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Arizona Corporation Commission

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BEFORE THE ARIZONA CORPORATION COMMISSION

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COMMISSIONERS

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

AZ CORP COMMISSION  
DOCKET CONTROL

IN THE MATTER OF THE APPLICATION OF  
UTILITY SOURCE, LLC, AN ARIZONA  
CORPORATION, FOR A DETERMINATION OF  
THE FAIR VALUE OF ITS UTILITY PLANTS  
AND PROPERTY AND FOR INCREASES IN ITS  
WATER AND WASTEWATER RATES AND  
CHARGES FOR UTILITY SERVICE BASED  
THEREON.

DOCKET NO. WS-04235A-13-0331

PROCEDURAL ORDER

**BY THE COMMISSION:**

On September 27, 2013, Utility Source, LLC ("Utility Source" or "Company") filed with the Arizona Corporation Commission ("Commission") an application for a determination of the current fair value of its utility plants and property and for increases in its rates and charges for water and wastewater utility service provided to customers in the Company's service area in Coconino County, Arizona.

On July 16, 2014, a Procedural Order was issued scheduling, among other things, a prehearing conference on November 13, 2014, at 10:00 a.m.<sup>1</sup>

On October 31, 2014, the Company filed a Motion to Reschedule Procedural Conference requesting that the prehearing conference be rescheduled for 1:00 p.m., or later, on November 13, 2014, due to a scheduling conflict.

On November 4, 2014, a Procedural Order was issued rescheduling the prehearing conference for November 13, 2014, at 2:30 p.m.

On November 13, 2014, the prehearing conference was held as scheduled, with the Company, the Commission's Utilities Division ("Staff"), and the Residential Utility Consumer Office ("RUCO") appearing through counsel, and Mr. Nielsen and Mr. Fallon appearing *pro se*.<sup>2</sup> At that

<sup>1</sup> The procedural history for this case is more fully stated in the July 16, 2014 Procedural Order, and is incorporated herein by reference.

<sup>2</sup> Mr. Nielsen and Mr. Fallon attended telephonically.

1 time, RUCO requested that the hearing be continued due to a scheduling conflict with RUCO's  
2 counsel. The Company, Staff, Mr. Nielsen, and Mr. Fallon agreed to accommodate RUCO's request.

3 On November 14, 2014, a Procedural Order was issued vacating the hearing dates scheduled  
4 for November 18, 19, 20, and 21, 2014, and scheduling a procedural conference on November 18,  
5 2014, for the purposes of discussing new hearing dates and other procedural matters.

6 On November 18, 2014, the procedural conference was held as scheduled, with the Company,  
7 Staff, and RUCO appearing through counsel, and Mr. Nielsen and Mr. Fallon appearing *pro se*.<sup>3</sup> Due  
8 to scheduling conflicts, Staff and RUCO proposed that the hearing be rescheduled no sooner than  
9 January of 2015. The parties agreed to meet and confer regarding potential hearing dates in January  
10 and the Company proposed to file a list of mutually agreeable hearing dates for consideration. In  
11 addition, an alternative option for regulatory treatment of the Company's standpipe operation was  
12 discussed and the parties were directed to address that alternative at the hearing.

13 On November 18, 2014, a Procedural Order was issued directing, among other things, the  
14 Company to file a list of mutually agreeable hearing dates no later than November 26, 2014.

15 On November 26, 2014, the Company filed a Notice of Dates of Availability indicating that  
16 all parties were available for hearing on February 17, 18, and 19, 2015.

17 On December 3, 2014, a Procedural Order was issued scheduling a hearing to commence on  
18 February 17, 2015 and continue, if necessary, on February 18 and 19, 2015.

19 On January 9, 2015, RUCO filed a Motion to Compel the Company to respond to RUCO's  
20 Data Request Number 2.01.

21 On January 15, 2015, RUCO filed a Notice of Withdrawal of its Motion to Compel indicating  
22 that the Company provided a response to RUCO's Data Request Number 2.01.

23 On January 16, 2015, Mr. Nielsen filed a Motion to Compel the Company to respond to his  
24 Third and Fourth Sets of Data Requests.

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27  
28 <sup>3</sup> The Company, Mr. Nielsen, and Mr. Fallon attended telephonically.

1 On February 4, 2015, the Company filed a Response to Mr. Nielsen's Motion to Compel  
2 stating that the motion is moot because the Company e-mailed responses to Mr. Nielsen on February  
3 2, 2015.

4 On February 9, 2015, Mr. Nielsen filed a Response to the Company's February 4, 2015  
5 Response stating that the Company failed to fully respond to three specific data requests and  
6 requesting a procedural conference to discuss the Motion to Compel.

