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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

Arizona Corporation Commission

DOCKETED

JIM O'CONNOR – CHAIRMAN
LEA MÁRQUEZ PETERSON
ANNA TOVAR
KEVIN THOMPSON
NICK MYERS

NOV 3 2023

DOCKETED BY

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IN THE MATTER OF THE APPLICATION OF
RWE RENEWABLES DEVELOPMENT, LLC.,
IN CONFORMANCE WITH THE
REQUIREMENTS OF ARIZONA REVISED
STATUTES, SECTIONS 40-360, ET. SEQ., FOR
CERTIFICATES OF ENVIRONMENTAL
COMPATIBILITY AUTHORIZING THE
FORGED ETHIC WIND ENERGY
INTERCONNECTION PROJECT LOCATED IN
COCONINO COUNTY, ARIZONA.

DOCKET NO. L-21261A-23-0219-00225

CASE NO. 225B

79168

DECISION NO. _____

Open Meeting
October 26, 2023
Phoenix, Arizona

BY THE COMMISSION:

Pursuant to A.R.S. § 40-360 *et seq.*, after due consideration of all relevant matters, the Arizona Corporation Commission (Commission) finds and concludes that the Certificate of Environmental Compatibility (CEC-225B) issued by the Arizona Power Plant and Transmission Line Siting Committee (Siting Committee) is hereby approved as modified by this Order.

The Commission, in reaching its decision, has balanced all relevant matters in the broad public interest, including the need for an adequate, economical, and reliable supply of electric power with the desire to minimize the effect thereof on the environment and ecology of this state, and finds that CEC-225B for the above-captioned application for siting approval is in the public interest as modified by the Order.

1 The Commission modifies CEC-225B by:

- 2 • Deleting “Township 26N, Section 6E, Range 7” and inserting “Township 26N, Range
- 3 6E, Section 7” at page 2, line 27, and
- 4 • Deleting “SE” and inserting “5E” at page 3, line 4.

5 The Commission further finds and concludes that in balancing the broad public interest in this
6 matter:

- 7 1. The Project is in the public interest because it aids the state in meeting the need for an
- 8 adequate, economical, and reliable supply of electric power.
- 9 2. In balancing the need for the Project with its effect on the environment and ecology of
- 10 the state, the conditions placed on CEC-225B as modified by the Commission
- 11 effectively minimize its impact on the environment and ecology of the state.
- 12 3. The conditions placed on CEC-225B as modified by the Commission resolve matters
- 13 concerning the need for the Project and its impacts on the environment and ecology of
- 14 the state raised during the course of proceedings and, as such, serve as the findings on
- 15 the matters raised.
- 16 4. In light of these conditions, the balancing in the broad public interest results in favor
- 17 of granting CEC-225B as modified by the Commission.

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CEC-225-B ISSUED BY THE SITING COMMITTEE IS INCORPORATED HEREIN
AND IS APPROVED AS MODIFIED BY ORDER OF THE
ARIZONA CORPORATION COMMISSION

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James M. O'Connor
CHAIRMAN O'CONNOR

Lea Marquez Peterson
COMMISSIONER MARQUEZ PETERSON

Anna Tovar
COMMISSIONER TOVAR

Ken Thompson
COMMISSIONER THOMPSON

WJ
COMMISSIONER MYERS



IN WITNESS WHEREOF, I, DOUGLAS R. CLARK,
Executive Director of the Arizona Corporation Commission,
have hereunto, set my hand and caused the official seal of this
Commission to be affixed at the Capitol, in the City of Phoenix,
this 3rd day of November, 2023.

Douglas R. Clark
DOUGLAS R. CLARK
Executive Director

DISSENT: _____

DISSENT: _____

**BEFORE THE ARIZONA POWER PLANT
AND TRANSMISSION LINE SITING COMMITTEE**

IN THE MATTER OF THE
APPLICATION OF RWE
RENEWABLES DEVELOPMENT,
LLC, IN CONFORMANCE WITH THE
REQUIREMENTS OF ARIZONA
REVISED STATUTES, SECTIONS 40-
360, ET. SEQ., FOR A CERTIFICATE
OF ENVIRONMENTAL
COMPATIBILITY AUTHORIZING
THE FORGED ETHIC WIND ENERGY
INTERCONNECTION PROJECT
LOCATED IN COCONINO COUNTY,
ARIZONA.

