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BEFORE THE ARIZONA CORPORATION COMMISSION

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2006 APR -7 P 4: 30
AZ CORP COMMISSION
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IN THE MATTER OF THE APPLICATION
OF ARIZONA PUBLIC SERVICE COMPANY
FOR AN EMERGENCY INTERIM RATE
INCREASE AND FOR AN INTERIM
AMENDMENT TO DECISION NO. 67744

DOCKET NO. E-01345A-06-0009
STAFF'S CLOSING BRIEF

I. INTRODUCTION

Arizona Corporation Commission Staff ("Staff") hereby submits its Closing Brief regarding Arizona Public Service Company's ("APS") Application for Emergency Interim Rate Relief.

Staff's final position is as follows:

- Based on the facts and evidence presented, Staff does not believe an emergency exists to justify the rate relief sought by APS. While the Commission has considerable discretion to determine what is and is not an emergency, the facts here do not justify granting of this extraordinary relief to APS.
- Staff does believe that the concern over mounting fuel and purchase power deferrals is a legitimate one sufficient to justify some action in this proceeding. Staff recommends modifying the existing Power Supply Adjustor ("PSA") to allow for quarterly surcharge requests from APS as described in Staff's testimony. Staff's approach is desirable because it balances ratepayer and Company interests by allowing the Company to timely recover its actual costs incurred instead of relying on projected numbers. In addition, it directly addresses the problem outlined by the three nationally-recognized credit-rating agencies – Standard & Poors ("S&P"), Moodys, and Fitch – without bootstrapping the ratemaking process exclusively to the opinions of those agencies. This proposal would also preserve the 90/10 sharing of the

1 fuel and purchase power costs between APS and its customers, and would allow more timely
2 recovery of these deferred costs.

- 3 • Staff believes that modifying the adjustor bandwidth, originally established as 4 mills in
4 Decision No. 67744, to a higher figure would be another effective means to address the
5 concern over mounting fuel and purchase power costs being deferred by APS.
- 6 • Staff also sees some merit in the option offered by the Arizonans for Electric Choice and
7 Competition/Phelps Dodge Corporation (hereinafter referred to as "AECC"). But Staff does
8 not agree with the facet of this proposal where the rate increase is tied to meeting the Funds
9 From Operations to Debt ("FFO/Debt") ratio of 18.0. This FFO/Debt ratio is the minimum
10 ratio falling within the 'BBB' range for those entities with APS' business profile of 6. Staff
11 believes that the better approach to resolving issues related to fuel and purchase power
12 deferrals is to utilize the PSA mechanism rather than to increase base rates. However, AECC's
13 approach is superior to that proposed by APS.
- 14 • Staff also believes that under Arizona law any approach which includes a finding of an
15 emergency and adoption of interim rates as a result, would require that APS post a bond to
16 secure against a possible refund. Both Staff's approach of quarterly surcharges and the
17 approach of increasing the adjustor bandwidth have the benefit of saving APS and its
18 customers from incurring these additional costs in a situation where no finding of an
19 emergency is warranted.

20 In short, Staff requests that the Commission not approve the \$232 million emergency rate request from
21 APS, and instead modify the PSA mechanism by allowing surcharge filings every quarter or to
22 increase the bandwidth in an amount that the Commission deems appropriate.

23 **A. Staff Does Not Believe An Emergency Exists To Justify Interim Rate Relief.**

24 As discussed in Staff's March 13, 2006 Prehearing Brief, the Commission's authority to grant
25 emergency rate relief is part of its constitutional ratemaking authority, which has been construed as
26 plenary and exclusive. Ariz. Const. art. XV, § 3; *Arizona Corp. Comm'n v. State ex rel Woods*, 171
27 Ariz. 286, 830 P.2d 807 (1992); *State v. Tucson Elec. Light and Power Co.*, 15 Ariz. 294, 138 P. 781
28 (1914). The Commission, therefore, has broad discretion to grant emergency rate relief. While an

1 emergency must be found to approve the rate relief APS requests, as required by *Residential Utility*
2 *Consumer Office v. Ariz. Corp. Comm'n*, 199 Ariz. 588, 20 P.3d 1169 (App. 2001), the question of
3 what qualifies as an emergency is largely an issue of fact for the Commission to decide. Staff believes
4 that the facts in this case do not warrant the granting of emergency interim rate relief, based on all the
5 evidence presented.

