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BEFORE THE ARIZONA CORPORATION COMMISSION

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IN THE MATTER OF THE APPLICATION OF MOHAVE ELECTRIC COOPERATIVE, INCORPORATED, AN ELECTRIC COOPERATIVE NONPROFIT MEMBERSHIP CORPORATION, FOR A DETERMINATION OF THE FAIR VALUE OF ITS PROPERTY FOR RATEMAKING PURPOSES, TO FIX A JUST AND REASONABLE RETURN THEREON AND TO APPROVE RATES DESIGNED TO DEVELOP SUCH RETURN.

DOCKET NO. E-01750A-11-0136

MOHAVE ELECTRIC COOPERATIVE, INCORPORATED'S REPLY BRIEF

Mohave Electric Cooperative, Incorporated ("MEC" or "Cooperative"), by and through its undersigned attorneys, submits its Reply Brief in the above referenced matter, in accordance with the direction of Assistant Chief Administrative Law Judge Nodes direction at the end of the hearing. [1]

Arizona Corporation Commission
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[1] Transcript Volume ("Tr Vol") III, p. 593.

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I. INTRODUCTION

Staff's Opening Brief unduly complicates this proceeding by advocating Staff's surrebuttal positions, rather than the positions supported by the entire record, including testimony provided at hearing. Mohave Electric Cooperative, Incorporated ("MEC" or "Cooperative") respectfully asks the Commission accept the recommendations and requests of the elected customer representatives, the Mohave Board of Directors, as Staff has failed to present any significant evidence or public policy arguments compelling rejection thereof.

A. Contested Findings, Conclusions and Determinations.

Staff's Opening Brief either supports or fails to present any substantive evidence or policy arguments to reject MEC's proposed findings, conclusions and determinations set forth at pages 4 – 7 of MEC's Initial Brief. This Reply Brief further examines Staff's Opening Brief's failure to justify rejecting these specific, and slightly revised, proposed findings, conclusions and determinations:

1. **The issue of whether MEC's pre-2010 policies of power supply planning and implementation were reasonable and appropriate is moot (See, MEC Brief Finding 18.b.);**
2. **MEC has reasonably clarified its spot market purchase criterion (See, MEC Brief Finding 18.a.);**
3. **MEC's treatment of margins from third party sales is reasonable and appropriate and requires no adjustment to MEC's Purchased Power Cost Adjustor ("PPCA") (See, MEC Brief Finding 18. m.);**
4. **MEC's treatment of purchased power related consulting, attorney and in-house labor is reasonable and appropriate (See, MEC Brief Findings 18. i & j.);**
5. **On a going forward basis, the cost components which may be included in MEC's PPCA is limited to RUS Accounts 555, 565, 447 and 557 for purchased power and to RUS Accounts 501 and 547 if MEC purchases fuel for generation in the future (See, MEC Brief Finding 18.d.);**
6. **A residential customer charge of $16.50 is reasonable and appropriate (See, MEC Brief Finding 9);**

7. **A uniform Large Commercial & Industrial Time-of-Use rate for all customers, including the 3 existing customers, is reasonable and appropriate (See, MEC Brief Finding 10);**
8. **A 4.16% increase in residential class revenues is reasonable and appropriate (See, MEC Brief Finding 11);**
9. **Authorizing MEC to immediately implement prepaid service is reasonable and appropriate where MEC has:**
   a) Made a good faith effort to secure input from AARP (no other group having contacted MEC on the program);[2]
   b) Submitted as MEC Rejoinder Exhibits JTC-2 and JTC-3 to MEC-8 acceptable forms of Prepaid Service Tariff and Prepaid Service Agreement;
   c) Submitted to Staff and attached to this Reply Brief as Attachment A a listing of ACC and MEC Rules that are potentially impacted by the Prepaid Service Tariff to permit the Commission to waive them as to the Prepaid Service as part of this proceeding;
   d) Submitted to Staff and attached to this Reply Brief as Attachment B the promotional material MEC intends to distribute to its members;
   e) Agreed to submit to Staff advertising or media material on the prepaid program at least 30 days before it is published in the media;
   f) Agreed to file a modified REST tariff that includes a provision stating the REST surcharge will be calculated on a daily basis for prepaid service customers;[3] **and**
   g) Agreed to file, in this docket, the annual report recommended by Staff[4] **(See, MEC Brief Finding 13);**
10. **It is reasonable and appropriate to have individual customers requesting new service outside of subdivisions to pay their pro rata share of the cost of the transformer serving them, not to exceed 50% of the cost of the transformer (See, MEC Brief Finding 14);**
11. **It is reasonable to direct Staff and MEC to meet and develop a mutual understanding regarding the purchased power related files and records MEC is expected to maintain and which documents are to be submitted to Staff with MEC's monthly PPCA reports (See, MEC Brief Finding 18. l); and**

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[2] MEC Initial Brief ("MEC Brief"), p. 23, l. 1 – 8.
[3] The calculation is automatically performed by MEC's billing computer based upon the number of kWh used daily, and will stop when the monthly REST surcharge cap is reached during the normal monthly billing cycle for the prepaid service customer.
[4] Staff Opening Brief ("Staff Brief"), p. 23.

12. In the event MEC has not filed its next rate case prior to September 1, 2016, it is reasonable to require MEC to file with the Director of Utilities an informational filing, including a copy of its calendar year 2015 audit report, a summary revenue requirement schedule and an explanation as to why no rate filing was made, together with a notice of compliance of such requirement in this docket (See, MEC Brief Finding 18.h).

MEC's Reply Brief examines the issues addressed in the foregoing findings, conclusions and determinations in the order appearing in Staff's Opening Brief.

