



0000155135

**BEFORE THE ARIZONA POWER PLANT AND  
TRANSMISSION LINE SITING COMMITTEE**

**ORIGINAL**

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 OCOTILLO  
MODERNIZATION PROJECT, WHICH  
INCLUDES THE INSTALLATION OF FIVE  
102 MW GAS TURBINES AND THE  
CONSTRUCTION OF TWO 230-  
KILOVOLT GENERATION  
INTERCONNECTIONS AND OTHER  
ANCILLARY FACILITIES, ALL LOCATED  
WITHIN THE BOUNDS OF THE  
EXISTING OCOTILLO POWER PLANT  
SITUATED ON PROPERTY OWNED BY  
ARIZONA PUBLIC SERVICE COMPANY  
AND LOCATED AT 1500 EAST  
UNIVERSITY DRIVE, TEMPE, ARIZONA,  
IN MARICOPA COUNTY

Docket No. L-00000D-14-0292-  
00169

Case No. 169

**PROCEDURAL ORDER**

Arizona Corporation Commission

**DOCKETED**

AUG 01 2014

DOCKETED BY

ARIZONA CORPORATION COMMISSION  
DOCKET CONTROL

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An Application for a Certificate of Environmental Compatibility was filed in the above captioned matter with Docket Control of the Arizona Corporation Commission ("Commission") on July 31, 2014. A copy of the Application was transmitted to John Foreman, designee of the Attorney General of Arizona, Thomas C. Horne, as Chairman ("Chairman") and Presiding Officer of the Arizona Power Plant and Transmission Line Siting Committee ("Line Siting Committee"). A.R.S. §§ 40-360.01(B)(1) and 40-360.03. As authorized by A.R.S. §§ 40-360.01(C) and (D), 40-360.04 and A.A.C. R14-3-201(E), the Chairman issues the following procedural order.

1           **IT IS ORDERED:**

2           **1.**     The Applicant and all other potential parties (“persons” within the  
3 meaning of A.R.S. § 40-360(8) who intend to intervene or request to intervene,  
4 pursuant to A.R.S. § 40-360.05(A), shall advise the Chairman in writing on or before  
5 the time of the pre-hearing conference scheduled below if they disagree that the  
6 time limit for decision on the Application by the Line Siting Committee set by A.R.S.  
7 § 40.360.04(D) is January 27, 2015.

8           **2.**     The Applicant shall arrange for the timely publication and posting of  
9 notice of the Evidentiary Hearing, as agreed to at the pre-application hearing  
10 involving the Applicant in a form approved by the Chairman. The Applicant shall  
11 provide notice by certified mail to the City of Tempe, Maricopa County, and any  
12 other affected jurisdiction within the meaning of A.R.S. § 40-360.04(A) at least  
13 twenty days before the evidentiary hearing scheduled below. In addition, the  
14 Applicant shall submit a copy of the notice and present testimony describing the  
15 publication, providing of notice, and posting of the notice at the evidentiary hearing.

16           **3.**     The Applicant shall make arrangements for the evidentiary hearing to  
17 be held at Embassy Suites Hotel located at 4400 South Rural Road, Tempe, AZ  
18 85282, telephone: 480-897-7444. The hearing will begin on Tuesday, September  
19 16, 2014, at 9:30 a.m., and will continue on Wednesday, September 17, 2014, at  
20 9:00 a.m., unless a tour is taken. If a tour is taken, it will begin on Wednesday,  
21 September 17, 2014, at 8:00 a.m. or at a later time set by the Chairman of the  
22 Committee. If necessary, the hearing will continue on Thursday, September 18,  
23 2014, at 9:00 a.m. Public comment may be taken during the hearing at times  
24 designated by the Chairman. Public comment also will be taken in a special evening  
25 session on September 16, 2014, at 6:00 p.m. at the same location. Unless later  
26 ordered by the Chairman, the hearing will adjourn at approximately 5:00 p.m. each  
27 day, except on September 16, 2014, when it will continue after 6:00 p.m. for the  
28 public comment session. The Applicant shall make arrangements for further regular

1 sessions, if needed, and additional public comment sessions, if needed, on dates, at  
2 times, and at places to be determined later.

