

1 BEFORE THE ARIZONA POWER PLANT AND UTIL-258
2 TRANSMISSION LINE SITING COMMITTEE

3

4 IN THE MATTER OF THE) DOCKET NO.
5 APPLICATION OF SUPERSTITION) L-21209A-22-0255-00210
6 ENERGY STORAGE, LLC)
7 IN CONFORMANCE WITH THE) LS CASE NO. 210
8 REQUIREMENTS OF ARIZONA)
9 REVISED STATUTES, SECTIONS)
10 40-360, et. seq., FOR TWO)
11 CERTIFICATES OF ENVIRONMENTAL)
12 COMPATIBILITY AUTHORIZING THE)
13 SUPERSTITION 230-kV)
14 GENERATION INTERTIE PROJECT)
15 AND ASSOCIATED SUBSTATION)
16 WITHIN THE TOWN OF GILBERT,)
17 ARIZONA, LOCATED WITHIN,)
18 MARICOPA COUNTY, ARIZONA) PREHEARING CONFERENCE
19)

13 At: Phoenix, Arizona

14 Date: October 31, 2022

15 Filed: November 3, 2022

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REPORTER'S TRANSCRIPT OF PROCEEDINGS

18

(Pages 1 through 19)

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GLENNIE REPORTING SERVICES, LLC
1555 East Orangewood, Phoenix, AZ 85020
602-266-6535 admin@glennie-reporting.com

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By: Kathryn A. Blackwelder, RPR
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INDEX TO EXHIBITS

(No exhibits were marked.)

1 BE IT REMEMBERED that the above-entitled and
2 numbered matter came on regularly to be heard before
3 the Arizona Power Plant and Transmission Line Siting
4 Committee, commencing at 2:07 p.m. on the 31st of
5 October, 2022, with all participants appearing via
6 videoconference.

7
8 BEFORE: PAUL A. KATZ, Chairman

9 APPEARANCES:

10 For the Applicant:

11 PERKINS COIE
12 Ms. Andrea Driggs
13 Mr. Christopher Thomas
14 2901 North Central Avenue, Suite 2000
15 Phoenix, Arizona 85012

16 For Potential Intervenor Town of Gilbert:

17 CROCKETT LAW GROUP
18 Mr. Jeffrey Crockett
19 2198 East Camelback Road, Suite 305
20 Phoenix, Arizona 85016

21 ALSO PRESENT:

22 Ms. Lucy Marton, Plus Power
23 Ms. Molly Emerson, Plus Power
24 Mr. Dean Hazle, SWCA Environmental Consultants
25 Mr. Devin Petry, SWCA Environmental Consultants
26 Mr. Kyle Mieras, Town of Gilbert
27 Mr. Salvatore DiSanto, Town of Gilbert
28 Tod Brewer, Assistant to Chairman Katz
29 Lisa Glennie, Glennie Reporting Services, LLC
30 Marta Hetzer, Glennie Reporting Services, LLC

1 CHMN. KATZ: This is the time set for the
2 prehearing conference in CEC Hearing Number 210. It's
3 the Superstition project by Plus Power.

4 And I would ask counsel for the applicant to
5 please identify herself and her colleague for the court
6 record.

7 MS. DRIGGS: Yes, Mr. Chairman. My name is
8 Andrea Driggs. I'm with Perkins Coie. We represent
9 Plus Power. And I'm here with my colleague Chris
10 Thomas, who also represents Plus Power.

11 CHMN. KATZ: And welcome to both of you.

12 And I would ask the gentleman who is
13 representing the intervenor to identify himself and
14 indicate on whose behalf he is appearing.

15 MR. CROCKETT: Good afternoon, Chairman Katz.
16 This is Jeff Crockett, Crockett Law Group. I am
17 representing the intervenor in this matter, the Town of
18 Gilbert. And on the -- on the Zoom call with me is
19 Kyle Mieras. I don't believe the City Attorney has
20 joined, but I think it will be the two of us this
21 afternoon.

