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BEFORE THE ARIZONA CORPORATION COMMISSION

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AZ CORP COMMISSION
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KRISTIN K. MAYES—Chairman
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SANDRA D. KENNEDY
BOB STUMP

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

DOCKET NO. E-01575A-09-0453

SULPHUR SPRINGS VALLEY
ELECTRIC COOPERATIVE,
INC'S:

- (1) COMMENTS IN SUPPORT OF STAFF REPORT AND WAIVER OF 10-DAY EXCEPTION PERIOD FOR NOVEMBER 19, 2009, OPEN MEETING; AND
- (2) RESPONSE TO INTERVENOR COMMENTS IN OPPOSITION AND MOTION FOR PROTECTIVE ORDER REGARDING INTERVENOR DISCOVERY REQUESTS.

Arizona Corporation Commission
DOCKETED

NOV - 6 2009

DOCKETED BY

Snell & Wilmer

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I. INTRODUCTION.

On September 18, 2009, Sulphur Springs Valley Electric Cooperative, Inc. ("SSVEC" or "Cooperative") filed with the Arizona Corporation Commission ("Commission") an Application for an Order Instituting a Moratorium ("Application") in the above-captioned matter. On November 2, 2009, SSVEC filed additional information in support of its Application and a request for expedited Commission consideration without a hearing ("Request") attached hereto as Attachment A. On November 4, 2009, the Commission's Utilities Division ("Staff") filed its Staff Report recommending that the

1 Cooperative's Application be approved. On November 5, 2009, Intervenor Susan
2 Downing docketed comments in opposition to SSVEC's Request ("Intervenor
3 Comments").

4 **II. SSVEC SUPPORT OF STAFF REPORT AND WAIVER OF 10-DAY**
5 **EXCEPTION DEADLINE FOR NOVEMBER 19-20, 2009 OPEN MEETING.**

6 Staff concluded on page 3 of the Staff Report the following:

7
8 Based on the foregoing analysis, Staff concludes that the single V-7
9 25 kV distribution feeder presently serving the Affected Areas will
10 not perform at a satisfactory level of reliability until the overloading
11 on the V-7 feeder is mitigated by either construction of the 69 kV
12 Sonoita project or by implementing appropriate alternatives that
13 may be proposed in the independent study by a third party and by
14 discussions at the public forums mentioned earlier. Staff further
15 concludes that the performance of this feeder will deteriorate further
16 if more customer loads are added to it. Staff further concludes that a
17 moratorium on future customer connections in the Affected Areas
18 will help preserve SSVEC's present level of system reliability until
19 overloading of the V-7 feeder can be resolved.

20 This conclusion is consistent with the Cooperative's Application. An evidentiary
21 hearing will not alter the uncontroverted facts presented in this docket, as well as in
22 Docket No. E-01575A-08-0328 (the "Rate Case Docket"), that the V-7 Feeder Line is
23 currently overloaded and that the addition of new load will only result in a further
24 deterioration of service to the Affected Areas. Moreover, since the August 17, 2009,
25 Open Meeting that prohibited SSVEC from commencing construction of a new 69 kV line
26 to the Affected Areas, SSVEC has hooked up an additional 11 customers. There are also
13 additional customers that filed for hook-up prior to the September 18, 2009, filing of
the Application that are in the queue, which will put additional load on the V-7 Feeder
Line.

An evidentiary hearing will not change these facts and will only result in delay,

1 thereby further exacerbating an already serious problem. Accordingly, SSVEC reiterates
2 its Request that this matter be considered by the Commission at its November 19-20,
3 2009, Open Meeting. In order to facilitate the drafting of a Recommended Order by the
4 Administrative Law Judge (“ALJ”), SSVEC hereby waives the 10-day exception period
5 set forth in A.A.C. R14-2-14-3-110.

6
7 **III. SSVEC’S RESPONSE TO INTERVENOR COMMENTS AND REQUEST**
8 **FOR PROTECTIVE ORDER.**

9 The basis of Intervenor Downing’s comments stem from her stated belief that
10 SSVEC “has not provided accurate or sufficient evidence to support the need for a
11 moratorium” for the Affected Areas.¹ However, uncontroverted evidence has already
12 been presented to the Commission in the Rate Case Docket by both the Cooperative and
13 Staff. The Commission has already acknowledged in Decision No. 71274 that at the time
14 of the hearing in April 2009, “[t]he Cooperative submitted evidence that the line is
15 currently at capacity”². Since then, there have been additional hook-ups further taxing the
16 capacity of the line and causing additional outages. Staff has independently confirmed
17 through its examination of the Application in this docket that performance of the V-7
18 Feeder Line will further deteriorate without the moratorium. Accordingly, the need for
19 additional discovery or a hearing will not change these facts but will only result in a delay
20 of many months, to the detriment of the thousands of SSVEC members residing in the
21 Affected Areas.³

22 As stated in the Intervenor Comments, on November 4, 2009, counsel for SSVEC
23 received 44 data requests.⁴ Many of these data requests are objectionable, and SSVEC

24 ¹ Intervenor Comments at page 1, paragraph 1.

