

ORIGINAL



0000114470

**Arizona Corporation Commission
Docket Control
Attention Kay Mecca
1200 West Washington Street
Phoenix, AZ 85007-2927**

RECEIVED

2010 JUL 15 A 9:20

AZ CORP. COMMISSION
DOCKET CONTROL

July 14, 2010

RE: Docket No. W-03293A-10-0273

The following is the response by Thim Utility Co as required by your department. It includes an original and thirteen (13) copies.

The complainants, Gary R Bahr and Larry C Rowley have in our opinion, been harassing Thim Utility Co, other companies and government authorities, including the ACC in an attempt to cause anyone except themselves to fix and maintain the easement allowing them access to their property.

I refer you to the extensive documents prepared by your investigator, Richard Martinez, and is enclosed in this response.

Thim Utility Co water line is (as Richard Martinez has pointed out in his investigation) on the high side of the easement across the road from the washed portion that Mr. Bahr is complaining about. There is no damage to Thim Utility's water line or the ground it is buried beneath.

Thim Utility Co is in no way responsible for any damage to the easement in question and request that this matter be closed by the ACC without a hearing in hopes this will put an end to the constant harassment.

**Robin M Thim, Pres Thim Utility Co
P.O. Box 13145
Tucson, AZ 85732**

Arizona Corporation Commission
DOCKETED

JUL 15 2010

DOCKETED BY

ARIZONA CORPORATION COMMISSION
UTILITY COMPLAINT FORM

Investigator: Richard Martinez

Phone: (520) 628-6555

Fax: (520) 628-6559

Priority: Respond Within Five Days

Complaint No. 2008 - 69904

Date: 7/9/2008

Complaint Description: 19Z Other
N/A Not Applicable

Complaint By: Gary Bahr

Account Name: Gary Bahr Home: (520) 869-4662

Street: 8221 S. Silver Star Drive Work:

City: Tucson CBR: (602) 539-2893

State: AZ Zip: 85713 is: Other

Utility Company: Thim Utility Co

Division: Water

Contact Name: Cindy Shumate Contact Phone: (520) 290-1255

Nature of Complaint:

Customer is upset as he claims that Thim Utility Company has made the road (Silver Star Drive) un-passable, specifically, where the road curves to the right then curves to the left. Customer said he spoke with Robin Thim's brother who told customer that Thim Utility did not lay down any pipes or set any fire hydrants on this street and that Thim Utility Company will not come down and look at this customer's issue.

Customer wants it noted on this complaint that he will request a hearing on this matter if he has to as he will not let this go.

Did Thim Utility Company make any trenching on this road?

Did Thim Utility Company recently install any fire hydrants on this road?

Please investigate this matter.

End of Complaint

Utilities' Response:

7/11/08

Received a call from Chuck Thim ("Thim Utility Co.") who said that Thim Utility Co. is about 20 feet away from where the ruts are (on the East side of the road). Thim Utility has not done anything to make this rut. It is not where his water line is. This road is in bad shape due to rains and Thim Utility said that they are always making sure that their pipes are not exposed. FEMA was brought out about three years ago to repair this damaged road due to the fact that this is not a County maintained road. According to Thim Utility Co. this customer is very nasty to them as he is always cussing at them and screaming at them.

*****2/02/2010*****

I received a copy of a three page hand written formal complaint that Gary R. Bahr dropped off for us to mail for him to Docket Control in Phoenix. Customer requested a copy of what he dropped off for his records. I placed his formal complaint into the interoffice mail for delivery to Docket Control.



This continues from the last page as our system was full under Investigators' Comments & Disposition - A little confusing!

ARIZONA CORPORATION COMMISSION UTILITY COMPLAINT FORM

2/18/10

Received a voice mail message from Gary Bahr stating he was told by the ACC that he would hear from about his pending formal complaint within two weeks. Gary Bahr has not heard from the ACC as of yet and wants to be contacted regarding the lack of response. Gary Bahr left the following phone number, to call: 520-403-7568.

2/18/10

I called Gary Bahr @ 4:19 p.m. to let him know that the ALJ will set a procedural order as this will be mailed to him via the mail. (Gary Bahr, once I identified myself passed the telephone to his roommate Mr. Larry Rowley- so I actually gave this information to Mr. Larry Rowley)

2/22/10

I attempted to contact Gary Bahr at the two numbers listed under home and CBR phone number and neither are working.

