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BEFORE THE ARIZONA CORPORATION COMMISSION

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COMMISSIONERS

2009 DEC -3 P 4: 46

KRISTIN K. MAYES—Chairman  
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AZ CORP COMMISSION  
DOCKET CONTROL

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 MOTION TO STAY  
PROCEDURAL SCHEDULE**

*Expedited Telephonic Procedural  
Conference Requested*

Following the Procedural Conference held on November 24, 2009, the Administrative Law Judge (“ALJ”) in the above-captioned matter issued a Procedural Order that: (i) scheduled the matter for hearing on January 20, 2010; (ii) set forth a procedural schedule for the filing of comments and/or testimony; (iii) established an intervention deadline; and (iv) set forth notice requirements for Sulphur Springs Valley Electric Cooperative, Inc. (“SSVEC” or “Cooperative”). For the reasons set forth below, SSVEC, through counsel undersigned, hereby requests a 45-day stay of the proceeding. In the alternative, if the ALJ is not inclined to grant the requested stay, SSVEC moves for a revised procedural schedule to push back all dates and deadlines by approximately 45 days. SSVEC further requests that in light of the upcoming deadline set forth in the Procedural Order for the provision of member notice, that a telephonic procedural conference be scheduled as expeditiously as possible for the ALJ to consider this Motion.

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Arizona Corporation Commission

**DOCKETED**

DEC - 3 2009

DOCKETED BY

Snell & Wilmer

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Phoenix, Arizona 85004-2202  
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1                   **BACKGROUND**

2                   On September 18, 2009, SSVEC filed an Application for an Order Instituting a  
3 Moratorium (“Application”). As more fully described in the Application, this action was  
4 necessitated by the September 8, 2009, Arizona Corporation Commission  
5 (“Commission”) Decision No. 71274 (“Decision”) in Docket No. E-01575A-08-0328 (the  
6 “Rate Case Docket”) that expressly prohibits (until further Order of the Commission) the  
7 Cooperative from constructing a 69 kV sub-transmission power line (“69 kV line”) to  
8 serve the Whetstone, Rain Valley, Elgin, Canelo, Sonoita, and Patagonia, Arizona, areas  
9 (collectively the “Affected Areas”). SSVEC had previously planned and scheduled  
10 principle construction of the 69 kV line in the fall of 2009 because the Cooperative’s  
11 documentation and analysis determined it necessary to alleviate significant power quality,  
12 reliability, and capacity constraints resulting in power fluctuations and outages in the  
13 Affected Areas that are currently served by the Cooperative’s existing V-7 Feeder Line.

14                   In light of the Commission’s Decision ordering SSVEC to stop construction of the  
15 69 kV line, SSVEC’s Application requests the Commission to issue an order authorizing  
16 the Cooperative to institute a moratorium on new and/or expanded service connections to  
17 its V-7 Feeder Line so the power quality, reliability, and capacity problem resulting in  
18 power fluctuations and outages that will continue to exist within the Affected Areas will  
19 not further exacerbate or degrade service to existing members. SSVEC further requested  
20 that its Application be granted as expeditiously as possible and without the necessity of a  
21 hearing. SSVEC filed its Application well in advance of the critical 2009/2010 winter  
22 peak season for the V-7 Feeder Line where additional hook-ups during this time would  
23 further exacerbate the situation.

24                   On November 4, 2009, the Commission’s Utilities Division (“Staff”) filed its Staff  
25 Report recommending that the Cooperative’s Application be approved. On November 5,  
26 2009, Intervenor Susan Downing docketed comments in opposition to SSVEC’s request

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1 that the Application be granted without a hearing. At the November 24, 2009, Procedural  
2 Conference, the Parties discussed with the ALJ their respective positions.

3 SSVEC has maintained in its various filings and at the November 24, 2009,  
4 Procedural Conference that the Commission needed to act to grant either an interim or  
5 permanent moratorium no later than the end of this year because the Cooperative's winter  
6 peak on the V-7 Feeder Line was fast approaching. SSVEC's Application was filed well  
7 in advance of the critical 2009/2010 winter peak season in order to maintain the status quo  
8 regarding the current level of reliability and quality of service for the over 2,000  
9 Cooperative members within the Affected Areas. Notwithstanding the Cooperative's  
10 arguments to the contrary, the ALJ found that "a hearing is necessary to resolve the  
11 disparate positions on the need for a moratorium."<sup>1</sup> However, the ALJ recognized that  
12 "given the nature of a moratorium request, the hearing should be set as expeditiously as  
13 practical given the requirements of due process and the Commission's calendar."<sup>2</sup> The  
14 Procedural Order then sets the hearing to be held on January 20, 2010.

### 15 SSVEC'S REQUEST FOR A 45-DAY STAY OF THE PROCEEDING

16 SSVEC continues to maintain that an immediate moratorium on new hook-ups is  
17 necessary to, at the very least, maintain the status quo during the upcoming winter peak  
18 season. SSVEC has further maintained that a hearing was not necessary and would only  
19 result in a delay. The Cooperative has done everything it can reasonably do at this point  
20 to provide the Commission sufficient information for the Commission to grant the  
21 requested relief. SSVEC's actions have been confirmed by Staff in its Staff Report, and  
22 Staff agreed that the Application could be granted without a hearing. Under the  
23 circumstances, SSVEC has focused its limited resources on securing a moratorium for the  
24 residents of the Affected Area prior to the critical 2009/2010 winter peak season and did

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26 <sup>1</sup> November 30, 2009, Procedural Order at page 2, line 5.

