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BEFORE THE ARIZONA CORPORATION COMMISSION

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

Arizona Corporation Commission

DOCKETED

APR 14 2010

DOCKETED BY [nr]

IN THE MATTER OF APPLICATION OF SEMSTREAM ARIZONA PROPANE, L.L.C. FOR APPROVAL OF A CORPORATE REORGANIZATION PURSUANT TO A.A.C. R14-2-803.

DOCKET NO. G-20471A-09-0537

DECISION NO. 71637

ORDER

Open Meeting  
March 31 and April 1, 2010  
Phoenix, Arizona

BY THE COMMISSION:

FINDINGS OF FACT

1. Semstream Arizona Propane, L.L.C. ("Semstream Arizona" or "Company") is engaged in providing propane service within portions of Arizona, pursuant to authority granted by the Arizona Corporation Commission ("ACC" or "Commission").
2. On November 20, 2009, Semstream Arizona filed for Commission approval of a reorganization related to the emergence of its parent company out of Chapter 11 bankruptcy.
3. Semstream Arizona consists of two divisions, the Page Division which serves approximately 1,300 customers, and the Payson Division, which serves approximately 7,800 customers.
4. Semstream Arizona was not part of the bankruptcy filing, but its direct parent, Semstream L.P., and the overall corporate parent, SemGroup L.P., were.
5. Arizona Administrative Code ("A.A.C.") R14-2-803 provides a process for Commission approval of the reorganization of an existing public utility holding company.

1           6.       On July 22, 2008, SemGroup filed for Chapter 11 bankruptcy in the United States  
2 Bankruptcy Court for the District of Delaware (Case No. 08-11525). Semstream Arizona is a  
3 subsidiary of Semstream L.P., which is a subsidiary of the ultimate parent company, SemGroup.

4           7.       While SemGroup and Semstream L.P. were part of the bankruptcy filing,  
5 Semstream Arizona was not. The bankruptcy filing was the result of the massive losses SemGroup  
6 experienced in speculative oil trading, and with SemGroup being unable to meet margin calls on  
7 futures and options positions.

8           8.       On September 29, 2008, the Commission initiated Docket No. G-00000C-08-0501  
9 for the purpose of gathering information regarding Semstream Arizona and its affiliates related to  
10 the bankruptcy proceeding. Two types of reports were filed in this docket by Semstream Arizona.  
11 One addressed operational circumstances in the Page and Payson Divisions. The second report  
12 provided an overview of developments in the bankruptcy proceeding. Semstream Arizona filed a  
13 total of 12 reports in the informational docket between November 12, 2008 and October 1, 2009.

14           9.       The operational reports indicate that the bankruptcy has not had a negative impact  
15 on the service provided to Semstream Arizona's customers in Payson and Page. The November  
16 26, 2008 report filed in the information gathering docket indicates that SemGroup had total assets  
17 in excess of \$3.5 billion and total liabilities in excess of \$4.7 billion. Of the liabilities,  
18 approximately \$3.0 billion represented secured claims, while \$1.7 billion is in unsecured claims.

19           10.       Semstream Arizona, is a very small part of the overall SemGroup entity; Semstream  
20 Arizona has annual revenues of less than \$10 million for the Page and Payson Divisions, while  
21 SemGroup was reported to be the 18<sup>th</sup> largest private company in the United States in 2007, with  
22 revenues of \$14.2 billion.

23           11.       The Payson Division was acquired by Semstream Arizona from Energy West Inc.,  
24 with Commission approval of the acquisition granted in Decision No. 69394 (March 22, 2007).

25           12.       The Page Division was acquired by Semstream Arizona from Black Mountain Gas,  
26 a wholly owned subsidiary of Southwest Gas Corporation, with Commission approval of the  
27 acquisition granted in Decision No. 69579 (May 21, 2007).

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1           13.     A utility intending to reorganization under A.A.C. R14-2-803(A) must notify the  
2 Commission's Utilities Division in writing 120 days prior to the reorganization actually taking  
3 place. The bankruptcy proceeding was very contentious, with thousands of filings and more than  
4 7,000 creditors, including over 100 lending institutions.

