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BEFORE THE ARIZONA CORPORATION COMMISSION COMMISSIONERS

**SUSAN BITTER SMITH – CHAIRWOMAN
BOB STUMP
BOB BURNS
DOUG LITTLE
TOM FORESE**

AZ CORP COMMISSION
DOCKET CONTROL

2015 MAR 18 PM 12 45

ORIGINAL

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

DOCKET NO. SW-02361A-13-0359

COMPLAINANT,

**TOWN OF CAREFREE'S BRIEF
IN SUPPORT OF CHANGE IN
BILLING METHOD**

v.

Arizona Corporation Commission

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

DOCKETED

MAR 18 2015

RESPONDENT.

DOCKETED BY

At the February 3, 2015 open meeting, the Commission postponed the determination on the merits of the above-referenced matter in order to give the Commissioners time to review additional information concerning the restaurants in the Town of Carefree (“Carefree”) and the impact of a change in the billing method from “chair count” to “meal count.”

ADEQ Engineering Bulletin 12 (“Bulletin #12”), pursuant to Decision No. 71865, provides that Liberty Utilities Corporation, f/k/a Black Mountain Sewer Corporation (“Liberty”) is allowed to charge or bill restaurants based on a “chair count” OR “meal count.” Liberty elected to utilize a “chair count” method in billing all of the restaurants in Carefree.

As a result of the matter currently pending before the Commission, substantial questions have arisen concerning the utilization of the “chair count” versus “meal count” option contained in Bulletin #12, pursuant to Decision No. 71865. Carefree 34, Inc. / Office on Easy Street, d/b/a Venue’s Café (“Venue’s Cafe”) asserted the position that Liberty should utilize “meal count” and not “chair count” in calculating its sewer bill. Carefree attempted to intervene in the

1 Venue's Café complaint proceedings in order to demonstrate to this Commission
2 that the resolution of the "chair count" versus "meal count" issue presented in this
3 matter has the potential to cause economic hardship among all of the restaurants
4 in Carefree. The rate structure that was approved in 2008 is a detriment to
5 economic development in Carefree, particularly for its restaurants.

6
7 **I. LIBERTY SHOULD BE ORDERED TO CHANGE ITS**
8 **METHOD OF CALCULATING THE SEWER BILLS FROM**
9 **"CHAIR COUNT" TO "MEAL COUNT."**

10 Based on the information provided by Carefree in this filing, Carefree
11 submits that Liberty should be ordered to change the method by which it is
12 currently billing restaurants in Carefree from "chair count" to "meal count." This
13 change in the billing methodology is allowed as a matter of law.

14 Carefree respectfully submits that a change in the billing method currently
15 utilized by Liberty is specifically allowed by the optional language in Bulletin
16 #12, pursuant to Decision No. 71865. Carefree is not requesting a rate change,
17 which Carefree clearly recognizes can only occur in a rate case. Carefree
18 certainly is not requesting a rate change outside of a rate case. Carefree
19 respectfully submits that this Commission is fully empowered to, "...proscribe
20 just and reasonable classifications to be used and just and reasonable rates and
21 charges to be made and collected, by public service corporations within the state
22 for services rendered therein and make reasonable rules, regulations, and orders
23 by which such corporations shall be governed in the transaction of business
24 within the state,..." Arizona Constitution, Article 15, Section 3.

25 It is the position of Liberty, in this matter, that it and it alone has the
26 discretion to determine whether or not to use "chair count" or "meal count."
27 However, Steven Olea, Utility Division Director, specifically stated, at the
28 hearing on February 3, 2015:

1 “...because the tariff today says use Bulletin 12. Bulletin
2 12 allows you to do either. That’s the approved tariff.
3 But to me, it’s up to the restaurant. The restaurant goes
4 to the company and says I want to be charged on a per
5 meal or per chair. Somehow they would have to prove
6 the per meals that they serve every day. Ms. Marr, under
7 oath, said it was approximately 100. So, I don’t know if
8 that’s enough for the company or not, but somehow the
9 company is absolutely correct when they say it’s really
 easy to count chairs, it’s very difficult to count meals.
 Do you take the restaurant’s word for it that I’ve got 100
 chairs in this restaurant, but I only serve 20 meals a
 day?”

10 (February 3, 2015 Open Meeting Video at 1:01:50 – 1:02:32).

11 Chairman Susan Bitter Smith then inquired of Mr. Olea, “...but, Mr. Olea,
12 you did raise a question is it the company’s prerogative to choose which
13 mechanism under the Bulletin or the rate payers?”

14 (February 3, 2015 Open Meeting Video at 1:02:44 – 1:02:51).

15 Mr. Olea responded to the Chairman’s question, as follows:

16 “I think both. I think that the rate payer has to work with
17 the company and say this is what your tariff says, it says
18 you can do either, you can calculate it per chair, it’s this,
19 if you calculate it per meal it’s this, I choose one or the
20 other. If there’s some argument, then they would come
 here just like Ms. Marr did. But, unfortunately, the way
 the tariff is written, it allows for either.”

21 (February 3, 2015 Open Meeting Video at 1:02:54 – 1:03:17).

22 Commissioner Robert Burns then addressed the issue, as follows:

23 “If I’m understanding it, then the customer, whichever
24 restaurant, all of the restaurants, could basically come to
25 the company and request to fall under one or the other,
26 either as a chair count or as a meal count. So, that option
27 would be available if we were to pass the ROO. Now,
28 Mr. Olea said that there was a correction to be made in
 the ROO, right, the calculation in that one case law to be
 fixed. That ought to be fixed here with an amendment

1 today I think, but, otherwise, it appears that there is no
2 other option than to pass it as amended and it will be up
3 to the restaurant owners in the Town to pick the option
4 they want to be billed under and we will have to wait for
a rate case to do anything different, it appears to me.”

5 (February 3, 2015 Open Meeting Video at 1:03:39 – 1:04:35).

6 Chief Legal Counsel for the Commission, Janice Alward, had this to say
7 concerning the issue of “meal count” versus “chair count” and whose option is it
8 to make that determination, the utility or the restaurant? She stated as follows:

9 “But, this is one of those gray areas I believe because
10 when you look at Bulletin 12, it indicates there are two
11 ways you can calculate the restaurant sewage charges.”
12 “...It’s also confusing to understand whether other
13 restaurants would be better off or worse off if we applied
14 the same kind of viewpoint at their election.” “... In the
15 meantime, you could have the parties, if they chose, file a
16 brief indicating whether they feel that the Bulletin 12
precludes them from having a choice for customers to
follow, whether it is the seat or meal charge, and I also
think it would be helpful to have those numbers in front
of you.”

