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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

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

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Arizona Corporation Commission

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IN THE MATTER OF THE APPLICATION OF
DEL RIO WATER COMPANY, LLC, FOR A
CERTIFICATE OF CONVENIENCE AND
NECESSITY TO PROVIDE WATER SERVICE
IN YAVAPAI COUNTY, ARIZONA.

DOCKET NO. W-04074A-08-0094

PROCEDURAL ORDER
SCHEDULING A
PROCEDURAL CONFERENCE

BY THE COMMISSION:

On February 15, 2008, Del Rio Water Company, LLC ("Del Rio" or "Applicant") filed with the Arizona Corporation Commission ("Commission") an application for a Certificate of Convenience and Necessity ("Certificate" or "CC&N") to provide water service to approximately 3,000 acres in the Town of Chino Valley in Yavapai County, Arizona.

On February 25, 2008, Del Rio docketed Proof of Notice of the Application.

On March 5, 2008, the Commission's Utilities Division ("Staff") filed an Insufficiency Letter indicating that the application had not met the sufficiency requirements of the Arizona Administrative Code ("A.A.C.").

On March 21, 2008, Del Rio docketed additional information in support of the application.

On April 15, 2008, Del Rio filed supplemental information on the application.

On April 21, 2008, Staff filed a Sufficiency Letter in this docket.

On April 29, 2008, by Procedural Order, a hearing was set to commence on June 9, 2008, and other procedural deadlines were established.

On May 1, 2008, Staff filed a Request for Extension of Time to file its Staff Report. There were no objections to Staff's request.

On May 12, 2008, by Procedural Order, the June 9, 2008, hearing was rescheduled to July 28, 2008, and the time clock was extended accordingly.

On June 17, 2008, Del Rio docketed its Certification of Mailing and Publication, stating that

1 notice of the application and hearing date had been mailed to property owners in the requested area
2 and published in the *Courier*, a daily newspaper of general circulation in the City of Prescott, on June
3 2, 2008.

4 On June 30, 2008, Staff filed a Staff Report recommending approval of Del Rio's application
5 with conditions.

6 On July 18, 2008, Del Rio filed Comments to the Staff Report.

7 On July 28, 2008, a full public hearing was convened before a duly authorized Administrative
8 Law Judge ("ALJ") of the Commission at its offices in Phoenix, Arizona. The Applicant and Staff
9 appeared through counsel. At the conclusion of the hearing, Staff was directed to file a late-filed
10 exhibit relating to its testimony.

11 Based on the testimony and evidence presented and the docketed filings, it was determined
12 that additional information was needed and that the matter should be set for an additional day of
13 hearing.

14 On August 8, 2008, by Procedural Order, this matter was set to reconvene on November 14,
15 2008; filing deadlines were established; and the time clock was suspended.

16 On August 8, 2008, Staff filed, as a late-filed exhibit, amended schedules related to Staff's
17 testimony.

18 On September 3, 2008, Appaloosa Water Company ("Appaloosa") filed a Motion to
19 Intervene, stating that in 2004 Appaloosa provided an Intent to Serve letter to Bond Ranch at Del Rio
20 Springs, LLC ("Bond Ranch"), requesting to be the water provider for Bond Ranch's proposed
21 subdivision, which appears to be the same territory requested in Del Rio's application.

22 On September 12, 2008, Del Rio filed a request to delay the November 14, 2008, hearing date
23 to December 13, 2008, or later. The request stated that pursuant to the Procedural Order dated
24 August 8, 2008, Staff had submitted additional data requests to the Applicant, and Del Rio needed
25 more time to complete its answers. The request further stated that Del Rio's sole member, Bond
26 Ranch, was involved in a refinancing which would not be completed in time for Del Rio to give Staff
27 complete answers to the additional data requests. Del Rio also requested an extension of time for
28 Staff to file a Supplemental Staff Report and for Del Rio to file its responses to the Supplemental

1 Staff Report. The request stated that Staff does not object to Del Rio's request to extend the time
2 deadlines.

3 On September 18, 2008, by Procedural Order, Del Rio's request to vacate the November 14,
4 2008, hearing date was granted, and a new hearing date was scheduled for December 22, 2008. The
5 Procedural Order also directed Staff to file a Supplemental Staff Report by November 17, 2008, and
6 directed Del Rio to file its response to Staff's Supplemental Staff Report by December 1, 2008. Del
7 Rio and Staff were also directed to file responses to Appaloosa's Motion to Intervene.

8 On September 29, 2008, Staff filed its Response to Appaloosa's Motion to Intervene. Staff
9 recommended that, as a pre-condition to intervention, Appaloosa be directed to file a formal
10 application for a CC&N satisfying the requirements of A.A.C. R14-2-402. Staff further
11 recommended that Appaloosa be instructed to file its application in time to be deemed sufficient on
12 or before October 31, 2008, so that Appaloosa's intervention will not unduly delay the process.

13 In its Response, Staff also requested that the hearing date be accelerated and rescheduled for
14 December 18, 2008, or sooner, if possible, because Staff's central witness is unavailable for the
15 current hearing date of December 22, 2008.

16 On October 3, 2008, Del Rio filed its Response to Appaloosa's Motion to Intervene and urged
17 denial of Appaloosa's request. As a part of Del Rio's Response, Del Rio attached letters from the
18 two developers for the proposed extension area, who expressed a continuing desire to be served by
19 Del Rio and objected to being included in Appaloosa's CC&N. Del Rio stated also that it does not
20 object to Staff's Request to have the hearing slightly accelerated.

