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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

ARIZONA CORPORATION COMMISSION
DOCKET CONTROL

MAY 14 2009

DOCKETED BY

IN THE MATTER OF THE APPLICATION OF
WILHOIT WATER COMPANY, INC., YAVAPAI
MOBILE HOME ESTATES SYSTEM, FOR
RETROACTIVE APPROVAL OF A FINANCING
APPLICATION.

DOCKET NO. W-02065A-07-0308

IN THE MATTER OF THE APPLICATION OF
WILHOIT WATER COMPANY, INC., YAVAPAI
MOBILE HOME ESTATES SYSTEM, FOR
APPROVAL OF A FINANCING APPLICATION.

DOCKET NO. W-02065A-07-0309

IN THE MATTER OF THE APPLICATION OF
WILHOIT WATER COMPANY, INC., YAVAPAI
MOBILE HOME ESTATES SYSTEM, FOR
APPROVAL OF A PERMANENT RATE
INCREASE.

DOCKET NO. W-02065A-07-0311

IN THE MATTER OF THE APPLICATION OF
WILHOIT WATER COMPANY, INC., YAVAPAI
MOBILE HOME ESTATES SYSTEM, FOR
APPROVAL OF A FINANCING APPLICATION
FOR A NEW ARSENIC TREATMENT SYSTEM.

DOCKET NO. W-02065A-09-0123

PROCEDURAL ORDER

BY THE COMMISSION:

On June 13, 2008, the Arizona Corporation Commission ("Commission") issued Decision No. 70384 with respect to the first three dockets referred to hereinabove. Therein, the Commission approved a permanent rate increase for Wilhoit Water Company, Inc.'s Yavapai Mobile Home Estates System ("Applicant" or "Company"). The Commission's Decision also authorized the Company to file an Arsenic Cost Recovery Mechanism ("ACRM") to pay for the installation of an arsenic remediation system which cost \$36,105 that had been paid by Applicant's parent corporation, Glenarm Land Company, Inc. ("Glenarm"). However, this system failed to operate in a satisfactory manner and it became necessary for the Company file a new financing application in Docket No. W-02065A-09-0123 seeking additional long-term financing approval from the Commission to borrow

1 \$320,000 from the Water Infrastructure Financing Authority ("WIFA") to fund the design, purchase
2 and installation of a new arsenic treatment system which is to be paid for by utilizing an Arsenic
3 Remediation Surcharge Mechanism ("ARSM"). Concurrently with the filing of its new financing
4 application, the Company, on March 17, 2009, pursuant to A.R.S. § 40-252, filed a request with the
5 Commission to amend Decision No. 70384 to allow for an ARSM in lieu of the ACRM as originally
6 approved in the Decision.

7 On April 7, 2009, at the Commission's staff meeting, the Commission voted to re-open
8 Decision No. 70384 consistent with the Company's request for the amendment of Decision
9 No. 70384.

10 On April 13, 2009, the Commission's Utilities Division ("Staff") filed a Motion to
11 Consolidate and Request for Procedural Conference ("Motion") with respect to the re-opening of
12 Decision No. 70384 after the Company's recent request for financing approval in Docket No.
13 W-02065A-09-0123.

14 On April 23, 2009, by Procedural Order, the above-referenced dockets were consolidated and
15 a procedural conference was scheduled on May 6, 2009.

16 On May 6, 2009, at the procedural conference, the Applicant and Staff appeared with counsel.
17 The parties discussed a methodology for amending Decision No. 70384 in light of the Company's
18 recent financing application for the Commission's approval of long-term debt of a WIFA loan
19 totaling \$320,000 which is to be paid for by utilizing an ASRM in place of the originally approved
20 ACRM in the Decision. The parties further discussed the following: the time required for the
21 preparation of a Staff Report by the Utilities Division on the new financing application by the
22 Company in Docket No. W-02065A-09-0123; the time allowed for a Company response; the
23 requirement for a proper form of public notice; and the probable need for a brief hearing on the
24 application.

25 On May 8, 2009, the Company, after consulting with Staff, filed a draft form of public notice
26 together with a draft cover letter which it proposes to send to its customers further explaining the
27 arsenic problem.

28 Accordingly, a Procedural Order should be issued to govern the conduct of this proceeding.

1 IT IS THEREFORE ORDERED that a **hearing** concerning the Company's application in
2 Docket No. W-02065A-09-0123 and the amendment to Decision No. 70384 shall commence on
3 **July 9, 2009 at 10:00 a.m.** or as soon thereafter as is practical, at the Commission's offices, 1200
4 West Washington Street, Room 100, Phoenix, Arizona.

5 IT IS FURTHER ORDERED that intervention shall be in accordance with A.A.C. R14-3-105,
6 except that all **motions to intervene must be filed on or before June 15, 2009.**

7 IT IS FURTHER ORDERED that the **Staff Report and associated exhibits** to be presented
8 at hearing in the proceeding **on behalf of Staff** shall be reduced to writing and filed on or before
9 **June 12, 2009.**

10 IT IS FURTHER ORDERED that a **summary of evidence and associated exhibits** to be
11 presented at hearing **on behalf of any intervenor** shall be reduced to writing and filed on or before
12 **June 26, 2009.**

13 IT IS THEREFORE ORDERED that **any response and associated exhibits** to be presented
14 at hearing **by the Company** shall be reduced to a written summary and filed on or before
15 **July 2, 2009.**

16 IT IS FURTHER ORDERED that any **substantive corrections, revisions, or supplements**
17 shall be reduced to writing and **filed no later than five days before the hearing.**

18 IT IS FURTHER ORDERED that, in the alternative to filing a written motion to compel
19 discovery, any party seeking discovery may telephonically contact the Commission's Hearing
20 Division to request a date for a procedural hearing to resolve the discovery dispute; that upon such a
21 request, a procedural hearing will be convened as soon as practicable; and that the party making
22 such a request shall forthwith contact all other parties to advise them of the hearing date and shall at
23 the hearing provide a statement confirming that the other parties were contacted.¹

24 IT IS FURTHER ORDERED that any motions filed in this matter that are not ruled upon by
25 the Commission within 10 days of the filing date of the motion shall be deemed denied.

