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BEFORE THE ARIZONA CORPORATION COMMISSION

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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

**SULPHUR SPRINGS VALLEY
ELECTRIC COOPERATIVE,
INC'S REPLY TO RESPONSE IN
OPPOSITION TO PETITION TO
AMEND DECISION NO. 71274
PURSUANT TO A.R.S. §40-252
AND FOR RELATED
AUTHORIZATION**

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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* ("Petition"). The primary basis for the Cooperative's position is that the Commission-ordered Independent Feasibility Study ("Independent Study") completely corroborates the Cooperative's position regarding the preferred alternative, building the 69 kV line, and the necessity of immediate construction of the 69 kV line and substation to resolve the power quality issues in the Affected Areas. On January 22, 2010, Intervenor Susan Scott filed her Response in Opposition to the Petition ("Response"). SSVEC, through counsel undersigned, hereby submits this Reply to the Response.

Arizona Corporation Commission
DOCKETED

JAN 26 2010

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1 **I. THE PETITION DOES PROVIDE COMPELLING REASONS TO**
2 **EXPEDITE CONSTRUCTION OF THE 69 KV LINE.**

3 Notwithstanding the Response's assertion to the contrary, the Petition provides
4 compelling reasons that it is in the public interest to expedite the commencement of
5 construction of the 69 kV line. The Response states that "[t]runcating the process before
6 the public forums are held negates the effort and expense of the Feasibility Study."¹ This
7 is a mischaracterization of the intended purpose of the Independent Study. Specifically,
8 the Commission ordered the Independent Study to provide independent third-party
9 verification of SSVEC's analysis and plans to build the 69 kV line, as well as to consider
10 all other viable options, including the use of renewable resources, to mitigate the need for
11 construction of the proposed 69 kV line and substation. The Independent Study did just
12 that. However, because the Independent Study's conclusions and recommendations
13 support the Cooperative's position, including the exigent circumstances that continue to
14 exist in the Affected Areas, and is contrary to the position taken by the Intervenor, the
15 Response goes on to disparage the Cooperative's desire and responsibility to
16 expeditiously move forward by alleging "disdain with which SSVEC holds public
17 input."²

18 The Response cites to isolated sections from the Independent Study that purport to
19 "not support SSVEC's conclusions," notwithstanding the fact that such citations do not
20 impact the Independent Study's seminal conclusions or recommendations regarding the
21 necessity for the expeditious construction of the 69 kV line. This has been done in an
22 attempt to justify the Intervenor's request for further proceedings and for additional delay.
23 Although SSVEC will not reply to every section cited in the Response, SSVEC believes
24 it is noteworthy to reply to the following:

25 ¹ Response at page 2, lines 29-20.

26 ² *Id.* at page 3, line 3 (emphasis added.).

1 *a. Figure 2: Annual Average Outage Hours per Customer for the*
2 *past 10 years equals 3 hours, not the 270 hours that SSVEC stated*
3 *in its Rate Case and to the Commission.*³

4 There are multiple indices used for reporting outage data, each for specific analysis
5 purposes. SSVEC's Average 270 Total Hours Out is a total system analysis index which
6 calculates and compares the performance of all SSVEC's feeders. The Annual Average
7 Outage Hours per Customer is a calculation for specific feeder analysis. Therefore, the
8 two indices are not comparable, and as the Independent Study only provided for analysis
9 of the V7 feeder, Navigant Consulting, Inc. ("Navigant") would not have made these
10 comparisons.

11 *d. On Page 60: "Most outages impact less than 10 customers.*
12 *Hence, none of the supply options cited above are likely to*
13 *significantly improve V7 feeder reliability" (including the 69kV*
14 *line).*⁴

15 The Response conveniently fails to continue the sentence on page 60 of the Independent
16 Study, which states:

17 *- the 69kV supply options provide the greatest reliability benefit,*
18 *as the separation of one feeder into four would reduce customer*
19 *interruptions and average outage hours by up to 30 percent.*

20 Read in complete context, this statement cited by the Intervenor does, in fact, corroborate
21 SSVEC's analysis and conclusions that the proposed 69 kV line provides the greatest
22 reliability benefit and recommends the construction of the 69kV line and new substation,
23 with four separate feeders, in Sonoita.

24 *e. On Page 64: the preferred alternative on the basis of*
25 *economics alone is demand reduction. A close alternative is the*
26 *installation of diesel generators in Sonoita.*⁵

 The Response argues that the Independent Study: "*bypassed the most logical solution to*
peak service demand – using natural gas to power a generator for those rare occasions

³ *Id.* lines 21-23.

⁴ *Id.* at page 4, lines 2-6. Note that that the words "including the 69 kV line" are not in the Independent Study.

⁵ *Id.* at lines 11-15.

