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BEFORE THE ARIZONA CORPORATION COMMISSION

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2006 MAY 30 P 2: 23

AZ CORP COMMISSION
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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-06-0059

OPPOSITION TO MOTION TO
INTERVENE

On May 18, 2006 Ridgeview Utility Company, Picacho Water Company, Lago Del Oro Water Company, and Santa Rosa Water Company (collectively, the "Robson Utilities") filed a Motion to Intervene in the above-captioned docket. For the reasons presented below, Arizona Water Company (the "Company") urges the Commission to deny the Robson Utilities' Motion.

ROBSON UTILITIES' MOTION TO INTERVENE VIOLATES THE MAY 11, 2006
PROCEDURAL ORDER'S LIMITATIONS ON MOTIONS TO INTERVENE

As noted by the Robson Utilities themselves in paragraph 8 of their Motion, the May 11, 2006 Procedural Order in this Docket restricts any motion to intervene filed after May 11, 2006 to the limited issues outlined in the public comment letters submitted by Patricia Jo Robertson, Global Utilities, and the Robson Utilities. Robson Utilities' Motion violates this limitation.

The Robson Utilities May 5, 2006 public comment letter, filed on the eve of the May 8, 2006 hearing, did not refer to the water/wastewater utility issue that the Robson Utilities spent considerable time discussing in their Motion. However, the Robson Utilities would now have the Commission expand this case to devote time to this newly

1 interjected issue in the next hearing. Intervention to expand the issues should be
2 denied, as the Procedural Order clearly required the intervenors to limit their
3 participation to matters they addressed in their public comments.¹ To ignore this
4 attempted expansion of the issues in the Robson Utilities' Motion, and the Robson
5 Utilities' failure to comply with A.A.C. R-14-3-105.B as noted below, would violate the
6 express limitations in the Procedural Order and would unduly broaden, delay and
7 burden the hearing in a manner that the Administrative Law Judge clearly sought to
8 avoid.

9
10 GRANTING INTERVENER STATUS TO ROBSON UTILITIES WILL UNDULY
11 BROADEN THE ISSUES IN THIS PROCEEDING

12 The issue in this Docket may be stated as follows: Does the Company's
13 application filed in this Docket satisfy the public interest requirements for the
14 Commission to approve the expansion of the Company's Certificate of Convenience
15 and Necessity ("CCN")? If so, the Commission should grant the Company's application.
16 Normally, the Staff is quite capable of evaluating whether a proposed CCN expansion
17 serves the public interest. The Robson Utilities' Motion makes no showing whatsoever
18 that the Staff cannot capably perform its role in this proceeding.

19 On the other hand, without actually applying for any additional territory
20 themselves, the Robson Utilities want to turn this case into a forum for the discussion of
21 Commission policy instead of the CCN expansion proceeding that it is. Robson Utilities'
22 efforts are misplaced and cannot serve as the basis of a valid Motion to Intervene in this
23 proceeding.

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26 _____
27 ¹ Except for a passing reference to Ms. Robertson's letter, in the second paragraph on page 2 of its
28 May 5 letter, a copy of which was attached to its Motion, the Robson Utilities did not address the
water/wastewater/integrated utilities issues in their public comment letter.

1 First, concerning whether the Commission should formulate a policy as to how
2 requests for service should specifically track requests for CCN expansions, this Docket
3 is not the appropriate forum to do so. A forum involving only, hypothetically, the
4 Company, the Staff, and biased competitors of the Company is not an appropriate or
5 objective policy-making forum. A policy review such as the one that the Robson Utilities
6 advocate should involve initial formulation by the Staff, notice to all affected water
7 utilities, an opportunity for water utilities to comment, and, perhaps, workshops or
8 hearings. The Commission normally does not consider industry-wide policy and rules in
9 an isolated case like this one. If the Staff has questions or concerns about the merits of
10 the Company's application (notably, the Staff Report did not find a deficiency in the
11 requests for service the Company received), the Staff is certainly capable of identifying
12 and addressing those questions or concerns without a lengthy, burdensome, and
13 unnecessarily broad industry-wide policy or rule-making proceeding which the Robson
14 Utilities' seek by their intervention.

15 Next, the Robson Utilities are wrong in claiming there is a "well-established
16 Commission policy" on how requests for service are analyzed in CCN expansions. The
17 "support" that the Robson Utilities cite in their Motion, in paragraph 9, pages 2-3, falls
18 woefully short of any reasonable standard for the Robson Utilities' allegation, that it is a
19 well-established policy. Specifically:

- 20 1. Robson Utilities cite no reported Arizona case, no Arizona
21 statute, and no Arizona regulation that supports their position
22 that there is a policy at all, let alone, a "well-established policy",
23 that there must be requests for service from every property
24 owner within a requested CCN expansion territory.
- 25 2. The Commission Decisions Robson Utilities cited go back only to
26 1995 - a case involving one section of property. Then, the
27 Decisions skip ahead *eleven years* to, conveniently, two
28 Decisions involving the Company, one of which involved the

1 Company, during a hearing, voluntarily honoring a landowner's
2 request to have its property dropped from the area the Company
3 requested in its CCN expansion. This is obviously not the
4 enunciation of a "well-established policy" that the Robson Utilities
5 claim to exist.

6 Finally, Robson Utilities seek to improperly burden this case by impermissibly
7 expanding the scope of this case by alleging that customers might benefit by potential
8 efficiencies of integrated water and sewer utilities such as them (and further erroneously
9 allege that AWC cannot offer such benefits). Motion, at page 3, lines 20-24. They also
10 allege that the Commission should consider water and sewer service in concert when
11 addressing applications for CCN expansions, that this is a serious problem, and that
12 they would like an opportunity to address this issue in this Docket. Motion, at page 4,
13 lines 11-15. Again, as with the request for service issue, this is the wrong proceeding to
14 air those issues. If the Commission believes there is a need to formulate a generic,
15 industry-wide policy on these issues, the Commission can open an industry-wide policy
16 docket and invite other interested water utilities to participate. It is not appropriate to
17 formulate policy in this case.

18 A.A.C. R14-3-105.B provides, in pertinent part, that "...no application to
19 intervene shall be granted where by doing so the issues theretofore presented will be
20 unduly broadened, except upon leave of the Commission first had and received." The
21 Robson Utilities Motion presents, basically, a textbook example of intervention that will
22 unduly broaden the issues in a matter. The Commission may consider opening
23 appropriate policy dockets if it finds that the issues raised by the Robson Utilities
24 deserve further analysis, but the Robson Utilities' participation in this matter should be
25 limited to presentation of their public comments, which they have already presented,
26 which is precisely what the ALJ's procedural order requires. There is no prejudice to the
27 Robson Utilities, because they are already seeking to raise such issues in other
28 proceedings before the Commission. The issues simply do not belong in this Docket.

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CONCLUSION

For the foregoing reasons, the Robson Utilities' Motion to Intervene should be denied, and their participation in this Docket should be limited to the public comments that they have already presented.

RESPECTFULLY SUBMITTED this 30th day of May 2006.

ARIZONA WATER COMPANY

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Original and thirteen (13) copies of the foregoing filed the 30th day of May, 2006 with:

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