

1 ORIGINAL



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3 Date: March 27, 2010

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5 To: **Docket Control**
6 **Arizona Corporation Commission**
7 **1200 West Washington St.**
8 **Phoenix, AZ 85007**

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10 From: Robert T. Hardcastle
11 Payson Water Co., Inc.
12 (661) 633-7526
13

Arizona Corporation Commission

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MAR 30 2012

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14 FOR FILING ORIGINAL AND 13 COPIES INTO:

15
16 **DOCKET NO. W-03514A-12-0008**

17
18 Gehring et al vs. Payson Water Co.

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23 By:

24 Robert T. Hardcastle
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BEFORE THE ARIZONA CORPORATION COMMISSION

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ARIZONA CORPORATION COMMISSION
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3 Robert T. Hardcastle
4 Payson Water Co., Inc.
5 P.O. Box 82218
6 Bakersfield, CA 93380-2218
7 *Representing Itself In Propria Persona*
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)
24
25

Docket No. W-03514A-12-0008

**MOTION TO MODIFY
SUBPOENA**

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 or about March 19, 2012 Payson Water Co., Inc. ("PYWCo") was served a
30 subpoena for the production of various documents and records of PYWCo by the Arizona
31 Corporation Commission (the "Commission") on behalf of the Complainant's pursuant to
32 A.R.S. §§ 40-241, 40-244, A.A.C. R-14-3-109 and Arizona Rules of Civil Procedure 30
33 and 45. The production of the documents as required by the subpoena must be submitted
34 not later than March 29, 2012. The subpoena makes reference (see page 1, line 28 and
35 page 2, lines 1 and 24) to PYWCo's East Verde Park Water System (the "EVP System").
36

1 PYWCo objects to the production of documents, records, or books pursuant to the
2 requirements of the subpoena pursuant to Arizona Rules of Civil Procedure 45 (c)(5)(B)
3 because the production of documents for the EVP System are not relevant to the
4 Complaint filed by the Complainant's and are burdensome to PYWCo.

5 Complainant's, as part of the Formal Complaint documents submitted in support
6 thereof, make unsubstantiated allegations of wrong doing, fraud, misrepresentation, and
7 other charges against PYWCo as it relates to the EVP System. Complainant's allegations
8 are accusations without merit and remain completely unsupported with records,
9 documents, or foundation as to why documents of the EVP System should be included in
10 the Complaint and, consequentially, required under the subpoena. Complainant's are
11 **NOT** customers of the EVP System as defined by R-14-2-401 (9).

12 PYWCo owns and operates both the water systems of Mesa del Caballo ("MdC")
13 and the EVP System. The water systems are not contiguous to one another and are
14 separated by a roadway distance of approximately 5.5 miles. Both water systems are
15 served from different ground water sources; have separate and unique customers; have
16 unique public water system numbers assigned by the Arizona Department of
17 Environmental Quality; have different sources of supply; have different water system
18 assets and infrastructure; provide separate annual reporting to the Commission; have
19 different water demand and consumption; have separate and unique water storage
20 facilities; have different sources of electrical utility supply and accounts. In summary
21 these water system are completely separate and distinct from one another but for the
22 common ownership by PYWCo. Complainant's presented no evidence nor raises any
23 objections to the separateness of the water systems. Complainant's make a feeble attempt
24 to somehow connect the two water systems in their allegations of wrong doing.

25 PYWCo argues that the separateness of the two water systems is clearly evidenced
26 by the Commission's own records. PYWCo objects to the demands of the subpoena to
27 produce records related to the EVP System on the basis of it being irrelevant and overly
28 broad in its scope. Complainants have provided no evidence or any proof of wrong doing

1 in the EVP System nor any relationship to the MdC water systems other than their
2 unsubstantiated accusations and allegations referenced in the Complaint.

3 Accordingly, PYWCo's objection should be recognized and the subpoena modified
4 to exclude any references or document production related to the EVP System.

5 Pursuant to Arizona Rules of Civil Procedure 45 (e)(2) a written objection or
6 motion to quash or modify a subpoena does not require compliance with the sections
7 objected to in the subpoena until ruled upon by the authority having jurisdiction.
8 Accordingly, PYWCo's production of records related to its timely response to the
9 subpoena will not include the production of documents of the EVP System.

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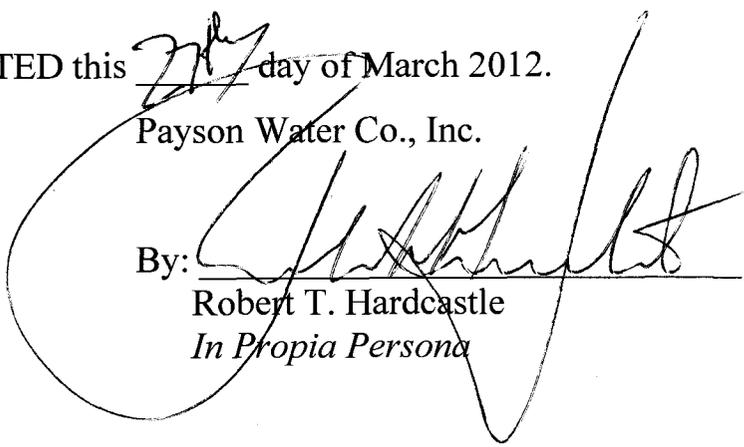
RESPECTFULLY SUBMITTED this 20th day of March 2012.

12

Payson Water Co., Inc.

13

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By: 

15

Robert T. Hardcastle

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In Propria Persona

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ORIGINAL and 13 copies filed

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this 20th day March 2012, with:

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Docket Control

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Arizona Corporation Commission

23

1200 West Washington St.

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Phoenix, AZ 85007

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And copies mailed to the following:

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Dwight Nodes, Administrative Law Judge

29

HEARING DIVISION

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Arizona Corporation Commission

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Phoenix, AZ 85007

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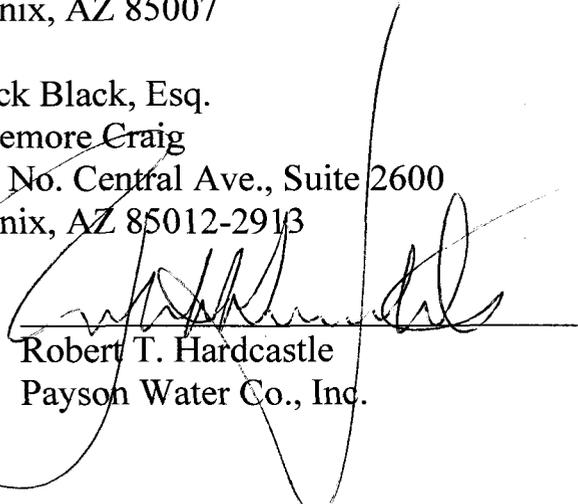
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