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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

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

2014 OCT 28 P 2:10

ARIZONA CORPORATION COMMISSION
DOCKET CONTROL

Arizona Corporation Commission

DOCKETED

OCT 28 2014

DOCKETED BY

IN THE MATTER OF THE APPLICATION OF
HOPEVILLE WATER COMPANY, INC. D/B/A
ALLENVILLE WATER COMPANY FOR
APPROVAL TO SELL ITS WATER SYSTEM
ASSETS TO THE TOWN OF BUCKEYE AND
TO CANCEL ITS CERTIFICATE OF
CONVENIENCE AND NECESSITY.

DOCKET NO. W-02077A-12-0493

PROCEDURAL ORDER
(Schedules a Procedural Conference)

BY THE COMMISSION:

On December 17, 2012, Hopeville Water Company dba Allenville Water Company ("Hopeville" or "Company") filed with the Arizona Corporation Commission ("Commission") an application for approval of the sale and transfer of its water system assets to the City of Buckeye ("City") and to cancel Hopeville's Certificate of Convenience and Necessity ("CC&N") to provide water utility services in the Town of Hopeville.

On January 7, 2013, the Commission's Utilities Division ("Staff") filed a Sufficiency Letter in this docket stating that Hopeville's application had met the sufficiency requirements as outlined in the Arizona Administrative Code ("A.A.C").

On February 11, 2013, by Procedural Order, the matter was set for hearing to begin on April 16, 2013, and intervention was granted to: Alvin Cobbin; Holly Brown; Sharon K. Caldwell; LaFurn Garland; La Toya Cooper; Maria Estrada; Martha Castro; Georgia L. Land; Albert Williams; Izola Brown; Elanore Guy; Ruby Cooper; Olivia Piper; Jim Brown; Wilbur Brown; Anola Hubbert; Erica Gonzales; Arie Gonzales; Cynthia Bell; Angela Gonzales; Francisco Gonzales; Sergio Munoz; Jennifer Van Acker; and Ellen Berry.

On February 13, 2013, a Motion to Intervene was filed by The Concerned Citizens Group of Hopeville, AZ ("Concerned Citizens") and signed by James Brown, Jr., as representative.

1 On February 21, 2013, by Procedural Order, a procedural conference was scheduled to
2 discuss who Concerned Citizens intended to represent and whether Concerned Citizens met the
3 requirements set forth in Arizona Supreme Court Rule 31.

4 On March 5, 2013, a procedural conference was held as scheduled. Staff and the Company
5 appeared through counsel. Mr. James Brown, Jr. appeared as a representative of Concerned Citizens.
6 During the procedural conference, Mr. Brown stated that Concerned Citizens is neither a legal entity,
7 nor registered as non-profit organization, but that Concerned Citizens is comprised of customers of
8 the Company who are concerned about the sale of assets to the City. Mr. Brown was informed that
9 ten of the individuals who signed the February 13, 2013, Motion had been previously granted
10 intervention in this matter.

11 On March 8, 2013, the Staff Report was filed in this matter and Staff recommended approval
12 of the application with conditions.

13 On March 21, 2013, Matilda Lee White filed a Motion to Intervene, stating that she is a
14 property owner in Hopeville and a customer of the water company.

15 On March 22, 2013, Hopeville filed an Affidavit of Publication and Mailing, demonstrating
16 that notice of the application and hearing date had been mailed via First Class U.S. Mail to
17 Hopeville's customers and that notice had been published in the *Buckeye Valley News*, a weekly
18 newspaper of general circulation in Buckeye, Arizona, on March 7, 2013.

19 On April 9, 2013, intervention was granted to: Robert Land; Carolyn Land; Frederic Orozco;
20 Cristina Orozco; Oliver Caldwell; Brice Caldwell; Larry Bell; and Matilda Lee White.

21 On April 9, 2013, Mr. Alvin Cobbin, intervenor, filed a Motion to Postpone the April 16,
22 2013, hearing.

23 On April 15, 2013, Hopeville filed its response to the Motion to Postpone Hearing.

24 On April 16, 2013, a full public hearing was convened as scheduled before a duly authorized
25 Administrative Law Judge of the Commission. Hopeville and Staff appeared through counsel. Mr.
26 Alvin Cobbin, intervenor, appeared on his own behalf as well as other intervenors were in attendance.
27 During the hearing, Mr. Cobbin's Motion to Postpone the hearing was discussed. Mr. Cobbin
28 informed the Commission that the Concerned Citizens had filed a lawsuit against Hopeville in

1 Maricopa County Superior Court and that a hearing was scheduled to be held in Superior Court on
2 April 29, 2013. After hearing arguments from Hopeville, intervenors, and Staff, the motion to
3 postpone the hearing was granted and only public comment was taken. At the conclusion of the
4 public comment hearing, Hopeville was instructed to file, within 45 days of the hearing, a notice
5 updating the Commission on the lawsuit filed by the Concerned Citizens of Hopeville against
6 Hopeville Water Company in Superior Court.

7 On May 9, 2013, Hopeville docketed a Notice of Filing, stating that a hearing was held on
8 April 29, 2013, in the Superior Court lawsuit; that Mr. Cobbin was granted leave to amend his
9 Complaint; and that a follow up hearing was scheduled for June 18, 2013.

