

WS-03478A-12-0307



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ORIGINAL

ARIZONA CORPORATION COMMISSION

UTILITY COMPLAINT FORM

RECEIVED

Investigator: Scott Friedson

Phone: 2013 MAR -4 P 2:05

Fax:

Priority: Respond Within Five Days

Opinion No. 2013 - 109024

Complaint Description: 08A Rate Case Items - Opposed
N/A Not Applicable

Date: 3/4/2013

DOCKETED

MAR 4 2013

Complaint By: Merlin

Last: Pendray

Account Name: Merlin Pendray

Home:

Street:

Work:

City: Yuma

CBR:

State: AZ Zip: 85365

is:

Utility Company: Far West Water & Sewer, Inc.

Division: Sewer

Contact Name:

Contact Phone:

Nature of Complaint:

3/4/13

*****SEWER*****WS-03478A-12-0307*****OPPOSED*****

From: Merlin [mailto:merlinsmail@rascal.cc]
Sent: Monday, March 04, 2013 10:13 AM
To: Scott Friedson
Subject: Submission for eDocket WS-03478A-12-0307 Far West Water & Sewer

Thanks, Scott. The following is my comment for eDocket WS-03478A-12-0307

Since the public meeting in Yuma, on February 20, I read the Yuma Sun front page article of February 27th "ACC staff backs Far West rate hike But recommends utility pay debts before raising monthly sewer bill to \$55". This is also way too high. If a forensic audit cannot be accomplished, in view of all the evidence put before the Commission I urge that an interim manager be appointed to oversee a new trial period of at least 12 or 24 months to perform an operational cost analysis under effective management. This would determine authentic operational costs. Appointment of an interim manager had been seriously considered in 2010 per the Judge's order and was suggested in my comment filed 1-25-2010, docket WS-03478A-08-0608. Is there a record of Staff's action to comply with the order signed by Judge Rodda to "investigate and formulate a recommendation to the Commission about whether it is in the public interest to appoint an interim manager for this Company, and any other appropriate recommendations"?

I am submitting, for the record the statement that I read at the Public meeting held in Yuma on February 20. Also, since in my view, much of my comment of 1-25 2010 still applies I am resubmitting it for the record in this docket. Thank you for your consideration.

Statement read for FWWS public meeting in Yuma 2-20-13:

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If you thoroughly investigate this case I am sure you will conclude to allow a rate adjustment just sufficient to provide continuation of service and no more. Far West should have obtained competent management long ago. The owners are the shareholders and have inherited the business but not the business sense and are not deserving of any profit.

Recent improvements were made including construction of Section 14 and modernization or decommissioning of existing facilities. Much of this effort was required as a result of over capacity due to failure to plan for future growth. Costs to update infrastructure and connect should have been billed to the subdivision developers and not suddenly added to the burden of existing ratepayers in this proposed rate hike. Far West continues to mismanage their operations and waste the revenue they collect. Lets look at some of the poor business practices that I understand to exist.

The Palm Shadows facility failed due to poor planning and engineering. That has been well documented. No percolation test was performed prior to construction. After years of violations ADEQ finally required it be closed. Far West could have requested connection to the City of Yuma's treatment facility. That. Apparently, was not even considered. Instead they squandered thousands of dollars required to pay H&S to truck sewerage to 8-E and install a pipeline five miles through lift stations up hill to Section 14.

Additionally, Far West was convicted of negligent homicide and aggravated assault in two deaths and severe injuries to another at the Mesa Del Oro facility in October 2001. Unsafe conditions still persist according to expert witnesses.

Also, some residences are connected but not billed since the company has not surveyed their service area to compare addresses with billing records.

It is even suspected that properties owned by The Schechert Family Trust are connected and not billed. So not everyone is Paying.

Another thing, the method of determining the sewerage rates does not make sense either. RV parks with RV lots and park models are charged for each site just 25% of residential rates even though the effluent output must be nearly the same as residences. Also commercial rates are billed at only two times the residential rate even when many employees may be using the facilities of some and only few in another. A large restaurant, for example, is billed at only two times the rate as my home when the effluent is much, much greater.

