our production will be sold through forward contracts with around 10%-20% of our production sold into spot markets.

Duke rarely transacts in the NYMEX futures market.

Duke does pursue long-term firm contracts.

JDS 1-6 Does your plant intend to compete within Arizona's energy market in a way that will displace older, higher emission and more costly generating units? If so, how do you propose to accomplish this?

Duke markets all of its power at competitive prices and will run its plants when it makes economic sense to run. There is no objective to displace any specific type of generator but Duke's newer, more efficient generating units may displace older, less efficient plants.

JDS 1-7 What percentage of your plant output are you willing to commit to contributing to the regional reserve requirements?

Duke's entire plant, and any other plant interconnected to the transmission grid, will inherently contribute to the regional reserve requirements. To the extent that there are specific ancillary service products needed by the control area in the region, Duke will actively and competitively participate in those markets.

JDS 1-8 What percentage of your plant output are you willing to commit to participation in the local ancillary service market?

Duke will actively and competitively participate in any local ancillary service market. The percentage of our plant that will ultimately provide those ancillary service needs will depend on how competitive and flexible our plant is in those markets.

JDS 1-9 Please provide detailed information regarding the status of actions Duke has taken to date in order to achieve compliance with the conditions appearing in Arizona Corporation Commission Decision No. 62995 (November 3, 2000), which conditionally granted Duke a Certificate of Environmental Compatibility.

See Attachment A.

BBG 1-10 What is the heat rate of the proposed generating units?

The heat rate of the proposed generating units with 100% duct firing is 6,840 BTU/kWh

BBG 1-11 Do the proposed generating units have the ability to burn other fuels? Please describe any such ability.

The proposed generating units are designed to only burn natural gas, and no other fuel.

BBG 1-12 What supply basin(s) does Duke anticipate purchasing natural gas from?

The aggregated gas supply will be purchased from the Permian and San Juan basins.

BBG 1-13 How much interstate pipeline capacity does Duke anticipate will be needed to supply natural gas supplies to the proposed generating units?

It is anticipated that Duke's peak day demand will be 250,000 MMBTU per day AVEF I and AVEF II.

BBG 1-14 The application indicates that the proposed facility will rely on natural gas supplied by El Paso Natural Gas Company.

A. Please describe any information El Paso has provided, indicating the availability of pipeline capacity on its system for serving the proposed generating units.

In meetings between Duke and El Paso as recently as August, El Paso has indicated that adequate capacity will exist on its system in part because there is unsubscribed potential expansion capacity.

B. Will this involve pipeline capacity on the existing southern system El Paso lines or capacity on an as yet to be constructed El Paso pipeline or pipelines?

Capacity used to serve Duke's facility will primarily be served with existing southern system capacity. However, it is possible Duke will procure expansion capacity.

C. Is Duke aware of any plans by El Paso to expand its southern system, beyond the Line 2000 project and possible compression on Line 2000?

No.

D. Is Duke aware of the on-going proceeding at the Federal Energy Regulatory Commission regarding systemwide pipeline capacity allocations on the El Paso system (Docket No. RP00-336)? Please discuss how this proceeding relates to the natural gas supply plans for the proposed generating units.

Duke is aware and is closely following the capacity allocation proceedings. Duke does not anticipate any adverse effect from the FERC proceeding with respect to fueling its facility due to the fact that Duke is an active market participant on El Paso and currently controls a diversified supply portfolio.

- E. Is Duke aware of two recently filed complaints at the FERC (Docket Nos. RP01-484 and RP01-486) in which many shippers on the El Paso system allege that there is a sizable pipeline capacity shortfall for existing shippers? Please discuss how these proceedings relate to the natural gas supply plans for the proposed generating units.**

Duke is aware of the complaints. Duke does not anticipate any adverse effect relative to its plans for supplying the proposed project. It is Duke's opinion that a resolution will result from the FERC proceedings that will provide more reliability on El Paso's system and this will benefit all shippers on the El Paso system.

- F. If Duke anticipates using pipeline capacity on yet to be constructed pipelines, please identify those pipelines and their anticipated in-service dates.**

Duke anticipates using existing and proposed El Paso capacity to serve the project. Duke is aware of two expansion projects on competing pipelines owned by Transwestern and North Baja. Duke anticipates that these projects will be available in three stages: the first in September, 2002; the second in 2003; and the third in 2004. Duke will look at all possibilities when making a decision on how to serve the project.

- G. Please provide any documents showing arrangements that have been made for procuring natural gas supply and interstate pipeline capacity for the proposed generating units.**

See answer to question H.

- H. If arrangements haven't been made, please explain how Duke will ensure it has reliable access to natural gas supplies and interstate pipeline capacity, given the many other natural gas fired generating units that have been proposed or are under construction in the southwest and the limited sources of natural gas and interstate pipeline capacity available to Arizona natural gas users at this time.**

Duke plans on utilizing the following resources to serve its facility:

1. Duke has contracted for approximately 60,000 MMBtu of El Paso south system capacity.
2. Duke has a fully functional natural gas trading operation that will purchase natural gas and transportation on a daily, monthly, and yearly basis.
3. Duke will monitor and participate in any open seasons for new pipeline capacity on El Paso or other pipelines.
4. Duke will monitor the secondary transportation capacity market and seek opportunities to acquire capacity.

BBH 1-15 Will Duke match firm pipeline capacity with firm electricity contracts and interruptible pipeline capacity with interruptible electricity contracts? If not, please explain.

There is not necessarily a correlation between firm/interruptible pipeline capacity and firm/interruptible electricity contracts. It is possible that firm electricity contracts could be backed with interruptible pipeline capacity and interruptible electricity contracts could be backed with firm pipeline capacity.

