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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

BOB STUMP, CHAIRMAN
GARY PIERCE
BRENDA BURNS
BOB BURNS
SUSAN BITTER SMITH

2014 SEP 19 A 8:00
AZ CORP COMMISSION
DOCKET CONTROL

ORIGINAL

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

COMPLAINANT.

vs.

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

RESPONDENT.

) DOCKET NO. SW-02361A-13-0359
)
) MOTION TO RESCHEDULE HEARING
)
)

Arizona Corporation Commission

DOCKETED

SEP 19 2014

DOCKETED BY

Carefree 34, Inc. and Office on Easy Street, Inc., doing business as Venues Café (Complainant), respectfully requests the Commission reschedule the hearing previously scheduled for April 24, 2014, and continued by Administrative Law Judge Marc E. Stern on April 23, 2014, pending the outcome of Complainant's request to reopen the rate case Decision No. 71865 pursuant to A.R.S. § 40-252 currently before the commission.

While the Complainant is patient and endorses Judge Stern's continuance to allow the commission ample opportunity to make appropriate changes to resolve ~~and~~ unreasonable and unaffordable rate structure for restaurants in the service area, Respondent Liberty Utilities f/k/a Black Mountain Sewer Corporation a subsidiary of Canadian company, Algonquin Power & Utilities Corp. (\$USD 1.83B market value) has suddenly decided it wants the money in dispute, clearly targeting the Complainant with a "NOTICE OF TERMINATION" demand to immediately pay disputed charges of an additional \$9,197.84. According to the Utility's demand (Exhibit A) this sum must be paid on or before September 24, 2014. The additional billing

1 represents the approximate sum the Respondent believes to be “unreasonable and unaffordable”
2 overcharges (based upon water usage and the average “fair and reasonable” sewer charges for
3 service in Phoenix, Scottsdale and Cave Creek) currently in dispute by Complainant.

4 Employees of the Respondent and Commission Staff seem to mostly agree disputed
5 charges are not “just or reasonable” but simply an unintended consequence of Decision No.
6 71865 that must be addressed by the Commission. The Arizona Constitution, Article 15, Section
7 12, mandates in part “Charges made for service rendered “shall be just and reasonable”. A.R.S.
8 §40-334. B. mandates “**No public service corporations shall establish or maintain any**
9 **unreasonable difference** as to rates” etc., “either between localities or **between classes of**
10 **service**”. Complainant alleges disputed monies demanded by the Respondent are clearly
11 “unreasonable” and for the Respondent to base their rates predicated upon superimposing
12 treating 30 gallons of sewage per chair, per day, is clearly unreasonable, when thoughtfully
13 considered and compared to water utilized by this service classification.

14 Complainant clearly understands the Commission has a demanding schedule and that the
15 “process” can take as long as 10 years (as in the formal Complaint heretofore file by Dr. Doelle)
16 to resolve and has requested the Utility wait for resolution by the Commission; the Utility refuses
17 to acknowledge any obligation to comply with A.R.S. §40-334. B., in clearly establishing and
18 maintaining unreasonable rates, elaborating they have no choice but to collect 100% of all
19 revenue permitted by the Tariff approved in Decision No. 71865 and creates an undue burden on
20 this business.

21 Complainant’s request is urgent! The Utilities immediate demand for payment comes at a
22 time when the restaurant has nearly exhausted financial resources due to an unexpected
23 (estimated to be over \$20,000) loss of revenue and costs associated with the mechanical
24 breakdown of a 35 ton cooling system in the building, over the normally busy 4th of July
25 weekend, compounded by the traditional decrease (as much as 60% +/-) in monthly revenue
26 during the summer, when the majority of local residents flee to cooler climates. This demand for
27 payment of disputed charges or “termination of service” could be an immediate catalyst forcing
28 this business to close. Complainant hereby covenants they have honestly complied with all
29 known “Commission’s Rules and Regulations” (thanks to the assistance of Commission staff) to

1 the best of their knowledge, in accordance with R14-2-609 A. "Nonpermissible reasons to
2 disconnect service", Section 5.

