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BEFORE THE ARIZONA CORPORATION COMMISSION

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AZ CORP COMMISSION
DOCKET CONTROL

IN THE MATTER OF THE APPLICATION OF ARIZONA-AMERICAN WATER COMPANY, AN ARIZONA CORPORATION, FOR A DETERMINATION OF THE CURRENT FAIR VALUE OF ITS UTILITY PLANT AND PROPERTY AND FOR INCREASES IN ITS RATES AND CHARGES BASED THEREON FOR UTILITY SERVICE BY ITS ANTHEM WATER DISTRICT AND ITS SUN CITY WATER DISTRICT, AND POSSIBLE RATE CONSOLIDATION FOR ALL OF ARIZONA-AMERICAN COMPANY'S DISTRICTS.

DOCKET NO. W-01303A-09-0343

Arizona Corporation Commission
DOCKETED

MAR 18 2010

DOCKETED BY	<i>MM</i>
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IN THE MATTER OF THE APPLICATION OF ARIZONA-AMERICAN WATER COMPANY, AN ARIZONA CORPORATION, FOR A DETERMINATION OF THE CURRENT FAIR VALUE OF ITS UTILITY PLANT AND PROPERTY AND FOR INCREASES IN ITS RATES AND CHARGES BASED THEREON FOR UTILITY SERVICE BY ITS ANTHEM/AGUA FRIA WASTEWATER DISTRICT, ITS SUN CITY WASTEWATER DISTRICT AND ITS SUN CITY WEST WASTEWATER DISTRICT, AND POSSIBLE RATE CONSOLIDATION FOR ALL OF ARIZONA-AMERICAN COMPANY'S DISTRICTS.

DOCKET NO. SW-01303A-09-0343

PROCEDURAL ORDER REQUIRING PUBLIC NOTICE REGARDING RATE CONSOLIDATION; AMENDING PROCEDURAL SCHEDULE; AND GRANTING ADMISSION PRO HAC VICE

BY THE COMMISSION:

On July 2, 2009, Arizona-American Water Company ("Arizona-American" or "Company") filed with the Arizona Corporation Commission ("Commission") an application for rate increases for its Anthem Water District, Sun City Water District, Anthem/Agua Fria Wastewater District, Sun City Wastewater District, and Sun City West Wastewater District.

Intervention in this matter has been granted to the Residential Utility Consumer Office ("RUCO"); Anthem Community Council; Sun City West Property Owners and Residents Association ("PORA"); W.R. Hansen; the Water Utility Association of Arizona; the Camelback Inn, Sanctuary on

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1 Camelback Mountain, the Intercontinental Montelucia Resort and Spa, and the Scottsdale
2 Cottonwoods Resort and Suites (collectively the "Resorts"); and the Town of Paradise Valley
3 ("Paradise Valley").¹

4 Scheduling and Notice

5 On March 5, 2010, the Commission's Utilities Division ("Staff") filed a Motion for Extension
6 and Request for Procedural Conference. Staff stated that in accordance with the procedural order
7 issued March 1, 2010, Staff had met with the parties to discuss proposed schedule changes. Staff
8 included in its filing the schedule proposed by the parties, which would have Staff and intervenors
9 file rate design/rate consolidation testimony on March 29, 2010; have the Company file rebuttal
10 thereto due on April 5, 2010; and have and Staff and intervenor surrebuttal testimony due on April
11 12, 2010.

12 On March 8, 2010, the Anthem Community Council made a filing in support of Staff's
13 Motion for Extension and Request for Procedural Conference.

14 On March 9, 2010, a procedural order was issued setting a procedural conference for the
15 purpose of addressing proper and appropriate notice related to any rate consolidation proposal made
16 in this docket, the Company's March 5, 2010 Request for Additional Intervention; and the proposed
17 changes to the procedural schedule.

18 On March 12, 2010, the procedural conference was held as scheduled. Appearances were
19 entered through counsel for Anthem Community Council, the Resorts, RUCO, and Staff. Counsel for
20 Paradise Valley also appeared and provided copies of its Motion to Intervene, filed on March 12,
21 2010, to the parties present and to the Administrative Law Judge. No party objected to Paradise
22 Valley's intervention request, and it was granted.

