



COCHISE COUNTY

MAY 27 2015

PLANNING

May 21, 2015

VIA CERTIFIED MAIL

Ms. Beverly Wilson, Director  
Cochise County Community Development Department  
1415 Melody Lane, Building E  
Bisbee, AZ 85603

Re: Request for Bowie Power Station Zoning Time Extension (Z-02-13A);  
Tax Parcels 301-04-033G and 033H

Dear Ms. Wilson:

As you know, SouthWestern Power Group, II (SWPG) owns approximately 1619 acres located north of the town of Bowie. A portion of that property, roughly 703 acres, is the site where development of a gas fired electrical power generation station - known as the Bowie Power Station - is planned. In September of 2002, the Cochise County Board of Supervisors approved rezoning and a special use permit for the project as follows:

- Rezoning from RU-4 to HI (Heavy Industrial) on approximately 260 acres, for the power station development site (Z-02-13) (Tax Parcel 301-04-033G)
- Rezoning from RU-4 to RU-36 on approximately 443 acres, to provide a buffer around the power station development site (Z-02-13) (Tax Parcel 301-04-033H)
- Special use permit on the approximate 260-acre development site (zoned HI), for a 1000 MW electrical generation station (SU-02-08) (Tax Parcel 301-04-033G)

The rezoning approval (under case Z-02-13) was subject to a stipulation that required substantial progress on construction of the power station to occur within five years from the date of approval. Subsequent to the 2002 approval, a significant downturn in the economy and related declines in the utility market made it necessary for SWPG to request an extension to the five year deadline. In September of 2007 (under case Z-02-13A), the Board of Supervisors approved a modification to the original zoning stipulation which extended the deadline for substantial construction to December 31, 2010. By late 2009, we determined that the ongoing economic recession would necessitate further extension of the construction deadline, and in 2009, the Board of Supervisors approved a second modification to the stipulation allowing an additional five

years, extending the deadline for substantial progress on construction of the power station to December 31, 2015.

About a year after the Board's 2009 approval of the time extension, the Arizona Corporation Commission (ACC) approved a ten-year extension to the Certificate of Environmental Compatibility (CEC) for the power station, so the CEC for the Bowie Power Station will not expire until December 31, 2020. A copy of the CEC extension order, Decision No. 71951 from November of 2010, is attached for reference.

In 2009, when SWPG requested the last time extension for an additional five-year term, we anticipated that the CEC would also be extended for five years, consistent with our approved zoning time extension. However, in the months between the Board's approval of the zoning time extension and our submittal of an application to the ACC to extend our CEC, it became increasingly apparent that five years was unlikely to provide sufficient time for the market conditions to improve to the extent necessary for SWPG to proceed with development and completion of the power station project. As such, we requested that the CEC be extended for a period of ten years, to expire on December 31, 2020, and the ACC agreed and approved that request.

When the original zoning was approved for the Bowie Power Station in 2002, the construction deadline stipulation was specifically set to be consistent with the original term of the CEC. Likewise, the Board's 2007 approval of an extension of the zoning expiration to December 31, 2010 corresponded with the ACC's extension of the CEC to that same date. In 2009, it was our intent to request a zoning time extension that would continue to be consistent with the term of the CEC. There was even discussion at the Board of Supervisor's hearing about keeping the zoning time stipulation consistent with the CEC's expiration date. The minutes from that hearing, which took place November 10, 2009, reflect that County Administrator Ortega suggested that the Board's motion to approve be changed so that the zoning extension would be consistent with the upcoming ACC action, rather than including a specific date. However, after discussion with County counsel, the Board opted to avoid any ambiguity in their motion, and the time extension was approved with the specific expiration date of December 31, 2015.

Because market conditions continue to prevent us from completing the development of the power station project, and to maintain ongoing consistency between the expiration dates for the CEC and the zoning, we are now submitting this request for another modification of the zoning time stipulation. We would request that the Board of Supervisor's approve a modification to the current zoning stipulation to extend the stipulated date for completion of substantial construction to December 31, 2020, consistent with the currently approved expiration date for the Bowie Power Station CEC. We have enclosed a check for \$150 to cover the related application fee, and we understand that this request will require notification of surrounding property owners and a public hearing before the Board of Supervisors.

