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BEFORE THE ARIZONA CORPORATION COMMISSION

Arizona Corporation Commission

COMMISSIONERS

2011 JUL 27 A 11:01

DOCKETED

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

JUL 27 2011

AZ CORP COMMISSION  
DOCKET CONTROL

DOCKETED BY [Signature]

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

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. Complainant,  
7 Respondent, and Staff appeared through counsel. Mohave and BIA reported that they were  
8 continuing to work toward a resolution of the issues, but had not yet reached resolution, and  
9 proposed that a second status conference be set 60 days in the future. BIA and Mohave were  
10 encouraged to continue their efforts to settle their disputes, were informed that a Procedural Order  
11 would be issued setting a date for the rehearing, and were directed to file within 10 days, either  
12 jointly or separately, their proposed procedural schedule for the rehearing proceeding.

13 On April 15, 2011, Complainant and Respondent jointly filed a Proposed Procedural Schedule  
14 for Rehearing.

15 On April 19, 2011, a Procedural Order was issued adopting BIA and Mohave's proposed  
16 procedural schedule and setting a date of July 25, 2011, for the Rehearing of Decision No. 72043.

17 On May 5, 2011, the Commission issued Decision No. 72290 in this docket. Decision No.  
18 72290 suspended the requirement of Decision No. 72043 that Mohave place a meter at Long Mesa  
19 and recommence reading the meter at Long Mesa within ten days. The requirement was suspended  
20 pending the rehearing process for Decision No. 72043 and until further order of the Commission.

21 On May 20, 2011, as required by the April 19, 2011, Procedural Order, BIA and Mohave  
22 jointly filed a status report on their settlement negotiations. The filing stated that the parties were  
23 hopeful that a settlement could be reached, but that they could not at that time report the terms of a  
24 completed settlement. BIA and Mohave requested that the deadlines set in the April 19, 2011,  
25 Procedural Order remain in place, and stated that they would continue negotiations and notify the  
26 Commission if a settlement was reached.

27 On June 20, 2011, BIA and Mohave filed a Joint Notice of Settlement and Request for  
28 Procedural Conference ("Notice"). The Notice stated that BIA and Mohave had reached general

1 agreement on the primary points of the terms of a Memorandum of Agreement (“Memorandum”) that  
2 will form the basis of formal settlement documentation, and that they expected to sign the  
3 Memorandum shortly. The filing further stated that additional time was needed to transform the  
4 items in the Memorandum into formal documentation carrying forward the intent of the  
5 Memorandum, as well as to obtain approvals of the United States Department of the Interior, and of  
6 Mohave’s Board of Directors. BIA and Mohave jointly requested that the procedural deadlines for  
7 the rehearing be vacated; that the July 25, 2011, rehearing be vacated; and that a procedural  
8 conference be set to take place in approximately 30 days at which the parties would inform the  
9 Commission of the status of the settlement documentation process, and would resolve any remaining  
10 procedural issues.

11 On June 21, 2011, a Procedural Order was issued granting the joint request to vacate the  
12 hearing, and setting a procedural conference in its place.

13 On June 25, 2011, a procedural conference convened as scheduled. BIA, Mohave and Staff  
14 appeared through counsel. BIA and Mohave indicated that they would require 45 to 60 days to  
15 finalize a proposed settlement agreement based on the Memorandum, which the BIA would  
16 subsequently present to the Havasupai and Hualapai Tribes for their consideration. BIA estimated  
17 that the tribal consideration process could take 90 days, making the total timeframe for the filing of  
18 an executed settlement agreement 150 days.

19 At the procedural conference, the parties also discussed how to provide input for a  
20 Recommended Order to reflect their forthcoming settlement agreement, and whether a hearing would  
21 be necessary prior to the preparation of such a Recommended Order.

22 A deadline should be set for the filing of an executed settlement agreement and a stipulation  
23 regarding the relief the parties wish to see included in a Recommended Order on Rehearing.

24 The timeframes suggested by BIA and Mohave are reasonable. Based on the filings made to  
25 date in the rehearing proceeding, it is not necessary to set a hearing on the forthcoming settlement  
26 agreement at this time.

27 If any party wishes to have a procedural conference prior to the filing deadline set herein, the  
28 party should notify the Hearing Division, so that a procedural conference can be set.

1 IT IS THEREFORE ORDERED that Mohave Electric Cooperative, Inc. and the Bureau of  
2 Indian Affairs, United States of America shall jointly file in this docket, no later than **December 22,**  
3 **2011**, an executed settlement agreement and a stipulation setting forth the specific relief the parties  
4 wish to see included in a Recommended Order on Rehearing.

5 IT IS FURTHER ORDERED that if any party wishes to have a procedural conference prior to  
6 that filing deadline, the party shall notify the Hearing Division, and a procedural conference will be  
7 set.

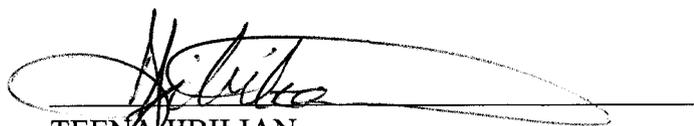
8 IT IS FURTHER ORDERED that all parties must comply with Arizona Supreme Court Rules  
9 31 and 38 and A.R.S. § 40-243 with respect to practice of law and admission *pro hac vice*.

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

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

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

22 DATED this 27<sup>th</sup> day of July, 2011.

23  
24  
25  
26   
27 TEENA JIBILIAN  
28 ADMINISTRATIVE LAW JUDGE

1 Copies of the foregoing mailed/delivered/faxed  
2 this 27th day of July, 2011 to:

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