DOCKET NO.: L-21261A-23-0219-00225

Case No. 225

**CERTIFICATE OF
ENVIRONMENTAL
COMPATIBILITY**

CEC-225B

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A. INTRODUCTION

Pursuant to notice given as provided by law, the Arizona Power Plant and Transmission Line Siting Committee (“Committee”) held public hearings on September 5 and 6, 2023, in Coconino County, in conformance with the requirements of the Arizona Revised Statutes (“A.R.S.”) § 40-360 et seq. for the purpose of receiving evidence and deliberating on the July 24, 2023 Application of RWE Renewables Development, LLC, (“Applicant”) for a Certificate of Environmental Compatibility (“Certificate” or “CEC”) in the above-captioned case.

The following members and designees of members of the Committee were present at one or more of the hearing days for the evidentiary presentations, public comment, and/or for the deliberations:

- | | |
|---------------|---|
| Adam Stafford | Chairman, Designee for Arizona Attorney General |
| | Kris Mayes |
| Gabby Mercer | Designee of the Chairman, Arizona Corporation Commission (“Commission”) |
| Leonard Drago | Designee for Director, Arizona Department of Environmental Quality |
| David French | Designee for Director, Arizona Department of |

1		Water Resources
2	Scott Somers	Appointed Member, representing cities and towns
3	David Kryder	Appointed Member, representing agricultural interests
4	Margaret "Toby" Little	Appointed Member, representing the general public
5	Jon Gold	Appointed Member, representing the general public
6	Dave Richins	Appointed Member, representing the general public

7 The Applicant was represented by Bert Acken of Acken Law. The following
8 parties were granted intervention pursuant to A.R.S. § 40-360.05: Arizona Public Service
9 Company ("APS"), represented by Linda J. Benally and Jennifer Spina of Pinnacle West
10 Capital Corporation.

11 At the conclusion of the hearing, the Committee, after considering the (i)
12 Application, (ii) evidence, testimony, and exhibits presented by the Applicant, and (iii)
13 comments of the public, and being advised of the legal requirements of A.R.S. §§ 40-360
14 through 40-360.13, upon motion duly made and seconded, voted 8 to 0, to grant
15 Applicant, its successors and assigns, this Certificate for construction of the Forged Ethic
16 Wind Energy Interconnection Project ("Project") as described below.

17 **B. PROJECT DESCRIPTION**

18 The Project consists of an approximately 5-mile 500-kV transmission line and
19 associated interconnection facilities to interconnect the Applicant's planned energy
20 facilities (the non-jurisdictional "Wind Project") to the regional electrical transmission
21 grid at a planned APS Switchyard ("APS Switchyard") in Coconino County on the
22 Moenkopi-Cedar Mountain 500-kV transmission line.

23 All Project facilities will be located in a corridor as shown in **Exhibit A** (the
24 "Project Corridor"). The requested Project Corridor extends between the non-
25 jurisdictional Project Substation and the APS Switchyard. The Project Corridor starts as a
26 rectangular area buffered around the planned location for the Project Substation on private
27 property in Township 26N, Section 6E, Range 7. The Project Corridor then proceeds
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1 south for approximately 0.3 miles as a 200-foot-wide area before turning southwest at the
2 northern edge of the Moenkopi to Cedar Mountain 500-kV transmission line. The Project
3 Corridor then proceeds southwest as a 300-foot-wide area for approximately 4.4 miles.
4 Once the Project Corridor reaches Township 26N, Range SE, Section 21, the Project
5 Corridor widens to include private property in Section 21 that is north of the southern
6 limit of the Moenkopi to Cedar Mountain 500-kV transmission line right of way. The
7 Project Corridor widens in Section 21 to accommodate potential routing variants for the
8 Project to enter the APS Switchyard and provide an area in which to site the APS
9 Switchyard. The final right-of-way width for the transmission line within the Project
10 Corridor will be up to 200 feet.

11 Two CECs are being approved for the Project to allow for future ownership
12 transfer of a portion of the Project. As shown in Exhibit A, this CEC, CEC-225B, is for
13 the planned APS Switchyard. The companion CEC-225A is for the transmission line
14 portion of the Project that originates at the Wind Project and terminates at the planned
15 APS Switchyard.

