

ORIGINAL



J. Alan Smith, Private Citizen
8166 Barranca Rd.
Payson, Arizona 85541
(928) 951-2083 Wk.
In Propria Persona

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Before the Arizona Corporation Commission

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Arizona Corporation Commission

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JUL 17 2012

COMMISSIONERS

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

DOCKETED BY *JSM*

J. Alan Smith, Injured Party
Complainant,

vs.

PAYSON WATER CO. INC./BROOKE
UTILITIES INC.

Respondents.

DOCKET NO. W-03514A-12-0007

NOTICE OF COMPLAINANT
SMITH FILING HIS
"DIRECT TESTIMONY"
PER PROCEDURAL ORDER
OF JUNE 18, 2012

NOW COMES, the Complainant J. Alan Smith, to give Notice of his "Direct Testimony" to the Commission in compliance with the Procedural Orders of June 18, 2012.

June 8th 2011, I came home about 4:00 pm in the afternoon. My wife informed me that there was no water and thought that someone was doing construction work. I asked how long the water had been off and she said they shut it off about 9:15am. I began to check outside the neighborhood and did not see any equipment for construction. I checked the house fixtures to see if there was a problem in the house and found nothing wrong, just no water. I went outside to check the meter box and saw a piece of paper in a corner between the lid and the box. As I opened the lid off the meter box I saw a lock on the valve. I read the notice and was outraged that I was shut off for using 130 gallons and that the alleged maximum daily use was 97 gallons. It was too late to call the 1-800 customer service for Brooke Utilities.

My wife and I spent the rest of the week and the weekend until Tuesday without water. I called the ACC and spoke with Al Amezcua Who said they did not take third party complaints. I called the homeowners in North Carolina Who told me the ACC would take 5 days to review the complaint. The homeowners called Brooke Utilities... but to no avail to get the water back on. I called My Father and asked if the Governors Office could help. I contacted them Via- Email and sent documentation but still could not get water turned back on. I paid the \$200.00 fine Friday the 10th and still no water.

Within this short time frame I discovered that this private citizen was found guilty of the crime of using too much water and was sentenced to a fine in the pocketbook without being given a chance to prove that no crime was committed. The ACC, Governors Office, Brooke Utilities anyone associated with the company would not so much as lift a finger to deal with the issue.

I began to look over the BUI "Billing Statements" and found errors. After numerous phone calls to have Brooke representative look at and reviewed (See: Formal Complaint) weeks turned into months without any due diligence from Brooke Utilities or Payson Water Co. I determined the Arizona Corporation Commission would not help with the Billing Issues as I had already received an email reply from the Governor Office saying they had forwarded the Billing Statements to the ACC but there had been no reply to me from the ACC.

During this period and shortly after my water was turned off water hauling started. The first Billing Statement to include the Augmentation Surcharge arrived July 22nd and showed charges for a total of 9,940 gallons. I knew without a doubt that something was wrong. There are wells in this community and they produce water and the Bill indicated to me that all of the water was hauled.

As a Truck Driver with a Commercial License I have hauled thousands of Gallons of Propane from 1995 to 1999 for Energy West who supplied the entire Town of Payson. There is no local source for Propane it is all Hauled in From Gallup New Mexico, Holbrook Arizona and Phoenix Arizona.

To confirm my suspicion I contacted Steve Gehring at the Houston Mesa General Store and asked if his water bill showed that all of it was hauled water. During this meeting I found that several other members of this community were upset at the bills also. Mr. Gehring informed about the decision 71902 and how water hauling was now being passed on to the customers.

I conducted my own investigation on previous decisions and corporate annual reports listed on E-Docket of the Arizona Corporation Commission on Payson Water Co., and almost every article I can find on the Internet regarding Brooke Utilities Inc.

I also am employed to service customers in Pine and Strawberry, Mesa Del Caballo and Tonto Basin. I have asked several customers in these areas about their relationship with Brooke Utilities.

There are widespread comments in different service areas of Brooke Utilities and there is a common communication from customers that Hardcastle is a Liar and a thief, and there is no customer service.

Many people have done business with him had some type of contract agreements. Others have gone in front of the ACC for complaints. The Bottom Line here is the citizens who are having water services provided by Brooke Utilities, Inc. and Payson Water Co. have lost their respect and believe the

Company does what ever it wants to do because the Arizona Corporation Commission has no teeth and no ability to monitor or regulate the Company's activities. Meaning there is no way to protect the consumer from fraudulent business activities.

I have relatives who have severed in the State Legislature, worked for various Senators, hold Masters Degree in Business and who have severed in the Military in High Ranking Positions and others not related to me who have worked in law enforcement in this state for many years.

