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BEFORE THE ARIZONA CORPORATION COMMISSION

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

DOCKET NO. E-01773A-04-0528

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

DOCKET NO. E-04100A-04-0527

**MOHAVE ELECTRIC COOPERATIVE
INC.'S MOTION TO AMEND DECISION
NO. 68071, AS AMENDED BY DECISION
NO. 71112, AND DECISION NO. 68072 TO
ORDER AEPCO AND SWTC TO DELAY
THEIR NEXT RATE FILINGS
(Expedited Action Requested)**

Mohave Electric Cooperative, Inc. ("Mohave"), by and through its attorneys undersigned, respectfully requests the Arizona Corporation Commission ("Commission"), pursuant to A.R.S. §40-252, to amend Decision No. 68071, as amended by Decision No. 71112, and Decision No. 68072 to require Arizona Electric Cooperative, Inc. ("AEPCO") and Southwest Transmission Cooperative, Inc. (SWTC) to delay their next rate case filings until 2010. This Motion is supported by the following facts and argument.

BACKGROUND

As a Partial Requirements Member (PRM) of AEPCO, Mohave is allocated 35.8% of the AEPCO resources. Sulphur Springs Valley Electric Cooperative is allocated over 33% of the AEPCO resources.

1 AEPCO has been ordered by the Commission to make a rate case filing by
2 October 1, 2009 based upon a test year ending March 31, 2009. See, Decision No. 71112.
3 SWTC, an affiliate of AEPCO that provides AEPCO, and its members, transmission service,
4 has been ordered to file a rate case by August 17, 2010. See, Decision No. 68072. AEPCO
5 and SWTC are actively working with their members to address complex and difficult issues
6 arising from the change in composition of its membership and load and a change in cost
7 allocation methodology from that which currently exists. Prior to any rate filing, resolution of
8 these issues must also be reviewed and approved by the Rural Utilities Service (RUS).

9 The anticipated rate filing by AEPCO and SWTC on or before October 1, 2009
10 will violate the existing RUS and ACC approved PRM contracts governing rates, is
11 premature, involves an unrepresentative test year, needlessly burdens the Commission's
12 limited resources and delaying it will not adversely impact AEPCO or SWTC.

13 A. The Rate Filing Requirement

14 Mohave is a partial-requirements Class A member ("PRM") of AEPCO.
15 Mohave intervened and participated in the proceedings that led to entry of Commission
16 Decision No. 68071, dated August 17, 2005. By that Decision, the Commission approved
17 new rates for AEPCO to be implemented in three phases with the last phase being applied to
18 service provided effective September 1, 2007.

19 At the time, AEPCO was in the middle of a significant transition. Mohave had
20 previously become a PRM under a contract approved by both the RUS and the Commission.
21 Another AEPCO Class A member, Sulphur Springs Valley Electric Cooperative ("SSVEC"),
22 was in the process of becoming a PRM. Together, the PRM members represent more than
23 66% of AEPCO's Class A member load. In Decision No. 68071 the Commission expressly
24 recognized that changes of status by PRM members "may have significant impact on
25 AEPCO's revenues." As a result, the Commission ordered AEPCO and SWTC to "file a rate

1 case six months after [SSVEC] has completed a full calendar year as a partial requirements
2 member, or not later than five years after the effective date of this Decision, whichever is
3 earlier.”

4 SSVEC became a partial requirements (PRM) customer effective January 1,
5 2008. Therefore, Decision No. 68071 required AEPCO to file a full rate case by July 1, 2009.
6 The alternative rate filing deadline for AEPCO was August 17, 2010 (five years following the
7 effective date of Decision No. 68071).

8 B. The Initial Extension

9 On April 13, 2009 AEPCO filed a request to extend the filing date 60 to 90 days
10 (up to and including October 1, 2009) to afford AEPCO and all its members an opportunity to
11 address, resolve and have approved contract language related to the new composition of its
12 membership and consistent with RUS and ACC approved contract amendments needed to do
13 so. As noted, AEPCO's two PRMs account for more than 66% of AEPCO's Class A member
14 load. Staff raised concerns that an October filing with a December 31, 2008 test year would
15 provide a stale test year. Staff recommended that AEPCO either make a March 31, 2010
16 filing with a December 31, 2009 test year, or an October 1, 2009 filing utilizing a June 30,
17 2009 test year. AEPCO revised its proposal suggesting an October 1, 2009 filing utilizing a
18 March 31, 2009 test year.

19 At the time of requesting the extension, the rate filing was to be consistent with
20 PRM contracts and believing Partial Requirement and other revised contract language would
21 be agreed upon and approved by RUS and ACC, the PRMs filed separate comments agreeing
22 that the next AEPCO filing would present new and unique cost allocation challenges due to
23 the changes in AEPCO's load and membership composition. If the filing was not to be
24 consistent with PRM contracts, Mohave supported a process, including and anticipating
25 securing RUS contract approval of any change, which would facilitate the members' resolving

1 contract amendment cost allocation issues prior to the rate filing. Believing either the filing
2 would be consistent with existing PRM contracts or that the extended time was sufficient, at
3 the time no PRM felt it necessary or appropriate to delay the filing beyond October 1, 2009.

4 In Decision No. 71112 the Commission recognized:

5 The issues associated with AEPCO's rate case are significant and
6 complex and if its members are able to reach consensus on cost
7 allocation issues, it will result in a much more efficient rate case
8 process. The potential benefits from the approximately 120 day
9 extension are substantial, and outweigh concerns about the
10 relatively short delay.

