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BEFORE THE ARIZONA CORPORATION COMMISSION

**COMMISSIONERS**

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

2009 JUN -9 A 10: 12

AZ CORP COMMISSION  
DOCKET CONTROL

Arizona Corporation Commission

**DOCKETED**

JUN - 9 2009

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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 REATED APPROVALS.

DOCKET NO. E-01575A-08-0328

**STAFF'S REPLY BRIEF**

On May 22, 2009, both Arizona Corporation Commission ("ACC" or "Commission")  
Utilities Division Staff ("Staff") and Sulphur Springs Valley Electric Cooperative, Inc. ("SSVEC")  
filed closing brief in the above-captioned matter.

Staff hereby files its reply to SSVEC's brief.

**I. REVENUE REQUIREMENT ADJUSTMENTS.**

SSVEC has proposed a revenue requirement of \$102,688,240, which would produce a 12.57  
percent rate of return and result in a TIER of 2.46 and a DSC of 2.25. Staff has proposed an  
operating margin of \$100,420,597, which would produce an 11.56 percent rate of return and result in  
a TIER of 2.34 and a DSC of 2.12.

SSVEC has argued that if the Commission does not grant SSVEC its requested margin, it will  
be unable to achieve a 30 percent equity level by 2016. Staff disagrees. Included in SSVEC's  
margin calculation is its claimed need to increase capital retirements. As Staff has shown, capital  
retirements are simply funds taken from cooperative members currently, and then given back to the  
members at a later date. The intention is to have a steady influx of capital with which to fund  
ongoing projects. Accumulations of such funds are periodically paid back to members in much the  
same way dividends are paid to holders of preferred stock.

1 Under the instant circumstances, given the current economic difficulties nationwide, Staff  
2 does not believe that the time is appropriate to increase the amount of money taken in from members,  
3 simply for the stated purpose of increasing the amount of money to be returned to them in the future.  
4 It is fundamental logic that such an increase will result in an increase in capital retirements, but does  
5 not constitute a goal in and of itself.

6 Further, SSVEC members have made it clear that they do not desire an increase in capital  
7 retirements. On May 22, 2009, SSVEC member Gail Getzwiller filed in this docket a letter  
8 indicating her displeasure with the idea. Her letter indicates that there is strong community resistance  
9 to any increase in capital retirements. Ms. Getzwiller claims to have received approximately \$2.50 in  
10 the last ten years and indicates that most members either receive no check at all, or receive a check in  
11 an amount too small to cash, as she did, thereby making the reimbursement ineffective, at best.

12 Staff does not believe that increasing the amount of money the members provide now, simply  
13 to increase the amount of money they will have returned later is economically viable at this time.  
14 Given that questions have been raised as to whether or not such capital retirements are actually being  
15 provided at all, Staff believes that the operating revenues it has proposed, which do not allow for  
16 increased capital retirements, provide SSVEC with sufficient operating revenues.

## 17 **II. PAYROLL EXPENSE ADJUSTMENT.**

18 While SSVEC has argued that the gain of ten employees was necessary to maintain a high  
19 level of reliable service, the argument simply misses the point. In ratemaking, there are certain  
20 principles which must be followed in order to achieve an accurate comparison of current expenses to  
21 future expenses. In the instant matter, there was a definite test year used to make all of the necessary  
22 comparisons. But in order to add to its revenue requirement, SSVEC wants to step outside of the test  
23 year for staffing comparisons. The claim is that the changes are known and measureable, but even  
24 assuming for the sake of argument that this is true, there still remains the issue that there has been no  
25 showing that there was a *need* for the added employees.

26 SSVEC has stated that the added employees were necessary to maintain a high level of  
27 reliable service, but has failed to show that there was any indication that service would suffer if the  
28 employees were not added. While SSVEC argues that it should not be required to see an actual

1 decline in service before new employees can be added, this simply avoids the fact that the employees  
2 must nonetheless be demonstrated to be necessary, not just that they could be potentially beneficial.  
3 SSVEC has not shown a positive effect of their employment, and instead merely argues that the lack  
4 of a negative effect demonstrates their effectiveness.

5 This is not sufficient for Staff to accept the necessity of the new hires and Staff continues to  
6 believe that this, in addition to the matching issues previously raised, is a sound reason not to support  
7 SSVEC's proposed increase in payroll expense beyond that shown conclusively within the test year.

### 8 **III. CHARITABLE CONTRIBUTIONS.**

9 Staff continues to support the denial of guaranteed revenue streams to support the funding of  
10 projects which are entirely optional. Much like the concerns raised by Ms. Getzwiller regarding the  
11 capital retirements, in the event these funds go un-donated, the result is simply an additional "piggy  
12 bank" of funding available in case of cost overruns in other areas.

