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11 **THE SUPERIOR COURT OF THE STATE OF ARIZONA**
12 **IN AND FOR THE COUNTY OF MARICOPA**

13 STATE OF ARIZONA, *EX REL.* KRIS
14 MAYES, ATTORNEY GENERAL
15 Plaintiff,
16 VS.
17 ARIZONA CORPORATION
18 COMMISSION, JIM O’CONNOR, in their
19 official capacity as a member of the Arizona
20 Corporation Commission, LEA MÁRQUEZ
21 PETERSON, in their official capacity as a
22 member of the Arizona Corporation
23 Commission, ANNA TOVAR, in their official
24 capacity as a member of the Arizona
25 Corporation Commission, KEVIN
26 THOMPSON, in their official capacity as a
27 member of the Arizona Corporation
28 Commission, NICK MYERS, in their official
capacity as a member of the Arizona
Corporation Commission.

Case No.
COMPLAINT
(APPEAL PURSUANT TO A.R.S. § 40-254)
TIER 3

Pursuant to Ariz. Rev. Stat. §40-254(A), Plaintiff State of Arizona challenges Defendant Arizona Corporation Commission’s (the “Commission”) decision overturning the Arizona Line

1 Siting Committee’s (the “Committee”) ruling because the Commission misinterpreted key
2 terms and made erroneous conclusions. In Decision No. 79388, the Commission inserted
3 ambiguity into a statute that has been interpreted in the same way by multiple parties for decades.

4 **PARTIES**

- 5 1. Plaintiff is the State of Arizona, *ex rel.* Kristin Mayes, the Attorney General of Arizona,
6 who is authorized to prosecute this action pursuant to A.R.S. §40-254.
- 7 2. The Arizona Attorney General’s Office is an executive branch agency created under
8 Ariz. Const., art. 5 § 1.
- 9 3. Defendant Commission is a five-member, publicly elected body created under Ariz.
10 Const., art. 15. Defendants Jim O’Connor, Lea Márquez Peterson, Anna Tovar, Kevin
11 Thompson, and Nick Myers are Commissioners of the Arizona Corporation Commission
12 and are named solely in their official capacities.

13 **JURISDICTION AND VENUE**

- 14 4. The Commission’s principal office is located in Maricopa County, Arizona.
- 15 5. The actions of the Commission and its members that are the subject of this Complaint
16 occurred in Maricopa County, Arizona.
- 17 6. Jurisdiction and venue are proper in this Court pursuant to A.R.S. §§ 40-254(A) and 40-
18 360.07(C).

19 **GENERAL FACTUAL ALLEGATIONS**

- 20 7. For decades, both the Committee and the Defendant Commission consistently and
21 correctly interpreted the law by finding that a proposed thermal power plant with a
22 combined nameplate rating of 100 megawatts (“MW”) or more falls under the
23 Committee’s jurisdiction, regardless of whether individual generators within the plant
24 had nameplate ratings below 100 MW.
- 25 8. The Line Siting statutes require that any utility planning to construct a “plant” in Arizona
26 must file with the Committee an application for a Certificate of Environmental
27 Compatibility (“CEC”) or a disclaimer of jurisdiction pursuant to A.R.S. § 40-360.03.

- 1 9. On March 8, 2024, Unisource Energy (“UNSE”) filed an Application for a Disclaimer
2 of Jurisdiction or, in the Alternative, a Certificate of Environmental Compatibility with
3 the Committee for a proposed expansion project (“Project”) at its existing Black
4 Mountain Generating Station (“BMGS”), near Kingman, Arizona.
5 <https://docket.images.azcc.gov/0000210726.pdf?i=1724107587560>.
- 6 10. After a multiday hearing, the Committee voted 9-2 to deny UNSE’s Application for a
7 Disclaimer of Jurisdiction, finding that the Project was subject to Committee jurisdiction
8 because, consistent with decades of previous Committee and Commission rulings, the
9 four generators constituted a “plant” and were not separate.
10 <https://docket.images.azcc.gov/0000211029.pdf?i=1724110831274>.
- 11 11. On May 16, 2024, UNSE filed a Request for Commission Review of Order Denying
12 Application for Disclaimer of Jurisdiction seeking the Committee’s Order.
13 <https://docket.images.azcc.gov/0000211100.pdf?i=1724110831274>.
- 14 12. On June 11, 2024, the Commission held an Open Meeting and voted 4-1 to reverse the
15 Committee’s Order.
- 16 13. On July 10, 2024, pursuant to A.R.S. § 40-253(A), the State filed an Application for
17 Rehearing of Decision No. 79388 with the Commission.
18 <https://docket.images.azcc.gov/0000211435.pdf?i=1724110831274>.
- 19 14. The State’s request for rehearing was denied by operation of law on July 29, 2024.
20 A.R.S. § 40-253(A).

21 COUNT I

22 Unlawful Determination: the Commission Grossly Misinterpreted the Law

- 23 15. The State realleges and incorporates by reference all preceding allegations.
- 24 16. The Commission misinterpreted the definition of “plant.” The definition provided in
25 A.R.S. § 40-360(9) plainly gives the Committee jurisdiction over the Project.
- 26 17. The Commission’s interpretation of the term “plant” simultaneously reads words out of
27 the statute and reads words in, applies an inappropriate narrow definition of “unit,” and
28 would produce results so absurd as to disqualify the Commission’s interpretive approach

1 altogether.

