

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

RECEIVED

2 COMMISSIONERS

3 KRISTIN K. MAYES, Chairman  
4 GARY PIERCE  
5 PAUL NEWMAN  
6 SANDRA D. KENNEDY  
7 BOB STUMP

2009 JAN 23 A 10:52

AZ CORP COMMISSION  
DOCKET CONTROL

8 IN THE MATTER OF THE APPLICATION OF  
9 ARIZONA PUBLIC SERVICE COMPANY, IN  
10 CONFORMANCE WITH THE REQUIREMENT  
11 OF ARIZONA REVISED STATUTES §§ 40-360, *et*  
12 *seq.*, FOR A CERTIFICATE OF  
13 ENVIRONMENTAL COMPATIBILITY  
14 AUTHORIZING THE TS-5 TO TS-9 500/230kV  
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.

DOCKET NO. L-00000D-08-0330-0138

CASE NO. 138

**PROCEDURAL ORDER**

15 **BY THE COMMISSION:**

16 On July 1, 2008, Arizona Public Service Company ("APS" or "Company") filed an  
17 Application for a Certificate of Environmental Compatibility ("CEC") authorizing the TS-5 to TS-9  
18 500/230kV Transmission Line Project (the "Project") in Maricopa County, Arizona ("Application").

19 The Arizona Power Plant and Transmission Line Siting Committee ("Committee") held  
20 public hearings on August 18 and 19, September 8 and 9, October 20, 21, 22, 27, 28, 29 and 30,  
21 November 17, 18, and 19, and December 1 and 2, 2008, in Glendale and Phoenix, Arizona. The  
22 public hearings were held for the purpose of receiving evidence and deliberating on the Application.

23 The following were granted intervention: the Arizona Corporation Commission's Staff  
24 ("Staff"); Arizona Land Department; 10,000 West, L.L.C.; City of Surprise; Elliott Homes, Inc.;  
25 Woodside Homes of Arizona; Anderson Land and Development, Inc.; Sun Haven Property Owners;  
26 Surprise Grand Vista JVI, LLC; Warrick 160, LLC and Lake Pleasant 5000, LLC; City of Peoria;  
27 Vistancia, LLC; Vistancia Village Homeowners; Diamond Ventures, Inc.; Quintero Community  
28 Association/Quintero Golf & Country Club; LP 107, LLC; DLGC, II LLC and Lake Pleasant Group,

1 LLP.

2 On August 8, 2008, the Town of Buckeye filed a Motion to Intervene.

3 On December 29, 2008, the Committee Chairman filed a Procedural Order and also the CEC  
4 issued by the Committee.

5 On January 13, 2009, the Commission's Staff, APS, Arizona State Land Department, 10,000  
6 West, L.L.C., DLGC II, LLC and Lake Pleasant Group, LLP, filed Requests for Review of Certificate  
7 of Environmental Compatibility ("Request").

8 On January 20, 2009, the City of Peoria, Vistancia, LLC; Vistancia Homeowners  
9 Associations; and Diamond Ventures, Inc. filed a Joint Request for Written Briefing and Oral  
10 Argument.

11 Pursuant to A.R.S. § 40-360.07, the Commission hereby sets the matter for oral argument and  
12 for the taking of briefs.

13 A.R.S. § 40-360.07.B provides that the Committee "shall transmit to the commission the  
14 complete record, including a certified transcript, and the review shall be conducted on the basis of the  
15 record." Accordingly, the Committee shall transmit the complete record to the Commission, if it has  
16 not already done so. This statutory provision clearly sets forth that the kind of review that the  
17 Commission is allowed to make in reaching its decision on this matter is limited to a review of the  
18 record created by the proceedings before the Committee. That record is closed, and additional  
19 testimony and evidence cannot be considered by the Commission when making its decision on the  
20 CEC. However, the Commission is authorized to hear oral argument and take briefs discussing the  
21 testimony and evidence already contained in the record. The Commission is aware that the record in  
22 this matter is sizable, and concise briefs that cite to the record (transcript page, exhibit number) will  
23 assist the Commission in its review and decision making.<sup>1</sup> The parties should bear in mind that  
24 A.R.S. § 40-360.07 provides that: "In arriving at its decision, the commission shall comply with the  
25 provisions of § 40-360.06 and shall balance, in the broad public interest, the need for an adequate,  
26 economical and reliable supply of electric power with the desire to minimize the effect thereof on the

27 \_\_\_\_\_  
28 <sup>1</sup> A copy of the transcripts of the public hearings are available to review at the Commission's Phoenix office, 1200 West  
Washington St., Phoenix, Arizona.

1 environment and ecology of this state.” Briefs that address this standard of review and decision  
2 making while citing to specific evidence in the record will assist the Commission. Further, oral  
3 arguments that address the evidence and testimony in the record, and provide an opportunity for  
4 questions by the Commissioners, will assist the Commission in its decision making.

5 Accordingly, we will set oral arguments to commence on February 19, 2009 at 2:00 p.m. at  
6 the Commission’s Hearing Room 1, 1200 West Washington, Phoenix, Arizona and continuing to  
7 February 20, 2009 if necessary. These oral arguments will be made by parties to the proceeding only,  
8 and no public comment will be taken during the time for oral arguments. The Intervenors that filed  
9 Requests for Review and the Applicant will be allowed 20 minutes each to present their oral  
10 argument. All other parties will be allowed 10 minutes. The presiding officer may allow additional  
11 time, if necessary. The Commission will not vote at the February 19 and 20, 2009, oral arguments.  
12 A subsequent Public Comment/Special Open Meeting will be set for March 2, 2009, and additional  
13 notice of the Open Meeting will be provided by the Commission.

