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BEFORE THE 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

RATE CASE
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, the Commission's Utilities Division
6 ("Staff") filed a Letter of Insufficiency ("LOI"). The address shown on the LOI is P.O. Box 10,
7 Rimrock, Arizona 86335.

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

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 asserted that
3 Montezuma had failed to provide Mr. Dougherty copies of the filings made on July 16, August 3,
4 August 14, September 4, September 14, and October 9, and that Montezuma had also failed to
5 provide Mr. Dougherty with filings made in the financing cases consolidated with the rate case. Mr.
6 Dougherty requested that the Commission order Montezuma to provide Mr. Dougherty with complete
7 copies of all past and future filings in the consolidated docket. No response to the Motion was filed.

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
10 requested a “JD Legal Surcharge,” requesting a surcharge of \$6.57 per month per customer for legal
11 fees that Montezuma attributed to Mr. Dougherty’s participation in cases involving Montezuma.
12 Although Montezuma stated that invoices and statements for the asserted \$47,298.09 in legal fees
13 were attached to the filing, no such supporting documentation was attached. The filing included a
14 certification of mailing to the Commission’s Docket Control, but did not indicate that the filing had
15 been sent to any other person.

16 On October 29, 2012, a Procedural Order was issued requiring Montezuma to serve upon Mr.
17 Dougherty, by November 10, 2012, a copy of each filing made by Montezuma to date in each of the
18 dockets for this consolidated matter and to file, by November 19, 2012, proof that such service had
19 been completed upon Mr. Dougherty. The Procedural Order further required Montezuma, on each
20 future filing, to include proof of service conforming to the requirements of A.A.C. R14-3-107(C).

21 On November 2, 2012, Staff issued a Letter of Sufficiency informing Montezuma that its
22 application had met the sufficiency requirements outlined in A.A.C. R14-2-103 and that Montezuma
23 had been classified as a Class D utility.

24 On November 5, 2012, Montezuma filed another amendment to its rate application, including
25 revised schedules. Montezuma did not include on the filing proof of service conforming to the
26 requirements of A.A.C. R14-3-107(C).¹

27 ¹ Because this may be attributable to the lag time occurring with the U.S. Mail, it will not be considered
28 noncompliance with the Procedural Order of October 29, 2012. However, Montezuma is directed to ensure its
compliance for its future filings.

1 It is now necessary and appropriate to establish the procedural schedule and requirements to
2 be followed for this matter.

3 IT IS THEREFORE ORDERED that the **hearing** in the above-captioned matter shall
4 commence on **February 7, 2013, at 10:00 a.m.**, in Hearing Room No. 1 at the Commission's offices,
5 **1200 West Washington St., Phoenix, Arizona 85007**, and shall continue on **February 8, 2012, at**
6 **10:00 a.m.**, in the same location, if necessary. Additional hearing dates will be established if
7 necessary.

8 IT IS FURTHER ORDERED that a **pre-hearing conference** shall be held on **January 31,**
9 **2013, at 10:00 a.m.**, in Hearing Room No. 1 at the Commission's Office, for the purpose of
10 scheduling witnesses and discussing any existing procedural issues and the conduct of the hearing.

11 IT IS FURTHER ORDERED that any **direct testimony and associated exhibits** to be
12 presented at hearing on behalf of **Montezuma** shall be reduced to writing and filed on or before
13 **December 6, 2012**. Montezuma shall ensure that the direct testimony and associated exhibits to be
14 presented at hearing fully address and provide all relevant supporting information and documentation
15 for Montezuma's application for a permanent rate increase and each of Montezuma's applications for
16 approval of financings.

17 IT IS FURTHER ORDERED that the **Staff Report and/or any direct testimony and**
18 **associated exhibits** to be presented at hearing on behalf of **Staff** shall be reduced to writing and filed
19 on or before **January 14, 2013**.

20 IT IS FURTHER ORDERED that any **direct testimony and associated exhibits** to be
21 presented at hearing on behalf of an **intervenor** shall be reduced to writing and filed on or before
22 **January 14, 2013**.

23 IT IS FURTHER ORDERED that any **rebuttal testimony and associated exhibits** to be
24 presented at hearing on behalf of **Montezuma** shall be filed on or before **January 28, 2013**.

25 IT IS FURTHER ORDERED that any **objections to any testimony or exhibits** that have
26 been pre-filed as of January 30, 2013, shall be made before or at the **January 31, 2013, pre-hearing**
27 **conference**.

28 IT IS FURTHER ORDERED that any **substantive corrections, revisions, or supplements**

1 **to the filings required herein** shall be reduced to writing and filed no later than **February 5, 2013**.