6 Most emergency rate cases before the Commission in the past ten to fifteen years involved
7 small water systems facing a crisis of being unable to provide adequate and reliable service without an
8 immediate increase in rates. Many of the cases involved significant operational and maintenance
9 deficiencies. *See* Decision Nos. 57841 (Mountain View Water Company) and 67990 (Sabrosa Water
10 Company). Others involved water quality and regulatory compliance issues from other state agencies.
11 *See* Decision Nos. 61833 (Far West Water Company) and 62651 (Thim Utility Company, E&T
12 Division). The Commission, however, has also denied or partially denied applications for emergency
13 rate relief. *See* Decision Nos. 57668 (E & R Water Company et. al.), 59250 (Mountain View Water
14 Company) and 61930 (Vail Water Company). Appendix A lists several cases where the Commission
15 has heard emergency interim rate relief cases, some of which have been cited above. In the majority
16 of those cases where emergency interim rate relief was approved, the crisis defined by the company
17 had already occurred or was occurring.

18 While this does not mean that APS' situation could not be declared an emergency as a matter of
19 law, APS is clearly not in as dire situation as most other entities that have requested and received an
20 emergency increase. The Commission is not bound to declare an emergency when only certain
21 parameters are met. Rather, a totality of the circumstances approach, looking at the individual facts of
22 each case, can substantiate a finding of an emergency or no emergency. But here, the facts and
23 circumstances simply do not justify the finding of an emergency.

24 The evidence in this case is that there is no threat of insolvency or a liquidity crisis if APS'
25 request is not granted. (Tr. at 392). APS contends that the possible downgrade of its credit rating to
26 junk status is the emergency at hand, and that this meets the criteria of an emergency set forth in the
27 Arizona Attorney General's Opinion 71-17. The root cause of this concern spawns from mounting
28 cash deferrals and uncollected fuel and purchase power expenses. (Tr. at 739, 850). Staff does not

1 agree with APS that a downgrade is imminent based on what the credit rating agencies have stated in
2 their written reports. In other words, a sudden change to APS' credit rating appears unlikely. *See*
3 Woolridge Direct Test., Ex. S-1, at 3-4 and Smith Direct Test., Ex. S-2, at 18, 20-21. And no
4 evidence was presented that APS will not be able to continue providing adequate and reliable service
5 before the permanent rate case is resolved. The public interest does not necessitate the granting of
6 emergency interim rate relief requested by APS. As will be discussed later, Staff recommends
7 modifying the PSA to deal with the concern over mounting fuel and purchase power cost deferrals.

8 What must also be recognized is that these mounting cash deferrals are not the only concern
9 cited by the ratings agencies. S&P, for example, highlights its concern over operational issues at the
10 Palo Verde Nuclear Generating station when it downgraded APS to BBB-:

11 An additional factor contributing to [Pinnacle West Capital Corporation's] weakened
12 business profile is the performance of the Palo Verde nuclear units in 2005. . . The
13 stable outlook is also dependent on improved 2006 performance at Palo Verde. [from
14 S&P December 21, 2005 Report entitled "Pinnacle West Capital's, Arizona Public
Service's Ratings Lowered to BBB-; Outlook Stable"]

15 *See* Brandt Rebuttal Test., Ex. APS-3, Attach. DEB-7 at 2, 4.

16 Fitch also noted concern over Palo Verde's operations. *See* Smith Direct Test., Ex. S-2 at 16.
17 Therefore, while it is clear that the ratings agencies are critical of the existing PSA and the large
18 deferrals in fuel and purchase power costs, it is equally clear that Palo Verde remains a concern and
19 that a downgrade could be caused over its operation. (Tr. at 394-96). While this does not void the
20 need to address timely recovery of fuel and purchase power costs, a downgrade to junk status could
21 occur for other reasons.

22 The thrust of APS' case is through the testimony of Donald E. Brandt, who argues that a
23 downgrade is imminent and unavoidable without the company's request for \$232 million in rate relief
24 to commence on May 1, 2006. As Mr. Brandt points out, the credit ratings agencies, S&P, Fitch and
25 Moody's, work for the debt capital markets and the fixed-income investing community. (Tr. at 439,
26 477). Also pointed out by Ralph Smith for Staff during the hearing is that the ratings reports are the
27 positions of each ratings agency with regards to a Company. (Tr. at 1304, 1390-91). Thus, Mr.
28 Brandt's conversations with personnel from S&P cannot be taken as S&P's official position on what
they would do if rate relief is or is not granted, or if rate relief is granted but for an amount less than

