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ARIZONA CORPORATION COMMISSION

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5 ROGER CHANTEL,

6 Complainant,

7 vs.

8 MOHAVE ELECTRIC COOPERATIVE,

9 INC.,

10 Respondent,

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

PRE-HEARING BRIEF

AZ CORP COMMISSION  
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11  
12 Complainant hereby files Pre-hearing brief.

13  
14 Complainant is making every effort to comply with the  
15 Commission's orders that were issued on June 10, 2005. On June  
16 22, 2005 Complainant provided Respondent a full and complete  
17 copy of the filing Complainant docketed on June 6, 2005. In  
18 compliance with the order, Complainant scheduled a meeting with  
19 Mr. Stephen McArthur for June 17, 2005. Mr. McArthur cancelled  
20 that appointment and we scheduled another one for June 23, 2005.  
21 A number of issues were discussed. One issue was how unfair new  
22 members are treated. New members have to pay for expenses to  
23 travel over a 150 mile round trip just to become a customer and  
24 a member of Mohave Electric Cooperative, (hereinafter known as  
25 MEC). The people in the out lying areas experience additional  
cost when communicating with MEC because they do not have a

1 published toll free number to call. Respondent's position, at  
2 the meeting, was that Complainant is being treated the same as  
3 every other member.

4 Respondent said that there are two actual line extensions. One  
5 of them the Complainant had signed. Complainant signed and  
6 believed that Contract Work Order No. 2005-111 fell under MEC's  
7 Service Rules and Regulations Sub-Section 106-C-1, which states,  
8 **"The Cooperative will make, without charge, single phase**  
9 **extensions, both overhead and underground, from its existing**  
10 **distribution facilities a distance up to six hundred twenty-five**  
11 **(625) feet where the property served is not within a**  
12 **subdivision. The distance of 625 feet is to be measured from**  
13 **existing distribution facilities of the Cooperative."** The total  
14 distance allotted by MEC for the two parcels came to a distance  
15 of 1250 feet. The line extension exceeded this distance by 37  
16 feet, which MEC charged Complainant \$409.83 for the modification  
17 of this line extension.

18 The legal issue of this complaint is that the second contract is  
19 for the same service connect poles, it covers the same distance  
20 and has exactly the same purpose as the contract that  
21 Complainant signed. Mr. McArthur stated that there are two  
22 separate projects. Contract Work Order 2005-112 states **"To**  
23 **construct 1287 feet of overhead electric single phase line to**  
24 **provide 120/240 Volt electric service to two non-qualifying**  
25 **electric services located at Music Mountain Ranches, parcel 33-**

1 **16."** The second contract seems to have been created by MEC's  
2 managing staff in an effort to collect additional funds for the  
3 same line extension. Since Respondent is claiming that there are  
4 two projects, and that the second contract is to **"construct 1287**  
5 **feet of overhead electric single phase line to provide 120/240**  
6 **volt electric service to two non-qualifying electric services**  
7 **located at Music Mountain Ranches, Parcel 33-16. This project is**  
8 **located in a portion of T24N, R14W, Section 33."**, then, in  
9 accordance to MEC's Service Rules and Regulations Sub-Section  
10 106-A-3-d&e, Respondent must provide **"a sketch of the requested**  
11 **line extension"** and **"a cost estimate to include materials,**  
12 **labor, and other costs as necessary"**. The second contract  
13 states that the Complainant is required to advance funds to MEC  
14 for electrical service to the two non-qualifying parcels located  
15 in Music Mountain Ranches. R14-2-207(A)(4) states, **"Where the**  
16 **utility requires an applicant to advance funds for a line**  
17 **extension, the utility shall furnish the applicant with a copy**  
18 **of the line extension tariff of the appropriate utility prior to**  
19 **the applicant's acceptance of the utility's extension**  
20 **agreement"**. Complainant did not receive a copy of the tariffs  
21 requiring any conditions that were to be met.

22 In MEC's letter dated February 2, 2005, Mr. Williams stated that  
23 I had to have the following minimum requirements:

- 24 1. An electric meter pole
- 25 2. A septic tank or sewer hook-up
3. A 400 square foot minimum build foundation with footings,--

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1 Complainant sent a letter to Mr. Williams, dated July 5, 2005  
2 (copy included), requesting an approved copy of the tariffs that  
3 required these specific conditions before MEC would supply  
4 service. I have explained to Mr. Williams that No. 2 and No. 3  
5 requirements are part of a construction package and could not be  
6 installed until we have a signed contract and the electric  
7 installation start and completion dates placed on the contract.  
8 I suggested that an addendum could be added or a new contract  
9 could be written to address these problems. Respondent claims  
10 they cannot change their contracts and in order to supply  
11 electric to these parcels, Complainant would have to sign the  
12 contract as it was written. Complainant signed Contract 2005-111  
13 and sent Respondent the money that was requested.  
14 Complainant applied for line extension with Jim Rogers for the  
15 purpose of having electric service supplied to an existing  
16 permanent building and a separate service to the adjacent  
17 property with the intent of building a residence. Complainant  
18 filed for line extension under MEC's Service Rules and  
19 Regulations Sub-Section 106-A-1 and 3 and 106-C-1.  
20 Conditions and requirements to have electric service installed  
21 to a parcel of land are called tariffs and are governed under  
22 the A.C.C. Most of the laws and requirements will exist in **R14-**  
23 **2-207 Line Extensions** and MEC's **Service Rules and Regulations**  
24 **Section 106 Line Extensions.**

