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BEFORE THE ARIZONA CORPORATION

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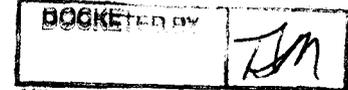
ARIZONA CORPORATION COMMISSION

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AZ CORP COMMISSION DOCKET CONTROL



COMMISSIONERS

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

IN THE MATTER OF THE APPLICATION OF GRANITE MOUNTAIN WATER COMPANY, INC. FOR APPROVAL OF A RATE INCREASE.

DOCKET NO. W-02467A-09-0333

IN THE MATTER OF THE APPLICATION OF GRANITE MOUNTAIN WATER COMPANY, INC. FOR APPROVAL OF FINANCINGS.

DOCKET NO. W-02467A-09-0334

IN THE MATTER OF THE APPLICATION OF GRANITE MOUNTAIN WATER COMPANY, INC. FOR AUTHORITY TO INCUR LONG-TERM DEBT.

DOCKET NO. W-02467A-10-0483

PROCEDURAL ORDER

BY THE COMMISSION:

This case concerns requests made by Granite Mountain Water Company, Inc. ("GMWC") for modification of two different Commission decisions: Decision No. 72294 (May 4, 2011) and Decision No. 72377 (May 27, 2011). Decision No. 72294 extended compliance deadlines established in Decision No. 71869 (September 1, 2010).¹ Decision No. 72377 authorized long-term debt for specific water system improvements. At the Open Meeting of November 8, 2012, the Commission opened an A.R.S. § 40-252 proceeding to consider GMWC's requests for modification and directed the Commission's Utilities Division ("Staff") to prepare a Staff Report.

Since that time, the dockets for Decision No. 72294 and 72377 have been consolidated, and

¹ Decision No. 71869, issued in Docket Nos. W-02467A-09-0333 and W-04267A-09-0334 ("rate case docket"), established GMWC's current rates and charges and, *inter alia*, ordered the following:

Granite Mountain Water Company, Inc. shall complete one of the following, within 18 months after the effective date of this decision, to address its inadequate storage capacity issue:

- a. Drill a replacement well to replace its existing Well No. 5 (ADWR #55-622083), or
- b. Construct and install a 110,000-gallon storage tank.

The Decision further ordered GMWC, for either option, to file an Approval to Construct ("ATC") within six months after the Decision (by March 1, 2011) and to file an Approval of Construction ("AOC") within 18 months after the Decision (by March 1, 2012). Per the Decision, replacement Well No. 5 had an expected production capacity of 65 GPM, and Staff supported GMWC's plan to drill replacement Well No. 5 and believed that replacement Well No. 5's anticipated 65 GPM capacity would allow GMWC adequately to serve its existing customers and 79 additional customers.

1 an initial Staff Report and Supplemental Staff Report have been filed. Additionally, GMWC has
 2 made responsive filings altering its requests. At the present time, Staff and GMWC have not reached
 3 agreement concerning the modifications that should be made to the two Decisions.

4 Based upon the Supplemental Staff Report, Staff currently recommends that the Commission:

- 5 1. Grant GMWC authorization to incur an 18- to 22-year amortizing loan with WIFA in
 6 an amount not to exceed \$181,320, at an interest rate not to exceed 5.00 percent per
 7 annum, subject to the condition that the terms of the WIFA loan do not require a DSC
 8 greater than 1.20, and for the purposes of:
 - 9 a. Purchasing an existing well or drilling a new well with a minimum 100 GPM
 10 capacity,
 - 11 b. Installing a new storage tank with a minimum of 100,000 gallons storage
 12 capacity, or
 - 13 c. Providing any combination of production and storage capacity that provides
 14 the minimum capacity needed;
- 15 2. Require GMWC to file as a compliance item with Docket Control, by April 30, 2014,
 16 a copy of the AOC issued for the option implemented by GMWC to meet the
 17 requirements of (1) above;
- 18 3. Note that authorizations granted in this proceeding do not constitute any used and
 19 useful determination and that no particular treatment should be inferred for ratemaking
 20 or rate base purposes in the future;
- 21 4. Authorize GMWC to pledge its assets in Arizona pursuant to A.R.S. § 40-285 in
 22 connection with any indebtedness authorized in this proceeding;
- 23 5. Establish an expiration date of December 31, 2013, for any unused authorization to
 24 incur debt granted in this proceeding;
- 25 6. Authorize GMWC to engage in any transaction and to execute any documents
 26 necessary to effectuate the authorizations granted;
- 27 7. Require GMWC, within 60 days of the execution of any financing transaction
 28 authorized herein, to file with Docket Control, as a compliance item in this matter, a
 letter summarizing the transaction, and to provide to Staff's Compliance Section a
 copy of the loan documents; and
8. Require GMWC, in the month the WIFA loan closes and every month thereafter, to
 set aside \$10.00 of each customer's bill in a separate interest-bearing account, with the
 proceeds to be used only to pay WIFA.

