

J. Stephen Gehring, Private Citizen  
Bobby Jones, Private Citizen  
Lois Jones, Private Citizen  
C/O: 8157 W. Deadeye Rd.  
Payson, Arizona [PZ 85541]  
(928) 474-9859  
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In Propria Persona

ORIGINAL



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Arizona Corporation Commission  
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**COMMISSIONERS**

Gary Pierce, Chairman  
Paul Newman, Commissioner  
Brenda Burns, Commissioner  
Bob Stump, Commissioner  
Sandra D. Kenndy, Commissioner

**Before the Arizona Corporation Commission**

J. Stephen Gehring, Bobby Jones, Lois  
Jones Private Citizens, Injured Parties,  
Complainants,

vs.

PAYSON WATER CO. INC./BROOKE  
UTILITIES INC.  
Respondents.

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

**RESPONSE AND OBJECTION TO  
RESPONDENTS MOTION TO  
MODIFY SUBPOENA  
MOTION TO DENY AND COMPEL  
COMPLIANCE WITH THE SUBPOENA  
BY ORDER**

**NOW COMES**, the Complainants J. Stephen Gehring, Bobby Jones and Lois Jones, to respond and object to Respondents' Motion to Modify Subpoena and further; Complainants Motion the Commission to Deny, any modification of the Subpoena Decus Tecum and to compel Respondent's compliance with the subpoena by issuance of an Order to compel compliance or in the alternative to issue a Civil Arrest Warrant for failure to Comply.

Complainants object to Respondents' arbitrarily alteration of the "Formal Complaint" at will for his own deceptive purposes especially since there has been no ruling to allow such a change. The administrative process is not played by the Respondent's personal rules and games but by Rules specified in Ariz. Adm. Code R14-3-106 through 111. Respondent Hardcastle should take the time to read and study them.

Respondents' have previously admitted all allegations and facts contained within the Complaint.

Complainants object to Respondents continued twists, turns and the misrepresentations of the real issues by his deceptive practices even if they are his method of corporate management, operations and business practices.

A Corporation cannot proceed in Propria Persona it must be represented for it is a legal fiction. Mr. Hardcastle abuses the privilege of "in Propria Persona" in reference to his Corporations. The Complainants

request Commission clarification, is Respondent Hardcastle qualified to represent the legal fictions in these proceedings? Is he is not representing Brooke Utilities Inc. or does he deny any affiliation with Brooke Utilities Inc?

Complainants' object to Respondents' Motion to Modify Subpoena for the following reasons:

Respondents continuously make dishonest and misleading representations to the Commission and the Administrative Law Judge, indeed to all parties of concern in these matters.

The Subpoena Decus Tecum was served on Robert T. Hardcastle, Payson Water Co. Inc (PWC) and Brooke Utilities Inc. (BUI) on March 20, 2012 by the Gila County Constable on behalf of the Complainants )and not by the Arizona Corporation Commission). The Subpoena was authorized by Ernest G. Johnson, Executive Director of the Arizona Corporation Commission. The production of the documents as required must be submitted by March 30, 2012. The Respondents have failed or refused to fully comply.

Complainants object to Respondents objection to produce documents, records or books pursuant to the requirements of the subpoena based on Ariz. Rules of Civ. Pro. 45 (c)(5)(B) because the rule cited does not exist.

Furthermore, what few documents that have been received by the Complainants are altered, incomplete and not in compliance with the letter of the subpoena. Respondents are holding back vital and necessary documentation.

Complainants object to Respondent Hardcastle's misrepresentation that documents submitted with the Complaint make unsubstantiated allegations of wrong doing, fraud, misrepresentation etc. against PWC and BUI as it relates to the East Verde Park (EVP) System and are irrelevant and burdensome.

The documentation Complainants have requested is extremely relevant to the issues before the Commission. It is well known by the Complainants and others that water was hauled to the EVP System and the MDC System by the same Trucking Company hired (contracted) by BUI/PWC during the same time periods. What is not known is the total amount of water bought from TOP, hauled to the EVP System and billed to MDC System Customers.

Substantially and relevantly, Complainants have in hand (since March 9<sup>th</sup>, 2012 and before) documents that show that some of the hauling logs are "padded" (actual water hauled is less than that indicated on the logs as totals, according to the meter readings recorded) and that water was hauled from the Town of Payson (TOP) to the EVP System and charged to the Customers of the MDC System. **(See: Attached Exhibit A)**.

