

OPEN MEETING ITEM



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COMMISSIONERS
SUSAN BITTER SMITH - Chairman
BOB STUMP
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DOUG LITTLE
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ARIZONA CORPORATION COMMISSION

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ORIGINAL

DATE: SEPTEMBER 28, 2015

AZ CORP COMMISSION
Arizona Corporation Commission

DOCKET NO.: E-01575A-15-0127

DOCKETED

SEP 28 2015

TO ALL PARTIES:

DOCKETED BY

Enclosed please find the recommendation of Administrative Law Judge Jane L. Rodda. The recommendation has been filed in the form of an Order on:

SULPHUR SPRINGS VALLEY ELECTRIC COOPERATIVE, INC.
(NET METERING TARIFF)

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Administrative Law Judge by filing an original and thirteen (13) copies of the exceptions with the Commission's Docket Control at the address listed below by **4:00** p.m. on or before:

OCTOBER 7, 2015

The enclosed is NOT an order of the Commission, but a recommendation of the Administrative Law Judge to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Open Meeting to be held on:

OCTOBER 20, 2015 AND OCTOBER 21, 2015

For more information, you may contact Docket Control at (602) 542-3477 or the Hearing Division at (602) 542-4250. For information about the Open Meeting, contact the Executive Director's Office at (602) 542-3931.

JODI JERICH
EXECUTIVE DIRECTOR

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This document is available in alternative formats by contacting Shaylin Bernal, ADA Coordinator, voice phone number 602-542-3931, E-mail SABernal@azcc.gov.

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 COMMISSIONERS

3 SUSAN BITTER SMITH - Chairman
4 BOB STUMP
4 BOB BURNS
5 DOUG LITTLE
5 TOM FORESE

6
7 IN THE MATTER OF THE APPLICATION OF
7 SULPHUR SPRINGS VALLEY ELECTRIC
8 COOPERATIVE, INC. FOR APPROVAL OF A
8 NEW NET METERING TARIFF SCHEDULE NM-
9 2 AND REVISIONS TO THE EXISTING NET
9 METERING TARIFF SCHEDULE NM.

DOCKET NO. E-01575A-15-0127

DECISION NO. _____

ORDER

10 Open Meeting
10 October 20 and 21, 2015
11 Phoenix, Arizona

12 **BY THE COMMISSION:**

13 * * * * *

14 Having considered the entire record herein and being fully advised in the premises, the
15 Arizona Corporation Commission ("Commission") finds, concludes, and orders that:

16 FINDINGS OF FACT

17 1. On April 14, 2015, Sulphur Springs Valley Electric Cooperative, Inc. ("SSVEC" or
18 "Cooperative") filed an application with the Commission for: (1) approval of a new Net Metering
19 Tariff Schedule NM-2 that will apply to all future net metered members which credits to a member's
20 account any excess energy produced from an eligible net metering facility on a monthly basis at
21 SSVEC's authorized avoided costs rate; (2) revisions to the Cooperative's existing Net Metering
22 Tariff Schedule NM (to be revised and renamed Net Metering Tariff Schedule NM-1) which provide
23 that members who have an installed eligible net metering facility or an accepted SunWatts
24 Incentive/Interconnection application on file with SSVEC by close of business on April 14, 2015,
25 will be grandfathered under the existing Net Metering Tariff; and (3) approval of a partial waiver of
26 the Commission's net metering rules set forth in A.A.C. R14-2-2301 et seq. (the "Net Metering
27 Rules") as necessary to authorize the new tariff and the tariff revisions requested in the application
28

1 (“Application”).

2 2. On April 22, 2015, the Commission’s Utilities Division (“Staff”) filed a Request for
3 Procedural Order. Staff believes that the issues raised in the Application should be addressed in a rate
4 case, and recommended that if SSVEC did not voluntarily withdraw its Application, the parties
5 should brief the issue of whether the matter should be dismissed prior to scheduling an evidentiary
6 hearing.

7 3. Intervention in this matter was granted to Arizona Energy Industries Association
8 (“AriSEIA”), Arizona Public Service Company (“APS”), Navopache Electric Cooperative, Inc.
9 (“Navopache”), Mohave Electric Cooperative, Inc. (“MEC”), and The Alliance for Solar Choice
10 (“TASC”).

