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BEFORE THE ARIZONA CORPORATION COMMISSION

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COMMISSIONERS

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AZ CORP COMMISSION  
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Arizona Corporation 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  
COOLIDGE, PINAL COUNTY, ARIZONA

DOCKET NO. W-01445A-06-0317

RESPONSE IN OPPOSITION TO  
MOTION TO INTERVENE

On August 10, 2006 Santa Cruz Water Company, LLC, Palo Verde Utilities Company, LLC, Global Water-Santa Cruz Water Company and Global Water-Palo Verde Utilities Company (collectively, "Global") filed a Motion to Intervene in the above-captioned docket (the "Motion"). For the reasons presented below, Arizona Water Company urges the Commission to deny the Motion.

As a preliminary observation, Global concedes that it is not filing a competing application, or seeking to compare itself to the fitness of Arizona Water Company. Instead, Global apparently sees itself as a self-appointed private attorney general, ignoring the fact the Staff will properly perform its duties in cases such as this Certificate of Convenience and Necessity ("CCN") expansion application. The Motion throws around what are, by now, tiresome and overworked terms such as "land grabs",<sup>1</sup> "massive" CCN extensions, and "triad" of conservation. Global's efforts to thwart

<sup>1</sup> Indeed, in finally weighing in on Global's and Robson Utilities repetitive allegations of "land-grabbing", Staff observed that it is uncertain of the precise meaning of the term, and how it would be proven, and what law, rule or decision such action violates. (Exhibit S-2, page 3, Docket W-01445A-06-0059).

1 Arizona Water Company's efforts to serve the public have failed to date; each of these  
2 arguments has been rejected in a variety of procedural contexts. Clearly, Global wants  
3 to use this CCN case to persuade the Commission to adopt a policy to further Global's  
4 business interests elsewhere. Moreover, Global has now embarked on a course of  
5 gratuitously opposing each and every filing by Arizona Water Company, even where it  
6 has no facilities or present or planned service area, such as this case. As discussed  
7 below, the Motion will, indeed, unduly broaden the issues in this case, and improperly  
8 burden this proceeding, in direct contravention of the requirements of A.A.C. R14-3-  
9 105.B and, for that, and other reasons, its Motion should be denied.

10 **GLOBAL'S ALLEGATIONS CONCERNING ARIZONA WATER COMPANY'S RECORD OF**  
11 **WATER CONSERVATION ARE WRONG.**  
12

13 As noted above, the Motion presents, as in other recent proceedings before the  
14 Commission, Global's overused litany about the "triad of conservation" and allegations  
15 that Arizona Water Company has historically not used any of Global's so-called  
16 "strategy". To the contrary, as the Commission knows, Arizona Water Company has  
17 actively provided reclaimed water service and promoted water conservation for many  
18 years, and its actions are not limited to mere sloganeering. Contrary to Global's  
19 allegations, Arizona Water Company:

- 20 1. Provides reclaimed water service (since 1989), under an approved tariff, in  
21 its Superstition system.
- 22 2. Provides untreated Central Arizona Project ("CAP") water service in its  
23 Superstition system under an approved tariff, and has used treated CAP  
24 water for years to serve customers in that system.
- 25 3. Provides untreated CAP water to the former Reliant Energy, now Salt  
26 River Project, power plant in its Casa Grande system.
- 27
- 28

1 Arizona Water Company has also sought, and, continues to seek ways to  
2 expand its provision of reclaimed water service in the Casa Grande and Coolidge  
3 systems where reclaimed water is available and customers are able to use it. Global's  
4 assertions that it, alone, is interested in and can promote water conservation in Pinal  
5 County is fiction, and Global's argument that it will be directly and substantially affected  
6 by this case because of water conservation issues is groundless. This case has no  
7 bearing on Global's ability to serve areas in which it holds a CCN.

8 **ARIZONA WATER COMPANY'S APPLICATION ADEQUATELY ADDRESSED**  
9 **WASTEWATER.**  
10

11 Arizona Water Company's application was found sufficient by the Staff. The Staff  
12 issued a Staff Report recommending that the Commission approve including the CCN  
13 expansion area in Arizona Water Company's application as filed. For that reason, the  
14 only logical conclusion concerning wastewater can be that, Arizona Water Company's  
15 application adequately addressed that issue and, to the extent that the Staff or the  
16 Administrative Law Judge require additional information about this issue, it will be  
17 addressed at the hearing in this matter. Intervention is not necessary for this purpose,  
18 especially by a party with no demonstrated interest in the proceedings other than its  
19 efforts to oppose any filings by Arizona Water Company.