17 (February 3, 2015 Open Meeting Video at 1:17:22 – 1:18:47).

18 Then, Susan Bitter Smith, Chairman, made the following statement:

19 “Just so we’re clear was the question I asked earlier, it
20 doesn’t appear that our bulletin is black and white on
21 who makes the decision on who decides which billing
22 mechanism, the customer or the company. So, I’m going
to turn to you for a legal answer.”

23 (February 3, 2015 Open Meeting Video at 1:22:49 – 1:23:00).

24 Janice Alward, Chief Legal Counsel, provides the following answer:

25 “Chairman, Commissioners, after that was raised earlier
26 and Mr. Olea gave a response that it appears to be a
27 choice of viewing how you look at Bulletin 12. I have
28 Bulletin 12 in front of me. It is unclear and so I’ll just
leave it at that. I think if there is a viewpoint, then that

1 should be expressed in some filing here that is made
2 before the Commission. If we're following Bulletin 12
3 here as the way the company bills under its tariff, it
4 provides for both. I don't know of any precedent that
5 I'm aware of that would clarify your answer. So, in light
6 of that, although we do follow the filed rate doctrine,
7 that's why I began this is a gray area."

8 (February 3, 2015 Open Meeting Video at 1:23:04 – 1:25:50).

9 Thus, it is certainly not settled that Liberty is correct in its assertion of its
10 unilateral powers in determining the option for the billing method, as contended
11 by Liberty in its legal brief.

12 **I. USING "CHAIR COUNT" OVERSTATES ACTUAL SEWER
13 USAGE BY A SIGNIFICANT AMOUNT.**

14 Carefree has compiled substantial information concerning the impact of
15 utilizing a "chair count" versus a "meal count" on the restaurants in Carefree.
16 Exhibit "A" and Exhibit "B," attached hereto and by this reference incorporated
17 herein, demonstrate that the use of a "chair count" versus a "meal count" results
18 in a substantial overcharge by Liberty. It is interesting to note that each of the
19 restaurants in Carefree obtain water from the Carefree Water Company. Thus,
20 water usage information as to each restaurant is available from the records of the
21 Carefree Water Company. In Exhibit "A" and Exhibit "B," this Commission will
22 find a chart ("A") and a spreadsheet ("B") listing each restaurant in Carefree, with
23 the water "in-flow" and the sewage "out-flow." A review of the data compiled
24 for each restaurant demonstrates a substantial percentage difference.

25 **II. USING "MEAL COUNT" IS CERTAINLY A MORE
26 REASONABLE METHOD TO QUANTIFY SEWER USAGE
27 FOR CAREFREE RESTAURANTS.**

28 Paragraph 2 of Exhibit "A" demonstrates that meal count provides a closer
approximation to the actual number of gallons of sewage which flows into
Liberty's system when compared to water in-flows on a monthly basis.

1 **III. EACH RESTAURANT IN CAREFREE ENDORSES AND**
2 **SUPPORTS A CHANGE IN THE METHODOLOGY USED BY**
3 **LIBERTY TO CALCULATE SEWER BILLS.**

4 Carefree has obtained affidavits from each of the owners of eleven (11)
5 restaurants in Carefree, indicating the restaurants' endorsement and support for a
6 change in the billing method used by Liberty. Each of the restaurants urge this
7 Commission to require Liberty to utilize the "meal count" option that is available
8 to them, pursuant to the specific language in Bulletin #12, pursuant to Decision
9 No. 71865. These affidavits are attached hereto as Exhibits "C," "D," "E," "F,"
10 "G," "H," "I," "J," "K," "L," and "M," and by this reference incorporated herein.

11 **IV. CONCLUSION.**

12 In conclusion, Carefree submits that this Commission is fully empowered,
13 under the existing rates approved in 2008 under Decision #71865, which
14 incorporated Engineering Bulletin #12, to require Liberty to change the billing
15 method for calculating the sewer bills for the restaurants in Carefree.

16 Liberty admits that it is using "seat counts" for the billing of all restaurants
17 in Carefree. As pointed out, each restaurant in Carefree can provide Liberty with
18 access to the monthly water usage data, which will demonstrate that the
19 utilization of "meal counts" is substantially more fair and equitable. Even Liberty
20 recognizes that the Corporation Commission is charged with the responsibility for
21 establishing utility rates which are "just and reasonable." *Scates v. Arizona Corp.*
22 *Commission*, 118 Ariz. 531, 578 P.2d 612.

23 Carefree recognizes that the matter currently before the Commission is not
24 a rate case. However, that does not preclude the Commission from reviewing
25 appropriate documents and evidence demonstrating that, within the required
26 tariff, there is a specific option of requiring Liberty to bill either based on "chair
27 count" or "meal count." The restaurants in Carefree have unanimously chosen
28 the billing method utilizing "meal count" instead of the method currently being
used by Liberty, which is "chair count."

1 Contrary to the position asserted by Liberty, an Order from this
2 Commission that Liberty use “meal count” as opposed to the alternative “seat
3 count,” provided for in Bulletin #12, is not “tantamount” to setting new rates.
4 The express option of “meal count” or “chair count” is available for use by the
5 Commission and utilizing that option and requiring Liberty to select the option
6 that the restaurants want Liberty to use does not constitute setting new rates.

7 Liberty recognizes that comments made by the Director and Chief Counsel
8 at the open meeting on February 3, 2015, indicating that the tariff allows for
9 billing based on seats or meals and that ordering Liberty to bill based on meals is
10 not a change in the tariff. However, Liberty, of course, contends that that position
11 by staff and legal counsel for the ACC is erroneous. But, Liberty provides no
12 legal support for its conclusion that the direction by the Director and Chief
13 Counsel in this matter is erroneous.

14 Liberty also contends that the staff has “speculated” in arriving at its
15 conclusion that the restaurants also have the option to determine their own bill.
16 What is speculative about the specific language set forth in Bulletin #12 and
17 Decision No. 71865 that provides that a restaurant’s sewer bill can be determined
18 based on chairs or meals? Liberty has not provided this Commission with any
19 legal support or legal reasoning as to why the option contained in Bulletin #12
20 and Decision No. 71865 is exclusively vested in Liberty and is not available to its
21 restaurant customers.

