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BEFORE THE ARIZONA CORPORATION

IN THE MATTER OF THE APPLICATION OF )  
SULPHUR SPRINGS VALLEY ELECTRIC )  
COOPERATIVE, INC. FOR A HEARING TO )  
DETERMINE THE FAIR VALUE OF ITS )  
PROPERTY FOR RATEMAKING PURPOSES, TO )  
FIX A JUST AND REASONABLE RETURN )  
THEREON, TO APPROVE RATES DESIGNED TO )  
DEVELOP SUCH RETURN AND FOR RELATED )  
APPROVALS. )

DOCKET NO.  
E-01575A-08-0328

PREHEARING  
CONFERENCE

At: Tucson, Arizona

Date: April 20, 2009

Filed: **APR 28 2009**

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By: COLETTE E. ROSS  
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1 BE IT REMEMBERED that the above-entitled and  
2 numbered matter came on regularly to be heard before the  
3 Arizona Corporation Commission, in Hearing Room 222 of  
4 said Commission, 400 West Congress, Tucson, Arizona,  
5 commencing at 10:03 a.m. on the 20th of April, 2009.

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8 BEFORE: JANE L. RODDA, Administrative Law Judge

9

10 APPEARANCES:

11

12 For the Arizona Corporation Commission Staff:

13

14 Mr. Wesley Van Cleve  
15 Staff Attorney, Legal Division  
16 1200 West Washington Street  
17 Phoenix, Arizona 85007  
18 (Appearing via teleconference)

19

20 For the Applicant:

21

22 SNELL & WILMER, L.L.P.  
23 By Mr. Bradley S. Carroll  
24 One Arizona Center  
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28 COLETTE E. ROSS  
29 Certified Reporter  
30 Certificate No. 50658  
31 (Appearing via teleconference)

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1 ALJ RODDA: This is the time set for the  
2 prehearing conference in Docket No. E-01575A-08-0328  
3 which is the application of Sulphur Springs Valley  
4 Electric Cooperative for a rate increase.

5 And good morning, everyone. And I was going to  
6 say welcome to the Arizona Corporation Commission, but I  
7 guess that's only Brad here.

8 Welcome to the telephone call. My name is Jane  
9 Rodda and I am the administrative law judge assigned to  
10 this matter.

11 So the first thing I am going to do is take  
12 appearances for the record. So on behalf of the  
13 applicant, Sulphur Springs.

14 MR. CARROLL: Bradley Carroll from the law firm  
15 Snell & Wilmer on behalf of Sulphur Springs Valley  
16 Electric Cooperative.

17 ALJ RODDA: And on behalf of Staff.

18 MR. VAN CLEVE: Wes Van Cleve on behalf of  
19 Commission Staff. Although he is not present in the  
20 room, Kevin Torrey is also going to be involved in the  
21 case.

22 ALJ RODDA: Great. All right. So we have got  
23 the hearing scheduled to start at 10:00 a.m. tomorrow.  
24 And are there any preliminary matters I am not aware of,  
25 any outstanding motions?

1 MR. CARROLL: No, Your Honor, there aren't any  
2 that I am aware of.

3 MR. VAN CLEVE: I have a, I don't know if this  
4 is the time and place to address them, but a couple  
5 things I would like to bring up.

6 ALJ RODDA: All right. Let's do that.

7 MR. VAN CLEVE: The first is regarding the Staff  
8 witness Prem Bahl. He is scheduled to testify regarding  
9 the engineering analysis and, I think, the cost of  
10 service study. And it is my understanding in reviewing  
11 the testimony and speaking to Brad Carroll that there  
12 really aren't going to be any questions from him. And I  
13 am wondering if there is some way of simply stipulating  
14 to his testimony and saving him a trip to Tucson or what  
15 your thoughts are on that.

16 ALJ RODDA: I personally don't have any  
17 questions for Mr. Bahl.

18 Mr. Carroll.

19 MR. CARROLL: Again, as, Mr. Van Cleve, I  
20 indicated last week, I do not have any questions per se  
21 for Mr. Bahl. The only concern I have is he is the only  
22 Staff witness that addresses in some way the 69kV  
23 Sonoita line. And depending on what happens in terms of  
24 the public comment and potential questions of Mr. Huber,  
25 I may want to ask Mr. Bahl just a few questions with

1 respect to that line given that he does talk about it,  
2 he references it in his testimony.

