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BEFORE THE ARIZONA CORPORATION COMMISSION

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APR 13 2018

DOCKETED BY

IN THE MATTER OF THE APPLICATION OF
 BROOKE WATER, LLC, AN ARIZONA
 LIMITED LIABILITY COMPANY, FOR A
 DETERMINATION OF THE FAIR VALUE
 OF ITS UTILITY PLANTS AND PROPERTY
 AND FOR INCREASES IN ITS WATER
 RATES AND CHARGES FOR UTILITY
 SERVICE BASED THEREON.

DOCKET NO. W-03039A-I7-0295

**STAFF'S MOTION TO COMPEL
 RESPONSES TO
 STAFF'S DATA REQUESTS
 (Expedited Oral Argument Requested)**

I. INTRODUCTION.

The Utilities Division ("Staff") of the Arizona Corporation Commission ("Commission") hereby files a Motion to Compel Brooke Water, LLC ("Brooke") to fully and completely respond to the Staff Data Requests identified below so that Staff has the necessary information to move forward with its Direct Testimony in this case. In a separate filing, Staff will be requesting a three week extension of time, from the date of the procedural order resolving this Motion to Compel, to file its Direct Testimony. Staff is also requesting, in a separate Motion, that the remainder of the case be put on an expedited track so that the existing hearing dates can be maintained. Staff will propose a modified schedule at the hearing in this matter for the ALJ's consideration.

II. BACKGROUND.

To understand Staff's Data Requests, it is necessary to understand the affiliate structure of Brooke and Circle City Water Company, LLC ("Circle City"). While Brooke is a small Class D water utility, in many ways it is not your typical Class D water company. It is part of a multi-layered and opaque corporate/affiliate structure with affiliated and unaffiliated (but with some commonality of ownership) entities incorporated/located in California and Costa Rica. Attached is a revised organizational chart recently provided by Brooke in a supplemental response to STF 1.6 that shows some of the entities affiliated with and providing services to Brooke and Circle City ("Exhibit A"). The original affiliate organizational chart provided to Staff is much different. (See "Exhibit B") Many

1 of the Staff Data Requests that remain unanswered have to do with these affiliated and unaffiliated
2 entities and their provision of a myriad of services to Brooke and Circle City.

3 On various dates in 2017 and 2018, Staff propounded approximately 18 sets of Data Requests
4 to Brooke concerning various aspects of its rate application. As discussed below, Brooke has refused
5 to respond to certain Staff Data Requests involving charges from its affiliates and nonaffiliates (with
6 some commonality of ownership). Brooke has refused to provide cost information for affiliates or
7 related companies that share some common ownership, such as and including Jaco Oil Company (a
8 California company) and Lightstorm, S.A. (A Costa Rica company). These related companies are
9 providing services to and are charging Brooke.

10 The information sought would allow Staff to assess the reasonableness of various expenses
11 claimed; to independently verify expenses that have been claimed and to obtain additional information
12 on the affiliate structure of Brooke to determine whether its operations are actually in the best in the
13 best interest of its customers. At various times, Staff and Brooke discussed options that Brooke was
14 considering and that would be an acceptable alternative to the information requested. However, no
15 acceptable alternative was ever presented. The latest effort was approximately two weeks ago when
16 the Utilities Division Director asked that a meeting be arranged between Brooke technical
17 representatives and Staff on the issues in dispute in a last attempt to see if resolution was possible.
18 Unfortunately, very little progress was made at that meeting on obtaining affiliate/related company cost
19 data.

20 The Data Requests that are the subject of this Motion to Compel are: Data Request Nos. STF
21 6.1, STF 6.2, STF 6.9, STF 9.4, STF 11.3, STF 11.5, STF 14.4(b) and (c), STF 16.15 and 16.18, STF
22 18.1-18.3, STF 18.8, 18.10, 18.14 and 18.18¹ Brooke has objected to responding to many of these
23 requests altogether. A copy of these Data Requests and Brooke's Responses are attached as Exhibit C.
24 For the reasons set forth herein, Staff seeks an order from the Commission compelling Brooke to
25 respond to the Data Requests no later than 10 days from the date of the procedural order resolving
26 Staff's Motion to Compel.

27 ¹ To the extent Staff finds other data requests that have not been fully responded to, Staff will raise
28 those as well at the hearing.

1 **III. DISCUSSION.**

2 **A. STF 6.1, 6.2 and 6.9.**

3 The call center Brooke uses to process customer payments and take customer inquiries is an
4 entity called Lightstorm S.A. ("Lightstorm") and is located in Costa Rica. In Brooke's initial affiliate
5 organizational chart provided in response to STF 1.6, Brooke listed Lightstorm as an affiliate of Jaco
6 Oil and Brooke. However, in its new organizational chart provided a few weeks ago, Brooke claims
7 that Lightstorm is not an affiliate of Brooke or Jaco Oil, but is rather separately owned by Tom
8 Jamieson and FastTrip Food Stores of Fresno, Inc. (See Supplemental Response to STF 1.6).
9 Notwithstanding this rather significant change, it is clear that Lightstorm still does share some
10 commonality of ownership with Jaco Oil and Brooke, since Tom Jamieson who owns Jaco Oil and
11 Fastrip Food Stores of Fresno, Inc. is an effective 10% owner of Brooke based upon information Staff
12 has at this time. Brooke stated in response to STF 8.6 that it located Lightstorm in Costa Rica in 2008
13 because it was much cheaper than the alternatives in the United States.

14 Lightstorm has charged and/or allocated costs to Brooke for the 2016 test year in this case, costs
15 that Brooke has included in its proposed revenue requirement for this case. In STF 6.1, Staff requested
16 accounting information from Brooke for the years 2015, 2016, and 2017 for Lightstorm. Brooke's
17 response to STF 11.3 (a) states that Lightstorm prepares financial statements each month. Similarly,
18 in STF 6.2 Staff seeks information relating to Lightstorm's allocation of costs to Brooke. And, in STF
19 6.9, Staff requested the names of all entities that utilize the Costa Rica call center and the functions it
20 performs for each entity so that Staff could ensure the allocations to Brooke were fair and reasonable.
21 In a supplemental response to STF 6.9, Brooke indicated that there were six other entities that utilize
22 the Costa Rica call center.

23 However, Brooke has refused to provide the financial/accounting information that Staff
24 requested in STF 6.1, 6.2 and 6.9, on the basis that Brooke is a Class D utility, and is not subject to the
25 Commission's affiliated interest rules, and the financial and accounting information for its affiliate,
26 Lightstorm, is not relevant to this case.

1 Both of Brooke's reasons for refusing to provide the accounting information for Lightstorm
2 (which Brooke admits is prepared monthly) should be rejected by the Commission.

3 First, Brooke argues that, since it is a Class D utility and not subject to the Commission's
4 affiliate interest rules, it should not have to produce accounting records prepared by Lightstorm, owned
5 by Tom Jamieson who also has an interest in Brooke. This argument misses the point. Staff is not
6 seeking information from Brooke under the affiliate interest rules or that Brooke would have to report
7 if it were subject to the affiliate reporting rules. Staff is seeking this information in order to determine
8 whether Lightstorm's charges to Brooke are fair and reasonable and whether the rates being paid by
9 Brooke customers are just and reasonable. Having the Lightstorm cost information and information to
10 support the allocations made by Lightstorm to Brooke and to the various entities to which Lightstorm
11 provides services, is needed to verify the reasonableness and prudence of the costs that are being
12 charged to Brooke.

13 Second, Brooke argues that the accounting information that Staff seeks is not relevant. This
14 argument should also be rejected. As noted above, Lightstorm provides a customer call center and
15 other services to Brooke for which Brooke is seeking cost recovery from its customers in this case.
16 Brooke stated in a supplement to STF 6.1 that as of 2018, Lightstorm provides financial, accounting,
17 customer service, operation, management, and information technology services to six (6) Jaco entities
18 as well. Brooke also states that Lightstorm currently has a total of 22 employees, six of which provide
19 services directly related to Brooke and Circle City. Unless Staff can examine the accounting records
20 it seeks from Brooke through this request, Staff cannot determine whether the costs being allocated by
21 Lightstorm to Brooke are reasonable and justified. It is difficult to think of a more relevant inquiry;
22 this information is certainly relevant and would be directly admissible.

23 Brooke has recently added to its arguments (apparently using the new affiliate chart as the basis)
24 that Brooke has no control over Lightstorm and no knowledge of what Lightstorm may have in its
25 possession, because it is owned by Tom Jamieson and FastTrip Foods of Fresno. This argument is
26 troubling at best. Brooke should not be allowed to evade providing information needed by Staff and
27 the Commission to determine whether Brooke's rates are just and reasonable because it apparently
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1 fashioned its corporate/affiliated structure in a way to shield relevant documents and information from
2 production. Staff is typically able to get this type of information directly from a utility without any
3 problem in a rate case. The Commission should direct Brooke to produce the information.

4 **B. STF 9.4.**

5 Brooke in its direct case has requested recognition of federal income tax expense as a pass-
6 through entity. Under the Commission's new policy, consideration will be given to Class D and E
7 utilities that request pass-through treatment. In STF 9.4, Staff asked whether Schedules K-1s for tax
8 years 2015 or 2016 were prepared and/or filed for any of the owners listed on the Brooke ownership
9 chart (*See Exhibit B*) and, if not, why not, and, if so, to provide copies of the K-1s. The Schedule K-
10 1s are a schedule provided to each owner that is prepared with and attached to the business tax return
11 (form 1065 for a partnership, and/or form 1120-S for a subchapter S corporation) showing the
12 allocation of the business's taxable income, tax deductions, and tax attributes to the owners. Brooke's
13 response to STF 9.3 (d) states that Brooke is a partnership for federal income tax purposes. As a
14 partnership for federal income tax purposes, there should be Schedule K-1 forms prepared with
15 Brooke's partnership return (Form 1065). In its February 26, 2018, response to STF 9.4, Brooke
16 confirmed that K-1s were prepared and provided to Brooke's owners for tax years 2015 and 2016, but
17 objected to STF 9.4 as overly broad and not reasonably calculated to lead to the discovery of admissible
18 evidence.

19 STF 9.4 seeks federal income tax information for Brooke's owners. Brooke does not deny that
20 the information exists, and does not argue that the production of the information would be burdensome,
21 or that it is privileged. Brooke argues that the request is overbroad, but has made no showing why a
22 request for fundamental tax information is overly broad. It also argued that the information would be
23 inadmissible, but provided no support for this argument; tax information in a case where tax expense
24 is an issue is certainly relevant and admissible.

25 Furthermore, Staff is seeking the K-1 schedules from Brooke's business tax return which shows
26 the taxable income and deductions reported by Brooke and allocated to each owner for 2015 and 2016.
27 The forms already exist; the request is not burdensome.

1 Staff is not seeking information that Brooke may claim is confidential. Staff is not seeking
2 information such as social security numbers, and Staff would agree, if Brooke requests, to have this
3 information, and any other confidential information, redacted in the production of the K-1s.

4 Finally, in the last part of its response, Brooke states it will not produce any personal income
5 tax information in this case. Staff has not asked for such information; the K-1s are part of the business
6 tax returns.

7 **C. STF 11.3 and 11.5.**

8 In STF 11.3 and 11.5, Staff requests additional information on affiliate charges. In STF 11.3,
9 Staff refers to Brooke's response to STF 5.34, wherein Brooke states "With respect to the charges to
10 Brooke Utilities (Brooke Water and Cir City) – the charges are for not only the personnel, but the
11 overall cost of the entire Lightstorm operation." In STF 11.3 (a), Staff asked what accounting records
12 are maintained that show the overall cost of the entire cost of the Lightstorm operation and, in STF
13 11.3 (c), Staff asked Brooke to identify and provide copies of the accounting records identified in STF
14 11.3 (a) and (b) for each year, 2015 through 2017 so that it can verify that Lightstorm's costs and
15 charges to Brooke are accurate and reasonable.

16 In its response to 11.3(a), Brooke responded that Lightstorm prepares financial statements each
17 month but, in its response to STF 11.3 (c), Brooke responded that "the Company does not possess
18 documents responsive to this request."

19 Lightstorm is the Brooke affiliate that provides customer service/call center services to Brooke
20 and its affiliates. As noted above, Lightstorm has charged and allocated costs to Brooke for the 2016
21 test year, and Brooke has included the recovery of those costs in its revenue requirement. Staff has
22 requested basic accounting records that Brooke admits that Lightstorm prepares each month, records
23 that Staff needs so that it can ascertain whether Brooke's request to include these costs in its revenue
24 requirement are reasonable. Brooke claims that it does not possess these documents, but admits that
25 Lightstorm has them. Given the common threads of ownership between these various entities, Brooke
26 very likely could obtain them, but has not bothered to ask for them. The officers and owners of
27 Lightstorm, which have commonality with officers and owners of Brooke can obtain and provide them.

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1 However, this is another instance of hiding behind a corporate organizational structure to avoid
2 providing existing cost information for a related business, Lightstorm, that is charging costs to the
3 regulated utility.

4 In the form of discovery, i.e., Data Requests, used by practitioners before the Commission, the
5 entity to whom the Data Request is served on includes “every person and/or entity acting with, under
6 the control of, or on behalf of” the entity on which the Data Request is served. Under the Federal
7 Rules, Courts have construed control broadly as “the legal right, authority, or practical ability to obtain
8 the materials sought upon demand.” *S.E.C. v. Credit Bancorp, Ltd.*, 194 F.R.D. 469, 471 (S.D.N.Y.
9 2000); *In re MacLeman*, 9 Misc.3d 1119(A); 808 N.Y.S.2d 918 (N.Y. Sur. 2005) (unreported). One
10 Court has held that a “practical ability” to obtain documents exists when a party has any right or ability
11 to influence a third party in possession of the documents requested. *Export-Import Bank of U.S. v. Asia*
12 *Pulp and Paper Co.*, 233 F.R.D. 338, 341 (S.D.NY 2008); *see also, Goodman v. Praxair Svcs, Inc.*,
13 632 F.Supp.2d 494, 515 (D.MD 2009).

14 It simply is not enough for Brooke to argue, as it does in its responses to STF 11.3(a) and (c)
15 that it does not possess documents responsive to Staff’s requests without making any apparent attempt
16 to obtain documents, that it admits are in existence, from an affiliate of Brooke and its managing
17 partner, Robert Hardcastle. Brooke should be ordered to obtain the records from Lightstorm and
18 produce them to Staff.

19 STF 11.5 relates to Jaco Oil Company (“Jaco Oil”) charges to Brooke. Jaco Oil is a part owner
20 of Brooke, and has charged and/or allocated costs to Brooke for the test year that Brooke has included
21 in its proposed revenue requirement. In fact, it is Staff’s recent understanding that most of the charges
22 for services to and payments from Brooke are handled by Jaco Oil. Brooke’s response to STF 6.7
23 states 10 employees of Jaco Oil provide services to Brooke, including services for information
24 technology, human resources, and tax management services. Brooke’s response to STF 6.7 states all
25 the charges from Jaco Oil to Brooke for the 2016 test year are based on Jaco Oil’s cost of providing
26 the service. Moreover, the response to STF 6.7 states the components of Jaco Oil’s costs included in
27 its 2016 charges to Brooke are related to payroll, labor, labor burden, insurance, workers compensation,
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1 payroll taxes, and related costs. The response further states there is no element of profit, return on
2 equity, net income or any income taxes included in any of the Jaco Oil charges to Brooke.

