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BEFORE THE ARIZONA CORPORATION COMMISSION

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Arizona Corporation Commission

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COMMISSIONERS

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

2009 JUL 16 P 3:39

AZ CORP COMMISSION
DOCKET CONTROL

DOCKETED

JUL 16 2009

DOCKETED BY

IN THE MATTER OF THE APPLICATION OF
TONGO HILLS UTILITY COMPANY FOR
APPROVAL TO CANCEL ITS CERTIFICATE OF
CONVIENCE AND NECESSITY AND TO SALE
ITS ASSETS TO TONGO HILLS DOMESTIC
WATER IMPROVEMENT DISTRICT.

DOCKET NO. W-20653A-09-0064

DOCKET NO. W-02483A-09-0064

PROCEDURAL ORDER
SETTING A HEARING

BY THE COMMISSION:

On February 17, 2009, Tonto Hills Utility Company ("Tonto Hills") filed with the Arizona Corporation Commission ("Commission") an application to cancel its Certificate of Convenience and Necessity ("CC&N") and for approval of the sale of its assets to Tonto Hills Domestic Water Improvement District ("THDWID"). The application states that the THDWID is being formed so that it can acquire the assets of Tonto Hills, take over the day-to-day management of the utility, and provide water utility service to the property owners in the Tonto Hills Community.

On March 19, 2009, the Commission's Utilities Division ("Staff") filed an Insufficiency Letter in this docket stating that Tonto Hills' application had not met the sufficiency requirements as outlined in the Arizona Administrative Code ("A.A.C.").

On April 6, 2009, Tonto Hills filed a copy of a notice of the application that Tonto Hills stated was mailed to its customers.

On May 12, 2009, Staff filed its Second Insufficiency Letter and request for additional information.

On June 18, 2009, Staff filed a Sufficiency Letter in this docket stating that Tonto Hills' application had met the sufficiency requirements as outlined in the A.C.C.

Pursuant to A.A.C. R14-3-101, the Commission now issues this Procedural Order to govern the preparation and conduct of this proceeding.

1 IT IS THEREFORE ORDERED that the **hearing** in the above-captioned matter shall
2 commence on **September 9, 2009, at 10:00 a.m.**, or as soon thereafter as is practicable, at the
3 Commission's offices, 2nd Floor Commissioners' Conference Room, 1200 West Washington, Arizona
4 85007.

5 IT IS FURTHER ORDERED that Tonto Hills shall provide public notice of the hearing in
6 this matter, in the following form and style with the heading in no less than 12-point bold type and
7 the body in no less than 10-point regular type:

8 **PUBLIC NOTICE OF THE APPLICATION OF TONTO HILLS UTILITY**
9 **COMPANY FOR CANCELLATION OF ITS CERTIFICATE OF**
10 **CONVENIENCE AND NECESSITY AND APPROVAL FOR**
11 **THE SALE OF ITS ASSETS TO TONTO HILLS DOMESTIC**
WATER IMPROVEMENT DISTRICT.
(DOCKET NOS. W-02483A-09-0064 AND W-20653A-09-0064)

12 On February 17, 2009, Tonto Hills Utility Company ("Tonto Hills") filed with the
13 Arizona Corporation Commission ("Commission") an application for approval to sell
14 its assets to Tonto Hills Domestic Water Improvement District ("THDWID") and to
15 cancel its Certificate of Convenience and Necessity ("CC&N"). If the application is
16 granted and the sale consummated, THDWID would be the exclusive provider of
17 domestic water service to Tonto Hills, which will establish its own rates and charges,
18 and the Commission will no longer regulate the provision of service. The
19 Commission's Utilities Division Staff ("Staff") has not yet made a recommendation
20 regarding the application, and the Commission is not bound by the proposals made by
21 Tonto Hills, Staff or any intervenors. The Commission will issue a Decision regarding
22 Tonto Hills' application following consideration of testimony and evidence presented
23 at an evidentiary hearing. A copy of the application is available at Tonto Hills'
24 offices [insert addresses] and at the Commission's offices at 1200 West Washington
25 Street, Phoenix, Arizona, for public inspection during regular business hours, and on
26 the internet via the Commission website (www.azcc.gov) using the e-docket function.

27 The Commission will hold a hearing on the application on **September 9, 2009, at**
28 **10:00 a.m.** at the Commission's offices, 2nd Floor Commissioners' Conference Room,
1200 West Washington Street, Phoenix, Arizona. Public comments will be taken on
the first day of the hearing. Written public comments may be submitted via e-mail
(visit <http://www.azcc.gov/divisions/utilities/forms/publiccomment.pdf> for
instructions), or by mailing a letter referencing Docket Nos. W-2483A-09-0064 and
W-20653A-09-0064 to: Arizona Corporation Commission, Consumer Services
Section, 1200 West Washington Street, Phoenix, Arizona 85007. If you require
assistance, you may contact the Consumer Services Section at 1-800-222-7000 or 602-
542-4251.