22 Lastly, the fear asserted by Liberty that it may face multiple claims of rate
23 discrimination if a new rate design was put in place for Venue’s Café is
24 misplaced. As set forth herein, each restaurant in Carefree wants to be treated the
25 same and each restaurant wants to be billed on “meal count.” There is no
26 possible discrimination if that is the Order of this Commission.

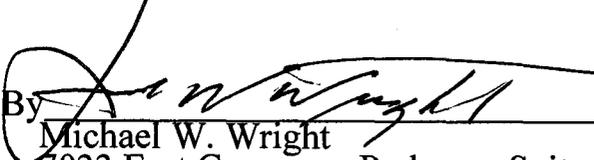
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RESPECTFULLY SUBMITTED: March 18, 2015.

SHERMAN & HOWARD L.L.C.

By 
Michael W. Wright
7033 East Greenway Parkway, Suite 250
Scottsdale, AZ 85254-2046
Attorneys for Town of Carefree

ORIGINAL and thirteen (13)
copies filed on March 18, 2015,
with:

Docket Control
Arizona Corporation Commission
1200 W. Washington St.
Phoenix, AZ 85007

COPY of the foregoing
hand-delivered this same date to:

Chairman Susan Bitter Smith
Arizona Corporation Commission
1200 W. Washington St.
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Commissioner Bob Stump
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COPY of the foregoing
mailed this same date to:

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Attorneys for Liberty Utilities, f/k/a
Black Mountain Sewer Corp.



Marla McGhee

SW-02361A-13-0359 Pertinent Findings

1) Using "chair count" as the only permissible measurement of Carefree restaurant sewer usage appears to overstate actual sewer usage by a significant amount. In using the "chair count" method, every chair in a restaurant is used as a billing basis for 30 gallons of sewer usage daily. In comparison, using the alternative "meals served" method of calculating sewer usage, every meal is billed for 7 gallons of sewer usage. Thus, the underlying calculation for the "chair count" method would require that every chair in a Carefree restaurant would have to be utilized for a meal 4.3 times during every day of the year. Facts do not support this.

- **On average the Carefree restaurants for which we have an accurate count of number of meals served per day, every chair is utilized less than once per day.** The comparisons for all of the restaurants in Carefree for which we were able to develop specific chair counts and the average number of meals served/day is shown below:

<u>Restaurant</u>	<u>Chair Count</u>	<u>Avg. # Meals Served/Day</u>	<u>Avg. # Meals /Chair/Day</u>
Black Mountain Café	88	63	.7
Sundial Cafe	88	75	.9
English Rose Tea Room	58	70	1.2
Carefree Bistro	70	35	.5
PizzaFarro's	65	30	.5
Giordano's	110	50	.5
Venues	106	133	1.3
Alberto's	32	32	1.0
Cellar 13 Winebar	27	18	.7
Cafe Bink	88	100	1.1
China Joy	<u>30</u>	<u>20</u>	<u>.7</u>
Total:	762	626	Avg. .8

EXHIBIT A

- As an additional reference point, the number of gallons of water "inflow" into the Carefree restaurants is typically far lower than sewerage "outflow" billed to these same restaurants.

Here are the comparisons for all of the restaurants in Carefree for which we were able to develop specific inflow and outflow comparisons.

Carefree Water Company provided the "Inflow" figures:

<u>Restaurant</u>	<u>Water "Inflow"</u>	<u>Sewerage "Outflow"</u>	<u>% difference</u>
Carefree Bistro	17,000 gals/mo	63,000 gals/mo	+370%
English Rose Tea Room*	11,000 gals/mo	52,200 gals/mo	+475%
Giordano's	14,150 gals/mo	99,000 gals/mo	+700%
Venues	41,169 gals/mo	95,400 gals/mo	+232%
Alberto's	8,000 gals/mo	28,800 gals/mo	+360%
Cellar 13 Winebar*	8,000 gals/mo	24,300 gals/mo	+304%
Black Mt Coffee Shop	22,265 gals/mo	79,200 gals/mo	+355%
Pizzafaro's*/Binks*	66,300 gals/mo	137,700 gals/mo	+207%
China Joy*	22,150 gals/mo	27,000 gals/mo	+122%
Total:	210,034 gals/mo	606,600 gals/mo	+288% avg.

*Shared "Inflow" (water) meters

2) Using "meal count" appears to be a more reasonable method to quantify sewer usage than "chair count" for many Carefree restaurants. "Meal count" yields a closer approximation to the actual number of gallons of sewerage which flowed into the Liberty System when compared to water "inflows" on a monthly basis. The actual figures for Carefree restaurants for which we were able to determine reliable* data for this data is as follows:

<u>Restaurant</u>	<u>Meals Served</u>		<u>Sewerage "Outflow"</u>	<u>Water "Inflow"</u>	<u>% Difference "Outflow" vs "Inflow"</u>
	<u>/Day</u>	<u>/Month</u>	<u>/Month@ 7 gals/meal</u>		
English Rose Tea Room	70	2100	14,700	11,000	+34%
Giordano's	50	1500	10,500	14,150	-26%
Venues	133	3990	27,930	41,169	-32%
Alberto's	32	960	6,720	8,000	-16%
Cellar 13 Winebar	18	540	3,780	8,000	-53%
Total:	303	9,090	63,630	82,319	-23%

* Excludes Carefree Bistro because it was a new restaurant within the last 12 months and the data for this calculation was inconsistent.

