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BEFORE THE ARIZONA CORPORATION COMMISSION

Arizona Corporation Commission

DOCKETED

APR 17 2007

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COMMISSIONERS

JEFF HATCH-MILLER, Chairman
WILLIAM A. MUNDELL
MIKE GLEASON
KRISTIN K. MAYES
GARY PIERCE

DOCKETED BY *nr*

IN THE MATTER OF THE APPLICATION OF ARIZONA-AMERICAN WATER COMPANY, INC., AN ARIZONA CORPORATION, FOR APPROVALS ASSOCIATED WITH A PROPOSED TRANSACTION WITH MARICOPA COUNTY MUNICIPAL WATER CONSERVATION DISTRICT NUMBER ONE TO ALLOW THE CONSTRUCTION OF A SURFACE WATER TREATMENT FACILITY KNOWN AS THE WHITE TANKS PROJECT

DOCKET NO. W-01303A-05-0718

ARIZONA-AMERICAN WATER COMPANY

NOTICE OF FILING
INITIAL BRIEF

1 Arizona-American Water Company hereby files its initial brief in the above-referenced
2 matter.

3 RESPECTFULLY SUBMITTED on April 17, 2007.
4

5
6 *Craig A Marks* *CA*
7 _____
8 Craig A. Marks
9 Craig A. Marks, PLC
10 3420 E. Shea Blvd
11 Suite 200
12 Phoenix, Arizona 85028
13 (602) 953-5260
14 Craig.Marks@azbar.org
15 Attorney for Arizona-American Water Company

AZ CORP COMMISSION
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2007 APR 17 P 2:15

RECEIVED

1 Original and 13 copies **filed**
2 on April 17, 2007, with:
3
4 Docket Control
5 Arizona Corporation Commission
6 1200 West Washington
7 Phoenix, Arizona 85007
8
9 Copies of the foregoing **delivered**
10 on April 17, 2007, to:
11
12 Teena Wolfe
13 Administrative Law Judge
14 Arizona Corporation Commission
15 1200 West Washington St.
16 Phoenix, Arizona 85007
17
18 Copies of the foregoing **mailed and emailed**
19 on April 17, 2007, to
20
21 Kevin Torrey
22 Attorney, Legal Division
23 Arizona Corporation Commission
24 1200 West Washington St.
25 Phoenix, Arizona 85007
26
27 Daniel Pozefsky
28 Attorney
29 Residential Utility Consumer Office
30 1110 West Washington Street
31 Suite 220
32 Phoenix, Arizona 85007
33
34 Michele Van Quathem
35 Ryley Carlock & Applewhite
36 One North Central Avenue
37 Suite 1200
38 Phoenix, Arizona 85004-7701
39
40 Bradley J. Carroll
41 Snell & Wilmer LLP
42 400 E. Van Buren Street
43 Phoenix, Arizona 85004-2202
44
45 Timothy J. Sabo
46 Roshka DeWulf & Patten, PLC
47 One Arizona Center
48 400 E. Van Buren St., Suite 800
49 Phoenix, Arizona 85004
50

1 Brian J. Schulman
2 Greenberg Traurig LLP
3 2375 E. Camelback Road, Suite 700
4 Phoenix, Arizona 85016
5

6 Franklyn D. Jeans
7 Beus Gilbert
8 4800 N. Scottsdale Road
9 Suite 6000
10 Scottsdale, Arizona 85251
11

12
13
14
15 By: 
16 Courtney Appelhaus

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INITIAL BRIEF
OF
ARIZONA-AMERICAN WATER COMPANY

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1 **I. INTRODUCTION**

2 In this docket Arizona-American Water Company (“Arizona-American” or the
3 “Company”) has asked for certain relief that will allow it construct a badly needed surface water
4 treatment plant, known as the White Tanks Plant, to serve its Agua Fria Water District
5 customers.¹

6 Only one party opposes the requested relief, the Maricopa County Municipal Water
7 Conservation District Number One (“MWD”). MWD asks the Commission to deny the
8 Company’s requested relief, so that MWD could instead build its own plant.

9 Arizona-American will discuss the following reasons why allowing MWD to prevent
10 construction of the White Tanks Plant would be terrible public policy:

- 11 • Arizona-American is an experienced builder and operator of treatment plants.
- 12 • Arizona-American’s plant design is completed.
- 13 • Arizona-American is prepared to select the winning competitive bidder and proceed
14 as soon as the Commission provides the requested relief.
- 15 • Delaying the treatment plant would harm Arizona-American’s customers and the
16 groundwater resource.
- 17 • The MWD option would require a huge rate increase.
- 18 • The MWD option would also hurt Arizona-American financially.
- 19 • The MWD plant has not yet been designed.
- 20 • The MWD cost “estimate” is seriously flawed.
- 21 • The MWD schedule is unreasonably optimistic.
- 22 • The proposed MWD plant site would require Arizona-American to construct
23 additional, expensive, interconnection facilities.

¹ The exact relief requested by Arizona-American is set forth in Section III of this brief.

- 1 • Arizona-American would not be the operator of the MWD plant.
- 2 • MWD cannot provide back-up water.
- 3 • The MWD plant site would eventually require costly expansion of the Beardsley
- 4 Canal.
- 5 • MWD has no experience in designing, constructing, or operating potable water
- 6 treatment facilities.
- 7 • MWD has no customers for the MWD plant.
- 8 • MWD has no obligation to construct a treatment plant.
- 9 • MWD is not subject to the Commission's jurisdiction.
- 10 • Requiring Arizona-American to deal with MWD would put Arizona-American in a
- 11 terrible bargaining position.

12 **II. PROCEDURAL HISTORY**

13 Arizona-American is a public service corporation engaged in providing water and
14 wastewater utility services in portions of Maricopa, Mohave, and Santa Cruz Counties, Arizona,
15 pursuant to various certificates of public convenience and necessity granted by the Arizona
16 Corporation Commission (the "Commission") to Arizona-American and its predecessors in
17 interest. The Company presently provides utility service to approximately 100,000 water
18 customers and 50,000 sewer customers in Arizona and is Arizona's largest investor-owned water
19 and wastewater utility. Arizona-American's Agua Fria District is located in the rapidly
20 developing western Phoenix suburbs (generally north of I-10, between the White Tank
21 Mountains and the 101 Expressway), where the Company currently has about 30,000 water
22 customers and is adding more than 3,000 new water customers per year.

23 On October 11, 2005, Arizona-American filed for certain approvals associated with
24 construction of a water treatment facility known as the White Tanks Regional Water Treatment
25 Facility ("White Tanks Plant"). The White Tanks Plant is designed to treat water delivered from

1 the Central Arizona Project for distribution to Arizona-American's customers in its Agua Fria
2 Water District. In Arizona-American's initial application, the White Tanks Plant was to be
3 financed, built, and owned by MWD. Further, Arizona-American would obtain treatment
4 services through a long-term capital lease with MWD, and an Arizona-American affiliate would
5 operate the plant through an Operation and Maintenance Agreement with MWD. As part of that
6 application, Arizona-American asked for approval of a number of requests.