BBG 1-16 Will the proposed generating units be served off of the same tap that was part of the now withdrawn El Paso filing in the FERC Docket No> CP-01-90?

Yes.

BBH 1-17 What utilization rate are the daily, monthly, and annual fuel consumption estimates for the proposed generating units based upon?

The projected gas usage is based on lower heating value (LHV).

This Certificate is granted upon the following conditions:

1. The Applicant and its assignees will comply with all existing applicable air and water pollution control standards and regulations, and with all existing applicable ordinances, master plans and regulations of the State of Arizona, the County of Maricopa, the United States, and any other governmental entities having jurisdiction.

(A) The Applicant is in compliance with all existing applicable air & water pollution control standards, regulations ordinances, master plans and regulations of the State of Arizona, Maricopa County, the US, and any other government entities.

2. This authorization to construct the Project will expire five years from the date the Certificate is approved by the Arizona Corporation Commission unless construction is completed to the point that the plant is capable of operating at its rated capacity by that time; provided, however, that prior to such expiration the Project owner may request that the Arizona Corporation Commission extend this time limitation.

(A) Construction is well underway, and the plant will be capable of operating at its rated capacity by summer 2002.

3. Applicant's project having two (2) approved transmission lines emanating from its power plant's transmission switchyard and interconnecting with the existing transmission system. This plant interconnection must satisfy the single contingency outage criteria (N-1) without reliance on remedial action such a generator unit tripping or load shedding.

(A) Already satisfies

4. Applicant providing to the Commission, not more than 12 months prior to the commercial operation of the plant, a technical study regarding the sufficiency of transmission capacity to the plant. Applicant has satisfied this condition for its 580 MW facility; provided that applicant meets all construction deadlines and operational deadlines as set forth in its application.

(A) Already satisfied

5. Applicant submitting to the Commission an interconnection agreement with the transmission provider with whom it is interconnecting.

(A) Duke is in the midst of finalizing an interconnection agreement with the owners of the Palo Verde Switchyard which will provide for, among other things, the interconnection of the Arlington Valley facility to the Palo Verde Switchyard via the Hassayampa Switchyard. It is anticipated that the

interconnection agreement will be filed with the Commission by the end of next week (i.e., no later than August 31, 2001).

6. Applicant or one of its affiliates becoming a member of WSCC, or its successor, and filing a copy of its WSCC Reliability Criteria Agreement or Reliability Management System (RMS) Generator Agreement with the Commission.

(A) Duke is currently a full member of WSCC, and active at several levels within the WSCC committee structure. Duke is not currently a signatory to the RMS Agreement, but has fallen under its authority by virtue of an ISO tariff change that required generators who sign a PGA to fall under the RMS jurisdiction. Duke will have all plants in the WSCC participating in the RMS program, either as a direct signatory or through the associated control area.

7. Applicant using commercially reasonable efforts to become a member of the Southwest Reserve Sharing Group, or its successor, thereby making its units available for reserve sharing purposes, subject to competitive pricing.

(A) Duke, using commercially reasonable efforts, will become a member of SWRSG by the time our generating assets become commercially operational in Arizona.

8. Each of the conditions 3-7 above shall automatically terminate if it or a substantially similar condition is not included in future generating facility Certificates of Environmental Compatibility as approved by the Commission or upon any subsequent amendment or invalidation by the Commission or a reviewing court.

9. The Applicant shall operate its evaporation pond so that any salt residue contained therein shall not cause damage to crops grown on the fields adjacent to the Project site.

(A) Completion of the evaporation pond has not yet occurred. Pond excavation and lining are installed. Mechanical and electrical items remain, which have not yet been scheduled. Construction is under the supervision of design engineer URS, which the Planning and Development Department has designated to perform an inspection upon completion. When in service, the pond will be operated so that any salt residues contained in the pond will not cause damage to crops grown on the fields adjacent to the Project.

10. Applicant shall operate the Project so that during normal operations the Project shall not exceed (i) HUD or EPA residential noise guidelines or (ii) OSHA worker safety noise standards.

(A) The project is still under construction, and no plant equipment has been placed in service. When in service, during normal operations, the Project shall not exceed (i) HUD or EPA residential noise guidelines or (ii) OSHA worker safety noise standards.

11. Applicant shall use a zero discharge system for its cooling water, subject to existing regulatory requirements.

(A) Cooling water will be discharged to the evaporation pond. The plant is in the process of receiving an Aquifer Protection Permit from the Arizona Department of Environmental Quality.

12. Applicant shall use low profile structures, moderate stacks, neutral colors, compatible landscaping, and low intensity directed lighting for the plant. Applicant shall use non-reflective conductors and towers.

(A) Construction is underway. Low profile structures and moderate stacks have been designed and are being built. Neutral colors have been selected. Landscaping has been designed and will be installed as described in the Land Management Plan. All outdoor lighting has been designed in accordance with recommendations by the International Dark Sky Association. Non-reflective towers have been erected and non-reflective conductors will be installed.

13. Applicant shall implement a Land Management Plan that includes:

- (i) Installation of professionally designed landscape plan for the entrance of the facility and along Elliott Road.

(A) Duke Energy North America has contracted with Todd and Associates, Inc., a landscape architectural/planning firm, to complete the landscape design and prepare landscape/irrigation construction documents to meet the criteria as so stated. The proposed plant palette is as indicated in the Annual Report (see answer to 13.iv below).

- (ii) A comprehensive revegetation program that will restore a large portion of the property with plant communities similar to the adjacent desert lands.

