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MEMORANDUM

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TO: Docket Control
Arizona Corporation Commission

AZ CORP COMMISSION
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FROM: Ernest G. Johnson
Director
Utilities Division

EA for EGJ

Date: February 22, 2005

RE: BEAVER VALLEY WATER COMPANY - APPLICATION FOR APPROVAL
OF THE SALE OF ASSETS AND TRANSFER OF ITS CERTIFICATE OF
CONVENIENCE AND NECESSITY ("CC&N") DOCKET NO. W-02015A-03-
0724

Attached is the Staff Report for Beaver Valley Water Company, application for the Sale of Assets and Transfer of its Certificate of Convenience and Necessity. Staff recommends denial of the application.

EGJ:JEF:red

Originator: Jim Fisher

Attachment: Original and Thirteen Copies

Arizona Corporation Commission
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EXHIBIT
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LEGAL DIV.
ARIZ. CORPORATION COMMISSION

Service List for: Beaver Valley Water Company
Docket No. W-02015A-03-0724

Mr. R. E. Ward
Beaver Valley Water Company
Post Office Box 9031
Phoenix, Arizona 85068

Mr. Michael Davoren
Beaver Valley Water Company
Post Office Box 421
Payson, Arizona 85541

Mr. Christopher C. Kempley
Chief, Legal Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

Mr. Ernest G. Johnson
Director, Utilities Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

STAFF REPORT
UTILITIES DIVISION
ARIZONA CORPORATION COMMISSION

BEAVER VALLEY WATER COMPANY

APPLICATION FOR APPROVAL OF THE SALE
OF ASSETS AND TRANSFER OF ITS CC&N

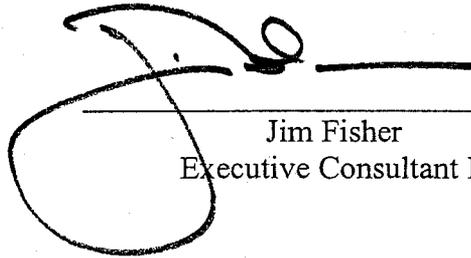
DOCKET NO. W-02015A-03-0724

FEBRUARY 2005

STAFF ACKNOWLEDGEMENT

The Staff Report for Beaver Valley Water Company, Docket No. W-02015A-03-0724 was the responsibility of the Staff members listed below. Jim Fisher was responsible for the review and analysis of the Company's application. Dorothy Hains was responsible for the engineering and technical analysis. Brian Bozzo was responsible for review of the Staff Report and the overcharge issue.

Contributing Staff:



Jim Fisher
Executive Consultant II



Dorothy Hains
Utilities Engineer



Brian Bozzo
Compliance Manager

EXECUTIVE SUMMARY
BEAVER VALLEY WATER COMPANY
DOCKET NO. W-02015A-03-0724

On October 1, 2003, Beaver Valley Water Company, ("Beaver Valley" or "Company") filed an application with the Arizona Corporation Commission ("ACC" or "Commission") requesting Commission approval of its sale of assets and transfer of its Certificate of Convenience and Necessity ("CC&N") as required in Decision No. 66388 (October 6, 2003).

Beaver Valley is a public service company serving approximately 150 customers about 11 miles northeast of Payson, in Gila County. The Commission authorized its initial CC&N in Decision No. 38565 (July 5, 1966). In Decision No. 55705 (August 26, 1987), Beaver Valley's ownership structure was changed to a partnership owned by Mr. Delaney and Mr. Ward.

Contrary to Decision No. 66388, Beaver Valley began charging customers the higher rates before obtaining approval of the transfer of the CC&N and demonstrating Arizona Department of Environment Quality ("ADEQ") compliance. Staff was contacted by numerous consumers concerning Beaver Valley charging rates without Commission authorization.

On October 14, 2004, ADEQ informed Staff that Beaver Valley was delivering water that meets the water quality standards required by Title 18, Chapter 4 of the Arizona Administrative Code.

Staff recommends that the Commission deny Beaver Valley Water Company, an Arizona Partnership's application for the sale and transfer of its assets to Beaver Valley Water Company, a sole proprietorship.

Staff recommends that the Commission require Beaver Valley Water Company, an Arizona Partnership, to demonstrate compliance with the following conditions:

1. That Beaver Valley Water Company, a sole proprietorship, demonstrate it is transferred free and clear from any unauthorized debts, liens or encumbrances from Beaver Valley Water Company, an Arizona Partnership and file documentation of such in the docket.
2. That Beaver Valley Water Company, a sole proprietorship, agree to refund all meter and security deposits consistent with Commission rules.
3. That Beaver Valley Water Company, a sole proprietorship, agree to refund all existing main extension agreements consistent with Commission rules.
4. That Beaver Valley Water Company, a sole proprietorship, calculate the rate overcharge amount for each customer for each month after the Company ceased charging the authorized rates.
5. That Beaver Valley Water Company, a sole proprietorship, shall notice its customers of the overcharges and the manner in which credits will be applied by means of an

insert in its regular monthly billing. Such notice shall be approved by Staff before mailing.

Staff further recommends that should Beaver Valley Water Company, an Arizona Partnership fail to demonstrate compliance with the above conditions within 90 days of any decision in this matter, the Commission require Beaver Valley Water Company, an Arizona Partnership, to pay monetary penalties or any other Commission approved sanctions for each violation.

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Introduction

On October 1, 2003, Beaver Valley Water Company, ("Beaver Valley" or "Company") filed an application with the Arizona Corporation Commission ("ACC" or "Commission") requesting Commission approval of its sale of assets and transfer of its Certificate of Convenience and Necessity ("CC&N") as required in Decision No. 66388 (October 6, 2003).

Beaver Valley is currently owned by a partnership of Mr. Delany, a Phoenix attorney, and Mr. Ward. As part of a rate review, the Company disclosed the partnership had sold the utility to Mr. Davoren, a sole proprietorship.

On October 6, 2003, the Commission conditionally authorized Beaver Valley to increase its rates subsequent to Commission approval of a transfer of its assets and CC&N to the new owner, and written documentation from the Arizona Department of Environmental Quality ("ADEQ") stating the utility is serving water that meets the requirements of the Arizona Administrative Code, Title 18, Chapter 4.

On October 15, 2003, Utilities Division Staff ("Staff") informed Beaver Valley that the CC&N transfer application was insufficient for administrative purposes.

On September 14, 2004, Beaver Valley provided evidence of the sale, financial information on the buyer, and evidence regarding the certified operator.

On October 14, 2004, ADEQ informed Staff that Beaver Valley was delivering water that meets the water quality standards required by Title 18, Chapter 4 of the Arizona Administrative Code.

Background

Beaver Valley is a public service company serving approximately 150 customers about 11 miles northeast of Payson in Gila County. The Commission authorized its initial CC&N in Decision No. 38565, (July 5, 1966).

In Decision No. 50919 (May 6, 1980), Beaver Valley was described as a corporation owned by Mr. Delaney and Mr. Ward. In Decision No. 55705 (August 26, 1987), Beaver Valley's ownership structure was changed to a partnership owned by Mr. Delaney and Mr. Ward.

On April 28, 2003, the Company filed an application requesting authority to increase rates and charges. During Staff's review of the application, it was discovered Mr. Davoren, assumed ownership of the utility in January 2003. Mr. Davoren was informed a transfer of utility assets required Commission approval.

On October 6, 2003, in Decision No. 66388, the Commission found Beaver Valley to have a fair value rate base of \$32,763. The Commission adopted Staff's recommended rates which were projected to produce total annual revenue of \$62,033 and annual expense of \$52,713, for operating income of \$9,320.

The revised rate structure was projected to increase the average customer's bill by approximately \$9.50.

Contrary to Decision No. 66388, Beaver Valley began charging customers the higher rates before obtaining approval of the transfer of the CC&N and demonstrating ADEQ compliance. Staff was contacted by numerous consumers concerning Beaver Valley charging rates without Commission authorization.

The Transaction

On October 1, 2003, Beaver Valley filed an application requesting Commission approval of its sale of assets and transfer of its CC&N.