2/23

*****Gary Bahrs telephone numbers are as follows: 520-303-6287 & 520-903-7819*****

2/23-

I called Gary Bahr @ 8:37 a.m. and left a voice mail message indicating that his current Formal Complaint is directed & specific to Qwest and if he want to pursue the other utility companies (Thim Water, Time Warner, & Trico) that he will have to submit formal complaint forms to each specific utility as well. I mentioned that he could submit them to our Tucson office but he would need to bring the copy of the original Formal Complaint form along with 13 copies for each of the Formal Complaint forms he brings in. I left Gary Bahr my direct telephone number in case he has other questions or concerns.

2/26

Gary Bahr came into the ACC office this afternoon with three more Formal Complaint applications that now include Thim Utility, Time Warner, and Trico Cooperative, Inc. These three formal applications were date stamped and interofficed to Docket Control in Phx. per Gary's Bahr's request.

3/19

I returned Gary Bahr's voice mail message this afternoon. I told Gary Bahr that I looked at his Formal Complaint against Qwest (T-01051B-10-0052) and that on March 2, 2010 I received a copy of a docketed Motion to Dismiss filed by Qwest. I told Gary Bahr that he was cc'd and mailed a copy to the address he provided to the ACC that is on file. Gary Bahr has not received the letter. I told Gary Bahr that once he has taken this to the Formal Complaint Level that the Consumer Services could no longer help him. He would either have to contact Docket Control for a better address or he could speak with the Hearing Division for assistance. Gary Bahr asked me to please mail him another copy that was mailed to him on March 2, 2010 from Docket Control to the same address on file? I told him I would.

I placed the postage on the envelope containing the letter and placed the envelope in the outgoing basket @ 4:33 p.m.

4/2/10- Received a call from Gary Bahr wanting to speak with my supervisor. Gary did not want to speak with me. I transferred his call to the 1-800 telephone number at the Phoenix ACC office.

4/6/10- Received a call from Gary Bahr again wanting to speak with my supervisor. I asked Gary if I could help him with something and he said no. Again, I transferred his call to the 1-800 telephone number at the Phoenix ACC office.

QWEST (T-01051B-10-0052)
DOCKETED MARCH 2, 2010

MOTION TO DISMISS FILED BY QWEST CORPORATION

TIME WARNER (T-20449A-10-0081)

MOTION TO DISMISS FILED BY TIME WARNER CABLE COMPANY

ARIZONA CORPORATION COMMISSION
UTILITY COMPLAINT FORM

DOCKETED MARCH 24, 2010

TRICO (E-01461A-10-0073) MOTION TO DISMISS FILED BY TRICO ELECTRIC COOPERATIVE, INC. - DOCKETED MARCH 29, 2010

4/15/10 (NOTES BY CEW) Customer had called 2x to complain about the info provided by Richard Martinez. I called and had a good conversation with him, his friend is in the hospital. His complaint was regarding his formal complaints being dismissed. He was told when they went formal, he would be able to provide evidence and it was over before it even began. He was very unhappy about the 2.5 yrs of statute of limitations. . . . Richard didn't tell him that! I advised Richard most likely didn't know anything about that, I didn't and I'm not surprised about that. I explained that this was not in the hands of the Hearing office and if he has a problem about the way it was handled, he really needed to call that office. An extensive investigation took place when his informal complaints were being handled. Per the complaints, when all utilities came together during that time, it was found that most didn't have utilities in the area, were not to blame for the washed out road and the ones that did have underground lines were cable. It is a private road which must be maintained by the owners. The rain has been the worst enemy. He wants to go back to the beginning. . . . I advised he will need to see what his next step could be thru the hearing office, perhaps there is a repeal he has available; I do not know. He will call the hearing office to see what he can do. He was told he can take all of his info to a hearing to be sorted out and finally the utilities will have to do what they are supposed to do.

I told him the informal complaint process is complete and I wish him luck with his case. I did let him know that when you live on a privately maintained road, it must be maintained by those who live on it. It might not seem fair, but unless he can get it changed to a county maintained road.

7/02/10*****SEE 11/07/2008 notes above*****
Customer was mailed out a Formal Complaint Form as customer intended to initially file a formal complaint against Thim Utility Company. The Formal Complaint was mailed to him at least twice as customer claims that the first set of Formal Complaint System never reached him.

