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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

DOUG LITTLE - Chairman
BOB STUMP
BOB BURNS
TOM FORESE
ANDY TOBIN

Arizona Corporation Commission

DOCKETED

MAY 17 2016

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AZ CORP COMMISSION
DOCKET CONTROL

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

DOCKET NO. W-01445A-14-0305

PROCEDURAL ORDER
(Schedules Hearing)

BY THE COMMISSION:

On September 20, 1961, the Arizona Corporation Commission ("Commission") issued Decision No. 33424, granting Arizona Water Company ("AWC" or "Company") a Certificate of Convenience and Necessity ("CC&N") to serve various areas in Gila County, Arizona.

On August 18, 2014, the City of Globe ("Globe" or "City") filed a Petition to Amend Decision No. 33424 Pursuant to Arizona Revised Statutes ("A.R.S.") § 40-252, requesting that the Commission "correct Decision No. 33424" and remove portions of AWC's CC&N that the City states it has provided water service to since the early 1900s.

At the Commission's Staff Meeting on October 16, 2014, the Commissioners voted to reopen Decision No. 33424 pursuant to A.R.S. § 40-252 and instructed the Commission's Hearing Division to conduct further proceedings on the matter. As a party to Decision No. 33424, and pursuant to Arizona Administrative Code ("A.A.C.") R14-3-106(J), AWC is a party to this proceeding.

Since that time, five procedural conferences have been held, direct testimonies on behalf of AWC and Globe have been filed, and two Staff Reports have been docketed. Additionally, hearing dates have been set and then vacated at the parties' request.¹

On April 20, 2016, Globe and AWC filed a Status Update and Request for Telephonic Procedural Conference, attaching a copy of a signed settlement agreement² and a joint proposed form

¹ For a more complete procedural history, please reference the April 27, 2016, Procedural Order.

² The settlement agreement divides the area in question into the U.S. Highway 60 Northern Disputed Area, to be served by Globe pursuant to a license from AWC, and the Arlington Heights Southern Disputed Area, newly to be served by AWC.

1 of notice. The filing requested a telephonic procedural conference to discuss procedural steps in order
2 to resolve the matter.

3 On April 27, 2016, by Procedural Order, a telephonic procedural conference was set for May
4 4, 2016.

5 On May 4, 2016, the telephonic procedural conference was held as scheduled with Globe,
6 AWC, and Staff each appearing through counsel. The parties discussed timeframes for an
7 informational session at Globe City Hall regarding the settlement agreement, potential hearing dates,
8 and the publication of notice. The parties stated that they did not believe either pre-filed testimony or
9 Staff testimony would be necessary. The parties further indicated that the transfer of water service
10 from Globe to AWC had already begun, and that continued action pursuant to the settlement agreement
11 would occur concurrent with the procedural schedule set forth in this matter. AWC and Globe were
12 directed to file copies of the notices each party had mailed to the customers affected by the settlement
13 agreement. At the conclusion of the procedural conference, the parties were told that their proposals
14 would be taken under advisement for resolution in a Procedural Order.

15 On May 5, 2016, AWC and Globe each filed copies of the notice letters sent to the customers
16 affected by the settlement agreement. The AWC notice letter for the U.S. Highway 60 Northern
17 Disputed Area does not state the rates that will apply. The AWC notice letter for the Arlington Heights
18 Southern Disputed Area customers provides new rates but does not compare those rates to current rates.
19 The Globe letter sent to the Arlington Heights Southern Disputed Area customers speaks to blocking
20 sewer lines and removing garbage containers for unpaid bills, without specifying whether those unpaid
21 bills could be AWC bills. The settlement agreement itself does not set forth the rates, charges, and
22 terms of service to apply in either of the Disputed Areas.

23 On May 6, 2016, by Procedural Order, AWC and Globe were directed to file information
24 specifying the rates, charges, and terms of service applicable to customers in the Northern and Southern
25 Disputed Areas under the settlement agreement; the rates and charges the affected customers are
26 currently paying; and the bill impacts that will result to customers in each Disputed Area with average
27 and median usage.

28 On May 13, 2016, AWC and Globe docketed a Notice of Joint Filing with exhibits attached

1 reflecting bill impacts to customers in the Northern and Southern Disputed Areas under the settlement
2 agreement, AWC's tariffs applicable to existing and new customers in the Northern and Southern
3 Disputed Areas, Globe's utilities and special services rate schedule, Globe's ordinances related to
4 water/sewer rates, and a Globe resolution relating to fees for additional units utilizing water/sewer
5 service.

6 While AWC and Globe have made filings required by the Procedural Order of May 6, 2016,
7 additional filings are necessary to address the propriety of having Globe's rates charged in AWC's
8 CC&N service area; the reasonableness of the sale price paid for the infrastructure being transferred to
9 AWC, and how the price was determined; and whether and, if so, why the settlement agreement is in
10 the public interest.

