



0000087095

ORIGINAL

BEFORE THE ARIZONA CORPORATION COMMISSION

RECEIVED

Arizona Corporation Commission

DOCKETED

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

2008 JUL 30 A 9:28

JUL 30 2008

AZ CORP COMMISSION
DOCKET CONTROL

DOCKETED BY 

6 IN THE MATTER OF THE APPLICATION OF
7 H2O, INC. FOR A DETERMINATION OF THE
8 CURRENT FAIR VALUE OF ITS UTILITY
9 PROPERTY AND FOR AN INCREASE IN ITS
10 WATER RATES AND CHARGES FOR UTILITY
11 SERVICES.

DOCKET NO. W-02234A-07-0557

RATE CASE
PROCEDURAL ORDER

10 **BY THE COMMISSION:**

11 On October 1, 2007, H2O, Inc. ("H2O" or "Company") filed with the Arizona Corporation
12 Commission ("Commission") an application for a rate increase.

13 On November 2, 2007, the Commission's Utilities Division Staff ("Staff") filed a Letter of
14 Insufficiency stating that the application did not meet the sufficiency requirements outlined in
15 Arizona Administrative Code ("A.A.C.") R14-2-103.

16 On November 14, 2007, the Company filed its response to Staff's Letter of Deficiency.

17 On May 13, 2008, the Company filed an amended application.

18 On June 11, 2008, Staff filed a second Letter of Deficiency informing the Company that the
19 application had not yet met the Commission's sufficiency requirements.

20 On June 25, 2008, the Company filed its response to Staff's second Letter of Deficiency.

21 On July 24, 2008, Staff filed a letter indicating the Company's rate application was sufficient,
22 and classifying the Company as a Class B utility.

23 Pursuant to A.A.C. R14-3-101, the Commission now issues this Procedural Order to govern
24 the preparation and conduct of this proceeding.

25 IT IS THEREFORE ORDERED that the **hearing** in the above-captioned matter shall
26 commence on **March 9, 2009, at 10:00 a.m.**, or as soon thereafter as is practical, at the
27 Commission's Phoenix offices, Hearing Room 1, 1200 West Washington, Phoenix, Arizona 85007.
28

1 IT IS FURTHER ORDERED that a **pre-hearing conference** shall be held on **March 5, 2009,**
2 **at 2:30 p.m.,** at the Commission's Phoenix offices, Hearing Room 1, for the purpose of scheduling
3 witnesses and the conduct of the hearing.

4 IT IS FURTHER ORDERED that the **Staff Report and/or any testimony** and associated
5 exhibits to be presented at hearing on behalf of Staff shall be reduced to writing and filed on or before
6 **December 5, 2008.**

7 IT IS FURTHER ORDERED that any **testimony and associated exhibits to be presented at**
8 **hearing on behalf of intervenors** shall be reduced to writing and filed on or before **December 5, 2008.**

9 IT IS FURTHER ORDERED that any **rebuttal testimony and associated exhibits to be**
10 **presented at hearing by H2O** shall be reduced to writing and filed on or before **January 13, 2009.**

11 IT IS FURTHER ORDERED that any **surrebuttal testimony and associated exhibits to be**
12 **presented by Staff or intervenors** shall be reduced to writing and filed on or before **February 12,**
13 **2009.**

14 IT IS FURTHER ORDERED that any **rejoinder testimony and associated exhibits to be**
15 **presented at the hearing on behalf of H2O** shall be reduced to writing and filed on or before
16 **February 26, 2009.**

17 IT IS FURTHER ORDERED that all filings shall be made by **4:00 p.m. on the date the**
18 **filing is due, unless otherwise indicated above.**

19 IT IS FURTHER ORDERED that any **objections to testimony or exhibits that have been**
20 **prefiled as of March 5, 2009, shall be made before or at the March 5, 2009, pre-hearing**
21 **conference.**

22 IT IS FURTHER ORDERED that **each party shall individually prepare, and bring to the**
23 **pre-hearing conference, copies of an issues matrix setting forth all disputed issues in the case.**
24 **Each party's matrix shall indicate the position of each party on each disputed issue and shall**
25 **indicate whether the disputed issue remains in dispute or has been resolved, in prefiled**
26 **testimony or otherwise.**

27 IT IS FURTHER ORDERED that all testimony filed shall include a table of contents which
28 lists the issues discussed.

1 IT IS FURTHER ORDERED that any substantive corrections, revisions, or supplements to
2 prefiled testimony, with the exception of rejoinder testimony, shall be reduced to writing and filed no
3 later than five calendar days before the witness is scheduled to testify. Substantive corrections,
4 revisions, or supplements to prefiled rejoinder testimony shall be reduced to writing and presented on
5 the first day of hearing.

6 IT IS FURTHER ORDERED that the parties shall prepare a brief, written summary of the
7 prefiled testimony of each of their witnesses and shall file each summary at least two working days
8 before the witness is scheduled to testify.

9 IT IS FURTHER ORDERED that copies of summaries shall be served upon the
10 Administrative Law Judge, the Commissioners, and the Commissioners' aides as well as the parties
11 of record.