"End of Response"

Investigator's Comments and Disposition:

7/11
Just received notice from Sprint that this email did not go through as we have the wrong email address on our UCF database. I spoke with Cindy Shumate ("Thim Utility Co.") who said that what we have on our UCF is wrong. Incidentally, Thim Utility just changed their email address to the following: robinthim@qwestoffice.net. I told Thim Utility Co. that that I would have out it changed on our system. I reissued this complaint today using the latest email address provided to me by Thim Utility Co.

7/11
I called customer @ 1147 to reiterate the information I received from Thim Utility Co. When I asked customer how long he has lived there he told me that is immaterial. I then told him I was asking him this information as I was about to tell him that three years ago (according to Thim Utility Co.) FEMA repaired this road as the rain does a lot of damage to this road during rainstorms. I was going to tell customer that Thim Utility Co was going to ask the local Fire Department to see if they can call FEMA once more to repair this road as this is NOT a County maintained road. Customer began yelling at me and once he used a "dirty" word I told him that I will not continue this conversation if he continues to use foul language and he raised his voice to an extremely high decibel and threatened me so I just hung up on this customer. Customer temperament becomes violent.

ARIZONA CORPORATION COMMISSION UTILITY COMPLAINT FORM

7/18

I received a voice mail message as I just returned from Annual Leave today. Deb Miller (520) 740-8051 from Councilwoman, Sharon Bronson's office, called and left me a message to call her back regarding the situation on this street. Deb Miller stated that Thim Utility Co.(Chuck Thim) gave Sharon Bronson's office my telephone number to call me.

I called Sharon Bronson's office and spoke with receptionist, Hope Sullivan, who said that she will give Deb Miller my message as Deb Miller will return to the office on Monday (7/21).

7/25

I called and left a message with receptionist, Hope Sullivan, at Sharon Bronson's office to have Deb Miller call me on Monday regarding Gary Bah's concern. Deb Miller left home early today as she was not feeling good.

7/28 I called Deb Miller @ 1037 hours. Deb Miller said that she just got off the telephone a few minutes ago with customer. Customer is adamant in getting Supervisor Sharon Bronson's office (District 3) to handle this and have this road fixed by Thim Utility Co. I told Deb Miller that there is nothing the ACC can do to make the utility company fixed a road that they had no impact on. According to Thim Utility Co, the trench was dug twenty feet away from the road. I told Deb Miller that there is nothing that the ACC can do for this customer based on the information that was provided to the ACC by Thim Utility Co.

8/05

I spoke with Deb Miller @ 1003 hours asking if anything new had transpired regarding this customer's complaint to supervisor Sharon Bronson's office? According to Deb Miller she rode out with DOT and looked over the area. According to what DOT told Deb Miller it appears that a trench could have been dug a while back as the meters are located on the opposite side of the road. Deb Miller not sure where to go from here. Deb Miller stated that she will keep the ACC posted on any new information that comes her way.

8/06

I received a phone call from customer who wants to know where the status of his complaint is at? Customer is upset as he believes that Thim Utility Co. is trespassing (see #52037 as a previous reference) on his property as the company's truck damages his property whenever they turn their vehicle around with their 4-16 inch tires. Customer said that he wants the road to be fixed as he claims that Thim Utility Co. has damaged this road when they dug a trench to install the pipes to the meters.

8/09-Accorinding to Chuck Thim the pipe that was placed underneath the road lays 4 feet under the roadway. Also, the employees who read the meters on the east side of customer's home have not used a vehicle for the past one and a half years as they walk to read the three meters appearing on the other side of customer's home. Chuck Thim said that they have reported this man to the Sheriff Department and specifically deputy Jay Mesa (520) 351-4900.

Chuck Thim also mentponed that their turn the vehicle in an area that is not on customer's property.

8/06-

I called Deb Miller from Supervisor's Sharon Bronson's office @ 4:56 p.m. Deb Miller said she needs to find out more specifics regarding what happened to the pipes that are underneath Silver Star Drive. Since it was late in the afternoon we decided to continue this conversation tomorrow.

8/07

I spoke with Chuck Thim to ask if the water pipe that goes underground Silver Star Drive is set four feet underground and Chuck said it is. Chuck is taking photos of the easement where customer has placed many forms of "items" to prevent anyone from driving over the easement. Chuck also taking photos of where both fiber cable and electrical lines are exposed. These ruts do not belong to Thim Utility Company. The photos will be emailed to me possibly today sometime.

