

OPEN MEETING AGENDA ITEM



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ORIGINAL

BEFORE THE ARIZONA CORPORATION COMMISSION

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Arizona Corporation Commission

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AZ CORP COMMISSION
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2 COMMISSIONERS

- 3 GARY PIERCE - Chairman
- 4 BOB STUMP
- 5 SANDRA D. KENNEDY
- 6 PAUL NEWMAN
- 7 BRENDA BURNS

6 IN THE MATTER OF THE APPLICATION OF
7 HARRISBURG UTILITY COMPANY, INC. FOR
8 APPROVAL OF A RATE INCREASE.

DOCKET NO. W-02169A-11-0238

PROCEDURAL ORDER

8 **BY THE COMMISSION:**

9 On June 10, 2011, Harrisburg Utility Company, Inc. (formerly Keaton Development
10 Company, Inc.) ("Harrisburg") filed with the Arizona Corporation Commission ("Commission") an
11 application for a permanent rate increase using a test year ("TY") ending December 31, 2010.

12 On July 11, 2011, the Commission's Utilities Division ("Staff") issued a Letter of Sufficiency
13 stating that Harrisburg's application had met the sufficiency requirements outlined in Arizona
14 Administrative Code ("A.A.C.") R14-2-103 and that Harrisburg had been classified as a Class D
15 water utility.

16 On August 31 and September 16, 2011, Harrisburg filed revised application pages showing
17 modifications in its proposed service charges.

18 On September 22, 2011, Staff filed a Motion for Extension of Time, requesting additional
19 time to issue its Staff Report.

20 On September 23, 2011, a Procedural Order was issued extending the Staff Report deadline;
21 requiring Harrisburg to send its customers revised notice correcting errors in its original notice and
22 including its most recently proposed rates and charges; requiring Harrisburg to file an affidavit of
23 service and a complete copy of the revised customer notice sent; and extending the time frame for the
24 final order in this matter by 35 days.

25 On October 5, 2011, Harrisburg filed a document providing tariff language describing two
26 new proposed miscellaneous service charges—a Door Hanger Fee and a Meter Reading Fee When
27 Meter Has been Made Unavailable by the Customer.

28

1 On October 11, 2011, Staff filed a Request for an Extension of Time, requesting that the Staff
2 Report deadline be extended an additional week.

3 On October 13, 2011, Harrisburg filed an Affidavit stating that revised notice had been mailed
4 to its customers on October 10, 2011, but not including a copy of the notice sent.

5 On October 14, 2011, Staff issued its Staff Report.

6 On October 20, 2011, Harrisburg filed a copy of its revised customer notice, including
7 attachments, which conformed to the Procedural Order of September 23, 2011.

8 On November 9, 2011, a Recommended Order was issued in this case, with an exception
9 deadline of November 18, 2011, and tentative scheduling for consideration at the Open Meeting of
10 December 13 and 14, 2011.

11 On November 18, 2011, Harrisburg filed a Memorandum stating that it had not received a
12 copy of the Staff Report or the Recommended Order; requesting that Harrisburg's deadline for filing
13 comments be extended to December 20, 2011; and requesting that the matter be pulled from the Open
14 Meeting agenda for December 13 and 14, 2011. Harrisburg did not explain how it had become aware
15 of the Recommended Order, if it had not received the Recommended Order. Nor did Harrisburg
16 explain how, if at all, the contact information used by the Commission for Harrisburg was incorrect.¹

17 On December 7, 2011, Harrisburg filed a Memorandum responding to the Staff Report and
18 Recommended Order. Specifically, Harrisburg spoke to outside services expense, repairs and
19 maintenance expense, and Staff's calculation of revenue from water sales. Harrisburg requested that
20 the Commission reconsider Staff's recommendations and grant Harrisburg a \$2.00 per month
21 increase to the monthly minimum charge for a customer with a 5/8" x 3/4" meter.

22 On December 9, 2011, a Procedural Order was issued requiring Staff to file a document
23 responding to Harrisburg's assertion that it did not receive the Staff Report; responding to the items
24 of disagreement set forth in Harrisburg's December 7, 2011, Memorandum; providing any

25 ¹ A review of the Commission's records indicates that both the October 14, 2011, Staff Report and the November 9,
26 2011, Recommended Order were mailed to Harrisburg's address maintained in the Commission's records. It is not clear
27 why Harrisburg would not have received the Staff Report or the Recommended Order. The Commission has no record of
28 either of the items having been returned as undeliverable at that address. Harrisburg has not explained why it would not
have received those items at the address used and has not provided an alternative mailing address. Harrisburg's filings
have been sent on letterhead showing the same address as the Commission used to send the Staff Report and
Recommended Order.

