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BEFORE THE ARIZONA CORPORATION COMMISSION

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

AZ CORP COMMISSION
DOCKET CONTROL

STAFF OF THE UTILITIES DIVISION,

DOCKET NO. W-02258A-07-0470

COMPLAINANT,

VS.

STAFF'S CLOSING ARGUMENT

AMERICAN REALTY AND MORTGAGE CO.,
INC., DBA HACIENDA ACRES WATER
SYSTEM,

Arizona Corporation Commission

DOCKETED

RESPONDENT.

AUG - 8 2008

DOCKETED BY 

I. BACKGROUND

Arizona Corporation Commission ("ACC" or "Commission") Decision No. 44444, effective September 1, 1974, granted a Certificate of Convenience and Necessity ("CC&N") to American Realty and Mortgage Company, Inc. dba Hacienda Acres Water Company ("Hacienda" or "Company") to provide water service to an area outside of Maricopa, Arizona, in Pinal County. The same Decision set the Company's original rates. Commission records do not indicate that Hacienda ever applied for a rate increase thereafter, but it is clear that no subsequent rate Decision was issued. As a result, from 1974 to 2007, Hacienda's rates remained unchanged.

On June 6, 2007, Hacienda filed for a curtailment plan tariff. However, the Company's proposed tariff differed from ACC Utilities Division Staff's ("Staff") general tariff template that is posted on the Commission's website. The Company omitted language from its proposed tariff that requires the Company under a Stage 3 or 4 Curtailment to augment its supply of water either by hauling or through an emergency interconnect with an approved water supply. Hacienda also omitted language requiring that it must otherwise provide emergency drinking water for its customers until a

1 permanent solution has been implemented under a Stage 4 curtailment. Instead, the Company inserted
2 the requirement that customers locate a “backup” water source.

3 Staff “reviewed the proposed tariff filed by Hacienda to ensure that it was in the public
4 interest and included the terms and conditions of service typically approved by the Commission.”
5 *Smith Direct*, 2: 8-9. Staff found Hacienda’s tariff unacceptable. The Company’s omission of the
6 language requiring water augmentation and the provision of supplemental water is not consistent with
7 the public interest or with Hacienda’s obligation to serve its customers.

8 Between June 11 and June 19, 2007, Staff began to receive calls from several of Hacienda’s
9 customers. The customers reported having received notification from the Company that the system
10 had reached Stage 3 curtailment already, and could be expected to reach Stage 4 as summer
11 temperatures rose. The Company had indicated that once Stage 4 was reached, it was likely that there
12 would be times when no water was available. The customers were obviously concerned about the
13 potential that they would be without water in the near future.

14 On June 21, 2007, Staff traveled to Hacienda’s service area to meet with customers and
15 discuss their concerns. Present on behalf of Hacienda was Mr. Joseph Lee. According to
16 Commission records, Mr. Lee is Hacienda’s Secretary and Statutory Agent. He is also a member of
17 the Arizona Bar and represents the Company when Hacienda appears before the Commission. After
18 speaking with Hacienda customers, Staff took the opportunity to briefly inspect the Company’s water
19 system. “The system appeared to be fairly well maintained (all components were connected and
20 appeared to be operating properly). The water tank was at approximately 75 percent capacity.” *Smith*
21 *Direct*, 3: 9-11.

22 On June 26 and 27, 2007, the Commission held its monthly Open Meeting. Hacienda’s
23 Curtailment Tariff was scheduled to be heard on June 27. At the Open Meeting, Mr. Lee represented
24 the Company. Because Staff did not believe the form of tariff Hacienda had provided was consistent
25 with the public interest, Staff requested a suspension of the tariff so that Staff could “work with the
26 Company on this item.” *Transcript*, 3: 6. After hearing testimony from Mr. Lee relating Hacienda’s
27 dire financial circumstances, the Commission decided that immediate action was necessary to prevent
28 a potential failure in service. As Commissioner Mundell observed, “[I]f time is of the essence, and

1 there is a water crisis out there, the curtailment tariff ... puts into place certain requirements
2 depending on how severe the lack of water is, and its not in place now ... [T]hat's why I think it's so
3 important to get the ... curtailment tariff in place which is a boilerplate tariff that we utilize for all
4 water companies in Arizona." *Tr.*, 18: 8-14. Commissioner Mayes assented, "I agree with
5 Commissioner Mundell. I think that we need to move forward with the curtailment tariff and get it in
6 proper form quickly." *Tr.*, 18:22-23.

7 At just before 12 p.m. on June 27, the Commission gave Hacienda and the general public
8 notice that it would resume discussion of the curtailment issue on the following day, after 3 p.m. The
9 Commission notified Hacienda that it would be voting on the curtailment tariff at that time.

10 On June 28, 2007, the Commission resumed discussion of the Hacienda curtailment, but the
11 discussion centered primarily on Hacienda's service. The Commission was concerned that
12 Hacienda's customers could soon be without water altogether. The Commission needed to act
13 immediately and appropriately to protect Hacienda's customers from the impending outage. Steve
14 Olea, Assistant Director of the Commission's Utilities Division, provided the Commission's only
15 reasonable alternative, "[B]ased on the statements that you heard today, the only practical way to do
16 it would be to get an Interim Manager." *Tr.*, 15: 20-21.

17 Before acting to employ an Interim Manager, however, the Commission directed Staff to
18 assist the Company in filing an application for emergency rate relief. The Commission directed Staff
19 to help the Company prepare the necessary application in the most expedient manner available and to
20 follow up on the application with urgency. The Commission also stressed that the Company's
21 cooperation was essential to getting interim rates in place quickly.

22 On July 06, 2007, Hacienda filed an application before the Commission requesting emergency
23 rate relief in docket number W-02258A-07-0414. The Company's application once again articulated
24 the Company's dire financial circumstances and stated that the emergency relief was necessary
25 because the Company was nearly bankrupt. The Company's emergency rate application claimed
26 losses totaling approximately \$100,000 and stated that Hacienda could not afford to pay even the
27 interest on its outstanding promissory notes. Finally, the Company stated that it needed to borrow
28 \$16,000 to avoid losing the water business to a judgment creditor.

1 On July 13, 2007, the ACC Hearing Division issued a Procedural Order setting a hearing on
2 the application on August 20, 2007. Staff was directed to file a Staff Report on or before August 13,
3 2007. Staff worked diligently with the Company to assemble the data necessary to process the
4 emergency rate application but experienced difficulty, due largely to the Company's inability to
5 produce any documentation to support any of the claims in its application. Staff docketed the Staff
6 Report for the emergency rate case application as directed, August 13, 2007.

