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BEFORE THE ARIZONA CORPORATION COMMISSION

2006 MAR -7 P 12: 56

COMMISSIONERS

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

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|---|---|
| <p>IN THE MATTER OF THE APPLICATION OF ARIZONA WATER COMPANY FOR AN EXTENSION OF THE SERVICE AREA UNDER ITS EXISTING CERTIFICATE OF CONVENIENCE AND NECESSITY TO PROVIDE WATER UTILITY SERVICES</p> | <p>DOCKET NO. W-01445A-03-0559</p> <p>CORNMAN TWEEDY 560'S MOTION TO COMPEL DISCOVERY</p> |
|---|---|

By Procedural Order dated November 14, 2005, Cornman Tweedy 560, LLC ("Cornman Tweedy") was granted intervention in the above-captioned docket. At the procedural conference held November 21, 2005, the Chief Administrative Law ("ALJ") told Cornman Tweedy to proceed with discovery. In a letter dated January 31, 2006, legal counsel for Cornman Tweedy sent AWC its first set of data requests with a due date of February 10, 2006. A copy of the January 31 letter and the first set of data requests are attached as Exhibit "A." AWC did not answer the data requests, but sent a letter dated February 10, 2006, proposing to continue the due date "until we get a ruling on the pending motions and more direction from the Commission as to how the case will proceed." A copy of the February 10 letter is attached as Exhibit "B." Cornman Tweedy responded through legal counsel in a letter dated February 17, 2006, that it would not agree to continue the due dates, and that AWC should provide answers to the data requests immediately. A copy of the February 17 letter is attached as Exhibit "C." On February 24, 2006, Cornman Tweedy filed a Request to Set Hearing Date, and in that pleading,

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1 requested that the Commission direct AWC to comply with the discovery requests of
2 Cornman Tweedy. Still, AWC has not provided answers to Cornman Tweedy's data
3 requests, nor has AWC responded to Cornman Tweedy's February 17 letter or the
4 February 24 filing.

5 Cornman Tweedy and an affiliate are developing approximately 17,000 residential
6 lots in two adjacent communities known as EJR Ranch and Robson Ranch (collectively,
7 the "Robson Developments"). Of the 17,000 lots, approximately 4,000 are located within
8 the area affected by this docket. As a developer, Cornman Tweedy is desirous that water
9 and sewer services be provided to the entirety of the Robson Developments in an
10 integrated fashion. Picacho Water Company and Picacho Sewer Company can provide
11 integrated water and sewer services, and the two companies are already certificated to
12 provide water and sewer service to a large portion of the Robson Developments.
13 Cornman Tweedy supports the application of Picacho Water Company for an extension of
14 its certificate of convenience and necessity in Docket No. W-03528A-05-0281 to include
15 the area addressed in this docket. As Cornman Tweedy is proceeding with development
16 of its property, the company is desirous that the issues in this docket be resolved at the
17 earliest possible opportunity.

18 Clearly, AWC is engaged in a strategy of delay in this docket. AWC has not raised
19 any objection to the data requests, and there is no legitimate justification for AWC's
20 failure to answer. Cornman Tweedy is entitled to conduct discovery as a party in this
21 docket. Moreover, the ALJ previously advised Cornman Tweedy to proceed with
22 discovery, and AWC has neither requested nor obtained an order permitting AWC to
23 delay its answers to the data requests. Accordingly, Cornman Tweedy requests that the
24 Commission (i) issue an order compelling AWC to comply with the data requests
25 propounded five weeks ago and attached hereto as Exhibit "A" and (ii) grant such other
26 relief as the Commission may deem appropriate under the circumstances.

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RESPECTFULLY SUBMITTED this 7th day of March, 2006.



