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BEFORE THE ARIZONA CORPORATION COMMISSION

Arizona Corporation Commission

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COMMISSIONERS

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JUL 26 2006

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

AZ CORP COMMISSION  
DOCUMENT CONTROL

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IN THE MATTER OF THE APPLICATION OF PERKINS MOUNTAIN UTILITY COMPANY FOR A CERTIFICATE OF CONVENIENCE AND NECESSITY.

DOCKET NO. SW-20379A-05-0489

IN THE MATTER OF THE APPLICATION OF PERKINS MOUNTAIN WATER COMPANY FOR A CERTIFICATE OF CONVENIENCE AND NECESSITY.

DOCKET NO. W-20380A-05-0490

PROCEDURAL ORDER

**BY THE COMMISSION:**

On July 7, 2005, Perkins Mountain Utility Company ("Perkins Utility") filed with the Arizona Corporation Commission ("Commission") an application for a Certificate of Convenience and Necessity ("Certificate" or "CC&N") to provide wastewater service to a master-planned community in Mohave County, Arizona.

On July 7, 2005, Perkins Mountain Water Company ("Perkins Water") filed an application with the Commission for a Certificate to provide water service to a master-planned community in Mohave County, Arizona.

On September 19, 2005, the Commission's Utilities Division Staff ("Staff") filed its Sufficiency Letters indicating that Perkins Utility and Perkins Water (collectively, "the Companies") applications had met the sufficiency requirements of A.A.C. R14-2-402C.

On September 27, 2005, Sports Entertainment filed an Application to Intervene in Docket No. SW-20379A-05-0489 and Docket No. W-20380A-05-0490.

On November 10, 2005, Staff filed its Staff Report.

On November 23, 2005, Perkins Utility and Perkins Water filed a Response to Staff's Report.

On November 29, 2005, Sports Entertainment was granted intervention for both dockets.

On January 31, 2006, a Recommended Opinion and Order was issued in this matter.

1 On February 10, 2006, the Companies filed an Analysis of Adequate Water Supply issued by  
2 the Arizona Department of Water Resources. The filing indicated that legal availability and  
3 continuous availability of the water supply were not proven at the time the letter was issued on  
4 October 19, 2005.

5 On March 6, 2006, the Companies filed a Motion for Expedited Procedural Conference

6 On March 8, 2006, Staff filed its Response to Motion for Expedited Procedural Conference.

7 On March 13, 2006, by Procedural Order, a procedural conference was scheduled for March  
8 17, 2006 and the timeclock was extended. On March 17, 2006, the procedural conference was held  
9 as scheduled to determine how to proceed with this matter in light of new information regarding  
10 water adequacy in the proposed CC&N area.

11 On March 23, 2006, Staff filed Staff's Notice Re: Addendum to Staff Report requesting until  
12 June 30, 2006, to prepare its Addendum to Staff Report.

13 On March 31, 2006, Staff issued its First Set of Data Requests to the Companies and Perkins  
14 Water filed its Amendment to Application for a Certificate of Convenience and Necessity for Perkins  
15 Mountain Water Company ("Amendment"). The Amendment requested a CC&N for a portion of the  
16 service area originally requested and an Order Preliminary for the remainder of the service area  
17 originally requested.

18 On April 13, 2006, by Procedural Order, a procedural schedule was issued, and a hearing was  
19 set for July 31, 2006.

20 On May 3, 2006, the Companies filed Notice of Publication.

21 On June 23, 2006, Staff filed a Motion to Compel, stating that the Companies have failed to  
22 provide adequate responses to two data requests. Staff stated that it has been in contact with the  
23 Companies previously regarding the discovery dispute, but that recent data responses by the  
24 Companies indicate to Staff that they have reached an impasse.

25 On June 26, 2006, Staff filed a request to modify the procedural schedule stating that  
26 additional time is needed to review the documents provided by the Companies in response to Staff's  
27 requests for data.

28

1 On June 28, 2006, by procedural order, the Companies were ordered to file their response to  
2 Staff's Motion to Compel and request to modify procedural schedule by July 6, 2006.

3 On July 6, 2006, the Companies filed their Response to Staff's Motion to Compel and  
4 Request for a Protective Order, and their Response to Staff's Request to Modify Procedural Schedule.  
5 The Companies requested that oral argument be scheduled relating to Staff's Motion to Compel.

6 On July 12, 2006, the parties advised the Administrative Law Judge in this matter that the  
7 parties were working toward a resolution of the discovery dispute that will be satisfactory to both  
8 parties and requested that no further action be taken with regard to the discovery dispute until further  
9 notice by the parties.

10 On July 20, 2006, Commissioner Mayes filed a letter in this docket requesting that oral  
11 argument for the purpose of addressing the discovery dispute also address various other issues  
12 outlined in her letter, including the question of whether the Companies are in violation of A.R.S. §  
13 40-281, and whether the transfer of one hundred percent of the Companies' stock to Rhodes Homes,  
14 LLC means that the Applicant before the Commission should now properly be Rhodes Homes.  
15 Commissioner Mayes requested that the parties address whether either Rhodes Homes, LLC or the  
16 Companies are acting as public service corporations by commencing the construction of utility  
17 infrastructure, and requested responses from Staff at oral argument regarding appropriate  
18 Commission response if a determination is made that A.R.S. §40-281 has been violated.

19 Accordingly, the evidentiary hearing currently scheduled for July 31, 2006 and August 1,  
20 2006, should be postponed, except that the public comment component set for July 31, 2006, should  
21 remain as scheduled. Oral argument on the issues requested by Commissioner Mayes in her July 20,  
22 2006 letter should be scheduled.

23 IT IS THEREFORE ORDERED that Staff's request to modify the procedural schedule shall  
24 be, and hereby is, granted.

25 IT IS FURTHER ORDERED that upon resolution of the discovery dispute among the parties,  
26 the parties shall file a joint proposal for procedural and hearing schedule that shall not consist of more  
27 than 60 days from the date the joint proposal is filed.

28 IT IS FURTHER ORDERED that a **procedural conference** for the purpose of **oral**

1 **argument** and to address any other necessary procedural issues shall take place at 10:00 a.m. on July  
2 31, 2006, at the Commission's offices, 1200 W. Washington, Phoenix, Arizona. Public comment  
3 shall also be taken at that time as scheduled.

4 IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113 - Unauthorized  
5 Communications) applies to this proceeding and shall remain in effect until the Commission's  
6 Decision in this matter is final and non-appealable.

7 IT IS FURTHER ORDERED that the Presiding Officer may rescind, alter, amend, or waive  
8 any portion of this Procedural Order either by subsequent Procedural Order or by ruling at hearing.

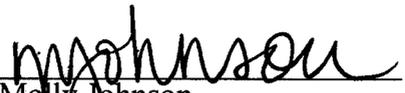
9 DATED this 26 day of July, 2006

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11   
12 \_\_\_\_\_  
13 AMY BJELLAND  
14 ADMINISTRATIVE LAW JUDGE

13 Copies of the foregoing mailed/delivered  
14 this 26 day of July, 2006 to:

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