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BEFORE THE ARIZONA CORPORATION

IN THE MATTER OF THE FORMAL)
COMPLAINT OF JON SANDLER,)
Complainant,)
vs.)
UNS ELECTRIC, INC.,)
Respondent.)

DOCKET NO.
E-04230A-09-0494

PROCEDURAL
CONFERENCE

At: Tucson, Arizona

Date: February 16, 2010

Filed: **MAR 02 2010**

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1 BE IT REMEMBERED that the above-entitled and
2 numbered matter came on regularly to be heard before the
3 Arizona Corporation Commission, 400 West Congress Street,
4 Tucson, Arizona, commencing at 9:00 a.m., on the 16th day,
5 of February, 2010.

6

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8 BEFORE: BELINDA A. MARTIN, Administrative Law Judge

9

10 APPEARANCES:

11

12 For the Complainant:

13 Mr. Jon Sandler, In Propria Persona
14 P.O. Box 4515
15 Rio Rico, Arizona 85648
(Appearing via teleconference.)

16

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For UNS Electric, Inc.:

18

By: Ms. Chiara Durando and Ms. Melody Gilkey
19 One South Church Avenue, Suite 200
20 Tucson, Arizona 85701

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23

KATE E. BAUMGARTH, RPR
24 Certified Reporter
25 Certificate No. 50582
(Appearing via teleconference.)

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1 ALJ MARTIN: Good morning. This is the time set
2 for the procedural conference in Docket No.
3 E-04230A-09-0494 in the matter of the formal complaint of
4 Jon Sandler against UNS Electric, Inc., respondent.

5 And, Kate, can you hear me okay?

6 THE COURT REPORTER: Yes.

7 ALJ MARTIN: I am Belinda Martin, the
8 administrative judge assigned to this matter.

9 At this point what I would like to do is call the
10 participants in the procedural conference.

11 Mr. Sandler, you are the complainant for the
12 proceeding. Could you please announce yourself for the
13 proceeding?

14 MR. SANDLER: Jon Sandler.

15 ALJ MARTIN: Okay. And this is on behalf of
16 yourself and not on behalf of any company or anybody;
17 right?

18 MR. SANDLER: That's correct.

19 ALJ MARTIN: And on behalf of respondent?

20 MS. DURANDO: Chiara Durando and Melody Gilkey on
21 behalf of UNS Electric.

22 ALJ MARTIN: Okay. Thank you.

23 The first matter I wanted to discuss today was
24 the respondent's motion to dismiss included in part of the
25 answer. After reviewing the filing I need to note the

1 following, that under Arizona Administrative Code
2 R14-2-212C(1)(e) the decision of the Commission's
3 representative and an informal complaint process is not
4 binding on any of the parties and the parties still have a
5 right to make a formal complaint to the Commission and
6 therefore I deny the motion to dismiss and I will be
7 setting that forth in the procedural order.

8 Okay. What I would like to do next is just
9 verify, Mr. Sandler, have you had an opportunity to read
10 the respondent's answer in this matter?

11 MR. SANDLER: I did.

12 ALJ MARTIN: Okay. And after reading their
13 answer, you still wish to proceed?

14 MR. SANDLER: Well, after getting their response,
15 which I found condescending, I called the gentleman from
16 the Corporation Commission which I initially lodged the
17 complaint with, and at the time he told me based on this
18 that the complaint was dismissed.

19 So when I got the letter saying -- several weeks
20 ago saying that there was a conference call being set up
21 this morning, I was a little bit surprised.

22 So I had been told that because my complaint
23 centers around essentially the problems that I have had
24 with interrupted electricity service at my property and to
25 damage done to electronic equipment, when I was told by

1 the gentleman at the ACC that UniSource is basically given
2 blanket protection against any recourse as long as it's,
3 again, out of their control, I just -- I was a little bit
4 surprised.

5 So in answer to your question, would I like to
6 continue, I would if, in fact, what I was told is correct,
7 which is that UniSource simply has a blanket protection,
8 they are not responsible for uninterrupted service
9 irrespective of how often it happens. That is really the
10 answer to my complaint.

11 ALJ MARTIN: Okay. I believe you spoke with
12 Mr. Martinez, Richard Martinez.

13 MR. SANDLER: That's correct.

14 ALJ MARTIN: I can't tell you for certain that if
15 we were to have a hearing today, that our finding wouldn't
16 necessarily be different, but it might be. I don't know.
17 That is what a hearing is about.

18 What happened with him is an informal process.
19 It was based on what the current regulations are for an
20 electric utility.

21 As I recall -- and perhaps, Ms. Durando, you can
22 correct me if I'm wrong -- the answer contained copies of
23 the relevant regulations and statutes or whatever, didn't
24 it?

