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BEFORE THE ARIZONA POWER PLANT AND
TRANSMISSION LINE SITING COMMITTEE

IN THE MATTER OF THE APPLICATION OF
SOUTHLINE TRANSMISSION, L.L.C., IN
CONFORMANCE WITH THE
REQUIREMENTS OF ARIZONA REVISED
STATUTES 40-360, ET SEQ., FOR A
CERTIFICATE OF ENVIRONMENTAL
COMPATIBILITY AUTHORIZING
CONSTRUCTION OF THE NON-WAPA-
OWNED ARIZONA PORTIONS OF THE
SOUTHLINE TRANSMISSION PROJECT,
INCLUDING A NEW APPROXIMATELY 66-
MILE 345-KV TRANSMISSION LINE IN
COCHISE COUNTY FROM THE ARIZONA-
NEW MEXICO BORDER TO THE
PROPOSED SOUTHLINE APACHE
SUBSTATION, THE ASSOCIATED
FACILITIES TO CONNECT THE SOUTHLINE
APACHE SUBSTATION TO THE ADJACENT
AEPKO APACHE SUBSTATION, AND
APPROXIMATELY 5 MILES OF NEW 138-KV
AND 230-KV TRANSMISSION LINES AND
ASSOCIATED FACILITIES TO CONNECT
THE EXISTING PANTANO, VAIL, DEMOSS
PETRIE, AND TORTOLITA SUBSTATIONS
TO THE UPGRADED WAPA-OWNED 230-
KV APACHE-TUCSON AND TUCSON-
SAGUARO TRANSMISSION LINES IN PIMA
AND PINAL COUNTIES.

Docket No. L-0000AAA-16-0370-
00173

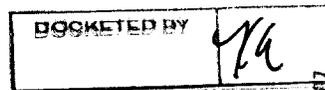
Case No. 173

PROCEDURAL ORDER

Arizona Corporation Commission

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An Application for a Certificate of Environmental Compatibility ("Application") was filed in the above captioned matter with Docket Control of the Arizona Corporation Commission ("Commission") on October 14, 2016. A copy of the Application was transmitted to Thomas K. Chenal, designee of the Attorney General of Arizona, Mark Brnovich, 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 potential parties (“person” within the meaning of
3 A.R.S. § 40-360(8) who intends to intervene or requests to intervene, pursuant to
4 A.R.S. § 40-360.05(A)) (hereinafter “potential parties”), shall advise the Chairman in
5 writing on or before the time of the pre-hearing conference, scheduled below, if they
6 disagree that the time limit for decision on the Application by the Line Siting
7 Committee set by A.R.S. § 40.360.04(D) is April 12, 2017.

8 **2.** All parties or potential parties listed on pleadings or procedural orders
9 filed by the Applicant or the Chairman shall notify Docket Control of their desire to
10 receive pleadings and procedural orders in this matter and shall regularly review the
11 Docket Control file in this matter to make sure they have received all pleadings and
12 procedural orders relating to this case. Neither the Line Siting Committee nor the
13 Chairman has the authority to direct Docket Control to send one of the 25 copies of
14 pleadings and procedural orders filed with Docket Control to prospective parties.

15 **3.** The Applicant shall arrange for the timely publication and posting of
16 notice of the hearing, in a form approved by the Chairman, at locations discussed and
17 agreed to by the Applicant at the pre-filing conference held on October 3, 2016. The
18 Applicant shall provide notice by certified mail to Cochise, Pima, and Pinal Counties,
19 the cities of Tucson and Willcox, Arizona and any other affected jurisdiction within the
20 meaning of A.R.S. § 40-360.04(A), at least twenty days before the hearing scheduled
21 below. In addition, at the hearing the Applicant shall submit a copy of the notice and
22 present testimony describing the publication, providing of notice, and posting of the
23 notice.

