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BEFORE THE ARIZONA POWER PLANT

AND TRANSMISSION LINE SITING COMMITTEE

IN THE MATTER OF THE APPLICATION)	Docket No.
OF SALT RIVER PROJECT)	L-00000B-21-0393-00197
AGRICULTURAL IMPROVEMENT AND)	
POWER DISTRICT, IN CONFORMANCE)	LS CASE NO. 197
WITH THE REQUIREMENTS OF ARIZONA)	
REVISED STATUTES, SECTIONS)	
40-360, et seq., FOR A)	
CERTIFICATE OF ENVIRONMENTAL)	
COMPATIBILITY AUTHORIZING THE)	
EXPANSION OF THE COOLIDGE)	
GENERATING STATION, ALL WITHIN)	
THE CITY OF COOLIDGE, PINAL)	PREHEARING CONFERENCE
COUNTY, ARIZONA.)	
_____)	

At: Phoenix, Arizona

Date: January 11, 2022

Filed: January 14, 2022

REPORTER'S TRANSCRIPT OF PROCEEDINGS

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By: Carolyn T. Sullivan
 Arizona CR No. 50528

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 2:02 p.m. on the 11th day of
5 January, 2022, with all participants appearing via
6 videoconference.

7

8 BEFORE: PAUL A. KATZ: Chairman

9

10 APPEARANCES:

11 For the Applicant:

12 JENNINGS, STROUSS & SALMON, P.L.C.
13 Mr. Albert Acken
14 One East Washington Street
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Phoenix, Arizona 85004

15 and

16 SALT RIVER PROJECT
17 Ms. Karilee Ramaley
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19

20

21 POTENTIAL INTERVENORS:

22 For the Sierra Club:

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3 WESTERN RESOURCE ADVOCATES
4 Mr. Adam Stafford
5 1429 North 1st Street
6 Suite 100
7 Phoenix, Arizona 85004

8 For the Randolph Residents:

9 Ms. Dianne Post
10 1826 East Willetta Street
11 Phoenix, Arizona 85006

12 For the Arizona Corporation Commission:

13 Mr. Stephen J. Emedi
14 Staff Attorney
15 Legal Division
16 1200 West Washington Street
17 Phoenix, Arizona 85007

18 ALSO PRESENT:

19 Ms. Autumn Johnson, Tierra Resources
20 Mr. William Mcclellan, SRP, Project Co-manager
21 Mr. Josh Robertson, SRP
22 Director, Regulatory Policy & Public Involvement
23 Ms. Michele Maser, SRP, Senior Legal Specialist
24 Mr. Tod Brewer, Assistant to Chairman Katz

25

1 CHMN. KATZ: This is the time set for what was
2 to be a prehearing conference in the Coolidge Expansion
3 Project application by Salt River Project. And this is
4 CEC 197.

5 And I do understand that I have Bert Acken here
6 for Salt River Project.

7 I believe that for the Sierra Club, I have
8 Messrs. Rich and Hill.

9 For Western Resources, Adam Stafford.

10 For the Randolph residents, I have primary
11 counsel Dianne Post and potential pro hac vice Autumn
12 Johnson.

13 And the Corporation Commission, I believe that I
14 have Stephen Emedi and Kathryn Ust present.

15 But if I'm incorrect, let me know. But I think
16 that all of you are present from what I'm viewing.

17 MR. ACKEN: Mr. Chairman, Bert Acken, for the
18 record, of Jennings Strouss on behalf of Salt River
19 Project Agricultural Improvement and Power District.

20 I also want to note for the record my
21 co-counsel, Karilee Ramaley, in-house with SRP, but she
22 is also legal counsel in this matter, as well as you have
23 two other -- well, three other SRP representatives: Bill
24 McClellan, project manager; Josh Robertson from
25 Regulatory; and Michele Maser, also from Legal Support.

1 CHMN. KATZ: And I don't know whether anybody
2 else -- I read off names, and I don't know if I
3 mispronounced anything and whether or not anybody present
4 wants to speak up and identify yourselves and who you're
5 representing.

6 MR. RICH: Mr. Chairman, just to clarify, my
7 name is Court Rich from the Rose Law Group on behalf of
8 the Sierra Club. My co-counsel, Mr. Hill, is not joining
9 me on this call. I just thought I'd clarify that for the
10 record since you mentioned his name. But, otherwise, I'm
11 here and ready to proceed.

12 Thank you.

13 CHMN. KATZ: Thank you very much.

14 I just wanted to say up front, I have mixed
15 feelings about whether or not to continue the matter. I
16 will share with you as we go forward what my thoughts
17 are. But the one thing I can't do is what was suggested
18 by Mr. Acken -- do I pronounce -- is it AK-en or AY-ken?
19 I've known you for years, but I --

20 MR. ACKEN: It's AK-en. And if you say that
21 correctly, you will be far ahead of former Chairman
22 Chenal, who, I think for many years, took pleasure in
23 mispronouncing my name.

24 CHMN. KATZ: And I also see Dianne Post, who I
25 haven't seen since my family court case in the Superior

1 Court. That was like 12 years ago.

2 Anyway, welcome to all of you.

3 As I said, I haven't decided whether or not to
4 continue the matter or not. The one thing I won't do is
5 to split it. Mr. Acken had suggested that we might start
6 on the 18th because notice has been given and go the 18th
7 or the 18th and the 19th and then continue the matter.

8 The reason that I can't, in good conscience, do
9 that is that every member of the Committee that's going
10 to attend in person is not in Pinal County. I have
11 representatives or Committee Members from Safford, from
12 Heber, from Flagstaff, from Tucson, and several from
13 Phoenix. And it's not fair to them with their work
14 commitments to come for one or two days to Casa Grande or
15 Casa Grande, depending on whether you speak English or
16 French -- or English or Spanish, excuse me, but I just
17 can't split it.

