



BEFORE THE ARIZONA CORPORATION C

COMMISSIONERS

JEFF HATCH-MILLER Chairman
WILLIAM A. MUNDELL
MIKE GLEASON
KRISTIN K. MAYES
BARRY WONG

IN THE MATTER OF THE PROPOSED
RULEMAKING TO AMEND A.A.C. R14-4-135.

DOCKET NO. RS-00000A-06-0210

DECISION NO. 68943

OPINION AND ORDER

DATE OF HEARING: August 9, 2006
PLACE OF HEARING: Phoenix, Arizona
ADMINISTRATIVE LAW JUDGE: Marc E. Stern
APPEARANCES: Ms. Abby Herig, Assistant General Counsel, on behalf of the Securities Division of the Arizona Corporation Commission.

BY THE COMMISSION:

On May 9, 2006, the Securities Division ("Division") of the Arizona Corporation Commission ("Commission") forwarded a proposal recommending that the Commission amend A.A.C. R14-4-135 ("Rule 135").

On April 28, 2006, the Notice of Rulemaking Docket Opening was published in the Arizona Administrative Register ("Register").

On June 1, 2006, the Commission issued Decision No. 68716, which directed the Hearing Division to schedule a hearing on the Division's proposed amendment to Rule 135 for the purpose of taking public comment.

On June 29, 2006, by Amended Procedural Order, a public comment hearing was scheduled for August 9, 2006.

On June 30, 2006, the Notice of Proposed Rulemaking was published in the Register.

On August 9, 2006, a public comment hearing on Rule 135 was held before a duly authorized

1 Rule 135 provides an exemption from registration for securities transactions that qualify for federal registration under the Multi-Jurisdictional Disclosure System ("MJDS").

1 Administrative Law Judge at the Commission's offices in Phoenix, Arizona. The Division appeared
2 through counsel. There were no formal comment letters received and no members of the public
3 appeared to make public comment on Rule 135 at the hearing following the Notice of Proposed
4 Rulemaking.

5 * * * * *

6 Having considered the entire record herein and being fully advised in the premises, the
7 Commission finds, concludes, and orders that:

8 **FINDINGS OF FACT**

9 1. Effective July 1, 1991, the U. S. Securities and Exchange Commission ("S.E.C.") and
10 regulatory authorities in Canada implemented the MJDS. The MJDS provides a mechanism for
11 reciprocity in cross-border offerings between the U.S. and Canada.

12 2. On May 9, 2006, the Division forwarded to the Commission a proposal recommending
13 that the Commission amend Rule 135.

14 3. On April 28, 2006, pursuant to law, the Notice of Rulemaking Docket Opening was
15 published in the Register.

16 4. On June 1, 2006, the Commission issued Decision No. 68716, which directed that a
17 hearing be scheduled regarding Rule 135 for the purpose of taking public comment.

18 5. On June 29, 2006, by Amended Procedural Order, the Commission scheduled a public
19 comment hearing on August 9, 2006.

20 6. On June 30, 2006, the Notice of Proposed Rulemaking was published in the Register.

21 7. On August 9, 2006, the public comment hearing was held as scheduled. After the
22 publication of the Notice of Proposed Rulemaking, no members of the public appeared to make
23 comment on the proposed amendment of Rule 135 and no formal written comments concerning the
24 amendment of Rule 135 were filed with the Commission.

25 8. Currently, Rule 135, adopted in 1991, exempts from registration offers of securities
26 declared effective with the S.E.C. pursuant to the S.E.C.'s multi-jurisdictional rule, provided that a
27 filing is made with the Commission seven days before the offering is made in Arizona.

28 9. The Division proposes the amendment to Rule 135 to reflect changes which reduce the

1 Canadian registration application review period so that Rule 135, when amended, will provide that
 2 offerings filed pursuant to the MJDS become effective in Arizona upon the S.E.C. effective date,
 3 provided that before an offer is made in Arizona, a prospectus or offering circular is filed with the
 4 Commission and the fee is paid pursuant to A.R.S. § 44-1861(G).

5 10. The Division believes that the amendment of Rule 135 will not decrease investor
 6 protection because it is not a substantive change and in addition, the securities transactions that
 7 qualify for the exemption are only made by substantial issuers, are reviewed by the Canadian
 8 government and are registered with the S.E.C.

9 11. Rule 135 is set forth in Appendix A, attached hereto and incorporated by reference.

10 12. Pursuant to A.R.S. § 41-1055(D), because there is expected to be a decrease in record
 11 keeping or reporting for the agency, businesses or persons with the amendment of Rule 135, the
 12 Commission is exempt from the requirement to prepare an Economic, Small Business and Consumer
 13 Impact Statement for this rulemaking.

14 CONCLUSIONS OF LAW

15 1. Pursuant to A.R.S. § 44-1821 and the Arizona Constitution, Article XV, §§ 6 and 13,
 16 the Commission has jurisdiction to amend Rule 135.

17 2. Notice of the hearing was given in the manner prescribed by law.

18 3. The proposed amendment to Rule 135 is in the public interest and is reasonably
 19 necessary to carry out the provisions of the Arizona Securities Act.

20 4. The amendment of Rule 135 as set forth in Appendix A should be adopted.

21 ORDER

22 IT IS THEREFORE ORDERED that A.A.C. R14-4-135, as set forth in Appendix A is hereby
 23 adopted.

24 IT IS FURTHER ORDERED that the Commission's Securities Division shall submit the
 25 amended Rule A.A.C. R14-4-135, as set forth in Appendix A, to the Attorney General's office for
 26 approval pursuant to A.R.S. § 41-1044.

27 ...

28 ...

1 IT IS FURTHER ORDERED that the Commission's Securities Division is authorized to
2 make non-substantive changes to the adopted rule, A.A.C. R14-4-135, in response to comments
3 received from the Attorney General's office during the approval process under A.R.S. § 41-1044
4 unless, after notification of those changes, the Commission requires otherwise.

5 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

6 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

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8 
9 CHAIRMAN


10 COMMISSIONER

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12 COMMISSIONER


13 COMMISSIONER


14 COMMISSIONER

15 IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive
16 Director of the Arizona Corporation Commission, have
17 hereunto set my hand and caused the official seal of the
18 Commission to be affixed at the Capitol, in the City of Phoenix,
19 this 12th day of Sept., 2006.


20 BRIAN C. McNEIL
21 EXECUTIVE DIRECTOR

22 DISSENT _____

23 DISSENT _____

24 MES:mj

1 SERVICE LIST FOR:

RULEMAKING TO AMEND RULE 135

2 DOCKET NO.:

RS-00000A-06-0210

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4 Matt Neubert
5 Securities Division
6 ARIZONA CORPORATION COMMISSION
7 1200 West Washington Street
8 Phoenix, AZ 85007
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1 R14-4-135. Exempt Securities – Multi-jurisdictional Disclosure System

2 An offering of securities within this state which has been declared effective with the
3 U.S. Securities and Exchange Commission (the “SEC”) on Form F-7, F-8, F-9, or F-10 shall be
4 added to the class of securities exempt under A.R.S. §44-1843, provided that before an offer is
5 made in Arizona:

6 1. A prospectus or an offering circular, the standards of form or content which are
7 prescribed by any provision of the Securities Act of 1933, or rules and regulations promulgated
8 thereunder, and Form F-7, F-8, F-9, or F-10, whichever is applicable, shall be filed with the
9 Commission ~~at least seven days before the offering is made~~; and

10 2. A nonrefundable exemption fee as provided in A.R.S. §44-1861(G) shall be paid
11 to the Commission.

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