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BEFORE THE ARIZONA CORPORATION COMMISSION

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Arizona Corporation Commission

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JAN 28 2009

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IN THE MATTER OF THE APPLICATION OF
CHAPARRAL CITY WATER COMPANY, INC., AN
ARIZONA CORPORATION, FOR A
DETERMINATION OF THE FAIR VALUE OF ITS
UTILITY PLANT AND PROPERTY AND FOR
INCREASES IN ITS RATES AND CHARGES FOR
UTILITY SERVICE BASED THEREON.

DOCKET NO. W-02113A-07-0551

BRIEF OF PACIFIC LIFE INSURANCE COMPANY

Pacific Life Insurance Company ("Pacific Life") hereby submits its brief in the above-captioned matter. Pacific Life will discuss one issue only: the proposed mammoth irrigation rate increase. For the following reasons, the irrigation rate increase should be rejected:

1. The irrigation rate increase was not properly noticed.
2. The rate shift could devastate golf course and residential users.
3. The Commission previously considered and rejected a similar rate shift.
4. No cost-of-service study supports the rate shift.

I. The Irrigation Rate Increase Was Not Properly Noticed

A. The Notice Was Deficient

In August 2008, Chaparral City Water Company ("Utility") provided notice of its requested rate increase to customers. The notice stated (in part):

On September 26, 2007, Chaparral City Water Company, Inc. ("Chaparral City") filed an application with the Arizona Corporation Commission for a permanent revenue increase of approximately \$3.06 million, or 41.14 percent over current revenues. For average water usage residential customers, Chaparral City's application requests an increase in monthly rates from the current average bill of \$32.28 to \$44.17. If Chaparral City's proposal were to be adopted, average usage residential customers would experience an increase of 36.45 percent. The actual

1 percentage rate increase for individual customers would vary depending upon the
2 type and quantity of service provided. You may contact Chaparral City to
3 determine what the effect of its rate proposal may be on your individual bill.

4 However, the notice did not disclose that Utility was proposing a much greater increase for
5 irrigation customers – a mammoth 120% rate increase.¹

6 Utility's application was little help. It did not even mention the irrigation rate shift. To
7 ferret out the hidden rate increase, an irrigation customer had to closely scrutinize Utility's
8 supporting testimony and then actually calculate the rate impact. First, Mr. Bourassa's testimony
9 had to be closely reviewed. Near the end of his testimony, Mr. Bourassa provided the first clue:
10 "For the irrigation and construction class, the commodity charge has been set to the same level as
11 the standpipe and fire sprinkler commodity charges."² Then, the irrigation customer had to turn
12 back in Mr. Bourassa's testimony to uncover the current irrigation rate of \$1.56/1000 gallons and
13 Utility's proposed increase to \$3.438/1000 gallons. Finally, the irrigation customer had to
14 actually calculate the percentage increase of 120.38%. This is hardly sufficient notice.³

15 Of late, the Commission has been requiring much more specific notice when proposed
16 rate-design changes would mean that one or more classes of customers received a rate increase
17 far greater than the average rate increase. In Docket No. WS-01303A-06-0491, Arizona-
18 American Water Company ("Arizona-American") and other parties proposed as part of a rate
19 case to change wastewater rates in Sun City from a fixed monthly rate to a volumetric rate. This
20 meant that some customers would see a much greater rate increase than the average provided in
21 the published notice. The Commission required that additional notice be provided to all
22 customers:

23 We will require that all Sun City Wastewater customers who would receive a rate
24 increase greater than 31.17 percent under the Company's rebuttal testimony rate
25 design proposal be provided with additional notice. ... Additional time should be

¹ Utility's final schedule still advocate a 115.64% irrigation rate increase. See Utility Final Schedule H-3, p.2.

² Ex. A-3 at 23:14-16.

³ Pacific Life is not criticizing the Administrative Law Judge for not disclosing the huge irrigation rate increase in the required notice. It is not the Judge's responsibility to read and analyze every bit of the application, testimony, and supporting schedule in order to compose the notice. It was Utility's responsibility to clearly identify in its application a significant departure from its existing rate design, particularly when it targeted one customer class with a rate increase three times more than the average.

