

ORIGINAL



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THIS AMENDMENT:
 _____ Passed _____ Passed as amended by _____
 _____ Failed _____ Not Offered _____ Withdrawn

6009

2008 APR 29 P 4: 53

AZ CORP COMMISSION
DOCKET CONTROL

GLEASON PROPOSED AMENDMENT #1

DATE PREPARED: April 29, 2008

Arizona Corporation Commission
DOCKETED

APR 30 2008

COMPANY: Arizona-American Water Company

DOCKET No. : W-01303A-07-0209

DOCKETED BY ne

OPEN MEETING DATES: May 6 and 7, 2008

AGENDA ITEM: U-19

Page 36, STRIKE lines 1 through 28

Page 37, STRIKE lines 1 through 16 and INSERT:

"Despite Staff's perception 'that proposed fire flow capital improvements *seem* imperative for public safety' (emphasis added),¹ we question the degree of need for the project. For example, the reported difficulty that fire truck crews experienced in locating hydrants might more likely reflect information management deficiencies than a need for new infrastructure. Under A.R.S. § 40-321(A), the Commission has an affirmative obligation to order a remedy *when* it finds a public service corporation's service, plant or methods are unsafe or inadequate, and A.R.S. § 40-331(A) similarly provides that the Commission *shall* order plant improvements *when* the Commission finds that such improvements are needed to promote the convenience and security of the public. In the instant case, however, the record fails to establish sufficient basis to support the findings contemplated in these statutes.

Apart from any statutory obligation the Commission might have to order the Company to make the improvements, we have discretionary authority to do so under Article 15, Section 3, of Arizona's Constitution.² As Staff has noted³, the Commission also has discretion under A.R.S. §§ 40-336 and 40-361 to approve the use of ratepayer funds for the fire flow improvements. Before deciding whether or not to exercise these discretionary authorities to allow the Company to begin constructing the improvements and to approve the FCRM, we must consider other relevant factors affecting the public interest, including project cost, fairness, and the appropriate entity to pay.

¹ Ex S-21, Igwe Direct at 6.

² "The Commission . . . may . . . make and enforce . . . orders for the convenience, comfort and safety. . . of the employees and patrons of [public service] corporations"

³ ROO at page 36, lines 17 and 18.

With regard to cost, we are concerned that the large discrepancy between Staff's estimate (\$2.6 million) and the Company's (\$5.1 million) is symptomatic of underlying uncertainty about the potential monetary impact of the project on the Company's customers. Even if we were to determine that there is some demonstrable need for the project, it would be unfair to impose the resulting financial burden on the Company's ratepayers to solve infrastructure deficiencies that may have arisen to varying degrees across municipalities and other communities. In light of the foregoing considerations, we will not prohibit Arizona-American from constructing the fire flow improvements should it elect to do so, but we will also disallow any recovery of the cost of those improvements from the Company's customers. Regardless of any need for the improvements, we agree with RUCO that the identification of a funding source for the project other than the Company's customers is irrelevant to our resolution of this issue."

Page 41, STRIKE lines 1 through 22 and INSERT a new Finding of Fact to read:

"39. Based on the particular facts of this case, we find that the degree of need for the flow improvement project remains in doubt.

40. Although we will not prohibit the Company from constructing the proposed fire flow improvements, we will disallow any recovery of the cost of those improvements from the Company's customers if the Company should voluntarily chose to proceed with the work. Accordingly, the FCRM should not be implemented."

Renumber Findings of Fact to conform

Page 43, STRIKE lines 4 through 9 and INSERT new Conclusions of law to read:

"6. The record in this case does not support a finding pursuant to A.R.S. § 40-321(A).

7. The record in this case does not support a finding pursuant to A.R.S. § 40-331(A)."

Page 46, STRIKE lines 4 through 28

Page 47, STRIKE lines 1 and 2 and INSERT:

"IT IS FURTHER ORDERED that, if Arizona-American Water Company chooses to proceed with constructing the proposed fire flow improvement project, the Company shall not recover any of the costs of the project from its customers through the fire flow cost recovery mechanism or any other means."

Make all conforming changes