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Arizona Corporation Commission

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DEC 15 2008

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2008 DEC 15 P 4: 38

AZ CORP COMMISSION  
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**BEFORE THE ARIZONA CORPORATION COMMISSION**

8 IN THE MATTER OF THE APPLICATION  
9 OF PINE WATER COMPANY FOR A  
10 DETERMINATION OF THE CURRENT  
11 FAIR VALUE OF ITS UTILITY PLANT  
12 AND PROPERTY AND FOR INCREASES  
13 IN ITS RATES AND CHARGES BASED  
14 THEREON FOR UTILITY SERVICE AND  
15 FOR APPROVAL TO INCUR LONG-  
16 TERM DEBT

DOCKET NO: W-03512A-03-0279

**PINE WATER COMPANY'S  
SECOND REQUEST FOR  
MODIFICATION OF DEADLINE TO  
FILE RATE CASE**

17 In Decision No. 67166 (August 10, 2004), the Arizona Corporation Commission  
18 ordered Pine Water Company to file a rate case by June 1, 2008 using a 2007 test year.  
19 On February 27, 2008, Pine Water Company filed a Request for Extension of Deadline to  
20 File Rate Case. Pine Water's request was granted in Decision No. 70452 (August 6,  
21 2008), extending the deadline to file a rate application based on a 2008 test year until  
22 June 1, 2009. By this motion, the Company seeks to vacate any requirement that it file a  
23 rate case.

24 As this Commission is aware, the Pine-Strawberry Water Improvement District has  
25 filed a lawsuit seeking to condemn all of the Company's assets. In addition, Pine Water  
26 and the District are embroiled in litigation and arbitration over the K2 project (Docket No.  
W-03512A-07-0362). These lawsuits have put a halt to the Company's efforts to drill a  
deep well and obtain additional water supplies, as well as other efforts to improve the  
Company's system. The outcome of the K2 arbitration is unknown, and both the outcome  
and timing of the condemnation is unknown.

Under these circumstances, neither the Company, nor its customers would benefit

1 from filing of a rate case. Nor should Pine Water, the Commission or any other  
2 stakeholders be forced to incur the time and expense associated with a rate case until the  
3 cloud of condemnation has been removed one way or another.

4 Based on the foregoing, Pine Water respectfully asserts it is in the public interest to  
5 grant this motion and issue an order vacating any pending requirement to file a rate case  
6 and directing the Company to report to the Commission on a quarterly basis the status of  
7 the condemnation and K2 litigation. In the alternative, the Commission should order the  
8 Company to file a rate case within 6 months of a final determination that the District will  
9 not condemn the Company's assets.

10 RESPECTFULLY SUBMITTED this 15<sup>th</sup> day of December, 2008.

11 FENNEMORE CRAIG

12  
13 By   
14 Jay L. Shapiro  
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18 ORIGINAL and 13 copies were filed  
19 this 15<sup>th</sup> day of December, 2008:

20 Docket Control  
21 Arizona Corporation Commission  
22 1200 West Washington  
23 Phoenix, Arizona 85007

24 COPY of the foregoing hand-delivered  
25 this 15<sup>th</sup> day of December, 2008 to:

26 Dwight D. Nodes, Assistant Chief ALJ  
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11 **COPY** sent by regular mail  
12 this 15<sup>th</sup> day of December, 2008 to:

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