II. POWER PROCUREMENT PROCESS AND PRUDENCE OF MEC'S POWER PURCHASES.

Prior to July 25, 2001, MEC was a full requirements member of Arizona Electric Power Cooperative ("AEPCO"). As part of AEPCO's restructuring into three separate entities (generation, transmission and services), in part, to better operate in a competitive electric environment,[5] MEC also converted to a partial requirements member of AEPCO.[6] The Commission found:

> Because MEC will only participate in the wholesale market for its incremental needs, the recent volatility in electric prices should present a minimal risk. In return, the partial requirement arrangement provides Mohave the opportunity to pursue advantageous pricing arrangements as the wholesale market matures and becomes less volatile and chaotic. Therefore, the Partial Requirements Capacity and Energy Agreement should be approved.[7]

While Decision No. 63868 specifically directed Staff to open a separate docket to investigate and audit AEPCO's PPFAC, there is no indication that either Staff or the Commission suggested a similar investigation of MEC's purchased power cost adjustor ("PPCA") was necessary due to MEC's conversion to a partial requirements member. After its conversion, MEC continued to submit the same PPCA bank balance and adjustor reports for Staff review.

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[5] Decision No. 63868, p. 3, l. 1 – 4.
[6] Staff Brief, p. 1, l. 22-23.
[7] *Id.*, p. 9, l. 3 – 7.

MEC was first aware of Staff's intent to investigate the Cooperative's purchased power practices and bank balance as part of this rate proceeding when a lengthy data request was received in September 2011 requesting MEC provide ten years of data within ten calendar days.[8] Staff's unilateral action, the lack of notice to MEC and the manner Staff conducted the purchased power investigation served to unduly complicate both the rate case and audit process. MEC seeks Commission assistance to ensure any future reviews of MEC's purchased power practices and costs proceed more efficiently and less contentiously.

A. Pre-2010 Organizational Structure and Power Procurement Procedures.

Staff recognizes that MEC's pre-2010 purchased power costs have been adequately documented and determined to be prudent.[9] Staff is not recommending any penalties or adjustments based upon MEC's pre-2010 organizational structure and power procurement procedures[10] and nothing in the record warrants making any adjustments or imposing penalties on MEC due to a lack of written documentation of its pre-2010 purchased power policies and procedures. Mr. Mendl testified he is "satisfied that they're [MEC] doing a good job in 2010 and looking forward; and therefore, I really had no suggested adjustments for the quality of the planning, procurement processes prior to 2010."[11]

Yet, Staff persists in recommending the Commission expressly determine that it is inconclusive whether MEC's policies of power supply planning and implementation prior to 2010 are reasonable and appropriate.[12] MEC is concerned that an express "inconclusive" determination leaves its pre-2010 planning and implementation an open issue "that could resurface down the road."[13] Mr. Mendl acknowledges that "at this point" there "is no reason

[8] Tr Vol II (Carlson), p. 323, l 8 – 25.
[9] Staff Opening Brief ("Staff Brief"), p. 2, ll 22 – 23.
[10] Mendl, Tr Vol II, p. 380, l. 17.
[11] *Id.* p. 381, l.25 – p. 382, l. 3.
[12] Staff Brief p. 2, l. 11-12.
[13] Stover, Tr Vol II, p. 140, l. 18.

to leave that open . . . that's moot at this point."[14] "It's moot on a going forward basis."[15] MEC and the record support the Commission making an express determination that the issue as to whether MEC's pre-2010 policies of power supply planning and implementation were reasonable and prudent is moot (i.e., having no practical significance).[16] Such a determination eliminates the ambiguity of an "inconclusive" determination and closes the issue to further review in the future. A "moot" determination is reasonable, supported by the evidence and should be adopted.

B. **While MEC Already Clearly Applies Its Spot Market Criterion, It Will Clarify its Written Policy.**[17]

Staff correctly recites how MEC's current spot market purchase criterion does not act as a "fixed goal or an absolute limit on MEC's block purchases."[18] Staff, then, without any basis on the record, expresses a concern "that the policy is not clear to management and that the specification of a numerical percentage will cause management to perceive the limit is absolute."[19] Mr. Stover explains that the criterion "reflects a point of reference that the Board expects management to provide a specific rationale for exceeding . . . It does not preclude management from acting if deemed appropriate to take 'full advantage' of lower costs on the spot market."[20] Staff fails to provide a single example where the spot market guidance was misunderstood or misapplied by MEC. However, in response to Staff's expressed concern, MEC will further clarify its written criterion on spot market power purchases[21] by adding the

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[14] Mendl, Tr Vol II, p. 393, l. 14 – 16.
[15] *Id.* at p. 393, l. 24.
[16] Black's Law Dictionary (7th Ed.)
[17] Staff included discussion of MEC's spot market criterion under 'Improvements to Mohave's Purchased Power Adjustor' (Staff Brief at p. 3). The spot market criterion is not part of MEC's PPCA but is part of its power procurement process.
[18] *Id.* at l. 4-5.
[19] Staff Brief at p. 4, l. 8-9.
[20] MEC-6 (Stover Rejoinder), p. 6, l. 10 -13.
[21] MEC Brief, p. 5, l. 18.

underlined language to its written Policy of Power Supply Planning and Implementation under Policy Parameters of Responsibility in Implementation and Oversight:[22]

> 10. Describe the determination process and protocols that include active recognition and assessment of the risk level relevant to the particular purchasing season or period involved whereby:
>
> * * *
>
> f. How much purchase power to acquire from the spot market recognizing any quantity limit is a guideline, not a fixed goal or absolute limit. (additions underlined)

If the Commission deems any action on this issue is necessary, the appropriate action would be a determination that the foregoing clarification is reasonable and appropriately addresses Staff's concerns.

