

OPEN MEETING ITEM



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Executive Director

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

ORIGINAL



ARIZONA CORPORATION COMMISSION

Arizona Corporation Commission

DOCKETED

FEB 11 2010

DATE: FEBRUARY 11, 2010
DOCKET NOS.: W-04254A-08-0361 and W-04254A-08-0362
TO ALL PARTIES:

DOCKETED BY

Enclosed please find the recommendation of Administrative Law Judge Sarah N. Harpring. The recommendation has been filed in the form of an Order on:

MONTEZUMA RIMROCK WATER COMPANY, LLC
(EXTENSION OF TIME DEADLINE CONTAINED
IN DECISION NO. 71317)

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Administrative Law Judge by filing an original and thirteen (13) copies of the exceptions with the Commission's Docket Control at the address listed below by **4:00** p.m. on or before:

FEBRUARY 22, 2010

The enclosed is NOT an order of the Commission, but a recommendation of the Administrative Law Judge to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Open Meeting to be held on:

MARCH 2, 2010 and MARCH 3, 2010

For more information, you may contact Docket Control at (602)542-3477 or the Hearing Division at (602)542-4250. For information about the Open Meeting, contact the Executive Director's Office at (602) 542-3931.

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AZ CORP COMMISSION
DOCKET CONTROL

ERNEST G. JOHNSON
EXECUTIVE DIRECTOR

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 COMMISSIONERS

3 KRISTIN K. MAYES, Chairman
4 GARY PIERCE
5 PAUL NEWMAN
6 SANDRA D. KENNEDY
7 BOB STUMP

8 IN THE MATTER OF THE APPLICATION OF
9 MONTEZUMA RIMROCK WATER COMPANY,
10 LLC FOR APPROVAL OF A RATE INCREASE.

DOCKET NO. W-04254A-08-0361

11 IN THE MATTER OF THE APPLICATION OF
12 MONTEZUMA RIMROCK WATER COMPANY,
13 LLC FOR APPROVAL OF A FINANCING
14 APPLICATION.

DOCKET NO. W-04254A-08-0362

DECISION NO. _____

ORDER EXTENDING TIME
DEADLINE CONTAINED IN
DECISION NO. 71317

15 Open Meeting
16 March 2 and 3, 2010
17 Phoenix, Arizona

18 **BY THE COMMISSION:**

19 Having considered the entire record herein and being fully advised in the premises, the
20 Arizona Corporation Commission ("Commission") finds, concludes, and orders that:

21 **FINDINGS OF FACT**

22 1. On July 16, 2008, Montezuma Rimrock Water Company, LLC ("Montezuma") filed
23 with the Commission, in the two dockets captioned above, a Rate Application and a Financing
24 Application.

25 2. On February 4, 2009, the two dockets were consolidated by a Procedural Order, in
26 response to a Motion filed by the Commission's Utilities Division ("Staff").

27 3. On October 30, 2009, the Commission issued Decision No. 71317, granting
28 Montezuma a rate increase and authorizing it to incur long-term debt in the form of a Water
Infrastructure Finance Authority of Arizona ("WIFA") loan in an amount up to \$165,000, expressly
contingent upon Montezuma's use of the loan proceeds for the purpose of completing an arsenic
treatment project to address its water supply's exceeding the current Arizona Department of

1 Environmental Quality ("ADEQ") maximum contaminant level ("MCL") for arsenic of 10 parts per
2 billion ("ppb"). In addition, among other things, the Decision required Montezuma to file, as a
3 compliance item in this docket, by December 31, 2009, a copy of the ADEQ Certificate of Approval
4 of Construction ("AOC") for its new Well #4 and to file, as a compliance item in this docket, by
5 April 30, 2010, a copy of the AOC for its arsenic treatment project.

6 4. On November 24, 2009, Montezuma filed a copy of an ADEQ Certificate of Approval
7 to Construct ("ATC"), dated October 28, 2009, for its new Well #4. The ATC states that the well's
8 water exceeds the MCL for arsenic, that the water must be treated prior to distribution, and that an
9 AOC will not be issued until acceptable water quality data has been submitted.

10 5. On December 11, 2009, Montezuma filed a letter requesting that the requirement in
11 Decision No. 71317 for it to file a copy of the AOC for its new Well #4 by December 31, 2009, be
12 modified by extending the filing deadline to June 30, 2010. Montezuma stated that it would be
13 unable to obtain an AOC for Well #4 by December 31, 2009, as ADEQ will not issue an AOC until
14 the installation of Montezuma's arsenic treatment system is complete.

15 6. On February 3, 2010, Staff filed a memorandum stating that Staff does not object to
16 Montezuma's request for an extension of time, until June 30, 2010, to file a copy of the AOC for its
17 new Well #4. Staff stated that it had confirmed with ADEQ's water quality compliance section that
18 an AOC will not be issued for Well #4, due to its water's not currently meeting the MCL for arsenic,
19 until the installation of the arsenic treatment system is complete and an AOC has been issued for the
20 arsenic treatment system.

21 7. Montezuma requested the extension of the filing deadline for the AOC prior to the
22 deadline. There was no indication in the record for this matter that Montezuma would not be able to
23 obtain the AOC for its new Well #4 without first having obtained an AOC for its arsenic treatment
24 system. The ATC received for its new Well #4 is dated after the Open Meeting at which the
25 Commission voted on the Order that became Decision No. 71317, so it appears that Montezuma did
26 not know that it would not be able to meet the filing deadline until after the Decision had been
27 reached.

28 8. In light of the facts in this case, it is reasonable and appropriate to grant Montezuma

1 an extension of time, until June 30, 2010, to file with Docket Control, as a compliance item in this
2 docket, a copy of the AOC for its new Well #4.

3 **CONCLUSIONS OF LAW**

4 1. Montezuma is a public service corporation within the meaning of Article XV of the
5 Arizona Constitution and A.R.S. Title 40, Chapter 2.

6 2. The Commission has jurisdiction over Montezuma and the subject matter of its request
7 for an extension of the compliance filing deadline for a copy of the AOC for its new Well #4.

8 3. It is reasonable to extend, to June 30, 2010, the deadline for Montezuma to file a copy
9 of the AOC for its new Well #4.

10 4. It is not necessary for the Commission to hold an evidentiary hearing before extending
11 the deadline for Montezuma to file a copy of the AOC for its new Well #4.

12 **ORDER**

13 IT IS THEREFORE ORDERED that the deadline for Montezuma Rimrock Water Company,
14 LLC to file a copy of the Arizona Department of Environmental Quality Certificate of Approval of
15 Construction for its new Well #4, as set forth in Decision No. 71317, is hereby extended to June 30,
16 2010.

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IT IS FURTHER ORDERED that all other provisions of Decision No. 71317 shall remain in effect.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

CHAIRMAN _____ COMMISSIONER

COMMISSIONER _____ COMMISSIONER _____ COMMISSIONER

IN WITNESS WHEREOF, I, ERNEST G. JOHNSON, Executive Director of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this _____ day of _____, 2010.

ERNEST G. JOHNSON
EXECUTIVE DIRECTOR

DISSENT _____

DISSENT _____
SNH:db

1 SERVICE LIST FOR: MONTEZUMA RIMROCK WATER COMPANY, LLC

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3 DOCKET NOS: W-04254A-08-0361 and W-04254A-08-0362

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