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BEFORE THE ARIZONA CORPORATION COMMISSION

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2 COMMISSIONERS

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AZ CORP COMMISSION
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Arizona Corporation Commission
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6 IN THE MATTER OF THE FORMAL COMPLAINT
 7 OF SULPHUR SPRINGS VALLEY ELECTRIC
 8 COOPERATIVE, INC. AGAINST ARIZONA
 9 ELECTRIC POWER COOPERATIVE, INC.

Docket Nos. E-01575A-08-0358
E-01773A-08-0358

**AEPCO'S ANSWER TO SSVEC'S
FORMAL COMPLAINT**

GALLAGHER & KENNEDY, P.A.
2575 E. CAMELBACK ROAD
PHOENIX, ARIZONA 85016-9225
(602) 530-8000

10 Pursuant to A.A.C. R14-3-106.H, the Arizona Electric Power Cooperative, Inc.
 11 ("AEPCO") files this Answer to the Formal Complaint ("Complaint") of the Sulphur Springs
 12 Valley Electric Cooperative, Inc. ("SSVEC") and admits, denies and alleges as follows:

GENERAL ALLEGATIONS

- 14 1. AEPCO denies each and every allegation of the Complaint not expressly admitted
 15 herein.
- 16 2. AEPCO admits the allegations in paragraphs 1, 2, 3 and 4 of the Complaint, but
 17 affirmatively alleges that its business address is 1000 South Highway 80, Benson, Arizona
 18 85602.
- 19 3. In response to the allegations of paragraph 5 of the Complaint, AEPCO admits
 20 that Class A members Duncan, Graham and Trico are ARMs and Class A members SSVEC and
 21 Mohave are PRMs, but affirmatively alleges that the rights, responsibilities and obligations of
 22 AEPCO and the ARMs and PRMs are defined by the provisions of the ARM or PRM
 23 agreements. AEPCO admits that Mohave became a PRM in 2001 and that SSVEC converted its
 24 Class A membership to PRM on January 1, 2008. AEPCO affirmatively alleges that Decision

1 No. 70105 speaks for itself and although SSVEC began paying the PRM adjustor as of April 1,
2 2008, the Commission-allowed fuel, purchased power and wheeling costs under the adjustor
3 currently in effect were incurred by AEPCO in prior periods when SSVEC was an ARM.

4 4. AEPCO denies the allegations of paragraphs 6, 7, 8, 9 and 10 of the Complaint,
5 but admits that the Commission issued Decision No. 68071 on August 17, 2005 and
6 affirmatively alleges that Decision No. 68071, and its provisions concerning the FPPCA, speaks
7 for itself.

8 5. AEPCO denies the allegations of paragraphs 11, 12, 13 and 14 of the Complaint.

9 6. In response to the allegations of paragraphs 15 and 16 of the Complaint, AEPCO
10 admits that Decision No. 68071 contains the provision quoted in paragraph 15 and that AEPCO
11 made the filing described in paragraph 16.

12 7. In response to the allegations of paragraphs 17, 18, 19, 20, 21 and 22 of the
13 Complaint, AEPCO admits that AEPCO, SSVEC and the Utilities Division Staff made various
14 filings in March and April 2008 in the 2004 Rate Case dockets and affirmatively alleges that
15 those filings speak for themselves.

16 8. In response to the allegations of paragraphs 23, 24 and 25, AEPCO admits that
17 AEPCO's Efficacy Filing was discussed at the Commission's May 6, 2008 Open Meeting, but no
18 transcript was made of the discussions and the characterizations of various statements allegedly
19 made at the Open Meeting which are contained in these paragraphs are denied.

20 9. AEPCO admits the allegations of paragraph 26 of the Complaint.

21 **JURISDICTION**

22 10. In response to the allegations of paragraph 27 of the Complaint, AEPCO admits
23 that the Commission has jurisdiction.

1 **CLAIMS AND REQUESTED RELIEF**

2 11. AEPCO denies the allegations of paragraphs 28, 29 and 30 of the Complaint.

3 12. AEPCO affirmatively alleges that the Complaint fails to state a claim upon which
4 relief can be granted.

5 13. AEPCO affirmatively alleges that the claims raised and relief sought in the
6 Complaint are a prohibited collateral attack on Decision No. 68071.

7 14. AEPCO affirmatively alleges that the claims raised and relief sought in the
8 Complaint are prohibited by the provisions of A.R.S. § 40-248.

9 15. AEPCO affirmatively alleges that the claims raised and relief sought in the
10 Complaint are barred by the doctrines of laches, waiver and estoppel.

11 WHEREFORE, having fully answered the Complaint, AEPCO requests that the
12 Commission enter its Order dismissing the Complaint with prejudice, ordering that SSVEC shall
13 take nothing by way of its Complaint and for such other and further relief as the Commission
14 deems just and proper.

15 RESPECTFULLY SUBMITTED this 15th day of August, 2008.

16 GALLAGHER & KENNEDY, P.A.

17
18 By 

19 Michael M. Grant
20 2575 East Camelback Road
21 Phoenix, Arizona 85016-9225
22 Attorneys for Arizona Electric Power
23 Cooperative, Inc.
24

1 **Original and 13 copies** filed this
15th day of August, 2008, with:

2
3 Docket Control
4 Arizona Corporation Commission
1200 West Washington
Phoenix, Arizona 85007

5 **Copies** of the foregoing delivered
this 15th day of August, 2008, to:

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7 Commissioner Mike Gleason, Chairman
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9 Commissioner William A. Mundell
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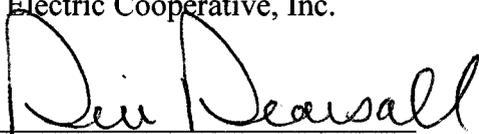
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Chief Counsel, Legal Division
2 Arizona Corporation Commission
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3 Phoenix, Arizona 85007

4 **Copy** of the foregoing mailed this
15th day of August, 2008, to:

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