

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

LS-276

3

4 IN THE MATTER OF THE APPLICATION) DOCKET NO.
5 OF YUMA BN, LLC, IN CONFORMANCE) L-00000A-22-0313-00213
6 WITH THE REQUIREMENTS OF ARIZONA)
7 REVISED STATUTES, SECTIONS)
8 40-360, et. seq., FOR) LS CASE NO. 213
9 CERTIFICATES OF ENVIRONMENTAL)
10 COMPATIBILITY AUTHORIZING THE)
11 ORCHARD SOLAR 230 KV)
12 TRANSMISSION LINE PROJECT AND)
13 ASSOCIATED INTERCONNECTION) PREHEARING CONFERENCE
14 FACILITIES LOCATED IN YUMA)
15 COUNTY, ARIZONA.)

10

11 At: Phoenix, Arizona

12 Date: January 23, 2023

13 Filed: January 24, 2023

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16 REPORTER'S TRANSCRIPT OF PROCEEDINGS

17 (Pages 1 through 21)

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INDEX TO EXHIBITS

| NO. | DESCRIPTION | IDENTIFIED | ADMITTED |
|-----------|-------------------------|------------|----------|
| YBN-PHC-1 | Public Outreach Summary | 9 | 9 |
| YBN-PHC-2 | Route Tour Itinerary | 9 | 9 |

1 BE IT REMEMBERED that the above-entitled and
2 numbered matter came on regularly to be heard before the
3 Arizona Power Plant and Transmission Line Siting
4 Committee, commencing at 3:00 p.m. on the 23rd day of
5 January 2023, with all participants appearing via
6 videoconference.

7
8 BEFORE: PAUL A. KATZ, Chairman

9 APPEARANCES:

10 For the Applicant:

11 ACKEN LAW
12 Mr. Albert H. Acken
13 111 East Dunlap Avenue, Suite 1-172
14 Phoenix, Arizona 85020

15 For the Intervenor Arizona Public Service Company:

16 PINNACLE WEST CAPITAL CORPORATION
17 Ms. Linda J. Benally, Senior Attorney
18 400 North 5th Street, MS 8695
19 Phoenix, Arizona 85004

20 For the Arizona Corporation Commission Utilities Division
21 Staff:

22 ARIZONA CORPORATION COMMISSION
23 Ms. Kate Kane, Staff Attorney
24 Legal Division
25 1200 West Washington Street
Phoenix, Arizona 85007

1 APPEARANCES (Continued):

2 Also present:

3 Mr. Dean Hazle, SWCA
4 Mr. Brandon Pollpeter, Brightnight Power
5 Mr. Erik Ellis, Brightnight Power
6 Mr. Tod Brewer, Assistant to Chairman Katz
7 Ms. Lisa Glennie, Glennie Reporting Services, LLC

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1 CHMN KATZ: This is the time set for a
2 prehearing conference in -- for CEC 213, the Yuma bn,
3 LLC/Orchard Solar 230 kilovolt transmission line project
4 that I'll just refer to it as "the Orchard Solar
5 transmission project."

6 And right now I see Mr. Acken, who represents
7 the applicant in this matter, and I also saw a moment ago
8 Linda Benally, who -- oh, there she is -- and I'll ask
9 some questions in a moment. But what I'd like to do is
10 have your folks, just for the benefit of our court
11 reporter, Mr. Acken, identify themselves by name. We'll
12 start with Mr. Ellis.

13 But, Mr. Ellis, you can just tell us who you
14 are. I think the court reporter can see your name
15 underneath your picture. But, Mr. Ellis, who do you work
16 for, and will you be one of our witnesses?

17 MR. ELLIS: Yeah, good afternoon, Chairman Katz.
18 Erik Ellis, vice president of project development for
19 Brightnight Power, and yes, I will be one of the
20 witnesses in the forthcoming hearings.

21 CHMN KATZ: And, Mr. Dean -- is it Dean Hazle,
22 and I'm assuming you're working for the consulting firm,
23 is that correct, SWCA?

24 MR. HAZLE: That's correct, yeah. I'll be
25 testifying as one of the environmental specialists on the

1 case, and I'll also have Krista Perry along with me
2 during hearings.

3 CHMN KATZ: Okay. And I see a Brandon, but I
4 don't know Brandon's last name and who he is working
5 with.

6 MR. POLLPETER: Yeah, apologies for that. I'm
7 not quite sure how my profile got created there without
8 the last name, but Brandon Pollpeter, last name spelled
9 P-o-l-l-p-e-t-e-r, director of development here at
10 Brightnight, and also will be testifying at the hearing.

