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ARIZONA CORPORATION COMMISSION

Corporation Commissioner Andy Tobin's Written Comments for the Record at the Interior's May 15, 2017 Public Hearing

Public Comment before the Department of Interior Regarding the Navajo Generating Station

- Welcome to Arizona and thank you for coming to hear from Arizonans on one of the most important and historic energy assets in our state: the Navajo Generating Station (NGS).
- Transitioning Arizona's energy security from in-state fuel sources to out-of-state energy imports in a mere **six weeks** from now is a major gamble that conjures a potential gain of lower fuel costs at the real expense of our tribal communities, our state's economy and our energy grid.
- Arizona's grid is not ready to support an increased reliance on natural gas. There is no gas storage in the state (and any possible development is 3-5 years away), no major gas production wells, and only two pipeline options for gas transportation, of which 70% of the gas supply capacity is constrained in one of those pipelines. These major vulnerabilities cannot be overlooked.
- The long-term natural gas forecasts have impressive low prices. Indeed, the emergence of new technologies to extract natural gas have enriched America and reduced our country's dependence on foreign energy. There have also been unprecedented developments in renewable energy, both in terms of capability and flexibility.
- However, as Arizona looks to the future of energy, one that looks to the sun, battery storage and other zero emission resources, the Navajo Generating Station and its contributions should not be so quickly dismissed.
- NGS is oriented near an Arizona coal mine and provides a "home grown" energy supply like no other coal- or gas-fired generating station in the state. All other stations import their fuel from outside Arizona. Utilities should properly value the locational aspect of fuel. It does not appear that is happening with NGS.

- Last October, SRP called NGS an “economical baseload resource”¹ in an interview with the *Arizona Republic* and four months later, seismically shifted to the position of shuttering NGS. This sudden flip should concern everyone, especially any professional energy planner who must contemplate the transition costs associated with closure.
- Jumping from Arizona’s mainstay “baseload” facility at NGS to closure almost overnight, suggests that SRP forecasters either got it significantly wrong for the last several years regarding the future of NGS or even more startling: they’re dead wrong for the next several years.
- Once NGS is shut down, there is **no return**. SRP’s high risk for failure is further heightened by the permanence of what closure ultimately means. Not only would this energy resource become unavailable, but the economy of Northern Arizona, including the tribes, counties, cities and schools would face very hard times from SRP’s haphazard decision that has obviously “turned on a dime.”
- The Salt River Project (SRP) cannot seem to make up its mind about whether NGS is a good deal or not. In 2015, SRP bought Los Angeles Department of Water and Power’s share of NGS for \$10 million. As late as November 2016, plans were in place to operate NGS to 2044 and the owners, to date, have invested \$30 million in environmental studies to facilitate that extension. The back-and-forth of SRP’s view on the economics of NGS doesn’t give me confidence and lends even more weight to slowing down SRP’s decision to close NGS.
- I sent a draft settlement agreement to Secretary Zinke last month. It is the only comprehensive agreement on the table right now. While the settlement proposes that the federal government partially cost share the maintenance and repairs of NGS—a plant that they co-own—during the 5-year extension period, such costs are *de minimis* when compared to the generous wind and solar tax credits.
- If NGS is to operate past 2019, a meaningful marketing period to prospective buyers requires more time than what is being suggested by SRP. The settlement proposal’s 5-year timeframe supports that effort.
- The NGS settlement proposal includes:
 - A five-year commitment to keep NGS in operation;
 - A waiver of Navajo’s right to regulate, directly or indirectly, the decommissioning of NGS;
 - A 50/50 cost share with the owners and the federal government for the cost to repair and maintain NGS in good working order during the 5-year extension period;

¹ Mark Henle, “Future of Navajo Generating Station near Page,” *The Arizona Republic*, <http://azc.cc/2iffmAV>, (accessed 15 May 2017).

- A good faith effort on behalf of the federal government to secure relief from environmental regulations affecting NGS; and
 - A commitment by the current ownership group to work with a third-party to sell NGS to a new owner(s).
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- There are some very real issues that make the potential July 1st closure deadline—just six weeks away--**NOT** in the best interest for Arizona. This deadline, imposed by SRP, should be moved out to October 1st and the Bureau of Reclamation should move to reconsider its Obama-era position on NGS and renew good-faith negotiations to keep the plant running past 2019. The War on Coal is over and the Bureau's policies should reflect that.

 - My settlement proposal is attached.

