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BEFORE THE ARIZONA CORPORATION COMMISSION

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SUSAN BITTER-SMITH- Chairman
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2015 APR 27 P 2:07

AZ CORP COMMISSION
DOCKET CONTROL

IN THE MATTER OF THE PETITION OF
ARIZONA WATER COMPANY FOR
INCREASE OF AREA TO BE SERVED AT
CENTRAL HEIGHTS, ARIZONA

DOCKET NO. W-01445A-14-0305

NOTICE OF FILING

Attached to this filing is Arizona Water Company's ("AWC") responses to the City of Globe's ("Globe") first set of data requests (with Globe 1.8 and 1.9 removed since AWC was responsive to those data requests). Globe is filing AWC's responses to the data requests so that it can be discussed at the procedural conference scheduled for April 28, 2015.

RESPECTFULLY submitted this 27th day of April, 2015.

Arizona Corporation Commission

DOCKETED

APR 27 2015

DOCKETED BY 

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ORIGINAL and thirteen (13) copies of the foregoing filed this 27th day of April, 2015, with:

Docket Control
ARIZONA CORPORATION COMMISSION
1200 West Washington Street
Phoenix, Arizona 85007

Copy of the foregoing hand-delivered/mailed This 27th day of April, 2015, to:

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By: Chantelle Herget

**ARIZONA WATER COMPANY'S RESPONSES TO
CITY OF GLOBE'S FIRST SET OF DATA REQUESTS
DOCKET NO. W-01445A-14-0305**

April 13, 2015

Arizona Water Company's General Objections:

The City has taken the position that the relief it requests is based solely on the allegation that the Commission made a "mistake" in granting Arizona Water Company a certificate of convenience and necessity ("CC&N") in the disputed areas in 1961 and that the relief is justified under A.R.S. §40-252. At the oral argument of Arizona Water Company's motion to dismiss on March 4, 2014, while facing the question of whether the City was seeking a revision to the subject CC&N on grounds of mistake under §40-252 or deletion of the disputed areas for post-1961 events under James P. Paul v. Arizona Corporation Commission, 137 Ariz. 426, 671 P.3d 404 (1983), the City stated the sole basis for its action is that the commission made a "mistake" in granting Arizona Water Company a CCN for the disputed areas in 1961 and relief is "justified" under A.R.S. §40-252, and thus, the City, not Arizona Water Company bears the burden of proof. Consequently, discovery directed to Arizona Water Company's provision of public utility water service post-1961 has no relevance to and is not likely to lead to the discovery of admissible evidence of the 1961 facts that are now the focus of this case. Arizona Water Company objects to discovery of post-1961 facts that do not bear upon the City's theory of its case on this basis.

The City, not Arizona Water Company, is the Petitioner in this matter. Arizona Water Company objects to Data Requests along the lines of "provide us evidence supporting our claim that" It is not up to Arizona Water Company to prove up the City's case; it is incumbent on the City to properly plead and then meet its burden of proof and persuasion on each element of its claims.

Arizona Water Company reserves its objections to facts and documents covered by the attorney-client and attorney-work product privileges.

**ARIZONA WATER COMPANY'S RESPONSES TO
CITY OF GLOBE'S FIRST SET OF DATA REQUESTS
DOCKET NO. W-01445A-14-0305**

April 13, 2015

AWC Response Number: Globe 1.1

Q. Please provide documentary evidence supporting or refuting the City's allegations regarding the city providing service in the disputed area as described in Exhibit E in the City's Petition prior to 1961.

A. See General Objections. Arizona Water Company additionally objects to GLOBE 1.1 because it is vague, ambiguous and overbroad by not listing any specific allegation or fact to "support or refute" from a lengthy and rambling Petition.

Response provided by: William M. Garfield
Title: President and Chief Operating Officer
Address: 3805 North Black Canyon Highway
Phoenix, AZ 85015

**ARIZONA WATER COMPANY'S RESPONSES TO
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DOCKET NO. W-01445A-14-0305**

April 13, 2015

AWC Response Number: Globe 1.2

Q. Please provide the names of all Arizona Water Company employees who have worked in the Globe area since 1961 that have knowledge of the disputed areas and AWC's CC&N boundaries. This list should include at a minimum the managers of the area from 1961.