22 CHMN. KATZ: Okay. And I have already been
23 through this with Ms. Driggs earlier today, because
24 we're going to do two back-to-back hearings. And I
25 believe we have this matter set to start on November

1 the 9 at 10:00 a.m., assuming we finish the other
2 hearing that she is involved with, which should be
3 fairly simple because it's a very short transmission
4 line.

5 And as you know, Mr. Crockett, the decision
6 will be left to the Committee, but are you requesting a
7 limited appearance or full participation or it depends
8 on what happens?

9 MR. CROCKETT: Chairman Katz, we're
10 requesting full participation. But that being said, it
11 is the Town's position at this time that they support
12 the application. We don't intend to offer a witness at
13 this time. I'm expecting little, if any,
14 cross-examination. We're really monitoring this
15 proceeding. If things change, we reserve the right to
16 participate more fully, but if things stay as they
17 appear to be headed right now, then I think our
18 involvement will be fairly limited.

19 CHMN. KATZ: That's fine. And have you
20 received the applicant's exhibits and a copy of the
21 application?

22 MR. CROCKETT: Yes, we have.

23 CHMN. KATZ: And have you also received their
24 witness summaries?

25 MR. CROCKETT: I believe we have, yes.

1 CHMN. KATZ: Okay. And again, we're
2 beginning at 10:00 a.m., I believe, on our first day
3 rather than at 1:00 p.m., mainly because all of the --
4 all of the participants from out of town are not going
5 to go home when we finish things up on Tuesday and come
6 back on Wednesday, so we can get an earlier start.

7 And when did we set public comment for? Was
8 it 5:30 still that first day?

9 MS. DRIGGS: Yes, that's my understanding.

10 CHMN. KATZ: Okay. And I don't expect we'll
11 get a lot of participation. Has there been any strong
12 vocal or written opposition to the project?

13 MS. DRIGGS: Not that I'm aware of.

14 CHMN. KATZ: And essentially, if anybody from
15 the Town of Gilbert wants to participate by way of
16 public comment, rather than as a witness, we will give
17 deference and call any public officials from city,
18 town, federal, or state ahead of any members of the
19 general public. It's not necessary that anybody other
20 than counsel appear for Gilbert, but if a member of the
21 Town Council or whatever wish to participate, they're
22 more than welcome to join us at the time of public
23 participation.

24 And what are the -- who are the jurisdictions
25 that have been notified other than Gilbert, if any?

1 MS. DRIGGS: We also notified Mesa and
2 Chandler; although, the project is entirely within
3 private land within the city of Gilbert, with the
4 exception of a small 50-foot portion that runs over
5 West Commerce Avenue.

6 CHMN. KATZ: And was County notified as well?

7 MS. DRIGGS: Yes.

8 CHMN. KATZ: And I don't need to have you
9 break down which agencies in the County, as long as
10 they've received notice.

11 And where are we at with respect to your
12 compliance with the procedural order and ARS Section
13 40-360.04(a), that is, the posting of the notices and
14 the publication of the notices of the hearing?

15 MS. DRIGGS: SWCA has prepared an exhibit
16 specifically detailing the stakeholder involvement
17 summary that also talks about the posting of the
18 notices, the publication of the notices, and the signs.
19 Those are SES-6 and SES-7.

20 CHMN. KATZ: Okay. And I'm sure we'll hear
21 evidence in that regard. I don't need you to send me
22 right now copies of those. You may have already sent
23 us all the exhibits, but sometimes I have prehearing
24 conference exhibits. I don't need them today. I trust
25 that you have done what is required pursuant to

1 statute.

