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BEFORE THE ARIZONA CORPORATION

COMMISSIONERS

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

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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 IN THE CITY OF CASA GRANDE AND IN PINAL COUNTY, ARIZONA

DOCKET NO. W-01445A-06-0199

IN THE MATTER OF THE APPLICATION OF PALO VERDE UTILITIES COMPANY FOR AN EXTENSION OF ITS EXISTING CERTIFICATE OF CONVENIENCE AND NECESSITY.

DOCKET NO. SW-03575A-05-0926

IN THE MATTER OF THE APPLICATION OF SANTA CRUZ WATER COMPANY FOR AN EXTENSION OF ITS EXISTING CERTIFICATE OF CONVENIENCE AND NECESSITY.

DOCKET NO. W-03576A-05-0926

CMR/CASA GRANDE LLC'S MOTION TO EXTEND THE INTERVENTION DEADLINE AND FOR LEAVE TO INTERVENE

CMR/Casa Grande LLC ("CMR") hereby moves the Arizona Corporation Commission ("Commission") to (i) extend the intervention deadline and (ii) grant CMR intervenor status in the above-captioned proceeding. This motion is supported by the following facts and information.

I. The Deadline for Intervention Should Be Extended Along With Other Deadlines Which Have Already Been Extended.

In the Procedural Order dated November 29, 2006, the Administrative Law Judge ("ALJ") extended all material deadlines in this proceeding to provide the parties with more time to file or amend pre-filed testimony, respond to testimony, engage in further discovery, and prepare for the evidentiary hearing set for March 5, 2007. Consistent with the extension of these deadlines, the intervention deadline should also be extended.

Extending the intervention deadline would not prejudice any party. The ALJ's November 29, 2006, Procedural Order sets new deadlines for intervenors to file testimony for

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1 December 26, 2006, and for the parties to complete discovery by February 28, 2007. These new
2 deadlines provide the parties with ample time to respond to intervenor testimony and issue
3 discovery requests to any new intervenor. It also evidences that this proceeding is still early on
4 in the evidentiary process. Consequently, the parties will not be prejudiced by having another
5 party, like CMR, intervene in this case.

6 Therefore, CMR respectfully requests that the Commission extend the intervention
7 deadline.

8 **II. CMR Should Be Allowed to Intervene.**

9 Regardless of whether the Commission extends the intervention deadline in this
10 proceeding, the Commission has the discretion to grant CMR's motion to intervene after the
11 intervention deadline has passed. In Commission proceedings, interventions are liberally granted
12 as long as: (1) the applicant files for intervention five days before the hearing; (2) the applicant
13 will be directly and substantially affected by the Commission's decision in the proceeding; and
14 (3) the applicant will not unduly broaden the issues of the proceeding. *See* A.A.C. R14-3-105.
15 CMR meets all three of these criteria.

16 **A. CMR Satisfies the Five-Day Rule Set Forth In A.A.C. R14-3-105(B).**

17 According to the Commission's procedural rules, a motion to intervene must be filed "at
18 least five days before the proceeding is called for hearing." A.A.C. R14-3-105(B). Rule 105(B)
19 implies that the Commission should consider motions for leave to intervene up until five days
20 before the hearing despite a procedural order setting forth a different deadline. ALJ Kinsey has
21 rescheduled the hearing to commence on March 5, 2007, which is more than three months away.
22 Accordingly, CMR's motion to intervene meets the time requirement set forth in Rule 105(B).

23 In addition, when Arizona courts analyze whether a motion for intervention is timely,
24 they focus on at least these two factors: to what stage the lawsuit has progressed when
25 intervention is sought and whether the delay in moving for intervention will prejudice the
26 existing parties in the case. *See Winners Enters. v. Superior Court*, 159 Ariz. 106, 109, 765 P.2d
27 116, 119 (App. 1988). The Commission should focus on similar factors in determining whether
28 intervention should be granted in administrative proceedings.

1 As stated above, this proceeding is still very early on in the discovery process and
2 deadlines to file testimony have not passed. CMR will be able to submit testimony before
3 December 26, 2006, which is the deadline the ALJ set for intervenors to file testimony. All
4 parties have until February 28, 2007 to issue discovery requests to CMR, which is plenty of time
5 to conduct a full and proper inquiry as to CMR's position and interests. Since discovery has not
6 closed, testimony has yet to be filed, and there is still three months before the hearing, the parties
7 will not be prejudiced by CMR's intervention. The parties also will not be prejudiced by CMR's
8 intervention, because CMR will not unduly broaden the issues as discussed below in part II.C.

