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Arizona Corporation Commission
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Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007
Attn: Docket Control

Docket No. E-01575A-09-0453

Re: Sulphur Springs Valley Electric Cooperative, Inc's filing on November 6, 2009:

- (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,

Subject: Intervenor Downing's Response to SSVEC filing of November 6, 2009 and Request for Denial of All the SSVEC Conclusions including a Motion for a Protective Order

This letter is in opposition to: (1) the motion in the reference filed by SSVEC that asks for a Protective Order Regarding Intervenor Discovery Requests, and (2) the Waiver of the 10-Day Exception Period for November 19, 2009, Open Meeting.

As an Intervenor in this matter, I oppose SSVEC's request for the reasons set forth below.

This is a decision that greatly affects the residents and businesses of Sonoita, Elgin, Canelo, Rain Valley, Patagonia and Whetstone ("affected areas"). All the facts need to be presented -- not just the ones that SSVEC has chosen to present. As an Intervenor and co-operative member/owner, I believe I am entitled to answers to my discovery questions. Instead, it appears that SSVEC is attempting to thwart my discovery and prevent disclosure of important relevant information.

There are other solutions that SSVEC could put into place in the interim period until the "independent" feasibility study is completed. These include leasing a peaker generation plant to meet conditions when peak is approached, implementing an effective demand side management program, and removing the Whetstone customers that are on the V-7 line. My discovery questions also seek information on whether SSVEC has adequately maintained the V-7 feeder and Huachuca Substation.

This case should proceed in a logical manner, allowing discovery, and testimony so that evidence is considered which shows that other options are more viable than SSVEC's proposed moratorium.

SSVEC's motion should be denied.

Specific responses to the referenced SSVEC filing (1) Comments and (2) Response are detailed below:

In the referenced SSVEC filing for (1) Comments:

- a. On page 2, staff's comments that are quoted, lines 7 to 14, {that state until mitigated by [1] either construction of the 69 kV Sonoita project or [2] by implementing appropriate alternatives that may be proposed in the independent study by a third party and by discussions at the public forums.

Comment: There are other quick and cost-effective alternatives, such as the removal of the Whetstone customers from the existing V-7 feeder and/or installation of a mobile, temporary generator set to meet additional immediate demand requirements while the study continues (if deemed necessary by the company) at a fraction of the cost compared to other options, that can be done in a very short period of time, IF the company started actions in that direction.

Conclusion: Other viable, cost-effective alternatives, readily available to the company were not considered.

Recommendation: That the company respond to these and other options. Further, the appropriate alternatives need to be assessed in a collaborative, open, public process that includes the cooperative membership involved with the affected area.

- b. On page 2, lines 21 to 23, company indicated that 11 customers have signed up electric service.

Comment: Santa Cruz County has not received over 2 building permits in the V-7 feeder area since August, thus there is no immediate need for electricity at present. Further, 11 homes at 7 kW each means 77 kW of additional generation would be needed by a mobile electric generator that could be leased for several thousand dollars, considerably less than many other options. Also, there are letters in this docket that indicate the company has added customer fear and coercion to this issue and encouraged applications to beat any Moratorium date. Also, several planned developments have failed in the past year that the company could be including as potential customers.

Conclusion: That the company closely monitors building permits to determine when future customers need electricity, and, if necessary, rent or lease a generator to support the V-7 area until the Commission has reviewed the feasibility study.

Recommendation: That the company determines actual needs based on real needs.

- c. On page 2, last line to page 3, line 5, the company requests that a hearing not be conducted and that the ten-day exception period be waived.

Comment: There are several alternatives that could be rapidly implemented (see a above) to resolve this issue. Further, there is now a second Party to these proceedings that has a right to request and demand that a hearing be held. Further, since urgency is not as critical as claimed and this will also be shown in testimony, then the normal process should continue, with all parties understanding that this issue is on the fast track but not "off the track".

Conclusion: That the company's position is considered as premature as viable alternatives exist.

