

1 BEFORE THE ARIZONA POWER PLANT

LS-343

2 AND TRANSMISSION LINE SITING COMMITTEE

3

4	IN THE MATTER OF THE APPLICATION OF)	DOCKET NO.
4	UNS ELECTRIC, INC. IN CONFORMANCE)	L-00000F-24-0056-
5	WITH THE REQUIREMENTS OF A.R.S.)	00230
5	40-360, ET SEQ., FOR A DISCLAIMER)	
6	OF JURISDICTION, OR, IN THE)	
6	ALTERNATIVE, A CERTIFICATE OF)	
7	ENVIRONMENTAL COMPATIBILITY)	
7	AUTHORIZING THE EXPANSION OF BLACK)	
8	MOUNTAIN GENERATING STATION, A)	
8	NATURAL GAS-FIRED, COMBUSTION)	PREHEARING
9	TURBINE POWER PLANT NEAR KINGMAN,)	CONFERENCE
9	ARIZONA IN MOHAVE COUNTY.)	

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12 At: Phoenix, Arizona

13 Date: April 16, 2024

14 Filed: April 18, 2024

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16 REPORTER'S TRANSCRIPT OF PROCEEDINGS

17 (Pages 1 through 37)

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24 By: Robin L. B. Osterode, CSR, RPR
 Arizona CR No. 50695

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1 BE IT REMEMBERED that the above-entitled and
2 numbered matter came on regularly to be heard before the
3 Arizona Corporation Commission, 1200 West Washington
4 Street, Phoenix, Arizona, commencing at 3:00 p.m., on
5 April 16, 2024. All parties attended via teleconference.

6

7 BEFORE: ADAM STAFFORD, Chairman

8

APPEARANCES:

9

For the Applicant:

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For Sierra Club:

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22 For ArISEIA:

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1 APPEARANCES (Continued):

2 For WRA:

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4 WESTERN RESOURCE ADVOCATES
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7 For SWEEP:

8 Chanele M. Reyes, Esq.
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12 Also Present:

13 Teresa Bravo, Government Relations Representative
14 Clark Bryner, Manager, Transmission Line Siting
15 Megan Hill, UNS Energy Corporation
16 Adriana Marinez, UNS Energy Corporation
17 Bonnie Medler, UNS Energy Corporation
18 Alex Routhier, WRA
19 Laura Wickham, SWEEP
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1 CHMN STAFFORD: Now is the time set for the
2 prehearing Conference in Docket Number
3 L-00000F-24-0056-002 or line siting case --

4 THE REPORTER: Hold on one second.
5 Ms. Scott, please mute yourself.

6 CHMN STAFFORD: All right.

7 THE REPORTER: I'm sorry, can you -- you
8 said line siting, and then I interrupted.

9 CHMN STAFFORD: 230.

10 THE REPORTER: Thank you.

11 CHMN STAFFORD: Now, we'll start by taking
12 appearances, beginning with the applicant.

13 MS. GRABEL: Thank you, Mr. Chairman.
14 Meghan Grabel from the law firm Osborn Maledon, on behalf
15 of the applicant UNS Electric. With me in my office are
16 my colleagues, Tim Sabo and Elias Ancharski. And also
17 with me from the company are their in-house counsel,
18 Megan Hill, as well as Clark Bryner, Adriana Martinez,
19 Bonnie Medler, and Teresa Bravo. I think I got
20 everybody.

21 CHMN STAFFORD: All right. And Sierra
22 Club.

23 MR. SHRINATH: Good afternoon, Chairman.
24 Nihal Shrinath on behalf of Sierra Club.

25 CHMN STAFFORD: ArISEIA.

1 MS. JOHNSON: Autumn Johnson, on behalf of
2 the Arizona Solar Industries Association, or ArISEIA.

3 CHMN STAFFORD: WRA, Western Resource
4 Advocates.

5 MS. DOERFLER: Emily Doerfler, here on
6 behalf of Western Resource Advocates. I also have with
7 me Alex Routhier.

8 CHMN STAFFORD: And SWEEP.

9 MS. REYES: Chanele Reyes, on behalf of the
10 Southwest Energy Efficiency Project, or SWEEP. Also here
11 we have Laura Wickham.

12 CHMN STAFFORD: And Commission Staff.

13 MS. SCOTT: Maureen Scott on behalf of the
14 Utilities Division Staff, and Samantha Egan is also
15 appearing on behalf of the Staff.

16 CHMN STAFFORD: Okay. To the applicant, I
17 just want to confirm that you made lodging arrangements
18 for the out-of-town committee members for the hearing?

19 MS. GRABEL: Yes, Mr. Chairman, we have.
20 And we've been in communication with those that have
21 asked for out-of-town lodging.

22 CHMN STAFFORD: Okay. All right. Now, for
23 the hearing on Wednesday, the 24th, we're going to start
24 at 10:00 in the hearing room 1 at the Commission. Will
25 you have sign-in forms for the public commenters with

1 the -- so they can put their name, address, phone, or
2 e-mail and have a box to check if they wish to speak?

