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AZ CORP COMMISSION
ARIZONA CORPORATION COMMISSION
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6 ROGER CHANTEL,

7 Complainant,

8 vs.

9 MOHAVE ELECTRIC COOPERATIVE,

10 INC., Represented By Michael A.

11 Curtis and Larry K. Udall,

12 Respondent

Case No.: DOCKET No. E-01750A-04-0929

REPOSE TO RESPONDENTS
PREHEARING BRIEF

13
14
15 Complainant hereby submits a response to the papers
16 prepared by Michael A. Curtis and Larry K. Udall,
17 representatives for Respondent. On the first page in line 25,
18 Michael A. Curtis and Larry K. Udall claim "The only issue is a
19 legal one..." The following Facts of Law are some of the legal
20 issues that surround this complaint and the actions of Mohave
21 Electric Cooperative, Respondent.

22 **FACTS OF LAW**

23 **R14-2-201-22** "Line extension." The lines and equipment necessary
24 to extend the electric distribution system of the utility to
25 provide service to additional customers.

1 **Respondent's (Mohave Electric Cooperative hereinafter known as**
2 **MEC) Service Rules and Regulations Sub-Section 101-A-27**

3 "Line extension." The lines and equipment necessary to extend
4 the electrical distribution system of the Cooperative to provide
5 service to one or more additional customers.

6 **R14-2-201-42 "Tariffs"** The documents filed with the Commission
7 which list the services and products offered by the utility and
8 which set forth the terms and conditions and a schedule of the
9 rates and charges, for those services and products.

10 **MEC's Rules and Regulations Sub-Section 101-A-51 "Tariffs"** The
11 documents filed with the Commission which lists the services and
12 products offered by the Cooperative and which set forth the
13 terms and conditions and a schedule of the rates and charges,
14 for those services and products.

15 **R14-2-207-A-1, 2 and 4 "Line Extensions"**

- 16 1. Each utility shall file, in Docket Control, for Commission
17 approval, a line extension tariff which incorporates the
18 provisions of this rule and specifically defines the
19 conditions governing the line extensions.
- 20 2. Upon request by an applicant for a line extension, the
21 utility shall prepare, without charge, a preliminary sketch
22 and rough estimate of the cost of installation to be paid
23 by said applicant.
- 24 4. Where the utility requires an applicant to advance funds
25 for a line extension, the utility shall furnish the
applicant with a copy of the line extension tariff of the
appropriate utility prior to the applicant's acceptance of
the utility's extension agreement.

24 **R14-2-212-F-1, 2 and 3 "Filing of Tariffs"**

- 25 1. Each utility shall file with the Commission, through Docket
Control, tariffs which are in compliance with the rules and
regulations promulgated by the Arizona Corporation

1 Commission within 120 days of the effective date of such
2 rules.

3 2. Each utility shall file with the Commission, through Docket
4 Control, any proposed changes to the tariffs on file with
5 the Commission; such proposed changes shall be accompanied
6 by a statement of justification supporting the proposed
7 tariff change.

8 3. Any proposed change to the tariff on file with the
9 Commission shall not be effective until reviewed and
10 approved by the Commission.

11 Most of the material and the exhibits placed in the papers
12 prepared by Michael A. Curtis and Larry K. Udall are a direct
13 attack on Complainant's character. The presentation of their
14 writing and exhibits are concentrated on the slandering of
15 Complainant's name and the character that goes with it. It
16 seems that they have disregarded legal issues and have over
17 powered this proceeding with character slander.

18 Michael A. Curtis and Larry K. Udall presented the idea
19 that this complaint should be barred under the legal theory of
20 unilateral estoppel. The theory is usually only applied if the
21 Complainant has had a full and fair opportunity to litigate the
22 issues. In their legal analysis, Michael A. Curtis and Larry K.
23 Udall may have become aware that the Complainant has not had a
24 full and fair opportunity to litigate the issues. Since the
25 Complainant has not had a full and fair opportunity to litigate
the issues in this case, Michael A. Curtis and Larry K. Udall
may see the opportunity to receive large amounts of fees from
the owners and members of MEC if the unilateral estoppel is
applied to this case and it proceeds further.

