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BEFORE THE ARIZONA CORPORATION CC

COMMISSIONERS

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

Arizona Corporation Commission

DOCKETED

NOV - 2 2004

DOCKETED BY *NR*

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

DOCKET NO. E-04230A-04-0185

DECISION NO. 67406

ORDER

Open Meeting  
September 28 and 29, 2004  
Phoenix, Arizona

BY THE COMMISSION:

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

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

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

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

On June 28, 2004, a second Procedural Order was issued directing the Complainant to file a 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.

\* \* \* \* \*

1  
2 Having considered the entire record herein and being fully advised in the premises, the  
3 Commission finds, concludes, and orders that:

4 **FINDINGS OF FACT**

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

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

19 3. On April 1, 2004, UNS filed an Answer and Motion to Dismiss. UNS claims that it  
20 attempted to resolve the Complaint filed by Mr. Bristow by informing him of the availability of  
21 various cost control measures, including in-home energy audits and budget billing programs. UNS  
22 stated that it tested Mr. Bristow's meter in October 2003, and found the meter to be working  
23 properly. According to UNS, Mr. Bristow was informed of his right to file a complaint with the  
24 Commission, and that Mr. Bristow exercised that right by submitting an informal complaint to the  
25 Commission on November 7, 2004. UNS states that the Commission's Consumer Services Division  
26 Staff attempted to work with the Complainant and that Staff employees met with him at his home on  
27 January 13, 2004. UNS claims that it agreed to Consumer Services Staff's suggestion to let Mr.  
28 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.

1           10. Through his Formal Complaint and subsequent letters, Mr. Bristow made a number of  
 2 statements that go beyond the underlying basis of his original dispute with UNS (i.e., payment of  
 3 \$109.43 for electric service rendered between August 8 and September 9, 2003). For example, Mr.  
 4 Bristow indicates that: the rate increase obtained by Unisource in 2003 has made electric rates  
 5 unaffordable; attempting to collect arrearages by threatening termination is inappropriate; Consumer  
 6 Services Staff failed to properly investigate Mr. Bristow's claim that a billing problem existed; and  
 7 Mr. Bristow and many other families in the area are facing economic struggles that make it difficult  
 8 or impossible to pay housing costs and utility charges. As indicated above, we do not believe the  
 9 information submitted in this docket supports a finding that UNS has violated its tariffs or applicable  
 10 Commission rules.

**CONCLUSIONS OF LAW**

11  
 12           1. UNS is a public service corporation within the meaning of the Arizona Constitution  
 13 and A.R.S. §40-246.

14           2. The Commission has jurisdiction over UNS and the subject matter of the Complaint.

15           3. Although no formal evidence or sworn testimony has been received in this matter,  
 16 based on the information and pleadings submitted in the docket, the service provided to the  
 17 Complainant by UNS has not been shown to violate its tariffs and the Commission's applicable rules  
 18 and regulations.

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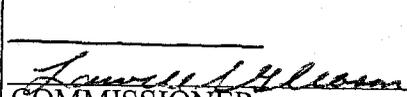
**ORDER**

IT IS THEREFORE ORDERED that the Complaint is hereby dismissed.

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 2 day of November 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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