1 allowed for customers to request intervention in this matter following their receipt
2 of the additional notice. If new intervention requests are filed, it may be
3 necessary to continue the currently scheduled hearing to allow sufficient time for
4 intervenors to prepare for hearing.⁴

5 In response to the Procedural Order, Arizona-American provided a very explicit
6 additional notice to its Sun City Wastewater customers:

7 On July 28, 2006, Arizona-American Water Company ("Company") filed an
8 application with the Arizona Corporation Commission ("Commission") for an
9 increase in operating income. The Company is currently requesting an increase in
10 operating income for its Sun City Wastewater District of approximately 28.54
11 percent (\$1,279,305), and for its Sun City West Wastewater District of
12 approximately 41.33 percent (\$1,875,812). **Under one of the Company's**
13 **recently filed rate design proposals for wastewater rates, which is based on**
14 **actual water usage by the individual account, certain customers' bills for**
15 **wastewater service would experience rate increases of a much greater**
16 **percentage than the amount of the increases set forth in prior customer**
17 **notification of the rate increase request.** These high percentage rate increases
18 can potentially affect some residential customer accounts and some commercial
19 customer accounts.

20 **This letter is to inform you that you have been identified as one of the**
21 **customers who may experience, if one of the Company's rate design**
22 **proposals is adopted by the Commission, a wastewater bill increase**
23 **significantly higher than the overall average percentage increase originally**
24 **requested by the Company.**

25 **The Company can calculate the impact of its rate design proposals on your**
26 **account.** If you would like the Company to calculate the impact of its proposals
27 on your account, please contact **Todd Walker, Community Relations Manager,**
28 **at 623-780-3780 or at Todd.Walker@amwater.com.**⁵

29 Utility's requested rate increase of over 120% for irrigation customers is three times greater than
30 the average noticed rate increase. By any standard, this is "a much greater percentage" and
31 "significantly higher" than Utility's noticed rate increase. Yet, Utility provided no notice of the
32 huge irrigation rate increase that resulted from its rate-design proposal to shift costs to irrigation
33 customers.

⁴ Docket No. WS-01303A-06-0491, Procedural Order dated August 8, 2007, at 4:2-15.

⁵ Docket No. WS-01303A-06-0491, Notice of Filing Affidavit of Customer Notice, dated August 15, 2007.
(Emphasis in original.)

1 **B. The Notice Period Was Extremely Short**

2 The notice provided in this case was also much shorter than customarily provided in rate
3 cases. The July 24, 2008, Procedural Order in this docket set deadlines of September 15 for
4 interventions and September 30 for Intervenor Testimony, and set a hearing beginning on
5 December 8. Assuming a customer received notice of the rate hearing on approximately August
6 18, the customer was required to review the notice and determine whether to file an intervention
7 by September 15, only 28 days later. If the customer decided to intervene, testimony was due
8 just 43 days after the notice was received. This was a very aggressive schedule.

9 Because the notice did not disclose that Utility proposed to more than double irrigation
10 rates, it was virtually impossible for an out-of-state corporation to obtain a copy of the rate
11 application, analyze the actual rate increase, intervene in the case, retain local counsel, and
12 prepare direct testimony in 43 days. In fact, local counsel was not retained until November 11,
13 2008, only one week before surrebuttal testimony was due, and over six weeks after direct
14 testimony was due.⁶

15 **C. Other Irrigation Customers Might Have Participated in the Case if the**
16 **Notice Had Been Adequate and More Time Had Been Provided**

17 Pacific Life was able to participate in this proceeding, but not fully. There is no way to
18 know whether other irrigation customers would have intervened and participated in the case if
19 the notice had been adequate and the schedule had not been so aggressive.

20 **II. The Rate Shift Could Devastate Golf Course and Residential Users**

21 During the public-comment session it became clear that Utility's proposed rate shift for
22 irrigation customers would unduly harm residential customers and devastate golf-course users.

23 Marianne Wiggishoff, the community association manager for the Firerock Country Club
24 Community Association and Eagle's Nest Community Association stated that the irrigation rate
25 increase would drive up the dues residents pay to their homeowners associations.

⁶ On December 11, 2008, Pacific Life did move for permission to late-file direct testimony (attached to the motion) on the subject of irrigation rates, but this motion was denied. See Procedural Order dated December 24, 2008.

