



ORIGINAL

BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

JEFF HATCH-MILLER, Chairman
WILLIAM A. MUNDELL
MIKE GLEASON
KRISTIN K. MAYES
GARY PIERCE

2007 JAN 16 P 2:45

AZ CORP COMMISSION
DOCUMENT CONTROL

IN THE MATTER OF:

DOCKET NO. W-03512A-06-0407

RAYMOND R. PUGEL AND JULIE B. PUGEL AS
TRUSTEES OF THE RAYMOND R. PUGEL AND
JULIE B. PUGEL FAMILY TRUST, and ROBERT
RANDALL AND SALLY RANDALL,

Complainants,

v.

PINE WATER COMPANY,

Respondent.

IN THE MATTER OF:

DOCKET NO. W-03512A-06-0613

ASSET TRUST MANAGEMENT CORP.,

Complainant,

v.

PINE WATER COMPANY,

Respondent.

Arizona Corporation Commission
DOCKETED

JAN 16 2007

DOCKETED BY

PROCEDURAL ORDER

BY THE COMMISSION:

On June 21, 2006, Raymond R. Pugel and Julie B. Pugel, as trustees of the Raymond R. Pugel and Julie B. Pugel Family Trust, and Robert Randall and Sally Randall (collectively "Pugel Complainants"), filed with the Arizona Corporation Commission ("Commission") in Docket No. W-03512A-06-0407 a Complaint ("Pugel Complaint") against Pine Water Company ("Pine Water" or "Company"). The Complaint seeks to delete property owned by the Complainants from Pine Water's certificated service area based on the allegation that Pine Water is not able to provide satisfactory and

1 adequate water service in a reasonable time and at a reasonable rate. On September 21, 2006, Pine
2 Water filed its Answer and requested that the Complaint be dismissed.

3 On September 25, 2006, Asset Trust Management Corp. ("ATM") filed a similar Complaint
4 against Pine Water in Docket No. W-03512A-06-0613 ("ATM Complaint").

5 By Procedural Order issued December 19, 2006, the Pugel Complaint and ATM Complaint
6 dockets were consolidated.

7 On January 12, 2006, a procedural conference was conducted in this consolidated proceeding.
8 During the procedural conference, the parties discussed potential hearing dates and other procedural
9 deadlines.

10 IT IS THEREFORE ORDERED that a **hearing in the above-captioned matters shall**
11 **commence on May 21, 2007, at 10:00 a.m.**, or as soon thereafter as is practical, at the Commission's
12 offices, 1200 West Washington Street, Phoenix, Arizona 85007.

13 IT IS FURTHER ORDERED that **intervention shall be in accordance with A.A.C. R14-3-**
14 **105, except that all motions to intervene must be filed on or before February 9, 2007.**

15 IT IS FURTHER ORDERED that the **Complainants shall file their Direct Testimony by no**
16 **later than March 16, 2007.**

17 IT IS FURTHER ORDERED that **Pine Water, Staff and Intervenors shall file Direct**
18 **Testimony by no later than April 13, 2007.**

19 IT IS FURTHER ORDERED that the **Complainants shall file Rebuttal Testimony by no**
20 **later than April 27, 2007.**

21 IT IS FURTHER ORDERED that **Pine Water, Staff and Intervenors shall file Surrebuttal**
22 **Testimony by no later than May 7, 2007.**

23 IT IS FURTHER ORDERED that the **Complainants shall file Rejoinder Testimony by no**
24 **later than May 14, 2007.**

25 IT IS FURTHER ORDERED that **all filings shall be made by 4:00 p.m. on the date the**
26 **filing is due, unless otherwise indicated.**

27 IT IS FURTHER ORDERED that any objections to any testimony or exhibits which have
28 been prefiled as of May 14, 2007, shall be made before or at the May 17, 2007 pre-hearing

1 conference.

