

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

3 IN THE MATTER OF THE APPLICATION
4 OF ARIZONA PUBLIC SERVICE
5 COMPANY, IN CONFORMANCE WITH
6 THE REQUIREMENTS OF ARIZONA
7 REVISED STATUTES 40-360, ET SEQ.,
8 FOR A CERTIFICATE OF
9 ENVIRONMENTAL COMPATIBILITY
10 AUTHORIZING CONSTRUCTION OF AN
11 APPROXIMATELY 0.6 MILE 500
12 KILOVOLT (KV) INTERCONNECTION
13 TRANSMISSION LINE AND AMENDING
14 CEC 135 TO AUTHORIZE USE OF A NEW
15 TRANSMISSION STRUCTURE TYPE
16 THAT WILL CONNECT THE PROVING
17 GROUND SOLAR+STORAGE PROJECT TO
18 THE HOODOO WASH SWITCHYARD
19 LOCATED NEAR DATELAND, ARIZONA
20 WITHIN UNINCORPORATED YUMA
21 COUNTY, ARIZONA.

Arizona Corporation Commission

Docket No.
L-00000D-23-0011-00214

Case No. 214

PROCEDURAL ORDER

RECEIVED
2023 JAN 10 P 2:06
ARIZONA CORPORATION
COMMISSION
DOCKET CONTROL

14
15 An Application for Certificates of Environmental Compatibility
16 (“Application”) was filed in the above captioned matter with Docket Control of the
17 Arizona Corporation Commission (“Commission”) on January 5, 2023. A copy of the
18 Application was transmitted to Paul Katz, designee of the Attorney General of Arizona,
19 Kristin Mayes, as Chairman (“Chairman”) and Presiding Officer of the Arizona Power
20 Plant and Transmission Line Siting Committee (“Committee”). A.R.S. §§ 40-360.01(B)(1)
21 and 40-360.03. As authorized by A.R.S. §§ 40-360.01(C) and (D), 40-360.04 and A.A.C.
22 R14-3-201(E), the Chairman issues the following procedural order.

23 **IT IS ORDERED:**

24 1. The Applicant and all potential parties (“person” within the meaning of
25 A.R.S. § 40-360(8) who intends to intervene or requests to intervene, pursuant to A.R.S.
26 § 40-360.05(A)) (hereinafter “potential parties”), shall advise the Chairman in writing on
27 or before the time of the pre-hearing conference, scheduled below, if they disagree that the
28 time limit for decision on the Application by the Committee set by A.R.S. § 40.360.04(D)

1 is July 4, 2023 .

2 2. All parties or potential parties listed on pleadings or procedural orders filed
3 by the Applicant or the Chairman shall notify Docket Control of their desire to receive
4 pleadings and procedural orders in this matter and shall regularly review the Docket
5 Control file in this matter to make sure they have received all pleadings and procedural
6 orders relating to this case. Neither the Committee nor the Chairman has the authority to
7 direct Docket Control to send one of the 25 copies of pleadings and procedural orders filed
8 with Docket Control to prospective parties.

9 3. The Applicant shall arrange for the timely publication and posting of notice
10 of the hearing, in a form approved by the Chairman, at locations discussed and agreed to by
11 the Applicant at the pre-filing conference held on December 20, 2022. Posting of the
12 Notice of Hearing should occur at least twenty days before the hearing scheduled below.
13 The Applicant shall provide notice by certified mail to any and all affected jurisdiction
14 within the meaning of A.R.S. § 40-360.04(A), at least twenty days before the hearing
15 scheduled below. Applicant shall also use social media to provide notice of the hearing as
16 discussed at the pre-filing conference held on December 20, 2022. In addition, at the
17 hearing the Applicant shall submit a copy of the notice and present testimony describing
18 the publication, providing of notice and posting of the notice.