12 IT IS FURTHER ORDERED that intervention shall be in accordance with A.A.C. R14-3-105,
13 except that **all motions to intervene must be filed on or before November 14, 2008.**

14 IT IS FURTHER ORDERED that discovery shall be as permitted by law and the rules and
15 regulations of the Commission, except that until January 12, 2009, any objection to discovery
16 requests shall be made within 7 calendar days of receipt¹ and responses to discovery requests shall be
17 made within 10 calendar days of receipt. Thereafter, objections to discovery requests shall be made
18 within 5 calendar days and responses shall be made within 7 calendar days. The response time may
19 be extended by mutual agreement of the parties involved if the request requires an extensive
20 compilation effort.

21 IT IS FURTHER ORDERED that for discovery requests, objections, and answers, if a
22 receiving party requests service to be made electronically, and the sending party has the technical
23 capability to provide service electronically, service to that party shall be made electronically.

24 IT IS FURTHER ORDERED that, in the alternative to filing a written motion to compel
25 discovery, any party seeking resolution of a discovery dispute may telephonically contact the
26 Commission's Hearing Division to request a date for a procedural hearing to resolve the discovery

27 _____
28 ¹ The date of receipt of discovery requests is not counted as a calendar day, and requests received after 4:00 p.m. MST will be considered as received the next business day.

1 dispute; that upon such a request, a procedural hearing will be convened as soon as practicable; and
2 that the party making such a request shall forthwith contact all other parties to advise them of the
3 hearing date and shall at the hearing provide a statement confirming that the other parties were
4 contacted.²

5 IT IS FURTHER ORDERED that any motions which are filed in this matter and which are
6 not ruled upon by the Commission within 20 calendar days of the filing date of the motion shall be
7 deemed denied.

8 IT IS FURTHER ORDERED that any responses to motions shall be filed within five calendar
9 days of the filing date of the motion.

10 IT IS FURTHER ORDERED that any replies shall be filed within five calendar days of the
11 filing date of the response.

12 IT IS FURTHER ORDERED that the **Company shall provide public notice** of the hearing
13 in this matter, in the following form and style with the **heading in no less than 14 point bold type**
14 **and the body in no less than 10 point regular type:**

15 **PUBLIC NOTICE OF THE HEARING ON THE APPLICATION OF**
16 **H2O, INC. FOR A DETERMINATION OF THE CURRENT FAIR VALUE**
17 **OF ITS UTILITY PROPERTY AND FOR AN INCREASE IN ITS WATER**
RATES AND CHARGES FOR UTILITY SERVICES.
(Docket No. W-02234A-07-0557)

18 On October 1, 2007, H2O, Inc. ("H2O" or "Company") filed a rate application with
19 the Arizona Corporation Commission ("Commission"). H2O's application, as
20 revised, proposes an annual revenue decrease of approximately \$257,614, or 7.62
21 percent below current revenues. For average consumption (8,334 gallons per month)
residential customers, H2O's proposal would decrease monthly rates by 9.05 percent.
The actual percentage rate change for individual customers would vary depending
upon the type and quantity of service provided.

22 The Commission's Utilities Division Staff ("Staff") is in the process of auditing and
23 analyzing the application, and has not yet made any recommendations regarding
24 H2O's proposed rates. The Commission will determine the appropriate relief to be
25 granted based on the evidence presented by the parties. The Commission is not bound
by the proposals made by H2O, Staff, or any intervenors. Therefore, the final rates
approved by the Commission may be higher or lower than the rates requested by H2O.

26 **How You Can View or Obtain a Copy of the Rate Proposal**

27 _____
28 ² The parties are encouraged to attempt to settle discovery disputes through informal, good-faith negotiations before
seeking Commission resolution of the controversy.

1 Copies of the application and proposed rates are available from H2O [COMPANY
2 INSERT HOW AND WHERE AVAILABLE] and at the Commission's Docket
3 Control Center at 1200 West Washington, Phoenix, Arizona, for public inspection
4 during regular business hours and on the Internet via the Commission's website
5 (www.azcc.gov) using the e-Docket function.

6 **Arizona Corporation Commission Public Hearing Information**

7 The Commission will hold a hearing on this matter beginning **March 9, 2009, at**
8 **10:00 a.m.** at the Commission's offices, Hearing Room #1, 1200 West Washington
9 Street, Phoenix, Arizona. Public comments will be taken on the first day of the
10 hearing. Written public comments may be submitted by mailing a letter referencing
11 Docket No. W-02234A-07-0557 to Arizona Corporation Commission, Consumer
12 Services Section, 1200 West Washington, Phoenix, AZ 85007, or by e-mail. For a
13 form to use and instructions on how to e-mail comments to the Commission, go to
14 <http://www.azcc.gov/divisions/utilities/forms/publiccomment.pdf>. If you require
15 assistance, you may contact the Consumer Services Section at 1-800-222-7000.

