

ORIGINAL

OPEN MEETING ITEM



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COMMISSIONERS
KRISTIN K. MAYES - Chairman
GARY PIERCE
PAUL NEWMAN
SANDRA D. KENNEDY
BOB STUMP



MICHAEL P. KEARNS
Interim Executive Director

320

ARIZONA CORPORATION COMMISSION

Arizona Corporation Commission

DOCKETED

DATE: MAY 11, 2009

DOCKET NO: W-02237A-08-0455

MAY 11 2009

TO ALL PARTIES:

DOCKETED BY

Enclosed please find the recommendation of Administrative Law Judge Belinda A. Martin. The recommendation has been filed in the form of an Order on:

ORANGE GROVE WATER COMPANY
(RATES)

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Administrative Law Judge by filing an original and thirteen (13) copies of the exceptions with the Commission's Docket Control at the address listed below by 4:00 p.m. on or before:

MAY 20, 2009

The enclosed is NOT an order of the Commission, but a recommendation of the Administrative Law Judge to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Open Meeting to be held on:

MAY 27, 2009 and MAY 28, 2009

For more information, you may contact Docket Control at (602)542-3477 or the Hearing Division at (602)542-4250. For information about the Open Meeting, contact the Executive Director's Office at (602) 542-3931.

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AZ CORP COMMISSION
DOCKET CONTROL

MICHAEL P. KEARNS
INTERIM EXECUTIVE DIRECTOR

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 COMMISSIONERS

3 KRISTIN K. MAYES, Chairman
4 GARY PIERCE
5 PAUL NEWMAN
6 SANDRA D. KENNEDY
7 BOB STUMP

8 IN THE MATTER OF THE APPLICATION OF
9 ORANGE GROVE WATER COMPANY, INC.
10 FOR A PERMANENT RATE INCREASE.

DOCKET NO. W-02237A-08-0455

DECISION NO. _____

ORDER

11 Open Meeting
12 May 27 and 28, 2009
13 Phoenix, Arizona

14 **BY THE COMMISSION:**

15 * * * * *

16 Having considered the entire record herein and being fully advised in the premises, the
17 Commission finds, concludes, and orders that:

18 **FINDINGS OF FACT**

19 1. Orange Grove Water Company, Inc. ("OGWC" or "Company"), is an Arizona 'C'
20 corporation engaged in the business of providing water utility service to the public approximately
21 seven miles south of Yuma, in Yuma County, Arizona, pursuant to authority granted by the Arizona
22 Corporation Commission ("Commission") in Decision No. 43621 (August 30, 1973). The
23 Company's current rates and charges for water service were approved in Decision No. 53723
24 (September 7, 1983).

25 2. On August 29, 2008, OGWC filed with the Commission an application for a
26 permanent rate increase ("Application").

27 3. On September 29, 2008, the Commission's Utilities Division Staff ("Staff") issued its
28 Letter of Deficiency.

1 4. On September 30, 2008, the Company filed its Curtailment Tariff and its Backflow
2 Tariff for Commission approval.

3 5. On October 15, 2008, the Company filed its Responses to Staff's Letter of Deficiency.

4 6. On December 4, 2008, Staff filed its Sufficiency Letter and classified the Company as
5 a Class D utility.

6 7. On February 17, 2009, Staff filed its Staff Report recommending approval of the
7 Company's Application, subject to certain conditions.

8 8. On February 27, 2009, the Company filed its Response to the Staff Report
9 ("Response").

10 9. On March 6, 2009, a Procedural Order was issued directing Staff to file a reply to the
11 Company's Response as well as a revised Staff Schedule MEM-4.

12 10. On March 25, 2009, Staff filed its Response to Company's Exceptions ("Reply") and
13 its revised Schedule MEM-4.

14 11. The Company notified its customers of the proposed rates and charges by first class
15 U.S. mail on August 25, 2008. No customer comments were received in response to this notification.

16 12. During the test year ended December 31, 2007, the Company served approximately
17 311 metered customers who were all served with 5/8" x 3/4" meters.