18 So the choices I have is either going forward
19 for the two weeks we have set aside on the 18th through
20 the following week -- we can't go on the 17th because
21 that is Martin Luther King Day, and it's a national and
22 state holiday. The other option is I will know for sure
23 tomorrow, but I already know for sure, I have a
24 controversial matter that involves Tucson Electric Power
25 and the building of above-ground power lines. And we

1 have multiple intervenors, the University of Arizona, the
2 City of Tucson, several neighborhood associations. And
3 they've, in good faith, for several months, been trying
4 to work out a settlement. I know with 99 percent
5 certainty that TEP is going to withdraw their
6 application, if they haven't already done that, and is
7 going to refile it in May or June for a July date that we
8 are holding open for them. That means that I would have
9 available February 7th for two weeks available to all of
10 you if I do continue it.

11 And I'll share with you one initial concern that
12 I do have. As SRP points out, the purpose of a
13 Certificate of Environmental Compatibility is to evaluate
14 the environmental compatibility of a particular project
15 on a selected site and not to second-guess the resource
16 planning decisions made by SRP's elected board. But I do
17 understand that we have to be concerned about the
18 environmental consequences of the decision.

19 The one thing that is unique is -- I've only
20 conducted four of these hearings. And interestingly
21 enough, they've all been for solar farms and battery
22 storage units. And that was for the installation of
23 substations and power lines. So I know that SRP, TEP,
24 APS have all been involved in those hearings and that
25 they will be purchasing from those solar farms and

1 battery storage units electricity. So it's not like
2 these large utilities aren't concerned with going to
3 noncarbon-based or noncarbon-emitting resources.

4 But we also need to be looking at the current
5 needs of southern Maricopa County and the Pinal County
6 area around Coolidge and Casa Grande that are now being
7 developed both industrially and residentially.

8 So I understand that that's a delicate balance,
9 but I also need to point out that concerns about clean
10 air are really regulated by ADEQ and not the Corporation
11 Commission. But that's not to say that we won't consider
12 that concern. But I do need to balance the need -- or
13 the Committee, not me, but we'll need to balance the need
14 for continuing and necessary electrical power and
15 currently unavailable noncarbon-based sources of
16 electricity that are reliable. Battery storage is
17 inadequate, and the production of energy and kilowatt
18 hours from most of the solar plants is a fraction of that
19 which comes from more traditional power plants, which I
20 know we're all trying to wean ourselves away from.

21 That all being said, my one concern was SRP's --
22 excuse me -- Sierra Club's representation that they were
23 surprised to learn of the December filing date. That was
24 planned well in advance, but we had to give, in advance,
25 SRP a time frame in which we would be available. And the

1 first time we were going to be available for them would
2 have been the hearing in January. And once they filed
3 their application, we needed to get it set fairly
4 quickly.

5 So my concern about the representations made by
6 the Sierra Club attorneys is to act like they're
7 surprised. The law firm might be surprised, but -- the
8 Sierra Club might have been dilatory in hiring counsel,
9 but they clearly have been aware of this matter since
10 either late August or September by participating in the
11 board meeting at SRP that approved this project, by
12 attending open houses that were conducted both before and
13 after the board meeting, and should have been aware of
14 the fact that a filing was going to take place in
15 December.

16 And, in particular, following board approval,
17 SRP submitted its 90-day filings to the docket on
18 September 4th of '21, which provided a clear signal of
19 SRP's intended December 13th, 2021, filing. So I'm not
20 impressed by that argument.

21 On the other hand, I think that the Committee,
22 and I can't speak for nine other people, is more likely
23 than not going to grant all of the requested intervenors'
24 requests to intervene, even if we end up limiting some of
25 the scope of what gets presented.

1 So that all being said, I can hear from first
2 SRP, and then I can hear from Sierra Club and the
3 other -- Western Resources as well as the Randolph
4 residents' counsel.

5 The other thing I wanted to say up front, and
6 I'm already doing way too much talking, but with respect
7 to Ms. Johnson's request to be admitted pro hac vice, I'm
8 more than happy to do that. But under Rule 39,
9 Ms. Johnson needs to get that certification from the
10 State Bar that they've received everything for her
11 application. And once that -- I have to comply. It says
12 "shall." I don't think it's discretionary. And I do
13 think if we delay the matter, I think that can be done in
14 time and I'm happy to have her appear. I would want
15 Ms. Post to also be present during the course of the
16 hearing.

17 But that all being said, I'd like to know,
18 first, Mr. Acken, I'll ask you what your concerns are
19 about delaying the matter. And one of the things I need
20 you to address is whether or not you're going to incur
21 any substantial expenses by having to reschedule
22 everything. That is, the hotel as well as the technical
23 staff, which is a complicated group if you've ever sat
24 through one of these. We have very sophisticated
25 electronics to allow virtual participation of Committee

1 Members and the public. But, anyway, Mr. Acken.

2 MR. ACKEN: Thank you, Mr. Chairman.

3 I'll answer that last question first. Yes,
4 there will be expense with moving the hearing. We have
5 reserved the hearing space for the time allotted. There
6 are costs associated with that. However, as we said in
7 our response to Sierra Club's motion, SRP would be
8 willing to move this hearing to accommodate schedules and
9 provide additional time so long as it works with the
10 Committee and so long as it works with our statutory
11 notice and so long as it works with our 60-day time
12 frame.

13 And I heard you say you don't want to bifurcate
14 the hearing. We want to be respectful of the Committee's
15 time. I am very concerned about not starting this
16 hearing on January 18th because it has been published,
17 noticed in accordance with the statutory requirements to
18 do so. And we also have mailers that have gone out. So
19 we can send out supplements on social media. We can
20 update the website.

21 The one thing we can't do between now and the
22 18th is get new mailers to 7,400 addresses which say that
23 this hearing isn't starting on the 18th. So if we don't
24 hold at least public comment on January 18th, we will
25 have people show up at that hearing who are expecting to

1 provide public comment who are going to be frustrated
2 that they're not.

