

OPEN MEETING ITEM



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ORIGINAL



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

ARIZONA CORPORATION COMMISSION

22

DATE: FEBRUARY 26, 2008

DOCKET NO: W-03948A-07-0495

TO ALL PARTIES:

Enclosed please find the recommendation of Administrative Law Judge Belinda Martin. The recommendation has been filed in the form of an Order on:

EMPIRITA WATER COMPANY, LLC  
(RATES)

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Administrative Law Judge by filing an original and ten (10) copies of the exceptions with the Commission's Docket Control at the address listed below by **4:00** p.m. on or before:

MARCH 6, 2008

The enclosed is NOT an order of the Commission, but a recommendation of the Administrative Law Judge to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Working Session and Open Meeting to be held on:

MARCH 11, 2008 AND MARCH 12, 2008

For more information, you may contact Docket Control at (602)542-3477 or the Hearing Division at (602)542-4250. For information about the Open Meeting, contact the Executive Director's Office at (602) 542-3931.

BRIAN C. McNEIL  
EXECUTIVE DIRECTOR

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AZ CORP COMMISSION  
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Arizona Corporation Commission  
**DOCKETED**  
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1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 COMMISSIONERS

3 MIKE GLEASON - Chairman  
4 WILLIAM A. MUNDELL  
5 JEFF HATCH-MILLER  
6 KRISTIN K. MAYES  
7 GARY PIERCE

8 IN THE MATTER OF THE APPLICATION OF  
9 EMPIRITA WATER COMPANY, LLC FOR A  
10 PERMANENT RATE INCREASE.

DOCKET NO. W-03948A-07-0495

DECISION NO. \_\_\_\_\_

9 ORDER

10 Open Meeting  
11 March 11 and 12, 2008  
12 Phoenix, Arizona

12 **BY THE COMMISSION:**

13 Empirita Water Company, LLC ("Empirita" or "Company") is an Arizona limited liability  
14 company engaged in the business of providing water utility service to the public in a portion of  
15 Cochise County, Arizona. On August 24, 2007, Empirita filed with the Arizona Corporation  
16 Commission ("Commission") an application requesting authority to increase its rates and charges.

17 On November 26, 2007, the Commission's Utilities Division Staff ("Staff") determined that  
18 Empirita's application was sufficient and classified the Company as a Class E utility.

19 On January 25, 2008, Staff filed its Staff Report, recommending an alternative rate schedule  
20 be approved without a hearing.

21 \* \* \* \* \*

22 Having considered the entire record herein and being fully advised in the premises, the  
23 Commission finds, concludes, and orders that:

24 **FINDINGS OF FACT**

25 1. The Company is an Arizona limited liability company engaged in the business of  
26 providing water utility service to the public in a portion of Cochise County, Arizona, pursuant to  
27  
28

1 authority granted by the Commission in Decision No. 63676 (May 24, 2001).<sup>1</sup> The Company's  
 2 present rates and charges for water service were approved in that Decision.

3 2. On August 24, 2007, Empirita filed an application requesting authority to increase its  
 4 rates and charges ("Application") and notified its customers of the proposed rates and charges by first  
 5 class U.S. mail. In response thereto, three letters of protest have been received.

6 3. On September 24, 2007, Staff filed its Letter of Deficiency.

7 4. On October 11, 2007, the Company filed its responses to the letter.

8 5. On November 8, 2007, the Company filed an update to its Application.

9 6. On November 26, 2007, Staff determined that Empirita's Application was sufficient  
 10 and classified the Company as a Class E Utility.

11 7. On January 25, 2008, Staff filed its Staff Report, recommending an alternative rate  
 12 schedule and making other recommendations.

13 8. On January 31, 2008, Staff filed an amendment to its Staff Report.

14 9. During the test year ended December 31, 2006, the Company served 23 metered  
 15 customers who were all served with 5/8" x 3/4" meters.

16 10. Average and median usage on the 5/8" x 3/4" meters during the test year were 5,783  
 17 and 3,483 gallons per month, respectively.

