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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

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

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Arizona Corporation Commission

DOCKETED

MAR 14 2012

DOCKETED BY

In the matter of:

ALBERT L. SMITH,

Complainant,

v.

BEAVER VALLEY WATER COMPANY, INC.,

Respondent.

DOCKET NO. W-02015A-11-0416

**THIRD**  
**PROCEDURAL ORDER**  
**(Schedules Hearing)**

**BY THE COMMISSION:**

On November 18, 2011, Mr. Albert L. Smith ("Complainant") filed with the Arizona Corporation Commission ("Commission") a Complaint against Beaver Valley Water Company, Inc. ("BVW" or "Company") with respect to a billing dispute involving Complainant's water bill for his residence in Payson, Arizona.

On December 19, 2011, BVW filed an Answer to the Complaint filed by Mr. Smith.

On December 22, 2011, by Procedural Order, a pre-hearing conference was scheduled on January 18, 2012.

On January 18, 2012, at the pre-hearing conference, Complainant appeared on his own behalf. Mr. Michael Davoren appeared on behalf of BVW, which he owns. Although the parties conducted settlement talks, they were unable to reach a resolution of the Complaint herein. At the conclusion of the pre-hearing conference the Complainant, Mr. Smith, was directed to file by February 8, 2012, an Amended Complaint to simplify the issues. The Company was directed to file its Answer/Response by February 21, 2012.

On January 31, 2012, Mr. Smith filed his Amended Complaint with the Commission, but he failed to serve the Company with a copy so that it could respond.

On February 17, 2012, Mr. Davoren filed a letter in the docket and stated that he had not

1 received a copy of the Amended Complaint from Mr. Smith and requested that the proceeding be  
2 dismissed.

3       On February 21, 2012, by Procedural Order, Mr. Smith was ordered to mail a copy of the  
4 Amended Complaint by February 29, 2012, to Mr. Davoren and file proof of mailing the Amended  
5 Complaint by certified U.S. mail return receipt requested in the docket. BVW was ordered to file,  
6 within fourteen days of the receipt of the Amended Complaint, BVW's Answer/Response after which  
7 a hearing would be scheduled.

8       On February 22, 2012, Mr. Smith filed proof of mailing the Amended Complaint.

9       On March 2, 2012, BVW filed its Answer/Response with the Commission.

10       Accordingly, a hearing should be scheduled.

11       IT IS THEREFORE ORDERED that a **hearing** shall be held on **May 17, 2012 at 10:00 a.m.**,  
12 at the Commission's offices, 1200 West Washington Street, Hearing Room No. 2, Phoenix, Arizona.

13       IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113-Unauthorized  
14 Communications) is in effect and shall remain in effect until the Commission's Decision in this  
15 matter is final and non-appealable.

16       IT IS FURTHER ORDERED that all parties must comply with Rules 31 and 38 of the Rules  
17 of the Arizona Supreme Court and A.R.S. § 40-243 with respect to the practice of law and admission  
18 *pro hac vice*.

19       IT IS FURTHER ORDERED that withdrawal or representation must be made in compliance  
20 with A.A.C. R14-3-104(E) and Rule 1.16 of the Rules of Professional Conduct (under Rule 42 of the  
21 Rules of the Arizona Supreme Court). Representation before the Commission includes appearances  
22 at all hearings and procedural conferences, as well as all Open Meetings for which the matter is  
23 scheduled for discussion, unless counsel has previously been granted permission to withdraw by the  
24 Administrative Law Judge or the Commission.

25 ...

26 ...

27 ...

28 ...

1 IT IS FURTHER ORDERED that the Presiding Administrative Law Judge may rescind, alter,  
2 amend, or waive any portion of this Procedural Order either by subsequent Procedural Order or by  
3 ruling at hearing.

4 DATED this 14<sup>TH</sup> day of March, 2012.

5  
6  
7   
8 MARC E. STERN  
ADMINISTRATIVE LAW JUDGE

9  
10 Copies of the foregoing mailed/delivered  
this 14<sup>th</sup> day of March, 2012, to:

11 Albert L. Smith  
12 2613 North McAllister Avenue  
13 Tempe, AZ 85281-7919

14 Michael Davoren  
15 BEAVER VALLEY WATER CO., INC.  
16 P.O. Box 421  
17 Payson, AZ 85547-0421

18 Janice Alward, Chief Counsel  
19 Legal Division  
20 ARIZONA CORPORATION COMMISSION  
21 1200 West Washington Street  
22 Phoenix, AZ 85007

23 Steven M. Olea, Director  
24 Utilities Division  
25 ARIZONA CORPORATION COMMISSION  
26 1200 West Washington Street  
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28 ARIZONA REPORTING SERVICE, INC.  
2200 North Central Avenue, Suite 502  
Phoenix, AZ 85004-1481

By:   
Debra Broyles  
Secretary to Marc E. Stern