

J. Alan Smith, Private Citizen
8166 Barranca Rd.
Payson, Arizona [PZ 85541]
(928) 302-8341 Hm.
(928) 951-2083 Wk.
PWC Utility Account No. 61138-24899
In Propria Persona

ORIGINAL



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Before the Arizona Corporation Commission

ARIZONA CORPORATION COMMISSION
DOCKET CONTROL

Arizona Corporation Commission

DOCKETED

APR 13 2012

DOCKETED BY	<i>[Signature]</i>
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COMMISSIONERS

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

J. Alan Smith, Injured Party
Complainant,

vs.

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

DOCKET NO. W-03514A-12-0007

**OBJECTION TO RESPONDENT'S
REPLY TO COMPLAINANT'S RESPONSE
TO RESPONDENTS MOTION TO
DISMISS
AND MOTION TO DENY**

NOW COMES, the Complainant J. Alan Smith, to object to Respondents Reply to Complainant's Response to Respondents Motion to Dismiss and Motions the Commission to Deny Respondents Motion to Dismiss.

Complainant objects to Respondents' improperly captioned Motion as they cannot arbitrarily alter the style of the "Formal Complaint" since there has been no ruling to allow the change. The current process is ruled by Rules specified in Ariz. Adm. Code R14-3-106 through 111.

The current status of the Complaint is that the Complainant and the Respondents are in Mediation.

Staff is aware of the Mediation. The current counter offer to the Respondents has not yet been answered or responded to prior to the filing of this and prior Motions. In any event the Respondent appears out of desperation to be jumping the gun and making an awful lot of misrepresentations and spewing forth false information.

COMPLAINANT'S RESPONSE & OBJECTIONS

Respondents argues that, the Complainant is not a Customer and lacks standing to bring such an action through various methods to prove or verify his argument when if fact the Complainant has standing to bring the Complaint and maintain it. He supports his argument with references to regulation AAC R14-20-401 that define what a Customer is and states that the Complainant has not fulfilled other conditions required under ARS

§ 40-246. He implies that the definition of a Customer pursuant to AAC R14-20-401 is a requirement to file the Complaint which it is not and that additional requirements must be met to sustain the Complainant but fails to point out what those additional requirements are or might be. However it should be noted that the Commission by its own actions has entertained the Complaint and accepted it for review and consideration.

ARS § 40-246 (A) & (B).

A. Complaint may be made by the commission of its own motion, or by **any person or association of persons** by petition or complaint in writing, setting forth any act or thing done or omitted to be done by any public service corporation in violation, or claimed to be in violation, of any provision of law or any order or rule of the commission, but no complaint shall be entertained by the commission, except upon its own motion, as to the reasonableness of any rates or charges of any gas, electrical, water or telephone corporation, unless it is signed by the mayor or a majority of the legislative body of the city or town within which the alleged violation occurred, or by not less than twenty-five consumers or purchasers, or prospective consumers or purchasers, of the service.

B. All matters upon which complaint may be founded may be joined in one hearing, and a complaint is not defective for mis-joinder or non-joinder of parties or causes, either before the commission, or on review by the courts. The commission need not dismiss a complaint because of the absence of direct damage to the complainant.

The above Statute does not distinguish that a "Person" must be a Customer.

Respondents previously alleged that AAC R14-2-411 et seq. defines conditions under which a Customer gains the legal right to bring a complaint; he is absolutely wrong! The Regulation sets forth no conditions under which the Customer or any other Person may file a Complaint.

Respondent claims that Complainant is not listed on the water utility account in (See; previous Exhibit 1) which is a computer generated document he can change at will. However, the document does list as the primary address and telephone number the Complainant's address and telephone number and the bills since 2007 are addressed to both the property owner and the Complainant. What in reality defies logic is the frivolous nonsense and arguments of the Respondent, pursuant to ARS § 40-246(A) & (B) the Respondent has no legal argument and no cause to justify Dismissal of the Complainant's Complaint.

Complainant being a renter, still pays the water bill and not on behalf of the property owner, his name is on the bills and Respondents failed or refused to comply with AAC R14-2-410(F) landlord/tenant rule and advance notice required R14-2-410(d)(1)(2), A(1), B(1)(d), C(1)(a), E (1)(2)(4) and refused to transfer the account into the Complainant's name every time Complainant made such a request.

AAC R14-2-410(F) specifically states:

F. Landlord/tenant rule. In situations where service is rendered at an address different from the mailing address of the bill or where the utility knows that a landlord/tenant relationship exists and that the landlord is the customer of the utility, and where the landlord as a customer would otherwise be subject

to disconnection of service, the utility may not disconnect service until the following actions have been taken:

1. Where it is feasible to so provide service, the utility, after providing notice as required in these rules, **shall offer the occupant the opportunity to subscribe for service in his or her own name**. If the occupant then declines to so subscribe, the utility may disconnect service pursuant to the rules.
2. A utility shall not attempt to recover from a tenant or condition service to a tenant with the payment of any outstanding bills or other charges due upon the outstanding account of the landlord.

The Respondents claims and arguments that the Complainant is not a Customer and has no standing to further his Complaint are and appear to be meritless in light of the above and herein response and designed intentionally to mislead the Commission to dismiss a valid Complaint arbitrarily, without cause or justification and further to prevent the Complainant from obtaining documents and records that are vital and necessary to the issues in these proceedings and that Brooke Utilities Inc. have and maintain in their possession and control.

The Complainant requests that the Respondents Motion to Dismiss be denied and that the Respondents be barred from any further infliction of frivolous and pointless argument in these proceedings or that Respondents be immediately subject to sanctions by the Commission.

Respectfully submitted this 11th day of April, 2012



J. Alan Smith in Propria Persona

CERTIFICATE OF SERVICE

The Original and 13 copies of the foregoing Response, has been mailed this 11th day April, 2012 to the following:

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

Copies of the foregoing, Response has been mailed this 11th day April, 2012 to the following:

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

By: J.A.S.