3 In STF 11.5 (a), Staff asked if any accounting records or other documentation exist that show
4 how any portion of the charges from Jaco Oil to Brooke for any year from 2015 through 2017 relate to
5 the costs incurred for any of the salaries, benefits and office space costs for any of the 10 Jaco Oil
6 employees, and, if so, to identify and provide the accounting records and cost documentation. In STF
7 11.5(b), Staff asked whether any accounting records or other documentation exist that show how any
8 portion of the charges from Jaco Oil to Brooke in any year, 2015-2017, relate to the costs incurred at
9 Jaco Oil for costs other than the salaries and benefits for the 10 Jaco Oil employees.

10 In its response to STF 11.5(a) and (b), Brooke responded “Yes,” accounting records and
11 (presumably) other documentation exists; however, Brooke responded that it does not possess
12 documents responsive to these requests.

13 Jaco Oil is one of Brooke’s owners. Jaco Oil has charged and allocated costs to Brooke for the
14 2016 test year and Brooke has included the recovery of those costs in its revenue requirement in this
15 case. Brooke claims that these costs are charged by Jaco Oil to Brooke at Jaco Oil’s “cost” of rendering
16 the related services, and that there is no element of profit or return included for Jaco Oil. But, without
17 the information it requests, Staff cannot determine if this is true; it would be forced to take Brooke’s
18 word for this, rather than follow the better policy of “trust but verify.”

19 In STF 11.5, Staff is seeking financial data for Jaco Oil to substantiate the costs that are being
20 passed through to Brooke and its ratepayers. Staff’s request does not require Jaco Oil or Brooke to
21 create any new records to produce the information; it is basic accounting data and statements that Staff
22 needs to verify the cost basis (as Brooke claims that these charges are billed at Jaco Oil’s “cost”) and
23 reasonable basis for these charges, a basic component of setting just and reasonable rates, which are to
24 be determined in this case.

25 In its response, Brooke simply states that it (Brooke) “does not possess documents responsive
26 to this request.” As discussed above, in the form of discovery, i.e., Data Requests, used by practitioners,
27 before the Commission, the entity to whom the Data Request is served on includes “every person and/or
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1 entity acting with, under the control of, or on behalf of” the entity on which the Data Request is served.
2 Under the Federal Rules, Courts have construed control broadly as “the legal right, authority, or
3 practical ability to obtain the materials sought upon demand.” *S.E.C. v. Credit Bancorp, Ltd.*, 194
4 F.R.D. 469, 471 (S.D.N.Y. 2000); *In re MacLeman*, 9 Misc.3d 1119(A); 808 N.Y.S.2d 918 (N.Y. Sur.
5 2005) (unreported). One Court has held that a “practical ability” to obtain documents exists when a
6 party has any right or ability to influence a third party in possession of the documents requested.
7 *Export-Import Bank of U.S. v. Asia Pulp and Paper Co.*, 233 F.R.D. 338, 341 (S.D.NY 2008); *see also*,
8 *Goodman v. Praxair Svcs, Inc.*, 632 F.Supp.2d 494, 515 (D.MD 2009).

9 It simply is not enough for Brooke to argue, as it does in its responses to STF 11.3 (a) and (c)
10 and STF 11.5 (a) and (b) that it does not possess documents responsive to Staff’s requests without
11 making any apparent attempt to obtain documents, that it admits are in existence, from an affiliate that
12 is an owner of Brooke and its managing partner, Robert Hardcastle. (*See Exhibit B*). Likewise, with
13 respect to STF 6.1 and STF 9.4, Brooke has made no showing that it cannot obtain the documents Staff
14 has requested. The Commission should reject any argument from Brooke, without further proof, that
15 it cannot obtain these document from affiliates and nonaffiliates in Brooke’s organizational group.

16 This response does not say if Brooke has made any attempt to acquire the accounting records
17 from Jaco Oil; does not deny their existence; or argue that Brooke cannot obtain the documents from
18 Jaco Oil. As Staff points out in its “control” argument, above, it seems likely that Brooke can obtain
19 the Jaco Oil accounting records from Jaco Oil if it asks; there is no reason to believe that the records
20 are not “practically” available to Brooke and, thus, within its control for purposes of discovery. It
21 appears that Brooke simply does not want to provide the information to Staff, even though Brooke has
22 included the Jaco Oil costs in its revenue requirement. Brooke has simply not justified its failure to
23 provide the Jaco Oil accounting records that Staff needs to perform its review of Brooke’s application
24 in this case.

25 For the reasons set forth herein, Staff requests that the Commission issue an order directing
26 Brooke to respond to the Data Requests, and to provide to Staff the information that Staff has requested.

1 **D. STF 14.4(b) and (c)**

2 Brooke’s responses to STF 1.7, STF 5.12 and 5.21(b) indicated that Mr. Hardcastle is an
3 employee of Brooke. Brooke’s supplemental response to STF 5.35 indicates that Mr. Hardcastle is an
4 employee of Jaco Oil Company and that Mr. Hardcastle’s sole responsibility is to manage utility
5 subsidiaries, which now include only Brooke Water and Circle City. In STF 14.4(a), Staff requested a
6 copy of the W-2 issued to Mr. Hardcastle by Brooke Water LLC for each year 2015, 2016 and 2017.
7 In STF 14.4(a), Staff requested a copy of the W-2 issued to Mr. Hardcastle by Jaco Oil for the years
8 2015, 2016 and 2017. In subpart (c), Staff requested for the Jaco Oil W-2 for each year, the portion
9 charged or allocated to Brooke Water.

10 In response, Brooke stated that the Company’s responses to STF 1.7, STF 5.21(b) and STF 5.12
11 were in error; and that Mr. Hardcastle was not an employee of Brooke. The Company states that Mr.
12 Hardcastle is actually an employee of Jaco Oil.

13 Brooke objected to STF 14(b) and (c) on the grounds that Staff was seeking information that
14 was not relevant and that is not reasonably calculated to lead to the discovery of admissible evidence.
15 The Company stated that “Staff does not need to review Mr. Hardcastle’s Jaco Oil W-2 form in order
16 to determine or calculate the amount Brooke Water, LLC charges each year for the managerial services
17 provided by Mr. Hardcastle as an employee of Jaco Oil.” Given the dearth of information that Staff
18 has been able to obtain on Jaco Oil’s charges and the basis for them, Mr. Hardcastle’s W-2 provides
19 one of the only sources that can be relied upon for information relating to Mr. Hardcastle’s costs that
20 are being passed through to Brooke and the allocation of his costs between the two remaining water
21 utilities, Brooke Water and Circle City. It also provides a good means to verify any information Staff
22 receives from Jaco Oil. Therefore, the Commission should require Brooke to produce the information.

23 **E. STF 16.15, 16.18.**

24 In STF 16.5, Staff requested any written documents provided by Mr. Hardcastle to the other
25 Brooke Water, LLC and Circle City owners which update them on the operations of the utilities. The
26 Company responded that such advisories are produced by Mr. Hardcastle and that they are provided to
27 all owners of Brooke Water and Circle City on a weekly basis “through counsel.” However, the
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1 Company refused to provide the internal advisory documents, claiming that they were protected by the
2 attorney-client privilege and the work-product privilege. Staff followed this request with STF 18.18
3 to obtain additional information on whether the Company's reliance on the attorney-client privilege
4 and the work product privilege was valid.

5 In STF 18.18, Staff requested that the Company explain how the attorney-client privilege and
6 work protect doctrine operate in this instance to shield production of the documents. Brooke stated
7 that the attorney involved is Patrick Black, the Company's regulatory counsel, who is licensed to
8 practice in Arizona. Mr. Black states that his firm, Fennemore Craig, P.C. has represented Brooke
9 Water and its affiliates since at least 2003. Mr. Black then cites to several cases to support the
10 invocation of the attorney-client privilege and work-product immunity doctrine in this case. Brooke
11 states that the internal advisory reports are weekly and began in April 2016.

12 The response also stated that the internal advisor document was first provided to Mr. Black for
13 the purpose of obtaining legal advice regarding the Commission's investigation into water outages,
14 water quality and customer service issues, including the potential for the issuance of an order to show
15 cause, and that the document contains summaries of communications with legal counsel regarding such
16 potential litigation, as well as, compliance with Commission orders in the investigatory proceeding.

17 With respect to the applicable law, Staff basically agrees with Brooke's discussion and its
18 citations of authority. Specifically, in Arizona, under the attorney-client privilege, unless a client
19 consents, a lawyer may not be required to disclose communications made by the client to the lawyer or
20 advice given to the client in the course of professional employment. *Samaritan Foundation v.*
21 *Goodfarb*, 176 Ariz. 497, 862 P.2d 870 (1993); A.R.S. 12-2234. Of course, there must be an attorney-
22 client relationship before the privilege exists. *Alexander v. Superior Court*, 141 Ariz. 157, 162, 685
23 P.2d 1309, 1314 (1984). With respect to the work-product privilege, the privilege encompasses
24 materials prepared or gathered in preparation for potential litigation. *State ex rel. Corbin v. Weaver*,
25 140 Ariz. 123, 129, 680 P.2d 833, 839 (App.1984). Litigation need not be a certainty for work product
26 protection to arise; documents are created in anticipation of litigation if "in light of the nature of the
27 document and the factual situation in the particular case, the document can be fairly said to have been
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1 prepared or obtained because of the prospect of litigation.” *In re Grand Jury Subpoena*, 357 F.3d 900,
2 907 (9th Cir. 2004). As discussed below, based on the facts relied upon by Brooke in its response to
3 STF 18.18, Staff believes that the documents requested are not, in large part, protected by the attorney-
4 client privilege; or the work-product privilege.

5 The lack of the necessary factual predicate for Brooke’s assertion of either privilege can be
6 simply explained. In Brooke’s own words:

7 “(t)he internal advisor document was first provided to Mr. Black for the purpose
8 of obtaining legal advise regarding the Commission’s investigation into water outages,
9 water quality and customer service issues, including the potential for the issuance of an
10 Order to Show Cause. The document contains summaries of communications with
11 legal counsel regarding such potential litigation, as well as compliance with
12 Commission orders issued in the investigatory proceeding.” And, even more telling,
13 “(t)he internal advisory document in question involves weekly reports beginning in
14 *April 2016*”.

15 (emphasis supplied).

16 A simple check of the Commission’s docket summary report for the Outage Docket, (W-
17 03039A-16-0322), confirms that the Commission’s first decision concerning the water outages, water
18 quality, and customer service issues in Brooke’s Lakeside system was docketed on October 4, 2016.
19 Furthermore, the major water outage that largely precipitated the Commission’s investigation of these
20 issues (confirmed by Mr. Hardcastle’s prefiled direct testimony in this case), did not occur until August
21 2016: 5 months after the internal advisory document in question began being generated by Brooke.
22 This is also the decision that generated the compliance matters that Brooke apparently asked Mr. Black
23 to advise it on, concerning compliance; again, not entered by the Commission until October 2016.

24 Furthermore, the potential for an order to show cause also did not occur until the entry of the
25 Commission’s Decision No. 75755 in October, 2016. And, the Staff lodging of a proposed order to
26 show cause did not occur until March 24, 2017, nearly a year after the internal advisory reports began
27 to be issued in April, 2016. It is also noteworthy that Mr. Black did not file any document indicating
28 his representation of Brooke in the Outage Docket (W-03039A-16-0322) until April 3, 2017. This does
not mean that there may not be portions of the documents during certain timeframes that may be subject
to the privileges. However, those portions of the documents can be redacted. It is clear to Staff,

1 however, that not all of the internal updates provided by Mr. Hardcastle to his co-owners are shielded
2 from production by the attorney-client privilege or the work product privilege.

3 The facts in this case, and Brooke's own response to 18.18, confirm that:

- 4 a. In April 2016, there was no litigation pending for which counsel would be
5 creating work documents in anticipation of litigation; and none materialized
6 until, at the earliest, October 20, 2016.
- 7 b. There were no proceedings of the type for which Brooke provided documents
8 to Mr. Black until the Commission's investigation began after the August 2016
9 outage in the Lakeside system. Advice was not needed, and thus no privilege
10 needed, for a yet to occur event.
- 11 c. Mr. Black's name does not appear on a document filed on behalf of Brooke in
12 the outage docket, (16-0322) until April 3, 2017.

13 In STF 16.18, Staff requested information regarding the formation and incorporation of
14 Lightstorm in Costa Rica. Staff also requested all documents evidencing the formation of Lightstorm
15 S.A., in Costa Rica. Mr. Hardcastle objected stating that the information was not relevant. Without
16 waiving the objection, he also stated that he did not have any documents responsive to the request for
17 formation documents. Mr. Hardcastle then stated that "It is likely that Staff can obtain and translate
18 any formation documents using the company name and identification number from the proper
19 authorities in Costa Rica."

20 The documents are relevant to this case. Lightstorm is passing on costs to Brooke in conjunction
21 with the call center services it performs. Brooke is also relying upon Lightstorm's foreign status for
22 various purposes, including its not paying federal income tax. Staff's request for formation documents
23 (translated to English) is therefore reasonable; and the Commission should order Brooke to provide
24 these documents (translated to English).

25 **F. STF 18.1, STF 18.3, 18.2, 18.8, 18.10, 18.14, 18.18.**

26 In STF 18.1, Staff requested Brooke to identify all persons/entities who are the trustees and
27 beneficiaries of the Virginia Trust No. 2 – the majority owner of Chrystal Investments, which is a part
28 owner (76%) of Brooke Water LLC. Brooke objected on the basis of relevance and further stated that
it did not have information responsive to this data request. The Commission is entitled to know who

1 the owners are of public service corporations operating in the state. Staff believes that Mr. Hardcastle
2 has this information, and if he does not, he can certainly obtain it.

3 In STF 18.2, Staff asked whether the ownership of Chrystal Investments has changed since
4 1995, a description of the changes in ownership, when they occurred and what the exact changes were.
5 Mr. Hardcastle responded that he has no involvement in Chrystal Investments and does not know
6 whether or not ownership has changed since 1995. In response to STF 16.8, Mr. Hardcastle states that
7 he is a 10% owner of Brooke Water. It is, therefore, unlikely that he would not have information on
8 who the other owners are, when they became owners, and when any changes in ownership occurred.
9 And, to the extent he does not, he can certainly obtain this information from his co-owners.

10 In STF 18.3, the Staff asked for the resumes or biographical information for each of the owners
11 of Brooke Water, LLC. The Company responded that Mr. Hardcastle and the other owners of Brooke
12 have not utilized or developed a resume for several years. Thus, they would have to develop one in
13 order to respond. The Commission is entitled to information on the owners of each public service
14 corporation operating in Arizona; in fact, this is basic information submitted as part of any CC&N
15 application filed with the Commission. Also required, is information on the technical and managerial
16 expertise of the owners to operate a public service corporation. Staff believes that this information is
17 as pertinent today as it was when Mr. Hardcastle acquired the companies. In fact, since Mr. Hardcastle
18 obtained the companies out of bankruptcy, it is likely that he provided very little information on his
19 technical qualifications and the other owners to run water companies. Since there are several owners
20 now, Staff believes that this information should be provided by Brooke for all of its owners regardless
21 of whether it has to be developed or not.

