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COMMISSIONERS

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

2006 FEB 13 P 4: 58
AZ CORP COMMISSION
DOCUMENT CONTROL

BEFORE THE ARIZONA CORPORATION COMMISSION

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

DOCKET NO. W-01445A-05-0469

**RESPONSE TO GLOBAL ENTITIES'
MOTION TO INTERVENE**

Arizona Water Company (the "Company") presents its objections to the February 9, 2006 Motion to Intervene by Palo Verde Utility Company and Santa Cruz Water Company (hereinafter, collectively, the "Global Entities") in the above-captioned docket. For the reasons presented below, the Commission should deny the Global Entities' Motion.

ARGUMENT

The Company filed its application in this matter on June 30, 2005. A procedural order entered on September 26, 2005 provided as follows:

IT IS FURTHER ORDERED that intervention shall be in accordance with A.A.C. R14-3-105, except that all motions to intervene must be filed on or before November 4, 2005. Procedural Order at page 1, line 22 (copy attached hereto as Exhibit A)

1 Thus, the Company's application was filed more than five months ago, and the
2 deadline for intervention expired more than three months ago. The hearing was held on
3 December 9, 2005, at which one intervenor, the City of Eloy, appeared after its timely
4 application to intervene was granted. Only now, long after all these events and less
5 than a week before the Open Meeting at which this matter is to be considered, do the
6 Global Entities come to the Commission and request to become parties to this matter.
7

8 The Global Entities present no justification for their inexcusable lack of diligence,
9 because no justification exists. The Commission's procedures are well publicized on its
10 web site, and the Global Entities' attorneys practice regularly before the Commission
11 and are presumably well aware of its procedures (despite saying, in the Motion, that the
12 Global Entities "only just learned of this matter". Motion to Intervene, page 2, lines 16-
13 17). Despite all of these facts, the Global Entities now ask the Commission to permit it
14 to be excused from complying with the procedure for this matter for which the City of
15 Eloy, the Staff, and the Company were required to comply.
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17 The answer to the Global Entities' request should be no. If they have such a
18 compelling interest in this matter, it should have become involved months ago. They
19 give no reason for their failure to do so and would, no doubt, vigorously oppose the
20 effort of another utility to become involved in one of the Global Entities' applications on
21 the eve of its consideration at an open meeting, long after a duly noticed hearing was
22 held, and the record in the matter closed.
23

24 As part of the basis for its Motion, the Global Entities allege that they have an
25 agreement with the City of Casa Grande that establishes a planning area, and that the
26 City desires that the Global Entities provide service to the planning area. The Global
27 Entities also allege that Parcel 1 in the Company's application is located within the
28 planning area, and that granting the Company a certificate of convenience and

1 necessity for Parcel 1 will prejudice the Global Entities' application filed on December
2 28, 2005 and certain rights with the City and a landowner. These arguments should be
3 given no weight.¹

4 First, the record in this matter is closed. There is no agreement before the
5 Commission or any evidence when such an agreement was entered into. Significantly,
6 the Company has been the water provider since 1955 in the City. The City did not
7 intervene in this matter or object to the Company serving Parcel 1. In addition, the
8 Global Entities' application was subjected to a detailed Staff insufficiency letter on
9 February 8, 2006 (nearly 60 days to the day after the December 9, 2005 hearing in this
10 matter), so it is unknown when or if the application will be found to be sufficient. The
11 situation that the Global Entities find themselves is of their own making, and does not
12 justify an eleventh hour effort to become involved in this proceeding. Late intervention is
13 most inappropriate and would be prejudicial to the Company and the public interest in
14 this case.
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16
17 **CONCLUSION**

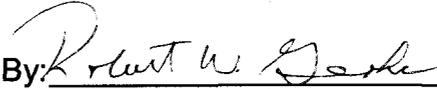
18 If the Commission's orders and procedures are to have any meaning and if the
19 noticed deadline for intervention is to be deemed an order, rather than a mere
20 suggestion that a party comply with the deadline, the Commission must deny the Global
21 Entities' untimely Motion to Intervene.

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23 ¹ There is no request for service attached. The letter indicates only a lack of objection.
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RESPECTFULLY SUBMITTED this 13th day of February, 2006.