11 4. By Procedural Order dated June 24, 2015, the matter was set for a Procedural
12 Conference on July 9, 2015, to discuss how to proceed. Representatives from SSVEC, MEC,
13 Navopache, TASC, AriSEIA, APS, and Staff attended the July 9, 2015 Procedural Conference.

14 5. By Procedural Order dated July 10, 2015, it was determined that the threshold issues
15 of whether SSVEC’s Application must, as a matter of law, or should, as a matter of public policy, be
16 heard in a rate case proceeding are better answered prior to expending resources on an evidentiary
17 hearing. The Procedural Order stated that such a pre-hearing process promotes judicial economy and
18 conforms to the procedures utilized in similar tariff requests filed by other utilities. The parties were
19 in general agreement about the process and agreed to the briefing schedule as subsequently set forth
20 in the July 10, 2015 Procedural Order.¹

21 6. On July 31, 2015, SSVEC, TASC, Navopache, MEC and Staff filed Initial Briefs or
22 Comments.

23 7. On August 14, 2015, SSVEC, TASC and Staff filed Response Briefs.

24 8. Oral Argument on the request to dismiss the Application convened before a duly
25 authorized Administrative Law Judge (“ALJ”) at the Commission’s Tucson offices on August 20,
26 2015. SSVEC, Navopache, MEC, TASC and Staff appeared through counsel. At the conclusion of

27 _____
28 ¹ The July 10, 2015 Procedural Order set August 20, 2015 as the date for oral argument, with initial briefs due July 31,
2015, and response briefs due August 14, 2015.

1 the proceeding, the ALJ took the matter under advisement pending submission of a Recommended
2 Order.

3 9. On August 31, 2015, SSVEC filed a rate case application with the Commission ("2015
4 Rate Case").²

5 10. On September 2, 2015, Staff filed a Motion to Consolidate this docket with the 2015
6 Rate Case.

7 11. On September 18, 2015, SSVEC filed a Response to Staff's Motion to Consolidate.

8 12. On September 22, 2015, Navopache and MEC filed a Joinder in Opposition to
9 Consolidation.

10 13. On September 23, 2015, Staff filed a Reply to SSVEC's Opposition to Motion to
11 Consolidate.

12 The Application

13 14. SSVEC is a member-owned Arizona non-profit cooperative that provides electric
14 service to approximately 51,000 customers in parts of Cochise, Santa Cruz, Pima and Graham
15 Counties.

16 15. SSVEC is governed by a 10-member board of directors elected by its members.

17 16. The Commission approved the Net Metering Rules in Decision No. 70567 (October
18 23, 2008). A.A.C. R14-2-2306 sets forth the requirements of net metering as follows:

19 A. On a monthly basis, the Net Metering Customer shall be billed or credited based
20 upon the rates applicable under the Customer's currently effective standard rate
21 schedule and any appropriate rider schedules.

22 B. The billing period for Net Metering will be the same as the billing period under the
23 Customer's applicable standard rate schedule.

24 C. If the kWh supplied by the Electric Utility exceed the kWh that are generated by
25 the Net Metering Facility and delivered back to the Electric Utility during the
26 billing period, the Customer shall be billed for the net kWh supplied by the
27 Electric Utility in accordance with the rates and charges under the Customer's
28 standard rate schedule.

28 ² Docket No. E-01575A-15-0312.

- 1 D. If the electricity generated by the Net Metering Customer exceeds the electricity
2 supplied by the Electric Utility in the billing period, the Customer shall be credited
3 during the next billing period for the excess kWh generated. That is, the excess
4 kWh during the billing period will be used to reduce the kWh supplied (not kW or
5 kVA demand or customer charges) and billed by the Electric Utility during the
6 following billing period.
- 7 E. Customers taking service under time-of-use rates who are to receive credit in a
8 subsequent billing period for excess kWh generated shall receive such credit
9 during the next billing period during the on- or off-peak periods corresponding to
10 the on- or off-peak periods in which the kWh were generated by the Customer.
- 11 F. Once each calendar year the Electric Utility shall issue a check or billing credit to
12 the Net Metering Customer for the balance of any credit due in excess of amounts
13 owed by the Customer to the Electric Utility. The payment for any remaining
14 credits shall be at the Electric Utility's Avoided Cost. That Avoided Cost shall be
15 clearly identified in the Electric Utility's Net Metering tariff.

