

1 ORIGINAL



0000102733

3 COMMISSIONERS

- 3 Kristin K. Mayes
- 4 Gary Pierce
- 5 Sandra D. Kennedy
- 6 Paul Newman
- 7 Bob Stump

RECEIVED

2009 SEP 15 P 3: 57

ARIZONA CORPORATION COMMISSION DOCKET CONTROL

Arizona Corporation Commission

DOCKETED

SEP 15 2009

DOCKETED BY [Signature]

8 IN THE MATTER OF THE FORMAL
9 COMPLAINT OF MARSHALL
10 MAGRUDER FILED WITH THE
11 ARIZONA CORPORATION
12 COMMISSION ON DECEMBER 5, 2008

Docket No. E-04204A-06-0783

13 IN THE MATTER OF THE APPLICATION
14 OF UNS ELECTRIC, INC. FOR
15 APPROVAL OF THE ESTABLISHMENT
16 OF JUST AND REASONABLE RATES
17 AND CHARGES DESIGNED TO
18 REALIZE A REASONABLE RATE OF
19 RETURN ON THE FAIR VALUE OF THE
20 PROPERTIES OF UNS ELECTRIC, INC.

Request to Reschedule a
Procedural Conference

9 September 2009

21 On 2 September 2009, the Commission filed a Procedural Order that, among other
22 things, scheduled a Procedural Conference on October 13, at 10.00 a.m., at the
23 Commission's Tucson Offices, Room 222.

24 Unfortunately, I have made plans for a year to attend the wedding in Portland,
25 Oregon, on 10 October 2009, leaving Arizona on or about 30 September and not returning
26 until about 16 October 2009. We are driving with several days of business en route.

27 Last week, in response to an ACC Staff email, I sent to UNS Electric, Data Request
28 One (see Enclosure), with a response due on 14 September 2009, and suggested that UNS
29 Electric, ACC Staff and myself consider getting together a week or so later, based on the
30 response from UNS Electric.

31 Respectfully, request this Procedural Conference be held after 22 September and prior
32 to 29 September or after 19 October 2009.

33 I certify this filing has been mailed to all known parties on the Service List this date.

34 Respectfully submitted on this 9th day of September 2009.

35 MARSHALL MAGRUDER

1 By _____
2 Marshall Magruder
3 PO Box 1267
4 Tubac, Arizona 85646
5 (520) 398-8587
6 marshall@magruder.org

7 Enclosure

8 Email from Marshall Magruder (31 August 2009) [with Data Request Set One embedded]

9 **Service List**

10 Original and 13 copies of the foregoing are filed this date:

11 **Docket Control** (13 copies)

12 **Arizona Corporation Commission**

13 1200 West Washington Street

14 Phoenix, Arizona 85007-2927

15 ACC Staff (1 copy)

16 **Kevin Torres**, Legal Department

17 **Jane L. Rodda**, Administrative Law Judge (1 copy)

18 Arizona Corporation Commission, Room 218

19 Arizona Regional Offices

20 300 East Congress

21 Tucson, Arizona

22 Additional Distribution (1 copy each):

23 **Michael W. Patten**, Attorney for Applicant

24 Roshka, DeWulf & Patten, PLC

25 One Arizona Center

26 400 East Van Buren Street, Suite 800

27 Phoenix, Arizona 85004-2262

28 **Michelle Livengood**, Attorney

29 UNS Electric, Inc.

30 One South Church Avenue, Ste 200

31 P.O. Box 711

32 Tucson, Arizona 85702

33 Tucson, Arizona 85701-1621

34 **Dan Podzefsky**, Chief Counsel

35 Residential Utility Consumer Office (RUCO)

36 1110 West Washington Street, Ste 220

37 Phoenix, Arizona 85007-2958

38 Interested Parties (1 copy each) are filed this date by mail:

39 Santa Cruz County Supervisors:

40 **John Maynard**, Chairman

41 Santa Cruz County Complex

42 2150 North Congress Drive

43 Nogales, Arizona 85621-1090

44 City of Nogales

45 **Jaime Fontes**, City Manager

46 Nogales City Hall

47 777 North Grand Avenue

48 Nogales, Arizona 85621-22621

1 Enclosure 1

2 **From:** Marshall Magruder <mmagruder@earthlink.net>

3 **Date:** Mon, 31 Aug 2009 00:02:11 -0700

4 **To:** Kevin Torrey <KTorrey@azcc.gov>, <mlivengood@tep.com>

5 **Cc:** Prem Bahl <PBahl@azcc.gov>, Jaime Fontes <jfontes@cityofnogales.net>, John Maynard
6 <jmaynard@co.santa-cruz.az.us>, <JLMachado@cityofnogales.net>

