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IN THE MATTER OF THE APPLICATION OF  
PINEVIEW WATER COMPANY, INC., FOR  
AUTHORITY TO ISSUE PROMISSORY  
NOTE(S) AND OTHER EVIDENCES OF  
INDEBTEDNESS PAYABLE AT PERIODS OF  
MORE THAN TWELVE MONTHS AFTER THE  
DATE OF ISSUANCE.

DOCKET NO. W-01676A-04-0463

IN THE MATTER OF THE APPLICATION OF  
PINEVIEW WATER COMPANY, INC. FOR AN  
INCREASE IN ITS WATER RATES FOR  
CUSTOMERS WITHIN NAVAJO COUNTY,  
ARIZONA.

DOCKET NO. W-01676A-04-0500

**STAFF'S CLOSING BRIEF**

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1 **I. The Commission should remedy the serious affiliate problems shown in this case.**

2 In Pineview's last rate case, the Commission found that a number of serious affiliate issues  
3 existed between Pineview and the Sutter family, which owns Pineview. The Commission ruled:

4 Staff's audit identified a number of questionable transactions between  
5 Pineview and H&S Construction, Inc. ("H&S") and Mercon Incorporated  
6 ("Mercon"), construction companies owned by the Sutter family. There  
7 appears to have been an intermingling of Pineview's operations with those of  
8 H&S and Mercon, with Pineview having made purchases or payments on  
9 behalf of H&S or Mercon.... It appears that Pineview's cash, which could  
10 have been used to effect repairs and maintenance, has been tied up in  
11 supporting H&S and Mercon. (Ex. S-3 at 4:7-14).

12 The Commission also found that Pineview incurred unauthorized debt to purchase capital  
13 equipment, and that this equipment was "primarily for the benefit of Mercon and H&S". (*Id.* at 5:11-12).  
14 The Commission specifically ordered Pineview to "cease and desist from any such practice in the future."  
15 (*Id.* at 13:11-12 and 15:9-10). Unfortunately, the problems of inappropriate affiliate transactions,  
16 intermingled operations, and unauthorized debt are repeated in this case.

17 The record is full of references to questionable affiliate transactions. (*See generally* Ex. S-18,  
18 listing leases between Pineview and the Sutter family) For example, Pineview's application included  
19 lease expenses for two 2001 GMC trucks. During the test year, Pineview leased these trucks from Henry  
20 Sutter, the President and one of the owners of Pineview. The lease agreement was signed by Henry Sutter  
21 (on his own behalf) and his son, Ernie Sutter (Pineview's Vice-President, for Pineview). (Tr. at 212-13;  
22 Ex. A-11)<sup>1</sup>. This lease included, in addition to Sutter's actual costs, a "lease fee" of \$247.54 per month.  
23 (*Id.* at 213:10-17). Pineview tried to recast this lease fee as compensation for the truck's down payment.  
24 But Pineview's General Manger, Ron McDonald, conceded that the down payment was only \$5,000,  
25 while the lease fee will produce approximately \$15,000. (*Id.* at 222:3-20; Ex. A-11).

26 Likewise, Pineview asked for lease expense for its backhoe. This backhoe lease was also signed  
27 by Henry Sutter (for himself) and Ernie Sutter (for Pineview). (*Id.* at 210-212; Ex. A-9). This lease is  
28 astonishing, given that McDonald conceded that Pineview, not Henry Sutter, was listed as the original  
purchaser of the backhoe. (*Id.* at 585-87; Ex. A-18). In other words, Pineview was leasing a backhoe it  
already owned! McDonald attempted to explain this away by stating that Henry Sutter was the real

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<sup>1</sup> Tr. Refers to the hearing transcripts of February 24, 25, and March 3, 2005, collectively.

1 owner, but that Pineview was listed as the owner so that Sutter would qualify for a “substantial”  
2 government discount that Pineview was eligible to receive. (*Id.* at 588:14-21). Further, even if the lease  
3 was valid, it was a lease to purchase agreement, and all the payments have been made. The lease  
4 specifies that Henry Sutter must provide a bill of sale to Pineview formally transferring ownership to  
5 Pineview. (*Id.* at 215:13-15; Ex. A-9). But Henry Sutter never provided this bill of sale, even though it is  
6 10 months late. (*Id.*).

