

ORIGINAL

OPEN MEETING



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MEMORANDUM
RECEIVED

TO: THE COMMISSION 2009 AUG 26 P 3: 00
FROM: Utilities Division AZ CORP COMMISSION
DOCKET CONTROL
DATE: August 26, 2009
RE: IN THE MATTER OF THE APPLICATION OF VALLEY UTILITIES WATER
COMPANY, INC. FOR AN ARSENIC REMEDIATION SURCHARGE (DOCKET
NOS. W-01412A-04-0736 AND W-01412A-04-0849)

Introduction

On November 13, 2008, pursuant to Decision No. 68309¹, Valley Utilities Water Company, Inc. ("VUWCO" or "Company") filed a request with the Arizona Corporation Commission ("Commission") for approval of an arsenic remediation surcharge mechanism ("ARSM"). VUWCO is an Arizona corporation engaged in the business of providing public water utility service to approximately 1,400 customers in an area located approximately five miles west of Glendale, Maricopa County, Arizona. The Commission granted VUWCO a Certificate of Convenience and Necessity ("CC&N") in Decision No. 54274 (December 20, 1984).

As discussed below, VUWCO has a long history involving the collection and use of funds that were supposed to be used for arsenic remediation. The funds include a Set-Aside amount per monthly bill and Arsenic Impact Fees ("AIF"), as authorized in Decision Nos. 62908 and 67669, respectively. The provisions of Decision No. 68309 allow VUWCO to file an ARSM surcharge tariff application if a surcharge is necessary to meet the principal and interest obligations on its Water Infrastructure and Finance Authority of Arizona ("WIFA") loan, i.e., if the debt service payments exceed the Set-Aside and AIF funds. In Decision No. 70956, the Commission concluded that there were unresolved concerns regarding the use of and accounting for these funds as related to their intended purpose of either constructing arsenic-related plant or servicing debt used to construct arsenic related plant.

In order to ascertain the appropriate use of funds, Staff has evaluated the amounts collected for Set-Aside and AIF and concludes that VUWCO has collected \$66,719² more than it has spent on arsenic remediation. Staff has determined that if the Company were to spend the net over-collections on the prospective debt service on its WIFA loan (used to fund arsenic remediation plant), then the Company would become compliant in its use of Set-Aside and AIF funds when it makes its payment to WIFA that is due on November 1, 2009, and would subsequently be eligible to obtain an ARSM surcharge tariff.

¹ Dated November 14, 2005.

² Includes accrued and imputed interest.

Arizona Corporation Commission

DOCKETED

AUG 26 2009

DOCKETED BY

The Background, Staff Analysis, and Conclusions and Recommendations are discussed in greater detail below.

Background

On November 13, 2008, the Company applied for the implementation of an ARSM to comply with the provision in Decision No. 68309 to file if a surcharge is necessary to meet debt service on its WIFA loan. As noted above, the surcharge becomes necessary when the combined funds available from Set-Aside funds and the AIF are depleted via debt service on the WIFA loan. As documented in Decision No. 70956, VUWCO has unresolved compliance issues regarding the use of both monies collected and designated as Set-Aside funds and monies collected as AIF. Decision Nos. 62908 and 67669, respectively, authorized the Set-Aside funds and the AIF. Decision No. 68309 ordered that Set-Aside funds authorized in Decision No. 62908 be applied to a new WIFA loan and required the Company to file a report detailing the balance of the funds and “the extent to which the application of the collected funds to debt service will offset the amount of, or need for, an arsenic removal surcharge.”³

Decision No. 62908 (September 18, 2000)

On September 18, 2000, in Decision No. 62908, the Commission authorized a permanent rate increase for VUWCO and also approved a loan to the Company from WIFA in the amount of \$452,080 (“WIFA Loan No. 1”).

Decision No. 62908 approved the use of a set-aside account (“Set-Aside Account”), into which the Company would be required to escrow \$6.35 per bill per month to be used solely for the purpose of servicing WIFA Loan No. 1.

WIFA Loan No. 1 closed on January 7, 2005, but, VUWCO never drew any funds because, in the intervening years, the costs to construct some of the projects had increased substantially causing VUWCO to re-evaluate its plans.

VUWCO asserted that it had a number of operating, maintenance and emergency construction demands. Short on cash, the Company began using what it deemed to be excess funds from the Set-Aside Account to pay for those costs. VUWCO asserted that it did not withdraw any funds until it believed it had met its financial obligations under the Decision.

Decision No. 67669 (March 9, 2005)

On November 26, 2004, VUWCO filed for Commission approval to establish an Off-Site Facilities Hook-Up Fee Tariff (“Tariff Application”). The Company concurrently filed an application for a loan from WIFA to finance construction of an arsenic treatment system. VUWCO filed the Tariff Application seeking to use the proceeds from the proposed hook-up

³ Decision No. 68309, page 9.

fees to pay the debt service on the proposed WIFA loan. The Tariff Application sought a fee of \$1,100 for all new 5/8 x 3/4-inch connections, with a graduated fee for larger-sized meters.

In Decision No. 67669, the Commission approved the requested fee and ordered, among other things, that 1) the fees approved be used to pay for only arsenic treatment equipment and related appurtenances ("Arsenic Impact Fees" or "AIF"); 2) the funds collected by the Company as AIF "be deposited into a separate interest bearing trust account and used solely for the purposes of paying for the costs of arsenic treatment facilities, including repayment of all loans obtained for the installation of arsenic treatment facilities that will benefit the entire water system;" and 3) VUWCO must file with the Commission an annual status report for the prior year by January 31st each year, beginning January 31, 2006, to continue until the AIF Tariff is no longer in effect. Decision No. 67669 also provided for the use of AIF "to pay the debt service and/or principal reduction on the requested WIFA loan."⁴

Decision No. 68309 (November 14, 2005)

On October 2, 2004, VUWCO filed an application with the Commission for an increase in its water rates. On November 26, 2004, VUWCO filed, concurrently with the Tariff Application, an application for approval for the issuance of promissory note(s) and other evidences of indebtedness in an amount up to \$1,926,100 ("WIFA Loan No. 2"). The rate application and the financing application were subsequently consolidated.

