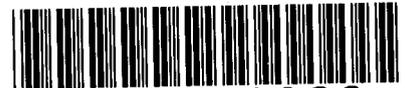


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BEFORE THE ARIZONA CORPORATION CO
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2008 FEB 15 P 3:00

Arizona Corporation Commission
DOCKETED

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

AZ CORP COMMISSION
DOCKET CONTROL

FEB 15 2008

DOCKETED BY
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IN THE MATTER OF THE APPLICATION OF
DIAMOND VALLEY WATER USERS
CORPORATION FOR APPROVAL OF A
REQUEST OF THE DIAMOND VALLEY WATER
DISTRICT TO OBTAIN THE ASSETS OF THE
DIAMOND VALLEY WATER USERS
CORPORATION.

DOCKET NO. W-03263A-07-0244

**STAFF RESPONSE TO
INTERVENOR KEVIN GREIF'S
LETTER FILED FEBRUARY 1, 2008**

On January 18, 2008, Mr. Kevin Greif filed with docket control a document entitled "Data Request and Request for Admission of Facts from the Arizona Corporation Commission." Although directed at the Arizona Corporation Commission ("Commission"), Staff of the Utilities Division ("Staff") understands the document to be directed at Staff as a party to the above captioned matter. Staff filed a letter response on January 25, 2008, declining to provide Mr. Greif with further discovery in the matter as (1) the evidentiary hearing was already passed, (2) the questions could have been asked at the evidentiary hearing, (3) many of the questions were substantively requests for legal advice, and (4) Staff has already provided its answers to most of the questions asked.

Mr. Greif responded with a document filed on February 1, 2008, addressed to the Commissioners. Although directed to the Commissioners, not the Administrative Law Judge and not expressed as a pleading, Mr. Greif does raise legal issues regarding discovery matters. "I am requesting that staff be directed by the Commissioners to answer the questions in the 'Data Request and Request for Admission of Facts' filed on January 18, 2008." Mr. Greif's Letter to the Commissioners dated February 1, 2008 at 5.

In response to the issues raised in Mr. Greif's letter, Staff objects and respectfully reiterates the reasons articulated in the Staff letter filed January 25. Mr. Greif's request for discovery is inappropriate considering the current procedural posture of this matter. The hearing has already

1 occurred and Mr. Greif had ample opportunity to obtain Staff's responses to his questions there, as
2 well as cross examine Staff on responses already provided. If he was unsatisfied with the answers, he
3 could produce a witness of his own to provide testimony that would support his legal position. Even
4 if the hearing is concluded, Mr. Greif is not without an avenue to express his concerns. Staff notes
5 that Mr. Greif will have an opportunity to file exceptions to the proposed order in this matter.

6 To the extent that the January 18 request for discovery poses several legal questions expressed
7 as requests for admissions, it is clear that Mr. Greif seeks to place the burden of demonstrating his
8 case on Staff's shoulders. Mr. Greif says as much with regard to developing additional fact analyses
9 in his February 1 document at page 5 where he expresses dismay that Staff believes it is the
10 "intervenors obligation to examine, analyze and report the financial condition of utility." [sic]. Staff
11 has performed its evaluation of the utility and filed it as a staff report in this docket. If Mr. Greif has
12 a contrary result he wishes to elicit from the records of the utility, he may develop such analysis.
13 However, Mr. Greif's position on the issue, which is an attempt to place the burden of demonstrating
14 his case on Staff, is without merit.

15 For the same reasons, Mr. Greif's attempt to have Staff develop his legal theory of the case is
16 likewise inappropriate. Mr. Greif is free to argue what is the applicable law governing this case and
17 how it should be interpreted. He is also able to advocate his own view of how the law should apply
18 to the relevant facts of the proceeding.

19 For the above stated reasons, Staff objects to the matters raised in Mr. Greif's letter and to
20 what could be construed as his Motion to Compel.

21 RESPECTFULLY SUBMITTED this 15th day of February 2008.

22
23 *Charles Hains by JMA*

24 Charles H. Hains
25 Attorney, Legal Division
26 Arizona Corporation Commission
27 1200 West Washington Street
28 Phoenix, Arizona 85007
(602) 542-3402

1 The original and thirteen (13) copies
2 of the foregoing were filed this
3 15th day of February, 2008 with:

3 Docket Control
4 Arizona Corporation Commission
5 1200 West Washington Street
6 Phoenix, Arizona 85007

6 Copy of the foregoing mailed this
7 15th day of February, 2008 to:

7 Jim Morgan, Chairman
8 Diamond Valley Water District
9 1848 Emerald Drive
10 Prescott, Arizona 86301

10 Don Bohlier
11 Diamond Valley Water Users Corporation
12 P.O. Box 13070
13 Prescott, Arizona 86304-3070

13 Kevin Greif
14 1140 N. Opal Drive
15 Prescott, AZ 86303

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