

Survey of Arizona Siting Stakeholders

*Report of
Responses
Received*



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Executive Summary

K. R. Saline and Associates, PLC, (KRSA) was commissioned by the Sonoran Institute to conduct interviews of stakeholders in the Arizona power plant and transmission line siting process. The purpose of the survey was to obtain stakeholders' comments on the current siting process—where it functions well, where it could function better, and what particular improvements could be made, specifically through reform of the siting statutes. The intention was to generate simple improvements that would build confidence among stakeholders and enable the pursuit of more extensive reforms in the future. All respondents received the same survey questions, which solicited comments on various phases of the siting process. More expansive comments were also invited. This report summarizes the comments received, and will be presented at a stakeholder meeting where interviewees, stakeholders in the siting process, and the Sonoran Institute can identify possible next steps for making improvements to the siting process.

The majority of survey participants felt that the siting process functions well in most respects. However, a few areas were identified for potential reform. The current public process and intervention policies and practices were the subject of many comments and suggestions for improvement. Increasing overlap between the state siting process and other agency processes, particularly on the federal level, garnered much discussion. Better integration of these multiple processes was a common objective. A number of comments were also submitted on other improvements or changes that could be made to the siting process.

To the extent possible, specific concrete changes are identified. However, further discussion among survey participants will be helpful to develop a further course of action on the following topics:

Administrative Remedies

- Does an additional outreach mechanism need to be created to better educate the public on their role in siting projects, and the benefits and obligations of formal intervention? If so, what form should it take, website, user's guide, etc., and who is the appropriate messenger of this information?





- Will revision of siting statutes make the option of utilizing a hearing officer more attractive or feasible for any or all portions of a hearing, including public comment hearings?
- Alternatively, should the siting statutes allow for a scaled-down version of the Siting Committee to conduct hearings under certain conditions?
- Should revisions be made to the siting statutes to provide consistent, more specific requirements on the standard for intervention or formalize a pre-filing public process?
- Should non-thermal generation be added to the siting statutes definition of “Plant”?

State/Federal Coordination

- How can identification of existing interrelated state and federal processes for other utility rights of way, natural gas siting and transportation, for example, serve as models for better integration of state and federal siting processes?
- Should the Siting Committee be authorized to act as a “cooperating agency” under the October 23, 2009 Memo of Understanding (MOU) on Coordination in Federal Agency Review of Electric Transmission Facilities?
- Will development of an MOU between agencies that typically participate in an Arizona siting process, including county and local entities, better integrate related interests?

Other Topics

- Is there a need for the Siting Committee and Commission to better coordinate their efforts and roles? What is the best mechanism to achieve this?
- Will analyzing the need for the consideration of region-wide issues in the review of siting projects lead to better cross jurisdictional cooperation?
- An examination of how other states conduct their siting processes could be conducted to identify best practices.
- Should a formal task force be created to review current rules and identify proposed improvements to the siting process?

- Should the Arizona Power Plant and Transmission Line Siting Committee (Committee or Siting Committee) and Arizona Corporation Commission (Commission) have a greater role in educating the public on specific pending projects?

- Will hiring dedicated paid support staff by the Committee help stakeholders through the siting process?
- Does the siting application template require modification to correspond with other frequently required documents?

Legislative Remedies

- Should siting statutes be amended to add one or more ad hoc Committee member positions that could be filled by Arizona Game and Fish Department, Arizona State Historic Preservation Office, Arizona Board of Technical Registration, Arizona State Land Department, and/or another agency, as appropriate in a given proceeding?



Background/Survey Purpose

Sonoran Institute has taken an active role guiding Arizona to a sustainable energy future. To facilitate the power plant and transmission line siting process the Institute commissioned K.R. Saline and Associates, PLC (KRSA) to survey Arizona power plant and transmission line stakeholders about the current siting process. The goal is to evaluate the current process from various vantage points and arrive at recommendations that would make the siting process smoother for all involved. Survey questions were posed to solicit easy to implement initial improvements that would build momentum for more extensive future reforms. Respondents received the same survey, which touched on specific aspects of the siting process and invited in-depth comments as well. This summary of the survey findings will be presented at a stakeholder meeting. At such time, Sonoran Institute can identify next steps for making improvements to the siting process.

Participants

In cooperation with the Sonoran Institute, KRSA developed a list of survey participants from a variety of groups who have an interest in the Arizona siting process. This included utilities, merchants, legal and environmental consultants, affected agencies, past and current Arizona Power Plant and Transmission Line Siting Committee (Siting Committee or Committee) members, and environmental and public representatives. Twelve individuals were interviewed for the survey; eleven provided substantive comments, while one declined to provide detailed comments. Several potential interviewees declined participation altogether.

