



ORIGINAL

BEFORE THE ARIZONA CORPORATION COMMISSION  
Arizona Corporation Commission

2 COMMISSIONERS

2008 JUN 23 P 12: 58

DOCKETED

3 MIKE GLEASON, Chairman  
4 WILLIAM A. MUNDELL  
5 JEFF HATCH-MILLER  
6 KRISTIN K. MAYES  
7 GARY PIERCE

AZ CORP COMMISSION  
DOCKET CONTROL

JUN 23 2008

DOCKETED BY

8 IN THE MATTER OF THE COMPLAINT  
9 OF THE BUREAU OF INDIAN AFFAIRS,  
10 UNITED STATES OF AMERICA,  
11 AGAINST MOHAVE ELECTRIC  
12 COOPERATIVE, INC. AS TO SERVICES  
13 TO THE HAVASUPAI AND HUALAPAI  
14 INDIAN RESERVATIONS.

DOCKET NO. E-01750A-05-0579

**PROCEDURAL ORDER DENYING MOTION  
FOR PARTIAL SUMMARY JUDGMENT  
AND SETTING HEARING**

**BY THE COMMISSION:**

15  
16 On August 10, 2005, the Bureau of Indian Affairs, United States of America, ("BIA" or  
17 "Complainant") filed the above-captioned Complaint<sup>1</sup> against Mohave Electric Cooperative, Inc.  
18 ("Mohave," "MEC" or "Respondent") with the Commission.

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<sup>1</sup> Among other issues, the Complaint concerns an electric power line that starts at Mohave's Nelson Substation and runs approximately 70 miles north, northeast, to the Long Mesa Transformer, located at the rim of the Grand Canyon, Arizona ("Power Line"); a contract entered into on October 1, 1981, by the BIA and Mohave ("Contract"); and a quitclaim deed which Mohave claims transferred Mohave's interest in the Power Line to the BIA, the Havasupai Tribe and the Hualapai Tribe ("Tribes"). BIA's Complaint requests that the Commission enter an Order declaring:

- (A) Mohave shall not transfer or abandon the Power Line or the easement for the right of way;
  - (B) The Power Line is part of Mohave's service territory;
  - (C) The BIA is a retail customer of Mohave for receipt of electricity and electrical distribution service over the Power Line;
  - (D) Mohave's point of delivery of electricity and electrical distribution service to the BIA is the line side of the Long Mesa Transformer;
  - (E) Mohave shall forthwith place a meter on the Power Line on the line side of the Long Mesa Transformer for the determination of the electricity used by the BIA;
  - (F) Mohave shall cease charging the BIA for electricity and electrical distribution service of that portion of the Power Line costs attributable to Mohave's approximately fourteen customers rather than attributable to the BIA;
  - (G) Mohave shall continue to provide electricity and electrical distribution service at Long Mesa to the BIA under the Contract;
  - (H) Mohave shall continue to operate, maintain, repair and replace the Power Line as needed;
  - (I) Mohave's attempted quitclaim of Mohave's Nelson-Long Mesa Power Line, and Mohave's easement for the right-of-way to the BIA and the Tribes is in violation of A.R.S. § 40-285;
  - (J) Mohave shall provide restitution for past BIA expenditures concerning the maintenance and upkeep of the Power Line as well as past BIA payments for electricity and electrical distribution service for the approximately fourteen non-BIA customers utilizing the Power Line; and
  - (K) [G]ranteeing the BIA such additional and further relief as is appropriate under the circumstances.
- (BIA Complaint ¶ 40.).

1 On October 6, 2005, Mohave filed an Answer and Motion to Dismiss BIA's Complaint.

2 On September 7, 2006, following numerous filings and several procedural conferences, a Pre-  
3 Hearing Conference was held in this matter as scheduled by Procedural Order issued on August 4,  
4 2006. The BIA, Mohave and the Commission's Utilities Division Staff entered appearances through  
5 counsel and discussed procedural issues related to the Complaint.  
6

7 On September 11, 2006, a Settlement Conference Procedural Order was issued setting a  
8 settlement conference to commence on September 26, 2006, and informing the parties of procedural  
9 requirements related to the settlement conference. By Procedural Order issued September 20, 2006,  
10 the settlement conference was continued to October 17, 2006.  
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12 On September 21, 2006, Mohave filed a proposed Discovery Plan.

