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BEFORE THE ARIZONA CORPORATION COMMISSION

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COMMISSIONERS

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2011 DEC 19 A 9:35

AZ CORP COMMISSION
DOCKET CONTROL

Arizona Corporation Commission

DOCKETED

DEC 19 2011

DOCKETED BY

IN THE MATTER OF THE APPLICATION OF
VAIL WATER COMPANY FOR AUTHORITY TO
ISSUE PROMISSORY NOTE(S) AND OTHER
EVIDENCE OF INDEBTEDNESS PAYABLE AT
PERIODS OF MORE THAN TWELVE MONTHS
AFTER THE DATE OF ISSUANCE.

DOCKET NO. W-01651B-99-0351

IN THE MATTER OF THE APPLICATION OF
VAIL WATER COMPANY FOR A RATE
INCREASE.

DOCKET NO. W-01651B-99-0406

PROCEDURAL ORDER

BY THE COMMISSION:

On December 1, 2011, the Arizona Corporation Commission ("Commission") voted to reopen Docket No. W-01651B-99-0406 and Decision No. 62450, in order to refer the matter to the Hearing Division to take testimony to determine a plan to accomplish the direct use of CAP water in Vail Water Company's ("VWC" or "Company") service area; whether there should be a refund of CAP surcharges; whether penalties should be assessed against the Company for the violation of Commission Order; and to consider the Company's request for a time extension to file its final plans for direct use of the CAP water. The Commission directed that all CAP charges collected that remain in the CAP account should be held in constructive trust until further order of the Commission.

The Company and the Commission's Utilities Division ("Staff") participated in a Procedural Conference on December 14, 2011, at the Commission's Tucson office to discuss how to proceed with the Commission's directive. Because the issues to be addressed involve different burdens of proof, the parties agreed that two rounds of simultaneously filed written testimony would be reasonable in this case. The Company expressed concern at the December 1, 2011, Open Meeting, and again at the December 14, 2011, Procedural Conference, that because it will have a CAP

1 payment due in March 2012, it had hoped the matter could be resolved prior to that time. At the
2 December 14, 2011, Procedural Conference, Staff indicated that it would not be able to file direct
3 testimony prior to the latter part of January 2012, which after considering the time to prepare rebuttal
4 testimony, and the existing hearing calendar, makes the end of February, the earliest time for a
5 hearing in this matter. In order to hear the Company's arguments about whether the CAP funds
6 currently held in trust can be used for the March 2012 CAP payments prior to those scheduled
7 payments, the parties agreed to a hearing on that limited issue on January 26, 2012, and to have the
8 remaining issues addressed at a hearing to be set at the end of February.

9 IT IS THEREFORE ORDERED that a **hearing** to consider the limited issue of whether CAP
10 funds currently held in trust may be used to make CAP payments due in March 2012, shall
11 **commence on January 26, 2012, at 10:00 a.m.**, or as soon thereafter as is practical, at the
12 Commission's Tucson offices **400 West Congress, Room 222, Tucson, Arizona 85701**.

13 IT IS FURTHER ORDERED that the **hearing** to address the remaining issues in this matter
14 shall commence on **February 29, 2012, at 10:00 a.m.**, or as soon thereafter as is practical, at the
15 Commission's Tucson offices, 400 West Congress, **Room 222**, Tucson, Arizona 85701.

16 IT IS FURTHER ORDERED that **direct testimony** and associated exhibits to be presented at
17 hearing by all parties shall be reduced to writing and filed on or before **January 23, 2012**.

18 IT IS FURTHER ORDERED that **rebuttal testimony** and associated exhibits to be presented
19 at hearing by all parties shall be reduced to writing and filed on or before **February 13, 2012**.

20 IT IS FURTHER ORDERED that the Company shall provide public notice of the hearing in
21 this matter, in the following form and style with the heading in no less than 14-point bold type and
22 the body in no less than 10-point regular type:
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PUBLIC NOTICE OF HEARING ON
VAIL WATER COMPANY'S COMPLIANCE
WITH DECISION NO. 62450
AND THE CONTINUATION AND USE
OF CENTRAL ARIZONA PROJECT SURCHARGES
(DOCKET NO. W-01651B-99-0351)
(DOCKET NO. W-01651B-99-0406)

Summary

On April 14, 2000, the Arizona Corporation Commission ("Commission") issued Decision No. 62450, which *inter alia*, authorized Vail Water Company ("VWC" or "Company") to implement a Central Arizona Project ("CAP") Hook-up Fee and Service Charge conditioned on VWC submitting Final Plans for the direct use of CAP water within VWC's service area by December 31, 2010. Pursuant to Decision No. 62450, if VWC did not file the Final Plans by December 31, 2010, all CAP charges would cease and any monies remaining in the CAP account would be refunded in a manner to be determined by the Commission.

