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THIS AMENDMENT:

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STAFF PROPOSED AMENDMENT # DOCUMENT CONTROL AZ CORP COMMISSION Arizona Corporation Commission

DOCKETED

DEC 20 2004

DATE PREPARED December 20, 2004

COMPANY: UTILITY SOURCE, LLC.

DECISION NO. DOCKET NOS. WS-04235A-04-0073 and WS-04235A-04-0074

DOCKETED BY [Signature]

OPEN MEETING DATE: DECEMBER 22, 2004 AGENDA ITEM NO. U-2

- Page 15, line 20, INSERT at the end of Finding of Fact No. 29: Accordingly, we find Utility Source's water rate base to be \$ 2,768,846 and its wastewater rate base to be \$1,499,224.
- Page 16, line 15, before "Given", INSERT in Finding of Fact No. 32: Staff's letter dated September 15, 2004 provides that:

Staff's agreement is expressly conditioned on the agreement of the developers in question to fully disclose the situation to all of their customers whose sales have not yet closed. Such disclosure must include... that the rates currently charged are not authorized by the Commission and may have to be substantially increased. Staff's agreement is further condition[ed] on the agreement of the developers in question to cancel any sales contract or other commitment if the customer so desires.

This requirement partially addresses our concern. But we note that it applies only to customers whose sales had not closed as of September 15, 2004. The remaining customers did not receive notice of the potentially increased rates.

- Page 16, line 18, Finding of Fact No. 32: DELETE: "on an interim basis"
- Page 16, line 20, INSERT after Finding of Fact No. 32, a new finding of fact as follows: In a CC&N cases where the applicant has existing rates, the Commission can require the applicant to continue charging its existing rates until the next rate case. *See Residential Utility Consumer Office v. Arizona Corp. Comm'n*, 199 Ariz. 588, 592 ¶¶ 15-18, 20 P.3d 1169, 1173 (2001)(discussing *Pueblo Del Sol Water Co. v. Arizona Corp. Comm'n*, 160 Ariz. 285, 772 P.2d 1138 (1988)). As we have noted, Utility Source and Staff analyzed the rates using the normal methods for CC&N applications, which involve estimating figures for rate base and expenses for five years. In CC&N cases, this is done because the utility normally does not have any plant "in the ground" or ongoing operations. Here, Utility Source violated the law by putting plant in the ground and conducting

utility operations without Commission authorization. Because Utility Source has plant in the ground and ongoing utility operations, we find that it not appropriate to set rates using 5 year projections. Instead, it is appropriate to set rates in this matter using traditional rate case methods, which look to the actual expenses and rate base of the Company. We do not have sufficient information in the record regarding the actual expenses and rate base of the Company to be able to set rates at this time. Because we lack sufficient information to change the Company's rates, we will direct the Company to use its existing rates until such time as the Company files a rate case, which it may do at any time.