23 At the procedural conference, Staff confirmed that it planned to file rate consolidation
24 proposals with testimony on March 29, 2010. Counsel for Staff stated that while it was unknown at
25 that time what Staff's recommendation would be, any Staff rate consolidation proposal would likely
26 affect customers in all of Arizona-American's districts. Discussion ensued regarding the difficulty of

27
28 ¹ Intervention was granted to the Town of Paradise Valley at the procedural conference held in this matter on March 12, 2010.

1 providing an appropriate opportunity for informed public comment and participation, within the
2 proposed schedule. Some parties present expressed the concern that a solution to the rate
3 consolidation notice issue should not delay the currently scheduled April 19, 2010, commencement of
4 the hearing on the Company's application.

5 The parties were informed that in order to allow an appropriate opportunity for informed
6 public comment, intervention, and full participation of any party wishing to participate in the rate
7 consolidation portion of the upcoming hearing, that portion of the hearing would have to be delayed.
8 Staff was directed to proceed with its proposed March 29, 2010, filing of testimony and exhibits on
9 rate design/rate consolidation, and the Company was directed to file its rebuttal testimony on rate
10 design/rate consolidation on April 5, 2010, as proposed. The parties were informed that a procedural
11 schedule for the filing of intervenors' responsive testimony to rate design/rate consolidation
12 testimony would be forthcoming. The Company agreed to draft a form of public notice for provision
13 to all its customers, and to circulate the draft among the parties for comments prior to filing an
14 agreed-upon form of notice by March 19, 2010. Due to the need to provide public notice to all
15 customers, the Company agreed that further consideration of the Company's request for additional
16 intervention was not necessary.

17 It is reasonable and in the public interest to bifurcate the hearing in this matter into two
18 phases, with all issues other than rate design and rate consolidation heard during the first phase of the
19 hearing, and rate design and rate consolidation issues heard during the second phase of the hearing.
20 A revised procedural schedule for this bifurcated proceeding must be established.

21 On March 16, 2010, Arizona-American filed a Notice of Filing Form of Notice. The
22 Company indicated that it circulated a form of notice addressing the issue of rate consolidation to all
23 parties to this proceeding, and that the form of notice included in the filing incorporated all comments
24 received from the parties.

25 The proposed form of notice filed by the Company appears to reasonably provide all known
26 information about the rate consolidation issue. It is therefore appropriate to require the Company to
27 provide public notice of the rate consolidation issue in the proposed form, with the modifications set
28 forth herein regarding hearing, pre-hearing conference and intervention requirements and dates, to all

1 of its customers by first class mail.

2 Anthem Golf and Country Club Intervention and *Pro Hac Vice* Admission of Counsel

3 On March 15, 2010, pursuant to Arizona Supreme Court Rule 38(a), Robert J. Saperstein, an
4 attorney with Brownstein Hyatt Farber Schreck, LLP, filed with the Commission a Motion and
5 Consent of Local Counsel for *Pro Hac Vice* Admission of Bradley J. Herrema in the above-captioned
6 matter, on behalf of the Anthem Golf and Country Club.² The Motion lists Mr. Saperstein as the
7 designated member of the Arizona State Bar with whom communications may be made and upon
8 whom papers should be served. A copy of the Application for Appearance *Pro Hac Vice* filed with
9 the State Bar of Arizona for Mr. Herrema, a copy of certificates of good standing from the
10 jurisdictions in which Mr. Herrema has been admitted to practice law, and a copy of the Notice of
11 Receipt of Complete Application from the State Bar of Arizona were attached to the Motion.

12 In the discretion of the Commission, Bradley J. Herrema should be permitted to appear and
13 participate in the above-captioned matter on behalf of the Anthem Golf and Country Club. Mr.
14 Herrema should be required to personally appear during his representation of the Anthem Golf and
15 Country Club at Commission hearings in this docket. Mr. Herrema should be permitted to make
16 timely requests to the Hearing Division to participate telephonically in procedural conferences.

