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BEFORE THE ARIZONA CORPORATION COMMISSION

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COMMISSIONERS

MIKE GLEASON - Chairman
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AZ CORP COMMISSION
DOCKET CONTROL

Arizona Corporation Commission

DOCKETED

DEC -5 2008

DOCKETED BY

IN THE MATTER OF THE APPLICATION OF
APPALOOSA WATER COMPANY FOR
FINANCING AUTHORIZATION.

DOCKET NO. W-03443A-08-0177

IN THE MATTER OF THE APPLICATION OF
APPALOOSA WATER COMPANY FOR A RATE
INCREASE.

DOCKET NO. W-03443A-08-0313

RATE CASE
PROCEDURAL ORDER

BY THE COMMISSION:

On March 26, 2008, Appaloosa Water Company ("Appaloosa" or "Company") filed with the Arizona Corporation Commission ("Commission") an application requesting authorization to seek financing to construct an arsenic treatment facility. Appaloosa's application requests authorization to finance approximately \$192,000, through the Water Infrastructure Financing Authority ("WIFA").

On June 20, 2008, Appaloosa filed an application with the Commission to increase its rates in Docket No. W-03443A-08-0313. Appaloosa's rate application states the Company is seeking an increase in its rates to cover increased administrative costs, increased property taxes, and the cost of a proposed arsenic treatment facility.

On July 1, 2008, Appaloosa filed an amendment to its rate application.

On July 21, 2008, the Commission's Utilities Division ("Staff") filed a Letter of Deficiency in the rate application docket.

On July 29, 2008, Appaloosa filed responses to Staff's Letter of Deficiency in the rate application docket.

On August 7, 2008, Appaloosa filed additional responses to Staff's Letter of Deficiency in the rate application docket.

On September 8, 2008, Staff filed a Second Letter of Deficiency in the rate application docket.

1 On September 17, 2008, Mr. Charles R. Larson, Jr., CPA on behalf of Appaloosa, filed a
2 letter in the rate application docket clarifying some of the numbers in the application.

3 On October 17, 2008, Staff filed a Letter of Sufficiency stating that Appaloosa's rate
4 application had met the sufficiency requirements as outlined in A.A.C. R14-2-103 and that
5 Appaloosa had been classified as a Class C utility.

6 On October 21, 2008, Staff filed a Motion to Consolidate Docket No. W-03443A-08-0313 and
7 Docket No. W-03443A-08-0177, stating that the matters are substantially related and consolidation
8 will not prejudice the rights of the parties.

9 On October 30, 2008, by Procedural Order, a telephonic procedural conference was scheduled
10 to discuss consolidation of the dockets, the appropriate procedural schedule and whether resolution of
11 the issues would require a hearing.

12 On November 17, 2008, a telephonic procedural conference was held as scheduled. The
13 Applicant appeared on its own behalf, Staff appeared through counsel, and Commissioner Kristin
14 Mayes participated in the procedural conference. During the conference, procedural deadlines, as
15 well as the pending motion to consolidate the dockets were discussed, and it was agreed the matter
16 should be set for hearing.

17 IT IS THEREFORE ORDERED that Staff's Motion to Consolidate the above-captioned
18 matters is hereby granted.

19 IT IS FURTHER ORDERED that the **hearing on the consolidated dockets shall be held on**
20 **April 21, 2009, at 10:00 a.m.**, or as soon thereafter as is practicable, at the Commission's offices,
21 1200 West Washington, Room 100, Phoenix, Arizona 85007.

22 IT IS FURTHER ORDERED that a **telephonic pre-hearing conference shall be held on**
23 **April 7, 2009, at 10:00 a.m.**, or as soon thereafter as is practicable, and that all parties shall contact
24 the Hearing Division on **March 31, 2009, at 602-542-4250 for further information regarding the**
25 **call-in phone number.**

26 IT IS FURTHER ORDERED that **the Staff Report in this matter shall be filed on or**
27 **before March 2, 2009.** The Staff Report shall include copies of any documents that Staff intends to
28 submit as exhibits during the evidentiary hearing.

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IT IS FURTHER ORDERED that the Staff Report shall include a discussion on Appaloosa's compliance with the Arizona Department of Environmental Quality, Arizona Department of Water Resources, the Town of Chino Valley, and any health or safety concerns related to the water system.

