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2008 SEP -8 P 4: 46

AZ CORP. COMMISSION
DOCKET CONTROL

BEFORE THE ARIZONA CORPORATION COMMISSION

7 IN THE MATTER OF THE APPLICATION
 8 OF CHAPARRAL CITY WATER
 9 COMPANY, INC., AN ARIZONA
 10 CORPORATION, FOR A
 11 DETERMINATION OF THE FAIR VALUE
 12 OF ITS UTILITY PLANT AND
 13 PROPERTY AND FOR INCREASES IN
 14 ITS RATES AND CHARGES FOR
 15 UTILITY SERVICE BASED THEREON.

DOCKET NO: W-02113A-07-0551

NOTICE OF FILING

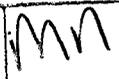
13 Chaparral City Water Company, Inc. ("CCWC" or "Company") hereby submits
 14 this Notice of Filing in the above-referenced matter. Commission Decision No. 70441
 15 (July 28, 2008) (Docket No. W-02113A-04-0616) authorized CCWC to, in this docket,
 16 request recovery of the Company's rate case expense in connection with the appeal and
 17 remand of Commission Decision No. 68176 (September 30, 2005).

18 Attached hereto as Exhibit A is the Supplemental Testimony of
 19 Thomas J. Bourassa, which discusses rate case expense incurred by the Company from
 20 October 1, 2005, after the issuing of Decision No. 68176, through July 17, 2008, the date
 21 of the Open Meeting regarding the Recommended Order.

Arizona Corporation Commission

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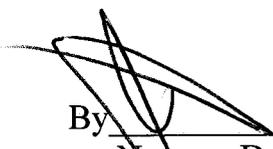
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DATED this 8th day of September, 2008.

FENNEMORE CRAIG, P.C.



By _____
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Company

ORIGINAL and thirteen (13) copies
of the foregoing were filed
this 8th day of September, 2008, with:

Docket Control
Arizona Corporation Commission
1200 W. Washington St.
Phoenix, AZ 85007

Copy of the foregoing was hand delivered
this 8th day of September, 2008, to:

Teena Wolfe, Administrative Law Judge
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Exhibit A

1 FENNEMORE CRAIG
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Attorneys for Chaparral City Water Company

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6
7 **BEFORE THE ARIZONA CORPORATION COMMISSION**

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DOCKET NO: W-02113A-07-0551

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20 **SUPPLEMENTAL TESTIMONY OF**

21 **THOMAS J. BOURASSA**
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1 **I. INTRODUCTION AND QUALIFICATIONS.**

2 **Q. PLEASE STATE YOUR NAME AND ADDRESS.**

3 A. My name is Thomas J. Bourassa. My business address is 139 W. Wood Drive,
4 Phoenix, Arizona, 85029.

5 **Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?**

6 A. I am a self-employed Certified Public Accountant providing consulting services to
7 utility companies as well as general accounting services. In this case, I am the rate
8 consultant and testifying expert witness for Chaparral City Water Company
9 (“CCWC” or “Company”).

10 **Q. DID YOU PREVIOUSLY PROVIDE TESTIMONY ON BEHALF OF**
11 **CHAPARRAL CITY WATER COMPANY IN THIS CASE?**

12 A. Yes. My direct testimony was filed with the Company’s application in September,
13 2007 (Docket No. W-02113A-07-551). I was also a witness in the Company’s
14 2004 rate case (Docket No. W-02113A-04-0616) that resulted in Decision No.
15 68176 (September 30, 2005). Decision No. 68176 was appealed to the Arizona
16 Court of Appeals, *Chaparral City Water Company v. Arizona Corporation*
17 *Commission*, Arizona Court of Appeals, No. 1 CA-CC 05-0002 (the “Appeal”).
18 When the Court of Appeals overturned Decision No. 68176, in part, and remanded
19 the matter back to the Commission, I also testified in the Commission’s extended
20 proceedings on remand (the “Remand”). The Remand proceeding recently
21 resulted in Decision No. 70441 (July 28, 2008) (“Remand Decision”).

22 **II. BRIEF OVERVIEW.**

23 **Q. WHAT IS THE PURPOSE OF THIS SUPPLEMENTAL TESTIMONY?**

24 A. In the Remand Decision, the Commission declined to award rate case expense for
25 the Appeal or the Remand, but authorized the Company to seek such recovery in
26 this rate case so the expense could be “audited and verified, and a determination

1 can be made to their appropriateness and reasonableness.” Remand Decision at
2 39. My testimony will make the Company’s request for rate case expense for the
3 Appeal and Remand, and demonstrate why the Company’s request is reasonable
4 and appropriate.

