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MEMORANDUM

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TO: Docket Control  
FROM: Ernest G. Johnson  
Director  
Utilities Division

DATE: January 10, 2002

RE: STAFF REPORT FOR RED ROCK WATER COOPERATIVE, INC.  
APPLICATION FOR ADJUDICATION NOT A PUBLIC SERVICE  
CORPORATION (DOCKET NO. WS-04052A-01-0794)

Attached is the Staff Report for Red Rock Water Cooperative, Inc. application for an adjudication not a public service corporation. Staff recommends the Commission adjudicate the Red Rock Water Cooperative, Inc. as not a public service corporation. Staff further recommends that a hearing should be held in this matter.

EGJ:JEF:nms

Originator: Jim Fisher

Attachment: Original and Ten Copies

Arizona Corporation Commission

DOCKETED

JAN 11 2002

DOCKETED BY	<i>mac</i>
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Service List for Red Rock Water Cooperative, Inc.  
Docket No. WS-04052A-01-0794

**ALL SERVICE LISTS SHOULD INCLUDE THE FOLLOWING:**

Jay Elmer  
Red Rock Water Cooperative  
Post Office Box 1164  
Sedona, Arizona 86339

Christopher C. Kempsey  
Chief, 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, Hearing Division  
Arizona Corporation Commission  
1200 West Washington Street  
Phoenix, Arizona 85007

**STAFF REPORT  
UTILITIES DIVISION  
ARIZONA CORPORATION COMMISSION**

**RED ROCK WATER COOPERATIVE, INC.**

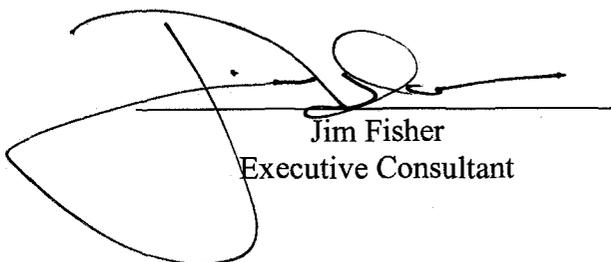
**DOCKET NO. WS-04052A-01-0794**

**APPLICATION FOR ADJUDICATION  
NOT A PUBLIC SERVICE CORPORATION**

**JANUARY 2002**

## STAFF ACKNOWLEDGMENT

The Staff Report for Red Rock Water Cooperative, Inc., Docket No. WS-04052A-01-0794 was the responsibility of the Staff members listed below. Jim Fisher was responsible for the review and analyses of the Company's application and technical analysis. Patrick Williams was responsible for reviewing the Commission's records on the Company, determining compliance with Commission policies/rules and reviewing customer complaints filed with the Commission.



Jim Fisher  
Executive Consultant

**EXECUTIVE SUMMARY**  
**RED ROCK WATER COOPERATIVE, INC.**  
**DOCKET NO. WS-04052A-01-0794**

Red Rock Water Cooperative, Inc. ("Red Rock") is a non-profit corporation serving eleven residences near Sedona, Arizona, since 1976.

Red Rock has applied to the Arizona Corporation Commission ("ACC") for adjudication that Red Rock is not a public service corporation as defined by the Arizona Constitution, and therefore not to be regulated by the ACC. Staff has reviewed the application and supporting documents. Staff has found the application to meet the requirements for adjudication as outlined by ACC Decision No. 55568.

Staff recommends the Commission approve Red Rock's application for adjudication not a public service corporation.

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## Introduction

On October 10, 2001, Red Rock Water Cooperative, Inc. ("Red Rock") filed an Application for an Adjudication Not a Public Service Corporation with the Arizona Corporation Commission ("ACC"). Red Rock is a non-profit membership cooperative representing and providing water service to eleven residential properties near Sedona, in Yavapai County, Arizona.