24 **4.** The Applicant shall make arrangements for the hearing to commence in
25 Tucson, Arizona, thereafter in Willcox, Arizona, and thereafter if necessary in Tucson,
26 Arizona. The hearing in Tucson, Arizona will be held at the Tucson Convention
27 Center, 260 S. Church Ave., Tucson, AZ 85701, on Tuesday, November 29, 2016 at
28 1:00 p.m., and will continue on Wednesday, November 30, 2016, through December

1 2, 2016, as necessary, beginning at 9:00 a.m. on each day, unless a tour is taken. If a
2 tour is taken, it will begin on Thursday, December 1, 2016, at 8:00 a.m. or an
3 alternative date and time set by the Chairman. Public comment may be taken during
4 the hearing at times designated by the Chairman. Public comment also will be taken
5 in a special evening session on Tuesday, November, 29, 2016, at 6:00 p.m. at the
6 same location. Unless later ordered by the Chairman, the hearing will adjourn at
7 approximately 5:00 p.m. each day, except on Tuesday, November 29, 2016, when it
8 will continue after 6:00 p.m. for the public comment session.

9 5. The hearing in Willcox, Arizona will be held at the Willcox Community
10 Center, 312 W. Stewart St., Willcox, AZ 85643, on Monday, December 5, 2016 at
11 9:00 a.m., and will continue on December 6, 2016 through December 9, 2016, as
12 necessary, beginning at 9:00 a.m. on each day, unless a tour is taken. If a tour is
13 taken, it will begin on Tuesday, December 6, 2016, at 8:00 a.m. or an alternative date
14 and time set by the Chairman. Public comment may be taken during the hearing at
15 times designated by the Chairman. Public comment also will be taken in a special
16 evening session on Monday, December 5, 2016, at 6:00 p.m. at the same location.
17 Unless later ordered by the Chairman, the hearing will adjourn at approximately 5:00
18 p.m. each day, except on Monday, December 5, 2016, when it will continue after 6:00
19 p.m. for the public comment session.

20 6. If necessary, the hearing in Tucson, Arizona will be held at the Tucson
21 Convention Center, 260 S. Church Ave., Tucson, AZ 85701 on Monday, December
22 12, 2016 at 9:00 a.m., and will continue on December 13, 2016 through December
23 16, 2016, as necessary, beginning at 9:00 a.m. on each day. Public comment may be
24 taken during the hearing at times designated by the Chairman. Unless later ordered
25 by the Chairman, the hearing will adjourn at approximately 5:00 p.m. each day. The
26 Applicant shall make arrangements for further regular sessions, if needed, and
27 additional public comment sessions, if needed, on dates, at times, and at places to be
28 determined later.

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

8 8. The Applicant shall provide a copy of this Order to all other parties and
9 potential parties who have not already received a copy.

10 9. The Applicant and all other parties and potential parties shall meet and
11 confer prior to the beginning of the hearing, to determine whether any of the parties or
12 potential parties have similar interests in the application process that will allow them
13 to jointly present testimony on direct or cross-examination of witnesses, or to jointly
14 offer exhibits into evidence. The Applicant shall, and any other party or potential party
15 may, report to the Chairman the results of their attempts to resolve the issues and to
16 determine if common interests exist that will allow parties to jointly present evidence
17 and argument or to avoid repetition of testimony and argument at the hearing.

18 10. The Applicant and all other parties and potential parties shall meet and
19 confer as needed before, during, and after the hearing to attempt to resolve any
20 disputes amongst the parties. The parties and potential parties shall also keep all
21 other parties and potential parties advised of their positions and intentions with regard
22 to the presentation of evidence, witnesses, and the application process in general to
23 avoid delay, the presentation of repetitive evidence, and any unfair advantage from
24 surprise.

