

ORIGINAL

BEFORE THE ARIZONA CORPORATION CO



0000080548

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35

COMMISSIONERS

Mike Gleason, Chairman
William A. Mundell
Jeff Hatch-Miller
Kristin K. Mayes
Gary Pierce

RECEIVED

2008 JAN 15 P 3:05

DOCKETED

JAN 15 2008

DOCKETED BY

28

IN THE MATTER OF THE
APPLICATION OF UNS ELECTRIC,
INC. FOR APPROVAL OF THE
ESTABLISHMENT OF JUST AND
REASONABLE RATES AND
CHARGES DESIGNED TO REALIZE
A REASONABLE RATE OF RETURN
ON THE FAIR VALUE OF THE
PROPERTIES OF UNS ELECTRIC,
INC.

Docket No. E-04204A-06-0783

Magruder Reply to
UNSE Response to
Late-Filed Exhibits
by
Marshall Magruder
12 January 2008

On 9 January 2008, UNSE responded to my 24 December 2007 "late-filed exhibits which implied no "new" information was contained therein. That response was mistaken.

First, from UNSE Reply Brief, I learned for the first time of a Nogales Educational Foundation. This resulted in new evidence in the "late filing." Mr. Pignatelli "stretched" seven Citizens awards to UNSE at no UNSE expense. I asked the former 35-year Citizen's manager, Vice President Mr. Tom Ferry. He knew nothing but what Mr. Pignatelli had testified.

Second, Mr. Pignatelli's "after a break" comment about seven "scholarships" was after my cross-examination. It is now evident, UNSE has never awarded any. All seven were awarded by Citizens before the August 2003 acquisition of Citizens.

Third, UNSE in 2007 is \$93,000 behind in awards and ignores the annual award amount (four years, at \$3,000 per year = \$12,000/year) condition of the ACC-approved City of Nogales-Citizens Settlement Agreement. UNSE (a) never imposed a condition for graduates to return to Santa Cruz County for two years, (b) never required students to attend Arizona schools, and (c) has not expended one cent to date.

Fourth, a new proposal in the UNSE Reply Brief that two "scholarships" (not loan) for four years was "generous" is as ungenerous to complying with the "annual" requirement as UNSE could make to this third-world County. This is a penalty for damages, not a charity donation. I had direct eye contact with the late Nogales Mayor before the City Council on this

1 subject. He clearly understood my goal to ensure full enforcement of this City of Nogales
2 Agreement. His signature is on the City's original Resolution in these late-filed exhibits. My
3 original aim was to determine if UNSE ratepayers or shareholders funded graduates who did
4 not return to work in our County. That is important. Most who leave for college never return to
5 work here. We sorely need young, local college graduates.

6 Fifth, UNSE Reply Brief commented my "evidence" was incomplete, so copies of
7 referenced ACC-filings from Docket Control were filed. UNSE continues to ignore these was
8 demonstrated by their continuous failure to understand these issues shown in both responses
9 to Data Requests and their "response" to all my evidence and even the late-filed exhibits.

10 Six, UNSE Reply Brief did bring new evidence to light that the Nogales Educational
11 Foundation was the source of the Citizens' loan awards. Discovery was unable to obtain this
12 information which also supports other discovery complaints in my testimony.

13 Seven, a deliberate failure to replace known defective underground electrical distribution
14 cables and utility poles or even respond with what was completed is contemptible when it
15 comes to improving distribution reliability, the root cause of low reliability in this service area
16 for the past decade. Copies of those referenced files from Docket Control were included.

17 Eight, UNSE fails to acknowledge the City and ACC Staff Settlement Agreements with
18 conforming and implementing ACC Orders. This lack of compliance is also evidenced by an
19 inactive Citizens Advisory Council with no meetings in seven years. Impending transmission
20 line projects, UNSE and UNSG rate cases, associated DSM Programs and impacts of REST
21 options are vital public interest issues. They should be put forward early, when options exist,
22 for local discussion and newspaper articles to gain local acceptance and confidence.

23 This is my first late-filed exhibit in two rate cases. All other parties have had them too.

24 Summary. UNSE must be honest and comply with Settlement Agreements, ACC
25 Decisions and improve its communications with public in this County. Their response did not.

26 Respectfully submitted on this 12^h day of January 2008 to all parties.

27
28
29
30 MARSHALL MAGRUDER

31 By 

32 Marshall Magruder

33 PO Box 1267

34 Tubac, Arizona 85646-1267

35 (520) 398-8587

marshall@magruder.org

1 **Service List**

2
3 Original and 15 copies of the foregoing are filed this date by mail:

4 **Docket Control** (13 copies)
5 **Arizona Corporation Commission**
6 1200 West Washington Street
7 Phoenix, Arizona 85007-2927

8 **Tenna Wolfe**, Administrative Law Judge (1 copy)
9 **Maureen Scott**, Senior Staff Counsel (1 copy)

10 Additional Distribution (1 copy each):

11 **Michael W. Patten**, Attorney for the Applicant
12 Roshka, DeWulf & Patten, PLC
13 One Arizona Center
14 400 East Van Buren Street, Suite 800
15 Phoenix, Arizona 85004-2262

16 **Raymond S. Heyman**, Corporate Counsel
17 **Michelle Livengood**, Attorney
18 UniSource Energy Services
19 One South Church Avenue, Ste 200
20 Tucson, Arizona 85701-1621

21 **Scott S. Wakefield**, Chief Counsel
22 **Daniel Pozefsky**, Assistant Chief Counsel
23 Residential Utility Consumer Office (RUCO)
24 1110 West Washington Street, Ste 220
25 Phoenix, Arizona 85007-2958

26 **Robert J. Metli**, Attorney for PWCC and APS
27 Snell & Wilmer, L.L.P.
28 One Arizona Center
29 400 East Van Buren Street
30 Phoenix, Arizona 85004-2202

31 **Thomas L. Mumaw**, Attorney for PWCC
32 **Deborah A. Scott**, Attorney for PWCC
33 Pinnacle West Capital Corporation
34 P. O. Box 53999, Mail Station 8695
35 Phoenix, Arizona 85072-3999

Barbara A. Clemstine, Attorney for APS
Arizona Public Service Company
P. O. Box 53999, Mail Station 9708
Phoenix, Arizona 85072-3999

Interested Parties (1 copy each):

Santa Cruz County Supervisors:
Manny Ruiz, Chairman
Bob Damon, Supervisor
John Maynard, Supervisor
Louis Parra, Assistant Santa Cruz County
Attorney
Santa Cruz County Complex
2150 North Congress Drive
Nogales, Arizona 85621-1090

City of Nogales
Jan Smith-Florez, City Attorney
Michael Massey, Assistant City Attorney
Nogales City Hall
777 North Grand Avenue
Nogales, Arizona 85621-22621