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BEFORE THE ARIZONA CORPORATION COMMISSION

Arizona Corporation Commission

DOCKETED

MAY - 4 2011

COMMISSIONERS

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

DOCKETED BY [Signature]

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

DECISION NO. 72290

**ORDER EXTENDING TIME  
DEADLINE CONTAINED IN  
DECISION NO. 72043**

Open Meeting  
April 27 and 28, 2011  
Phoenix, Arizona

BY THE COMMISSION:

\* \* \* \* \*

Having considered the entire record herein and being fully advised in the premises, the Commission finds, concludes, and orders that:

**FINDINGS OF FACT**

1. On December 10, 2010, the Commission issued Decision No. 72043 in this docket.
2. 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").
3. 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.
4. 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.

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

3           6.     On January 24, 2011, Mohave filed a Notice of Attempted Compliance, indicating that  
4 it had mailed a check to BIA in the amount ordered by Decision No. 72043, but that the envelope  
5 containing the check had been returned to counsel for Mohave as undeliverable due to an improper  
6 address.

7           7.     On January 25, 2011, the procedural conference was held as scheduled. Mohave and  
8 BIA appeared through counsel. BIA and Mohave indicated that they were working on a stipulated  
9 decision on rehearing that would set forth resolutions to the issues that led Mohave to file its request  
10 for rehearing Decision No. 72043. Mohave requested that a status conference be set in order to  
11 inform the Commission of their progress toward that goal, and stated that Mohave would therefore  
12 prefer not to immediately have a hearing date set for rehearing Decision No. 72043. Mohave  
13 proposed that its requested status conference be set in 45 days, at which time Mohave and BIA could  
14 report on their progress in reaching a resolution on the issues Mohave raised in its December 30,  
15 2010 Application for Rehearing. Counsel for BIA indicated that BIA was amenable to Mohave's  
16 proposal.

17           8.     At the procedural conference, counsel for Mohave delivered to counsel for BIA the  
18 envelope containing the check Mohave had attempted to mail to BIA.

19           9.     At the procedural conference, Mohave stated that it had not attained timely compliance  
20 with other requirements of Decision No. 72043. After discussion, Mohave indicated that it planned  
21 to file a motion requesting that the Commission grant an extension of compliance deadlines. BIA  
22 indicated that it had no objection to Mohave filing such a motion.

23           10.    On January 26, 2011, a procedural order was issued setting a procedural status  
24 conference to commence on March 17, 2011, for the purpose of allowing Complainant and  
25 Respondent to provide a status update on their settlement discussions in this matter.

26           11.    On January 31, 2011, Mohave filed a Motion for Extension of Compliance Deadlines  
27 in Decision No. 72043 ("Motion"), in which it requested an extension of compliance deadlines  
28 ordered by Decision No. 72043. Decision No. 72043 ordered Mohave to take certain actions in

1 regard to the electric power line that starts at Mohave's Nelson Substation and runs approximately 70  
2 miles north, northeast, to the Long Mesa Transformer, located at the rim of the Grand Canyon,  
3 Arizona ("Line"). Mohave's Motion requested an extension of the deadline for compliance with the  
4 following three requirements of Decision No. 72043:

- 5 a. that Mohave recommence operation and maintenance of the Line to Long Mesa  
6 within ten days ("Operation and Maintenance Requirement");
- 7 b. that Mohave begin reading meters of its retail customers currently served by the  
8 Line within ten days ("Meter Reading Requirement"); and
- 9 c. that Mohave place a meter at Long Mesa and recommence reading the meter at  
10 Long Mesa within ten days, to determine the proper amount to bill the BIA for  
11 electricity used past the point of Long Mesa ("Long Mesa Meter Relocation  
12 Requirement").

13 12. On February 9, 2011, BIA filed a Response to the Motion ("Response").

14 13. On February 17, 2011, Mohave filed a Reply to BIA's Response to its Motion  
15 ("Reply").

16 14. On March 14, 2011, BIA and Mohave contacted the Hearing Division and requested a  
17 procedural conference. A telephonic procedural conference was held with BIA and Mohave  
18 appearing through counsel. Counsel for BIA indicated that due to a grand jury appearance, he would  
19 be unable to appear at the procedural status conference in the rehearing proceeding set for March 17,  
20 2011, and requested a continuance. Mohave did not oppose the request.

21 15. On March 14, 2011, a procedural order was issued continuing the procedural status  
22 conference from March 14, 2011 to March 31, 2011. The procedural order also directed the  
23 Commission's Utilities Division ("Staff") to file a recommendation in regard to Mohave's Motion.

24 16. On March 22, 2011, Staff filed its recommendation on Mohave's Motion.