13 On October 5, 2006, the BIA filed a Response to Mohave's Proposed Discovery Plan.

14 On October 10, 2006, Mohave filed a Reply to BIA's Response to Mohave's Proposed  
15 Discovery Plan.

16 Also on October 10, 2006, Mohave filed a Notice of Filing Outage Response Plan, and  
17 docketed a copy of a letter to Governor Napolitano.  
18

19 On October 16, 2006, the BIA filed a Motion for Partial Summary Judgment and Statement of  
20 Facts in Support of its Motion for Partial Summary Judgment.

21 On October 18, 2006, a Procedural Entry was docketed indicating that the settlement  
22 conference ordered by the September 11, 2006 Procedural Order and continued by the September 20,  
23 2006 Procedural Order had been held as scheduled on October 17, 2006, that the BIA and Mohave  
24 had appeared with counsel at the settlement conference, and that the parties had been unable to  
25 resolve the issues raised by the Complaint in this proceeding.  
26

27 On October 23, 2006, the BIA filed a Motion for Protective Order.  
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1           On October 30, 2006, Mohave filed a Response to the BIA's Motion for Protective Order, a  
2 Motion to Compel Discovery, a Motion to Establish a Discovery Schedule, and a Motion to Suspend  
3 Time for Filing Response to the BIA's Motion for Partial Summary Judgment.  
4

5           A Procedural Conference was held on November 1, 2006. Mohave and BIA appeared  
6 through counsel and discussed issues raised in Mohave's September 21, 2006 Proposed Discovery  
7 Plan, the BIA's October 5, 2006 Response to Mohave Electric's Proposed Discovery Plan, Mohave's  
8 October 10, 2006 Response to Mohave's Proposed Discovery Plan, the BIA's October 23, 2006  
9 Motion for Protective Order, Mohave's Response to the BIA's Motion for Protective Order,  
10 Mohave's Motion to Compel Discovery, Mohave's Motion to Establish a Discovery Schedule, and  
11 Mohave's Motion to Suspend Time for Filing Response to the BIA's Motion for Partial Summary  
12 Judgment.  
13

14           At the conclusion of the November 1, 2006 Procedural Conference, the BIA's Motion for  
15 Protective Order was granted in part and denied in part, Mohave's Motion to Compel was granted in  
16 part and denied in part, and Mohave's Motion to Establish a Discovery Schedule was partially  
17 granted. Based on the discovery schedule established at the November 1, 2006, Procedural  
18 Conference, the time for Mohave to file a response to the BIA's Motion for Partial Summary  
19 Judgment was extended to March 26, 2007.  
20

21           On February 5, 2007, Mohave filed an affidavit discussing Mohave's response to the BIA  
22 report of an October 6-7, 2006 outage, and a copy of a November 14, 2006, letter to the Secretary of  
23 the U.S. Department of the Interior.

24           On February 20, 2007, the BIA filed copies of responses to the November 14, 2006, letter.

25           On March 27, 2007, Mohave filed a Procedural Motion to Extend Filing Deadline, and also  
26 filed its Response to the BIA's Motion for Partial Summary Judgment.  
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1 On April 4, 2007, Mohave filed a copy of an April 4, 2007, letter to Arizona Public Service  
2 Company and Unisource Energy Corporation.

3 On April 12, 2007, Mohave filed a Notice of Late Filing Exhibits.

4 On April 16, 2007, the BIA filed its Reply in Support of Motion for Partial Summary  
5 Judgment, its Reply Statement of Facts in Support of its Motion for Partial Summary Judgment and  
6 in Response to Mohave's Statement of Disputed Facts and Additional Facts in Response to BIA's  
7 Motion for Partial Summary Judgment, and its Response to Mohave Electric's Notice of Late Filing  
8 of Exhibits.

9 On May 29, 2007, the BIA filed a Request for Oral Argument on its Motion for Partial  
10 Summary Judgment. The BIA stated in its Request that its Motion had been fully briefed.

11 On June 7, 2007, a Procedural Order was issued setting a Procedural Conference for July 18,  
12 2007, for the purpose of taking oral argument on the Motion for Partial Summary Judgment filed by  
13 Complainant on October 16, 2006, and the Response to the Motion for Partial Summary Judgment  
14 filed by Mohave on March 27, 2007.

15 On July 9, 2007, Mohave docketed a Notice of Filing, to which was attached a portion of the  
16 transcript of a March 29, 2007, Appropriations Committee Hearing; a list of written questions; a copy  
17 of an email exchange between counsel for Mohave and Jan Bennett, Vice President, Customer  
18 Service, Arizona Public Service Company; and a copy of a permit allowing Asplundh Tree Experts,  
19 as Mohave's assignee contractor, to come on to the Hualapai Reservation to survey, inspect and  
20 prepare cost estimates and scope of work for right-of-way tree maintenance from Mile Markers 7-30.

