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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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AZ CORP COMMISSION
DOCKET CONTROL

Arizona Corporation Commission

DOCKETED

JUN 04 2015

DOCKETED BY
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DOCKET NO. W-03510A-13-0397

IN THE MATTER OF THE APPLICATION OF
CIRCLE CITY WATER COMPANY, L.L.C. FOR
APPROVAL TO DELETE PORTIONS OF ITS
CERTIFICATE OF CONVENIENCE AND
NECESSITY AND TO DELETE A
REQUIREMENT SET FORTH IN DECISION NO.
68246.

PROCEDURAL ORDER
(Reschedules Procedural Conference)

BY THE COMMISSION:

On November 19, 2013, Circle City Water Company, L.L.C. ("Circle City" or the "Company") filed with the Arizona Corporation Commission ("Commission") an application requesting approval to delete portions of its Certificate of Convenience and Necessity ("CC&N") and to delete the requirement for Circle City to demonstrate in its next rate case filing that its existing customers have been positively impacted by the addition of new water facilities necessary to serve the extension area, adopted in Decision No. 68246 (October 25, 2005). Circle City's application requests deletion of portions of its CC&N encompassing two developments known as Lake Pleasant 5000 and Warrick 160. Circle City's application states that the developments are not viable and that service in the CC&N area will not be necessary in the foreseeable future.

On December 11, 2013, Lake Pleasant 5000, L.L.C. ("LP5K") filed an Application for Leave to Intervene, stating that its development partners own the property Circle City wishes to delete and that LP5K had entered into a Water Facilities Agreement ("WFA") with Circle City under which LP5K has paid \$67,782.61 to Circle City.

On December 31, 2013, by Procedural Order, intervention was granted to LP5K.

On January 9, 2014, Rex G. Maughan and Ruth G. Maughan, Trustees of the Maughan Revocable Trust of 2007 ("MRT"), filed an Application for Leave to Intervene, stating that MRT is an owner of the development master plan known as Lake Pleasant 5000 and that MRT's development

1 partners entered into a WFA with Circle City under which MRT has paid \$67,782.61 to Circle City.

2

3 On March 12, 2014, by Procedural Order, intervention was granted to MRT.

4 On September 29, 2014, LP5K filed a Notice of Filing a letter from the principals of LP5K to
5 Circle City.

6 On October 17, 2014, the Commission's Utilities Division ("Staff") filed a Staff Report,
7 recommending denial of the Company's application to delete portions of its CC&N, but
8 recommending approval of deletion of the requirement contained in Decision No. 68246 regarding
9 the new water facilities.

10 On October 21, 2014, Staff filed an amended Staff Report, correcting typographical errors
11 contained within the report. Staff's recommendations remained unchanged.

12 On October 23, 2014, Circle City filed a Motion and Request for Procedural Conference,
13 requesting that the matter be set for hearing and that other procedural deadlines be established.

14 On October 28, 2014, by Procedural Order, a procedural conference was scheduled for
15 November 10, 2014, to discuss a procedural schedule for this matter.

16 On November 10, 2014, a Procedural Conference was held. The Company, LP5K, MRT
17 ("the parties"), and Staff appeared through counsel. Discussions were held regarding the appropriate
18 procedural schedule for this matter. The parties agreed to engage in settlement discussions and to file
19 an update with the Commission as to the outcome of those discussions within 30 days of the
20 procedural conference. The parties also agreed that this matter should be set for hearing.

21 On December 10, 2014, a Procedural Order was issued scheduling an evidentiary hearing to
22 commence on March 2, 2015; requiring the filing of direct testimony and responsive testimony by
23 January 16, 2015, and January 30, 2015, respectively; and establishing other procedural deadlines.

24 On December 19, 2014, Circle City filed a Resolution Approving Representation.

25 On December 29, 2014, Circle City filed a Status Update of Settlement Negotiations. Circle
26 City's Status Update stated that the parties had engaged in settlement negotiations; that MRT had issued
27 and signed a "good faith" "best and final" settlement proposal letter; that the settlement proposal
28 letter proffered settlement inclusive of LP5K, but was only signed by counsel for MRT; and that

1 further efforts to clarify MRT's settlement proposal remained incomplete and/or unclear. Circle
2 City's filing also stated that settlement of the issues was not precluded in the future.

3 On the same date, LP5K filed a Status Update. LP5K's Status Update indicated that
4 settlement was possible and requested that the procedural schedule be suspended to allow for further
5 settlement discussions.

6 On January 6, 2015, Staff filed a Notice of Filing Direct Testimony.

7 On January 9, 2015, Staff filed a Response to Status Update, stating that based on the
8 representations made by the other parties regarding on-going settlement negotiations, Staff had no
9 objection to suspending the procedural schedule.

10 On January 13, 2015, Circle City docketed a response to LP5K's request to suspend the
11 procedural schedule. Circle City stated that the Company agrees with LP5K's request to suspend the
12 procedural schedule, but requested that the procedural schedule only be suspended until January 30,
13 2015, and not indefinitely.

