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**BEFORE THE ARIZONA CORPORATION COMMISSION**

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Arizona Corporation Commission

AZ CORP COMMISSION

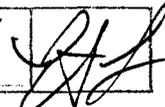
**DOCKETED**

DOCKET CONTROL

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

DEC 22 2014

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DOCKETED BY 

**ORIGINAL**

IN THE MATTER OF THE APPLICATION OF  
TONGO BASIN WATER CO., INC. FOR  
APPROVAL OF AN ADJUSTMENT IN THE  
EXISTING RATES CHARGED BY THE  
COMPANY.

DOCKET NO. W-03515A-14-0310

**PROCEDURAL ORDER**

**BY THE COMMISSION:**

On August 21, 2014, Tonto Basin Water Company, Inc. ("Tonto Basin" or "Company") filed with the Arizona Corporation Commission ("Commission") an application for a rate increase based on a test year ended June 30, 2014.

On August 26, 2014 and September 10, 2014, Tonto Basin filed supplements to its rate application.

On September 22, 2014, the Commission's Utilities Division ("Staff") filed a Letter of Deficiency.

On October 7, 2014, Tonto Basin filed an additional supplement to its rate application.

On October 10, 2014, Staff filed a Letter of Sufficiency indicating that the Company's application met the sufficiency requirements of Arizona Administrative Code ("A.A.C.") R14-2-103, and classifying Tonto Basin as a Class C Utility. The Letter of Sufficiency stated that a Procedural Order would be issued defining filing dates and would include a hearing.

On October 20, 2014, Brooke Utilities Inc. ("Brooke") filed an Application for Intervention.

On October 28, 2014, the Company filed an objection to Brooke's intervention.

On October 29, 2014, Tonto Creek Trail RV Park, Inc., a customer of the Company, filed a Motion to Intervene.

On November 3, 2014, Brooke filed a Response to the Company's objection to its Application

1 for Intervention.

2 On November 7, 2014, a Rate Case Procedural Order was issued setting a hearing and  
3 associated procedural deadlines, and granting intervention to Tonto Creek Trail RV Park, Inc.

4 The Rate Case Procedural Order stated that based on Brooke's filings, the record is not clear  
5 whether Brooke will be directly and substantially affected by this rate case proceeding, and that  
6 without more specific information from Brooke, it could not be determined whether a basis exists for  
7 granting Brooke intervention. The Rate Case Procedural Order allowed Brooke, if it wished any  
8 further consideration of its Application to Intervene, to file a supplement to its Application to  
9 Intervene, no later than November 17, 2014, that specifically indicated how and why the terms and  
10 conditions of the May 31, 2013 Stock Purchase Agreement between Brooke and Tonto Basin, in  
11 conjunction with Tonto Basin's current rate case filing, would directly and substantially affect  
12 Brooke.

13 On November 14, 2014, Brooke filed a Request for Extension to File Supplemental  
14 Application to Intervene, requesting a revised filing deadline of November 24, 2014. Brooke's  
15 request for an extension of time is reasonable. The deadline for Brooke to file a supplement to its  
16 Application to Intervene should be extended to January 6, 2015. If no supplement is filed by January  
17 6, 2015, Brooke's Application to Intervene will be denied. If Brooke is granted intervention, Brooke  
18 must either be represented by counsel, or must file evidence of a board resolution authorizing a  
19 specifically named officer of the corporation to represent it.<sup>1</sup>

20 On December 11, 2014, Tonto Basin filed a Request to Modify Procedural Schedule  
21 ("Request"). Therein, the Company asks that the procedural schedule set by the November 7, 2014  
22 Rate Case Procedural Order be modified to (1) eliminate the dates and requirements for prefiled  
23 testimony; (2) eliminate the requirement for public notice ordered by the Rate Case Procedural Order;  
24 and (3) provide all parties an opportunity to request a procedural conference should the parties later

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25  
26 <sup>1</sup> If a corporation is not represented by an attorney authorized to practice law in Arizona in a proceeding before the  
27 Commission, an officer of the corporation may represent the entity as long as the board of directors has authorized such  
28 person to represent it in the matter and such representation is not the person's primary duty to the entity, but secondary or  
incidental to other duties relating to the management or operation of the entity, and such person is not receiving separate  
or additional compensation for such representation. See Arizona Supreme Court Rule 31(d)(11). The Commission  
requires evidence of board authorization.