7 Negotiations between MWD and Arizona-American ultimately broke down. As a result,
8 on September 1, 2006, Arizona-American filed a revised application in this docket.² In that
9 application, Arizona-American stated that it was willing to construct and operate the White
10 Tanks Plant, if the Commission could provide a number of approvals, including increasing the
11 current Water Facilities Hook-Up Fee in effect for the Company's Agua Fria Water District and
12 providing certain accounting relief. *The exact relief now requested by Arizona-American is set*
13 *forth in the Section III of this brief.*

14 Intervention was granted to the Residential Utility Consumer Office ("RUCO") by
15 Procedural Order issued January 10, 2006. On September 21, 2006, RUCO filed comments in
16 the docket, generally stating that it did not object to raising the Water Facilities Hook-Up Fee or
17 to the accounting relief requested by Arizona-American.

18 On September 25, 2006, Utilities Division Staff of the Arizona Corporation Commission
19 ("Staff") filed a Joint Request for a Procedural Order, which stated that the parties did not
20 believe, at that time, that an evidentiary hearing was necessary. On October 27, 2006, Staff
21 issued its Staff Report.³ The Staff Report generally recommended approval of Arizona-
22 American's Revised Application. Schedule JJD-1 to the Staff Report set forth Staff's

² Exhibit A-2.

³ Exhibit S-2.

1 recommended new Water Facilities Hook-Up Fees for the Agua Fria Water District. Arizona-
2 American has accepted Staff's recommended Water Facilities Hook-Up Fees.⁴

3 Between October 23, 2006 and December 6, 2006, Applications to Intervene in this
4 proceeding were filed by MWD, Pulte Home Corporation ("Pulte"), CHI Construction Company,
5 Inc. ("CHI"), Courtland Homes, Inc. ("Courtland"), Taylor Woodrow/Arizona Inc. ("Taylor
6 Woodrow"), Trend Homes, Inc., Fulton Homes Corporation ("Fulton"), Suburban Land Reserve,
7 Inc. ("Suburban") and Westcor/Surprise, LLC ("Westcor/Surprise"). These parties have all been
8 granted intervention.

9 On November 16, 2006, MWD, along with other parties including Arizona-American,
10 filed comments on the Staff Report. MWD was the only party to take significant issue with the
11 Staff Report. MWD asked the Commission to deny Arizona-American's Revised Application,
12 claiming, among other things, that it could build a less expensive water-treatment plant.

13 To be sure that all issues could be thoroughly investigated, on November 29, 2006,
14 Arizona-American filed a Request for Expedited Hearing. The Request included a suggested list
15 of issues for hearing and a proposed hearing schedule.

16 Following a December 21, 2006, procedural conference, Administrative Law Judge
17 Teena Wolfe issued a Procedural Order on December 27, 2006, setting this matter for hearing.

18 On January 4, 2007, the notice required in the December 27, 2006, Procedural Order was
19 published. Arizona-American filed the required affidavit of publication on January 11, 2007.

20 Hearings were held on March 19, 20, 21, and 26, 2007. Arizona-American presented
21 testimony from three witnesses:

⁴ Ex. A-6 at 8:13-21.

- 1 • Joseph E. Gross – Mr. Gross is Arizona-American’s Engineering Manager. He
2 testified concerning the history, schedule, and cost for the White Tanks Plant, and
3 other engineering issues.
- 4 • Thomas M. Broderick – Mr. Broderick is American Water’s Regulatory Manager,
5 Western Region. He testified concerning the Company’s specific requests in this
6 docket and other rate/regulatory issues.
- 7 • G. Troy Day – Mr. Day is the Production Director for American Water, Western
8 Region. He testified concerning developer matters and water-supply issues.

9 This Initial Brief is submitted in accordance with the briefing schedule set at the hearings.

10 **III. REQUESTED RELIEF**

11 Arizona-American asks that the Commission provide the following relief:

- 12 a. Increase the Water Facilities Hook-Up Fees applicable in the Company’s Agua Fria
13 Water District to the levels contained in the October 27, 2006, Staff Report. This
14 would be based on the fair-value finding for Arizona-American’s Agua Fria Water
15 District in Decision No. 67093, dated June 30, 2004.
- 16 b. Authorize Arizona-American to record post-in-service allowance for funds used
17 during construction on the excess of the construction cost (including development, site
18 acquisition, design, company labor, overheads, and AFUDC) of the White Tanks Project
19 over directly related hook-up fees collected through December 31, 2013, or the date
20 that rates become effective subsequent to a rate case that includes 80 percent (based
21 on estimated cost) of the White Tanks Project in rate base, whichever comes first.⁵

⁵ This is Staff Condition No. 4, from Mr. Becker’s Rebuttal Testimony (Ex. S-3 at 20:5-10). Because of the recent slow-down in the real-estate market, hearing delays, and uncertainties in what meter sizes will actually be selected, Arizona-American asks that the date in Condition No. 4 be changed from 2012 to 2013. Arizona-American has also inserted a clarification as to what type of costs are normally included as construction costs.

- 1 c. Authorize Arizona-American to exclude from rate base the contribution balance of hook-
2 up fees directly related to the White Tanks Project collected subsequent to the effective
3 date of a decision in this case over the aggregate of (1) construction (including
4 development, site acquisition, design, company labor, overheads, and AFUDC)
5 expenditures for the same period that are included in rate base and (2) any costs deemed
6 imprudently incurred from contributions use to calculate rate base until December 31,
7 2013.⁶
- 8 d. Require Arizona-American, as part of its 2008 Agua Fria rate case filing to include a
9 proposal to adjust the Water Facilities Hook-Up Fees, based on information known to
10 that date including:
- 11 1. Actual to-date and remaining plant costs;
12 2. The effects of any third-party treatment contracts;
13 3. Actual hook-up fee collections;
14 4. Revised projected customer additions and meter preferences; and
15 5. Future Agua Fria Water District capital requirements.
- 16 e. Require Arizona-American, as part of its 2008 Agua Fria rate case filing, to include a
17 proposed mechanism, similar to the Commission's ACRM procedure, to defer and
18 subsequently recover operation and maintenance expense incurred for the White
19 Tanks Plant until such expenses can be placed in base rates.
- 20 f. Find that it would be imprudent for Arizona-American, instead of building its own
21 water treatment facility, to purchase treatment services from MWD at the water
22 treatment facility MWD has proposed in this proceeding.

⁶ This is based on Staff Condition No. 5, from Mr. Becker's Rebuttal Testimony (Ex. S-3 at 20:12-16). Because of the recent slow-down in the real-estate market, hearing delays, and uncertainties in what meter sizes will actually be selected, Arizona-American asks that the date in Condition No. 5 be changed from 2012 to 2013. Arizona-American has also inserted a clarification as to what type of costs are normally included as construction costs.

