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BEFORE THE ARIZONA CORPORATION COMMISSION

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COMMISSIONERS

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

2008 NOV -3 P 4: 10

AZ CORP COMMISSION  
DOCKET CONTROL

IN THE MATTER OF THE APPLICATION OF  
VALLEY UTILITIES WATER COMPANY  
INC. FOR AN INCREASE IN ITS WATER  
RATES FOR CUSTOMERS WITHIN  
MARICOPA COUNTY, ARIZONA

DOCKET NO. W-01412A-99-0615

IN THE MATTER OF THE APPLICATION OF  
VALLEY UTILITIES WATER COMPANY  
INC. FOR AUTHORITY TO ISSUE  
PROMISSORY NOTE(S) AND OTHER  
EVIDENCES OF INDEBTEDNESS PAYABLE  
AT PERIODS OF MORE THAN TWELVE  
MONTHS AFTER THE DATE OF ISSUANCE.

DOCKET NO. W-01412A-00-0023

**STAFF'S NOTICE OF FILING OF DIRECT  
TESTIMONY OF MARVIN MILSAP**

Arizona Corporation Commission, Utilities Division ("Staff") files the Direct Testimony of  
Marvin Milsap.

RESPECTFULLY SUBMITTED this 18<sup>th</sup> day of August, 2008.

Ayesha Vohra  
Robin R. Mitchell  
Attorneys, Legal Division  
Arizona Corporation Commission  
1200 West Washington Street  
Phoenix, Arizona 85007  
(602) 542-3402

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The original and fifteen (15) copies  
of the foregoing were filed this

Arizona Corporation Commission  
**DOCKETED**  
NOV -3 2008

DOCKETED BY *me*

3<sup>rd</sup> day of November, 2008 with:

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Docket Control  
Arizona Corporation Commission  
1200 West Washington Street  
Phoenix, Arizona 85007

Copy of the foregoing emailed this  
3<sup>rd</sup> day of November, 2008.

Patrick J. Black  
FENNEMORE CRAIG, P.C.  
3003 North Central Avenue, Suite 2600  
Phoenix, Arizona 85012  
Attorney for Valley Utilities Water Company, Inc.

Copy of the foregoing mailed this  
4<sup>th</sup> day of November, 2008 to:

Patrick J. Black  
FENNEMORE CRAIG, P.C.  
3003 North Central Avenue, Suite 2600  
Phoenix, Arizona 85012  
Attorney for Valley Utilities Water Company, Inc.



**BEFORE THE ARIZONA CORPORATION COMMISSION**

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

IN THE MATTER OF THE APPLICATION OF )  
VALLEY UTILITIES WATER COMPANY, INC., )  
FOR AN INCREASE IN ITS WATER RATES )  
FOR CUSTOMERS IN MARICOPA COUNTY, )  
ARIZONA AND FOR AUTHORITY TO ISSUE )  
PROMISSORY NOTE(S) AND OTHER )  
EVIDENCES OF INDEBTEDNESS PAYABLE )  
AT PERIODS OF MORE THAN TWELVE )  
MONTHS AFTER THE DATE OF ISSUANCE )  
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DOCKET NOS. W-01412A-99-0615  
W-01412A-00-0023

DIRECT

TESTIMONY

OF

MARVIN E. MILLSAP

PUBLIC UTILITIES ANALYST IV

UTILITIES DIVISION

ARIZONA CORPORATION COMMISSION

NOVEMBER 3, 2008

1 **INTRODUCTION**

2 **Q. Please state your name, occupation, and business address.**

3 A. My name is Marvin E. Millsap. I am a Public Utilities Analyst IV employed by the  
4 Arizona Corporation Commission ("ACC" or "Commission") in the Utilities Division  
5 ("Staff"). My business address is 1200 West Washington Street, Phoenix, Arizona 85007.  
6

7 **Q. Briefly describe your responsibilities as a Public Utilities Analyst IV.**

8 A. In my capacity as a Public Utilities Analyst IV, I analyze and examine accounting,  
9 financial, statistical and other information and prepare reports based on my analyses that  
10 present Staff's recommendations to the Commission on utility revenue requirements, rate  
11 design and other matters.  
12

13 **Q. Are you the same Marvin E. Millsap who prepared the Staff Report docketed on**  
14 **August 18, 2008?**

15 A. Yes.  
16

17 **Q. Please describe your educational background and professional experience.**

