

ORIGINAL

OPEN MEETING ITEM



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COMMISSIONERS
KRISTIN K. MAYES - Chairman
GARY PIERCE
PAUL NEWMAN
SANDRA D. KENNEDY
BOB STUMP



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MICHAEL P. KEARNS
Interim Executive Director

ARIZONA CORPORATION COMMISSION

2009 MAY 14 P 3:39

DATE: MAY 14, 2009

DOCKET NOS: E-01773A-04-0428 and E-04100A-04-0527

TO ALL PARTIES:

Enclosed please find the recommendation of Administrative Law Judge Jane Rodda. The recommendation has been filed in the form of an Order on:

ARIZONA ELECTRIC POWER COOPERATIVE, INC. and
SOUTHWESTERN TRANSMISSION COOPERATIVE, INC.
(EXTENSION OF TIME DEADLINE CONTAINED
IN DECISION NO. 68071)

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Administrative Law Judge by filing an original and thirteen (13) copies of the exceptions with the Commission's Docket Control at the address listed below by 4:00 p.m. on or before:

MAY 21, 2009

Company has waived the 10 days for filing of exceptions

The enclosed is NOT an order of the Commission, but a recommendation of the Administrative Law Judge to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Open Meeting to be held on:

TO BE DETERMINED

For more information, you may contact Docket Control at (602)542-3477 or the Hearing Division at (602)542-4250. For information about the Open Meeting, contact the Executive Director's Office at (602) 542-3931.

Arizona Corporation Commission
DOCKETED

MAY 14 2009

MICHAEL P. KEARNS
INTERIM EXECUTIVE DIRECTOR

DOCKETED BY

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This document is available in alternative formats by contacting Shaylin Bernal, ADA Coordinator, voice phone number 602-542-3931, E-mail SABernal@azcc.gov

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 COMMISSIONERS

3 KRISTIN K. MAYES - Chairman
4 GARY PIERCE
5 PAUL NEWMAN
6 SANDRA D. KENNEDY
7 BOB STUMP

8 IN THE MATTER OF THE APPLICATION OF
9 ARIZONA ELECTRIC POWER COOPERATIVE,
10 INC. FOR A RATE INCREASE.

DOCKET NO. E-01773A-04-0528

11 IN THE MATTER OF THE APPLICATION OF
12 SOUTHWEST TRANSMISSION COOPERATIVE,
13 INC. FOR A RATE INCREASE.

DOCKET NO. E-04100A-04-0527

14 DECISION NO. _____

15 **ORDER EXTENDING TIME**
16 **DEADLINE CONTAINED IN**
17 **DECISION NO. 68071**

18 Open Meeting
19 May 27 and 28, 2009
20 Phoenix, Arizona

21 **BY THE COMMISSION:**

22 * * * * *

23 Having considered the entire record herein and being fully advised in the premises, the
24 Arizona Corporation Commission ("Commission") finds, concludes, and orders that:

25 **FINDINGS OF FACT**

26 1. In Decision No. 68071 (August 17, 2005), the Commission approved new rates for
27 Arizona Electric Power Cooperative, Inc. ("AEP" or "Cooperative"). As part of that Decision, the
28 Commission ordered AEP to file a rate case six months after partial-requirements member
("PRM") Sulphur Springs Valley Electric Cooperative ("SSVEC") completed a calendar year as a
PRM.

2. SSVEC became a PRM on January 1, 2008. Thus, pursuant to Decision No. 68071,
the filing date for AEP's rate case is July 1, 2009.

3. On April 13, 2009, AEP filed a request to extend the filing date for its rate case to

1 October 1, 2009, in order “to facilitate further discussions with the objective of resolving cost
2 allocation and rate issues among its all- and partial-requirements members”

3 4. AEPCO now has four Class A all-requirements members (“ARMs”)—Anza Electric
4 Cooperative in California, and Duncan Valley Electric Cooperative, Inc., Graham County Electric
5 Cooperative, Inc., and Trico Electric Cooperative, Inc., in Arizona—and two Class A PRMs—
6 SSVEC and Mohave Electric Cooperative, Inc. (“Mohave”). AEPCO states that the two PRMs
7 account for more than 60 percent of AEPCO’s Class A member load. This is the first time AEPCO
8 will enter into a rate case with this membership and load composition, which AEPCO claims poses
9 new and unique cost allocation challenges.