In Decision No. 68309, the Commission granted a rate increase and authorized incurring WIFA Loan No. 2. Decision No. 68309 also addressed the unused funds in the Set-Aside Account for WIFA Loan No. 1. The Commission noted that the Company had not incurred the WIFA debt approved in Decision No. 62908, but had collected funds intended to pay that debt. The Commission ordered redirection of the use of funds collected to service WIFA Loan No. 1 to the service of WIFA Loan No. 2. The Commission also cancelled the authority of the Company to incur debt under WIFA Loan No. 1.

Decision No. 70956 (April 7, 2009) RE: VUWCO's Motion for Order Confirming Compliance and Release of Set-Aside Funds

On May 7, 2008, the Company filed its Motion for an order finding that VUWCO is in compliance with Decision No. 62908 and requesting to have the funds in the Set-Aside Account authorized in that Decision released for its unrestricted use.

In its Revised Response, Staff agreed with the Company that the Set-Aside funds should be released, but urged that the funds should be applied to debt service for WIFA Loan No. 2.

⁴ Decision No. 67669, page 1.

Staff further asserted that VUWCO was not in compliance with Decision No. 62908 because the Company had used some of the Set-Aside Account funds for purposes other than those approved in that Decision.

Decision No. 70956 denied VUWCO's motion for confirmation of compliance with Decision No. 62908⁵ and found that the Company had commingled Set-Aside funds with other funds and used Set-Aside funds for purposes that were contrary to the terms of Decision No. 62908.⁶ Decision No. 70956 further required the Company to file with Docket Control, no later than 20 days after its effective date, complete copies of all bank statements through the present, indicating the amount of funds and showing the transactions that occurred in that account so that Staff could investigate to determine whether the Company had used the Set-Aside funds appropriately in compliance with Decision No. 68309.⁷ On May 7, 2009, VUWCO filed with Docket Control an accounting report of all monies utilized from its Set-Aside Account authorized in Decision No. 68309.

Regarding the AIF, Decision No. 70956 also found that the reports filed by the Company apparently did not contain the information required by Decision No. 67669 and directed Staff to investigate whether the Company had used the AIF funds appropriately in compliance with Decision 67669.⁸

Staff's analysis of these concerns is discussed below under the section, "Staff Analysis-Compliance with Decision Nos. 67669, 62908 and 68309."

Staff Analysis-ARSM

Decision No. 68309 pertaining to the Company's prior rate case adopted Staff's recommended methodology for determining the ARSM surcharge amount.⁹ Staff's methodology involved: 1) finding the annual payment on the loan; 2) finding the annual interest payment amount; 3) finding the annual principal payment amount; 4) calculating the total annual surcharge revenue requirement, which is the sum of the annual interest and principal payments and incremental income taxes; 5) determining the yearly total number of customers, by multiplying the total monthly number of bills for all meter sizes by 12; and 6) determining the monthly surcharge for each customer by dividing the annual surcharge revenue by the number of customer bills. The ARSM surcharge was to be determined once the final loan amount and terms became known.

In the current proceeding, VUWCO has proposed two alternative methodologies for calculating its ARSM. Staff has reviewed the two methodologies proposed by the Company for calculating its ARSM. The Company calculates the annual principal and interest and the reserve

⁵ Decision No. 70956, page 16.

⁶ Ibid, page 14.

⁷ Ibid, page 16

⁸ Ibid, page 15.

⁹ Decision No. 68309, page 8.

requirement on its WIFA loan and subtracts either 1) the undisbursed Arsenic Impact Fees or 2) both the undisbursed Arsenic Impact Fees and the undisbursed Set-Aside funds discussed above. The Company offers the resulting amounts under each method as alternatives for its ARSM revenue requirement. The Company proposes to collect the revenue requirement via ARSM surcharges calculated using the number of gallons sold in a recent 12 month period. The Company proposes to recover either \$0.46 per thousand gallons under method 1, above, or \$0.23 per thousand gallons under method 2, above.

Both of the Company's methods deviate from the method adopted in Decision No. 68309 in that they include a provision for the WIFA debt service reserve fund, while the approved method does not include the WIFA debt service reserve fund as a component of the surcharge. Accordingly, neither method is appropriate. Instead, only the principal, interest, and incremental income taxes should be considered. Further, the decisions that authorized the collection of Arsenic Impact Fees and Set-Aside funds specifically state that these amounts were to be used exclusively for the purpose of servicing the WIFA debt. Accordingly, Staff recommends comparing the cumulative collections with the cumulative amounts used to service the WIFA debt and/or to pay for arsenic-related plant. Then, the resulting over-collection, if any, would be used to service the debt on WIFA Loan No. 2 before any ARSM surcharge authorized herein becomes effective. Also, in accordance with Decision No. 68309, Staff recommends that ARSM surcharges be based on customer meter equivalents¹⁰.

Staff calculated its recommended ARSM surcharges using the methodology adopted by Decision No. 68309 based on the analysis presented below. Staff's recommended surcharges are presented in attached Schedule GWB-1. Using Staff's methodology, the resulting ARSM surcharge for customers with a 5/8 x 3/4-inch meter is \$5.51 per month.

