

1 BEFORE THE ARIZONA POWER PLANT LS-272
2 AND TRANSMISSION LINE SITING COMMITTEE
3

4 IN THE MATTER OF THE) DOCKET NO.
5 APPLICATION OF ELEVEN MILE) L-21213A-22-0300-00212
6 SOLAR CENTER LLC, IN)
7 CONFORMANCE WITH THE)
8 REQUIREMENTS OF ARIZONA REVISED)
9 STATUTES 40-360, ET SEQ., FOR A) CASE NO. 212
10 CERTIFICATE OF ENVIRONMENTAL)
11 COMPATIBILITY AUTHORIZING THE)
12 CONSTRUCTION OF A 230 kV)
13 TRANSMISSION LINE OF)
14 APPROXIMATELY .3 MILE IN LENGTH)
15 NEEDED TO CONNECT THE ELEVEN)
16 MILE SOLAR CENTER TO THE PINAL) PREHEARING
17 CENTRAL SUBSTATION IN PINAL) CONFERENCE
18 COUNTY, ARIZONA)
19 _____)

20 At: Phoenix, Arizona
21 Date: January 9, 2023
22 Filed: January 12, 2023
23

24 REPORTER'S TRANSCRIPT OF PROCEEDINGS
25 (Pages 1 through 17)

26 GLENNIE REPORTING SERVICES, LLC
27 Court Reporting, Video & Videoconferencing
28 1555 East Orangewood Avenue, Phoenix, AZ 85020
29 602.266.6535 admin@glennie-reporting.com

30 By: Jennifer Honn, RPR
31 Arizona CR No. 50885

1 BE IT REMEMBERED that the above-entitled and
2 numbered matter came on regularly to be heard before the
3 Arizona Power Plant and Transmission Line Siting
4 Committee, commencing at 3:10 p.m. on January 9, 2023,
5 with all participants appearing via videoconference.

6

7 BEFORE: PAUL A. KATZ, Chairman

8

9 APPEARANCES:

10 For the Applicant:

11 Matthew Derstine, Esq.
12 SNELL & WILMER
13 One East Washington Street
Suite 2700
Phoenix, Arizona 85004

14 For Potential Intervenor SunDog Solar Energy Center, LLC:

15 Albert H. Acken, Esq.
16 ACKEN LAW
111 East Dunlap Avenue
17 Suite 1-172
Phoenix, Arizona 85020

18 Sarah A. Noe, Esq.
19 BALLARD SPAHR
One East Washington Street
20 Suite 2300
Phoenix, Arizona 85004

21 For the Arizona Corporation Commission Utilities Division
22 Staff:

23 Mr. Max Carpinelli, Esq.
Legal Division
1200 West Washington
24 Phoenix, Arizona 85007

25 //

1 ALSO PRESENT:

2 Ms. Amy Shanahan, Orsted, Senior Manager, Development
3 Mr. Mark Turner, AECOM, Senior Environmental Planner
4 Ms. Kirsten Johnson, AECOM, Project Manager
5 Ms. Gourjia Odisho, Snell & Wilmer, paralegal
6 Mr. Tod Brewer, Assistant to Chairman Katz
7 Ms. Lisa Glennie, Glennie Reporting Services

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 CHMN KATZ: Mr. Derstine, would you please
2 identify yourself for the record and indicate on whose
3 behalf you're appearing here today.

4 MR. DERSTINE: Yes. Thank you. Matt Derstine
5 with Snell & Wilmer appearing on behalf of the Eleven
6 Mile Solar project, the applicant.

7 CHMN KATZ: Okay. And I believe you have, is
8 it, Sarah Noe with you?

9 MR. ACKEN: Chairman, she's with me.

10 MR. DERSTINE: Go ahead, Bert.

11 CHMN KATZ: Yeah, Mr. Acken, I'll have you
12 identify yourself. I know you're representing a
13 potential intervenor in this matter, and I'll ask you to
14 identify yourself for the record and indicate on whose
15 behalf you're appearing.

16 MR. ACKEN: Thank you and good afternoon. Bert
17 Acken of Acken Law on behalf of potential intervenor
18 SunDog Solar Energy Center, LLC. With me is my cocounsel
19 Sarah Noe of Ballard Spahr.

20 CHMN KATZ: Right, and I got that mixed up. But
21 that's fine.

22 And you filed, I believe, a motion or a notice
23 of intervention. And what type of appearance are you
24 seeking to make? Are you -- a limited appearance for
25 just opening statements or public comments? Or are you

1 going to be calling any witnesses? What's your current
2 plan?

