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BEFORE THE ARIZONA CORPORATION COMMISSION

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AZ CORP COMMISSION
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Commissioner

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Commissioner

SANDRA D. KENNEDY
Commissioner

BOB STUMP
Commissioner

Arizona Corporation Commission
DOCKETED

AUG 19 2010

DOCKETED BY

IN THE MATTER OF THE
APPLICATION OF ARIZONA PUBLIC
SERVICE COMPANY, IN
CONFORMANCE WITH THE
REQUIREMENTS OF ARIZONA
REVISED STATUTES §§ 40-360, *et seq.*,
FOR A CERTIFICATE OF
ENVIRONMENTAL COMPATIBILITY
AUTHORIZING THE TS-5 TO TS-9
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

**ARIZONA PUBLIC SERVICE
COMPANY'S NOTICE OF FILING
RECENT SUBMITTALS TO THE
INTERIOR BOARD OF LAND
APPEALS**

On May 26, 2010, Arizona Public Service Company ("APS") filed a formal Notice of Appeal with the Interior Board of Land Appeals ("IBLA"), appealing the Bureau of Land Management's ("BLM") denial of APS's right-of-way application.

Consistent with APS's continuing commitment to keep the Commission apprised of the progress of this appeal, APS hereby provides notice of its latest submittals to the IBLA. On August 16, 2010, APS filed a Supplement to Statement of Reasons with the

1 IBLA. On August 18, 2010, APS filed a Motion to Expedite Consideration. Copies of
2 these filings are attached.

3 RESPECTFULLY submitted this 19th day of August, 2010.

4 LEWIS AND ROCA LLP

5
6 By 
7 Thomas H. Campbell
8 Albert H. Acken
9 40 N. Central Avenue
10 Phoenix, Arizona 85007
11 Attorneys for Arizona Public Service Company

12 **ORIGINAL** and thirteen (13) copies
13 of the foregoing filed this 19th day
14 of August, 2010, with:

15 The Arizona Corporation Commission
16 Utilities Division – Docket Control
17 1200 W. Washington Street
18 Phoenix, Arizona 85007

19 **COPY** of the foregoing hand-delivered
20 this 19th day of August, 2010, to:

21 Honorable Dwight Nodes
22 Hearing Division
23 Arizona Corporation Commission
24 1200 W. Washington Street
25 Phoenix, Arizona 85007

Chairman Kristin K. Mayes
Arizona Corporation Commission
1200 W. Washington Street
Phoenix, Arizona 85007

26 Commissioner Gary Pierce
Arizona Corporation Commission
1200 W. Washington Street
Phoenix, Arizona 85007

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1200 W. Washington Street
Phoenix, Arizona 85007

1 **COPY** of the foregoing
2 served electronically via e-mail
3 this 19th day of August, 2010 to:

4 John Foreman, Chairman
5 Arizona Power Plant and Transmission Line
6 Siting Committee
7 Office of the Attorney General
8 PAD/CPA
9 1275 W. Washington Street
10 Phoenix, Arizona 85007

11 Steve Olea, Director
12 Arizona Corporation Commission
13 1200 West Washington Street
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BEFORE THE INTERIOR BOARD OF LAND APPEALS
UNITED STATES DEPARTMENT OF THE INTERIOR

IN THE MATTER OF THE)
APPLICATION FOR)
TRANSPORTATION AND UTILITY)
SYSTEMS AND FACILITIES ON)
FEDERAL LANDS BY ARIZONA)
PUBLIC SERVICE COMPANY FOR A)
RIGHT-OF-WAY ACROSS PUBLIC)
LAND FOR THE TS-5 TO TS-9)
500/230kV TRANSMISSION LINE)
PROJECT, LOCATED IN MARICOPA)
COUNTY, ARIZONA)