Staff Analysis-Compliance with Decision Nos. 67669, 62908 and 68309

On May 7, 2008, the Company filed its Motion for an order finding that VUWCO was in compliance with Decision No. 62908 and requesting to have the funds in the Set-Aside Account authorized in that Decision released for its unrestricted use. Staff's response asserted that VUWCO was not in compliance with Decision No. 62908 because the Company had used some of the Set-Aside Account funds for purposes other than those approved in that Decision. Staff determined that collections for the Set-Aside and interest thereon would have been \$194,996 and \$20,544, respectively, for a total of \$215,540.

In addition to monies collected as Set-Aside amounts, the Company also collected AIF in the amount of \$333,080. According to the Company, the AIF amounts earned an additional \$16,362 which was used for the construction of arsenic-related plant. Since the interest earned on AIF was used to fund arsenic-related plant, the interest on the AIF is not considered in Staff's analysis below.

¹⁰ Ibid. See also Schedule DRR-22 of Staff testimony filed May 11, 2005, in this docket. This approach is also consistent with the arsenic-related hook-up fee, which was graduated by meter size. Decision No. 68309, page 6, line 5.

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In order to monetize the level of non-compliance that still exists, Staff has analyzed the monies collected as Set-Asides and AIF and compared the total collections with the amounts spent either on arsenic plant or debt service on the WIFA loan. As discussed and summarized in the table below, Staff has determined that the Company has collected \$66,719 more than it has spent in accordance with the terms of Commission decisions.

Aggregating the Set-Aside collections (\$194,996), related interest (\$20,544) and the AIF (\$333,080) provides \$548,620 for arsenic-remediation plant and associated debt service. Staff determined that excluding incremental income taxes, the Company expended \$407,184 (\$50,055 + \$233,741 + \$123,388) to service the WIFA loan from its closing date of October 19, 2006, through the payment due on July 1, 2009. Using the gross revenue conversion factor of 1.568484 approved in Decision No. 68309, Staff also calculated the amount of incremental income tax obligation that the Company incurred on the \$123,388 of principal paid on the loan from inception through the July 1, 2009 payment. As indicated below, the amount of incremental income taxes is estimated at \$70,144 [\$123,388 times (1.568484-1)].

Adding the interest, principal and incremental income taxes to service the WIFA loan results in total ARSM attributable loan costs of \$477,328. Subtracting the total debt service of \$477,328 from the total collections of \$548,620 results in total collections over debt service of \$71,292 as shown below. From this amount (\$71,292), Staff also subtracts the \$4,573 of disbursements for arsenic related activity as reflected on the Company's compliance filing of May 7, 2009. The amounts selected from the Compliance filing are shown in the attached Schedule GWB-2.

Gross Collections-Set Aside	\$194,996
Interest on Set-Asides	\$ 20,544
Gross Collections-Arsenic Impact Fee	<u>\$333,080</u>
Total Gross Collection	\$548,620
Total Debt Service on WIFA, Closing Date of 10/19/06 projected through 7/1/09:	
Interest From Closing to 5/1/07	\$ 50,055
Interest From 5/1/07 to 7/1/09	\$233,741
Principal 5/1/07-7/1/09	\$123,388
Incremental Income Taxes	<u>\$ 70,144</u>
Total Debt Service on WIFA (10/17/06 Through 7/1/09)	<u>\$477,328</u>
Total Collections over Debt Service	\$ 71,292

Per Company filing of 5/7/09, Funds used for arsenic related activity	<u>\$ 4,573</u>
Net Over-Collections	\$ 66,719

The \$66,719 net over-collections is the amount available to make continuing debt service payments on WIFA Loan No. 2. In addition to the principal and interest payment of \$13,736 per month, the Company will incur incremental income taxes on the income that funds the principal payment. Staff calculated the monthly incremental income taxes at \$2,954 during the 12-month period beginning on August 1, 2009. Dividing the net over collection amount of \$66,719 (above) by the total debt service of \$16,690 (\$13,736 + \$2,954) indicates that the Company can service the WIFA loan from existing over-collections for approximately 4.0 months, commencing with the payment due on August 1, 2009. This means any ARSM surcharges adopted in this docket should become effective on November 1, 2009, provided that the Company has made its payments in full to WIFA through that date.

Conclusions and Recommendations

Staff concludes that implementation of the ARSM surcharges shown in Schedule GWB-1 would be consistent with Decision No. 68309. (A customer with a 5/8 x 3/4-inch meter and median usage of 5,500 gallons ¹¹ would experience an increase of \$5.51 or 25.6 percent, from \$21.52¹² to \$27.03).

Staff concludes that the ARSM surcharges calculated on Schedule GWB-1 should become effective for service provided beginning on November 1, 2009.

Staff recommends approval of the ARSM surcharges shown in Schedule GWB-1.

Staff further recommends that the ARSM surcharges become effective for service provided beginning November 1, 2009.

Staff further recommends that any ARSM surcharges approved herein terminate on the earlier date of the effective date of the rates authorized in a rate proceeding subsequent to VUWCO's pending permanent rate proceeding (Docket No. W-01412A-08-0586) or on August 31, 2013.

Staff further recommends that the Company file a tariff describing the terms and conditions of the arsenic remediation surcharge, as discussed above, within 30 days of the effective date of the decision resulting from this proceeding.

¹¹ Page 33 of Staff testimony of July 7, 2009, in Docket No. W-01412A-08-0586.

