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BEFORE THE ARIZONA CORPORATION COMMISSION

BOB STUMP
Chairman
GARY PIERCE
Commissioner
BRENDA BURNS
Commissioner
BOB BURNS
Commissioner
SUSAN BITTER SMITH
Commissioner

Arizona Corporation Commission

DOCKETED

JUL 30 2014

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IN THE MATTER OF THE JOINT
APPLICATION OF ARIZONA ELECTRIC
POWER COOPERATIVE, INC. FOR
AUTHORIZATION ASSOCIATED WITH
THEIR MERGER AND THE ISSUANCE BY
ARIZONA ELECTRIC POWER
COOPERATIVE, INC. THE SURVIVING
COOPERATIVE OF AN INDENTURE.

DOCKET NO. E-01773A-14-0018

E-04100A-14-0018

DECISION NO. 74591

ORDER

Open Meeting
July 22 and 23, 2014
Phoenix, Arizona

BY THE COMMISSION:

FINDINGS OF FACT

Introduction

1. On January 21, 2014, Arizona Electric Power Cooperative, Inc. ("AEPSCO") and Southwest Transmission Cooperative, Inc. ("SWTC") (collectively, the "Cooperatives") filed an application with the Arizona Corporation Commission ("Commission") requesting approval of a merger between AEPSCO and SWTC and an Indenture.

2. On February 3, 2014, Trico Electric Cooperative, Inc. ("Trico") filed a motion to intervene and on March 31, 2014, Mohave Electric Cooperative, Inc. ("Mohave") filed a motion to intervene. On February 20, 2014, and April 17, 2014, the Administrative Law Judge granted each motion to intervene, respectively.

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1 3. On March 20, 2014, the Cooperatives filed a supplement to the initial application
2 requesting additional authorizations pertaining to the proposed merger and Indenture.

3 **Background**

4 4. AEPCO is a not-for-profit, generation-only cooperative that was initially granted a
5 Certificate of Convenience & Necessity (“CC&N”) to provide generation and transmission services,
6 by the Commission, in Decision No. 33677, dated February 13, 1962. AEPCO provides generation
7 services to three all-requirements distribution cooperative members (Duncan Valley Electric
8 Cooperative, Inc., Graham County Electric Cooperative, Inc., and Anza Electric Cooperative, Inc.)¹
9 (collectively, “CARM”) and three partial-requirements distribution cooperative members (“PRM”)
10 (Mohave, Sulphur Springs Valley Electric Cooperative, Inc., and Trico).

11 5. The CARMs receive all of their power and energy needs from AEPCO while each
12 PRM only commits to purchase a fixed amount of capacity from AEPCO and may secure additional
13 power and energy from other sources.

14 6. SWTC is a not-for-profit, transmission-only cooperative formed as part of the
15 restructuring of AEPCO in the late 1990s and early 2000s. The Commission approved AEPCO’s
16 restructuring in Decision No. 63868, dated July 25, 2001.

17 7. In Decision No. 63868, AEPCO’s transmission assets and transmission portion of its
18 CC&N was transferred to SWTC. Further, in Decision No. 63868 Sierra Southwest Cooperative
19 Services, Inc. (“Sierra Southwest”)² was formed to provide, among other functions, various support
20 services including staffing services to both AEPCO and SWTC.

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27 ¹ Anza Electric Cooperative is located in California.
28 ² Sierra Southwest was granted a CC&N in Decision No. 61932, dated August 7, 1999, as an Arizona Electric Service Provider (“ESP”). The Arizona Superior Court vacated Sierra Southwest’s CC&N granted by the Commission. The ruling was upheld by the Arizona Court of Appeals in Phelps Dodge Corp. v. AEPCO, 207 Ariz. 95, ¶ 141, 83 P.3d 573 (Ariz. App. 2004).

1 Application

2 8. AEPCO and SWTC are requesting that the Commission grant the merger of SWTC
3 and AEPCO, with AEPCO being the surviving entity providing generation and transmission services;
4 the replacement of the Cooperatives' current mortgages with an Indenture as well as the assumption
5 by AEPCO of the benefit liabilities associated with employees being transferred from Sierra
6 Southwest; and the reissuance of SWTC's Commission-approved network transmission service tariff,
7 point-to-point transmission service tariff, ancillary service tariff, and any other rates, charges,
8 adjustors, or similar accounting or rate mechanisms, to AEPCO.

