

W-02824A-07-0388



**Kristin Maye**

**From:** Jimmy Stoner [jimmys@cableone.net]  
**Sent:** Monday, May 04, 2009 1:22 PM  
**To:** Kristin Mayes  
**CC:** Jimmy Stoner; Chris Stoner  
**Subject:** ICRWUA Open Hearing Comments

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ARIZONA CORPORATION COMMISSION  
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Commissioner Mayes,

We really enjoyed having had the opportunity to chat with you following the open hearing last week.

We took a few days to let your hearing comments soak in. We'd like to commend you for taking the time during the hearing to provide your perspective on the background of the ICRWUA Rate Case and giving credit to Dayne Taylor and Jerome Reid for bringing excessive water use to your attention. Then, when ICRWUA submitted their rate case you were in possession of background information of the extensive use of ground water on the Talking Rock Golf Course. It was also very gratifying that you gave Dayne credit for stepping up to be an Intervener representing the interest of the ICRWUA member owners. Unfortunately, he and Mr. Reid have been the target of inappropriate disparaging comments from some ill-informed member/owners during this lengthy process. It was quite a compliment to Mr. Taylor and Mr. Reid to thank them for stepping forward, bringing this matter to your attention and the positive benefit their actions have had and will have on all residents of Arizona. It was quite telling when you assured all of us that had they not brought this to the forefront, the Commission would not have known of these practices, they would still be going on, perhaps for many years, and Talking Rock Golf Club would not be customers under the authority of the Arizona Corporate Commission. I'm sure all the people present at the Open Hearing appreciated your comments regarding Arizona's dysfunctional water laws and the significant impact our rate case and the efforts of Mr. Taylor and Mr. Reid has had influencing the Commission's policies now and for the future. All of us, as Arizona residents, owe them our gratitude for taking a big step forward in responsible water husbandry! Thank you for sharing your perspective with all of us!

Below, I commented that the TR 25,000,000 gallon Storage Pond would not be completed as stated in the ROO and that no permit exists to build it. While we were attending the Open Hearing, the Yavapai County Planning Department provide more information with a message on our answering machine that, after further investigation with other departments, they were unable to find any reference or mention of such a future storage pond by TR Entities. The approval process has not even started. Is this further indication of empty statements to please the Commission?

Following are the comments I prepared to deliver during Public Comment at the ICRWUA Open Hearing on 4/28/09.

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April 28, 2009  
ACC Open Hearing, ICRWUA Rate Case,  
DOCKET NO. W-02824A-07-0388

Arizona Corporation Commission  
DOCKETED

MAY - 4 2009

DOCKETED BY

Good morning Madam Chairman and Commissioners,.

My name is Jimmy Stoner. I, and my wife Chris, live in Inscription Canyon Ranch at 13410 N. Iron Hawk Drive. I want to take this opportunity to thank the Commission and staff for your dedication to the Commission responsibilities and your attention to this matter and the opportunity to say a few comments this morning. Chris

and I became involved in this rate case in February, 2008. This process has been quite an education for us and shows us why we need to be involved. I am a recently elected ICRWUA Board Director, however, I am speaking as a member/owner, not as a member of the Board. I would like to provide a few comments regarding the Recommended Opinion & Order ("ROO") issued on April 10, 2009.

Item 1. - Finding of Fact ("FoF") 32, Page 12, lines 6 – 9, states that "more than 40 written public comments were filed in this matter, the vast majority of them from Member/owners who expressed dissatisfaction with the ICR Board positions, vis a vis the TR entities, and the Board's practices".

In my opinion, this statement does not convey the breadth of interest in the various issues and topics covered in this rate case. I have read every docketed posting in this case. Primarily, the members focused on the two fundamental non-compliance issues with ACC Decision 64360 and the methods used to circumvent the ACC's authority. First, the Wells were not transferred as ordered, and second, the single authorized tariff rate was not charged for all water delivered by the company. These 2 issues led to member objections regarding the ICR Board's actions and, in particular in the opinion of many member/owners, the preferential treatment to Harvard and TR entities and their development interests. And more importantly to some of us, how ICRWUA and Harvard were knowingly operating outside the direction and authority of the ACC. As the case progressed there were questions from member regarding the Cost of Service Study ("COSS") and the Supplemental COSS submitted in behalf of ICR and how the proposed rates were supported by the data. The detailed data was not provided to members nor were any explanations forthcoming. There were also suggestions for ways to possibly mitigate or resolve some of the issues in the case. I'm somewhat surprised that, based on Finding of Fact 32 as stated, the efforts that many talented member/owners devoted to analyze information and express their concerns and provide suggestions did not appear to be considered or have any impact on the issues or conclusions. We thought the purpose of the e-Docket forum is to allow the community to participate in the process through questions and providing facts which weren't introduced by the parties in their testimonies or documentation supplied? We can only hope the member submissions are considered.