19 4. The Applicant shall make arrangements for the hearing to commence in
20 Yuma, Arizona. The hearing in Yuma, Arizona will be held at the Yuma Four Points by
21 Sheraton, 2030 South Avenue 3E, Yuma, Arizona 85365, commencing on February 13,
22 2023, at 1:00 p.m. and will continue each weekday on February 14, 2023 through February
23 15, 2023, as necessary, at the same location beginning at 9:00 a.m.. on each day unless a
24 tour is taken. If a tour is taken, it will begin on alternative date and time set by the
25 Chairman of the Committee. Public comment may be taken during the hearing at times
26 designated by the Chairman.

27 Public comment also will be taken in a special evening session on February 13,
28 2023, beginning 5:30 p.m. via Zoom, or in person at the same location. Public comment

1 may also be taken at the beginning of each hearing day, or at other times during the
2 hearing, at the discretion of the Chairman of the Committee. **THE PUBLIC HAS THE**
3 **OPTION OF WATCHING THE MEETING ONLINE, LISTENING TO THE**
4 **MEETING VIA TELEPHONE, OR ATTENDING IN PERSON.** At least 24 hours in
5 advance of the hearing, information regarding online and telephone hearing access as well
6 as any additional details regarding safety protocols or other revisions to the hearing
7 schedule, will be posted on the Project website at
8 <https://www.swcavirtualpublicinvolvement.com/proving-ground> and on the Arizona
9 Corporation Commission (ACC) website at [https://www.azcc.gov/arizona-power-](https://www.azcc.gov/arizona-power-plant/meeting-schedule)
10 [plant/meeting-schedule](https://www.azcc.gov/arizona-power-plant/meeting-schedule). **PLEASE BE ADVISED THAT ALL LOCAL AND STATE**
11 **PUBLIC HEALTH AND SAFETY GUIDELINES WILL BE FOLLOWED DURING**
12 **THE PUBLIC COMMENT PERIOD. RESTRICTIONS ON PUBLIC ACCESS,**
13 **SAFETY PROTOCOLS, AND REVISIONS TO THE HEARING SCHEDULE MAY**
14 **OCCUR DUE TO PUBLIC HEALTH CONSIDERATIONS.**

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

22 6. The Applicant shall provide a copy of this Procedural Order to all other
23 parties and potential parties who have not already received a copy.

24 7. The Applicant and all other parties and potential parties shall meet and confer
25 prior to the beginning of the hearing, to determine whether any of the parties or potential
26 parties have similar interests in the application process that will allow them to jointly
27 present testimony on direct or cross-examination of witnesses, or to jointly offer exhibits
28 into evidence. The Applicant shall, and any other party or potential party may, report to the

1 Chairman the results of their attempts to resolve the issues and to determine if common
2 interests exist that will allow parties to jointly present evidence and argument or to avoid
3 repetition of testimony and argument at the hearing.

4 8. The Applicant and all other parties and potential parties shall meet and confer
5 as needed before, during, and after the hearing to attempt to resolve any disputes amongst
6 the parties. The parties and potential parties shall also keep all other parties and potential
7 parties advised of their positions and intentions with regard to the presentation of evidence,
8 witnesses, and the application process in general to avoid delay, the presentation of
9 repetitive evidence, and any unfair advantage from surprise.

10 9. Parties and potential parties shall not communicate with any Member of the
11 Committee about any procedural matters, or any factual issues or legal issues relating to the
12 Application, while the Application is pending before the Committee. The only exception is
13 that parties may communicate with the Chairman during the time the Application is
14 pending about procedural matters relating to the Application, preparation of the notice of
15 hearing and its publication, the agenda for the hearing, any pre-hearing conferences, the
16 hearing on the Application, and the decision on the Application by the Committee.
17 Communication by the parties with the Chairman about any procedural matter during the
18 time an Application is pending shall be in writing or, if oral, shall be memorialized by an e-
19 mail or other written summary with a copy of the written communication or summary to all
20 parties and potential parties, or shall be on the record at pre-filing conferences, at pre-
21 hearing conferences, or at the hearing on the Application. Any party who initiates any
22 written communication sent to the Chairman, or who summarizes an oral communication
23 with the Chairman on a procedural matter, shall file with Docket Control a copy of the
24 communication or summary, including its distribution list, within 10 days of sending the
25 written communication or making the oral communication.