18 13. Average and median usage on the 5/8" x 3/4" meters during the test year were 8,846
19 and 7,516 gallons per month, respectively.

20 14. The rates and charges for the Company at present, as proposed in the Application, and
21 as recommended by Staff are as follows:

	Present	Proposed	Rates
	<u>Rates</u>	<u>Company</u>	<u>Staff</u>
22 <u>MONTHLY USAGE CHARGE:</u>			
23 5/8" x 3/4" Meter	\$10.00	\$11.87	\$11.50
24 3/4" Meter	0.00	0.00	17.25
25 1" Meter	0.00	0.00	28.75
26 1-1/2" Meter	0.00	0.00	57.50
27 2" Meter	0.00	0.00	92.00
28 3" Meter	0.00	0.00	184.00
4" Meter	0.00	0.00	287.50
6" Meter	0.00	0.00	575.00
Gallons included in minimum charge	2,000	0	0

COMMODITY CHARGE IN EXCESS OF MINIMUM:

(Per 1,000 gallons)

Over 2,000 Gallons	\$2.00	
0 – 4,000 Gallons		\$2.00
4,001 – 10,000 Gallons		2.35
Over 10,000 Gallons		2.75
0 to 3,000 Gallons		\$2.00
3,001 to 8,000 Gallons		2.25
Over 8,000 Gallons		2.75

SERVICE LINE AND METER INSTALLATION CHARGES:

	<u>Current Charges</u>	<u>Company's Proposed Charges</u>	<u>Staff Recommended Service Line Charges</u>	<u>Staff Recommended Meter Charges</u>	<u>Staff Recommended Total Charges</u>
5/8" x 3/4" Meter	\$100.00	\$520.00	\$415.00	\$105.00	\$520.00
3/4" Meter	120.00	None Proposed	415.00	205.00	620.00
1" Meter	160.00	None Proposed	465.00	265.00	730.00
1-1/2" Meter	300.00	None Proposed	520.00	475.00	995.00
2" Turbine	400.00	None Proposed	800.00	995.00	1,795.00
2" Compound	No Tariff	None Proposed	800.00	1,840.00	2,640.00
3" Turbine	No Tariff	None Proposed	1,015.00	1,620.00	2,635.00
3" Compound	No Tariff	None Proposed	1,135.00	2,495.00	3,630.00
4" Turbine	No Tariff	None Proposed	1,430.00	2,570.00	4,000.00
4" Compound	No Tariff	None Proposed	1,610.00	3,545.00	5,155.00
6" Turbine	No Tariff	None Proposed	2,150.00	4,925.00	7,075.00
6" Compound	No Tariff	None Proposed	2,270.00	6,820.00	9,090.00

	<u>Current Charges</u>	<u>Company Proposed</u>	<u>Staff Recommended</u>
<u>SERVICE CHARGES:</u>			
Establishment	N/A	\$25.00	\$25.00
Establishment (After Hours)	N/A	40.00	40.00
Reconnection (Delinquent)	N/A	40.00	40.00
Meter Test (If Correct)	N/A	25.00	25.00
Deposit	N/A	*	*
Deposit Interest	N/A	*	*
Re-Establishment (Within 12 Months)	N/A	**	**
Re-Establishment (Within 12 Months, after hours)	N/A	**	**
NSF Check	N/A	\$25.00	\$25.00
Deferred Payment	N/A	1.50%	1.50%
Meter Re-Read (If Correct)	N/A	\$30.00	\$30.00
Moving Customer Meter (Customer Request)	N/A	***	***
After hours Service Charge (Rule R14-2-403D)	N/A	Cost	Cost

- 1 * Per Commission rule Arizona Administrative Code ("A.A.C.") R-14-2-403(B).
 2 ** Months off system times the monthly minimum per Commission rule A.A.C. R14-2-
 403(D).
 3 *** Per Commission Rules (R14-2-405)

4 15. Staff determined OGWC's original cost rate base, which is the same as its fair value
 5 rate base ("FVRB"), to be \$25,702. This is an \$11,054 increase to OGWC's proposed FVRB of
 6 \$14,648, based primarily upon Staff's adjustment to accumulated depreciation, adjustments to plant
 7 in service and working capital. Staff's proposed rate base adjustments are reasonable and will be
 8 adopted.

