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ORIGINAL

AZ CORP COMMISSION
DOCKET CONTROL

BEFORE THE ARIZONA CORPORATION COMMISSION

IN THE MATTER OF THE APPLICATION
OF ARIZONA WINDSONG REALTY, INC.
AN ARIZONA CORPORATION, FOR A
DETERMINATION OF THE FAIR VALUE
OF ITS UTILITY PLANT AND PROPERTY
AND FOR ADJUSTMENTS TO ITS RATES
AND CHARGES FOR UTILITY SERVICE
FURNISHED BY ITS EASTERN GROUP
AND FOR CERTAIN RELATED APPROVALS.

Docket No. W-02250A-14-0028

**MOTION FOR EMERGENCY /
INTERIM SURCHARGE**

Arizona Corporation Commission

DOCKETED

MAR 24 2014

DOCKETED BY 

Arizona Windsong Realty, Inc. ("Windsong") regretfully reports the death of its President, Patton ("Pat") Earl Paulsell. In addition to serving as President and sole Director of Windsong, Mr. Paulsell maintained and operated the Windsong system, while his wife performed accounting, billing and other office-related tasks. Windsong has no other officers or employers other than Mr. and Mrs. Paulsell. Nor does Windsong have the financial capability to hire any employees, as shown by the Direct Testimony of Mr. Paul Walker dated January 31, 2014 in this docket, and the rate application submitted on January 31, 2014 in this docket. Mr. Paulsell's death leaves Windsong without any operator for the system. Accordingly, Windsong is in an emergency that threatens its ability to provide service. Windsong therefore requests an emergency surcharge. The emergency surcharge will allow Windsong to hire a certified operator to operate the system.

Description of emergency surcharge.

Windsong requests an emergency surcharge of \$30.00 per month, to remain in effect until the Commission issues a final order in this general rate case, and the rates in the final order take effect. Windsong has approximately 61 customers, so the emergency surcharge is anticipated to generate \$1,830 per month. The emergency surcharge will be used to hire a certified operator to

1 run the system. As described in Mr. Walker's testimony, we have located a certified operator, Mr.
2 Terry Oldham, who is willing to take over operation of the company. On March 19, 2014,
3 Windsong filed Mr. Oldham's plan for addressing the most urgent infrastructure needs of the
4 company. However, the emergency surcharge requested herein will only pay for Mr. Oldham's
5 salary and will not provide funds to proceed with any of these projects.

6 **Legal authority for emergency or interim surcharge.**

7 An interim rate is a rate "permitted to be charged by the utility for products or services
8 pending the establishment of a permanent rate." *Scates v. Arizona Corp. Comm'n*, 118 Ariz. 531,
9 535, 578 P.2d 612 (Ct. App. 1978). An emergency or interim rate is permitted in: "limited
10 situations where [1] an emergency exists, [2] where a bond is posted guaranteeing a refund to the
11 utility's subscribers if any payments are made in excess of the rates eventually determined by the
12 Commission, and where [3] a final determination of just and reasonable rates is to be made by the
13 Commission after it values a utility's property." *Id.*, citing Arizona Attorney General Opinion 71-
14 17; *see also Residential Utility Consumer Office v. Arizona Corp. Comm'n*, 199 Ariz. 588 ¶ 12, 20
15 P.3d 1169, 1172 (Ct. App. 2001).

16 Here, there is clearly an emergency that threatens Windsong's ability to provide service,
17 because Windsong has no operator and no funds to hire an operator. Moreover, a final
18 determination of just and reasonable rates will be made in this docket. Given the extremely
19 limited financial resources of the Company, Windsong requests that the bond be modest, similar to
20 the bond requirement imposed in the recent Montezuma Rimrock Water Company case. See
21 Decision No. 74382 (March 19, 2014)("Montezuma Rimrock Water Company shall obtain a
22 performance bond, or other comparable financial instrument in the amount of \$10, and shall
23 provide the original to the Commission's Business Office for safekeeping and file copies with
24 Docket Control as a compliance item in this docket prior to charging the interim surcharge").

25 **Conclusion.**

26 Windsong faces an emergency situation, and requests this emergency surcharge to allow it
27 to continue to provide service to its customers.

1
2 RESPECTFULLY SUBMITTED this 24th day of March 2014.

3 ROSHKA DEWULF & PATTEN, PLC

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11 Original + 13 copies of the foregoing
12 filed this 24th day of March 2014, with:

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17 Copies of the foregoing hand-delivered/mailed
18 this 24th day of March 2014, to:

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