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BEFORE THE ARIZONA CORPORATION COMMISSION

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7	ROGER CHANTEL,)	DOCKET NO. E-01750A-04-0929
)	
8	Complainant,)	RESPONDENT'S RESPONSE TO
)	COMPLAINANT'S PRE-HEARING
9	vs.)	BRIEF
)	
10	MOHAVE ELECTRIC COOPERATIVE,)	
11	INC.)	
)	
12	Respondent.)	
13	_____)	

By and through its counsel, Curtis, Goodwin, Sullivan, Udall & Schwab, P.L.C., and pursuant to Administrative Law Judge Wolfe's Procedural Order of June 10, 2005, Respondent Mohave Electric Cooperative, Inc. ("Mohave") submits its Response to the Complainant's (or "Chantel's") Pre-Hearing Brief. Chantel's Brief is not responsive to the Administrative Law Judge's instruction to address the legal effect and impact of Decision No. 67089 on Chantel's present Complaint. Instead, Chantel's Brief merely addresses what he believes are issues for the upcoming hearing.

Two conclusions are easily drawn from Chantel's Pre-Hearing Brief:

- 1) he still wants the members of Mohave pay for his line extension; and
- 2) he has a new site, new land, different location than the service location discussed at the October 2004 hearings. Chantel is a small-scale real estate investor who wants to sell land with electric service and expects preferential treatment from Mohave which,

1 if given, would impose the expense on all of the cooperative members of Mohave.

2 The following is a summary of each of Chantel's arguments and the Mohave's
3 response thereto.

4
5 **I. CHANTEL CONTENDS MOHAVE IS REQUIRING TWO LINE**
6 **EXTENSIONS FOR ONLY ONE PROJECT, RESULTING IN DOUBLE**
7 **CHARGING TO CHANTEL (P. 2)**

8 What appears on page 2 to be the thrust of Chantel's Pre-Hearing Brief is his
9 contention that "[t]he legal issue of this Complaint is that the second contract is for the same
10 service connect poles, it covers the same distance and has exactly the same purpose as the
11 contract that Complainant signed."

12 Response:

13 There are two separate contractual purposes (which was explained to Chantel
14 in correspondence dated March 21, 2005 - Exhibit J to Mohave's Pre-Hearing Brief).

15 First Contract:

16 The first contract – Order #2005-111 – was a contract for the system
17 modification needed because, as Mohave explained in its letter of March 3, 2005 (Exhibit H
18 to Mohave's Pre-Hearing Brief), to "facilitate the extension of new primary electric facilities
19 from an existing primary electric line."

20
21 Second Contract:

22 If Chantel had simply read the underlined language of the first page of the first
23 contract (Order #2005-111), it would have been evident there was no duplication between
24 Order #2005-111 and 112. Citing the language of the second contract, Chantel intentionally
25

1 overlooks the operative language of the first contract:

2 “To construct system modification in order to supply overhead single phase
3 120/240 volt to 10030 N. Music Mountain Road. Project is located in a
4 portion of T24N, R14W, Section 33.”

5 The second contract provides:

6 “To construct 1,287 feet of overhead electric single phase line to provide
7 120/240 volt electric service to two non-qualifying electric services located at
8 Music Mountain Ranches, Parcel 33-16. This project is located in a portion of
9 T24N, R14W, Section 33.”

10 The foregoing language makes clear that the second contract covered both hook-ups, leaving
11 the first contract to cover other issues. Hence, the remainder of Chantel’s comments on pages
12 two and three are irrelevant.

13 **II. CHANTEL CONTENDS NEW MEMBERS ARE TREATED UNFAIRLY (P. 1)**

14 To support his claim of unfair treatment, Chantel erroneously alleges “[n]ew
15 members have to pay for expenses to travel over a 150 mile trip just to become a customer and
16 a member of Mohave Electric Cooperative.” Wrong. New customers are not required to
17 travel any distance. Prospective new customers can communicate with Mohave Customer
18 Service in writing, electronic mail, telephone or via facsimile. The Mohave mailing address,
19 telephone numbers and the electronic mail address are easily found on the Internet (see,
20 Exhibit A attached hereto, a copy of Mohave’s main menu on its website). Many of
21 Mohave’s new customers communicate with Mohave entirely through fax communication.

