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BEFORE THE ARIZONA CORPORATION COMMISSION

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COMMISSIONERS

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

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 to commence on May 3, 2013; and establishing a procedural schedule
2 and requirements for the consolidated matter going forward. A correction to a typographical error in
3 the prescribed public notice language was made by a Procedural Order issued on February 28, 2013.

4 On March 21, 2013, pursuant to a joint request for extension from Montezuma Rimrock
5 Water Company, LLC ("Montezuma") and the Commission's Utilities Division ("Staff"), a
6 Procedural Order was issued rescheduling the hearing to commence on June 20, 2013; modifying the
7 remainder of the procedural schedule accordingly; and requiring Montezuma to make filings
8 regarding the public notice provided.

9 On April 3, 2013, *inter alia*, Montezuma filed a Motion to Compel, stating that John
10 Dougherty has failed to answer a number of data requests included in Montezuma's first set of data
11 requests to him, without valid and applicable legal objections, and requesting either that Mr.
12 Dougherty be compelled to answer the data requests or, in the alternative, that Mr. Dougherty be
13 precluded from presenting any testimony or evidence in this consolidated matter.

14 On April 4, 2013, a Procedural Order was issued directing counsel for Montezuma to engage
15 in personal consultation with Mr. Dougherty and make good faith efforts to resolve the current and
16 any other discovery dispute before filing another Motion to Compel with the Commission; directing
17 Mr. Dougherty to provide a good faith and complete response or file a legally valid objection to each
18 portion of Montezuma's data request; and directing the parties that in lieu of filing discovery
19 motions, any party could telephonically request the scheduling of a procedural conference to resolve
20 a discovery dispute.

21 On April 5, 2013, Mr. Dougherty filed a Motion to Deny Company's Motion to Compel;
22 Motion for Protective Order. Mr. Dougherty also filed certification regarding personal consultation
23 between the parties and the parties' inability to resolve their dispute.

24 On April 8, 2013, counsel for Montezuma telephoned and e-mailed Hearing Division
25 administrative staff to request the scheduling of a procedural conference to resolve the discovery
26 dispute, stating that the parties have discussed and failed to resolve the discovery dispute and that the
27 parties are available during the week of April 15 and specifically on April 15 and 16.

28 Thus, it is now necessary and appropriate to schedule a procedural conference at which each

1 individual disputed request in Montezuma's first data request will be examined and discussed, one by
2 one, to determine the parties' positions as to each, including Montezuma's asserted justification for
3 obtaining the discovery and Mr. Dougherty's asserted justification for objecting to the discovery.

4 IT IS THEREFORE ORDERED that a **procedural conference** shall be held on **April 15,**
5 **2013, at 10:00 a.m.** in Hearing Room No. 1 at the Commission's offices at 1200 West Washington
6 Street, Phoenix, Arizona 85007. Each party shall appear **in person.**

7 IT IS FURTHER ORDERED that **Montezuma shall be prepared,** as to each individual
8 disputed request included in Montezuma's first data request, to establish both (1) how each disputed
9 request is relevant to the subject matter involved in the pending matter and (2) how each disputed
10 request is reasonably calculated to lead to the discovery of admissible evidence.

11 IT IS FURTHER ORDERED that **Mr. Dougherty shall be prepared,** as to each individual
12 disputed request included in Montezuma's first data request, to establish (1) that the discovery
13 request will result in annoyance, embarrassment, oppression, or undue burden or expense and (2) that
14 there is good cause for the Commission to protect Mr. Dougherty from such result.

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

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19 DATED this 8th day of April, 2013.

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21 
22 SARAH N. HARPRING
23 ADMINISTRATIVE LAW JUDGE
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26
27
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1 Copies of the foregoing mailed/delivered/e-mailed
this 5th day of April, 2013, to:

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