1 Complainant received a letter, dated July 22, 2005, from
2 Respondent's comptroller, Stephen McArthur. Complainant would
3 like to include it as "**Exhibit 1**". One of Mr. McArthur's
4 concerns was the concept that exists in MEC's Service Rules and
5 Regulations; Section 106, "Line Extensions", Subsection H.
6 Complainant responded with the enclosed letter labeled as
7 "**Exhibit 2**". "**Exhibit 3-A**" is a picture proving that Respondent
8 did supply electricity to a trailer on wheels.

9 Complainant would like to spend a moment on Michael A.
10 Curtis and Larry K. Udall's "**Exhibit O**" that was included in the
11 papers that have been filed in this case. In the year 2000
12 Complainant was planning to build a new house in the area next
13 to Sunny Highlands Estates. Inside of Sunny Highlands Estates,
14 along the historic Route 66, there was and still is a group of
15 people that represents a bad image to this area, to Mohave
16 County, and to the City of Kingman. Complainant had an idea
17 that I could put together a plan to clean up this area. Pictures
18 are included as "**Exhibit 3-B**". Complainant did contact Bob
19 Goldstein, in the year of 2000 and made several proposals and
20 offers in an effort to clean up the area.

21 As Michael A. Curtis and Larry K. Udall's "**Exhibit O**"
22 reveals, the holder of this land, REICM #3, is a limited real
23 estate partnership that is trying to pass this subdivision, and
24 the land located in it, off at artificially inflated prices.
25 Since a subdivision map exists it appears that these lots are

1 similar to what most California people envision a subdivision to
2 be. One of the documents REICM's legal advisors used to inflate
3 land values of Sunny Highlands Estates was the "Mohave County
4 Land Division Regulations" Chapter 5. It is common since as to
5 why REICM's legal advisors would use the "Mohave County Land
6 Division Regulations" to inflate land values, but it is not
7 clear as to why Michael A. Curtis and Larry K. Udall included a
8 copy of the "Mohave County Land Division Regulations" in their
9 papers.

10 **"Exhibit O"** does not give a date that it was posted on the
11 internet. It only has a date when Michael A. Curtis and Larry
12 K. Udall down loaded it off of the internet. It appears that
13 Michael A. Curtis and Larry K. Udall is misleading the
14 Commission by using out-dated articles to slander Complainant's
15 name and character.

16 The State of Arizona licenses most professionals and in
17 most cases these professionals provide their license number
18 permitting them to charge fees and do business in the State of
19 Arizona. It might be appropriate if Michael A. Curtis and Larry
20 K. Udall would provide their license numbers.

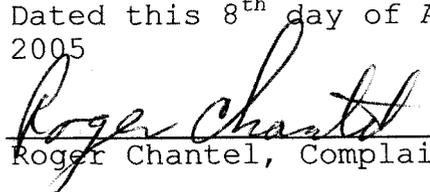
21 CONLCION

22 Complainant requests the Arizona Corporation Commission to
23 deny Michael A. Curtis and Larry K. Udall's "Motion to Estoppel
24 this Complaint".

25

1 Complainant requests that the Hearing on August 30, 2005
2 proceed and that the laws be addressed as they have been written
3 and approved by elected officials.
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7 Dated this 8th day of August,
8 2005

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10 Roger Chantel, Complainant
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1 The original and thirteen (13) copies of the foregoing
2 **"Response to Respondent's Pre-Hearing Brief"** for Docket Number
3 E-01750-A-04-0929 were mailed through the United States Postal
4 Service this 9th day of August, 2005 to:

5
6 Docket Control Division
7 ARIZONA CORPORATION COMMISSION
8 1200 West Washington Street
9 Phoenix, AZ 85007

10 And a copy of the foregoing **"Response to Respondent's Pre-**
11 **Hearing Brief"** of the same Docket Number E-01750-A-04-0929 was
12 mailed through the United States Postal Service this 9th day of
13 August, 2005 to:

14 CURTIS, GOODWIN, SULLIVAN,
15 UDALL & SCHWAB, P.L.C.
16 Representatives for Mohave Electric
17 Cooperative, Inc.
18 2712 North 7th Street
19 Phoenix, AZ 85006-1090