22 **III. CHANTEL CONTENDS HE SHOULD HAVE RECEIVED A SKETCH OF**
23 **THE LINE EXTENSION AND A COST ESTIMATE (P. 3).**

24 Citing Mohave’s Service Rules and Regulations Sub-Section 106-A-3-d & e,
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1 Chantel claims Mohave has failed to provide a line extension and a cost estimate. This exact
2 issue was decided in ACC Decision Number 67089, paragraphs 44 and 45. ACC Decision
3 Number 67089, paragraph 45 also clarifies the situation created by Chantel:

4
5 “While Mohave’s line extension rules require it to prepare a preliminary sketch
6 and rough estimates of cost upon request, they require Mohave to furnish a
7 sketch to the applicant only when a line extension agreement is entered into. It
8 is reasonable to require members of a cooperative to pay a deposit toward the
9 work required for the cooperative to determine the cost of a line extension.
10 Complainant did not refute Respondent’s answer that a verbal ballpark
11 estimate was furnished to Chantel during the site visit, or that an estimate was
12 provided during a telephone conversation. It is reasonable to assume from the
13 fact that Chantel did not proceed with the Engineering Services Contract (see
14 Attachment A to the Complaint) for a detailed design and cost estimate, with a
15 \$500 deposit toward the project’s costs, that Mohave’s rough estimate
16 dissuaded Chantel from proceeding with a request for the provision of electric
17 service to the new well site. Complainant has not demonstrated that Mohave
18 violated Subsection 106A(2)(a) of Mohave’s Line Extension Rules and
19 Regulations or A.A.C. R14-2-207(A)(2).

20 Chantel’s Failure to Meet Threshold Requirements: Now as then, Chantel has
21 not completed the requisite Line Extension Agreement. He also did not complete the
22 requisite Agreement for Constructing Electric Facilities Within a Subdivision (similar in
23 concept to the earlier Engineering Services Contract). Failing to qualify for a normal resident
24 line extension and failing to advance the necessary funds for the Agreement for Constructing
25 Electric Facilities work order #2005-112, Chantel has no basis to contend that Mohave has not
26 complied with its own rules; it is Chantel that has refused to comply with the requirement to
advance funds to pay for the “non-qualifying electric services” presented in work order #2005-
112.

1 Estimate of Costs Provided:

2 It is readily apparent Mohave charted out the line extension by attaching a
3 Mohave County Assessor's Map (provided by Chantel) to reflect the location of the proposed
4 line and its estimated length and also sent cost estimates in correspondence dated 2-2-05 and
5 3-21-05. Advancing costs is a universal prerequisite to receiving electric services in these
6 circumstances.
7

8 Unacceptable Behavior:

9 Chantel has been less than candid in his filed documents and his allegations are
10 without merit. His behavior illustrates a habitual *modus operandi* of trying to coerce Mohave
11 to extend its service lines at its cost and at the expense of its 30,000 cooperative members.
12 The desert is littered with abandoned real estate subdivisions such as Complainant's where
13 line extensions are an unnecessary cost to utilities.
14

15 **IV. CHANTEL CONTENDS HE SHOULD HAVE RECEIVED A COPY OF THE**
16 **TARIFFS GOVERNING THE SECOND CONTRACT FOR A LINE**
17 **EXTENSION TO NON-QUALIFYING PARCELS (P. 3).**

18 Chantel contends he has not received a copy of Mohave's Line Extension
19 Tariffs. This is false. The Tariffs are public. At one or more times in the past, Chantel has
20 received a copy of Mohave's Line Extension Tariffs. Chantel received a copy of the
21 Commission's Decision and Order Number 67089 to which is attached, as Exhibit A, a copy
22 of Mohave's Line Extension Tariffs. Additionally, Mohave provides a copy of its Rules and
23 Regulations to Mr. Chantel by certified mail on May 6, 1999 and mailed another complete set
24 of its Rules and Regulations to the Chantel as a follow up to the pre-hearing conference for
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1 the last Complaint.