2 IT IS FURTHER ORDERED that discovery shall be as permitted by law and the rules and
3 regulations of the Commission, except that: any objection to discovery requests shall be made within
4 7 days¹ of receipt and responses to discovery requests shall be made within 20 days of receipt; the
5 response time may be extended by mutual agreement of the parties involved if the request requires an
6 extensive compilation effort. No discovery requests shall be served after May 17, 2007.

7 IT IS FURTHER ORDERED that, in the alternative to filing a written motion to compel
8 discovery, any party seeking discovery may telephonically contact the Commission's Hearing
9 Division to request a date for a procedural hearing to resolve the discovery dispute; that upon such a
10 request, a procedural hearing will be convened as soon as practicable; and that the party making such
11 a request shall contact all other parties to advise them of the hearing date and shall at the procedural
12 hearing provide a statement confirming that the other parties were contacted.²

13 IT IS FURTHER ORDERED that any motions filed in this matter that are not ruled upon by
14 the Commission within 10 days of the filing date of the motion shall be deemed denied.

15 IT IS FURTHER ORDERED that any responses to motions shall be filed within five days of
16 the filing date of the motion.

17 IT IS FURTHER ORDERED that any replies shall be filed within five days of the filing date
18 of the response.

19 IT IS FURTHER ORDERED that the Company shall provide public notice of the hearing in
20 this matter, in the following form and style:

21 **PUBLIC NOTICE OF HEARING ON THE COMPLAINTS OF RAYMOND R. PUGEL AND**
22 **JULIE B. PUGEL, AS TRUSTEES OF THE RAYMOND R. PUGEL AND JULIE B. PUGEL**
23 **FAMILY TRUST, AND ROBERT RANDALL AND SALLY RANDALL, AND OF ASSET**
24 **TRUST MANAGEMENT CORP. AGAINST PINE WATER COMPANY**
DOCKET NOS. W-03512A-06-0407 AND W-03512A-06-0613

25 On June 21, 2006, Raymond R. Pugel and Julie B. Pugel, as trustees of the Raymond
26 R. Pugel and Julie B. Pugel Family Trust, and Robert Randall and Sally Randall, filed
with the Arizona Corporation Commission ("Commission") in Docket No. W-

27 ¹ "Days" means calendar days.

28 ² The parties are encouraged to attempt to settle discovery disputes through informal, good-faith negotiations before seeking Commission resolution of the controversy.

1 03512A-06-0407 a Complaint against Pine Water Company ("Pine Water"). On
2 September 25, 2006, Asset Trust Management Corp. ("ATM") filed a similar
3 Complaint against Pine Water in Docket No. W-03512A-06-0613. The Complaints
4 seek to delete property owned by the Complainants from Pine Water's certificated
5 service area based on the allegation that Pine Water is not able to provide satisfactory
6 and adequate water service in a reasonable time and at a reasonable rate. These
7 dockets have been consolidated by the Commission for purposes of conducting a
8 hearing. Copies of the Complaints and associated documents are available at the
9 Company's offices [insert address and telephone number] and the Commission's
10 offices at 1200 West Washington, Phoenix, Arizona, for public inspection during
11 regular business hours.

12 The Commission will hold a hearing on this matter beginning **May 21, 2007, at 10:00**
13 **a.m.**, at the Commission's offices, 1200 West Washington, Phoenix, Arizona. Public
14 comments will be taken on the first day of the hearing. Written public comments may
15 be submitted via e-mail (visit <http://www.cc.state.az.us/utility/cons/index.htm> for
16 instructions), or by mailing a letter referencing Docket No. to W-03512A-06-0407 et
17 al: Arizona Corporation Commission, Consumer Services Section, 1200 West
18 Washington, Phoenix, AZ 85007. If you have any questions about this proceeding,
19 you may also contact the Consumer Services Section of the Commission by calling 1-
20 800-222-7000.

