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BEFORE THE ARIZONA CORPORATION COMMISSION

Arizona Corporation Commission

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2011 APR 12 P 2:44

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

APR 12 2011

AZ CORP COMMISSION  
DOCKET CONTROL

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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

**THIRD  
PROCEDURAL ORDER**  
**(Extends Filing Dates)**

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 On February 16, 2011, by Procedural Order, a hearing was scheduled on May 3, 2011, and  
2 other procedural filing dates were established for the Staff Report (April 8, 2011) and a response by  
3 Respondents (April 22, 2011).

4 On April 8, 2011, Staff filed a Motion for Extension of Time ("Motion") in which to file its  
5 report, which was due to be filed on the date. Staff requested an extension of time until April 15,  
6 2011, in which to file its report due to the discovery of new facts and the complicated nature of the  
7 proceeding. Staff further stated Respondents' response to the Staff Report should be extended to  
8 April 29, 2011.

9 Under the circumstances, Staff's Motion is reasonable and should be granted.

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

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

16 IT IS FURTHER ORDERED that **Staff shall have an extension to file by April 15, 2011, a**  
17 **report** with respect to the allegations in the Complaint which describes in a narrative fashion the  
18 issues with respect to Respondents' actions together with Staff's recommendations to the  
19 Commission to correct the alleged violations of Arizona law and prior Commission Decisions.

20 IT IS FURTHER ORDERED that **Respondents shall file by April 29, 2011, a response to**  
21 **the Staff Report**, as previously ordered.

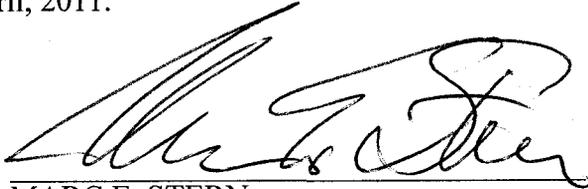
22 IT IS FURTHER ORDERED that all parties must comply with Rules 31 and 38 of the Rules  
23 of the Arizona Supreme Court and A.R.S. § 40-243 with respect to the practice of law and admission  
24 *pro hac vice*.

25 IT IS FURTHER ORDERED that withdrawal or representation must be made in compliance  
26 with A.A.C. R14-3-104(E) and Rule 1.16 of the Rules of Professional Conduct (under Rule 42 of the  
27 Rules of the Arizona Supreme Court). Representation before the Commission includes appearances  
28 at all hearings and procedural conferences, as well as all Open Meetings for which the matter is

1 scheduled for discussion, unless counsel has previously been granted permission to withdraw by the  
2 Administrative Law Judge or the Commission.

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

6 DATED this 12<sup>th</sup> day of April, 2011.

  
MARC E. STERN  
ADMINISTRATIVE LAW JUDGE

10  
11 Copies of the foregoing mailed/delivered  
this 12<sup>th</sup> day of April, 2011 to:

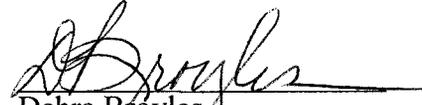
12 Brad Ness  
13 Gloria Ness  
14 Erik Ness  
15 Dianah Ness  
16 3960 North Pinal Street  
17 Kingman, AZ 86409

18 BELLEMONT WATER COMPANY  
19 P.O. Box 31176  
20 Flagstaff, AZ 86003

21 Mary Keller Wong  
22 Estate of George Wong  
23 10476 West Harmon  
24 Peoria, AZ 85345

25 Janice Alward, Chief Counsel  
26 Legal Division  
27 ARIZONA CORPORATION COMMISSION  
28 1200 West Washington Street  
Phoenix, AZ 85007

Steve Olea, Director  
Utilities Division  
ARIZONA CORPORATION COMMISSION  
1200 West Washington Street  
Phoenix, AZ 85007

26 By:   
27 Debra Broyles  
28 Secretary to Marc E. Stern