Jeffrey W. Crockett
SNELL & WILMER
One Arizona Center
Phoenix, Arizona 85004-2202
(602) 382-6234
Attorneys for Cornman Tweedy 560, LLC

ORIGINAL and thirteen (13) copies
of the foregoing filed this 7th day of
March, 2006, with:

Docket Control
ARIZONA CORPORATION COMMISSION
1200 West Washington Street
Phoenix, Arizona 85007

A COPY of the foregoing hand-delivered
this 24th day of February, 2006, to:

Christopher C. Kempley, Chief Counsel
Legal Division
ARIZONA CORPORATION COMMISSION
1200 West Washington Street
Phoenix, Arizona 85007

Ernest G. Johnson, Director
Utilities Division
ARIZONA CORPORATION COMMISSION
1200 West Washington Street
Phoenix, Arizona 85007

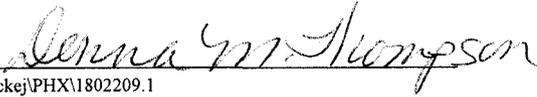
Lyn Farmer
Chief Administrative Law Judge
Hearing Division
ARIZONA CORPORATION COMMISSION
1200 West Washington Street
Phoenix, Arizona 85007

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A COPY of the foregoing sent via e-mail and first class mail this 24th day of February, 2006, to:

Steven A. Hirsch, Esq.
BRYAN CAVE LLP
Two North Central Ave., Suite 2200
Phoenix, Arizona 85004-4406

Robert W. Geake
Arizona Water Company
P.O. Box 29006
Phoenix, Arizona 85038



Crockej\PHX\1802209.1

EXHIBIT "A"

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January 31, 2006

VIA E-MAIL AND FIRST CLASS MAIL

Robert W. Geake
ARIZONA WATER COMPANY
P.O. Box 29006
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Steven A. Hirsch, Esq.
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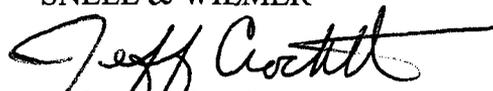
Re: *Cornman Tweedy 560, L.L.C.'s First Set of Data Requests to Arizona Water Company (Docket No. W-01445A-03-0559)*

Dear Bob and Steve:

Attached is Cornman Tweedy 560, L.L.C.'s First Set of Data Requests to Arizona Water Company in the above referenced docket. For each answer, please identify by name, title, and address each person providing the information that forms the basis for the response provided. Additionally, please consider these data requests as continuing, and modify and/or supplement your answers and any documents provided with any response in the event Arizona Water Company obtains additional or updated information which is responsive to any data request. Please provide Arizona Water Company's responses within ten calendar days of the date of this letter, or by close of business Friday, February 10, 2006.

Respectfully yours,

SNELL & WILMER



Jeffrey W. Crockett

JZC:kpk
Enclosure

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**CORNMAN TWEEDY 560, L.L.C.'S
FIRST SET OF DATA REQUESTS
TO ARIZONA WATER COMPANY
DOCKET NO. W-01445A-03-0559
JANUARY 31, 2006**

- CMT 1.1 Please provide the name, address and telephone number of each property owner within the area described in Exhibit A attached to Arizona Corporation Commission Decision No. 66893.
- CMT 1.2 Please provide a copy of each written request for water service received by Arizona Water Company for water service to any property located within the area described in Exhibit A attached to Arizona Corporation Commission Decision No. 66893.
- CMT 1.3 Please provide a copy of each "will serve" letter issued by Arizona Water Company to any person or entity which has requested water service within the area described in Exhibit A attached to Arizona Corporation Commission Decision No. 66893.
- CMT 1.4 Please provide a copy of each main extension agreement entered into by Arizona Water Company with any person or entity which has requested water service within the area described in Exhibit A attached to Arizona Corporation Commission Decision No. 66893.
- CMT 1.5 Please identify any person or entity which has net with Arizona Water Company regarding water service within the area described in Exhibit A attached to Arizona Corporation Commission Decision No. 66893.
- CMT 1.6 Please identify any planned residential and/or commercial development within the area described in Exhibit A attached to Arizona Corporation Commission Decision No. 66893 of which Arizona Water Company is aware. For any such developments, please provide a legal description, if available, for such developments.
- CMT 1.7 Please provide all written projections in Arizona Water Company's possession (whether prepared by Arizona Water Company or some other person or entity) which address the anticipated future water demand within the area described in Exhibit A attached to Arizona Corporation Commission Decision No. 66893. Please identify the preparer of any such projections and the date the projection(s) was prepared.
- CMT 1.8 Please provide a copy of all maps, design plans, diagrams, drawings and master water studies in Arizona Water Company's possession (whether prepared by Arizona Water Company or some other person or entity) which depict or describe any water infrastructure (including but not

limited to wells, water storage tanks, booster stations, water transmission mains, service lines, fire hydrants and water treatment facilities) to be constructed within the area described in Exhibit A attached to Arizona Corporation Commission Decision No. 66893.

