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8 IN THE MATTER OF THE APPLICATION OF
 9 GLOBAL WATER – PALO VERDE
 10 UTILITIES COMPANY FOR THE
 11 ESTABLISHMENT OF JUST AND
 12 REASONABLE RATES AND CHARGES FOR
 13 UTILITY SERVICE DESIGNED TO REALIZE
 14 A REASONABLE RATE OF RETURN ON
 15 THE FAIR VALUE OF ITS PROPERTY
 16 THROUGHOUT THE STATE OF ARIZONA.

DOCKET NO. SW-20445A-09-0077

17 IN THE MATTER OF THE APPLICATION OF
 18 VALENCIA WATER COMPANY – GREATER
 19 BUCKEYE DIVISION FOR THE
 20 ESTABLISHMENT OF JUST AND
 21 REASONABLE RATES AND CHARGES FOR
 22 UTILITY SERVICE DESIGNED TO REALIZE
 23 A REASONABLE RATE OF RETURN ON
 24 THE FAIR VALUE OF ITS PROPERTY
 25 THROUGHOUT THE STATE OF ARIZONA.

DOCKET NO. W-02451A-09-0078

26 IN THE MATTER OF THE APPLICATION OF
 27 WILLOW VALLEY WATER COMPANY FOR
 28 THE ESTABLISHMENT OF JUST AND
 REASONABLE RATES AND CHARGES FOR
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 A REASONABLE RATE OF RETURN ON
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DOCKET NO. W-01732A-09-0079

IN THE MATTER OF THE APPLICATION OF
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 COMPANY FOR THE ESTABLISHMENT OF
 JUST AND REASONABLE RATES AND
 CHARGES FOR UTILITY SERVICE
 DESIGNED TO REALIZE A REASONABLE
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IN THE MATTER OF THE APPLICATION OF
WATER UTILITY OF GREATER TONOPAH
FOR THE ESTABLISHMENT OF JUST AND
REASONABLE RATES AND CHARGES FOR
UTILITY SERVICE DESIGNED TO REALIZE
A REASONABLE RATE OF RETURN ON
THE FAIR VALUE OF ITS PROPERTY
THROUGHOUT THE STATE OF ARIZONA.

DOCKET NO. W-02450A-09-0081

IN THE MATTER OF THE APPLICATION OF
VALENCIA WATER COMPANY – TOWN
DIVISION FOR THE ESTABLISHMENT OF
JUST AND REASONABLE RATES AND
CHARGES FOR UTILITY SERVICE
DESIGNED TO REALIZE A REASONABLE
RATE OF RETURN ON THE FAIR VALUE
OF ITS PROPERTY THROUGHOUT THE
STATE OF ARIZONA.

DOCKET NO. W-01212A-09-0082

**STAFF'S INITIAL
POST-HEARING BRIEF**

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1 **I. INTRODUCTION.**

2 On February 20, 2009, rate applications were filed by Palo Verde Utilities Company (“Palo
3 Verde”), Santa Cruz Water Company (“Santa Cruz”), Valencia Water Company – Town Division
4 (“Town Division”), Valencia Water Company – Greater Buckeye Division (“Buckeye”), Water Utility
5 of Greater Tonopah (“WUGT”), and Willow Valley Water Company (“Willow Valley”) (collectively
6 “Global Utilities” and together with unregulated affiliates and the parent companies “Global” or the
7 “Company” or “Global Parent”). The Company has extensive service territories throughout western
8 Maricopa and Pinal counties.¹ Combined, the Global Utilities provide service to approximately
9 68,000 people across 41,000 connections.²

10 Current rates for the Global Utilities were approved between eight and twelve years ago.³ In
11 this case, the Company seeks significant rate increases for the Global Utilities that range from a low
12 of 33.8% for Santa Cruz to a high of 261.4% for WUGT.⁴ In order to moderate the significant rate
13 increase for some of the systems, in particular WUGT, the Company proposes a limited consolidation
14 of the western Maricopa County systems of WUGT, Town Division, and Buckeye.⁵ Further, the
15 Company proposes to phase in rates for Palo Verde over four years.⁶

16 The stated reason for the significant rate increases is that, in the passage of time since the
17 various rates were established for the Global Utilities, there has been the addition of substantial
18 amounts of new infrastructure.⁷ Simultaneously, changes in the economy have affected the Global
19 Utilities significantly.⁸ Owing to these issues, the Global Utilities claim that they are currently
20 earning between a negative 10.01% rate of return on rate base (WUGT, Town Division, and Buckeye
21 combined) to a positive 4.35% for Santa Cruz.⁹

22
23
24 ¹ Ex. A-7 at 2:15-17.

² *Id.* at 2:18-19.

³ The present rates were established as follows: Palo Verde/Santa Cruz – Decision No. 61943 (Sept. 17, 1999); Town
25 Division – Decision No. 60832 (May 11, 1998); Buckeye – Decision No. 60386 (Aug. 29, 1997); WUGT – Decision
26 No. 62092 (Nov. 19, 1999); Willow Valley – Decision No. 63612 (April 27, 2001).

⁴ Ex. A-7 at 7:16-26.

⁵ *Id.* at 9:1-3.

⁶ *Id.* at 10:4-7.

⁷ *Id.* at 11:8-14.

⁸ *Id.*

⁹ *Id.* at 14:15-19.

1 In addition, perhaps the most significant issue of this rate application relates to the fees that
2 the Company has collected for the Infrastructure Coordination and Financing Agreements (“ICFA”).
3 In order to deal with a variety of issues, including covering acquisition premiums for purchasing
4 troubled water utilities, covering carrying costs on the extensive infrastructure put into service by the
5 Global Utilities in recent years, and paying for the tax liability of the LLC members in the Global
6 Utilities’ parent, the Company collected these fees from developers.¹⁰

7 Ultimately, the Company is seeking a rate increase of \$15,293,379 or 75.69 percent over the
8 Company’s adjusted test year revenue of \$20,204,441 for a total revenue requirement of
9 \$35,497,820.¹¹ If granted, this results in operating income of \$10,110,168 or an 8.42 percent rate of
10 return on its proposed original cost rate base of \$120,023,674.¹²

11 In contrast, Staff is recommending a rate increase of \$9,731,194 over Staff’s adjusted test year
12 revenues of \$20,204,441 for a total revenue requirement of \$29,935,635.¹³ Staff’s recommended
13 revenue requirement results in a total operating income of \$8,406,595, or an 8.78 percent rate of
14 return on Staff’s adjusted original cost rate base of \$95,703,864.¹⁴ Staff’s recommended rate increase
15 is \$5,562,185 less than the Company’s.

16 The principal basis for the gulf between the Staff and Company positions relates to the issue
17 of how to treat the ICFAs for ratemaking purposes. Staff’s recommendation is to treat the ICFAs as
18 contributions in aid of construction (“CIAC”). In contrast, Global proposes to treat the ICFA
19 proceeds as revenue to Global Utilities’ parent. Staff’s recommendation necessitates reducing rate
20 base to account for ICFAs as contributed capital and consequently reduces the revenue requirement.
21 The Company’s proposal maintains the rate base and increases the proportion of equity in the
22 Company’s capital structure, thereby increasing the overall revenue requirement. It is Staff’s position
23 that these agreements create CIAC by another name.

24
25
26 ¹⁰ *Id.* at 29:5-30:4.

¹¹ *See* Ex. A-23 attached Schedule A-1 (Palo Verde, Santa Cruz, Town Division, Buckeye, WUGT, and Willow Creek).

27 ¹² *Id.*

¹³ Ex. S-7 at 2:16-19.

28 ¹⁴ Ex. S-7 at 3:5-6; attached Schedule CSB-1 (Palo Verde, Santa Cruz, Town Division, Buckeye, WUGT, and Willow Creek).

1 The Company and Staff are in agreement regarding a number of rate of return issues. For
2 example, Staff and the Company are recommending the use of the actual capital structure for both
3 Palo Verde (55% equity and 45% debt) and Santa Cruz (56% equity and 44% debt). However with
4 regard to Town Division and Willow Valley, Staff is recommending a hypothetical capital structure of
5 60% equity and 40% debt. The Company, on the other hand, is proposing a composite capital
6 structure of 62.11% equity and 37.89% debt. For Buckeye, Staff is recommending an adjusted capital
7 structure of 54.9% debt and 45.1% equity, and the Company is recommending a composite capital
8 structure.

9 The Company and Staff agreed to use a stipulated 10% cost of equity rather than expend the
10 resources necessary to develop what is often the most contentious part of an ordinary rate case. Both
11 Staff and the Company believe that 10% is a reasonable number and more importantly is a number
12 that approximates what has been recommended and adopted by the Commission in other recent rate
13 cases. There is also some agreement between the Company and Staff regarding the cost of debt.
14 However, for WUGT Staff is recommending a 10% operating margin rather than a cost of capital
15 methodology due to a negative rate base for this system as a result of Staff's ICFA recommendation.

