

ORIGINAL



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AZ CORP COMMISSION  
DOCKET CONTROL

7 **BEFORE THE ARIZONA CORPORATION COMMISSION**

9 **COMMISSIONERS**

10 DOUG LITTLE, CHAIRMAN  
11 BOB STUMP  
12 BOB BURNS  
13 TOM FORESE  
14 ANDY TOBIN

Arizona Corporation Commission

DOCKETED

APR 28 2016

DOCKETED BY 

15 **IN THE MATTER OF PICACHO PEAK**  
16 **WATER COMPANY, INC.'S RATE**  
17 **APPLICATION**

Docket No. W-02351A-11-0231

**RESPONSE TO ISSUES RAISED AT  
PROCEDURAL CONFERENCE**

19 Picacho Peak Water Company, Inc. ("Company" or "Picacho Peak") hereby  
20 addresses the three issues discussed during the procedural conference held on April 14,  
21 2016.

23 **Backflow Prevention at Water Hauling Station**

24  
25 On multiple occasions, the RV Park owners Mike and Mark Wirth have  
26 complained to the Arizona Corporation Commission ("ACC") and Arizona Department  
27 of Environmental Quality ("ADEQ") about the Cogburn family's water hauling  
28 operation, asserting backflow could contaminate the water system. After each

1 complaint, Company representatives have consulted with the system operator who has  
2 assured the Company that he has investigated the water haul truck, ADEQs rules are  
3 being filed, and the air gap use prevents any backflow contamination. This has been  
4 discussed with the regulatory agencies several times and documented with ACC staff.  
5  
6 *See Attachments 1 and 2. There is no backflow risk.*

### 7 **Residential and Commercial Meter Classifications**

9       Apparently, Staff believes that certain meters should be classified as commercial  
10 instead of residential. A table listing the meters, classifications, and annual water use is  
11 set forth in Attachment 3.  
12

13       The Company understands that Staff now agrees that the 2 meters leading to the  
14 homes at the Ostrich Ranch are correctly classified as residential. While these water uses  
15 may appear to be high compared to urban water use, it is reasonable when you consider  
16 the homes have reverse osmosis systems that generate a large waste stream, evaporative  
17 coolers, and a rural lifestyle. It is important to note that the Ostrich Ranch owners also  
18 have two commercial meters and purchase bulk water as well. Thus, the classifications  
19 proposed by the Company are correct.  
20  
21

22       Meanwhile, Staff still seems to believe all of the meters serving the Bowlin's  
23 property should be classified as commercial. The Company agrees that meters 1, 2, and 4  
24 serving the Bowlin's Dairy Queen, Peak Plaza, and sewage treatment plant should be  
25 classified as commercial. However, meter 3 serving the residences of the Bowlin's  
26 employees should be classified as residential. This meter serves 6 homes and each  
27 household uses approximately 55,000 gallons per year. Knowing these homes also have  
28

1 a reverse osmosis waste stream, this is a very small amount of water use. Clearly, this  
2 use is residential.

### 3 4 **Legal Expenses**

5 During the April 14 procedural conference, Staff explained its \$4,080 adjustment  
6 to legal expense for the first time. Staff, first reduced expenses by \$1,955 for legal  
7 expenses, arguing it was an out of test year expense. This is simply wrong. Invoice  
8 21451 for \$1,955 is dated January 27, 2014. *See Attachment 4.* Certainly, the work was  
9 done in December 2013, but the billing was conducted pursuant to routine practices and  
10 was correctly booked upon receipt of the invoice in January of 2014.<sup>1</sup> This standard  
11 practice is consistent with all regulatory accounting rules and this legal expense is  
12 correctly classified as a test year expense.  
13  
14

15  
16 Second, Staff disallowed \$1,125 of legal expense related to the annual meeting  
17 held on March 5, 2014. *See Attachment 5.* In the two previous filings, Staff argued that  
18 its adjustments were made to “remove nonrecurring, unsupported and out of test year  
19 legal expenses.” *See Staff Report at Schedule BCA-3.* But this legal expense was  
20 certainly in the test year, was supported by the invoice, and the annual meeting is  
21 recurring. At the procedural conference, Staff explained it made the adjustment because  
22 they did not believe the attorney should attend the annual meeting.  
23  
24  
25  
26  
27

28  

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1 It is important to note that the Company did not include the invoice dated January 2015  
for legal services performed during December 2014.

