

# OPEN MEETING ITEM



0000112025

**COMMISSIONERS**  
KRISTIN K. MAYES – Chairman  
GARY PIERCE  
PAUL NEWMAN  
SANDRA D. KENNEDY  
BOB STUMP

**ARIZONA CORPORATION COMMISSION**

**ORIGINAL**

Arizona Corporation Commission  
**DOCKETED**

MAY 28 2010

DATE: MAY 28, 2010  
DOCKET NOS.: E-01575A-08-0328 and E-01575A-09-0453  
TO ALL PARTIES:

DOCKETED BY

Enclosed please find the recommendation of Administrative Law Judge Jane L. Rodda. The recommendation has been filed in the form of an Opinion and Order on:

**SULPHUR SPRINGS VALLEY ELECTRIC COOPERATIVE, INC.**  
**(RATES/MORATORIUM)**

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Administrative Law Judge by filing an original and thirteen (13) copies of the exceptions with the Commission's Docket Control at the address listed below by **4:00** p.m. on or before:

JUNE 10, 2010

The enclosed is NOT an order of the Commission, but a recommendation of the Administrative Law Judge to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Open Meeting to be held on:

JUNE 29, 2010 and JUNE 30, 2010

For more information, you may contact Docket Control at (602) 542-3477 or the Hearing Division at (602)542-4250. For information about the Open Meeting, contact the Executive Director's Office at (602) 542-3931.

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1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 COMMISSIONERS

3 KRISTIN K. MAYES - Chairman  
4 GARY PIERCE  
5 PAUL NEWMAN  
6 SANDRA D. KENNEDY  
7 BOB STUMP

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

DOCKET NO. E-01575A-08-0328

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

DOCKET NO. E-01575A-09-0453

DECISION NO. \_\_\_\_\_

**OPINION AND ORDER**

17 DATES OF HEARING:

March 24-26, 2010

18 PLACE OF HEARING:

Tucson, Arizona

19 ADMINISTRATIVE LAW JUDGE:

Jane L. Rodda

20 IN ATTENDANCE:

Gary Pierce, Commissioner  
Sandra Kennedy, Commissioner  
Bob Stump, Commissioner

22 APPEARANCES:

Mr. Bradley S. Carroll, SNELL & WILMER,  
LLP, on behalf of Sulphur Springs Valley  
Electric Cooperative, Inc.;

Ms. Susan Scott, Intervenor, *In Propria Persona*;

Ms. Sue Downing, Intervenor, *In Propria  
Persona*;

Mr. James Rowley III, Intervenor, *In Propria  
Persona*; and

Mr. Charles H. Hains and Mr. Wesley C. Van  
Cleve, Staff Attorneys, Legal Division, on behalf

of the Utilities Division of the Arizona Corporation Commission.

**BY THE COMMISSION:**

\* \* \* \* \*

Having considered the entire record herein and being fully advised in the premises, the Arizona Corporation Commission ("Commission") finds, concludes, and orders that:

**FINDINGS OF FACT**

1. On September 8, 2009, the Commission issued Decision No. 71274, which approved a rate increase for Sulphur Springs Valley Electric Cooperative, Inc. ("SSVEC" or "Cooperative"). Decision No. 71274, *inter alia*, required SSVEC to commission and file by December 31, 2009, an independent feasibility report addressing the ability to incorporate renewable generation into the plans to serve the Sonoita/Elgin/Patagonia area ("Affected Area") covered by the planned upgrade of the V-7 feeder serving the Affected Area to a 69 kV line; to file a report by October 30, 2009, setting out the manner and dates it will conduct public forums in the Affected Area on the independent feasibility report and on plans to incorporate renewable generation in the Affected Area; to conduct public forums and file a report on the public forums outcome by July 30, 2010; and to cease construction of the 69 kV line until the public has had an opportunity to review and comment on the feasibility report and on plans to incorporate renewable generation and until further order of the Commission.

2. On September 18, 2009, SSVEC filed with the Commission an Application to implement a moratorium on new and expanded service connections that would be serviced by the existing V-7 feeder within the Affected Area ("Moratorium Application").

3. On September 28, 2008, SSVEC filed an Application for Rehearing and Reconsideration of Decision No. 71274 pursuant to A.R.S. § 40-253 ("40-253 Application"). The 40-253 Application requested that the Commission reconsider its Decision and issue a modified Decision that: (1) adopts the revenue requirement set forth in the Recommended Opinion and Order ("ROO"); (2) neither prohibits the Cooperative from constructing a 69 kV power line to the Affected Area, nor requires the independent feasibility report; and (3) adopts the Cooperative's requests regarding the administration of its Wholesale Power and Fuel Cost Adjustor.

1           4.     At a Special Open Meeting on October 13, 2009, the Commission voted to grant  
2 SSVEC's 40-253 Application.

3           5.     On October 22, 2009, Ms. Sue Downing, an SSVEC customer in the Affected Area,  
4 was granted intervention in the Moratorium Application docket.

5           6.     On October 30, 2009, pursuant to Decision No. 71274, SSVEC filed a report  
6 indicating that public forums on the forthcoming feasibility report and on how renewable energy  
7 generation could be incorporated, would begin the week of February 1, 2010, and continue through  
8 March 28, 2010, and indicating several locations for the forums in and around the Affected Area, as  
9 well as locations in Sierra Vista, Benson and Willcox.

10          7.     On November 4, 2009, the Commission's Utilities Division ("Staff") filed a Staff  
11 Report in the Moratorium Application docket, concluding that a moratorium on future customer  
12 connections in the Affected Area would help preserve SSVEC's present level of system reliability  
13 until overloading of the V-7 feeder can be resolved.

14          8.     By letter docketed November 5, 2009, Ms. Downing opposed SSVEC's Moratorium  
15 Application without a hearing.

16          9.     On November 5, 2009, a Procedural Conference was convened in the 40-253  
17 Application matter on the scope of that proceeding. SSVEC and Staff disagreed on the scope of the  
18 proceeding as well as timeframes for a hearing. SSVEC advocated a streamlined process addressing  
19 only those issues raised in the 40-253 Application. Staff argued for a broader scope, as it interpreted  
20 the Commission's October 13, 2009, vote to include reconsideration of the entire rate application.

21          10.    On November 18, 2009, Ms. Susan Scott, an SSVEC customer in the Affected Area,  
22 was granted intervention in the 40-253 Application proceeding.

23          11.    On November 24, 2009, a Procedural Conference convened for the purpose of  
24 determining the appropriate procedures for processing the Moratorium Application.

25          12.    By Procedural Order dated November 30, 2009, it was determined that a hearing  
26 would be necessary to resolve the disparate positions on the need for a moratorium. A hearing in the  
27 Moratorium Application docket was set to commence on January 20, 2010, which given the nature of  
28 the moratorium request, was found to be as expeditious as practical given the requirements of due

1 process and the Commission's calendar.