3       **4.**     The Applicant shall contact the appropriate member of the staff of the  
4 Commission, and advise them of the Applicant's position concerning reimbursement  
5 of the Line Siting Fund should the expenses of the hearings exceed the application  
6 fee, and to discuss financial arrangements regarding hotel reservations and other  
7 expenses of the Line Siting Committee Members. A.R.S. § 40-360.10. The  
8 Applicant shall advise the Chairman of the results of these discussions so that the  
9 necessary information may be communicated to the Line Siting Committee  
10 Members.

11       **5.**     The Applicant shall provide a copy of this Order to any other potential  
12 parties ("persons" within the meaning of A.R.S. § 40-360(8) who express an  
13 intention to intervene to the Applicant or who request to intervene pursuant to A.R.S.  
14 § 40-360.05(A)) who have not already received a copy.

15       **6.**     The Applicant and all other potential parties shall meet and confer, on  
16 or before the beginning of the evidentiary hearing, to determine whether any of the  
17 potential parties have similar interests in the application process that will allow them  
18 to jointly present testimony on direct or cross-examination of witnesses, or to jointly  
19 offer exhibits into evidence. The Applicant shall, and any other potential party may,  
20 report to the Chairman the results of the attempts of the parties to resolve the issues  
21 and to determine if common interests exist that will allow parties to jointly present  
22 evidence and argument or to avoid repetition of testimony and argument at the  
23 hearing.

24       **7.**     The parties and any other potential parties ("persons" within the  
25 meaning of A.R.S. § 40-360(8) who intend to intervene or request to intervene  
26 pursuant to A.R.S. § 40-360.05(A)) shall not communicate with any member of the  
27 Line Siting Committee about any procedural matters, or any factual issues or legal  
28 issues relating to the Application, while the Application is pending before the Line

1 Siting Committee. The only exception is that the parties may communicate with the  
2 Chairman, during the time the Application is pending, about procedural matters  
3 relating to the Application, preparation of the Notice of Hearing and its publication,  
4 the Agenda for the hearing, any pre-hearing conferences, the hearing on the  
5 Application, and the decision on the Application by the Line Siting Committee.  
6 Communication of the parties with the Chairman about any procedural matters,  
7 during the time an Application is pending, shall be in writing or, if oral, shall be  
8 memorialized by an e-mail or other written summary, with a copy of the written  
9 communication or summary to all parties or known potential parties ("persons" within  
10 the meaning of A.R.S. § 40-360(8) who have expressed an intention to intervene or  
11 request to intervene pursuant to A.R.S. § 40-360.05(A)), or shall be on the record at  
12 a pre-application hearing, at a procedural hearing, or at the hearing on the  
13 Application. Any party who initiates any written communication sent to the  
14 Chairman or who summarizes an oral communication with the Chairman on a  
15 procedural matter shall file, with Docket Control of the Commission, a copy of the  
16 communication or summary, including its distribution list, within 10 days of sending  
17 the communication or making the oral communication.

18 **8.** Whenever an agenda is filed pursuant to A.R.S. § 38-431.02, all parties  
19 shall submit, at least forty-eight hours before the hearing or meeting described in the  
20 agenda, any objections, additions, or corrections to the agenda, in order to bring the  
21 agenda into compliance with A.R.S. § 38-431.02, in writing to the Chairman, serve a  
22 copy upon all other parties, and file a copy with docket control of the Commission.

23 **9.** All parties shall meet and confer as needed before, during, and after the  
24 hearing to attempt to resolve any disputes amongst the parties. The parties also  
25 shall keep all other parties advised of their positions and intentions with regard to  
26 the presentation of evidence, witnesses, and the application process in general to  
27 avoid delay, the presentation of repetitive evidence, and any unfair advantage from  
28 surprise.

1           **10.** All parties shall prepare brief summaries of the expected direct  
2 testimony of each witness they will call. In lieu of a testimonial summary, a party  
3 may pre-file and exchange with all other parties and potential parties (“persons”  
4 within the meaning of A.R.S. § 40-360(8) who intend to intervene or request to  
5 intervene pursuant to A.R.S. § 40-360.05(A)) all or substantially all of the direct  
6 testimony of any witness. Testimonial summaries and pre-filed testimony shall be  
7 filed no later than the pre-hearing conference set below. Except for good cause, no  
8 witness will be allowed to testify on direct examination concerning issues not  
9 reasonably identified in the pre-filed testimony or testimonial summary.

