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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

Arizona Corporation Commission

DOCKETED

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

DEC 8 2009

DOCKETED BY	<i>nr</i>
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IN THE MATTER OF THE APPLICATION OF
PARK WATER COMPANY, INC. FOR AN
EMERGENCY RATE INCREASE.

DOCKET NO. W-02353A-09-0328

IN THE MATTER OF THE APPLICATION OF
PARK WATER COMPANY, INC. FOR
APPROVAL OF A FINANCING APPLICATION.

DOCKET NO. W-02353A-09-0329

DECISION NO. 71421

OPINION AND ORDER

DATES OF HEARING:

September 3 and 24, 2009

PLACE OF HEARING:

Phoenix, Arizona

ADMINISTRATIVE LAW JUDGE:

Yvette B. Kinsey

APPEARANCES:

Ms. Patricia O'Connor, on behalf of Park Water Company, Inc.; and

Mr. Kevin Torrey, Staff Attorney, Legal Division, on behalf of the Utilities Division of the Arizona Corporation Commission.

BY THE COMMISSION:

On June 26, 2009, Park Water Company, Inc. ("Park Water" or "Applicant" or "Company") filed with the Arizona Corporation Commission ("Commission") an application seeking approval for authority to obtain a Water Infrastructure Finance Authority ("WIFA") loan in the amount of \$169,819, to deepen the Company's existing well and upgrade its water pressure system.

On June 29, 2009, the Applicant filed an application with the Commission requesting an emergency interim rate surcharge due to a recent water outage, which required the Company to incur costs of \$28,244 related to cleaning the well, repairing the pump, and hauling water to customers during the outage. The Company's application indicates that due to its narrow operating margin, and

1 its need to upgrade its existing well, storage, and distribution system, an interim monthly surcharge is
2 needed.

3 On July 15, 2009, by Procedural Order, a procedural conference was scheduled for July 22,
4 2009.

5 On July 22, 2009, a procedural conference was held as scheduled, with the Commission's
6 Utilities Division ("Staff") and the Company participating. During the procedural conference,
7 procedural timeframes were discussed and the parties agreed that consolidation of the two dockets
8 was appropriate.

9 On July 23, 2009, by Procedural Order, the above-captioned dockets were consolidated; the
10 hearing date was set for September 3, 2009; public notice was ordered; and other procedural
11 deadlines were established.

12 On August 7, 2009, the Company filed certification that public notice of the applications and
13 hearing date had been mailed to each of the Company's customers on August 7, 2009, and that a copy
14 of the notice had been posted in the Company's offices.

15 On August 20, 2009, Staff filed a Staff Report recommending approval of the emergency rate
16 increase and approval of the financing application, subject to Staff's conditions.

17 On August 25, 2009, Park Water filed a Response to the Staff Report. The response states that
18 the Arizona Department of Environmental Quality ("ADEQ") will not issue an Approval to Construct
19 ("ATC") for improvements to the Company's water system unless the proposed improvements have
20 been approved by an engineer. Park Water requested authority to increase the amount in its finance
21 application by \$17,000, to include the cost for an engineer.

22 On September 3, 2009, a full public hearing was held as scheduled before a duly Authorized
23 Administrative Law Judge ("ALJ") of the Commission at its offices in Phoenix, Arizona. Staff
24 appeared through counsel and presented evidence and testimony. Ms. Patricia O'Connor, President
25 of Park Water, appeared on behalf of the Company and presented testimony. During the hearing,
26 discussions were held regarding whether additional notice was needed, as the Company had
27 requested to amend its finance application to include the additional \$17,000 for an engineer. Staff
28 testified that the engineering cost requested by Park Water is reasonable and customary. Staff

1 recommends granting Park Water authority to finance \$208,873 through WIFA. Staff's amount
2 includes \$169,819 for improvements to the system; \$22,054 for emergency well repair; and \$17,000
3 to cover the Company's engineering costs. Staff further recommends an emergency interim
4 surcharge to cover the water hauling costs, and a separate future surcharge to cover the WIFA loan
5 payments.

6 On September 4, 2009, by Procedural Order, a second day of hearing was scheduled for
7 September 24, 2009, and public notice was ordered. Staff was also directed to file a supplemental
8 document discussing some the issues raised during the first day of hearing.