1 when demand exceeds line capacity,”⁶ and then goes on to accuse SSVEC (without any
2 basis whatsoever) of not providing relevant data to Navigant:

3 *Apparently Navigant Consulting was not informed of the potential*
4 *availability of distributive natural gas in Patagonia....”*⁷

5 On Page 53 of the Independent Study, Navigant identifies twenty (20) supply alternative
6 options that were studied – of which a natural gas generator was, in fact, included.
7 However, on Page 51 of the Independent Study, regarding the distributed generation
8 (DG) analysis, the Independent Study concluded that “the preferred location would be
9 the Sonoita substation site” where there is no distributive natural gas supply.

10 *f. On Page 81: an archaeological survey of the proposed project*
*will be necessary should the project move forward.*⁸

11 The Response further states:

12 *Approving this petition will allow SSVEC to circumvent this*
13 *extremely important step in protecting potential historical sites.*
14 *Do not let them bulldoze our cultural heritage or our grasslands*
without this recommended preconstruction archaeological survey
*and analysis.*⁹

15 Yet Page 80 of Independent Study states:

16 *In addition to the studies identified by AZSITE, SSVEC retained*
17 *Tierra Right of Way Services to complete a cultural resources*
*survey of the proposed T1 route (Tierra, 2009).*¹⁰

18 This demonstrates that SSVEC has already complied with Navigant’s recommendation in
19 this regard and had previously determined that there is no significant impact. Moreover,
20 the proposed T1 route for the 69 kV line has already been considerably disturbed in
21 recent years.

22 However, none of the above citations and arguments goes to the most critical and
23 relevant conclusions and recommendations of the Independent Study, which form the

24 ⁶ *Id.* at lines 18-20.

25 ⁷ *Id.* at lines 21-22.

26 ⁸ *Id.* at lines 24-27.

⁹ *Id.* at lines 29-32.

¹⁰ The referenced T-1 route is the route that SSVEC has chosen for the proposed 69 kV line.

1 basis of SSVEC's Petition. Those conclusions and recommendations are set forth in the
2 Petition as follows:

3 The preferred alternative based on feeder performance and firm
4 capacity requirements is the construction of the new 69kV line
5 along the Ranch where SSVEC has easement rights.¹¹

6 ...the T-1 route has the least visual constraints due to its relatively
7 lower exposure to residential and roadway views. In addition,
8 most of this route variation follows existing distribution lines
9 which would tend to decrease the degree of noticeable visual
10 change.¹²

11 Most renewable energy options, including wind and solar
12 photovoltaic, did not provide sufficient coincident peak load
13 reduction to be feasible – the feeder peak occurs during cold
14 winter mornings when the sun is low on the horizon.¹³

15 The results of NCI's investigation indicates SSVEC should take
16 immediate action to address current performance issues and
17 capacity limits, including carefully assessing the impact of
18 customer requests for new or expanded service on V-7 feeder
19 performance capacity.¹⁴

20 It is not because of “disdain” that SSVEC has filed its Petition, which quotes the
21 ultimate conclusions and recommendations from the Independent Study set forth above,
22 but because of concern for its all of its members that are being harmed by the time,
23 resources, and money (as well as unreliable service within the Affected Areas) that will
24 continue to be expended if SSVEC's Petition is not granted and construction is further
25 delayed.

26 **II. THE RESPONSE MISCHARACTERIZES THE INTENT OF THE PETITION IN RELATION TO DECISION NO. 71274.**

Page 2, lines 6-12, of the Response purports to directly quote language from page
39 of Decision No. 71274 dated September 8, 2009 (the “Decision”) when, in fact, the
Response has taken language from two different paragraphs on page 39 and

¹¹ Independent Study at page 5.

¹² *Id.* at page 72 (emphasis added.) The referenced T-1 route is the route that SSVEC has chosen for the proposed 69 kV line.

¹³ *Id.* at page 5 (emphasis added.)

¹⁴ *Id.* at page 3 (emphasis added.)

1 inappropriately combined them to mischaracterize the intent of the Petition. Consistent
2 with the Decision, SSVEC's Petition provides that the Cooperative will still conduct
3 public forums addressing how renewable energy generation (in particular, distributed
4 generation) could be incorporated into the generation plans to serve the area covered by
5 the planned 69 kV line and associated upgrades. Therefore, SSVEC will file a report by
6 July 31, 2010, discussing the outcome of this public process and also discussing how the
7 Cooperative plans to incorporate the reasonable and effective renewable energy proposals
8 resulting from the public forums. Although the public forums will include an opportunity
9 for community members' discussion of the Independent Study, the public forums were
10 not designed to obtain information that could alter or modify the underlying conclusions
11 and recommendations presented by the Independent Study. Therefore, there is no need to
12 continue to delay the Project until after the public forums are concluded.