2 13. On December 3, 2009, SSVEC filed a Motion to Stay Procedural Schedule, requesting  
3 that the procedural schedule for the moratorium request set in the November 30, 2009, Procedural  
4 Order be vacated, and that the hearing be continued at least 45 days. SSVEC believed that because  
5 under the established schedule the moratorium could not be in place prior to the winter heating  
6 season, the matter would benefit from the results of the independent feasibility study that was due to  
7 be filed December 31, 2009.

8 14. By Procedural Order dated December 11, 2009, the procedural schedule in the  
9 Moratorium Application proceeding was stayed per SSVEC's request and a Procedural Conference  
10 set for January 20, 2010.

11 15. By Procedural Order dated December 15, 2009, the scope of the 40-253 Application  
12 proceeding was established to include any issue relevant to the original application, and would be  
13 determined by the content of the testimony filed. The matter was set for hearing to commence on  
14 May 18, 2010.

15 16. On December 31, 2009, pursuant to the requirements of Decision No. 71274, SSVEC  
16 filed a feasibility study prepared by Navigant Consulting, Inc. ("Navigant") ("Feasibility Study").

17 17. On January 6, 2010, SSVEC filed a Motion to Consolidate Dockets and Request for  
18 Corresponding Modification of Procedural Orders. SSVEC supported consolidation of the 40-253  
19 Application and the Moratorium Application because the issues are related and consolidation would  
20 promote judicial economy. SSVEC believed that the schedule set in the December 15, 2009  
21 Procedural Order, which set a hearing in May 2010, could apply to both proceedings.

22 18. On January 14, 2010, SSVEC filed with the Commission a Petition to Amend  
23 Decision No. 71274 Pursuant to A.R.S. §40-252 and for Related Authorization ("40-252 Petition").  
24 SSVEC stated that if the Commission granted the relief sought in its 40-252 Petition, it would  
25 withdraw its 40-253 Application and Moratorium Application.

26 19. On January 14, 2010, Ms. Scott filed a Response to SSVEC's October 2009 Public  
27 Forum Report. Ms. Scott argued that all of the public forums should take place in the impacted  
28 communities of Sonoita, Elgin and Patagonia and not in other parts of SSVEC's service territory; that

1 the forums should occur later than February 2010; that the Study Team that produced the Feasibility  
2 Study should be in charge of the forums; that the locations should be large facilities; and that at a  
3 minimum, two rounds of forums be held, the first round to present the report and the second round to  
4 receive feedback. She also requested that minutes of the forums be posted on SSVEC's website.

5 20. On January 19, 2010, SSVEC filed a Motion to Modify/Expedite Procedural Schedule  
6 for the 40-253 Application docket. SSVEC requested that the hearing in the 40-253 matter be  
7 expedited and held on or before March 9, 2010.

8 21. On January 19, 2010, intervention in both dockets was granted to Mr. James Rowley  
9 III, an SSVEC member in the Affected Area.

10 22. On January 20, 2010, a Procedural Conference convened concurrently in both dockets  
11 for the purpose of discussing consolidation in addition to a discovery dispute in the Moratorium  
12 Application docket.

13 23. At the January 20, 2010 Procedural Conference, no party objected to consolidation.  
14 However, Staff expressed concerns about being able to consider the moratorium request in a timely  
15 manner to avoid exacerbating the capacity problem of the existing line serving the Affected Area.  
16 The Intervenors were concerned that they would not have time for discovery and preparation if the  
17 hearing was to be held as early as March.

18 24. On January 22, 2010, Ms. Scott filed a Response in Opposition to the 40-252 Petition.  
19 Ms. Scott argued that the 40-252 Petition should be denied because SSVEC presented no compelling  
20 reason to expedite construction or eliminate public input, and time was needed to conduct discovery  
21 on the independence of the Feasibility Study.

22 25. On January 25, 2010, Staff filed a Request for Modification of the Procedural  
23 Schedule for the 40-253 Application, suggesting changes to the order of pre-filed testimony, but  
24 retaining the May 18, 2010, hearing date.

25 26. On January 26, 2010, SSVEC filed a Response to Staff's Modification Request,  
26 opposing Staff's proposal on the grounds it would disadvantage the Cooperative's ability to respond  
27 to issues that might be raised by other parties in the 40-253 Application proceeding.

28 27. On January 29, 2010, Ms. Scott filed a Response In Support of Staff's Request for

1 Modification of the Procedural Schedule, on behalf of the Intervenors.

2 28. By Procedural Order dated January 29, 2010, the 40-253 Application and Moratorium  
3 Application were consolidated, and the hearing set to commence May 18, 2010. The Procedural  
4 Order determined that SSVEC's plan to conduct the public forums in February and March, 2010 was  
5 reasonable so that the results would be available prior to the hearing. SSVEC was ordered to file a  
6 more detailed report on how and where it would schedule the public forums.

7 29. On February 3, 2010, at a Special Open Meeting of the Commission, the Commission  
8 passed a Motion to "grant Sulphur Springs Valley Electric Cooperative's Petition to Amend Decision  
9 No. 71274 Pursuant to A.R.S. §40-252 and for Related Authorization for the purposes of further  
10 consideration of whether Decision No. 71274 should be amended and the request for related  
11 authorization should be approved; and, also grant the Cooperative's request for expedited  
12 consideration of its Petition and direct the Hearing Division to conduct appropriate proceedings and  
13 prepare a recommended opinion and order for Commission consideration on an expedited basis."

14 30. On February 4, 2010, SSVEC filed a Request for Expedited Procedural Order.

15 31. A Procedural Conference convened on February 10, 2010, for the purpose of taking  
16 recommendations from the parties on the type and timing of a proceeding following the  
17 Commission's February 3, 2010, directive. SSVEC, Intervenors Scott, Downing and Rowley, and  
18 Staff appeared.

19 32. On February 10, 2010, pursuant to the January 29, 2010 Procedural Order, SSVEC  
20 filed a Notice of Filing Public Forum Report, which attached a schedule for the public forums that  
21 SSVEC arranged to comply with the directive in Decision No. 71274.

22 33. By Procedural Order dated February 11, 2010, it was determined that a hearing would  
23 be necessary to resolve the difference in opinion on the findings of the Feasibility Study, and the new  
24 issues raised in the 40-252 Petition. The hearing was set for March 24, 2010. Because SSVEC had  
25 stated that if the Commission grants its requests to modify Decision No. 71274 it would seek to  
26 withdraw its 40-253 and Moratorium Applications, the schedule in the 40-253/Moratorium matter  
27 was extended to avoid having parties prepare for a second hearing before the outcome of the hearing  
28 on the 40-252 Petition. The hearing was continued until July 7, 2010.

1           34.    On February 12, 2010, SSVEC filed a Notice of Supplemental Information Regarding  
2 Independent Moderator for Public Forum Report.