9 On September 10, 2009, Applicant filed a Notice of Mailing and Posting, showing notice of
10 the applications and the second hearing date were mailed to the property owners in the Company's
11 service area and posted in the Company's offices.

12 On September 16, 2009, Staff filed a supplemental document discussing various issues raised
13 during the first day of hearing.

14 On September 24, 2009, the public hearing in this matter was re-convened. Staff appeared
15 through counsel and presented testimony. Ms. O'Connor appeared telephonically and presented
16 testimony. No members of the public appeared to give public comment. During the hearing, Staff
17 was directed to file late-filed exhibits related to its testimony.

18 On September 24, 2009, Staff docketed a late-filed exhibit.

19 On September 30, 2009, Staff docketed a second late-filed exhibit.

20 After receipt of the late-filed exhibits, the matter was taken under advisement pending
21 submission of Recommended Opinion and Order to the Commission.

22 * * * * *

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

25 **FINDINGS OF FACT**

- 26 1. Pursuant to authority granted by the Commission, Park Water is an Arizona public
27
28

1 service corporation engaged in the business of providing water service to approximately 125¹
2 residential customers in a service area located nine miles south of Florence, Arizona, in Pinal County.

3 2. On June 26, 2009, Park Water filed an application with the Commission requesting
4 approval to obtain a loan from WIFA in the amount of \$169,817 to deepen the Company's existing
5 well and to upgrade its water pressure system.

6 3. On June 29, 2009, Park Water filed a second application with the Commission
7 requesting an emergency interim rate surcharge due to a recent water outage, which required the
8 Company to incur costs of \$28,244 related to cleaning the well, repairing the pump, and hauling
9 water to customers during the outage. The Company's application indicates that due to its narrow
10 operating margin, and its need to upgrade its existing well, storage, and distribution system, an
11 interim monthly surcharge is needed.

12 4. Pursuant to a Procedural Order issued July 23, 2009, notice of the Company's finance
13 and emergency rate surcharge applications was ordered and the dockets were consolidated. The
14 Commission received one customer comment in opposition to the proposed interim rate surcharge.

15 5. On August 20, 2009, Staff filed a Staff Report recommending approval of the
16 Company's applications, subject to Staff's adjustments to the proposed interim emergency rate
17 surcharge.

18 6. In response to the Staff Report, Park Water filed an amendment to its finance
19 application requesting to include an additional \$17,000 to cover the engineering costs associated with
20 the system improvement projects. The amendment further stated that WIFA requires approval by an
21 engineer before an ATC can be issued.

22 7. Pursuant to a Procedural Order issued September 4, 2009, additional notice was
23 ordered regarding the requested additional engineering cost. On September 10, 2009, the Company
24 docketed certification that notice had been provided via first-class mail to all its customers regarding
25 the additional \$17,000 amount being requested. No customer comments were filed regarding the
26 second notice.

27 _____
28 ¹ According to the Company's 2008 Annual Report, the Company served 140 customers. The Company's witness testified that Park Water currently has 125 customers.

1 8. Park Water is operating under rates authorized in Commission Decision No. 67165
2 (August 10, 2004).

3 **Emergency Rate Application**

4 9. Ms. Patricia O'Connor, sole owner and president of Park Water, stated that the
5 Company experienced a loss in production at its well source in April 2009, and it was determined that
6 the production loss was not related to a mechanical failure, but that the water table in the area had
7 dropped. (Tr. at 8) Ms. O'Connor further stated that the Company's production problems are
8 exacerbated because the monastery located adjacent to Park Water uses large quantities of water; the
9 monastery's well is drilled at 1,500 feet compared to Park Water's well at 780 feet; and the rate of
10 water drawn down by the monastery does not allow enough time for the aquifer to recover. (Id.) Ms.
11 O'Connor stated that she believes the monastery is drawing out as much as 1 million gallons of water
12 per day, compared to 1 million gallons per month being used by Park Water to service 125 families.
13 (Tr. at 7)

