

OPEN MEETING AGENDA ITEM



0000153339

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

RECEIVED

2014 MAY 12 P 1: 16

BEFORE THE ARIZONA CORPORATION COMMISSION

AZ CORP COMMISSION
DOCKET CONTROL

COMMISSIONERS

Arizona Corporation Commission
DOCKETED

MAY 12 2014

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

DOCKETED BY

ORIGINAL

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
47
48
49

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

W-04254A-08-0361

5
6 IN THE MATTER OF THE APPLICATION OF
7 MONTEZUMA RIMROCK WATER
8 COMPANY, LLC FOR APPROVAL OF A
9 FINANCING APPLICATION

W-04254A-08-0362

10
11
12 **Intervenor/Complainant Comments and Proposals**

13
14 **I. Montezuma's proposal to hire Sterling Financial Services**

15
16 Montezuma's last minute proposal to hire Ms. Patricia Olsen's personal accountant,
17 Sterling Financial Services, a company with unknown qualifications, to "assist"
18 Montezuma in book keeping and accounting does not mitigate the Company's previous
19 violations of regulations and statutes and fails to protect ratepayers and the public from
20 future false statements and misrepresentations by Montezuma's owner.

21
22 Replacing Montezuma's former accountant, Mr. John Campbell, with Sterling Financial
23 does nothing to prevent Ms. Olsen from providing false and misleading information to
24 any accountant the Company may employ such that the Company's public filings in
25 annual reports do not accurately reflect the financial operations of the Company.

26
27 Ms. Olsen testified she neglected to tell Mr. Campbell to include the \$32,000 "Brunner
28 Loan" in Montezuma's Annual Reports for five years.¹ The failure to disclose the
29 "Brunner Loan" is the basis for the Recommended Opinion & Order's findings
30 substantiating Allegation I & II in the Complaint.

31
32 A bookkeeper won't prevent Ms. Olsen from engaging in questionable billing activities
33 designed to withdraw cash from the Company in what appears to be an effort to avoid
34 state and federal income tax liability.

35
36 Ms. Olsen testified that Montezuma did not pay any salaries and wages during the TY.
37 (Tr. at 388-94; Ex. C-83.) However, payments were made to Ms. Olsen as "Patricia Arias"
38 as an independent contractor under a separate NARUC account. (*See id.*) Additionally,
39 Ms. Olsen made numerous payments for private expenses directly from Montezuma
40 accounts as a way of paying herself in kind for services provided to Montezuma and as a
41 means of drawing cash out as the owner of Montezuma. (*See, e.g.*, Tr. at 401-12.)²

42
43

¹ Recommended Opinion and Order, March 26, 2014, Page 119, lines 19-24.

² Recommended Opinion and Order, March 26, 2014, Page 107, Footnote 73.

1 Nor will a new bookkeeper prevent Ms. Olsen from manipulating billing statements as
2 she did when she charged ratepayers with unauthorized Arsenic Surcharges such as those
3 substantiated in Allegation XI and XII.
4

5 It was also Ms. Olsen who testified that she didn't tell her Counsel that she had signed the
6 March 22, 2012 leases between Montezuma and Nile River Leasing and Montezuma and
7 Financial Pacific Leasing.³
8

9 If true, Ms. Olsen's failure to immediately inform her Counsel that the two purported
10 March 16, 2012 leases signed by Ms. Olsen, on her personal behalf, with Nile River
11 Leasing (that include the forged signatures of Robin Richards) had been replaced on
12 March 22, 2012 with the valid Capital Leases that required Commission approval further
13 demonstrates her willingness to deceive.
14

15 Ms. Olsen can continue to manipulate Montezuma's true financial condition by providing
16 misleading information to whatever accountant is in place.
17

18 Ms. Olsen has demonstrated that she cannot be trusted to honestly operate a Public
19 Service Corporation and merely replacing one accountant with another will not protect
20 Montezuma's ratepayers from further corruption.
21

22 **II. Documents docketed by James Duncan**

23

24 James Duncan is not a party to this case and Intervenor/Complainant has never
25 communicated with Mr. Duncan and does not personally know Mr. Duncan.
26 Intervenor/Complainant, however, will respond to the following documents submitted by
27 Mr. Duncan.
28

29 **A. Yavapai County Board of Supervisors Hearing HA# H13103**

30

31 As Ms. Olsen knows, she requested on May 1, 2014 that the hearing be rescheduled
32 before the Board of Supervisors until June 16, 2014 so surveys to determine the distance
33 between Well No. 4 and septic systems on three adjoining lots can be conducted. There is
34 substantial uncertainty whether the septic systems meet state regulations requiring they
35 be more than 100 feet away from Well No. 4.
36

37 **B. Gregory Olsen vs. Patricia D. Olsen, DO-2013-00081, Coconino County** 38 **Superior Court**

39

40 Intervenor/Complainant is identified as Witness 6 in the Petitioner's 11th Supplement to
41 Rule 49 Disclosure of Witnesses and Exhibits. This is the first time that
42 Intervenor/Complainant has seen any written documentation from any party as to being a

³ Recommended Opinion and Order, March 26, 2014, Page 99, Footnote 63.