18 A. In 1991, I received a Masters degree in Business Administration, with a major in  
19 management. My studies included courses in economics, finance, research, information  
20 systems, entrepreneurship and marketing. In 1970, I graduated from Arizona State  
21 University, receiving a Bachelor of Science degree in Accounting. I am a Certified Public  
22 Accountant licensed to practice Public Accounting with the Arizona State Board of  
23 Accountancy. I have previously been licensed to practice Public Accounting with the  
24 Kansas and South Carolina State Boards of Accountancy. In addition, I am a Certified  
25 Government Financial Manager ("CGFM") as designated by the Association of  
26 Government Accountants ("AGA"). I have attended various seminars and classes on such

1 subjects as accounting, auditing, financial reporting, management of people and  
2 organizations, taxation, financing of water and wastewater systems and utility regulatory  
3 issues sponsored by the National Association of Regulatory Utility Commissioners',  
4 American Institute of Certified Public Accountants and the AGA. I am a member of the  
5 American Institute of Certified Public Accountants and the Association of Government  
6 Accountants. I have also attained the designations of "Competent Communicator" and  
7 "Competent Leader" with Toastmasters, International.

8  
9 I joined the Commission as a Public Utilities Analyst in October of 2007. Previously, I  
10 was employed by the Kansas Corporation Commission from May 1993 to May 1997, as a  
11 Managing Regulatory Utility Auditor and the Arizona Corporation Commission from  
12 November 1989 through May 1993, first as a Utilities Auditor and subsequently as a Rate  
13 Analyst and Senior Rate Analyst. In May 1997, I began working as a Senior Auditor with  
14 the Federal Communications Commission in Washington, DC, and subsequently became a  
15 Public Utilities Specialist with the Western Area Power Administration in Phoenix where I  
16 worked in Power Marketing and purchased power contract management. Most recently I  
17 worked for the U. S. State Department in Charleston, SC, as a Post Allotment Accountant  
18 and assisted with training of the Budget and Finance Staff at several Embassies in Europe,  
19 Africa and South America.

20  
21 Prior to accepting State regulatory positions, I was employed with national and local  
22 Certified Public Accounting firms for approximately 12 years performing financial and  
23 operational audits, as well as providing tax and accounting services. Additionally, I was  
24 involved with municipal electric, natural gas, water and waste water utility system operations  
25 and accounting for approximately 8 years at the City of Mesa and the Town of Wickenburg,  
26 Arizona. My experience includes being Chief Financial Officer of a construction company

1 and a real estate development company, as well as managing commercial and residential  
2 construction projects. I have also been a Business Law instructor for the Lambers CPA  
3 Review Course.

4  
5 **Q. Have you previously testified as an expert witness?**

6 A. Yes. I have testified before the Kansas Corporation Commission in several electric and gas  
7 utilities' rate cases, and regarding telecommunications issues. In addition, I have testified  
8 before the Arizona Corporation Commission. I have also testified as an expert witness before  
9 the Interstate Commerce Commission.

10  
11 **BACKGROUND**

12 **Q. What is the scope of your testimony in this case?**

13 A. I am presenting Staff's analysis and recommendations regarding Valley Utilities Water  
14 Company, Inc.'s ("Valley" or "Company") Motion for an Order Confirming Compliance  
15 and Release of Set-Aside Funds. I am presenting testimony and schedules addressing the  
16 Set-Aside Account required by Decision No. 62908.

17  
18 **Q. Please explain the background for the "Set-Aside" funds.**

19 A. Decision No. 62908, dated September 18, 2000, granted Valley a permanent rate increase  
20 but required that \$6.35 per bill per month be set-aside in an interest-bearing account  
21 separate from the operating checking account. The funds in the "set-aside account" were  
22 to be used solely for the payment of the debt service on an anticipated Water Infrastructure  
23 and Finance Authority of Arizona ("WIFA") loan, which was also approved by Decision  
24 No. 62908.

25

1 **Q. Did Valley establish the required account and deposit the \$6.35 per bill per month in**  
2 **accordance with Decision No. 62908?**

3 A. Yes. The Company did begin funding the set-aside account in December, 2000, based on  
4 the number of bills sent in November and continued to deposit funds in the account  
5 through October, 2003, when Decision No. 68309 ended the necessity to continue setting  
6 aside funds.

