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BEFORE THE ARIZONA CORPORATION COMMISSION

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2006 SEP -5 P 1:18

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 21, 2006 Woodruff Water Company ("Woodruff") 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.

WOODRUFF HAS NO STANDING TO PRESENT ITS MOTION.

The Commission's rules only allow for intervention for entities "who are directly and substantially affected by the proceedings". A.A.C. R14-3-105 (A). A careful reading of the Motion reveals that Woodruff fails to meet this fundamental requirement.

The Motion, as detailed in paragraphs 5 and 6, is based upon Woodruff's opposition to including the Cardon Hiatt Property, identified in paragraph 3 of the Motion, in Arizona Water Company's extension area. Woodruff's opposition is supposedly supported by an August 9, 2006 letter from Cardon Hiatt (Exhibit 1, hereto).

1 However, the Cardon Hiatt letter does not:

2 1. Mention Woodruff.

3 2. Indicate that Cardon Hiatt has had any discussions with Woodruff
4 concerning water service.

5 3. Contain any indication that Woodruff has any authority from Cardon Hiatt
6 to make any objection or representation to the Commission on Cardon Hiatt's behalf.

7 Since Woodruff has no authority to speak on behalf of Cardon Hiatt, and has not
8 filed its own application or otherwise sought to serve any of the area included in Arizona
9 Water Company's extension area, it is clear that Woodruff is not directly and
10 substantially affected by Arizona Water Company's application.

11 **WOODRUFF'S INTERVENTION WOULD UNDULY BROADEN THE ISSUES IN THIS**
12 **PROCEEDING.**

13
14 Even if the Motion satisfied the "directly and substantially affected" threshold of
15 Rule 14-3-105.A, which it does not, the Motion also fails to satisfy the other fundamental
16 requirement, that intervention will not be granted when the issues "will be unduly
17 broadened, except upon leave of the Commission first had and received." A.A.C. R14-
18 3-105 (B). As paragraph 6 of the Motion makes clear, if permitted to intervene in this
19 case, Woodruff will argue about excluding the Cardon Hiatt Property, its discussions
20 with Cardon Hiatt (which, even if they occurred, did not result in any arrangement for
21 Woodruff to serve Cardon Hiatt, as evidenced by Cardon Hiatt's letter), its own interest
22 in serving the Cardon Hiatt Property (again, Cardon Hiatt's own letter shows it has not
23 requested Woodruff's service), and the possibility that it might file a Certificate of
24 Convenience and Necessity application sometime in the indefinite future. None of these
25 matters is an issue in this case and, as documented by Cardon Hiatt's letter, at this time
26 they are nothing more than mere fanciful speculation.

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1 The issue in this case is whether it is in the public interest for the Commission to
2 approve Arizona Water Company's application. Significantly, the Staff Report in this
3 case, at page 3, concludes that "(Arizona Water Company) is fit and proper to serve in
4 the proposed extension area. Staff believes it is in the public interest for the
5 Commission to approve (Arizona Water Company's) application".

6 Woodruff's intervention would serve only Woodruff's interests, and unduly
7 broaden the issues in this case.

8 **WOODRUFF'S ARGUMENTS CONFLICT WITH ITS PREVIOUS REPRESENTATIONS TO**
9 **THE COMMISSION.**

10
11 In the hearings before the Commission leading up to Decision No. 68453 on
12 February 2, 2006 (the "Decision"), Woodruff's witness testified under oath that none of
13 Woodruff's business plans include service outside Sandia, and that Woodruff did not
14 plan to accommodate a property owner's service request (later identified as Cardon
15 Hiatt) (Transcript, Decision No. 68453, 5/23/05 p.161). The Decision, at Finding of Fact
16 No. 34, page 10, confirmed that Woodruff had no current plans to serve outside of
17 Sandia.

18 **CONCLUSION**

19
20 The Motion is fundamentally flawed. Woodruff has no authority to speak on
21 behalf of Cardon Hiatt, and seeks to interject issues that are not before the Commission
22 in this case. Since Woodruff has no standing to intervene and has failed to satisfy the
23 fundamental requirements for intervention mandated by Rule 14-3-105, the Commission
24 should summarily deny the Motion.

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RESPECTFULLY SUBMITTED this 5th day of September 2006.

ARIZONA WATER COMPANY

By: Robert W. Geake

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Original and thirteen (13) copies of the foregoing filed this 5th day of September 2006 with:

Docket Control Division
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1200 West Washington Street
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A copy of the foregoing was hand-delivered this 5th day of September 2006 to:

Honorable Yvette B. Kinsey
Administrative Law Judge
Hearing Division
Arizona Corporation Commission
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Phoenix, AZ 85007

1 A copy of the foregoing was mailed this 5th day of September 2006 to:

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