

1 On April 9, 2012, Payson Water filed a Reply to Complainant's Response to Payson Water
2 Co.'s Motion to Dismiss and Motion to Deny.

3 On April 9, 2012, the Company also filed a Reply by Payson Water Co. to Complainant's
4 Response and Objection to Respondent's Motion to Quash Brooke Utilities, Inc. as a Party to the
5 Complaint.

6 On April 13, 2012, the Complainant filed a Response and Objection to Respondent's Motion
7 to Quash Brooke Utilities, Inc. as a Party to the Complaint and Motion to Deny.

8 On April 13, 2012, the Complainant also filed an Objection to Respondent's Reply to
9 Complainant's Response to Respondent's Motion to Dismiss and Motion to Stay.

10 On April 20, 2012, the Commission's Utilities Division ("Staff") filed a Notice of Filing
11 regarding the status of a subpoena issued to Martin's Trucking.

12 On May 3, 2012, Staff filed a Status of Mediation indicating that a settlement was not reached
13 by the parties and requesting that a hearing be scheduled.

14 On June 18, 2012, a Procedural Order was issued scheduling a hearing for August 7, 2012,
15 and setting deadlines for the filing of pre-filed testimony.

16 On July 16, 2012, the Complainant filed a Notice of Complainant's Initial Discovery and
17 Disclosure.

18 On July 17, 2012, the Complainant filed his direct testimony.

19 On July 23, 2012, the Complainant filed a Notice of Complainant's Second Discovery and
20 Disclosure.

21 On July 30, 2012, Payson Water filed rejoinder testimony.

22 On July 30, 2012, Staff filed a Memorandum stating its position regarding the complaint.

23 On August 1, 2012, the Complainant filed a Notice of Complainant's Third Discovery and
24 Disclosure.

25 On August 1, 2012, the Complainant filed a Notice of Service of Process Subpoenas on Jim
26 Pearson and Pearson Water Company.

27 On August 1, 2012, the Complainant filed a Motion to Compel Jim Pearson and Pearson
28 Water Co. to Comply with Subpoenas.

1 On August 1, 2012, the Complainant filed a Motion to Compel Respondents to Comply with
2 Complainant's 1st Set of Data Requests.

3 On August 1, 2012, Payson Water filed a Supplemental Motion to Quash Brooke Utilities Inc.
4 as a Party to the Complaint.

5 On August 2, 2012, Payson Water filed a Notice of Initial Disclosure.

6 On August 6, 2012, Payson Water filed a Supplemental Motion to Dismiss.

7 On August 7, 2012, the Complainant filed a Notice of Complainant's Fourth Discovery and
8 Disclosure.

9 On August 7, 2012, the hearing in this matter was convened, and at which time the
10 Complainant requested a continuance of the hearing for 90 days. The Complainant indicated that he
11 had consulted with an attorney who had agreed to represent him in this complaint case, but the
12 attorney needed an additional 60 to 90 days to review the case file. On that basis, the hearing was
13 continued for 90 days, on the condition that the Complainant's attorney discuss with the other parties
14 an alternative hearing schedule and submit such schedule well before the 90 days were exhausted.

15 On August 7, 2012, Dennis B. Tresca filed an Application for Intervention.

16 On August 13, 2012, Payson Water filed a Motion to Dismiss a Portion of the Complaint.

17 On August 13, 2012, Payson Water filed an Objection to Complainant's Fourth Discovery and
18 Disclosure.

19 On August 13, 2012, Payson Water filed an Objection to Application of Dennis B. Tresca for
20 Intervention.

21 On August 20, 2012, Payson Water filed a Notice of Timely Compliance with Subpoena.

22 On August 20, 2012, the Complainant filed a Response to Respondent's Objection to Tresca
23 Application for Intervention and Motion to Deny.

24 On August 20, 2012, the Complainant filed a Response to Respondent's Objection to
25 Complainant's Fourth Discovery and Disclosure and Motion to Deny.

26 On August 20, 2012, the Complainant filed a Response to Respondent's Motion to Dismiss a
27 Portion of the Complaint and Motion to Deny.

28 On August 23, 2012, Payson Water filed a Reply to Complainant's Response to Respondent's

1 Motion to Dismiss a Portion of the Complaint.

2 On September 4, 2012, the Complainant filed a Response to Respondent's Reply to
3 Complainant's Challenge to Motion to Dismiss a Portion of the Complaint.

4 On September 6, 2012, Payson Water filed a Motion to Quash Subpoena.

5 On September 12, 2012, the Complainant filed a Notice of Service of Process Subpoenas on
6 Robert T. Hardcastle, Brooke Utilities, Inc., and Payson Water Co.

7 On September 13, 2012, the Complainant filed a Response and Objection to Respondent's
8 Motion to Quash Subpoena.

9 On September 13, 2012, Mary E. Hansen filed an Application for Intervention.

10 On September 17, 2012, a Procedural Order was issued scheduling a procedural conference
11 for September 28, 2012, and directing counsel for the Complainant to file a Notice of Appearance
12 prior to the procedural conference.

13 On September 24, 2012, the Complainant filed a Motion to Initiate an Action in the Superior
14 Court to Compel Jim Pearson, Pearson Transport, Robert T. Hardcastle, Brooke Utilities, Inc., and
15 Payson Water Co. to Comply with the Subpoenas Served Upon Them.

16 On September 28, 2012, the procedural conference was held, as scheduled, during which
17 discussions occurred regarding, among other things, the appropriate process for enforcing a subpoena
18 previously served on Jim Pearson to appear at the August 7, 2012 hearing that was subsequently
19 vacated to allow the Complainant additional time to obtain counsel. The Complainant was
20 represented at the September 28, 2012 procedural conference by Michael J. Harper, of the firm
21 Walker & Harper, P.C.