3 Complainant respectfully requests the Arizona Corporation Commission:

- 4 1. Issue an Order in accordance with R14-2-609 A. 5., that the Utility shall not
5 disconnect service to the Respondent's restaurant, for disputed billings, until
6 such time as this matter is settled in accordance with Arizona Law.
- 7 2. Provide guidance to the Respondent on how to legally comply with the Tariff
8 heretofore approved by Decision No. 71865 and the Arizona law as mandated
9 by A.R.S. §40-334. B.
- 10 3. If at all possible, accelerate the process to set a hearing to establish more
11 reasonable and affordable rates for restaurants in the area serviced by Liberty
12 Utilities f/k/a Black Mountain Sewer Corporation.

13 14 **I.**

15 **BACKGROUND**

16 On September 1, 2010 the Commission issued Decision No. 71865 in the above-
17 captioned and docketed proceeding granting Black Mountain Sewer Corporation ("BMSC") an
18 increase in rates and charges for sewer services. One of the authorized increases was for sewer
19 service provided to commercial restaurant establishments, such as the one owned and operated by
20 Complainant. In that regard, Complainant did not purchase the restaurant business which it
21 operates as Venues Café until August of 2010. Thus, Complainant had zero knowledge of the
22 crippling rate increase requested by the Utility and was not a party to the proceedings before the
23 Commission in Docket No. SW-02361A-08-0609, including the hearings held in November of
24 2009, which resulted in the Commission's issuance of Decision No. 71865.

25 Following the issuance of Decision No. 71865, Complainant was billed a flat monthly
26 rate of \$87.06 for wastewater service provided to the Venues Café by BMSC until April 2013.
27 However, in January of 2013, Complainant received a "courtesy letter" from Liberty Utilities
28 ("Liberty"), which apparently had acquired BMSC in the interim, advising Complainant that
29 Complainant was going to be switched from the aforesaid flat monthly rate for wastewater
service to a monthly per gallon/per day flow rate of to \$805.90, or an increase on the order of

1 approximately 925%! Stated differently, the annual rate to which the Venues Café is now subject
2 for wastewater service exceeds the annual property tax rate for the premises in which the
3 restaurant is located by approximately 350%!

4 Subsequent to receipt of the "courtesy letter," representatives of Complainant contacted
5 the Commission, attended a mediation session arranged by the Commission's Staff and
6 participated in a least three (3) meetings with representatives of Liberty in an effort to reach a
7 mutually acceptable resolution of the above egregious situation. Unfortunately, despite the
8 efforts of all concerned, such a resolution was not forthcoming.

9 Accordingly, on October 22, 2013, Complainant filed a Formal Complaint with the
10 Commission. In that regard, Complainant's Formal Complaint was assigned Docket No. SW-
11 02361A-13-0359.

12 On November 4, 2013, the Commission issued a Procedural Order scheduling a
13 Procedural Conference in Docket No. SW-02361A-13-0359 "to explore the issues involved in
14 the proceeding." The Procedural Conference was conducted on November 19, 2013; and,
15 representatives of Complainant, Liberty and the Commission's Staff were in attendance. On
16 January 14, 2014, Administrative Law Judge Marc E. Stern issued a Procedural Order setting a
17 hearing for April 24, 2014, further clarifying that "in the event the Complainant files a request for
18 action by the Commission in Docket No. SW-02361A-08-0609 pursuant to A.R.S. § 40-252 than
19 this hearing will be continued pending the outcome of Complainant's request to reopen the rate
20 case."

21 During the November 19, 2013 Procedural Conference, it was suggested that
22 Complainant might want to consider also filing a petition and request asking the Commission to
23 exercise its jurisdiction and authority pursuant to A.R.S. § 40-252 so as to address the rate
24 situation which is of concern to Complainant. This petition and request was filed on or about
25 April 23, 2014 and pending a Decision.