For Example: The hauling log for the 8/12/11 haul was intentionally left out of the documents subpoenaed and provided by ACC legal division by request on March 9<sup>th</sup>, 2011. The **8/12/11 "BUI Hauling Log"** clearly shows in conjunction with the "BUI Hauling Log" for the period 8/11/11 that 23,800 gal., was hauled to the EVP System and (per Invoice No. 8816) charged to the Customers of the MDC System. **(See:**

**Attached Exhibit A).** In addition there are numerous unexplained breaks in the sequence of “invoice numbering” that need to be clarified (the Invoices No. 8805, 8806, 8809, 8810, 8813, 8814, 8817, 8818, 8820, 8821, 8824) and several “BUI Hauling Logs are missing for particular Invoices.

Documents supplied by Respondents Hardcastle, PWC and BUI on or about March 30, 2012 show that documentation and records are intentionally left out while others have been intentionally and unexplainably altered.

Respondents failed or refused to supply the following documents without cause or justification:

1. BUI/PWC records of the total consumption/usage by all Customers of the MDC System for the billing periods a) April to May 2011; b) May to June 2011; c) June to July 2011; d) July to August 2011; e) August to September 2011; and f) September to October 2011.

What was received are format altered documents that do not show the total consumption/usage for each monthly period as requested and leaves out the location ID and Meter ID. The Complainants’ are unable to authenticate Total Consumption/Usage that would match documents previously provided by BUI.

Documents received are not identical in format and content to Exhibit D, pages 7 to 14, previously supplied by BUI (subtitled MDC Water System, Water Augmentation Charges Calculation, expenses incurred in June 2011 but billed to customer on July 2011 and incurred in July 2011 to Aug 2011 and billed in Aug 2011) to the ACC and Customers of the MDC System. They are in fact altered and falsified;

2. Requested Trucking Contractor records associated with the invoices and hauling logs for the periods mentioned are not included. For Example: There are no Bills of Lading, Waybills, On-Duty Time (per Federal Motor Carriers Safety Regulations (FMCSR 395.1), Drivers Record of Duty Status (per FMCSR 395.8), Driver Vehicle Inspection Report (per FMCSR 396.11), electronic or computerized logging graphs related to tractor time logs for all trips billed to PWC/BUI during the Augmentation period by Martin’s Trucking Service and Person Water/Person Transport and from the drivers (Jim, Chase and Martin). There are no records of Tractor and Trailer unit numbers or Tanker capacity used in hauling water to the MDC System other than what has been shown on the “BUI Hauling LOGS” which are incomplete;
3. Respondent did not provide a “BUI Hauling Log” for the time period: a) 8/4/11 to 8/5/11 which allegedly corresponds Invoice 8815; b) 8/12/11 associated with Invoice 8816; c) 8/31/11 to 9/01/11 associated with Invoice 8822; d) Invoice 8811;
4. Respondent did not provide an Invoice associated with BUI Hauling Log for the time period: a) 8/6/11 to 8/7/11; b) 8/30/11;
5. Respondents failed to provide the location of where any amount of water was acquired, purchased or hauled from any source other than TOP to EVP System during the Augmentation Period May 1 to Sept.

30, 2011;

6. Respondents failed or refused to provided information on the following wells owned by PWC/BUI as requested: 1)55-531101; 2) 55-631111; and 3) 55-553798 and failed to provide documentation on the Water Sharing Agreements BUI/PWC has with well owners in Mesa del Caballo;
7. Respondents failed or refused to fully comply with the request to provide the reports submitted to the Utilities Division Compliance Section by BUI/PWC related to ACC Decision No. 67821. Respondent only provided documentation titled "Customer Compliance Issues – Curtailment Fine and Fees –through September 2011 and did not include documentation for the (April) May 2011 and further, Respondents did not include how much money from the separate interest bearing trust account was used solely for the purposes of importing water to the MDC System as requested.

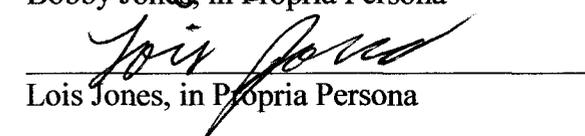
**WHEREFORE**, Complainants respectfully request of the Commission and the Administrative Law Judge not to recognize the Respondents' objection to exclude any references or document production related to the EVP System and further, Deny the Respondents Motion to Modify the Subpoena for the reasons stated herein and above and for the fact of Respondents failure or refusal to fully comply with other requests for documentation and his/their intentional omission, alteration and falsification of other documents provided.

