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BEFORE THE ARIZONA CORPORATION COMMISSION

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AZ CORP COMMISSION
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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

**STAFF'S RESPONSE TO
PROCEDURAL ORDER**

By procedural order dated October 4, 2011, Staff was directed to provide a response to Montezuma Rimrock Water Company's ("MRWC" or "Company") filing explaining how it would resolve its arsenic issues in light of the withdrawal of the request for emergency rate increase. Additionally, Staff was ordered to respond to Mr. Dougherty's motion for an evidentiary hearing as well as provide a recommendation for the process to be followed in the above captioned matter, including whether MRWC's revised arsenic treatment plan falls within the scope of the current A.R.S. § 40-252 proceeding.

I. Staff's Response to MRWC's Proposed Plan for Arsenic Abatement.

On October 12, 2011, MRWC filed its Proposed Plan for Arsenic Abatement. Based on Staff's review, the Company has selected Global Environmental Commercial Water Solutions, Inc.'s ("Gecom") method for removing arsenic. The Gecom method utilizes titanium media from Dow Chemical Company called "Adsorbisia". This same type of method has already been approved for use by ADEQ and is currently being utilized by Little Park Water Company, located northwest of the Village of Oak Creek, not far from MRWC. The total cost of the treatment equipment is approximately \$40,000 and the Company is still negotiating the length of the lease. On October 25, 2011, the Company filed a Supplemental and Amended Proposed Plan for Arsenic Abatement

1 indicating that when the Company has its proposed lease from GEcom, the Company will be
2 docketing this lease. It is Staff's understanding that the purpose of the filing is informational only so
3 that the lease may be considered in the Company's next general rate case.

4 The treatment capacity will be approximately 150 gallons per minute. In addition, according
5 to the Company, the selected GEcom treatment plant and process is the same initial treatment process
6 for which MRWC has already received an ADEQ Certificate of Approval to Construct back in June
7 11, 2010.

8 **II. Staff's Response to Mr. Dougherty's Motion for Evidentiary Hearing.**

9 On September 30, 2011, Intervenor John Dougherty docketed a Motion for Evidentiary
10 Hearing ("Motion") in this matter. The Motion noted various concerns regarding MRWC's recent
11 modification of its planned arsenic treatment method. In light of those concerns Mr. Dougherty filed
12 the Motion to clarify the "undefined proposal to comply with state and federal drinking water
13 standards without construction of an arsenic treatment facility."

14 The clarity Mr. Dougherty requests does not require an evidentiary hearing to obtain. The
15 Company has, in its October 12, 2011 filing in this docket, explained the method it will use to
16 perform the arsenic treatment to resolve its arsenic contamination issues. Staff evaluated this same
17 proposed arsenic treatment method as part of the Company's financing application in this matter.
18 Staff found it reasonable in its Staff Report docketed on June 15, 2009, and the Commission adopted
19 Staff's recommendation in Decision No. 71317.

20 The significant difference between the original proposal and MRWC's revised proposal is the
21 method of funding the facility. In the original application, MRWC contemplated owning as well as
22 operating the arsenic treatment facilities. The capital costs associated with the construction of the
23 facilities would require obtaining debt, for which MRWC required Commission approval. Now,
24 MRWC intends to utilize an operating lease for the necessary equipment. Operating leases are not
25 capital leases and do not require the utility to obtain Commission approval.

26 As of this filing, MRWC has not requested modification of the Arsenic Remediation
27 Surcharge Mechanism ("ARSM") to include payment of the operating lease. It is currently Staff's
28 understanding that Ms. Olsen, the owner of MRWC, is paying or plans to pay for the operating lease

1 from personal funds rather than seek modification of the ARSM to include recovery of operating
2 lease payments. Consequently, there is no need for any further Commission approvals in this docket
3 and an evidentiary hearing is not necessary.

4 **III. Staff's Procedural Recommendations.**

5 By the Commission's vote during the April 22, 2011 Staff Open Meeting, the Commission
6 reopened this docket in order to further evaluate alternative lending institutions which may provide
7 funding for the Company's arsenic treatment facilities in light of Water Infrastructure Financing
8 Authority's ("WIFA") requirement to perform federal compliance that would make the approved loan
9 from WIFA infeasible. The requirement to obtain a loan, regardless of the lending entity, was
10 premised on the need to finance construction of arsenic treatment facilities that MRWC would own.
11 Now that MRWC no longer intends to own the treatment facilities, it does not need to fund the capital
12 expenditure that would require a loan. Rather, the operating lease payments will be an ongoing
13 expense that can be considered during the Company's next rate case.

14 There is no longer a need to pursue a modification of Decision No. 71317 as there is no longer
15 a need to substitute lending entities. Consequently, the matter may be brought to a close and the
16 docket retained solely for ongoing compliance filings by MRWC.

17 RESPECTFULLY SUBMITTED this 31st day of October, 2011.

18 

19 _____
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26 **Original and thirteen (13) copies of
27 the foregoing filed this 31st day of
28 October, 2011, with:**

27 Docket Control
28 Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

1 **Copy of the foregoing mailed this**
2 **31st day of October, 2011, to:**

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