III. MEC'S PURCHASED POWER ADJUSTOR AND BANK BALANCE

A. MEC's Treatment of Margins on Third Party Sales Is Appropriate.

Staff recognizes that MEC's treatment of margins from third party sales ("TPS") "results in higher coverage rates, increases the equity ratio for the Cooperative, and increases the equity each member has in the Cooperative by flowing the margins to the members' capital patronage accounts."[23] Moreover, "the net revenues flow to the members' patronage accounts where they are available to the Cooperative to fund construction or operations,"[24] which necessarily would otherwise have to be financed through operating revenues or debt financing.[25]

Staff's proposal to use all revenues from TPS, including margins, to offset the purchased power costs may have merit for IOUs because their margins (profits) flow to non-

[22] S-6, Exhibit JEM-3 Confidential, p. 19 of 24.
[23] Staff Brief p. 4, l.25 – p. 5, l.2; MEC-5 (Stover Rebuttal) p. 24, l. 8 -16..
[24] Staff Brief, p. 5, l. 5 – 7.
[25] Stover, Tr Vol I, p. 90, l. 22 – 25.

customer shareholders and not to the customers.[26] Mr. Stover indicated that he has been involved in state and FERC proceedings involving IOUs where a percentage of TPS margins are used as a credit to the fuel adjustor. [27] However, with cooperatives, where the customer and owner are one and the same, utilizing margins from TPS to improve the financial health of the cooperative and provide working capital to meet cash flow and capital expenditure requirements[28] and increasing margins and patronage capital for MEC members[29] is consistent with the very essence of the cooperative model.[30]

Staff failed to present substantive evidence or public policy arguments that overcome MEC Board's recommendation and MEC should be allowed to continue its historical treatment of TPS margins. No change in the treatment of TPS is warranted. At most, TPS margins should be split 50/50 between the two methodologies for the reasons discussed in MEC's Initial Brief.[31]

B. <u>MEC's Treatment of Purchased Power Related Consulting, Legal and In-House Labor Expense Is Appropriate.</u>

MEC does not object to the Commission specifying the RUS accounts that can be flowed through MEC's PPCA prospectively. Moreover, with the addition of RUS account 557 (Other Expenses), MEC agrees with the accounts specified by Staff.[32]

At no time has the Commission previously established which fuel and purchased related RUS accounts <u>MEC can collect through its PPCA</u>. Decision No. 68071 and No. 71274, relied on by Staff, do not approve general rules or generic orders binding on any utility other than the applicant. They did not purport to be examining fuel adjustors on an

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[26] Stover, Tr Vol I, p. 166, l. 9 – 16.
[27] *Id.*
[28] *Id.*, p. 167, l. 3 -10.
[29] MEC-5 (Stover Rebuttal), p. 24, l. 8 -16.
[30] MEC Brief, p. 28, l. 4 – 7.
[31] MEC Brief, p. 29, l. 3 – 18.
[32] S-7 (Mendl Surrebuttal), p. 27, l. 26 – 30 (Recommendation 5)

industry-wide basis or otherwise indicate that the Commission was considering a general rule. In fact, both Decisions involved situations where a particular utility's adjustor clause was being examined. In both cases the utility accepted a proposal contained in Staff's direct testimony as to what accounts and costs could flow through their adjustors. Thereafter, the Commission approved the uncontested position of the parties as to which accounts and costs should flow through that specific utility's adjustor. The fact that the utility may have initially proposed a more or less expansive adjustor is irrelevant because, ultimately, the Commission was presented with a joint proposal. MEC also notes that while similar, the adjustors approved by the two Decisions are not identical.[33]

Importantly, RUS Account 501 (Fuel) – which deals with the cost of fuel used in the production of steam for the generation of electricity - includes subcategories of costs for labor, taxes, employee pensions and benefits, insurance, materials and expenses, associated with production of steam. A copy of RUS Account 501 as it appears in the Code of Federal Regulations is included as Attachment C to this Reply. The fact Staff finds it necessary to expressly disallow "legal fees" from Account 501 costs is a clear indication that such costs could otherwise be included therein.

MEC, after consulting with its outside auditors and C.H. Guernsey, determined that certain purchased power related consulting, legal and in-house expenses should be booked in RUS Account 557 and commencing in 2008 started booking them in Account 557.[34] After doing so, and ensuring the expenditures were being properly documented, MEC commenced including Account 557 as PPCA costs in 2010.[35] This was a reasonable effort by MEC to collect purchase power related expenses under a Commission authorized adjustor that had theretofore been charged to general operations.

[33] AEPCO's adjustor includes RUS Account 447, while SSVEC's does not. SSVEC's adjustor includes Account 518, while AEPCO's does not.
[34] Stover, Tr Vol I, p. 167, l. 11 – 24.
[35] Carlson, Tr Vol II, p. 267, l. 4 – p. 268, l. 25.

Staff's assertion that "in-house staff costs, legal fees and consulting services are not fuel and purchased power costs, even if they might be related to purchased power"[36] is not supported by the record and should be rejected by the Commission.

Staff next contends that MEC's bank balance should be adjusted to remove the $562,035 of 2010 purchased power related to consulting, legal and in-house expenses submitted by MEC.[37] First, Staff wrongly states that "[p]ermitting such a method to be used even until new rates go into effect would be contrary to prior decisions."[38] As discussed above, no prior decision has delineated the precise accounts applicable to MEC's PPCA.

Staff next contends that the over-collected status of MEC's bank balance means the adjustment will have little impact. As noted, this involves recovery of $562,035 in 2010 and ultimately somewhat lesser amounts in 2011and 2012. The cumulative impact is projected to be in excess of $1.1 million. As explained by Mr. Stover, the adjustment, if made by the Commission, would be reflected on MEC's income statement in the year the decision is entered.[39] Thus if the Commission orders $562,035 to be removed from MEC's bank balance, MEC's 2012 total revenue, operating income, net income, coverage ratios and balance sheet would be adversely impacted by that amount.[40] This likely will cause MEC to be in default of its mortgage requirements for the 4th straight year, despite receiving a rate adjustment in 2012.[41] The Commission should not penalize MEC in this manner for making a decision based upon professional advice to include these costs in the PPCA. At most, any change should be imposed prospectively, without any adjustment to the bank balance.

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[36] Staff Brief, p. 6, l. 10-11.

[37] Staff Brief, p. 10. Staff similarly advocates the Commission indicate 2011 and 2012 purchased power related consulting, legal and in-house expense will be removed when a review of those purchased power costs are undertaken in the future. S-7 (Mendl Surrebuttal), p. 17, l. 24 – 26.

[38] Staff Brief, p. 10, l. 18 -19.

[39] MEC-5 (Stover Rebuttal), p. 20, l. 16 – 19.