16 17. The Commission approved SSVEC's Net Metering Tariff in Decision No. 71462
17 (January 26, 2010). The tariff provides that SSVEC's avoided cost will be reset annually effective
18 September 1. Most recently, SSVEC's avoided cost rate was decreased from \$0.0307 per kWh to
19 \$0.0258 per kWh in Decision No. 75225 (August 26, 2015). In Decision No. 74811 (November 13,
20 2014), the Commission authorized the elimination of the March true-up month for new net metered
21 customers on or after January 1, 2015.

22 18. In its Application, SSVEC claims that the proliferation of rooftop Photovoltaic ("PV")
23 systems, the most common form of Distributed Generation ("DG"), has caused a "dramatic and
24 alarming" increase in unrecovered fixed costs attributable to net metered customers and has "shifted
25 (and continues to shift) the recovery of those fixed costs to members who have not installed PV
26 systems."³

27 19. SSVEC collects only a portion of the fixed costs required to serve residential
28 customers from the base monthly charge. SSVEC's residential monthly charge is \$10.25, but
according to SSVEC, the actual fixed costs of serving a residential customer is \$44.37.⁴ As with
many electric utilities, SSVEC's rates are designed to collect the remainder of the fixed costs not
covered by the monthly customer charge, from the sale of energy. SSVEC claims that because under

³ Application at 4.

⁴ *Id.* at 5-6. Based on the cost of service study used in SSVEC's 2013 streamlined rate case.

1 the tariff, net metered customers are only charged for the net amount of energy received from the
2 utility, they avoid paying a portion of the fixed costs attributed to their use of electric service.

3 20. SSVEC states that in 2010, its unrecovered fixed costs due to net metering were
4 \$82,104, and increased to \$947,370 in 2014. For 2015, SSVEC estimates that its unrecovered fixed
5 costs will exceed \$1.1 million.⁵

6 21. SSVEC claims that with its proposed revisions to the net metering tariff, members
7 who install rooftop PV systems under the new tariff would continue to receive a subsidy from
8 SSVEC (and ultimately from the non-net metered members), but that the subsidy would be reduced
9 from current levels. Although SSVEC acknowledges that its proposal does not fully resolve the net
10 metering cost shift problem, it argues that the change is a critical first step that needs to be taken
11 immediately to prevent a bad situation from worsening.⁶

12 22. SSVEC proposes to grandfather existing net metered customers under the current tariff
13 for 20 years from the date of installation of the qualifying system.

14 23. Because SSVEC is proposing to credit net metered members for all excess generation
15 at the avoided cost rate and will no longer carry excess generation forward to offset future usage,
16 SSVEC is requesting a waiver of the Net Metering Rules.

17 **Positions of the Parties**

18 **SSVEC**

19 24. SSVEC argues that there is no legal impediment to the Commission processing
20 SSVEC's Application outside of a rate case.⁷ SSVEC agrees with the position Staff takes in this and
21 other similar dockets that the Commission can modify a tariff without a rate case as long as it
22 considers "fair value" and the effect of the change on the utility's rate of return.⁸ SSVEC believes
23 that this position is supported by the fact that the current net metering tariff, and all of the
24 modifications to it, have been approved without a rate case.⁹

25 _____
26 ⁵ Application at 6; SSVEC Initial Brief at 5; Oral Argument Transcript ("Tr.") at 21-22.

27 ⁶ Application at 10.

28 ⁷ SSVEC's Initial Brief at 2. SSVEC cites its Response Brief filed in the Trico Electric Cooperative, Inc. ("Trico") Net Metering Docket No. E-01461A-15-0057.

⁸ SSVEC Initial Brief at 2-3.

⁹ Tr. at 1-8, 16.