3           35.    On February 16, 2010, Mr. Rowley filed an Objection to the Notice of Filing Public  
4 Forum Report. The same day, Ms. Scott and Ms. Downing filed an Objection to Notice of Filing  
5 Supplemental Information Regarding Independent Moderator for Public Forum Report.

6           36.    On February 23, 2010, SSVEC filed a Response to Intervenors' Objections to Public  
7 Forum Report.

8           37.    On February 23, 2010, SSVEC filed the testimony of Jody Severson, Eugene Shlatz,  
9 Ronald Orozco and Deborah White.

10          38.    By Procedural Order dated February 26, 2010, Staff was directed to file  
11 recommendations concerning SSVEC's compliance with the directives in Decision No. 71274  
12 concerning the public forums.

13          39.    On March 3, 2010, Staff filed its Response to the February 26, 2010 Procedural  
14 Order, and stated its belief that SSVEC's report on the planned conduct of the public forums  
15 complied with the related requirements in Decision No. 71274.

16          40.    By Procedural Order dated March 8, 2010, it was determined that SSVEC's plans for  
17 the public forums should be permitted to proceed as proposed, and that as soon as practical, SSVEC  
18 should cause a copy of the rate hearing transcripts to be made available for review at the public  
19 libraries in the Affected Area.

20          41.    The public forums on the Feasibility Study were held on March 9, 2010, in Patagonia  
21 and on March 10, 2010, in Sonoita. SSVEC arranged for Judy Gignac, to act as an independent  
22 moderator.

23          42.    On March 9, 2010, SSVEC filed a Notice of Filing Affidavits of Mailing and  
24 Publication indicating that notice of the March 24, 2010 hearing was mailed to all SSVEC customers  
25 on February 19, and 20, 2010, and was published in the *Sierra Vista Herald/Bisbee Daily Review* on  
26 March 3, 2010, in the *San Pedro Valley News-Sun/Arizona Range News* on February 24, 2010, and in  
27 *The Weekly Bulletin* on March 3, 2010.

28          43.    On March 16, 2010, Mr. Rowley filed his own testimony and testimony of Linda

1 Kennedy and Wayne Porter; Ms. Scott filed her own testimony; Ms. Downing filed her own  
2 testimony and testimony of Marshall Magruder; and Staff filed the testimony of Elijah Abinah.

3 44. On March 24, 2010, pursuant to the directive in Decision No. 71274, SSVEC filed a  
4 Public Forums Report.

5 45. The hearing on the 40-252 Petition convened as scheduled on March 24, 2010, with  
6 SSVEC, Intervenors Rowley, Scott and Downing, and Staff appearing. The hearing proceeded over  
7 the course of three days at the Commission's Tucson offices.

8 46. By Procedural Order dated March 29, 2010, with consent of all the parties at the  
9 hearing, the procedural schedule in the 40-253/Moratorium matter was suspended indefinitely  
10 pending an Order of the Commission on the 40-252 Petition.<sup>1</sup>

11 47. On April 15, 2010, SSVEC, the Intervenors,<sup>2</sup> and Staff filed Closing Briefs in the 40-  
12 252 Petition matter.

13 48. On April 15, 2010, Mr. Magruder, a witness for Ms. Downing, filed a Notice of Filing  
14 Marshall Magruder's Testimony Summary with Responses to Oral Testimonies and Public  
15 Comments in Support of Intervenor Sue Downing.

16 49. On April 19, 2010, SSVEC filed a Motion to Strike Portions of Intervenors' Closing  
17 Brief. Attached to the Intervenors' Brief were two letters dated April 14, 2010, one of which was  
18 accompanied by a proposal dated April 9, 2010. SSVEC requests that these exhibits and the  
19 testimony related to the exhibits be stricken from the record because they were prepared well after the  
20 close of the evidentiary record, were not introduced at the 40-252 hearing and were not subject to  
21 cross-examination, and constitute hearsay evidence.

22 50. On April 21, 2010, SSVEC filed an Objection and Motion to Strike Late-filed  
23 Intervenor Witness Testimony. SSVEC notes that pursuant to the February 11, 2010 Procedural  
24 Order, rebuttal or surrebuttal testimony would be presented at the hearing. SSVEC states that Mr.  
25 Magruder had opportunity to provide oral rebuttal testimony, and did so at the hearing. SSVEC  
26

27 <sup>1</sup> Unless SSVEC has withdrawn its 40-253 and Moratorium Applications, Public Comment related to those matters will  
be held on July 7, 2010 at the Commission's Tucson offices.

28 <sup>2</sup> The Intervenors filed one Joint Brief.

1 argues the late-filed supplemental testimony violates the February 11, 2010 Procedural Order as well  
2 as Commission practice and procedure. SSVEC asserts such late-filed testimony is hearsay,  
3 prejudicial and appears to be an attempt to supplement the record without opportunity to cross  
4 examine.

5 51. On April 21, 2010, Intervenors filed a Response to SSVEC's Motion to Strike  
6 Portions their Closing Brief. The Intervenors state the exhibits are not hearsay evidence and there is  
7 no need for cross examination, and that the exhibits were intended to demonstrate the Intervenors'  
8 diligence in pursuing alternatives to the 69 kV line.

9 52. The exhibits attached to the Intervenors Brief and Mr. Magruder's supplement  
10 testimony were submitted after the close of the evidentiary record. Due process requires that parties  
11 have an opportunity to cross examine witnesses and explore the foundation of documents. It would  
12 be a violation of due process to allow the exhibits from Intervenors to be considered for the truth of  
13 the statements contained therein. However, we will allow them as an indication of the Intervenors'  
14 continuing activities to explore alternatives. Mr. Magruder's supplemental testimony shall be  
15 stricken from the record as its admission would violate due process.

16 53. The Commission has received numerous public comments both in support and against  
17 allowing construction of the upgraded 69 kV line.

18 The Independent Study  
19 And Public Forums

20 54. The Affected Area is currently served by a 360- mile three-phase feeder line, known  
21 as the V-7 feeder. SSVEC believed that the V-7 feeder suffered from more outages than other areas  
22 in its service territory and planned to construct a new 69 kV line that would follow an easement along  
23 the San Ignacio Del Babocamri Land Grant ("SIDB"). In the course of the original rate case, the  
24 Commission received many comments related to the proposed 69 kV line and although the  
25 Commission recognized it did not have jurisdiction over siting of the 69 kV line, SSVEC presented  
26 evidence to demonstrate that the new 69 kV line was needed to ensure reliable service in the Affected  
27 Area.