16 The Company requests a number of pass-through and adjustor mechanisms in this case.
17 Specifically, the Company is seeking a renewable energy adjustor mechanism, permission to pass
18 through CAGR fees when it does not currently pay these fees, a property tax adjustor mechanism,
19 and permission to pass through fees paid pursuant to the Memorandum of Understanding that Global
20 has entered into with the cities of Casa Grande and Maricopa. Staff is recommending against
21 approval of any of these in this case.

22 Regarding rate design, the Company is seeking to implement a six-tier inverted block rate
23 design. Staff is recommending a three-tier rate design, but has also provided a four-tier design for the
24 Commission's consideration. The Company is also seeking approval for a volumetric rebate. Staff is
25 recommending against approval of the Company's proposed rate structure because it presents
26 opportunities for confusion that may defeat the purpose of inverted tier rate structures. Furthermore
27 in conjunction with the volumetric rebate, it affords the Company with a significant possibility to
28 over earn. Therefore, Staff recommends a more modest transition from a single tier to a three-tier

1 rate structure at this time with no volumetric rebate. The Company is also seeking to consolidate
2 rates in the west valley as a measure to reduce the rate impact of the requested increase. Staff is
3 recommending against consolidation in this case because Staff's proposal to treat ICFA fees as CIAC
4 would result in inequitable subsidization of a large system by a much smaller system if the two
5 systems were consolidated.

6 Finally, the Company is seeking approval of some rather unique tariffs. These include a water
7 theft tariff and a lock/security tab cutting charge. Staff does not believe they are necessary, and also
8 believes that they present some problems in their application.

9 **II. REVENUE REQUIREMENT.**

10 Currently, the combined adjusted test year revenues for all of the Global utilities participating
11 in this rate application are \$20,204,441.¹⁵ The Company proposes a \$15,293,379 increase in total
12 revenue for an overall revenue requirement of \$35,497,820.¹⁶ Staff proposes a \$9,731,194 increase in
13 total revenue for an overall revenue requirement of \$29,935,635.¹⁷ Despite the difference in
14 proposed revenue requirements, there are relatively few disagreements between the Company and
15 Staff with regard to adjustments that would affect the revenue requirement.¹⁸ The principal reason
16 for the large difference between the Staff and Company proposed revenue requirements stems from
17 the differing positions on how to treat ICFA fees.¹⁹

18 **A. Operating Income and Expense Adjustments.**

19 Although the Company and Staff initially had a number of adjustments to operating income in
20 dispute, by the time of hearing substantially all of the issues were resolved between the parties.²⁰
21 There are two areas that remain in contention. The Company proposes to utilize a property tax
22 adjuster mechanism. Also, there is apparently continuing disagreement with regard to bad debt
23 expense.

24
25
26 ¹⁵ Ex. S-6 at 7:11-12.

¹⁶ Ex. A-23 attached Schedules A-1.

27 ¹⁷ Ex. S-7 at 2:19.

¹⁸ Tr. at 617:5-8.

28 ¹⁹ Tr. at 624:8-16.

²⁰ Tr. at 617:5-8; Ex. S-7 at 7-10.

1 The Company points to increasing amounts paid for property taxes as a basis for requesting a
2 mechanism to deal with fluctuations in property taxes more rapidly than awaiting new rate
3 applications.²¹ Initially, the Company requested a pass-through mechanism for property taxes.²²
4 Later, the Company revised its request for an adjustor mechanism.²³

5 Staff believes that either mechanism would be inappropriate and as such recommends using a
6 property tax adjustment to operating income instead.²⁴ As Staff explained, pass-through mechanisms
7 are used for items that are known and measurable, easily calculated, or based on only a single factor,
8 such as sales or revenue.²⁵ The Company's property taxes would not satisfy this criteria as the
9 revenue input is an estimate and is clearly not known and measurable, because the gross revenue is
10 only one variable in the property tax calculation.²⁶

11 Alternatively, an adjustor mechanism would be inappropriate as well. As Staff witness
12 Crystal Brown explained, "An adjustor is generally used when a particular expense represents a
13 significantly large percentage of total operating expenses and is highly volatile and out of the
14 Companies' control."²⁷ Under the present circumstances, the property taxes "range from 2.7% to
15 6.4% of the operating expenses" according to the Company.²⁸ Staff does not believe the amount of
16 property tax is so significant as to justify an adjustor mechanism.²⁹ Nor is the property tax
17 fluctuating to a degree that it would be considered volatile.³⁰ Rather, the property tax rate has
18 actually been decreasing in recent years.³¹ As such, Staff believes that an adjustor mechanism would
19 be unnecessary under the circumstances.

20 With respect to bad-debt expense, Staff recommends using the actual bad-debt expense as
21 determined by examining the Company's bad-debt write-offs.³² In response, the Company modified
22

23 ²¹ Ex. A-22 at 8:23-9:1.

24 ²² Ex. A-21 at 20-23.

25 ²³ Ex. A-22 at 8.

26 ²⁴ Ex. S-6 at 25:7-27:4; Ex. S-7 at 10:10-13.

27 ²⁵ Ex. S-6 at 25:20-26:1.

28 ²⁶ *Id.* at 26:2-7.

29 ²⁷ *Id.* at 26:14-16.

30 ²⁸ Ex. A-22 at 8:25-26.

31 ²⁹ Ex. S-6 at 26:16-17.

32 ³⁰ *Id.* at 26:17-21.

³¹ Tr. at 626:22-24, 635:16-636:5.

³² Ex. S-6 at 23:11-24:5.

1 its recommendation to use actual bad-debt expense.³³ However, at hearing it became clear that the
2 Company's modification is not identical to Staff's recommendation.³⁴ Rather, the Company is
3 apparently insisting on using the NARUC definitions provided under the Uniform System of
4 Accounts produced in 1996 for Class A water and wastewater utilities. These USOA definitions
5 distinguish bad-debt expense as an estimate from actual bad-debt expense as demonstrated through
6 write-offs.³⁵ Staff continues to recommend a bad-debt expense based on actual uncollectible
7 accounts receivable, i.e., as demonstrated by bad-debt write-offs, as opposed to bad-debt expense
8 based on estimates as advocated by Global.

9 **B. Rate Base.**

10 As part of its rate case application, the Company did not perform a reconstruction cost new
11 study.³⁶ Instead, the Company proposes to use the original cost rate bases for the individual utilities
12 as fair value rate bases.³⁷ The Company proposed test year rate bases were \$63,637,830 for Palo
13 Verde³⁸, \$45,260,919 for Santa Cruz³⁹, \$2,251,164 for Willow Valley⁴⁰, \$4,240,018 for the Valencia
14 Water Company - Town Division⁴¹, \$929,057 for the Valencia Water Company - Greater Buckeye
15 Division⁴², and \$2,598,259 for Water Utility of Greater Tonopah⁴³.

16 Staff proposed rate base adjustments for only three systems, Palo Verde, Santa Cruz, and
17 Tonopah. In each case, the adjustment was to increase the amount of contributions in aid of
18 construction present in the respective utility's Rate Base to reflect Staff's position that the fees
19 collected through the various ICFA's should be treated as contributions. Consequently, Staff increased
20 gross CIAC by \$10,991,128 for the Palo Verde system, \$6,600,076 for the Santa Cruz system, and
21 \$9,022,750 for the Tonopah system.⁴⁴ In Surrebuttal, Staff noted that it misread two of the ICFA

22 _____
23 ³³ Ex. A-22 at 7:15-22.

³⁴ Tr. at 633:6-634:13.

³⁵ Ex. A-41 at page 65, paragraph 143 and page 144, paragraph 670; Ex. A-42 at page 68, paragraph 143 and page 144, paragraph 770.

³⁶ Ex. S-6 at 13:1-6.

³⁷ See e.g. Ex. A-1 at 3:14-15.

³⁸ Ex. A-1, attached Schedule A-1.

³⁹ Ex. A-2, attached Schedule A-1.

⁴⁰ Ex. A-6, attached Schedule A-1.

⁴¹ Ex. A-3, attached Schedule A-1.

⁴² Ex. A-4, attached Schedule A-1.

⁴³ Ex. A-5, attached Schedule A-1.

⁴⁴ Ex. S-7, attached Schedules CSB-3 and CSB-4 (Palo Verde, Santa Cruz, and WUGT).

