

OPEN MEETING AGENDA ITEM



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ORIGINAL

BEFORE THE ARIZONA CORPORATION COMMISSION

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COMMISSIONERS

GARY PIERCE, Chairman
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2011 FEB 24 P 2:01

AZ CORP COMMISSION
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Arizona Corporation Commission

DOCKETED

FEB 24 2011

DOCKETED BY

IN THE MATTER OF THE APPLICATION OF ARIZONA WATER COMPANY, AN ARIZONA CORPORATION, TO EXEND ITS EXISTING CERTIFICATE OF CONVENIENCE AND NECESSITY IN THE CITY OF CASA GRANDE AND IN PINAL COUNTY, ARIZONA

Docket No. W-01445A-06-0199

IN THE MATTER OF THE APPLICATION OF PALO VERDE UTILITIES COMPANY FOR AN EXTENSION OF ITS EXISTING CERTIFICATE OF CONVENIENCE AND NECESSITY.

Docket No. SW-03575A-05-0926

IN THE MATTER OF THE APPLICATION OF SANTA CRUZ WATER COMPANY FOR AN EXTENSION OF ITS EXISTING CERTIFICATE OF CONVENIENCE AND NECESSITY.

Docket No. W-03576A-05-0926

IN THE MATTER OF THE APPLICATION OF PALO VERDE UTILITIES COMPANY FOR AN EXTENSION OF ITS EXISTING CERTIFICATE OF CONVENIENCE AND NECESSITY.

Docket No. SW-03575A-07-0300

IN THE MATTER OF THE APPLICATION OF SANTA CRUZ WATER COMPANY FOR AN EXTENSION OF ITS EXISTING CERTIFICATE OF CONVENIENCE AND NECESSITY.

Docket No. W-03576A-07-0300

ARIZONA WATER COMPANY, AN ARIZONA CORPORATION,

Docket No. W-01445A-06-0200
Docket No. SW-20445A-06-0200
Docket No. W-20446A-06-0200
Docket No. W-03576A-06-0200
Docket No. SW-03575A-06-0200

COMPLAINANT,

VS.

GLOBAL WATER RESOURCES, LLC, A FOREIGN LIMITED LIABILITY COMPANY;
GLOBAL WATER RESOURCES, INC., A DELAWARE CORPORATION; GLOBAL WATER MANAGEMENT, LLC, A FOREIGN LIMITED LIABILITY COMPANY; SANTA CRUZ WATER COMPANY, LLC, AN ARIZONA LIMITED LIABILITY

MOTION TO REOPEN RECORD TO HEAR ADDITIONAL TESTIMONY

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CORPORATION; PALO VERDE UTILITIES COMPANY, LLC, AN ARIZONA LIMITED LIABILITY CORPORATION; GLOBAL WATER - PALO VERDE UTILITIES COMPANY, AN ARIZONA CORPORATION; JOHN AND JANE DOES 1-20; ABC ENTITIES I-XX,

RESPONDENTS.

IN THE MATTER OF THE JOINT APPLICATION OF CP WATER COMPANY AND FRANCISCO GRANDE UTILITIES COMPANY TO TRANSFER THEIR CERTIFICATES OF CONVENIENCE AND NECESSITY AND ASSETS TO PALO VERDE UTILITIES COMPANY AND SANTA CRUZ WATER COMPANY.

Docket No. WS-01775A-07-0485
Docket No. SW-03575A-07-0485
Docket No. W-02442A-07-0485
Docket No. W-03576A-07-0485

1 **MOTION TO REOPEN RECORD TO HEAR ADDITIONAL TESTIMONY**

2 Francisco Grande Utilities Company (“Francisco Grande”) hereby moves to reopen the
3 record in these consolidated dockets to hear additional testimony.

4 The major issue addressed in the December 20, 2010, Recommended Opinion and Order
5 was the request to approve a Settlement Agreement between Arizona Water Company (“Arizona
6 Water”), Global Water Resources LLC (“Global”), and various Global affiliates, including at
7 that time Francisco Grande. At the time the Settlement Agreement was executed, Francisco
8 Grande was owned by Global, and Global signed the Settlement Agreement on Global’s behalf.
9 The record evidence—no longer accurate—is that Francisco Grande is owned by Global, is a
10 party to the Settlement Agreement, and supports all its terms – including supporting Commission
11 approval of designated planning areas for Arizona Water and Global.

