



BEFORE THE ARIZONA CORPORATION COMMISSION

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COMMISSIONERS

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

AZ CORP COMMISSION  
DOCUMENT CONTROL

IN THE MATTER OF:

DOCKET NO. E-01750A-04-0929

ROGER CHANTEL

Complainant,

vs.

MOHAVE ELECTRIC COOPERATIVE,

Respondent.

PROCEDURAL ORDER

**BY THE COMMISSION:**

On December 27, 2004, a letter from Roger Chantel ("Complainant") was filed with the Arizona Corporation Commission ("Commission") as a formal complaint against Mohave Electric Cooperative ("Complaint"). The Complaint alleges that Mohave Electric Cooperative ("Mohave" or "Respondent") is denying the Complainant electric service in association with a line extension request.

On January 24, 2005, Mohave filed a response to the Complaint, requesting that the Commission deny the Complaint.

Accordingly, by Procedural Order issued February 8, 2005, a pre-hearing conference was set for February 22, 2005 for the purpose of discussing the procedures that will govern this matter.

The Pre-Hearing Conference was held as scheduled. The Complainant, Roger Chantel, appeared on his own behalf, and Mr. Stephen McArthur, Mohave's Comptroller, appeared on behalf of Respondent Mohave. At the Pre-Hearing Conference, Mr. Chantel stated that the process for obtaining his line extension had begun. He stated that he had received a letter from Mohave dated February 2, 2005; that in response he had sent Mohave a letter dated February 14, 2005; and that he was in communication with Mohave regarding his requested line extension agreement. Mr.

1 McArthur stated that on January 25, 2005, Mohave had sent one of its field engineers to the site  
2 where Mr. Chantel has requested service in order to review the project. Mr. McArthur stated that the  
3 content of the February 2, 2005 letter from Mohave to Mr. Chantel was based on the meeting  
4 between the field engineer and Mr. Chantel; that his office was in receipt of the February 14, 2005  
5 letter from Mr. Chantel; and that Mohave's engineering department was working on a response to the  
6 letter, which response would be sent out that day or the next. Mr. McArthur stated that Mohave is  
7 very consciously trying to treat Mr. Chantel as it would any other consumer, and does not intend to  
8 ignore Mr. Chantel's line extension request.

9 At the conclusion of the February 22, 2005 Pre-Hearing Conference, the parties were ordered  
10 to file a status report by March 22, 2005 outlining the parties' progress on the line extension request.

11 The February 14, 2005 letter from Mr. Chantel to Mohave was docketed February 22, 2005.  
12 Mohave's March 3, 2005 letter in response was docketed on March 9, 2005.

13 On March 22, 2005, Mohave docketed a copy of a letter mailed to Mr. Chantel in response to  
14 a March 10, 2005 letter from Mr. Chantel to Mohave.

15 Also on March 22, 2005, Mr. Chantel docketed a letter to the Commission.

16 On March 28, 2005, Mohave docketed a correction to its March 22, 2005 filing.

17 On April 8, 2005, Mohave docketed a copy of an April 1, 2005 letter to Mr. Chantel.

18 On April 19, 2005, Mohave docketed a copy of a response letter and construction agreement  
19 mailed to Mr. Chantel in response to an April 8, 2005 letter that Mohave received from Mr. Chantel.  
20 Mohave's filing also included a copy of the April 8, 2005 letter.

21 On June 6, 2005, Mr. Chantel docketed a letter to the Commission dated May 31, 2005. The  
22 letter requested a hearing.

23 By Procedural Order dated June 10, 2005, a hearing was scheduled for August 30, 2005.

24 On July 19, 2005, the Complainant filed a Motion to Remove the Presiding Administrative  
25 Law Judge and Pre-Hearing Brief.

26 On July 22, 2005, the Respondent filed its Pre-Hearing Brief Regarding Legal Effect of  
27 Decision No. 67089 and Request for Leave to File Motion for Summary Judgment and to Vacate  
28 Hearing.

1 On August 8, 2005, the Respondent filed a Response to Complainant's Motion to Remove the  
2 Administrative Law Judge.

3 On August 10, 2005, the Complainant filed a Response to Respondents' Pre-Hearing Brief.

4 On August 11, 2005, Mohave filed a Response to Complainant's Pre-Hearing Brief.

5 **Ruling on Motion to Remove Presiding Administrative Law Judge**

6 In his Motion to Remove the Presiding Administrative Law Judge ("ALJ"), the Complainant  
7 states that the ALJ "is bias (sic) and prejudice (sic) towards the Complainant." The gist of the  
8 Complainant's claims is that, in a prior proceeding involving the same parties (Docket No. E-  
9 01750A-03-0373), ALJ Wolfe showed favoritism for the Respondent through various rulings and in  
10 the Recommended Opinion and Order issued in that prior docket which was ultimately adopted by  
11 the Commission as Decision No. 67089 (June 29, 2004).

12 The Commission takes seriously claims of prejudice, bias, or discrimination in its procedures  
13 and decision making processes. The Supreme Court of Arizona has held that "Administrative hearing  
14 officers in Arizona are also assumed to be fair and 'can only be disqualified upon a showing of actual  
15 bias ...' *Jenners v. Industrial Commission*, 16 Ariz.App. 81, 83, 491 P.2d 31, 33 (1972)." *Martin v.*  
16 *Superior Court In and For Maricopa County*, 135 Ariz. 258, 260, 660 P.2d 859 (1983). It appears  
17 that the Complainant's "bias" claims are related to the prior Commission Decision with which the  
18 Complainant obviously disagrees. Having reviewed the record in Docket No. E-01750A-03-0373,  
19 there is no evidence that the presiding Administrative Law Judge has any personal bias against Mr.  
20 Chantel. That the ALJ or the Commission may have disagreed with Mr. Chantel's interpretation of  
21 the evidence in the prior proceeding is not proof of bias or prejudice.

22 Mr. Chantel will be afforded all appropriate rights, duties and responsibilities attendant to his  
23 status as a Complainant. However, the request to remove the Administrative Law Judge is without  
24 merit and shall be denied.

25 IT IS THEREFORE ORDERED that the Motion to Remove the Presiding Administrative  
26 Law Judge is denied.

27 ...

28 ...

1 IT IS FURTHER ORDERED that the Presiding Officer may rescind, alter, amend or waive  
2 any portion of this Procedural Order by subsequent Procedural Order or by ruling at hearing.

3 DATED this 15<sup>th</sup> day of August, 2005

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6 DWIGHT NODES  
7 ASSISTANT CHIEF ADMINISTRATIVE LAW JUDGE

8 Copies of the foregoing were faxed and mailed  
9 this 15 day of August, 2005, to:

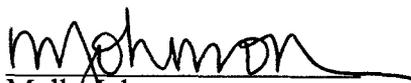
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