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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

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

2010 FEB 11 P 3:51

AZ CORP COMMISSION DOCKET CONTROL

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

Arizona Corporation Commission

DOCKETED

FEB 11 2010

DOCKETED BY

IN THE MATTER OF THE APPLICATION OF  
 SULPHUR SPRINGS VALLEY ELECTRIC  
 COOPERATIVE, INC. FOR AN ORDER  
 INSTITUTING A MORATORIUM ON THE NEW  
 CONNECTIONS TO THE V-7 FEEDER LINE  
 SERVING THE AREAS OF WHETSTONE, RAIN  
 VALLEY, ELGIN, CANELO, SONOITA, AND  
 PATAGONIA, ARIZONA.

DOCKET NO. E-01575A-09-0453

PROCEDURAL ORDER

**BY THE COMMISSION:**

On January 14, 2010, Sulphur Springs Valley Electric Cooperative, Inc. ("SSVEC" or "Cooperative") filed with the Arizona Corporation Commission ("Commission") a Petition to Amend Decision No. 71274 Pursuant to A.R.S. §40-252 and for Related Authorization ("§40-252 Petition") in Docket No. E-01575A-08-0328. At a Special Open Meeting of the Commission held on February 3, 2010, the Commission passed a Motion to "grant Sulphur Springs Valley Electric Cooperative's Petition to Amend Decision No. 71274 Pursuant to A.R.S. §40-252 and for Related Authorization for the purposes of further consideration of whether Decision No. 71274 should be amended and the request for related authorization should be approved; and, also grant the Cooperative's request for expedited consideration of its Petition and direct the Hearing Division to conduct appropriate proceedings and prepare a recommended opinion and order for Commission consideration on an expedited basis." In light of the findings of the independent feasibility report filed on December 31,

1 2009, and “exigent circumstances,” SSVEC is seeking that Decision No. 71274 be modified to allow  
2 it to immediately commence construction of the 69kV line without the need to first conduct the  
3 public forums and file a report thereon.

4 On February 4, 2010, SSVEC filed a Request for Expedited Procedural Order. SSVEC  
5 suggests that the expedited proceeding on its §40-252 Petition may take the form of an oral argument  
6 and that an evidentiary hearing is not required by statute

7 Pursuant to Procedural Order dated February 4, 2010, a Procedural Conference was set to  
8 commence on February 10, 2010, for the purpose of taking recommendations from the parties on the  
9 type and timing of a proceeding following the Commission’s February 3, 2010 directive. SSVEC,  
10 Intervenors Scott, Downing and Rowley, and the Commission’s Utilities Division (“Staff”) appeared  
11 at the Procedural Conference.

12 Although SSVEC believes that the Commission could consider its §40-252 Petition without  
13 an evidentiary hearing, it did not oppose a hearing in this matter and proposed a schedule of pre-filed  
14 testimony that would have a hearing commencing in the middle of March 2010. All three intervenors  
15 and Staff believed that an evidentiary hearing is necessary because of factual questions concerning  
16 the feasibility study of the 69 kV line and other assertions made in SSVEC’s §40-252 Petition.

17 In its February 3, 2010 Motion, the Commission directed the Hearing Division “to conduct  
18 appropriate proceedings and prepare a recommended opinion and order for Commission  
19 consideration on an expedited basis.” When it passed its Motion, the Commission knew that a  
20 hearing on the consolidated matter of SSVEC’s Petition for Reconsideration and its Application for  
21 Moratorium had been scheduled to commence on May 18, 2010. The Commission did not direct that  
22 the §40-252 Petition be addressed at the May proceeding, but rather believed that circumstances  
23 warranted considering the matter on a more expedited schedule. The Commission left the type of  
24 proceeding to the discretion of the Presiding Officer. Because there is a difference of opinion on the  
25 findings of the feasibility study, and because the Cooperative raised additional questions of fact in its  
26 §40-252 Petition, an evidentiary proceeding is necessary. Consequently, by this Procedural Order, a  
27 hearing on the §40-252 Petition will be set and procedural guidelines established to address the  
28 matter on an expedited basis.