21 On August 29, 2007, Bryan Cave LLP filed a Notice of Association of Counsel, indicating  
22 that it had associated with Michael A. Curtis, William P. Sullivan and Larry K. Udall of Curtis,  
23 Goodwin, Sullivan, Udall & Schwab, PLC, existing counsel of record for Mohave in this proceeding.

1 On April 2, 2008, Mohave filed a Notice of Docketing and Request to Supplement the  
2 Record. The April 2, 2008, Notice states that Mohave, UNS Electric, Inc., and Arizona Public  
3 Service Company entered into an Operations Protocol Agreement on or about November 13, 2007. A  
4 copy of an Operations Protocol Agreement was attached to the April 2, 2008, Notice.  
5

#### 6 **BIA'S MOTION FOR PARTIAL SUMMARY JUDGMENT**

7 BIA's Motion for Partial Summary Judgment asserts that it is entitled to judgment, as a matter of law:

- 8 1. Finding that BIA and other customers along the Power Line are Mohave's  
9 retail electric customers;
- 10 2. Finding that Mohave's service territory includes the area served by the  
11 Power Line;
- 12 3. Voiding Mohave's transfer of the Power Line to BIA and the Tribes;
- 13 4. Declaring that Mohave owns the line;
- 14 5. Ordering Mohave to operate and maintain the line; and
- 15 6. Ordering Mohave to relocate BIA's electric meter currently located at the  
16 beginning of the line to its original location at the end of the line.

#### 17 **DISCUSSION**

18 Rule 56(c)(1) of the Arizona Rules of Civil Procedure establishes that summary judgment  
19 shall be rendered "if the pleadings, deposition, answers to interrogatories, and admissions on file,  
20 together with the affidavits, if any, show that there is no genuine issue as to any material fact and that  
21 the moving party is entitled to a judgment as a matter of law." Arizona case law has established that  
22 "the entire record" is to be examined in evaluating a motion for summary judgment. See *Chanay v.*  
23 *Chittenden*, 115 Ariz. 32, 37 (1977) (citing *Krumtum v. Burton*, 111 Ariz. 448 (1975); *Stevens v.*  
24 *Anderson*, 75 Ariz. 331 (1953)).  
25

26 In *Orme School v. Reeves*, 166 Ariz. 301 (1990), the Arizona Supreme Court established the  
27 Arizona standard for summary judgment in light of changes adopted by the U.S. Supreme Court. The  
28

1 *Orme* Court held that, although a trial judge considering a motion for summary judgment must  
2 evaluate the evidence to some extent, the standard to be applied is the same as that used for a directed  
3 verdict: “Either motion should be granted if the facts produced in support of the claim or defense  
4 have so little probative value, given the quantum of evidence required, that reasonable people could  
5 not agree with the conclusion advanced by the proponent of the claim or defense.” *Orme*, 166 Ariz.  
6 at 309. The Court went on to clarify that it was not altering the traditional rule that while a court may  
7 not grant summary judgment if the standard is not met, it can deny summary judgment even when  
8 there does not appear to be a genuine dispute over any material fact. *Id.* The Court also explained  
9 that the non-movant’s evidence is to be believed and that all justifiable inferences are to be drawn in  
10 the non-movant’s favor. *Id.* at 309-10. Finally, the Court explained that a motion for summary  
11 judgment should be granted if the party with the burden of proof on a claim or defense cannot show,  
12 in response to the movant’s assertion that there is no evidence to support an essential element of the  
13 claim or defense, that there is evidence creating a genuine issue of fact on the element in question.  
14 *Id.* at 310.