14 10. The Company's emergency rate application states it has incurred \$28,244 in cost
15 related to repairing the well, and hauling water during the Company's recent water outage. Ms.
16 O'Connor testified that the Company has not been able to pay the vendors for the repairs made to the
17 system. (Tr. at 9) She testified that she has received a letter from one of the vendors who says he
18 dropped everything and moved his equipment to Park Water's well during the outage to make the
19 repairs, but he still has not been paid. (Tr. at 18) Ms. O'Connor also expressed concern that she has
20 been receiving calls from all of the repair vendors and they all want to get paid. (Id.) She testified
21 that the Company is unable to pay the vendors for the repairs. (Tr. at 21)

22 11. Ms. O'Connor testified that currently Park Water customers have water running from
23 their taps because the Company is running one well at a time, and allowing one well to recharge,
24 while the other one is in use. (Tr. at 21)

25 12. According to the Staff's Engineering Report, Park Water's current water system
26 consists of two wells, with a total production capacity of 175 gallons per minute ("GPM"); three
27 storage tanks, with a total storage capacity of 52,000 gallons; three booster systems; and a
28 distribution system serving approximately 125 service connections.

1 13. Staff determined that Park Water has a peak day demand of 0.45 GPM per connection
2 and uses 515 gallons per day ("GPD") per connection.² Based on the above information, Staff
3 concluded that Park Water has the capacity to serve approximately 390 connections when using both
4 wells, and without using its largest well, the system could adequately serve 165 connections during
5 peak demand. Further, Park Water's storage capacity of 52,000 gallons can adequately serve up to
6 approximately 100 connections. (SER at 2)

7 14. Staff's engineering witness testified that Park Water's system has inadequate storage
8 capacity to serve its current customers due to the dropping water table in the service area. (Tr. at 24)
9 Staff's witness testified that Park Water's main well has a production of 100 GPM; the secondary
10 well has a production of 75 GPM; and during the recent water outage production fell to a total of 40
11 GPM for both wells. (Id.) Staff's witness stated that during the water outage both motor pumps in
12 Park Water's two wells burned out and had to be replaced. (Id.) The witness further stated that Park
13 Water had to haul 50,000 gallons of water during the outage. (Id.)

14 15. According to the Staff Report, Park Water incurred the following costs during its
15 recent water outage:

16	1. Water Hauling (50,000 gallons)	\$ 6,190
17	2. North Well (primary well)	
	a. Video survey & cleaning well casing	\$ 8,450
	b. Installed a new 20-Hp pump motor	\$ 8,338
18	3. South Well- new 15-Hp pump motor	<u>\$ 5,266</u>
		Total: \$28,244

19
20 16. Staff concluded that the emergency repair costs are reasonable.

21 17. Staff's engineering witness explained that the water table for an aquifer will drop
22 depending on how many wells are drawing from the aquifer. (Tr. at 29) The witness further
23 explained that in this case there is a large monastery, with palm trees and greenery scattered
24 throughout, and it appears the monastery is pumping a lot of water, and it is affecting the wells in the
25 surrounding area. (Id.) Staff's witness testified that although the monastery is not a Commission
26 regulated entity, it would still need to meet Arizona Department of Water Resources ("ADWR")
27

28 ² Based on Park Water's 2008 Water Use Data Sheet.

1 requirements because, like Park Water, the monastery is located within the Pinal County Active
2 Management Area ("AMA"). (Id.)

3 18. Based on Staff's review, Staff concluded that the steps taken by Park Water during its
4 recent water outage were reasonable and prudent under the circumstances. (Id.) Further, Staff agrees
5 that the Company needs to deepen its well due to a dropping water table in the area. (Tr. at 27)

6 19. Park Water asserts that an emergency situation exists and that Park Water should be
7 authorized to implement an interim emergency surcharge rate of \$16.81 to recover costs of \$28,244
8 associated with repairing the wells, replacing the well pumps, and hauling water during the outage.³

9 20. According to Attorney General Opinion No. 71-17, interim or emergency rates are
10 proper when either all or any of the following conditions occur:

11 a. When sudden change brings hardship to a Company;

12 b. When the Company is insolvent; or

13 c. When the condition of the Company is such that its ability to maintain service
14 pending a formal rate determination is in serious doubt.⁴

