

ORIGINAL



0000159430

BEFORE THE ARIZONA CORPORATION CO.

COMMISSIONERS

RECEIVED

Arizona Corporation Commission

DOCKETED

JAN 12 2015

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

2015 JAN 12 P 3:35

ARIZONA CORPORATION COMMISSION  
DOCKET CONTROL

DOCKETED BY

IN THE MATTER OF THE APPLICATION FOR  
NAVAJO WATER COMPANY FOR THE  
APPROVAL OF A RATE ADJUSTMENT.

DOCKET NO. W-03511A-14-0304

**STAFF'S OPPOSITION TO  
INTERVENTION**

The Utilities Division ("Staff") of the Arizona Corporation Commission ("Commission") hereby files its response to the supplement of the Brooke Utilities, Inc. ("Brooke") request for intervention. For the reasons stated below, Staff would respectfully request that the intervention request by Brooke 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. The Rule further states "...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 of Brooke, Brooke has not demonstrated how it would be directly affected by this proceeding or that the issues that it raises would not unduly broaden the scope of the proceeding.

The pending application concerns the determination of the fair value of Navajo Water Company's ("Navajo") property for ratemaking purposes and setting rates based on that determination. Brooke is not a customer of Navajo, but a party to a Stock Purchase Agreement ("Agreement") with the current owner of Navajo, 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. Brooke further alleges that JWW has breached a term and condition of that Agreement. The Commission does not

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

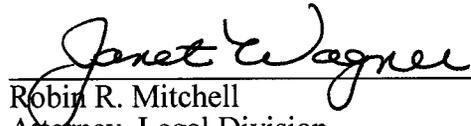
1 approve stock purchase agreements and thus, should not compel the compliance by JWW with the  
2 terms of that Agreement. Brooke is not a ratepayer that would be impacted by this rate proceeding.

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

11 Staff would respectfully request that the motion to intervene by Brooke be denied.

12 RESPECTFULLY SUBMITTED this 12<sup>th</sup> day of January, 2015.

13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

*fd*   
Robin R. Mitchell  
Attorney, Legal Division  
Arizona Corporation Commission  
1200 West Washington Street  
Phoenix, Arizona 85007  
(602) 542-3402

Original and thirteen (13) copies of  
the foregoing filed this 12<sup>th</sup> day of  
January, 2015, with:

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

1 Copy of the foregoing mailed this  
2 13<sup>th</sup> day of January, 2015, to:

3 James Williamson, President  
4 Tonto Basin Water Company, Inc.  
5 JW Water Holdings, LLC  
6 P.O. Box 200595  
7 Denver, CO 80220

8 Pending Intervention

9 Brooke Utilities, Inc.  
10 P.O. Box 82218  
11 Bakersfield, CA 93380

12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