7 The Staff Report detailed the severity of Hacienda's condition as a public service corporation.
8 Staff's conclusions were based upon an analysis of both the Company's financial health and technical
9 capabilities. Staff's conclusions were not favorable.

10 Staff noted that,

11 "Staff does **not** believe that Hacienda has experienced a situation of sudden change
12 that brings hardship to the Company. ... However, Staff does believe that the situation
13 where the ability of Hacienda to maintain service, pending a formal rate
determination, is in serious doubt." Staff Report Page 5, P 4. (emphasis in original)

14 Staff further noted that,

15 "In this particular case, Staff is extremely concerned with the emergency rate filing
16 itself and the management of Hacienda. The Company has failed to supply any
17 information to Staff that is not an estimate or already stale by two years or more. The
2004 and 2005 annual reports accompanying the emergency rate increase request are
18 so full of errors that nothing in the reports can be relied upon." *Staff Report*, Page 5, P
6 - Page 6, P 1.

19 Hacienda was unable to produce the majority of the documentation Staff requested and Staff
20 was forced to estimate most, if not all, of the financial information needed to prepare the Staff
21 Report.

22 In the end, Staff recommended that the Commission deny the Company's suggested interim
23 rates and instead adopt Staff's suggested figures. Staff's recommended commodity charge increase
24 of \$3.34 per one thousand gallons was well shy of the Company's recommended increase of \$39.00.

25 Staff noted that Hacienda had received a compliance status report from ADEQ on July 12,
26 indicating that Hacienda was currently serving water that did not meet the requirements of the
27 Arizona Administrative Code, Title 18, Chapter 4. Staff also noted that the Company had failed to
28

1 conduct monthly coliform testing, had failed to monitor for lead and copper, and did not have a
2 certified operator.

3 The numerous deficiencies in Hacienda's provision of service prompted Staff to file a Petition
4 for an Order to Show Cause before the Commission. The Petition was filed the same day as the Staff
5 Report, August 13, 2007.

6 **II. COMPLAINT AND ORDER TO SHOW CAUSE**

7 On August 13, 2007, Staff docketed the Complaint and Petition for an Order to Show Cause
8 ("OSC") in this matter. The OSC alleged several violations of Arizona Revised Statutes as well as
9 Commission Rules and Orders. Thereafter, on August 27, 2007, Staff became aware that Hacienda
10 was attempting to cease operations without Commission approval, which prompted Staff's filing of
11 an additional count. On September 13, 2007, Staff filed a request to amend the Complaint. On
12 September 24, 2007, the ACC Hearing Division issued a procedural order granting the amendment.
13 On September 26, 2007, Hacienda filed its objection to the request to amend.

14 On August 14, 2007, Hacienda docketed a copy of a letter faxed to Hacienda from the United
15 States Environmental Protection Agency ("EPA"), indicating that the EPA intended to pursue
16 financial penalties against Hacienda for alleged violations of the Safe Drinking Water Act.

17 On August 20, 2007, hearing began in the Order to Show Cause. Hacienda was represented
18 by Mr. Lee. Despite 8 hours of hearing time, at the end of the day, Staff's first witness, engineer Del
19 Smith, had not yet completed his testimony. At the end of the day's proceedings, Judge Farmer
20 recognized the need for the parties to pre-file their testimony prior to the continuation of the hearing.

21 On February 28, 2008, Judge Farmer issued a procedural order in this matter directing Staff to
22 reduce the pre-filed testimony of its witnesses to writing and to pre-file that testimony on or before
23 March 7, 2008.

24 The same Procedural Order directed Hacienda to pre-file the testimony and Exhibits of its
25 witnesses no later than April 4, 2008.

26 Pursuant to that order, Staff timely provided testimony and exhibits for all its witnesses.

27 On March 17, 2008, Joseph Lee, filed a Request to Withdraw as Attorney for Hacienda,
28 which was granted on March 31.

1 Hacienda subsequently failed to pre-file its testimony.

2 On April 25, 2008, Judge Farmer issued a Procedural Order directing Staff to file a
3 recommendation on how to proceed in this matter.

4 On May 1, 2008, Staff filed its recommendations. Staff recommended that the Commission
5 provide the Company with notice of any Commission action and that the matter proceed to hearing at
6 the earliest convenience.

7 On May 29, 2008, a procedural conference was held in this matter. Hacienda did not appear.
8 Staff recommended that the matter proceed to hearing.

9 On June 27, 2008, this matter proceeded to hearing. Staff provided its pre-filed testimony and
10 each of Staff's witnesses appeared and supplemented his or her testimony. Again, Hacienda failed to
11 appear. After hearing, Staff was directed to file written closing argument.

12 Additionally, the ALJ requested that Staff address two issues:

- 13 1. What consequences, if any, arise from Hacienda's statement that it had surrendered its
14 CC&N, thereby depriving the Commission of jurisdiction in this matter?
- 15 2. Did Hacienda have adequate notice of the hearing in which the interim manager was
16 appointed?

17 **Counts I, IV, and VII**

18 **Violation of R-14-2-407(C) and (D)**

19 **Violation of Obligation to Serve**

20 **Violation of A.C.C. R14-2-402(B)**

21 A.A.C. R14-2-407 (C) requires utilities to make reasonable efforts to supply a satisfactory
22 level of service. Additionally, A.A.C. R14-2-407(D) requires each utility to make reasonable
23 provisions to meet emergencies that may result from failure of service. In the event a public service
24 utility wishes to cease operations, it must request permission from the Commission to do so. In the
25 instant matter, Hacienda failed to supply satisfactory service or to take reasonable steps to ensure that
26 it would continue to be able to serve. Then, when faced with the financial implications resulting from
27 its actions, Hacienda attempted to dismantle its system and cease service without Commission
28 approval.

1 Throughout the testimony in this matter, Hacienda asserted that the current difficulties in
2 providing service arose from the simple fact that the Company had no money to perform required
3 testing, to haul water or to provide bottled water if necessary, or even to continue to pay for the
4 electricity needed to pump water in general.

5 According to Mr. Lee, Hacienda had “asked for assistance from the Corporation Commission
6 on various occasions over the years and never received any until just a few weeks ago when we
7 decided to make the application for the emergency rate increase.” *August 20, 2007 Transcript*, 15: 1
8 22 – 16: 11.