**SUPPLEMENT TO STATEMENT
OF REASONS**

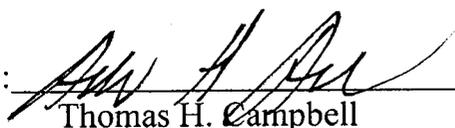
Docket No: IBLA-2010-0151

In the Bureau of Land Management's ("BLM") Answer to Arizona Public Service Company ("APS") Notice of Appeal, the BLM included Attachment 1, a case file index listing certain documents. Item 21 on that index is a March 28, 2003 letter from Mr. Paul Herndon of APS to Mr. Chris Horyza of the BLM. Attached is a copy of that letter, including a map that was attached to that letter. It is important that the Interior Board of Land Appeals has a copy of the letter and map because they demonstrate that APS disclosed to the BLM in 2003 that new transmission facilities will need to cross federal lands in the Bradshaw-Harquahala Resource Management Plan ("RMP") planning area. The map identifies a potential utility corridor along the State Route 74 in the same area that is at issue in this appeal and the APS Application for Right-of-Way. The APS letter noted that the actual location of the new facilities will be subject to a rigorous siting process but, since "...the BLM process is moving forward ahead of our (APS) schedule...", APS felt it was important to identify these potential routes for the BLM to consider in its planning process.

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RESPECTFULLY SUBMITTED this 16th day of August, 2010.

LEWIS AND ROCA LLP

By:  _____

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Albert H. Acken
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1 ORIGINAL SENT VIA Next Day Federal Express
2 on the 16th day of August, 2010 to:

3 United States Department of the Interior
4 Office of Hearings and Appeals
5 Interior Board of Land Appeals
6 801 N. Quincy Street, MS 300-QC
7 Arlington, Virginia 22203

8 In accordance with 43 CFR § 4.401(c)(2) I, Albert H. Acken, certify that service has been
9 or will be made as noted below in accordance with applicable rules on August 16, 2010.

10 LEWIS AND ROCA LLP

11 By:



12 Albert H. Acken
13 40 N. Central Avenue
14 Phoenix, Arizona 85004-4429

15 COPIES SENT VIA U.S. CERTIFIED
16 MAIL on the 16th day of August, 2010 to:

17 Bureau of Land Management
18 Phoenix District
19 Hassayampa Field Office
20 Attn: Steven Cohn, Field Manager
21 21605 North 7th Avenue
22 Phoenix, Arizona 85027

23 Stephen J. Burg,
24 Chief Assistant City Attorney
25 City of Peoria
26 8401 W. Monroe Street, Room 280
27 Peoria, Arizona 85345

28 Mark Hammons
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Betty J. Griffin



Paul E. Herndon, SRWA
Facility Siting
Project Manager

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e-mail Paul.Herndon@
APS.com

Mail Station 4609
PO Box 53933
Phoenix, Arizona 85072-3933

Friday, March 28, 2003

Chris Horyza, Project Manager
Bureau of Land Management
21605 N. 7th Ave.
Phoenix, AZ 85027

RE: Bradshaw-Harquahala and Agua Fria National Monument Resource Management
Planning efforts

Dear Mr. Horyza,

Arizona Public Service Company (APS) is making this formal response regarding Bradshaw-Harquahala and Agua Fria National Monument Resource Management Planning efforts recently undertaken by the Bureau of Land Management (BLM).

APS is the largest electric utility in the State of Arizona serving eleven of the fifteen counties in the state and approximately 1 million customers. APS has a vast electric infrastructure and due to our large service territory we have a number of existing and planned electric transmission lines in the Bradshaw-Harquahala and Agua Fria National Monument Planning Areas. These existing facilities are a very important component of our electric infrastructure serving local customers and the Phoenix Metropolitan area. It's extremely important that these facilities be allowed to remain and continue to serve their respective customer loads. I believe that Jim Dugan from our Land Services Department has already submitted copies of our Interconnected Transmission System maps that detail the existing EHV (115kV and above) transmission, sub-transmission facilities (69kV), and substations in the area. If you need additional copies please let me know.

