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THE ARIZONA CORPORATION COMMISSION

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Docket Nos. T-01954B-00-0146, T-02755A-00-0015, T-03214A-00-0192, T-01954B-99-0737, T-01954B-99-0718, T-01954B-99-0598, E-01032C-99-0630, E-01032C-98-0474; (& Cap Rock E-01032A-00-0163 etc.)

MARVIN LUSTIGER'S REPLY TO CITIZENS' OBJECTION TO HIS MOTION TO INTERVENE IN ADDITIONAL CASES

First, permit me to tidy up a loose end in the matter of Citizens/Cap Rock, Docket #E-01032A-00-0163, etc. In that matter, I objected on May 27, 2000, to the filing by Citizens of a bare Agreement between it and Cap Rock. The bare Agreement was a picture frame without a picture. Citizens had refused to provide the explanatory schedules and exhibits unless it first received vows of confidentiality. Immediately following my objection, I was told by Cap Rock's attorney that those schedules and exhibits would be provided without a Protective Agreement, and they were. I do not know the reason for the reconsideration by the Joint Applicants of their position. My Objection, which is now moot and is withdrawn, may or may not have been a factor.

With respect to Citizens' new Objection to my intervention in several electric and telephone cases, please note that Citizens' Objection made no reference to my requested intervention in T-03214A-00-0192. For reasons not disclosed by Citizens, my intervention in that Docket is thus unapposed.

I am deleting T-03214A-00-0147 from my intervention request, because that Docket apparently has no ties to Mohave County.

The Commission will note that Citizens' new Objection is

based, virtually word for word, on the same erroneous assertions and arguments as was Citizens' Objection to my intervention in the Cap Rock matter. The Hearing Officer has already, in the Cap Rock matter, ruled on those same erroneous assertions.

Citizens has gratuitously appointed itself gatekeeper in these Commission matters. It has demanded that no entity named Lustiger may intervene, if he applies after the opening gun or if he isn't a Citizens' customer. Entities whose names are not Lustiger, but who also are not customers and who also apply after the opening gun, may intervene without objection from Citizens.

Out of thin air, with no basis in law or precedent, Citizens asserts that the "initial threshhold" for an intervenor is to be a Citizens' customer. Never mind that few of the parties and intervenors to these Dockets are Citizens' customers. Citizens, having been a losing Defendant in lawsuits with me, knows full well that a property owner, regardless of whether he is a customer, can be severely affected by a utility company's poles and lines across his lands, and by improper acts performed by the company allegedly under authority of its CC&N.

Citizens has not denied, nor could it, that it knows the legal description of each and all of my thousands of acres of private lands, much of it subdivided, in Citizens' certificated area. Few if any Arizona citizens have more to protect than I do in these regulatory matters, and it is my constitutional right to do so. I have special knowledge and special concerns. It would be risky not to protect myself, and it is both unlawful and unseemly to try to prevent me from so doing.

Citizens suggests that the Staff and RUCO could adequately

represent my interests. The ability of those entities is unchallenged, and they do act in the general interest of Arizona citizens. However, the Staff and RUCO do not and cannot specifically represent my interests, nor do they have knowledge of the history, nature and uses of my specific tracts of land. Citizens certainly demands the right to push its interests by using its own hand-picked employee/lawyer to represent it. I am entitled to no less, and this layman picks himself.

For Citizens to assert, as it does in a footnote, that it "doubts" the value of my lands will be affected by these matters, is mindboggling, especially considering the sums Citizens has been required to pay in the past, after its acts greatly and adversely affected the value of my lands.

In its Objection, Citizens either misstates or ignores the record. It says that whereas I asserted in the Cap Rock matter that the value of my assets will be affected by the proceeding, "Mr. Lustiger has made no such assertion in his (pending) motion."

The record shows that my pending Motion to Intervene expressly states that the reasons for the intervention are "the same" as set forth in the earlier (that is, Cap Rock) filings.

Further, my pending Motion also references Debbi Person's letter of April 11, 2000, to Mr. Marks. The attachment to Debbi Person's letter clearly sets forth the very assertion that Citizens says is lacking. It appears Citizens objected to my pending Motion to Intervene, without even reading it.