3 MR. ACKEN: Thank you, Mr. Chairman. We do seek
4 full intervention status. The level of participation
5 will depend on our ability to -- I hope and I'm
6 optimistic -- stipulate to a condition with the
7 applicant. Those discussions were slowed down over the
8 holidays just for a variety of folks' availability. But
9 if those discussions are fruitful, we will be in a
10 monitoring mode only. We could not file a witness
11 summary Friday. I would ask for some flexibility to file
12 a witness summary sometime this week if necessary. But
13 my current expectation and hope is that we will be just
14 monitoring rather than an active participant.

15 CHMN KATZ: And, Mr. Derstine, we are going to
16 be doing this at the Radisson Hotel or motel in Casa
17 Grande, Arizona; is that correct?

18 MR. DERSTINE: That's correct, Chairman.

19 CHMN KATZ: And the start date will be on
20 Tuesday, January 17, because Monday is a holiday. It's
21 Martin Luther King Day. So we're probably going to be
22 going Monday, Tuesday, Wednesday, possibly Thursday but
23 likely Monday, Tuesday, and Wednesday?

24 MR. DERSTINE: I think our start would be at the
25 regular one o'clock on Tuesday. And then our expectation

1 would be that we'd be done Thursday if not sooner.

2 CHMN KATZ: Okay. And, Mr. Acken, I don't know,
3 if you should need to call witnesses, how much longer
4 that might make these proceedings?

5 MR. ACKEN: Even if we were to call a witness,
6 it should not and it will not unreasonably delay the
7 process. I wouldn't anticipate that that direct
8 testimony, if necessary, would be more than 15 minutes or
9 so.

10 CHMN KATZ: Okay. And I could ask you to agree
11 that May 31 is the time limit in which the Committee must
12 act, but I can guarantee you that we will deliberate and
13 act before we recess. And then when I get the final form
14 of the Certificate of Environmental Compatibility in Word
15 format and we'll convert it to PDF, I will sign off on
16 it, and you should get it within a day or two after that.

17 And I just need to ask has the applicant
18 complied with A.R.S. Section 40-360.04(A) and that is
19 provided appropriate notice to the affected jurisdictions
20 who I believe are Coolidge, Casa Grande, and Pinal
21 County?

22 MR. DERSTINE: Yes, we have Chairman.

23 CHMN KATZ: Okay. And I'm assuming that you --
24 that the applicant has complied with the posting and
25 publishing requirements of the procedural order and

1 A.R.S. Section 40-360.04(A)?

2 MR. DERSTINE: Yes, we have.

3 CHMN KATZ: Okay. And I don't think we need to
4 review copies of the notices and evidence of compliance
5 with all notice requirements for the hearing, but is
6 there anything that is deficient or lacking that we
7 should have in hand as of this date?

8 MR. DERSTINE: No.

9 CHMN KATZ: And I'm not going to -- our agenda's
10 a standard agenda. We are beginning on a Tuesday rather
11 than a Monday. Public comment will be at 5:30 on Tuesday
12 the 17th. And then for the remainder of the hearing,
13 we'll begin at 9 a.m. on the 18th and 19th. And if we
14 need any more time, we'll go into the 20th.

15 But you'll have sign-in forms for the public,
16 I'm assuming, Mr. Derstine. I don't know if there's been
17 much of any public interest expressed thus far other than
18 the intervenor's interest and possibly the cities or
19 towns and county.

20 MR. DERSTINE: There has not been a lot of,
21 really any, public interest in terms of opposition to the
22 application for a very short gen-tie line, but we will
23 have all the -- everything needed for public comment on
24 the first day of the hearing.

25 CHMN KATZ: I get things overlapping one

1 another. Is this the one where we have only three-tenths
2 of a mile aboveground and the remainder is underground?

3 MR. DERSTINE: The entire line is approximately
4 three-tenths, and a portion of that is underground and
5 then there's the aboveground segment. You have it
6 correct, Chairman.

7 CHMN KATZ: Okay. So now that your client is
8 spending lots of money to get this very short line
9 approved, I hope that you will get them -- and I
10 encouraged Mr. Acken to do the same. With the regular
11 applicants for gen-tie lines from solar and wind, we need
12 a legislative change because it's ridiculous for lines
13 that are over two, three, maybe even four poles that are
14 less than a mile in length and in rural or quasi-rural
15 areas to have to spend this much money as applicants are
16 having to spend to have 10 people review this when it
17 probably could be done before an administrative law
18 judge. But it won't be my problem after the end of
19 February, but I will be available to work with any of you
20 if we can make contact with members of the legislature
21 that might be willing to help the solar and wind industry
22 smooth things out. I don't need a reply to all that. I
23 just hope that we can get something done.

