

ORIGINAL

OPEN MEETING AGENDA ITEM



0000091920

RECEIVED

Groom Creek Water Users' Association  
4209 S. Adeline Drive  
Prescott, Arizona 85303

2008 DEC 16 A 11:49

December 15, 2008

AZ CORP COMMISSION  
DOCKET CONTROL

Docket Control  
Arizona Corporation Commission  
Water Utilities Division  
1200 W. Washington Street  
Phoenix, Arizona 85007

Arizona Corporation Commission

DOCKETED

DEC 16 2008

Reference Docket No. W-01865A-07-0384 (Financing)  
Reference Docket No. W-01865A-07-0385 (Rates)

DOCKETED BY	
-------------	--

Subject: Groom Creek Water Users' Association (GCWUA) Low Income Tariff  
Plan in Reference to Decision No. 70627

Dear Commissioners,

The Board of Directors of the Groom Creek Water Users Association ("GCWUA") appreciates the time and attention given to our financing application and the associated request to adjust rates. We understand the applications were somewhat unconventional and represent a significant cost to our members. Your approval was essential for the GCWUA to proceed with critical system improvements and to ensure reliable water service to our members.

The GCWUA is aware that the rates approved to finance the needed improvements may create a hardship to some members with low incomes, especially the elderly on fixed incomes. However, the record is devoid of any evidence supporting a blanket freeze of rates (at 1982 levels) for members with incomes at or below two times the Federal Poverty Level. The adoption of a blanket freeze in rates may violate Arizona Revised Statutes Section 40-334 (prohibiting discrimination between persons, localities or classes of service as to rates, charges, service or facilities). Prior to imposing a freeze for certain members, the Commission undertook no study to determine how many members would be impacted or the level of revenue that would be lost as a result of the rate freeze. Importantly, the Commission made no provision for ensuring that the Association will recover the cost of the rate freeze in its authorized rates. It should not be the intent of a low tariff plan to reduce the revenue stream to the Association. The portions of Decision No. 70627 that adopt a rate freeze are therefore unreasonable and perhaps unlawful.

By this letter the GCWUA submits its recommended proposed Low Income Assistance Program tariff. In accordance with Arizona Revised Statutes Section

Page 2

40-367 the GCWUA proposes that its Low Income Assistance Program become effective January 1, 2009, superseding and replacing the unreasonable rate freeze at 1982 rates for members whose incomes are at or below two times the Federal Poverty Line currently contained in Decision No. 70627.

We further request pursuant to Arizona Revised Statutes Sections 40-253 and 40-252 that Decision No. 70627 be amended and clarified as follows:

1. The second sentence in Finding of Fact No. 82 be replaced with: "In order to protect these members, the Commission orders Groom Creek to submit a low income tariff for its consideration and possible adoption."
2. The second ordering paragraph (holding certain customers harmless from the rate increase) be deleted.

Background on GCWUA's Low Income Tariff Proposal:

We listened carefully to the discussions relating to a low income assistance program. We have given much thought and care in developing a low income assistance program that will be fair to both the applicant and the other water users.

In this regard, the non-profit cooperative nature of the Groom Creek Water Users Association was considered. By joining the Association each member agrees to pay a pro rata share of the costs of building, improving, maintaining and operating the water system. People live in the Groom Creek area largely due to a lifestyle choice.

We also considered that the primary reason for the rate increase is to enable the GCWUA to secure financing in order to make 1.6 million dollars of necessary capital improvements to the system. These improvements are needed to allow continuation of service to existing members and avoid increased operational and repair costs in the future. Therefore, it is critical that the cash flow needed to repay the loan is available from the rates approved by the Decision (which were based on a 2006 test year).

We have taken into consideration that approximately 137 (60%) of the Association's members are seasonal, using their Groom Creek residence as a second home. Furthermore, any person that moves into the area after January 1, 2009 will have become members with full knowledge of the new rates.

We examined various low income tariffs provided by Commission Staff involving other electric and gas utilities. We found that member eligibility for assistance

Page 3

was based upon gross income of not more than 150% of the federal poverty level, rather than the two times the federal poverty level contained in Decision No. 70627 (a level established without any record justification). Some assistance tariffs also included an age requirement. In no case did these other low income programs freeze rates; yet Decision No. 70627 freezes rates at a level that went into effect 26 years ago (on June 9, 1982) when the Association initially received its Certificate of Convenience and Necessity. The low income assistance programs previously approved by the Commission provide the customer with assistance in the form of a discount in the range of 30% to 40%, decreasing as usage increases.

