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COMMISSIONER
MARC SPITZER
COMMISSIONER

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22
OPEN MEETING ITEM



ARIZONA CORPORATION COMMISSION

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ORIGINAL

BRIAN C. McNEIL
EXECUTIVE SECRETARY

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2001 JUN 19 P 1:-19

AZ CORP COMMISSION
DOCUMENT CONTROL

DATE: June 19, 2001
DOCKET NO: W-03293A-00-0600
TO ALL PARTIES:

Enclosed please find the recommendation of Acting Assistant Chief Administrative Law Judge Jane Rodda. The recommendation has been filed in the form of an Order on:

THIM UTILITY CO. - E&T DIVISION
(RATES)

The deadline for filing exceptions has been waived

The enclosed is NOT an order of the Commission, but a recommendation of the Administrative Law Judge to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Working Session and Open Meeting to be held on:

JUNE 26 AND JUNE 27, 2001

For more information, you may contact Docket Control at (602)542-3477 or the Hearing Division at (602)542-4250.

Arizona Corporation Commission
DOCKETED

JUN 19 2001

DOCKETED BY *sd*

BRIAN C. McNEIL
EXECUTIVE SECRETARY

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 WILLIAM A. MUNDELL
CHAIRMAN

3 JIM IRVIN
COMMISSIONER

4 MARC SPITZER
COMMISSIONER

5
6 IN THE MATTER OF THE APPLICATION OF
THIM UTILITY CO. – E&T DIVISION FOR A
PERMANENT RATE INCREASE.

DOCKET NO. W-03293A-00-0600

7 DECISION NO. _____

8 **ORDER**

9 Open Meeting
June 26 and 27, 2001
Phoenix, Arizona

10 **BY THE COMMISSION:**

11 Having considered the entire record herein and being fully advised in the premises, the
12 Arizona Corporation Commission (“Commission”) finds, concludes, and orders that:

13 **FINDINGS OF FACT**

14 1. Thim Utility Co. – E&T Division (“TUC” or “Company”) provides water utility
15 service to approximately 261 customers in Pima County, Arizona.

16 2. In Decision No. 61137 (September 21, 1998), the Commission approved permanent
17 rates for TUC.

18 3. In Decision No. 62651 (June 13, 2000), the Commission approved a \$0.94 per
19 thousand gallon emergency surcharge. The Commission approved the surcharge to enable the
20 Company to purchase water from the City of Tucson to blend with its well water to mitigate the
21 nitrate levels in its well water.

22 4. On March 13, 2001, the Commission issued Decision No. 63442, which authorized a
23 permanent rate increase for TUC, and discontinued the emergency surcharge. Decision No. 63442
24 found that the emergency surcharge was fully justified.

25 5. Pursuant to Decision No. 63442, the implementation of new permanent rates are
26 contingent upon TUC filing written documentation from the Arizona Department of Environmental
27 Quality (“ADEQ”) that TUC has an approved water blending plan and is providing water with no
28

1 Maximum Contaminant Level (“MCL”) violations and that meets the quality standards of the Safe
 2 Drinking Water Act.

3 6. On May 24, 2001, TUC filed a request for an emergency extension of the emergency
 4 surcharge approved in Decision No. 62651. TUC claims that it faces a substantial hardship because
 5 the emergency surcharge terminated under the terms of Decision No. 63442, but the Company does
 6 not yet have an ADEQ-approved water blending plan which would permit the new permanent rates to
 7 go into effect. TUC stated that it is working with the Arizona Small Water Utilities Association to
 8 complete a water blending plan, and needs between 60 and 120 days to obtain ADEQ approval of the
 9 plan.

10 7. TUC’s current permanent rates¹ do not provide for the extra cost of the water
 11 purchased from the City of Tucson.

12 8. A summary of the Company’s authorized rates are as follows:

	Decision No. <u>61137</u>	Decision No. <u>62651</u>	Decision No. <u>63442</u>
<u>Monthly Charge</u>			
5/8” x 3/4 inch meter	\$15.00		\$15.00
<u>Commodity Rate</u>			
Per 1,000 gallons			
0 to 10,000 gallons	\$2.10		\$2.60
10,001 to 20,000 gallons	\$2.10		\$3.25
In excess of 20,000 gallons	\$3.61		\$3.90
Surcharge, per 1,000 gallons		\$0.94	

19
 20
 21 9. On May 24, 2001, TUC submitted an ADEQ Compliance Status Report which
 22 indicates that TUC is providing water with no MCL violations and states the following: “[t]his water
 23 system signed a Consent Order on April 23, 2001, which includes an agreement to obtain approval
 24 from ADEQ for a blending plan to mitigate a nitrate MCL. The system is therefore making
 25 satisfactory progress toward resolution of the major deficiencies cited in the Consent Order.”

26 10. On June 15, 2001, the Utilities Division Staff (“Staff”) filed a Memorandum in
 27 response to the Company’s request for an extension (“Staff Report”).

28 ¹ The rates established in Decision No. 61137 (September 1998).

1 11. In the Staff Report, Staff stated that it believed that TUC is facing a hardship because
2 the emergency surcharge has terminated, but the new permanent rates have not gone into effect.

