

Docket No. W-03512A-03-0279



26 Aug 2003

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Arizona Corporation Commissioners:

I am writing to request that you consider amending the enforcement paragraphs of the Curtailment Plan for Pine Water Company included in Decision No. 69514. I'll make this as short as possible because I can imagine how busy you must be. My goal is to strengthen, not to weaken or to change the thrust of, the plan.

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The paragraphs in question read the same way in Stages 3 through 5. They state that once general notice has been made by local sign postings and e-mail the water company may immediately disconnect the water of any customer who fails to comply within two business days. However, the paragraphs ignore due process. Notifying the customer of the current stage is by no means the same thing as notifying the customer that a violation of that stage exists. The result is unreasonable. A property right is threatened but not even the slightest modicum of due process is afforded. One real life example: My next door neighbor, a weekend visitor, had a pipe break under his house. Invisible from outside, it flowed for over a week while he was away, using 100,000 gallons of water, for which he had reasonably to pay. Would it have been reasonable to also remove his water meter and charge him a reconnection fee? I can cite other examples.

The paragraph as it now reads is a lawsuit waiting to happen. Why waste money on litigation when a few words will avoid it? For your convenience, I've underlined the suggested changes below and respectfully request that you consider them:

Enforcement: Once notice of mandatory conservation has been provided, the failure of a customer to comply within two (2) business days of receipt of written notice that a violation exists, and three addition (3) business days in which to respond in writing, will result in an immediate disconnection of water service pursuant to Arizona Administrative Code R14-2-410(B)(1)(d). The reconnection fee for violation....

In my view, absent due process the plan would be struck down if challenged in court, placing us all back in square one. We need enforcement! Anything which allows someone to get around the plan must go! The rewording strengthens the paragraph. It becomes reasonable, enforceable, and exacts the same penalties. Nothing is changed except the notification procedures, bringing them in line with the general law of the land. If, as I suspect, it is the threat of enforcement which will be effective in conserving water, this change puts teeth in that threat.

Please accept my sincere thanks for all the things you do for the people up here.

Yours,

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Arizona Corporation Commission

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