The primary purpose for APS' action with regard to the BLM's planning effort is to state that APS has plans for new 500kV and 230kV transmission lines and substations in the RMP area. It's anticipated that these new facilities will cross federal lands in the RMP planning area. Because the actual locations of these new facilities have not yet been determined and the BLM process is moving forward ahead of our schedule, we felt that it was important to propose several potential routes for the BLM to consider for utility corridors across these federal lands.

The project will consist of a new 500kV-transmission line extending from the Palo Verde Nuclear Generating Station area to a new 500/230kV substation south of the Rock Springs area. It will also include a new intermediate 500/230kV substation in

the area between the Town of Buckeye and the City of Surprise. Also included are new 230kV lines along segments of the proposed 500kV-power line.

APS has hired the environmental consulting firm EPG to help us determine where these new facilities may be located, especially across federal lands. Enclosed with this submittal are maps and the associated criteria that we considered in this effort. It's important to remember that APS will undertake a very thorough and rigorous effort when siting these new facilities in the future. That effort will include compliance with NEPA and Arizona State Siting Laws as well as working with the public and stakeholders in the area. This initial effort is intended only to help the BLM consider where future utility corridors may be necessary to allow this future facility to cross federal lands.

APS appreciates the opportunity to respond to the BLM's RMP process. We hope that the information provided here is useful in your efforts to develop RMP's that not only preserves the natural resources in these areas, but also preserves APS' ability to continue to serve our existing and future customers. If you have any questions regarding any of the information contained in this response, please contact me at 623-932-6729 (office) or at 602-319-7635 (cellular).

Respectively submitted,



Paul Herndon
Project Manager
Transmission and Facility Siting

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BEFORE THE INTERIOR BOARD OF LAND APPEALS
UNITED STATES DEPARTMENT OF THE INTERIOR

IN THE MATTER OF THE
APPLICATION FOR
TRANSPORTATION AND UTILITY
SYSTEMS AND FACILITIES ON
FEDERAL LANDS BY ARIZONA
PUBLIC SERVICE COMPANY FOR A
RIGHT-OF-WAY ACROSS PUBLIC
LAND FOR THE TS-5 TO TS-9
500/230kV TRANSMISSION LINE
PROJECT, LOCATED IN MARICOPA
COUNTY, ARIZONA

**APS'S MOTION TO EXPEDITE
CONSIDERATION**

Docket No: IBLA-2010-0151

Arizona Public Service Company ("APS") requests expedited consideration of its appeal of the April 28, 2010 Decision of the Bureau of Land Management ("BLM"), Phoenix District, Hassayampa Field Office, to reject Application No. AZA-35079 (the "Application") for a right-of-way across public lands for the TS-5 to TS-9 500/230kV Transmission Line Project ("Project") in Maricopa County, Arizona. APS has contacted counsel for BLM and the Peoria Entities who filed answers in this proceeding and both support expedited consideration of APS's appeal.

APS filed its application for the Project on April 29, 2009, sixteen months ago. As found by the Arizona Corporation Commission in Decision No. 70850:

the Project is in the public interest because it aids the state in meeting the need for an adequate, economical and reliable supply of electric power.

In its 2009 National Electric Transmission Congestion Study, the Department of Energy also found that the Project will help alleviate congestion in the Phoenix-Tucson region. In addition, as explained in APS's Statement of Reasons, the Project is needed to meet Secretary Salazar's commitment to encourage the delivery of renewable energy. See Sec. Order No. 3285.

1 APS estimates it will take four or five years to acquire rights-of-way, design and
2 construct this major transmission line. APS cannot start incurring associated costs until it
3 has a complete route approved. APS needs certainty about the route so that it can begin
4 the acquisition, design, and construction processes and expeditiously meet the needs
5 identified by Secretary Salazar, the Department of Energy, and the Arizona Corporation
6 Commission. For these reasons, expedited consideration of APS's appeal is necessary and
7 in the public interest. See Hoosier Environmental Council, 109 IBLA 160 (1989):

8 Pursuant to a March 23, 1989, request from Texas Gas which noted the need
9 for an early decision in light of proposed construction schedules, the Board,
10 by Order of April 11, 1989, agreed to expedite consideration of the subject
11 appeal.

