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BEFORE THE ARIZONA CORPORATION COMMISSION

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ARIZONA CORPORATION COMMISSION
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COMMISSIONERS

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

IN THE MATTER OF THE APPLICATION
OF KOHL'S RANCH WATER COMPANY
FOR AN EMERGENCY RATE INCREASE.

Docket No. W-02886A-10-0369

**APPLICANT KOHL'S RANCH
WATER COMPANY'S MOTION
FOR AN EXPEDITED
RECOMMENDED OPINION AND
ORDER**

For the reasons set forth below, Kohl's Ranch Water Company (KRWC) respectfully requests an expedited Recommended Opinion and Order regarding KRWC's application with the Arizona Corporation Commission (ACC) for an emergency rate increase (Application).

As KRWC has explained in previous filings and during the November 3, 2010 hearing on its Application (Hearing), since 1995 when ILX Resorts Incorporated (ILX) acquired KRWC, ILX has subsidized KRWC because the revenues generated by its current tariff are insufficient to cover its actual operating costs. In March 2009, ILX filed for protection from creditors under Chapter 11 of the Bankruptcy Code. The Plan of Reorganization approved by the Bankruptcy Court provides for the sale of substantially all of the assets of ILX. The remaining assets of ILX after wind-up of its affairs will be

1 distributed to unsecured creditors. The assets necessary to operate KRWC were expressly
2 retained by ILX and not sold. ILX applied for an emergency rate increase to allow KRWC
3 to become a viable stand-alone entity in the absence of ILX's subsidization.
4

5 ILX filed its Application on September 2, 2010. At that time, ILX's creditor agreed
6 to fund KRWC's operations through November 2010 under the condition that ILX seek an
7 emergency rate increase for KRWC. At that time ILX believed that a rate increase would
8 be obtained no later than the end of November 2010. Now, unless the Recommended Order
9 and Opinion is expedited, ILX will not receive the rate increase until at least January,
10 leaving KRWC with a funding gap of at least two and more than likely three months.
11

12 To date, ILX has not obtained the necessary approval from its creditors to continue
13 to fund KRWC's operations for the months of December, January, or February. ILX, which
14 is in the process of winding-up its affairs, will, therefore, not be able to fund or support
15 KRWC. Thus, there are and will be no funds to perform the basic functions of the water
16 company until KRWC obtains, implements, and receives revenue from the emergency rate
17 increase.
18
19

20 For this reason, KRWC respectfully requests an expedited Recommended Opinion
21 and Order so as to allow the possibility that the ACC could rule upon KRWC's Application
22 at the Open Meeting scheduled for December 14-15, 2010 or alternatively during a special
23 session soon after. Without an immediate decision by the ACC, KRWC faces a gap
24 between its revenues and expenses that could force KRWC into bankruptcy.
25

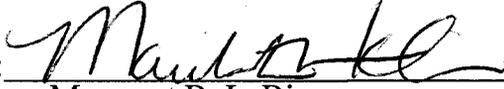
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1 Dated this 7th day of December, 2010.

2 POLSINELLI SHUGHART PC

3
4
5 By: 

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9 ORIGINAL + 13 copies filed this
10 7th day of December, 2010, with the
11 Arizona Corporation Commission

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