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COMMISSIONERS

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AZ CORP COMMISSION
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Arizona Corporation Commission

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BEFORE THE ARIZONA CORPORATION COMMISSION

IN THE MATTER OF THE APPLICATION)
OF ARIZONA WATER COMPANY, AN)
ARIZONA CORPORATION, TO EXTEND)
ITS EXISTING CERTIFICATES OF)
CONVENIENCE AND NECESSITY AT)
CASA GRANDE AND COOLIDGE, PINAL)
COUNTY, ARIZONA)

DOCKET NO. W-01445A-04-0755

IN THE MATTER OF THE APPLICATION)
OF WOODRUFF WATER COMPANY,)
INC. FOR A CERTIFICATE OF)
CONVENIENCE AND NECESSITY TO)
PROVIDE WATER SERVICE IN PINAL)
COUNTY, ARIZONA)

DOCKET NO. W-04264A-04-0438

IN THE MATTER OF WOODRUFF)
UTILITY COMPANY, INC. FOR A)
CERTIFICATE OF CONVENIENCE AND)
NECESSITY TO PROVIDE SEWER)
SERVICE IN PINAL COUNTY, ARIZONA)

DOCKET NO. SW-04265A-04-0439

REPLY TO STAFF'S RESPONSE
TO ARIZONA WATER COMPANY'S
MOTION FOR PREFILED TESTIMONY

ARIZONA WATER COMPANY, an Arizona corporation (the "Company"), through its undersigned counsel, files its Reply to the Staff's Response to the Company's Motion for a Procedural Order directing the parties to file prefiled testimony and exhibits in this case.

1 The Staff presents two responses to the Company's Motion. First, the Staff
2 argues that the Fifth Procedural Order directs the Staff to file a Staff Report and the
3 parties to file responses, that this is "well established procedure" for certificate of
4 convenience and necessity cases, and, therefore, that should be adequate in this case.

5 The Staff's arguments are incorrect.

6
7 First, the Fifth Procedural Order does not order the parties to file responses to
8 the Staff Report. The procedural order, at page 3, simply orders that "any" objections to
9 the Staff Report be presented by the Company or Woodruff Water Company, Inc.
10 ("Woodruff"), be reduced to writing and filed before the hearing. Responses are not
11 required, and, if a Company or Woodruff response is not deemed by Staff to be an
12 objection, Staff might object to such a response. Thus, filings are voluntary, not
13 required, and subject to objection by Staff. Moreover, there is no assurance whatsoever
14 that the responses suggested by Staff would rise to the level of what the Company
15 urged in its Motion, namely, requiring the parties to submit prefiled direct and rebuttal
16 testimony and exhibits to assist the administrative law judge and the Commission to
17 gain a full understanding of the parties' positions and the evidence in support of those
18 positions.

19
20 Second, the Company submits that there is no "well established procedure for
21 Certificate of Convenience and Necessity cases" that precludes the Company's
22 recommended approach if the administrative law judge and the Commission find such
23 approach to be appropriate under the circumstances of a case such as this, where there
24 are competing applications in a consolidated docket. Neither the Commission's rules
25 nor any general order require or contemplate any specific procedure for hearing a
26 certificated area application.
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1 Finally, there is precedent for the Company's suggestion to use prefiled
2 testimony and exhibits in a Certificate of Convenience and Necessity case. In
3 consolidated dockets nos. W-01445A-98-0667 and W-01624A-98-0367, which involved
4 competing applications filed by the Company and Big Park Water Company (also
5 consolidated for hearing) for the same territory, for a much smaller area than that which
6 is at issue in this consolidated docket, the administrative law judge ordered the parties
7 to file prepared testimony and exhibits before the hearing. (See Procedural Order
8 entered on January 11, 1999, page 3, lines 21-23; a copy is attached to this Reply as
9 Attachment "A"). As this order evidences, when the Commission is considering a
10 complex case such as that considered in the Company/Big Park case, and in the more
11 complex proceeding presented in the case at bar, the Commission has, and indeed will
12 exercise, the discretion necessary for the proper consideration of a particular case, no
13 matter what type of case it is.

14
15 The Staff's second argument seems to be that, while this case is more complex
16 and difficult than the case presented in a normal Certificate of Convenience and
17 Necessity application, the Company's suggestion to use prefiled testimony would make
18 its case more, not less complex and difficult. This can hardly be the case. Staff's
19 argument seems to support, not refute, the Company's Motion. The use of prefiled
20 testimony and exhibits will reduce, not increase, complexity and difficulty. It will force
21 the parties to focus on, and reduce to writing the merits of their respective cases, permit
22 the other parties and the administrative law judge to be better prepared for the hearings,
23 and permit more expedited and efficient hearings. This formula will reduce, not
24 increase, the complexity and difficulty that the Staff concedes this case presents.
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1 Finally, in its Motion, the Company did not suggest any particular procedural
2 schedule for the case; it only requested that the schedule be reasonable. For that
3 reason, the Company would have no objections to a procedural order which, for
4 example, ordered the Company and Woodruff to simultaneously file direct testimony
5 and exhibits and the Staff to then file its testimony and exhibits, so long as the Company
6 and Woodruff have an opportunity to file rebuttal testimony and exhibits.
7

8
9 CONCLUSION

10
11 This case would be processed most efficiently through the use of prefiled
12 testimony and exhibits by all parties. The Commission entering an order for such at this
13 point in the proceedings will prejudice no party, as it appears that the new procedural
14 schedule, with a little revision, may still be used. The Company, therefore, urges the
15 Commission to enter an order directing all parties to prefile prepared direct and rebuttal
16 testimony and exhibits, and to establish a reasonable procedural schedule at the same
17 time.
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RESPECTFULLY SUBMITTED this 1st day of February, 2005.

ARIZONA WATER COMPANY

By: R. W. Geake / WLR

Robert W. Geake
Vice President and General Counsel
ARIZONA WATER COMPANY
Post Office Box 29006
Phoenix, Arizona 85038-9006

Steve A. Hirsch
Bryan Cave LLP
Two North Central Avenue
Suite 2200
Phoenix, Arizona 85004

Attorneys for
Arizona Water Company

Original and seventeen (17) copies of the foregoing filed the 1st day of February, 2005
with:

Docket Control Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

A copy of the foregoing was hand-delivered this 1st day of February, 2005 to:

Marc E. Stern, Esq.
Administrative Law Judge
Hearing Division
Arizona Corporation Commission
1200 West Washington
Phoenix, AZ 85007

A copy of the foregoing was mailed this 1st day of February, 2005 to:

Timothy J. Sabo
Assistant Counsel
Legal Division
Arizona Corporation Commission
1200 West Washington
Phoenix, AZ 85007

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Jeffrey W. Crockett
Snell & Wilmer
400 E. Van Buren
Phoenix, AZ 85004

Marvin Cohen
Sacks Tierney
4250 N. Drinkwater Blvd., 4th Floor
Scottsdale, AZ 85251
Attorneys for Woodruff Water Company, Inc.
and Woodruff Utility Company, Inc.

Raymond S. Heyman
Michael W. Patten
Roshka Heyman & DeWulf PLC
400 East Van Buren, Suite 800
Phoenix, AZ 85004
Attorneys for Pulte Home Corporation

Ernest G. Johnson
Director, Utilities Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

By: *Gwen DeSeure*