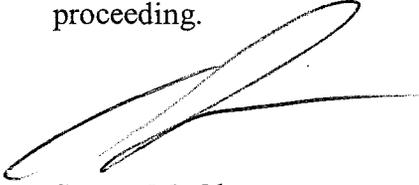
¹² Page 33 of Staff testimony of July 7, 2009, in Docket No. W-01412A-08-0586.

THE COMMISSION

August 26, 2009

Page 8

Staff further recommends that VUWCO notify its customers of the Arsenic Remediation Surcharge tariff within 30 days of the effective date of the decision resulting from this proceeding.



Steven M. Olea
Director
Utilities Division

SMO:GWB:lhmkOT

Originator: Gerald W. Becker

CALCULATION OF SURCHARGE AMOUNT

Arsenic Surcharge - as determined by Arsenic Remediation Surcharge Mechanism

Arsenic Remediation Plant Loan Amount		\$	1,926,100
Total Yearly Interest and Principal Payments Based on a 20-year WIFA Loan and a 5.775% Interest Rate.		\$	164,829
Annual Income Tax Component of the Surcharge Revenue (Using Gross Rev. Conversion Factor from Decision No. 68309)		\$	35,448
Total Annual Surcharge Revenue Requirement for the Loan		\$	200,277
Total Equivalent Annual Bills			36,366
5/8" x 3/4" Meter Surcharge Amount	(\$200,277 / 36,366)	\$	5.51
3/4" Meter Surcharge Amount	\$ 5.51 * 1.5	\$	8.26
1" Meter Surcharge Amount	\$ 5.51 * 2.5	\$	13.77
1 1/2" Meter Surcharge Amount	\$ 5.51 * 5	\$	27.54
2" Meter Surcharge Amount	\$ 5.51 * 8	\$	44.06
3" Meter Surcharge Amount	\$ 5.51 * 16	\$	88.12

Meter Size	Avg. Monthly Number of Customers	Customer Multiplier	Equivalent Customers	Annual Equivalent No. of Bills	Monthly Surcharge Revenue	Yearly Surcharge Revenue
5/8" x 3/4" Res	161	1	161	1,932	\$ 887	\$ 10,640
3/4" Res	832	1.5	1,248	14,976	\$ 6,873	\$ 82,477
1" Res	390	2.5	975	11,700	\$ 5,370	\$ 64,435
1" Multi	1	2.5	3	30	\$ 14	\$ 165
2" Multi	33	8.0	264	3,168	\$ 1,454	\$ 17,447
5/8" x 3/4" Irrigation	1	1.0	1	12	\$ 6	\$ 66
3/4" Irrigation	1	1.5	2	18	\$ 8	\$ 99
1" Irrigation	7	2.5	18	210	\$ 96	\$ 1,157
1.5" Irrigation	3	5.0	15	180	\$ 83	\$ 991
2" Irrigation	8	8.0	64	768	\$ 352	\$ 4,230
5/8" x 3/4" Comm.	6	1.0	6	72	\$ 33	\$ 397
3/4" Comm.	5	1.5	8	90	\$ 41	\$ 496
1" Comm.	11	2.5	28	330	\$ 151	\$ 1,817
1.5" Comm.	8	5.0	40	480	\$ 220	\$ 2,643
2" Comm.	9	8.0	72	864	\$ 397	\$ 4,758
3" Construction	8	16.0	128	1,536	\$ 705	\$ 8,459
Totals	1,484		3,031	36,366	\$ 16,690	\$ 200,277

Valley Utilities Water Company, Inc.
Docket Nos. W-01412A-04-0736 & W-01412A-04-0849

Schedule GWB-2

Extract from Compliance Filing of 5/7/09 to show Arsenic Related Disbursements

Date	Exact Amount	Payee	Description
5/12/2004	\$ 510.00	Coe & Van Loo	WIFA Project Engineering Invoice
6/9/2004	\$ 2,871.49	Coe & Van Loo	WIFA Project Engineering Invoice
10/18/2005	\$ 265.58	Coe & Van Loo	WIFA Project Engineering Invoice
11/16/2005	\$ 323.75	Coe & Van Loo	WIFA Project Engineering Invoice
12/27/2005	\$ 563.35	Coe & Van Loo	WIFA Project Engineering Invoice
12/27/2005	\$ <u>38.57</u>	Coe & Van Loo	WIFA Project Engineering Invoice
Total	\$ 4,572.74		

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BEFORE THE ARIZONA CORPORATION COMMISSION

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

IN THE MATTER OF THE APPLICATION)
OF VALLEY UTILITIES WATER)
COMPANY, INC. FOR AN ARSENIC)
REMEDATION SURCHARGE)

DOCKET NOS. W-01412A-04-0736
W-01412A-04-0849

DECISION NO. _____

ORDER

Open Meeting
September 22 and 23, 2009
Phoenix, Arizona

BY THE COMMISSION:

FINDINGS OF FACT

Introduction

1. On November 13, 2008, pursuant to Decision No. 68309¹, Valley Utilities Water Company, Inc. ("VUWCO" or "Company") filed a request with the Arizona Corporation Commission ("Commission") for approval of an arsenic remediation surcharge mechanism ("ARSM"). VUWCO is an Arizona corporation engaged in the business of providing public water utility service to approximately 1,400 customers in an area located approximately five miles west of Glendale, Maricopa County, Arizona. The Commission granted VUWCO a Certificate of Convenience and Necessity ("CC&N") in Decision No. 54274 (December 20, 1984).

2. As discussed below, VUWCO has a long history involving the collection and use of funds that were supposed to be used for arsenic remediation. The funds include a Set-Aside amount per monthly bill and Arsenic Impact Fees ("AIF"), as authorized in Decision Nos. 62908

¹ Dated November 14, 2005.