25 17. On March 31, 2011, the procedural conference set by the March 14, 2011 procedural  
26 order convened as scheduled. BIA, Mohave and Staff appeared through counsel.

27 18. During the procedural conference, Mohave and BIA reported that while they continue  
28 to work toward a resolution of the issues, they have not yet reached resolution, and proposed that a  
second status conference be set 60 days in the future. The parties were directed to file, within ten  
days, proposed procedural schedules for the rehearing, to include proposed dates for pre-filing of any

1 new direct testimony, for the filing of rebuttal testimony to that new direct testimony, and/or for the  
2 filing of prehearing briefs, and that a procedural order would be issued following consideration of the  
3 filings, setting a date for the rehearing.

4 19. During the procedural conference, counsel for Mohave indicated that Mohave recently  
5 determined that it has the authorization it requires to access the Line and that it can therefore  
6 commence compliance with the Operation and Maintenance Requirement and the Meter Reading  
7 Requirement. Counsel for Mohave stated that Mohave intends to begin complying with these two  
8 requirements of Decision No. 72043 within ten days of March 31, 2011. During the procedural  
9 conference, counsel for Mohave stated that Mohave continues to seek an extension of time to comply  
10 with the Long Mesa Meter Relocation Requirement.

11 20. In the Motion, Mohave requested that the Commission suspend compliance with the  
12 Long Mesa Meter Relocation Requirement pending the rehearing process and until further order of  
13 the Commission. Mohave's Motion stated that Mohave had not yet complied with this requirement  
14 due to the time needed to order and receive the necessary transformers and related equipment for the  
15 meter relocation. In the Motion, Mohave stated an estimated cost for Mohave to move the meter and  
16 its associated equipment from Nelson Substation to Long Mesa of approximately \$10,000 to \$15,000  
17 (including labor and materials).

18 21. In its Response, BIA stated that after the issuance of Decision No. 72043, Mohave  
19 represented to BIA that it would take some time to obtain the necessary equipment for the Long Mesa  
20 meter, and as a courtesy, BIA had informed Mohave that it did not object to a reasonable delay to re-  
21 install the Long Mesa meter.

22 22. At the March 31, 2011 procedural conference, BIA objected to a further extension of  
23 the compliance deadline for the Long Mesa Meter Relocation Requirement.

24 23. Staff's March 22, 2011 filing included a recommendation in regard to the Long Mesa  
25 Meter Relocation Requirement. Staff stated that it believes it is premature to require Mohave to  
26 expend time and money to comply with this requirement pending the rehearing process, as it is  
27 conceivable that the requirement could be modified or eliminated as a result of the rehearing  
28

1 proceeding. Staff recommended that this compliance deadline be suspended pending the rehearing  
2 process and until further order of the Commission.

3 24. Under the circumstances of this case, it is reasonable to suspend the outstanding Long  
4 Mesa Meter Relocation Requirement, pending the rehearing process and until further order of the  
5 Commission.

6 **CONCLUSIONS OF LAW**

7 1. Mohave is a public service corporation with the meaning of Article XV of the Arizona  
8 Constitution and A.R.S. §§ 40-281 and 40-282 and 40-285.

9 2. The Commission has jurisdiction over Mohave, and the subject matter of this  
10 proceeding, including Mohave's request for an extension of time to comply with Commission  
11 Decision No. 72043.

12 3. Under the circumstances, it is reasonable and in the public interest to grant Mohave's  
13 request for a time extension of the Long Mesa Meter Relocation Requirement.

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ORDER

IT IS THEREFORE ORDERED that the requirement of Decision No. 72043 that Mohave Electric Cooperative, Inc. place a meter at Long Mesa and recommence reading the meter at Long Mesa within ten days is hereby suspended pending the rehearing process and until further order of the Commission.

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

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

*Paul L. Quinn*  
CHAIRMAN

*Paul St.*  
COMMISSIONER

*Andrew J. Krasch*  
COMMISSIONER

*Paul M.*  
COMMISSIONER

*Brenda P. Burns*  
COMMISSIONER

IN WITNESS WHEREOF, I, ERNEST G. JOHNSON, Executive Director of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this 4<sup>th</sup> day of MAY, 2011.

*Ernest G. Johnson*  
ERNEST G. JOHNSON  
EXECUTIVE DIRECTOR

DISSENT \_\_\_\_\_

DISSENT \_\_\_\_\_

1 SERVICE LIST FOR:

BUREAU OF INDIAN AFFAIRS, UNITED STATES  
OF AMERICAN, AGAINST MOHAVE ELECTRIC  
COOPERATIVE, INC.

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3 DOCKET NO.:

E-01750A-05-0579

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