1 contracts as applying only to WUGT when they actually applied both to WUGT and Hassayampa
2 Utility Company. As such, Staff further modified its gross CIAC adjustment for WUGT from
3 \$9,022,750 to \$7,085,645.⁴⁵

4 To account for the additional CIAC present within the Rate Bases for each of the systems,
5 Staff likewise increased the level of amortization for the CIAC balances for these systems. Staff
6 increased the amortization for Palo Verde by \$667,381; for Santa Cruz by \$494,849; and for Tonopah
7 by \$301,236. As a result, Staff's final rate base adjustments for the three systems were \$(10,323,747)
8 for Palo Verde, \$(6,105,227) for Santa Cruz, and \$(6,784,409) for Tonopah. Staff's final rate base
9 recommendation for the Palo Verde system is \$53,314,083.⁴⁶ For the Santa Cruz system, Staff
10 recommends \$39,155,692.⁴⁷ In the case of the WUGT, Staff recommends a negative rate base of
11 \$(4,186,150).⁴⁸

13 III. COST OF CAPITAL.

14 A. Capital Structure.

15 Staff recommends that the following capital structures be used in determining the rate of
16 return for Global Utilities:

17 Palo Verde Utilities

18 Long-term Debt 45.3%

19 Equity 54.7%

20 Santa Cruz Water Company

21 Long-term Debt 43.9%

22 Equity 56.1%

23 Willow Valley Water Company

24 Long-term Debt 40%

25 Equity 60%

26 Valencia-Town

27 Long-term Debt 40%

28 Equity 60%

29 Valencia-Buckeye

30 Long-term Debt 54.9%

31 Equity 45.1%⁴⁹

32 ⁴⁵ Ex. S-11 at 22:16:21, attached Exhibit LAJ-2 Surrebuttal; Ex. S-7 at 5:13-15.

33 ⁴⁶ Ex. S-7 at attached Schedule CSB-3 (Palo Verde).

34 ⁴⁷ *Id.* at attached Schedule CSB-3 (Santa Cruz).

35 ⁴⁸ *Id.* at attached Schedule CSB-3 (WUGT).

36 ⁴⁹ Ex. S-10 at 23 and Exhibit LAJ-3.

1 Because Staff determined that WUGT has a negative rate base, Staff recommends that an
2 operating margin of 10 percent be used in determining revenue requirement.⁵⁰ However, as Ms.
3 Jaress noted, "If the Commission decides to consolidate the three West Valley utilities for ratemaking
4 purposes, the revenue requirement for all three should be determined by operating margin."⁵¹

5 Global Utilities and Staff are in agreement with the capital structures for Palo Verde Utilities
6 and Santa Cruz Water Company. As Ms. Jaress explains:

7 According to the application and to the annual reports to the ACC, the capital
8 structures of Palo Verde and Santa Cruz at the end of the test year were both 100
9 percent equity. However, for purposes of the rate filing the Global Utilities imputed
10 the Global Parent's bond debt to Palo Verde and Santa Cruz. The imputed revenue
11 bonds were issued by Pima County Industrial Development Authority ("IDA") to the
12 Global Parent specifically for the purpose of building water and sewer infrastructure
and were allocated by the Global Utilities for rate-making purposes to Santa Cruz and
Palo Verde based upon the relative value of the capital improvement projects to be
financed by the bonds.

13 Staff concludes that the bonds were issued specifically for the benefit of the Utilities
14 and absent the existence of the Utilities would not have been issued at all. The
15 addition of the bonds to the Palo Verde and Santa Cruz capital structures also results in
16 more reasonable and more balanced capital structures than the reported 100 percent
17 equity capital structures. Although the proposed equity ratios are still somewhat
18 higher than those of other Arizona and national utilities, the resulting capital structures
are within the range Staff concludes is reasonable for a water utility that has access to
the capital markets through its affiliates. Thus, Staff recommends approval of the
Global requested structures for Palo Verde . . . and Santa Cruz⁵²

19 Global Utilities recommend a composite capital structure for the remaining utilities (except
20 WUGT) of 37.89 percent debt and 62.11 percent equity.⁵³ The Company's recommended capital
21 structure is as follows:

22 Palo Verde Utilities
Long-term Debt 45.3%
Equity 54.7%
23 Santa Cruz Water Company
Long-term Debt 43.9%
Equity 56.1%
24 Willow Valley Water Company
Long-term Debt 37.89%
Equity 62.11%

27 ⁵⁰ Ex. S-10 at 23:16-23 and Exhibit LAJ-4.

28 ⁵¹ Ex. S-10 at 23:25-26.

⁵² Ex. S-10 at 26:8-26.

⁵³ Ex. A-13 at 40:8-16.

1 WUGT

2 Long-term Debt 37.89%

3 Equity 62.11%

4 Valencia-Buckeye

5 Long-term Debt 37.89%

6 Equity 62.11%

7 Valencia-Town

8 Long-term Debt 37.89%

9 Equity 62.11%⁵⁴

10 The Company's recommended capital structure for Willow Valley should be rejected because
11 60 percent is the maximum percentage of equity that Staff considers reasonable for a for-profit water
12 utility such as Global Utilities or Willow Valley.⁵⁵ Staff recommends a capital structure of 40 percent
13 debt and 60 percent equity.⁵⁶ Similar to Willow Valley, Staff believes that the Company proposed
14 capital structure for Valencia-Town is inappropriate because it is beyond Staff's recommendations for
15 a reasonable capital structure.⁵⁷ Therefore, Staff continues to recommend a capital structure for
16 Valencia-Town of 40 percent debt and 60 percent equity. Staff also continues to recommend a capital
17 structure for Valencia-Buckeye of 54.9 percent debt and 45.1 percent equity adjusted for the
18 \$1,830,068 acquisition premium.⁵⁸

19 RUCO recommends a composite capital structure for all of the utilities (except WUGT) of
20 37.89 percent debt and 62.11 percent capital.⁵⁹ Regarding WUGT, RUCO recommends that an
21 operating margin of 8.03 percent be used to determine revenue requirement.⁶⁰ The capital structure
22 proposed by RUCO and agreed to by the Company should be rejected in favor of Staff's
23 recommended capital structures. RUCO developed its composite capital structure prior to its
24 decision to treat the ICFAs as CIAC.⁶¹ As Mr. Rigsby stated, it is possible that the composite capital
25 structure would be different if determined after the decision to treat the ICFAs as CIAC.⁶²

26 ⁵⁴ Ex. R-6 at 5:8-13, A-13 at 40:4-6.

27 ⁵⁵ Ex. S-10 at 27:19-24.

28 ⁵⁶ Ex. S-10 at 27:19-24.

29 ⁵⁷ Ex. S-10 at 28:1-9.

30 ⁵⁸ Ex. S-10 at 28:7-9.

31 ⁵⁹ Ex. R-6 at 5.

32 ⁶⁰ R-7 at 17:8-12.

33 ⁶¹ Tr. at 591-593.

34 ⁶² Tr. at 593:11-24.

1 **B. Cost of Debt.**

2 Staff recommends the following costs of debt for the utilities in agreement with the
3 Company's original cost of debt recommendations:

- 4 Palo Verde Utilities – 6.3%
- 5 Santa Cruz Water – 6.6%
- 6 Willow Valley Water – 5.5%
- 7 Valencia Town – 6.7%
- 8 Valencia Buckeye – 6.6%
- 9 WUGT – (10% operating margin)⁶³

10 RUCO recommends a cost of debt of 6.45 percent for all utilities except WUGT, for which
11 RUCO recommends an operating margin of 8.03 percent.

12 The Company now recommends the following costs of debt:

- 13 Palo Verde Utilities – 6.64%
- 14 Santa Cruz Water – 6.64%
- 15 Willow Valley Water – 6.45%
- 16 Valencia Town – 6.45%
- 17 Valencia Buckeye – 6.45%
- 18 WUGT – 6.45%⁶⁴

19 The Commission should adopt Staff's recommended costs of debt because Staff's
20 determinations were based upon the actual costs of debt for each individual utility, recognizing the
21 specific financing and cost of financing, thus reducing cross-utility subsidization.⁶⁵

22 **C. Cost of Equity.**

23 Staff recommends a 10 percent return on common equity for Global Utilities.⁶⁶ RUCO
24 recommends a 9 percent return on equity.⁶⁷ Staff and Global Utilities were able to stipulate to a 10
25 percent cost of equity in order to minimize disputed issues and reduce Company rate case expense by
26 relying on the cost of equity developed in the recent Arizona-American rate case, Black Mountain
27 Sewer rate case, and Arizona Water Company rate case.⁶⁸ Furthermore, as noted by Global Utilities
28 witness Rowell and Staff witness Jaress, the methodology used by Staff in the previous rate cases to

26 ⁶³ Ex. S-10 Executive Summary and Exhibit LAJ-3.
27 ⁶⁴ Ex. A-13 at 41:10-16; Ex. A-12 at 31:4.
28 ⁶⁵ Ex. S-11 at 21:13-16.
⁶⁶ Ex. S-10, Executive Summary.
⁶⁷ Ex. R-7 at 20:4.
⁶⁸ Tr. at 322:3-323:17; Ex. A-16; Ex. A-17; Ex. A-18; Ex. A-19.

