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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

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

2009 NOV 25 P 2: 08

AZ CORP COMMISSION
DOCKET CONTROL

Arizona Corporation Commission

DOCKETED

NOV 25 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
VACATING HEARING SET
FOR DECEMBER 2, 2009

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 Complaint concerns 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 settlement discussions.

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

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

4 On September 15, 2009, by Procedural Order, the matter was set for hearing, to commence on
5 October 29, 2009.

6 On October 5, 2009, the Complainant filed a Motion to Continue Hearing, stating that one of
7 the Complainant's witnesses would be unavailable for the October 29, 2009, hearing date.

8 On the same date, Complainant filed a Motion to Compel, stating that Respondent had
9 objected to a request for discovery on various grounds, including relevance, and that the information
10 is confidential in nature.

11 On October 7, 2009, Respondent responded to Complainant's Motion to Continue. In the
12 response, Respondent requested that the current hearing date be used for oral argument on
13 Respondent's Motion to Dismiss and stated that Respondent does not object to a continuance of the
14 evidentiary portion of the hearing.

15 On the same date, Respondent filed a response to the Motion to Compel. The response states
16 that Complainant's request for discovery amounts to a "fishing expedition" and that the information
17 requested is irrelevant to the issues raised in the Complaint.

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

22 On November 5, 2009, the procedural conference was held as scheduled. Complainant,
23 Respondent, and Staff appeared through counsel. Prior to providing oral argument on Complainant's
24 Motion to Compel, the parties informed the Administrative Law Judge that the parties had resolved
25 the discovery dispute. The parties requested that the hearing in this matter be rescheduled for
26 December 2, 2009.

27 On November 9, 2009, by Procedural Order, the hearing in this matter was rescheduled to
28 begin on December 2, 2009.

1 On November 24, 2009, counsel for Complainant filed a Motion to Continue Hearing, stating
2 that Complainant, Mr. Charles J. Dains, had passed away. According to the motion, Mr. Dains' son,
3 Mr. Charles J. Dains Jr., plans to take over for his father in this case, but needs time to prepare for the
4 hearing. The motion requests an indefinite continuance of the hearing and states that the other
5 parties do not object to the request.

6 Good cause has been shown for vacating the hearing scheduled for December 2, 2009.

7 IT IS THEREFORE ORDERED that the **hearing** scheduled for **December 2, 2009, is hereby**
8 **vacated.**

9 IT IS FURTHER ORDERED that counsel for **Complainant** shall file a status report in this
10 docket on or before **February 26, 2010.**

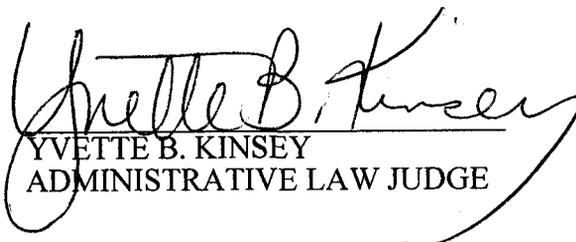
11 IT IS FURTHER ORDERED that if Complainant fails to file the above-referenced status
12 report by the date specified, this matter may be administratively closed.

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 25th day of November 2009.

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YVETTE B. KINSEY
ADMINISTRATIVE LAW JUDGE

1 Copies of the foregoing mailed/delivered
2 this 25th day of November 2009 to:

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By: 
Debra Broyles
Secretary to Yvette B. Kinsey