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BEFORE THE ARIZONA CORPORATION

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COMMISSIONERS

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

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ARIZONA CORPORATION
DOCKET CONTROL

Arizona Corporation Commission

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

DOCKET NO. E-01575A-08-0328

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

DOCKET NO. E-01575A-09-0453

**PETITION TO AMEND
DECISION NO. 71274 PURSUANT
TO A.R.S. §40-252**

Expedited Consideration Requested

I. INTRODUCTION

Pursuant to A.R.S. §40-252, Sulphur Springs Valley Electric Cooperative, Inc. (“SSVEC” or “Cooperative”), through counsel undersigned, hereby petitions the Arizona Corporation Commission (“Commission”) for an order amending Commission Decision No. 71274,¹ dated September 8, 2009 (the “Decision”) to modify requirements relating to the Cooperative’s Wholesale Power and Fuel Cost Adjustor (“WPFCA” or “Fuel

¹ Decision No. 71274 relates only to Docket No. E-01575A-08-0328. Docket No. E-01575A-09-0453 was filed after the issuance of Decision No. 71274 and was subsequently consolidated with E-01575A-08-0328. The issue related to this Petition is unrelated to Docket No. E-01575A-09-0453. There were no Intervenor in the underlying rate case. There were three interventions that were granted subsequent to the issuance of the Decision for the 69 kV line matter that is unrelated to the issue set forth in this Petition.

1 Adjustor”).²

2 On September 8, 2009, the Commission issued the Decision in Docket No. E-
3 01575A-08-0328 (“Rate Case Docket”) which adopted the Utilities Division’s (“Staff”)
4 recommended changes to the way the Cooperative would be required to administer its
5 WPFCA. These changes included the following requirements:

6 1) The establishment of thresholds that would trigger changes in the WPFCA for
7 both over-and-under-collected fuel bank balances of \$1 million and \$2 million,
8 respectively;

9 2) The requirement that SSVEC file an application for any increase in its WPFCA
10 rate either when the bank balance reaches the \$2 million threshold for under-collected
11 balances for two consecutive months, or when it reasonably anticipates that the threshold
12 will be reached within six months and would continue at or above the threshold for two or
13 more consecutive months; and

14 3) The requirement that the Cooperative return over-collected bank balances to its
15 members at anytime, except that it must return over-collected amounts once the over-
16 collected bank balance reaches \$1 million and remains over that threshold amount for two
17 consecutive months.

18 SSVEC requests that the Commission amend the Decision to eliminate the above
19 three (3) WPFCA requirements (hereinafter collectively the “WPFCA Requirements”). In
20 the alternative, SSVEC requests that the WPFCA Requirements be eliminated and that the
21 Cooperative be permitted to increase its Fuel Adjustor following a 30-day prior notice
22 filing with the Commission. SSVEC further requests expedited consideration of its
23 Petition because the Cooperative anticipates having to raise its Fuel Adjustor in the near
24 future.

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26 ² This Petition, and the requested modification of the Decision, is limited to the specific issues set forth
27 herein relating to the WPFCA and to no other issues or matters contained in the Decision. Moreover,
28 because of the extensive underlying record in Docket No. E-01575A-08-0328, including, but not limited
to, the evidentiary record and the pleadings relating to the WPFCA that have already been filed, SSVEC
believes that the requested relief goes to issues of Commission policy that could be decided without the
necessity for further evidentiary hearings or fact finding.

1 In support of its Petition, SSVEC states the following:

2 **II. BACKGROUND AND PROCEDURAL HISTORY.**

3 A. The Cooperative

4 SSVEC is a member-owned Arizona nonprofit corporation with its principal
5 business office located at 350 North Haskell, Willcox, Arizona 85643. SSVEC is a public
6 service corporation providing electric distribution service in parts of Cochise, Santa Cruz,
7 Pima, and Graham Counties pursuant to a Certificate of Convenience and Necessity
8 issued by this Commission. SSVEC's 12-member Board of Directors ("Board") oversees
9 all aspects of the Cooperative's operations (including the WPFCA) and approves the
10 annual operating budget for the Cooperative.³