25 11. Parties and potential parties shall not communicate with any Member of
26 the Line Siting Committee about any procedural matters, or any factual issues or legal
27 issues relating to the Application, while the Application is pending before the Line
28 Siting Committee. The only exception is that parties may communicate with the

1 Chairman during the time the Application is pending about procedural matters relating
2 to the Application, preparation of the notice of hearing and its publication, the agenda
3 for the hearing, any pre-hearing conferences, the hearing on the Application, and the
4 decision on the Application by the Line Siting Committee. Communication by the
5 parties with the Chairman about any procedural matter during the time an Application
6 is pending shall be in writing or, if oral, shall be memorialized by an e-mail or other
7 written summary with a copy of the written communication or summary to all parties
8 and potential parties, or shall be on the record at pre-filing conferences, at pre-
9 hearing conferences, or at the hearing on the Application. Any party who initiates any
10 written communication sent to the Chairman, or who summarizes an oral
11 communication with the Chairman on a procedural matter, shall file with Docket
12 Control a copy of the communication or summary, including its distribution list, within
13 10 days of sending the written communication or making the oral communication.

14 **12.** Parties and potential parties shall not communicate with any
15 Commissioner of the Commission concerning the substantive merits of the
16 Application while the Application is pending before the Line Siting Committee, in
17 accordance with the requirements of A.A.C. R14-3-113.

18 **13.** Whenever an agenda is filed pursuant to A.R.S. § 38-431.02, all parties
19 and potential parties shall serve upon the Chairman as soon as practicable, and at
20 least forty-eight hours before the hearing or meeting described in the agenda, any
21 objections, additions, or corrections to the agenda they believe are necessary in order
22 to bring the agenda into compliance with A.R.S. § 38-431.02. The objections,
23 additions or corrections shall be in writing and shall be served upon all other parties
24 and potential parties. A copy shall be filed with Docket Control. Objections that are not
25 timely raised will be deemed waived.

26 **14.** Service of any pleading, document, or writing upon the Chairman may
27 be made electronically to the e-mail address of the Chairman below. Service of any
28 pleading, document or writing upon parties and potential parties may be made

1 electronically to the e-mail address of the parties and potential parties. Any pleading,
2 document or writing filed with Docket Control shall include the appropriate number of
3 copies as determined by Docket Control.

4 **15.** All parties and potential parties shall file with Docket Control and
5 exchange with all other parties and potential parties brief summaries of the expected
6 direct testimony of each witness they will call. In lieu of a testimonial summary, a party
7 or potential party may file with Docket Control and exchange with all other parties and
8 potential parties all or substantially all of the direct testimony of any witness.
9 Testimonial summaries and direct testimony shall be filed with Docket Control and
10 exchanged with parties and potential parties by 5:00 p.m. of the day before the pre-
11 hearing conference set below. Except for good cause, no witness will be allowed to
12 testify on direct examination concerning issues not reasonably identified in the
13 testimonial summary and direct testimony.

14 **16.** All parties and potential parties shall meet, confer, and exchange all
15 exhibits the party or potential party plans to offer in evidence by 5:00 p.m. of the day
16 before the pre-hearing conference set below. The Applicant shall, and other parties
17 and potential parties may, provide one or more three ring binders for the Chairman
18 and each Member of the Line Siting Committee to hold exhibits at the beginning of the
19 hearing and as needed during the hearing. Each party and potential party shall
20 prepare for the Chairman and each Line Siting Committee Member a numbered list of
21 the exhibits and a copy of all exhibits suitable for placement in the binders that each
22 party and potential party expects to offer in evidence at the hearing. The exhibits shall
23 be provided to the Chairman and each Line Siting Committee Member at the
24 beginning of the hearing and during the hearing before reference to the exhibit is
25 made in the hearing. Except for good cause, no exhibit that was not exchanged with
26 the other parties shall be considered at the hearing. Any exhibit to which reference is
27 made during any hearing that is not offered or admitted into evidence shall be
28 provided to the court reporter at the hearing for inclusion in the record, unless it is

1 withdrawn and the Chairman determines its filing is not necessary to an
2 understanding of the actions of the Line Siting Committee.