As we have previously stressed, we continue to believe in the long-term viability of the Bowie Power Station and we are carrying on with other activities to ensure the eventual completion of the project. We are moving forward with extensions or renewals on other major permits for the power station, and working on completing other entitlements critical for the power station development, including securing easements

and crossing permits for the associated underground gas line and overhead electrical transmission line. We also continue to work both with our financial partners to chart a course towards final development, and with major utilities to secure power purchase agreements for the plant's electric output.

Most recently, the air quality permit for the power station was renewed by the Arizona Department of Environmental Quality, making it the only fully permitted project that could help the state meet new air quality goals. Last summer, the Environmental Protection Agency (EPA) announced proposed new rules under the Clean Air Act that will require Arizona to achieve a 52% reduction in carbon dioxide emission by 2030, with 77% of that goal to be met by 2020. To meet these significant goals (should the proposed rules be made final), it is likely that Arizona will need to shut down all operating coal fired electrical plants in the state by 2020, and replace them with power sources that are less polluting, such as the gas fired units planned for the Bowie Power Station. More details regarding Bowie Power Station's potential role in helping Arizona improve air quality in compliance with the EPA's Clean Power Plan are included in an attached summary page.

Given all these factors, and as the economy continues to recover, we are confident that the remaining matters necessary to proceed with development of the power station will be resolved, and that the project will ultimately be completed.

Thank you for your consideration of our request. We look forward to hearing from you regarding the date for the Board of Supervisors' hearing. In the meantime, please feel free to contact me if you require any additional information or if you have any questions.

Sincerely,



Martin Bailey  
Real Property Manager

cc: Richard Searle, Supervisor, District 3  
Jesse Drake, Planner II  
David Getts, General Manager

# Implications of EPA's Clean Power Plan for U.S. Power Sector

## **EPA'S Goal: By 2030**

*The EPA announced on June 2, 2014 new proposed rules under **Section 111d of the Clean Air Act** that require states to develop plans to reduce carbon dioxide (CO<sub>2</sub>) from existing fossil fuel fired power plants. EPA's proposal will result in the closure of older less efficient coal and oil power plants owned by utilities and electric cooperatives throughout the country and it encourages renewable energy and natural gas fired power generation.*

## **AZ's Goal from EPA: By 2020 (interim goal) and by 2030 (final goal)**

*The nationwide CO<sub>2</sub> emission reduction goal is 30% below 2005 emission levels. The EPA plan developed specifically for AZ sets the **second highest goal** in the country at **52% reduction** of CO<sub>2</sub> emissions. In addition, at least 77% of the 2030 goal will have to be achieved by 2020 (i.e. interim goal).*

*Arizona will begin to implement their plan in June 2017, but has very little flexibility in achieving the 52% reduction contemplated by EPA. EPA envisions Arizona can achieve its goal by shutting down all operating coal plants in the state by 2020 and ramping up all operating natural gas plants to 70% capacity. As you would expect, full implementation of EPA's proposed rule could undermine the reliability of the grid in Arizona and is infeasible without the addition of new resources. Consequently, AZ is in need of a **solution** to EPA's interim and final goals of the Clean Power Plan.*

## **SunZia and Bowie Power Station: Solutions to EPA's Goal for AZ**

*The Clean Power Plan allows for proactive engagement of all stakeholders to help find a solution for achieving EPA's goals. Bowie Power and SunZia Southwest Transmission have been actively engaged and have suggested that Arizona consider importing renewable generation through SunZia's transmission line and commencing operation of Bowie Power Station which will use natural gas. Both projects, once in operation, would immediately offset CO<sub>2</sub> emissions from Arizona's old, polluting and inefficient coal and oil plants. One of SunZia's 1500 MW transmission lines importing renewable wind generation from New Mexico could reduce Arizona's state-wide emission rate by 30%; and one 500 MW block of Bowie Power Station could reduce the CO<sub>2</sub> emission rates by 10%. Doubling Bowie and SunZia to their full build-out capacity of 1000MW and 3000MW, respectively, would allow AZ to achieve nearly **80% of EPA's Clean Power Plan**. These projects are optimally designed to support AZ in meeting EPA's vision of the nation providing reliable, affordable, clean and stable electricity to consumers.*



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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

