

**ORIGINAL**



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BOULDERS HOMEOWNERS ASSOCIATION  
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OSRB

2006 SEP -5 P 2:25

AZ CORP COMMISSION  
DOCUMENT CONTROL

**BEFORE THE ARIZONA CORPORATION COMMISSION**

IN THE MATTER OF THE )  
APPLICATION OF BLACK )  
MOUNTAIN SEWER )  
CORPORATION, AN ARIZONA )  
CORPORATION, FOR A )  
DETERMINATION OF THE FAIR )  
VALUE OF ITS UTILITY PLANT )  
AND PROPERTY AND FOR )  
INCREASES IN ITS RATES AND )  
CHARGES FOR UTILITY SERVICES )  
BASED THEREON. )

No. SW -02361A-05-0657

Arizona Corporation Commission  
**DOCKETED**

SEP -5 2006

DOCKETED BY  
*SA* *NR*

**THE BOULDERS HOMEOWNERS ASSOCIATION**

**REPLY BRIEF**

## **I. INTRODUCTION**

Black Mountain Sewer Company (BMSC) wants Judge Nodes and the Arizona Corporation Commission (Commission) to believe this case is an accounting case, pure and simple and that financial issues are the primary or only considerations to evaluate. BMSC is wrong. Far, far deeper issues are before this Commission: BMSC's woeful lack of performance and the unique and questionable structure of its operations. The Boulders Homeowners Association (BHOA), for the reasons discussed herein, respectfully asks the Commission to weigh these issues prominently in determining any rate increase.

The BHOA requests the Commission reject the BMSC closing arguments for the reasons stated herein and joins the Reply Brief of the Town of Carefree (Town).

BMSC describes the sewer odors as mere "allegations", categorizes the recommendation as "incomprehensibly vague", states it has violated no laws, and contends its affiliate costs and profits support a rate increase. BMSC's statements are factually inaccurate, legally without merit and unsupported by the evidence.

For these reasons, the Commission should deny any rate increase. However, if it decides to grant one, condition it on the steps listed in BHOA's closing brief including the following:

### **1. Require BMSC to fix the problems throughout its malfunctioning sewage and wastewater treatment system in Carefree and surrounding areas by :**

- Paying for a competent sewer engineering firm to perform an independent audit of the BMSC system.
- Using the \$833,000 in the hook-up fees account exclusively to start these needed repairs.
- Certifying that the system is operating effectively and the excessive sewer odors have been eliminated.
- Providing a full financial analysis of BMSC and all its affiliated and parent companies that clearly demonstrates and supports a rate increase is justified and that BMSC is in compliance with all applicable laws.

### **2. Permit BHOA and the Town an expedited hearing if BMSC fails to correct the problems within a reasonable time but in no case later than six months.**

## **II. DISCUSSION**

### **A. The evidence that the sewer odors and raw sewage spillage are real is overwhelming.**

BMSC describes the sewer odor problems as mere "allegations". BMSC Closing Brief, pp 2-3. This description is not unlike the description BMSC gave prior to the start of the hearing in this case, i.e., "there is no odor problem, only an "odor complaint problem". BMSC's characterization of the sewer odor as a mere "allegation" and its implication that the odor problems are "not an odor problem, just an odor complaint problem" is false on a number of levels.

First, it contradicts Mr. Dodd's public admission before Judge Nodes. Mr. Dodds conceded, when questioned by Judge Nodes during the hearing and subsequent to the overwhelming and detailed testimony of BMSC's ratepayers, that there "certainly" is an [odor] issue" and that "customers are smelling odors". Testimony of Robert Dodds, President of Algonquin Water Services, Transcript of Proceedings (TR) at 481.

Second, it contradicts BMSC's own commissioned report which showed hydrogen sulfide (which produces the "rotten egg" odors we remember from chemistry class) at hazardous levels. The LTS Report states that at the CIE Lift Station, LTS found that the wetwell locations measured 8 PPM, the incoming local gravity line up to 21 PPM, the force main discharge up to 101 PPM without chemical addition, and 24 PPM with chemical addition. LTS Report, Docketed 3/13/06 and included as Exhibit B to Stan Francom's Affidavit for the Town. See p. 4, ll. 6-10. The force main discharge at the Century Drive and Boulder Drive location had concentrations over 100 PPM, and the Quartz Valley and Boulder Dr. location had concentrations up to **700 PPM**. Id. at 5, ll. 2-4. See also BHOA Closing Brief at p 3. Concentrations at these levels are known to constitute extremely serious health issues, and in the case of 700 PPM, the **cessation of breathing**.<sup>1</sup>

Third, it contradicts BMSC's repeated steady dumping of the odor suppressing chemical Thiogard into the system over the past four years to mask the horrendous odors throughout our community. See LTS Report (Id.) in which the use of chemicals to control odors is referenced repeatedly. If BMSC thought the odor problems were really just allegations and not real, it would not have attempted to mask the odors, albeit temporarily, by means of chemical dumping.

Finally, BMSC offered not a scintilla of evidence to rebut the overwhelming testimony and other evidence presented by the ratepayers and the Town of the significant and chronic odor problems. For BMSC to now revert to its original denial mode speaks volumes about what its customers have endured over the years. The Commission

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<sup>1</sup> The following data hydrogen sulfide toxicity data is included in Wikipedia, the on-line internet encyclopedia:

10 to 20 ppm	onset of eye irritation
50 to 100 ppm	eye damage
150 to 200 ppm	olfactory nerve damage
320 to 530 ppm	pulmonary edema sets in
<b>530 to 800 ppm</b>	<b>nervous system is affected and breathing stops</b>
800 ppm	half of all humans die if exposure lasts 5 minutes
1000 ppm	a single breath leads to death

and a clear statement that without an order by this Commission, it will do nothing to address the very real and serious odor problems that permeate our community.

**B. BHOA's recommendations to address the sewer odor stench and raw sewage spillage are not vague; they are concrete, specific and clear.**

BMSC's argument that "the recommendations of the Town and BHOA are impossibly vague" is patently absurd. The BHOA made clear and specific recommendations. It asked the Commission that BMSC be ordered to:

1. Pay For a Competent Sewer Engineering Firm to Perform an Audit of the BMSC System.
2. Pay For an Independent Audit of BMSC's Management Structure.
3. Use the \$833,000 Hook Up Fees Exclusively For Fixing the Sewer Problems.
4. Monitor and Publicize on Quarterly Basis Town of Carefree Grease Trap Ordinance Inspection and Compliance Reports.
5. Permit BHOA and/or Town of Carefree Expedited Hearing if BMSC Fails to Comply With Conditions.

BHOA Closing Brief, p 9. These recommendations are neither impossible nor "vague".

It is especially telling that among the recommendations BMSC believes is "vague" is the recommendation that it be ordered to "use the hook up fees exclusively to fix the sewer problems". *Id* at p. 9. If it is the "the sewer problems" part of the recommendation BMSC is having trouble understanding, it needs to read the letters and public testimony of its customers. It will find the sewer problems are the sickening sewer stench and raw sewage spillages and explosions that permeate our community. If it is the "fix" part of the recommendation BMSC finds hard to understand, it should not be allowed to operate a sewer system, let alone be granted a rate increase.

It is not vague when the citizens of this town and state appear at an ACC hearing and document in detail the odor problems they suffered by date, time and place. See more than 35 Letters of Complaint regarding odor problems at Docket Control (DC). See also copies of letters submitted by BMSC ratepayers regarding the specific details of the sewer odor problems attached hereto as Exhibit 1.

It is not vague when Robert Dodds, President of Algonquin Water Services admits the system has an odor problem. TR at 481. It is not vague that BMSC was required to respond time and again to sewer odor complaints and admitted on more than one occasion that there is a problem. It is not vague when BMSC workers make statements to residents who complained of odor such as: "You can add charcoal filters to your roof pipes", "We have placed charcoal filters under certain manhole covers", "We will apply more chemical to eliminate the development of septic gas at the lift stations" and "We are making improvements that will overcome the problem". See Letter signed by Boulders resident Michael Terry Denton dated 6/9/06, # 52819 docketed June 12, 2006.

Again, BMSC's characterization of the recommendations as "vague" is absurd and as incomprehensible as its description of the sewer odor problem as a mere "odor complaint problem". Such language reflects not only the denial, but also the accompanying arrogance, that has become so ingrained in BMSC's approach to its rate case. We are confident the Commission will recognize BMSC's tactics for what they are: a transparent and ludicrous attempt to deny responsibility for the sewer odor problems.

**C. BMSC's assertion that it has violated no laws is contradicted by the record.**

BMSC argues the odor problems do not violate any laws but offers neither legal analysis nor factual support for its assertion. In fact, the record supports the conclusion that BMSC has not complied with applicable statutes.

First, BMSC has not complied with A.R.S. §40-334(B). That statute prohibits, among other things, disparate levels of service between locations. Robert Dodds, President of President of Algonquin Water Services (AWS) testified that not all parts of the BMSC sewer service area have odor problems. TR at 495. However, evidence presented by over 35 ratepayers, including the following examples, reflect the odor and raw sewage problems in various parts of BMSC's service area:

Charles Marsh, who resides next to a lift station in the Boulders, stated he experienced an incident in April, which necessitated Desert Foothills Plumbing and another contractor to work in excess of thirty hours cleaning the sewage back up out of the drains in his home and guest house. Since the incident, the area surrounding the pump facility near his home has not been cleaned up or re-landscaped. Letters to the Commissioners sent to Docket Control (DC) and placed in the record.

Paul Power, also of the Boulders, had sewage backup that started in his bathroom and flowed into an adjacent room. Id. Letter, DC.

Robin Austin, President of the Las Torres Homeowners Association, in her Complaint stated that clean-up crews had to be called out to Las Torres condominiums (located near the Carefree Town Center), as sewage had backed up in two of their units, as well as the exterior length of their western boundary. Id. Letter, DC.

The Buel Wetmore family, whose home is close to the CIE Lift Station, stated he experienced a major disaster inside his home and back yard over the Memorial Day Weekend and that it took four days to clean up the mess with tanker trucks making multiple trips transferring the sewage from their back yard to the El Pedregal Lift Station. Id. TR at 45-47.

Second, the record is replete with unrebutted evidence that BMSC has also violated A.R.S. §40-361(B). That statute requires "service and facilities to be adequate, efficient and reasonable". It states:

Every public service corporation shall furnish and maintain such service, equipment and facilities as will promote the safety, health, comfort and

convenience of its patrons, employees and the public, and as will be in all respects adequate, efficient and reasonable.

(emphasis supplied).

BMSC failed to offer a shred of evidence to rebut the numerous residents' statements detailing the chronic and pervasive odor problems. Nor did it offer any legal analysis of how the sewer stench and raw sewage backing up into streets and homes might somehow "promote the safety, health, comfort and convenience of its patrons, employees and the public, and as will be in all respects adequate, efficient and reasonable" under A.R.S. §40-361(B).

