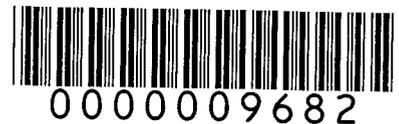


**COMMISSIONERS**  
MARC SPITZER - Chairman  
WILLIAM A. MUNDELL  
JEFF HATCH-MILLER  
MIKE GLEASON  
KRISTIN K. MAYES

OPEN MEETING ITEM  
**ORIGINAL**



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**ARIZONA CORPORATION COMMISSION**

22

DATE: September 14, 2004

DOCKET NO: E-04230A-04-0185

TO ALL PARTIES:

RECEIVED  
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AZ CORP COMMISSION  
DOCUMENT CONTROL

Enclosed please find the recommendation of Assistant Chief Administrative Law Judge Dwight D. Nodes. The recommendation has been filed in the form of an Order on:

J.D. BRISTOW v. UNS ELECTRIC  
(Complaint)

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:

September 23, 2004

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 Open Meeting to be held on:

September 28 and 29, 2004

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 Secretary's Office at (602) 542-3931

Arizona Corporation Commission  
**DOCKETED**

SEP 14 2004

BRIAN C. McNEIL  
EXECUTIVE SECRETARY

DOCKETED BY	
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1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 COMMISSIONERS

3 MARC SPITZER, Chairman  
4 WILLIAM A. MUNDELL  
5 JEFF HATCH-MILLER  
6 MIKE GLEASON  
7 KRISTIN K. MAYES

8 IN THE MATTER OF THE FORMAL  
9 COMPLAINT OF J.D. BRISTOW AGAINST UNS  
10 ELECTRIC, INC.

DOCKET NO. E-04230A-04-0185

DECISION NO. \_\_\_\_\_

11 ORDER

12 Open Meeting  
13 September 28 and 29, 2004  
14 Phoenix, Arizona

15 **BY THE COMMISSION:**

16 On March 10, 2004, J. D. Bristow ("Complainant" or "Mr. Bristow") filed a Formal  
17 Complaint with the Arizona Corporation Commission ("Commission") against UNS Electric, Inc.  
18 ("Respondent" or "UNS").

19 On April 1, 2004, UNS filed an Answer and Motion to Dismiss.

20 On April 8, 2004, by Procedural Order, the Complainant was ordered to file a Response to  
21 Respondent's Motion to Dismiss indicating whether the Complainant wishes to have this matter  
22 decided solely on the pleadings or whether he seeks a formal hearing before an Administrative Law  
23 Judge at the Commission's offices.

24 On April 30, 2004, the Complainant filed a Response to the Respondent's Motion to Dismiss.  
25 Although the Complainant reiterated many of the same allegations raised in the Complaint, it did not  
26 appear that he desired a hearing at the Commission's offices before an Administrative Law Judge.

27 On June 28, 2004, a second Procedural Order was issued directing the Complainant to file a  
28 response clearly indicating whether he seeks a formal hearing before an Administrative Law Judge or  
whether he wishes to have the matter decided on the basis of the pleadings.

On July 9, 2004, the Complainant filed a letter seeming to indicate that he wished to have the  
matter decided based on the pleadings.

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Having considered the entire record herein and being fully advised in the premises, the Commission finds, concludes, and orders that:

**FINDINGS OF FACT**

1. On March 10, 2004, the Complainant filed a formal complaint against the Respondent alleging, among other things, that UNS had over-billed him for electric service at his apartment in Lake Havasu City, Arizona. According to the Complaint, UNS billed the Complainant \$182.53 in August 2003 and \$239.43 in September 2003. It appears that Mr. Bristow paid the August bill but sent only \$130.00 for the September bill, resulting in a shortfall of \$109.43. Subsequent bills were apparently paid but the Complainant continues to dispute that he owes the \$109.43 difference between the amount billed in September 2003 and the \$130.00 paid.

2. Mr. Bristow’s Complaint contains a number of allegations including a claim that UNS may have improperly tested his meter; that the Commission’s Consumer Services Division representative assigned to his case was unresponsive to his allegations; and that a rate increase approved by the Commission in 2003 was a form of “extortion.” The relief sought by the Complainant includes a request “to be compensated for the money and thirty - some – odd hours I’ve wasted.” He also stated in the Complaint that he wants “the freedom not to be over-burdened by extortion, unreasonable rates, fraudulent business practices, and political corruption.”

3. On April 1, 2004, UNS filed an Answer and Motion to Dismiss. UNS claims that it attempted to resolve the Complaint filed by Mr. Bristow by informing him of the availability of various cost control measures, including in-home energy audits and budget billing programs. UNS stated that it tested Mr. Bristow’s meter in October 2003, and found the meter to be working properly. According to UNS, Mr. Bristow was informed of his right to file a complaint with the Commission, and that Mr. Bristow exercised that right by submitting an informal complaint to the Commission on November 7, 2004. UNS states that the Commission’s Consumer Services Division Staff attempted to work with the Complainant and that Staff employees met with him at his home on January 13, 2004. UNS claims that it agreed to Consumer Services Staff’s suggestion to let Mr. Bristow pay the disputed amount over three months, but Mr. Bristow instead initiated the Formal

1 Complaint that is the subject of this docket. Attached to the Answer and Motion to Dismiss are  
2 copies of a number of letters and correspondence between the Complainant and UNS, as well as  
3 communications between the Complainant and the Commission's Consumer Services Division.  
4 UNS asks that the Complaint be dismissed for failure to state a claim upon which relief can be  
5 granted.