9 The type of “assistance” Hacienda had requested is unclear, but the Chief Administrative Law
10 Judge (“ALJ”) Lyn Farmer was able to shed some light on the issue in the following exchange with
11 Mr. Lee:

12 “Q. And, sir, can you somewhere point to me where the utility has filed an application for
13 a rate increase in the past?

14 A. I don’t know of any. I have been with them 40 years nearly.

15 Q. So the company has never filed a rate application?

16 A. Never had the money.” *Tr.*, 49, 7-14.

17 Whatever “assistance” Hacienda requested, it did not involve a request for rate relief.

18 From the Company’s Opening Statement, Mr. Lee made it clear that Hacienda was faced with
19 the kind of financial crisis that threatened the Company’s continuing operational viability. As a
20 result, Hacienda had “decided to terminate water service entirely for this area unless we get the
21 emergency rate increase we requested. Nothing less will do. So it is an all or nothing taking at this
22 particular hearing.” *Tr.*, 12, 7-11.

23 He stated that Hacienda’s officers had convened and “It was decided whether this water
24 company will cease operation in just a few days when your order comes down or whether it will
25 continue. ... And I think that needs to be up front so that everybody understands what they are
26 deciding.” *Tr.*, 12 12-18.

27 In addition to the many woes described in the Staff Report for the emergency rate increase,
28 Mr. Lee went on to discuss the recent judgment against both Hacienda and himself personally which

1 was issued from the local Justice of the Peace. He stated that “this company will cease to do business
2 because it doesn’t have the \$17,000 more or less to pay that with, particularly without an emergency
3 rate increase.” *Tr.*, 20, 1-4.

4 Lee then went on to cite an additional reason for Hacienda to close its doors, claiming that
5 “just over the last couple of days, I received a copy of an administrative notice hearing that the EPA
6 or federal government wishes to fine the company \$6,000 a day.” *Tr.*, 20, 6-9. Lee, however, was not
7 concerned with the potential EPA judgment, saying “we are not too afraid of that, because, obviously,
8 if there is no customers, then the EPA has no jurisdiction either.” *Id.*, 12-14.

9 Once again, Hacienda cited the emergency rate relief as the only way to avoid ceasing its
10 operations. “So that’s pretty well why we have decided we will close our doors rather than fight with
11 the EPA or ADEQ or even with this body without the emergency rate increase.” *Id.*, 15-18.

12 As the hearing progressed, Hacienda continued its mantra that it would be ceasing operations
13 if it didn’t get the rate increase it was requesting, as illustrated in the following exchange between
14 Staff counsel and Mr. Lee.

15 “Q. So if you don’t get the rate increase you requested, you are not going to provide
16 water?

17 A. We already voted, the corporate officers held a special meeting and we voted we are
18 going to close it down. There ain’t going to be a drop of water coming out of the pipes in a couple
19 more days after this hearing and decision is made.

20 Put it another way, If Staff doesn’t change their recommendation pretty quick here, then
21 probably by the end of this hearing, he said, the plan is to shut it down immediately.” *Tr.*, 26, 9-19.

22 Hacienda could not have been clearer that it intended to shut down if its demands were not
23 met. As the hearing progressed, Staff did not change its position regarding either the rate increase
24 itself or the conditions under which it would recommend that increase. Yet, despite the Company’s
25 insistence that it needed a rate increase, when Staff counsel asked Mr. Lee if Hacienda would accept
26 the recommendations Staff made in the Staff Report, he rejected nearly everything.

27 ...

28 ...

1 "Q. Okay. The next paragraph requires the company to docket ADEQ approval to
2 construct a new well or the well reconnection by December 31st of this year and approval of
3 construction by April 30th of next. Do you object to that?"

4 A. Well, of course. We already told you that well is not coming on." *Tr.*, 188, 8-14.

5 Q. "The next paragraph recommended the company begin a bacteria monitoring and
6 reporting program immediately. Do you object to that?"

7 A. Of course." *Id.*, 21-24.

8 Q. The next recommendation is that the company hire a certified operator and to begin
9 conducting the required monthly total coliform tests immediately. Do you object to that?"

10 A. Yes, because I do without money." *Tr.*, 189, 10-14.

11 Q. "But do you object to Staff's recommendation that the company read the well meters
12 and customer meters on a monthly basis?"

13 A. We always have, still do.

14 Q. So you do not object to that?"

15 A. No. I never objected to that. ... We didn't always bill them but we read them." *Tr.*,
16 190, 20 – 191, 2.

17 Q. "Do you object to the recommendation that the company file monthly water use data?"

18 A. Of course." *Id.*, 3-5.

19 Q. "Do you object to the last recommendation that the company work with ADEQ to
20 develop a detailed action plan?"

21 A. Of course." *Tr.*, 191, 9-12.

22 Hacienda made it clear that since it appeared that Staff was not going to change its position,
23 Hacienda was going to close down its operations immediately and the corporation was going to cease
24 to exist.

25 "Anything further else that you want to put on the record?"

26 THE WITNESS: No, I don't think, no.

27 ...

28 ...

1 One other comment. He said, we will notify the customers of the shutdown and the turn off
2 of the electric service. We will be notifying. We will, we always give them lots of notice to
3 everybody what is going on.

4 CALJ FARMER: Well, Mr. Lee –

5 THE WITNESS: Just in case that occurs.

6 CALJ FARMER: I would suggest that you consult with the Commission Staff.

7 THE WITNESS: No, I am consulting. They are here now. If they want to talk to me,
8 speak up, because this is probably the last time that we are going to speak because they have already
9 told me they filed an order to show cause. I believe it because I got, I think, a faxed copy of it. So I
10 don't think there is much more to talk about it. We are opponents at this point." *Tr.*, 199: 24 – 200:
11 14.

12 Despite Hacienda's assertions that the Commission was "derelict in its duty" to make sure
13 Hacienda had sufficient revenue with which to operate, it is well established that the Commission
14 does not operate any utility. In this case, Hacienda is a privately-owned corporation. The
15 responsibility for its financial viability falls squarely upon the corporate officers. Hacienda's officers
16 failed to file for rate relief. The Commission has broad authority to regulate public service
17 corporations, but the Commission can not grant a rate increase that is never requested.

18 By its own admission, Hacienda was aware of the dire need for additional revenue, yet it
19 never filed for a single rate increase in more than 30 years. Contrary to Hacienda's testimony, it is
20 Hacienda that was derelict in its duty to take reasonable steps to ensure it had appropriate operating
21 revenue by requesting rate relief.

