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BEFORE THE ARIZONA CORPORATION COMMISSION

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Arizona Corporation Commission

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IN THE MATTER OF THE COMPLAINT OF
STEVE PRAHIN,

DOCKET NO. W-03514A-07-0386

COMPLAINANT,

vs.

PAYSON WATER COMPANY,

RESPONDENT.

IN THE MATTER OF THE COMPLAINT
OF REBECCA SIGETI,

DOCKET NO. W-03514A-08-0047

COMPLAINANT,

v.

PAYSON WATER CO., INC.,

RESPONDENT.

PROCEDURAL ORDER

BY THE COMMISSION:

On June 25, 2007, Steve Prahin filed with the Arizona Corporation Commission ("Commission") a formal complaint (Docket No. W-03514A-07-0386) against Payson Water Company ("Payson Water" or "Company") which appeared to allege that a representative of Payson Water insulted him and that the Company uses "aggressive bullying tactics" in response to customer complaints.

On July 16, 2007, Payson Water filed an Answer to the Complaint generally denying the allegations set forth therein, and stating several affirmative defenses. The Answer also requested that the Complaint be dismissed.

On September 14, 2007, a Procedural Order was issued scheduling a procedural conference for October 16, 2007.

1 The procedural conference was held, as scheduled, on October 16, 2007. During the
2 conference, Mr. Prahin indicated that his concerns are related to the alleged need for additional water
3 and storage capacity, and for improved customer service by Payson Water. Mr. Prahin and the
4 Company agreed to arrange a meeting that included members of the community served by Payson
5 Water, with assistance from the Commission's Staff.

6 On November 6, 2007, Payson Water filed a Joint Notice of Customer Meeting, stating that a
7 meeting had been scheduled for November 10, 2007.

8 On January 11, 2008, Payson Water filed a Motion to Dismiss for Failure to State a Claim.
9 Payson Water cited to a memorandum by Staff describing concerns raised during the November 10,
10 2007, customer meeting. The Staff memorandum indicated that customers sought a new well and/or
11 deepening of the Geronimo Well, as well as increased storage capacity, as a means of avoiding
12 weekend outages. In its Motion, the Company contended that the issue of potential improvements to
13 its storage system was addressed in a prior docket (W-03541A-05-0729), and that dismissal of Mr.
14 Prahin's Complaint would not affect ongoing discussions with customers regarding production and
15 storage capacity issues. Payson Water asserted that there are no allegations that the Company has
16 violated any Arizona laws or Commission rules and, therefore, there is no basis to support the
17 Complaint.

18 On January 25, 2008, Mr. Prahin filed a Response to the Company's Motion. In his
19 Response, the Complainant raises a number of alleged improprieties by Payson Water, including:
20 alleged violation of the 5th Amendment of the United States Constitution; alleged trespass on private
21 land by the Company; a lack of necessary easements in locations where Company facilities are
22 located; alleged lack of required monitoring devices and shut-off valves; and an allegation that the
23 Elusive Acres Well is serving more customers than are authorized. Mr. Prahin also raised issues
24 related to the alleged ownership of the Elusive Acres Well, claiming that legal title of the well has
25 now been conveyed to the property owners of Elusive Acres and Payson Water should turn over
26 ownership to the property owners.

27 On January 25, 2008, Rebecca Sigeti filed a formal complaint (Docket No.W-03514A-08-
28 0047) against Payson Water alleging that a representative of the Company failed to follow up on

1 certain items agreed to during a November 10, 2007, meeting with customers. Ms. Sigeti stated that
2 Payson Water needs to resolve storage and water issues or turn over the Company's assets and
3 permits to the property owners of the Elusive Acres community.

4 On February 14, 2008, Payson Water filed an Answer and Motion to Dismiss. The Company
5 stated that its representative agreed to meet with customers, but there are no storage and water issues
6 that require resolution. Payson Water claimed that Ms. Sigeti failed to state a claim upon which relief
7 can be granted, and the issues raised by the Complaint were already before the Commission in the
8 Prahin complaint docket. The Company therefore requested that the Sigeti Complaint be dismissed.

9 On February 26, 2008, Ms. Sigeti filed a Response stating that she had not been contacted by
10 the Company's representative to follow up on issues raised at the November 10, 2007, meeting. She
11 also claimed that storage and water supply issues do exist for Payson Water, and that the remedy she
12 is seeking is for the Elusive Acres Well Site and System to be "turned back over to the rightful
13 owners."

