

DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA

IN THE MATTER OF THE COMPLAINT OF
SHOSHONE CONDOMINIUM HOTEL
OWNERS ASSOCIATION, A MONTANA
CORPORATION,

Complainant,

v.

ABACO ENERGY SERVICES, LLC a North
Dakota Limited Company,

Defendant.

UTILITY DIVISION

Docket No. D2013.9.71

**SHOSHONE CONDOMINIUM HOTEL OWNERS ASSOCIATION'S
PRE HEARING MEMORANDUM**

Pursuant to the Public Service Commission's ("Commission") Scheduling Order the Shoshone Condominium Hotel Owners Association ("SCHOA") submits its Pre Hearing Memorandum.

CONTESTED ISSUES

- 1) Whether ABACO Energy Services, LLC ("ABACO") is a public utility.
- 2) Whether ABACO is exempt from public utility status because of the Lockwood Water Users Association v. Anderson, 168 Mont 303, 542 P.2d 1217 (1975)

- 3) Whether this Commission should reaffirm its preliminary findings in the Order to Deny Motion to Dismiss/Motion for Reconsideration.

WITNESSES

- 1) Stacy Tschider
- 2) Diane Bartzick
- 3) Murray Morgan
- 4) Barb Rooney Starz
- 5) Matthew Paine
- 6) Robert Orsello
- 7) Courtney Jones
- 8) Brian Wheeler

EXHIBITS

- 1) Declaration of Covenants, Conditions and Restrictions for Mountain Village Subdivision.
- 2) SCHOA power allocation for the ABACO account December 31, 2012, March 31, 2013, December 31, 2013, December 31, 2014, September 30, 2015.
- 3) R&R report prepared by Robert Orsello, specifically the portion involving summary of propane.
- 4) Written opposition to Senate Bill SB 321 for the Future Success of Big Sky Mountain Village authored by Robert Orsello.
- 5) Email chain among Barb Rooney, Murray Morgan and Stacy Tschider dated April 28, 2014.

- 6) ABACO Energy Services letter to SCHOA Members/Board dated September 28, 2012.
- 7) Big Sky Resort Mountain Village Overall Development Plan November 30, 2015.
- 8) Agreement to provide propane services dated July 25, 2007 between ABACO Energy Services, LLC and Boyne USA, Inc.
- 9) Annual propane price agreement ABACO Energy Services –Boyne USA July 25, 2007 – May 31, 2008.
- 10) ABACO Energy Services bill for service at Shoshone Lodge propane meter July 1, 2009, July 30, 2009, September 1, 2009, September 30, 2009, October 30, 2009, December 2, 2009, January 4, 2010, January 28, 2010, February 28, 2010, March 31, 2010, May 2, 2010, June 3, 2010, July 6, 2010, August 1, 2010, September 2, 2010, October 6, 2010, November 4, 2010, December 3, 2010, January 5, 2011, February 1, 2011, March 15, 2011, March 31, 2011, May 2, 2011, June 8, 2011.
- 11) Email chain among Barb Rooney Starz, Murray Morgan and Stacy Tschider dated March 18, 2011.
- 12) ABACO bill history for the Shoshone Lodge propane meter from July 22, 2008 Boyne bates number 05932 and monthly thereafter through July 30, 2014 Boyne bates number 05938.
- 13) Management agreement between SCHOA and Boyne USA, Inc. dated May 8, 1998.
- 14) Management agreement dated December 7, 2007 between SCHOA and Boyne USA, Inc.
- 15) Stacy Tschider's Second Affidavit dated March 11, 2015.