18 11. The rates and charges for the Company at present, as proposed in the application, and  
 19 as a recommended by the Staff are as follows:

	Present Rates	Proposed Rates Company	Staff
<u>MONTHLY USAGE CHARGE:</u>			
22 5/8" x 3/4" Meter	\$25.00	\$30.00	\$30.00
23 3/4" Meter	25.00	45.00	45.00
24 1" Meter	62.50	75.00	75.00
25 1 1/2" Meter	125.00	150.00	150.00
26 2" Meter	200.00	240.00	240.00
3" Meter	400.00	480.00	480.00
4" Meter	625.00	750.00	750.00
6" Meter	1,250.00	1,500.00	1,500.00

27  
 28 <sup>1</sup> The Company received an extension of its CC&N pursuant to Decision No. 69399, dated March 29, 2007. The Decision also ordered Empirita to file a full rate application within 150 days of the effective date of the Decision.

1	Gallons included in minimum For All Meter Sizes	0	0	0
2	<b>Commodity Rates:</b>			
3	Per 1,000 Gallons for 0 to 10,000 Gallons	\$2.00	N/A	N/A
4	Per 1,000 Gallons for Gallons in Excess of 10,000	4.50	N/A	N/A
5				
6	Per 1,000 Gallons for 0 to 4,000 Gallons	N/A	\$2.50	N/A
7	Per 1,000 Gallons for 4,001 to 10,000 Gallons	N/A	4.00	N/A
8	Per 1,000 Gallons for Gallons in Excess of 10,000	N/A	5.00	N/A
9				
10	Per 1,000 Gallons for 0 to 3,000	N/A	N/A	\$2.50
11	Per 1,000 Gallons for 3,001 to 9,000	N/A	N/A	3.75
12	Per 1,000 Gallons for Gallons in Excess of 9,000	N/A	N/A	4.50
13	Bulk Haulers per 1,000	\$4.50	\$5.00	\$4.50

SERVICE LINE AND METER INSTALLATION CHARGES:

(Refundable pursuant to A.A.C. R14-2-405)

Staff's Recommendations

	Company Current Tariff	Company Proposed Tariff	Service Line Charge	Meter Charge	Total Charge	
17	5/8" x 3/4" Meter	\$410.00	\$450.00	\$365.00	\$85.00	\$450.00
18	3/4" Meter	455.00	530.00	360.00	170.00	530.00
19	1" Meter	520.00	620.00	410.00	210.00	620.00
20	1 1/2" Meter	740.00	865.00	440.00	425.00	865.00
21	2" Turbo	1,235.00	1,535.00	615.00	920.00	1,535.00
22	2" Compound	1,800.00	2,260.00	610.00	1,650.00	2,260.00
23	3" Turbo	1,705.00	2,215.00	775.00	1,440.00	2,215.00
24	3" Compound	2,340.00	3,050.00	825.00	2,225.00	3,050.00
25	4" Turbo	2,700.00	3,380.00	1,080.00	2,300.00	3,380.00
26	4" Compound	3,405.00	4,335.00	1,170.00	3,165.00	4,335.00
27	6" Turbo	3,405.00	6,150.00	1,660.00	4,490.00	6,150.00
28	6" Compound	6,510.00	7,950.00	1,750.00	6,200.00	7,950.00

SERVICE CHARGES:

	Current Charges	Company Proposed	Staff Recommendations	
27	Establishment	\$25.00	\$30.00	\$30.00
28	Establishment (After Hours)	40.00	45.00	45.00

1	Reconnection (Delinquent)	30.00	35.00	35.00
	Reestablishment (Within 12 Months)	**	**	**
2	Charge for Moving meter at Customer Request	***	***	***
3	Deposit	*	*	*
	Deferred Payment Finance Charge	****	****	****
4	NSF Check	\$15.00	\$25.00	\$25.00
	Meter Reread (If Correct)	15.00	20.00	20.00
5	Late Payment for delinquent bills	****	****	****
6	Main Extension and additional facilities agreement	Cost	Cost	Cost
7				
8	<u>Monthly Service Charge for Fire Sprinkler:</u>			
9	4" or Smaller	N/A	N/A	*****
	6"	N/A	N/A	*****
10	8"	N/A	N/A	*****
	10"	N/A	N/A	*****
11	Larger than 10"	N/A	N/A	*****

- \* Per Commission rule A.A.C. R-14-2-403(B).
- \*\* Months off system times the monthly minimum per Commission rule A.A.C. R14-2-403(D).
- \*\*\* Cost to include parts, labor, overhead, and all applicable taxes, including income tax, if applicable.
- \*\*\*\* 1.50 percent per month of the unpaid balance.
- \*\*\*\*\* 1.00 percent of Monthly Minimum for a Comparable Size Meter Connection, but no less than \$5.00 per month. The Service Charge for Fire Sprinklers is only applicable for service lines separate and distinct for the primary water service line.