22 The Commission has sufficient evidence to find that Hacienda violated both A.A.C. R14-2-
23 407 (C) and A.A.C. R14-2-407(D). The record is clear that Hacienda has violated its duty to provide
24 reliable service.

25 Count II

26 **Violation of R-14-2-409(A)(1)**

27 A.A.C. R-14-2-409(A)(1) requires each utility to generate a monthly bill for services
28 rendered. On March 7, 2008, Staff pre-filed the direct testimony of Connie Walczak, Consumer

1 Services Manager. "From March 16, 2007 through August 14, 2007, Consumer Services received six
2 customer complaints advising that the Company failed to bill customers on a monthly basis."

3 *Walczak Direct*, 2: 10-11. Exhibits 1 through 6 to Walczak's testimony documented the specific
4 billing complaints.

5 "On March 16, 2007, Gene Chapman called to complain about inconsistency in the
6 Company's billing practices, stating, "He only sends out bills every 3-4 months!" *Walczak Direct*, 2:
7 16-18. (Shown in Exhibit 1).

8 "On June 11, 2007, Eugene Rowley called to complain that he had not received a water bill
9 from the Company since April, 2007." *Walczak Direct*, 2: 20-21. (Shown in Exhibit 2).

10 "On June 15, 2007, Paul Schroeder called to complain about the sporadic billing, stating that
11 he was being billed for 2-3 months at a time." *Walczak Direct*, 2: 23-24. (Shown in Exhibit 3).

12 "On June 15, 2007, Glenn Adamson called to complain about the sporadic billing, stating that
13 he was being billed for 2-3 months at a time." *Walczak Direct*, 2: 26-27. (Shown in Exhibit 4).

14 "On June 19, 2007, Richard Estrada called to complain about the sporadic billing, stating that
15 he was being billed for 2-3 months at a time." *Walczak Direct*, 2: 29-30. (Shown in Exhibit 5).

16 On August 14, 2007, Glenn Adamson called to complain that he has gone as much as 9
17 months without receiving a bill. He also stated that it was common to be billed 2-3 months at a
18 time." *Walczak Direct*, 2: 32-34. (Shown in Exhibit 6).

19 At the August 20, 2007 hearing, Hacienda admitted to the billing problems. When asked,
20 "Are you consistently billing your customers," Joseph Lee replied "No. We have been unable to due
21 to the accountant's poor health." *August 20, 2007 Transcript*, 36: 6-10.

22 Whatever the reasons cited by Hacienda, the testimony is uncontroverted that Hacienda has
23 violated A.A.C. R-14-2-409(A)(1).

24 **Count III**

25 **Violation of A.R.S. § 40-221**

26 A.R.S. § 40-221 authorizes the Commission to prescribe the record-keeping methods and
27 accounts of public service corporations. In accordance with that statute, the Commission directs all
28

1 public service utilities to file annual utility reports. The Commission uses these reports to verify that
2 the various utilities remain in compliance with Commission rules and orders.

3 However, Hacienda's "2004 annual utility report was due to be filed no later than April 15,
4 2005, but was not filed ... until November 4, 2005, over six months late. The 2005 annual utility
5 report was due to be filed no later than April 17, 2006, but was not filed ... until September 20, 2006,
6 over five months late." *Carlson Direct*, 3, 13-16. As for the 2006 annual report, it "was due to be
7 filed no later than April 16, 2007, but was filed ... almost four months late." *Id.*, 20-22.

8 But late filing has not been Hacienda's only compliance problem. The 2004-2006 annual
9 reports, in addition to being tardy "were inaccurate and incomplete." *Id.*, 6-7. In fact, the information
10 provided in the reports was so faulty that they "could not be relied upon for use in the emergency rate
11 case docket." *Id.*, 7-8.

12 Failing to provide its annual reports in a timely manner is clearly a violation of the
13 Commission's rules regarding the annual reports. Further, if the late-filed reports contain so many
14 errors and omissions as to render them useless for the Commission's intended purposes, then for all
15 intents and purposes, they may as well have never been filed at all. The Commission should see
16 Hacienda's late annual report "compliance" for what it truly is- *non-compliance*.

17 It is clear that Hacienda has failed to comply with either the letter or the spirit of the directives
18 issued by the Commission pursuant to A.R.S. § 40-221. Hacienda should be held responsible.

19 Count V

20 **Violation of Obligation to Keep Taxes Current**

21 Hacienda has an obligation as a public service corporation to ensure that its property, sales,
22 and income taxes are kept current. Hacienda's 2005 annual utility report acknowledges that the
23 Company's property and sales taxes were not current. The 2004 annual report provides no
24 information on the Company's tax status for that year.

25 "The Company's 2006 annual utility report does not indicate that it has paid any property
26 taxes or sales tax." *Carlson Direct*, 6: 26-27. However, the errors documented in the testimony
27 supporting Count IV are evident in the Company's 2006 filing. As Staff noted, "the Company has
28 further violated its obligation by either not billing customers for any water usage in calendar year

1 2006 (and not billing appropriate sales taxes) or it is not being truthful on the attestation on pages 16
2 and 17, where it claims no revenue and no sales taxes billed or collected.” *Id.*, 28-31. As noted
3 above in Count IV, the errors in the Company’s annual reports make it difficult for Staff to reach any
4 conclusions regarding the information contained in the report. Here, however, Staff was able to
5 deduce that the attestation was most likely to be the error. “According to a copy of the Company’s
6 handwritten income tax return the Company submitted with its 2006 annual utility report, the
7 Company had \$10,760 of revenue in 2006.” *Id.*, 3-5.

8 While it is difficult to come to reliable conclusions using only the annual utility reports,
9 Hacienda’s admission to not having paid its taxes in 2005 is sufficient for the Commission to
10 conclude that Hacienda has violated its obligation to keep its taxes current. Given the Company’s
11 mantra that it does not have money to provide for any of its other obligations, and given Hacienda’s
12 failure to provide, in the face of Staff’s assertions that the Company was not current on its tax
13 obligations, any evidence of having paid its taxes, the conclusion is inescapable that Hacienda has
14 failed to remain current on its tax obligations.

15 The Commission has sufficient evidence to find that Hacienda has failed to remain current on
16 its tax obligations.

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Count VI

Failure to Perform Required Testing

On August 20, 2007, hearing was conducted before Chief Administrative Law Judge Lyn Farmer to take evidence regarding the Company’s Application for Emergency Rate Relief, Docket No. W-02258A-07-0414. Staff witness Darron Carlson addressed the quality of the water Hacienda was providing to its customers.

