



BEFORE THE ARIZONA CORPORATION

Arizona Corporation Commission

DOCKETED

SEP 12 2013

**COMMISSIONERS**

- BOB STUMP - Chairman
- GARY PIERCE
- BRENDA BURNS
- BOB BURNS
- SUSAN BITTER SMITH

DOCKETED BY	HR
-------------	----

IN THE MATTER OF THE APPLICATION OF UNS ELECTRIC, INC. FOR A CERTIFICATE OF ENVIRONMENTAL COMPATIBILITY FOR THE VAIL TO VALENCIA 115 KV TO 138 KV TRANSMISSION LINE UPGRADE PROJECT, ORIGINATING AT THE EXISTING VAIL SUBSTATION IN SEC. 4, T.16S., R.15E., PIMA COUNTY, TO THE EXISTING VALENCIA SUBSTATION IN SEC. 5, T.24S., R.14E., IN THE CITY OF NOGALES, SANTA CRUZ COUNTY, ARIZONA.

DOCKET NO. L-00000F-09-0190-00144

CASE NO. 144

ORDER MODIFYING DECISION NO. 71282

**DECISION NO. 74080**

**ORDER**

Staff Meeting  
 August 29, 2013  
 Phoenix, Arizona

**BY THE COMMISSION:**

**FINDINGS OF FACT**

1. On July 23, 2013, UNS Electric, Inc. ("UNSE" or "Company") filed with the Arizona Corporation Commission ("Commission") a request to amend portions of its Certificate of Environmental Compatibility ("CEC") and to amend Decision No. 71282 (October 7, 2009) ("Application").

2. Decision No. 71282 approved a CEC ("Case No. 144") for UNSE to upgrade an existing 115 kV transmission line connecting four substations in Santa Cruz County (Kantor, Cañez, Sonoita, and Valencia) to the Vail Substation in Pima County into a 138 kV transmission line. The Project will alleviate capacity limitations on the Company's ability to import power into the City of Nogales due to constraints on the Western Area Power Administration ("WAPA") System to which

1 the UNSE line is currently interconnected at the Nogales Tap. The Project will permit the Company  
2 to continue to meet growing load demand within Santa Cruz County. Further, the upgrade of the  
3 transmission line will include an upgrade of the pole structures to steel monopoles which will greatly  
4 improve the reliability of the transmission line.

5 3. On October 7, 2009, the Commission approved Decision No. 71282 authorizing a  
6 CEC to construct the Project. Decision No. 71282 substantially approved the Preferred Route for the  
7 Project. However, the Commission ordered a change to the route north of the Cañez Substation to  
8 accommodate the property owners and residents in the vicinity.

9 4. In the course of constructing the Project, UNSE has encountered circumstances that  
10 require minor modifications in the CEC. These modifications are either to accommodate individual  
11 landowners or to resolve issues relating to the placement of certain individual steel monopole  
12 structures.

13 5. UNSE requested a total of six modifications to the CEC. The modifications and the  
14 reasons for them are:

15 (a) To accommodate one monopole that is the last pole prior to the attachment  
16 point at the Vail Substation. This monopole would be slightly outside the  
17 corridor by approximately 70 feet, but is located entirely on the property of  
18 Tucson Electric Power Company ("TEP"), an affiliate of UNSE. This  
19 adjustment was needed to accommodate connection to the Vail Substation.

20 (b) To notify and inform the Commission that, although the monopoles will be  
21 within the approved corridor (requiring no change to the Project Alignment in  
22 this location), the right-of-way ("ROW") will extend beyond the corridor  
23 adjacent to the Nogales Tap for about 1,300 feet. After extended discussions  
24 with the Bureau of Land Management ("BLM") regarding location on its  
25 property, it became clear to UNSE that the timing for approval would not  
26 accommodate the in-service needs of the Project. A willing private land owner,  
27 South Wilmot Investors, agreed to an easement on its property – a portion of  
28 which is inside the previously approved 500-foot corridor. The monopoles will

1 be within the 500-foot corridor, but the ROW itself will extend approximately  
2 40 feet to the west outside the approved corridor for approximately 1,300 feet.  
3 The Company attached a copy of the recorded easement with South Wilmot  
4 Investors and CCA Properties of Arizona as Exhibit 1 to the Application.