7 Pineview also wants to recover lease expense for a 1979 Truck. This lease was signed by Henry  
8 Sutter (for himself) and his subordinate, Ron McDonald (for Pineview). Further, Pineview leases its  
9 office space from its treasurer, Katherine Sutter. (*Id.* at 544:13-23). Remarkably, McDonald called the  
10 truck and backhoe leases “arms length transactions”. (*Id.* at 243:9). To the contrary, the leases present  
11 clear conflicts of interest. As such, they raise strong concerns about their ratemaking impact. Further,  
12 these leases do not appear to meet the standard of A.R.S. § 10-862, which governs conflict of interest  
13 transactions by directors like the Sutters.

14 Staff also demonstrated substantial co-mingling of operations. For example, McDonald admitted  
15 that Pineview paid numerous equipment repair invoices that were billed to Mercon, not Pineview. (*Id.* at  
16 124-26; Ex. S-4). Likewise, Pineview paid various Mercon postal invoices. (*Id.* at 428-29; Ex. S-25).  
17 Pineview claimed that these invoices were just mistakes, arguing that small town people are so easily  
18 confused that they could not distinguish between the various Sutter family businesses. (*Id.* at 193:5-6 and  
19 194:2-9). In addition to being insulting to the rural citizens of this State, this argument is implausible. As  
20 Staff’s accounting witness, Elena Zestrijan, testified, the best indication of the proper recipient of a bill is  
21 the name listed on the bill. (*Id.* at 545-6) Further, Pineview has a full time accountant, and thus has the  
22 resources to catch any erroneous bills and to insist that the proper company be listed. (*Id.* at 503:16-25).  
23 It did not do so.

24 Lastly, McDonald admitted that Pineview incurred unauthorized debt, just as it had in 1996. Once  
25 again Pineview has repeated the errors of the past. Indeed, Pineview’s managers can’t seem to understand  
26 that Pineview is a separate legal entity from its owners. For example, McDonald testified that the Sutters  
27 “happen to own the company, they are not two separate entities.” (*Id.* at 95:10-12). Likewise, McDonald  
28 stated that “Katherine and Henry Sutter are the company” and “Henry was Pineview.” (*Id.* at 118:10 and

1 163:24).

2 In light of these numerous affiliate problems, Staff would be well justified in recommending  
3 severe penalties, such as fines and forcing Pineview to recover all lease payments to the Sutters. Instead,  
4 Staff is seeking only modest conduct remedies, which will help prevent such abuses in the future. (*Id.* at  
5 505-516; Ex. S-14 at 4-6). Most importantly, Staff recommends that the Commission require Pineview to  
6 obtain Commission approval prior to any future transactions with its affiliates or members of the Sutter  
7 family. (*Id.*). Staff also recommends that the Commission order Pineview to cease and desist from any  
8 further co-mingling of expenses and capital equipment. (*Id.*). Staff further recommends that the  
9 Commission order Pineview to file a new rate case within 3 years. (*Id.*). A new rate case audit will  
10 reveal whether these affiliate problems recur, and whether new problems occur. Lastly, Staff  
11 recommends that the Commission require Pineview to keep certain written records of the usage of its  
12 heavy equipment and to train the equipment operators in keeping such records. (*Id.*) McDonald testified  
13 that Pineview had already begun to keep such records. (*Id.* at 95:23).

14 **II. The Commission should reject the incestuous leases between Pineview and its owners.**

15 As described above, Pineview has entered into numerous questionable leases with its owners, the  
16 Sutters. The rent expense associated with these leases should be disallowed.

17 **A. The two 2001 GMC Trucks.**

18 Staff recommends that the lease expense for the two 2001 GMC trucks be disallowed and these  
19 trucks be included in rate base. (*Id.* at 408:14-22). Staff agrees that the trucks should be included at their  
20 original cost, as shown on the bills of sale (Ex. A-10 and A-12), less accumulated depreciation. (*Id.* at  
21 408:14-22). Pineview accepted this proposal. (*Id.* at 263:17-21).