8/06

ARIZONA CORPORATION COMMISSION UTILITY COMPLAINT FORM

I spoke with Deb Miller @ 3:22 p.m. and told her that in speaking with Chuck Thim earlier today, Chuck Thim said that he is taking photos of the area in question. Chuck Thim said that he can not believe that so much time is being spent with this customer as this customer is not being violated as Thim Utility Company has been sensitive to customer's request or needs. Customer is always wanting to blame Thim Utility Company for problems that arise in customer's area.

Deb Miller said that she contacted Developmental Services and is now awaiting information regarding what was done when Thim Utility Company requested to dig under this road in order to lay their pipes.

8/03-

Chuck Thim walked into my office at 10:10 a.m. to discuss the situation and to drop off photos and an illustration that he made up outlining the water pipes on this system close to where Gary Bahr resides.

8/12-

I spoke with Deb Miller, from County Supervisor Sharon Bronson's office, this afternoon (3:49 p.m.) to ask her if Developmental Services had contacted her with the information she is waiting for. Deb Miller said that she is still waiting to hear their response. Deb Miller said she spoke with Chuck Thim the other day as Chuck Thim also gave her photos of the area where this problem is occurring.

Deb Miller said that she would be willing to meet with both Chuck Thim, Gary Bahr, possibly ADOT, and myself to look over the property in question and to answer the customer's questions on his property and to ascertain the situation that continues to surface every few months between Gary Bahr and Thim Utility Water Company.

8/21

I met with Sharon Bronson's assistant, Deb Miller, and ADOT's Field Operation Manager, Ray Draves, and Chuck Thim ("Thim Utility Company").

We visited customer at his home and once we spoke about the issue that Mr. Bahr was complaining about we all drove down to the specific area down the road about one quarter of a mile away. Once we all arrived there Thim Utility Company again pointed out that his pipes are on the opposite side of the road which is on the elevated side of the road. According to Thim Utility Company his water pipes do cross this road almost the corner of Mr. Bahr's residence. Mr. Bahr was insistent that the pipes cross the road near. Before we left this area I mentioned to Gary Bahr not to dig in this area as we will request that Blue Stake come out to mark the pipes/lines in this particular area.

8/22

I called Trico and spoke with Frank Gonzales @ 0815 hours regarding the depth of the Trico line. Frank Gonzales ("Trico") said that the line must be 48 inches under the main level of the road. Trico noted that the NESC allows them a little less depth but Trico maintains a 48 inch standard. Trico needs to know the location so that their crews can investigate this. I told Trico that I would get that information from Thim Utility Co.

8/22-I called Thim Utility Co. @ 0830 hours and asked him for a location of where these exposed lines are located. Trico Utility Co. said that these exposed lines would be between 8450 S. Silver Star Drive up to 8221 (Gary Bahr's address). The majority of the exposed lines or at least the most visible would be about the 8300 area of Silver Star Drive.

8/22-I called Frank Gonzales ("Trico") to let him know the location of where he should be checking the depth of his electrical lines. Trico said that they will have this investigation completed and would give me the details by next Friday (8/29/08).

8/22-I called Mary Gravilla ("Qwest") and asked her for her assistance in attempting to find out if this "yellow tape" which is exposed from some Fiber Optic company belongs to Qwest. It is Qwest's property, to have it checked out regarding being the proper depth for safety concerns. Qwest will have someone in that department look into this matter and report back to me.

8/25 (Qwest):
Richard,

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UTILITY COMPLAINT FORM

Here is the response I got about the yellow fiber taps. Good News! Mary

We have the dig crew going Monday to rebury this cable.

8/27 (Qwest):

newest update:

Please let Richard know this is NOT QWEST facilities but Time Warner.
Thanks.

This was the customer with the yellow tape....

8/27

I called Lyndall Nipps ("Time Warner Telecommunications") @ 1420 hours to report the fact that there is yellow tape that is exposed and needs to be covered to it proper burial depth. Time Warner Telecommunications will look into this and have their Tucson Operational Manager, Jere Christiansen, call me directly.