Far West performs work for H&S at cost thus reducing the Far West profit for the record. It is suspected that there has been a co-mingling of funds between Far West, H&S and many other holdings of The Schechert Trust. It is further suspected that they borrow from one of those entities to support the company then collect interest for their profit. It is like a risk free loan to one's self and get paid 10%. The evidence shows the owners have compensated themselves extremely well without a rate hike. It is not known how the money flows in this creative accounting method and we ask that a thorough forensic audit be conducted before awarding any additional profit to this Corporation.

Non-payment of taxes in 2011 also demonstrates poor business. According to the Delinquent Tax supplement included in the February 10th Yuma Sun, many properties are listed for Far West and H&S as well as The Schechert Family Trust

Finally, poor business was a suspected issue in the last rate hike proposal in 2008 (WS-03478A-08-0608) placed before the Commission. Many of those Consumer Comments remain relevant in this case and should be considered in the current case. In fact, the final order reads " IT IS FURTHER ORDERED that Staff shall investigate and formulate a recommendation to the Commission about whether it is in the public interest to appoint an interim manager for this Company, and any appropriate recommendations."

Well, what happened to that?

It has been suggested in Direct Testimony that a better alternative might be the formation of a wastewater co-op owned by customers of the system. It could be a publicly owned nonprofit with the advantages of being tax exempt and have the ability to sell bonds and acquire low interest loans as required. It would be managed by a

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competent, salaried, general manager and hired by a "user elected board of directors". It is thought this could be accomplished under Arizona rules for a Special Taxing District, Title 48. This should definitely be considered when Far West is bankrupt or before.

We don't agree with the findings in the testimony of RUCO in it's recommendation for a still too high rate of 119%. We believe it is more than is deserved in the case before you. One section of RUCO's Direct Testimony, as part of their justification, quotes a Supreme Court case ruling that reads in part " a public utility that is efficiently and economically managed is entitled to a return on investment that instills confidence in its financial soundness...etc." Please consider the over presumption of that statement in this case. A 9.25% profit is too much! In a capitalistic society a reward is realized for taking risk but not when management is incompetent and reward is squandered.
End of read statement.

Comment submitted January 25, 2010:

Dear AZCC Commissioners

RE: Far West Water & Sewer, Docket Number WS-03478A-08-0608

As a Far West Sewer customer, I am concerned with the latest Far West strategy. I understood the Commission was considering the appointment of an interim manager if the loan for \$5.5 million was not obtained within 30 days of the decision meeting on 16 December 2009. Far West apparently lied when they said the \$5.5 million loan was in escrow. Far West continues to be in violation of ADEQ permit to operate Palm Shadows. They were only licensed to operate two percolation - evaporation ponds and now have six open, five of which are holding sewerage. The odor from these ponds is often unbearable to the residents of Vista Del Sol, especially to those living South of 37th street. Manholes often reek odors all over Vista Del Sol. The odors and improper operation of Palm Shadows is a violation Far West has apparently never attempted to correct. ADEQ has done little oversight. If ever there was a need for change in Far West management, now is the time.

They also apparently lied when they presented a need for emergency rate increase, for they continue to operate without the capital demanded by the emergency and without the \$5.5 million loan.

What more does the Commission need to appoint an interim manager?

Now, I understand, Far West has discharged the attorney representing them and replaced him with a new attorney with no background on the case.

The result, as I understand it, will be a new docket assignment with no record of public input under previous docket numbers, WS-03478A-08-0454 and WS-03478A-08-0608. I would urge the commission to include the previous public testimony and record, as it applies, in any new docket assigned. The Far West history has not changed. This new Far West strategy continues to be of great concern to all Far West customers.

Moreover, I would urge the Commission to consider holding hearings and meetings in Yuma during the season between November and May so public participation may be maximized.

The Commission has been very patient with Far West and has demonstrated fairness to all Far West Sewer customer base. I truly appreciate your patience and efforts.

Very Sincerely,
Merlin D. Pendray

Yuma, AZ 85365

End of Complaint

Utilities' Response:

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Investigator's Comments and Disposition:

3/4/13 at 9:13 am. Received Mr. Pendray's telephone call. Assisted customer in finding the appropriate form for providing opinions for docket control. Customer called back to say the text in the comment area was getting smaller and smaller. Provided customer my email address and ask that he text the information to me and I will make sure it gets docketed. Comments entered for the record and filed in docket number WS-03478A-12-0307. CLOSED.

End of Comments

Date Completed: 3/4/2013

Opinion No. 2013 - 109024
