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BEFORE THE ARIZONA CORPORATION COMMISSION

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Arizona Corporation Commission

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AZ CORP COMMISSION  
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COMMISSIONERS

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

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

IN THE MATTER OF THE APPLICATION OF  
ANASAZI WATER CO., LLC FOR  
ADJUDICATION "NOT A PUBLIC SERVICE  
CORPORATION."

DOCKET NO. W-20765A-10-0432

IN THE MATTER OF THE APPLICATION OF  
HYDRO-RESOURCES, INC. FOR  
ADJUDICATION "NOT A PUBLIC SERVICE  
CORPORATION."

DOCKET NO. W-20770A-10-0473

PROCEDURAL ORDER

**BY THE COMMISSION:**

On April 29, 2010, Tusayan Water Development Association, Inc. ("Tusayan") filed with the Arizona Corporation Commission ("Commission"), in Docket No. W-02350A-10-0163 ("Tusayan Docket"), a rate application using a test year ending December 31, 2009.

Since that time, through a series of events more fully described in the Procedural Order issued in this matter on April 20, 2011, processing of Tusayan's rate application has been suspended; Tusayan has been deemed to have filed an adjudication application; Tusayan's adjudication application has been consolidated with adjudication applications filed by Hydro-Resources, Inc. ("Hydro") and Anasazi Water Company, LLC ("Anasazi"); intervention has been granted to Tusayan Ventures LLC ("T Ventures") and to the Town of Tusayan ("Town"); the Commission's Utilities Division ("Staff") has found all three adjudication applications to be sufficient; and a procedural schedule has been established that includes a hearing to commence on September 9, 2011, and continue on September 21, 2011, along with other procedural requirements and deadlines.

On June 8, 2011, Hydro filed Certification of Mailing and Publication of Notice, showing that notice had been published in the *Williams-Grand Canyon News* on four consecutive weeks from

1 April 13, 2011, through May 4, 2011, and stating that Hydro had mailed a copy of the notice to all  
2 affected property owners on May 18, 2011.

3 On June 20, 2011, Hydro filed the Direct Testimony of John W. Rueter, and Anasazi filed the  
4 Direct Testimony of Pamela Fain. On the same date, Tusayan provided a courtesy copy of the Direct  
5 Testimony of Christopher Brainard, which was subsequently docketed on June 22, 2011, along with a  
6 Motion for Extension of Time to File Direct Testimony explaining that Tusayan's original filing with  
7 Docket Control had been rejected, unbeknownst to Tusayan until two days later, because Tusayan  
8 had not provided sufficient copies with the filing.<sup>1</sup>

9 On July 19, 2011, Staff filed Staff's Request for Extension of Time ("Staff's Request"),  
10 requesting that Staff's deadline to file its Direct Testimony be extended from July 20, 2011, to July  
11 27, 2011, and explaining that Staff had contacted all of the parties regarding the request and that none  
12 of the parties had any objection. Staff further requested that all Intervenors likewise be granted a  
13 one-week extension to file Direct Testimony.

14 On July 20, 2011, T Ventures filed a Notice stating that it will not be filing any Direct  
15 Testimony or offering any witnesses in this consolidated matter, but will participate only through  
16 cross-examination of other parties' witnesses. T Ventures further stated that it supported Staff's  
17 Request.

18 On July 21, 2011, a Procedural Order was issued extending to July 27, 2011, the deadline for  
19 Staff and Intervenors to file direct testimony and associated exhibits to be presented at hearing and  
20 declaring that the remaining provisions of the Procedural Order of April 20, 2011, remained  
21 unchanged.

22 On July 27, 2011, the Town filed the Direct Testimony of Ray L. Jones, and Staff filed the  
23 Direct Testimony of Kiana M. Sears and Marlin Scott, Jr.

24 On August 1, 2011, Squire Motor Inns, Incorporated ("Squire") filed an Application to  
25 Intervene and Conditional Motion for Extension of Time ("Motion"). In its Motion, Squire asserted  
26 that it will be directly and substantially affected by these proceedings and should be granted  
27

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28 <sup>1</sup> In light of the reason for and nature of the delay in timely filing Direct Testimony, no Motion for Extension was necessary.

1 intervention because these proceedings will significantly impact the future of water service in the  
2 Town, Squire is an essential source of water in the Town, and Squire has an agreement to sell water  
3 to Hydro. Squire asserted that its well, mains, and storage tank are essential to Hydro's ability to  
4 provide service and that it is a critical party in this matter. Squire further asserted that if it is granted  
5 intervention, the Commission should continue the hearing in this case to allow Squire adequate time  
6 to prepare, although Squire suggested that the September 9, 2011, hearing date be retained to allow  
7 the parties to engage in a settlement conference. Squire did not specify how much time it believes it  
8 needs to prepare for hearing or propose when the evidentiary hearing should commence.

9 On August 2, 2011, a Procedural Order was issued requiring each party to file, by August 12,  
10 2011, a response to Squire's Motion, including the party's position both as to Squire's request for  
11 intervention and Squire's request for a continuance.

12 On August 3, 2011, Staff filed its response to Squire's Motion, stating that Staff does not  
13 oppose Squire's late intervention, that Staff believes Squire is necessary to a resolution of this matter,  
14 and that Staff does not oppose Squire's requested continuance.