On September 11, 2004, the applicant provided a January 14, 2003 Note of \$196,000, at 7 percent interest, payable by Mr. Davoren to Wardell Properties for real property described as Tract D and apparently secured by the assets of Beaver Valley.

Also provided on September 11, 2004, was an August 15, 2004 amendment to the purchase contract of January 14, 2003, which transferred and conveyed to Mr. Davoren "any and all rights, assets, revenues and obligations of the entity commonly known as Beaver Valley Water Company. Said transfer shall be a part of the real estate transaction reference above and shall require NO additional consideration."

The amendment also stated in part: "Seller and Buyer acknowledge that a majority of the value established in said real estate acquisition is attributable to the business operation referenced herein. It is clearly understood that Buyer would be unable to support the obligation to Seller without full and unrestrained control of revenues and operations derived from Beaver Valley Water Company."

Subsequent to executing the sale and encumbrance of Beaver Valley, Mr. Delaney, one of the current owners informed Staff on December 5, 2003, that Beaver Valley was sold in a stock transaction to Mr. Davoren.

According to the terms of a January 14, 2003, Note, Escrow No. 237-4058156, Mr. Davoren, Beaver Valley operator, agreed to pay Wardell Properties, an Arizona general partnership, \$196,000 in regular month installments of \$1,500. The note has an interest rate of 7 percent.

According to January 14, 2003, agreement, Wardell Properties is comprised of Mr. Delaney and Mr. Ward. The relationship between Wardell Properties and Beaver Valley is unclear. Wardell Properties ability to seemingly encumber the assets of Beaver Valley is also unclear.

According to the August 15, 2004 Note Amendment, "Seller shall have a lien on personal property necessary in the operation of the water company during the term of buyer's unpaid obligation to seller."

Commission records do not reflect any approval for Beaver Valley to encumber its assets as part of a real estate transaction or otherwise. Staff recommends Beaver Valley demonstrate the assets are transferred free of any unauthorized debts, liens or encumbrances.

Staff has repeatedly contacted the parties to facilitate resolution of this case. Staff has filed mandatory Status Reports on June 22, 2004, August 23, 2004 and November 17, 2004, to appraise the Hearing Officer of the case. Unfortunately, despite Staff efforts on what is arguably a simple asset transfer, the parties have not been able to grasp the importance of complying with the Commission's orders.

Staff has attempted to craft a rate refund process to assist the parties demonstrate a good faith effort of compliance. The basis of this rate refund process was to be the Company's calculation of the total rate overcharge amount for each customer. Unfortunately, the Company was unable to make those calculations. Therefore, Staff recommends that the application be denied until such time as compliance is demonstrated, and if timely compliance is not sought, the Commission require Beaver Valley Water Company, an Arizona Partnership, to pay monetary penalties for each violation.

Arizona Department of Environmental Quality ("ADEQ") Compliance

ADEQ regulates the wastewater system under ADEQ Public System I.D. No. 102428. On May 28, 2003, ADEQ reported that the system has a number of reporting deficiencies, but that no compliance or enforcement action is pending.

On October 14, 2004, ADEQ informed Staff that Beaver Valley was delivering water that meets the water quality standards required by Title 18, Chapter 4 of the Arizona Administrative Code.

Recommendations

Staff recommends that the Commission deny Beaver Valley Water Company, an Arizona Partnership's application for the sale and transfer of its assets to Mr. Davoren, a sole proprietorship.

Staff recommends that the Commission require Beaver Valley Water Company, an Arizona Partnership, to demonstrate compliance with the following conditions:

1. That Beaver Valley Water Company, a sole proprietorship, demonstrate it is transferred free and clear from any unauthorized debts, liens or encumbrances from Beaver Valley Water Company, an Arizona Partnership and file documentation of such in the docket.
2. That Beaver Valley Water Company, a sole proprietorship, agree to refund all meter and security deposits consistent with Commission rules.
3. That Beaver Valley Water Company, a sole proprietorship, agree to refund all existing main extension agreements consistent with Commission rules.
4. That Beaver Valley Water Company, a sole proprietorship, calculate the rate overcharge amount for each customer for each month after the Company ceased charging the authorized rates.
5. That Beaver Valley Water Company, a sole proprietorship, shall notice its customers of the overcharges and the manner in which credits will be applied by means of an insert in its regular monthly billing. Such notice shall be approved by Staff before mailing

Staff further recommends that should Beaver Valley Water Company, an Arizona Partnership fail to demonstrate compliance with the above conditions within 90 days of any decision in this matter, the Commission require Beaver Valley Water Company, an Arizona Partnership, to pay monetary penalties or any other Commission approved sanctions for each violation.

MEMORANDUM

DATE: February 22, 2005

TO: James E. Fisher

FROM: D. Hains

RE: **Beaver Valley Water Co.**
Application for a Sale of Assets And/Or Transfer of Certificate of
Convenience & Necessity to Provide Water Service
Docket No. W-02015A-03-0724

Introduction

Beaver Valley Water Company ("Beaver Valley" or "Company") has applied to sell its assets and transfer its Certificate of Convenience and Necessity ("CC&N") to provide water service. The Company's service area is near Star Valley in the Tonto National Forest, approximately 11 miles northeast of Payson in Gila County.

During its review of the most recent rate application, Staff learned that the Company had been sold to a new owner without the Commission's approval. In Decision No. 66388, dated October 6, 2003, the Commission conditioned its approval of a general rate increase for Beaver Valley upon the Company first obtaining the Commission approval of an subject application for transfer or sale of the Beaver Valley Water Company assets and transfer of its CC&N to a fit and proper entity.

At the time the Commission issued its Decision regarding Beaver Valley's rate application the Company had monitoring/reporting deficiencies and was not in compliance with the Arizona Department of Environmental Quality (ADEQ) standards. Thus, Decision No. 66388 also conditioned the rates and charges effective subject to Beaver Valley filing with the Director of the Utilities Division, ADEQ documentation stating that the system has no maximum contaminant level violations and is serving water that meets the water quality standards required by Arizona Administrative Code, Title 18, Chapter 4.

Capacity

Water System

The Beaver Valley water system consists of an inactive well, a water treatment system, two storage tanks with 20,000-gallons of storage capacity, one pressure tank, and a

distribution system serving 155 customers. The Company has two different sources of water, groundwater (a well) and surface water (the East Verde River). Currently, the well is not connected to the system. The Company pumps the water from the East Verde River and treats it before serving its customers.

ADEQ Compliance

Staff received a compliance status report from ADEQ dated October 14, 2004, in which ADEQ stated that it has determined that the Company is currently delivering water that meets the water quality standards required by Arizona Administrative Code, Title 18, Chapter 4.

Arizona Department of Water Resources ("ADWR") Compliance

Beaver Valley is not in any ADWR Active Management Area. Therefore, the Company is not subject to ADWR's gallons per capita per day ("gpcd") limit and conservation rules.

ACC Compliance

For the reasons discussed above, the Utilities Division Compliance Unit records indicate that the Company is not in compliance with Decision No. 66388.

Other Issues

Arsenic

The U.S. Environmental Protection Agency ("EPA") has reduced the arsenic maximum contaminant level ("MCL") in drinking water from 50 micrograms per liter (" $\mu\text{g/l}$ ") to 10 $\mu\text{g/l}$. The date for compliance with the new MCL is on January 23, 2006. The most recent lab analysis by the Company indicated that the arsenic levels in the Company's supply are below the new arsenic MCL.

Summary

I. Findings:

1. ADEQ has determined that the water system is currently delivering water that meets water quality standards required by Arizona Administrative Code, Title 18, Chapter 4.

2. The Company is not in any ADWR Active Management Area.
3. The Utilities Division Compliance Unit records indicate that the Company is not in compliance with Decision No. 66388.
4. The most recent lab analysis by the Company indicated that the arsenic levels in the Company's supply are below the new arsenic MCL.

