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BEFORE THE CORPORATION COMMISSION
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Commissioners
GARY PIERCE – Chairman
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2011 OCT 28 P 3:43

AZ CORP COMMISSION
DOCKET CONTROL

Arizona Corporation Commission

DOCKETED

OCT 28 2011

DOCKETED BY

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

DOCKET NO. W-04254A-08-0362

**MOTION TO COMPEL
DISCOVERY**

**MOTION TO SET DEADLINE
FOR PRODUCTION OF
DOCUMENTS**

By the Intervener:

On September 29, 2011, Intervener submitted its Second Data Request in this Docket. Intervener sent the Second Data Request (Exhibit 1) to Montezuma Rimrock via email on September 29, (Exhibit 2) and then again on October 3 and October 5. The Company's counsel forwarded the Second Data Request to Patricia Olsen via email on October 6 and asked her to gather all documents responsive to the request. (Exhibit 3)

Intervener and Counsel had a telephone discussion on Oct. 7 concerning the production of documents responsive to the Second Data Request. No agreement was made on whether and when the Company would produce the records. (1)

1-In a related case, Intervener, acting as Complainant in W-04254A-11-0323, filed a subpoena seeking the same records as the Second Data Request in this docket. The Company moved to quash the subpoena and the Commission granted that motion during the October 25, Procedural Conference. Intervener, acting as Complainant, then filed the First Data Request in the Complaint docket that was identical to the Second Data Request in this Docket, with the addition of one category seeking certain emails written or received by Patricia Olsen. The Company then canceled a meeting scheduled for Oct. 31 and Nov. 1 in Sedona to review Company records purportedly responsive to subpoena and is now refusing to produce the records. The has indicated it intends to file a Protective Order in the W-04254A-11-0323.

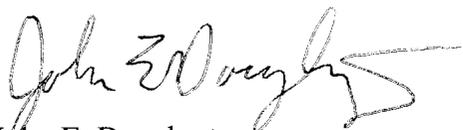
Given the Company's ongoing refusal to comply with the Second Data Request in this docket, it is necessary for the Commission to intervene in this matter.

INTERVENER'S MOTIONS

Intervener moves the Commission to Order the Company to produce all records responsive to the Second Data Request filed in this Docket and to set a firm deadline.

Intervener requests reasonable fees from the Company for expenses related to the preparation and submission of this Motion to Compel.

Dated this 28th Day of October, 2011



John E. Dougherty
Intervener

Copies of the foregoing mailed
This 28th day of October, 2011 to:

Douglas C. Fitzpatrick
LAW OFFICE OF DOUGLAS C. FITZPATRICK
49 Bell Rock Plaza
Sedona, AZ 86351

Patricia D. Olsen, Manager
MONTEZUMA RIMROCK WATER COMPANY, LLC
P.O. Box 10
Rimrock, AZ 86335

Exhibit 1

September 29, 2011

Mr. Douglas Fitzpatrick
Law Office of Douglas C. Fitzpatrick
49 Bell Rock Plaza
Sedona, AZ 86351
fitzlaw@sedona.net

Re: Intervener John E. Dougherty's Second Set of Data Requests to Montezuma Rimrock Water Company, ACC Docket No. W-4254A-08-0361, W-425A-08-0362

Attached is John E. Dougherty's Second Set of Data Requests to Montezuma Rimrock Water Company. Mr. Dougherty should expect to receive the Company's response on or before October 10, 2011.

As part of this request, please provide the Company's written authorization to obtain all records from third parties, including banks and credit card companies.

These requests are continuing in nature. Accordingly, the Company is requested to supplement prior responses if it receives or generates additional information, reports, or other data within the scope of these data requests between the time of the original response and any hearing that may be scheduled in connection with these dockets.

Please provide one copy of the requested data directly to:

Mr. John E. Dougherty
PO Box 501
Rimrock, Arizona, 86335

Or, please set up a time to review records in your office at the soonest possible date.

If you have any questions, please do not hesitate to contact me.

Thank you for your time and cooperation.

Very truly yours,

John E. Dougherty

MONTEZUMA RIMROCK WATER COMPANY
DOCKET NOS. W-4254A-08-0361, W-425A-08-0362

INTERVENER JOHN E. DOUGHERTY'S SECOND SET OF DATA REQUESTS

Please make available the MRWC records that I inspected on Sept. 19 and 20 in your office so that I may complete my review of these files.

In addition, please make available the following records:

1.03 Debt—Please provide the complete record of all loan payments made by the Company for a vehicle (White, PT Cruiser) normally driven by Company manager Patricia Olsen. This includes, but is not limited to all payments made to Bank of the West.

In addition, please identify by check, debit or cash diversion to Ms. Olsen or another person, all Company funds used to make the down payment on this vehicle.

1.03 Debt—Please provide the complete record of all payments made by the Company to Toyota and the purpose for such payments. If these payments were in connection for a loan payment for a Toyota vehicle, please provide a copy of the title for this vehicle.

1.31 Titles—Please provide a copy of the Arizona Department of Motor Vehicles title for the PT Cruiser.

1.31 Titles—Please provide the complete record of all payments made by the Company for title and registration fees for all vehicles and a copy of the title associated with each payment, whether the vehicle is titled to the Company or to private parties.

1.32 Auto Insurance—Please provide a copy of any Company paid insurance policy that includes coverage for the PT Cruiser, and the complete accounting of all premiums paid by the Company from the date of the first payment.

1.03 Debt—Please provide the complete record of all credit card bills, including the record of goods and services purchased, that are paid for with Company funds dating back to Company's first payment towards the Credit Card bill.