11 Although the issue of charging Globe's rates in AWC's CC&N service area may ultimately
12 need to be briefed, it is reasonable and appropriate to require AWC, Globe, and Staff to file testimony
13 addressing these issues and providing any other information that any party believes to be relevant to
14 the Commission's considerations in this matter before the hearing is held.

15 IT IS THEREFORE ORDERED that the **hearing in this matter shall commence on June 28,**
16 **2016, at 10:00 a.m.,** at the Commission's offices, 1200 West Washington Street, **Hearing Room No.**
17 **1,** Phoenix, Arizona 85007.

18 IT IS FURTHER ORDERED that **AWC, Globe, and Staff shall each file testimony** including
19 the information discussed herein on or before **June 13, 2016.**

20 IT IS FURTHER ORDERED that **intervention** shall be in accordance with A.A.C. R14-3-105,
21 except that all motions to intervene must be filed on or before **June 17, 2016.**

22 IT IS FURTHER ORDERED that any **objections to intervention** shall be filed on or before
23 **June 24, 2016.**

24 ...
25 ...
26 ...
27 ...
28 ...

1 IT IS FURTHER ORDERED that **Globe shall provide public notice** of the hearing in this
 2 matter, in the following form and style, with the heading in no less than 12-point bold type and the
 3 body in no less than 10-point regular type:

4 **PUBLIC NOTICE OF THE HEARING ON THE**
 5 **SETTLEMENT AGREEMENT IN THE MATTER OF THE APPLICATION**
 6 **OF THE CITY OF GLOBE FOR APPROVAL TO**
 7 **AMEND DECISION NO. 33424 PURSUANT TO A.R.S. § 40-252**
 8 **(DOCKET NO. W-01445A-14-0305).**

9 **Summary**

10 On September 20, 1961, the Arizona Corporation Commission (“Commission”) issued
 11 Decision No. 33424, granting Arizona Water Company (“AWC”) a Certificate of
 12 Convenience and Necessity (“CC&N”) to serve various areas in Gila County, Arizona.

13 On August 18, 2014, the City of Globe (“Globe”) filed with the Commission an
 14 application requesting approval to amend Decision No. 33424 by removing from
 15 AWC’s CC&N two areas to which Globe stated it has provided water service since the
 16 early 1900s.

17 Since the filing of the application, Globe and AWC have engaged in settlement
 18 discussions which resulted in a settlement agreement. Relevant terms of the settlement
 19 agreement include the following:

- 20 • The Southern Disputed Area, more commonly known as Arlington Heights,
 21 encompassed in portions of Section 26, Township 1 North, Range 15 East, is
 22 within AWC’s CC&N and has 48 customers to whom Globe provides public
 23 utility water service. Under the terms of the settlement agreement, the customers
 24 in the Southern Disputed Area will transition to receive water service from
 25 AWC, under AWC’s Commission-approved rates.
- 26 • The Northern Disputed Area, adjoining U.S. Highway 60 and near Pinaleno Pass
 27 Road, Pinal Creek Road, and the railroad tracks located north of U.S. Highway
 28 60 in portions of Section 23, Township 1 North, Range 15 East, is within AWC’s
 CC&N and has 14 customers to whom Globe provides public utility water
 service. Under the terms of the settlement agreement, the customers in the
 Northern Disputed Area will continue to receive water service from Globe via a
 license granted by AWC and will continue to pay Globe’s rates and charges.
- AWC shall purchase Globe’s water distribution infrastructure in the Southern
 Disputed Area and along U.S. Highway 60 in the Northern Disputed Area.
- Under the settlement agreement, the monthly bill for a residential customer with
 average or median usage in the Southern Disputed Area within the city limits
 will be reduced by approximately \$1.33 or \$1.32, respectively; the monthly bill
 for a residential customer with average or median usage in the Southern
 Disputed Area outside the city limits will be reduced by approximately \$21.81
 or \$20.22, respectively; and the monthly bill for a residential customer in the
 Northern Disputed Area will remain approximately the same.

The Commission will issue a Decision regarding the settlement agreement following
 consideration of testimony and evidence presented at an evidentiary hearing.

1 **How You Can View or Obtain a Copy of the Settlement Agreement**

2 Copies of the settlement agreement are available from Globe [**Globe INSERT HOW**
3 **AND WHERE AVAILABLE**]; from AWC [**AWC INSERT HOW AND WHERE**
4 **AVAILABLE**]; at the Commission's Docket Control Center at 1200 West Washington,
Phoenix, Arizona 85007, for public inspection during regular business hours; and on the
Internet via the Commission's website (www.azcc.gov) using the e-Docket function.

5 Globe and AWC have sent letters to the customers who are believed to be potentially
6 affected by the settlement agreement.

6 **Arizona Corporation Commission Public Hearing Information**

7 The Commission will hold a hearing on this matter beginning **June 28, 2016, at 10:00**
8 **a.m.**, at the Commission's offices, Hearing Room No. 1, 1200 West Washington Street,
Phoenix, Arizona 85007. Public comments will be taken on the first day of hearing.