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

Arizona Corporation Commission

DOCKETED

OCT 06 2003

DOCKETED BY

nr

2 COMMISSIONERS

3 MARC SPITZER, Chairman
4 WILLIAM A. MUNDELL
5 JEFF HATCH-MILLER
6 MIKE GLEASON

7 IN THE MATTER OF THE APPLICATION OF
8 BEAVER VALLEY WATER COMPANY FOR A
9 RATE INCREASE.

DOCKET NO. W-02015A-03-0268

DECISION NO. 66388

ORDER

9 Open Meeting
10 September 30 and October 1, 2003
11 Phoenix, Arizona

12 **BY THE COMMISSION:**

13 Beaver Valley Water Company ("BVWC" or Company") is an Arizona public service
14 corporation that provides water utility service to the public in a portion of Gila County, Arizona. On
15 April 28, 2003, BVWC filed with the Arizona Corporation Commission ("Commission") an
16 application requesting authority to increase its rates and charges.

17 On May 28, 2003, the Commission's Utilities Division Staff ("Staff") determined that
18 BVWC's application was sufficient.

19 On August 11, 2003, Staff filed its Staff Report, recommending that an alternative rate
20 schedule be approved to go into effect following proof of the Company's compliance with Arizona
21 Department of Environmental Quality ("ADEQ") requirements and with statutes governing the sale
22 of assets.

23 * * * * *

24 Having considered the entire record herein and being fully advised in the premises, the
25 Commission finds, concludes, and orders that:

26 FINDINGS OF FACT

27 1. The Company provides water utility service to approximately 150 metered customers in a
28 residential subdivision located near Star Valley in the Tonto National Forest, approximately 11 miles

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1 northeast of Payson, in Gila County, Arizona. BVWC is organized as a Partnership and received
2 Commission authority to provide water utility service in Commission Decision No. 38565 (July 5,
3 1966).

4 2. Staff indicates in its Staff Report that the BVWC system is currently operated by Mike
5 Davoren, the on-site manager who assumed operation in January 2003, but that no application for
6 Commission approval of a sale of assets or transfer of BVWC's Certificate of Convenience and
7 Necessity ("CC&N") has been filed.

8 3. The Commission approved the Company's present rates and charges for water service in
9 Decision No. 57084 (September 19, 1990).

10 4. On April 28, 2003, BVWC filed an application requesting authority to increase its rates
11 and charges, based on a historical test year ended December 31, 2002.

12 5. On May 28, 2003, Staff notified the Company that its application had met the sufficiency
13 requirements of A.A.C. R14-2-103 and that BVWC is classified as a Class D utility.

14 6. On April 22, 2003, the Company notified its customers of the proposed rates and charges
15 by first class U.S. mail.

16 7. Staff's Consumer Services section reports that twelve customers submitted written
17 responses to the rate filing, that four responses were in support of the rate increase, and that eight
18 expressed concern about the amount of the requested rate increase. Consumer Services also states
19 that since the prior rate case in 1990, several complaints, pertaining primarily to service outages, have
20 been registered with the Commission, and that all those complaints have been resolved.

21 8. The customer letters filed in response to the rate filing expressed concern regarding water
22 testing and the quality of the water BVWC provides; BVWC's lack of compliance with ADEQ water
23 quality requirements; and the Company's lack of a backup water supply source. Some letters also
24 suggested that any rate increases should include increased consumption charges, so that customers
25 using more water will bear proportionally more of the costs.

26 9. Staff's Engineering section conducted an on-site inspection of the Company's system.
27 Staff Engineering reports that the Company has two different sources of water; surface water (the
28

1 East Verde River), and a well that is not currently connected to the system. The Company's system
2 consists of the inactive well, a water treatment system, two 10,000 gallon storage tanks, two booster
3 pumps, one pressure tank, and a distribution system. The water treatment system consists of a 2 ½
4 horsepower pump that pumps water from the East Verde River into a 2 million gallon concrete-lined
5 unfenced storage pond with two buried filter beds located at the pond's north and south ends. After
6 initial filtration, the river water is treated by coagulation and flocculation to remove floating particles
7 and reduce turbidity and disinfected before being pumped into the two 10,000 gallon storage tanks.

8 10. Staff Engineering states that the Company plans to resolve a problem with inadequate
9 water storage capacity by installing a 20,000 gallon storage tank, and that the Company received a
10 Certificate of Approval to Construct the new tank from ADEQ in March 2002. Staff Engineering
11 estimates the cost of the project to be approximately \$25,000. The Company has informed Staff that
12 it is seeking a loan from the Water Infrastructure Financing Authority ("WIFA") to fund the project,
13 but the Company has not yet submitted a financing application to the Commission.

14 11. Staff is concerned that the Company is relying solely on the East Verde River for its water
15 supply, which could be affected by drought conditions. Staff believes that the Company should
16 reconnect its existing well to the system as a backup supply source.

17 12. The Company's most recent lab analysis indicates that the arsenic level in its water supply
18 is 1 microgram per liter ("µg/l"), which is well below the federally required maximum contaminant
19 level ("MCL") of 10 µg/l.

20 13. The Company is not located within an Active Management Area ("AMA") as defined by
21 the Arizona Department of Water Resources ("ADWR"), so the Company is not subject to ADWR's
22 conservation rules.

23 14. The Company is current on its property and sales taxes.

24 15. The Company currently has a curtailment tariff in effect.

25 16. Staff Engineering reports that it received a memorandum from ADEQ on May 15, 2003,
26 which indicates that the Company has major water quality monitoring/reporting deficiencies due to:
27
28

1) failure to perform turbidity monitoring; 2) failure to maintain 20 psi water pressure; and 3) failure to provide adequate storage capacity.

17. In the test year, as adjusted by Staff, BVWC collected total revenue of \$41,006, which, with adjusted operating expenses of \$52,713, produced an operating loss of \$11,707, for no rate of return on an adjusted Original Cost Rate Base ("OCRB") of \$32,763.

18. BVWC's proposed rates, as filed, would produce total operating revenue of \$65,595 and operating income of \$9,131, for a 10.75 percent rate of return on OCRB. The Company's request represents an increase of \$24,589, or 59.96 percent, over test year revenue of \$41,006.

19. Staff's recommended rates would produce total operating revenue of \$62,033 and operating income of \$9,320, for a 28.45 percent rate of return on OCRB. Staff's recommendation represents an increase of \$21,027, or 51.3 percent, over test year revenues.

20. The rates and charges for the Company at present, as proposed in the application, and as a recommended by the Staff are as follows:

	Present Rates	Proposed Rates Company	Staff
<u>MONTHLY USAGE CHARGE:</u>			
5/8" x 3/4" Meter	\$18.50	\$29.60	\$22.25
3/4" Meter	18.50	-	33.38
1" Meter	22.50	36.00	55.63
1 1/2" Meter	75.00	-	111.25
2" Meter	120.00	-	178.00
3" Meter	225.00	-	356.00
4" Meter	375.00	-	556.25
5" Meter	562.00	-	-
6" Meter	750.00	-	1,112.50
Gallons included in minimum	1,000	1,000	0
<u>Gallonage Charge - per 1,000 Gallons</u>			
1,001 gallons and up	2.10	3.36	N/A
1 to 3,000 gallons	N/A	N/A	3.50
3,001 to 12,000 gallons	N/A	N/A	5.25
12,001 gallons and up	N/A	N/A	6.30

SERVICE LINE AND METER INSTALLATION CHARGES:
(Refundable pursuant to A.A.C. R14-2-405)

1	5/8" x 3/4" Meter	\$265.00	-	\$420.00
2	3/4" Meter	295.00	\$450.00	450.00
3	1" Meter	345.00	495.00	495.00
4	1 1/2" Meter	520.00	-	820.00
5	2" Meter	725.00	-	1,445.00
6	3" Meter	925.00	-	2,085.00
7	4" Meter	1,550.00	-	3,200.00
8	5" Meter	2,638.00	-	-
9	6" Meter	3,725.00	-	5,875.00
10	<u>SERVICE CHARGES:</u>			
11	Establishment	\$30.00	\$50.00	\$30.00
12	Establishment (After Hours)	40.00	75.00	40.00
13	Reestablishment (Within 12 Months)	**	**	**
14	Reconnection (Delinquent)	40.00	50.00	40.00
15	Reconnection (After Hours)	0.00	60.00	40.00
16	Meter Test (If Correct)	10.00	20.00	10.00
17	Meter Reread (If Correct)	5.00	10.00	5.00
18	Deposit	*	*	*
19	Deposit Interest	*	*	*
20	NSF Check	15.00	30.00	15.00
21	Deferred Payment (per month)	0%	0%	*

16 * Per Commission rule A.A.C. R14-2-403(B).
 17 ** Months off system times the monthly minimum per Commission rule A.A.C. R14-2-403(D).