1 and 67669, respectively. The provisions of Decision No. 68309 allow VUWCO to file an ARSM
 2 surcharge tariff application if a surcharge is necessary to meet the principal and interest obligations
 3 on its Water Infrastructure and Finance Authority of Arizona (“WIFA”) loan, i.e., if the debt
 4 service payments exceed the Set-Aside and AIF funds. In Decision No. 70956, the Commission
 5 concluded that there were unresolved concerns regarding the use of and accounting for these funds
 6 as related to their intended purpose of either constructing arsenic-related plant or servicing debt
 7 used to construct arsenic-related plant.

8 3. In order to ascertain the appropriate use of funds, Staff has evaluated the amounts
 9 collected for Set-Aside and AIF and concludes that VUWCO has collected \$66,719² more than it
 10 has spent on arsenic remediation. Staff has determined that if the Company were to spend the net
 11 over collections on the prospective debt service on its WIFA loan (used to fund arsenic
 12 remediation plant), then the Company would become compliant in its use of Set-Aside and AIF
 13 funds when it makes its payment to WIFA that is due on November 1, 2009, and would
 14 subsequently be eligible to obtain an ARSM surcharge tariff.

15 **Background**

16 4. On November 13, 2008, the Company applied for the implementation of an ARSM
 17 to comply with the provision in Decision No. 68309 to file if a surcharge is necessary to meet debt
 18 service on its WIFA loan. As noted above, the surcharge becomes necessary when the combined
 19 funds available from Set-Aside funds and the AIF are depleted via debt service on the WIFA loan.
 20 As documented in Decision No. 70956, VUWCO has unresolved compliance issues regarding the
 21 use of both monies collected and designated as Set-Aside funds and monies collected as AIF.
 22 Decision Nos. 62908 and 67669, respectively, authorized the Set-Aside funds and the AIF.
 23 Decision No. 68309 ordered that Set-Aside funds authorized in Decision No. 62908 be applied to a
 24 new WIFA loan and required the Company to file a report detailing the balance of the funds and

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28 ² Includes accrued and imputed interest.

1 “the extent to which the application of the collected funds to debt service will offset the amount of,
2 or need for, an arsenic removal surcharge.”³

3 **Decision No. 62908 (September 18, 2000)**

4 5. On September 18, 2000, in Decision No. 62908, the Commission authorized a
5 permanent rate increase for VUWCO and also approved a loan to the Company from WIFA in the
6 amount of \$452,080, (“WIFA Loan No. 1”).

7 6. Decision No. 62908 approved the use of a set-aside account (“Set-Aside Account”),
8 into which the Company would be required to escrow \$6.35 per bill per month to be used solely
9 for the purpose of servicing WIFA Loan No. 1 .

10 7. WIFA Loan No. 1 closed on January 7, 2005, but, VUWCO never drew any funds
11 because, in the intervening years, the costs to construct some of the projects had increased
12 substantially causing VUWCO to re-evaluate its plans.

13 8. VUWCO asserted that it had a number of operating, maintenance and emergency
14 construction demands. Short on cash, the Company began using what it deemed to be excess funds
15 from the Set-Aside Account to pay for those costs. VUWCO asserted that it did not withdraw any
16 funds until it believed it had met its financial obligations under the Decision.

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18 9. On November 26, 2004, VUWCO filed for Commission approval to establish an Off-
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20 application for a loan from WIFA to finance construction of an arsenic treatment system.
21 VUWCO filed the Tariff Application seeking to use the proceeds from the proposed hook-up fees
22 to pay the debt service on the proposed WIFA loan. The Tariff Application sought a fee of \$1,100
23 for all new 5/8 x 3/4-inch connections, with a graduated fee for larger-sized meters.

24 10. In Decision No. 67669, the Commission approved the requested fee and ordered,
25 among other things, that 1) the fees approved be used to pay for only arsenic treatment equipment
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28 ³ Decision No. 68309, page 9.

1 Company as AIF “be deposited into a separate interest bearing trust account and used solely for the
2 purposes of paying for the costs of arsenic treatment facilities, including repayment of all loans
3 obtained for the installation of arsenic treatment facilities that will benefit the entire water system;”
4 and 3) VUWCO must file with the Commission an annual status report for the prior year by
5 January 31st each year, beginning January 31, 2006, to continue until the AIF Tariff is no longer in
6 effect. Decision No. 67669 also provided for the use of AIF “to pay the debt service and/or
7 principal reduction on the requested WIFA loan.”⁴

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15 incurring WIFA Loan No. 2. Decision No. 68309 also addressed the unused funds in the Set-
16 Aside Account for WIFA Loan No. 1. The Commission noted that the Company had not incurred
17 the WIFA debt approved in Decision No. 62908, but had collected funds intended to pay that debt.
18 The Commission ordered redirection of the use of funds collected to service WIFA Loan No. 1 to
19 the service of WIFA Loan No. 2. The Commission also cancelled the authority of the Company to
20 incur debt under WIFA Loan No. 1.

21 **Decision No. 70956 (April 7, 2009 and Re: Motion for Order Confirming Compliance and**
22 **Release of Set-Aside Funds)**

23 13. On May 7, 2008, the Company filed its Motion for an order finding that VUWCO
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25 Account authorized in that Decision released for its unrestricted use.

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28 ⁴ Decision No. 67669, page 1.

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3 No. 2.

