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BEFORE THE ARIZONA CORPORATION COMMISSION

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COMMISSIONERS

MIKE GLEASON, Chairman  
WILLIAM A. MUNDELL  
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2008 SEP 26 P 3: 33

AZ CORP COMMISSION  
DOCKET CONTROL

Arizona Corporation Commission

DOCKETED

SEP 26 2008

ESCHERICH  
MM

IN THE MATTER OF THE APPLICATION OF  
ICR WATER USERS ASSOCIATION, INC. FOR  
A PERMANENT RATE INCREASE.

DOCKET NO. W-02824A-07-0388

PROCEDURAL ORDER

**BY THE COMMISSION:**

On June 26, 2007, ICR Water Users Association, Inc. ("Company" or "Applicant") filed with the Arizona Corporation Commission ("Commission") an application for an increase in its permanent rates and charges.

On July 26, 2007, the Commission's Utilities Division ("Staff") issued a notice of sufficiency pursuant to A.A.C. R14-3-103, and classifying the Company as a Class C utility.

On August 9, 2007, pursuant to A.A.C. R14-3-101, the Commission issued a Procedural Order which scheduled a hearing on January 8, 2008, and established filing dates for the proceeding.

On December 21, 2007, Mr. Dayne Taylor, a customer of the Company, filed a request to intervene which was opposed by the Company due to the lateness of the filing. Staff did not object to Mr. Taylor's request for intervention.

On January 8, 2008, a full public hearing was convened before a duly authorized Administrative Law Judge of the Commission at its office in Phoenix, Arizona. The Company and Staff appeared with counsel. Following public comment, Mr. Taylor was granted intervention and appeared on his own behalf. The parties subsequently agreed to certain filing dates and to the continuance of the hearing to April 16, 2008, which was formalized by a subsequent Procedural Order.

On February 15, 2008, Staff filed a Motion for an Extension of Time ("Motion") until March 14, 2008, in which to file any amended testimony or an amended Staff Report.

254

1 On February 19, 2008, the Company joined in Staff's Motion and suggested the following  
2 changes to filing dates:

- 3 • **March 14, 2008** The Company to file rebuttal testimony and associated exhibits;  
4 and Staff to file amended Staff Report.
- 5 • **April 4, 2008** Mr. Taylor to file Surrebuttal testimony and associated exhibits.
- 6 • **April 11, 2008** Parties to file objections to any testimony and exhibits which have  
7 been pre-filed as of April 4, 2008.
- 8 • **April 16, 2008** Hearing; rejoinder testimony and associated exhibits to be  
9 presented at the hearing.

10 Mr. Taylor did not file a response to Staff's Motion.

11 On February 27, 2008, by Procedural Order, Staff's Motion was granted and the other filing  
12 dates modified as recommended by the Company.

13 On April 3, 2008, Talking Rock Golf Course, L.L.C. ("TRG") filed a Motion to Intervene.  
14 Therein, TRG indicated that TRG has a direct and substantial interest in the proceeding. Neither the  
15 Applicant, Staff nor Mr. Taylor opposed TRG's intervention.

16 On April 3, 2008, TRG was granted intervention, and was ordered to file testimony and  
17 exhibits by April 14, 2008.

18 On April 16, 2008, the hearing resumed with Commissioner Mayes in attendance and the  
19 Company, TRG and Staff present with counsel. Mr. Taylor appeared on his own behalf. Following  
20 public comment, counsel for the Company indicated that the parties had begun to explore resolving  
21 certain issues in the proceeding and that they hoped to reach a form of settlement in several weeks  
22 after which the Company would meet with its customers and then file a request to reschedule the  
23 proceeding. The delay would also allow Mr. Taylor time to resolve a medical issue.

24 On July 31, 2008, Mr. Taylor filed a motion to schedule a procedural conference because no  
25 agreement had yet been reached between the parties.