9 16. During the test year, OGWC collected total operating revenues of \$89,896. Staff made
 10 no adjustments to test year operating revenues.

11 17. Staff decreased OGWC's claimed test year operating expenses by \$1,499, from
 12 \$101,641 to \$100,142, due to adjustments to water testing expense, depreciation expense, and income
 13 taxes. Staff's proposed adjustments to operating expenses are reasonable and will be adopted.

14 18. Based on Staff's analysis, OGWC's present water rates and charges produced
 15 operating revenues of \$89,896 and adjusted operating expenses of \$100,142, which resulted in an
 16 adjusted test year net operating loss of \$10,246, resulting in no rate of return.

17 19. The water rates and charges OGWC proposed would produce operating revenue of
 18 \$120,016 and operating expenses of \$101,641, resulting in an operating income of \$18,375, for a
 19 125.44 percent rate of return on its FVRB, and an operating margin of 15.31 percent.

20 20. The water rates and charges Staff recommends would produce adjusted operating
 21 revenues of \$120,016 and adjusted operating expenses of \$104,479, resulting in a \$15,537 operating
 22 income, for a 60.45 percent rate of return on its FVRB, and an operating margin of 12.95 percent.¹

23 21. The Company's proposed rate schedule would increase the average 5/8" x 3/4" meter
 24 monthly residential customer bill (8,846 gallons) by \$7.57, or 32.0 percent, from \$23.69 to \$31.26
 25 and would increase the median monthly residential customer bill (7,516 gallons) by \$7.10, or 33.8
 26 percent, from \$21.03 to \$28.13.

27 ¹ In its Staff Report, Staff noted that it typically utilizes a rate of return on rate base to determine the appropriate revenue
 28 requirement. However, Staff stated that because the Company's rate base is too low to provide an appropriate level of
 revenue, Staff is utilizing an operating margin to develop its revenue requirement.

1 22. Staff's recommended rates would increase the average 5/8" x 3/4" meter monthly
2 residential customer bill (8,846 gallons) by \$7.39, or 31.2 percent, from \$23.69 to \$31.08 and would
3 increase the median monthly residential customer bill (7,516 gallons) by \$6.63, or 31.5 percent, from
4 \$21.03 to \$27.66. Staff's recommended rates are reasonable and will be adopted.

5 23. Staff recommends that the Company file with Docket Control, as a compliance item in
6 this Docket, a schedule of its Commission-approved rates and charges within 30 days after the
7 effective date of this Decision.

8 24. Staff also recommends that the Company use Staff's depreciation rates by individual
9 National Association of Regulatory Utility Commissioners' category on a going-forward basis, as set
10 forth in Table B to the Engineering Report, attached to the Staff Report as Attachment A.

11 25. Staff noted that, although the Company has adequate capacity to serve its existing
12 customers, it also has a fire hydrant system, but no water storage capacity. As such, Staff
13 recommends that the Company be required to install a minimum of 60,000 gallons of storage, and
14 recommended that OGWC file with Docket Control, as a compliance item in this docket, no later
15 than December 31, 2009, a Certificate of Approval to Construct for the 60,000 gallons of storage
16 capacity and the Company file no later than May 31, 2010, a Certificate of Approval of Construction
17 for the 60,000 gallons of storage capacity.

18 26. The Engineering Report attached to the Staff Report as Attachment A contained
19 additional recommendations.

20 27. Engineering Staff found that the Company could not provide an accurate account of
21 the water pumped and non-account water during the test year because the well meter installed on
22 OGWC's Well #2 was not operable. Additionally, Engineering Staff reported that Well #2 has never
23 been registered with the Arizona Department of Water Resources ("ADWR"). Finally, Engineering
24 Staff noted that signage at the Company's well site identifying the Company and contact information
25 was not visible, in violation of Arizona Department of Environmental Quality ("ADEQ").

