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AZ CORP COMMISSION  
DOCUMENT CONTROL

BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

MARC SPITZER, Chairman  
WILLIAM A. MUNDELL  
JEFF HATCH-MILLER  
MIKE GLEASON  
KRISTIN K. MAYES

Arizona Corporation Commission  
**DOCKETED**

OCT 18 2004

DOCKETED BY

IN THE MATTER OF THE APPLICATION )  
OF RED ROCK UTILITIES, LLC FOR A )  
CERTIFICATE OF CONVENIENCE AND )  
NECESSITY TO PROVIDE WATER AND )  
WASTE WATER )

Docket No. WS-04245A-04-0184

**APPLICANT'S EXCEPTION TO  
RECOMMENDED OPINION  
AND ORDER**

Red Rock Utilities, LLC ("RRU") is the applicant for a Certificate of Convenience and Necessity to Provide Water and Wastewater from the Arizona Corporation Commission ("ACC") in the above-referenced matter and respectfully submits its Exception requesting deletion of Paragraph 37 of the Recommended Opinion and Order filed by Administrative Law Judge Rodda on October 8, 2004.

1 **Exception and Request.**

2 Paragraph 37 of the Opinion and Order dated October 8, 2004, states:

3 Diamond Ventures, Inc. is the sole member of the Red Rock  
4 L.L.C. Given our reliance on the expertise and financial  
5 strength of Diamond Ventures, Inc., it is reasonable that Red  
6 Rock notify the Commission, and receive prior approval from  
7 the Commission of any change in its ownership or managerial  
8 control.

9 The ACC's jurisdiction over RRU for such matters derives from A.R.S. Section  
10 40-285 and A.A.C. 14-2-801 *et seq.* Paragraph 37 appears to seek to provide the ACC  
11 with jurisdiction over a transaction it would not otherwise review. For example, although  
12 the sale of assets of a small water company is subject to ACC approval, under either  
13 statute or regulation, the sale of stock by the owners of a small water company is not  
14 subject to ACC approval. The sale of stock in a small water company could, however, be  
15 considered "any change in its ownership or managerial control." In such instance,  
16 Paragraph 37 would impose ACC approval otherwise not authorized.

17 Accordingly, RRU respectfully requests that Paragraph 37 of the Recommended  
18 Order be deleted subject to existing statutory and regulatory requirements for ACC  
19 approval.

20 RESPECTFULLY SUBMITTED this 18<sup>th</sup> day of October, 2004.

21 LEWIS AND ROCA LLP

22 By 

23 Mary Beth Savel  
24 Thomas H. Campbell  
25 40 N. Central Avenue  
26 Phoenix, Arizona 85004

Attorneys for Red Rock Utilities, LLC

1 ORIGINAL AND 13 COPIES filed  
2 this 18<sup>th</sup> day of October, 2004, with:

3 Arizona Corporation Commission  
4 Utilities Division – Docket Control  
5 1200 W. Washington Street  
6 Phoenix, Arizona 85007

7 COPY of the foregoing mailed  
8 this 18<sup>th</sup> day of October, 2004, to:

9 Lyn Farmer, Chief Administrative Law Judge  
10 Hearing Division  
11 Arizona Corporation Commission  
12 1200 W. Washington Street  
13 Phoenix, Arizona 85007

14 Jane L. Rodda, Administrative Law Judge  
15 Hearing Division  
16 Arizona Corporation Commission  
17 1200 W. Washington Street  
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