7 On February 10, 2015, a Procedural Order was issued scheduling a telephonic procedural  
8 conference to address Mr. Nielsen's Motion to Compel.

9 On February 11, 2015, Staff filed a Memorandum to update its recommended regulatory  
10 treatment of the Company's standpipe operation.

11 On February 12, 2015, a telephonic procedural conference was held as scheduled, with the  
12 Company, Staff, and RUCO appearing through counsel, and Mr. Nielsen appearing *pro se*. At that  
13 time, the Company agreed to provide any documents responsive to Mr. Nielsen's data requests on  
14 February 13, 2015.<sup>4</sup> In addition, the parties represented that Staff's updated recommendation for the  
15 Company's standpipe operation would not impair the ability of any party to prepare for the hearing.

16 On February 17, 18, and 19, 2015, a full public hearing was convened as scheduled, with the  
17 Company, Staff, and RUCO appearing through counsel, and Mr. Nielsen and Mr. Fallon appearing  
18 *pro se*. At the conclusion of the hearing, the parties were directed to submit a joint schedule for filing  
19 closing briefs, reply briefs, and any final schedules.

20 On February 25, 2015, Staff filed a briefing schedule stating that the parties agree to file any  
21 final schedules by March 6, 2015, closing briefs by March 24, 2015, and reply briefs by April 14,  
22 2015.

23 On February 26, 2015, a Procedural Order was issued adopting the briefing schedule proposed  
24 by the parties.

25 On March 5, 2015, RUCO filed its final schedules.

26 On March 6, 2015, the Company and Staff filed their final schedules.

27 \_\_\_\_\_  
28 <sup>4</sup> The Company represented that it did not have any documents responsive to two of Mr. Nielsen's outstanding data requests.

1 On March 11, 2015, Mr. Nielsen filed proposed expense and rate base adjustments in lieu of  
2 submitting final schedules. Contemporaneously with his filing, Mr. Nielsen filed a request for an  
3 extension of time to file final schedules representing that the other parties were notified of that  
4 request and there is no objection.

5 On March 24, 2015, the Company, Staff, RUCO, Mr. Nielsen, and Mr. Fallon filed closing  
6 briefs.

7 On April 10, 2015, the Company filed a motion requesting that the time for filing reply briefs  
8 be extended from April 14, 2015 to April 17, 2015. Counsel for the Company represents that the  
9 other parties were notified of that request and there is no objection.

10 The requests of Mr. Nielsen and the Company to extend the times to file final schedules and  
11 reply briefs are reasonable and should be granted.

12 IT IS THEREFORE ORDERED that **final schedules** filed on or before **March 11, 2015** will  
13 be considered timely.

14 IT IS FURTHER ORDERED that **reply briefs** shall be filed on or before **April 17, 2015**.

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

18 IT IS FURTHER ORDERED that the **timeclock** for this matter remains suspended pending  
19 the submission of reply briefs.

20 IT IS FURTHER ORDERED that each party to this matter may opt to receive service of all  
21 Procedural and Recommended Orders issued by the Commission's Hearing Division in this matter  
22 via e-mail rather than U.S. Mail, as permitted under A.A.C. R14-3-107(B). To exercise this option, a  
23 party shall send to [hearingsdivision@azcc.gov](mailto:hearingsdivision@azcc.gov), from the e-mail address at which the party desires to  
24 receive service, an e-mail request including the name of the party on whom service is to be made and  
25 the docket number for this matter. After a party receives an e-mail confirmation of its request from  
26 [hearingsdivision@azcc.gov](mailto:hearingsdivision@azcc.gov), the party will receive all future Procedural and Recommended Orders  
27 issued by the Hearing Division in this matter via e-mails to the address provided by the party, unless  
28 and until the party withdraws its request. Service of a document via e-mail shall be considered

1 complete upon the sending of an e-mail containing the document to the e-mail address provided by a  
2 party, regardless of whether the party receives or reads the e-mail containing the document.

3 IT IS FURTHER ORDERED that all parties must comply with Arizona Supreme Court Rules  
4 31, 38, 42 and A.R.S. § 40-243 with respect to practice of law and admission *pro hac vice*.

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

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

14 DATED this 13<sup>th</sup> day of April, 2015.



SCOTT M. HESLA  
ADMINISTRATIVE LAW JUDGE

17 Copies of the foregoing mailed  
18 this 13<sup>th</sup> day of April, 2015, to:

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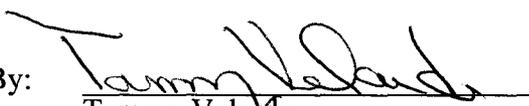
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