13 SSVEC has argued that the Commission supported inclusion of these revenues in the most  
14 recent SSVEC rate case. However, the Commission did not expressly allow for the recovery of  
15 charitable donation on a going-forward basis. Rather, the Commission allowed the inclusion of  
16 charitable contribution for that specific rate case, and only on the condition that the cooperative put  
17 the issue to a vote of its members. If the members voted in a change in the cooperative by-laws  
18 which would allow the cooperative to make such contributions, then the Commission would allow the  
19 charitable expenses for that rate case.

20 SSVEC, however, has extended that meaning to argue that the Commission is somehow  
21 bound to approve charitable contributions in the instant matter simply because the members have  
22 voted to allow SSVEC management to make such donations as they see fit. But this argument again  
23 misses the essential point. Simply because the members have allowed SSVEC management to make  
24 charitable donations does not mean that management is required to make such donations. The by-  
25 laws do not contain any such requirement.

26 Therefore, the decision of how much to donate, and indeed whether to donate at all, is entirely  
27 at the discretion of the SSVEC management. Staff continues to believe that in the absence of a  
28

1 mandate to provide such charitable donation, there should be no guaranteed revenue stream to the  
2 cooperative for those purposes.

3 **IV. RATE CASE EXPENSE ADJUSTMENT.**

4 The arguments regarding rate case expenses continue to boil down to one essential element –  
5 prudence. Staff does not dispute that SSVEC should be allowed to recover all rate case expenses  
6 *prudently* incurred. But, as Staff has argued already, in the absence of documentation to support its  
7 activities in this matter, there is simply no way to make that determination. SSVEC’s fundamental  
8 argument seems to be that simply because it *did* spend more money than it had originally estimated, it  
9 must have done so for a reason. This is not enough to demonstrate prudence.

10 It has been argued that something more than the initial \$100,000 rate case estimate would be  
11 appropriate, simply because other similar utilities spent much more than SSVEC. This is illogical.  
12 This argument is again based simply upon the fact that much more than the original estimate was  
13 spent. But that does not mean SSVEC needed to spend what it spent. The amount of overrun does  
14 not prove that a lesser amount was certainly valid. And even if it is conceded that some amount more  
15 the \$100,000 was necessary, the question remains: *How much?* And in the absence of some sort of  
16 budget and projection of expense, Staff simply has nothing to compare the amounts to. Yes, SSVEC  
17 can show that they *did* spend more than \$100,000 dollars, and that other companies have done so as  
18 well. But that doesn’t prove by any stretch that they *prudently* needed to.

19 **V. CHRISTMAS AND SAFETY PAY ADJUSTMENT.**

20 Just as with the charitable donations adjustment, Staff does not believe these amounts should  
21 be part of SSVEC’s revenue requirement. Just as with the charitable contributions, these amounts are  
22 not guaranteed to any recipient. While SSVEC has argued that these amounts are prudent to award,  
23 since they encourage a savings associated with increased employee safety, it remains true that  
24 SSVEC could decide not to award any amount to any employee at any time. If so, any funds  
25 collected for this purpose once again become unspecified funding for anything for which SSVEC has  
26 not received authorized funding, or for which authorized funding has been exceeded.

27 Staff remains of the view that these funds should not be part of SSVEC’s revenue  
28 requirement.

1 **VI. WHOLESALE POWER COST ADJUSTOR.**

2 SSVEC has requested that the Commission allow it to increase its Wholesale Power Cost  
3 Adjustor ("WPCA") without Commission approval if the amount of the increase would result in a  
4 cumulative annual increase in the total average rate collected from its customers per kWh greater than  
5 10 percent. As confusing as the proposal is to articulate, it would be still more difficult to effectively  
6 implement and monitor, and in Staff's view, it is unworkable.

7 SSVEC has proposed that if the amount of the increase would be less than 10 percent, that the  
8 cooperative would not be required to seek Commission approval. For such "small" changes, the  
9 WPCA go into effect immediately. Staff finds this unacceptable. Such a policy, if approved, would  
10 essentially limit Commission oversight of the WPCA in all but the most dire of circumstances.

11 The reasoning is simple. If SSVEC sees its fuel costs increase, it could simply increase  
12 WPCA by 10 percent. And if this did not result in an increase that would cover the revenue shortfalls  
13 from the cost increase, SSVEC could simply raise the WPCA another 10 percent the next month. It  
14 is highly unlikely that circumstances would result in the need for an immediate 20 percent increase to  
15 the WPCA, and if the need for 12 percent arose, then SSVEC could simply increase the WPCA  
16 twice, in increments small enough to prevent Commission approval.

17 This reasoning illustrates why it would be imprudent for the Commission to allow SSVEC to  
18 adjust its WPCA without Commission oversight in any circumstance.