3 MS. GRABEL: We will, Mr. Chairman, yes.

4 CHMN STAFFORD: Okay. The attire for the
5 hearing will be business casual.

6 What is the status of filing and exchange
7 of the witness summaries or written testimony?

8 MS. GRABEL: Mr. Chairman, all of the
9 parties have exchanged their testimonies and exhibits, to
10 the extent they are putting on a witness or offering
11 evidence. I'll also let you know that the parties have
12 just recently agreed to a joint stipulation of facts that
13 I hope to file in the docket soon.

14 CHMN STAFFORD: Okay. You jumped a little
15 ahead of schedule, but I'm glad to --

16 MS. GRABEL: Oh, sorry.

17 CHMN STAFFORD: And the parties exchanged
18 all the exhibits too, correct?

19 MS. GRABEL: Correct.

20 CHMN STAFFORD: All right. I want to let
21 everybody know that you'll need to have copies of the
22 exhibits for the Committee members. They can be on a
23 tablet, but I'll need at least two hard copies, one for
24 me and one for the court reporter. If the applicant -- I
25 assume you're going to be putting your exhibits on

1 tablets for the members?

2 MS. GRABEL: I actually had just intended
3 to put them in binders, Mr. Chairman. It's not that
4 voluminous, compared to other CEC applications.

5 CHMN STAFFORD: Okay. All right. So then
6 I guess the other intervenors will have to prepare their
7 own binders of exhibits or tablets, if that's how they
8 wish to proceed. My thought is that if the applicant was
9 going to be doing tablets, then we could put all the
10 exhibits on the tablets, if they just got them to you
11 ahead of time to upload. But if you're not using
12 tablets, you're using notebooks, then that's what we're
13 going with.

14 MS. GRABEL: Typically, it's the AV team
15 these days, Mr. Chairman, that actually provides the
16 tablets. So since we're not using the AV team, we don't
17 have that resource.

18 CHMN STAFFORD: You couldn't even just sub
19 out just the one, just the tablets, though, the larger
20 package, huh?

21 MS. GRABEL: I guess not.

22 CHMN STAFFORD: All right. The applicant's
23 filed a proposed form of order. I haven't seen any from
24 any other parties. Are those coming?

25 (No response.)

1 CHMN STAFFORD: No? Okay.

2 Opening statements. Ms. Grabel, about how
3 long do you think your opening will be?

4 MS. GRABEL: Mr. Chairman, I anticipate
5 that my opening will be about 15 minutes long.

6 CHMN STAFFORD: Okay. Now, I'm envisioning
7 the opening statements will focus on facts and not the
8 legal argument. That will come later in the oral
9 argument or closing portion of the hearing.

10 Sierra Club, how long do you anticipate
11 your opening statement to be?

12 MR. SHRINATH: We anticipate it could be
13 anywhere from five to 10 minutes long.

14 CHMN STAFFORD: Ariseia?

15 MS. JOHNSON: Chairman, I think that that
16 would be probably very comparable for us, under 10
17 minutes. I did want to ask, as far as the proposed order
18 goes, that's not something that we've met and conferred
19 about. If we wanted to meet and confer on providing an
20 additional proposed order, when would we need to submit
21 that?

22 CHMN STAFFORD: Well, I prefer to have it
23 filed in the docket prior to the hearing. That way the
24 applicant gets to take a look at it, they're not
25 blindsided at the hearing with this new proposed order.

1 I know the order -- the procedural order required them to
2 do it and made it optional for the other parties. I just
3 wanted to make sure that it wasn't forgotten, it was just
4 a -- hadn't been done yet.

5 WRA, how long do you anticipate your
6 opening statements to be?

7 MS. DOERFLER: No more than 10 minutes.

8 CHMN STAFFORD: And SWEEP?

9 MS. REYES: Very brief. Probably five
10 minutes, if that.

11 CHMN STAFFORD: Okay. And Commission
12 Staff?

13 MS. SCOTT: Ours is likely to be just a few
14 minutes.

15 CHMN STAFFORD: So less than five?

16 MS. SCOTT: Yes.

17 CHMN STAFFORD: All right. Now, for
18 witnesses and exhibits, the applicant's going to have
19 Clark Bryner and Dylan Bearce as a panel, correct?

20 MS. GRABEL: Yes, Mr. Chairman. We
21 anticipate that Mr. Bryner will give most of the
22 testimony. He'll walk through a PowerPoint presentation.
23 And Mr. Bearce will be available to answer questions that
24 Mr. Bryner is unable to answer.

25 CHMN STAFFORD: Okay. And how long do you

1 anticipate to put on your direct case?

2 MS. GRABEL: We haven't run through it yet,
3 Mr. Chairman, but I don't anticipate it will go more than
4 an hour.

5 CHMN STAFFORD: All right. And you have 14
6 exhibits?

7 MS. GRABEL: Yes, sir.

8 CHMN STAFFORD: All right. I've only seen
9 the exhibit list for the applicant. I assume all the
10 other parties have looked at these exhibits. Does
11 anybody have any objections? Are they willing to
12 stipulate to the admission of the exhibits proposed by
13 the applicant?

