

ORIGINAL



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BEFORE THE ARIZONA CORPORATION COMMISSION

RECEIVED

Kristin K. Mayes
Chairman

2011 SEP -1 A 11:44

Gary Pierce
Commissioner

AZ CORP COMMISSION
DOCKET CONTROL

Arizona Corporation Commission

DOCKETED

Paul Newman
Commissioner

SEP 1 2011

Sandra D, Kennedy
Commissioner

DOCKETED BY

Bob Stump
Commissioner

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In the matter of the application of) Docket No. W-01303A-10-0448)
 Arizona - American Water Company for a) Kenneth Hewitt's MOTION TO COMPELL)
 determination of the current fair) TESTIMONY OF BARRY PAWELEK, TERRY)
 value of its utility plant and) CHERUBINI AND TOM BRODERICK CONCERNING)
 property and for increases in its) THE FAILURE TO NOTICE 11,000 AGUA)
 rates and charges based thereon for) FRIA CUSTOMERS AND A MOTION TO)
 utility services by its Agua Fria) REQUIRE A STATISTICALLY VALID METHOD)
 water district, Havasu water district,) OF PROVING NOTICE IN THE FUTURE)
 and Mohave water district.)

BACKGROUND: In the above Case, I was convinced by my experience and the
 experiences of many other AGUA FRIA customers that the notice mailing had
 missed a significant number of AGUA FRIA customers.

On March 21st 2011 Barry Pawelek submitted an affidavit that asserted that all
 AGUA FRIA customers had received a notice of this case as an insert in their
 February bills. See Exhibit 1

BEFORE THE ARIZONA CORPORATION COMMISSION

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On March 21st 2011 Barry Pawelek submitted an affidavit that asserted that all AGUA FRIA customers had received a notice of this case as an insert in their February bills. See Exhibit 1

1 On June 3rd 2011 I filed a motion requesting that AZ-AM be required to hire an
2 independent firm to sample the AGUA FRIA customers to see if they had
3 received a notice and if they knew they were in the AGUA FRIA Water District
4 and knew about the proposed rate increase. See Exhibit 2

5
6 Just four days later on June 7th 2011 AZ-AM responded by referring to Mr.
7 Pawelek's previously cited affidavit. See Exhibit 3

8
9 On July 24th 2011 I issued a Data Request DR KH 14.01 to AZ-AM requesting
10 information about the billing process as it relates to inserting notices.
11 After receiving a response that I did not consider adequate I issued Data
12 Request DR KH 14.02 to AZ-AM asking for additional information. See Exhibit 4

13
14 In AZ-AM's response to DR 14.01 it mentioned Regulus, located in Charlotte,
15 NC, as the company which actually did the billing including the insertion. I
16 called Regulus and got an answering machine with a full mail box. I called
17 four more times and tried to connect to the first four names in their
18 directory and in each case got an answering machine with a full mail box. I
19 asked AZ-AM's attorney for a number I could use to talk to Regulus. Mr.
20 Broderick told me I had no right to call Regulus and he would give me a
21 number to call for someone to answer my questions. I felt that I had the
22 right to call a company that was open for business and ask questions about
23 the equipment they use and the capabilities and reports they can generate.

1 The number he gave me was for Terry Cherubini whom I called. I found out she
2 did not work for Regulus but for American Water. She told me the machine
3 model that Regulus used but was unable to answer any of my other questions.
4 As I recall she asked why I wanted to ask all these questions and I told her
5 that I was trying to find out why so many customers had not received the
6 notice. At the time she knew why, as I will point out below, but she did not
7 offer to tell me.

8
9 On August 1st 2011 AZ-AM's attorney called me and told me that several
10 thousand (about three thousand) AGUA FRIA customers had not received notices
11 and we needed to meet with the judge to determine what to do. At the meeting
12 on August 2nd 2011 where Judge Farmer presided it was stated that 11,000 AGUA
13 FRIA failed to receive notices.

14
15 On August 4th I met with Mr. Broderick at AZ-AM's offices. There were several
16 AZ-AM employees involved in the billing and noticing area and AZ-AM's
17 attorney and Terry Cherubini attended via speaker phone. I asked if someone
18 from Regulus was available by phone and was told no. Without access to the
19 people who did the work, I had a lot fewer questions to ask.