10           **11.** All parties and potential parties (“persons” within the meaning of A.R.S.  
11 § 40-360(8) who intend to intervene or request to intervene pursuant to A.R.S. § 40-  
12 360.05(A)) shall meet, confer, and exchange all exhibits the party plans to offer in  
13 evidence before the hearing, or before they are referred to in testimony or offered in  
14 evidence. The Applicant shall, and other parties may, provide one or more three  
15 ring binders for the Chairman and each member of the Line Siting Committee to  
16 hold exhibits at the beginning of the hearing and as needed during the hearing.  
17 Each party shall prepare a numbered list of the exhibits and a copy of all exhibits  
18 suitable for placement in the binders that have been exchanged with the other  
19 parties that each party expects to offer in evidence at the hearing for the Chairman  
20 and each Line Siting Committee member. The exhibits shall be provided at the  
21 beginning of the hearing and during the hearing before reference to the exhibit is  
22 made in the hearing. Except for good cause, no exhibit that was not exchanged with  
23 the other parties shall be considered at the hearing. Any exhibit to which reference  
24 is made during any hearing that is not offered or admitted into evidence shall be  
25 provided to the court reporter at the evidentiary hearing for inclusion in the record  
26 unless it is withdrawn, and the Chairman determines its filing is not necessary to an  
27 understanding of the actions of the Committee.  
28

1           **12.** All exhibits shall be consecutively numbered with the Applicant's  
2 exhibits denominated: APS-1, APS-2, etc. Each intervening party will be assigned  
3 by the Chairman a letter or letters of the alphabet as a preface with which to  
4 consecutively number its exhibits.

5           **13.** The Applicant may make an opening statement at the beginning of the  
6 hearing of no more than thirty (30) minutes. Each other party may make an opening  
7 statement of no more than five (5) minutes.

8           **14.** Public comment will be heard after the opening statements and at other  
9 times set by the Chairman during the hearing. See ¶ 3, above.

10           **15.** In the event the Chairman determines that a tour is appropriate, the  
11 Applicant shall arrange for parking at the facilities at 1500 E. University Dr., Tempe,  
12 Arizona, for Committee Members who wish to attend a tour of the location of the  
13 project proposed in the application. If a tour is held, the Applicant shall submit to the  
14 Chairman, for approval in advance of the hearing, a schedule and protocol agreed to  
15 by all parties for the tour. If all parties do not agree upon the schedule and protocol  
16 for the tour, the disagreements shall be submitted to the Chairman for resolution.  
17 The protocol shall identify the tour route within the project site, identify the location  
18 of any stops, and identify any witnesses who will accompany the tour. Counsel may  
19 ask brief explanatory questions of the identified witness or witnesses during the  
20 stops about the location, what can be seen from the location of the stop and the  
21 relevance of the location or view to the Application in the discretion of the Chairman.  
22 All witnesses who testify on the tour shall be sworn before their testimony. All  
23 questions and answers shall be before a court reporter. No testimony or discussion  
24 with or between Committee Members about the merits of the Application will take  
25 place, except on the record before a court reporter at the designated stops. The  
26 protocol shall provide for access to any testimony presented at stops on a tour to  
27 members of the public. Members of the public who wish to observe the tour are  
28

1 encouraged to notify the Applicant or the Chairman of the Committee in advance of  
2 their intention to follow and observe the tour.

3 **16.** Parties may present their witnesses in panels where appropriate. A  
4 party that intends to present witnesses in panels shall identify the members of any  
5 panel at the time it files its witness summaries.

6 **17.** The Applicant shall make arrangements for the preparation of expedited  
7 court reporter transcripts of all pre-application hearings, pre-hearing procedural  
8 hearings, and the evidentiary hearing, so that the transcripts are available for public  
9 inspection within three working days after each hearing date, as required by A.R.S.  
10 §§ 38-431.01D and 40-360.04C. In addition, the Applicant shall file a certification  
11 with Commission Docket Control that it has provided a copy of the transcripts to at  
12 least two public libraries identified in the certification that are in the vicinity of the  
13 Application.