14 IT IS THEREFORE ORDERED that **the parties shall file in Docket Control, concise**  
15 **written briefs**, containing citations to the record, to assist the Commission in complying with the  
16 provisions of § 40-360.06 and balance in the broad public interest, the need for an adequate,  
17 economical and reliable supply of electric power with the desire to minimize the effect thereof on the  
18 environment and ecology of this state, **no later than February 12, 2009.**

19 IT IS FURTHER ORDERED that **oral arguments** by the parties to the proceeding shall be  
20 held beginning on **February 19, 2009, at 2:00 p.m. and continuing to February 20, 2009, if**  
21 **necessary**, at the Commission’s offices, 1200 West Washington, Hearing Room 1, Phoenix, Arizona.

22 IT IS FURTHER ORDERED that the Commission will hear **public comments** on the above-  
23 captioned matter on **March 2, 2009, at 10:00 a.m.** at the Commission’s offices, 1200 West  
24 Washington, Hearing Room 1, Phoenix, Arizona.

25 IT IS FURTHER ORDERED that Arizona Public Service Company shall provide public  
26 notice of the March 2, 2009 public comment session in a manner most likely to reach the largest  
27 number of members of the affected public, including publishing notice in a newspaper of general  
28 circulation in the area and posting the notice in appropriate locations, no later than February 20, 2009.

1 IT IS FURTHER ORDERED that the Committee shall, if it has not already, promptly  
2 transmit the complete record to the Commission.

3 DATED this 22<sup>nd</sup> day of January, 2009.

4  
5   
6 DWIGHT D. NODES  
7 ASSISTANT CHIEF ADMINISTRATIVE LAW JUDGE

8 Copies of the foregoing mailed/delivered  
9 This 22<sup>nd</sup> day of January, 2009 to:

10 Barry Wong  
11 5025 N. Central Ave., Suite 621  
12 Phoenix, AZ 85012

13 Mike Palmer  
14 604 Hovland  
15 Bisbee, AZ 85603

16 Mike Whalen  
17 1226 E. Downing  
18 Mesa, AZ 85203

19 David Eberhart  
20 6801 W. Astor  
21 Peoria, AZ 85361

22 Mike Biesemeyer  
23 3076 E. Blue Ridge Place  
24 Chandler, AZ 85249

25 Paul Rasmussen  
26 1110 W. Washington St.  
27 Phoenix, AZ 85007

28 Joy Rich  
501 N. 44<sup>th</sup> St.  
Phoenix, AZ 85008

Jack Haenichen  
P.O. Box 2287  
Overgaard, AZ 85933

John Forman  
1275 W. Washington St.  
Phoenix, AZ 85007

Thomas Campbell  
40 N. Central Ave.  
Phoenix, AZ 85004-4429

Michael Bailly  
12425 W. Bell Rd., Suite D100  
Surprise, AZ 85374-9002

Garry Hayes  
1702 E. Highland Ave., Suite 316  
Phoenix, AZ 85016

Steve Wene  
1850 N. Central Ave., Suite 1100  
Phoenix, AZ 85004

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

Court Rich  
6613 N. Scottsdale Rd., Suite 200  
Scottsdale, AZ 85250

Robert Pizorno  
4800 N. Scottsdale Rd., Suite 6000  
Scottsdale, AZ 85251

Meghan Grabel  
P.O. Box 53999  
Station 9905  
Phoenix, AZ 85072-3999

Mark Nadeau  
2415 E. Camelback Rd., Suite 700  
Phoenix, AZ 85016-4246

Art Othon  
8401 W. Monroe St.  
Peoria, AZ 85345

1 Lawrence Robertson, Jr.  
2 2247 E. Frontree Rd., Suite 1  
3 Tubac, AZ 85646

4 Jeff McGuire  
5 P.O. Box 1046  
6 Sun City, AZ 85372

7 Scott McCoy  
8 3101 N. Central, Suite 1000  
9 Phoenix, AZ 85012-2654

10 Steve Burg  
11 8401 W. Monroe, Suite 280  
12 Peoria, AZ 85345

13 James Braselton  
14 2901 N. Central, Suite 200  
15 Phoenix, AZ 85012

16 Michelle De Blasi  
17 2 N. Central Ave  
18 Phoenix, AZ 850034


19 Edward Dietrich  
20 Real Estate Division Planning Section  
21 1616 W. Adams  
22 Phoenix, AZ 85007

23 Janice Alward, Chief Counsel  
24 Legal Division  
25 ARIZONA CORPORATION COMMISSION  
26 1200 West Washington Street  
27 Phoenix, Arizona 85007

28 Ernest Johnson, Director  
Utilities Division  
ARIZONA CORPORATION COMMISSION  
1200 West Washington Street  
Phoenix, Arizona 85007

ARIZONA REPORTING SERVICE, INC.  
2200 N Central Ave., Suite 502  
Phoenix, Arizona 85004-1481

23  
24 By:



25 Debbi Person  
26 Assistant to Dwight D. Nodes  
27  
28