LEASE AMENDMENT AND EXTENSION AGREEMENT

This Lease Amendment and Extension Agreement (“Agreement”) is made this ___ day of _____, 2017, between: (1) The Navajo Tribe of Indians (the “Tribe”); (2) Arizona Public Service Company; Nevada Power Company; Salt River Project Agricultural Improvement and Power District, and Tucson Gas & Electric Company (collectively, “Lessees”); and (3) The United States, Department of Interior, Bureau of Reclamation (“BOR”).

RECITALS

WHEREAS, the Tribe and Lessees entered into an Indenture of Lease dated September 29, 1969, and as amended (collectively, the “Lease”), related to the premises described in Exhibits 1 through 4 of that Lease, said premises commonly referred to as the Navajo Generating Station (the “Premises”);

WHEREAS, the Salt River Project Agricultural Improvement and Power District holds an ownership interest in the Navajo Generating Station for the use and benefit of BOR to provide power and energy for Central Arizona Project pumping;

WHEREAS, the Lease was amended to, among other things, extend the original term of the Lease through December 22, 2019;

WHEREAS the Tribe and Lessees each desire to extend the term of the Lease an additional two years, upon the terms and conditions set forth herein;

In consideration of the mutual promises contained herein, and other good and valuable consideration, the Tribe, Lessees, and BOR agree as follows:

AGREEMENT

1. ***Extension of Term.*** The Lease, originally scheduled to terminate on December 22, 2019, is extended for an additional period of two years and will terminate on December 22, 2021 (“Termination Date”).
2. ***Operation of Navajo Generating Station.*** This section is intended to specifically amend Paragraph 16 of the Indenture of Lease dated September 29, 1969. The Tribe covenants that, other than as expressly set out in the Lease, it will not directly or indirectly regulate or attempt to regulate the Lessees in: (a) the construction, maintenance, operation, or activities associated with decommissioning, removal, restoration, remediation, and monitoring of the Navajo Generating Station and the transmission systems of the Lessees; or (b) the construction, maintenance, operation, or activities associated with decommission, removal, restoration, remediation, and monitoring of the fuel transportation system of the Lessees or the Fuel Transporter. This covenant shall not be deemed a waiver of whatever rights the Tribe may have to regulate retail distribution of electricity on the Reservation Lands. Nothing herein shall convey to the Lessees, or any of them, any rights to engage in retail distribution of electricity in Reservation Lands.

3. **Contributions to Repair and Maintenance.** Starting December 22, 2019, and continuing to the Termination Date (the “Extension Period”), BOR agrees to pay 50% of the expenses of all necessary repairs, maintenance, operations and replacements, related to the Premises, arising during the Extension Period, and required to be made to maintain the Premises in good and operable condition, with normal wear and tear excepted.
4. **Environmental Regulations.** The Tribe, Lessees, and BOR, shall work cooperatively and in good faith to secure any and all extensions of environmental regulations necessary to continue lawful operation of the Navajo Generating Station through the Termination Date, including, but not limited to, extending deadlines arising under the National Environmental Policy Act.
5. **Limitation on Future Extensions.** The Tribe and Lessees agree that the extension of the term of the Lease by this Agreement does not guarantee that either party will renew or agree to renew or extend the terms of the Lease upon the expiration of the renewed or extended term. Nothing contained herein will require either party to consent to such a renewal or extension, and either party may determine, without cause, not to renew or extend the Lease beyond the Termination Date.
6. **Confirmation of Original Lease, as Amended.** The parties to this Agreement agree that this Agreement does not modify or change any other provision of the Lease except as provided herein, and that the terms of the Lease remain in full force and effect and will continue to govern the parties’ rights and duties during the term of the lease extension effected by this Agreement. Unless otherwise noted, all defined terms in the Lease shall have the same meaning in this Agreement.

Approved: _____ THE NAVAJO TRIBE OF INDIANS
Date: _____ By: _____
Printed Name: _____
Its: _____

Approved: _____ SALT RIVER PROJECT AGRICULTURAL
IMPROVEMENT AND POWER DISTRICT
Date: _____ By: _____
Printed Name: _____
Its: _____

Approved: _____ ARIZONA PUBLIC SERVICE COMPANY
Date: _____ By: _____
Printed Name: _____
Its: _____

Approved:

TUCSON ELECTRIC POWER COMPANY

Date: _____

By: _____

Printed Name: _____

Its: _____

Approved:

NEVADA POWER COMPANY

Date: _____

By: _____

Printed Name: _____

Its: _____

Approved:

THE UNITED STATES, DEPARTMENT
OF INTERIOR, BUREAU OF
RECLAMATION

Date: _____

By: _____

Printed Name: _____

Its: _____