1 **IV. ARIZONA-AMERICAN'S WHITE TANKS PLANT**

2 **A. REGIONAL NEED FOR SURFACE WATER TREATMENT FACILITY**

3 Over the last 50 years, the West Valley has developed largely based on groundwater
4 resources.⁷ As a result, groundwater overdraft and depletion in the area has been severe.
5 Arizona-American and other entities serving the West Valley have access to Colorado River
6 water delivered through canals and other facilities owned by the Central Arizona Project
7 ("CAP"). However, treatment is required for this water to meet current drinking-water
8 standards.

9 In 1997, a number of western Maricopa County municipalities and private water
10 companies holding CAP water contracts formed WESTCAPS to develop cooperative regional
11 solutions for use of the region's CAP water allocations and other renewable water supplies.⁸
12 This effort was driven by the concerns of the Arizona Department of Water Resources
13 ("ADWR") and West Valley water providers about the long-term consequences of continuing to
14 use only groundwater to support population growth. Continuing to rely solely on groundwater
15 would be imprudent because of accelerated groundwater level declines, land subsidence,
16 declining well-production rates, and the increasing number of wells that could not meet Safe
17 Drinking Water Act water quality standards.

18 WESTCAPS determined that regional planning was needed to develop the most cost-
19 effective strategy to supply the water needed to support the growth expected in the West Valley.⁹
20 To facilitate the WESTCAPS plan development and the curtailment of groundwater use in the
21 West Valley, ADWR contributed a total of \$200,000 toward the study. The U.S. Bureau of
22 Reclamation also contributed over \$1,000,000 of in-kind services toward the project.

⁷ This paragraph, Ex. A-2 at 3:19-23.

⁸ This paragraph, Ex. A-2 at 3:24 to 4:3.

⁹ This paragraph, Ex. A-2 at 4:4-8.

1 In April 2001, WESTCAPS released its Regional Water Supply Plan.¹⁰ Groundwater
2 modeling studies, conducted by ADWR and by the Bureau of Reclamation as part of the
3 WESTCAPS study, warned that continued reliance on groundwater to support new development
4 will result in long-term groundwater declines that approach or exceed the ADWR Assured Water
5 Supply limit of 1000 feet below land surface. This would also accelerate land-subsidence
6 problems. The Regional Water Supply Plan concluded that the area's water suppliers should
7 maximize their use of CAP water and other surface water resources. To treat that water,
8 WESTCAPS recommended the construction of two regional treatment facilities.

9 One of those treatment facilities has become the White Tanks Regional Water Treatment
10 Facility ("White Tanks Plant").¹¹ The WESTCAPS study selected the site of the proposed White
11 Tanks Plant (Cactus and Perryville Road, on the Beardsley canal) because of its location on the
12 canal and its proximity to multiple water provider service areas. The 45-acre plant site is large
13 enough to support a facility that could ultimately treat up to 80 million gallons per day (MGD).

14 Arizona-American's recent experience underscores the need for the White Tanks Plant.¹²
15 Most recently constructed wells within the Agua Fria District have exhibited poor water quality
16 and low rates of water production. Over the last few years, levels of arsenic, fluoride, nitrate,
17 chromium, or other constituents in excess of Federal and State drinking water standards have
18 become all-too common in new wells constructed within the Agua Fria District south of
19 Greenway Road. These wells will require expensive wellhead treatment systems to remove the
20 contaminants at a considerably higher total capital and operation and maintenance cost than
21 needed for wells only a few years ago. To locate water, deeper drilling has been necessary,
22 which raises capital costs and increases pumping costs (electricity). In addition, well yields
23 below Greenway have been lower than for new wells north of Greenway. Overall, Arizona-

¹⁰ This paragraph, Ex. A-2 at 4:9-16.

¹¹ This paragraph, Ex. A-2 at 4:17-21.

¹² This paragraph, Ex. A-2 at 4:22 to 5:8.

1 American's recent experience with new well construction—whether drilled by the Company or
2 by a developer—highlights the need for surface water treatment plant capacity to minimize long-
3 term water costs for Arizona-American's customers in its Agua Fria District.

4 **B. PROJECT BACKGROUND**

5 Arizona-American holds a CAP-water subcontract for 11,093 acre-feet per year, which
6 will require treatment before it can be delivered to its Agua Fria customers.¹³ In addition,
7 Arizona-American hopes that MWD will provide Agua Fria River Water it now controls to
8 Arizona-American for treatment and delivery to its customers residing within the MWD area.¹⁴
9 Arizona-American estimates that this would provide up to 21,000 acre-feet per year of additional
10 surface water for direct treatment and delivery at build-out of the Agua Fria District.

11 In 2002, Arizona-American began moving forward with the regional treatment plant
12 concept by purchasing a 45-acre parcel of land at the site identified in the WESTCAPS Regional
13 Water Supply Plan.¹⁵ At that time, Arizona-American believed that it could obtain financing to
14 design, build, and operate this regional treatment facility—the White Tanks Plant.

15 In 2003, Arizona-American signed a contract for design and construction of the White
16 Tanks Plant with the Joint Venture of Black and Veatch (design and engineering), and Western
17 Summit Constructors, Inc. (construction).¹⁶ The White Tanks Plant has been designed to be
18 constructed in phases. The capacity of the Phase I(a) plant is 13.5 MGD and is expandable to 20
19 MGD (Phase I(b)) with the addition of one more treatment-unit train. Three additional phases
20 (20 MGD each) can eventually be added, depending on the rate of development in the region, for
21 a total treatment capacity of 80 MGD.

¹³ This paragraph, Ex. A-2 at 5:10-16.

¹⁴ Tr. at 45:15-19.

¹⁵ This paragraph, Ex. A-2 at 5:17-20.

¹⁶ This paragraph, Ex. A-2 at 5:21 to 6:2.

1 Arizona-American now projects that the White Tanks Plant will be available in May
2 2009 to meet customer demands expected for that summer.¹⁷ This is one year later than
3 estimated in the Company's initial application. The Company was able to delay the in-service
4 date one year for two reasons: customer growth has slowed because of the recent real-estate
5 slowdown, and new low-cost facilities and resources are being added that will improve water
6 availability in critical areas of the Agua Fria Water District. The Company believes it has fully
7 identified all capacity available through investment in low-cost facilities. Further capacity
8 additions through these types of projects is very limited.

9 **C. PROJECT SCHEDULE**

10 In November 2006, Black and Veatch finalized the plans for the White Tanks Plant,
11 which has allowed Arizona-American to competitively bid its construction.¹⁸ Permitting
12 (through Maricopa County and other agencies), of the Phase I plant is essentially complete.¹⁹

13 Arizona American projects the following construction schedule:²⁰

- 14 • January 30, 2007 Construction Bids Received
- 15 • February 2007 Bid Analysis and Internal Approvals
- 16 • March 19, 2007 Commission Hearings Begin
- 17 • June 5, 2007 Commission Open Meeting
- 18 • June 2007 Notice to Proceed to Construction Contractor
- 19 • May 31, 2009 Plant In Service²¹
- 20 • October 5, 2009 Final Project Completion

¹⁷ This paragraph, Ex. A-2 at 6:3-8

¹⁸ Ex. A-4 at 4:17-19.