14 MS. GRABEL: Mr. Chairman, yes, the parties
15 met and conferred, and we've agreed to stipulate to the
16 admission of all of the exhibits, subject to all parties
17 are able to make an objection, but those objections
18 specifically go to the weight of the evidence, and not as
19 to admissibility.

20 CHMN STAFFORD: Okay. So everyone is
21 agreeing to stipulate to the submission of all of
22 applicant's exhibits, okay.

23 All right. And then --

24 MS. GRABEL: All of all parties' exhibits,
25 Mr. Chairman.

1 CHMN STAFFORD: Okay. All exhibits.

2 MS. GRABEL: Correct.

3 CHMN STAFFORD: All right. Well, let me
4 run through real quickly here and see how many exhibits
5 we're talking about.

6 Sierra Club, how many exhibits do you
7 intend to introduce?

8 MR. SHRINATH: We have 32 exhibits, but
9 about 15 of these are short data responses.

10 CHMN STAFFORD: Okay. ArISEIA, how many
11 exhibits do you have?

12 MS. JOHNSON: We have 10 exhibits, however,
13 I'll note that because we -- there was an e-mail exchange
14 of exhibits, some of the exhibits are duplicative
15 amongst -- amongst the intervenors, and so we won't
16 probably be speaking to all of them.

17 CHMN STAFFORD: And WRA, how many exhibits
18 do you intend to introduce?

19 MS. DOERFLER: We have nine exhibits, in
20 total.

21 CHMN STAFFORD: And SWEEP?

22 MS. REYES: Totally duplicative exhibits.
23 SWEEP is not filing any exhibits.

24 CHMN STAFFORD: And Commission Staff?

25 MS. SCOTT: None. Thank you.

1 CHMN STAFFORD: Not even your letter?

2 MS. SCOTT: Yeah. I'm sorry, yes, we will
3 have the letter.

4 CHMN STAFFORD: Okay. One, then, okay.

5 MS. SCOTT: Yes.

6 CHMN STAFFORD: Now, for cross-examination
7 of the applicant's witnesses, I'd like to get estimated
8 times for that from the parties, starting with Sierra
9 Club. How long do you anticipate cross-examining the
10 applicant's witnesses?

11 MR. SHRINATH: Your Honor, we don't have an
12 exact time, but no more than 30 minutes.

13 CHMN STAFFORD: Okay. And ArISEIA?

14 MS. JOHNSON: I also don't have an exact
15 time. Are you calling us in the order you would
16 anticipate we'd do cross in? Because that will impact
17 time, probably.

18 CHMN STAFFORD: Yes. Well, I'm just going
19 based off of the order in which you filed a notice of
20 intent to be a party.

21 MS. JOHNSON: Well, presumably, if we were
22 first to cross-examine, we might have a longer
23 cross-examination. If someone is going before us, then I
24 would anticipate that we're obviously not going to ask
25 questions that would be duplicative of any other

1 intervenors, and so I don't know. It kind of just
2 depends on the scope.

3 CHMN STAFFORD: Assume that Sierra Club
4 goes first and you go second.

5 MS. JOHNSON: 30 minutes feels right, but
6 I'm not sure. I would assume definitely less than an
7 hour.

8 CHMN STAFFORD: I'm just trying to ballpark
9 to get an idea of what we're looking at in terms of time
10 for the hearing.

11 WRA, what is your estimated
12 cross-examination time for the applicant's witnesses?

13 MS. DOERFLER: I, speaking to others'
14 voices as well, we are a little uncertain about the time,
15 but probably less than a half an hour. I think that's a
16 safe statement.

17 CHMN STAFFORD: All right. And for SWEEP?

18 MS. REYES: We agree that it would depend
19 on the order, but assuming SWEEP was one of the later, we
20 would think no more than 15 minutes.

21 CHMN STAFFORD: And Commission Staff?

22 MS. SCOTT: Five to 10 minutes.

23 CHMN STAFFORD: Okay. All right.

24 Now, Sierra Club, you have one witness on
25 direct, Cara Fogler -- Fogler? Am I pronouncing it, is

1 it Cara, Cara?

2 MR. SHRINATH: Cara Fogler, correct.

3 CHMN STAFFORD: And how long do you
4 anticipate her direct testimony lasting?

5 MR. SHRINATH: I anticipate -- we
6 anticipate that, at most, 30 minutes, likely 15.

7 CHMN STAFFORD: Okay. And since everybody
8 is stipulating to the exhibits, that should reduce time
9 to have to lay a foundation and go about it. Because the
10 way I kind of want this to happen is I'd like to
11 establish the facts and then move on to the legal
12 argument of it.

13 MS. JOHNSON: Mr. Chairman, I have a
14 question about the exhibits.

15 CHMN STAFFORD: Yes.

16 MS. JOHNSON: When we all agreed to
17 stipulate to the exhibits was before Staff had exchanged
18 their legal response to your inquiry. And theirs is --
19 they are not planning to offer a witness, is my
20 understanding, and it's not a factual statement. They're
21 making a legal argument, and so I'm curious whether or
22 not that is appropriately admitted as an exhibit. And if
23 so, ArISEIA would not be agreeing to stipulate to that.