15 21. Staff concurs with the Company that an emergency situation exists. According to
16 Staff, the Company's annual operating income for 2008 was approximately \$4,152 plus depreciation
17 expenses of \$1,886 for a total of \$6,038. Based on Staff's review of the Company's annual operating
18 income, Staff determined that the Company's annual cash flow is insufficient to cover the \$28,244 in
19 expenses related to water hauling and well repairs during the recent outage. In its review, Staff also
20 took into consideration Park Water's inability to pay the vendors for repairs and water hauling during
21 the recent outage from its operating income. Staff concludes that Park Water's situation meets the
22 first prong of the Attorney General's Opinion, at a minimum, because the expenses related to the
23 water outage have created a serious financial hardship for the Company. Although the Attorney
24 General's Opinion requires only that one of the three criteria be met to constitute an emergency, it
25 appears likely that Park Water's current operational situation would also satisfy the other two
26 conditions. We agree with Staff that the Company's current situation constitutes an emergency under

27 ³ Applicant's rate application.

28 ⁴ Affirmed in *Scates v. Arizona Corporation Commission*, 118 Ariz. 531 (CT. App. 1978) and in *Residential Utility Consumer Office v. Arizona Corporation Commission*, 199 Ariz. 588 (2001).

1 Attorney General Opinion No. 71-17.

2 22. Staff recommends the Commission authorize Park Water to implement an emergency
3 rate surcharge in the amount of \$4.13⁵ to cover the water hauling costs (\$6,190) associated with the
4 recent outage, instead of the Company's proposed surcharge of \$16.81 to cover the water hauling and
5 well repair costs. Staff's witness testified that Staff believes the higher surcharge would be overly
6 burdensome for ratepayers and that Staff also took into consideration the general economic climate in
7 making its determination. (Tr. at 36, 70)

8 23. Under Staff's proposed emergency rate surcharge, the water hauling cost of \$6,190
9 would be paid over a 12-month period.⁶ Staff testified that it believes including the entire \$28,244 in
10 repair costs incurred during the emergency outage would result in a monthly interim surcharge of
11 approximately \$18.83 over a 12-month period. (Tr. at 65) According to Staff's late-filed exhibit, Park
12 Water has only 5/8" x 3/4" meter size customers; the monthly average for gallons sold is 8,000
13 gallons; and the average customer bill is approximately \$44.12.⁷ Including the entire \$28,244 amount
14 in an interim monthly surcharge, would result in the average Park Water customer paying a monthly
15 surcharge of \$18.83, plus a monthly bill of \$44.12, for a total of \$62.95 over a 12-month period. (Tr.
16 at 66)

17 24. In order to mitigate the rate effect on customers, Staff recommends separating the cost
18 of the water hauling and the well repairs. Under Staff's proposal, the well repairs costs (\$22,054)
19 would be included in the Company's WIFA loan application, and the Company would be required to
20 implement a WIFA loan surcharge mechanism to recover costs incurred for the well repairs, as well
21 as the costs for the upgrades to the system (See Finance Application Discussion Below). Staff's
22 proposal would result in the well repair vendors being left unpaid until the WIFA loan closes and the
23 Commission approves a WIFA loan surcharge.

24 25. During the proceedings, Ms. O'Connor expressed concern that the vendors have not
25

26 ⁵ Staff initially recommended a surcharge of \$3.68 based on 140 Park Water customers. Staff subsequently adjusted its
27 recommendation based on the Company's testimony that Park Water currently has 125 customers. (Staff's Late-filed
28 Schedule CSB-1)

⁶ Staff's proposal would generate additional monthly revenues of \$516, which would be used to reduce the water hauling
debt over 12-months. ($\$516 \times 12 = \6192)

⁷ A review of Staff's calculation shows the average Park Water customer's bill is currently \$43.68 monthly.

1 been paid for work related to the recent outage. (Tr. at 11) She stated that the vendors dropped
 2 whatever they were working on at the time of the emergency and came to the Company's rescue
 3 because Park Water customers could not flush their toilets or take showers. (Id.) She further stated
 4 that she is concerned that if another emergency water outage occurs, the vendors may not be willing
 5 to do the work because they haven't been paid. (Id.)