25 ² Decision No. 71274 at page 38, line 23.

26 ³ As Intervenor Downing is already an SSVEC member receiving electric service from the Cooperative, it
is unclear as to why she would be impacted if the moratorium is granted.

⁴ There were 11 data requests with multiple subparts which comprise the 44 data requests.

1 will raise such objections at the appropriate time, to the extent necessary and required. As
2 evidenced by the data requests attached to the Intervenor Comments, responding to these
3 data requests will take considerable time, money, effort, and resources on the part of the
4 Cooperative. If the ALJ determines that a hearing is not necessary and presents a
5 Recommended Order to the Commission for consideration at the November 19-20, 2009,
6 Open Meeting, the need for SSVEC to spend the time, money, effort, and resources to
7 respond to these data requests becomes moot. On the other hand, if the ALJ was to
8 determine that a hearing is necessary, SSVEC should not be required to respond to the
9 data requests until such time that a procedural order has been issued governing the
10 required discovery procedures and deadlines for the parties. Accordingly, SSVEC
11 submits that it should not be required to respond to Intervenor Downing's data requests at
12 this time and requests a protective order to that effect.

13 **IV. CONCLUSION**

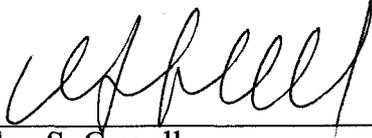
14 On the basis of the foregoing, as well as the previous filings in this docket on
15 behalf of the Cooperative and Staff, SSVEC:

- 16 1) Requests that the ALJ issue a Recommended Order to be considered by the
17 Commission at its November 19-20 Open Meeting without a hearing;
- 18 2) Hereby waives the 10-day exception period to facilitate the above
19 timeframe; and
- 20 3) Requests that a protective order be issued at this time regarding the issuance
21 of discovery.

22 ...
23 ...
24 ...
25 ...
26

1 RESPECTFULLY SUBMITTED this 6th day of November, 2009.

2 SNELL & WILMER L.L.P.

3
4 By 

5 Bradley S. Carroll
6 One Arizona Center
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9 Attorneys for Sulphur Springs Valley
10 Electric Cooperative, Inc.

11 ORIGINAL and 13 copies filed this
12 6th day of November, 2009, with:

13 Docket Control
14 ARIZONA CORPORATION COMMISSION
15 1200 West Washington
16 Phoenix, Arizona 85007

17 COPIES of the foregoing hand-delivered
18 this 6th day of November, 2009, to:

19 Steve Olea, Director
20 Utilities Division
21 ARIZONA CORPORATION COMMISSION
22 1200 West Washington Street
23 Phoenix, Arizona 85007

24 Prem Bahl, Electric Utilities Engineer
25 Utilities Division
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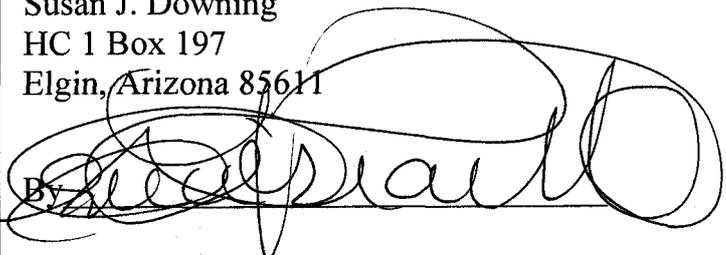
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COPIES of the foregoing mailed/e-mailed
this 6th day of November, 2009, to:

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Susan J. Downing
HC 1 Box 197
Elgin, Arizona 85611

By 

SSVEC

Attachment A

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
9 OF SULPHUR SPRINGS VALLEY
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11 ORDER INSTITUTING A MORATORIUM
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13 FEEDER LINE SERVING THE
14 WHETSTONE, RAIN VALLEY, ELGIN,
15 CANELO, SONOITA, AND PATAGONIA,
16 ARIZONA AREAS.