Column 1	Operations	Closed	Chair Count	Meal Count	Point of Sale System	Liquor License	Type of Water Meter	Monthly Avg. Water Use	Monthly Avg. Water Bill	Sewer Gallons/mo	Avg. Monthly Sewer Bill
Alberto	Daily M-Su 4 PM - 8:30 PM	month of July	32	32	No, but willing to invest	Series 9	Separate	8,000	\$75.00	28,800	\$268.00
Black Mountain Coffee Shop	Daily M-Su 4 6 AM - 2 PM	Easter, Thanksgiving, x-mas	88 (36 in, 52 outside)	50-78	No, paper tickets	Series 7	Shared	22,265	\$225.00	79,200	\$650.00
Cafe Blink	M-Sa 11 AM - 9 PM; SU 10 AM - 9 PM	Closed M from May to Sept.	88	100	Yes	Series 12	Shared	66,330	\$400.00	79,200	\$650.00
Carefree Bistro	M-Fr 11 AM - 2:30 PM; 4:30 - 9 PM; Sa-Su 11 AM - 9 PM	month of July	70	35	Yes	Series 12	Separate	17,000	\$200.00	63,000	\$590.00
Cellar 13	M-Sa 4 PM to 11 PM		27	18	Yes	Series 7	Shared	8,000	\$75.00	24,300	\$220.00
China Joy	Daily 11:30 AM-2:30 PM; 4:30 PM-8:30 PM	Closed 2 wks in July	30	20	No, but willing to invest	Series 9	Shared	22,150	\$145.00	27,000	\$230.00
English Rose Tea Room	M-Sa 10 AM-5 PM; Su 11AM - 4 PM		58	70	No, paper tickets	None	Shared	11,000	\$200.00	53,200	\$404.00
Giordano's Trattoria Romana	M-Sa 5 PM-9 PM	Closed M in July & August	100	50	Yes	Series 11	Separate	14,150	\$135.00	99,000	\$795.00
Pizzafarro's	M-F 4PM - 9 PM; Sa & Sun 4 PM - 10 PM		65	30	No, but willing to invest	Series 12	Shared	66,330	\$400.00	58,500	\$550.00
Sundial Café	M-Su 8 AM - 3 PM	From Memorial to Labor Days	88	75	No, but willing to invest	Series 7	Separate	8,000	\$75.00	95,400	\$500.00
Venues Café	M-F 11 AM-10 PM; Sa 8 AM-11 PM; Su 9 AM-10 PM		106	133	Yes	Series 12	Separate	41,169	\$262.00	95,400	\$792.00

EXHIBIT B

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7. I do not have a POS system; however, I am willing to invest in a POS if it will reduce my sewer rates.

8. My monthly bill for sewer reflects, on average, 28,800 gallons. This results in an average monthly bill in the amount of \$268.63.

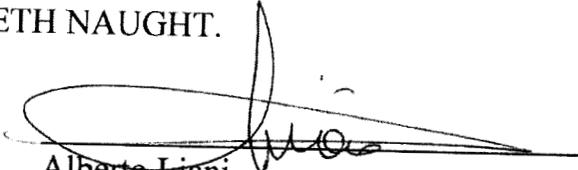
9. I wholeheartedly endorse and support a change in the methodology used by Liberty Utilities to calculate my sewer bill. In other words, I endorse and support a change from the number of chairs to the number of meals served per day.

10. The Town of Carefree is served by the Carefree Water Company, and my water usage averages 8,000 gallons per month and my average monthly water bill is \$75.00.

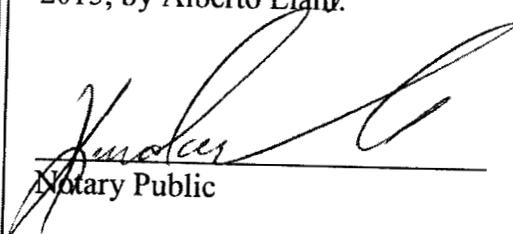
11. I understand that Liberty Utilities and the ACC is going to begin a rate case starting in May of this year, and it is my intention to fully participate in that rate case in order to arrive at an equitable method by which Liberty Utilities will calculate the sewer charges at my Restaurant.

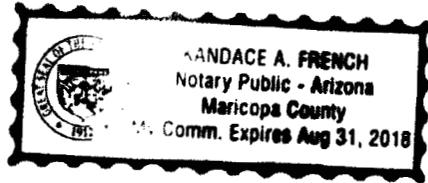
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FURTHER AFFIANT SAYETH NAUGHT.


Alberto Liani

Subscribed and sworn before
me this 24th day of January,
2015, by Alberto Liani.


Notary Public



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6. The wine bar currently has 27 chairs, and serves on average 18 meals per day.

7. I have a POS system. The POS system will allow me to accurately reflect and report the number of meals served per day.

8. My monthly bill for sewer reflects, on average, 24,300 gallons. This results in an average monthly bill of approximately \$220.00.

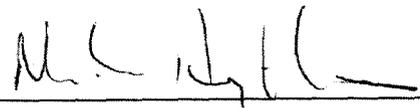
9. I wholeheartedly endorse and support a change in the methodology used by Liberty Utilities to calculate my sewer bill. In other words, I endorse and support a change from the number of chairs to the number of meals served per day.

10. The Town of Carefree is served by the Carefree Water Company, and my water usage averages 8,000 gallons per month and my average monthly water bill is \$75.00.

11. I understand that Liberty Utilities and the ACC is going to begin a rate case starting in May of this year, and it is my intention to fully participate in that rate case in order to arrive at an equitable method by which Liberty Utilities will calculate the sewer charges at my Restaurant.

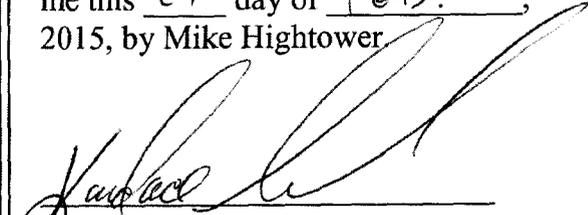
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FURTHER AFFIANT SAYETH NAUGHT.

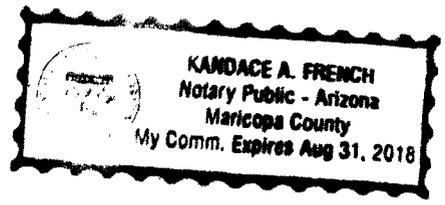


Mike Hightower

Subscribed and sworn before
me this 24 day of FEB.
2015, by Mike Hightower



Notary Public



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BEFORE THE ARIZONA CORPORATION COMMISSION COMMISSIONERS

**SUSAN BITTER SMITH – CHAIRWOMAN
BOB STUMP
BOB BURNS
DOUG LITTLE
TOM FORESE**

<p>IN THE MATTER OF CAREFREE 34, INC./OFFICE ON EASY STREET INC., d/b/a VENUES CAFÉ, COMPLAINANT, v. LIBERTY UTILITIES CORPORATION f/k/a BLACK MOUNTAIN SEWER CORPORATION, RESPONDENT.</p>	<p>DOCKET NO. SW-02361A-13-0359 AFFIDAVIT OF AL SWANSON</p>
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State of Arizona)
) ss.
County of Maricopa)

AL SWANSON, being first duly sworn upon his oath, deposes and says:

1. I am over the age of 21 years, and am competent to testify concerning the matters set forth herein.
2. I am currently a partner in a restaurant in the Town of Carefree, known as VENUES CAFÉ (the “Restaurant”).
3. The Restaurant is open during the following times:
MONDAY – THURSDAY 11 AM TO 10 PM
FRIDAY 11 AM TO 11 PM
SATURDAY 8 AM TO 11 PM
SUNDAY 9 AM TO 10 PM
4. The Restaurant is open year round.

