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BEFORE THE ARIZONA CORPORATION COMMISSION

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COMMISSIONERS

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

2011 AUG 17 A 8:00

AZ CORP COMMISSION
DOCKET CONTROL

Arizona Corporation Commission

DOCKETED

AUG 17 2011

DOCKETED BY

DOCKET NO. W-01303A-10-0448

IN THE MATTER OF THE APPLICATION OF ARIZONA-AMERICAN WATER COMPANY, AN ARIZONA CORPORATION, FOR A DETERMINATION OF THE CURRENT FAIR VALUE OF ITS UTILITY PLANT AND PROPERTY AND FOR INCREASES IN ITS RATES AND CHARGES BASED THEREON FOR UTILITY SERVICE BY ITS AGUA FRIA WATER DISTRICT, HAVASU WATER DISTRICT, AND MOHAVE WATER DISTRICT.

PROCEDURAL ORDER
CONTINUING HEARING AND
DIRECTING FILING OF
AUTHORIZATIONS FOR LAY
REPRESENTATION
OF NON-PROFIT
ORGANIZATIONS

BY THE COMMISSION:

On November 13, 2010, Arizona-American Water Company ("Arizona-American" or "Company") filed with the Arizona Corporation Commission ("Commission") an application for rate increases for its Agua Fria Water district, Havasu Water district and Mohave Water district.

On January 20, 2011, a Rate Case Procedural Order was issued setting a date for commencement of the hearing in this matter and setting associated procedural deadlines. The hearing is scheduled to commence on August 17, 2011, at 1:00 p.m., at which time the parties may provide opening statements and public comments will be taken. A pre-hearing conference is scheduled to be held on August 15, 2011, commencing at 2:00 p.m., for the purpose of scheduling witnesses and the conduct of the hearing.

On March 21, 2011, Arizona-American filed affidavits indicating that it caused publication of notice of the application and hearing, as well as mailing notice of the application and hearing to all affected customers, as required by the Rate Case Procedural Order.

Intervention in this proceeding has been granted to the Residential Utility Consumer Office ("RUCO"), the Water Utility Association of Arizona (WUAA"), Sun City Grand Community Association, Inc. ("Sun City Grand"), Mashie, LLC dba Corte Bella Golf Club ("Corte Bella Golf

1 Club”), Kenneth Hewitt, Verrado Community Association, Inc. (“Verrado”), and DMB White Tank,
2 LLC (“DMB White Tank”). The Commission’s Utilities Division (“Staff”) is also a party to this
3 proceeding.

4 The Commission has received a large number of public comments expressing concern or
5 opposition to the proposed rate increases. The Commission has scheduled local public comment
6 hearings in Surprise, Arizona and Bullhead City, Arizona in order to provide a forum for customers
7 to attend, without the necessity of traveling to the Commission’s Phoenix offices, in order to express
8 their concerns to the Commission and assist the Commission in its deliberations on this matter.

9 On August 2, 2011, at the request of the Company, a telephonic procedural conference was
10 held. The Company, WUAA, Sun City Grand, DMB White Tank, Verrado, Corte Bella Golf Club,
11 RUCO, and Staff appeared through counsel. Mr. Hewitt appeared on his own behalf.

12 At the August 2, 2011 procedural conference, the Company informed the Commission that
13 approximately ten thousand (out of 38,000) customers in the Agua Fria Water district did not receive
14 in their bills any notice of the application and hearing, due to a problem with the mailing procedure.
15 At the telephonic procedural conference, the Company proposed to immediately send a copy of the
16 notice to all its Agua Fria Water district customers, with an extended intervention deadline of August
17 24, 2011.

18 On August 5, 2011, a Motion to Intervene was filed in this docket, signed by Peggy H.
19 Rahkola, President, Board of Directors, The Arizona Traditions Homeowners Association.

20 On August 9, 2011, a Motion to Intervene was filed in this docket, signed by Jim Weihman,
21 Vice President, Board of Directors, The Happy Trails Community Association.

22 On August 12, 2011, a Motion to Intervene was filed in this docket, signed by Nicholas
23 Mascia, President, Board of Directors, The Surprise Farms III Community Association.

24 On August 12, 2011, a Motion to Intervene was filed in this docket, signed by Mike Orose,
25 President, Board of Directors, The Crystal Springs Estates Homeowners Association.

26 On August 15, 2011, a Motion to Intervene was filed in this docket, signed by Paul
27 Briningstool, President, Board of Directors, Ashton Ranch Homeowner’s Association.

28 On August 15, 2011, a Motion to Intervene was filed in this docket, signed by William B.

1 Lipscomb, President, Board of Directors, Kingswood Parke Community Association.

2 On August 15, 2011, a Motion to Intervene was filed in this docket, signed by Kevin
3 Chiariello, President, Board of Directors, Greer Ranch South Homeowners Association.