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28 ¹ 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 days of
2 the filing date of the motion.

3 IT IS FURTHER ORDERED that any replies shall be filed within five days of the filing date
4 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:

7 **PUBLIC NOTICE OF HEARING ON THE AMENDMENT OF**
8 **DECISION NO. 70384 AND THE FINANCING APPLICATION OF WILHOIT**
9 **WATER COMPANY, INC., YAVAPAI MOBILE HOME ESTATES SYSTEM.**
10 **(Docket Nos. W-02065A-07-0308, W-02065A-07-0309,**
11 **W-02065A-07-0311 and W-02065A-09-0123)**

12 On March 17, 2009, the Wilhoit Water Company, Inc., Yavapai Mobile Home Estates
13 System ("Company" or "Applicant") filed an application with the Arizona
14 Corporation Commission ("Commission") for an order authorizing Applicant to obtain
15 a 20-year, \$320,000 loan to purchase and install an Arsenic Remediation System. In
16 addition, the Company has requested that the Commission authorize a surcharge to
17 pay debt service on the loan by means of an Arsenic Remediation Surcharge
18 Mechanism ("ARSM"). The Company also filed a request that the Commission
19 amend Decision No. 70384 to approve the ARSM in lieu of an Arsenic Cost Recovery
20 Mechanism ("ACRM") approved in the Decision.

21 The estimated monthly surcharges by meter size would be as follows: 5/8 x 3/4-inch,
22 \$12.44; 2-inch, \$99.55; and 4-inch, \$311.10. The actual amounts authorized by the
23 Commission may be greater or less than these estimates.

24 The Commission will hold a public hearing on this matter beginning **July 9, 2009 at**
25 **10:00 a.m.** at the Commission's offices, 1200 West Washington Street, Phoenix,
26 Arizona. Public comments will be taken on the first day of the hearing.

27 The law provides for an open public hearing at which, under appropriate
28 circumstances, interested parties may intervene. Intervention shall be permitted to any
person entitled by law to intervene and having a direct and substantial interest in the
matter. Persons desiring to intervene must file a written motion to intervene with the
Commission no later than **June 15, 2009**. The motion to intervene must be sent to the
Company or its counsel and to all parties of record, and shall contain the following:

1. The name, address, and telephone number of the proposed intervenor and of any party upon whom service of documents is to be made if different from the intervenor.
2. A short statement of the proposed intervenor's interest in the proceeding (e.g., a customer of the Company, a shareholder of the Company, etc.).
3. A statement certifying that a copy of the motion to intervene has been mailed to the Company or its counsel and to all parties of record in the case.

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

1 hearing and providing public comment on the application or from filing written
2 comments in the record of the case. You will not receive any further notice of this
3 proceeding unless you request it.

4 If you have any questions about this application, or want further information on
5 intervention, you may contact the Consumer Services Section of the Commission at
6 1200 W. Washington Street, Phoenix, Arizona 85007 or call 602-542-4251 or
7 1-800-222-7000.

8 The Commission does not discriminate on the basis of disability in admission to its
9 public meetings. Persons with a disability may request a reasonable accommodation
10 such as a sign language interpreter, as well as request this document in an alternative
11 format, by contacting Shaylin Bernal at SBernal@azcc.gov, voice phone number
12 602- 542-3931. Requests should be made as early as possible to allow time to arrange
13 the accommodation.

14 IT IS FURTHER ORDERED that the Company shall provide notice as follows:

- 15 • by **publishing by June 1, 2009**, a copy of the above notice in a newspaper of
16 general circulation in the service area; and
- 17 • by **mailing by June 1, 2009**, a copy of the above notice to each of its
18 customers along with a copy of the draft letter filed on May 8, 2009.

19 IT IS FURTHER ORDERED that the Company shall file certification of the provision of
20 notice as soon as practicable after notice has been completed.

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

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

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

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

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1 IT IS FURTHER ORDERED that the presiding Administrative Law Judge may rescind, alter,
2 amend, or waive any portion of this Procedural Order either by subsequent Procedural Order or by
3 ruling at hearing.

4 DATED this 14th day of May, 2009.



MARC E. STERN
ADMINISTRATIVE LAW JUDGE

9 Copies of the foregoing mailed/delivered
10 this 14th day of May, 2009 to:

11 Douglas G. Martin
Jim West
12 MARTIN & BELL, L.L.C.
365 East Coronado Road, Suite 200
13 Phoenix, Arizona 85004

14 Janice Alward, Chief Counsel
Legal Division
15 ARIZONA CORPORATION COMMISSION
1200 West Washington Street
16 Phoenix, AZ 85007

17 Ernest G. Johnson, Director
Utilities Division
18 ARIZONA CORPORATION COMMISSION
1200 West Washington Street
19 Phoenix, AZ 85007

20 ARIZONA REPORTING SERVICE, INC.
2200 North Central Avenue, Suite 502
21 Phoenix, AZ 85004

22
23 By: 
24 Debra Broyles
Secretary to Marc E. Stern