28 55. Decision No. 71274 found that the existing V-7 feeder suffered from capacity and

1 reliability issues and that the evidence indicated that the planned upgrade of the V-7 feeder to a 69  
 2 kV line, with a new substation and four smaller feeders, would address the capacity issues and  
 3 improve system reliability in the Sonoita area.<sup>3</sup> Decision No. 71274 also provided as follows:

4           However, we are concerned that once constructed, the project will  
 5 permanently change the landscape for the impacted communities and the  
 6 manner in which electric service is provided to the Cooperative's  
 7 customers. We need to ensure that the goals of some in the local  
 8 communities who want more investment in renewable generation to  
 9 mitigate the need for the project have been fully considered by the  
 10 Cooperative. We believe a feasibility study prepared on behalf of the  
 11 Cooperative by an independent third party is necessary for further analysis  
 12 and consideration of the issues presented, prior to proceeding with  
 construction of the project. Therefore, we will require the Cooperative to  
 docket a feasibility study on the project and possible alternatives and hold  
 public forums in the impacted communities. The public forums shall  
 include an opportunity for community members' discussions on the  
 feasibility study, including alternatives prior to construction of the project.  
 At the conclusion of the public forums the Cooperative shall docket a  
 report and minutes of the public forums.<sup>4</sup>

13 Decision No. 71274 ordered as follows:

14           IT IS FURTHER ORDERED that Sulphur Springs Valley Electric  
 15 Cooperative, Inc. as a matter of compliance, shall docket by October 30,  
 2009, a report setting forth the manner and dates it shall conduct public  
 16 forums in the communities serviced by the planned 69 kV line and  
 associated upgrades. This report shall also discuss the topics to be  
 17 addressed at the public forums and the topics shall include, but not be  
 limited to, addressing how renewable energy generation (in particular  
 distributed generation) could be incorporated into the generation plans to  
 18 serve the area covered by the planned 69 kV line and associated  
 upgrades.

19           IT IS FURTHER ORDERED that by July 30, 2010, Sulphur Springs  
 20 Valley Electric Cooperative, Inc., as a matter of compliance, shall docket  
 a report discussing the outcome of the public forums and also discussing  
 21 how it plans to incorporate the reasonable and effective renewable energy  
 proposals resulting from the public forums.<sup>5</sup>

22           IT IS FURTHER ORDERED that Sulphur Springs Valley Electric  
 23 Cooperative, Inc. as a matter of compliance, shall docket by December 31,  
 2009, a feasibility study prepared by an independent third party that  
 24 includes alternatives (including use of distributed renewable energy) that  
 could mitigate the need for construction of Sulphur Springs Valley  
 25 electric Cooperative Inc.'s proposed 69 kV project. The feasibility study  
 shall be available for discussion in public forums conducted by Sulphur  
 26 Springs Valley Electric Cooperative, Inc. in the impacted communities.  
 A report and minutes from these public forums shall be docketed by

27 <sup>3</sup> Decision No. 71274 at 38.

28 <sup>4</sup> Id. at 39.

<sup>5</sup> Id. at 48.

1 Sulphur Springs Valley Electric Cooperative, Inc. no later than July 30,  
2010.

2 IT IS FURTHER ORDERED that Sulphur Springs Valley Electric  
3 Cooperative, Inc. shall not commence construction of the referenced  
4 69kv line until the public has had an opportunity to review and comment  
5 on the report and until further Order of the Commission.<sup>6</sup>

6 56. SSVEC engaged the services of TRC Companies, Inc (“TRC”) to assist in the  
7 preparation of a Request for Proposal (“RFP”) for the Feasibility Study required by Decision No.  
8 71274 .

9 57. SSVEC sought input from the Save the Scenic Sonoita Elgin Grasslands (“3SEG”)  
10 group on the Statement of Work component of the RFP. The 3SEG group opposed the 69kV line and  
11 was interested in exploring renewable alternatives.<sup>7</sup>

12 58. SSVEC states that because at the August 17, and 25, 2009 Open Meetings, the  
13 Commissioners specifically requested that SSVEC keep Staff informed as to the process of  
14 commissioning the Feasibility Study, SSVEC met with Staff on October 12, 2009, to provide: (i) a  
15 summary of the process to develop the RFP, including the meetings with 3SEG and the input from  
16 3SEG that was included in the RFP, and (ii) a copy of the RFP and the list of potential bidders.

17 59. SSVEC states that on October 27, 2009, it received responses to the RFP from two of  
18 the potential 14 bidders.

19 60. On October 28, 2009, SSVEC met with Staff and presented an RFP Summary and the  
20 Statement of Work, as well as additional information regarding the RFP and selection process.

21 61. SSVEC states that Navigant was selected by SSVEC, and approved by Staff, to  
22 conduct the Feasibility Study.

23 62. The Feasibility Study concluded:

24 (a) The V-7 feeder cannot accommodate material increases in load without  
25 overloads or unacceptable voltage impacts, or both. Immediate action is necessary to  
26 address V-7 capacity and performance issues.<sup>8</sup>

27 (b) “Several alternatives are feasible to resolve capacity and performance  
28 issues from a technical perspective. Most transmission options are technically viable,  
except for use of TEP’s 46 kV line to serve V-7 load, which appears to have  
insufficient capacity to serve incremental SSVEC load. The transmission supply

<sup>6</sup> Decision No. 71274 at 48.

<sup>7</sup> SSVEC Brief at 3.

<sup>8</sup> Ex A-2, Exhibit B at 92.

1 options provide the highest level of firm capability compared to other feasible options,  
 2 as the availability of new transmission lines tend to be higher than distributed  
 3 generation options. Distributed generation options must be carefully maintained and  
 4 complex control strategies, communication systems would be needed to ensure the  
 5 units operated when needed.”<sup>9</sup>

6 (c) The new 69 kV line along new and existing rights of way has the  
 7 greatest impact of the options considered; modest mitigation efforts are needed to  
 8 address biological, cultural, and archeological issues; and low-profile line design and  
 9 construction materials that blend with the landscape should be used to minimize visual  
 10 impact.<sup>10</sup>

11 (d) Most renewable energy options, including wind and solar photovoltaic,  
 12 did not provide sufficient coincident peak load reduction to be feasible, as the V-7  
 13 feeder peak occurs during cold winter mornings when the sun is low on the horizon.  
 14 Energy storage systems show promise and efforts are underway on a national scale to  
 15 advance technology and reduce cost, but these systems are still in the early stages of  
 16 development and storage also would require complex monitoring and control schemes  
 17 to ensure sufficient storage was available and dispatched in a matter that will reduce  
 18 loads of the full duration of the daily peak.<sup>11</sup>

19 (e) The lowest cost alternative is the targeted conversion of customer space  
 20 heating systems, followed by the installation of oil or gas-fired diesel generators in  
 21 Sonoita. For targeted fuel conversions, the number of eligible customers and level of  
 22 incentive needed to ensure sufficient participation levels has not been established, and  
 23 such program would need to be expedited as the V-7 feeder has reached capacity  
 24 limits and the conversion program would only reduce feeder loading; voltage  
 25 regulation and power quality issues would need to be addressed to ensure customers  
 26 receive a level of service comparable to other feeders on SSVEC’s system.<sup>12</sup>

27 (f) Installation of generators at Sonoita and the conversion of existing  
 28 electric space heaters to alternate fuels would have environmental impacts if the  
 amount of generation installed were to require to an air quality permit.<sup>13</sup>

(g) “The preferred alternative based on feeder performance and firm  
 capacity requirements is the construction of a new 69 kV line along the Ranch where  
 SSVEC has easement rights.”<sup>14</sup>

#### SSVEC’s Position

63. SSVEC argues that it has fully complied with Decision No. 71274 and the  
 Commission should authorize it to resume the Sonoita Reliability Project and commence construction  
 of the 69 kV line serving the Affected Area.