3 So understanding your concern about the
4 Committee's time, I would still ask if maybe we just
5 limit it to a public comment session the evening of the
6 18th. That can be done largely remotely. I anticipate
7 most public commenters will participate virtually. But
8 as to the hearing, I ask that you give serious
9 consideration, even if you do move, to allowing public
10 comment, at a minimum, to take place on the 18th.

11 That's a big concern of ours both for statutory
12 notice as well as the mailers that went out. We don't
13 want to be in a situation where people feel that they
14 were misled or they show up at a public comment session
15 and there's nobody there and no opportunity for them.

16 As far as moving the hearing, our requested ask
17 was the 31st through the 11th. And I hear you say
18 there's another window that's available the 7th through
19 the 18th of February. That would require us to waive our
20 60-day time period because I think that runs on the 14th.
21 We would be willing to waive that on a partial basis,
22 limited basis, basically five days, to accommodate the
23 Committee's calendar.

24 But it is very important -- I can't -- I cannot
25 understate the importance of getting a decision from this

1 Committee as soon as possible and then a decision from
2 the Commission by -- in 1st quarter of this year. Our
3 position is there is a tremendous need for additional
4 capacity. I don't think anyone is going to -- will fight
5 us on the fact that there is a need for additional power.
6 How that need is met is obviously a different story. But
7 there is a critical need for additional power that needs
8 to be met somehow, some way. So we need a decision by
9 the Corporation Commission in first quarter of this year
10 so that SRP can move forward. If it has the approval of
11 the Committee and the Commission, we'll move forward
12 accordingly, but we need a decision.

13 And so my ask to every other party, proposed
14 party, on this call would be if we do move it -- I guess
15 it's a twofold ask: One, we have to be able to get this
16 hearing done in two weeks, which would require parties to
17 be judicious and efficient in the presentation of their
18 case, be thoughtful in how they manage cross-examination
19 so that we can get done in two weeks; and also agree to
20 request the Commission to consider this at the
21 Commission's earliest possible time, which would be 30
22 days after the Committee's decision.

23 So that's sort of the 7th through the 18th, but
24 there's a couple major concerns for us that other
25 collected folks on this call can help alleviate our

1 concern with time if they're willing to work with us on
2 schedule. And then if you can get your thoughts on at
3 least holding a public comment period on the 18th.

4 Thank you.

5 CHMN. KATZ: Before I hear from anyone else, I
6 just wanted to indicate that my understanding is the
7 hearing has to begin within 60 days. I don't believe it
8 has to be completed within 60 days. So if we get it
9 started on the 7th, that's well within that time frame.

10 The other thing I wanted to share with you is
11 the case that was previously set for February 7th was
12 previously set in September and it got moved. And we
13 didn't require a new notice of hearing. What we did was
14 to issue an order continuing the matter and requiring all
15 of the parties to post on their websites and other social
16 media the new time frame for the hearing.

17 And I would hope that between SRP, the Sierra
18 Club, if they are allowed to intervene -- and I'm
19 relatively confident that everybody will be allowed to
20 intervene, even though we might have to set some
21 boundaries or time frames. But I'm pretty certain that
22 if perhaps we allocate three or four days to you and then
23 three or four days to the intervenors -- and I know
24 cross-examination can take a long time. I just don't
25 know. But I don't think we'll have to issue a new Notice

1 of Hearing.

2 And, Tod, if you're with us, what did we do
3 again? It was Tom Chenal that did it, but I'm well aware
4 of it. What was done in that TEP Kino hearing?

5 MR. BREWER: There was an order issued that
6 continued that matter to the February date and required
7 that all parties update their social media accounts and
8 their project website accounts with that new date and
9 information.

10 If the parties would like, I can send them a
11 copy of that order so they can see.

12 CHMN. KATZ: Why don't you go ahead and do that.
13 It wouldn't hurt to share that because we would be
14 issuing a similar order if we do continue the matter.

15 And let me just hear from -- it is Mr. Rich.
16 You're representing Sierra Club, one of the two
17 attorneys, correct?

18 MR. RICH: Yes. Thank you, Chairman. I
19 appreciate the opportunity to respond to your comments
20 and to what Mr. Acken just said.

21 First of all, I'll acknowledge it sounds like we
22 have a good solution that we can agree to and it sounds
23 like SRP will be able to agree to as well with the
24 opportunity to use that time frame on the 7th. That
25 would give us, relatively speaking, significantly more

1 time than we currently have.

2 I would like Your Honor to just clarify, I don't
3 think it was Sierra Club that ever expressed that it was
4 surprised about the filing date. I know SRP, in their
5 response, characterized us as claiming to have been
6 surprised by the filing date. But the only thing that we
7 were complaining about -- it was not the filing date, of
8 course, but how quickly the hearing was set to commence.
9 And so I don't believe I expressed surprise about the
10 filing date. You're absolutely right. There was some
11 expectation that it was going to be filed.

12 We did point out, Your Honor, that, obviously,
13 the applicant controls the filing date and certainly to
14 be opportunistic about picking filing dates that are more
15 or less easy for other parties to deal with. But in any
16 event, it sounds like parties, including SRP, acknowledge
17 that it is simply a tight window within which to operate.
18 We have gone through and done a couple rounds of
19 discovery with SRP and anticipating some more discovery
20 requests. And so, certainly, the more time, the more
21 likely we are to be able to have a fair opportunity to
22 complete that process.

23 I know this isn't the time to -- or perhaps it's
24 not the time to debate what is and is not properly within
25 the scope of the hearing, Your Honor, but I know you did

1 mention a couple of items that seemed to go towards what
2 this hearing may entail. And I don't want to get into
3 that right this moment unless Your Honor wants to hear
4 some response to that.