15 On August 4, 2011, Hydro filed its response to Squire's Motion, stating that Hydro joins in  
16 Squire's Motion and, among other things, that complete relief cannot be provided without Squire's  
17 involvement; that Tusayan no longer desires to hold a Certificate of Convenience ("CC&N") to  
18 provide water utility service to the Town; that this matter should focus on settlement versus litigation;  
19 and that the current briefing and hearing schedule should be suspended.

20 On August 5, 2011, the Town filed its response to Squire's Motion, stating that the Town  
21 does not oppose the Motion.

22 On August 8, 2011, Anasazi filed its response to Squire's Motion, stating that Anasazi joins in  
23 Hydro's response to Squire's Motion and, among other things, that Anasazi and Hydro have been  
24 discussing merger of their systems; that merger of Anasazi and Hydro's systems would enable a  
25 successor CC&N holder to operate an integrated water system; and that the preparations for a  
26 September hearing are impeding settlement discussions. On the same date, Anasazi filed the Rebuttal  
27 Testimony of Pamela Fain.

28 On August 10, 2011, Hydro filed the Rebuttal Testimony of John W. Rueter.

1 On August 12, 2011, T Ventures filed its response to Squire's Motion, stating that T Ventures  
2 supports Squire's intervention and supports Squire's request to use the September 9, 2011, hearing  
3 date for a settlement conference, but opposes delaying commencement of the evidentiary hearing  
4 beyond September 21, 2011. T Ventures further asserted that the Directors and Officers for Hydro  
5 and Squire are essentially the same<sup>2</sup> and that Squire's owners and managers were completely aware  
6 of the proceedings in this docket and opted not to intervene or retain counsel until after the deadline  
7 for intervention. T Ventures requested that if Squire is granted intervention and required to pre-file  
8 testimony, a truncated schedule for that testimony be established to allow hearing to commence on  
9 September 21, 2011.

10 On August 12, 2011, the Town filed a request to have Interim Manager Cynthia Seelhammer  
11 replaced on the service list for this matter with Town Manager Enrique Medina Ochoa.

12 On August 15, 2011, Tusayan filed its response to Squire's Motion, stating that Tusayan does  
13 not oppose the Motion.<sup>3</sup>

14 On August 16, 2011, the Town made an additional filing, stating that it partially joins in T  
15 Ventures' response to Squire's Motion; that it interpreted Squire's Motion to request a continuance of  
16 only the September 9, 2011, hearing date, not the September 21, 2011, hearing date; and that the  
17 Town also requests establishment of a truncated schedule for Squire so that the September 21, 2011,  
18 hearing date can be retained.

19 Squire appears to be an integral participant in the provision of water service in the Town.  
20 Because of this, and because none of the parties oppose Squire's late intervention, Squire's request  
21 for intervention should and will be granted. Squire has also requested a continuance of unspecified  
22 duration to allow Squire to prepare for hearing and, further, has requested that the September 9, 2011,  
23 hearing date instead be used for a settlement conference. Public notice of the September 9, 2011,  
24 hearing date has been published. As a result, it is necessary to convene the hearing on September 9,  
25 2011, for the purpose of taking public comment. Because there appears to be some disagreement  
26

27 <sup>2</sup> T Ventures stated that the difference is that John Rueter is President/CEO of Hydro, and Gregory Bryan (the Mayor  
of Tusayan) is "Other Officer" for Squire.

28 <sup>3</sup> Although Tusayan's filing is taken into consideration herein in spite of its tardiness, Tusayan is expected, going  
forward, to make every effort to ensure that its filings are made in a timely manner.

1 concerning whether the evidentiary portion of the hearing should commence on September 21, 2011,  
2 it is appropriate to conduct a procedural conference following any public comment received on  
3 September 9 and to require Squire to file Direct Testimony in the meantime so that the other parties  
4 will have an opportunity to review Squire's Direct Testimony before September 9. Finally, because it  
5 appears that several of the parties desire to engage in settlement discussions on September 9, it is  
6 reasonable and appropriate to allow the parties to use the hearing room for settlement discussions  
7 following the public comment and procedural conference on that date.

8 **IT IS THEREFORE ORDERED that Squire Motor Inns, Incorporated is hereby granted**  
9 **intervention in this matter.**

10 **IT IS FURTHER ORDERED that Squire Motor Inns, Incorporated shall, by September 1,**  
11 **2011, file direct testimony and associated exhibits** to be presented at hearing, in which it shall  
12 present all known facts probative of each applicant's status as a "public service corporation" and shall  
13 respond to each applicant's written testimony and exhibits.

14 **IT IS FURTHER ORDERED that the hearing scheduled for September 9, 2011, at 9:00**  
15 **a.m. shall proceed only for the purposes of taking public comment and holding a procedural**  
16 **conference.**

17 **IT IS FURTHER ORDERED that the parties shall be permitted to use the hearing room after**  
18 **the procedural conference has adjourned, for the remainder of the business day on September 9,**  
19 **2011, for the purpose of engaging in settlement discussions.**

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

23 DATED this 17<sup>th</sup> day of August, 2011.

24  
25   
26 SARAH N. HARPRING  
27 ADMINISTRATIVE LAW JUDGE  
28

1 Copies of the foregoing mailed/delivered  
2 this 17th day of August, 2011, to:

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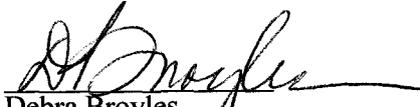
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By:

  
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Secretary to Sarah N. Harpring