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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

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

Arizona Corporation Commission
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IN THE MATTER OF THE APPLICATION OF APPALOOSA WATER COMPANY FOR FINANCING AUTHORIZATION.	DOCKET NO. W-03443A-08-0177
IN THE MATTER OF THE APPLICATION OF APPALOOSA WATER COMPANY FOR A RATE INCREASE.	DOCKET NO. W-03443A-08-0313 DECISION NO. 71236 **OPINION AND ORDER**

DATE OF HEARING: November 17, 2008 (Procedural Conference); and April 21, 2009 (Hearing)

PLACE OF HEARING: Phoenix, Arizona

ADMINISTRATIVE LAW JUDGE: Yvette B. Kinsey

IN ATTENDANCE: Kristin K. Mayes, Chairman

APPEARANCES: Mr. Joe Cordovana, on behalf of Applicant;

Mr. John E. Blann, Intervenor, *in propria persona*; and

Mr. Wesley Van Cleve and Ms. Alyesha Vohra, Staff Attorneys, Legal Division, on behalf of the Utilities Division of the Arizona Corporation Commission.

BY THE COMMISSION:

On March 26, 2008, Appaloosa Water Company ("Appaloosa" or "Company") filed with the Arizona Corporation Commission ("Commission") an application seeking approval to finance construction of an arsenic treatment facility. Appaloosa's application requests authorization to finance approximately $192,000, through the Water Infrastructure Financing Authority of Arizona ("WIFA").

On June 20, 2008, in Docket No. W-03443A-08-0313, Appaloosa filed an application with the Commission for a permanent increase in its rates. Appaloosa's rate application states the

Company is seeking an increase in its rates to cover increased administrative costs, increased property taxes, and to pay for the cost of a proposed arsenic treatment facility.

On July 1, 2008, Appaloosa filed an amendment to its rate application.

On July 21, 2008, the Commission's Utilities Division ("Staff") filed a Letter of Deficiency in the rate application docket.

On July 29, 2008, Appaloosa filed a second amendment to its rate application.

On August 7, 2008, Appaloosa filed a third amendment to its rate application.

On September 8, 2008, Staff filed a Second Letter of Deficiency in the rate application docket.

On September 17, 2008, Mr. Charles R. Larson, Jr. CPA, filed a letter on behalf of Appaloosa, clarifying some of the numbers reported in Appaloosa's rate application.

On October 17, 2008, Staff filed a Letter of Sufficiency stating Appaloosa's rate application had met the sufficiency requirements as outlined in Arizona Administrative Code R14-2-103 and that Appaloosa had been classified as a Class C utility based on its proposed rates.

On October 21, 2008, Staff filed a Motion to Consolidate the above-referenced dockets.

On October 30, 2008, by Procedural Order, a telephonic procedural conference was scheduled to be held on November 17, 2008.

On November 17, 2008, the telephonic procedural conference was held as scheduled. During the conference, procedural deadlines, as well as the pending motion to consolidate the dockets were discussed, and it was agreed that the matter should be set for hearing.

On December 5, 2008, by Procedural Order, the finance and rate case dockets were consolidated for purposes of hearing, and the hearing on the consolidated matters was set to commence on April 21, 2009.

On January 29, 2009, John E. Blann, Jr. filed a Request to Intervene ("Request") in the proceedings. The Request stated that Mr. Blann is a residential customer of the Company and has an interest in the proposed rate increases. No objections were filed regarding Mr. Blann's Request.

Between January 30, 2009 and February 11, 2009, various comments opposing the proposed rate increase were filed in the consolidated docket.

On March 2, 2009, Appaloosa docketed an Affidavit of Publication, showing notice of the applications and hearing date were published in the *Courier*, a daily newspaper of general circulation, on January 1, 2009.

On March 3, 2009, by Procedural Order, Mr. John Blann was granted intervention in this matter.

On March 4, 2009, Staff filed a Staff Report recommending approval of the financing and rate applications subject to Staff's conditions.

On March 5, 2009, Appaloosa docketed a letter stating that notice of the applications and hearing date had been mailed to each of its customers on January 1, 2009.

On March 23, 2009, Appaloosa filed a letter in response to the Staff Report, objecting to Staff's recommendation that the rates decrease instead of increase.

On April 21, 2009, a full public hearing was convened before a duly authorized Administrative Law Judge ("ALJ") of the Commission at its offices in Phoenix, Arizona. Staff appeared through counsel, and Mr. Joe Cordovana, President of Appaloosa, appeared on behalf of the Company. Intervenor Mr. John Blann appeared and several members of the public appeared to give public comments. At the conclusion of the hearing, several late-filed exhibits were ordered by the ALJ.

On May 4, 2009, Staff docketed a Notice of Filing which included a revised Schedule CRM-4 and Summary of Original Cost Rate Base Adjustment.

On May 27, 2009, by Procedural Order, Appaloosa was ordered to file as late-filed exhibits, an update on the status of the Opportunity to Correct Deficiencies issued by ADEQ, an update on reconstruction of the water line across Road 4, and a discussion of how the water line across Road 4 will be used.

On June 4, 2009, Appaloosa docketed additional information in response to the May 27, 2009 Procedural Order. On the same date, Appaloosa also docketed a Notification and Verification of Extension of Service Area.

After receipt of Appaloosa's late-filed exhibits the matter was taken under advisement pending submission of a Recommended Opinion and Order to the Commission.

