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BEFORE THE ARIZONA CORPORATION COMMISSION
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Arizona Corporation Commission
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2011 APR 18 P 4: 39

APR 18 2011

ARIZONA CORPORATION COMMISSION
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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, DIANAH 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

MOTION TO AMEND COMPLAINT

Staff of the Utilities Division ("Staff") of the Arizona Corporation Commission ("Commission"), pursuant to Arizona Administrative Code ("A.A.C.") R14-3-101.A and Rule 15, Arizona Rules of Civil Procedure (A.R.C.P.), moves to amend its Complaint filed against Bellemont Water Company, Inc. ("BWC" or "Company"), an Arizona public service corporation, and against Brad Ness, Gloria Ness, Erik Ness, and Dianah Ness (AKA Diana Ness), operating as an Arizona public service corporation in fact, for the reason that new evidence has come to light which warrants the addition of a count to that Complaint.

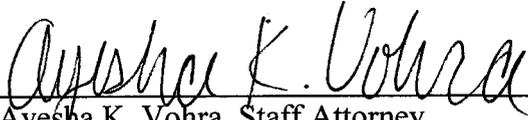
Staff's Complaint addressed, *inter alia*, Commission Decision Nos. 70482 and 71868, which authorized the Company's standpipe water service tariff and directed that "[a]ll revenue collected from the standpipe service shall be deposited in a separate interest bearing account and such funds shall be used exclusively for the design, approval and construction of a new water source[.]"

At an August 24, 2010 Open Meeting regarding the Company's application for a rate increase and application for approval to incur long-term debt from the Water Infrastructure Finance Authority of Arizona, and again in her response date September 30, 2010 to a Staff data request, Klaudia Ness alleged that the standpipe service meter was within Brad Ness' sole control and that she was concerned that standpipe revenue was not being deposited into the separate standpipe service meter bank account.

1 Subsequent to the filing of the Complaint, Staff learned that Brad Ness turned control of the
2 standpipe service meter to Erik Ness on or about December 1, 2010. Erik Ness maintained control of
3 the standpipe service meter until sometime in February, 2011 when he relinquished control to Elliot
4 Ness. An updated log provided to Staff by the Company on March 7, 2011, indicates that, during the
5 period July 23, 2010, through February 9, 2011, \$26,190 in standpipe revenues were unaccounted for.
6 In this log Klaudia Ness represents that \$21,139 is missing during the period from July 23, 2010,
7 through November 29, 2010, when Brad Ness controlled the collection of these revenues, and \$5,051
8 is missing during the period from December 1, 2010, through February 1, 2011, when Erik Ness
9 controlled the collection of these revenues, for a total of \$26,190.

10 Although several Counts contained in the Complaint charge Erik Ness with misconduct, the
11 Complaint did not address the misuse of the standpipe revenue by Erik Ness, as Staff was not aware
12 of it. The alleged misconduct appears to have begun when Staff filed the Complaint. Staff seeks
13 leave to amend its Complaint to include an additional count regarding Erik Ness' violation of
14 Commission Decision No. 70482. A copy of the Amended Complaint which Staff proposes to file is
15 attached hereto as Exhibit A.

16 RESPECTFULLY SUBMITTED this 18th day of April, 2011.

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18 
19 Ayesha K. Vohra, Staff Attorney
20 Bridget A. Humphrey, Staff Attorney
21 Legal Division
22 Arizona Corporation Commission
23 1200 West Washington Street
24 Phoenix, Arizona 85007
25 (602) 542-6521
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27
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1 Original and thirteen (13) copies
2 of the foregoing were filed this
3 18th day of April, 2011 with:

4 Docket Control
5 Arizona Corporation Commission
6 1200 West Washington Street
7 Phoenix, Arizona 85007

8 Copies of the foregoing were mailed
9 this 19th day of April, 2011 to:

10 Bellemont Water Company
11 P.O. Box 31176
12 Flagstaff, Arizona 86003

13 Brad Ness
14 Gloria Ness
15 Erik Ness
16 Dianah Ness
17 3960 N. Pinal Street
18 Kingman, Arizona 86409

19 Elliot Ness
20 Klaudia Ness
21 7350 Hutton Ranch Rd.
22 Flagstaff, Arizona 86004

23 Mary Keller Wong
24 Estate of George Wong
25 10476 W. Harmon
26 Peoria, Arizona 85345

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