26 10. Parties and potential parties shall not communicate with any Commissioner
27 of the Commission concerning the substantive merits of the Application while the
28 Application is pending before the Committee, in accordance with the requirements of

1 A.A.C. R14-3-113.

2 11. Whenever an agenda is filed pursuant to A.R.S. § 38-431.02, all parties and
3 potential parties shall serve upon the Chairman as soon as practicable, and at least forty-
4 eight (48) hours before the hearing or meeting described in the agenda, any objections,
5 additions, or corrections to the agenda they believe are necessary in order to bring the
6 agenda into compliance with A.R.S. § 38-431.02. The objections, additions or corrections
7 shall be in writing and shall be served upon all other parties and potential parties. A copy
8 shall be filed with Docket Control. Objections that are not timely raised will be deemed
9 waived.

10 12. Service of any pleading, document, or writing upon the Chairman may be
11 made electronically to the e-mail address of the Chairman below. Service of any pleading,
12 document or writing upon parties and potential parties may be made electronically to the e-
13 mail address of the parties and potential parties. Any pleading, document or writing filed
14 with Docket Control shall include the appropriate number of copies as determined by
15 Docket Control.

16 13. All parties and potential parties shall file with Docket Control and exchange
17 with all other parties and potential parties brief summaries of the expected direct testimony
18 of each witness they will call. In lieu of a testimonial summary, a party or potential party
19 may file with Docket Control and exchange with all other parties and potential parties all or
20 substantially all of the direct testimony of any witness. In either case, whether testimonial
21 summaries or direct testimony, the parties are expected to present live testimony regarding
22 the matters set forth therein. Testimonial summaries and direct testimony shall be filed
23 with Docket Control and exchanged with parties and potential parties by 5:00 p.m. of the
24 day before the pre-hearing conference set below. Except for good cause, no witness will be
25 allowed to testify on direct examination concerning issues not reasonably identified in the
26 testimonial summary and direct testimony.

27 14. All parties and potential parties shall meet, confer, and exchange all exhibits
28 the party or potential party plans to offer in evidence by 5:00 p.m. of the day before the

1 pre-hearing conference set below. The Applicant shall, and other parties and potential
2 parties may, provide one or more three-ring binders for the Chairman and each Member of
3 the Committee to hold exhibits at the beginning of the hearing and as needed during the
4 hearing. Each party and potential party shall prepare for the Chairman and each Committee
5 Member a numbered list of the exhibits and a copy of all exhibits suitable for placement in
6 the binders that each party and potential party expects to offer in evidence at the hearing.
7 The exhibits shall be provided to the Chairman and each Committee Member at the
8 beginning of the hearing and during the hearing before reference to the exhibit is made in
9 the hearing. In lieu of copies of exhibits in paper format, Applicant may provide the
10 Chairman and each Member of the Committee a laptop, tablet or iPad loaded with
11 electronic copies of the exhibits. Except for good cause, no exhibit that was not exchanged
12 with the other parties shall be considered at the hearing. Any exhibit to which reference is
13 made during any hearing that is not offered or admitted into evidence shall be provided to
14 the court reporter at the hearing for inclusion in the record, unless it is withdrawn and the
15 Chairman determines its filing is not necessary to an understanding of the actions of the
16 Committee.

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

21 16. The Applicant shall create an exhibit summarizing all public outreach efforts
22 concerning the Application, with representatives of federal, state and municipal bodies and
23 the general public, and all comments received as a result of such public outreach, including
24 comments received at meetings, through comment cards, emails, phone calls, faxes,
25 correspondence, social media and through the Applicant's website. Applicant shall
26 exchange the exhibit with all parties and potential parties and the Chairman by 5:00 p.m. of
27 the day before the pre-hearing conference set below.

28 17. The Applicant may make an opening statement at the beginning of the

1 hearing of no more than thirty (30) minutes. Each other party may make an opening
2 statement of no more than five (5) minutes.

