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BEFORE THE ARIZONA CORPORATION COMMISSION

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COMMISSIONERS

2007 MAR -9 A 8: 22

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

AZ CORP COMMISSION  
DOCUMENT CONTROL

HP INVESTMENT CORPORATION,

COMPLAINANT,

VS.

APPALOOSA WATER COMPANY,

RESPONDENT.

W-03443A-06-0713  
DOCKETED Arizona Corporation Commission

DOCKETED

MAR 09 2007

DOCKETED BY [signature]

PROCEDURAL ORDER

BY THE COMMISSION:

On November 7, 2006, HP Investment Corporation ("HP" or "Complainant") filed with the Arizona Corporation Commission ("Commission") a Complaint ("Complaint") against Appaloosa Water Company ("Appaloosa" or "Respondent") for failure to comply with Commission Rules and Regulations.

On December 4, 2006, Appaloosa filed an Answer to the Complaint, Affirmative Defenses and Motion to Dismiss Complaint. In its Motion to Dismiss, Appaloosa requests that the Commission dismiss HP's Complaint because the issue of whether HP can be granted a Certificate of Assured Water Supply falls under the jurisdiction of the Arizona Department of Water Resources and not the Commission.

On December 11, 2006, HP filed its Response to Appaloosa's Motion to Dismiss.

On December 20, 2006, Appaloosa filed its Reply to Motion to Dismiss.

On December 26, 2006, by Procedural Order, a procedural conference was scheduled to commence on January 24, 2007.

On January 24, 2007, a procedural conference was held, and based on discussions during the conference, further deadlines needed to be set.

By Procedural Order, on February 8, 2007, the parties and Staff were directed to submit a joint proposed schedule on or before February 26, 2007.

1 On February 23, 2007, the HP and Appaloosa filed a Joint Proposed Procedural Schedule and  
2 stated among other things that, Staff had no objection to the procedural schedule.

3 On February 26, 2007, Staff filed a Response to the Joint Proposed Schedule indicating Staff  
4 has no objections to the proposed schedule and stated Staff has no position on the merits of the  
5 Complaint and unless directed will not be making any further appearances in this matter.

6 The joint proposed procedural schedule is reasonable, and accordingly a hearing in this matter  
7 should be set.

8 IT IS THEREFORE ORDERED that a **pre-hearing conference shall be held on April 3,**  
9 **2007, at 10:00 a.m.,** at the Commission's Offices, 1200 W. Washington, Phoenix, Arizona.

10 IT IS FURTHER ORDERED that **the hearing in this matter shall be held on April 17,**  
11 **2007, at 10:00 a.m.,** at the Commission's Offices, 1200 W. Washington, Phoenix, Arizona.

12 IT IS FURTHER ORDERED that Staff shall continue to participate in all proceedings related  
13 to this matter.

14 IT IS FURTHER ORDERED that **direct testimony and associated exhibits to be presented**  
15 **at hearing shall be reduced to writing and filed on or before March 30, 2007.**

16 IT IS FURTHER ORDERED that **Staff shall file a Staff Report addressing the legal issues**  
17 **raised in the Complaint and Answer and recommendations on or before April 9, 2007.**

18 IT IS FURTHER ORDERED that any substantive corrections, revisions, or supplements to  
19 pre-filed testimony, the Staff Report or the parties' responses shall be reduced to writing and filed **no**  
20 **later than April 12, 2007.**

21 IT IS FURTHER ORDERED that **discovery shall begin on March 9, 2007,** and discovery  
22 shall be permitted by law an the rules and regulations of the Commission, except that for discovery  
23 requests made through April 9, 2007, any objection to discovery requests shall be made with 5 days<sup>1</sup>  
24 of receipt and responses to discovery requests shall be made within 5 days of receipt; thereafter,  
25 objections to discovery requests shall be made within 3 days and responses shall be made in 3 days,  
26 the response time may be extended by mutual agreement of the parties involved if the request  
27

28 <sup>1</sup> "Days" means calendar days.

1 requires an extensive compilation effort; and no discovery requests shall be served after April 9,  
2 2007.

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

9 IT IS FURTHER ORDERED that any motions filed in this matter that are not ruled upon by  
10 the Commission within 20 days of the filing date of the motion shall be deemed denied.

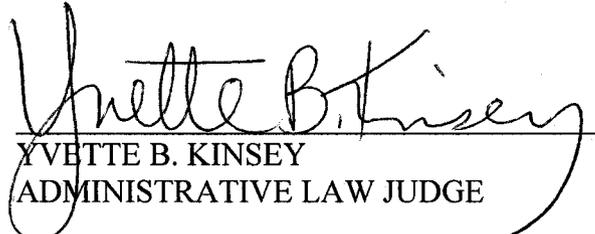
11 IT IS FURTHER ORDERED that any responses to motions shall be filed within five days of  
12 the filing date of the motion.

13 IT IS FURTHER ORDERED that any replies shall be filed within three days of the filing date  
14 of the response.

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

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

19 DATED this 9th day of March, 2007.

20  
21  
22   
23 YVETTE B. KINSEY  
24 ADMINISTRATIVE LAW JUDGE  
25  
26  
27

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

1 Copies of the foregoing mailed/delivered  
This 9<sup>th</sup> day of March, 2007 to:

2 Douglas C. Nelson  
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12 Utilities Division  
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14 ARIZONA REPORTING SERVICE, INC.  
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16 By: *Diane Rodriguez*  
17 Diane Rodriguez  
18 Secretary to Yvette B. Kinsey  
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