KRISTIN K. MAYES - Chairman  
GARY PIERCE  
PAUL NEWMAN  
SANDRA D. KENNEDY  
BOB STUMP

Arizona Corporation Commission

DOCKETED

NOV -1 2010

DOCKETED BY *AL*

IN THE MATTER OF THE APPLICATION OF BOWIE POWER STATION, L.L.C. IN CONFORMANCE WITH REQUIREMENTS OF ARIZONA REVISED STATUTES 40-360.03 AND 40-360.06 FOR TWO CERTIFICATES OF ENVIRONMENTAL COMPATIBILITY AUTHORIZING CONSTRUCTION OF A 1,000 MEGAWATT NATURAL GAS-FIRED, COMBINED-CYCLE POWER PLANT, 345kV AND 345kV/230kV SWITCHYARDS, 345kV and 230kV INTERCONNECTION AND RELATED FACILITIES IN COCHISE AND GRAHAM COUNTIES ARIZONA. THE PROPOSED POWER STATION SITE IS LOCATED IN SECTIONS 28 AND 29, TOWNSHIP 12 SOUTH, RANGE 28 EAST, TOWNSHIP 11 SOUTH, RANGE 28 EAST, TOWNSHIP 11 SOUTH, RANGE 27 EAST, AND TOWNSHIP 11 SOUTH, RANGE 26 EAST, GILA AND SALT RIVER BASE AND MERIDIAN.

DOCKET NO. L-00000BB-01-0118

CASE NO. 118

Decision No. 71951

ORDER

Open Meeting  
October 19 and 20, 2010  
Phoenix, Arizona.

BY THE COMMISSION:

\* \* \* \* \*

Having considered the entire record herein and being fully advised in the premises, the Commission finds, concludes, and orders that:

FINDINGS OF FACT

1. On July 27, 2001, Bowie Power Station, L.L.C. ("Bowie" "Company" or "Applicant") filed with the Arizona Corporation Commission ("Commission") an application for two Certificates of Environmental Compatibility ("CEC"). Decision No. 64625 (March 7, 2002) authorized the construction of a 1,000 megawatt ("MW") natural gas-fired, combined-cycle power plant. Decision

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1 No. 64626 authorized the construction of the 345 kV and 345 kV/230 kV switchyards, a 345 kV  
2 double-circuit transmission line and a 230 kV interconnection and related facilities in Cochise and  
3 Graham Counties. Both CECs were granted subject to a number of conditions.

4 2. On August 18, 2006, the Company filed a Request for Extension of the CECs  
5 approved in Decision Nos. 64625 and 64626. The extension request was based upon Condition No.  
6 22 in Decision No. 64625 and Condition No. 10 in Decision No. 64626, which allow the Company to  
7 seek extension of the CECs before the time limit to complete construction. Decision No. 69339  
8 (February 20, 2007) granted the extensions until December 31, 2010 and also included several new  
9 conditions.

10 3. On July 8, 2010, Bowie applied for an extension of time requesting that the expiration  
11 date of the CECs be extended from the current expiration date of December 31, 2010 to December  
12 31, 2020.

13 4. On August 12, 2010, the Commission's Utilities Division ("Staff") filed a  
14 Memorandum recommending that the Company's request for extensions be granted. Staff stated that  
15 Bowie's request for this extension is based on "reduced load forecast in the current depressed  
16 economy and on the uncertainty of economic recovery in the short term." Staff explained that even  
17 though Bowie began "very preliminary construction activity in August 2008, the Company is not able  
18 to continue this construction, under the present economic circumstances." Staff also stated that the  
19 Company has concluded that it would "not be able to market the output of the proposed power station  
20 to the Arizona utilities or export it out of state for some period of time."

21 5. Staff believes that the request for an extension of time is reasonable and therefore,  
22 recommends approval of the requested CECs' time extension to December 31, 2020. Staff proposed  
23 a modification to the Company's "Proposed Revised CEC Expiration Condition(s) Language" to  
24 include a provision that Bowie could request a time extension in the future provided that appropriate  
25 facilities have been "substantially constructed."

26 6. The language as recommended by Staff is as follows:

27 **Decision No. 64625:**

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“This authorization to site and construct Bowie Project Generation Facilities shall expire on December 31, 2020. However, before such expiration, Applicant or any assignee of Applicant may request that the Commission further extend this time limitation, provided that the Bowie Project Generation Facilities have been substantially constructed as of the time of such extension request. The Commission will determine what “substantial construction” is, at the time of Applicant’s filing for time extension. In determining whether the facilities have been substantially constructed, the Commission shall include consideration of the status of Bowie Project financing and physical site construction.”