26 28. Engineering Staff therefore recommends that the Company install a new well meter on
27 Well #2 within 30 days of the effective date of this Decision.

28

1 34. In its Response to the Staff Report, OGWC stated that it agreed with the
2 recommendations in both the Staff Report and the Engineering Report, except as discussed below.

3 35. The Company noted that it would honor Staff's request that 60,000 gallons of storage
4 capacity be added, but expressed its concerns about its ability to do so within Staff's recommended
5 time frames. According to the Company, it will cost approximately \$85,000 to \$100,000 to install a
6 60,000 gallon storage tank. As such, the Company has concerns about its ability to either raise the
7 necessary funds itself or acquire financing for the project from the Water Infrastructure Finance
8 Authority and still obtain the required approvals from the various agencies, including the
9 Commission, within the timeframes recommended by Staff.

10 36. OGWC therefore requests an extension of the dates suggested by Staff by six-to-
11 twelve months.

12 37. In its Reply, Staff found that the Company's cost estimate was reasonable, however
13 Staff did not recommend that the Company be allowed more time to install the storage tank. Instead,
14 Staff recommends as follows:

15 Staff further recommends holding this rate case docket open to allow for a
16 reconsideration of the base rates in the event that, in the Company's opinion, rates
17 do not provide a debt service coverage ratio equal to or greater than 1.25 times
any financing obligation the Company may incur for the purpose of placing an
appropriate storage facility in service.

18 Staff further recommends that, in the event that the Company meets the criteria
19 for reconsideration of the base rates, it should file its application for
reconsideration of its base rates not later than May 31, 2010.²

20 38. While understandable, Staff's recommendation lacks finality for the Company and its
21 customers. The Company's request for additional time to implement Staff's recommendations is
22 reasonable under the circumstances and shall be adopted. We expect the Company to use its best
23 efforts to get the storage in place quickly, but will allow OGWC until June 30, 2010, to file an
24 Approval to Construct and until December 31, 2010, to file an Approval of Construction.

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26
27
28 ² Reply, page 1.

1	Establishment	\$25.00
	Establishment (After Hours)	40.00
2	Reconnection (Delinquent)	40.00
	Meter Test (If Correct)	25.00
3	Deposit	*
	Deposit Interest	*
4	Re-Establishment (Within 12 Months)	**
5	Re-Establishment (Within 12 Months, after hours)	**
6	NSF Check	\$25.00
	Deferred Payment	1.50%
7	Meter Re-Read (If Correct)	\$30.00
	Moving Customer Meter (Customer Request)	***
8	After hours Service Charged (Rule 14-2-403D)	Cost

9 * Per Commission rule A.A.C. R-14-2-403(B).

10 ** Months off system times the monthly minimum per Commission rule A.A.C. R14-2-403(D).

11 *** Per Commission Rules (R14-2-405)

12 IT IS FURTHER ORDERED that the above rates and charges shall be effective for all service
13 provided on and after July 1, 2009.

14 IT IS FURTHER ORDERED that Orange Grove Water Company, Inc., shall notify its
15 customers of the rates and charges authorized herein, and their effective date, in a form acceptable to
16 the Commission's Utilities Division Staff, by means of an insert in the Company's next regularly
17 scheduled billing.

18 IT IS FURTHER ORDERED that Orange Grove Water Company, Inc., shall use the
19 depreciation rates by individual National Association of Regulatory Utility Commissioners' category
20 on a going-forward basis, as set forth in Table B to the Engineering Report attached to the Staff
21 Report as Attachment A.

22 IT IS FURTHER ORDERED that Orange Grove Water Company, Inc. shall install a
23 minimum of 60,000 gallons of water storage capacity.

24 IT IS FURTHER ORDERED that Orange Grove Water Company, Inc. shall file with Docket
25 Control, as a compliance item in this docket, no later than June 30, 2010, a Certificate of Approval to
26 Construct the 60,000 gallons of water storage capacity and shall file no later than December 31, 2010,
27 a Certificate of Approval of Construction of the 60,000 gallons of water storage capacity.