Methodology and Survey Questions

Survey participants were provided a list of questions developed jointly by KRSA and the Sonoran Institute, including open ended questions seeking recommendations and general observations. The survey questions were as follows:

- 1) What is your experience with the Arizona line siting process, i.e. what has been your role (applicant, counsel for applicant, expert witness, member of line siting committee, other)? Have you had more than one role?
- 2) In how many proceedings have you participated? When was the most recent? If multiple, what has been the time span (i.e., were they back to back, several months or years apart, or continuous), and what has been your most frequent role?
- 3) What is your general impression of the procedural nature of the siting process, as defined in the following phases? Is it logical? Do you have any issues of concern with how it is presently defined?
 - a. Environmental analysis/pre-filing
 - b. Interviews, transcriptions, and depositions prior to hearing
 - c. Public process
 - d. Filing of application
 - e. Committee hearing
 - f. Commission hearing

- 4) Does the tenor/atmosphere of the siting process suit the nature of the discussions? That is, the formality of it, with the formal intervention process? Are there improvements that could be made here?
- 5) What is your opinion of the current makeup of the Siting Committee (consider entities, not individuals)? Are all the appropriate interests represented? Are there too many interests represented?
- 6) In your opinion, is there a need for staff from the Arizona Corporation Commission (Commission), Arizona Attorney General's office, or other agency who could be dedicated to the Siting Committee or the Commission solely to handle siting matters?
- 7) The Siting Committee currently has the statutory authority to retain a hearing officer to hear an application, but has yet to make use of it. In your opinion is this an alternative that would be beneficial to the process?
- 8) Do you think the policies and practices for allowing intervention are suitable? Are they too liberal? Not liberal enough? Are they efficient? Are they effective (i.e. allow appropriate stakeholder participation without holding it hostage to a minority interest)?
- 9) In your experience, how does the Arizona line siting process overlap with other processes, such as county zoning or local public meetings, and federal requirements such as NEPA, that are required to be conducted for a given project? Are there duplications of efforts, contradictions, or difficulties that result from having to complete more than one? If so, what are they? How might they be avoided?
- 10) As you know, certain periods of time are dictated by the Statutes and/or Administrative Rules for progressing through the siting process. In your opinion, is the time allotted generally sufficient or insufficient for the amount of detail and work required?
- 11) More specifically, the siting committee has 180 days to issue or deny a CEC from the date an application is received by the Committee chair. Is this too short a timeframe? Too long? Following the Committee's action, the Commission then has 30 to 60 days to issue an order on the proposed CEC. Is this an appropriate window?
- 12) Applicants are required to pay a filing fee. Are the present fees reasonable? Too much? Not enough? Does the filing fee cover all expenses related to the siting process and hearing for committee members and administrative costs? Should it? Why or why not?
- 13) If you have knowledge of them, could you provide us with a range of costs expended to go through the siting process for a project? How is it different for a transmission line compared to a plant? What are the costs typically for the legal component? Environmental? The public process? Was the result worth the costs expended?
- 14) Are there any other suggestions for improvement that you would make? If you could identify relatively easy fixes first, that would be preferred.

Surveys were conducted by telephone, and comments were summarized by KRSA based upon the verbal responses. A few comments were also submitted to KRSA in writing.

Survey Responses

The survey responses are summarized according to the subjects the questions addressed.

Participant Perspective - Questions 1 & 2

Survey participants were from a variety of organizations and perspectives. Their experience with the siting process ranged from minimal to upwards of sixty cases. The time period covered by their experiences dates from the mid-1990's through the present. Participants had been applicants, counsel or expert witness for an applicant, members of the Siting Committee, interveners, and members of environmental groups or staff public agencies.



Procedural Nature of Siting Process - Question 3

Respondents were first asked their impression of the procedural nature of the siting process, and the stages into which it is divided. These were defined as:

- Environmental analysis/pre-filing;
- Interviews;
- Transcriptions;
- Depositions prior to hearing;
- Public process;
- Filing of application;
- Arizona Power Plant and Transmission Line Siting Committee (Committee) hearing; and
- Arizona Corporation Commission (Commission) hearing.

One survey respondent characterized the siting process statute as seriously outdated and difficult to apply in the current industry environment.

Most respondents agreed that the form of the process was generally logical, but that there is little concrete guidance for navigating it; one survey respondent characterized the statute as seriously outdated and difficult to apply in the current industry environment.

Respondents indicated that, predominantly, experience informs an applicant what is expected of them rather than any formal guidelines; respondents were divided on whether or not this presented a problem. One participant emphasized the importance of efficiency, and the difficulty in improving the efficiency of the siting process given the number of federal lands in the state. Certain changes require an Act of Congress, or involve sovereignty issues, either of which creates an obstacle.