5 But I'll pause here and certainly respectfully
6 request, Your Honor, that it sounds like moving this to
7 February 7th is an open opportunity with the Committee,
8 something that SRP can deal with, and something that we
9 can support, and I really appreciate your consideration
10 of that.

11 CHMN. KATZ: And, again, I would hope that I
12 understand the parties or at least their counsel have
13 already met, and I want to continue that dialogue.
14 Normally, there isn't really a great deal of discovery in
15 these proceedings. We don't usually have the taking of
16 depositions or requests for production of documents or
17 things of that nature, but I would hope that there would
18 be an honest exchange.

19 What I'm inclined to do if I continue this
20 matter to February 7th is to require the deadline, which
21 was supposed to be yesterday, and I'm probably going to
22 do it in a staggered fashion, would be to require SRP, by
23 January 21st, to file its witness summaries and its
24 exhibits and exchange those with any of the other parties
25 that might become intervenors. And I would then give the

1 other parties until a week later, the 28th, to submit a
2 summary of their witness -- of their witnesses' expected
3 testimony and their anticipated exhibits.

4 I did have one follow-up question for Mr. Rich.
5 How many witnesses do you expect you will likely be
6 calling?

7 MR. RICH: Your Honor, we think we'll have two
8 or three witnesses.

9 And to address the length of the hearing, my
10 experience in having done many hearings before the
11 Corporation Commission and this body, two weeks, knowing
12 what I know about this, will be plenty of time to
13 complete this. That's just my impression.

14 CHMN. KATZ: And my experience in the four
15 hearings that I've had, they've usually taken a day and a
16 half to two and a half days, but they've all been
17 involving power lines. But a lot of the work has already
18 been done. And that's not to say everything.

19 But unlike most of the matters that we have
20 before us where we're looking at brand new sites for
21 locating power lines -- and we don't handle solar or
22 wind, but we do have to have them interconnected with the
23 grid so we are aware of where they're located. But the
24 primary issue here is that a lot of the issues that the
25 statutes require us to cover were covered when the

1 original CEC was issued because the site is already owned
2 and operated by SRP, and there's not going to be any
3 adverse impact upon vegetation and wildlife within the
4 perimeter or immediate surroundings of that site. And
5 there aren't going to be any cultural resources that
6 haven't already been discovered.

7 I do understand there are other environmental
8 concerns that might have to be addressed. But a lot of
9 the work was already done, so it shouldn't be an
10 overwhelmingly long presentation on direct, at least by
11 SRP, but they may need to respond to some of the things
12 that come up during the course of the exchange of
13 information or the direct testimony.

14 Let me ask Ms. Post now, you've heard what we've
15 discussed. I don't know what your client's position is,
16 but I'd love to hear it.

17 MS. POST: Well, I was not contacted about this
18 until December 28th, and I was contacted by the Pinal
19 County NAACP because I'm their lawyer. As you know, this
20 is not my field of expertise, and that's why I wanted to
21 associate with a Autumn, someone who would know the
22 field, because that's what we're supposed to do, right?

23 So it's really been a mad scramble for me to
24 catch up, you know, on the procedure, the process, the
25 witnesses, all of that. And that's why I joined in the

1 motion to continue because -- to give us the time to
2 prepare the case.

3 And just in response to your question about
4 cultural resources, that is one of the issues, that
5 Randolph is, in fact, a historic Black town. And there
6 are some historic and important designations in that city
7 that need to be considered and were not.

8 CHMN. KATZ: And that's fine. And I'm not going
9 to cut you off from bringing those matters to our
10 attention. I just don't know the manner in which that
11 will be presented and I don't need a full explanation
12 now.

13 Let me ask you, and I don't mind if Ms. Johnson
14 also says something, but how long is it before we can get
15 that final notice from the State Bar? I know you're
16 admitted in two jurisdictions. I also know that so darn
17 many people are working from home, is it likely that we
18 can get things up and running and we can grant that order
19 allowing you to associate as pro hac vice?

20 MS. JOHNSON: I don't think that would happen
21 before the 18th. I'm hopeful that that would happen
22 before the 7th. I think you just need the receipt that
23 they have received the full application. I have emailed,
24 called, and mailed multiple times, and so you can't --
25 you can't seem to speak to anyone at the Bar when you

1 call. I did follow up with them again today, and I will
2 be diligent in trying to get that as soon as possible.

3 CHMN. KATZ: And I appreciate that. And I
4 appreciate the dilemma that you're in between, but I have
5 to comply with the rules, and I would love to have you
6 participate without you getting into trouble and
7 jeopardizing any future activities you might wish to
8 engage in perhaps as a full-fledged Arizona lawyer now
9 that you're working here. But we'll cross that bridge as
10 we come to it.

11 And I can hear from now the Western Resources
12 folks. I believe is it Mr. Stafford that is going to
13 address those issues.

14 MS. POST: One more thing before you go.

15 CHMN. KATZ: Yes, Ms. Post.

16 MS. POST: We have three to five witnesses.

17 CHMN. KATZ: And you're going to need to
18 disclose again. What we do is have short, one-paragraph
19 witness summaries. And I'm hoping -- I'll probably enter
20 an order that several days before the hearing that you
21 all meet and confer because I don't want chaos concerning
22 the matter.

23 MS. POST: We did meet and confer with Acken.

24 CHMN. KATZ: That's fine. And I would hope that
25 all of the potential intervenors will at least talk with

1 one another so that we don't get duplicate testimony
2 about similar concerns other than perhaps "I agree" or
3 "ditto."

4 But, anyhow, Mr. Stafford.

5 MR. STAFFORD: Yes, Mr. Katz. I believe we
6 intend to put on one witness. And for our purpose, I
7 think a February 7 start date would work.

8 CHMN. KATZ: And last but not least, I'll ask
9 our friends from the Corporation Commission what their
10 thoughts might be.

