

ORIGINAL INTERVENTION



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Arizona Corporation Commission

AZ CORP COMMISSION
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BEFORE THE ARIZONA CORPORATION COMMISSION

7 IN THE MATTER OF THE APPLICATION
8 OF ICR WATER USERS ASSOCIATION, AN
9 ARIZONA CORPORATION, FOR A
10 DETERMINATION OF THE CURRENT
11 FAIR VALUE OF ITS UTILITY PLANT AND
12 PROPERTY AND FOR INCREASES IN ITS
13 RATES AND CHARGES FOR UTILITY
14 SERVICE

DOCKET NO: W-02824A-07-0388

TALKING ROCK GOLF COURSE,
LLC'S UNOPPOSED
APPLICATION FOR LEAVE TO
INTERVENE

15 Pursuant to A.A.C. R14-3-105, Talking Rock Golf Course, LLC ("TR Golf")
16 applies to the Arizona Corporation Commission (the "Commission") for an order granting
17 TR Golf leave to intervene in the above-captioned proceeding. TR Golf has a direct and
18 substantial interest in these proceedings, and its intervention will not broaden or unduly
19 delay a decision by the Commission on the merits of the application.

18 **1. Introduction**

19 ICR Water Users Association ("ICR") filed the above-captioned application on
20 June 6, 2007. On November 30, 2007, Commission Staff ("Staff") filed the direct
21 testimony of Charles Myhlhousen. In his direct testimony, Mr. Myhlhousen recommends,
22 among other things, that ICR's adjusted test year operating revenue be set at \$268,266.
23 Myhlhousen Direct at 4, In. 19. Staff also filed the direct testimony of Jian Liu. In his
24 direct testimony, Mr. Liu concludes, among other things, that there are no outstanding
25 compliance issues with the Commission. Liu Direct, Exh. JWJ at 7.

26 On December 21, 2007, after the deadline for intervention had passed, Dayne

1 Taylor submitted an application for leave to intervene in this proceeding, and was granted
2 intervener status on January 8, 2008. In his direct testimony filed on February 1, 2008,
3 Mr. Taylor raised issues concerning the relationship between TR Golf and ICR, and
4 concerning TR Golf's use of groundwater from wells owned by TR Golf (Well No. 2),
5 Talking Rock Ranch, LLC (Well No. 1) and ICR (Well No. 3). Taylor Direct at 5, ln. 14
6 – 6, ln. 28. Mr. Taylor also alleged, among other things, that ICR is not in compliance
7 with Decision No. 64360 (January 15, 2002), and that ICR failed to charge the same rate
8 to its customers, which should include TR Golf. Taylor Direct at 4, lns. 2-7.

9 In response to Intervener Taylor's direct testimony, Staff filed the amended direct
10 testimonies of Messrs. Myhlhousen and Liu on March 14, 2008. In the amended direct
11 testimonies, Staff recommends (among other things) a supplemental adjustment to test
12 year operating revenue of \$114,290 to impute revenue from sales to TR Golf at tariffed
13 rates because TR Golf "is located within the Company's certificated area." Myhlhousen
14 Amended Direct at 3, ln. 2. Mr. Liu concludes that ICR is out of compliance with
15 Decision No. 64360. Liu Amended Direct at 2, ln. 23.

16 **2. TR Golf has a Direct and Substantial Interest in This Proceeding.**

17 The February 1, 2008, direct testimony of Intervenor Taylor, as well as the March
18 14, 2008, amended direct testimonies submitted by Staff, raise issues regarding the legal
19 rights of TR Golf and TR Golf's contractual relationship with ICR. TR Golf and ICR are
20 parties to an Amended Well Agreement and a Main Extension Agreement, both dated
21 February 25, 2003 ("Agreements"). The Agreements were approved by Staff on
22 September 26, 2003 as being in compliance with Decision No. 64360. Busch Rebuttal at
23 9, ln. 19 – 10, ln. 26.

24 The recommendations offered by Intervener Dayne and Staff now threaten the
25 rights and obligations set forth in the Agreements. Obviously, TR Golf will be directly
26 and substantially impacted if the Commission ordered ICR to treat TR Golf as an

1 irrigation customer and charge tariffed rates. Similarly, Staff's recommendation that ICR
2 secure ownership of a second well in order to comply with Decision No. 64360 directly
3 impacts TR Golf; TR Golf is the owner of the second well.

4 **3. TR Golf's Participation will not Broaden the Issues or Unduly Delay a**
5 **Decision by the Commission on the Merits of ICR's Application.**

6 The purpose of TR Golf's intervention is to address issues raised by Intervenor
7 Taylor and Staff concerning the contractual and legal relationship between TR Golf and
8 ICR. To the extent that TR Golf's participation in this proceeding will create a more
9 complete evidentiary record concerning matters that are already at issue, such information
10 is necessary for the Commission to make a fully informed decision on ICR's rate
11 application.

12 **4. Conclusion.**

13 The Commission traditionally affords interested parties intervention in
14 Commission proceedings, and the requirements of A.A.C. R14-3-105 are liberally
15 construed for this purpose. This case is no exception given Mr. Taylor's untimely
16 application for leave to intervene. It is that intervention that has now led to TR Golf's
17 direct and substantial interest in this proceeding. Furthermore, undersigned counsel
18 further represents that ICR, Staff and Mr. Taylor have consented to TR Golf's
19 intervention. Thus, TR Golf respectfully requests that the Commission issue an order
20 granting TR Golf leave to intervene in this proceeding.

21 RESPECTFULLY SUBMITTED this 3rd day of April, 2008.

22 FENNEMORE CRAIG

23 By 

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2 of the foregoing, were filed
3 this 3rd day of April, 2008, with:

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