22 In STF 18.8, Staff requested that Brooke provide it with the amounts that would be charged to
23 the company and its customers by Wal-Mart, Safeway, ACE Hardware, Chase Bank, Bank of America
24 and Circle K to process credit card, cash, check and money order payments for customers to pay their
25 Brooke utility bills. The Company objected to this request as overly broad and unduly burdensome.
26 Without waiving its objection, the Company also stated that since it is not seeking recovery of any such
27 costs, Staff bears the burden of establishing the reasonableness of such costs if it recommends these
28

1 services should be used by the Company. The Company went on to state that Staff should seek its own
2 information in response to the question posed, since the information sought in this discovery request is
3 equally available to Staff. The Commission required Brooke in the Outage Docket to provide
4 alternatives to its call center in Costa Rica due to its poor performance during the outage and continuing
5 customer complaints. To-date, Brooke has not complied with this requirement. Further, it is not Staff's
6 burden to demonstrate that the company's costs are reasonable. Brooke, as the applicant, bears this
7 burden. And, it is highly unlikely that the merchants listed above would give out this information to
8 someone other than Brooke.

9 In STF 18.10, Staff requested the workpapers and underlying data that supports the percentage
10 allocation of calls to Lightstorm and the method by which calls are classified into each category. The
11 Company responded that it is not in possession of any documents responsive to this request. Staff
12 relies on the earlier arguments made with respect to Lightstorm and Brooke's obligation to provide the
13 requested information.

14 In STF 18.14, Staff requested the amount paid by Brooke Water to Lightstorm to process credit
15 card, cash, check and money order payments for years 2013, 2014, 2015, 2016 and 2017. Brooke's
16 reply was non-responsive. It stated that the processing of customer credit card payments, cash, check
17 and money order payments in all years was included in the monthly service fee paid by Brooke Water
18 to Lightstorm. However, the statement that the costs were included in the monthly service fee paid by
19 Brooke does not get at the heart of Staff's question which is the amount that Lightstorm charged Brooke
20 to process credit card, cash, check and money order payments for years 2013, 2014, 2015, 2016 and
21 2017. This information is relevant to determine whether amounts paid by Brooke are reasonable.


22 **IV. EXPEDITED ORAL ARGUMENT REQUESTED.**

23 Staff needs the information that it has requested in its Data Requests in order to prepare and file
24 its Direct Testimony and exhibits. While Staff has requested an extension of the time to file its Direct
25 Testimony, Staff believes that the schedule in this case should be expedited so that the existing hearing
26 date can be maintained. Because of this, Staff submits that prompt resolution of the discovery dispute
27
28

1 addressed by this Motion must be disposed of as promptly as possible, and Staff respectfully requests
2 that oral argument on this Motion be scheduled at the earliest possible time.

3 RESPECTFULLY SUBMITTED this 13th day of April, 2018.

4 ARIZONA CORPORATION COMMISSION

5 

6 Maureen A. Scott, Deputy Chief - Litigation & Appeals
7 Robert Geake, Attorney
8 Legal Division
9 Arizona Corporation Commission
10 1200 West Washington Street
11 Phoenix, Arizona 85007
12 mscott@azcc.gov
13 rgeake@azcc.gov
14 (602) 542-3402

15 On this 13th day of April , 2018, the foregoing document was filed with Docket Control as a
16 Utilities Division Motion – Miscellaneous and copies of the foregoing were mailed on behalf of the
17 Utilities Division to the following who have not consented to email service. On this date or as soon as
18 possible thereafter, the Commission’s eDocket program will automatically email a link to the foregoing
19 to the following who have consented to email service.

20 Patrick J. Black
21 FENNEMORE CRAIG, P.C.
22 2394 East Camelback Road, Suite 600
23 Phoenix, Arizona 85016-3429
24 pblack@fclaw.com

25 **Consented to Service by Email**

26 Andy M. Kvesic
27 ARIZONA CORPORATION COMMISSION
28 Director - Legal Division
1200 W. Washington St.
Phoenix, Arizona 85007
LegalDiv@azcc.gov
utildivservicebyemail@azcc.gov
Consented to Service by Email

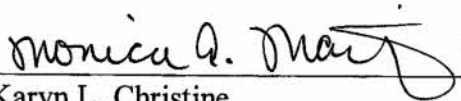
29 By:  for
30 Karyn L. Christine
31 Executive Legal Assistant

EXHIBIT A

Arizona Corporation Commission
Staff's First Set of Data Requests Nos. 1.1 – 1.40
Brooke Water, LLC Docket No. W-03039A-17-0295
January 19, 2018
(Updated March 22, 2018)

STF: 1.6 **Corporate Organizational Chart** – Please provide a complete corporate organizational chart showing Brooke Water LLC and all affiliated companies. Please provide the correct name and address of each affiliated company.

OBJECTION:

The Company objects to this data request because it is not reasonably calculated to lead to the discovery of admissible evidence in this rate case. As a Class D utility, the Company is not subject to the Commission's Affiliated Interest Rules.

Response: Without waiving such objection, the Company responds as follows:

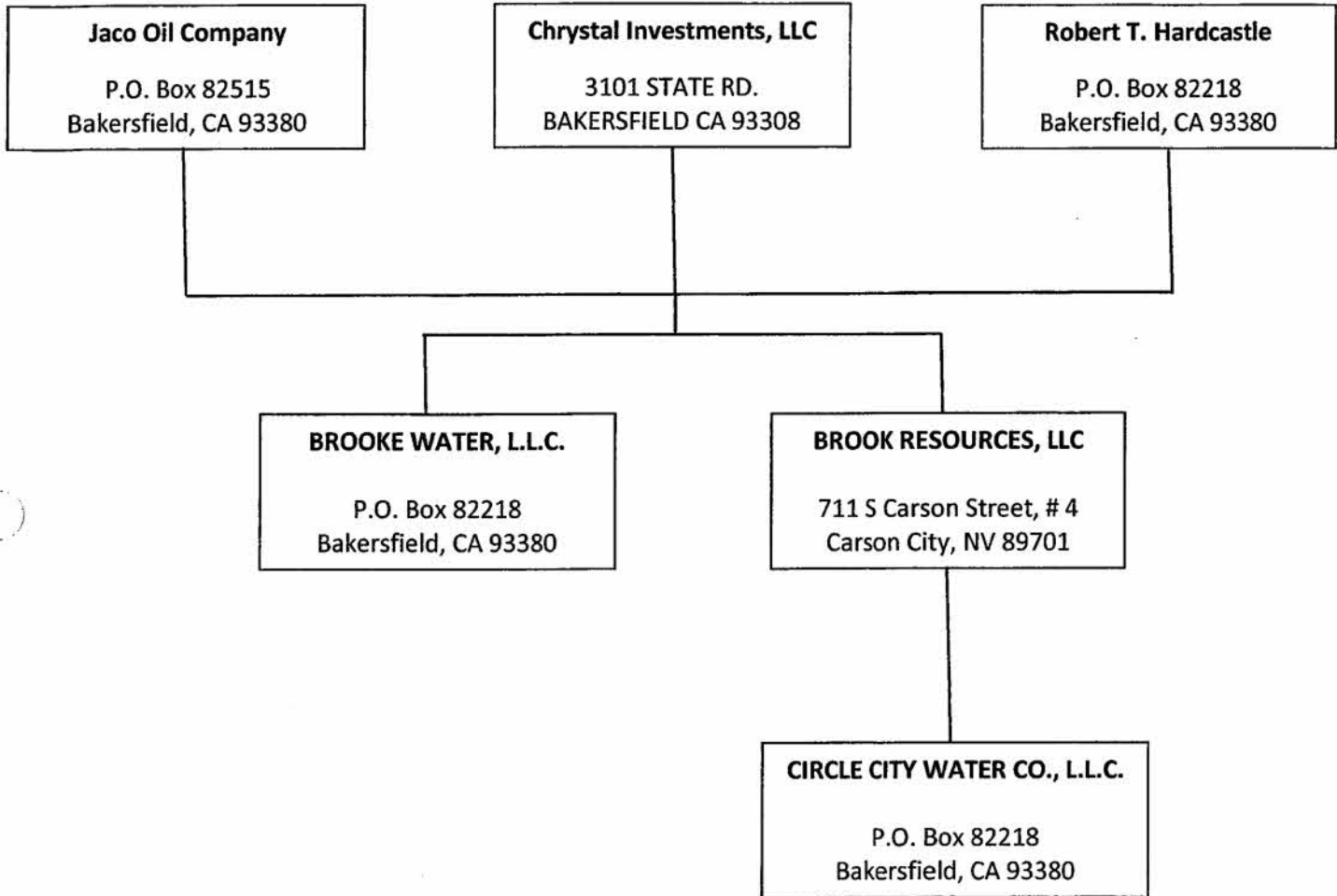
Please see the attached file titled "2018 January BWLLC Organization Chart.docx" reflecting the corporate organization of Brooke Water LLC and its affiliates.

Supplemental
Response:

Please see attached "Amended Brooke Water, L.L.C. Corporate Organizational Chart" and *newly added* "Lightstorm S.A. Corporate Organizational Chart". The previous supplied "2018 January BWLLC Organization Chart.docx" depicted Lightstorm S.A. as a subsidiary of Jaco Oil Co. in error. Lightstorm S.A. is not a subsidiary of Jaco Oil Co., and therefore has been removed from the attached "Amended Brooke Water, L.L.C. Corporate Organizational Chart". Corporate ownership of Lightstorm S.A. is provided in the newly attached "Lightstorm S.A. Corporate Organizational Chart". As indicated on the "Lightstorm S.A. Corporate Organizational Chart", Lightstorm S.A. is owned by Fastrup Food Stores of Fresno, Inc. (FFSF) which is 100% owned by Tom Jamieson.

Responder: Bob Hardcastle

**Amended Brooke Water, L.L.C.
Corporate Organizational Chart
(Including Affiliates)**



[See also response to STF: 1.3, file: Brooke Water Tax org chart 2016.pdf]

Lightstorm S.A.
Corporate Organizational Chart

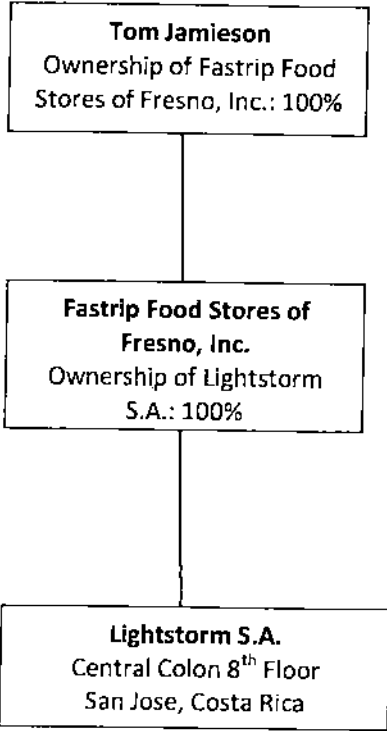


EXHIBIT B

Arizona Corporation Commission
Staff's First Set of Data Requests Nos. 1.1 – 1.40
Brooke Water, LLC Docket No. W-03039A-17-0295
January 19, 2018

STF: 1.6 **Corporate Organizational Chart** – Please provide a complete corporate organizational chart showing Brooke Water LLC and all affiliated companies. Please provide the correct name and address of each affiliated company.

OBJECTION:

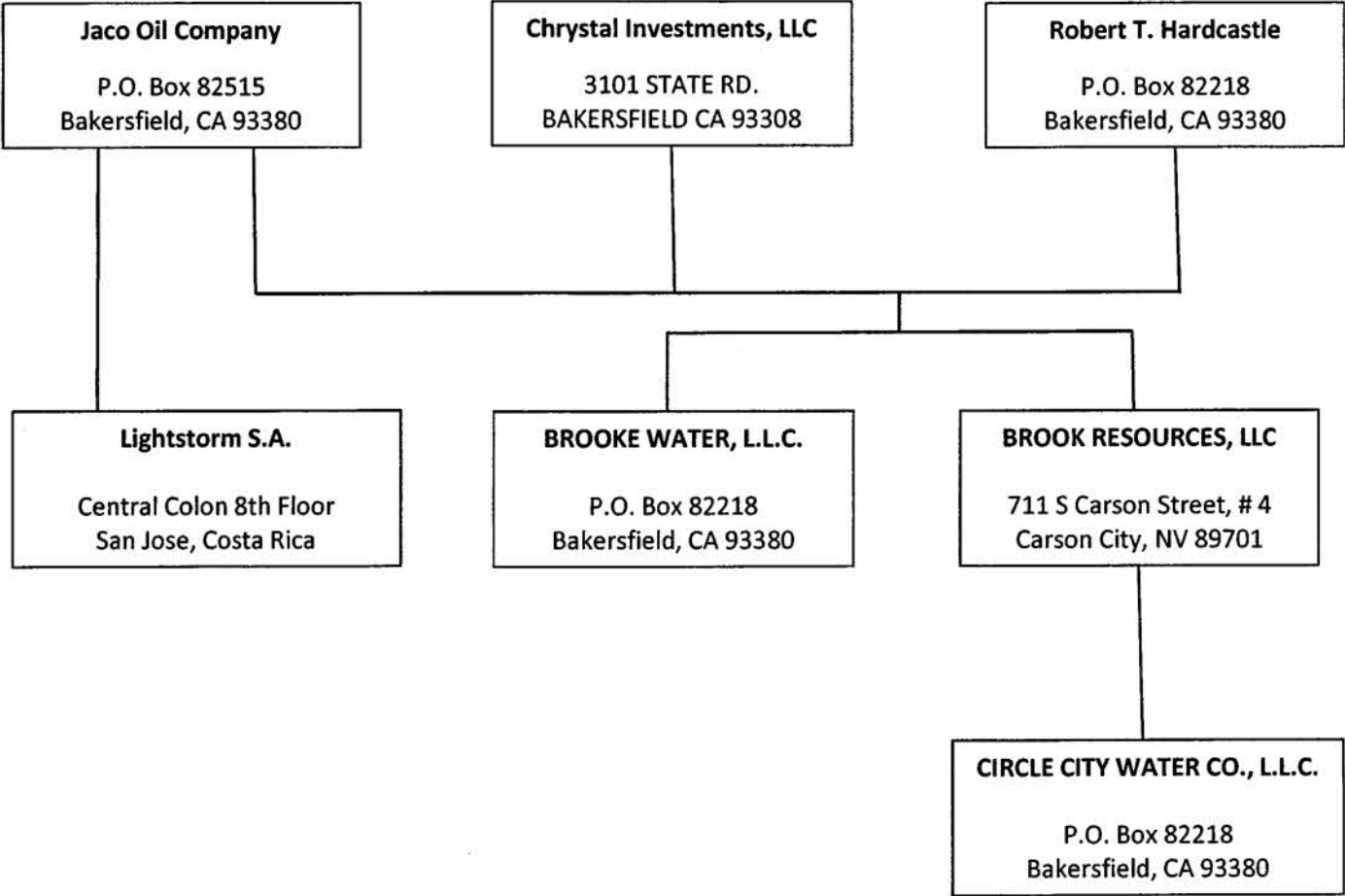
The Company objects to this data request because it is not reasonably calculated to lead to the discovery of admissible evidence in this rate case. As a Class D utility, the Company is not subject to the Commission's Affiliated Interest Rules.

