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BEFORE THE CORPORATION COMMISSION

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AZ CORP COMMISSION  
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SEP 29 2011

ARIZONA CORP. COMM  
400 W CONGRESS STE 218 TUCSON AZ 8570\*

IN THE MATTER OF THE APPLICATION OF  
MONTEZUMA RIMROCK WATER  
COMPANY, LLC FOR APPROVAL OF A  
RATE INCREASE

DOCKET NO. W-04254A-08-0361

IN THE MATTER OF THE APPLICATION OF  
MONTEZUMA RIMROCK WATER COMPANY,  
LLC FOR APPROVAL OF A FINANCING  
APPLICATION

Arizona Corporation Commission

DOCKET NO. W-04254A-08-0362

DOCKETED

SEP 30 2011

MOTION FOR EVIDENTIARY  
HEARING

DOCKETED BY

BY THE INTERVENER:

In the face of ongoing Discovery that revealed evidence Montezuma Rimrock is using Company funds for personal automobile loan payments, mortgages and student loan repayments, on September 29, 2011 The Company filed a motion to withdraw its Application for an Emergency Rate Increase in Docket No. W-04254A-11-0296.

In its motion, the Company states it *“has found a way to resolve its arsenic problem without incurring the expense of constructing an arsenic treatment facility. The company is therefore relieved of the need to obtain financing and an emergency rate increase.”*

The Company’s solution remains a mystery despite repeated Orders by the Commission over the last five months for the Company to provide its plan on how it will resolve the arsenic issue if financing for the treatment facility is not available.

On May 16, 2011, the Commission issued a Procedural Order directing the Company to provide by June 16, 2011 a description of “any other actions it intends to explore or to take to remedy its system’s arsenic MCL exceedance.”

On June 29, 2011, the Commission stated in a Procedural Order that the Company’s response “did not include ...any other actions Montezuma Rimrock intends to explore or to take to remedy its system’s arsenic MCL exceedance.”

On the same date, the Commission set a Procedural Conference for July 22, 2011 “for the purpose of obtaining clarity” of alternative remedies as well as possible financing options. At no time during the July 22, 2011 Procedural Conference did the Company assert it had any another option to solving the arsenic problem other than through building an arsenic treatment facility.

On July 25, 2011, the Commission reiterated in a Procedural Order its directive for the Company to provide the Commission with any alternatives to solving the arsenic issue. The order stated, with emphasis:

**“If Montezuma Rimrock is not to obtain financing** from a financial institution or other entity, Montezuma Rimrock shall explain **in detail** how and when Montezuma Rimrock will remedy its system’s arsenic MCL exceedance.” The July 25, 2011 Procedural Order set a September 22, 2011 deadline for the Company to file its response.

On August 24, 2011, the Commission issued another Procedural Order again directing the Company to explain “in detail how it will finance arsenic treatment facilities for its system or, alternatively, how and when it will remedy its system’s arsenic maximum containment level exceedance.”

On September 19, 2011, the Company filed a response to the July 25, 2011 and August 24, 2011 Procedural Orders by providing a financing plan that was based on obtaining a loan from Sunwest Bank that was contingent on the emergency rate increase. The Company, once again, did not explain, “how and when it will remedy the system’s arsenic” deficiencies in the event financing is not available.

Now, on September 29, 2011, the Company brazenly claims that it has a secret remedy to the arsenic problem that doesn’t require the emergency rate increase or even the construction of the arsenic treatment plant. If such a remedy is readily available, why didn’t the Company pursue this option years ago?

At the time the present owner acquired the CC&N in 2005, the Company told the Commission it was planning to install Point of Use arsenic treatment. But the Company later determined that Point of Use was not “a viable choice” and “just doesn’t make any sense” because it was “not cost effective” for the number of customers the Company served and could potentially serve.

On March 2, 2010, Company owner and manager Patricia Olsen explained why the Company did not pursue Point of Use during a Commission Open Meeting:

*MS. OLSEN: “So to do point-of-use was almost impossible to try and keep up knowing that the community is going to -- has a maximum build-out of 500. So to put in point-of-use and then to go back and request more money to do a centralized unit was almost redundant, and it was not cost-effective for the customers.*

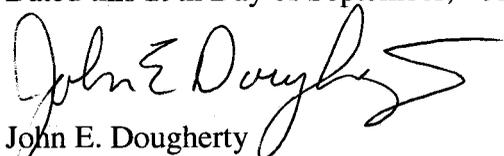
*However, still, at this time, even though we are in a slump, there are people that we -- we're still growing. So to put in point-of-use is -- it just doesn't make any sense. It's not a viable choice."* (1)

If the Company's undisclosed plan requires the activation of Well No. 4, serious obstacles remain including the fact that the Company does not have a Certificate of Compliance from Yavapai County to use Well No. 4 because it was built in violation of the Yavapai County Water Code.

In addition, on July 22, 2011, Commissioner Paul Newman requested an evidentiary hearing in this docket, citing concerns over possible negative impacts from the operation of the arsenic treatment facility, which relies on Well No. 4, on Montezuma Well National Monument, a sacred site to several Native American tribes.

**Intervener moves the Commission to hold an evidentiary hearing on the Company's undefined proposal to comply with state and federal drinking water standards without construction of an arsenic treatment facility.**

Dated this 29th Day of September, 2011



John E. Dougherty  
Intervener

Copies of the foregoing emailed and mailed  
This 29th day of September, 2011 to:

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Patricia D. Olsen, Manager  
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(1) The complete transcript of the March 2, 2010 Open Meeting is available in Docket No. W-04254A-11-0323.