Contrary to its assertion, BMSC has violated both A.R.S. §§40-334(B) and 40-361(B). Once again, its refusal to address the issues either factually or legally reflects its ongoing refusal to take responsibility for the sewer problems.

Further, as to statutes ADEQ has responsibility to enforce, any "compliance" is questionable given the perfunctory and call ahead warning methods employed by ADEQ and ACC engineers. As stated in BHOA's Closing Brief, BMSC was deemed "in compliance" after the most cursory inspection by ACC Utility Engineer, Marlin Scott, Jr., and call ahead inspections arranged by ADEQ. As BHOA pointed out, any so called "compliance" is the result of one or more of the following:

- BMSC's masking of the problems.
- The standards themselves being not stringent enough given the impact of population growth in the area and the inadequacies of the BMSC sewage treatment system.
- The state inspectors not doing their job.

In short, any argument that BMSC's failure to fix the chronic sewer odors, raw sewer spillage and sewer explosions somehow complies with the statutory mandate to promote the "safety, health, comfort and convenience of its patrons, employees and the public, and as will be in all respects adequate, efficient and reasonable" is laughable. The evidence that BMSC has violated Arizona law including A.R.S. §§40-334(B) and 40-361(B) is clear.

**D. BMSC has failed to present sufficient facts or evidence that its affiliates costs and/or affiliate profits should be allowed for purposes of any rate increase.**

BMSC has failed to present sufficient facts or evidence that its affiliates costs and/or affiliate profits should be allowed for purposes of determining any rate increase. This failure indicates no rate increase should be granted.

1. The Commission has authority to disallow affiliate costs and profits.

Under Arizona law the ACC has authority to both scrutinize transactions between a regulated company and its unregulated affiliates and to disallow excessive costs and profits. *U.S. West Communications v. Arizona Corporation Commission*, 185 Ariz. 277, 915 P.2d 1232 (App. 1996). States other than Arizona have also recognized that affiliate costs and profits present a danger that the utility will be charged an exorbitant price and that that price will result in excessive rates. *General Telephone of Upstate New York v. Public Service Commission of New York*, 17 N.Y. 2d 373 (N.Y. 1966). *Turpen v. Oklahoma Corporation Commission*, 769 P.2d 1309 (Okla. 1989). Thus, the Commission has ample power to disallow these costs and profits.

2. BMSC has failed to meet its burden of showing that affiliate costs or profits are reasonable or competitive.

BMSC has failed to meet its burden of showing that affiliate costs or profits are reasonable or competitive. BMSC is part of a unique corporate structure. All services needed to operate BMSC are provided by Algonquin Water Services (AWS), an unregulated affiliate of the parent company, Algonquin Water Resources of America, Inc. (AWRA). The written contract between AWS and BMSC was not negotiated. Neither AWRA nor BMSC have employees. BMSC must rely on Algonquin affiliate, AWS, to perform all operational, repair and improvement services<sup>2</sup>, without an arms length relationship or competitive bidding. See Closing Brief of Commission Staff, p.2, ll 13-20. AWS even contracts on behalf of BMSC, and the contracts between BMSC and its affiliates are not negotiated. *Id.* P.12, ll 6-8.

BMSC included no financial performance data of its affiliates in its rate increase submission. It presented no evidence of competitive bids for the goods and services its affiliated companies allegedly rendered, and no evidence of how the prices it paid its controlled affiliates compared to those of independent third party firms. Ratepayers have no assurance and no reason to believe costs from these affiliated companies and/or calculations pertaining to its parent companies were not artificially manipulated to drain profits from BMSC and to raise the profits for the affiliates.

Granting a rate increase on the basis of BMSC's financial statements alone without regard to the financial statements of its affiliated and parent companies and their relationship to BMSC would open up a whole new field of financial opportunity for regulated utilities – to the detriment of the Arizona public – and for all other regulated utilities as well. Rather than dealing with suppliers and contractors who compete in a free and open marketplace and are judged on the effectiveness of their services and their cost bids, regulated entities would have license to use their controlled and captive affiliates' prices which could be inflated at will. It is difficult to imagine how this slippery slope would serve the public interest.

For the above stated reasons, we join ACC Staff's position that "affiliate *profits* should not be included in the utility's rate base or operating expenses". In addition, we echo ACC Staff's serious concerns about whether BMSC has met its burden of production for

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<sup>2</sup> Robert Dodds, President of Algonquin Water Company testified that "AWS employs the staff that operates all the facilities owned by AWRA" and that it is "conceptually possible" to consider employees of the controlled affiliates as part time employees of BMSC. TR p 514

affiliate costs. Id. p. 5 Granting any rate increase without evidence costs or profits are competitive would significantly harm Arizona's citizens and is not in the public interest.

### III. CONCLUSION

The sewer problems in our community are real, not mere "allegations" as BMSC would have Judge Nodes and the Commission believe. Evidence reflecting this reality is overwhelming and constitutes violations of applicable Arizona law including A.R.S. §§40-334(B) and 40-361(B).

BHOA's recommendations are neither "vague" nor "impossible". BMSC's characterization of the pervasive and chronic sewer problems as mere "allegations" reflects its disrespect for its customers and its historic and continuing refusal to take responsibility for fixing the problems.

Apart from the sewer problems, BMSC has failed to present sufficient evidence that its affiliate costs and profits are either fair, reasonable or competitive. Accordingly, any rate increase should be denied. However, if the Commission decides to grant an increase, it should condition it on the steps and recommendations BHOA listed in its Closing Brief and herein including:

**1. Require BMSC to fix the problems throughout its malfunctioning sewage and wastewater treatment system in Carefree and surrounding areas by ordering it to :**

- Pay for a competent sewer engineering firm to perform an independent audit of the BMSC system.
- Use the \$833,000 hook-up fees exclusively to start these needed repairs. Because BMSC had misused money from the hookup fee fund, Staff recommended the above amount should be refunded to BMSC customers. Id. p. 9-12. We object to the refund to customers since BMSC will simply build the refund back into BMSC's rate increase. This financial obligation should be borne by BMSC's parent, AWRA, not the ratepayers. BMSC should be required to use the \$833,000 for improvements only, and should be required to consider it an initial funding source, not an upper limit. Because BMSC has shown it is not entirely trustworthy (misuse of fees above) we request that the refund monies be placed in an escrow account, and managed by an independent third party approved by BHOA and the Town.
- Certify in writing to the Commission that the system is operating effectively and the excessive sewer odors have been eliminated.

**2. Mandate that a disinterested third party provide a full financial analysis of BMSC and all its affiliated companies that clearly demonstrates and supports a rate increase is justified and that BMSC is in compliance with all applicable laws.**

On this point, BHOA joins with Commission Staff in its following statements:

- Recommend that the Commission pierce the corporate veil, and ignore the shell corporate structures created for BMSC and its parent, AWRA.
- Urge the Commission to regulate BMSC in the same manner it regulates all utilities in Arizona.

ACC Staff Closing Brief, pp.3 ll1-2 and 9 ll 17-18.

**3. Permit BHOA and the Town an expedited hearing if BMSC fails to correct the problems within six months.**

BMSC states it plans to eliminate the CIE Lift Station. This is certainly a step in the right direction, although it has taken four years of continued customer complaints and BMSC's current desire for a rate increase to prod it into taking this action. The residents of the Boulders have waited too long for BMSC to take any meaningful action. Thus, we request BMSC be given six months to complete both the audit and the necessary improvements.

**4. The BHOA does not believe ratepayers should be burdened with excess legal and related expenses required for BMSC's rate case for the following reasons:**

- BMSC has failed to address the numerous basic performance issues in its rate increase petition.
- BMSC not only failed to justify the appropriateness of a rate increase but also used delay tactics during discovery. Id. p 21, l 10-11. BMSC was allowed to enter documents into testimony after the Hearing was closed, offering the excuse that they didn't know what information was required. Yet the law firm representing BMSC is no stranger to utility rate case law, given that it obtained one of the highest increases in the State of Arizona for Boulders-Carefree Sewer Corporation ten years ago, and has, and is presently representing before the Commission, other utilities owned by AWRA. Docket No. WS-02676A-03-0434, Rio Rico, October 5, 2004; and Docket No. SW-02519A-06-0015, Gold Canyon, Pending. BHOA certainly believes that attorneys should be compensated for work performed. However, given the above, BHOA joins with Staff in its recommendation. Id. p 22, l 2,

RESPECTFULLY SUBMITTED; September 5, 2006



Robert E. Williams  
Intervener for the Boulders Homeowners Association in  
The Black Mountain Sewer Company rate case.



Les Peterson  
Vice President, Boulders Homeowners Association

ORIGINAL and 13 COPIES  
Of the foregoing filed September 5,  
2006 with:

Arizona Corporation Commission  
Docket Control  
1200 West Washington Street  
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COPIES of the foregoing hand-delivered  
September 5, 2006 to:

The Honorable Dwight D. Nodes  
Administrative Law Judge  
Hearing Division  
Arizona Corporation Commission  
1200 West Washington Street  
Phoenix, AZ 85007

Keith Layton  
Staff Counsel  
Legal Division  
Arizona Corporation Commission  
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Phoenix, AZ 85007

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# **EXHIBIT 1**

SW-02361A-05-0657

RECEIVED ARIZONA CORPORATION COMMISSION  
UTILITY COMPLAINT FORM

4700

2006 JUN 13 P 4:42

Investigator: Carmen Madrid

Phone: [REDACTED]

Fax: [REDACTED]

AZ CORP COMMISSION

DOCUMENT RESPONSE Respond Within Five Days

Opinion No. 2006 - 52875

Date: 6/12/2006

Complaint Description: 08A Rate Case Items - Opposed

First:

Last:

Complaint By: Robin

Austin

Account Name: Robin Austin

Home: [REDACTED]

Street: n/a

Work: (000) 000-0000

City: n/a

CBR:

State: AZ Zip: 00000

is:

Utility Company: Black Mountain Sewer Corporation

Division: sewer

Contact Name: n/a

Contact Phone: n/a

Nature of Complaint:

Hi Bob,

I read the concerns from the community regarding Black Mountain Sewer. Last January, we at the Las Torres HOA in Carefree had a 'back-up' situation on our property. Of course, we had an emergency situation and our property manager, Lois O'Neill had to call in clean-up crews (the sewage had backed up in two of our units as well as the exterior length of our western boundary) and a specialist with a camera to find the source of the leak. The HOA paid all the bills which amounted to over 2,000.00 dollars.

When we were informed that the source of the leak was due to a break in the sewer line in the utility easement area on Sundance Trail, I (at that time was chairperson for the architectural committee) started the calling process with BMS to find out when they were going to repair the connection. Needless to say, I was given the run-a-round at every turn. They repeatedly tried to claim that the breakage was on our property and it was our responsibility as our oleander roots were the culprit.