Response: Without waiving such objection, the Company responds as follows:

Please see the attached file titled "2018 January BWLLC Organization Chart.docx" reflecting the corporate organization of Brooke Water LLC and its affiliates.

Responder: Bob Hardcastle

**Brooke Water, L.L.C.
Corporate Organizational Chart
(Including Affiliates)**



[See also response to STF: 1.3, file: Brooke Water Tax org chart 2016.pdf]

EXHIBIT C



Legal Division

Chairman, Tom Forese
Bob Burns
Andy Tobin
Boyd W. Dunn
Justin Olson

January 24, 2018

Mr. Patrick Black
Fennemore Craig, P.C.
2394 E. Camelback Road, Suite 600
Phoenix, Arizona 85016

Via United States Mail & Email to:

pblack@fclaw.com

Re: Staff's **Sixth** Set of Data Requests to Brooke Water, LLC
Docket No. W-03039A-17-0295

Dear Mr. Black,

Please treat this as Staff's **Sixth** Set of Data Requests to Brooke Water, LLC, in the above-referenced matter.

For purposes of this data request set, the words "Brooke Water, LLC," "Company," "you," and "your" refer to Brooke Water, LLC, and any representative, including every person and/or entity acting with, under the control of, or on behalf of Brooke Water, LLC. For each answer, please identify by name, title, and address each person providing information that forms the basis for the response provided.

These data requests are continuing, and your answers or any documents supplied in response to these data requests should be supplemented with any additional information or documents that come to your attention after you have provided your initial responses. Please respond within ten (10) calendar days of your receipt of the copy of this letter. However, if you require additional time, please let us know.

Please provide one hard copy as well as searchable PDF, DOC or EXCEL files (via email or electronic media) of the requested data directly to each of the following addressees via overnight delivery services to:

- (1) Bob Gray, Utilities Division, Arizona Corporation Commission, 1200 West Washington Street, Phoenix, Arizona 85007. bgray@azcc.gov
- (2) Ralph Smith, Project Manager, Larkin and Associates, 15728 Farmington Road, Livonia, Michigan 48154. RSmithLA@gmail.com
- (3) Doug Kobrick, Engineering Project Manager, Hazen and Sawyer, 1400 E. Southern Avenue, Suite 340, Tempe, Arizona 85282. dkobrick@hazenandsawyer.com
- (4) Barbara Alexander, Subcontractor, Barbara Alexander Consulting, LLC, 83 Wedgewood Drive, Winthrop, Maine, 04364. barbalexand@gmail.com

Mr. Black
January 24, 2018
Page 2

- (5) Robert W. Geake, Attorney, Legal Division, Arizona Corporation Commission, 1200 West Washington Street, Phoenix, Arizona 85007. Rgeake@azcc.gov
- (6) Laura Meza, Paralegal, Legal Division, Arizona Corporation Commission, 1200 West Washington Street, Phoenix, Arizona 85007. LMeza@azcc.gov
- (7) Maureen A. Scott, Deputy Chief of Litigation & Appeals, Legal Division, Arizona Corporation Commission, 1200 W. Washington Street, Phoenix, Arizona, 85007. MScott@azcc.gov

Sincerely,



Maureen A. Scott, Deputy Chief
Robert W. Geake, Attorney
Legal Division
(602) 542-3402

MAS:RWG:cls

cc: Ralph Smith (via email Only)
Bob Gray (via email Only)
Frank Smaila (via email Only)
Connie Walczak (via email Only)
Al Amezcua (via email Only)
Barbara Alexander (via email Only)
Doug Kobrick (via email Only)

Attachment

**ARIZONA CORPORATION COMMISSION
STAFF'S SIXTH SET OF DATA REQUESTS TO
BROOKE WATER, LLC
DOCKET NO. W-03039A-17-0295
JANUARY 24, 2018**

Subject: All information responses should ONLY be provided in searchable PDF, DOC or EXCEL files via email or electronic media.

*****For all data requests for which you do not have the information requested, please state such and skip to the next data request. Also, for responses to data requests that may be voluminous or overly burdensome, please contact the assigned attorney, Maureen A. Scott at (602) 542-3402 to discuss.**

- STF 6.1.** Does the affiliated call center operation in Costa Rica (aka Lightstorm S.A.) have financial statements, a general ledger, or trial balances for any of the years, 2015, 2016 and 2017?
- a. If not, explain fully why not.
 - b. If so, identify and provide those documents.
- STF 6.2.** Does the affiliated call center operation in Costa Rica (aka Lightstorm S.A.) maintain documentation of how costs are charged and allocated to Brooke Water, LLC and other affiliates for 2015, 2016 and 2017?
- a. If not, explain fully why not.
 - b. If so, identify and provide those documents.
- STF 6.3.** Are there any amounts of taxable income or tax deductions related to Lightstorm S.A. that are reported on any U.S. federal income tax returns for 2014, 2015 or 2016?
- a. If not, explain fully why not.
 - b. If so, identify and explain the amounts of Lightstorm S.A. taxable income and tax deductions that are reported on U.S. federal income tax returns for each year, 2014, 2015 and 2016, and provide the pages of the U.S. federal income tax returns on which such items were reported.
- STF 6.4.** Are all of the charges to Brooke Water from Lightstorm S.A. in 2016 based on the cost of Lightstorm S.A. to provide service to Brooke Water, LLC and/or other affiliates?
- a. If not, identify the amounts of 2016 charges from Lightstorm S.A. to Brooke Water that are not based on the cost of Lightstorm S.A. to provide service, and explain the basis for such charges.
 - b. If so, identify each component of Lightstorm S.A.'s cost that is included in the charges by Lightstorm S.A. to Brooke Water, LLC and/or other affiliates, for 2016.

ARIZONA CORPORATION COMMISSION
STAFF'S SIXTH SET OF DATA REQUESTS TO
BROOKE WATER, LLC
DOCKET NO. W-03039A-17-0295
JANUARY 24, 2018

Subject: All information responses should ONLY be provided in searchable PDF, DOC or EXCEL files via email or electronic media.

***For all data requests for which you do not have the information requested, please state such and skip to the next data request. Also, for responses to data requests that may be voluminous or overly burdensome, please contact the assigned attorney, Maureen A. Scott at (602) 542-3402 to discuss.

STF 6.9. Please list the names of all entities that utilize the Costa Rica call center and the functions performed by the Costa Rica call center for each entity.

FENNEMORE CRAIG
ATTORNEYS

Patrick J. Black
pblack@fclaw.com

2394 East Camelback, Suite 600
Phoenix, AZ 85016-3429
PH (602) 916-5400 | FX (602) 916-5600
fennemorecraig.com

February 2, 2018

VIA E-MAIL

Maureen A. Scott, Deputy Chief
Arizona Corporation Commission
Legal Division
1200 W. Washington Street
Phoenix, Arizona 85007
Mscott@azcc.gov

VIA E-MAIL

bgray@azcc.gov
RSmithLA@gmail.com
dkobrick@hazenandsawyer.com
Barbalexand@gmail.com
Rgeake@azcc.gov
LMeza@azcc.gov

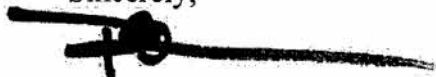
**Re: Brooke Water, LLC's Response to Arizona Corporation Commission
Sixth Set of Data Requests (Docket No. W-03039A-17-0295)**

Ms. Scott:

Attached is Brooke Water, LLC's ("Brooke") Responses to Staff's Sixth Set of Data Requests.

If you have any questions, please give me a call.

Sincerely,



Patrick J. Black

/wmm
Enc.

Arizona Corporation Commission
Staff's **Sixth** Set of Data Requests No. 6.1 – 6.9
Brooke Water, LLC Docket No. W-03039A-17-0295
February 2, 2018

- STF 6.1** Does the affiliated call center operation in Costa Rica (aka Lightstorm S.A.) have financial statements, a general ledger, or trial balances for any of the years, 2015, 2016 and 2017?
- a. If not, explain fully why not.
 - b. If so, identify and provide those documents.

OBJECTION:

The Company objects to this data request because it is not reasonably calculated to lead to the discovery of admissible evidence in this rate case. As a Class D Utility, Brooke is not subject to the Commission's Affiliated Interest Rules (A.A.C. R14-2-801 et seq.), and general financial data regarding an affiliate is not relevant in this rate proceeding.

Responder: Patrick Black

Arizona Corporation Commission
Staff's **Sixth** Set of Data Requests No. 6.1 – 6.9
Brooke Water, LLC Docket No. W-03039A-17-0295
February 2, 2018

- STF 6.2** Does the affiliated call center operation in Costa Rica (aka Lightstorm S.A.) maintain documentation of how costs are charged and allocated to Brooke Water, LLC and other affiliates for 2015, 2016 and 2017?
- a. If not, explain fully why not.
 - b. If so, identify and provide those documents.

OBJECTION:

The Company objects to this data request because it is not reasonably calculated to lead to the discovery of admissible evidence in this rate case. As a Class D Utility, Brooke is not subject to the Commission's Affiliated Interest Rules (A.A.C. R14-2-801 et seq.), and general financial data regarding an affiliate is not relevant to this rate case.

Response: Without waiving such objection, the Company responds as follows:

Lightstorm costs are accounted for in individual accounts as they are incurred. However, Brooke pays a monthly all-inclusive management fee to Lightstorm through Jaco Oil, which includes all costs for the Call Center customer service, customer payment processing, accounts payable processing and financial statement preparation.

Responder: Patrick Black / Bob Hardcastle

Arizona Corporation Commission
Staff's **Sixth** Set of Data Requests No. 6.1 – 6.9
Brooke Water, LLC Docket No. W-03039A-17-0295
February 2, 2018
(Updated February 16, 2018)

STF 6.9 Please list the names of all entities that utilize the Costa Rica call center and the functions performed by the Costa Rica call center for each entity.

OBJECTION:

The Company objects to this data request because it is not reasonably calculated to lead to the discovery of admissible evidence in this rate case. As a Class D Utility, Brooke is not subject to the Commission's Affiliated Interest Rules (A.A.C. R14-2-801 et seq.), and general financial data regarding an affiliate is not relevant to this rate case. This includes providing the names of all entities served by Lightstorm in the ordinary course of business.

Response: Without waiving this objection, the Call center provides the same functions to other entities as it does Brooke.

Supplemental
Response:

There are six other entities that utilize the Costa Rica call center.

Responder: Robert Hardcastle

FENNEMORE CRAIG
ATTORNEYS

Patrick J. Black
pblack@fclaw.com

2394 East Camelback, Suite 600
Phoenix, AZ 85016-3429
PH (602) 916-5400 | FX (602) 916-5600
fennemorecraig.com

February 16, 2018

VIA E-MAIL

Maureen A .Scott, Deputy Chief
Arizona Corporation Commission
Legal Division
1200 W. Washington Street
Phoenix, Arizona 85007
Mscott@azcc.gov

VIA E-MAIL

bgray@azcc.gov
RSmithLA@gmail.com
dkobrick@hazenandsawyer.com
Barbalexand@gmail.com
Rgeake@azcc.gov
LMeza@azcc.gov

Re: Brooke Water, LLC's Supplemental Response to Arizona Corporation Commission Sixth Set of Data Requests (STF 6.1, 6.3, 6.9) (Docket No. W-03039A-17-0295)

Ms. Scott:

Attached is Brooke Water, LLC's ("Brooke") Supplemental Response to Staff's Sixth Set of Data Requests (STF 6.1, 6.3, 6.9).

If you have any questions, please give me a call.

Sincerely,



Patrick J. Black

/wmm
Enc.

Arizona Corporation Commission
Staff's **Sixth** Set of Data Requests No. 6.1 – 6.9
Brooke Water, LLC Docket No. W-03039A-17-0295
February 2, 2018
(Updated February 16, 2018)

STF 6.1 Does the affiliated call center operation in Costa Rica (aka Lightstorm S.A.) have financial statements, a general ledger, or trial balances for any of the years, 2015, 2016 and 2017?

- a. If not, explain fully why not.
- b. If so, identify and provide those documents.

OBJECTION:

The Company objects to this data request because it is not reasonably calculated to lead to the discovery of admissible evidence in this rate case. As a Class D Utility, Brooke is not subject to the Commission's Affiliated Interest Rules (A.A.C. R14-2-801 et seq.), and general financial data regarding an affiliate is not relevant in this rate proceeding.

**Supplemental
Response:**

Brooke does not have any documents responsive to this request.

Lightstorm, S.A. was developed and founded in early 2008 as a shared service back-office facility to support various entities of Jaco Oil Co. ("Jaco"). Lightstorm is located in San Jose, Costa Rica. As of 2018, Lightstorm provides financial, accounting, customer service, operational, management, and information technology services to six (6) Jaco entities and operates on a total annual budget of approximately \$600,000. Lightstorm's budget is developed annually and costs are apportioned to the various entities based on the amount of resources provided or consumed.

Lightstorm currently has a total of 22 employees, six (6) of which provide services directly related to Brooke Water LLC ("Brooke") and Circle City Water ("Circle City"). Only costs related to these six employees are allocated to Brooke and Circle City. The total costs allocated to Brooke and Circle City by Lightstorm are further allocated 80% to Brooke and 20% to Circle City. The annual cost of the services provided by the six (6) referenced Lightstorm employees and ultimately allocated to Brooke is approximately \$36,000, or roughly 6% of Lightstorm's annual budgeted operating expenses.

In 2015, Lightstorm purchased its floor space on the 8th floor of the Centro Colon office building. Lightstorm presently occupies approximately 4,000 square feet which is allocated into various services work spaces, areas for technology, communications, and storage. Lightstorm's offices also includes a small kitchen

Arizona Corporation Commission
Staff's **Sixth** Set of Data Requests No. 6.1 – 6.9
Brooke Water, LLC Docket No. W-03039A-17-0295
February 2, 2018
(Updated February 16, 2018)

and employee restrooms. The Centro Colon office building is approximately 25 years old and is located on eastern end of a prominent commercial and retail street in the City. Lightstorm's offices mostly face north and east in the building. Lightstorm's offices are serviced by at least two public elevators.

In the future, Lightstorm plans to expand and provide additional services to Jaco entities. These services are gradually implemented as training, experience, personnel acquisition, and business conditions warrant. Lightstorm has no plans to provide shared services support for any entities other than its affiliates.

Responder: Robert Hardcastle

Arizona Corporation Commission
Staff's **Sixth** Set of Data Requests No. 6.1 – 6.9
Brooke Water, LLC Docket No. W-03039A-17-0295
February 2, 2018

STF 6.9 Please list the names of all entities that utilize the Costa Rica call center and the functions performed by the Costa Rica call center for each entity.

OBJECTION:

The Company objects to this data request because it is not reasonably calculated to lead to the discovery of admissible evidence in this rate case. As a Class D Utility, Brooke is not subject to the Commission's Affiliated Interest Rules (A.A.C. R14-2-801 et seq.), and general financial data regarding an affiliate is not relevant to this rate case. This includes providing the names of all entities served by Lightstorm in the ordinary course of business.