(A) In order to understand how to effectively implement a long-term revegetation strategy, Duke Energy has contracted with the University of Arizona, Office of Arid Lands Studies. The University of Arizona has begun to study the implementation of a comprehensive revegetation program to restore a large

portion of the property with self-sustaining plant communities similar to the adjacent desert lands. Their revegetation report is contained in the Annual Report (see answer to 13.iv below).

- (iii) A partnership with The Arizona Game and Fish Department to provide enhanced wildlife habitat on lands that border Centennial Wash.

(A) Representatives of Duke Energy and the Arizona Game and Fish Department have had excellent discussions over recent months to determine how best to accomplish improvements to existing habitat. These discussions have frequently included both the Arizona Game and Fish Department and University of Arizona to gain as much synergy from the two efforts; the goal is to encourage both game and non-game species. Most recently, site visits have been made with the Arizona Game and Fish Department and with regional representative of Ducks Unlimited. The next step is to develop a habitat plan. That plan will include recommendations on the various options that might be considered in the development of a wildlife habitat program.

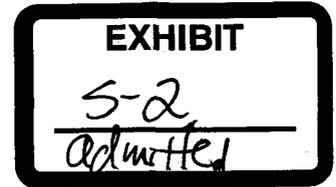
- (iv) An Annual report (for six years) submitted to the Arizona Corporation Commission setting forth the status of the Land Management Plan.

(A) The Annual Report was submitted to the Arizona Corporation Commission on June 14th, 2001 (a copy is provided).

- 14. Applicant shall meet all the requirements for groundwater set forth in the Third Management Plan for the Phoenix Active Management Area.

(A) Duke is in compliance with the Third Management Plan for the Phoenix Active Management Area.

Draft
10/15 am



BEFORE THE ARIZONA POWER PLANT AND TRANSMISSION LINE SITING COMMITTEE

IN THE MATTER OF THE APPLICATION)	
OF DUKE ENERGY ARLINGTON VALLEY,)	
L.L.C. IN CONFORMANCE WITH THE)	Docket No. L-00000P-01-0117
REQUIREMENTS OF ARIZONA REVISED)	
STATUTES §40-360.03 AND §40-360.06)	
FOR A CERTIFICATE OF)	
ENVIRONMENTAL COMPATIBILITY)	Case No: 0117
AUTHORIZING THE CONSTRUCTION)	
OF A NATURAL GAS-FIRED, COMBINED)	
CYCLE GENERATING FACILITY)	
(ARLINGTON VALLEY ENERGY FACILITY)	
II) NEAR ARLINGTON IN MARICOPA)	
COUNTY, ARIZONA)	

DECISION OF THE ARIZONA POWER PLANT AND TRANSMISSION LINE SITING COMMITTEE AND CERTIFICATE OF ENVIRONMENTAL COMPATIBILITY

Pursuant to notice given as provided by law, the Arizona Power Plant and Transmission Line Siting Committee ("Committee") held public hearings at the Quality Inn, Phoenix, Arizona on October 15, 2001 and October 16, 2001 in conformance with the requirements of Arizona Revised Statutes Section 40-360, *et seq.*, for the purpose of receiving public comment and evidence, and deliberating on the Application of Duke Energy Arlington Valley LLC ("Duke") for a Certificate of Environmental Compatibility ("Certificate") in the above-captioned case.

The following members or designees of members of the Committee were present for the hearing on the Application:

- | | |
|-------------------|--|
| Laurie A. Woodall | Chairman, Designee for Arizona Attorney General Janet Napolitano, Office of the Attorney General |
| Ray Williamson | Arizona Corporation Commission |
| Mark McWhirter | Designee for the Director of the Energy Office of the Arizona Department of Commerce |

Richard Tobin	Deputy Director, Arizona Department of Environmental Quality
W. Patrick Schiffer	Department of Water Resources
Hon. Sandie Smith	Pinal County Board of Supervisors
Hon. Mike Whalen	Mesa City Council
Mike Palmer	Appointed Member
Margaret Trujillo	Appointed Member
A. Wayne Smith	Appointed Member
Jeff Maguire	Appointed Member

Thomas Campbell and Michael Denby of Lewis and Roca LLP represented the Applicant. Staff of the Arizona Corporation Commission (“Staff”) noticed their intervention as a party, and were represented by Janice Alward. The City of Goodyear and Neil A.M. Peters were granted intervenor status and were represented by James Oeser and pro per, respectively. There were no other interventions or limited appearances.

At the conclusion of the hearing and deliberations, the Committee (i) having received and considered the Application, the appearances of Applicant and each of the intervenors; the evidence, testimony and exhibits presented by Applicant and the intervenors, respectively; and public comments; (ii) being advised of the legal requirements of Arizona Revised Statutes Sections 40-360 to 40-360.13; (iii) upon consideration of the factors identified in Arizona Revised Statutes Section 40-360.06; and (iv) in accordance with A.A.C. R14-213, upon motion duly made and seconded, voted to make the following findings and to grant Applicant the following Certificate of Environmental Compatibility:

The Committee finds that the record contains substantial clear and convincing evidence regarding the need for an adequate, economical and reliable supply of electric power and how Applicant's proposed Arlington Valley Energy Facility II (AVEF II) would contribute towards satisfaction of such need without causing material adverse impact to the environment.

Duke, and its assignee(s), are hereby granted this Certificate of Environmental Compatibility authorizing construction of a natural gas-fired nominal 600 MW generating facility, together with related infrastructure, which shall be located in Maricopa County, approximately 0.7 miles southwest of the intersection of Elliot Road and Wintersburg Road (the "Project").