1 With all due respect to Staff, this is not their decision to make. If the Company's  
2 board of directors believes that attorney services are needed at the annual meeting, then  
3 their decision should be respected. This is especially true here where the board of  
4 directors positions are held by all of the customers. Further, these annual meetings are  
5 where much of the Company's business is conducted. At this particular annual meeting,  
6 the attorney addressed rate case matters, the WIFA loan, complaints by the Wirths, point-  
7 of-use treatment installation and operation, as well as corporate voting and taxing  
8 matters. Interestingly, not once before making its decision did staff inquire as to what  
9 occurred at the annual meeting. Clearly, Staff's adjustment was arbitrary and its  
10 proposed \$1,125 deduction should not be adopted.

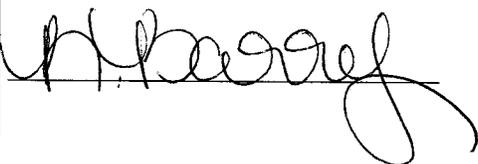
11  
12  
13  
14 RESPECTFULLY SUBMITTED this 28<sup>th</sup> day of April, 2016.

15  
16 **MOYES SELLERS & HENDRICKS LTD.**

17   
18 \_\_\_\_\_  
19 Steve Wene

20 Original and 13 copies of the foregoing  
21 filed this 28<sup>th</sup> day of April 2016, with:

22 Docket Control  
23 Arizona Corporation Commission  
24 1200 West Washington  
25 Phoenix, Arizona 85007

26   
27  
28

# **Attachment 1**

## Steve Wene

---

**From:** Steve Wene  
**Sent:** Wednesday, February 25, 2015 12:36 PM  
**To:** Michael Wirth  
**Cc:** Trish Meeter; BillM@bowlintc.com  
**Subject:** RE: Complaint

Hello,

I have followed up with the Company's certified operator. He has confirmed that the water truck used on the farm has an air gap, so ADEQ rules are being followed and there is no possibility of backflow contamination.

-----Original Message-----

**From:** Michael Wirth [mailto:MIWirth@atiaz.com]  
**Sent:** Tuesday, February 24, 2015 8:28 AM  
**To:** Steve Wene  
**Cc:** Trish Meeter; BillM@bowlintc.com  
**Subject:** RE: Complaint

Bill,

Please set up a meeting at your earliest convenience.

Thanks,

Mike

-----Original Message-----

**From:** Steve Wene [mailto:swene@law-msh.com]  
**Sent:** Monday, February 23, 2015 9:33 AM  
**To:** Michael Wirth  
**Cc:** Trish Meeter; BillM@bowlintc.com  
**Subject:** Complaint

Hello Mike,

You have asked to meet and discuss several issues. As a partial owner of the PPWC and board member, you know you are entitled to have such discussions anytime. I suggest that you ask for a board meeting and set these issues on the agenda. I am also responding to the questions you specifically raised below:

1. I would like the engineers from the ACC to look at everyone's meter and size it properly.

Response - The ACC engineers inspected the system during the last rate case and did not take issue with the meter sizing, including the RV Park meter. PPWC believes the customer meters are appropriately sized, with the exception of the RV Park. If the ACC engineers want to inspect the system, they certainly may do so.

2. It appears from everyone I've talked to that Picacho Peak RV has been over charged for several years since the meter cost was for a two inch meter (\$1,425 month) and I only had a one and half inch meter (\$690 month). Please refund the over payment.

Response - Company management is investigating the matter to determine when the 1 1/2 inch meter was placed into service. We will provide you with the facts after our investigation is completed.

3. How is the water truck being meter on the farm? What backflow protection do we have on the system so the water does not get contaminated?