Response: Without waiving this objection, the Call center provides the same functions to other entities as it does Brooke.

Responder: Patrick Black / Robert Hardcastle



February 13, 2018

Mr. Patrick Black
Ms. Lauren Ferrigni
Fennemore Craig, P.C.
2394 E. Camelback Road, Suite 600
Phoenix, Arizona 85016

Via Email Only:

pblack@fclaw.com
lferrigni@fclaw.com

Re: Staff's **Ninth** Set of Data Requests to Brooke Water, LLC
Docket No. W-03039A-17-0295

Dear Mr. Black and Ms. Ferrigni,

Please treat this as Staff's **Ninth** Set of Data Requests to Brooke Water, LLC, in the above-referenced matter.

For purposes of this data request set, the words "Brooke Water," "Brooke Water, LLC," "Company," "you," and "your" refer to Brooke Water, LLC, and any representative, including every person and/or entity acting with, under the control of, or on behalf of Brooke Water, LLC. For each answer, please identify by name, title, and address each person providing information that forms the basis for the response provided.

These data requests are continuing, and your answers or any documents supplied in response to these data requests should be supplemented with any additional information or documents that come to your attention after you have provided your initial responses. Please respond within ten (10) calendar days of your receipt of the copy of this letter. However, if you require additional time, please let us know.

Please provide one hard copy, as well as searchable PDF, DOC or EXCEL files (via email or electronic media), of the requested data directly to each of the following addressees via overnight delivery services to:

- (1) Bob Gray, Utilities Division, Arizona Corporation Commission, 1200 West Washington Street, Phoenix, Arizona 85007. bgray@azcc.gov
- (2) Ralph Smith, Project Manager, Larkin and Associates, 15728 Farmington Road, Livonia, Michigan 48154. RSmithLA@gmail.com & RSmithLA@aol.com
- (3) Doug Kobrick, Engineering Project Manager, Hazen and Sawyer, 1400 E. Southern Avenue, Suite 340, Tempe, Arizona 85282. dkobrick@hazenandsawyer.com
- (4) Barbara Alexander, Subcontractor, Barbara Alexander Consulting, LLC, 83 Wedgewood Drive, Winthrop, Maine, 04364. barbalexand@gmail.com

**ARIZONA CORPORATION COMMISSION
STAFF'S EIGHTH SET OF DATA REQUESTS TO
BROOKE WATER, LLC
DOCKET NO. W-03039A-17-0295
February 13, 2018**

Subject: All information responses should ONLY be provided in searchable PDF, DOC or EXCEL files via email or electronic media.

*****For all data requests for which you do not have the information requested, please state as such and skip to the next data request. Also, for responses to data requests that may be voluminous or overly burdensome, please contact the assigned attorney, Maureen A. Scott, at (602) 542-3402 to discuss.**

IN YOUR RESPONSE TO STF 9.2, PLEASE CONFIRM THE ORGANIZATIONAL ENTITY AND THE LOCATION OF THE ENTITY FOR EACH OF THESE EVENTS.

STF 9.3. Income Taxes Filing: Refer to the response to STF 5.36, STF 5.38, STF 5.40 and to Schedule C-2, page 11.

- a. Is it reasonable to expect that the Tax Cuts and Jobs Act provision for a 20% deduction for "qualified business income," defined as income from a trade or business conducted within the U.S. by a partnership, S corporation, or sole proprietorship, will impact the calculation of the income tax allowance shown on Schedule C, page 11? If not, explain fully why not. If so, identify, quantify and explain the related impact.
- b. If Brooke Water, LLC is allowed to include an income tax allowance in its revenue requirement, will Brooke Water, LLC commence accounting for income taxes, including deferred income taxes, as provided in the Uniform System of Accounts? If not, explain fully why not. If so, identify the accounting entries that Brooke Water, LLC would use to account for deferred income taxes prospectively.
- c. Does Brooke Water, LLC anticipate that any Contributions in Aid of Construction ("CIAC") received by Brooke Water, LLC in 2016 or 2017 will be included in taxable income in any federal income tax return(s) filed with the Internal Revenue Service? If so, identify the amounts of CIAC and explain on which returns such CIAC in each year, 2016 and 2017, has been or is anticipated to be included in federal taxable income.
- d. What type of pass-through entity was Brooke Water, LLC for federal income tax purposes for tax years 2016 and 2017?
- e. What type of pass-through entity does Brooke Water, LLC anticipate being for federal income tax purposes for tax year 2018?

STF 9.4. Taxes for 2015 / 2016: Have Schedule K-1's for tax years 2015 or 2016 been prepared and/or provided to any of the owners listed on the Brooke Water, LLC ownership chart?

- a. If not, explain fully why not.

**ARIZONA CORPORATION COMMISSION
STAFF'S NINTH SET OF DATA REQUESTS TO
BROOKE WATER, LLC
DOCKET NO. W-03039A-17-0295
FEBRUARY 13, 2018**

Subject: All information responses should ONLY be provided in searchable PDF, DOC or EXCEL files via email or electronic media.

*****For all data requests for which you do not have the information requested, please state as such and skip to the next data request. Also, for responses to data requests that may be voluminous or overly burdensome, please contact the assigned attorney, Maureen A. Scott, at (602) 542-3402 to discuss.**

- b. If so, please provide a copy of the respective Schedule K-1's.

STF 9.5. Jaco Airplane Rental: Refer to the response to STF 5.22.

- a. Does Brooke Water, LLC, or its consultants, or Jaco Oil have any accounting documentation or cost analysis to support the \$160 per hour rent for Jaco corporate airplanes for travel charged to Brooke Water, LLC? If not, explain fully why not. If so, identify and provide the accounting documentation and cost analysis relied upon for the \$160 per hour rate.
- b. Which airports were used for the travel on the Jaco Oil corporate aircraft that was charged to Brooke Water, LLC (e.g., is "BFL" Bakersfield, CA and what is P20?). Please include the names of the passengers that were on each flight.
- c. Did any persons other than Robert Hardcastle use the Jaco Oil corporate aircraft for Brooke Water business? If so, please provide the name(s) and date(s).
- d. Is there any written contract or agreement that establishes the charges for Jaco Oil corporate aircraft to Brooke Water, LLC? If not, explain fully why not. If so, please identify and provide it.
- e. For each trip on the Jaco Oil corporate aircraft that was charged to Brooke Water, LLC in 2015, 2016 and 2017, identify the purpose and need for the trip. For each such trip, specifically address why Jaco Oil corporate aircraft was used, versus some other means (e.g., driving, conference call, webinar, commercial air travel).
- f. On the invoices from Jaco Oil Company to Brooke Utilities that were provided in response to STF 5.22 for which charges are labeled as "REIMBURSE JACO - Diners Club-Robert Hardcastle" how was the allocation of such cost to Brooke Water determined?
- g. On the invoices from Jaco Oil Company to Brooke Utilities that were provided in response to STF 5.22 for which charges are being made to Brooke Water for the rental of Jaco Oil corporate aircraft, the "Business Purpose" is just a number (e.g., 11/20-0207021.02 or 11/00-05-7021.00 etc.) Please provide a short narrative or description (in English) of the business purpose of each flight charged to Brooke Water.

FENNEMORE CRAIG
ATTORNEYS

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Phoenix, AZ 85016-3429
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fennemorecraig.com

February 26, 2018

VIA E-MAIL

Maureen A .Scott, Deputy Chief
Arizona Corporation Commission
Legal Division
1200 W. Washington Street
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Mscott@azcc.gov

VIA E-MAIL

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RSmithLA@gmail.com
dkobrick@hazenandsawyer.com
Barbalexand@gmail.com
Rgeake@azcc.gov
LMeza@azcc.gov


**Re: Brooke Water, LLC's Response to Arizona Corporation Commission
Ninth Set of Data Requests (Docket No. W-03039A-17-0295)**

Ms. Scott:

Attached is Brooke Water, LLC's ("Brooke") Responses to Staff's Ninth Set of Data Requests.

If you have any questions, please give me a call.

Sincerely,



Patrick J. Black

/wmm
Enc.

Arizona Corporation Commission
Staff's Ninth Set of Data Requests No. 9.1 – 9.10
Brooke Water, LLC Docket No. W-03039A-17-0295
February 26, 2018

STF 9.4 **Taxes for 2015 / 2016:** Have Schedule K-1's for tax years 2015 or 2016 been prepared and/or provided to any of the owners listed on the Brooke Water, LLC ownership chart?

- a. If not, explain fully why not.
- b. If so, please provide a copy of the respective Schedule K-1's.

Response: Schedule K-1's were prepared and provided to the owners of Brook Water, LLC for tax years 2015 and 2016.

- a. N/A
- b. **OBJECTION:** The Company objects to this data request as overly broad and not reasonably calculated to lead to the discovery of admissible evidence. The Company will not provide copies of personal tax returns.

Responder: Bob Hardcastle



Chairman, Tom Forese
Bob Burns
Andy Tobin
Boyd W. Dunn
Justin Olson

February 15, 2018

Mr. Patrick Black
Ms. Lauren Ferrigni
Fennemore Craig, P.C.
2394 E. Camelback Road, Suite 600
Phoenix, Arizona 85016

Via Email ONLY

pblack@fclaw.com
lferrigni@fclaw.com

Re: Staff's **Eleventh** Set of Data Requests to Brooke Water, LLC
Docket No. W-03039A-17-0295

Dear Mr. Black and Ms. Ferrigni:

Please treat this as Staff's **Eleventh** Set of Data Requests to Brooke Water, LLC, in the above-referenced matter.

For purposes of this data request set, the words "Brooke Water, LLC," "Company," "you," and "your" refer to Brooke Water, LLC, and any representative, including every person and/or entity acting with, under the control of, or on behalf of Brooke Water, LLC. For each answer, please identify by name, title, and address each person providing information that forms the basis for the response provided.

These data requests are continuing, and your answers or any documents supplied in response to these data requests should be supplemented with any additional information or documents that come to your attention after you have provided your initial responses. Please respond within ten (10) calendar days of your receipt of the copy of this letter. However, if you require additional time, please let us know.

Please provide one hard copy as well as searchable PDF, DOC or EXCEL files (via email or electronic media) of the requested data directly to each of the following addressees via overnight delivery services to:

- (1) Bob Gray, Utilities Division, Arizona Corporation Commission, 1200 West Washington Street, Phoenix, Arizona 85007. bgray@azcc.gov
- (2) Ralph Smith, Project Manager, Larkin and Associates, 15728 Farmington Road, Livonia, Michigan 48154. RSmithLA@gmail.com
- (3) Doug Kobrick, Engineering Project Manager, Hazen and Sawyer, 1400 E. Southern Avenue, Suite 340, Tempe, Arizona 85282. dkobrick@hazenandsawyer.com
- (4) Barbara Alexander, Subcontractor, Barbara Alexander Consulting, LLC, 83 Wedgewood Drive, Winthrop, Maine, 04364. barbalexand@gmail.com

**ARIZONA CORPORATION COMMISSION
STAFF'S TENTH SET OF DATA REQUESTS TO
BROOKE WATER, LLC
DOCKET NO. W-03039A-17-0295
February 15, 2018**

Subject: All information responses should ONLY be provided in searchable PDF, DOC or EXCEL files via email or electronic media.

***For all data requests for which you do not have the information requested, please state as such and skip to the next data request. Also, for responses to data requests that may be voluminous or overly burdensome, please contact the assigned attorney, Maureen A. Scott, at (602) 542-3402 to discuss.

- STF 11.3.** Lightstorm charges to Brooke Water. Refer to the Company's supplemental response to STF 5.34, which states: "With respect to the charges to Brooke Utilities (Brooke Water and CCWCo) - the charges are for not only the personnel, but the overall cost of the entire Lightstorm operation."
- a. What accounting records are maintained that show the overall cost of the entire cost of the Lightstorm operation?
 - b. What accounting records are maintained that show how the overall cost of the entire cost of the Lightstorm operation is allocated to Brooke Utilities and to Brooke Water LLC?
 - c. Identify and provide copies of the accounting records identified in response to parts a and b for each year, 2015 through 2017.
 - d. What accounting records are maintained showing the salary, benefits, payroll taxes and office overhead costs associated with each of the Lightstorm employees listed in the supplemental response to STF 5.34?
 - e. Identify and provide copies of the accounting records identified in response to part d for each year, 2015 through 2017.
 - f. Do any accounting records or other documentation exist that shows how any portion of the charges from Lightstorm S.A. to Brooke Utilities or to Brooke Water in any year, 2015 through 2017, relate to the costs being incurred for the salaries, benefits and office space costs the six Lightstorm employees listed in the supplemental response to STF 5.34?
 - i. If not, explain fully why not.
 - ii. If so, identify and provide the accounting records and cost documentation.

**ARIZONA CORPORATION COMMISSION
STAFF'S ELEVENTH SET OF DATA REQUESTS TO
BROOKE WATER, LLC
DOCKET NO. W-03039A-17-0295
FEBRUARY 15, 2018**

Subject: All information responses should ONLY be provided in searchable PDF, DOC or EXCEL files via email or electronic media.

***For all data requests for which you do not have the information requested, please state as such and skip to the next data request. Also, for responses to data requests that may be voluminous or overly burdensome, please contact the assigned attorney, Maureen A. Scott, at (602) 542-3402 to discuss.

- g. Do any accounting records or other documentation exist that shows how any portion of the charges from Lightstorm S.A. to Brooke Utilities or to Brooke Water in any year, 2015 through 2017, relate to the costs being incurred for at Lightstorm S.A. for costs other than the salaries and benefits of the six Lightstorm employees listed in the supplemental response to STF 5.34?
 - i. If not, explain fully why not.
 - ii. If so, identify and provide the accounting records and cost documentation.
- h. Refer to the percentages listed in the supplemental response to STF 5.34 for each of the six Lightstorm employees in the "Brooke Water/Circle City" column. Is the allocation to Brooke Water 80% of those "Brooke Water/Circle City" percentages for each of the six Lightstorm employees? If not, what is the Brooke Water percentage for each Lightstorm employee?
- i. Refer to the percentages listed in the supplemental response to STF 5.34 for each of the six Lightstorm employees. Do any of the six Lightstorm employees prepare time reports that show how much of their time is devoted to work for Brooke Utilities or Brooke Water versus other entities?
- j. If the answer to part i is "yes" identify and provide the time reports for the 3 Lightstorm CSRs and for the Accountant for 2016.

STF 11.4. Jaco Oil Company personnel-related charges to Brooke Water. Refer to the Company's supplemental response to STF 5.34, which states: "With respect to the Jaco Oil charges to Brooke Utilities (Brooke Water and CCWCo) - the charges are for the personnel and the overall services that Jaco provides."

- a. Is there any breakout showing the charges from Jaco Oil to Brooke Utilities (or Brooke Water) for (1) Jaco personnel charges and (2) other?
- b. If the answer to part a is "yes" please provide the breakout for each year, 2015 through 2017.
- c. Are any of the charges from Jaco Oil to Brooke Utilities (and to Brooke Water) based on the salaries and benefits of Jaco oil employees or the time spent by Jaco Oil employees for work done?

