

ORIGINAL



0000160468

BEFORE THE ARIZONA CORPORATION COMMISSION

RECEIVED

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

COMMISSIONERS

SUSAN BITTER SMITH - CHAIRMAN  
BOB STUMP  
BOB BURNS  
DOUG LITTLE  
TOM FORESE

2015 MAR -6 P 3:06  
AZ CORP COMMISSION  
DOCKET CONTROL

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 TS-5 TO TS-9 500/230 kV TRANSMISSION LINE PROJECT, WHICH ORIGINATES AT THE FUTURE TS-5 SUBSTATION, LOCATED IN THE WEST HALF OF SECTION 29, TOWNSHIP 4 NORTH, RANGE 4 WEST AND TERMINATES AT THE FUTURE TS-9 SUBSTATION, LOCATED IN SECTION 33, TOWNSHIP 6 NORTH, RANGE 1 EAST, IN MARICOPA COUNTY, ARIZONA.

CASE NO. 138

DOCKET NO. L-00000D-08-0330-00138

**STAFF'S CLOSING BRIEF**

Arizona Corporation Commission  
**DOCKETED**

MAR 06 2015

DOCKETED BY  
BAU

**I. INTRODUCTION.**

On July 17, 2014, Arizona Public Service Company ("APS" or "Company") filed an application to amend the Certificate of Environmental Compatibility ("CEC") approved in Decision No. 70850 (March 17, 2009) so as to authorize several route modifications and to extend the term of the CEC. Three of the route modifications were due to technical issues that arose during the engineering design of the authorized transmission project. The final and most controversial route modification request was prompted by an accommodation for Arizona State Land Department ("ASLD"). Evidentiary proceedings were held and, in lieu of closing arguments, parties were instructed to file closing briefs. During the pendency of briefs, Staff was notified that parties interested in the ASLD route modification settled their dispute regarding that aspect of the requested modification.

...

1 Arizona Corporation Commission (“Commission”) Utilities Division Staff (“Staff”) hereby  
2 provides its closing brief in this matter.

3 **II. DISCUSSION.**

4 **A. Background.**

5 On, July 1, 2008, APS filed a request for a CEC authorizing it to construct a double circuit  
6 500/230 kV transmission project connecting the TS5 (“Sun Valley”) and TS9 (“Morgan”) substations  
7 (“Project”). The Project connects other recent APS transmission projects that, in conjunction with  
8 various Salt River Project transmission projects, create a rough 500 kV “loop” around the Phoenix  
9 metropolitan area. A major factor driving the development of the Project is the improvement to  
10 energy import capability into the Phoenix area from generation sources interconnecting to the west of  
11 Phoenix. Additionally, the Project’s 230 kV component will improve distribution reliability within  
12 the Northwest Valley as growth develops.

13 Following a 16 day proceeding, to which ASLD as well as the parties to this proceeding were  
14 also parties,<sup>1</sup> the Arizona Power Plant and Transmission Siting Committee (“Siting Committee”)  
15 approved a CEC authorizing APS to construct the requested Project. The CEC approved a specific  
16 corridor that traversed various landowners’ property, including state and federal public land.

17 The Siting Committee’s CEC was considered by the Commission during the March 4, 2009  
18 Open Meeting. Following oral argument by parties who filed requests for review, the Commission  
19 voted to approve the CEC in Decision No. 70850.

20 According to APS, following the approval of the CEC, the Company engaged in various  
21 efforts to secure a right of way to construct Project facilities within the approved CEC corridor. The  
22 initial effort focused on obtaining US Bureau of Land Management (“BLM”) approval to place  
23 transmission facilities north of the Carefree Highway on BLM administered federal land as consistent  
24 with the approved CEC corridor. Undertaking the BLM approval process required a lengthy National  
25 Environmental Policy Act (“NEPA”) process that only concluded the Environmental Impact  
26 Statement (“EIS”) in 2014. Exhibit APS-1 (Application to Amend Decision No. 70850) at 8.

---

27  
28 <sup>1</sup> Staff notes that the Cloud Road homeowners were not party to the CEC proceeding although they have a motion pending for intervention in the current A.R.S. § 40-252 proceeding.

1 APS also requested permits from ASLD for a right of way across State Trust Lands within the  
2 approved CEC corridor. During the pendency of the Company's request to ASLD, ASLD indicated  
3 that it preferred an alternative route for the CEC corridor over one portion of the Project route. The  
4 segment in question is currently sited under the CEC to traverse three miles of ASLD administered  
5 Trust land along Joy Ranch Road. Citing concerns regarding the difficulty in selling "orphaned"  
6 segments of Trust land South of Joy Ranch Road and North of Cloud Road, ASLD requested that the  
7 corridor be shifted south to an alignment along Cloud Road for that three mile segment.

