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BEFORE THE ARIZONA CORPORATION C

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Arizona Corporation Commission

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MAR 21 2013

COMMISSIONERS

- BOB STUMP - Chairman
- GARY PIERCE
- BRENDA BURNS
- BOB BURNS
- SUSAN BITTER SMITH

DOCKETED BY *JM*

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

JOHN E. DOUGHERTY,
COMPLAINANT,

DOCKET NO. W-04254A-11-0323

V.

MONTEZUMA RIMROCK WATER COMPANY, LLC,

RESPONDENT.

IN THE MATTER OF THE APPLICATION OF MONTEZUMA RIMROCK WATER COMPANY, LLC FOR APPROVAL OF A RATE INCREASE.

DOCKET NO. W-04254A-08-0361

IN THE MATTER OF THE APPLICATION OF MONTEZUMA RIMROCK WATER COMPANY, LLC FOR APPROVAL OF A FINANCING APPLICATION.

DOCKET NO. W-04254A-08-0362

PROCEDURAL ORDER

BY THE COMMISSION:

On February 26, 2013, a Procedural Order was issued consolidating the above-captioned

1 dockets, scheduling a hearing, and establishing a procedural schedule and requirements for the
2 consolidated matter going forward. A correction to the public notice language mandated in the
3 Procedural Order was made by Procedural Order on February 28, 2013.

4 On February 27, February 28, and March 1, 2013, respectively, John Dougherty filed an
5 Amended Complaint, corrections to the Amended Complaint, and additional supportive
6 documentation related to the Amended Complaint. A Procedural Order was issued on March 7,
7 2013, to clarify that Mr. Dougherty had permission to include Allegation XVII in his Amended
8 Complaint.

9 On March 12, 2013, the Residential Utility Consumer Office ("RUCO"), which previously
10 had been granted intervention in the rate case docket, filed a Notice of Withdrawal stating that it was
11 withdrawing as an intervenor in this matter. RUCO provided no reason for its withdrawal.

12 On March 15, 2013, Montezuma Rimrock Water Company, LLC ("Montezuma") filed on
13 behalf of itself and the Commission's Utilities Division ("Staff") a Joint Request for Extension
14 ("Joint Request"). In the Joint Request, Montezuma and Staff request that the hearing date and
15 testimony filing dates be extended by 30 to 45 days to allow Montezuma to make amended and
16 updated filings related to its rate application, as Montezuma and Staff believe that those filings
17 cannot be made before the current deadline for direct testimony and that the parties would be better
18 served by extending the hearing dates and testimony deadlines to allow for the filings to be addressed
19 in direct testimony. Montezuma and Staff also assert that Mr. Dougherty has been contacted by Staff
20 and opposes the extension.

21 On March 18, 2013, Mr. Dougherty filed a Motion to Deny RUCO's Motion to Withdraw as
22 Intervener ("Motion to Deny"), requesting that RUCO be denied withdrawal from this matter because
23 the evidence of possible criminal conduct related to Montezuma's rate case necessitates RUCO's
24 participation to ensure that ratepayers are treated fairly. No other party has filed a response to
25 RUCO's Notice of Withdrawal.

26 On March 18, 2013, Montezuma filed an Answer to Amended Formal Complaint.

27 On March 21, 2013, Mr. Dougherty filed a Notice of Filing Additional Exhibits; Response to
28 Staff's and Company's Joint Filing to Extend Schedule; Motion to Maintain Complaint Portion of

1 Docket under Current Hearing Schedule (“Response & Motion”). In the Response & Motion, Mr.
2 Dougherty asserts, *inter alia*, that it is in the best interest of the public and ratepayers for the hearing
3 on the Amended Complaint to move forward under the current hearing schedule, while the hearing as
4 to the remaining portions of the consolidated docket can be rescheduled, if needed, after the hearing
5 on the Amended Complaint. Mr. Dougherty requests that the current hearing schedule be retained as
6 to the Amended Complaint.

7 It is now reasonable and appropriate to rule upon the Notice of Withdrawal and Joint Request.
8 Additionally, although the requests made by Mr. Dougherty in the Motion to Deny and Response &
9 Motion have been presented as Motions, it is more appropriate to characterize them as responses to
10 the Notice of Withdrawal and Joint Request. Thus, it is unnecessary to provide additional time for
11 input from the other parties before taking action.

12 While Mr. Dougherty is correct that RUCO’s mission is to represent the interests of
13 ratepayers in proceedings before the Commission, RUCO does not participate in many of the rate
14 cases before the Commission, and its lack of participation in a rate case has never been determined to
15 jeopardize the rights of the ratepayers affected by the rate case, all of whom receive notice and an
16 opportunity to provide public comment and to intervene. RUCO is not an indispensable party to this
17 matter,¹ and it will not be forced to participate herein as an involuntary intervenor.