<sup>2</sup> *Id.* at lines 5-7.

1 not anticipate that a hearing would be required, thereby delaying the requested relief  
2 beyond the 2009/2010 winter peak season. Even if a hearing was to be held on January  
3 20, 2010, following briefing and the issuance of a recommended opinion and order to the  
4 Commission, SSVEC believes that the earliest the Commission could act on the  
5 Application would be sometime in March 2010. At that point, the critical winter peak  
6 season will have passed and the urgency for the moratorium will have lessened.

7         Additionally, SSVEC is a small rural cooperative with limited staff and resources.  
8 Given the time of year and various commitments that the Cooperative must fulfill in the  
9 December/January timeframe, SSVEC will not have the time or resources to adequately  
10 prepare for a hearing on January 20, 2010, including responding to the numerous data  
11 requests that have already been issued, preparing its own discovery requests to be  
12 propounded on the Intervenor, preparing and filing testimony on January 15, 2010, and  
13 participating at the hearing on January 20, 2010.

14         Finally, since the Application cannot now be granted in time for the critical winter  
15 peak season, there may be further impact on the positions of the Parties in this proceeding  
16 due to the results of the independent feasibility study ordered in the Rate Case Docket,  
17 which will be filed on December 31, 2009.

18         SSVEC requests that the entire procedural schedule be stayed for approximately 45  
19 days. The Commission's final decision on the Application will not be issued in time to  
20 address the critical winter peak season. The 45 additional days will provide SSVEC the  
21 opportunity to devote its limited personnel towards adequately preparing for the hearing.  
22 Moreover, additional information will be available at such time regarding the results of  
23 the independent feasibility and the procedural status of the reconsideration proceeding in  
24 the Rate Case Docket which can be assessed in conjunction with this proceeding. SSVEC  
25 proposes that the January 20, 2010, hearing date be used for a procedural status  
26 conference. At such time, a new procedural schedule, including hearing, notice, and

1 discovery requirements can be assessed.

2 **REVISED PROCEDURAL SCHEDULE**

3 For the same reasons discussed above, if the ALJ decides to not grant the  
4 Cooperative's request for a 45-day stay of the proceedings, SSVEC requests that a revised  
5 procedural schedule be issued that pushes the hearing and all deadlines back by  
6 approximately 45 days. SSVEC simply does not have available resources to adequately  
7 prepare for a hearing to be held on January 20, 2010. Moreover, in light of the fact that a  
8 moratorium cannot now be instituted in time for the critical 2009/2010 winter peak  
9 season, there is no longer a need to have a quick hearing as the requested relief will not  
10 occur in time to alleviate the more immediate concern regarding the winter peak season  
11 and the V-7 Feeder Line. Finally, by pushing the deadlines back 45 days, the Parties will  
12 be able to evaluate the results of the independent feasibility study and determine to what  
13 extent such results are relevant to the evidence to be presented at a hearing.

14 **REQUEST FOR EXPEDITED TELEPHONIC PROCEDURAL**  
15 **CONFERENCE**

16 In light of the accelerated deadlines set forth in the November 30, 2009, Procedural  
17 Order, including the requirement that SSVEC mail and publish notice by December 15,  
18 2009, SSVEC requests that a telephonic procedural conference be held as expeditiously as  
19 possible.<sup>3</sup> Moreover, if SSVEC's request for a 45-day stay is not granted, SSVEC  
20 believes that the Procedural Order needs to be clarified to address various issues, and  
21 SSVEC would like the opportunity to seek such clarifications prior to the issuance of any  
22 public notice.<sup>4</sup>

23 ...

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25 <sup>3</sup> Because some of the newspapers of general circulation in the Affected Areas are published weekly, the  
lead time necessary for SSVEC to mail and publish notice is approximately 7 to 10 days at a minimum.

26 <sup>4</sup> Those issues include the introduction of comments or testimony into the evidentiary record, discovery,  
and *ex parte* concerns.

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**CONCLUSION**

As it has been determined that a hearing is necessary, which will result in final Commission consideration of the Application after the peak winter season for the V-7 Feeder Line, there is no longer a need to have such hearing as soon as January 20, 2010, as the requested relief will not be granted prior to the most critical time. SSVEC is the applicant in this proceeding which has requested the moratorium. Requiring SSVEC to prepare for such a hearing given the current demands on its limited resources will unduly and unnecessarily burden the Cooperative. Moreover, additional information will be available after December 31, 2009, that may impact this proceeding. Therefore, SSVEC requests that the ALJ grant its request for a 45-day stay of the entire proceeding. In the alternative, SSVEC requests a revised procedural schedule for this proceeding that will push back all dates and deadlines by 45 days. Finally, in light of the notice requirement set forth in the November 30, 2009, Procedural Order, SSVEC requests that a telephonic procedural conference be held as soon as possible.

RESPECTFULLY SUBMITTED this 3rd day of December, 2009.

SNELL & WILMER L.L.P.

By 

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2 3rd day of December, 2009, with:

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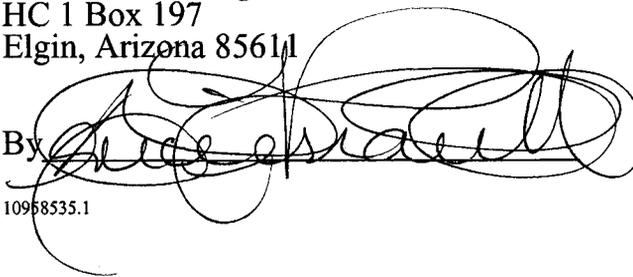
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