On July 12, 2007, Staff received from the Arizona Department of Environmental Quality (“ADEQ”) the Drinking Water Compliance Status Report, which showed that the Hacienda water system had “major deficiencies.” *Transcript*, 103: 5. ADEQ found that the drinking water being served by Hacienda was “exceeding the maximum contaminant level (MCL) from nitrates. *Id.*, 6-7. In addition, the report showed that Hacienda had six or more multiple reporting violations for a total coliform in the last 12 months.” *Id.*, 8-10.

Staff further noted that Hacienda’s “2004, ‘5, ‘6 annual monitoring for lead and copper were not done as required during the months of July, August, and September.” *Id.*, 11-13.

Finally, Staff noted that Hacienda had “not provided the consumer confidence report for calendar years 2004 and ‘5.” *Id.*, 14-15. While Mr. Lee disputed, in the form of an objection to the question, the testimony given by Mr. Carlson, Hacienda failed to provide any documentation to support Mr. Lee’s assertions that Staff was in error.

Two days later, on August 22, 2007, the Commission held a Special Open Meeting to determine whether it would issue the instant Order to Show Cause. At the hearing, ADEQ was represented by Ms. Cynthia Campbell, the Compliance Section Manager. Commissioner Mayes inquired as to whether Hacienda “was still in violation on the nitrates testing issue and the bacterial testing”. *August 22, 2007 Transcript*, 6: 9-10. Ms. Campbell confirmed that Hacienda was still in violation. *Id.*, at 11. Commissioner Mayes followed up, asking “And you have on multiple occasions, I assume, told the company that they need to become compliant?” *Id.*, 14-16. Campbell confirmed, “We have notified them of that, as has EPA, which has overfilled in this particular matter.” *Id.*, 17-18.

1 In response to Commission questions regarding the significance to be placed on the presence
2 of the Environmental Protection Agency complaint, Campbell replied that “generally speaking, they
3 only take on systems that have long-standing problems.” *Id.*, 12-14.

4 The final question to Ms. Campbell came from Chairman Gleason, “[A]t the present time,
5 does this Hacienda water represent a public health hazard?” Campbell confirmed, “I would say,
6 Commissioner Gleason, it does. It certainly represents a situation in which the customers of this
7 water system are not receiving water that meets the requirements of the Safe Drinking Water Act.”
8 *Id.*, 14-20.

9 At both the August 20 and August 22, Staff provided credible evidence, directly from ADEQ,
10 showing that Hacienda has failed to protect the health and welfare of its customers from lead, copper,
11 and bacteria. When Hacienda responded at all, it did so with mere assertions to the contrary. The
12 evidence supports a Commission finding that Hacienda has failed in its duty to perform proper
13 testing.

14 Count VII

15 **Violation of A.A.C. R-14-2-402(B)**

16 A.A.C. R-14-2-402(B) requires any utility proposing to discontinue or abandon utility service
17 currently in use by the public to make an application to the Commission.

18 On June 26 and 27, 2007, the Commission held its monthly Open Meeting. Hacienda’s
19 Curtailment Tariff was scheduled to be heard on June 27. At the Open Meeting, Mr. Lee represented
20 the Company. Because Staff did not believe the form of tariff Hacienda had provided was consistent
21 with the public interest, Staff requested a suspension of the tariff so that Staff could “work with the
22 Company on this item.” *Transcript*, 3: 6.

23 “CHMN. GLEASON: I gather you have no objection to the – the extension? ...

24 MR. LEE: Yes, he said, yes, we do protest the extension. That’s why I’m here.” *Id.*, 3:11-13.

25 Lee then provided an account of the Company’s distressed financial situation, pointing out
26 that the Company had “never had a rate increase in some thirty years.” *Tr.*, 3: 19. But Hacienda’s
27 problems were not exclusively financial in nature. Lee further stated that Hacienda was “down to the
28 ... only well we’ve ever had ... and one little ten-thousand gallon storage tank and we’re gonna run

1 out of water.” *Tr.*, 3: 21-23. Lee claimed that because of Hacienda’s dire condition, “they can’t even
2 pay the electric bill without borrowing.” *Tr.*, 3: 27 – 4: 1.

3 It was the culmination of the need for physical plant improvements combined with the lack of
4 financial resources with which to accomplish the needed improvements that prompted Hacienda’s
5 removal from its proposed tariff of the language requiring the company to either haul or supplement
6 water supplies. As Lee stated, “So, there’s no use, he says, kidding the customers ... we’re not going
7 to buy any water. We have no money to buy any water with. We’re not gonna furnish one cup of
8 water to them because we have no money to do it with.” *Tr.*, 4: 1-5. Lee summarized Hacienda’s
9 situation. “[T]hose customers are facing no water and no hope of getting any even then.” *Tr.*, 4: 9.

10 The Commission attempted to explain the Company’s legal obligation to provide service, but
11 was rebuffed.

12 “COM. MAYES: ... Well Mr. Lee, ... you have an obligation. ...

13 MR. LEE: No Ma’am, we don’t have any obligation because we’re on the edge of
14 bankruptcy and we’ll probably end up in Federal Court before it’s over.” *Tr.*, 4: 20-23.

15 “COM. MAYES: ... [Y]our mother, as the owner, has an obligation to provide water to the
16 customers, whether it’s through the hauling of water during an emergency, or the provision of bottled
17 water. Do you understand that?

18 MR. LEE: Oh, of course, but then she’s not gonna do it. She’s eighty-four years old and
19 she’s not gonna even be able to drive out there.

20 COM. MAYES: Well, then if you are not able to ... then someone else will need to do that.
21 Do you understand that?

22 MR. LEE: No you don’t understand. There is nobody else.” *Tr.*, 5: 12-19.

23 It was clear that the Commission needed to take action to ensure that Hacienda’s customers
24 continued to receive service. As the Open Meeting progressed, it became clearer that the Commission
25 needed to act immediately.

26 “COM. HATCH-MILLER: And, what about the condition of the supply of water to the
27 customers today? ...

28

1 MR. LEE: ... [T]hey have water until the well cannot keep up with the production, which
2 should happen when it gets hotter.

3 COM. HATCH-MILLER: O.K., so you're anticipating, at what point in time, that the ... well
4 will not be able to keep up?

5 MR. LEE: This afternoon, next week.

6 COM. HATCH-MILLER: Within days.

7 MR. LEE: Days, hours." *Tr.*, 6: 22- 7: 4.

8 With the Company's financial viability so grave, the need for an emergency rate increase was
9 obvious.

10 "COM. HATCH-MILLER: ... I see a pretty imminent problem and not one that can wait till
11 the end of the summer." *Tr.*, 10: 12-13.