6 26. Staff's witness testified that under Staff's recommendation, Park Water would be able
 7 to implement the water hauling surcharge immediately following the effective date of a Decision in
 8 this matter. Staff's witness further testified that based on information obtained from the WIFA loan
 9 website, once the Commission approves Park Water's financing application, Park Water will have to
 10 request a Project Finance Application ("PFA") from WIFA and submit the completed PFA to WIFA
 11 eight weeks prior to its semi-monthly board meeting.⁸ From that point, the WIFA loan application
 12 process could take up to six months before the loan closes.⁹ Staff explained that once the WIFA loan
 13 closes, Staff recommends Park Water file an application with the Commission for the WIFA loan
 14 surcharge, and Staff believes that process could take an additional 60 days.

15 27. Based on Staff's testimony, the proposed timeline for Park Water to implement the
 16 WIFA loan surcharge and draw down funds to pay the well repair vendors would result in the well
 17 repair vendors being paid in January 2011.

18 (See Exhibit A, attached hereto and incorporated herein)

19 28. Staff further recommends that:

- 20 a. The interim surcharge rate be subject to refund pending the decision resulting
- 21 b. Park Water post a bond or irrevocable sight draft letter of credit in the amount
- 22 of \$6,192 to ensure there is sufficient money available to refund customers if
- 23 the Commission determines in the permanent rate case that the water hauling
- 24 surcharge was not needed or was too large. In the alternative, if the
- 25 Commission decides to choose a minimal bond, Staff recommends Park Water
- 26 post a cashier's check with the Commission;
- 27 d. Park Water file with Docket Control, as a compliance item in this Docket,

26 ⁸ According to Staff's late filed exhibit, the next WIFA semi-monthly board meeting will be held the 3rd Wednesday in
 27 December 2009, and Park Water would have needed to submit its PFA by October 21, 2009, in order to have its PFA
 28 considered for the December 2009 board meeting. Therefore, based on the WIFA loan application timeline, the earliest
 Park Water's PFA can be considered by WIFA is at its February 2010 board meeting. The timeline shows no board
 meeting being held during the month of January.

⁹ Staff's late-filed exhibit filed September 16, 2009.

- 1 within 30 days of the effective date of this Decision, a revised rate schedule
 2 reflecting the emergency interim rate increase; and
 3 e. Park Water notify its customers of the revised emergency rate, and effective
 4 date, in a form acceptable to Staff, by means of an insertion in the Company's
 5 next regularly scheduled billing.

4 **Finance Application**

5 29. According to Park Water's finance application, the Company proposes deepening its
 6 North Well from its current 780-foot depth to 1,500 feet and rehabilitating the North Well booster
 7 system. The amended finance application requests authorization to obtain a WIFA loan in the
 8 amount of \$186,819, which includes \$169,819 for capital improvements to the system and \$17,000 to
 9 hire an engineer. The Company's proposal would result in annual WIFA loan payments totaling
 10 \$14,179, and a estimated monthly WIFA surcharge of \$9.42 for 5/8 x 3/4 meter size customers.

11 30. Staff reviewed the proposed capital improvements and the cost estimates and
 12 concluded they are reasonable. However, Staff did not make any "used and useful" determination for
 13 the proposed improvement plant items and no particular treatment should be inferred for rate-making
 14 or rate base purposes in the future.

15 31. Staff recommends granting Park Water authorization to obtain a 20-year amortizing
 16 WIFA loan, at an interest rate of 4.5 percent, for a total amount of \$208,873. Under Staff's proposal,
 17 the WIFA loan would include \$169,819 for capital improvements; \$22,054 for emergency well
 18 repairs; and \$17,000 for engineering costs, for a total of \$208,873. Staff based its recommendation to
 19 grant authorization for the WIFA loan on the Company's lack of earnings and operating cash flow to
 20 meet Park Water's proposed long-term debt obligation, as well as the circumstances outlined in Park
 21 Water's emergency rate application. Staff recommends implementation of a surcharge recovery
 22 mechanism to collect funds to service the WIFA loan payments.

23 32. Under Staff's proposal, annual WIFA loan payments total \$15,853, resulting in an
 24 estimated monthly surcharge of \$10.57 for 5/8" x 3/4" meter size customers.