21 The law provides for an open public hearing at which, under appropriate
22 circumstances, interested parties may intervene. Intervention shall be permitted to any
23 person entitled by law to intervene and having a direct and substantial interest in the
24 matter. Persons desiring to intervene must file a written motion to intervene with the
25 Commission, which motion must be sent to the Company or its counsel and to all
26 parties of record, and must contain the following:

- 27 1. The name, address, and telephone number of the proposed intervenor
28 and of any party upon whom service of documents is to be made if
different from the intervenor.
2. A short statement of the proposed intervenor's interest in the
proceeding (e.g., a customer of the Company, a shareholder of the
Company, etc.).
3. A statement certifying that a copy of the motion to intervene has been
mailed to the Company or its counsel and to all parties of record in the
case.

29 The granting of intervention, among other things, entitles a party to present sworn
30 evidence at the hearing and to cross-examine other witnesses. The granting of
31 motions to intervene shall be governed by A.A.C. R14-13-105, except that **all motions**
32 **to intervene must be filed on or before February 9, 2007.** For information about
33 requesting intervention, visit the Arizona Corporation Commission's webpage at
34 <http://www.cc.state.az.us/utility/cons/index.htm>. However, failure to intervene will
35 not preclude any interested person or entity from appearing at the hearing and
36 providing public comment on the application or from filing written comments in the
37 record of the case.

38 The Commission does not discriminate on the basis of disability in admission to its
public meetings. Persons with a disability may request a reasonable accommodation
such as a sign language interpreter, as well as request this document in an alternative

1 format, by contacting the ADA Coordinator, Linda Hogan, at
2 LHogan@admin.cc.state.az.us, voice phone number 602/542-3931. Requests should
3 be made as early as possible to allow time to arrange the accommodation.

4 IT IS FURTHER ORDERED that the **Company shall mail to each of its customers a copy**
5 **of the above notice, and shall cause the above notice to be published at least once in a**
6 **newspaper of general circulation in its service territory, by no later than February 2, 2007.**

7 IT IS FURTHER ORDERED that the Company shall file certification of mailing/publication
8 as soon as practical after the mailing/publication has been completed.

9 IT IS FURTHER ORDERED that notice shall be deemed complete upon mailing/publication
10 of same, notwithstanding the failure of an individual customer to read or receive the notice.

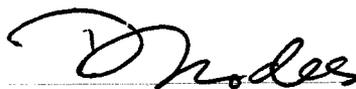
11 IT IS FURTHER ORDERED that **the Ex Parte Rule (A.A.C. R14-3-113 - Unauthorized**
12 **Communications) applies to this proceeding as the matter is now set for public hearing.**

13 IT IS FURTHER ORDERED that all parties must comply with Rule 33 (c) and (d) of the
14 Rules of the Arizona Supreme Court with respect to practice of law and admission pro hac vice.

15 IT IS FURTHER ORDERED that withdrawal of representation must be made in compliance
16 with A.A.C. R14-3-104(E) and Rule 1.16 of the Rules of Professional Conduct (under Rule 42 of the
17 Rules of the Arizona Supreme Court). Representation before the Commission includes the obligation
18 to appear at all hearings and procedural conferences, as well as all Open Meetings for which the
19 matter is scheduled for discussion, unless counsel has previously been granted permission to
20 withdraw by the Administrative Law Judge.

21 IT IS FURTHER ORDERED that the Administrative Law Judge may rescind, alter, amend,
22 or waive any portion of this Procedural Order either by subsequent Procedural Order or by ruling at
23 hearing.

24 Dated this 16th day of January, 2007.

25 

26 DWIGHT D. NODES
27 ASSISTANT CHIEF ADMINISTRATIVE LAW JUDGE
28

1 Copies of the foregoing mailed/delivered
this 16th day of January, 2007 to:

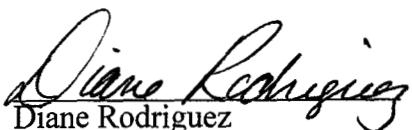
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40 By: 
41 Diane Rodriguez
42 Secretary to Dwight D. Nodes
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