1 APS requests. While Mr. Brandt's comments about his conversations with rating agency personnel
2 are admissible, despite their hearsay nature, the fact that the rating agencies state their official
3 positions in their reports, combined with the fact that no rating agency representative was called to
4 present testimony in this matter, seriously undermines the value of Mr. Brandt's testimony about
5 those conversations. And APS' Exhibit A-6, showing Mr. Brandt's probabilities of a downgrade, is
6 not based on any formula nor is it representative of the official position of any of the ratings agencies,
7 and should be afforded little, if any, weight. (Tr. at 473-75). What is clear in this case is that ratings
8 agencies' reports, although noting a concern over recovering fuel and purchase costs, do not give the
9 same impression as the one put forward by Mr. Brandt.

10 Consider the S&P ratings reports of January 24 and 26, 2006. S&P is the only one of the three
11 nationally-recognized agencies that have APS rated at one notch above junk status. After APS was
12 downgraded on December 21, 2005, the outlook was listed as stable. S&P's January 26, 2006 report
13 still lists APS' outlook as stable. As noted by Staff's witness, Ralph Smith, S&P assumed that
14 emergency rate relief would not be granted in its January 24, 2006 report, yet still gave APS a stable
15 outlook. Tr. at 1344; *see also* Smith Direct Test., Ex. S-2, Attach. RCS-5 at 2. This does not mean
16 that S&P's concern over mounting fuel deferrals does not need to be addressed, and Staff's quarterly
17 surcharge proposal was designed to address that concern. What this does mean is that S&P, and Fitch
18 and Moody's, have not given any indication that APS will be downgraded if some other position is
19 adopted that provides for timely recovery instead of the emergency interim rate relief requested from
20 APS. In fact, APS' witness Stephen Fetter concedes that modifying the PSA would be something seen
21 as a very positive step by the ratings agencies. (Tr. at 589).

22 APS is also putting far too much emphasis on the FFO/Debt ratio in its case. While an
23 important quantitative metric, it is not the *only* quantitative metric ratings agencies commonly use.
24 *See* Smith Direct Test., Ex. S-2 at 15-16. In fact, APS is well within the 'BBB' range for the other
25 two financial metrics that are used, Debt to Capital and FFO Interest Coverage. *See* Woolridge Direct
26 Test., Ex. S-1 at 8. Furthermore, several qualitative criteria also factor into a Company's credit
27 rating. *Id.* at 5-7. Mr. Brandt admitted to this during the hearing, despite his focus on the FFO/Debt
28 ratio. (Tr. at 453-56). The perception of the regulatory climate for APS, perhaps the most important

1 qualitative criteria, can be improved by modifying the PSA to provide for timely and full recovery of
2 prudently-incurred fuel and purchase power costs. This may also help change APS' business profile
3 from a six back to a five, which would put the Company's FFO/Debt ratio well within investment
4 grade, if Staff's quarterly surcharge proposal were adopted. The minimum level for FFO/Debt ratio
5 for an entity with a business profile of five is 15.0. See Exhibit APS-9. Even without a change in the
6 business profile, Staff's proposed surcharge would significantly improve the Company's FFO/Debt
7 ratio to 16.6 and towards the investment grade range. (Tr. at 872- 874). It is also important to note
8 that adoption of Staff's proposal would have the effect of reversing the trend of the Company's
9 FFO/Debt ratio, and would result in elimination of the 2006 deferrals before the end of 2007. But
10 most importantly, none of the ratings agencies rely on a formulaic method to determine the credit
11 rating and the FFO/Debt ratio is not a conclusive determinant either way on whether APS will be
12 downgraded. (Tr. at 627, 853-54).

13 **B. Staff Believes A Legitimate Concern Exists As To The Timing And Certainty Of**
14 **APS Recovering Fuel And Purchase Power Costs.**

15 Staff does not believe that APS has met its burden to show an emergency exists to justify a
16 \$232 million increase onto its ratepayers. But Staff does believe that mounting deferrals of fuel and
17 purchase power should be addressed more quickly than they can be at present. S&P's Report of
18 January 26, 2006 highlights a concern over APS not being able to collect these costs more timely:

19 The ACC's vote to limit the flexibility of the timing of the surcharge elevates the
20 importance of APS' request for \$299 million [now \$232 million] in interim emergency
21 rate relief, which is expected to be ruled on in April. That is, a limited PSA with a
22 backstop surcharge that can be filed according to a specified timeline places
23 incremental pressure on other processes that could support credit quality through
24 2006, especially when permanent rate relief via a general rate case ruling is not
25 expected to occur within the next year. Much of these issues stem from the very weak
26 PSA, which is triggered based on a date and not on a threshold level of deferrals and
27 which limits any adjustment to a narrow cap.

