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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

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

7012 JUL -6 P 2: 44

Arizona Corporation Commission
DOCKETED

JUL -6 2012

ARIZONA CORPORATION COMMISSION
DOCKET CONTROL

DOCKETED BY	MC
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In the matter of:

DOCKET NO. W-02015A-11-0416

ALBERT L. SMITH,

Complainant,

v.

BEAVER VALLEY WATER COMPANY,

Respondent.

PROCEDURAL ORDER

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 ("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 On March 14, 2012, by Procedural Order, a hearing was scheduled on May 17, 2012.

11 On May 17, 2012, the Complainant appeared at the hearing. Mr. Davoren failed to appear,
12 but earlier that week had contacted an administrative assistant in the Hearing Division to request a
13 continuance because he was out of state. Although he had been directed to file his request in writing
14 by faxing it to the Hearing Division, he did not do so. Despite objections by the Complainant, it was
15 determined that the proceeding should be continued.

16 On May 18, 2012, by Procedural Order, the proceeding was continued to June 14, 2012.

17 On June 14, 2012, a full public hearing was convened before a duly authorized Administrative
18 Law Judge of the Commission at its offices in Phoenix, Arizona. Complainant appeared on his own
19 behalf and Mr. Michael Davoren who is the owner of BVW appeared on behalf of the Company. At
20 the conclusion of the proceeding, the matter was taken under advisement pending submission of a
21 recommended Opinion and Order to the Commission.

22 On July 2, 2012, the Complainant filed a letter and attached affidavit with the Commission.
23 There is no indication that a copy of this filing was sent to the Company.

24 Accordingly, attached to this Procedural Order is a complete copy of the Complainant's letter
25 and affidavit filed on July 2, 2012, and marked Exhibit "A". BVW should file a response after which
26 further administrative action will be determined, if required.

27 IT IS THEREFORE ORDERED that **Beaver Valley Water shall file a response** to Exhibit
28 "A" no later than **July 27, 2012**.

1 IT IS FURTHER ORDERED that the parties are hereby directed to send a copy of any
2 filing made with the Commission to the opposing party at their respective addresses on the service
3 list.

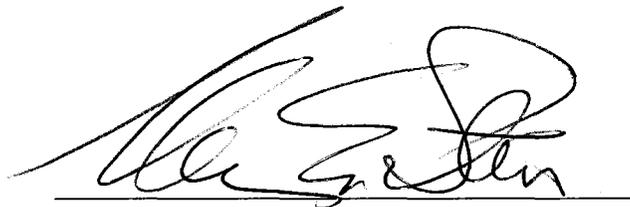
4 IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113-Unauthorized
5 Communications) is in effect and shall remain in effect until the Commission's Decision in this
6 matter is final and non-appealable.

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

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

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

19 DATED this 6TH day of July, 2012.



MARC E. STERN
ADMINISTRATIVE LAW JUDGE

1 Copies of the foregoing mailed/delivered
2 this 1st day of July, 2012, to:

3 Albert L. Smith
4 2613 North McAllister Avenue
5 Tempe, AZ 85281-7919

6 Michael Davoren
7 BEAVER VALLEY WATER CO., INC.
8 P.O. Box 421
9 Payson, AZ 85547-0421

10 Janice Alward, Chief Counsel
11 Legal Division
12 ARIZONA CORPORATION COMMISSION
13 1200 West Washington Street
14 Phoenix, AZ 85007

15 Steven M. Olea, Director
16 Utilities Division
17 ARIZONA CORPORATION COMMISSION
18 1200 West Washington Street
19 Phoenix, AZ 85007

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By: 
Debra Broyles
Secretary to Marc E. Stern

EXHIBIT "A"

HEARING

7-2-2012

TO: ARIZONA Corporation Commission

RECEIVED

ATTN: Judge Stern

2012 JUL -2 A 9:15

RECEIVED

Re: Docket # W-02015A-11-0416

CORP COMMISSION
DOCKET CONTROL

JUL 02 2012

ARIZONA CORPORATION COMMISSION
HEARING DIVISION

Please find attached the written and notarized STATEMENT of the person who resided in my TRAILER located at 437 N. Sleepy Hollow in Beaver Valley during the 2005-2006 time period.

As stated in the original complaint, I had the water turned off and locked in Aug 2004.

My TRAILER had sat vacant since 2000 when I bought another home in the area. In 2005, a man and his wife came to me and asked if they could live in the trailer until they got their new home constructed. They were building a new home in Beaver Valley, but the home they were living in had been sold and they had to move out. I told them they would need to have all the utilities turned on and put in their name, they agreed. They lived there for over a year and were billed by all utility company's accordingly. I feel this helps answer the question of where the water went.

It also shows that this was in fact new service on my part in 2011, because of the water bill being in their name.

Also, had Beaver Valley Water Co. taken a beginning reading as I did, it would have matched and there would not be a problem.

As to why this is just now coming to light, it was 7 years ago that this all took place. It wasn't until I talked with some other people about the hearing that one of them brought up the fact that another couple had lived there for a short time during construction of their new home in Unit 6.

I feel this information along with the ACC's own investigation should prove that no beginning reading was taken by BUWC (Mr. Davoren) when my new service was started in 2011. If the BUWC records are correct, it should reflect the 2005 request for water usage by Mr. Plues.

(2)

Albert Smith

ALBERT L SMITH

6/30/2012

TO ACC

I TODD PLUES STATE THAT I AND MY EX-WIFE LIVED ON THE PROPERTY 4317 N. SLEEPY HOLLOW DRIVE DURING THE TIME OF ON OR ABOUT JUNE OF 2005 TILL THE YEAR OF 2006. AT WHICH TIME ALL UTILITIES INCLUDING ELECTRICAL, PHONE AND WATER WERE UNDER MY AND MY EX-WIFE'S RESPONSIBILITY, WE WERE BILLED BY BEAVER VALLEY WATER COMPANY AND ALL BILLS WERE PAID IN FULL. UPON MOVING TO NEW HOME WATER WAS SHUT OFF PER OUR REQUEST.

IF ANY MORE INFORMATION IS NEEDED YOU CAN CONTACT ME AT.

928-978-3302

OR MAIL P.O. BOX 3211, TAYSON AZ, 85541

X Todd M. Plues

TODD M. PLUES

STATE OF ARIZONA
COUNTY OF GILA

}ss.

This instrument was acknowledged before me this 30 day of June, 2012, by TODD PLUES in witness whereof I herewith set my hand and official seal.

John Raven NOTARY PUBLIC



JOHN RAVEN
Notary Public
Gila County, Arizona
My Comm. Expires 10-13-14