



0000120007

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

COMMISSIONERS

ORIGINAL

RECEIVED

KRISTIN K. MAYES, CHAIRMAN
GARY PIERCE
SANDRA D. KENNEDY
PAUL NEWMAN
BOB STUMP

Arizona Corporation Commission

2010 NOV 15 P 3:37

DOCKETED

AZ CORP COMMISSION
DOCKET CONTROL

NOV 15 2010

DOCKETED BY

BEFORE THE ARIZONA CORPORATION COMMISSION

IN THE MATTER OF THE COMPLAINT OF
BUREAU OF INDIAN AFFAIRS, UNITED
STATES OF AMERICA, AGAINST
MOHAVE ELECTRIC COOPERATIVE,
INC. AS TO SERVICES TO THE
HAVASUPAI AND HUALAPAI INDIAN
RESERVATIONS.

DOCKET NO. E-01750A-05-0579

**RESPONDENT MOHAVE
ELECTRIC COOPERATIVE,
INC.'S REQUEST FOR
EXTENSION OF TIME TO FILE
EXCEPTIONS TO
RECOMMENDED OPINION AND
ORDER
AND REQUEST FOR
ACCELERATED
CONSIDERATION**

Bryan Cave LLP
Two North Central Avenue, Suite 2200
Phoenix, Arizona 85004-4406
(602) 364-7000

Respondent Mohave Electric Cooperative, Inc. ("Mohave") hereby moves the Arizona Corporation Commission ("Commission") for an extension of the November 18, 2010 deadline to file exceptions in conjunction with the November 9, 2010 notice of issuance of the Recommended Opinion and Order ("ROO") in this matter. Mohave asks for an extension of the deadline to file exceptions to ROO to November 29, 2010, and requests that the Commission set this matter for consideration at the Commission's regularly-scheduled December 2010 Open Meeting on utilities matters.

1 Additionally, Mohave moves for accelerated consideration of this request since the
2 present exceptions deadline is this coming Thursday, November 18, 2010.

3 As the Commission is aware, the Complaint in this matter was filed on August 10,
4 2005, and a three-day hearing took place on November 18-20, 2008, followed by post-
5 hearing briefing and motion practice in February and March 2009. The post-hearing brief
6 was closed on May 4, 2009, when the parties filed simultaneous reply closing briefs.
7 Administrative Law Judge Teena Jibillian issued her 39-page ROO on November 9, 2010.
8

9 The ROO was not available on the Commission's eDocket website until the next day,
10 November 10, 2010, on which day Mohave's counsel also received the ROO by mail.
11 However, the Commission directed that exceptions to the ROO be filed on November 18,
12 2010, only nine calendar days after the ROO was issued and only eight calendar days after
13 the ROO was received by Mohave's counsel. This shortened deadline for the filing of
14 exceptions is less than the time allowed by the Commission's rules and by the Arizona
15 Rules of Civil Procedure. Moreover, the shortened time period included a legal holiday,
16 Veterans Day.
17
18

19 A.A.C. R14-3-110(B), which the Commission cites in its notice, provides that "Any
20 party to the proceeding may serve and file exceptions to the proposed order within *ten* days
21 after service thereof." A.A.C. R14-3-110(B)(emphasis added). Moreover, the Commission's
22 rules also provide that "In all cases in which procedure is set forth neither by law, or by
23 these rules, nor by regulations or orders of the Commission, the Rules of Civil Procedure for
24 the Superior Court of Arizona as established by the Supreme Court of the State of Arizona
25 shall govern." A.A.C. R14-3-101(A). The Civil Rules provide that when a period of time
26
27
28

1 provided in the Rules is less than eleven days, “intermediate Saturdays, Sundays and legal
2 holidays shall not be included in the computation.” Ariz. R. Civ. P. 6(a). The Rules also
3 provide that when a party has the right to do some act within a prescribed period after
4 service, and service is made by mail, “five calendar days shall be added to the prescribed
5 period.” Ariz. R. Civ. P. 6(e).

7 Under the Commission’s rules and the Civil Rules, and taking into account the
8 occurrence of Veterans Day on November 11, the deadline to file exceptions to the ROO
9 would normally be November 29, 2010. Mohave has discussed this issue with counsel for
10 the Bureau of Indian Affairs (“BIA”), who initially also expressed a desire for an extension
11 of time to file exceptions. However, counsel for the BIA has now taken the position that the
12 BIA will only agree to a one-day extension of the deadline, from November 18 to November
13 19, 2010.

16 This matter involves a fact pattern that goes back until at least 1976, required years of
17 proceedings before the Commission and a three-day hearing in November 2008, and
18 resulted in an extensive ROO of 39-pages. The time that the Commission has already
19 invested in this matter require that the Commission allow sufficient time for the parties to
20 prepare reasoned exceptions to the ROO, not a rushed effort to lodge exceptions without
21 sufficient time for adequate consideration by the parties.

24 Based on these considerations, Mohave requests that the Commission grant an
25 extension of the date to file exceptions until Wednesday, November 29, 2010. Granting an
26 extension until that date, which complies with both the Commission’s Rules and the Civil
27 Rules, will allow a reasoned consideration of exceptions by the parties without any further
28

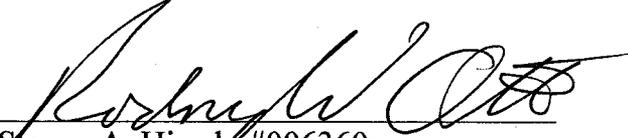
1 delay of this matter. In conformance with extending the deadline for the filing of exceptions
2 until November 29, Mohave requests that the Commission set this matter for its regularly-
3 scheduled utilities Open Meeting in December 2010.
4

5 **CONCLUSION**

6 For the foregoing reasons, the Commission should grant Mohave's request for an
7 extension of time to file exceptions to the Recommended Opinion and Order until
8 November 29, 2010.
9

10
11 **RESPECTFULLY SUBMITTED** this 15th day of November, 2010.

12 **BRYAN CAVE LLP**

13
14 By 

15 Steven A. Hirsch, #006360

16 Rodney W. Ott, #016686

17 Two N. Central Avenue, Suite 2200

18 Phoenix, AZ 85004-4406

19 Attorneys for Mohave Electric

20 Cooperative, Inc.

21 **ORIGINAL and 13 COPIES** of the
22 foregoing were hand-delivered for
23 filing this 15th day of November, 2010 to:

24 Docket Control
25 Arizona Corporation Commission
26 1200 W. Washington Street
27 Phoenix, AZ 85007
28

Bryan Cave LLP
Two North Central Avenue, Suite 2200
Phoenix, Arizona 85004-4406
(602) 364-7000

1 **COPY** of the foregoing hand-delivered
2 this 15th day of November, 2010, to:

3 Hearing Division
4 Arizona Corporation Commission
5 1200 W. Washington
6 Phoenix, AZ 85007-2927

7 Janice M. Alward, Esq., Chief Counsel
8 Legal Division
9 Arizona Corporation Commission
10 1200 W. Washington Street
11 Phoenix, AZ 85007

12 Mark J. Wenker, Esq.
13 U.S. Attorney's Office
14 40 N. Central Avenue, Suite 1200
15 Phoenix, AZ 85004-4408
16 Attorneys for the Bureau of Indian Affairs

17
18
19
20
21
22
23
24
25
26
27
28