[40] *Id.*, p. 20, l. 20 – p. 21, l. 28.

[41] *Id.*, p. 20, l. 9 – 24 (although the impact will be less because Staff's negative adjustments have been reduced).

C. Agreed Upon Bank Balance Adjustments.

MEC does not contest $124,245 in adjustments to its bank balance, consisting of: (i) $91,537 for alleged errors and omissions in the calculation of its purchased power costs and bank balance between August 2001 and December 2010 and (ii) $32,702 for expenses incurred in 2010 for lobbying services associated with federal legislation involving the remarketing of Hoover power. MEC's 2012 financials will, therefore, reflect these adjustments to its bank balance.[42]

IV. RATE DESIGN

As Staff correctly indicates, the only two remaining contested rate design issues are the residential customer charge and whether the three (3) existing large commercial and industrial time of use customers should receive a lower subsidized frozen rate until MEC's next rate case.[43] In all other respects Staff and MEC are jointly recommending a rate design that Staff witness Mr. Erdwurm testified "is really well reasoned, good, detailed thoughtful approach . . . ."[44]

A. The Residential Customer Charge - $16.50 Is Supported by the Record.

Staff acknowledges, as it must, that "a residential customer charge of $16.50, when considered in conjunction with the inclining block rate design to which MEC has agreed, will not have a significant impact on the dollar amount of the rate increase for the median and average use."[45] Yet Staff continues to advocate a residential customer charge of $13.50 per month because "smaller customers will experience large percentage (as opposed to high dollar absolute) increases."[46] In particular Staff contends the percentage increase for customers with ***zero*** energy usage "cannot be considered a gradual change."[47] Staff's narrow focus is

[42] *Id.*
[43] Staff Brief, pp. 11 – 13.
[44] Tr Vol III, p. 568, l. 2 – 3.
[45] Staff Brief, p. 11, l. 15 – 18.
[46] *Id.*, p. 11, l. 18 -20.
[47] *Id.*, p. 11, l. 18 – 23.

inappropriate and ignores the many factors supporting a $16.50 residential customer charge discussed in MEC's Brief, including:

1. Monthly bills with 0 – 400 kWh usage are largely transient accounts, not residences occupied the full month;
2. The $16.50 residential customer charge still provides a $2.00 subsidy to residential customers from the actual $18.56 cost of service;
3. The revenue stability provided by the $16.50 residential customer charge for a system with a high percentage of transient accounts;
4. The $16.50 residential customer charge was offered in lieu of some kind of decoupling mechanism and "for Mohave it would be a fair way to do it;"[48] and
5. This case (with a modest overall increase and a new conservation oriented tiered energy rate) presents an optimal time to adjust the customer charge close to the cost of service.[49]

Staff has failed to present any evidence that overrides the foregoing factors. The request of the MEC Board, the customers' elected representatives, for a $16.50 residential customer charge is fully supported by the record and should be adopted by the Commission. Alternatively, the Commission should phase-in the full $16.50 residential customer charge over a two year period, starting at $13.50.

B. <u>Existing Large Commercial and Industrial Time-of-Use Customers.</u>

Staff and MEC both agree on the LC&I TOU rate for new customers. Staff, however, continues to advocate a special frozen rate to continue subsidizing the three (3) existing large commercial and industrial time-of-use customers until MEC's next rate case.[50] Again the only support Staff provides for its proposal is a concern that the new LC&I TOU rate "results in too great of an increase to the existing customers of that class, ***although the rate design itself is appropriate***."[51] (emphasis added). Staff simply ignores the equity issue. As Mr. Erdwurm

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[48] Tr Vol III, p. 591, l. 6- 7.
[49] MEC Brief, p. 13 – 17.
[50] Staff Brief, p. 13, l. 1 – 4.
[51] *Id.*, p. 12, l. 25 – p. 13, l. 1.

testified: "these three customers have been getting a windfall for a while" and will still see "significant savings" under the full LC&I TOU rate when compared to the new standard LC&I rate.[52] Further, the absolute difference in dollars "is not that great."[53]

If the Commission is concerned with the percentage increase associated with moving these 3 existing customers to a properly designed TOU rate, then, as with the residential customer charge, the concern can be addressed by phasing in the new LC&I TOU over a 2 year period. However, Staff has expressed its preference that the Commission immediately implement both the full residential customer charge and full LC&I TOU rate in lieu of phasing in either.[54]

C. <u>Residential Class Revenue Increase</u>.

Staff's Brief does not address the appropriate percentage revenue increase for the residential class. For the reasons set forth in MEC's Brief at pages 18 – 19, the Commission should approve a 4.16% increase in revenues from the residential class and reject Staff's proposed cap of a 4.02% increase.

V. MEC'S SERVICE RULES AND REGULATIONS.

Staff acknowledges that there is substantial agreement with regard to MEC's service rules and regulations,[55] on miscellaneous fees to be charged,[56] and on a line extension policy.[57] There also is agreement on Staff's engineering evaluation of MEC's system.[58] The only contested items involve the treatment of transformer costs serving individuals outside of subdivisions and MEC's proposed optional prepaid service.

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[52] Tr Vol III, p. 589, l. 4 – 22.
[53] *Id.* p. 587, l. 18 -21.
[54] *Id.* p. 589, l. 23 – p. 590, l. 6.
[55] Staff Brief, p. 13 -14,
[56] *Id.*, p. 15 -16, l. 10.
[57] *Id.*, p. 17, l. 16 – p. 18, l. 21.
[58] *Id.*, p. 16, l. 11 – p. 17, l. 15.

A. Transformer Costs.

Staff does not contest that "transformers are sized and installed to meet the load requirements of the customer or customers they are intended to serve and are absolutely necessary to provide service to a customer.[59] Staff also continues to support requiring the customer/developer to pay the cost of transformers within subdivisions.[60] Yet Staff rejects MEC's proposal to allocate new customers their pro rata share of transformer costs, up to a maximum of 50%.

