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BEFORE THE ARIZONA CORPORATION COMMISSION

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2009 DEC 14 P 3:09
 AZ CORP COMMISSION
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IN THE MATTER OF THE FORMAL
 COMPLAINT AGAINST MOHAVE
 ELECTRIC COOPERATIVE, INC.
 FILED BY ROGER AND DARLENE
 CHANTEL.

DOCKET NO. E-01750A-09-0149
 RESPONDENT'S REPLY TO
 COMPLAINANTS' MOTION FOR
 RECONSIDERATION

Pursuant to the Administrative Law Judge's ("ALJ") instruction, Mohave Electric Cooperative, Inc. ("Mohave") hereby replies to Complainants' Motion for Reconsideration regarding the ALJ's granting of Mohave's Motion to Compel Inspection of the Premises.

ALJ CAN IMMEDIATELY RULE ON COMPLAINANTS' UNREASONABLE REFUSAL TO PERMIT INSPECTION OF "ARTWORK" STRUCTURE

While the Arizona Rules of Civil Procedure ("A.R.C.P." - Rule 7.1) prescribe time frames for the filing of responses and replies to motions, there is nothing we have found in the Rules or in Arizona's body of case law that expressly prohibits a judge (or an administrative law judge) from immediately granting a motion (before a response has been filed) where the facts are so compelling for the sought-after relief as in the present matter. To illustrate this point, nothing in Rule 37 of the A.R.C.P. prohibits a judge from immediately granting a motion to compel discovery, notwithstanding the time frames for responses and replies.

Arizona Corporation Commission

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1 **COMPLAINANTS SLUMBERED ON PREPARATION AND**
2 **FILING OF RESPONSE**

3 In the present matter, the Motion to Compel Inspection was mailed and faxed to
4 Complainants' legal counsel on November 11, 2009 and the ALJ ruled on the Motion to
5 Compel on November 25, 2009. For Complainants to contend they lacked sufficient time to
6 respond is ridiculous! Moreover, it was at their peril that they slumbered on their rights. The
7 Motion to Compel the inspection of the Chantel 6,400 square foot "artwork" structure was
8 patently justified and there were not and are not any legitimate objections raised by
9 Complainants.

10 **COMPLAINANTS' RESPONSE TO THE MOTION TO**
11 **COMPEL INSPECTION FAILS TO RAISE LEGITIMATE**
12 **ISSUES TO PRECLUDE INSPECTION.**

13 Complainants' Motion for Reconsideration assumes there were valid objections
14 to the Motion to Compel Inspection of the "Artwork" Structure. No valid objections were
15 raised by Complainants. Mohave has explained in its Reply to Complainants' Response to the
16 Motion to Compel Inspection that the inspection of the "artwork" structure is critical to
17 explore and challenge Complainants' contention that the structure was built for protection
18 while it is apparent, to even a causal observer, that the "artwork" structure has been built for
19 extensive use beyond "protection from overhead lines." The inspection of the interior will
20 bring this out. Moreover, since Mohave has identified as one of its witnesses, an inspector
21 from the Mohave County Development Services Department, the inspector's inspection will
22 permit him to testify on the need for a building permit and building violations. Moreover, it is
23 imperative that Mohave be able to challenge and impeach the Complainants on their avowals
24 that the structure is only artwork and it is not used for any other purpose. If the building is
25 used for any other purpose, it is subject to an inspection and the imposition of Mohave
County's building permit ordinances. What individual can better determine whether the

1 building complies with Mohave County's building codes than an inspector? Additionally, an
2 inspection will help Mohave County to verify the earlier decision to instruct Mohave Electric
3 to disconnect the power line over the "artwork" structure was correct.

4 **CONCLUSION**

5 For the reasons expressed above, the ALJ's granting of the Motion to Compel
6 Inspection was a correct decision and it is not necessary for the ALJ to consider the Response
7 of the Complainants. Accordingly, Mohave Electric requests that the Motion for
8 Reconsideration be denied.

9 DATED this 14th day of December, 2009.

11 CURTIS, GOODWIN, SULLIVAN,
12 UDALL & SCHWAB, P.L.C.

14 By: 

15 Michael A. Curtis
16 Larry K. Udall
17 501 East Thomas Road
18 Phoenix, Arizona 85012-3205
19 Attorneys for Mohave Electric Cooperative,
20 Inc.

21 **PROOF OF AND CERTIFICATE OF MAILING**

22 I hereby certify that on this 14th day of December, 2009, I caused the foregoing
23 document to be served on the Arizona Corporation Commission by delivering the original and
24 thirteen (13) copies of the above to:

25 Docket Control
Arizona Corporation Commission
1200 West Washington
Phoenix, Arizona 85007

1 COPY of the foregoing hand delivered
2 this 14th day of December, 2009 to:

3 Belinda A. Martin, Administrative Law Judge
4 Arizona Corporation Commission
5 1200 West Washington
6 Phoenix, Arizona 85007

7 Janice Alward, Legal Division
8 Arizona Corporation Commission
9 1200 West Washington
10 Phoenix, Arizona 85007

11 Copy of the foregoing mailed
12 this 14th day of December, 2009 to:

13 Jonathan Dessales
14 Douglas Wigley
15 Dessales Law Group
16 2700 North Central Avenue, Suite 1250
17 Phoenix, Arizona 85004

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