1 Many associations, community associations, homeowners associations, are
2 responsible for quite a bit of common area. Much of that in Fountain Hills is
3 desert. We don't necessarily have turf, but we do have extensive irrigation
4 systems that do consume a bit of water. So any sort of increase would greatly
5 impact neighborhoods and at yet another level in their homeowners association
6 dues. So that is sort of an unintended consequence that many people don't think
7 about, and I would appreciate your taking that into consideration.⁷

8 Richard Kloster, the president of the Eagle Mountain Community Association, echoed Ms.
9 Wiggishoff's concerns.⁸

10 Ken Watkins represented the Firerock Country Club and other golf courses.⁹ Mr.
11 Watkins explained how the irrigation rate increase could trigger a similar increase in the cost of
12 treated effluent, which the golf courses use for most of their irrigation requirements.

13 ALJ WOLFE: Mr. Watkins, you said something that raised a question for me.
14 You said that you have another water supplier? The golf courses have another
15 water supplier as well?

16 MR. WATKINS: The sanitary district. You know, most of the golf courses there,
17 we all use sanitary district, but their rate is based on Chaparral's rate at 75 percent.
18 So if Chaparral rates go up, you know, 120 percent total, then the sanitary district
19 follows the same suit. They raise their rates way up. That puts us -- you know,
20 using effluent water, it puts us into, you know, \$500 to \$700 an acre-foot for
21 reclaimed wastewater. We're there to help get rid of the water, too. But if we
22 have to start cutting back on water, it kind of binds up where they're going to put
23 their water also.

24 ALJ WOLFE: So you buy effluent from the sanitary district?

25 MR. WATKINS: When it's available, we take as much as we can. There are some
26 days that, you know, like for overseeding or something that we have to subsidize
27 with fresh water to get by, you know, because there's three golf courses and then
28 the parks that all use effluent. We'll take it as long as it's available.¹⁰

29 The combination of huge irrigation water and effluent rate increases could turn a very
30 difficult situation into a catastrophe, particularly in these difficult economic times. Mr. Watkins
31 stated that the enormous rate increase would not just affect golf course income. Golf courses
32 would have to reduce watering, which would reduce the value of the golf courses -- and of
33 neighboring homes.

⁷ Tr. 10:12-22.

⁸ Tr. 11:4-23.

⁹ Tr. 19:10-12.

¹⁰ Tr. 22:6 - 23:4.

1 We believe that the rate increase that Fountain Hills -- that Chaparral has put to us
2 is unfair. They're asking the golf courses to put up a 112 percent increase for the
3 golf courses. ... [T]he golf courses are taking the biggest burden for this increase.
4 And if the golf courses lose revenue, the value of our properties decrease, you
5 know, so if you look at the income and value of our property, we can lose from,
6 you know, a million dollars to half a million dollars just on the value of our
7 property. ... If the proposed rate is approved, it is likely the golf course
8 conditions will suffer and force lower quality standards for the community so less
9 people are coming out to play golf on the golf course. Also the value of the
10 property decreases on the homes around the golf course.¹¹

11 **III. The Commission Previously Considered and Rejected a Similar Massive Rate Shift**

12 In Docket No. W-02113A-04-0616, Utility proposed to increase irrigation rates to the
13 levels charged to other commercial customers.¹² Just as in this case, irrigation customers
14 strenuously objected to Utility's proposed massive increase.¹³ After considering the evidence,
15 the Commission rejected Utility's proposal.¹⁴ Utility has not offered any reason for the
16 Commission to depart from its previous rejection.

17 **IV. No Cost-of-Service Study Supports the Rate Shift**

18 Utility asks to radically increase the rates charged to just one class of customers—
19 irrigation users—without benefit of a cost-of-service study. This is improper.

20 The purpose of preparing a cost-of-service study is to offer guidance in setting the rates
21 charged for utility service. Generally, the Commission should set rates based on the cost of
22 service. This assures that the cost of providing service is allocated equitably among customers
23 and customer classes. Cost-based rates also send an appropriate price signal to customers
24 because the amount paid for service approximates the cost to provide the service. In other
25 words, subsidies between customers are minimized.

