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**BEFORE THE ARIZONA
CORPORATION COMMISSION**

Docket No. W-01445A-08-0440

IN THE MATTER OF THE
APPLICATION OF ARIZONA WATER
COMPANY, AN ARIZONA
CORPORATION, FOR A
DETERMINATION OF THE FAIR
VALUE OF ITS UTILITY PLANT AND
PROPERTY, AND FOR
ADJUSTMENTS TO ITS RATES AND
CHARGES FOR UTILITY SERVICE
AND FOR CERTAIN RELATED
APPROVALS BASED THEREON.

**INTERVENOR IBEW LOCAL
387'S REPLY BRIEF**

Pursuant to the directive of Assistant Chief Administrative Law Judge Dwight D. Nodes, Intervenor Local Union 387, International Brotherhood of Electrical Workers, AFL-CIO, CLC ("IBEW Local 387" or "the Union"), by and through undersigned counsel, hereby submits its Reply Brief in this docket.

**I. THE ADOPTION AND USE OF ARIZONA WATER COMPANY'S
PROPOSED ADJUSTOR MECHANISMS ARE APPROPRIATE HERE.**

IBEW Local 387 urges the Commission to approve the adjustor mechanisms proposed by Arizona Water Company ("Arizona Water" or "the Company") in this case. Given the relative frequency with which such adjustors have been adopted by the Commission in the past, it is hardly appropriate to call the adoption of such mechanisms "extraordinary" at this stage. Rather, such an adjustment mechanism represents a well-established means of recouping fluctuating and uncontrollable costs of service. *See, e.g., Arizona Public Service Co. General Rate Case, Dec. No. 67744, at 36 (2005); Tucson*

1 *Electric Power Co. General Rate Case*, Dec. No. 70628, at 39-40 (2008). By directly
2 passing through costs to customers, the Company's current cost of service is more
3 immediately reflected in charges to customers. Furthermore, the adoption and use of such
4 adjustors may obviate the need for more frequent rate case proceedings and the
5 concomitant costs and time commitments. What is more, Arizona Water's major power
6 providers have received, or will likely soon receive, rate increases, resulting in increased
7 costs that the Company must bear for a period of time absent such an adjustor mechanism.

8 Notwithstanding the foregoing considerations, Staff argues, among other things,
9 that the adoption of adjustor mechanisms is effectively *per se* inappropriate in the case of
10 water utilities, attempting to distinguish the use of adjustor mechanisms for gas and
11 electric utilities from their use in the context of water utilities. Specifically, Staff
12 maintains that "it is the degree of cost and volatility that separates gas and electric from
13 water utilities" and that adjustors are only properly found where costs and fluctuation are
14 "significant," as they generally are for gas and electric utilities. (Staff's Closing Brief, at
15 35).

16 Such a distinction, based on potentially slight or insubstantial differences in
17 amount or percentage of costs, is wholly unsatisfying as a basis for determining which
18 utilities may use adjustors and which may not, and further any policy based on such a
19 distinction is untenable and unworkable in the long-run. The instant rate case
20 proceedings may serve as a case in point. Here, Staff asserts that "[f]or electric utilities,
21 the costs of purchased power represent over 30 percent of their operating expenses,"
22 which it compares the 15 to 18 percent of operating expenses Arizona Water uses to
23 purchase power. (Staff's Closing Brief, at 35). Thus, according to Staff, as few as twelve
24 (12) percentage points apparently separates a "significant" cost from an insignificant one.
25 It is not difficult to imagine an even smaller range or spread arising in a future case. Any
26 determination here should not turn on such seemingly arbitrary thresholds or slight
27 differences in degree.

1 RUCO, for its part, argues against the proposed adjustors based on the same
2 concerns cited by Staff above and out of an apparent concern that such adjustors may
3 “provide a disincentive for the Company to obtain the lowest possible cost commodity
4 because the costs are simply passed through to ratepayers.” (RUCO’s Initial Closing
5 Brief, at 19-20). In response, the Union notes that it has not been demonstrated, in the
6 context of these proceedings, that Arizona Water has not taken efforts to obtain
7 commodities at the lowest possible cost. More importantly, though, RUCO’s discussion
8 in this connection fails to recognize the existence of a countervailing structural incentive
9 that can be expected to shape and constrain the Company’s behavior in this regard going
10 forward.