Staff supports its position noting that excluding the cost of the transformer increased the length of the extension included in the dollar allowance.[61] While true, the argument does not address why the cost of transformers, which are customer driven, should not at least partially be paid for by the individual customers they are installed to serve. As explained by MEC witness Searcy, "MEC's line extension policy is designed to recover, through a combination of revenue from the member over time and as up-front contributions in aid of construction, each member's share of the cost of providing line extension to serve their facilities."[62] Staff has provided no analysis or other justification for excluding more than 50% of transformer costs incurred to serve individual customers from the dollar allowance. Staff just arbitrarily places this cost on the rest of the cooperative members. Again, without substantive evidence or compelling public policy reasons supporting Staff, MEC Board's recommendation, as the customer's elected representatives, should be accepted.

B. 60 Day Limit to Accept Existing Line Extension Estimates.

Staff and MEC agree that those who have a valid written line extension estimate under MEC's existing free footage policy when a decision is entered in this matter, will have sixty (60) days to proceed with construction of the line extension from the effective date of the

[59] MEC Brief, p. 24, l. 17 - 19
[60] *Id.* p. 24, l. 19 – 20.
[61] Staff Brief, p. 19, l. 15 – 18.
[62] MEC-3 (Searcy Rebuttal), p. 10, l. 28 – 31.

Commission decision in this case, as proposed by Mr. Searcy at page 11, lines 27-35 of his rebuttal testimony.[63]

C. Prepaid Metering.

Staff's statement of position relating to MEC's proposed prepaid metering program merely restates its surrebuttal position,[64] completely ignoring testimony offered on rejoinder and at hearing. For example, Staff references Ms. Allen's surrebuttal concerns with a draft Prepaid Metering Agreement submitted as JTC Rebuttal Exhibit 2 to MEC-7.[65] Thereafter, MEC met with Staff[66] and then submitted a revised Prepaid Metering Agreement and Tariff as Mohave Rejoinder Exhibits JTC-2 and 3, to MEC-8.

During the hearing Ms. Allen testified that Mohave has made a good faith attempt to address the concerns she listed in her surrebuttal testimony.[67] She also testified, that at this time, there was nothing in MEC's proposed prepaid tariff[68] that is unacceptable to Staff[69] and that MEC's form of Prepaid Service Agreement[70] meets Staff's request for an informational document to be signed by the customer.[71] With the filing of Attachments A (a listing of ACC and MEC rules potentially impacted by the prepaid tariff) and B (a promotional document) with this Reply Brief, Mohave has performed all preconditions to approval to prepaid service specified by Staff, with the exception of actually meeting with AARP representatives. To date AARP has declined MEC's offer to meet and has yet to provide any dates and times when they are available to meet with MEC in Bullhead City to discuss the MEC prepaid program.

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[63] Staff Brief, p. 20, l. 4 -9.
[64] Staff Brief, p. 20, l. 10 – p. 23, l. 16.
[65] Staff Brief, p. 21, l. 11 – 17.
[66] MEC-8 (Carlson Rejoinder), p. 4, l. 26-29.
[67] Tr Vol III, p. 500, l. 15 – 23; p. 508, l. 7 – 12.
[68] MEC-8, Mohave Rejoinder Exhibit JTC-2
[69] Tr Vol III, p. 500, l. 24 – p. 501, l. 1; p. 524, l.14 – 20.
[70] MEC-8, Mohave Rejoinder Exhibit JTC-3.
[71] Tr Vol III, p. 536, l. 2 – 22.

The sole issue that remains is whether the record supports authorizing MEC's proposed optional prepaid service now. The record clearly demonstrates there is an immediate and pressing need for optional prepaid service in MEC's service area.[72] MEC initially filed its application 15 months ago. As already discussed, Staff acknowledges MEC has responded to every legitimate concern Staff has raised, has agreed to file the information requested by Staff and remains open to modifying the prepaid program as necessary to address issues, if any, as they arise. In contrast, Staff has not justified requiring a separate docket and deferring action on MEC's prepaid service indefinitely.[73] Again, without substantive evidence or compelling public policy reasons supporting Staff, the recommendation of the MEC Board, as the customers' elected representatives, should be accepted.

D. <u>MEC's Next Rate Filing</u>.

Staff, for the first time, asserts on Brief that the reason behind its request for a Commission order compelling MEC to make a rate filing no later than September 1, 2016 is "Mohave's refusal and/or inability to timely provide the requested documentation for its claimed purchased power costs and credits."[74] As the record reflects, MEC timely objected to an unanticipated burdensome data request propounded in September of 2011 requesting compilation and delivery of 10 years of detailed purchased power data within 10 calendar days.[75] Instead of moving to compel discovery and addressing the issue with the Administrative Law Judge, Staff proposed an unjustified $1.946 million penalty.[76] Had Staff informed MEC of the possibility of a prudency review of MEC's purchased power expenses during the conference held in April 2011 to discuss MEC's March rate filing, the topic could

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[72] MEC-7 (Carlson Rebuttal), p. 7, l. 17 -27; Tr Vol I (Searcy), p. 90, l. 1 - 7.

[73] SSVEC filed its separate application for approval of a prepaid program 6 months ago. There is still no Staff report or other indication of action in the docket. MEC, through communication with SSVEC, understands that Staff has taken limited action on its application and there is no time table set for a decision.

[74] Staff Brief, p. 25, l9-12.

[75] MEC-5, CNS-Rebuttal Exhibit 4.

[76] MEC-5 (Stover Rebuttal), p. 7 – 16; MEC-7 (Carlson Rebuttal), p. 11 – 12.

have been discussed and the audit would have proceeded more efficiently. Contrary to Staff's contention, MEC worked cooperatively with Staff to address and resolve prudency review related issues, even while maintaining the validity of its objections to the data requests.

The mere 'possibility' of a future formal prudency review is driving Staff's recommendation that the Commission order what may be a costly and unnecessary formal rate filing by September 1, 2016. The evidence demonstrates that a rate filing requires MEC to hire outside consultants and attorneys and takes up to 8 months to compile and file.[77] Not only is it possible to conduct a purchased power prudency review outside of a rate case,[78] Staff may find that something less than a full prudency review is appropriate when it next investigates MEC's fuel procurement policies and practices. The Commission has expressly recognized such a possibility by Decision No. 71274 involving SSVEC.[79] In fact, MEC is hopeful that by working with Staff to establish mutually agreed upon record retention and monthly filing requirements, a much less intensive process will suffice in the future.

