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BEFORE THE ARIZONA CORPORATION CC

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COMMISSIONERS

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AZ CORP COMMISSION
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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,

DOCKET NO. W-03512A-06-0407

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.

JAMES HILL and SIOUX HILL, husband and
wife as trustees of THE HILL FAMILY TRUST,

DOCKET NO. W-03512A-07-0100

Complainant,

v.

PINE WATER COMPANY,

Respondent.

Arizona Corporation Commission
DOCKETED
MAY -9 2007

DOCKETED BY

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1 **NOTICE OF FILING DIRECT TESTIMONY**

2 Staff of the Arizona Corporation Commission hereby files the Direct Testimony of Steven M.
3 Olea, in the above-referenced matters.

4 RESPECTFULLY SUBMITTED this 9th day of May, 2007.

5
6 
7 _____
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12 Docket Control
13 Arizona Corporation Commission
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16 9th day of May, 2007 to:

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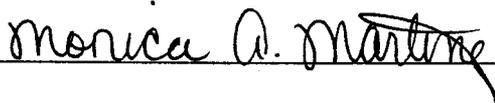
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BEFORE THE ARIZONA CORPORATION COMMISSION

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

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

Complainant,

v.

PINE WATER COMPANY,

Respondent.

DOCKET NO. W-03512A-06-0407

ASSET TRUST MANAGEMENT, CORP.,

Complainant,

v.

PINE WATER COMPANY,

Respondent.

DOCKET NO. W-03512A-06-0613

JAMES HILL and SIOUX HILL, husband and
Wife as trustees of THE HILL FAMILY TRUST,

Complainant,

v.

PINE WATER COMPANY,

Respondent.

DOCKET NO. W-03512A-07-0100
(Consolidated)

DIRECT TESTIMONY
OF
STEVEN M. OLEA
ASSISTANT DIRECTOR
UTILITIES DIVISION
ARIZONA CORPORATION COMMISSION

MAY 9, 2007

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1 **I. INTRODUCTION**

2 **Q. Please state your name and business address.**

3 A. Steven M. Olea, 1200 West Washington, Phoenix, Arizona, 85007.

4
5 **Q. By whom and in what capacity are you employed?**

6 A. I am employed by the Arizona Corporation Commission (“Commission”) as the Assistant
7 Director for the Utilities Division (“Division”).

8
9 **Q. Please state your educational background.**

10 A. I graduated from Arizona State University (“ASU”) in 1976 with a Bachelors Degree in Civil
11 Engineering. From 1976 to 1978 I obtained 47 graduate hours of credit in Environmental
12 Engineering at ASU.

13
14 **Q. Please state your pertinent work experience.**

15 A. From April 1978 to October 1978 I worked for the Engineering Services Section of the
16 Bureau of Air Quality Control in the Arizona Department of Health Services (“ADHS”). My
17 responsibilities were to inspect air pollution sources to determine compliance with ADHS
18 rules and regulations.

19
20 From November 1978 to July 1982, I was with the Technical Review Unit of the Bureau of
21 Water Quality Control (“BWQC”) in ADHS (this is now part of the Arizona Department of
22 Environmental Quality [“ADEQ”]). My responsibilities were to review water and
23 wastewater construction plans for compliance with ADHS rules, regulations, and
24 Engineering Bulletins.

1 From July 1982 to August 1983, I was with the Central Regional Office, BWQC, ADHS.
2 My responsibilities were to conduct construction inspections of water and wastewater
3 facilities to determine compliance with plans approved by the Technical Review Unit. I also
4 performed routine operation and maintenance inspections to determine compliance with
5 ADHS rules and regulations, and compliance with United States Environmental Protection
6 Agency requirements.

7
8 From August 1983 to August 1986, I was a Utilities Consultant/Water-Wastewater Engineer
9 with the Division. My responsibilities were to provide engineering analyses of Commission
10 regulated water and wastewater utilities for rate cases, financing cases, and consumer
11 complaint cases. I also provided testimony at hearings for those cases.

12
13 From August 1986 to August 1990, I was the Engineering Supervisor for the Division. My
14 primary responsibility was to oversee the activities of the Engineering Section, which
15 included one technician and eight Utilities Consultants. The Utilities Consultants included
16 one Telecommunications Engineer, three Electrical Engineers, and four Water-Wastewater
17 Engineers. I also assisted the Chief Engineer and performed some of the same tasks as I did
18 as a Utilities Consultant.