20 ARIZONA REPORTING SERVICE, INC.
21 2627 N. Third Street, Ste. Three
22 Phoenix, AZ 85004-1003

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P.O. Box 1045, Bullhead City, AZ 86430

July 22, 2005

Mr. Roger Chantel
10001 E. Hwy 66
Kingman, Arizona 86401

Re: Information Request

Dear Mr. Chantel:

In your letter of July 5, 2005, you requested information about Mohave's tariff regarding minimum requirements necessary to qualify for line credit for a line extension. Mohave's Service Rules and Regulations, as approved by the Arizona Corporation Commission, do address such situations. Specifically, under Section 106, Line Extensions, subsection H, Special Conditions, paragraph 4, the Rules read as follows:

"When in the Cooperative's opinion the permanent nature of the customer's requirement for electric service is doubtful, the customer shall be required to enter into a contract with the Cooperative and shall advance the entire cost of construction, including the transformers and associated structures. The contract shall include provisions for refund upon proof of permanency to the satisfaction of the Cooperative."

Clearly, the rule states that the opinion of the Cooperative about permanency is all that is required. Several years ago, Mohave determined that we should have a written set of standards to follow regarding what would be considered permanent service. With assistance from Commission Staff, Mohave developed this set of specific standards, of which you have been advised on several occasions. These standards, which have been in place for several years and which apply to all consumers, including you, Mr. Chantel, are listed in John William's letter to you dated February 2, 2005, as follows:

"To qualify for the line credit, the following minimum permanent improvements need to be in place for each electric service:

1. An electric meter pole;
2. A septic tank or sewer hook-up;
3. A 400 square feet minimum building foundation with footings, or a 400 square foot minimum mobile or manufactured home set up permanently off of it's axles (fifth wheels and travel trailers do not qualify)."

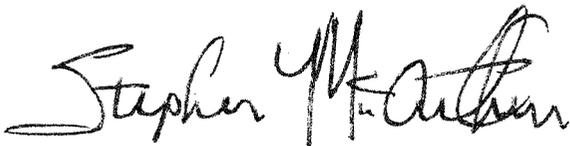
Knowing how you like to spin the facts to fit the situation, Mr. Chantel, you will no doubt make some claim now about Mohave making up its own rules regarding this issue. Any reasonable person would recognize this for what it is, and that is the development of a very reasonable standard for clarification, even though no such standard or clarification is required. Be clear in understanding that all that is required according to the Service Rules and Regulations is that the

LETTER – Chantel (continued)
July 22, 2005
Page 2 of 2

Cooperative form an opinion regarding permanency.

Even though I know you have previously been given a copy of the Service Rules and Regulations regarding line extensions, and we have discussed these rules in numerous meetings, if you would like to come by the office to review those rules again, let us know. If you would like another copy, you should contact the Commission with that request.

I noted to you during our meeting on June 6, that we have a concern that you will end up paying for all of the line extension costs, with no line extension credit, which should be unnecessary if in fact you and your friend do plan to build and live on these properties, as you have indicated is your intention. If you want the benefit of the line extension credit, the minimum improvements to the two lots are required. Without the improvements, then Mohave's opinion is that you do not intend to have permanent service, and we then must protect the rest of the ratepayers by not allowing the line credits. If you still insist on proceeded without the improvements, you will be required to pay for the full cost of the line extension prior to construction, and, as noted in the line extension agreement mailed to you, you would then have one year during which to complete the improvements in order to receive the benefit of the line extension credit.



Stephen McArthur
Comptroller

cc: Arizona Corporation Commission
Curtis, Goodwin, Sullivan & Schwab, P. L. C.
Files

August 8, 2005

Roger Chantel
10001 E. Hwy. 66
Kingman, AZ 86401

Mohave Electric Cooperative
P. O. Box 1045
Bullhead City, AZ 86430

Re: Letter dated July 22, 2005

Dear Mr. McArthur,

I received your letter dated July 22, 2005. I have talked to a number of your representatives and I believe I have talked to you about the minimum requirements that you have mentioned in this letter. Number 1 of these requirements is an electric meter pole. I have supplied you pictures showing you that we have installed said poles.