¹⁹ Ex. A-2 at 6:12-13.

²⁰ This paragraph, Ex. A-4 at 6:1-12; Tr. at 116:20-24

²¹ In Mr. Gross' testimony, this date was April 30, 2009. Because of delays in this proceeding, this date has been pushed back to May 31, 2009.

1 Obviously, this schedule is dependent on the timing of the Commission approval process. With
2 any slippage prior to issuing the Contractor's Notice to Proceed, Arizona-American will not be
3 able to meet the May 31, 2009, in-service date.

4 **D. PLANT COMPONENTS**

5 Arizona-American has spent over six million dollars to date for land acquisition, the
6 completed design, permitting, company labor and overhead.²² Further, Arizona-American has
7 spent over ten million dollars to date on the completed 13-mile north-south water transmission
8 main, which will deliver the treated water from the White Tanks Plant to other transmission
9 mains located throughout the Agua Fria Service Area.

10 Additional components will include:²³

- 11 • Raw water facilities, including the intake structure, screening, storage basins, and
12 pumping station.
- 13 • Water treatment facilities, including mixing, flocculation, dissolved air floatation
14 (DAF) clarification, and filtration.
- 15 • Finished water and disinfection facilities, including Ultraviolet light disinfection,
16 chlorination, storage basins and pumping station.
- 17 • Residual processing facilities, including DAF solids removal, filter backwash, filter-
18 to-waste system, wastewater clarifiers, return flow pumping, and drying beds.
- 19 • Chemical feed and storage facilities.
- 20 • Emergency Generator to allow plant to operate in the event of a power outage.

²² This paragraph, Ex. A-4 at 5:19-24.

²³ This paragraph, Ex. A-4 at 4-21 to 5-8.

1 **E. CONSTRUCTION COST**

2 Arizona-American forecasts a total project cost of \$59.4 million, calculated as follows:²⁴

3	• Actual Costs to Date:	\$ 06.2 million
4	• Construction:	\$ 39.3 million
5	• Canal Intake:	\$ 00.6 million
6	• Tools, equipment, furnishings:	\$ 00.2 million
7	• Construction Administration:	\$ 00.5 million
8	• Technical Review Services:	\$ 01.3 million
9	• Resident Observation:	\$ 00.6 million
10	• APS Service Line:	\$ 00.3 million
11	• Contingencies:	\$ 02.0 million
12	• Overhead:	\$ 03.3 million
13	• Construction Financing [AFUDC]:	<u>\$ 05.1 million</u>
14	• TOTAL	\$ 59.4 million

15 The actual costs to date are firm.²⁵ The construction cost is also firm, because Arizona-
16 American has received firm bids from four contractors. The competitive bids varied by only
17 12%; and Arizona-American selected the firm submitting the lowest bid. The other costs are
18 estimates, based upon the Company's experience in constructing other large water treatment
19 plants; and standard accounting practices. Therefore, Arizona-American considers the projected
20 total costs to be quite accurate, assuming a Commission decision in June 2007.

²⁴ This paragraph, Ex. A-4 at 6:13 to 7:1

²⁵ This paragraph, Ex. A-4 at 6:2-8.

1 **F. ARIZONA-AMERICAN IS AN EXPERIENCED SURFACE-WATER**
2 **TREATMENT PLANT BUILDER AND OPERATOR**

3 Considerable process and project management expertise exists today within American
4 Water's staff in Arizona and at corporate level.²⁶ The design project manager since the
5 beginning of this project is still on board. He understands the rationale for each aspect of the
6 selected treatment processes and will continue to oversee any design issues needing clarification
7 during construction. American Water's senior construction management person has also tracked
8 this project from the beginning, providing cost-effective constructability reviews and comments.
9 He is currently relocating to Arizona to be the full-time construction manager for this project.
10 Additionally, Arizona-American's Engineering Manager, Joe Gross, has significant experience
11 with major water treatment projects in Scottsdale and will be closely involved in any
12 management-level decisions needed to keep this project on track.

13 Arizona-American currently owns, maintains, and operates the 7-mgd CAP water
14 treatment plant that supplies treated water to the Anthem community.²⁷ On February 26, 2007,
15 Arizona-American also began operating the 3-mgd Cave Creek CAP water treatment plant.
16 Further, Arizona-American owns and operates eight new arsenic treatment facilities in Arizona.

17 An Arizona-American affiliate (American Water Enterprises) managed construction of
18 the City of Phoenix' brand new 80-mgd CAP water treatment plant and will also operate the
19 plant for the City.²⁸ This plant is ultimately expandable to 320 mgd. American Water's
20 regulated companies currently operate 79 surface water treatment plants, with a combined
21 treatment capacity of over 1.39 billion gallons per day. As the owner of these facilities,
22 American Water is involved in all aspects of plant operation, including treating water to meet or
23 surpass required standards, and the repair and replacement of all equipment. Attached as Exhibit

²⁶ This paragraph, Ex. A-4 at 8:7-16.

²⁷ This paragraph, Ex. A-4 at 8:19-22.

²⁸ This paragraph, Ex. A-4 at 9:4-12.

1 JEG-2 to Exhibit A-4 is a spreadsheet showing surface water treatment plants constructed in
2 recent years by American Water companies nationwide.

3 **G. WATER SUPPLY ALTERNATIVE**

4 The alternative to the White Tanks Plant would be business as usual—continuing to rely
5 on groundwater supplies. For several reasons, this option would be unwise.²⁹

6 A well-construction option is problematic.³⁰ As discussed above, in the Agua Fria
7 District Arizona-American and developers have been finding it increasingly more difficult to
8 locate and obtain suitable well sites. ADWR well-spacing regulations have made permitting of
9 high capacity wells extremely difficult. Flow rates in many new wells south of Greenway have
10 been disappointing. Several wells drilled or tested for potable water supply in this area have
11 proven completely unusable. Further, most new wells in the area south of Greenway are
12 requiring arsenic treatment. Increasing levels of fluorides, nitrates, and chromium are also
13 troubling and may require additional high-cost treatment.

14 Even if high-quality, high-yield, wells could be found, continuing to drill wells would be
15 contrary to public policy.³¹ Groundwater modeling studies conducted by ADWR and by the
16 Bureau of Reclamation warn that continued reliance on groundwater to support new
17 development would cause unacceptable groundwater level declines and accelerate land-
18 subsidence problems. Also, the WESTCAPS study concluded that the area's water suppliers
19 should maximize their use of CAP and other surface water resources and recommended the
20 construction of two regional treatment facilities, one of which is the White Tanks Plant. Finally,
21 the Commission has strongly encouraged utilities under its jurisdiction to make full use of
22 surface-water resources, which cannot be delivered to customers for potable water use without
23 treatment.

²⁹ This paragraph, Ex. A-2 at 7:18-20.

