

## COMMISSION

JOHN F. SULLIVAN – CHAIRMAN  
PHILIP C. BASHAW – VICE CHAIRMAN  
RUSSELL L. JONES - COMMISSIONER  
KIM OWENS – COMMISSIONER  
JIM SWEENEY - COMMISSIONER

## STAFF

ED GERAK - EXECUTIVE DIRECTOR  
HEATHER COLE - EXECUTIVE SECRETARY



## ARIZONA POWER AUTHORITY

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## MINUTES OF THE ARIZONA POWER AUTHORITY (“APA”) COMMISSION (“Commission”) IN PERSON/VIRTUAL MEETING HELD ON MARCH 23, 2021

- PRESENT:** Philip C. Bashaw, Vice Chairman  
Russell Jones, Commissioner (*attended virtually*)  
Kim Owens, Commissioner  
John Sullivan, Chairman  
Jim Sweeney, Commissioner
- STAFF:** Dena Benjamin, Attorney General’s Office  
Heather Cole, Executive Secretary to Commission  
Ed Gerak, Executive Director  
Gary Kern, Financial Administrator  
Linda Levine, Senior Rate Analyst  
Sonseeahray Thayer, Senior Accountant
- OTHER:** Tisha Brackeen, AEPCO  
Tara Davis, AEPCO  
Dennis Delaney, K.R. Saline & Associates  
Elston Grubaugh, Wellton-Mohawk  
Jill Kipnes, Irrigation & Electrical Districts Association  
Adam McAnally, Salt River Project  
Doug Milligan, Salt River Project  
Jason Moyes, Moyes Seller & Hendricks  
Donovan Neese, Roosevelt Irrigation District  
Wade Noble, Wellton-Mohawk  
Paul Orme, Electrical District #3  
Emily Rive – B3 Strategies  
Ken Robbins, Electrical District #2  
Ken Saline, K.R. Saline & Associates (*attended in person*)  
Meghan Scott, Wellton- Mohawk  
Russell Smoldon, B3 Strategies  
Elizabeth Story  
Sheryl Sweeney, Ryley, Carlock & Applewhite  
Glen Vortherms, Maricopa Water Conservation District  
Jeff Woner, K.R. Saline & Associates

Brian Young, Central Arizona Water Conservation District  
*All Guests attended virtually unless otherwise noted*

**CALL TO ORDER:** The meeting was called to order at 10:04 a.m. via Google Meets by Chairman John Sullivan. Quorum was established.

**ROLL CALL:** Commissioners Bashaw, Jones, Owens, Sullivan and Sweeney were present.

**CHAIRMAN REQUEST FOR DECLARATION OF CONFLICT OF INTEREST BY ANY COMMISSIONER:**

- Each Commissioner declared they had no conflicts of interest on any matter as listed on the agenda for today's meeting.

**PLEDGE OF ALLEGIANCE:** The Pledge of Allegiance was recited.

**APPROVAL OF MINUTES:**

- **Motion:** To approve the minutes from the Regular Commission Meeting, February 16, 2021 was made by Vice Chairman Bashaw and seconded by Commissioner Owens.
- **Vote:** Commissioners Bashaw, Jones, Owens, Sullivan & Sweeney approved the motion.
- **Resolved:** Approved as stated above and the written documents are entered into the Commission records.
  
- **Motion:** To approve the minutes from the Executive Session, February 16, 2021 was made by Vice Chairman Bashaw and seconded by Commissioner Owens.
- **Vote:** Commissioners Bashaw, Jones, Owens, Sullivan & Sweeney approved the motion.
- **Resolved:** Approved as stated above and the written documents are entered into the Commission records.

**REVIEW OF EXPENDITURES AND FINANCIAL REPORTS:** Gary Kern, Financial Administrator, provided the Expenditures & Financial Reports. Hoover Operations Fund Claims #12758 - #12795 and APA Fund Claims #644 for the period February 1, 2021 through February 28, 2021 were presented.

- **Motion:** To approve Hoover Operations Fund Claims #12758 - #12795 and APA Fund Claims #644 as presented was made by Commissioner Sweeney and seconded by Vice Chairman Bashaw.
- **Vote:** Commissioners Bashaw, Jones, Owens, Sullivan and Sweeney approved the motion.
- **Resolved:** Approved as stated above and the written documents are entered into the Commission records.

**SPEAKER SERIES:** Russell D. Smoldon, CEO, B3 Strategies. It's Getting Prickly! Federal & State Legislative Update. Mr. Smoldon updated the Commissioners and Customers on the following Federal issues:

- The American Rescue Plan
- Infrastructure
- Nominations & Confirmations

- Earmarks

The State Legislative Update included the following statistics: 72<sup>nd</sup> Day of Session, 1,708 bills introduced, 151 bills passed, 70 bills signed, 116 memorials, resolutions and referendums posted, 2 memorials, resolutions and referendums assed, 0 bills vetoed. The dominant issues this session include forest health, education, COVID – 19 response, health care, tax reform and elections.

