



0000129554

ORIGINAL

BEFORE THE ARIZONA CORPORATION COMMISSION

2 COMMISSIONERS  
3 GARY PIERCE - Chairman  
4 BOB STUMP  
5 SANDRA D. KENNEDY  
6 PAUL NEWMAN  
7 BRENDA BURNS

2011 SEP 13 P 2:02

Arizona Corporation Commission

DOCKETED

AZ CORP COMMISSION  
DOCKET CONTROL

SEP 13 2011

DOCKETED BY

8 IN THE MATTER OF THE APPLICATION OF  
9 MOHAVE ELECTRIC COOPERATIVE, INC. FOR  
10 APPROVAL OF A WASTE-TO-ENERGY  
11 FACILITY AS A PILOT PROGRAM UNDER THE  
12 RENEWABLE ENERGY RULES OR, IN THE  
13 ALTERNATIVE, FOR A LIMITED WAIVER.

DOCKET NO. E-01750A-10-0453

**PROCEDURAL ORDER**  
**SETTING REHEARING**

14 **BY THE COMMISSION:**

15 On November 5, 2010, Mohave Electric Cooperative, Inc. ("Mohave" or "Company"), filed  
16 with the Arizona Corporation Commission ("Commission") an application for approval of a waste-to-  
17 energy facility as a pilot program under the renewable energy rules or, in the alternative, for a limited  
18 waiver.

19 Intervention was granted to the Sierra Club - Grand Canyon Chapter ("Sierra Club") and  
20 Solomon Industries LLC ("Solomon").

21 On July 25, 2011, the Commission issued Decision No. 72500 approving the Company's  
22 application.

23 On August 12, 2011, Sierra Club filed an Application for Rehearing.

24 On August 23, 2011, Mohave filed a Response to the Application for Rehearing and  
25 Alternative Request for A.R.S. § 40-252 Proceeding.

26 On August 24, 2011, at an Open Meeting of the Commission, the Commission granted Sierra  
27 Club's Application for Rehearing.

28 On August 26, 2011, a Procedural Order was issued setting a procedural conference for the  
purpose of scheduling a rehearing proceeding.

On August 31, 2011, the procedural conference convened as scheduled. Mohave, Sierra Club  
and Staff appeared through counsel. Solomon did not appear. Counsel for Mohave stated that it had  
received communication from Solomon that it did not intend to participate in the rehearing

1 proceeding.

2 Mohave indicated that it did not wish to file direct testimony or supplement or modify its  
3 application. Sierra Club indicated that it could prepare and file direct testimony of its witnesses by  
4 October 7, 2011. Mohave stated that it could file rebuttal testimony by November 7, 2011. Staff  
5 indicated that it could file testimony responsive to Sierra Club's and Mohave's testimonies by  
6 November 21, 2011.

7 IT IS THEREFORE ORDERED that that a **rehearing of Decision No. 72500** shall  
8 commence on **November 28, 2011, at 10:00 a.m., or as soon thereafter as practicable**, at the  
9 Commission's offices, 1200 West Washington Street, **Hearing Room No. 1**, Phoenix, Arizona  
10 85007.

11 IT IS FURTHER ORDERED that **direct testimony** and associated exhibits to be presented at  
12 rehearing **on behalf of the Sierra Club – Grand Canyon Chapter** shall be reduced to writing and  
13 filed on or before **October 7, 2011**.

14 IT IS FURTHER ORDERED that **rebuttal testimony** and associated exhibits to be presented  
15 at rehearing **on behalf of Mohave Electric Cooperative, Inc.** shall be reduced to writing and filed  
16 on or before **November 7, 2011**.

17 IT IS FURTHER ORDERED that **responsive testimony** and associated exhibits to be  
18 presented at rehearing **on behalf of the Commission's Utilities Division** shall be reduced to writing  
19 and filed on or before **November 21, 2011**.

20 IT IS FURTHER ORDERED that all testimony filed shall include a table of contents which  
21 lists the issues discussed.

22 IT IS FURTHER ORDERED that any substantive corrections, revisions, or supplements to  
23 prefiled testimony shall be reduced to writing and filed no later than five calendar days before the  
24 witness is scheduled to testify.

