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BEFORE THE ARIZONA CORPORATION

IN THE MATTER OF THE COMPLAINT OF)
THE BUREAU OF INDIAN AFFAIRS,)
UNITED STATES OF AMERICA, AGAINST)
MOHAVE ELECTRIC COOPERATIVE, INC.)
AS TO SERVICES TO THE HAVASUPAI)
AND HUALAPAI INDIAN RESERVATIONS.)

DOCKET NO.
E-01750A-05-0579

PROCEDURAL
CONFERENCE

At: Phoenix, Arizona
Date: December 19, 2008

Filed: **JAN 07 2009**

Arizona Corporation Commission

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1 BE IT REMEMBERED that the above-entitled and
2 numbered matter came on regularly to be heard before the
3 Arizona Corporation Commission, in Hearing Room 100 of
4 said Commission, 1200 West Washington Street, Phoenix,
5 Arizona, commencing at 1:30 p.m., on the 19th day of
6 December, 2008.

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9 BEFORE: TEENA WOLFE, Administrative Law Judge

10

11 APPEARANCES:

12

13 For the Bureau of Indian Affairs:

14 US ATTORNEY'S OFFICE
By Ms. Wonsook Sprague
15 40 North Central Avenue, Suite 1200
Phoenix, Arizona 85004

16

17 For Mohave Electric Cooperative, Inc.:

18 BRYAN CAVE LLP
By Mr. Steven Hirsch
19 Two North Central Avenue, Suite 2200
Phoenix, Arizona 85004

20

21 KATE E. BAUMGARTH, RPR
Certified Reporter
22 Certificate No. 50582

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1 ALJ WOLFE: Let's go back on the record.

2 Good afternoon, and welcome back to this day of
3 hearing for Docket No. E-01750A--05-0079.

4 Let's take appearances today just for the record,
5 beginning with the Complainant.

6 MS. SPRAGUE: Wonsook Sprague, Agency's counsel
7 for the BIA.

8 Mr. Wenker could not be here today, so he asked
9 me to attend in his stead.

10 ALJ WOLFE: And for Respondent?

11 MR. HIRSCH: Steven Hirsch from Bryan Cave for
12 Respondent Mohave Electric.

13 ALJ WOLFE: And, if my memory serves me
14 correctly, we are here to discuss what type of response
15 the BIA has to the supplemental testimony.

16 MS. SPRAGUE: Yes, Your Honor. We have received
17 the supplement testimony, and we will submit a written
18 response.

19 And we have also discussed the deadlines for the
20 response, and we have agreed.

21 Do you want me to go ahead?

22 MR. HIRSCH: Judge, Wonsook can represent what
23 our agreement will be. We will have a proposal agreement
24 as to when the complainant's, its responsive testimony
25 would be submitted, and a proposed simultaneous opening

1 and simultaneous answer brief date for your consideration.

2 Go ahead.

3 MS. SPRAGUE: We have agreed for the BIA to
4 submit a response to the supplemental testimony by
5 January 16th, simultaneous closing by February 20th and
6 the surclosings by March 16th.

7 ALJ WOLFE: Okay. That sounds acceptable to me.
8 I am glad the parties could come up with the dates.

9 Are there any other procedural matters that we
10 have left undecided?

11 MR. HIRSCH: I don't think so. It's a little
12 unusual. We are cutting a few corners by agreement in
13 terms of submitting testimony. We had Mr. Neidlinger, as
14 you have seen, under oath, and I believe the Agency is
15 going to submit theirs under oath.

16 And I think in our cover sheet we, by motion,
17 moved for admission of it and the attached exhibit, which
18 was just a cost of service study and I think a resume of
19 Mr. Neidlinger.

20 I think there is a general agreement. Obviously,
21 we haven't seen what the BIA is submitting, but each side
22 would submit to you that you should use your discretion
23 and admit those so we don't have to come before you again
24 by way of reopening the hearing.

25 ALJ WOLFE: Okay. I will wait and do that in the

1 order, unless there is any objection at this time to doing
2 that, because I don't want to admit one and not the other.