16 CONDITIONS

17 This Certificate is granted upon the following conditions:

18 1. This authorization to construct the Project shall expire ten (10) years from
19 the date this Certificate is approved by the Arizona Corporation Commission, with or
20 without modification. Construction of the Project shall be complete, such that the Project
21 is in service within this ten-year timeframe. However, prior to the expiration of the time
22 period, the Applicant may request that the Commission extend the time limitation.

23 2. In the event that the Project requires an extension of the term(s) of this
24 Certificate prior to completion of construction, the Applicant shall file such time extension
25 request at least one hundred and eighty (180) days prior to the expiration of the
26 Certificate. The Applicant shall use reasonable means to promptly notify the Board of
27 Supervisors of Coconino County, all landowners and residents within a five (5) mile
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1 radius of the centerline of the Project, all persons who made public comment at this
2 proceeding who provided a mailing or email address, and all parties to this proceeding.
3 The notification provided will include the request and the date, time, and place of the
4 hearing or open meetings during which the Commission will consider the request for
5 extension. Notification shall be no more than three (3) business days after the Applicant is
6 made aware of the hearing date or the open meeting date.

7 3. During the development, construction, operation, maintenance and
8 reclamation of the Project, the Applicant shall comply with all existing applicable air and
9 water pollution control standards and regulations, and with all existing applicable statutes,
10 ordinances, master plans and regulations of any governmental entity having jurisdiction,
11 including, but not limited to, the United States of America, the State of Arizona, Coconino
12 County, and their agencies and subdivisions, including but not limited to the following:

- 13 a. All applicable land use regulations;
- 14 b. All applicable zoning stipulations and conditions, including but not
15 limited to landscaping and dust control requirements;
- 16 c. All applicable water use, discharge and/or disposal requirements of
17 the Arizona Department of Water Resources and the Arizona
18 Department of Environmental Quality;
- 19 d. All applicable noise control standards; and
- 20 e. All applicable regulations governing storage and handling of
21 hazardous chemicals and petroleum products.

22 4. The Applicant shall obtain all approvals and permits necessary to construct,
23 operate and maintain the Project required by any governmental entity having jurisdiction
24 including, but not limited to, the United States of America, the State of Arizona, Coconino
25 County, and their agencies and subdivisions.

26 5. The Applicant shall comply with the Arizona Game and Fish Department
27 (“AGFD”) guidelines for handling protected animal species, should any be encountered
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1 during construction and operation of the Project, and shall consult with AGFD or U.S.
2 Fish and Wildlife Service, as appropriate, on other issues concerning wildlife.

3 6. The Applicant shall design the Project's interconnection facilities to
4 incorporate reasonable measures to minimize electrocution of and impacts to avian
5 species in accordance with the Applicant's avian protection program. Such measures will
6 be accomplished through incorporation of Avian Power Line Interaction Committee
7 guidelines set forth in the current versions of *Suggested Practices for Avian Protection on*
8 *Power Lines* and *Reducing Avian Collisions with Power Lines* manuals.

9 7. The Applicant shall consult the State Historic Preservation Office ("SHPO")
10 with respect to cultural resources. The Applicant will complete a Class III cultural
11 inventory of the portions of the APS Switchyard corridor as designated in Exhibit A that
12 have not been previously adequately surveyed to identify and evaluate the cultural
13 resources that may be present. If any archaeological, paleontological, or historical sites or
14 a significant cultural object is discovered on state, county or municipal land during the
15 construction or operation of the Project, the Applicant or its representative in charge shall
16 promptly report the discovery to the Director of the Arizona State Museum ("ASM"), and
17 in consultation with the Director, shall immediately take all reasonable steps to secure and
18 maintain the preservation of the discovery as required by A.R.S. § 41-844.

19 8. The Applicant shall comply with the notice and salvage requirements of the
20 Arizona Native Plant Law (A.R.S. §§ 3-901 *et seq.*) and shall, to the extent feasible,
21 minimize the destruction of native plants during the construction and operation of the
22 Project.

23 9. The Applicant shall make every reasonable effort to promptly investigate,
24 identify and correct, on a case-specific basis, all complaints of interference with radio or
25 television signals from operation of the Project addressed in this Certificate and where
26 such interference is caused by the Project take reasonable measures to mitigate such
27 interference. The Applicant shall maintain written records for a period of five (5) years of
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1 all complaints of radio or television interference attributable to operations, together with
2 the corrective action taken in response to each complaint. All complaints shall be recorded
3 to include notation on the corrective action taken. Complaints not leading to a specific
4 action or for which there was no resolution shall be noted and explained. Upon request,
5 the written records shall be provided to the Staff of the Commission. The Applicant shall
6 respond to complaints and implement appropriate mitigation measures. In addition, the
7 Project shall be evaluated on a regular basis so that damaged insulators or other line
8 materials that could cause interference are repaired or replaced in a timely manner.