28 See Smith Direct Test., Ex. S-2., Attach. RCS-3 at 1-2 (parentheses added).

Fitch's January 30, 2006 Report also spotlights the limited flexibility of the adjustor giving rise to an
emergency rate application:

The fact that there is no vehicle within the PSA protocol to recover supply costs move
frequently than annually during periods of sustained high and rising energy costs
subjects APS to significant cash flow volatility and working capital requirements.
Such costs would be exacerbated in a meaningful way by an extended outage of a base
load nuclear- or coal-fired generating facility during periods of peak demand. The only

1 option to recover fuel and purchase power costs above amounts determined annually
2 in the PSA would be an emergency rate filing, in which the timing and amount of rate
relief would be uncertain.

3 *See Smith Direct Test., Ex. S-2, Attach. RCS-4 at 1.*

4 In other words, should the PSA be modified to allow for more timely recovery, the need for
5 emergency rates is lessened. Since the concern of the ratings agencies is over the PSA, then the
6 direct solution is to address the PSA, either by allowing a quarterly surcharge or by increasing the 4
7 mill bandwidth rather than to implement emergency interim rates when no emergency exists.

8 In contrast to APS' proposal, the Staff proposal attempts to directly address the root of the
9 problem that the ratings agencies seem to have with the PSA and to ensure more timely and full
10 recovery. Staff agrees with APS that the ratings agencies have expressed much concern over the
11 current structure of the PSA, and Staff agrees that some action should be taken to prevent a further
12 downgrade by any of the ratings agencies, most notably S&P, to junk status. (Tr. at 865, 1267). Staff
13 also agrees that the consequences to APS being downgraded to junk would be undesirable and not in
14 the public interest. Some of the detrimental effects may be a limited access to capital and commercial
15 paper, more prepayments, shorter-term contracts to procure fuel and purchase power, all of which
16 could lead to higher rates and a lowering of the quality of service to APS customers.(Tr. at 829-30).
17 This is why Staff has not taken the position that the Commission should simply decide not to approve
18 emergency interim rates. Rather, Staff believes some action is necessary to allow for more timely
19 recovery, and full recovery, of prudently-incurred fuel and purchase power costs. This is why Staff
20 recommends allowing APS to apply for quarterly surcharges beginning June 30, 2006.

21 Approving Staff's proposal, or a similar proposal to modify the PSA to allow for more timely
22 recovery, would send the message that prudently-incurred costs will be timely recovered. Decision
23 No. 68437, issued February 2, 2006, sent positive messages to the ratings agencies by temporarily
24 allowing APS to defer fuel and purchase power costs above \$776 million (pending the outcome of
25 this case) and by moving the adjustor reset from April 1, 2006 to February 1, 2006. Staff supports the
26 continued waiver of the \$776 million cap until the permanent rate case is decided and notes that the
27 latter action allows APS to recover an extra \$14 million through the adjustor rate. *See Smith Direct*
28 *Test., Ex. S-2, Attach. RCS-3 at 1.* In addition, Decision No. 67744 had also sent a positive message

1 by allowing APS to ratebase the "PWEC" assets and by establishing the PSA adjustor mechanism for
2 fuel and purchase power costs. Allowing more timely recovery through a quarterly surcharge process
3 or expanding the bandwidth up from 4 mills should further solidify the track record of the
4 Commission "doing the right thing," despite some of the criticisms of its actions from the ratings
5 agencies. In short, approving Staff's proposal allows for timely recovery of these costs.

6 **C. Staff Recommends Quarterly Surcharges To Address Mounting Fuel And**
7 **Purchase Power Costs, But Staff Also Believes Increasing The Bandwidth In**
8 **The PSA Is An Effective Means To Address The Issue.**

9 Staff's proposal is to allow for APS to apply for quarterly surcharges starting no earlier than
10 June 30, 2006 to collect deferred fuel and purchase power costs. Staff would, upon receipt of APS'
11 surcharge application, issue its report and recommendations within 30 days. The Commission could
12 then hear the matter soon thereafter. For example, if APS filed a surcharge application on June 30,
13 2006, Staff would issue its report by July 30, 2006, and the Commission could then deliberate on the
14 matter at an open meeting soon thereafter. APS could then file its next surcharge application as soon
15 as September 30, 2006¹. The surcharge applications would be on actual deferred costs. Unplanned
16 outage costs would not be included as part of these quarterly surcharge requests. All fuel and
17 purchase power costs could be subject to a prudence review at a later time. Low income customers
18 would be exempted from the surcharges. (Tr. at 2158).

