

**ORIGINAL**

1 Date: April 5, 2010



0000132461

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3 To: **Docket Control**  
4 **Arizona Corporation Commission**  
5 **1200 West Washington St.**  
6 **Phoenix, AZ 85007**

7

8 From: Robert T. Hardcastle  
9 Payson Water Co., Inc.

Arizona Corporation Commission  
**DOCKETED**

APR 18 2012

10

11 FOR FILING ORIGINAL AND 13 COPIES INTO:

DOCKETED BY	<i>mm</i>
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13 **DOCKET NO. W-03514A-12-0008**

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15 Gehring et al vs. Payson Water Co.

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19

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By:

Robert T. Hardcastle

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2012 APR 18 A 9:46  
ARIZONA CORPORATION COMMISSION  
DOCKET CONTROL

1 BEFORE THE ARIZONA CORPORATION COMMISSION

2  
3 Robert T. Hardcastle  
4 Payson Water Co., Inc.  
5 P.O. Box 82218  
6 Bakersfield, CA 93380-2218

RECEIVED

2012 APR 18 A 9:46

7 *Representing Itself In Propia Persona*

ARIZONA CORP COMMISSION  
DOCKET CONTROL

8  
9 COMMISSIONERS

10 Gary Pierce, Chairman  
11 Paul Newman, Commissioner  
12 Brenda Burns, Commissioner  
13 Bob Stump, Commissioner  
14 Sandra D. Kennedy, Commissioner

15  
16 IN THE MATTER OF J. STEPHEN )  
17 GEHRING, BOBBY JONES, AND LOIS )  
18 JONES, COMPLAINTANTS )  
19 )  
20 VS. )  
21 )  
22 PAYSON WATER CO., INC., )  
23 RESPONDENT )

**Docket No. W-03514A-12-0008**

**MOTION TO COMPEL  
COMPLAINTANTS TO COMPLY  
WITH DISCOVERY REQUEST  
FOR SECOND SET OF DATA  
REQUESTS**

24  
25  
26 Complainants Gehring and Jones (hereafter "Complainants") have filed a Formal  
27 Complaint into Docket No. W-03514A-12-0008 based on previously submitted informal  
28 complaints number 2011-98439 and 2011-98782.

29 On March 19, 2012 the Administrative Law Judge assigned in this matter issued a  
30 Procedural Order (the "Order") defining the compliance calendar and time periods for  
31 motions, responses, and replies anticipated to be filed by the parties. Among other things  
32 the Order also provided and compliance time for all discovery requests at page 2, lines  
33 16-17 as follows: "... and responses to discovery requests shall be made within 7  
34 calendar days of receipt." (emphasis added).

1 On March 30, 2012 Payson Water Co., Inc. ("PYWCo") mailed to Complainant's  
2 via certified mail its Second Set of Data Requests (the "Data Request") (see attached  
3 Exhibit 1).

4 On April 6, 2012 service of PYWCo's Data Request was made upon Complainant  
5 Jones as evidenced by their signature on the U.S. Post Office's Return Receipt dated the  
6 same date (see attached Exhibit 2). It should be noted that Gehring did not sign the U.S.  
7 Post Office Return Receipt although during the same period of attempted service delivery  
8 filed pleadings into this Docket on April 2, April 4, and April 9.

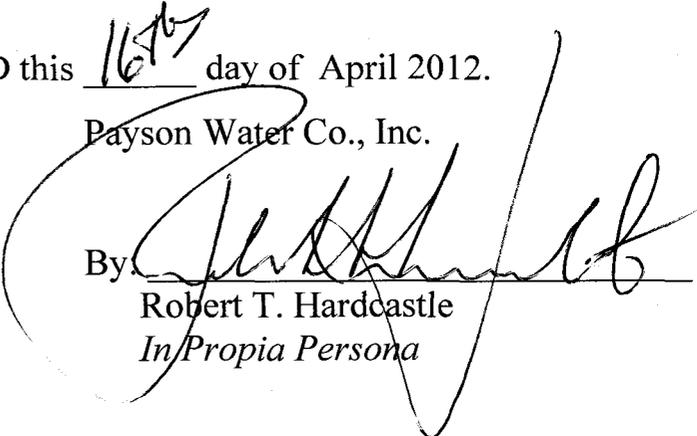
9 Clearly Complainant's have not complied with the Order, in whole or part, and  
10 have not requested any extension or variance of the discovery compliance schedule as  
11 provided by the Order.

12 As of the date set forth below Complainant's have **NOT** complied with the Order  
13 by not timely submitting responses to the Data Request.

14 Respondent PYWCo respectfully requests the Arizona Corporation Commission  
15 and the Administrative Law Judge to compel Complainant's to immediately respond to  
16 the Data Request as provided in the Order.

17  
18 RESPECTFULLY SUBMITTED this 16<sup>th</sup> day of April 2012.