1 determine an appropriate return on equity is the same methodology the Staff would have used to
2 determine the return on equity in this case.⁶⁹

3 RUCO argues that the Commission should adopt its 9 percent cost of equity recommendation
4 because “RUCO is the only party in this case that actually conducted a full cost of equity analysis.”⁷⁰
5 However, just as Staff and the Company did in this case, RUCO also based its cost of equity analysis
6 on the cost of equity analyses it conducted in recent rate cases.⁷¹ Staff’s cost of equity
7 recommendation of 10 percent is the result of sound methodology and analysis and should be adopted
8 by the Commission.

9 **IV. ENGINEERING.**

10 **A. Staff’s Summary of Engineering Recommendations.**

11 Below is a summary of Staff’s recommendations related to the engineering analysis:

12 **Valencia Water Company – Greater Buckeye Division**

- 13 1. Although Staff initially in direct testimony recommended that the Company be
14 ordered to install additional water storage capacity to this system, the
15 Company subsequently provided Staff evidence of a nearby standby well with
16 a production capacity of 300 gpm that is available and connected to the
17 existing storage tanks.⁷² Therefore, Staff determined that adequate production
18 and storage capacity exists in the Sun Valley Water System, and recommends
19 that the Valencia Water Company – Greater Buckeye Division be required to
20 report this stand-by well in future Annual Reports.⁷³
- 21 2. Staff recommends the annual water testing expense of \$3,774 reported by
22 Valencia Greater Buckeye be used for purposes of this application.
- 23 3. Staff recommends that within 90 days of a Decision in this matter Valencia
24 Greater Buckeye file with Docket Control, as a compliance item in this docket,
25 a detailed plan demonstrating how the Sun Valley/Sweetwater I, PWS #07-
26 195, and Sweetwater II, PWS #07-129 will reduce its water loss to less than 10
27 percent. If Valencia Greater Buckeye finds that reduction of water loss to less
28 than 10 percent is not cost-effective, Valencia Greater Buckeye should submit,
within 90 days of a Decision in this matter, a detailed cost analysis and
explanation demonstrating why water loss reduction to less than 10 percent is
not cost-effective. In any event water loss shall not exceed 15 percent.
4. Staff recommends that Valencia Greater Buckeye use the depreciation rates
delineated in Table B of Exhibit JWL-1.
5. Staff recommends that the meter and service line installation charges listed
under “Staff’s Recommendation” in Table C of Exhibit JWL-1 be adopted
along with the adoption of an installation charge of “At Cost” for meter sizes
of 8-inch and larger.

⁶⁹ Tr. at 414:21-415:20 and 757:9-15.

⁷⁰ Ex. R-7 at 21:17-21.

⁷¹ Tr. at 587-589.

⁷² Ex. S-5 at 1:10-16.

⁷³ Ex. S-5 at 1:23-2:2.

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Water Utility of Greater Tonopah

1. Staff recommends that WUGT install a storage tank with a minimum storage capacity of 3,750 gallons for Roseview (PWS # 07-082) within one year of the effective date of the order in this proceeding. Staff further recommends that WUGT file, as a compliance item in this docket, within one year of the effective date of the order in this proceeding, a copy of the Approval of Construction (AOC) issued by ADEQ or MCESD for this storage addition.
2. Staff recommends that within 90 days of a Decision in this matter WUGT file with Docket Control, as a compliance item in this docket, a detailed plan demonstrating how the Garden City (PWS #07-037), West Phoenix Estates (“WPE”) #1, WPE #6 (PWS #07-733), Tufta (PWS #07-617), Buckeye Ranch (PWS #07-618), and Dixie (PWS #07-030) water systems will reduce their water loss to less than 10 percent. If WUGT finds that reduction of water loss to less than 10 percent is not cost-effective in a system, WUGT should submit, within 90 days of a Decision in this matter, a detailed cost analysis and explanation for each system demonstrating why water loss reduction to less than 10 percent is not cost-effective. In any event water loss shall not exceed 15 percent.
3. Staff recommends the annual water testing expense of \$11,006 reported by WUGT be used for purposes of this application.
4. Staff recommends that WUGT use the depreciation rates delineated in Table B of Exhibit JWL-2.
5. Staff recommends that the meter and service line installation charges listed in “Staff’s Recommendation” in Table C of Exhibit JWL-2 be adopted along with the adoption of an installation charge of “At Cost” for meter sizes of 8-inch and larger.

Valencia Water Company – Town Division

1. Staff recommends that Valencia-Town use Staff’s depreciation rates by individual National Association of Regulatory Utility Commissioners category as delineated in Table B of Exhibit JWL-3.
2. Staff recommends the annual water testing expense of \$33,729 reported by Valencia-Town be used for purposes of this application.
3. Staff recommends that the meter and service line installation charges listed under “Staff’s Recommendation” in Table C of Exhibit JWL-3 be adopted along with the adoption of an installation charge of “At Cost” for meter sizes of 8-inch and larger.

Santa Cruz Water Company

1. Staff recommends that Santa Cruz use Staff’s depreciation rates by individual National Association of Regulatory Utility Commissioners category as delineated in Table B of Exhibit JWL-4.
2. Staff recommends the annual water testing expense of \$36,113 reported by Santa Cruz be used for purposes of this application.
3. Staff recommends that the charges listed under “Staff’s Recommendation” in Table C of Exhibit JWL-4 be adopted along with the adoption of an installation charge of “At Cost” for meter sizes of 8-inch and larger.

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Willow Valley Water

1. Staff recommends that within 90 days of a Decision in this matter Willow Valley file with Docket Control, as a compliance item in this docket, a detailed plan demonstrating how Willow Valley will reduce its water loss for King Street, PWS #08-040, and Lake Cimarron, PWS #08-129 to less than 10 percent. If Willow Valley finds that reduction of water loss to less than 10 percent is not cost-effective, Willow Valley should submit, within 90 days of a Decision in this matter, a detailed cost analysis and explanation demonstrating why water loss reduction to less than 10 percent is not cost-effective. In any event water loss shall not exceed 15 percent.
2. Staff recommends the annual water testing expense of \$5,401 reported by Willow Valley be used for purposes of this application.
3. Staff recommends that Willow Valley use the depreciation rates delineated in Table B of Exhibit JWL-5.
4. Staff recommends that the meter and service line installation charges listed in "Staff's Recommendation" in Table C of Exhibit JWL-5 be adopted along with the adoption of an installation charge of "At Cost" for meter sizes of 8-inch and larger.

Palo Verde Utilities Company

1. It is recommended that Palo Verde use depreciation rates by individual NARUC category as presented in Table G-1 of Exhibit JWL-6.
2. Staff recommends the annual testing expense of \$99,923 reported by Palo Verde be used for purposes of this application.⁷⁴

B. Water Loss.

The Company did not oppose Staff's recommendation that the Company be ordered to reduce water loss to less than 10 percent (if cost effective) or 15 percent if reducing water loss to less than 10 percent is not cost effective.⁷⁵ In rebuttal testimony, Mr. Symmonds discussed the Gallons Per Hour Per Mile Per Inch ("GPHMI") and Unavoidable Annual Real Losses ("UARL") methodologies used for measuring water loss.⁷⁶ However, as noted by Mr. Liu, "neither the [UARL] nor the [GPHMI] methods apply to any of the systems in this case that are experiencing excessive water loss."⁷⁷ Acceptable water loss levels should not be determined based on distribution system length and diameter.⁷⁸ Staff continues to recommend that the Utilities be ordered to reduce water loss to less than 10 percent, or 15 percent if not cost effective.⁷⁹

⁷⁴ Ex. S-4 at 3:21-10:27.
⁷⁵ Tr. at 529:2-530:7; Ex. A-25 at 23:20-21.
⁷⁶ Ex. A-25 at 25:22-24.
⁷⁷ Ex. S-5 at 2:9-11.
⁷⁸ Tr. at 613:9-24.
⁷⁹ Ex. S-5 at 2:12-15.