1 By Procedural Orders dated December 15, 2009, and January 29, 2010, a schedule was  
2 established for the consolidated hearing on the Petition for Reconsideration and Application for  
3 Moratorium. Pursuant to the January 29, 2010 Procedural Order, the first round of testimony was due  
4 on March 19, 2010 in that matter. With a hearing on the §40-252 Petition commencing on March  
5 24, 2010, it is unduly burdensome on the parties to have to prepare for both proceedings  
6 simultaneously. Furthermore, SSVEC has stated that if the Commission grants its §40-252 Petition, it  
7 would seek to withdraw its Petition for Reconsideration and Application for Moratorium, such that  
8 depending on the outcome of the §40-252 Petition, there may be not be a need for a second hearing.  
9 For the foregoing reasons, the schedule in the Reconsideration/Moratorium proceeding will be  
10 modified. The schedule is not being suspended indefinitely, but rather extended so that testimony will  
11 not be due until after the conclusion of the hearing on the §40-252 Petition. Under this arrangement,  
12 SSVEC will have the cost of only one mailing for both public notices, and the consolidated  
13 Reconsideration/Moratorium proceeding will be kept on track for hearing, if needed. Furthermore, in  
14 the interest of efficiency and economy, testimony in the §40-252 Petition proceeding may be made  
15 part of the record in any subsequent proceeding in these dockets.

16 IT IS THEREFORE ORDERED that a **Hearing** on SSVEC's January 14, 2010 §40-252  
17 Petition shall commence on **March 24, 2010 at 1:00 p.m.**, or as soon thereafter as is practical, at the  
18 Commission's Tucson offices, **Room 222, 400 West Congress, Tucson, Arizona 85701.**<sup>1</sup>

19 IT IS FURTHER ORDERED that a **Pre-hearing Conference** shall commence on **March 19,**  
20 **2010, at 9:30 a.m.**, or as soon thereafter as is practical at the Commission's Tucson offices, **Room**  
21 **222, 400 West Congress, Tucson, Arizona 85701.** The parties may appear telephonically at the Pre-  
22 hearing Conference by contacting the Hearing Division at (602) 542-4250 to receive instructions  
23 prior to the date of the Pre-hearing Conference.

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27 <sup>1</sup> The Hearing is set to commence on the afternoon of Wednesday March 24, 2010. Public Comment will be taken at the  
28 commencement of the hearing. At the March 19, 2010, Pre-hearing conference, the parties will discuss whether for the  
convenience of witnesses and efficiency's sake, March 24, 2010, should be devoted exclusively to public comment and  
whether the evidentiary portion of the proceeding should commence on March 25, 2010.

1 IT IS FURTHER ORDERED that **SSVEC shall reduce to writing and file its direct**  
2 **testimony** and any exhibits to be used at hearing related to its January 14, 2010, §40-252 Petition no  
3 later than **February 23, 2010**.

4 IT IS FURTHER ORDERED that any **direct and/or responsive testimony** and associated  
5 exhibits to be presented at hearing on behalf of Intervenors and Staff shall be reduced to writing and  
6 filed on or before **March 16, 2010**.

7 IT IS FURTHER ORDERED that any **rebuttal or surrebuttal testimony** and associated  
8 exhibits will be presented orally at the hearing.

9 IT IS FURTHER ORDERED that **all filings shall be made by 4:00 p.m. on the date the**  
10 **filing is due, unless otherwise indicated**.

11 IT IS FURTHER ORDERED that **any objections to any testimony or exhibits** on the §40-  
12 252 Petition which have been prefiled as of March 16, 2010, shall be made before or **at the March**  
13 **19, 2010** pre-hearing conference.

14 IT IS FURTHER ORDERED that **intervention** shall be in accordance with A.A.C. R14-3-  
15 105, except that **all motions to intervene must be filed on or before March 9, 2010**.