A. Without waiving its General Objections, Arizona Water Company states that there are no current Arizona Water Company employees that have worked in the Globe area since 1961. The most knowledgeable employees concerning the listed topic, other than Arizona Water Company's officers, are past and present managers for the Miami Division, which includes the disputed areas. Since 1961, managers have included: (1) George Ihrig (deceased), manager from 1955 to 1989, (2) Jerry Dixel, manager from June 1, 1989, to September 9, 1994, (3) Mark Kieren, manager from October 1, 1994 to January 1, 2004, and (3) Freddy Rios, manager from January 1, 2004 to present.

Response provided by:	William M. Garfield
Title:	President and Chief Operating Officer
Address:	3805 North Black Canyon Highway Phoenix, AZ 85015

ARIZONA WATER COMPANY'S RESPONSES TO
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DOCKET NO. W-01445A-14-0305

April 13, 2015

AWC Response Number: Globe 1.3

Q. Please provide each and every document, including electronic, sent to, received or created by any employee or consultant of AWC regarding the City of Globe since January 1, 2009.

A. *See General Objections.* This data request seeks information wholly unrelated to the issue of whether the City was providing service within Arizona Water Company's certificated area prior to 1961. Arizona Water Company further objects to GLOBE 1.3 because it is vague, ambiguous, overbroad and unduly burdensome, and constitutes a blanket request seeking information completely unrelated to any conceivable issue in the Petition.

Response provided by: William M. Garfield
Title: President and Chief Operating Officer
Address: 3805 North Black Canyon Highway
Phoenix, AZ 85015

**ARIZONA WATER COMPANY'S RESPONSES TO
CITY OF GLOBE'S FIRST SET OF DATA REQUESTS
DOCKET NO. W-01445A-14-0305**

April 13, 2015

AWC Response Number: Globe 1.4

- Q.** State each and every fact, premise or conclusion, and provide any documentary evidence in your possession that Globe was not serving customers before 1961 in the disputed areas.
- A.** See General Objections. The City, not Arizona Water Company, bears the burden of proving this allegation, and as of yet the City has not come forth with admissible evidence of this allegation. Without waiving the foregoing objection, based on Arizona Water Company's research and analysis, the City of Globe was not providing water service to the disputed areas in 1961. Related facts and evidence were provided in Arizona Water's notice of claims to the City dated August 1, 2012 and June 3, 2014.

Response provided by: Fredrick K. Schneider, P. E.
Title: Vice President - Engineering
Address: 3805 North Black Canyon Highway
Phoenix, AZ 85015

**ARIZONA WATER COMPANY'S RESPONSES TO
CITY OF GLOBE'S FIRST SET OF DATA REQUESTS
DOCKET NO. W-01445A-14-0305**

April 13, 2015

AWC Response Number: Globe 1.5

Q. Admit or deny that the City of Globe or some other entity was serving at least one customer in the disputed areas before 1961.

A. *See General Objections.* Further, the request for information concerning "some other entity" is irrelevant to the City's theory of the case. Without waiving the foregoing objections, to the extent the data request seeks an admission or denial that the City was providing water service in the disputed area in 1961, there has been no evidence presented of same by the City and Arizona Water Company has been unable to uncover any such evidence, and therefore denies the allegation.

Response provided by: Fredrick K. Schneider, P. E.
Title: Vice President - Engineering
Address: 3805 North Black Canyon Highway
Phoenix, AZ 85015

**ARIZONA WATER COMPANY'S RESPONSES TO
CITY OF GLOBE'S FIRST SET OF DATA REQUESTS
DOCKET NO. W-01445A-14-0305**

April 13, 2015

AWC Response Number: Globe 1.6

Q. Please provide any research undertaken by AWC or its consultants to determine that Globe was or was not serving customers in the disputed area in 1961.

A. *See General Objections.* Arizona Water Company does not bear the burden of proving a negative—the City must prove that it was providing service in 1961 versus AWC being obligated to disprove that proposition. Arizona Water Company objects to GLOBE 1.6 to the extent that it seeks confidential information protected under the attorney work-product doctrine. Without waiving the foregoing objections, Arizona Water Company directs the City to its response to GLOBE 1.4.