11 B. The Cooperative's Wholesale Power Fuel Adjustor

12 Prior to the 2008 Rate Case Docket, SSVEC had a wholesale power cost adjustor
13 that the Commission established in SSVEC's 1993 Rate Decision (Decision No. 58358)
14 that allowed the Cooperative to pass through fuel and purchased power costs to its
15 members. Up until January 2008, SSVEC was an All Requirements Member ("ARM") of
16 Arizona Electric Power Cooperative ("AEPCO") and obtained all of its power from
17 AEPCO through a Commission-approved adjustment mechanism whereby AEPCO passes
18 through its costs to its member distribution cooperatives. SSVEC would then in turn pass
19 through the AEPCO costs to its retail members. In January 2008, pursuant to Commission
20 approval, SSVEC became a Partial Requirements Member ("PRM") of AEPCO, which
21 entitles SSVEC to obtain a portion of its power from sources other than AEPCO.
22 However, notwithstanding becoming a PRM, SSVEC still obtains approximately 80
23 percent of its power requirements from AEPCO, and it is anticipated that through 2012,
24 SSVEC will obtain between 75.3 and 88.3 percent of its power from AEPCO.⁴

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27 ³ At the time of the hearing in the Rate Case Docket, SSVEC had a 13-member Board and has since
28 reduced the Board by one member. The Cooperative plans to further reduce its Board to 9 members to
reduce expenses for its members.

⁴ Rate Case Docket, Exhibit S-13 at page 3, lines 12-25.

1 As with all AEPCO member distribution cooperatives, SSVEC has no control
2 whatsoever over the costs AEPCO passes through and has no choice but to pay such costs.
3 Additionally, AEPCO's fuel adjustor mechanism is monitored and approved by the
4 Commission through semi-annual filings that AEPCO makes with the Commission.
5 Presumably, the Commission would not approve an increase in AEPCO's rates or its fuel
6 adjustor to be passed through to the distribution cooperatives unless such increases were
7 necessary and appropriate.

8 C. SSVEC's Opposition to the Establishment of WPFCA Requirements

9 The Decision adopted Staff's recommendations regarding the WPFCA that
10 established the thresholds for over-and-under-collection returns and increases, as well as
11 the requirement that SSVEC be required to obtain Commission approval before it could
12 increase its WPFCA. Although SSVEC ultimately agreed to the establishment of the
13 thresholds, it maintained vehement opposition to the Staff recommendation that the
14 Commission must approve all increases to the WPFCA. SSVEC argued that Staff's
15 recommendation applied to all increases, even if the increase would not result in any
16 customer "rate shock" whatsoever, regardless of how miniscule the increase. For
17 example, if SSVEC sought to increase its adjustor by .05 percent and there was a \$.50 (or
18 less) increase to the customers' entire bill, SSVEC would be required to expend the time
19 and expense necessary to file for Commission approval and wait many months for such
20 approval. This would (i) negatively impact the ability of the Cooperative to properly
21 administer its bank balance; (ii) require the Cooperative to use its equity margin to "lay
22 out" the money to purchase the power (that as a public utility it is obligated to acquire) for
23 extended periods of time; (iii) spend time, money, and resources going through a
24 Commission proceeding (just to implement a small increase); (iv) cause significant delay
25 in the Cooperative's ability to recover costs; and (v) hinder the Cooperative's ability to be
26 in compliance with the under-collection bank balance threshold. SSVEC further argued
27 that requiring Commission approval for increases defeats the purpose of the Fuel Adjustor
28 mechanism, which is to allow timely recovery of wholesale costs incurred that are outside

1 the Cooperative's control.⁵ Finally, in light of the fact that the Cooperative would be
2 obtaining between 75 and 88 percent (or more) of its power from AEPCO, and SSVEC
3 does not control the cost of that power, Staff's recommendation would result in the
4 Commission duplicating its efforts by reviewing power costs twice because the majority
5 of such costs would have already been reviewed for AEPCO prior to the pass-through to
6 SSVEC. Staff also raised concerns that the Cooperative could purchase less than 80
7 percent of its power from AEPCO.⁶ SSVEC maintained that this concern was unfounded
8 because the only time the Cooperative would do this is when the cost of power from
9 AEPCO is more expensive than what the Cooperative could obtain by going to the
10 market. If that happened, the amount of purchased power expenses that will be included
11 in the WPFCA will be less, resulting in a benefit to the members.

12 Notwithstanding, the Decision adopted Staff's recommendation that established the
13 thresholds and that SSVEC be required to submit for Commission approval all proposed
14 increases to its WPFCA rate.