**REPORT ON POWER OPERATION MATTERS:** Linda Levine, Sr. Rate Analyst, reported the dry weather continued into February resulting in 77% of average precipitation year-to-date. Thanks to recent snowfall, the Snowpack Telemetry “SNOTEL” increased from 78% to 86% of normal. The forecast for Lake Powell inflow decreased from last month from 48 % to 47%. The total system contents for the year to date is 45% of average, down slightly from last month; last year the system capacity was at 52%. The Lake Mead elevation forecast hasn't changed much since last month. We still expect the elevation to drop below 1075 this summer, and the lowest elevation in the next 24 months is forecast to be 1055 in December 2022.

**LEGISLATIVE & POLICY UPDATE:** Mr. Gerak highlighted the following articles in the Legislative Updates:

- American Rescue Plan - \$1.9 trillion in COVID-19 relief measures
- Appropriations Committee set to Become Energy, Environmental Battleground
- Snake River Hydroelectric Dams vs Endangered Salmon
- Lawmakers Launch Wildfire Caucus, Push Response Bills
- Interior Approves First Lease for Ocean Wave Energy Test Project
- Granholm’s DOE: What’s Coming on Climate Clean Power
- Bill to Give Arizona Lawmakers Say on Energy Policy Likely Dead

A discussion was held regarding the recent events that brought to light issues facing the natural gas industry. Mr. Gerak shared an article which discussed a Texas ban on the exporting of natural gas to anywhere outside the state as it tries to restore electricity supplies following an unprecedented energy crisis. Vice Chairman Bashaw asked Mr. Gerak how this situation may impact the APA customers now or in the long term? Mr. Gerak responded that the issue in Texas was most likely caused by a weatherization issue that should have been addressed years ago. He is more concerned that CAISO is also looking at a similar policy of not exporting generation and/or prioritizing those resources. California’s lack of resource adequacy will have an impact on the markets and long-term contracts. Currently California relies on neighboring states to meet their obligations during the summer peak. This may set a precedent. Commission Owens asked about the lack of redundancy in Texas and if transmission changes would disrupt the deregulation on which their system is based. Could these changes open them up for FERC regulations? Mr. Gerak explained that there is a separate regulatory agency that handles natural gas. Currently there are internal discussions taking place between ERCOT & FERC to determine how to prevent this situation from happening again.

Chairman Sullivan remarked that this is a very complicated issue for Texas to deal with. Texas has worked hard in the past to avoid federal regulations and anything they do to improve the availability of importation will make them subject to federal regulation on the electric side. The natural gas situation is troubling. Texas exports natural gas to not just the Western states but also the Midwest and East. It will be hard for Texas to decide to keep all the natural gas in Texas. Chairman Sullivan shared a story about Texas natural gas and how it has been addressing prioritization over the last 45 years.

**STRATEGIC PLAN:** Mr. Gerak provided the Commission with a refresher of the 20/20 Vision which included a review of the APA Mission Statement, Strategic Vision and APA Values. Dena Benjamin, APA Legal Counsel, prepared a presentation on What the APA Statutes Do & Don't Allow. The presentation was meant to provide a foundational understanding of the APA's statutory authority. It is not a comprehensive analysis. The APA has broad authority to contract for and sell power and to engage in a number of activities to promote the development of power resources. Whether the APA wishes to take on any particular project or activity will likely depend on the specific facts and will ultimately fall within the judgment and discretion of the Commission.

Commissioner Jones remarked that the statute allowing operating units to petition the Authority might be utilized to request that the Authority to exercise its powers of eminent domain. Mr. Gerak shared that prior to his tenure, the APA had been approached to obtain some land for a right of way transmission project on the west side. That project never came to fruition but a similar request might be possible in the future.

Commission Owens asked a question regarding the bonding process. Mr. Kern responded that any bond approval would be at the Commission level. There is a State Bonding Review Agency, however, APA statutes do not require their approval. State agencies are not allowed to borrow on behalf of the State, nor would any APA indebtedness fall to the State. Chairman Sullivan reminded the Commissioners that the APA Revenue Bonds are supported by power purchase or transmission contracts, which provide a contractual obligation from those who buy the service to support the bonds. These contractual obligations are in large part why the "Montezuma Pump Storage Project" failed years ago.

Commissioner Sweeney asked if there were any statutes to prevent or protect the APA from entering into a project or contract that would result in increased costs to the APA customers? An example being a project that would cause an increase in Administrative Costs to execute the project. Mr. Gerak responded that Administrative & General (A&G) expenses could increase through additional staff activity and to his knowledge there are no preventions of this stipulated in the statutes. The APA Fund could be available to offset some of the expenses as these would not be rated based. APA contracts are structured to cover all costs associated with a particular project.

The APA statutes mentioned in the presentation include A.R.S §30-102(B), (C), (D), §30-103 (A) & (C), §30-104, §30-109, §30-121(A), (B), (C), §30-122, §30-123(A), (D), (E), §30-221, §30-124(B), §30-129, §45-1701, §45-1703(A), (B), §45-1704 (A), §45-1708(B), §45-1709 (1) & (6).

