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5 **BEFORE THE ARIZONA CORPORATION COMMISSION**

6
7 IN THE MATTER OF THE
APPLICATION OF BLACK
8 MOUNTAIN SEWER
CORPORATION, AN ARIZONA
9 CORPORATION, FOR A
DETERMINATION OF THE FAIR
10 VALUE OF ITS UTILITY PLANT
AND PROPERTY AND FOR
11 INCREASES IN ITS RATES AND
CHARGES FOR UTILITY SERVICE
12 BASED THEREON.

DOCKET NO: SW-02361A-05-0657

**NOTICE OF FILING SUMMARY OF
WITNESS' PRE-FILED TESTIMONY**

13
14 Black Mountain Sewer Corporation ("Black Mountain" or "Corporation"), an
15 Arizona corporation, hereby files the summary of the pre-filed testimony of Robert B.
16 Dodds.

17 RESPECTFULLY SUBMITTED this 6th day of June, 2006.

18 FENNEMORE CRAIG, P.C.

19
20 By


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1 ORIGINAL and thirteen (13) copies of the
2 foregoing were delivered
3 this 6th day of June, 2006 to:

4 Docket Control
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8 COPIES hand delivered
9 this 6th day of June, 2006 to:

10 Teena Wolfe
11 Administrative Law Judge
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14 Phoenix, AZ 85007

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21 Daniel Pozefsky, Attorney
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25 And COPIES mailed
26 this 6th day of June, 2006 to:

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BLACK MOUNTAIN SEWER CORPORATION

Docket No. SW-02361A-05-0657

Summary of Prefiled Testimony to be Adopted by Robert B. Dodds

Mr. Dodds is the President of Algonquin Water Services (“AWS”), and is a registered engineer in the Province of Ontario and the Northwest Territories, Canada. He has been involved in a broad range of civil engineering, geotechnical and environmental work overseas, in the United States and in Canada. Mr. Dodds holds several degrees, including Bachelor and Master of Applied Science degrees from the University of Toronto, and a Ph.D in Philosophy from the University of Waterloo. Mr. Dodds is testifying in support of Black Mountain Sewer Corporation’s (“BMSC” or “Company”) request for rate relief in this case.

Mr. Dodds is adopting the direct and rebuttal testimonies of Michael D. Weber, which generally address the following aspects of BMSC’s rate application:

- (1) Background of the Company and its operations.
- (2) Recent upgrades and improvements to the Company’s Boulders WWTP.
- (3) Affiliate profit.
- (4) Post test year plant.
- (5) Compliance with Decision No. 64748 – Operating Agreement.
- (6) Town of Carefree’s (“Town”) proposal to delay rate increase until BMSC devises and implements an odor control plan.

Mr. Dodds is also adopting redacted versions of the rebuttal and rejoinder testimonies of Joel L. Wade, which generally address the following aspects of BMSC’s rate application:

- (1) The Town’s proposal to withhold rate relief from BMSC until BMSC devises and implements an odor control plan.
- (2) The introduction of a *complete* report by LTS Inc., an engineering firm contracted by BMSC to study and analyze allegations of excessive odor.
- (3) The results of plant upgrades and improvements that the Company made in response to concerns about odor, and the reasonableness of BMSC’s capital improvement program to date.
- (4) BMSC’s odor “complaint” problem, and the Town’s recent offer to fund additional capital improvements that was rejected by BMSC.

A summary of the key issues addressed in the pre-filed testimony to be adopted by Mr. Dodds follows.

I. CORPORATION BACKGROUND AND PLANT UPGRADES

BMSC is owned by Algonquin Water Resources of America, Inc. (“AWRA”) and operated primarily by Algonquin Water Services (“AWS”) (AWRA and AWS are collectively referred to as “Algonquin”). AWRA is BMSC’s sole shareholder, and is an indirect wholly owned subsidiary of the publicly traded company, Algonquin Power Income Fund. Algonquin

acquired the Company's stock from the shareholder of the Wyndham resort chain in March 2001. Algonquin owns and operates several other utilities in Arizona, including the Litchfield Park Service Company, Gold Canyon Sewer Company, Rio Rico Utilities and Bella Vista Water Company. Algonquin also operates utilities in Texas, Missouri and Illinois.