25 IT IS FURTHER ORDERED that the parties shall prepare a brief, written summary of the  
26 prefiled testimony of each of their witnesses and shall file each summary at least two working days  
27 before the witness is scheduled to testify.

28

1 IT IS FURTHER ORDERED that copies of summaries shall be served upon the  
2 Administrative Law Judge, the Commissioners, and the Commissioners' aides as well as the parties  
3 of record.

4 IT IS FURTHER ORDERED that discovery shall be as permitted by law and the rules and  
5 regulations of the Commission, except that objections to discovery requests shall be made within 5  
6 calendar days of receipt and responses shall be made within 7 calendar days of receipt.<sup>1</sup> The  
7 response time may be extended by mutual agreement of the parties involved if the request requires an  
8 extensive compilation effort.

9 IT IS FURTHER ORDERED that for discovery requests, objections, and answers, if a  
10 receiving party requests service to be made electronically, and the sending party has the technical  
11 capability to provide service electronically, service to that party shall be made electronically.

12 IT IS FURTHER ORDERED that, in the alternative to filing a written motion to compel  
13 discovery, any party seeking resolution of a discovery dispute may telephonically contact the  
14 Commission's Hearing Division to request a date for a procedural hearing to resolve the discovery  
15 dispute; that upon such a request, a procedural hearing will be convened as soon as practicable; and  
16 that the party making such a request shall forthwith contact all other parties to advise them of the  
17 hearing date and shall at the hearing provide a statement confirming that the other parties were  
18 contacted.<sup>2</sup>

19 IT IS FURTHER ORDERED that any motions which are filed in this matter and which are  
20 not ruled upon by the Commission within 20 calendar days of the filing date of the motion shall be  
21 deemed denied.

22 IT IS FURTHER ORDERED that any responses to motions shall be filed within five calendar  
23 days of the filing date of the motion.

24 IT IS FURTHER ORDERED that any replies shall be filed within five calendar days of the  
25 filing date of the response.

26 \_\_\_\_\_  
27 <sup>1</sup> The date of receipt of discovery requests is not counted as a calendar day, and requests received after 4:00 p.m. MST  
will be considered as received the next business day.

28 <sup>2</sup> The parties are encouraged to attempt to settle discovery disputes through informal, good-faith negotiations before  
seeking Commission resolution of the controversy.

1 IT IS FURTHER ORDERED that the Company shall provide public notice of the rehearing in  
2 this matter, in the following form and style with the heading in no less than 18-point bold type and  
3 the body in no less than 10-point regular type:

4 **PUBLIC NOTICE OF REHEARING ON THE APPLICATION OF MOHAVE**  
5 **ELECTRIC COOPERATIVE, INC. FOR APPROVAL OF A WASTE-TO-**  
6 **ENERGY FACILITY AS A PILOT PROGRAM UNDER THE RENEWABLE**  
7 **ENERGY RULES OR, IN THE ALTERNATIVE, FOR A LIMITED WAIVER.**  
8 **(DOCKET NO. E-01750A-10-0453)**

9 **Summary**

10 On November 5, 2010, Mohave Electric Cooperative, Inc. ("Company") filed with the  
11 Arizona Corporation Commission ("Commission") an application for approval under  
12 the Commission's renewable energy rules of a waste-to-energy facility as a pilot  
13 program pursuant to A.A.C. R14-2-1802(D) or, in the alternative, for a limited waiver  
14 pursuant to A.A.C. R14-2-1816(A).

15 On July 25, 2011, the Commission issued Decision No. 72500, granting the  
16 Company's application. On August 24, 2011, the Commission granted a request filed  
17 pursuant to A.R.S. § 40-253 by the Sierra Club – Grand Canyon Chapter to rehear the  
18 application. The rehearing is set to commence on November 28, 2011.

19 **How You Can View or Obtain a Copy of the Application and Decision**

20 Copies of the application and Decision No. 72500 are available from Mohave Electric  
21 Cooperative, Inc., [company address]; [at [Company web page, if available there];]  
22 at the Commission's Docket Control Center, 1200 West Washington, Phoenix,  
23 Arizona, for public inspection during regular business hours; and at the Commission's  
24 website [www.azcc.gov](http://www.azcc.gov) using the e-Docket function, located at the bottom of the  
25 website homepage.