5 **Q. HOW MUCH DID THE COMPANY INCUR FOR THE APPEAL AND**
6 **REMAND PROCEEDING?**

7 A. Roughly \$520,000.

8 **Q. HOW MUCH IS THE COMPANY NOW REQUESTING IN RATE CASE**
9 **EXPENSE FOR THE APPEAL AND REMAND?**

10 A. \$258,511.

11 **III. RATE CASE EXPENSE FOR THE APPEAL AND REMAND.**

12 **Q. WHAT WERE THE COMPANY’S TOTAL EXPENSES FOR THE**
13 **APPEAL?**

14 A. CCWC spent approximately \$91,307 in legal fees and costs from October 2005
15 through February 2007, which was the period for the Appeal. Although I
16 participated in planning and strategy, and reviewed all of the briefs, I did not
17 charge the Company for my work on the Appeal. Neither did Dr. Zepp, another
18 of CCWC’s experts in the original rate case and Remand. Attached hereto as
19 **Bourassa Supplemental Testimony Exhibit 1** is an itemization summarizing the
20 fees and costs for the Appeal.

21 **Q. WHAT WERE THE COMPANY’S TOTAL EXPENSES FOR THE**
22 **REMAND?**

23 A. CCWC incurred approximately \$429,264 in rate case expense for the remand
24 proceeding, which occurred from March, 2007 through the issuance of the
25 Remand Decision in July, 2008. These rate case expenses included legal fees and
26 costs, and expert witness fees and costs. Attached hereto as **Bourassa**

1 Supplemental Testimony Exhibit 2 is an itemization summarizing the fees and
2 costs for the Remand.

3 **Q. ISN'T THAT A LOT OF MONEY, MR. BOURASSA?**

4 A. It may seem like a large some of money at first blush, but when you consider the
5 length of the proceeding and the work involved to reach a resolution, it is a
6 reasonable sum. It took over 14 months from the court's mandate to complete the
7 Remand. At Staff's request, there were multiple rounds of prefiled testimony,
8 followed by additional hearings and briefings. Both Staff and RUCO hired
9 independent expert witnesses to testify. These witnesses filed lengthy and
10 complex testimony on the issues before the Commission. This forced the
11 Company to respond, and so on, and so on. The issue presented was complex and
12 hotly contested, and over the course of nearly a year and a half, it all adds up. In
13 addition, we should keep in mind that the Company was forced to pursue this
14 course of action in large part due to the unconstitutional decision of the
15 Commission.

16 **Q. DID THE COMPANY TAKE STEPS TO KEEP ITS RATE CASE
17 EXPENSE DOWN?**

18 A. Yes, but first, I think we have to be careful not to blame CCWC and its "litigation
19 team". This whole proceeding began because the Company believed that the
20 Commission had inappropriately calculated its fair value rate of return in Decision
21 No. 68176. Once the Commission rejected the Company's request for rehearing,
22 the Company turned to the Court of Appeals, which ultimately upheld the
23 Company's position that Decision No. 68176 was contrary to the Arizona
24 Constitution.

25 Once the court's mandate was issued in May 2007, the Company's early
26 attempts to reach a settlement were unsuccessful. Once Staff and RUCO brought

1 in their outside experts, CCWC did the reasonable thing which was to put on the
2 best possible case in order to assert its position and protect its rights. I see nothing
3 unreasonable in that decision.

4 As for cost cutting, legal counsel and I received significant support from
5 the Company's District Manager, Robert Hanford, and from the parent's general
6 office in California, throughout the proceedings. All of the notices and mailings,
7 which were substantial, were handled by the Company in-house. This means
8 CCWC absorbed those costs outside of "rate case expense". The Company also
9 obtained courtesy discounts from legal counsel in excess of \$40,000 for the
10 Remand. In other words, we all did what we could to reduce costs, but it still
11 added up to a lot of money.

12 **Q. YET, DESPITE INCURRING MORE THAN HALF A MILLION**
13 **DOLLARS, THE COMPANY ONLY SEEKS TO RECOVER \$258,511 FOR**
14 **RATE CASE EXPENSE FOR THE APPEAL AND REMAND?**

15 A. That is correct.

16 **Q. HOW DID THE COMPANY ARRIVE AT THAT AMOUNT?**

17 A. First, we took one-half the Appeal fees and costs ($\$91,307/2=\$45,653$), since the
18 Company lost one of the two issues on Appeal. **Bourassa Supplemental**
19 **Testimony Exhibit 1.** To that, we added \$8,176 for CCWC's costs in the
20 Remand as those costs were incurred primarily to meet Commission filing and
21 other requirements. **Bourassa Supplemental Testimony Exhibit 2.** The
22 Company's expert witness costs were incurred primarily in response to the
23 positions taken by Staff's and RUCO's expert witnesses, so we believe recovering
24 eighty percent (80%) of those costs is appropriate ($\$105,853 \times 80\%=\$84,682.40$).
25 *Id.* No cost for CCWC's witness Ernie Gisler was included. Finally, we believe
26 that \$120,000 for legal expenses for the Remand proceeding (roughly 40% of the

1 amount actually incurred), is reasonable. The total of all this is \$258,511. This
2 leaves the Company absorbing more than a quarter million dollars of rate case
3 expense for the Appeal and Remand.