9 9. In its supplemental filing dated March 21, 2014, the Cooperatives also request specific
10 Commission approval of the transfer of the following SWTC authorizations to AEPCO:

- 11 a) The Certificate of Environmental Compatibility authorizing the construction of the
12 San Manuel Interconnect Project granted in Decision No. 71218, dated July 16, 2009;
- 13 b) The financing approval related to SWTC's 2009-2010 Construction Work Plan granted
14 in Decision No. 71511, dated March 17, 2010.
- 15 c) The Certificate of Environmental Compatibility regarding the SWTC and Central
16 Arizona Project ("CAP") Joint Projects granted in Decision No. 71649, dated April 14,
17 2010; and
- 18 d) The Certificate of Environmental Compatibility for the Marana Tap to the Sandario
19 Tap Transmission Line Rebuild Project granted in Decision No. 72447, dated June, 28,
20 2011.

21 10. In addition, the Cooperatives are requesting discontinuance of reporting requirements
22 ordered in Decision No. 69239, dated January 19, 2007, related to an equity improvement plan
23 ordered by the Commission in Decision No. 69239 for SWTC.

24 ***Merger***

25 11. In an effort to better position themselves to transition from the Rural Utilities Service
26 ("RUS") borrowing to the Indenture described below, the Cooperatives will have to obtain credit
27 ratings from two of the credit ratings agencies. However, in issuing such ratings, the credit rating
28 agencies must consider the ability of each Cooperative, on its own merits, to meet the criteria needed

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1 to qualify for an investment grade credit rating.³ The Cooperatives state that SWTC is simply too
2 small of an entity to obtain the credit ratings necessary to qualify for an Indenture or to participate in
3 the wider credit markets that would be available following the conversion to an Indenture.

4 12. The Cooperatives state that a merger between AEPCO and SWTC would result in
5 additional benefits including reduced employee expense through the consolidation of benefit
6 packages; reduced accounting costs, external audit fees and tax preparation fees through the
7 consolidation of accounting records and tax filings; and reduced regulatory expense for required
8 regulatory filings.

9 13. The Cooperatives indicate that the current rates and charges approved in the previous
10 AEPCO and SWTC rate cases would remain the same.⁴ AEPCO would continue to charge its
11 generation rates under its Commission-approved tariffs and adjustor mechanisms. AEPCO would
12 charge the same transmission rates and adjustor mechanism that the Commission has approved for
13 SWTC. However, AEPCO would re-issue SWTC's tariffs under its own name. In addition, any other
14 charges, rates, adjustor mechanisms, or accounting orders authorized by the Commission for SWTC
15 would need to be transferred to AEPCO.

16 14. Sierra Southwest would no longer provide the administrative support or staffing
17 services authorized in Decision No. 63868; these functions would transfer to AEPCO after the
18 completion of this transaction. Further, the Cooperatives do not anticipate any layoffs from either
19 entity as a result of this transaction.

20 15. This transaction would not affect the partial/full requirement status of the
21 Cooperatives member distribution cooperatives. The Cooperatives stated that there was no
22 anticipation of any changes to engineering, planning, operations, or maintenance processes. Based on
23 a response to a Staff data request that there will be no changes to engineering, planning, operations or
24 maintenance processes as a result of the proposed merger, Staff concluded that there was no
25 engineering analysis required for this application.

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27 ³ The Cooperatives state that credit rating agencies also consider liquidity. In order to improve its credit profile and
28 increase its liquidity, AEPCO filed an application for approval of \$100 million in committed lines of credit. The
Commission approved the application in Decision No. 74447, dated April 18, 2014.

⁴ Decision No. 74173 and Decision No. 74172, respectively.

Indenture

16. The Cooperatives indicate that long-term federal financing that has historically been available to the Cooperatives through RUS, through Notes with the Federal Financing Bank (“FFB”), has become increasingly complicated, time-consuming, and uncertain to obtain. However, in order to borrow from entities other than the RUS, they must obtain a mortgage lien accommodation from the RUS. In addition, the Cooperatives state that, even if the RUS lien accommodation is granted, restrictions may be placed on the projects to which the funds are applied.

17. The Cooperatives have requested that the Commission grant authorization to replace current RUS backed mortgages with an Indenture issued by AEPCO. Staff recommends approval of the requested authorization.

Notice

18. On February 28, 2014, AEPCO and SWTC filed an Affidavit of Mailing certifying that notice of the application was sent to the Chief Executive Officers of each Class A Member Distribution Cooperative and an Affidavit of Publication confirming published notice of the application.

