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BEFORE THE ARIZONA CORPORATION COMMISSION

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IN THE MATTER OF THE APPLICATION OF ARIZONA ELECTRIC POWER COOPERATIVE, INC. FOR A HEARING TO DETERMINE 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-01773A-12-0305** **MOHAVE ELECTRIC COOPERATIVE, INCORPORATED'S POST HEARING REPLY BRIEF**

Intervenor Mohave Electric Cooperative, Incorporated ("Mohave") submits its post hearing reply brief. Only the Utility Division Staff ("Staff") opposes Arizona Electric Power Cooperative's ("AEPCO") request to set rates and charges to reduce operating revenues by $4.287 million annually; a 2.6% decrease in total revenues (from $163,624,000 to $159,337,135).[1]

In its Opening Brief, Staff repeatedly suggests that its recommendation "will have the effect of keeping rates at their current levels."[2] Staff is wrong. Staff's recommendation, which adopts various rate design changes requested by AEPCO – including increasing the

[1] AEPCO-5, Exhibit GEP-4, line 5, Col. D & E. Note, other parties reference a 2.77% decrease. The 2.77% figure is based solely upon revenues derived from revenues from members, while the 2.6% is the decrease in "total" revenues.

[2] Staff Opening Brief, p. 2, l. 21; p. 3, l. 10 and p. 6, l. 9.

amount of fixed costs paid by every member and adding a fixed component to AEPCO PPFAC, will cause the All-Requirements Members ("ARMs") and Trico Electric Cooperative, Inc. ("Trico") to pay AEPCO more than they did during the test year.[3]

Staff objects to decreasing AEPCO's revenue requirement because: 1) satisfying the EPA will require a rate increase above and beyond current rates and 2) the economic viability of AEPCO's Generating Plant is uncertain.[4] These arguments are fully rebutted by the evidence, as previously documented in the opening briefs of Mohave, AEPCO and Trico.

<u>The Level of Future AEPCO Rates Is Unknown</u>

Staff presented no evidence, let alone known and measurable data, to support Mr. Antonuk's assertions that "AEPCO will need to increase its rates above what they are today" or that complying with EPA regulations will result in rates "north of what they are today".[5] In fact, Mr. Vickroy admitted that Liberty conducted no independent analysis of what the rate impact will be due to AEPCO's implementing an environmental mitigation option.[6] Nowhere does Staff's Opening Brief even estimate the magnitude of any future rate increase. Staff only alleges that the increase may be greater than the 2.6% decrease AEPCO is currently requesting. <u>Any</u> rate increase over 2.6% would be "north of" existing rates. In what universe does the possibility of an undefined rate increase at some unknown future time promote rate instability? Yet that is the jest of Staff's argument.[7] In fact, the Commission has recognized

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[3] AEPCO-6, Exhibit GEP-10, p.1, l. 13, Col. 5 vs. Col. 6.

[4] Staff Opening Brief, p. 3, ll. 7-11. Staff made no effort to rely on Mr. Vickroy's defective Moody's analysis to support its 1.55 DSC recommendation that had been thoroughly discredited by the testimony of Mr Stover. See, e.g., Mohave Opening Post Hearing Brief p. 3, l. 13 – p. 8, l. 7.

[5] Staff Opening Brief, p. 4, ll. 1-2 and l. 12.

[6] Hearing Transcript (Tr.) p. 215, ll. 14-17.

[7] Staff Opening Brief, p. 6, ll. 9-10.

increases of 6% or less are small enough that they can and should be handled through a streamlined ratemaking process.[8]

Mr. Scott testified:

> "As we are in the midst of our planning efforts, and . . . we are still identifying our, the actual capital compliance costs and the O&M compliance costs, at this point I think it would be premature to make that, to put that in the record until we are, we are done with our analysis."[9]

Mr. Kurtz testified that it is not possible to know what AEPCO's operating expenses will be two years out and that operating expenses could be impacted up or down by implementing an EPA compliance alternative.[10] In fact, the operating cost profile of AEPCO has significantly changed (lowered) between the prior rate case and the test year for this case.[11] "[I]t would be really hard to speculate . . . what those costs would need to be and what our rates would need to be at that time" and, moreover, there would be options as to how to finance the costs of environmental compliance.[12]

After acknowledging uncertainty exists about the final cost of EPA compliance, Mr. Stover testified, total annual debt service of a $30 million debt at 4% over 20 years would be $2.4 million, or 1 1/2% of AEPCO's past decrease, total revenue requirement of $159,337,135.[13] "[T]he notion that we are dealing with a train wreck, a catastrophe down the road . . . way overstates the situation."[14]

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[8] Tr. pp. 71, l. 20 – p. 72, l. 16.
[9] Tr. p. 36, ll. 5-10.
[10] Tr. p. 42, l. 23 – p. 43, l. 5.
[11] Tr. p. 43, ll. 9-15.
[12] Tr. 44, ll. 1-9
[13] Hearing Transcript (Tr.) p. 143, l. 13 – p. 144, l. 7.
[14] Tr. p. 144, l. 7-10.