8 On July 17, 2014, the Company, filed a request for modification of Decision No. 70850  
9 pursuant to A.R.S. § 40-252 to permit the ASLD routing change as well as three other corridor  
10 modifications prompted by technical requirements and for an extension of the term of the CEC.  
11 During the Open Meeting held on August 12, 2014, the Commission approved a reopening of  
12 Decision No. 70850 to consider the requested changes. A procedural conference was held scheduling  
13 the matter for hearing and requiring pre-hearing briefing. To the extent that the issues that prompted  
14 the pre-hearing briefing are still unresolved, Staff relies on the arguments presented in its pre-hearing  
15 brief filed on November 3, 2014. The following discussion will thus focus solely on matters  
16 addressed by the Company's application, the evidentiary proceeding held on the A.R.S. § 40-252  
17 motion and the Settlement between ASLD and parties interested in the ASLD routing  
18 accommodation.

19 **B. APS's Request.**

20 Staff reviewed the Company's application using the same criteria that it applied when  
21 reviewing the original CEC application filed before the Siting Committee. Utilizing information  
22 contained in the application, public sources and supplied by APS in discovery, Staff analyzed the  
23 requested modifications to determine whether they jeopardized the public interest in the need,  
24 reliability and economic aspects of the Project. Staff's analysis indicates that, based upon those  
25 factors the requested modifications are not contrary to the public interest.

26 **1. Reliability.**

27 Staff reviewed the four route changes requested by APS in terms of the impacts they might  
28 have upon the reliability of the transmission system. Based upon the description of the proposed

1 modifications, Staff does not believe that the modifications jeopardize the reliability of the  
2 transmission system. The route modifications do not introduce additional line crossings, add to  
3 congestion of transmission corridors or otherwise contribute adversely to the physical reliability of  
4 the high voltage electrical transmission system. Exhibit S-1 (Direct Testimony of Margaret Little),  
5 Attached Staff Report at 4.

6 **2. Need.**

7 Likewise, Staff revisited the need for the project and examined how the requested route  
8 modifications and term extension requests impacted need. Based upon Staff's analysis, the need will  
9 not be adversely impacted by approving APS's requested changes to the CEC.

10 The need for the 230 kV component of the Project was in part premised upon providing  
11 transmission support for the 69 kV distribution system. A facet of meeting that need is placing the  
12 230 kV facilities in a central location relative to the 69 kV system it would be supporting. Upon  
13 inquiring of the Company how need for the 230 kV circuit would be affected by the routing changes,  
14 in particular those made to accommodate ASLD, APS has indicated that the changes would not  
15 frustrate the Project's ability to meet the need. Staff does not dispute APS's assessment.

16 Regarding the 500 kV component, Staff's analysis concludes that the need for the Project  
17 continues to exist and may well have increased since the grant of the CEC. Anticipated federal  
18 environmental regulations (Environmental Protection Agency Rule 111(d)) concerning carbon  
19 dioxide emissions from power plants and formulating comments in that regard has increased the  
20 importance of natural gas fired generation as a less carbon intensive power source that can help  
21 Arizona meet compliance in the event such requirements become a reality. One of the significant  
22 needs identified for the 500 kV circuit of the Project is that it improves import capability into the  
23 Phoenix area from the Palo Verde hub where much of Arizona's natural gas fired generation  
24 interconnects with the grid.

25 None of the proposed modifications to the Project route affect the ability of the Project to  
26 meet the 500 kV circuit's need. Exhibit S-1, attached Staff Report at 5; Transcript at 346-47.

27 ...

28 ...

1                   **3. Economic.**

2           Regarding the costs of the proposed route modifications, Staff does not view the proposed  
3 changes as causing significant cost changes to the Project. The total number of towers and length of  
4 conductor needed will be substantially unaffected by granting the requested route modifications. To  
5 the extent that some route modifications in isolation may increase the required materials and  
6 associated cost for constructing that segment of the Project, the cost is offset by savings from other  
7 route modifications that reduce the total construction materials. Exhibit S-1, Attached Staff Report  
8 at 4.

