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BEFORE THE ARIZONA CORPORATION COMMISSION

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Arizona Corporation Commission

COMMISSIONERS

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

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DEC 10 2014

AZ CORP COMMISSION
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IN THE MATTER OF THE APPLICATION OF
CIRCLE CITY WATER COMPANY, L.L.C. FOR
APPROVAL TO DELETE PORTIONS OF ITS
CERTIFICATE OF CONVENIENCE AND
NECESSITY AND TO DELETE A
REQUIREMENT SET FORTH IN DECISION NO.
68246.

DOCKET NO. W-03510A-13-0397

PROCEDURAL ORDER
(Sets Hearing)

BY THE COMMISSION:

On November 19, 2013, Circle City Water Company, L.L.C. ("Circle City") filed with the Arizona Corporation Commission ("Commission") an application requesting approval to delete portions of its Certificate of Convenience and Necessity ("CC&N") and to delete the requirement for Circle City in its next rate case filing to demonstrate that its existing customers have been positively impacted by the addition of new water facilities necessary to serve the extension area, pursuant to Decision No. 68246 (October 25, 2005). Circle City's application requests deletion of portions of its CC&N encompassing two developments known as Lake Pleasant 5000 ("LP5K") and Warrick 160. Circle City's application states that the developments are not viable and that service in the CC&N area will not be necessary in the foreseeable future.

On December 11, 2013, LP5K filed an Application for Leave to Intervene, stating that its development partners own the property Circle City wishes to delete and that LP5K had entered into a Water Facilities Agreement ("WFA") with Circle City under which LP5K has paid \$67,782.61 to Circle City.

On December 31, 2013, by Procedural Order, intervention was granted to LP5K.

On January 9, 2014, Rex G. Maughan and Ruth G. Maughan, Trustees of the Maughan Revocable Trust of 2007 ("MRT"), filed an Application for Leave to Intervene, stating that it is an owner of the development master plan known as LP5K and that MRT's development partners entered into a WFA with Circle City under which MRT has paid \$67,782.61 to Circle City.

1 On March 12, 2014, by Procedural Order, intervention was granted to MRT.

2 On September 29, 2014, LP5K filed a Notice of Filing a letter from the principals of LP5K to
3 Circle City.

4 On October 17, 2014, the Commission’s Utilities Division (“Staff”) filed a Staff Report,
5 recommending denial of the Company’s application to delete portions of its CC&N, but
6 recommending approval of deletion of the requirement regarding the new water facilities contained in
7 Decision No. 68246.

8 On October 21, 2014, Staff filed an amended Staff Report, correcting typographical errors
9 contained within the report. Staff’s recommendations remained unchanged.

10 On October 23, 2014, Circle City filed a Motion and Request for Procedural Conference,
11 requesting that the matter be set for hearing and that other procedural deadlines be established.

12 On October 28, 2014, by Procedural Order, a procedural conference was scheduled for
13 November 10, 2014, to discuss a procedural schedule for this matter.

14 On November 10, 2014, a Procedural Conference was held. The Company, Intervenors, and
15 Staff appeared through counsel. Discussions were held regarding the appropriate procedural schedule
16 for this matter. The parties and Staff agreed to engage in settlement discussions and to file an update
17 with the Commission as to the outcome of those discussions within thirty days of the procedural
18 conference. The parties and Staff also agreed that this matter should be set for hearing.

19 Accordingly, the Commission now issues this Procedural Order to govern the preparation and
20 conduct of this proceeding.

21 **IT IS THEREFORE ORDERED that a hearing shall be held on March 2, 2015, at 10:00 a.m.,**
22 or as soon thereafter as is practical, at the Commission’s offices, 1200 West Washington Street,
23 Hearing Room No. 2, Phoenix, Arizona 85007.