22 On October 3, 2012, Mr. Harper filed a formal Notice of Appearance on behalf of the
23 Complainant.

24 On January 2, 2013, Payson Water filed a Motion to Dismiss on the basis that the
25 Complainant had failed to pursue the Complaint after retaining counsel.

26 On January 10, 2013, the Complainant filed a Response to Motion to Dismiss claiming that
27 any delays were due to the failure of Mr. Pearson to comply with a previously issued Subpoena.

28 On January 10, 2013, the Complainant also filed a Notice of Submission of Demand for

1 Compliance with Subpoenas and Request for Issuance of Procedural Order Directing Compliance
2 Proceedings in the Superior Court.

3 On February 27, 2013, a Procedural Order was issued scheduling a procedural conference for
4 March 14, 2013 to discuss issues related to Commission enforcement of subpoenas.

5 On March 14, 2013, the procedural conference was held as scheduled.

6 On March 18, 2013, the Complainant filed a Motion to Compel Responses to Data Requests
7 and Subpoena Duces Tecum.

8 On March 20, 2013, a Procedural Order was issued Compelling Compliance with Subpoena
9 Duces Tecum to Jim Pearson and/or Pearson Water.

10 On March 26, 2013, Payson Water filed a Reply to Complainant's Motion to Compel
11 Responses to Data Requests and Subpoena Duces Tecum. The Company claims that it has provided
12 all relevant documents in either this docket or the associated Gehring complaint docket (12-0008),
13 and there is ample information available for the Complainant to address the issues raised.

14 On April 12, 2013, Staff filed a Status Update indicating that Staff counsel had contacted Mr.
15 Pearson and Mr. Pearson indicated "he had supplied all the documents in the related Docket No. 12-
16 0008." According to Staff, Mr. Pearson also stated that he had misplaced some of the documents and
17 was trying to locate them, and Mr. Pearson provided Staff with a document he claims to have faxed
18 to Mr. Smith.

19 On June 10, 2013, the Complainant filed a Renewed Motion to Compel Documents and
20 Information Requested by Subpoena and Data Requests/Motion for Order Requiring Jim Pearson to
21 Fully Respond to Subpoena Duces Tecum/Request for Hearing on Motions.

22 On June 26, 2013, a Procedural Order was issued scheduling a procedural conference for July
23 10, 2013, and ordering Mr. Pearson to provide copies of documents requested by Complainant's
24 counsel.

25 On July 10, 2013, the procedural conference was held, as scheduled. At the procedural
26 conference, counsel for the new owner of the Company entered an appearance and various procedural
27 issues were discussed. At the conclusion of conference, the parties were directed to attempt the
28 pending discovery disputes and counsel for Payson Water was given two additional weeks to file a

1 response to the Complainant's Motion to Compel.

2 Also on July 10, 2013, Mr. Hardcastle filed a Motion to Dismiss Brooke Utilities, Inc., as a
3 Party to This Docket.

4 On July 12, 2013, counsel for Payson Water filed a formal Notice of Appearance on behalf of
5 the Company.

6 On July 23, 2013, Payson Water filed a Status Report – Discovery, stating that the Company's
7 counsel had been unable to discuss the discovery disputes with the Complainant's counsel due to
8 vacation.

9 On July 24, 2013, the Complainant's counsel filed a Request for Extension Re: Response to
10 Brooke Utilities, Inc., Motion to Dismiss.

11 On July 25, 2013, the Complainant filed a Notice of Errata stating that the extension request
12 should have asked for 10 additional days rather than 60.

13 On August 5, 2013, the Complainant filed a Response to Motion to Dismiss Brooke Utilities,
14 Inc. as a Party to This Docket.

15 On August 21, 2013, Payson Water filed a Response to Complainant's Motion to Compel.

16 On September 9, 2013, the Complainant filed a Reply in Support of Motion to Compel
17 Documents and Information Requested by Subpoena and Data Requests and Request for Sanctions.

18 On September 23, 2013, a Procedural Order was issued scheduling a procedural conference
19 for October 7, 2013.

20 On September 26, 2013, Payson Water filed a Request to Reschedule Procedural Conference
21 stating that the Company's counsel was not available on the scheduled date of the procedural
22 conference as well as several other dates during October.

23 IT IS THEREFORE ORDERED that **the procedural conference scheduled for October 7,**
24 **2013, is hereby vacated and shall be rescheduled for October 24, 2013, at 10:00 a.m.,** at the
25 offices of the Commission, **Hearing Room No. 1**, 1200 West Washington, Phoenix, Arizona 85007,
26 to discuss pending motions and procedural matters.

27 IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113 - Unauthorized
28 Communications) applies to this proceeding and shall remain in effect until the Commission's

1 Decision in this matter is final and non-appealable.

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

5 DATED this 15th day of October, 2013.

6
7 

8 DWIGHT D. NODES
9 ASSISTANT CHIEF ADMINISTRATIVE LAW JUDGE

10 Copies of the foregoing mailed/delivered
11 This 15th day of October, 2013 to:

12 Jim Pearson
13 Pearson Transport/Pearson Water
14 P.O. Box 193
15 1120 Rodeo Rd.
16 Williams, AZ 86046
17 **(SERVICE BY CERTIFIED AND
18 REGULAR U.S. MAIL)**

Steve Olea, Director
Utilities Division
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16 J. Alan Smith
17 8166 Barranca Road
18 Payson, AZ 85541

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By: 
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