This Certificate is granted upon the following conditions:

1. The Applicant will comply with all existing applicable air and waste pollution control standards and regulations, and with all existing applicable ordinances, master plans and regulations of the State of Arizona, Maricopa County, the United States, and any other governmental entities having jurisdiction, including but not limited to the following:
 - a. all zoning stipulations and conditions, including but not limited to the landscaping and dust control requirements and/or approvals;
 - b. all applicable air quality control standards, approvals, permit conditions and requirements of the Maricopa County Air Quality Control District and/or other State or Federal agencies having jurisdiction, and the Applicant shall install and operate selective catalytic reduction and catalytic oxidation technology at the level determined by the Maricopa County Air Quality Control District and approved by EPA Region IX. The Applicant shall operate its project so as to meet a 2.5 ppm NO_x emissions level, within the parameters established in the Title V and PSD air quality permits issued by the Maricopa County Air Quality Control District for the plant. If technically and economically feasible, Applicant shall install and operate catalytic oxidation technology that will produce a carbon monoxide (CO) and volatile organic compound (VOC) emission rate equivalent to California's current best available control technology (BACT) standard.

- c. all applicable water use and/or disposal requirements of the Arizona Department of Water Resources, Phoenix Active Management Area Management Plan(s) and the Arizona Department of Environmental Quality regulations;
- d. all applicable noise control standards, and during normal operations the Project shall not exceed applicable (i) HUD or EPA residential noise guidelines or (ii) OSHA worker safety noise standards;
- e. all applicable regulations and permits governing storage and handling of chemicals.

2. This authorization to construction AVEF II will expire upon five (5) years from the date this Certificate is approved by the Arizona Corporation Commission ("Commission") unless construction is completed to the point that the facility is capable of operating at its rated capacity; provided, however, that prior to such expiration Applicant or its assignee may request that the Commission extend this time limitation.

3. Applicant will submit to the Commission an interconnection agreement with the transmission providers with whom it is interconnecting.

4. Applicant or its affiliate company will become a member of the Western Systems Coordinating Council ("WSCC") (or its successor).

5. Applicant will use reasonable efforts to become a member of the Southwest Reserve Sharing Group (or its successor) if commercially reasonable and if involved in the selling of wholesale power to a commercially identifiable load, thereby making Applicant's units available for reserve sharing purposes, subject to competitive pricing.

6. Subject to the Federal Energy Regulatory Commission rules and tariffs, Applicant shall commit to offer as ancillary services a total 7% of its total plant capacity to the local Control Area with which it is interconnected and to Arizona's regional ancillary service market

once a Regional Transmission Organization is operational, and until such time that a Regional Transmission Organization is operational, to a regional reserve sharing pool.

7. Applicant shall make commercially reasonable efforts to execute wholesale power sales to credit worthy Arizona load-serving entities serving Arizona load and to marketers providing service to those Arizona load serving entities.

8. The Applicant shall file deed restrictions limiting the use of its property within a .50 mile radius of the generation facility (AVEF II) to non-residential uses so long as AVEF II is operational.

9. From the period beginning 30 days from the date a Certificate of Environmental Compatibility is approved by the Commission, continuing until the generation facility's construction has been completed, Applicant, subject to applicable county regulations, shall erect and maintain a sign of not less than 15 feet by 10 feet dimensions or of a size at the maximum dimensions for such signs permitted by the local governmental authority, advising:

- that the site has been approved for the construction of a 600 megawatt generating facility
- the expected date of completion of the facility
- if the facility is not timely completed pursuant to the Certificate of Environmental Compatibility, the Applicant would have to seek an extension of the certificate or again pursue approval from the Power Plant Line Siting Committee before it could construct the project. This would afford persons residing in the project's vicinity an opportunity to express their viewpoint through public comment and/or by formally intervening in the application approval process.

10. Where feasible, Applicant shall make commercially reasonable efforts to invite, and shall give full consideration to, bids from qualified local and in-state construction subcontractors for construction of the Project.

11. The Applicant shall operate its evaporation pond so that any salt residue contained therein shall not cause damage to crops grown on fields adjacent to the Project site.

12. Applicant shall use a zero discharge system for its cooling water, subject to existing regulatory requirements.

13. Applicant shall use low profile structures, moderate stacks, neutral colors, compatible landscaping and low intensity directed lighting for the plant. Applicant shall use non-reflective conductors and towers.

14. Applicant shall implement a Land Management Plan that includes:

- (i) Installation of a professionally designed landscape plan for the entrance of the facility and along Elliot Road.
- (ii) A comprehensive revegetation program that will restore a large portion of the property with plant communities similar to the adjacent desert lands.
- (iii) A partnership with The Arizona Game and Fish Department to provide enhanced wildlife habitat on lands that border Centennial Wash.
- (iv) An annual report (for six years) submitted to the Arizona Corporation Commission setting forth the status of the Land Management Plan.

15. Applicant will convene a workshop in early 2002 to address gas transportation reliability and capacity issues, both short term and long term. Participants will include other Arizona merchant power plant owners and wholesale gas transportation providers. The initial workshop will identify issues and establish a timeline for producing a report to the Arizona Corporation Commission in 2002. This report will be reviewed in subsequent workshops in 2003 and 2004.

16. Applicant will pay up to \$11,000,000 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 use commercially reasonable efforts to assure that such upgrades are completed before AVEF II is in commercial operation. If these upgrades are not implemented, then this \$11,000,000 can be used for other transmission upgrades in Arizona.

17. Applicant shall participate in good faith in state and regional transmission study forums, such as the Central Arizona Transmission Study, to terminate a second transmission line out of the Arlington Valley Energy Facility that serves the transmission system grid needs to deliver power throughout the Western Systems Coordinating Council grid in a reliable manner. Applicant shall take all commercially reasonable efforts to ensure that such transmission line shall be timely constructed in accordance with the needs of the integrated transmission grid, although Applicant is not required to build, finance, operate or own such transmission line.