20
21 At one point Mr. Broderick asked me why I was continuing to probe in this
22 area as the Judge had already ruled that a new notice would be sent out and
23 the case had been opened for new intervenors. I indicated that AZ-AM believed
24 that I had received a notice and I did not believe that I had and I wanted to

1 know why we had two different views of that. Mr. Broderick said that if I
2 mentioned that again he would call off the meeting.

3
4 He then asked if I wanted to know what happened. I said yes and he proceeded
5 to explain what happened and why he knew how many AGUA FRIA customers had not
6 received notices. The coding used to select the bills to receive notices was
7 too broad and many non AGUA FRIA customers received notices. Therefore as
8 they were reaching the end of the 28 day billing cycle, Regulus ran out of
9 inserts. Regulus called Terry Cherubini and asked what to do. As AZ-AM could
10 not get more inserts to Regulus without some significant delay, Terry
11 authorized Regulus to disable the insertion function (otherwise the machine
12 would stop every time it came to an account coded to receive an insert) and
13 to continue the billing run as the bills had to go out on time. See Exhibit 5

14
15 By counting the number of AGUA FRIA customers who received notices in the
16 first twenty two days of the billing cycle and subtracting that from the
17 total number that should be noticed, you come up with the 11,000 number.

18
19 The question of why they ran out of inserts was a question that could
20 reasonably require some time and analysis to determine. However the fact that
21 they ran six days of billings without inserts and that there were AGUA FRIA
22 customers who received those bills without inserts was known to at least two
23 people, Terry Cherubini and someone at Regulus, as of February 23rd 2011.

1 A single phone call to Terry or Regulus could have exposed this failure to
2 notice. Instead, it had to be pried out of AZ-AM.

3
4 This leaves important questions which I list below.

- 5 1. Does Terry Cherubini have the authority to continue billing even if the
6 required inserts are not available?
- 7 2. Did Terry inform anyone in management at AZ-AM or American Water?
- 8 3. Did Barry Pawelek ask Terry or Regulus if all AGUA FRIA bills received
9 inserts?
- 10 4. Did anyone in AZ-AM ask Terry or Regulus if all AGUA FRIA bills
11 received inserts before responding to my motion of June 3rd 2011?
- 12 5. Why didn't Terry inform me of the problem in response to my Data
13 Request when she responded.

14
15 Based on the above, I make a motion that Mr. Broderick, Terry Cherubini and
16 Barry Pawelek be required to appear before the Administrative Judge and the
17 intervenors for questioning in this matter.

18
19 I also make a motion that AZ-AM be required to reimburse any and all
20 intervenors for expenses incurred because of the delay caused by their
21 failure to properly notify the AGUA FRIA customers thereby denying them due
22 process.

23
24 I also make a motion that a statistically valid method to determine, with a
25 defined degree of confidence, that no more than a defined percentage of those

1 due to receive a notice failed to receive the notice. In addition a beginning
2 and ending count of the number of inserts supplied to the mailer.

3
4 Dated this September 1st 2011

5 

6 Kenneth Hewitt
7 18729 N Palermo Ct
8 Surprise, AZ 85387

9 ORIGINAL and 13 copies of the foregoing
10 were filed this 1st day of September, 2011 with___

11 Docket Control
12 Arizona Corporation Commission
13 1200 West Washington Street
14 Phoenix, AZ 85007

15 Copies of the foregoing mailed/delivered

16 This 1st day of September, 2011 to:

17 Thomas H. Campbell
18 Michael T. Hallam
19 LEWIS AND ROCA LLP
20 40 North Central Avenue
21 Phoenix, AZ 85004
22 Attorneys for Arizona-American Water Co.

23 Michelle Wood, Counsel
24 RESIDENTIAL UTILITY CONSUMER OFFICE
25 1110 West Washington Street, Suite 220
Phoenix, AZ 85007

Greg Patterson
WATER UTILITY ASSOCIATION OF ARIZONA
916 West Adams, Suite 3
Phoenix, AZ 85007