I called Jon Pearson at the town and explained the situation and asked if he would have someone come out to determine if indeed we were correct, That was accomplished and yes, we were correct, the damage was in BMS's utility area on the street.

Well, to make a long story short I had to finally phone the AZCC and file complaints with John La Porta. That finally got their attention (I was now dealing directly with the general manager of BMS, Mike Weber) but they still made the claim that it was not in their area. I told him I was going to the County Health Dept and further if necessary. At last, they sent their crew out one more time and finally determined that, lo and behold, they had made a mistake in their calculations. Eventually, the line was repaired but it took four months for them to accept responsibility and correct it.

Now, we have sent the bills for the clean-up to them and two weeks have gone by and we have not heard a

**ARIZONA CORPORATION COMMISSION**  
**UTILITY COMPLAINT FORM**

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word. I suppose I will have to start the whole process over again. I can well understand the frustration these people are experiencing and the only advice I can share is to be relentless when dealing with them. I imagine if the AZCC gets hammered with enough complaints they will be forced to penalize them.

If there is anything I can do to help with the info I have, please don't hesitate to contact me by e-mail or phone, 480-595-6280.

Sincerely,  
Robin Austin  
President LTHOA

P.S. The town was very supportive in our situation, I hope they are doing the same with the other complaints.  
\*End of Complaint\*

**Utilities' Response:**

**Investigator's Comments and Disposition:**

6/12/06 Called consumers telephone and left a message that opinion had been received and if they any other questions to call me. I left my name and telephone number. Opinion filed in docket no. SW-02361A-5-0657 closed

\*End of Comments\*

**Date Completed: 6/12/2006**

**Opinion No. 2006 - 52875**

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SW-02361A-05-0657

ARIZONA CORPORATION COMMISSION  
UTILITY COMPLAINT FORM

Investigator: Carmen Madrid

Phone: [REDACTED]

Fax: [REDACTED]

Priority: Respond Within Five Days

Opinion No. 2006 - 53082

Date: 6/19/2006

Complaint Description: 08A Rate Case Items - Opposed

First:

Last:

Complaint By: Virginia

Barnes

Account Name: Virginia Barnes

Home: [REDACTED]

Street: [REDACTED]

Work: (000) 000-0000

City: [REDACTED]

CBR:

State:

AZ

Zip: [REDACTED]

is:

Utility Company: Black Mountain Sewer Corporation

Division: sewer

Contact Name: n/a

Contact Phone: n/a

Nature of Complaint:

Attn: Consumer Services

Carmen Madrid

Docket Control # 02361A-05-06S7

I have lived in the Boulders for 24 years. The smell has been a topic for many years from my fellow residents. Nothing seems to happen. Why?

Also they discontinued auto pay for my bill without notice and then charged me for non-pay or overdue!

How can they raise rates for such performance?

Virginia H. Barnes

[REDACTED]

\*End of Complaint\*

Utilities' Response:

Investigator's Comments and Disposition:

6/19/06 I called customer's telephone number and left a voicemail that her letter had been received and that it will be docketed in the original file. I also stated that her opinion will be distributed to Commissioners & staff members. I left my name and telephone number if she had any questions. Closed

\*End of Comments\*

Date Completed: 6/19/2006

SW-02361A-05-0657

## ARIZONA CORPORATION COMMISSION

### UTILITY COMPLAINT FORM

Investigator: Carmen Madrid

Phone: [REDACTED]

Fax: [REDACTED]

Priority: Respond Within Five Days

Opinion No. 2006 - 53063

Date: 6/19/2006

Complaint Description: 08A Rate Case Items - Opposed

First:

Last:

Complaint By: William

Bergman

Account Name: William Bergman

Home: (000) 000-0000

Street: n/a

Work: (000) 000-0000

City: n/a

CBR: [REDACTED]

State: AZ Zip: 00000

is: E-Mail

Utility Company: Black Mountain Sewer Corporation

Division: sewer

Contact Name: N/A

Contact Phone: N/A

Nature of Complaint:

-----Original Message-----

From: [REDACTED]

Sent: Monday, June 19, 2006 9:24 AM

To: Utilities Div - Mailbox

Cc: [REDACTED]

Subject: docket # SW-02361A-05-0657 RE:Black Mountain Co.Request for rate increase

Dear Members of the Commission,

My wife and I have had a house in the Boulders North Community since 1987.

For years, the processing plant located within the Boulders caused no major problems. After it was sold to the Black Mountain Sewer Co. and the through-put was greatly increased, the problems with odor began and became much more frequent and of greater intensity.

While many promises were made, and at times there seemed to be some improvement, the recent months have seen the situation worsen significantly. The odors are obnoxious and, I believe, a real quality of life negative and perhaps a health hazzard.

I have no technical knowledge in this area, but from what I have learned over the last few years in talking to many of the sewer company people I strongly believe that the system is antiquated, was never designed for the through-put being processed today and needs major work or replacement.

With this being the situation I feel that any rate increase at this time is inappropriate.

Sincerely,

SW-02361A-05-0657

# ORIGINAL

## ARIZONA CORPORATION COMMISSION

### UTILITY COMPLAINT FORM

4700

Investigator: Carmen Madrid

Phone: [REDACTED]

Fax: [REDACTED]

Priority: Respond Within Five Days

Opinion No. 2006 - 52838

Date: 6/12/2006

Complaint Description: 08A Rate Case Items - Opposed

Complaint By: First: John Last: Chestnut

Account Name: John Chestnut

Home: [REDACTED]

Street: [REDACTED]

Work: (000) 000-0000

City: [REDACTED]

CBR: [REDACTED]

State: AZ Zip: [REDACTED]

is: [REDACTED]

Utility Company: Black Mountain Sewer Corporation

Division: sewer

Contact Name: n/a

Contact Phone: n/a

Nature of Complaint:

Date: June 11,2006

To: Consumer Services Division  
Arizona Corporations Commission  
Utilities Division  
Attn: Carmen Madrid

Re: Opposition to Black Mountain Sewer Co. Rate Increase

Dear Madams and Sirs:

I am a resident of the The Boulders subdivision of Carefree, I write to oppose the request by Black Mountain Sewer Co. for a rate increase.

Black Mountain is not entitled to any rate increase as long as the sewer service in The Boulders remains unacceptable.

My wife and I take frequent walks in The Boulders which take us down Boulder Drive, the main street in The Boulders. Every time that we walk along Boulder Drive, we smell sewer odors. The odors are particularly strong in the area near Quartz Valley Road.

I was not sure that my experience warranted a letter to the Commission because I am sure that many of the residents along Boulder Drive have already made their views known. However, today I smelled sewer odors in my house near three of the four toilets in the house. The smell is unmistakable and persistent. I began smelling the odors this morning, and the odors are still present as I write this letter at 5:00 p.m. My home is not in the vicinity of Boulder Drive, so this is an entirely new problem.

Please deny the requested rate increase. We should not have to pay even the current rate for the unacceptable

RECEIVED  
2006 JUN 12 A 11:55  
AZ CORP COMMISSION  
DOCUMENT CONTROL

# ARIZONA CORPORATION COMMISSION

## UTILITY COMPLAINT FORM

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service which we have received for the past several years. Black Mountain should be denied any rate increase until it solves the problems which have persisted in The Boulders.

Thank you for your consideration.

Very truly yours  
John W. Chestnut  
\*End of Complaint\*

### Utilities' Response:

### Investigator's Comments and Disposition:

6/12/06 Opinion received, I contacted Mrs. Chestnut and informed her that their opinion had been received and that it would be filed in the docket. Filed in docket no. SW-02361A-05-0657. closed

\*End of Comments\*

Date Completed: 6/12/2006

Opinion No. 2006 - 52838

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SW-02361A-05-0657

**ORIGINAL**  
**ARIZONA CORPORATION COMMISS**  
**UTILITY COMPLAINT FORM**

4700

Investigator: Carmen Madrid

Phone: [REDACTED]

Fax: [REDACTED]

Priority: Respond Within Five Days

Opinion No. 2006 - 53064

Date: 6/19/2006

Complaint Description: 08A Rate Case Items - Opposed

First:

Last:

Complaint By: Dana

Craig

Account Name: Dana Craig

Home: (000) 000-0000

Street: n/a

Work: (000) 000-0000

City: n/a

CBR: [REDACTED]

State: AZ Zip: 00000

is: E-Mail

Utility Company: Black Mountain Sewer Corporation

Division: sewer

Contact Name: n/a

Contact Phone: n/a

Nature of Complaint:

From: [REDACTED]  
Sent: Monday, June 19, 2006 4:30 AM  
To: Utilities Div - Mailbox  
Subject: DOCKET # SW-02361A-05-0657

re: Black Mountain Sewer Co. Request for a rate raise.  
I am contacting you to state my opposition to this rate increase. There has been no cooperation with regard to the odor problem in Carefree and they have not earned the right to request it.  
\*End of Complaint\*

Utilities' Response:

Investigator's Comments and Disposition:

June 19, 2006

Dear Mr. Craig,

My name is Carmen Madrid and I am a Public Utility Consumer Analyst with the Arizona Corporation Commission.

Your e-mail regarding the Black Mountain Sewer Company application for a rate increase has been received. Your opinion will be filed in docket no. SW-02361A-05-0657 and made a part of the official docket. The Commissioners and staff members in this matter will all receive a copy of your opinion.

If you should have any questions you may contact Consumer Services at 602-542-4251.

RECEIVED  
2006 JUN 20 11:00  
AZ CORP COMMISSION  
DOCUMENT CONTROL

SW-02361A-05-0657

ORIGINAL

ARIZONA CORPORATION COMMISSION  
UTILITY COMPLAINT FORM

4700

Investigator: Carmen Madrid

Phone: [REDACTED]

Fax: [REDACTED]

Priority: Respond Within Five Days

Opinion No. 2006 - 52819

Date: 6/9/2006

Complaint Description: 08A Rate Case Items - Opposed

First:

Last:

Complaint By: Michael Terry

Denton

Account Name: Michael Terry Denton

Home: (000) 000-0000

Street: [REDACTED]

Work: (000) 000-0000

City: [REDACTED]

CBR: [REDACTED]

State: AZ Zip [REDACTED]

is: [REDACTED]

Utility Company: Black Mountain Sewer Corporation

Division: sewer

Contact Name: Mike Weber

Contact Phone: (623) 935-9367

Nature of Complaint:

From: [REDACTED]

Sent: Thursday, June 08, 2006 3:10 PM

To: Utilities Div - Mailbox

Subject: Arizona Corp. Commission. Black Mountain Sewer Co. Rate Increase Request

6/8/2006

Consumer Services Division  
Arizona Corporation Division  
Utilities Division  
1200 West Washington St.  
Phoenix, AZ. 85007

Attn: Commissioners

C/o Carmen Madrid, Customer Service

Subject: Objection to Black Mountain Sewer (BMSC) requested rate increase

I have owned a home in the Boulders since 1990, first as a vacation home for 10 years and then a permanent residence starting in 2000. We failed to discover a channel to express our frustrations with periodic sewer odors during our vacation years. However, we took the issue seriously once we became full time residents.