5           14.     Additional legal proceedings are pending against a number of pre-bankruptcy  
6 principals of SemGroup, including co-founders Tom Kivisto, Gregory Wallace, and Kevin Foxx,  
7 as well as SemGroup treasurer Brent Cooper and SemGroup chief accounting officer Alex  
8 Stallings. A report from the court-appointed investigator placed significant blame on these officers  
9 for SemGroup's problems. The report indicated that Debtors' estates have cause for action or  
10 claim in a number of regards, including negligence/mismanagement, fraud/false statements,  
11 conversion/corporate waste, unjust enrichment, breach of fiduciary duties, and breach of contract.  
12 The trial is scheduled to start on February 14, 2011.

13           15.     SemGroup's bankruptcy proceeding included an initial Reorganization Plan filed in  
14 May 2009, and was subsequently amended three times.

15           16.     A major issue with in the Plan was providing compensation for oil and gas  
16 producers, who argued they were owed more than \$400 million. Finally, on September 16, 2009, a  
17 settlement was reached with the oil and gas producers regarding their compensation under the  
18 Reorganization Plan.

19           17.     The Fourth Amended Plan of Reorganization and Disclosure Statement were filed  
20 in the bankruptcy proceeding on September 22, 2009. Despite over 80 objections to the Plan of  
21 Reorganization, the judge in the bankruptcy proceeding approved the Plan of Reorganization on  
22 October 28, 2009. Under the Plan of Reorganization, SemGroup emerged from bankruptcy on  
23 November 30, 2009.

24           18.     Semstream Arizona contacted Staff the first week of November and, prior to  
25 making its initial filing in this docket, held a conference call with Staff to discuss the bankruptcy  
26 proceeding and pending application. Given the aggressive timeframe adopted by the bankruptcy  
27 proceeding, with only about a one month period between the approval of the Plan of  
28 Reorganization and when SemGroup emerged from bankruptcy under the Plan, it is

1 understandable how notification to the Utilities Division 120 days prior to the reorganization was  
2 unrealistic.

3 19. Staff believes Semstream Arizona contacted Staff in a timely manner, even though  
4 not in technical compliance with the 120 day requirement.

5 20. While the reality of the situation is that the corporate reorganization has already  
6 taken place and SemGroup has emerged from bankruptcy, Staff has conducted a review of the  
7 reorganization and whether it is in the public interest for Semstream Arizona and its customers.

8 21. During the bankruptcy proceeding, certain other affiliates under the SemGroup  
9 corporate umbrella were sold off, and the reorganization involved a restructuring of SemGroup's  
10 remaining assets. Prior to emergence from bankruptcy, SemGroup was a privately held company.  
11 The reorganization plan reflects a shift to a publicly traded company named SemGroup  
12 Corporation. The initial shareholders would be more than 2,000 of the pre-bankruptcy creditors.

13 22. SemGroup has indicated that it expects to apply in mid-2010 to the Securities and  
14 Exchange Commission ("SEC") for listing on a national exchange. SemGroup has indicated that it  
15 believes that becoming a publicly-owned corporation will have a number of positive impacts on  
16 SemGroup, including improved corporate governance due to SEC rules and regulations, greater  
17 transparency, and improved access to debt and equity capital markets.

18 23. Semstream L.P. will continue to be the direct parent company of Semstream  
19 Arizona, as it was prior to the bankruptcy filing. The corporate officers within SemGroup and  
20 Semstream L.P. who Semstream Arizona reports to have changed as a result of the reorganization;  
21 the table below identifies the old and new corporate officers:

Officers Before Bankruptcy	Officers After Reorganization
Terrence Ronan – CEO, SemGroup	Norm Szydlowski – CEO, SemGroup
Larry Payne – President, Semstream, L.P.	Kevin Clement – President, Semstream L.P.
Alisa Perkins – Treasurer and Secretary, SemGroup	Paul Largess – Controller and CAO, SemGroup
Dave Wunch – Vice President, Semstream, L.P.	Robert N. Fitzgerald – Senior Vice President, Secretary, and CFO, Semgroup
Laura Lundquist – Vice President, Human Resources, SemGroup	