5 (c) To accommodate one monopole for a drop into the Cañez Substation on the  
6 east side of the Substation that is approximately 80 feet outside of the corridor,  
7 but that is entirely within the existing property owned by UNSE.

8 (d) At points along Old Tucson Road where engineering issues prevent the rebuild  
9 from occurring within the 500-foot corridor, a slight shift in the corridor  
10 (approximately 60 feet to the east) to accommodate two structures for  
11 approximately 0.2 miles. The issues are related to the existing roadway, and  
12 the new poles will be located in the road's right of way. The pole locations in  
13 this area have been determined after extensive meetings and discussions  
14 between UNSE, Santa Cruz County and the City of Nogales.

15 (e) At a point near the proximity of the Wilson Produce property in Nogales,  
16 relocating the corridor by approximately 1,300 feet to the north and northeast  
17 to allow the structures to be placed on an adjacent landowner's property.  
18 UNSE was not able to reach agreement with the owners of Wilson Produce,  
19 but the adjacent property owner was in support of and agreed to allow the  
20 structures to be placed on his property. The Company included two recorded  
21 easements with the property owner (Harvey) for the proposed reroute around  
22 the Wilson property as Exhibit 2 to the Application. This modification will  
23 affect six structures for approximately 0.5 mile.

24 (f) Finally, the largest modification is for approximately six structures, in order to  
25 bypass the Chamberlain property near the southern terminus of the Project.  
26 Negotiations to locate one or more structures on the Chamberlain property  
27 have stalled due to the property owner's refusal to accommodate the Project  
28 and resistance to UNSE's eminent domain proceedings (Santa Cruz Co.

1 Superior Court Case No. CV2012-00234). UNSE approached adjacent  
2 property owners in the vicinity of this location in an effort to avoid the  
3 Chamberlain property; these property owners have preliminarily agreed in  
4 writing to allow the line and the associated monopoles to be located on their  
5 respective properties. But to do so, the route corridor needs to be shifted  
6 approximately 920 feet south and southeast of the original approved corridor,  
7 for approximately 0.5 mile. Attached as Exhibit 3 to the Application are signed  
8 option agreements with four property owners and an email commitment from  
9 the fifth that cover the land adjacent to the Chamberlain property that coincide  
10 with this requested optional alignment.

#### 11 **Staff Analysis**

12 6. Staff filed a memorandum evaluating the Application on August 9, 2013. In its view,  
13 Staff finds that the upgrade in voltage to 138 kV and the substitution of steel monopole towers for the  
14 existing wooden H-frame structures will improve load serving capability in Santa Cruz and the  
15 overall reliability of the transmission line.

16 7. Staff's review of the six modifications to the CEC requested by the Application  
17 resulted in a recommendation that the Commission approve all six requested modifications. In  
18 Staff's view, the modifications requested by the Company will best accommodate the property  
19 owners along the route, address identified engineering issues, and allow UNSE to complete the  
20 project as scheduled. In addition, Staff believes that the proposed changes do not appear to impact the  
21 overall reliability of the line, nor result in any material change in the cost of the Project. When  
22 completed, the project will improve reliability and load serving capability in Santa Cruz County.

23 8. With respect to the first requested modification, Staff stated that while the first  
24 modification requested at Vail Substation is minor, Staff did question the Company as to what  
25 agreement(s) UNSE and TEP have entered into for the interconnection at Vail and whether UNSE  
26 has obtained written easement for placement of its facilities on TEP's property. UNSE confirmed  
27 that an interconnection agreement, which includes easement provisions, has been prepared and will  
28 be executed at a future date. Staff recommends approval of this modification.

1           9.       Regarding the second requested modification, adjacent to the Nogales Tap, Staff noted  
2 that the modification results in the structures being placed within the original approved corridor, but  
3 extends the ROW for the line 40 feet outside of the original approved corridor for approximately a  
4 quarter of a mile. Staff inquired as to why an agreement was not reached with the BLM. The  
5 Company explained that after extended discussions, BLM was concerned about potential conflicts  
6 between other contemplated activities on the BLM land and the Project. BLM asked UNSE to  
7 explore the alternative location requested in this Application. As UNSE states in its Application, it  
8 was able to obtain the needed ROW on private land and drop the pursuit of the use of BLM land.  
9 Staff recommends approval of this modification.