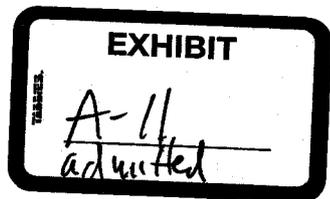
18. Applicant shall construct a 500kV switchyard of ring bus design and capable of accommodating four terminals and upgradable to a breaker and one-half design if so required by local regional reliability criteria. Two of the terminals will be used to connect to the phases of the Applicant's project designated as AVEF I and AVEF II each consisting of 600 MW of generation. The remaining two terminals will provide for connection to the transmission grid, *i.e.*, one for the transmission connection currently under construction to the Hassayampa switchyard associated with AVEF I and one for a future transmission line to be terminated elsewhere. The switchyard shall be of conventional open air design consisting of high voltage power circuit breakers, disconnect switches, grounding switches, potential transformers, surge arrestors, steel structures and protective relaying. Nothing in this order precludes Applicant from seeking reimbursement for these switchyard costs from future users of the switchyard.

19. Applicant's Project shall be designed and constructed to accommodate two transmission lines emanating from its power plant's transmission switchyard and interconnecting with the existing transmission system. One of these will interconnect with the Hassayampa 500 kV switchyard. This plant interconnection must satisfy the single contingency outage criterion (N-1) after the second transmission line interconnecting with the transmission grid is complete, without reliance on remedial action such as generator unit tripping or load shedding.

GRANTED this ___ day of _____, 2001.

ARIZONA POWER PLANT AND
TRANSMISSION LINE SITING COMMITTEE

By _____
Laurie A. Woodall, Chairman



BEFORE THE ARIZONA POWER PLANT AND TRANSMISSION LINE SITING COMMITTEE

IN THE MATTER OF THE APPLICATION)
OF DUKE ENERGY ARLINGTON VALLEY,)
L.L.C. IN CONFORMANCE WITH THE) Docket No. L-00000P-01-0117
REQUIREMENTS OF ARIZONA REVISED)
STATUTES §40-360.03 AND §40-360.06)
FOR A CERTIFICATE OF)
ENVIRONMENTAL COMPATIBILITY) Case No: 0117
AUTHORIZING THE CONSTRUCTION)
OF A NATURAL GAS-FIRED, COMBINED)
CYCLE GENERATING FACILITY)
(ARLINGTON VALLEY ENERGY FACILITY)
II) NEAR ARLINGTON IN MARICOPA)
COUNTY, ARIZONA)

DECISION OF THE ARIZONA POWER PLANT AND TRANSMISSION LINE SITING COMMITTEE AND CERTIFICATE OF ENVIRONMENTAL COMPATIBILITY

Pursuant to notice given as provided by law, the Arizona Power Plant and Transmission Line Siting Committee ("Committee") held public hearings at the Quality Inn, Phoenix, Arizona on October 15, 2001 and October 16, 2001 in conformance with the requirements of Arizona Revised Statutes Section 40-360, et seq., for the purpose of receiving public comment and evidence, and deliberating on the Application of Duke Energy Arlington Valley LLC ("Duke") for a Certificate of Environmental Compatibility ("Certificate") in the above-captioned case.

The following members or designees of members of the Committee were present for the hearing on the Application:

- Laurie A. Woodall Chairman, Designee for Arizona Attorney General Janet Napolitano, Office of the Attorney General
Ray Williamson Arizona Corporation Commission
Mark McWhirter Designee for the Director of the Energy Office of the Arizona Department of Commerce

Richard Tobin	Deputy Director, Arizona Department of Environmental Quality
Greg Houtz	Department of Water Resources
Hon. Sandie Smith	Pinal County Board of Supervisors
Hon. Mike Whalen	Mesa City Council
Mike Palmer	Appointed Member
Margaret Trujillo	Appointed Member
A. Wayne Smith	Appointed Member
Jeff Maguire	Appointed Member

Thomas Campbell and Michael Denby of Lewis and Roca LLP represented the Applicant. Staff of the Arizona Corporation Commission (“Staff”) noticed their intervention as a party, and were represented by Janice Alward. The City of Goodyear and Neil A.M. Peters were granted intervenor status and were represented by James Oeser and pro per, respectively. There were no other interventions or limited appearances.

At the conclusion of the hearing and deliberations, the Committee (i) having received and considered the Application, the appearances of Applicant and each of the intervenors; the evidence, testimony and exhibits presented by Applicant and the intervenors, respectively; and public comments; (ii) being advised of the legal requirements of Arizona Revised Statutes Sections 40-360 to 40-360.13; (iii) upon consideration of the factors identified in Arizona Revised Statutes Section 40-360.06; and (iv) in accordance with A.A.C. R14-213, upon motion duly made and seconded, voted to make the following findings and to grant Applicant the following Certificate of Environmental Compatibility:

The Committee finds that the record contains substantial clear and convincing evidence regarding the need for an adequate, economical and reliable supply of electric power and how Applicant's proposed Arlington Valley Energy Facility II (AVEF II) would contribute towards satisfaction of such need without causing material adverse impact to the environment.

Duke, and its assignee(s), are hereby granted this Certificate of Environmental Compatibility authorizing construction of a natural gas-fired nominal 600 MW generating facility, together with related infrastructure, which shall be located in Maricopa County, approximately 0.7 miles southwest of the intersection of Elliot Road and Wintersburg Road (the "Project").