Recommendation: That the company's request that waive a Hearing and Exceptions in this case be denied.

2. In the referenced filing (2) Response to Intervenor Comments:

- a. On page 3, lines 10 to 12, the company claims that "no controverted evidence" has been presented.

Comment: The Intervenor has not presented her evidence, thus the company's evidence maybe "uncontroverted" at this time but will not be the case after the Intervenor presents her evidence.

Conclusion: This Intervenor has not submitted her evidence to controvert that by the company because she has not had the opportunity to do so as of yet.

Comment: That the company ceases trying to prevent this party from presenting such evidence that that party has the right to present.

Recommendation: That these company's comments in this filing be ignored.

- b. On page 3, lines 13 and 14, the company complains that the maximum capacity has been reached on the distribution line for the V-7 feeder line. An attached figure in a recent letter by the CEO in this docket shows otherwise, specifically in the past five years that the 7 MW capacity of this line was not exceeded even once!

Comment: The Company makes misleading statements regarding its own evidence, a principle cause of concern to the Intervenor.

Conclusion: The Company's information has been, and appears to continue to be misleading, and that the facts in these matters need to be clarified to determine the truth.

Recommendation: The Company's comments in this filing be ignored on this issue.

- c. On page 3, line 20, footnote 3, the company's comment about the Intervenor's impact was not the reason for her request to intervene.

Comment. As a member of the cooperative, the Intervenor is concerned about the integrity and veracity of this organization and is particularly concerned regarding the affect that such a premature action as establishing a moratorium will have on the community. Obvious alternatives and corrective actions have been ignored for so long. There was no objection to this Intervenor by the company concerning this issue.

Conclusion: There is no merit in this comment.

Recommendation: That these company comments be ignored on this issue.

- d. On page 3 line 21, to page 4 line 4, the company objects to the first data request set submitted by this Intervenor.

Comment: The Company did not object to this Intervenor's request to intervene that clearly stated that discovery was being requested. Any objection to discovery should have been submitted at that time, not after receiving the first data request. This Intervenor needs information that is only held by the company in order to prepare evidence necessary for her case. The company's comments indicate that it does not object to ALL of the data requests.

Conclusion: There appears to be a discovery dispute, commonly occurring, and needs resolution.

Recommendations:

1. That these comments by the company should be ignored at this time as there was no specific objections to discovery in the request to intervene.
 2. That the routine process for discovery disputes should be followed. There has been no specific instruction on this issue by the Commission. This Intervenor is willing and ready to meet with the Administrative Law Judge (ALJ) and the company to discuss each data request, show how it is relevant to these proceedings, and request that the ALJ determine that the company be required to respond, to ignore or to modify individual data requests as appropriate.
- e. On page 4 lines 4 to 7, the company requests that the Commission determine that a hearing is not necessary and that a Recommended Order be presented at the 19-20 November Open Meeting.

Comment: There are valid reasons why a hearing should be held, as elaborated above.

Conclusion: The rights of the Intervenor in this case are being ignored by the company.

Recommendation: That this company's comment in this filing be ignored on this issue.

- f. On page 4, line 7 to 12, the company indicated it does not intend to respond to any data request until a Procedural Order has been issued to clarify these issues.

Comment: The company stated (page 3 last line) that many [but not all] data requests are objectionable.

Conclusion: Some data requests are NOT objectionable.

Recommendation: That the company responds to all such data requests by this Intervenor not later than 14 November.

3. **Company's Conclusions** on page 4 lines 14 to 21. See 1 and 2 above.

4. **Recommendations:**

1. That all three SSVEC Conclusions be denied;

2. That a Procedural Order be issued to resolve the discovery issues;
3. That SSVEC respond by 14 November to the Intervenor's "non-objectionable" data requests;
and
5. Copies of this filing have been mailed or delivered to all parties as of this date.

Sincerely,



Sue Downing, Intervenor

Cc:

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