3 12. Staff recommends that:

4 (a) The letter from ADEQ serve as satisfactory proof that the Company is providing
5 water with no MCL violations; in compliance with Decision No. 63442;

6 (b) The May 24, 2001, letter from ADEQ, along with the Consent Order of April 23,
7 2001, serve as proof that TUC is making satisfactory progress toward approval of the blending plan
8 for the water system, and substantially complies with Decision No. 63442;

9 (c) The rates authorized in Decision No. 63442 become effective as of July 1, 2001,
10 for June 2001 water usage, on an interim basis, and subject to refund as described below;

11 (d) TUC deposit the difference between the rates authorized in Decision No. 61137
12 and the new rates authorized in Decision No. 63442 (\$0.50 for the first tier, \$1.15 for the second tier,
13 and \$0.29 for the third tier) in a segregated bank account;

14 (e) TUC file with the Director of the Utilities Division written documentation from
15 ADEQ showing that it has an ADEQ-approved blending plan before September 30, 2001. Upon the
16 Director of the Utilities Division approval of that filing, the cash in the segregated account will revert
17 to TUC and TUC may close the account;

18 (f) If TUC does not file with the Director of the Utilities Division written
19 documentation from ADEQ showing that it has ADEQ approval for its blending plan by September
20 30, 2001, the funds in the segregated account shall be refunded to the customers of the utility; and

21 (g) The rates conditionally approved in Decision No. 63442 should take effect only
22 upon TUC's full compliance with the conditions imposed by Decision No. 63442.

23 13. Staff further recommends that a hearing not be required in this matter and that a
24 decision be issued at the earliest possible date.

25 14. As TUC enters the summer months, and its customers' water usage increases, the
26 Company will be required to purchase more water from the City of Tucson to mitigate the nitrate
27 levels in its well water.

28 15. On June 18, 2001, Thim Utility Co. – E&T Division requested that the Commission

1 consider its request in an expedited manner and waived the ten day comment period afforded by
2 R14-3-110.

3 **CONCLUSIONS OF LAW**

4 1. TUC is a public service corporation within the meaning of Article XV of the Arizona
5 Constitution and A.R.S. §§40-250, 40-251, 40-301 and 40-302.

6 2. The Commission has jurisdiction over TUC and of the subject matter of the
7 application.

8 3. TUC has provided evidence that it is providing water that meets the quality standards
9 of the Safe Drinking Water Act and has made satisfactory progress towards obtaining ADEQ
10 approval of its water blending plan to warrant the interim application of the rates approved in
11 Decision No. 63442.

12 4. Staff's recommendations set forth in Findings of Fact No. 12 are reasonable and
13 should be adopted.

14 **ORDER**

15 IT IS THEREFORE ORDERED that the rates authorized in Decision No. 63442 shall be
16 effective as of July 1, 2001, for June 2001 water usage, and shall be interim and subject to refund
17 pending Thim Utility Company – E&T Division providing documentation from the Arizona
18 Department of Environmental Quality that it has an approved water blending plan by September 30,
19 2001.

20 IT IS FURTHER ORDERED that Thim Utility Co. – E&T Division shall deposit the
21 difference between the rates authorized in Decision No. 61137 and the rates authorized in Decision
22 No. 63442 in a segregated interest-bearing bank account.

23 IT IS FURTHER ORDERED that Thim Utility Co. – E&T Division shall file with the
24 Director of the Utilities Division written documentation from ADEQ showing that it has an ADEQ-
25 approved blending plan before September 30, 2001.

26 IT IS FURTHER ORDERED that upon the Director of the Utilities Division's approval of
27 Thim Utility Co. – E&T Division's filing, the cash in the segregated account will revert to Thim
28 Utility Co. – E&T Division and Thim Utility Co. – E&T Division may close the account.

1 IT IS FURTHER ORDERED that Thim Utility Co. – E&T Division shall refund the balance
2 in the segregated bank account if Thim Utility Co. – E&T has not obtained ADEQ approval for a
3 blending plan by September 30, 2001 and filed written documentation with the Director of the
4 Utilities Division.

5 IT IS FURTHER ORDERED that Thim Utility Company - E&T Division shall notify its
6 customers of the rates and charges authorized herein and the effective date of same by means of an
7 insert in its first regular monthly billing.

8 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

9 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

10
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12 CHAIRMAN

COMMISSIONER

COMMISSIONER

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14
15 IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive
16 Secretary of the Arizona Corporation Commission, have
17 hereunto set my hand and caused the official seal of the
18 Commission to be affixed at the Capitol, in the City of Phoenix,
19 this ____ day of _____, 2001.

20
21 _____
22 BRIAN C. McNEIL
23 EXECUTIVE SECRETARY

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1 SERVICE LIST FOR: THIM UTILITY COMPANY E&T DIVISION

2 DOCKET NO.: W-03293A-00-0600

3 Robin Thim, President
4 Thim Utility Company – E&T Division
5 PO Box 13145
6 Tucson, Arizona 85732

7 Christopher Kempley, Chief Counsel
8 ARIZONA CORPORATION COMMISSION
9 1200 W. Washington Street
10 Phoenix, Arizona 85007

11 Deborah Scott, Director
12 Utilities Division
13 ARIZONA CORPORATION COMMISSION
14 1200 W. Washington Street
15 Phoenix, Arizona 85007

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