

OPEN MEETING AGENDA ITEM



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BEFORE THE ARIZONA CORPORATION COMMISSION

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Arizona Corporation Commission

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AZ CORP COMMISSION
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COMMISSIONERS

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

IN THE MATTER OF THE COMMISSION ON
ITS OWN MOTION INVESTIGATING THE
FAILURE OF CERBAT WATER COMPANY
TO COMPLY WITH COMMISSION RULES
AND REGULATIONS

DOCKET NO. W-02391A-11-0166

**STAFF'S NOTICE OF FILING RE:
COMMENTS ON CERBAT WATER
COMPANY'S APPLICATION FOR
EMERGENCY RATE SURCHARGE**

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On April 18, 2011, the Arizona Corporation Commission ("Commission") Utilities Division Staff ("Staff") filed a motion requesting Commission issuance of an Order to Show Cause ("OSC") against Cerbat Water Company ("Cerbat" or "Company") for lack of compliance with Commission rules and regulations. The OSC sought Commission authority to appoint an Interim Manager to oversee Cerbat's operations, indefinitely or until further action of the Commission.

On April 20, 2011, the Commission convened a Special Open Meeting to consider Staff's motion for an OSC against Cerbat. The Commission adjourned this proceeding until April 27, 2011 to provide the Company and public at large with additional notice of the proceeding. On April 27, 2011, the Company filed its response to Staff's motion for an OSC and preliminary relief.

The Commission considered and discussed the OSC again during the regular Open Meeting held on April 27, 2011. At that time, the Commission took testimony from the Company. The Commission passed a motion establishing a timeline allowing the Commission to consider approving an emergency surcharge. The surcharge would facilitate payment of past due repair costs related to the Trust well. However, the Commission's consideration of an emergency surcharge would be contingent upon the Trust transferring its well to the Company.

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1 The Commission's motion ordered as follow:

2 1. The Company files an application for an emergency rate case and proof of notice to its
3 customers on May 13, 2011.

4 2. The Company document in the docket, evidence of the transfer of the well and related
5 facilities from the Trust to Cerbat on or before May 18, 2011.

6 3. If the transfer is timely completed, Staff files comments on the Company's proposed
7 application by May 20, 2011.

8 4. If the above are timely completed, the Commission will consider for approval at the
9 regular Open Meeting scheduled for May 24 and 25, 2011, a surcharge for paying off the attendant
10 well expenses for the pump and electricity to the Trust, to be implemented on June 1, 2011.

11 Staff hereby provides notice of filing Staff's comments on Cerbat's request for an emergency
12 rate surcharge. Staff's comments are provided under Attachment A and Staff's recommended well
13 repair surcharge is shown on Schedule 1.

14 RESPECTFULLY SUBMITTED this 20th day of May 2011.

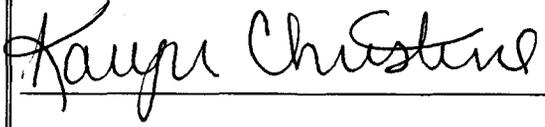
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17 
18 Kimberly A. Ruht, Attorney
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20 Legal Division
21 Arizona Corporation Commission
22 1200 West Washington Street
23 Phoenix, Arizona 85007
24 (602) 542-3402

23 Original and thirteen (13) copies
24 of the foregoing filed this
25 20th day of May 2011 with:

25 Docket Control
26 Arizona Corporation Commission
27 1200 West Washington Street
28 Phoenix, Arizona 85007

1 Copies of the foregoing mailed this
2 20th day of May 2011 to:

3 Steve Wene, Esq.
4 Moyes Sellers & Sims
5 1850 North Central Avenue
6 Suite 1100
7 Phoenix, Arizona 85004

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Docket No. W-02391A-11-0166

ATTACHMENT A

**STAFF'S COMMENTS
CERBAT WATER COMPANY
DOCKET NO. W-02391A-11-0166 & W-02391A-10-0218**

On April 27, 2011, the Arizona Corporation Commission ("Commission") approved a motion requiring Cerbat Water Company ("Cerbat" or "Company") to file an application for an emergency rate increase or surcharge by May 13, 2011, if the Company wanted the Commission to consider the possible implementation of an emergency rate surcharge during the Commission's Open Meeting on May 24 and 25, 2011. The Company filed Additional Comments and Exhibits on May 13, 2011, which included a request for an emergency surcharge. The document included the following:

1. A Quitclaim Deed evidencing the Claude K. Neal Family Trust has transferred the Trust well (Arizona Department of Water Resources ("ADWR") Well No. 55-624996) and related facilities located on the property, to Cerbat on May 12, 2011.
2. A statement that "the Trust and the Company agreed that the Trust would transfer the entire parcel to the Company with the understanding that once the Company has sited an additional well and made infrastructure improvements on the parcel, the unused remainder of the parcel will be transferred from the Company back to the Trust."
3. Claims that the Company's accrued costs of repair amounts to approximately \$122,000 and included summary invoices from five vendors in support of the sum.
4. The Company requests Commission approval of a minimum surcharge of no less than \$10.00 per customer to provide revenue to pay previously incurred expenses associated with the well.

