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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

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

2009 MAR 17 P 2: 25

ARIZONA CORPORATION COMMISSION
DOCKET CONTROL

Arizona Corporation Commission

DOCKETED

MAR 17 2009

DOCKETED BY

IN THE MATTER OF THE APPLICATION OF
WILHOIT WATER COMPANY, INC., YAVAPAI
MOBILE HOME ESTATES SYSTEM, FOR AN
EMERGENCY RATE INCREASE.

DOCKET NO. W-02065A-08-0592

PROCEDURAL ORDER

BY THE COMMISSION:

On December 10, 2008, Wilhoit Water Company, Inc., Yavapai Mobile Home Estates System ("Company" or "Applicant") filed with the Arizona Corporation Commission ("Commission") an application requesting an emergency rate increase of approximately 100 percent by doubling its base rates and its gallonage charges because the Company indicated that, due to a lack of potable water production from its two wells, all of its water is being purchased from the City of Prescott ("City") ("Application"). The current cost of water purchased from the City greatly exceeds the Company's current revenues from its customers.

On December 29, 2008, by Procedural Order, a hearing was scheduled on February 26, 2009, on the above-captioned matter.

On January 9, 2009, the City filed a copy of a letter to the Company indicating that the City intends to discontinue water service to the Applicant.

On January 28, 2009, the Company's attorney filed a letter in the docket which indicates that the Company has failed to provide public notice of the proceeding as ordered and requested that the hearing date be vacated, and that a new hearing and dates for public notice be ordered.

On January 30, 2009, by Procedural Order, the hearing was vacated and a status conference was scheduled for February 12, 2009.

On February 12, 2009, at the status conference, the Company's consultant appeared without the Company's attorney who was at another proceeding, and Staff appeared with counsel. Since the Company failed to appear with counsel, the proceeding was recessed and the proceeding continued.

1 On February 17, 2009, another status conference was scheduled on February 22, 2009, so that
2 the Company could appear with counsel.

3 On February 26, 2009, at the status conference, both Staff and the Company appeared with
4 counsel. The parties discussed issues pending in the proceeding as follows: official confirmation
5 from the City that it would continue to provide water to the Company for its customers; official
6 confirmation from the Yavapai County Treasurer's office that an acceptable resolution of the
7 Company's back tax problem had been settled and a payment schedule established; the Company's
8 possibly seeking Commission modification of Decision No. 70384 pursuant to A.R.S. § 40-252 to
9 request approval of an Arsenic Recovery Surcharge Mechanism ("ARSM") in place of the Arsenic
10 Cost Recovery Mechanism ("ACRM") previously approved; the possible retention of an interim
11 manager; and whether an Order to Show Cause ("OSC") should be pursued by Staff against the
12 Company. As a result, the parties were directed to file responses by March 6, 2009, to explore a
13 resolution of the issues prior to the scheduling of a hearing on the Application.

14 On March 6, 2009, the Company and Staff filed their responses to the issues raised at the status
15 conference. The Company's response included a copy of a Company letter sent to the City expressing
16 the Company's desire for a continuation by the City to supply the Company with water. The
17 Company also included a copy of an email offer to the Yavapai County Treasurer to compromise the
18 back taxes due and a payment schedule. However, the Company filed to provide a written response
19 from either the City or the County to the Company's proposals. There was no indication whether the
20 Company would seek the Commission's modification of Decision No. 70384, but the Company did
21 indicate that it does not believe there are sufficient resources to support an interim operator.

22 Staff's response to the February 26, 2009, status conference described in detail the Company's
23 failure to comply with Decision No. 70384 and pointed out that the Company has not produced any
24 documentary evidence from the City that it will continue to provide the Company with water. Staff
25 further discussed the merits of the Company seeking Commission approval to modify Decision No.
26 70384 to enable the Company to utilize an ARSM in place of the ACRM. Lastly, Staff indicated that
27 it believes bringing an OSC against the Company and retaining an interim manager to operate the
28 Company could "exacerbate" the situation rather than help resolve its problems. However, Staff did

1 not entirely rule this course of action out.

2 Under the circumstances, an additional status conference should be scheduled.

3 IT IS THEREFORE ORDERED that a **status conference** shall be held on **April 2, 2009, at**
4 **2:00 p.m.**, at the Commission's offices, 1200 West Washington Street, Room 100, Phoenix, Arizona.

5 IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113-Unauthorized
6 Communications) applies to this proceeding as the matter is now set for public hearing.

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

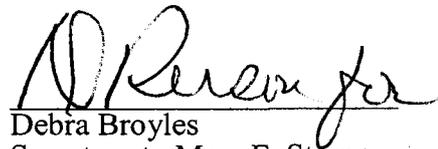
10 IT IS FURTHER ORDERED that the Presiding Officer may rescind, alter, amend, or waive
11 any portion of this Procedural Order either by subsequent Procedural Order or by ruling at hearing

12 DATED this 17th day, of March, 2009.

13
14 
15 MARC E. STERN
16 ADMINISTRATIVE LAW JUDGE

17 Copies of the foregoing mailed/delivered
18 this 17th day of March, 2009 to:

19 Douglas G. Martin
20 MARTIN & BELL, L.L.C.
21 365 East Coronado Road, Suite 200
22 Phoenix, Arizona 85004-1560
23 Attorneys for Wilhoit Water Company, Inc.

By: 
Debra Broyles
Secretary to Marc E. Stern

24 Janice Alward, Chief Counsel
25 Legal Division
26 ARIZONA CORPORATION COMMISSION
27 1200 West Washington Street
28 Phoenix, AZ 85007

Ernest Johnson, Director
Utilities Division
ARIZONA CORPORATION COMMISSION
1200 West Washington Street
Phoenix, Arizona 85007-2927

ARIZONA REPORTING SERVICE, INC.
2200 N. Central Ave., Suite 502
Phoenix, AZ 85004-1481