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BEFORE THE ARIZONA CORPORATION COMMISSION

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Arizona Corporation Commission

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COMMISSIONERS

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

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AZ CORP COMMISSION  
DOCKET CONTROL

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IN THE MATTER OF THE COMMISSION ON ITS OWN MOTION INVESTIGATING THE FAILURE OF MOUNT TIPTON WATER COMPANY, INC. TO COMPLY WITH COMMISSION RULES AND REGULATIONS.

DOCKET NO. W-02105A-07-0510

PROCEDURAL ORDER

**BY THE COMMISSION:**

On September 5, 2007, the Arizona Corporation Commission ("Commission") Utilities Division Staff ("Staff") filed a Complaint and Petition for an Order to Show Cause ("Complaint") against Mount Tipton Water Company, Inc. ("Mount Tipton") for failure to comply with Commission Rules and Regulations.

On September 27, 2007, the Commission issued Decision No. 69913, ordering Mount Tipton to appear and show cause, at a time and place designated by the Hearing Division, to defend why its actions do not represent a violation of Decision No. 67162, Decision No. 66732, A.R.S. § 40-221, Decision No. 60988, and A.A.C. R14-2-407(C) and why other relief deemed appropriate by the Commission should not be ordered.

Decision No. 69913 further ordered Mount Tipton to file, by October 9, 2007, a preliminary statement describing how it will make the showing of cause and ordered that this filing shall include an Answer to the Complaint if an Answer has not yet been filed.

Decision No. 69913 also ordered the Hearing Division to schedule further appropriate proceedings in this matter.

On October 5, 2007, by Procedural Order, a procedural conference in this matter was scheduled for October 22, 2007.

On October 22, 2007, a procedural conference was held before the undersigned, a duly authorized Administrative Law Judge, with Staff represented by counsel and Mount Tipton

1 represented by its new President. Mount Tipton's President acknowledged that Mount Tipton's  
2 Board had not yet passed a resolution authorizing him to represent Mount Tipton before the  
3 Commission. At the procedural conference, Staff and Mount Tipton both reported that significant  
4 progress had been made in resolving the violations in the Complaint and agreed that, rather than  
5 scheduling a hearing, it would be beneficial to hold another procedural conference in approximately  
6 one month's time to allow the parties to work on further resolving the violations in the Complaint.

7 On October 22, 2007, a Procedural Order was issued setting a second procedural conference  
8 in this matter for November 30, 2007, and requiring Mount Tipton to file with the Commission's  
9 Docket Control, before November 30, 2007, a resolution passed by its Board authorizing its President  
10 or another officer or employee of Mount Tipton to represent Mount Tipton before the Commission as  
11 provided in A.R.S. § 40-243(B).

12 On October 23, 2007, Mount Tipton filed a Hook-Up Fee Report for Quarter Ending  
13 September 30, 2007.

14 On November 14, 2007, Mount Tipton filed another Hook-Up Fee Report for Quarter Ending  
15 September 30, 2007; a Hook-Up Fee Report for Year Ending September 30, 2007; and a Resolution  
16 authorizing Ed Bartlett, President of Mount Tipton, "to review regulations having to do with docket  
17 control, or other business pertaining to Mt. Tipton Water Co., Inc."

18 On November 26, 2007, Mount Tipton filed a summary of the findings and recommendations  
19 of Henry & Horne, P.L.C., dated June 24, 2004, resulting from that firm's performance audit of  
20 Mount Tipton's fiscal operations.

21 On November 30, 2007, a second procedural conference was held before the undersigned.  
22 Staff appeared through counsel, and Mount Tipton appeared through Mr. Bartlett. During the  
23 procedural conference, Mr. Bartlett confirmed that the Resolution filed was intended to authorize him  
24 to represent Mount Tipton as provided under A.R.S. § 40-243(B), and Staff stated that the Resolution  
25 was sufficient for that purpose. In addition, Staff and Mount Tipton reported that progress was still  
26 being made toward resolving the violations in the Complaint and agreed that it would be beneficial to  
27 hold another procedural conference in approximately one month's time to allow the parties to work  
28 on further resolving the violations in the Complaint.

1 IT IS THEREFORE ORDERED that a procedural conference in this matter shall commence  
2 on **January 4, 2008, at 10:00 a.m.**, or as soon thereafter as is practicable, at the Commission's  
3 offices, 1200 West Washington, Phoenix, Arizona 85007.

4 IT IS FURTHER ORDERED that **any party wishing to participate telephonically may do**  
5 **so by calling (602)-542-9000.**

6 IT IS FURTHER ORDERED that all parties must comply with Rules 31 and 38 of the Rules  
7 of the Arizona Supreme Court and A.R.S. § 40-243 with respect to the practice of law and admission  
8 *pro hac vice.*

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

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

14 DATED this 5<sup>th</sup> day of December, 2007.

15  
16  
17   
18 SARAH N. HARPRING  
ADMINISTRATIVE LAW JUDGE

19 Copies of the foregoing mailed/delivered  
20 this 5<sup>th</sup> day of December, 2007, to:

21 MOUNT TIPTON WATER COMPANY,  
22 INC.  
23 P.O. Box 38  
24 Dolan Springs, AZ 86441

25 Christopher Kempsey, Chief Counsel  
26 Legal Division  
27 ARIZONA CORPORATION COMMISSION  
28 1200 West Washington Street  
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By:   
Debra Broyles  
Secretary to Sarah N. Harpring