Transmission Planning and Implementation Coordination

The Western Electricity Coordinating Council (WECC) announced the release of its first 10-Year Regional Transmission Plan (Plan) for the Western Interconnection. Looking ahead to 2020, the Plan focuses on how to meet the Western Interconnection's transmission requirements; including transmission expansion, new generation development, adapting to local, state/provincial, and federal policy changes, and their associated financial and environmental costs. The Plan provides policy- and decision-makers with observations and recommendations about the current state and future needs of the transmission system in the Western Interconnection. The Plan was developed through WECC's Regional Transmission Expansion Planning (RTEP) project, as part of a grant from the U.S. Department of Energy (DOE). To expand upon its transmission planning activities, WECC received a \$14.5 million award from the DOE in December 2009, as part of the American Recovery and Reinvestment Act. The Plan will first be provided to the DOE, and will then be available to the public on WECC's website (<http://www.wecc.biz/10yrPlan>).
– WECC Press Release, Sept. 22, 2011.

The Federal Energy Regulatory Commission (FERC) reformed its transmission planning and cost allocation requirements to benefit consumers by enhancing the grid's ability to support wholesale power markets and ensuring transmission services are provided at just and reasonable rates.

Order No. 1000 requires public utility transmission providers to improve transmission planning processes and allocate costs for new transmission facilities to beneficiaries of those facilities. It also requires public utility transmission providers to align transmission planning and cost allocation. These changes will remove barriers to development of transmission facilities.

– Federal Energy Regulatory Commission Press Release, July 21, 2011.

Environmental Process, Interviews, Transcriptions, and Depositions

A participant cited the unclear thresholds for identifying lesser impact projects, as well as the lack of something similar to the federal Environmental Assessment or Environmental Impact Statement, which would provide direction on what environmental analysis should be performed for a given project.

Environmental analysis is better, in general, if the National Environmental Policy Act (NEPA) is triggered by a particular project, noted another participant. That individual felt it is helpful to get input

from entities and individuals in addition to the project applicant, and still conduct the state siting process independent of the NEPA process.

Several participants pointed out that the Committee currently has no investigative power so it must rely on evidence provided by project applicants, in conjunction with information submitted by other participants.¹ Pre-hearing interviews or depositions that could assist the Committee in verifying the provided data provided were suggested by one respondent. Another proposed using a deposition to obtain interveners' comments, both for the public and for the project applicants. The pre-hearing interviews and depositions were also mentioned as useful tools in the event of complicated proceedings, for example if multiple parties intervened. Inquiry was made by a participant regarding whether there should be post-hearing briefs as there are in other types of proceedings.²

Application Process and Content

Multiple participants indicated that the length of the application itself has greatly increased over time. It is much more substantive, yet burdensome to prepare. However, one respondent believed the level of detail required assists Siting Committee and Commission members in making effective decisions.

The suggestion was made by one respondent that the application form should, to the extent possible, closely match similar federal forms.

Line Siting Hearing vs. Corporation Commission Hearing

Several respondents noted a disconnect between the Committee hearing process and the Commission hearing process. The Siting Committee hearing process was described as very exhibit-intensive, while the

Commission essentially re-hears a case without the benefit of re-hearing witnesses.³

A respondent asserted that the Siting Committee should be treated like a trial court, and the Commission as a court of appeals, rather than the two de novo processes that currently exist. Multiple participants mentioned the inconsistency in the standard of review that has been applied by the Commission (abuse of discretion or de novo), noting that prior to October 2000 the statute was followed, but since then it has not been. One respondent in particular believed this should be consistent one way or the other, even if the statute needs to be revised, and that the Commission's opinions on this should be solicited. Furthermore, the respondent noted that the Committee has no enforcement authority, so it is logical that the Commission should review applications, rather than wait for a review to be requested.



¹ The Committee does have subpoena power, and under the provisions of ARS § 40-360.06 the Chairman can make municipalities parties to the proceedings under certain circumstances. See also A. A.C.R14-3-204 D which authorizes the Chairman to make other persons parties to the proceedings.

² The Commission does have the authority to request written briefs or oral argument for its review of the record. See ARS §40-360.07A. There is no impediment to the Committee's requests for final briefs, and in fact, in certain cases, they have been requested.

³ The Commission reliance on the record gathered by the Committee has a statutory basis, ARS § 40-360.07B. Under the current system, the Committee acts as a hearing officer and the Commission is limited to a review of the record created by the Committee.

More generally, a respondent mentioned the lack of specificity in the current relationship between the Siting Committee and the Commission, particularly with respect to insufficient clarity on what the Commission's expectations for the Committee are, and on the roles of each entity. In the respondent's view, some independent state agency to balance competing concerns would be beneficial because it is likely too much work for the Commission to handle on its own.