64. SSVEC argues the Feasibility Study and the evidence presented in the 40-252 Petition  
 hearing demonstrate that the current V-7 feeder has capacity and reliability problems and that the

<sup>9</sup> Id.

<sup>10</sup> Id.

<sup>11</sup> Id.

<sup>12</sup> Id at 92-93.

<sup>13</sup> Id at 93.

<sup>14</sup> Id.

1 most viable option for addressing these issues in the Affected Area is to construct the proposed 69 kV  
2 line.

3 65. SSVEC points to the testimony of Mr. Shlatz of Navigant, who testified that in his  
4 opinion renewable generation and other distributed generation options and demand side management  
5 would not resolve the reliability and capacity problems in the Affected Area because they do not  
6 provide firm capacity, and that the proposals proffered by the Intervenors are not founded on  
7 fundamental engineering principles.<sup>15</sup>

8 66. SSVEC asserts that the Feasibility Study corroborates the Cooperative's analysis  
9 regarding the need for immediate commencement of construction of the 69 kV line. The Feasibility  
10 Study finds:

11 The results of NCI's investigation indicates SSVEC should take  
12 immediate action to address current performance issues and capacity  
13 limits, including carefully assessing the impact of customer requests for  
new or expanded service on V-7 feeder performance and capacity.<sup>16</sup>

14 In addition, SSVEC cites to the testimony of Mr. Shlatz at the hearing about whether the  
15 current situation in the Affected Areas is an "emergency":

16 When we say in our report there is an immediate problem, one, that  
17 should be taken to mean there is a problem. And whether the use of the  
18 word emergency, I would deem that to be may not be an emergency in that  
19 the line is on the ground, but it certainly could be construed as an  
emergency in that there is an immediate problem that should be taken care  
of and it should not wait.

20 I just talked about the performance problems, the reliability  
21 problems, power quality, power surges, voltage variability, perturbations,  
22 limited capacity. All those taken together suggest a very severe problem.  
And it would not be taken out of context to suggest that those are near  
emergency conditions. So I disagree with that perspective.<sup>17</sup>

23  
24 67. SSVEC asserts that the Feasibility Study has confirmed that the Cooperative was right  
25 concerning the need for the 69 kV line and that additional delay will only increase the risk of outages  
26 and unreliable service as well as increase costs to SSVEC members.<sup>18</sup>

27 <sup>15</sup> Transcript of March 24-26, 2010 hearing ("Tr.") at 198-99.

<sup>16</sup> Ex A-2, Exhibit B at page 3.

<sup>17</sup> Tr. at 203-04.

28 <sup>18</sup> SSVEC Closing Brief at 11.

1           68.     SSVEC argues that the evidence submitted by the Intervenors during the 40-252  
2 Petition hearing does not provide suitable or viable solutions of the capacity and/or reliability  
3 problems and is not supported by credible or and/or verifiable analysis.<sup>19</sup> The Cooperative asserts  
4 the Intervenors have been unable to provide any analysis or evidence to support their premises that  
5 the solutions they offered during the 40-252 proceeding would provide firm capacity comparable to  
6 that provided by the new 69 KV line. SSVEC states that none of the witnesses for the Intervenors are  
7 registered professional engineers, have direct electric utility experience or are responsible for the  
8 delivery of reliable service to electric utility customers. SSVEC asserts that solutions presented by  
9 the Intervenors “are a myriad of short-term, stop-gapped, unreliable measures that do not fully  
10 address the issues and, in some cases rely on technologies that are unproven and commercially  
11 unavailable.”<sup>20</sup>

12           69.     SSVEC asserts that the Public Forum Report that it filed on March 24, 2010, fairly  
13 and accurately represented what occurred at the public forums conducted in the Affected Area and  
14 that there was an opportunity for dialogue and the free exchange of ideas. SSVEC argues that it  
15 conducted the public forums as required by Decision No. 71274, and that the Cooperative should be  
16 found to have complied with this obligation in that Decision and be allowed to commence  
17 construction of the 69 kV line.

18           70.     In addition, SSVEC conducted an Independent Poll of the Cooperative’s members on  
19 January 18 and 20, 2010, which SSVEC claims shows that 70 percent of its members in the Affected  
20 Area support the 69 kV line.<sup>21</sup>

21           71.     SSVEC claims that further delay in constructing the 69 kV line may result in the  
22 potential loss of Clean Renewable Energy Bond (“CREB”) and American Recovery and  
23 Reinvestment Act (“ARRA”) money. Mr. Orozco testified that SSVEC had been awarded a CREB  
24 offering of \$6 million under the Energy Policy Act of 2005, for the design and construction of a 750  
25 kW grid-connected solar electric system and that SSVEC intended to install this system as part of the  
26

27 <sup>19</sup> SSVEC Brief at 20-39.

28 <sup>20</sup> SSVEC Closing Brief at 12.

<sup>21</sup> SSVEC Closing Brief at 14; Tr at 142.

1 new Sonoita substation in the Affected Area.<sup>22</sup> Mr. Orozco testified that IRS regulations require the  
 2 project to be completed within three years starting October 23, 2009, and that in order to meet this  
 3 deadline SSVEC must start the design, ordering and installation immediately.<sup>23</sup> In addition, Mr.  
 4 Orozco testified that SSVEC was in final negotiation for a \$15 million ARRA grant to expand and  
 5 accelerate on-going Smart Grid and Demand-Side Management activities at SSVEC, and that the  
 6 Sonoita Reliability Project would receive approximately \$1.1 million of the grant.<sup>24</sup> He testified that  
 7 if the 69kV line was further delayed, such that the project could not be completed within 36 months  
 8 of the grant, the \$1.1 million of grant money would be lost.<sup>25</sup>

9 72. SSVEC notes further that the testimony of Staff's witness, Mr. Abinah, who believed  
 10 the Cooperative's actions to be reasonable and that it has demonstrated a need for the line, was not  
 11 contested at the hearing.

