

1 BEFORE THE ARIZONA POWER PLANT LS-284
2 AND TRANSMISSION LINE SITING COMMITTEE

3
4 IN THE MATTER OF THE) DOCKET NO.
APPLICATION OF THSI BN, LLC,) L-21220A-23-0019-00215
5 IN CONFORMANCE WITH THE)
REQUIREMENTS OF ARIZONA) LS CASE NO. 215
6 REVISED STATUTES, SECTIONS)
40-360, ET. SEQ., FOR A) PREHEARING CONFERENCE
7 CERTIFICATE OF ENVIRONMENTAL)
COMPATIBILITY AUTHORIZING)
8 THE THREE SISTERS SOLAR 230)
KILOVOLT GEN-TIE PROJECT)
9 LOCATED IN COCHSIE COUNTY,)
ARIZONA.)
10)

11 At: Phoenix, Arizona
12 Date: February 21, 2023
13 Filed: February 24, 2023
14

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16 REPORTER'S TRANSCRIPT OF PROCEEDINGS
17 (Pages 1 through 18)

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INDEX TO EXHIBITS

NUMBER	DESCRIPTION	IDENTIFIED
Exhibit 1	Three Sisters Solar Project Proposed Corridor Update	6
Exhibit 2	Three Sisters Solar 230-Kilovolt Gen-Tie Project Public and Stakeholder Involvement Summary	--

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 2:01 p.m. on February 21, 2023,
5 with all participants appearing via videoconference.

6

7 BEFORE: PAUL A. KATZ, Chairman

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9 APPEARANCES:

10 For the Applicant:

11 ALBERT H. ACKEN
12 Acken Law
13 111 East Dunlap Avenue
14 Suite 1-172
15 Phoenix, Arizona 85020

14

15

ALSO PRESENT:

16

17 Mr. Erik Ellis, BrightNight, Vice President of
18 Development
19 Mr. Brian Lindenlaub, WestLand Resources, Vice
20 President
21 Ms. Lisa Glennie, Glennie Reporting Services, LLC
22 Mr. Tod Brewer, Assistant to Chairman Katz

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1 CHMN. KATZ: This is the time we have set
2 for a prehearing conference in CEC-215, the THISbn [sic],
3 LLC, Three Sisters Solar Project -- I'll just refer to it
4 as the Three Sisters Solar Project -- in I believe Cochise
5 County. And I would ask counsel for the applicant, if you
6 would, to please identify himself for the record.

7 MR. ACKEN: Good afternoon, Mr. Chairman.
8 Bert Acken of Acken Law on behalf of the applicant,
9 THSibn, LLC, or, as you said and as we'll refer to it,
10 Three Sisters.

11 CHMN. KATZ: Okay.

12 MR. ACKEN: With me is project director,
13 vice president of development Erik Ellis; and also
14 environmental consultant with WestLand, Brian Lindenlaub.

15 CHMN. KATZ: Okay.

16 MR. ELLIS: Chairman Katz, it's good to see
17 you again and congratulations on your last week at -- of
18 service in this role.

19 CHMN. KATZ: Well, I have enjoyed my 20-some
20 months doing this, and I think that things will be left in
21 good hands down the road.

22 Let me just ask one question of you,
23 Mr. Acken. What -- When we had our prefiling conference
24 we weren't exactly sure where this hearing was going to be
25 held. Do we now have a location?

1 MR. ACKEN: We do. We're going to be at the
2 Willcox Community Center. It's a good venue. About as
3 close to the site of the project as we can find. It has
4 been used in siting matters in the past, including ones
5 that I've handled, so it will work well for our purposes.

6 CHMN. KATZ: And where will the lodging be
7 for the Committee members and the staff, et cetera? Do we
8 know that as of yet?

9 MR. ACKEN: Off the top of my head I think
10 it's the Holiday Inn. It's nearby.

11 CHMN. KATZ: Just make sure you confirm that
12 with Tod so we can make sure that our Committee members
13 end up in the right place.

14 MR. ACKEN: Will -- will do. I'm hopeful by
15 now that most have been able to make reservations. If
16 there are any issues I'm sure Tod will let me know.

17 CHMN. KATZ: Okay. And I'm assuming that we
18 still don't have any notices to intervene. I recall that
19 the entire project is within Cochise County, but that the
20 land department and the City of Willcox or the Town of
21 Willcox have also received notices of the proceeding.

22 MR. ACKEN: Yeah, that's correct. No
23 intervention.

24 We are going to -- Portions of the corridor
25 are on state land, so they have been notified. Whether

1 the project actually uses state land is still to be
2 determined, but since a portion of the corridor they have
3 notice.