17 As no objection has been filed to the intervention request of the Anthem Golf and Country
18 Club, it should be granted intervention.

19 IT IS THEREFORE ORDERED that the **first phase of the hearing** in the above-captioned
20 matter shall commence on the currently scheduled date of **April 19, 2010, at 10:00 a.m.**, or as soon
21 thereafter as is practicable, at the Commission's offices, 1200 West Washington Street, Hearing
22 Room #1 Phoenix, Arizona 85007. **All issues other than rate design and rate consolidation shall**
23 **be heard during the first phase of the hearing.**

24 IT IS FURTHER ORDERED that the **second phase of the hearing** in the above-captioned
25 matter shall commence on **May 18, 2010, at 10:00 a.m.**, or as soon thereafter as is practicable, at the
26

27 ² On January 11, 2010, a Motion to Intervene was filed by the General Manager of the Anthem Golf and Country Club.
28 Because the filing was not made by counsel authorized to practice law in the State of Arizona pursuant to Rule 31 of the
Rules of the Supreme Court of Arizona, no ruling on the filing has been made.

1 Commission's offices, 1200 West Washington Street, Hearing Room #1 Phoenix, Arizona 85007.

2 **Rate design and rate consolidation issues shall be heard during the second phase of the hearing.**

3 IT IS FURTHER ORDERED that intervention for the purpose of participation in the **second**
4 **phase of the hearing** in the above-captioned matter **pertaining to rate design and rate**
5 **consolidation issues** shall be in accordance with A.A.C. R14-3-105, except that **all motions to**
6 **intervene for the purpose of participating in the second phase of the hearing** in the above-
7 captioned matter **must be filed on or before April 15, 2010.**

8 IT IS FURTHER ORDERED that a **pre-hearing conference** shall be held on **April 16, 2010,**
9 **commencing at 1:30 p.m.,** or as soon thereafter as is practicable, at the Commission's Phoenix
10 offices, for the purpose of scheduling witnesses and discussion process for **both the first and second**
11 **phases of the hearing.** All parties, including those who have requested intervention by the
12 **deadline of April 15, 2010 to participate in the second phase of the hearing** in the above-
13 captioned matter, are **required to attend the April 16, 2010, pre-hearing conference.**

14 IT IS FURTHER ORDERED that **Staff's testimony** and associated exhibits to be presented at
15 hearing **on rate design and rate consolidation issues** shall be reduced to writing and filed on or
16 before **March 29, 2010.**

17 IT IS FURTHER ORDERED that any **rebuttal testimony and associated exhibits to be**
18 **presented at hearing** on behalf of **Arizona-American in response to Staff's direct testimony on**
19 **rate design and rate consolidation issues,** shall be reduced to writing and filed on or before **April 5,**
20 **2010.**

21 IT IS FURTHER ORDERED that any **surrebuttal testimony and associated exhibits to be**
22 **presented by Staff or intervenors on issues other than rate design and rate consolidation** shall
23 be reduced to writing and filed on or before **April 15, 2010.**

24 IT IS FURTHER ORDERED that the Company's witnesses may provide **rejoinder**
25 **testimony on issues other than rate design and rate consolidation** orally at the first phase of the
26 hearing.

27 IT IS FURTHER ORDERED that any **objections to testimony or exhibits that have been**
28

1 prefiled as of April 15, 2010, shall be made before or at the April 16, 2010, pre-hearing
2 conference. For testimony or exhibits prefiled after April 15, 2010, objections shall be made
3 before or at the commencement of the second phase of the hearing, on May 18, 2010.

4 IT IS FURTHER ORDERED that testimony and associated exhibits to be presented at
5 hearing on behalf of intervenors on rate design and rate consolidation issues shall be reduced to
6 writing and filed on or before May 3, 2010. This prefiled testimony shall be responsive to the rate
7 design and rate consolidation testimony previously filed by Staff and Arizona-American and may
8 also raise new issues related to rate consolidation.