11 CHMN KATZ: And, last but not least, Kate Kane,
12 and you are representing whom?

13 MS. KANE: Good afternoon, Chairman Katz. This
14 is Kate Kane on behalf of Staff.

15 CHMN KATZ: Okay. And I do see Linda Benally
16 present. And you're here on behalf of Arizona Public
17 Service or their parent company; is that correct?

18 MS. BENALLY: That is correct, Mr. Chairman.

19 CHMN KATZ: And are you planning to intervene?
20 We'll get to that a little bit later, but -- and, if so,
21 in what capacity would you likely be intervening? I did
22 get a witness statement of a witness that you might call,
23 but I don't know if you will or won't be calling that
24 individual.

25 MS. BENALLY: Thank you, Mr. Chairman. APS did

1 file a motion to intervene, and we are intervening to
2 protect our APS -- the APS interests, in the event that
3 CEC-2 is transferred to APS at a future date.

4 CHMN KATZ: Okay. And you basically would have
5 the right to full intervention, assuming the Committee
6 approves it. And I'm assuming that you're, at least for
7 now, reserving your right to cross-examine witnesses and
8 to call your one designated witness?

9 MS. BENALLY: That is correct, Mr. Chairman.

10 CHMN KATZ: Okay. Thank you very much. I'll
11 get back to my checklist here.

12 And, let me see, and we have a date -- the
13 Committee has until June 17th, 2023, to reach a decision
14 in this matter, but as usual, the Committee will probably
15 deliberate on our last day of the hearing, and will
16 approve one or both of the two proposed CECs at that
17 time. So I'm assuming that there's going to be no issue
18 regarding us acting expeditiously.

19 I will ask, Mr. Acken, has the applicant
20 complied with ARS Section 40-360.04(A) regarding
21 providing notice to the affected jurisdictions? And I'm
22 assuming that that is Yuma County, City of Yuma, ASLD.
23 And is there also a federal agency that you've notified?

24 MR. ACKEN: There is, Mr. Chairman, a federal
25 agency, the Barry Goldwater Range, that a portion of the

1 project will be located; we talked about this at the
2 prefiling. I don't think that federal agencies meet the
3 definition of an affected jurisdiction, so we don't
4 provide them notice the same way we do other state
5 agencies. But certainly they are aware of this and they
6 are working with the applicant on the federal
7 rights-of-way required for this project.

8 CHMN KATZ: But the City of Yuma, Yuma County,
9 and the Land Department have all been notified, correct?

10 MR. ACKEN: That's correct.

11 CHMN KATZ: And has the applicant complied with
12 posting and publishing the requirements of the procedural
13 order and Section 40-360.04(A), and I'm assuming signs
14 have been posted?

15 MR. ACKEN: Mr. Chairman, we have. We posted
16 signs in six different locations, as we had proposed in
17 the prefiling conference. The Notice of Hearing was
18 published in the Yuma Sun on December 23rd and 24th of
19 last year.

20 CHMN KATZ: And I have received from Ms. Benally
21 a summary of witness -- of her one witness's possible
22 testimony.

23 Have you filed yours as of yet, Mr. Acken.

24 MR. ACKEN: We did. We filed that Friday
25 afternoon with the witness summary. We are going to

1 have -- my math here, I guess we're going to have six
2 witnesses, three panels for this project. I'm happy to
3 go through them with you now if you'd like, but yes, we
4 did file that Friday afternoon. And earlier today we
5 filed the proposed forms of CEC.

6 CHMN KATZ: Okay. And, again, Tod will pass
7 those on to me when we get them. I just don't have that
8 as of yet. I did receive, though, two documents, one is
9 the Orchard Solar 230kV Generation Intertie Project
10 Public and Stakeholder Involvement Summary. And I've
11 also received the Orchard Solar Project Siting Committee
12 Route Tour Itinerary.

13 And do you want to have those documents marked
14 as exhibits for this hearing or not?

15 MR. ACKEN: Yes, for the prehearing, the public
16 outreach summary, and that's a requirement of the
17 procedural order, so we've marked that as YBN-PHC-1. And
18 then we have put together a route tour, in the event the
19 Committee wants to tour this route, and that would be
20 YBN-PHC-2.

21 CHMN KATZ: Okay. We'll make sure to get copies
22 of those exhibits to our court reporter, so they can be
23 attached now to this transcript. And I do understand
24 that you've also marked them as trial exhibits.