4 CHMN. KATZ: And you -- before we get into
5 that you indicated that there may be an issue with respect
6 to Adam Stafford taking over this position, at least for
7 this upcoming hearing. Please educate me.

8 MR. ACKEN: It's not -- it's not an issue
9 with respect to Mr. Stafford, it's just I've got a unique
10 situation -- somewhat unique situation. We are going to
11 ask for an expanded corridor.

12 And at this time, Mr. Ellis, if you could
13 show your screen. Or I can.

14 I marked for identification Prehearing
15 Exhibit 1, which is a series of slides, and I'll use those
16 to kind of walk through what's happening here. And so
17 we're -- Let me set the table while he's pulling that up.

18 Thank you.

19 After the Orchard hearing BrightNight
20 received interest from third parties regarding perhaps
21 another hydrogen-type facility to be co-located with this
22 project. And so to accommodate that possibility, we're
23 asking for an expanded siting area in which -- that we
24 would be able to site the interconnection facilities for
25 whether it's a hydrogen facility or some other

1 manufacturing facility.

2 So if we could go to the next slide.

3 So this shows the original corridor in the
4 CEC application shown in green. I draw your attention to
5 the southernmost portion of the area. There's two
6 squares. There's -- That was the expected substation
7 location that Mr. Ellis is highlighting with his cursor,
8 and then there was an alternate substation location to the
9 southwest that is shown right there.

10 That was in our public notice and -- as well
11 as in that -- and then obviously in the notice of hearing.

12 If we could switch to the next slide.

13 So what we would like to do is expand the
14 footprint of that substation interconnection areas to what
15 were, you know, those green squares on the slide before to
16 these rectangles shown in the black dashed lines. There's
17 two of them. The one to the northeast, you see it's
18 labeled advanced purchase negotiations. BrightNight is in
19 discussions with the property owner to acquire that land.
20 The property to the southwest, that is on property that
21 BrightNight currently holds title, already owns, and was
22 already set for a portion of the solar project facility to
23 the south. So --

24 And then if we could go to the next one.

25 Which to give kind of the regional context,

1 this -- again, the yellow shows lands that the applicant
2 is in negotiations to acquire. The red is land -- the
3 applicant-owned land already for the -- for the
4 transmission line infrastructure, as well as the solar
5 matter infrastructure as well.

6 So it is a larger area. It will have some
7 additional equipment in the nature of some additional
8 substations, and so we are asking -- we will be asking
9 Mr. Stafford on Monday to make a determination that it is
10 not a substantial deviation from what was originally
11 noticed.

12 To address public notice, we've taken a
13 number of steps. We have sent out supplemental mailers.
14 Social media we'll talk about. This area is not a ripe
15 area for social media outreach, given the nature of the
16 handful of people that live out there. It doesn't seem
17 to -- We just haven't seen much social media engagement,
18 so we tried other means. Our signs were updated. The
19 website was updated. And we also did a supplemental
20 newspaper publication to make sure that we got the word
21 out about this expanded requested corridor.

22 CHMN. KATZ: I don't think that that should
23 be a problem, as long as notice has -- has gone to the
24 adjacent landowners. And thus far there's no
25 intervention. I haven't received any negative comments.

1 I don't know if in your outreach you have had anybody
2 voice opposition to the project. But the expansion isn't
3 into any residential area or existing active agricultural
4 or industrial area, so I don't see that there would be a
5 problem.

6 MR. ACKEN: Thank you, Mr. Chairman. And
7 all of that is accurate. It will only be done either on
8 land BrightNight owns or land BrightNight acquires. This
9 is a very -- as you will see from the maps, this is a very
10 sparsely populated, at best, part of the state.

11 CHMN. KATZ: And I will ask, essentially,
12 that you have complied with or the applicant has complied
13 with the posting and publishing requirements of the
14 procedural order. Is that correct?

15 MR. ACKEN: We have, as supplemented by my
16 recent statement.

17 CHMN. KATZ: And I know it's in the
18 remote -- in a remote area, but have there been any signs
19 posted along any public corridors?

20 MR. ACKEN: Yes. Consistent with our
21 representation at the prefiling conference, we posted two
22 signs in the vicinity of the project and then again we
23 updated them with new information as soon as we had it, so
24 they are current.

25 CHMN. KATZ: And with respect to our agenda,

1 it's pretty much a standard agenda. I don't think there
2 will be any objections or additions necessary. Is that
3 correct?