14 On May 5, 2008, Procedural Orders were issued in each of the above-captioned dockets
15 scheduling procedural conferences for May 20, 2008.

16 On May 20, 2008, the procedural conferences were held in each of these cases. During the
17 procedural conferences, Payson Water agreed to meet with Mr. Prahin and Ms. Sigeti (jointly
18 "Complainants"), as well as other members of the community, to discuss possible remedies regarding
19 the production and storage issues raised by the Complaints. The parties also agreed to file a
20 statement regarding the status of the discussions by June 20, 2008. Finally, it was agreed that the two
21 Complaint dockets would be consolidated.

22 By Procedural Order issued May 23, 2008, the above-captioned dockets were consolidated,
23 the parties were directed to meet and discuss the issues raised in the Complaints and file a status
24 report by June 20, 2008, and a procedural conference was scheduled for July 11, 2008.

25 On June 4, 2008, James Dunne, an intervenor in the consolidated dockets, filed a letter.
26 Letters were also filed on June 19, 2008, by Mr. Prahin and Ms. Sigeti regarding the meeting held
27 with Payson Water's representatives. On June 20, 2008, Payson Water filed a Status Report
28 describing its view of the customer meeting and proposals for improvements to the Company's

1 facilities.

2 On July 11, 2008, the procedural conference was held as scheduled. During the conference,
3 Staff was directed to file a Staff Report by August 29, 2008.

4 On August 5, 2008, Staff filed a Memorandum describing the Payson Water system's
5 capacity, before and after installation of the Company's proposed improvements to wells and storage
6 capacity. Staff stated that the existing system has sufficient capacity to serve 88 service connections
7 if well production does not fall below 22 gallons per minute ("GPM"); and that the system would
8 have adequate capacity to serve up to 96 connections if the wells are increased by 2 GPM and 2
9 10,000 gallon storage tanks are connected to the system. Staff recommended that Payson Water
10 increase its current production capacity and add at least 10,000 gallons of storage by no later than
11 December 31, 2008; and that the Company file its Arizona Department of Environmental Quality
12 ("ADEQ") Approval of Construction ("AOC") for both projects by no later than January 31, 2009.

13 On August 19, 2008, Payson water filed a Response to Staff Report in which the Company
14 concurred with Staff's recommended system improvements. According to the Company's filing, it
15 completed refurbishment of the Elusive Acres well on May 22, 2008, and completed installation of an
16 additional 10,000 gallons of storage capacity on July 24, 2008. As a result of these improvements,
17 Payson Water claimed that the Staff recommendations were satisfied and the Company therefore
18 requested that the above-captioned Complaint dockets be dismissed.

19 On August 26, 2008, Ms. Sigeti filed a letter stating agreement with the well improvement
20 and storage addition undertaken by the Company. However, she stated that the system improvement
21 plan does not address the current moratorium on installation of additional meters. Ms. Sigeti
22 requested that the Commission order Payson Water to comply with a defined action plan to address
23 future needs of the community.

24 On January 30, 2009, Payson Water filed a Status Report – Water System Improvement Plan.
25 In its filing, the Company claimed that it has implemented fully the proposed system improvement
26 plan by completing the following projects: refurbishing the Elusive Acres Well and Geronimo Estates
27 No. 1 Well; installing an additional 10,000 gallons of storage capacity at Geronimo Estates; and
28 installing a second 10,000 gallon storage tank. The Company stated that it intended to file the

1 necessary approvals from ADEQ as soon as the documentation is available. Payson Water also
2 requested that a procedural conference be scheduled to discuss dismissal of the Complaints once the
3 ADEQ documents are filed with the Commission.

4 By Procedural Order issued February 3, 2009, Staff, the Complainants and the Intervenor
5 were directed to file a Response to the Company's Status Report, by no later than March 2, 2009.
6 Payson Water was directed to file a Reply to the Responses by March 16, 2009.

7 On February 3, 2009, Payson Water filed a Notice of Errata to its Status Report, stating that
8 the Company is still waiting for ADEQ to issue the Approval to Construct for the second 10,000
9 gallon storage tank.