10 On July 16, 2013, by Procedural Order, a procedural conference was scheduled to be held on
11 August 8, 2013, to discuss the status of the Superior Court case as well as to establish a procedural
12 schedule for this matter.

13 On August 6, 2013, Gerado Ivan Hannel entered an appearance for Concerned Citizens in this
14 matter and a filed Motion to Continue Procedural Conference due to a scheduling conflict.

15 On August 8, 2013, the procedural conference was held as scheduled. The City, the
16 Company, and Staff appeared through counsel. During the procedural conference, the Concerned
17 Citizens' motion to stay the proceeding was granted. Further, the time clock was suspended.

18 On August 14, 2014, Hopeville docketed a Notice of Filing: Request for Expedited Hearing
19 stating that on July 14, 2014, the Superior Court dismissed the case between Hopeville and the
20 Concerned Citizens, as the parties had reached a settlement.

21 On August 19, 2014, by Procedural Order, a procedural conference was scheduled for August
22 27, 2014, to discuss a procedural schedule for this matter.

23 On August 27, 2014, the procedural conference was held as scheduled. Staff and the
24 Company appeared through counsel. A representative was present on behalf of the City. Counsel for
25 the Concerned Citizens was not present due to a family emergency. During the procedural
26 conference, the parties discussed possible hearing dates. The parties were informed that the
27 evidentiary hearing would be scheduled for September 22, 2014, and that any objections to the
28 proposed hearing date should be filed as soon as possible in this docket.

1 On September 22, 2014, a hearing was convened as scheduled. Hopeville, Concerned
2 Citizens, and Staff appeared through counsel. A representative for the City was also in appearance.
3 No members of the public provided comments on the application. During the hearing, testimony was
4 taken regarding the Settlement Agreement that had been reached with the City of Buckeye,
5 Hopeville, and the Concerned Citizens. The testimony stated that were remaining signatures that
6 were needed before the Settlement Agreement could be fully executed. Hopeville was informed that
7 a copy of the fully executed Settlement Agreement would need to be filed before a Recommended
8 Opinion and Order (“ROO”) would be issued for the Commission’s consideration.

9 On October 2, 2014, Hopeville docketed a Notice of Filing: Status Update of Executed
10 Settlement Agreement and Notice of Filing: Request to Waive 10 Day Exception Period (“Notice”).
11 The Notice requested that the matter be scheduled for the October 16, 2014, Open Meeting, due to
12 public safety concerns over water quality.

13 On October 3, 2014, by Procedural Order, Hopeville was directed to file, as soon as possible,
14 a copy of the fully executed Settlement Agreement, so that a ROO could be issued for the
15 Commission’s consideration at a future Open Meeting.

16 On October 24, 2014, Hopeville and Concerned Citizens filed a Joint Notice of Filing: Status
17 Update of Executed Settlement Agreement, requesting that the matter be set for the Commission’s
18 November Open Meeting; that the parties agree to waive the 10 day exception period; that time is of
19 the essence due to the public safety concerns over water quality; that eight remaining signatures were
20 needed to fully execute the Settlement Agreement, but that those parties had been omitted from the
21 Settlement Agreement; that the parties believed that the remaining signatures had not been obtained
22 due to logistics and not due to opposition to the sale of the Company to the City of Buckeye; and that
23 there are no remaining issues in dispute between the parties.

24 The parties’ joint filing states that there are eight remaining signatures that are needed to fully
25 execute the Settlement Agreement, and that those eight remaining parties have been removed from
26 the Settlement Agreement. The joint filing raises several concerns, including the remaining eight
27 intervenors and/or plaintiffs in relation to the Superior Court case; whether there is a Settlement
28 Agreement in effect; whether Hopeville can proceed with the sale; and whether the absence of the

1 eight signatures affects the City's position on the Settlement Agreement and/or the sale. Therefore, a
2 procedural conference should be immediately scheduled to discuss these issues.

3 IT IS THEREFORE ORDERED that a procedural conference in the above-captioned
4 matter shall be held on October 31, 2014, at 9:00 a.m., or as soon thereafter as is practicable, at
5 the Commission's offices, Hearing Room No. 1, 1200 West Washington, Phoenix, Arizona
6 85007.

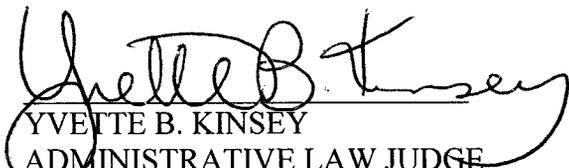
7 IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113-Unauthorized
8 Communications) continues to apply to this proceeding and shall remain in effect until the
9 Commission's Decision in this matter is final and non-appealable.

10 IT IS FURTHER ORDERED that the timeclock in this matter remains suspended.

11 IT IS FURTHER ORDERED that all parties must comply with Arizona Supreme Court
12 Rules 31, 38, and 42 A.R.S. §40-243 with respect to the practice of law and admission *pro hac*
13 *vice*.

14 IT IS FURTHER ORDERED that the Presiding Officer may rescind, alter, amend, or waive
15 any portion of this Procedural Order either by subsequent Procedural Order or by ruling at hearing.

16 DATED this 28th day of October, 2014.

17
18 
19 YVETTE B. KINSEY
20 ADMINISTRATIVE LAW JUDGE

21 Copies of the foregoing mailed
this 28th day of October, 2014 to:

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