2 And I'll ask Mr. Crockett whether he's
3 received copies of any of those notices?

4 MR. CROCKETT: I believe we've received
5 everything, Chairman Katz.

6 CHMN. KATZ: Okay.

7 MS. DRIGGS: And if you haven't, we're happy
8 to send that to you, but you should have received
9 everything.

10 MR. CROCKETT: I know we got the notice of
11 hearing, the procedural order, the agenda, so we're
12 good.

13 CHMN. KATZ: Tod, do we need to get copies --
14 I didn't ask on our CEC 208 or on this one yet whether
15 we need to get anything by way of a prehearing exhibit.
16 I think we can trust counsel that they have properly
17 published and posted notices.

18 MR. BREWER: I believe that's correct,
19 Mr. Chairman.

20 CHMN. KATZ: Okay. And I don't see any need
21 to review our agenda; it's pretty straightforward.
22 We're going to start this hearing at 10:00 a.m. on the
23 9th, public comment will be at 5:30 on the 9th, and I
24 don't think -- and we'll basically be taking evidence
25 that the applicant wishes to present and any

1 cross-examination that the intervenor wishes to engage
2 in and the exhibits that are offered by the applicant.
3 And we are dealing with 11 -- I've got to make myself a
4 note here.

5 And I already asked you this earlier,
6 Ms. Driggs, but I'm assuming that we will have the same
7 technical crew present for the hearing and we'll have
8 sign-in forms for any members of the public that wish
9 to participate?

10 MS. DRIGGS: Yes. Peaks Audio is handling
11 the technical IT aspects of the hearing.

12 CHMN. KATZ: And as I previously explained to
13 you, I need at least a hard -- I think we already have
14 a hard copy of the application, but I will need to have
15 copies of the exhibits. I don't need hard copies in
16 advance, but I'll need a notebook with them in it at
17 the hearing. The Committee Members generally are more
18 than able and are happy not to get any more clutter
19 than they already have received through the Corporation
20 Commission, but they would like to probably use the
21 tablets that are going to be provided, Surface Pros or
22 iPads or whatever. And it's my understanding, from
23 earlier conversations, that there will be iPads with
24 the exhibits posted on those iPads for each Member of
25 the Committee that is present in person.

1 MS. DRIGGS: That's correct. They will be
2 loaded on the iPads, and then we'll also have probably
3 five hard copies available if people would like to look
4 at the hard copies.

5 CHMN. KATZ: And I'm assuming that you'll
6 provide a link to the Members of the Committee that
7 might not be appearing in person, but will be appearing
8 virtually, and that they will have the ability to view,
9 either through their home computers or through the
10 display on screens, the exhibits in this matter.

11 MS. DRIGGS: That's correct. There's going
12 to be a specific link for Committee Members, there will
13 be a link for the public comment, and there will be a
14 link for the public to listen in over the course of the
15 hearing.

16 CHMN. KATZ: And how will the Members of the
17 Committee that are appearing virtually receive copies
18 of exhibits or at least be able to view them? I think
19 they may have already been sent to them by docket, but
20 I'm not sure.

21 MS. DRIGGS: I think when my assistant spoke
22 with Docket Control there were, you know, the original
23 plus 25 copies, and so those should have already been
24 sent to the Committee Members who will be here
25 virtually.

1 CHMN. KATZ: Right. And during your
2 presentation I'm assuming that you'll likely have
3 critical exhibits that your witnesses may be using or
4 that you wish to have admitted published, so to speak,
5 on the TV screen.

6 MS. DRIGGS: Yes, that's correct. We'll have
7 slides as well for both SWCA and for Plus Power and
8 also opening statements.

9 CHMN. KATZ: Thank you. And what about a
10 tour? I'm assuming -- how long is this line?

11 MS. DRIGGS: This is also very short. This
12 is about 440 feet. We would prefer, just for the sake
13 of time, not to have a tour. That would be our
14 client's position. And that's just for the sake of
15 making sure we stay on schedule.

16 CHMN. KATZ: And I'm assuming that we're not
17 running anything right through a subdivision or in
18 close proximity to a residential subdivision.

19 MS. DRIGGS: Yeah. We have a map associated
20 with the draft CECs, and we would be happy to go
21 through that if you would like us to do that.