Moreover, Staff has failed to indicate why an informational filing, similar to that required of AEPCO by Decision No. 63868, will not suffice in lieu of a costly and possibly financially unnecessary full rate filing.

Staff next contends MEC's Board of Director is not in the best position to determine when and if a rate case should be filed, citing the length between MEC's rate filings as support. The fact that MEC is now only requesting a 4.02% increase in revenues after foregoing a rate filing for more than 20 years evidences the MEC Board's sound management, not its inability to determine when a rate filing should be made.

Mr. Mendl's accusation that MEC effectively used the PPAC to develop a new revenue stream to raise rates without Commission approval is also without merit. The record is clear

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[77] Tr Vol I (Stover), p. 118, l. 4 – p. 122, l. 23; Tr Vol II (Carlson),p. 232, l. 17 – p. 235, l. 2.
[78] See e.g., Decision No. 64677, involving the review of AEPCO's FFPCA outside of a rate case.
[79] Decision No. 71274, p. 34, l. 22 – 26.

that MEC commenced examining and documenting purchased power related consulting, legal and in-house costs in 2008 and only started including them as purchased power costs after they were fully documented and MEC was advised by its auditor and consultants that such treatment was appropriate[80] and consistent with how FERC treats similar expenses for Golden Spread Electric Cooperative.[81]

In summary, MEC's Board remains in the best position to determine when and if to file for rate relief. Staff's arbitrarily selected filing date for MEC's next rate case is unnecessary and unreasonable and should be summarily rejected. It fails to consider MEC's financial need for such a filing. It ignores the time and expense involved in such a filing. It is recommended for the purpose of expediting a 'potential' purchased power prudency review, which could be conducted without any rate filing and will likely be much more effectively performed as a result of MEC and Staff cooperatively developing a mutually acceptable records retention policy. In lieu thereof, an informational filing consistent with Decision No. 63868 is far more appropriate.

E. <u>Record Retention Policy.</u>

Staff and MEC agree that discussions should take place regarding establishing a purchased power record retention policy for MEC.[82] MEC agrees the Commission should order Staff and MEC to meet but recommends that the order state Staff and MEC are "to cooperatively develop a purchased power retention policy to facilitate more efficient and less complicated Staff reviews of MEC's purchased power policies and practices in the future." MEC is confident that such an order will result in the development of a meaningful record retention policy acceptable to both Staff and MEC. If either party is dissatisfied with the result, they can ask for additional orders from the Commission.

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[80] Tr Vol II (Carlson), p. 267, l. 2 – p. 270, l. 7.
[81] Tr Vol I (Stover), p. 151, l. 2 – 18.
[82] Staff Brief, p. 27, l. 9 – 10.

VI. ADDITIONAL AREAS OF AGREEMENT

A. DSM and REST Adjustors.

Subsequent to the hearing, Staff and MEC have agreed that the decision in this matter should contain the language contained in Attachment D in order to ensure the periodic DSM and REST surcharge decisions of the Commission are deemed adjustor mechanisms, approved in a full rate proceeding.

B. Revenue Requirement and Revenue Increase.

Staff and MEC agree with the Findings, Conclusions and Determinations numbers 1 -7 set forth at page 4 of MEC's Initial Brief, including a revenue requirement of $79,129,535 and a revenue increase of $3,061,529.

C. Bill Estimation Tariff.

MEC agrees to file a bill estimation tariff in this docket for Commission review and approval not later than ninety (90) days after a decision is entered in this matter.

VII. CONCLUSION

The issues that remain contested are important and will impact MEC and its members for years to come. For the reasons stated on the record and in MEC's post-hearing briefs, MEC's positions should be adopted. In the event there are any close calls, then MEC respectfully requests the Commission approve the recommendations and desires of the MEC Board as the elected representatives of MEC's customers.

RESPECTFULLY SUBMITTED this 4th day of June, 2012.

CURTIS, GOODWIN, SULLIVAN,
UDALL & SCHWAB, P.L.C.

By: ______________________

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PROOF OF AND CERTIFICATE OF MAILING

I hereby certify that on this 4th day of June, 2012, I caused the foregoing document to be served on the Arizona Corporation Commission by delivering the original and thirteen (13) copies of the above to:

Docket Control
Arizona Corporation Commission
1200 West Washington
Phoenix, Arizona 85007

COPY of the foregoing emailed
this 4th day of June, 2012 to:

Dwight Nodes, Administrative Law Judge
dperson@azcc.gov
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Steven M. Olea
Director, Utilities Division
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ARIZONA CORPORATION COMMISSION
RULES AND MEC RULES IMPACTED BY PREPAID SERVICE TARIFF

The following rules of the Arizona Corporation Commission governing Electric Utilities (Article 2, Chapter 2, Title 14, Arizona Administrative Code) need to be waived or recognized as being affected by Mohave Electric Cooperative, Incorporated's prepaid service tariff with bracketed portion referencing the applicable provision in the Prepaid Service Tariff (Schedule PRS):

A.A.C. R14-2-203 Establishment of Service [MEC Rules Section 102]

A. Information from new applicants. [MEC Rules Subsection 102-A]
{Applicant for prepaid service must also provide at least 2 reliable methods of receiving messages and low balance alerts, but one can be through a backup contact person. See, Schedule PRS, Condition 1.e.}

B. Deposits [MEC Rules Subsection 102-C]
{Inapplicable to prepaid service - In lieu of a deposit, an applicant for prepaid service must pay the Establishment Fee and make a minimum $40 prepayment and bring any outstanding bill current (or enter into a deferred payment agreement) as a condition for initiating Prepaid Service. See, Schedule PRS, Condition 1.c. & d.}