- 16) All documents contained and described on that certain disk containing documents Boyne believes is responsive to Data Requests submitted by SCHOA.
- 17) All documents attached to each parties responses to Data Requests

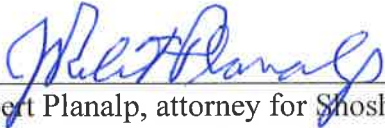
RESPONSES TO DATA REQUESTS

- 1) SCHOA submitted Data Requests to ABACO. The responses to the following Data Requests will be introduced; SCHOA 1, SCHOA 2, SCHOA 3, SCHOA 4, SCHOA 5, SCHOA 6, SCHOA7, SCHOA 8, SCHOA 9, SCHOA 10, SCHOA 12, SCHOA 13, SCHOA 14, SCHOA 16, SCHOA 21, SCHOA 22, SCHOA 23, SCHOA 24, SCHOA 36, SCHOA 37, SCHOA 38, SCHOA 39, SCHOA 40, SCHOA 41, SCHOA 42, SCHOA 43, SCHOA 44, SCHOA 45.
- 2) SCHOA submitted Data Requests to Boyne. The responses to the following Data Requests will be introduced. SCHOA 25, SCHOA 26, SCHOA 28, SCHOA 29, SCHOA 30, SCHOA 31, SCHOA 32, SCHOA 33, SCHOA 34, SCHOA 35.
- 3) The Public Service Commission has submitted 7 Data Requests to ABACO. The SCHOA will introduce the responses to the following Data Requests; PSC 1, PSC 2, PSC 3, PSC 4, PSC 5, PSC 6, PSC 7.
- 4) The Public Service Commission has submitted Data Requests to Boyne, USA, Inc. The SCHOA will introduce the responses to the following Data Requests; PSC 9, PSC 10, PSC 11, PSC 12, PSC 13.
- 5) SCHOA's responses to PSC Data Requests PSC 14, PSC 15, PSC 16, PSC 17
- 6) Boyne's responses to ABACO Data Requests ABACO 24, ABACO 25, ABACO 26, ABACO 27, ABACO 29.

7) SCHOA's responses to ABACO's Data Requests ABACO 1, ABACO 2, ABACO 3, ABACO 4, ABACO 5, ABACO 6, ABACO 7, ABACO 8, ABACO 9, ABACO 10, ABACO 11, ABACO 12, ABACO 13, ABACO 14, ABACO 15, ABACO 16, ABACO 17, ABACO 18, ABACO 19, ABACO 20, ABACO 21 and ABACO 30, ABACO 31, ABACO 32, ABACO 33, ABACO 34, ABACO 35, ABACO 36, ABACO 37, ABACO 38, ABACO 39, ABACO 40, ABACO 41, ABACO 42, ABACO 43, ABACO 44, ABACO 45, ABACO 46, ABACO 47, ABACO 48, ABACO 49, ABACO 50.

Dated this 22nd day of June, 2016.

LANDOE, BROWN, PLANALP & REIDA, P.C.

By  _____
J. Robert Planalp, attorney for Shoshone Condominium
Hotel Owners Association

CERTIFICATE OF SERVICE

I hereby certify that on the 22nd day of June, 2016, a true and correct copy of the foregoing was this day served as follows:

Will Rosquist
Justin Kraske
Jeremiah Langston
Public Service Commission
1701 Prospect Ave.
P.O. Box 202601
Helena, MT 59620-2601
wrosquist@mt.gov
jkraske@mt.gov
jiangston@mt.gov

- E-Filed
- E-Mail
- Hand Delivered
- First Class Mail
- Overnight

Kim Beatty
Browning Kaleczyc, Berry & Hoven, P.C.
800 North Last Chance Gulch, Suite 101
P.O. Box 1697
Helena, MT 59624
kim@bkbh.com
kristia@bkbh.com

- E-Mail
- Hand Delivered
- First Class Mail
- Overnight

Michael Green
Wiley Barker
Crowley Fleck, PLLP
900 N. Last Chance Gulch, Suite 200
Helena, MT 59601
mgreen@crowleyfleck.com
wbarker@crowleyfleck.com

- E-Mail
- Hand Delivered
- First Class Mail
- Overnight

Jason T. Brown
Montana Consumer Counsel
111 N. Last Chance Gulch, Suite 1B
P.O. Box 201703
Helena, MT 59620-1703
jbrown4@mt.gov

- E-Mail
- Hand Delivered
- First Class Mail
- Overnight



LANDOE, BROWN, PLANALP & REIDA, P.C.