The law provides for an open public hearing at which, under appropriate
circumstances, interested parties may intervene. Any person or entity entitled by law
to intervene and having a direct and substantial interest in the matter will be permitted
to intervene. If you wish to intervene, you must file an original and 13 copies of a
written motion to intervene with the Commission no later than **August 17, 2009**, and
send a copy of the motion to Tonto Hills or its counsel and to all parties of record.
Your motion to intervene must contain the following:

- 1 1. Your name, address, and telephone number and the name, address,
2 and telephone number of any party upon whom service of
3 documents is to be made, if not yourself;
- 4 2. A short statement of your interest in the proceeding (e.g., a
5 customer of Tonto Hills, etc.); and
- 6 3. A statement certifying that you have mailed a copy of the motion to
7 intervene to Tonto Hills or its counsel and to all parties of record in
8 the case.

9 The granting of motions to intervene shall be governed by A.A.C. R14-3-105, except
10 that all motions to intervene must be filed on or before August 17, 2009. If
11 representation by counsel is required by Rule 31 of the Rules of the Arizona Supreme
12 Court, intervention will be conditioned upon the intervenor's obtaining counsel to
13 represent the intervenor. For information about requesting intervention, visit the
14 Commission's website at <http://www.azcc.gov/divisions/utilities/forms/interven.pdf>.
15 The granting of intervention, among other things, entitles a party to present sworn
16 evidence at hearing and to cross-examine other witnesses. However, failure to
17 intervene will not preclude any interested person or entity from appearing at the
18 hearing and providing public comment on the applications or from filing written
19 comments in the record of the case.

20 The Commission does not discriminate on the basis of disability in admission to its
21 public meetings. Persons with a disability may request a reasonable accommodation
22 such as a sign language interpreter, as well as request this document in an alternative
23 format, by contacting the ADA Coordinator Guadalupe Lopez, E-mail
24 gnlopez@azcc.gov, voice phone number 602-542-3931. Requests should be made as
25 early as possible to allow time to arrange the accommodation.

26 IT IS FURTHER ORDERED that Tonto Hills shall **mail** to each of its customers in its CC&N
27 area, a copy of the above notice and shall cause the above notice to be published at least once in
28 newspaper of general circulation in its service territory, with **publication and mailing** to be
29 completed no later than **July 31, 2009.**

30 IT IS FURTHER ORDERED that Tonto Hills shall **file certification of mailing and**
31 **publication** as soon as practicable after mailing/publication has been completed, but not later than
32 **August 7, 2009.**

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

35 IT IS FURTHER ORDERED that the **Staff Report** and associated exhibits, available at the
36 time the Staff Report is filed, to be presented at hearing shall be reduced to writing and filed on or
37 before **August 7, 2009.**

1 IT IS FURTHER ORDERED that any objections to the Staff Report shall be reduced to
2 writing and filed on or before **August 24, 2009**.

3 IT IS FURTHER ORDERED that intervention shall be in accordance with A.A.C. R14-3-105,
4 except that all motions to intervene must be filed on or before **August 17, 2009**.

5 IT IS FURTHER ORDERED that any objections to any Motions to Intervene shall be filed on
6 or before **August 24, 2009**.

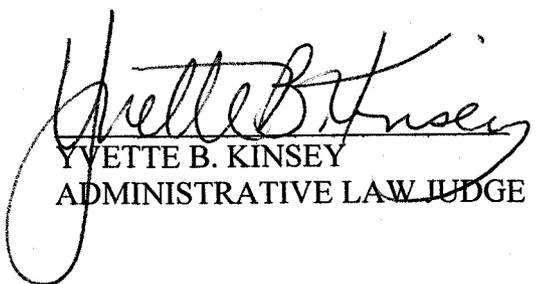
7 IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113-Unauthorized
8 Communications) applies to this proceeding as the matter is now set for public hearing, and shall
9 remain in effect until the Commission's Decision in this matter is final and non-appealable.

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

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

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 16th day of July, 2009.

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24 
25 YVETTE B. KINSEY
26 ADMINISTRATIVE LAW JUDGE
27
28

1 Copies of the foregoing mailed
2 this 16th day of July, 2009, to:

3 Donald J. Unthank, President
4 TONTO HILLS UTILITY CO.
5 11802 East Blue Wash Road
6 Cave Creek, Arizona 85331

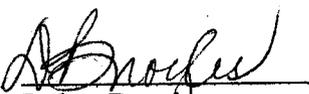
7 Harry How
8 10505 North 69th Street
9 Scottsdale, AZ 85253
10 Attorney for Tonto Hills Utility Co.

11 Charles Civer
12 TONTO HILLS DOMESTIC
13 WATER IMPROVEMENT DISTRICT
14 42265 North Old Mind Road
15 Cave Creek Arizona 85331

16 Janice Alward, Chief Counsel
17 Legal Division
18 ARIZONA CORPORATION COMMISSION
19 1200 West Washington Street
20 Phoenix, Arizona 85007

21 Ernest G. Johnson
22 ARIZONA CORPORATION COMMISSION
23 1200 West Washington Street
24 Phoenix, Arizona 85007

25 ARIZONA REPORTING SERVICE, INC.
26 2200 North Central Avenue, Suite 502
27 Phoenix, AZ 85004-1481

28 By: 
Debra Broyles
Secretary to Yvette B. Kinsey