12 In order to get the curtailment tariff in place as soon as possible, the Commission expressed a
13 desire to have the tariff voted on at the next Open Meeting. As Staff pointed out, however, the tariff
14 the Commission would be voting to approve would have in it the standard language requiring the
15 provision of water and "as you heard Mr. Lee say here today, if that language was in there he would
16 not comply with the language." *Tr.*, 10: 22-24.

17 Commissioner Hatch-Miller then explained that if the Company did not intend to provide
18 supplemental water in accordance with Stage 3 and 4 conservation requirements, then it would make
19 little sense for the Commission to grant an emergency rate increase. "The ... more the water crisis
20 increases the ... tighter we want some controls over it. And so, ... unless you're going to comply
21 with the ... different stages, you're not going to get an increase." *Tr.*, 11: 2-4.

22 However, despite the Commission's efforts to expedite the emergency rate matter, once filed,
23 the Company still refused to cooperate. The Commission discussed the logistics necessary to get the
24 curtailment tariff heard at the July 12 Securities Open Meeting. But Mr. Lee remained adamant that
25 the Company would not comply with the requirements of the standard tariff language, saying "We're
26 not interested then. Then we'll withdraw our petition, even for that." *Tr.*, 14: 16-17.

27 Commissioner Mundell expressed his discontent that Lee would not be reasonable.
28

1 “COM. MUNDELL: ... I said you have an obligation to serve, and we’re trying to work with
2 you to solve the problem, but when you make threats and say you’re gonna do this and that, know we
3 have other remedies other than trying to work with you. ... [W]e can, ... have an Order to Show
4 Cause hearing and ask that an Interim Manager be ... put in. ... I tried to explain to you that you have
5 an obligation to serve your customers... you can’t dig your heels in and tell us you’re not going to do
6 something.” *Tr.*, 14: 21- 15: 4.

7 Lee’s answer was illustrative. “I just did, three times, wanna make it four?” *Tr.*, 15, 5.

8 In the face of the Company’s direct refusal to comply with the curtailment, if ordered in the
9 form contemplated, Commissioner Mundell observed, “[I]f time is of the essence, and there is a water
10 crisis out there, the curtailment tariff ... puts into place certain requirements depending on how
11 severe the lack of water is, and its not in place now ... [T]hat’s why I think it’s so important to get the
12 ... curtailment tariff in place which is a boilerplate tariff that we utilize for all water companies in
13 Arizona.” *Tr.*, 18: 8-14. Commissioner Mayes assented, “I agree with Commissioner Mundell. I
14 think that we need to move forward with the curtailment tariff and get it in proper form quickly.” *Tr.*,
15 18:22-23.

16 Commissioner Mayes then proposed hearing the curtailment tariff the following day, “It
17 seems like something we could get done tomorrow,” then noted that such an action depended on “if
18 we can get twenty-four hours notice.” *Tr.*, 19: 7-9. The Commissioners then decided to hold the
19 open meeting on the curtailment tariff the following day, June 28, 2008, after their scheduled
20 meeting, which would last until after 3 p.m. Because it was not yet 12 p.m., informing the Company
21 and the public of the Commission’s intent to vote after 3 p.m. the following day provided more than
22 24 hours notice. Chairman Gleason asked Mr. Lee if he understood what the Commission was
23 proposing to do.

24 “CHRM. GLEASON: O.K. You understand that we’re going to have a hearing on the
25 curtailment tariff tomorrow?”

26 MR. LEE: Yes. I’m unable to attend, personally, because I have another commitment in the
27 afternoon, tomorrow.

28 CHRM. GLEASON: O.K. But you ... understand that ... we will be voting on it. ...

1 MR. LEE: Yes. ... That's fine."

2 Ms. Janice Alward, then Commission Assistant Chief Legal Counsel, followed up.

3 "MS. ALWARD: ... Tomorrow the Commission is going to vote on a curtailment tariff for
4 your company. It may, and is likely from what I've heard today, to be different than what you have
5 applied for, but it will be the standard curtailment tariff that the Commission approves for water
6 companies.

7 MR. LEE: It's a step in the right direction." *Tr.*, 21: 13-17.

8 The following day, the Commission conducted a Special open Meeting, ultimately approving
9 the curtailment tariff in the form provided on the Commission's website. The Commission directed
10 Staff to assist Hacienda in the preparation of an emergency rate application, and further directed Staff
11 to process the application with all possible haste.

12 Thereafter, Hacienda, with Staff's assistance, prepared and filed its Application for
13 Emergency Rate Relief, Docket No. W-02258A-07-0414. The application was submitted on July 5,
14 2007. On August 20, 2007, hearing was conducted to take evidence in the matter. At hearing, Joseph
15 Lee acted as Hacienda's counsel. He also provided testimony based upon his role as the Company's
16 secretary. His testimony revealed a very grim picture of Hacienda's condition, the responsibility for
17 which he laid squarely at the feet of the Commission, saying, "And the Commission is aware of the
18 problems year after year after year and has literally been derelict in its duty to do anything about
19 them." *Transcript*, pg 15, l 18-21.

20 According to Mr. Lee, Hacienda had "asked for assistance from the Corporation Commission
21 on various occasions over the years and never received any until just a few weeks ago when we
22 decided to make the application for the emergency rate increase." *Tr.*, p 15, l 22 - p 16, l 1.

23 The type of "assistance" Hacienda had requested is unclear, but the Judge Farmer was able to
24 shed some light on the issue in the following exchange with Mr. Lee:

25 "Q. And, sir, can you somewhere point to me where the utility has filed an application for
26 a rate increase in the past?

27 B. I don't know of any. I have been with them 40 years nearly.

28 R. So the company has never filed a rate application?

1 A. Never had the money.” *Tr.*, 49, 7-14.

2 Whatever “assistance” Hacienda requested, it did not involve a request for rate relief. The
3 issue of ultimate responsibility for Hacienda’s condition remained unresolved.

4 From the Company’s Opening Statement, Mr. Lee made it clear that Hacienda was faced with
5 the kind of financial crisis that threatened the Company’s continuing operational viability. As a
6 result, Hacienda had “decided to terminate water service entirely for this area unless we get the
7 emergency rate increase we requested. Nothing less will do. So it is an all or nothing taking at this
8 particular hearing.” *Tr.*, 12, 7-11.