17 1. BIA’s request for summary judgment finding that BIA and other customers along the Power  
18 Line are Mohave’s retail electric customers

19 A.R.S. § 40-201 provides: “Retail electric customer’ means a person who purchases  
20 electricity for that person’s own use, including use in that person’s trade or business, and not for  
21 resale, redistribution or retransmission.” The terms “resale,” “redistribution,” and “retransmission”  
22 are not defined in the statute or in the Commission’s rules for electric utilities.  
23

24 It appears that the individuals served by the Power Line would likely meet the definition for  
25 retail electric customers, as there is nothing in the record to indicate that they purchase the power for  
26 resale, redistribution, or retransmission. The question remains, however, whose retail electric  
27 customers they are.  
28

1 Mohave alleges that BIA began operating the electrical system for the Havasupai Tribe in the  
2 early 1970s, (*See* Mohave SOF Ex. 7); that BIA stated in a 1987 letter that it was trying to get out of  
3 the utility business, (Mohave SOF Ex. 27); that negotiations that occurred between BIA and the  
4 Havasupai Tribe for the transfer of the electrical power distribution system serving the Havasupai  
5 tribal lands, which BIA had been operating and maintaining, mentioned arrearages of customers  
6 served by the system, (*See id.*); and that a December 1989 Department of the Interior Issue Paper  
7 related to electric service to Supai Village also states that the power supply served a BIA facility, the  
8 Tribe, and individual households, and that BIA was charging user fees, (*See* Mohave SOF Ex. 27).  
9

10 For purposes of a determination on the Motion for Partial Summary Judgment, we assume  
11 that Mohave's allegations regarding the existence of evidence that BIA has been reselling and  
12 redistributing the electricity received from Mohave are true. Therefore it is inappropriate to grant  
13 BIA summary judgment on this issue.  
14

15 2. BIA's request for summary judgment finding that Mohave's service territory includes the area  
16 served by the Power Line

17 Arizona statutes define "Service territory" as follows:

18 "Service territory" means the geographic area in which a public power entity or  
19 public service corporation owns, operates, controls or maintains electric distribution  
20 facilities or natural gas distribution facilities and that additional area in which the  
21 public power entity or public service corporation has agreed to extend electric  
22 distribution facilities or natural gas distribution facilities, whether established by a  
23 certificate of convenience and necessity, by official action by a public power entity or  
24 by contract or agreement."

25 A.R.S. § 40-201.

26 "Electric distribution facilities' means all property used in connection with the distribution of  
27 electricity from an electric generating plant to retail electric customers except electric transmission  
28 facilities." *Id.* (emphasis added). "Electric transmission facilities' means all property so classified  
by the federal energy regulatory commission or, to the extent permitted by law, so classified by the  
Arizona corporation commission." *Id.*

1 If the Power Line is a distribution line, as opposed to a transmission line, it would appear to  
2 fall within "electric distribution facilities" and thus to be included within the definition of "service  
3 territory," as an extension of Mohave's electric distribution facilities by contract. The record does  
4 not conclusively establish, however, whether the Power Line is a distribution line or a transmission  
5 line, as the Power Line is referred to in both ways within the record and even within the Contract  
6 itself. (*See, e.g., supra* note 1 (quoting addendum to the Contract).)

8 In support of its assertion that the area served by the Power Line is within Mohave's service  
9 territory, BIA stated that Mohave filed with the Commission on May 30, 1986, Mohave's amended  
10 articles of incorporation, in which Mohave acknowledged that its service area extended to Long  
11 Mesa, the end of the Power Line. (BIA SOF ¶ 12.) The document provided by BIA to support this is  
12 a March/April 1986 Mohave Member Newsletter showing that "District 1 encompasses the entire  
13 service area of the co-op that lies east of Kingman and includes . . . Long Mesa." (BIA SOF Ex. 13 at  
14 7.) Mohave asserts that the Member Newsletter was not part of the amendment discussed in BIA  
15 SOF ¶ 12 (which is also included as part of BIA SOF Ex. 13) and is not a legally binding document.  
16 (Mohave SOF ¶ 12.) Mohave is correct that the Member Newsletter is not part of the amendment to  
17 the articles of incorporation. Rather, it appears to have been filed as Exhibit A to the Affidavit  
18 accompanying the amendment. The Affidavit refers to the Newsletter as a true copy of the notice of  
19 the annual meeting that was mailed to the Mohave members. (BIA SOF Ex. 13 at 4-5.) The  
20 Newsletter's inclusion of Long Mesa within Mohave's characterization of the service area in 1986  
21 does not appear to be conclusive evidence of its inclusion in Mohave's service territory.