I have tried to explain to you that Number 2 and Number 3 are not part of the electrical bid in a finance package. Funds cannot be advanced for the placement of sanitation facilities and the placement of the permanent foundation until it is clearly established as to what the cost of electric will be.

I will go through my request for electric service again. A joint request has been sent to the managing staff of Mohave Electric for service to the parcels described in Work-Order Contract 2005-111. It was assumed that you drafted this contract in compliance with MEC's Service Rules and Regulations and those of the Arizona Corporation Commission. In Work-Order Contract 2005-111, it was assumed that MEC was complying to SUBSECTION 106-C FOOTAGE ALLOWANCES No. 1; which states "The Cooperative will make, without charge, single phase extensions, both overhead and underground, from its existing distribution facilities a distance of up to six hundred and twenty-five feet (625)-----". When one of MEC's representatives measured the distance of 1,250, the final line extension pole would have been placed inside a wash. I explained to this representative that if MEC placed this pole inside the wash it would put our electric service at risk and would cost MEC's members far more money than moving the pole distance up out of the wash. The representative explained that the line extension might have to be modified and that I would have to pay for the modification of the line extension. The line extension was modified from 1,250 feet to 1,287 and for this modification, Work-Order Contract 2005-111 stated that I needed to pay MEC an

additional \$409.83. Work-Order Contract 2005-111 was signed and the money was paid by check to MEC for that modification.

In your letter and past communications with me and the Commission, the meaning of a "System Modification" is becoming more ambiguous and unclear. If you are referring to a system modification in a material since, I would assume that material elements are going to be added to the system. If material elements are going to be added to this line extension, I would like to have a detailed description of the material elements, the fundamentals of the elements, and labor costs to install the material elements. These matters would refer to Work-Order Contract 2005-111.

MEC's management appears to be saying that Work-Order Contract 2005-112 is a separate contract or is the contract for the line extension. In your letter dated July 22, 2005, you referred to a letter that John Williams sent me dated February 2, 2005, stating that MEC had special conditions that I would have to meet before I was entitled to receive the footage allotted as described in Subsection 106-C-1 of MEC Rules and Regulations that have been filed with the ACC. In accordance to ACC Rules and Regulations, if a utility adopts special conditions that are used to restrict services to its customers, these conditions are supposed to be filed in Docket Control. Docket Control does not seem to have any documents addressing these special conditions.

In your letter you stated that the ACC staff assisted some of MEC's managing staff members in drafting these special conditions. If you would be so kind as to supply me the names of the MEC managing staff members and the names of the ACC employees that assisted MEC in drafting these special conditions and the dates, as well as any documents or correspondence that was developed in this process, it would be greatly appreciated and could solve a lot of my concerns in this matter. It would be appreciated if I could receive this information within 15 days from the date of this letter. If for some reason you are unable to supply this information within this time frame, please send me a letter stating what date I can expect to receive it. If this problem was caused by the ACC, we can address it through legislature and federal intervention. And if this problem was caused by the ACC and not MEC's managing staff, I offer my sincere apologies.

If after reviewing all of the above information that I requested you to send me and if you find that MEC may have made some misrepresentations, and some of the fault lies with MEC's managing staff, you may want to have electricity installed to the parcels of land that is listed in this complaint by our hearing date on August 30, 2005.

In closing this letter, if I may add, I would like to address Section 106, Line Extension Subsection H; Special Conditions. "When in the Cooperative's opinion the permanent nature of the customer's requirement for electric service is doubtful-----." It seems to me **If** a customer spends time filling out an application for a line extension and pays money to the Cooperative in good faith that they are going to perform in accordance to the contract and; **If** the customer spends time and money to drive to the Cooperative's main office, which is over a one hundred mile round trip and; **If** the customer spends time writing letters to the Cooperative in an effort to clarify terms and conditions and costs of

their services and; **If** the customer files a complaint with the ACC with the intent of receiving some assistance in becoming a permanent customer of MEC then; **If** I were a managing staff member at MEC, I would say that this customer has far exceeded his desire to become a permanent customer of MEC and there would be no doubt whatsoever that this customer intends to become a permanent customer.

Respectfully submitted,

Roger Chantel

EXHIBIT 3-A



EXHIBIT 3-B