15 **III. THE WPFCA REQUIREMENTS SHOULD BE ELIMINATED**

16 SSVEC is a distribution cooperative (as opposed to an investor-owned utility)
17 currently governed by a democratically-elected independent 12-member Board. The
18 Cooperative had not been required to maintain thresholds for its bank balance or obtain
19 Commission approval for increases prior to the Rate Case Docket. The Decision changed
20 this. It imposed a very narrow range of bank balance thresholds for over-and-under-
21 collection returns and increases, and requires SSVEC to obtain express Commission
22 authorization each and every time it needs to increase its WPFCA, without regard to the
23 time, resources, and expenses that the Cooperative will incur in order to comply with such
24 WPFCA Requirements. SSVEC is not aware of any other electric utility in Arizona that
25 has these specific WPFCA Requirements related to their fuel adjustors.⁷

26 ⁵ Rate Case Docket; Hr. Ex. A-8 at page 18, line 25 through page 19, line 2.

27 ⁶ Rate Case Docket; Hr. Ex. S-13 at page 3, lines 12-18.

28 ⁷ Although Tucson Electric Power Company must obtain annual Commission approval to change its
adjustor, its mechanism was established pursuant to a settlement agreement and the components of which
are vastly different than SSVEC's WPFCA. See Decision No. 70628 (December 1, 2008).

1 At the hearing in the Rate Case Docket, Staff acknowledged that it can typically
2 take as long as *four to five months* for the Commission to approve an adjustor reset.⁸
3 Moreover, on January 6, 2011, in Decision No. 72055, the Commission approved a rate
4 increase for AEPCO, which increased the rates (and thereby the pass-through to the
5 distribution cooperatives) and resulted in an annual increase to SSVEC of \$343,673 or
6 approximately \$0.40 per residential customer using 1,000 kWh. Therefore, despite the
7 Commission having already found that the AEPCO rate increase was in the public interest
8 and should be passed through to AEPCO's member distribution cooperatives including
9 SSVEC, SSVEC is precluded from increasing its WPFCA by the \$0.40 to recover these
10 costs without first making a filing with the Commission justifying this increase. This will
11 delay SSVEC's recovery by many months and cost the Cooperative considerable time,
12 resources, and money to justify what the Commission has already found to be appropriate.
13 Additionally, each time AEPCO proposes to increase its wholesale power fuel adjustor
14 (which is reviewed by the Commission), it will pass such increases through to SSVEC, yet
15 SSVEC will be precluded from passing such increases through to its members until such
16 time that separate approval is obtained from the Commission. This process the
17 Commission established for SSVEC negates the purpose of an "adjustor mechanism"
18 which, by definition, is designed to automatically adjust for those expenses entirely
19 outside of the control of the utility; *i.e.*, AEPCO pass-through costs.

20 The Commission imposed the WPFCA Requirements on SSVEC but has not
21 imposed them on any other cooperative (whether ARM or PRM) despite the fact that since
22 2009, SSVEC has consistently had the lowest power costs among all of the cooperatives.
23 This cost comparison is illustrated in the table below which includes each cooperative's
24 base power costs in their rates, plus their individual adjustor on May 1, 2011.
25 Consequently, SSVEC lowered its adjustor to below its Commission-approved base cost
26 of power of \$0.072127 per kWh that was established in the Decision⁹ to -\$0.00315 per
27

28 ⁸ Rate Case Docket; Hr. Tr. at page 539, lines 7-16.

⁹ Decision at Finding of Fact No. 36.

1 kWh.

2 **COMPARISON OF POWER COSTS FOR COOPERATIVES AS OF MAY 1, 2011**

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Distribution Cooperative	Total Power Cost/kWh	Cost/kWh Above SSVEC	Percent Above SSVEC
SSVEC	0.068977	N/A	N/A
MOHAVE	0.085298	0.016321	23.7%
TRICO	0.086638	0.017661	25.6%
DUNCAN	0.093330	0.024353	35.3%
GRAHAM	0.096509	0.027532	39.9%

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9 In 2008, on-peak wholesale prices were approximately \$126 per MWH. Today, SSVEC is purchasing non-AEPCO power at less than half that amount. Other than some unusual volatility in the wholesale power market that occurred in 2008 that was beyond the Cooperative's control, it is unclear why the Commission chose to single out SSVEC for disparate treatment in relation to its Fuel Adjustor.

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14 Because of the decrease in wholesale power costs that SSVEC has enjoyed, it has been refunding over-collections to its members in accordance with the Decision. However, in light of AEPCO's Commission-approved rate increase (which the Decision precludes SSVEC from passing through to its members), and the narrow range of bank balance thresholds imposed by Decision, SSVEC anticipates that by October 1, 2011, its bank balance will reach a point where it will be necessary to increase its WPFCA. Although it makes more sense for SSVEC to maintain its bank balance to keep member rates more constant, the Commission has unnecessarily "tied the Cooperative's hands" regarding SSVEC's democratically-elected Board's ability to properly administer the Cooperative's affairs to the benefit of all members. The Decision requires SSVEC to continue to reduce its WPFCA at a time when the Cooperative knows it will have to increase the WPFCA in few months. The Decision requires SSVEC to now spend time, money, and resources to make a filing with the Commission and waiting many months before receiving Commission approval for something that it previously approved in the AEPCO rate case.