12 First, the record evidence is that Global owns Francisco Grande – this is incorrect. In
13 fact, Global has refused to pay for the Francisco Grande stock, so that Francisco Grande’s
14 ownership has now reverted to its original owner Michael Saunders.¹ Therefore, Global can no
15 longer act on Francisco Grande’s behalf.

¹ See Arizona Water’s and Global’s December 30, 2011, Request for Extension, and Global’s February 16, 2011, Motion to Withdraw the Francisco Grande Transfer Application

1 Second, the record evidence is that Francisco Grande supports the Settlement Agreement
2 – this is also incorrect. In its Exceptions, Global purported to summarize the parties' positions
3 concerning the Settlement Agreement:

4 Staff expressed some concerns with the settlement agreement, including the
5 planning areas. None of the other parties to these consolidated dockets opposed
6 the settlement agreement.²

7 This statement is no longer accurate. In fact, Francisco Grande opposes the Settlement
8 Agreement, particularly its requested planning-area designations.³

9 Global's planning area would include Francisco Grande's nineteen-square mile water
10 service area and forty-two-square-mile sewer service area. As the holder of Certificates of
11 Convenience and Necessity ("CC&Ns") for these service areas, Francisco Grande has a
12 protectable property right in these CC&Ns. Commission approval of any designated planning
13 area that includes Francisco Grande's CC&Ns could well affect these property rights.

14 The Commission cannot act to affect property rights, including CC&Ns, without
15 providing due process of law.⁴ Due process requires that Francisco Grande have the opportunity
16 to present evidence and legal argument concerning whether the Commission should approve
17 Global's request for designated planning areas.

18 It is also in the public interest for the Commission to hear from a water and sewer utility
19 within Global's requested planning area. There was no testimony of this type at the hearings.
20 The boundary line between Global's and Arizona Water's proposed planning areas is just a line
21 on a map. Although Francisco Grande has by no means finalized its position concerning the
22 planning-area issues, in the unlikely event that planning areas were appropriate, it could
23 conceivably be more appropriate to include Francisco Grande in Arizona Water's designated
24 planning area than in Global's designated planning area. Francisco Grande should be provided

² Global's February 22, 2011, Exceptions at 3:23-24. Emphasis added.

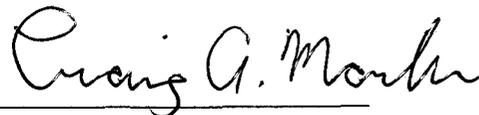
³ Exhibit A to this Motion is a copy of a February 23, 2011, letter from Francisco Grande to this effect.

⁴ U.S. Constitution, 5th and 14th Amendments; Arizona Constitution, Article 2, §§ 4, 17 ; *Sulger v. Arizona Corp. Commission*, 5 Ariz.App. 69, 423 P.2d 145 (Ariz.App. 1967).

1 an opportunity to properly study the planning-area issues and then present expert testimony on
2 these issues for the Commission's consideration.

3 WHEREFORE, Francisco Grande moves to reopen the record in this case for the purpose
4 of taking additional testimony and receiving legal arguments concerning Global's request to
5 approve the designated planning areas set forth in the Settlement Agreement between Global and
6 Arizona Water.

7 **Respectfully submitted** on February 24, 2011, by:

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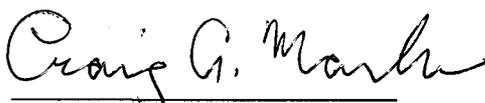
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Exhibit A

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February 24, 2011

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**Re: May 15, 2008, Settlement Agreement
Notice of Withdrawal**

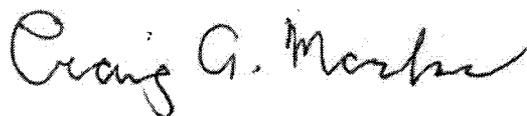
Dear Steve and Tim,

Francisco Grande Utilities Company ("Francisco Grande") was a party to the May 15, 2008, Settlement Agreement between Arizona Water Company and Global Water Resources, LLC and its subsidiaries and affiliates. At the time the Settlement Agreement was executed, Francisco Grande was one of those alleged affiliates. As you know, Global Water, Inc. has chosen not to purchase Francisco Grande, and ownership has reverted to its prior owner, Ms. Michael Saunders.

Based on these circumstances, it seems clear that Francisco Grande is no longer a party to the Settlement Agreement and is not bound by its terms. To be certain of this status, Francisco Grande hereby also withdraws from the Settlement Agreement.

Thank you.

Very truly yours,



Cc: Michael Saunders