Tenor/Atmosphere of Siting Process - Question 4

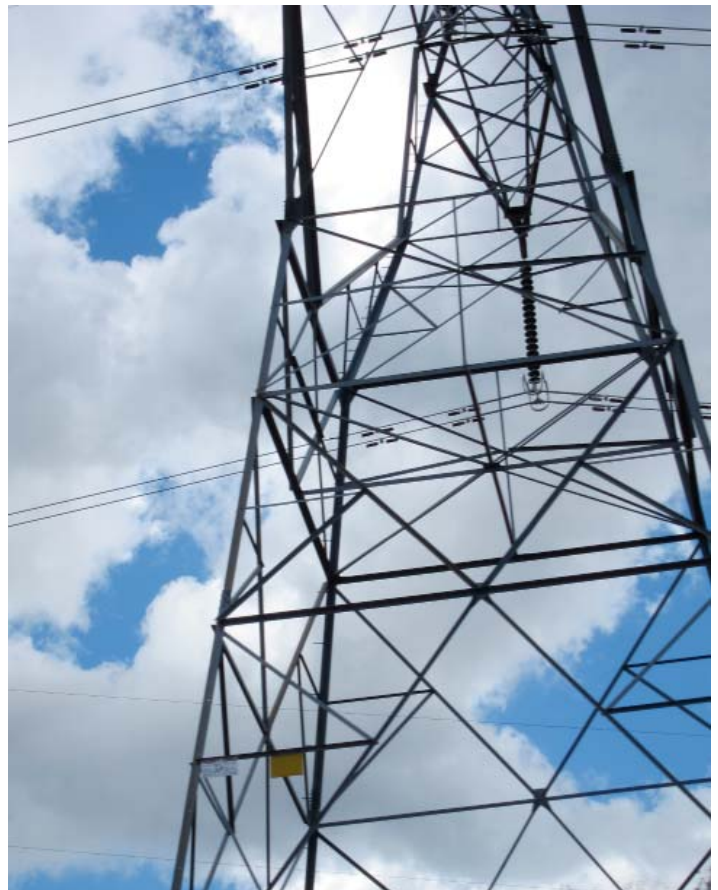
There was general agreement among respondents that the relative formality of the siting process is suitable to the discussions that are held, and is beneficial in many ways. However, several respondents commented that this formality was occasionally an issue during the intervention stage of a project. A more formal process was commonly described as being unfriendly or challenging for non-professional interveners. It was also noted that the public comment sessions occasionally disrupt the process. In addition, the rigidity of the process once an application is filed was cited as a drawback, as subsequent changes are not easy to incorporate.

Siting Committee Composition - Question 5

Participants were asked if all the appropriate interests were represented on the Siting Committee, or if too many interests are represented.

Overall, survey participants concurred that all the current representatives were appropriate. Several participants felt one or more state agencies should definitely be added to the Committee. While there was no consensus for adding a number of participants, the following agencies were specifically mentioned as potential candidates:

- Arizona Game and Fish Department (Game and Fish)
- Arizona State Historic Preservation Office (SHPO)
- Arizona Board of Technical Registration
- Arizona State Land Department (ASLD)



Better definition of a given Committee member's interests in siting proceedings would be helpful. It should be clear whether or not they have to be a current, rather than former, member of the group they're representing.⁴ Formal feedback from the agencies to the Committee earlier in the siting process was suggested to convey pertinent information to the Committee.

As noted by one respondent, a group with State or regional interests is missing from the Committee; such representation might provide greater context for a project. The Arizona Department of Commerce has been disbanded and the Energy Office is now housed in the Governor's Office. This changes representation from a department to the Governor's Office. Determination must be made on the effects of this change. Another respondent stated that a party with expertise on vegetation or native plants would be helpful.

⁴ See ARS §40-360.01B. The member representing agriculture interests is the only one required to be "actively engaged".

The suggestion was made for a scaled down version of the Committee that might work better for small scale projects. No specific recommendation was made as to how the Committee should function in such a scenario.

Staff Dedicated to Siting Matters - Question 6

Respondents were asked if it would be helpful to have staff dedicated to siting matters, whether from the Commission, Attorney General's office, or some other agency. Most respondents were in favor of this idea, although there was no clear consensus on what entity should provide the personnel; both the Attorney General's office and the Commission were mentioned as candidates.

Participants cited several benefits associated with having dedicated siting staff:

- Continuity of institutional knowledge and secure resources;
- Centralized point of contact for both ongoing project participants and potential project developers;
- Relieve the burden placed on the Committee chair; and
- Greater independence and resilience for the Committee.

One participant described the biggest value from a staff person working on siting issues would be the expertise that could be interjected into the process. The Committee as a whole is not as well versed on the amount of regional planning meetings and complexity of regional transmission planning in general, which is exponentially higher than it was in the 1970s.

