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BEFORE THE ARIZONA CORPORATION COMMISSION

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Arizona Corporation Commission

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ARIZONA CORPORATION COMMISSION
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8 IN THE MATTER OF THE APPLICATION OF
9 ARIZONA WATER COMPANY, AN ARIZONA
10 CORPORATION, FOR ADJUSTMENTS TO
11 ITS RATES AND CHARGES FOR UTILITY
12 SERVICE FURNISHED BY ITS NORTHERN
13 GROUP AND FOR CERTAIN RELATED
14 APPROVALS.

Docket No. W-01445A-00-0962

RUCO'S MOTION *IN LIMINE* EXCLUDE TESTIMONY OF GORDON L. FOX AND RALPH J. KENNEDY

15 The Residential Utility Consumer Office ("RUCO") respectfully moves for an Order
16 excluding the testimony submitted by the Commission's Utilities Division ("Staff") expert
17 witness Gordon L. Fox and the Arizona Water Company's ("AWC" or "Company") expert
18 witness Ralph J. Kennedy. RUCO is requesting the exclusion of that portion of Mr. Fox
19 and Mr. Kennedy's testimony that addresses the recovery of operating and maintenance
20 expenses ("O&M"). The recovery of O&M costs is outside the scope of "leasing issues" to
21 be considered at the hearing as set forth by the Commission at its' April 22, 2003 Open
22 Meeting and memorialized in the Procedural Order of April 25, 2003.

23 On April 8, 2003, the Administrative Law Judge issued a Recommended Order and
24 Opinion ("ROO") in Phase II of this docket. Among other things, the ROO recommended
disallowance of the Company's O&M costs in the Arsenic Cost Recovery Mechanism
("ACRM"). The Company filed exceptions.

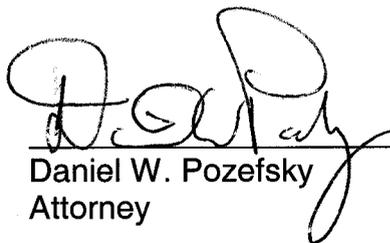
1 On April 22, 2003 the Commission held an Open Meeting to consider the ROO. For
2 the first time, the Company brought up the issue of leasing options for the Company's
3 arsenic treatment facilities. The Commission sent the matter back to the Hearing Division
4 with instructions to conduct additional proceedings regarding the inclusion of potential
5 leasing options in the ACRM. Pursuant to the Commission's instructions, the
6 Administrative Law Judge issued a Procedural Order on April 25, 2003 instructing the
7 Parties to engage in settlement discussions on the leasing issues and submit a
8 recommendation if a resolution was reached¹. In the event resolution was not reached,
9 the Parties were to file pre-filed testimony and a hearing would be conducted.

10 The Parties participated in settlement negotiations but a resolution could not be
11 reached. Each Party filed testimony. RUCO received Staff's testimony on June 19, 2003
12 and the Company's testimony on June 23, 2003. Both sets of testimony address O&M
13 costs beyond the leasing issues and make recommendations regarding O&M costs. The
14 consideration of the O&M costs addressed by the Company and Staff clearly fall outside
15 the leasing issues the Commission asked be considered and the Procedural Order
16 required be considered. The O&M costs were already considered and ruled on by the
17 Administrative Law Judge in the ROO and are irrelevant to the leasing issues.

18 WHEREFORE, RUCO respectfully requests that the testimony of Mr. Fox and Mr.
19 Kennedy regarding O&M costs be stricken, and the issues at the hearing be limited strictly
20 to the issues that the Commission directed and the Procedural Order required be
21 addressed.

22
23
24 ¹ The Procedural Order also directed the Company to separately address the availability of grants and loans for arsenic treatment facilities.

1 RESPECTFULLY SUBMITTED this 24th day of June, 2003.

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5 Daniel W. Pozefsky
6 Attorney

6 AN ORIGINAL AND THIRTEEN COPIES
7 of the foregoing filed this 24th day
8 of June, 2003 with:

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11 mailed this 24th day of June, 2003 to:

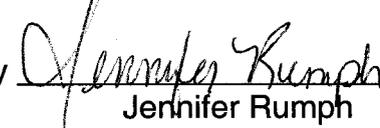
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