Analysis and Recommendations

19. A.R.S. §10-2142 specifies that, after a merger or consolidation, all rights, privileges, and powers are deemed transferred to the surviving generation and transmission cooperative. In addition, the surviving generation and transmission cooperative is responsible and liable for all liabilities and obligations of the merged generation and transmission cooperatives involved in the transaction. This statute serves to preempt any service impairment due to the merger or consolidation of generation and transmission cooperatives.

20. A.R.S. §40-285 requires public service corporations to obtain Commission authorization to assign or dispose of a utility’s assets as proposed by the merger in this transaction. This statute serves to preempt any service impairment due to the disposal of assets that are essential for providing service.

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1 21. A.R.S. §40-301 requires public service corporations to obtain Commission
2 authorization to issue stocks, bonds, and other evidences of indebtedness as proposed by the
3 Indenture in this transaction. This statute serves to ensure that any issuance of stocks, bonds and
4 other evidences of indebtedness will not impact a utility's financial soundness and its ability to provide
5 service.

6 22. A.R.S. §40-365 requires public service corporations to file, with the Commission, all
7 rate schedules approved by the Commission. This statute serves to ensure that all Commission-
8 approved rate schedules are available for public inspection.

9 23. The proposed merger would transfer the transmission services (originally provided by
10 AEPCO, as approved in Decision No. 33677) from SWTC back to AEPCO. AEPCO would re-issue
11 all of SWTC's current Commission-approved rate schedules in its own name. Currently, each member
12 distribution cooperative is represented on both the AEPCO and SWTC boards.

13 24. As the surviving entity, AEPCO will be composed of the same board members that
14 currently serve on the SWTC board and company officers, management, and employees that currently
15 serve Sierra Southwest. In addition, the proposed Indenture would allow access to alternative sources
16 of financing. Therefore, Staff does not believe the proposed merger and Indenture will negatively
17 impact operations of AEPCO.

18 25. Staff has recommended approval of the proposed merger, including the transfer of the
19 SWTC CC&N and the staffing services provided by Sierra Southwest granted in Decision No. 63868.

20 26. Staff has recommended the discontinuance of SWTC reporting requirements ordered
21 in Decision No. 69239 and continued in Decision No. 72030, but that all other reporting requirements
22 ordered by the Commission be assumed by AEPCO.

23 27. Staff has recommended that any authorizations or approvals held by SWTC that are
24 outstanding as of the date of the Decision in this matter transfer to AEPCO by operation of law.

25 28. Staff has also recommended that AEPCO, as the surviving entity, be required to file,
26 within 15 days of the Decision in this matter, the following Compliance items, under its own name:

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- 2 • Network Transmission Service Tariff granted in Decision No. 74172, dated October
- 3 25, 2013;
- 4 • Point-to-Point Transmission Service Tariff granted in Decision No. 74172, dated
- 5 October 25, 2013;
- 6 • Ancillary Service Tariff granted in Decision No. 74172, dated October 25, 2013;
- 7 • Network Transmission Revenue Adjustor Tariff Rider granted in Decision No. 74172,
- 8 dated October 25, 2013; and
- 9 • Network Transmission Revenue Adjustor Plan of Administration granted in Decision
- 10 No. 74172, dated October 25, 2013.

11 29. In addition, Staff has recommended that the following authorizations be transferred
12 from SWTC to AEPCO:

- 13 • The Certificate of Environmental Compatibility authorizing the construction of the
- 14 San Manuel Interconnect Project granted in Decision No. 71218, dated July 16, 2009;
- 15 • The financing approval related to SWTC's 2009-2010 Construction Work Plan granted
- 16 in Decision No. 71511, dated March 17, 2010;
- 17 • The Certificate of Environmental Compatibility regarding the SWTC and CAP Joint
- 18 Projects granted in Decision No. 71649, dated April 14, 2010; and
- 19 • The Certificate of Environmental Compatibility for the Marana Tap to the Sandario
- 20 Tap Transmission Line Rebuild Project granted in Decision No. 72447, dated June, 28,
- 21 2011.

