



BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

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

Arizona Corporation Commission

DOCKETED

MAY 10 2005

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AZ CORP COMMISSION
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2005 MAY 10 P 4:36

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IN THE MATTER OF THE COMPLAINT OF
MOHAVE ELECTRIC COOPERATIVE, INC.
AGAINST UNISOURCE ENERGY
CORPORATION.

DOCKET NO. ~~E-04230A-04-0798~~

E-01750A-04-0798
E-04204A-04-0798
E-04230A-04-0798

IN THE MATTER OF THE APPLICATION OF
UNS ELECTRIC, INC. FOR AN ORDER
APPROVING A TRANSFER OF A PORTION OF
A CERTIFICATE OF CONVENIENCE AND
NECESSITY.

D E-04204A-04-0824
D E-01750A-04-0824

NOTICE OF MOHAVE ELECTRIC
COOPERATIVE, INC.'S PROPOSAL
TO RESOLVE DOCKETS AND
REQUEST FOR WRITTEN
RESPONSE

Mohave Electric Cooperative, Inc. ("Mohave"), by and through its attorneys undersigned, in an effort to avoid the time and expense of a contested hearing and possible litigation, and without waiving any claims it may otherwise have, respectfully submits a proposal, which if adopted by the Commission, fully resolves the above-captioned dockets. Mohave requests that Commission Staff and UNS indicate, in writing, on or before May 20, 2005, whether they accept the proposed resolution. In the event either Commission Staff or UNS fail to timely accept Mohave's proposed resolution, the proposal shall be automatically withdrawn.

1 "IT IS FURTHER ORDERED that notwithstanding any
2 agreement among any parties to this proceeding, the
3 portion of Citizens Utilities Company's Certificate of
4 Convenience and Necessity described in the attached
5 Exhibit A, which is being transferred hereby to Mohave
6 Electric Cooperative, Inc., shall not revert to Citizens
7 Utilities Company under any circumstances without prior
8 Commission approval."

9 As the Commission is aware: "Once granted, the certificate confers upon
10 its holder an *exclusive* right to provide the relevant service for as long as the grantee can
11 provide adequate service at a reasonable rate. If a certificate of convenience and
12 necessity within our system of regulated monopoly means anything, it means that its
13 holder has the right to an opportunity to adequately provide the service it was certified to
14 provide." (emphasis added) *James P. Paul Water Co. v. Arizona Corporation*
15 *Commission*, 137 Ariz. 426, 429, 671 P.2d 404, 407 (1983).

16 **B. Historical Provision of Service by Mohave**

17 Subsequent to being certificated to serve the NSS site, Mohave has
18 continuously provided electric service to the area. NSS has continued to receive service
19 from Mohave with power secured pursuant to the contractual arrangements with AEPCO
20 and Western. In addition, Mohave constructed a distribution system on the NSS site and
21 secured power from Citizens to serve all customers other than NSS (i.e., contractors
22 involved with constructing the NSS plant and a trucking operation established on the
23 site).

24 **CURRENT CIRCUMSTANCES**

25 In 2004, Central Trucking, Inc. ("CTI") indicated it had a prospective need
26 for electric service on the NSS Site. By this time, UniSource Energy Corporation had

1 secured Citizens' Mohave County operations and commenced operations as UNS
2 Electric, Inc. (collectively "UNS"). Unfortunately, UNS unexpectedly refused to sell
3 power to Mohave. Mohave then offered CTI service under Mohave's Commission
4 approved line extension policy. CTI has never agreed to fund the construction of the
5 facilities necessary to extend Mohave's distribution system to the NSS Site. While there
6 is the prospect for additional customers (other than CTI and NSS) on the NSS Site,
7 Mohave has received no additional requests for service at this time.

8
9 Mohave filed its complaint in an effort to obtain the Commission's
10 assistance in securing the cooperation of UNS in providing electric service to CTI.
11 Shortly thereafter, UNS filed its application to secure the CC&N for the NSS Site. The
12 Commission entered an Emergency Order for Provision of Electric Service (Decision No.
13 67535) ordering UNS to provide CTI service pending the resolution of these matters.

14 **MOHAVE'S PROPOSAL TO RESOLVE THE DOCKETS**

15 Without waiving any of its rights, including the right to fully defend its
16 certificated area in the event that this matter proceeds to hearing, Mohave proposes that
17 the above referenced dockets be resolved by entry of a Commission Order:

- 18 1. Transferring to UNS Electric, contingent upon UNS Electric's payment
19 to Mohave of \$58,000¹ for Mohave installed facilities, that portion of
20 Mohave's CC&N granted pursuant to Decision No. 58798, excepting
21 the portion thereof consisting of the present plant site (to be described
22 by a legal description acceptable to Mohave);

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25

1 The \$58,000 is composed of \$82,300.00 in facilities (\$14,900.00 for transformers and
26 \$67,400 in poles, lines and other equipment) depreciated on a straight-line basis with a
twenty-five (25) year remaining life using a thirty-five (35) year life span.

2. Transferring the present plant site to UNS Electric the earlier of:

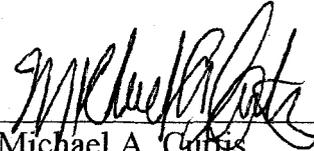
- a. December 31, 2010; or
- b. On the date specified by Mohave in a written notification to UNS Electric and the Director of Utilities that the customer's electric needs no longer can be met by the existing MEC contractual arrangements; such written notification to be provided not less than thirty (30) days prior to the date specified in the written notice.

The forgoing proposal is a fair and equitable method of resolving the current dockets because Mohave's efforts to serve the area are recognized; Mohave and its customers are compensated for facilities installed on the NSS Site; Mohave retains its existing customer; and the orderly transition of the plant site to UNS is assured.

WHEREFORE, Mohave Electric Cooperative, Inc. proposes that these dockets be resolved by entry of a Commission Order as set forth above; provided, this proposal shall be automatically withdrawn if not accepted in writing by both Commission Staff and UNS on or before May 20, 2005.

DATED this 9 day of May 2005.

CURTIS, GOODWIN, SULLIVAN,
UDALL & SCHWAB, P.L.C.



Michael A. Curtis
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Attorneys for Mohave Electric
Cooperative, Inc.

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PROOF OF AND CERTIFICATE OF MAILING

I hereby certify that on this 10th day of May, 2005, I caused the foregoing document to be served on the Arizona Corporation Commission by delivering the original and seventeen (17) copies of the above to:

Docket Control Division
ARIZONA CORPORATION COMMISSION
1200 West Washington Street
Phoenix, Arizona 85007

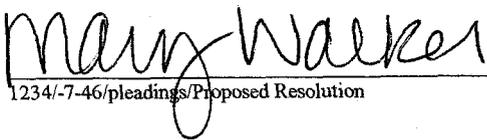
**With copies of the foregoing hand delivered/mailed
this 10th day of May, 2005 to:**

Jason Gellman, Esq.
Legal Division
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Phoenix, Arizona 85007

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1234/-7-46/pleadings/Proposed Resolution