The only low income assistance program for a water company that we were able to locate is Arizona-American Water Company's low income program for its Sun City District. According to Decision No. 70351, Arizona-American (the largest private water company in the state) offers a 50% deduction on the base rate (or a discount of \$4.00 a month) to up to 1,000 customers (or 4.3% of its 23,000 Sun City District). The cost of the low income program (\$48,000 annually) is then collected from the rates charged to those not in the low income program. In contrast, Decision No. 70627 makes no adjustment to GCWUA's rates to accommodate the cost of either the rate freeze or a low income assistance program.

The concept of freezing rates at levels established in 1982 does not even closely relate to current economic conditions, the cooperative nature of the GCWUA or the need for cash flow to pay for necessary system improvements and the increased costs of normal operations. In short, such a low fee, even on a temporary basis, is unreasonable and unfair to the other water users and is totally unsupported by the evidentiary record and can potentially cause a negative cash flow situation.

We believe the Commission's rate freeze was imposed to afford us an opportunity to submit a Low Income Assistance Program for the Commission's consideration and possible adoption. We had promptly filed a proposed Low Income Assistance Program Tariff. This proposed tariff was submitted on December 2, 2008. However, that tariff was based on what the ACC Compliance Staff would allow and not what the Association submitted. That submittal was based on the Staff's literal interpretation of the original Commission order, not the Association's interpretation of the intent of the order from the comments made during the hearing. Most of the contents of our proposed tariff were deleted by Staff prior to that submittal. To the extent necessary to accomplish this, we ask the Commission to amend Decision No. 70627 to eliminate reference to the rate freeze.

GCWUA's Low Income Assistance Program

Our proposal for a low income assistance program is based on 150% poverty level which is the level utilized in other utility assistance programs which have been approved by the ACC. None of the plans submitted to us by Staff to use as examples exceed the 150% poverty level.

We also propose providing the low income assistance discount on the monthly minimum and first 3,000 gallons of water usage, pretax. This is almost double the fairly low median usage of 1,532 gallons per month discussed by Mr. Fox in Finding of Fact No. 68. After 3,000 gallons, the customer would receive no further discount and would pay the normal approved usage rates.

We propose limiting the tariff to full time residents who use their Groom Creek home as their primary residence. The Board feels it unfair to other members to allow the 137 seasonal members (second homes) to benefit from the low income assistance program. In order to recognize that every dollar of revenue lost from the low income assistance program is lost to the Association and is unavailable to repay the financing and support operations, we have capped the number of participants to 12 (or 12.7% of the GCWUA's 97 full time members).

We believe that less than 12 members will qualify, but we need to protect the revenue base to ensure we can proceed with the needed capital improvements, make the monthly loan payments and pay the increased cost of operations since rates were established in 1982. It also must be recognized that the approved rates are based upon a December 31, 2006 test year and thus do not reflect the last two years of cost increases.

The current monthly bill for 3000 gallons of water is \$23.00 per month. Under the proposed Low Income Assistance Program Tariff the monthly bill for 3,000 gallons in 2009 would be \$41.50, or \$41.50 less than the monthly bill under the rates approved under Decision No. 70627. This discount would be reduced to \$33.20 monthly in 2010 and \$24.90 in 2011 and thereafter. We think this phasing from a 50% discount to a 30% discount over a three year period is a reasonable balance between those in need of low income assistance and the normal member. Our program is a major improvement over the original phased rate approach offered in Commissioner Mayes amendment # 1 that was rejected. In that amendment after 12 months all members would pay the new rates. Our plan allows for indefinite significant relief for qualified members.

The rates approved by Decision No. 70627 provide the Association with approximately \$9,615 in annual operating income above our 2006 test year operating expenses, after deducting the WIFA financing costs. Our proposed

Page 5

Low Income Assistance Program would make 62% (\$5,976) of these funds subject to never being collected as low income assistance discounts in 2009, thus the annual operating income would only be \$ 3,639.00. The actual 2007 year end operating costs increased by \$ 7,100.00 over the 2006 test year and the 2008 year end operating costs are expected to be \$ 8600.00 over the 2006 test year revenues. In reality, any level of discount creates a substantial risk for the remaining 216 members in that normal operating costs and repairs could be delayed due to a lack of funding. The GCWUA in developing its Low Income Assistance Program has attempted to balance the needs of its low income members, with the ongoing needs of the system that serves all 228 members. Its proposal to phase down the discount to 30% by 2011 is key to this balancing effort.

At this point we feel the only way to recoup the lost revenue would be through a future rate increase request, if needed, and subsequent Staff analysis that could not occur before the year 2010 at the earliest.

It is the intention of the GCWUA board to give every consideration to those who apply for assistance. The names and financial information of the applicants will be held in strictest confidence. Except for those board members involved in the interview or review of the applicant no one including other board members will be privy to any information.

We will be happy to discuss this program with you or answer any questions you may have.

The enclosed document is our recommendation for a Low Income Tariff if needed.