11 MR. EMEDI: Thank you, Mr. Chairman. Any of the
12 dates work for us. The week of February 7th works for
13 us. And since we're so easy, we're actually not
14 intending to present a witness at this point, but we will
15 be there to engage in some cross-examination.

16 CHMN. KATZ: And that's fine. I'm assuming that
17 the other parties will probably want to engage in
18 cross-examination as well, and we'll probably set an
19 order by which everybody proceeds. I also will allow,
20 assuming that the Committee agrees to allow all of the
21 interventions, and I'm fairly certain they will -- and I
22 think we're better off having too many people, as long as
23 they have legitimate concerns, than not too few.

24 Anyhow, I don't know what your thoughts are,
25 Mr. Acken, in terms of -- and I don't know that I have

1 the authority to do it, but sharing in any additional
2 expenses because I do feel that you gave appropriate and
3 timely notice, particularly in light of your 90-day
4 filing and all of your open houses and board meetings
5 that people were encouraged to participate in. But I
6 don't know what your thoughts are.

7 MR. ACKEN: Thoughts on sharing it amongst the
8 parties? Is that what you're saying?

9 CHMN. KATZ: Right. I don't know how much this
10 is going to cost you. I know that your technical people
11 aren't going to be there. The hotel is probably still
12 going to be happy to have the attorneys and witnesses
13 staying in Casa Grande and aren't going to totally lose,
14 but I don't know whether there were any conflicts and
15 whether you've already run this by the hotel management
16 people.

17 MR. ACKEN: We've had some initial discussions
18 with them about possible moves, possible time, but we
19 didn't know exactly when that might be. I would hope
20 that that hotel still has availability for us and will
21 work with us on accommodations as it relates to cost.
22 Same with the AV folks.

23 So I will take this as an action item and
24 discuss further internally to see if there's any other
25 ask from our standpoint on that. I don't think there

1 will be. We understand the applicant's burdens as it
2 relates to putting on a case and in the nature of the
3 siting that the applicant has to provide a location for
4 that. Hopefully, we can limit those costs.

5 So this group is clear, to the extent they're
6 not already, SRP is not an investor-owned utility. And
7 so it does -- its costs are passed through to its
8 customers, and it tries to be very judicious with its
9 expenditures. So if we have further thoughts, I'll share
10 with this group.

11 CHMN. KATZ: Understood.

12 The other thing, too, is I know that we can't
13 get out detailed mailings, and I haven't ordered that you
14 mail everything if we get things on all of the
15 participating parties' websites and get the word out on
16 social media. But does it make sense to send an
17 identical postcard to mail everything -- not 30,000, but
18 the 7,000 or so that you were concerned about regarding
19 the public comment being continued until February 7th, if
20 we do that, at 5:30 p.m.?

21 MR. ACKEN: The issue, Mr. Chairman, is we're
22 not going to be able to get that notice to them in the
23 mail received before the 18th. And so that's the
24 problem. Could there be a supplemental mailer? Sure,
25 with whatever costs are associated with that. But there

1 is going to be a gap. For those folks who do not monitor
2 social media who do plan to attend, there's just no way
3 for us to reach them. They're going to show up on the
4 18th.

5 CHMN. KATZ: I'll give some further thought, but
6 it's going to be hard to get everybody together, I
7 believe. And when you talked about an earlier date, we
8 sent out a list of dates when we set the February 7th
9 matter for the TEP folks, and the Committee, with all of
10 their different work obligations and other concerns,
11 basically gave us that window. And I think we may have
12 originally had -- well, that was set for two weeks
13 anyhow, so the Committee is expecting to meet for two
14 weeks.

15 MR. ACKEN: Understood.

16 CHMN. KATZ: Let me just go through some of the
17 other things. And I know we're probably going to have to
18 set another prehearing conference, but I'll just go
19 through some of the checklist.

20 Have you complied with A.R.S. Section
21 40-360.04(A) by giving notice to the affected
22 jurisdictions? And who are those affected jurisdictions?
23 I know it, but I want to make a record of it.

24 MR. ACKEN: Mr. Chairman, we have. We've
25 provided notice to Pinal County and the City of Coolidge.

1 The project itself is within the boundaries of the City
2 of Coolidge and is adjacent to unincorporated Pinal
3 County as well, so those are the two affected
4 jurisdictions.

5 CHMN. KATZ: And I'm assuming that you've also
6 complied with the posting and publishing requirements of
7 the Procedural Order?

8 MR. ACKEN: We have.

9 CHMN. KATZ: Okay. And we're going to need to
10 get together in advance of that date. And maybe when
11 we're at the end of this, I can have Tod give you some
12 suggested dates. But I'm not going to review the agenda
13 with you right now, but I'm assuming that we may have to
14 revise it to show that there may be some intervenors.
15 Maybe we're okay with the agenda as originally written.

16 And I've been in the hotel that we're talking
17 about, assuming we're able to use that same facility.
18 And I know that they had a good WiFi and that your
19 internet provider, the technical folks, will make sure
20 that we have that set up that we usually have.

21 iPads. When I say things on iPads, the
22 exhibits, the application, and so forth. But we do need
23 a few hard copies available. I'm still old-fashioned, so
24 I like both the computer, but I also like to get my hands
25 on documents. So we'll leave it at that.

1 When we do have our sign-in for the public
2 hearing, we'll need to have little forms for them to set
3 out their name, address, phone number, or email.

4 I don't think we're going to need any security.
5 I don't expect a violent riot here. There might be
6 people that are unhappy about this power plant, but I
7 don't think anybody's going to turn to violence, so I'm
8 not going to need you to have any police or security
9 guards or whatever.

10 We'll have a public comment session. And I
11 think we are going to move it to the 7th. But we'll
12 start it at 1 p.m., and we'll run until 4:30 or 5 p.m.
13 with a break every hour and a half for the benefit of the
14 court reporter and all of our attention spans and sanity.