10           10.       With regard to the third requested modification, Staff recommends approval of this  
11 modification, which is located entirely within UNSE owned property.

12           11.       With respect to the fourth modification along Old Tucson Road, Staff inquired as to  
13 the specific engineering issues that arose. UNSE explained that detailed design and staking found  
14 there to be significant underground facilities in the approved corridor. This resulted in the extensive  
15 meetings and discussions between UNSE, Santa Cruz County and the City of Nogales and the  
16 determination of the amended corridor requested in this Application. Staff recommends approval of  
17 this modification.

18           12.       Regarding the fifth modification, Staff has found that UNSE has obtained the needed  
19 ROW for the alternative route and as indicated provided a copy of the recorded easements. The  
20 change allows the Company to avoid condemnation proceedings to obtain an easement on the  
21 original route. Staff recommends approval of this modification.

22           13.       Staff recommends approval of the sixth modification which, if used, may allow UNSE  
23 to avoid condemnation proceedings to obtain right-of-way on the original route. The Company has  
24 obtained options on four of the five parcels needed for the requested alternative route and has a  
25 written commitment from the fifth owner. In addition, Staff recommends approval of the Company's  
26 request to maintain approval for use of the original route, if necessary, since UNSE will still need to  
27 execute easement agreements with the five landowners along the proposed modified route. This will  
28

1 allow UNSE the option to revert to the original route and go through the less desirable process of  
2 condemnation proceedings if necessary.

3 14. Staff, therefore, recommends that the Commission approve the Company's requested  
4 modifications. The conforming legal description that modifies the revised "Exhibit A" to Decision  
5 No. 71282 and incorporates all of the modifications from the original approved route is attached as  
6 Exhibit A to this order.

7 15. During the Commission's consideration of the request at the August 29, 2013 Staff  
8 Open Meeting, public comment raised concerns with regard to noise issues relating to operation of  
9 the Project upon its placement into service. Staff recommends that the Commission amend the CEC  
10 to add the following condition to respond to the noise concerns.

11 The Applicant shall ensure that the transmission line and related facilities comply with  
12 applicable noise standards of the Federal Department of Housing and Urban  
13 Development and the Environmental Protection Agency. Applicant shall advise  
14 interested persons how they may express concerns or submit complaints to Applicant  
15 or the Commission when they believe the transmission line and related facilities herein  
16 authorized are creating noise in excess of applicable HUD standards or causing  
17 interference with communications signals in excess of applicable FCC standards.  
18 Such complaints as may be filed with the Commission shall be processed pursuant to  
19 those provisions of A.A.C. R14-2-212(A) and (C) applicable to service disputes.

### 17 CONCLUSIONS OF LAW

18 1. The Commission has jurisdiction over UNS Electric, Inc. and over the subject matter  
19 herein pursuant to Article XV of the Arizona Constitution and A.R.S. §§ 40-252 and -360 *et seq.*

20 2. Notice of the proceeding and an opportunity to be heard has been given in the manner  
21 prescribed by law.

22 3. It is reasonable for the Commission to approve the requested minor changes in the  
23 alignment of the Project corridor.

24 4. The Commission, having reviewed the request and considered the matter, finds that it  
25 is in the public interest to amend Decision No. 71282 to alter the Project corridor alignment to permit  
26 construction of the Project and to change the Certificate of Environmental Compatibility Project  
27 Alignment to permit these modifications.

28

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**ORDER**

IT IS THEREFORE ORDERED that Decision No. 71282 is modified to revise the Project Alignment approved within the Certificate of Environmental Compatibility in accordance with the Company's application and the recommendations of Staff.

IT IS FURTHER ORDERED that Decision No. 71282 is modified at page 2, lines 18 through 22, to state:

The alignment then resumes paralleling the UPRR ROW to a point west of the Cañez Substation (1.3 miles) at which point it crosses over the UPRR track to a point just east of the Cañez Substation, where the line will drop into the Cañez Substation. The Project then continues southerly adjacent to the UPRR in the Santa Cruz River Valley (3.4 miles).