³⁰ This paragraph, Ex. A-2 at 7:21 to 8:2.

³¹ This paragraph, Ex. A-2 at 8:3-11.

1 **V. ARIZONA-AMERICAN'S HOOK-UP FEE PROPOSAL**

2 In its Agua Fria District, Arizona-American is currently charging homebuilders a Water
3 Facilities Hook-Up Fee of only \$1,150 for 5/8 x 3/4-inch meters, \$1,750 for 3/4-inch meters,
4 \$2,875 for one-inch meters, and so forth for larger meters.³² This is substantially less than
5 builders are now paying in similarly growing areas in Maricopa County.

6 To finance construction of the White Tanks Plant, Arizona-American proposes to
7 increase the Water Facilities Hook-Up Fees.³³ Arizona-American supports increasing the Hook-
8 Up Fees to the levels set forth in Schedule JJD-1 of the October 27, 2006, Staff Report.³⁴

9 As demonstrated in Arizona-American's Revised Application,³⁵ and in Mr. Brilz'
10 testimony on behalf of Pulte Homes,³⁶ this fee would not be out of line with hook-up or impact
11 fees charged by West Valley municipal water providers. Further, the Commission recently
12 approved a rate-base reduction tariff for Arizona-American's Anthem Water District, which
13 applies to all new connections and starts at \$3,000 for 5/8 x 3/4-inch meters. The Anthem rate-
14 base reduction tariff is on top of a \$765 per equivalent residential unit capacity reservation
15 charge.³⁷

16 Although the plant will benefit all customers by reducing ground water consumption, the
17 primary driver for the plant is to serve future customers.³⁸ If Arizona-American were
18 experiencing little or no growth in the Agua Fria Water District, it is unlikely that it would
19 participate in a new surface-water treatment plant, either by building it or committing to buy
20 treatment capacity from a third party. Because it is customer growth that largely drives the need
21 for the plant, it is more equitable for these new customers to pay for the plant through increased

³² This paragraph, Ex. A-2 at 9:21-24.

³³ Ex. A-6 at 3:4-5.

³⁴ Ex. A-6 at 8:13-21. The Staff Report was admitted into evidence as Exhibit S-2.

³⁵ Ex. A-2 at 9:23 to 10:1.

³⁶ Exhibit P-1 at 5:8-15 and the attached exhibit.

³⁷ Ex A-6 at 4:5-9.

³⁸ This paragraph, Ex. A-7 at 7:12-19.

1 hook-up fees for new construction, than for existing customers to be saddled with a large rate
2 increase.

3 **VI. ARIZONA-AMERICAN'S ACCOUNTING REQUESTS**

4 **A. POST-IN-SERVICE AFUDC**

5 Arizona-American asks that the Commissions' Order in this docket:

6 *Authorize Arizona-American to record post-in-service allowance for funds used*
7 *during construction on the excess of the construction cost (including development,*
8 *site acquisition, design, company labor, overheads, and AFUDC) of the White*
9 *Tanks Project over directly related hook-up fees collected through December 31,*
10 *2013, or the date that rates become effective subsequent to a rate case that*
11 *includes 80 percent (based on estimated cost) of the White Tanks Project in rate*
12 *base, whichever comes first*

13 When the plant is completed there will still be a significant shortage between capital
14 expenses and accumulated hook-up fees.³⁹ And if growth is less than expected, this shortage
15 would be larger and last longer. The requested relief will provide Arizona-American the ability
16 to accrue post-in-service AFUDC on the *unfunded* balance of the White Tanks Plant investment.
17 This will keep Arizona-American whole on its investment until accumulated hook-up fees are
18 sufficient to fund the entire Plant balance. Customer rates will not be affected because the
19 additional post-in-service AFUDC will later be completely offset by hook-up fee funds.

20 **B. RATE BASE - EXCESS CONTRIBUTION EXCLUSION**

21 Arizona-American asks that the Commission's Order in this docket:

22 *Authorize Arizona-American to exclude from rate base the contribution balance*
23 *of hook-up fees directly related to the White Tanks Project collected subsequent to*

³⁹ This paragraph, Ex. A-2 at 11:3-10.

1 *the effective date of a decision in this case over the aggregate of (1) construction*
2 *(including development, site acquisition, design, company labor, overheads, and*
3 *AFUDC) expenditures for the same period that are included in rate base and (2)*
4 *any costs deemed imprudently incurred from contributions use to calculate rate*
5 *base until December 31, 2013.*

6 Because CWIP is not typically included in rate base, the contribution balance would otherwise
7 grow far faster than rate base, thereby causing rate base to decline significantly in the next rate
8 case, only to then bounce back as the plant entered service.⁴⁰

9 **VII. 2008 RATE FILING REQUIREMENTS**

10 **A. REVISED HOOK-UP FEE PROPOSAL**⁴¹

11 Arizona-American asks that the Commission's Order in this docket:
12 *Require Arizona-American, as part of its 2008 Agua Fria rate case filing to*
13 *include a proposal to adjust the Water Facilities Hook-Up Fees based on*
14 *information known to that date including:*

- 15 1. *Actual to-date and remaining plant costs;*
- 16 2. *The effects of any third-party treatment contracts;*
- 17 3. *Actual hook-up fee collections;*
- 18 4. *Revised projected customer additions and meter preferences; and*
- 19 5. *Future Agua Fria Water District capital requirements.*

20 This will allow the Commission to reset the hook-up fees as necessary, based on the best
21 information available at the time.

22 **B. O&M RECOVERY MECHANISM**⁴²

23 Arizona-American asks that the Commission's Order in this docket:

⁴⁰ Ex. A-2 at 11:20-26.

⁴¹ This section, Ex. A-2 at 11:17-26.

⁴² This section, Ex. A-2 at 12:1-4.

1 *Require Arizona-American, as part of its 2008 Agua Fria rate case filing, to*
2 *include a proposed mechanism, similar to the Commission's ACRM procedure, to*
3 *defer and subsequently recover operation and maintenance expense incurred for*
4 *the White Tanks Plant until such expenses can be placed in base rates.*

5 The Company estimates that these O&M costs will be approximately \$1.5 million per year,
6 based on current media, electricity, and other costs. Authorizing an O&M Recovery Mechanism
7 would allow Arizona-American to timely recover its O&M costs without it, and other parties,
8 incurring the time and expenses associated with a full rate case.

9 **VIII. DELAY IS THE ENEMY**

10 With the exception of MWD, the parties largely agree that they want a regional surface
11 water treatment plant built as soon as possible. The consequences of delaying the plant are
12 significant.

13 Mr. Day testified that if developers are unable to provide alternative water supplies,
14 Arizona-American will refuse to set water meters.⁴³ Mr. Gross testified that Arizona-American
15 would have to construct an additional \$6 million in new facilities to manage the delay.⁴⁴

16 Commissioner Mayes asked a series of questions about the effect on groundwater
17 pumping of delaying a regional treatment plant.⁴⁵ Mr. Gross could not quantify that effect at the
18 time, but there is sufficient record evidence to provide a rough estimate.