18 21. Staff increased Plant in Service by \$5,000 to recognize improvements made in 2002 that
 19 the Company did not record, and decreased it by \$26,020 to remove a vehicle the Company does not
 20 own. Staff's adjustments result in an overall decrease of \$21,020, from \$208,964 to \$187,944. Staff's
 21 proposed adjustments to Plant in Service are reasonable and we will adopt them.

22 22. Staff calculated Accumulated Depreciation by adding annual depreciation expense to the
 23 Commission-approved ending balance in the 1990 rate Decision, and by adjusting for plant additions
 24 and retirements, resulting in a proposed increase to Accumulated Depreciation of \$30,409, bringing
 25 the Accumulated Depreciation balance as of December 31, 2002 to \$159,278, for a Net Plant in
 26 Service total of \$28,666. Staff also increased Cash Working Capital by \$134 to reflect its proposed
 27 adjustments to operating expenses, for a total Cash Working Capital of \$4,954. The Company's
 28

1 application reported no Contributions in Aid of Construction ("CIAC"). Staff increased CIAC by
2 \$5,730 to reflect the balance established in the 1990 rate Decision, and increased CIAC Amortization
3 by \$4,873 to reflect 5 percent amortization in the years since that rate Decision. The net effect of
4 Staff's rate base adjustments is a decrease of \$52,152 to the Company's proposed rate base of
5 \$84,915, for an adjusted rate base of \$32,763.

6 23. Staff's proposed adjustments to rate base are reasonable and should be adopted. Thus, we
7 find the Company's Fair Value Rate Base ("FVRB") to be \$32,763, which is the same as its OCRB.

8 24. Staff's reduced total operating expenses by \$3,751, from \$15,458 to \$11,707. Staff's
9 adjustments included the following:

- 10 (a) increasing water testing expense by \$1,075, to reflect the cost of the ADEQ
11 monitoring assistance program;
- 12 (b) decreasing Depreciation Expense by \$1,992, to reflect Staff's recommended
13 depreciation rates to Staff's adjusted plant, by account, offset by the
14 amortization of CIAC; and
- 15 (c) decreasing Taxes Other Than Income expense by \$2,834, to remove sales taxes
16 paid. Sales tax is excluded to be consistent with its exclusion from revenues.

17 25. Staff's proposed adjustments to operating expenses are reasonable and should be adopted.

18 26. Staff recommends revenue of \$62,033, which, with operating expenses of \$52,713, would
19 provide the Company with an operating income of \$9,320, for an operating margin of 15.0 percent
20 and a 28.45 percent rate of return on a rate base of \$32,763. Staff's recommended revenue
21 requirement is reasonable.

22 27. The Company proposed a flat commodity rate, with 1,000 gallons included in the
23 minimum usage charge. Staff recommends an inverted block three-tier rate design with break-over
24 points at 3,000 and 12,000 gallons, and no gallons included in the minimum usage charge. Staff
25 believes that its recommended tier breaks will provide a price signal to users that higher consumption
26 is increasingly expensive. We find Staff's proposed rate design to be reasonable and will adopt it.
27
28

1 28. During the test year, average monthly usage on the 5/8" x 3/4" meters was 2,575 gallons,
2 and median monthly usage was 1,229 gallons.

3 29. The Company's proposed rate schedule would increase the average 5/8" x 3/4" meter
4 monthly customer bill by 60.0 percent, from \$21.81 to \$34.89, and the median monthly customer bill
5 by 60.0 percent, from \$18.98 to \$30.37.

6 30. Staff's recommended rates would increase the average 5/8" x 3/4" meter monthly customer
7 bill by 43.3 percent, from \$21.81 to \$31.26, and the median monthly customer bill by 39.9 percent,
8 from \$18.98 to \$26.55.

9 31. Staff recommends approval of its recommended rates and charges as presented in its Staff
10 Report. Based on the Company's lack of compliance with ADEQ requirements, however, Staff
11 recommends that any permanent rates and charges in this matter shall not become effective until the
12 first day of the month after the Director of the Utilities Division receives notice from ADEQ that the
13 Company is delivering water which meets the water quality standards required by the Arizona
14 Administrative Code, Title 18, Chapter 4. Based on the fact that the BVWC Partnership has not
15 obtained Commission authority to sell the Company to Mr. Davoren, Staff also recommends that new
16 rates become effective only upon the Commission's approval of an application for the transfer or sale
17 of assets and the transfer of the Company's CC&N to a fit and proper entity.

18 32. Staff further recommends that the Company be ordered to:

- 19 (a) reconnect its existing well to the system as a backup source no later than
20 December 1, 2004. Staff recommends that if the Company determines that
21 reconnection of the well is not feasible for technical or economic reasons the
22 Company should report to the Director of the Utilities Division its findings no
23 later than twelve months from the effective date of the Commission's order in
24 this matter. Staff further recommends that a well meter be installed on the well
25 prior to its reconnection to the system;
- 26 (b) construct the 20,000 gallon storage tank project to comply with ADEQ
27 requirements as soon as possible and submit a copy of the Certificate of
28

1 Approval of Construction issued by ADEQ for the project to the Director of
2 the Utilities Division no later than December 1, 2004;

3 (c) adopt Staff's recommended depreciation rates as shown in Exhibit 6 of the
4 Engineering Report attached to the August 11, 2003 Staff Report;

5 (d) within 60 days from the effective date of any decision or order in this matter,
6 file an affidavit with the Compliance Section of the Utilities Division verifying
7 that it has begun to maintain its books and records in compliance with the
8 National Association of Regulatory Utility Commissioners' ("NARUC")
9 Uniform System of Accounts for water utilities; and

10 (e) file with the Commission a tariff schedule of the Company's new rates and
11 charges within 30 days after the effective date of any decision in this matter.

12 33. Staff's recommendations are reasonable.

13 CONCLUSIONS OF LAW

14 1. Beaver Valley Water Company is a public service corporation within the meaning of
15 Article XV of the Arizona Constitution and A.R.S. §§ 40-250 and 40-251.

16 2. The Commission has jurisdiction over the Company and the subject matter of the
17 application.

18 3. Pursuant to A.R.S. § 40-285, no disposition of public service corporation assets necessary
19 or useful in the provision of service to the public is valid without a Commission Order authorizing
20 such disposition.

21 4. Notice of the application was given in accordance with the law.

22 5. Staff's recommended rates and charges are reasonable and should be approved.

23 6. Staff's recommendations, as set forth in Findings of Fact Nos. 31 and 32, are reasonable
24 and should be adopted.

25 ORDER

26 IT IS THEREFORE ORDERED that Beaver Valley Water Company shall file, on or before
27 October 31, 2003, revised rate schedules setting forth the following rates and charges:
28

MONTHLY USAGE CHARGE:

5/8" x 3/4" Meter	\$22.25
3/4" Meter	33.38
1" Meter	55.63
1 1/2" Meter	111.25
2" Meter	178.00
3" Meter	356.00
4" Meter	556.25
6" Meter	1,112.50

Gallonge Charge – per 1,000 Gallons

1 to 3,000 gallons	\$3.50
3,001 to 12,000	5.25
12,001 and up gallons	6.30

SERVICE LINE AND METER INSTALLATION CHARGES

(Refundable pursuant to A.A.C. R14-2-405)

5/8" x 3/4" Meter	\$420.00
3/4" Meter	450.00
1" Meter	495.00
1 1/2" Meter	820.00
2" Meter	1,445.00
3" Meter	2,085.00
4" Meter	3,200.00
6" Meter	5,875.00

SERVICE CHARGES:

Establishment	\$30.00
Establishment (After Hours)	40.00
Reestablishment (Within 12 Months)	**
Reconnection (Delinquent)	40.00
Reconnection (After Hours)	40.00
Meter Test (If Correct)	10.00
Meter Reread (If Correct)	5.00
Deposit	*
Deposit Interest	*
NSF Check	15.00
Deferred Payment (per month)	*

* Per Commission rule A.A.C. R14-2-403(B).