22 Also, as Mohave has pointed out, (*see* Mohave's Response to Motion for Partial Summary  
23 Judgment at 11), the Commission has referred to the line as a transmission line and seems to have  
24 distinguished the line and the area served by the line from Mohave's service area. In approving  
25 Mohave's loan from the Rural Electrification Administration obtained to fund construction of the  
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1 Power Line, the Commission stated that the proceeds would be used to construct “an electric line  
2 extension from applicant’s certified area across a portion of the Hualapai and Havasupai Indian  
3 Reservation located north of Route 66 on and adjacent to the Supai Road, Coconino County,  
4 Arizona.” Decision No. 51491 (Oct. 22, 1980) at 1 (emphasis added). Then, in a subsequent rate  
5 case, the Commission specifically excluded from TIER and rate-of-return calculations \$32,000 in  
6 interest associated with the Power Line, stating:  
7

8       One further point is relevant in this regard. MEC has included \$32,000 in interest  
9 associated with a **transmission line** dedicated to serving the Hualapai Indian  
10 Reservation, a line which presently produces no revenue. Staff has likewise included  
11 this interest in its calculations of TIER. The Commission believes that both parties  
12 erred in effectively asking MEC’s ratepayers to pay for plant which is not used and  
13 useful, will not be used and useful, and was never intended to be used and useful in  
14 the provision of electric service to such ratepayers. MEC has recognized this inequity  
15 by excluding the **transmission line** from rate base and proposing to segregate all  
16 expenses and revenues associated with the line. These gestures are meaningless if  
17 ratepayers must still provide TIER coverage for this investment. Therefore, the  
18 Commission will eliminate the \$32,000 interest expense from the calculation of TIER  
19 and rate of return.

20 Decision No. 53174 (Aug. 11, 1982) at 8-9 (underlining in original; bolding added).

21       There appears to be a genuine issue of material fact as to whether the Power Line is a  
22 distribution line or a transmission line and, thus, whether the area served by the Power Line is within  
23 Mohave’s service territory. Summary judgment is inappropriate as to this issue.  
24

25 3. BIA’s request for summary judgment voiding Mohave’s transfer of the Power Line to BIA  
26 and the Tribes

27       Mohave executed a “Notice of Quit Claim, Conveyance and Assignment of Interest and  
28 Abandonment of Property” in July 2003, purporting to abandon to BIA, the Hualapai Indian Tribe,  
and the Havasupai Indian Tribe all of its interest in the real and personal property and fixtures  
described on three attached Exhibits as well as its interest in a Pole Line License Agreement. (BIA  
SOF Ex. 14.) The cover letter sent to BIA and the Tribes along with the Notice of Quit Claim  
provided that the attachments were a “description of the accounts and facilities that are now owned

1 by your entities, as your interests may be established.” (*Id.*) In July 2003, Mohave also wrote to the  
2 Hualapai customers to inform them that their retail electric service had been transferred to the BIA as  
3 the only entity authorized to deliver retail electric service to the customers on tribal lands. (BIA SOF  
4 Ex. 9.)

5  
6 BIA has asserted that it never accepted the conveyance and that the conveyance by quitclaim  
7 deed is thus void. (BIA Complaint ¶ 28; *Id.* Ex. 15). Mohave has asserted that the BIA’s exercising  
8 dominion and control over the line after Mohave’s execution of the quitclaim deed, specifically by  
9 interconnecting a 13.6 mile line to the Power Line, was an acceptance of the conveyance in the  
10 quitclaim deed. (Mohave Response at 18-19; Mohave SOF ¶ 13.) In support of this contention,  
11 Mohave produced a Final Administrative Draft Environmental Assessment for the Havasupai Bar 4  
12 Community Project, prepared by Tetra Tech, Inc. of Boulder, Colorado, and dated November 2003.  
13 (Mohave SOF Ex. 48.) This document states that construction of an electrical supply line to Bar Four  
14 was funded by a FY1998 HUD Indian Community Development Block Grant, that BIA funded an  
15 environmental assessment that was completed in 2002 and updated in 2003, and that construction  
16 began in September 2003 for the approximately 13.6-mile line running from the Long Mesa Turn to  
17 the proposed emergency services site at Bar Four on the Havasupai Reservation. (*Id.* at 1-3.) BIA  
18 has stated that BIA and the Tribes had no alternative but to assert some type of control over the line  
19 after Mohave had abandoned it and also stated that Mohave’s assertion of BIA’s actively  
20 participating in the planning of the additional 13 miles of line is based on inadmissible or nonexistent  
21 evidence. (BIA Reply at 12.)