24 CHMN STAFFORD: Well, it's typically -- the
25 Staff response letter is typically put as an exhibit to

1 every CEC hearing, so I don't see a reason to do it
2 differently this time.

3 Now, WRA, you have Mr. -- Dr. Routhier as a
4 rebuttal witness, do you intend to put -- so you don't
5 intend to put on a direct case, you intend to hold him in
6 reserve to call him, if necessary, to contradict
7 statements by the applicant or other parties; is that
8 correct?

9 MS. DOERFLER: Correct. In response to
10 your concerns about the brevity of the case and making
11 sure that we're not overlapping any witness statements,
12 we thought it would be better to hold Alex as a rebuttal
13 witness only.

14 CHMN STAFFORD: Okay. And so is -- so
15 he -- his testimony length would be zero to however long
16 it takes to address the points, I guess, that the other
17 parties made, so -- so probably zero to, I would guess,
18 15 minutes?

19 MS. DOERFLER: I think that's a fair
20 estimate.

21 CHMN STAFFORD: Okay.

22 MS. GRABEL: And, Mr. Chairman, if I may
23 speak to Mr. Routhier. I mean, as a rebuttal witness, I
24 think it would be appropriate for him to go on if UNS
25 feels the need to put on its rebuttal case, otherwise,

1 it's very hard for us to prepare for his testimony
2 because, obviously, you know, it will depend on the
3 testimony of other parties. I don't really know what
4 he's going to testify to.

5 CHMN STAFFORD: Well, the summary's about
6 the design and utilization of the existing and proposed
7 generation units. I think it may -- what I interpret
8 that to mean is that you're characterizing the layout and
9 the operation of the plant in a certain way. He may
10 testify as to the other ways that they can be laid out or
11 operated, potentially, but unless he disagrees with
12 something that you said, he wouldn't have a reason to
13 testify. If what you're saying is common knowledge, and
14 that's typically how these plants operate or are
15 configured, then I don't think he'd have much to say
16 about it at all.

17 MS. GRABEL: Thank you, Mr. Chairman.
18 Perhaps if Ms. Doerfler does intend to put him on we can
19 speak beforehand.

20 CHMN STAFFORD: Right. I think how to deal
21 with that is that once you've presented your direct case
22 and they've conducted their cross-examinations, before we
23 move to the presentation of the parties' witnesses on
24 direct, which would be Sierra Club, and then potentially
25 Dr. Routhier, I think we'll address it then. And I think

1 Ms. Doerfler can tell us whether or not there's any need
2 for Dr. Routhier to testify.

3 MS. GRABEL: That works.

4 MS. DOERFLER: That is fine.

5 CHMN STAFFORD: All right. I see
6 Mr. Shrinath has his hand raised.

7 MR. SHRINATH: Yeah, Mr. Chairman, I
8 neglected to ask, would it be permissible for Ms. Fogler
9 to appear remote for her direct testimony and cross?

10 CHMN STAFFORD: Typically, witnesses are in
11 person, but they have -- I guess would she be appearing
12 on videoconference or just on the telephone, you're
13 talking about?

14 MR. SHRINATH: Videoconference, yeah.

15 CHMN STAFFORD: Well, we're doing this at
16 the Commission, so I'm not sure if they're set up to
17 handle the witness on the video like that. You'll need
18 to talk to Mike --

19 MS. GRABEL: Villardo.

20 CHMN STAFFORD: Mike Gilar- --

21 MS. GRABEL: V-i-l-l-a-r-d-o.

22 CHMN STAFFORD: Mike Villardo at the
23 Commission, and talk to him about if they can make
24 that -- make arrangements for that to happen. I don't
25 have a problem with her testifying via Zoom.

1 Do any of the parties object to her
2 appearing by Zoom?

3 MS. GRABEL: No, Mr. Chairman. I also
4 intended to reach out to Mr. Villardo to talk about
5 PowerPoint presentations, and so I can ask him about
6 Sierra Club's request at the same time, if you'd like me
7 to.

8 CHMN STAFFORD: Okay. Right.

9 MR. SHRINATH: And, Mr. Chairman, I was
10 also, jumping off Ms. Grabel's point, was hoping to ask
11 as well if it was okay with you if we presented -- we
12 were able to present or display exhibits, cross exhibits
13 via PowerPoint, if, you know, technology permiss- --
14 permitting.

15 CHMN STAFFORD: Oh, on your direct, yes,
16 you need to talk with Mike Villardo about that, to make
17 sure -- to make the arrangement to be able to project
18 your slides up on the screens in the hearing room.

19 Assuming you'll have copies for the
20 members, and you can put them on a tablet, but you'll
21 need to have 10 tablets. You'll need a hard -- two hard
22 copies, one for me and one for the court reporter, and
23 then you can do hard copies or tablets for the other 10
24 members. Either one will be acceptable.