6 4. On April 8, 2004, a Procedural Order was issued directing the Complainant to file a  
7 response to the Motion to Dismiss by April 26, 2004. The Procedural Order also asked that the  
8 Complainant indicate whether he wished to have this matter decided solely on the pleadings filed in  
9 the docket or whether he sought a formal hearing before an Administrative Law Judge.

10 5. On April 30, 2004, Mr. Bristow submitted a letter complaining, among other things,  
11 about the prior rate increase, the lack of competition, the receipt of termination notices from UNS,  
12 and economic difficulties faced by him and his family. Mr. Bristow accused the Commission of  
13 causing most of his problems and concluded with an apology "for ever having wasted so much of my  
14 energy on this."

15 6. On June 28, 2004, a second Procedural Order was issued stating that this matter would  
16 be decided based on the pleadings unless the Complainant files a response clearly indicating that he  
17 seeks a formal hearing before an Administrative Law Judge.

18 7. On July 9, 2004, Mr. Bristow filed a letter stating that UNS had terminated his electric  
19 service on June 11, 2004, but that service had been restored only after his co-signer paid \$389.43 for  
20 reconnection<sup>1</sup>. Mr. Bristow stated that the only alternative left for him is to have the matter decided  
21 on the pleadings because it is impossible for him to appear at the Commission's offices. The  
22 Complainant claimed that he now lacks the ability to pay his rent and he expressed doubt about a  
23 successful result.

24 8. Although no sworn testimony or evidence has been received in this case, based on the  
25 information contained in the file of this docket it does not appear that UNS has violated its approved  
26 tariffs or Commission rules in its treatment of Mr. Bristow. The correspondence attached to the UNS  
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28 <sup>1</sup> It is not clear what charges were included in the reconnection fee assessed by UNS, including whether the disputed \$109.43 in arrearages were required to be paid before Mr. Bristow's service was reconnected.

1 Answer and Motion to Dismiss, including the detailed notes contained in the Commission's  
2 Consumer Services report, indicate that UNS and the Commission's Staff made numerous attempts to  
3 resolve the dispute raised by Mr. Bristow. These documents show that, on September 26, 2003, UNS  
4 informed Mr. Bristow of the availability of in-home energy audits, a budget billing program, and a  
5 CARES discount for usage below 1000 kWh (September 26, 2003 UNS letter to Mr. Bristow). On  
6 October 14, 2003, UNS changed out Mr. Bristow's meter for testing after Mr. Bristow continued to  
7 dispute the \$109.43 charge that remained unpaid for electric service provided between August 8,  
8 2003 and September 9, 2003 (October 16, 2003 UNS letter to Mr. Bristow). The UNS meter test  
9 indicated an accuracy level of 99.89 percent and UNS informed Mr. Bristow that his service would  
10 be terminated if he did not pay the arrearages of \$109.43 (October 27, 2003 UNS letter to Mr.  
11 Bristow). The October 27, 2003 letter also advised Mr. Bristow of his right to contact the  
12 Commission's Consumer Services Division.

13 9. It appears that Mr. Bristow initially contacted the Commission's Consumer Services  
14 Division on October 18, 2003 and raised the allegation that he had been over-billed for the August 8  
15 to September 9, 2003 billing period. The Commission's Consumer Services investigators contacted  
16 UNS regarding the allegations and corresponded with Mr. Bristow on numerous occasions between  
17 November 2003 and January 2004. In addition, two Consumer Services Division employees met  
18 with Mr. Bristow and his father on January 13, 2004 at Mr. Bristow's home in Lake Havasu City. As  
19 described in a letter sent to Mr. Bristow on January 15, 2004, the Consumer Services Staff  
20 determined that UNS had operated in compliance with its tariffs and Commission rules and  
21 regulations regarding service provided to the Complainant. The January 15, 2004 letter also  
22 indicated that the Consumer Services Staff had negotiated a three-month payment plan for the  
23 arrearages, but it appears that Mr. Bristow rejected the payment plan offer and continued to complain  
24 about the unreasonableness of the charges, the rate increase granted to Unisource in 2003, and the  
25 alleged unresponsiveness of the Consumer Services employees, among other things, through e-mail  
26 communications and letters sent to Staff in January and February 2004. Despite Mr. Bristow's  
27 claims, we believe that the Consumer Services Staff handled this matter appropriately and made  
28 every reasonable effort to investigate Mr. Bristow's claims.



**ORDER**

IT IS THEREFORE ORDERED that the Complaint is hereby dismissed.

IT IS FURTHER ORDERED that UNS Electric, Inc. should continue to provide to Mr. Bristow any and all relevant information related to available energy efficiency and low income programs, as well as related assistance that may be available for utility bill payments. UNS Electric, Inc. should submit to Consumer Services Staff, within 30 days of the effective date of this Decision, documentation showing that it has complied with this requirement.

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, BRIAN C. McNEIL, Executive Secretary 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 \_\_\_\_\_, 2004.

\_\_\_\_\_  
BRIAN C. McNEIL  
EXECUTIVE SECRETARY

DISSENT \_\_\_\_\_

DISSENT \_\_\_\_\_

1 SERVICE LIST FOR: UNS ELECTRIC

2 DOCKET NO. E-04230A-04-0185

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