25 33. Staff further recommends that:

- 26 a. Park Water's WIFA loan surcharge be calculated based upon the actual amount
 27 of the WIFA loan and the actual number of customers at the time the WIFA
 28 loan closes;
 b. The WIFA loan surcharge be implemented only after Park Water closes on the
 WIFA loan;

- 1 c. Commission approval of Park Water's request for authorization to incur long-term debt include a WIFA loan recovery surcharge mechanism to enable the
2 Company to meet the principal and interest obligation on the proposed WIFA
3 loan;
4 d. Park Water file with the Commission a WIFA loan surcharge tariff application;
5 e. Park Water use the methodology described in Staff's Schedule CSB-4 to
6 calculate the revenue needed to meet its principal and interest obligation on the
7 WIFA loan;
8 f. Park Water file in this docket a WIFA loan surcharge application within 60
9 days of the WIFA loan closing;
10 g. Any Commission Decision approving the WIFA loan and surcharge be
11 rescinded if Park Water has not drawn funds from the loan within one year
12 from the date of the Decision in this proceeding; and
13 h. Park Water file with the Commission a permanent rate case no later than April
14 30, 2010, using a 2009 calendar test year.

15 Other Issues

16 34. According to ADEQ, Park Water is delivering water that meets water quality
17 standards required by the Arizona Administrative Code and Park Water has no reported
18 deficiencies.¹⁰

19 35. The Commission's Utilities Division Compliance Section reported that Park Water has
20 no delinquencies.

21 Analysis

22 36. Based on the testimony and evidence submitted, we find that Park Water lacks the
23 revenue necessary to pay for the water hauling and well repair costs incurred during its recent water
24 outage, without the implementation of an emergency interim rate surcharge; the costs incurred during
25 the recent water outage have created a financial hardship for the Company; and the Company's
26 concerns regarding its inability to pay for the repairs associated with the recent water outage are
27 legitimate.

28 37. Park Water has an interest in paying down its debt to all the vendors who rendered
services during the emergency water outage. Staff's proposal to implement an emergency interim
rate of \$4.13 to only cover the water hauling costs does not fully address all of the costs incurred as a
result of the emergency situation. As discussed in Finding of Fact No. 27, Staff's proposal will likely
result in the well repair vendors not being paid until January 2011. The length of time between when

¹⁰ ADEQ Compliance Status Report, dated April 21, 2009.

1 the vendors rendered services and the time they will be paid, under Staff's proposal, could subject
2 Park Water to litigation by the well repair vendors, further exacerbating the Company's financial
3 problems. Staff's proposal could also hinder Park Water's ability to request services from these
4 vendors in the future, if they are needed, and could force Park Water to have to seek vendors located
5 farther away (i.e., Tucson, Phoenix) to make emergency repairs to the system, subjecting Park Water
6 customers to being without water for a longer period of time and possibly incurring additional
7 expense.

8 38. Based on the evidence and circumstances presented, we find that modifying Staff's
9 proposal to implement a \$12 monthly interim emergency surcharge is reasonable. A \$12 monthly
10 interim surcharge rate will allow Park Water to begin paying down its debts associated with the water
11 hauling and the well repairs costs incurred during the Company's recent water outage. The \$12
12 interim monthly surcharge will generate additional revenues in the amount of \$1,500 per month¹¹ that
13 Park Water will use to start to pay down the \$28,244 outstanding debt for the water hauling and the
14 well repairs. Park Water is directed to equally divide the monthly surcharge monies collected from
15 its customers between the water hauling, and two well repair vendors. Further, all interim surcharge
16 monies collected from Park Water customers shall be held in a separate interest bearing account and
17 Park Water shall file, with Docket Control, as a compliance item in this docket, a monthly financial
18 accounting showing the amount of surcharge monies collected, payments made to vendors, and the
19 outstanding balance owed to each vendor. Because the \$12 interim surcharge rate will generate
20 additional revenues totaling \$18,000, over a 12-month period, Park Water shall amend its WIFA loan
21 application to include the remaining balance¹² at the end of 12 months for the remaining water
22 hauling and well repair cost. This surcharge shall be subject to refund pending the outcome of the
23 permanent rate case to be filed under Staff's recommendation.

24 39. Regarding Park Water's finance application, we find that Staff's recommendations
25 should be modified to authorize Park Water to obtain a WIFA loan in the amount of \$197,063. The
26 WIFA loan amount will include \$169,819 for capital improvements; \$17,000 for engineering costs;

27 _____
28 ¹¹ \$12 (surcharge) x 125 (customers) = \$1,500.