24 Are we going to need a tour, Mr. Derstine? What
25 is your thought in that regard?

1 MR. DERSTINE: My thought is we will not need a
2 tour. There really isn't -- we have prepared a tour
3 itinerary, but it pretty much would be a one-stop tour.
4 As you mentioned, it's a very short gen-tie line, and so
5 there is not a lot to see. We could take the Committee
6 out to drive outside the Pinal Central Substation and
7 point to where the gen-tie line will come aboveground
8 from the underground crossing and then interconnect at
9 Pinal Central. But I think the Committee is generally
10 familiar with this area, and we could, either through
11 Google Earth and/or our flyover simulation, I think the
12 Committee will have a clear understanding of where this
13 line is proposed to be sited and its location. And there
14 just is not a lot to see that a tour would reveal. And
15 we're not -- there's no close proximity to any residences
16 or any other significant environmental impacts.

17 CHMN KATZ: Well, I will be strongly
18 recommending against a tour unless the intervenor, once
19 allowed to intervene, which I'm sure will occur, has some
20 desire to see us take a tour.

21 MR. DERSTINE: Right.

22 MR. ACKEN: No, Mr. Chairman, we will not be
23 advocating for a tour.

24 CHMN KATZ: Okay. And there will be a virtual
25 Google Earth or some type of flyover; is that correct?

1 MR. DERSTINE: That is correct.

2 CHMN KATZ: Are there any other issues,
3 Mr. Derstine or Mr. Acken, that you can think of that we
4 need to be concerned with regarding the hearing itself?

5 MR. DERSTINE: I don't have any, Mr. Chairman.

6 Mr. Acken already spoke to his application to
7 intervene. We talked briefly this afternoon about the
8 issues raised in the application to intervene. We're
9 going to have some more discussions. And Mr. Acken and I
10 know each other well, and I think we'll work towards
11 trying to resolve the concerns of his client.

12 I guess we may file something as just a
13 placeholder to respond to some of the -- to the
14 application to intervene and just to make the record
15 clear in terms of what discussions have taken place to
16 date over, you know, granting Mr. Acken's client an
17 easement for its project which is somewhat off in the
18 future. So there may be an opportunity or a reason for
19 us to make that record clear. But I think, as Mr. Acken
20 indicated, we think we're optimistic that we can work
21 through a resolution of their concerns and come up with
22 some language possibly that would be a stipulated
23 condition to the CEC.

24 But short of that, for some reason, these siting
25 cases have become a forum for sophisticated solar

1 developers to try to assert some leverage on an
2 adjourning project to gain right of way. That may work,
3 and there may be reasons for that in other cases. I
4 don't think this is that case. But we are where we are.

5 CHMN KATZ: And I had one case, and I won't name
6 who the obstinate party was, that had a solar project
7 already in process north of a new one that was being
8 heard before us to the south, and they wanted \$65 million
9 over 10 years or \$6.5 million a year for an easement.
10 Based upon my experience as a judge and involved in
11 condemnation matters, that easement was probably worth
12 about, at the most, \$50,000. And obviously the solar
13 companies aren't like the big utilities; they don't have
14 condemnation authority. But I always expect parties to
15 act reasonably with one another because what goes around
16 comes around. And I hope that you guys can work things
17 out to be cooperative with one another.

18 Anyhow, that all being said, have you,
19 Mr. Derstine -- I don't have it, but that doesn't mean it
20 wasn't filed. Have you filed your witness summaries at
21 all in this matter? And, if so, I'm assuming a copy of
22 it is on the way to us.

23 MR. DERSTINE: We have. We filed -- we have two
24 witnesses, and we filed our witness summaries along with
25 a proposed form of CEC. And we also shared with your

1 office the summary of our public outreach and engagement.
2 So I think we have everything filed and/or shared with
3 through Tod through with your office that we're required
4 to have presented by last Friday. And so I think we're
5 ready to go.

6 And I'm happy to work with Mr. Acken on if he --

7 CHMN KATZ: Well, what I'll do is -- when,
8 Mr. Acken, do you think I should set as a deadline for
9 you to file a summary of written testimony and exchange
10 your exhibits if you haven't already done that with
11 Mr. Derstine? I could make it Thursday or Friday. But,
12 obviously, Monday's a holiday. I just want to make sure
13 that nobody -- no surprises are pulled.

14 MR. ACKEN: And certainly we intend no surprise.
15 Either Thursday or Friday works for us. The more time we
16 have, the more time we have to work with Mr. Derstine and
17 his client to see, again, if we can reach a stipulation
18 that would obviate the need for us to present testimony.

