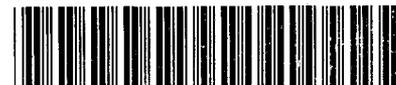


ORIGINAL

OPEN MEETING



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MEMORANDUM

RECEIVED

410

TO: THE COMMISSION

2009 SEP 10 P 1:28

FROM: Utilities Division

AZ CORP COMMISSION
DOCKET CONTROL

DATE: September 10, 2009

RE: SULPHUR SPRINGS VALLEY ELECTRIC COOPERATIVE, INC.-APPLICATION FOR APPROVAL OF AN ELECTRIC POWER CONTRACT WITH NORD RESOURCES, INC. (DOCKET NO. E-01575A-09-0322)

INTRODUCTION

On June 18, 2009, Sulphur Springs Valley Electric Cooperative, Inc. ("SSVEC") filed, with the Commission, a redacted version of a proposed electric power agreement with Nord Resources, Inc. ("NRI"). A non-redacted version of the proposed agreement was later provided to Staff. The proposed agreement allows SSVEC to supply electric power to NRI for its Johnson Camp Mine facility, a copper mine and production facility, located in Cochise County, Arizona. SSVEC's rate case (Docket No. E-01575A-08-0328) was approved by the Commission on August 25, 2009, with new rates to be in effect on September 1, 2009.

SSVEC has a Contract Power Service ("CP") rate schedule option in place for industrial customers with loads exceeding 1,000 kVA and whose rate is based on the cost to serve the customer and the expected usage by the customer. According to SSVEC, due to the amount of electricity used by a customer, the cost to serve a customer with a demand of 1,000 kVA or more is lower than the cost to serve a customer with a demand of less than 1,000 kVA. The CP rate schedule is an optional rate schedule available to the customer. The specific terms and conditions under SSVEC's CP rate schedule are negotiated with the Customer under a contract. These contracts are subject to Commission approval.

According to SSVEC, the mine ceased operations in 2003 when NRI purchased the mine facilities from Arimetco. SSVEC states that at that time, the mine was being served under a Commission-approved agreement rate. The previous agreement was terminated after the mine was closed. In August 2007, NRI re-commenced operations and has been placed on SSVEC's Commission-approved Industrial Power Service ("IP") rate schedule. Because NRI's demand exceeds 1,000 kVA, the two parties have negotiated the current agreement for Commission approval. The previous agreement was approved by the Commission in Decision No. 57137 (October 31, 1990).

Arizona Corporation Commission

DOCKETED

SEP 10 2009

DOCKETED BY 

Under SSVEC's IP rate schedule, effective September 1, 2009, NRI is paying a service availability charge of \$233.50 per month, a capacity charge of \$5.75 per kVA¹, an energy charge of \$0.0767 per kWh for the first 400 kWh per kVA and \$0.0476 per kWh for all excess kWh, and a current Wholesale Power and Fuel Cost Adjustment ("WPFCA") of \$0.0100 per kWh.

PROPOSED AGREEMENT

The proposed agreement would become effective on the beginning of the next billing cycle after it has been approved by the Commission. Under the proposed agreement, NRI would purchase, at a minimum, the power requirements agreed upon by both parties in accordance with the agreement. The proposed agreement specifies a minimum billing demand of 1,000 kVA and a maximum of 10 MVA. The initial term of the proposed agreement is for one (1) year from the effective date. Subsequently, the agreement is automatically renewed for at least one (1) year unless either party provides the other with at least 90 days notice prior to the end of the current agreement term.

According to the proposed agreement, should SSVEC make additional capital investments for the sole benefit of NRI, and NRI is appropriately notified within the agreement's specified timeframe and agrees to pay, SSVEC will have the right to increase the service availability charge over the remainder of the agreement in order to recover the cost of such investment.



STAFF ANALYSIS

Staff has determined that the revenue to be received under the proposed agreement would cover SSVEC's marginal costs. Staff has estimated the cost of obtaining electric power under the tariff rates and the proposed agreement rates for NRI. In absence of the proposed agreement, NRI would be provided service under the rates, terms, and conditions of SSVEC's IP rate schedule. Should NRI not meet the 1,000 kVA requirement specified in the agreement, NRI would be provided service under SSVEC's IP rate schedule at the end of the agreement period. Staff has concluded that the rates under the proposed agreement are just and reasonable.