25 MS. DURANDO: They were intended to contain the

1 attachments, and it is possible that those attachments
2 were left off. When I myself got the copy --

3 ALJ MARTIN: Okay.

4 MS. DURANDO: -- it may have been different.

5 ALJ MARTIN: Mr. Sandler, did you notice if
6 those -- if the regulations were attached to your copy of
7 the answer?

8 MR. SANDLER: I did not.

9 ALJ MARTIN: Okay. All right. Because I believe
10 that is what Mr. Martinez's response was based upon after
11 reading the answer and so forth.

12 However, as I say, you have every right to
13 proceed with a hearing to present evidence and testimony
14 and witnesses. You have every right to do that under the
15 code that I just talked about regarding the motion to
16 dismiss -- or under the regulations rather. But it's your
17 decision at this point. I mean, you don't have to do it
18 right now. It's your decision right now if you wish to
19 request a hearing be set.

20 And if you decide -- well, let me put it this
21 way. I will talk about possible hearing dates and
22 procedures and ultimately I would issue a procedural order
23 to set a hearing, but if at any time you decide you do not
24 wish to have a hearing, what you need to do is file a
25 motion to withdraw your complaint. It's just a simple

1 letter to the docket, just like you did with your formal
2 complaint, requesting that the matter be withdrawn.

3 MR. SANDLER: What is the purpose of this
4 conference today?

5 ALJ MARTIN: To talk about hearing dates and that
6 sort of thing. That is what we are doing here today, is
7 strictly procedural.

8 MR. SANDLER: So this has nothing to do with
9 anything other than taking -- than determining whether a
10 next step is warranted?

11 ALJ MARTIN: Correct.

12 MR. SANDLER: Whether I wish to proceed to the
13 next step?

14 ALJ MARTIN: Correct. Okay. Well, I mean, if
15 you don't wish to pursue the next step, the easiest, I
16 think, would be to say here that you intend to file a
17 motion to withdraw your complaint. If you are not willing
18 to do that today, then what I will do is talk about
19 hearing dates and that sort of thing. Okay?

20 MR. SANDLER: Is it possible to get something
21 like this, a telephonic -- is the next step -- can you do
22 the next step telephonically?

23 ALJ MARTIN: If we hold a hearing, it will not be
24 telephonic. It will be here in Tucson. The reason for
25 that is because I'm sure you have heard the phrase due

1 process; correct?

2 MR. SANDLER: Yes.

3 ALJ MARTIN: You are allowed due process by
4 allowing this -- having this heard and moving forward with
5 it. The respondent is allowed due process to have you
6 here to cross-examine and review exhibits and talk to
7 witnesses, and it also gives me the opportunity to observe
8 the demeanor of all the witnesses; you, any witnesses you
9 have, the respondent witnesses, that sort of thing.

10 So the hearing would be here in Tucson, and you
11 would be required to attend personally.

12 MR. SANDLER: Okay. Well, then, I would say for
13 the purpose of this, let's go ahead and set a date or
14 whatever and in between now and then I will decide, to be
15 honest, whether --

16 ALJ MARTIN: I understand. That is perfectly
17 within your right to do that.

18 I will advise both parties that the current
19 schedule for the Commission, the workload is quite tight.
20 It will be quite a few months before the hearing would be
21 set, Mr. Sandler and Ms. Durando.

22 Okay. Mr. Sandler, the procedural order will
23 contain a hearing date. It will also contain a date for
24 what is called a prehearing conference for which we get on
25 the phone -- it's again telephonic. That part is

1 telephonic -- and we discuss whether there are any
2 procedural issues, any exhibit issues or witness issues.
3 So like this we would call in with a telephone number and
4 we would have that.

5 The procedural order will also set forth a date
6 that you would be required to file -- you and the
7 respondents would be required to file witness lists and
8 exhibits lists and possibly also the exhibits themselves.
9 I think that would be all that would be in the procedural
10 order.

11 But, as I say, if at any time -- you have every
12 right to have this hearing. If at any time you decide to
13 withdraw your complaint, just go ahead and file a letter
14 to the docket control indicating that. Okay?

15 MR. SANDLER: Okay.

16 ALJ MARTIN: All right. Do you have any
17 questions, Mr. Sandler?

18 MR. SANDLER: I don't other than if you can give
19 me a name, address, just for my records, for the docket
20 control.

21 ALJ MARTIN: Okay. It's Arizona Corporation
22 Commission, attention Docket Control, 1200 West Congress,
23 Phoenix -- ZIP code 85007, I believe.