(If these records are not available, please provide a waiver giving permission to Intervener to obtain such records directly from the Credit Card Company. This waiver is to include all identifying information necessary to obtain such information.)

This request includes, but is not limited to, the following Credit Cards:

A. Chase Bank credit card.

- B. Kohl's department store credit card.
- C. American Express credit card.
- D. All other credit card accounts, past and present, that have received any payment whatsoever from the Company.

1.04 Debt—Please provide the complete record of mortgage payments to Wells Fargo Bank made by the Company from the date the first payment was made.

1.33 Mortgage—Please provide a copy of the mortgage loan statement(s) for the property, or properties, that are receiving or have received Company funds for mortgage payments.

1.34 Student Loan—Please provide a complete record of all Company payments made for "Student Loan" from the date of the first payment for "Student Loan". Please identify the person who incurred the "Student Loan" and their relationship to the Company.

1.35 Chase Bank Account—Please provide a complete record of bank statements for the Company's Chase Bank Account, or accounts, from the date the account was opened by the Company to that date it was purportedly closed.

Please identify the bank account or any other entity that received the assets from the Chase Account when it was purportedly closed.

(If the Chase bank statements are not in the possession of the Company, or its accountant, please provide a waiver giving permission to Intervener to obtain such records directly from Chase Bank.)

Exhibit 2



John Dougherty <jd.investigativemedia@gmail.com>

ACC filings/data requests

1 message

John Dougherty <jd.investigativemedia@gmail.com>
To: Doug Fitzpatrick <fitzlaw@sedona.net>

Thu, Sep 29, 2011 at 11:08 AM

Doug,

Please see the attached motion (scan doc.pdf) that was filed in Tucson this morning.

I've also attached my second data request in the 361/362 docket.

John Dougherty
InvestigativeMedia.com
602-710-4089

3 attachments



scan doc.pdf
107K



2NDDATAREQUEST.doc
28K



coverlet2nddatarequest92811.doc
48K



John Dougherty <jd.investigativemedia@gmail.com>

0361 and 0362 data requests

5 messages

Doug Fitzpatrick <fitzlaw@sedona.net>**Wed, Oct 5, 2011 at 8:17 AM**

To: John Dougherty <jd.investigativemedia@gmail.com>

John –

I submitted data requests in the above cases asking that you provide “copies of all communications [including but not limited to print copies of e-mails] between you and WIFA, ACC, ADEQ, AZTEC Consulting and Ivo Buddeke for the period commencing 01/01/2010 through the present.” You responded that “All emails between me and WIFA, ACC and ADEQ are available from the state agencies, which will provide you a complete record. There are no emails to AZTEC Consulting. My emails with private individuals are irrelevant to the matters before the Commission docket.” If there are no e-mails or other communications between you and AZTEC Consulting, I’ll accept your avowal that such is the case. However, the fact that WIFA, ACC and ADEQ may have access to such communications does not relieve you of your obligation under the rules of discovery to produce them. Similarly, e-mails and other communications between you and Ivo Buddeke are, similarly, discoverable. I am available to discuss these issues in order to resolve them informally and trust that you will agree to respond to this data request within a reasonable time frame. Please advise. ~Doug Fitzpatrick [928 284 2190](tel:9282842190)

John Dougherty <jd.investigativemedia@gmail.com>**Wed, Oct 5, 2011 at 12:42 PM**

To: Doug Fitzpatrick <fitzlaw@sedona.net>

Doug,

Your response does not address my issues with the 361/362 docket. When are you going to produce those records?

I will not produce any communications between myself and any private citizen unless ordered by the Commission. You have provided no reason for my communications with Ivo Buddeke. It’s clear your client is on a vindictive attack against Mr. Buddeke to the point of making false statements in criminal proceedings.

Again, a simple public records request to ADEQ, ACC and WIFA will produce all email correspondence between myself and those agencies.

I’ve never had any contacts whatsoever with AZTEC Engineering.

John

[Quoted text hidden]

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John Dougherty
InvestigativeMedia.com
[602-710-4089](tel:6027104089)

Doug Fitzpatrick <fitzlaw@sedona.net>
To: John Dougherty <jd.investigativemedia@gmail.com>

Wed, Oct 5, 2011 at 3:34 PM

John –

I'm aware of the unresolved discovery issues in the emergency rate case but not the 361/362 docket .. please clarify. ~dcf

[Quoted text hidden]

John Dougherty <jd.investigativemedia@gmail.com>
To: Doug Fitzpatrick <fitzlaw@sedona.net>

Wed, Oct 5, 2011 at 10:38 PM

Doug, The 2nd data request that I have sent twice to you is for the 361/362 docket. It's the same information that I sought in the emergency rate increase docket. I've attached them once again.

John

[Quoted text hidden]

2 attachments

 **coverlet2nddatarequest92811.doc**
48K

 **2NDDATAREQUEST.doc**
28K

Doug Fitzpatrick <fitzlaw@sedona.net>
To: patsy@montezumawater.com
Cc: John Dougherty <jd.investigativemedia@gmail.com>

Thu, Oct 6, 2011 at 9:30 AM

Patsy –

Please let me know where you stand in connection with the gathering of records which are responsive to the data requests about which John D. is concerned. They were originally submitted in 0296 and have been resubmitted in the 0361/0362 docket. Get what you have together and bring it over so that I can forward it to Mr. Dougherty. Thanks. ~Doug

-----Original Message-----

From: John Dougherty [mailto:jd.investigativemedia@gmail.com]

Sent: Wednesday, October 05, 2011 10:38 PM

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[Quoted text hidden]

2 attachments

 **coverlet2nddatarequest92811.doc**
48K

 **2NDDATAREQUEST.doc**
28K