## Background

Red Rock is seeking ACC adjudication that its service to eleven residences in a portion of Yavapai County, is not a public service corporation for purposes of utility regulation by the ACC. The criteria to determine that a provider is not a public service corporation within the meaning of Article XV, Section 2, of the Arizona Constitution was reviewed by the Arizona Supreme Court in Natural Gas Service Company v. Serv-U Cooperative, Inc. The Court provided eight review criteria for the Commission to review.

1. What the corporation actually does.
2. Whether the service is dedicated to a public use.
3. That the articles of incorporation evidence authorization and purposes.
4. Whether the corporation is dealing with the service of a commodity in which the public has been generally held to have an interest.
5. Whether the corporation is monopolizing or intending to monopolize a territory with a public service commodity.
6. Whether the corporation is accepting of substantially all requests for service.
7. That service is under contract and reserving the right to discriminate is not always controlling.
8. Whether the corporation will have actual or potential competition with other corporations whose business is clothed with the public interest.

The Commission issued a policy directive for the evaluation of applications for adjudication not a public service corporation on May 7, 1987, in Decision No. 55568. The Utilities Division was directed to ensure that all such applications complied with the following seven criteria.

1. Adjudication applications must be submitted by a non-profit homeowners association.
2. The application for adjudication not a public service corporation is a bona fide request by a majority of the membership of the association through a petition signed by 51% or more of the then existing members.
3. That all such associations making such application have complete ownership of the system and necessary assets.
4. That every customer is a member/owner with equal voting rights and that each member is or will be a customer.

5. That the service area involved encompasses a fixed territory which is not within the service area of a municipal utility or public service corporation; or if in such territory, that municipal utility or public service corporation is unable to serve.
6. That there is a prohibition against further sub-division evidenced by deed restrictions, zoning, water restrictions or other enforceable governmental regulations.
7. That the membership is restricted to a fixed number of customers actual or potential.

The Red Rock application was submitted by a non-profit homeowner's corporation. Red Rock provided the eleven property owners/members of the cooperative with notice of the current application to the ACC. Nine of the eleven members/owners of the cooperative signed a petition supporting the application for adjudication. (See Guideline #1 and #2 above)

Red Rock retains ownership of the assets required to serve the members/owners properties. The assets include a registered well producing 28 gallons per minute, a 20,000 gallon storage tank and five-horse power booster pump. The system also includes a 1,200 gallon pressure tank, and the distribution system with meters. (See Guideline #3 above)

On June 26, 2001, Red Rock filed Bylaws of the Cooperative, as a successor in interest to Red Rock Water Cooperative, an unincorporated cooperative water company formed, and served, pursuant to an agreement of June 25, 1976. Every person that held a certificate in the predecessor co-op and has a meter on the system shall be a member of Red Rock, entitled to one equal vote on all matters before the corporation. (See Guideline #4 and #5 above)

