

ORIGINAL

BEFORE THE ARIZONA CORPORATION COMMISSION



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1 COMMISSIONERS  
2 **Kristin K. Mayes**  
3 **Gary Pierce**  
4 **Sandra D. Kennedy**  
5 **Paul Newman**  
6 **Bob Stump**

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Arizona Corporation Commission

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ARIZONA CORPORATION COMMISSION  
DOCKET CONTROL



7 IN THE MATTER OF THE APPLICATION OF SULPHUR SPRINGS  
8 VALLEY ELECTRIC COOPERATIVE, INC., FOR A HEARING TO  
9 DETERMINE THE FAIR VALUE OF ITS PROPERTY FOR  
10 RATEMAKING PURPOSES, TO FIX A JUST AND REASONABLE  
11 RETURN THEREON, TO APPROVE RATES DESIGNED TO  
12 DEVELOP SUCH RETURN AND FOR RELATED APPROVALS.

Docket No. E-01575A-08-0328

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

Docket No. E-01575A-09-0453

24 April 2010

14 NOTICE OF FILING

15 **RESPONSE TO SSVEC's OBJECTION AND MOTION TO STRIKE MAGRUDER WITNESS**  
16 **RESPONSES TO ORAL TESTIMONIES AND PUBLIC COMMENTS**

17 On 21 April 2010, SSVEC's attorney filed an "Objection and Motion to Strike Late-Filed  
18 Intervenor Witness Testimony." Unfortunately, Mr. Carroll did not understand my filing on 15  
19 April 2010 that was titled "Marshall Magruder's Testimony Summary with Responses to Oral  
20 Testimonies and Public Comments in Support of Intervenor Sue Downing." The testimony  
21 summary is a 1 page Summary of Conclusions and Recommendations (Section 1) and Closing  
22 Arguments and Position (Section 2), in compliance with the ALJ's instructions.

23 His term "late filed testimony" is improperly used for a "supplemental testimony" outlined  
24 in my Testimony of 16 March 2010. As explained in the pre-hearing procedural conference, that  
25 supplemental testimony would be filed only if the §40-252 petition is denied. It is not in the  
26 filing the subject of the objection. **There was no "late-filed testimony"**. This is not an issue.

27 As explained in the referenced response,

28 "I was placed on the witness stand after 5 PM on Friday. We were all tired. I started with 'I  
29 might need to be here until midnight' to orally rebut prior witnesses and Public  
30 Comments. My responses need a fair and reasonable hearing. As a witness, I could not  
object when asked to "summarize" my testimony as I was just getting started to respond

1 to many Public Comments and oral testimonies by the Cooperative and Commission  
Staff. **This is that response.**" [Pp. 1-2, emphasis added]

2 That response was to the SSVEC witnesses' oral testimonies, the Commission's oral  
3 testimony and various cross-examinations in Sections 3 to 6, and responses to the Public  
4 Comments in Section 7. Little "new" information was in the 15 April 2010 filing but the  
5 comments of what I would have said on the stand if time permitted, as responses to the dozens  
6 of direct references to my pre-filed testimony, applicant's cross-examinations, needed replies.

7 Further, this was not a surrebuttal testimony related to pre-filed testimonies, but to the two  
8 days of public comments, oral testimonies and cross-examinations by the applicant. My pre-filed  
9 testimony was in a majority of Mr. Carroll's questions to his witnesses, all to discredit my  
10 testimony. In all fairness, I needed time to respond. That time just was not available.

11 The only "new" item was learning that the Feasibility Study was based on alternatives  
12 available for "next" winter (starting in 2010) and the statement by Mr. Carroll that late in 2011  
13 was the earliest that the 69 kV line be operational. The transcript (p. 258) shows all the "build"  
14 renewable energy alternatives were based on different time criteria than the company. Thus, all  
15 renewable energy alternatives are excluded; in my view, by this significant one-year difference.

16 In summary, it would be most helpful for Mr. Carroll to not keep filing these frivolous  
17 motions, but he is the only one who is making money from this experience. I am sure that the  
18 ALJ can see through this smoke screen. In fact, if I were the ALJ, I would find it insulting to have  
19 received this motion. The Judge can easily make that determination without any help from Mr.  
20 Carroll, therefore this motion should be summarily denied.

21 I certify this filing has been mailed or delivered to parties on the Service List this date.

22 Respectfully submitted on this 24<sup>th</sup> day of April 2010.

23 MARSHALL MAGRUDER

24  
25 By 

26 Marshall Magruder

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