12 73. SSVEC argues that at the end of the day, responsibility for the decision on how to  
 13 construct and operate its distribution system rests with SSVEC.<sup>26</sup>

#### 14 Intervenors' Position

15 74. The Intervenors believe that SSVEC has not listened to the ideas of the local  
 16 community for incorporating renewable energy or alternatives to the 69 KV line.<sup>27</sup>

17 75. The Intervenors argue that SSVEC has failed to prove an immediate need for  
 18 construction of the 69 kV line. They question the rush for the new line when the Feasibility Study  
 19 concluded that the V-7 customer peak is expected to increase to about 8000 kW by 2019.<sup>28</sup> They cite  
 20 statements from the Feasibility Study that they believe indicate there are available options that could  
 21 be employed to improve the capacity and reliability of the existing power line. Specifically,  
 22 Intervenors point to the following statements contained in the Feasibility Study:

- 23 • There is evidence that very high voltages may be

24 <sup>22</sup> Ex A-3 at 11-12.

25 <sup>23</sup> Id. at 12.

26 <sup>24</sup> Id. at 13-14.

27 <sup>25</sup> Id. at 14-15.

28 <sup>26</sup> Citing A.A.C. R14-2-208.A and C which provide that "each utility shall be responsible for the safe transmission and distribution of electricity until it passes the point of delivery to the customer" and that "each utility shall make reasonable efforts to supply a satisfactory and continuous level of service."

<sup>27</sup> Intervenor Brief at 2-3.

<sup>28</sup> Id. t 3.

1 caused by electrical anomalies that occur under light loading  
2 conditions or longer line sections equipped with several voltage  
3 regulating devices operating in series. Resolution of voltage  
4 anomalies were beyond the scope of this effort but should be  
5 addressed.<sup>29</sup>

6 • Relatively small amounts of demand management  
7 and judiciously placed generation results in net effective  
8 generation of up to 150% of the nameplate rating of the  
9 alternative.<sup>30</sup>

10 • Our experience indicates winter peaking utilities  
11 often increase transformer ratings by 25% (or higher) for devices  
12 in good condition.<sup>31</sup>

13 • Distributed generation connected to the V-7 feeder  
14 essentially reduces the effective loads during those hours which it  
15 operates.<sup>32</sup>

16 • The injection of the DG output on the V-7 feeder  
17 essentially reduces the effective loading on the circuit. The  
18 decrease in feeder loads also reduces substation transformer  
19 loading, improves feeder voltages and reduces losses.<sup>33</sup>

20 The Intervenor's argue that SSVEC misrepresents the facts by "representing as fact the ultimate  
21 conclusions and recommendations of the Study."<sup>34</sup>

22 76. The Intervenor's argue that SSVEC's own actions (or lack thereof) demonstrate that  
23 there is no emergency that requires immediate construction of the new line. They point to SSVEC's  
24 request to stay the hearing on its Request of a Moratorium and to the fact that that SSVEC has not  
25 taken steps to rent a portable generator to aid in anticipated peak periods last winter or for the next  
26 two winters before the new line can be brought on-line.<sup>35</sup>

27 77. They argue that SSVEC has used an outage statistic of "270 hours per year per  
28 customer" to exaggerate the severity of the problems with the existing feeder line, when Mr. Shlatz of  
29 Navigant testified that the average outage hours for the last ten years on the V-7 feeder was 3 hours.<sup>36</sup>  
30 Furthermore, Intervenor's state the Feasibility Study found that most outages affect less than three to  
31 five customers, and that most of these outages were caused by lightening and animal-related events,

32 <sup>29</sup> Ex A-2, Exhibit B, at 2.

33 <sup>30</sup> Id. at 3.

34 <sup>31</sup> Id. at 31.

35 <sup>32</sup> Id. at 51.

36 <sup>33</sup> Id. at 58.

<sup>34</sup> Intervenor Brief at 4.

<sup>35</sup> Id. at 5 and 20.

<sup>36</sup> Tr. at 217.

1 which will continue even with a new line.<sup>37</sup>

2 78. The Intervenors argue that the Feasibility Study relies too heavily on historic growth  
3 patterns and that its projections of load growth should not be given much weight.<sup>38</sup>

4 79. The Intervenors assert that it is not true SSVEC will lose CREBS and ARRA funds if  
5 the 69kV line is not built immediately, as there is a three-year window to use the funds and the  
6 projects to be funded are not irrefutably tied to the construction of the 69 kV line.<sup>39</sup>

7 80. The Intervenors argue that the Feasibility Study does not state an immediate need for  
8 the construction of the 69 kV line, but rather that SSVEC should take immediate action to address  
9 current performance issues and capacity limits. The Intervenors offered an analysis that shows that  
10 certain phases of the current V-7 feeder were unbalanced, and that addressing balancing of the phases  
11 could ameliorate some of the line's performance issues.<sup>40</sup>

12 81. The Intervenors assert that the public forums were not conducted as to provide any  
13 meaningful community input.<sup>41</sup> The Intervenors state that: the public forums did not conform to the  
14 original intent which was that they would be held over a six month period and include serious  
15 discussion and input from the community regarding alternative and renewable energy options; there  
16 was no audience participation; only two public forums prevented the community from having time to  
17 review the initial presentation and contribute in a meaningful way; the consultants present at the  
18 public forums gave up any pretense of being independent and "clearly stumped for SSVEC;"<sup>42</sup> and  
19 SSVEC engaged in a campaign to influence public opinion in favor of constructing the 69 kV line.<sup>43</sup>

20 82. The Intervenors argue that SSVEC has consistently and purposefully disregarded  
21 available renewable energy alternatives. First, they claim that SSVEC's inaction toward building the  
22 750 KW Photovoltaic ("PV") project in Sonoita is evidence of its lack of commitment to renewable  
23 sources. They assert that the claim that the project cannot be built unless the 69 kV line and  
24 substation are built is "absurd" as the RFQ for the PV project states the project is designed not to

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25 <sup>37</sup> Intervenors Brief at 5.

26 <sup>38</sup> Id. at 6.

27 <sup>39</sup> Id.

28 <sup>40</sup> Id.

<sup>41</sup> Id. at 7.

<sup>42</sup> Id. at 9.

<sup>43</sup> Id. at 11-14.

1 back feed onto the transmission system.<sup>44</sup> Second, the Intervenors claim that SSVEC's Renewable  
2 energy Standard Tariff ("REST") budget is totally inadequate, with customers being told they have to  
3 wait for years to receive rebates. They state that SSVEC lost an opportunity to use the telephone poll  
4 to determine member interest in renewable energy, which they believe is another indication of lack of  
5 interest in the issues of renewable and demand side management on the part of the Cooperative.

6 83. The Intervenors believe they have shown that the modern solution to the load on the  
7 V-7 feeder is a hybrid solution of energy from photovoltaics with a storage component along with an  
8 aggressive demand side management and incentive rebate program. They argue their proposal would  
9 work better and at less cost to the Cooperative than building the 69 kV line.

10 84. The Intervenors argue the Feasibility Study was constrained by a scope of work that  
11 was drafted as to effectively preclude the incorporation of renewable energy options.

