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BEFORE THE ARIZONA CORPORATION COMMISSION
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COMMISSIONERS

MIKE GLEASON, Chairman
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2008 DEC 17 P 1:23

AZ CORP COMMISSION
DOCKET CONTROL

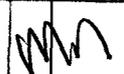
IN THE MATTER OF THE APPLICATION OF
CHAPARRAL CITY WATER COMPANY, INC., AN
ARIZONA CORPORATION, FOR A
DETERMINATION OF THE FAIR VALUE OF ITS
UTILITY PLANT AND PROPERTY AND FOR
INCREASES IN ITS RATES AND CHARGES FOR
UTILITY SERVICE BASED THEREON.

DOCKET NO. W-02113A-07-0551

Arizona Corporation Commission

DOCKETED

DEC 17 2008

DOCKETED BY 

REPLY TO CHAPARRAL CITY WATER COMPANY RESPONSE

1 Pacific Life Insurance Company ("Pacific Life") hereby replies to "Chaparral City Water
2 Company's Response to Pacific Life Insurance Company's Motion for Leave to Present
3 Testimony" ("Response"). Pacific Life will ignore Chaparral City's disparagement of its
4 counsel.

5 **I. Chaparral City Seeks to Renege on Its Agreement Not to Oppose the Testimony**

6 No other party opposed hearing Mr. Green's testimony. On December 11, 2008,
7 Chaparral City stated by e-mail to the parties and Judge Wolfe that it would also not oppose
8 hearing Mr. Green's testimony.

9 While we are frustrated that Pacific Life would place the ACC and the parties in the
10 position that they have, Chaparral City will not oppose the late filed testimony or witness
11 appearance at the Phase Two hearings on the conditions that their witness is called as the
12 last witness on 1/9 and that the issue is part of the Phase 1 briefs as Mr. Marks already
13 offered.¹

14 Chaparral City accepted these conditions by an e-mail dated December 13, 2008, agreeing that
15 Mr. Green's testimony would be heard following completion of all other testimony scheduled for
16 January 9, 2009. Chaparral City now seeks to go back on on its agreement with Pacific Life.

¹ December 11, 2008, E-mail from Mr. Shapiro to Judge Wolfe, emphasis added. Copy attached as Exhibit A,

1 **II. Mr. Green's Testimony Will Not Delay This Case.**

2 Allowing Mr. Green to testify will not delay this case. Pacific Life is not asking to
3 reopen the record, but to take advantage of an additional hearing day that has already been
4 scheduled. Chaparral City does pause its foot-stomping long enough to admit that Pacific Life's
5 issues are "relatively straightforward." Further, because the testimony does not concern its
6 revenue requirement, Chaparral City should not have any real issue with it. Mr. Green's concise
7 single-issue testimony should proceed quickly, even if it is followed by short responsive
8 testimony from other parties. Finally, because the subject of Mr. Green's testimony will be
9 addressed in Phase I briefs, it will not delay the ultimate resolution of this case.

10 **III. There Is No Record Evidence on The Important Subject of This Testimony**

11 Chaparral City claims that the subject of this testimony could be part of public comment.
12 However, as Chaparral City well knows, a party cannot present public comment and public
13 comment is not evidence. Mr. Green discusses the impact of the proposed irrigation rate
14 increase on the golf course he manages. The record will benefit by including his testimony
15 concerning this important issue.

16 **IV. Requested Relief**

17 Pacific Life again asks that the Administrative Law Judge allow the attached testimony to
18 be heard. Pacific Life does not object to Mr. Green testifying after all witnesses presently
19 scheduled for January 9, 2009. To avoid delaying the resolution of this case, Pacific Life also
20 agrees that its issue should be part of the Phase I briefs due on January 23, 2009.

21 Respectfully submitted on December 17, 2008, by:

22 

23 Craig A. Marks
24 Craig A. Marks, PLC
25 10645 N. Tatum Blvd.
26 Suite 200-676
27 Phoenix, AZ 85028
28 (480) 367-1956
29 Craig.Marks@azbar.org
30 Attorney for Pacific Life
31
32

1 **Original and 13 copies filed**
2 on December 17, 2008, with:

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

8
9 **Copy of the foregoing mailed and e-mailed**
10 On December 17, 2008, to:

11
12 Teena Wolfe, Administrative Law Judge
13 Hearing Division
14 Arizona Corporation Commission
15 1200 West Washington Street
16 Phoenix, AZ 85007

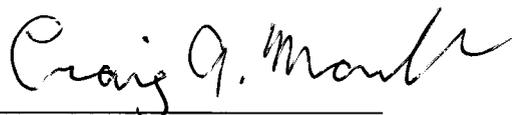
17
18 Robin R. Mitchell, Staff Attorney
19 Arizona Corporation Commission
20 1200 West Washington Street
21 Phoenix, AZ 85007

22
23 Ernest Johnson Director
24 Utilities Division
25 Arizona Corporation Commission
26 1200 West Washington Street
27 Phoenix, AZ 85007

28
29 Norman James/Jay Shapiro
30 Fennemore Craig
31 3003 North Central Avenue, Suite 2600
32 Phoenix, AZ 85012-2913
33 Attorneys for Chaparral City Water Company

34
35 Michele L. Wood, Counsel
36 Residential Utility Consumer Office
37 1110 West Washington, Suite 220
38 Phoenix, AZ 85007-2958

39
40
41
42 By:



Craig A. Marks

Craig Marks

From: SHAPIRO, JAY [JSHAPIRO@FCLAW.COM]
Sent: Thursday, December 11, 2008 6:48 PM
To: Teena Wolfe
Cc: Craig Marks; mwood@azruco.gov; Ernest Johnson; ritchell@azcc.gov; JAMES, NORM
Subject: RE: Motion For Leave to Present Testimony

Judge Wolfe--in an effort to avoid more filings and/or procedural conferences, we thought we would use "Reply All" to let you and the other parties know our position on this motion by Pacific Life.

While we are frustrated that Pacific Life would place the ACC and the parties in the position that they have, Chaparral City will not oppose the late filed testimony or witness appearance at the Phase Two hearings on the conditions that their witness is called as the last witness on 1/9 and that the issue is part of the Phase 1 briefs as Mr. Marks already offered.

Please let us know if we need to address this matter further.

Jay

From: Craig Marks [mailto:craig.marks@azbar.org]
Sent: Thursday, December 11, 2008 12:39 PM
To: Teena Wolfe; Ernest Johnson; ritchell@azcc.gov; JAMES, NORM; SHAPIRO, JAY; mwood@azruco.gov
Subject: Motion For Leave to Present Testimony

I've attached a courtesy copy of Pacific Life's Motion for Leave to Present Testimony. This is being filed today.

Craig

Craig A. Marks

Craig A. Marks PLC

10645 N. Tatum Blvd.
Suite 200-676
Phoenix, AZ 85028
Craig.Marks@azbar.org
(480) 367-1956 Work
(480) 518-6857 Mobile

Craig A. Marks
10645 N. Tatum Blvd.
Suite 200-676
Phoenix, AZ 85028
Craig.Marks@azbar.org
(480) 367-1956 Office
(480) 367-1956 Fax
(480) 518-6857 Cell

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