19 As discussed above, Staff's quarterly surcharge proposal improves the Company's FFO/Debt
20 ratio considerably, from 15.1 to 16.6. But more importantly, Staff's quarterly surcharge proposal
21 strengthens the vehicle – the PSA – that the ratings agencies have been complaining about since April
22 of 2005. While not ignoring the importance of the FFO/Debt ratio, Staff's proposal does not depend
23 solely on achieving a certain FFO/Debt ratio by a certain time. But the two more fundamental
24 concerns over timing and certainty of recovering fuel and purchase power costs are addressed
25 through modifying the adjustor. (Tr. at 840, 1268).

26
27 ¹ An application filed June 30, 2006, would mean a Staff Report is issued by July 30, 2006, under Staff's Proposal.
28 Conceivably, that application could be deliberated and voted on by the Commission's next regularly scheduled open
meeting on August 22, 2006. Similarly, an application filed September 30, 2006, with a Staff Report issued October 30,
2006, could conceivably be voted on by the Commission's next regularly-scheduled Open Meeting on November 21,
2006.

1 APS has criticized Staff's proposal as not being timely and certain enough. But APS
2 criticisms are largely unfounded. First, most of APS' criticisms stem from Mr. Brandt's conversations
3 with the ratings agencies, which do not represent the official positions of those agencies. Second,
4 Staff does not oppose the establishment of a set timeframe to be decided by the Commission, instead
5 recognizing that that is within the exclusive discretion of the Commission. Staff's proposal can
6 certainly be fine-tuned to allow for additional certainty of timely recovery, like 12-month
7 amortizations. Third, the Commission has set a precedent of hearing matters expeditiously when
8 needed. *See* Decision No. 68594, for example. Assuming prudently-incurred, Staff's proposal
9 provides the Company an ability to fully recover its costs within a set timeframe, without having the
10 interim tag bestowed upon those rates.

11 Finally Staff's proposal balances ratepayer and Company interests by allowing for the
12 Company to recover actual costs, instead of relying on projected numbers, through the surcharge.
13 This contrasts favorably with the emergency rate proposal that depends on forward prices as of
14 February 28, 2008. If APS' quarterly surcharge requests were for \$33 million on June 30, 2006 and
15 \$144 million on September 30, 2006, and assuming both were approved within sixty days, APS
16 would have \$155 million in the surcharge account and approved to be collected gradually through
17 December of 2007, assuming a 12-month amortization of each request. This would be in addition to
18 the \$22 million collected in 2006. Certainty would be provided that APS would permanently recover
19 these amounts, if prudent. *See* Tr. 1123-28. Thus, the regulatory assurance desired by the ratings
20 agencies is met, while not ignoring the concerns of the ratepayers. Staff's proposal directly addresses
21 the concern over mounting fuel deferrals by addressing the mechanism, rather than resorting to the
22 extreme step of declaring an emergency. But, it is not the only proposal that honestly addresses the
23 problem. Adjusting the bandwidth is another method to directly address the same concerns.

24 Before discussing the merits of adjusting the bandwidth, it should be stated that the AECC
25 proposal also has merit. The timing of recovery may be more attractive to the ratings agencies, since
26 the AECC proposal can be implemented May 1, 2006, and is a one-step increase. The problem with
27 the AECC proposal is that it is also an emergency rate and it too closely depends on meeting the
28 FFO/Debt ratio of 18.0 for the Company. As stated above, rate making should not be driven to meet

1 one particular financial metric or the preferences of a rating agency. (Tr. at 1279). Rather, the
2 Commission should concern itself with setting just and reasonable rates within the traditional
3 regulatory model. Still, the AECC proposal represents an improvement over APS' request, especially
4 since the 90/10 sharing provision can be fully preserved under this proposal.

