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ROGER CHANTEL,

AZ CORP COMMISSION
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Case No.: DOCKET No. E-01750A-04-0929

MOTION TO RE-MOVE THE PRESIDING
ADMINISTRATIVE JUDGE

vs.

MOHAVE ELECTRIC COOPERATIVE, INC.,

Respondent

Complainant hereby enters a motion to remove the present
presiding Administrative Judge Tina Wolfe and is presenting
evidence that supports Complainant's claims that this
Administrative Judge is bias and prejudice toward the
Complainant and has shown substantial favoritism toward the
Respondent.

Complainant was ordered to file the legal effects that might
effect the outcome of this hearing.

Complainant claims that the Administrative Judge, here-in-after
referred to as ALJ Wolfe, is bias and prejudice towards the
Complainant. Complainant claims that the bias and prejudice
action started right at the beginning of the hearing on the
October 27, 2003. Complainant also claims the ALJ Wolfe is
showing favoritism toward the Respondent. ALJ Wolfe ordered the
Respondent to deliver to the Complainant the Witness list and

1 Exhibits by 12:00 noon on the 21st of October, 2004. Complainant
2 asked ALJ Wolfe to not allow the witnesses and exhibits of the
3 Respondent, because they were not submitted in a timely manner
4 and were not in compliance with the procedural order issued by
5 AJL Wolfe. Complainant requested a postponement in order to have
6 sufficient time to review the witness list and added exhibits.
7 Respondents objected to the request and ALJ Wolfe ordered that
8 the hearing would continue and gave Complainant approximately 15
9 minutes to review Respondent's witness list and added exhibits.
10 ALJ Wolfe states that A.A.C. R14-2-207(A)-1 "specifically defines
11 the conditions governing line extensions". ALJ Wolfe claims
12 that the conditions governing line extensions were Docketed on
13 April 9, 1982 and Service Rules and Regulations were approved as
14 No. 52951. One of the issues in Docket No. E-01750A-02-0373 was
15 that Respondents imposed conditions and requirements that were
16 not listed in their Tariff Approval No. 52951. In Respondent's
17 (Mohave Electric Cooperative) Service Rules and Regulations,
18 Section 106 "LINE EXTENSIONS", you will not find the specific
19 conditions that are mentioned in Respondent's Exhibit MEC-14;
20 1. an electric meter pole
21 2. a septic tank or sewer hookup
22 3. a 400 square foot minimum building foundation with
23 footings, or a 400 square foot minimum mobile or
24 manufactured home set up permanently off of it's axles
25 (fifth wheel's and travel trailers do not qualify).

1 Respondent claims they can use these conditions to deny members
2 the right to have electric service. In Hearing Transcript E-
3 01750A-03-0373 Vol. II Page 374 Lines 10 thru 13, ALJ Wolfe
4 asked Respondent's legal counsel to provide a copy of a separate
5 tariff that specifically described the above conditions. There
6 appears to be no written tariff on file stating that Mohave
7 Electric Cooperative members must place a septic system on their
8 property or place some kind of building foundation on their
9 property, nor does their tariff, on file with A.C.C. make any
10 reference as to the size of a trailer or what condition the
11 trailer has to be in before a member is entitled to receive
12 electric service. As stated in Hearing Transcript E-01750A-03-
13 0373 Vol. II Page 372 Lines 7 thru 25, these conditions are used
14 in staking technician training outlines. As you read on it
15 appears that these conditions have never been approved by the
16 Arizona Corporation Commission. It appears that Mohave Electric
17 Cooperative's management has created these guidelines. If these
18 specific conditions and requirements are needed by members to
19 receive electric service, they must be approved by the Elected
20 Board Members of Mohave Electric Cooperative.

21 On Page 374 of these same proceedings, ALJ WOLFE ordered
22 Respondent's legal counsel to supply a separate copy of the
23 Service Drop Tariff and a copy of the Line Extension Tariff that
24 Respondent was imposing on Complainant. On Page 374 Lines 10,
25 thru 13, of these same proceedings, ALJ Wolfe states that the

1 rules take the place of a tariff. But if you read these rules
2 and regulations you will not find any of the above mentioned
3 special conditions and requirements listed in the Service Rules
4 and Regulations. Conditions and requirements that members are
5 required to meet should be approved by the Arizona Corporation
6 Commission. Since Mohave Electric Cooperative is a cooperative
7 and has Elected Board Members, any conditions imposed on members
8 by Mohave Electric Cooperative's Management must be approved by
9 the Elected Board Members. No evidence was submitted in this
10 case to prove that the Elected Board Members adopted a
11 resolution requiring the above imposed conditions and
12 requirements. The extreme favoritism that ALJ Wolfe showed the
13 Respondent by reinterpreting and in some cases changing the
14 intent of the law to allow her to create a decision outside of
15 the intent of the writer of the law.