Response provided by: Fredrick K. Schneider, P. E.
Title: Vice President - Engineering
Address: 3805 North Black Canyon Highway
Phoenix, AZ 85015

ARIZONA WATER COMPANY'S RESPONSES TO
CITY OF GLOBE'S FIRST SET OF DATA REQUESTS
DOCKET NO. W-01445A-14-0305

April 13, 2015

AWC Response Number: Globe 1.7

- Q.** Please state and provide documentary evidence of when AWC became aware that Globe was serving in the disputed area.
- A.** See General Objections. This data request has no relation to the events of 1961 that are at issue in this case.

Response provided by: William M. Garfield
Title: President and Chief Operating Officer
Address: 3805 North Black Canyon Highway
Phoenix, AZ 85015

ARIZONA WATER COMPANY'S RESPONSES TO
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DOCKET NO. W-01445A-14-0305

April 13, 2015

AWC Response Number: Globe 1.10

- Q. Please provide any information, notes, documents or other evidence of instances when AWC encountered water shortages in the Globe area from 1961 to present.
- A. See General Objections. This information has nothing to do with the City's claims in this case or the basis for reopening the case under A.R.S. §40-252.

Response provided by: William M. Garfield
Title: President and Chief Operating Officer
Address: 3805 North Black Canyon Highway
Phoenix, AZ 85015

**ARIZONA WATER COMPANY'S RESPONSES TO
CITY OF GLOBE'S FIRST SET OF DATA REQUESTS
DOCKET NO. W-01445A-14-0305**

April 13, 2015

AWC Response Number: Globe 1.11

- Q. Please provide all requests for service AWC has received from land within the disputed areas. This should include instances when AWC refused service to potential customers.**
- A. See General Objections. This information has nothing to do with the City's claims in this case or the basis for reopening the case under A.R.S. §40-252. Without waiving the foregoing objection, Arizona Water Company states that as to requests for service in the northern disputed area, see the information provided to the City in Arizona Water Company's notice of claim dated June 3, 2014. Arizona Water Company has not received a request for service in the southern disputed area likely because the City is unlawfully providing service in that area and the customers have formed the impression that the City is the provider.

Response provided by: Fredrick K. Schneider, P. E.
Title: Vice President - Engineering
Address: 3805 North Black Canyon Highway
Phoenix, AZ 85015

**ARIZONA WATER COMPANY'S RESPONSES TO
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April 13, 2015

AWC Response Number: Globe 1.12

- Q.** Please provide details of the infrastructure AWC owns in the disputed areas that is used to serve customers.
- A.** See General Objections. This information has nothing to do with the City's claims in this case or the basis for reopening the case under A.R.S. §40-252. Without waiving the foregoing objection, Arizona Water Company directs the City to its responses to Staff's first and second set of data requests dated February 5, 2015 and February 18, 2015, respectively. Specifically, see Arizona Water Company's responses to STF 1.4, STF 1.6, STF 1.7, STF 1.9, STF 2.2, and STF 2.3, as well as their accompanying attachments.

Response provided by: Fredrick K. Schneider, P. E.
Title: Vice President - Engineering
Address: 3805 North Black Canyon Highway
Phoenix, AZ 85015

**ARIZONA WATER COMPANY'S RESPONSES TO
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April 13, 2015

AWC Response Number: Globe 1.13

- Q. Admit or Deny that the ACC made a mistake when they decided the CC&N expansion and issued Decision No. 33424.**
- A. *See General Objections. Arizona Water Company denies GLOBE 1.13. There is no evidence that any error or mistake occurred. In addition, to the extent the City is able to establish any error, the City is not entitled to the relief it seeks for the reasons set forth in Arizona Water Company's briefing on its motion to dismiss this proceeding.*

Response provided by: William M. Garfield
Title: President and Chief Operating Officer
Address: 3805 North Black Canyon Highway
Phoenix, AZ 85015

**ARIZONA WATER COMPANY'S RESPONSES TO
CITY OF GLOBE'S FIRST SET OF DATA REQUESTS
DOCKET NO. W-01445A-14-0305**

April 13, 2015

AWC Response Number: Globe 1.14

- Q.** If the answer to 1.13 was deny, please provide any information that AWC has that can prove the ACC did not make a mistake in granting the Decision in 1961.
- A.** See General Objections. The City bears the burden of proof on this allegation; Arizona Water Company does not have the burden of disproving it. The Commission's file is no longer available and Arizona Water Company believes that all fact witnesses are deceased.