4 **Q. HAS THE COMPANY'S REQUEST CHANGED FROM THE AMOUNT**
5 **SOUGHT IN THE REMAND?**

6 A. Yes, in the Remand, the Company never modified its initial request to recover
7 \$100,000.

8 **Q. WHY IS THE COMPANY NOW CHANGING ITS REQUEST?**

9 A. The Company made its initial request of \$100,000 (\$50,000 for the Appeal and
10 \$50,000 for the Remand) before any proceedings had taken place. As the Remand
11 progressed, the Company provided Staff and RUCO with documentation that
12 easily showed rate case expense well in excess of the amount being requested.
13 When neither Staff nor RUCO challenged the amount or reasonableness of the
14 Company's request, there was no reason to revisit the total expense in detail.
15 Then, when the Commission directed CCWC towards this rate case, and a full-
16 blown analysis became necessary, the Company developed its requested level of
17 rate case expense as explained above. I would note though, nothing has been
18 included for the cost of having to seek recovery of this expense a second time.

19 **Q. DO YOU BELIEVE THAT THE COMMISSION CAN REWARD RATE**
20 **CASE EXPENSE FOR THE APPEAL AND REMAND?**

21 A. Yes, as I testified in the Remand in my prefiled testimony. *See* Remand Rebuttal
22 Testimony of Thomas J. Bourassa at 9-13. In fact, it appears to me that the
23 Remand Decision rejected all of Staff's arguments as to why no rate case expense
24 can or should be awarded by concluding that some expenses might appropriately
25 be recovered, just not until this rate case. Remand Decision at 39. This means to
26 me that the Company's burden is to show that its request is verifiable and

1 reasonable, items which were not challenged by Staff or RUCO in the Remand
2 Proceeding. I believe I have shown the Company's request level of rate case
3 expense to be more than reasonable under the circumstances.

4 **Q. WHAT DOES THE COMPANY PROPOSE TO DO TO ALLOW STAFF**
5 **AND RUCO TO VERIFY THE COMPANY'S RATE CASE EXPENSES?**

6 A. First, the two exhibits attached to this testimony provide an itemized summary of
7 all costs for the Appeal and Remand. Second, in addition to the back-up
8 documentation already provided in the Remand, copies of invoices issued by any
9 of the consultants/experts will be provided again upon request. Third, the
10 Company has already worked out an arrangement with Staff and RUCO to review
11 detailed statements of legal fees and costs subject to a confidentiality arrangement.
12 I am confident the Company's request can and will be verified.

13 **IV. PROPOSED RECOVERY MECHANISM.**

14 **Q. HOW DO YOU PROPOSE THAT THE COMPANY RECOVER THE**
15 **REQUESTED REMAND RATE CASE EXPENSE?**

16 A. The Company proposes to collect the \$258,511 via a commodity surcharge. The
17 surcharge would be computed using the gallons sold (in 1,000 gallons) during the
18 most recent full twelve months.

19 **Q. WHAT WERE THE GALLONS SOLD FOR THE 12 MONTHS ENDED**
20 **DECEMBER 31, 2006?**

21 A. 2,084,339 thousand gallons.

22 **Q. WHAT WOULD BE THE COMMODITY RATE BE BASED ON THIS**
23 **NUMBER OF GALLONS?**

24 A. \$0.124 per 1,000 gallons (\$258,511 divided by 2,084,339 rounded).
25
26

1 **Q. WHAT WOULD BE THE IMPACT ON THE AVERAGE ¾ INCH**
2 **MONTHLY BILL?**

3 A. Based on the Company's recent rate application using a Test Year ending
4 December 31, 2006, the average usage for a ¾ inch meter was 8,450 gallons.
5 Thus, a ¾ inch metered customer using an average 8,450 gallons would see an
6 increase in the monthly bill of \$1.05 (rounded), or a 3.24% increase, over the
7 average bill of \$32.38.

8 **Q. WHAT TIMEFRAME WOULD THE SURCHARGE BE IN EFFECT?**

9 A. Until the \$258,511 is collected. Presumably, if the same number of gallons was
10 sold during the period of collection of the surcharge as was used in the
11 computation of the surcharge, it would take 12 months. But, it could take more or
12 less than 12 months depending on water sales.