**ARIZONA CORPORATION COMMISSION
STAFF'S TENTH SET OF DATA REQUESTS TO
BROOKE WATER, LLC
DOCKET NO. W-03039A-17-0295
February 15, 2018**

Subject: All information responses should ONLY be provided in searchable PDF, DOC or EXCEL files via email or electronic media.

***For all data requests for which you do not have the information requested, please state as such and skip to the next data request. Also, for responses to data requests that may be voluminous or overly burdensome, please contact the assigned attorney, Maureen A. Scott, at (602) 542-3402 to discuss.

- d. If the answer to part c is "yes" identify and provide the charges to Brooke Utilities (and to Brooke Water) in each year, 2015 through 2017, that are based on the salaries and benefits of Jaco oil employees or the time spent by Jaco Oil employees.
- e. Identify and provide the related contracts between Jaco Oil and Brooke Utilities that govern the charges from Jaco Oil to Brooke Utilities (and to Brooke Water) in each year, 2015 through 2017. If there are none, please state in your response "there are none."

STF 11.5. Jaco Oil charges to Brooke Utilities and Brooke Water. Refer to the percentages listed in the supplemental response to STF 5.34 for the 10 Jaco Oil Company employees that the response indicates perform services for "Brooke Water/Circle City".

- a. Do any accounting records or other documentation exist that shows how any portion of the charges from Jaco Oil to Brooke Utilities or to Brooke Water in any year, 2015 through 2017, relate to the costs being incurred for the salaries, benefits and office space costs for any of the ten Jaco Oil employees listed in the supplemental response to STF 5.34?
 - i. If not, explain fully why not.
 - ii. If so, identify and provide the accounting records and cost documentation.
- b. Do any accounting records or other documentation exist that shows how any portion of the charges from Jaco Oil to Brooke Utilities or to Brooke Water in any year, 2015 through 2017, relate to the costs being incurred for at Jaco Oil for costs other than the salaries and benefits of the ten Jaco Oil employees listed in the supplemental response to STF 5.34?
 - i. If not, explain fully why not.
 - ii. If so, identify and provide the accounting records and cost documentation.

**ARIZONA CORPORATION COMMISSION
STAFF'S ELEVENTH SET OF DATA REQUESTS TO
BROOKE WATER, LLC
DOCKET NO. W-03039A-17-0295
FEBRUARY 15, 2018**

Subject: All information responses should ONLY be provided in searchable PDF, DOC or EXCEL files via email or electronic media.

***For all data requests for which you do not have the information requested, please state as such and skip to the next data request. Also, for responses to data requests that may be voluminous or overly burdensome, please contact the assigned attorney, Maureen A. Scott, at (602) 542-3402 to discuss.

- c. Refer to the percentages listed in the supplemental response to STF 5.34 for each of the ten Jaco Oil employees in the "Brooke Water/Circle City" column. Is the allocation to Brooke Water 80% of those "Brooke Water/Circle City" percentages for each of the Jaco Oil employees? If not, what is the Brooke Water percentage for each Jaco Oil employee with respect to the combined Brooke Water/Circle City" percentages listed in the response?
- d. Refer to the percentages listed in the supplemental response to STF 5.34 for each of the ten Jaco Oil employees. Do any of those ten Jaco Oil employees prepare time reports that show how much of their time is devoted to work for Brooke Utilities or Brooke Water versus other entities?
- e. If the answer to part d is "yes" explain which positions prepare time reports, and identify and provide the time reports for the each of the 3 Jaco Oil IT positions and for the "Sr Controller" position for 2016.

STF 11.6. A comparison of the 2015 operating expense information on Company Schedule E-2 with the corresponding information reported for 2015 in the Company's 2015 (and 2016) Annual Reports to the Commission reveals notable discrepancies in two accounts for reported 2015 expense amounts. For each of the following accounts please explain why there is a discrepancy for the 2015 amount and which amount is correct:

- a. Account 634, Contractual Services - Management Fee, Schedule E-2 has \$27,000 versus 2015 annual report amount of zero.
- b. Account 675, Miscellaneous Expense, Schedule E-2 has \$60,803 versus 2015 annual report amount of \$88,101.

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ATTORNEYS

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February 26, 2018

VIA E-MAIL

Maureen A. Scott, Deputy Chief
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LMeza@azcc.gov

**Re: Brooke Water, LLC's Response to Arizona Corporation Commission
Eleventh Set of Data Requests (Docket No. W-03039A-17-0295)**

Ms. Scott:

Attached is Brooke Water, LLC's ("Brooke") Responses to Staff's Eleventh Set of Data Requests.

If you have any questions, please give me a call.

Sincerely,



Patrick J. Black

/wmm
Enc.

Arizona Corporation Commission
Staff's Eleventh Set of Data Requests No. 11.1 – 11.11
Brooke Water, LLC Docket No. W-03039A-17-0295
February 26, 2018

- STF 11.3** Lightstorm charges to Brooke Water. Refer to the Company's supplemental response to STF 5.34, which states: "With respect to the charges to Brooke Utilities (Brooke Water and CCWCo) - the charges are for not only the personnel, but the overall cost of the entire Lightstorm operation."
- a. What accounting records are maintained that show the overall cost of the entire cost of the Lightstorm operation?
 - b. What accounting records are maintained that show how the overall cost of the entire cost of the Lightstorm operation is allocated to Brooke Utilities and to Brooke Water LLC?
 - c. Identify and provide copies of the accounting records identified in response to parts a and b for each year, 2015 through 2017.
 - d. What accounting records are maintained showing the salary, benefits, payroll taxes and office overhead costs associated with each of the Lightstorm employees listed in the supplemental response to STF 5.34?
 - e. Identify and provide copies of the accounting records identified in response to part d for each year, 2015 through 2017.
 - f. Do any accounting records or other documentation exist that shows how any portion of the charges from Lightstorm S.A. to Brooke Utilities or to Brooke Water in any year, 2015 through 2017, relate to the costs being incurred for the salaries, benefits and office space costs the six Lightstorm employees listed in the supplemental response to STF 5.34?
 - i. If not, explain fully why not.
 - ii. If so, identify and provide the accounting records and cost documentation.
 - g. Do any accounting records or other documentation exist that shows how any portion of the charges from Lightstorm S.A. to Brooke Utilities or to Brooke Water in any year, 2015 through 2017, relate to the costs being incurred for at Lightstorm S.A. for costs other than the salaries and benefits of the six Lightstorm employees listed in the supplemental response to STF 5.34?
 - i. If not, explain fully why not.
 - ii. If so, identify and provide the accounting records and cost documentation.

Arizona Corporation Commission
Staff's Eleventh Set of Data Requests No. 11.1 – 11.11
Brooke Water, LLC Docket No. W-03039A-17-0295
February 26, 2018

- h. Refer to the percentages listed in the supplemental response to STF 5.34 for each of the six Lightstorm employees in the "Brooke Water/Circle City" column. Is the allocation to Brooke Water 80% of those "Brooke Water/Circle City" percentages for each of the six Lightstorm employees? If not, what is the Brooke Water percentage for each Lightstorm employee?
- i. Refer to the percentages listed in the supplemental response to STF 5.34 for each of the six Lightstorm employees. Do any of the six Lightstorm employees prepare time reports that show how much of their time is devoted to work for Brooke Utilities or Brooke Water versus other entities?
- j. If the answer to part i is "yes" identify and provide the time reports for the 3 Lightstorm CSRs and for the Accountant for 2016.

Response:

- a. Lightstorm prepares financial statements each month.
- b. A budget is prepared by the Jaco Oil Company Senior Controller. This budget is how each entity is charged for Lightstorm shared services.
- c. The Company does not possess documents responsive to this request.
- d. The accounting records are the same as you would expect for any business organization – payroll registers, invoices, tax filings, etc.
- e. The Company does not possess documents responsive to this request.
- f. The budget is the basis for the charges; Lightstorm financial statements are used for historical costs incurred.
 - i. N/A
 - ii. The Company does not possess documents responsive to this request.
- g. The budget is the basis for the charges; Lightstorm financial statements are used for historical costs incurred.
 - i. N/A
 - ii. The Company does not possess documents responsive to this request.

Arizona Corporation Commission
Staff's Eleventh Set of Data Requests No. 11.1 – 11.11
Brooke Water, LLC Docket No. W-03039A-17-0295
February 26, 2018

- h. No. Brooke Water is charged 80% for 65% of the CSR time, 80% of 5% of the accounts payable time, and 80% of 15% of the accountant's time.
- i. No. The time allocation for all employees is evaluated at least twice per year, and also evaluated when additional tasks are transferred to the shared services office.
- j. N/A

Responder: Bob Hardcastle

Arizona Corporation Commission
Staff's Eleventh Set of Data Requests No. 11.1 – 11.11
Brooke Water, LLC Docket No. W-03039A-17-0295
February 26, 2018

- STF 11.5** Jaco Oil charges to Brooke Utilities and Brooke Water. Refer to the percentages listed in the supplemental response to STF 5.34 for the 10 Jaco Oil Company employees that the response indicates perform services for "Brooke Water/Circle City".
- a. Do any accounting records or other documentation exist that shows how any portion of the charges from Jaco Oil to Brooke Utilities or to Brooke Water in any year, 2015 through 2017, relate to the costs being incurred for the salaries, benefits and office space costs for any of the ten Jaco Oil employees listed in the supplemental response to STF 5.34?
 - i. If not, explain fully why not.
 - ii. If so, identify and provide the accounting records and cost documentation.
 - b. Do any accounting records or other documentation exist that shows how any portion of the charges from Jaco Oil to Brooke Utilities or to Brooke Water in any year, 2015 through 2017, relate to the costs being incurred for at Jaco Oil for costs other than the salaries and benefits of the ten Jaco Oil employees listed in the supplemental response to STF 5.34?
 - i. If not, explain fully why not.
 - ii. If so, identify and provide the accounting records and cost documentation.
 - c. Refer to the percentages listed in the supplemental response to STF 5.34 for each of the ten Jaco Oil employees in the "Brooke Water/Circle City" column. Is the allocation to Brooke Water 80% of those "Brooke Water/Circle City" percentages for each of the Jaco Oil employees? If not, what is the Brooke Water percentage for each Jaco Oil employee with respect to the combined Brooke Water/Circle City" percentages listed in the response?
 - d. Refer to the percentages listed in the supplemental response to STF 5.34 for each of the ten Jaco Oil employees. Do any of those ten Jaco Oil employees prepare time reports that show how much of their time is devoted to work for Brooke Utilities or Brooke Water versus other entities?
 - e. If the answer to part d is "yes" explain which positions prepare time reports, and identify and provide the time reports for the each of the 3 Jaco Oil IT positions and for the "Sr Controller" position for 2016.

Arizona Corporation Commission
Staff's Eleventh Set of Data Requests No. 11.1 – 11.11
Brooke Water, LLC Docket No. W-03039A-17-0295
February 26, 2018

Response:

- a. Yes.
 - i. N/A
 - ii. The Company does not possess documents responsive to this request.
- b. Yes.
 - i. N/A
 - ii. The Company does not possess documents responsive to this request.
- c. No. Brooke Water is charged 80% of IT staff 1 and 2, and 80% of 7% of IT 3; they are charged 80% of 5% for (3) HR personnel; they are charged 80% of 5% of the tax accountant; they are charged 80% of 3% of the CFO, they are charged 80% of 10% of the senior controller, they are charged 80% of 2% of the accounting staff person.
- d. No.
- e. N/A

Responder: Bob Hardcastle



Legal Division

Chairman, Tom Forese
Bob Burns
Andy Tobin
Boyd W. Dunn
Justin Olson

March 7, 2018

Mr. Patrick Black
Ms. Lauren Ferrigni
Fennemore Craig, P.C.
2394 E. Camelback Road, Suite 600
Phoenix, Arizona 85016

Via Email ONLY

pblack@fclaw.com
lferrigni@fclaw.com

Re: Staff's **Fourteenth** Set of Data Requests to Brooke Water, LLC
Docket No. W-03039A-17-0295

Dear Mr. Black and Ms. Ferrigni:

Please treat this as Staff's **Fourteenth** Set of Data Requests to Brooke Water, LLC, in the above-referenced matter.

For purposes of this data request set, the words "Brooke Water, LLC," "Company," "you," and "your" refer to Brooke Water, LLC, and any representative, including every person and/or entity acting with, under the control of, or on behalf of Brooke Water, LLC. For each answer, please identify by name, title, and address each person providing information that forms the basis for the response provided.

These data requests are continuing, and your answers or any documents supplied in response to these data requests should be supplemented with any additional information or documents that come to your attention after you have provided your initial responses. Please respond within ten (10) calendar days of your receipt of the copy of this letter. However, if you require additional time, please let us know.

Please provide one hard copy as well as searchable PDF, DOC or EXCEL files (via email or electronic media) of the requested data directly to each of the following addressees via overnight delivery services to:

- (1) Bob Gray, Utilities Division, Arizona Corporation Commission, 1200 West Washington Street, Phoenix, Arizona 85007. bgray@azcc.gov
- (2) Ralph Smith, Project Manager, Larkin and Associates, 15728 Farmington Road, Livonia, Michigan 48154. RSmithLA@gmail.com
- (3) Doug Kobrick, Engineering Project Manager, Hazen and Sawyer, 1400 E. Southern Avenue, Suite 340, Tempe, Arizona 85282. dkobrick@hazenandsawyer.com
- (4) Barbara Alexander, Subcontractor, Barbara Alexander Consulting, LLC, 83 Wedgewood Drive, Winthrop, Maine, 04364. barbalexand@gmail.com

**ARIZONA CORPORATION COMMISSION
STAFF'S FOURTEENTH SET OF DATA REQUESTS TO
BROOKE WATER, LLC
DOCKET NO. W-03039A-17-0295
MARCH 7, 2018**

Subject: All information responses should ONLY be provided in searchable PDF, DOC or EXCEL files via email or electronic media.

*****For all data requests for which you do not have the information requested, please state as such and skip to the next data request. Also, for responses to data requests that may be voluminous or overly burdensome, please contact the assigned attorney, Maureen A. Scott, at (602) 542-3402 to discuss.**

- STF 14.4** The Company's response to STF 1.7 (and other Staff DRs) indicates that Mr. Hardcastle is an employee of Brooke Water LLC. The Company's supplemental response to STF 5.35 indicates that Mr. Hardcastle is an employee of Jaco Oil Company whose sole responsibility is to manage utility subsidiaries, which now include only Brooke Water, LLC and Circle City Water Company.
- a. Provide a copy of the W-2 issued to Mr. Hardcastle by Brooke Water LLC for each year 2015, 2016 and 2017. Staff is not seeking the social security number so please redact that from the W-2 before providing it.
 - b. Provide a copy of the W-2 issued to Mr. Hardcastle by Jaco Oil Company for each year 2015, 2016 and 2017. Staff is not seeking the social security number so please redact that from the W-2 before providing it.
 - c. For the Jaco Oil W-2 for each year, please show the portion charged or allocated to Brooke Water LLC for each year.
 - d. Is Mr. Hardcastle an employee of any other affiliated entities, e.g., Brooke Utilities or Lightstorm S.A., that charged or allocated costs to Brooke Water in 2015, 2016 or 2017? If so, please explain of which such companies Mr. Hardcastle is an employee; provide the annual 2015, 2016 and 2017 payroll amounts, indicate whether a form W-2 was issued by each such affiliate employer for 2015, 2016 and 2017; and, if a W-2 was issued, provide the W-2 for each year (redact the social security number information), for 2015, 2016 and 2017.
 - e. To the extent that there was a Brooke Utilities W-2 for Mr. Hardcastle for any year, is the allocation of the amounts to Brooke Water LLC the same 80% that has been identified in response to other Staff DRs? If not, show and explain what the allocation for each year of the Brooke Utilities W-2 amounts was to Brooke Water.