1 25. SSVEC argues that TASC's single-issue rate making argument should be rejected
2 because the holding in the *Scates* decision does not require a full rate case for every rate change, as
3 the court specifically stated:

4 There may well be exceptional situations in which the Commission may
5 authorize partial rate increases without requiring entirely new
6 submissions. We do not decide in this case, for example, whether the
7 Commission could have referred to previous submissions with some
8 updating or whether it could have accepted summary financial
9 information.¹⁰

10 26. SSVEC also argues that TASC's argument that any so-called "revenue windfall"
11 resulting from the proposed tariff change is not being allocated to other rate payer classes, is
12 misplaced because SSVEC is a cooperative and any additional revenues will directly benefit its
13 members.¹¹

14 27. SSVEC believes its situation with a net metering cost shift is similar to that of APS as
15 described in that utility's Application in Docket No. E-01345A-13-0248 (Application for Lost Fixed
16 Cost Recovery ("LFCR") mechanism reset). SSVEC states that in the APS docket the Commission
17 recognized the problem when it stated "[i]n light of the record before us, we find that the proliferation
18 of DG installations results in a cost shift from APS' DG customers to APS's non DG residential
19 customers absent significant changes to the APS's rate design."¹² SSVEC notes that the Commission
20 recently determined to proceed with a hearing on APS's net metering tariff without waiting for APS
21 to file a rate case, and argues that the Commission should follow the same course of action with
22 SSVEC.¹³

23 28. SSVEC also argues that good public policy supports considering SSVEC's
24 Application in this Docket because: (1) the Commission gives greater latitude and deference to the
25 decisions of cooperative boards of directors;¹⁴ (2) the current net metering tariff is causing SSVEC to
26 suffer a harmful and growing cost shift that should be addressed immediately;¹⁵ (3) the SSVEC board
27 of directors has determined that it is better to address the problem sooner than in a rate case even if
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¹⁰ *Scates v. Ariz. Corp. Com'n*, 578 P.2d 612, 618 (Ariz. Ct App 1978); SSVEC Response Brief at 3.

¹¹ SSVEC Response Brief at 4.

¹² Decision No. 74202 at Findings of Fact 49.

¹³ Tr. at 7. See Decision No. 75251 (August 31, 2015).

¹⁴ SSVEC Initial Brief at 4-5.

¹⁵ *Id.* at 5-7.

1 the solution won't be as complete,¹⁶ and (4) there is no reason why a rate case would be a better
2 forum for addressing the requested waiver of the Net Metering Rules.¹⁷

3 29. SSVEC also argues that by taking action in this docket, the Commission would
4 provide more time to consider additional solutions in a future rate case, and would also allow
5 interested members to participate more effectively because the issues will be more narrow than in a
6 general rate case. SSVEC does not believe that there would be a lot of overlap between the current
7 proceeding and a rate case.¹⁸

8 30. SSVEC acknowledges that a complete remedy to the net metering cost shift will
9 require changes to the Cooperative's rate design in a future rate case, but SSVEC argues, that is not a
10 valid reason to reject the opportunity to take "measured and interim" steps as requested in the
11 Application.¹⁹ SSVEC asserts that proceeding in this docket would not foreclose any of the
12 Commission's options to address the issues in a later rate case, and the Commission would have the
13 ability to revisit any decision made in this docket.²⁰ SSVEC disputes that to hear the matter in the
14 current docket is a waste of resources, and asserts that the current docket can work as a
15 complementary precursor to a future rate case.²¹

16 31. SSVEC also argues that despite no explicit provision for a waiver in the Net Metering
17 Rules, the Commission has clear authority to waive its own rules when the waiver would be in the
18 public interest.²² SSVEC cites Decision No. 70706 (January 20, 2009) when the Commission granted
19 a waiver of its anti-slamming rules despite lack of an express waiver provision.

20 **Position of Navopache and MEC**

21 32. Navopache and MEC joined in SSVEC's Initial Brief, and agree with the Cooperative
22 that nothing in Arizona law precludes the Commission from modifying SSVEC's Net Metering Tariff
23 as proposed outside of a rate proceeding.²³ While they note that the Commission is constitutionally
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25 ¹⁶ *Id.* at 7-8

¹⁷ *Id.* at 8.