Response provided by: William M. Garfield
Title: President and Chief Operating Officer
Address: 3805 North Black Canyon Highway
Phoenix, AZ 85015

**ARIZONA WATER COMPANY'S RESPONSES TO
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April 13, 2015

AWC Response Number: Globe 1.15

- Q. In AWC's June 3, 2014 Notice of Claim, AWC included an engineer estimate of the infrastructure needed for AWC to serve the disputed area. Please provide all back up material to that document, the methodology used to come up with the document and who prepared the document.**
- A. See General Objections. This information has nothing to do with the City's claims in this case or the basis for reopening the case under A.R.S. §40-252.**

Response provided by: William M. Garfield
Title: President and Chief Operating Officer
Address: 3805 North Black Canyon Highway
Phoenix, AZ 85015

ARIZONA WATER COMPANY'S RESPONSES TO
CITY OF GLOBE'S FIRST SET OF DATA REQUESTS
DOCKET NO. W-01445A-14-0305

April 13, 2015

AWC Response Number: Globe 1.16

- Q. In both of AWC's notices of claim, AWC proposes a dollar amount that is owed for lost revenue. Please provide all back up material of how AWC arrived at the dollar amount, the methodology used to ascertain that number and who prepared the number.
- A. See General Objections. This information has nothing to do with the City's claims in this case or the basis for reopening the case under A.R.S. §40-252.

Response provided by: William M. Garfield
Title: President and Chief Operating Officer
Address: 3805 North Black Canyon Highway
Phoenix, AZ 85015

ARIZONA WATER COMPANY'S RESPONSES TO
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DOCKET NO. W-01445A-14-0305

April 13, 2015

AWC Response Number: Globe 1.17

Q. Please provide a list of the customers that AWC serves in the disputed areas.

A. See General Objections. Without waiving these objections, Arizona Water Company directs the City to its responses to Staff's first set of data requests dated February 5, 2015. Specifically, see Arizona Water Company's responses to STF 1.8 and 1.9.

Response provided by: Fredrick K. Schneider, P. E.
Title: Vice President - Engineering
Address: 3805 North Black Canyon Highway
Phoenix, AZ 85015

**ARIZONA WATER COMPANY'S RESPONSES TO
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April 13, 2015

AWC Response Number: Globe 1.18

- Q.** AWC provided Globe with a map purported to be from 1983. Please provide the origins of this map.
- A.** See General Objections. Without waiving this objection, the map referred to in this data request was received by Arizona Water Company's Phoenix Office on August 20, 1981, as evidenced by the date stamp in the lower right hand corner. It appears to have been last updated by the City of Globe or its consultant on December 10, 1980, as evidenced by the revised date in the lower left hand corner of the map.

Response provided by: Fredrick K. Schneider, P. E.
Title: Vice President - Engineering
Address: 3805 North Black Canyon Highway
Phoenix, AZ 85015

**ARIZONA WATER COMPANY'S RESPONSES TO
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April 13, 2015

AWC Response Number: Globe 1.19

- Q.** Please provide any communication, electronic or otherwise, between Arizona Water Company and its California office, including the Board of Directors and/or the Chairman and CEO, regarding Globe and the disputed areas since January 1, 2010.
- A.** See General Objections. This information has nothing to do with the City's claims in this case or the basis for reopening the case under A.R.S. §40-252. Further, Arizona Water Company objects to this data request to the extent it seeks attorney-client privileged communications and attorney-work product.

Response provided by: William M. Garfield
Title: President and Chief Operating Officer
Address: 3805 North Black Canyon Highway
Phoenix, AZ 85015

**ARIZONA WATER COMPANY'S RESPONSES TO
CITY OF GLOBE'S FIRST SET OF DATA REQUESTS
DOCKET NO. W-01445A-14-0305**

April 13, 2015

AWC Response Number: Globe 1.20

- Q.** Please provide any material prepared for or presented to the AWC Board of Directors and/or its Chairman regarding Globe. This request includes any and all board agendas, minutes etc from 1961 to present.
- A.** See General Objections. This information has nothing to do with the City's claims in this case or the basis for reopening the case under A.R.S. §40-252. Further, Arizona Water Company objects to this data request to the extent it seeks attorney-client privileged communications and attorney-work product.

Response provided by: William M. Garfield
Title: President and Chief Operating Officer
Address: 3805 North Black Canyon Highway
Phoenix, AZ 85015