19 SSVEC has argued that in the event the cooperative wanted to increase its WPCA by 1  
20 percent, and there was less than a \$1.00 increase to the customer, the time and expense necessary to  
21 file for approval would render such an increase no longer economically viable. Staff submits that if  
22 raising the WPCA by an amount that would produce so little revenue that the legal expenses to  
23 pursue it would negate the effect of the increase, then either the Cooperative should reduce its legal  
24 expenses or it should consider whether it really needs an increase to its WPCA for such an  
25 insignificant amount of revenue.

26 And while SSVEC argues that any requirement that the Commission approve the WPCA  
27 increase will result in a doubling of efforts because the AEPCO portion of the WPCA will be  
28 reviewed twice, the argument does not stand scrutiny. If the AEPCO portion of the WPCA has

1 already been reviewed by Staff and approved, Staff would simply take notice of this fact in reviewing  
2 that component of the SSVEC WPCA, rather than “re-inventing the wheel”, so to speak.

3         There is simply no reason the Commission should ignore the potential impact on SSVEC  
4 members if the cooperative is allowed to reset its WPCA at any time, without Commission oversight.

5         Finally, SSVEC argues that in the event the Commission does require it to file for approval of  
6 any increase to its WPCA, then such an increase should go into effect automatically if the  
7 Commission does not act on the request within 60 days. In support of its position, SSVEC argues first  
8 that a 60-day turnaround is not an unreasonable expectation, given the importance of the issue. But  
9 in the same breath, the Company asserts that the Commission has typically taken as long as four to  
10 five months to approve such requests.

11         However, SSVEC has failed to demonstrate why a 60-day turnaround time is a necessity or  
12 why the longer turnaround time is anything more than an inconvenience rather than a hardship.

13         At any rate, it can not be argued that if and when SSVEC requests a change in its WPCA, the  
14 application, by definition, reflects a change in the circumstances under which the cooperative  
15 purchases its fuel. The change in circumstances requires the Commission to reevaluate the status of  
16 the WPCA in consideration of those circumstances. SSVEC’s proposal is intended to avoid such  
17 scrutiny. Staff believes that is inappropriate and recommends that the Commission require SSVEC to  
18 seek Commission approval before increasing its WPCA.

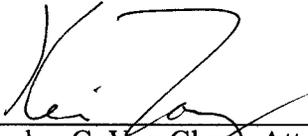
#### 19 **VII. DEMAND SIDE MANAGEMENT.**

20         Through discussions between Staff and SSVEC, Staff has determined that it is appropriate to  
21 make an updated recommendation for SSVEC’s DSM adjustor rate. Staff has additionally  
22 determined that it is appropriate to recommend, and for the Commission to approve, a DSM budget  
23 for SSVEC. See Attachment I for a discussion of this matter and Staff’s recommendations related to  
24 it.

#### 25 **VIII. CONCLUSION.**

26         This matter presented very few items of disagreement between SSVEC and Staff. Staff  
27 believes that it has demonstrated that its approach to these items is reasonable and ought to be  
28 adopted by the Commission.

1 RESPECTFULLY SUBMITTED this 9<sup>th</sup> day of June, 2009.

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14 Original and thirteen (13) copies  
15 of the foregoing were filed this  
16 9<sup>th</sup> day of June, 2009 with:

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Attachment I

Through discussions between Staff and SSVEC, Staff has determined that it is appropriate to make an updated recommendation for SSVEC's DSM adjustor rate. Staff has additionally determined that it is appropriate to recommend, and for the Commission to approve, a DSM budget for SSVEC. Staff had previously recommended an interim DSM adjustor rate and not recommended a particular budget in anticipation of SSVEC making a filing seeking approval of their new DSM programs following the rate case. As Staff has completed an evaluation of SSVEC's proposed DSM programs and made recommendations for the programs, it is also appropriate to establish a DSM budget and set the DSM adjustor rate based on that budget. Commission approval of a DSM budget will establish a framework for the scale of the programs. Commission approval of the updated adjustor rate will provide funding for the DSM programs at the levels established in the budget.

In Exhibit II of the prefiled written direct testimony of Staff witness Steve Irvine, Staff included a budget that SSVEC had provided to Staff in response to a data request. The budget sets forth the amounts that SSVEC envisioned using for its DSM programs. The budget included in the data response is as follows (except that tariff items are removed from the DSM budget):

**Residential Programs**

Residential Energy Management	\$50,000
Touchstone Energy Efficient Home Program	\$175,000
Energy Efficient Water Heater Rebates	\$25,000
Energy Efficient New Home or Remodel Rebate	\$25,000
Energy Efficient Heat Pump Rebate	\$20,000
Energy Efficient Improvement Loan Program	\$200,000

**Commercial and Industrial Programs**

Commercial and Industrial Energy Management	\$4,500
C and I Energy Efficiency Improvement Loan Program	\$150,000
Energy Efficient Water Heater Rebate	See above
Energy Efficient Heat Pump Rebate	See above