16 IT IS FURTHER ORDERED that the **schedule for the filing of testimony and hearing** on  
17 the **Petition for Reconsideration/Moratorium** currently set to commence on May 18, 2010 and  
18 established in the January 29, 2010 Procedural Order, **shall be modified as follows:**

<b>Direct Testimony all Parties</b>	<b>May 7, 2010</b>
<b>Responsive Testimony all Parties</b>	<b>June 4, 2010</b>
<b>Reply Testimony all Parties</b>	<b>June 25, 2010</b>
<b>Pre-Hearing Conference</b>	<b>July 1, 2010</b>
<b>Hearing</b>	<b>July 7, 8, 9, 2010</b>

24 IT IS FURTHER ORDERED that the Cooperative shall provide public notice of the hearings  
25 in this matter, in the following form and style with the heading in no less than 14 point bold type and  
26 the body in no less than 10-point regular type:  
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**Public Hearing Information**

The Commission will hold a **hearing** on the consolidated matter beginning **July 7, 2010, at 10:00 a.m.**, at the Commission's offices, Room 222, 400 West Congress, Tucson, Arizona.

Public comments will be taken at the beginning of the first day of the hearing. Written public comments may be submitted by mailing a letter referencing Docket No. E-01575A-08-0328 and E-01575A-09-0453 to Arizona Corporation Commission, Consumer Services Section, 1200 West Washington, Phoenix, AZ 85007, or by email. For a form to use and instructions on how to e-mail comments to the Commission, go to [http://www.azcc.gov/divisions/utilities/forms/public\\_comment.pdf](http://www.azcc.gov/divisions/utilities/forms/public_comment.pdf). If you require assistance, you may contact the Consumer Services Section at 1-800-222-7000 or (520) 628-6550.

**About Intervention**

The law provides for an open public hearing at which, under appropriate circumstances, interested parties may intervene. **The granting of motions to intervene shall be governed by A.A.C. R14-3-105, except that all motions to intervene must be filed on or before March 9, 2010.** If you wish to intervene, you must file an original and 13 copies of a written motion to intervene with the Commission no later than March 9, 2010, and mail a copy of the motion to SSVEC or its counsel and to all parties of record. Your motion must contain the following:

1. Your name, address, and telephone number and the name, address and telephone number of any party upon whom service of documents is to be made, if not yourself.
2. A short statement of your interest in the proceeding (e.g., a customer of the Company, a member of the Cooperative, etc.).
3. A statement certifying that you have mailed a copy of the motion to intervene to the Cooperative or its counsel and to all parties of record in the case.

The granting of intervention, among other things, entitles a party to present sworn evidence at the hearing and to cross-examine other witnesses. However, failure to intervene will not preclude any interested person or entity from appearing at the hearing and providing public comment on the applications or from filing written comments in the record of the case.

**ADA/Equal Access Information**

The Commission does not discriminate on the basis of disability in admission to its public meetings. Persons with a disability may request a reasonable accommodation such as a sign language interpreter, as well as request this document in an alternative format, by contacting the ADA Coordinator Shaylin Bernal, E-mail [Sabernal@azcc.gov](mailto:Sabernal@azcc.gov), voice phone number (602) 542-3931. Requests should be made as early as possible to allow time to arrange the accommodation.

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**PUBLIC NOTICE OF HEARING ON THE  
PETITION OF  
SULPHUR SPRINGS VALLEY ELECTRIC COOPERATIVE, INC.  
TO AMEND DECISION NO. 71274  
PURSUANT TO A.R.S. §40-252  
DOCKET NO. E-01575A-08-0328**

On September 8, 2009, the Arizona Corporation Commission (“Commission”) issued Decision No. 71274, which approved a rate increase for Sulphur Springs Valley Electric Cooperative, Inc. (“SSVEC” or “Cooperative”) and made other findings, including *inter alia*, requiring filing an independent feasibility study of the planned upgrade and construction of a 69 KV line serving the Elgin/Patagonia/Sonoita area (the “Affected Areas”), and requiring SSVEC to stop construction of the 69 kV line.

On January 14, 2010, SSVEC filed a Petition to Amend Decision No. 71274 pursuant to A.R.S. §40-252 and for Related Authorization (“Petition”). At an Open Meeting on February 3, 2010, the Commission voted to grant SSVEC’s request for expedited consideration of SSVEC’s Petition. In its Petition, SSVEC is seeking authorization to commence immediate construction of the 69 kV line without the need to first conduct the public forums on the independent feasibility report as required by Decision No. 71274. Commission Staff has not yet filed testimony on SSVEC’s Petition, and the ultimate relief granted will depend on the evidence presented at the hearing in this matter.