March 19, 2018

VIA E-MAIL

Maureen A .Scott, Deputy Chief
Arizona Corporation Commission
Legal Division
1200 W. Washington Street
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Mscott@azcc.gov

VIA E-MAIL

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**Re: Brooke Water, LLC's Response to Arizona Corporation Commission
Fourteenth Set of Data Requests (Docket No. W-03039A-17-0295)**

Ms. Scott:

Attached is Brooke Water, LLC's ("Brooke") Responses to Staff's Fourteenth Set of Data Requests.

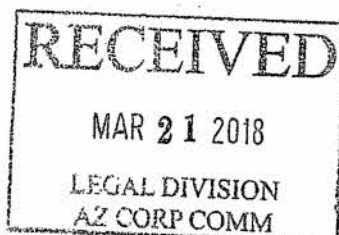
If you have any questions, please give me a call.

Sincerely,



Patrick J. Black

/wmm
Enc.



Arizona Corporation Commission

Staff's Fourteenth Set of Data Requests No. 14.1 – 14.4

Brooke Water, LLC Docket No. W-03039A-17-0295

March 19, 2018

STF 14.4 The Company's response to STF 1.7 (and other Staff DRs) indicates that Mr. Hardcastle is an employee of Brooke Water LLC. The Company's supplemental response to STF 5.35 indicates that Mr. Hardcastle is an employee of Jaco Oil Company whose sole responsibility is to manage utility subsidiaries, which now include only Brooke Water, LLC and Circle City Water Company.

- a. Provide a copy of the W-2 issued to Mr. Hardcastle by Brooke Water LLC for each year 2015, 2016 and 2017. Staff is not seeking the social security number so please redact that from the W-2 before providing it.
- b. Provide a copy of the W-2 issued to Mr. Hardcastle by Jaco Oil Company for each year 2015, 2016 and 2017. Staff is not seeking the social security number so please redact that from the W-2 before providing it.
- c. For the Jaco Oil W-2 for each year, please show the portion charged or allocated to Brooke Water LLC for each year.
- d. Is Mr. Hardcastle an employee of any other affiliated entities, e.g., Brooke Utilities or Lightstorm S.A., that charged or allocated costs to Brooke Water in 2015, 2016 or 2017? If so, please explain of which such companies Mr. Hardcastle is an employee; provide the annual 2015, 2016 and 2017 payroll amounts, indicate whether a form W-2 was issued by each such affiliate employer for 2015, 2016 and 2017; and, if a W-2 was issued, provide the W-2 for each year (redact the social security number information), for 2015, 2016 and 2017.
- e. To the extent that there was a Brooke Utilities W-2 for Mr. Hardcastle for any year, is the allocation of the amounts to Brooke Water LLC the same 80% that has been identified in response to other Staff DRs? If not, show and explain what the allocation for each year of the Brooke Utilities W-2 amounts was to Brooke Water.

Response:

- a. The Company's response to STF 1.7 was made in error. Mr. Hardcastle is not an employee of Brooke Water, LLC.
- b. The Company objects to this data request on the basis of relevance, and that it is not reasonably calculated to lead to the discovery of admissible evidence. Staff does not need to review Mr. Hardcastle's Jaco Oil W-2 form in order to determine or calculate the amount Brooke Water, LLC is charged each year for the managerial services provided by Mr. Hardcastle as an employee of Jaco Oil.

Arizona Corporation Commission
Staff's Fourteenth Set of Data Requests No. 14.1 – 14.4
Brooke Water, LLC Docket No. W-03039A-17-0295
March 19, 2018

- c. See response to (b) above.
- d. No.
- e. There have been no W-2's issued to Mr. Hardcastle by Brooke Utilities, Inc.

Responder: Bob Hardcastle



Legal Division

COMMISSIONERS

Chairman, Tom Forese
Bob Burns
Andy Tobin
Boyd W. Dunn
Justin Olson

March 12, 2018

Via Email ONLY

Mr. Patrick Black
Ms. Lauren Ferrigni
Fennemore Craig, P.C.
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lferrigni@fclaw.com

Re: Staff's **Sixteenth** Set of Data Requests to Brooke Water, LLC
Docket No. W-03039A-17-0295

Dear Mr. Black and Ms. Ferrigni,

Please treat this as Staff's **Sixteenth** Set of Data Requests to Brooke Water, LLC, in the above-referenced matter.

For purposes of this data request set, the words "Brooke Water, LLC," "Company," "you," and "your" refer to Brooke Water, LLC, and any representative, including every person and/or entity acting with, under the control of, or on behalf of Brooke Water, LLC. For each answer, please identify by name, title, and address each person providing information that forms the basis for the response provided.

These data requests are continuing, and your answers or any documents supplied in response to these data requests should be supplemented with any additional information or documents that come to your attention after you have provided your initial responses. Please respond within **FIVE (5)** calendar days of your receipt of the copy of this letter. However, if you require additional time, please let us know.

Please provide one hard copy as well as searchable PDF, DOC or EXCEL files (via email or electronic media) of the requested data directly to each of the following addressees via overnight delivery services to:

- (1) Bob Gray, Utilities Division, Arizona Corporation Commission, 1200 West Washington Street, Phoenix, Arizona 85007. bgray@azcc.gov
- (2) Ralph Smith, Project Manager, Larkin and Associates, 15728 Farmington Road, Livonia, Michigan 48154. RSmithLA@gmail.com
- (3) Doug Kobrick, Engineering Project Manager, Hazen and Sawyer, 1400 E. Southern Avenue, Suite 340, Tempe, Arizona 85282. dkobrick@hazenandsawyer.com
- (4) Barbara Alexander, Subcontractor, Barbara Alexander Consulting, LLC, 83 Wedgewood Drive, Winthrop, Maine, 04364. barbalexand@gmail.com

**ARIZONA CORPORATION COMMISSION
STAFF'S SIXTEENTH SET OF DATA REQUESTS TO
BROOKE WATER, LLC
DOCKET NO. W-03039A-17-0295
MARCH 12, 2018**

Subject: All information responses should ONLY be provided in searchable PDF, DOC or EXCEL files via email or electronic media.

***For all data requests for which you do not have the information requested, please state as such and skip to the next data request. Also, for responses to data requests that may be voluminous or overly burdensome, please contact the assigned attorney, Maureen A. Scott or Robert Geake at (602) 542-3402 to discuss.

- STF 16.13** Please break down Robert Hardcastle's time into each of the listed duties and/or responsibilities for the duties he performs.
- STF 16.14** Are all the owners of Brooke Water, LLC Brooke Resources LLC and Circle City Water LLC involved in the decision-making process with respect to these companies and to what extent?
- STF 16.15** Are there any written documents provided by Mr. Hardcastle to the other Brooke Water, LLC and Circle City Water Co. owners which update them on the operations of the utilities? If so, please indicate how often these are provided and provide copies for the last five (5) years.
- STF 16.16** Has Robert Hardcastle ever had an affiliation with Lightstorm S.A.? Please describe.
- STF 16.17** As a part owner of Jaco Oil Co., does Robert Hardcastle have any responsibilities or affiliation with Lightstorm S.A.?
- STF 16.18** Please indicate when Lightstorm S.A. was formed and incorporated in Costa Rica. Please provide all documents evidencing the formation of Lightstorm S.A. in Costa Rica.
- STF 16.19** To what extent do Jaco Oil Co. and Chrystal Investments LLC have any involvement in and/or responsibility for the operations and management of a) Brooke Water, LLC; b) Brooke Resources LLC; and c) Circle City Water LLC?
- STF 16.20** Please identify any and all roles performed by Robert Hardcastle on behalf of a) Jaco Oil Co.; b) Lightstorm S.A.; and c) Chrystal Investments LLC.
- STF 16.21** Refer to 16.20 above, please provide a breakdown of the time spent by Robert Hardcastle for each and on what functions.
- STF 16.22** Please explain how the call center operations of Brooke Water, LLC and Circle City Water LLC ended up being in Costa Rica?
- STF 16.23** When were the call center operations of Brooke Water, LLC transferred to Costa Rica?
- STF 16.24** Who performed the call center functions before they were transferred to Costa Rica?
- STF 16.25** What percentage (%) of Lightstorm S.A. employee time is spent on call center operations as compared to other functions?

FENNEMORE CRAIG
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March 22, 2018

VIA E-MAIL

Maureen A. Scott, Deputy Chief
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Mscott@azcc.gov

VIA E-MAIL

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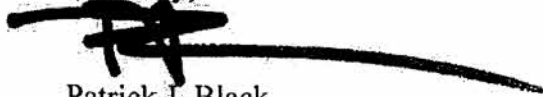
**Re: Brooke Water, LLC's Response to Arizona Corporation Commission
Sixteenth Set of Data Requests (Docket No. W-03039A-17-0295)**

Ms. Scott:

Attached is Brooke Water, LLC's ("Brooke") Responses to Staff's Sixteenth Set of Data Requests.

If you have any questions, please give me a call.

Sincerely,



Patrick J. Black

/wmm
Enc.

Arizona Corporation Commission
Staff's **Sixteenth** Set of Data Requests No. 16.1 - 16.35
Brooke Water, LLC Docket No. W-03039A-17-0295
March 22, 2018

STF 16.18 Please indicate when Lightstorm S.A. was formed and incorporated in Costa Rica. Please provide all documents evidencing the formation of Lightstorm S.A. in Costa Rica.

OBJECTION: The Company objects to this data request on the basis of relevance, and that the request is not reasonably calculated to lead to the discovery of admissible evidence.

Without waiving its Objection, the Company responds as follows:

Response: Upon information and belief, Lightstorm S.A. was incorporated sometime in 2007. Brooke Water, LLC does not have any documents responsive to the request for formation documents. However, please see Company's response to STF 4.1 – the translated document refers to "Lightstorm Sociedad Anonima, a company with identification number three – one hundred and one – four hundred and thirty-two thousand four hundred and nine, domiciled in San Jose, at five hundred and seventeen Eleventh Avenue, between Fifth and Seventh Streets, which Power of Attorney is attested by the undersigned Notaries based on instrument number one hundred and twenty-five, on page one hundred and ten reverse of volume forty-two of Notary Public Dan Alberto Hidalgo Hidalgo, a copy of which we keep in our Reference Protocol, hereinafter referred to as the 'Purchaser',..."

It is likely that Staff can obtain and translate any formation documents using the company name and identification number from the proper authorities in Costa Rica.

Responder: Bob Hardcastle

Arizona Corporation Commission
Staff's **Sixteenth** Set of Data Requests No. 16.1 - 16.35
Brooke Water, LLC Docket No. W-03039A-17-0295
March 22, 2018

STF 16.15 Are there any written documents provided by Mr. Hardcastle to the other Brooke Water, LLC and Circle City Water Co. owners which update them on the operations of the utilities? If so, please indicate how often these are provided and provide copies for the last five (5) years.

Response: Yes. Internal advisory documents are provided to all owners of Brooke Water, LLC and Circle City Water Co., LLC on a weekly basis through counsel, and are thus protected by attorney-client privilege (A.R.S. §12-2234), work-product privilege and attorney-client confidentiality (Arizona Rules of Professional Conduct ER 1.6).

Responder: Bob Hardcastle / Patrick Black



Legal Division

Chairman, Tom Forese
Bob Burns
Andy Tobin
Boyd W. Dunn
Justin Olson

March 27, 2018

Via Email ONLY

Mr. Patrick Black
Ms. Lauren Ferrigni
Fennemore Craig, P.C.
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Phoenix, Arizona 85016

pblack@fclaw.com
lferrigni@fclaw.com

Re: Staff's **Eighteenth** Set of Data Requests to Brooke Water, LLC
Docket No. W-03039A-17-0295

Dear Mr. Black and Ms. Ferrigni,

Please treat this as Staff's **Eighteenth** Set of Data Requests to Brooke Water, LLC, in the above-referenced matter.

For purposes of this data request set, the words "Brooke Water, LLC," "Company," "you," and "your" refer to Brooke Water, LLC, and any representative, including every person and/or entity acting with, under the control of, or on behalf of Brooke Water, LLC. For each answer, please identify by name, title, and address each person providing information that forms the basis for the response provided.

These data requests are continuing, and your answers or any documents supplied in response to these data requests should be supplemented with any additional information or documents that come to your attention after you have provided your initial responses. Please respond within **FIVE (5)** calendar days, April 2, 2018, of your receipt of the copy of this letter. However, if you require additional time, please let us know.

Please provide one hard copy as well as searchable PDF, DOC or EXCEL files (via email or electronic media) of the requested data directly to each of the following addressees via overnight delivery services to:

- (1) Bob Gray, Utilities Division, Arizona Corporation Commission, 1200 West Washington Street, Phoenix, Arizona 85007. bgray@azcc.gov
- (2) Ralph Smith, Project Manager, Larkin and Associates, 15728 Farmington Road, Livonia, Michigan 48154. RSmithLA@gmail.com
- (3) Doug Kobrick, Engineering Project Manager, Hazen and Sawyer, 1400 E. Southern Avenue, Suite 340, Tempe, Arizona 85282. dkobrick@hazenandsawyer.com
- (4) Barbara Alexander, Subcontractor, Barbara Alexander Consulting, LLC, 83 Wedgewood Drive, Winthrop, Maine, 04364. barbalexand@gmail.com

**ARIZONA CORPORATION COMMISSION
STAFF'S EIGHTEENTH SET OF DATA REQUESTS TO
BROOKE WATER, LLC
DOCKET NO. W-03039A-17-0295
MARCH 27, 2018**

Subject: All information responses should ONLY be provided in searchable PDF, DOC or EXCEL files via email or electronic media.

***For all data requests for which you do not have the information requested, please state as such and skip to the next data request. Also, for responses to data requests that may be voluminous or overly burdensome, please contact the assigned attorney, Maureen A. Scott or Robert W. Geake at (602) 542-3402 to discuss.