9 **B. CMR Will Be Directly and Substantially Affected By The Commission's
10 Decision In This Proceeding.**

11 CMR owns real property in Sections 25, 26, 27, 28, 22, 24, and 36 in Township 5 South,
12 Range 5 East in Pinal County, which is located in Arizona Water Company's ("AWC")
13 requested certificate of convenience and necessity extension area ("Extension Area"). This real
14 property consists of roughly the southern half of CMR's Copper Mountain Ranch development.
15 The northern half of CMR's Copper Mountain Ranch is located to the north of (and outside of)
16 the Extension Area in Sections 13, 14, 15, 16, 21, 22, 23, and 24 of Township 5 South, Range 5
17 East and Sections 17 and 18 of Township 5 South, Range 6 East in Pinal County.¹ CMR is
18 pursuing a comprehensive strategy for integrated water and wastewater for the entire Copper
19 Mountain Ranch development. Approving AWC's request to serve the southern portion of
20 Copper Mountain Ranch will frustrate CMR's planning for an integrated water and wastewater
21 provider for the entire development. As a result, CMR believes that certification of any water
22 provider to serve its property at this time is premature.

23 In addition, CMR has not requested water service from AWC for that portion of Copper
24 Mountain Ranch included in the Extension Area, and does not consent to AWC's service of that
25 property. For each of these reasons, CMR will be directly and substantially affected by the
26 Commission's decision in this proceeding. As such, CMR should be allowed to protect its rights

27 ¹ CMR previously requested water service from AWC for the northern portion of Copper Mountain Ranch
28 which is outside of the Extension Area. The northern portion of Copper Mountain Ranch is the subject of
a separate filing by AWC in Docket W-01445A-04-0743. In a letter dated November 22, 2006, CMR
withdrew its request for water service from AWC for the northern portion of Copper Mountain Ranch.
CMR has filed a separate motion to intervene in Docket W. 01445A-04-0743.

1 and interests by being able to file testimony, conduct discovery, and participate in the hearing.
2 Anything less denies CMR's rights of due process in protecting its interests.

3 **C. CMR's Intervention Will Not Unduly Broaden the Issues Or Delay the**
4 **Proceeding.**

5 The granting of intervenor status to CMR will not unduly broaden the issues or delay this
6 proceeding. CMR will be able to submit testimony on or before the December 26, 2006,
7 deadline for filing intervenor testimony. CMR will not be raising any new issue or broadening
8 the scope of the proceeding in its testimony. In fact, CMR expects its direct testimony to be
9 similar in content to the direct testimony filed by intervenor CHI Construction Company ("CHI")
10 on October 25, 2006. In CHI's direct testimony, CHI indicated that it was developing a strategy
11 to provide integrated water and wastewater to their master-planned community and raised
12 concerns about dividing their master-planned community so that it would be served by multiple
13 water providers. CHI also testified that it did not request service from AWC. CMR plans to
14 raise similar issues and concerns in its direct testimony.

15 Since the parties are familiar with the issues raised by CHI, there will be no prejudice if
16 CMR is granted intervention.

17 **IV. Notice to CMR and Mailing.**

18 The name, address, telephone number, facsimile number and e-mail address of the
19 persons upon whom service of all documents is to be made is:

20 Jeffrey W. Crockett, Esq.
21 Marcie Montgomery, Esq.
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A copy of this Motion has been sent via first class mail by the undersigned counsel to the
attorneys for AWC, Palo Verde Utilities Company, and Santa Cruz Water Company and to the
other parties of record on the service list following this motion.

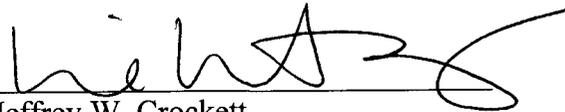
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V. Conclusion.

For the foregoing reasons, CMR respectfully requests that the Commission extend the intervention deadline and grant CMR's motion to intervene. In the alternative, CMR requests the Commission grant its request for intervention notwithstanding the passed deadline for the reasons set forth herein.

DATED this 6th day of December, 2006.

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ORIGINAL and seventeen (17) copies filed with Docket Control this 6th day of December, 2006.

COPY of the foregoing hand-delivered this 6th day of December, 2006, to:

Yvette B. Kinsey
Administrative Law Judge, Hearing Division
ARIZONA CORPORATION COMMISSION
1200 West Washington Street
Phoenix, Arizona 85007

COPY of the foregoing sent via first class mail this 6th day of December, 2006, to:

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