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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

- GARY PIERCE - Chairman
- BOB STUMP
- SANDRA D. KENNEDY
- PAUL NEWMAN
- BRENDA BURNS

Arizona Corporation Commission
2011 JAN -4 P 3: 24 DOCKETED

AZ CORP COMMISSION JAN 4 2011
DOCKET CONTROL

DOCKETED BY
[Signature]

IN THE MATTER OF THE APPLICATION OF
TUSAYAN WATER DEVELOPMENT
ASSOCIATION, INC. FOR ESTABLISHMENT
OF RATES FOR WATER SERVICE.

DOCKET NO. W-02350A-10-0163

PROCEDURAL ORDER

BY THE COMMISSION:

On April 29, 2010, Tusayan Water Development Association, Inc. ("Tusayan") filed with the Arizona Corporation Commission ("Commission") a rate application using a test year ending December 31, 2009. In its application, Tusayan stated that it was directed to file the application by a Commission letter dated November 16, 2009. Tusayan explained that it does not own any of the facilities used in pumping or distributing water or any other property, plant, or equipment, and that it purchases water from two water companies and bills its customers for the water used. Tusayan stated that each of its 36 customers (5 residential and 31 commercial) receives water from one of two separate distribution systems owned and operated by the two separate water companies, with the serving system determined based on the customer's location. One of the water companies was identified as Hydro Resources, for which the billing rate is \$24.50 per 1,000 gallons. The other water company was identified as Anasazi Water Co., for which the billing rate is \$55.00 per 1,000 gallons. Tusayan stated that it assesses a fee on each bill of \$0.0004 per gallon to cover its administrative costs. Tusayan's application did not request a rate increase.

On June 4, 2010, the Commission's Utilities Division ("Staff") issued a Letter of Insufficiency in this docket, stating that Tusayan's application did not meet the sufficiency requirements outlined in Arizona Administrative Code ("A.A.C.") R14-2-103, that Tusayan needed to familiarize itself with the Commission's rules related to rate case filings, and that Staff would like

1 to meet with Tusayan to assist it in understanding the process. Staff requested that Tusayan contact
2 Staff within 15 days of receiving the letter.

3 On July 2, 2010, Tusayan Ventures LLC ("T Ventures") filed an Application for Leave to
4 Intervene, requesting that it be permitted to intervene in this matter because T Ventures and its
5 affiliate companies are the owners and developers of property located within Tusayan's CC&N
6 service area and thus will be directly and substantially affected by the Commission's decision in this
7 matter.

8 Tusayan did not file a response to the intervention request.

9 On July 19, 2010, a Notice of Intervention Procedural Order was issued granting T Ventures
10 intervention in this matter.

11 On July 21, 2010, Staff filed in this docket two letters issued that day, one to Hydro-
12 Resources, Inc. ("Hydro") and one to Anasazi Water Company, LLC ("Anasazi"). Each letter
13 thanked the recipient for taking the time to talk with Staff regarding the recipient's relationship with
14 Tusayan, stated that Staff believes that the recipient may be acting as a public service corporation,
15 asked the recipient to file within 90 days either an application for a Certificate of Convenience and
16 Necessity ("CC&N") or a request to be adjudicated not a public service corporation, and stated that
17 failure to take action could result in the filing of a complaint and a petition for an order to show cause
18 regarding why the recipient should not be subject to Commission regulation.

19 On October 21, 2010, Anasazi filed, in Docket No. W-20765A-10-0432 ("Anasazi Docket"),
20 an Application for Adjudication "Not a Public Service Corporation" ("Anasazi Adjudication
21 Application").

22 On November 19, 2010, Hydro filed, in Docket No. W-20770A-10-0473 ("Hydro Docket"),
23 Hydro-Resources, Inc.'s Application for a Determination That It Is Not Acting as a Public Service
24 Corporation in Tusayan, Arizona ("Hydro Adjudication Application").

25 On December 2, 2010, in this docket, the Anasazi Docket, and the Hydro Docket (jointly "the
26 three dockets"), Staff filed a Request for Procedural Conference. In each Request, Staff requested a
27 procedural conference; stated that the matters in the three dockets are complex and interrelated; and
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1 stated that Staff recommends, at a minimum, suspension of Tusayan's rate application, pending the
2 resolution of the Anasazi Adjudication Application and the Hydro Adjudication Application.

3 On December 10, 2010, in each of the three dockets, a Procedural Order was issued
4 scheduling a joint procedural conference for the three dockets to be held on January 4, 2011, at the
5 Commission's offices in Phoenix. The parties were instructed to be prepared to discuss whether the
6 three dockets should be consolidated and how the three dockets should proceed.

7 On December 30, 2010, the Town of Tusayan ("Town") filed, in this docket, a letter advising
8 that the Town is exploring options available for financing and operating its own municipal water
9 system; stating that the Town was aware of the procedural conference scheduled for January 4, 2011;
10 stating that the Town has a strong interest in any decisions that might be made concerning water
11 service to its residents; and asking that the Commission not act further on these issues without the
12 Town's "having a seat at the table to discuss them and provide its input as to how matters should
13 proceed." The Town did not mention intervention in its letter or otherwise formally request that it be
14 permitted to participate as a party in any of the three dockets.