- CMT 1.9 Please state whether construction of any water infrastructure (including but not limited to wells, water storage tanks, booster stations, water transmission mains, service lines, fire hydrants and water treatment facilities) has commenced within the area described in Exhibit A attached to Arizona Corporation Commission Decision No. 66893. If any such construction has commenced, please provide the date the construction commenced and the date the construction was completed. If such construction has not been completed, please provide the anticipated date that such construction will be completed.
- CMT 1.10 Please provide a copy of any "approvals to construct" issued for any water infrastructure (including but not limited to wells, water storage tanks, booster stations, water transmission mains, service lines, fire hydrants and water treatment facilities) to be constructed within the area described in Exhibit A attached to Arizona Corporation Commission Decision No. 66893.
- CMT 1.11 Please identify the sources of water that would be used by Arizona Water Company to supply customers within the area described in Exhibit A attached to Arizona Corporation Commission Decision No. 66893.
- CMT 1.12 Please state whether Arizona Water Company would need to treat groundwater withdrawn from wells within the area described in Exhibit A attached to Arizona Corporation Commission Decision No. 66893 for (i) arsenic; (ii) fluoride; (iii) nitrates; or (iv) total dissolved solids.
- CMT 1.13 Please provide a copy of each certificate of assured water supply obtained by Arizona Water Company from any person or entity requesting water service within the area described in Exhibit A attached to Arizona Corporation Commission Decision No. 66893.
- CMT 1.14 Please identify all steps taken by Arizona Water Company through and including the date of this data request to comply with Arizona Corporation Commission Decision No. 66893.

EXHIBIT "B"



Steven A. Hirsch
 Certified Real Estate Specialist
 Partner
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 Direct Fax: 602-716-8319
 sahirsch@bryancave.com

February 10, 2006

RECEIVED
 FEB 13 2006
 SNELL & WILMER

VIA E-MAIL AND
 REGULAR MAIL

Jeffrey W. Crockett, Esq.
 Snell & Wilmer LLP
 One Arizona Center
 Phoenix, AZ 85004-2202

Re: Cornman Tweedy 560, L.L.C.'s First Set of Data Requests to Arizona Water Company; (Docket No. W-01445A-03-0559)

Dear Jeff:

I left you a brief voice mail about this. These data requests will require a lot of time and effort on the part of Arizona Water Company. Given the fact that we do not yet know the exact nature of how the cases will move forward, or indeed whether there will be a case that would involve the use of any of these materials, I respectfully propose that we agree to continue Arizona Water Company's date to respond to the data requests you served on January 31, 2006 until we get a ruling on the pending motions and more direction from the Commission as to how the case will proceed. Arizona Water Company, in turn, has withheld submitting any data requests to Picacho or Cornman Tweedy 560 in this or the parallel docket for the same reason. Please let me know your thoughts on this proposal.

Very truly yours,

Steven A. Hirsch

SAH:ct

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EXHIBIT "C"

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February 17, 2006

VIA E-MAIL AND REGULAR MAIL

Steven A. Hirsch, Esq.
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Two North Central Avenue, Suite 2200
Phoenix, Arizona 85004-4406

Re: *Cornman Tweedy 560 LLC's First Set of Data Requests to Arizona Water Company (Docket No. W-01445A-03-0559)*

Dear Steve:

This letter responds to your letter dated February 10, 2006, regarding Cornman Tweedy 560's First Set of Data Requests to Arizona Water Company in the above-referenced docket dated January 31, 2006. Cornman Tweedy 560 does not agree to your client's request to stay the February 10, 2006, deadline for responding to these data requests. As you will recall from the last procedural conference in this docket, the Chief Administrative Law Judge instructed the parties that they could proceed immediately with discovery. Accordingly, we will expect responses to the data requests immediately. For your convenience, I have attached a duplicate set of data requests, together with my January 21, 2006, transmittal letter.

Very truly yours,

SNELL & WILMER



Jeffrey W. Crockett

JWC:gdb
Enclosures
cc (with enclosures): Docket Control (14 copies)
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