We request that the commissioners understand we have experienced many different responses from BMSC in their attempt to placate us over the past six years including:

"You can add charcoal filters to your roof vent pipes"

RECEIVED  
2006 JUN 12 1 A 9:33  
AZ CORP COMMISSION  
DOCUMENT CONTROL

**ARIZONA CORPORATION COMMISSION**  
**UTILITY COMPLAINT FORM**

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"We have placed charcoal filters under certain manhole covers"

"You will always have odors with certain weather conditions"

"We will apply more chemical to eliminate the development of septic gas at the lift stations"

"Our measurement equipment shows there is no odor"

"We are making improvements that will overcome the problem"

"Help us find the problem!"

My career as president of a manufacturers representative company with offices in Washington and Oregon primarily focused my attention on major companies requiring our electronic products such as Boeing, Hewlett Packard, and Microsoft, but our customer list included waste water treatment centers including the King County center which serves 17 cities. During on site visits to various sewer treatment facilities odor was never an experienced condition.

The majority of Carefree property owners have lived in odor free communities all over this country and fail to understand why this utility cannot or will not get their system under control.

The fact that BMSC has undergone three complete management changes in their brief five year history of ownership fails to convince us that any promise will be carried to full implementation without conditions being applied by you our commissioners.

Our further concern is that the application of chemicals to mask odor is of such a temporary nature that it fails to insure against reoccurring problems when the delivery of chemicals is late, in short supply or does not meet system flow factors. Simply, this approach does not get to the root of the problem and results in high operating costs.

Please deny any request to increase rates until the city of Carefree and BMSC implement and guarantee a redevelopment plan for the present and future of the Carefree sewer system that meets the anticipated development of the remaining undeveloped land.

Respectfully,

Michael Terry Denton  


  
"End of Complaint"

Utilities' Response:

Investigator's Comments and Disposition:

6/9/06

Dear Mr. Denton,

SW-02361A-05-0657

**ORIGINAL!**

**ARIZONA CORPORATION COMMISS.  
UTILITY COMPLAINT FORM**

Investigator: Carmen Madrid

Phone: [REDACTED]

Fax: [REDACTED]

Priority: Respond Within Five Days

Opinion No. 2006 - 52801

Date: 6/8/2006

Complaint Description: 08A Rate Case Items - Opposed

First:

Last:

Complaint By: M.M.

Eicher

Account Name: M.M. Eicher

Home: [REDACTED]

Street: [REDACTED]

Work: (000) 000-0000

City: [REDACTED]

CBR:

State: AZ Zip: [REDACTED]

is:

Utility Company: Black Mountain Sewer Corporation

Division: sewer

Contact Name: [REDACTED]

Contact Phone: [REDACTED]

Nature of Complaint:

June 8, 2006

Aizona Corporation Commission  
1200 West Washington Street  
Phoenix, Arizona 85007  
Attn: Consumer Services Section

RECEIVED  
2006 JUN - 9 P 3: 39  
AZ CORP COMMISSION  
DOCUMENT CONTROL

Dear Members of the Commission:

This is written as a Letter of the strongest possible opposition to the Black Mountain Sewer Company's application for a rate increase, Docket No. SW-02361A-05-0657, filed on September 16, 2005. The letter is filed in compliance with your request for documents re this matter to be in your hands by February 16, 2006.

We have been customers (acct no. 999937) of the company, or its predecessors for over ten (10) years, during which time our sewer rates have been among, if not the highest in the entire State of Arizona at \$38. per month. At the time this company was purchased by its current owner, Algonquin Power Systems, a foreign (Canadian) corporation, a portion of the monthly fee was supposedly earmarked to be escrowed and used for infrastructure improvements to the treatment plant and collection system.

In addition to being a customer, I have attempted to work with the management of BMSC in various capacities: as President of the Boulders Homeowners Association, as Vice Mayor and a Councilman of the Town of Carefree, as a director of the Carefree Water Company and as a current commissioner of the Carefree Planning and Zoning Commission. In any, and all capacities, my interactions with BMSC have been totally ineffective and downright unpleasant.

The continuing severe problems of odor and noise, effecting the large residential neighborhood surrounding the sewer treatment plant, have been denied by the BMSC as even existing, contrary to reports made by the

# ARIZONA CORPORATION COMMISSION

## UTILITY COMPLAINT FORM

company's consultants and other independent consultants hired by the Town of Carefree, both of whom cited the problems and recommended specific corrective action. Little, if anything has been done over a period of years. The HOA, the Town, and other HOAs affected by the wretched problems have also been unsuccessful in prompting BMSC to take any action leading toward a permanent solution.

The Boulders Resort built this small treatment facility and antiquated collection system, almost 30 years ago to produce gray water effluent to irrigate its golf course. Today, this system attempts to serve the sewage needs of the entire Town, not served by individual septic fields. Current Town Code prohibits expansion of the plant (treatment capacity), without a Special Use Permit obtained through a public hearing process by BMSC, a highly unlikely eventually!

During the period of time in which Algonquin has owned BMSC, annual reports of the local operation have not been filed with the Corporation Commission, nor is there any record of the Sales Agreement indicating that the Boulders Resort actually sold this enterprise. The Carefree office of the sewer company has been closed, (the phone is answered in Litchfield Park), management has stonewalled all requests from interested groups for dialogue, as has its local legal representative.

BMSC needs to relocate its treatment facilities outside the totally residential community of the Boulders. It needs a plant that can handle the current and future needs of a growing Town, and it needs a management team that recognizes that it is a member of and neighbor within, the community that it serves.

With a replacement facility plan approved, costs determined, and a civil-minded management in place, a rate increase to provide enhanced service would not be unrealistic.

Meanwhile, with no hard evidence that permanent improvements have taken place; no evidence that monies escrowed have ever been used for capital improvement; with no Certificate of Convenience and Necessity in effect and/or valid; and, no indication from customers that complaints have been resolved. This company's request for a rate increase should be summarily denied!

In fact, the company should be forced to document what it is doing (and has done) with the \$38 per month that it has been collecting, for these many years!

My health precludes my filing an official request to intervene, however, I am prepared to answer any questions (in writing or in person) that this letter may evoke.

It would be blatantly wrong for the Commission to permit a company to increase its rates when that company has been ineptly managed, unresponsive to its customers and Town officials, unwilling to improve its infrastructure, that has been proven woefully inadequate by independent consultants of the company's choosing. We trust that the Commission will act accordingly.

Thank you for your consideration.

Sincerely yours

M M Eiber



Cc. Mayor Ed Morgan, Town of Carefree  
Buel Whetmore, President, Carefree Estates - HOA  
Gordon Zucker  
Michael Hoffmann, VP & General Manager, Boulders Resort  
Bob Williams, VP, Boulders Homeowners Association

SW-02361A-05-0657

ARIZONA CORPORATION COMMISSION  
UTILITY COMPLAINT FORM

Investigator: Carmen Madrid

Phone: [REDACTED]

Fax: [REDACTED]

Priority: Respond Within Five Days

Opinion No. 2006 - 53115

Date: 6/20/2006

Complaint Description: 08A Rate Case Items - Opposed

First:

Last:

Complaint By: David

Eller

Account Name: David Eller

Home: (000) 000-0000

Street: [REDACTED]

Work: (000) 000-0000

City: [REDACTED]

CBR:

State: [REDACTED]

Zip: [REDACTED]

is:

Utility Company: Black Mountain Sewer Corporation

Division: sewer

Contact Name: n/a

Contact Phone: n/a

Nature of Complaint:

Docket Control #2361A-05-0657  
Consumer Services Division  
Arizona Corporation Commission  
Utilities Division  
1200 West Washington  
Phoenix AZ 85007

12 June, 2006

ATTN: Ms. Carmen Madrid

This letter is written in reference to your proposed rate increase for Black Mountain Sewer Corp. The stench that has wafted throughout the Boulders Community over the past years is absolutely unacceptable for your vision of the 21st century. There is no excuse for these conditions which usually are found in third world nations. Rather than proposing a rate increase you owe ALL your customers a CREDIT for tolerating this ridiculous mess. Your PRIMARY obligation is to your CUSTOMERS and then you can explain to your beloved shareholders that your professional (?) management decisions dangle somewhere precariously between stupid and incompetent. If you are unable to provide the service that we pay for and do NOT receive then you should sell the business to someone who can.

Sincerely,  
David P. Eller

[REDACTED]  
End of Complaint

Utilities' Response:

Investigator's Comments and Disposition:

SW-02361A-05-0657

**ORIGINAL**  
**ARIZONA CORPORATION COMMISSION**  
**UTILITY COMPLAINT FORM**

4700

Investigator: Deb Reagan

Phone: (602) 364-0236

Fax: (602) 542-2129

Priority: Respond Within Five Days

Opinion No. 2006 - 52993

Date: 6/15/2006

Complaint Description: 08A Rate Case Items - Opposed

Complaint By: First: Thomas A. Last: Geldermann

Account Name: Thomas A. Geldermann Home: (000) 000-0000

Street: [REDACTED] Work:

City: [REDACTED] CBR:

State: AZ Zip: 85262 is:

Utility Company: Black Mountain Sewer Corporation

Division: sewer

Contact Name: Mike Weber

Contact Phone: [REDACTED]

Nature of Complaint:

\*\*\*\*\*SW-02361A-05-0657\*\*\*\*\*

Received the following correspondence -

Thomas A. Geldermann  
[REDACTED]  
Telephone [REDACTED]  
Email [REDACTED]

Monday, June 12, 2006  
Consumer Services Division  
Arizona Corporation Commission  
Utilities Division  
1200 West Washington St.  
Phoenix, AZ 85007

RECEIVED  
2006 JUN 19 1P 3 26  
AZ CORP COMMISSION  
DOCUMENT CONTROL

Dear Sirs,

I reside at [REDACTED] AZ 85262. My home is in the Boulders community and is serviced by the Black Mountain Sewer Company.

The Black Mountain Sewer Company is in the process of requesting a 13.52% rate increase. I vehemently oppose this increase. This utility has demonstrated that they are unable to service their customers. Our home is located on Quartz Valley Dr. This street dead-ends into Boulder Dr.

At any given time while turning into Boulder Dr., we can encounter obnoxious sewer aromas. Black Mountain Sewer Company has been requested to solve this problem on numerous occasions. They have done nothing to fix the existing sewers other than superficial patching.