15 And I don't know yet whether we will or won't
16 take a tour. We might want to do that. I don't know
17 whether the Committee will want to have that done or not.
18 But I don't know that we gain all that much because we're
19 not installing power lines all over the neighborhood.
20 We're building or expanding a new unit at the power
21 plant. So I don't know how useful a tour would be, but I
22 don't know what their thoughts are, Mr. Acken.

23 MR. ACKEN: Mr. Chairman, we actually anticipate
24 that there will be interest in a tour just because this
25 Committee hasn't seen this type of project. And the nice

1 thing about it is they can see an existing facility and
2 see what it will look like. So we're prepared -- we have
3 a tour protocol. It's going to require some safety
4 considerations for folks to enter an active generation
5 facility that they're just going to have to agree with
6 which are extremely reasonable, but that will all be set
7 forth.

8 But in our thoughts, I often advocate holding a
9 tour. In this case, we think that it makes sense, and we
10 expect that at least several Members of the Committee
11 will want to do so, and we'll be prepared to do so.

12 CHMN. KATZ: And as I said, we'll start at 1 and
13 run till 4:30 or 5. And then our public comments would
14 be from 5:30 until they are done. And then we can take
15 the tour on Wednesday or whenever it fits in conveniently
16 to the schedules of our various witnesses.

17 And one thing I want to assure you, somebody
18 kept calling me, I think it was Mr. Rich, "Your Honor."
19 Now you can call me the X Man. I had almost 22 years on
20 the bench, but you can call me Mr. Chair, and I'll try to
21 remember to call you Ms. or Mr. or the like. But to all
22 of you, when we're informal, Paul will work just fine.
23 If you feel more comfortable calling me Mr. Chair or
24 whatever, that's fine.

25 But the other thing, too, is when I was on the

1 bench, because I grew up in the federal courts, I used to
2 make all the lawyers wear suits and ties and proper
3 attire. Business casual is fine. Don't wear suits and
4 ties unless you think you have to impress the
5 neighborhood. And I don't think in Casa Grande you have
6 to impress anybody. And you won't be impressing me by --
7 I probably won't be any better dressed than I am right
8 now, wearing a long-sleeved shirt or a polo shirt. And I
9 am wearing jeans today as well, but I'm not going to be
10 at all concerned as long as you don't come in looking
11 like a slob or in a way that's disrespectful to the
12 Committee. So that will be fine.

13 MS. JOHNSON: I'm sorry, Mr. Chairman, could I
14 ask a clarifying question?

15 CHMN. KATZ: Yes, please.

16 MS. JOHNSON: You said it's likely that the
17 hearing would be moved to February 7th starting at 1 p.m.
18 And then I think you said if there was a tour, it would
19 be on Wednesday. And I just wanted to clarify if that
20 would be indeed Tuesday or Wednesday since February 7th
21 is a Monday.

22 CHMN. KATZ: Again, I don't know what the plans
23 are for the tour, whether it would be on our opening day,
24 whether it would be on Wednesday, Thursday, or Friday, or
25 the first of the following week. We just need to have

1 you all cooperate with one another to see what
2 logistically makes sense because it's not a lengthy tour.
3 We're not driving 7 or 10 miles around the loop. We'll
4 go to the facility, and it will give the Committee an
5 idea of what the surrounding environment is as well.

6 MR. EMEDI: Mr. Chairman, I have another
7 logistic question for you. This is Steve Emedi.

8 As I mentioned, we won't be presenting any
9 witnesses. I think we'll have some limited
10 cross-examination. And maybe you guys have already
11 figured this out doing it recently, but is there any
12 thought to allowing any of the parties to participate
13 remotely, or will all be in person?

14 CHMN. KATZ: I like to have the lawyers, if at
15 possible, present and in person. I do understand that
16 Ms. Johnson may be expecting a child, so if she's
17 admitted to practice, she could appear virtually. I
18 prefer witnesses to be present in person. But if that's
19 not possible because they're living in Oklahoma or New
20 Jersey, I don't mind if they appear virtually. And the
21 technical people usually have a Zoom or similar link for
22 those people as opposed to the public to participate.
23 And I have had a couple of out-of-town witnesses
24 appearing. But I prefer to have as many people present
25 as possible. And I started to get worried when I started

1 this job where we have ten Committee Members and four or
2 five of them appearing virtually.

3 The other reason that I have considered
4 continuing this matter is the fact that this Omicron
5 variant is pretty nasty. And while most of us have been
6 vaccinated, I at least hope so, and I've been boosted and
7 some of you have as well, it's not preventing -- about 30
8 percent of the infections are people that have been
9 vaccinated and boosted. Usually, not getting very sick.
10 But, nonetheless, hopefully by February 7th, and that
11 means I'm overly optimistic, that things will have
12 settled down at least a little bit.

13 And I would encourage all of you to bring masks
14 with you. I'm not ordering it today, but I would want
15 everybody except for perhaps apart from the lawyer that
16 might be doing the examination or cross-examination and
17 maybe the witness to remove those masks. And I want to
18 make sure that we have a good 6 feet apart from one
19 another. I don't know how much that matters with this
20 new variant. But, anyway, I just wanted to share that
21 with you.

22 MS. JOHNSON: Just a follow-on, Mr. Chairman, if
23 I actually do have a baby on February 7th, if I am
24 admitted, I do appreciate being able to appear remotely.
25 And we do have one to two witnesses that are out of

1 state.

2 CHMN. KATZ: And let me ask Carolyn, our court
3 reporter, in a minute, what we can do is I normally have
4 exhibits -- like it will either be SRP 1, 2, 3, and 4 or
5 Applicant 1, 2, 3, and 4. And then I would have Sierra
6 Club -- I don't know whether it's easier, Carolyn, to
7 have them picking up with No. 5, 6, and 7 or starting
8 with Sierra 1, 2, 3, and 4. The latter? You see her
9 head shaking yes, but that would be fine.