* * * * * * * * * *

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

FINDINGS OF FACT

1. Appaloosa is an Arizona public service corporation engaged in the business of providing water service to a community known as Appaloosa Meadows, located in the Town of Chino Valley in Yavapai County, Arizona.

2. Appaloosa was granted authority to provide water utility services in Arizona in Commission Decision No. 60733 (March 23, 1998).

3. Appaloosa currently serves approximately 237 customers and its service area encompasses approximately two-thirds of a square mile. Appaloosa currently serves a 60-acre parcel outside its CC&N, but is contiguous to its service area.

4. Artesian Holdings, LLC is the current owner of Appaloosa.

5. Staff classified Appaloosa as a Class D utility based on Staff's proposed rates.

6. Appaloosa currently charges rates approved in Commission Decision No. 60733 (March 23, 1998).

7. Appaloosa is currently in compliance with the Utilities Division and in good standing with the Corporations Division.

8. Appaloosa is current on its property and sales tax payments.

9. Appaloosa's service area is located within the Prescott Active Management Area ("AMA") and the Company is in compliance with AMA reporting requirements.

10. On March 26, 2008, Appaloosa filed an application with the Commission seeking authority to finance construction of an arsenic treatment facility through WIFA, for approximately $192,000.

11. On June 20, 2008, in Docket No. W-03443A-08-0313, Appaloosa filed an application with the Commission for a permanent increase in its rates, using a December 31, 2007 test year. Appaloosa subsequently amended its rate application on July 1, 2008, July 29, 2008, August 7, 2008, and September 17, 2008.

12. Subsequent to the filing of the applications, the dockets were consolidated.

13. On March 3, 2009, Staff filed a Staff Report recommending approval of the rate application using Staff's proposed rates and charges and recommending approval of the financing application.

14. In response to Staff's recommendation that Appaloosa's proposed rates be decreased instead of increased, Appaloosa filed objections to Staff's proposed rates.

Financing Application

15. Effective January 2006, the U.S. Environmental Protection Agency ("EPA") reduced the arsenic maximum containment level ("MCL") in drinking water from 50 parts per billion ("ppb") to 10 ppb. According to an ADEQ Compliance Status Report, issued on May 9, 2008, Appaloosa's water system exceeded the MCL for arsenic and ADEQ could not determine if Appaloosa's water system was delivering water that meets water quality standards.[1] Staff reported that Appaloosa's two wells had arsenic levels of 16 ppb for each well.[2]

16. To comply with the new EPA standard, Appaloosa has completed construction of an arsenic treatment plant and is currently seeking Commission approval to obtain a WIFA loan to cover the cost of the plant.

17. The arsenic treatment facility was constructed by Adedge Technologies, Inc. at a cost of $192,380. Appaloosa proposes to obtain a 20-year amortizing loan from WIFA to cover the cost of the arsenic facility.

18. Appaloosa has obtained an Approval of Construction ("AOC") issued by the Arizona Department of Environmental Quality ("ADEQ") for the arsenic treatment facility and the facility is currently in operation.[3] Staff submitted evidence from ADEQ, which stated that at as of March 2, 2009, Appaloosa was out of compliance, due to reporting and monitoring. (Ex. S-2) ADEQ stated that once the Company completes two quarters of samples showing arsenic MCLs below 10 ppb, then ADEQ will consider Appaloosa in compliance. (Id.)

19. Appaloosa's witness testified that the Company's water system arsenic MCL is

[1] Staff Report at 3.
[2] Staff's Engineering Report at 15.
[3] See Staff Exhibit 2 showing ADEQ issued an AOC for the arsenic treatment plant on February 26, 2009.

currently testing at zero. (Tr. at 42)

20. Staff recommends that any permanent rate increase granted in this case become effective on the first day of the month after Appaloosa files ADEQ documentation showing no compliance deficiencies and that Appaloosa is delivering water that meets water quality standards.

21. Staff reviewed the costs for the arsenic treatment facility and concluded that the cost is reasonable, but that no "used and useful" determination was made and no conclusion should be inferred for rate making or rate base purposes.

22. Since construction of the arsenic treatment plant is complete, Staff recommends allowing Appaloosa to recover the cost of the arsenic treatment plant through the arsenic cost recovery mechanism ("ACRM").

23. In Decision No. 66400 (October 14, 2003), the Commission approved and adopted an ACRM standard for water companies to recoup the costs associated with installation of arsenic treatment facilities needed to meet the new EPA standard.

24. According to Staff, the purpose of the ACRM is to permit recovery of the capital and operating costs of providing arsenic remediation once the plant is in place and when the in-service date occurs subsequent to the end of the test year. Further, Staff explains that the ACRM requires the Company to make a filing requesting authorization for a surcharge. Staff describes the ACRM two-step process as: 1) providing for recovery of and on the arsenic plant investment; and 2) providing for recovery of related operation and maintenance expenses ("O&M") going forward, and recovery of O&M deferred for up to twelve months prior to the filing.

25. Decision No. 66400 defines the types of deferred and recoverable O&M expenses as: 1) media replacement or regeneration costs; 2) media replacement or regeneration service costs; 3) and waste media or regeneration disposable costs.[4] Media is the material used to filter and trap the arsenic and during the arsenic treatment process the media must be periodically disposed of and replaced with fresh media.[5]

26. A component of the ACRM process is the "earnings test". The earning test permits

[4] *See* Commission Decision No. 66400 (October 14, 2003) at pg. 6.
[5] Id.

water companies to increase rates only to the extent that the resulting operating income does not result in a return on rate base in excess of the authorized return.[6] The earning test is applied on a system-by-system basis to insure that the rate base and operating income of each individual system is preserved.[7]

27. In this case, Staff recommends that the earning test for the ACRM be established based on Staff's proposed Operating Margin of 17.13 percent (See rate discussion below).

