



0000157668

RECEIVED

ORIGINAL

1 THOMAS C. HORNE 2014 NOV -3 P 4: 42
 2 Attorney General
 2 Firm State Bar No. 14000
 3 David F. Jacobs, SBA # 018807
 3 Assistant Attorney General
 4 177 N. Church Ave., Suite 1105
 4 Tucson, Arizona 85701
 5 Telephone: (520) 638-2818
 5 Fax: (520) 628-6050
 6 david.jacobs@azag.gov
 7 Attorneys for Arizona State Land Department

Arizona Corporation Commission
DOCKETED
 NOV 3 2014

DOCKETED BY 

BEFORE THE ARIZONA CORPORATION COMMISSION

9 COMMISSIONERS
 10 BOB STUMP, Chairman
 10 GARY PIERCE
 11 BRENDA BURNS
 11 ROBERT L. BURNS
 12 SUSAN BITTER SMITH

13 IN THE MATTER OF THE APPLICATION OF
 14 ARIZONA PUBLIC SERVICE COMPANY, IN
 14 CONFORMANCE WITH THE REQUIREMENTS OF
 15 ARIZONA REVISED STATUTES §§ 40-360, *ET SEQ.*,
 16 FOR A CERTIFICATE OF ENVIRONMENTAL
 16 COMPATIBILITY AUTHORIZING THE TS-5 TO TS-
 17 9 500/230 KV TRANSMISSION LINE PROJECT,
 17 WHICH ORIGINATES AT THE FUTURE TS-5
 18 SUBSTATION, LOCATED IN THE WEST HALF OF
 18 SECTION 29, TOWNSHIP 4 NORTH, RANGE 4
 19 WEST AND TERMINATES AT THE FUTURE TS-9
 19 SUBSTATION, LOCATED IN SECTION 33,
 20 TOWNSHIP 6 NORTH, RANGE 1 EAST, IN
 21 MARICOPA COUNTY, ARIZONA.

Docket No. L-00000D-08-0330-00138
 Case No. 138

ARIZONA STATE LAND DEPARTMENT'S

BRIEF

ADDRESSING THE LEGAL STANDARD APPLICABLE TO THE COMMISSION'S DETERMINATIONS IN THIS MATTER

23 The Arizona State Land Department ("ASLD"), as requested at the Procedural
 24 Conference on October 6, 2014, hereby files its brief "addressing the legal standard
 25 applicable to the Commission's determination in this Matter." See Procedural Order,
 26 dated October 10, 2014, at 2.

1 **The Commission has the authority to amend a Certificate of Environmental**
2 **Compatibility under A.R.S. § 40-252 when the public interest would be benefited by**
3 **granting the Application to Amend.**

4 “The commission ... is vested with power to rescind, alter or amend a certificate of
5 convenience and necessity after it has once been granted. A.R.S. § 40-252. The
6 exercise of this power requires showing due cause for such action – an affirmative
7 showing that the public interest would thereby be benefited.” *Arizona Corp.*
8 *Comm’n v. Tucson Ins. & Bonding*, 3 Ariz.App. 458, 463, 415 P.2d 472, 477
(1966).

9 “By A.R.S. § 40-252, the Commission may at any time upon notice to a public
10 service corporation and after opportunity to be heard rescind, alter or amend any
11 order or decision made by it.... Arizona is a regulated monopoly state and ... ‘The
12 monopoly is tolerated only because it is to be subject to vigilant and continuous
13 regulation by the Corporation Commission, and is subject to rescission, alteration
14 or amendment at any time upon proper notice when the public interest would be
15 served by such action.’” *Arizona Corp. Comm’n v. Arizona Water Co.*, 111 Ariz.
16 74, 76, 523 P.2d 505, 507 (1974) (quoting *Davis v. Corporation Comm’n*, 96 Ariz.
17 215, 218, 393 P.2d 909, 911 (1964)).

18 *See also In the Matter of Application of Southern California Edison Co.*, ACC
19 Decision No. 69639, at 9-10, 14 (June 6, 2007) (finding: “It is in the public interest
20 to amend the ... CEC, pursuant to A.R.S. § 40-252”).

21 **The Commission therefore may exercise its discretion to balance the broad**
22 **public interest, as in its actions to affirm and approve a CEC initially under A.R.S. §**
23 **40-360.07. The Commission may assess considerations of the environment, land use,**
24 **technical practicability, cost, and federal and state laws pertaining to, in the case of**
25 **this Application, the obligations and requirements for disposition of rights in**
26 **Arizona State Trust Land, through which the three proposed route modifications**
run.