14 On January 13, 2015, by Procedural Order, the evidentiary portion of the hearing was vacated,
15 the March 2, 2015, hearing date was retained only for the purpose of taking public comments, and the
16 timeclock remained suspended.

17 On January 14, 2015, Circle City filed a Notice of Filing Brooke Utilities, Inc.'s Response to
18 Intervener Status Update.¹

19 On February 23, 2015, Circle City filed a Request to Modify Procedural Order to Reschedule
20 Public Comment Session.

21 On February 26, 2015, Staff filed its Response to Request to Modify Procedural Order to
22 Reschedule Public Comment Session.

23 On March 2, 2015, a public comment proceeding was held as scheduled. LP5K, MRT, and
24 Staff appeared through counsel. Circle City failed to appear. No members of the public were present
25 to give comments on the application. It was determined during the proceeding that LP5K would
26 update the Commission on the status of the settlement negotiations by March 27, 2015.

27 _____
28 ¹ Robert Hardcastle is the owner of both Brooke Utilities, Inc. and Circle City. Although the caption included Brooke Utilities, the issues discussed in the pleading related to the issues raised in Circle City's application.

1 On March 27, 2015, LP5K filed a Status Update, stating that LP5K and MRT had submitted a
2 settlement offer to Circle City on February 17, 2015; that the parties had discussed the proposed
3 settlement offer on March 24, 2015; and that the parties had agreed to submit another update to the
4 Commission by April 6, 2015.

5 On April 6, 2015, LP5K filed a Status Update, stating that LP5K had not had any further
6 discussions with Circle City and that LP5K anticipated filing a motion to dismiss Circle City's
7 application in this docket.

8 On April 17, 2015, Circle City filed a Status Update and Request to Set Procedural
9 Conference. Circle City's filing stated that negotiations had ceased on April 6, 2015; that Circle City
10 believed it was reasonable to conclude that LP5K had no interest in further negotiations; and that
11 Circle City had rejected LP5K's February 11, 2015, settlement offer. Therefore, Circle City
12 concluded that settlement negotiations had failed and requested that a procedural conference be held
13 to discuss a hearing date in this matter.

14 On April 28, 2015, by Procedural Order, a procedural conference was scheduled to be held on
15 May 8, 2015.

16 On May 5, 2015, Circle City filed a Request for Continuance of Procedural Conference,
17 stating that the owner for the Company had "a personal scheduling conflict" and proposing
18 alternative dates for the procedural conference to be held.

19 On May 6, 2015, Staff filed a Response to Motion to Continue Procedural Conference, stating
20 that Staff had no objection to the Company's request and clarifying Staff's available dates to attend a
21 future procedural conference.

22 On May 7, 2015, by Procedural Order, the May 8, 2015, procedural conference was
23 rescheduled to be held on June 8, 2015.

24 On May 27, 2015, LP5K filed a Request to Reschedule Procedural Conference Date
25 ("Request"), stating that counsel for LP5K has a medical related scheduling conflict for the June 8,
26 2015, procedural conference and requesting that the procedural conference be rescheduled for a
27 future date.

28 Because counsel for LP5K has asserted good cause for the Request, the procedural conference

1 scheduled for June 8, 2015, should be rescheduled. However, no further requests to continue the
2 procedural conference shall be granted unless good cause and extenuating circumstances are
3 demonstrated. Further, all parties are expected appear personally at the rescheduled procedural
4 conference. The parties are reminded that A.R.S. § 40-424 and Arizona Administrative Code
5 (“A.A.C.”) R-14-3-104 (F) allows the Commission to assess fines for contemptuous conduct.

6 **IT IS THEREFORE ORDERED that the procedural conference scheduled for June 8,**
7 **2015, at 10:00 a.m., shall be continued to August 11, 2015, at 10:00 a.m.,** at the Commission’s
8 offices, 1200 West Washington Street, Hearing Room No. 1, Phoenix, AZ 85007.

9 **IT IS FURTHER ORDERED that no further requests to continue the August 11, 2015,**
10 **procedural conference shall be granted unless good cause and extenuating circumstances are**
11 **demonstrated.**

12 **IT IS FURTHER ORDERED that all parties are expected to appear personally at the**
13 **August 11, 2015, procedural conference.**

14 **IT IS FURTHER ORDERED that the timeclock in this matter remains suspended.**

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

27 ...

28 ...

1 IT IS FURTHER ORDERED that the Presiding Officer may rescind, alter, amend, or waive
2 any portion of this Procedural Order either by subsequent Procedural Order or by ruling at hearing.

3 DATED this 4th day of June, 2015.

4 
5 YVETTE B. KINSEY
6 ADMINISTRATIVE LAW JUDGE

7 Copies of the foregoing mailed/emailed
8 this 4th day of June, 2015 to:

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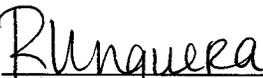
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