BMSC's service area is located in the northeastern portion of the Phoenix metropolitan area, primarily in the Town, unincorporated portions of Maricopa County and portions of the City of Scottsdale. BMSC has approximately 2,019 current customers (1,891 residential and 128 commercial). The Company provides wastewater service by operating a 160,000 gallons per day wastewater treatment plant facility near the Boulders resort. All excess wastewater flow is diverted into the City of Scottsdale's wastewater treatment system and then delivered to the regional City of Phoenix 91st Avenue Wastewater Treatment Plant. This is the first rate case for BMSC in more than a decade.

The Company has invested more than \$1.4 million since 2000 to improve its wastewater treatment plant, including hiring experts to evaluate complaints of sewer odors and significant improvements intended to reduce sources of odor and noise.

II. AFFILIATE PROFIT

BMSC disagrees with Staff's recommendation that the Commission apply a black-letter rule that no affiliated entities may earn a profit on services provided to regulated water and wastewater providers. BMSC submitted evidence that the use of affiliated service providers benefit ratepayers through a wider range of services at a greatly reduced price, more than \$200,000 annually. These benefits and savings are realized through the tremendous economies of scale Algonquin achieves with its method of operation – AWRA owned utilities serve over 48,000 customers in Arizona alone, sharing essential services including administrative, engineering and construction services.

Staff removed \$20,871 from rate base and another \$21,761 from operating expenses to remove any "profit" from the provision of essential services. The after-tax profit realized by AWS was less than 4%. The total cost of affiliated services, inclusive of the amounts Staff removed, passes any test of reasonableness and prudence, had Staff chosen to conduct such an analysis. The purpose of Staff's inquiry should not be whether there is "profit" associated with the services, but whether such costs are reasonable given the benefits realized by the Company and its customers. If the Commission adopts Staff's recommendation, then the Company and its ratepayers will be harmed because costs will increase as AWS will likely no longer provide such services to BMSC.

III. POST TEST YEAR PLANT

Post test year, BMSC installed a new chlorinator that uses salt, water and electricity to produce a liquid chlorine solution used to disinfect effluent from the wastewater treatment plant. The old gas chlorinator was replaced because it used gaseous chlorine from 150 lb cylinders as the chlorine source. Given the proximity to residences, the Company determined that the replacement was safer for customers. The new chlorinator was installed at a cost of \$86,699.

IV. COMPLIANCE WITH DECISION NO. 64748 – OPERATING AGREEMENT

Decision No. 64748 required BMSC to file a permit, license or consent from the Town. At the time of the Commission's order, the Company had been negotiating an operating agreement with the Town and fully expected to enter in such an agreement before Decision No. 64748 was issued. Despite BMSC's good faith efforts, the Town did not approve the operating agreement until March 2006. The agreement has been fully executed and filed with the Commission as a compliance item in Decision No. 64748. The test year costs of obtaining this agreement should be included in operating expenses because they are expenses incurred to comply with a Commission order and are the type of legal expenses BMSC occurs on a regular basis.

V. ODOR COMPLAINTS, PLANT IMPROVEMENTS AND TOWN'S PROPOSAL TO WITHHOLD RATE INCREASES

BMSC takes strong exception to the Town's proposal that the Commission withhold any rate increase until the Company devises and implements a plan to address odor complaints. The Commission should not allow the Town, as a customer of BMSC, to dictate the terms under which the utility can receive rate increases. This would make bad policy, especially here where the Town's demands are unreasonable and would merely burden ratepayers with unnecessary costs.

Since December 2003, BMSC has spent more than \$600,000 improving its wastewater system directly in response to complaints about odors. The Town's proposal for BMSC to implement a capital improvement plan of approximately \$2 million additional dollars would result in estimated annual operating costs of \$300,000. The Company must consider the impact on the rates paid by customers to pursue the Town's plan.

Additionally, the Town's claims are based on outdated information, including the incorporation of only Phase II of a study ("LTS Study") prepared by LTS, Inc., an engineering firm contracted by BMSC to analyze the Town's allegations about odor. Phases III through VI of the LTS analysis show substantial improvement and near elimination of problem odors originating from BMSC's facilities. BMSC's sewer collection and treatment system currently operates in compliance with all legal requirements. Furthermore, the evidence suggests that costly additional capital improvements would not make any difference in the amount of what little odor is produced from BMSC's wastewater operations.