** Months off system times the monthly minimum per Commission rule A.A.C. R14-2-403(D).

1 IT IS FURTHER ORDERED that the above rates and charges shall be effective for all service
2 provided on and the first day of the month following the date that both of the following have
3 occurred: 1) the Commission has approved an application for transfer or sale of the Beaver Valley
4 Water Company's assets and transfer of its Certificate of Convenience and Necessity to a fit and
5 proper entity; and 2) Beaver Valley Water Company has filed, with the Director of the Utilities
6 Division, written documentation from the Arizona Department of Environmental Quality stating that
7 its system has no maximum contaminant level violations and is serving water that meets the water
8 quality standards required by Arizona Administrative Code, Title 18, Chapter 4.

9 IT IS FURTHER ORDERED that Beaver Valley Water Company shall notify its customers of
10 the revised rates and charges authorized herein, and their effective date, in a form acceptable to the
11 Commission's Utilities Division Staff, by means of an insert in its next regularly scheduled billing
12 following the date that the two above-referenced events have occurred.

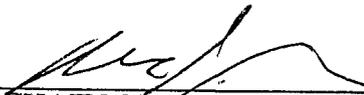
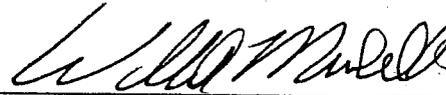
13 IT IS FURTHER ORDERED that Beaver Valley Water Company shall file with the
14 Commission, within 60 days from the effective date of its new rates, a copy of the notice it sends to
15 its customers of the new rates and charges.

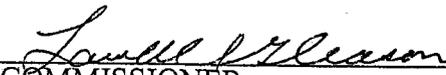
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28 ...

1 IT IS FURTHER ORDERED that Beaver Valley Water Company is hereby directed to
2 comply with the Staff recommendations set forth in Findings of Fact No. 32.

3 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

4 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

5
6   
7 CHAIRMAN COMMISSIONER COMMISSIONER

8 
9 COMMISSIONER

10
11 IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive
12 Secretary of the Arizona Corporation Commission, have
13 hereunto set my hand and caused the official seal of the
14 Commission to be affixed at the Capitol, in the City of Phoenix,
15 this 6th day of October, 2003.

16 
17 BRIAN C. McNEIL
18 EXECUTIVE SECRETARY

19 DISSENT _____

20 DISSENT _____

21 TW:mlj

1 SERVICE LIST FOR: BEAVER VALLEY WATER COMPANY

2 DOCKET NO. W-02015A-03-0268

3 Raymond E. Ward
4 Edgar Delaney
5 Beaver Valley Water Company
6 P.O. Box 421
7 Payson, AZ 85547

8 Christopher Kempsey, Chief Counsel
9 Legal Division
10 ARIZONA CORPORATION COMMISSION
11 1200 West Washington Street
12 Phoenix, AZ 85007

13 Ernest G. Johnson, Director
14 Utilities Division
15 ARIZONA CORPORATION COMMISSION
16 1200 West Washington Street
17 Phoenix, AZ 85007

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LEGAL

Judge Amanda Pope
1200 W. Washington
Phoenix, AZ 85007

April 18, 2005

Reference: Document No. W-02015A-03-0724
Beaver Valley Water Company procedural order by the Arizona Corporation
Commission'

Your Honor,

As a full time consumer of the Beaver Valley Water Company, I would like to have you know , that I do not want the water company ownership transferred to Mr. Davoren. He has taken it in his own hand to raise the rates in violation of the commission's ruling. I would estimate that the total overcharges exceed \$25,000.00 and are going up. Mr Davoren will not talk about where the money went, or who got it. He wishes to be a 'victim' of the whole situation.

This is a very small water company. I do not see how Mr. Davoren can pay loan payment of \$18,000.00 a year, \$25,000.00 in overcharges, and do major repairs on the income. Any money left over would put him at the poverty level. He claims that he can not repair leaks in the water lines in unit 3 because of lack of income, even with the overcharges he has collected since November 2003, and is still charging.

Mr Davoren posted a notice on the Beaver Valley bulletin boards, copy is attached. He states that "past due accounts now surpass the billing totals. This is poor management and not finding a way to collect the bills. In addition the last paragraph states that the people in Beaver Valley that question his operations of the water company makes him want to "vomit". So please do not transfer the water company to Mr Davoren, I do not want to be responsible for making him sick.

Douglas M.Kieft
HC3 Box 670 F
Payson, AZ 85541
Ph. 928 474 6931
Fax 928 474 3098
Email beasverdl@cybertrails.com

RECEIVED

APR 19 2005

LEGAL DIV.
ARIZ. CORPORATION COMMISSION

AZ CORP COMMISSION
DOCUMENT CONTROL

2005 APR 19 P 2:12

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EXHIBIT
Admitted
S-3
LB 5/19/05

BEAVER VALLEY WATER CO.

PO BOX 421
PAYSON, AZ. 85541

NOTICE

RE: DISCUSSION BROUGHT UP AT RECENT BVIA MEETING

It was brought to my attention that "concerned citizens" decided it necessary to use the annual BVIA meeting as an arena to unleash their personal agenda against the Water Co. Please accept this notice as a response.

First, I would like to know why it was even brought at the BVIA meeting. The association and the water co. are in no way intermingled with one another and comments should be made to the Water Co. about Water Co. business. Also, I know there is some concern over the chip sealed roads. We might as well clear this up right now. **The Water CO. is not responsible for these roads after repairs.** The Utility Co. cannot accept financial responsibility should it have to excavate, for example, an entire block, which will be happening in Unit 3 in the future. Bottom line is this-according to rule, no person or entity may build, erect, or construct anything along utility easements.(Contact ACC for verification if needed).Chip sealing is constructing a permanent fixture. If B.V. Water is going to be held responsible, then B.V. Water will not allow any more chip sealing on water co. easements.

Next; A few months ago, Roger found it necessary to have a meeting at his house concerning the Water Co. and the problems I've had to endure this past year concerning the transfer of assets, and the condition of water mains in Unit 3. I attended this meeting and described the situation as it stood at that time. I also told the "concerned citizens" he invited to this witch hunt, of the plan to completely replace all the water mains in Unit 3. **However, since past due accounts receivable now have surpassed monthly billing totals,** these repairs will have to wait until this whole situation with the ACC is resolved.

I think it is interesting to note, at this meeting of "concerned citizens", Roger asked me if there was any way he or any other of the "concerned" in attendance could help me in this unfortunate situation. Well, I have been helped with repeated calls to the ACC, official documents from ACC have been posted on the mail box cluster with medical tape (hmm,I wonder who that could be). As a result of this action, the ACC received numerous calls from Beaver Valley residents concerned about the utility. And, as a result I received my share of calls from ACC wondering why I "would do such a stupid thing" while we were trying to work this thing out. And, of course, one "concerned" individual has taken it upon herself to delve into the Water Co.'s property taxes. I don't know what that has to do with her water service, but bless her heart for caring (sic). All of these "concerned (because I need to keep it clean) people" were in attendance at this "meeting". Thank you. I don't know what I would have done without your help.

Lastly, to think that people would take advantage of a legal "snafu", and use it as a **moral resolve** to ignore their obligations and create as much discontent as possible, quite frankly, makes me want to vomit

Regards

Judge Amanda Pope
1200 W. Washington
Phoenix, AZ 85007

Reference: Document No. W-02015A-03-0724
Beaver Valley Water Company procedural order by the Arizona Corporation
Commission

Your honor,

As an alternative to the problem of Beaver Valley Water Co. sale. I would submit that there are people in Beaver Valley that would be willing to explore the possibility of forming a "Beaver Valley Water District". This would take an appraisal, a deal with a bank, approval of the county, approval of the Beaver Valley residents. . after that procedure, Mr. Ward and Mr. Delaney would receive payment in full. This is a possible solution that might be investigated.