19 Payson Water Co., Inc.

20  
21 By   
22 Robert T. Hardcastle  
23 *In Propria Persona*  
24

25 ORIGINAL and 13 copies filed  
26 this 16<sup>th</sup> day of April, 2012, with:  
27

28 **Docket Control**  
29 **Arizona Corporation Commission**  
30 **1200 West Washington St.**  
31 **Phoenix, AZ 85007**  
32

1 And copies mailed to the following:

2

3 Lynn Farmer, Administrative Law Judge

4 HEARING DIVISION

5 Arizona Corporation Commission

6 1200 West Washington St.

7 Phoenix, AZ 85007

8

9 Arizona Reporting Service, Inc.

10 2200 No. Central Ave. Suite 502

11 Phoenix, AZ 85004-1481

12

13 J. Stephen Gehring

14 8157 Deadeye Rd.

15 Payson, AZ 85541

16

17 Bobby Jones

18 Lois Jones

19 7325 No. Caballero Rd.

20 Payson, AZ 85541

21

22 Janice Alward, Chief Counsel

23 Legal Division

24 Arizona Corporation Commission

25 1200 West Washington St.

26 Phoenix, AZ 85007

27

28 Steve Olea

29 Utilities Division

30 Arizona Corporation Commission

31 1200 West Washington St.

32 Phoenix, AZ 85007

33

34 Robin Mitchell, Esq.

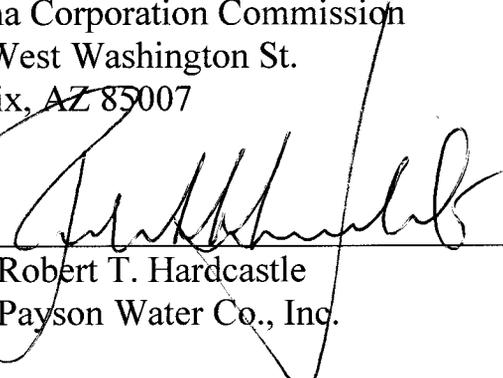
35 Arizona Corporation Commission

36 1200 West Washington St.

37 Phoenix, AZ 85007

38

39

40 By: 

41 Robert T. Hardcastle

42 Payson Water Co., Inc.

43

44

# **EXHIBIT 1**

# **BROOKE UTILITIES, INC.**

Mailing Address: P.O. Box 82218, Bakersfield, CA 93380  
Customer Service Call Center (800) 270-6084

ROBERT T. HARDCASTLE  
(661) 633-7551 Fax  
RTH@brookutilities.com

March 28, 2012

J. Stephen Gehring  
8157 Deadeye Rd.  
Payson, AZ 85541



Bobby and Lois Jones  
7325 No. Caballero  
Payson, AZ 85541

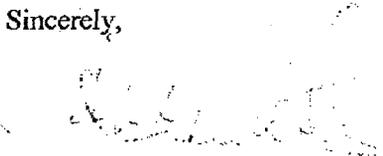
In re: ACC Docket No. W-03514A-12-0008

Parties,

Please find attached Payson Water Co.'s SECOND SET OF DATA REQUESTS as it relates to the above referenced matter. Pursuant to Procedural Order dated March 19, 2012 at page 2 lines 14-17 your responses to this Data Request are due not later than seven (7) days following receipt of same.

These data requests are continuing, and your answers or any documents supplied in response to these data requests should be supplemented with any additional information or documents that come to your attention after you have provided your responses.

Sincerely,



Robert T. Hardcastle  
President

EC: Gehring file

Cc: RM, ACC

**Payson Water Co.'s ("PYWCo") Second Set of Data Requests to Gehring**

**INSTRUCTIONS AND DEFINITIONS**

**A. Instructions**

1. These Data Requests call for all information, including information contained in documents or stored on computer disks or in computers, which relate to the subject matter of the Data Requests and that is known or available to you.
2. In answering these Requests, Respondent is requested to furnish such information as is available to Respondent, including information that Respondent is able to obtain by due diligence from Respondent's present neighbors, accountants, investigators, consultants, witnesses, agents, or other persons that may have affiliated with or assisted Respondent in the preparation of the Complaint.
3. Where a Data Request has a number of separate subdivisions or related parts or portions, a complete response is required to each such subdivision, part, or portion.
4. These Data Requests are continuing in nature and require supplemental responses when further or different information with respect to the same is obtained.
5. If you cannot answer a Data Request in full after exercising due diligence to secure the information necessary to do so, state the answer to the extent possible, state why you cannot answer the Data Request in full, and state what information or knowledge you have concerning the unanswered portions.
6. If, in answering any of these Data Requests, you feel that any Data Request or definition or instruction applicable thereto is ambiguous, set forth the language you feel is ambiguous and the interpretation you are using in responding to the Data Request.
7. If you refuse to respond to any Data Request by reason of a claim of privilege or for any other reason, state the statutory reference asserting support of the privilege in writing and the type of privilege claimed and the facts and circumstances you rely upon to support the claim of privilege or the reason for refusing to respond.