**REPORT OF THE DIRECTOR:** Ed Gerak, Executive Director, reported on the following:

- FY 2022 Boulder Canyon Project Final Ten Year Operating Plan and Review
- American Public Power Association – Legislative Rally & Board Meeting Recap
- Industry Update – Mr. Gerak highlighted the following articles:
  - Bitter Cold Overwhelms Grid, Leaving Millions in Dark
  - Study Reveals EV Secret: They are Driven Less Than Gas Cars
  - ERCOT: Close to 2,000 Generator Outages Reported During Texas Winter Storm

**BUSINESS ITEMS: None**

## **POWER PURCHASE CERTIFICATE APPLICATION HEARING**

The hearing was called to order on March 23, 2021 at 11:35 a.m. Quorum was established.

- **Motion:** To move into the hearing on the Application to Amend Existing Power Purchase Certificate filed by Silver Creek Irrigation District and the Northern Arizona Power Agency (“SCID” and “NAPA”) was made by Commissioner Owens and seconded by Vice Chairman Bashaw.
- **Vote:** Commissioners Bashaw, Jones, Owens, Sullivan & Sweeney approved the motion

➤ Chairman Sullivan called for a motion to appoint the Commissioners present at the meeting as hearing officers to conduct the hearing associated with and necessary for the Power Purchase Certificate determinations.

- **Motion:** To appoint Arizona Power Authority Commissioners as hearing officers to conduct any and all administrative hearings required to process this Application and to authorize such hearing officers to make the necessary findings and to enter on behalf of the Commission was made by Commissioner Sweeney and seconded by Vice Chairman Bashaw.

- **Vote:** Commissioners Bashaw, Jones, Owens, Sullivan & Sweeney approved the motion.

Chairman Sullivan explained that ... SCID and NAPA have submitted a request to Amend SCID’s PPC to include NAPA. Under APA rules, the Commission is required to hold a hearing to consider an amendment to a PPC. The purpose of this hearing is to allow the Commissioners to hear testimony from the Applicants, to ask questions, and to consider the Application and any other information submitted to ultimately assist us in reaching our decision in this matter

Ken Saline, K.R. Saline & Associates was present for SCID and David Brown was present on behalf of NAPA.

Mr. Saline provided background information on SCID and the relationship with NAPA as a Joint Action Agency. SCID receives A power from Hoover and NAPA receives D1 power. The request from SCID is to add NAPA to Silver Creek’s PPC. Mr. Saline answered several questions asked by the Commissioners. He explained that this action will not change SCID’s certificated area and SCID would be able to regain use of the power in the future if desired. Chairman Sullivan confirmed that ultimately the responsibility to meet the contractual needs set forth in the Power Sales Contract remains with SCID, however this will allow the district to lay-off their power and have the repayable costs covered as well.

Chairman Sullivan asked for Customer Comments. Mr. David Brown, legal counsel for SCID & NAPA, joined the call. He thanked the APA Staff and Dena Benjamin for their help and expertise in putting the documents together. Mr. Brown concurred with Mr. Saline’s comments and appreciates the Commission allowing this allocation of power to remain in Northern Arizona.

➤ Chairman Sullivan called for a motion to take administrative notice that the entire application and associated exhibits are contained in the materials presented to and being used in the Hearing by the Commission.

- **Motion:** To take administrative notice that the entire application and associated exhibits are contained in the materials presented to and being used in the Hearing by the Commission was made by Vice Chairman Bashaw and seconded by Commissioner Owens.

- **Vote:** Commissioners Bashaw, Jones, Owens, Sullivan & Sweeney approved the motion.

A discussion was held regarding the options available to the Commissioners, which were to grant the Application in whole or in part, to deny the Application, or request additional information.

- Chairman Sullivan called for a motion to accept the Application and to direct staff to work with legal counsel to complete the Findings and Order.
  - **Motion:** To accept the Application, effective immediately, and direct staff to work with legal counsel to complete the Findings and Order to be presented at the April Commission Meeting was made by Commissioner Jones and seconded by Commissioner Sweeney.
  - **Vote:** Commissioners Bashaw, Jones, Owens, Sullivan & Sweeney approved the motion.
- Chairman Sullivan adjourned the Hearing on the Application to Amend SCID's Power Purchase Certificate at 12:04 p.m.

**VISITORS' COMMENTS:** David Brown thanked the Commission and Dena Benjamin for all their work. This issue is extremely important and to Northeast Arizona and beneficial to all parties involved. Ken Saline thanked the Commission on behalf of SCID.

**COMMISSIONER COMMENTS:** Commission Jones looks forward to seeing everyone in person at the next Commission meeting.

**ADJOURNMENT:**

There being no further business to come before the Commission, Chairman Sullivan adjourned the meeting.

The meeting was adjourned at 12:06 p.m.

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John F. Sullivan, Chairman

ATTEST:

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Heather J. Cole, Executive Secretary

**NOTE:** A recording of the March 23, 2021 Arizona Power Authority Commission meeting may be heard at the office of the Arizona Power Authority during normal business hours. Please contact the Arizona Power Authority Executive Secretary at 602-368-4265.