

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

3 IN THE MATTER OF THE
4 APPLICATION OF ATLAS SOLAR,
5 LLC, IN CONFORMANCE WITH THE
6 REQUIREMENTS OF ARIZONA
7 REVISED STATUTES 40-360, ET. SEQ.,
8 FOR CERTIFICATES OF
9 ENVIRONMENTAL COMPATIBILITY
10 AUTHORIZING THE ATLAS SOLAR
11 TIE LINE PROJECT IN LA PAZ
12 COUNTY, ARIZONA.

Arizona Corporation Commission

Docket No. L-21187A-22-0078-00202

Case No. 202

PROCEDURAL ORDER

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DOCKET CONTROL

10 An Application for Certificates of Environmental Compatibility
11 (“Application”) was filed in the above captioned matter with Docket Control of the
12 Arizona Corporation Commission (“Commission”) on March 30, 2022. A copy of the
13 Application was transmitted to Paul Katz, designee of the Attorney General of Arizona,
14 Mark Brnovich, as Chairman (“Chairman”) and Presiding Officer of the Arizona Power
15 Plant and Transmission Line Siting Committee (“Committee”). A.R.S. §§ 40-360.01(B)(1)
16 and 40-360.03. As authorized by A.R.S. §§ 40-360.01(C) and (D), 40-360.04 and A.A.C.
17 R14-3-201(E), the Chairman issues the following procedural order.

18 **IT IS ORDERED:**

19 1. The Applicant and all potential parties (“person” within the meaning of
20 A.R.S. § 40-360(8) who intends to intervene or requests to intervene, pursuant to A.R.S.
21 § 40-360.05(A)) (hereinafter “potential parties”), shall advise the Chairman in writing on
22 or before the time of the pre-hearing conference, scheduled below, if they disagree that the
23 time limit for decision on the Application by the Committee set by A.R.S. § 40.360.04(D)
24 is September 26, 2022.

25 2. All parties or potential parties listed on pleadings or procedural orders filed
26 by the Applicant or the Chairman shall notify Docket Control of their desire to receive
27 pleadings and procedural orders in this matter and shall regularly review the Docket
28 Control file in this matter to make sure they have received all pleadings and procedural

1 orders relating to this case. Neither the Committee nor the Chairman has the authority to
2 direct Docket Control to send one of the 25 copies of pleadings and procedural orders filed
3 with Docket Control to prospective parties.

4 3. The Applicant shall arrange for the timely publication and posting of notice
5 of the hearing, in a form approved by the Chairman, at locations discussed and agreed to by
6 the Applicant at the pre-filing conference held on March 21, 2022. Posting of the Notice of
7 Hearing should occur at least twenty days before the hearing scheduled below. The
8 Applicant shall provide notice by certified mail to any affected jurisdiction within the
9 meaning of A.R.S. § 40-360.04(A), at least twenty days before the hearing scheduled
10 below. Applicant shall also use social media to provide notice of the hearing as discussed
11 at the pre-filing conference held on March 21, 2022. In addition, at the hearing the
12 Applicant shall submit a copy of the notice and present testimony describing the
13 publication, providing of notice and posting of the notice.

14 4. The Applicant shall make arrangements for the hearing to commence in
15 Goodyear, Arizona. The hearing in Goodyear, Arizona will be held at the Hampton Inn &
16 Suites Phoenix-Goodyear located at 2000 North Litchfield Road, Goodyear, Arizona
17 85395, commencing on May 9, 2022, at 9:00 a.m. and will continue each weekday on May
18 10, 2022 through May 12, 2022, as necessary, at the same location beginning at 9:00 a.m.
19 on each day. If a tour is taken, it will begin on an alternative date and time set by the
20 Chairman of the Committee. Public comment may be taken during the hearing at times
21 designated by the Chairman.