28. Appaloosa has submitted an application to WIFA to obtain a 20-year amortizing loan to pay for the cost of the arsenic treatment plant. Staff testified that the funds generated from the ACRM surcharge revenues will be used to pay the WIFA loan debt. (Tr. at 114)

29. Staff concludes that the ACRM process is the appropriate ratemaking tool to help Appaloosa recover arsenic remediation costs associated with the new arsenic treatment plant.

30. Staff recommends approval of the ACRM and that this docket remain open to facilitate implementation of the ACRM process.

31. Staff also recommends that Appaloosa file the following ten schedules when it files its ACRM filing:

1. Balance Sheet- most current one available as of the timing of filing.
2. Income Statement- most current available as of the time of filing with adjustments conforming to the Decision in this matter.
3. Earning Test- a schedule verifying that Appaloosa's arsenic rate surcharge will not result in operating income in excess of the authorized operating margin.
4. Rate Review Schedule- including the incremental and pro forma effects of the proposed increase.
5. Arsenic Revenue Requirement- includes calculation based on earnings test.
6. Surcharge Calculation- a detailed surcharge calculation.
7. Rate Base- a schedule showing the elements and calculation of the rate base.
8. Construction Work in Progress (CWIP) Ledger- a ledger showing the construction work in progress.
9. Cost Allocation Factor Schedule- a schedule of all cost allocation factor amounts.
10. Typical Bill Analysis- a typical bill analysis showing the effects on residential customers at various consumption levels.

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[6] *See* Commission Decision No. 66400 (October 14, 2003) at pg. 13.
[7] Id. at 14.

32. Staff further recommends the Commission approve Appaloosa's request for authority to finance up to $200,000 through WIFA, to cover the costs associated with construction of the arsenic treatment plant.

33. Appaloosa's witness testified that the Company is in agreement with Staff's recommendations regarding the financing application and the rate case application (discussed below). (Tr. at 62-65)

34. Staff's recommendations are reasonable, but should be modified to require Appaloosa to deposit all arsenic cost recovery mechanism surcharge revenues into a separate interest-bearing account and require that the use of the funds from that account be used only for debt service on the WIFA loan. Further, Appaloosa should be required to file within 60 days of obtaining WIFA financing, copies of all executed financing documents setting forth the terms of the financing and Staff shall file within 30 days of Appaloosa's filing, a calculation showing the actual arsenic cost recovery surcharge to be collected from Appaloosa's customers, by meter size.

Rate Case

35. On June 20, 2008, Appaloosa filed with the Commission an application requesting a permanent rate increase, based on a test year ending December 31, 2007. According to Appaloosa's rate application, the rate increase is needed to cover increased administrative costs, and significant increases in expenses related to the installation of an arsenic treatment plant to comply with the new EPA standard. (App. at 5)

36. Appaloosa's current rates have been in place since April 1, 1998, when the Company was granted its original CC&N.

37. Appaloosa's rate application states that the Original Cost Rate Base ("OCRB") should be used to determine the Fair Value Rate Base ("FVRB"), and that the Applicant waives its right to use Reconstruction Cost New as a basis for determining FVRB. Appaloosa's OCRB, as proposed by Staff is a negative $55,099,[8] and is the FVRB for purposes of setting rates in this case.

38. Appaloosa's current water rates and charges, as proposed in the application, and as

[8] Staff's Schedule CRM-3.

recommended by Staff are as follows:

MONTHLY USAGE CHARGES:	Present	Company Proposed	Staff Recommended
Residential and Commercial			
5/8" x 3/4" Meter	$ 25.00	$ 50.00	$ 25.00
3/4" Meter	25.00	50.00	25.00
1" Meter	41.67	83.34	41.67
1-1/2" Meter	83.33	166.66	83.33
2" Meter	133.33	266.66	133.33
3" Meter	266.67	533.34	266.67
4" Meter	416.67	833.34	416.67
6" Meter	833.33	1,666.66	833.33

COMMODITY CHARGES	Present	Company Proposed	Staff Recommended		
Gallons Included in Minimum:	1,000	1,000	ZERO		
	1st Tier	1st Tier	1st Tier	2nd Tier	3rd Tier
Excess of Minimum--per 1,000 Gallons	$ 2.50	$ 5.00	$ 1.50	$ 2.00	$ 2.90
5/8" x 3/4" Meter	2.50	5.00	3,000	7,000	Infinite
3/4" Meter	2.50	5.00	3,000	7,000	Infinite
			1st Tier	2nd Tier	
			$ 2.00	$ 2.90	N/A
1" Meter	$ 2.50	$ 5.00	7,000	Infinite	N/A
1-1/2" Meter	2.50	5.00	15,000	Infinite	N/A
2" Meter	2.50	5.00	24,000	Infinite	N/A
3" Meter	2.50	5.00	48,000	Infinite	N/A
4" Meter	2.50	5.00	75,000	Infinite	N/A
6" Meter	2.50	5.00	150,000	Infinite	N/A

SERVICE LINE AND METER INSTALLATION CHARGES:
(Refundable Pursuant to A.A.C. R14-2-405)