25 Is that all, Mr. Shrinath?

1 MR. SHRINATH: Yes, that's all, Mr. Chair.
2 Thank you.

3 CHMN STAFFORD: All right. Ms. Johnson,
4 you had your hand up as well.

5 MS. JOHNSON: Yeah, I was just going to
6 mention two things; one, for the rate cases, the
7 witnesses are able to appear remotely or in person, so I
8 would assume that that is technologically feasible at the
9 ACC. But I was also going to ask about the rebuttal
10 witness. I actually have the same curiosity as
11 Ms. Grabel, I suppose.

12 Normally it's the applicant that determines
13 whether or not they're going to put on a rebuttal case,
14 and so I just want to make sure I understand the order.
15 We're planning on that the applicant would have their
16 witnesses on a panel for direct, and those would be
17 subject to cross-examination. And then at that time WRA
18 will determine whether or not Mr. Routhier is going to
19 testify?

20 CHMN STAFFORD: Actually, up next would be
21 Sierra Club with their direct.

22 MS. JOHNSON: Okay. Well, I guess I'm just
23 determining, is he responding to Sierra Club's witness or
24 is he responding to the applicant's witness? I'm
25 wondering when in the order -- because we have to

1 prepare, I'm assuming, cross regardless, so I'm wondering
2 when in the order that determination is going to be made.

3 CHMN STAFFORD: Well, I guess at the
4 conclusion of the direct cases, we'll ask Ms. Doerfler if
5 there's a need for Mr. Routhier to test- -- Dr. Routhier
6 to testify or not. If the answer is no, then that's the
7 end of it and we'll move on. If there are certain points
8 that they feel need to be addressed, then he will take
9 the stand, and then -- then plus there's the whole
10 variable of the Committee members having questions,
11 so -- but I don't think -- I think what will happen is
12 the applicant will put the direct on first, and then
13 Sierra Club will put their direct on. And then at the
14 conclusion of those two witnesses, after they've both
15 been crossed, then I'll call on Ms. Doerfler and find if
16 she wants to call Dr. Routhier as a witness or not.

17 And it's going to be on a narrow scope,
18 what he's going to testify to, prior to calling him to
19 the stand, because it's not going to be wide open. He's
20 going to be there as a rebuttal witness on specific
21 points, so I want to know what they're going to be before
22 he takes the stand. So we don't need to have -- trying
23 to avoid duplicative evidence and extraneous testimony.

24 Okay. So for the procedural -- okay, SWEEP
25 you have no witnesses, no exhibits. Staff has no

1 witnesses and the one exhibit, the response letter.

2 What's the status of the attempt to narrow
3 the issues at the hearing in compliance with paragraph 7
4 and 8 of the procedural order? You've agreed to
5 stipulate to the exhibits, what is -- to what extent have
6 the parties explored jointly presenting testimony and
7 exhibits? I heard mention that there was some overlap of
8 exhibits, I mean, is one party going to withdraw the
9 duplicate set, so we don't have two copies in there? Has
10 anyone -- raise your hand if you have comments to make on
11 that.

12 (No response.)

13 CHMN STAFFORD: All right. Sierra Club,
14 you had -- was it you that mentioned duplicative
15 exhibits?

16 MR. SHRINATH: Yeah, your Honor. We're
17 happy to withdraw or, you know, work with ArISEIA on the
18 duplicative exhibits that we've exchanged and streamline
19 that number as well.

20 CHMN STAFFORD: Okay. And so I guess the
21 only joint-presented testimony, potentially, would be
22 between WRA and Sierra Club. Do you have anything
23 coordinated? Because, potentially, if between
24 cross-examination and then Sierra Club's witness, that
25 may reduce the need or eliminate the need for

1 Dr. Routhier to testify.

2 Have WRA and Sierra Club discussed joint
3 presenting testimony or potentially you could put the two
4 of them on a panel together? That's another option. I'm
5 just trying to make this thing as streamlined as
6 possible.

7 MR. SHRINATH: We have not discussed
8 putting them on a panel together, but we have discussed
9 subjects and, you know, tried to make sure that our
10 testimonies are -- our witnesses are complementary and
11 not overlapping, and won't waste the time of the
12 committee members, yeah.

13 CHMN STAFFORD: Okay. All right. So the
14 hearing -- the actual witness part is to get to the facts
15 of the application of how the plant's going to be built.
16 What the units are, what the nameplates are, where it is
17 in relation to the existing plant, how the two will
18 connect, how they will operate.

19 It seems that most of the facts are what
20 the applicant alleges, because it's their project, so I'd
21 like to get a little more detail from the other parties
22 about what they see as the contested facts in this case,
23 starting with Sierra Club. And don't say "the
24 separateness of the units," because we know there's four
25 turbines, so but the separate -- the term "separate" is

1 the legal issue that we'll get to eventually, but I'm
2 just trying to establish, like, what are the contested
3 facts about what the applicant has proposed, in terms of
4 the plant addition, and then its relation and proximity
5 and connection to the existing plant.

6 Mr. Shrinath?

7 MR. SHRINATH: We're still developing this,
8 Mr. Chairman, but I think we intend to -- I think we see
9 the factual disputes with regards to the degree to which
10 the turbines are independent, the interactions between
11 turbines and generators and how they form generating
12 units. The connectedness of the individual turbines and
13 the individual generators. The way that its expansion is
14 classified and identified for the purposes of permitting
15 and other classifications.

