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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

SUSAN BITTER SMITH - Chairman
BOB STUMP
BOB BURNS
DOUG LITTLE
TOM FORESE

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CORP COMMISSION
DOCKET CONTROL

Arizona Corporation Commission
DOCKETED

JAN 12 2015

DOCKETED BY

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

**STAFF'S OPPOSITION TO
INTERVENTION**

ORIGINAL

The Utilities Division ("Staff") of the Arizona Corporation Commission ("Commission") hereby files its response to Brooke Utilities, Inc.'s ("Brooke" or "Company") Supplemental Application for Intervention ("Supplement"). For the reasons stated below, Staff respectfully asserts that Brooke's request for intervention is without merit and should be denied.

Arizona Administrative Code R 14-3-105 permits intervention by "...persons, other than the original parties to the proceedings, who are directly and substantially affected by the proceedings." This rule further provides that "...no application for leave to intervene shall be granted where by so doing the issues theretofore presented will be unduly broadened, except upon leave of the Commission." Contrary to the assertions set forth in its Supplement, Brooke has not demonstrated how it would be directly affected by this proceeding or that the issues it raises would not unduly broaden the scope of the proceeding.

The pending application concerns the determination of the fair value of Tonto Basin Water Co., Inc.'s ("Tonto Basin") property for ratemaking purposes and setting rates based on that determination. Brooke is not a customer of Tonto Basin, but a party to a Stock Purchase Agreement ("Agreement") with the current owner of Tonto Basin, JW Water Holdings LLC ("JWW"). Brooke has alleged facts that demonstrate an ongoing contract dispute. Brooke has asserted that Brooke and JWW entered into an Agreement for the purchase of the stock of Brooke by JWW and that JWW has

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1 breached a term and condition of that Agreement. The Commission does not regulate and/or approve
2 stock purchase agreements. Moreover, Brooke is not a ratepayer that would be impacted by this rate
3 proceeding.

4 By requesting enforcement of the Agreement in this setting, Brooke is seeking to broaden the
5 scope of this proceeding. Brooke is requesting that the Commission order Tonto Basin to withdraw
6 and re-file its rate application using the test year that Brooke and JWW agreed upon pursuant to the
7 terms of the Agreement. Brooke is essentially asking the Commission to order specific performance
8 of the Agreement that did not require Commission approval. A contract dispute of this nature would
9 be best resolved in another forum, such as Superior Court, and not a ratemaking proceeding.
10 Litigation of a contract dispute in the context of a rate proceeding would unduly broaden its scope.

11 Based on the foregoing, Staff respectfully requests that the motion to intervene by Brooke be
12 denied.

13 RESPECTFULLY SUBMITTED this 12th day of January 2015.

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17 Legal Division
18 Arizona Corporation Commission
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24 Original and thirteen (13) copies
25 of the foregoing filed this
12th day of January 2015 with:

26 Docket Control
27 Arizona Corporation Commission
28 1200 West Washington Street
Phoenix, Arizona 85007

1 Copy of the foregoing emailed/mailed
2 this 12th day of January 2015 to:

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13 Pending Intervention

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