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BEFORE THE ARIZONA CORPORATION COMMISSION

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Arizona Corporation Commission

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AZ CORP COMMISSION
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COMMISSIONERS

- KRISTIN K. MAYES, Chairman
- GARY PIERCE
- PAUL NEWMAN
- SANDRA D. KENNEDY
- BOB STUMP

DOCKET NO. SW-02361A-08-0609

IN THE MATTER OF THE APPLICATION OF
BLACK MOUNTAIN SEWER CORPORATION,
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.

RATE CASE
PROCEDURAL ORDER

BY THE COMMISSION:

On December 19, 2008, Black Mountain Sewer Corporation ("BMSC" or "Company") filed with the Arizona Corporation Commission ("Commission") an application for a rate increase.

On January 20, 2009, the Commission's Utilities Division ("Staff") filed its Letter of Sufficiency indicating that BMSC satisfied the requirements of Arizona Administrative Code ("A.A.C.") R14-2-103 and classifying the Company as a Class B utility.

Pursuant to A.A.C. R14-3-101, the Commission now issues this Procedural Order to govern the preparation and conduct of this proceeding.

IT IS THEREFORE ORDERED that the hearing in the above-captioned matter is hereby scheduled to commence on **September 21, 2009, at 9:30 a.m.**, at the Commission's offices, 1200 West Washington Street, Hearing Room #1, Phoenix, Arizona 85007.

IT IS FURTHER ORDERED that a pre-hearing conference shall be held on **September 18, 2009, at 10:00 a.m.**, for the purpose of scheduling witnesses and the conduct of the hearing.

IT IS FURTHER ORDERED that the **Staff Report and/or any testimony** and associated exhibits to be presented at hearing on behalf of Staff shall be reduced to writing and filed on or before **July 20, 2009.**

IT IS FURTHER ORDERED that any **testimony and associated exhibits to be presented at hearing on behalf of intervenors** shall be reduced to writing and filed on or before **July 20, 2009.**

1 IT IS FURTHER ORDERED that any **rebuttal testimony and associated exhibits to be**
2 **presented at hearing by BMSC** shall be reduced to writing and filed on or before **August 19, 2009.**

3 IT IS FURTHER ORDERED that any **surrebuttal testimony and associated exhibits to be**
4 **presented by Staff or intervenors** shall be reduced to writing and filed on or before **September 9,**
5 **2009.**

6 IT IS FURTHER ORDERED that any **rejoinder testimony and associated exhibits to be**
7 **presented at the hearing on behalf of BMSC** shall be reduced to writing and filed on or before
8 **September 16, 2009.**

9 IT IS FURTHER ORDERED that **all filings shall be made by 4:00 p.m. on the date the**
10 **filing is due, unless otherwise indicated above.**

11 IT IS FURTHER ORDERED that any **objections to testimony or exhibits that have been**
12 **prefiled as of September 16, 2009, shall be made before or at the September 18, 2009, pre-**
13 **hearing conference.**

14 IT IS FURTHER ORDERED that **each party shall individually prepare, and bring to the**
15 **pre-hearing conference, copies of an issues matrix setting forth all disputed issues in the case.**
16 **Each party's matrix shall indicate the position of each party on each disputed issue and shall**
17 **indicate whether the disputed issue remains in dispute or has been resolved, in prefiled**
18 **testimony or otherwise.**

19 IT IS FURTHER ORDERED that **all testimony filed shall include a table of contents which**
20 **lists the issues discussed.**

21 IT IS FURTHER ORDERED that any substantive corrections, revisions, or supplements to
22 prefiled testimony, with the exception of rejoinder testimony, shall be reduced to writing and filed no
23 later than five calendar days before the witness is scheduled to testify. Substantive corrections,
24 revisions, or supplements to prefiled rejoinder testimony shall be reduced to writing and presented on
25 the first day of hearing.

26 IT IS FURTHER ORDERED that the parties shall prepare a brief, written summary of the
27 prefiled testimony of each of their witnesses and **shall file each summary at least two working**
28 **days before the witness is scheduled to testify.**

1 IT IS FURTHER ORDERED that copies of summaries shall be served upon the
2 Administrative Law Judge, the Commissioners, and the Commissioners' aides as well as the parties
3 of record.