22 Public comment also will be taken in a special afternoon session on Monday, May
23 9, 2022, beginning 2:00 p.m. via Zoom, or in person at the same location. Public comment
24 may also be taken at the beginning of each hearing day, or at other times during the
25 hearing, at the discretion of the Chairman of the Committee. **DUE TO THE COVID-19**
26 **PANDEMIC, THE PUBLIC IS STRONGLY ENCOURAGED TO PARTICIPATE**
27 **BY EITHER WATCHING THE MEETING ONLINE OR LISTENING TO THE**
28 **MEETING VIA TELEPHONE, RATHER THAN ATTENDING IN PERSON.** At

1 least 24 hours in advance of the hearing, information regarding online and telephone
2 hearing access as well as any additional details regarding COVID-19 safety protocols or
3 other revisions to the hearing schedule, will be posted on the Project website at
4 <https://AtlasEnergyPark.com> and on the Arizona Corporation Commission (ACC) website
5 at <https://www.azcc.gov/arizona-power-plant/meeting-schedule>. **PLEASE BE ADVISED**
6 **THAT ALL LOCAL AND STATE PUBLIC HEALTH AND SAFETY GUIDELINES**
7 **REGARDING COVID-19 WILL BE FOLLOWED DURING THE PUBLIC**
8 **COMMENT PERIOD. ADDITIONAL SAFETY PROTOCOLS AND REVISIONS**
9 **TO THE HEARING SCHEDULE MAY OCCUR DUE TO PUBLIC HEALTH**
10 **CONSIDERATIONS.**

11 5. The Applicant shall contact the appropriate member of the staff of the
12 Commission, and advise them of the Applicant's position concerning reimbursement of the
13 Line Siting Fund should the expenses of the hearing exceed the application fee, and discuss
14 financial arrangements regarding hotel reservations and other expenses of the Committee
15 Members. A.R.S. § 40-360.10. The Applicant shall advise the Chairman of the results of
16 these discussions so that the necessary information may be communicated to the
17 Committee Members.

18 6. The Applicant shall provide a copy of this Procedural Order to all other
19 parties and potential parties who have not already received a copy.

20 7. The Applicant and all other parties and potential parties shall meet and confer
21 prior to the beginning of the hearing, to determine whether any of the parties or potential
22 parties have similar interests in the application process that will allow them to jointly
23 present testimony on direct or cross-examination of witnesses, or to jointly offer exhibits
24 into evidence. The Applicant shall, and any other party or potential party may, report to the
25 Chairman the results of their attempts to resolve the issues and to determine if common
26 interests exist that will allow parties to jointly present evidence and argument or to avoid
27 repetition of testimony and argument at the hearing.

28

1 8. The Applicant and all other parties and potential parties shall meet and confer
2 as needed before, during, and after the hearing to attempt to resolve any disputes amongst
3 the parties. The parties and potential parties shall also keep all other parties and potential
4 parties advised of their positions and intentions with regard to the presentation of evidence,
5 witnesses, and the application process in general to avoid delay, the presentation of
6 repetitive evidence, and any unfair advantage from surprise.

7 9. Parties and potential parties shall not communicate with any Member of the
8 Committee about any procedural matters, or any factual issues or legal issues relating to the
9 Application, while the Application is pending before the Committee. The only exception is
10 that parties may communicate with the Chairman during the time the Application is
11 pending about procedural matters relating to the Application, preparation of the notice of
12 hearing and its publication, the agenda for the hearing, any pre-hearing conferences, the
13 hearing on the Application, and the decision on the Application by the Committee.
14 Communication by the parties with the Chairman about any procedural matter during the
15 time an Application is pending shall be in writing or, if oral, shall be memorialized by an e-
16 mail or other written summary with a copy of the written communication or summary to all
17 parties and potential parties, or shall be on the record at pre-filing conferences, at pre-
18 hearing conferences, or at the hearing on the Application. Any party who initiates any
19 written communication sent to the Chairman, or who summarizes an oral communication
20 with the Chairman on a procedural matter, shall file with Docket Control a copy of the
21 communication or summary, including its distribution list, within 10 days of sending the
22 written communication or making the oral communication.

23 10. Parties and potential parties shall not communicate with any Commissioner
24 of the Commission concerning the substantive merits of the Application while the
25 Application is pending before the Committee, in accordance with the requirements of
26 A.A.C. R14-3-113.

27 11. Whenever an agenda is filed pursuant to A.R.S. § 38-431.02, all parties and
28 potential parties shall serve upon the Chairman as soon as practicable, and at least forty-

1 eight (48) hours before the hearing or meeting described in the agenda, any objections,
2 additions, or corrections to the agenda they believe are necessary in order to bring the
3 agenda into compliance with A.R.S. § 38-431.02. The objections, additions or corrections
4 shall be in writing and shall be served upon all other parties and potential parties. A copy
5 shall be filed with Docket Control. Objections that are not timely raised will be deemed
6 waived.

