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1 Date: October 29, 2014

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3 To: **Docket Control**
4 **Arizona Corporation Commission**
5 **1200 West Washington St.**
6 **Phoenix, AZ 85007**

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AZ CORP COMMISSION
DOCKET CONTROL

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8 From: Robert T. Hardcastle
9 Brooke Utilities, Inc.

ORIGINAL

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11 FOR FILING ORIGINAL AND 13 COPIES INTO:

12 **DOCKET NO. W-03511A-14-0304**
13 IN THE MATTER OF THE APPLICATION OF NAVAJO WATER CO.,
14 INC., AN ARIZONA CORPORATION, FOR A DETERMINATION OF
15 THE FAIR VALUE OF ITS UTILITY PLANTS AND PROPERTY
16 AND FOR INCREASES IN ITS WATER RATES AND CHARGES FOR
17 UTILITY SERVICE BASED THEREON.

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19 By:

Robert T. Hardcastle

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Arizona Corporation Commission
DOCKETED

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1 BEFORE THE ARIZONA CORPORATION COMMISSION

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AZ CORP COMMISSION
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COMMISSIONERS

Gary Pierce, Chairman
Paul Newman, Commissioner
Brenda Burns, Commissioner
Bob Stump, Commissioner
Sandra D. Kennedy, Commissioner

IN THE MATTER OF THE APPLICATION) **DOCKET NO. W-03511A-14-0304**
OF NAVAJO WATER CO., INC.,)
AN ARIZONA CORPORATION, FOR A) **BROOKE UTILITIES, INC.'S**
DETERMINATION OF THE FAIR VALUE) **RESPONSE TO OBJECTION TO**
OF ITS UTILITY PLANTS AND PROPERTY) **APPLICATION FOR**
AND FOR INCREASES IN ITS WATER) **INTERVENTION**
RATES AND CHARGES FOR UTILITY)
SERVICE BASED THEREON)

Applicant Brooke Utilities, Inc. (“Brooke”) filed its Application for Intervention through a Motion to Intervene (the “Application”) dated October 13, 2014 with Docket Control of the Arizona Corporation Commission (“Commission”). The Application was Docketed by the Commission on October 20, 2014.

On October 28, 2014 Navajo Water Co., Inc. (“Navajo”) filed its objection to Brooke’s Application.

Title 14 at Section R14-3-105 (A) of the Arizona Administrative Code (“A.A.C.”) states, as follows:

Intervention: Persons, *other than the original parties to the proceedings*, who are directly and substantially affected by the proceedings, shall secure an order from the Commission or presiding officer granting leave to intervene before being allowed to participate. (emphasis added)

1 Navajo wrongly argues the stock sale of May 31, 2013 and the Agreement
2 memorializing the transaction are not at issue in Navajo's rate application; how the
3 outcome of its rate case might affect the transaction; and, that issues beyond the scope of
4 the rate case may risk that the rate application will be unduly broad and delay the
5 proceedings.

6 None of Navajo's arguments conform to, nor address, the strict requirements of
7 A.A.C. R14-3-105. In fact, Brooke **is** a party other than the original parties and is, or may
8 be, **directly and substantially affected** by the proceedings.

9 Navajo is well aware that the rate application test year does not conform to the
10 requirements of the transaction between the parties. No argument is presented in
11 Navajo's Objection to the contrary. In various correspondence between the parties JW
12 Water Holdings LLC ("JW Water"), on July 1, 2014, requested Brooke's permission to
13 modify the Agreement's requirements so as to allow a test year ending June 30, 2014. JW
14 Water explained that the change in test years was being considered based on preliminary
15 discussions with Commission staff indicating "they [Commission staff] would prefer" the
16 requested modified test year. On July 17, 2014 Brooke responded that the Agreement
17 ramifications of a changed test year could not be determined based on the information
18 available. Brooke requested that JW Water provide the necessary analysis of the impact
19 of the proposed changed test year on the Agreement. Brooke made it clear that its
20 approval of a changed test year required some reasonable basis in order to provide its
21 approval. Brooke has never approved a modification to the Agreement using a different
22 test year. Without further reply or discussion JW Water unilaterally filed the rate
23 application for Navajo on August 22, 2014 using the test year ending June 30, 2014.