ARIZONA WATER COMPANY

By: 

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

Original and thirteen (13) copies of the foregoing filed this 13th day of February 2006 with:

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

A copy of the foregoing was hand-delivered this 13th day of February 2006 to:

Honorable Jeff Hatch-Miller
Chairman, Arizona Corporation Commission
1200 West Washington Street
Phoenix, AZ 85007

Honorable William A. Mundell
Commissioner
Arizona Corporation Commission
1200 West Washington Street
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Commissioner
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Honorable Kristin K. Mayes
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Honorable Amy B. Bjelland
Administrative Law Judge
Hearing Division
Arizona Corporation Commission
1200 West Washington
Phoenix, AZ 85007

Christopher Kempley, Chief Counsel
Legal Division
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A copy of the foregoing was faxed this 13th day of February 2006 to:

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Attorneys for Palo Verde Utilities Company and
Santa Cruz Water Company

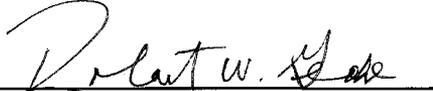
By: 

EXHIBIT A

BEFORE THE ARIZONA CORPORATION COMMISSION

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COMMISSIONERS

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

2005 SEP 26 P 3:11
AZ CORP COMMISSION
DOCUMENT CONTROL

IN THE MATTER OF THE APPLICATION OF
ARIZONA WATER COMPANY FOR AN
EXTENSION OF ITS EXISTING CERTIFICATE
OF CONVENIENCE AND NECESSITY.

DOCKET NO. W-01445A-05-0469

PROCEDURAL ORDER

BY THE COMMISSION:

On June 30, 2005, Arizona Water Company ("Arizona Water" or "Company") filed with the Arizona Corporation Commission ("Commission") an Application for an extension of its existing Certificate of Convenience and Necessity ("CC&N") for its Casa Grande system.

On July 21, 2005, Staff filed an Insufficiency Letter.

On August 30, 2005, Arizona Water filed Additional Information in Response to Staff's Insufficiency Letter.

On September 7, 2005, Staff filed a Letter of Sufficiency.

Pursuant to A.A.C. R14-3-101, the Commission now issues this Procedural Order to govern the preparation and conduct of this proceeding.

IT IS THEREFORE ORDERED that the hearing in the above-captioned matter shall commence on December 9, 2005 at 10:00 a.m., or as soon thereafter as is practical, at the Commission's offices, 1200 West Washington Street, Phoenix, Arizona 85007.

IT IS FURTHER ORDERED that intervention shall be in accordance with A.A.C. R14-3-105, except that all motions to intervene must be filed on or before November 4, 2005.

IT IS FURTHER ORDERED that objections to any motions to intervene must be filed on or before November 18, 2005.

IT IS FURTHER ORDERED that Arizona Water shall provide public notice of the hearing in this matter, in the following form and style, with the heading in no less than 12 point bold type and the body in no less than 10 point regular type:

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PUBLIC NOTICE OF HEARING ON THE
APPLICATION OF ARIZONA WATER COMPANY
FOR AN EXTENSION OF ITS EXISTING CERTIFICATE OF
CONVENIENCE AND NECESSITY FOR WATER SERVICE
(W-01445A-05-0469)

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On June 30, 2005, Arizona Water Company ("Arizona Water") filed an Application with the Arizona Corporation Commission ("Commission") for an extension of its existing Certificate of Convenience and Necessity for its Casa Grande system, portions of which are located within the municipal boundaries of Casa Grande and Eloy, and the remainder of which are located in portions of unincorporated Pinal County. If the Application is granted, Arizona Water would be the exclusive provider of water to those areas, and would be required by the Commission to provide service under rates and charges and terms and conditions established by the Commission. The Application is available for inspection during regular business hours at the offices of the Commission in Phoenix, at 1200 West Washington Street, Phoenix, Arizona, and at the offices of the Company, [insert address].

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The Commission will hold a hearing on this matter beginning on **December 9, 2005 at 10:00 a.m.** at the Commission's offices, 1200 West Washington Street, Phoenix, Arizona. Public comment will be taken on the first day of the hearing.