	Company Charges		Staff Recommended Charges		
	Current	Proposed	Service Line	Meter	Total
5/8" x 3/4" Meter	$ 400.00	$ 800.00	$ 445.00	$ 155.00	$ 600.00
3/4" Meter	440.00	880.00	445.00	255.00	700.00
1" Meter	500.00	1,000.00	495.00	315.00	810.00
1-1/2" Meter	715.00	1,430.00	550.00	525.00	1,075.00
2" Turbine Meter	1,170.00	2,340.00	830.00	1,045.00	1,875.00
2" Compound Meter	1,700.00	3,400.00	830.00	1,890.00	2,720.00
3" Turbine Meter	1,585.00	3,170.00	1,045.00	1,670.00	2,715.00
3" Compound Meter	2,190.00	4,380.00	1,165.00	2,545.00	3,710.00
4" Turbine Meter	2,570.00	5,080.00	1,490.00	2,670.00	4,160.00
4" Compound Meter	3,215.00	6,430.00	1,670.00	3,645.00	5,315.00
6" Turbine Meter	4,815.00	9,630.00	2,210.00	5,025.00	7,235.00
6" Compound Meter	6,270.00	12,540.00	2,330.00	6,920.00	9,250.00

SERVICE CHARGE:	Present	Company Proposed	Staff Recommended
Establishment	$ 25.00	$ 50.00	$ 25.00
Establishment (After Hours)	50.00	100.00	50.00
Reconnection (Delinquent)	30.00	60.00	30.00
Reconnection (Delinquent) (After Hours)	50.00	100.00	50.00

Meter Test (If Correct)	15.00	30.00	15.00
Deposit	*	*	*
Reestablishment (Within 12 Months)	**	**	*
NSF Check	$ 10.00	20.00	20.00
Deferred Payment (Per Month)	**	**	*
Meter Reread (If Correct)	$ 15.00	$ 30.00	$ 15.00
Late Payment Charge (Per Month)	1.5% of Outstanding Balance	1.5% of Outstanding Balance[9]	**
MONTHLY SERVICE CHARGE FOR FIRE SPRINKLER:			
4" or Smaller	N/A	N/A	***
6"	N/A	N/A	***
8"	N/A	N/A	***
10"	N/A	N/A	***
Larger than 10"	N/A	N/A	***

* Per Commission Rule R14-2-403(B)
** Per Commission Rule R14-2-403(D)
*** 1.00% of monthly minimum for a comparable sized meter connection, but no less than $5 per month. The Service Charge for Fire Sprinklers is only applicable for service lines separate and distinct from the primary water service line.

39. Appaloosa's proposed rates increase the median usage residential customer's bill from $38.13 to $76.27, an increase of $38.14 or 100 percent, based on median usage of 6,253 gallons.

40. Staff proposed rates would decrease the median usage residential customer's bill from $38.13 to $36.01 a decrease of $2.12 or 5.6 percent, based on median usage of 6,253 gallons.

41. Staff adjusted Appaloosa's proposed rate base of $679,726 downward by $734,825, to a negative $55,099. Staff stated the adjustments to Appaloosa's rate base reflect a re-classification of Appaloosa's proposed Advances in Aid of Construction ("AIAC") in the amount of $570,318, to Contributions in Aid of Construction ("CIAC") in the amount of $759,327 less $24,502 (CIAC amortization) for a net CIAC of $734,825. Staff explained that Appaloosa was unable to verify the cost of plant items or obtain invoices for plant items and therefore the plant should be considered CIAC.[10]

42. Staff's adjustments to rate base are reasonable and will be adopted.

43. Staff reported that Appaloosa has a leased well that is not connected to its water system. The well is owned and all expenses and costs are being incurred by Appaloosa's owner.

[9] Staff's Schedule CRM-18 shows the Company's proposed rates as 1.5% of outstanding balance; however, the Company's rate application proposes an increase to 3.0% of outstanding balance.
[10] Staff's Revised Schedule CRM-3.

According to Appaloosa's witness, the well is being leased in the event of an emergency. (Tr. at 43) Staff does not believe the leased well is "used and useful" and therefore did not include the leased well in plant-in-service. Staff recommends canceling the lease on the well. Appaloosa's witness testified the Company is in agreement with Staff's recommendation. (Tr. at 43)

44. Appaloosa reported metered water sales of $161,635, and other operating revenue in the amount of $854, for a total test year operating revenue of $162,489. Staff made a downward adjustment of $19,616 to Appaloosa's metered water sales, from $162,489 to $142,873. Staff testified that Staff's proposed adjustment was made because Appaloosa's test year operating revenues and bill counts did not reconcile. (Tr. at 113) Appaloosa submitted a letter from a Mr. Charles R. Larson, CPA, which explained Appaloosa made an end of year ledger adjustment for a period prior to the test year to account for hook-up fees. (Ex. A-5) Staff stated that Appaloosa's year end ledger adjustment to metered water revenues for a prior period was inappropriate and that Staff's recommended adjustments reconciled test year operating revenues with bill counts. (Tr. at 112)

45. Staff also did not include the plant nursery, clubhouse or the water company's owner's residence in operating revenues because they all have separate domestic water wells and are not connected to or receiving water from Appaloosa.