22 **B. The 1998 Backhoe.**

23 Similar to the GMC trucks, Staff disallowed the lease expense for the 1998 backhoe, and  
24 recommends that the backhoe be included in rate base. Pineview's attorney conceded that this was  
25 appropriate, stating that "that's totally appropriate and we would not object to that." (*Id.* at 257:17-19;  
26 *see also Id.* at 541:18-22). Like the GMC trucks, Pineview wants the rate base value of the backhoe to be  
27 the amount shown on the bill of sale. (*Id.* at 263:17-21). Under ideal circumstances, that would be  
28 appropriate. But there are two problems that make such an accounting treatment inappropriate here.

1 First, the accounting for the prior backhoe was improper. Although Pineview no longer has this  
2 old backhoe, it remains in its books. (*Id.* at 472:9-12; 245-50; 236:23-25; and Ex. S-20). Therefore, the  
3 prior backhoe must be removed from Pineview's books so it does not recover for two backhoes. (*Id.* at  
4 460:19-22). Further, the prior backhoe was used as a trade-in, so the trade-in value must be deducted  
5 from the purchase price. (*Id.* at 474:8-11). But the trade-in value is unknown, so this cannot be done.  
6 (*Id.* at 464:9-10; 468:15; and 524:7-13).

7 Second, Pineview did not lease the backhoe until two years after the bill of sale. As Ms. Zestrijan  
8 testified, a 1998 invoice is not good evidence of the value of the backhoe in 2000, after two years of wear-  
9 and-tear. (*Id.* at 537:8-11; 524:7-13; and 469:1-3). Under the Commission's rules, the original cost of an  
10 asset is the cost at the time the asset is devoted to public service. *See* A.A.C. R14-2-103(A)(3)(e); *see*  
11 *also* A.A.C. R14-2-102(A)(6). Thus, if a utility purchases a used asset, the asset is included in original  
12 cost rate base only at the utility's prudent purchase price.

13 Pineview argues that the backhoe was actually placed in service in 1998, so there is no two-year  
14 gap. The evidence belies this assertion. McDonald stated that Pineview began making payments on the  
15 backhoe on May 2, 2000. (Ex. A-6 at 9:17-18). Moreover, the backhoe lease is dated May 2, 2000. (Ex.  
16 A-9). Further, McDonald testified that the backhoe was placed in-service in 2000. (Tr. at 270:1-5) In  
17 contrast, the backhoe bill of sale is from 1998. (Ex. A-18). During Pineview's direct case, McDonald  
18 was unable to explain the difference between the 1998 purchase date and the 2000 in-service date. (Tr. at  
19 272:1-5). But McDonald changed his story when giving rebuttal testimony a week later. McDonald's  
20 new testimony was that the backhoe was placed in service in 1998. (*Id.* at 566-67). But McDonald did  
21 not work for Pineview at that time. (*Id.* at 580:12-15). Nor could McDonald produce a single piece of  
22 documentary evidence to support his new claim. (*Id.* at 581:4-7). McDonald's new testimony is  
23 inconsistent with his own prior testimony and the documents in the record.

24 For these reasons, Staff cannot recommend that the 1998 invoice be used to set the original cost of  
25 the backhoe. Pineview's rate base already contains one backhoe. Until that backhoe can be replaced with  
26 an accurate value for the new backhoe, the Commission should retain the existing backhoe value in  
27 Pineview's books. Pineview has not met its burden of proof to justify a deviation from what is shown on  
28 its books.

1 If this recommendation is not accepted, then Staff recommends that the Commission use the  
2 market value of the backhoe. Staff conducted a study and determined that the backhoe had a market value  
3 of \$39,094. (*Id.* at 543:2-14; Ex. S-27). In the absence of an accurate original cost number, the  
4 Commission sometimes looks to replacement cost, and that would be an acceptable approach here.

