Marquis Aurbach
Brian R. Hardy, Esq.
Nevada Bar No. 10068
Sydney A. Soder, Esq.
Nevada Bar No. 17120
10001 Park Run Drive
Las Vegas, Nevada 89145
Telephone: (702) 382-0711
Facsimile: (702) 382-5816
bhardy@maclaw.com
ssoder@maclaw.com
Attorneys for Petitioners

SEVENTH JUDICIAL DISTRICT COURT

LINCOLN COUNTY, NEVADA

CITY OF CALIENTE and CALIENTE PUBLIC UTILITIES; Petitioners, vs. ALBERTO G. GARCIA, KIM GARCIA, and VAN G. GARCIA, Respondents.	Case No.: CV0602625 Dept. No.:

SUMMONS - CIVIL

NOTICE! YOU HAVE BEEN SUED. THE COURT MAY DECIDE AGAINST YOU WITHOUT YOUR BEING HEARD UNLESS YOU RESPOND WITHIN 21 DAYS. READ THE INFORMATION BELOW.

ALBERTO G. GARCIA

TO THE DEFENDANT(S): A civil Complaint has been filed by the Plaintiff(s) against you for the relief set forth in the Complaint.

1. If you intend to defend this lawsuit, within 21 days after this Summons is served on you, exclusive of the day of service, you must do the following:
   a. File with the Clerk of this Court, whose address is shown below, a formal written response to the Complaint in accordance with the rules of the Court, with the appropriate filing fee.

MARQUIS AURBACH
10001 Park Run Drive
Las Vegas, Nevada 89145
(702) 382-0711 FAX: (702) 382-5816

Marquis Aurbach
Brian R. Hardy, Esq.
Nevada Bar No. 10068
Sydney A. Soder, Esq.
Nevada Bar No. 17120
10001 Park Run Drive
Las Vegas, Nevada 89145
Telephone: (702) 382-0711
Facsimile: (702) 382-5816
bhardy@maclaw.com
ssoder@maclaw.com
Attorneys for Petitioners

SEVENTH JUDICIAL DISTRICT COURT

LINCOLN COUNTY, NEVADA

CITY OF CALIENTE and CALIENTE PUBLIC UTILITIES; Petitioners, vs. ALBERTO G. GARCIA, KIM GARCIA, and VAN G. GARCIA, Respondents.	Case No.: CV0602625 Dept. No.:

SUMMONS - CIVIL

NOTICE! YOU HAVE BEEN SUED. THE COURT MAY DECIDE AGAINST YOU WITHOUT YOUR BEING HEARD UNLESS YOU RESPOND WITHIN 21 DAYS. READ THE INFORMATION BELOW.

KIM GARCIA

TO THE DEFENDANT(S): A civil Complaint has been filed by the Plaintiff(s) against you for the relief set forth in the Complaint.

1. If you intend to defend this lawsuit, within 21 days after this Summons is served on you, exclusive of the day of service, you must do the following:
   a. File with the Clerk of this Court, whose address is shown below, a formal written response to the Complaint in accordance with the rules of the Court, with the appropriate filing fee.

MARQUIS AURBACH
10001 Park Run Drive
Las Vegas, Nevada 89145
(702) 382-0711 FAX: (702) 382-5816

b. Serve a copy of your response upon the attorney whose name and address is shown below.

2. Unless you respond, your default will be entered upon application of the Plaintiff(s) and failure to so respond will result in a judgment of default against you for the relief demanded in the Complaint, which could result in the taking of money or property or other relief requested in the Complaint.

3. If you intend to seek the advice of an attorney in this matter, you should do so promptly so that your response may be filed on time.

4. The State of Nevada, its political subdivisions, agencies, officers, employees, board members, commission members and legislators each have 45 days after service of this Summons within which to file an Answer or other responsive pleading to the Complaint.