1 potential witness. Neither Petitioner nor petitioner's Counsel has contacted
2 Intervenor/Complainant concerning this matter.

3
4 Mr. Olsen has also listed Ms. Olsen's son, Arnold "Sergei" Arias Jr., as a potential
5 witness to testify in matters that directly involve Montezuma's Financing Application
6 (W-04254A-12-0206) for the hydro-pneumatic tank.

7
8 The disclosure states Mr. Arias will "testify regarding the "Arias Tank Financing" and all
9 other business dealings Mr. Arias has had with Montezuma Rimrock Water Company,
10 LLC and Montezuma System Operations LLC and his knowledge of hydro-pneumatic
11 tanks."

12
13 It is important to note that this is the first time there has been a disclosure concerning
14 Montezuma System Operations LLC and it is unknown what, if any, connection it has to
15 Montezuma Rimrock.

16
17 Montezuma System's Articles of Incorporation state that company's purpose is to
18 provide "Utility Billing, Meter Reading, Certified Operator Services." Ms. Olsen is the
19 sole member of Montezuma System Operations and the incorporation address is the same
20 as Montezuma's former address on E. Goldmine Road in Rimrock.⁴

21 22 **III. Intervenor/Complainant's Proposal**

23
24 Intervenor/Complainant respectfully requests the Commission issue a Decision that
25 adopts Intervenor/Complainant's Proposed Order included in the Exceptions with the
26 following changes:

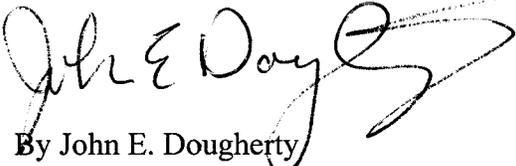
27
28 IT IS FURTHER ORDERED the Commission ~~denies~~ HOLDS IN ABEYANCE UNTIL
29 A CRIMINAL REFERRAL TO THE ATTORNEY GENERAL FOR AN A.R.S. S40-
30 303(C) VIOLATION IS AJUDICATED retroactive approval of the Capital Lease
31 agreements between Montezuma Rimrock Water Company LLC and Nile River Leasing
32 signed on or about March 22, 2012 and Montezuma Montezuma Rimrock Water
33 Company LLC and Financial Pacific Leasing signed on or about March 22, 2012.

34
35 IT IS FURTHER ORDERED the Montezuma Rimrock Water Company LLC's rate
36 increase, financing requests WITH THE EXECPTION OF THE \$108,000 WIFA LOAN,
37 and REQUEST FOR attorney fees in this combined docket are ~~denied~~ HELD IN
38 ABEYANCE UNTIL A CRIMINAL REFERRAL TO THE ATTORNEY GENERAL
39 FOR AN A.R.S. S40-303(C) VIOLATION IS AJUDICATED.

40
41 IT IS FURTHER ORDERED that the Interim Manager shall no later than ~~May 1, 2014~~
42 JUNE 1, 2014 submit to the Commission a Rate Application for approval of a \$108,000
43 WIFA loan for the purchase and installation of four, 20,000 gallon water storage tanks to
44 ensure Ratepayers have an adequate water supply and fire protection.

⁴ <http://starpas.azcc.gov/scripts/cgiip.exe/WService=wsbroker1/names-detail.p?name-id=L14466130&type=L.L.C.>

1 RESPECTFULLY SUBMITTED this 12th Day of May, 2014

2
3 
4
5

6 By John E. Dougherty
7 Complainant/Intervenor

8
9 An original and 13 copies of the foregoing was filed
10 this 12th day of May, 2014, with:

11
12 Docket Control
13 Arizona Corporation Commission
14 1200 West Washington Street
15 Phoenix, Arizona 85007

16
17 A copy of the foregoing was hand delivered/mailed/emailed
18 this 12th Day of May, 2014 to:

19
20 Sarah N. Harpring
21 Administrative Law Judge
22 Arizona Corporation Commission
23 1200 W. Washington
24 Phoenix, Arizona 85007

Brian Bozzo
Utilities Division
Arizona Corporation Commission
1200 W. Washington
Phoenix, Arizona 85007

25
26 Wes Van Cleve/Charles Hains
27 Legal Division
28 Arizona Corporation Commission
29 1200 W. Washington
30 Phoenix, Arizona 85007

Patricia Olsen
MRWC
3031 E. Beaver Creek Rd.
Rimrock, AZ 86335

31
32 Steve Olea
33 Utilities Division
34 Arizona Corporation Commission
35 1200 W. Washington
36 Phoenix, Arizona 85007

Todd Wiley
Fennemore Craig
2394 E. Camelback Rd.
Phoenix, AZ 85016

37
38
39
40