9 IT IS FURTHER ORDERED that any rebuttal testimony and associated exhibits to be
10 presented at hearing on behalf of Arizona-American in response to intervenors' May 3, 2010
11 testimony on rate design and rate consolidation issues shall be reduced to writing and filed on or
12 before May 14, 2010.

13 IT IS FURTHER ORDERED that Staff and intervenors' witnesses shall provide surrebuttal
14 testimony on rate design and rate consolidation issues orally at the second phase of the hearing.

15 IT IS FURTHER ORDERED that all filings shall be made by 4:00 p.m. on the date the
16 filing is due, unless otherwise indicated above.

17 IT IS FURTHER ORDERED that the Company shall provide public notice of the rate
18 consolidation issue in this matter, in the following form and style, with the heading in no less than
19 18-point bold type and the body in no less than 10-point regular type:

20
21 **PUBLIC NOTICE TO ALL CUSTOMERS OF ARIZONA-**
22 **AMERICAN WATER COMPANY OF A HEARING ON RATE**
23 **CONSOLIDATION PROPOSALS FOR POSSIBLE RATE**
24 **CHANGES FOR UTILITY SERVICE IN**
25 **ALL OF ITS ARIZONA DISTRICTS.**
26 **DOCKET NOS. W-01303A-09-0343 AND SW-01303A-09-0343**

27 **Summary**

28 On July 2, 2009, Arizona-American Water Company ("Company") filed an application with the Arizona Corporation Commission ("Commission") for permanent revenue increases for its following districts: Anthem Water District, Sun City Water District, Anthem/Agua Fria Wastewater District, Sun City Wastewater District, and Sun City West Wastewater District (the "Pending Rate

1 Case"). In Decision No. 71410, dated December 8, 2009, the Commission
2 approved a rate increase for the Company's Agua Fria Water District, Havasu
3 Water District, Mohave Water District, Paradise Valley Water District, Tubac
4 Water District, Sun City West Water District, and Mohave Wastewater District.
5 In Decision No. 71410, **the Commission ordered the Commission's Utilities
6 Division ("Staff") to propose at least one rate consolidation proposal in the
7 Company's Pending Rate Case.** Pursuant to Decision No. 71410 and the
8 schedule in the Pending Rate Case, Staff will file at least one rate consolidation
9 proposal on or before **March 29, 2010.** **If approved by the Commission, this
10 proposal may impact the rates of every Arizona-American water and
11 wastewater customer, resulting in either an increase or a decrease.** Other
12 parties to this case, including the Residential Utility Consumer Office, will also
13 have an opportunity to analyze the application and make recommendations to the
14 Commission. The Commission will determine the appropriate relief to be granted
15 based on the evidence presented by the parties. The Commission is not bound by
16 the proposals made by Commission Staff, Arizona-American, or any intervenors;
17 therefore the final rates approved by the Commission may be higher or lower than
18 the rates requested by Arizona-American in the Pending Rate Case and may or
19 may not include a form of rate consolidation.

Rate Consolidation

20 Currently, the Company's rates are unique for each of its Arizona Districts and
21 the existing rates reflect the differing cost to serve each geographic area.
22 Alternatively, rate consolidation is the process of combining two or more districts
23 for the purpose of combining the differing rates by some means into a single rate
24 for comparable customers (i.e., residential customers). Therefore, instead of
25 paying a different rate according to a specific District, all comparable customers
26 in consolidated Districts would pay the same rate for the same water usage.
27 Presently, Arizona-American's existing District-specific residential rates for
28 typical use water customers result in average bills ranging from a low of \$16.73
per month in Sun City Water District to a high of \$58.59 per month in Tubac
Water District.

How You Can View or Obtain a Copy of the Rate Consolidation Proposal

20 Copies of the rate consolidation proposal filed by Commission Staff will be
21 available after March 29, 2010, from Arizona-American, 2355 W. Pinnacle Peak
22 Road, Suite 300, Phoenix, AZ 85027; at the Commission's Docket Control Center,
23 1200 West Washington, Phoenix, Arizona, for public inspection during regular
24 business hours; and on the internet via the Commission's website (www.azcc.gov)
25 using the e-docket function.