**ARIZONA CORPORATION COMMISSION**  
**UTILITY COMPLAINT FORM**

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If this company showed concern for their customers and the ability to provide a first class system, I would support a raise. But since, they have demonstrated neither, I remain opposed.

Thank you for your consideration.

Respectfully yours,

Thomas A. Geldermann  
\*End of Complaint\*

**Utilities' Response:**

**Investigator's Comments and Disposition:**

Responded to customer with the following correspondence -

Mr. Thomas A. Geldermann

[REDACTED]  
85377

RE: BLACK MOUNTAIN SEWER COMPANY

Dear Mr. Geldermann:

Your letter regarding the Black Mountain Sewer Company rate case will be placed on file with the Docket Control Center of the Arizona Corporation Commission to be made part of the record. The Commission will consider your comments before a decision is rendered in the Company's application.

The concerns raised in letters received from customers will assist the Commission in the investigation and review of the rate application. The Commission's independent analysis of the utility and its rate request attempts to balance the interest of the utility and its customers.

Commission Staff is very sensitive to the burden that high utility rates can place on the consumer, and though constitutionally required to allow a fair return to the utility, does everything within its authority to protect the consumer.

Staff appreciates your comments and the interest taken on the proposed rate increase. If you should have any questions relating to this issue, please call me at [REDACTED]

Sincerely,

Deborah Reagan  
Public Utilities Consumer Analyst  
Utilities Division  
\*End of Comments\*

**Date Completed: 6/19/2006**

**Opinion No. 2006 - 52993**

SW-02361A-05-0657

# ORIGINAL

## ARIZONA CORPORATION COMMISSION

### UTILITY COMPLAINT FORM

4700

**Investigator:** Carmen Madrid

**Phone:** [REDACTED]

**Fax:** [REDACTED]

**Priority:** Respond Within Five Days

**Opinion No.** 2006 - 53499

**Date:** 7/7/2006

**Complaint Description:** 08A Rate Case Items - Opposed

**Complaint By:** First: Jeff & Renee Last: Kerner

**Account Name:** Jeff & Renee Kerner

**Home:** (000) 000-0000

**Street:** [REDACTED]

**Work:** (000) 000-0000

**City:** [REDACTED]

**CBR:**

**State:** AZ **Zip:** [REDACTED]

**Is:**

**Utility Company:** Black Mountain Sewer Corporation

**Division:** sewer

**Contact Name:** n/a

**Contact Phone:** n/a

**Nature of Complaint:**

[REDACTED]

July 4, 2006

Consumer Services Division  
Arizona Corporation Commission  
Utilities Division  
1200 West Washington St.  
Phoenix, AZ 85007

Arizona Corporation Commission  
**DOCKETED**

JUL 12 2006

DOCKETED BY	nr
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AZ CORP COMMISSION  
DOCUMENT CONTROL

2006 JUL 12 A 9:39

RECEIVED

**Sent via fax:**

[REDACTED]  
Attn: Consumer Services  
Carmen Madrid

Dear Ms. Madrid:

I understand that Black Mountain Sewer Company has requested a 13.52% increase in our sewer rates. My wife and I strongly feel that BMS has not earned a raise.

In addition to odorous sewers that they had delayed to act on, we found the following:

1. They delayed rebuilding the CIE lift station. When they got around to it, BMSC contracted out the job, during which time a wrong valve was installed, causing a major catastrophe over the Memorial Day weekend. We understand mistakes like these can happen, but we question their competence.
2. When lift stations break down, BMSC hires trucks to suck up sewage at the ailing station and transfer it to the manhole in front of the plant. This has occurred at all times of day or night. Manholes in other areas are also

**ARIZONA CORPORATION COMMISSION**  
**UTILITY COMPLAINT FORM**

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opened for various reasons. When the seals around the manhole lids are broken, sewer odor permeates the neighborhood. Why must a sewer company have to rely on vactor trucks to transfer loads from one place to another? What's wrong with the system? Does BMSC know what it's doing?

3 The company does not appear to be committed to making permanent repairs or installations. Correct Solutions are costly, and are never included in its operating budget. The company has consistently applied band-aids and poured in chemicals to mask the odor.

4. The (recently fired) General Manager resented complaints about the system, and refused including homeowners in pertinent meetings.

We request that you do not allow them any increase in rates and look into some other agency to operate our sewer system, if possible.

Sincerely,  
Jeff and Renee Kerner  
\*End of Complaint\*

**Utilities' Response:**

**Investigator's Comments and Disposition:**

July 7, 2006.

Jeff and Renee Kerner  


Dear Mr. and Mrs. Kerner,

My name is Carmen Madrid and I am a Public Utility Consumer Analyst with the Arizona Corporation Commission.

Your letter regarding the Black Mountain Sewer Company application for a rate increase has been received. Your opinion will be filed in docket no. SW-02361A-05-0657 and made a part of the official docket. The Commissioners and staff members in this matter will all receive a copy of your opinion.

If you should have any questions you may contact Consumer Services at 602-542-4251.

Sincerely,

Carmen Madrid  
Public Utility Consumer Analyst

\*\*\*\*\*  
File in docket no. SW-0261A-05-0657. closed  
\*End of Comments\*

**Date Completed: 7/7/2006**

**Opinion No. 2006 - 53499**

SW-02361A-05-0657

**ORIGINAL**  
**ARIZONA CORPORATION COMMIS**  
**UTILITY COMPLAINT FORM**

4700

**Investigator:** Trisha Meeter

**Phone:** (602) 542-0622

**Fax:** (602) 542-2129

**Priority:** Respond Within Five Days

**Opinion No. 2006 - 53215**

**Date:** 6/23/2006

**Complaint Description:** 08A Rate Case Items - Opposed

**Complaint By:** **First: Bob Last: Kroyer**

**Account Name:** Bob Kroyer **Home:** (480) 488-1022

**Street:** 3072 Ironwood Road **Work:**

**City:** Carefree **CBR:**

**State:** AZ **Zip:** 85377 **is:**

**Utility Company:** Black Mountain Sewer Corporation

**Division:** sewer

**Contact Name:** Mike Weber **Contact Phone:** (623) 935-9367

**Nature of Complaint:**

E-MAIL RECEIVED 6/21/06  
DOCKET # SW-02361A-05-0657

From: Bob Kroyer [mailto:xadguy@cox.net]  
Sent: Wednesday, June 21, 2006 10:48 AM  
To: Utilities Div - Mailbox  
Cc: mailmaster@azcc.gov  
Subject: Docket#SW-02361A-05-0657

Subject: Docket# SW-02361A-05-0657  
Re: Black Mountain Sewer Company Request for Rate Increase

RECEIVED  
2006 JUN 26 A 10:40  
AZ CORP COMMISSION  
DOCUMENT CONTROL

Dear Members of the Commission:

The purpose of this letter is to oppose Black Mountain Sewer Company's request for a rate increase.

Their request should be denied because of the continuing problems with obnoxious odors and noises emanating from BMSC's system and out-of-date equipment. This is not a recent or infrequent occurrence. This has been going on for several years in the Boulders community, and little of substance has been done to fix the problems over all that time. We homeowners have sent numerous letters to BMSC and had numerous meetings with BMSC, all to no avail.

Frankly, the stench is awful. I invite you to come and experience it for yourselves.

Until the problems are addressed with satisfactory results, please do not grant the rate increase to BMSC. We already pay them one of the highest rates in the state of Arizona. They don't deserve more until they can prove that they deserve it.

**ARIZONA CORPORATION COMMISSION**  
**UTILITY COMPLAINT FORM**

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Thank you. Sincerely,

Robert W. Kroyer  
P.O. Box 3406  
3072 Ironwood Road  
Carefree AZ 85377  
(480) 488-1022  
\*End of Complaint\*

**Utilities' Response:**

**Investigator's Comments and Disposition:**

e-mailed to Mr. Kroyer 6/23/06

June 23, 2006

RE: black mountain sewer company

Dear Mr. Kroyer:

Your e-mail regarding the Black Canyon Sewer Company ("BCSC") rate case will be placed on file with the Docket Control Center of the Arizona Corporation Commission ("Commission") to be made part of the record. The Commission will consider your comments before a decision is rendered in the BCSC application.

The concerns raised from customers will assist the Commission in the investigation and review of the rate application. The Commission's independent analysis of the utility and its rate request attempts to balance the interest of the utility and its customers.

Commission Staff is very sensitive to the burden that high utility rates can place on the consumer, and though constitutionally required to allow a fair return to the utility, does everything within its authority to protect the consumer.

Staff appreciates your comments and the interest taken on the proposed rate increase. If you should have any questions relating to this issue, please contact me directly at (602) 542-0622 or toll free outside the Phoenix metro area at (800) 222-7000.

Sincerely,

Trish Meeter

Consumer Service Specialist

Utilities Division

TMeeter@az.cc.gov

\*End of Comments\*

**Date Completed: 6/26/2006**

**Opinion No. 2006 - 53215**

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SW-02361A-05-0657

# ORIGINAL

## ARIZONA CORPORATION COMMIS. UTILITY COMPLAINT FORM

Investigator: Carmen Madrid

Phone: [REDACTED]

Fax: [REDACTED]

Priority: Respond Within Five Days

Opinion

No. 2006 - 52778

Date: 6/8/2006

Complaint Description: 08A Rate Case Items - Opposed

First:

Last:

Complaint By: Brett Larsen &

Mark I Iirst

Account Name: Brett Larsen & Mark I Iirst

Home: (000) 000-0000

Street: [REDACTED]

Work: (000) 000-0000

City: [REDACTED]

CBR:

State:

AZ

Zip: [REDACTED]

is:

Utility Company: Black Mountain Sewer Corporation

Division:

sewer

Contact Name:

n/a

Contact Phone: n/a

Nature of Complaint:

'June 7,2006

URGENT: MS. CARMEN. MADRID

Arizona Corporation Commission

Re: Black Mountain Sewer Rate Increase & Negligence

To Whom it May Concern:

We are writing this letter to let you know that we are adamantly opposed to the rate increase requested by BMSC.

We have lived in The Boulders for years and have suffered with odor & noise problems from their antiquated sewer system all this time. BMSC's attempts to solve their problems have been feeble and while they maintain they have spent money to fix them, either this isn't true or they haven't spent enough money. The system still does not work! Our town is growing and BMSC knows it and has held us hostage to the fact that there can be no further development without their approval by them of a sewer connection to any new development that would require such connection. That is why their operating agreement has been extended, but now they want to charge us more than what is currently the highest rate paid by anyone in the state despite the fact that there has been negligible improvement at best with band-aid fixes to the existing system whose problems continue to plague Carefree and it's neighborhoods (Carefree Inn Estate, The Boulders, Town center, eEc). It isn't fair that the town should put a moratorium on further development until BMSC decides to fix their system yet it wouldn't be. right to continue to add capacity to an already failing system.