3 I don't anticipate it being anything more than  
4 five or ten minutes tops. I don't think he needs to be  
5 here for it if it would be possible for him to be  
6 available and do it by phone if the need arises. But  
7 sitting here today, without knowing what might happen in  
8 that, I don't feel comfortable just completely releasing  
9 him at this time.

10 ALJ RODDA: Mr. Van Cleve, is Mr. Bahl in the  
11 room with you?

12 MR. VAN CLEVE: You know, he isn't,  
13 unfortunately. He was aware of this conference, but he  
14 is -- oh, he is apparently involved in a workshop that's  
15 taking place downstairs.

16 ALJ RODDA: Oh, okay.

17 MR. VAN CLEVE: I think it is probably, since  
18 there are questions and it is only five or ten minutes,  
19 you know, if there is a way of doing it telephonically,  
20 I think he would be amenable to certainly being  
21 available should the need arise.

22 ALJ RODDA: I think we should put him on notice  
23 to that effect so he just knows that we might be  
24 contacting him and he could testify, if we need him,  
25 telephonically. Otherwise, we can just stipulate to the

1 admission of his testimony.

2 MR. VAN CLEVE: We would just do that as a point  
3 of order at the beginning of the hearing, I take it?

4 MR. CARROLL: Not at the beginning because I  
5 won't know until after the public comment and, at the  
6 very least, Mr. Huber going in terms of questions that  
7 may or may not go his way from Commissioners relating to  
8 that issue.

9 ALJ RODDA: Usually we do it at the beginning of  
10 the Staff.

11 MR. VAN CLEVE: Oh, that's what I meant.

12 MR. CARROLL: Oh, okay. Great.

13 MR. VAN CLEVE: Sorry.

14 ALJ RODDA: Okay.

15 MR. VAN CLEVE: The other issue is regarding  
16 taking some witnesses out of order with regard to, I  
17 think it is, Jerry Mendl and then Mr. Brian, who are the  
18 two paid consultants, one for Staff obviously, one for  
19 the company, to do them on a date certain for the first  
20 day so we can take their testimony and release them so  
21 to speak.

22 ALJ RODDA: So is Mr. Mendl, he is coming in  
23 from out of town?

24 MR. VAN CLEVE: Correct.

25 MR. CARROLL: Judge Rodda, and Mr. Van Cleve and

1 I discussed this and certainly don't have any problem  
2 with taking Mr. Mendl out of order. And in that vein,  
3 we have one witness, Rebecca Payne, who was coming in  
4 from out of town to testify only on certain adjustments  
5 that were made in the income statement associated with  
6 our original application. I was informed this morning  
7 that she is ill and was unable to fly in here to  
8 testify.

9 I did not expect again, and, Mr. Van Cleve,  
10 correct me if I am wrong, that Staff did not anticipate  
11 any questions for her anyway. And what I would propose  
12 to do with respect for her would be for us to have  
13 Mr. Hedrick, who she works with and is fully familiar  
14 with every aspect of Ms. Payne's direct testimony, to  
15 simply adopt her testimony and introduce that testimony  
16 as part of Mr. Hedrick, with Mr. Hedrick when he is on  
17 the stand. And, again, assuming Staff is amenable to  
18 that, we would not need to call Ms. Payne tomorrow.

19 We had thought we would put her on and off right  
20 after Mr. Huber. And so what we agreed to, or at least  
21 at that point, was that Mr. Huber would, for the  
22 company, would go as our first witness, followed by  
23 Mr. Mendl so that he would definitely be on tomorrow and  
24 would be able to leave. Then Mr. Brian, we would resume  
25 the applicant's case with Mr. Brian taking the stand on

1 behalf of the applicant. Following that I would be  
2 putting on Mr. Hedrick and then Mr. Blair. And that  
3 would complete our case. And that was what we had  
4 talked about.