26 II.

27 DISCUSSION

28 A. Role of Engineering Bulletin No. 12 and Rate Design in Decision No. 71865.

29 Accepting for purposes of discussion Liberty's representation in its October 30, 2013
Response to Formal Complaint that Complainant was not billed at the aforementioned per

1 gallon/per day monthly flow rate until April 2013, because Liberty (and/or BMSC) had
2 erroneously classified Complainant's business as an office rather than a restaurant, the underlying
3 rate and flow rate assumption(s) and methodology upon which monthly bills for wastewater
4 service are calculated under that rate are suspect when applied to a business such as
5 Complainant. Accordingly, the Commission has the opportunity to exercise its jurisdiction and
6 authority under A.R.S. § 40-252 and address and resolve the situation at this time.

7 More specifically, as the following excerpt from Decision No. 71865 clearly
8 demonstrates, the per gallon/per day flow rate of Liberty (and previously BMSC) under which
9 Complainant has been billed for wastewater service since April of 2013 is predicated upon what
10 was then believed to be a regulation of the Arizona Department of Environmental quality
11 ("ADEQ"):

12 "Mr. Sorenson testified that because wastewater flows
13 cannot be metered efficiently, except at high volumes, BMSC's
14 current tariff for commercial customers uses ADEQ Engineering
15 Bulletin No. 12 ("Bulletin No. 12") to determine flow levels for
16 various types of commercial establishments. (Ex. A-2, at 5-6.) The
17 Company argues that although it is unclear why this approach was
18 initially used, absent a viable alternative proposal Bulletin No. 12
19 should continue to be the basis for determining rates charged to the
20 more than 130 commercial customers in BMSC's service area.
21 (*Id.* at 6.)" [Decision No. 71865 at page 57, lines 3-8.]

22 However, an individual intervenor (Dr. Dennis Doelle, D.D.S.) successfully challenged
23 the proposed application of a rate and rate design predicated upon Bulletin No. 12 to his
24 wastewater service situation, as may be noted from the following:

25 "Dr. Dennis Doelle, D.D.S., requested intervention in this
26 case to express his concern with the significant increase that he
27 believes would be imposed on his dental practice as a result of
28 BMSC's rate application and proposed rate design. Dr. Doelle
29 submitted pre-filed testimony and testified at the hearing regarding
his concerns with BMSC's use of Bulletin No. 12 as the basis for
establishing rates for his practice. (Doelle Exs. 1, 2, and 3.)

"Dr. Doelle stated that Bulletin No. 12 is based on
assumptions from the 1970s regarding water usage, and thus
sewage flows, that are no longer applicable in a modern dental
practice. He testified that ADEQ's Bulletin No. 12 established
sewage flows at 500 gpd, per dental chair, based on the assumption
that each chair had a "cuspidor" (*ie.*, a chair-side sink) with

1 continuously circulating water. Dr. Doelle added that modern
2 dental practices use no more water than any other health care
3 provider because in addition to discontinuance of the use of
4 continuous flow cuspidors, x-ray technology is digitized rather than
5 using circulating water tanks, and dentists now use sterile gloves
6 and waterless hand sanitizer rather than constantly washing their
7 hands with harsh soaps. (Tr. 94-95.)

8 “Dr. Doelle produced exhibits that were introduced in his
9 prior complaint case, including a 1997 affidavit by one of the
10 authors of Bulletin No. 12 and a 1996 letter from a hydrologist at
11 ADEQ. In the affidavit, the affiant states that the sewage flow rate
12 for dental practices was based on his incorrect assumption that
13 dental chairs had constantly running cuspidors. The letter from the
14 ADEQ hydrologist, dated August 30, 1996, stated that “Bulletin
15 No. 12 is being rewritten because of some existing technical
16 problems within the document,” and suggested that Dr. Doelle’s
17 wastewater discharge amounts should be calculated based on water
18 usage. Dr. Doelle attached to his testimony one of his water bills
19 from Carefree Water Company showing actual water usage at his
20 office of 11,650 gallons for the month. (Doelle Ex. 2.) This
21 compares to the 60,000 gallons of sewage flows that would be
22 assumed for a dental practice with 4 dental chairs, using Bulletin
23 No. 12 as a guideline.” [Decision No. 71865 at page 57, line 15 –
24 page 58, line 12] [emphasis added]