19 CHMN KATZ: Tod, I think Friday is the 13th. Do
20 you think it would be better to look at the 12th?

21 And I will be out of the office Thursday and
22 Friday. My wife is having arthroscopic shoulder surgery
23 on Thursday, and I'm going to be home to make sure she
24 gets some good care from this clumbling old -- old fool.

25 But, anyway, will you -- it doesn't matter to

1 me. Tod, should we do Thursday or Friday?

2 MR. BREWER: Thank you, Mr. Chairman. I think
3 Friday would be acceptable. That way we'd have enough
4 time to still get everything out to you and to everyone
5 else.

6 CHMN KATZ: Okay. Well, let's make sure that
7 the witness summaries and your exhibits get filed and
8 exchanged no later than this Friday. I think that's
9 Friday the 13th. But it will be a lucky day for all of
10 us, so we won't worry about that.

11 And your exhibits have been already filed,
12 Mr. Derstine?

13 MR. DERSTINE: Yes, Chairman. Oh, our exhibits
14 have not been filed. We have filed our witness summary.
15 I'll work with Mr. Acken and if they intend to
16 participate, I'll certainly make sure that he receives
17 our exhibits, anything else we intend to use at the
18 hearing by Friday, the same date that Tod has indicated
19 that Mr. Acken will have his witness summaries and
20 exhibits shared with us.

21 CHMN KATZ: And just as a suggestion, you may
22 want to number yours like EMS-1, 2, 3, 4, and 5. And if
23 we end up with SunDog, we could have SD-1, 2, 3, 4, 5, 6,
24 7. Okay?

25 MR. DERSTINE: Will do.

1 MR. ACKEN: Yes, Mr. Chairman.

2 CHMN KATZ: Okay. You're working on narrowing
3 the issues. Are there any other legal issues we need to
4 be concerned with?

5 MR. DERSTINE: None that I know of, Chairman.
6 Thank you.

7 CHMN KATZ: And I'm assuming that all necessary
8 financial arrangements have been made with the
9 Corporation Commission. And I see that we have
10 Mr. Carpinelli from the Corporation Commission here in
11 this hearing today. So I'm assuming that Staff has been
12 notified and that we are set to go from the Commission's
13 perspective.

14 MR. DERSTINE: Yes, financial arrangements have
15 been made. And if Mr. Carpinelli or anyone at Staff have
16 any questions or concerns, we're happy to address them.

17 CHMN KATZ: And we're not going to review the
18 CEC at this time, but we need to make sure that that gets
19 sent to us, the draft, if we haven't already received it,
20 that we get it promptly.

21 And, let's see, I'm assuming that there are no
22 federal funds involved or no federal property involved so
23 we don't have any compliance with NEPA or we don't need
24 an EIS.

25 And I'm assuming that all the permits have

1 either been applied for or received: Federal, state, or
2 local.

3 MR. DERSTINE: That's correct, Mr. Chairman.

4 CHMN KATZ: Okay. And while I always like one
5 hard copy of the exhibits, I don't need to have every
6 member of the Committee getting them. But you have to
7 file 25 copies of everything, so they'll probably be
8 shipped out by the Corporation Commission to the
9 participants.

10 Are there any other issues that we need to
11 resolve?

12 MR. DERSTINE: None that I'm aware of.

13 CHMN KATZ: Tod, have I forgotten anything?

14 MR. BREWER: Thank you, Mr. Chairman. The only
15 thing that I can see is we do have a participant calling
16 in from a number that ends in 2031 that I don't believe
17 was identified for the court reporter.

18 CHMN KATZ: Yes. Who is that at that -- go
19 ahead.

20 MS. SHANAHAN: This is Amy Shanahan with Orsted,
21 the applicant. I think the audio wasn't working on my
22 computer, so I've called in from my phone.

23 CHMN KATZ: Okay. And, Jennifer, do we have
24 everybody properly identified, and are we ready to go off
25 the record? I'm seeing a head shake yes.

1 One, have yourself a good week. Get yourself
2 prepared. And I hope that we have a very focused and
3 cooperative hearing process. Take care, and we'll see
4 some, if not all, of you next Tuesday.

5 MR. DERSTINE: Thank you.

6 (Proceedings concluded at 3:28 p.m.)

7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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 the
10 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).

15 Dated at Phoenix, Arizona, this 11th day of January,
16 2023.

17
18
19
20
21
22
23
24
25


JENNIFER HONN, RPR
Arizona Certified Reporter
No. 50885

I CERTIFY that GLENNIE REPORTING SERVICES, LLC, has
complied with the ethical obligations set forth in
ACJA 7-206(J)(1)



GLENNIE REPORTING SERVICES, LLC
Arizona Registered Firm
No. R1035