IT IS FURTHER ORDERED that the Certificate of Environmental Compatibility is hereby modified at page 3, lines 5 to 6, to state:

At this intersection, the Alignment turns south extending to the Nogales Tap and interconnects to the existing line (1.5 miles), with the right-of-way extending approximately 40 feet to the west of the western boundary of the 500 foot corridor for approximately 1,300 feet around the Nogales Tap where the corridor crosses land held by the Bureau of Land Management.

IT IS FURTHER ORDERED that the Certificate of Environmental Compatibility is hereby modified at page 4, lines 1 through 3, to state:

Northerly of the intersection of Old Tucson Road and Grand Avenue, the line departs from the existing line to proceed east of and parallel to Grand Avenue on the east side of Nogales Wash through an industrial area (0.5 miles). Approximately 900 feet north of Old Tucson and Grand Avenue the Project departs the existing alignment in an easterly direction approximately 1,500 feet to North Silver Hills Drive, then travels southeasterly for 1,600 feet along Silver Hills Drive to the intersection with West Gold Hill Road, before traveling southeasterly for 400 feet and then heading southeasterly along the new route through industrial area approximately 0.8 miles to the existing line). In the alternative, only if it is not feasible to acquire the necessary rights of way by the expiration date for the CEC, then at the intersection of Old Tucson Road and Grand Avenue, the line departs from the existing line to proceed east of and parallel to Grand Avenue on the east side of the Nogales Wash through an industrial area for 0.9 miles.

...  
...  
...

1 IT IS FURTHER ORDERED that the Certificate of Environmental Compatibility is hereby  
2 modified at page 10, line 25 to insert the following new Condition 28:

3 28. The Applicant shall ensure that the transmission line and related facilities  
4 comply with applicable noise standards of the Federal Department of Housing  
5 and Urban Development and the Environmental Protection Agency. Applicant  
6 shall advise interested persons how they may express concerns or submit  
7 complaints to Applicant or the Commission when they believe the transmission  
8 line and related facilities herein authorized are creating noise in excess of  
9 applicable HUD standards or causing interference with communications  
10 signals in excess of applicable FCC standards. Such complaints as may be  
11 filed with the Commission shall be processed pursuant to those provisions of  
12 A.A.C. R14-2-212(A) and (C) applicable to service disputes.

13 IT IS FURTHER ORDERED that this decision shall become effective immediately.

14 **BY THE ORDER OF THE ARIZONA CORPORATION COMMISSION**

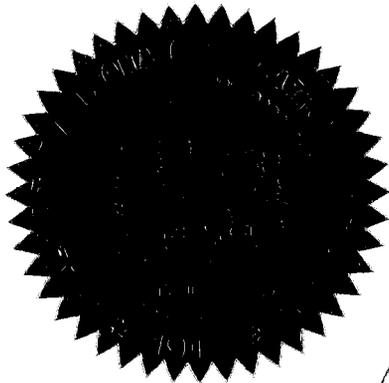
15   
16 CHAIRMAN

17   
18 COMMISSIONER

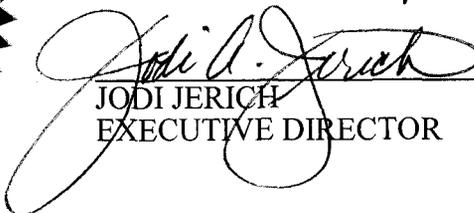
19   
20 COMMISSIONER

21   
22 COMMISSIONER

23   
24 COMMISSIONER



25 IN WITNESS WHEREOF, I, JODI JERICH, Executive  
26 Director of the Arizona Corporation Commission, have  
27 hereunto, set my hand and caused the official seal of this  
28 Commission to be affixed at the Capitol, in the City of Phoenix,  
this 12<sup>th</sup> day of September, 2013.

29   
30 JODI JERICH  
31 EXECUTIVE DIRECTOR

32 DISSENT: \_\_\_\_\_

33 DISSENT: \_\_\_\_\_

34 SMO:ML:sms\CHH

1 SERVICE LIST FOR: UNS Electric, Inc.  
2 DOCKET NO. L-00000F-09-0190-00144

3 John Foreman, Chairman  
4 Arizona Power Plant and Transmission  
5 Line Sitting Committee  
6 Office of Attorney General  
7 1275 West Washington Street  
8 Phoenix, Arizona 85007

9 Jason D. Gellman  
10 Roshka, DeWulf & Patten, PLC  
11 One Arizona Center  
12 400 East Van Buren Street, Suite 800  
13 Phoenix, Arizona 85004  
14 Attorney for UNS Electric, Inc.