25

1 Referring to **R14-2-207 Line Extensions A, General Requirements,**

2 1. Each utility shall file, in Docket Control, for Commission  
3 approval, a line extension tariff which incorporates the  
4 provision of this rule and specifically defines the conditions  
5 governing line extensions. Respondent has complied with the  
6 first half of this rule by filing service rules and regulations  
7 in March of 1982. The Commission approved these rules for filing  
8 on March 31, 1982. The issue in this case is the second half of  
9 this law, which states "specifically defines the conditions  
10 governing line extensions." In a letter dated February 2, 2005,  
11 John Williams claimed that if I wanted to qualify for line  
12 extension credit, I would have to meet the following conditions  
13 and requirements.

14 1. An electric meter pole was needed.

15 2. A septic tank or sewer hookup

16 3. A 400 Square foot minimum building foundation with footing,  
17 or a 400 square foot minimum mobile or manufactured home  
18 set up permanently off of it's axles (fifth wheel's and  
19 travel trailers do not qualify).

20 In Docket NO. E-01750A-03-0373, Vol. II of the reporter  
21 transcripts, page 372, MEC Exhibit No. 14, it was stated by Mr.  
22 Longtin that the above conditions were found in a staking  
23 technician's training outline. Complainant asked Mr. Longtin if  
24 that had been approved by the Corporation Commission. Mr.  
25 Longtin looked at MEC's exhibit 14 and stated that it was

1 training sheet, something that Mohave has where we would train  
2 our staking techs. Complaint asked if the Corporation Commission  
3 would know anything about the specific conditions on the  
4 training sheet. Mr. Longtin said, "I would say no, they don't"  
5 MEC's management created these words and placed them in a  
6 staking technician's training outline and then used them as  
7 specific conditions and requirements for customers to acquire  
8 electric service. Respondent imposed these conditions and  
9 requirements without A.C.C.'s approval under R14-2-207 A and B  
10 nor written approved resolutions by the elected board members of  
11 MEC. The conditions found in R14-2-207(A) (1) are specifically  
12 defined conditions that are required to be docketed by MEC.

13 **FACTS OF THE LAW**

14 **R14-2-201-22**

15 "Line extension" The lines and equipment necessary to extend the  
16 electric distribution system of the utility to provide service  
17 to additional customers.

18 **MEC's Service Rules and Regulations Sub-Section 101-A-27**

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

22 **R14-2-201-42**

23 "Tariffs" The documents filed with the Commission which list the  
24 services and products offered by the utility and which set forth

1 the terms and conditions and a schedule of the rates and  
2 charges, for those services and products.

3 **MEC's Rules and Regulations Sub-Section 101-A-51**

4 "Tariffs" The documents filed with the Commission which lists  
5 the services and products offered by the Cooperative and which  
6 set forth the terms and conditions and a schedule of the rates  
7 and charges, for those services and products.

8 **R14-2-207-A-1, 2 and 4**

9 "Line Extensions"

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

17 **R14-2-212-F**

18 "Filing of Tariffs"

- 19 1. Each utility shall file with the Commission, through Docket  
20 Control, tariffs which are in compliance with the rules and  
21 regulations promulgated by the Arizona Corporation  
22 Commission within 120 days of the effective date of such  
23 rules.
- 24 2. Each utility shall file with the Commission, through Docket  
25 Control, any proposed changes to the tariffs on file with  
the Commission; such proposed changes shall be accompanied  
by a statement of justification supporting the proposed  
tariff change.
3. Any proposed change to the tariff on file with the  
Commission shall not be effective until reviewed and  
approved by the Commission.

1 **Other Issues of Law**

2 Mohave Electric Cooperative is a registered cooperative. They  
3 are owned by the members that it serves. Long established laws  
4 clearly point out that the members elect officials to represent  
5 their interest in the cooperative. This means that if management  
6 creates a requirement or a condition that is imposed on the  
7 owners or members, these conditions or requirements must be  
8 approved by the elected Board of Directors and recorded into a  
9 resolution. Standard procedures of a governing body are to  
10 request a copy of the cooperative governing body's resolution  
11 approving the requirements and conditions. MEC's letter dated  
12 February 2, 2005, (copy included), claims that MEC's management  
13 has 3 conditions that must be met before providing electric  
14 service to the parcels listed on the contracts. Complainant has  
15 requested electric service to these parcels with full intension  
16 of residential use. Meter poles have been installed and the  
17 other so-called conditions and requirements are standard  
18 elements that come with construction after electricity is  
19 supplied. Respondent's requirement for Complainant to pay  
20 \$9,104.38 for said conditions and requirements are not justified  
21 to refuse electric service hook-ups.