1 determine that issues in dispute require a different procedural schedule. In the alternative, the  
2 Company requests that a procedural conference be scheduled for the purpose of discussing an  
3 alternative procedural schedule. The Company indicated that it failed to provide notice of the rate  
4 application and hearing as directed in the November 7, 2014 Rate Case Procedural Order.

5 On December 19, 2014, Staff filed a Response to the Request. Staff states that it has no  
6 objection to elimination of pre-filed testimony requirements. Staff further states that in light of the  
7 new utility classifications that are to take effect in 2015, the size of the Company, and the nature of  
8 the rate request, Staff would have no objection to proceeding without a hearing in this docket, but for  
9 the fact that because the Company's test-year revenues are greater than the statutory \$250,000  
10 threshold, A.R.S. § 40-250(A) appears to require a hearing. Staff states that a public notice of the  
11 hearing is therefore appropriate, and that Staff does not object to a procedural conference for the  
12 purpose of discussing an appropriate procedural schedule.

13 It is appropriate to schedule a procedural conference for discussion of the Company's  
14 proposed alternative procedural schedule for this matter. The Company should also be prepared to  
15 address its noncompliance with the November 7, 2014 Rate Case Procedural Order.

16 IT IS THEREFORE ORDERED that a **procedural conference** in the above-captioned matter  
17 shall commence on **January 8, 2015, at 10:00 a.m.**, or as soon thereafter as is practical, in Hearing  
18 Room No. 1 at the Commission's offices, 1200 West Washington, Phoenix, Arizona 85007, for the  
19 purpose of discussing the Company's request for an alternative procedural schedule to that set by the  
20 November 7, 2015 Rate Case Procedural Order.

21 IT IS FURTHER ORDERED that if **Brooke Utilities, Inc.** wishes any further consideration  
22 of its Application to Intervene, it **may file, no later than January 6, 2014, a supplement to its**  
23 **Application to Intervene** that specifically indicates how and why the terms and conditions of the  
24 May 31, 2013 Stock Purchase Agreement between Brooke Utilities, Inc. and Tonto Basin Water  
25 Company, Inc., in conjunction with Tonto Basin Water Company, Inc.'s current rate case filing, will  
26 directly and substantially affect Brooke Utilities, Inc. If no supplement to its Application to Intervene  
27 is docketed on or before January 6, 2014, Brooke Utilities, Inc.'s Application to Intervene will be  
28 denied.

1 IT IS FURTHER ORDERED that if Brooke Utilities, Inc. timely files the above-authorized  
2 supplement to its Application to Intervene, **Tonto Basin Water Company, Inc. and the**  
3 **Commission's Utilities Division shall file responses thereto within 5 calendar days.**

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

7 IT IS FURTHER ORDERED that the Administrative Law Judge may rescind, alter, amend,  
8 or waive any portion of this Procedural Order either by subsequent Procedural Order or by ruling at  
9 hearing.

10 DATED this 22<sup>d</sup> day of December, 2014.

11  
12  
13   
14 TEENA JIBILIAN  
ADMINISTRATIVE LAW JUDGE

15 Copies of the foregoing mailed/delivered  
this 22<sup>nd</sup> day of December, 2014 to:

16 James Williamson, President  
17 Tonto Basin Water Company, Inc.  
18 JW Water Holdings, LLC  
P.O. Box 200595  
Denver, CO 80220  
19 Tonto Creek Trail RV Park, Inc.  
20 Gary & Margaret Lantagne, Owners  
PO BOX 669  
21 Tonto Basin, AZ 85553  
22 Janice Alward, Chief Counsel  
Legal Division  
23 ARIZONA CORPORATION COMMISSION  
1200 West Washington Street  
24 Phoenix, AZ 85007

25 Steven M. Olea, Director  
Utilities Division  
26 ARIZONA CORPORATION COMMISSION  
1200 West Washington Street  
27 Phoenix, AZ 85007  
28

COASH & COASH, INC.  
Court Reporting, Video and  
Videoconferencing  
1802 North 7<sup>th</sup> Street  
Phoenix, AZ 85006

Pending Intervention

Brooke Utilities, Inc.  
PO BOX 82218  
Bakersfield, CA 93380

By: Rebecca Unquera  
Rebecca Unquera  
Assistant to Teena Jibilian