19 Arizona-American holds a CAP-water subcontract for 11,093 acre-feet per year, which
20 will require treatment before it can be delivered to its Agua Fria customers.⁴⁶ One acre-foot is
21 325,851 U.S. gallons. Therefore, annually treating Arizona-American's full 11,093 acre-feet

⁴³ Ex. A-3 at 4:12-13.

⁴⁴ Ex. A-5 at 5:1-7.

⁴⁵ Tr. at 683-688.

⁴⁶ This paragraph, Ex. A-2 at 5:10-16.

1 allocation, would avoid pumping 3,614,665,143 gallons of ground water in that year.⁴⁷ Put
2 another way, if purchasing treatment services from MWD delayed the availability of CAP water
3 for two years, Arizona-American would have to pump approximately 7.2 billion gallons of
4 additional ground water during that time period.

5 **IX. PURCHASING TREATMENT CAPACITY FROM MWD WOULD BE**
6 **IMPRUDENT**

7 **A. REQUESTED FINDING**

8 Arizona-American asks that the Commission's Order in this docket:

9 *Find that it would be imprudent for Arizona-American, instead of building its own water*
10 *treatment facility, to purchase treatment services from MWD at the water treatment*
11 *facility MWD has proposed in this proceeding.*

12 To be clear, Arizona-American is not asking that the Commission in its Order find that
13 Arizona-American's proposed construction of the White Tanks Plant is prudent or that any of the
14 costs incurred to date or to be incurred are prudent. However, there is now enough evidence in
15 this record for the Commission to find that it would be imprudent for Arizona-American, instead
16 of building its own water treatment facility, to purchase treatment services from MWD at the
17 water treatment facility MWD has proposed in this proceeding.

18 In the balance of this section, Arizona-American will articulate the reasons why it would
19 be imprudent for it buy treatment services from MWD at the facility MWD has proposed in this
20 proceeding.

⁴⁷ As a check, if we assume that the Beardsley Canal is out of service for eight weeks per year, and that Arizona-American has 12 mgd of available daily treatment capacity at the White Tanks Plant, the annual treatment capacity would be (44 weeks x 7 days/week) x 12.0 mgd = 3.696 billion gallons.

1 **B. THE MWD OPTION WOULD REQUIRE A HUGE RATE INCREASE**

2 Mr. Broderick estimated that the average customer would pay an additional \$21.07 per
3 month.⁴⁸ The average residential customer bill in the Agua Fria Water District is presently
4 \$26.64/month including the ACRM surcharge.⁴⁹ Based on this rate, the average residential
5 increase would be 79 percent.⁵⁰

6 In comparison, because it would be funded through hook-up fees, there would likely be
7 no rate increases required to fund the first phase of the White Tanks Plant.

8 Further, MWD's proposal would require all customers, existing and future to pay for the
9 cost of the treatment plant.⁵¹ Although the plant will benefit all customers by reducing ground
10 water consumption, the primary driver for the plant is to serve future customers. If Arizona-
11 American were experiencing little or no growth in the Agua Fria Water District, it is unlikely
12 that it would participate in a new surface-water treatment plant, either by building it or by buying
13 treatment capacity from a third party. Because it is customer growth that largely drives the need
14 for the plant, it is more equitable for these new customers to pay for the plant through increased
15 hook-up fees for new construction than for existing customers to be saddled with a large rate
16 increase.

17 The choices could hardly be clearer.

18 **C. THE MWD OPTION WOULD ALSO HURT ARIZONA-AMERICAN**

19 If Arizona-American were to purchase capacity from MWD and construct additional
20 facilities needed to make the purchase possible, it would have to file a rate application in order to
21 recover the increased costs.⁵² Because of normal regulatory lag, Arizona-American would incur
22 at least a year's worth of costs, without compensation. This would reduce operating income by

⁴⁸ Exhibit A-7 at 6:4.

⁴⁹ *Id.* At 6:6-7.

⁵⁰ *Id.* At 6:7-8.

⁵¹ This paragraph, Ex. A-7 at 7:11-19.

⁵² This paragraph, Ex. A-7 at 7:22 to 8:7.

1 over \$7 million. As Company witnesses have repeatedly testified, Arizona-American is not in a
2 position to incur costs of this magnitude without recovery.

3 Second, although Arizona-American has not done a comprehensive analysis, it is very
4 possible that a capacity commitment for a large portion of the MWD plant would require that the
5 agreement be treated as a capital lease. This would require that a lease asset also be included in
6 rate base, with rates set to recover the asset, as well as the lease costs. This would further
7 exacerbate the rate burden on customers and the regulatory-lag impact on Arizona-American.

8 Consequentially, it is unlikely that Arizona-American would obtain approval from its
9 corporate parent to purchase treatment capacity from MWD, as it has been “offered” in this
10 proceeding.⁵³

11 **D. THE MWD PLANT HAS NOT YET BEEN DESIGNED**

12 Without a reasonably final design and approved permitting, it is very difficult, if not
13 impossible, to accurately estimate a project’s cost or schedule.⁵⁴ At this point, all MWD has is a
14 brief preliminary engineering study.⁵⁵

15 **E. THE MWD COST “ESTIMATE” IS SERIOUSLY FLAWED**

16 MWD’s cost estimate was made even before completing a conceptual design for the
17 MWD plant. “The costs developed are Level 4 costs as defined by the Association for the
18 Advancement of Cost Engineering.”⁵⁶ “The accuracy range of a Level 4 estimate is minus 15
19 percent to plus 20 percent in the best case and minus 30 percent to plus 50 percent in the worst
20 case.”⁵⁷ What all this means is that the actual cost of an MWD plant, even accepting all of
21 MWD’s assumptions as to scope and cost, could be as much as 30 percent below to 50 percent
22 above its single-point estimate.

⁵³ Ex. A-7 at 8:7-8.

⁵⁴ Ex. A-4 at 10:12-14.

⁵⁵ Ex. D-51.

⁵⁶ Tr. at 414:1-3.

⁵⁷ Tr. at 414:24 to 415:2.

1 MWD's single point estimate for a 20-mgd facility is \$47.6 million.⁵⁸ Applying the
2 Level 4 bands to the single-point estimate, the actual cost of the MWD facility could be as low as
3 \$35.72 million, and as high as \$67.4 million.⁵⁹

4 Further, the MWD estimate is in 2006 dollars.⁶⁰ MWD maintains that its plant would
5 come on line in 2010,⁶¹ so the 2006 costs would have to be escalated to 2010 dollars. To do
6 that, MWD witness James Albu stated that:

7 We would first look at the professional magazine, Engineering News Record, who
8 maintains a construction cost index for construction, both geographically and
9 across the country. We would look at that to get a current update to today's
10 dollars. And then we would estimate a construction inflation figure and apply that
11 on a yearly basis to get up to the year we wanted to escalate the estimate.⁶²

12 Unfortunately, MWD chose not to provide that important information to the Commission.

13 MWD's cost estimate also does not include financing costs.⁶³ Nor does it include land
14 costs.⁶⁴ Nor does it include the costs of any pipelines or other facilities needed for a customer to
15 interconnect with and transport water from the facility.⁶⁵ Overall, MWD's cost "estimate" is of
16 little value for the Commission.