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1 **IV. IN THE ALTERNATIVE, ONLY A 30-DAY NOTICE FILING SHOULD BE**
2 **REQUIRED**¹⁰

3 SSVEC still maintains that the WPFCA Requirements are not necessary and should
4 be eliminated. If, however, the Commission determines that SSVEC must still file for
5 increases in its WPFCA, because timely recovery of expenses is critical to the
6 Cooperative, SSVEC proposes a mechanism that the Commission has approved for other
7 electric utilities that will ensure the Commission's ability to review and approve the
8 increase in a timely manner.¹¹ This mechanism would require SSVEC to make a filing
9 with the Commission (which will include the necessary supporting documentation) in
10 order to change its WPFCA rate above its Commission-approved base cost of power of
11 \$0.072127, and if the Commission does not act to suspend the filing within 30 days, the
12 change in the WPFCA rate would go into effect.

13 In the Rate Case Docket, SSVEC provided testimony from its outside rate
14 consultant regarding the mechanism as follows:

15 SSVEC is dependent upon AEPCO for the majority of its purchases
16 and market prices for the remainder. SSVEC is not always able to
17 predict changes in power cost into the future. That is why the
18 WPFCA factor is so important in the recovery of these costs. Unlike
19 an investor-owned utility that may be able to predict fuel costs well
20 into the future, SSVEC does not have that same ability. It is essential
21 that SSVEC have the ability to recover sudden increases in fuel costs
22 without a significant delay at the Commission.¹²

23 As discussed above, at the Rate Case Docket hearing, Staff acknowledged that it
24 can typically take as long as four to five months for the Commission to approve an
25 adjustor reset.¹³ Moreover, Staff provided further information in its response to an
26 SSVEC data request that the Commission had previously approved adjustors for three
27 other utilities that go into effect unless suspended by the Commission.¹⁴ Those utilities

28 ¹⁰ Although SSVEC is offering this alternative, it is not the preference of SSVEC's Board or of its
management, and the Cooperative urges the Commission to amend the Decision to eliminate the WPFCA
Requirements as discussed in Section III herein.

¹¹ SSVEC made a similar proposal in the Rate Case Docket.

¹² Rate Case Docket; Hr. Ex. A-9 at page 14, lines 2-11.

¹³ Rate Case Docket; Hr. Tr. at page 539, lines 7-16.

¹⁴ *Id.* at page 641, lines 2 through 642 line 6.

1 are AEPCO (Decision No. 68071), Arizona Public Service Co. (Decision No. 6963), and
2 UNS Electric (Decision No. 70360) and are referred to in the Decision. Since the Rate
3 Case Docket and the issuance of the Decision, the Commission has re-affirmed these
4 adjustor filing procedures for Arizona Public Service Company in Decision No. 71448
5 (December 30, 2009), and AEPCO in Decision No. 72055 (January 6, 2011).

6 In initially establishing the AEPCO fuel adjustor (referred to as the "FPPCA") that
7 is in place today, the Commission stated the following:

8 *We recognize that the FPPCA is intended to allow timely recovery*
9 *of increases in fuel and purchase power costs, or to allow the refund*
10 *of any decreases, without the time and expense of a full rate*
11 *proceeding.*¹⁵

12 SSVEC believes that as a cooperative, its situation is more analogous to AEPCO than the
13 investor-owned utilities. Yet, despite the fact that AEPCO is subject to considerably more
14 price volatility than SSVEC, AEPCO has the ability to change its FPPCA following a 30-
15 day filing with the Commission that takes effect unless otherwise suspended:

16 *The adjustor rate would become effective with billings for October and*
17 *April unless suspended by the Commission.*¹⁶

18 The Decision treats SSVEC differently than these other utilities with respect to its
19 Fuel Adjustor because of what was perceived as the potential for price volatility on what
20 amounts to be only a small portion of SSVEC's purchased power. However, as discussed
21 above, SSVEC has not experienced the anomalous price volatility that occurred in 2008
22 and, in fact, is paying considerably less for wholesale power than it did in 2008.
23 Moreover, because SSVEC is a distribution cooperative that still obtains most of its power
24 from AEPCO, the evidence in the Rate Case Docket suggests that with respect to the
25 WPFCA, a more "light handed" regulatory approach is warranted, as opposed to the more
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28 ¹⁵ Decision No. 68071 at page 9, lines 25-27.