4 15. Staff further asserted that VUWCO was not in compliance with Decision No. 62908
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10 62908.⁶ Decision No. 70956 further required the Company to file with Docket Control, no later
11 than 20 days after its effective date, complete copies of all bank statements through the present,
12 indicating the amount of funds and showing the transactions that occurred in that account so that
13 Staff could investigate to determine whether the Company had used the Set-Aside funds
14 appropriately in compliance with Decision No. 68309.⁷ On May 7, 2009, VUWCO filed with
15 Docket Control an accounting report of all monies utilized from its Set-Aside Account authorized
16 in Decision No. 68309.

17 17. Regarding the AIF, Decision No. 70956 also found that the reports filed by the
18 Company apparently did not contain the information required by Decision No. 67669 and directed
19 Staff to investigate whether the Company had used the AIF funds appropriately in compliance with
20 Decision 67669.⁸

21 18. Staff's analysis of these concerns is discussed below under the section, "Staff
22 Analysis-Compliance with Decision Nos. 67669, 62908 and 68309."

23 **Company's Current Application**

24 19. In the current proceeding, VUWCO has proposed two alternative methodologies for
25 calculating its ARSM. Staff has reviewed the two methodologies proposed by the Company for

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27 ⁵ Decision No. 70956, page 16.

⁶ Ibid, page 14.

28 ⁷ Ibid, page 16.

⁸ Ibid, page 15.

1 calculating its ARSM. The Company calculates the annual principal and interest and the reserve
2 requirement on its WIFA loan and subtracts either 1) the undisbursed Arsenic Impact Fees or 2)
3 both the undisbursed Arsenic Impact Fees and the undisbursed Set-Aside funds discussed above.
4 The Company offers the resulting amounts under each method as alternatives for its ARSM
5 revenue requirement. The Company proposes to collect the revenue requirement via ARSM
6 surcharges calculated using the number of gallons sold in a recent 12-month period. The Company
7 proposes to recover either \$0.46 per thousand gallons under method 1, above, or \$0.23 per
8 thousand gallons under method 2, above.

9 **Staff Analysis-ARSM**

10 20. Decision No. 68309 pertaining to the Company's prior rate case adopted Staff's
11 recommended methodology for determining the ARSM surcharge amount.⁹ Staff's methodology
12 involved: 1) finding the annual payment on the loan; 2) finding the annual interest payment
13 amount; 3) finding the annual principal payment amount; 4) calculating the total annual surcharge
14 revenue requirement, which is the sum of the annual interest and principal payments and
15 incremental income taxes; 5) determining the yearly total number of customers, by multiplying the
16 total monthly number of bills for all meter sizes by 12; and 6) determining the monthly surcharge
17 for each customer by dividing the annual surcharge revenue by the number of customer bills. The
18 ARSM surcharge was to be determined once the final loan amount and terms became known.

19 21. Both of the Company's methods deviate from the method adopted in Decision No.
20 68309 in that they include a provision for the WIFA debt service reserve fund, while the approved
21 method does not include the WIFA debt service reserve fund as a component of the surcharge.
22 Accordingly, neither method is appropriate. Instead, only the principal, interest, and incremental
23 income taxes should be considered. Further, the decisions that authorized the collection of Arsenic
24 Impact Fees and Set-Aside funds specifically state that these amounts were to be used exclusively
25 for the purpose of servicing the WIFA debt. Accordingly, Staff recommends comparing the
26 cumulative collections with the cumulative amounts used to service the WIFA debt and/or to pay

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28 ⁹ Decision No. 68309, page 8, lines 5-9.

1 for arsenic-related plant. Then, the resulting over-collection, if any, would be used to service the
2 debt on WIFA Loan No. 2 before any ARSM surcharge authorized herein becomes effective.
3 Also, in accordance with Decision No. 68309, Staff recommends that ARSM surcharges be based
4 on customer meter equivalents.¹⁰

5 22. Staff calculated its recommended ARSM surcharges using the methodology adopted
6 by Decision No. 68309 based on the analysis presented below. Staff's recommended surcharges
7 are presented in attached Schedule GWB-1. Using Staff's methodology, the resulting ARSM
8 surcharge for customers with a 5/8 x 3/4-inch meter is \$5.51 per month.

9 **Staff Analysis-Compliance with Decision Nos. 67669, 62908 and 68309**

10 23. On May 7, 2008, the Company filed its Motion for an order finding that VUWCO
11 was in compliance with Decision No. 62908 and requesting to have the funds in the Set-Aside
12 Account authorized in that Decision released for its unrestricted use. Staff's response asserted that
13 VUWCO was not in compliance with Decision No. 62908 because the Company had used some of
14 the Set-Aside Account funds for purposes other than those approved in that Decision. Staff
15 determined that collections for the Set-Aside and interest thereon would have been \$194,996 and
16 20,544, respectively, for a total of \$215,540.

17 24. In addition to monies collected as Set-Aside amounts, the Company also collected
18 AIF in the amount of \$333,080. According to the Company, the AIF amounts earned an additional
19 \$16,362 which was used for the construction of arsenic-related plant. Since the interest earned on
20 AIF was used to fund arsenic-related plant, the interest on the AIF is not considered in Staff's
21 analysis below.

22 25. In order to monetize the level of non-compliance that still exists, Staff has analyzed
23 the monies collected as Set-Asides and AIF and compared the total collections with the amounts
24 spent either on arsenic plant or debt service on the WIFA loan. As discussed and summarized in
25 the table below, Staff has determined that the Company has collected \$66,719 more than it has
26 spent in accordance with the terms of Commission decisions.

27
28 ¹⁰ Ibid. See also Schedule DRR-22 of Staff testimony filed May 11, 2005, in this docket. This approach is also
consistent with the arsenic-related hook-up fee, which was graduated by meter size. Decision No. 68309, page 6,
line 5.