10 5. AEPCO states that although AEPCO’s members have discussed cost allocation since
11 the last rate case, no consensus has been reached on rate design and related purchased power and fuel
12 adjustment case matters. AEPCO asserts that direction from its board and members on these issues is
13 an essential step in developing AEPCO’s rate case. AEPCO reports that at its March 2009 meeting,
14 the AEPCO Board voted unanimously (including SSVEC and Mohave) to seek an extension of the
15 rate case filing and also instructed AEPCO to develop and present to the Board in April a
16 recommendation that would take into account the last position of each member and fairly balance the
17 interests of all members (the “AEPCO Solution”). AEPCO states the resultant product will then be
18 used to produce a final AEPCO Solution within the next 60 to 90 days. AEPCO asserts that while
19 consensus cannot be guaranteed, delaying the rate case filing from July 1 to October 1, to
20 accommodate this process will give AEPCO’s members an opportunity to hopefully resolve cost
21 allocation issues prior to the filing and will facilitate the presentation of a consensus position for Staff
22 and the Commission’s consideration.

23 6. On April 27, 2009, the Commission’s Utilities Division (“Staff”) filed a Memorandum
24 in response to AEPCO’s extension request. Staff is concerned that the Cooperative’s proposed
25 October 1, 2009 filing date, with a December 31, 2008 test year, would provide a stale test year. As
26 an alternative, Staff recommends either a March 31, 2010, filing date with a December 31, 2009 test
27 year, or the requested October 1, 2009, filing date utilizing a June 30, 2009, test year. Staff further
28 recommends that any of the comparative years utilized in the rate case filing utilize the same year end

1 day as the test year.

2 7. On May 4, 2009, in response to the Staff Memorandum, AEPCO filed a Revised
3 Proposal, requesting that the Commission authorize an October 1, 2009, filing date with a 12-month
4 test year ending March 31, 2009 ("Revised Proposal"). AEPCO asserts that its Revised Proposal
5 addresses Staff's "stale" test year concerns because the filing date remains only six months after the
6 close of the test period. Furthermore, AEPCO states, its Revised Proposal also allows AEPCO
7 adequate time to close its books, and prepare and make the filing, which Staff's recommendation,
8 which only includes a three-month separation between the test period and the filing date, does not
9 allow. Finally, AEPCO argues that its Revised Proposal gives AEPCO and its member distribution
10 cooperatives additional time to work on the rate design/cost allocation issues.

11 8. AEPCO requests consideration of its Revised Proposal at the Commission's May 2009
12 Open Meeting.

13 9. On May 4, 2009, SSVEC filed Comments on AEPCO's request to extend the filing
14 date. SSVEC states it will be significantly impacted by AEPCO's next rate case filing. SSVEC
15 agrees that this case poses new and unique cost allocation challenges and confirms that AEPCO's
16 member have been meeting in an attempt to resolve revenue, cost and rate allocation issues. SSVEC
17 asserts that to the extent that AECPO members can reach consensus on one or more of these issues in
18 advance of AEPCO's rate filing, it will help to narrow the issues and result in a more streamlined and
19 productive process.

20 10. SSVEC states it does not oppose AEPCO's request to extend the filing date by 60 to
21 90 days. SSVEC does not agree with Staff's concern that such a delay would result in a "stale" test
22 year in light of the fact that the only reason AEPCO is filing its rate application at this time is due to
23 the requirement in Decision No. 68701. SSVEC states a test year of June 30, 2009, will not provide
24 AEPCO sufficient time to prepare and file a rate application by October 1, 2009. Therefore, SSVEC
25 believes that the use of a 2008 test year would still be appropriate as long as the filing delay is no
26 more than 90 days.

27 11. SSVEC believes that AEPCO's Revised Proposal using an October 1, 2009, filing date
28 and a March 31, 2009 test year is a reasonable compromise of the competing concerns, and SSVEC

1 supports the Revised Proposal. SSVEC opposes any delay of the rate case filing beyond October 1,
2 2009.

