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MOTION TO COMPEL DISCOVERY

AZ CORP COMMISSION
DOCKET CONTROL

KIM JORGENSEN, Complainant vs. TUCSON ELECTRIC POWER COMPANY, Respondent

Complainant Kim Jorgensen ("Jorgensen") has informally requested of Respondent Tucson Electric Power ("TEP") that it provide a statement of account(s) in connection with TEP's claim that Jorgensen owes TEP \$355.34, but TEP refuses to do so. Therefore, Jorgensen respectfully requests that the Commission compels TEP to provide such information.

Information Requested

Jorgensen, in an informal letter to TEP on October 6, 2009, requested a basic statement of account(s) in regard to TEP's claim that Jorgensen still owes TEP the sum of \$355.34. under his landlord agreement through the end of 2007. Only four things were requested as part of this statement: the amounts billed by TEP, the payments received from Jorgensen, any balances transferred, and the grand total owed (if any). Providing such a statement represents the most elementary level of service that a customer would expect from a utilities company. Such information is vital in order to proceed with the Commission's hearing on February 12, 2010.

Respondent's Refusal to Provide Information

TEP, on October 30, 2010, sent Jorgensen a packet of documents which, although bulky, did not comply with Jorgensen's request. Jorgensen therefore, on November 2, 2009, sent a second request letter to TEP in which he pointed out its deficiency. In response, TEP sent out, on November 5, 2009, a four-page letter of refusal. This foregoing correspondence is now part of Docket Control. The reasons TEP says it refuses to provide the information are as follows:

1. ***TEP says it has destroyed this information.*** TEP says that it is not "required" by Commission rules to hold on to such records beyond twelve months. However, it is hard to believe that any business would intentionally destroy its accounting records after only twelve months, especially if there are payables owing. Not only does it have a fiduciary responsibility of reporting to its stockholders, but the Internal Revenue Service requires that accounting records be kept for a minimum of seven years. Perhaps TEP is referring narrowly to paper printouts, when today such records are digital. Whether in digital or paper form, such records are available and discoverable, as they would be to the IRS or anyone else.
2. ***TEP says that it has already provided such information.*** But that is incorrect. TEP has provided, through a couple of spreadsheets, only a small part of the figures, along with copies of partial samplings of original bills, in an incomplete

and incomprehensible form. It has also provided a pack of irrelevant materials. As for its claims that Jorgensen received the information long ago through its original bills, this is also inaccurate. Aside from old bills being outdated, they were incomplete even then. They referenced "transferred" balances from other accounts but did not specify which accounts they had been transferred from (or to) and for what services.

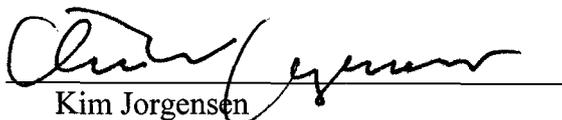
3. ***TEP says it is Jorgensen's responsibility to do this accounting.*** But no accounting is possible unless receiving these key figures, and the burden would seem to lie with the claimant. Nevertheless, in his October 5, 2009, letter Jorgensen provided TEP with a printout of his payments in order to help them locate what they had. As thanks, TEP turned around and suddenly demanded that Jorgensen provide them with copies of all original checks he had ever written them over the years – something that he would have to request from his bank at considerable expense – to "prove" that he didn't owe them money. TEP's onerous demand for this is unnecessary and seems timed to persuade him to back off of his request. In a similar pattern of behavior, TEP once again, on October 12, 2009, called Jorgensen's bookkeeper, Ms. Kristine Aleksandryan, and demanded the disputed \$355.34 that is the subject of the current proceedings under threat of electrical cutoff to the apartment building. Ms. Aleksandryan was frightened enough to comply, and TEP is still holding the money as of this date.

Conclusion

All Jorgensen is asking for is a simple statement of account(s) which explains TEP's claim for \$355.34, which claim is at the heart of the dispute before the Commission. It is the most basic of customer service requests – i.e., to be provided with a statement of account(s) – even without being presented with a claim. It seems unbelievable that TEP is stonewalling this request. If TEP would provide this information there might not even be a need for the scheduled hearing. Without it, the parties could be wasting the Commission's time in trying to piece it together at hearing. TEP must realize that it is impossible to defend a claim without knowing what it is for. And yet it continues to threaten cutoff of Jorgensen's electrical services because of this claim, even in the midst of these proceedings.

Since the parties have been ordered to submit their list of exhibits and witnesses before January 17, 2010, Jorgensen respectfully requests that TEP be compelled to provide this information before the end of the year 2009.

Dated November 16, 2009

By: 
Kim Jorgensen

Original and 13 copies of the foregoing mailed this 16th day of November 2009 to:

Docket Control
Arizona Corporation Commission
1200 West Washington Street
Phoenix, AZ 85007

Copy of the foregoing mailed this 16th day of November 2009 to:

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By:


Kim Jorgensen