2 **V. CHANTEL CONTENDS MOHAVE WAS WITHOUT GROUNDS TO HAVE**
3 **MINIMUM REQUIREMENTS BEFORE RECEIVING A LINE EXTENSION**
4 **CREDIT (P. 5).**

5 Mohave's Commission-approved Service Rules and Regulations wholly
6 justifies Mohave's position. In the midst of the vast desert spans of Mohave County, Chantel
7 argues that any landowner within Mohave's certificated service area has the right to request
8 and Mohave must build a line extension subject to no minimum requirements.

9 Complainant is incensed he does not qualify under the Tariff for the line
10 extension credits. First, Chantel's current request involves large real estate vacant land lots at
11 Music Mountain Ranches which have no known offsite improvements other than typical
12 desert dirt roads.

13 A real estate speculator: The Chantels acknowledged in the prior hearings in
14 the fall of 2003 that they buy and sell real estate. In many instances, Chantel sells unimproved
15 desert lots without any electrical hookups. See, ¶ 27 of Decision No. 67089. When Chantel
16 was asked if he was before the Commission in order to help obtain electric service for people
17 that he had sold lots to under real estate sales contracts, Chantel responded that he did not
18 know. See, ¶ 28 of Decision No. 67089. In short, Chantel has never contended that he is the
19 ultimate consumer of the electricity to be provided in the line extensions. He is not a
20 "permanent" customer.

21 The Rules:

22 Subsection 106-A of Mohave's Commission-approved Service Rules and
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1 Regulations provides in 2e – “Line extension provisions under this Section apply only to those
2 applicants who in the Cooperative’s judgment will be permanent consumers.” It is not
3 unreasonable for Mohave to require applicants to qualify as “permanent consumers.” With
4 many thousands of abandoned or unsold subdivision lots within Mohave’s service area, the
5 financial cost to all of the cooperative members to create line extensions for parcels owned by
6 speculators such as Chantel would be prohibitive if not overwhelming. Mohave’s
7 requirements have a national basis, and require Chantel and other prospective members to
8 have made minimum permanent real estate improvements. The absence of the minimum
9 permanent real estate lot improvements does not preclude the prospective customer from
10 obtaining a line extension; it merely denies the discounts from not qualifying as a permanent
11 consumer. This Commission-sanctioned Rule is common among cooperatives around the
12 state.
13
14

15 What is unfair is for Chantel, as an investor, to expect Mohave and its
16 cooperative members to bear the cost of unutilized or underutilized electric lines in sparsely
17 populated areas, built only for the benefit of investors who have no intention of utilizing the
18 real estate parcels they hold. The lines may remain unused for years with the only benefit
19 being reaped by Chantel and other real estate investors in the form of marked-up real estate.
20

21 **VI. CHANTEL CONTENDS MOHAVE IMPOSES REQUIREMENTS NOT**
22 **FOUND IN ITS TARIFFS (PP. 5-8).**

23 Chantel refers to Mohave’s February 2, 2005 letter (Mohave’s Exhibit F to its
24 Brief) wherein Chantel is advised:

25 “To qualify for the line credit, the following minimum permanent
26

1 improvements need to be in place for each electric service:

- 2 1. An electric meter pole.
- 3 2. A septic tank or sewer hookup.
- 4 3. A 400 square foot minimum building foundation with footings,
5 or a 400 square foot minimum mobile or manufactured home
6 set up permanently off of its axles (fifth wheels and travel
7 trailers do not qualify)."

8 Chantel also claims, in his Brief, that the "above conditions were found in a staking
9 technician's training outline" and that such conditions have never been approved by the
10 Corporation Commission. The actual exhibit at play from the prior hearing is attached hereto
11 as Exhibit B. The outline does not present the foregoing requirements. Mohave requested the
12 foregoing conditions to assist Chantel in demonstrating that he qualified as a permanent
13 consumer under Rule 106-2(e). Chantel never qualified.

