

ORIGINAL

OPEN PETITION AGENCY FORM



0000102748

BEFORE THE ARIZONA CORPORATION COMMISSION

RECEIVED

COMMISSIONERS

- KRISTIN K. MAYES, Chairman
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2009 SEP 15 P 4: 29

ARIZONA CORPORATION COMMISSION
DOCKET CONTROL

IN THE MATTER OF THE APPLICATION OF
THE BURLINGTON NORTHERN AND
SANTA FE RAILWAY COMPANY DBA
AUBREY WATER COMPANY FOR
APPROVAL OF A PERMANENT WATER
RATE INCREASE.

DOCKET NO. W-03476A-06-0425

**COMMENTS OF AUBREY
WATER COMPANY TO
PROPOSED ORDER
REGARDING PETITION TO
AMEND DECISION NO. 69379**

Snell & Wilmer

LAW OFFICES
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(602) 382-6000

On May 13, 2009, the Burlington Northern and Santa Fe Railway Company, doing business as Aubrey Water Company ("Aubrey" or "Company"), filed with the Arizona Corporation Commission ("Commission") a Petition to Amend Decision No. 69379 pursuant to A.R.S. §40-252 (the "Petition"). At the Commission's May 28, 2009, Staff Meeting, the Commission voted to re-open Decision No. 69379 pursuant to A.R.S. §40-252 to consider the relief requested in the Petition. The Commission directed the Utilities Division ("Staff") to evaluate the Petition and file a Staff Report and Proposed Order regarding the Company's requested relief to be considered by the Commission at a future Open Meeting. On September 10, 2009, Staff filed its Staff Report¹ and a Proposed Order recommending that the Commission amend Decision No. 69379 in a manner generally consistent with the Company's Petition.

Aubrey has reviewed the Proposed Order and believes that four (4) relatively small changes are necessary so that the Proposed Order will amend Decision No. 69379 to more appropriately conform with the relief requested in the Petition, as well as with Staff's recommendations. Counsel for Aubrey discussed these changes with Staff and believes

¹ The Staff Report was filed in the form of a Memorandum in Response to the Petition.

1 the changes to the Proposed Order set forth below are consistent with the understanding
2 reached between the Company and Staff. Those changes to the Proposed Order are as
3 follows:

4
5 1. On page 5, line 12, **INSERT** the following at the end of the sentence
6 following the semicolon:

7 *“however, the replacement of the 1,300 feet of 4-inch steel water main should be*
8 *re-evaluated after completion of all previous items, before proceeding with*
9 *replacement.”*

10
11 2. On page 5, **DELETE** lines 22 through 27, and **REPLACE** with the
12 following:

13 *“On page 10, line 25 through page 11, line 9 ½, DELETE the ordering*
14 *paragraph and REPLACE with the following revised ordering paragraph:*

15 *‘IT IS THEREFORE ORDERED that the above rates and charges*
16 *shall not become effective until the first day of the month after the Company*
17 *has filed with the Commission’s Docket Control, as a compliance item in*
18 *this docket, the Arizona Department of Environmental Quality*
19 *documentation reporting that there are not monitoring and reporting*
20 *deficiencies and the Company is delivering water that meets the water*
21 *quality standards required by Administrative Code, Title 18, Chapter 4,*
22 *and the Company shall file, with the Commission’s Docket Control, an*
23 *affidavit attesting that the Company has set up and is maintaining its books*
24 *and records in compliance with the NARUC USOA.’”*

25
26 3. On page 6, line 8, **INSERT** the following before the Conclusions of Law:

27 *“INSERT the following on page 8 at the end of Conclusion of Law No. 5:*

28 *“as modified by Finding of Fact No. 28.’”*

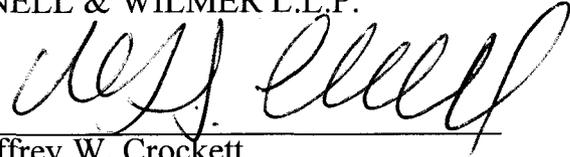
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4. On page 6, line 8, **INSERT** the following before the Conclusions of Law:
*"On page 10, line 11, after the word "same" **DELETE** "by means of an insert in the regular monthly billing which precedes" and **REPLACE** with "prior to"."*

On the basis of the foregoing, Aubrey requests that the Proposed Order be amended to incorporate the changes set forth hereinabove.

DATED this 16th day of September, 2009.

SNELL & WILMER L.L.P.

By 

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ORIGINAL and 13 copies of the foregoing filed this 16th day of September, 2009, with:

Docket Control
ARIZONA CORPORATION COMMISSION
1200 West Washington Street
Phoenix, Arizona 85007

COPIES of the foregoing hand-delivered this 16th day of September, 2009, to:

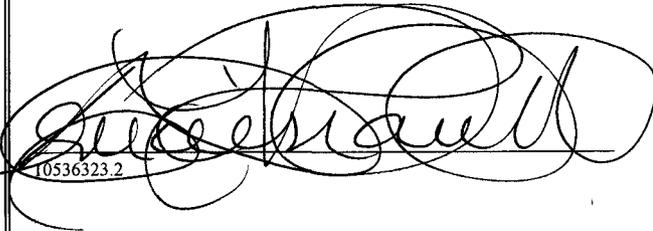
Steve Olea, Director
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