25 * * *

26 “We agree with Dr. Doelle that, at least with respect to
27 dental offices, the assumptions contained in ADEQ’s Engineering
28 Bulletin No. 12 are outdated and do not reflect modern practices
29 that are in effect due to improvements in technology and
conservation efforts. Therefore, BMSC should bill Dr. Doelle, and
any other similarly situated dental offices, at the standard
commercial rate established in this Decision under the category of
a health care provider for purposes of wastewater flow levels.”
[Decision No. 71865 at page 58, line 22 - page 59, line 1]
[emphasis added]

30 In addition, while Decision No. 71865 allowed BMSC to continue to rely on Bulletin No.
31 12 for wastewater flow assumptions in connection with the design of wastewater service rates,
32 the Commission expressed reservations about the contemporaneous nature of its assumptions vis-
33

1 à-vis current customer practices and/or the appropriateness of exclusive reliance upon that
2 regulation for rate design purposes:

3
4 “With the exception discussed above, the Company may, for now,
5 continue to rely on Bulletin No. 12 for flow assumptions.
6 However, the evidence presented by Dr. Doelle shows that the
7 assumptions made in Bulletin No. 12 regarding dental offices is
8 extremely outdated and needs to be revised. The obvious
9 inaccuracy of the assumptions made in that document raises the
10 concern that other assumptions in Bulletin No. 12, on which the
11 Company relies for billing all of its commercial customers, may
12 also be outdated.

13
14 “Although we understand that BMSC does not currently
15 have access to actual water usage data from the unaffiliated water
16 utilities in its service area, it is not clear why Bulletin No. 12 has
17 not been revised for more than 20 years. Therefore, in its next rate
18 application, we direct BMSC to present evidence regarding
19 alternative methods for calculating sewage flow assumptions used
20 for billing its commercial customers. The Company should
21 consider, at a minimum: contacting ADEQ regarding plans for
22 revising Bulletin No. 12; other sewage flow data based on
23 technological improvements and conservation assumptions; and
24 whether it is possible to obtain actual water usage data from the
25 water utilities in BMSC’s service area for purposes of calculating
26 more accurate wastewater flows on its system.” [Decision No.
27 71865 at page 59, lines 9-23] [emphasis added]

28
29 **B. ADEQ Replacement of Engineering Bulletin No. 12 Prior to Issuance of Decision**
No. 71865.

30 The Commission’s aforementioned reservations with respect to the usefulness of Bulletin
31 No. 12 for rate design purpose were well-founded.

32 First, Bulletin No. 12 was not in existence at either the time evidentiary hearings were
33 held in Docket No. SW-02361A-08-0609 in November 2009, or when Decision No. 71865 was
34 issued on September 1, 2010 in that docket. Rather, ADEQ had issued a replacement regulation,
35 which became initially effective on January 1, 2001 and effective in amended form on November
36 12, 2005 . . . or a number of years in advance of when Decision No 71865 was issued and the
37 underlying evidentiary hearings conducted! Why BMSC and its witness relied upon Bulletin No.
38
39

1 12 at that time to support BMSC's proposed rate design, in light of this earlier regulatory change,
2 is puzzling.

3 Second, as Decision No. 71865 correctly observed, a comprehensive analysis of the
4 design of rates for wastewater service should include consideration of

5 " . . . sewage flow data based on technological improvements and
6 conservation assumptions. . ." [Decision No. 71865 at page 59,
7 lines 19-20]

8 In that regard, the "Note" appearing immediately below the aforesaid replacement Table 1
9 suggests the willingness of ADEQ to consider such data, as the same pertains to both utility
10 industry and user practices, in connection with the design and permitting of wastewater facilities.
11 Further, that is precisely what the Commission did in Decision No. 71865 in connection with Dr.
12 Doelle and other similarly situated dental practices serviced by BMSC.