20 In the Motion, Global argues that it will be adversely affected by Arizona Water  
21 Company's application because, if there is no wastewater treatment provider identified:

- 22 1. Global may have to step into the breach.
- 23 2. If 1, occurs, Global would be adversely affected, because it would be  
24 "pressured" to act, and it prefers to provide what it insists to be superior  
25 integrated service.  
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1           These arrogant and self-serving assertions are not credible given the fact that  
2 Global has such a short and unproven track record and that the communities of  
3 Coolidge and Eloy, which provide wastewater service, include the great majority of  
4 Arizona Water Company's CCN extension areas within their planning areas. First, as  
5 this application concerns primarily areas near the cities of Coolidge and Eloy (the  
6 "Cities"), the Cities would be the most likely wastewater service providers, and Global  
7 presents no evidence to the contrary. Second, Global has no operations in the vicinity  
8 of any of Arizona Water Company's proposed CCN expansion area. For Global to argue  
9 that it would be "pressured", or even asked, to serve an area where experienced  
10 providers like the Cities exist, strains belief to the breaking point. Finally, there is no  
11 evidence that the Commission has made any kind of determination that Global's  
12 "integrated" business model better serves the public interest than Arizona Water  
13 Company's, which is the model used by most other successful Arizona water utilities  
14 and which has been used by Arizona Water Company for over 50 years. Global can  
15 only cite the Woodruff case, which, as the Commission knows, is on appeal, and  
16 involves drastically different facts.

17           The record shows that Arizona Water Company has provided high quality water  
18 service in Pinal County for over fifty years, using its proven business model and by  
19 working hand-in-hand on a cooperative basis with providers, like the City of Coolidge,  
20 which supports Arizona Water Company's application

21           Global will not be affected at all by Arizona Water Company's application as it  
22 concerns wastewater, and its argument provides no basis for granting the Motion under  
23 Rule 14-3-105.B. As with the other parts of the Motion, Global seeks to use this docket  
24 as nothing more than a soap box to urge the Commission to adopt policies to fit the  
25 business model that Global desires and to interfere with Arizona Water Company  
26 serving new CCN areas that it is best able to serve. This case, which involves no other  
27 Arizona utilities, is neither the time nor the place, and is certainly the wrong vehicle for  
28

1 that, and it would unduly broaden the issues in this application, and unduly burden  
2 these proceedings, in violation of Rule 14-3-105.B.

3  
4 **REQUESTS FOR SERVICE SUPPORT ARIZONA WATER COMPANY'S**  
5 **APPLICATION.**

6 As with the other arguments in the Motion, Global swings and misses with the  
7 argument that Arizona Water Company lacks requests for service. The fact is that  
8 Arizona Water Company has requests for service for most of the expansion area, and  
9 the Commission has no rule, regulation, governing statute or policy that requires a  
10 request for service for every part of a CCN area, whether for a new or expansion  
11 request. In a recently heard, and pending Company application, Docket No. W-01445A-  
12 06-0059, the Staff addressed this issue as follows:

13 Staff reviewed the letters filed by Robson, Global and Ms. Robertson,  
14 along with the response of Arizona Water. First, Staff does not agree that the  
15 Commission has an inflexible, long-standing policy against approving CC&N  
16 extensions into areas in which there are no requests for service...Second, Staff  
17 is concerned that if the Commission were to establish a firm policy against  
18 approving extensions where there is no request for service (as Global and  
19 Robson seem to favor), utilities would be motivated to shop for requests for  
20 service to reserve areas for planning purposes. At best, this would increase  
21 costs to the utilities. At worst, these costs could be passed on to ratepayers.  
Also, a request for service could become a commodity going to the highest  
bidder rather than to the company which is best able to further the public  
interest....Staff believes there are certain circumstances under which the  
Commission should consider approving extensions into areas for which there are  
no requests for service.

22 Exhibit S-2, Page 2, Docket No. W-01445A-06-0059.

23 Thus, Staff has completely refuted Global's argument in this case (and, for  
24 that matter, in Docket 06-0059, in which Global made the same arguments as  
25 public comments), especially Global's frequent argument concerning long-standing  
26 Commission policy on requests for service.

1 In this case, the Staff Report is equally instructive regarding the Staff's position  
2 on Global's inaccurate policy arguments:

3 Attached, as Exhibit 3, is a map supplied by Arizona Water which  
4 identifies, in color, the sections for which there are requests for service. It can be  
5 seen that of the thirty-one sections requested, six do not have associated  
6 requests for service. However, the sections for which there are no requests for  
7 service are either contiguous to Arizona Water's current service territory, or  
8 contiguous to a section for which there is a request for service. Staff believes  
9 that to enhance regulatory and operational efficiencies, some extensions into  
10 areas for which there are no requests for service are justified. This is such a  
11 case.