22 30. Further, Staff has recommended the following regarding the Indenture portion of the
23 application:

- 24 • Approval of the Cooperatives' request to replace their current mortgages with an
- 25 Indenture issued by AEPCO, securing existing and future Commission-approved debt
- 26 through the pledge of the Cooperatives' combined assets;
- 27 • Approval of the assumption, by AEPCO, of the employee benefit plan liabilities
- 28 associated with the employees to be transferred from Sierra Southwest to AEPCO;
- Authorizing AEPCO to engage in any transaction and to execute any documents
- necessary to effectuate the authorizations granted;

- 1 • That AEPSCO file with Docket Control, as a compliance item in this matter, a copy of
2 the negotiated Indenture agreement within 60 days of its approval by the RUS;
- 3 • That AEPSCO file with Docket Control, as a compliance item in this matter, a copy of
4 the engagement contract entered into with the trustee selected to administer the
5 Indenture agreement within 60 days of the contract having been signed and agreed to;
6 and
- 7 • That AEPSCO file with Docket Control, as a compliance item in this matter, a copy of
8 the investment grade credit rating report issued by Standard & Poor's and Fitch within
9 60 days of the issue date of the report.

8 CONCLUSIONS OF LAW

9 1. Arizona Electric Power Cooperative, Inc. and Southwest Transmission Cooperative,
10 Inc. are public service corporations within the meaning of Article XV of the Arizona Constitution and
11 A.R.S. §§ 40-250 and 40-251.

12 2. The Commission has jurisdiction over Arizona Electric Power Cooperative, Inc. and
13 Southwest Transmission Cooperative, Inc. and of the subject matter of the request addressed herein.

14 3. Arizona Electric Power Cooperative, Inc. is a fit and proper entity to provide the
15 transmission services transferred from Southwest Transmission Cooperative, Inc.

16 4. Staff's recommendations specified in Findings of Fact Nos. 25 through 30 are
17 reasonable and should be adopted.

18 ORDER

19 IT IS THEREFORE ORDERED that the merger of Arizona Electric Power Cooperative,
20 Inc. and Southwest Transmission Cooperative, Inc., including the transfer of the Southwest
21 Transmission Cooperative, Inc., CC&N and the staffing services provided by Sierra Southwest
22 Cooperative Services, Inc., granted in Decision No. 63868, is hereby approved as set forth herein.

23 IT IS FURTHER ORDERED that the Southwest Transmission Cooperative, Inc. reporting
24 requirements ordered in Decision No. 69239 and continued in Decision No. 72030 are hereby
25 discontinued, but all other Southwest Transmission Cooperative, Inc. reporting requirements shall be
26 assumed by Arizona Electric Power Cooperative, Inc.

1 IT IS FURTHER ORDERED that any authorizations or approvals held by Southwest
 2 Transmission Cooperative, Inc. that are outstanding as of the date of the Decision in this matter be
 3 hereby transferred to Arizona Electric Power Cooperative, Inc. by operation of law.

4 IT IS FURTHER ORDERED that Arizona Electric Power Cooperative, Inc., as the surviving
 5 entity, file within 15 days of the Decision in this matter, the following compliance items, under its own
 6 name:

- 7 • Network Transmission Service Tariff granted in Decision No. 74172, dated October
 8 25, 2013;
- 9 • Point-to-Point Transmission Service Tariff granted in Decision No. 74172, dated
 10 October 25, 2013;
- 11 • Ancillary Service Tariff granted in Decision No. 74172, dated October 25, 2013;
- 12 • Network Transmission Revenue Adjustor Tariff Rider granted in Decision No. 74172,
 13 dated October 25, 2013; and
- 14 • Network Transmission Revenue Adjustor Plan of Administration granted in Decision
 15 No. 74172, dated October 25, 2013.

16 IT IS FURTHER ORDERED that the following authorizations be transferred from
 17 Southwest Transmission Cooperative, Inc. to Arizona Electric Power Cooperative, Inc.:

- 18 • The Certificate of Environmental Compatibility authorizing the construction of the
 19 San Manuel Interconnect Project granted in Decision No. 71218, dated July 16, 2009;
- 20 • The financing approval related to Southwest Transmission Cooperative, Inc.'s 2009-
 21 2010 Construction Work Plan granted in Decision No. 71511, dated March 17, 2010;
- 22 • The Certificate of Environmental Compatibility regarding the Southwest Transmission
 23 Cooperative, Inc. and Central Arizona Project Joint Projects granted in Decision No.
 24 71649, dated April 14, 2010; and
- 25 • The Certificate of Environmental Compatibility for the Marana Tap to the Sandario
 26 Tap Transmission Line Rebuild Project granted in Decision No. 72447, dated June, 28,
 27 . 2011.