5 ALJ RODDA: Okay. So, Mr. Van Cleve, that's  
6 amenable to you?

7 MR. VAN CLEVE: Your Honor, that's amenable. As  
8 Mr. Carroll indicated, I don't believe that I am going  
9 to have, I didn't anticipate many questions for  
10 Ms. Payne anyway. And to the extent that Mr. Hedrick  
11 can answer those questions, which I believe he should be  
12 able to do based on his testimony, that's acceptable to  
13 Staff.

14 ALJ RODDA: Okay. If for some reason might she  
15 be available by phone if something came up?

16 MR. CARROLL: I don't know, but I can pretty  
17 much assure you that Mr. Hedrick could answer any  
18 possible question on that testimony.

19 ALJ RODDA: All right. We won't worry about her  
20 then.

21 All right. So just based on Mr. Carroll's  
22 statement a moment ago, the company is going to start  
23 with Mr. Huber and then we will put on Staff's witness  
24 Mendl and then go back to the company's, Brian, Hedrick  
25 and Blair.

1           How about for the rest of the Staff witnesses,  
2 Mr. Van Cleve?

3           MR. VAN CLEVE: Well, in light of Mr. Bahl  
4 perhaps either being released or appearing  
5 telephonically or as the need arises, Staff was  
6 anticipating calling Steve Irvine first, then  
7 Mr. Musgrove, followed by Julie McNeely, and then  
8 finally with Crystal Brown. And this is of course  
9 following, as you indicated, calling Mr. Mendl out of  
10 order.

11           ALJ RODDA: Right. Okay.

12           MR. VAN CLEVE: And I still have a couple more  
13 issues to continue on, if that's acceptable.

14           ALJ RODDA: Yes, please.

15           MR. VAN CLEVE: The first was regarding witness  
16 summaries. I know we all filed witness summaries in  
17 advance of the hearing. I am wondering what your  
18 thoughts and perhaps Mr. Carroll's thoughts are on  
19 foregoing any sort of summary of testimony on the stand  
20 in light of that. It seems somewhat redundant.

21           ALJ RODDA: I have, strangely enough, read all  
22 the testimony. So I don't need them. I guess there has  
23 been a fair amount of movement between initial positions  
24 and most recent positions.

25           I guess it helps me to know very briefly, I mean

1 just almost like bullet points, the issue they are, just  
2 to jog my memory, what issue they are talking about and  
3 Staff's current position. But I don't need a page long  
4 summary of testimony. Is that --

5 MR. CARROLL: I personally don't, I don't have  
6 any strong feelings about it. I have seen, and I am  
7 sure all of you have over time at some time, it is  
8 helpful, if the Commissioners are here, you know, once  
9 the witness gets on the stand, to just take a couple of  
10 minutes just to put in context just in case they haven't  
11 had an opportunity to read the witness testimony. I  
12 don't feel strongly. It might be, you know, again, it  
13 may be just, as you point out, Judge Rodda, maybe two  
14 minutes tops just to essentially bullet point the  
15 primary reason they are up there. But I don't care  
16 really.

17 ALJ RODDA: Let's do that, Mr. Van Cleve, just  
18 in case there are Commissioners here and just to get,  
19 mostly for my convenience, to get me thinking about the  
20 right topic, if that makes sense.

21 MR. VAN CLEVE: Sure, that makes sense, Your  
22 Honor.

23 And then I did have one final thing and a chance  
24 to even talk to Mr. Carroll about this, although it sort  
25 of has been discussed as testimony has been filed and

1 developed in this case, regarding the approval of DSM  
2 programs. And I know there was dialogue, you know,  
3 within the testimonies that have been filed about the  
4 company wanting to have them approved in this rate case  
5 and Staff saying they would strive to accomplish that.

6 And to that end, I guess where things stand, and  
7 I don't know how or if you would even like this to be  
8 addressed in the rate case, is Staff, my understanding  
9 is, would prefer to file it in this rate case but they  
10 are not going to have their recommendations ready until  
11 after the hearing. So to the extent it is even  
12 amenable, I guess there would be, you know, a late-filed  
13 exhibit that Mr. Carroll then would be able to address  
14 in some fashion in post-hearing briefs as to whether or  
15 not what Staff is recommending with regard to DSM  
16 programs is acceptable. And then Staff, in turn, in the  
17 reply brief would address any concerns that might have  
18 been raised by Mr. Carroll in his brief, if that makes  
19 sense.