13 **C. Availability of Actual Water Usage Data for Purpose of Calculating More Accurate**
14 **Wastewater Flows.**

15 In Decision No. 71865, the Commission also directed BMSC to prospectively ascertain

16 " . . . whether it is possible to obtain actual water usage data from
17 the water utilities in BMSC's service area for purposes of
18 calculating more accurate wastewater flows on its system."
19 [Decision No. 71865 at page 59, lines 21-23]

20 In that regard, it is Complainant's understanding that Liberty (as successor to BMSC) could have
21 access to such actual water usage data for its wastewater service customers located within
22 Carefree.

23 More specifically, the Town of Carefree owns and operates Carefree Water Company,
24 and it is Complainant's understanding that the Town of Carefree is willing to provide Liberty
25 with metered inflows of water to its various water customers, such as Complainants, upon
26 request of such customer(s). This information, in turn, would enable Liberty (and the
27 Commission) to calculate imputed wastewater outflows which more accurately reflected the
28 wastewater customer's actual water consumption and usage practices. In that regard, according
29 to Complainant's calculation, Bulletin No. 12 imputed a sewage outflow of 30 gallons per day
per chair in a restaurant, which is unreasonably by any stretch of imagination; and, under its
current tariff, Liberty would be allowed to charge Complainant for almost 1,000,000 gallons

1 more of imputed wastewater outflow than the amount of water actually purchased and used by
2 Complainant during the last 12 months. The unreasonableness of this situation is demonstrated
3 by Complainant's estimate of wastewater services charges, for restaurants with assumed water
4 consumption equal to Complainant's average of 29,253 gallons per month, when calculated on
5 the basis of published rates and charges in the following localities:

- 6 • Carefree: \$808.27 (based upon the number of chairs counted by Liberty Utilities)
- 7 • Cave Creek: \$102.75 (\$45.00, plus \$3.00 per 1,000 gallons over 10,000 gallons)
- 8 • Scottsdale: \$134.55 (\$4.60 per 1,000 gallons)
- 9 • Phoenix: \$189.11 (4.8352 x 39.11 per hundred cubic feet actual usage)

10 **D. Fairness and Rational Ratemaking Require that the Commission Not Wait Until**
11 **Liberty Files its Next Rate Application to Address the Rate Design Situation Which**
12 **is the Subject of this Petition and Request.**

13 While the rate situation which is the subject of this petition and request conceivably could
14 be addressed in a future rate case involving Liberty's wastewater customers, there is great
15 uncertainty as to when such a rate proceeding and corrective decision by the Commission might
16 be forthcoming. In the interim, Complainant and other similarly situated restaurants in Carefree
17 will continue to be subject to the economic burden(s) imposed on them by Liberty's existing rate
18 for wastewater service to restaurants, absent ameliorative action by the Commission in response
19 to this petition and request.

20 More specifically, in Decision No. 71865, in connection with its discussion and approval
21 of a rate surcharge related to the then contemplated closure of The Boulders Wastewater
22 Treatment Plant, the Commission ordered that

23 "BMSC will be required to file a full rate application no later than
24 12 months after completion of the closure project. The treatment
25 plant closure project shall be considered to have reached
26 completion upon issuance of a Commission Order approving
27 Staff's recommendation for implementation of a closure
28 surcharge." [Decision No. 71865 at page 54, line 25 – page 55,
29 line 1]

27 However, 3 years and 4 months following the issuance of Decision No. 71865, the closure of The
28 Boulders Wastewater Treatment Plant has yet to occur. To the contrary, it is Complainant's
29 understanding that litigation is currently pending in Maricopa County Superior Court challenging

1 the legality of the Commission's order that the plant be closed; and, it is conceivable that a
2 decision by the Superior Court could be appealed. Thus, the issuance of that Commission order
3 contemplated by Decision No. 71865, which would "trigger" a subsequent filing of a rate
4 application by Liberty may be years into the future.

5 Against the above background, Complainant respectfully submits that fairness and
6 rational ratemaking require that the Commission not wait until Liberty files its next rate
7 application to address the rate design situation which is the subject of this petition and request.
8 Rather, the Commission should adopt that course of action requested of it by Complainant in
9 Section III below.

