

ORIGINAL



0000144578

1 John E. Dougherty
2 PO Box 501
3 Rimrock, AZ 86335
4 Complainant & Intervenor

RECEIVED

2013 APR 29 P 2: 08

BEFORE THE ARIZONA CORPORATION COMMISSION

DOCKET CONTROL

Arizona Corporation Commission

DOCKETED

APR 29 2013

COMMISSIONERS

10
11 BOB STUMP-Chairman
12 GARY PIERCE
13 BOB BURNS
14 SUSAN BITTER SMITH
15 BRENDA BURNS

DOCKETED BY

17
18 IN THE MATTER OF THE APPLICATION OF
19 MONTEZUMA RIMROCK WATER COMPANY,
20 LLC FOR APPROVAL OF FINANCING TO
21 INSTALL A WATER LINE FROM THE WELL ON
22 TIEMAN TO WELL NO. 1 ON TOWERS

W-04254A-12-0204

23
24 IN THE MATTER OF THE APPLICATION OF
25 MONTEZUMA RIMROCK WATER COMPANY,
26 LLC FOR APPROVAL OF FINANCING TO
27 PURCHASE THE WELL NO. 4 SITE AND THE
28 COMPANY VEHICLE.

W-04254A-12-0205

29
30 IN THE MATTER OF THE APPLICATION OF
31 MONTEZUMA RIMROCK WATER COMPANY,
32 LLC FOR APPROVAL OF FINANCING FOR AN
33 8,000-GALLON HYDRO-PNEUMATIC TANK

W-04254A-12-0206

34
35 IN THE MATTER OF THE RATE
36 APPLICATION OF MONTEZUMA RIMROCK
37 WATER COMPANY, LLC.

W-04254A-12-0207

38
39 JOHN E. DOUGHERTY,
40 COMPLAINANT,
41 V.
42 MONTEZUMA RIMROCK WATER
43 COMPANY, LLC,
44 RESPONDENT.

W-04254A-11-0323

45
46 IN THE MATTER OF THE APPLICATION OF
47 MONTEZUMA RIMROCK WATER
48 COMPANY, LLC FOR APPROVAL OF A
49 RATE INCREASE.

W-04254A-08-0361

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

W-04254A-08-0362

5 **Notice of Montezuma's Violation of**
6 **Procedural Orders**

7
8 **Motion for Revised Public Notice of a**
9 **Rate Hearing**

10
11
12 *Montezuma has failed to comply with Procedural Orders*

13
14 On Feb. 26 & 28, 2013, the Administrative Law Judge issued Procedural Orders
15 requiring Montezuma to provide public Notice of a Rate Hearing and provided the exact
16 language to be included in such publication that was to be through both mailing notice to
17 its customers and notice published in a newspaper. (Feb. 28, 2013, Procedural Order,
18 Page 2, Line 10-28, Page 3, Line 1-27.)

19
20 On March 21, 2013, the Administrative Law Judge issued a Procedural Order that stated
21 under Item "2":

22
23 **"Montezuma shall mail to each of its customers, as a billing insert, by May 6,**
24 **2013, a copy of the notice set forth in the Procedural Order of February 28, 2013,**
25 **modified by replacing the May 3, 2013, hearing date with the June 20, 2013,**
26 **hearing date adopted herein;"**

27
28 On April 24, 2013, Montezuma docketed a "Notice of Filing" and, in part, stated:

29
30 "Following the March 21, 2013 procedural order, the Company provided a
31 revised public notice as a billing insert to customers in billings sent out on April
32 12, 2013. A copy of that public notice is attached as **Exhibit B.**"

33
34 The public notice included in Exhibit B does not include a copy of the Notice of a Rate
35 Hearing as printed in the Feb. 28, 2013 Procedural Order with the corrected June 20,
36 2013 hearing date as required by the March 21, 2013 Procedural Order.

37
38 Instead, Exhibit B includes copies of three promissory notes for \$8,000, \$38,000 and
39 \$108,000 and a certificate of public notice signed by Patricia D. Olsen, manager of
40 Montezuma.

41
42 In its April 12 Notice of Filing Financing Applications, Montezuma did not state the
43 purpose or identify the lender for the \$38,000 promissory. (Notice of Filing Financing
44 Applications, April 12, 2013, Exhibit C, last three pages)

45
46 Providing customers with copies of the three loan applications in its April 12 mailing to

1 customers is not in compliance with the Feb. 26 & 28 and March 21 Procedural Orders
2 because the Company failed to include the Notice of a Rate Hearing.

3
4 *The Notice of a Rate Hearing is Defective*

5
6 Furthermore, the Notice of a Rate Hearing as stated in the Feb. 26 & 28 and March 21
7 Procedural Orders has become defective because it does not include the Company's April
8 12, 2013 Notice of Filing Financing Applications.