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2 IT IS FURTHER ORDERED that Circle City shall provide public notice of the hearing in
3 this matter in the following form and style, the heading no less than 10-point bold type and the
4 body in no less than 8-point regular type:

5
6 **PUBLIC NOTICE OF THE HEARING ON THE APPLICATION**
7 **OF CIRCLE CITY WATER COMPANY, L.L.C. FOR APPROVAL TO**
8 **DELETE PORTIONS OF ITS CERTIFICATE OF CONVENIENCE AND**
9 **NECESSITY AND TO DELETE A REQUIREMENT SET FORTH IN**
10 **DECISION NO. 68246**
11 **(DOCKET NO. W-03510A-13-0397)**

12 On November 19, 2013, Circle City Water Company, L.L.C. ("Circle City") filed with
13 the Arizona Corporation Commission ("Commission") an application requesting
14 approval to delete portions of its Certificate of Convenience and Necessity ("CC&N")
15 and to delete the requirement for Circle City in its next rate case filing to demonstrate
16 that its existing customers have been positively impacted by the addition of new water
17 facilities necessary to serve the extension area, pursuant to Decision No. 68246
18 (October 25, 2005). Circle City's application requests deletion of portions of its
19 CC&N encompassing two developments known as Lake Pleasant 5000 ("LP5K") and
20 Warrick 160. Circle City's application states that the developments are not viable and
21 that service in the CC&N area will not be necessary in the foreseeable future. On
22 December 31, 2013, intervention was granted to LP5K. On March 12, 2014,
23 intervention was granted to Rex G. Maughan and Ruth G. Maughan, Trustees of the
24 Maughan Revocable Trust of 2007. The Commission's Utilities Division Staff
25 ("Staff") recommends denial of the Company's application for deletion of portions of
26 its CC&N and approval of the requirement contained in Decision No. 68246. The
27 Commission is not bound by the proposals made by Circle City, Staff, or any
28 intervenors. The Commission will issue a Decision regarding Circle City's application
following consideration of testimony and evidence presented at an evidentiary hearing.
A copy of the application is available at Circle City's offices [insert addresses] and at
the Commission's offices at 1200 West Washington Street, Phoenix, Arizona, for
public inspection during regular business hours, and on the internet via the
Commission website (www.azcc.gov) using the e-docket function.

21 The Commission will hold a hearing on Circle City's application on **March 2, 2015,**
22 **at 10:00 a.m.,** at the Commission's offices, 1200 West Washington Street, Hearing
23 Room No. 2, Phoenix, Arizona 85007. Public comments will be taken on the first day
24 of the hearing. Written public comments may be submitted via the Commission's
25 website at www.azcc.gov by clicking on the "Submit a Public Comment" button, or
26 by mailing a letter referencing Docket No. W-03510A-13-0397 to: Arizona
27 Corporation Commission, Consumer Services Section, 1200 West Washington Street,
28 Phoenix, Arizona 85007. If you require assistance, you may contact the Consumer
Services Section at 1-800-222-7000 or 602-542-4251.

26 The law provides for an open public hearing at which, under appropriate
27 circumstances, interested parties may intervene. Any person or entity entitled by law
28 to intervene and having a direct and substantial interest in the matter will be permitted
to intervene. If you wish to intervene, you must file an original and 13 copies of a
written motion to intervene with the Commission no later than **January 16, 2015,** and

1 send a copy of the motion to all parties of record. Your motion to intervene must
2 contain the following:

- 3 1. Your name, address, and telephone number and the name, address, and
4 telephone number of any person upon whom service of documents is to be
5 made, if not yourself;
- 6 2. A short statement of your interest in the proceeding (e.g., a customer of
7 Circle City, etc.);
- 8 3. A statement certifying that you have mailed a copy of the motion to
9 intervene to Circle City or its counsel and to all parties of record in the
10 case; and
- 11 4. If you are not represented by an attorney who is an active member of the
12 Arizona State Bar, and are not representing yourself as an individual,
13 information and any appropriate documentation demonstrating compliance
14 with Arizona Supreme Court Rules 31, 38, and 42, as applicable.