9 Written public comments may be submitted by mailing a letter referencing Docket No.
10 W-01445A-14-0305 to Arizona Corporation Commission, Consumer Services Section,
1200 West Washington, Phoenix, AZ 85007, or by submitting comments on the
11 Commission's website (www.azcc.gov) using the "Submit a Public Comment for a
Utility" function. If you require assistance, you may contact the Consumer Services
12 Section at 602-542-4251 or 1-800-222-7000.

13 Additionally, Globe and AWC will hold an informational session regarding the
settlement agreement at Globe City Hall on [**INSERT**], 2016, at [**INSERT**] p.m. The
14 address for Globe City Hall is [**Globe INSERT WHERE**].

15 **About Intervention**

16 The law provides for an open public hearing at which, under appropriate circumstances,
interested persons may intervene. An interested person may be granted intervention if
17 the outcome of the case will directly and substantially impact the person, and the
person's intervention will not unduly broaden the issues in the case. Intervention,
among other things, entitles a party to present sworn evidence at hearing and to cross-
18 examine other parties' witnesses. However, failure to intervene will not preclude any
interested person or entity from appearing at the hearing and providing public comment
on the application or from filing written comments in the record of the case.

19 To request intervention, you must file **an original and 13 hard copies** of a written
20 request to intervene with Docket Control, 1200 West Washington Street, Phoenix, AZ
85007, **no later than June 17, 2016**. You also **must** serve a copy of the request to
21 intervene on each party of record, on the same day that you file the request to intervene
with the Commission. Information about intervention and sample intervention requests
22 are available on the Commission's website (www.azcc.gov) using the "Intervention in
Utility Cases" link.

23 Your request to intervene must contain the following:

- 24
- 25 1. Your name, address, and telephone number and the name, address, and
26 telephone number of any person upon whom service of documents is to be
made, if not yourself;
 - 27 2. A reference to **Docket No. W-01445A-14-0305**;
 - 28 3. A short statement of your interest in the proceeding (e.g., a customer or
potential customer of AWC, a customer of Globe, etc.), how you will be directly

1 and substantially affected by the outcome of the case, and why your intervention
will not unduly broaden the issues in the case;

- 2 4. A statement certifying that a copy of the motion to intervene has been mailed
3 to Globe and AWC or their counsel and to all parties of record in the case; and
- 4 5. If you are not represented by an attorney who is an active member of the Arizona
5 State Bar, and you are not representing yourself as an individual, information
6 and any appropriate documentation demonstrating compliance with Arizona
7 Supreme Court Rules 31, 38, 39, and 42, as applicable.

8 The granting of motions to intervene shall be governed by A.A.C. R14-3-105, except
9 that all motions to intervene must be filed on or before **June 17, 2016**. If representation
10 by counsel is required by Arizona Supreme Court Rule 31, intervention will be
11 conditioned upon the intervenor obtaining counsel to represent the intervenor.

12 **ADA/Equal Access Information**

13 The Commission does not discriminate on the basis of disability in admission to its
14 public meetings. Persons with a disability may request a reasonable accommodation
15 such as a sign language interpreter, as well as request this document in an alternative
16 format, by contacting the ADA Coordinator, Shaylin Bernal, E-mail
17 SAbernal@azcc.gov, voice phone number 602-542-3931. Requests should be made as
18 early as possible to allow time to arrange the accommodation.

19 IT IS FURTHER ORDERED that **Globe shall, by May 27, 2016, publish** the above notice in
20 newspaper/s of general circulation in the Northern Disputed Area and Southern Disputed Area and
21 **send a copy of the above notice** to each affected customer in the Northern Disputed Area and Southern
22 Disputed Area.

23 IT IS FURTHER ORDERED that **Globe shall, by June 10, 2016, file certification of**
24 **publication and mailing** of the above notice.

25 IT IS FURTHER ORDERED that notice shall be deemed complete upon publication,
26 notwithstanding the failure of an individual to read the notice.

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

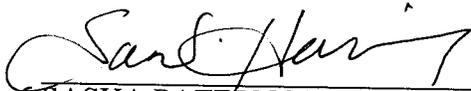
IT IS FURTHER ORDERED that all parties must comply with Arizona Supreme Court Rules
31, 38, 39, and 42 and A.R.S. § 40-243 with respect to practice of law and admission *pro hac vice*.

IT IS FURTHER ORDERED that withdrawal of representation must be made in compliance
with A.A.C. R14-3-104(E) and Rule 1.16 of the Rules of Professional Conduct (under Arizona
Supreme Court Rule 42). Representation before the Commission includes appearances at all hearings

1 and procedural conferences, as well as all Open Meetings for which the matter is scheduled for
2 discussion, unless counsel has previously been granted permission to withdraw by the Administrative
3 Law Judge or the Commission.

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

7 DATED this 17th day of May, 2016.

8
9 
10 for SASHA PATERNOSTER
ADMINISTRATIVE LAW JUDGE

11 Copies of the foregoing mailed/delivered
12 this 17th day of May, 2016 to:

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