1 **V. RATE DESIGN.**

2 Global proposes to implement several novel rate design measures in this case. The Company
3 requests conversion of all of the systems that are subject to the present application to a six tier rate
4 structure.⁸⁰ Another prominent feature of the Company's novel rate design proposal is the use of a
5 volumetric rebate that is intended to financially incent customers to actively conserve.⁸¹ Global also
6 made a recommendation for limited consolidation of utility systems so as to ameliorate potential rate
7 shock issues.⁸² The Company proposed a phase-in of the requested rate increase over a four-year
8 period.⁸³ Finally, Global requests the implementation of various new tariff fees and charges.⁸⁴

9 Staff supports the Company's proposal to phase-in the requested rate increase. Likewise,
10 Staff recommends instituting an inverted tier rate structure. However, Staff's rate structure would
11 have three tiers rather than six. Although Staff recommends using three tiers, Staff also developed a
12 four-tier rate structure for the Commission's consideration should it determine that more than three
13 tiers are appropriate. Staff also disputes the appropriateness of the volumetric rebate. Because of
14 Staff's position with regard to ICFA fees and the implications of that position concerning the degree
15 by which various companies' rates will increase, Staff recommends against the consolidation
16 proposed by the Company. Staff also has a number of disputes with the Company regarding the
17 many new tariff charges it is requesting.

18 **A. Three-Tier Rate Structure.**

19 Presently, none of the Global utilities participating in this rate application uses three-tier rate
20 structures for residential meters. Two systems, Santa Cruz and Valencia – Town Division, actually
21 use single-tier rates.⁸⁵ The Willow Creek, Valencia-Buckeye, and Tonopah systems have only two-
22 tiered rate designs.⁸⁶ Against that context, implementation of a three-tier rate structure would be a
23 significant change in rate design for the customers of all of the Global Utilities in this rate case.

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26 ⁸⁰ See e.g., Exhibit A-1 at 3:7-13.

27 ⁸¹ *Id.*

28 ⁸² *Id.* at 3:20-22.

⁸³ *Id.* at 2:12-14.

⁸⁴ Exhibit A-24 at 56-69.

⁸⁵ Ex. S-9 attached Schedules DRE-3 (Santa Cruz) and DRE-13 (Valencia-Town); Tr. at 707:22-24.

⁸⁶ Ex. S-9 attached Schedules DRE-8 (Willow Creek), DRE-18 (Valencia-Buckeye), and DRE-23 (Tonopah).

1 Staff would offer that there is no ideal number of tiers in an inverted tier rate design. “Both a
2 three-tier and a six-tier rate design can provide incentives for consumers to conserve if the proper
3 price cues are established and communicated effectively.”⁸⁷ As such, Staff does not have a
4 fundamental disagreement with the Company regarding the number of tiers that it proposes.⁸⁸

5 However, Staff is concerned that converting customers who have little to no prior experience
6 with using any tiers is an opportunity for confusion that may undermine the efficient commodity
7 usage goals that inverted tier rate structures exist to promote. “Staff has recommended a three-tier
8 system because it believes that this rate structure is most appropriate in these cases. Staff believes it
9 is essential that a customer be able to understand how his bill is calculated in order for the customer
10 to enact effective conservation practices.”⁸⁹ For that reason, Staff recommends a more modest
11 immediate conversion to three tiers and would recommend deferring implementation of more tiers
12 until a future rate case when the Company’s customers have had an opportunity to educate
13 themselves on how inverted multi-tier rate designs function so that they can make efficient choices.

14 In response, the Company agreed that the consumer should understand the rate structure but
15 suggests that Staff overestimates the degree of confusion that the ordinary ratepayer will experience.
16 Likewise, Global argues that gradual implementation of rate design mechanisms that benefit
17 consumers is a disservice.

18 Incremental changes sometimes occur too gradually – the result is that their potential
19 benefits are diluted. We recognize the benefit of gradualism when it applies to items
20 such as phased-in rates and changes in policy. When there is a direct consumer benefit
– especially if it is financial – then gradualism does the customer a disservice.⁹⁰

21 The difficulty with the Company’s position is that it does not address the ratepayer confusion
22 that arises when implementing the significant conversion from a flat-rate structure to a tiered-rate
23 structure.⁹¹ In concert with the introduction of a tiered rate structure, Global also proposes use of a
24 volumetric rebate to incent conservation behavior among consumers. As the Company notes,
25 however, substantial segments of the utilities’ customers will already satisfy the requirements to

26 _____
⁸⁷ Ex. S-9 at 9:15-17.

27 ⁸⁸ Tr. at 707.

28 ⁸⁹ Ex. S-9 at 9:17-20.

⁹⁰ Ex. A-26 at 12:7-11.

⁹¹ Tr. at 707.

1 obtain the rebate.⁹² In these circumstances, it will be difficult for customers to understand how the
2 rebate and the implementation of a multi-tiered rate structure may be combined to secure financial
3 benefits.

4 For the reasons explained above, Staff recommends adopting a three-tier rate structure rather
5 than six tiers. However, should the Commission determine that circumstances warrant using a
6 different number of tiers, Staff developed an alternative four-tiered rate structure that can be used.
7 Staff's preferred alternative remains the more gradual implementation of a three-tiered rate structure.

8 **B. Volumetric Rebate.**

9 In conjunction with using a tiered-rate structure to encourage water conservation by
10 ratepayers, the Company also proposes a volumetric rebate.⁹³ The purpose of the rebate is to
11 financially incent customers who actively conserve. However, it is important to note that a large
12 number of customers already satisfy the criteria to obtain the rebate.⁹⁴

13 The rebate functions by establishing a consumption threshold. Customers with usage below
14 the threshold would receive a reduction to their volumetric charge that varies between 45-65 percent,
15 depending on the particular utility.⁹⁵ For the purposes of this application, the threshold was set at 90
16 percent of the average residential consumption for a period between November 2007 and October
17 2008.⁹⁶ In future rate cases, the threshold may be further adjusted.⁹⁷

18 Staff has concerns with regard to the rebate mechanism and the potential that this novel rate
19 design device could cause the Company to substantially over or under earn. Significantly, the
20 anticipated payout of rebates is included in the proposed revenue requirement, thereby making it
21 possible for the Company to exceed its revenue requirement under certain circumstances. As Staff
22 explained, under conditions where customer water usage may increase due to abnormal weather
23 variations, such as unanticipated droughts, it is conceivable that fewer people will meet the rebate
24 threshold than were anticipated for purposes of designing the rate. In that circumstance, customers
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26 ⁹² Ex. A-24 at 47:16-18.

27 ⁹³ See e.g., Ex. A-1 at 3:7-13.

28 ⁹⁴ *Id.*; Ex. A-24 at 47:16-18.

⁹⁵ Ex. A-24 at 37:4-7.

⁹⁶ *Id.* at 37:8-10.

⁹⁷ *Id.* at 37:13-15.

1 would provide revenues exceeding the revenue requirement because of the drop off in rebate
2 payments.⁹⁸ As witness Darak Eaddy explained on behalf of Staff, considering the present economic
3 conditions facing ratepayers, affording additional opportunities for the utility to over-earn is not
4 appropriate.

5 Once again, given the size of this rate impact that we are asking customers to take on
6 at this time and the economic conditions of many of the customers, Global's
7 customers, any aspect of rate design that would potentially cause rates to be higher --
8 the adopted rate to be higher than what is actually needed to recover the revenue
9 requirement I think is probably not prudent.⁹⁹

10 Staff acknowledges that there is also a potential that the Company could under-earn due to the
11 rebate mechanism.¹⁰⁰ Likewise, the Company recognizes the risk presented by the possibility that
12 more ratepayers than anticipated actually achieve the conservation goals necessary to obtain the
13 rebate.¹⁰¹ Rather than concede that the rebate mechanism introduces unnecessary complexity and
14 difficulties to the task of developing a rate design, the Company instead introduces a solution by way
15 of revenue decoupling for a problem that need not exist.¹⁰² The need to input additional remedial
16 mechanisms to rehabilitate cumbersome and confusing rate design illustrates that the volumetric
17 rebate is unduly complicated and should be rejected. Rather, "rates that provide an incentive to
18 practice conservation but also produce the Global Companies' revenue requirement with minimal
19 adjustments and in a concise manner are most appropriate."¹⁰³

20 **C. Monthly Minimums.**

21 Perhaps in anticipation of Staff's misgivings regarding the potential for the rebate mechanism
22 to permit the Company to over or under earn, the Company has also proposed increasing monthly
23 minimums within the rate structure so as to make its revenues more consistent. As Global notes, the
24 potential that all customers could change their consumption habits so as to achieve the rebate is
25 unlikely.¹⁰⁴ However, the Company suggests that this prompts a need for revenue decoupling rather

26 ⁹⁸ Ex. S-9 at 5:18-23.

27 ⁹⁹ Tr. at 709:15-21.

28 ¹⁰⁰ Tr. at 709:13-14.

¹⁰¹ Ex. A-24 at 48:21-26.

¹⁰² *Id.*

¹⁰³ Ex. S-9 at 5:23-25.

¹⁰⁴ Ex. A-24 at 48:22.

