ORIGINAL

EXCEPTION

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Arizona Corporation Commission
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BEFORE THE ARIZONA CORPORATION COMMISSION

IN THE MATTER OF THE APPLICATION OF PINE WATER COMPANY FOR A DETERMINATION OF THE CURRENT FAIR VALUE OF ITS UTILITY PLANT AND PROPERTY AND FOR INCREASES IN ITS RATES AND CHARGES BASED THEREON FOR UTILITY SERVICE AND FOR APPROVAL TO INCUR LONG-TERM DEBT.	DOCKET NO. W-03512A-03-0279 EXCEPTION TO THE RECOMMENDED OPINION AND ORDER of ADMINISTRATIVE LAW JUDGE dated February 6, 2009

COMES NOW THE PINE STRAWBERRY WATER IMPROVEMENT DISTRICT, by and through its attorney undersigned and files its exception to the recommendation of the Administrative Law Judge filed herein regarding the extension of time requested by the Pine Water Company {the "Company"} to file a rate case.

Already the Company has received one extension in this matter at which time it was noted that no additional extensions would be granted absent extraordinary circumstances. The Company is now indicating that the pending Condemnation Action constitutes such extraordinary circumstances. The Company also references a pending arbitration action; however, the Company has voluntarily withdrawn that action, so it is not a consideration at this time. Staff's recommendation clearly points out that the cost of the condemnation litigation will be high and that the Company's financial health may be in jeopardy because of it.

The Company has seen fit to oppose the Condemnation Action and to mount a vigorous defense against it. As a result, it will incur considerable legal expenses in its defense. If the Company does not have to file for a rate increase until June 2010, based upon a 2009 test year, it will be allowed to include the expenses it has chosen to incur in defending the Condemnation Action. At that point in time, a decision will have to be made regarding the inclusion of those expenses in the rate case.

Meanwhile, if the company continues to operate under its present rate structure, as well as incur additional expenses due to its legal problems, it will create a situation where the service to the public will suffer because the company will be diverting resources needed for the operation and maintenance of the water system towards the payment of necessary litigation costs instead. This will cause a further deterioration of the water system. Already, the Arizona Department of Environmental Quality has filed Notices of Violation against the Company due to its inability to adequately and properly maintain the water system.

Until such time as the Condemnation Action is final, the Company has the obligation to operate and maintain the water system in the public interest. As witnessed by the filed Notices of Violation, the Company is not adequately and properly maintaining the water system. To postpone the rate hearing merely postpones the time when the capital will be available to improve the Water System to meet minimum public standards of acceptability.

The public is being injured by prolonging the rate case. By waiting until some later date to hold the case, the public is being aggrieved because of the inadequacies of the water distribution and supply systems. The only reason cited for the delay is that there are costs involved in the Condemnation Action and these costs diminish the ability of the Company to pay for the rate case proceedings.

Because the injury to the public is high and the potential for additional injury is higher if the Company does not take the appropriate actions to operate and maintain the water system, the public is best protected if a rate proceeding is held as ordered by the Commission at the predetermined file date by or before June 1, 2009, based upon the 2008 rate year.

THEREFORE, it is respectfully requested that the Commission not extend the deadlines for the Company to file a rate case.

RESPECTFULLY SUBMITTED this 11th day of February, 2009.

GLIEGE LAW OFFICES, PLLC

John G. Gliege

Original and thirteen copies of the foregoing
Mailed this 11th day of February, 2009 to:

Docket Control Center
Arizona Corporation Commission
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