22 If Respondent fails to provide copies of the tariffs that they  
23 are imposing on old and new customers and using conditions and  
24 requirements that have not been filed or approved by the  
25 Commission, the Commission becomes obligated to take some kind

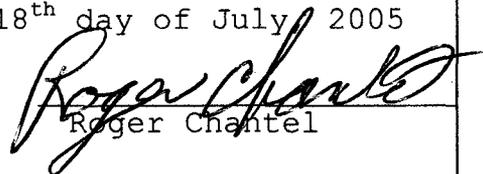
1 of action to discipline them. If Respondent fails to supply the  
2 Commission with the resolution signed by the elected Board of  
3 Directors of the Cooperative approving these conditions, the  
4 Commission should consider imposing additional fines.

5 **SOLUTION**

6 If the Commission finds that the Respondent have not filed the  
7 new conditions and requirements with the A.C.C., then Respondent  
8 cannot use these conditions and requirements to deny Complainant  
9 the right to a line extension.

10 If the Commission finds that MEC's management has imposed  
11 requirements and conditions, that have not been approved by the  
12 elected Board of Directors, upon members of the Cooperative, the  
13 Commission may consider additional fines be placed upon the  
14 Respondent. If the Commission finds that the Respondent has  
15 violated any rules and decisions of the Commission, Complainant  
16 requests the Commission to order Respondent to complete the line  
17 extension within 15 days of the decision. Complainant suggests  
18 to the Commission that if Respondent does not comply to the 15  
19 day schedule, the Commission should fine the Respondent  
20 \$10,000.00 per day for every day over the 15 day schedule.

21  
22 Dated this 18<sup>th</sup> day of July 2005

23   
24 Roger Chantel  
25

July 5, 2005

Chan-Lan Trust  
P. O. Box 4281  
Kingman, AZ 86401

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

Dear Mr. Williams,

In your letter dated April 1, 2005 you mentioned that I had to sign a contract called Work Order 2005-112 and pay \$9,104.38 before you would start on the line extension that I have requested. In your letter dated February 2, 2005 you mentioned some conditions governing this line extension. I am sure you are familiar with the Arizona Corporation Commission's law of supplying an applicant with a copy of your approved tariffs that specifically define the conditions of a line extension. R14-2-207 (A)(4) states that the utility management personnel is to provide a copy of the approved tariff of the conditions that are required before an applicant is required to sign a contract that requires the advancement of funds.

Would you please send me an approved copy of the tariffs that require the following specific conditions?

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

You should be able to supply me a copy of the above tariffs by July 19, 2005.

Respectfully Submitted,

Roger Chantel



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

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February 2, 2005

Roger Chantel  
Chan-Lan Trust  
10001 E. Highway 66  
Kingman, AZ 86401-4184

VIA Certified Mail

Re: Electric Services, Parcel 33-16, Music Mountain Ranches

Dear Mr. Chantel:

I have reviewed your project with Jerry Hardy (who met with you on your property on January 25, 2005) of our staff. The preliminary estimated cost of constructing approximately 1,287 feet of overhead electric power line (less 1,250 feet of line credit for two qualifying, permanent electric services not located within a subdivision) would be approximately \$300.00; a system modification fee of approximately \$400.00 is also required.

Mr. Hardy mentioned that you are not planning to install the septic tanks or building foundations until approximately 6 months after you execute and fund contracts with Mohave for the line extension. Mohave requires that the minimum permanent improvements exist on the property to qualify for the line extension credit prior to the commencement of electric line construction.

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 hookup.
3. A 400 square foot minimum building foundation with footings, or a 400 square foot minimum mobile or manufactured home set up permanently off of it's axles (fifth wheel's and travel trailers do not qualify).

If you want Mohave to proceed with line construction prior to your installation of the minimum required improvements, your electric line extension would be considered a non-qualifying electric service. Under the terms of our non-qualifying contract, 100% of the estimated cost of construction would be due prior to the commencement of line construction, and the customer has one year to construct the minimum improvements to qualify as a permanent, qualifying service. The total preliminary estimated cost of the

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system modification and 1,287 feet of electric line (without the line credits) would be approximately \$8,600.00; that amount would be due prior to the commencement of line construction.

As you can surmise, it would be advantageous for you to plan the installation of the minimum permanent improvements required to qualify for the line extension credits prior to the commencement of electric line construction.

Please let me know how you would like to proceed; upon your request, Mohave will send you the appropriate contract.

Sincerely,

Mohave Electric Cooperative, Inc.

A handwritten signature in cursive script, appearing to read "John H. Williams", with a long horizontal flourish extending to the right.

John H. Williams  
Line Extension Supervisor

Cc: Steve McArthur  
Arizona Corporation Commission