8/27

I received another call from Time Warner Telecommunications who said that if this is serving a residential customer this would not be under their purview but instead Time Warner Cable (both companies split in 2002). Time Warner Telecommunications will have their Operations Manager call me with a possible phone number to their cable division contact person.

8/27 (Sent Internally from one Time Warner contact person to another employee of Time Warner):

Jere,

I just left you a voice mail a few minutes ago, and since then, I have spoken live with Mr. Richard Martinez at the AZCC. He was referred to us by Qwest because of an exposed fiber optic cable for a customer in rural Tucson; however, I confirmed that the customer is residential; so they would not be our customer. With that said, do you have a contact for Time Warner Cable's operations in the local area to which we might refer Richard?

Lyndall Nipps

Vice President, Regulatory

twtelecom

(AZ, CA, CO, HI, ID, NM, OR, UT, WA)

Office: 760-832-6275

Email: Lyndall.Nipps@twtelecom.com

8/27- (Time Warner Communications)
Time Warner cable is not in Arizona. The cable companies are Comcast and Cox.

Jere Christensen

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City Operations Director, Tucson
tw telecom, inc.
T 520.618.4215
C 520.906.2227

8/27

Thank you Jere Christensen.

Qwest went out to check this line and reported that this line belongs to Time Warner?
Could Qwest be in error?
Thanks.

Richard Martinez
Arizona Corporation Commission
Public Utilities Analyst II
(520) 628-6556

8/27 (Time Warner Communications):
Can you provide the location to me and we can verify as we do run all over town.

Jere Christensen
City Operations Director, Tucson
tw telecom, inc.
T 520.618.4215
C 520.906.2227

8/27

Between 8450 S. Silver Star Drive located in Tucson, Arizona up to 8221 S. Silver Star Drive (customer Gary Bahr's address). The majority of the exposed lines (yellow tape) or at least the most visible would be about the 8300 area of Silver Star Drive. Please do not disturb customer Gary Bahr if at all possible.

Richard Martinez
Arizona Corporation Commission
Public Utilities Analyst II
(520) 628-6556

9/02

I received a call from Deb Miller asking if Trico had yet researched their cable line? I told Deb Miller that Trico was suppose to call me last Friday with their results. I then called Trico and left a voice mail message for Frank Gonzales to call me back with the findings.

9/04

I called Frank Gonzales ("Trico") and asked him for his findings regarding Trico's cable depth between 8450 S. Silver Star Drive up to 8221 Silver Star Drive (Gary Bahr's address). Trico said that he did notice the depth was 27 inches in places and 30 inches in other places. The NESC requirement is 30 inches but Trico's own standards is 48 inches. This coming Monday (9/08) Frank Gonzales will have a meeting with Trico's Planning Department to talk about what will or won't be done regarding this Trico line. Trico will report to me their decision after their meeting.

9/08

I left a voice mail message for Chuck Thim to call me back as I wanted to share the latest information with him.

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9/08

I received a call back from Chuck Thim @ 2:34 p.m. as I told him that I received a call from Deb Miller on 9/02, stating that Gary Bahr called her and complained to her about the recent rains and the problems associated with the ruts and flood waters. I told Chuck that I would keep him apprised of anything else I find out regarding this area. Again Chuck Thim mentioned that when all the utility lines were Blue staked a few weeks ago his water lines were the only utility lines that were on the opposite side of the road and away from where the ruts are located.

9/09-

I called Cox Communications @ 0817 hours and left a voice mail message for Mark DiNunzio to call me to let me know if this fiber optic line belongs to Cox.

9/09

I received a call from Mark DiNunzio ("Cox") who said that Cox is not in this area. This must be Comcast's line.

9/09

I called several of the toll free lines to get a telephone number from a Comcast Regulatory Affair department. Most of those who answered would not give me any information to their regulatory department.

9/10

I received a call from Frank Gonzales ("Trico") regarding the meeting he attended this past Monday (9/08). Since the NESC standard depth minimum is set at 30 inches (Trico sets their own limit of 48 inches) Trico does not plan on doing anything to drop their cables any further. Trico stated that they do check their depths periodically and if the depth changes in the future that it would at that time plan to drop their cables as necessary by NESC standards.