10 III.

11 CONCLUSION

12 Based upon the preceding discussion, Complainant believes that Decision No. 71865 has
13 resulted in charges for wastewater service for users, such as Complainant and other restaurants in
14 Carefree, which are (i) not "just and reasonable," and thus in violation of Arizona law, and (ii)
15 financially onerous, and thus threatening to the ability of Complainant and similarly impacted
16 other restaurants in Carefree to be viable business enterprises.

17 WHEREFORE, Complainant has petitioned the Commission (i) reopen Docket No. SW-
18 02361A-08-0609 for the purpose of considering and acting upon this petition and request, (ii)
19 conduct such further fact-finding proceeding as may be necessary or appropriate in the docket for
20 such purpose, and (iii) thereafter, pursuant to its jurisdiction and authority under A.R.S. § 40-
21 252, issue an opinion and order altering or amending Decision No. 71865 so as to address and
22 resolve the concerns of Complainant and similarly situated Carefree restaurants discussed above.

23 SUMMARY

24 Clearly, the \$9,197.84 demanded by the Utility has less impact than a rounding error on
25 the conglomerate's 1.8 Billion dollar market value and is equally clearly an undue burden on a
26 small restaurant, providing daily service for tourists and small shops dependent upon tourists
27 spending time and money in a small town of 1,600 homes. Complainant cannot afford to spend
28 tens of thousands of dollars on legal fees and is asking/begging the commission to provide a legal
29 remedy so the Utility can reasonably stop billing the restaurant for unreasonable service fees and

1 place the demand unreasonable/disputed funds in abeyance until such time as the Commission
2 can correct this egregious rate for restaurants previously unaddressed and the unintended
3 economic consequence brought about by the complexities in the rate structure submitted to the
4 Commission, written by the Respondent, and heretofore approved in Decision No. 71865.

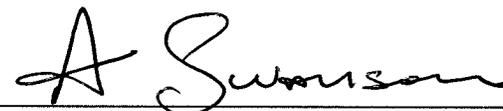
5 Complainant respectfully requests this Court (1) issue an Order in accordance with R14-
6 2-609 A. 5., that the Utility shall not disconnect service to the Respondent's restaurant, for
7 disputed billings, until such time as this matter is settled in accordance with Arizona Law. (2)
8 provide guidance to the parties on how to legally comply with the Tariff heretofore approved by
9 Decision No. 71865 and the Arizona law as mandated by A.R.S. §40-334. B. and (3) if at all
10 possible, accelerate the process to set a hearing to establish more reasonable and affordable rates
11 for restaurants in the area serviced by Liberty Utilities f/k/a Black Mountain Sewer Corporation.

12 RESPECTFULLY SUBMITTED this 19th day of September, 2014.

14 VENUES CAFÉ

15 

16 By: Catherine Marr

17 

18 By: Al Swanson

19
20 **ORIGINAL** and thirteen (13) copies
21 Of the foregoing were filed
22 this 19th day of September, 2014, with:

23 Docket Control
24 Arizona Corporation Commission
25 1200 W. Washington Street
26 Phoenix, AZ 85007

27 **COPY of the foregoing was mailed**
28 This 19th day of December, 2014, to:

29 Greg Sorenson
Liberty Utilities
12725 W. Indian School Road, Suite D-101

“EXHIBIT A”



September 10, 2014

Registered Mail/Return Receipt Requested

Al Swanson/Catherine Marr
Carefree 34, Inc.
P.O. Box 2000
Carefree, AZ 85377

Via Federal Express

Al Swanson/Catherine Marr
Venues' Café
34 Easy Street
Carefree, AZ 85377

Re: NOTICE OF TERMINATION—Carefree 34, Inc. d/b/a Venues' Café, 34 Easy Street, Carefree, AZ

Dear Ms. Marr and Mr. Swanson:

By this letter, Liberty Utilities (Black Mountain Sewer) Corp. (“Liberty”) hereby notifies Carefree 34, Inc. as the owner/operator of Venues Café (collectively referred to as “Venues’ Café”) that Liberty intends to terminate wastewater utility service to Venues’ Café for failure to pay delinquent bills for utility service in accordance with A.A.C. R14-2-609(C)(1)(b), unless Venues’ Café pays all outstanding amounts owed for wastewater service as set forth below or agrees to a payment plan acceptable to Liberty.

