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November 1, 2007

AZ CORP COMMISSION
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Mr. Bruce A. McDonald, President
Sun City Taxpayers Association, Inc.
12630 North 103rd Avenue, Suite 144
Sun City, Arizona 85351-3476

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WS-01303A-06-0491

RE: Intervening at the Arizona Corporation Commission without an attorney

Dear Mr. McDonald:

This letter is by way of response to your letter on this subject addressed to Michael Kearns, our Deputy Executive Director. In that letter you indicate a desire to obtain information on your organization's ability to intervene at the Arizona Corporation Commission without legal counsel. You indicate that the Sun City Taxpayers Association has intervened in a number of rate cases utilizing an attorney, but that you are currently an intervenor in three dockets without an attorney. You mention the information regarding the need for an attorney that was provided to your Executive Director in the course of a hearing this past August.

Finally, you request some information regarding the issue of who may participate as an intervenor at the Commission, as well as information regarding how to formally withdraw a Motion to Intervene. By this letter I will attempt to provide you with sufficient information for your organization to determine how it can most effectively participate in Commission proceedings.

Intervention before the Commission is governed by the Commission's Rules. Rule A.A.C. R14-3-105 addresses intervention as a party in a proceeding. A.A.C. R14-3-105.A provides that persons other than the original parties to the proceedings, who are directly and substantially affected by the proceedings may intervene. A.A.C. R14-3-105.B describes the process by which applications to intervene are governed. A.A.C. R14-3-105.C describes the process by which consumers or prospective consumers may provide the Commission with what we commonly call "public comment".

Whether an attorney is required for an organization to make a given appearance before the Commission is governed by the Arizona Supreme Court's Rule 31, on the Regulation of the Practice of Law. In relevant part, that rule provides that practicing law includes: Rule 31(a) (2) (A) (3), which references "representing another in a judicial, quasi-judicial, or administrative proceeding, or other formal dispute resolution process such as mediation or arbitration". Since Commission proceedings are administrative proceedings, it is clear that representing anyone other than oneself in them constitutes the practice of law. Of course, in order to practice law, one must be licensed by the State Bar in accordance with the Supreme Court's requirements.

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There are a number of exceptions to these requirements under Rule 31, but none of them apply as a general matter to Commission proceedings.

What all this means is that intervention as a party in a proceeding before the Commission requires either that an individual represent herself, or that the person or organization be represented by a licensed attorney. A.R.S. § 40-243.B does contain an exception to this requirement. However, it only applies to public service corporations who may be represented by a corporate officer in lieu of an attorney under certain circumstances. There is no similar exception for other organizations. As a result, the Sun City Taxpayers Association would require attorney representation to appear as an intervening party in Commission proceedings.

Finally, you inquired about how to withdraw a Motion to Intervene. There is no formal process that has been dictated by Commission Rule for withdrawing from intervention in a matter. As a practical matter, having the individual who signed the Motion to Intervene sign and file a document specifically requesting that the intervention be withdrawn would likely be recognized by the Commission.

I hope you find the above information helpful and responsive to your requests. Please feel free to give me a call at (602) 542-6025 if you have any questions.

Sincerely,



Christopher C. Kempley
Chief Counsel

CCK:rbo

cc: Michael Kearns
Dean Miller