



0000152979

BEFORE THE ARIZONA CORPORATION

RECEIVED

2014 APR 23 P 2: 52

Arizona Corporation Commission

DOCKETED

APR 23 2014

ARIZONA CORPORATION COMMISSION
DOCKET CONTROL

DOCKETED BY

COMMISSIONERS

BOB STUMP - Chairman
GARY PIERCE
BRENDA BURNS
BOB BURNS
SUSAN BITTER SMITH

DOCKET NO. SW-02361A-13-0359

IN THE MATTER OF CAREFREE 34, INC./
OFFICE ON EASY STREET, INC. dba VENUES
CAFÉ,

COMPLAINANT,

vs.

ORIGINAL

LIBERTY UTILITIES CORPORATION f/k/a
BLACK MOUNTAIN SEWER CORPORATION,

RESPONDENT.

PROCEDURAL ORDER
(Continues Hearing)

BY THE COMMISSION:

On October 22, 2013, Carefree 34, Inc./Office on Easy Street, Inc. dba Venues Café (“Café” or “Complainant”) filed with the Arizona Corporation Commission (“Commission”) a Complaint against Liberty Utilities Corporation f/k/a Black Mountain Sewer Corporation (“Company” or “Respondent”) alleging rate discrimination in its charges for sewer service. Complainant further alleges that the increase is unaffordable and unreasonable.

On October 30, 2013, Respondent filed an Answer to the Complaint stating that the Company is charging the rate authorized by Decision No. 71865 (September 8, 2010).

On November 4, 2013, by Procedural Order, a Procedural Conference was scheduled on November 19, 2013, to discuss the issues presented in the Complaint arising from Decision No. 71865.

On November 19, 2013, Ms. Catherine Marr who owns the Café appeared and the Company and the Commission’s Utilities Division (“Staff”) appeared with counsel. The Café’s owner and the Company’s counsel indicated that they had previously tried to reach a resolution of the issues and had gone through mediation with Staff without a successful resolution of the issues raised in the

1 Complaint. Further, the attorney for the Company stated that it is charging the approved tariff rate
2 which was established for a particular type of commercial establishment, such as the Café, based on
3 the then current Arizona Department of Environmental Quality (“ADEQ”) Engineering Bulletin No.
4 12 (“Bulletin”) pursuant to Decision No. 71865.¹ Staff counsel added that it is very difficult to
5 change an approved rate absent a rate case.

6 It was further discussed that the Complainant could file a request with the Commission
7 pursuant to A.R.S. § 40-252, to reopen the rate case proceeding in order to reconsider and/or modify
8 the rates established in Decision No. 71865 in Docket No. SW-02361A-08-0609. Subsequently,
9 after further discussions, the Complainant and the Company were unable to resolve the Complaint
10 and since an action had not yet been filed by the Complainant pursuant to A.R.S. § 40-252, a hearing
11 was scheduled.

12 On April 21, 2014, the Complainant filed a petition and request for action by the Commission
13 in Docket No. SW-02361A-08-0609 pursuant to A.R.S. § 40-252.

14 Accordingly, this proceeding, should be continued pending the outcome of Complainant’s
15 request to reopen the rate case pursuant to A.R.S. § 40-252.

16 IT IS THEREFORE ORDERED that the hearing scheduled on **April 24, 2014**, shall be
17 continued.

18 IT IS FURTHER ORDERED that the Complainant shall file a Motion to Reschedule this
19 proceeding in the event a resolution of the Complaint is not reached based on the petition filed
20 pursuant to A.R.S. § 40-252 in Docket No. SW-02361A-08-0609.

21 DATED this 23rd day of April, 2014.

22
23
24 
25 MARC E. STERN
26 ADMINISTRATIVE LAW JUDGE
27

28 ¹ The Bulletin established sewerage rates for restaurants based on either the “chair count” of the establishment or the number of meals served per day.

1 Copies of the foregoing mailed/delivered
2 this 23rd day of April, 2014 to:

3 Al Swanson
4 Catherine Marr
5 Venues Cafe
6 34 Easy St.
7 Carefree, AZ 85377

8 Jay L. Shapiro
9 Fennemore Craig, P.C.
10 2394 East Camelback Road
11 Suite 600
12 Phoenix, AZ 85016
13 Attorneys for Liberty Utilities Corporation

14 Janice Alward, Chief Counsel
15 Robin Mitchell
16 Legal Division
17 ARIZONA CORPORATION COMMISSION
18 1200 West Washington Street
19 Phoenix, AZ 85007

20 Steven M. Olea, Director
21 Utilities Division
22 ARIZONA CORPORATION COMMISSION
23 1200 W. Washington St.
24 Phoenix, AZ 85007

25 COASH & COASH, INC.
26 Court Reporting, Video & Videoconferencing
27 1802 North 7th Street
28 Phoenix, AZ 85006

By: Rebecca Unquera
Rebecca Unquera
Assistant to Marc E. Stern