22 CHMN. KATZ: I don't think that we need to.

23 And as I expressed to you earlier, and I'll
24 share it with Mr. Crockett right now, the earlier
25 project has about a 300-and-some-foot line. This is

1 440 feet. I think we need -- it's high time and I
2 encourage all of the lawyers that handle these matters
3 to maybe collectively get together. I already met with
4 the Chairman of the Corporation Commission and I have
5 met telephonically with Robin Mitchell, who's chief
6 counsel. These statutes are antiquated. It is
7 outrageous as to how much money applicants need to
8 spend for IT, for hotel accommodations, and for
9 witnesses to have a hearing in front of 10 people.

10 And one of the problems we have, for better
11 or worse, is that solar facilities and wind facilities
12 aren't regulated, so they pop up all over the place,
13 usually in good faith, and sometimes somebody acquires
14 land for a solar project just to block access to an
15 existing or soon-to-be-heard applicant.

16 But anyway, we'll have adequate WiFi.

17 If you want daily transcripts, you need to
18 let the court reporter know that. We take a break
19 about every 90 minutes for all of our sanity and to
20 save the hands of the reporter.

21 And I'll need to again convince Mr. Crockett
22 that business casual is fine, but I won't punish you if
23 you wear a suit and tie.

24 MR. CROCKETT: All right. Well, I was seeing
25 my client on screen for the first time today, and you

1 know what they say about first impressions, right?

2 CHMN. KATZ: Right. And I'll tell you what
3 happened, and it's probably an old story. But I had a
4 virtual status conference in front of Judge Warner and
5 I had a dress shirt on but not a tie. And I said,
6 Judge, I hope you'll excuse me for not wearing a tie
7 today.

8 And he said, what would you have done if I
9 came into your court room without one?

10 I said, I would have thrown you in jail, and
11 he laughed. He didn't really care because it was at
12 the time of COVID and no one was appearing in person.

13 But don't feel that you have to dress to the
14 nines. Business casual is more than acceptable, but
15 you won't get punished if you look extra pretty.

16 And we don't need a spreadsheet documenting
17 each segment of this line, because it's basically a
18 single short line.

19 And exhibits and witness summaries have been
20 exchanged and filed, correct?

21 MS. DRIGGS: Correct. Prefiled testimony and
22 then also the exhibits.

23 CHMN. KATZ: Sure. And there are no pending
24 motions or the like that we need to concern ourselves
25 with, correct?

1 MS. DRIGGS: Correct.

2 CHMN. KATZ: And I trust that, in light of
3 the fact that the intervenor isn't calling witnesses or
4 presenting any exhibits at this time, that you have
5 fully complied with the procedural order in this matter
6 regarding any required disclosures?

7 MR. CROCKETT: That's correct. I don't think
8 there is anything for us to comply with, because we
9 don't anticipate witnesses or exhibits, so --

10 CHMN. KATZ: Understood. And I'm assuming
11 that the applicant has made the necessary arrangements
12 with the Corporation Commission, is that correct?

13 MS. DRIGGS: Yes.

14 CHMN. KATZ: And do we have a representative
15 of the Corporation Commission present at this hearing?

16 (No response.)

17 CHMN. KATZ: I don't think we do. We did at
18 the last hearing. But we do have a letter of approval
19 from the Commission, and that should be marked as one
20 of the exhibits if it hasn't already been. Does the
21 applicant agree?

22 MS. DRIGGS: Yes, and we will do that.

23 CHMN. KATZ: Okay. And I'm not going to sit
24 there and review the CEC with you right now. I believe
25 you've forwarded to me and to Tod drafts. What we'll

1 end up doing is I'll either tell Tod, those drafts look
2 good, but please edit -- we ask you to cite in your
3 drafts other CECs in which those conditions or findings
4 have been used, but the final version we will eliminate
5 the references to other CECs. I mean, we'll keep the
6 language, but we'll get rid of where it says CEC 171 or
7 186. But what we'll end up doing is Tod, with my help,
8 will edit primarily for grammar and punctuation and I
9 will advise him of any other changes that we need to
10 make.