1 RESPECTFULLY SUBMITTED this 3rd day of November, 2014.

2
3 

4 David F. Jacobs
5 Assistant Attorney General
6 Attorney for the Arizona State Land Department

7 ORIGINAL and thirteen (13) copies of the foregoing
8 filed this 3rd day of November 2014, with:

9 Docket Control
10 ARIZONA CORPORATION COMMISSION
11 1200 West Washington Street
12 Phoenix, Arizona 85007

13 Copies of the foregoing delivered/mailed this 3rd day of November 2014, to:

14 John Foreman, Chairman
15 Arizona Power Plant and Transmission
16 Line Siting Committee
17 Office of the Attorney General
18 1275 West Washington Street
19 Phoenix, AZ 85007

Melissa M. Krueger
Linda J. Benally
Pinnacle West Capital Corporation
400 North 5th Street, MS 8695
Phoenix, AZ 85004

20 Janice Alward, Chief Counsel
21 Legal Division
22 Arizona Corporation Commission
23 1200 W. Washington
24 Phoenix, AZ 85007

Megan Grabel
Thomas L. Mumaw
Pinnacle West Capital Corporation
P.O. Box 53999, Station 8695
Phoenix, AZ 85072-3999

25 Ruben Ojeda
26 Manager, Rights of Way Section
Arizona State Land Development
1616 W. Adams Street
Phoenix, AZ 85007

Scott Wakefield
Ridenour Hinton & Lewis PLLC
201 North Central Avenue, Suite 3300
Phoenix, AZ 85004

Thomas H. Campbell
Lewis Roca Rothgerber, LLP
201 East Washington Street, Suite 1200
Phoenix, AZ 85004

Joseph Drazek
Quarles & Brady LLP
One Renaissance Square
Two North Central Avenue
Phoenix, AZ 85004

1 Scott McCoy
Earl, Curley & Lagarde, PC
2 3101 North Central Avenue, Suite 1000
Phoenix, AZ 85012
3
4 Andrew E. Moore
Earl, Curley & Lagarde PC
5 3101 North Central Avenue, Suite 1000
Phoenix, AZ 85012
6
7 Court Rich
Ryan Hurley
8 Rose Law Group PC
7144 East Stetson Drive, Suite 300
9 Scottsdale, AZ 85251
10
11 Robert N. Pizorno
The Pizorno Law Firm PLC
12 P.O. Box 51683
Phoenix, AZ 85076-1683
13
14 Frederick E. Davidson
Chad R. Kaffer
15 The Davidson Law Firm
8701 East Vista Bonita Drive, Suite 220
16 P.O. Box 27500
Scottsdale, AZ 85255
17
18 Dustin C. Jones
Jon M. Paladini
19 Tiffany & Bosco, P.A.
20 2525 East Camelback Road, Seventh Floor
Phoenix, Arizona 85016-9240
21
22 Jay Moyes
Steve Wene
23 Moyes Sellers & Sims LTD
1850 North Central Avenue, Suite 1100
24 Phoenix, AZ 85004
25
26

Lawrence Robertson, Jr.
2247 East Frontage Road, Suite 1
P.O. Box 1448
Tubac, AZ 85646

James Braselton
Gary L. Birnbaum
Mariscal, Weeks, McIntyre &
Friedlander, P.A.
2901 North Central Avenue, Suite 200
Phoenix, AZ 85012

Stephen J. Burg
Office of the City Attorney
City of Peoria
8401 West Monroe Street
Peoria, AZ 85345

Michael D. Bailey
City Attorney
City of Surprise
16000 North Civic Center Plaza
Surprise, AZ 85374

Jeanine Guy
Town Manager
Town of Buckeye
1101 East Ash Avenue
Buckeye, AZ 85326

Stephen Cleveland
Town of Buckeye
530 Monroe Avenue
Buckeye, AZ 85326

Christopher Welker
Holm Wright Hyde & Hays PLC
10429 South 51st Street, Suite 285
Phoenix, AZ 85044

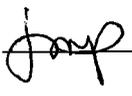
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

Coash & Coash, Inc.
1802 N. 7th Street
Phoenix, AZ 85006

Charles W. and Sharie Civer
42265 North Old Mine Road
Cave Creek, AZ 85331-2806

Art Othon
8401 West Monroe Street
Peoria, AZ 85345

Steven M. Olea, Director
Utilities Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, AZ 85007

By:  _____