7 **Subject:** Re: Magruder Formal Complaint, ACC Docket No. E-04204A-08-0589

8 Kevin Torrey, ACC Staff, Investigator for the Magruder Formal Complaint

9 I remember Judge Rodda saying she was going to take all of this under advisement and we'd see the results in a
10 Procedural Order; however, I may be mistaken, as I can't afford transcripts, only my notes and memory are
11 available. Also, UNS Electric's Michelle Livengood was going to investigate further the causes of underground
12 cable failures in the 12 underground projects.

13 Attached is a copy of my Status Report provided at the last meeting on 23 July 2009.

14 With respect to replacement of defective utility poles.

15 First, I find it absolutely amazing that there is NO log or list of when poles are replaced (or date of
16 manufacture) by this Company and the lack of such information may imply this Company is unable to
17 accurately determine depreciation for these structures. This brings up unintended concerns of possible fraud in
18 both rate cases and corporate income tax returns.

19 Second, as testified during recent line siting hearings, the Company does not have a process to determine
20 when a utility pole requires replacement other than visual deterioration or age. During these hearings, I
21 provided an article to the Company concerning several pole replacement processes that save over 20% cost by
22 not replacing "structurally sound" poles. Various pole replacement tests and procedures should be used but
23 none were for pole replacement of the 115 kV transmission line and from discussions, it appears none exist for
24 any pole (and probably underground cable) replacements.

25 I have received no information from the Company concerning the analysis of the underground cable failures
26 reported during the July Status Meeting.

27 During this meeting, I discussed with Ms Livengood that maybe we could use Data Request as a way to
28 approach closure, thus I included Data Request Set One below and attached. Request UNSE response to be
29 received by 13 September (two weeks, a bit longer than usual 10 calendar days). Via email is acceptable. Also
30 recommend that a copy of UNS Electric responses include ACC Staff investigators on distribution. The term
31 "correspondence" means all documents including email and phone notes.

32 Suggest we hold another Status Meeting in about three weeks in Tucson, date TBD, after all have had time to
33 review the UNS Electric's DR response.

34 Sincerely,

35 Marshall Magruder
PO Box 1267
Tubac, AZ 85646
520.398.8587

1 marshall@magruder.org

2 ++++++

3 **Marshall Magruder Data Request Set No. One to UNS Electric**
4 **(requested on 31 August 2009)**

5 **RE: ACC Docket No. E-04204A-08-0589**

7 **Issue 1, Meeting the Requirements of Article 9 of the City of Nogales Settlement Agreement**
8 **concerning Student Loans.**

9 MM DR 1-1. Please provide a copy of all correspondence sent to and received from the City of
10 Nogales concerning this issue.

11 MM DR 1-2. Please provide the status on the present negotiations concerning this issue to include
12 with whom UNS Electric is conducting negotiations, copies of all correspondence and the latest draft
13 and/or proposed agreements.

14 MM DR 1-3. During the 23 July 2009 review conference with the ALJ and all parties, the Magruder
15 Status Report quoted significant parts of the Settlement Agreement, including that severability of any
16 section of the Agreement was not permitted. To resolve this issue, I stated, and hope it was
17 understood, that this party would accept and help with negotiating any agreement that met the
18 conditions of Article 9, to avoid the "severability" issue. Such an Agreement could then describe how
19 Article 9 was being implemented. What is the company's position on this statement?

20 MM DR 1-4. Will the Company provide a draft version of a "UNS Electric Student Loan Program
21 Description and Application" and a "UNS Electric Student Loan Agreement", or similar documents, to
22 this party for review and comment? If not, is the Company willing to collaborate with this party in
23 developing such documents?