15 The granting of motions to intervene shall be governed by A.A.C. R14-3-105, except
16 that all motions to intervene must be filed on or before **January 16, 2015**. If
17 representation by counsel is required by Arizona Supreme Court Rule 31, intervention
18 will be conditioned upon the intervenors obtaining counsel to represent the intervenor.
19 For information about requesting intervention, visit the Commission's website at
20 <http://www.azcc.gov/divisions/utilities/forms/interven.pdf>. The granting of
21 intervention, among other things, entitles a party to present sworn evidence at hearing
22 and to cross-examine other witnesses. However, failure to intervene will not preclude
23 any interested person or entity from appearing at the hearing and providing public
24 comment on the application or from filing written comments in the record of the case.

25 The Commission does not discriminate on the basis of disability in admission to its
26 public meetings. Persons with a disability may request a reasonable accommodation
27 such as a sign language interpreter, as well as request this document in an alternative
28 format, by contacting the ADA Coordinator Shaylin Bernal, E-mail
sabernal@azcc.gov, voice phone number 602-542-3931. Requests should be made as
early as possible to allow time to arrange the accommodation.

IT IS FURTHER ORDERED that Circle City shall **mail via First Class U.S. Mail a copy of
the above notice** to all land/property owners within the CC&N area where Circle City is requesting
deletion and **shall cause the above notice to be published** at least once in a newspaper of general
circulation in its respective service territory, with **publication and mailing** to be completed no later
than **January 2, 2015**.

IT IS FURTHER ORDERED that **Circle City shall file certification of mailing and
publication** as soon as practicable after mailing and publication have been completed, but not later
than **January 16, 2015**.

1 IT IS FURTHER ORDERED that notice shall be deemed complete upon mailing/ publication,
2 notwithstanding the failure of an individual customer to read or receive the notice.

3 IT IS FURTHER ORDERED that any **objections to the Staff Report** shall be reduced to
4 writing and filed on or before **January 16, 2015**.

5 IT IS FURTHER ORDERED that the **direct testimony and associated exhibits** to be
6 presented at hearing by **Circle City** shall be reduced to writing and filed on or before **January 16,**
7 **2015**.

8 IT IS FURTHER ORDERED that the **direct testimony and associated exhibits** to be presented
9 at hearing by **Staff and/or intervenors** shall be reduced to writing and filed on or before **January 16,**
10 **2015**.

11 IT IS FURTHER ORDERED that the **rebuttal testimony and associated exhibits** to be
12 presented at hearing by **Circle City, Intervenors and/or Staff** shall be reduced to writing and filed
13 on or before **January 30, 2015**.

14 IT IS FURTHER ORDERED that the **surrebuttal testimony and associated exhibits** to be
15 presented at hearing by **Circle City** shall be reduced to writing and filed on or before **February 13,**
16 **2015**.

17 IT IS FURTHER ORDERED that any **objections to testimony or exhibits** that have been
18 filed as of **February 9, 2015**, shall be made on or before **February 20, 2015**.

19 IT IS FURTHER ORDERED that any **substantive corrections, revisions, or supplements**
20 **to the pre-filed testimony** shall be reduced to writing and filed no later than **February 20, 2015**.

21 IT IS FURTHER ORDERED that intervention shall be in accordance with A.A.C. R14-3-105,
22 except that all **Motions to Intervene** must be filed on or before **January 16, 2015**.

23 IT IS FURTHER ORDERED that any **objections to intervention** shall be filed on or before
24 **January 30, 2015**.

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1 IT IS FURTHER ORDERED that discovery shall be permitted by law and the rules and
2 regulations of the Commission, except that until **February 13, 2015**, any objection to discovery
3 requests shall be made within 7 calendar days of receipt¹ and responses to discovery requests shall be
4 made within 10 calendar days of receipt. Thereafter, objections to discovery requests shall be made
5 within 5 calendar days and responses shall be made within 7 calendar days. The response time may
6 be extended by mutual agreement of the parties involved if the request requires an extensive
7 compilation effort.

8 IT IS FURTHER ORDERED that for discovery requests, objections, and answers, if a
9 receiving party requests service to be made electronically, and the sending party has the technical
10 capability to provide service electronically, service to that party shall be made electronically.