4 IT IS FURTHER ORDERED that intervention shall be in accordance with A.A.C. R14-3-105,
5 except that **all motions to intervene must be filed on or before June 22, 2009.**

6 IT IS FURTHER ORDERED that discovery shall be as permitted by law and the rules and
7 regulations of the Commission, except that until **August 20, 2009**, any objection to discovery
8 requests shall be made within 7 calendar days of receipt¹ and responses to discovery requests shall be
9 made within 10 calendar days of receipt. Thereafter, objections to discovery requests shall be made
10 within 5 calendar days and responses shall be made within 7 calendar days. The response time may
11 be extended by mutual agreement of the parties involved if the request requires an extensive
12 compilation effort.

13 IT IS FURTHER ORDERED that for discovery requests, objections, and answers, if a
14 receiving party requests service to be made electronically, and the sending party has the technical
15 capability to provide service electronically, service to that party shall be made electronically.

16 IT IS FURTHER ORDERED that, in the alternative to filing a written motion to compel
17 discovery, any party seeking resolution of a discovery dispute may telephonically contact the
18 Commission's Hearing Division to request a date for a procedural hearing to resolve the discovery
19 dispute; that upon such a request, a procedural hearing will be convened as soon as practicable; and
20 that the party making such a request shall forthwith contact all other parties to advise them of the
21 hearing date and shall at the hearing provide a statement confirming that the other parties were
22 contacted.²

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

26 _____
27 ¹ The date of receipt of discovery requests is not counted as a calendar day, and requests received after 4:00 p.m. MST
will be considered as received the next business day.

28 ² The parties are encouraged to attempt to settle discovery disputes through informal, good-faith negotiations before
seeking Commission resolution of the controversy.

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

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

5 IT IS FURTHER ORDERED that the Company shall provide public notice of the hearing in
6 this matter, in the following form and style with the heading in no less than 18-point bold type and
7 the body in no less than 10-point regular type:

8 **PUBLIC NOTICE OF HEARING ON THE APPLICATION OF BLACK MOUNTAIN**
9 **SEWER CORPORATION FOR A PERMANENT BASE RATE INCREASE**
10 **(DOCKET NO. SW-02361A-08-0609)**

11 **Summary**

12 On December 19, 2008, Black Mountain Sewer Corporation ("BMSC" or
13 "Company") filed an application with the Arizona Corporation Commission
14 ("Commission") for a permanent gross revenue increase of \$913,762, or 57.83 percent
15 over current revenues. **For residential customers, the Company's application
16 requests an increase in the monthly customer charge from the current \$45.64 rate
17 to \$71.08. BMSC proposes to increase the current standard commercial rate of
18 \$0.18298 per gallon to \$0.28499 per gallon for all commercial customers,
19 including those customers currently served under a special rate. BMSC also
20 proposes to increase the rate for reclaimed water from \$122 per acre foot to \$150
21 per acre foot.**

22 The Commission's Utilities Division Staff ("Staff") is in the process of auditing and
23 analyzing the application, and has not yet made any recommendations regarding
24 BMSC's proposed rate increase. The Residential Utility Consumer Office is also a
25 party to this proceeding and will analyze the application and make recommendations
26 to the Commission. The Commission will determine the appropriate relief to be
27 granted based on the evidence presented by the parties. **The Commission is not
28 bound by the proposals made by BMSC, Staff, or any intervenors; therefore, the
final rates approved by the Commission may differ from the rates requested by
the Company.**

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

30 Copies of the application and proposed rates are available from BMSC [COMPANY
31 INSERT HOW AND WHERE AVAILABLE] and at the Commission's Docket
32 Control Center at 1200 West Washington, Phoenix, Arizona, for public inspection
33 during regular business hours and on the Internet via the Commission's website
34 (www.azcc.gov) using the e-Docket function.