4 On August 15, 2011, the prehearing conference was convened as scheduled. The Company,
5 WUAA, Sun City Grand, DMB White Tank, Verrado, Corte Bella Golf Club, RUCO, and Staff
6 appeared through counsel. Mr. Hewitt appeared on his own behalf. The Company stated that notice
7 of the hearing with a new intervention deadline of August 24, 2011 was mailed on August 5, 2011 to
8 all Agua Fria Water district customers, and that it would file proof of notice in the docket.

9 At the prehearing conference, the parties were informed that public comment would take
10 place as scheduled on August 17, 2011, but that no opening statements would be taken, as all parties
11 to the case are not yet known. The parties were further informed that in order to allow all parties to
12 this proceeding an equal opportunity to conduct discovery and prepare and file testimony, the
13 commencement of the evidentiary part of this proceeding, currently scheduled for August 25, 2011,
14 would be continued, pending a determination following a procedural conference to be set for
15 September 19, 2011. The parties were directed to be prepared to discuss at that time a reasonable
16 schedule for the conduct of the hearing in this matter.

17 Pursuant to Arizona Supreme Court Rule 31(d)(28), a non-profit organization may be
18 represented before the Commission by a corporate officer, employee, or a member who is not an
19 active member of the state bar, if (1) the non-profit organization has specifically authorized the
20 officer, employee, or member to represent it in the particular matter; (2) such representation is not the
21 person's primary duty to the non-profit organization, but is secondary or incidental to such person's
22 duties relating to the management or operation of the non-profit organization; and (3) the person is
23 not receiving separate or additional compensation (other than reimbursement for costs) for such
24 representation. Arizona Supreme Court Rule 31(d)(28) further states that the Commission or
25 presiding officer may require counsel in lieu of lay representation whenever it is determined that lay
26 representation is interfering with the orderly progress of the proceeding, imposing undue burdens on
27 the other parties, or causing harm to the parties represented.

28 If The Arizona Traditions Homeowners Association, The Happy Trails Community

1 Association, The Surprise Farms III Community Association, The Crystal Springs Estates
2 Homeowners Association, Ashton Ranch Homeowner's Association, Kingswood Parke Community
3 Association, or Greer Ranch South Homeowners Association wish to be represented in this matter by
4 a qualified lay representative in lieu of representation by counsel in this matter, each of the
5 associations must docket specific authorization, such as a board resolution, for a specific lay person
6 meeting the requirements of Arizona Supreme Court Rule 31(d)(28) to represent it in this matter.
7 Without such authorization, the Commission cannot, pursuant to Arizona Supreme Court Rule
8 31(d)(28), allow a lay person to appear and represent an association in this proceeding. Alternatively,
9 the associations may obtain counsel and have counsel file a Motion to Intervene.

10 IT IS THEREFORE ORDERED that the hearing will commence as scheduled on August 17,
11 2011 at 1:00 p.m., or as soon thereafter as practicable, at which time at which time comments will be
12 taken from members of the public. Opening statements from the parties will not be taken on that
13 date.

14 IT IS FURTHER ORDERED that a **procedural conference** shall be held on **September 19,**
15 **2011, commencing at 10:00 a.m.**, or as soon thereafter as practicable, at the Commission's Phoenix
16 offices, for the purpose of discussing the timeframe for new parties to conduct discovery and prefile
17 their testimony; the timeframe for the Company and other parties to conduct discovery and prepare
18 and file responsive testimony; and an appropriate date for commencement of the evidentiary hearing
19 based on those timeframes.

20 IT IS FURTHER ORDERED that the **evidentiary portion of this proceeding**, currently
21 scheduled to commence on August 25, 2011, is **hereby continued to a future date, to be**
22 **determined after the September 19, 2011 procedural conference.** Opening statements will be
23 taken from the parties at the commencement of the evidentiary portion of the hearing on this matter.

24 IT IS FURTHER ORDERED that the timeclock in this matter is hereby suspended pursuant
25 to A.A.C. R14-2-103(11)(e)(ii).

26 IT IS FURTHER ORDERED that the intervention request of The Arizona Traditions
27 Homeowners Association will be considered once one of the following is filed in this docket: (1)
28 specific authorization, such as a board resolution, for Ms. Rahkola or another specifically named lay

1 person meeting the requirements of Arizona Supreme Court Rule 31(d)(28) to represent The Arizona
2 Traditions Homeowners Association in this matter; or (2) an intervention request filed by counsel
3 representing The Arizona Traditions Homeowners Association in this matter. **In order to be**
4 **considered, one of the above-referenced filings should be made as soon as possible, but in no**
5 **event after the September 19, 2011 procedural conference.**