1 26. Aggregating the Set-Aside collections (\$194,996), related interest (\$20,544) and the
 2 AIF (\$333,080) provides \$548,620 for arsenic-remediation plant and associated debt service. Staff
 3 determined that excluding incremental income taxes, the Company expended \$407,184 (\$50,055 +
 4 \$233,741 + \$123,388) to service the WIFA loan from its closing date of October 19, 2006, through
 5 the payment due on July 1, 2009. Using the gross revenue conversion factor of 1.568484 approved
 6 in Decision No. 68309, Staff also calculated the amount of incremental income tax obligation that
 7 the Company incurred on the \$123,388 of principal paid on the loan from inception through the
 8 July 1, 2009, payment. As indicated below, the amount of incremental income taxes is estimated
 9 at \$70,144 [\$123,388 times (1.568484-1)].

10 27. Adding the interest, principal and incremental income taxes to service the WIFA
 11 loan results in total ARSM attributable loan costs of \$477,328. Subtracting the total debt service
 12 of \$477,328 from the total collections of \$548,620 results in total collections over debt service of
 13 \$71,292 as shown below. From this amount (\$71,292), Staff also subtracts the \$4,573 of
 14 disbursements for arsenic related activity as reflected on the Company's compliance filing of
 15 May 7, 2009. The amounts selected from the Compliance filing are shown in the attached
 16 Schedule GWB-2.

17	Gross Collections-Set Aside	\$194,996
18	Interest on Set-Asides	\$ 20,544
19	Gross Collections-Arsenic Impact Fee	<u>\$333,080</u>
	Total Gross Collection	\$548,620
20	Total Debt Service on WIFA, Closing Date of 10/19/06 projected through 7/1/09:	
21	Interest From Closing to 5/1/07	\$ 50,055
22	Interest From 5/1/07 to 7/1/09	\$233,741
23	Principal 5/1/07-7/1/09	\$123,388
24	Incremental Income Taxes	<u>\$ 70,144</u>
25	Total Debt Service on WIFA (10/17/06 Through 7/1/09)	<u>\$477,328</u>
26	Total Collections over Debt Service	\$ 71,292

27 ...

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1	Per Company filing of 5/7/09, Funds used for arsenic related activity	\$ <u>4,573</u>
2	Net Over-Collections	\$ 66,719

3

4 28. The \$66,719 net over-collections is the amount available to make continuing debt
5 service payments on WIFA Loan No. 2. In addition to the principal and interest payment of
6 \$13,736 per month, the Company will incur incremental income taxes on the income that funds the
7 principal payment. Staff calculated the monthly incremental income taxes at \$2,954 during the 12-
8 month period beginning on August 1, 2009. Dividing the net over collection amount of \$66,719
9 (above) by the total debt service of \$16,690 (\$13,736 + \$2,954) indicates that the Company can
10 service the WIFA loan from existing over-collections for approximately 4.0 months, commencing
11 with the payment due on August 1, 2009. This means any ARSM surcharges adopted in this
12 docket should become effective on November 1, 2009, provided that the Company has made its
13 payments in full to WIFA through that date.

14 Conclusions and Recommendations

15 29. Staff concludes that implementation of the ARSM surcharges shown in Schedule
16 GWB-1 would be consistent with Decision No. 68309. (A customer with a 5/8 x 3/4-inch meter
17 and median usage of 5,500 gallons¹¹ would experience an increase of \$5.51 or 25.6 percent, from
18 \$21.52¹² to \$27.03).

19 30. Staff concludes that the ARSM surcharges calculated on Schedule GWB-1 should
20 become effective for service provided beginning on November 1, 2009.

21 31. Staff recommends approval of the ARSM surcharges shown in Schedule GWB-1.

22 32. Staff further recommends that the ARSM surcharges become effective for service
23 provided beginning November 1, 2009.

24 33. Staff further recommends that any ARSM surcharges approved herein terminate on
25 the earlier date of the effective date of the rates authorized in a rate proceeding subsequent to

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28 ¹¹ Page 33 of Staff testimony of July 7, 2009, in Docket No. W-01412A-08-0586.

¹² Page 33 of Staff testimony of July 7, 2009, in Docket No. W-01412A-08-0586.

1 VUWCO's pending permanent rate proceeding (Docket No. W-01412A-08-0586) or on
2 August 31, 2013.

3 34. Staff further recommends that the Company file a tariff describing the terms and
4 conditions of the arsenic remediation surcharge within 30 days of the effective date of the decision
5 resulting from this proceeding.

6 35. Staff further recommends that VUWCO notify its customers of the Arsenic
7 Remediation Surcharge tariff within 30 days of the effective date of the decision resulting from
8 this proceeding.

9 CONCLUSIONS OF LAW

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

12 2. The Commission has jurisdiction over the Company and of the subject matter of the
13 application.

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

17 4. It is in the public interest to approve the Company's request for implementation of
18 the ARSM as discussed herein.

19 ORDER

20 IT IS THEREFORE ORDERED that the application by Valley Utilities Water Company,
21 Inc. for the implementation of an Arsenic Remediation Surcharge Mechanism is approved as
22 discussed herein.

23 IT IS FURTHER ORDERED that the application by Valley Utilities Water Company, Inc.
24 shall be in accordance with the charges presented in ACRM Schedules GWB-1.

25 IT IS FURTHER ORDERED that the charges approved herein shall cease upon the earlier
26 date of the effective date of the rates authorized in a rate proceeding subsequent to VUWCO's
27 pending permanent rate proceeding (Docket No. W-01412A-08-0586) or on August 31, 2013.

28 ...