**Decision: 64626:**

“This authorization to site and construct Bowie Project Transmission Facilities shall expire on December 31, 2020. However, before such expiration, Applicant or any assignee of Applicant may request that the Commission further extend this time limitation, provided that the Bowie Project Transmission Facilities have been substantially constructed as of the time of such extension request. The Commission will determine what “substantial construction” is, at the time of Applicant’s filing for time extension. In determining whether the facilities have been substantially constructed, the Commission shall include consideration of the status of Bowie Project financing and physical site construction.”

7. Bowie did not object to Staff’s recommended language, and we find that Staff’s recommended language is reasonable and appropriate.

8. Decision Nos. 64625 and 64626 both contain language requiring Bowie to provide notice of requests for extension of the terms of the CECs.

Decision No. 64625 provides that:

In the event that Applicant requests an extension of the term of the Certificate prior to completion of construction, Applicant shall use reasonable means to directly notify all landowners and residents within a one-mile radius of the Project of the time and place of the proceeding in which the Commission shall consider such request for extension. Applicant shall also provide notice of such extension to Cochise County, Graham County, the community of Bowie and the City of Willcox.<sup>1</sup>

Decision No. 64626 provides that:

In the event that the Project requires an extension of the term of this Certificate prior to completion of construction, Applicant shall use

<sup>1</sup> Decision No. 64625 at CEC p.8, Condition 14.

1 reasonable means to directly notify all landowners and residents within a  
2 one mile radius of the Project facilities of the time and place of the  
3 proceeding in which the Commission shall consider such request for  
4 extension.<sup>2</sup>

5 9. Accordingly, by Procedural Order issued October 4, 2010, Bowie was directed to  
6 provide notice pursuant to those Decisions.

7 **CONCLUSIONS OF LAW**

8 1. The Commission has jurisdiction over the Bowie Power Station, LLC and the subject  
9 matter contained herein pursuant to Article XV of the Arizona Constitution and A.R.S. §§ 40-252 and  
10 40-360 et seq.

11 2. Notice of the matter was given in the manner prescribed by law.

12 3. Amending Decision Nos. 64625 and 64626 as set forth herein is in the public interest  
13 in balancing the need for the projects with their impact on the environment and ecology of the state.

14 **ORDER**

15 IT IS THEREFORE ORDERED that Decision Nos. 64625 and 64626 are hereby amended as  
16 follows:

17 **Decision No. 64625:**

18 “This authorization to site and construct Bowie Project Generation Facilities shall  
19 expire on December 31, 2020. However, before such expiration, Applicant or any  
20 assignee of Applicant may request that the Commission further extend this time  
21 limitation, provided that the Bowie Project Generation Facilities have been  
22 substantially constructed as of the time of such extension request. The  
23 Commission will determine what “substantial construction” is, at the time of  
24 Applicant’s filing for time extension. In determining whether the facilities have  
25 been substantially constructed, the Commission shall include consideration of the  
26 status of Bowie Project financing and physical site construction.”

27 **Decision: 64626:**

28 “This authorization to site and construct Bowie Project Transmission Facilities  
shall expire on December 31, 2020. However, before such expiration, Applicant  
or any assignee of Applicant may request that the Commission further extend this  
time limitation, provided that the Bowie Project Transmission Facilities have been  
substantially constructed as of the time of such extension request. The  
Commission will determine what “substantial construction” is, at the time of  
Applicant’s filing for time extension. In determining whether the facilities have

<sup>2</sup> Decision No. 64626 at CEC p. 4-5, Condition 3.

1 been substantially constructed, the Commission shall include consideration of the  
2 status of Bowie Project financing and physical site construction.”

3 IT IS FURTHER ORDERED that all other provisions of Decision Nos. 64625 and 64626 as  
4 amended remain in full force and effect.

5 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

6 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

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9 CHAIRMAN



COMMISSIONER

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11 COMMISSIONER



COMMISSIONER



COMMISSIONER

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13 IN WITNESS WHEREOF, I, ERNEST G. JOHNSON,  
14 Executive Director of the Arizona Corporation Commission,  
15 have hereunto set my hand and caused the official seal of the  
16 Commission to be affixed at the Capitol, in the City of Phoenix,  
17 this 15<sup>th</sup> day of Nov., 2010.



18 ERNEST G. JOHNSON  
19 EXECUTIVE DIRECTOR

20 DISSENT \_\_\_\_\_

21 DISSENT \_\_\_\_\_

1 SERVICE LIST FOR: BOWIE POWER STATION, L.L.C  
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10 John Foreman, Chairman  
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