5 The proposal to increase the bandwidth from 4 mills contains the benefits of the AECC
6 proposal without the problems discussed in the preceding paragraph. It is not an emergency rate per
7 se. The bandwidth can be readjusted if appropriate to do so in subsequent proceedings. An
8 adjustment can likely be done on May 1, 2006, and it only has to be one adjustment. Since this
9 matter was noticed under A.R.S. § 40-252, no issue exists as to whether that can be done in this
10 proceeding; clearly, it can. Adjusting the bandwidth can also directly address the concerns of the
11 ratings agencies without hamstringing the determination to one financial metric. As with the Staff
12 proposal, the 90/10 sharing is preserved with the bandwidth adjustment. In short, adjusting the
13 bandwidth is another means to achieve fuller and timelier recovery².

14 **II. CONCLUSION**

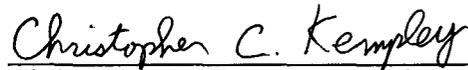
15 Staff's solution is simply to provide a direct avenue to address the mounting deferral of fuel
16 and purchase power costs. The facts as they currently exist do not justify the granting of emergency
17 interim rate relief because an emergency does not exist at this time. But the concern over large
18 deferred fuel and purchase power costs incurred in 2006 is a legitimate one, and Staff believes that
19 amending the PSA to allow quarterly surcharges is a way to handle the issue and appease the ratings
20 agencies, without solely binding the ratemaking process to the opinions of those entities. Adjusting
21 the bandwidth is another way to effectively and directly address the problem.

22 This is not to say that other costs and expenses incurred by APS are not matters of legitimate
23 concern. Certainly, the permanent rate case – Docket No. E-01345A-05-0816 – will allow the parties
24 and the Commission ample opportunity to fully explore and adjudicate on those issues. Also, the
25

26 ² Many exhibits were presented during the hearing that attempted to illustrate the bill impacts of various proposals. Staff's
27 Exhibit S-7 portrayed the impacts on residential E-12 customers of Staff's proposal. Staff showed a per kWh impact and
28 an equal percentage impact on these customers. This Exhibit, however, did not include the impacts of the proposed
surcharges from Docket No. E-01345A-06-0063. In Exhibits S-9 and S-10, Staff attempted to show the impact of
customer bills of an increase of the bandwidth from 5 mills to 10 mills on E-12 residential customers and E-32 and E-34
commercial and industrial customers. APS also provided its own bill comparison exhibit, APS-22. RUCO also attempted
to capture the bill impacts in Exhibits RUCO-6 (revised) and RUCO-7.

1 dockets regarding Palo Verde Outages and APS' Fuel and Purchase Power Audits – Docket Nos. E-
2 01345A-05-0826 and E-01345A-05-0827 respectively – are open and active cases where extensive
3 discovery is being conducted. And certainly APS should do what it can to prudently control costs and
4 closely examine any and all expenditures. Furthermore, the PSA could be re-examined to ensure the
5 balance between Company and ratepayer interests is preserved and improved. Still, fuel and
6 purchase power costs do not appear to be decreasing anytime soon. While it is unfortunate to have to
7 consider any increase on the customer, to not address the mounting costs of fuel and purchase power
8 in some way will likely expose the ratepayer to significant additional costs, especially if APS' credit
9 rating is downgraded to junk status. Staff believes modifying the PSA through quarterly surcharges
10 or expanding the bandwidth provides regulatory assurance while avoiding imposing emergency
11 interim rate relief that is not justified in this case.

12
13 RESPECTFULLY SUBMITTED this 7th day of April, 2006.

14
15 
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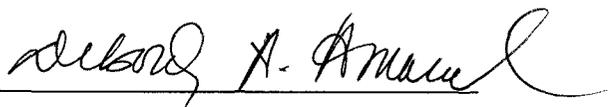
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APPENDIX A