15 Marshall Magruder  
16 P.O. Box 1267  
17 Tubac, Arizona 85646-1267

18 Elizabeth Webb  
19 P.O. Box 952  
20 Vail, Arizona 85641

21  
22  
23  
24  
25  
26  
27  
28

**EXHIBIT A**

**VAIL TO VALENCIA 138kV REBUILD**

*NEW CEC CENTERLINE LEGAL DESCRIPTION*  
from  
*VAIL SUBSTATION to VALENCIA SUBSTATION*  
*July 2013*

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27

A transmission line corridor of 500 feet in width except where noted, with the centerline, as determined from Arizona State Plane Coordinate mapping, more particularly described as follows:

Beginning at **Vail Substation**, at grid coordinate (X) 1,041,142.80, (Y) 390,960.67, of Central Zone of Arizona State Plane Coordinate System 1983, and to which National Geodetic Survey point 'PUMP' (PID - CZ0252) bears South 39 degrees 29 minutes 16 seconds West, 5,071.98 feet;

thence South 89 degrees 55 minutes 56 seconds West, 423.52 feet;

thence North 45 degrees 15 minutes 37 seconds West, 1,186.12 feet;

thence North 00 degrees 07 minutes 58 seconds West, 1,017.67 feet;

thence South 89 degrees 32 minutes 32 seconds West, 11,891.07 feet;

thence South 05 degrees 40 minutes 55 seconds West, 1,744.96 feet;

thence South 00 degrees 34 minutes 52 seconds East, 4,707.45 feet;

thence South 21 degrees 10 minutes 00 seconds West, 308.79 feet;

thence South 00 degrees 11 minutes 10 seconds East, 1,229.35 feet to a point 123 feet west of the west side of **Nogales Tap Substation**;

thence South 00 degrees 11 minutes 10 seconds East, 485.84 feet;

thence South 56 degrees 58 minutes 13 seconds East, 151.59 feet;

thence South 00 degrees 34 minutes 52 seconds East, 50,184.09 feet;

thence South 34 degrees 21 minutes 34 seconds West, 95,891.68 feet;

thence South 88 degrees 34 minutes 55 seconds West, 121.34 feet to a point in **Kantor Substation**;

thence South 03 degrees 13 minutes 57 seconds East, 158.25 feet;

thence South 21 degrees 14 minutes 55 seconds East, 22,453.78 feet;

- 1 thence South 00 degrees 29 minutes 36 seconds East, 9,011.69 feet;
- 2 thence South 19 degrees 02 minutes 10 seconds West, 1,725.59 feet;
- 3 thence South 00 degrees 29 minutes 28 seconds East, 12,408.16 feet;
- 4 thence South 12 degrees 35 minutes 44 seconds East, 2,722.98 feet;
- 5 thence South 00 degrees 28 minutes 50 seconds East, 13,826.04 feet;
- 6 thence South 56 degrees 02 minutes 44 seconds West, 1,075.87 feet to a point 50 feet easterly of the
- 7 UPRR easterly right-of-way, and the beginning of a non-tangent curve concave to the southwest, having
- 8 a radius of 5,878.84 feet, and to which a radial line bears North 47 degrees 57 minutes 51 seconds East;
- 9 thence southeasterly 2,377.22 feet along said curve and 50 feet easterly of the UPRR easterly right-of-
- 10 way through a central angle of 23 degrees 10 minutes 07 seconds;
- 11 thence continuing 50 feet easterly of the UPRR easterly right-of-way, South 18 degrees 52 minutes 02
- 12 seconds East, 1,543.32 feet;
- 13 thence South 71 degrees 07 minutes 58 seconds West, 225.00 feet to a point 25 feet westerly of the
- 14 UPRR westerly right-of-way;
- 15 thence continuing 25 feet westerly of the UPRR westerly right-of-way, South 18 degrees 52 minutes 02
- 16 seconds East, 4,314.74 feet;
- 17 thence North 71 degrees 07 minutes 58 seconds East, 810.00 feet;
- 18 thence South 71 degrees 07 minutes 58 seconds West, 585.00 feet to a point 50 feet easterly of the
- 19 UPRR easterly right-of-way and 147 feet westerly of the west side of **Cañez Substation**;
- 20 thence continuing 50 feet easterly of the UPRR easterly right-of-way, South 18 degrees 52 minutes 02
- 21 seconds East, 12,393.38 feet to the beginning of a curve concave to the northeast and having a radius of
- 22 5,528.78 feet;
- 23 thence southeasterly 3,957.08 feet along said curve and 50 feet easterly of the UPRR easterly right-of-
- 24 way through a central angle of 41 degrees 00 minutes 29 seconds;
- 25 thence continuing 50 feet easterly of the UPRR easterly right-of-way, South 59 degrees 52 minutes 30
- 26 seconds East, 1,386.97 feet;
- 27 thence North 64 degrees 22 minutes 52 seconds East, 1,307.16 feet to a point 63 feet southerly of the
- 28 south side of **Sonoita Substation**;
- 29 thence South 25 degrees 54 minutes 45 seconds East, 2,434.49 feet;