9/16

I called and spoke with Deb Miller (Pima County Supervisor Sharon Bronson's office) @ 1231 p.m. to let her know that based on the Blue Stake markings showing that Thim Utility Company's water lines are on the opposite end of where the ruts are located (on the upper side of the roadway) there is nothing the ACC can do for this customer as it appears that Thim Utility is in compliance with how their lines are laid and have no bearing on the ruts on the road that customer is complaining about. Deb Miller along with ADOT both agreed that the way in which this entire area has been set up (with no regards for the natural flow of the washes and how there are no berms set up to divert water from the roadways) is not conducive to abundance of rains that occur especially during the monsoon season in Tucson and surrounding areas.

9/23-

I called Comcast and spoke with Cliff Salmon who told me that Comcast does not have any lines going off of Ajo Way in that area. This is not their fiber optics line according to the customer's address I provided Comcast.

9/23

I called Ed Fine ("SWG") to find out if he would know if these yellowish colored flags could be to identify gas lines?

SWG said it could be gas and the only way to be certain is to have this area Blue Staked. SWG will work on this tomorrow and report back to the ACC with it findings.

9/24

Larry Ayers,

Would it be possible to have Blue Stake find out who belongs to these "yellow flags" that are near the ruts by Gary Bahr's address (8221 S. Silver Star Drive, Tucson, AZ). Actually, these yellow flags are located approx. 1/4 of a mile south of his home.

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Ed Fine from SWG said that he sent his crew out to this area early this morning. SWG has no pipes anywhere near that area. Ed mentioned that these flags are for cables of some kind. Chuck Thim, operator for Thim Utility Co., mentioned that he believes they belong to a Fiber Communications Company and believes these are fiber lines of some sort.
Any assistance in this matter would be greatly appreciated.

Thanks.

Richard Martinez

9/25 (Pipeline Safety Division):

Richard, I visited the address of 8221 S. Silver Star Drive this morning and found the following underground utilities:

Electric	Trico		
Cable TV	Tyme Warner		
Fiber Optic	GST Telecom	800 642 2444	800 622 4478
Water	Company unknown		

The yellow tape would be caution barrier tape, appears to have been orange, but bleached out to look like yellow. This tape is used to protect construction sites and also placed over the buried utilities at the time of installation.

Note:

These facilities have been installed in a wash and catch extensive run off when it rains.

Hope this helps.

Larry

Larry,

Did you mention earlier in one of our conversations that you would be calling Blue Stake to alert this fiber optic company to look at the depth of their line? The recent monsoon rains as well as the monsoon rain from the previous seasons have removed a great deal of the top soil on Silver Star Road; therefore, washing away lots of top soil and creating water ruts on this road.

Thank you

Richard Martinez

9/25- (Pipeline Safety Division):

Richard, I just spoke with Stacie at the B S Center and we will give this a try. She will send a notice to the facility owners within a quarter mile of the physical address.

The ticket number is: 2008092501118 and our ID number is: 70459

The following are identified as having facilities within a quarter mile of the physical address:

- Broadwing Communication
- Qwest communication
- TW Telecom
- Trico Electric
- Tim Utilities

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Tohono Communications 520 383 5855 / Elizabeth Siqueros

Hope this helps.

Larry

9/30-Received a copy of a Locating and Utility Services from ELM (line locator company) and have attached it to the file

10/02-Received a copy of a Locating and Utility Services from ELM (line locator company) and have attached it to the file. I spoke with Larry Ayers (Pipeline Safety Division) who said that he was told by ELM that this fiber line belongs to Time Warner.

10/16
After much investigation by the ACC, the DOT, and with the assistance of the ACC's Pipeline Safety Division, it appears that the Arizona Corporation Commission or any of its regulated utility companies i.e. Thim Utility Water Co, Trico Electric Cooperative, Qwest Communication, or SWG do not have any direct bearing on this customer's initial problems of the ruts he finds located on the street to and from his home. I will now close this file. FILE CLOSED.

10/20/08 (NOTES BY CARMEN) I received a call from Mr. Gary Bahr, he had been transferred from the Commissioner's wing reception area. This person was very upset because the road had not been fixed. He lives on a dirt road. He states that the road is practically washed out and that the utility cables and pipes are exposed. He states that there are ruts in the street to where they are almost impossible to travel on. He was speaking and yelling that I had to ask him to calm down and let him know that I could not understand him. He states that it is Time Warner cable. He had a person by the name of Larry speak to me and he explained that the road is unpaved and when it rains the upper layer of dirt gets washed away. This causes the ruts and holes in the road and because the soil has been washed off that is when the cables and pipes are exposed. I researched the database and found that Richard Martinez in the Tucson Office has been working on this situation. I explained to Larry that Richard had done a lot of investigations and research on this matter and that he should contact him. I gave him the telephone number for Richard in the Tucson office. Closed

10-21 received a call from Betty in Chairman Gleason's office (10/20 3:21 pm), please call Gary Bahr, he is very upset about the road and that nothing has been done to fix his problem.