¹⁶ *Id.* at lines 3-4 (emphasis added.)

1 “heavy handed” regulatory treatment adopted in the Decision for SSVEC.¹⁷ Although
2 SSVEC does not dispute the Commission’s constitutional rate-making authority over the
3 Fuel Adjustor, the Cooperative believes that under the circumstances that have occurred
4 since the issuance of the Decision, there is not a compelling rational basis for the
5 Commission to continue to treat SSVEC so differently than other electric utilities.¹⁸

6 In light of (i) SSVEC’s legal status as a cooperative (as opposed to an investor-
7 owned utility) they must have timely recovery of its fuel and purchased power costs; (ii)
8 the timing of the Commission approval process is out of SSVEC’s direct control; (iii) in
9 the foreseeable future, between 75 percent and 88 percent (or more) of SSVEC’s power
10 will continue to come from AEPSCO, and the Commission will have already approved the
11 pass-through of those costs to SSVEC; and (iv) the Commission precedent that allows
12 automatic adjustors for other utilities (including a cooperative) if the Commission does
13 not act to suspend; SSVEC alternatively requests that the Decision be modified to
14 eliminate the WPFCA Requirements and that future WPFCA rate increases above
15 SSVEC’s Commission-approved base cost of power \$0.072127 be permitted to go into
16 effect if the Commission does not act to suspend the Cooperative’s filing within 30 days
17 of any such filings.

18 **V. CONCLUSION**

19 The volatility concerns that Staff and the Commission may have had at the time it
20 imposed the WPFCA Requirements in the Decision have not occurred. Natural gas, the
21 fuel for most peaking resources and additional power purchases, has become more
22 abundant as a result of larger reserves. As such, natural gas prices have become more
23 stable in pricing, thus reducing price volatility. Moreover, since SSVEC implemented the
24 WPFCA Requirements pursuant to the Decision, many of the concerns the Cooperative

25 ¹⁷ In *Arizona Corp. Comm’n v. Palm Springs Utility Co.*, 24 Ariz. App. 124, 536 P.2d 245, (App. 1975),
26 the court held that there must exist “a rational statutory or constitutional basis for the action, and the action
27 is not so discriminatory as to constitute a denial of the equal protection clause.” *Id.* at 24 Ariz. App. at
28 129, 536 P.2d at 250.

¹⁸ The Decision required the Cooperative to adopt and file additional policies and procedures regarding its
power procurement activities, and SSVEC continues to file monthly power reports with Staff.
Additionally, SSVEC’s Board closely monitors the Cooperative’s power purchase activities and costs.

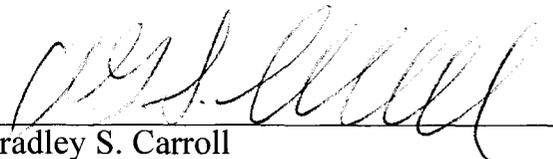
1 previously raised have occurred, including an increase in wholesale power costs derived
2 from a Commission-approved AEPCO rate increase and pass-through to SSVEC.
3 Additionally, given the strain on Commission resources and the time it takes for a filing to
4 be approved, as well as the additional time, money, and resources SSVEC must expend in
5 order to administer the WPFCA Requirements (including obtaining Commission
6 authorization for increases in the WPFCA), the Commission's rationale for the imposition
7 of the WPFCA Requirements at the time it adopted the Decision is no longer necessary or
8 appropriate.

9 Accordingly, SSVEC requests that the Decision be amended to eliminate the
10 WPFCA Requirements. For the convenience of the Commission, attached as Attachment
11 A is a proposed form of Order that would accordingly modify the Decision. Alternatively,
12 SSVEC requests that the Decision be amended to eliminate the WPFCA Requirements,
13 and be permitted to increase its Fuel Adjustor above its current base cost of power of
14 \$0.072127 following 30 days' prior notice to the Commission which is consistent with
15 procedures for other Arizona electric utilities. For the convenience of the Commission,
16 attached as Attachment B is a proposed form of Order that would modify the Decision for
17 this alternative. SSVEC further requests expedited consideration of its Petition because,
18 as described hereinabove, the Cooperative anticipates having to raise its Fuel Adjustor in
19 the near future which would require SSVEC to prepare and submit a filing with the
20 Commission which would become moot if the relief requested herein is granted.

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1 RESPECTFULLY SUBMITTED this 9th day of May, 2011.