9 He stated that Hacienda’s officers had convened and “It was decided whether this water
10 company will cease operation in just a few days when your order comes down or whether it will
11 continue. ... And I think that needs to be up front so that everybody understands what they are
12 deciding.” *Tr.*, 12 12-18.

13 In addition to the many woes described in the Staff Report for the emergency rate increase,
14 Mr. Lee went on to discuss the recent judgment against both Hacienda and himself personally which
15 was issued from the local Justice of the Peace. He stated that “this company will cease to do business
16 because it doesn’t have the \$17,000 more or less to pay that with, particularly without an emergency
17 rate increase.” *Tr.*, 20, 1-4.

18 Lee then went on to cite an additional reason for Hacienda to close its doors, claiming that
19 “just over the last couple of days, I received a copy of an administrative notice hearing that the EPA
20 or federal government wishes to fine the company \$6,000 a day.” *Tr.*, 20, 6-9. Lee, however, was not
21 concerned with the potential EPA judgment, saying “we are not too afraid of that, because, obviously,
22 if there is no customers, then the EPA has no jurisdiction either.” *Id.*, 12-14.

23 Once again, Hacienda cited the emergency rate relief as the only way to avoid ceasing its
24 operations. “So that’s pretty well why we have decided we will close our doors rather than fight with
25 the EPA or ADEQ or even with this body without the emergency rate increase.” *Id.*, 15-18.

26 As the hearing progressed, Hacienda continued its mantra that it would be ceasing operations
27 if it didn’t get the rate increase it was requesting, as illustrated in the following exchange between
28 Staff counsel and Mr. Lee.

1 “Q. So if you don’t get the rate increase you requested, you are not going to provide
2 water?

3 B. We already voted, the corporate officers held a special meeting and we voted we are
4 going to close it down. There ain’t going to be a drop of water coming out of the pipes in a couple
5 more days after this hearing and decision is made.

6 Put it another way, If Staff doesn’t change their recommendation pretty quick here, then
7 probably by the end of this hearing, he said, the plan is to shut it down immediately.” *Tr.*, 26, 9-19.

8 Hacienda could not have been clearer that it intended to shut down if its demands were not
9 met. As the hearing progressed, Staff did not change its position regarding either the rate increase
10 itself or the conditions under which it would recommend that increase. Yet, despite the Company’s
11 insistence that it needed a rate increase, when Staff counsel asked Mr. Lee if Hacienda would accept
12 the recommendations Staff made in the Staff Report, he rejected nearly everything.

13 “Q. Okay. The next paragraph requires the company to docket ADEQ approval to
14 construct a new well or the well reconnection by December 31st of this year and approval of
15 construction by April 30th of next. Do you object to that?”

16 B. Well, of course. We already told you that well is not coming on.” *Tr.*, 188, 8-14.

17 R. “The next paragraph recommended the company begin a bacteria monitoring and
18 reporting program immediately. Do you object to that?

19 B. Of course.” *Id.*, 21-24.

20 R. The next recommendation is that the company hire a certified operator and to begin
21 conducting the required monthly total coliform tests immediately. Do you object to that?

22 B. Yes, because I do without money.” *Tr.*, 189, 10-14.

23 R. “But do you object to Staff’s recommendation that the company read the well meters
24 and customer meters on a monthly basis?

25 B. We always have, still do.

26 R. So you do not object to that?

27 B. No. I never objected to that. ... We didn’t always bill them but we read them.” *Tr.*,
28 190, 20 – 191, 2.

1 R. "Do you object to the recommendation that the company file monthly water use data?

2 B. Of course." *Id.*, 3-5.

3 R. "Do you object to the last recommendation that the company work with ADEQ to
4 develop a detailed action plan?

5 B. Of course." *Tr.*, 191, 9-12.

6 Hacienda made it clear that since it appeared that Staff was not going to change its position,
7 Hacienda was going to close down its operations immediately and the corporation was going to cease
8 to exist.

9 "Anything further else that you want to put on the record?

10 THE WITNESS: No, I don't think, no.

11 One other comment. He said, we will notify the customers of the shutdown and the turn off
12 of the electric service. We will be notifying. We will, we always give them lots of notice to
13 everybody what is going on.

14 CALJ FARMER: Well, Mr. Lee --

15 THE WITNESS: Just in case that occurs.

16 CALJ FARMER: I would suggest that you consult with the Commission Staff.

17 THE WITNESS: No, I am consulting. They are here now. If they want to talk to me,
18 speak up, because this is probably the last time that we are going to speak because they have already
19 told me they filed an order to show cause. I believe it because I got, I think, a faxed copy of it. So I
20 don't think there is much more to talk about it. We are opponents at this point."

21 *Transcript*, 199, 24 – 200, 14.

22 After the hearing had concluded, Hacienda acted upon its threats to cease operations.
23 Hacienda sent out notices to its customers advising them that the Company would cease operation on
24 Monday, August 27, 2007.

25 On August 27, 2007, Hacienda customer Gene Chapman "saw Mr. Joseph Lee walking
26 around within the fenced well area. He appeared to be directing one of the other gentlemen to
27 remove the plug from the water storage tank." *Chapman Direct*, 3: 25-26. Thereafter, Chapman
28

1 Additional Issues

- 2 1. **What consequences, if any, arise from Hacienda's statement that it had**
3 **surrendered its CC&N, thereby depriving the Commission of jurisdiction in this**
4 **matter?**

5 As stated previously, A.A.C. R-14-2-402(B) requires any utility proposing to discontinue or
6 abandon utility service currently in use by the public to make an application to the Commission.
7 Once a utility is given permission to begin serving the public, it may not discontinue service without
8 first getting approval from the Commission.

9 According to Hacienda's February 7, 2008 Motion to Vacate Order Appointing Temporary
10 Water Manager and Related Matters, Hacienda "notified the 'ACC' on August 20, 2007, that all
11 water operations would cease and the Water Company formally surrendered its CC&N on September
12 5, 2007. Thus, after September 5, 2007 no Certificate of Convenience & Necessity existed."
13 *Hacienda February 7, 2008 Motion, 2: 20-22.*

14 Apparently, Hacienda is equating the existence of Certificate of Convenience and Necessity
15 ("CC&N") with an obligation to serve. Staff agrees that in order to receive a CC&N, a company
16 must submit to commission jurisdiction. Under Commission jurisdiction, any public service utility
17 must get Commission permission to cease operation. However, the obligation to serve is not
18 contingent upon a CC&N. The obligation to serve arises as a separate legal requirement. A CC&N is
19 not essential, however, to serve. It merely protects a utility from competition by granting a utility the
20 *exclusive* right to serve the CC&N area.