15 On January 4, 2011, a procedural conference was held as scheduled at the Commission's
16 offices in Phoenix, Arizona. Tusayan was represented by Chris Brainard, its contracted Certified
17 Public Accountant, who verified that he is neither a corporate officer nor an employee of Tusayan
18 and who was directed that Tusayan needs to select, by Board Resolution, a representative who is
19 eligible to appear before the Commission on Tusayan's behalf under A.R.S. § 40-243 and Rule 31 of
20 the Rules of the Arizona Supreme Court. T Ventures, Anasazi, Hydro, and Staff appeared through
21 counsel. Anasazi, Hydro, and Staff all expressed support for consolidating the three dockets and for
22 suspending the rate case process while the other issues are resolved. Mr. Brainard expressed support
23 for consolidating the three dockets, expressed no opposition to suspending the rate case process, and
24 was informed that Tusayan's Board Resolution must include Tusayan's position on consolidating the
25 three dockets.¹ T Ventures expressed no objection to consolidating the three dockets or to
26 suspending the rate case pending resolution of other issues, provided that there are "benchmarks" that

27 _____
28 ¹ Although it may not have been stated in the procedural conference, Tusayan will also be required to include in its
Resolution Tusayan's position on suspending the rate case process pending the resolution of other issues.

1 must be met, and the process does not result in excessive delay. No representative for the Town was
2 present. However, counsel for Hydro advised that he had been informed by the Town that the issue
3 of intervention was expected to be on the agenda for the Town Council meeting scheduled for
4 January 5, 2011. Hydro and Anasazi both also asserted that the Town should participate as a party in
5 the three dockets. No ruling was made on consolidation, pending consideration of Tusayan's
6 Resolution, and it was determined that another procedural conference would be held in approximately
7 one month. It was further determined that the Procedural Order scheduling the procedural conference
8 would also direct the Town to make a filing clarifying its intent as to intervention and would
9 memorialize the requirement for Tusayan's Resolution.

10 IT IS THEREFORE ORDERED that a **joint procedural conference involving this docket,**
11 **the Anasazi Docket, and the Hydro Docket** shall be held on **February 7, 2011, at 10:00 a.m.**, or as
12 soon thereafter as is practicable, at the Commission's offices, Hearing Room #1, 1200 West
13 Washington, Phoenix, Arizona 85007.

14 IT IS FURTHER ORDERED that **Tusayan shall, by January 14, 2011, file with the**
15 **Commission's Docket Control, in this docket, copies of a Tusayan Board Resolution** (1)
16 specifically identifying and authorizing a qualified individual² to serve as Tusayan's representative
17 before the Commission in this matter; (2) providing Tusayan's position on the appropriateness of
18 consolidating the three dockets; and (3) providing Tusayan's position on the appropriateness of
19 suspending the rate case process pending resolution of the other issues in the three dockets (related to
20 the status of Anasazi and Hydro).

21 IT IS FURTHER ORDERED that the **Town shall, by January 20, 2011, file with the**
22 **Commission's Docket Control, in this docket,** either copies of a Motion to Intervene or copies of a
23 document explaining that the Town does not desire to participate as a party in this matter and
24 explaining why the Town believes that it is not a necessary party in interest. **The Town shall**
25 **include with either type of filing a Town Council Resolution authorizing the filing to be made.**
26 If the Town files a Motion to Intervene, the Motion shall, at a minimum, include (1) The name,

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28 ² Tusayan can choose to be represented by legal counsel or by an individual authorized to represent it as provided under A.R.S. § 40-243(B) and Arizona Supreme Ct. Rule 31(d)(28).

1 address, telephone number, and e-mail address for the Town and for any person upon whom service
2 of documents is to be made (if different from the Town's primary information); (2) A short statement
3 of the Town's interest in this matter; and (3) A statement certifying that a copy of the Motion to
4 Intervene has been mailed to each party identified in the service list for this matter.

5 **IT IS FURTHER ORDERED that any party desiring to file a response to the Town's filing**
6 **shall do so by filing copies of its response with the Commission's Docket Control, in this docket, by**
7 **January 27, 2011.**

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

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

14 **IT IS FURTHER ORDERED that the Presiding Officer may rescind, alter, amend, or waive**
15 **any portion of this Procedural Order either by subsequent Procedural Order or by ruling at hearing.**

16 DATED this 4th day of January, 2011.

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18 
19 SARAH N. HARPRING
20 ADMINISTRATIVE LAW JUDGE

21 Copies of the foregoing mailed/delivered
22 this 4th day of January, 2011, to:

23 TUSAYAN WATER DEVELOPMENT
24 ASSOCIATION, INC.
25 P.O. Box 520
26 Grand Canyon, AZ 86023

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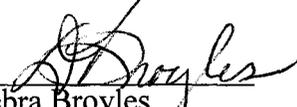
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12 By: 
13 Debra Broyles
Secretary to Sarah N. Harpring
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