EXHIBIT E

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5. The Restaurant is currently licensed as a restaurant, with a Series 12 license that allows us to serve alcohol, as well as meals.

6. The Restaurant currently has 106 chairs, and serves 133 meals per day.

7. I have a POS system. The POS system will allow me to accurately reflect and report the number of meals served per day.

8. My monthly bill for sewer reflects, on average, 95,400 gallons. This results in an average monthly bill in the amount of \$792.16.

9. I wholeheartedly endorse and support a change in the methodology used by Liberty Utilities to calculate my sewer bill. In other words, I endorse and support a change from the number of chairs to the number of meals served per day.

10. I have recently had discussions with Liberty Utilities in which we discussed billing by meals served using my point of sale system.

11. The Town of Carefree is served by the Carefree Water Company, and my water usage averages 41,169 gallons per month and my average monthly water bill is \$262.17.

12. I understand that Liberty Utilities and the ACC is going to begin a rate case starting in May of this year, and it is my intention to fully participate in that rate case in order to arrive at an equitable method by which Liberty Utilities will calculate the sewer charges at my Restaurant.

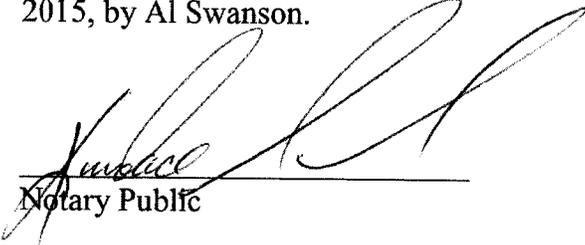
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FURTHER AFFIANT SAYETH NAUGHT.

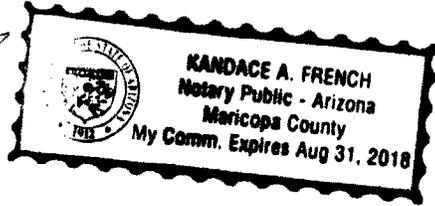


Al Swanson

Subscribed and sworn before
me this 22 day of February,
2015, by Al Swanson.



Notary Public



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BEFORE THE ARIZONA CORPORATION COMMISSION COMMISSIONERS

**SUSAN BITTER SMITH – CHAIRWOMAN
BOB STUMP
BOB BURNS
DOUG LITTLE
TOM FORESE**

<p>IN THE MATTER OF CAREFREE 34, INC./OFFICE ON EASY STREET INC., d/b/a VENUES CAFÉ, COMPLAINANT, v. LIBERTY UTILITIES CORPORATION f/k/a BLACK MOUNTAIN SEWER CORPORATION, RESPONDENT.</p>	<p>DOCKET NO. SW-02361A-13-0359 AFFIDAVIT OF ADELE GIORDANO</p>
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State of Arizona)
) ss.
County of Maricopa)

ADELE GIORDANO, being first duly sworn upon her oath, deposes and says:

1. I am over the age of 21 years, and am competent to testify concerning the matters set forth herein.
2. I currently own a restaurant in the Town of Carefree, known as GIORDANO’S TRATTORIA ROMANA (the “Restaurant”).
3. The Restaurant is open during the following times:
MONDAY – SATURDAY 5 PM TO 9 PM
CLOSED SUNDAYS
CLOSED MONDAYS IN JULY AND AUGUST
4. The Restaurant is open throughout the year.

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5. The Restaurant is currently licensed as a restaurant, with a Series 11 license that allows us to serve alcohol, as well as meals.

6. The Restaurant currently has 110 chairs, and serves 50 meals per day in season and up to 15 meals per day off season.

7. I have a POS system. The POS system will allow me to accurately reflect and report the number of meals served per day.

8. My monthly bill for sewer reflects, on average, 99,000 gallons generated by only my restaurant. This results in an average monthly bill in the amount of \$795.00

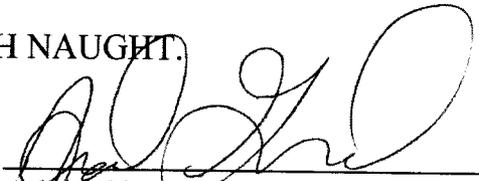
9. I wholeheartedly endorse and support a change in the methodology used by Liberty Utilities to calculate my sewer bill. In other words, I endorse and support a change from the number of chairs to the number of meals served per day.

10. The Town of Carefree is served by the Carefree Water Company, and my water usage averages 14,150 gallons per month and my average monthly water bill is \$135.00

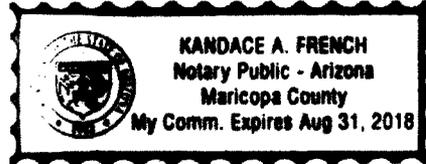
11. I understand that Liberty Utilities and the ACC is going to begin a rate case starting in May of this year, and it is my intention to fully participate in that rate case in order to arrive at an equitable method by which Liberty Utilities will calculate the sewer charges at my Restaurant.

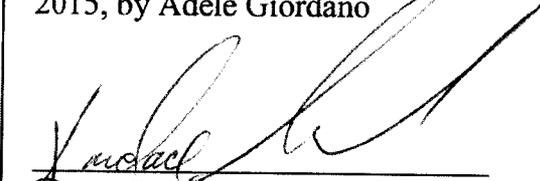
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FURTHER AFFIANT SAYETH NAUGHT.


Adele Giordano,

Subscribed and sworn before
me this 24 day of Feb,
2015, by Adele Giordano




Notary Public

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BEFORE THE ARIZONA CORPORATION COMMISSION COMMISSIONERS

**SUSAN BITTER SMITH – CHAIRWOMAN
BOB STUMP
BOB BURNS
DOUG LITTLE
TOM FORESE**

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

COMPLAINANT,

v.

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

RESPONDENT.

DOCKET NO. SW-02361A-13-0359

AFFIDAVIT DON MARINO

State of Arizona)
) ss.
County of Maricopa)

DON MARINO, being first duly sworn upon his oath, deposes and says:

1. I am over the age of 21 years, and am competent to testify concerning the matters set forth herein.
2. I currently own a restaurant in the Town of Carefree, known as PIZZAFARRO'S (the "Restaurant").
3. The Restaurant is open during the following times:
MONDAY - FRIDAY 4 PM TO 9PM,
SATURDAY & SUNDAY 4 PM TO 10 PM.
4. The Restaurant is open year round.
5. The Restaurant is currently licensed as a restaurant, with a Series 12 license that allows us to serve alcohol, as well as meals.
6. The Restaurant currently has 65 chairs, and serves 30 meals per day.