Mr. Vickroy testified that the possibility that "AEPCO was facing over 190 million in estimated EPA compliance capital expenditures"[15] constituted a significant factor in reaching his recommendation of a 1.56 DSC.[16] Subsequently EPA has allowed AEPCO to start the process of modifying the state implementation plan to incorporate AEPCO's much less expensive $30 million BART alternative.[17] Yet Mr. Vickroy has refused to alter his DSC recommendation.[18]

Staff has presented only pure speculation as to the potential rate impact associated with complying with EPA mandates. Such unsupported concerns do not and cannot justify allowing AEPCO to charge its customers $4.287 million annually above that necessary to achieve a 1.32 DSC; a DSC level all parties agree will allow AEPCO to satisfy Moody's quantitative financial metrics necessary to achieve an A financial rating.[19] The EPA compliance deadline is no sooner than December of 2017.[20] Therefore, prior to reaching the EPA compliance deadline (which may be able to be extended),[21] and prior to AEPCO being able to project the impact thereof on its operating costs, Staff's proposal allows AEPCO to earn margins of $17.148 million dollars (4 x $4.287) over and above the margins it would earn at a 1.32 DSC. Rates can never be set to return these dollars to AEPCO's members.[22] Yet providing this level of margins does nothing to ensure AEPCO will meet its

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[15] Tr. p. 218, ll. 10-14.

[16] *Id.* ll. 15-19.

[17] AEPCO-6, p. 2, ll. 19-21; Tr. p. 219, ll.17-25.

[18] Tr. p. 220, ll. 8-14.

[19] See e.g., S-4, p. 13, ll. 2-6.

[20] Tr. p. 37, l. 10; p. 42, l. 6-9.

[21] Tr. p. 42, ll. 10-17.

[22] Tr. p. 221, ll. 1-9.

environmental mitigation responsibilities.[23] Staff's Opening Brief does not support a revenue level above a 1.32 DSC.

The Apache Station's Competitiveness Does Not Warrant Rejecting the Rate Decrease

Staff next contends that the rate decrease must be denied due to "the uncertain economic viability of Apache Station."[24] Yet rejecting AEPCO's request to reduce rates does nothing to make AEPCO more competitive in the energy market.[25] Moreover, AEPCO's rate design has both a fixed component that recovers its fixed costs and a variable component to recover variable costs.[26] Mr. Vickroy admits that it is "obvious" that such a rate design "helps to ensure that the targeted returns and ratios included in the rate filings are met."[27]

Staff's suggestion that the Apache Station Study may present AEPCO with a "weighty decision"[28] is not the same as demonstrating by known and measurable data a legitimate financial need for rates designed to achieve a DSC above 1.32 or justify rejecting AEPCO's rate decrease request. First, the results of the uncompleted Apache Station Study are unknown. The Study may support maintaining the Apache Station for the rest of its useful life. Second, even if the Study supports some other alternative, AEPCO and Staff can only speculate as to the nature of such alternative, its costs and the time frame for its implementation. These uncertainties do not and cannot justify imposing an additional 2.6% revenue requirement ($4.287 million annually) on AEPCO's members. Third, a fundamental reality underlying the Study is the existence of AEPCO's existing debt associated with the

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[23] Tr. p. 212, ll.4-7.

[24] Staff Opening Brief, p. 4, ll. 17-18.

[25] Tr. p. 212, ll. 11-16.

[26] Tr. p. 63, l. 13-p. 66, l. 16; p. 157, l. 17- p. 158, l. 25.

[27] Tr. p. 238, ll. 17-21.

[28] Staff Opening Brief, p. 5, l. 17.

Apache Station. Therefore, it is likely any shift away from the Apache Station will be accomplished over a period of years to allow these costs to be amortized. Certainly there will be no immediate impact on costs following the completion of the Study as Staff's Opening Brief implies.[29]

Again, conjecture about the Apache Station Study does not justify imposing an annual cost of $4.287 million on AEPCO's members.

CONCLUSION

Staff's Opening Brief continues to speculate on what ifs and unknowns. Such speculation has never been a legitimate basis to set rates in Arizona. AEPCO asks the Commission to reduce rates to the level supported by the known and measurable data reflected in the test year. It also asks approval of an ECAR to allow it to timely respond once the uncertainties related to EPA compliance are known and definite. Such a reasoned approach is the only action supported by the record. The Commission must reject Staff's conjecture and base its decision on the test year data, adjusted for known and definite changes. In doing so, AEPCO's request to reduce its revenue requirement by 2.6% is the only alternative supported by this record.

Staff wrongly asserts that its recommendation leaves "rates" at their present levels.[30] In fact, both AEPCO and Staff support identical changes in the rate design. As a result, Staff's recommendation to maintain test year revenues actually increases the revenue responsibility for all of AEPCO's ARMs and imposes a 4.5% increase on TRICO. Under AEPCO's proposal the revenue responsibility for all AEPCO's members is decreased, except Trico, which will see a 1.2% increase (3.3% less than under Staff's recommendation).[31]

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[29] AEPCO will have a weighty decision "*just seven months* after AEPCO is requesting its proposed rate decrease to take effect." Staff Opening Brief, p. 5, ll. 18-19.

[30] Staff Opening Brief, p. 6, l. 9.

[31] AEPCO-6, Exhibit GEP-10, p.1, l. 13, Col. 5 vs. Col. 6.

Mohave, and all the other members of AEPCO, join AEPCO in requesting the Commission approve the requested 2.6% rate decrease, together with an ECAR that will allow AEPCO to promptly and fairly, subject to Commission oversight and approval, address environmental compliance costs, once they are known and the solution is implemented.

DATED this 12th day of September, 2013.

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PROOF OF AND CERTIFICATE OF MAILING

I hereby certify that on this 12th day of September, 2013, 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:

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