IT IS FURTHER ORDERED that **any direct testimony and associated exhibits to be presented at the hearing on behalf of intervenors shall be reduced to writing and filed on or before March 13, 2009.**

IT IS FURTHER ORDERED that **Appaloosa shall file a written response to the Staff Report and any intervenor's testimony on or before March 23, 2009.** The response shall include copies of any documents that Appaloosa intends to submit as exhibits during the evidentiary hearing.

IT IS FURTHER ORDERED that **any substantive corrections, revisions, or supplements to pre-filed testimony, the Staff Report or Appaloosa's response shall be reduced to writing and filed on or before April 3, 2009,** so that they may be discussed during the pre-hearing conference, if appropriate.

IT IS FURTHER ORDERED that intervention shall be in accordance with A.A.C. R14-3-105, except that **all motions to intervene must be filed on or before January 30, 2009.**

IT IS FURTHER ORDERED that **any objections to intervention shall be filed on or before February 13, 2009.**

IT IS FURTHER ORDERED that any motions filed in this matter that are not ruled upon by the Commission within 20 calendar days of the filing date of the motion shall be deemed denied.

IT IS FURTHER ORDERED that any responses to motions shall be filed within five calendar days of the filing date of the motion.

IT IS FURTHER ORDERED that any replies shall be filed within five calendar days of the filing date of the response.

IT IS FURTHER ORDERED that Appaloosa shall provide public notice of the hearing in this matter, in the following form and style, with the heading in no less than 12-point bold type and the body in no less than 10-point regular type:

**PUBLIC NOTICE OF HEARING ON THE APPLICATION OF APPALOOSA
WATER COMPANY FOR AN INCREASE IN ITS RATES AND
AUTHORIZATION FOR FINANCING**
(Docket Nos. W-03443A-08-0177 and W-03443A-08-0313)

Summary

On March 26, 2008 and June 20, 2008, Appaloosa Water, LLC ("Appaloosa") filed with the Arizona Corporation Commission ("Commission") an applications for an increase in its rates for water service and authorization for financing, respectively. In its rate application, Appaloosa is seeking an increase in its rates to generate an additional \$162,489 in annual revenues, or approximately a 100% increase over its reported 2007 test year total operating revenues of \$162,489. The rate application states the increase is necessary to cover administrative costs, increased property taxes, and the cost to construct an arsenic treatment facility. In its financing application, Appaloosa is seeking authorization to finance approximately \$192,000 to construct an arsenic treatment facility.

The Commission's Utilities Division Staff ("Staff") is in the process of auditing and analyzing Appaloosa's records and has not yet made a recommendation regarding the rate or financing applications. The Commission will determine the appropriate relief to be granted based on the evidence presented during the proceeding. The Commission is not bound by the proposals made by Appaloosa, Staff, or any intervenors; therefore, the final rates and amount of financing approved may differ from the rates and amounts requested by Appaloosa in its applications.

How You Can View or Obtain a Copy of the Rate Proposal

Copies of the rate and finance applications are available at Appaloosa's offices [COMPANY INSERT ADDRESS HERE] and at the Commission's Docket Control Center at 1200 West Washington, Phoenix, Arizona, for public inspection during regular business hours and on the Internet via the Commission's website (www.azcc.gov) using the e-Docket function.

Arizona Corporation Commission Public Hearing Information

The Commission will hold a hearing on this matter beginning **April 21, 2009, at 10:00 a.m.**, at the Commission's offices, 1200 West Washington Street, Room 100, Phoenix, Arizona. Public comments will be taken on the first day of the hearing. Written public comments may be submitted by mailing a letter referencing Docket No. W-03443A-08-0177 et al., to Arizona Corporation Commission, Consumer Services Section, 1200 West Washington, Phoenix, AZ 85007, or by e-mail. For a form to use and instructions on how to e-mail comments to the Commission, go to http://www.azcc.gov/divisions/utilities/forms/public_comment.pdf. If you require assistance, you may contact the Consumer Services Section at 1-800-222-7000.