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7. My monthly bill for sewer based upon the aforementioned seating capacity is approximately 58,500 gallons. This results in an average monthly bill of approximately \$550.00

8. I do not have a POS system; however, I would be willing to consider investing in a POS if it will help to reduce my sewer rate.

9. I wholeheartedly endorse and support a change in the methodology used by Liberty Utilities to calculate my sewer bill. In other words, I endorse and support a change from the number of chairs to the number of meals served per day.

10. I have recently had discussions with Liberty Utilities in which we discussed why my sewer bill was so high, and why the dramatic increase over the years.

11. The Town of Carefree is served by the Carefree Water Company. There is one common meter for the building which my restaurant is located in. This common meter is also shared by five other tenants which includes a beauty salon and another restaurant, Café Bink. The average water use for this common meter per month is 66,330 gallons with an approximate water bill for the common meter of \$400.00.

12. I understand that Liberty Utilities and the ACC is going to begin a rate case starting in May of this year, and it is my intention to fully participate in that rate case in order to arrive at an equitable method by which Liberty Utilities will calculate the sewer charges at my Restaurant.

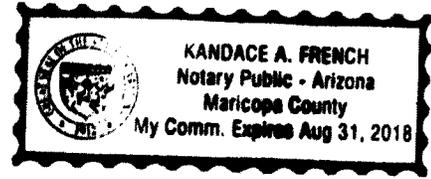
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FURTHER AFFIANT SAYETH NAUGHT.

Don Marino
Don Marino

Subscribed and sworn before
me this 24 day of FEB.
2015, by Don Marino

Kandace A. French
Notary Public



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BEFORE THE ARIZONA CORPORATION COMMISSION COMMISSIONERS

**SUSAN BITTER SMITH – CHAIRWOMAN
BOB STUMP
BOB BURNS
DOUG LITTLE
TOM FORESE**

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

COMPLAINANT,

v.

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

RESPONDENT.

DOCKET NO. SW-02361A-13-0359

**AFFIDAVIT OF
EUNICE BEKTAS**

State of Arizona)
) ss.
County of Maricopa)

EUNICE BEKTAS, being first duly sworn upon her oath, deposes and says:

1. I am over the age of 21 years, and am competent to testify concerning the matters set forth herein.
2. I am currently a partner in a restaurant in the Town of Carefree, known as CAREFREE BISTRO (the “Restaurant”).
3. The Restaurant is open during the following times:
MONDAY – FRIDAY 11 AM TO 2:30 PM & 4:30 TO 9 PM
SATURDAY & SUNDAYS 11 AM TO 9 PM
4. The Restaurant is open year round except the month of July in which we close.

EXHIBIT H

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5. The Restaurant is currently licensed as a restaurant, with a Series 12 license that allows us to serve alcohol, as well as meals.

6. The Restaurant currently has 70 chairs, and serves 35 meals per day.

7. I have a POS system which permits me to track meal counts.

8. My monthly bill for sewer reflects, on average, 63,000 gallons. This results in an average monthly bill in the amount of \$590.00.

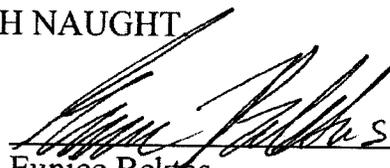
9. I wholeheartedly endorse and support a change in the methodology used by Liberty Utilities to calculate my sewer bill. In other words, I endorse and support a change from the number of chairs to the number of meals served per day.

10. The Town of Carefree is served by the Carefree Water Company, and my water usage averages 17,000 gallons per month and my average monthly water bill is \$200.

11. I understand that Liberty Utilities and the ACC is going to begin a rate case starting in May of this year, and it is my intention to fully participate in that rate case in order to arrive at an equitable method by which Liberty Utilities will calculate the sewer charges at my Restaurant.

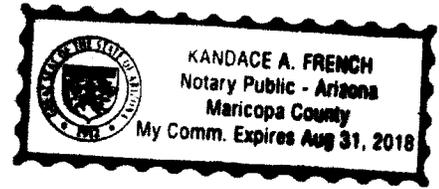
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FURTHER AFFIANT SAYETH NAUGHT


Eunice Bektas

Subscribed and sworn before
me this 24 day of February,
2015, by Eunice Bektas.


Notary Public



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BEFORE THE ARIZONA CORPORATION COMMISSION COMMISSIONERS

**SUSAN BITTER SMITH – CHAIRWOMAN
BOB STUMP
BOB BURNS
DOUG LITTLE
TOM FORESE**

<p>IN THE MATTER OF CAREFREE 34, INC./OFFICE ON EASY STREET INC., d/b/a VENUES CAFÉ, COMPLAINANT, v. LIBERTY UTILITIES CORPORATION f/k/a BLACK MOUNTAIN SEWER CORPORATION, RESPONDENT.</p>	<p>DOCKET NO. SW-02361A-13-0359 AFFIDAVIT OF JOANNE GEMMILL</p>
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State of Arizona)
) ss.
County of Maricopa)

Joanne Gemmill, being first duly sworn upon her oath, deposes and says:

1. I am over the age of 21 years, and am competent to testify concerning the matters set forth herein.
2. I am currently the owner of a restaurant in the Town of Carefree, known as ENGLISH ROSE TEA ROOM (the “Restaurant”).
3. The Restaurant is open during the following times:
MONDAY – SATURDAY 10 AM TO 5 PM
SUNDAYS 11 AM TO 4 PM
4. The Restaurant is open year round.
5. The Restaurant does not serve alcohol.
6. The Restaurant currently has 58 chairs, and serves 70 meals per day.

EXHIBIT I

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7. I do not have a POS system, but track meals and customer counts daily.

8. My monthly bill for sewer reflects, on average, 52,200 gallons. This results in an average monthly bill in the amount of \$404.30.

9. I wholeheartedly endorse and support a change in the methodology used by Liberty Utilities to calculate my sewer bill. In other words, I endorse and support a change from the number of chairs to the number of meals served per day.