2 18. In denying the Committee’s jurisdiction over the Project, the Commission departed
3 from decades of consistent Commission and Committee interpretation of “plant,”
4 unreasonably and unlawfully creating ambiguity where none has existed since 1971.

5 19. The Project is a single plant composed of four natural gas generators with a nameplate
6 rating of 200 MW.

7 20. The Project would add 200 MW to the existing BMGS plant, bringing the plant’s total
8 nameplate rating to 322 MW.

9 21. The Project’s four generators are a generating “unit”—a group of generators—with a
10 nameplate rating of 200 MW.

11 22. “Unit” means “[a] single thing, group, or person viewed as an individual or as one of
12 several things, groups, or persons.” *Black’s Law Dictionary* (12th Ed. 2024).

13 23. A “unit” includes groups of generators comprising a “generating unit.”

14 24. The Commission’s finding that the Project’s four generators are “separate” is
15 unreasonable and this interpretation of “plant” renders the term “separate” superfluous,
16 which is contrary to basic principles of statutory interpretation.

17 25. “Separate” means “individual; distinct; particular; disconnected.” *Black’s Law*
18 *Dictionary* (12th ed. 2024).

19 26. The Project’s generators are physically adjoined because they are interconnected via
20 systems of pipes and wires.

21 27. The Project’s four generators will share twelve pieces of equipment: the ammonia tank,
22 the air cooler skid, the fuel gas coalescing skid, the station service transformer, the
23 storage building, the raw water tank, the reverse osmosis building, the demineralized
24 water tank, the air compressor, the raw water forwarding pump, the evaporation pond,
25 and the well.

26 28. Four pieces of equipment—the power control modules, the cooling towers, the
27 generator step up transformers, and the power distribution centers—will be constructed
28 in pairs and shared between two generators.

- 1 29. Concerningly, the Commission chose to ignore that the Project’s generators cannot
2 independently generate electricity; they rely on shared infrastructure.
- 3 30. Arizona courts apply a statute’s plain meaning unless doing so would lead to absurd
4 results. *Bilke v. State*, 206 Ariz. 462, 464, 80 P.3d 269, 271 (2003).
- 5 31. Under the Commission’s interpretation, a CEC would be required for a power plant with
6 one thermal electric generator with a nameplate rating of 100 MW or more but would
7 not be required for a power plant comprised of generators with individual nameplate
8 ratings less than 100 MW, but with an aggregate nameplate rating of 1,000 MW, 5,000
9 MW, or 10,000 MW.
- 10 32. This outcome is so absurd as to disqualify the Commission’s interpretation of the Line
11 Siting statutes.

12 COUNT II

13 Unlawful and Unreasonable Determination: The Commission Failed to Follow Legal 14 Standards and Relied on Improper Evidence.

- 15 33. The State realleges and incorporates by reference all preceding allegations.
- 16 34. The Commission’s review of the Committee’s decision was not conducted on the basis
17 of the record developed at the evidentiary hearing before the Committee pursuant to
18 A.R.S. § 40-360.07(B).
- 19 35. The Commission acted unreasonably when it disclaimed the Committee’s jurisdiction
20 over the Project by concluding that the generators were “separate” without a factual basis
21 for said conclusion supported by the administrative record.
- 22 36. The Commission unlawfully determined that the Committee lacked jurisdiction over the
23 Project based on a flawed statutory interpretation.
- 24 37. Clear and substantial evidence, along with decades of precedent, supports the
25 Committee’s decision to deny UNSE’s Application.
- 26 38. The Commission’s denial of the Committee’s jurisdiction on the grounds alleged in this
27 complaint was not based on the record and considered evidence not permitted by law.
- 28 39. The State’s (and previous Committee’s and Commission’s) interpretation of the law is

1 clear, does not lead to absurd results, and aligns with the legislature’s intent in adopting
2 the Line Siting statutes. The Commission cannot be permitted to create ambiguity in the
3 law when there is none.

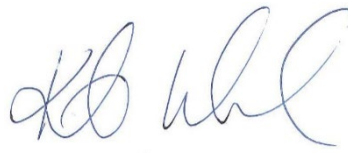
4 **RELIEF REQUESTED**

5 WHEREFORE the State requests that this Court grant the following relief:

- 6 a. Vacate, set aside, and reverse the Commission’s Decision No. 79388 as unlawful,
7 unreasonable, or both.
- 8 b. Remand the matter to the Commission with instructions to affirm the
9 Committee’s order denying UNSE’s Application for Disclaimer of Jurisdiction.
- 10 c. Award the State its costs and attorneys’ fees incurred in bringing this action
11 pursuant to A.R.S. § 12-348.01 and other applicable statutes or doctrines.
- 12 d. Grant such further relief as the Court deems just and proper.

13 RESPECTFULLY SUBMITTED this 29th day of August, 2024.

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16 KRISTIN K. MAYES
Attorney General

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18 

19 By: _____
20 Kristin K. Wrobel
21 Joseph Branco
22 Jennine Burns
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