¹ Currently, under its IP rate schedule, SSVEC charges NRI a capacity charge of \$5.75 per kVA instead of \$6.25 per kVA because NRI furnishes its own transformers.

Staff has also determined that approval of the proposed agreement between SSVEC and NRI is in the public interest. In addition, Staff analyzed this application in terms of whether there were fair value implications. Compared to SSVEC's total revenues, any impact from this agreement would be de minimis, and any impact on SSVEC's fair value rate base and rate of return would also be de minimis.

RECOMMENDATIONS

Staff recommends that the electric power agreement between SSVEC and NRI be approved. Should SSVEC make additional capital investments for the benefit of NRI, Staff recommends that SSVEC file, in this docket, documentation detailing the total amount of the capital investment, the total amount of the new service availability charge, and the number of payments over the remainder of the agreement to be made by NRI to recover the investment cost, within 30 days of any agreement reached between the parties.

In addition, if SSVEC does not make capital investments for the benefit of NRI, Staff recommends that each October, beginning in 2010, SSVEC file with Docket Control an annual status report specifying that no capital investments were made.

Staff further recommends that the Commission specify in its Order that approval of the agreement at this time does not guarantee any future ratemaking treatment of the agreement.



Steven M. Olea
Director
Utilities Division

SMO:CLA:lhm\RM

ORIGINATOR: Candrea Allen

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BEFORE THE ARIZONA CORPORATION COMMISSION

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

IN THE MATTER OF THE APPLICATION
OF SULPHUR SPRINGS VALLEY
ELECTRIC COOPERATIVE, INC. FOR
APPROVAL OF AN ELCTRIC POWER
CONTRACT WITH NORD RESOURCES,
INC.

DOCKET NOS. E-01575A-09-0322
DECISION NO. _____
ORDER

Open Meeting
September 22 and 23, 2009
Phoenix, Arizona

BY THE COMMISSION:

FINDINGS OF FACT

1. Sulphur Springs Valley Electric Cooperative, Inc. ("SSVEC" or "Company") is certificated to provide electric service as a public service corporation in the State of Arizona.

INTRODUCTION

2. On June 18, 2009, SSVEC filed, with the Commission, a redacted version of a proposed electric power agreement with Nord Resources, Inc. ("NRI"). A non-redacted version of the proposed agreement was later provided to Staff. The proposed agreement allows SSVEC to supply electric power to NRI for its Johnson Camp Mine facility, a copper mine and production facility, located in Cochise County, Arizona. SSVEC's rate case (Docket No. E-01575A-08-0328) was approved by the Commission on August 25, 2009, with new rates to be in effect on September 1, 2009.

3. SSVEC has a Contract Power Service ("CP") rate schedule option in place for industrial customers with loads exceeding 1,00 kVA and whose rate is based on the cost to serve

1 the customer and the expected usage by the customer. According to SSVEC, due to the amount of
2 electricity used by a customer, the cost to serve a customer with a demand of 1,000 kVA or more
3 is lower than the cost to serve a customer with a demand of less than 1,000 kVA. The CP rate
4 schedule is an optional rate schedule available to the customer. The specific terms and conditions
5 under SSVEC's CP rate schedule are negotiated with the Customer under a contract. These
6 contracts are subject to Commission approval.

7 4. According to SSVEC, the mine ceased operations in 2003 when NRI purchased the
8 mine facilities from Arimetco. SSVEC states that at that time, the mine was being served under a
9 Commission-approved agreement rate. The previous agreement was terminated after the mine was
10 closed. In August 2007, NRI re-commenced operations and has been placed on SSVEC's
11 Commission-approved Industrial Power Service ("IP") rate schedule. Because NRI's demand
12 exceeds 1,000 kVA, the two parties have negotiated the current agreement for Commission
13 approval. The previous agreement was approved by the Commission in Decision No. 57137
14 (October 31, 1990).

15 5. Under SSVEC's IP rate schedule, effective September 1, 2009, NRI currently pays
16 a service availability charge of \$233.50 per month, a capacity charge of \$5.75 per kVA¹, an energy
17 charge of \$0.0767 per kWh for the first 400 kWh per kVA and \$0.0476 per kWh for all excess
18 kWh, and a current Wholesale Power and Fuel Cost Adjustment ("WPFCA") of \$0.0100 per kWh.