7 12. Service of any pleading, document, or writing upon the Chairman may be
8 made electronically to the e-mail address of the Chairman below. Service of any pleading,
9 document or writing upon parties and potential parties may be made electronically to the e-
10 mail address of the parties and potential parties. Any pleading, document or writing filed
11 with Docket Control shall include the appropriate number of copies as determined by
12 Docket Control.

13 13. All parties and potential parties shall file with Docket Control and exchange
14 with all other parties and potential parties brief summaries of the expected direct testimony
15 of each witness they will call. In lieu of a testimonial summary, a party or potential party
16 may file with Docket Control and exchange with all other parties and potential parties all or
17 substantially all of the direct testimony of any witness. In either case, whether testimonial
18 summaries or direct testimony, the parties are expected to present live testimony regarding
19 the matters set forth therein. Testimonial summaries and direct testimony shall be filed
20 with Docket Control and exchanged with parties and potential parties by 5:00 p.m. of the
21 day before the pre-hearing conference set below. Except for good cause, no witness will be
22 allowed to testify on direct examination concerning issues not reasonably identified in the
23 testimonial summary and direct testimony.

24 14. All parties and potential parties shall meet, confer, and exchange all exhibits
25 the party or potential party plans to offer in evidence by 5:00 p.m. of the day before the
26 pre-hearing conference set below. The Applicant shall, and other parties and potential
27 parties may, provide one or more three-ring binders for the Chairman and each Member of
28 the Committee to hold exhibits at the beginning of the hearing and as needed during the

1 hearing. Each party and potential party shall prepare for the Chairman and each Committee
2 Member a numbered list of the exhibits and a copy of all exhibits suitable for placement in
3 the binders that each party and potential party expects to offer in evidence at the hearing.
4 The exhibits shall be provided to the Chairman and each Committee Member at the
5 beginning of the hearing and during the hearing before reference to the exhibit is made in
6 the hearing. In lieu of copies of exhibits in paper format, Applicant may provide the
7 Chairman and each Member of the Committee a laptop, tablet or iPad loaded with
8 electronic copies of the exhibits. Except for good cause, no exhibit that was not exchanged
9 with the other parties shall be considered at the hearing. Any exhibit to which reference is
10 made during any hearing that is not offered or admitted into evidence shall be provided to
11 the court reporter at the hearing for inclusion in the record, unless it is withdrawn and the
12 Chairman determines its filing is not necessary to an understanding of the actions of the
13 Committee.

14 15. All exhibits shall be consecutively numbered, with the Applicant's exhibits
15 denominated: ATLAS-1, ATLAS-2 etc. Each intervening party will be assigned by the
16 Chairman a letter or letters of the alphabet as a preface with which to consecutively number
17 its exhibits.

18 16. The Applicant shall create an exhibit summarizing all public outreach efforts
19 concerning the Application, with representatives of federal, state and municipal bodies and
20 the general public, and all comments received as a result of such public outreach, including
21 comments received at meetings, through comment cards, emails, phone calls, faxes,
22 correspondence, social media and through the Applicant's website. Applicant shall
23 exchange the exhibit with all parties and potential parties and the Chairman by 5:00 p.m. of
24 the day before the pre-hearing conference set below.

25 17. The Applicant may make an opening statement at the beginning of the
26 hearing of no more than thirty (30) minutes. Each other party may make an opening
27 statement of no more than five (5) minutes.

28

1 18. Public comment will be heard after the opening statements and at other times
2 set by the Chairman during the hearing. See ¶ 4 above.

