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BEFORE THE ARIZONA CORPORATION COMMISSION

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2008 AUG 26 P 1:53

Arizona Corporation Commission

DOCKETED

AZ CORP COMMISSION  
DOCKET CONTROL

AUG 26 2008

DOCKETED BY *mm*

IN THE MATTER OF THE APPLICATION OF  
MOUNT TIPTON WATER CO., INC. FOR AN  
EMERGENCY RATE INCREASE.

DOCKET NO. W-02105A-08-0262

PROCEDURAL ORDER

**BY THE COMMISSION:**

On May 23, 2008, Mount Tipton Water Co., Inc. ("Mount Tipton") filed with the Arizona Corporation Commission ("Commission") an application requesting emergency rate relief to increase its cash flow so as to cover operation expenses and increase water availability to its customers. Mount Tipton specifically requested an emergency rate increase of \$10.00 per customer.

On June 13, 2008, a Procedural Order was issued scheduling a hearing in this matter for July 25, 2008, and establishing other procedural deadlines. Among these was a requirement that Mount Tipton file, by July 14, 2008, a certification that public notice had been mailed and posted in accordance with the Procedural Order.

On July 11, 2008, Staff filed its Staff Report, recommending approval of the emergency rate application, with conditions.

Mount Tipton did not file a certification regarding public notice by July 14, 2008.

On July 21, 2008, the Hearing Division received a fax stating that the Procedural Order had not been received by Mount Tipton; requesting a three-week extension to comply with the posting and mailing deadlines therein; and providing information regarding Mount Tipton's anticipated inability to obtain a bond or letter of credit as Staff recommended in the Staff Report.

On July 21, 2008, at the request of the Hearing Division, a telephonic procedural conference was held in this matter. Mount Tipton appeared through John Janik, President, and Karen Carter,

1 Treasurer. Staff appeared through counsel. During the procedural conference, Mr. Janik and Ms.  
2 Carter stated that Mount Tipton had not received the Procedural Order in the mail; that Mount Tipton  
3 had only become aware of the July 25, 2008, hearing date after having received the Staff Report; and  
4 that Mount Tipton had not yet provided any public notice of the hearing date either through mail or  
5 posting. As a result, it was determined that the hearing scheduled for July 25, 2008, would be  
6 vacated, and that another hearing date and associated procedural deadlines would be established.

7 On July 21, 2008, a Procedural Order was issued vacating the July 25, 2008, hearing;  
8 scheduling a hearing for August 25, 2008; and establishing associated procedural requirements and  
9 deadlines.

10 On August 7 and 12, 2008, comments on the application were filed by Mount Tipton  
11 customers.

12 On August 12, 2008, Mount Tipton filed a letter stating that notice had been mailed to its  
13 customers on August 4, 2008.

14 On August 13, 2008, Motions to Intervene were filed by Tom Albertson and Helga Abbott,  
15 both of whom identify themselves as residential customers of Mount Tipton and residents of Dolan  
16 Springs.

17 On August 15, 2008, a Motion to Intervene was filed by Jeanne Kay Greenfield, who also  
18 identifies herself as a residential customer of Mount Tipton and a resident of Dolan Springs.

19 On August 18 and 19, 2008, eight customer comments were filed.

20 On August 20, 2008, an Arizona Department of Environmental Quality ("ADEQ") sanitary  
21 survey report dated August 19, 2008, was filed. The ADEQ sanitary survey report showed that  
22 Mount Tipton was out of compliance both as to physical facilities and as to monitoring and reporting.

23 On August 20, 2008, a Procedural Order was issued granting intervention to Mr. Albertson,  
24 Ms. Abbott, and Ms. Greenfield. To ensure that actual notice was provided, the Procedural Order  
25 was sent to Ms. Abbott, Ms. Greenfield, and Mount Tipton by fax and to Mr. Albertson by e-mail.

26 On August 21, 2008, three days after the deadline for Motions to Intervene, a Motion to  
27 Intervene was filed by Sylvia McClory, who identified herself as a residential customer of Mount  
28 Tipton and a resident of Dolan Springs, Arizona.

1 On August 21, 2008, a customer comment was also filed.

2 On August 22, 2008, four days after the deadline for Motions to Intervene, a Motion to  
3 Intervene was filed by Michael Johnson, who identified himself as a residential customer of Mount  
4 Tipton and a resident of Phoenix, Arizona.