Item 2. - Finding of Fact 61, page 21 states that ICR and Staff agree the proposed revenue, income and margin are appropriate and should be adopted. This is questionable in light of Finding of Fact 65, page 22 where Mr. Taylor expressed concern that residential customer were subsidizing TR entities. Further, page 22 lines 15 – 17 state the COSS and Supplemental COSS show, that from a cost of service perspective, TR entities have been subsidizing residential customer. However, this is difficult to comprehend. The 2006 Test Year data for water delivered to TR entities used the "wheeling rate" at \$0.04/1000 gallons plus power costs. Yet using the new proposed rates the TR entities will pay \$1.40/1000 gallons. The revised COSS shows this rate will cover all costs plus provide a reasonable margin. Then how could the previous wheeling rate at \$0.04/1000 be subsidizing residential customers when the significantly increased rate covers cost with a reasonable margin? Members were unable to obtain clarification in the disparity in these numbers, To further confuse the rate structure, the proposed rate schedule shows any other "6" metered customers, except TRGC, will pay a rate of \$4.00/1000 gallons increasing to \$5.00/1000 gallons after 450,000 gallons. In spite of questions posed and docketed, no clarifications to these disparities have been provided, nor have we been provided the opportunity to meet and discuss the respective data and conclusions. Under these circumstances, its difficult to agree this proposed solution is in the best interests of the community.

A 2<sup>nd</sup> issue with respect to the COSS results was the position taken by counsel and Mr. Bourassa the ICR residential customers "need" TRGC and TR entities as a customer to make significant contributions to offsetting the company's fixed costs. Additionally, the Water Service Agreement (WSA) has a 5 year moratorium on any rate increase so the TR entities can long range cost projections and development plans.

Assuming this premise that residential customers need the TR Entities is correct, how can the ACC not object to the clauses in the WSA which allows the TR Parties to leave the ICRWUA water system at any time consistent with Arizona law requiring **only a 90 day notice** to ICRWUA? Considering the current financial position of ICRWUA, it would appear this would force ICRWUA to be back before the commission with a request for an emergency rate increase!

In summary, I'm very concerned that we have not been provided the detailed data and assumptions used in the various COS Studies nor given the opportunity to analyze and discuss the results and conclusions. The member/owners are left with unanswered questions and valid concerns about ICRWUA financial viability.

Item. 3. - Finding of Fact 91, page 31 line 3 states "TR entities will complete construction of the 25, 000,000 gallon storage pond by May 1, 2009. This will not happen!"

I contacted the Yavapai County Planning and Development office and was advised a permit had not been issued to construct the storage pond. They were unable to find any information regarding storage pond TR was planning to build. I would suspect this process would be lengthy requiring design reviews and approvals by numerous agencies. A reasonable question would be how a date of May 1, 2009 could be stipulated in the WSA executed on December 3, 2008 if the permit approval process had not been started? (This Storage Pond completion date had been moved from a February 1, 2009 completion date in the earlier version of the WSA dated September 12, 2009). ICRWUA recently received a letter from Talking Rock Land dated 4/21/2009 stating the date for the completion of the storage pond has been delayed to 12/31/2010. No rationale was provided for the delayed construction. I also have not found an Exception filed by TRGC with the Commission to correct the Storage Pond completion date stated in the ROO. My question is, what other changes to the WSA are in process, or being contemplated, which should be divulged to ICRWUA and the Commission at this time?

Item 4. - Page 36, lines 24 – 29: It is ordered that transfer of all utility TR infrastructure "constructed", not yet transferred, be transferred within 120 days of the date of this order. As this is written, ICR cannot comply with the order. A recently completed pumping station and water storage tank is undergoing a one year operational evaluation phase with some on-going operational modifications and repairs. This infrastructure will not be fully operational until late in 2009, which is beyond the 120 days stipulated in the ROO.

This concludes my comments at this time. Thank you for your time and consideration in these matters.

Respectfully submitted,

Chris and Jimmy Stoner  
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