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ARIZONA CORPORATION COMMISSION

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Arizona Corporation Commission

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MAR 28 2014

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March 28, 2014
DOCKET CONTROL

Mr. George Chrisman
909 E. Willow Circle
Payson, Arizona 85541

DOCKETED BY 

**Re: Application of Payson Water Company to increase its water rates
(Docket Nos. W-03514A-13-0111 and W-03514A-13-0142 -consolidated)**

Dear Mr. Chrisman:

This letter is in response to your February 27, 2014 complaint that certain members of the Corporation Commission Staff acted improperly during the Payson Water Utility rate case hearing. I want you to know that the Commission takes such allegations against its Staff seriously.

On behalf of the Commission, I asked the Commission's Chief Counsel to investigate the matters alleged in your complaint and to provide the results of her investigation to me. Furthermore, I discussed this matter with the Director of the Utilities Division and personally interviewed the two staff members identified in your complaint. Finally, I reviewed the archived February 10, 2014 hearing.

In order for a utility that is regulated by the Arizona Corporation Commission (Commission) to change the rates it charges its customers, it must first receive authorization from the Commission to do so. The utility bears the burden of proof to show that this rate change is justified. It provides witnesses that file written testimony to support the utility's position. The Commission Staff is also a party to the proceedings. Like the utility, its witnesses present Staff's position on whether the evidence supports a rate increase and if so, by how much. Other interested parties may also intervene and offer testimony. Witnesses can expect to be questioned on the evidence presented in their written testimony and the rate case recommendations they make based on the evidence. In the Payson Water Company rate case, six (6) individual customers intervened and participated in the hearing as parties to the matter along with Staff and the utility. At the hearing before an administrative law judge, witnesses are sworn under oath and are subject to cross examination by the parties in the rate case.

The Commission Staff presented three (3) witnesses and was represented by legal counsel. The purpose of the Commission Staff's testimony is to provide evidentiary support for Staff's recommendations made in the rate case. Staff witnesses filed written testimony and then answered questions relating to their testimony at the hearing.

You write that you noticed the Staff witness was "taking extra-long to answer sometimes" and that the witness would "look at the staff attorney...before she answered." You claim that Staff's counsel was "telescoping" answers to the Staff witness. You also thought counsel for Staff was "speaking softly into a small microphone or something."

Based on my review of the archived footage, the findings of the Chief Counsel, as well as my discussions with the named Commission employees and their supervisors, I do not find any unusual, unethical, or unprofessional conduct by either the Commission attorney or the Staff witness.

The archived recording of the hearing has a split screen. The viewer sees both the party who is asking the questions and the witness who is answering the questions. While Staff counsel was not on the screen at all times, when counsel was on the screen, I did not see any actions that would indicate a "telescoping" of answers to the witness. Furthermore, I did not see counsel "speaking softly into a small microphone". The Staff witness was on the screen at all times during her time on the witness stand. I did not see anything in her actions that would suggest that she was looking at counsel to help her answer questions or was listening to answers being delivered to her through "a small microphone". I did note that many times during the six hours of cross examination, the Staff witness would look up into the air while thinking about how to answer the question asked. During one line of questioning, the witness was looking in the general direction of her counsel, but it is clear that the witness was looking at a document that was being projected onto the screen located on the wall above counsel's head. I agree with you that the witness would take her time in answering a question. The longest pause I noted was 45 seconds. Most other times, the length of time between questions was about 10 seconds. It is reasonable and appropriate for any witness to take time after a question is asked to formulate a well-developed answer.

Based on my review, I find that the Staff witness and counsel conducted themselves appropriately.

Sincerely,



Jodi A. Jerich
Executive Director

Docketed with redacted complaint attached
Copy to Commissioners with unredacted complaint attached.

Affidavit of George Chrisman February 25, 2014

Official Complaint

Reference: Matters before the Arizona Corporation Commission, the application of Payson Water Company, Inc., an Arizona Corporation requests an increase in water rates and issue of Evidence of Indebtedness in the amount of \$1,238,000.00.

Docket No. W-03514A-13-0111 and Docket No. W-03514A-13-0142

Affidavit

I, George Chrisman, make the following statement to the best of my knowledge and swear to its truthfulness.

I have been an interested Person in these proceedings and have attended several hearings both in person as well as sitting and watching them live on my computer.

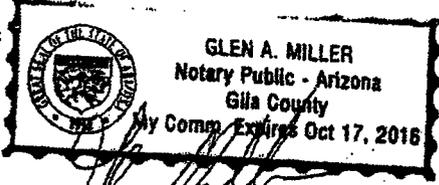
During some of the hearings I attended at the ACC Hearing Room I thought I observed the ACC staff attorney, [redacted] attempting to telescope her desired answers to two different witnesses that was appearing on behalf of the Payson Water Company. I first thought; "surely not". Then on or about February 10th, 2014 while [redacted] of the ACC staff was on the stand being examined by one of the interveners, I absolutely saw ACC attorney squinting her eyes and shaking her head Yes or No and then [redacted] would give the corresponding answer attorney [redacted] was telescoping to her. I was sitting in the audience chair in front of Mr. Bremer of East Verde Park. I turned and said to him quietly "look she is giving the witness the answers". Sometimes it appeared [redacted] was speaking softly into a small microphone or something and then Mr. Bremer said "she sure is".

While [redacted] was in the witness chair I noticed she was taking extra-long to answer sometimes and looking at the staff attorney, [redacted] before she answered. When [redacted] was being questioned by someone else then she would pause a long time and look at ACC staff attorney [redacted]. Even though the cameras, recording the proceedings was not on attorney [redacted] I believe careful examination of the recording of the proceedings will back up what I am saying. I also spoke to Mrs. Reidhead of DCV after the hearing and she also observed staff attorney [redacted] on one occasion giving witness the desired answer.

I swear to the truthfulness of this statement.

George Chrisman
George Chrisman
909 E. Willow Circle
Payson, Arizona

Date 2/27/14


Glen A. Miller



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