13 The Response also states:

14 *SSVEC's petition now seeks that the ACC vacate its Order for*
15 *forums allowing public input into the Feasibility Study and*
16 *requests immediate construction of the 69kv line be allowed to*
17 *commence..*¹⁵

18 The Petition does not request the Commission vacate the requirement to hold public
19 forums. To the contrary, the Petition expressly provides that it will continue to hold the
20 public forums consistent with the Decision. Moreover, although there was community
21 input provided prior to the selection of Navigant and the commencement of the
22 Independent Study (as discussed in the Petition), there can be no further public input into
23 the Independent Study itself since it has already been completed. The Independent Study
24 was conducted and filed with the Commission in full compliance with the Decision.
25 Unfortunately, for those that oppose the 69 kV line, the Independent Study supports the
26 Cooperative's position on the immediate need for construction of the 69 kV line and new

¹⁵ Response at page 2, lines 14-15.

1 substation. The purpose of the public forums is not to re-write or change the findings of
2 the Independent Study as implied by the Response, but to explore ways of supplementing
3 the generation needs of the Affected Areas with renewable generation.

4 III. CONCLUSION.

5 The Independent Study was conducted, in part, because those individuals that
6 opposed the construction of the 69 kV line asked the Commission to order confirmation
7 of the Cooperative's analysis and to ensure that all other proven viable alternatives,
8 including the use of renewable generation to mitigate the need for the 69 kV line were
9 explored. Because the Independent Study supports the Cooperative's position and not
10 that of those which oppose the 69 kV line, the only tactic left for the opposition is to now
11 attack the very Independent Study that they themselves requested of the Commission.
12 The Response now asks for "full discovery" of the Independent Study¹⁶ and remarkably
13 implies that the Independent Study was not "independent."¹⁷

14 The heading of Section II of the Response states:

15 *Discovery regarding the "Independence of the Feasibility Study*
16 *needs to occur before the ACC can make any determination of the*
*Navigant Study's Validity.*¹⁸

17 Because the Independent Study supports the Cooperative's analysis for immediate
18 construction of the 69 kV line and substation, the only option open to those that oppose
19 the 69 kV line is to now attack the validity and independence of Navigant and the
20 Independent Study itself. In support, the Response quotes from the Independent Study,
21 which states:

22 *The analysis was completed without direct or indirect*
*participation from SSVEC staff, management or its customers.*¹⁹

23 The Response further implies impropriety by stating that SSVEC's estimated total costs

24 _____
25 ¹⁶ Response at page 5, line 7.

26 ¹⁷ *Id.* at lines 14-29.

¹⁸ *Id.* lines 14-17.

¹⁹ Independent Study at page 1.

1 for the Independent Study, “seems to indicate that considerable staff and attorney time
2 were involved with this ‘independent’ study.”²⁰ The approximately \$360,000 estimated
3 total cost incorporates Navigant’s costs/expenses, TRC’s costs/expenses, and SSVEC
4 staff’s costs to acquire all data items as requested by Navigant. Moreover, Navigant
5 expressly states on Page 1 of the Independent Study that:

6 *All findings presented herein were prepared independently,*
7 *without bias or prior knowledge of feeder performance issues or*
8 *concerns raised by customers and other interested parties.*

9 Finally, the Response does not refute the facts raised in the Petition that the
10 Affected Areas continue to experience significant outages, as identified in the Petition for
11 December 8, 2009, and December 23, 2009, and as stated on Page 92 of the Independent
12 Study:

13 *The V7 feeder is a very long circuit that is nearing or at capacity*
14 *limits. ... Immediate action is necessary to address V7 capacity*
15 *and performance issues.*

16 Therefore, the longer SSVEC is delayed, the problem will only become more acute. The
17 Response also did not address the issue that further delay will result in SSVEC
18 potentially losing millions of dollars in Clean Renewable Energy Bonds and American
19 Relief and Recovery Act grant money that can directly benefit the Affected Areas and the
20 Cooperative as a whole with proven renewable energy projects. Nor does the Response
21 address SSVEC’s offer to withdraw the Applications for Reconsideration and
22 Moratorium if the relief requested in the Petition is granted. All of the above would
23 clearly benefit not only those members residing in the Affected Areas, but SSVEC’s
24 entire membership.

25 SSVEC’s Petition demonstrates that it has been, and is, doing everything it
26 possibly can that is in the best interests of all of its members, which the Cooperative
believes overwhelming supports its actions. Further delay of this process will only result

²⁰ Response at page 5, lines 28-29.

1 in a detriment of the approximately 2,400 customers within the Affected Areas, as well as
2 the approximately 52,000 customers who will continue to have its Cooperative's
3 resources expended on this issue. This is clearly not in the public interest.

4 Based upon the overall public interest considerations set forth in the Petition, the
5 Cooperative requests that the Commission expeditiously grant the Petition.

6 RESPECTFULLY SUBMITTED this 26th day of January, 2010.

7 SNELL & WILMER LLP.

8
9 By 

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14 Attorneys for Sulphur Springs Valley
15 Electric Cooperative, Inc.

14 ORIGINAL and 13 copies of the foregoing
15 filed this 26th day of January, 2010, with:

16 Docket Control
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19 Phoenix, Arizona 85007

18 COPIES of the foregoing hand-delivered
19 this 26th day of January, 2010, to:

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COPY of the foregoing mailed/e-mailed
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