46. Staff's adjustments to test year operating revenues are reasonable and will be adopted.

47. Staff made downward adjustments of $45,483 to Appaloosa's test year operating expenses of $163,883, to $118,400. Staff recommends a downward adjustment to wages and salary expenses by $2,491 from $45,730 to $43,239, to reconcile an employee's salary to the amount stated in the employment contract; a downward adjustment to expenses for repairs and maintenance by $5,269, a downward adjustment to outside services expense by $19,861 and water testing by $1,433 to eliminate one time costs and to normalize expenses for the test year; a downward adjustment to depreciation expenses by $21,471 to reflect the test year depreciation less CIAC amortization; downward adjustments to taxes other than income in the amount of $1,471; and an upward adjustment to test year property taxes by $38 and income taxes by $6,475 to reflect Staff's calculation of property taxes and income taxes based on Staff's recommended operating revenues.

48. Staff's adjustments to test year operating expenses are reasonable and will be adopted.

49. Staff's recommended rates and charges will provide Appaloosa with an operating income of $24,474, no return on FVRB[11], and an operating margin of 17.13 percent. Staff states that the recommended operating income will give Appaloosa sufficient cash for operating expenses and contingencies.

50. At the hearing, Appaloosa's witness testified that the Company is in agreement with Staff's proposed rates and charges. (Tr. at 61-65)

51. Staff redesigned Appaloosa's rate structure from a uniform rate design to an inverted 3-tier commodity rate structure. Staff recommends a 3-tier inverted rate design for the 5/8 x ¾ inch meters and a 2-tier inverted rate design for larger size meters. Staff testified that the use of the 3-tier rate design encourages conservation and it has been the Utilities Division policy to implement the 3-tier rate design whenever a company comes in for a rate case. (Tr. at 105)

52. Staff is recommending Appaloosa implement a construction/bulk water tariff of $2.90 per 1,000 gallons of construction/bulk water sales.

53. Appaloosa's rate application requests a 100 percent increase in service line and meter installation charges. Staff's Engineering Report states that Appaloosa's proposed service line and meter installation charges exceed Staff's customary range for service line and meter installation charges. Staff believes its proposed charges are more reflective of the current costs to perform these services. Staff recommends separate charges for service line and meter installations to ensure that future installations of meters on existing service lines reflect only that cost.

54. Staff's recommends Appaloosa add charges for fire sprinklers.

55. Based on insufficient information to support Appaloosa's proposed increase in its charges for Establishment, Establishment After Hours, Reconnection for Delinquent Accounts, Meter Test, Meter Re-reads, and Late Fee Service Charge, Staff recommends no increase.

56. Staff concurs with Appaloosa's proposal that no changes be made to the Deposit Service Charge, Interest on Deposits, Re-establishment Service Charge, Insufficient Check Charge, and the Deferred Payment Charge.

[11] Appaloosa's rate base, as proposed by Staff, is a negative $55,099.

57. Staff's proposed rate design is reasonable and will be adopted.

Existing Water System

58. Appaloosa's existing water system consists of two wells, one storage tank, a booster pump station equipped with two booster pumps, a pressure tank, and fire pump, and a distribution system serving 237 customers as of December 31, 2007.

59. Based on the Annual Reports filed by Appaloosa, Staff anticipates that the company will serve approximately 338 customers by 2012.

60. According to the Staff Report, Appaloosa's well production capacity of 300 gallons per minute ("GPM"), and total storage capacity of 65,000 gallons, is adequate to serve its present customers and Staff believes Appaloosa can be reasonably expected to develop the needed storage and production to serve future customers.[12]

61. According to Staff's Engineering Report, Appaloosa has an average annual water consumption of 315 gallons per day ("GPD"), per connection. Staff reported that Appaloosa has not been reporting the amount of water pumped from actual data read at the well meter, but has derived the number from the gallons pumped. Staff noted that because Appaloosa has not been getting actual data from the well meter, there is no way to determine its actual non-account water loss.

62. Staff recommends that Appaloosa be required to report the actual water pumped data as read at the well meter on a monthly basis in future Annual Reports, beginning with the 2008 Annual Report to be filed by April 15, 2009.[13] Staff further recommends that Appaloosa be required to docket as a compliance item, 13 months monitoring and reporting results to determine if Appaloosa's non-account water loss is within Staff's recommended range of 10 percent or less.

63. On May 27, 2009, ADEQ issued a Notice of Opportunity to Correct ("NOC") to Appaloosa, for failing to obtain an Approval to Construct ("ATC") for a waterline extension across Road 4 North at Harrison Drive and for failing to obtain an AOC before operating the waterline

[12] Staff's Engineering Report at 8.

[13] Although Staff recommends the Company begin filing the water pumped data in its 2008 Annual Report, the deadline for filing the 2008 Annual Report (April 15, 2009), had already passed when this matter went to hearing. Therefore, Staff's recommendation should be modified to require the Company to begin filing water pumped data beginning with its 2009 Annual Report to be filed by April 15, 2010.

extension.