- 1 thence South 18 degrees 53 minutes 51 seconds East, 6,598.53 feet;
- 2 thence South 37 degrees 22 minutes 02 seconds East, 6,610.08 feet;
- 3 thence South 00 degrees 35 minutes 23 seconds East, 7,555.17 feet;
- 4 thence South 30 degrees 26 minutes 05 seconds West, 1,143.95 feet;
- 5 thence South 20 degrees 21 minutes 32 seconds East, 1,082.13 feet;
- 6 thence South 02 degrees 34 minutes 44 seconds West, 2,704.10 feet;
- 7 thence South 17 degrees 58 minutes 34 seconds East, 2,371.33 feet;
- 8 thence North 70 degrees 01 minutes 00 seconds East, 869.69 feet;
- 9 thence North 83 degrees 41 minutes 03 seconds East, 550.65 feet;
- 10 thence South 25 degrees 43 minutes 18 seconds East, 1,618.96 feet;
- 11 thence South 41 degrees 17 minutes 06 seconds West, 402.03 feet;
- 12 **Alternative language for legal, see option A and B starting at line 21**
- 13 thence South 00 degrees 35 minutes 14 seconds East, 3,069.29 feet;
- 14 thence within a 1,250 foot wide corridor, North 89 degrees 40 minutes 24 seconds East, 1,285.80 feet;
- 15 thence continuing in a 500 foot wide corridor, South 01 degrees 13 minutes 18 seconds East, 2,106.57
- 16 feet;
- 17 thence North 88 degrees 43 minutes 12 seconds East, 2,191.97 feet to the terminus of said centerline at
- 18 Valencia Substation, at grid coordinate (X) 1,007,459.01, (Y) 133,493.23, of said Central Zone of Arizona
- 19 State Plane Coordinate System 1983, and to which National Geodetic Survey point 'M423' (PID -
- 20 CG0883) bears South 23 degrees 09 minutes 01 seconds East, 34,502.53 feet.

21 All distances are grid.

22 Said centerline is 58.34 miles in length (option A) 58.15 (option B), more or less.

23 **Option A, proposed reroute (around Chamberlain property):**

24 thence South 51 degrees 44 minutes 38 seconds East, 1,519.33 feet;

25 thence South 17 degrees 58 minutes 39 seconds West, 326.10 feet;

26 thence South 56 degrees 43 minutes 48 seconds East, 378.62 feet;

- 1 thence South 39 degrees 31 minutes 31 seconds West, 208.77 feet;
- 2 thence South 46 degrees 01 minutes 33 seconds East, 603.79 feet;
- 3 thence South 45 degrees 55 minutes 40 seconds West, 1,352.51 feet;
- 4 *Option B, proposed reroute but original alignment through Chamberlain property:*
- 5 Thence South 47 degrees 54 minutes 38 seconds East, 1200.63 feet;
- 6 Thence South 04 degrees 49 minutes 19 seconds West, 1849.85 feet;
- 7 Thence South 00 degrees 35 minutes 14 seconds East, 331.60 feet;