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BEFORE THE ARIZONA CORPORATION COMMISSION

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COMMISSIONERS

Arizona Corporation Commission

DOCKETED

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

2005 DEC 20 P 3: 20

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AZ CORP COMMISSION
DOCUMENT CONTROL

DOCKETED BY [Signature]

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 December 5, 2005, the hearing was held as scheduled, and on January 6, 2006, closing

1 briefs were filed.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 On July 26, 2006, a procedural order was issued ordering oral argument relating to the issues
23 set forth by Commissioner Mayes in her July 20, 2006 letter and postponing the evidentiary hearing
24 in this matter, while retaining the schedule for public comment.

25 On July 27, 2006, the Companies docketed an Emergency Request for Continuance of Oral
26 Argument. This request was granted by procedural order issued on July 28, 2006.

27 On July 31, 2006, a procedural conference was held and public comment was taken. At the
28 procedural conference, the parties agreed that Staff should have 60 days to file its Staff Report and/or

1 testimony after notice is given of a resolution of the parties' discovery dispute.

2 On December 5, 2006, a Joint Proposal for Procedural and Hearing Schedule ("Joint
3 Proposal") was filed by all parties of record.

4 On December 6, 2006, an Amendment to the Joint Proposal was filed requesting that the due
5 date for the Staff Report be changed to December 15, 2006.

6 On December 15, 2006, Staff filed its Amended Staff Report.

7 IT IS THEREFORE ORDERED that the Companies shall file their response to the Staff
8 Report on or before **January 19, 2007**.

9 IT IS FURTHER ORDERED that a **pre-hearing conference** shall be held on **February 8,**
10 **2007, at 10:00 a.m.** at the Commission's offices, located at 1200 West Washington Street, Phoenix,
11 Arizona.

12 IT IS FURTHER ORDERED that the **hearing** shall be on **February 15 and 16, 2007, at**
13 **10:00 a.m.**, at the Commission's offices in Phoenix, Arizona.

14 IT IS FURTHER ORDERED that the Companies shall serve public notice of the hearing in
15 this matter, in the following form and style, with the heading in no less than 12 point bold type and
16 the body in no less than 10 point regular type:

17
18 **PUBLIC NOTICE OF ADDITIONAL HEARING ON THE APPLICATIONS BY**
19 **PERKINS MOUNTAIN UTILITY COMPANY FOR CERTIFICATE OF CONVENIENCE**
20 **AND NECESSITY TO PROVIDE WASTEWATER AND PERKINS WATER COMPANY**
21 **FOR CERTIFICATE OF CONVENIENCE**
22 **AND NECESSITY TO PROVIDE WATER SERVICE**
23 **IN MOHAVE COUNTY, ARIZONA**
24 **DOCKET NOS. SW-20379A-05-0489 and W-20380A-05-0490**

25 On July 7, 2005, Perkins Mountain Utility Company filed with the Arizona
26 Corporation Commission ("Commission") an application for a Certificate of
27 Convenience and Necessity ("Certificate") to provide wastewater, and Perkins
28 Mountain Water Company to provide water, to two master-planned communities in
Mohave County, Arizona. The Commission held an evidentiary hearing on these
applications in December, 2005, and has also held public comment hearings. The
Commission will hold an additional evidentiary hearing commencing on **February 15,**
2007 at 10:00 a.m., or as soon thereafter as is practical, at the Commission's offices,
1200 W. Washington Street, Phoenix, Arizona.

If you have any questions or concerns about this application you may contact
Perkins at [insert Perkins address and telephone number] or if wish to make a written
public comment, you may write the Consumer Services Section of the Commission at

1 1200 West Washington Street, Phoenix, Arizona 85007 or call 1-800-222-7000 or
2 appear at the hearing and make comment.

3 The Commission does not discriminate on the basis of disability in admission to
4 its public meetings. Persons with a disability may request a reasonable accommodation
5 such as a sign language interpreter, as well as request this document in an alternative
6 format, by contacting Linda Hogan, ADA Coordinator, voice phone number 602/542-
7 3931, E-mail lhogan@azcc.gov. Requests should be made as early as possible to allow
8 time to arrange the accommodation.

9 IT IS FURTHER ORDERED that the Companies shall publish notice of the hearing in a
10 newspaper of general circulation in the proposed extension area by January 12, 2006.

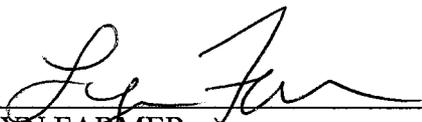
11 IT IS FURTHER ORDERED that the Applicants shall file certifications of publication and
12 mailing as soon as practicable after the publication and mailing has been completed but not later than
13 January 26, 2007.

14 IT IS FURTHER ORDERED that notice shall be deemed complete upon publication and
15 mailing, notwithstanding the failure of an individual to read or receive the notice.

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

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

21 DATED this 20th day of December, 2006

22 
23 LYN FARMER
24 CHIEF ADMINISTRATIVE LAW JUDGE

25 Copies of the foregoing mailed/delivered
26 this 20th day of December, 2006 to:

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14 By: 
15 Debbi Person
16 Secretary to Lyn Farmer
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