- STF 18.1** Refer to STF 16.1: Please identify all persons/entities who are the trustees and beneficiaries of the Virginia Trust No. 2 – the majority owner of Chrystal Investments which is a part owner in Brooke Water, LLC.
- STF 18.2** Has the ownership of Chrystal Investments changed since 1995? Please describe (a) any changes in ownership since that date; (b) when they occurred; and (c) what the exact changes were.
- STF 18.3** Please provide the dossiers for each of the owners of Brooke Water LLC?
- STF 18.4** Refer to the response to STF 16.31: Mr. Hardcastle's response states that Brooke Utilities does not appear on the organizational chart because Brooke Utilities has no relationship to Jaco Oil Company's water utility interests. Please explain a) the Statement and Designation of Foreign Corporation document for Brooke Utilities filed with the California Secretary of State's office, and b) Mr. Hardcastle's Linked-In profile which lists Mr. Hardcastle as a Partner and President of Brooke Utilities Inc. from January 1994 through the present (24 years, 3 months) and his responsibilities including overseeing 35 water companies and more than 23 water systems throughout rural Arizona.
- STF 18.5** Refer to the response to STF 16.33: Mr. Hardcastle states he has no knowledge of who owns Brooke Utilities.
- (a) Please explain in light of Mr. Hardcastle's Linked-In profile where he states that he has been the president and partner of Brooke Utilities since January 1994 to the present (24 years, 3 months).
 - (b) Please explain in light of the Statement and Designation of Foreign Corporation document for Brooke Utilities that is on file with the California Secretary of State's office.
 - (c) Please explain this response in light of Brooke Water LLC's and Mr. Hardcastle's references to the contractual obligations of Brooke Water LLC to Lightstorm SA in his Direct Testimony and prior responses, as well as the associated document provided in response to Staff data requests including STF 7-1, and other responses in which the terms and conditions name "Brooke Utilities, Inc." and no other owner or operator of Brooke Water LLC.
- STF 18.6** Refer to the response to STF 16.34: Mr. Hardcastle states he has no knowledge regarding the corporate purpose of Brooke Utilities and that Brooke Utilities has never been affiliated with Brooke Water, LLC. Please confirm that Mr. Hardcastle was or is the President of Brooke Utilities. Please identify the specific period in which Mr. Hardcastle held this position.

**ARIZONA CORPORATION COMMISSION
STAFF'S EIGHTEENTH SET OF DATA REQUESTS TO
BROOKE WATER, LLC
DOCKET NO. W-03039A-17-0295
MARCH 27, 2018**

Subject: All information responses should ONLY be provided in searchable PDF, DOC or EXCEL files via email or electronic media.

***For all data requests for which you do not have the information requested, please state as such and skip to the next data request. Also, for responses to data requests that may be voluminous or overly burdensome, please contact the assigned attorney, Maureen A. Scott, at (602) 542-3402 to discuss.

- STF 18.7** Please list all owners and/or partners of Brooke Utilities in addition to Mr. Hardcastle and provide the incorporation certificate and/or registration for same. Please identify the specific period associated with Brooke Utilities existence as a going concern.
- STF 18.8** Refer to Brooke Water LLC's response to STF 16.27: Please provide the amounts that would be charged to the company and its customers by Wal-Mart, Safeway, ACE Hardware, Chase Bank, Bank of America and Circle K to process credit card, cash, check and money order payments for customers to pay their Brooke Water LLC bills.
- STF 18.9** Refer to Brooke Water LLC's response to STF 16.27. Please explain the "processing requirements or limitations in all retailers case that makes costs of processing a secondary problem."
- STF 18.10** Refer to the response to STF 16.26: Please provide the workpapers and underlying data that supports this percentage allocation of calls to Lightstorm SA. In your response, identify the method by which calls are classified into each category.
- STF 18.11** Refer to the response to STF 16.24: (a) Please identify what American States Water charged Brooke Water LLC to perform call center functions before they were transferred to Costa Rica; (b) How many companies did Mr. Hardcastle own at the time; (c) how many customers did American States Water provide call center functions to; (d) please provide an average cost per customer; and (e) what functions were included in that cost.
- STF 18.12** Has Brooke Water LLC checked with the successor to American States Water to determine whether it would provide call center service functionality to Brooke Water LLC now? If so, please provide the documents associated with this inquiry, stating the date, nature of the inquiry, including what functions would be included in the cost, the individual from whom this information was received, and the person who made the inquiry on behalf of Brooke Water LLC?
- STF 18.13** What is included in the average \$1.25 cost per customer cited by Brooke Water LLC for call center functions today? What was the comparable amount for years 2008 through 2017.
- STF 18.14** Please indicate the amount paid by Brooke Water LLC to Lightstorm S.A. to process credit card, cash, check and money order payments for years 2013, 2014, 2015, 2016 and 2017.
- STF 18.15** Refer to STF 16.12: Admit or Deny the following:

**ARIZONA CORPORATION COMMISSION
STAFF'S EIGHTEENTH SET OF DATA REQUESTS TO
BROOKE WATER, LLC
DOCKET NO. W-03039A-17-0295
MARCH 27, 2018**

Subject: All information responses should ONLY be provided in searchable PDF, DOC or EXCEL files via email or electronic media.

***For all data requests for which you do not have the information requested, please state as such and skip to the next data request. Also, for responses to data requests that may be voluminous or overly burdensome, please contact the assigned attorney, Maureen A. Scott or Robert W. Geake at (602) 542-3402 to discuss.

- (a) Mr. Hardcastle spends 100% of his time on matters related to Brooke Water LLC and Circle City Water.
- (b) Mr. Hardcastle performs no services for Chrystal Investments and Jaco Oil. If your response is "Deny" explain the services provided and to which entity they are provided.
- (c) Mr. Hardcastle performs no services for entities owned by Crystal Investments, Jaco Oil, Virginia Trust No. 2, any of the Jamiesons or other entities not named herein which are considered under common ownership. If your response is "Deny" explain the services provided and to which entity they are provided.

STF 18.16 Refer to response to STF 16.19: Please explain the types of financial decisions, Jaco Oil and Chrystal Investments LLC are involved in with respect to Brooke Water LLC?

STF 18.17 In your response to STF 18.16(b) above, please also explain the purpose of any Diners Club or other charges paid to Mr. Hardcastle by Jaco Oil for expenses and/or costs incurred not related to and not included in costs allocated to Brooke Water LLC.

STF 18.18 Refer to the response to STF 16.15: Please provide the basis for the attorney-client privilege asserted for not providing the internal advisory documents requested. Please identify the attorney and client asserting the privilege. Is the attorney licensed to practice law in Arizona or in any other jurisdiction? Please identify those jurisdictions. Please provide proof of his employment as an attorney for the client asserting the privilege for the five-year time period. Please indicate the type and nature of the attorney-client advise provided. Please also indicate how the claimed work-product privilege operates in this instance to shield production of these documents.

STF 18.19 Refer to the response to STF 16.16 and 16.17: Mr. Hardcastle's response states he has never had an affiliation with Lightstorm S.A. Please explain Mr. Hardcastle's Linked-In account overview which states that he was a corporate officer and secretary of Lightstorm S.A. from July 2004 through September 2015.

STF 18.20 Refer to STF 16.14: Please explain what actions on behalf of Brooke Water, LLC have required owner approval? Please respond also with respect to costs, expenses, rate of return and other proposals reflected in the pending rate case. Do health and safety issues require owner approval? If not, why not.

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April 2, 2018

VIA E-MAIL

Maureen A. Scott, Deputy Chief
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**Re: Brooke Water, LLC's Response to Arizona Corporation Commission
Eighteenth Set of Data Requests (Docket No. W-03039A-17-0295)**

Ms. Scott:

Attached is Brooke Water, LLC's ("Brooke") Responses to Staff's Eighteenth Set of Data Requests.

If you have any questions, please give me a call.

Sincerely,



Patrick J. Black

/wmm
Enc.

Arizona Corporation Commission
Staff's **Eighteenth** Set of Data Requests No. 18.1 – 18.27
Brooke Water, LLC Docket No. W-03039A-17-0295
April 2, 2018

STF 18.1 Refer to STF 16.1: Please identify all persons/entities who are the trustees and beneficiaries of the Virginia Trust No. 2 – the majority owner of Chrystal Investments which is a part owner in Brooke Water, LLC.

OBJECTION:

The Company objects to this data request on the basis of relevance, and that the request is not reasonably calculated to lead to the discovery of admissible evidence.

Without waiving its objection, the Company responds as follows:

Response: The Company does not have information responsive to this data request.

Responder: Bob Hardcastle

Arizona Corporation Commission
Staff's **Eighteenth** Set of Data Requests No. 18.1 – 18.27
Brooke Water, LLC Docket No. W-03039A-17-0295
April 2, 2018

STF 18.3 Please provide the dossiers for each of the owners of Brooke Water LLC?

OBJECTION:

The Company objects to this data request on the basis of relevance, and that the request is not reasonably calculated to lead to the discovery of admissible evidence.

Without waiving its objection, the Company responds as follows:

Response: Mr. Hardcastle has not utilized or developed a dossier/resume for several years. The other individual owners of Brooke Water, LLC – through their interest in corporate ownership – have not utilized or developed a dossier/resume for several years as well. In order to comply with this data request, individuals would have to develop dossier/resumes.

Responder: Bob Hardcastle

Arizona Corporation Commission
Staff's **Eighteenth** Set of Data Requests No. 18.1 – 18.27
Brooke Water, LLC Docket No. W-03039A-17-0295
April 2, 2018

STF 18.8 Refer to Brooke Water LLC's response to STF 16.27: Please provide the amounts that would be charged to the company and its customers by Wal-Mart, Safeway, ACE Hardware, Chase Bank, Bank of America and Circle K to process credit card, cash, check and money order payments for customers to pay their Brooke Water LLC bills.

OBJECTION:

The Company objects to this data request because it is overly broad and unduly burdensome.

Without waiving its objection, the Company responds as follows:

Response: The Company's initial response indicated that such costs were generally discussed, but not firmly determined. Further, as the Company is not seeking recovery of any such costs, Staff bears the burden of establishing the reasonableness of such costs if it recommends these services should be used by the Company, and should therefore seek its own information in response to the question posed, as the information sought in this discovery request is equally available to Staff.

Responder: Bob Hardcastle

Arizona Corporation Commission
Staff's **Eighteenth** Set of Data Requests No. 18.1 – 18.27
Brooke Water, LLC Docket No. W-03039A-17-0295
April 2, 2018

STF 18.10 Refer to the response to STF 16.26: Please provide the workpapers and underlying data that supports this percentage allocation of calls to Lightstorm SA. In your response, identify the method by which calls are classified into each category.

OBJECTION:

The Company is not in possession of any documents responsive to this request.

Responder: Bob Hardcastle

Arizona Corporation Commission
Staff's Eighteenth Set of Data Requests No. 18.1 – 18.27
Brooke Water, LLC Docket No. W-03039A-17-0295
April 2, 2018

STF 18.14 Please indicate the amount paid by Brooke Water LLC to Lightstorm S.A. to process credit card, cash, check and money order payments for years 2013, 2014, 2015, 2016 and 2017.

Response: Processing of customer credit card payments, cash, check and money order payments in all years was included in the monthly service fee paid by Brooke Water, LLC to Lightstorm S.A.

Responder: Bob Hardcastle

Arizona Corporation Commission
Staff's Eighteenth Set of Data Requests No. 18.1 – 18.27
Brooke Water, LLC Docket No. W-03039A-17-0295
April 2, 2018

STF 18.18 Refer to the response to STF 16.15: Please provide the basis for the attorney-client privilege asserted for not providing the internal advisory documents requested. Please identify the attorney and client asserting the privilege. Is the attorney licensed to practice law in Arizona or in any other jurisdiction? Please identify those jurisdictions. Please provide proof of his employment as an attorney for the client asserting the privilege for the five-year time period. Please indicate the type and nature of the attorney-client advice provided. Please also indicate how the claimed work-product privilege operates in this instance to shield production of these documents.

Response: The internal advisory document in question involves weekly reports beginning in April, 2016. The attorney involved is Patrick Black, the Company's regulatory counsel. Mr. Black is licensed to practice in Arizona. The client asserting the privilege is Brooke Water, LLC. Mr. Black's firm, Fennemore Craig, P.C. has represented Brooke Water, LLC and its affiliates since at least 2003.

Attorney-Client Privilege

Under A.R.S. § 12-2234(A) “[i]n a civil action an attorney shall not, without the consent of his client, be examined as to any communication made by the client to him, or his advice given thereon in the course of professional employment.” Similarly, “any communication is privileged between an attorney for a corporation ... partnership, business ... if the communication is either: 1. For the purpose of providing legal advice to the entity or employer or to the employee, agent or member [or] 2. For the purpose of obtaining information in order to provide legal advice to the entity or employer or to the employee, agent or member.” A.R.S. § 12-2234(B).

“[T]o be privileged, the communication must be made to or by the lawyer for the purpose of securing or giving legal advice, must be made in confidence, and must be treated as confidential.” *Samaritan Found. v. Goodfarb*, 176 Ariz. 497, 501 (1993) (citing 8 John H. Wigmore, *Evidence* § 2292, at 554 (McNaughten rev. ed. 1961); *United States v. Kovel*, 296 F.2d 918, 922 (2d Cir. 1961) (“What is vital to the privilege is that the communication be made *in confidence* for the purpose of obtaining *legal advice from the lawyer.*”) (Friendly, J.)).

See In re Grand Jury (Attorney-Client Privilege), 527 F.3d 200, 201 (D.C. Cir. 2008) (“Attorney-client privilege applies to a document a client transfers to his

Arizona Corporation Commission
Staff's Eighteenth Set of Data Requests No. 18.1 – 18.27
Brooke Water, LLC Docket No. W-03039A-17-0295
April 2, 2018

attorney ‘for the purpose of obtaining legal advice.’” (quoting *Fisher v. U.S.*, 425 U.S. 391, 404–05, 96 S.Ct. 1569 (1976))).

Santrade, Ltd. v. General Elec. Co., 150 F.R.D. 539, 545 (E.D.N.C. 1993) (“[D]ocuments subject to the privilege may be transmitted between non-attorneys (especially individuals involved in corporate decision making) so that the corporation may be properly informed of legal advice and act appropriately.”).

Work-Product Immunity

“[T]he work-product privilege is designed to protect mental impressions and theories of attorneys or other client representatives concerning actual or prospective litigation involving the client.” *Arizona Indep. Redistricting Comm’n v. Fields*, 206 Ariz. 130, 142 (App. 2003) (citing *State ex rel Corbin v. Weaver*, 140 Ariz. 123, 129 (App. 1984)); *see also* Ariz. R. Civ. P. Rule 26(b)(3)(A) (“Ordinarily, a party may not discover documents and tangible things that another party or its representative (including the other party’s attorney, consultant, surety, indemnitor, insurer, or agent) prepared in anticipation of litigation or for trial.”). Even if disclosure of a document under Rule 26(b) is ordered, the court “must protect against disclosure of the mental impressions, conclusions, opinions, or legal theories of a party’s attorney or other representative concerning the litigation.” Ariz. R. Civ. P. Rule 26(b)(3)(B).

Litigation need not be a certainty for work product protection to arise. Documents are created in anticipation of litigation if, “in light of the nature of the document and the factual situation in the particular case, the document can be fairly said to have been prepared or obtained because of the prospect of litigation.” *In re Grand Jury Subpoena*, 357 F.3d 900, 907 (9th Cir. 2004) (quoting 8 Charles A. Wright, Arthur R. Miller & Richard L. Marcus, *Federal Practice & Procedure* § 2024 (2d ed. 1994)).

Response: The internal advisory document was first provided to Mr. Black for the purpose of obtaining legal advice regarding the Commission’s investigation into water outages, water quality and customer service issues, including the potential for the issuance of an Order to Show Cause. The document contains summaries of communications with legal counsel regarding such potential litigation, as well as compliance with Commission orders issued in the investigatory proceeding.

Responder: Patrick Black