19
20 In August 1990, I was promoted to the position of Chief Engineer. My duties were
21 somewhat the same as when I was the Engineering Supervisor, except that now I was less
22 involved with the day-to-day supervision of the Engineering Staff and more involved with
23 the administrative and policy aspects of the Engineering Section.

1 In April 2000, I was promoted to my present position as one of two Assistant Directors of the
2 Division. In this position, my primary responsibility is to assist the Division Director in the
3 policy aspects of the Division. I am primarily responsible for matters dealing with water and
4 energy.

5 **II. PURPOSE**

6 **Q. What is the purpose of your testimony in this case?**

7 A. My testimony will present the Utilities Division Staff's ("Staff") proposed recommendations
8 to assist the Administrative Law Judge ("ALJ") and the Commission in dealing with the
9 complaints filed by the Pugels, Randalls, Hills, and Asset Trust Management, Corp.
10

11 **Q. Does Staff typically participate in formal complaint hearings?**

12 A. No, not typically.
13

14 **Q. Why is Staff taking part in this hearing?**

15 A. The Pine water situation has been a major issue for the Commission for many years now. It
16 is Staff's opinion that although the complaints filed in this case are specific complaints, the
17 outcome of these complaints may have an effect on all the water customers of Pine Water
18 Company ("PWC") and on the entire area of Pine, Arizona. Because of the potentially broad
19 implications of these matters, Staff's analysis may be helpful.

20 **III. DISCUSSION**

21 **Q. Would you please summarize Staff's understanding of the complaints that have been
22 filed?**

23 A. Basically, the complainants are stating that PWC cannot serve them because of the
24 moratorium placed on PWC by the Commission. Because of this, they believe that the only

1 way to get water service is to be deleted from PWC's Certificate of Convenience and
2 Necessity ("CC&N"). Once their property is deleted from the CC&N, the complainants state
3 that they can obtain water from either their own wells or by purchasing water from someone
4 else's well.
5

6 **Q. What is Staff's opinion with regard to the complainants providing water service to their**
7 **properties from a source other than PWC?**

8 A. In order for the complainants to accomplish this, they will either have to form an entity that is
9 not under the jurisdiction of the Commission (such as a County-formed district) or obtain a
10 CC&N from the Commission. If the complainants choose to apply for a CC&N, Staff would
11 probably recommend denial to avoid forming another small water company inside an
12 existing water company. It is Staff's opinion that forming small water companies within or
13 adjacent to other existing water companies is not normally in the public interest.
14

15 **Q. What is Staff's opinion on the complainants' statement that PWC cannot provide water**
16 **service to their properties because of the Commission-imposed moratorium?**

17 A. Staff believes that this issue is not as clear as the complainants might believe. The last
18 Commission Decision dealing directly with the PWC moratorium was Decision No. 67823.
19 At this time, Decision No. 67823 clearly imposes a total moratorium on *individual* meter
20 connections within *existing* developments. However, it is Staff's opinion that Decision
21 No. 67823 allows for *new* developments as long as those new developments satisfy Decision
22 No. 64400 (this decision was an order instituting a modified water service moratorium for
23 PWC).

1 **Q. What allowance did Decision No. 64400 give for developments requiring main**
2 **extensions?**

3 A. The second ordering paragraph on page 8 of Decision No. 64400 states – “IT IS FURTHER
4 ORDERED that ... new service connections requiring a main extension shall require the
5 owner of the requesting property to provide an independent source of water in accordance
6 with the guidelines set forth herein.” The guidelines referred to are contained in Finding of
7 Fact No. 17. In essence, what this means is that if the complainants have a source of water
8 that provides a proven, adequate amount of water, then they would turn that water source
9 over to PWC as part of a main extension agreement (“MXA”).

10
11 **Q. So are you saying that if a complainant has a well, the complainant would just give that**
12 **well to PWC in order to obtain water service?**

13 A. Not quite. As part of the MXA, the complainant would turn over only that portion of the
14 well that is required to serve his/her development. The remainder of the well would have to
15 be purchased by PWC as part of that same MXA. The MXA could contain a refund
16 provision for that portion of the well necessary to serve the development. This is one
17 possible solution that can be considered.