Response - The bulk water sales to the farm are being charged on a truck load basis. A log is kept to record the number of truck fills each month and then the customer is billed accordingly. Our understanding is that the Company has backflow preventers on all of the commercial connections. The farm has backflow preventers, including at the residences. The Company is in compliance with the bulk water sales. The company will follow-up with its bulk water purchasers and go over proper filling procedures to ensure there are no contamination issues.

4. I would like to have all notices of rate changes and meetings sent to me by registered letter since I didn't know about the last rate case.

Response - PPWC followed all ACC rules and regulations relating to customer notices. Further, as a board member, you were informed of the rate case proceeding and provided information on the case before it was filed, while it was ongoing, and after the new rates were adopted.

5. You said that I agreed to pay for the meter change out but I want to clarify what I said. I said if I cannot run the park on a 3/4 inch meter and had to put the old 1-1/2 meter in then I would pay for the change out. I have been functioning fine with the 3/4 inch meter with all the additional storage and pressure tanks I installed. I think if you would install a 3/4 inch iPERL meter I would still function fine.

Response - PPWC accommodated your desire to install a 3/4 inch meter even though PPWC management believed such a small meter would not work because the RV Park has approximately 300 lots, a large swimming pool, and RO treatment system, and water using amenities. At the time, you promised that if the 3/4 inch meter failed, you would pay the cost of purchasing and installing a meter sized by PPWC. There was no misunderstanding. As PPWC predicted within a couple months the 3/4 inch meter failed. PPWC estimates the RV Park was using a substantial amount of water that did not get registered during this time. PPWC will not install another 3/4 inch meter. Knowing the RV Park's reason for wanting a smaller meter is driven by cost, not sound engineering, PPWC has worked with consultants and the iPerl manufacturer representatives, who have jointly concluded that the 1" meter is the smallest meter that MIGHT be sufficient to properly register water flow to your system. The 1" iPerl meter has been installed and PPWC will monitor it to ensure it works appropriately.

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# Attachment 2

## Steve Wene

---

**From:** Steve Wene  
**Sent:** Friday, October 23, 2015 1:12 PM  
**To:** Bill J. McCabe  
**Subject:** RE: Arizona Corporation Commission Utility - Complaint #127035 - Michael Wirth

Hi Bill,

- 1) The RV Park is a metered customer and will be billed accordingly. It is not eligible for a bulk water rate.
- 2) The water truck issue has been addressed by the company's certified operator. The truck has an air gap, which prevents contamination. This has been explained to the Wirth's on several occasions and his previous complaint to the ACC regarding this matter has already been addressed.

Call me to discuss how to answer the bulk water issue.

-----Original Message-----

**From:** Bill J. McCabe [mailto:BMcCabe@bowlintc.com]  
**Sent:** Wednesday, October 21, 2015 4:46 PM  
**To:** Steve Wene  
**Subject:** FW: Arizona Corporation Commission Utility - Complaint #127035 - Michael Wirth

Comments?

-----Original Message-----

**From:** MBuck@azcc.gov [mailto:MBuck@azcc.gov]  
**Sent:** Wednesday, October 21, 2015 5:34 PM  
**To:** Bill J. McCabe <BMcCabe@bowlintc.com>  
**Cc:** mbuck@azcc.gov  
**Subject:** Arizona Corporation Commission Utility - Complaint #127035 - Michael Wirth

Hello Bill, if you would like me to send this complaint to someone other than you, please provide that information and I will redirect the email.