10 I just want to, in advance of exhibits, you
11 would have SRP or Applicant 1, 2, 3, and 4, Sierra Club
12 1, 2, 3, and 4, and the Randolph group 1, 2, 3, and 4
13 or -- I don't need to have the full name, but Randolph 1,
14 2, 3, and 4. And Western Resources. Western could be
15 Western 1, 2, 3, and 4.

16 And as I said, unless it doesn't work, I'd like
17 to have SRP's witnesses and exhibit statements filed on
18 the 21st and the potential intervenors on the 28th. And
19 the sooner you get each other that information, the
20 happier everyone will be and the smoother this hearing
21 will go. And I'm hoping that you'll work to narrow the
22 issues. I'm not expecting total agreement because if we
23 had total agreement, we wouldn't need to have much of a
24 hearing.

25 And I'm assuming that our intervenors have

1 complied with the Procedural Order except for the
2 disclosure of witnesses and exhibits, which we put off
3 because we were having this hearing today. And the
4 Corporation Commission has been notified of the matter.

5 And I don't know whether there's anything else
6 that we need to cover today. I know that there are no
7 federal -- well, there's at least no NEPA permits
8 required. I'm assuming that applications have been filed
9 or will be filed for any county or city zoning
10 requirements and that -- I don't know whether at this
11 point in time ADEQ or EPA need to be notified of
12 anything. I just trust that SRP is well aware of who
13 needs to get notified and where you'll need to get your
14 permits from either in advance of or should a Certificate
15 of Environmental Compliance be issued.

16 MR. ACKEN: Mr. Chairman, we'll be prepared to
17 speak to the other primary permits, if you will, and that
18 would be the air quality permit that would be issued
19 by -- that is currently before Pinal County Air Quality
20 as well as an Aquifer Protection Permit with ADEQ. Those
21 are two of the other primary permits.

22 I do have -- I don't know if you're wrapping up.
23 I had two other items I wanted to cover.

24 CHMN. KATZ: Please do.

25 MR. ACKEN: So the first one is when we talked

1 about moving the schedule, I said SRP would be willing to
2 do so and wait, but we would like to see the other
3 parties willing to work with us and request that the
4 Commission hear it within 30 days after a decision of
5 this Committee.

6 And I didn't hear -- I heard silence on that, so
7 I'm hopeful the Committee would work with us in good
8 faith and agree to request an expedited decision from the
9 Commission since we are accommodating schedules and
10 waiving time frames and providing more time that they
11 work with us so that this decision can be completed by
12 March.

13 CHMN. KATZ: I wouldn't have any -- normally,
14 the CEC -- just so if you haven't been through one of
15 these hearings, I'm not doing it much differently than
16 Tom Chenal did it, but we normally post on two screens.
17 On the left would be the version of the proposed
18 Certificate of Environmental Compatibility that has been
19 presented to us by the applicant with the edits that Tod
20 and I would make to it. And then on the right side, we
21 would start out with the same document. But then we
22 would begin making changes on the left screen on
23 things -- edits that we needed to make.

24 And, ultimately, I would require the applicant,
25 if the Committee approves the CEC, to doctor up, so to

1 speak, the edits which the Committee has proposed and
2 agreed to. So that's pretty well how we'll do it. And
3 Mr. Acken has had the privilege or misfortune of being in
4 front of me previously on a hearing.

5 Is there any objection to the parties
6 cooperatively working together and -- well, I don't know
7 if I need all of your blessings and consents, but I
8 wouldn't have a problem putting a condition in the CEC
9 that the Corporation Commission expedite the hearing of
10 this matter so that it may be heard on or before whatever
11 date you think would be appropriate. Obviously, they're
12 free to disregard that recommendation, but I would be
13 happy to put that in there. I don't know if any of the
14 intervening parties would have an objection to doing
15 that.

16 MR. EMEDI: If I may, Chairman, -- this is
17 Stephen Emedi from the Commission again. I would just
18 note that the only restriction that I think the
19 Commission has is in Section 40-360.07(A), there is that
20 30- to 60-day window. So other than that restriction, I
21 don't see any issues with the request, but they are bound
22 by that timeline.

23 CHMN. KATZ: And we'll have a decision for you
24 probably by February -- the end of that second week,
25 which would be, I believe -- is that the 14th through the

1 18th?

2 MR. ACKEN: Right.

3 CHMN. KATZ: We should have a decision from the
4 Committee by the 18th.

5 MR. EMEDI: I was just going to say I believe
6 March open meeting is scheduled for March 15th and 16th.
7 So timingwise, it can't be sooner than 30 days.

8 CHMN. KATZ: Understood.

9 MR. ACKEN: And SRP understands that too. We
10 would not be asking for Commission waiver of that 30
11 days, but we would be asking the Commission to do so on
12 day 30 if at all possible.

13 CHMN. KATZ: And, Tod -- well, do we have any
14 other concerns that need to be expressed on the record or
15 presented to me at this time?

16 MR. ACKEN: I do. I have one other, and it
17 relates to what Mr. Rich said regarding the scope of this
18 proceeding. He indicated that we didn't necessarily need
19 to deal with it today. It's something you had mentioned
20 at the outset.

21 I do think we would benefit from direction at
22 this time as to whether -- I'm getting some feedback. I
23 apologize if that's on my end. We would benefit from
24 direction, "we" being Sierra Club and SRP, as to the
25 scope of this proceeding. We have received several data

1 requests, two sets, 33 individual requests, I believe,
2 with maybe subparts.

3 In the second request, we had over 100,000 pages
4 of documents that we have Bates-labeled. Most of those
5 are far, far outside the scope of what is traditionally
6 an environmental compatibility CEC. And Mr. Rich
7 indicated that he has additional data requests for us.

8 I think it would be helpful for both parties to
9 have your thoughts on just how broad a field this
10 proceeding is going as well as discovery should go.