9                   **4. Term Extension Request.**

10           Staff also analyzed the term extension requested by APS. Presently, the CEC authorizes the  
11 construction of the 500 kV component until March 17, 2016 and the 230 kV component until March  
12 17, 2019. The Company is requests an extension of time to construct the 500 kV portion of the  
13 Project to March 17, 2021 and an extension of the time to construct the 230 kV component to March  
14 17, 2030. APS asserted that the general slowdown in the economy and slower load growth postponed  
15 the need for the 230 kV circuit. Further, APS explained that acquiring the necessary right of way to  
16 construct across BLM administered federal land has proven to be a lengthy process that only cleared  
17 the NEPA EIS stage in 2014 and that grant of the BLM right of way is anticipated before the end of  
18 2015. Exhibit APS-1 at 8.

19           Based on Staff's analysis of need, Staff agrees that need has been deferred, not eliminated by  
20 the general economic slowdown and that the Project is still needed. Consequently, Staff recommends  
21 approval of the CEC term extensions requested by APS.

22                   **C. Accommodating ASLD.**

23           Staff has reviewed the ASLD requested CEC route modification and has been apprised of the  
24 further modifications adopted in the settlement between the parties interested in that issue. Based on  
25 Staff's understanding of the settlement, Staff has no objections to the further routing accommodations  
26 made to settle the disputed routing. It is Staff's understanding that a filing will be made by the  
27 settling parties that explains in detail the nature of the additional modifications. Staff will further  
28 refine its position on the settlement, as necessary, in its reply filing.

1 **III. CONCLUSION.**

2 Based upon the Staff analysis presented in the Staff Report and on Staff's review of the  
3 Settlement terms, Staff recommends adoption of the APS requested CEC modifications. Staff  
4 tentatively has no objection to the routing modifications adopted by the settlement but will await  
5 seeing written details of the settlement filed in the docket before commenting further.

6 RESPECTFULLY SUBMITTED this 6th day of March, 2015.

7 

8  
9 Charles H. Hains  
10 Attorney, Legal Division  
11 Arizona Corporation Commission  
12 1200 West Washington Street  
13 Phoenix, Arizona 85007  
14 (602) 542-3402

12 Original and twenty-eight (28)  
13 copies of the foregoing filed this  
14 6th day of March, 2015, with:

14 Docket Control  
15 Arizona Corporation Commission  
16 1200 West Washington Street  
17 Phoenix, Arizona 85007

17 Copies of the foregoing sent via  
18 First-Class Mail and e-Mail this  
19 6th day of March, 2015 to:

19 John Foreman, Chairman  
20 Arizona Power Plant and Transmission  
21 Line Siting Committee  
22 Office of the Attorney General  
23 PAD/CPA  
24 1275 West Washington Street  
25 Phoenix, Arizona 85007  
26 [John.foreman@azag.gov](mailto:John.foreman@azag.gov)

Thomas H. Campbell  
Lewis Roca Rothgerber, LLP  
201 East Washington Street, Suite 1200  
Phoenix, Arizona 85004  
Attorneys for Arizona Public Service  
Company  
[tcampbell@lrlaw.com](mailto:tcampbell@lrlaw.com)

24 Melissa M. Krueger  
25 Linda J. Benally  
26 Pinnacle West Capital Corporation  
27 400 North 5th Street, MS 8695  
28 Phoenix, Arizona 85004  
Attorneys for Arizona Public Service  
Company  
[Melissa.krueger@pinnaclewest.com](mailto:Melissa.krueger@pinnaclewest.com)  
[Linda.benally@pinnaclewest.com](mailto:Linda.benally@pinnaclewest.com)

Scott S. Wakefield  
Ridenour, Hienton & Lewis, PLLC  
201 North Central Avenue, Suite 3300  
Phoenix, Arizona 85004-1052  
Counsel for DLGC II & Lake Pleasant Group  
[sswakefield@rhhklaw.com](mailto:sswakefield@rhhklaw.com)

1 Scott McCoy  
Earl, Curley & Legarde, PC  
2 3101 North Central Avenue, Suite 1000  
Phoenix, Arizona 85012-2654  
3 Counsel for Intervenor Elliot Homes, Inc.  
[smccoy@ecllaw.com](mailto:smccoy@ecllaw.com)

4 Andrew Moore  
5 Andrew E. Moore Law Firm, P.C.  
207 North Gilbert Road, Suite 1  
6 Gilbert, Arizona 85234  
Counsel for Intervenor Woodside Homes of  
7 Arizona, Inc.  
[amoore@ecllaw.com](mailto:amoore@ecllaw.com)