1 IT IS FURTHER ORDERED that the Company shall file a tariff describing the terms and
2 conditions of the arsenic remediation surcharge, as discussed herein, within 30 days of the
3 effective date of this Decision.

4 IT IS FURTHER ORDERED that Valley Utilities Water Company, Inc. shall notify its
5 customers of the arsenic cost recovery surcharge tariff approved herein within 30 days of the
6 effective date of this Decision.

7 IT IS FURTHER ORDERED that this Decision shall become effective immediately but
8 that the charges approved herein shall not become effective until November 1, 2009.

9

BY THE ORDER OF THE ARIZONA CORPORATION COMMISSION

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CHAIRMAN

COMMISSIONER

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COMMISSIONER

COMMISSIONER

COMMISSIONER

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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
this Commission to be affixed at the Capitol, in the City of
Phoenix, this _____ day of _____, 2009.

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ERNEST G. JOHNSON
EXECUTIVE DIRECTOR

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DISSENT: _____

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DISSENT: _____

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SMO:GWB:lhm/KOT

1 SERVICE LIST FOR: Valley Utilities Water Company, Inc.
2 DOCKET NOS. W-01412A-04-0736 and W-01412A-04-0849

3 Mr. Patrick J. Black
4 Fennemore Craig, P.C.
5 3003 North Central Avenue, Suite 2600
6 Phoenix, Arizona 85012

7 Mr. Steven M. Olea
8 Director, Utilities Division
9 Arizona Corporation Commission
10 1200 West Washington Street
11 Phoenix, Arizona 85007

12 Ms. Janice M. Alward
13 Chief Counsel, Legal Division
14 Arizona Corporation Commission
15 1200 West Washington Street
16 Phoenix, Arizona 85007

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Valley Utilities Water Company, Inc.
 Docket Nos. W-01412A-04-0736 & W-01412A-04-0849

Schedule **GWB-1**

CALCULATION OF SURCHARGE AMOUNT

Arsenic Surcharge - as determined by Arsenic Remediation Surcharge Mechanism

Arsenic Remediation Plant Loan Amount		\$ 1,926,100
Total Yearly Interest and Principal Payments Based on a 20-year WIFA Loan and a 5.775% Interest Rate.		\$ 164,829
Annual Income Tax Component of the Surcharge Revenue (Using Gross Rev. Conversion Factor from Decision No. 68309)		\$ 35,448
Total Annual Surcharge Revenue Requirement for the Loan		\$ 200,277
Total Equivalent Annual Bills		36,366
5/8" x 3/4" Meter Surcharge Amount	(\$200,277 / 36,366)	\$ 5.51
3/4" Meter Surcharge Amount	\$ 5.51 * 1.5	\$ 8.26
1" Meter Surcharge Amount	\$ 5.51 * 2.5	\$ 13.77
1 1/2" Meter Surcharge Amount	\$ 5.51 * 5	\$ 27.54
2" Meter Surcharge Amount	\$ 5.51 * 8	\$ 44.06
3" Meter Surcharge Amount	\$ 5.51 * 16	\$ 88.12

Meter Size	Avg. Monthly Number of Customers	Customer Multiplier	Equivalent Customers	Annual Equivalent No. of Bills	Monthly Surcharge Revenue	Yearly Surcharge Revenue
5/8" x 3/4" Res	161	1	161	1,932	\$ 887	\$ 10,640
3/4" Res	832	1.5	1,248	14,976	\$ 6,873	\$ 82,477
1" Res	390	2.5	975	11,700	\$ 5,370	\$ 64,435
1" Multi	1	2.5	3	30	\$ 14	\$ 165
2" Multi	33	8.0	264	3,168	\$ 1,454	\$ 17,447
5/8" x 3/4" Irrigation	1	1.0	1	12	\$ 6	\$ 66
3/4" Irrigation	1	1.5	2	18	\$ 8	\$ 99
1" Irrigation	7	2.5	18	210	\$ 96	\$ 1,157
1.5" Irrigation	3	5.0	15	180	\$ 83	\$ 991
2" Irrigation	8	8.0	64	768	\$ 352	\$ 4,230
5/8" x 3/4" Comm.	6	1.0	6	72	\$ 33	\$ 397
3/4" Comm.	5	1.5	8	90	\$ 41	\$ 496
1" Comm.	11	2.5	28	330	\$ 151	\$ 1,817
1.5" Comm.	8	5.0	40	480	\$ 220	\$ 2,643
2" Comm.	9	8.0	72	864	\$ 397	\$ 4,758
3" Construction	8	16.0	128	1,536	\$ 705	\$ 8,459
Totals	1,484		3,031	36,366	\$ 16,690	\$ 200,277

Decision No. _____

Valley Utilities Water Company, Inc.
Docket Nos. W-01412A-04-0736 & W-01412A-04-0849

Schedule GWB-2

Extract from Compliance Filing of 5/7/09 to show Arsenic Related Disbursements

Date	Exact Amount	Payee	Description
5/12/2004	\$ 510.00	Coe & Van Loo	WIFA Project Engineering Invoice
6/9/2004	\$ 2,871.49	Coe & Van Loo	WIFA Project Engineering Invoice
10/18/2005	\$ 265.58	Coe & Van Loo	WIFA Project Engineering Invoice
11/16/2005	\$ 323.75	Coe & Van Loo	WIFA Project Engineering Invoice
12/27/2005	\$ 563.35	Coe & Van Loo	WIFA Project Engineering Invoice
12/27/2005	\$ <u>38.57</u>	Coe & Van Loo	WIFA Project Engineering Invoice
Total	\$ 4,572.74		