10. I have not had discussions with Liberty Utilities regarding the increase in my sewer bill.

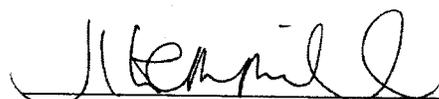
11. The Town of Carefree is served by the Carefree Water Company, and my water usage averages 11,000 gallons per month and my average monthly water bill is \$200.

12. I understand that Liberty Utilities and the ACC is going to begin a rate case starting in May of this year, and it is my intention to fully participate in that rate case in order to arrive at an equitable method by which Liberty Utilities will calculate the sewer charges at my Restaurant.

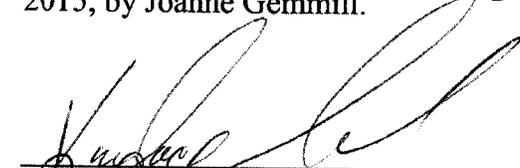
My restaurant has 38 chairs, and serves 100 meals per day.

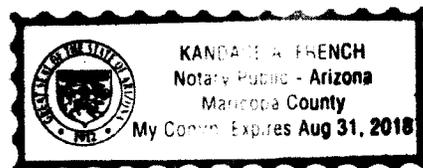
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FURTHER AFFIANT SAYETH NAUGHT.


Joanne Gemmill

Subscribed and sworn before
me this 24 day of February
2015, by Joanne Gemmill.


Notary Public



1 BEFORE THE ARIZONA CORPORATION COMMISSION COMMISSIONERS

2 **SUSAN BITTER SMITH – CHAIRWOMAN**
3 **BOB STUMP**
4 **BOB BURNS**
5 **DOUG LITTLE**
6 **TOM FORESE**

7 IN THE MATTER OF CAREFREE
8 34, INC./OFFICE ON EASY
9 STREET INC., d/b/a VENUES CAFÉ,
10 COMPLAINANT,
11 v.
12 LIBERTY UTILITIES
13 CORPORATION f/k/a BLACK
14 MOUNTAIN SEWER
15 CORPORATION,
16 RESPONDENT.

DOCKET NO. SW-02361A-13-0359

**AFFIDAVIT OF LILY
SANGCHANMAHOLA**

17 State of Arizona)
18) ss.
19 County of Maricopa)

20 LILY SANGCHANMAHOLA, being first duly sworn upon her oath,
21 deposes and says:

22 1. I am over the age of 21 years, and am competent to testify
23 concerning the matters set forth herein.

24 2. I currently own a restaurant in the Town of Carefree, known as
25 CHINA JOY (the “Restaurant”).

26 3. The Restaurant is open during the following times:
27 11:30 AM TO 2:30 PM AND 4:30 PM TO 8:30 PM DAILY

28 4. The Restaurant is open throughout the year except for an annual two
week closure in July.

5. The Restaurant is currently licensed as a restaurant, with a Series 9
license that allows us to serve alcohol, as well as meals.

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6. The Restaurant currently has 30 chairs, and serves 20 meals per day some of which consist of take-out orders.

7. I do not have a POS system. I might consider the use of POS system if it would reduce my sewer bills.

8. My monthly bill for sewer reflects, on average, 27,000 gallons generated by only my restaurant. This results in an average monthly bill in the amount of \$230.00.

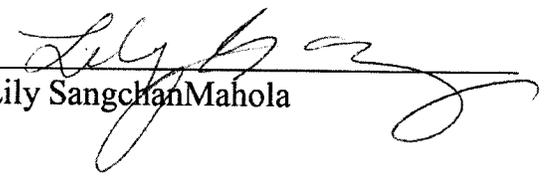
9. I wholeheartedly endorse and support a change in the methodology used by Liberty Utilities to calculate my sewer bill. In other words, I endorse and support a change from the number of chairs to the number of meals served per day.

10. The Town of Carefree is served by the Carefree Water Company. There is one water meter which serves the building my restaurant, China Joy is located within. This water meter also serves five other tenants. The monthly average water bill for this shared meter is approximately 22,150 gallons per month with an average monthly water bill of approximately \$135.00.

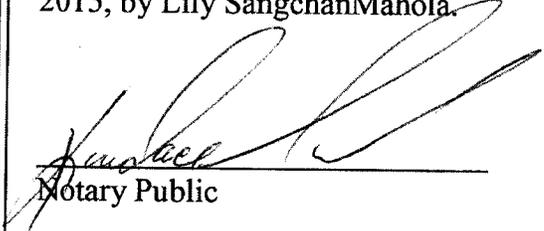
11. I understand that Liberty Utilities and the ACC is going to begin a rate case starting in May of this year, and it is my intention to fully participate in that rate case in order to arrive at an equitable method by which Liberty Utilities will calculate the sewer charges at my Restaurant.

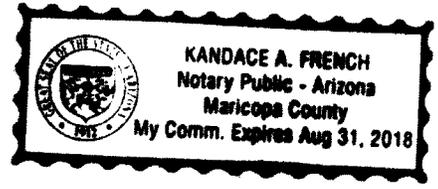
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FURTHER AFFIANT SAYETH NAUGHT.


Lily SangchanMahola

Subscribed and sworn before
me this 2 day of 24,
2015, by Lily SangchanMahola.


Notary Public



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BEFORE THE ARIZONA CORPORATION COMMISSION COMMISSIONERS

**SUSAN BITTER SMITH – CHAIRWOMAN
BOB STUMP
BOB BURNS
DOUG LITTLE
TOM FORESE**

<p>IN THE MATTER OF CAREFREE 34, INC./OFFICE ON EASY STREET INC., d/b/a VENUES CAFÉ, COMPLAINANT, v. LIBERTY UTILITIES CORPORATION f/k/a BLACK MOUNTAIN SEWER CORPORATION, RESPONDENT.</p>	<p>DOCKET NO. SW-02361A-13-0359 AFFIDAVIT OF JAN SEVELA</p>
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State of Arizona)
) ss.
County of Maricopa)

JAN SEVELA, being first duly sworn upon his oath, deposes and says:

1. I am over the age of 21 years, and am competent to testify concerning the matters set forth herein.
2. I currently own a restaurant in the Town of Carefree, known as SUNDIAL CAFÉ (the “Restaurant”).
3. The Restaurant is open during the following times:
MONDAY – SUNDAY 8 AM – 3 PM
4. The Restaurant is closed in the summer months from May 31 and reopening again the day after Labor Day (September).
5. The Restaurant is currently licensed as a restaurant, with a Series 7 license that allows us to serve alcohol, as well as meals.

