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WILLIAM A. MUNDELL
CHAIRMAN
JIM IRVIN
COMMISSIONER
MARC SPITZER
COMMISSIONER



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BRIAN C. McNEIL
EXECUTIVE SECRETARY

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ARIZONA CORPORATION COMMISSION

2001 DEC -3 A 9:53

AZ CORP COMMISSION
DOCUMENT CONTROL

DATE: December 3, 2001

DOCKET NO: W-03537A-01-0043

TO ALL PARTIES:

Enclosed please find the recommendation of Administrative Law Judge Marc E. Stern. The recommendation has been filed in the form of an Opinion and Order on:

NEW LIFE TRUST, INC. dba DATELAND UTILITIES
(COMPLAINT)

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Administrative Law Judge by filing an original and ten (10) copies of the exceptions with the Commission's Docket Control at the address listed below by **4:00 p.m.** on or before:

DECEMBER 12, 2001

The enclosed is NOT an order of the Commission, but a recommendation of the Administrative Law Judge to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Working Session and Open Meeting to be held on:

DECEMBER 18 AND 19, 2001

For more information, you may contact Docket Control at (602)542-3477 or the Hearing Division at (602)542-4250.

Arizona Corporation Commission
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BRIAN C. McNEIL
EXECUTIVE SECRETARY

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 WILLIAM A. MUNDELL
CHAIRMAN

3 JIM IRVIN
COMMISSIONER

4 MARC SPITZER
COMMISSIONER

5 UTILITIES DIVISION STAFF,

6 Complainant,

7 vs.

8 NEW LIFE TRUST, INC. dba DATELAND
9 UTILITIES,

10 Respondent.

DOCKET NO. W-03537A-01-0043

DECISION NO. _____

OPINION AND ORDER

11 DATE OF HEARING: November 8, 2001

12 PLACE OF HEARING: Phoenix, Arizona

13 ADMINISTRATIVE LAW JUDGE: Marc E. Stern

14 APPEARANCES: Mr. Stephen Gibelli, Staff Attorney, Legal Division, on
15 behalf of the Utilities Division of the Arizona
Corporation Commission.

16 **BY THE COMMISSION:**

17 On January 11, 2001, the Utilities Division ("Staff") of the Arizona Corporation Commission
18 ("Commission") filed a Complaint ("Complaint") against New Life Trust, Inc. dba Dateland Utilities
19 ("Dateland" or "Respondent") wherein it was alleged that Dateland had failed to comply with
20 Decision No. 63170 (January 29, 1999) and Decision No. 62488 (April 28, 2001)

21 Dateland did not file an Answer to the Complaint.

22 On October 1, 2001, Staff filed a Motion to Set Matter for Hearing ("Motion").

23 On October 12, 2001, the Commission, by Procedural Order, granted the Motion and
24 scheduled a hearing on the Complaint.

25 On November 8, 2001, a hearing was convened before a duly authorized Administrative Law
26 Judge at the Commission's offices in Phoenix, Arizona. Staff appeared with counsel and Respondent
27 appeared telephonically. At the conclusion of the proceeding, the matter was taken under advisement
28 by the presiding Administrative Law Judge pending submission of a Recommended Opinion and

1 Order to the Commission.

2 * * * * *

3 Having considered the entire record herein and being fully advised in the premises, the
4 Commission finds, concludes, and orders that:

5 **FINDINGS OF FACT**

6 1. Pursuant to authority granted by the Commission, Dateland is engaged in the business
7 of providing water utility service in an area located approximately 60 miles east of the City of Yuma,
8 Arizona.

9 2. On January 11, 2001, Staff filed a Complaint against Dateland wherein it was alleged
10 that Dateland had failed to comply with Decision Nos. 63170 and 62488.

11 3. Subsequently, Dateland complied with all of the compliance requirements except for
12 the filing of an affidavit that verified that its books and records were being maintained in accordance
13 with the NARUC Uniform System of Accounts.

14 4. On October 12, 2001, by Procedural Order, the Commission scheduled a hearing on
15 the Complaint.

16 5. On November 8, 2001, pursuant to the Commission's Procedural Order, a hearing was
17 convened at which time Dateland's principal, Mr. Douglas S. Johnson, indicated that he had the
18 required affidavit in his possession. However, due to an injury, Mr. Johnson had inadvertently failed
19 to file his affidavit, but would do so immediately. Staff stipulated that, if the affidavit was filed
20 within seven days, the Complaint could be dismissed.

21 6. On November 13, 2001, Dateland filed the required affidavit.

22 7. Based on the record, we find that the Complaint should be dismissed.

23 **CONCLUSIONS OF LAW**

24 1. Dateland is a public service corporation within the meaning of Article XV of the
25 Arizona Constitution and A.R.S. § 40-246.

26 2. The Commission has jurisdiction over the Respondent and of the subject matter of the
27 Complaint.

28 3. Staff's Complaint should be dismissed.

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ORDER

IT IS THEREFORE ORDERED that the Complaint filed by the Commission's Utilities Division against the New Life Trust, Inc. dba Dateland Utilities shall be dismissed.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

CHAIRMAN

COMMISSIONER

COMMISSIONER

IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive Secretary of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this ____ day of _____, 2001.

BRIAN C. McNEIL
EXECUTIVE SECRETARY

DISSENT _____
MES:mlj

1 SERVICE LIST FOR: NEW LIFE TRUST, INC. dba DATELAND
2 UTILITIES

3 DOCKET NO. W-0353A-01-0043

4 Douglas S. Johnson
5 Dateland Utilities
6 P.O. Box 3250
7 Dateland, AZ 85333

8 Christopher Kempley, Chief Counsel
9 Legal Division
10 ARIZONA CORPORATION COMMISSION
11 1200 West Washington Street
12 Phoenix, Arizona 85007

13 Ernest Johnson, Director
14 Utilities Division
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16 1200 West Washington Street
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