10-28 10:15 am (NOTES BY CEW) Mr. Bahr called Tucson Office, Reg answered the phone, customer didn't want to talk to Richard or him, he wanted to speak with his supervisor. Reg called me, we did a three way call. Customer very upset about ALL utilities that drive on his private road and put ruts in them. This is creating a back pain for him and neighbors. I asked which companies and had he contacted them??? HE said this is our job, he has not & will not and if I am not going to help he will call the Governor. I advised that all companies he mentioned, Qwest, Time Warner, Thim Water & Trico had taken part in this investigation, he was there when they all came and/or commented on the lines along the road in the easement. He stopped the conversation short saying he was going to call the Governor and hung up.

10/29
I looked at this complaint this morning and realized that I did not close it out as I meant to (see my notes above dated 10/16/08). I now closed it out as the ACC has completed the investigation into this matter. None of the public utility companies that the ACC regulates are responsible for the ruts on this road. This is a civil issue that customer must take up with either the Department of Transportation or fix among the neighbors who share this road. County Supervisor Sharon Bronson's office has also been attempting to help this customer and I spoke again this morning to Supervisor's aid, Deb Miller and Deb Miller stated that she told Gary Bahr about a month ago that this is something that he has to fix himself or with his neighbors as this is a private road and the utility companies are not responsible for these ruts. Deb Miller stated to me that Gary Bahr took the news fairly well back then. She spoke with him on another non-related issue she was assisting him with and this is the time he

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brought this issue up with Deb Miller once again.
FILE CLOSED.

11/07

Ken Rozen, Phoenix Commissioners Wing, spoke with Gary Bahr today regarding the "private road" destruction issue. Gary Bahr is now wanting to file a formal complaint. I attempted to contact Gary Bahr at both of the following telephone numbers that were provided to me by Ken Rozen: (520) 903-7568 and (602) 539-2893.

I left a voice mail message on the (520) 903-7568 that I would be mailing him a Formal Complaint form to fill out and mail back to Docket Control in Phoenix. I stated that I would be more than willing to answer any questions he may have regarding the filling of the formal request form if was to call me at (520) 628-6556. I mailed out a copy of the formal complaint packet via US Postal Service this afternoon to the address on file listed above. File already closed.

11/12

I received the envelope I mailed customer on 11/07/08. It was returned to sender with the following information typed on a yellow tape attached to the envelope:

BAHR22* 857352056 1507 39 11/10/08
FORWARD TIME EXP RTN TO SEND
15150 W. AJO WAY #458
TUCSON, AZ 85737

RETURN TO SENDER

11/12-

I called customer @ 1422 hours and left a voice mail message on the customer's answering machine to please call me back with a good forwarding address. I now await customer's return phone call as I have the original information that I mailed out to customer sitting on my desk.

11/13

I called customer @ 0906 hours and repeated the same message I left for him yesterday. I am awaiting customer's return call so that I can mail him his packet of the formal complaint information he requested.

11/13

I received a call from Deb Miller @ 2:34 County Supervisor-Sharon Bronson's office, that they were told by Gary Bahr that the ACC decided to assist in fixing the ruts in the road. I told Deb Miller that there was no such communications between the ACC and Mr. Bahr. I did tell Deb Miller that the ACC was in the process of mailing him a Formal Complaint Form so that Mr. Bahr can complete and mail off to the Phoenix office's Docket Control Department.

11/19

I re-mailed the application to the following address based on the information I secured from Thim Utility Company:

Gary Bahr
C/O Larry Rowley
15150 W. Ajo Way
P.O. Box 458
Tucson, AZ 85735

REFERRED FROM CHAIRMAN MAYES'S OFFICE

9/25/09

ARIZONA CORPORATION COMMISSION UTILITY COMPLAINT FORM

After receiving a message from Connie Walczak that I need to contact customer and let customer know where to mail in his formal complaint letter to, I attempted to reach this customer with both the local telephone number we have listed as customer's home phone number. I also attempted to reach customer by the other telephone number of (602) 539-2893 and I left a voice mail message to call me back. No response back from customer as of yet.