3 19. No tour of the Project Area is planned by the Committee at this time. If the
4 Chairman later decides to conduct a tour, the Applicant shall provide notice that includes a
5 map and itinerary of such tour, and will make the notice available at the hearing and shall
6 post the same on the Project and ACC websites. In the event the Chairman determines that
7 a tour or tours of the proposed locations of facilities proposed in the Application is
8 appropriate, the Applicant shall arrange for transportation for Committee Members who
9 wish to attend. The Applicant shall submit to the Chairman, before the pre-hearing
10 conference set below, a schedule and protocol agreed to by all parties and potential parties
11 for each tour. If all parties and potential parties do not agree upon the schedule and
12 protocol for each tour, the disagreements shall be submitted to the Chairman for resolution.
13 The protocol shall identify the tour route, identify the location of any stops, and identify
14 any witnesses who will accompany each tour. Counsel may ask brief explanatory questions
15 of the identified witness or witnesses during the stops about the location, what can be seen
16 from the location of the stop and the relevance of the location or view to the Application, at
17 the discretion of the Chairman. All witnesses who testify on each tour shall be sworn
18 before their testimony. All questions and answers shall be before a court reporter. No
19 testimony or discussion with or between Committee Members about the merits of the
20 Application will take place, except on the record before a court reporter at the designated
21 stops. The protocol shall provide for access to members of the public to any testimony
22 presented at stops on each tour. Members of the public who wish to observe the tour are
23 encouraged to notify the Applicant or the Chairman in advance of their intention to follow
24 and observe the tour.

25 20. Parties may present their witnesses in panels where appropriate. A party or
26 potential party who intends to present witnesses in panels shall identify the members of any
27 panel at the time it files its testimonial summaries or direct testimony.

28 21. The Applicant shall make arrangements for the preparation of expedited

1 court reporter transcripts of all pre-filing conferences, all pre-hearing conferences, and the
2 hearing, so that the transcripts are available for public inspection within three working days
3 after each hearing date, as required by A.R.S. §§ 38-431.01(D) and 40-360.04(C). In
4 addition, the Applicant shall file a certification with Docket Control that it has provided a
5 copy of the transcripts to two public libraries identified in the certification that are in the
6 vicinity of the proposed route and alternates in the Application. The Applicant shall also
7 post the transcripts on the Applicant's project website at: <https://AtlasEnergyPark.com>.
8 Transcripts shall remain on the Applicant's project website until 30 days after the final
9 decision has been issued by the Commission.

10 22. At or before the pre-hearing conference set below, the Applicant shall, and
11 the other parties and potential parties may, file proposed findings of fact, proposed
12 conclusions of law, the wording of any proposed certificate of environmental compatibility,
13 and the wording of any proposed conditions to the certificate.

14 23. If the beginning of closing arguments and the Committee's deliberations are
15 more than one week after the beginning of the hearing, the parties shall meet and confer
16 before closing arguments, concerning proposed findings of fact, proposed conclusions of
17 law, a proposed certificate of environmental compatibility and the wording of any proposed
18 conditions to the certificate. If the parties are able to agree upon part or all of the proposed
19 findings of fact, proposed conclusions of law, proposed forms of a certificate of
20 environmental compatibility and proposed wording of conditions to the certificate, all that
21 is agreed upon should be reduced to writing and filed. If the parties are not able to agree
22 completely, the Applicant shall, and all other parties may, file proposed findings of fact,
23 proposed conclusions of law, proposed wording of a certificate of environmental
24 compatibility and proposed wording of conditions to the certificate on the day before the
25 beginning of closing arguments and the Committee's deliberations.

26 24. If the Applicant or any other party proposes conditions based upon conditions
27 used in prior cases, each proposed condition from a prior case shall contain the case
28 number of the most recent prior certificate of environmental compatibility using the

1 language approved by the Commission. Any proposed additions, deletions or modifications
2 to the language approved by the Commission for each prior condition shall be designated
3 using the “Track Changes” function.

4 25. All pleadings, testimonial summaries, direct testimony, proposed findings of
5 fact, proposed conclusions of law, proposed certificates of environmental compatibility and
6 proposed conditions of certificates that must be filed pursuant to this Procedural Order or
7 otherwise by law, shall be filed with Docket Control. Copies of all documents described in
8 this paragraph that are filed with Docket Control shall be served upon the Chairman, the
9 Committee, all parties, and all potential parties. Before the hearing, documents may be
10 served upon parties and potential parties electronically to the e-mail address or FAX
11 number provided by the party or potential party. Before the hearing, documents may be
12 served electronically upon the Chairman and the Committee, to the e-mail address of the
13 Chairman. Documents that are served during the hearing shall be hand delivered to parties.
14 During the hearing, eleven (11) copies of any filed document shall be delivered to the
15 Chairman for distribution to the Committee, and a copy shall be sent electronically to the e-
16 mail address of the Chairman.