## B. Definitions

1. The words "and" and "or" should be construed either conjunctively or disjunctively as necessary to include information within the scope of a Request, rather than to exclude information there from.
2. "ACC" means the Arizona Corporation Commission and is used interchangeably with "Commission."
3. "Gehring" means every person connected to the filing of the subject Complaint.
4. "PYWCo" means Payson Water Co., its employees, agents, consultants, representatives, attorneys, officers, Directors, and any other person acting on behalf of PYWCo.
5. The term "correspondence" should be interpreted to include, but not be limited to, all letters, telexes, facsimiles, telegrams, notices, messages, memoranda, e-mail communications and attachments, and other written or electronic or computer generated communications.
6. "Document" means:
  - a. "Documents" refers to all writings and records of every type in your possession, control, or custody, including but not limited to: e-mail communications, PowerPoint presentations, testimony, exhibits, memoranda, correspondence, letters, reports (including drafts, preliminary, intermediate, and final reports), surveys, analyses, studies (including economic and market studies), summaries, comparisons, tabulations, charts, books, pamphlets, photographs, maps, bulletins, corporate or other minutes, notes diaries, log sheets, ledgers, transcripts, microfilm, microfiche, computer data, computer files, computer tapes, computer inputs, computer outputs and printouts, vouchers, accounting statements, budgets, work papers, engineering diagrams (including "one-line" diagrams), mechanical and electrical recordings, records of telephone and telegraphic communications, speeches, and all other records, written, electrical, mechanical, or otherwise and drafts of any of the above.
7. "Identify" when used in referring to a person, shall mean to state the following with regard to the person: (a) name; (b) last known address; (c) residence and business telephone numbers; (d) relationship to you; and (e) occupation at the date of these interrogatories.

8. For the purposes of the Complaint the period May 1, 2011 through October 30, 2011 is hereafter referred to as the "Augmentation Period".

### **DATA REQUEST**

P2.0 For the purposes of the Complaint provide an explanation of "periodic" water gallons as opposed to "cycle" water gallons (if other than as defined in P2.1 below).

P2.0.1 Throughout the Complaint identify when "periodic" gallons are applicable as opposed to "cycle" gallons, where "periodic" gallons refers to a calendar month and "cycle" gallons refers to mid-month to mid-month billing cycle gallons.

P2.1 Pursuant to section C (38)(c-h) of the Complaint (page 7), a description of Complainant's method of alleged accurate water augmentation cost recovery calculus is provided (the "Gehring Method). Using the Gehring Method exactly as proposed;

P2.1.1 Demonstrate, using worksheets and previously submitted data, how the Gehring method recovers all of PYWCo's scheduled water augmentation costs for the periods May-June 2011, June-July 2011, July-August 2011, August-September 2011, and September-October 2011 as required under Decision No. 71902. Provide the amount of cost recovery of each customer for each month-to-month period with summary totals of cost recovery.

P2.1.2 Does the Gehring Method recover all water augmentation costs under any circumstances? If so, describe in detail the nature of the circumstances under which the Gehring Method recovers the water augmentation costs.

P2.1.3 Is the Gehring Method different from the cost recovery method provided for in Decision No.71902.

### **END OF SECOND SET OF DATA REQUESTS TO GEHRING**

# **EXHIBIT 2**

Bob Hardcastle

7009 2250 0001 5258 9085

Postage	0.45	
Certified Fee	2.95	
Return Receipt Fee (Endorsement Required)	2.35	Postmark Date
Restricted Delivery Fee (Endorsement Required)		
Total Postage & Fees	\$ 5.75	

Bobby and Lois Jones  
7325 No. Caballero  
Payson, AZ 85541

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> <li>■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</li> <li>■ Print your name and address on the reverse so that we can return the card to you.</li> <li>■ Attach this card to the back of the mailpiece, or on the front if space permits.</li> </ul>	<p>A. Signature <span style="float: right;"><input type="checkbox"/> Agent <input type="checkbox"/> Addressee</span></p> <p><i>Bob Hardcastle</i></p> <p>B. Received by (Printed Name) <span style="float: right;">C. Date of Delivery</span></p> <p><i>Bobby R Jones</i> <span style="float: right;"><i>4-6-12</i></span></p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p>
<p>1. Article Addressed to:</p> <p><i>Bobby and Lois Jones 7325 No. Caballero Payson, AZ 85541</i></p>	<p>3. Service Type</p> <p><input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail</p> <p><input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise</p> <p><input checked="" type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p>
<p>2. Article Number (Transfer from service label)</p> <p>7009 2250 0001 5258 9085</p>	<p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>