CLERK OF COURT

By: Maubach A. Flores 6/25/25
Deputy Clerk Date
Lincoln County Courthouse
181 North Main Street, Suite 208
Pioche, NV 89043

Issued at the direction of:

MARQUIS AURBACH

Brian R. Hardy, Esq.
Nevada Bar No. 10068
Sydney A. Soder, Esq.
Nevada Bar No. 17120
10001 Park Run Drive
Las Vegas, Nevada 89145
Attorneys for Petitioners

MARQUIS AURBACH
10001 Park Run Drive
Las Vegas, Nevada 89145
(702) 382-0711 FAX: (702) 382-5816

Marquis Aurbach
Brian R. Hardy, Esq.
Nevada Bar No. 10068
Sydney A. Soder, Esq.
Nevada Bar No. 17120
10001 Park Run Drive
Las Vegas, Nevada 89145
Telephone: (702) 382-0711
Facsimile: (702) 382-5816
bhardy@maclaw.com
ssoder@maclaw.com
Attorneys for Petitioners

SEVENTH JUDICIAL DISTRICT COURT

LINCOLN COUNTY, NEVADA

CITY OF CALIENTE and CALIENTE PUBLIC UTILITIES; Petitioners, vs. ALBERTO G. GARCIA, KIM GARCIA, and VAN G. GARCIA, Respondents.	Case No.: CV0602625 Dept. No.:

SUMMONS - CIVIL

NOTICE! YOU HAVE BEEN SUED. THE COURT MAY DECIDE AGAINST YOU WITHOUT YOUR BEING HEARD UNLESS YOU RESPOND WITHIN 21 DAYS. READ THE INFORMATION BELOW.

ALBERTO G. GARCIA

TO THE DEFENDANT(S): A civil Complaint has been filed by the Plaintiff(s) against you for the relief set forth in the Complaint.

1. If you intend to defend this lawsuit, within 21 days after this Summons is served on you, exclusive of the day of service, you must do the following:

   a. File with the Clerk of this Court, whose address is shown below, a formal written response to the Complaint in accordance with the rules of the Court, with the appropriate filing fee.

MARQUIS AURBACH
10001 Park Run Drive
Las Vegas, Nevada 89145
(702) 382-0711 FAX: (702) 382-5816

b. Serve a copy of your response upon the attorney whose name and address is shown below.

2. Unless you respond, your default will be entered upon application of the Plaintiff(s) and failure to so respond will result in a judgment of default against you for the relief demanded in the Complaint, which could result in the taking of money or property or other relief requested in the Complaint.

3. If you intend to seek the advice of an attorney in this matter, you should do so promptly so that your response may be filed on time.

4. The State of Nevada, its political subdivisions, agencies, officers, employees, board members, commission members and legislators each have 45 days after service of this Summons within which to file an Answer or other responsive pleading to the Complaint.

CLERK OF COURT

By: Maribel A. Flores 6/25/25
Deputy Clerk Date
Lincoln County Courthouse
181 North Main Street, Suite 208
Pioche, NV 89043

Issued at the direction of:

MARQUIS AURBACH

Brian R. Hardy, Esq.
Nevada Bar No. 10068
Sydney A. Soder, Esq.
Nevada Bar No. 17120
10001 Park Run Drive
Las Vegas, Nevada 89145
Attorneys for Petitioners

MARQUIS AURBACH
10001 Park Run Drive
Las Vegas, Nevada 89145
(702) 382-0711 FAX: (702) 382-5816

Marquis Aurbach
Brian R. Hardy, Esq.
Nevada Bar No. 10068
Sydney A. Soder, Esq.
Nevada Bar No. 17120
10001 Park Run Drive
Las Vegas, Nevada 89145
Telephone: (702) 382-0711
Facsimile: (702) 382-5816
bhardy@maclaw.com
ssoder@maclaw.com
Attorneys for Petitioners

FILED
2025 JUN 25 PM 2:31
LINCOLN COUNTY CLERK
BY

SEVENTH JUDICIAL DISTRICT COURT

LINCOLN COUNTY, NEVADA

CITY OF CALIENTE and CALIENTE PUBLIC UTILITIES; Petitioners, vs. ALBERTO G. GARCIA, KIM GARCIA, and VAN G. GARCIA, Respondents.	Case No.: CV0602625 Dept. No.: **[HEARING REQUESTED]**

PETITION FOR DECLARATORY RELIEF PURSUANT TO NRS 30.030 AND FOR INJUNCTIVE RELIEF PURSUANT TO NRS 33.010

Petitioners, the City of Caliente (the "City" or "Caliente") and Caliente Public Utilities (the "CPU"), by and through its counsel of record, the law firm Marquis Aurbach, and in accordance with Chapters 30 and 33 of the Nevada Revised Statues, respectfully petition this Court for declaratory and injunctive relief as follows:

I. INTRODUCTION

This Petition seeks declaratory and injunctive relief related to the City of Caliente's public utility authority with respect to its maintenance of electric power throughout the City. The instant relief sought stems from the City and CPU's efforts to modernize its power grid and switch its analog power meters to "smart" meters. Respondents Alberto Garcia and Kim Garcia (the

MARQUIS AURBACH
10001 Park Run Drive
Las Vegas, Nevada 89145
(702) 382-0711 FAX: (702) 382-5816

MARQUIS AURBACH
10001 Park Run Drive
Las Vegas, Nevada 89145
(702) 382-0711 FAX: (702) 382-5816

"Garcias") have objected and prevented access to their property for any such purpose. Accordingly, the City of Caliente and Caliente Public Utilities hereby seek a declaratory order, pursuant to NRS 30.030, that the City, the CPU, and its duly authorized agents are allowed to access and maintain the City's power meter on the Garcias' property, or, alternatively, that the Garcias must allow the CPU to disconnect their property from the City's power and remove the City's meter located therein. Accordingly, the City seeks an injunction, pursuant to NRS 33.010, requiring the Garcias to either grant the City and CPU a public utility easement, whereby it can access and maintain its power meters as it determines necessary, or alternatively, for the Garcias to allow the CPU to access their property to remove the City's power meter.

II. FACTUAL BACKGROUND

1. The City of Caliente (the "City" or "Caliente") is an incorporated municipality in Lincoln County, Nevada.

2. Upon information and belief, Respondents Alberto G. Garcia and Kim Garcia (the "Garcias") are a married couple residing in the City of Caliente, who occupy the residential property located at 135 Clark St., Caliente, Nevada 89008 (the "Garcias' property").

3. Upon information and belief, Respondent Alberto Garcia co-owns the Garcias' property with his brother, Respondent Van G. Garcia.

4. Pursuant to Chapter 10 of the Caliente Municipal Code, the City provides and manages power to its residents through the Caliente Public Utilities department (the "CPU").[1]

5. The CPU is overseen and managed by the Caliente City Council.[2]

6. In order to provide power to its residents, the City installed analog power meters

[1] **Exhibit 1**, Ch. 10 of the Caliente Municipal Code, "Caliente Public Utilities".; *see also* **Exhibit 2**, Declaration of Jared Brackenbury, City of Caliente's Public Works Manager.

[2] **Ex. 1** at Sec. 10.010 Operation, "Control by City Council".

on both residential and commercial properties, including at the Garcias' property.[3]

7. As part of its function, the CPU operates and maintains these power meters to measure and assess the property's power usage, including at the Garcias' property.[4]

8. The CPU has maintained the meters and performed monthly meter reads since installation.[5]

9. Prior to 2025, all properties within the City had analog power meters, which use mechanical dials that must be manually read by technicians on a monthly basis to establish power usage and corresponding costs.[6]

10. Upon information and belief, Van and Alberto Garcia acquired titled to the property on or around March 14, 2024.[7]

11. Since acquiring title, the Garcias have permitted CPU to access the property to service, maintain, and read the analog power meter.[8]

12. In or around October 2023, the City Council began exploring funding for an effort to switch from analog meters to Advanced Metering Infrastructure ("AMI") 'smart' meters, which would allow for increased accuracy in measuring energy consumption, increased reliability and safety, and would alleviate public resources by eliminating the need for monthly manual meter

MARQUIS AURBACH
10001 Park Run Drive
Las Vegas, Nevada 89145
(702) 382-0711 FAX: (702) 382-5816

[3] **Ex. 2**, Brackenbury Declaration at ¶4-5.

[4] **Ex. 2**, Brackenbury Declaration at ¶5-7.

[5] *Id* at ¶6.

[6] *Id* at ¶7.

[7] **Exhibit 3**, Grant Bargain Sale Deed, dated April 18, 2024.