9 10. If human remains and/or funerary objects are encountered during the course
10 of any ground-disturbing activities related to the construction or maintenance of the
11 Project, the Applicant shall cease work on the affected area of the Project and notify the
12 Director of the ASM as required by A.R.S. § 41-865 for private land, or as required by
13 A.R.S. § 41-844 for state, county, or municipal lands.

14 11. Within one hundred twenty (120) days of the Commission's decision
15 approving this Certificate, the Applicant shall post signs in or near public rights-of-way,
16 to the extent authorized by law, reasonably adjacent to the Project giving notice of the
17 Project. Such signage shall be no smaller than a roadway sign. The signs shall advise:

- 18 a. Future site of the Project;
- 19 b. A phone number and website for public information regarding the
20 Project; and
- 21 c. Refer the Public to the Docket.

22 Such signs shall be inspected at least once annually and, if necessary, be repaired
23 or replaced, and removed at the completion of construction.

24 The Applicant shall make every reasonable effort to communicate the decision
25 either approving or disapproving the Certificate in digital media.

26 12. At least ninety (90) days before construction commences on the Project, the
27 Applicant shall provide the Board of Supervisors for Coconino County, and known
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1 builders and developers who are building upon or developing land within one (1) mile of
2 the of the centerline of the Project with a written description, including the approximate
3 height and width measurements of all structure types, of the Project. The written
4 description shall identify the location of the Project and contain a pictorial depiction of the
5 facilities being constructed. The Applicant shall also encourage the developers and
6 builders to include this information in their disclosure statements. Upon approval of this
7 Certificate by the Commission, the Applicant may commence construction of the Project.

8 13. The Applicant shall use non-specular conductor and non-reflective surfaces
9 for the transmission line structures on the Project.

10 14. The Applicant shall be responsible for arranging that all field personnel
11 involved in the Project receive training as to proper ingress, egress, and on-site working
12 protocol for environmentally sensitive areas and activities. Contractors employing such
13 field personnel shall maintain records documenting that the personnel have received such
14 training.

15 15. The Applicant shall follow the most current Western Electricity
16 Coordinating Council ("WECC") and North American Electric Reliability Corporation
17 ("NERC") planning standards, as approved by the Federal Energy Regulatory
18 Commission ("FERC"), National Electrical Safety Code ("NESC") standards, and Federal
19 Aviation Administration ("FAA") regulations.

20 16. The Applicant shall participate in good faith in state and regional
21 transmission study forums to coordinate transmission expansion plans related to the
22 Project and to resolve transmission constraints in a timely manner.

23 17. When Project facilities are located parallel to and within one hundred (100)
24 feet of any existing natural gas or hazardous pipeline, the Applicant shall:

- 25 a. Ensure grounding and cathodic protection studies are performed to
26 show that the Project's location parallel to and within one hundred
27 (100) feet of such pipeline results in no material adverse impacts to
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1 the pipeline or to public safety when both the pipeline and the Project
2 are in operation. The Applicant shall take appropriate steps to ensure
3 that any material adverse impacts are mitigated. The Applicant shall
4 provide to Staff of the Commission, and file with Docket Control, a
5 copy of the studies performed and additional mitigation, if any, that
6 was implemented as part of its annual compliance-certification letter;
7 and

- 8 b. Ensure that studies are performed simulating an outage of the Project
9 that may be caused by the collocation of the Project parallel to and
10 within one hundred (100) feet of the existing natural gas or hazardous
11 liquid pipeline. The studies should either: (a) show that such
12 simulated outage does not result in customer outages; or (b) include
13 operating plans to minimize any resulting customer outages. The
14 Applicant shall provide a copy of the study results to Staff of the
15 Commission and file them with Docket Control as part of the
16 Applicant's annual compliance certification letter.

