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Arizona Corporation Commission  
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**BEFORE THE ARIZONA CORPORATION COMMISSION**

9 IN THE MATTER OF THE APPLICATION  
 10 OF CHAPARRAL CITY WATER  
 11 COMPANY, INC., AN ARIZONA  
 12 CORPORATION, FOR A  
 13 DETERMINATION OF THE FAIR VALUE  
 14 OF ITS UTILITY PLANT AND  
 15 PROPERTY AND FOR INCREASES IN  
 16 ITS RATES AND CHARGES FOR  
 17 UTILITY SERVICE BASED THEREON.

DOCKET NO: W-02113A-07-0551

**MOTION TO PROCEED JOINTLY UNDER A.R.S. §§ 40-252 AND 40-253**

18 Chaparral City Water Company ("Chaparral City" or "the Company") hereby files  
 19 this Motion to Proceed Jointly Under A.R.S. §§ 40-252 and 40-253 with respect to  
 20 rehearing two issues raised in the Company's Application for Rehearing filed on  
 21 November 10, 2009.

22 Counsel for the Company has conferred with counsel for Staff and RUCO prior to  
 23 filing this motion. RUCO has indicated that they do not oppose proceeding jointly under  
 24 A.R.S. §§ 40-252 and 40-253.

**A. BACKGROUND**

25 On October 21, 2009, the Arizona Corporation Commission ("Commission")  
 26 issued Decision No. 71308, which decided all issues relating to CCWC's request for a  
 determination of the fair value of its assets and for increases to its rates and charges for  
 utility service based thereon, and authorized new rates to be implemented by CCWC.

On November 10, 2009, CCWC filed an Application for Rehearing pursuant to

1 A.R.S. § 40-253 (“Rehearing Application”), requesting rehearing on five specific issues  
2 addressed in Decision No. 71308. The specific issues raised for rehearing were as  
3 follows:

- 4 1. The Commission’s treatment of the Fountain Hills Sanitation District  
5 (FHSD) settlement proceeds conflicts with Commission precedent and  
6 effectively confiscates the Company’s property without just compensation.
- 7 2. The Commission’s denial of recovery of rate case expense associated with  
8 appeal and remand of Decision No 68176, is improper given that the  
9 Company prevailed on appeal, and sets a dangerous precedent.
- 10 3. The Commission violated the Arizona Constitution’s fair value standard in  
11 setting rates that marginalize the use of fair value.
- 12 4. The authorized return on equity is arbitrary and result-driven, and conflicts  
13 with the evidence in the record.
- 14 5. As a result of a computational error, the rates do not produce the  
15 Commission’s authorized revenue requirement.

16 On November 24, 2009, at a staff meeting, the Commission apparently granted  
17 CCWC’s Rehearing Application in part, and ordered the Commission’s Hearing Division  
18 to prepare a recommended order correcting the computational error in the approved rates  
19 and charges. The Commission withheld making any determinations as to any other issues  
20 raised in the Application for Rehearing until after Commission consideration of an Order  
21 addressing correction of alleged errors in rates. No written order was issued by the  
22 Commission specifying the precise action taken.

23 On December 8, 2009, the Commission issued Decision No. 71424, which  
24 amended Decision No. 71308 *nunc pro tunc* to correct a computational error in rates  
25 approved in Decision No. 71308. The Decision made no determination on any other issue  
26 raised in CCWC’s Rehearing Application. However, Decision No. 71424 also states that

1 the Commission granted the Rehearing Application filed by CCWC “in order to allow  
2 time for further consideration.” Decision No. 71424 at 5-6.

3 The Commission considered the remaining four issues in CCWC’s Rehearing  
4 Application during the January 19, 2010 staff meeting. According to a procedural order  
5 issued later that day, the Commission voted to grant CCWC’s request for rehearing of two  
6 of the remaining four issues: (1) recovery of rate case expense associated with appeal and  
7 remand of Decision No. 68176 (September 30, 2005), and (2) treatment of the FHSD  
8 settlement proceeds. The Commission apparently also voted to deny rehearing on the two  
9 remaining issues included in the Rehearing Application: (1) that Decision No. 71308 is  
10 inconsistent with and in violation of Arizona fair value standard, and (2) that Decision No.  
11 71308 produces an authorized return on equity that is arbitrary and results-driven, and that  
12 conflicts with the record in the proceeding. The Company has appealed those issues to the  
13 Arizona Court of Appeals.

14 **B. BASIS FOR MOTION**

15 As the foregoing illustrates, and as the Company and RUCO suggested at the  
16 January 27, 2010, the manner in which the Commission proceeded with respect to the  
17 Company’s Rehearing Application has resulted in confusion concerning whether and to  
18 what extent rehearing was properly granted pursuant to A.R.S. § 40-253. That statute  
19 provides that “[i]f the commission does not grant the application within twenty days, it is  
20 deemed denied. If the commission grants the application, the commission shall promptly  
21 hear the matter and determine it within twenty days of final submission.” A.R.S. § 40-  
22 253(A).

23 Despite any unintended confusion, the Commissioners clearly desire to promptly  
24 rehear two issues raised by the Company, namely the appropriate rate-making treatment  
25 of the FHSD settlement proceeds and recovery of rate case expense associated with appeal  
26 and remand of Decision No. 68176. And the Company, Staff and RUCO have already

1 agreed to a procedural schedule for the rehearing of those issues with Judge Wolfe.

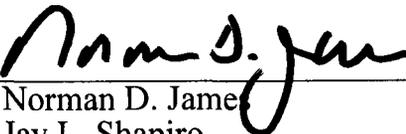
2 Now, to avoid any subsequent confusion and eliminate any dispute regarding what  
3 was properly decided, the Company hereby moves to Commission to reconsider the issues  
4 of the appropriate rate-making treatment of the FHSD settlement proceeds and the  
5 Company's recovery of rate case expense associated with appeal and remand of Decision  
6 No. 68176 pursuant to A.R.S. § 40-252. Such relief is consistent with the desire of the  
7 Commissioners that such issues be reconsidered for possible error. It will also promote  
8 administrative economy by ensuring that the Administrative Law Judge and the parties do  
9 not expend time and resources rehearing those issues, only to have the Commission's  
10 jurisdiction to do so called into question later.

11 For these reasons, the Company respectfully requests that rehearing of the issues of  
12 the appropriate rate-making treatment of the FHSD settlement proceeds and the  
13 Company's recovery of rate case expense associated with appeal and remand of Decision  
14 No. 68176 be conducted jointly under A.R.S. §§ 40-252 and 40-253.

15 RESPECTFULLY SUBMITTED this 1st day of February, 2010.

16 FENNEMORE CRAIG, P.C.

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By   
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1 **ORIGINAL** and thirteen (13) copies  
2 of the foregoing were filed  
3 this 1st day of February, 2010, to:

4 Docket Control  
5 Arizona Corporation Commission  
6 1200 W. Washington St.  
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8 **COPY** of the foregoing was hand delivered  
9 this 1st day of February, 2010, to:

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25 **COPY** of the foregoing mailed  
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