It is important to note that several respondents did not see the need for a dedicated staffer at all, typically citing the intermittent nature of siting applications. It was also recommended that SHPO, Game and Fish, and ASLD have a review obligation for siting cases, as well as staff designated to respond to cases.

Hearing Officer Option - Question 7

The Siting Committee has the statutory authority to retain a hearing officer to hear an application, but has never availed itself of this option. Participants were asked if doing so would be beneficial.

Approximately 25 percent of respondents were indifferent, while 33 percent did not feel that this would be helpful. One respondent even asked why the option had never been used, and if that perhaps indicated that it should be eliminated, or was unnecessary.

Several respondents mentioned that use of a hearing officer would deprive the Siting Committee members of experience and institutional knowledge, and a sole officer could not have the context, or breadth of experience that the Siting Committee members collectively have. On the other hand, 25 percent of respondents were in favor of the hearing officer option, with the qualification that it might work best for smaller scale projects, and would help with scheduling difficulties.

Another participant proposed a hearing officer might conduct separate public comment hearings, rather than the Committee conducting them during the remainder of the hearing.

Several participants noted that the absence of strict requirements for intervention leaves the process very open-ended, which has resulted in delays in hearings as multiple individuals intervene.

A suggestion was made in relation to the statute restriction that requires the hearing officer reside in a county other than where the project is located. One participant thought it should be eliminated, and a member of the Committee with the appropriate legal and judicial experience should be eligible to serve as a hearing officer.

Intervention and Public Process - Question 8

Survey participants were asked if the current policies and practices for allowing intervention in siting proceedings are sufficient, efficient, and effective. Respondents were divided in their opinions on whether or not the policies and practices are too liberal. A number of participants noted that the absence of strict requirements for intervention leaves the process very open-ended, which has resulted in delays in hearings as multiple individuals intervene.

Participants requested there be more guidance in the statutes and specificity as to whether non-law trained interveners can join, and if so, how (with full rights as a party, or in some other capacity). However, many respondents were firm on the importance of preserving options for the general public, who generally do not have legal counsel to represent them in a proceeding.

There are no formal requirements for what type of public process must be conducted, or guidance on how to do it.

Nearly all respondents agreed that more could be done to educate the public on the benefits and obligations of the intervention process, which might also result in fewer interventions occurring, and more comments being provided through the public process or public comment forums. One participant suggested that information be made available to the public on what the intervention process entailed, and what benefits and drawbacks it provides. Specific recommendations included a handbook or website devoted to explaining the process, with one respondent citing the California Energy Commission website as a potential model.⁵ Another example cited was FERC's guidebook on gas pipeline siting. No preference was expressed on who should provide these materials, the Commission, Attorney General's office, or some other entity.

Depositions prior to a hearing were mentioned as a means of increasing awareness of stakeholder issues, followed by a brief publication outlining interveners' concerns prior to the hearing. This would assist stakeholders in deciding whether or not they want to join in an existing intervention, and help the applicant prepare a response to their concerns.

Multiple parties commented that a lack of clarity on the intervention process, and the absence of formal rules for them, can complicate matters. Specifically, several participants indicated that there is a disjoint between the standard for intervention that the Commission typically applies, and what is statutorily prescribed for the intervention process. The Commission favors unlimited pro per intervention, which was described by one respondent as having the potential to disrupt the Committee hearing process and make it difficult to adhere to time limits. The Committee is not explicitly required to use this standard, and may choose instead to apply other requirements. Regardless of the standard used, survey respondents recommended that there should be greater certainty and consistency between the Siting Committee and the Commission on intervention.

The mismatch between the limited scope of the statutory requirements for the public process and the expectations that the Siting Committee and Commission now have for the process was mentioned by several participants. That is, there are no formal requirements for what type of public process must be conducted, or guidance on how to do it.

Several respondents observed that the public process is frequently too late in a project's development for it to be of much assistance or value, and that many members of the public wait to provide comments until the Commission hearing when it is too late to be effective.

One survey participant suggested that requiring some form of pre-filing public outreach would provide more useful input. Another participant recommended the development of a procedure to better accommodate comments submitted after the public process has finished.

⁵ The Commission currently has a Committee Siting page, with some FAQs which briefly explain the process.

The current process was described by a respondent as unfriendly to the public in general, although public outreach during the pre-filing process would do much to make up for this.

One respondent expressed a preference that additional information be provided during evening public comment sessions, so that those wishing to comment would have more background and awareness of the current status of a project before they committed anything to the record. This could be accomplished through a brief recap of that day's hearing, approximately 15-20 minutes in length.

According to participants, the general public is confused about the difference between public comment sessions and the evidentiary portion of the siting hearing.

