

OPEN MEETING ITEM



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COMMISSIONERS  
KRISTIN K. MAYES - Chairman  
GARY PIERCE  
PAUL NEWMAN  
SANDRA D. KENNEDY  
BOB STUMP



Executive Director  
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ARIZONA CORPORATION COMMISSION

2010 OCT -4 A 10: 53

AZ CORP COMMISSION  
DOCKET CONTROL

DATE: OCTOBER 4, 2010

DOCKET NO.: L-00000BB-01-0118

TO ALL PARTIES:

Enclosed please find the recommendation of Administrative Law Judge Lyn Farmer. The recommendation has been filed in the form of an Order on:

BOWIE POWER STATION, L.L.C.  
(AMENDS DECISION NOS. 64625 and 64626)

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Administrative Law Judge by filing an original and thirteen (13) copies of the exceptions with the Commission's Docket Control at the address listed below by 4:00 p.m. on or before:

OCTOBER 13, 2010

The enclosed is NOT an order of the Commission, but a recommendation of the Administrative Law Judge to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Open Meeting to be held on:

OCTOBER 19, 2010 and OCTOBER 20, 2010

For more information, you may contact Docket Control at (602) 542-3477 or the Hearing Division at (602) 542-4250. For information about the Open Meeting, contact the Executive Director's Office at (602) 542-3931.

Arizona Corporation Commission

DOCKETED

OCT 4 2010

DOCKETED BY

ERNEST G. JOHNSON  
EXECUTIVE DIRECTOR

1200 WEST WASHINGTON STREET, PHOENIX, ARIZONA 85007-2927 / 400 WEST CONGRESS STREET, TUCSON, ARIZONA 85701-1347

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This document is available in alternative formats by contacting Shaylin Bernal, ADA Coordinator, voice phone number 602-542-3931, E-mail SABernal@azcc.gov

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**BEFORE THE ARIZONA CORPORATION COMMISSION**

COMMISSIONERS

- KRISTIN K. MAYES - Chairman
- GARY PIERCE
- PAUL NEWMAN
- SANDRA D. KENNEDY
- BOB STUMP

IN THE MATTER OF THE APPLICATION OF BOWIE POWER STATION, L.L.C. IN CONFORMANCE WITH REQUIREMENTS OF ARIZONA REVISED STATUTES 40-360.03 AND 40-360.06 FOR TWO CERTIFICATES OF ENVIRONMENTAL COMPATIBILITY AUTHORIZING CONSTRUCTION OF A 1,000 MEGAWATT NATURAL GAS-FIRED, COMBINED-CYCLE POWER PLANT, 345kV AND 345kV/230kV SWITCHYARDS, 345kV and 230kV INTERCONNECTION AND RELATED FACILITIES IN COCHISE AND GRAHAM COUNTIES ARIZONA. THE PROPOSED POWER STATION SITE IS LOCATED IN SECTIONS 28 AND 29, TOWNSHIP 12 SOUTH, RANGE 28 EAST, TOWNSHIP 11 SOUTH, RANGE 28 EAST, TOWNSHIP 11 SOUTH, RANGE 27 EAST, AND TOWNSHIP 11 SOUTH, RANGE 26 EAST, GILA AND SALT RIVER BASE AND MERIDIAN.

DOCKET NO. L-00000BB-01-0118

CASE NO. 118

**ORDER**

Open Meeting  
October 19 and 20, 2010  
Phoenix, Arizona.

**BY THE COMMISSION:**

\* \* \* \* \*

Having considered the entire record herein and being fully advised in the premises, the Commission finds, concludes, and orders that:

**FINDINGS OF FACT**

1. On July 27, 2001, Bowie Power Station, L.L.C. ("Bowie" "Company" or "Applicant") filed with the Arizona Corporation Commission ("Commission") an application for two Certificates of Environmental Compatibility ("CEC"). Decision No. 64625 (March 7, 2002) authorized the construction of a 1,000 megawatt ("MW") natural gas-fired, combined-cycle power plant. Decision

1 No. 64626 authorized the construction of the 345 kV and 345 kV/230 kV switchyards, a 345 kV  
2 double-circuit transmission line and a 230 kV interconnection and related facilities in Cochise and  
3 Graham Counties. Both CECs were granted subject to a number of conditions.

4         2.       On August 18, 2006, the Company filed a Request for Extension of the CECs  
5 approved in Decision Nos. 64625 and 64626. The extension request was based upon Condition No.  
6 22 in Decision No. 64625 and Condition No. 10 in Decision No. 64626, which allow the Company to  
7 seek extension of the CECs before the time limit to complete construction. Decision No. 69339  
8 (February 20, 2007) granted the extensions until December 31, 2010 and also included several new  
9 conditions.

10         3.       On July 8, 2010, Bowie applied for an extension of time requesting that the expiration  
11 date of the CECs be extended from the current expiration date of December 31, 2010 to December  
12 31, 2020.

13         4.       On August 12, 2010, the Commission's Utilities Division ("Staff") filed a  
14 Memorandum recommending that the Company's request for extensions be granted. Staff stated that  
15 Bowie's request for this extension is based on "reduced load forecast in the current depressed  
16 economy and on the uncertainty of economic recovery in the short term." Staff explained that even  
17 though Bowie began "very preliminary construction activity in August 2008, the Company is not able  
18 to continue this construction, under the present economic circumstances." Staff also stated that the  
19 Company has concluded that it would "not be able to market the output of the proposed power station  
20 to the Arizona utilities or export it out of state for some period of time."