EXHIBIT K

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6. The Restaurant currently has 88 chairs in season and 44 chairs within slower months of season, and serves 75 meals per day (approximately 7% take out).

7. My monthly bill for sewer reflects a range based upon the aforementioned seating capacity of 95,400 to 39,600 gallons. This results in an average monthly bill in the amount of \$500.00.

8. I do not have a POS system however, I have paper tickets of each order which I maintain for business records. I would be willing to install a POS system if it reduces my sewer bill.

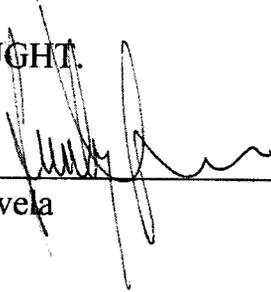
9. I wholeheartedly endorse and support a change in the methodology used by Liberty Utilities to calculate my sewer bill. In other words, I endorse and support a change from the number of chairs to the number of meals served per day.

10. The Town of Carefree is served by the Carefree Water Company, and my water usage averages 8,000 gallons per month and my average monthly water bill is \$75.00.

11. I understand that Liberty Utilities and the ACC is going to begin a rate case starting in May of this year, and it is my intention to fully participate in that rate case in order to arrive at an equitable method by which Liberty Utilities will calculate the sewer charges at my Restaurant.

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FURTHER AFFIANT SAYETH NAUGHT.

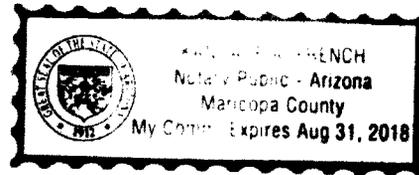


Jan Sevela

Subscribed and sworn before
me this 24 day of FEBRUARY,
2015, by Jan Sevela.



Notary Public



1 6. The Restaurant currently has 36 chairs inside and 52 chairs on an
2 outside patio (which are not used during the summer months of June, July,
3 August and September and weather permitting in December, January and
4 February), and serves 50 meals per day on average from May through October
5 and 78 meals per day on average from November through April .

6 7. My monthly bill for sewer based upon the aforementioned seating
7 capacity is approximately 79,200 gallons. This results in an average monthly bill
8 of approximately \$650.00.

9 8. I do not have a POS system, however; I have paper tickets of each
10 order which I maintain for business records. I would consider purchasing a POS
11 system if it would lower my sewage bill.

12 9. I wholeheartedly endorse and support a change in the methodology
13 used by Liberty Utilities to calculate my sewer bill. In other words, I endorse and
14 support a change from the number of chairs to the number of meals served per
15 day.

16 10. The Town of Carefree is served by the Carefree Water Company,
17 and my water usage averages 22, 265 gallons per month and my average monthly
18 water bill is \$225.00.

19 11. I understand that Liberty Utilities and the ACC is going to begin a
20 rate case starting in May of this year, and it is my intention to fully participate in
21 that rate case in order to arrive at an equitable method by which Liberty Utilities
22 will calculate the sewer charges at my Restaurant.

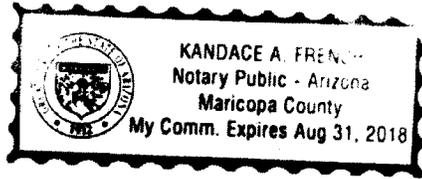
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FURTHER AFFIANT SAYETH NAUGHT.

Shelly Merritt
Shelly Merritt

Subscribed and sworn before
me this 25 day of February,
2015, by Shelly Merritt.

Kandace A. French
Notary Public



BEFORE THE ARIZONA CORPORATION COMMISSION COMMISSIONERS

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**SUSAN BITTER SMITH - CHAIRWOMAN
BOB STUMP
BOB BURNS
DOUG LITTLE
TOM FORESE**

<p>IN THE MATTER OF CAREFREE 34, INC./OFFICE ON EASY STREET INC., d/b/a VENUES CAFÉ, COMPLAINANT, v. LIBERTY UTILITIES CORPORATION f/k/a BLACK MOUNTAIN SEWER CORPORATION, RESPONDENT.</p>	<p>DOCKET NO. SW-02361A-13-0359 AFFIDAVIT KEVIN BINKLEY</p>
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State of Arizona)
) ss.
County of Maricopa)

KEVIN BINKLEY, being first duly sworn upon his oath, deposes and says:

1. I am over the age of 21 years, and am competent to testify concerning the matters set forth herein.

2. I currently own a restaurant in the Town of Carefree, known as CAFÉ BINK (the "Restaurant").

3. The Restaurant is open during the following times:
MONDAY - SATURDAY 11AM TO 9PM,
SUNDAY 10 AM TO 9PM
CLOSED ON MONDAYS FROM MAY TO SEPTEMBER.

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4. The Restaurant is open year round.

5. The Restaurant is currently licensed as a restaurant, with a Series 12 license that allows us to serve alcohol, as well as meals.

6. The Restaurant currently has 88 chairs, and serves 100 meals per day.

7. My monthly bill for sewer based upon the aforementioned seating capacity is approximately 79,200 gallons. This results in an average monthly bill of approximately \$650.00.

8. I do have a POS system. The POS system will allow me to accurately reflect and report the number of meals served per day.

9. I wholeheartedly endorse and support a change in the methodology used by Liberty Utilities to calculate my sewer bill. In other words, I endorse and support a change from the number of chairs to the number of meals served per day.

10. I have recently had discussions with Liberty Utilities in which we discussed why my sewer bill was so high, and why the dramatic increase over the years.

11. The Town of Carefree is served by the Carefree Water Company. There is one common meter for the building which my restaurant is located in. This common meter is also shared by five other tenants which includes a beauty salon and another restaurant, Pizzafarro's. The average water use for this common meter per month is 66,330 gallons with an approximate water bill for the common meter of \$400.00.

12. I understand that Liberty Utilities and the ACC is going to begin a rate case starting in May of this year, and it is my intention to fully participate in that rate case in order to arrive at an equitable method by which Liberty Utilities will calculate the sewer charges at my Restaurant.

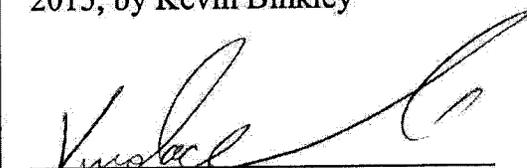
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FURTHER AFFIANT SAYETH NAUGHT.



Kevin Binkley

Subscribed and sworn before
me this 25th day of February,
2015, by Kevin Binkley



Notary Public