17 **F. THE MWD SCHEDULE IS UNREASONABLY OPTIMISTIC**

18 Fundamentally, the MWD schedule is unreliable because of the conceptual nature of the
19 MWD proposed plant.⁶⁶ Without a reasonably final design, it is difficult at best to estimate when
20 the facility could be completed. Further, the Preliminary Engineering Study identifies a number

⁵⁸ Ex. D-43, Appendix 1.

⁵⁹ Ex. A-10.

⁶⁰ Tr. at 420:8-13.

⁶¹ Ex. D-43 at 6:2.

⁶² Tr. at 420:25 to 421:7.

⁶³ Tr. at 394:13-18.

⁶⁴ Ex. A-8, Attachment, p. 1.

⁶⁵ *Id.*

⁶⁶ This paragraph, Ex. A-4 at 12:13-20.

1 of issues that will need to be addressed before finalizing site selection. These include public
2 involvement, wildlife and vegetation evaluations, and cultural and historical investigations.
3 These issues have the potential to seriously derail any proposed schedule. Further, MWD has no
4 customers for a plant and has not decided whether to construct a 10-mgd or 20-mgd plant, if any
5 plant at all.

6 One significant scheduling error is the Preliminary Engineering Study's assumption that
7 permitting can begin prior to the start of detailed design and be completed prior to design
8 completion.⁶⁷ Mr. Gross' experience has been that permit applications are normally not
9 considered by many regulatory agencies prior to 90% completion of plans. Also, Maricopa
10 County normally takes six to eight months to process a Special Use Permit. Then, a County
11 Building Permit is normally not issued for approximately 30 days after approval of the Special
12 Use Permit by the County Board of Supervisors. The Deputy Director of the Maricopa County
13 Planning and Development Department does not agree with the MWD claim of exemption from
14 this process, since constructing a major potable water treatment plant is not incidental to and in
15 furtherance of the primary purpose of MWD.

16 Based on these factors Mr. Gross believes that MWD could not bring a treatment plant
17 into service before mid-2011 at the earliest.⁶⁸

18 **G. THE PROPOSED MWD PLANT SITE WOULD REQUIRE ARIZONA-**
19 **AMERICAN TO CONSTRUCT ADDITIONAL, EXPENSIVE,**
20 **INTERCONNECTION FACILITIES**

21 The WESTCAPS study identified a site north of Cactus Road as being best for a regional
22 water treatment plant site for a number of reasons, including its significantly lower O&M costs
23 for service to Arizona-American's Agua Fria Water District.⁶⁹ Since acquiring the White Tank

⁶⁷ This paragraph, Ex. A-4 at 12:21 to 13:18.

⁶⁸ Ex. A-4 at 13:10-11.

⁶⁹ This paragraph, Ex. A-4 at 13:19-24.

1 Plant site, based on further analysis in its 2003 Master Plan, Arizona-American's system
2 expansions have been based on receiving treated CAP water from that location.

3 Significant additional costs in transmission system routing would be required if the plant
4 location was changed.⁷⁰ The Arizona-American master plan is based on its main water
5 transmission line being routed along Cactus Road to two major booster pump stations. A plant at
6 the proposed MWD site, over two miles south of Cactus Road, would require redundant
7 pipelines to bring the water back north to the Cactus Road alignment. Additional booster pumps
8 may also be required to move the water uphill.

9 A large transmission main to bring the water north to Cactus Road would likely cost in
10 excess of \$6 million in construction costs, if aligned along the Beardsley Canal.⁷¹ Another
11 option, depending on the urgency of meeting water demands in 2009, would involve an interim
12 pipeline to the south costing over \$2 million, to be followed by a multi-million dollar longer term
13 solution to bring the water back north. Significant additional costs to developers would also be
14 necessary if Arizona-American were to deviate from the planned alignment of the transmission
15 pipelines.

16 **H. ARIZONA-AMERICAN WOULD NOT BE THE OPERATOR OF THE**
17 **MWD PLANT**

18 Arizona-American's plant design incorporates a centralized instrumentation and control
19 system at the White Tanks Plant, which would also communicate with all the groundwater plants
20 in the Agua Fria service area.⁷² This allows Arizona-American to dispatch the Plant's output in
21 coordination with its transmission system and with groundwater production needed to meet peak
22 demands in summer and during canal outages. Managing a coordinated water production,
23 transmission, and distribution system in a geographic area as large as its Agua Fria Water

⁷⁰ This paragraph, Ex. A-4 at 14:1-6.

⁷¹ This paragraph, Ex. A-4 at 14:9-16.

⁷² This paragraph, Ex. A-4 at 14:21 to 15:8.

1 District requires significant expertise and relies on years of institutional knowledge. Arizona-
2 American does not believe that ceding operational control of the regional water plant would be
3 wise, particularly coupled with relocating the instrumentation system needed to coordinate
4 MWD's plant's output with its integrated system. At best, this would require extensive training,
5 operating protocols, and additional equipment expense. At worst, reliable water deliveries to
6 Arizona-American's customers could be jeopardized.

7 **I. MWD CANNOT PROVIDE BACK-UP WATER**

8 Mr. Albu claims that MWD could supply groundwater to its customers in the event of an
9 "unforeseen or catastrophic failure."⁷³ This is not possible. MWD's wells are irrigation wells.
10 In order to supply water to treatment plant customers, several time-consuming, costly steps
11 would have to be taken—at the customer's expense. First, irrigation wells would have to be
12 identified that would not require additional treatment, other than chlorination. Arsenic, nitrate,
13 and fluoride levels are not issues for irrigation wells, but are critically important for potable
14 water wells. Second, after a potential candidate well was identified, it would have to be
15 equipped with a sanitary steel casing, automated with instrumentation and controls, upgraded
16 with a new pump and motor capable of meeting distribution line pressures, provided with a tank
17 for chlorine contact time, and approved by the State for operation. Only then could the well
18 provide drinking water for customers.

19 Based on Arizona-American's recent experience with converting one MWD well to a
20 potable water well, Mr. Gross estimates that it would take 6 - 8 months to identify, permit, and
21 convert just one of MWD's irrigation wells to a potable-water well.⁷⁴ By comparison, Arizona-
22 American estimates two years to construct a new surface water treatment facility. Repairing or
23 rebuilding a facility in the event of a catastrophic outage would likely take less time than

⁷³ This paragraph, Ex. A-4 at 15:10-21.

⁷⁴ This paragraph, Ex. A-4 at 15:24 to 16:5.

1 identifying, permitting, and converting a suitable number of MWD wells to replace treatment
2 capacity during the outage.

