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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

JOHN E. DOUGHERTY,
COMPLAINANT,

V.

MONTEZUMA RIMROCK WATER
COMPANY, LLC,

RESPONDENT.

DOCKET NO. W-04254A-11-0323

PROCEDURAL ORDER

BY THE COMMISSION:

On August 23, 2011, John E. Dougherty and William Nicholas Kopko (jointly "Complainants") jointly filed with the Arizona Corporation Commission ("Commission") a Formal Complaint ("Complaint") against Montezuma Rimrock Water Company, LLC ("Montezuma Rimrock"), in which the Complainants made 14 separate Allegations against Montezuma Rimrock; requested that the Commission schedule an Order to Show Cause ("OSC") Hearing to consider revoking Montezuma Rimrock's Certificate of Convenience and Necessity ("CC&N"); and that the OSC hearing be held before the Commission considers Montezuma Rimrock's emergency rate case application, filed in Docket No. W-04254A-11-0296 ("Emergency Rate Case Docket").

On August 24, 2011, a copy of the Complaint in this docket was sent to Montezuma Rimrock by the Commission's Docket Control, with a letter instructing Montezuma Rimrock to respond within 20 days from the date of acknowledgment of receipt. The Commission has since received this copy of the Complaint back as undeliverable and has re-sent the Complaint to Montezuma Rimrock, which mailed back the Certified Mail card acknowledging receipt of the Complaint on September 8, 2011, according to the postmark on the card.

On August 31, 2011, Complainants filed two additional Exhibits to the Complaint.

Also on August 31, 2011, a Procedural Order was issued scheduling a joint procedural

1 conference to be held on September 13, 2011, in this docket; the Emergency Rate Case Docket, in
2 which Mr. Dougherty is an intervenor; and Docket No. W-04254A-08-0361 et al., in which the
3 Commission has reopened Decision No. 71317 (October 30, 2009) under A.R.S. § 40-252 to
4 determine whether to modify the decision concerning financing approval and related provisions (“40-
5 252 Docket”), and in which Mr. Dougherty is an intervenor.

6 On September 9, 2011, Mr. Kopko filed a Notice of Withdrawal notifying the Commission of
7 his withdrawal as a named Complainant in this matter.

8 On September 13, 2011, the joint procedural conference was convened as scheduled before a
9 duly authorized Administrative Law Judge of the Commission at the Commission’s offices in
10 Phoenix, Arizona. Montezuma Rimrock and Staff appeared through counsel, and Mr. Dougherty
11 appeared pro se. Discussions were held regarding Motions to Stay filed by Mr. Dougherty in the
12 Emergency Rate Case Docket and the 40-252 Docket and regarding whether it would be appropriate
13 to consolidate any of the three dockets; a discovery dispute between Montezuma Rimrock and Mr.
14 Dougherty was resolved, and Montezuma Rimrock withdrew a Motion for Protective Order in the
15 Emergency Rate Case; and it was announced that Mr. Kopko’s Notice of Withdrawal would be
16 accepted and that the caption in this docket would be amended accordingly.¹

17 On September 13, 2011, in this docket, Mr. Dougherty filed a Motion to Modify Formal
18 Complaint with Additional Allegation and Two Additional Remedies; Notice of Submission of Two
19 Exhibits (“Motion to Modify”). In the Motion to Modify, Mr. Dougherty adds Allegation XV and
20 adds requests for the Commission to install an interim manager to operate Montezuma Rimrock and
21 conduct a complete audit of its records and, further, for the Commission to direct Staff to conduct an
22 engineering and financial analysis related to extending a water service line from Arizona Water
23 Company’s system to Montezuma Rimrock’s service area. The Motion to Modify also includes two
24 additional exhibits, both checks issued by Patricia Olsen. Mr. Dougherty states in the Motion to
25 Modify that it is made in response to Patricia Olsen’s stating, during the procedural conference of
26 September 13, 2011, that some of Montezuma Rimrock’s records are missing because its offices have
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28 ¹ Such amendment is reflected above.

1 been burglarized on multiple occasions since October 2009, although Montezuma Rimrock has not
2 filed any police reports, and further that Montezuma Rimrock's computer has been hacked on
3 multiple occasions in the same time period.

4 The Commission's rules provide the Commission or presiding officer the discretion to allow
5 any formal document to be amended. (A.A.C. R14-3-106.) Because the amendment to the
6 Complaint is made based on information newly provided at the procedural conference on September
7 13, 2011, it is reasonable and appropriate to allow the Complaint to be so amended and to require
8 Montezuma Rimrock to ensure that its Answer to the Complaint responds to the Complaint as
9 amended.

10 In addition, as stated previously, it is reasonable and appropriate to allow Mr. Kopko's
11 withdrawal as a Complainant in this matter.

12 **IT IS THEREFORE ORDERED that the Complaint filed in this matter on August 23,**
13 **2011, is amended to include the additional allegation and information set forth in the Motion to**
14 **Modify.**

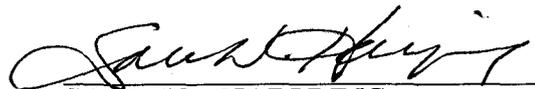
15 **IT IS FURTHER ORDERED that Montezuma Rimrock shall ensure that its Answer**
16 **responds to the Complaint as amended herein.**

17 **IT IS FURTHER ORDERED that Mr. Kopko's Notice of Withdrawal is accepted, and Mr.**
18 **Kopko shall be deleted from the Caption for this matter.**

19 **IT IS FURTHER ORDERED that the administrative and procedural requirements and**
20 **deadlines set forth in the Procedural Order of August 31, 2011, continue in effect.**

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

24 DATED this 14th day of September, 2011.

25
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27 
28 SARAH N. HARPRING
ADMINISTRATIVE LAW JUDGE

1 Copies of the foregoing mailed/delivered and e-mailed
2 this 14th day of September, 2011, to:

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36 Secretary to Sarah N. Harpring