

ORIGINAL



0000123177

BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

GARY PIERCE - Chairman  
BOB STUMP  
SANDRA D. KENNEDY  
PAUL NEWMAN  
BRENDA BURNS

2011 FEB 16 P 3:43

AZ CORP COMMISSION  
DOCKET CONTROL

Arizona Corporation Commission

DOCKETED

FEB 16 2011

DOCKETED BY

IN THE MATTER OF THE INVESTIGATION OF  
THE FAILURE OF BELLEMONT WATER  
COMPANY, AN ARIZONA PUBLIC SERVICE  
CORPORATION, AND BELLEMONT WATER  
COMPANY SHAREHOLDERS BRAD NESS,  
GLORIA NESS, ERIK NESS, DINAH NESS (AKA  
DIANA NESS), OPERATING AS AN ARIZONA  
PUBLIC SERVICE CORPORATION IN FACT, TO  
COMPLY WITH ARIZONA STATUTES AND  
COMMISSION RULES AND REGULATIONS.

DOCKET NO. W-02526A-10-0499

**PROCEDURAL ORDER**  
**(Schedules a Hearing)**

**BY THE COMMISSION:**

On December 16, 2010, the Utilities Division ("Staff") of the Arizona Corporation Commission ("Commission") filed a Complaint against Bellemont Water Company ("BWC") and certain of its shareholders as follows: Brad Ness, Gloria Ness; Erik Ness; and Dianah Ness (aka Diana Ness) (collectively "Respondents") for alleged violations of Arizona law and Commission Decisions.

On January 6, 2011, a Joint Answer was filed by BWC, Brad Ness, Gloria Ness, Erik Ness and Dianah Ness.

On January 12, 2011, a separate response was filed by Klaudia Ness who was not named as a Respondent in the Complaint.

On January 14, 2011, by Procedural Order, a procedural conference was scheduled on February 8, 2011.

On February 8, 2011, Staff appeared with counsel and Respondents appeared on their own behalf. The parties discussed the issues between the parties, but were unable to reach a satisfactory resolution of the Complaint. Staff indicated that it may seek injunctive relief in the proceeding and may require a court order. At the conclusion of the procedural conference, Staff requested that a hearing be scheduled.

1 Accordingly, a hearing should be scheduled on the issues raised by the Complaint.

2 IT IS THEREFORE ORDERED that a **hearing** shall be held on **May 3, 2011, at 10:00 a.m.**,  
3 at the Commission's offices, 1200 West Washington Street, Hearing Room No. 1, Phoenix, Arizona.

4 IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113-Unauthorized  
5 Communications) is in effect and shall remain in effect until the Commission's Decision in this  
6 matter is final and non-appealable.

7 IT IS FURTHER ORDERED that Staff shall file by **April 8, 2011**, a report with respect to the  
8 allegations in the Complaint which describes in a narrative fashion the issues with respect to  
9 Respondents' actions together with Staff's recommendations to the Commission to correct the  
10 alleged violations of Arizona law and prior Commission Decisions.

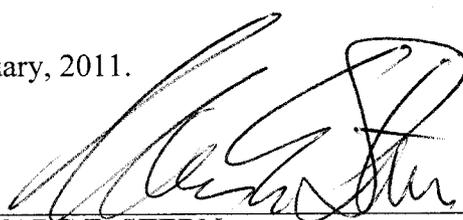
11 IT IS FURTHER ORDERED that **Respondents** shall file by **April 22, 2011**, a response to the  
12 Staff Report.

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

16 IT IS FURTHER ORDERED that withdrawal or representation must be made in compliance  
17 with A.A.C. R14-3-104(E) and Rule 1.16 of the Rules of Professional Conduct (under Rule 42 of the  
18 Rules of the Arizona Supreme Court). Representation before the Commission includes appearances  
19 at all hearings and procedural conferences, as well as all Open Meetings for which the matter is  
20 scheduled for discussion, unless counsel has previously been granted permission to withdraw by the  
21 Administrative Law Judge or the Commission.

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

25 DATED this 10<sup>th</sup> day of February, 2011.

26  
27   
28 \_\_\_\_\_  
MARC E. STERN  
ADMINISTRATIVE LAW JUDGE

1 Copies of the foregoing mailed/delivered  
2 this 10th day of February, 2011 to:

3 Brad Ness  
4 Gloria Ness  
5 Erik Ness  
6 Dianah Ness  
7 3960 North Pinal Street  
8 Kingman, AZ 86409

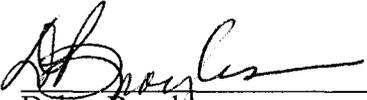
9 BELLEMONT WATER COMPANY  
10 P.O. Box 31176  
11 Flagstaff, AZ 86003

12 Mary Keller Wong  
13 Estate of George Wong  
14 10476 West Harmon  
15 Peoria, AZ 85345

16 Janice Alward, Chief Counsel  
17 Legal Division  
18 ARIZONA CORPORATION COMMISSION  
19 1200 West Washington Street  
20 Phoenix, AZ 85007

21 Steve Olea, Director  
22 Utilities Division  
23 ARIZONA CORPORATION COMMISSION  
24 1200 West Washington Street  
25 Phoenix, AZ 85007

26 ARIZONA REPORTING SERVICE, INC.  
27 2200 North Central Avenue, Suite 502  
28 Phoenix, AZ 85004-1481

By:   
Debra Broyles  
Secretary to Marc E. Stern