26 A cost-of-service study is normally the next step after a utility's overall revenue
27 requirement is determined. This required revenue must be recovered from the utility's various
28 customer classes. The cost-of-service study provides a basis for allocating revenues to the

¹¹ Tr. 19:13 – 20:20.

¹² Direct Testimony of Robert N. Hanford, at 10:18 – 11:3.

¹³ Decision No. 68176, dated September 30, 2005, at 38:8-19.

¹⁴ *Id.* at 30:25-26; 41:8 – 44:9.

1 various classes. Rates can then be developed to recover these revenues from each class. The
2 cost-of-service study develops the cost of providing utility service, and rate of return derived
3 from each class by apportioning a utility's expenses and investments to its various customer
4 classes. A utility's cost to serve different customer classes will vary because customers within
5 the classes use water in different amounts at different times. The theory behind the cost-of-
6 service study is that each customer class should pay the cost of serving the class and rates should
7 be developed on equal rates of return, rather than equal rates, for each class.

8 Utility proposes to set its irrigation rate to the same level as its standpipe and fire
9 sprinkler commodity rates.¹⁵ Utility admits that it is deviating from the rate design approved by
10 the Commission in the last rate case.¹⁶ But Utility has not performed any cost-of-service study to
11 justify this deviation.

12 Utility assumes that the cost to serve irrigation customers is the same as for standpipe and
13 fire-sprinkler customers, but without a cost-of-service study, there is simply no way to know if
14 Utility's assumption is justified. Standpipe and fire-sprinkler customers rarely actually take
15 water. A fire-sprinkler customer only needs water when there is a fire, but in that event needs a
16 lot of water immediately at very high pressure, regardless of the effect on other customers. This
17 requires a utility to build its system with sufficient capacity and pressure to satisfy infrequent
18 fire-safety needs, while still maintaining service for other customers. In contrast, irrigation usage
19 is much more regular and predictable. Irrigation customer usage also differs in timing and
20 demand from commercial users such as restaurants and office buildings. But without a cost-of-
21 service study there is simply no way to compare the cost of serving an irrigation customer to that
22 of any other customer.

23 Where Utility seeks to radically alter rate design from that previously approved by the
24 Commission, the burden is on Utility to justify that alteration. The burden is especially heavy

¹⁵ Ex. A-3 at 23:14-16.

¹⁶ Id. at 23:10-19.

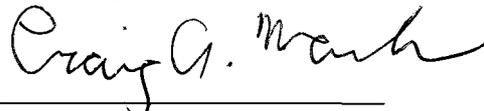
1 when the Commission previously rejected Utility's attempt to shift costs to irrigation customers.
2 Without a cost-of-service study, Utility has fallen far short meeting of carrying its burden.

3 **V. Conclusion**

4 Pacific Life takes no position on the appropriate revenue requirement for Utility.
5 However, Pacific Life urges the Commission to reject any rate-design for irrigation customers
6 that would depart from that approved by the Commission in Decision No. 68176.

7 Utility still advocates a 116% irrigation rate increase. Even the somewhat lower
8 increases proposed by Staff and RUCO would unduly burden irrigation customers. Staff
9 proposes to increase the irrigation commodity rate from \$1.56/1000 gallons to \$2.95/1000
10 gallons.¹⁷ This would be an 89% rate increase for irrigation customers, compared to an average
11 residential rate increase of just under 25%.¹⁸ RUCO proposes an increase from \$1.56 to 2.65.¹⁹
12 This is still a 70% increase for irrigation customers compared to its recommended 15.25%
13 average increase.²⁰ No party has provided a cost-of-service study to support its revised rate
14 design. There is no evidence to justify departing from the equitable rate design approved by the
15 Commission in Utility's last rate case.

16 Respectfully submitted on January 28, 2008, by:

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¹⁷ Staff Final Schedule MEM 27, p. 1.

¹⁸ Staff Final Schedule MEM 28.

¹⁹ RUCO Final Schedule TJC-37, p. 2.

²⁰ RUCO Final Schedule TJC-1, p. 1.

1 **Original and 13 copies filed**
2 on January 28, 2009, with:

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10 on January 28, 2009, to:

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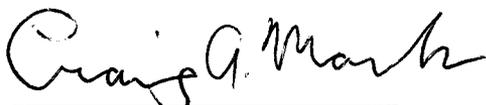
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