21 On October 13, 2008, in Docket No. W-03443A-08-0540, Appaloosa filed an application for
22 an extension of its CC&N to include the proposed extension area in this docket.

23 On October 15, 2008, Appaloosa filed its Response to Del Rio's Request to Deny the Motion
24 to Intervene.

25 On October 22, 2008, Del Rio filed a Request for Extension of Time, requesting that the
26 application in this matter be put on hold until June 30, 2009. The request stated that Del Rio's sole
27 member, Bond Ranch, is involved in a refinancing, and the instability of the financial markets may
28

1 influence build out of the development in the proposed extension area. The request further stated that
2 Staff does not oppose Del Rio's request for an extension of time until June 30, 2009.

3 On October 29, 2008, by Procedural Order, the hearing scheduled to reconvene on December
4 22, 2008, was vacated. The Procedural Order also set a procedural conference for November 10,
5 2008, to discuss the pending pleadings, the procedural posture of this matter, and the related
6 application filed in Docket No. W-03443A-08-0540.

7 On November 10, 2008, the procedural conference was convened as scheduled before a duly
8 authorized ALJ of the Commission at its offices in Phoenix, Arizona. Del Rio and Staff were present
9 through counsel. Mr. Joe Cordovana appeared on behalf of Appaloosa. During the procedural
10 conference, the ALJ ruled on several issues pending in this matter.

11 On December 5, 2008, a Procedural Order was issued in which Appaloosa's Motion to
12 Intervene and Del Rio's Request for Extension of Time, until June 30, 2009, were granted; Del Rio
13 was ordered to file in this docket, on or before June 30, 2009, a document discussing the status of the
14 Bond Ranch refinancing and stating Del Rio's intent regarding its application in this matter; and the
15 time clock in this matter was suspended indefinitely.

16 On June 30, 2009, Del Rio filed a Statement of Intent and Request for Extension of Time
17 ("Statement"), which stated that Del Rio's sole member, Bond Ranch, was still pursuing refinancing
18 and the development of the Del Rio real estate project. In the Statement, Del Rio requests that its
19 application for a CC&N be put on hold until December 31, 2009.

20 On August 17, 2009, by Procedural Order Staff and Appaloosa were ordered to file, by
21 September 1, 2009, a response to Del Rio's request for an extension of time. Del Rio was directed to
22 file a reply to Staff's and/or Appaloosa's response by September 18, 2009.

23 On August 27, 2009, Appaloosa filed a response objecting to Del Rio's request for an
24 extension of time.

25 On August 28, 2009, Staff filed a Response to Del Rio's Request for an Extension of Time.
26 Staff's response states that Del Rio has not timely responded to Staff's data requests and Staff has
27 been unable to complete its review of the application. Staff recommends that Del Rio withdraw its
28 application in this proceeding and re-file its application when its financing issues are completed. Staff

1 further recommends that in the absence of a withdrawal of the application by the Company, this
2 docket should be administratively closed.

3 On September 18, 2009, Del Rio filed its Reply to Appaloosa's and Staff's Response. In its
4 Reply Del Rio states that its sole member is finalizing an offering to raise additional equity within the
5 next two weeks and expects to know by the end of the year whether it is successful. Further, the
6 Reply requests that Appaloosa's response should be stricken because Appaloosa failed to send Del
7 Rio a copy of the response.

8 Accordingly, a procedural conference should be scheduled to discuss Del Rio's request for an
9 extension of time.

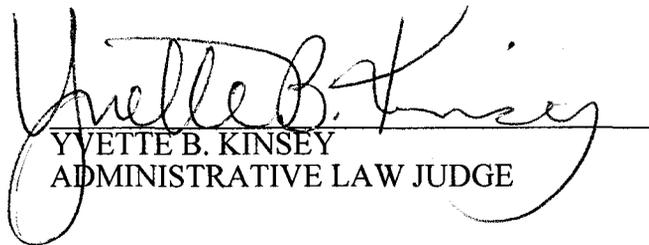
10 IT IS THEREFORE ORDERED that a **procedural conference shall be held on November**
11 **5, 2009 at 10:00 a.m.** at the Commission's offices, 1200 West Washington Street, Room 100,
12 Phoenix, Arizona, to hear oral arguments on Del Rio's request for an extension of time.

13 IT IS FURTHER ORDERED that the time clock in this matter shall remain suspended.

14 IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113 - Unauthorized
15 Communications) continues to apply to this proceeding.

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

18 Dated this 23rd day of October 2009.

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21 
22 YVETTE B. KINSEY
23 ADMINISTRATIVE LAW JUDGE
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1 Copies of the foregoing mailed/delivered
2 this 23rd day of October 2009 to:

3 Jeffrey C. Zimmerman
4 MOYES SELLERS & SIMS
5 Viad Corporate Center
6 1850 North Central Avenue, Suite 1100
7 Phoenix, AZ 85004-4541
8 Attorneys for Del Rio Water Company, LLC

9 Joe Cordovana, Owner
10 APPALOOSA WATER COMPANY
11 P.O. Box 3150
12 Chino Valley, AZ 86323-2708

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

18 Steve Olea, Director
19 Utilities Division
20 ARIZONA CORPORATION COMMISSION
21 1200 West Washington Street
22 Phoenix, AZ 85007

23 ARIZONA REPORTING SERVICE, INC.
24 2200 North Central Avenue, Suite 502
25 Phoenix, AZ 85004-1481

26
27
28
By: 
Debra Broyles
Secretary to Yvette B. Kinsey