1 than further demonstrating the inappropriateness of the rebate.¹⁰⁵ The Company would implement
2 the decoupling by “allowing for the recovery of fixed costs with a bias toward the monthly minimum
3 charges...”¹⁰⁶

4 As explained above, Staff opposes the volumetric rebate and the additional rate design efforts
5 that are necessary to alleviate one of its deficiencies related to potential under earning. This
6 demonstrates that the proposal is cumbersome and overly complex. As the Company concedes, the
7 remedy runs counter to the conservation interests it exists to promote.¹⁰⁷ To the extent that Staff does
8 not support the rebate, Staff also does not support additional rate design mechanisms intended to
9 ameliorate its potential shortcomings. Staff would note that it does agree with the Company that a
10 movement toward greater recovery through monthly minimums might provide a utility with greater
11 flexibility to offer conservation incentives due to increased revenue certainty.¹⁰⁸

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13 However, Staff believes this increased flexibility for the Company decreases the
14 customers’ flexibility and control over their rates and usage. Staff believes it has
15 derived an appropriate portion of revenues from the monthly minimum to promote
conservation efforts by the Company while allowing the customers to maintain some
control over their bill.¹⁰⁹

16 For that reason, Staff recommends adoption of its proposed monthly minimums.

17 **D. Consolidation.**

18 Due to the larger rate base and revenue requirement for the WUGT system that the Company
19 proposes, Global also recommended consolidating the WUGT system with the Valencia-Town and
20 Valencia-Buckeye systems to spread the increase across a larger ratepayer base.¹¹⁰ Staff’s proposed
21 CIAC treatment for ICFA fees would result in WUGT having a negative rate base and a reduction to
22 its revenue requirement by \$23,144 or approximately 8.93 percent.¹¹¹ A consequence of Staff’s ICFA
23 recommendation is that, in the event of consolidation between these three utilities, WUGT would
24 experience a 45.72 percent increase and would effectively be subsidizing the Valencia-Town

25 ¹⁰⁵ *Id.* at 48:22-23.

26 ¹⁰⁶ *Id.* at 39:11-12.

27 ¹⁰⁷ *See e.g.*, Ex. A-24 at 39:12-14 (noting that movement toward full cost recovery through monthly minimums removes
the incentive to conserve).

28 ¹⁰⁸ Ex. S-9 at 8:17-19.

¹⁰⁹ *Id.* at 8:20-24.

¹¹⁰ Ex. A-12 at 3.

¹¹¹ Ex. S-6 at 29:6-7, attached Schedule CSB-1 (WUGT).

1 system.¹¹² Furthermore, as the five thousand customer Valencia-Town system is far larger than the
2 approximately 350 customer WUGT system, the decrease to the Valencia-Town system from such
3 subsidization would be less than two percent, from 47.38 percent to 45.72 percent level.¹¹³

4 Staff recognizes that all consolidation necessarily involves some cross-subsidization and that
5 subsidization can be desirable in certain circumstances, particularly where creation of a large system
6 can more broadly spread the rate impacts of a large increase.¹¹⁴ In the present circumstances, should
7 Staff's recommendation regarding CIAC treatment for ICFA fees be adopted, consolidation would
8 result in a small utility bearing a substantial portion of the rate increase burden with little benefit to
9 the larger utility.¹¹⁵ Therefore, Staff recommends against consolidation at this time.

10 **E. Miscellaneous Fees and Charges.**

11 Global has proposed the institution of a number of modifications to its fees and charges.
12 Global seeks a source control tariff to deal with the introduction of pollutants into its wastewater
13 treatment works that interfere with its operations.¹¹⁶ Further, to discourage unauthorized discharges
14 into sewers, the Company requests an unauthorized discharge fee.¹¹⁷

15 The Company also requests approval of a number of measures in response to water theft
16 issues. Global proposes a water theft tariff to apply against parties responsible for water theft.¹¹⁸
17 Similarly, the Company requests the imposition of a lock/security tab cutting charge to dissuade
18 disconnected customers from cutting security locks to reestablish water delivery.¹¹⁹ The Company
19 also requests a hydrant meter deposit charge due to experience with lost equipment.¹²⁰

20 Finally, the Company requests various other modifications to its existing tariffs. The
21 Company proposes a meter exchange tariff.¹²¹ The Company requests a change to the amount of
22 interest to apply toward customer deposits.¹²² Also Global requests several modifications to its

23 _____
24 ¹¹² Ex. S-6 at 29:10-12.

¹¹³ *Id.* at 29:12-15.

¹¹⁴ *Id.* at 29:20-30:1.

¹¹⁵ *Id.* at 30:2-4.

¹¹⁶ Ex. A-24 at 60-64.

¹¹⁷ *Id.* at 65.

¹¹⁸ *Id.* at 57-58.

¹¹⁹ *Id.* at 58-59.

¹²⁰ *Id.* at 58.

¹²¹ Ex. A-24 at 56-57.

¹²² *Id.* at 66-67; Ex. A-26 at 22.

1 service charges, including establishment fees, after hours fees, reconnect fees and Non-Sufficient
2 Funds (NSF) fees.¹²³

3 Staff has reviewed the requested charges and in some instances agrees with the Company's
4 requests and disagrees in other instances. After reviewing the Company's request for tariffs related to
5 preventing unauthorized discharges of contaminants into its sewer system, Staff agrees that the
6 requested source control tariff and discharge fees are appropriate.¹²⁴ With regard to existing service
7 charges, there was substantial agreement between the Company and Staff.¹²⁵ Likewise, the Company
8 agreed with Staff's proposed modifications to its meter exchange fee and the hydrant meter deposit
9 charge.¹²⁶

10 Staff continues to disagree with the Company's proposals for a water theft charge and a
11 lock/security tab cutting charge.¹²⁷ Arizona Administrative Code Rule R14-2-407(B)(4) provides that
12 "[e]ach customer shall be responsible for payment for any equipment damage resulting from
13 unauthorized breaking of seals, interfering, tampering or bypassing the utility meter." The Company
14 contends that Staff's position is non-responsive, as the responsible parties are typically no longer
15 customers of the Company.¹²⁸ Staff would point out that, if the perpetrators are not customers of the
16 utility, then the Company has recourse with the relevant law enforcement entities. Likewise, the
17 Company acknowledges this avenue but discounts it as prohibitive.¹²⁹ However, the Company has
18 provided no authority for the proposition that the Commission can create what are essentially fines
19 for the criminal conduct of what the Company acknowledges are non-ratepayers. Staff recommends
20 against approving the water theft and lock/security tab cutting charges because the relevant rule
21 already exists in the form of A.A.C. R14-2-407(B)(4).

22 Finally, Staff continues to disagree with the Company's proposals regarding customer deposit
23 interest, including its final proposal to use the one year Certificate of Deposit (CD) rate as the interest
24 rate to apply to customer deposits at the time they are made. Staff believes that the methodology

25 _____
123 Ex. A-24 at 68-69.

124 Tr. at 489:3, 714:14-715:1; Ex. S-9 at 12:1-2.

125 Tr. at 488:24-489:1.

126 Tr. at 489:2.

127 Ex. S-9 at 11.

128 See e.g., Ex. A-26 at 19:23-20:5, 21:10-15.

129 Ex. A-24 at 57:13-18.

1 suggested by the Company would be unduly cumbersome and create additional work for the utility.¹³⁰
2 Likewise, Staff believes that over a long period of time the 6 percent interest rate fairly approximates
3 a reasonable interest rate.¹³¹ Therefore, Staff recommends against adopting the modifications that the
4 Company proposes.

5 VI. INFRASTRUCTURE COORDINATION AND FINANCING AGREEMENTS.

6 The biggest issue in this case is the treatment of the fees that the Company collected pursuant
7 to the Infrastructure Coordination and Financing Agreements (“ICFAs”) that it entered with
8 developers. The Company acknowledges that “[t]his case is about the ICFAs and what they have
9 allowed Global Water to achieve¹³² Ultimately, it is the Company’s contention that the ICFAs
10 are a fundamental tool for achieving total water management.¹³³ It is Staff’s contention that ICFAs
11 are a source of cost-free capital. The question that the Commission must answer in this case is: “How
12 should it treat the fees that the Company has received from these agreements?”¹³⁴ In order to answer
13 this question it is important to understand what these agreements are and what the Company has
14 actually accomplished using the fees from the agreements. How the Commission ultimately decides
15 to treat the ICFAs in this case will have far reaching implications for **all** Arizona public service
16 corporations (not just water).

17 A. What Are ICFAs?

18 Prior to answering the ultimate question on this issue, it is important to understand or at least
19 attempt to understand ICFAs. According to the Company, at the most basic level an ICFA is a
20 “voluntary contract between Global Water Resources L.L.C. (“Global Parent”) and a landowner.”¹³⁵
21 The Company asserts that under the ICFA contracts, Global Parent coordinates the planning,
22 financing and construction of off-site water, wastewater and recycled water plant.¹³⁶ Under the
23 ICFAs, Global Parent is responsible for funding both the planning and construction of water,
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25 _____
¹³⁰ Ex. S-9 at 12:9-10.