3 18. Public comment will be heard after the opening statements and at other times
4 set by the Chairman during the hearing. See ¶ 4 above.

5 19. No tour of the Project Area is planned by the Committee at this time. If the
6 Chairman later decides to conduct a tour, the Applicant shall provide notice that includes a
7 map and itinerary of such tour, and will make the notice available at the hearing and shall
8 post the same on the Project and ACC websites. In the event the Chairman determines that
9 a tour or tours of the proposed locations of facilities proposed in the Application is
10 appropriate, the Applicant shall arrange for transportation for Committee Members who
11 wish to attend. The Applicant shall submit to the Chairman, before the pre-hearing
12 conference set below, a schedule and protocol agreed to by all parties and potential parties
13 for each tour. If all parties and potential parties do not agree upon the schedule and
14 protocol for each tour, the disagreements shall be submitted to the Chairman for resolution.
15 The protocol shall identify the tour route, identify the location of any stops, and identify
16 any witnesses who will accompany each tour. Counsel may ask brief explanatory questions
17 of the identified witness or witnesses during the stops about the location, what can be seen
18 from the location of the stop and the relevance of the location or view to the Application, at
19 the discretion of the Chairman. All witnesses who testify on each tour shall be sworn
20 before their testimony. All questions and answers shall be before a court reporter. No
21 testimony or discussion with or between Committee Members about the merits of the
22 Application will take place, except on the record before a court reporter at the designated
23 stops. The protocol shall provide for access to members of the public to any testimony
24 presented at stops on each tour. Members of the public who wish to observe the tour are
25 encouraged to notify the Applicant or the Chairman in advance of their intention to follow
26 and observe the tour.

27 20. Parties may present their witnesses in panels where appropriate. A party or
28 potential party who intends to present witnesses in panels shall identify the members of any

1 panel at the time it files its testimonial summaries or direct testimony.

2 21. The Applicant shall make arrangements for the preparation of expedited
3 court reporter transcripts of all pre-filing conferences, all pre-hearing conferences, and the
4 hearing, so that the transcripts are available for public inspection within three working days
5 after each hearing date, as required by A.R.S. §§ 38-431.01(D) and 40-360.04(C). In
6 addition, the Applicant shall file a certification with Docket Control that it has provided a
7 copy of the transcripts to two public libraries identified in the certification that are in the
8 vicinity of the proposed route and alternates in the Application. The Applicant shall also
9 post the transcripts on the Applicant's project website at:
10 <https://www.swcavirtualpublicinvolvement.com/proving-ground>. Transcripts shall remain
11 on the Applicant's project website until 30 days after the final decision has been issued by
12 the Commission.

13 22. At or before the pre-hearing conference set below, the Applicant shall, and
14 the other parties and potential parties may, file proposed findings of fact, proposed
15 conclusions of law, the wording of any proposed certificate of environmental compatibility,
16 and the wording of any proposed conditions to the certificate.

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

1 24. If the Applicant or any other party proposes conditions based upon conditions
2 used in prior cases, each proposed condition from a prior case shall contain the case
3 number of the most recent prior certificate of environmental compatibility using the
4 language approved by the Commission. Any proposed additions, deletions or modifications
5 to the language approved by the Commission for each prior condition shall be designated
6 using the “Track Changes” function.

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

20 26. If the final wording of the certificate of environmental compatibility that is
21 adopted by the Committee at the end of the hearing is in dispute, the Chairman may order
22 the parties to meet and confer in person or electronically to determine if they can agree
23 upon the final wording of a proposed certificate of environmental compatibility. If the
24 parties can agree upon the final wording of a proposed certificate of environmental
25 compatibility, Applicant shall forthwith hand-deliver the agreed-upon proposed certificate
26 of environmental compatibility to the Chairman for signature. If the parties are not able to
27 agree upon a proposed form of certificate of environmental compatibility, the Applicant
28 shall file, and the other parties may file, within ten (10) days after the date of the decision

1 of the Committee, those portions of the proposed certificate of environmental compatibility
2 upon which the parties agree. The Applicant also shall file, and any other party also may
3 file, within ten (10) days after the date of the decision of the Committee, its understanding
4 of any disputed portions of the proposed certificate of environmental compatibility. All
5 proposed forms of the certificate of environmental compatibility and any objections or
6 proposed revisions shall be filed with Docket Control, and a copy shall be hand delivered
7 to the Chairman at 15 South 15th Avenue, Phoenix, Arizona. All other parties shall be
8 served. Objections or suggestions that are not timely filed shall be considered waived.