4 MR. ACKEN: That's correct. We do not
5 anticipate intervention. You know, it just -- there's not
6 a lot of interest. I mean, a handful of people showed up,
7 I think, at the public open house and we'll talk about
8 that. You know, had some curiosity questions. But as far
9 as potential adverse -- or concerns, we just haven't heard
10 them.

11 CHMN. KATZ: Okay. And essentially our
12 hearing would begin next Monday, the 27th of February.
13 And how long do you -- Well, I'll get to that in a minute,
14 whether or not you think a tour is necessary.

15 But how long do you think this hearing is
16 going to take to present?

17 MR. ACKEN: I expect this to be a relatively
18 short hearing. It's not a complex area, land position,
19 resources. You know, there's nothing that we're proposing
20 that the Committee hasn't seen already. So I'm
21 anticipating we'll be done with our direct case by the --
22 you know, by late afternoon of that first day.

23 CHMN. KATZ: Okay. So chances are we'll be
24 done on the second day, but at the latest by midday on
25 Wednesday, the 29th. Or not the 29th, that's March 1st.

1 MR. ACKEN: Oh, yes. I would be shocked if
2 we are still going on the 1st. I would expect that we'll
3 be done on the 28th.

4 CHMN. KATZ: Okay. And let me just ask you,
5 I'm assuming that we'll set aside the public comment
6 session for 5:30 on the first day of the hearing. We will
7 begin that hearing in Cochise County on the -- at
8 1:00 p.m. and go till 4:30 or 5:00 o'clock and then have
9 public comments, if any, at 5:30 p.m. Is that correct?

10 MR. ACKEN: Yes, Mr. Chairman.

11 CHMN. KATZ: And what about a tour; do you
12 think a tour is advisable in this matter? I know that you
13 are going to have a Google Earth or some similar virtual
14 presentation.

15 MR. ACKEN: We will be prepared to do a tour
16 if the Committee wants to do one, but in this case we're
17 not recommending one. And it's -- This is a remote area.
18 There's no public access to the site within a mile or two.
19 You see some of the roads out there. The closest you can
20 get is maybe a mile or so away from the project. And
21 since it's only a mile-long transmission line to begin
22 with, we think that the virtual tour will, frankly,
23 provide a better view for the committee of -- than trying
24 to guesstimate what it looks like from over a mile away.

25 CHMN. KATZ: Right. Okay. And, again,

1 maybe sometime in the not too distant future, depending on
2 what kind of sausage that the legislature makes, we will
3 be exempting mile-long or shorter transmission lines. The
4 only thing I would think needs to be added is that I think
5 it should be 1,000, maybe 2,000 feet away from the nearest
6 residence. But that's a discussion for another day.

7 I'm assuming that you are having the
8 standard or one of the standard teams do the IT and
9 audiovisual presentation.

10 MR. ACKEN: We are. And we have the links.
11 I hope I have already shared them with Tod. If not, I'll
12 make sure that he has them for the Committee who attends
13 virtually.

14 CHMN. KATZ: Okay.

15 MR. ACKEN: As well as the public links as
16 well.

17 CHMN. KATZ: Do you have any other concerns
18 about the hearing and preparation for it that haven't
19 already been lodged?

20 MR. ACKEN: Oh. No. Like I said, the one
21 unique feature of this is that request or determination of
22 no substantial deviation.

23 CHMN. KATZ: Okay.

24 MR. ACKEN: But otherwise this should be
25 anticipated to be a very straightforward hearing.

1 CHMN. KATZ: And you may want to have a
2 condition or a -- maybe a finding of fact or conclusion of
3 law that indicates that the expanded footprint is not a
4 substantial change. You may want to put that in there, or
5 at least have it available to add.

6 MR. ACKEN: Okay.

7 CHMN. KATZ: And with respect to attire, I
8 am -- Even though I saw Mr. Stafford for a very brief
9 minute or so downstairs wearing a suit and tie, I will
10 just indicate that business casual is fine attire for
11 lawyers as well as witnesses. If anybody wants to get --
12 wear a suit and tie or whatever, you won't get any special
13 points for doing so. But that's the way we'll keep it,
14 unless Mr. Stafford changes that. And I don't think he
15 will.

16 And have you already filed or when will you
17 be filing the witness summaries and your exhibits?

18 MR. ACKEN: Mr. Chairman, I'm a little late
19 on that so (indecipherable) --

20 (Reporter clarification.)

21 MR. ACKEN: A little behind the procedural
22 order. Would ask that we be allowed until Thursday to
23 file both the witness summaries and the form of CEC.