16 We think these are all disputed facts and
17 areas where we haven't been able to stipulate to -- to an
18 agreement. And I'll add, Mr. Stafford, as Ms. Grabel
19 said, we've -- the parties have been attempting to, and I
20 think have a stipulated facts document that we're
21 intending to file today, that has hashed out, you know,
22 areas of agreement, but there still remains -- there are
23 many facts that Sierra Club added to that document that
24 parties were not able to stipulate to or that UNS was not
25 able to stipulate to. And that's what we were hoping to

1 push.

2 CHMN STAFFORD: Okay. All right. And
3 ArISEIA, what are the specific contested facts that you
4 are wanting to talk about at the hearing?

5 MS. JOHNSON: Well, probably would be a
6 simpler conversation, if you had seen the stipulated
7 facts, because essentially everything not on that
8 document is not in agreement. But, you know, from my
9 perspective there are a few things, right, you said not
10 to mention the word "separate," but, of course, how the
11 units relate to each other determines whether or not
12 they're separate or not. And so Mr. Shrinath mentioned
13 that.

14 I also have been focusing in my data
15 responses or data requests and their responses on the
16 existing site and the size of it. My understanding, from
17 the application, is that the applicant is arguing that
18 the fact that the underlying site does not have a CEC is
19 somehow precedent, or something along those lines, for
20 the new expansion not needing a CEC. And so the size of
21 those units has been in dispute. And if the applicant is
22 indeed correct and the existing sites are 61 megawatts
23 per turbine, then they're operating that plant in
24 violation of the law.

25 CHMN STAFFORD: Okay. That's -- I guess

1 they're operating the plant, that's a fact; in violation
2 of the law, like I said, that would be a legal
3 conclusion.

4 MS. JOHNSON: But the size of the
5 underlying plant would render whether or not it is,
6 indeed, was supposed to have a CEC or not.

7 CHMN STAFFORD: Depending on what the
8 interpretation of the statute is.

9 Okay. And I'm assuming that, Ms. Grabel,
10 that your witnesses will be able to talk in detail about
11 the existing plant?

12 MS. GRABEL: Yes, Mr. Chairman. We
13 actually are using photos of the existing plant to
14 demonstrate what we expect the anticipated new units to
15 be, because we believe that they will be very similar, so
16 there will be a lot of testimony in that regard.

17 CHMN STAFFORD: Right. And I've looked at
18 the exhibits filed, I mean, there's some math involved
19 because it doesn't have a megawatt nameplate rating, it
20 has the kVA, which is to divide by another number below
21 it.

22 MS. GRABEL: Power factor.

23 CHMN STAFFORD: That's what it is.

24 MS. GRABEL: Correct. Yeah, I know it was
25 a math thing for me, too, at first, but I got there.

1 CHMN STAFFORD: Okay. All right. And WRA,
2 what do you see as the contested facts for the case?

3 MS. DOERFLER: We would like to echo points
4 made by ArISEIA and Sierra Club. We would add that the
5 language and the specific terms used in this case are of
6 huge importance. And as all of the intervenors found out
7 in the last few days, that even just the term that's used
8 to refer to the plant, in general, is kind of a difficult
9 one to decide, so -- and a lot of our purpose in
10 introducing Alex is to make sure that we're using the
11 right terms for the right things, and that they mean the
12 thing that we say, as compared to assuming what they mean
13 or using the wrong term.

14 CHMN STAFFORD: Okay. And SWEEP?

15 MS. REYES: SWEEP doesn't really have facts
16 to contest. We're more involved for the legal
17 proceeding.

18 CHMN STAFFORD: And Commission Staff?

19 MS. SCOTT: We are hoping to develop some
20 facts relating to the issues raised in Commissioner
21 Tovar's letter. I don't know if they're contested or
22 what at this point. I think we'll be able to determine
23 that at the hearing. But my primary purpose would be to
24 develop the facts underlying the issues raised in her
25 letter.

1 CHMN STAFFORD: All right. Now, has one of
2 the parties introduced that as an exhibit?

3 MS. GRABEL: Mr. Chairman, no. No party
4 has introduced that as an exhibit as of yet. I
5 anticipate that UNS Electric will have a response to that
6 letter prior to the hearing, so if you would like us to
7 introduce it and the response as a late-filed exhibit, we
8 can do so.

9 CHMN STAFFORD: All right.

10 MS. SCOTT: We could also do so. This is
11 Maureen Scott.

12 CHMN STAFFORD: That could be your second
13 exhibit, I guess, then.

14 MS. SCOTT: Yes.

15 CHMN STAFFORD: Because you'll have the
16 response and then the Tovar letter.

17 MS. SCOTT: Yes.

18 CHMN STAFFORD: Okay. All right. Now,
19 let's see, okay, good. So we've got -- you've stipulated
20 to the admission of exhibits, and stipulate -- and
21 there's a stipulated fact document that is forthcoming?

