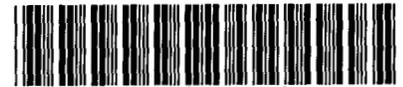


# EXCEPTION



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Arizona Corporation Commission

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MAR 11 2002

4 CHRISTOPHER HITCHCOCK  
STATE BAR NO. 004523

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5 Attorneys for Sulphur Springs Valley Electric Cooperative, Inc.

## BEFORE THE ARIZONA CORPORATION COMMISSION

7 WILLIAM A. MUNDELL  
8 Commissioner - Chairman  
JAMES M. IRVIN  
9 Commissioner  
MARC SPITZER  
10 Commissioner

11 IN THE MATTER OF SULPHUR SPRINGS )  
VALLEY ELECTRIC COOPERATIVE, INC.'S )  
12 APPLICATION FOR APPROVAL OF AN )  
ELECTRIC AGREEMENT WITH APACHE )  
13 NITROGEN PRODUCTS, INC. )  
14 \_\_\_\_\_ )

DOCKET NO.:  
E-01575A-01-0716

EXCEPTIONS BY SULPHUR  
SPRINGS VALLEY ELECTRIC  
COOPERATIVE, INC. TO  
PROPOSED ORDER

15  
16 COMES NOW Sulphur Springs Valley Electric Cooperative, Inc. ("SSVEC"), and  
17 submits the following exceptions to the Staff proposed Order in the above matter.

18 SSVEC initially wishes to thank Staff for working with it on this contract. Apache  
19 Nitrogen Products, Inc. ("Apache"), is one of SSVEC's largest member/customers and is the  
20 single largest load on its distribution system. It is also one of the largest employers in SSVEC's  
21 territory. Apache initially was contacted by SSVEC in December, 2000, and due to the  
22 uncertainty in power markets which occurred in California, sought to manage its cost of power  
23 through a long term contract. At Apache's request, SSVEC proposed two different rate  
24 structures and three possible terms for the contract. As soon as the parties had reached an

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1 agreement, it was brought initially to the SSVEC Board for approval and was then filed with the  
2 Commission.

3 As the Commission knows, SSVEC purchases all of its power from the Arizona Electric  
4 Power Cooperative, Inc. ("AEPCO"). It is a cooperative and operates at cost. Consequently the  
5 power provision of this contract essentially passes through its cost of power from AEPCO and  
6 includes a very small margin for SSVEC's additional costs.

7 Due to the significant increase in power costs, in relation to the price discounted in the  
8 current three way contract with AEPCO, SSVEC agreed to recover its distribution costs by  
9 gradually increasing that portion of the contract over time. This was agreed to in order to help  
10 Apache manage its power costs and transition to this new agreement.

11 The one area of disagreement with Staff is its proposal to include a ninety (90) day  
12 escape clause at any time by Apache in the contract. Apache, at its request, has agreed to two  
13 possible dates of termination of its agreement - at the five and ten year anniversaries. At those  
14 anniversary periods, SSVEC and AEPCO know there is a possibility that Apache could leave its  
15 system. They can thus plan accordingly. Staff's proposal to give Apache the ability to leave  
16 anytime, upon 90 days notice, creates two problems: (1) too early termination will deprive  
17 SSVEC of being able to fully recover phased in distribution costs that would be picked up later  
18 in the contract; and (2) it creates uncertainty for SSVEC and AEPCO for planning purposes.  
19 Ordinarily, SSVEC updates its ten (10) year load plan yearly. Whenever a large load suddenly  
20 leaves or comes on the system, it creates difficulty to plan for that eventuality.

21 Recently, SSVEC worked with the Commission to address a great, sudden potential and  
22 real increase in load on its system, which came about due to the spikes in natural gas prices for  
23 irrigators. This caused a number of these members to consider electricity as an option. In that  
24 case, the Commission allowed three (3) year contracts, due to the investment SSVEC had to  
25 make in order to provide for that increase in load on its system. There would be similar

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1 instability and uncertainly to this instance if Apache were to, upon 90 days notice, give notice it  
2 would be self generating or leaving the SSVEC system for whatever reason.

3 SSVEC believes the provisions of R14-1606(C) were meant for the average small load,  
4 where a sudden increase or drop would not greatly affect a distribution system's planning and  
5 reliability. Here, Apache is a large sophisticated customer which actually sought a long term,  
6 structured transaction. Second, even if the provisions were intended to apply to this situation, a  
7 stated exception is "self generation deferral rates." In this case, Apache began the contract  
8 process in 1998 by advising it was considering on site generation. Accordingly, SSVEC requests  
9 that the Commission not apply this provision to this contract. Alternatively, SSVEC and Apache  
10 would agree, in accord with SSVEC's planning policies, to a twelve (12) month advance notice  
11 of ending the contract at all times other than the five and ten year anniversaries once the SSVEC  
12 service territory is open to competition.

13 As to Staff's observation that this matter did not come to the Commission until four  
14 months after the proposed contract effective date, this provision was inserted to benefit Apache.  
15 SSVEC approached Apache about entering into a new contract in December, 2000. It was not  
16 until some time after its tri-party contract with AEPCO and SSVEC had ended and was being  
17 served by SSVEC pursuant to its current IP tariff, that the agreement was finalized.  
18 Accordingly, SSVEC requests that the Commission strike, in its Ordering Paragraph, that  
19 SSVEC should file these agreements in a more timely fashion, as it was the customer's delay, not  
20 SSVEC's which caused the situation.

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23 //

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25 //

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1           WHEREFORE, SSVEC requests the Commission approve the contract as submitted or  
2 alternatively with the changes set forth in attachment A.

3           RESPECTFULLY SUBMITTED this 11th day of March, 2002.

4

5

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6

7

and

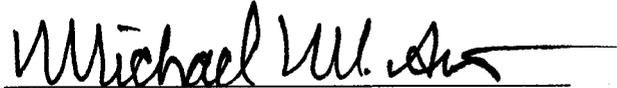
8

GALLAGHER & KENNEDY, P.A.

9

10

By



11

Michael M. Grant  
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12

13

14 ORIGINAL and ten (10) copies  
15 of the foregoing filed this 11<sup>TH</sup>  
day of March, 2002, with:

16 Docket Control  
Arizona Corporation Commission  
17 1200 West Washington Street  
Phoenix, Arizona 85007

18

19 Copy of the foregoing mailed  
this 11<sup>TH</sup> day of March, 2002, to:

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## EXHIBIT A

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- 3 1. Proposed language change to the end of Paragraph 8:

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SSVEC proposes that a twelve (12) month advance notice is appropriate. Under the circumstances, we find that this provision is reasonable.

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- 7 2. Proposed language change to the second Ordering Paragraph 2:

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IT IS FURTHER ORDERED that a provision shall be added to the agreement which would allow Apache to access the competitive market when SSVEC's territory is open to competition upon a twelve (12) month notice.

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- 11 3. Strike Ordering Paragraph 3.

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