18 Turning to the Joint Request, although Mr. Dougherty’s desire for the May hearing dates to be
19 retained is understandable, the duplicative nature of the proceedings that would ensue from his
20 suggested course of action would not be an efficient use of time or resources for any of the parties to
21 this matter or for the Commission. Montezuma intends to provide additional and updated
22 information related to its various pending applications, Staff desires to analyze and respond to that
23 information in its testimony, and the Commission has a very strong interest in obtaining the most up-
24 to-date and complete evidentiary record possible. Additionally, Mr. Dougherty will not be prejudiced
25 in any manner if his request is denied because the Amended Complaint will still be litigated, and Mr.
26 Dougherty will also have the opportunity to analyze and respond in testimony to any additional

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28 ¹ See Ariz. Rule Civ. Pro. 19.

1 information provided by Montezuma. The Joint Request will be granted.

2 Because the hearing dates in this matter will be revised herein, and it is not currently known
 3 whether Montezuma has already provided public notice of the hearing scheduled to commence on
 4 May 3, 2013, Montezuma will be required to make a filing regarding whether notice of the May 3,
 5 2013, hearing date has been provided and, if so, in what form/s. If Montezuma has provided notice,
 6 the May 3, 2013, date will be used for a public comment proceeding. If Montezuma has not provided
 7 notice, it will be required to do so using the new dates established herein, and the May 3, 2013, date
 8 will be vacated.

9 IT IS THEREFORE ORDERED that RUCO's **withdrawal** from this matter is hereby
 10 **granted**.

11 IT IS FURTHER ORDERED that the **procedural schedule** in this matter, as set forth in the
 12 Procedural Order of February 26, 2013, is hereby **modified as follows**:

Event/Item Due	Prior Schedule	New Schedule
Direct Testimony & Exhibits	April 5, 2013	May 23, 2013
Responsive Testimony & Exhibits	April 19, 2013	June 6, 2013
Objections to Pre-filed Testimony/Exhibits	April 29, 2013	June 14, 2013
Pre-Hearing Conference	April 29, 2013, at 10:00 a.m.	June 14, 2013, at 1:00 p.m.
Substantive Corrections/Revisions/Supplements	April 30, 2013	June 17, 2013
First Day of Hearing	May 3, 2013, at 10:00 a.m.	June 20, 2013, at 10:00 a.m.
Additional Days of Hearing, as necessary	May 6-9, 2013, at 10:00 a.m.	June 21, 24-26, 2013, at 9:00 a.m.

24 IT IS FURTHER ORDERED that the **hearing** dates of **May 6-9, 2013**, are hereby **vacated**.

25 IT IS FURTHER ORDERED that **Montezuma** shall, by **April 5, 2013**, file a document
 26 explaining **whether public notice has been provided** as directed by the Procedural Orders of
 27 February 26 and 28, 2013, and if so, in what manner.

28 IT IS FURTHER ORDERED that **if Montezuma has provided any public notice** as directed

1 by the Procedural Orders of February 26 and 28, 2013, a **public comment proceeding** shall convene
2 on **May 3, 2013, at 10:00 a.m.**

3 IT IS FURTHER ORDERED that **if Montezuma has not yet provided any public notice** as
4 directed by the Procedural Orders of February 26 and 28, 2013, the following shall occur:

- 5 1. The proceeding scheduled for **May 3, 2013**, shall be deemed **vacated**;
- 6 2. **Montezuma** shall **mail** to each of its customers, as a **billing insert**, by **May 6, 2013**, a
7 copy of the notice set forth in the Procedural Order of February 28, 2013, modified by
8 replacing the May 3, 2013, hearing date **with the June 20, 2013, hearing date**
9 adopted herein;
- 10 3. **Montezuma** shall cause the same **modified notice** to be **published** at least once in a
11 newspaper of general circulation in its service territory, with publication to be
12 completed no later than **May 6, 2013**; and
- 13 4. **Montezuma** shall file a **certification of mailing and publication**, which shall include
14 a **copy of the notices** as sent and published, as soon as practicable after mailing and
15 publication have been completed, but no later than **May 20, 2013**.

16 IT IS FURTHER ORDERED that the remaining provisions of the Procedural Order of
17 February 26, 2013, remain in effect.

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

21 DATED this 21st day of March, 2013.

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

1 Copies of the foregoing mailed/delivered/e-mailed
this 15 day of March, 2013, to:

2 Todd C. Wiley
3 FENNEMORE CRAIG
4 2394 E. Camelback Road, Suite 600
5 Phoenix, AZ 85016-3429
6 twiley@fclaw.com
7 Attorney for Montezuma Rimrock Water Company, LLC

8 Patricia Olsen
9 MONTEZUMA RIMROCK
10 WATER CO., LLC
11 P.O. Box 10
12 Rimrock, AZ 86335
13 patsy@montezumawater.com

14 John E. Dougherty, III
15 P.O. Box 501
16 Rimrock, AZ 86335
17 jd.investigativemedia@gmail.com

18 Daniel W. Pozefsky
19 Michelle Wood
20 RESIDENTIAL UTILITY
21 CONSUMER OFFICE
22 1110 West Washington Street, Suite 220
23 Phoenix, AZ 85007
24 dpozefsky@azruco.gov
25 mwood@azruco.gov

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

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

ARIZONA REPORTING SERVICE, INC.
2200 North Central Avenue, Suite 502
Phoenix, AZ 85004-1481

25
26 By: 

Debbi Person
Assistant to Sarah N. Harpring