25 (Marked and admitted into evidence

1 Exhibits YBN-PHC-1 and YBN-PHC-2.)

2 CHMN KATZ: And let me just ask you that, I
3 don't think we need to review the agenda, it's pretty
4 much the standard agenda. And I, unless there's
5 something unusual, I don't think we need to do that. But
6 we are going to be January 13th through the 17th [sic] at
7 the Yuma Holiday Inn, in Yuma, Arizona.

8 And how many days do you think this hearing will
9 likely take if it runs smoothly? We start, obviously, at
10 1:00 p.m. on Monday, the 13th. And I don't know yet
11 whether or not we'll take a tour, but how long do you
12 think this hearing will likely take, both with and
13 without a tour?

14 MR. ACKEN: Just a quick clarification. The
15 hearing is going to start on the 30th, and then extend to
16 the 31st.

17 CHMN KATZ: Okay, yeah. I screwed that up. I
18 was looking at -- okay. But it starts -- I don't know
19 why I said the 13th. That was our last hearing. It's
20 January 30th to February, what, 2nd or 3rd?

21 MR. ACKEN: I think we have a window through the
22 1st or the 2nd.

23 Mr. Chairman, in response to your question, this
24 is -- I expect we will be done on the 31st, even if the
25 Committee elects to take a tour. The -- obviously, it

1 will be later on the second day if the Committee does do
2 a tour. But this still can be done in the day and a half
3 starting Monday afternoon and finishing Tuesday. We are
4 not anticipating any adverse intervention.

5 Ms. Benally, on behalf of APS has -- is seeking
6 intervention, but that's not going to add any significant
7 time to the hearing. And, more importantly, I don't
8 anticipate that to be adverse, the kind of intervention
9 that would create additional time. So I think this one
10 should be done sometime Tuesday, whether it's done in the
11 morning or the afternoon will depend on whether the
12 Committee wants to take a tour.

13 And let me just ask you, what are your
14 recommendations with respect to a tour? Are we largely
15 in a rural or agricultural area or do you think there
16 might be any significant impact upon an established
17 residential or business community?

18 MR. ACKEN: The short answer is no. This is a
19 rural residential, and then you have the -- and
20 agricultural, and then you have the military
21 installation. We're somewhat, I characterize it as,
22 agnostic to a tour. A lot of times I'll be, like, I
23 don't think a tour makes sense, it's too remote, it's too
24 short. Here it's doable. It's relatively close to the
25 hearing location. It's a nine-mile transmission line

1 route. And so if the Committee wants to do it, we're
2 prepared to do it.

3 We're also going to have, as you would expect,
4 and as what Brightnight has done previously on their Box
5 Canyon is have what I think is like -- they've got the
6 best virtual tours out there, and so we will have an
7 excellent virtual tour and several simulations as well.

8 So if the Committee decides that's sufficient,
9 there's certainly going to be ample information for them
10 should they decide not to take a tour.

11 CHMN KATZ: Okay. And I'm assuming that with
12 your having filed the exhibits and witness summaries,
13 those have been exchanged with Ms. Benally and vice
14 versa. Would that be a correct assumption?

15 MR. ACKEN: Yes, Mr. Chairman.

16 CHMN KATZ: And do you agree, Ms. Benally?

17 MS. BENALLY: That is correct, Mr. Chairman.
18 APS has also provided any of our documents with
19 Mr. Acken.

20 CHMN KATZ: Thank you.

21 MR. ACKEN: I will caveat that. Pursuant to the
22 procedural order, we have an obligation to provide all
23 exhibits the Friday before. I spoke with Ms. Benally,
24 we're still working through our slide presentation, so
25 she graciously agreed to give us a little bit more time

1 to provide that to her.

2 CHMN KATZ: That's fine. And as long as she has
3 everything in advance of the hearing, we have this week,
4 then, to complete any exchange of information or
5 exhibits, but I'm not expecting any problems.

6 I'm assuming that all required financial
7 arrangements have been made between the applicant and the
8 Corporation Commission, and that the Arizona Corporation
9 Commission has received -- their staff has received
10 notification of these proceedings?

11 MR. ACKEN: Yes, Mr. Chairman.

12 CHMN KATZ: Okay. And I'm not going to take the
13 time right now to review your proposed CEC. I will take
14 a look at that before the hearing, and obviously, we'll
15 use our -- and you're seeking two CECs, correct, because
16 you may have signed one of the two?