This Certificate is granted upon the following conditions:

1. The Applicant will comply with all existing applicable air and waste pollution control standards and regulations, and with all existing applicable ordinances, master plans and regulations of the State of Arizona, Maricopa County, the United States, and any other governmental entities having jurisdiction, including but not limited to the following:
 - a. all zoning stipulations and conditions, including but not limited to the landscaping and dust control requirements and/or approvals;
 - b. all applicable air quality control standards, approvals, permit conditions and requirements of the Maricopa County Air Quality Control District and/or other State or Federal agencies having jurisdiction, and the Applicant shall install and operate selective catalytic reduction and catalytic oxidation technology at the level determined by the Maricopa County Air Quality Control District and approved by EPA Region IX. The Applicant shall operate its project so as to meet a 2.5 ppm NOx emissions level, within the parameters established in the Title V and PSD air quality permits issued by the Maricopa County Air Quality Control District for the plant. If technically and economically feasible, Applicant shall install and operate catalytic oxidation technology that will produce a carbon monoxide (CO) and volatile organic compound (VOC) emission rate equivalent to California's current best available control technology (BACT) standard.

- c. all applicable water use and/or disposal requirements of the Arizona Department of Water Resources, Phoenix Active Management Area Management Plan(s) and the Arizona Department of Environmental Quality regulations;
- d. all applicable noise control standards, and during normal operations the Project shall not exceed applicable (i) HUD or EPA residential noise guidelines or (ii) OSHA worker safety noise standards;
- e. all applicable regulations and permits governing storage and handling of chemicals.

2. This authorization to construction AVEF II will expire upon five (5) years from the date this Certificate is approved by the Arizona Corporation Commission (“Commission”) unless construction is completed to the point that the facility is capable of operating at its rated capacity; provided, however, that prior to such expiration Applicant or its assignee may request that the Commission extend this time limitation.

3. Applicant will submit to the Commission an interconnection agreement with the transmission providers with whom it is interconnecting.

4. Applicant or its affiliate company will become a member of the Western Systems Coordinating Council (“WSCC”) (or its successor), and file a copy of its WSCC Reliability Criteria Agreement or Reliability Management System (RMS) Generator Agreement with the Commission.

5. Applicant will use reasonable efforts to become a member of the Southwest Reserve Sharing Group (or its successor) if commercially reasonable and if involved in the selling of wholesale power to a commercially identifiable load, thereby making Applicant’s units available for reserve sharing purposes, subject to competitive pricing.

6. Subject to the Federal Energy Regulatory Commission rules and tariffs and WSCC RMS requirements, Applicant shall commit to offer as ancillary services a total 7% of its

total plant capacity to the local Control Area with which it is interconnected and to Arizona's regional ancillary service market once a Regional Transmission Organization is operational, and until such time that a Regional Transmission Organization is operational, to a regional reserve sharing pool.

7. Applicant shall make commercially reasonable efforts to execute wholesale power sales to credit worthy Arizona load-serving entities serving Arizona load and to marketers providing service to those Arizona load serving entities.

8. The Applicant shall file deed restrictions limiting the use of its property within a .50 mile radius of the generation facility (AVEF II) to non-residential uses so long as AVEF II is operational.

9. From the period beginning 30 days from the date a Certificate of Environmental Compatibility is approved by the Commission, continuing until the generation facility's construction has been completed, Applicant, subject to applicable county regulations, shall erect and maintain a sign of not less than 15 feet by 10 feet dimensions or of a size at the maximum dimensions for such signs permitted by the local governmental authority, advising:

- that the site has been approved for the construction of a 600 megawatt generating facility
- the expected date of completion of the facility
- if the facility is not timely completed pursuant to the Certificate of Environmental Compatibility, the Applicant would have to seek an extension of the certificate or again pursue approval from the Power Plant Line Siting Committee before it could construct the project. This would afford persons residing in the project's vicinity an opportunity to express their viewpoint through public comment and/or by formally intervening in the application approval process.

10. Where feasible, Applicant shall make commercially reasonable efforts to invite, and shall give full consideration to, bids from qualified local and in-state construction subcontractors for construction of the Project.

11. The Applicant shall operate its evaporation pond so that any salt residue contained therein shall not cause damage to crops grown on fields adjacent to the Project site.

12. Applicant shall use a zero discharge system for its cooling water, subject to existing regulatory requirements.

13. Applicant shall use low profile structures, moderate stacks, neutral colors, compatible landscaping and low intensity directed lighting for the plant. Applicant shall use non-reflective conductors and towers.

14. Applicant shall implement a Land Management Plan that includes:

- (i) Installation of a professionally designed landscape plan for the entrance of the facility and along Elliot Road.
- (ii) A comprehensive revegetation program that will restore a large portion of the property with plant communities similar to the adjacent desert lands.
- (iii) A partnership with The Arizona Game and Fish Department to provide enhanced wildlife habitat on lands that border Centennial Wash.
- (iv) An annual report (for six years) submitted to the Arizona Corporation Commission setting forth the status of the Land Management Plan.

15. Applicant will convene a workshop in early 2002 to address gas transportation reliability and capacity issues, both short term and long term. Participants will include other Arizona gas-fired power plant owners and wholesale gas transportation providers. The initial workshop will identify issues and establish a timeline for producing a report to the Arizona Corporation Commission in 2002. This topic will be reviewed in subsequent workshops

convened by the Applicant in 2003 and 2004. These workshops will allow for public participation.

16. Once construction commences on the Project, Applicant will pay up to \$11,000,000 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.

17. Applicant shall participate in good faith in state and regional transmission study forums, such as the Central Arizona Transmission Study, to terminate a second transmission line out of the Arlington Valley Energy Facility that serves the transmission system grid needs to deliver power throughout the Western Systems Coordinating Council grid in a reliable manner. Applicant shall take all commercially reasonable efforts to ensure that such transmission line shall be timely constructed in accordance with the needs of the integrated transmission grid, although Applicant is not required by this Decision to build, finance, operate or own such transmission line.