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- 2 Attorneys for Verrado and DMB
- 3 Janice Alward, Chief Counsel
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Phoenix, AZ 85007
- 4
- 5 Steve Olea, Director
Utilities Division
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1200 West Washington Street
Phoenix, AZ 85007
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- 7 Teena Jibilian, Administrative Law Judge
Legal Division
Arizona Corporation Commission
1200 W. Washington St.
Phoenix, AZ 85007
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- 9
- 10 Peggy H. Rahkola, President
Board of Directors
Arizona Traditions Homeowners
Association
17221 N. Citrus
Surprise, AZ 85374
- 11
- 12
- 13 Jim Weihman, Vice President
Board of Directors
The Happy Trails Community Assoc.
17200 W. Bell Road
Surprise, AZ 85374
- 14
- 15
- 16 Kevin Chiarello
Greer Ranch South HOA
16074 W. Christy
Surprise, AZ 85379
- 17
- 18 William B. Lipscomb
Kingswood Parke Community Assoc.
14976 W. Bottletree Ave.
Surprise, AZ 85374
- 19
- 20 Paul Briningstool
Ashton Ranch Homeowners Assoc.
P. O. Box 9151
Surprise, AZ 85374
- 21
- 22 Mike Orose
The Crystal Springs Estates
Homeowners Assoc.
8407 N. 178th Avenue
Waddell, Arizona 85355
- 23
- 24
- 25

Nicholas Mascia
1 The Surprise Farms 111
Community Association
2 1600 W. Broadway Rd., Suite 200
Tempe, AZ 85282

3
4 By 
Kenneth Hewitt

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BEFORE THE ARIZONA CORPORATION COMMISSION

GARY PIERCE
Chairman

BOB STUMP
Commissioner

PAUL NEWMAN
Commissioner

SANDRA D. KENNEDY
Commissioner

BRENDA BURNS,
Commissioner

IN THE MATTER OF THE APPLICATION OF)
ARIZONA-AMERICAN WATER COMPANY,)
AN ARIZONA CORPORATION, FOR A)
DETERMINATION OF THE CURRENT FAIR)
VALUE OF ITS UTILITY PLANT AND)
PROPERTY AND FOR INCREASES IN ITS)
RATES AND CHARGES BASED THEREON)
FOR UTILITY SERVICE BY ITS AGUA FRIA)
WATER DISTRICT, HAVASU WATER)
DISTRICT, AND MOHAVE WATER)
DISTRICT)

DOCKET NO. W-01303A-10-0448

Affidavit of Barry Pawelek

1. My name is Barry Pawelek, and I am employed by American Water as the Customer Communications Manager for its Western Division. My business address is American Water, 9514 Blue Heron Drive, Middleton, WI 53562.

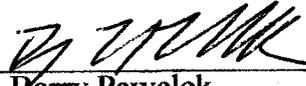
2. I am submitting this affidavit on behalf of Arizona-American Water Company ("Arizona-American"), the applicant in the above-captioned dockets. Arizona-American is also part of American Water's Western Area.

3. As part of my job duties, I supervised the provision of the customer notice required by the Procedural Order dated January, 20, 2011 (the "Notice").

4. Throughout the February 2011 billing cycle, the Notice was inserted to all customers of Arizona-American in the districts covered by this application.

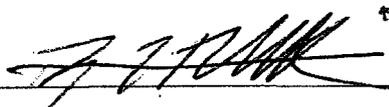
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Dated this 17 day of March, 2011.


Barry Pawelek

State of California }
County of San Diego }

Subscribed and Sworn to before me on March 17, 2011.

Name:  

My Commission Expires: 11-18-2012



Exhibit 1 page 2 of 2

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BEFORE THE ARIZONA CORPORATION COMMISSION

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AZ CORP COMMISSION
DOCKET CONTROL

Exhibit 2 page 1 of 2

1 Kristin K. Mayes
2 Chairman

3 Gary Pierce
4 Commissioner

5 Paul Newman
6 Commissioner

7 Sandra D, Kennedy
8 Commissioner

9 Bob Stump
10 Commissioner

Arizona Corporation Commission
DOCKETED

JUN 3 2011

DOCKETED BY 

11 In the matter of the application of) Docket No. W-01303-A-10-0448)
12 Arizona - American Water Company for a) Kenneth Hewitt's APPLICATION TO)
13 determination of the current fair) REQUIRE ARIZONA-AMERICAN WATER)
14 value of its utility plant and) COMPANY'S APPLICATION TO BE CORRECTED)
15 property and for increases in its))
16 rates and charges based thereon for)
17 utility services by its Agua Fria)
18 water district, Havasu water district,)
19 and Mohave water district.)