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1 IT IS FURTHER ORDERED that the Arizona Electric Power Cooperative, Inc. and
2 Southwest Transmission Cooperative, Inc.'s request to replace their current mortgages with an
3 Indenture issued by Arizona Electric Power Cooperative, Inc., securing existing and future
4 Commission-approved debt through the pledge of the Arizona Electric Power Cooperative, Inc. and
5 Southwest Transmission Cooperative, Inc.'s combined assets is hereby approved.

6 IT IS FURTHER ORDERED that Arizona Electric Power Cooperative, Inc., shall assume
7 the employee benefit plan liabilities associated with the employees to be transferred from Sierra
8 Southwest to Arizona Electric Power Cooperative, Inc. is hereby approved.

9 IT IS FURTHER ORDERED that the Arizona Electric Power Cooperative, Inc. is hereby
10 authorized to engage in any transaction and to execute any documents necessary to effectuate the
11 authorizations granted;

12 IT IS FURTHER ORDERED that Arizona Electric Power Cooperative, Inc. shall file with
13 Docket Control, as a compliance item in this matter, a copy of the negotiated Indenture agreement
14 within 60 days of its approval by the Rural Utility Service;

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1 IT IS FURTHER ORDERED that Arizona Electric Power Cooperative, Inc. shall file with
 2 Docket Control, as a compliance item in this matter, a copy of the engagement contract entered into
 3 with the trustee selected to administer the Indenture agreement within 60 days of the contract having
 4 been signed and agreed to; and

5 IT IS FURTHER ORDERED that Arizona Electric Power Cooperative, Inc. shall file with
 6 Docket Control, as a compliance item in this matter, a copy of the investment grade credit rating
 7 report issued by Standard & Poor's and Fitch within 60 days of the issue date of the report.

8 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

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 10 **BY THE ORDER OF THE ARIZONA CORPORATION COMMISSION**

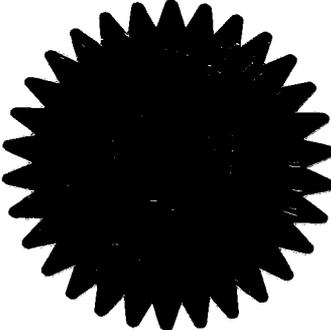
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17 IN WITNESS WHEREOF, I, JODI JERICH, Executive
 18 Director of the Arizona Corporation Commission, have
 19 hereunto, set my hand and caused the official seal of this
 20 Commission to be affixed at the Capitol, in the City of
 21 Phoenix, this 30th day of July, 2014.

21 
 22 _____
 23 JODI JERICH
 24 EXECUTIVE DIRECTOR

24 DISSENT: _____

25 DISSENT: _____

26 SMO:CLA:sms\WVC

1 SERVICE LIST FOR:
2 DOCKET NO.

3 Michael M. Grant
4 Jennifer A. Cranston
5 GALLAGHER & KENNEDY, PA
6 2575 E. Camelback Road, 11th Floor
7 Phoenix, Arizona 85016-9225
8 Attorneys for AEPCO and SWTC

9 Michael W. Patten
10 Roshka DeWulf & Pattern PLC
11 One Arizona Center
12 400 East Van Buren Street, Suite 800
13 Phoenix, Arizona 85004
14 Attorneys for Trico

15 Russell E. Jones
16 Waterfall Economidis Caldwell
17 Hanshaw & Villamana PC
18 5210 East Williams Circle, Suite 800
19 Tucson, Arizona 85711

20 Vincent Nitido
21 Karen Cathers
22 Trico Electric Cooperative, Inc.
23 8600 West Tangerine Road
24 PO Box 930
25 Marana, Arizona 85653

26 Michael A. Curtis
27 William P. Sullivan
28 Larry K. Udall
Curtis, Goodwin, Sullivan, Udall & Schwab, PLC
501 East Thomas Road
Phoenix, Arizona 85012
Attorneys for Mohave

Peggy Gillman
Manager of Public Affairs and Energy Services
Mohave Electric Cooperative, Inc.
PO Box 1045
Bullhead City, Arizona 86430

Mr. Steven M. Olea
Director, Utilities Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

1 Ms. Janice M. Alward
Chief Counsel, Legal Division
2 Arizona Corporation Commission
1200 West Washington Street
3 Phoenix, Arizona 85007

4 Ms. Lyn Farmer
Chief Administrative Law Judge, Hearing Division
5 Arizona Corporation Commission
1200 West Washington Street
6 Phoenix, Arizona 85007
7

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