

ORIGINAL

BEFORE THE ARIZONA CORPORATION



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2 COMMISSIONERS
3 Kristin K. Mayes
4 Gary Pierce
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6 Paul Newman
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AT THE ARIZONA CORPORATION COMMISSION
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8 IN THE MATTER OF THE FORMAL
9 COMPLAINT OF MARSHALL MAGRUDER
10 FILED WITH THE ARIZONA
11 CORPORATION COMMISSION ON
12 DECEMBER 5, 2008

Docket No. E-04204A-08-0589

6 January 2010

Arizona Corporation Commission

DOCKETED

JAN - 8 2010

13 **Reply to UNS Electric's Response to the**
14 **Motion to Compel UNS Electric to**
15 **Respond to Discovery Data Requests**

DOCKETED BY [Signature]

16 This party has submitted two sets of Data Requests (DRs) to UNS Electric in this docket
17 concerning his Formal Complaint filed on 8 December 2008. The first set was submitted on
18 31 August 2009 with a response dated 29 October 2009. The second set was submitted on
19 2 November 2009 with a response dated 12 November 2009. As filed on the 13th of
20 November 2009, this party responded that the DR Responses for each set were inadequate
21 or evasive. During the Procedural Conference on 18 November 2009, I requested to discuss
22 each disputed DR, however, this did not occur.

24 Further, as specified in the Commission's Procedural Order of 8 December 2009, this
25 Motion to Compel was filed to further clarify why this party feels the company's prior
26 responses to specific DRs were inadequate. On 21 December 2009, this party submitted a
27 "Motion to Compel UNS Electric to Respond to Discovery Data Requests". On 5 January
28 2010, UNS Electric Responded to this Motion to deny this Motion to Compel.

30 The UNSE Response was again unsatisfactory, as not one of the specific DR comments
31 in the Motion to Compel was addressed. For example, the company is using an excuse that
32 it has "responded" to each Data Request. I agree some words were provided but the specific
33 DRs questioned in my Motion to Compel were not in the UNSE response.

34 I find this type of response by a large company, with attorneys in almost every senior
35 management position, a sham. UNSE is unwilling to discuss with this party ways to resolve

1 the issues in this complaint, as I have so offered so many times during the past eight or so
2 years on some of these issues. My recent written requests to work together as late as 21
3 December 2009 have been ignored. To claim "Mr. Magruder never contacted the Company"
4 implies the appropriate personnel, whoever they are, have not read my filings in this matter.
5

6 ISSUES in this Formal Complaint.

7 The first issue is to provide the funding ordered by ACC Order No. 61793 for four-year
8 no-interest student loans to Santa Cruz County high school seniors, forgiven if the student
9 returns to Santa Cruz County to work after graduation. These are over \$108,000 in arrears.
10

11 The second issue involves completion of 32 distribution reliability projects with a 5-year
12 budget over \$15M. The company is unable to show data, other than statements, that each of
13 these projects, approved in ACC Order No. 62011 and others, were completed as specified
14 in a detailed Plan of Action contained in a Settlement Agreement with the Commission Staff.
15 Since this party does not have such records, and the company's inability to show logs or any
16 written evidence to substantiate completion of each project, this party is dropping this issue
17 without prejudice.

18 The third issue is to establish a simple way to notify all customers on life-support
19 equipment during an electrical outage. The UNSE response is a process that only permits
20 CARES customers (those who have applied for low income rates) to further apply for such
21 notifications is inadequate. This has resulted in about 6% of those on life-support to be able
22 to "apply" for such notification. This party expects 100% of the customers on life-support to
23 be eligible to apply for such notification. Further, the company's process is not coordinated
24 with the County/City dispatch centers, which can do this notification with first responders,
25 thus it is doubtful if the company's 6% notification program is in place or even will work.
26

27 What have the company's responses included?

- 28 a. For many DRs, the company hides behind a "legal interpretation" skirt when asked to
29 acknowledge that certain words or phrases are contained in documents in this and other
30 dockets. It should be noted that no "legal interpretations" were requested in any DR. This
31 excuse to a non-attorney obviously is designed to make this party stop future request.
32 b. There are disputes that exist on all three issues between these parties, which is why the
33 complaint was filed, but by not providing data known only by the company or an
34 explanation, in this party's opinion, is an inappropriate response.
35 c. There are disputes as to what "compliance" means.

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- In the first issue, ACC Order No. 70360 required the company to “meet” with Mr. Magruder to resolve the student loan issue. A single meeting was held that I have described as totally unsatisfactory. Thereafter, the company immediately sent a letter to the Commission that it has “complied”. This is, in the terms of my aerospace industry experience would be deemed as “sub-minimal” performance, where satisfaction of a requirement is not accomplished. If I ever told my customer “the meeting accomplished what was implied in the ACC Order” I would have been fired.
 - In the second issue, a “detailed accounting” of these projects was ordered but only simple, incomplete and illogical series of responses were provided, even after this party filed a very detailed description for each of the 32 projects based on what was known. A small spot check was attempted for two utility pole replacement and underground cable replacements projects appear impossible to verify. I decided not to press this issue farther even though my home is in one of the 32 projects that was never started; however, ignoring disputed DRs on this issue is not a solution.
 - In the third issue, in a separate filing by this party on 21 December 2009, “Response to a Procedural Order [of 8 December 2009] and a Motion that One Issue Remain Open,” this issue was requested by a Motion to remain open. Therefore, in the view of this party, this issue remains open was omitted in the company’s response to the “Motion to Compel” as no decision has been made to this Motion concerning the third issue. Responses to DRs concerning the third issue should not be “mute”.

24 It is respectfully requested that the company be directed to respond to each DR specified
25 in this party’s filing of 21 December 2009 not later than 15 January 2010 or a conference be
26 held so each specific DR in this party’s letter of 21 December 2009 can be resolved.

27 I certify this filing has been mailed or delivered to parties on the Service List this date.

28 Respectfully submitted on this 6th day of January 2010.

29
30 MARSHALL MAGRUDER

31 By 

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22 Interested Parties (1 copy each) are filed this date by email:

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