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ORIGINAL

BEFORE THE ARIZONA CORPORATION COMMISSION

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COMMISSIONERS

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

Arizona Corporation Commission
2009 NOV -9 P 2: 16
DOCKETED
AZ CARD COMMISSION
DOCKET CONTROL
NOV - 9 2009
DOCKETED BY [Signature]

IN THE MATTER OF:

CHARLES J. DAINS,
Complainant,

v.

RIGBY WATER COMPANY,
Respondent.

DOCKET NO. W-01808A-09-0137

PROCEDURAL ORDER
(SCHEDULES A HEARING)

BY THE COMMISSION:

On March 19, 2009, Charles J. Dains ("Complainant") filed with the Arizona Corporation Commission ("Commission") a Formal Complaint ("Complaint") against Rigby Water Company ("Rigby" or "Respondent"). The Complainant alleges a dispute between the parties regarding a main extension agreement and requests that the Commission grant Complainant relief in the amount of \$237,000 less any previously refunded amounts.

On April 13, 2009, Rigby filed an Answer to Formal Complaint and a Motion to Dismiss the Complaint.

On May 5, 2009, Complainant filed a Response to Answer to Formal Complaint and Motion to Dismiss and a Motion for Summary Judgment.

On May 14, 2009, by Procedural Order, a procedural conference was set for June 2, 2009.

On May 18, 2009, Rigby filed Notice of Filing Mainline Extension Agreement.

On May 18, 2009, Rigby filed a Reply in Support of Motion to Dismiss.

On June 2, 2009, a procedural conference was held as scheduled. Counsel for Complainant, Respondent, and Staff appeared for the conference. At the conclusion of the procedural conference, the parties were directed to discuss settlement of the issues, and to jointly file a status report on the

1 settlement discussions.

2 On June 9, 2009, Rigby filed a Response to Complainant's Motion for Summary Judgment.

3 On June 29, 2009, counsel for Complainant and Respondent filed a Joint Filing Regarding
4 Settlement Status, stating the parties had been unable to reach a settlement of the issues.

5 On September 15, 2009, a Procedural Order was issued stating that genuine issues of dispute
6 had been raised and therefore the matter should be set for hearing beginning on October 29, 2009.

7 On October 5, 2009, the Complainant filed a Motion to Continue Hearing. In Complainant's
8 Motion to Continue, Complainant states that one of the witnesses for the hearing is unavailable for
9 the October 29, 2009, hearing date and requests that the hearing be continued. The Motion to
10 Continue also requests a procedural conference to reschedule the hearing in order to avoid further
11 delays.

12 On the same date, Complainant filed a Motion to Compel, which states that Complainant
13 submitted a request for discovery and that Respondent objected to the discovery on various grounds,
14 including relevance and that the information sought was confidential in nature. The Motion to
15 Compel requests that Respondent be ordered to turn over the information sought in the discovery
16 request.

17 On October 7, 2009, Respondent filed a Response to Complainant's Motion to Continue
18 ("Response"). In the Response, Respondent states that the hearing date currently set should be used
19 for the parties to present oral argument on Respondent's Motion to Dismiss. The Response further
20 states that Respondent does not object to a continuance of the evidentiary portion of the hearing.

21 On the same date, Respondent filed a Response to the Motion to Compel. The Response
22 stated that Complainant's request for discovery amounts to a "fishing expedition" and that the
23 information requested is irrelevant to the issues raised in the Complaint. Respondent requests that the
24 Motion to Compel be denied.

25 On October 23, 2009, by Procedural Order, oral argument on Complainant's Motion to
26 Compel was scheduled for November 5, 2009; the hearing scheduled for October 29, 2009, was
27 vacated; and the parties were directed to make a joint filing with mutually agreed upon hearing dates.

28 On November 5, 2009, the procedural conference was held as scheduled before a duly

1 authorized Administrative Law Judge ("ALJ") of the Commission. Complainant, Respondent, and
2 Staff appeared through counsel. Prior to hearing oral argument on Complainant's Motion to Compel,
3 the parties informed the ALJ that the parties had resolved the discovery dispute. The parties
4 requested that the hearing in this matter be rescheduled for December 2, 2009. At the conclusion of
5 the proceeding, the parties were strongly encouraged to try to settle the issues in this Complaint.

6 Accordingly, it is appropriate to reschedule this matter for hearing.

7 IT IS THEREFORE ORDERED that a **hearing** in this matter is rescheduled to begin on
8 **December 2, 2009, at 10:00 a.m.**, at the Commission's offices, 1200 West Washington, Hearing
9 Room 1, Phoenix, Arizona.

10 IT IS FURTHER ORDERED that Complainant's Motion to Compel is moot.

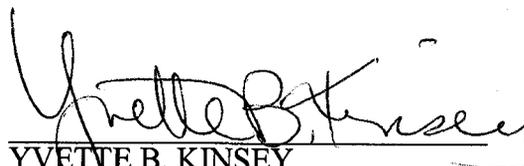
11 IT IS FURTHER ORDERED that the parties shall continue to work toward resolution of the
12 issues raised in this matter.

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

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

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

24 DATED this 9th day of November 2009.

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27 
28 YVETTE B. KINSEY
ADMINISTRATIVE LAW JUDGE

1 Copies of the foregoing mailed/delivered
2 this 9th day of November 009 to:

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By: 
Debra Broyles
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