64. According to Staff, a NOC "is an informal compliance assurance tool used to put a responsible party on notice that ADEQ believes a non-significant violation of an environmental law has occurred." Staff further explains "the NOC provides the responsible party an opportunity to resolve the violation or deficiency before ADEQ takes formal action and a Notice of Violation may be issued if the violation is not corrected within 180 days."[14]

65. The Staff Report states Appaloosa obtained an ATC from Yavapai County prior to beginning construction on the water line extension. Appaloosa testified that it hired an engineer to draw up the blue prints for the waterline extension and the blue prints were approved by the County. (Tr. at 46) Appaloosa hired a contractor with Central Arizona Excavation to do the construction of the waterline extension. (Id.) Appaloosa's owner stated that the contractor does work for Chino Valley and he trusted that he would do the construction in accordance with the ATC. (Id.) However, when construction of the waterline was completed it was not constructed to ATC specifications. (Id.) He stated the contractor installed the waterline by boring a hole under the roadway instead of opening a trench and failed to install the waterline inside a sleeve and to use the proper size pipe in accordance with the ATC. (S.R. at 14, Tr. at 48)

66. At the hearing, Mark Holmes, Water Resources Director for the Town of Chino Valley ("Chino Valley") presented public comments on the NOC issue. He read a letter from Ron Grittman, engineer for Chino Valley. In the letter, Mr. Grittman states that Central Arizona Excavation installed a six-inch waterline under Road 4[15] and that the line was not flushed with disinfection before becoming operational. (Tr. at 11) Further, Mr. Grittman explained that representatives from Chino Valley meet with Mr. Cordovana and it was determined that although the waterline extension was operational, the water valve connecting to the Appaloosa water system was closed. (Id.) According to Mr. Grittman's letter, the waterline extension is believed to serve Windmills Farms, a landscape company, and a restaurant, and that Chino Valley is concerned that no backflow prevention device has been installed to protect the water quality of Appaloosa Water Company customers. (Tr. at 12)

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[14] Id. at 14.
[15] According to the ATC, a eight-inch line was to be installed.

67. Mr. Holmes also stated that the requirement that the waterline be installed inside a sleeve protects the road in the event of a waterline break and keeps the road from sinking. (Tr. at 16) He further stated the road under which the waterline extension was constructed is a main traffic artery and Chino Valley is concerned that if there is a sink hole someone could get injured. (Id.)

68. By Procedural Order, Appaloosa was ordered to file by June 5, 2009, as a late-filed exhibit, an update on the status of the NOC, and an update on whether the revised drawings for the waterline extension had been submitted to Chino Valley.

69. On June 4, 2009, Appaloosa docketed a letter from Chino Valley, dated June 3, 2009, stating that a back flow prevention permit had been issued for Road 4 North at Harrison Drive crossing and that once the waterline extension drawings had been approved and the work approved by the Engineer of Record, the backflow prevention device would be installed. The letter further stated that a back flow prevention device had been installed for Parcel # 306-05-030.

70. Appaloosa also docketed a letter stating that the waterline extension at Road 4 North is anticipated to serve approximately 170 acres that Chino Valley has proposed zoning for mixed use commercial and residential development. According to the letter, Chino Valley is scheduled to vote on the proposed zoning on June 11, 2009.

71. Appaloosa's witness testified that the Company has hired a new contractor from Phoenix to reconstruct the waterline extension across Road 4 North to meet the ATC requirements. (Tr. at 30, 45)

72. Appaloosa has an approved curtailment tariff effective May 13, 2006.

73. Appaloosa filed a backflow prevention tariff and Staff recommends approval of the tariff.

74. Appaloosa is currently serving two parcels (60 acres) that are outside its current CC&N, but contiguous to Appaloosa's service area ("Parcel A" and "Parcel B"). Staff reported that Appaloosa informed the Commission in a letter dated November 16, 2006, that pursuant to A.A.C. Rule 14-2-402, it was serving the two parcels contiguous to its service area. During the hearing, Staff submitted into evidence a map showing the location of Parcel A and Parcel B, which shows the two parcels abut Appaloosa's current Certificated area. (Ex. S-4) Staff testified that Mr. Cordovana's

residence is contiguous to Appaloosa's service area and can be served by the Company without a CC&N extension, but was not listed in the 2006 notice sent to Staff. (Tr. at 82) Staff recommends the Company provide notice of its service to the residence pursuant to the rule. We agree.

75. Staff testified that when Appaloosa's current owner purchased the Company, Appaloosa owned some excess land and the land was sold because it was not needed for utility service. (Tr. at 111) According to information provided to Staff by the owner, the proceeds from the sale of the land were borrowed by the owner in an effort to reimbursement himself for the cost of purchasing the Company. (Id.) Staff's witness testified that based on the information Staff was given, the board had not approved the loan, there was no written note substantiating the loan, and no schedule for repayment of the loan. (Id.) Staff recommends the Company be required to get board approval for the loan, substantiate the loan with a written note, and establish a repayment schedule.

76. Staff's recommendations regarding the loans made to Joe Cordovana are reasonable and will be adopted.

77. From January 1, 2006 through January 27, 2009, Appaloosa had four customer complaints. According to the Commission's Consumer Services Division, three of the complaints involved quality of service issues and one involved a rate case item. All complaints have been resolved and closed.

78. Because an allowance for property taxes expense is included in Appaloosa's rates and will be collected from its customers, the Commission seeks assurances from Appaloosa that any taxes collected from ratepayers have been remitted to the appropriate taxing authority. It has come to the Commission's attention that a number of water companies have been unwilling or unable to fulfill their obligation to pay the taxes that were collected from ratepayers, some for as many as twenty years. It is reasonable, therefore, that as a preventive measure Appaloosa shall annually file, as part of its annual report, an affidavit with the Utilities Division attesting that the Company is current in paying its property taxes in Arizona.

CONCLUSIONS OF LAW

1. Appaloosa is a public service corporation within the meaning of Article XV of the Arizona Constitution and A.R.S. §§ 40-250 and 40-252.