Process Overlap - Question 9

Respondents were asked if there is overlap between the Arizona line siting process and other processes on both the federal and local levels, and if so, what difficulties or duplication of efforts result. Most respondents agreed there is a significant amount of overlap between the federal and state requirements, with less overlap occurring between the state process and the county and local processes.

The federal processes, including both BLM and NEPA requirements, were cited as causing the most duplication of efforts. Yet, their dissimilar goals and differences from the state siting process prevent streamlining the processes. One participant indicated that the processes are different enough that none of the others are adequate to replace the state siting process. The competing timelines of the various processes were also mentioned as presenting a challenge. Increasing friction between federal and state agencies was described by one participant.

Another participant noted that the environmental analysis done for the federal process was originally



intended to be used for the state process as well. However these processes have become completely separate, each using a very different format.

There were a few concrete suggestions on how best to address the issue of competing environmental process, due to the difficulty in achieving changes in the federal processes considering the multiple federal agencies involved.⁶ One respondent proposed using a Memorandum of Understanding (MOU) for a joint process. A benefit of adopting an MOU is that no legislative change would be required. It would also assist project applicants who need both federal and state approval. In addition, another participant proposed that the Siting Committee be explicitly authorized to act as a “cooperating agency” with the federal agencies responsible for NEPA review. They referred to the October 23, 2009 MOU between multiple agencies on Coordination in Federal Agency Review of Electric Transmission Facilities.⁷ According to the MOU, the federal agencies charged with NEPA reviews agreed to have a lead agency coordinate siting review and invited state and local participation of “cooperating agencies.” The survey

⁶ The Department of Energy is collaborating with eight federal agencies on the “Rapid Response Team for Transmission” which will “accelerate responsible and informed deployment” of key transmission facilities. <http://www.doe.gov/articles/obama-administration-announces-job-creating-grid-modernization-pilot-projects>.

⁷ A copy of the MOU can be found here <http://www.ferc.gov/legal/maj-ord-reg/mou/mou-transmission-siting.pdf>.

respondent suggested that acting as a “cooperating agency” would be the first step in turning the state and federal processes into parallel, consistent processes. It was suggested by a participant that if Arizona can demonstrate its commitment to siting through reform of processes, Arizona may have a better chance of drawing attention from the federal agencies, and of setting the stage for reforms on the federal level.

According to the original objectives of the siting statutes, one respondent noted, the state siting process was intended to serve as a “one stop shop” for projects. This implies that county or local requirements are subservient to the state process. In order to more fully incorporate their concerns into the siting process, county and local siting authorities need to be aware of this possibility, and local permit applications must be initiated in advance of the siting process, to allow sufficient time for more robust local participation.

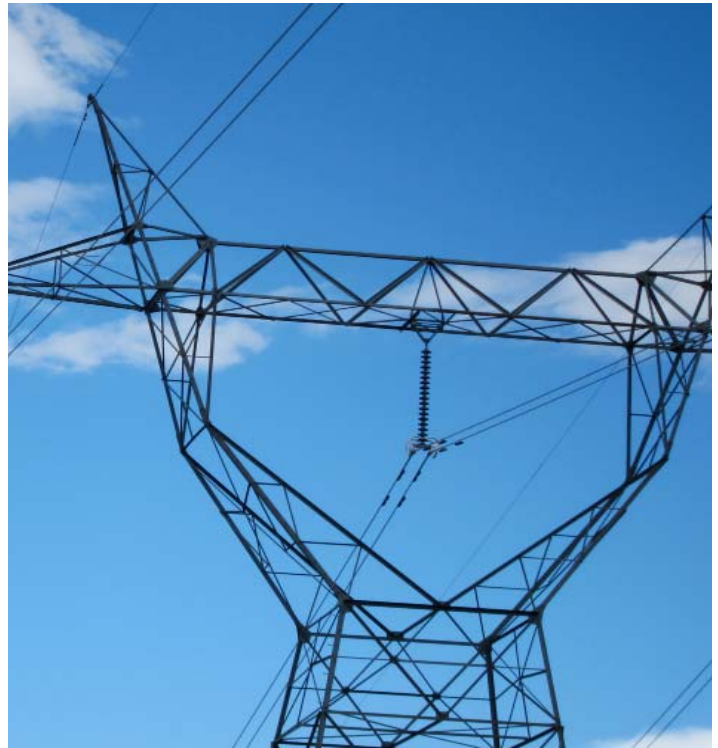
One participant suggested an electronic forum, accessible online, be established for each project, with a uniform filing form that would satisfy all stakeholder requirements. This would eliminate multiple reviews of the same project by the same agencies as various processes are completed. For example, the same agencies are contacted by local, county, state, and federal authorities during the course of a project and asked to review the project each time. The participant proposed implementing such a protocol at the state level first, incorporating the county and city processes underneath it.