5 **C. The 1979 Truck.**

6 Like the backhoe and the two GMC trucks, Pineview asked for lease expense for a 1979 truck. In  
7 the alternative, Pineview asks that the truck be included in rate base. Both requests should be denied.  
8 Staff concluded that this old truck is not used and useful. (Ex. S-14 at 11:13-16). Moreover, McDonald  
9 testified that Pineview puts “our logo on every piece of our equipment, we make sure our logo is on it.”  
10 (Tr. at 566:21-22). But the logo is not on the 1979 truck. (*Id.* at 133:23-24). Nor was this truck included  
11 with the other trucks in Pineview’s workpapers. (*Id.* at 240:17-22). And Pineview could not produce the  
12 registration or insurance for this truck.. (*Id.* at 135:5-19). Thus, it is not clear who owns the truck or how  
13 much it cost. Unlike the GMC trucks, no bill of sale was ever produced for the 1979 truck. Further, this  
14 lease will result in Pineview paying \$7,200 for 26-year old truck. (*Id.* at 240:13-16). This exorbitant  
15 amount is facially absurd.

16 **III. Other rate base issues.**

17 Staff recommends the Commission adopt the rate base shown on Exhibit S-19. (*Id.* at 408).

18 **A. The well sites for as-yet-undrilled wells are not used and useful.**

19 Staff recommends removing unused well sites from rate base. The wells which may be installed  
20 on these sites have not yet been drilled. (*Id.* at 120:10). Indeed, McDonald conceded that the well and  
21 tank sites “obviously are not used and useful at this time” (*Id.* at 121:6-10; Ex. S-1).

22 **B. Remodeling of Office Space.**

23 Staff removed \$1,725 from rate base relating to improvements made to the leased office space.  
24 (Ex. S-14 at Schedule ENZ-5, note 2). However, in rebuttal, McDonald testified that the expenses were  
25 the responsibility of Pineview under Section 6.1(a) of the lease. (Tr. at 571-72). Accordingly, Staff will  
26 concede this issue.

27 **C. Reclassifications.**

28 Staff also reclassified various items as shown on Exhibit S-14 at Schedule ENZ-5, notes 3,4,6,8,

1 and 9. For the reasons described in those notes, Staff recommends that the Commission approve these  
2 reclassifications.

3 **D. Accumulated Depreciation.**

4 Staff recalculated accumulated depreciation starting from the authorized levels in the 1996 rate  
5 order, and recommends that its level of accumulated depreciation be adopted. (Ex. S-14 at 7:17-23).

6 **E. Contributions in aid of Construction.**

7 Staff used Pineview's actual level of Contributions in aid of Construction ("CIAC") as shown on  
8 Pineview's books, and made a corresponding adjustment to CIAC accumulated amortization. Staff  
9 recommends that these amounts be adopted. (Ex. S-14 at 8:2-10).

10 **F. Customer Deposits.**

11 Staff adjusted customer deposits to match Pineview's general ledger, and recommends that this  
12 amount be used. (Ex. S-14 at 8:13-16).

13 **G. Meter Advances.**

14 Staff conceded this issue during the hearing, and this concession is already reflected on Exhibit S-  
15 19. (Tr. at 408:20-25).

16 **IV. Other Expense Issues.**

17 In addition to the disallowance of lease expenses, as discussed above, Staff recommends the  
18 following adjustments to expenses.

19 **A. Salaries and Wages.**

20 Staff adjusted salaries and wages by removing salaries for various Sutter family members who do  
21 not provide any necessary service to Pineview. (Ex. S-14 at 9-10). Staff also made a corresponding  
22 adjustment to employee pensions and benefit expense. (*Id.*). According to Pineview, Henry and  
23 Katherine Sutter spend much of their time obtaining easements for Pineview. (Tr. at 531-532). Spending  
24 that sort of time on obtaining easements is atypical. (*Id.* at 559:11-14). Indeed, developers normally  
25 obtain easements for water companies. (*Id.* at 559:6-9). Further, the Sutters have only a small part of the  
26 office assigned to them, which they share with the field workers. (*Id.* at 137-38; Ex. S-6). This suggests  
27 that the Sutters do not actually perform executive functions, since executives usually have at least some  
28 sort of minimally adequate work space. (*Id.* at 438; 442; 534-35). Further, Pineview's general manager,

1 Mr. McDonald, has extensive management experience and formerly ran a public works unit with 60  
2 employees (*Id.* at 142-43). If he can supervise 60 employees, surely he can supervise Pineview's 6  
3 employees without the assistance of numerous Sutter family "executives" being on the payroll. (*Id.* at  
4 530:1-12).