12 85. The Intervenors assert that by conducting the public forums within a month and  
13 submitting the Public Forum Report on March 23, 2010, SSVEC has prevented the Intervenors and  
14 community members from complying with the Commission's Order to propose alternative solutions.  
15 The Intervenors state they believe the July 31, 2010 deadline in Decision No. 71274 also applied to  
16 the Intervenors to work on alternative proposals. They urge the Commission not to rush to judgment,  
17 but to let the hearings continue as scheduled and continue to receive community input with follow-up  
18 public forums.<sup>45</sup>

#### 19 Staff's Position

20 86. Staff asserts that SSVEC complied with the requirements of Decision No. 71274 by  
21 filing its report on the public forums on October 30, 2009, which addressed the time frame for the  
22 forums, and locations and topics to be discussed. Staff notes the Cooperative indicated the public  
23 forums would focus on the solutions identified in the Independent Third Party Feasibility Study,  
24 along with short-term and long-term costs, time effectiveness, environmental factors, health and  
25 safety considerations and legal and regulatory requirements. Further, Staff notes the Cooperative  
26 indicated the forums would include discussions of how renewable energy generation could be

27 \_\_\_\_\_  
28 <sup>44</sup> Intervenor Brief at 14, citing July 7, 2009 RFP at 3.

<sup>45</sup> Intervenor Brief at 23.

1 incorporated into the generation plans to serve the area covered by the planned 69 kV line. In  
2 addition, Staff notes the Company filed a second report that included information: (i) outlining where  
3 and when the public forums would be held in the Affected Area; (ii) where and when additional  
4 public forums would be held in other parts of the Cooperative's service area; (iii) regarding the  
5 proposed agenda to include topics related to bringing renewable generation to the Affected Area; (iv)  
6 regarding how SSVEC planned to notify its members and the public of the public forums; (v)  
7 locations where the Feasibility Study would be available for inspection and review; and (vi) that there  
8 would be an independent moderator conducting the meetings. Staff noted that the March 24, 2010  
9 public forum report filed on March 24, 2010, was well in advance of the July 30, 2010 deadline.

10 87. Staff states that the Feasibility Study performed by Navigant was in accord with the  
11 RFP and the Commission's Decision and was docketed by the deadline.<sup>46</sup>

12 88. Staff believes that because the Cooperative has complied with the prerequisites of  
13 having an independent feasibility study, has held public forums in the Affected Area and has filed the  
14 Study and the Public Forums Report, the final step is for the Commission to decide whether it should  
15 amend Decision No. 71274 to allow the Cooperative to commence construction of the 69 kV line.

16 89. Staff states that it reviewed the Feasibility Study and is in general agreement with the  
17 Study's recommendations. Staff believes the Cooperative demonstrated a need for the 69 kV line in  
18 order to address capacity and reliability issues in the underlying rate case, and that the testimony in  
19 the 40-252 Petition proceeding made it clear that there is a present need to improve the quality of  
20 service provided by the existing V-7 feeder and that the proposed 69 kV line is the most timely  
21 means to resolve the issues.

22 90. Staff further recommends that: (i) the Cooperative implement Navigant's suggestion  
23 that SSVEC modify its employee schedules, as appropriate to help mitigate the length of outages;  
24 (ii) the Cooperative file, as a compliance item in this docket, a detailed plan of how the Cooperative  
25 will encourage and educate its customers on the use of renewable energy; and (iii) the Cooperative  
26 educate and encourage its customer on energy efficiency.<sup>47</sup>

27 \_\_\_\_\_  
28 <sup>46</sup> Staff Brief at 5.

<sup>47</sup> Ex S-1 at 4.

1           91. Staff states that it did not rely solely on the analysis and findings in the Navigant  
2 Study to arrive at its recommendations, but looked at whether there was a practical opportunity for  
3 SSVEC to upgrade the existing V-7 feeder, and whether alternative resources could mitigate the need  
4 for the 69 kV line.<sup>48</sup> Staff believes that none of the other alternatives provide as complete, cost  
5 effective or timely solution to the reliability and capacity issues experienced in the Affected Area as  
6 that offered by the Cooperative.

7           92. The existing V-7 feeder resides on a prescriptive easement,<sup>49</sup> and Staff believes that  
8 upgrading the existing V-7 feeder to a 69 kV line would be considered a change in the scope of use.  
9 Although Staff believes that the Company has the ability to upgrade the existing V-7 feeder, Staff  
10 does not believe this solution is either cost effective or viable because it crosses 98 private property  
11 owners, Arizona State Land, and the Las Ciengas National Conservation Areas, and obtaining  
12 agreement from all of the landowners is doubtful and might not even be desirable.<sup>50</sup> Staff states that  
13 the Cooperative jeopardizes its existing prescriptive easement by approaching and entering into  
14 negotiations with the private landowners to upgrade the line.<sup>51</sup>

15           93. Staff believes that there are alternative resources the Cooperative could pursue, but  
16 that none of the alternatives are viable solutions to the current problem either due to timing issues,  
17 cost effectiveness, or environmental concerns and reliability.

18           94. Staff does not recommend that SSVEC construct its own generation because as a  
19 distribution cooperative, Staff believes the costs outweigh the benefits and it would be a lengthy  
20 process.<sup>52</sup> In addition, Staff believes that the Cooperative could enter into a Purchased Power  
21 Agreement with a third party, but that it would not resolve the reliability and capacity problems on  
22 the V-7 feeder. Finally, although Staff does not believe that currently there is enough distributed  
23 renewable generation or enough energy efficiency measures that can be implemented quickly enough

24 <sup>48</sup> Ex S-1 at 5.

25 <sup>49</sup> Black's Law Dictionary states that a prescriptive easement is a mode of acquiring an easement in property by  
26 immemorial or long-continued enjoyment, and refers to personal usage restricted to claimant and his ancestors or  
27 grantors. The uninterrupted use of the land must generally be for the same statutory period of time as for adverse  
28 possession. "The scope of a prescriptive easement is determined by the use through which it was acquired." *Inch v.*  
*McPherson*, 176 Ariz. 132, 136, 859 P.2d 755, 759 (Ariz. App. 1992).

<sup>50</sup> Tr. at 631-32.

<sup>51</sup> Ex S-1 at 8.

<sup>52</sup> Ex S-1 at 10-11.

1 to mitigate the need for the line, Staff believes distributed generation and energy efficiency can help  
2 over time.

3 Analysis and Conclusions

4 95. SSVEC filed its Public Forum Report on October 30, 2009, as required by Decision  
5 No. 71274.

6 96. No interested party filed an objection to or comments on, the October 30, 2009 filing  
7 until January 14, 2010, when Ms. Scott suggested that the public forums take place only in the  
8 Affected Area, that they take place later than the proposed dates to give time for discovery; that the  
9 Study Team that produced the Feasibility Study be in charge of the public forums; that the chosen  
10 locations be large facilities; and that at a minimum two rounds of forums to held.