22 MS. GRABEL: Yes, Mr. Chairman, that's
23 correct.

24 CHMN STAFFORD: And when should I expect
25 that?

1 MS. GRABEL: Hopefully today, if I have
2 everyone's consent to sign on their behalf, otherwise,
3 tomorrow.

4 CHMN STAFFORD: Okay. That will be
5 helpful.

6 All right. Now, at the conclusion of the
7 fact portion of the hearing, we'll move on to the oral
8 argument. I anticipate once the facts are established,
9 that we would -- instead of giving a closing, you would
10 give your oral argument on the request for waiver.

11 Starting with you, Ms. Grabel, how long do
12 you think that your closing argument, your oral argument
13 on the request for disclaimer jurisdiction will be?

14 MS. GRABEL: Mr. Chairman, I anticipate it
15 will be around 15 minutes, as well. 15 to 20 minutes.
16 Of course, that depends on if there are questions from me
17 from the Committee, it's more like an appellate argument
18 in court. But I mean, that's -- if I'm just reading
19 something, it's going to be about 15 minutes.

20 CHMN STAFFORD: Yes. There is the variable
21 of Committee member questions.

22 MS. GRABEL: Correct.

23 CHMN STAFFORD: And Sierra Club?

24 MR. SHRINATH: Yeah, Mr. Chairman, it
25 depends on how, you know, cold or hot the bench is, but

1 anticipate not more than 20 minutes. 30 minutes as a
2 high bound.

3 CHMN STAFFORD: Okay. So for purposes of
4 this question, assuming no interruptions. If you just
5 make it through your argument without --

6 MR. SHRINATH: Then 15 minutes.

7 CHMN STAFFORD: ArISEIA?

8 MS. JOHNSON: I think we could make our
9 argument in the same amount of time that Ms. Grabel has
10 stated.

11 CHMN STAFFORD: Okay. And WRA?

12 MS. DOERFLER: We agree. No more than
13 15 minutes, likely.

14 CHMN STAFFORD: Okay. And SWEEP?

15 MS. REYES: Also no more than 15 minutes.

16 CHMN STAFFORD: And Commission Staff?

17 MS. SCOTT: Five to 10 minutes.

18 CHMN STAFFORD: All right. Now, we still
19 have the UniSource request for consolidation. It looks
20 like we've managed to get the hearing to a manageable
21 amount of witness testimony. I don't believe there's a
22 need to consolidate them all. However, my concern is
23 going to be is the oral argument portion, is how many --
24 I guess, depending on what order you go in, if the party
25 spends 15 minutes making the argument, if you're going to

1 come along and spend 15 minutes saying the exact same
2 things, I think you should find a way to just restate it
3 without taking the entire 15 minutes, for the sake of
4 non-repetitiveness.

5 So for now I'm not going to require
6 consolidation. I could change my mind and do it at the
7 hearing, depending on how things go, but I think at this
8 point, I think we've gotten a handle on it, and I don't
9 think it's necessary yet.

10 All right. Are there any other issues we
11 need to address?

12 MS. JOHNSON: Chairman, I just wanted to
13 ask the same question, are we going to do the opening
14 statement, the cross, and the oral arguments in the same
15 order?

16 CHMN STAFFORD: Presumably, yes.

17 MS. JOHNSON: Okay. And so you're planning
18 to do them in the order in which we requested to be an
19 intervenor?

20 CHMN STAFFORD: Right. So the party would
21 go first, then Sierra Club, then ArISEIA, then WRA, then
22 SWEEP, and then Commission Staff. That's the order I
23 intend to call for cross and presentation of evidence and
24 oral argument, opening statements, all those.

25 Anything else?

1 MS. GRABEL: Mr. Chairman, I did send to
2 you and to the court reporter four prehearing conference
3 exhibits, just giving the example of the notice signs
4 that we put up, things that we typically discuss in a
5 prehearing conference: The map of the sign locations,
6 proposed form of order, as you talked about, and our
7 summary of public outreach. So I just wanted to put that
8 on the record that you do have that. And if you wanted
9 us to revisit where we made the publications and the
10 affected jurisdictions, I can do that. Although I do
11 recognize we did it at the prior procedural conference.

12 CHMN STAFFORD: Right. So that's why I
13 didn't raise that, because we'd covered it before. And I
14 thought it was relevant to get to that before we started
15 talking about continuances or anything, I mean, the fact
16 that the notice had been done.

17 MS. GRABEL: Fair enough.

18 CHMN STAFFORD: So, I mean, ideally, we can
19 be able to complete the hearing in one day. We will see
20 how it goes. It will be up to the Committee whether they
21 want to require briefs or they feel comfortable based on
22 the testimony and the argument that they heard at the
23 hearing. Would also depend on how much public comment we
24 get, how much time that takes. So those are all -- and
25 how many questions and concerns the Committee members

1 have, because that can -- that will all -- that can
2 drastically affect the amount of time it takes to go
3 through. I mean, we should be able to get this thing
4 done, based on the time estimates so far, we can
5 certainly get it done in one day, but again, you know,
6 there's other variables at play. So just be prepared to
7 be flexible.