[8] **Ex. 2**, Brackenbury Declaration at ¶8.

checks.[9]

13. On December 7, 2023, the City Council voted unanimously to institute a switch from the analog meters to AMI smart meters,[10] and the City and CPU thereafter worked to institute the transition.[11]

14. To perform the switch, technicians on behalf of CPU would simply need to access the analog meter on the property and remove and replace it with a smart meter, which takes approximately 15-20 minutes.[12]

15. In or around December 2024, the CPU began installing a small number of AMI smart meters.[13] Upon inquiry as to whether residents and property owners would be notified, Mr. Brackenbury, the City of Caliente's Public Works Manager, reported that notice of the swap would be posted a few days prior to installation, and that non-functioning meters would be prioritized.[14]

16. In or around January 2, 2025, Mr. Brackenbury reported that training was underway for the new smart meter system, and that indications were that the AMI meters would free up CPU crew time in the future.[15]

MARQUIS AURBACH
10001 Park Run Drive
Las Vegas, Nevada 89145
(702) 382-0711 FAX: (702) 382-5816

---

[9] **Ex. 2**, Brackenbury Declaration at ¶¶9-13; *see also* **Exhibit 4**, Caliente's City Council Meeting minutes for October 19, 2023 at p.4, Section 5(a) – City Manager's Report; **Exhibit 5**, City Council Meeting minutes for November 2, 2023 at p.3, Section 6(b) – Public Works Manager's Report.

[10] **Exhibit 6**, City Council Meeting minutes for December 7, 2023 at p.2, Section 4(a) - Approve/Deny Vision Meters Proposal for AMI Grant.

[11] **Exhibit 7**, City Council Meeting minutes for April 4, 2024 at p.14, Section 5(b) – City Clerk's Report; for April 18, 2024 at p.9, Section 5(b); for July 18, 2024 at p.9, Section 5(c) – Public Works Manager's Report; for August 1, 2024 at p.5, Section 5(c); for August 15, 2024 at p.7, Sections 5(b) and 5(c); for October 3, 2024 at pp.6-7, Sections 5(b) and 5(c); and for November 7, 2024 at p.5, Section 5(c); *see also* **Ex. 2**, Brackenbury Declaration at ¶13-14.

[12] **Ex. 2**, Brackenbury Declaration at ¶15.

[13] **Exhibit 8**, City Council Meeting minutes for December 19, 2024, at pp.3-4, Section 5(b).

[14] *Id.*

[15] **Exhibit 9**, City Council Meeting minutes for January 2, 2025, at pp.2-3, Section 5(b).

MARQUIS AURBACH
10001 Park Run Drive
Las Vegas, Nevada 89145
(702) 382-0711 FAX: (702) 382-5816

17. On January 16, 2025, Mr. Brackenbury informed the City Council that smart meter installations were continuing, and that the AMI meter project crews were taking time to clean up debris throughout the City as they worked.[16]

18. Further, the City Council also discussed its responsibilities with respect to the AMI meter project, and considered information regarding the potential for residents to "opt-out" and the associated costs and concerns of opting out.[17]

19. In or around the first week of February in 2025, the CPU crews posted notice on residential properties, including on the Garcias' property, informing the residents that smart meter swaps would take place within five (5) business days.[18]

20. On February 6, 2025, the City Council meeting was opened for public comment regarding the smart meter swap and residents, including Ms. Garcia, inquired as to the potential for an "opt-out" policy, citing general (but unsubstantiated) health concerns and alleged issues with lithium batteries.[19]

21. Later in the meeting, the Council discussed the AMI meter project and the residents' concerns.[20]

22. Specifically, Mr. Dane Bradfield, the General Manager of Lincoln County's Power District No. 1, explained Lincoln County's own procedures in switching to AMI meters, and their opt-out policy and related expenses.[21] He indicated that all customers elected to switch to AMI

---

[16] *Id.*

[17] **Exhibit 10**, City Council Meeting minutes for January 16, 2025 at p.6, Section 6(d) – Public Utilities.

[18] **Ex. 2**, Brackenbury Declaration at ¶16.

[19] **Exhibit 11**, City Council Meeting minutes for February 6, 2025, at p.2, Section 2 - Public Comment.

[20] *Id.* at pp. 2-3, Section 4(b) – Discussion on AMI Meters and any actions related to those concerns.

[21] *Id.*; **Ex. 2**, Brackenbury Declaration at ¶¶20-22.