26 **Arizona Corporation Commission Public Hearing Information**

27 The Commission will hold a rehearing on this matter beginning **November 28, 2011,**  
28 **at 10:00 a.m.,** at the Commission's offices, **Hearing Room 1,** 1200 West Washington  
Street, Phoenix, Arizona. Public comments will be taken on the first day of the  
rehearing. Written public comments may be submitted by mailing a letter referencing  
Docket No. E-01750A-10-0453 to Arizona Corporation Commission, Consumer  
Services Section, 1200 West Washington, Phoenix, AZ 85007, or by e-mail. For a  
form to use and instructions on how to e-mail comments to the Commission, go to  
<http://www.azcc.gov/Divisions/Utilities/forms/PublicCommentForm.pdf>. If you  
require assistance, you may contact the Consumer Services Section at 602.542.4251 or  
1.800.222.7000.

**ADA/Equal Access Information**

The Commission does not discriminate on the basis of disability in admission to its  
public meetings. Persons with a disability may request a reasonable accommodation  
such as a sign language interpreter, as well as request this document in an alternative  
format, by contacting the ADA Coordinator, Shaylin Bernal, e-mail  
[sabernal@azcc.gov](mailto:sabernal@azcc.gov), voice phone number 602.542.3931. Requests should be made as  
early as possible to allow time to arrange the accommodation.

1 IT IS FURTHER ORDERED that the Company shall cause a copy of the above notice to be  
2 published at least once in a newspaper of statewide circulation, with publication to be completed no  
3 later than **September 30, 2011**.

4 IT IS FURTHER ORDERED that the Company shall file certification of mailing and  
5 publication as soon as practicable after the mailing and publication have been completed.

6 IT IS FURTHER ORDERED that notice shall be deemed complete upon publication of same,  
7 notwithstanding the failure of an individual to read or receive the notice.

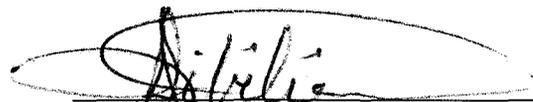
8 IT IS FURTHER ORDERED that all parties must comply with Rules 31 and 38 of the Rules  
9 of the Arizona Supreme Court and A.R.S. § 40-243 with respect to the practice of law and admission  
10 *pro hac vice*.

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

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

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

23 DATED this 13<sup>th</sup> day of September, 2011.

24  
25  
26   
27 TEENA M. BIBILIAN  
28 ADMINISTRATIVE LAW JUDGE

1 Copies of the foregoing mailed/delivered  
2 this 13<sup>th</sup> day of September, 2011 to:

3 William P. Sullivan  
4 CURTIS, GOODWIN, SULLIVAN  
5 UDALL & SCHWAB, P.L.C  
6 501 E. Thomas Road  
7 Phoenix, AZ 85012-3205  
8 Attorneys for Mohave Electric  
9 Cooperative, Inc.

10 Timothy M. Hogan  
11 ARIZONA CENTER FOR LAW  
12 IN THE PUBLIC INTEREST  
13 202 E. McDowell Rd., Suite 153  
14 Phoenix, AZ 85004  
15 Attorneys for Sierra Club – Grand  
16 Canyon Chapter

17 Douglas V. Fant  
18 LAW OFFICES OF DOUGLAS V. FANT  
19 3655 W. Anthem Way, Suite A-109, PMB 411  
20 Anthem, AZ 85086  
21 Attorney for Solomon Industries LLC

22 Jason Solomon  
23 SOLOMON INDUSTRIES LLC  
24 3365 Peebles Road  
25 Troy, OH 45373

26 Janice Alward, Chief Counsel  
27 Legal Division  
28 ARIZONA CORPORATION COMMISSION  
1200 West Washington Street  
Phoenix, AZ 85007-2927

Steve Olea, Director  
Utilities Division  
ARIZONA CORPORATION COMMISSION  
1200 West Washington Street  
Phoenix, AZ 85007-2927

ARIZONA REPORTING SERVICE, INC.  
2200 North Central Avenue, Suite 502  
Phoenix, AZ 85004-1481

24 By:   
25 Debbi Person  
26 Assistant to Teena Jibilian  
27  
28