Thank you,  
Mike

# Attachment 3

<b>Customer Name</b>	<b>Gallons</b>
Bowlins	696,831
Bowlins Peak Plaza	866,800
Bowlins Resident	333,520
Bowlins Sewage Treatment	680
Danna Cogburn/ House 2	112,401
DC Cogburn / new meter	129,190
DC Cogburn/House 1	589,200
Ostrich Ranch	-
Red Rock Retail 52	4,010
P.P. Garage	16,070
P.P. State Park	26,000
P.P. RV Park	<u>2,812,922</u>
Total Gallons Billed	5,587,624
Cogburn Bulk Purchase	<u>638,000</u>
Total Test Year Gallons Billed	<u>6,225,624</u>

# Attachment 4

# Moyes Sellers & Hendricks

1850 North Central Avenue

Suite 1100

Phoenix, AZ 85004

Tel: 602-604-2141

Picacho Peak Water Co.  
28784 Stonehenge Drive  
Chesterfield, MI 48047  
Dawn Bechamp

January 27, 2014

Invoice # 21451

## Professional Services

		<u>Hours</u>	<u>Amount</u>
12/3/2013	SW	Review and respond to ACC staff regarding request to change meters by RV Park; draft notes regarding same.	0.20 45.00
12/4/2013	SW	Telephone call with client regarding ADEQ and ACC issues; prepare for and participate in telephone conference with ADEQ regarding nitrate compliance issues; draft notes regarding same.	1.40 315.00
12/5/2013	SW	Prepare for and attend meeting of client's board of directors.	5.20 1,170.00
	SW	Review and revise letter to RV Park owner regarding changing meters.	0.30 67.50
	TH	Confer with S. Wene regarding correspondence to document rights and responsibilities of client and Picacho Peak RV Resort regarding installation of water meter; draft correspondence.	0.80 200.00
12/9/2013	SW	Review and respond to correspondence from Mike Wirth regarding water service issues.	0.10 22.50
12/10/2013	SW	Review and respond to correspondence from client regarding nitrate testing.	0.10 22.50
12/11/2013	SW	Review correspondence from Mike Wirth regarding transferring water service and meter sizes; telephone call with client regarding same; telephone call with ADEQ regarding same; draft correspondence to ADEQ regarding water testing results.	0.40 90.00
12/16/2013	SW	Draft correspondence to client regarding issues relating to water treatment.	0.10 22.50

Picacho Peak Water Co.

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	<u>Hours</u>	<u>Amount</u>
For professional services rendered	8.60	\$1,955.00
Previous balance		\$8,808.20
1/27/2014 Payment - thank you. Check No. 2336		<u>(\$1,000.00)</u>
Total payments and adjustments		<u>(\$1,000.00)</u>
Balance due		<u><u>\$9,763.20</u></u>

Firm EIN #86-0936446

# Attachment 5

# Moyes Sellers & Hendricks

1850 North Central Avenue  
Suite 1100  
Phoenix, AZ 85004  
Tel: 602-604-2141

Picacho Peak Water Co.  
28784 Stonehenge Drive  
Chesterfield, MI 48047  
Dawn Bechamp

April 18, 2014

Invoice # 22002

## Professional Services

		<u>Hours</u>	<u>Amount</u>
3/3/2014 SW	Telephone call to client regarding WIFA reimbursement and issues to address at annual meeting.	0.30	67.50
3/5/2014 SW	Prepare for and attend client annual meeting; consultation with client regarding status of WIFA submittal, Wirth issues, and installation of treatment in customer location.	5.00	1,125.00
3/19/2014 SW	Compile additional documents for WIFA disbursement request; revise disbursement request regarding same; telephone call to engineer regarding certification; review and respond to correspondence from engineer regarding same; finalize and file WIFA disbursement request.	1.20	270.00
3/20/2014 SW	Draft correspondence to engineer regarding finalizing the WIFA disbursement request; compile documents regarding same; review and respond to correspondence from WIFA regarding same.	0.20	45.00
3/21/2014 SW	Review correspondence from WIFA regarding requisition request; draft response regarding same; draft correspondence to client regarding same; review requisition.	0.30	67.50
3/24/2014 SW	Review file and draft correspondence to client regarding status of all matters being addressed.	0.10	22.50
	For professional services rendered	<u>7.10</u>	<u>\$1,597.50</u>
	Previous balance		\$10,684.30
3/31/2014	Payment - thank you. Check No. 2350		<u>(\$1,500.00)</u>
	Total payments and adjustments		(\$1,500.00)

Picacho Peak Water Co.

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Balance due

Amount  
\$10,781.80

Firm EIN #86-0936446