In presenting them with the facts relating to my complaint specifically the errors on the water bills, the water hauling charges and the various customer complaints, I shared with what I had learned, there comments are no different than the Customers, there is fraud, a theft and the Arizona Corporation Commission is not doing its Job. The most glaring statement made to me was, I am dealing with a mean nasty business man who is screwing the pooch and it would take a team of lawyers a week to figure out just how this is being done. So where does that leave the average Customer who files a Formal Complaint with the Arizona Corporation Commission?

In reference to my water bills, they are incorrect and there was no attempt to correct those errors in a timely manner. The Homeowners and Customers have not been contacted by the Company in any of these matters I have brought before the ACC.

A disconnect notice was placed in the meter box. A telephone conversation with Al Amezuca agreed that this was not a valid notification. I also witnessed an employee named Roy an Employee of Brooke Utilities, Inc. who was changing the stage from 2 to 3 about 3:15 pm Tuesday June 7th.

Mr. Hardcastle had informed Al with the ACC that I was not a customer and did not have to speak with me in regards to the disconnect notice found in the water meter box. Al also called me and the Homeowner about a week later and said that the ACC were having a meeting with staff lawyers to investigate the reason Brooke would not turn the water back on Friday the 8th of June as instructed by the staff to do so.

The Commission concluded that decision 71902 was in the public interest to approve the revised Curtailment Plan orchestrated by the El Caballo Club Water Committee who represented only their Club membership and not the Property Owners and Customers who they had no legal authority to represent and whom they excluded from any involvement unless the Property Owner or Customer was a member of their Private Club. In their own words and written communications they misled the Community and the Commission.

The overview of Decision No. 71902 is based on Company's wells not being able to meet the needs of its Customers and that the Customers were using too much water. Mr. Randy Norman, Co-Chairman of the MDCWC testified in support of the Company's request in this proceeding, for an Augmentation Surcharge and modified Curtailment Plan and misrepresented that the Property Owners and Customers overwhelmingly supported that water be available for a higher price if it has to be hauled. However Due to the close proximity to the Town of Payson for hauling water the Company anticipated that water hauling costs will be reduced in 2011. They were not reduced and the Customers paid for water hauled to locations other than our Community and for water hauled out of the Community.

A Water Augmentation Surcharge mailed to customers of the MDC system shows a chart that water hauled will be based on 24%, 50% and 100%. The 100% is used to show that worst case scenario, if the Company hauls every drop of water into the system.

Rebecca Wilder Commission spokeswoman in Payson Roundup article Friday November 25, 2011 is quoted, that she believed that the tariff allowing the extra water hauling charges does apply to all the water sold in the month since the extra water helps keep the whole system functioning. When there is a water hauling period then all that water is hauled. It's all being hauled. So the charge applies to all the water that is sold. However According to Mr. Darak Baddy decision 71902, says the amount of the proposed surcharge would depend on the availability of the water pumped from the Company wells (including Water Sharing Agreement Wells). My water bill shows that I was charged for 4,000.00 @ 0.00193, 970 gallons @ 0.00299 and the Water Augmentation Surcharge for 4,970 gallons @ 0.01360 in July. That is 100% of hauled water.

The water hauling invoices I received from the Ombudsman office from Connie Walzak of the ACC clearly show that water was hauled only 7 days in June and 1 day in July for the billing period June July.

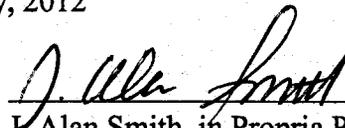
This provides adequate information of notice of a fact, all that water was not hauled water. I also interviewed a Deer Creek Homeowner who said he saw that "shiny water tanker" at a tank in the subdivision and later saw it in Mesa Del Caballo about 3 hours later in May or June. I asked if he took any pictures or had any concrete evidence. He said he had not. But was sure this was not fair as the community (Deer Creek) was under water restrictions.

Candy Brooks the Gila County supervisor for the Buckhead Mesa Landfill operations lives in East Verde Park and stated several times that water was hauled in there during the summer of 2009, 2010, 2011, and has personally asked the driver if he is hauling water out or in. The driver said into the

subdivision. She said they usually haul water during the night time. She also commented that they have hauled water into that community every summer for the past three years.

The Complainant looks forward to and hopes for a complete investigation of the Application, process and Decision rendered in Decision No. 71902 and the events both directly and indirectly related to the Augmentation Surcharge Period of 2011 which allowed for the Company to haul water to other locations and charge the Customers of Mesa del Caballo for that water and hauling and that allowed for the Company to haul water out of the Community to other locations and charge us for it.

Respectfully submitted this 16th day of July, 2012



J. Alan Smith, in Propria Persona

CERTIFICATE OF SERVICE

The Original and 13 copies of the foregoing Motion have been mailed this 16th day of July, 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 16th day of July, 2012 to the following:

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

By: 