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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

KRISTIN K. MAYES, Chairman  
GARY PIERCE  
PAUL NEWMAN  
SANDRA D. KENNEDY  
BOB STUMP

2009 DEC -8 A 9:59

AZ CORP COMMISSION  
DOCKET CONTROL

Arizona Corporation Commission

DOCKETED

DEC - 8 2009

DOCKETED BY [Signature]

IN THE MATTER OF THE APPLICATION OF  
UNS ELECTRIC, INC. FOR 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. DEVOTED TO ITS  
OPERATIONS THROUGHOUT THE STATE OF  
ARIZONA AND REQUEST FOR APPROVAL OF  
RELATED FINANCING.

DOCKET NO. E-04204A-06-0783

PROCEDURAL ORDER

BY THE COMMISSION:

On December 5, 2008, Marshall Magruder filed a Formal Complaint with the Arizona Corporation Commission ("Commission") against UNS Electric, Inc. ("UNSE") (Docket No. E-04204A-08-0589), in which he alleged that UNSE failed to comply with provisions of Decision Nos. 70360 (May 27, 2008) (UNSE's last rate case), 61793 (June 29, 1999) (dismissing Complaint brought by the City of Nogales against Citizens Utilities' ("Citizens")), and 62011 (November 2, 1999) (approving settlement agreement between Citizens and the Commission's Utilities Division ("Staff") regarding Citizens' Plan of Action ("POA") to rectify service problems in Santa Cruz County).

Mr. Magruder's Complaint alleged UNSE violated the aforementioned Commission Orders by: (1) failing to replace poles and cables pursuant to the 1999 Settlement between Citizens, UNSE's predecessor, and the City of Nogales; (2) failing to fund student loans under the Plan of Action adopted as a result of the settlement with the City of Nogales; and (3) not having procedures to notify all customers on life support during an outage. Because he raised all of these issues in the rate case, by Procedural Order March 12, 2009, it was ordered that the issues raised in the Complaint would

1 best be investigated as compliance items to Decision No. 70360, and the Complaint was held in  
2 abeyance pending Staff's investigation.

3 On June 18, 2009, Staff filed a Status Update. Staff reported that the parties had had a  
4 telephonic meeting and were arranging an on-site visit for Mr. Magruder to inspect poles.

5 The parties appeared on July 23, 2009, and November 18, 2009, for procedural conferences  
6 with the purpose of determining the status of Staff's investigation into UNSE's compliance with  
7 Decision No. 70360 and the need for further action.

8 Staff's investigation indicates that UNSE has complied with the requirements of Decision No.  
9 70360. Staff does not recommend further action with respect to the issues Mr. Magruder has raised  
10 as they relate to Decision No. 70360.

11 With respect to the replacement of poles and cables, Decision No. provides:

12 UNS Electric, Inc. shall file a detailed response to Mr. Magruder's  
13 allegations regarding the poles and underground cables under the 1999  
14 Nogales/citizens settlement Agreement, within 60 days of the effective  
date of this Decision. Replies to the Company's response shall be filed  
by Mr. Magruder, Staff and RUCO within 30 days.

15 UNSE filed its response on July 28, 2008. It is UNSE's understanding that Citizens completed  
16 the pole replacements in 2000, and that by 2003, had completed all but one of the cable replacements.  
17 UNSE states it addressed the remaining project in 2003. In the summer of 2009, Mr. Magruder met  
18 with UNSE officials and inspected a sampling of the poles in several subdivisions that would have  
19 been impacted by the 1999 agreement. The inspection indentified one pole that appeared to be  
20 suffering from woodpecker damage. During the August 2009 status conference, Staff recommended  
21 that the parties should develop a priority replacement plan based on system outage and system  
22 reliability data. During the November 18, 2009 Procedural Conference, the discussion centered on  
23 the incomplete records from Citizens concerning the pole replacement projects. With respect to this  
24 issue, Decision No. 70360 required UNSE to file a detailed statement concerning the status of the  
25 pole and cable replacement projects that resulted from the agreement between Citizens and the City  
26 of Nogales. UNSE has met its obligations under Decision No. 70360. To the extent Mr. Magruder  
27 believes that UNSE is in violation of a previous Commission Orders, and wishes to pursue the matter,  
28 it will be considered as part of the Complaint docket.