1 modifications to Staff's recommendations; and indicating whether Staff believed a hearing should be
2 held in this matter. The Procedural Order also required Harrisburg to file a document providing any
3 corrections to Harrisburg's contact information and indicating whether Harrisburg believed a hearing
4 should be held. The Procedural Order also required responsive filings from both Staff and Harrisburg
5 and suspended the time frame in this matter.

6 On December 29, 2011, Harrisburg filed a document stating that it withdrew its rate increase
7 application and requested that this docket be administratively closed. Harrisburg did not provide the
8 information required by the Procedural Order.

9 On January 9, 2012, Staff filed a Supplemental Staff Report stating that all indications were
10 that Staff had mailed the Staff Report to Harrisburg at the address included in the service list, which
11 was the same address used in Harrisburg's 2010 annual report filed with the Commission, in all of
12 Harrisburg's filings made in this docket, and in the Procedural Order issued in this matter in
13 September 2011. Staff stated that Harrisburg had not previously indicated any concern over receipt
14 of documentation and that Staff had no knowledge why Harrisburg would not have received either
15 the Staff Report or the Order. Staff addressed each of the items of disagreement provided by
16 Harrisburg and concluded that Staff continues to support the recommendations presented in its Staff
17 Report and that Staff does not recommend a hearing. Staff did not mention Harrisburg's request for
18 withdrawal.

19 On January 30, 2012, Staff filed a Memorandum stating that because Harrisburg had not made
20 the filing required by the Procedural Order issued on December 9, 2011, Staff had no response to the
21 filing. Staff acknowledged that Harrisburg had filed a request for withdrawal and stated that Staff
22 continued to support the Recommended Order and proceeding with the case without a hearing.

23 Harrisburg's request for withdrawal has not been granted.

24 On February 14, 2012, the Commission briefly discussed this matter during its regularly
25 scheduled Open Meeting, for which this matter had been included on the Agenda. Harrisburg did not
26 attend the Open Meeting either by telephone or in person.² Because the Commission desired to have

27 _____
28 ² Harrisburg telephoned the Hearing Division several days before the Open Meeting and indicated an awareness that
the Order was being considered by the Commission at Open Meeting in spite of Harrisburg's request for withdrawal.

1 Harrisburg participate in the discussion of this matter, the Commission decided to hold the item to the
2 regularly scheduled March 2012 Open Meeting and to have a Procedural Order issued directing
3 Harrisburg to attend the March 2012 Open Meeting, either in person or by telephone, and notifying
4 Harrisburg that a decision will be made on this matter during the March 2012 Open Meeting, whether
5 Harrisburg attends or not.

6 IT IS THEREFORE ORDERED that **Harrisburg shall, either in person or telephonically,**
7 **attend and participate in the Open Meeting** scheduled to be held at the Commission's offices,
8 1200 West Washington Street, Phoenix, Arizona, on **March 27 and March 28, 2012**. If Harrisburg
9 desires to attend telephonically, Harrisburg shall contact the office of the Commission's Executive
10 Director, 602-542-3931, by **March 23, 2012**, to make arrangements for its telephonic attendance and
11 participation.

12 IT IS FURTHER ORDERED that Harrisburg is hereby put on notice that the **Commission**
13 **has scheduled this matter to be decided at the Open Meeting scheduled to be held on March 27**
14 **and March 28, 2012**, even if Harrisburg does not attend and participate in the Open Meeting.

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 the Administrative Law Judge may rescind, alter, amend,
19 or waive any portion of this Procedural Order either by subsequent Procedural Order or by ruling at
20 hearing.

21 DATED this 14th day of February, 2012.

22
23 
24 SARAH N. HARPRING
25 ADMINISTRATIVE LAW JUDGE
26
27
28

1 Copies of the foregoing mailed/delivered
2 this ~~14th~~ day of February, 2012, to:

3 William S. Scott, President
4 HARRISBURG UTILITY COMPANY, INC.
5 P.O. Box 905
6 Salome, AZ 85348
7 **REGULAR AND CERTIFIED MAIL**

8 Janice Alward, Chief Counsel
9 Legal Division
10 ARIZONA CORPORATION COMMISSION
11 1200 West Washington Street
12 Phoenix, AZ 85007

13 Steven M. Olea, Director
14 Utilities Division
15 ARIZONA CORPORATION COMMISSION
16 1200 W. Washington Street
17 Phoenix, AZ 85007

18 Shaylin Bernal, ADA Coordinator
19 Executive Director's Office
20 ARIZONA CORPORATION COMMISSION
21 1200 West Washington Street
22 Phoenix, AZ 85007

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By: 
Debra Broyles
Secretary to Sarah N. Harpring