2 IT IS FURTHER ORDERED that intervention shall be in accordance with A.A.C. R14-3-105,
3 except that all **motions to intervene** must be filed on or before **December 31, 2012**.

4 IT IS FURTHER ORDERED that any **objections to intervention** shall be filed on or before
5 **January 7, 2013**.

6 IT IS FURTHER ORDERED that **discovery** shall be as permitted by law and the rules and
7 regulations of the Commission, except that any objection to discovery requests shall be made within
8 **5 calendar days** of receipt, and responses to discovery requests shall be made within **7 calendar**
9 **days** of receipt, unless extended by mutual agreement of the parties involved.

10 IT IS FURTHER ORDERED that for discovery requests, objections, and answers, if a
11 receiving party requests service to be made electronically, and the sending party has the technical
12 capability to provide service electronically, service to that party shall be made electronically.

13 IT IS FURTHER ORDERED that if a discovery dispute arises, in the alternative to filing a
14 written motion to compel discovery, any party seeking discovery may contact the Commission's
15 Hearing Division to request a date for a procedural conference to resolve the discovery dispute; that
16 upon such a request, a procedural conference will be convened as soon as practicable; and that the
17 party making the request shall forthwith contact all other parties to advise them of the procedural
18 conference date and time and shall at the procedural conference provide a statement confirming that
19 the other parties were contacted.²

20 IT IS FURTHER ORDERED that any motions filed in this matter that are not ruled upon by
21 the Commission within 20 days of the filing date of the motion shall be deemed denied.

22 IT IS FURTHER ORDERED that any responses to motions shall be filed within five days of
23 the filing date of the motion.

24 IT IS FURTHER ORDERED that any replies shall be filed within five days of the filing date
25 of the response.

26 IT IS FURTHER ORDERED that **Montezuma shall provide public notice** of the hearing in
27

28 ² The parties shall attempt to resolve discovery disputes through informal, good-faith negotiations before seeking Commission resolution of the dispute.

1 this matter, in the following form and style, with the heading in no less than 12-point bold type and
 2 the body in no less than 10-point regular type:

3 **PUBLIC NOTICE OF HEARING ON THE APPLICATIONS OF**
 4 **MONTEZUMA RIMROCK WATER COMPANY, LLC FOR AN**
 5 **INCREASE IN RATES AND APPROVAL OF FINANCING MATTERS**
 6 **(Docket Nos. W-04254A-12-0204 et al.)**

7 On May 31, 2012, Montezuma Rimrock Water Company, LLC (“Montezuma”) filed
 8 with the Arizona Corporation Commission (“Commission”) the following: (1) an
 9 application for approval of a loan agreement in which Montezuma promises to pay
 10 Risk Construction the sum of \$68,592 with interest for installation of a water line
 11 from the well on Tieman to Well No. 1 on Towers; (2) an application for approval of a
 12 loan agreement in which Montezuma promises to pay Patricia Olsen the sum of
 13 \$21,377 with interest for the purchase of the Well No. 4 site and a company vehicle;
 14 (3) an application for approval of a loan agreement in which Montezuma promises to
 15 pay Sergei Arias the sum of \$15,000 with interest for the purchase of an 8,000-gallon
 16 hydro-pneumatic tank to provide additional water storage to Montezuma’s system; and
 17 (4) an application for a rate increase.

18 The Commission’s Utilities Division (“Staff”) is in the process of auditing and
 19 analyzing the applications, and has not yet made any recommendations regarding the
 20 Company’s proposed rate increase or proposed financings. The Commission will
 21 determine the appropriate relief to be granted based on the evidence presented by the
 22 parties at hearing. **THE COMMISSION IS NOT BOUND BY THE PROPOSALS
 23 MADE BY THE COMPANY, STAFF, OR ANY INTERVENORS;
 24 THEREFORE, THE FINAL RATES APPROVED BY THE COMMISSION
 25 MAY DIFFER FROM THE RATES REQUESTED BY MONTEZUMA OR
 26 OTHER PARTIES.**

27 If you have any questions concerning how Montezuma’s proposed rate increase would
 28 affect your bill, or you have other substantive questions about Montezuma’s
 applications, you may contact Montezuma at: **[COMPANY SHOULD INSERT
 NAME, ADDRESS, TELEPHONE NUMBER, AND E-MAIL ADDRESS FOR
 CUSTOMER CONTACTS CONCERNING THE APPLICATIONS].**

How You Can View or Obtain a Copy of the Applications

Copies of the applications, including proposed tariffs, are available for inspection
 during regular business hours at Montezuma’s offices **[INSERT COMPANY
 ADDRESS]** and at the Commission’s Docket Control Center at 1200 West
 Washington, Phoenix, Arizona, and on the internet via the Commission’s website
 (www.azcc.gov) using the e-Docket function.