2. The Commission has jurisdiction over Appaloosa and the subject matter of the applications.

3. Notice of the applications was provided in the manner prescribed by law.

4. The rates charges established herein are just and reasonable and in the public interest.

5. The financing approved herein is for lawful purposes, is compatible with the public interest, with sound financial practices, and with proper performance by Appaloosa as a public service corporation, and will not impair Appaloosa's ability to perform that service.

6. The financing approved herein is for the purposes stated in the application and is reasonably necessary for those purposes, and such purposes are not, wholly or in part, reasonably chargeable to operating expenses or to income.

7. Approval of the arsenic cost recovery mechanism is consistent with the Commission's authority under the Arizona Constitution, Arizona ratemaking statutes, and applicable case law.

8. Staff's recommendations, as modified herein, are reasonable and should be adopted.

ORDER

IT IS THEREFORE ORDERED that Appaloosa Water Company shall file by August 1, 2009, revised rate schedules setting forth the following rates and charges:

MONTHLY USAGE CHARGES:

Residential and Commercial	
5/8" x 3/4" Meter	$ 25.00
3/4" Meter	25.00
1" Meter	41.67
1-1/2" Meter	83.33
2" Meter	133.33
3" Meter	266.67
4" Meter	416.67
6" Meter	833.33

COMMODITY CHARGES: (Per 1,000 Gallons)

5/8" x 3/4" Meter – All	
1 to 3,000 gallons	$ 1.50
3,001 to 7,000 gallons	2.00
Over 7,000 gallons	2.90

3/4" Meter – All	
1 to 3,000 gallons	$ 1.50
3,001 to 7,000 gallons	2.00
Over 7,000 gallons	2.90

1" Meter – All	
1 to 7,000 gallons	$ 2.00
Over 7,000 gallons	2.90
1-1/2" Meter – All	
1 to 15,000 gallons	$ 2.00
Over 15,000 gallons	2.90
2" Meter – All	
1 to 24,000 gallons	$ 2.00
Over 24,000 gallons	2.90
3" Meter – All	
1 to 48,000 gallons	$ 2.00
Over 48,000 gallons	2.90
4" Meter – All	
1 to 75,000 gallons	$ 2.00
Over 75,000 gallons	2.90
6" Meter – All	
1 to 150,000 gallons	$ 2.00
Over 150,000 gallons	2.90

SERVICE LINE AND METER INSTALLATION CHARGES:

	Service Line Charges	Meter Charges	Total Charges
5/8" x 3/4" Meter	$ 445.00	$ 155.00	$ 600.00
3/4" Meter	445.00	255.00	700.00
1" Meter	495.00	315.00	810.00
1-1/2" Meter	550.00	525.00	1,075.00
2" Turbine Meter	830.00	1,045.00	1,875.00
2" Compound Meter	830.00	1,890.00	2,720.00
3" Turbine Meter	1,045.00	1,670.00	2,715.00
3" Compound Meter	1,165.00	2,545.00	3,710.00
4" Turbine Meter	1,490.00	2,670.00	4,160.00
4" Compound Meter	1,670.00	3,645.00	5,315.00
6" Turbine Meter	2,210.00	5,025.00	7,235.00
6" Compound Meter	2,330.00	6,920.00	9,250.00

SERVICE CHARGES:

Establishment	$ 25.00
Establishment (After Hours)	50.00
Reconnection (Delinquent)	30.00
Reconnection (Delinquent) after hours	50.00
Meter Test (If Correct)	15.00
Deposit	*
Reestablishment (Within 12 Months)	*
NSF Check	20.00
Deferred Payment (Per Month)	*
Meter Reread (If Correct)	$15.00

Late Payment Charge-Per Month	**

MONTHLY SERVICE CHARGE FOR FIRE SPRINKLER

4-inch or Smaller	***
6-inch	***
8-inch	***
10-inch	***
Larger than 10 inch	***

* Per Commission Rule R14-2-403(B)

** Per Commission Rule R14-2-403(D)

*** 1.0% of monthly minimum for a comparable sized meter connection, but no less than $5 per month. The Service Charge for Fire Sprinklers is only applicable for service lines separate and distinct from the primary water service line.

IT IS FURTHER ORDERED that the above rates and charges shall be effective for all service on the first day of the month after Appaloosa Water Company files with Docket Control, as a compliance item in this docket, the Arizona Department of Environmental Quality documentation showing that there are no compliance deficiencies regarding the arsenic treatment plant and that Appaloosa is delivering water that meets water quality standards required by the Arizona Administrative Code, Title 18, Chapter 4.

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

IT IS FURTHER ORDERED that in addition to the collection of its regular rates and charges Appaloosa Water Company shall collect from its customers a proportionate share of any privilege, sales or use tax per Commission Rule R-14-2-409(D).

IT IS FURTHER ORDERED that Appaloosa Water Company shall use the depreciation rates delineated in Table B of the Engineering Report filed in this case on a going forward basis.

IT IS FURTHER ORDERED that Appaloosa Water Company shall maintain its records in accordance with the National Association of Regulatory Utility Commissioners Uniform System of Accounts on a going forward basis.

IT IS FURTHER ORDERED that Appaloosa Water Company is hereby authorized to obtain a

20-year amortizing loan through the Water Infrastructure Finance Authority of Arizona for an amount not to exceed $200,000, to finance the cost of the arsenic treatment facility as described herein.