We implore you to deny their request for a rate increase, re-evaluate the environmental standards for odor & noise with this system and possibly place an injunction against BMSC until these problems are resolved once and for all. Perhaps the plant should be moved to a more appropriate location within the town & overhauled from there. It's painfully obvious that this relic is a throwback to another era when it was not processing sewer for an entire town with a far larger population in 2006 than it had in the early 1970's

AZ CORP COMMISSION  
DOCUMENT CONTROL

2006 JUN - 8 A 11: 53

RECEIVED

**ARIZONA CORPORATION COMMISSION**  
**UTILITY COMPLAINT FORM**

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The demographic of Carefree is changing and we must also consider the future of the town & it's citizens. We have been a captive audience to this "show" for so long and beg you to get involved.

Please do the right thing and let BMSC know that while they may be a monopoly, they still have a responsibility to conduct their business properly and without risk to their customer's health & welfare.

Fresh air and an environment free from a noisy sewer plant are not privileges and we thank you in advance for your consideration and assistance.



\*End of Complaint\*

**Utilities' Response:**

**Investigator's Comments and Disposition:**

6/8/06 This customer requested the Utilities Division fax number at the hearing in order to file his opinion. The information was given to him. Opinion was received, noted and filed in docket no. SW-02361A-05-0657. closed

\*End of Comments\*

**Date Completed: 6/8/2006**

**Opinion No. 2006 - 52778**

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SW-02361A-05-0657

ORIGINAL

4780

ARIZONA CORPORATION COMMISSION  
UTILITY COMPLAINT FORM

Investigator: Carmen Madrid

Phone: [REDACTED]

Fax: [REDACTED]

Priority: Respond Within Five Days

Opinion No. 2006 - 53316

Date: 6/28/2006

Complaint Description: 08A Rate Case Items - Opposed

First:

Last:

Complaint By: Charlie

Marsh

Account Name: Charlie Marsh

Home: [REDACTED]

Street: [REDACTED]

Work: (000) 000-0000

City: [REDACTED]

CBR:

State: AZ Zip: [REDACTED]

is:

Utility Company: Black Mountain Sewer Corporation

Division: sewer

Contact Name: n/a

Contact Phone: n/a

Nature of Complaint:

From: Charlie Marsh [REDACTED]  
Sent: Monday, June 26, 2006 2:31 PM  
To: Utilities Div - Mailbox; mailmaster@azcc.gov  
Subject: Black Mountain Sewer request for Rate Increase

Consumer Services Division  
Attn: Carmen Madrid  
Arizona Corporation Commission  
Utilities Division  
1200 West Washington St.  
Phoenix, AZ 85007  
Fax - 602-542-2129  
Docket # SW - 02361A - 05 -0657

Dear Members of the Commission:

My name is Charles A Marsh. I am the owner of [REDACTED] in the [REDACTED]. I purchased the property in January 2006. When we moved into the home on January 10th I noticed that BMSC was working on a pump station near the entrance to our property. The reason I noticed the work was that there was a distinct odor and a very noticeable amount of debris and damage to the landscaping around the pump station. (I will be glad to provide pictures of the area and debris.) For the next 4 months and well into May the people working came back and forth. Many times 2, 3 or 4 individuals from BMSC would be observed by me and other neighbors standing around for long periods of time, eating lunch and leaving trash with no visible sign of making progress. If any

AZ CORP COMMISSION  
DOCUMENT CONTROL

2006 JUN 29 11:07

RECEIVED

## ARIZONA CORPORATION COMMISSION

### UTILITY COMPLAINT FORM

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member of the commission ever went to the sight of that project and asked for an explanation of what went on and why it took 4 months, I think the explanation would be a sad testament to the efficiency of BMSC's operation. As a customer of BMSC I do not think my responsibility is to pay for costs associated with poor management, wasted time and repairs to my home necessitated because of careless work on the part of the BMSC employees. Any discussion on the part of the commission to grant a rate increase will only encourage BMSC to continue inefficient wasteful and risky behavior. If BMSC is not granted this increase then perhaps the shareholders of BMSC will force management to focus on improving operating standards and achieving cost efficiency. BMSC knew the situation when they bought this sewer system in 2001. I can't believe that a reasonable business plan at that time did not include a rate structure that allowed for necessary upkeep of the system while making a good return in a high growth area.

A serious problem occurred on or about April 12th when BMSC started the pump near our property with out taking the proper precautions to prevent sewage from backing up into our home. Dessert Foothills Plumbing and another contractor working on the house spent in excess of 30 hours cleaning the backup out of the drains in our home and guest house. I intend to bill BMSC for the damage to the plumbing in our house since I believe the damage was due to their carelessness. Since then the area surrounding the pump facility was never cleaned up and re landscaped.

My conclusion from observing these activities is that for a number of reasons, (improper planning, bad attitude, weak supervision,, etc. etc.) this situation made clear that BMSC has put the neighborhood at significant risk. Given the quality of service being delivered their request for any rate increase is ludicrous. I have rarely called their phone and gotten a person to answer and have only received return calls at best half of the time. They should be placed on a monitoring program for a period of time to insure that they can show evidence of running their business in a way that shows some signs of reversing the current inefficient and very unsatisfactory situation. As I said above they are basically asking the commission and their customers to bail out their incompetence.

I will be glad to send photos and discuss my experience further and can be reached at [REDACTED] Thank you for your attention to this situation.

Sincerely,

Charles A. Marsh  
[REDACTED]

\*End of Complaint\*

#### Utilities' Response:

#### Investigator's Comments and Disposition:

6/28/06 I called customer and left a message stating the letter has been received and will be docketed in the proper files. If he has any questions I left my name and number. Opinion noted and filed in docket SW-02361A-05-0657. closed

\*End of Comments\*

Date Completed: 6/28/2006

Opinion No. 2006 - 53316

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ORIGINAL

47

Docket # SW-023614 -

05-0657

Black Mountain Water  
Odor Issue  
Tom McCahan  
Director of Club Operations  
The Boulders Resort and Golden Door Spa

My name is Tom McCahan and I am the Director of Club Operations at The Boulders Resort and Golden Door Spa. I oversee The Club, and I'm here to represent the resort in this matter. The Boulders is a 5 Diamond rated golf resort and an upscale private membership. In season, our room rates exceed \$600 per night and our membership pay an initiation of \$135,000 to join our Club.

Over the past several years The Golden Door Spa, Club, Resort and various locations around the golf course have experienced intermittent smells and odors. We have done our best to mask the odors, thus not affecting guests, but this can only be effective for so long. There have been some improvements. We believe that this issue must be completely remedied for the future of our resort as well as our members and homeowners.

The Boulders spends almost \$10,000 per month to Black Mountain for it's services. We are a major tax contributor to the State of AZ. And we believe that the 13% increase is unwarranted given that the odor problem has not been remedied.

I thank you for your time.

AZ CORP COMMISSION  
DOCUMENT CONTROL

2006 JUN -7 A 11:50

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5W-02361A-05-0657

## ARIZONA CORPORATION COMMISSION

### UTILITY COMPLAINT FORM

Investigator: Carmen Madrid

Phone: ( [REDACTED] )

Fax: ( [REDACTED] )

Priority: Respond Within Five Days

Opinion No. 2006 - 53119

Date: 6/20/2006

Complaint Description: 08A Rate Case Items - Opposed

First:

Last:

Complaint By: Norman H.

McMillan

Account Name: Norman H. McMillan

Home: (000) 000-0000

Street: [REDACTED]

Work: (000) 000-0000

City: [REDACTED]

CBR:

State:

AZ

Zip: [REDACTED]

is:

Utility Company: Black Mountain Sewer Corporation

Division: sewer

Contact Name: n/a

Contact Phone: n/a

Nature of Complaint:

June 11, 2006

Consumer Services Division  
Commission  
1200 West Washington St.  
Phoenix, Az 85007

Ladies and Gentlemen:

I am writing to comment on the Black Mountain Sewer Company's intention to expand its service in the Carefree area.

I am a resident of Carefree, specifically a sixteen year resident at 2047Smoketree Road. Before that I lived and worked in a variety of locations around the country -- Minneapolis, Austin, MN. Philadelphia, Marin County, CA, Chicago. I list those locations to make a simple point.

I never gave the sewer system a thought while living there. I only became knowledgeable about sewers while living in Carefree.

The reason, of course, is because this is the only place I have lived where the smell of sewer gas is a constant concern, and a frequent reality. It is also a threat to the value of an important asset, our home. It is hard to sell a house under those circumstances.

This is the reason we oppose the expansion of the Black Mountain service area. We want them to take care of the facilities they already operate, to fix the problems they have before going on. I will be enthused about their expansion, after they solve the problems they now have. Right now I am firmly opposed.

I want to go back to ignoring the sewer system because it functions the way it is supposed to. That is why I am writing today.

I hope you will support our position and that of the other residents in our area.

SW-02301A-05-0657

ORIGINAL

ARIZONA CORPORATION COMMISSION  
UTILITY COMPLAINT FORM

4700

Investigator: Carmen Madrid

Phone: [REDACTED]

Fax: [REDACTED]

Priority: Respond Within Five Days

Opinion No. 2006 - 53356

Date: 6/29/2006

Complaint Description: 08A Rate Case Items - Opposed

Complaint By: First: Paul Last: Power

Account Name: Paul Power

Home: (000) 000-0000

Street: [REDACTED]

Work: (000) 000-0000

City: [REDACTED]

CBR: [REDACTED]

State: AZ Zip: [REDACTED]

is: E-Mail

Utility Company: Black Mountain Sewer Corporation

Division: sewer

Contact Name: n/a

Contact Phone: n/a

Nature of Complaint:

From: [REDACTED]  
Sent: Tuesday, June 20, 2006 8:47 AM  
To: mailmaster@azcc.gov; passagesazearthlink.net  
Subject:

I material live at [REDACTED] at the boulders, a week ago last Friday our backed up feces and other odious material ran out of our bathroom and onto our carpet which will have to be replaced. This is in addition to as plumbers bill of \$400 plus manhole covers have been in repair on our street for over 30 days. This in addition to manifestly continuous odors coming from the sewage plant. I respectfully request you deny any rate increases. These people are abrupt and discourteous when you call like our reporting the sewer backup.

thank you  
Paul Power  
\*End of Complaint\*

Utilities' Response:

Investigator's Comments and Disposition:

June 29, 2006

Paul Power  
[REDACTED]

Dear Sir:

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2006 JUN 30 P 4: 05  
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3W-02361A-05-0657

**ARIZONA CORPORATION COMMISSION**  
**UTILITY COMPLAINT FORM**

**Investigator:** Carmen Madrid

**Phone:** [REDACTED]

**Fax:** [REDACTED]

**Priority:** Respond Within Five Days

**Opinion No.** 2006 - 53067

**Date:** 6/19/2006

**Complaint Description:** 08A Rate Case Items - Opposed

**Complaint By:** **First:** Virginia **Last:** Pringle

**Account Name:** Virginia Pringle

**Home:** (000) 000-0000

**Street:** [REDACTED]

**Work:** (000) 000-0000

**City:** [REDACTED]

**CBR:** [REDACTED]

**State:** AZ

**Zip:** [REDACTED]

**Is:** [REDACTED]

**Utility Company:** Black Mountain Sewer Corporation

**Division:** sewer

**Contact Name:** n/a

**Contact Phone:** n/a

**Nature of Complaint:**

From: GiniPringle [REDACTED]

Sent: Friday, June 16, 2006 5:01 PM

To: Utilities Div - Mailbox

Subject: Docket # SW-02361A-05-0657: Request from Black Mountain Sewer Company for a 13.5

Dear Members of the Commission,  
Consumer Services Division  
Arizona Corporation Commission - Utilities Division  
1200 West Washington Street  
Phoenix, AZ 85007

6-16-06

Subject: Docket # SW-02361A-05-0657: Request from Black Mountain Sewer Company for a 13.52% Rate Increase in Carefree

Dear members of the Commission:

I am writing to oppose the Black Mountain Sewer Company's request for your approval to increase sewer rates 13.52% to Carefree and Scottsdale homeowners who use their system.