3. Deposits shall be interest bearing; the interest rate and method of calculation shall be filed with and approved by the Commission in a tariff proceeding. [MEC Rules Subsection 102-C.3.d.]
{Inapplicable to prepaid service - Prepayments are not deposits under this rule and do not accrue interest. See, Schedule PRS Condition 2.a.}

4. . . . residential deposits and accrued interest to be refunded or letters of guarantee or surety bonds to expire after 12 months of service if the customer has not been delinquent more than twice in the payment of utility bills. [MEC Rules Subsection 102-C.3.c]
{Inapplicable to prepaid service - Deposits of existing customers applying for optional prepaid service are first applied against any outstanding bill and then any balance will be applied to their prepaid account. See, Schedule PRS, Condition 2.b.}

5. A utility may require a residential customer to establish or reestablish a deposit if the customer becomes delinquent in the payment of two bills within a 12-consecutive-month period or has been disconnected for service during the last 12 months. [MEC Rules Subsection 102-C.2.b. & c.]
{Inapplicable to prepaid service customers.}

A.A.C. R14-2-210 Billing and Collection [MEC Rules Sections 109 & 110]

A. Frequency and estimated bills [MEC Rules Subsection 109-A.1]

1. Unless otherwise approved by the Commission, the utility or billing entity shall render a bill for each billing period to every customer in accordance with its applicable rate

schedule and may offer billing options for the periods of not less than 25 days or more than 35 days without customer authorization.

{Waived in part for prepaid service - Written billing statements still provided on regular 25 to 35 day billing cycle for prepaid customer. See, Schedule PRS, Condition 3.a. Account balance is available from internet, IVR or business office and will be updated at least once each business day. See, Schedule PRS, Condition 3.b. & c. Historical average daily usage information is available on line or at the Cooperative's business offices. See, Schedule PRS, Condition 3.d. Actual daily usage is only available through the Cooperative's business offices. See, Schedule PRS, Condition 3.d. & e.}

B. Combing meters, minimum bill information [MEC Rules Subsection 110-A]

{Waived in part for prepaid service - Billing information made available on line and through the Cooperative's business office will satisfy the rule, except that daily billed kWh usage shall only be available through the Cooperative's business offices and no kW demand will be provided. See, Schedule PRS, Condition 3.e.}

C. Billing terms [MEC Rules Subsection 110-C]

1. All bills for utility services are due and payable no later than 15 days from the date of the bill. Any payment not received within this time-frame shall be considered delinquent and could incur a late payment charge.

{Waived for prepaid service - Payment for prepaid service is due in advance and subject to disconnect if balance reaches zero. See, Schedule PRS, Condition 5.}

2. For purposes of this rule, the date a bill is rendered may be evidenced by:

{Waived for prepaid service - Account balance information available through internet, IVR and business offices. See, Schedule PRS, Condition 3.b., c. & d.}

D. Applicable tariffs, prepayment, failure to receive, commencement date, taxes [MEC Rules – N/A]

4. Charges for electric service commence when the service is actually installed and connection made, whether used or not. A minimum one-month billing period is established on the date the service is installed (excluding landlord/utility special agreements.

{Waived for prepaid service - Prepaid service computed daily. See, Schedule PRS, Condition No one-month minimum billing period applies.}

A.A.C. R14-2-211 Termination of Service [MEC Rules Section 111]

C. Termination of service with notice. [MEC Rules Subsection 111-C.1.b.]

1. . . . A utility may disconnect service to any customer for any reason state below provided the utility has met the notice requirements established by the Commission:

   b. Failure of the customer to pay a delinquent bill for utility service.

{Waived for prepaid service - Disconnection allowed when prepaid balance reaches zero as specified in Schedule RPS, Conditions 5 & 6.}

D. Termination notice requirements [MEC Rules Subsection 111-C.2., 3. & 4.]
{Waived in part - Notice when prepaid balance reaches zero is governed by Schedule PRS, Condition 6.}

E. Timing of terminations with notice [MEC Rules Subsection 111-C5. & 6.]
{Waived - Disconnection allowed when prepaid balance reaches zero as specified in Schedule PRS, Conditions 5 & 6.}

MOHAVE
electric cooperative
A Touchstone Energy® Cooperative

Mohave Prepay

An Optional Pay-As-You-Go Plan

- ***Eliminate deposits and monthly bills***
- ***Customize a payment schedule***
- ***Buy electricity at your convenience***
- ***Monitor your consumption***

What is Mohave Prepay?

Mohave Prepay is an optional pay-as-you-go plan under an Arizona Corporation Commission approved tariff that allows qualified Residential Members to prepay for electricity when you want and in the amounts you want. Instead of receiving a monthly bill for electric service provided,, usage is calculated daily and payments made in advance. Mohave Prepay members never pay a late charge, disconnect fee, or reconnect fee so long as their prepay account is not closed. New Prepay customers pay the standard $5 membership fee (if not previously paid), a $40 establishment fee and establish a prepaid account balance of at least $40.

Is Mohave Prepay the right choice for me?

If it would be easier for you to receive electric service without posting a deposit and to make smaller more frequent payments rather than one larger payment each month, Mohave Prepay may be for you. Purchasing power is quick and easy, even on weekends and holidays through Mohave's automated phone and internet remote bill pay service.

Mohave Prepay is only available to qualified Mohave's residential customers. *It is not available if you are enrolled in Budget Billing, Time of Use, Net Metering, have 3-phase service or have a Critical Account (dependent on electric service for health reasons).* As a Prepay Customer you must be able to physically reach your meter to press a reconnect button, receive and understand messages regarding your balance and to timely make prepayments by phone, internet or at a Mohave office. This service is not intended for members with physical infirmities, that are housebound, or that cannot readily receive messages and make payments over the phone or internet.

What if my Mohave Prepay account runs low?

You will receive a low balance notice by voice mail, e-mail or text message once your balance reaches a pre-determined level ($25, $35, or $50 depending on the season). This will give you time to purchase more power before the meter stops. If you do not purchase more power, the meter will stop and the power will turn off during Mohave's normal business hours (Monday – Friday 8 a.m. – 5 p.m., excluding Mohave recognized holidays). However, your power will be re-energized within 2 to 24 hours once a payment is made bringing your prepaid balance to $20 or more. For the safety of you and your property, you must then hit a reset button at your meter to restore electric service to your residence.