18
19 **Q. Could you please give an example of what you just described above?**

20 A. Yes. Assume that a planned development would require 100 gallons per minute (“gpm”) of
21 water and that the well owned by the developer could produce 300 gpm. In this example, the
22 portion of the well necessary to serve the development is one-third (1/3). Assume that the
23 cost of the well was \$300,000. In this example, PWC would pay the developer \$200,000 for

1 the two-thirds of the well that is not necessary to serve the development. In addition, the
2 MXA could contain a refund provision for the remaining \$100,000. The refund could be ten
3 percent of the revenues produced by the development for 10 years from the date of the MXA.
4

5 **Q. Earlier you mentioned a “proven, adequate water source” and the “water required to**
6 **serve the development”. Please explain what you mean by these two phrases.**

7 A. Decision No. 64400 refers to Staff Exhibit S-2. Exhibit S-2 states that one residential
8 connection shall be the same as one Equivalent Residential Unit (“ERU”) with a water use of
9 0.020 gpm with all other connections being evaluated on a case-by-case basis. Therefore, for
10 a typical residential subdivision with 100 lots, the water required to serve the development
11 would be 20 gpm.
12

13 Exhibit S-2 also states that water production “would be proven using Arizona Department of
14 Water Resources [“ADWR”] criteria with a 72-hour pump test.” Staff interprets this to mean
15 that the well would have to be pump-tested for at least 72 hours and the development would
16 need to supply an ADWR Water Report (Letter of Adequate Water Supply) stating that the
17 well could supply 0.20 gpm (288 gallons per day) per ERU for the next 100 years.
18

19 **Q. Does Staff have adequate information at this time to provide an opinion as to whether**
20 **the complainants’ claim that they have adequate water source of their own is correct?**

21 A. At this time, Staff does not have adequate information. In addition, once that information is
22 provided, Staff would rely on the expertise (as we do in cases dealing with the question of
23 adequate water supplies) of ADWR to advise Staff as to the adequacy of any water sources

1 serving PWC, whether those sources were owned by PWC or another entity. It is because of
2 this lack of information that Staff reserves the right to provide additional testimony at the
3 hearing based on the additional information provided by the parties during their discovery
4 process and at the hearing itself.

5
6 **Q. What if a development did not have its own water source, i.e., what would Staff
7 recommend with regard to allowing or not allowing that development to proceed?**

8 A. Staff would recommend that PWC not be allowed to serve that development until the
9 moratorium had been lifted. Staff does not believe it is in the public interest to connect a new
10 development to a system that does not have adequate water production to properly serve
11 existing customers unless the new development provides the water to serve itself.

12
13 **Q. Is it typical for a water system to require a development to provide its own water source
14 as part of a MXA?**

15 A. Yes. Most water companies that are near or at capacity with regard to water production not
16 only require new developments to provide additional water production, but also require those
17 developments to provide additional storage capacity. This requirement is allowed per
18 Commission rules, specifically R14-2-406.B.1.

19
20 **Q. Is it typical for a customer to be required to not only supply enough water production
21 to serve his/her own requirements plus some extra for the remainder of the system?**

22 A. No.

1 **Q. Is that not what is being required for PWC?**

2 A. Yes.

3

4 **Q. Why is that so for PWC?**

5 A. As I stated earlier, the water situation for PWC has been a long-standing issue for the
6 Commission. In fact, it has been an issue for several government agencies for years. This
7 extraordinary problem has required the Commission to take extraordinary steps in order to
8 attempt to resolve it. One of those steps is to allow new developments with the caveat that
9 those new developments not only provide their own water production requirements, but also
10 provide extra to assist the remainder of the system.

11

12 **IV. RECOMMENDATIONS**

13 **Q. Based on the above discussion, what is Staff recommending?**

14 A. Staff is recommending that instead of allowing the complainants to have their property
15 deleted from PWC's CC&N, the complainants be allowed to comply with the requirements
16 of Staff Exhibit S-2 from Decision No. 64400. To accomplish this, the following should
17 occur:

18

19 1. The water source for each complainant should be properly tested for production
20 capacity.

21

22 2. The complainant should obtain a Water Report from ADWR delineating the 100-
23 year water production capacity of the water source.

24

25 3. The complainant should get together with PWC to determine the water
26 requirements of the complainant.

27

28 4. PWC should enter into a MXA with the complainant with an appropriate refund
29 provision.

30

31 5. PWC should submit the MXA to Staff for approval.

32

1
2
3

6. PWC should provide service to the complainant as soon as possible after Staff approves the MXA.

4

Q. Does this conclude your pre-filed testimony?

5

A. Yes, it does.