12 Practical considerations also weigh in favor of expedited review. First, the material
13 facts concerning the application process are not in dispute. The parties agree that after
14 APS filed its Application, BLM "wait[ed] to process the application until the [Bradshaw
15 Harquahala-Resource Management Plan was] finalized." BLM Answer at 6:28. Six days
16 after finalizing the Resource Management Plan ("RMP"), BLM rejected the Application
17 without conducting an application-specific environmental analysis and without
18 considering it through a plan amendment. AR at 3.

19 In addition, the legal questions raised by APS before the Board are
20 straightforward:¹

- 21 1. Must BLM consider an application, even if the application is not in
22 conformance with an RMP?
- 23 2. What process must be followed to consider an application that is not in
24 conformance with an RMP?

25 With respect to the first question, BLM says an application-specific review is not
26 necessary, BLM can rely instead on an existing environmental analysis in a RMP to reject
27 a new Application. BLM Answer at 6:6 - 11:2. APS asserts that BLM must consider the

28 ¹ The Peoria Entities filed an Answer supporting the APS appeal and raising two
additional straightforward issues regarding appropriate additional relief based on their
position that the application is in conformance with the RMP.

1 Application's merits under 43 C.F.R. § 2804.25(d)(6) (requiring BLM to take "action
2 necessary to fully evaluate" an application) and 43 C.F.R. § 2804.26. See also, BLM's
3 Handbook H-1601-1, p40 (2005) (if the effects of a proposed action are "substantially
4 different from those projected in the existing NEPA analysis associated with the existing
5 RMP ... conduct a new or supplemental NEPA analysis...")

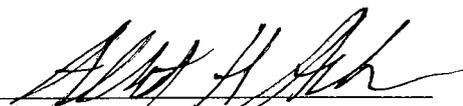
6 BLM sidesteps the second question by asserting that it does not have a duty to
7 amend a plan. BLM Answer at 11:3-20. However, the question presented is not whether
8 BLM must amend the plan. The question is whether BLM must conduct an environmental
9 analysis to determine whether a plan amendment is appropriate under 43 C.F.R. § 1605-
10 3(c) (consideration of proposed action "shall be through a plan amendment") and § 1605-5
11 ("amendment shall be initiated by the need to consider ... a proposed action that may
12 result in a change" to an existing RMP).

13 Conclusion

14 Given the demonstrated need for the Project; the time necessary for land
15 acquisition, design, and construction; and the straightforward issues presented, expedited
16 review by the Board is necessary and in the public interest.

17 RESPECTFULLY SUBMITTED this 18th day of August, 2010.

18 LEWIS AND ROCA LLP

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1 ORIGINAL SENT via Federal Express Overnight
2 delivery on the 18th day of August, 2010 with:

3 United States Department of the Interior
4 Office of Hearings and Appeals
5 Interior Board of Land Appeals
6 801 North Quincy Street, MS 300-QC
7 Arlington, VA 22203

8 In accordance with 43 CFR § 4.401(c)(2) I, Albert H. Acken, certify that service has been
9 or will be made as noted below in accordance with applicable rules on August 18th, 2010.

10 LEWIS AND ROCA LLP

11 By: 

12 Albert H. Acken
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14 Phoenix, Arizona 85004-4429

15 COPIES SENT VIA CERTIFIED
16 MAIL (USPS) on the 18th day of August, 2010 to:

17 Office of the Field Solicitor, USDOJ
18 Attn: John Gaudio and Wonsook S. Sprague
19 Sandra Day O'Connor U.S. Courthouse
20 Suite 404
21 401 West Washington Street, SPC 404
22 Phoenix, Arizona 85003-2151

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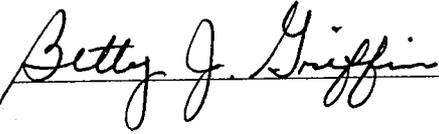
23 Stephen J. Burg,
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