19 **PROPOSED AGREEMENT**

20 6. The proposed agreement would become effective on the beginning of the next
21 billing cycle after it has been approved by the Commission. Under the proposed agreement, NRI
22 would purchase, at a minimum, the power requirements agreed upon by both parties in accordance
23 with the agreement. The proposed agreement specifies a minimum billing demand of 1,000 kVA
24 and a maximum of 10 MVA. The initial term of the proposed agreement is for one (1) year from
25 the effective date. Subsequently, the agreement is automatically renewed for at least one (1) year

26 ...

27 _____
28 ¹ Currently, under its IP rate schedule, SSVEC charges NRI a capacity charge of \$5.75 per kVA instead of \$6.25 per kVA because NRI furnishes its own transformers.

1 unless either party provides the other with at least 90 days notice prior to the end of the current
2 agreement term.

3 7. According to the proposed agreement, should SSVEC make additional capital
4 investments for the sole benefit of NRI, and NRI is appropriately notified within the agreement's
5 specified timeframe and agrees to pay, SSVEC will have the right to increase the service
6 availability charge over the remainder of the agreement in order to recover the cost of such
7 investment.

8 STAFF ANALYSIS

9 8. Staff has determined that the revenue to be received under the proposed agreement
10 would cover SSVEC's marginal costs. Staff has estimated the cost of obtaining electric power
11 under the tariff rates and the proposed agreement rates for NRI. In absence of the proposed
12 agreement, NRI would be provided service under the rates, terms, and conditions of SSVEC's IP
13 rate schedule. Should NRI not meet the 1,000 kVA requirement specified in the agreement, NRI
14 would be provided service under SSVEC's IP rate schedule at the end of the agreement period.
15 Staff has concluded that the rates under the proposed agreement are just and reasonable.

16 9. Staff has also determined that approval of the proposed agreement between SSVEC
17 and NRI is in the public interest. In addition, Staff analyzed this application in terms of whether
18 there were fair value implications. Compared to SSVEC's total revenues, any impact from this
19 agreement would be de minimis, and any impact on SSVEC's fair value rate base and rate of
20 return would also be de minimis.

21 RECOMMENDATIONS

22 10. Staff has recommended approval of the electric power agreement between SSVEC
23 and NRI be approved.

24 11. Should SSVEC make additional capital investments for the benefit of NRI, Staff
25 has recommended that SSVEC file, in this docket, documentation detailing the total amount of the
26 capital investment, the total amount of the new service availability charge, and the number of
27 payments over the remainder of the agreement to be made by NRI to recover the investment cost,
28 within 30 days of any agreement reached between the parties.

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IT IS FURTHER ORDERED that if Sulphur Springs Valley Electric Cooperative, Inc. does not make capital investments for the benefit of NRI, that each October, beginning in 2010, Sulphur Springs Valley Electric Cooperative, Inc. file with Docket Control an annual status report specifying that no capital investments were made.

IT IS FURTHER ORDERED that approval of the agreement at this time does not guarantee any future ratemaking treatment of the agreement.

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

BY THE ORDER OF THE ARIZONA CORPORATION COMMISSION

CHAIRMAN	COMMISSIONER	
COMMISSIONER	COMMISSIONER	COMMISSIONER

IN WITNESS WHEREOF, I, ERNEST G. JOHNSON, Executive Director of the Arizona Corporation Commission, have hereunto, set my hand and caused the official seal of this Commission to be affixed at the Capitol, in the City of Phoenix, this _____ day of _____, 2009.

ERNEST G. JOHNSON
EXECUTIVE DIRECTOR

DISSENT: _____

DISSENT: _____

SMO:CLA:lh\RM

1 SERVICE LIST FOR: Sulphur Springs Valley Electric Cooperative, Inc.
2 DOCKET NOS. E-01575A-09-0322

3 Mr. David Bane
4 Key Account Manager
5 Sulphur Springs Valley Electric Cooperative, Inc.
6 311 East Wilcox
7 Sierra Vista, Arizona 85635

8 Mr. Steven M. Olea
9 Director, Utilities Division
10 Arizona Corporation Commission
11 1200 West Washington Street
12 Phoenix, Arizona 85007

13 Ms. Janice M. Alward
14 Chief Counsel, Legal Division
15 Arizona Corporation Commission
16 1200 West Washington Street
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