How do I check my account balance or make a payment?

By phone: 877-371-9379 (select Option #1) – any time or day

Online: www.mohaveelectric.com – any time or day

At our Office: 928 Hancock Road, Bullhead City, AZ -Monday-Friday 8am-5pm, except Mohave recognized holidays

How do I sign up for Mohave Prepay?

You will need to execute a Prepay Service Agreement. For more information call 928-763-1100 or visit our Member Service Office.

TERMS AND CONDITIONS OF MOHAVE PREPAY MAY CHANGE AT ANY TIME AS APPROVED BY MOHAVE AND THE ARIZONA CORPORATION COMMISSION.

RUS Account 501 Fuel

A. This account shall include the cost of fuel used in the production of steam for the generation of electricity, including expenses in unloading fuel from the shipping media and handling thereof up to the point where the fuel enters the first boiler plant bunker, hopper, bucket, tank, or holder of the boiler-house structure. Records shall be maintained to show the quantity, B.t.u. content and cost of each type of fuel used.

B. The cost of fuel shall be charged initially to Account 151, Fuel Stock, and cleared to this account on the basis of the fuel used. Fuel handling expenses may be charged to this account as incurred or charged initially to Account 152, Fuel Stock Expenses Undistributed. In the latter event, they shall be cleared to this account on the basis of the fuel used. Respective amounts of fuel stock and fuel stock expenses shall be readily available.

Items

Labor:

1. Supervising, purchasing, and handling of fuel.

2. All routine fuel analyses.

3. Unloading from shipping facility and placing in storage.

4. Moving of fuel in storage and transferring fuel from one station to another.

5. Handling from storage or shipping facility to first bunker, hopper, bucket, tank, or holder of boiler-house structure.

6. Operation of mechanical equipment, such as locomotives, trucks, cars, boats, barges, and cranes.

Taxes:

1. Federal and state unemployment.

2. F.I.C.A.

3. Property.

Employee Pensions and Benefits: The portion of employee pensions and benefits specifically identifiable with employees' labor costs charged herein or, in the absence of specific employee identification, the portion of employee pensions and benefits, allocated on the more equitable basis of either direct labor dollars or direct labor hours, applicable to the labor items detailed above, including:

1. Accruals for or payments to pension funds or to insurance companies for pension purposes.

2. Group and life insurance premiums (credit dividends received).

3. Payments for medical and hospital services and expenses of employees when not the result of occupational injuries.

4. Payments for accident, sickness, hospital, and death benefits or insurance.

5. Payments to employees incapacitated for service or on leave of absence beyond periods normally allowed when not the result of occupational injuries or in excess of statutory awards.

6. Expenses in connection with educational and recreational activities for the benefit of employees.

Insurance:

1. Premiums payable to insurance companies for fire, storm, burglary, boiler explosion, lightning, fidelity, riot, and similar insurance.

2. Amounts credited to Account 228.1, Accumulated Provision for Property Insurance, for similar protection.

3. Special costs incurred in procuring insurance.

4. Insurance inspection service.

5. Insurance counsel, brokerage fees, and expenses.

6. Premiums payable to insurance companies for protection against claims from injuries and damages by employees or others, such as public liability, property damages, casualty, employee liability, etc., and amounts credited to Account 228.2, Accumulated Provision for Injuries and Damage, for similar protection.

7. Losses not covered by insurance or reserve accruals on account of injuries or deaths to employees or others and damages to the property of others.

8. Fees and expenses of claim investigators.

9. Payment of awards to claimants for court costs and attorneys' services.

10. Medical and hospital service and expenses for employees as the result of occupational injuries or resulting from claims of others.

11. Compensation payments under workmen's compensation laws.

12. Compensation paid while incapacitated as the result of occupational injuries. (See Account 924, Note A.)

13. Cost of safety, accident prevention, and similar educational activities.

Materials and Expenses:

1. Operating, maintenance, and depreciation expenses and ad valorem taxes on utility-owned transportation equipment used to transport fuel from the point of acquisition to the unloading point.

2. Lease or rental costs of transportation equipment used to transport fuel from the point of acquisition to the unloading point.

3. Cost of fuel including freight, switching, demurrage, and other transportation charges.

4. Excise taxes, insurance, purchasing commissions, and similar items.

5. Stores expenses to extent applicable to fuel.

6. Transportation and other expenses in moving fuel in storage.

7. Tools, lubricants, and other supplies.

8. Operating supplies for mechanical equipment.

9. Residual disposal expenses less any proceeds from sale of residuals.

Note: Abnormal fuel handling expenses occasioned by emergency conditions shall be charged to expense as incurred.

Staff's Proposed Findings of Fact Language

Renewable Energy Standard and Tariff ("REST") Adjustor Mechanism

We agree with Staff that it is appropriate in this rate proceeding to specifically approve a REST adjustor mechanism as recommended by Staff during the hearing.

The initial rates of the REST adjustor mechanism will be the same as the REST tariff charges approved in Decision No. 72082.

Subsequent changes to the REST adjustor rates will be set in connection with the annual Renewable Energy Implementation Plan submitted by Mohave and approved by the Commission pursuant to the Renewable Energy Standard and Tariff rules, or as otherwise ordered by the Commission.

Demand Side Management ("DSM") Adjustor Mechanism

We agree with Staff that it is appropriate in this rate proceeding to specifically approve a DSM adjustor mechanism as recommended by Staff during the hearing.

The initial rates of the DSM adjustor mechanism will be the same as the DSM cost recovery tariff that is approved in Docket No. E-01750A-11-0228 (Mohave's 2012-2013 Electric Energy Efficiency Implementation Plan and Demand Side Management Program docket).

Subsequent changes to the DSM adjustor rates will be set in connection with the Electric Energy Efficiency Implementation Plan submitted by MEC and approved by the Commission pursuant to the Electric Energy Efficiency Standards rules, or as otherwise ordered by the Commission.