



**EXCEPTION**

BEFORE THE ARIZONA CORPORATIO...

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**COMMISSIONERS**

SUSAN BITTER SMITH, Chairman  
BOB STUMP  
BOB BURNS  
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AZ CORP COMMISSION  
DOCKET CONTROL

IN THE MATTER OF THE APPLICATION OF SULPHUR SPRINGS VALLEY ELECTRIC COOPERATIVE, INC., AN ARIZONA NONPROFIT CORPORATION, FOR (1) APPROVAL OF A NEW NET METERING TARIFF; (2) APPROVAL OF REVISIONS TO ITS EXISTING NET METERING TARIFF; AND (3) PARTIAL WAIVER OF THE NET METERING RULES.

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

**EXCEPTIONS OF  
SULPHUR SPRINGS VALLEY ELECTRIC  
COOPERATIVE, INC.**  
*Arizona Corporation Commission*

**DOCKETED**

OCT 6 2015

DOCKETED BY

On April 14, 2015, Sulphur Springs Valley Electric Cooperative, Inc. (“SSVEC” or the “Cooperative”)<sup>1</sup> filed an application (“Application”) in this docket for: (i) approval of a new Net Metering Tariff Schedule NM-2 that would apply to all future net metered members which credits to a member’s account any excess energy produced from an eligible net metering facility on a monthly basis at SSVEC’s authorized avoided costs rate; (ii) revisions to the Cooperative’s existing Net Metering Tariff Schedule NM (to be renamed Net Metering Tariff Schedule NM-1) providing that members who have an installed eligible net metering facility or an accepted SunWatts Incentive/Interconnection application on file with SSVEC by close of business on April 14, 2015 would be grandfathered under the existing Net Metering Tariff for a period of twenty years from the date of installation of the eligible net metering facility; and (iii) approval of a partial waiver

<sup>1</sup> SSVEC is a member-owned non-profit cooperative founded in 1938 providing electric service to approximately 51,000 customers in parts of Cochise, Santa Cruz, Pima and Graham counties. SSVEC exists for the sole purpose of providing reliable electric service to its members at the best possible rates. SSVEC is governed by a 10-member board of directors elected by the members/customers of SSVEC to oversee all aspects of the Cooperative’s operations. The Cooperative’s board of directors unanimously authorized the filing of the Application.

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1 of the Arizona Corporation Commission's net metering rules set forth in A.A.C. R14-2-  
2 2301 *et seq.* (the "Net Metering Rules") as necessary to authorize the new tariff and the  
3 tariff revisions requested in the Application.

4 SSVEC has experienced a significant increase in the number of customers installing  
5 rooftop solar Photovoltaic ("PV") systems, the most common form of distributed  
6 generation. Rooftop PV systems are eligible for net metering under SSVEC's current Net  
7 Metering Tariff Schedule NM and the proliferation of PV systems in the Cooperative's  
8 service area has resulted in a dramatic increase in unrecovered fixed costs attributable to  
9 net metered members. A net metered member avoids paying the full cost of the  
10 transmission and distribution infrastructure used to serve that member. Additionally, a net  
11 metered member receives the full retail rate for excess energy generated by the member,  
12 even though the retail rate far exceeds the Cooperative's cost of purchasing power.  
13 Because the Cooperative is member-owned, the rapid increase in rooftop PV systems has  
14 shifted—and continues to shift—fixed costs to members who do not own or lease PV  
15 systems.

16 The Commission previously recognized the net metering cost-shift in the case of  
17 Arizona Public Service Company in Docket E-01345A-13-0248. In Finding of Fact 49 in  
18 Decision 74202, the Commission stated as follows:

19 In light of the record before us, we find that the proliferation of DG  
20 installations results in a cost shift from APS's DG customers to APS's non  
21 DG residential customers absent significant changes to APS's rate design.