10 On February 12, 2009, Ms. Sigeti filed a letter indicating that if the Company completes
11 installation of the second 10,000 gallon storage tank, in addition to the improvements already made
12 by Payson Water, "this matter would be resolved to my satisfaction." Her letter goes on to state,
13 however, that Payson Water has not addressed issues related to the current moratorium on new
14 meters, a lack of monitoring devices and shut-off valves, the alleged improper connection of the
15 Elusive Acres and Geronimo Estates systems, and the alleged lack of easements on property where
16 Company facilities are located. Ms. Sigeti's letter states that Payson Water "needs to address all the
17 issues and resolve them before the complaint is completely resolved to my satisfaction."

18 On March 2, 2009, Mr. Prahin filed a letter stating that the improvements made by Payson
19 Water are welcomed but that he has three remaining concerns. Mr. Prahin expressed the following
20 concerns: that the second 10,000 gallon storage tank has not been installed; that if new meters
21 [service connections] are allowed they should be subject to the 90-day building permit requirement
22 imposed in the prior proceeding by the Commission; and that Payson Water should be required by the
23 Commission to "prove ownership of the Elusive Acres water system." Mr. Prahin indicates that if
24 these three issues are resolved he would withdraw his complaint.

25 On March 3, 2009, Mr. Dunne filed a letter stating that there is no hard evidence that the
26 Company actually completed the claimed system improvements, aside from installation of a 10,000
27 gallon storage tank. Mr. Dunne claims that Payson Water should be required to install a total of
28 50,000 gallons of storage and drill a deeper well at Geronimo Estates, if needed.

1 On March 6, 2009, Staff filed a Memorandum stating:

2 It appears the Company has complied with most of the PO except for
3 filing the AOCs and the installation of the second 10,000 gallon storage
4 tank. Staff recommends that the Company complete this installation as
5 soon as possible. Staff further recommends that the Company submit to
6 Docket Control all the ADEQ – AOCs for the plant improvements as soon
7 as they are issued by ADEQ.

8 On March 16, 2009, Payson Water filed a Reply to Complainants' and Staff's Responses to
9 Status Report – Water System Improvement Plan. In its filing, the Company claims that the second
10 10,000 gallons of storage is not needed at this time and would only be installed as needed to serve
11 future growth. The Company argues that a second 10,000 gallon storage tank would not be “used and
12 useful,” at this time, based on a peak demand analysis submitted with its filing. Payson Water
13 contends that the Commission has exclusive authority to modify or lift the current moratorium on
14 new connections, and the Company has provided Staff water usage and supply data as well as access
15 to the water system. The Company states that Staff is welcome to perform a field and office
16 inspection to verify the repairs and improvements claimed by Payson Water in its Status Report.

17 By Procedural Order issued July 27, 2009, Staff was directed to file a Response to Payson
18 Water's March 16, 2009 filing, by September 18, 2009, addressing, at a minimum, the following
19 items:

- 20 1. verification of completion of the repairs and improvements made by
21 the Company;
- 22 2. the current (summer) production capacity of the Company's wells;
- 23 3. whether the second 10,000 gallon storage tank is needed at this time;
- 24 4. whether the Company currently has sufficient production and storage
25 capacity to lift the moratorium on new connections and, if so, the
26 number of new connections that could, in Staff's estimation, be served
27 at existing production and storage capacity levels;
- 28 5. whether additional production and storage capacity would be needed at
full build-out in the Company's certificated service area, and at what
levels, taking into consideration the Company's claim in its August 19,
2008, Response that not all of the lots in the Geronimo Estates and
Elusive Acres developments are buildable under ADEQ and County
septic system rules;
6. whether Staff recommends any other system improvements at this
time; and
7. any other information Staff deems relevant to this matter.

1 Replies to Staff's Response by any other party were directed to be filed by no later than October 9,
2 2009.

3 On September 18, 2009, Staff filed a Request for Extension of Time, until September 25,
4 2009, to file its response to the Company.

5 On September 25, 2009, Staff filed a Memorandum addressing the issues outlined in the July
6 27, 2009, Procedural Order. Staff stated that, based on its field inspection, Payson Water had made
7 the following repairs and improvements: reconditioning of the Elusive Acres well; installation of a
8 booster pump, pressure tank, and 10,000 gallon storage tank at the Geronimo Estates Well No. 2; and
9 reconditioning of the Geronimo Estates Well No. 1. Staff also indicated that the Company had a
10 2009 total summer production capacity of 31.5 gallons per minute ("GPM"), and determined that
11 Payson Water's system could serve approximately 125 connections (but only 100 customers if
12 production dropped to 25 GPM). Staff claimed that although the system could sustain an additional
13 37 connections (beyond the current 88 meters that are restricted by moratorium) assuming sustained
14 production of 31.5 GPM, Staff recommends that the Company install an additional 10,000 gallon
15 storage tank if the current meter moratorium is lifted "due to previous water production problems."
16 (Staff Memorandum at 3.) Finally, Staff recommended that Payson Water file the ADEQ AOCs for
17 the system improvements made at the Geronimo Estates well sites.