3 12. On May 7, 2009, Mohave filed Comments Concerning AEPCO's extension request.
4 Mohave agrees that the rate case will consider new and unique cost allocation challenges due to the
5 changes in AEPCO's loan and membership composition. Mohave supports delaying the rate case
6 filing by 60 to 90 days in order to help narrow the issues and facilitate a more efficient rate case
7 process. Mohave supports the proposal to have the rate case filed by October 1, 2009, with a test
8 year of March 31, 2009. Mohave does not share Staff's concerns about a "stale" test year, and
9 opposes Staff's proposal to have the rate case filed on March 31, 2010, with a December 31, 2009,
10 because it would be unfair to Mohave members.

11 13. On May 13, 2009, Staff filed its Revised Memorandum, stating that Staff contacted
12 Mr. Michael Grant, AEPCO's attorney, to verify that the March 31, 2009, test period would provide
13 "clean data" for the rate case. According to Staff, Mr. Grant "indicated that AEPCO is not aware of
14 any significant accounting adjustments or issues in relation to the March 31, 2009 test year, different
15 than the adjustments or issues involved in the 2008 calendar fiscal year." In its Revised
16 Memorandum, Staff stated that it was amenable to AEPCO's Revised Proposal which extends the
17 time for AEPCO to file its permanent rate case to no later than October 1, 2009, with a 12-month test
18 year ending March 31, 2009. Staff continues to recommend that any of the comparative years used in
19 the rate case filing use the same year end date as the test year.

20 14. AEPCO's Revised Proposal that contemplates an October 1, 2009, rate case filing date
21 and a March 31, 2009, test year is reasonable. The issues associated with AEPCO's rate case are
22 significant and complex and if its members are able to reach consensus on cost allocation issues, it
23 will result in a much more efficient rate case process. The potential benefits from the approximately
24 120 day extension are substantial, and outweigh concerns about the relatively short delay.
25 Consequently, we will approve AEPCO's Revised Proposal.

26 15. On May 14, 2009, AEPCO filed a waiver of the full 10 days allowed for exceptions
27 pursuant to A.A.C. R14-3-110B in order to have this matter heard at the Commission's May 27, 2009
28 regularly scheduled Open Meeting. Staff does not oppose having the matter considered at the May

1 27, 2009 Open Meeting.

2 **CONCLUSIONS OF LAW**

3 1. AEPCO is a public service corporation within the meaning of Article XV of the
4 Arizona Constitution and A.R.S. §§ 40-281 and 40-282.

5 2. The Commission has jurisdiction over AEPCO and the subject matter of the request.

6 3. The requested extension of time, as modified by AEPCO's May 4, 2009 Revised
7 Proposal, is reasonable and should be approved.

8 **ORDER**

9 IT IS THEREFORE ORDERED that the deadline for Arizona Electric Power Cooperative,
10 Inc. to file a rate case, as required in Decision No. 68071, is extended to October 1, 2009, utilizing a
11 test year end of March 31, 2009.

12 IT IS FURTHER ORDERED that in order for the rate case filed pursuant to this Order to be
13 found sufficient under Commission rules, AEPCO must utilize a March 31st year end for any
14 comparative years utilized in the rate case filing.

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IT IS FURTHER ORDERED that all other provisions of Decision No. 68701 shall remain in effect.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

CHAIRMAN		COMMISSIONER
COMMISSIONER	COMMISSIONER	COMMISSIONER

IN WITNESS WHEREOF, I, MICHAEL P. KEARNS, Interim Executive Director of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, his ____ day of _____, 2009.

MICHAEL P. KEARNS
INTERIM EXECUTIVE DIRECTOR

DISSENT _____

DISSENT _____

1 SERVICE LIST FOR: ARIZONA ELECTRIC POWER COOPERATIVE, INC. AND
2 SOUTHWEST TRANSMISSION COOPERATIVE, INC.

3 DOCKET NOS.: E-01773A-04-0528 AND E-04100A-04-0527

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