5 Moreover, Staff performed a salary study that shows that Pineview's salaries and wages expense  
6 is far out of line with comparable companies. (*Id.* at 410-12; 447-54; and 535-36). The results of this  
7 study are shown on Exhibit S-15. (*Id.* at 410-12). Staff found that comparable companies spend only  
8 19% of their revenue on salaries and wages, while Pineview (per its application) spends 35.6%. (*Id.* at  
9 412:12-19). Indeed, even if the Commission adopts Staff's modest adjustment, Pineview will still spend  
10 34.2 % of its revenue on salaries and wages, which is still "substantially more than the average". (*Id.*). In  
11 contrast, Pineview did not conduct a study, even though McDonald suggested in Rebuttal that he had  
12 conducted one. (*Id.* at 143:19-25; Ex. S-7; Ex. A-6 at 7-8).

13 **B. Repairs and Supplies.**

14 Staff reduced repairs and supplies by \$7,017 to reflect a number of errors. (Ex. S-14 at 10-11).  
15 The main adjustment related to invoices that could not be linked to equipment that Pineview owned. (*Id.*;  
16 Tr. at 424-25; 458:24). Further, many of these invoices appear to be related to Mercon. (Tr. at 124-26).  
17 Pineview has not met its burden of proving that these expenses actually relate to providing water service  
18 to the public.

19 **C. Telephone Expense.**

20 Staff recommends the telephone expense shown on Exhibit S-16. (*Id.* at 413). Staff adjusted the  
21 test year telephone expense to "reflect the going forward telephone expense." (*Id.* at 482:9-10). This is  
22 necessary because Pineview switched cellular providers to Alltel and achieved substantial savings. (Tr. at  
23 484:8-17). Staff's adjustment was based upon telephone bills submitted by Pineview. (Ex. S-9).  
24 McDonald agreed that the bills in Exhibit S-9 "accurately depict the current telecommunications charges  
25 incurred by the company." (Tr. at 150:5-8). McDonald attacked Staff's adjustment as excluding all land  
26 lines. (*Id.* at 92:10-17; A-6 at 11:9). But Staff did no such thing. (*Id.* at 414:21-24). Indeed, Exhibit S-  
27 16 clearly shows \$2,559 allowed for land lines. It is no surprise that Pineview did not understand Staff's  
28 adjustment, as it never sent any data requests to Staff on that or any other point. (*Id.* at 114:16-20).

1 Staff's adjustment accurately reflects going forward expenses, while Pineview's criticism of Staff's  
2 adjustment is inaccurate.

3 **D. Purchased Power Expense.**

4 Staff's adjustment to purchased power expense is based on data provided directly by Pineview,  
5 and it should be adopted. (Ex. S-14 at 16-20; Tr. at 423-24; Ex. S-22).

6 **E. Contractual Services Expense.**

7 Staff recommends an increase in this expense based upon engineering estimates. (Ex. S-14 at 11;  
8 Ex. S-13 at 18).

9 **F. Uniform Expense.**

10 Staff and Pineview now agree that uniform expense should be \$720. (Tr. at 480:6-15 and  
11 202:2-9).

12 **G. Rate Case Expense.**

13 Staff did not dispute the amount of rate case expense, but it did dispute the amortization period.  
14 Staff amortized rate case expense over 5 years. But Staff agrees that if the Commission adopts Staff's  
15 recommendation to order a rate case within 3 years, then the amortization period should be shortened to 3  
16 years. (*Id.* at 414:21-24). If Staff's recommendation is not adopted, then the longer period is appropriate  
17 given the long historical period between Pineview's rate cases, with the last one concluding in 1996.