In accordance with A.A.C. R14-2-609(D), Liberty provides the following notice information to Venues’ Café.

1. THE NAME OF THE PERSON WHOSE SERVICE IS TO BE TERMINATED AND THE ADDRESS WHERE SERVICE IS BEING RENDERED. The name of the person whose wastewater service is being terminated is Carefree 34, Inc. as the owner and operator of Venues Café. Wastewater service is being provided to Venues’ Café located at 34 Easy Street, Carefree, Arizona.

2. THE COMMISSION RULE OR REGULATION THAT WAS VIOLATED AND EXPLANATION THEREOF OR THE AMOUNT OF THE BILL WHICH THE CUSTOMER HAS FAILED TO PAY IN ACCORDANCE WITH THE PAYMENT POLICY OF THE UTILITY. Put simply, Venues’ Café has failed to pay its utility bills in full for wastewater service dating back to April 2013. As of today, Venues’ Café owes Liberty a



total amount of \$9,197.84 in unpaid bills for wastewater utility service. The August 2014 bill to Venues' Café' is attached as Exhibit A and details the balance owed on the Venues' Café account.

Unfortunately, Venues' Café has failed and refused to pay the billed amounts for wastewater utility service provided by Liberty. In November 2012, Liberty discovered that Venues' Café was being billed previously as an office, and not as a restaurant. In January 2013, Liberty mailed notice to Venues' Café advising that the applicable monthly rates for wastewater service would be corrected and that Venues' Café would be billed as a restaurant under Liberty's tariff approved by the Arizona Corporation Commission. Liberty mailed a second letter to Venues' Café in February 2013 notifying the customer that a chair count audit would be conducted prior to March 15, 2013. Liberty billed Venues' Café as a restaurant on a per seat basis beginning in April 2013. Venues' Café has failed and refused to pay the full amounts owed for wastewater service provided by Liberty.

In accordance with Decision No. 71865 issued on September 1, 2010, Liberty has billed Venues' Café in accordance with its tariffs as approved by the Arizona Corporation Commission. Under its approved tariff, Liberty charges commercial customers a rate of \$0.248734 per gallon per day (gpd) for wastewater service. As stated in the tariff, "[w]astewater flows are based on ADEQ Engineering Bulletin No. 12, in accordance with the Order." ADEQ Engineering Bulletin No. 12 calculates "sewage flow" based on specified numbers of "gallons per unit per day," which are then multiplied by the approved rate of \$0.248734 to determine the monthly wastewater bill. For restaurants, Engineering Bulletin No. 12 sets sewage flows at 7 gpd per meal or 30 gpd per seat. As approved by the Commission, Liberty is required to use Engineering Bulletin No. 12 when calculating monthly bills and wastewater flows for customers. Based on Liberty's chair count audit, Liberty has billed Venues' Café based on sewage flows under Engineering Bulletin No. 12 per seat (30 gpd).

Under the approved tariff, "bills for utility service are due and payable when rendered. Any payment not received within fifteen (15) days from the date the bill was rendered shall be considered delinquent and subject to the termination policy set forth in the Company's rate tariff." *Liberty Statement of Charges*, Tariff Sheet No. 3, n. 3. Under its tariff, Liberty "has adopted the Rules and Regulations established by the Commission as the basis for its operating procedures. A.A.C. R14-2-601 through A.A.C. R14-2-609 will be controlling of Company procedures, unless specifically approved tariffs or Commission Order(s) provide otherwise." *Liberty Statement of Terms and Conditions*, Tariff Sheet No. 7.

In no uncertain terms, Venues' Café' has refused to pay the authorized amounts for wastewater service for a restaurant under Engineering Bulletin No. 12. On April 21, 2014, Venues' Café filed a petition under A.R.S. § 40-252 requesting that the Commission amend Decision No. 71865 relating to the approved rates for wastewater service to Venues' Café. The Commission refused to act on that petition and Decision No. 71865 remains in full force and



effect, including application of Engineering Bulletin No. 12. As such, Liberty hereby exercises its right to terminate wastewater service to Venues' Café in accordance with the approved tariff and Commission rules and regulations.