11 IT IS FURTHER ORDERED that, in the alternative to filing a written motion to compel
12 discovery, any party seeking resolution of a discovery dispute may telephonically contact the
13 Commission's Hearing Division to request a date for a procedural hearing to resolve the discovery
14 dispute; that upon such a request, a procedural hearing will be convened as soon as practicable; and
15 that the party making such a request shall forthwith contact all other parties to advise them of the
16 hearing date and shall at the hearing provide a statement confirming that the other parties were
17 contacted.²

18 IT IS FURTHER ORDERED that any motion filed in this matter, other than a motion to
19 intervene, that is not ruled upon by the Commission within 20 calendar days of the filing date of the
20 motion shall be deemed denied.

21 IT IS FURTHER ORDERED that any response to a motion, other than responses to motions
22 to intervene, shall be filed within five calendar days of the filing date of the motion.

23 IT IS FURTHER ORDERED that any reply related to a motion shall be filed within five
24 calendar days of the filing date of the response to the motion.

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27 ¹ The date of receipt of discovery requests is not counted as a calendar day, and requests received after 4:00 p.m. MST
will be considered as received the next business day.

28 ² The parties are encouraged to attempt to settle discovery disputes through informal, good-faith negotiations before
seeking Commission resolution of the controversy.

1 IT IS FURTHER ORDERED that the parties shall jointly file on or by December 29, 2014,
2 an update to the Commission on the status of their settlement discussions.

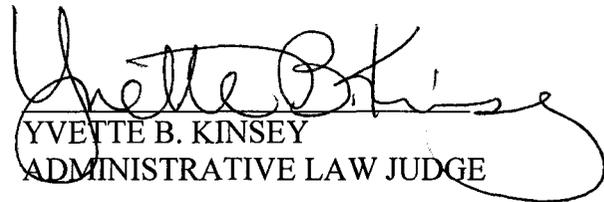
3 IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113-Unauthorized
4 Communications) applies to this proceeding, as the matter is now set for public hearing, and shall
5 remain in effect until the Commission's Decision in this matter is final and non-appealable.

6 IT IS FURTHER ORDERED that all parties must comply with Arizona Supreme Court Rules
7 31 and 38 and A.R.S. § 40-243 with respect to the practice of law and admission *pro hac vice*.

8 IT IS FURTHER ORDERED that withdrawal of representation must be made in compliance
9 with A.A.C. R14-3-104(E) and Rule 1.16 of the Rules of Professional Conduct (under Arizona
10 Supreme Court Rule 42). Representation before the Commission includes the obligation to appear at
11 all hearings, procedural conferences, and Open Meetings for which the matter is scheduled for
12 discussion, unless counsel has previously been granted permission to withdraw by the Administrative
13 Law Judge or Commission.

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 10th day of December, 2014.

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19 YVETTE B. KINSEY
20 ADMINISTRATIVE LAW JUDGE

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1 Copies of the foregoing mailed/delivered
2 this 10th day of December, 2014 to:

3 Robert Hardcastle
4 P.O. Box 82218
5 Bakersfield, CA 93380-2218

6 Garry Hays
7 LAW OFFICES OF GARRY D. HAYS, PC
8 1702 East Highland Avenue, Suite 204
9 Phoenix, AZ 85016
10 Attorney for Lake Pleasant 5000, L.L.C.

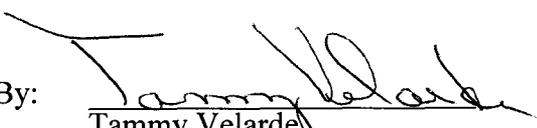
11 Darin P. Reber
12 7501 E. McCormick Parkway
13 Scottsdale, Arizona 85258
14 Counsel for Maughan Revocable Trust of 2007 and Rex G. Maughan and Ruth G. Maughan.

15 Janice Alward, Chief Counsel
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19 Phoenix, AZ 85007

20 Steven M. Olea, Director
21 Utilities Division
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25 COASH & COASH, INC.
26 COURT REPORTING, VIDEO & VIDEOCONFERENCING
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By:


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