The Company did not submit Final Plans, or request an extension of the deadline by December 31, 2010. On July 5, 2011, and August 19, 2011, the Company filed requests for an extension of time until June 30, 2013, to provide the Final Plans. The Company indicated that it has been in discussions with the City of Tucson to wheel CAP water across the Tucson valley that would make direct use of CAP water in VWC's service area possible.

On December 1, 2011, the Commission voted to reopen Docket No. W-01651B-99-0406 and Decision No. 62450, in order to take testimony on the following issues: 1) to determine a plan for the direct use of CAP water in VWC's service area; 2) to consider whether there should be a refund of CAP surcharges; 3) to determine whether penalties should be assessed against the Company for the violation of Commission Order; and 4) to consider the Company's request for an extension of time to file its Final Plans for direct CAP water use. At the direction of the Commission the Company has ceased collecting CAP surcharges and all CAP funds are being held in constructive trust until further order of the Commission.

Arizona Corporation Commission Public Hearing Information

The Commission will hold a hearing on the limited issue of whether CAP surcharges currently held in trust can be used for CAP contract payments due in March 2012, such hearing to commence on **January 26, 2012, at 10:00 a.m., or as soon as practical thereafter at the Commission's Tucson offices, Room 222, 400 West Congress St., Tucson, Arizona 85701.**

The Commission will hold a hearing on all remaining issues beginning on **February 29, 2012, at 10:00 a.m., or as soon as practical thereafter at the Commission's Tucson offices, Room 222, 400 West Congress St., Tucson, Arizona 85701**

Public comments will be taken at the beginning of the hearings. Written public comments may be submitted by mailing a letter referencing Docket Nos. W-01651B-99-0351 and W-01651B-99-0406 to Arizona Corporation Commission, Consumer Services Section, 1200 West Washington, Phoenix, AZ 85007, or by

1 e-mail. For a form to use and instructions on how to e-mail comments to the
Commission, go to
2 <http://www.azcc.gov/divisions/utilities/forms/PublicCommentForm.pdf>. If you
require assistance, you may contact the Consumer Services Section at 1-800-222-
3 7000.

4 **ADA/Equal Access Information**

5 The Commission does not discriminate on the basis of disability in admission to
its public meetings. Persons with a disability may request a reasonable
6 accommodation such as a sign language interpreter, as well as request this
document in an alternative format, by contacting the ADA Coordinator, Shaylin
7 Bernal, e-mail SABernal@azcc.gov, voice phone number (602) 542-3931.
Requests should be made as early as possible to allow time to arrange the
8 accommodation.

9 IT IS FURTHER ORDERED that VWC shall **mail** to each of its customers a copy of the
10 above notice, (may be included as a bill insert) **such mailing to be complete by December 31, 2011.**

11 IT IS FURTHER ORDERED that VWC shall **file certification of mailing** as soon as
12 practicable after the mailing has been completed.

13 IT IS FURTHER ORDERED that notice shall be deemed complete upon mailing of same,
14 notwithstanding the failure of an individual customer to read or receive the notice.

15 IT IS FURTHER ORDERED that all parties must comply with Rules 31 and 38 of the Rules
16 of the Arizona Supreme Court and A.R.S. § 40-243 with respect to the practice of law and admission
17 *pro hac vice*.

18 IT IS FURTHER ORDERED that withdrawal of representation must be made in compliance
19 with A.A.C. R14-3-104(E) and Rule 1.16 of the Rules of Professional Conduct (under Rule 42 of the
20 Rules of the Arizona Supreme Court). Representation before the Commission includes appearances
21 at all hearings and procedural conferences, as well as all Open Meetings for which the matter is
22 scheduled for discussion, unless counsel has previously been granted permission to withdraw by the
23 Administrative Law Judge or the Commission.

24 IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113 - Unauthorized
25 Communications) applies to this proceeding and shall remain in effect until the Commission's
26 Decision in this matter is final and non-appealable.

27 IT IS FURTHER ORDERED that the time periods specified herein shall not be extended
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1 pursuant to Rule 6(a) or (e) of the Rules of Civil Procedure.

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

5 DATED this 15th day of December, 2011.

6 
7 JANE L. RODDA
8 ADMINISTRATIVE LAW JUDGE

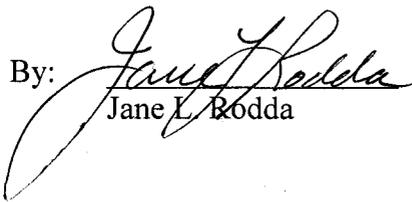
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10
11 Copies mailed this 15th day
12 of December, 2011 to:

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24 By: 
25 Jane L. Rodda