18 **H. Bad Debt Expense.**

19 Staff accepted Pineview's bad debt expense, but lengthened the amortization period from 3 to 4  
20 years. (*Id.* 416-18). This adjustment amounts to \$928 dollars. (*Id.* at 489:13 and 499:20-21). Staff's  
21 adjustment was "very lenient" because Pineview had never written off bad debt before. (*Id.* at 485:7-12).  
22 In theory, Staff could have lengthened the amortization period to reflect the decades Pineview went  
23 without write-offs, but Staff instead made a very minor adjustment of only one additional year.

24 **I. Miscellaneous Expenses.**

25 A few additional miscellaneous expenses are adjusted, as shown on Exhibit S-16. Ms. Zestrijan  
26 explained each of these during her testimony. (*Id.* at 489-90).

27 **J. Other Expenses.**

28 Staff adjusted depreciation expense, property tax expense, and income tax expense to correspond

1 to Staff's other recommendations. (Ex. S-14 at 13-14).

2 **V. Rate of Return.**

3 Staff's rate of return analysis is consistent with Staff's approach in recent cases. (Tr. at 339:14-  
4 17). Staff employs a full-fledged cost of capital analysis, which provides a better estimate of the required  
5 rate of return than Pineview's approach. (*Id.* at 282:14-15). Pineview's approach is based on using TIER  
6 and DSC. Pineview's expert, Mr. Neidlinger, testified that his approach was merely the "fallout" of using  
7 the TIER. (*Id.* at 24:16-18). Neidlinger did not dispute the methodology Staff employed. (*Id.* at 26:5-6).  
8 Indeed, Neidlinger agreed that Staff's approach was the "classical approach" (*Id.* at 24:2-3). In contrast,  
9 Staff's expert, Mr. Ramirez, strongly criticized Neidlinger's approach:

10 By no means [TIER or DSC] should be a driver to come up to a certain  
11 operating income. If you use a TIER or DSC to get to an operating income,  
12 you are disregarding actually what the cost of equity is and you are not doing  
proper financial models or sound theory. (*Id.* at 281-82).

13 Further, Pineview's approach results in a return on equity of 13.1%, which is high for a water  
14 company. (*Id.* at 281:1-14).

15 Pineview argued that it should receive a higher return because it is small. But Ramirez testified  
16 that firm size is not a relevant factor in determining the cost of equity for a water company. (*Id.* at 285:8-  
17 15). Ramirez pointed to an article in a finance journal by Ms. Wong where she concluded that there is no  
18 size effect in the utility industry. (*Id.* at 285:8-15 and 317). Ramirez also noted that the Commission  
19 rejected this same firm size argument in its recent Arizona Water rate order. (*Id.* at 286:10-14; Ex. S-24  
20 at 19 and 22). Ramirez also explained that any adjustment for Pineview's particular operating  
21 circumstances is unwarranted, because such risks are unique risks which can be eliminated through  
22 diversification. (*Id.* at 287:6-11; 330:16-18; 340 and Ex. S-11 at 10-12).

23 Pineview also argued that its future debt should be considered. Ramirez explained that  
24 hypothetical debt should not be used. (*Id.* at 324:1-13). Further, even if hypothetical debt was  
25 considered, as the amount of debt goes up the capital structure changes. Debt costs less than equity. So  
26 the increased amount of lower-cost debt in the capital structure offsets any increase in financial risk which  
27 might increase the cost of equity. (*Id.* at 284-85 and 321-22). Thus, the overall rate of return remains  
28 about the same. (*Id.*).

1 Pineview offered its Exhibit A-7 to try to show that its interest coverage would be inadequate.  
2 But Ramirez explained that this exhibit defeats its own purpose, because it shows an adequate TIER if  
3 Staff's recommendations are adopted. (*Id.* at 283:19-20; 341:10-14). Further, the TIER does not take  
4 into account the effect of noncash expenses like depreciation, which leave additional cash available to  
5 cover emergencies. (*Id.* at 341-42).