14 **18.** On or before the final pre-hearing procedural hearing set below, the  
15 Applicant shall, and the other parties may, file proposed findings of fact, proposed  
16 conclusions of law, the wording of any proposed Certificate of Environmental  
17 Compatibility, and the wording of any proposed conditions to the Certificate.

18 **19.** If the beginning of closing arguments and the Line Siting Committee's  
19 deliberations are more than one week after the beginning of the hearing, the parties  
20 shall meet and confer before closing arguments, concerning proposed findings of  
21 fact, proposed conclusions of law, a proposed Certificate of Environmental  
22 Compatibility and the wording of any proposed conditions to the Certificate. If the  
23 parties are able to agree upon part or all of the proposed findings of fact, proposed  
24 conclusions of law, proposed forms of a Certificate of Environmental Compatibility  
25 and proposed wording of conditions to the Certificate, all that is agreed upon should  
26 be reduced to writing and filed. If the parties are not able to agree completely, the  
27 Applicant shall, and all other parties may, file proposed findings of fact, proposed  
28 conclusions of law, proposed wording of a Certificate of Environmental Compatibility

1 and proposed wording of conditions to the Certificate on the day before the  
2 beginning of closing arguments and the Line Siting Committee's deliberations.

3 **20.** If the Applicant or any other party proposes conditions based upon  
4 conditions used in prior cases, each proposed condition from a prior case shall  
5 contain the case number of the most recent prior Certificate of Environmental  
6 Compatibility using the language approved by the Commission.

7 **21.** All pleadings, witness summaries, proposed findings of fact, proposed  
8 conclusions of law, proposed Certificates of Environmental Compatibility and  
9 proposed conditions of Certificates that must be filed pursuant to this Order or  
10 otherwise by law, shall be filed with Commission Docket Control. Copies of all  
11 documents described in this paragraph that are filed shall be served upon the  
12 Committee, all other parties or known potential parties ("persons" within the meaning  
13 of A.R.S. § 40-360(8) who have expressed an intention to intervene or request to  
14 intervene pursuant to A.R.S. § 40-360.05(A)). Documents may be served upon  
15 parties or known potential parties ("persons" within the meaning of A.R.S. § 40-  
16 360(8) who have expressed an intention to intervene or request to intervene  
17 pursuant to A.R.S. § 40-360.05(A)) before the hearing electronically to the e-mail  
18 address or FAX number provided by the party or potential party. Documents before  
19 the hearing may be served electronically upon the Chairman and other Committee  
20 members by e-mail to the Chairman or his assistant. Documents that are served  
21 during the hearing shall be hand delivered to parties or known potential parties  
22 ("persons" within the meaning of A.R.S. § 40-360(8) who have expressed an  
23 intention to intervene or request to intervene pursuant to A.R.S. § 40-360.05(A)).  
24 During the hearing eleven copies of any filed document shall be delivered to the  
25 Chairman for distribution to the Committee, and a copy shall be sent electronically  
26 by e-mail to the Chairman or his assistant.

27 **22.** If no final wording of the Certificate of Environmental Compatibility is  
28 adopted by the Committee at the end of the hearing, the Chairman may order the

1 parties to meet and confer in person or electronically to determine if they can agree  
2 upon the final wording of a proposed Certificate of Environmental Compatibility. If  
3 the parties can agree upon the final wording of a proposed Certificate of  
4 Environmental Compatibility, Applicant shall file forthwith the agreed upon proposed  
5 Certificate of Environmental Compatibility to the Chairman for signature. If the  
6 parties are not able to agree upon a proposed form of Certificate of Environmental  
7 Compatibility, the Applicant shall file, and the other parties may file, within ten (10)  
8 days after the date of the decision of the Committee, those portions of the proposed  
9 Certificate of Environmental Compatibility upon which the parties agree. The  
10 Applicant also shall file, and any other party also may file, its understanding of any  
11 disputed portions of the proposed Certificate of Environmental Compatibility. All  
12 proposed forms of the Certificate of Environmental Compatibility and any objections  
13 or proposed revisions shall be filed with Docket Control of the Commission, and a  
14 copy shall be hand delivered to the office of the Chairman at 1275 W. Washington,  
15 Phoenix, Arizona. Objections or suggestions that are not timely filed shall be  
16 considered waived.

