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BEFORE THE ARIZONA CORPORATION COMMISSION

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Arizona Corporation Commission
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ARIZONA CORPORATION COMMISSION
DOCKET CONTROL

JUL 30 2013

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IN THE MATTER OF THE FORMAL COMPLAINT
OF ROGER AND DARLENE CHANTEL,

DOCKET NO. E-01750A-09-0149

COMPLAINANTS,

v.

MOHAVE ELECTRIC COOPERATIVE, INC.,

RESPONDENT.

PROCEDURAL ORDER

BY THE COMMISSION:

On March 24, 2009, Roger and Darlene Chantel filed a formal complaint ("Complaint") with the Arizona Corporation Commission ("Commission") against Mohave Electric Cooperative, Inc. ("MEC" or "Company"). MEC filed its Response to Formal Complaint and Motion to Dismiss on April 10, 2009.

A Procedural Order was docketed on July 28, 2009, denying MEC's Motion to Dismiss and setting the hearing in this matter for January 20, 2010.

On December 10, 2009, the Chantels filed a Motion to Recess Formal Complaint ("Motion") relating they had filed a complaint in Mohave County Superior Court against MEC on November 20, 2009, asserting various civil claims and seeking damages. The Chantels requested a stay of their Complaint before the Commission pending the resolution of the Superior Court action "because the Superior Court Complaint raises issues and seeks relief that cannot be addressed in the ACC. For the sake of judicial efficiency, Complainants seek to resolve all the Superior Court Complaint issues first. The resolution of these issues in Superior Court may make the Formal Complaint moot."¹

MEC objected to the stay in its Response to Complainants' Motion to Recess Formal

¹ Motion to Recess, page 2.

1 Complaint docketed on December 21, 2009.

2 On December 24, 2009, a Procedural Order was issued granting the Chantel's Motion and
3 staying the Complaint pending the final resolution of the Mohave County Superior Court action. The
4 Procedural Order required the Chantels to file Quarterly Updates with the Commission on the
5 lawsuit's status.

6 In their June 28, 2012, Quarterly Update the Chantels stated that Mohave County Superior
7 Court issued its Judgment on May 31, 2012, granting MEC's summary judgment motion and
8 dismissing the case. The Chantels filed an appeal in the Arizona Court of Appeals on June 13, 2012.

9 In the Chantel's Quarterly Update docketed July 3, 2013, they reiterated the nature of their
10 civil claims against MEC, they but did provide an update on the status of the appeal.

11 On July 12, 2013, MEC filed a Motion to Reconsider Motion to Dismiss Formal Complaint
12 ("Motion to Reconsider") advising the Commission that the Court of Appeals had affirmed the
13 Mohave County Superior Court's Judgment. MEC attached a copy of the Court of Appeals' April
14 16, 2013, Memorandum Decision and the May 30, 2013, Court of Appeals Mandate, which indicated
15 that the deadlines for filing a motion for reconsideration and a petition for review had expired.

16 In its Motion to Reconsider, MEC asserted that the Commission is bound by decisions of the
17 trial and appellate courts in this matter, contending: "When a court of competent jurisdiction renders
18 a final judgment, that judgment is *res judicata* as between the same parties on all issues that were or
19 might have been determined in the former action."² MEC requested that the Commission dismiss the
20 Chantel's Complaint in its entirety.

21 As of the issue date of this Procedural Order, the Chantels have not submitted a response to
22 MEC's Motion to Reconsider.

23 IT IS THEREFORE ORDERED that **the Chantels shall file a response** to Mohave Electric
24 Cooperative, Inc.'s Motion to Reconsider Motion to Dismiss Formal Complaint **no later than**
25 **August 16, 2013.**

26 IT IS FURTHER ORDERED that, **as an alternative to filing a response**, if the Chantels no
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28 ² Motion to Reconsider, page 2, citing *Hall v. Lalli*, 194 Ariz. 54, 57, 977 P.2d 776, 779 (1999); see also, *Electrical District No. 2 v. Arizona Corp. Com'n*, 155 Ariz. 252, 259, 745 P.2d 1348, 1352 (App. 1984).

1 longer wish to pursue their Complaint before the Commission, **the Chantels shall file a Motion to**
2 **Withdraw Complaint no later than August 16, 2013.**

3 IT IS FUTHER ORDERED advising the Chantels that **failure to timely comply** with the
4 above Ordering Paragraphs, or with any subsequent Orders of the Commission, **may ultimately**
5 **result in administrative closure of this docket for failure to cooperate.**

6 IT IS FURTHER ORDERED that all parties must comply with Rules 31 and 38 of the Rules
7 of the Arizona Supreme Court and A.R.S. §40-243 with respect to practice of law and admission *pro*
8 *hac vice*.

9 IT IS FURTHER ORDERED that that the Administrative Law Judge may rescind, alter,
10 amend, or waive any portion of this Procedural Order either by subsequent Procedural Order or by
11 ruling at hearing.

12 DATED this 26th day of July, 2013.


14 BELINDA A. MARTIN
15 ADMINISTRATIVE LAW JUDGE
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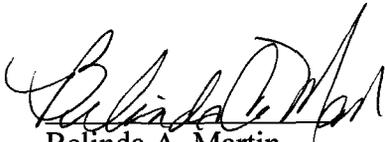
17 Copies of the foregoing mailed
18 this 26th day of July, 2013, to:

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