6 **VI. Rate Design.**

7 Staff's rate design is consistent with recent Staff recommendations. (*Id.* at 422:3-9). Staff's  
8 design provides a reduced rate for the first 3,000 gallons to ensure the affordability of a minimum level  
9 of usage. (*Id.* at 421-22). Above this level, Staff's design promotes conservation. (*Id.*). Pineview  
10 attacked Staff's rate design, arguing that it results in a reduction to the median bill. But this slight  
11 decrease (2.3%) is offset by the substantial increase given to high users. (Ex. S-14, Schedule ENZ 26).  
12 Further, while the median user gets a slight decrease, the average user gets a slight increase. (*Id.*). When  
13 first implementing three-tiered rates, the rate impact will vary by consumption. Sometimes this results in  
14 rate reductions for some consumption levels. The most important point is that beyond the first tier, the  
15 rates will send an appropriate price signal to customers, resulting over the long term in conservation.

16 Pineview also noted that Staff's rate design produced an extra \$10,000 above Staff's  
17 recommended revenue requirement. (*Id.* at 53:5-18). Staff concedes this issue.

18 **VII. Financing.**

19 Staff recommends that Pineview be approved funding for only a one million gallon storage tank.  
20 Staff's engineer, Dorothy Hains, reviewed McDonald's rebuttal testimony, which claimed that Staff failed  
21 to take into account an expected increase in the number of customers the water company will service in  
22 the future (Tr. at 346). Staff re-ran its analysis using McDonald's growth figures. (Tr. at 346-47). Even  
23 using the revised numbers, Hains' testimony has remained constant: Pineview needs a one million gallon  
24 tank for today and the future, and not a two million gallon tank (Tr. at 346). This recommendation also  
25 includes the requirements to cover needed fire flow (Tr. at 347). A two million gallon tank is so large that  
26 with current production it would run the risk of not filling fast enough to prevent the pumps from burning  
27 out (Tr. at 348). Further, it would take three days to fill a two million gallon tank with current production.  
28 (*Id.* at 348:1-6). Therefore, Hains testified that "production is the problem, storage is not." (*Id.* at

1 348:7-8).

2           And just as important, Hains testified that building a two million gallon tank without the current  
3 and foreseeable need will mean that customers today will be paying for Pineview's future investments  
4 (Tr. at 358). Further, Pineview can still convert its system to a gravity system on the site with the one  
5 million gallon tank. (Tr. at 349). If the need arises, Pineview could connect another storage tank or  
6 create a hybrid system of pressure and gravity storage (Tr. at 349). Moreover, a future system that  
7 encompassed dual tanks would be more reliable than a single tank, especially when it came to  
8 maintenance or the failure of a tank (Tr. at 359).

9           Pineview also suggested that Staff's cost estimates are erroneous. But Hains testified that she  
10 used the well-recognized Handy-Whitman index, which showed that tank costs only increased "a little  
11 bit". (*Id.* at 364:4-5). Hains also used the bids Pineview submitted with its financing application.  
12 Pineview later attacked these bids. But as Ms. Hains notes, Pineview had every incentive to be accurate  
13 in preparing its application. (*Id.* at 363:9-12). Indeed, McDonald testified that Pineview "took  
14 appropriate care" in preparing its financing application. (*Id.* at 575) In Rebuttal, McDonald submitted  
15 some new "estimates" of tank costs. But McDonald admitted that these are merely estimates, not bids.  
16 (*Id.* at 579). Moreover, these estimates are from only a few of the companies that submitted bids. (*Id.* at  
17 576-78). Further, one of the estimates only increased by three percent. (*Id.* at 564:11-18). And in any  
18 event, Pineview will have the opportunity to recover any prudent cost overrun in its next rate case.

19           Additionally, Staff's finance expert, James Johnson, only recommends funding for a one million  
20 gallon tank. Part of his rationale for only funding part of the company's requested financing is because of  
21 Pineview's projected capital structure (Tr. at 397). Mr. Johnson does not see the value in allowing a  
22 company to borrow to its full potential in case of any unforeseen expenses that come along (Tr. at 406).

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1 **VIII. Conclusion.**

2 Staff respectfully requests that its recommendations be adopted for the reasons described above.

3 **RESPECTFULLY SUBMITTED** this 8<sup>th</sup> day of April 2005.

4  
5 

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10 The original and thirteen (15) copies  
11 of the foregoing were filed this  
12 8<sup>th</sup> day of April 2005 with:

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