17 **23.** The copy of the proposed Certificate of Environmental Compatibility  
18 filed by the Applicant, and any proposed revisions filed by the parties that are served  
19 upon the Chairman, shall include an electronic file containing the wording of the  
20 proposed language in a format compatible with Microsoft© Word word processing  
21 program.

22 **24.** All disclosure required above shall be completed by 5:00 p.m. on  
23 September 11, 2014. Notices of Intervention or Requests to Intervene should be  
24 filed by September 5, 2014. See, R14-3-204(A), Arizona Administrative Code. All  
25 disclosure, Notices of Intervention, Requests to Intervene, and any other pleadings  
26 addressed to the Committee or to the Chairman of the Committee, shall be filed with  
27 Docket Control of the Arizona Corporation Commission and a copy served upon the  
28 Chairman of the Committee. All other "persons" within the meaning of A.R.S. § 40-

1 360(8) who have expressed an intention to intervene or request to intervene,  
2 pursuant to A.R.S. § 40-360.05(A), who are on the distribution list kept by the  
3 Chairman, may be served at the time of the filing electronically at the address on the  
4 distribution list.

5 **25.** The Applicant and all other potential parties (“persons” within the  
6 meaning of A.R.S. § 40-360(8) who intend to intervene or request to intervene  
7 pursuant to A.R.S. § 40-360.05(A)) shall meet with the Chairman for a final pre-  
8 hearing conference on September 12, 2012, beginning at 10:00 a.m. at the offices of  
9 the Attorney General of Arizona at 1275 W. Washington, Phoenix, Arizona. Parties  
10 other than the Applicant may appear by telephone with the prior permission of the  
11 Chairman. At the final pre-hearing conference, the Chairman shall review with the  
12 parties:

- 13 a. The publication and posting of notices of the hearing;
- 14 b. The proposed agenda for the evidentiary hearing;
- 15 c. Any notices to intervene, applications to intervene, and  
16 applications to make a limited appearance;
- 17 d. The status of attempts to narrow the issues at the evidentiary  
18 hearing or to agree to language in the proposed findings of fact, proposed  
19 conclusions of law, proposed Certificates of Environmental Compatibility and  
20 proposed conditions to the Certificate;
- 21 e. The status of the filing and exchange of witness summaries or  
22 written testimony, proposed findings of fact, proposed conclusions of law,  
23 proposed Certificates of Environmental Compatibility and proposed conditions  
24 to the Certificate;
- 25 f. The status of the exchange of exhibits amongst the parties;
- 26 g. Any objections, motions, responses, and legal memoranda that  
27 have been filed;
- 28



1 CERTIFICATION OF SERVICE

2 Pursuant to A.A.C. R14-3-204, the **Original** of the foregoing and 25 copies were  
3 filed this 1<sup>st</sup> day of August, 2014 with:

4  
5 Utilities Division - Docket Control  
6 Arizona Corporation Commission  
7 1200 W. Washington St.  
8 Phoenix, AZ 85007

8 **Copy** of the foregoing was mailed this 1<sup>st</sup> day of August, 2014 to:

9  
10 Janice Alward, Chief Counsel  
11 **ARIZONA CORPORATION COMMISSION**  
12 1200 W. Washington Street  
13 Phoenix, AZ 85007  
14 *Counsel for Legal Division Staff*

13  
14 Linda Benally  
15 Attorney | Regulatory  
16 **PINNACLE WEST CAPITAL CORPORATION**  
17 400 N. 5<sup>th</sup> St., MS 8695  
18 Phoenix, AZ 85004

17  
18 Thomas H. Campbell  
19 **LEWIS AND ROCA LLP**  
20 40 N. Central Ave., Ste. 1900  
21 Phoenix, AZ 85004  
22 *Counsel for Applicant*

21  
22 Marta T. Hetzer  
23 **COASH & COASH, INC.**  
24 1802 N. 7th Street  
25 Phoenix, AZ 85006  
26 *Court Reporter*

24  
25  A handwritten signature in black ink, appearing to be 'Marta T. Hetzer', is written over a horizontal line that spans the width of the signature area.