26 ¹³¹ *Id.* at 12:7-9.

27 ¹³² Ex. A-8 at 5.

28 ¹³³ Tr. at 39.

¹³⁴ Tr. at 24.

¹³⁵ Ex. A-7 at 31.

¹³⁶ Ex. A-7 at 31.

1 wastewater and recycled water plant.¹³⁷ The Global Utilities will own and operate this plant when
2 construction is complete.¹³⁸ The Company asserts that the landowners who enter into ICFAAs agree to
3 cooperate with Global Parent's plant planning and conservation process, and that the ICFAAs formalize
4 the cooperation and also provide fees that allow Global Parent to impress conservation and
5 consolidation into regional planning initiatives.¹³⁹ The Company claims the fees are intended to
6 recover a portion of the carrying costs for the facilities required to implement effective water
7 conservation and, in some cases, fund Global Parent's acquisition of existing utilities.¹⁴⁰

8 The ICFAAs are an instrument that the Company created around 2003 when the members first
9 formed Global Water.¹⁴¹ Since then, the Company has entered into 157 ICFAAs with developers.¹⁴²
10 The Company asserts the rationale for the ICFAAs was as an alternative or compliment to construction
11 in aid of contribution ("CIAC") and advances in aid of construction ("AIAC").¹⁴³ It is, apparently,
12 the Company's contention that it designed the ICFAAs to advance the cause of Total Water
13 Management.¹⁴⁴ According to the Company, Total Water Management is the stewardship of water
14 through its life cycle to bring sustainability to an emerging community.¹⁴⁵ Staff does not take issue
15 with the Company's Total Water Management program but, as discussed below, Staff believes the
16 Company can accomplish its goals through traditional regulatory means.

17 There are a number of undisputed facts regarding the ICFAAs. Global Parent enters into the
18 non-refundable ICFAAs with developers.¹⁴⁶ Therefore by their very nature the fees from the ICFAAs are
19 non-investor supplied. The Company agrees that the ICFAAs coordinate the following services:

- 20 • Coordination of construction services for water and wastewater treatment facilities.
- 21 • Financing for the provision of infrastructure in advance of, and with no guarantee of
22 customer connections.
- 23 • Arranging and coordinating the provision of utility services to the property.

24 ¹³⁷ *Id.*

25 ¹³⁸ *Id.*

26 ¹³⁹ *Id.*

27 ¹⁴⁰ *Id.*

28 ¹⁴¹ Tr. at 112.

¹⁴² Tr. at 65.

¹⁴³ Tr. at 112.

¹⁴⁴ Tr. at 112.

¹⁴⁵ Tr. at 117.

¹⁴⁶ *Id.*, Ex. S-10 at 4.

- 1 • Obtaining “will serve” letters for the provision of utility service to the property.
- 2 • Including the landowner’s property in an expanded CC&N.
- 3 • Obtaining all necessary regulatory permits and approvals.
- 4 • Executing line and main extension agreements with developers.
- 5 • Developing master utility plans.

6 Staff asserts, and the Company agrees, that regulated utilities provide some of these
7 services.¹⁴⁷ The other undisputed aspect of the ICFA is that the fees paid by the developers to
8 Global Parent are nonrefundable.¹⁴⁸

9 To date, the Company has collected \$60,084,122 in fees pursuant to the ICFA.¹⁴⁹ The
10 Company has been depositing the ICFA fees in the same bank account as money provided by
11 investors, bond proceeds, and revenues from the utilities.¹⁵⁰ The problem with accounting for the
12 fees in this manner, and one that even the Company acknowledges, is that cash is fungible.¹⁵¹ The
13 end result is that there is no way of determining that the Company used the ICFA fees for the
14 acquisition of utilities and to cover carrying costs or whether they were in fact used to construct plant.
15 Even the Company admits that it should probably hold the ICFA funds in a separate account and that
16 it may do so in the future.¹⁵²

17 As previously mentioned, the Company claims the ICFA are voluntary between a developer
18 and Global Parent. However, the Company also indicates that it does not accept CIAC to finance
19 plant and that CIAC destroys utilities.¹⁵³ The other concern Staff has is that the Company was unable
20 to articulate the total dollar amount of the fees that it will ultimately collect from developers pursuant
21 to the 157 agreements it has entered thus far.¹⁵⁴ The Administrative Law Judge asked Company
22 witness Mr. Hill that if ICFA revenues go to the parent how could the Company use them to directly
23 fund plant?¹⁵⁵ It is Staff’s opinion that *everything* is done through Global Parent.

24 _____
25 ¹⁴⁷ Tr. at 125.

¹⁴⁸ Tr. at 161.

¹⁴⁹ Ex. A-9 at 18.

¹⁵⁰ Tr. at 152.

¹⁵¹ Tr. at 152.

¹⁵² Tr. at 153.

¹⁵³ Tr. at 139, 97.

¹⁵⁴ Tr. at 162.

¹⁵⁵ Tr. at 170.

1 In fact, the IDA bonds that the Company asserts funded the Southwest Plant were in the name
2 of the parent, and the proceeds were apparently placed in an account with cash from other sources.¹⁵⁶
3 The Company acknowledges that it conducts all of its financing at the parent level, and then infuses
4 the regulated utility with equity, and that the regulated utility then constructs the plant.¹⁵⁷ However,
5 the ICFA agreements indicate that Global Water Resources L.L.C. (Global Parent) provides services
6 or benefits to landowners directly or indirectly including construction services for water and
7 wastewater treatment facilities.¹⁵⁸ In addition, under the ICFA, Global Parent is obligated to
8 construct water and wastewater lines to the property line and reclaimed water lines to a storage
9 facility on the land.¹⁵⁹ In any case, it is Staff's contention that Global Parent would not be able to
10 execute the ICFA contracts absent the Global Parent/Global Utilities relationship, and that the ICFA
11 fees are an integral part of Utilities' financing of plant used to supply utility service to the
12 developers.¹⁶⁰

13 **B. The Company Has Presented a Moving Target.**

14 Throughout this case the Company has presented a moving target of what the ICFAs are and
15 how the Commission should treat them. In its direct filing, the Company asserted that the ICFAs
16 were revenue to Global Water Resources L.L.C. and that the Commission should not include them in
17 the rates of the Global Utilities. The Company then indicated in its rebuttal testimony that any ICFA
18 revenues in excess of offsets for tax liability, acquisition premiums associated with consolidation,
19 carrying costs associated with regionally scaled infrastructure, and parent level expenses not allocated
20 to the utilities *might* reasonably be considered CIAC.¹⁶¹ The Company also proposed an alternative
21 in its rebuttal. In the alternative, the Commission would consider the ICFAs to be CIAC unless the
22 Company can prove they used the ICFA fees to enhance the public interest by engaging in
23 acquisition, regional planning and being able to build large scale conservation; infusion of renewable
24 water supplies into service areas; and reclamation and reuse.¹⁶² Finally, during the hearing it appears

25 _____
26 ¹⁵⁶ Ex. A-9, Exhibit 3.

¹⁵⁷ Tr. at 165.

¹⁵⁸ Ex. S-1 and S-2 at page 1.

¹⁵⁹ Ex. S-1 at 3, S-2 at 2.

¹⁶⁰ Ex. S-10 at 11-12.

¹⁶¹ Ex. A-8 at 22.

¹⁶² Ex. A-8 at 27.

1 the Company changed its position even further indicating the Commission could consider the ICFA
2 fees to be CIAC unless the Company demonstrates it used the fees in the public interest.¹⁶³

3 **1. The Company initially claimed that the ICFAs are Revenue of Global**
4 **Parent.**

5 As mentioned above, the Company's initial position was that the ICFA fees were revenue to
6 Global Parent and that the Commission should not include them for determining rates of the Global
7 Utilities.¹⁶⁴ In its direct testimony, the Company claimed that it used the fees it collected from the
8 ICFAs to cover carrying costs and fund the acquisition of utilities.¹⁶⁵ However, absent from the direct
9 testimony is any documentation evidencing the fees were used for these purposes and not to,
10 ultimately, fund plant at the utility level.

11 It is important to remember that this is not the first time ICFAs have been addressed at the
12 Commission. In March 2006, the Commission opened generic docket W-00000C-06-0149 to address
13 the regulatory impacts from the use of non-traditional financing arrangements by water utilities and
14 their affiliates. While the Commission never issued a decision in that docket, Staff did file a
15 report.¹⁶⁶ In that report Staff indicated that "[i]f such costs are incurred at the parent level and
16 subsequently contributed to the regulated utility, the cost of such contributed capital should be
17 determined on a case by cases basis."¹⁶⁷ However, Staff ultimately recommended that the
18 Commission treat these costs as advances or contributions instead of equity, for ratemaking
19 purposes.¹⁶⁸ The Company was aware of Staff's position regarding the treatment of the ICFAs as
20 early as October 2006, when Staff filed that report. Nevertheless, the Company did not provide
21 substantive documentation, with direct testimony, that demonstrated how the company used the ICFA
22 fees.