26 On August 6, 2008, the Company filed its response to Mr. Taylor's Motion which indicated  
27 that it anticipated reaching a draft agreement with TRG that would be submitted to the other parties in  
28

1 approximately two weeks. After the draft agreement was circulated to the parties, the Company was  
2 to file a request to establish a procedural schedule.

3 On August 13, 2008, Staff filed its response indicating that it did not object to Mr. Taylor's  
4 Motion.

5 On August 18, 2008, by Procedural Order, Mr. Taylor's motion was granted and a status  
6 conference scheduled on September 18, 2008.

7 On September 12, 2008, by Procedural Order, the status conference was continued to  
8 September 25, 2006. The Company also filed a copy of a new Water Service Agreement  
9 ("Agreement") with TRG.

10 On September 25, 2008, the Company, TRG and Staff appeared with counsel. Mr. Taylor  
11 appeared on his own behalf. Possible filing and hearing dates were discussed after which it was  
12 agreed between the parties that the hearing should commence on December 1, 2008, with December  
13 2 and 3 also reserved for additional days of hearing, if necessary.

14 IT IS THEREFORE ORDERED that the **hearing** in the above-captioned matter shall  
15 commence on **December 1, 2008, at 10:00 a.m.**, or as soon thereafter as is practical, at the  
16 Commission's offices, Hearing Room 1, 1200 West Washington Street, Phoenix, Arizona.

17 IT IS FURTHER ORDERED that **December 2 and 3, 2008**, shall be reserved for additional  
18 days of hearing, if necessary.

19 IT IS FURTHER ORDERED that any **supplemental testimony and associated exhibits** to  
20 be presented at hearing **by the Company** shall be reduced to writing and filed on or before  
21 **October 31, 2008**.

22 IT IS FURTHER ORDERED that an **Amended Staff Report and/or any direct testimony**  
23 **and associated exhibits** to be presented at hearing on behalf of Staff shall be reduced to writing and  
24 filed on or before **November 14, 2008**.

25 IT IS FURTHER ORDERED that any **amended direct testimony and associated exhibits** to  
26 be presented at hearing on behalf of intervenors shall be reduced to writing and filed on or before  
27 **November 14, 2008**.

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1 IT IS FURTHER ORDERED that any **rebuttal testimony and associated exhibits** to be  
2 presented at hearing **by the Company** shall be reduced to writing and filed on or before  
3 **November 21, 2008.**

4 IT IS FURTHER ORDERED that any rejoinder testimony and associated exhibits to be  
5 presented at the hearing shall be presented orally at the hearing.

6 IT IS FURTHER ORDERED that any **objections to any testimony or exhibits** which have  
7 been pre-filed as of November 21, 2008, shall be made on or before **November 28, 2008.**

8 IT IS FURTHER ORDERED that any substantive corrections, revisions, or supplements to  
9 pre-filed testimony shall be reduced to writing and filed no later than five days before the witness is  
10 scheduled to testify.

11 IT IS FURTHER ORDERED that discovery shall be as permitted by law and the rules and  
12 regulations of the Commission, except that: any objection to discovery requests shall be made within  
13 five days<sup>1</sup> of receipt and responses to discovery requests shall be made within five business days of  
14 receipt; thereafter, objections to discovery requests shall be made within five days and responses shall  
15 be made in seven days; the response time may be extended by mutual agreement of the parties  
16 involved if the request requires an extensive compilation effort.

17 IT IS FURTHER ORDERED that, in the alternative to filing a written motion to compel  
18 discovery, any party seeking discovery may telephonically contact the Commission's Hearing  
19 Division to request a date for a procedural hearing to resolve the discovery dispute; that upon such a  
20 request, a procedural hearing will be convened as soon as practicable; and that the party making such  
21 a request shall forthwith contact all other parties to advise them of the hearing date and shall at the  
22 hearing provide a statement confirming that the other parties were contacted.<sup>2</sup>

23 IT IS FURTHER ORDERED that any motions filed in this matter that are not ruled upon by  
24 the Commission within 10 days of the filing date of the motion shall be deemed denied.