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

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

10 **19.** Public comment will be heard after the opening statements and at other
11 times set by the Chairman during the hearing. See ¶s 4, 5 and 6 above.

12 **20.** In the event the Chairman determines that a tour or tours of the
13 proposed locations of facilities proposed in the Application is appropriate, the
14 Applicant shall arrange for transportation for Line Siting Committee Members who
15 wish to attend. The Applicant shall submit to the Chairman, before the pre-hearing
16 conference set below, a schedule and protocol agreed to by all parties and potential
17 parties for each tour. If all parties and potential parties do not agree upon the
18 schedule and protocol for each tour, the disagreements shall be submitted to the
19 Chairman for resolution. The protocol shall identify the tour route, identify the location
20 of any stops, and identify any witnesses who will accompany each tour. Counsel may
21 ask brief explanatory questions of the identified witness or witnesses during the stops
22 about the location, what can be seen from the location of the stop and the relevance
23 of the location or view to the Application, at the discretion of the Chairman. All
24 witnesses who testify on each tour shall be sworn before their testimony. All questions
25 and answers shall be before a court reporter. No testimony or discussion with or
26 between Line Siting Committee Members about the merits of the Application will take
27 place, except on the record before a court reporter at the designated stops. The
28 protocol shall provide for access to members of the public to any testimony presented

1 at stops on each tour. Members of the public who wish to observe the tour are
2 encouraged to notify the Applicant or the Chairman in advance of their intention to
3 follow and observe the tour.

4 **21.** Parties may present their witnesses in panels where appropriate. A
5 party or potential party who intends to present witnesses in panels shall identify the
6 members of any panel at the time it files its witness summaries or written testimony.

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

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

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

1 other parties may, file proposed findings of fact, proposed conclusions of law,
2 proposed wording of a Certificate of Environmental Compatibility and proposed
3 wording of conditions to the Certificate on the day before the beginning of closing
4 arguments and the Line Siting Committee's deliberations.

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

9 **26.** All pleadings, witness summaries, written testimony, proposed findings
10 of fact, proposed conclusions of law, proposed Certificates of Environmental
11 Compatibility and proposed conditions of Certificates that must be filed pursuant to
12 this Procedural Order or otherwise by law, shall be filed with Docket Control. Copies
13 of all documents described in this paragraph that are filed with Docket Control shall
14 be served upon the Chairman, the Line Siting Committee, all parties, and all potential
15 parties. Before the hearing, documents may be served upon parties and potential
16 parties electronically to the e-mail address or FAX number provided by the party or
17 potential party. Before the hearing, documents may be served electronically upon the
18 Chairman and the Line Siting Committee, to the e-mail address of the Chairman.
19 Documents that are served during the hearing shall be hand delivered to parties.
20 During the hearing, eleven (11) copies of any filed document shall be delivered to the
21 Chairman for distribution to the Line Siting Committee, and a copy shall be sent
22 electronically to the e-mail address of the Chairman.

23 **27.** If the final wording of the Certificate of Environmental Compatibility that
24 is adopted by the Line Siting Committee at the end of the hearing is in dispute, the
25 Chairman may order the parties to meet and confer in person or electronically to
26 determine if they can agree upon the final wording of a proposed Certificate of
27 Environmental Compatibility. If the parties can agree upon the final wording of a
28 proposed Certificate of Environmental Compatibility, Applicant shall forthwith hand-

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

14 **28.** The copy of the proposed Certificate of Environmental Compatibility filed
15 by the Applicant and any objections or proposed revisions filed by the parties that are
16 served upon the Chairman, shall include an electronic file containing the wording of
17 the proposed language in a format compatible with Microsoft® Word word processing
18 program.