24 CHMN. KATZ: So that would be till the 23rd?

25 MR. ACKEN: Yes.

1 CHMN. KATZ: That's fine.

2 MR. ACKEN: Thank you.

3 CHMN. KATZ: And I'm assuming that -- What
4 initials are you using for the hearing exhibits? Just
5 Three Sisters or TSS? Or how are you going to label them,
6 just so we know?

7 MR. ACKEN: Probably THSI.

8 CHMN. KATZ: Okay. I'm just going through
9 my checklist and marking a whole bunch of boxes as not
10 applicable.

11 I'm assuming that all necessary financial
12 arrangements have been made between the applicant and the
13 Arizona Corporation Commission and that ACC staff has
14 received notice of the -- these proceedings.

15 MR. ACKEN: They have. Both -- We have
16 coordinated with respect to application fees, and ACC
17 staff has filed a letter already regarding their review
18 of --

19 CHMN. KATZ: And I haven't seen their
20 letter. That doesn't mean it wasn't sent to us, but if
21 you have a copy of it you may want to send it to me or to
22 Tod and he will distribute it.

23 MR. ACKEN: Okay. We will do so.

24 CHMN. KATZ: And mark it as an exhibit as
25 well so that we have it as part of the record.

1 And I'm not going to review your proposed
2 CEC at this point in time. I'm assuming it's going to be
3 pretty much standard conditions, as well as findings of
4 fact and conclusions of law, with the exception of the one
5 matter that we earlier discussed about the expanded
6 footprint if the chair and committee feels it's necessary.

7 MR. ACKEN: Yes, Mr. Chairman. I envision
8 using the Orchard CEC as our template. It hasn't been
9 reviewed yet by the Commission, but that one was approved
10 by the committee and it's standard, so in that way it
11 would be standard for the applicant for all their projects
12 as well.

13 CHMN. KATZ: And has the applicant made
14 application for and/or received any necessary federal,
15 state, county, city or town permits?

16 MR. ACKEN: So there is no trigger. There's
17 no federal approval process for this project. The state
18 land piece is a to-be-determined, so that hasn't been
19 done. And then the county piece (indecipherable) --

20 THE COURT REPORTER: I'm sorry, sir, you're
21 kind of --

22 CHMN. KATZ: You're fading out.

23 THE COURT REPORTER: -- fading out. The
24 county piece?

25 MR. ACKEN: Special use permit process.

1 I don't know why I'm having trouble here.

2 CHMN. KATZ: You were fine and then all of a
3 sudden you faded. So I don't know if you moved away from
4 your microphone or what, but that's happened just a couple
5 times.

6 But anyway, you are still waiting for the
7 special land use permit from the County?

8 MR. ACKEN: That has not been applied for at
9 this time.

10 CHMN. KATZ: Okay.

11 MR. ACKEN: But it will be.

12 CHMN. KATZ: Okay. And there's no NEPA
13 involved because it's not on federal land and federal
14 monies aren't involved. Is that correct?

15 MR. ACKEN: That's correct.

16 CHMN. KATZ: And most of our Committee
17 members are happy to have electronic copies of the
18 notebooks that you normally prepare. Unfortunately,
19 sometimes you have to file 25 copies of things and some of
20 our Committee members go crazy when they get two or three
21 boxes full of documents. But until we can get those rules
22 changed, we don't need you to bring multiple copies of
23 exhibits and stuff physically if they are going to be
24 available on a tablet such as an iPad or something
25 similar.

1 MR. ACKEN: And they will.

2 CHMN. KATZ: And you should have at least
3 a -- one notebook with the -- I think we already have your
4 application that Tod will put in a notebook. He can
5 correct me in a moment if I'm wrong. But we'll need one
6 notebook with the hard copies of the exhibits. We keep
7 copies of the application and the exhibits, the hard
8 copies, in the library, so to speak, that Tod maintains.

9 But are there any other issues or matters of
10 concern?

11 MR. ACKEN: Nothing, Mr. Chairman. Thank
12 you.

13 CHMN. KATZ: Is there anything, Tod, that I
14 have failed to cover?

15 MR. BREWER: No, Mr. Chairman. Thank you.

16 CHMN. KATZ: And Bert, I just want to tell
17 you, you missed my birthday celebration in Yuma, but I
18 just turned 72. Not that that really matters, but --

19 We can go off the record.

20 (Whereupon, at 2:22 p.m. the proceedings
21 ended.)

22

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24

25

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

3 BE IT KNOWN that the foregoing proceedings are a
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12 obligations set forth in ACJA 7-206(F)(3) and ACJA
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14 Dated at Prescott, Arizona, this 23rd day of
15 February, 2022.

16 

17 _____
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21 * * * * *

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