11 97. By Procedural Order dated January 29, 2010, the proposed time frame for public  
12 forums in February and March as indicated in the October Report was found to be reasonable because  
13 the results of the public forums would be available prior to the hearing (then set for May 18, 2010).  
14 By Procedural Order dated March 8, 2010, it was again determined that SSVEC's proposal for the  
15 conduct of the public forums was reasonable.

16 98. The Feasibility Study was available for two months prior to the scheduled public  
17 forums. When the Commission voted on February 3, 2010, to grant the 40-252 Petition, all parties  
18 had information that the public forums would be held in February or March 2010. Given the  
19 Commission's directive for expedited consideration of the 40-252 Petition, it was not unreasonable  
20 that the public forums were held prior to the hearing date and that the report on the public forums be  
21 filed so that it could be considered in connection with the hearing on the 40-252 Petition. The  
22 intervenors were permitted to be included on the agenda if they desired, or otherwise allowed to  
23 participate as any member of the public.<sup>53</sup>

24 99. The Report on the Public Forums filed March 24, 2010, contains information on how  
25 the forums were advertized, the agendas, a copy of sign-in sheets, and summary of the meeting, copy  
26 of the power point presentation and a transcript from a recording of the proceedings.

27  
28 <sup>53</sup> March 8, 2010 Procedural Order.

1           100. The Report on the public forums meets the requirements of Decision No. 71274. The  
2 July 30, 2010 date contained in Decision No. 71274 was an outside deadline, and there was no  
3 indication that the Report could not be filed earlier.

4           101. The Feasibility Study evaluated the operational performance and indentified currently  
5 existing deficiencies on SSVEC's existing V-7 feeder serving the Affected Area, and identified and  
6 evaluated options to mitigate performance deficiencies. The Feasibility Study included an analysis of  
7 how renewable generation could be used in the Affected Area. The Study's premise that considered  
8 technologies be mature and commercially available was not unreasonable.

9           102. The Feasibility Study filed on December 31, 2009, was prepared and filed in  
10 conformance with the requirements of Decision No. 71274. The evidence supports the conclusion  
11 the Feasibility Study was as independent as practical given the timing and costs involved.

12           103. The Feasibility Study concluded that "[t]he preferred alternative based on feeder  
13 performance and firm capacity requirements is the construction of a new 69 kV line along the Ranch  
14 where SSVEC has easement rights." The Feasibility Study did not claim that there were no other  
15 technically viable solutions, but that given the existing problems of capacity and performance of the  
16 V-7 feeder, the planned upgrade, as proposed by the Cooperative, was the preferred solution.

17           104. SSVEC has responsibility to provide safe and reliable service in its service area.

18           105. SSVEC has shown that the V-7 feeder serving the Affected Area currently suffers  
19 from capacity and reliability problems.

20           106. There is no evidence that SSVEC's upgrade of the V-7 feeder serving the Affected  
21 Area with a new 69 kV line would be contrary to its obligation to provide safe and reliable service.

22           107. Arizona's Line Siting Statutes do not apply to transmission lines lower than 115 KV.<sup>54</sup>

23           108. SSVEC has considered renewable energy options in the Affected Area and while some  
24 of the alternatives discussed in the Feasibility Study and in the 40-252 petition proceeding are  
25 promising options for lowering demand, there has not been a demonstration that the renewable  
26 alternatives discussed in the Feasibility Study or by the Intervenors adequately fully address the  
27

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28 <sup>54</sup> A.R.S. §40-360 et seq.

1 current performance issues with the V-7 feeder within a reasonable time frame.

2 109. SSVEC has received a \$6 million CREB offering and plans to design and construct a  
3 750 kw grid-connected solar electric system as part of the new Sonoita Substation. IRS regulations  
4 require that the project be completed within three years of October 23, 2009, and to be fully  
5 commissioned, the substation must be operational.

6 110. SSVEC is negotiating a \$15 million ARRA grant to expand and accelerate on-going  
7 Smart Grid and DSM activities. The Sonoita Reliability Project would receive \$1.1 million of the  
8 grant money to (1) automate the 69 kV switch at the new Sonoita Tap; (2) install fiber optic cable on  
9 the 69 kV line from the new Sonoita Tap to the new Sonoita Substation; (3) install digital relay and  
10 control devices with the new substation; (4) install a complete System Control and Data Acquisition  
11 ("SCADA") system at the substation; (5) install an Automated Metering Infrastructure; (6) install  
12 approximately 2,500 new two-way meters; and (7) to implement an aggressive DSM Program.<sup>55</sup> The  
13 ARRA grant has a term of 36 months from the date of the award.

14 111. SSVEC has complied with the requirements of Decision No. 71274 to commission a  
15 Feasibility Report and hold public forums, and the evidence continues to demonstrate a need that is  
16 sufficient to lift the restriction on constructing the upgraded 69 kV line.

17 112. Staff's recommendations are reasonable and should be adopted.

18 **CONCLUSIONS OF LAW**

19 1. SSVEC is a public service corporation pursuant to Article XV of the Arizona  
20 Constitution and A.R.S. §§ 40-250 and 40-251.

21 2. The Commission has jurisdiction over SSVEC and the subject matter of the 40-252  
22 Petition.

23 3. Notice of the proceeding was provided in conformance with law.

24 4. SSVEC has met the prerequisites contained in Decision No. 71274 concerning the  
25 commissioning of a feasibility study and conduct of public forums.

26 5. Pursuant to A.R.S. §40-252, it is reasonable to amend Decision No. 71274 to remove  
27

28 <sup>55</sup> Ex A-3 at 14.

1 the prohibition on SSVEC constructing the 69 kV line planned to serve the Affected Area.

2 **ORDER**

3 IT IS THEREFORE ORDERED that pursuant to A.R.S. §40-252, Decision No. 71274 should  
4 be amended to remove the prohibition on Sulphur Springs Valley Electric Cooperative, Inc. from  
5 constructing the 69 kV line

6 IT IS FURTHER ORDERED that Sulphur Springs Valley Electric Cooperative, Inc. shall  
7 comply with Staff's recommendations discussed herein at Findings of Fact No. 90, and shall file by  
8 October 29, 2010, as a compliance item in this docket, a detailed plan of how it will encourage and  
9 educate its members on the use of renewable energy and demand side management practices.

10 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

11 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

12  
13  
14 CHAIRMAN

COMMISSIONER

15  
16 COMMISSIONER

COMMISSIONER

COMMISSIONER

17  
18 IN WITNESS WHEREOF, I, ERNEST G. JOHNSON,  
19 Executive Director of the Arizona Corporation Commission,  
20 have hereunto set my hand and caused the official seal of the  
21 Commission to be affixed at the Capitol, in the City of Phoenix,  
22 this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

23 \_\_\_\_\_  
ERNEST G. JOHNSON  
EXECUTIVE DIRECTOR

24 DISSENT \_\_\_\_\_

25  
26 DISSENT \_\_\_\_\_