24 MM DR 1-5. A concern was raised concerning the "standing" of this party in this issue. Please explain
25 why an appointed Energy Commissioner by the Mayor of the City of Nogales can be interpreted as
26 not having "standing" on the implementation of the Settlement Agreement? It is noted, I routinely
27 report to the City Manager, City Council, and Attorney on this and many other energy-related issues.
28 Nothing has changed my status from representing this City since January 2001, when so appointed.

29 **Issue 2, Replacement of Defective Utility Poles and Underground Cables in 32 Projects.**

30 MM DR 2-1. What is the process being used to determine when a utility pole requires replacement?
31 If age is a determination, where is such information found, and please provide a copy?

32 MM DR 2-2. How many utility poles have been annually replaced since August 2003?

33 MM DR 2-3. What is the process being used to determine when an underground cable requires
34 replacement? If age is a determination, where is such information found, and please provide a copy?
35

1
2 MM DR 2-4. How many feet of underground cable have been annually replaced since August 2003?

3
4 MM DR 2-5. Please provide a copy of the annual distribution reliability index values for each Santa
5 Cruz service area feeder distribution line, using IEEE Std 1688, since August 2003. A copy of the
6 report submitted to the ACC is adequate.

7
8 MM DR 2-6. Please provide a copy of the annual "Service Outage Map" and associated service
9 outage reports provided to the City of Nogales in accordance with Section 11(a) of the UNS Electric
10 Franchise agreement with the City of Nogales (excerpt below) since approval of the Franchise
11 Agreement in 2005.

12
13 MM DR 2-7. How does UNS Electric determine the annual depreciation for installed utility poles and
14 underground cables in the Santa Cruz service area? Please provide a copy of the process used and
15 how this was determined for either the ongoing or prior UNSE rate cases.

16
17 **Issue 3, Notification of those on Life Support during an Electrical Outage.**

18
19 MM DR 3-1. Since the Arizona Administrative Code R14-2-203(A)(1)(j) permits utility companies to
20 obtain information from customers on "type and kind of life-support equipment, if any, used by the
21 customer", does UNS Electric still believe this is legally not permitted (please note R14-2-203(A)2
22 permits "law enforcement or public agency" to request this information)? If so, please explain the
23 rationale for law enforcement not being allowed to collect this life-support data.

24
25 MM DR 3-2. If a County Ordinance was approved that required UNS Electric to notify the County
26 Sheriff and City of Nogales Police Department of all customers that have life support equipment,
27 whenever any of these customers have an outage, would there be any problem with complying? If
28 so, please explain.

29
30 MM DR 3-3. Please provide a copy of all correspondence sent to and received from the Santa Cruz
31 Sheriff and City of Nogales Police Department concerning this issue?

32
33 MM DR 3-4. Does UNS Electric have a draft Memorandum of Understanding that it would want to
34 use to start negotiations with these two organizations that operate the Dispatch Centers in this
35 county? If not, would the Company agree to collaborate and develop such a MOU with the goal to
implement such a program?

Excerpt from the City of Nogales Franchise Agreement with UNS Electric.

Quote:

SECTION 11. RELIABILITY OF UTILITY SERVICE.

(a) Service Outage Map. On an annual basis, the Company shall provide to the City a report of all service outages that last for longer than one (1) hour, technical upgrades made to its distribution system, and efforts made to improve the reliability of the distribution system.

End quote

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

On 8/28/09 12:44 PM, "Kevin Torrey" <KTorrey@azcc.gov> wrote:

Michelle Livengood and Marshall Magruder,

I have spoken with Staff regarding the Magruder Complaint docket, and as I remember it, Judge Rodda is waiting for us to schedule a meeting so that we can try to work out an arrangement over the underground line replacement. To that end, we need to come up with a time when all of the parties can meet. If you can let me know where things stand between the Company and Mr. Magruder, I would appreciate it.

Also, can you please tell me whether or not the pole replacement issue has been resolved to UNS Gas's satisfaction, and to Mr. Magruder's satisfaction?

If not, Staff needs to know what steps the parties propose in order to reach a resolution?

Thank you.

Kevin

===== This footnote confirms that this email message has been scanned to detect malicious content. If you experience problems, please e-mail postmaster@azcc.gov =====