20 So I don't know if this is something that the  
21 parties are willing to entertain, Your Honor and  
22 Mr. Carroll, or if we should forego this and require it  
23 be filed as a separate application.

24 ALJ RODDA: So from what I understand currently  
25 there is no separate docket pending for the DSM program,

1 is that right?

2 MR. VAN CLEVE: That's correct, Your Honor.

3 MR. CARROLL: Your Honor, as part of the  
4 application, Sulphur submitted three new DSM programs  
5 for Staff review and approval to be approved as part of  
6 this order so that it would not have to have a  
7 completely separate proceeding or docket associated with  
8 it.

9 So from my perspective and, well, from the  
10 company's perspective, we would love to have those free  
11 programs approved as part of this order. I mean they  
12 have been pending now for ten months. So to have that  
13 as part of the order, potentially, I mean assuming the  
14 recommendation is for approval, and maybe it is not,  
15 that would really save the company some significant time  
16 in not having to refile them in a whole new docket and  
17 then go through a process.

18 I would be very amenable to Staff filing its  
19 conclusions and recommendations with respect to those  
20 free programs as a late-filed exhibit so long as, and I  
21 am gathering that what you are talking about is probably  
22 within a couple of weeks, so that we would have an  
23 opportunity to directly address any issues associated  
24 with whatever those recommendations are in the briefing.  
25 I wouldn't want the briefing to be delayed in any way

1 over it, but if that's what your thoughts are, that  
2 within a couple weeks of the hearing that the info would  
3 be filed, that would be perfectly acceptable and we  
4 would be very grateful for that frankly.

5 ALJ RODDA: Mr. Van Cleve, do you have, were you  
6 able to get an estimate of when Staff would be able to  
7 file those recommendations?

8 MR. VAN CLEVE: The estimate I was given was  
9 that it would be within two weeks. I don't know if  
10 that's as of today or two to three weeks, but I think it  
11 would be before, well, I guess without knowing the  
12 briefing schedule that will follow this, my thoughts are  
13 it would be before briefings commenced on this so there  
14 would be an opportunity for Mr. Carroll to review and  
15 evaluate and address as needed in his post-hearing brief  
16 the issues that might exist.

17 ALJ RODDA: All right. Well, it sounds like  
18 that's doable because I don't think we are going to do,  
19 or I don't think the company is going to require the  
20 expedited transcript just to move up briefing. So it is  
21 going to take a couple weeks.

22 MR. CARROLL: Right. Again, as I said, the  
23 company would still be willing to expedite to the five  
24 day, which would gain an additional week of time, if  
25 Your Honor felt it would be helpful from a time

1 perspective in terms of drafting the order in time for  
2 the open meeting schedule and time clock rules. But if  
3 not, if it wouldn't make a difference, then what would  
4 normally happen is that the transcript would be filed 15  
5 days after the close of the hearing and then there would  
6 be, you know, briefing that would probably be two, two  
7 and a half weeks before the first brief is due after  
8 that.

9 ALJ RODDA: It sounds doable. Is it Mr. Irvine  
10 that's doing it or is it a different Staff member?

11 MR. VAN CLEVE: He is the lucky individual  
12 that's doing that.

13 ALJ RODDA: Okay. Well, we can clarify  
14 tomorrow. I don't know if he is with you now.

15 MR. VAN CLEVE: Yes, he is in the room actually.

16 ALJ RODDA: Clarify, you know, when he expects  
17 to be able to do that. But the two weeks seems  
18 reasonable, doable.

19 MR. VAN CLEVE: Sounds good to me, Your Honor.

20 ALJ RODDA: More or less, you know, two weeks  
21 and a day is not a problem either.

22 MR. VAN CLEVE: I think my concern would be if  
23 Mr. Carroll does decide to seek expedited transcripts in  
24 some fashion, if that pushes up the schedule, I don't  
25 know if that would eat into that two-week period to some

1 extent or not.