¹⁸ Tr. at 18-20.

¹⁹ SSVEC Response Brief at 5.

²⁰ *Id.* at 6; Tr. at 8.

²¹ *Id.* at 7.

²² *Id.*

²³ Navopache and MEC Joinder and Comments at 1.

1 required to ascertain fair value when it sets rates, Navopache and MEC submit that the Commission
 2 has broad discretion in how it goes about determining fair value and in determining the weight to be
 3 given that factor in any particular case.²⁴

4 33. Navopache and MEC also assert that policy considerations of allowing a more
 5 complete solution do not justify a rate case.²⁵ They argue that such claim, as advanced by Staff,
 6 ignores the time and costs associated with filing a full rate case, the non-profit and member-owned
 7 character of SSVEC, and SSVEC's willingness to accept a partial remedy in order to forego the costs
 8 and time of a full rate case.

9 **Staff's Position**

10 34. Staff argues that the Commission may address SSVEC's Application without a full
 11 rate proceeding as long as it considers the Cooperative's "fair value" whenever it changes rates.²⁶
 12 While Staff believes that a full rate case is not required, Staff cautioned that the recent Arizona Court
 13 of Appeals decision in *Residential Utility Consumer Officer v. Arizona Corporation Commission*,²⁷
 14 may require a more vigorous "fair value" analysis than previously believed.²⁸

15 35. Staff believes that the issues raised in the Application are best addressed in a rate case
 16 in part because the Application appears to exclude several key issues, and without a rate case, the
 17 Commission may be foreclosed from developing an effective and fair solution to all aspects to the
 18 problem. In addition, Staff argues that SSVEC's Application does not correct the alleged problem
 19 because it does not address the existing under-recovery but merely holds the losses constant.²⁹ Staff
 20 claims that SSVEC is proposing a short-term, narrow solution to a problem that would more
 21 effectively be addressed by a combination of solutions, which might include increasing the monthly
 22 minimum, implementing a demand charge, new rate schedules, a lost fixed cost recovery mechanism,
 23 or combination of approaches.³⁰

24 . . .

25 ²⁴ *Id.* at 2.

26 ²⁵ Navopache and MEC Joinder and Comments at 3.

27 ²⁶ Staff's Initial Brief at 3.

28 ²⁷ No. 1CA-CC-0002, 1 CA-CC-14-0001, 2015 (Ariz. Ct App. August 18, 2015).

29 ²⁸ Tr. at 58.

30 ²⁹ Staff Response Brief at 2.

³⁰ Staff Initial Brief at 3.

1 36. At the time of the oral argument, Staff believed that SSVEC would file a rate case
2 application by the end of 2015. Staff argued that the imminent filing of the rate case supported
3 Staff's position, as it would be unreasonable to process two cases back-to-back on the same issues.³¹

4 37. Staff argues that the fact that SSVEC is a cooperative does not trump the benefits of
5 addressing the issue in a rate case.³² Staff acknowledges that SSVEC's status as a cooperative is a
6 factor that the Commission considers as it balances competing interests, but in the current context,
7 Staff believes the Commission's interests in a comprehensive and effective consideration of these
8 issues and public policy considerations outweigh the Cooperative's interests in a more narrow
9 proceeding.

10 TASC's Position

11 38. TASC argues that if a cost shift is growing quickly and harming SSVEC as alleged,
12 the solution is to file a rate case, and not to assess a charge on a single group of customers. TASC
13 questions the entire premise of a cost shift and asserts that SSVEC has not demonstrated how non-
14 solar customers are shouldering a cost shift.³³ TASC believes there are likely other types of
15 customers (e.g. seasonal residents), who also might not be contributing their fair share to recover the
16 fixed costs of serving them.³⁴

17 39. TASC argues that under Arizona law as recognized in *Scates v Arizona Corp.*
18 *Commission*,³⁵ SSVEC's Application constitutes impermissible single issue ratemaking. In *Scates*,
19 the court found that considering some costs in isolation might cause the Commission to allow a utility
20 to increase rates to recover higher costs in one area without recognizing counterbalancing savings in
21 another. TASC believes that is the case here, and as such, SSVEC's Application must be considered
22 in a rate case where the Commission can consider "fair value" and the effect of the tariff change on
23 the utility's rate of return.³⁶

24 ...