2 SNELL & WILMER L.L.P.

3
4 By 

5 Bradley S. Carroll
6 One Arizona Center
7 400 East Van Buren
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9 Attorneys for Sulphur Springs Valley
 Electric Cooperative, Inc.

10 ORIGINAL and 14 copies filed this
11 9th day of May, 2011, with:

12 Docket Control
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16 COPIES of the foregoing hand-delivered
17 this 9th day of May, 2011, to:

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24 1200 West Washington Street
25 Phoenix, Arizona 85007

26 Paul Newman, Commissioner
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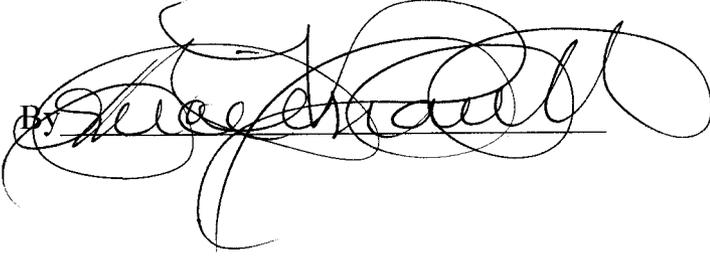
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11 By 
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Attachment A

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BEFORE THE ARIZONA CORPORATION COMMISSION

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BOB STUMP
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WHETSTONE, RAIN VALLEY, ELGIN,
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ARIZONA AREAS.

DOCKET NO. E-01575A-09-0453

DECISION NO. _____

ORDER

_____ Meeting
_____, 2011
Phoenix, Arizona

BY THE COMMISSION:

FINDINGS OF FACT

1. Sulphur Springs Valley Electric Cooperative, Inc. ("SSVEC" or "Cooperative") is a member-owned Arizona nonprofit cooperative that provides electric distribution service pursuant to a Certificate of Convenience and Necessity issued by the Arizona Corporation Commission ("Commission").

...

1 2. On September 8, 2009, the Commission issued Decision No. 71274
2 (“Decision”), which, *inter alia*, established new requirements related to the Cooperative’s
3 administration of its Wholesale Power and Fuel Cost Adjustor (“WPFCA”).¹ These
4 requirements included: (1) the establishment of thresholds that would trigger changes in
5 the WPFCA for both over and under-over-collected fuel bank balances of \$1 million and
6 \$2 million, respectively; (2) the requirement that SSVEC file an application for any
7 increase in its WPFCA rate either when the bank balance reaches the \$2 million threshold
8 for under-collected balances for two consecutive months, or when it reasonably
9 anticipates that the threshold will be reached within six months and would continue at or
10 above the threshold for two or more consecutive months; and (3) the requirement that the
11 Cooperative return over-collected bank balances to its members at anytime, except that it
12 must return over-collected amounts once the over-collected bank balance reaches \$1
13 million and remains over that threshold amount for two consecutive months.

14 3. On May 6, 2011, SSVEC filed a Petition to Amend Decision No. 71274
15 pursuant to A.R.S. §40-252 (“252 Petition”). The Petition requested that the Commission
16 amend the Decision to eliminate the above three (3) WPFCA requirements (hereinafter
17 collectively referred to as the (“WPFCA Requirements”). In the alternative, SSVEC
18 requested that the WPFCA Requirements be eliminated and that the Cooperative be
19 permitted to increase its WPFCA following a 30-day prior notice filing with the
20 Commission.

21 4. The Petition states that despite SSVEC’s 2008 Commission-approved
22 change in status from an All Requirements Member (“ARM”) to a Partial Requirements
23 Member (“PRM”) of Arizona Electric Power Cooperative (“AEPCO”), SSVEC continues
24 to obtain the majority of its power from AEPCO, and the price volatility that the
25 Commission was concerned with when it adopted the WPFCA Requirements in 2009 has
26 not occurred. Moreover, the Petition provides information that SSVEC’s wholesale
27

28 ¹ There was substantial evidence related to the WPFCA presented by SSVEC and Staff at the hearing underlying the Decision.

1 power costs are the lowest among all distribution cooperatives and that the Commission
 2 has not required any other distribution cooperative (whether ARM or PRM) to adhere to
 3 requirements similar to the WPFCA Requirements. SSVEC also asserts that because of
 4 the written power procurement policies that the Decision required the Cooperative to
 5 adopt and file with the Commission, as well as the monthly power reports that the
 6 Cooperative files with the Commission, there are already sufficient safeguards in place for
 7 the Commission to monitor the WPFCA.