I live in the Boulders in north Scottsdale. I have personally experienced a noxious smell in my bathroom in the mornings when I go to brush my teeth. This is a difficult way to start the day. It is a sewer gas smell coming from the sink drains. I have consulted a plumber and used various chemicals to try to rid my house of the odor. It is always there. I have traveled in many "third world" countries and never faced such a severe problem as we have here.

Before you approve any rate increase for Black Mountain Sewer Company I respectfully request that you require that they first address and solve the operating problems identified above.

SW-02361A-05-0657

ARIZONA CORPORATION COMMISSION  
UTILITY COMPLAINT FORM

Investigator: Carmen Madrid

Phone: [REDACTED]

Fax: ([REDACTED])

Priority: Respond Within Five Days

Opinion No. 2006 - 53118

Date: 6/20/2006

Complaint Description: 08A Rate Case Items - Opposed

First:

Last:

Complaint By: John

Roberson

Account Name: John Roberson

Home: (000) 000-0000

Street: [REDACTED]

Work: (000) 000-0000

City: [REDACTED]

CBR:

State: AZ

Zip: [REDACTED]

is:

Utility Company: Black Mountain Sewer Corporation

Division: sewer

Contact Name: n/a

Contact Phone: n/a

Nature of Complaint:

John Roberson  
[REDACTED]

June 14, 2006

Consumer Services Division  
Arizona Corporation Commission  
Utilities Division  
1200 West Washington Street  
Phoenix, AZ 85007

re: Docket Control # 02361A-05-0657

Dear Ms. Madrid:

Have you ever been to Cairo, in Egypt? If so, you will know how parts of the Boulders subdivision in Carefree smells. The reek of open drains is unmistakable.

Black Mountain Sewer has refused for years to correct this problem. Our timid Homeowners Association should have sued them long ago. That BMS has filed for an enormous rate increase is simply ridiculous in the light of their horrible performance. How can BMS be in compliance with state regulations if their parts of the Boulders stink? Apparently they say they are too broke to fix the smell; if so, aren't they too broke to operate the utility? When you run out of things to do drive out and get a whiff of our supposedly high end subdivision. It will take your breath a way.

\*End of Complaint\*

Utilities' Response:

Investigator's Comments and Disposition:

5W-02361A-05-0657

**ORIGINAL**  
**ARIZONA CORPORATION COMMIS**  
**UTILITY COMPLAINT FORM**

4700

Investigator: Carmen Madrid

Phone: [REDACTED]

Fax: [REDACTED]

Priority: Respond Within Five Days

Opinion No. 2006 - 53127

Date: 6/20/2006

Complaint Description: 08A Rate Case Items - Opposed

Complaint By: First: Jennifer Last: Roberts

Account Name: Jennifer Roberts

Home: (000) 000-0000

Street: [REDACTED]

Work: (000) 000-0000

City: [REDACTED]

CBR:

State: AZ Zip: [REDACTED]

is:

Utility Company: Black Mountain Sewer Corporation

Division: sewer

Contact Name: n/a

Contact Phone: [REDACTED]

Nature of Complaint:

[REDACTED]

DOCKET CONTROL # 0236 IA- 05-0657

Dear Sir/Madam,

I would like to request you oppose a rate increase for Black Mountain Sewer Company. I am a resident of the Boulders community in Carefree and have serious concerns about this company and their integrity. Unfortunately I was not able to attend the hearing held on this due to my job commitments so therefore am writing of my concerns.

As you aware there have been ongoing problems with BMSC in my community since their purchase of our sewer system in 2001; of which BMSC has done little or nothing. My home has experienced intermittent sewer smells at times of which the cause is not fully determined but it is felt it is likely due to some backup in the sewer pipes. I have also smelt sewer smells in the air on walks I have taken around the community; especially in the vicinity of the sewer plant and also at times extremely bad smells when driving at the intersection of my street Staghorn Lane and Boulder Drive.

I love the community I live in and have worked many years in able to purchase a home here and am very dismayed at the effect BMSC is having on this community and the very real likelihood that this situation is going to negatively affect my property values. Few people want to live with sewer smells or in a community where sewerage is trucked out. I am also dismayed that these sewer smells are present in the Boulders Resort and Spa which again can affect the property values and enjoyment of these facilities by our community.

On closing I would again like to urge you to please oppose a rate increase for BMSC, a Canadian company who are physically far removed from Carefree and who have shown little if any interest in addressing issues from their customers and appear only to be concerned with profits. I feel the \$38 I am paying them each month is

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# ARIZONA CORPORATION COMMISSION

## UTILITY COMPLAINT FORM

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more than adequate compensation especially considering the ongoing problems that we are having.

Yours truly,  
Jennifer Roberts  
(Boulders Resident: [REDACTED])  
\*End of Complaint\*

### Utilities' Response:

### Investigator's Comments and Disposition:

6/20/06 Opinion noted and filed in docket no. SW-02361A-05-0657. closed  
\*\*\*\*\*

June 20, 2006.

Jennifer Roberts  
[REDACTED]

Dear Ms. Roberts,

My name is Carmen Madrid and I am a Public Utility Consumer Analyst with the Arizona Corporation Commission.

Your letter regarding the Black Mountain Sewer Company application for a rate increase has been received. Your opinion will be filed in docket no. SW-02361A-05-0657 and made a part of the official docket. The Commissioners and staff members in this matter will all receive a copy of your opinion.

If you should have any questions you may contact Consumer Services at 602-542-4251.

Sincerely,

Carmen Madrid  
Public Utility Consumer Analyst  
\*End of Comments\*

Date Completed: 6/20/2006

Opinion No. 2006 - 53127

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SW-02361A-05-0657

ORIGINAL

ARIZONA CORPORATION COMMIS  
UTILITY COMPLAINT FORM

4700

Investigator: Deb Reagan

Phone: [REDACTED]

Fax: [REDACTED]

Priority: Respond Within Five Days

Opinion No. 2006 - 53106

Date: 6/20/2006

Complaint Description: 08A Rate Case Items - Opposed

First:

Last:

Complaint By: N. Stewart

Rogers

Account Name: N. Stewart Rogers

Home: [REDACTED]

Street: [REDACTED]

Work:

City: [REDACTED]

CBR:

State: WA Zip: 98033

is:

Utility Company: Black Mountain Sewer Corporation

Division: sewer

Contact Name: Mike Weber

Contact Phone: [REDACTED]

Nature of Complaint:

\*\*\*\*\*SW-02361A-05-0657\*\*\*\*\*

Received the following correspondence -

The Arizona Corporation Commission  
Utilities Division  
1200 West Washington St  
Phoenix, AZ 85007

Re: Black Mountain Sewer Co Rate Request.

Ladies and Gentlemen:

I understand that representatives of the Boulders Homeowners Assn. testified in opposition to the subject rate request on June 7, 2006. I am writing to support their position.

I have owned the property for over 25 years, and in recent years have had recurring sewer odor problems at the sewer plant and at the manholes in the vicinity of Boulder Drive and Quartz Valley Rd. I understand there are other areas with similar problems, but I will confine my remarks to this one.

Over the past few years there have been studies, discussions, proposals, and more discussions. Actions have also been taken, but none of this has provided a solution to the odors. They continue to occur periodically.

As I understand it, the function of the Corporation Commission is to provide for "fair" rates in the absence of a competitive market for utility services. Implicit in that rate making authority is a duty to provide the competitive pressure for quality service which the consumers (with no alternative source available) cannot supply. "Fair", after all implies an equality for users, as well as for providers. Black Mountain Sewer Co seems focused on having their effluent meet state requirements, but they seem to have little or no concern for customer satisfaction.

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DOCUMENT CONTROL

**ARIZONA CORPORATION COMMISSION**  
**UTILITY COMPLAINT FORM**

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As I understand it, we are now paying among the highest (if not the highest) sewer rates in Arizona. Yet our service is far from good and many of us feel that the continued odor problems have affected our enjoyment of our properties, as well as the values of our real estate.

It seems to me that increases in rates, particularly one as large as requested here, should have, as one element of consideration, the quality of customer service. The requested increases are inappropriate unless and until the utility responds to the long standing problems with a demonstrated "fix".

You may have the only leverage to require that "fix". USE it!

Sincerely,

N. Stewart Rogers

CC: Boulder H.O.A.  
\*End of Complaint\*

**Utilities' Response:**

**Investigator's Comments and Disposition:**

Responded to customer with the following -

Dear Mr. Rogers:

Your letter regarding the Black Mountain Sewer Company rate case will be placed on file with the Docket Control Center of the Arizona Corporation Commission to be made part of the record. The Commission will consider your comments before a decision is rendered in the Company's application.

The concerns raised in letters received from customers will assist the Commission in the investigation and review of the rate application. The Commission's independent analysis of the utility and its rate request attempts to balance the interest of the utility and its customers.

Commission Staff is very sensitive to the burden that high utility rates can place on the consumer, and though constitutionally required to allow a fair return to the utility, does everything within its authority to protect the consumer.

