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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

Arizona Corporation Commission

DOCKETED

2010 APR 19 P 1:41

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

APR 19 2010

AZ CORP COMMISSION
DOCKET CONTROL

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IN THE MATTER OF:

DOCKET NO. W-01808A-09-0137

CHARLES J. DAINS,

Complainant,

v.

RIGBY WATER COMPANY,

Respondent.

PROCEDURAL ORDER

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 ("MXA") 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 an Answer to the 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 MXA and a reply in support of its 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.

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 stating that the
3 parties had been unable to reach settlement on the issues.

4 On September 15, 2009, by Procedural Order, the hearing in this matter was set for October
5 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 confidentiality.

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

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

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

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

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

28 On November 24, 2009, counsel for Complainant filed a Motion to Continue Hearing, stating

1 that Complainant, Mr. Charles J. Dains, had passed away. According to the motion, Mr. Dains' son,
2 Mr. Charles J. Dains Jr., planned to take over for his father in this case, but needed time to prepare for
3 the hearing. The motion requested an indefinite continuance of the hearing and stated that the other
4 parties did not object to the request.

5 On November 25, 2009, a Procedural Order was issued vacating the hearing scheduled for
6 December 2, 2009, and directing counsel for Complainant to file a status report on or before February
7 26, 2010.

8 On March 2, 2010, the Complainant filed a status report, stating that the Complainant was
9 ready to proceed and requested that a procedural conference be scheduled.

10 The parties were contacted telephonically and a telephonic procedural conference was set for
11 March 22, 2010.

12 On March 22, 2010, a telephonic procedural conference was held as scheduled, to discuss the
13 status of the case. Complainant, Rigby, and Staff appeared through counsel. Discussions were held
14 regarding the Complainant's standing, in light of the death of Mr. Charles Dains; Staff's expanded
15 role in the proceeding; and the length of time needed for a hearing in this matter.

16 Based on the discussions held during the procedural conference, the Commission now issues
17 this Procedural Order to govern the preliminary preparation and conduct of this proceeding.

18 **IT IS THEREFORE ORDERED that Complainant shall docket, on or before May 7, 2010, a**
19 **affidavit of an individual authorized to pursue the claim in this matter stating that the**
20 **individual is authorized to act for the estate of Mr. Charles Dains, and that the individual**
21 **intends to pursue the claims in this case on behalf of said estate, along with documentation**
22 **establishing that the individual is authorized to pursue the claim on behalf of the Mr. Charles**
23 **Dains estate.**

24 **IT IS FURTHER ORDERED that if Complainant fails to file the above information, by**
25 **May 7, 2010, this Complaint may be administratively closed.**

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

28

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

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

10 DATED this 19th day of April, 2010.

11
12
13 
14 YVETTE B. KINSEY
ADMINISTRATIVE LAW JUDGE

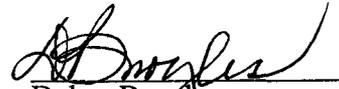
15 Copies of the foregoing mailed/delivered
16 this 19th day of April, 2010 to:

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By: 
Debra Broyles
Secretary to Yvette B. Kinsey