

OPEN MEETING AGENDA ITEM



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BEFORE THE ARIZONA CORPORATION COMMISSION

Arizona Corporation Commission

COMMISSIONERS

GARY PIERCE - Chairman  
BOB STUMP  
SANDRA D. KENNEDY  
PAUL NEWMAN  
BRENDA BURNS

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AZ CORP COMMISSION  
DOCKET CONTROL

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IN THE MATTER OF THE COMPLAINT OF THE 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

PROCEDURAL ORDER  
SETTING REHEARING

BY THE COMMISSION:

On December 10, 2011, the Commission issued Decision No. 72043 in this docket.

On December 30, 2010, Mohave Electric Cooperative, Inc. ("Mohave" or "Respondent") timely filed an Application for Rehearing of Decision No. 72043 pursuant to A.R.S. § 40-253 ("Application for Rehearing").

On January 11, 2011, the Bureau of Indian Affairs, United States of America, ("BIA" or "Complainant") filed a response to Mohave's Application for Rehearing.

On January 18, 2011, the Commission voted to grant Mohave's Application for Rehearing. The Commission ordered the Hearing Division to issue a procedural order scheduling a procedural conference for the purpose of setting a procedural schedule for the rehearing proceeding, and to prepare a Recommended Order on Rehearing for Commission consideration.

A procedural order was issued on January 18, 2011, setting the procedural conference to commence on January 25, 2011.

A procedural conference was held as scheduled on January 25, 2011. BIA and Mohave appeared through counsel. Mohave requested that a date not be set for rehearing Decision No. 72043, as Mohave and BIA were attempting to resolve their disputed issues, but that a status conference be set in 45 days instead, at which time Mohave and BIA could report on their progress in reaching a resolution on the issues Mohave raised in its December 30, 2010 Application for Rehearing. Counsel for BIA indicated that BIA was amenable to Mohave's proposal.

1 On January 26, 2011, a procedural order was issued setting a procedural status conference to  
 2 commence on March 17, 2011, for the purpose of allowing BIA and Mohave to provide a status  
 3 update on their settlement discussions in this matter.

4 By procedural order issued March 14, 2011, the procedural status conference scheduled for  
 5 March 17, 2011, was continued to March 31, 2011, at the request of BIA.

6 A procedural status conference convened as scheduled on March 31, 2011. BIA, Mohave and  
 7 Staff appeared through counsel. Mohave and BIA reported that they were continuing to work toward  
 8 a resolution of the issues, but had not yet reached resolution.

9 Mohave and BIA proposed that a second status conference be set 60 days in the future.

10 BIA and Mohave were encouraged to continue their efforts to settle their disputes, and were  
 11 informed that a procedural order would be issued setting a date for the rehearing. BIA and Mohave  
 12 were directed to file within 10 days, either jointly or separately, their proposed procedural schedule  
 13 for the rehearing proceeding. BIA and Mohave were directed to include the following proposed dates  
 14 in their filings: dates for pre-filing of any new direct testimony, dates for the filing of rebuttal  
 15 testimony to that new direct testimony, and/or dates for the filing of prehearing briefs.

16 On April 15, 2011, BIA and Mohave jointly filed a Proposed Procedural Schedule for  
 17 Rehearing. The filing indicated that BIA and Mohave are continuing their efforts to reach a  
 18 settlement, and proposed the following procedural schedule:

19	Proposed settlement or status report	May 20, 2011
20	New prefiled direct testimony	June 8, 2011
21	New rebuttal direct testimony	June 28, 2011
22	Prehearing brief	July 13, 2011

23 BIA and Mohave's jointly proposed procedural schedule is reasonable and will be adopted.

24 IT IS THEREFORE ORDERED that a **hearing** shall be held on **July 25, 2011**, commencing  
 25 at **10:00 a.m.**, or as soon thereafter as practicable, at the Commission's offices, 1200 West  
 26 Washington Street, **Hearing Room 1**, Phoenix, Arizona, for rehearing of the issues set forth in  
 27 Mohave Electric Cooperative, Inc.'s Application for Rehearing.

28 IT IS FURTHER ORDERED that the Bureau of Indian Affairs, United States of America

1 and Mohave Electric Cooperative, Inc. shall file, on or before May 20, 2011, either a proposed  
2 settlement or a status report.

3 IT IS FURTHER ORDERED that **any new direct testimony** and associated exhibits to be  
4 presented at hearing on behalf of any party shall be reduced to writing and filed on or before **June 8,**  
5 **2011.**

6 IT IS FURTHER ORDERED that **any rebuttal to the new direct testimony** and associated  
7 exhibits to be presented at hearing on behalf of any party shall be reduced to writing and filed on or  
8 before **June 28, 2011.**

9 IT IS FURTHER ORDERED that all parties, including the Commission's Utilities Division,  
10 shall file **prehearing briefs** on or before **July 13, 2011.**

11 IT IS FURTHER ORDERED that all parties must comply with Arizona Supreme Court Rules  
12 31 and 38 and A.R.S. § 40-243 with respect to practice of law and admission *pro hac vice*.

13 IT IS FURTHER ORDERED that withdrawal of representation must be made in compliance  
14 with A.A.C. R14-3-104(E) and Rule 1.16 of the Rules of Professional Conduct (under Arizona  
15 Supreme Court Rule 42). Representation before the Commission includes appearances at all hearings  
16 and procedural conferences, as well as all Open Meetings for which the matter is scheduled for  
17 discussion, unless counsel has previously been granted permission to withdraw by the Administrative  
18 Law Judge or the Commission.

19 IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113 - Unauthorized  
20 Communications) continues to apply to this proceeding and shall remain in effect until the  
21 Commission's Decision in this matter is final and non-appealable.

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1 IT IS FURTHER ORDERED that the Administrative Law Judge may rescind, alter, amend,  
2 or waive any portion of this Procedural Order either by subsequent Procedural Order or by ruling at  
3 hearing.

4 DATED this 19<sup>th</sup> day of April, 2011.

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6  
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8   
9 TEENA JIBILIAN  
10 ADMINISTRATIVE LAW JUDGE

11 Copies of the foregoing mailed/delivered/faxed  
12 this 19<sup>th</sup> day of April, 2011 to:

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