¹² The approximate remaining balance of \$10,244.

1 and approximately \$10,244 for the remaining balance owed to the water hauling and well repair
2 vendors.¹³ Based on these figures, the estimated WIFA loan surcharge will be \$9.97 per month, per
3 customer.

4 40. Based on the timeframe described in Exhibit A, we find that Staff's recommendation
5 that "any Commission Decision approving Park Water's WIFA loan surcharge should be rescinded if
6 funds have not been drawn on the loan within one year," should be modified to extend the timeframe
7 to eighteen (18) months from the effective date of this Decision.

8 41. Park Water is directed to amend its WIFA loan application in accordance with the
9 terms described herein. Further, because of Park Water's current financial situation, Park Water
10 should be required to post a bond with the Commission in the form of a cashier's check in the amount
11 of \$10 prior to implementing the emergency surcharge.

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

13 **CONCLUSIONS OF LAW**

14 1. Park Water is a public service corporation within the meaning of Article XV of the
15 Arizona Constitution and A.R.S. §§ 40-250, 40-251, and 40-302.

16 2. The Commission has jurisdiction over Park Water and of the subject matter of the
17 applications.

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

19 4. Park Water is facing an emergency within the definition set forth in Attorney General
20 Opinion No. 71-17.

21 5. The standard for approval of a request for interim rate relief requires the existence of
22 an emergency; the posting of a bond by the utility company; and subsequent filing of a permanent
23 rate case.

24 6. Approval of Park Water's application for interim rate relief, as described herein, is
25 consistent with the Commission's authority under the Arizona Constitution, ratemaking statutes, and
26 applicable case law.

27 _____
28 ¹³ Staff testified that it verified with WIFA that the water hauling and well repair cost could be included in the WIFA loan. (Tr. at 39)

1 showing the amount of surcharge monies collected from its customers, payments made to water
2 hauling and well repair vendors, and the outstanding balance owed to each vendor.

3 IT IS FURTHER ORDERED that the emergency surcharge approved herein shall be interim
4 and subject to refund in Park Water Company, Inc's permanent rate application proceeding required
5 as a condition of approval of the emergency surcharge.

6 IT IS FURTHER ORDERED that Park Water Company, Inc. shall file on or before the first
7 day of the month it is to begin collecting the emergency surcharge, a tariff authorizing Park Water to
8 collect the \$12 emergency surcharge rate approved herein, in a form acceptable to Staff.

9 IT IS FURTHER ORDERED that Park Water Company, Inc. shall file with Docket Control,
10 as a compliance item in this docket, a revised rate schedule reflecting the emergency rate increase,
11 within 30 days of the effective date of this Decision.

12 IT IS FURTHER ORDERED that Park Water Company, Inc. shall, in a form acceptable to
13 Staff, notify its customers of the emergency rate surcharge, by inserting the revised rate schedule in
14 the Company's next regularly-scheduled billing.

15 IT IS FURTHER ORDERED that Park Water Company, Inc. shall, 15 days prior to
16 implementing the emergency rate surcharge approved herein, post a bond with the Commission's
17 Business Office, in the form of a cashier's check in the amount of \$10, with copies the cashier's
18 check filed with Docket Control, as a compliance item in this docket.

19 IT IS FURTHER ORDERED that Park Water Company, Inc. shall file with the Commission,
20 no later than April 30, 2010, an application for a permanent rate increase, with a test year ending
21 December 31, 2009.

22 IT IS FURTHER ORDERED that Park Water Company, Inc. is hereby authorized to obtain a
23 Water Infrastructure Finance Authority, 20-year amortizing loan in an amount not to exceed
24 \$198,000, at the applicable Water Infrastructure Finance Authority interest rate the time the loan is
25 closed.

26 IT IS FURTHER ORDERED that Park Water Company, Inc. is hereby authorized to engage
27 in any transactions and to execute any documents necessary to effectuate the authorization granted
28 herein.

1 IT IS FURTHER ORDERED that such authority is expressly contingent upon Park Water's
2 use of the proceeds for the purposes set forth in its application.