I will now await for customer's response so I can explain to him where to mail in his formal complaint form.

9/30/09

I called customer's (602-539-2893) telephone number at 3:17 p.m. and left a voice mail message to please call me at my direct telephone number in Tucson so that we can talk about his unsolved issues.

10/02/09

I called @ 8:59 am. Gary Bahr and asked him about this latest complaint that the ACC received within our Phoenix office. Gary Bahr stated that his roommate, Larry Rowley, is the person who complained to the ACC about Qwest. Jim Rowley has major back problems and whenever he has to drive down this road he needs to medicate himself with morphine due to the pain he encounters with his back. Gary Bahr said that according to what Larry Rowley told him Qwest's engineers will be looking into this issue (see complaints #81617 & # 81709).

I asked Gary if he ever received my formal complaint form I mailed to him? Gary said no. I then asked once more for a better address since the last formal complaint form was returned to us. Gary said that the address I mailed it to is correct but that sometimes the post office will return mail to the sender for some unknown reason. Gary Bahr mentioned that back in 2005 his mother mailed him a birthday card and it was returned to her twice until the third time he finally received his birthday card from this mother.

I told Gary that I will mail him a formal complaint form to his address once more.

Mailing address:
15150 W. Ajo Way, #458
Tucson, AZ 85735

10/02/09-

ACC mailed out another copy of the Formal Complaint Letter to the mailing address that Gary Bahr gave me once more today (see above notes).

NOTEIF CUSTOMER CONTINUES REQUESTING ASSISTANCE IN THIS MATTER, ADVISE HE WILL NEED TO DO SO THROUGH THE FORMAL COMPLAINT PROCESS

10/05/09

I called customer @ 12:51 p.m. to let him know that I am mailing him a copy of the Formal Complaint Form today along with the supporting paperwork that explains what customers must submit to Docket Control. I explained to Gary Bahr that if for some reason this packet does not reach his mailbox that he will need to then come to our Tucson ACC office to pick up copies of what I mailed him. Customer said that would be no problem as he visits Tucson often. I also told Gary Bahr that he would have to specify which of the utility tariffs he believes has been violated and to write this down on his application form. Gary Bahr understood.

FILE RE-CLOSED.

10/05/09-Copy emailed to both Sheila Stoeller & Connie Walczak.

11/09

I received a call from Trisha Morgan who said she received a call from Gary Bahr today. Once Gary Bahr continued to explain his situation to Trisha Morgan, my name (Richard Martinez) was mentioned. Once Trisha got off the phone she emailed me to call her regarding Gary Bahr's issue. I then called Trisha Morgan and filled her in on this customers continued efforts to have his road flattened in order to remove the bumps. I explained to Trisha Morgan that this is a private road and the property owners will have to take care of leveling this road among themselves as it appears that none of the public utility companies in this area can be blamed for this damaged road.

ARIZONA CORPORATION COMMISSION
UTILITY COMPLAINT FORM

I mentioned to Trisha Morgan that Sheila Stoeller had already been involved with this customer only a few weeks ago. ALREADY CLOSED.

2/02/10

Mr. Bahr arrived in our ACC Tucson office at 3:22 p.m. He left off a Formal Complaint Form and wanted to know how long it will take to get his formal hearing? I reminded him that we has already discussed this issue in great lengths and he got upset and said I was not doing my job as he walked out and left very angry.

2/02/20

My collegeau, Jenny Gomez, received a call within about five minutes after Gary Bahr stormed out of our office as he asked Jenny Gomez who my boss is? Jenny told customer it is Connie Walczak. Gary Bahr is requesting that Connie Walczak call him directly.

*****2/02/10*****SEE UTILITY'S RESPONSE SECTION FOR ANY CONTINUATION OF THIS COMPLAINT AS OUR SYSTEM IS LIMITING THE AMOUNT OF INFO WE CAN ADD INTO "INVESTIGATORS' COMMENTS & DISPOSITION"*****

End of Comments

Date Completed: 10/29/2008

Complaint No. 2008 - 69904

Un-Substantiated

Notes: See Investigators' Comments & Disposition