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12. According to the Staff Report, Staff determined Empirita's original cost rate base ("OCRB") to be \$470,557, which is the same as its fair value rate base ("FVRB"). This is a \$3,179 increase to Empirita's proposed OCRB of \$467,378, based upon Staff's adjustments to plant in service, accumulated depreciation, and working capital. Staff's proposed rate base adjustments are reasonable and will be adopted.

13. In the test year, Empirita collected total operating revenue of \$9,594, and Staff made no adjustments to test year operating revenues.

14. Staff made several adjustments to the Company's proposed \$48,103 in operating expenses, including an increase of \$572 for water testing costs and decreases of \$4,342 for outside

1 services, \$80 for insurance expenses, \$1,500 for rate case expenses, \$400 for miscellaneous expenses,  
2 \$2,185 for depreciation expenses and a \$224 decrease for property tax expenses.

3 15. Staff's recommended net decrease of \$8,159 to operating expenses resulted in  
4 recommended total operating expenses of \$39,943. Staff's proposed adjustments to test year  
5 operating expenses are reasonable and will be adopted.

6 16. Based on Staff's analysis, Empirita's present rates and charges produced operating  
7 revenues of \$9,594 and adjusted operating expenses of \$39,943, resulting in an operating loss of  
8 \$30,349 for the test year.

9 17. The water rates and charges Empirita proposed would produce operating revenue of  
10 \$11,863 and adjusted operating expenses of \$39,943, resulting in an operating loss of \$28,080, for no  
11 rate of return on its FVRB.

12 18. The Company's request represents an increase of \$2,269, or 23.65 percent, over test  
13 year revenues of \$9,594. Empirita is not requesting revenues to cover all operating expenses because  
14 the Company's growth has been slower than anticipated, but it is projecting significant revenue  
15 growth from an increase in customers over the next three to five years.

16 19. Staff concurred with the Company's decision not to seek full recovery of all operating  
17 expenses with this rate application. Staff notes that Empirita is projecting significant revenue growth  
18 and believes it would be unfair to the existing small customer base to fully cover all operating  
19 expenses, given that the Company has only operated for two years and has not experienced the level  
20 of customer growth anticipated at the time the original rates were set in 2001.

21 20. Staff's recommended rates would produce total operating revenues of \$11,776, and  
22 adjusted operating expenses of \$39,943, resulting in an operating loss of \$28,167. Staff's  
23 recommendation represents an increase of \$2,182, or 22.74 percent, over test year revenue of \$9,594.

24 21. Staff could not derive a reasonable revenue requirement from applying a rate of return  
25 on rate base because of the Company's small customer base. As stated by Staff, "[d]eriving revenue  
26 requirement with a rate of return on rate base utilizing the Company's particularly low customer base  
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1 would have produced unreasonably high rates for each of the Company's few customers." (*Staff*  
2 *Report, page 7.*)

3 22. The Company's proposed rate schedule would increase the median 5/8" x 3/4" meter  
4 monthly residential customer bill (3,483 gallons) by \$6.47, or 21.08 percent, from \$31.97 to \$38.71  
5 and would increase the average monthly residential customer bill (5,783 gallons) by \$10.56, or 28.88  
6 percent, from \$36.57 to \$47.13.

7 23. Staff's recommended rates would increase the median 5/8" x 3/4" meter monthly  
8 residential customer bill (3,483 gallons) by \$7.34, or 22.96 percent, from 31.97 to 39.31 and would  
9 increase the average monthly residential customer bill (5,783 gallons) by \$11.36, or 31.06 percent,  
10 from \$36.57 to \$47.93.

11 24. No objections were filed to the Staff Report.

12 25. Staff has additionally recommended the following:

13 (a) The Company may collect from its customers a proportionate share of any  
14 privilege, sales or use tax as provided for in Arizona Administrative Code ("A.A.C.")  
15 R-14-2-409(D).

16 (b) The Company be ordered to file with Docket Control, as a compliance item in this  
17 docket, a tariff schedule of its new rates and charges within 30 days after the effective  
18 date of the Decision in this proceeding;

19 (c) The Company be ordered to file a full rate application by May 1, 2012 using a  
20 December 31, 2011 test year. The Company may file a rate case sooner if it believes  
21 circumstances warrant such a filing; and

22 (d) The Company shall continue using depreciation rates by individual NARUC  
23 category.