Citizens also incorrectly asserts in a footnote, that it had not failed to timely object to the requested interventions listed in Debbi Person's letter. Debbi Person's letter, dated April 11,

informed Citizens that I had requested to intervene in many cases, which she listed. She asked Citizens to file any objection by April 21. Except with respect to the Cap Rock matter, Citizens did not object until June 5. So Citizens did fail to timely object to all other cases listed in Debbie Person's letter.

I never withdrew any request for intervention in Mohave County telephone and electric cases. This was clearly set forth in my April 20 Application to Intervene in the Cap Rock matter. Then on May 27, because I had not received decisions on the other cases, and after receiving file-history guidance from Commission employees, I filed a new Motion to Intervene. This did not erase the history of Citizens' failure weeks earlier, to timely respond to Debbi Person's letter.

As to Citizens' concern that I had requested intervention after the starting gun in some cases, it has been said that in regulatory hearings, as in war, one can join in belatedly and reluctantly, when one comes to understand his interests are in jeopardy. America joined each World War years after each began. Nonetheless, America played an important role.

It is proper that I advise the Commission and the parties that ten days from now, as a medical necessity, I start a seven weeks' absence from Arizona. This will separate me from the summer heat, and will also separate me almost entirely from newspapers, TV, radio, telephone, mail of all types, and computer. I am a retired layman, without any employees to pinch-hit when I am away. During my hibernation, I shall be examining the documents already produced.

I do not ask that as to any Docket, a hearing be delayed

to accommodate my needs. If any matters are heard or closed while I am unavailable, so be it. When I return, I will catch up in those cases where it can be done.

I shall now conclude this Reply by citing from my filings in the Cap Rock matter, a few small portions which are relevant now.

"I own thousands of acres of private, deeded properties in Arizona. This includes vacant lands, subdivided lots, and improved property. Most are in Mohave County, in the certificated areas served by Citizens Utilities Company. I have owned the properties for over forty years, that is, for half the time since Arizona became a state. I have also, for the same length of time, known Citizens and its methods of doing business.

I have come to intervene here because the use and value of my properties, and my wallet, will be affected by Decisions or Orders of the Commission in this matter. Therefore, it is necessary and proper that I intervene.

Citizens, having been a losing defendant in the lawsuits I brought against it on account of its repeated land grabs and other unlawful conduct, knows the legal description of every one of the thousands of acres of lands I own in Mohave County. All these lands are under Citizens' certificate. Citizens knows that much of my lands have been subdivided, that many lots have been sold, and that homes and businesses have been built. The present buyers and future buyers are or will be electric (and telephone) customers.

If a (utility) company provides (poor) service at high rates, I will have difficulty in collecting monies due me on

lots already sold, and I will have difficulty selling additional lots. The value of my assets will be affected by the Orders in these proceedings.

It is doubtful that there is a person in Arizona who will be more affected by these proceedings. Nevertheless, Citizens actually suggests in its response, that I must demonstrate my interests would not be adequately represented by the Staff or the RUCO. I respect both the Staff and the RUCO, and I thank Citizens for its suggestion, but I will represent and protect my interests.

Strangely enough, Citizens did not make the same demands, when the Arizona Utility Investors Association applied to intervene. That Association consists of owners of stock in various utility companies. The same as any other owner of assets, the members of that Association have a right to protect their investment. Some of those members have invested in Citizens, and quite properly they want to enhance the prospects that their stock will gain as a result of Orders in this proceeding.

The Association should not have been asked, and was not asked, if its members were customers of Citizens, or even if its members owned any property in the affected areas. No, the organization indicated its members had a financial interest in these proceedings. That should have been enough, and it was enough. Citizens did not demand that they be barred because the Staff would look out for their interests.

Citizens' objection to my intervention is frivolous. It has no legal merit whatever. It makes demands that are contrary to precedent. It should be denied."

RESPECTFULLY SUBMITTED this 8th day of June, 2000.

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