IT IS FURTHER ORDERED that financing authority granted herein is expressly contingent on Appaloosa Water Company's use of the proceeds to finance the arsenic treatment facility described herein.

IT IS FURTHER ORDERED that Appaloosa Water Company is authorized to engage in any transactions and execute any documents necessary to effectuate the financing authorizations granted herein.

IT IS FURTHER ORDERED that Appaloosa Water Company shall file, within 60 days of obtaining such financing, with the Commission's Docket Control, as a compliance item in this docket, copies of all executed documents setting forth the terms of the financing.

IT IS FURTHER ORDERED that Appaloosa Water Company is hereby authorized to implement the Arsenic Cost Recovery Mechanism, as set forth herein and below.

IT IS FURTHER ORDERED that upon approval by the Water Infrastructure Financing Authority for long-term financing for Appaloosa Water Company's arsenic treatment facility, and Appaloosa's filing of the appropriate Water Infrastructure Financing Authority loan documentation, Staff shall calculate the actual arsenic cost recovery mechanism surcharge and file the appropriate surcharge amount to be collected from Appaloosa's customers according to their meter size, within thirty (30) days of Appaloosa's filing.

IT IS FURTHER ORDERED that arsenic cost recovery mechanism surcharge rates shall not go into effect until the first day of the month following Staff's filing and notice has been provided by Appaloosa Water Company to its customers in a form acceptable to Staff.

IT IS FURTHER ORDERED that Appaloosa Water Company shall deposit all surcharge revenues into a separate interest-bearing account and funds expended from said account shall only be expended for debt service on the Water Infrastructure Financing Authority loan.

IT IS FURTHER ORDERED that this docket shall remain open to facilitate implementation of the Arsenic Cost Recovery Mechanism described herein.

IT IS FURTHER ORDERED that Appaloosa Water Company shall obtain board approval for

the loans made to Joe Cordovana, and shall file with Docket Control, as a compliance item in this docket, within sixty (60) days of the effective date of this Decision, documentation that the loan is memorialized in writing and contains a repayment schedule.

IT IS FURTHER ORDERED that Appaloosa Water Company shall report the actual water pumped data as read at the well meter on a monthly basis in all future Annual Reports, beginning with its 2009 Annual Report to be filed in 2010.

IT IS FURTHER ORDERED that Appaloosa Water Company shall monitor the Appaloosa water system and report the gallons pumped and sold to determine the non-account water loss for one full year. Appaloosa shall on a monthly basis coordinate well meter reads with customer billing so that an accurate accounting is determined.

IT IS FURTHER ORDERED that Appaloosa Water Company shall docket with Docket Control, as a compliance item in this docket, the gallons pumped and sold for one full year, within 13 months of the effective date of this Decision.

IT IS FURTHER ORDERED that if Appaloosa Water Company's reported non-account water loss is greater than 10 percent, Appaloosa shall prepare a report containing a detailed analysis and plan to reduce the water loss to less than 10 percent. If Appaloosa believes it is not cost effective to reduce the water loss to less than 10 percent, Appaloosa shall submit a detailed cost benefit analysis to support its opinion. Appaloosa shall docket with Docket Control, as a compliance item in this docket, the water loss report or a detailed analysis within 13 months of the effective date of this Decision.

IT IS FURTHER ORDERED that Appaloosa Water Company's backflow prevention tariff is hereby approved.

IT IS FURTHER ORDERED that Appaloosa Water Company shall docket with Docket Control, as a compliance item in this docket, the approved backflow prevention tariff, within forty-five (45) days of the effective date of this Decision.

IT IS FURTHER ORDERED that Appaloosa Water Company shall docket with Docket Control, as a compliance item in this docket, the Certificate of Approval of Construction issued by the Arizona Department of Environmental Quality or Yavapai County for the waterline extension

across Road 4 North at Harrison Drive, by December 31, 2009.

IT IS FURTHER ORDERED that Appaloosa Water Company shall file within 30 days of the effective date of this Decision, with Docket Control, as a compliance item in this docket, notification pursuant to A.A.C. Rule 14-2-402, that Appaloosa is providing water service to Joe Cordovana's residence, located outside Appaloosa's current Certificate of Convenience and Necessity, but contiguous to its authorized service area.

IT IS FURTHER ORDERED that Appaloosa Water Company shall cancel the lease agreement on the well described herein in Finding of Fact No. 43.

IT IS FURTHER ORDERED that Appaloosa Water Company shall annually file as part of its annual report, an affidavit with the Utilities Division attesting that it is current on 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, ERNEST G. JOHNSON, 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 6TH day of AUGUST, 2009.

ERNEST G. JOHNSON
EXECUTIVE DIRECTOR

DISSENT _____

DISSENT _____

SERVICE LIST FOR: APPALOOSA WATER COMPANY

DOCKET NOS.: W-03443A-08-0177 and W-03443A-08-0313

Joe Cordovana
APPALOOSA WATER COMPANY
7012 North 18th Street
Phoenix, AZ 85020

John E. Blann, Jr.
2925 Harrison Drive
Chino Valley, AZ 86323

Janice Alward, Chief Counsel
Kevin Torrey, Attorney
Legal Division
ARIZONA CORPORATION COMMISSION
1200 West Washington Street
Phoenix, Arizona 85007

Ernest Johnson, Director
Utilities Division
ARIZONA CORPORATION COMMISSION
1200 West Washington Street
Phoenix, Arizona 85007