25 ³¹ Staff Response Brief at 1.

26 ³² Staff Response Brief at 3.

27 ³³ TASC Response Brief at 5.

28 ³⁴ Tr. at 39.

³⁵ 578 P.2d 612, 614 (Ariz. Ct. App. 1978).

³⁶ TASC Initial Brief at 3-5, TASC Response Brief at 1. According to TASC, single-issue ratemaking occurs when rates are adjusted in response to a change in a single cost item considered in isolation.

1 40. TASC claims that even if the proposal is not impermissible single issue ratemaking, a
2 rate case is required because the proposal would increase the rates of new solar customers without
3 providing a commensurate rate decrease to non-solar customers, resulting in windfall revenue for the
4 Cooperative. TASC argues to allow such a revenue increase without the inquiry that occurs in a rate
5 case is not “proper ratemaking.”³⁷

6 41. In addition, TASC argues that SSVEC’s request is impermissible because the
7 Commission’s Net Metering Rules do not include a provision that permits the Commission to issue
8 the waiver being sought.³⁸ Moreover, TASC believes SSVEC’s proposal completely eviscerates the
9 concept of net metering as set forth in the Net Metering Rules and that SSVEC is really seeking a full
10 and not “partial” waiver. TASC argues such a major change should only be considered in a rate
11 case.³⁹

12 42. TASC also believes that allowing SSVEC’s Application to proceed outside of a rate
13 case is poor public policy because it would waste Commission resources and would not allow the
14 Commission to utilize all of its regulatory powers and options to address the alleged problems.⁴⁰
15 TASC believes that with multiple intervenors, their counsel and expert witnesses, the cost of
16 litigation would be substantial and not fully resolve the issues.⁴¹ TASC claims that even after a
17 hearing in this docket, the issues would need to be re-examined in a subsequent rate case.

18 43. TASC agrees with Staff that outside of a rate case, the Commission would not be able
19 to address rate design in a broad context. In addition, TASC fears that outside of a rate case, the
20 Commission will not have all relevant information, including cost of service studies, test year
21 revenue, and full cost/benefit analyses.⁴²

22 44. TASC argues that the Commission cannot abrogate its regulatory obligations just
23 because SSVEC believes that it is entitled to “latitude” and “deference.”⁴³ TASC asserts that the

24 ³⁷ TASC Initial Brief at 4-5

25 ³⁸ TASC Initial Brief at 5-8.

26 ³⁹ TASC Initial Brief at 10-11. TASC asserts that net metering is the policy in 43 states and the District of Columbia whereby solar customers receive a one for one credit for any excess power exported to the grid and may rollover any unused credits from month to month over an annual term.

27 ⁴⁰ TASC Initial Brief at 8-10.

28 ⁴¹ *Id.* at 9.

⁴² *Id.* at 10.

⁴³ TASC Response Brief at 4.

1 Arizona Constitution, Article 15, Section 3, gives the Commission authority to regulate public service
2 corporations, not to defer to them. TASC claims that no authority has been cited to support the
3 contention that the Commission can treat SSVEC differently than any other public service
4 corporation.

5 **Resolution**

6 45. SSVEC's current rate design provides that the majority of the Cooperative's fixed
7 costs will be collected from the sale of energy. Consequently, all else being equal, if members reduce
8 their kWh consumption, the Cooperative will not collect its authorized revenues.

9 46. One way that kWh sales are reduced occurs when members elect to install rooftop PV
10 systems. Other ways include energy efficiency programs, economic conditions, or consumers' own
11 desires to reduce energy consumption.