Complainants' further Motion the Commission and its Administrative Law Judge to Compel the Respondents and each of them (i. e. Robert T. Hardcastle, Brooke Utilities Inc., and Payson Water Co. Inc. by Order, to fully comply with the Subpoena Decus Tecum received and that they and each of them are to provide the documentation requested without alteration, falsification, editing, omission or elimination. In the alternative: The Complainants' request for the issuance of a Civil Arrest Warrant of Respondent Hardcastle for failure and refusal to comply with the Subpoena Decus Tecum.

**Respectfully submitted** this 3<sup>rd</sup> day of April, 2012

  
\_\_\_\_\_  
J. Stephen Gehring, in Propria Persona

  
\_\_\_\_\_  
Bobby Jones, in Propria Persona

  
\_\_\_\_\_  
Lois Jones, in Propria Persona

## CERTIFICATE OF SERVICE

The Original and 13 copies of the foregoing Motion have been mailed this 3<sup>rd</sup> day April, 2012 to the following:

DOCKET CONTROL  
ARIZONA CORPORATION COMMISSION  
1200 West Washington Street  
Phoenix, Arizona 85007

Copies of the foregoing Motion have been mailed this 3<sup>rd</sup> day April, 2012 to the following:

Ernest G. Johnson  
Executive Director  
Arizona Corporation Commission  
1200 West Washington Street  
Phoenix, Arizona 85007

Bobby and Lois Jones  
7325 N. Caballero Rd.  
Payson, Az. 85541

Robert T. Hardcastle  
P. O. Box 82218  
Bakersfield, Ca. 93380

By:  \_\_\_\_\_

# EXHIBIT A



# BUI HAULING LOG

Date	Driver	Haul From	Haul To	Meter Road Start	Meter Road End	Gallons	CL2 at Source	CL2 at Drop
6-7-11		Home Depot	M&E	5991000	060578	6500	0.54	0.53
6-7-11		}	}	60579	611725	}	0.54	0.53
6-8-11	61125			617140	0.54		0.53	
6-8-11		}	}	617140	623145	}	0.54	0.53
6-8-11				623145	629262		0.54	0.53
6-8-11		}	}	629262	635398	}	0.54	0.53
6-8-11				635398	641332		0.54	0.53
6-8-11		}	}	641332	647456	}	0.54	0.53
6-8-11				647456	653483		0.54	0.53
6-8-11		}	}	653483	659417	}	0.54	0.53
6-8-11				665597	665500		0.54	0.53
						531250		

PROVIDED BY RESPONDENT

71,500 GAL  
- 60,394 GAL

11,106 GAL DIFFERENCE

6500 GAL  
NOT HAULLED  
EACH LOAD

PlyCo - U.M.C. Decision No. 71902

METER  
READS

6090  
5935  
6015  
6005  
6117  
6136  
5934  
6124  
6027  
5934  
77

60,394 GAL

**BUI HAULING LOG**

Date	Driver	Haul From	Haul To	Higher Meter Start	Lower Meter End	Gallons	CL# at Source	CL# at Drop
6-7-11		Home Depot	mtf	591000	60517	6500	0.54	0.53
6-7-11				60579	61175		0.54	0.53
6-8-11				61125	61742		0.54	0.53
6-8-11				61740	62345		0.54	0.53
6-8-11				62345	62926		0.54	0.53
6-8-11				62926	63538		0.54	0.53
6-8-11				63538	64132		0.54	0.53
6-8-11				64132	64745		0.54	0.53
6-8-11				64745	65348		0.54	0.53
6-8-11				65348	65947		0.54	0.53
6-8-11				66557	66500		0.54	0.53
						11 Loads @ 6500 gallons / load		
						= 71,500 gallons		











**PEARSON WATER CO.**

P.O. BOX 193  
 1120 RODEO RD.  
 WILLIAMS, AZ 86046

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AUG 16 2011

BROOKE UTILITIES

**Invoice**

DATE	INVOICE NO.
8/16/2011	8816

<b>BILL TO</b>
BROOKE UTILITIES PAYSON WATER COMPANY P O BOX 8218 BAKERSFIELD, CA 93380

<b>DELIVER TO</b>
MESA, DELL  <i>B/OS-01-7170-00</i>

WATER HAULED	QUANTITY	RATE	AMOUNT
Payson to Mesa Dell 08/11/2011 thru 08/12/2011 19 hrs @ 150.00	19	150.00	2,850.00
Travel time 4 hrs @ 150.00	4	150.00	600.00
<b>Total</b>			<b>\$3,450.00</b>

*Provided by Respondents*