11 But ultimately, you'll receive a PDF version
12 of it, which will be Chair Exhibit Number 1. And
13 that's just to give the Corporation Commission and the
14 public notice of the CEC before we edited it. And then
15 we'll have a Word version that will be published on a
16 screen in front of the Committee, and we will edit it
17 based upon input from the intervenor, the applicant,
18 and Committee Members. And that edited Word version
19 will end up going to Tod to be proofread, and it will
20 ultimately be sent to me for approval and signature.

21 And I need to ask, has the applicant made any
22 and all applications for permits, be they state,
23 federal, or local permits, and have you received them
24 or have they at least been applied for?

25 MS. DRIGGS: Yes. We have a special use

1 permit, and we should hear verbally on Wednesday
2 regarding that permit.

3 CHMN. KATZ: Okay. And there's no NEPA
4 process involved, correct, no federal funds or federal
5 lands, correct?

6 MS. DRIGGS: Correct.

7 CHMN. KATZ: And as I said earlier, I want a
8 notebook -- I already believe we have the application.
9 If I'm wrong, Tod, in a moment, can let me know that.
10 But we should have the application. But I would want
11 -- I don't need it in advance, but I want a hard copy
12 of the exhibits at the hearing. We maintain those in
13 our wonderful disorganized library over here for future
14 reference. And they're easier to find, the hard
15 copies, than it is to go back through e-mails and try
16 to figure out what we have or haven't received.

17 Are there any other issues that we need to
18 discuss?

19 MS. DRIGGS: As we mentioned before, we would
20 prefer not to have the tour.

21 On the CECs, it's currently drafted as two
22 CECs, one that covers the corridor and one that covers
23 the substation itself. As I mentioned before, we defer
24 to you -- to your judgment on whether that second CEC
25 is necessary that just covers the substation.

1 CHMN. KATZ: It may not be necessary. But
2 ultimately, the reason I'm assuming you're requesting
3 that is that the ownership or at least the management
4 or operation will probably be dedicated to one of our
5 public utilities, is that correct?

6 MS. DRIGGS: That's correct.

7 CHMN. KATZ: And that's going to -- whether
8 we have a single CEC with everything in it or we have
9 two separate ones, there's still going to need to be an
10 assignment made down the road to SRP, APS, or whomever,
11 correct?

12 MS. DRIGGS: Correct.

13 CHMN. KATZ: Okay. I'm not going to worry
14 about it then.

15 Tod, have I, in my presentation, forgot to
16 cover anything that's critical?

17 MR. BREWER: I don't believe so,
18 Mr. Chairman. Thank you.

19 CHMN. KATZ: Okay. Well, we'll see you folks
20 next week. I'm planning on commuting from Scottsdale
21 to Tempe for both of these hearings and I don't need a
22 hotel room. But for our upcoming hearing in Avondale,
23 I think -- well, I may not need a room. That's not
24 your concern.

25 But anyway, I'll see the applicant's attorney

1 and representatives on Monday, the 7th. And I'll see
2 you folks, all of you, again on the 9th or for the
3 first time on the 9th, okay?

4 MS. DRIGGS: Okay. Thank you.

5 CHMN. KATZ: All of you take care, stay
6 healthy, work hard, but maybe relax a little bit over
7 the weekend. We do stand in recess.

8 (The prehearing conference concluded at
9 2:26 p.m.)

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1 STATE OF ARIZONA)
) ss.
2 COUNTY OF MARICOPA)

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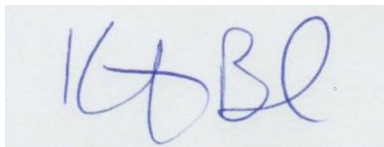
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