20 Item 1 is Maricopa County Environmental Services Department's PUBLIC WATER
21 SYSTEM COMPLIANCE STATUS REPORT for Agua Fria (see exhibit 1). It indicates
22 that no surface water is used by Agua Fria. This is contradicted by Joseph E.
23 Gross's direct testimony on page 6 of 12 line number 18 where it states "The
initial phase of the WHITE TANKS PLANT cost \$63,897,069.37, was placed in
service on November 30, 2009 and has been serving Arizona-American's existing
customers since that time."

24 I request that Arizona-American be required to submit a corrected request for
25 a new PUBLIC WATER SYSTEM COMPLIANCE STATUS REPORT for Agua Fria and that it
replace the current document in the application.

1 Item 2 is Joseph E. Gross's listing of benefits from using water from the
2 WHITE TANKS PLANT. See exhibit 2 which goes from line 15 of page 8 of 12 to
3 line 19 of page 9 of 12 of Mr. Gross's direct testimony. This list is not
4 complete because it ignores the savings realized by shutting down wells which
5 were producing better quality water and are included in the current rate base
6 and were partially paid for by CIAC and which was included in the receiving
7 resident's lot prices.

8 I request that Arizona-American be required to list which wells were taken
9 out of service to allow for the use of WHITE TANKS WATER and how much money
10 was saved. This should be added to the testimony.

11 Item 3 is a request to determine if the notification of the rate case was
12 effective and whether there is any reason to suspect that may not have been.
13 I believe that the problem of residents of Sun City Grand not knowing they
14 were in the Agua Fria water district was well demonstrated in the '08 rate
15 case and argued in the '09 consolidation case. This was the result of getting
16 bad information from Arizona-American's central customer service desk where
17 Surprise residents were told they were not in these rate cases. However what
18 is really important is do the people who may have their water rates raised by
19 86% have any idea it is coming? This problem was not helped by the press
20 release which mentioned Sun City Grand in the headlines. (see exhibit 3)

21 Therefore I request that Arizona-American be required to hire an independent
22 company to survey a random sample of Agua Fria customers to determine if they
23 are aware that one, they are in the Agua Fria district and two, if they know
24 there is a rate case in progress which could potentially raise their water
25 rates by 86%. The Corporation Commission should set a minimum percentage that
would satisfy their standard for notification.

If it does not, I request that a second notification be sent out to Agua Fria
customers notifying them that they are in the Agua Fria District and that
they have a right to intervene in the case. The case should be reopened for
additional interveners and the remaining schedule be delayed.

Dated this June ^{3rd} 2011



Kenneth Hewitt
18729 N Palermo Ct
Surprise, AZ 85387

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BEFORE THE ARIZONA CORPORATION COMMISSION

2011 JUN - 1 P 4: 34

GARY PIERCE
Chairman

AZ CORP COMMISSION
DOCKET CONTROL

BOB STUMP
Commissioner

Arizona Corporation Commission
DOCKETED

PAUL NEWMAN
Commissioner

JUN 7 2011

SANDRA D. KENNEDY
Commissioner

DOCKETED BY
[Signature]

BRENDA BURNS
Commissioner

IN THE MATTER OF THE APPLICATION)
OF ARIZONA-AMERICAN WATER)
COMPANY, AN ARIZONA)
CORPORATION, FOR A)
DETERMINATION OF THE CURRENT)
FAIR VALUE OF ITS UTILITY PLANT)
AND PROPERTY AND FOR INCREASES)
IN ITS RATES AND CHARGES BASED)
THEREON FOR UTILITY SERVICE BY ITS)
AGUA FRIA WATER DISTRICT, HAVASU)
WATER DISTRICT, AND MOHAVE)
WATER DISTRICT.)

DOCKET NO. W-01303A-10-0448

RESPONSE TO APPLICATION OF KENNETH HEWITT

Arizona-American Water Company ("Arizona-American" or "Company") files this response to the Application to Require Arizona-American Water Company's Application to Be Corrected filed on June 3, 2011 by Kenneth Hewitt.

In response to the first issue raised by Mr. Hewitt, attached as Exhibit 1 to this Response is a more recent Compliance Status Report dated April 25, 2011, which properly notes that the water system at issue does utilize surface water.