Douglas M Kieft
HC3 Box 670 F
Payson, Az 85541
928 474 6931
Fax 928 474 3098
Email beaverdl@cybertrails.com

A handwritten signature in cursive script that reads "Douglas M. Kieft". The signature is written in black ink and is positioned below the typed contact information.

LEGAL

Judge Amanda Pope
1200 W. Washington
Phoenix, AZ 85007

Reference: Document No. W-02015A-03-0724
Beaver Valley Water Company procedural order by the Arizona Corporation
Commission

Your honor,

I was one of the "concerned citizens" Mike was referring to in the "Notice" he put up on the bulletin boards in Beaver Valley. This meeting was not Roger's idea, his house was most centrally located to the homes of the people who wanted the meeting. We asked Mike to attend so that he could not say we were doing it behind his back and we were anxious to get some answers from the source instead of through the grapevine, which is the only way we've been able to get information. We did offer to help him, but we were told he didn't need any help.

We are concerned citizens!! We want to know what will happen to our property if he up and leaves. Rumors over the "grape vine are that he bought a resort in Colorado (This apparently didn't go through) Now the rumor is that he is trying to buy a fishing resort somewhere back east—somewhere!!! No wonder that we are "concerned citizens."

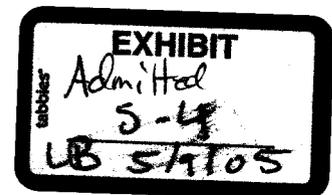
Thank you for taking your time to read this.

Sincerely yours,



Lucy Kieft
HC3 box 670-F
Payson, AZ 85541

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2005 APR 19 P 2:12
AZ CORP COMMISSION
DOCUMENT CONTROL



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APR 19 2005

LEGAL DIV.
ARIZ. CORPORATION COMMISSION

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LEGAL

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APR 14 2005

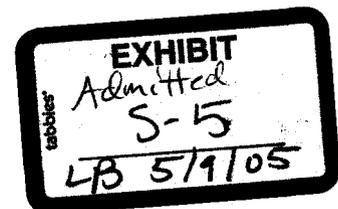
2005 APR 14 P 12: 23

LEGAL DIV.
ARIZ. CORPORATION COMMISSION

AZ CORP COMMISSION
DOCUMENT CONTROL

Beaver Valley Water Company, Inc.

W-02015A-03-0724



4-12-05

ACC + Judge Amanda Pope

Docket # #15 in newspaper	W-02015A-03-0724 W-02015A-03 FF724	Beaver Valley Water Co.
---------------------------------	---------------------------------------	----------------------------

Reasons not to approve the sale + assets + transfer of Beaver Valley Water Co.

- ① Raising rates without ACC approval is a serious problem and he still has not refunded according to the ACC order. This also shows a disregard for ACC authority.
- ② Original order says he needs a letter = OK from ADEQ. Decision ~~66388~~ 66388 page 3 at end of page says major deficiencies. 5-15-03 The compliance status report from Jim Pickett dated 10-14-04, but it was dated at inspection of 11-22-00. ADEQ needs to come out and not use an old report. Old report had ~~def~~ deficiencies but after fine was paid = OK but not corrected. See Patrick ADEQ.
- ③ Application is not audited, but should be. Example: He says average water use 2,575 gal. Check your own stats 4 people = 6,000 gal per mo. I know a family with 5 kids, a family of 7. = 12,000 - 15,000 gal per mo. With the illegal rate hike Mike did without approval, their bill went from 48 to 110 dollars per mo. Check the old + new rate and do the math. a.

also approx. 40% of these homes are summer homes, so he collects the base rate year around for services + water not used. I believe reported water usage is incorrect and rates are too high.

- ④ Mike Davoren is not a certified operator. This is a requirement on original order.
- ⑤ The ACC has given many, many opportunities for Mike Davoren to abide in the ACC orders. He has shown that he can not abide in a timely manner, or not at all, or do what he wants anyway (like illegally raise rates).

If you choose to reconsider application, please consider doing the following first, for the protection of our community.

- ① First pay back over charges.
- ② Send ADEQ to do an actual inspection.
- ③ Audit application for reported water usage, (rates too high), reported income, reported expenses, taxes.
- ④ Demand that Mike be a certified operator.
- ⑤ Lower the rates.

This could take awhile, but many of us would like to see a state interim operator in the mean time, if not permanently until someone that obeys the rules takes over. Thank you.

928 472 4786
Lot 59460

Art Stuckenberg amstuckenberg
P.O. Box 1564
Payson az 85547

W-02015A-03-0724

10-5-4

List LEGAL

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2004 OCT -8 P 1:41

AZ CORP COMMISSION
DOCUMENT CONTROL

Dear Judge

I Feel threatened
by this letter I
recieved From Mr.
Davoren, I thought
that I WAS entitled
to my opinion about
our water situation but
Mr. Davoren seems to think
otherwise. My notification
to the ADEQ about
another subject NOT
concerning Mr. Davoren
was mis understood by
him. My letter Does
NOT Name - Names

Like his Does concerning
Medical Ailments. If I
can be of ANY further
help, Let me know
Doug Stevens

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OCT 08 2004

LEGAL DIV.
ARIZ. CORPORATION COMMISSION

EXHIBIT
Admitted
S-6
LB 5/9/05

Doug Stevenson,
The following is response to ACC complaint

I have addressed each complaint from your "close knit" friends in some detail. However, after reading yours, I hardly know which inaccuracy to begin with, but will try to address them one at a time, and in a manner in which you can understand.

The water quality has vastly improved since I took over operations, as evidenced by water sampling conducted by laboratories and MAP (monitoring assist program). There has never been a time that water service was interrupted for "days". I have talked with your peers (neighbors), and some are willing to testify in the upcoming lawsuit that this is a lie!

As you know, I have been to your house, in your presence, to discuss your outages water usage, you claim not to use. Each time the meter read was correct. After testing the meter, which I did not charge you for, the results of the meter reading and amount of water passed through it were 100% accurate.

After sending your letter claiming "dangerous toxins and biohazard levels" in our river to ACC, I have to ask; what are they? I certainly hope you can prove this as I have taken water samples directly from the river and sent them to the lab for testing and got a negative result for all tests performed. I have documentation.

As to service provided by the previous owners, it is clear to ACC and ADEQ that they did not responsibly operate, or complete necessary testing, as I have recently completed some testing that was to be done in 1996. Other tests were also in arrears, which, by the way, is the reason for the hold up in the transfer. Not compliant with ADEQ. Not very "responsible" as you claim.

The entire paragraph where you describe flu like symptoms sounds to me to be just that. However I am very happy you wrote this paragraph. In it you admit to activities within the community to be brought out in the upcoming lawsuit against you.

I'm sorry, but I cannot find what you describe as "toxic plumes" in our river. I have asked others to show me, with no success. Since you seem to be an authority on our water, maybe you could show me!

In your letter to ACC, you cited the water is promoting cancer, fibroid myalgia, and Alzheimer's disease after drinking the water provide by Beaver Valley Water. Again, I am ecstatic (that means happy) that you wrote this and filed with ACC as it will surely help in the suit I am filing against you. I talked with Pat Walker. She told me she had this disease long before moving to Beaver Valley. She is also considering legal action against you. By the way, Pat has never had a cousin live with her. --Another false statement.

Incidentally, there has only been one rate increase, you describe three. This is another false report.

In conclusion, I have not been contacted by any of your neighbors, only your "close knit" group mostly residing in unit 4, about denial of transfer. In fact YOUR neighbors have come to me describing exactly the activities you, yourself, have admitted in your letter to ACC, am sure, if needed, will testify to my benefit.

I think I have addressed each paragraph of the report you published with ACC. Feel free to contact me if you feel ANY of this reply is inaccurate.