Commission Public Hearing Information - Phase One

25 On September 24, 2009, the Commission scheduled Phase One of the hearing on
26 this matter beginning **April 19, 2010, at 10:00 a.m.**, at the Commission's offices,
27 Hearing Room #1, 1200 West Washington Street, Phoenix, Arizona. During
28 Phase One of the hearing, issues related to evidence presented by the Company
regarding the revenue requirements for Anthem Water District, Sun City Water
District, Anthem/Agua Fria Wastewater District, Sun City Wastewater District,

1 and Sun City West Wastewater Districts will be addressed. During Phase One of
2 the hearing, the issues of rate consolidation and rate design will not be addressed.

3 **Commission Public Hearing Information - Phase Two**

4 The Commission will hold Phase Two of the hearing on this matter beginning
5 **May 18, 2010**, at 10:00 a.m., at the Commission's offices, 1200 West
6 Washington, Hearing Room #1, Phoenix, Arizona. **During Phase Two of the
7 hearing, the issues of rate consolidation and rate design for all of the
8 Company's Districts will be addressed.**

9 **Public comments on Rate Design and Rate Consolidation will be taken on the
10 first day of Phase Two of the hearing.** Other public comment times may be
11 established by the Commission and posted on the Commission's website. Written
12 public comments may be submitted by mailing a letter referencing Docket Nos.
13 W-01303A-09-0343 and WS-01303A-09-0343 to Arizona Corporation
14 Commission, Consumer Services Section, 1200 West Washington, Phoenix, AZ
15 85007, or by e-mail to Mailmaster@azcc.gov. For a form to use and instructions
16 on how to e-mail comments to the Commission, go to
17 <http://www.azcc.gov/Divisions/Utilities/forms/PublicCommentForm.pdf>. If you
18 require assistance, you may contact the Consumer Services Section at 602-542-
19 4251 or 1-800-222-7000.

20 **About Intervention**

21 The law provides for an open public hearing at which, under appropriate
22 circumstances, interested parties may intervene. Any person or entity entitled by
23 law to intervene and having a direct and substantial interest in the matter will be
24 permitted to intervene. If you wish to intervene, you must file an original and 13
25 copies of a written motion to intervene with the Commission no later than **April
26 15, 2010** and send a copy of the motion to intervene to Arizona-American or its
27 counsel and to all parties of record. Your motion to intervene must contain the
28 following:

- 19 1. Your name, address, and telephone number and the name, address
20 and telephone number of any person upon whom service of
21 documents is to be made if not yourself;
- 22 2. A short statement of your interest in the proceeding (e.g., a
23 customer of Arizona-American, a shareholder of Arizona-
24 American, etc.); and
- 25 3. A statement certifying that you have mailed a copy of the motion to
26 intervene to Arizona-American or its counsel and to all parties of
27 record in the case.

28 The granting of motions to intervene shall be governed by A.A.C. R14-3-105,
except that all motions to intervene must be filed on or before **April 15, 2010**.

1 A **pre-hearing conference** will be held on **April 16, 2010, commencing at 1:30**
2 **p.m.**, at the Commission's Phoenix offices, Hearing Room #1, for the purpose of
3 scheduling witnesses and discussing process for both Phase One and Phase Two
4 of the hearing. **All parties, including those who have requested intervention**
5 **by the deadline of April 15, 2010, for the purpose of addressing rate design**
6 **and rate consolidation issues, are required to attend the April 16, 2010,**
7 **procedural conference.**

8 As part of the Pending Rate Case, **intervenors will have an opportunity to file**
9 **both direct testimony and responsive testimony on rate design/rate**
10 **consolidation, due May 3, 2010. This prefiled testimony must be responsive to**
11 **the rate design and rate consolidation testimony filed by Staff and the**
12 **Company, and may also raise new issues related to rate consolidation.**

13 If representation by counsel is required by Rule 31 of the Rules of the Arizona
14 Supreme Court, intervention will be conditioned upon the intervenor obtaining
15 counsel to represent the intervenor. For information about requesting
16 intervention, visit the Commission's website at
17 <http://www.azcc.gov/divisions/utilities/forms/interven.pdf>. The granting of
18 intervention, among other things, entitles a party to present sworn evidence at
19 hearing and to cross-examine other witnesses. However, failure to intervene will
20 not preclude any interested person or entity from appearing at the hearing and
21 providing public comment on the application or from filing written comments for
22 the record of the case.