6 IT IS FURTHER ORDERED that the intervention request of The Happy Trails Community
7 Association will be considered once one of the following is filed in this docket: (1) specific
8 authorization, such as a board resolution, for Mr. Weihman or another specifically named lay person
9 meeting the requirements of Arizona Supreme Court Rule 31(d)(28) to represent The Happy Trails
10 Community Association in this matter; or (2) an intervention request filed by counsel representing
11 The Happy Trails Community Association in this matter. **In order to be considered, one of the**
12 **above-referenced filings should be made as soon as possible, but in no event later than the**
13 **September 19, 2011 procedural conference.**

14 IT IS FURTHER ORDERED that the intervention request of The Surprise Farms III
15 Community Association will be considered once one of the following is filed in this docket: (1)
16 specific authorization, such as a board resolution, for Mr. Mascia or another specifically named lay
17 person meeting the requirements of Arizona Supreme Court Rule 31(d)(28) to represent The Surprise
18 Farms III Community Association in this matter; or (2) an intervention request filed by counsel
19 representing The Surprise Farms III Community Association in this matter. **In order to be**
20 **considered, one of the above-referenced filings should be made as soon as possible, but in no**
21 **event later than the September 19, 2011 procedural conference.**

22 IT IS FURTHER ORDERED that the intervention request of The Crystal Springs Estates
23 Homeowners Association will be considered once one of the following is filed in this docket: (1)
24 specific authorization, such as a board resolution, for Mr. Orose or another specifically named lay
25 person meeting the requirements of Arizona Supreme Court Rule 31(d)(28) to represent The Crystal
26 Springs Estates Homeowners Association in this matter; or (2) an intervention request filed by
27 counsel representing The Crystal Springs Estates Homeowners Association in this matter. **In order**
28 **to be considered, one of the above-referenced filings should be made as soon as possible, but in**

1 **no event later than the September 19, 2011 procedural conference.**

2 IT IS FURTHER ORDERED that the intervention request of Ashton Ranch Homeowner's
3 Association will be considered once one of the following is filed in this docket: (1) specific
4 authorization, such as a board resolution, for Mr. Briningstool or another specifically named lay
5 person meeting the requirements of Arizona Supreme Court Rule 31(d)(28) to represent Ashton
6 Ranch Homeowner's Association in this matter; or (2) an intervention request filed by counsel
7 representing Ashton Ranch Homeowner's Association in this matter. **In order to be considered,**
8 **one of the above-referenced filings should be made as soon as possible, but in no event later**
9 **than the September 19, 2011 procedural conference.**

10 IT IS FURTHER ORDERED that the intervention request of Kingswood Parke Community
11 Association will be considered once one of the following is filed in this docket: (1) specific
12 authorization, such as a board resolution, for Mr. Lipscomb or another specifically named lay person
13 meeting the requirements of Arizona Supreme Court Rule 31(d)(28) to represent Kingswood Parke
14 Community Association in this matter; or (2) an intervention request filed by counsel representing
15 Kingswood Parke Community Association in this matter. **In order to be considered, one of the**
16 **above-referenced filings should be made as soon as possible, but in no event later than the**
17 **September 19, 2011 procedural conference.**

18 IT IS FURTHER ORDERED that the intervention request of Greer Ranch South
19 Homeowners Association will be considered once one of the following is filed in this docket: (1)
20 specific authorization, such as a board resolution, for Mr. Chiariello or another specifically named lay
21 person meeting the requirements of Arizona Supreme Court Rule 31(d)(28) to represent Greer Ranch
22 South Homeowners Association in this matter; or (2) an intervention request filed by counsel
23 representing Greer Ranch South Homeowners Association in this matter. **In order to be considered,**
24 **one of the above-referenced filings should be made as soon as possible, but in no event later**
25 **than the September 19, 2011 procedural conference.**

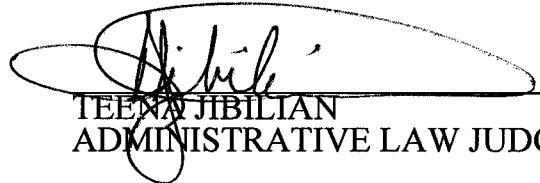
26 IT IS FURTHER ORDERED that all parties must comply with Rules 31 and 38 of the Rules
27 of the Arizona Supreme Court and A.R.S. § 40-243 with respect to the practice of law and admission
28 *pro hac vice.*

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 the Arizona Supreme Court). Representation before the Commission includes appearances
4 at all hearings and procedural conferences, as well as all Open Meetings for which the matter is
5 scheduled for discussion, unless counsel has previously been granted permission to withdraw by the
6 Administrative Law Judge or the Commission.

7 IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113 - Unauthorized
8 Communications) continues to apply to this proceeding and shall remain in effect until the
9 Commission's Decision in this matter is final and non-appealable.

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

13 DATED this 17th day of August, 2011.

14 
15 TEENA JIBILIAN
16 ADMINISTRATIVE LAW JUDGE

17 Copies of the foregoing mailed/delivered
18 this _____ day of August, 2011 to:

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