18. Applicant shall construct a 500kV switchyard of ring bus design and capable of accommodating four terminals and upgradable to a breaker and one-half design if so required by local regional reliability criteria. Two of the terminals will be used to connect to the phases of the Applicant's project designated as AVEF I and AVEF II each consisting of 600 MW of generation. The remaining two terminals will provide for connection to the transmission grid,

i.e., one for the transmission connection currently under construction to the Hassayampa switchyard associated with AVEF I and one for a future transmission line to be terminated elsewhere. The switchyard shall be of conventional open air design consisting of high voltage power circuit breakers, disconnect switches, grounding switches, potential transformers, surge arrestors, steel structures and protective relaying. Nothing in this order precludes Applicant from seeking reimbursement for these switchyard costs from future users of the switchyard.

19. Applicant's Project shall be designed and constructed to accommodate two transmission lines emanating from its power plant's transmission switchyard and interconnecting with the existing transmission system. One of these will interconnect with the Hassayampa 500 kV switchyard. This plant interconnection must satisfy the single contingency outage criterion (N-1) after the second transmission line interconnecting with the transmission grid is complete, without reliance on remedial action such as generator unit tripping or load shedding.

GRANTED this ____ day of _____, 2001.

ARIZONA POWER PLANT AND
TRANSMISSION LINE SITING COMMITTEE

By _____
Laurie A. Woodall, Chairman

ARIZONA DEPARTMENT OF WATER RESOURCES

Phoenix Active Management Area Office

500 North Third Street, Phoenix, Arizona 85004

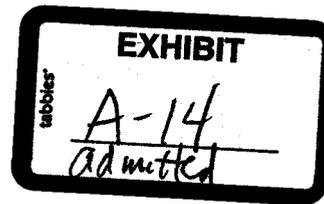
Telephone (602) 417-2465

Fax (602) 417-2467



JAN 31 2000

January 26, 2000



JANE DEE HULL
Governor

RITA P. PEARSON
Director

Duke Energy Maricopa L.L.C.
ATTN: Max Shilstone
P.O. Box 1642
Houston, TX 77251-1642

RE: Certificate of Irrigation Grandfathered Right Nos. 58-105414.0000, 58-104995.0000, 58-130196.0000, 58-102369.0000, 58-101121.0001, and 58-100902.0003

Dear Mr. Shilstone:

Your request for development plan approval has been reviewed by this Department. In accordance with A.R.S. Section 45-469(B), the development plan is hereby approved.

A reasonable time within which the appurtenant acres should be retired pursuant to this approval shall be January 13, 2005. When an application is submitted to retire the land from irrigation, the Department will make an appropriate determination on all other eligibility criteria.

The amount of groundwater appurtenant to the right may be withdrawn by the original owner of the Type I right from the land to which the right is appurtenant and used on that land or any other land. Additionally, the original owner of the Type I right could withdraw from land not appurtenant to the right and used only on the appurtenant acres.

Depending on whether the right is located within or outside the exterior boundaries of a service area of a city, town, or private water company, the amount of groundwater appurtenant to the right may be withdrawn by the new owner of the Type I right only from the land to which the right is appurtenant and used on that land or any other land in the same active management area. Section 45-473(D) may restrict the use of the Type I right on land that is not appurtenant to the right.

If you have any questions or comments regarding this matter, please contact Tana Zachreson or Scott Miller of the Phoenix Active Management Area Office at 602-417-2465.

Sincerely,

Jim Holway
Assistant Director
Groundwater Management

Cc: Michael L. Denby, Lewis and Roca, LLP.

ARIZONA DEPARTMENT OF WATER RESOURCES
500 North Third Street, Phoenix, Arizona 85004

APPLICATION FOR DEVELOPMENT PLAN APPROVAL TO RETIRE AN IRRIGATION
GRANDFATHERED RIGHT FOR A NON-IRRIGATION (TYPE I)-USE

Filing fee: No Charge

CERTIFICATE No. 58-See Attachment #1

CERTIFIED ACRES See Attachment #1

1. Duke Energy Maricopa L.L.C. c/o Mr. Max Shilstone -
Last Name First Middle Initial
P.O. Box 1642 Houston Texas 77251-1642
Mailing Address City State Zip
Maricopa
2. Active Management Area _____
3. Attach a copy of the proposed development plan.
4. Legal description of land covered by certificate:
Please see attachment #2
5. Legal description of land to be retired (attach map).
Same as line (4) above
6. Total number of acres to be retired All
7. Describe the location of each well which was used to irrigate the land. See attachment #1
1/4 1/4 1/4, Section Township Range Reg. No. 55-
1/4 1/4 1/4, Section Township Range Reg. No. 55-
8. When was the land last irrigated? Please see attachment #1
9. Has the land been held under the same ownership since it was last irrigated? Yes No
If no, did the applicant purchase the land from the last irrigator? Yes No
Enclose evidence to show date of purchase.
10. Has the land been sold or taken out of production primarily because it would have been uneconomical to continue to withdraw for irrigation? Yes No
If "No", explain why the land was retired. Unknown
11. The intended use of the water is: Expanded animal industry Domestic
 Industrial Electrical Energy Generation Mining Other
12. Is the land to be retired within the exterior boundaries of a service area of a city, town or private water company? Yes No
If "Yes", indicate name of city, town or private water company _____

Signature: Max Shilstone

Date: 11/25/99

Attachment #1

Duke Energy Maricopa, L.L.C. Application for Development Plan Approval to Retire Irrigation Grandfathered Rights for Non-irrigation (Type I) Use.