DOCKET NO. E-01575A-09-0453

**ADDITIONAL INFORMATION
IN SUPPORT OF APPLICATION
AND REQUEST FOR
EXPEDITED COMMISSION
CONSIDERATION WITHOUT A
HEARING**

17 **I. INTRODUCTION AND BACKGROUND.**

18 On September 18, 2009, Sulphur Springs Valley Electric Cooperative, Inc.
19 (“SSVEC” or “Cooperative”) filed an Application for an Order Instituting a Moratorium
20 (“Application”) in the above-captioned matter. As more fully described in the
21 Application, this action was necessitated by the September 8, 2009, Arizona Corporation
22 Commission (“Commission”) Decision No. 71274 (“Decision”) in Docket No. E-01575A-
23 08-0328 (the “Rate Case Docket”) that expressly prohibits (until further Order of the
24 Commission) the Cooperative from constructing a 69 kV sub-transmission power line
25 (“69 kV line”) to serve the Whetstone, Rain Valley, Elgin, Canelo, Sonoita, and
26 Patagonia, Arizona areas (collectively the “Affected Areas”). SSVEC had previously
planned and scheduled principle construction of the 69 kV line in the fall of 2009 because
the Cooperative’s documentation and analysis determined it necessary to alleviate
significant power quality, reliability, and capacity constraints resulting in power
fluctuations and outages in the Affected Areas that are currently served by the

1 Cooperative's existing V-7 Feeder Line.

2 In light of the Commission's Decision ordering SSVEC to stop construction of the
3 69 kV line, SSVEC's Application requests the Commission to issue an order authorizing
4 the Cooperative to institute a moratorium on new and/or expanded service connections to
5 its V-7 Feeder Line so the power quality, reliability, and capacity problem resulting in
6 power fluctuations and outages that will continue to exist within the Affected Areas will
7 not further exacerbate or degrade service to existing members. The Application requests
8 the Commission to issue an order as expeditiously as possible that authorizes the
9 Cooperative to:

10 1. Immediately institute a moratorium on new and expanded service
11 connections that will be serviced by the existing V-7 Feeder Line within the Affected
12 Areas in the manner set forth in this Application; and

13 2. Maintain such moratorium until such time that SSVEC determines that a
14 long-term, safe, affordable, and reliable solution is defined and fully implemented. This
15 will allow SSVEC to provide the best possible service to existing customers (under the
16 circumstances) without further degrading the already marginal service in the area which
17 would result if additional load were allowed on the V-7 Feeder Line.

18 **II. ADDITIONAL INFORMATION IN SUPPORT OF THE APPLICATION.**

19 The Application describes the seriousness of the power quality, reliability, and
20 capacity problem resulting in power fluctuations and outages that will continue to exist
21 within the Affected Areas that will be further exacerbated and further degrade the service
22 to existing members if additional load is added to the V-7 Feeder Line. It also references
23 the concerns raised by Staff at the August 17, 2009, Open Meeting regarding the impacts
24 on health and safety resulting from the voltage drops that occur on the line.¹ Accordingly,

25 _____
26 ¹ Rate Case Docket Open Meeting Transcript at page 155, line 23 through page 157, line 15; Application
at page 5. lines 12-15.

1 serve any legal purpose. The capacity issues relating to the V-7 Feeder Line are
2 uncontroverted. A hearing will only delay the Commission's consideration of the
3 Application, thereby prolonging and exacerbating the poor quality of service to the
4 Affected Areas.

5 **IV. CONCLUSION**

6 On the basis of the information set forth in the Application, as well as the
7 additional information set forth herein, SSVEC requests that the Commission grant its
8 Application at its next Open Meeting currently scheduled for November 19 and 20, 2009.

9 **RESPECTFULLY SUBMITTED** this 2nd day of November, 2009.

10 **SNELL & WILMER, L.L.P.**

11
12 By 

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14 **One Arizona Center**
15 **400 East Van Buren Street**
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18 **Electric Cooperative, Inc.**

19 **ORIGINAL and 13 copies filed this**
20 **2nd day of November, 2009, with:**

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23 **1200 West Washington**
24 **Phoenix, Arizona 85007**

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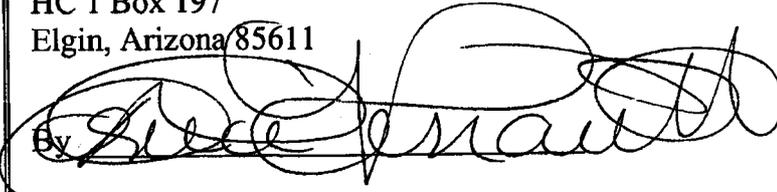
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