16 **About Intervention**

17 The law provides for an open public hearing at which, under appropriate
18 circumstances, interested parties may intervene. Any person or entity entitled by law
19 to intervene and having a direct and substantial interest in the matter will be permitted
20 to intervene. If you wish to intervene, you must file an original and 13 copies of a
21 written motion to intervene with the Commission no later than **November 14, 2008**,
22 and send a copy of the motion to H2O or its counsel and to all parties of record. Your
23 motion to intervene must contain the following:

- 24 1. Your name, address, and telephone number, and the name, address, and
25 telephone number of any party upon whom service of documents is to
26 be made, if not yourself;
- 27 2. A short statement of your interest in the proceeding (e.g., a customer of
28 H2O, a shareholder of H2O, etc.); and
3. A statement certifying that you have mailed a copy of the motion to
intervene to H2O or its counsel and to all parties of record in the case.

The granting of motions to intervene shall be governed by A.A.C. R14-3-105, except
that all motions to intervene must be filed on or before November 14, 2008. If
representation by counsel is required by Rule 31 of the Rules of the Arizona Supreme
Court, intervention will be conditioned upon the intervenor obtaining counsel to
represent the intervenor. For information about requesting intervention, visit the
Commission's website at <http://www.azcc.gov/divisions/utilities/forms/interven.pdf>.
The granting of intervention, among other things, entitles a party to present sworn
evidence at hearing and to cross-examine other witnesses. However, failure to
intervene will not preclude any interested person or entity from appearing at the
hearing and providing public comment on the application or from filing written
comments in the record of the case.

29 **ADA/Equal Access Information**

30 The Commission does not discriminate on the basis of disability in admission to its
31 public meetings. Persons with a disability may request a reasonable accommodation
32 such as a sign language interpreter, as well as request this document in an alternative
33 format, by contacting the ADA Coordinator, Linda Hogan, E-mail Lhogan@azcc.gov,
34 voice phone number 602-542-3931. Requests should be made as early as possible to
35 allow time to arrange the accommodation.

1 IT IS FURTHER ORDERED that the Company shall **mail to each of its customers** a copy of
2 the above notice as a bill insert beginning with the first billing cycle in **September, 2008**, and shall
3 cause the above notice to be **published at least once in a newspaper of general circulation** in its
4 service territory, with publication to be completed no later than **September 30, 2008**.

5 IT IS FURTHER ORDERED that the Company shall file **certification of mailing and**
6 **publication** as soon as practicable, but **not later than October 15, 2008**.

7 IT IS FURTHER ORDERED that notice shall be deemed complete upon mailing and
8 publication of same, notwithstanding the failure of an individual customer to read or receive the
9 notice.

10 IT IS FURTHER ORDERED that all parties must comply with Rules 31 and 38 of the Rules
11 of the Arizona Supreme Court and A.R.S. § 40-243 with respect to the practice of law and admission
12 *pro hac vice*.

13 IT IS FURTHER ORDERED that withdrawal of representation must be made in compliance
14 with A.A.C. R14-3-104(E) and Rule 1.16 of the Rules of Professional Conduct (under Rule 42 of the
15 Rules of the Arizona Supreme Court). Representation before the Commission includes the obligation
16 to appear at all hearings and procedural conferences, as well as all Open Meetings for which the
17 matter is scheduled for discussion, unless counsel has previously been granted permission to
18 withdraw by the Administrative Law Judge or the Commission.

19 IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113 - Unauthorized
20 Communications) applies to this proceeding and shall remain in effect until the Commission's
21 Decision in this matter is final and non-appealable.

22 ...
23 ...
24 ...
25 ...
26 ...
27 ...
28 ...

1 IT IS FURTHER ORDERED that the time periods specified herein shall not be extended
2 pursuant to Rule 6(a) or (e) of the Rules of Civil Procedure.

3 IT IS FURTHER ORDERED that the Presiding Officer may rescind, alter, amend, or waive
4 any portion of this Procedural Order either by subsequent Procedural Order or by ruling at hearing.

5 Dated this 30th day of July 2008.

6
7
8 
9 TEENA WOLFE
ADMINISTRATIVE LAW JUDGE

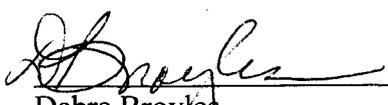
10 Copies of the foregoing mailed/delivered
11 this 30th day of July, 2008 to:

12 Richard L. Sallquist
13 SALLQUIST, DRUMMOND & O'CONNOR, P.C.
14 4500 South Lakeshore Drive, Suite 339
15 Tempe, Arizona 85282
16 Attorneys for H2O, Inc.

17 Janice Alward, Chief Counsel
18 Legal Division
19 ARIZONA CORPORATION COMMISSION
1200 West Washington Street
20 Phoenix, Arizona 85007

21 Ernest Johnson, Director
22 Utilities Division
23 ARIZONA CORPORATION COMMISSION
1200 West Washington Street
24 Phoenix, Arizona 85007

25 ARIZONA REPORTING SERVICE, INC.
26 2200 North Central Avenue, Suite 502
27 Phoenix, AZ 85004-1481

28 By: 
Debra Broyles
Secretary to Teena Wolfe