12 47. Unlike some of the other electric utilities in the state, SSVEC does not have a LFCR
13 adjustor, or other mechanism that would allow it to recover from its members some of the revenues
14 lost from reduced energy sales. In Decision No. 75251, we determined that the APS LFCR
15 application should not be dismissed because of the length of time that would pass until an APS rate
16 case could be filed and decided, and due to the existence of an alleged subsidization between DG and
17 non-DG customers. Unlike the APS situation, there is no alleged cost shift from net metered
18 customers to non-net metered customers. This does not mean that SSVEC may not be experiencing a
19 reduction of revenues as a result of its rate design or the net metering tariff, but it does mean that the
20 harm is from under-earning its authorized revenue, and not from causing some members to pay more
21 as a result of others allegedly not paying enough. The best solution for a utility that is under-earning
22 is to file a rate case.

23 48. In the *Scates* case, the Court of Appeals held that the Commission may not change
24 rates without considering the utility's fair value rate base and the effect of the proposed change on the
25 utility's rate of return. The court appears to acknowledge that a rate case may not be required each
26 time a tariff is changed. However, if the proposed change is not revenue neutral (i.e. it affects the
27 utility's operating income and rate of return), a rate case is the appropriate means of addressing the
28 situation.

1 49. In SSVEC's case, whether the proposed tariff change is revenue neutral is in dispute.
2 That issue, along with issues such as fair value rate base, the benefits of rooftop solar, and the level of
3 lost fixed cost revenues attributable to net metering, would need to be adjudicated in an evidentiary
4 hearing on the Application. The Commission could expend significant resources on conducting a
5 hearing only to conclude that a rate case was required.

6 50. We do not determine here whether this Application must be heard in a rate case as a
7 matter of law, because substantially strong public policy reasons support dismissing SSVEC's
8 Application and considering SSVEC's request in a rate case.

9 51. A hearing in this docket would not lead to immediate relief. Although a hearing could
10 potentially commence by the end of the first quarter of 2016, parties would be required to conduct
11 discovery and prepare testimony in this docket at the same time they are doing so in SSVEC's
12 pending rate case. In addition, some of the parties in this docket are also involved in the UNS
13 Electric, Inc. rate case that is scheduled for hearing commencing March 1, 2016, as well as being
14 intervenors in the APS LFCR reset docket which may proceed in the same time frame.⁴⁴ Furthermore,
15 Trico Electric Cooperative, Inc. and Tucson Electric Power Company have indicated that they will be
16 filing rate cases (also to include the net metering issue) by the end of the year.

17 52. We find that because SSVEC has already filed a rate case, it would be a substantial,
18 duplicative, and unnecessary investment of resources by the Commission, the Cooperative and
19 Intervenor to conduct two proceedings simultaneously that address the same issues. The rate case is
20 the more comprehensive proceeding with the greater potential to address an alleged rate design
21 problem involving SSVEC's net metering tariff.

22 53. As a result, we find that the public interest warrants dismissing the Application in
23 order to consider the proposed tariff changes in SSVEC's pending rate case.

24 54. Given the actions taken herein, we find that Staff's Motion to Consolidate this docket
25 with the Cooperative's pending 2015 Rate Case is moot.

26 ...

27 _____
28 ⁴⁴ We note that on September 25, 2015, APS made a filing in Docket No. E-01345A-13-0248 requesting that the Commission modify Decision No. 75251 by removing any consideration of resetting the "Grid Access Charge." See APS Motion to Amend Interlocutory Order at 4.

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CONCLUSIONS OF LAW

1. SSVEC is an Arizona public service corporation within the meaning of Article XV, Section 2, of the Arizona Constitution.

2. The Commission has jurisdiction over SSVEC and over the subject matter of the Application.

3. Notice of the Application was in accordance with law.

4. For the reasons set forth herein, it is in the public interest to dismiss the Application and to consider the requested relief in SSVEC's pending rate case.

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ORDER

IT IS THEREFORE ORDERED that Sulphur Springs Electric Cooperative, Inc.'s Application is dismissed without prejudice to raise the issues in its pending rate case proceeding.

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

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

CHAIRMAN _____

COMMISSIONER _____

COMMISSIONER _____

COMMISSIONER _____

COMMISSIONER _____

IN WITNESS WHEREOF, I, JODI JERICH, Executive Director of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this _____ day of _____ 2015.

JODI JERICH
EXECUTIVE DIRECTOR

DISSENT _____

DISSENT _____
JLR:tv(ru)