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BEFORE THE ARIZONA CORPORATION COMMISSION

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

IN THE MATTER OF THE APPLICATION OF  
 TONTO VILLAGE WATER COMPANY, INC.  
 FOR A RATE INCREASE.

DOCKET NO. W-01580A-04-0672

**STAFF'S RESPONSE TO MOTION  
TO CONSOLIDATE**

The Utilities Division of the Arizona Corporation Commission ("Staff") responds in opposition to the motion to consolidate filed by Tonto Village Water Company (the "Company").

Consolidation is not warranted because there are substantially different legal and factual issues presented by these dockets. Docket No. W-01580A-04-0672 involved a rate application filed by the Company, which culminated in Decision No. 68066, which established new rates. The Company has been charging the new rates. However, the Company failed to comply with a condition of Decision No. 68066, which was to secure a new water source. The Company requested extensions of the time in which to comply on two occasions, which requests were granted in Decision No. 69911 and Decision No. 70465. On January 22, 2009, the Company filed a request for a further time extension. As directed by the Procedural Order issued on February 2, 2009, Staff filed its recommendation on February 13, 2009, stating that it does not object to a further time extension as requested by the Company.

Docket No. W-01580A-07-0707 *et al.* is a consolidated docket, consolidating the Company's application for a rate increase and the Company's request for approval of a financing application. As directed by the Procedural Order issued on February 2, 2009, Staff has recommended that the Company withdraw its application for a rate increase because the information is stale and file a new application using an updated test year. Staff also agreed with the Company's request to withdraw its financing application.

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1 Commission rules allow for consolidation when the cases rely upon the same law, facts and  
2 witnesses. See A.A.C. R14-3-109(H). The Commission has ordered consolidation when the cases  
3 rely upon the same law, facts and witnesses. For example, the instant case, Staff moved to  
4 consolidate the rate application with the financing application. The Commission found common  
5 issues of law and fact predominate and ordered consolidation. The facts and witnesses necessary to  
6 prosecute a rate application and financing (Docket No. W-01580A-07-0707 et al.) vary substantially  
7 from the issues of whether there has been compliance with a Commission order (Docket No. W-  
8 01580A-04-0672). In the instant case, there are no common facts whether the Company is in  
9 compliance with respect to securing a new water source is different from whether the Commission  
10 should approve an increase in rates or approve a request for financing.

11 Staff would respectfully request that the Company's request for consolidation be denied.

12 RESPECTFULLY SUBMITTED this 17<sup>th</sup> day of February, 2009.

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21 Original and thirteen (13) copies  
22 of the foregoing were filed this  
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24 Docket Control  
25 Arizona Corporation Commission  
26 1200 West Washington Street  
27 Phoenix, Arizona 85007

28 Copy of the foregoing mailed this  
17<sup>th</sup> day of February,  
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