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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
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Arizona Corporation Commission

DOCKETED

AZ CORP COMMISSION
DOCKET CONTROL

MAR -6 2009

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IN THE MATTER OF THE APPLICATION OF
EHRENBERG IMPROVEMENT ASSOCIATION
FOR A RATE INCREASE.

DOCKET NO. W-02273A-08-0251

AMENDED RATE CASE
PROCEDURAL ORDER

BY THE COMMISSION:

On May 15, 2008, Ehrenberg Improvement Association ("EIA" or "Company") filed the above-captioned rate application with the Arizona Corporation Commission ("Commission").

On June 16, 2008, and on August 14, 2008, the Commission's Utilities Division ("Staff") notified the Company that its application was not sufficient under the requirements of the Arizona Administrative Code.

Between June 12, 2008, and January 20, 2009, EIA filed several corrections and amendments to its application.

On February 6, 2009, Staff notified the Company that its rate application was sufficient, and classified the Company as a Class C utility.

On February 24, 2009, a Rate Case Procedural Order was issued setting a hearing date of August 31, 2009 on the application.

On February 25, 2009, EIA filed a letter requesting that a Staff Report be generated and that no testimony be required because the application is the Company's first rate filing as a Class C utility.

On March 5, 2009, Staff filed a Motion to Change Hearing Date. Therein, Staff states that two of its witnesses are unavailable on August 31, 2009. Staff therefore requests a change in the hearing date to a date prior to August 27, 2009, but not before August 5, 2009.

Staff's request is reasonable and should be granted.

1 If EIA wishes to present at the hearing rebuttal testimony or any response to the Staff Report
2 or to any intervenor testimony, EIA must reduce that response or rebuttal testimony to writing, and
3 file it by the deadline indicated herein.

4 Pursuant to A.A.C. R14-3-101, the Commission now issues this Amended Rate Case
5 Procedural Order to govern the preparation and conduct of this Class C utility rate case proceeding.

6 IT IS THEREFORE ORDERED that the hearing in the above-captioned matter currently set
7 to commence on August 31, 2009, shall commence instead on **August 24, 2009, at 10:00 a.m.**, or as
8 soon thereafter as is practicable, at the Commission's offices, 1200 W. Washington Street, Room
9 100, Phoenix, Arizona 85007.

10 IT IS FURTHER ORDERED that the **Staff Report** and/or any direct testimony and
11 associated exhibits to be presented at hearing **on behalf of Staff** shall be reduced to writing and filed
12 on or before **July 6, 2009**.

13 IT IS FURTHER ORDERED that any **direct testimony** and associated exhibits to be presented
14 at hearing **on behalf of intervenors** shall be reduced to writing and filed on or before **July 6, 2009**.

15 IT IS FURTHER ORDERED that any **response to the Staff Report** or rebuttal testimony to
16 be presented at hearing at the hearing on behalf of Ehrenberg Improvement Association shall be
17 reduced to writing and filed on or before **July 29, 2009**.

18 IT IS FURTHER ORDERED that any **surrebuttal testimony** and associated exhibits to be
19 presented at the hearing by the Staff and by intervenors shall be reduced to writing and filed on or
20 before **August 12, 2009**.

21 IT IS FURTHER ORDERED that any **rejoinder testimony** and associated exhibits to be
22 presented at the hearing on behalf of Ehrenberg Improvement Association shall be presented at the
23 hearing on **August 24, 2009**.

24 IT IS FURTHER ORDERED that any **objections** to testimony or exhibits that have been
25 prefiled as of August 12, 2009, shall be filed on or before **August 19, 2009**.

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

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 May 29, 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 **July 30, 2009**, any objection to discovery requests
8 shall be made within 7 calendar days of receipt¹ and responses to discovery requests shall be made
9 within 10 calendar days of receipt. Thereafter, objections to discovery requests shall be made within
10 5 calendar days and responses shall be made within 7 calendar days. The response time may be
11 extended by mutual agreement of the parties involved if the request requires an extensive compilation
12 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 14-point bold type and
7 the body in no less than 10-point regular type:

8 **PUBLIC NOTICE OF HEARING ON THE**
9 **RATE APPLICATION OF EHRENBURG IMPROVEMENT ASSOCIATION**
10 **Docket No. W-02273A-08-0251**

11 On May 15, 2008, Ehrenberg Improvement Association ("EIA" or "Company") filed
12 the above-captioned rate application with the Arizona Corporation Commission
13 ("Commission") requesting an increase in annual revenues of \$429,340, an
14 approximate 160.96 percent increase in annual revenues over its 2007 annual
15 revenues. **For residential customers with a 3/4 inch meter, the Company is
proposing to increase the monthly minimum charge from \$18.75 to \$23.00. The
Company is also proposing to increase its current commodity charges from \$1.60
per thousand gallons for all usage over 4,000 gallons, to a tiered structure as
follows: \$2.90 per thousand gallons for usage up to 4,000 gallons, \$4.06 per
thousand gallons for usage from 4,001 to 6,000 gallons, and \$5.68 per thousand
gallons for all usage over 6,001 gallons.**

