

Edwin C. Barnes (0217)  
Emily E. Lewis (13281)  
**CLYDE SNOW & SESSIONS**  
One Utah Center, Thirteenth Floor  
201 S. Main Street  
Salt Lake City, UT 84111-2216  
Telephone (801) 322-2516  
Fax (801) 521-6280  
ecb@clydesnow.com  
eel@clydesnow.com

*Attorneys for Pineview West Water Company*

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**BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH**

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Formal Complaint of Robert and Kim Arave  
against Pineview West Water Company,

DOCKET NO. 20-2438-01

**ANSWER TO FORMAL COMPLAINT**

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The Pineview West Water Company (Company) hereby responds to the December 21, 2020 Formal Complaint (Complaint) that was filed against the Company by Roger and Kimberly Arave (Araves), and notes that the substance of the Complaint is identical to that raised in the Informal Complaint, No. C20-0241 (Informal Complaint), that was filed by the Araves on December 3, 2020 and resolved by the Commission on December 11, 2020. The Complaint should be summarily resolved on the same basis.

The Complaint asks that the Commission delay action in the Company's pending rate case for an indefinite period pending resolution of litigation about claimed interference between the Araves' and the Company's water wells. That case, Civil No. 130907544 pending in the Second District Court, was filed in 2013. The trial court found that there was interference between the wells, but the Utah Supreme Court, in an opinion handed down on October 15, 2020, 2020 UT 67, reversed the trial court, finding that the Araves had not proven interference, and remanded the case to the trial court for further proceedings.

The Complaint should be dismissed because the issues raised in the trial court litigation do not bear on the Company's rates or its costs of service, and the Araves have offered no new information that would call into question the Company's rates or costs of service.

The Araves are not members of and own no interest in the Company. They own their own culinary well and water rights for the provision of culinary and irrigation water for their residence. They do not own and have not paid for fire-flow or other storage facilities. They have been provided with water from the Company's wells and water rights at contract rates under the Company's 2009 tariff while their well interference claims against the Company are being litigated. That tariff specifically required the Company to charge the Araves and other contract customers the same rates that it charges to the Company's members. That tariff requirement made sense because the Company's cost of service to the Araves is as high, if not higher, than the cost of serving the Company's members. The Araves have not furnished any data to suggest that it costs the Company less to provide water to them. Neither does such data exist.

The Company did not directly notify the Araves of the pending rate case for the simple reason that they are not members of and have no ownership interest in the Company. Unlike the Company's members, the Araves have never invested in the Company's diversion, storage, or distribution facilities; they have simply purchased water at the contract rates set in the tariff approved by the Commission. Nevertheless, all of the filings in this and all rate cases are public documents, available to all.

As noted, the issues raised in the nearly eight-year-old state court case referenced by the Araves have no bearing on the pending rate case. The matters are not related and a resolution of one matter does not depend on the outcome of the other. This rate case was filed almost a year

before the Supreme Court ruled on the Company's successful appeal, and the Commission's schedule for the case was set before the Supreme Court overturned the trial court's decision that the Company had interfered with Arave's water well.<sup>1</sup>

The Company has been working under an 11-year-old tariff that badly needs to be updated. The rate increase was requested to address increased costs of service. (Perhaps not coincidentally, the requested rates coincide quite closely to the increase in the cost of living over that long period.) The rate filing affects all who receive water from the Company, and there is no basis for any suggestion that it was targeted at the Araves. As noted, the cost of providing water to the Araves is not lower than the cost born by the Company's members.

There is, in short, no reason that the Public Service Commission should delay its decision in the rate case until some uncertain future time when the well interference claims may finally be resolved. Neither is there any factual basis for assigning the Araves a different or lower rate tier, or to excuse them from paying the same overage fees, special and other assessments that are paid by the Company's members.

The Complaint should be dismissed for those reasons.

DATED this 12<sup>th</sup> day of January, 2021.

**CLYDE SNOW & SESSIONS**

/s/ Edwin C. Barnes

Edwin C. Barnes

Emily E. Lewis

*Attorneys for Pineview West Water Company*

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<sup>1</sup> The Complaint was filed directly by the Araves, though they list David Wright as their attorney. Mr. Wright represents Arave with respect to the pending litigation but has not entered an appearance for the Araves, nor has he communicated with counsel for the Company with respect to the Company's rate case. The Company suspects that Mr. Wright may not be aware of the Complaint. Nevertheless, as a matter of precaution and courtesy, copies of this Answer will also be served on Mr. Wright.

**CERTIFICATE OF SERVICE**

I CERTIFY that on the 12<sup>th</sup> day of January, 2021, a true and correct copy of the foregoing was delivered to the following as indicated below:

By Email:

Roger and Kim Arave ([araveclan@gmail.com](mailto:araveclan@gmail.com))

David Wright ([dwright@utahwater.com](mailto:dwright@utahwater.com))

Peter Turner ([pwwceden@gmail.com](mailto:pwwceden@gmail.com))  
Pineview West Water Company

Patricia Schmid ([pschmid@agutah.gov](mailto:pschmid@agutah.gov))  
Justin Jetter ([jjetter@agutah.com](mailto:jjetter@agutah.com))  
Assistant Utah Attorneys General

Madison Galt ([mgalt@utah.gov](mailto:mgalt@utah.gov))  
Division of Public Utilities

/s/ Marilyn Christensen \_\_\_\_\_