24 MR. SANDLER: West Congress?

25 ALJ MARTIN: 85007.

1 Kate?

2 THE COURT REPORTER: Washington.

3 MR. SANDLER: 1200 West Washington?

4 ALJ MARTIN: Yes. So sorry. I was confused.

5 MR. SANDLER: And no suite or anything?

6 MS. DURANDO: No.

7 ALJ MARTIN: Sorry, Mr. Sandler.

8 MR. SANDLER: Is there a phone number for them,
9 Judge?

10 ALJ MARTIN: You know, I don't know it off the
11 top of my head.

12 MR. SANDLER: Okay. That is fine.

13 ALJ MARTIN: I'm sure you can look online and
14 find it online safely.

15 Ms. Durando, do you have any questions?

16 MS. DURANDO: No, I don't have any questions.

17 Mr. Sandler, I do want to make sure that you get
18 UNS Electric's rules and regulations. They are Commission
19 approved, and they were not attached. I would like to the
20 get your contact information to make sure you have those.

21 ALJ MARTIN: Okay. And do you have his phone
22 number?

23 MS. DURANDO: I'm sure I could get it, but it may
24 be easier to get it now, Mr. Sandler.

25 MR. SANDLER: I will give you both. My mail

1 address is P.O. Box 4515, Rio Rico, 85648. And my office
2 number is (520) 377-0205.

3 ALJ MARTIN: And do you have an e-mail that I
4 would forward these to, if necessary?

5 MR. SANDLER: I do not. If you could mail it or
6 whatever. People tend to e-mail like 25 pages, and it
7 always messes up our e-mail.

8 MS. DURANDO: That is no problem.

9 ALJ MARTIN: Okay. Mr. Sandler, do you have any
10 other questions?

11 MR. SANDLER: I don't, Judge.

12 ALJ MARTIN: Okay. Ms. Durando?

13 MS. DURANDO: No -- I guess I -- actually I do
14 have a question for Mr. Sandler.

15 Judging from your complaint, I wanted to see if I
16 could sort of narrow what the issues are. I know we have
17 the damage claim for the receiver. You are also intending
18 to just complain about in general the service and the
19 outages with UNS Electric?

20 MR. SANDLER: Well, I think the outages go right
21 to the issue of damage to the equipment.

22 The customer service is just a personal issue,
23 and if I mentioned it, it would not would be the focus of
24 the testimony. You know, that is just more of a
25 personal/business issue having dealt with UNS so long and

1 on a daily basis at this point.

2 But it's really the issue of what I consider a
3 minor repair to my electronic equipment.

4 ALJ MARTIN: Is that all, Ms. Durando?

5 MS. DURANDO: Yes.

6 ALJ MARTIN: Okay. Then what I will do is I will
7 issue a procedural order. Perhaps between now and then,
8 Mr. Sandler, you and Ms. Durando might speak. And then as
9 I mentioned, if you wish to withdraw the complaint, just
10 go ahead and file the motion to withdraw with docket
11 control.

12 MR. SANDLER: Could I get her name and contact
13 information as well?

14 MS. DURANDO: Certainly. My first name is
15 Chiara, C-h-i-a-r-a, Durando, D-u-r-a-n-d-o.

16 MR. SANDLER: Okay.

17 MS. DURANDO: And the address is One South --

18 ALJ MARTIN: Well, I think a phone number is
19 probably sufficient.

20 MS. DURANDO: Okay. You can contact me at
21 884-3705.

22 MR. SANDLER: 884-3705.

23 MS. DURANDO: And I also have Melody Gilkey with
24 me because I will be needing to take time out of the
25 office. Her phone number is 884-3662.

1 MR. SANDLER: Okay. And, Judge, are you doing
2 the scheduling of the next conference by mail?

3 ALJ MARTIN: Yes, it will be a procedural order
4 just as this one was sent.

5 MR. SANDLER: Okay.

6 ALJ MARTIN: All right.

7 MR. SANDLER: That will work.

8 ALJ MARTIN: Okay. Great.

9 Then if there are no further questions, we will
10 go ahead and go off the record.

11 (TIME NOTED: 9:17 a.m.)

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1 STATE OF ARIZONA)
) ss.
 2 COUNTY OF MARICOPA)

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7 I, KATE E. BAUMGARTH, RPR, Certified Reporter
 8 No. 50582, for the State of Arizona, do hereby certify
 9 that the foregoing printed pages constitute a full, and
 10 accurate transcript of the proceedings had in the
 11 foregoing matter, all done to the best of my skill and
 12 ability.

13

14 WITNESS my hand this 26th day of February, 2010.

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 Kate E. Baumgarth, RPR
 Certified Reporter, No. 50582

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