18 On October 9, 2009, the Complainants filed a response to Staff's Memorandum. The
19 Complainants expressed agreement with Staff's recommendation that a second 10,000 gallon storage
20 tank should be added if the meter moratorium is lifted. The Complainants also continued to assert
21 that ownership of the Elusive Acres system remains in dispute.

22 On October 9, 2009, Mr. Dunne filed a response to Staff's Memorandum, stating agreement
23 that a second 10,000 gallon storage tank should be installed if the moratorium is lifted. He also
24 indicated that the building permit requirement used in a prior case (with a 120 day limit) should be
25 imposed prior to installation of a meter, and that Payson Water should be required to file the required
26 AOCs for the system improvements.

27 On October 9, 2009, Payson Water filed its Response to Staff Report. The Company
28 continued to assert that the second 10,000 gallon storage tank is not necessary at this time and the

1 prior production problems suggested by Staff have been resolved as a result of the well
2 reconditioning and improvements undertaken at the three well sites. Payson Water claims that if it is
3 ordered to construct a second 10,000 gallon tank, the Commission must recognize that the tank is
4 being built to serve future customers for purposes of rate base consideration in the Company's next
5 rate case.

6 On November 3, 2010, Payson Water filed the AOC issued by ADEQ on September 29, 2010,
7 for the reconditioning of Geronimo Estates Well No. 1, and for the 10,000 gallon storage tank, 500
8 gallon pressure tank, and booster pump at Geronimo Estates Well No. 2.

9 IT IS THEREFORE ORDERED that a **procedural conference shall be scheduled in this**
10 **matter for June 20, 2011, at 11:00 a.m., at the offices of the Commission, Hearing Room No. 1,**
11 **1200 West Washington, Phoenix, Arizona 85007.** The purpose of the procedural conference is to
12 discuss whether there is a need for a hearing in this matter, potential hearing and filing dates, and any
13 other relevant procedural issues.

14 IT IS FURTHER ORDERED that, if necessary, parties may participate in the procedural
15 conference telephonically by calling a designated telephone number on the date and time scheduled
16 for the conference. Parties wishing to participate telephonically should contact the Commission's
17 Hearing Division in advance to obtain the call-in number for the procedural conference.

18 IS FURTHER ORDERED that the Administrative Law Judge may rescind, alter, amend, or
19 waive any portion of this Procedural Order either by subsequent Procedural Order or by ruling at
20 hearing.

21 Dated this 2nd day of June, 2011.

22
23 
24 _____
25 DWIGHT D. NODES
26 ASSISTANT CHIEF ADMINISTRATIVE LAW JUDGE
27
28

1 Copies of the foregoing mailed/delivered
2 this 2nd day of June 2011, to:

3 Steve P. Prahin
4 HC 7, Box 452
5 Payson, AZ 85541

6 Rebecca M. Sigeti
7 HC7, Box 451
8 Payson, AZ 85541

9 Robert Hardcastle, President
10 BROOKE UTILITIES, INC.
11 P.O. Box 82218
12 Bakersfield, CA 93380-2218

13 Jay L. Shapiro
14 Patrick J. Black
15 FENNEMORE CRAIG, PC
16 3003 North Central Avenue, Suite 2600
17 Phoenix, AZ 85012

18 James E. Dunne
19 119 West Third Place
20 Mesa, Arizona 85201

21 Janice Alward, Chief Counsel
22 Legal Division
23 ARIZONA CORPORATION COMMISSION
24 1200 West Washington Street
25 Phoenix, AZ 85007

26 Steve Olea, Director
27 Utilities Division
28 ARIZONA CORPORATION COMMISSION
1200 West Washington
Phoenix, AZ 85007

ARIZONA REPORTING SERVICE, INC.
2200 North Central Ave., Suite 502
Phoenix, AZ 85004-1481

22
23 By: 
24 Debra Broyles
25 Secretary to Dwight D. Nodes
26
27
28