Certificate Nos.		Certified Acres	
58-105414.0000		739.5	
58-104995.0000		617.52	
58-130196.0000		34.1	
58-102369.0000		395	
58-101121.0001		320	
58-100902.0003		283.6	

Locations of each well which was used to irrigate the land and last date irrigated:

58-105414.0000

55-624677 SE ¼ NE ¼ SE ¼, Section 26 Township 1S Range 6W

55-624678 NE ¼ SE ¼ SE ¼, Section 35 Township 1S Range 6W

Last Irrigated: 1990

58-104995.0000

55-611935 NW ¼ NW ¼ SW ¼, Section 27 Township 1S Range 6W

55-611936 NE ¼ SW ¼ SW ¼, Section 28 Township 1S Range 6W

55-611937 NE ¼ SW ¼ SW ¼, Section 28 Township 1S Range 6W

Last Irrigated: 1999

58-130196.0000

No wells specified.

Last Irrigated: unknown

58-102369.0000

55-602601 NW ¼ SW ¼ NW ¼, Section 21 Township 1S Range 6W

55-602602 SW ¼ NW ¼ NW ¼, Section 21 Township 1S Range 6W

Last Irrigated: 1998

58-101121.0001

55-610922 NE ¼ NW ¼ NW ¼, Section 17 Township 1S Range 6W

Last Irrigated: 1996

58-100902.0003

55-627971 NW ¼ SW ¼ SE ¼, Section 20 Township 1S Range 6W

Attachment #2

Duke Energy Maricopa L.L.C. Application for Development Plan Approval to Retire Irrigation Grandfathered Rights for Non-irrigation (Type I) Use.

Right No. 58-105414.0000

S 1/2 SW 1/4 Sec 25; SW 1/4; S 1/2 SE 1/4; SE 1/4 NE 1/4 SE 1/4 SEC 26; NE 1/4 SEC 35; SEC 36 EXCEPT SE 1/4 SW 1/4 and except S 1/2 SE 1/4 TLS R6W GSRB&M excluding all dedicated rights of way and excluding non-irrigated areas as more fully described in the map attached hereto as Exhibit A and made part hereof by reference

Right No. 58-104995.0000

SE 1/4 SE 1/4; SE 1/4 NE 1/4; SW 1/4; NE 1/4 NW 1/4; W 1/2 NW 1/4 lying S of SPRR Sec 27; NE 1/4 NE 1/4 Sec 34; E 1/2 lying S of SPRR; E 1/2 SW 1/4 lying S of SPRR Sec 28 TLS R6W GSRB&M excluding all dedicated rights of way and non-irrigated areas as more fully described in the map attached hereto as Exhibit A and made part hereof by reference

Right No. 58-130196.0000

NW 1/4 SE 1/4 Sec 27 TLS R6W GSRB&M excluding non-irrigated areas as more fully described in the map attached hereto as Exhibit A and made a part hereof by reference

Right No. 58-102369.0000

SW 1/4 NW 1/4; SW 1/4 Sec 21; N 1/2 North of SPRR; NE 1/4 SW 1/4 North of SPRR Sec 28 TLS R6W GSRB&M excluding all dedicated rights of way and non-irrigated acres as more fully described in the map attached hereto as Exhibit A and made a part hereof by reference

Right No. 58-101121.0001

E 1/2 Sec 17 TLS R6W GSRB&M

Right No. 58-100902.0003

E 1/2 Section 20 TLS R6W GSRB&M, excluding all dedicated rights of way and non-irrigated areas as more fully described in the map attached hereto as Exhibit A and made part of hereof by reference

PROPOSED DEVELOPMENT PLAN FOR DUKE ENERGY MARICOPA, L.L.C.

Duke Energy Maricopa LLC is proposing to construct and operate a 580 MW (nominal) gas turbine/steam turbine combined-cycle merchant power plant in Maricopa County, Arizona. The project will be known as the Arlington Valley Energy Facility. The key elements of the proposed project include:

- Two combustion turbine generators (CTGs) with inlet chilling fueled by pipeline-quality natural gas;
- Two natural gas supplementary-fired Heat Recovery Steam Generators (HRSG);
- One steam turbine generator (STG) set;
- One gas-fired (intermittent) auxiliary boiler;
- One surface condenser; and
- Two mechanical draft cooling towers (one for the condenser and one for the chiller).

The Arlington Valley Energy Facility will be located approximately 50 miles west-southwest of Phoenix, in Maricopa County Arizona. The project site is situated approximately 3.5 miles south of the Palo Verde Nuclear Generating Station and 5 miles west of the town of Arlington. Specifically, it is approximately 1 mile west of the intersection of Elliott Rd. and 383rd Ave.

The Arlington Valley Energy Facility will be developed on approximately 40 acres of currently undeveloped property. The land use surrounding the site is characterized as primarily rural. Within this predominantly rural area are:

- the Palo Verde Nuclear Generating Station;
- the residential communities of Arlington and Palo Verde to the east and Wintersburg to the north;
- widely scattered businesses and/or residences; and
- roadways including Interstate 10 and US Route 85.

The Arlington Valley Energy Facility will operate commercially as a merchant power plant. A merchant power plant is a power generation facility designed to produce electricity for the emerging deregulated electricity market without pre-arranged long-term utility power purchase agreements. As a merchant plant in a deregulated electricity market, the Arlington Valley Energy Facility project is being designed to convert clean natural gas to useful power at high efficiency and low cost. Commercial operation is scheduled to commence in the year 2002.

Water supply for the Arlington Valley Energy Facility will be primarily from groundwater. Duke Energy Maricopa is purchasing numerous contiguous parcels with Irrigation Grandfathered Rights, which will be converted into Type-1 non-irrigation rights. It is estimated that the Arlington Valley Energy Facility will use approximately 6800 acre feet per year of groundwater.