1 With respect to the issues raised concerning student loans, Decision No. 70360 provides:

2 UNS Electric, Inc. shall initiate a meeting with Mr. Magruder, within 30  
3 days of the effective date of this Decision, and file within 90 days of the  
4 effective date of this Decision, a statement regarding suggested resolution  
of the concerns raised by Mr. Magruder with respect to the student loans  
and scholarship issues.

5 UNSE and Mr. Magruder met pursuant to the requirements of Decision No. 70360 on June  
6 20, 2008. Although UNSE believes no formal loan or scholarship agreement is in place, in May 2009,  
7 UNSE provided four \$2,000 scholarships to graduating seniors from Rio Rico High School and  
8 Nogales High School. The parties have disparate views on UNSE's continuing obligations with  
9 respect to providing the loans discussed in the agreement between the City of Nogales and Citizens.  
10 This dispute should be resolved in the context of the Complaint docket. With respect to the  
11 requirements of Decision No. 70360, however, UNSE has met its obligations and should be deemed  
12 in compliance with that Decision.

13 Finally, with respect to the notification of customers on life support, Decision No. 70360  
14 provides:

15 UNS Electric, Inc. shall file to file (sic) within 90 days of the effective  
16 date of this Decision, a statement regarding suggested changes to its  
procedures that may address the concerns raised by Mr. Magruder  
customer on life support equipment.

17 UNSE filed a statement regarding its procedures for notifying customers on life support on  
18 August 25, 2008. Mr. Magruder continues to advocate that the information related to customers on  
19 life support should not be limited to low-income, CARES-M, customers. Staff has opined that Mr.  
20 Magruder's position, however, would require a modification of the Commission's Decision pursuant  
21 to A.R.S. § 40-242. Decision No. 70360 did not adopt Mr. Magruder's proposal and does not require  
22 additional action by UNSE. Staff does not recommend that the Commission take further action on  
23 this issue as compliance to Decision No. 70360. With its August 25, 2008 filing, UNSE met its  
24 obligations under Decision No. 70360 with respect to this issue.

25 IT IS THEREFORE ORDERED that UNSE is deemed to be in compliance with Decision No.  
26 70360 with respect to the issues raised in Mr. Magruder's Complaint.

27 IT IS FURTHER ORDERED that any further action concerning the issues raised by Mr.  
28 Magruder concerning the replacement of poles and underground cables or student loans pursuant to

1 Decision No. 61793 or 62011 shall be considered in the Complaint Docket.<sup>1</sup>

2 IT IS FURTHER ORDERED that the Presiding Officer may rescind, alter, amend, or waive  
3 any portion of this Procedural Order either by subsequent Procedural Order or by ruling at hearing.

4 DATED this 7<sup>th</sup> day of November, 2009.

5  
6   
JANE L. RODDA  
ADMINISTRATIVE LAW JUDGE

7 Copies of the foregoing mailed  
8 this 7<sup>th</sup> day of November, 2009 to:

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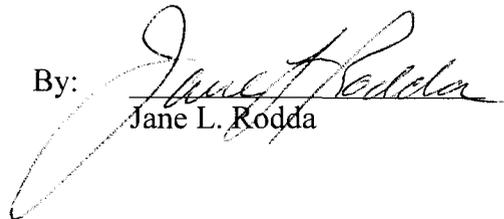
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By:   
Jane L. Rodda

<sup>1</sup> This same date, a Procedural Order in the Complaint Docket (E-04204A-08-0589) is being issued to schedule the Complaint for hearing.