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BEFORE THE ARIZONA CORPORATION COMMISSION

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COMMISSIONERS

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AZ CORP COMMISSION  
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IN THE MATTER OF THE  
APPLICATION OF ARIZONA WATER  
COMPANY, AN ARIZONA  
CORPORATION, TO EXTEND ITS  
EXISTING CERTIFICATE OF  
CONVENIENCE AND NECESSITY AT  
CASA GRANDE, PINAL COUNTY,  
ARIZONA.

DOCKET NO. W-01445A-03-0559  
  
JOINT MOTION OF CORNMAN  
TWEEDY 560 L.L.C. AND  
ARIZONA WATER COMPANY  
FOR SUBMISSION OF MATTER  
ON THE PLEADINGS

Pursuant to the February 6, 2009, procedural conference held in the above-captioned matter, Cornman Tweedy 560, LLC (“Cornman Tweedy”) and Arizona Water Company (“AWC”) hereby submit this joint request that this matter be decided by the Arizona Corporation Commission (“Commission”) based upon the filed testimony and pleadings.

**I. PROCEDURAL HISTORY.**

On July 30, 2007, the Commission issued Decision 69722 (the “Decision”) to extend the deadline for compliance with the conditions of Decision 66893 (April 6, 2004) to July 30, 2007, and ordered that for purposes of compliance, that AWC had fulfilled the conditions set forth in Decision No. 66893 for an extension to its Certificate of Convenience and Necessity (“CC&N”). However, the Decision ordered that the Hearing Division conduct further proceedings regarding certain issues as set forth in the Decision.

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Arizona Corporation Commission

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1 Pursuant to a November 8, 2007, procedural order in this matter, a procedural  
2 schedule was established, the parties pre-filed testimony, and a hearing was scheduled  
3 for February 14, 2008. On February 7, 2008, AWC filed a Motion to Strike various  
4 portions of Cornman Tweedy's pre-filed testimony and the hearing date was continued.  
5 The Administrative Law Judge ("ALJ") subsequently denied AWC's Motion to Strike  
6 and the hearing was rescheduled for December 15, 2008. However, due to the  
7 unexpected illness of AWC's counsel, the December 15 hearing was briefly convened  
8 and then continued until January 29, 2009.

9 On January 23, 2009, Cornman Tweedy filed a motion to continue the hearing  
10 because its primary witness required treatment for a very serious illness. The hearing  
11 was continued and a procedural conference was scheduled for February 6, 2009.  
12 Cornman Tweedy then learned that another of its witnesses required medical treatment  
13 for an illness. Thus, two of Cornman Tweedy's three witnesses in the case were not  
14 available to testify until May 2009 at the earliest.

15 Counsel for Cornman Tweedy contacted counsel for AWC to discuss how best to  
16 accommodate the procedural schedule given the medical issues facing Cornman  
17 Tweedy's witnesses. Both parties agreed that because of (i) the extensive record that has  
18 already been developed to date in this case; (ii) the uncertainty regarding when a hearing  
19 might ultimately take place in light of the witnesses' medical issues; and (iii) the fact  
20 that the parties have already submitted pre-filed testimony, rebuttal testimony and  
21 pleadings in this case (as well as in the earlier proceedings before remand), the matter  
22 could be submitted on the pre-filed testimony, the pleadings in the record and closing  
23 briefs without the need for a hearing. Counsel for Cornman Tweedy and AWC also  
24 discussed with Utilities Division Staff counsel the proposal of proceeding without a  
25 hearing as detailed above, and Staff counsel had no objection.

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1 At the February 6, 2009, procedural conference, Cornman Tweedy and AWC  
2 proposed to the ALJ that the case be decided on the pre-filed testimony, pleadings and  
3 closing briefs. The ALJ indicated that before she ruled on this request, Cornman  
4 Tweedy and AWC should file a motion that sets forth the proposal of the parties  
5 regarding how the matter should be brought to a conclusion. That proposal is set forth in  
6 the following section.

7 **II. PROCEDURE FOR SUBMISSION OF MATTER ON THE PLEADINGS.**

8 The ALJ shall initially admit the pre-filed testimony into evidence subject to  
9 specific objections of the parties either previously stated in the pleadings, or to be raised  
10 in their respective closing briefs. The parties shall then file closing briefs. The parties  
11 may re-raise or raise objections in their briefs to specific portions of the pre-filed  
12 testimony which the ALJ may consider and address as part of the recommended opinion  
13 and order. The parties may cite in their closing briefs to the pleadings and underlying  
14 record in this docket. Cornman Tweedy would file an opening brief on or about  
15 Monday, April 6, 2009. AWC and Staff would file responsive briefs on or about  
16 Monday, May 4, 2009, and Cornman Tweedy would file a reply brief on or about  
17 Friday, May 22, 2009. The specific filing dates would be set in a procedural order  
18 issued by the ALJ. The ALJ will then submit a recommended opinion and order to the  
19 Commission.

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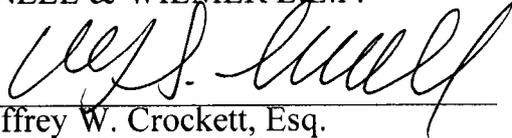
28 ...

1 **II. CONCLUSION.**

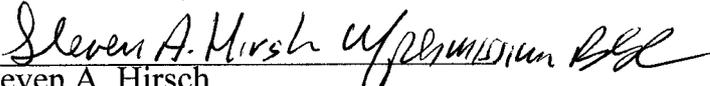
2 Counsel for Cornman Tweedy and AWC have discussed this Motion with counsel  
3 for Staff and Staff does not object to this Motion. In light of the unusual and  
4 unavoidable circumstances that have arisen, Cornman Tweedy and AWC believe this to  
5 be a reasonable way to proceed in an expeditious manner.

6 RESPECTFULLY submitted this 6th day of March, 2009.

7 SNELL & WILMER L.L.P.

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22 Attorneys for Arizona Water Company

23 ORIGINAL and thirteen (13) copies of the  
24 foregoing filed with Docket Control  
25 this 6<sup>th</sup> day of March, 2009.

26 COPY of the foregoing hand-delivered  
27 this 6th day of March, 2009, to:

28 Teena Wolfe, Administrative Law Judge  
Hearing Division  
ARIZONA CORPORATION COMMISSION  
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1 Ernest Johnson, Director  
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*Ernest Johnson*

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