Exhibit 3 page 1 of 2

1 Mr. Hewitt also claims that the Company should revise its testimony to address the
2 use of wells in the Agua Fria Water District. The Company does not allege in its
3 testimony that it has taken existing wells out of service as Mr. Hewitt claims. Rather, the
4 testimony cited by Mr. Hewitt relates to future wells. The production savings in relation
5 to the existing wells is set forth in Mr. Crooks' direct testimony. Actual production
6 savings for months since that testimony was filed will be provided in Mr. Crooks' rebuttal
7 testimony due July 2011.

8 Finally, Mr. Hewitt requests that a second notice be issued based on the possibility
9 of issues with the Company's notification. The Company provided notification in
10 accordance with the Commission's procedural order dated January 20, 2011. See
11 Affidavit of Publication dated March 21, 2001. In addition to published notice, the
12 Company provided bill inserts to affected customers regarding the proposed rate increase
13 as required by the Commission. As noted in the Procedural Order, this notice is deemed
14 complete "notwithstanding the failure of an individual customer to read or receive the
15 notice." Given Mr. Hewitt's concerns regarding notice to customers in Sun City Grand, it
16 is also important to note that the Sun City Grand Community Association, which claims to
17 represent residential and commercial customers in that community, is an intervenor in this
18 matter. For these reasons, it is not appropriate or necessary to order any additional notice
19 or require the Company to perform the survey recommended by Mr. Hewitt.

20
21 RESPECTFULLY SUBMITTED this 7th day of June, 2011.

22 LEWIS AND ROCA LLP

23 

24 Thomas H. Campbell
25 Michael T. Hallam
26 40 North Central Avenue
Phoenix, AZ 85004
Attorneys for Arizona-American Water
Company

COMPANY: ARIZONA AMERICAN WATER COMPANY
DOCKET NO: W-01303A-10-0448

Response provided by: Terry Cherubini

Title: Specialist Correspondence, ITS

Address: Cherry Hill, NJ

Company Response Number: KH 14.02

Q: Please supply me with a flowchart showing how bills are prepared for mailing and when notices are inserted into the bills. Also indicate how bills are selected to have the notices inserted. In addition please supply the record layout that is the input to the billing run. Also identify any outside vendors employed in the process.

A: The flow of the billing process is as follows:

Customer meters are read in the field and files containing information are downloaded and reviewed at American Water's national Call Center. The billing experts at the Call Center perform various checks, corrections and sorts and then send files in batches to ITS operations. ITS operations personnel verify the completeness of the files and send them to our third party vendor, Regulus, located in Charlotte, NC. The Special Correspondence section in IT operations is provided information from field Communications Managers regarding which customers are to receive a bill inset that month and they prepare a spreadsheet with that information and it is provided to another section within ITS operations (Bill and Messaging section) which marks (Tag Logical Element) each bill that is to have an insert. Regulus prints bills and is provided the bill inserts and as appropriate includes inserts with bills and mails them to customers.

Q Please supply me with copies of the information provided by the field Communications Managers to the Special Correspondence section for the insert notice for the rate increase is this case. Also the spreadsheet Special Correspondence supplied to ITS operations. Also supply the information that was sent to Regulus that assured the right bills received inserts.

February 1-22 Customer Billing

Date Billed	Agua Fria District	Mohave District	Havasu District
	Approx 38,000 customers in district # Customers billed/received insert	Approx 16,000 customers in district # Customers billed/received insert	Approx 1,600 customers in district # Customers billed/received insert
1-Feb	45	14	1
2-Feb	0	0	0
3-Feb	110	55	4
4-Feb	0	943	1
5-Feb	0	0	0
6-Feb	0	0	0
7-Feb	32	1152	2
8-Feb	35	1633	2
9-Feb	27	815	0
10-Feb	41	1127	1
11-Feb	28	1198	2
12-Feb	0	0	0
13-Feb	0	0	0
14-Feb	30	1341	1
15-Feb	3391	901	1
16-Feb	4486	576	1
17-Feb	4873	1211	0
18-Feb	5106	913	1
19-Feb	4606	720	0
20-Feb	0	0	0
21-Feb	0	0	268
22-Feb	4455	455	328
23-Feb	no inserts due to error	18	223
24-Feb	no inserts due to error	1305	391
25-Feb	no inserts due to error	1450	424
26-Feb	no inserts due to error	0	0
27-Feb	no inserts due to error	0	0
28-Feb	no inserts due to error	364	1