17 MR. ACKEN: That's correct.

18 CHMN KATZ: And we'll do as we've done in prior
19 hearings, we will probably label the PDF -- once we get
20 them, Tod, with a little assistance from me, will edit
21 the proposed CECs. I will advise him if there are any
22 unique conditions or terms that we need to be adding to
23 the CECs. But we will mark as Chair Exhibit Number 1, a
24 PDF version of the first CEC; and Chair Exhibit 2, the
25 Word version, which we will work from, and edit during

1 the course of deliberations.

2 CEC -- excuse me -- Chair Exhibit Number 3 will
3 be the PDF version of CEC-2; and Chair Exhibit Number 4
4 will be the Word version of CEC -- or proposed CEC-2.

5 That all being said, are there currently any
6 concerns with the form of the CEC? Because I'm assuming
7 that's pretty much going to have the standard conditions,
8 findings, and conclusions; is that substantially correct?

9 MR. ACKEN: Yes, Mr. Chairman, we're not
10 proposing to reinvent the wheel on either the form or the
11 proposed conditions -- excuse me -- the one -- one thing
12 to note as you look through the proposed forms of order
13 is CEC facilities that may be assigned to APS are --
14 there's more of them than typical. Usually when you have
15 the two CECs, the APS piece is just their interconnection
16 at their existing facility. And here it may be all of
17 the transmission line, whereas the interconnection
18 facilities would be owned by Brightnight. And so that's
19 just a little bit of a different nuance, but as far as
20 form and substance, it's the same.

21 CHMN KATZ: That will be fine. And what I've
22 done in the last couple of hearings where we've had two
23 CECs, is we go in detail through the first one, and to
24 the extent that the second one is nearly identical except
25 for the description of either the property or the

1 project, we don't necessarily go through each and every
2 paragraph like we do on the initial review of the first
3 CEC, but we'll play that by ear, depending on how
4 different they are.

5 And did you have some clearance that you needed
6 to get from BLM or a federal agency or was NEPA in any
7 way involved?

8 THE REPORTER: Mr. Acken, you're on mute.

9 MR. ACKEN: Thank you.

10 There is a federal right-of-way required for the
11 portion of the transmission line that will be on the
12 military range. That process and those discussions are
13 occurring. It does trigger a NEPA review in conjunction
14 with that any time there's a federal approval. And
15 Mr. Pollpeter will speak to that at the hearing if they
16 ask for the status.

17 CHMN KATZ: But I'm assuming that that will be
18 one of the short form studies; we're not looking at a
19 full environmental impact statement?

20 MR. ACKEN: That's correct.

21 CHMN KATZ: And basically most of the Committee
22 members, even though they usually get a ton of stuff in
23 the mail, with everything being filed electronically,
24 most of our Committee members are happy to view things on
25 a computer or on a -- on a tablet of some type. I'm

1 assuming that your exhibits will all be loaded on a
2 tablet and also will be projected, to the extent
3 necessary, on screens during the course of the hearing?

4 MR. ACKEN: Yes, Mr. Chairman, that's correct.

5 And, Ms. Benally, if you have anything that you
6 want shown, just let us know and we'll make sure to get
7 that uploaded as well.

8 CHMN KATZ: Okay. And one thing that I always
9 need is I always need one hard copy of the exhibits.
10 We'll already have the application, but Tod is our
11 librarian, and we keep hard -- hard copies of exhibits
12 and applications on file in our office, even though they
13 are retrievable from the docket.

14 Are there any other issues that you, Mr. Acken,
15 are concerned with that we need to address, legal issues,
16 or procedural issues?

17 MR. ACKEN: No, Mr. Chairman. I guess at this
18 time, I'd ask, you know, the Brightnight team if I missed
19 anything or if there's anything, please speak up.

20 MR. POLLPETER: Brandon Pollpeter, I appreciate
21 the effort. Appreciate everyone's time.

22 MR. ELLIS: Nothing from here.

23 MS. KANE: Chairman?

24 CHMN KATZ: Yes.

25 MS. KANE: This is Kate Kane with Commission

1 Staff. I just wanted to confirm if this would be a
2 remote hearing or is it required that we all go to Yuma?

3 CHMN KATZ: No, it's -- it's either virtual or
4 in person.

5 MS. KANE: Oh, okay.

6 CHMN KATZ: Probably -- probably about half or
7 so of our Committee will be there in person. I'm
8 carpooling with Member Drago, but I'm expecting Member
9 Palmer and Member Hamway to be there in person. Some of
10 the members will be there virtually. And you're free,
11 Ms. Kane, to appear either virtually or in person,
12 whichever works best for you.