24 26. According to the Staff Engineering Report, the Company's current system can  
25 adequately serve its present customer base as well as any reasonable growth.

26 27. Staff reports that the Arizona Department of Environmental Quality ("ADEQ")  
27 reported no deficiencies for the Company and determined that Empirita's water system is currently  
28 delivering water that meets the water quality standards required by A.A.C., Title 18, Chapter 4.

29 28. The Company is not within an Active Management Area, and, as such, is not subject  
30 to Arizona Department of Water Resources reporting and conservation requirements.





1	3" Compound	825.00	2,225.00	3,050.00
	4" Turbo	1,080.00	2,300.00	3,380.00
2	4" Compound	1,170.00	3,165.00	4,335.00
	6" Turbo	1,660.00	4,490.00	6,150.00
3	6" Compound	1,750.00	6,200.00	7,950.00

4 SERVICE CHARGE:

5	Establishment		\$30.00
6	Establishment (After Hours)		45.00
7	Reconnection (Delinquent)		35.00
	Reestablishment (Within 12 Months)		**
8	Charge for Moving meter at Customer Request		***
9	Deposit		*
	Deferred Payment Finance Charge		****
10	NSF Check		\$25.00
11	Meter Reread (If Correct)		20.00
	Late Payment for delinquent bills		****
12	Main Extension and additional facilities agreement		Cost

13

14 Monthly Service Charge for Fire Sprinkler:

15	4" or Smaller		*****
	6"		*****
16	8"		*****
	10"		*****
17	Larger than 10"		*****

- 18 \* Per Commission rule A.A.C. R-14-2-403(B).
- 19 \*\* Months off system times the monthly minimum per Commission rule A.A.C. R14-2-403(D).
- 20 \*\*\* Cost to include parts, labor, overhead, and all applicable taxes, including income tax, if applicable.
- 21 \*\*\*\* 1.50 percent per month of the unpaid balance.
- 22 \*\*\*\*\* 1.00 percent of Monthly Minimum for a Comparable Size Meter Connection, but no less than \$5.00 per month. The Service Charge for Fire Sprinklers is only applicable for service lines separate and distinct for the primary water service line.

23

24 IT IS FURTHER ORDERED that the above rates and charges shall be effective for all service

25 provided on and after April 1, 2008.

26 IT IS FURTHER ORDERED that Empirita Water Company, LLC shall notify its customers

27 of the rates and charges authorized herein, and their effective date, in a form acceptable to the

28 Commission's Utilities Division Staff, by means of an insert in its next regular scheduled billing.

1 IT IS FURTHER ORDERED that in addition to collection of its regular rates and charges,  
2 Empirita Water Company, LLC may collect from its customers a proportionate share of any  
3 privilege, sales or use tax per A.C.C. R14-2-409(D).

4 IT IS FURTHER ORDERED that Empirita Water Company, LLC shall file a full rate  
5 application by May 1, 2012, using a December 31, 2011 test year.

6 IT IS FURTHER ORDERED that Empirita Water Company, LLC shall continue to use the  
7 depreciation rates by individual NARUC category.

8 IT IS FURTHER ORDERED that Empirita Water Company, LLC shall annually file as part  
9 of its annual report, an affidavit with the Utilities Division attesting that the Company is current in  
10 paying its property taxes in Arizona.

11 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

12 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

13  
14  
15 CHAIRMAN

COMMISSIONER

16  
17 COMMISSIONER

COMMISSIONER

COMMISSIONER

18  
19 IN WITNESS WHEREOF, I, DEAN S. MILLER, Interim  
20 Executive Director of the Arizona Corporation Commission,  
21 have hereunto set my hand and caused the official seal of the  
22 Commission to be affixed at the Capitol, in the City of Phoenix,  
23 this \_\_\_\_ day of \_\_\_\_\_, 2008.

24 DEAN S. MILLER  
INTERIM EXECUTIVE DIRECTOR

25 DISSENT \_\_\_\_\_

26  
27 DISSENT \_\_\_\_\_

1 SERVICE LIST FOR: EMPIRITA WATER COMPANY

2 DOCKET NO. W-03948A-07-0495

3  
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