Timeline - Questions 10 & 11

Survey participants were asked if the periods of time dictated by the Statutes or Administrative Rules for progressing through the siting process are sufficient for the amount of work required.

Nearly all respondents agreed that the statutorily driven timelines are appropriate.

Extending the deadline for the Committee to issue a Certificate of Environmental Compatibility (CEC) was mentioned as providing flexibility if needed.



Several respondents emphasized the value that having deadlines provides for applicants, both for their own planning purposes, and for any investors interested in their projects.

One participant indicated that the federal processes could use time limits, and if better harmonization could be obtained with state processes, then perhaps extending the state timelines would be warranted.

In addition, there were suggestions to make the deadline for Commission action on a CEC 30 days, while others proposed a mandatory 60 day review period.

Filing Fees - Question 12

Survey participants were asked if the filing fees currently required were reasonable and appropriate, as well as sufficient to cover all the expenses associated with the siting process. Nearly all participants agreed that this process is working well in practice regardless of the statutorily required fees, as applicants routinely provide supplemental funds when requested by the Chief Financial Officer of the Commission for Siting Committee proceedings. Several participants expressed a preference for this route, rather than an up-front payment of a greater amount. One participant did ask if frivolous filings were an issue, and if so, indicated that raising the required fees might deter such filings.

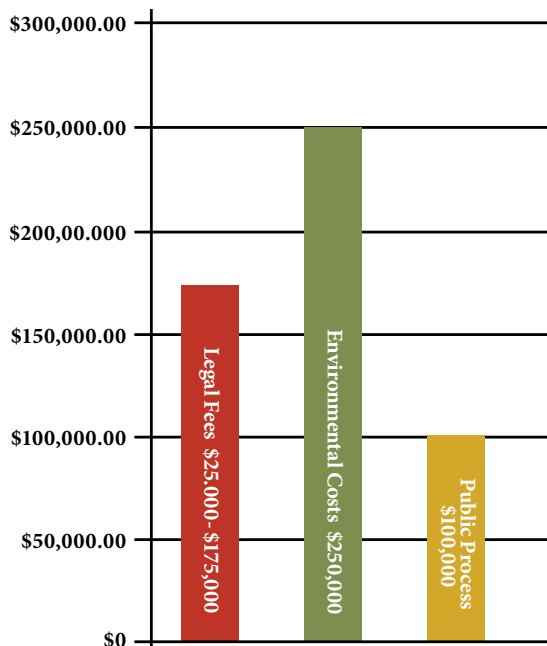
Support was also indicated for the applicant continuing to fund the process. The suggestion was made to raise the fee for a transmission line to match that required for a power plant, as it is frequently just as complex of a project to site. One participant favored the option or requirement of paying a greater amount for review fees in order to guarantee agency input, as the present fees cover only basic Committee costs.

Range of Costs for Siting Projects - Question 13

Participants were asked to provide a range of costs expended to go through the siting process, and how this differed from a transmission line to a power plant. Not all participants had experience in this area; those that did cited cost ranges between \$25,000 and \$175,000 for legal costs, approximately \$250,000 for environmental costs, and \$100,000 for the public process. Total costs for a project applicant were quoted in the \$375,000 to \$400,000 range.

Several participants indicated that the environmental costs were generally the greatest share of the a project's costs, although the wide range of projects makes it difficult to identify the difference in costs between a power plant and a transmission line. On the whole, respondents agreed that building a project is worth the costs involved.

Range of Costs for Siting Projects



⁸ Given the requirements of the Open Meeting Law, this proposal presents some serious challenges.

Additional Comments - Question 14

Survey participants were asked to provide any additional suggestions for improvement to the siting process, with a preference for easy fixes. A wide range of comments was submitted and they are listed below.

- All the easy fixes have already been made, unless the federal authorities mandate something. If there is to be any significant change, Arizona will have to commit to the process, possibly with a task force and a fixed timeline for action. Use states such as Texas, Minnesota, Colorado, the Dakotas, and Wyoming as models of action.
- Current process is too rigid, particularly compared to today's industry climate. The lack of greater context for projects, the need for overall picture and goals of the state, and the omission of discussions of water are also problematic.
- Difficult to arrange site tours without certainty as to whether or not the Siting Committee will want one. Perhaps the Committee members could be polled in advance to gauge their interest.⁸
- A complete review of the rules is in order. Current rules were established before federal rules for environmental issues were established. Respondents believed the siting process and actual application could be streamlined or shortened considerably if federal requirements were used as the base, with the public process remaining as the sole state specific process. Accomplish this by creating a list of siting laws and identifying laws and requirements relevant to those areas of concern that an applicant has to meet anyway. Thus, these issues would be addressed, just outside of the siting process; and the applicant could commit to future compliance with these regulations rather than before the application filing. Cut back on the material provided to the Siting Committee; they are overloaded with too much unnecessary information.

