

JIM IRVIN  
COMMISSIONER - CHAIRMAN  
RENZ D. JENNINGS  
COMMISSIONER  
CARL J. KUNASEK  
COMMISSIONER



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JACK ROSE  
EXECUTIVE SECRETARY

ARIZONA CORPORATION COMMISSION

DATE: DECEMBER 15, 1997

DOCKET NO. W-01723A-97-0414

TO ALL PARTIES:

Enclosed please find the recommendation of Hearing Officer Jane Rodda. The recommendation has been filed in the form of an Order on:

RINCON WATER COMPANY  
(FINANCING)

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Hearing Officer by filing an original and ten (10) copies of the exceptions with the Commission's Docket Control at the address listed below by 4:00 p.m. on or before:

DECEMBER 24, 1997

The enclosed is NOT an order of the Commission, but a recommendation of the Hearing Officer to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Working Session and Open Meeting to be held on:

JANUARY 13, 1998 and JANUARY 14, 1998

For more information, you may contact Docket Control at (602)542-3477 or the Hearing Division at (602)542-4250.

  
JACK ROSE  
EXECUTIVE SECRETARY

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 JIM IRVIN  
3 COMMISSIONER-CHAIRMAN  
4 RENZ D. JENNINGS  
5 COMMISSIONER  
6 CARL J. KUNASEK  
7 COMMISSIONER

8 IN THE MATTER OF THE APPLICATION OF )  
9 RINCON WATER COMPANY FOR )  
10 FINANCING AND AUTHORIZATION TO )  
11 ISSUE COMMON STOCK. )

DOCKET NO. W-01723A-97-0414

12 DECISION NO. \_\_\_\_\_

13 **ORDER**

14 Open Meeting  
15 January 13 & 14, 1998  
16 Phoenix, Arizona

17 **BY THE COMMISSION:**

18 On August 1, 1997, Rincon Water Company ("Rincon," "Company," or "Applicant") filed an  
19 application with the Arizona Corporation Commission ("Commission") for retroactive approval of the  
20 issuance of 19,059 shares of \$10 par value common stock. The Company issued the shares to convert  
21 unapproved notes payable into common stock. The Commission's Utilities Division Staff ("Staff") filed  
22 its Staff Report on December 5, 1997, recommending approval of the application without a hearing.

23 **BACKGROUND**

24 Rincon is a closely held Arizona "S" corporation that provides water to approximately thirty  
25 customers in a residential development known as the X9 Ranch. The Company is located in the Rincon  
26 Valley near the community of Vail and approximately twenty miles southeast of Tucson.

27 During the Company's last rate case in 1995, Staff noted that since the Company had commenced  
28 serving customers in 1974, it had incurred operating losses. To cover the operating losses, the X9 Ranch  
developer, Henry W. Jackson, and then later the Jackson Family Trust, had "lent" the Company money.  
The "loans" eventually totaled \$190,593 over a twenty year period. The Company recorded the "loans"  
as notes payable, eventually converting them into additional shares of common stock. Rincon converted  
\$103,260 in unapproved debt into 10,326 shares of common stock on December 31, 1986 and the  
remaining \$87,333 in unauthorized loans into 8,733 shares of common stock on December 31, 1994.  
Neither the loans, nor the issuance of the stock were approved by the Commission as required under

1 A.R.S. § 40-301.B. In the Company's last rate case, Decision No. 59169 (July 20, 1995), the  
2 Commission ordered the Company to file a Financing Application to seek approval of the transactions.

3 Staff recommended the Commission approve the issuance of the common stock. The issuance  
4 will have no effect on the Company's approved capital structure which is comprised of 100 percent  
5 equity. Nor will it affect the Company's financial condition as the additional shares are already reflected  
6 on the Company's books. It was in the public interest for Mr. Jackson and the Jackson Family Trust to  
7 infuse cash into the Company during periods of operating shortfalls. To treat the cash infusions as  
8 additional capital is appropriate.

9 \* \* \* \* \*

10 Having considered the entire record herein and being fully advised in the premises, the  
11 Commission finds, concludes, and orders that:

12 **FINDINGS OF FACT**

13 1. Rincon is an Arizona "S" corporation that serves water to approximately thirty residential  
14 customers in a development known as the X9 Ranch located in the Rincon Valley near the community  
15 of Vail, approximately twenty miles southeast of Tucson.

16 2. On August 1, 1997, Rincon filed a financing application with the Commission seeking  
17 authority to issue 19,059 shares of \$10 par value common stock.

18 3. From 1974 through 1994, the Company had "borrowed" an aggregate of \$190,593 from  
19 the X9 Ranch's developer, the late Henry W. Jackson, and then from the Jackson Family Trust for the  
20 purpose of covering operating shortfalls. The Company recorded the cash infusions as notes payable.

21 4. Rincon converted \$103,260 of the notes payable into 10,326 shares of common stock on  
22 December 31, 1986 and the remaining notes payable of \$87,333 into 8,733 shares of common stock on  
23 December 31, 1994.

24 5. The Company did not seek Commission approval for the "loans" or the issuance of the  
25 stock.

26 6. In Decision No. 59169 (July 20, 1995) the Commission ordered the Company to file a  
27 financing application to seek Commission approval of the "loans."

28 7. The cash infusions to cover operating shortfalls were in the public interest and are

1 appropriately treated as capital.

2 8. Staff recommended that the application be approved.

3 9. Staff's recommendation, as set forth in Findings of Fact No. 8, is reasonable.

4 **CONCLUSIONS OF LAW**

5 1. Applicant is a public service corporation within the meaning of Article XV of the Arizona  
6 Constitution and A.R.S. §§40-301 and 40-302.

7 2. The Commission has jurisdiction over Applicant and the subject matter of the application.

8 3. Notice has been provided as required by law.

9 4. Staff's recommendation, as set forth in Findings of Fact No. 8 should be adopted.

10 5. The financing approved herein is for lawful purposes within Applicant's corporate powers,  
11 is compatible with the public interest, with sound financial practices, and with the proper performance  
12 by Applicant of service as a public service corporation, and will not impair Applicant's ability to perform  
13 that service.

14 6. The financing approved herein is for the purposes stated in the application and is  
15 reasonably necessary for those purposes, and such purposes are not, wholly or in part, reasonably  
16 chargeable to operating expenses or to income.

17 **ORDER**

18 IT IS THEREFORE ORDERED that Rincon Water Company is hereby authorized to issue up  
19 to 19,059 shares of \$10 par value common stock for the purpose of capitalizing cash infusions made from  
20 1974 through 1994.

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1 IT IS FURTHER ORDERED that such authority shall be expressly contingent upon Rincon  
2 Water Company's use of the proceeds for the purposes set forth in the application.

3 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

4 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

5  
6 \_\_\_\_\_  
7 COMMISSIONER-CHAIRMAN COMMISSIONER COMMISSIONER

8 IN WITNESS WHEREOF, I, JACK ROSE, Executive Secretary of the Arizona  
9 Corporation Commission, have hereunto set my hand and caused the official seal  
10 of the Commission to be affixed at the Capitol, in the City of Phoenix, this \_\_\_\_  
11 day of \_\_\_\_\_, 1997.

12 \_\_\_\_\_  
13 JACK ROSE  
14 EXECUTIVE SECRETARY

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DISSENT \_\_\_\_\_  
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SERVICE LIST FOR: RINCON WATER COMPANY

DOCKET NO.: W-01723A-97-0414

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