MARQUIS AURBACH
10001 Park Run Drive
Las Vegas, Nevada 89145
(702) 382-0711 FAX: (702) 382-5816

meters and that no residents had exercised the available opt-out.[22] Finally, Mr. Bradfield reported that they relied on sources such as the World Health Organization and American Cancer Society to address any health concerns.[23]

23. During this meeting, Mr. Brackenbury also reported on extensive efforts in collaboration with the smart meter vendor to address the citizens' various concerns.[24] First, he indicated that AMI smart meters do not contain lithium batteries, which some residents had concerns about.[25] Second, he indicated that upon further research, the meters emit standard level of frequencies similar to everyday household items such as cell phones and Wi-Fi.[26]

24. Mr. Brackenbury further reported on the advantages of smart meters, indicating that analog meters required more time and resources from the CPU, and did not accurately capture usage, whereas the smart meters would update data in real time and capture energy usage during peak times.[27]

25. Also at the February 6, 2025 meeting, City Councilman Sean FitzSimons shared an informative resource from the Federal Communications Commissions, regarding the permissible limits of radiofrequencies for everyday household items, which reported AMI meters at the low end of the frequency spectrum.[28]

26. The Council continued discussion about the residents' various concerns, and no

---

[22] *Id.*

[23] **Ex. 11** at pp. 2-3, Section 4(b).

[24] *Id.*

[25] *Id.*

[26] *Id.*

[27] *Id.*

[28] *Id.*

MARQUIS AURBACH
10001 Park Run Drive
Las Vegas, Nevada 89145
(702) 382-0711 FAX: (702) 382-5816

further action was taken on the issue at this meeting.[29]

27. Finally, Mr. Brackenbury reported to the Council that a majority of the residential meters had already been successfully transitioned.[30]

28. On February 11, 2025, the Garcias submitted a letter to the City requesting an "opt-out" of the smart meters due to concerns over health risks.[31]

29. In response, the City offered to move the meters away from the residents' properties and/or to install "faraday" bags designed to shield against electromagnetic frequencies ("EMF).[32]

30. On February 19, 2025, Ms. Garcia emailed the Mayor Steve Rowe and the City Council regarding a report generated by ChatGPT allegedly detailing information about Visions Smart Meters, the kind being installed in Caliente.[33]

31. On February 20, 2025, the Council held a meeting, which was again opened for public comments regarding the AMI project, and the Council set the opt-out issue for a potential action vote.[34]

32. Ms. Garcia spoke at the meeting and reaffirmed her desire for an option to "opt-out" of the smart meter installation.[35]

33. Both the City Mayor and members of the Council discussed the advantages and information in support of the smart meter project, while acknowledging the need to balance the

---

[29] *Id.*

[30] **Ex. 11** at p.6, Section 5(b) – Public Work Manager's Report.

[31] **Exhibit 12**, Correspondence from the Garcias, dated February 11, 2025 (*redacted for attorney-client privilege*).

[32] **Ex. 2**, Brackenbury Declaration at ¶25.

[33] **Exhibit 13**, Email correspondence from Kim Garcia.

[34] **Exhibit 14**, City Council Meeting minutes for February 20, 2025.

[35] *Id.* at p. 2, Section 2 – Public Comment.

MARQUIS AURBACH
10001 Park Run Drive
Las Vegas, Nevada 89145
(702) 382-0711 FAX: (702) 382-5816

citizens' concerns.[36] While certain residents, such as Respondents here, opposed the smart meters, many were in favor of their proposed benefits.[37] Further, as noted by Councilman FitzSimons, the decision to "opt-out" of the AMI meter was not entirely personal, such as whether to obtain Wi-Fi, because it affected the CPU crew, City staff, and City resources (by requiring that some analog meter functions persists).[38]

34. As such, the Council voted to deny the residents "opt-out" requests because it found no credible risks as alleged by the residents, and because allowing some residents to opt-out would obviate the foundational purpose of the AMI meter swap project as a whole.[39] The Council found that the AMI project should move forward for all residents, as it would free up City resources and labor, while increasing reliability of the meter reads.[40]

35. Instead, the City proposed a compromise to accommodate the concerned residents, by allowing those residents to participate in a "delayed" swap.[41]

36. Under the proposed delay agreement, residents would have at least one (1) year before the smart meter installation took place, during which they could propose a suitable location to install the meter, as mutually agreed upon by CPU and the resident.[42] The resident would be responsible for the costs associated with relocating the meter.[43]

---

[36] *Id.* at pp. 8-9, Section 5(b) – Approve/Deny Creating Opt-Out Policy for Smart Meters.