16 In Case E-01750A-03-0373, one of the main issues was the
17 definition of a subdivision. There is a great deal of bias and
18 prejudice on the part of ALJ Wolfe when we started looking at
19 what a subdivision is as a subdivision is defined for the
20 purpose of supplying electrical service to parcels of land and
21 what kinds of subdivisions are listed in the A.C.C. Rules. ALJ
22 Wolfe referred to R14-2-207(34) and stated that R14-2-207(D)
23 requires electric utilities to submit as part of its line
24 extension tariffs separate provisions for residential
25 subdivision developments and permanent mobile home parks.

1 Complainants supplied evidence that the parcels in this case did
2 not meet the definition of "Residential Subdivision Development"
3 because the parcels are one acre or more. A.A.C. Rules have two
4 separate kinds of residential subdivisions and mobile home parks
5 that have parcels of one acre or less. They are overhead
6 installed subdivisions with electrical services and underground
7 installed subdivisions with electrical services. In A.A.C. R14-
8 2-207(E) single phase underground extensions in subdivision
9 development, it clearly points out that above ground electric
10 extensions are separate from underground electric extensions.
11 Mohave Electric Cooperative's Service Rules and Regulations also
12 point out separate types of line extension and is clearly
13 presented by the wording in Subsection 106-C Footage allowances
14 No. 1 "The Cooperative will make, without charge, single phase
15 extensions, both overhead and underground from its existing
16 distribution facilities a distance up to 625 feet where the
17 property served is not within a subdivision. The issue of law
18 was "what is the definition of a subdivision?" Respondents had
19 no definition of a subdivision listed in their rules and
20 regulations. The only definition of a residential subdivision
21 was A.A.C. R14-2-201(34) "any tract of land which has been
22 divided into four or more contiguous lots with an average size
23 of one acre or less for use for construction of residential
24 building or permanent mobile homes for either single or multiple
25 occupancy". Evidence was submitted showing that the parcels that

1 electric service and the line extensions were for were not in a
2 subdivision by this definition. If Respondent truly wanted to
3 serve the customers in the easterly Mohave County, they would
4 have applied Mohave Electric Cooperative's Service Rules and
5 Regulations Section 107 CONSTRUCTION OF DISTRIBUTION FACILITES
6 WITHIN RESIDENTIAL SUBDIVISIONS Subsection 107-B-2 "Where
7 required single phase line facilities within a subdivision
8 exceed an average of five hundred (500) per lot, a nonrefundable
9 cash amount equal to that portion of the total estimated
10 installed cost represented by those required line facilities in
11 excess of five (500) feet per lot average shall be paid to the
12 cooperative."

13 In Decision No.67089 ALJ Wolfe refers to Decision No. 58886 as
14 grounds and support of her decision. Decision No. 58886 refers
15 to underground installation, which is different than overhead
16 installation. It is well established in the law that there are
17 two types of residential subdivisions. One of these types is
18 above ground subdivision and the other is underground
19 subdivision. In the finding of fact and the order issued it
20 states that Mohave Electric Cooperative was approved for a
21 tariff for line extensions in abandoned subdivisions with
22 underground service. Decision No. 58886 does not refer to
23 overhead subdivisions. Respondents did not submit any legal
24 support that Decision No. 58886 referred to overhead
25 subdivisions. During the hearing both parties agreed to the

1 facts that the parcels in question were being served by overhead
2 service.

3 Even though Respondent's counsel did supply a copy of their
4 tariffs, there was no mention inside the tariff to support the
5 specific conditions and requirements listed above for electric
6 service. The rearranging of facts and the failure to address
7 evidence submitted by Complainant proving that the parcels that
8 electric service was being requested were not in a subdivision
9 in accordance to R14-2-201 (34) and taking Respondent's "hear
10 say" evidence to build a case for Respondents clearly
11 demonstrates bias and prejudice toward Complainant. It would be
12 difficult for anyone to believe that ALJ Wolfe's conclusion of
13 law is grounds to support the decision that A.A.C. R14-2-207(A)-
14 1 applies to all line extension requests made to Mohave
15 Electric Cooperative.

16 It is known, at times, that an Administrative Judge may alter or
17 change the meaning of a law when their Superior Officers request
18 them to do so. Some times Administrative Judges take it on their
19 own behalf to show favoritism to a certain party. In this case,
20 that is the Respondent. Many times an Administrative Judge will
21 have a conflict with one of the parties' thinking process or the
22 way something is being presented and will develop a bias and
23 prejudice attitude toward that party.

24 Even though I have not pointed out all of the bias and prejudice
25 actions toward the Complainant and/or the favoritism toward the

1 Respondent that exist in this case and demonstrated by ALJ
2 Wolfe, it is clear that they exist and are grounds to grant
3 Complainant's MOTION TO RE-MOVE THE PRESIDING ADMINISTRATIVE
4 JUDGE Tina Wolfe in all further proceedings.

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6 Dated this 18th day of July, 2005

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