LIST OF EMERGENCY RATE APPLICATIONS SINCE 1983

Company	Decision No.	Year Decided	Issue
Arizona Public Service Company	53909	1983	Negative indicators (cash coverage of interest, cash coverage of common earnings, and internal cash generation) led to risk of APS' commercial paper rating being downgraded leading to borrowing with higher interest rates and leading to a possible downgrade to "BB" status. APS undergoing a massive construction program, including the three nuclear generating units at Palo Verde. A \$60 million increase was approved but APS was ordered to cease accruals of AFUDC on \$327 million of construction associated with Palo Verde Unit 1 during the effective period of the interim rates. APPROVED
E & R Water Company, United Utilities Inc., Desert Utilities Inc., Williamson Waterworks Inc., Pinewood Sewer Company Inc., High Country Water Inc., C & S Water Company Inc., and Pine Oak Water Company Inc.	57768	1991	All of these utilities were owned by Utility Systems Group Inc. ("USG") through stock holdings acquired in 1988 and 1989. USG also owned Utility Management and Operations Services ("UMOS"), which appeared to be an unregulated subsidiary. All of the utilities were in poor condition, such as sewer pipes being used to deliver water. In addition, financial impacts from UMOS hurt the utilities' financial health. Applicant admitted to paying more for the utilities than what they were worth and Staff and RUCO indicated that the Applicant likely caused whatever financial emergency existed. The Commission rejected USG's arguments that there was a sudden and unforeseen emergency or its contention of a negative cash flow from operations. This Decision references Decision No. 57049 (1990), where the Commission denied emergency rate relief for Pinewood Sewer Company. DENIED
Mountain View Water Company	57841	1992	Water quality problems and major operation and maintenance deficiencies along with a cease and desist order issued from the Arizona Department of Environmental Quality ("ADEQ"). The utility has been operating at a loss for the last 16 years, and was being subsidized for its operations. The utility also experienced water shortages over the summer the past six to seven years. Commission found an emergency existed. APPROVED.
Golden Corridor Water Company	58672	1994	A lightning surge destroyed a motor servicing the primary well. Immediate repairs were required. \$3,075.11 was going to be needed to make the repairs. The utility's back-up well was inoperable. The utility was able to pay for the repairs in full and some evidence suggested a water leak had caused an electrical short in the motor. No emergency was found because the well was operational and charges for the repairs were paid-in-full. The investment in the new well was to be addressed in the utility's next permanent rate case. DENIED.

APPENDIX A

**LIST OF EMERGENCY RATE APPLICATIONS APPROVED SINCE 1983
(continued)**

Company	Decision No.	Year Decided	Issue
United Utilities – Mesa Del Caballo System	58677	1994	Severe water shortage problems in the area. Water needed to be purchase from the Town of Payson. The issues in this case appeared to be more about the design and duration of the emergency surcharge, rather than whether an emergency existed. A three-year surcharge was approved from May to October of each year for those using over 4,000 gallons. APPROVED.
Congress Water Company	58777	1994	A non-profit utility had a back-up well pumping at 28 percent of capacity. \$23,321.40 needed to make the necessary repairs to the well. Repairs were also needed to a booster pump and telemetry control box, apparently due to a lightning strike. The utility did not have the cash reserves nor did it have access to other funds to pay for the improvements to the well, booster pump and control box without additional funding. An emergency found, based on the fact that because of the lack of sufficient cash reserves and the need to ensure uninterrupted service. APPROVED.
Lakewood Water Company	58900	1994	Emergency petition for a surcharge to recover the increased costs for laboratory analyses required by ADEQ. The applicant subsequently withdrew its application. DISMISSED WITHOUT PREJEDICE.
Valle Verde Water Company	58917	1994	Emergency surcharge requested to offset chemical analysis costs required by ADEQ. The utility subsequently withdrew its application. DISMISSED WITHOUT PREJUDICE.
Sedona Venture (Sewer)	59122	1995	Storm damage to the utility's water and sewer lines, near a bridge that was washed out. No emergency determined because the Company was not insolvent and that service should be maintained in the foreseeable future. The Company would have \$14,320 cash flow to make payments on a \$36,000 loan for repairs. DENIED.
Mountain View Water Company	59250	1995	The utility applied for an emergency increase to pay for the hauling of drinking and cooking water. The utility had then-existing compliance issues with both the Commission and ADEQ, including ADEQ ordering the utility to haul drinking and cooking water on a weekly basis. The utility advocated for interim rates to fund a particular method of hauling. The Commission denied granting of relief for hauling because the utility knew of problems since 1984. Numerous other compliance issues. The Commission did approve a surcharge for the limited purpose of payment for a well pump and motor. APPROVED IN PART AND DENIED IN PART.