11 CHMN. KATZ: Well, I think that we can get into
12 any visual or noise or other effects that the building
13 and operation of this expanded facility might have around
14 the surrounding neighborhoods. But one thing I think we
15 all have to keep in mind is that neither I nor this
16 Committee make public policy decisions regarding what
17 types of energy facilities are appropriate to generate
18 electricity. I wish we had enough solar, wind, and God
19 knows what other technologies might come to light to
20 furnish electricity.

21 But on relatively small acreage, we have already
22 kilowatt hours coming out of a traditional power plant.
23 And I'm glad we're not dealing with oil or coal in this
24 particular situation. And we are dealing with natural
25 gas, which is one of the better of the not-so-good fuels

1 for a plant. But we don't have sufficient battery and
2 solar capacity and wind capacity right now to furnish the
3 immediate needs of the community. And right now, natural
4 gas plants can lawfully be built, but we want to make
5 sure that they are compatible with the surrounding
6 residents and neighborhood. But we don't control air
7 pollution or hydrocarbon emissions. That's up to the
8 local community. And I wish that we were carbon-free
9 right now, but we're not.

10 And I don't want to get too much into it, but
11 once we go to electric cars, we're going to need even
12 more electricity generated. And I don't know what the
13 sources down the road that will be. But I don't want us
14 playing the game of -- I don't think the Committee or the
15 Commission, Corporation Commission, has the authority to
16 prohibit the construction of a gas-fired power plant.
17 It's a question of whether or not it is needed and in the
18 best interests of the state and the surrounding local
19 communities.

20 MR. RICH: Mr. Chairman, may I just briefly
21 comment. I appreciate your direction there and
22 Mr. Acken's comments. And I assure you that Sierra Club
23 intends to present evidence that only goes to the factors
24 that are set forth in A.R.S. 40-360.06 subsection (A)(1)
25 through (9). And as you know, the Committee is required

1 to consider those factors, and those factors do include
2 things beyond just air quality, which we will be
3 addressing, and environmental impact.

4 For example, No. 7, subsection (A)(7) in that
5 section, requires the Committee to examine the methods
6 that are available for achieving a specific purpose, a
7 proposed objective, I should say. And No. 8 requires an
8 examination of the cost of the facilities and the site.
9 So we certainly intend to present evidence on the
10 subjects that the Committee is required to examine.

11 And I just want to flag that in case Mr. Acken
12 has a problem with that that would merit discussion in
13 front of you, Mr. Chairman. But I just wanted to make
14 sure that you were aware of that.

15 CHMN. KATZ: And that's one of the reasons I
16 want the relatively early -- and it's not that early --
17 disclosure of witness summaries and exhibits one with the
18 other. And as a judge, I never liked setting time limits
19 except in the rarest of circumstances. And I want cases
20 to be presented, but I also need to have us respect the
21 needs of these primarily laypeople that are participating
22 as Committee Members.

23 So the other thing -- let me just ask you, Tod,
24 when would you suggest that we set a full prehearing
25 conference? And I know we can avoid some of the

1 discussions we've had today in that, but I just want to
2 make sure that we're on track. And we might have some
3 objections to the scope of the hearing. And I may need
4 to set some time limits, but I'm hoping we can
5 cooperatively work together without unduly restricting
6 anybody's presentation.

7 MR. BREWER: Yes, Mr. Chairman. It appears that
8 we have availability on February 1st, 2nd, 3rd, and 4th
9 all day on any of those days for the prehearing
10 conference.

11 CHMN. KATZ: I can either have you decide now or
12 collectively meet without us being present and get back
13 to Tod by email or phone call.

14 MR. ACKEN: In my experience, if folks don't
15 mind, let's just set a time now if we have everybody
16 here. I see a couple heads nodding.

17 2:00 on the 1st, does that work for folks?

18 MR. RICH: Mr. Chairman, I'm actually scheduled
19 to be out of state at a conference on the 31st, 1st, and
20 2nd. So if the 3rd or 4th are available for the
21 conference, that would be preferable to me if that's
22 possible.

23 CHMN. KATZ: If we do it on the 3rd, does that
24 work for everybody?

25 (No response.)

1 CHMN. KATZ: I'm not hearing any loud objections
2 and I'm seeing a lot of positive headshakes. If we need
3 to get together and confer earlier than that date, just
4 let us know. But we always need to make advanced
5 arrangements for court reporters.

6 So I thank all of you. And I hope that we will
7 move smoothly, even if a little longer than originally
8 anticipated.

9 Any other comments or questions or concerns?

10 MS. POST: Did you pick a time on the 3rd?

11 CHMN. KATZ: 2 p.m.

12 MS. POST: 2 p.m.

13 CHMN. KATZ: Anyway, I thank you. And it's
14 belated, but I wish you a healthy and happy new year.
15 And I hope that none of us end up in quarantine on the
16 days of this hearing, so just be as safe as you
17 reasonably can be.

18 Take care of yourself. Bye-bye.

19 (The prehearing conference concluded at
20 3:02 p.m.)

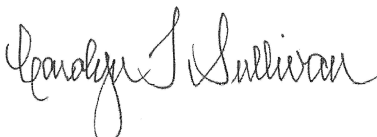
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1 STATE OF ARIZONA)
)
2 COUNTY OF MARICOPA)

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

9 I CERTIFY that I am in no way related to any of
10 the parties hereto nor am I in any way interested in the
11 outcome hereof.

12 I CERTIFY that I have complied with the ethical
13 obligations set forth in ACJA 7-206(F)(3) and
14 ACJA 7-206(J)(1)(g)(1) and (2). Dated at Phoenix,
15 Arizona, this 14th day of January, 2022.

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CAROLYN T. SULLIVAN
Arizona Certified Reporter
No. 50528

26 I CERTIFY that COASH & COASH, INC., has complied
27 with the ethical obligations set forth in ACJA
28 7-206(J)(1)(g)(1) through (6).

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