Staff also expressly stated that adding Well No. 6 to the system, with a 35 GPM capacity, would
 leave GMWC short by 40 GPM or by 65,000 gallons of storage capacity, neither of which would
 appear to be satisfied by adding a 50,000-gallon storage tank.

Based upon GMWC's filings, including its response to the Supplemental Staff Report,
 GMWC is currently requesting that the Commission:

1. Authorize addition of a new production well as a third option for GMWC to address
 its inadequate storage capacity issue;

- 1 2. Extend to June 1, 2014, the deadline for GMWC to complete either the drilling of a replacement well or the addition of a new production well;²
- 2 3. Extend to June 1, 2013, the deadline for GMWC to file the ATC for the replacement well or new production well;
- 3 4. Extend to June 1, 2014, the deadline for GMWC to file the AOC for the replacement well or new production well;
- 4 5. Extend to June 1, 2014, the termination date for any unused authorization to incur long-term debt granted in Decision No. 72377; and
- 5 6. Determine that the addition of Well No. 6, with a current maximum allowable pumping capacity of 35 GPM, and of a new 50,000-gallon water storage tank, adequately address GMWC's inadequate storage capacity issue.

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8 GMWC stated that it will not contest Staff's recommendation that GMWC be required to set aside
9 \$10.00 per customer per month, in an interest bearing account, to be used only to repay the WIFA
10 debt.

11 Because GMWC and Staff disagree as to the modifications that are appropriate, and little data
12 has been provided to support each position, the Commission currently does not have sufficient
13 information to rule upon GMWC's requests. Thus, it is necessary and appropriate to schedule an
14 evidentiary hearing in this matter and to require the parties, before the hearing, to file testimony and
15 exhibits clarifying their positions, responding to questions provided herein, and responding to each
16 other's direct testimony.

17 IT IS THEREFORE ORDERED that an **evidentiary hearing** shall commence in this matter
18 on **June 10, 2013, at 10:00 a.m.**, in the Commissioners' 2nd Floor Conference Room at the
19 Commission's offices at 1200 West Washington Street, Phoenix, Arizona 85007.

20 IT IS FURTHER ORDERED that the **direct testimony** and associated **exhibits** to be
21 presented at hearing by GMWC shall be reduced to writing and filed on or before **May 31, 2013**.

22 IT IS FURTHER ORDERED that **GMWC shall ensure, at a minimum**, that its direct
23 testimony and associated exhibits:

- 24 1. Provide support for GMWC's requested modifications to Decisions No. 72294 and
25 72377, or for alternate requested modifications to the prior Commission Decisions in
26 the consolidated dockets; and
- 27 2. Provide complete and accurate responses to the following questions, with supporting

28 ² GMWC's filings do not contemplate the addition of a 110,000-gallon storage tank.

1 documentation provided where available:

- 2 a. Should Decision No. 71869 also be modified and, if so, in what manner?
- 3 b. What empirical data supports GMWC's concerns about potential nitrate
- 4 contamination in the area surrounding Well No. 5?
- 5 c. What empirical data supports GMWC's concerns about potential draw down in
- 6 the aquifer believed to serve Well No. 5?
- 7 d. What empirical data exists, and what does it show, concerning potential draw
- 8 down in the aquifer serving the proposed Well No. 6, if Well No. 6 becomes a
- 9 production well for GMWC?
- 10 e. What empirical data exists regarding the current water quality for Well No. 6,
- 11 and does it show that Well No. 6 meets drinking water standards?
- 12 f. Is it possible for the maximum capacity of Well No. 6 to be increased and, if
- 13 so, to what level and through what process?
- 14 g. What process must be followed to have Well No. 6 converted to a production
- 15 well, how long is it likely to take, and how likely is it to be completed
- 16 successfully?
- 17 h. What process must be followed to have Well No. 6 approved as a new source
- 18 of water for GMWC's system, how long is it likely to take, and how likely is it
- 19 to be completed successfully?
- 20 i. What additional approvals, if any, would need to be obtained before Well No.
- 21 6 could be used legally as a production well by GMWC?
- 22 j. What are the estimated costs associated with acquiring Well No. 6, converting
- 23 Well No. 6 to a production well, having Well No. 6 approved as a new source
- 24 for GMWC, and obtaining any necessary easements to use No. 6 as a
- 25 production well, and how were they determined?
- 26 k. Are the estimated costs associated with Well No. 6 reasonable and consistent
- 27 with the costs that would be experienced if Well No. 6 were obtained through
- 28 an arm's length transaction on the open market as opposed to a transaction
- with Mr. Levie or a family member of Mr. Levie?

19 IT IS FURTHER ORDERED that the **direct testimony** and associated **exhibits** to be

20 presented at hearing by **Staff** shall be reduced to writing and filed on or before **May 31, 2013**.

21 IT IS FURTHER ORDERED that **Staff shall ensure, at a minimum**, that its direct testimony

22 and associated exhibits:

- 23 1. Provide Staff's responses to GMWC's requested modifications to Decisions
- 24 No. 72294 and 72377, as set forth in the itemized list included in the narrative
- 25 portion of this Procedural Order; and
- 26 2. Provide complete and accurate responses to the following questions, with
- 27 supporting documentation provided where available:
- 28 a. Should Decision No. 71869 be modified and, if so, in what manner?

- 1 b. What combination or combinations of production and storage capacity
2 would Staff consider to provide GMWC the minimum capacity
3 needed?
4 c. How likely is it that GMWC will be able to have the maximum
5 capacity of Well No. 6 increased to a level that Staff would consider
6 adequate to address GMWC's inadequate storage capacity, and through
7 what process would that be done?
8 d. What process must be followed to have Well No. 6 converted to a
9 production well, how long is it likely to take, and how likely is it to be
10 completed successfully?
11 e. What process must be followed to have Well No. 6 approved as a new
12 source of water for GMWC's system, how long is it likely to take, and
13 how likely is it to be completed successfully?
14 f. What additional approvals, if any, would need to be obtained before
15 Well No. 6 could be used legally as a production well by GMWC?
16 g. What would be reasonable estimated costs associated with acquiring
17 Well No. 6, converting Well No. 6 to a production well, having Well
18 No. 6 approved as a new source for GMWC, and obtaining any
19 necessary easements to use No. 6 as a production well, and how were
20 they determined?

21 IT IS FURTHER ORDERED that GMWC and Staff each shall, by June 7, 2013, file
22 **responsive testimony** and associated **exhibits** to be presented at hearing.

23 IT IS FURTHER ORDERED that any motion that is filed in this matter and that is not ruled
24 upon within 20 calendar days of the filing date of the motion shall be deemed denied.

25 IT IS FURTHER ORDERED that any response to a motion shall be filed within five calendar
26 days of the filing date of the motion.

27 IT IS FURTHER ORDERED that any reply shall be filed within five calendar days of the
28 filing date of the response.

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

 IT IS FURTHER ORDERED that withdrawal of representation must be made in compliance
with A.A.C. R14-3-104(E) and Rule 1.16 of the Rules of Professional Conduct (under Arizona
Supreme Court Rule 42). Representation before the Commission includes appearances at all hearings
and procedural conferences, as well as all Open Meetings for which the matter is scheduled for
discussion, unless counsel has previously been granted permission to withdraw by the Administrative
Law Judge or the Commission.

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

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

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

9 DATED this 9th day of May, 2013.

11
12 
13 SARAH N. HARPRING
ADMINISTRATIVE LAW JUDGE

14 Copies of the foregoing mailed/delivered
15 this 9th day of May, 2013, to:

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