25 IT IS FURTHER ORDERED that any responses to motions shall be filed within five days of  
26 the filing date of the motion.

27 <sup>1</sup> "Days" means calendar days.

28 <sup>2</sup> The parties are encouraged to attempt to settle discovery disputes through informal, good-faith negotiations before seeking Commission resolution of the controversy.

1 IT IS FURTHER ORDERED that any replies shall be filed within five days of the filing date  
2 of the response.

3 IT IS FURTHER ORDERED that the Company shall provide public notice of the hearing in  
4 this matter, in the following form and style:

5 **PUBLIC NOTICE OF HEARING ON THE RATE APPLICATION**  
6 **OF ICR WATER USERS ASSOCIATION, INC.**  
7 **(Docket No. W-02824A-07-0388)**

8 On June 26, 2007, ICR Water Users Association, Inc. ("Company") filed an  
9 application with the Arizona Corporation Commission for an increase in its rates and  
10 charges. Copies of the Company's application and proposed tariffs are available at its  
11 office and the Commission's offices for public inspection during regular business  
12 hours.

13 The Commission will hold a public hearing on this matter beginning **December 1,**  
14 **2008, at 10:00 a.m.** at the Commission's offices, 1200 West Washington Street,  
15 Phoenix, Arizona. Public comments will be taken on the first day of the hearing.

16 Any interested person or entity may appear at the hearing and provide public comment  
17 on the application or file written comments in the record of the case. You will not  
18 receive any further notice of this proceeding unless you request it.

19 If you have any questions about this application, you may contact the Consumer  
20 Services Section of the Commission at 1200 West Washington Street, Phoenix,  
21 Arizona 85007 or call 602-542-4251 or 1-800-222-7000.

22 The Commission does not discriminate on the basis of disability in admission to its  
23 public meetings. Persons with a disability may request a reasonable accommodation  
24 such as a sign language interpreter, as well as request this document in an alternative  
25 format, by contacting Linda Hogan at LHogan@azcc.gov, voice phone number  
26 602-542-3931. Requests should be made as early as possible to allow time to arrange  
27 the accommodation.

28 IT IS FURTHER ORDERED that the Company shall provide notice as follows:

- by **publishing by November 7, 2008**, a copy of the above notice in a newspaper of general circulation in the service area; and
- by **mailing by November 7, 2008**, a copy of the above notice to each of its customers.

IT IS FURTHER ORDERED that the Company shall file certification of the provision of  
notice as soon as practicable after notice has been completed.

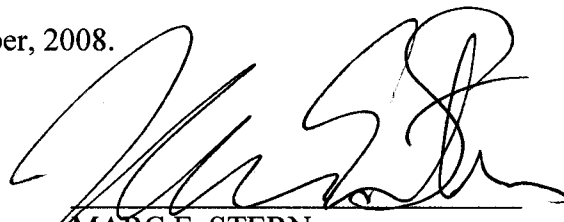
IT IS FURTHER ORDERED that notice shall be deemed complete upon mailing/publishing  
of same, notwithstanding the failure of an individual customer to read or receive the notice.

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

4 IT IS FURTHER ORDERED that the time periods specified herein shall not be extended  
5 pursuant to Rule 6(a) or (e) of the Rules of Civil Procedure.

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

9 DATED this 26<sup>TH</sup> day of September, 2008.

10  
11  
12   
13 MARC E. STERN  
ADMINISTRATIVE LAW JUDGE

14 Copies of the foregoing mailed  
15 this 26<sup>th</sup> day of September, 2008 to:

16 Robert M. Busch  
17 ICR WATER USERS ASSOCIATION, INC.  
P.O. Box 5669  
Chino Valley, Arizona 86323-0466

Janice Alward, Chief Counsel Legal Division  
ARIZONA CORPORATION COMMISSION  
1200 West Washington Street  
Phoenix, Arizona 85007

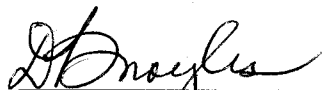
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By:   
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Secretary to Marc E. Stern