Public Hearing Information

The Commission will hold a **hearing** on this matter beginning **on February 7, 2013,
 at 10:00 a.m.** at the Commission’s offices, 1200 West Washington St., Phoenix,
 Arizona 85007. Public comments will be taken at the beginning of the hearing.

Written public comments may be submitted by mailing a letter referencing Docket
 Nos. W-04254A-12-0204 et al., to Arizona Corporation Commission, Consumer
 Services Section, 1200 West Washington, Phoenix, AZ 85007. If you require

1 assistance, you may contact the Consumer Services Section at 1-800-222-7000 or 602-
2 542-4251.

3 **About Intervention**

4 The law provides for an open public hearing at which, under appropriate
5 circumstances, interested parties may intervene. Any person or entity entitled by law
6 to intervene and having a direct and substantial interest in the matter will be permitted
7 to intervene. If you wish to intervene, you must file an original and 13 copies of a
8 written motion to intervene with the Commission no later than **December 31, 2012**,
9 and a copy of the motion to Montezuma or its counsel and to all parties of record.
10 Your motion must contain the following:

- 11 1. Your name, address, and telephone number and the name, address and
12 telephone number of any person upon whom service of documents is to
13 be made, if not yourself.
- 14 2. A short statement of your interest in the proceeding (e.g., a customer of
15 Montezuma, etc.).
- 16 3. A statement certifying that you have mailed a copy of the motion to
17 intervene to Montezuma or its counsel and to all parties of record in the
18 case.

19 The granting of motions to intervene shall be governed by A.A.C. R14-3-105, except
20 that all motions to intervene must be filed on or before **December 31, 2012**. For
21 information about requesting intervention, visit the Commission's website at
22 <http://www.azcc.gov/divisions/utilities/forms/interven.pdf>. The granting of
23 intervention, among other things, entitles a party to present sworn evidence at the
24 hearing and to cross-examine other witnesses. However, failure to intervene will not
25 preclude any interested person from appearing at the hearing and providing public
26 comment or from filing written comments in the record of the case.

27 **ADA/Equal Access Information**

28 The Commission does not discriminate on the basis of disability in admission to its
public meetings. Persons with a disability may request a reasonable accommodation
such as a sign language interpreter, as well as request this document in an alternative
format, by contacting the ADA Coordinator, Shaylin 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 accommodation.

IT IS FURTHER ORDERED that **Montezuma shall mail** to each of its customers a copy of
the above notice by **December 7, 2012**, and shall cause the above notice to be **published at least
once in a newspaper of general circulation** in its service territory, with publication to be completed
no later than **December 7, 2012**.

IT IS FURTHER ORDERED that Montezuma shall file **certification of mailing and
publication** as soon as practicable after they have been completed, but no later than **January 4,
2013**.

1 IT IS FURTHER ORDERED that notice shall be deemed complete upon mailing and
2 publication of same, notwithstanding the failure of an individual customer to read or receive the
3 notice.

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

7 IT IS FURTHER ORDERED that all parties must comply with Arizona Supreme Court Rules
8 31, 33, and 38 and A.R.S. § 40-243 with respect to the practice of law and admission *pro hac vice*.

9 IT IS FURTHER ORDERED that the time periods specified herein shall not be extended
10 pursuant to Rule 6(a) or (3) of the Rules of Civil Procedure.

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

14 DATED this 8th day of November, 2012.

15
16
17 
18 SARAH N. HARPRING
ADMINISTRATIVE LAW JUDGE

19 Copies of the foregoing mailed/delivered
20 this 8th day of November, 2012 to:

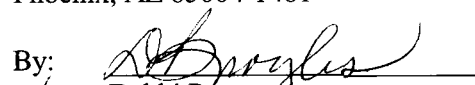
21 Patricia Olsen
22 MONTEZUMA RIMROCK WATER CO., LLC
23 P.O. Box 10
24 Rimrock, AZ 86335

Steven Olea, Director, Utilities Division
ARIZONA CORPORATION COMMISSION
1200 West Washington Street
Phoenix, Arizona 85007-2927

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

ARIZONA REPORTING SERVICE, INC.
2200 N. Central Ave., Suite 502
Phoenix, AZ 85004-1481

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

By: 
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