

OPEN MEETING AGENDA ITEM

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BEFORE THE ARIZONA CORPORATION C

Arizona Corporation Commission

DOCKETED

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JAN 6 2012

COMMISSIONERS

GARY PIERCE – Chairman
BOB STUMP
SANDRA D. KENNEDY
PAUL NEWMAN
BRENDA BURNS

2012 JAN -6 P 12: 53

AZ CORP COMMISSION
DOCKET CONTROL

DOCKETED BY

IN THE MATTER OF THE COMMISSION ON
ITS OWN MOTION INVESTIGATING THE
FAILURE OF TRUXTON CANYON WATER
COMPANY TO COMPLY WITH
COMMISSION RULES AND REGULATIONS.

DOCKET NO. W-02168A-10-0247

**STAFF'S NOTICE OF FILING AND
RESPONSE TO PROCEDURAL ORDER**

On December 23, 2011, a Procedural Order was docketed directing Staff to file any exhibits associated with its pre-filed testimony and updated testimony. The Procedural Order elaborated that there were no supporting exhibits related to issues 5 (regarding the commingling of funds between the Claude K. Neal Family Trust ("Trust") and Truxton Canyon Water Company ("Truxton")) and 9 (regarding Truxton's noncompliance with National Association of Regulatory Utility Commissioners' ("NARUC") Uniform System of Accounts). Additionally, the Procedural Order noted that issue 7 (regarding whether the Trust is selling water to other entities within Truxton's Certificate of Convenience and Necessity ("CC&N")) was not discussed within Staff's updated testimony.

Staff hereby provides notice of the attached supplement to Staff's updated testimony discussing Staff's update to the issue of whether the Trust is selling water within Truxton's CC&N.

With respect to the filing of additional exhibits related to issues 5 and 9, Staff would note that it asserted that Truxton was noncompliant with NARUC accounting standards and was commingling funds and transferring revenue to the Trust. Truxton has conceded both issues in the filed testimony of Chris Hopper¹ as well as during the earlier evidentiary hearing held in this matter.²

¹ See Post-Hearing Testimony of Chris Hopper filed on February 9, 2011 at 2:5-22, attached Exhibit 1.

² See Transcript of Evidentiary Hearing at 87:5-8 (conceding that Truxton's method of booking did not conform to NARUC or general accounting standards); Tr. at 188:14-15 (explaining that Truxton's old system of accounts did not follow NARUC); Tr. at 224:9-15 (conceding the commingling of funds between the Trust, Truxton, and Cerbat Water Company).

1 For purposes of demonstrating the earlier noncompliance, Staff intends to rely on both Truxton's
2 admission to these allegations as well as the testimony of its witness Mr. Elijah Abinah who has
3 personal knowledge from inspecting Truxton's records that this was the case as well as the pre-filed
4 Direct Testimony of Mr. Alexander Igwe relating Mr. Igwe's personal knowledge from his inspection
5 of Truxton's records which Mr. Abinah will be sponsoring. For purposes of demonstrating the
6 ongoing non-compliance with NARUC standards, Staff intends to rely on the testimony of Mr.
7 Abinah who has personal knowledge from inspecting Truxton's records on November 21, 2011.

8 RESPECTFULLY SUBMITTED this 6th day of January, 2012.

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11 _____
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19 Original and thirteen (13) copies
20 of the foregoing filed this
21 6th day of January 2012 with:

22 Docket Control
23 Arizona Corporation Commission
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27 6th day of January 2012 to:

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MEMORANDUM

TO: Docket Control

FROM: Steven M. Olea
Director
Utilities Division



DATE: January 6, 2012

RE: IN THE MATTER OF THE COMMISSION ON ITS OWN MOTION
INVESTIGATING THE FAILURE OF TRUXTON CANYON WATER
COMPANY TO COMPLY WITH THE COMMISSION RULES AND
REGULATIONS (DOCKET NO. W-02168A-10-0247)

Pursuant to the Procedural Order issued by the Administrative Law Judge ("ALJ") on December 23, 2011, the Arizona Corporation Commission ("Commission") Utilities Division ("Staff") is providing a Supplement to the update to Staff's previously filed testimony in this matter that was docketed on December 5, 2011.

SMO:EA:kdh

Originator: Elijah Abinah

WHETHER THE TRUST IS SELLING WATER TO OTHER ENTITIES WITHIN TRUXTON'S CERTIFICATE OF CONVENIENCE AND NECESSITY ("CC&N")

At the time that Staff filed the complaint and petition for order to show cause, the Trust was selling water to Truxton through a water supply agreement and was providing water service to the Valle Vista Property Owner Association ("VVPOA") under another water supply agreement. Pursuant to Decision No. 72386 (May 27, 2011), which adopted a Stipulation Agreement between parties that included the transfer of the water supply agreement between the Trust and the VVPOA to Truxton, the Trust ceased providing water to VVPOA. To the best of Staff's knowledge and after discussion with Truxton, VVPOA was the only entity that the Trust was selling water to other than Truxton. Therefore, Staff is unaware of any other entities within Truxton's CC&N to which the Trust is currently selling water.