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The law provides for an open public hearing at which, under appropriate circumstances, interested parties may intervene. Intervention shall be permitted to any person entitled by law to intervene and having a direct and substantial interest in the matter. Persons desiring to intervene must file a written motion to intervene with the Commission, which motion should be sent to the Applicants or its counsel and to all parties of record, and which, at the *minimum*, shall contain the following:

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1. The name, address, and telephone number of the proposed intervenor and of any party upon whom service of documents is to be made if different than the intervenor.
 2. A short statement of the proposed intervenor's interest in the proceeding (e.g., a customer of the Applicants, a shareholder of the Applicants, etc.).
 3. A statement certifying that a copy of the motion to intervene has been mailed to the Applicants or their counsel and to all parties of record in the case.

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The granting of motions to intervene shall be governed by A.A.C. R14-3-105, except that all motions to intervene must be filed on or before November 4, 2005. The granting of intervention, among other things, entitles a party to present sworn evidence at hearing and to cross-examine other witnesses. Failure to intervene will not preclude any potential customer from appearing at the hearing and making a statement on such person's own behalf. You will not, however, receive any further notice of the proceeding unless requested by you.

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The Commission does not discriminate on the basis of disability in admission to its public meetings. Persons with a disability may request a reasonable accommodation such as a sign language interpreter, as well as request this document in an alternative format, by contacting Linda Hogan, ADA Coordinator, voice phone number 602/542-3931, E-mail Lhogan@admin.cc.state.az.us. Requests should be made as early as possible to allow time to arrange the accommodation.

IT IS FURTHER ORDERED that Arizona Water shall publish notice of the Application in a

1 newspaper of general circulation in the proposed extension area and shall mail to each property
 2 owner in the requested extension area a copy of the above notice by October 11, 2005.

3 IT IS FURTHER ORDERED that Arizona Water shall file certification of mailing/publication
 4 as soon as practical after the mailing/publication has been completed but not later than November 1,
 5 2005.

6 IT IS FURTHER ORDERED that notice shall be deemed complete upon mailing/publication
 7 of same, notwithstanding the failure of an individual to read or receive the notice.

8 IT IS FURTHER ORDERED that Staff shall file a Staff Report by November 10, 2005.

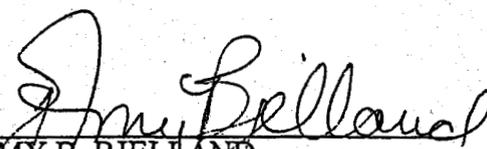
9 IT IS FURTHER ORDERED that Intervenor testimony, if any, shall be filed no later than
 10 November 10, 2005.

11 IT IS FURTHER ORDERED that responses by the Applicant, if any, to Staff's Report or
 12 Intervenor testimony shall be filed no later than November 25, 2005.

13 IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113-Unauthorized
 14 Communications) applies to this proceeding as the matter is now set for public hearing.

15 IT IS FURTHER ORDERED that the Administrative Law Judge may rescind, alter, amend,
 16 or waive any portion of this Procedural Order either by subsequent Procedural Order or by ruling at
 17 hearing.

18 DATED this 26 day of September, 2005

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 22 AMY B. BJELLAND
 ADMINISTRATIVE LAW JUDGE

23
 24 Copies of the foregoing mailed/delivered
 this 26 day of September, 2005 to:

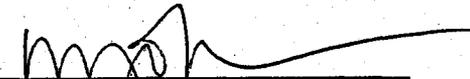
25 Robert W. Geake
 26 Arizona Water Company
 27 P.O. Box 29006
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2 Legal Division
3 ARIZONA CORPORATION COMMISSION
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5 Phoenix, Arizona 85007

6 Ernest G. Johnson, Director
7 Utilities Division
8 ARIZONA CORPORATION COMMISSION
9 1200 West Washington Street
10 Phoenix, Arizona 85007

11 ARIZONA REPORTING SERVICE, INC.
12 2627 N. Third Street, Suite Three
13 Phoenix, Arizona 85004-1104

14 By:

15 
16 Molly Johnson
17 Secretary to Amy B. Bjelland