Copies of the Petition and the feasibility study filed on December 31, 2009 in this docket are available at the Cooperative’s offices [**insert address and telephone number and/or website if these documents are available on the website** ] and the Commission’s offices at 1200 West Washington, Phoenix, Arizona, and 400 West Congress, Suite 218, Tucson, Arizona for public inspection during regular business hours, and on the internet via the Commission website ([/www.azcc.gov/](http://www.azcc.gov/)) using the e-docket function.

**Public Hearing Information**

The Commission will hold a **hearing** on the Petition beginning **March 24, 2010, at 1:00 p.m.**, at the Commission’s offices, Room 222, 400 West Congress, Tucson, Arizona.

Public comments will be taken at the beginning of the first day of the hearing. Written public comments may be submitted by mailing a letter referencing Docket No. E-01575A-08-0328 to Arizona Corporation Commission, Consumer Services Section, 1200 West Washington, Phoenix, AZ 85007, or by email. For a form to use and instructions on how to e-mail comments to the Commission, go to <http://www.azcc.gov/divisions/utilities/forms/publiccomment.pdf>. If you require assistance, you may contact the Consumer Services Section at 1-800-222-7000 or (520) 628-6550.

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1 Commission no later than March 9, 2010, and mail a copy of the motion to SSVEC or  
its counsel and to all parties of record. Your motion must contain the following:

- 2 1. Your name, address, and telephone number and the name, address and  
3 telephone number of any party upon whom service of documents is to  
4 be made, if not yourself.
- 5 2. A short statement of your interest in the proceeding (e.g., a customer of  
the Company, a member of the Cooperative, etc.).
- 6 3. A statement certifying that you have mailed a copy of the motion to  
7 intervene to the Cooperative or its counsel and to all parties of record in  
the case.

8 The granting of intervention, among other things, entitles a party to present sworn  
evidence at the hearing and to cross-examine other witnesses. However, failure to  
9 intervene will not preclude any interested person or entity from appearing at the  
hearing and providing public comment on the applications or from filing written  
10 comments in the record of the case.

11 **ADA/Equal Access Information**

The Commission does not discriminate on the basis of disability in admission to its  
12 public meetings. Persons with a disability may request a reasonable accommodation  
such as a sign language interpreter, as well as request this document in an alternative  
13 format, by contacting the ADA Coordinator Shaylin Bernal, E-mail  
Sabernal@azcc.gov, voice phone number (602) 542-3931. Requests should be made  
14 as early as possible to allow time to arrange the accommodation.

15 IT IS FURTHER ORDERED that SSVEC shall **mail** to each of its customers a copy of the  
16 above notices by **February 19, 2010**, and shall cause a copy of each notice to be **published** at least  
17 once in a newspaper of general circulation in its service territory, with publication to be completed no  
18 later than **February 26, 2010**.

19 IT IS FURTHER ORDERED that SSVEC shall file certification of mailing and publication as  
20 soon as practicable after they have been completed.

21 IT IS FURTHER ORDERED that notice shall be deemed complete upon mailing and  
22 publication of same, notwithstanding the failure of an individual customer to read or receive the  
23 notice.

24 **IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113-Unauthorized  
25 Communications) applies to this proceeding as the matter is set for public hearing, and shall  
26 remain in effect until the Commission's Decision in this matter is final and non-appealable.**

27 IT IS FURTHER ORDERED that the time periods specified herein shall not be extended  
28 pursuant to Rule 6(a) or (3) of the Rules of Civil Procedure.

1 IT IS FURTHER ORDERED that the Presiding Officer may rescind, alter, amend, or waive  
2 any portion of this Procedural Order either by subsequent Procedural Order or by ruling at hearing.

3 DATED this 11<sup>th</sup> day of February, 2010.

4  
5   
6 JANE L. RODDA  
ADMINISTRATIVE LAW JUDGE

7 Copies of the foregoing mailed  
this 11<sup>th</sup> day of February, 2010 to:

8 Bradley S. Carroll  
9 Jeffrey W. Crockett  
10 SNELL & WILMER LLP  
11 One Arizona Center  
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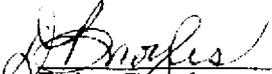
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26 By:   
27 Debra Broyles  
28 Secretary to Jane Rodda