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1 IT IS FURTHER ORDERED that Orange Grove Water Company, Inc., shall install a new
2 well meter on its Well #2 within 30 days of the effective date of the Decision. Orange Grove Water
3 Company, Inc., shall file with Docket Control, as a compliance item in this docket, within 10 days of
4 the installation, a notice stating that the well meter has been installed.

5 IT IS FURTHER ORDERED that Orange Grove Water Company, Inc., shall report the actual
6 water pumped data as read at the well meter on a monthly basis in future Annual Reports, beginning
7 with the 2009 Annual Report required to be filed in 2010.

8 IT IS FURTHER ORDERED that Orange Grove Water Company, Inc. monitor its water
9 system and submit the gallons pumped and sold to determine the non-account water for one full year.
10 The Company shall coordinate each month's well meter reading with its customer billing cycle so
11 that an accurate accounting is determined. The results of this monitoring and reporting shall be filed
12 with Docket Control, as a compliance item in this docket, within 13 months of the effective date of
13 this Decision.

14 IT IS FURTHER ORDERED that if Orange Grove Water Company, Inc.'s, reported water
15 loss is greater than 10 percent, the Company shall prepare a report containing a detailed analysis and
16 plan to reduce the water loss to 10 percent or less. If the Company believes it is not cost effective to
17 reduce the water loss to less than 10 percent, it shall submit a detailed cost benefit analysis to support
18 its opinion. In no case shall the Company allow water loss to be greater than 15 percent. The water
19 loss reduction report or the detailed analysis, whichever is submitted, shall be filed with Docket
20 Control, as a compliance item in this docket, within 13 months of the effective date of this Decision.

21 IT IS FURTHER ORDERED that Orange Grove Water Company, Inc.'s, Curtailment Tariff
22 and Backflow Tariff are hereby approved. Orange Grove Water Company, Inc. shall file both tariffs
23 with Docket Control, as compliance items in this docket, within 45 days after the effective date of
24 this Decision.

25 IT IS FURTHER ORDERED that Orange Grove Water Company, Inc. shall file the
26 appropriate registration documents with ADWR to register Well #2. The Company shall file with
27 Docket Control, as a compliance item in this docket, documentation demonstrating that Well #2 has
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1 been registered and an ADWR Well Registration Number assigned, within 45 days of the effective
2 date of this Decision.

3 IT IS FURTHER ORDERED that Orange Grove Water Company, Inc., shall post a sign at its
4 well site in compliance with ADEQ requirements, and file with Docket Control, as a compliance item
5 in this docket, a Notice verifying Company compliance with ADEQ requirements within 45 days
6 after the effective date of this Decision.

7 IT IS FURTHER ORDERED that in addition to collection of its regular rates and charges,
8 Orange Grove Water Company, Inc., shall collect from its customers a proportionate share of any
9 privilege, sales or use tax per A.C.C. R14-2-409(D).

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IT IS FURTHER ORDERED that Orange Grove Water Company, Inc., shall annually file as part of its annual report, an affidavit with the Utilities Division attesting that Orange Grove Water Company, Inc., is current in paying its property taxes in Arizona.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

CHAIRMAN _____ COMMISSIONER

COMMISSIONER _____ COMMISSIONER _____ COMMISSIONER

IN WITNESS WHEREOF, I, MICHAEL P. KEARNS, Interim Executive Director of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this ____ day of _____, 2009.

MICHAEL P. KEARNS
INTERIM EXECUTIVE DIRECTOR

DISSENT _____

DISSENT _____

1 SERVICE LIST FOR:

ORANGE GROVE WATER COMPANY, INC.

2 DOCKET NO.

W-02237A-08-0455

3

Kathleen Day, President

4 ORANGE GROVE WATER COMPANY, INC.

P. O. Box 889

5 Yuma, Arizona 85366

6 Janice Alward, Chief Counsel

Legal Division

7 ARIZONA CORPORATION COMMISSION

1200 West Washington Street

8 Phoenix, Arizona 85007

9 Ernest G. Johnson, Director

Utilities Division

10 ARIZONA CORPORATION COMMISSION

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