8 I guess we'll have a better idea of how
9 long the hearing's going to take after we start. After
10 we get the presentation of evidence and see how many
11 people are there for public comment. So I don't think we
12 need to talk about other days and availability yet. But
13 be prepared to discuss that at the hearing, if it looks
14 like things are going to take longer than the day we have
15 allotted for currently.

16 Ms. Johnson, you have your hand raised.

17 MS. JOHNSON: Yes. Is it your current plan
18 to call public comment, then, after the -- we're going to
19 do the opening statements and then the direct case and
20 then public comment, is that -- is that what you're
21 thinking?

22 CHMN STAFFORD: Yes, I think -- I think we
23 would have -- we'll establish the factual portion of the
24 hearing first, then we'll take public comment, and then
25 we'll move on to the legal arguments.

1 MS. JOHNSON: So will the cross-exam and
2 intervenors' witnesses will come before public comment
3 also?

4 CHMN STAFFORD: Yes. Potentially. I mean,
5 it depends on how it looks when we get there. I mean, if
6 there's -- if there's a lot of people showing up at the
7 start of the hearing or if there's a few of them, I mean,
8 we could potentially take them first, but it seemed that,
9 you know -- I'll see what -- you know, I'll also see what
10 the other members what they want to do, if they're
11 interested in hearing public comment first.

12 My problem is we need to get to the fact
13 issues and get that established, because that
14 shouldn't -- that shouldn't take as long as anyone seems
15 to think it is going to take. Because it seems like most
16 of the facts are not really disputed. Again, I need to
17 see the stipulated fact document. Is there going to be a
18 list that says specific facts or issues that are in
19 dispute?

20 MS. GRABEL: We do not have that prepared,
21 Mr. Chairman. It's just a stipulated set of facts and
22 then a schematic and a list of equipment.

23 CHMN STAFFORD: Okay. All right.

24 MS. JOHNSON: Chairman, I just would
25 mention that my observation in other proceedings before

1 the ACC is that the sooner you can do the public comment
2 is the most convenient for the public, because many of
3 them have jobs and are not prepared to be at the
4 Commission all day.

5 CHMN STAFFORD: Right. So we will play
6 that by ear. But barring anything else, I -- I want to
7 hear from -- I want to get the facts established first,
8 and then hear -- because I think there -- because the
9 public comment should be more about the legal issue
10 anyway. It's not going to be about how the plant's
11 configured. They're not going to be talking about
12 contesting the number of turbines that are going to be
13 there. It's going to be about the more policy argument,
14 I expect, or the fact that there's expansion at all.

15 But, again, this is not a hearing on the
16 CEC application. We're not doing an environmental review
17 in this case. This is just establishing the facts in the
18 application and the legal argument for the disclaimer.

19 All right. Anything further?

20 THE REPORTER: Chairman Stafford, this is
21 Robin.

22 CHMN STAFFORD: Yes.

23 THE REPORTER: I was a little confused
24 about the exhibits. Are those going to be attached?

25 CHMN STAFFORD: Oh, let's see --

1 Ms. Grabel, the exhibits you're speaking
2 of --

3 MS. GRABEL: Those were the documents that
4 I sent to Lisa this morning, Robin, and I also sent them
5 to Tod Brewer in the Chairman's office. And I believe we
6 then circulated them to the rest of the parties.

7 CHMN STAFFORD: Yeah, I don't have those.
8 Tod's out today.

9 MS. GRABEL: Oh, okay. I can send them to
10 you directly, if you'd like. But they're -- they're
11 essentially irrelevant for the purposes we've been
12 talking about today. So if we don't attach them to this,
13 that's okay, I just wanted you to have --

14 CHMN STAFFORD: Right. Because you're
15 going to have -- provide testimony and exhibits about the
16 notice anyway at the hearing.

17 MS. GRABEL: Correct.

18 CHMN STAFFORD: Okay. So we can -- we
19 don't need to have -- there will be no exhibits attached
20 to the transcript for this procedural conference.

21 THE REPORTER: Thank you.

22 MS. GRABEL: No, that's perfectly fine.
23 Everything that we submitted as an exhibit for the
24 prehearing conference is an exhibit to the hearing as
25 well.

1 CHMN STAFFORD: That's fine. We'll do it
2 there.

3 MS. GRABEL: Okay.

4 CHMN STAFFORD: All right. Excellent.
5 Anything else?

6 (No response.)

7 CHMN STAFFORD: All right. You've got
8 everything you need, Robin, then?

9 THE REPORTER: I do. Thank you.

10 CHMN STAFFORD: Okay. All right. With
11 that, we'll go off the record. Thanks.

12 (The hearing concluded at 3:42 p.m.)

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COUNTY OF MARICOPA)

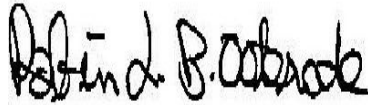
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5 taken before me; that the foregoing pages are a full,
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outcome hereof.

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10 obligations set forth in ACJA 7-206(F)(3) and ACJA 7-206
(J)(1)(g)(1) and (2). Dated at Phoenix, Arizona, this
11 17th day of April, 2024.

12



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

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19 has complied with the ethical obligations set forth in
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