13 MS. KANE: I appreciate that.

14 CHMN KATZ: And has the Commission filed a
15 letter in support or -- of the project? And I'm assuming
16 if yes, that will be marked as an exhibit by you,
17 Mr. Acken?

18 MS. KANE: So I have an update from my engineer.
19 He said that he provided details of the hearing to his
20 contact at Parks and the Trails office, along with the
21 standard CEC conditions, and he hasn't heard anything
22 back.

23 CHMN KATZ: Okay.

24 MR. ACKEN: And that's with respect to SHPO, and
25 so -- and so our team will speak to SHPO consultation and

1 discussion of cultural resources.

2 Ms. Kane, there's also the response, and I
3 haven't seen it, I think that Mr. Chair was referring to
4 the Staff usually responds to the Chair --

5 MS. KANE: Right.

6 MR. ACKEN: -- is requesting input. And to
7 Staff's -- in your defense, not that there needs defense,
8 but with the holidays it took us a little bit of time to
9 get them the System Impact Studies, but they do have that
10 information. We have responded to their --

11 CHMN KATZ: Okay. Yeah, if there's a written
12 response, please make sure that you mark it as an
13 exhibit, because I'd like it to be part of the record.

14 Outside of that, I just want to ask you,
15 Mr. Acken, unrelated to this matter, you had e-mailed me
16 while I was out with my wife for her shoulder repair, and
17 I don't know if you still had a matter that you wanted to
18 discuss with me unrelated to this hearing?

19 MR. ACKEN: I would love to. So if we can take
20 a couple minutes after this so -- or whenever convenient
21 for you, that would be great. Thank you.

22 CHMN KATZ: Yeah, what I can do is have you call
23 me on my cell phone. I'm in a -- I'm in a temporary
24 office, because mine is -- the whole third floor of our
25 building is torn apart for LED lighting and new

1 air-conditioning and all of that other good stuff. I
2 don't know if you have my cell phone number. I can give
3 it to you now and I can call you in a few minutes.

4 MR. ACKEN: I think I have it.

5 I have it. Thank you.

6 CHMN KATZ: Okay. Just feel free to give me a
7 call.

8 Tod, is there anything else that we need to
9 cover?

10 MR. BREWER: Thank you, Mr. Chairman. I don't
11 believe so.

12 CHMN KATZ: Okay. I'm looking forward to seeing
13 some -- I guess all of you -- coming up in Yuma on the
14 30th of this month. And I was getting ahead of myself
15 when I looked at the 13th through the 17th. I made a
16 reservation for the second hearing in Yuma earlier today.

17 But this one is my second-to-my-last hearing as
18 chairman, because I retire on February the 28th. So
19 those of you who will be at our next hearing, I'll say a
20 good-bye to you, if you won't be at my final one, the
21 second one in Yuma, a couple of weeks later.

22 But anyway, stay safe, work hard, and I look
23 forward to seeing you next week. Thank you.

24 MR. ACKEN: Thank you.

25 CHMN KATZ: We are in recess.

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(The hearing concluded at 3:31 p.m.)

1 STATE OF ARIZONA)
2 COUNTY OF MARICOPA)

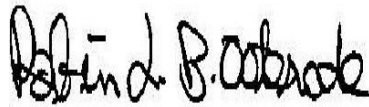
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4 BE IT KNOWN that the foregoing proceedings were
5 taken before me; that the foregoing pages are a full,
6 true, and accurate record of the proceedings all done to
the best of my skill and ability; that the proceedings
were taken down by me in shorthand and thereafter reduced
to print under my direction.

7 I CERTIFY that I am in no way related to any of
8 the parties hereto nor am I in any way interested in the
outcome hereof.

9 I CERTIFY that I have complied with the ethical
10 obligations set forth in ACJA 7-206(F)(3) and ACJA 7-206
11 (J)(1)(g)(1) and (2). Dated at Phoenix, Arizona, this
23rd day of January, 2023.

12



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14

ROBIN L. B. OSTERODE, RPR
CA CSR No. 7750
AZ CR No. 50695

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* * * * *

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18 I CERTIFY that Glennie Reporting Services, LLC,
19 has complied with the ethical obligations set forth in
ACJA 7-206(J)(1)(g)(1) through (6).

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GLENNIE REPORTING SERVICES, LLC
Registered Reporting Firm
Arizona RRF No. R1035

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