23 **ADA/Equal Access Information**

24 The Commission does not discriminate on the basis of disability in admission to
25 its public meetings. Persons with a disability may request a reasonable
26 accommodation such as a sign language interpreter, and may request this
27 document in an alternative format by contacting the ADA Coordinator, Shaylin
28 Bernal, at sabernal@azcc.gov, voice phone number 602-542-3931. Requests
should be made as early as possible to allow time to arrange the accommodation.

IT IS FURTHER ORDERED that Arizona-American shall mail to each of its customers a
copy of the above notice by first-class mail no later than **March 29, 2010**.

IT IS FURTHER ORDERED that Arizona-American shall file certification of mailing as soon
as practicable after the mailing has been completed, but no later than **April 15, 2010**.

IT IS FURTHER ORDERED that notice shall be deemed complete upon mailing of same,
notwithstanding the failure of an individual customer to read or receive the notice.

IT IS FURTHER ORDERED that Bradley J. Herrema is hereby admitted *pro hac vice* in the
above-captioned matter.

1 IT IS FURTHER ORDERED that Mr. Herrema is hereby required to personally appear during
2 his representation of the Anthem Golf and Country Club at Commission hearings in this docket. Mr.
3 Herrema may make timely requests to the Hearing Division to participate telephonically in
4 procedural conferences, but requests to participate telephonically in evidentiary hearings will not be
5 granted.

6 IT IS FURTHER ORDERED that the address for service of papers and other communications
7 for Bradley J. Herrema shall be:

8
9 Bradley J. Herrema
10 BROWNSTEIN HYATT FARBER SCHRECK, LLP
11 21 E. Carrillo Street
12 Santa Barbara, CA 93101

13 IT IS FURTHER ORDERED that the address for service of papers and other communications
14 for the Arizona-licensed attorney shall be:

15 Robert J. Saperstein
16 BROWNSTEIN HYATT FARBER SCHRECK, LLP
17 21 E. Carrillo Street
18 Santa Barbara, CA 93101

19 IT IS FURTHER ORDERED that the Anthem Golf and Country Club and the Town of
20 Paradise Valley are hereby granted intervention.

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

27 IT IS FURTHER ORDERED that all parties must comply with Rules 31 and 38 of the Rules
28 of the Arizona Supreme Court and A.R.S. § 40-243 with respect to the practice of law and admission
pro hac vice.

1 IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113 - Unauthorized
2 Communications) continues to apply to this proceeding and shall remain in effect until the
3 Commission's Decision in this matter is final and non-appealable.

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

7 DATED this 18th day of March, 2010.

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10 
11 TEENA WOLFE
ADMINISTRATIVE LAW JUDGE

12 Copies of the foregoing mailed/delivered
13 This 18th day of March, 2010 to:

14 Thomas H. Campbell
15 Michael T. Hallam
16 LEWIS AND ROCA LLP
40 North Central Avenue, Suite 1900
Phoenix, AZ 85004
Attorneys for Arizona-American Water Co.

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17 Judith M. Dworkin
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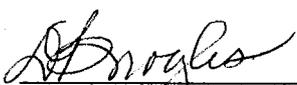
26 Larry Woods, President
27 PROPERTY OWNERS AND
RESIDENTS ASSOCIATION
13815 East Camino Del Sol
28 Sun City West, AZ 85375

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Robert J. Saperstein
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1 Janice Alward, Chief Counsel
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2200 N. Central Ave., Suite 502
8 Phoenix, AZ 85004-1481

9
10 By: 
11 *for* Debbi Person
Secretary to Teena Wolfe

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