17 18. The Applicant shall submit a compliance certification letter annually,
18 identifying progress made with respect to each condition contained in this Certificate,
19 including which conditions have been met. The letter shall be submitted to Commission's
20 Docket Control commencing on December 1, 2024. Attached to each certification letter
21 shall be documentation explaining how compliance with each condition was achieved.
22 Copies of each letter, along with the corresponding documentation, shall be submitted to
23 the Arizona Attorney General's Office. With respect to the Project, the requirement for the
24 compliance letter shall expire on the date the Project is placed into operation. Notification
25 of such filing with Docket Control shall be made to the Board of Supervisors for
26 Coconino County, all parties to this Docket, and all parties who made a limited
27 appearance in this Docket.

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1 19. The Applicant shall provide a copy of this Certificate to the Board of
2 Supervisors for Coconino County.

3 20. Any transfer or assignment of this Certificate shall require the assignee or
4 successor to assume, in writing, all responsibilities of the Applicant listed in this
5 Certificate and its conditions as required by A.R.S. § 40-360.08(A) and R14-3-213(F) of
6 the Arizona Administrative Code.

7 21. In the event the Applicant, its assignee, or successor, seeks to modify the
8 Certificate's terms at the Commission, it shall provide copies of such request to the Board
9 of Supervisors for Coconino County, all parties to this Docket, and all parties who made a
10 limited appearance in this Docket.

11 22. The Certificate Conditions shall be binding on the Applicant, its successors,
12 assignee(s) and transferees and any affiliates, agents, or lessees of the Applicant who have
13 a contractual relationship with the Applicant concerning the construction, operation,
14 maintenance, or reclamation of the Project. The Applicant shall provide in any
15 agreement(s) or lease(s) pertaining to the Project that the contracting parties and/or
16 lessee(s) shall be responsible for compliance with the Conditions set forth herein, and the
17 Applicant's responsibilities with respect to compliance with such Conditions shall not
18 cease or be abated by reason of the fact that the Applicant is not in control of or
19 responsible for operation and maintenance of the Project facilities.

20 **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

21 This Certificate incorporates the following Findings of Fact and Conclusions of
22 Law:

23 1. The Project aids the state and the southwest region of the United States in
24 meeting the need for an adequate, economical, and reliable supply of renewable electric
25 power.

26 2. When constructed in compliance with the conditions imposed in this
27 Certificate, the Project aids the state, preserving a safe and reliable electric transmission
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1 system.

2 3. During the course of the hearing, the Committee considered evidence on the
3 environmental compatibility of the Project as required by A.R.S. § 40-360 *et seq.*

4 4. The Project and the conditions placed on the Project in this Certificate
5 effectively minimize the impact of the Project on the environment and ecology of the
6 state.

7 5. The conditions placed on the Project in this Certificate resolve matters
8 concerning balancing the need for the Project with its impact on the environment and
9 ecology of the state arising during the course of the proceedings, and, as such, serve as
10 findings and conclusions on such matters.

11 6. The Project is in the public interest because the Project's contribution to
12 meeting the need for an adequate, economical, and reliable supply of electric power
13 outweighs the minimized impact of the Project on the environment and ecology of the
14 state.

15 7. The Project substation is not jurisdictional because the definition of a
16 "transmission line" under A.R.S. § 40-360(10) only includes "new switchyards to be used
17 therewith", not substations.

18 DATED this 14 day of September, 2023.

19

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THE ARIZONA POWER PLANT AND
TRANSMISSION LINE SITING COMMITTEE

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By: 

Adam Stafford, Chairman

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1 CERTIFICATE OF MAILING

2 Pursuant to A.A.C. R14-3-204,
3 the Original and 26 copies were
4 filed this 14 day of September, 2023 with:

5 Docket Control
6 Arizona Corporation Commission
7 1200 W. Washington Street
8 Phoenix, AZ 85007

9 Copy of the above was mailed
10 this 14 day of September, 2023 to:

11 Robin Mitchell, General Counsel
12 Arizona Corporation Commission
13 1200 West Washington Street
14 Phoenix, AZ 85007
15 rmitchell@azcc.gov
16 Counsel for Legal Division Staff

17 Douglas Clark, Interim Director
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19 Arizona Corporation Commission
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Attorneys for Intervenor APS

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1 APS State Regulatory
2 Attn: Rachael Leonard
3 400 N. 5th Street, MS 9708
4 Phoenix, Arizona 85072
5 ArizonaPublicServiceRegulatorvDepartment@apsc.com

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8 CEC 225-A

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EXHIBIT A