19 **29.** The Applicant and all other parties and potential parties may file a legal
20 memorandum by 5:00 p.m. on Wednesday, November 9, 2016 addressing the
21 following issues. The issues upon which the Chairman solicits the position of the
22 parties and potential parties is:

23

24 Does section 505(a)(iv) of the Federal Land Policy and
25 Management Act apply to any portion of what is described
26 in the Application as the Upgrade Section and owned by
27 Western Area Power Administration (“WAPA”), and if so
28 what portion? Assuming section 505(a)(iv) applies, what

1 are Arizona's substantive line siting standards or are such
2 standards established through the Certificate of
3 Environmental Compatibility ("CEC") process? What
4 information would be necessary to enable the Committee to
5 determine compliance with Arizona's substantive line siting
6 standards? Should the Applicant present such information
7 to the Line Siting Committee at the hearing to allow it, and
8 by extension the Commission, to determine whether the
9 Applicant has met Arizona's substantive standards? *State*
10 *of Montana v. Johnson*, 738 F.2d 1074, 1079 (9th Cir.
11 1984); *Columbia Basin Land Protection Ass'n v.*
12 *Schlesinger*, 643 F.2d 585, 605-06 (9th Cir. 1981). (The
13 foregoing questions assume the Applicant does not need to
14 obtain a CEC for the WAPA-owned lines and facilities
15 included in the Upgrade Section.)
16

17 30. The Applicant and all potential parties shall meet with the Chairman for
18 a **pre-hearing conference on Wednesday, November 16, 2016, beginning at**
19 **10:00 a.m. at the offices of the Attorney General of Arizona at 15 S. 15th Ave.,**
20 **Phoenix, Arizona 85007.** Parties and potential parties other than the Applicant may
21 appear by telephone with the prior permission of the Chairman. At the final pre-
22 hearing conference, the Chairman shall review with the Applicant and potential
23 parties:

- 24 a. The publication and posting of notices of the hearing;
25 b. The proposed agenda for the hearing;
26 c. Any notices to intervene, requests to intervene, and applications
27 to make a limited appearance;
28 d. The status of attempts to narrow the issues at the hearing or to

1 agree to language in the proposed findings of fact, proposed conclusions of law,
2 proposed Certificates of Environmental Compatibility and proposed conditions to the
3 Certificate;

4 e. The status of the filing and exchange of witness summaries or
5 written testimony, proposed findings of fact, proposed conclusions of law, proposed
6 Certificates of Environmental Compatibility and proposed conditions to the Certificate;

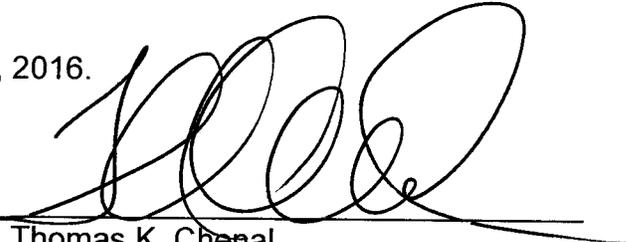
7 f. The status of the exchange of exhibits amongst the parties;

8 g. Any objections, motions, responses, and legal memoranda that
9 have been filed; and

10 h. Plans and preparations for the hearing, public comment session,
11 and tour of the proposed site.

12 **IT IS FURTHER ORDERED**, the Chairman may amend or waive any portion of
13 this Procedural Order by subsequent Procedural Order, by ruling at a pre-hearing
14 conference, or at a hearing.

15 **DATED** this 24th day of October, 2016.



18 Thomas K. Chenal
19 Assistant Attorney General
20 Chairman
21 Arizona Power Plant and
22 Transmission Line Siting Committee
23 1275 W. Washington St
24 Phoenix, Arizona 85007
25 thomas.chenal@azag.gov

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CERTIFICATION OF MAILING

Pursuant to A.A.C. R14-3-204, the **ORIGINAL** of the foregoing and 25 copies were filed this 24th day of October, 2016 with:

Utilities Division – Docket Control
Arizona Corporation Commission
1200 W. Washington St.
Phoenix, AZ 85007

COPY of the foregoing mailed this 24th day of October, 2016 to:

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