7

8 **Q. Has Staff analyzed the "WIFA Set-Aside Account" activity?**

9 A. Staff has analyzed Valley's WIFA Set-aside Account activity through December 31, 2007.  
10 Deposits were based on the number of bills sent in November, 2000, and continued  
11 through October, 2003, when Decision No. 68309 ended the necessity to continue setting  
12 aside funds. The deposit amounts were not based on the fluctuation in the number of  
13 monthly bills but continued at the November, 2000, customer level. Decision No. 68309  
14 again approved a WIFA loan and directed the set-aside account be used for debt service  
15 for this anticipated loan.

16

17 **Q. Did Valley use WIFA Set-Aside Account funds to pay debt service?**

18 A. No. Although Valley did receive a WIFA loan, actually there were two WIFA loans  
19 approved, for which the set-aside monies were to be used relative to either of the  
20 Decisions mentioned, no funds were drawn so there was no debt service to pay. As of  
21 December 31, 2007, it appears that Valley has not used the "WIFA Set-Aside Account" to  
22 pay debt service on any WIFA loans.

23

24 **Q. Did Valley disburse funds from the WIFA Set-Aside Account?**

25 A. Yes. Subsequent to October, 2003, the Company periodically used these funds to pay  
26 operating expenses although this was never authorized by the Commission.

1 **Q. What was the balance in the WIFA Set-Aside Account as of December 31, 2007?**

2 A. The balance was \$59,942.10 per the Chase Bank statement as of that date.

3

4 **Q. What balance did Staff calculate that should be in the WIFA Set-Aside Account as of**  
5 **December 31, 2007?**

6 A. The balance should have been \$215,540.07 per Staff's analysis.

7

8 **Q. Please explain how Staff recreated the bank balance.**

9 A. Staff calculated the amount that should have been deposited for each month by  
10 multiplying \$6.35 times the number of bills sent for each month. This amount was added  
11 to the prior month-end balance to derive the current month-end balance, which was then  
12 multiplied by the interest rate the bank had used according to that month's bank statement.  
13 The calculated interest was then added to the balance. The number of bills sent each  
14 month was furnished by Valley as the result of a Staff Data Request. Staff continued  
15 accumulating the deposits and interest through October, 2003, and then continued to add  
16 monthly interest based on the interest rate the bank had used according to that month's  
17 bank statement through December, 2007. This process resulted in a balance of  
18 \$215,540.07.

19

20 **Q. Please explain the difference between Staff's recreated bank balance and the Chase**  
21 **Bank statement balance.**

22 A. There are three reasons for the difference revealed by Staff's analysis:

23

24 First is that interest credited by the bank based on the balance each month is \$8,120.65  
25 whereas the calculated interest based on what the monthly balance should have been is  
26 \$20,544.27, a difference of \$12,423.62. Some of this difference results because the

1 Company's deposits were not made on a monthly basis, thus the amount credited monthly  
2 was lower than it should have been based on the balance at the time.

3  
4 Second is that the difference in set aside deposits is \$25,521.55 based on the Company's  
5 deposits of \$169,474.25 from November, 2000, through November, 2003, versus Staff's  
6 calculation that the deposits should have totaled \$194,995.80. Staff's calculations are  
7 based on the monthly customer count provided by the Company to a Staff data request.

8  
9 Third is that the Company has withdrawn, beginning in August, 2003, a total of  
10 \$228,432.02 while only \$110,779.22 has been re-deposited, leaving the Company owing  
11 the account \$117,652.80 in re-deposits.

12  
13 Thus, Staff believes that the WIFA Set-Aside Account is short a total of \$155,597.97 (the  
14 difference between the \$215,540.07 calculated or recreated balance and the bank  
15 statement balance of \$59,942.10 at December 31, 2007.

16  
17 **RECOMMENDATIONS**

18 **Q. What are Staff's recommendations?**

19 A. Staff recommends that the Company's request for confirmation of compliance with  
20 Decision No. 62908 be denied.

21  
22 Staff further recommends approval of Valley's request to be released from the obligation  
23 to maintain the set-aside account, however, Staff also recommends that the Company be  
24 ordered to use the funds, including the shortage created by utilization of the funds for  
25 unauthorized purposes, to prepay \$215,540.07 to reduce its existing WIFA debt balance of  
26 approximately \$997,000.

1 Staff further recommends that Commission direct Staff to initiate an Order to Show Cause  
2 as to whether the Company should be fined for violating Commission Decision No.  
3 62908.

4

5 **Q. Does this conclude your Direct Testimony?**

6 **A. Yes, it does.**