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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

GARY PIERCE - Chairman
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Arizona Corporation Commission

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ARIZONA CORPORATION COMMISSION
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IN THE MATTER OF THE APPLICATION OF MONTEZUMA RIMROCK WATER COMPANY, LLC FOR APPROVAL OF FINANCING TO INSTALL A WATER LINE FROM THE WELL ON TIEMAN TO WELL NO. 1 ON TOWERS.

DOCKET NO. W-04254A-12-0204

IN THE MATTER OF THE APPLICATION OF MONTEZUMA RIMROCK WATER COMPANY, LLC FOR APPROVAL OF FINANCING TO PURCHASE THE WELL NO. 4 SITE AND THE COMPANY VEHICLE.

DOCKET NO. W-04254A-12-0205

IN THE MATTER OF THE APPLICATION OF MONTEZUMA RIMROCK WATER COMPANY, LLC FOR APPROVAL OF FINANCING FOR AN 8,000-GALLON HYDRO-PNEUMATIC TANK.

DOCKET NO. W-04254A-12-0206

IN THE MATTER OF THE RATE APPLICATION OF MONTEZUMA RIMROCK WATER COMPANY, LLC.

DOCKET NO. W-04254A-12-0207

PROCEDURAL ORDER

BY THE COMMISSION:

On May 31, 2012, Montezuma Rimrock Water Company, LLC ("Montezuma") filed with the Arizona Corporation Commission ("Commission") the following: In Docket No. W-04254A-12-0204, an application for approval of a loan agreement in which Montezuma promises to pay Rask Construction ("Rask") the sum of \$68,592 with interest for Rask's installation of a water line from the well on Tieman to Well No. 1 on Towers ("Rask Financing"); in Docket No. W-04254A-12-0205, an application for approval of a loan agreement in which Montezuma promises to pay Patricia Olsen the sum of \$21,377 with interest for the purchase of the Well No. 4 site and a company vehicle ("Olsen Site and Vehicle Financing"); in Docket No. W-04254A-12-0206, an application for approval of a loan agreement in which Montezuma promises to pay Sergei Arias the sum of \$15,000 with interest for the purchase of an 8,000-gallon hydro-pneumatic tank to provide additional water

1 storage to Montezuma's system ("Arias Tank Financing"); and in Docket No. W-04254A-12-0207,
2 an application for a rate increase ("Rate Application").

3 On June 25, 2012, John E. Dougherty, III was granted intervention in each of the above-
4 referenced dockets, without objection.

5 On July 2, 2012, in the docket for the Rate Application, Staff filed a Letter of Insufficiency
6 ("LOI"). The address shown on the LOI is P.O. Box 10, Rimrock, Arizona 86335.

7 On July 24, 2012, the above-referenced dockets were consolidated by Procedural Order. The
8 Procedural Order also ordered that an evidentiary hearing would be held in this matter, although a
9 procedural schedule could not be established until the applications were determined to be sufficient
10 by the Commission's Utilities Division ("Staff").

11 On August 3, 2012, Montezuma filed a document stating that it had not received the LOI until
12 Gerald Becker of Staff sent it to Montezuma via e-mail on July 27, 2012. Montezuma acknowledged
13 that there were insufficiencies in its applications and requested a 30-day extension to respond to
14 Staff's data request included with the LOI.

15 On August 8, 2012, Staff filed Staff's Response to Request for Extension, stating that Staff
16 recommended extending the period for Montezuma to respond to the LOI by 30 days, to September
17 3, 2012. Staff also stated that the LOI had been sent to Montezuma by certified mail on July 3, 2012,
18 and returned as unclaimed on July 25, 2012. Staff expressed concern about why the LOI was
19 returned unclaimed when it had been sent by certified mail to the listed main address for Montezuma.

20 On August 9, 2012, a Procedural Order was issued directing that Staff may exercise discretion
21 regarding the amount of time Montezuma may be permitted to respond to a LOI and Data Request
22 and requiring Montezuma, by August 30, 2012, to make a filing clarifying the mailing address to be
23 used for all documents sent to it.