Beaver Valley Water Co.

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W-02015A 3-0724

LEGAL

SEP 17 2004
SEPT 13 2004

RECEIVED
LEGAL DIV.
ARIZ. CORPORATION COMMISSION

JUDGE AMANDA POPE

2004 SEP 17 11:38

THOMAS WRIGHT

1200 W WASHINGTON

AZ CORP COMMISSION
DOCUMENT CONTROL

HC3 Box 672

PHOENIX AZ 85007

PRYSON AZ 85541

RE: MIKE DAVOEN

THIS IS TO LET YOU KNOW I DO NOT THINK
MIKE DAVOEN IS QUALIFIED TO OPERATE BEAVER
VALLEY WATER CO.

1. WATER IS TURNED OFF AT LEAST ONCE A
MONTH WITH NO NOTICE TO ANY RESIDENT.

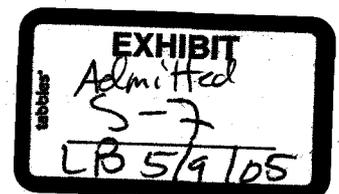
2. IS NOT A SYSTEM THAT CAN BE ISOLATED TO
ANY ONE UNIT ALL UNITS GO OFF AT ONE TIME

3. HAS RAISE RATES WITH OUT APPROVAL OF
CORPORATION COMMISSION, JUST HIS NOTICE TO HOME
OWNERS

4. WE HAVE 8 CHILDREN AND NO WATER AT
TIMES IS VERY HARD ON US

THANK YOU FOR YOUR TIME IN LOOKING INTO
THIS MATTER

THOMAS WRIGHT
Thomas Wright



RECEIVED

SEP 17 2004

LEGAL DIV.
ARIZ. CORPORATION COMMISSION

Sept 13, 04

LEGAL

RECEIVED

~~W-02015A-03-072~~

W-02015A-03-0724

2004 SEP 17 A 11:26

CORP COMMISSION
DOCUMENT CONTROL

Judge Amana Pope
1200 W Washington
Phoenix AZ 85007

Cierra Blue Bird
33 Verde Cir BV
Payson AZ 85541

RE: Mike Davoren

I was a caretaker / house keeper for the deceased Barbara Mouraux and there was many times while I was working for her that the water was shut off without any notice to the resident so that it would be down

It often tasted and smelled like dish soap, also the coloring was funny with things floating in it. I personally would not drink the water coming out of the tap.

Cierra Blue Bird

EXHIBIT
Admitted
S-8
LB-579/05

Tariff section

Arizona Corporation Commission
DOCKETED

AUG 26 1987

DOCKETED BY *C.M.*

BEFORE THE ARIZONA CORPORATION COMMISSION

MARCIA WEEKS
Chairman
RENZ D. JENNINGS
Commissioner
DALE H. MORGAN
Commissioner

IN THE MATTER OF THE APPLICATION FOR)
TRANSFER OF THE CERTIFICATE OF)
CONVENIENCE AND NECESSITY TO OPERATE)
A WATER UTILITY IN GILA COUNTY,)
ARIZONA, FROM BEAVER VALLEY WATER)
COMPANY, A CORPORATION, TO BEAVER)
VALLEY WATER COMPANY, A PARTNERSHIP.)

DOCKET NO. U-2015-86-243

DECISION NO. 55705

OPINION AND ORDER

EXHIBIT
Admitted
5-9
VB 5/9/05

DATE OF HEARING: June 9, 1987

PLACE OF HEARING: Phoenix, Arizona

PRESIDING OFFICER: Marc E. Stern

APPEARANCES: Gorey, Delaney & Melkonoff, by Edgar M. Delaney, on behalf of Beaver Valley Water Company;

Paul A. Bullis, Staff Attorney, on behalf of the Arizona Corporation Commission Staff.

BY THE COMMISSION:

On June 4, 1986, Beaver Valley Water Company, Inc., a corporation ("BVWC"), and Beaver Valley Water Company, a Partnership ("Partnership"), filed a Joint Application with the Arizona Corporation Commission ("Commission") seeking after-the-fact authorization to transfer the assets and Certificate of Convenience and Necessity ("Certificate" or "CC&N") from BVWC to Partnership.¹ Notice of the proposed transfer from BVWC to Partnership was provided to BVWC's customers by letter on July 15, 1985. In response thereto, the Commission has not received any protests from any of the

¹ The transfer in this case is primarily a change in the form of the business entity (for tax reasons) which operates the water company from that of a corporation controlled by Edgar M. Delaney and Raymond Eugene Ward to these individuals as partners.

1 Applicant's 135 customers. Upon a review of the Application and based on
 2 evidence presented at the hearing, the Commission's Utilities Division Staff
 3 ("Staff") has recommended that the transfer of assets be approved conditioned
 4 upon certain documents being provided and Partnership's compliance with the
 5 Commission's regulations regarding the operation of a public water utility.

6 * * * * *

7 Having considered the entire record herein and being fully advised in the
 8 premises, the Commission finds, concludes, and orders that:

9 FINDINGS OF FACT

10 1. BVWC is a duly certificated public water utility providing service
 11 to an area of approximately 120 acres located ten miles northeast of the town
 12 of Payson, Gila County, Arizona, pursuant to a Certificate of Convenience and
 13 Necessity ("Certificate" or "CC&N") granted by the Commission in Decision No.
 14 38565 (July 5, 1966).

15 2. In Decision No. 50919 (May 6, 1980) the Commission authorized the
 16 transfer of the assets and Certificate of the utility in a bankruptcy court
 17 proceeding involving the Great Southwest Land and Cattle Company to BVWC.¹

18 3. Edgar M. Delaney and Raymond Eugene Ward (former principle
 19 shareholders in BVWC) are the partners in Partnership which has been operating
 20 the water utility effectively since 1982.

21 4. Partnership and BVWC now seek after-the-fact authorization by the
 22 Commission for the transfer of its assets and Certificate to Partnership.

23 5. During the period that Partnership has operated the public water
 24 utility, Staff has no record of any complaints being filed regarding its
 25 operations.

26 1

27 Previously, the utility was acquired along with certain parcels of land
 28 to be developed by BVWC's shareholders in 1979.

1 6. All of the utility's present customers presently pay a flat
2 monthly charge of \$12 per month previously authorized to BVWC in Decision
3 No. 50919 (May 6, 1980).

4 7. In Decision No. 50919 the Commission also directed the utility
5 to devise a plan for metering its water services to its customers within 12
6 months of the effective date of that Order which the utility has failed to do.

7 8. In that Order, the Commission further directed the utility to
8 advise its customers of a 24-hour emergency service number, utility office
9 hours and location, by means of a notice displayed on the utility's pumping
10 and storage facilities; to once a year insert this information in a regular
11 monthly billing; and to also list its regular phone number including its
12 emergency number in the local telephone white pages.

13 9. BVWC and Partnership have subsequently operated the the utility
14 for the past seven (7) years and, other than posting an emergency telephone
15 number at what constitutes its office, has failed to comply with the balance
16 of Decision No. 50919.

17 10. Although Partnership has effectively operated the utility for
18 more than four years, the bill of sale for the Certificate and transfer of
19 assets and quitclaim deed from BVWC to Partnership were not executed until
20 December 8, 1986.³

21 11. On July 27, 1987, Partnership filed a copy of the recorded
22 quitclaim deed filed with the Gila County recorder as a late-filed exhibit,
23 and Partnership has agreed to provide a copy of the recorded bill of sale to
24 Staff once it is recorded.

25 12. The partners in Partnership are actively engaged in the
26 development of 60 lots of the 225 remaining lots to be developed within BVWC's
27 certificated area (through a separate partnership, Wardell Properties).

28

³
The sale was for \$1 and other consideration with Partnership also
assuming BVWC's liabilities.

1 13. Only 26 lots within the entire 364 lot subdivision still require
2 a distribution system to be constructed to them since the majority of the
3 subdivision already has public water utility service available.