3 IT IS FURTHER ORDERED that approval of the financing set forth herein does not
4 constitute or imply approval or disapproval by the Commission of any particular expenditure of the
5 proceeds derived thereby for purposes of establishing just and reasonable rates.

6 IT IS FURTHER ORDERED that Park Water Company, Inc. shall file with Docket Control,
7 as a compliance item in this docket, copies of all executed financing documents setting forth the
8 terms of the financing, within 30 days of obtaining such financing.

9 IT IS FURTHER ORDERED that Park Water Company, Inc. shall, within 30 days of the
10 effective date of this Decision, amend its Water Infrastructure Finance Authority loan application, to
11 comply with the terms described herein.

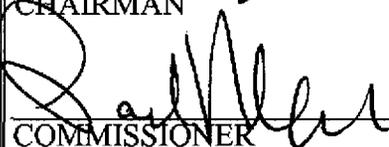
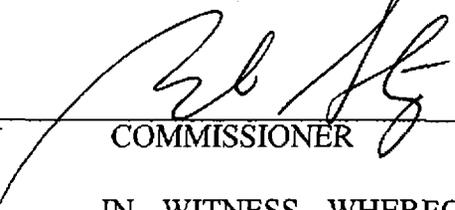
12 IT IS FURTHER ORDERED that Park Water Company, Inc. shall, within 30 days of the
13 closing of its loan with the Water Infrastructure Finance Authority, file with the Commission a Water
14 Infrastructure Finance Authority loan surcharge recovery mechanism application, using the
15 methodology described in Staff's Schedule CSB-4.

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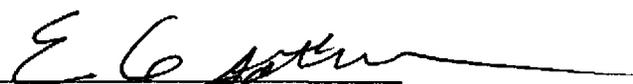
1 IT IS FURTHER ORDERED that the authorization approved herein for Park Water
2 Company, Inc. to obtain a Water Infrastructure Finance Authority loan in an amount not to exceed
3 \$198,000, shall be null and void if funds from the loan are not withdrawn within eighteen (18)
4 months from the effective date of this Decision.

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

6 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

7 
8 CHAIRMAN  COMMISSIONER
9  COMMISSIONER  COMMISSIONER  COMMISSIONER
10

11 IN WITNESS WHEREOF, I, ERNEST G. JOHNSON,
12 Executive Director of the Arizona Corporation Commission,
13 have hereunto set my hand and caused the official seal of the
14 Commission to be affixed at the Capitol, in the City of Phoenix,
15 this 8th day of December, 2009.

16 
17 ERNEST G. JOHNSON
18 EXECUTIVE DIRECTOR

19 DISSENT _____

20 DISSENT _____
21 YBK:db

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1 SERVICE LIST FOR:

PARK WATER COMPANY, INC.

2 DOCKET NOS.:

W-02353A-09-0328 and W-02353A-09-0329

3

4 Patricia O'Connor, President
5 PARK WATER COMPANY
6 P.O. Box 16173
7 Phoenix, Arizona 85011

8 Janice Alward, Chief Counsel
9 Legal Division
10 ARIZONA CORPORATION COMMISSION
11 1200 West Washington Street
12 Phoenix, Arizona 85007

13 Steven Olea, Director
14 Utilities Division
15 ARIZONA CORPORATION COMMISSION
16 1200 West Washington Street
17 Phoenix, Arizona 85007

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Exhibit "A"

DOCKET NO. W-02353A-09-0328 ET AL.

Proposed Timeline for WIFA Loan Implementation

2009		2010												2011		
NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	JAN		
	<p>Commissioner approves finance application.</p> <p>Park Water submits its PFA * to WIFA by Dec 30, 2009.</p>		<p>Feb 17, 2010, WIFA reviews Park Water's PFA.</p>													
			<p>Feb 17, 2010, PFA moves through WIFA process. Approval granted in August, 2010.</p>													
									<p>Park Water files WIFA loan surcharge application with Commission.</p>							
												<p>Staff reviews WIFA loan surcharge application.</p>				
													<p>Commission hears and approves the WIFA loan surcharge.</p>			
													<p>Park Water notifies customers of approved surcharge.</p>			
														<p>WIFA loan surcharge is implemented and the well repair vendors are paid.</p>		

* PFA = Project Finance Application