16 If you have any questions concerning how the Company's rate proposal will affect
17 your individual bill, or if you have other substantive questions about the rate
18 application, you may contact the Company at: **[COMPANY INSERT HERE,
IN BOLDFACE TYPE, NAME, ADDRESS, TELEPHONE NUMBER, AND
E-MAIL ADDRESS FOR CUSTOMER CONTACTS CONCERNING THE
APPLICATION].**

19 The Commission's Utilities Division ("Staff") has not yet made a recommendation
20 regarding the Company's rate increase proposal, and the Commission will determine
21 the appropriate rate relief to be granted based on the evidence of record in this
22 proceeding. The Commission is not bound by the proposals made by the Company,
Staff, or any intervenors and, therefore, the final rates approved in this docket may be
lower or higher than the rates described above.

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

24 Copies of the application and proposed tariffs are available at the Company's offices
25 **[COMPANY INSERT ADDRESS]** and at the Commission's Docket Control Center
at 1200 West Washington, Phoenix, Arizona and on the internet via the Commission
website ([/www.azcc.gov/](http://www.azcc.gov/)) using the e-docket function.

26 **Public Hearing Information**

27 The Commission will hold a **hearing** on this matter beginning at **10:00 a.m. on
August 24, 2009**, at the Commission's offices, 1200 West Washington Street, Room
28 100, Phoenix, Arizona.

1 Public comments will be taken at the beginning of the first day of the hearing. Written
2 public comments may be submitted by mailing a letter referencing Docket No. W-
3 02273A-08-0251 to Arizona Corporation Commission, Consumer Services Section,
4 1200 West Washington, Phoenix, AZ 85007, or by email. For a form to use and
instructions on how to e-mail comments to the Commission, go to
5 http://www.azcc.gov/divisions/utilities/forms/public_comment.pdf. If you require
6 assistance, you may contact the Consumer Services Section at 1-800-222-7000 or
7 602-542-4251.

8 **About Intervention**

9 The law provides for an open public hearing at which, under appropriate
10 circumstances, interested parties may intervene. Any person or entity entitled by law
11 to intervene and having a direct and substantial interest in the matter will be permitted
12 to intervene. If you wish to intervene, you must file an original and 13 copies of a
13 written motion to intervene with the Commission no later than **May 29, 2009**, and
14 provide a copy of the motion to the Company or its counsel and to all parties of
record. Your motion must contain the following:

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

23 The granting of motions to intervene shall be governed by A.A.C. R14-3-105, except
24 that all motions to intervene must be filed on or before **May 29, 2009**. If
25 representation by counsel is required by Rule 31 of the Rules of the Arizona Supreme
26 Court, intervention will be conditioned upon the intervenor obtaining counsel to
27 represent the intervenor. For information about requesting intervention, visit the
28 Commission's website at <http://www.azcc.gov/divisions/utilities/forms/interven.pdf>.
The granting of intervention, among other things, entitles a party to present sworn
evidence at the 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
early as possible to allow time to arrange the accommodation.

35 IT IS FURTHER ORDERED that Ehrenberg Improvement Association shall **mail** to each of
36 its customers a copy of the above notice by **April 10, 2009**, and shall cause the above notice to be
37 **published at least once in a newspaper of general circulation in its service territory**, with
38 publication to be completed no later than March 31, 2009.

1 IT IS FURTHER ORDERED that Ehrenberg Improvement Association shall file certification
2 of mailing/publication as soon as practicable after the mailing/publication has been completed, but no
3 later than **April 24, 2009**.

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

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

9 IT IS FURTHER ORDERED that all parties must comply with Rules 31 and 38 of the Rules
10 of the Arizona Supreme Court with respect to practice of law and admission *pro hac vice*.

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

17 IT IS FURTHER ORDERED that the time periods specified herein shall not be extended
18 pursuant to Rule 6(a) or (3) of the Rules of Civil Procedure.

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

21 DATED this 10th day of March, 2009.

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TEENA WOLFE
ADMINISTRATIVE LAW JUDGE

1 Copies of the foregoing mailed
2 this 6th day of March, 2009 to:

3 Paul Linker
4 EHRENBERG IMPROVEMENT
5 ASSOCIATION
6 P.O. Box 50
7 50078 Ehrenberg Parker Hwy, Suite 110
8 Ehrenberg, Arizona 85334

9 Janice Alward, Chief Counsel
10 Legal Division
11 ARIZONA CORPORATION COMMISSION
12 1200 W. Washington Street
13 Phoenix, Arizona 85007

14 Ernest Johnson, Director
15 Utilities Division
16 ARIZONA CORPORATION COMMISSION
17 1200 W. Washington Street
18 Phoenix, Arizona 85007

19 ARIZONA REPORTING SERVICE, INC.
20 2200 N. Central Avenue, Suite 502
21 Phoenix, Arizona 85004-1481

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By: 
Debra Broyles
Secretary to Teena Wolfe