4 14. Besides its one well which provides the utility with
5 approximately 29 gallons of water per minute, the utility also takes its water
6 from the East Verde River pursuant to water rights which it owns.

7 15. The partners have agreed to become familiar with the NARUC
8 standardized system of accounts and to maintain their books and records
9 consistent with that system in order that their books can adequately be
10 examined by a Commission auditor.

11 16. There are no refunds due under the terms of any line extension
12 agreements that the partners are aware of as a result of their notice to
13 BVWC's customers.

14 17. Partnership will continue to charge those rates and charges
15 presently in effect as authorized in Decision No. 50919.

16 18. Although Staff recommended approval of the transfer of assets
17 from BVWC to Partnership, Staff is concerned with the utility's non-compliance
18 with Decision No. 50919 and the state of affairs of the maintenance of the
19 system as is evidenced by Staff Exhibit No. 1 in which the Arizona Department
20 of Health Services ("ADHS") indicated that the system was in non-compliance
21 with its regulations in a letter dated May 19, 1987.

22 19. Partnership, on July 27, 1987, filed a copy of a June 1, 1987,
23 letter from ADHS as a late-filed exhibit which indicates that the utility
24 system is in substantial compliance with ADHS regulations.

25 20. The partners have been advancing monies to the utility without
26 Commission approval ever since they took over the operation of the utility
27 with its acquisition from the bankruptcy court in 1979, and they contend that
28 the utility is presently losing approximately \$2,000 a month.

CONCLUSIONS OF LAW

1
2 1. BVWC is a public service corporation within the meaning of
3 Article XV of the Arizona Constitution and A.R.S. §§40-281, et seq.

4 2. The Commission has jurisdiction over BVWC and of the subject
5 matter of the Application.

6 3. The transfer of BVWC's assets and Certificate to Partnership is
7 in the public interest, and there is a continuous need for a water utility to
8 serve the present and possibly future customers in BVWC's certificated area.

9 4. Partnership will continue to operate the water company under the
10 rates, terms, and conditions of service presently in effect pursuant to
11 Decision No. 50919.

12 5. Partnership is a fit and proper entity to receive the
13 Certificate and assets held by BVWC in order to provide water service for the
14 area for which BVWC holds a Certificate.

15 ORDER

16 IT IS THEREFORE ORDERED that the Application of Beaver Valley Water
17 Company, Inc., and Beaver Valley Water Company, a Partnership, for joint
18 tranfer of Certificate and sale of assets be, and the same is hereby granted
19 for that area authorized in Decision No. 38565 (July 5, 1966).

20 IT IS FURTHER ORDERED that the rates and charges of Beaver Valley
21 Water Company, a Partnership, shall remain the same as those rates presently
22 being charged and on file with the Commission until further Order.

23 IT IS FURTHER ORDERED that Beaver Valley Water Company, a
24 Partnership, shall apply to the Commission prior to securing any loans or
25 entering into any other financial arrangements including the sale of any
26 utility property.

27 . . .

28 . . .

1 IT IS FURTHER ORDERED that Beaver Valley Water Company, a
2 Partnership, within thirty (30) days of the effective date of this Order, file
3 a copy of its recorded bill of sale with Staff.

4 IT IS FURTHER ORDERED that Beaver Valley Water Company, a
5 Partnership, take immediate steps to fully comply with Decision No. 50919, and
6 within sixty (60) days of the effective date of this Order file its plan for
7 metering the system.

8 IT IS FURTHER ORDERED that staff verify whether Beaver Valley Water
9 Company, a Partnership, complies with the balance of Decision No. 50919.

10 IT IS FURTHER ORDERED that Beaver Valley Water Company, a
11 Partnership, file monthly reports with the Utilities Division Compliance
12 Officer effective October 1, 1987, indicating what it has done to comply with
13 Decision 50919 until it has fully complied with that Order.

14 IS FURTHER ORDERED that Beaver Valley Water Company, a Partnership,
15 familiarize itself with the Commission's regulations and use the NARUC
16 standard system of accounts in order to conduct itself as a public water
17 utility.

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IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

[Handwritten Signature]
CHAIRMAN

COMMISSIONER

[Handwritten Signature]
COMMISSIONER

IN WITNESS WHEREOF, I, JAMES MATTHEWS, Executive Secretary of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of this Commission to be affixed at the Capitol, in the City of Phoenix, this 28 day of August, 1987.

[Handwritten Signature]
JAMES MATTHEWS
Executive Secretary

DISSENT _____
MES/sks

Fisher

EDGAR M. DELANEY
RODNEY A. MELKONOFF
CHARLES D. SCRIVNER

DELANEY & MELKONOFF, P.C.

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DEC 17 2003

ARIZONA CORPORATION COMMISSION
DIRECTOR OF UTILITIES

December 5, 2003

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DEC 09 2003

AZ CORPORATION COMMISSION
DIRECTOR OF UTILITIES

Mr. Ernest Johnson
Director of Utilities
Arizona Corporation Commission
1200 West Washington
Phoenix, AZ 85007

Dear Sir:

I was a previous co-owner of the stock of the Beaver Valley Water Company, Beaver Valley Estates, P.O. Box 421, Payson, Arizona 85541. The other co-owner of the stock was Gene Ward of Phoenix, Arizona.

Please treat this letter as our request for approval of the transfer of the outstanding stock to Michael Davoren of Payson, Arizona.

All of the outstanding stock in Beaver Valley Water Co. was sold to Mr. Davoren on January 29, 2003. On April 15, 2003 he filed an application for rate increase which was granted in October of this year.

Forgive our tardiness in making this late request for approval of the transfer of the stock.

The Arizona Department of Environmental Quality supplied a compliance report, which was part of the rate increase application.

I shall secure another compliance report and forward same to you.

Again, please forgive our tardiness in this regard and we await your action on the approval transfer request.

Sincerely,

Edgar M. Delaney
Edgar M. Delaney

EMD/ig

cc: Jim Fisher
Utilities Division

EXHIBIT
Admitted
5-10
LB 5/9/05

AZ CORP COMMISSION
DOCUMENT CONTROL

2003 DEC 11 A 8:31

RECEIVED

**AMENDMENT TO PURCHASE CONTRACT
AGREEMENT FOR THE SALE OF BUSINESS KNOWN AS
"BEAVER VALLEY WATER COMPANY"**

THIS AGREEMENT, dated August 15, 2004, shall attach to and become a part of the real estate contract, purchase agreement and First American Title escrow #237-4058156, dated February 5, 2003; for the acquisition of property known as TRACT "D", of BEAVER VALLEY ESTATES, according to the plat of record in the office of the County Recorder of Gila County, Arizona, recorded in Map No.331

DEFINITIONS:

SELLER/GRANTOR shall be defined as follows:

Wardell Properties, an Arizona General Partnership
Beaver Valley Water Company Inc., a dissolved Arizona Corporation
Beaver Valley Water Company, an implied Arizona General Partnership
Raymond E. Ward, personally, as his sole and separate property
Edgar M. Delaney, personally, as his sole and separate property

BUYER shall be defined as follows:

Michael T. Davoren, and unmarried man

AGREEMENTS:

SELLERS, as defined herein, do hereby transfer, convey and grant to **BUYER** any and all rights, assets, revenues, and obligations of the entity commonly known as "Beaver Valley Water Company". Said transfer shall be a part of the real estate transaction referenced above and shall require **NO** additional consideration to **SELLER** other than what has been previously addressed in the real estate contract and escrow documentation.

SELLER and **BUYER** acknowledge that a majority of the value established in said real estate acquisition is attributable to the business operation referenced herein. It is clearly understood that **BUYER** would be unable to support the obligation to **SELLER** without full and unrestrained control of revenues and operations derived from "Beaver Valley Water Company".

BUYER agrees to apply its best efforts to maintain the business and comply with all regulations and requirements of governmental agencies with jurisdiction; local, state and federal. **BUYER** shall have the right to encumber the business as is allowed by state and federal regulation insofar as **SELLER's** interest is not compromised and remains in a senior position to any proposed encumbrance.

EXHIBIT
Admitted
5-11
LB 5/9/05