35 **Arizona Corporation Commission Public Hearing Information**

36 The Commission will hold a hearing on this matter beginning **September 21, 2009, at
37 9:30 a.m.**, at the Commission's offices, Hearing Room #1, 1200 West Washington
38 Street, 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. SW-02351A-08-0609 to Arizona Corporation Commission, Consumer

1 Services Section, 1200 West Washington, Phoenix, AZ 85007, or by e-mail. For a
 2 form to use and instructions on how to e-mail comments to the Commission, go to
 3 http://www.azcc.gov/divisions/utilities/forms/public_comment.pdf. If you require
 4 assistance, you may contact the Consumer Services Section at 1-800-222-7000.

5 About Intervention

6 The law provides for an open public hearing at which, under appropriate
 7 circumstances, interested parties may intervene. Any person or entity entitled by law
 8 to intervene and having a direct and substantial interest in the matter will be permitted
 9 to intervene. If you wish to intervene, you must file an original and 13 copies of a
 10 written motion to intervene with the Commission no later than **June 22, 2009**, and
 11 send a copy of the motion to BMSC or its counsel and to all parties of record. Your
 12 motion to intervene must contain the following:

- 13 1. Your name, address, and telephone number, and the name, address, and
 14 telephone number of any party upon whom service of documents is to
 15 be made, if not yourself;
- 16 2. A short statement of your interest in the proceeding (e.g., a customer of
 17 BMSC, a shareholder of BMSC, etc.); and
- 18 3. A statement certifying that you have mailed a copy of the motion to
 19 intervene to BMSC or its counsel and to all parties of record in the
 20 case.

21 The granting of motions to intervene shall be governed by A.A.C. R14-3-105, except
 22 that all motions to intervene must be filed on or before June 22, 2009. If
 23 representation by counsel is required by Rule 31 of the Rules of the Arizona Supreme
 24 Court, intervention will be conditioned upon the intervenor obtaining counsel to
 25 represent the intervenor. For information about requesting intervention, visit the
 26 Commission's website at <http://www.azcc.gov/divisions/utilities/forms/interven.pdf>.
 27 The granting of intervention, among other things, entitles a party to present sworn
 28 evidence at 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.

29 ADA/Equal Access Information

30 The Commission does not discriminate on the basis of disability in admission to its
 31 public meetings. Persons with a disability may request a reasonable accommodation
 32 such as a sign language interpreter, as well as request this document in an alternative
 33 format, by contacting the ADA Coordinator, Shaylin Bernal, E-mail
 34 Sbernal@azcc.gov, voice phone number 602/542-3931. Requests should be made as
 35 early as possible to allow time to arrange the accommodation.

36 IT IS FURTHER ORDERED that BMSC shall mail to each of its customers a copy of the
 37 above notice as a bill insert beginning no later than the first billing cycle in **May 2009**, and shall
 38 cause a copy of such notice to be published at least once in a newspaper of general circulation in the
 39 Company's service territory, with publication to be completed no later than **May 31, 2009**.

1 IT IS FURTHER ORDERED that BMSC shall file certification of mailing/publication as
2 soon as practicable after the mailing/publication has been completed.

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

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

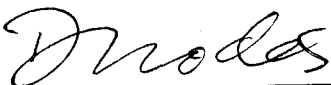
8 IT IS FURTHER ORDERED that withdrawal of representation must be made in compliance
9 with A.A.C. R14-3-104(E) and Rule 1.16 of the Rules of Professional Conduct (under Rule 42 of the
10 Rules of the Arizona Supreme Court). Representation before the Commission includes appearances
11 at all hearings and procedural conferences, as well as all Open Meetings for which the matter is
12 scheduled for discussion, unless counsel has previously been granted permission to withdraw by the
13 Administrative Law Judge or the Commission.

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

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

19 IT IS FURTHER ORDERED that the Administrative Law Judge may rescind, alter, amend,
20 or waive any portion of this Procedural Order either by subsequent Procedural Order or by ruling at
21 hearing.

22 DATED this 23rd day of January, 2009.
23
24
25

26 
27 _____
28 DWIGHT D. NODES
ASSISTANT CHIEF ADMINISTRATIVE LAW JUDGE

Copies of the foregoing mailed/delivered
This 23rd day of January, 2009 to:


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By: 
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Assistant to Dwight D. Nodes