22  
23  
24 If the evidence presented by Mohave is considered in the light most favorable to it, there  
25 remains an issue of material fact whether BIA accepted the conveyance under the quitclaim deed  
26 through its subsequent conduct related to the extension of the line. It would therefore be  
27 inappropriate to grant summary judgment as to this issue.  
28

1 4. BIA's request for summary judgment declaring that Mohave owns the Power Line

2 This issue is inextricably linked to the issue regarding whether the transfer by quitclaim deed  
3 is void. If summary judgment is inappropriate as to the quitclaim deed issue, it is also inappropriate  
4 as to this issue.  
5

6 5. BIA's request for summary judgment ordering Mohave to operate and maintain the Power  
7 Line

8 This issue is also inextricably linked to the issue regarding the transfer by quitclaim deed. If  
9 summary judgment is inappropriate for that issue, it is also inappropriate for this issue.

10 6. BIA's request for summary judgment ordering Mohave to relocate BIA's electric meter  
11 currently located at the beginning of the Power Line to its original location at the end of the  
12 Power Line

13 This issue is also inextricably linked to the issue regarding the transfer by quitclaim deed.  
14 There are issues of fact as to who now owns the line and who is responsible to operate and maintain  
15 the line. Without resolving these issues, it is impossible to determine whether Mohave is responsible  
16 for relocating the electric meter to its original location. Because summary judgment is inappropriate  
17 for those issues, it is also inappropriate for this issue.

18 **CONCLUSION**

19 For the reasons set forth in the discussion above, summary judgment on the issues requested  
20 by BIA is inappropriate. A hearing should therefore be scheduled on the Complaint.

21 The request for relief in BIA's Complaint is not entirely consistent with BIA's Motion for  
22 Partial Summary Judgment. During the Procedural Conference held on November 1, 2006, BIA  
23 conceded that the Contract is no longer effective, and that the Contract has no bearing on Mohave's  
24 obligations in this case. (Tr. of 11/1/06 Procedural Conference at 21-22.) BIA should be required to  
25 amended its Complaint to reflect its position regarding the Contract's effectiveness.  
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1 IT IS THEREFORE ORDERED that the Motion for Partial Summary Judgment filed in this  
2 docket by the Bureau of Indian Affairs, United States of America, is hereby denied.

3 IT IS FURTHER ORDERED that the Bureau of Indian Affairs, United States of America,  
4 shall, by July 21, 2008, make a filing in this docket amending its Complaint to reflect its position  
5 regarding the Contract's effectiveness.  
6

7 IT IS FURTHER ORDERED that a **hearing** shall be held in this matter commencing at **10:00**  
8 **a.m. on September 3, 2008**, or as soon thereafter as is practical, in Hearing Room 1 of the  
9 Commission's offices, 1200 West Washington, Phoenix, Arizona, 85007.

10 IT IS FURTHER ORDERED that the Bureau of Indian Affairs, United States of America; the  
11 Commission's Utilities Division Staff; and Mohave Electric Cooperative, Inc. shall each file, by  
12 August 4, 2008, a list of witnesses. The witness lists shall specify which issues in the Complaint that  
13 each witness will be available to address at the hearing.  
14

15 IT IS FURTHER ORDERED that the time periods specified herein shall not be extended  
16 pursuant to Rule 6(a) or (e) of the Rules of Civil Procedure.

17 IT IS FURTHER ORDERED that all parties must comply with Rules 31 and 38 of the Rules  
18 of the Arizona Supreme Court and A.R.S. § 40-243 with respect to practice of law and admission *pro*  
19 *hac vice*.  
20

21 IT IS FURTHER ORDERED that withdrawal of representation must be made in compliance  
22 with A.A.C. R14-3-104(E) and Rule 1.16 of the Rules of Professional Conduct (under Rule 42 of the  
23 Rules of Arizona Supreme Court). Representation before the Commission includes appearances at all  
24 hearings and procedural conferences, as well as all Open Meetings for which the matter is scheduled  
25 for discussion, unless counsel has previously been granted permission to withdraw by the  
26 Administrative Law Judge or the Commission.  
27  
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1 IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113 - Unauthorized  
2 Communications) applies to this proceeding and shall remain in effect until the Commission's  
3 Decision in this matter is final and non-appealable.  
4

5 IT IS FURTHER ORDERED that the Administrative Law Judge may rescind, alter, amend,  
6 or waive any portion of this Procedural Order either by subsequent Procedural Order or by ruling at  
7 hearing.

8 DATED this 23<sup>rd</sup> day of June, 2008.



TEENA WOLFE  
ADMINISTRATIVE LAW JUDGE

13  
14 Copies of the foregoing mailed/delivered  
this 23<sup>rd</sup> day of June, 2008 to:

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By:   
Debbi Person  
Secretary to Teena Wolfe