12 Staff Report, June 22, 2006, page 2.

13 In its Report, Staff also elaborates on other reasons why it recommends that all  
14 of the CCN area Arizona Water Company requests be approved in this case. Suffice it  
15 to say that Staff's discussion does not support what Global says is "long-standing"  
16 Commission policy.

17 Moreover, Global points out that the few authorities it cites in footnote 9 of  
18 the Motion, which are isolated and procedurally insignificant Commission decisions  
19 were cited in support of this same argument in its motion to dismiss Arizona Water  
20 Company's application in pending Docket No. W-01445A-06-0199. Since the date of the  
21 Motion, however, that motion to dismiss was denied from the bench at an August 15,  
22 2006 procedural conference, just as all of Global's motions have been in that matter and  
23 in the Formal Complaint proceeding, which is Docket No. W-01445A-06-0200.

24 Global has failed to make a credible argument that it will be adversely affected by  
25 any request for service issue in this matter. The Staff reports prove that Global has  
26 misstated Commission policy, and Global clearly seeks to use this case to advance its  
27 own self-serving interests even though it has no stake in the subject matter of this case.  
28 Global has demonstrated even less standing here than the Robson Communities had in  
Docket No. W-01445A-06-0199, another case in which a similar effort to intervene was  
properly denied by the same Administrative Law Judge assigned to this case.

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**THERE IS NO FREE SPEECH ISSUE IN THIS CASE.**

The "Free Speech Rights" issue in this case is perhaps Global's most bizarre argument. The argument seems to be that, if Arizona Water Company's application in this case is granted, and Arizona Water Company is successful in its formal complaint (Docket W-01445A-06-0200) against Global, Global's free speech rights will be infringed. This argument completely misses the mark. In that case, Arizona Water Company is seeking to show the Commission that it is unlawful for Global to seek to provide water service to property owners located within Arizona Water Company's **present** CCN and the surrounding area. If the Commission agrees, and orders Global to cease doing so, the Commission will have concluded that Global is violating the law, and that it cannot hide behind a specious free speech argument, as it tries to in the Motion. The Commission should give no weight whatsoever to Global's argument. In any event, Global raised these same arguments in Docket No. W-01445A-06-0200, and its motion to dismiss in that proceeding was denied.

**CONCLUSION**

The Motion is nothing more than an effort by Global to protect "the loss of potential business opportunities in the extension area." (Motion to Intervene at p. 4, ll. 19-20). The Motion is not in the public interest, just Global's business interests. It must be analyzed in the context of the pending application, not other pending applications at the other end of Pinal County.

A.A.C. R14-3-105.B provides, in pertinent part that "(n)o application to intervene shall be granted where by doing so the issues theretofore presented will be unduly broadened, except upon leave of the Commission first had and received." Global has no service territory or facilities located near the proposed CCN expansion area, and seeks none. The Motion is basically an abstract discourse on what Global wants Commission policy to be, rather than what it is. It is difficult to imagine a case where the

1 issues would not be more unduly broadened by an intervention. If Global wants to  
2 change Commission policy as it asserts, it should request that the Commission open a  
3 docket on each such issue, in which all interested Arizona utilities may participate. In  
4 addition, Global has made no showing that it will be adversely affected by reason of any  
5 of the areas of concern that it has raised in the Motion, i.e., water conservation,  
6 wastewater, requests for service, or free speech. Since Global has failed to satisfy the  
7 fundamental requirements for intervention mandated by Rule 14-3-105.B, the  
8 Commission should summarily deny the Motion.

9  
10 RESPECTFULLY SUBMITTED this 29<sup>TH</sup> day of August, 2006.

11 **ARIZONA WATER COMPANY**

12  
13 By: Robert W. Geake

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1 Original and thirteen (13) copies of the foregoing filed this 29<sup>TH</sup> day of August 2006 with:

2 Docket Control Division  
3 Arizona Corporation Commission  
4 1200 West Washington Street  
5 Phoenix, Arizona 85007

6 A copy of the foregoing was hand-delivered this 29<sup>TH</sup> day of August 2006 to:

7 Honorable Yvette B. Kinsey  
8 Administrative Law Judge  
9 Hearing Division  
10 Arizona Corporation Commission  
11 1200 West Washington  
12 Phoenix, AZ 85007

13 A copy of the foregoing was mailed this 29<sup>TH</sup> day of August 2006 to:

14 Christopher Kempley, Chief Counsel  
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