5 On August 25, 2008, a full evidentiary hearing was held before a duly authorized  
6 Administrative Law Judge (“ALJ”)<sup>1</sup> of the Commission at the Commission’s offices in Phoenix,  
7 Arizona. Mount Tipton appeared through John Janik, Board President, and Staff appeared through  
8 counsel. Mr. Albertson, Ms. Abbott, and Ms. Greenfield failed to appear. Ms. McClory and Mr.  
9 Johnson also failed to appear. No members of the public attended. Mount Tipton and Staff both  
10 presented evidence and testimony. At the hearing, Staff and Mount Tipton were asked, in light of the  
11 new ADEQ sanitary survey report and the resulting probable need to obtain additional evidence in the  
12 pending Complaint and Order to Show Cause against Mount Tipton (“OSC Docket”),<sup>2</sup> to state their  
13 respective positions on combining the evidentiary records from this docket and the OSC Docket so  
14 that all of the evidence in each could be considered in the other, although the dockets would not be  
15 consolidated. Mount Tipton did not have any objection and generally expressed support for the idea,  
16 and Staff expressed concern only as to whether delay in this docket would result. The issue was  
17 taken under advisement. Also during the hearing, Mount Tipton was directed to file three late-filed  
18 exhibits: (1) a complete copy of the April 2008 letter from Pete Byers, a partial copy of which was  
19 admitted as Exhibit A-4; (2) documentation showing Mount Tipton’s actual tax liability as to both of  
20 its parcels; and (3) a balance sheet and income statement showing figures that Mr. Janik believes to  
21 be accurate. Mount Tipton was directed to file the late-filed exhibits by September 8, 2008, and Staff  
22 was instructed to file any response that it may have to the late-filed exhibits by September 16, 2008.

23 It is now appropriate to resolve the issue of combining the evidentiary records in this docket  
24 and the OSC Docket, to memorialize the late-filed exhibit requirements in the form of an order, and  
25 to rule on the late Motions to Intervene.

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28 <sup>1</sup> In addition to the presiding ALJ, ALJ Teena Wolfe also attended the entire hearing.

<sup>2</sup> The OSC Docket is assigned Docket No. W-02105A-07-0510.

1 IT IS THEREFORE ORDERED that the **complete evidentiary record in the OSC Docket,**  
2 **both as it exists now and as it develops in the future until such time as a final decision is**  
3 **rendered in this docket, shall be considered to be part of the evidentiary record in this docket**  
4 and may be considered in rendering a decision herein, although the dockets themselves are not  
5 consolidated.

6 IT IS FURTHER ORDERED that **Mount Tipton shall, by September 8, 2008, file three**  
7 **late-filed exhibits:** (1) a complete copy of the April 2008 letter from Pete Byers, a partial copy of  
8 which was admitted as Exhibit A-4; (2) documentation showing Mount Tipton's actual tax liability as  
9 to both of its parcels;<sup>3</sup> and (3) a balance sheet and income statement showing figures that Mr. Janik  
10 believes to be accurate.

11 IT IS FURTHER ORDERED that **Staff shall, by September 16, 2008, file any response** that  
12 it may have to Mount Tipton's late-filed exhibits, including but not limited to any objections thereto,  
13 any disagreements therewith, and any revisions to its recommendations resulting therefrom.

14 IT IS FURTHER ORDERED that the **Motions to Intervene filed by Ms. McClory and Mr.**  
15 **Johnson are hereby denied.**

16 IT IS FURTHER ORDERED that the Presiding Officer may rescind, alter, amend, or waive  
17 any portion of this Procedural Order either by subsequent Procedural Order or by ruling at hearing.

18 Dated this 26<sup>th</sup> day of August, 2008.

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21 SARAH N. HARPRING  
22 ADMINISTRATIVE LAW JUDGE  
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28 <sup>3</sup> This documentation should be created by or after consultation with Mohave County, based on information obtained from Mohave County.

1 Copies of the foregoing mailed/delivered  
2 this 26<sup>th</sup> day of August, 2008, to:

3 John Janik, President  
4 MOUNT TIPTON WATER CO., INC.  
5 P.O. Box 38  
6 Dolan Springs, AZ 86441

7 Tom Albertson  
8 50 Sandy Cove  
9 P.O. Box 542  
10 Meadview, AZ 86444-0542

11 Helga Abbott  
12 P.O. Box 1860  
13 Dolan Springs, AZ 86441

14 Jeanne Kay Greenfield  
15 P.O. Box 326  
16 Dolan Springs, AZ 86441

17 Sylvia McClory  
18 P.O. Box 1922  
19 Dolan Springs, AZ 86441

20 Michael Johnson  
21 3441 East Lupine Avenue  
22 Phoenix, AZ 85028

23 Janice Alward, Chief Counsel  
24 Legal Division  
25 ARIZONA CORPORATION COMMISSION  
26 1200 West Washington Street  
27 Phoenix, AZ 85007

28 Ernest G. Johnson, Director  
29 Utilities Division  
30 ARIZONA CORPORATION COMMISSION  
31 1200 West Washington Street  
32 Phoenix, AZ 85007

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By:

  
Debra Broyles  
Secretary to Sarah N. Harpring