14 **CONCLUSION**

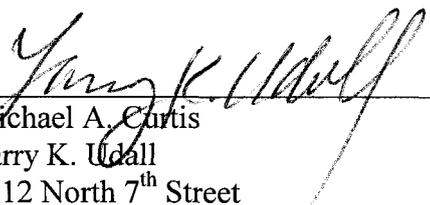
15 Chantel's accusations miss the mark because Mohave has utilized a provision
16 in its Commission-approved Rules for require a minimum level of permanent improvements
17 in order to justify the line extension credits. Chantel did not want to expend any money to
18 earn the credits or to have electric hook-up without the credits; he simply sought everything
19 for free.

20 Chantel has been disingenuous in the allegations of his new Complaint and his
21 recently filed Brief. Moreover, as with the favorable outcome for Mohave from the hearings
22 of 2003, the foregoing illustrates that all of Chantel's issues in his new Complaint and restated
23 in his Brief are satisfactorily resolved in favor of Mohave. Additionally, Mohave has
24 demonstrated through its Brief and its Response to Chantel's Brief that its conduct has been
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1 exemplary in the face of a belligerent customer bent on falsely alleging misconduct with the
2 hope of getting free electric service to locations in abandoned or slowly selling subdivisions.
3 Complainant has a well-documented pattern (for years) of misconduct, false representations,
4 and failure to follow the reasonable requests of Mohave as to procedural steps for line
5 extensions and line extension credits. Based on the foregoing, Mohave reurges the granting of
6 its Motion for leave to file a motion for summary judgment and for the vacating of the hearing
7 on August 30, 2005.
8

9 RESPECTFULLY SUBMITTED, this 11th day of August, 2005.

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

12 
13 _____
14 Michael A. Curtis
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16 2712 North 7th Street
17 Phoenix, Arizona 85006-1090
18 Attorneys for the Respondent Mohave

17 **Original and fifteen (15) copies of**
18 **the foregoing filed this 11th day of August, 2005 with:**

19 Docket Control Division
20 ARIZONA CORPORATION COMMISSION
21 1200 West Washington Street
22 Phoenix, Arizona 85007

23 **Copies of the foregoing hand-delivered and/or mailed**
24 **this 11th day of July, 2005 to:**

25 Teena Wolfe, Administrative Law Judge
26 ARIZONA CORPORATION COMMISSION
1200 West Washington Street
Phoenix, Arizona 85007

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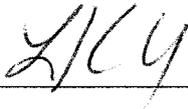
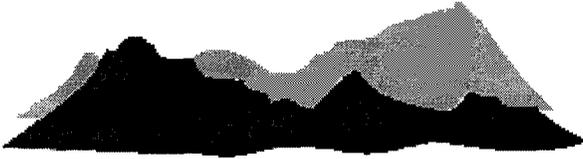


EXHIBIT A



Contact Us



Home

Administrative Office:
1999 Arena Drive
Bullhead City, Arizona 86442



Energy Services

Customer Service Office:
928 Hancock Road
Bullhead City, Arizona 86442



Electric Services



Company Information

Mailing Address:
P.O. Box 1045
Bullhead City, Arizona 86430



Employment Opportunities

Phone: (928) 763-4115



Search the Internet

e-mail: mohaveelectric@mohaveaz.com

EXHIBIT B

Staking Technician Training Outline
Part 1: Line Extensions
Gathering Information

GATHERING INFORMATION FROM THE CUSTOMER, FIELD OBSERVATIONS, AND MAP RECORDS

Prior to determining the type of line extension and applicable line extension credit the following questions must be answered:

1. Importance of Legal location:

a. Determine that the property is within Mohave's Service area.

b. Determine the type and acreage of the customer's property:

Unimproved acreage
Within a subdivision
Within an abandoned subdivision
Tribal land
Is the land leased or owned by the customer?

2. Determine the type of service work that is being requested:

a. Service Upgrade or a new service?

b. Is the service temporary or permanent?

c. Do the necessary improvements exist to qualify the service as permanent? (Sufficient improvements must exist prior to the granting of a line credit and release of the project for construction).

d. Is the service a qualifying load?

Commercial service:

What is the anticipated load?

Are any permanent improvements in place?

Residential Service:

Septic Tank exists?

Slab or mobile home exists?

Meter Pole existing?