21         5.       Staff believes that the request for an extension of time is reasonable and therefore,  
22 recommends approval of the requested CECs' time extension to December 31, 2020. Staff proposed  
23 a modification to the Company's "Proposed Revised CEC Expiration Condition(s) Language" to  
24 include a provision that Bowie could request a time extension in the future provided that appropriate  
25 facilities have been "substantially constructed."

26         6.       The language as recommended by Staff is as follows:

27 **Decision No. 64625:**

28

1 “This authorization to site and construct Bowie Project Generation Facilities shall  
 2 expire on December 31, 2020. However, before such expiration, Applicant or any  
 3 assignee of Applicant may request that the Commission further extend this time  
 4 limitation, provided that the Bowie Project Generation Facilities have been  
 5 substantially constructed as of the time of such extension request. The  
 Commission will determine what “substantial construction” is, at the time of  
 Applicant’s filing for time extension. In determining whether the facilities have  
 been substantially constructed, the Commission shall include consideration of the  
 status of Bowie Project financing and physical site construction.”

6 **Decision: 64626:**

7 “This authorization to site and construct Bowie Project Transmission Facilities  
 8 shall expire on December 31, 2020. However, before such expiration, Applicant  
 9 or any assignee of Applicant may request that the Commission further extend this  
 10 time limitation, provided that the Bowie Project Transmission Facilities have been  
 11 substantially constructed as of the time of such extension request. The  
 Commission will determine what “substantial construction” is, at the time of  
 Applicant’s filing for time extension. In determining whether the facilities have  
 12 been substantially constructed, the Commission shall include consideration of the  
 status of Bowie Project financing and physical site construction.”

13  
 14 7. Bowie did not object to Staff’s recommended language, and we find that Staff’s  
 recommended language is reasonable and appropriate.

15  
 16 8. Decision Nos. 64625 and 64626 both contain language requiring Bowie to provide  
 notice of requests for extension of the terms of the CECs.

17 Decision No. 64625 provides that:

18  
 19 In the event that Applicant requests an extension of the term of the  
 20 Certificate prior to completion of construction, Applicant shall use  
 21 reasonable means to directly notify all landowners and residents within a  
 one-mile radius of the Project of the time and place of the proceeding in  
 22 which the Commission shall consider such request for extension. Applicant  
 shall also provide notice of such extension to Cochise County, Graham  
 23 County, the community of Bowie and the City of Willcox.<sup>1</sup>

24  
 25 Decision No. 64626 provides that:

26 In the event that the Project requires an extension of the term of this  
 27 Certificate prior to completion of construction, Applicant shall use

28 <sup>1</sup> Decision No. 64625 at CEC p.8, Condition 14.

1 reasonable means to directly notify all landowners and residents within a  
2 one mile radius of the Project facilities of the time and place of the  
3 proceeding in which the Commission shall consider such request for  
4 extension.<sup>2</sup>

5 9. Accordingly, by Procedural Order issued October 4, 2010, Bowie was directed to  
6 provide notice pursuant to those Decisions.

7 **CONCLUSIONS OF LAW**

8 1. The Commission has jurisdiction over the Bowie Power Station, LLC and the subject  
9 matter contained herein pursuant to Article XV of the Arizona Constitution and A.R.S. §§ 40-252 and  
10 40-360 et seq.

11 2. Notice of the matter was given in the manner prescribed by law.

12 3. Amending Decision Nos. 64625 and 64626 as set forth herein is in the public interest  
13 in balancing the need for the projects with their impact on the environment and ecology of the state.

14 **ORDER**

15 IT IS THEREFORE ORDERED that Decision Nos. 64625 and 64626 are hereby amended as  
16 follows:

17 **Decision No. 64625:**

18 “This authorization to site and construct Bowie Project Generation Facilities shall  
19 expire on December 31, 2020. However, before such expiration, Applicant or any  
20 assignee of Applicant may request that the Commission further extend this time  
21 limitation, provided that the Bowie Project Generation Facilities have been  
22 substantially constructed as of the time of such extension request. The  
23 Commission will determine what “substantial construction” is, at the time of  
24 Applicant’s filing for time extension. In determining whether the facilities have  
25 been substantially constructed, the Commission shall include consideration of the  
26 status of Bowie Project financing and physical site construction.”

27 **Decision: 64626:**

28 “This authorization to site and construct Bowie Project Transmission Facilities  
shall expire on December 31, 2020. However, before such expiration, Applicant  
or any assignee of Applicant may request that the Commission further extend this  
time limitation, provided that the Bowie Project Transmission Facilities have been  
substantially constructed as of the time of such extension request. The  
Commission will determine what “substantial construction” is, at the time of  
Applicant’s filing for time extension. In determining whether the facilities have

<sup>2</sup> Decision No. 64626 at CEC p. 4-5, Condition 3.

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been substantially constructed, the Commission shall include consideration of the status of Bowie Project financing and physical site construction.”

IT IS FURTHER ORDERED that all other provisions of Decision Nos. 64625 and 64626 as amended remain in full force and effect.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

CHAIRMAN \_\_\_\_\_ COMMISSIONER \_\_\_\_\_

COMMISSIONER \_\_\_\_\_ COMMISSIONER \_\_\_\_\_ COMMISSIONER \_\_\_\_\_

IN WITNESS WHEREOF, I, ERNEST G. JOHNSON, Executive Director of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

\_\_\_\_\_  
ERNEST G. JOHNSON  
EXECUTIVE DIRECTOR

DISSENT \_\_\_\_\_

DISSENT \_\_\_\_\_

1 SERVICE LIST FOR: BOWIE POWER STATION, L.L.C

2 DOCKET NO.: L-00000BB-01-0118

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