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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

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

AZ CORP COM
DOCKET CO
2012 NOV 23 AM 9 13

BM

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
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 have been attributable to the lag time occurring with the U.S. Mail, it was not considered
28 noncompliance with the Procedural Order of October 29, 2012. However, Montezuma was directed to ensure its
compliance for its future filings.

1 On November 8, 2012, a Procedural Order was issued scheduling a hearing in this matter to
2 commence on February 7, 2013, and establishing other procedural requirements and deadlines.

3 Later on the same day, Staff filed a Staff Request for Procedural Schedule, suggesting several
4 procedural deadlines.

5 On November 9, 2012, the Residential Utility Consumer Office ("RUCO") filed RUCO's
6 Application to Intervene, stating that RUCO desires to intervene so that it may fulfill its statutory
7 obligation to protect the residential utility consumers of Arizona.

8 No response has been filed to RUCO's Application to Intervene.

9 On November 15, 2012, Montezuma filed a Response to Procedural Orders stating that
10 Montezuma had received the October 29, 2012, Procedural Order on November 13, 2012, and had
11 mailed all filings to Mr. Dougherty by certified mail on November 14, 2012. Montezuma also stated
12 that the documents supporting the requested JD Legal Surcharge had previously been filed on
13 October 9, 2012. Further, Montezuma requests extensions to dates derived from Staff's Request for
14 Procedural Schedule, because Ms. Olsen needs to be available for a few days before and during a
15 criminal trial involving charges against Ivo Buddeke. Ms. Olsen states that the trial is set for January
16 24, 2013, and is expected to last for four days. Montezuma further states that it has not received any
17 data requests from Mr. Dougherty, but that it requests three weeks to respond to any such request.
18 Montezuma adds that Ms. Olsen is its only employee. Montezuma does not in any way acknowledge
19 the Procedural Order of November 8, 2012.²

20 No response has been filed to Montezuma's requests included in its Response to Procedural
21 Orders.

22 While it seems likely that Montezuma may find the procedural schedule established in the
23 Procedural Order of November 8, 2012, challenging in light of the Buddeke trial, the Commission
24 will not make any assumptions in that respect at this time and will instead wait for Montezuma to
25 review the Procedural Order and file any motions Montezuma deems appropriate. Additionally, as
26

27 ² The Commission urges Montezuma to make every effort to retrieve its mail in a timely manner or, if the delay in
28 Montezuma's receipt of mail is not due to its own delay in retrieving mail, to take whatever steps are available to it to
determine why its mail is not being received in a timely manner.

1 Montezuma has requested an extension from dates proposed by Staff, not from actual procedural
2 dates established by the Commission, Montezuma's requests will not be granted.

3 Because no party has filed an objection to RUCO's Application to Intervene, it is now
4 reasonable and appropriate to grant RUCO's Application to Intervene.

5 IT IS THEREFORE ORDERED that **RUCO's Application to Intervene is hereby granted.**

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

9 DATED this 23rd day of November, 2012.

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12 
13 SARAH N. HARPRING
ADMINISTRATIVE LAW JUDGE

14 Copies of the foregoing mailed/delivered
15 this 23rd day of November, 2012 to:

16 Patricia Olsen
17 MONTEZUMA RIMROCK WATER CO., LLC
18 P.O. Box 10
19 Rimrock, AZ 86335

20 John E. Dougherty, III
21 P.O. Box 501
22 Rimrock, AZ 86335

23 Daniel W. Pozefsky
24 RESIDENTIAL UTILITY CONSUMER OFFICE
25 1110 West Washington Street, Suite 220
26 Phoenix, AZ 85007

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

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