[37] *Id.* at p.2, Section 2 - Public Comment.

[38] *Id.*

[39] *Id.*; **Ex. 2**, Brackenbury Declaration at ¶24, ¶30-32.

[40] **Ex. 11** at pp.8-9.

[41] *Id.* at p.9.

[42] *Id.*; *see also* **Exhibit 15**, AMI Smart Meter Installation Delay Agreement.

[43] *Id.*

MARQUIS AURBACH
10001 Park Run Drive
Las Vegas, Nevada 89145
(702) 382-0711 FAX: (702) 382-5816

37. On February 28, 2025, Denise Laws, a Customer Service Clerk, emailed the Garcias the proposed AMI Smart Meter Installation Delay Agreement.[44] Therein, the City indicated that in order to participate, the Garcias must sign and return the Agreement to City Hall by 4:00 p.m. on March 31, 2025.[45]

38. On or around March 14, 2025, Ms. Garcia requested that the smart meters be placed on the City Council's meeting agenda, to which Ms. Brenda Northup, the City Clerk, informed her that it would not be opened for public comment.[46]

39. On or around March 26, 2025, Ms. Garcia requested an update on her opt-out request and was directed to her personal counsel.[47]

40. Instead of signing the delay agreement, on March 28, 2025, the Garcias, through counsel, sent correspondence to the City reiterating concerns regarding the alleged health risks associated with the smart meters and again requesting an "opt-out" procedure for a fee.[48]

41. Having received no signed delay agreement from the Garcias[49], the City proceeded to re-notice the meter swap at the Garcias' property, and at those of other residents who previously indicated a desire to enter into a delay agreement.[50]

42. On April 1, 2025, Mr. Marc Olson and Mr. Logan Decker, members of the Public Works Department, visited the Garcias' property to post notice of the upcoming meter swap on

---

[44] **Exhibit 16**, Email correspondence from Denise Laws, dated February 28, 2025.

[45] *Id.*

[46] **Ex. 17**, Email correspondence dated March 14, 2025.

[47] **Ex. 18**, Email correspondence dated March 26, 2025.

[48] **Ex. 19**, Correspondence from Paul C. Ray, dated March 28, 2025.

[49] **Ex. 2**, Brackenbury Declaration at ¶34.

[50] **Ex. 2**, Brackenbury Declaration at ¶35-36; *see also* **Exhibit 20,** photograph of second smart-meter installation notice.

April 4th, 2025.[51]

43. Mr. Brackenbury and Ms. Northup visited the property to document the posted notice.[52]

44. On April 4, 2025, Mr. Brackenbury, along with Mr. Logan Decker, visited the Garcias' property in attempt to install the AMI smart meters.[53]

45. However, the Garcias refused to permit Mr. Brackenbury and Mr. Logan onto the premises to complete their job, and continue to object to any such action by the City.[54]

III. DECLARATORY RELIEF

1. The City and CPU are entitled to seek declaratory relief as authorized by NRS 30.030.

2. NRS 30.030 provides that the Court "shall have power to declare rights, status and other legal relations whether or not further relief is or could be claimed." *Id.* Further, the Court may issue either an "affirmative or negative" declaration, "and such declarations shall have the force and effect of a final judgment or decree." *Id.*

3. Here, the City of Caliente and CPU seek declaratory relief that they have the right to access and maintain the City's power meters, which are installed on the residents' properties, in the manner that they determine necessary.

4. The Garcias have been a beneficiary of the public utility system in Caliente since Mr. Garcia acquired title to the property in 2024. Prior to this acquisition, the Garcias' property was continuously powered by CPU's lines, and CPU was permitted to access the property and maintenance the power meter contained therein.

---

[51] *Id.*; *see also* **Exhibit 21**, Declaration of Marc Olson at ¶4; **Exhibit 22**, Declaration of Logan Decker at ¶4.

[52] **Ex. 2**, Brackenbury Declaration at ¶36; *see also* **Exhibit 23**, Declaration of Brenda Northup at ¶10; *see also* **Ex. 20**.

[53] **Ex. 2**, Brackenbury Declaration at ¶37-38; *see also* **Ex. 22**, Decker Declaration at ¶5-6.