3. THE DATE ON WHICH SERVICE MAY BE TERMINATED. As noted above, Venues' Café owes Liberty a total amount of \$9,197.84 in unpaid bills for wastewater utility service. Unless that amount is paid in full by Venues' Café on or before September 24, 2014, or Venues' Café and Liberty reach agreement on a payment plan relating to full payment of that amount, Liberty will disconnect Venues' Café and terminate wastewater service to the property on September 25, 2014.

4. CUSTOMER'S RIGHT TO DISPUTE TERMINATION OF SERVICE. As required by A.A.C. R14-2-609(D)(2)(d), Venues' Café is hereby advised that it may dispute Liberty's stated reason for termination of service by contacting Todd Wiley, Assistant General Counsel, Liberty Utilities, 12725 W. Indian School Road, Suite D-101, Avondale, AZ, 85392, (623) 240-2087, to discuss the cause for such termination. We are willing and available to meet with you in person or by phone to discuss the cause for termination prior to the scheduled date for termination noted above. We also are willing to discuss arrangements for payment of the outstanding balance owed by Venues' Café, including a payment plan acceptable to Liberty.

Liberty reserves the right to terminate service to Venues' Café after any such discussions with Venues' Café. Venues' Café is also advised that it has the right to file a complaint with the Arizona Corporation Commission relating to this notice of termination.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Todd C. Wiley".

Todd C. Wiley
Assistant General Counsel for Liberty Utilities

cc: Connie Walczak, ACC Consumer Services (w/out encl.)



Liberty Utilities

12725 W Indian School Rd D101
Avondale, AZ 85392
Visit our website at www.LibertyUtilities.com

FOR QUESTIONS REGARDING YOUR BILL CALL (480) 488-4152
FOR EMERGENCIES (After Hours) CALL (623) 935-3395
BUSINESS HOURS M-F 7:30 am - 4:30 pm

CAREFREE 34, INC
PO BOX 2000
CAREFREE, AZ 85377



Statement

ACCOUNT INFORMATION	
Account Number:	1000847-143484
Community Code:	8100
Statement #:	410454
Bill Date:	08/05/2014
Due Date:	08/25/2014
Service Address: 34 Easy ST	
Any previous balances are due immediately.	

SPECIAL MESSAGE
Please visit us at www.libertyutilities.com Our office will be closed on Monday, September the 1st, in observance of Labor Day

SERVICE TYPE	SERVICE DATES	METER NUMBER	CURRENT READ	PREVIOUS READ	UNITS	CHARGE
Commercial Waste Water Fee	08/01/2014 - 08/31/2014				2880.000	\$ 716.34
<i>Current Charges Before Taxes</i>						\$ 716.34

ACCOUNT ACTIVITY	
Previous Balance	8,451.51
Payment - Thank you!	-87.32
BMSC Late Fee	116.22
Commercial Waste Water Fee	716.34
ACC Assessment	1.09
Total Amount Due	9,197.84

KEEP THIS PORTION FOR YOUR RECORDS

Please include your account number on your check
Make check payable to Black Mountain Sewer Corp

DETACH AND RETURN THIS REMITTANCE PORTION OF THE BILL WITH YOUR PAYMENT

Payment Coupon

PREVIOUS BALANCE	CURRENT CHARGES	TOTAL DUE	AMOUNT ENCLOSED
8364.19	833.65	9197.84	
		Check Number	

Please check box and see reverse for: Automatic payment sign up Update phone / address

Service Address: 34 Easy ST

CAREFREE 34, INC
PO BOX 2000
CAREFREE, AZ 85377

LATE PAYMENT FEE:
Payments received after the due date
are subject to 1.5% per month late
fee.

Account Number: 1000847-143484
Community Code: 8100
Statement #: 410454
Bill Date: 08/05/2014
Due Date: 08/25/2014

Liberty Utilities
P.O. Box 52620
Department 8100
Phoenix, AZ 85072

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