9
10 Montezuma's April 12 filing seeks:

11
12 "Specifically, the Company seeks financing approval for four 20,000 gallon
13 storage tanks as set forth in the Financing Application attached as Exhibit A. The
14 Company also seeks financing approval for the lease with Nile River Leasing for
15 the arsenic treatment building as set forth in the Financing Application attached as
16 Exhibit B. Finally, the Company seeks financing approval for the lease with
17 Financial Pacific Leasing for the arsenic treatment facility as set forth in the
18 Financing Application attached as Exhibit C. The Company requests that these
19 financing applications be reviewed and approved in the pending rate case."

20
21 The Feb. 26 & 28 Procedural Orders that provide the Notice of Rate Hearing statement
22 include reference to a \$6.04 per month Surcharge for tank replacement. But the Notice
23 does not include information related to the Company's \$108,000 WIFA loan application
24 that was revealed for the first time in the Company's April 12 Notice of Filing Financing
25 Application.

26
27 On April 15, 2013, Intervenor/Complainant filed a Motion to Bar the Company's
28 application for retroactive approval of the Nile River and Financial Pacific leases. As of
29 this date, Montezuma has not responded to the Motion as it was given an extension until
30 May 3, 2013.

31
32 Notwithstanding Intervenor/Complainant's pending motion to bar the Nile River and
33 Financial Pacific leases, Montezuma's customers have not been provided with a true and
34 accurate assessment of the Company's application for a rate increase.

35
36 The Notice of a Rate Hearing as stated in the Feb. 26 & 28 and March 21 Procedural
37 Orders estimates that the Company's request for a rate increase and approval of three
38 loan agreements and two surcharges would increase the monthly bill from \$36.68 to
39 \$80.99. (Feb. 28, Procedural Order, Page 2, Lines 21-23).

40
41 The projected rate increase, however, does not include the Company's request to approve
42 retroactive financing for the Nile River and Financial Pacific Leases and repayment of a
43 \$38,000 promissory note. Nor does it provide any analysis of the cost in connection with
44 the \$108,000 WIFA loan and how that compares to the \$6.04 monthly tank surcharge.

45
46

1 Conclusion

2
3 Montezuma is in violation of the Feb. 26 & 28 and March 21 Procedural Orders because
4 it has failed to provide by mail to its customers the Notice of a Rate Hearing with the
5 corrected June 20, 2013 hearing date.

6
7 In addition, the Notice of a Rate Hearing is defective because it does not include the
8 Company's April 12, 2013 rate application seeking retroactive approval of the Financial
9 Pacific and Nile River leases nor identifies the purpose and lender of a \$38,000
10 promissory note. The Notice of Rate Hearing also fails to include the \$108,000 WIFA
11 loan application and how repayment of this loan compares to the \$6.04 month surcharge
12 that now appears in the Notice.

13
14 Pending resolution of Intervenor/Complainant's Motion to Bar the lease agreements, it is
15 uncertain whether the leases will be included the rate case. However, if the leases are to
16 be included in the pending rate application, Montezuma's customers must be notified
17 through a full and complete Notice of a Rate Hearing.

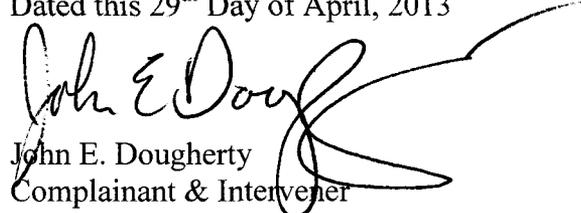
18
19 Even if the leases are not included in the pending rate application, Montezuma remains in
20 violation of Procedural Orders by failing to provide written Notice of a Rate Hearing with
21 the June 20, 2013 date to its customers by mail.

22
23 This entire Rate Case Application has been grossly mismanaged from its inception
24 through Montezuma's incompetence and flagrant deception including filing of
25 incomplete and unauthorized lease agreement and now continues with the Company's
26 April 24 filing that violates three Procedural Orders.

27
28 Customers must be provided a concise, accurate and complete disclosure of the
29 Company's rate application in the Notice of Rate Hearing. If the Company cannot do this
30 in a timely and truthful manner, then it may be necessary to reschedule the June 20, 2013
31 hearing date.

32
33 **Intervenor/Complainant respectfully Moves the Commission to issue a revised**
34 **Notice of a Rate Hearing to include the true and complete Nile River and Financial**
35 **Pacific leases, the purpose and lender of a \$38,000 promissory note sought by**
36 **Montezuma, the inclusion of the \$108,000 WIFA loan and impact on rates, deletion**
37 **of the \$6.04 monthly storage tank surcharge and require Montezuma to publish a**
38 **complete Notice of Rate Hearing in a general circulation newspaper and provide**
39 **such written notice to its customers via mail.**

40 Dated this 29th Day of April, 2013

41 
42
43 John E. Dougherty
44 Complainant & Intervenor

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Copies of the foregoing Mailed/Hand Delivered
This 29th day of April, 2013 to:

Todd C. Wiley
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