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1           24.    Based on information provided by Semstream Arizona, it does not appear that the  
2 parent company's bankruptcy proceeding has negatively impacted Semstream Arizona's  
3 operations and customer service in Page and Payson or Semstream Arizona's ability to meet its  
4 financial obligations. Semstream Arizona has continued to purchase propane supplies and conduct  
5 other financial activities throughout the period of the bankruptcy proceeding.

6           25.    Regarding on-going financing of infrastructure and other capital requirements,  
7 Semstream Arizona has indicated to Staff that it believes it has sufficient capital to internally fund  
8 its needs, but that if necessary, the Company could request additional funding from Semstream  
9 L.P. Semstream Arizona has stated that it currently has \$3.7 million available for capital needs,  
10 with capital requirements in 2010 projected at \$930,000 and \$980,000 in 2011. Semstream  
11 Arizona's capital budget would be generated locally and then be approved by Semstream L.P. and  
12 SemGroup before final approval by the Board of Directors of SemGroup.

13           26.    Prior to the bankruptcy filing, Semstream Arizona had typically purchased a portion  
14 of its propane supplies from an affiliated entity within another part of SemGroup. Staff believes  
15 this is reasonable, given the limited number of suppliers available to Semstream Arizona.  
16 However, as part of the Commission's approval of the acquisition of the Payson and Page  
17 Divisions by Semstream Arizona (Decision No. 69579, May 21, 2007), the Commission ordered  
18 Semstream Arizona to include additional information in its monthly purchased gas adjustor  
19 reports, providing information on affiliated and non-affiliated propane purchases. Semstream  
20 Arizona has indicated to Staff in response to a data request that its relationship for purchasing  
21 propane from another segment of SemGroup will not change as a result of the reorganization.  
22 Staff will continue to monitor Semstream Arizona's propane purchasing activities, including the  
23 affiliated transaction information included in its monthly purchased gas adjustor reports.

24           27.    The primary cause of the bankruptcy filing was speculative oil trading which  
25 resulted in massive financial losses. SemGroup has indicated in a data response to Staff that, while  
26 portions of SemGroup will continue to trade oil as part of normal business operations, SemGroup  
27 will not undertake the type of speculative oil trading which led the Company into bankruptcy.

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1 Additionally, SemGroup has indicated it has taken a number of steps to avoid the problems that led  
2 to the bankruptcy filing, including:

- 3 • Hiring an experienced Chief Risk Officer;
- 4 • Formulation of a comprehensive Risk Management Policy, including detailed  
5 oversight requirements;
- 6 • Having the Audit Committee of the Board of Directors have overall risk management  
7 oversight; and
- 8 • Initiation of frequent compliance reports from persons involved in risk management  
9 trading throughout the Company to ensure conformity with policies and guidelines.

10 28. Staff believes these are reasonable steps to reduce the risk of repeating the problems  
11 that led SemGroup into bankruptcy, but it is difficult to assess what events could take place in  
12 other parts of SemGroup in the future.

13 29. One casualty of the bankruptcy filing was the construction of a propane terminal in  
14 Winslow, Arizona that would have provided Semstream Arizona with additional optionality for its  
15 propane supply acquisitions. At the time of the bankruptcy filing, the Winslow terminal was under  
16 construction, but the construction was halted at the time of the bankruptcy filing. Semstream  
17 Arizona's November 12, 2008 report in the information gathering docket provided a number of  
18 details regarding the Winslow terminal, including the following:

- 19 • Capital cost of \$7,000,000;
- 20 • First year operations and maintenance ("O&M") of \$250,000 and second year O&M  
21 of \$350,000;
- 22 • Seven 90,000 gallons tanks on site;
- 23 • Propane and butane would be stored at the facility; and
- 24 • Estimated annual volumes of 7.7 million gallons for other customers and 4.5 million  
25 gallons for Semstream Arizona.