Staff appreciates your comments and the interest taken on the proposed rate increase. If you should have any questions relating to this issue, please call me at [REDACTED]

Sincerely,

Deborah Reagan  
Public Utilities Consumer Analyst  
Utilities Division  
\*End of Comments\*

**Date Completed: 6/20/2006**

**Opinion No. 2006 - 53106**

5W-02361A-05-0657

**ARIZONA CORPORATION COMMISSION**  
**UTILITY COMPLAINT FORM**

**Investigator:** Carmen Madrid

**Phone:** [REDACTED]

**Fax:** [REDACTED]

**Priority:** Respond Within Five Days

**Opinion No.** 2006 - 53126

**Date:** 6/20/2006

**Complaint Description:** 08A Rate Case Items - Opposed

**First:**

**Last:**

**Complaint By:** Jane & Warren

Stimpson

**Account Name:** Jane & Warren Stimpson

**Home:** (000) 000-0000

**Street:** [REDACTED]

**Work:** (000) 000-0000

**City:** [REDACTED]

**CBR:**

**State:** AZ

**Zip:** [REDACTED]

**is:**

**Utility Company:** Black Mountain Sewer Corporation

**Division:** sewer

**Contact Name:** n/a

**Contact Phone:** n/a

**Nature of Complaint:**

Arizona Corporation Commission  
Consumer Services Division  
Utilities Division  
1200 West Washington Street  
Phoenix, AZ 85007

June 15, 2006

Docket Control #SW-02361A-05-0657

RE: Black Mountain Sewer Company Request For increase

Dear Members Arizona Corporation Commission:

The Black Mountain Sewer treatment plant facility is located in the heart of our Boulders Resort residential area. While we are fortunate to have purchased our home a considerable distance from the plant, we are still very much adversely affected by the operation of this antiquated system.

The BMSC vactor trucks haul sewage along our private streets, and are sometimes parked along the way as they attempt to alleviate the noxious odors that emanate from their lines. Many times the noise from the equipment is loud, and along with the odors makes it impossible for neighbors to enjoy the outdoor living areas for which Arizona is so proud.

The odors from this system have been described to you in great detail by Boulders residents, but others are also affected by the unpleasant smells. For example, the golfers who pay a great deal of money for the privilege of playing on our courses, and the clients at the Golden Door Spa, where the employees have tried to mask the smells with eucalyptus oils. This is a little like Barry Bonds spraying himself with Chanel #5 instead of taking a shower. Odors permeate the restaurants and the clubhouse as well as the very air outside. The incidences of open areas of raw sewage can only be a major health problem.

We are sure you have heard all about the "band-aid" type approach used by BMSC in an attempt to alleviate the

**ARIZONA CORPORATION COMMISSION**  
**UTILITY COMPLAINT FORM**

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problems we have here at the Boulders. Now BMSC is asking for a large rate increase, while we who have been paying one of the highest rates in the state still have no assurance there will be any improvement in the service we receive for our money.

We urge you to disallow this rate increase until such time that BMSC can prove by their performance that they have the expertise and resources to provide quality odor free service to our rapidly growing community.

JANE STIMPSON  
WARREN STIMPSON, President  
Boulders Homeowners Association  
\*End of Complaint\*

**Utilities' Response:**

**Investigator's Comments and Disposition:**

6/20/06 Opinion noted and filed in docket no. SW-02361A-05-0657. closed

\*\*\*\*\*

June 20, 2006.

Jane Stimpson  
Warren Stimpson

Dear Mr. and Mrs. Stimpson,

My name is Carmen Madrid and I am a Public Utility Consumer Analyst with the Arizona Corporation Commission.

Your letter regarding the Black Mountain Sewer Company application for a rate increase has been received. Your opinion will be filed in docket no. SW-02361A-05-0657 and made a part of the official docket. The Commissioners and staff members in this matter will all receive a copy of your opinion.

If you should have any questions you may contact Consumer Services at 602-542-4251.

Sincerely,

Carmen Madrid  
Public Utility Consumer Analyst  
\*End of Comments\*

**Date Completed: 6/20/2006**

**Opinion No. 2006 - 53126**

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ORIGINAL

47  
DOCKET # SW-02361 A-05-0657

I'm Bruce Wetmore, my family and I live at 7802 E. Carefree Estates Circle in Carefree. I'm a self employed business owner and the former President of our HOA. I'm here today to speak about the Black Mountain Sewer Company's lift station, known as the CIE lift station which adjoins my property.

Despite a documented history of spills, blockages and failed equipment at this out-of-date facility; BMSC has continued to place profits above its responsibilities to serve the public.

Our Association of 33 homes pays over \$15,000 per year in fees to Black Mountain and in return we receive the use of a system that produces almost constant odor with intermittent total breakdowns. This necessitates the use of pumping trucks to haul percolating sewage to other locations. There are reports that the PPM of hydrogen sulfide gas at this location have had readings of 700 +.....300 PPM is considered dangerous.

Even being aware of the potential impact on this pending hearing, they allowed the system totally shut down AGAIN due to faulty equipment over the Memorial day weekend and was pumped for hours three times in six days, removing an estimated 20,000 gallons of sewage which was deposited at another location. The noise was like being next to a jet engine and odor was terrible. At least this time it was during daylight hours....the last time was from 10:00 pm until 2:30 AM.

It is well known that the lift station is over 40 years old and is actually a series of septic tanks which have been jury-rigged into a makeshift pumping facility. The head BMSC engineer, himself, blew the whistle on it's "poor hydraulic design". Instead of committing any serious investment to the replacement of either this relic or to the whole antique infrastructure, the BMSC people continue the "band-aid" approach, usually blaming the lack of funding from the home office.

The result over the past 3 ½ years has been

- (1) raw sewage running down our street when the system stops,
- (2) raw sewage exploding from our toilets as the system is pressurized, and
- (3) daily odor punctuated by overwhelming stench when the system fails.

When pressed for answers or results, the company's public approach has been to ignore, deny, obfuscate or if we're lucky to apply yet another band-aid.

This company has no idea of good corporate citizenship and apparently has no intention of becoming a good neighbor either. They have no office in our town and, I believe, no tangible equipment other than a leased pickup and some shovels.

They seem to operate from emergency to emergency and while they are getting better at crisis management, the cost of this kind of operation must be astounding. They hire subcontractors to do ALL the plumbing and pumping work and to apply more bandaids. We all know what it costs to hire a plumber outside of regular business hours. Someone need to tell them.

The almost 100% plus turnover in personnel at all levels and the obvious absence of any planning for the future says that giving these guys a rate hike is throwing good money after bad. Please don't reward them for mediocre performance!

I'm hoping that you will not only deny this undeserved increase, but to use your authority through the Utilities Division to force this company to become a decent neighbor and responsible corporate citizen

Please use this opportunity to send a message to this company that no matter how fast Arizona is growing that we still have time to care about the health, safety, rights and money of its citizens.

Thank you

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SW 02361A-05-0657

# ORIGINAL

## ARIZONA CORPORATION COMMISS UTILITY COMPLAINT FORM

4700

Investigator: Brad Morton

Phone: [REDACTED]

Fax: [REDACTED]

Priority: Respond Within Five Days

Opinion No. 2006 - 52966

Date: 6/15/2006

Complaint Description: 08A Rate Case Items - Opposed

First:

Last:

Complaint By: Buel

Wetmore

Account Name: Buel & Melody Wetmore

Home: [REDACTED]

Street: [REDACTED]

Work:

City: Carefree

CBR:

State: AZ Zip: 85377

is:

Utility Company: Black Mountain Sewer Corporation

Division: sewer

Contact Name: [REDACTED]

Contact Phone: [REDACTED]

Nature of Complaint:

Docket No. SW 02361A-05-0657

MELODY & BUEL WETMORE  
[REDACTED]

PO BOX 775  
CAREFREE, AZ 85377

May 30th 2006

Re: Black Mountain Sewer Company – Request for Rate Increase

Dear Commissioner,

We strongly urge you to deny the rate increase requested by Black Mountain Sewer Corporation. In our 3 1/2 year experience as customers we have found them to be careless, unresponsive, untruthful and arrogant.

Our home abuts one of their lift stations and despite a documented history of spills, blockages and failed equipment; they have continued to place profits above their responsibilities to serve the public. Our Association of 33 homes pays over \$15,000 per year in fees to Black Mountain and in return we receive the use of a system that produces almost constant odor with intermittent total breakdowns necessitating the use of pumping trucks to haul percolating sewage to other locations. Even being aware of the potential impact on the impending hearing, the system is now totally shut down again due to faulty equipment and has been pumped for hours three times in the last days, removing an estimated 20,000 gallons of sewage to be deposited somewhere else. The noise and odor are terrible.

It is well known that the lift station is over 40 years old and is actually a series of septic tanks which have been jury-rigged into a makeshift pumping facility. Before he was fired, the BMSC engineer, himself, blew the whistle on the "poor hydraulic design". Instead of committing any serious investment to the replacement of either this relic or to the whole antique infrastructure, the BMSC people continue the "band-aid" approach, blaming the lack of funding from the home office. The result has been (1) raw sewage running down our street when the system

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# ARIZONA CORPORATION COMMISSION

## UTILITY COMPLAINT FORM

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stops, (2) raw sewage exploding from our toilets as the system is pressurized, and (3) daily odor punctuated by overwhelming stench when the system fails. When pressed for answers or results, the company's public approach has been to ignore, deny, obfuscate or threaten suit.

Please use this opportunity to send a message to this company that no matter how fast Arizona is growing that we still have time to care about the health, safety and rights of our citizens.

Sincerely yours,

\*End of Complaint\*

### Utilities' Response:

### Investigator's Comments and Disposition:

Called consumer and confirmed opinion received, explained docketing and rate case procedure.

\*End of Comments\*

Date Completed: 6/15/2006

Opinion No. 2006 - 52966

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**ORIGINAL**

SW-02361A-05-0657

**STATEMENT FOR INTERVENTION HEARING, June 7, 2006  
BY GORDON ZUCKER**

**I, Gordon Zucker, Doctor of Engineering Science, am a former member of the Carefree Town Council and Boulders Homeowners Board of Directors.**

**I request that the commission grant no rate increase to the BMSC until they have committed to a plan that will upgrade the system to the point that daily problems and breakdowns will be eliminated.**

**These problems and breakdowns are caused by an old and degraded collection system that was inadequately designed for its present use.**

**Problems have increased in frequency and seriousness over the past several years and have now become a critical factor in the day-to-day operation of the system.**

**A number of lift stations are breaking down. The most important one is in the Carefree Estates where a number of old large cisterns are interconnected to that lift station and provide an unfortunate holding vessel for raw sewage to sour.**

**Another serious problem is the excess capacity of the transfer lines down East Boulder Drive which allows raw sewage to stagnate.**

**Documentation on these and other problems in the collection system of BMSC are provided most recently in the Carter and Burgess Study paid for by the Town of Carefree two years ago and the Lamb Study funded by the Sewer Company. The specific corrective actions recommended in these reports have not been implemented by BMSC.**

**In January former councilman and Vice Mayor Mike Eicher wrote a letter to the Arizona Corporation Commission stating his strongest possible opposition to the application for a rate increase. I am attaching his letter to my statement, because he adds important information concerning discrepancies in BMSC's conduct of business.**

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