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BEFORE THE ARIZONA CORPORATION COMMISSION

7 IN THE MATTER OF THE APPLICATION
8 OF ARIZONA PUBLIC SERVICE
9 COMPANY, IN CONFORMANCE WITH
10 THE REQUIREMENTS OF ARIZONA
11 REVISED STATUTES 40-360 ET SEQ.,
12 FOR A CERTIFICATE OF
13 ENVIRONMENTAL COMPATIBILITY
14 AUTHORIZING THE OCOTILLO
15 MODERNIZATION PROJECT, WHICH
16 INCLUDES THE INSTALLATION OF FIVE
17 102 MW GAS TURBINES AND THE
18 CONSTRUCTION OF TWO 230-
19 KILOVOLT GENERATION
20 INTERCONNECTION FACILITIES, ALL
21 LOCATED WITHIN THE BOUNDS OF THE
22 EXISTING OCOTILLO POWER PLANT
23 SITUATED ON PROPERTY OWNED BY
24 ARIZONA PUBLIC SERVICE COMPANY
25 AND LOCATED AT 1500 EAST
26 UNIVERSITY DRIVE, TEMPE, ARIZONA,
IN MARICOPA COUNTY.

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

Case No. 169

**GILA RIVER POWER, LLP'S
MEMORANDUM CONCERNING
SCOPE OF ARIZONA POWER
PLANT AND LINE SITING
COMMITTEE'S REVIEW OF
APPLICATION**

Arizona Corporation Commission
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SEP 15 2014

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1 In accordance with the Procedural Conference held on September 12, 2014, Gila
2 River Power, LLP (“GRP”), hereby submits the following memorandum concerning the
3 scope of the Arizona Power Plant and Line Siting Committee (“Committee”) and Arizona
4 Corporation Commission’s (“Commission”) review of applications made pursuant to
5 A.R.S. § 40-360, *et seq* (“Line Siting Statutes”), specifically as it relates to the need for
6 the subject facilities.

7 1. While the Mandatory Factors Enumerated in A.R.S. § 40-360.06(A) Do Not
8 Include a Specific Showing of Need, the Committee is Not Precluded from
9 Considering the Need for Power In Determining Whether To Issue A CEC
10 in This Proceeding

11 The factors that must be used by the Committee when considering an application
12 for a Certificate of Environmental Compatibility (“CEC”) are enumerated in A.R.S. § 40-
13 360.06(A). While the considerations are broad, they do not include a specific showing of
14 need for the facility. However, this does not preclude the Committee from considering the
15 issue of need when determining whether to issue a CEC. In *Grand Canyon Trust v.*
16 *Arizona Corp. Comm’n*, 210 Ariz. 30, 107 P.3d 356 (App. 2005), the Arizona Court of
17 Appeals stated:

18 The factors the Siting Committee must consider in deciding whether to
19 issue a CEC are set forth in A.R.S. § 40-360.06. These factors contain
20 sufficient breadth to allow the Siting Committee to consider the need for
21 power as a factor in considering a CEC application *should it choose to do*
22 *so*. [Emphasis added]

23 *Grand Canyon*, 210 Ariz. 35, 107 P.3d 361, FN7. In the event a party does not
24 request a review of the Committee’s issuance of a CEC, then the statutory scheme does
25 not require the Commission to administer the balancing test set forth in A.R.S. § 40-
26 360.07(B) [“In arriving at its decision, the Commission shall comply with the provisions
of A.R.S. § 40-360.06 and shall balance, in the broad public interest, the need for an

1 adequate, economical and reliable supply of electric power with the desire to minimize the
2 effect thereof on the environment and ecology of the state.”] *Id.* However, in this
3 proceeding it appears that at least one party (Residential Utility Consumers Office) wants
4 to present evidence concerning the need for expansion at the Ocotillo generation facility,
5 and the potential environmental impact the new facilities will have versus the Applicant’s
6 ability to satisfy such need (if it exists) with purchases from the wholesale market.

7 Because the Commission is charged with the broader public interest, it would serve
8 the public interest to allow evidence concerning need so that the Commission will have a
9 full record to consider in the event a party requests a review of the Committee’s issuance
10 of a CEC in this proceeding. Although GRP does not intend to present any evidence
11 concerning the issues of need raised herein, the company fully understands that any
12 subsequent review by the Commission pursuant to A.R.S. § 40-360.07(B) will be made on
13 the evidentiary record established during the Committee hearings. Accordingly, GRP
14 seeks intervention to preserve its rights, and any subsequent request to the Commission
15 shall be based solely on the record.

16 RESPECTFULLY SUBMITTED this 15th day of September, 2014.

17 FENNEMORE CRAIG, P.C.

18
19 By: 

20 Patrick J. Black
21 Attorneys for Gila River Power, L.L.P.

22 ORIGINAL and 25 COPIES of
23 the foregoing filed this 7th
day of 15th day of September, 2014, with:

24 Docket Control
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1 Copies of the foregoing were Hand Delivered/
2 Mailed/emailed this 15th day of September, 2014, to:

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