22 SSVEC's existing Net Metering Tariff Schedule NM does not allow for the  
23 appropriate recovery of the fixed costs of providing service to a member with a PV system.  
24 As described in the Application, SSVEC's unrecovered fixed costs due to net metering  
25 have increased from \$82,104 in 2010 to \$947,370 in 2014, and SSVEC estimates that the  
26 cost shift in 2015 will exceed \$1.1 million. This inequitable circumstance is a serious  
27 problem that requires immediate action.  
28

1           So long as the situation is not addressed, the lost fixed costs from members with  
2 PV systems will necessarily be recognized as costs to be recovered from all of the  
3 remaining members, who are the owners of the Cooperative. Such a cost shift is already  
4 embedded in SSVEC's current rates as a result of the Cooperative's 2012 streamlined rate  
5 case (which did not provide an opportunity to make changes in the rate structure).<sup>2</sup> Thus,  
6 without addressing this issue, the installation of new PV systems will continue to shift  
7 costs from one group of members to another. Further delay will only exacerbate the  
8 growing problem and make implementation of a complete remedy that much more difficult  
9 in the future.

10           In the Recommended Opinion and Order ("ROO") filed September 28, 2015, the  
11 administrative law judge recommends dismissing the Application without prejudice to  
12 raise the problems with net metering in SSVEC's rate case in Docket E-01575A-15-0312.  
13 However, the Commission must begin to address this serious issue now and not wait for  
14 the resolution of the rate case a year or longer from now. The net metering tariff revisions  
15 proposed by SSVEC will begin to arrest the cost shift immediately. While a complete  
16 resolution will require changes to rate design in the rate case, that is not a valid reason to  
17 delay action that can begin to address the issue now. It is in the public interest to begin  
18 immediately to address the under-recovery of fixed costs attributable to net metering.  
19 Thus, SSVEC urges the Commission to approve the Application and modify the ROO  
20 accordingly.

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28 <sup>2</sup> See A.A.C. R14-2-107(A)(11).

1 Attached hereto for the Commission's convenience and consideration is Proposed  
2 Amendment #1 which would modify the ROO to approve SSVEC's Application. The  
3 Cooperative requests that the Commission adopt this proposed amendment.

4 RESPECTFULLY submitted this 7<sup>th</sup> day of October, 2015.

5 CROCKETT LAW GROUP PLLC

6 

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8 1702 East Highland Avenue, Suite 204  
9 Phoenix, Arizona 85016  
10 Attorney for Sulphur Springs Valley Electric  
Cooperative, Inc.

11 ORIGINAL plus thirteen (13) copies  
12 filed this 7<sup>th</sup> day of October, with:

13 Docket Control  
14 ARIZONA CORPORATION COMMISSION  
15 1200 West Washington Street  
Phoenix, Arizona 85007

16 COPIES of the foregoing hand-delivered  
17 this 7<sup>th</sup> day of October, to:

18 Dwight Nodes, Chief Administrative Law Judge  
19 Hearing Division  
20 ARIZONA CORPORATION COMMISSION  
1200 West Washington Street  
Phoenix, Arizona 85007

21 Janice Alward, Chief Counsel  
22 Legal Division  
23 ARIZONA CORPORATION COMMISSION  
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1 COPIES of the foregoing mailed via first  
2 class mail this 7<sup>th</sup> day of October, to:

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**PROPOSED AMENDMENT #1**

DATE PREPARED: October 7, 2015

COMPANY: Sulphur Springs Valley Electric Cooperative, Inc.

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

OPEN MEETING DATES: October 20-21, 2015 AGENDA ITEM: U-\_\_\_\_\_

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Page 3, line 11,

AFTER Finding of Fact 13, ADD the following new Finding of Fact 14, and renumber the remaining Findings of Fact:

14. On September 28, 2015, a Recommended Order was docketed and on October 7, 2015, SSVEC filed exceptions to the Recommended Order requesting that the Commission approve the new tariff and tariff revisions and grant a corresponding waiver of the Net Metering Rules as requested in the Application.

Page 11, line 12,

DELETE Findings of Fact 47-53, ADD the following new Findings of Fact 47-52, and renumber Finding of Fact 54 accordingly:

47. Since adoption of the Net Metering Rules, there has been a rapid increase in the installation of PV systems in SSVEC's service territory. As a result, the Cooperative has experienced a dramatic increase in its unrecovered fixed costs attributable to net metering.
48. SSVEC's existing Net Metering Tariff Schedule NM was approved in Decision 71463 on January 26, 2010. In approving that decision, the Commission considered the fair value of SSVEC's property. Since Decision 71463, we have approved updated avoided cost rates in Decisions 71864 (August 31, 2010), 72552 (August 24, 2011), 73346 (August 21, 2012), 74038 (August 16, 2013), 74704 (August 26, 2014) and 75225 (August 26, 2015). In those decisions, we found that approval of the updated avoided cost rate does not constitute a rate increase as contemplated by A.R.S. Section 40-250.
49. We find that SSVEC's existing Net Metering Tariff Schedule NM does not allow for the appropriate recovery of the fixed costs of providing service to net-metered members with PV systems. We agree with the Cooperative that so long as this situation is not addressed, the unrecovered fixed costs from net metered customers with PV systems will necessarily be recognized as costs to be recovered from all of the remaining customers. Without timely addressing this issue, the installation of PV systems will continue to shift costs from one group of customers to another.

50. We recognize that SSVEC recently filed its 2015 Rate Case in Docket E-01575A-15-0312. We also acknowledge Staff's concern that the Application in this docket does not address the existing under-recovery of fixed costs attributable to net metering, but merely holds the losses constant. However, we agree with SSVEC that a further delay in addressing the under-recovery will only exacerbate the growing problem and make implementation of a complete remedy that much more difficult in the future. Thus, it is in the public interest to approve the net metering tariff revisions and the new net metering tariff requested by SSVEC as set forth in the Application.
51. The parties are on notice that approval of SSVEC's Application in this docket will not foreclose any option the Commission may wish to consider in the pending 2015 Rate Case, including revisiting any of the actions taken in this docket.
52. With regard to the Net Metering Rules, the Commission has authority to waive any of its rules when the public interest requires. We find that with respect to SSVEC, it is in the public interest to grant the requested partial waiver of the Net Metering Rules in connection with approval of the revisions to Net Metering Tariff Schedule NM (to be renamed Net Metering Tariff Schedule NM-1) and the new Net Metering Tariff Schedule NM-2.

Page 13, lines 7-8,

DELETE Conclusion of Law 4 and ADD a new Conclusion of Law 4 as follows:

4. For the reasons set forth herein, it is in the public interest to grant the Application and a partial waiver of the Net Metering Rules, as requested by SSVEC.

Page 14, lines 2-3,

DELETE the Ordering Paragraph and ADD the following new Ordering Paragraphs:

IT IS THEREFORE ORDERED that Sulphur Springs Valley Electric Cooperative, Inc.'s Application is approved.

IT IF FURTHER ORDERED that the requested revisions to Sulphur Springs Valley Electric Cooperative, Inc.'s Net Metering Tariff Schedule NM (to be renamed Net Metering Tariff Schedule NM-1) as submitted with the Application are approved.

IT IF FURTHER ORDERED that Sulphur Springs Valley Electric Cooperative, Inc.'s proposed Net Metering Tariff Schedule NM-2 is approved with an effective date of April 15, 2015.

IT IS FURTHER ORDERED that members of Sulphur Springs Valley Electric Cooperative who had an installed eligible net metering facility or an accepted SunWatts

Incentive/Interconnection application on file with the Cooperative by the close of business on April 14, 2015, are grandfathered under the existing Net Metering Tariff Schedule NM (to be renamed Net Metering Tariff Schedule NM-1) for a period of twenty years from the date of installation of the eligible net metering facility.

IT IS FURTHER ORDERED that members of Sulphur Springs Valley Electric Cooperative who did not have an installed eligible net metering facility or an accepted SunWatts Incentive/Interconnection application on file with the Cooperative by the close of business on April 14, 2015, shall receive net metering service under Net Metering Tariff Schedule NM-2.

IT IF FURTHER ORDERED that Sulphur Springs Valley Electric Cooperative, Inc. shall file with Docket Control a revised Net Metering Tariff Schedule NM-1 and a new Net Metering Tariff Schedule NM-2 in compliance with the Decision in this case within 15 days of the effective date of the Decision.

IT IS FURTHER ORDERED that Sulphur Springs Valley Electric Cooperative, Inc. shall notify its customers of the revised Net Metering Tariff Schedule NM-1 and the new Net Metering Tariff Schedule NM-2 by means of an insert, in a form acceptable to Staff, included in its next regularly scheduled billing, and by posting on its website.

IT IF FURTHER ORDERED that those provisions of the Net Metering Rules which are inconsistent with the tariff revisions and the new tariff approved herein are hereby waived.

Make all other conforming changes.