8 5. Since the issuance of the Decision, the price volatility that the Commission
 9 was concerned with has not occurred. Moreover, SSVEC continues to obtain the majority
 10 of its power from AEPCO. The Commission already approves and/or monitors all
 11 AEPCO power costs before it can pass-through such costs to SSVEC, thereby negating
 12 the need for the Commission to review those same costs a second time, as SSVEC has no
 13 control over such costs.² Finally, SSVEC has demonstrated that it has the lowest
 14 purchased power costs among all of the Arizona distribution cooperatives.

15 6. The concerns the Commission had when it adopted the WPFCA
 16 Requirements in the Decision have not materialized, thereby no longer requiring the need
 17 for the WPFCA Requirements.

18 CONCLUSIONS OF LAW

19 1. Sulphur Springs Valley Electric Cooperative, Inc. is a public service
 20 corporation within the meaning of Article XV, Section 2, of the Arizona Constitution.

21 2. The Commission has jurisdiction over Sulphur Springs Valley Electric
 22 Cooperative, Inc. and the subject matter of the Petition pursuant to A.R.S. §40-252 and
 23 Decision No. 71274.

24 3. Pursuant to A.R.S. §40-252, it is reasonable to amend Decision No. 71274
 25 to remove the WPFCA Requirements.

26 ² For example, on January 6, 2011, in Decision No. 72055, the Commission approved a rate increase for
 27 AEPCO, which increased the rates (and thereby the pass-through to the distribution cooperatives) that
 28 resulted in an annual increase to SSVEC of \$343,673 or approximately \$0.40 per residential customer
 using 1,000 kWh. The WPFCA Requirements preclude SSVEC from increasing its WPFCA rate to
 recover these costs from its members without first making a filing with the Commission for approval.

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ORDER

IT IS THEREFORE ORDERED that pursuant to A.R.S. §40-252, Decision No. 71274, is hereby amended to remove the WPFCA Requirements as discussed herein.

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

BY ORDER OF THE ARIZONA CORPORATION COMMISSION

CHAIRMAN

COMMISSIONER

COMMISSIONER

COMMISSIONER

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 ____ day of ____, 2011.

ERNEST G. JOHNSON
EXECUTIVE DIRECTOR

DISSENT _____

DISSENT _____

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SERVICE LIST FOR: SULPHUR SPRINGS VALLEY ELECTRIC
COOPERATIVE, INC.

DOCKET NOS.: E-01575A-08-0328 E-01575A-09-0453

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Phoenix, Arizona 85007

Janice Alward, Chief Counsel
Legal Division
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Attachment B

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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

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

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

DOCKET NO. E-01575A-08-0328

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

DOCKET NO. E-01575A-09-0453

DECISION NO. _____

ORDER

_____ Meeting
_____, 2011
Phoenix, Arizona

BY THE COMMISSION:

FINDINGS OF FACT

1. Sulphur Springs Valley Electric Cooperative, Inc. ("SSVEC" or
"Cooperative") is a member-owned Arizona nonprofit cooperative that provides electric
distribution service pursuant to a Certificate of Convenience and Necessity issued by the
Arizona Corporation Commission ("Commission").

...

1 2. On September 8, 2009, the Commission issued Decision No. 71274
2 (“Decision”), which, *inter alia*, established new requirements related to the Cooperative’s
3 administration of its Wholesale Power and Fuel Cost Adjustor (“WPFCA”).¹ These
4 requirements included: (1) the establishment of thresholds that would trigger changes in
5 the WPFCA for both over and under-over-collected fuel bank balances of \$1 million and
6 \$2 million, respectively; (2) the requirement that SSVEC file an application for any
7 increase in its WPFCA rate either when the bank balance reaches the \$2 million threshold
8 for under-collected balances for two consecutive months, or when it reasonably
9 anticipates that the threshold will be reached within six months and would continue at or
10 above the threshold for two or more consecutive months; and (3) the requirement that the
11 Cooperative return over-collected bank balances to its members at anytime, except that it
12 must return over-collected amounts once the over-collected bank balance reaches \$1
13 million and remains over that threshold amount for two consecutive months.

14 3. On May 6, 2011, SSVEC filed a Petition to Amend Decision No. 71274
15 pursuant to A.R.S. §40-252 (“252 Petition”). The Petition requested that the Commission
16 amend the Decision to eliminate the above three (3) WPFCA requirements (hereinafter
17 collectively referred to as the (“WPFCA Requirements”). In the alternative, SSVEC
18 requested that the WPFCA Requirements be eliminated and that the Cooperative be
19 permitted to increase its WPFCA following a 30-day prior notice filing with the
20 Commission.