3 If an MWD customer wanted MWD to convert one or more irrigation wells to potable
4 water wells, that water could still not be delivered to retail customers.⁷⁵ MWD's wells are not
5 connected to any potable water delivery systems. A treatment customer would have to locate,
6 permit, and construct a delivery pipeline or pipelines from the well(s) to its water system. This
7 would be a time-consuming and costly process for receiving service from MWD in the event of
8 an outage. Nor could MWD use the Beardsley canal to deliver treated water for its customers in
9 the event of an outage. The Beardsley Canal transports raw, untreated CAP water. Any treated
10 water added to the Canal would have to be retreated before it could be delivered to retail water
11 customers.

12 **J. THE MWD PLANT SITE WOULD EVENTUALLY REQUIRE COSTLY**
13 **EXPANSION OF THE BEARDSLEY CANAL**

14 In the Preliminary Engineering Study, page 3-2, Malcolm Pirnie states: "canal capacity
15 south of Cactus Road is 50 mgd and will need to be increased if the capacity of the [Water
16 Treatment Plant] exceeds 50 mgd."⁷⁶ MWD's proposed plant site is south of Cactus Road. This
17 means that MWD will have to expand the canal, which would be a costly, time consuming
18 process, in order to increase the plant's capacity to over 50 mgd. By contrast, Arizona-American
19 acquired its site north of Cactus Road, so it will not be necessary to expand the Beardsley Canal
20 to increase plant capacity up to 80 mgd.

21 Although Mr. Sweeney now says that MWD would not charge its treatment customers for
22 the cost of an expansion,⁷⁷ this is no guarantee. There are no contracts with language to this
23 effect, and the Commission would have no way to enforce such a requirement.

⁷⁵ This paragraph, Ex. A-4 at 16:6-17.

⁷⁶ This paragraph, Ex. A-4 at 16:22 to 17:4.

⁷⁷ Ex. D-44 at 6:4-8.

1 **K. MWD HAS NO EXPERIENCE IN DESIGNING, CONSTRUCTING, OR**
2 **OPERATING POTABLE WATER TREATMENT FACILITIES**

3 Other than providing potable water for customers of its Lake Pleasant Marina, MWD has
4 no experience in designing, constructing or managing potable water treatment facilities.⁷⁸

5 **L. MWD HAS NO CUSTOMERS FOR THE MWD PLANT**

6 It is important that MWD does not have any customers for its proposed plant.⁷⁹ MWD
7 has not committed to build a plant without having first completed contracts with customers for
8 the capacity. Indeed, Mr. Albu states (page 7, lines 18-20): “However, I should note that the size
9 of the first phase needs to be finalized in the next few months or the schedule may be affected.”
10 Presumably, Mr. Albu means that contracts will be needed for the required capacity to be
11 finalized.

12 **M. MWD HAS NO OBLIGATION TO CONSTRUCT A TREATMENT**
13 **PLANT**

14 Unlike Arizona-American, MWD has no duty to serve.⁸⁰ If MWD were unable to
15 finalize contracts for sufficient capacity to justify building a treatment plant, it could just decide
16 to focus its efforts in another direction. By contrast, Arizona-American has identified its own
17 need for its White Tanks Plant and does not require capacity commitments from any other party
18 to proceed. As soon as the Commission approves increasing hook-up fees to a level sufficient to
19 proceed, Arizona-American will award the bid and construction will commence shortly
20 afterward.

21 **N. MWD IS NOT SUBJECT TO THE COMMISSION’S JURISDICTION**

22 MWD is a municipal corporation, not subject to the Commission’s jurisdiction. Indeed, it
23 flatly refused to submit itself to the Commission’s jurisdiction concerning its construction of a

⁷⁸ Ex. A-4 at 17:5-10.

⁷⁹ This paragraph, Ex. A-4 at 17:11-18.

⁸⁰ This paragraph, Ex. A-4 at 17:23 to 18:4.

1 treatment plant and its contracts with jurisdictional water utilities.⁸¹ This means, among other
2 things, that:

- 3 • The Commission could not require MWD to construct, maintain, expand, or rebuild a
4 treatment plant;
- 5 • The Commission could not resolve customer billing disputes;
- 6 • The Commission could not resolve water quality or quantity issues; and
- 7 • The Commission could not resolve water-treatment rate issues.

8 **O. REQUIRING ARIZONA-AMERICAN TO DEAL WITH MWD WOULD**
9 **PUT ARIZONA-AMERICAN IN A TERRIBLE BARGAINING POSITION**

10 MWD has already shown itself to be a very hard bargainer. Talks previously broke off
11 between Arizona-American and MWD because MWD insisted that capacity payments continue,
12 even if MWD could not successfully construct or continue to operate its treatment plant.

13 MWD's threats in this case have hardly been subtle. Unless Arizona-American gives up building
14 its own plant:

- 15 • MWD will not provide Arizona-American interim water supplies;⁸²
- 16 • MWD will not transport Arizona-American's CAP water through the Beardsley Canal
17 for treatment at the White Tanks Plant;⁸³
- 18 • MWD will not provide Arizona-American low cost MWD electricity;⁸⁴ and
- 19 • MWD will not make its Agua Fria Water rights available to Arizona-American.⁸⁵

20 If the Commission were to deny Arizona-American's requests in this docket, Arizona-
21 American would have only two unfortunate options. The first would be business as usual -

⁸¹ Tr. at 554:4 to 555:4.

⁸² Tr. at 468:13-20.

⁸³ Ex. A-6 at 10:19-20. On cross-examination, Mr. Sweeney purported to retract this statement in his direct testimony. Tr. at 512:21 to 513:6. However, Mr. Sweeney's statement in his direct, sworn, testimony was not withdrawn.

⁸⁴ Ex. A-6 at 8:13-15.

⁸⁵ Ex. A-6 at 10:19-20.

1 continuing to rely exclusively on ground water for the needs of all present and future customers.
2 The second would be to deal with MWD, with the Company and its customers placed in a
3 terrible bargaining position. Because the Commission would have no jurisdiction over MWD,
4 Arizona-American would have to deal as best it could with an unregulated, monopoly provider.
5 If Arizona-American wanted to obtain treatment services, it would have to agree to almost any
6 term concerning rates or services that MWD "offered."

7 **X. CONCLUSION**

8 For all the reasons set forth in this brief, Arizona-American asks the Commission to grant
9 it the relief set forth in Section III, above. It would be terrible public policy to further MWD's
10 scheme to prevent Arizona-American, a regulated water utility, from constructing a badly needed
11 surface water treatment plant, to force Arizona-American to purchase water treatment services
12 from an unregulated, inexperienced monopoly, and to saddle Arizona-American's customers
13 with a huge rate increase.

14 RESPECTFULLY SUBMITTED on April 17, 2007.
15

16
17 
18 _____
19 Craig A. Marks
20 Craig A. Marks, PLC
21 3420 E. Shea Blvd
22 Suite 200
23 Phoenix, Arizona 85028
24 (602) 953-5260
25 Craig.Marks@azbar.org
Attorney for Arizona-American Water Company