21 A utility can be a "de facto" public service corporation without having a CC&N. But it will
22 be subject to competition. A utility can surrender its CC&N willingly, but it will only lose the
23 protection offered by the Commission's grant of exclusivity. The utility will not be relieved of its
24 obligation to continue to serve its customers until receiving permission to stop. Unless and until the
25 Commission grants permission to stop serving, the utility must legally continue to serve. It remains,
26 therefore, a public service corporation until the Commission grants it permission to cease service.

1 The presence or absence of a CC&N is irrelevant to whether or not a utility is a public service
2 corporation. The only factor that matters is whether or not the utility has undertaken to serve the
3 public. Once begun, the utility then must continue to serve its customers.

4 Hacienda's statement that it had no CC&N, and therefore, the Commission lacked jurisdiction
5 to take action against the now "defunct" water company is simply a misapplication of the law. While
6 Hacienda may believe it was "defunct" by surrendering its CC&N, legally, all Hacienda
7 accomplished by attempting to surrender its CC&N was to subject itself to competition within the
8 territory it once held exclusively and instituted a moratorium on new connections. Hacienda was no
9 less required to continue to serve its existing customers.

10 Hacienda's statements that all of the Company's officers were resigning is likewise irrelevant.
11 "Public service corporation" is a term of art within the utilities regulation field. An entity can be
12 referred to as a public service "corporation" without being a corporation within the strict legal
13 meaning of the term. An LLC and even a sole proprietorship may be considered public service
14 corporations. So, while Hacienda believes it was no longer a corporation and therefore not a public
15 service corporation, it is simply wrong. Even if Hacienda were to be formally dissolved, as it was on
16 July 7, 2008 according to Commission records, Hacienda would still be considered a public service
17 corporation until the Commission allowed it to cease serving. Hacienda's argument is backwards.
18 Serving the public renders one a public service corporation and subjects one to Commission
19 jurisdiction. But Commission jurisdiction does not hinge on one being a "corporation".

20 Hacienda's statement that it surrendered its CC&N is legally irrelevant. Even assuming,
21 *arguendo*, that Hacienda's CC&N surrender is legally valid, Hacienda is nonetheless subject to
22 Commission jurisdiction and its assets are still properly used for that purpose. Hacienda never sought
23 nor received Commission approval to cease service, or to transfer the assets used to serve, as required
24 by A.R.S. § 40-285.

25 ...
26 ...
27 ...

28

1 **2. Did Hacienda have adequate notice of the hearing in which the interim manager**
2 **was appointed?**

3 The simple answer is “yes”. A.R.S. § 40-245(C) provides that “Upon filing the complaint, the
4 commission shall set a time when and a place where a hearing will be had ... not less than ten days
5 before the time set for the hearing, *unless the commission finds that public necessity requires that the*
6 *hearing be held at an earlier date.*” (emphasis added) The statute sets no minimum time limit.

7 In the instant matter, time was of the essence. As the testimony presented at the Open
8 Meeting regarding the curtailment demonstrated, Hacienda could shut down “immediately”.

9 “Put it another way, If Staff doesn’t change their recommendation pretty quick here, then
10 probably by the end of this hearing, he said, the plan is to shut it down *immediately.*” *August 20, 2008*
11 *Transcript.*, 26, 9-19. (emphasis added).

12 And as demonstrated at the July 27, 2007 Open Meeting:

13 “COM. HATCH-MILLER: And, what about the condition of the supply of water to the
14 customers today? ...

15 MR. LEE: ... [T]hey have water until the well cannot keep up with the production, which
16 should happen when it gets hotter.

17 COM. HATCH-MILLER: O.K., so you’re anticipating, at what point in time, that the ... well
18 will not be able to keep up?

19 MR. LEE: This afternoon, next week.

20 COM. HATCH-MILLER: Within days.

21 MR. LEE: Days, *hours.*” *July 27, 2007 Transcript.*, 6: 22- 7: 4. (emphasis added).

22 Time was of the essence. The Commission needed to act much sooner than the ten days
23 otherwise mandated.

24 Lee acknowledged the impending Order to Show Cause on August 20, 2007:

25 “CALJ FARMER: I would suggest that you consult with the Commission Staff.

26 THE WITNESS: No, I am consulting. They are here now. If they want to talk to me,
27 speak up, because this is probably the last time that we are going to speak because they have already
28

1 told me they filed an order to show cause. I believe it because I got, I think, a faxed copy of it. So I
2 don't think there is much more to talk about it. We are opponents at this point." *August 20, 2008*
3 *Transcript, 200: 6-14.*

4 Lee then acknowledges in his February 7, 2008 motion that "The 'ACC' was duly informed
5 by telephone that Attorney Joseph W. Lee ... could not meet with the 'ACC' on the morning of
6 August 22, 2007, *having received notice* less than 24 hours prior to a Special Open Meeting."
7 *Hacienda's February 7, 2008 motion, 1: 20-22.* (emphasis added).

8 Hacienda's argument is not the notice itself, simply the timing before the Open Meeting.
9 However, as previously noted, the statute sets no minimum time limit for notice. Rather notice
10 timing is contingent upon "public necessity". In this matter, public necessity required that action be
11 taken immediately. The Commission did so. Hacienda received all of the notice required by statute.

12 Conclusion

13 The evidence in this matter shows very clearly that Hacienda has violated Commission rules
14 and procedures. The Commission should find Hacienda in violation and take action.

15 Staff recommends that the Commission immediately revoke Hacienda's CC&N. Staff also
16 believes that financial penalties are appropriate in order to mitigate the damage done to the Hacienda
17 system which will otherwise be borne by Hacienda's, and maybe even Global Water's, ratepayers.

18 Finally, the Commission should take any other action it deems reasonable to remedy the harm
19 caused by Hacienda's violations.

20 **RESPECTFULLY SUBMITTED** this 8th day of August, 2008.

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23 
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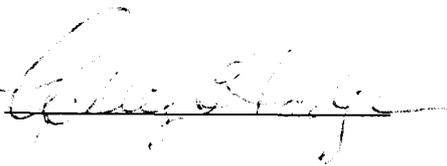
1 Original and thirteen (13) copies
2 of the foregoing were filed this
3 8th day of August, 2008 with:

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

8 Copy of the foregoing mailed this
9 8th day of August, 2008 to:

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