24 The actions of JW Water and Navajo make the direct and substantial impact on
25 Brooke incalculable. Brooke asked JW Water to provide an analysis of the use of
26 different test years. JW Water did not do so but, rather, filed the rate application anyway.

27 The financial impact on Brooke is unknown from JW Water's actions. As such, it
28 leaves Brooke in a position to consider seeking redress or remedies provided for in the
29 Agreement, at law or both. The eventual result of those remedies could have financial,

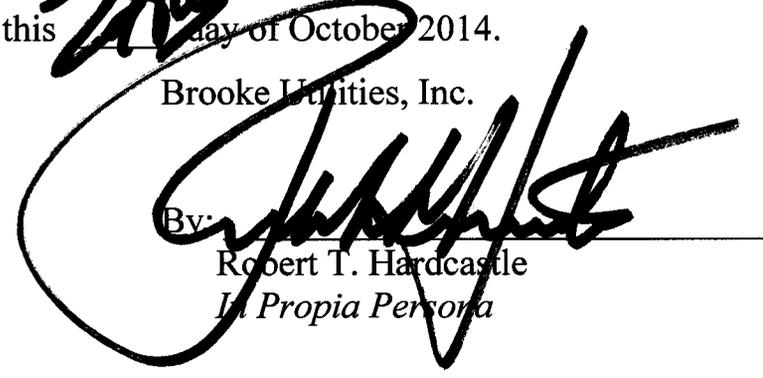
1 managerial, operational, and ownership impacts that cannot now be determined. The
2 effect on the instant rate application is unknown but, in some sense, a replacement
3 application that conforms to the requirements of the Agreement is not unreasonable.

4 As a direct and substantially affected non-party Brooke should allowed
5 intervention in Navajo's rate application with all the rights and privileges accorded under
6 A.A.C. Title 14. Absent such standing in the instant proceeding Brooke must assume the
7 worst case scenario and proceed in a manner that best protects its interests.

8 Based on the foregoing, Brooke's request for intervention should be approved in
9 order for it to determine the extent of the impact of JW Water's failure to abide by the
10 terms and conditions of the Agreement related to a properly negotiated test year. Brooke
11 does not have any interest in broadening the rate application issues or delaying
12 adjudication by the Commission.

13
14 RESPECTFULLY SUBMITTED this  day of October 2014.

Brooke Utilities, Inc.

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16
17 By: 
18 Robert T. Hardcastle
19 *In Propia Persona*

20 ORIGINAL and 13 copies filed
21 this  day October 2014, with:

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23 **Docket Control**
24 **Arizona Corporation Commission**
25 **1200 West Washington St.**
26 **Phoenix, AZ 85007**

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28 And copies mailed to the following:
29
30 Teena Jibilian, Administrative Law Judge
31 HEARING DIVISION
32 Arizona Corporation Commission
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34 Phoenix, AZ 85007

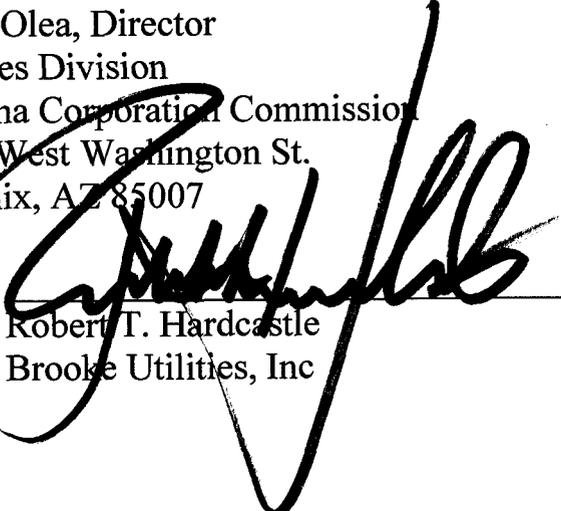
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