8 Court S. Rich  
9 Ryan Hurley  
Rose Law Group, PC  
10 7144 East Stetson Drive, Suite 300  
Scottsdale, Arizona 85251  
11 Attorneys for Warrick 160, LLC and  
Lake Pleasant 5000, LLC  
12 [crich@roselawgroup.com](mailto:crich@roselawgroup.com)  
[rhurley@roselawgroup.com](mailto:rhurley@roselawgroup.com)

13 Robert N. Pizorno  
14 The Pizorno Law Firm, PLC  
P.O. Box 51683  
15 Phoenix, Arizona 85076-1683  
[rpizorno@beusgilbert.com](mailto:rpizorno@beusgilbert.com)

16 Fredrick E. Davidson  
17 Chad R. Kaffer  
The Davidson Law Firm, PC  
18 8701 East Vista Bonita Drive, Suite 220  
P.O. Box 27500  
19 Scottsdale, Arizona 85255  
Attorneys for Quintero Golf & Country Club  
20 and Quintero Community Association  
[fed@davidsonlaw.net](mailto:fed@davidsonlaw.net)  
21 [crk@davidsonlaw.net](mailto:crk@davidsonlaw.net)

22 Dustin C. Jones  
John Paladini  
23 Tiffany & Bosco, PA  
2525 East Camelback Rd., Seventh Floor  
24 Phoenix, Arizona 85016  
Counsel for Intervenor Anderson Land  
25 Development, Inc.  
[jmp@tblaw.com](mailto:jmp@tblaw.com)  
26 [dcj@tblaw.com](mailto:dcj@tblaw.com)

David F. Jacobs  
Assistant Attorney General  
177 North Church Avenue, Suite 1105  
Tucson, Arizona 85701  
Attorney for Arizona State Land Department  
[david.jacobs@azag.gov](mailto:david.jacobs@azag.gov)

Lawrence Robertson Jr.  
2247 East Frontage Rd., Suite 1  
P.O. Box 1448  
Tubac, Arizona 85646-0001  
Counsel for Intervenor Diamond Ventures  
[tubaclawyer@aol.com](mailto:tubaclawyer@aol.com)

Steve J. Burg  
Office of the City Attorney  
City of Peoria  
8401 West Monroe Street  
Peoria, Arizona 85345  
Counsel for City of Peoria, Arizona  
[steve.burg@peoriaaz.gov](mailto:steve.burg@peoriaaz.gov)

Jay Moyes  
Steve Wene  
Moyes, Sellers, & Sims LTD  
1850 North Central Avenue, Suite 1100  
Phoenix, Arizona 85004  
Counsel for Vistancia HOA's  
[swene@lawms.com](mailto:swene@lawms.com)  
[jimoyes@lawms.com](mailto:jimoyes@lawms.com)

Michael D. Bailey  
City Attorney  
City of Surprise  
16000 North Civic Center Plaza  
Surprise, Arizona 85374  
Counsel for Intervenor City of Surprise  
[michael.bailey@surpriseaz.com](mailto:michael.bailey@surpriseaz.com)

James T. Braselton  
Gary L. Birnbaum  
Mariscal Weeks McIntyre & Friedlander, PA  
2901 North Central Avenue, Suite 200  
Phoenix, Arizona 85012-2705  
Counsel for Intervenor Surprise Grand Vista  
JV I, LLC and Counsel for Sunhaven Property  
Owners, and Counsel for West Cloud Road  
Private Property Owners' Association  
[james.braselton@mwmf.com](mailto:james.braselton@mwmf.com)  
[gary.birnbaum@mwmf.com](mailto:gary.birnbaum@mwmf.com)

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

Christopher S. Welker  
Holm Wright Hyde & Hays, PLC  
10429 South 51st Street, Suite 285  
Phoenix, Arizona 85044  
[cwelker@holmwright.com](mailto:cwelker@holmwright.com)

Copies of the foregoing mailed  
this 6th day of March, 2015 to:

Ruben Ojeda, Manager  
Rights of Way Section  
Arizona State Land Department  
1616 West Adams Street  
Phoenix, Arizona 85007

Stephen Cleveland  
City Manager  
City of Buckeye  
530 East Monroe Avenue  
Buckeye, Arizona 85326

Michael Bailey  
16000 N. Civic Center Plaza  
Surprise, Arizona 85374

Art Othon  
Office of the Attorney  
8401 West Monroe Street  
Peoria, Arizona 85345

Charles W. and Sharie Civer (Realtors)  
42265 North Old Mine Rd.  
Cave Creek, Arizona 85331-2806  
Intervenor on behalf of DLGC II and Lake  
Pleasant Group

By: Monica A. Marty