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BEFORE THE ARIZONA CORPORATION

COMMISSIONERS

MIKE GLEASON
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ARIZONA CORPORATION COMMISSION
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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

**STAFF'S MOTION TO AMEND
COUNT 4 OF THE COMPLAINT
AND VOLUNTARILY DISMISS
COUNTS 1-3 AND 5-7**

Subsequent to filing the Complaint and Order to Show Cause on September 5, 2007, additional facts have surfaced in the above captioned matter. Continuing efforts between Mt. Tipton Water Company ("MTWC" or "Company") and Utilities Division Staff ("Staff") of the Arizona Corporation Commission ("Commission") have resulted in the Company's filing of several documents related to counts in Staff's Complaint. Since the original filing of the Complaint, the Company has provided: quarterly water pumped and water sold reports, a water loss analysis, a plan for reducing its water loss below ten percent, the quarterly hook-up fee account report, verification that the performance audit was undertaken, the 2005 and 2006 utility annual report, and the annual hook-up fee account report. These documents correspond to violations enumerated in Counts 1 through 7 of the Complaint. Staff believes that the documents provided resolve the violations described in Counts 1, 2, 3, 5, 6, and 7 and therefore moves to voluntarily dismiss these Counts from the Complaint.

Staff received the hook-up fee report that was the basis of the violation enumerated as Count 4 of the Complaint. However, examination of the information provided within the report indicates that the Company did not apply the funds within the account consistently with the requirements of Decision No. 67162 (August 10, 2004).

Decision No. 60988 (July 15, 1998) authorized the Company to charge a hook-up fee for off site facilities, specifically to finance the construction of a \$1.2 million well. Decision No.

1 64287 (December 28, 2001) ordered the cancellation of the Company's \$1.2 million financing
2 authority which was substituted with authority to obtain WIFA financing. However, the hook-up
3 fee was continued pending a full rate case. Decision No. 64287 likewise ordered that the use of
4 hook-up fees would be for new customer capital improvements. Decision No. 67162 approved
5 continuing the hook-up fees for the purpose of meeting new customer capital improvements.
6 Based on the hook-up fee account report received by Staff, the Company has applied funds from
7 the hook-up fee account to the replacement of various plant. Plant item replacement does not
8 represent new customer capital improvements. Consequently, the use of the funds for this purpose
9 is a violation of Decision No. 67162.

10 Staff therefore requests that the Complaint and Order to Show Cause Count 4 be amended
11 to reflect that the Company has not handled the hook-up fee account as ordered by Decision No.
12 67162 and has therefore violated Decision No. 67162. In addition Staff moves to voluntarily
13 dismiss Counts 1, 2, 3, 5, 6, and 7. Count 8 of the Complaint remains unchanged.

14 RESPECTFULLY SUBMITTED this 10th day of January, 2008.

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16 
17 Charles H. Hains
18 Attorney, Legal Division
19 Arizona Corporation Commission
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(602) 542-3402

20 The original and thirteen (13) copies
21 of the foregoing were filed this
10th day of January, 2008 with:

22 Docket Control
23 Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

24 Copy of the foregoing mailed this
11th day of January, 2008 to:

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26 Mount Tipton Water Company, Inc.
27 P.O. Box 38
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