- Applicants can potentially be held hostage by landowners for transmission line right of way fees, as approval of a corridor means a route for a project is known in advance of formal right of ways being obtained. Committee approval of a CEC with two designated corridors might help applicants keep costs down.
- Possibly the biggest issue currently in the statutory framework is the need to consider the statutory elements for transmission lines, in particular the need determination as federal policy, regional planning, and cost allocation guidelines evolve. Navigating through state policy, growing federal policy, and neighboring state issues, is becoming more difficult.
- A review of best practices of other states would be appropriate, similar to the Edison Electric Institute Guidebook that summarizes siting requirements in each state, or the National Regulatory Research Institute survey of commissions. In addition, the lack of “quick-take” eminent domain in Arizona can lead to difficulties in the condemnation process following the issuance of a CEC.⁹ If changes are made to the statutes, it would be helpful to address this. Finally, guidance or clarity would be beneficial for issues such as scope (the two span rule), when substations trigger a filing, or when a modification to a CEC is necessary.¹⁰
- Include non-thermal power generation as a suggested modification to the siting statutes. This might include wind and/or photovoltaic projects.
- The Commission should have the ability to review the “fitness” of any entity to which a CEC is transferred. Although this is perhaps implied by the current statutes, the power to review a transfer should be made explicit.
- Expand the factors in A.R.S. §40-360.06(A) that the Committee and Commission may consider in deciding to grant an application to explicitly include a number of additional items such as:
 - Including the potential impact upon local, regional, or global climate change;
 - Security of the facilities from damage caused by natural or man-made disaster;
 - Security of any system used to operate the facilities from cyber attack;
 - Whether the applicant has the technical expertise and financial stability to build and operate the facilities;
 - Does anyone associated with the applicant have a criminal record;
 - Whether the applicant or anyone associated with it has had an action brought against them in another state or by another regulatory agency for improper conduct in the construction or operation of power plants or transmission lines;
 - Does the applicant have any direct or indirect financial association with the government of a foreign country;
 - Will any official of the government of a foreign country have any direct or indirect control over the operation of the facilities;
 - Whether the building of the facilities will stimulate the economy of the surrounding area;
 - Potential impact upon future electricity rates in Arizona;
 - Potential impact upon the availability of groundwater in the area; and
 - Does the burden of cost or environmental impact fall unfairly upon any group of citizens of Arizona who are disadvantaged because of race, ethnicity, or economic status.

⁹ In Arizona there are two statutory schemes for eminent domain. One is for private entities, which does not allow possession of the property at issue until after the jury verdict. The other scheme is for governmental agencies which does permit possession of the property until after the government posts a bond, but well before a final jury verdict.

¹⁰ The definition of transmission line in ARS § 40-360 uses the phrase, “ a series of structures...” which Commission legal staff have opined means at least three structures.

Conclusion

The majority of participants felt that the current siting process is working, but when encouraged, they shared ideas for improvement. Despite the wide variety of backgrounds and perspectives, survey participants generally agreed on a few key areas where reform would be welcome.

Many of the survey participants felt Committee hearings would benefit from a defined public engagement process. Reforms to the intervention process are necessary; some could be implemented administratively, while others require legislative changes. Utilizing “cooperating agency” agreements could integrate, and thereby streamline, state and federal processes. Such agreements could facilitate coordination of outputs at all levels of government so applications could share information and run concurrent timelines. Participation in the existing multi-entity federal MOU could simplify the process by clearly defining agency roles and timelines. The development of an MOU specific to Power Plant and Line Siting across multiple jurisdictions could address specific issues within each project and take unique landscapes into consideration. Lastly, development of a uniform filing form acceptable to all within the state could get applicants and interveners working towards solutions to siting problems.

It would be worthwhile to obtain feedback from a larger sample of stakeholders on the additional comments respondents provided. A working group to discuss such reforms would undoubtedly elicit additional proposals or courses of action. Further discussion on these suggestions is recommended.



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KRSA is an electrical engineering and electric utility consulting firm serving the Southwest. Since 1984, KRSA principals have provided consulting and engineering services to numerous utilities with regard to their long-term and short-term electric operations.

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Additional Resources

Arizona Corporation Commission

Commissioners Wing
1200 West Washington
Phoenix, AZ 85007-2996
(602) 542-2237
www.azcc.gov

Arizona Power Plant and Transmission Line Siting Committee

www.azcc.gov/divisions/utilities/electric/linesiting-faqs.asp#b

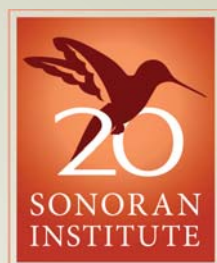


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