3 MS. SPRAGUE: We don't have an objection at this
4 time.

5 MR. HIRSCH: That's fine.

6 ALJ WOLFE: And at this time I assume you don't
7 have any objection to Mr. Neidlinger's testimony?

8 MS. SPRAGUE: No, Your Honor.

9 ALJ WOLFE: All right then.

10 Go ahead.

11 MS. SPRAGUE: And we will submit the statement,
12 the response, in the form of an affidavit, just like
13 Mohave did.

14 ALJ WOLFE: Okay. That is acceptable.

15 And, of course, if there is an objection, you can
16 make it in writing or you can ask for a procedural
17 conference.

18 MR. HIRSCH: Very good.

19 MS. SPRAGUE: And, Your Honor, there was a couple
20 things that I wanted to clarify.

21 ALJ WOLFE: Okay.

22 MS. SPRAGUE: With respect to the closing, we
23 weren't sure if there were any page limitations.

24 ALJ WOLFE: I don't think there's a need for page
25 limitations, but if the parties want to agree to page

1 limitations, you may.

2 I don't know if I said anything about the briefs
3 at the beginning of the proceeding, but if there are any
4 issues that aren't addressed in the briefs, I will
5 consider them waived. So I just want you to cover every
6 issue that you would like covered in the Recommended
7 Opinion and Order that the commissioners will be basing
8 their decision on. That is the main thing that I want to
9 get across to the parties regarding the briefs.

10 Do you have a request for page limitations or did
11 you just want to know whether there is one?

12 MS. SPRAGUE: Well, we weren't sure about how
13 many pages the briefs normally are. This is rather
14 unusual to have written closings.

15 ALJ WOLFE: I see. In our briefing, what I like
16 to do is I like to have it in writing because I like to
17 have citations to the record, citations to the transcript
18 and to hearing exhibits clearly set forth in the brief so
19 I can use them in the Recommended Opinion and Order and
20 also so the other parties can respond to them.

21 And I like to have every issue covered. It
22 doesn't have to be extensive, though, just the issue, your
23 party's position, citation to facts in the record that
24 support your position.

25 That is basically what I am looking for in a

1 brief, a guide for me to use in drafting the Recommended
2 Opinion and Order.

3 MS. SPRAGUE: Okay. And we were wondering if you
4 needed just the hard copy of the written closing or also
5 an electronic copy.

6 ALJ WOLFE: I don't need an electronic copy.
7 Thank you.

8 MS. SPRAGUE: And then, Your Honor, if you would
9 indulge me one more question. There were some discussions
10 regarding maybe a proposed order.

11 Are we to submit a proposed order with a close?

12 ALJ WOLFE: I don't recall those discussions,
13 but, no, I'm not requesting a proposed order.

14 MS. SPRAGUE: Okay. Thank you.

15 ALJ WOLFE: And, of course, whenever I said
16 citations to the record with facts, I, of course, want
17 citations to legal authority, too. That goes without
18 saying, but I have said it.

19 Is there anything further?

20 MR. HIRSCH: No.

21 MS. SPRAGUE: No.

22 ALJ WOLFE: Okay. I look forward to seeing your
23 submissions, and whenever I get the closing, the final
24 briefs, I will prepare a Recommended Opinion and Order for
25 the Commission to use in their determination on this

1 matter. Thank you.

2 MS. SPRAGUE: Thank you.

3 MR. HIRSCH: Thank you.

4 (Whereupon, the hearing concluded at 1:37 p.m.)

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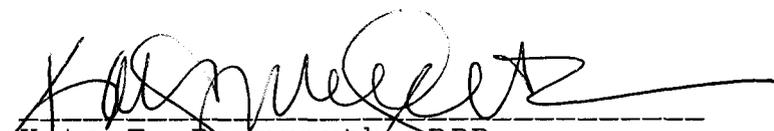
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1 STATE OF ARIZONA.)
) ss.
 2 COUNTY OF MARICOPA)

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I, KATE E. BAUMGARTH, RPR, Certified Reporter
 No. 50582, for the State of Arizona, do hereby certify
 that the foregoing printed pages constitute a full, and
 accurate transcript of the proceedings had in the
 foregoing matter, all done to the best of my skill and
 ability.

WITNESS my hand this 20th day of
December, 2008.


 Kate E. Baumgarth, RPR
 Certified Reporter, No. 50582