About Intervention

The law provides for an open public hearing at which, under appropriate circumstances, interested parties may intervene. Any person or entity entitled by law to intervene and having a direct and substantial interest in the matter will be permitted to intervene. If you desire to intervene, you must file a written motion to intervene with the Commission no later than **January 30, 2009**. You must send a copy of the motion to intervene to Appaloosa or its counsel and to all parties of record. Your motion to intervene must contain the following:

1. Your name, address, and telephone number and the name, address, and telephone number of any party upon whom service of documents is to be made, if not yourself;

- 1 2. A short statement of your interest in the proceeding (e.g., a customer of Appaloosa, a shareholder of Appaloosa, etc.); and
- 2 3. A statement certifying that you have mailed a copy of the motion to intervene to Appaloosa or its counsel and to all parties of record in the case.

3
4 The granting of motions to intervene shall be governed by A.A.C. R14-3-105, except that all motions to intervene must be filed on or before **January 30, 2009**. If representation by counsel is required by Rule 31 of the Rules of the Arizona Supreme Court, intervention will be conditioned upon the intervenor obtaining counsel to represent the intervenor. For information about requesting intervention, visit the Commission's website at <http://www.azcc.gov/divisions/utilities/forms/interven.pdf>. The granting of intervention, among other things, entitles a party to present sworn evidence at the hearing and to cross-examine other witnesses. However, failure to intervene will not preclude any interested person or entity from appearing at the hearing and providing public comment on the application or from filing written comments in the record of the case.

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10 **ADA/Equal Access Information**

11 The Commission does not discriminate on the basis of disability in admission to its public meetings. Persons with a disability may request a reasonable accommodation such as a sign language interpreter, as well as request this document in an alternative format, by contacting the ADA Coordinator, Linda Hogan, at LHogan@azcc.gov, voice phone number (602) 542-3931. Requests should be made as early as possible to allow time to arrange the accommodation.

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13 IT IS FURTHER ORDERED that by **January 5, 2009**, Appaloosa shall **mail to each current**
14 **customer or water user**, a copy of the above notice, post a copy of the above notice at each
15 standpipe and cause the above notice to be published at least once in a newspaper of general
16 circulation in its service territory.

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18 IT IS FURTHER ORDERED that Appaloosa shall file **certification of mailing, posting, and**
19 **publication** as soon as practicable after the mailing and publication has been completed, but **no later**
20 **than January 30, 2009**.

21 IT IS FURTHER ORDERED that notice shall be deemed complete upon mailing/publication
22 of same, notwithstanding the failure of an individual to read or receive the notice.

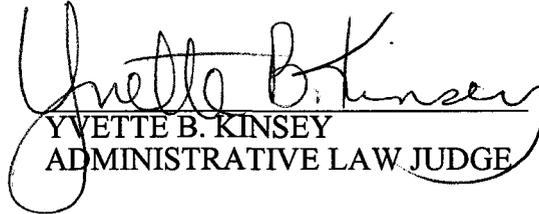
23 IT IS FURTHER ORDERED that all parties must comply with Rules 31 and 38 of the Rules
24 of the Arizona Supreme Court and A.R.S. § 40-243 with respect to the practice of law and admission
25 *pro hac vice*.

26 IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113 - Unauthorized
27 Communications) applies to this proceeding and shall remain in effect until the Commission's
28 Decision in this matter is final and non-appealable.

1 IT IS FURTHER ORDERED that the time periods specified herein shall not be extended
2 pursuant to Rule 6(a) or (e) of the Rules of Civil Procedure.

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

5 DATED this 5th day of December, 2008.

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8 
9 YVETTE B. KINSEY
ADMINISTRATIVE LAW JUDGE

10 Copies of the foregoing mailed/delivered
11 This 5th day of December, 2008 to:

12 Joe Cordovana
13 APPALOOSA WATER COMPANY
14 7012 N. 18th Street
15 Phoenix, AZ 85020

16 Janice Alward, Chief Counsel
17 Kevin Torrey, Attorney
18 Legal Division
19 ARIZONA CORPORATION COMMISSION
20 1200 W. Washington Street
21 Phoenix, Arizona 85007

22 Ernest Johnson, Director
23 Utilities Division
24 ARIZONA CORPORATION COMMISSION
25 1200 W. Washington Street
26 Phoenix, Arizona 85007

27 ARIZONA REPORTING SERVICE, INC.
28 2200 North Central Avenue, Suite 502
Phoenix, Arizona 85004-1481

29 By: 
30 Debbi Person
31 Secretary to Yvette B. Kinsey