APPENDIX A

**LIST OF EMERGENCY RATE APPLICATIONS APPROVED SINCE 1983
(continued)**

Company	Decision No.	Year Decided	Issue
George M. Papa dba George M. Papa Water Company	59650	1996	An abundance of operational and management problems, numerous outstanding amounts owed to local taxing authorities, lack of storage facilities, and other deficiencies. APPROVED
Bellemont Water Company	60083	1997	Water production on the utility's wells fell to 250 gpm from 420 gpm, forcing the utility to purchase water from Atchison, Topeka and Santa Fe Railway Company to meet its needs. The Utility had to pay an extra \$1.50 per 1,000 gallons pumped, plus electricity and maintenance for the Railway's well. Staff proposed a different method of recovering emergency rates, which was adopted by the Commission. APPROVED.
Diamond Valley Water Users Corporation	60394	1997	Poor physical condition and rapid deterioration of the utility's distribution system, due to the entire system being constructed in substandard fashion. Also, Yavapai County was re-grading roadways where the utility's mains were located. As a result, the utility was being requested to lower the depth of its mains in these roadways. But because the utility had a positive cash flow of \$2,300 each month to make improvements, and because the utility was not insolvent and could maintain service, Staff recommended denial. Staff's position was adopted by the Commission. DENIED.
Holiday Hills Water Company	60572	1998	The utility had a history of repeated water outages and shortages. One of the two wells repeatedly ran dry. Water hauling was necessary, with water purchased from the City of Prescott. Water main line replacements also needed, and damaged meters. The City of Prescott was threatening to deny the utility any more water unless payments for outstanding amounts owed were made. Outstanding amounts owed to other entities making repairs to the system. APPROVED.
Far West Water Company	61833	1999	Utility's groundwater supplies contained a high level of total dissolved solids that affected the taste and affected appliances that used the water. To allow enough cash flow to finance construction of a water treatment plant and related facilities so that Colorado River water can be used. APPROVED

APPENDIX A

**LIST OF EMERGENCY RATE APPLICATIONS APPROVED SINCE 1983
(continued)**

Company	Decision No.	Year Decided	Issue
Vail Water Company	61930	1999	Operating shortfalls forced the utility to borrow \$150,000 from its shareholders. The utility was alleging it would need to borrow an additional \$93,000 if interim rates are not approved. The utility further alleged it would not be able to perform its services as a public service corporation and that it was insolvent. The Commission found that the utility had not met its burden to show an emergency existed, mainly because the utility continued to incur expenses for disallowed items. DENIED
Thim Utility Company, E&T Division	62651	2000	High nitrate levels from the utility's one well forced purchase of twice as much water from the City of Tucson than what was anticipated. APPROVED
Oatman Water Company	62953	2000	Decline in the aquifer lead to the utility's well pumping only 3 gallons per minute at time of the hearing. Financing needed to haul water and drill two additional wells. A previous interim rate order was approved (Decision No. 62772) but additional relief still needed. APPROVED
Forty Niner Water Company	65352	2002	Persistent drought conditions and lack of conservation lead to the utility having to purchase water from the City of Tucson. Emergency rates needed to cover the costs of the purchases and the hook-up with the City of Tucson. APPROVED
Pine Water Company	65914	2003	Chronic water supply problems in the area the utility serves. Ongoing drought conditions and continuing low rainfall exacerbating the utility's ability to supply water to its customers. Water hauling necessary until a construction of a water pipeline from a neighboring utility to supply water was completed, along with the fixing of leaks and drilling of new wells. APPROVED
Mount Tipton Water Company	66732	2003	The utility was unable to pay its WIFA loan when payments were due. The utility had pursued formation of an improvement district, but formation was not approved. The interest rate on the WIFA loan remained at 8.5 percent versus the 4.75 percent reduction that would have occurred had a district been formed. The utility also had recently acquired another utility (Dolan Springs) that owed considerable back taxes. APPROVED

APPENDIX A

LIST OF EMERGENCY RATE APPLICATIONS APPROVED SINCE 1983 (concluded)

Company	Decision No.	Year Decided	Issue
Naco Water Company	67984	2005	Increases in construction costs for upgrades to the utility's system. Additional costs to relocate a portion of its system to accommodate a road-widening project. Additional water storage and a new well needed to address the fact that the utility's Well No. 4 was going dry. The utility received emergency interim rate relief in Decision No. 61609 (1999) due to ongoing operational and financial problems. APPROVED
Sabrosa Water Company	67990	2005	Problems included inadequate water supplies, marginal to poor water quality, poorly maintained equipment, a series of financial and legal problems as a result of the owner abandoning the system and rates that do not allow for the operation and maintenance of the water system. APPROVED
Johnny A. McLain dba Cochise, Horseshoe Ranch, Coronado Estates, Cyrstal, Mustang, Miracle Valley and Sierra Sunset	N/A	N/A	Recommended Opinion and Order in Docket Nos. W-01646A-06-0010 outlines numerous operational and maintenance problems, outages, and other deficiencies. All systems part of a bankruptcy proceeding. TO BE DECIDED