2 MR. CARROLL: Well, I am not -- I mean, again,  
3 unless Your Honor indicates that that would be helpful  
4 in some way, then I have no intention of asking for an  
5 expedited transcript given that there is a cost  
6 associated with it.

7 ALJ RODDA: The time that I would gain from the  
8 expedited transcript would not be helpful just because  
9 of my hearing schedule. I have got a bunch of  
10 complicated hearings coming up in that time frame that I  
11 wouldn't be able to do anything with it.

12 MR. VAN CLEVE: If I might interrupt or  
13 interject, people are indicating that three weeks might  
14 be better on getting the DSM submitted for approval.

15 ALJ RODDA: Okay. Well, let's talk about it  
16 off -- you can talk about it with Mr. Carroll --

17 MR. VAN CLEVE: Sure.

18 ALJ RODDA: -- sometime before tomorrow or  
19 before the end of the hearing to figure it out if it is  
20 doable.

21 MR. CARROLL: Your Honor, did you want to set a  
22 briefing schedule now or do you want to wait until the  
23 conclusion of the hearing?

24 ALJ RODDA: Let's talk about it at the end of  
25 the hearing. All right?

1 Anything else, Mr. Van Cleve?

2 MR. VAN CLEVE: That was all I had on my list,  
3 Your Honor.

4 ALJ RODDA: That was a good list.

5 Anything, Mr. Carroll?

6 MR. CARROLL: Just a couple of minor items.

7 Again, I assume that the procedure tomorrow would be  
8 appearances, public comment, open statements and then we  
9 would be calling as the applicant our first witness?

10 ALJ RODDA: Right.

11 MR. CARROLL: And as far as the exhibits that we  
12 are going to introduce are concerned, is there -- how  
13 would you like them labeled? Do you want --

14 ALJ RODDA: I, I generally like the applicant to  
15 be A-1 --

16 MR. CARROLL: Okay.

17 ALJ RODDA: -- use the A, and Staff to use the  
18 S. I am used to it. But I am flexible if you have  
19 already got them.

20 MR. CARROLL: We may premark them and I want to  
21 make sure I use the right letter. So we will use the A.

22 ALJ RODDA: With only two parties it is not as  
23 difficult as some.

24 MR. VAN CLEVE: And, Your Honor, we will use the  
25 S.

1 ALJ RODDA: Thank you for not arguing over the  
2 A, "We want to be A for a change."

3 MR. CARROLL: Okay. Again, I think we have, I  
4 think we have covered everything that I had on my list,  
5 so I don't -- I am finished.

6 ALJ RODDA: Okay. All right. Then I will see  
7 you all at 10:00 a.m. Oh, I generally start the second  
8 day at 9:00 a.m. I know these days, with the budget,  
9 Staff doesn't stay over or usually doesn't stay  
10 overnight for out-of-town Tucson hearings. We can sort  
11 of see where we are at the end of the first day to see  
12 when, if we can adjust the start time if people are  
13 driving back from Phoenix to give a little bit more  
14 time. But that will sort of be a factor of how many  
15 more witnesses we have to get through and your estimates  
16 how long that will take. Is that okay?

17 MR. CARROLL: Yes.

18 MR. VAN CLEVE: That works for Staff, Your  
19 Honor.

20 ALJ RODDA: Okay. All right. Well, then I will  
21 see you all tomorrow at 10:00 a.m. And we will start  
22 with public comment, if any, and see how it goes.

23 So thank you all for, thank you very much  
24 whoever conferenced in the court reporter.

25 MR. VAN CLEVE: I will let her know you said

1 that.

2 ALJ RODDA: Great. See you tomorrow.

3 (The proceeding concluded at 10:22 a.m.)

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1 STATE OF ARIZONA )  
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I, COLETTE E. ROSS, Certified Reporter No. 50658 for the State of Arizona, do hereby certify that the foregoing printed pages constitute a full, true and accurate transcript of the proceedings had in the foregoing matter, all done to the best of my skill and ability.

WITNESS my hand this 25th day of April, 2009.

*Colette E. Ross*  
 \_\_\_\_\_  
 COLETTE E. ROSS  
 Certified Reporter  
 Certificate No. 50658