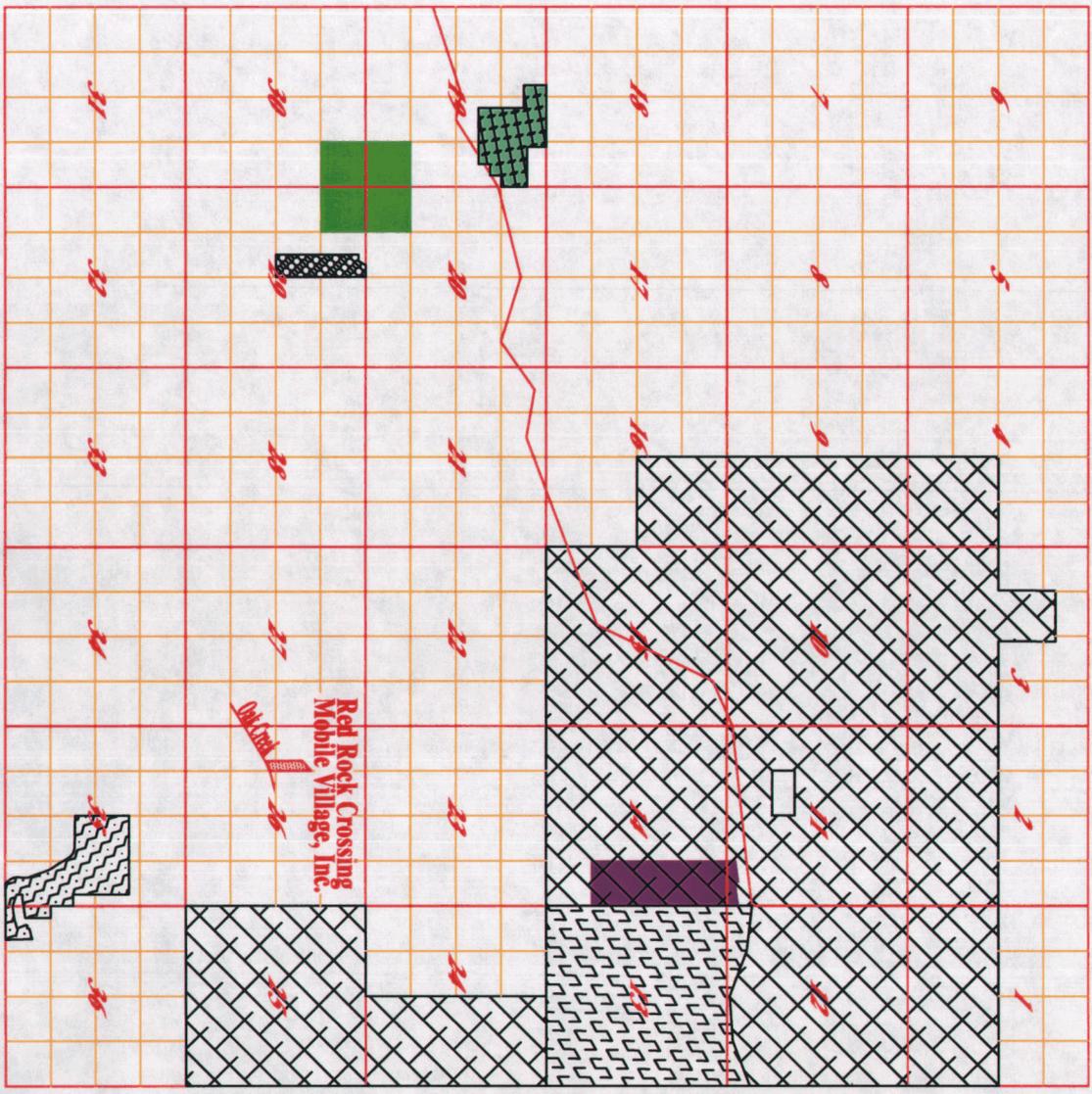
The Bylaws specifically state "the corporation shall have a fixed number of taps, which shall not exceed 14 and shall never serve more than 24 persons. If a member divides that member's land, creating a building parcel, that parcel may qualify for membership and service, but only if that membership does not cause the number of members of the corporation to exceed 14." (See Guideline #6 and #7 above)

### **Recommendations**

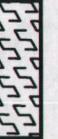
Staff recommends the Commission approve Red Rock Water Cooperative, Inc.'s application for adjudication that it is not a public service corporation.

# COUNTY: Yavapai

## RANGE 5 East



## TOWNSHIP 17 North

-  W-1445 (4)/(5)  
Arizona Water Company (Sedona)
-  W-2192 (2)  
Little Park Water Company
-  W-2624 (1)  
Michaels Ranch Water Users' Assoc.
-  W-1392 (1)  
Oak Creek Water Company No. 1
-  WS-3449 (1)  Sewer  
MHC Operating Limited Partnership  
dba Sedona Venture Water Company & Sewer Company
-  (1) **Sewer Only**  
City of Sedona (Nonjurisdictional)
-  (1)  
**Red Rock Crossing Mobile Village, Inc.**  
(Nonjurisdictional)
-   
Red Rock Water Cooperative, Inc.  
Docket No. WS-4052-01-794  
Application for Adjudication