9 27. The copy of the proposed certificate of environmental compatibility filed by
10 the Applicant and any objections or proposed revisions filed by the parties that are served
11 upon the Chairman, shall include an electronic file containing the wording of the proposed
12 language in a format compatible with Microsoft© Word word-processing program.

13 28. The Applicant and all potential parties shall meet with the Chairman for a
14 **pre-hearing conference on February 7, 2023 beginning at 10:00 a.m. via Zoom at**
15 **<https://us02web.zoom.us/j/84339765069?pwd=NUOrSTNzVlAzV3RLNDIvS0NHSm8rdz>**
16 **09 Meeting ID: 843 3976 5069, Passcode: 626539** . Parties and potential parties other than
17 the Applicant may appear by telephone with the prior permission of the Chairman. At the
18 final pre-hearing conference, the Chairman shall review with the Applicant and potential
19 parties:

- 20 a. The publication and posting of notices of the hearing;
- 21 b. The proposed agenda for the hearing;
- 22 c. Any notices to intervene, requests to intervene, and applications to
23 make a limited appearance;
- 24 d. The status of attempts to narrow the issues at the hearing or to agree to
25 language in the proposed findings of fact, proposed conclusions of law, proposed
26 certificates of environmental compatibility and proposed conditions to the certificate;

1 e. The status of the filing and exchange of witness summaries or written
2 testimony, proposed findings of fact, proposed conclusions of law, proposed certificates of
3 environmental compatibility and proposed conditions to the certificate;

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

5 g. Any objections, motions, responses, and legal memoranda that have
6 been filed; and

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

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

12 **DATED** this ____ day of January, 2023.

13
14 

15 Paul A. Katz
16 Chairman, Arizona Power Plant and
17 Transmission Line Siting Committee
18 15 South 15th Avenue
19 Phoenix, Arizona 85007-2926
20 Paul.Katz@azag.gov
21
22
23
24
25
26
27
28

1 CERTIFICATION OF MAILING

2 Pursuant to A.A.C. R14-3-204, the **ORIGINAL** of the foregoing and 26 copies were
3 filed this 10 day of January, 2023 with:

4 **Utilities Division - Docket Control**


5 Arizona Corporation Commission
6 1200 West Washington Street
7 Phoenix, AZ 85007

8 **COPIES** of the above mailed this 10 day of January, 2023 to:

9 Robin Mitchell
10 Director & Chief Counsel - Legal
11 Arizona Corporation Commission
12 1200 West Washington Street
13 Phoenix, AZ 85007
14 rmmitchell@azcc.gov
15 *Counsel for Legal Division Staff*

J. Matthew Derstine
Snell & Wilmer, L.L.P.
One Arizona Center
400 East Van Buren Street
Phoenix, Arizona 85004
*Counsel for Applicant Arizona Public
Service Company*

14 Elijah Abinah, Director Utilities Division
15 Arizona Corporation Commission
16 1200 West Washington Street
17 Phoenix, AZ 85007


CEC 214

17 Lisa L. Glennie
18 Glennie Reporting Services, LLC
19 1555 East Oranewood
20 Phoenix, AZ 85020
21 admin@glennie-reporting.com
22 *Court Reporter*

21 Linda J. Benally
22 Pinnacle West Capital Corporation
23 400 North 5th Street, MS 8695
24 Phoenix, Arizona 85004
25 *Counsel for Applicant Arizona Public
26 Service Company*