21 4. The Petition states that despite SSVEC’s 2008 Commission-approved
22 change in status from an All Requirements Member (“ARM”) to a Partial Requirements
23 Member (“PRM”) of Arizona Electric Power Cooperative (“AEPCO”), SSVEC continues
24 to obtain the majority of its power from AEPCO, and the price volatility that the
25 Commission was concerned with when it adopted the WPFCA Requirements in 2009 has
26 not occurred. Moreover, the Petition provides information that SSVEC’s wholesale

27
28 ¹ There was substantial evidence related to the WPFCA presented by SSVEC and Staff at the hearing
underlying the Decision.

1 power costs are the lowest among all distribution cooperatives and that the Commission
 2 has not required any other distribution cooperative (whether ARM or PRM) to adhere to
 3 requirements similar to the WPFCA Requirements. SSVEC also asserts that because of
 4 the written power procurement policies that the Decision required the Cooperative to
 5 adopt and file with the Commission, as well as the monthly power reports that the
 6 Cooperative files with the Commission, there are already sufficient safeguards in place for
 7 the Commission to monitor the WPFCA.

8 5. Since the issuance of the Decision, the price volatility that the Commission
 9 was concerned with has not occurred. Moreover, SSVEC continues to obtain the majority
 10 of its power from AEPSCO. The Commission already approves and/or monitors all
 11 AEPSCO power costs before it can pass-through such costs to SSVEC, thereby negating
 12 the need for the Commission to review those same costs a second time, as SSVEC has no
 13 control over such costs.² Finally, SSVEC has demonstrated that it has the lowest
 14 purchased power costs among all of the Arizona distribution cooperatives.

15 6. The concerns the Commission had when it adopted the WPFCA
 16 Requirements in the Decision have not materialized, thereby no longer requiring the need
 17 for the WPFCA Requirements. However, the Commission believes that SSVEC should
 18 make a notice filing with the Commission at least 30 days prior to implementing any
 19 increases in its WPFCA rate that exceeds its base cost of power of \$0.072127 established
 20 in the Decision. SSVEC shall include with its filing, the necessary documentation to
 21 support the requested increase in its WPFCA. Proposed increases in the WPFCA rate will
 22 become effective 30 days after the date of the filing unless the filing is suspended by
 23 Order of the Commission.

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 27 ² For example, on January 6, 2011, in Decision No. 72055, the Commission approved a rate increase for
 28 AEPSCO, which increased the rates (and thereby the pass-through to the distribution cooperatives) that
 resulted in an annual increase to SSVEC of \$343,673 or approximately \$0.40 per residential customer
 using 1,000 kWh. The WPFCA Requirements preclude SSVEC from increasing its WPFCA rate to
 recover these costs from its members without first making a filing with the Commission for approval.

CONCLUSIONS OF LAW

1
2 1. Sulphur Springs Valley Electric Cooperative, Inc. is a public service
3 corporation within the meaning of Article XV, Section 2, of the Arizona Constitution.

4 2. The Commission has jurisdiction over Sulphur Springs Valley Electric
5 Cooperative, Inc. and the subject matter of the Petition pursuant to A.R.S. §40-252 and
6 Decision No. 71274.

7 3. Pursuant to A.R.S. §40-252, it is reasonable to amend Decision No. 71274
8 to eliminate the WPFCA Requirements

9 **ORDER**

10 IT IS THEREFORE ORDERED that pursuant to A.R.S. §40-252, Decision No.
11 71274, is hereby amended to remove the WPFCA Requirements as discussed herein.

12 IT IS FURTHER ORDERED that Sulphur Springs Valley Electric Cooperative,
13 Inc. shall make a notice filing with the Commission at least 30 days prior to implementing
14 any increases in its WPFCA rate that exceeds its base cost of power of \$0.072127.
15 Sulphur Springs Valley Electric Cooperative, Inc. shall include with its filing, the
16 necessary documentation to support the requested increase in its WPFCA. Proposed
17 increases in the WPFCA rate shall become effective 30 days after the date of the filing
18 unless the filing is suspended by Order of the Commission.

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IT IS FURTHER ORDERED that this Order shall become effective immediately.
BY ORDER OF THE ARIZONA CORPORATION COMMISSION

CHAIRMAN

COMMISSIONER

COMMISSIONER

COMMISSIONER

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 ____ day of _____,
2011.

ERNEST G. JOHNSON
EXECUTIVE DIRECTOR

DISSENT _____

DISSENT _____

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SERVICE LIST FOR: SULPHUR SPRINGS VALLEY ELECTRIC
COOPERATIVE, INC.

DOCKET NOS.: E-01575A-08-0328 E-01575A-09-0453

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