17 26. If the final wording of the certificate of environmental compatibility that is
18 adopted by the Committee at the end of the hearing is in dispute, the Chairman may order
19 the parties to meet and confer in person or electronically to determine if they can agree
20 upon the final wording of a proposed certificate of environmental compatibility. If the
21 parties can agree upon the final wording of a proposed certificate of environmental
22 compatibility, Applicant shall forthwith hand-deliver the agreed-upon proposed certificate
23 of environmental compatibility to the Chairman for signature. If the parties are not able to
24 agree upon a proposed form of certificate of environmental compatibility, the Applicant
25 shall file, and the other parties may file, within ten (10) days after the date of the decision
26 of the Committee, those portions of the proposed certificate of environmental compatibility
27 upon which the parties agree. The Applicant also shall file, and any other party also may
28 file, within ten (10) days after the date of the decision of the Committee, its understanding

1 of any disputed portions of the proposed certificate of environmental compatibility. All
2 proposed forms of the certificate of environmental compatibility and any objections or
3 proposed revisions shall be filed with Docket Control, and a copy shall be hand delivered
4 to the Chairman at 15 South 15th Avenue, Phoenix, Arizona. All other parties shall be
5 served. Objections or suggestions that are not timely filed shall be considered waived.

6 27. The copy of the proposed certificate of environmental compatibility filed by
7 the Applicant and any objections or proposed revisions filed by the parties that are served
8 upon the Chairman, shall include an electronic file containing the wording of the proposed
9 language in a format compatible with Microsoft© Word word-processing program.

10 28. The Applicant and all potential parties shall meet with the Chairman for a
11 **pre-hearing conference on May 5, 2022, beginning at 2:00 p.m. via Zoom at**
12 **<https://us02web.zoom.us/j/82406277675?pwd=dVZDNmg4UEwwaFVqYlU5OGJUMjN>**
13 **UUT09 Meeting ID: 824 0627 7675, Passcode: 504707.** Parties and potential parties
14 other than the Applicant may appear by telephone with the prior permission of the
15 Chairman. At the final pre-hearing conference, the Chairman shall review with the
16 Applicant and potential parties:

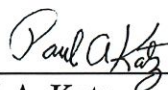
- 17 a. The publication and posting of notices of the hearing;
- 18 b. The proposed agenda for the hearing;
- 19 c. Any notices to intervene, requests to intervene, and applications to
20 make a limited appearance;
- 21 d. The status of attempts to narrow the issues at the hearing or to agree to
22 language in the proposed findings of fact, proposed conclusions of law, proposed
23 certificates of environmental compatibility and proposed conditions to the certificate;
- 24 e. The status of the filing and exchange of witness summaries or written
25 testimony, proposed findings of fact, proposed conclusions of law, proposed certificates of
26 environmental compatibility and proposed conditions to the certificate;
- 27 f. The status of the exchange of exhibits amongst the parties;

1 g. Any objections, motions, responses, and legal memoranda that have
2 been filed; and

3 h. Plans and preparations for the hearing, public comment session, and
4 tour of the proposed site.

5 **IT IS FURTHER ORDERED**, the Chairman may amend or waive any portion of
6 this Procedural Order by subsequent Procedural Order, by ruling at a pre-hearing
7 conference, or at a hearing.

8 **DATED** this 25th day of March, 2022.

9
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11 _____
12 Paul A. Katz
13 Chairman, Arizona Power Plant and
14 Transmission Line Siting Committee
15 15 South 15th Avenue
16 Phoenix, Arizona 85007-2926
17 Paul.Katz@azag.gov
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1 CERTIFICATION OF MAILING

2 Pursuant to A.A.C. R14-3-204, the **ORIGINAL** of the foregoing and 26 copies were
3 filed this 31 day of March, 2022 with:

4 **Utilities Division - Docket Control**

5 Arizona Corporation Commission
6 1200 West Washington Street
7 Phoenix, AZ 85007

8 **COPIES** of the above mailed this 31 day of March, 2022 to:

9 Robin Mitchell, General Counsel
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CEC 202