13 **Q. WOULD THE COMPANY SUBMIT ITS COMPUTATION FOR THE**
14 **COMMODITY RATE TO STAFF AS A COMPLIANCE ITEM AND**
15 **BEFORE IT BEGINS IMPLEMENTING THE SURCHARGE?**

16 A. Yes.

17 **Q. WOULD THE COMPANY STOP CHARGING THE SURCHARGE WHEN**
18 **IT HAS COLLECTED THE ENTIRE \$258,511?**

19 A. Yes. A final report showing the collections would also be submitted to the
20 Commission at that time as a compliance item.

21 **Q. DOES THIS SURCHARGE HAVE ANY IMPACT ON THE COMPANY'S**
22 **REQUEST FOR RATE CASE EXPENSE IN THIS CASE?**

23 A. The recovery of the Appeal/Remand rate case expense would be independent of
24 the rate case expense for the pending general rate case.

25 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

26 A. Yes.

Bourassa Supplemental Testimony

EXHIBIT 1

CHAPARRAL CITY WATER COMPANY

**Fennemore Craig
Summary of Invoice Fees and Costs¹
Before the Arizona Court of Appeals, No. 1 CA-CC 05-0002**

Billing Month	Adjusted Fees	Adjusted Costs
October 2005	\$ 3,208.00	\$ 174.56
November 2005	1,162.50	78.30
December 2005	14,478.00	57.20
January 2006	21,403.00	111.16
February 2006	16,551.00	597.52
March 2006	240.00	178.67
April 2006	1,747.50	99.96
May 2006	20,507.00	626.00
February 2007	10,065.00	21.65
Totals	\$ 89,362.00	\$ 1,945.02

Grand Total: \$ 91,307.02

¹Attorneys' fees and costs have been adjusted to remove fees and costs related to post-decision compliance matters and other matters unrelated to Chaparral City's appeal.

Bourassa Supplemental Testimony

EXHIBIT 2

Chaparral City Water Company
ACC Docket No. W-02113A-04-0616
On remand from the Arizona Court of Appeals, No. 1 CA-CC 05-0002

RATE CASE ITEMIZATION

Billing Month	Bourassa¹	Zepp	Walker	Fennemore Craig Attorneys Fees (Adjusted)²	Fennemore Craig Costs³
2007					
March	\$ 0.00	\$ 0.00	\$ 0.00	\$ 1,057.50	\$ 0.00
April	928.20	0.00	0.00	2,868.50	18.00
May	2,377.20	0.00	0.00	7,553.50	43.10
June	2,370.90	337.50	0.00	15,400.00	292.28
July	0.00	0.00	0.00	4,444.00	127.10
August	0.00	1,237.50	0.00	3,723.50	8.85
September	1,921.50	11,250.00	2,780.00	21,862.50	48.08
October	10,775.10	5,737.50	4,900.00	51,954.50	726.27
November	833.70	6,088.80	8,485.00	12,248.50	729.78
December	609.00	4,974.14	0.00	17,935.50	239.91
2007 total	\$ 19,815.60	\$ 29,625.44	\$ 16,165.00	\$ 139,048.00	\$ 2,233.37
2008					
January	\$ 11,329.50	\$ 13,793.29	\$ 8,995.90	\$ 47,697.50	\$ 1,024.37
February	270.90	460.00	2,137.50	39,430.00	4,068.77
March	516.60	690.00	0.00	56,319.00	491.81
April	0.00	0.00	0.00	80.00	0.00
May	0.00	0.00	0.00	2,245.00	3.12
June	0.00	0.00	0.00	0.00	48.40
July	2,053.80	0.00	0.00	30,415.00 ⁴	306.32 ⁵
2008 total	\$ 14,170.80	\$ 14,943.29	\$ 11,133.40	\$ 176,186.50	\$ 5,942.79
Subtotal (03/07-07/08)	\$ 33,986.40	\$ 44,568.73	\$ 27,298.40	\$ 315,234.50	\$ 8,176.16

Grand Total: \$ 429,264.19

¹ Several invoices issued by Mr. Bourassa combined fees for both the Remand Proceeding and CCWC's 2006 Rate Case. These invoice amounts have been adjusted to remove fees for the 2006 Rate Case.

² Amounts have been adjusted to exclude write-offs and other discounts.

³ CCWC paid all costs related to publication and mailing of the Notice of Hearing. These costs are above the dollar amount being requested.

⁴ July 2008 attorneys fees do not include fees for any legal services performed in connection with CCWC's Application for Rehearing.

⁵ July 2008 costs do not include any costs in connection with CCWC's Application for Rehearing.