24 On August 14, 2012, Montezuma filed a document stating that its mailing address remains the
25 same and identifying it as P.O. Box 10, Rimrock, AZ 86335.

26 On September 4, September 14, and October 9, 2012, Montezuma made filings related to the
27 LOI for its rate application. Montezuma amended its requested rate schedule in the October 9, 2012,
28 filing.

1 On October 10, 2012, Mr. Dougherty filed a Motion to Order Montezuma Rimrock to Provide
2 Intervener Copies of Filings (“Dougherty Motion”), in which Mr. Dougherty asserts that Montezuma
3 has failed to provide Mr. Dougherty copies of the filings made on July 16, August 3, August 14,
4 September 4, September 14, and October 9, and that Montezuma has also failed to provide Mr.
5 Dougherty with filings made in the financing cases consolidated with the rate case. Mr. Dougherty
6 requests that the Commission order Montezuma to provide Mr. Dougherty with complete copies of
7 all past and future filings in the consolidated docket.

8 On October 25, 2012, Montezuma made another filing related to the LOI for its rate
9 application, again including an amendment to the rate application. In this filing, Montezuma requests
10 a “JD Legal Surcharge,” requesting a surcharge of \$6.57 per month per customer for legal fees that
11 Montezuma attributes to Mr. Dougherty’s participation in cases involving Montezuma. Although
12 Montezuma states that invoices and statements for the asserted \$47,298.09 in legal fees were attached
13 to the filing, no such supporting documentation was attached. This filing includes a certification of
14 mailing to the Commission’s Docket Control, but does not indicate that the filing was sent to any
15 other person.

16 Neither Montezuma nor Staff has filed a response to the Dougherty Motion.

17 Montezuma is obligated by the Commission’s rules, specifically A.A.C. R14-3-107, to serve
18 all formal documents on Mr. Dougherty, as he has been granted intervention in this consolidated
19 matter. “Formal documents” is defined in A.A.C. R14-3-106(A) to include “applications,
20 complaints, answers, motions, replies and protests.” As applied, the Commission’s rules require a
21 party to serve upon every other party all of the documents that the party files with the Commission’s
22 Docket Control. Thus, Montezuma was obligated to serve Mr. Dougherty with the documents
23 requested in the Dougherty Motion and will now be required to do so and to file proof of such service
24 with the Commission’s Docket Control.

25 In addition, Montezuma will be required to ensure that each future filing with the
26 Commission’s Docket Control includes proof of service conforming to the requirements of A.A.C.
27 R14-3-107(C).

28 IT IS THEREFORE ORDERED that **Montezuma shall serve upon Mr. Dougherty**, no later

1 than **November 10, 2012, a copy of each filing made** by Montezuma to date in each of the dockets
2 for this consolidated matter, as captioned above.

3 IT IS FURTHER ORDERED that **Montezuma shall, by November 19, 2012, file** with the
4 Commission's Docket Control **proof of service upon Mr. Dougherty**, as ordered in the preceding
5 paragraph, with the proof of service conforming to the requirements of A.A.C. R14-3-107(C).

6 IT IS FURTHER ORDERED that **Montezuma shall, on each future filing** made with the
7 Commission's Docket Control in this consolidated matter, **include proof of service conforming to**
8 **the requirements of A.A.C. R14-3-107(C).**

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

12 DATED this 29th day of October, 2012.

13
14 
15 SARAH N. HARPRING
16 ADMINISTRATIVE LAW JUDGE

17 Copies of the foregoing mailed/delivered
18 this 29th day of October, 2012 to:

19 Patricia Olsen
20 MONTEZUMA RIMROCK WATER CO., LLC
21 P.O. Box 10
22 Rimrock, AZ 86335

23 John E. Dougherty, III
24 P.O. Box 501
25 Rimrock, AZ 86335

26 Janice Alward, Chief Counsel, Legal Division
27 ARIZONA CORPORATION COMMISSION
28 1200 West Washington Street
Phoenix, Arizona 85007-2927

Steven Olea, Director, Utilities Division
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By: 
Debra Broyles
Secretary to Sarah N. Harpring