For the Board of Directors



Kal Miller, Secretary

## TARIFF SCHEDULE

---

**UTILITY:** Groom Creek Water Users Association

**TARIFF SHEET NO.:** \_\_\_\_\_

**DOCKET NO.:** W-01865A

**REPLACES SHEET NO.:** n/a

**DECISION NO.:** \_\_\_\_\_

**EFFECTIVE:** January 1, 2009

---

### LOW INCOME ASSISTANCE PROGRAM FOR GROOM CREEK WATER USERS ASSOCIATION

**Availability:**

This low income assistance program is available beginning January 1, 2009 to up to 12 active residential members of the Association living full time in Groom Creek, Yavapai County, Arizona and meeting the Eligibility Criteria set forth below.

**Applicability:**

This pricing plan provides low income members meeting the Eligibility Criteria (set forth below) with a discount of their monthly water bills. Members who desire to qualify for such pricing plan must initially make application to the President of the Board of Directors or to another Board member appointed by the President for qualification. The applicant must provide verification to the Board that the applicant satisfies the Eligibility Criteria. Subsequent to the initial certification, the residential member who seeks to retain eligibility for this low income pricing plan must provide in July of each year and upon any change of residence a personal certification that the Eligibility Criteria continue to be satisfied. Eligibility information provided by the member on the application and personal certification is subject to verification by the Board. Refusal or failure of a member to provide documentation of eligibility acceptable to the Association, upon request of the Board of Directors, shall result in removal from or ineligibility for this plan.

**Low Income Assistance Rates:**

For all qualified low income participants, the monthly bill shall be computed such that the monthly minimum and the first 3,000 gallons of usage will be discounted, before taxes, fifty percent (50%) in 2009, forty percent (40%) in 2010, and thirty percent (30%) in 2011 and thereafter. All water usage after 3,000 gallons of monthly usage will be computed under the Association's normal pricing rate structure.

**TARIFF SCHEDULE**

**UTILITY:** Groom Creek Water Users Association

**TARIFF SHEET NO.:** \_\_\_\_\_

**REPLACES SHEET NO.:** n/a

**DOCKET NO.:** W-01865A

**DECISION NO.:** \_\_\_\_\_

**EFFECTIVE:** January 1, 2009

**LOW INCOME ASSISTANCE PROGRAM**  
**FOR GROOM CREEK WATER USERS ASSOCIATION**

**Eligibility Criteria:**

In order to participate in and be eligible for low income assistance pricing, the member must have on file with the Association an approved application and annual certifications demonstrating that they meet all the following criteria:

1. The applicant's household gross income does not exceed one hundred fifty percent (150%) of the federal poverty level.

**Current 150 Percent Federal Poverty Guidelines\***

1 Person Household	\$ 20,800/Yr. (\$1,733/Mo.)
2 Person Household	\$ 28,000/Yr. (\$2,333/Mo.)
3 Person Household	\$ 26,400/Yr. (\$2,200/Mo.)
4 Person Household	\$ 31,800/Yr. (\$2,650/Mo.)

- ♦ Adjusted in July of each year for any change to the federal guidelines

2. The applicant is 65 years of age or older.
3. The applicant is a full time resident of Groom Creek, Yavapai County Arizona and that the service address is the applicant's primary residence.
4. The applicant was a member of the Association prior to January 1, 2009.
5. The applicant must be residing legally in the United States.

Examples of items of verification that may be required to substantiate the "below 150% poverty level" and "age" requirements are listed below. Additional information may be required.

The 150% of poverty level:

1. Copy of the most recent Income Tax Return Form 1040 or equivalent (must have been filed within the last 12 months)
2. Copy of Social Security Form 1099
3. Copy of W-2
4. Copy of IRS federal Form K-1
5. Copy of IRS federal Form 1120, 1120-S, 1065, 1041

**TARIFF SCHEDULE**

**UTILITY:** Groom Creek Water Users Association

**TARIFF SHEET NO.:** \_\_\_\_\_

**DOCKET NO.:** W-01865A

**REPLACES SHEET NO.:** n/a

**DECISION NO.:** \_\_\_\_\_

**EFFECTIVE:** January 1, 2009

---

**LOW INCOME ASSISTANCE PROGRAM**  
**FOR GROOM CREEK WATER USERS ASSOCIATION**

6. Proof of receiving Medicaid
7. Proof of receiving Food Stamps

The age requirement (one of the following):

1. Driver's License
2. Birth Certificate
3. Military Identification Card
4. State issued Identification Card
5. Passport

**Recovery of Undercollection:**

Members who wrongfully declare eligibility or fail to notify the Board of Directors when they no longer meet the eligibility requirements may be re-billed for any period of ineligibility under the Association's normal pricing rate structure without benefit of the low income assistance plan discount.