11 Consequently, the Commission approved AEPCO's revised proposal and
12 extended the deadline for AEPCO to file a rate case to October 1, 2009, utilizing a test year
13 end of March 31, 2009.

14 **NEED FOR ADDITIONAL DELAY**

15 A. The Filing is Premature

16 The filing is inconsistent with existing contracts. There has not been the
17 development of or approval by RUS of amended PRM contracts or associated language.
18 AEPCO's members continue active review of newly developed complex cost allocation
19 methodologies in an effort to reach consensus on an appropriate new methodology based upon
20 the new PRM member and new load composition of AEPCO's Class A Members and they
21 continue efforts to develop requisite language for inclusion in amended contracts. No
22 language or forms of amended PRM or other contracts have been prepared or agreed to at this
23 time. The efforts are continuing and the members expect agreement will be reached in the
24 near future, but not in time for an October 1, 2009 rate filing. Failing to reach agreement on
25 amendments, AEPCO and SWTC are required to file consistent with the existing lawful
agreements. As the Commission is aware, a formal complaint was filed against AEPCO
challenging the manner in which AEPCO allocated and collected fuel costs under its fuel and

1 purchased power adjustment clause ("FPPAC"). See, Docket Nos. E-01575A-08-0358 and E-
2 01773A-08-0358. This proceeding resulted in the parties focusing discussion around
3 contractual requirements of PRM cost allocation related to the general AEPCO fuel clause.
4 Those discussions resulted in a Settlement Agreement which was recently approved by
5 Decision No. 71229, dated August 6, 2009.

6 While progress since June 2009 has been and is being made on other cost
7 allocation issues, consensus PRM and other language suitable for reference to RUS has not
8 yet been reached and as noted no draft contracts have been agreed upon. The existing
9 RUS/Commission approved agreements between AEPCO and its PRMs contain provisions
10 that govern the allocation of costs between PRMs and ARMs. These PRM contracts have
11 previously been approved by both the Commission (Decision No. 70105, dated December 21,
12 2007) and the RUS. The rate filing anticipated in June was to be consistent with existing
13 contracts. Any rate filing submitted on or before October 1, 2009 by AEPCO and SWTC that
14 does not follow the existing contractual provisions would be inconsistent and in contravention
15 with and would violate these RUS and ACC approved contracts. Such would be subject to a
16 rejection. Therefore, before a rate filing is made, it is important that the parties reduce their
17 understandings in the form of RUS and ACC approved amendments to the existing contracts
18 and secure necessary RUS and Commission and perhaps other regulatory approvals before
19 filing and pursuing rates based upon methodologies that contravene existing ACC and RUS
20 approved contractual rights.

21 B. 2008 is Not a Very Representative Year

22 When the Commission entered Decision No. 68071 it could not have envisioned
23 the economic conditions that would befall Arizona and the Country as a whole. The brunt of
24 the economic collapse was felt during 2008 and the early part of 2009. While it may be
25 debated whether the efforts to stem the economic crisis will ultimately be successful, it is

1 clear Commission Staff's initial conclusion was correct that 2009 would be more
2 representative of near term economic conditions than those that existed in 2008. Also, a 2009
3 test year would be an audited test year completely.

4 C. Commission Resources Should Not be Unnecessarily Strained

5 The economic crisis has decimated the Commission's budget and its limited
6 resources are already heavily committed with several significant pending rate proceedings.
7 Under such circumstances, it is incumbent upon an applicant for new rates to resolve as many
8 issues as it can before presenting its filing. Contentious proceedings with numerous
9 interventions based on contract and other issues and with the potential for many pro forma
10 changes will only serve to exasperate a very difficult situation burdening not only the
11 Commission but also the filer and its members.

12 D. Delay does not adversely impact AEPCO.

13 A delay does not have an adverse impact on AEPCO earnings given the
14 application of the Commission approved Fuel and Purchased Power Cost Adjustment
15 provisions in the existing rates. In fact, the margin proposed in the intended filing is less than
16 the margin earned in the 2008-2009 test year.

17 **CONCLUSION**

18 AEPCO and SWTC and its members are grappling with complex and difficult
19 contractual and cost allocation issues during an unprecedented economic crisis. It is
20 reasonable and necessary to provide AEPCO and SWTC a deadline by which they must
21 present a proposal to the Commission that integrates its rates with the new reality and RUS
22 and ACC approved contracts in which it operates. However, Mohave respectfully suggests
23 that holding fast to deadlines set in 2005 are not in the best interest of AEPCO, and SWTC,
24 their members, or their member/customers. As a result, Mohave requests the Commission
25 amend Decision No. 68071, as amended by Decision No. 71112 to require AEPCO and

1 SWTC to delay the filing of their rate case until the earlier of: a) entering into any necessary
2 amendments to existing RUS and Commission approved contracts and obtaining, or at least
3 having filed for, necessary regulatory approvals thereof, or b) they are able to submit an
4 application based the currently existing contracts and c) upon a test year ending December 31,
5 2009, but in no event later than July 1, 2010.¹

6 DATED this 21st day of September, 2009.

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25 ¹ As this Motion seeks an amendment of Decisions previously set for hearing, Mohave
understands that, upon its filing, the Commission's ex parte rule (A.A.C. R14-3-113) is
deemed reinstated.

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PROOF OF AND CERTIFICATE OF MAILING

I hereby certify that on this 21st day of September, 2009, I caused the foregoing document to be served on the Arizona Corporation Commission by delivering the original and fifteen (15) copies of the above to:

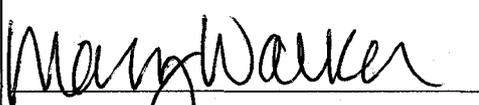
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