[54] *Id.*

MARQUIS AURBACH
10001 Park Run Drive
Las Vegas, Nevada 89145
(702) 382-0711 FAX: (702) 382-5816

MARQUIS AURBACH
10001 Park Run Drive
Las Vegas, Nevada 89145
(702) 382-0711 FAX: (702) 382-5816

5. The Garcias now refuse to allow the City to install meters that it has determined are appropriate and necessary for the function of the public utility. The Garcias further requested that CPU no longer access their property at all, and that instead, they be permitted to self-report energy usage so that CPU can bill accordingly. This simply will not work.

6. The City and CPU have satisfied due process by giving the Garcias ample notice and opportunities to be heard.

7. Further, the City and CPU have performed research and due diligence, and have reasonably concluded that the Garcias did not demonstrate a credible basis for the associated risks they are concerned with.

8. If CPU is unable to continue accessing the Garcias' property to maintain the public utility, as it has since the inception of Garcias' subdivided property, CPU will be unable to continue providing power services to the Garcias' property. CPU cannot reasonably provide a utility service without being able to inspect, service, maintain, and upgrade the relevant instrumentalities of the utility, such as the power meters at issue here.

9. This leaves the Garcias with only two options: allow CPU to access the property and maintain the public utility in its discretion, or "opt-out" of the CPU power grid and disconnect her property from the public utility.

10. As such, the City and CPU respectfully request that this Court declare that the Garcias have two options with respect to CPU's access to their property, as follows:

a. Caliente Public Utilities is either permitted to enter the Garcias' property to access the City's power meter, and perform the functions it determines necessary for the continual provision of power; or

b. Elect to "opt-out" of Caliente's power grid, with Caliente Public Utilities permitted to enter the Garcias' property to uninstall the City's power meter and disconnect the Garcias' property from the City's power.

IV. INJUNCTIVE RELIEF

1. As such, the City is entitled to seek injunctive relief, as authorized by NRS 33.010, to require the Garcias to allow the City and its agents to access her property for purposes related to the City's current provision of power.

2. NRS 33.010(1) provides that an injunction may issue where "it appear[s] by the complaint that the plaintiff is entitled to the relief demanded, and such relief or any part thereof consists in restraining the commission or continuance of the act complained of, either for a limited period or perpetually.". *Id.*

3. As outlined above, the City hereby seeks an injunction requiring the Garcias, within thirty (30) days, to either:

a. Grant the City and CPU a public utility easement, whereby the CPU and its duly authorized agents an access and maintain its power meter on the Garcias' property, as it determines necessary; or alternatively,

b. Allow the CPU and its duly authorized agents to access the Garcias' property to remove the City's power meter and disconnect their property from the City's power grid.

V. CONCLUSION

NOW THEREFORE, Petitioner prays that this Court:

1. Enter an Order declaring that the Garcias have two options with respect to the provision of power by the City of Caliente: to grant CPU and its duly authorized agents access to the power meter or to opt-out of the City's power grid;

2. Enter an Order instructing the Garcias to either 1) grant the City and CPU a public utility easement for maintenance of the power meter and provide its agents access to the property for the smart meter installation; or 2) elect to disconnect from the City's power grid.

3. For such other and further relief as the Court may deem just and proper.

Dated this 12th day of June, 2025.

MARQUIS AURBACH

By: _____
Brian R. Hardy, Esq.
Nevada Bar No. 10068
Sydney A. Soder, Esq.
Nevada Bar No. 17120
Attorneys for Petitioners

MARQUIS AURBACH
10001 Park Run Drive
Las Vegas, Nevada 89145
(702) 382-0711 FAX: (702) 382-5816

VERIFICATION

I, BRENDA NORTHUP, being first duly sworn under penalty of perjury, hereby depose and say: That I am an authorized representative of the Petitioners in the above action; that I have read the foregoing *Petition for Declaratory Pursuant to NRS 30.030, and for Injunctive Relief Pursuant to NRS 33.010*, and know the contents thereof; that the same is true of my knowledge except as to those matters therein stated upon information and belief and as to those matters, I believe them to be true.

BRENDA NORTHUP, Caliente City Clerk

MARQUIS AURBACH
10001 Park Run Drive
Las Vegas, Nevada 89145
(702) 382-0711 FAX: (702) 382-5816