11 Specifically, Arizona Water is a regulated utility and is therefore a repeat player
12 before the Commission, subject to the Commission’s monitoring and oversight. The
13 Company can entertain no doubt that if the Company failed to take appropriate measures
14 or efforts to obtain commodities at a low cost, knowing with substantial certainty that the
15 Company’s efforts would be scrutinized by the Commission during a subsequent rate
16 case, the Company would be made to pay for its own failures at a later date. It is out of
17 concern for such scrutiny and potential adverse consequences – in other words, in order to
18 pursue its own best interest – that the Company would take appropriate steps to attempt to
19 procure commodities at the lowest possible price. Such a strong motivator would serve as
20 a powerful bulwark against any tendency the Company may otherwise have to not control,
21 or to be indifferent toward, commodity costs passed along to customers by means of an
22 adjustor mechanism.¹

23
24 ¹ Even though the Union believes that this state of affairs provides more than sufficient
25 incentive for the Company to control costs, the Commission could nevertheless consider making
26 use of a 90/10 costs- and savings-sharing arrangement, whereby the Company would bear 10
27 percent of any cost increase in categories of operating expenses for which adjustor mechanisms
28 exist, as was approved in *Arizona Public Service Co. General Rate Case*, Dec. No. 67744 (2005).
This would give the Company an even greater stake in controlling costs and thus provide even
greater incentive to seek cost-reducing alternatives.

1 In short, there simply exists no substantial reason to deny the Company this
2 important means by which it can ensure a measure of revenue stability. In addition, to the
3 extent that prices for purchased power, water, and fuel do climb significantly and no pass-
4 through mechanism exists for the Company to recover such increased costs, it is
5 noteworthy that the Company may have no choice but to make further reductions in other
6 areas of operating expenses, likely including its labor force, which has already endured
7 recent lay-offs, thereby threatening its ability to provide safe and reliable service
8 consistent with the Company's obligations (Tr. 71:23 – 74:10). Any decision here should
9 be based on an appropriate consideration of, and due regard should be given for, such
10 probable negative consequences of disapproving the Company's requested adjustor
11 mechanisms.

12 Accordingly, the Union respectfully requests that the Commission approve the
13 Company's proposed adjustor mechanisms in this case.

14 **II. THE COMPANY'S PROPOSED CONSOLIDATION OF WATER**
15 **SYSTEMS FOR RATE-MAKING PURPOSES IS REASONABLE,**
16 **APPROPRIATE, AND IN THE PUBLIC'S BEST INTEREST.**

17 The Company has proposed a multi-step consolidation of a number of its water
18 systems for regulatory, accounting, and rate-making purposes. The general advantages of
19 consolidation to customers are many and substantial, as the Company's witness, Mr.
20 Harris, and RUCO's witness, Ms. Jerich, among others, have testified (*see* Ex.A-5 at 12-
21 16; Surrebuttal Testimony on Rate Design of Jodi A. Jerich, Director, at 7:15 – 11:4).
22 IBEW Local 387 has also identified several significant advantages involving improved
23 efficiency and reduced administrative costs associated with this approach, and the Union
24 has shown how this approach is consistent with the realities of the employees' current
25 work arrangements (*see* IBEW Local 387's Post-Hearing Brief, at 2-3).

26 IBEW Local 387 submits that RUCO's favored approach, known as "Option F," is
27 really not a plan for consolidation at all, and consequently, the complete set of benefits
28 associated with consolidation would not flow from the adoption of such a plan. RUCO

1 defines "rate consolidation" as "the use of a unified rate structure for multiple water
2 utility systems that are owned and operated by a single utility, but that may not be
3 contiguous or physically interconnected" (Surrebuttal Testimony on Rate Design of Jodi
4 A. Jerich, Director, at 4:4-7). However, under Option F, "each system retains its own
5 individual commodity rates" (*id.* at 12:7-12), thereby still "requir[ing] the Company to
6 keep track of expenses on a per system basis" (*id.* at 13:5-8). Because each system would
7 retain its own commodity rate, a unified rate, which is the hallmark of consolidation,
8 would not prevail across systems. What is more, the administrative and efficiency gains
9 associated with the full consolidation of several systems requested by the Company would
10 not be fully realized, since the Company would still have to keep track of the expenses on
11 a per-system basis.

12 IBEW Local 387 believes that the approach advocated by the Company is a
13 reasonable and measured plan for ultimately achieving a full consolidation of all water
14 systems under a single, state-wide tariff. The Union urges the Commission to approve the
15 Company's approach.

16 III. CONCLUSION

17 For the foregoing reasons, IBEW Local 387 respectfully requests that the
18 Commission approve Arizona Water's application for a rate increase and specifically
19 adopt the Company's proposed adjustor mechanisms and consolidation of water systems.

20 RESPECTFULLY SUBMITTED this 30th day of October, 2009.

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1 Original and thirteen (13) copies
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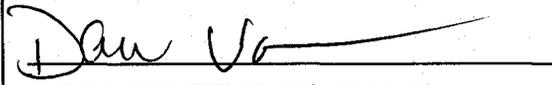
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