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BEFORE THE ARIZONA CORPORATION COMMISSION

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Arizona Corporation Commission

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IN THE MATTER OF THE APPLICATION
OF SULPHUR SPRINGS VALLEY
ELECTRIC COOPERATIVE FOR
APPROVAL OF THE NET METERING
TARIFFS AND THE ADMINISTRATION OF
THE REST PROGRAM

Docket No. E-0157A-09-0429

5

Application for a REHEARING and to
Reconsider ACC Order. No. 71456

This application requests that a rehearing be held in this matter and reconsideration of ACC Decision and Order No. 71458 of January 6, 2010 in accordance with A.R.S. §40-253.

On September 4, 2009 Sulphur Springs Valley Electric Cooperative (SSVEC) submitted their 2010 REST plan and 2010 Net Metering Tariffs. Administrative Law Judge Rodda approved James F. Rowley III as an Intervenor in this matter in the Commission Procedural Order of October 2, 2009.

After approval as an Intervenor, Mr. Rowley requested and received Discovery from SSVEC. During the Discovery process several items of evidence that are of major concern were uncovered. It is clear that SSVEC had requested and was approved to borrow money from the Clean Renewable Energy Bonds (CREB) to finance a program to install photovoltaic's (PV) on shade covers on schools within their service territory. After approval was granted, SSVEC contracted with Solon to install systems on 41 schools at a cost of \$11.77 per installed DC watt. This is at least one and one half times the normal and customary cost of installing PV. Because of this choice SSVEC is obligated to spend \$1,045,000 per year to repay the debt. The repayment of the CREB, when taken from the REST PROGRAM, was 74.9% of the total collections SSVEC received from the 2009 REST

1 Tariff. The CREB payments have caused a "Train Wreck" of the SSVEC REST program.
2
3 During discovery SSVEC stated it would take 182 years to meet the rebate obligations
4 customers had submitted as of October 22, 2009 under the current 2009 REST Tariff.

5 On December 22, 2009 during an open meeting of the Commission approved
6
7 SSVEC's 2010 REST plan with modifications in ACC Decision and Order. No. 71458. This
8 plan, as approved, does not allow for normal and customary rebates for SSVEC's
9 owner/members or for contractors to recover costs. The approval of SSVEC's 2010 REST
10 plan will still leave a 3 year back log of present rebate commitments (as stated by Jack Blair
11 of SSVEC) and cause undo financial hardships on: 1) the owner/members who have already
12 installed renewable energy systems, in response to promotion of the SUNWATTS rebate
13 program, 2) those who are on the waiting list for the rebates, 3) members wishing to install
14 systems in the future, and 4) businesses that provide Renewable Energy System
15 installations. I submit this action is arbitrary, capricious, discriminatory, and a disregard for
16 SSVEC owner/members rights as cooperative members to receive REST rebates within a
17 normal and customary time period, as evidenced by other electrical utilities in the state of
18 Arizona.
19
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22

23 For these reasons, I respectfully request a rehearing be held to hear the facts and to
24 develop a fair and reasonable SSVEC REST plan for 2010 to meet the needs of the SSVEC
25 member/owners, renewable energy contractors and the company.
26

27 I certify this filing has been mailed to all parties shown on the Distribution List below.

28 Respectfully submitted on this 11th day of January, 2010.

29
30 JAMES F. ROWLEY, III

31 By 

32 James F. Rowley, III

33 HC 1 Box 259

34 Elgin, Arizona 85611-9712

35 (520)455-0404

jfrowleyIII@msn.com

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Distribution List

Original and 13 copies of the foregoing are filed this date:

Docket Control (13 copies)
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007-2927

Jane L. Rodda, Administrative Law Judge (1 copy)
Hearing Division, Arizona Corporation Commission, Room 218
Arizona Regional Offices
400 West Congress
Tucson, Arizona 85701-1347

Sulphur Springs Valley Electric Cooperative (1 copy)
Jack Blair
Chief Member Services Officer
311 East. Wilcox
Sierra Vista, Arizona 85635

NOTIFICATION OF INCOMPLETE BLUESTAKE

Fax # 520-455-8404 Date Faxed 1/12/10 Time 2:51

Blue Stake Ticket # 2010010800701.000 Original Due Date 1/12/10

Location: Patagonia Hill Dr + AZ R782

To Whom It May Concern: Kathleen Rowley with Elgin Energy

ARIZONA REVISED STATUTE 6.3

Sec. 40-360.22 Paragraph "J"

"An excavator that requests facility markings shall limit the request to an area that can reasonably be excavated within the validity period of the markings. A person who violates this subsection is liable to the one-call notification center and to all affected underground facilities operators for any damages proximately caused by the violation, including economic loss."

Sec. 40-360.22 Paragraph "B"

"The owner of the facility shall respond as promptly as practical, but in no event later than two working days. No person shall begin excavating before the location and markings are complete or the excavator is notified that marking is unnecessary."

Sec. 40-360.22 Paragraph "I"

"If an underground facility operator is unable to complete the location and marking within the time period provided by subsection B of this section, the facility operator shall satisfy the requirements of this section by proving prompt notice of these facts to the excavator and assigning one or more representatives to be present on the excavation site at all pertinent times as requested by the excavator to provide facility location services until the facilities have been located and marked or the excavator is notified that marking is unnecessary pursuant to any mutually agreeable method. A person that receives notice from the underground facility operator of these facts shall not begin excavating before the underground facility operator has completed marking the underground facility or the excavator is notified that marking is unnecessary. Except as provided in subsection "J" of this section, the underground facility operator shall bear all of its own expenses associated with assigning representatives.

As allowed by these sections, we are notifying you ELM Locating & Utility Services, responsible for marking Qwest SWG COX APS were unable to complete our markings on your Blue Stake ticket (see specifics above) within the required two working days due to:

- Extensive boundaries of your locate request
- Our inability to find existing facilities using standard methods

Other: Unable to Complete by the due date -

Please contact us IMMEDIATELY to set-up a site meet to discuss pertinent times and locations where you will be excavating so we can avoid damage to these facilities. You can reach us by calling the following numbers:

Area Locator: Mark Norzagaray Phone #: 349-7362
Fax#: 623-869-0809 Area Supervisor: Mike Norman

Jan. 12. 2010 3:04PM