

FORMAL COMPLAINT



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ORIGINAL

BEFORE THE ARIZONA CORPORATION CC

Arizona Corporation Commission

DOCKETED

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Kristin K. Mayes  
Gary Pierce

Docket No. E-04204A-06-0783

A Formal Complaint

Against E-04204A-08-0589

UNS Electric, Inc.

5 December 2008

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.

This formal complaint requests that each of the three issues discussed below be expeditiously resolved, completed and finalized in a formal hearing before the Commission or a Hearing Officer.

This party will not have an attorney and will represent himself.

This party has submitted many filings in this case that have been continually ignored by UNS Electric, Inc., that resulted in three actions that the extended beyond the completion of this case and continued within ACC Order No. 70360.

These actions involve the failure of UNS Electric to comply with details contained in ACC Orders No. 61793 and No. 62011.

A "Motion to Demand Compliance with ACC Orders" was submitted on 7 November 2008 and an incomplete "response" by UNS Electric dated 1 December 2008. This response also stated: "UNS Electric maintains that it does not have an obligation under the 1999 [City of Nogales-Citizens] Settlement Agreement" which is one of several reasons this formal complaint is being filed. The Company has produced no evidence that shows it is not required to comply with this City of Nogales agreement and subsequent implementing ACC Orders while this party has provided such evidence.

When UniSource Energy purchased Citizens Communications assets, a "Purchase Agreement" and filed with the Commission, was signed by both companies in October 2002 that listed three "assumed liabilities":

- (1) ACC Order No. 61793,
- (2) ACC Order No. 62011, and
- (3) The Settlement Agreement between the City and Citizens.

This evidence is clear and indisputable but it has been repeatedly been denied by the Company to avoid compliance and its attempt to change the character of its required actions, for example, in the

1 case of the student awards to "charity" (tax deductible) instead of actions required in compensation  
2 of damages (non-tax deductible). Both the ACC Orders and the Settlement Agreement require  
3 complete assumption of these orders and associated agreements if ownership changed.

4 As a result of obscuring and avoidance of its ACC-ordered obligations, incomplete filings such  
5 as failure to serve copies to RUCO and this party, and the lack of evidence and exhibits to support its  
6 position, none of the three issues in ACC Order No. 70360 have been resolved to date, well beyond  
7 the anticipated deadlines in that order, namely:

- 8 a. Scholarship/Loans that the Company is now \$104,000 in arrears in awards,
- 9 b. Provisions to notify all customers on life-support during an electrical outage, and
- 10 c. Completion of 32 projects to replace defective utility poles and underground cables in a  
11 Plan of Action ordered by the Commission.

12 The first and third of these issue are in Commission Orders as responses for unsatisfactory  
13 performance and unreliable service, the Formal Complaint to the Commission filed by the Mayor and  
14 City Council of the City of Nogales, and failure to renew the City's franchise agreement. The second  
15 issue is customer safety-oriented and was developed during the course of hearings in this docket.

16 This party has proposed solutions for all three issues throughout these hearings in testimony,  
17 briefs, and exceptions and in filings since ACC Order No. 70360. Only in the case of student awards  
18 has the company proposed any form of an agreement, that was rejected last month by the City  
19 Council, to reduce from \$12,000 per year to \$8,000 per year its awards, without any recovery of the  
20 \$104,000 in arrears, limiting the time for such awards, changing the character of the awards that are  
21 aimed at reducing the "brain drain" in this County by not requiring the student to return to this county  
22 where local college graduates are minimal, and other features in that agreement. It seems  
23 administration of this program is beyond the capabilities of this Company and this party has even  
24 submitted recommendations to reduce this to about four or so hours per year to accomplish this task.

25 As noted in my testimonies in this case, distribution reliability indices have shown a decrease  
26 in reliability since ownership was changed in 2003. In the past five months there have been major  
27 service area wide (16,000 customer) outages up to 4 hours and 20 minutes, including the latest on  
28 the evening before Thanksgiving Day, due to transmission failures that all exceed the 15 minutes  
29 standard in the Commission-Approved "Outage Response Plan" for the Santa Cruz service area.

30 This party has continually worked to resolve all three of these issues before this Commission,  
31 including the first and third issues in filings since July of 2005 and before in oral testimonies in 2003,  
32 without any resolution, including this party's latest filings of 25 August 2008 (outage notification), 15  
33 September 2008 (replacement of defective utility poles and underground cables), and 10 November  
34 2008 (student awards) in this docket.

1 Throughout the entire proceedings in this case, UNS Electric has continually avoided  
2 resolution of issues and any acknowledgement of its required compliance with ACC Order No. 61793  
3 that implemented the City of Nogales Settlement Agreement, with ACC Order No. 62011 that  
4 approved the ACC Staff Agreement to implement a Plan of Action that included the 32 pole and cable  
5 replacement projects, and that the Company has any *moral* or *ethical*, if not at least a safety,  
6 *obligation*, to provide information to the County Sherriff and City Police Chief so that all customers on  
7 life-support can be notified by First Responders during an electrical outage.

8 I respectfully request that this be formalized, evidence presented, and these three issues be  
9 resolved and using the "formal complaint" process is the being used as a last resort to ensure public  
10 service obligations of the Company are upheld in this county.

11  
12 Respectfully submitted on this 5<sup>th</sup> day of December 2008

13 MARSHALL MAGRUDER

14 By   
15

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