

ARIZONA ELECTRIC POWER COOPERATIVE, INC.
(TUCSON, ARIZONA)

Arizona Electric Power Cooperative, Inc., (AEPCO) is a small electric generating cooperative located in Southeast Arizona. Eighty percent of the electricity provided to AEPCO's members (customers) is from coal-fired generation. AEPCO is captive to the Union Pacific for 140 miles of coal movement to our facility. Over 50% of the delivered cost of the coal we burn is for the transportation of the coal. AEPCO is currently in a rate case against its carriers before the Surface Transportation Board (STB) for rates on the movement of New Mexico coal. AEPCO has been in this case for over four years and has spent over 3 million dollars on the case to date. The rules of the STB indicate that these cases are supposed to take sixteen months.

We have been here before. During the late 1970's and 1980's, AEPCO pursued a rate case against its carriers before the Interstate Commerce Commission. The case lasted over ten years, during which our efforts to obtain rate relief were repeatedly blocked. Only after the 9th Circuit likened our rate case to the interminable Jarndyce v. Jarndyce litigation in Charles Dickens's Bleak House, and found that we had "suffered the arcane rigors of the regulatory process long enough," and only after Congress expressed its own concerns, was AEPCO able to achieve reasonable rates.

AEPCO is very concerned with the recent decisions by the STB. Under the current regulatory and legislative climate, AEPCO expects that its transportation costs could easily double when current contracts expire.