26 30. In recent years, Semstream Arizona has indicated to Staff on a number of occasions  
27 that construction of the Winslow terminal is very timely, as the two storage propane storage  
28 facilities Semstream Arizona has traditionally relied on, Adamana in northern Arizona and

1 Bumstead on the west side of Phoenix, had been sold to new owners and were both increasing their  
2 charges for other parties to store propane there and/or limiting availability of storage space  
3 altogether.

4 31. A terminal in Winslow would provide the possibility of purchasing propane in other  
5 markets to the east, where propane markets are larger and more liquid, and transporting such  
6 supplies to Arizona via rail car. Potential benefits to Semstream Arizona's customers from the  
7 Winslow terminal include increased supply reliability and lower prices.

8 32. In response to a data request, Semstream Arizona indicated to Staff that following  
9 SemGroup's exit from bankruptcy on November 30, 2009, SemGroup approved completion of the  
10 Winslow terminal, with construction recommencing in January 2010. Staff has verbally confirmed  
11 with Semstream Arizona that construction has now commenced on the Winslow terminal.  
12 Semstream Arizona projects that the terminal will come into service in the fall of 2010.

13 33. Successful completion of the Winslow terminal would provide a new supply option  
14 for Semstream Arizona with the potential to lower the cost and increase the reliability of propane  
15 supplies for Semstream Arizona and other propane consumers in Arizona. Staff believes that  
16 completion of the Winslow terminal is a positive development for both Semstream Arizona and its  
17 customers and is likely the most tangible result of SemGroup emerging from bankruptcy.

18 34. In general, Staff believes that the exit from bankruptcy and corporate reorganization  
19 of Semstream Arizona's parent company will not have a direct impact on operations in Payson and  
20 Page, but that these moves may be beneficial in providing a more financially stable situation for  
21 Semstream Arizona operations. Staff believes that completion of the Winslow terminal will most  
22 likely directly benefit Semstream Arizona and its customers in future years and is a tangible  
23 positive result of the emergence from bankruptcy.

24 35. Staff has recommended approval of the corporate reorganization.

25 36. Staff has further recommended that Semstream Arizona file with Docket Control in  
26 this Docket, a letter notifying the Commission of the start of commercial operations at the  
27 Winslow terminal within ten days of its occurrence.

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1 IT IS FURTHER ORDERED that Semstream Arizona Propane, L.L.C. file with Docket  
 2 Control, as a compliance item in this docket, a notice if any affiliate within SemGroup begins  
 3 speculative oil or other trading such as that which led to SemGroup's bankruptcy filing in 2008.  
 4 Any such notice(s) should be docketed within 5 calendar days of the beginning of any such  
 5 speculative oil or other trading activity.

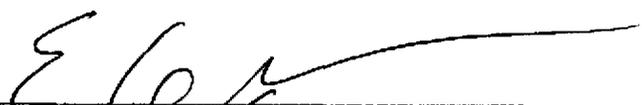
6 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

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**BY THE ORDER OF THE ARIZONA CORPORATION COMMISSION**

 CHAIRMAN	 COMMISSIONER	
 COMMISSIONER	 COMMISSIONER	 COMMISSIONER

IN WITNESS WHEREOF, I, ERNEST G. JOHNSON,  
 Executive Director of the Arizona Corporation Commission,  
 have hereunto, set my hand and caused the official seal of  
 this Commission to be affixed at the Capitol, in the City of  
 Phoenix, this 14<sup>th</sup> day of April, 2010.

  
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 ERNEST G. JOHNSON  
 EXECUTIVE DIRECTOR

DISSENT: \_\_\_\_\_

DISSENT: \_\_\_\_\_

SMO:RGG:lh\WVC

1 SERVICE LIST FOR: Semstream Arizona Propane, L.L.C.  
2 DOCKET NO. G-20471A-09-0537

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