Pursuant to the Commission's verbal motion during the April 27, 2011 open meeting, Staff has reviewed the Company's Additional Comments and Exhibits filed May 13, 2011. Staff concludes that the Trust has adequately transferred ADWR Well No. 55-624996 to Cerbat, through a Quitclaim Deed and a "Bill of Sale" dated May 12, 2011. Further, the Company informs Staff that it has filed the Quitclaim Deed for recording with the Mohave County Recorders Office. Staff recommends that the Commission order the Company to file a copy of the stamped recorded deed no later than 60 days from the effective date of Commission Order in this proceeding. Further, Staff recommends that the Commission order Cerbat to register with ADWR as the new owners of ADWR Well No. 55-624996, and docket evidence of such registration no later than 60 days from the effective date of Commission Order in this proceeding.

Staff examined the Company's agreement with the Trust to transfer any unused portion of the land transferred in conjunction with the Trust well back to the Trust in the future. Staff is not opposed to this agreement. However, Staff recommends that the Commission order Cerbat to seek Commission authorization prior to transferring and/or selling any parcel of its land, or other assets, to the Trust, or any other entity.

Staff reviewed the Company's reported costs of \$122,000 incurred for repairing ADWR Well No. 55-624996 and related appurtenances. The Company submitted summary invoices from each vendor but did not include the individual invoices related to each incident of repair. After review of the invoices, Staff recommends approval of \$119,444 as the total cost of well repairs for recovery through a surcharge. Staff's calculation removed the customer deposits and late fees reflected on UNS Electric's invoice because those costs do not constitute normal cost of service.

As shown in Schedule 1, Staff recommends a Well Repairs Surcharge in the amount of \$12.52 per customer per month. Staff's recommended Well Repairs Surcharge will generate \$39,815 per year, enabling Cerbat to defray its past due well repairs cost over three years.

Staff recommends that:

1. The Commission authorize Cerbat to collect a Well Repairs Surcharge of \$12.52 per customer per month effective June 1, 2011 or on the first day of the month after the Company provides docketed evidence of Customer Notice of this surcharge.
2. The Commission order Cerbat to segregate proceeds from the Well Repairs Surcharge approved in this proceeding in a dedicated and separate bank account.
3. The Commission order Cerbat to utilize proceeds of Well Repairs Surcharge for the sole purpose of paying the \$119,444 incurred for well repairs.
4. The Commission order Cerbat to pay each vendor a pro-rata amount, based on the vendor's share of the balance of past due debt of \$119,444 each month, from the proceeds of Well Repairs Surcharge.
5. The Commission order the emergency surcharge to be in effect for three years from the date of implementation, or until the \$119,444 costs reported in this filing are paid in full, which ever comes first.
6. The Commission order Cerbat to file a quarterly report with Docket Control, stating the amount collected through the Well Repairs Surcharge and amount paid to each vendor, not later than 30 days subsequent to the end of each calendar quarter, beginning in October 2011.
7. The Commission order Cerbat to seek Commission authorization prior to transferring and/or selling any parcel of its land, or its other assets, to the Trust, or any other entity.
8. The Commission order the Company to file a copy of its stamped recorded deed reflecting the new ownership of the well no later than 60 days from the effective date of Commission Order in this proceeding.

9. The Commission order the Company to register with ADWR as the new owners of ADWR Well No. 55-624996, and docket evidence of such registration no later than 60 days from the effective date of Commission Order in this proceeding.
10. The Commission order the Company to acquire all infrastructure, equipment and/or easements, including but not limited to wells, pipes, storage tanks, and standpipes, necessary to provide adequate, proper and reliable service to its ratepayers.
11. The Commission grant Staff the authority to appoint an Interim Manager for the Company, without further action by the Commission, if Cerbat fails to comply with any of the requirements imposed by the Commission as conditions to implementing the emergency rate surcharge, or if the Company is not in full compliance with Commission rules, regulations or orders. This authority should remain in effect until further order of the Commission.

Originator: Alexander Igwe

Docket No. W-02391A-11-0166

SCHEDULE 1

CALCULATION OF WELL REPAIRS SURCHARGE

Line No.	Description	Amount	
1	Total Cost of Well Repairs	\$ 119,444	
2	Customers at Test Year End	265	
3	Amortization over 3 Years (12 Months x 3 Years)	36	
4	Surcharge Rate (L2xL3)	9,540	
5	Well Repairs Surcharge Per Customer (+L1/L4)	<u>\$ 12.52</u>	
6			
7	TOTAL SURCHARGE PER YEAR	\$ 39,815	
8			
9			
10	<u>Cost of Well Repairs</u>		
11			
12	<u>Vendors</u>	<u>Amount</u>	<u>Percentage</u>
13	UNS Electric	\$ 8,344	7%
14	Mertens Heavy Equipment Repair, LLC	15,561	13%
15	Gilbert Pump & Equipment Co.	67,662	57%
16	Empire Pump Corporation	22,818	19%
17	Henderson Electric Motors, Inc	5,058	4%
18	Total	<u>\$ 119,444</u>	<u>100%</u>