23 **2. If ICFAs were used for Acquisitions and to cover carrying costs they**
24 **should still be treated as CIAC.**

26 ¹⁶³ Tr. at 150.

27 ¹⁶⁴ Ex. A-12 at 17.

27 ¹⁶⁵ Ex. A-12 at 8, 12.

27 ¹⁶⁶ Ex. A-38.

28 ¹⁶⁷ Ex. A-38 at 7.

28 ¹⁶⁸ *Id.*

1 Staff, in its direct testimony, just as in docket W-00000C-06-0149, recommended treating the
2 ICFA fees as contributions to the Global Utilities and removed from rate base.¹⁶⁹ In its rebuttal
3 testimony, the Company changed its position slightly regarding the treatment of ICFAs. Instead of
4 simply indicating that the ICFAs were revenues to Global Parent, it indicated:

5 . . . as long as the money is used for acquisitions (with no acquisition adjustment or
6 premium ever passed on to ratepayers), for financing the carrying costs of installation
7 of regional water reclamation and reuse infrastructure, and for offsetting 'used and
8 useful' issues (by never allowing unused plant into rate base for any company that
9 uses ICFAs), they are in the public interest.¹⁷⁰

10 The Company also asserts that the ICFA revenue available to use for these purposes is offset
11 by the tax liability generated by that revenue and parent level expenses.¹⁷¹ Staff addresses the issue
12 of tax liability and parent level expenses in another section. The Company asserts, in the event there
13 are any ICFA fees remaining after these offsets, that the Commission might reasonably consider the
14 remainder to be CIAC.¹⁷² Despite the Company's slight change in positions regarding the treatment
15 of the ICFA fees, it still failed to provide documentation to support its proposition that the ICFA fees
16 were used for those specific purposes.

17 The Company admits that it did not provide information showing, in any great detail, dollar
18 for dollar, that it used the fees received pursuant to the ICFAs for acquisitions and to cover carrying
19 costs until filing its rejoinder testimony.¹⁷³ In fact, the Company even provided what Staff believes is
20 new information during the course of the hearing in an attempt to demonstrate that the ICFA fees
21 were used to fund the acquisition of utilities and to cover carrying costs. However, the Company
22 acknowledges these documents only provide a few examples of how it used the ICFA fees.¹⁷⁴ This is
23 despite the fact that the Company knew Staff's position since 2006.

24 **3. ICFAs should not be treated as CIAC if they are found to be in the Public**
25 **Interest.**

26 During the hearing, the Company appeared to modify its position further by indicating the
27 ICFA fees could be CIAC unless the Company demonstrates its use of the ICFA fees were in the

28 ¹⁶⁹ Ex. S-10 at 12.

¹⁷⁰ Ex. A-8 at 19.

¹⁷¹ Ex. A-8 at 21-22.

¹⁷² Ex. A-8 at 22.

¹⁷³ Tr. at 151.

¹⁷⁴ Tr. at 129.

1 public interest.¹⁷⁵ Implicit in the Company's position is that the Commission has jurisdiction over the
2 ICFA agreements and that the Commission can dictate how the Company must treat the fees from the
3 ICFAs. In fact, the Company indicates in its rebuttal testimony that it ". . . never contended that
4 ICFAs are non-jurisdictional."¹⁷⁶ Staff takes this to mean that the Company acknowledges the
5 Commission has jurisdiction over the ICFAs.

6 The Company defines public interest as follows:

7 . . . assuring the long-term sustainability of water and wastewater companies in the
8 state, ensuring that objectives of sustainability, which . . . include renewable water and
9 renewable power and other things, . . . while at the same time ensuring that the
10 customers are well represented and their impacts on rates are mitigated to the extent
11 possible while ensuring those public policy objectives are maintained.¹⁷⁷

12 The Company's definition of public interest happens to be very similar to its concept of Total Water
13 Management. As indicated above, Staff does not take issue with the Company's Total Water
14 Management program and believes it is an ambitious program.¹⁷⁸ While the Commission will
15 ultimately decide what sort of treatment to afford the ICFAs, Staff does not believe that the
16 Company's Total Water Management program should be the basis for the Commission making that
17 decision. Staff asserts that many of the same goals and activities of Total Water Management can be
18 accomplished without a formal program and that the Company could use AIAC and CIAC to finance
19 the Company's program in place of ICFA fees.¹⁷⁹ Perhaps most telling is the total water management
20 paper that was co-authored by Trevor Hill and Graham Symmonds.¹⁸⁰ The Company acknowledges
21 that this paper describes its total water management program.¹⁸¹ It is also the Company's contention
22 that ICFAs are what has allowed it to accomplish total water management.¹⁸² Yet absent from the
23 total water management paper is any reference to ICFAs and that they are a necessary component for
24 achieving total water management.

25 ¹⁷⁵ Tr. at 46,150.

26 ¹⁷⁶ Ex. A-8 at 21.

27 ¹⁷⁷ Tr. at 90.

28 ¹⁷⁸ Ex. S-11 at 3.

¹⁷⁹ Ex. S-11 at 3.

¹⁸⁰ Ex. A-10 Total Water Management: Resource Conservation in the Face of Population Growth & Water Scarcity.

¹⁸¹ Tr. at 107.

¹⁸² Tr. at 119.

1 **C. ICFAs Are CIAC By Another Name.**

2 Ultimately, it is Staff's position that the ICFAs are contributions to Global Parent, and is
3 recommending that the Commission treat them as if they were CIAC.¹⁸³ **The Commission should**
4 **not confuse the Company's claimed ICFA fees accomplishments with the fact that the fees are**
5 **developer provided funds.**¹⁸⁴ The Company claims that it used the ICFA fees to pay for carrying
6 costs and for the acquisition of utilities, but acknowledges it cannot demonstrate it used the ICFA fees
7 only for that purpose.¹⁸⁵

8 In fact, the Company contradicts itself. In one moment the Company asserts that equity was
9 used to finance plant.¹⁸⁶ In the next moment, the Company asserts that it built plant, presumably the
10 Southwest Plant, with bond funds.¹⁸⁷ The point is, which the Company also recognizes, that cash is
11 fungible and the Company has simply deposited the ICFA fees in the same account as investor
12 proceeds and bond proceeds.¹⁸⁸ However, even if, for the sake of argument, the Commission agrees
13 that the Company has demonstrated the ICFA fees were used to fund the acquisition of water utilities
14 and to cover carrying costs and that none of the ICFA fees were used for utility plant, Staff's
15 recommendation remains unchanged. First, Staff believes the Company's attempted distinction
16 between constructing plant with developer funds, in order to provide service, and the acquisition of a
17 utility with developer funds, in order to provide service, is without merit. Second, Staff does not
18 believe there is a discrepancy or contradiction between using the ICFA fees directly to construct plant
19 and using the ICFA fees to pay the interest on the IDA bonds, which the Company claims were used
20 to pay for the Southwest Plant.¹⁸⁹ The result is the IDA bonds become a cost-free source of capital
21 for Global Parent. Ultimately, it is Staff's position that developer-provided funds should be treated as
22 CIAC regardless of how they are used.¹⁹⁰

23
24
25 ¹⁸³ The accounting implications of this treatment are addressed in the rate base section of this brief.

26 ¹⁸⁴ See generally Ex. S-1 and S-2.

27 ¹⁸⁵ Tr. at 172.

28 ¹⁸⁶ Tr. at 172.

¹⁸⁷ *Id.*

¹⁸⁸ Tr. at 152.

¹⁸⁹ Ex. A-9 at 18; Tr. at 885.

¹⁹⁰ Tr. at 810.

1 The basis for Staff's recommendation on the treatment of the IDA bonds is that regardless of
2 how the transaction is structured, the developer ultimately receives service from one of the Global
3 Utilities in return for paying the ICFA fees. It does not appear that the Company is disputing that if
4 the ICFAs are considered to be CIAC that Staff's recommendation is appropriate. The Company
5 acknowledges that CIAC is traditionally treated as a reduction to rate base because it is non-investor
6 supplied capital.¹⁹¹ This is the treatment that Staff is recommending.

7 **D. Staff's Treatment of the ICFAs Does Not Address Taxes and Parent Level**
8 **Expenses.**

9 The Company claims that Staff's recommended treatment of the ICFA fees is flawed, in part,
10 because it fails to take into account income tax liability and parent level expenses.¹⁹² However, the
11 Company's assertion is flawed. Global Parent is a limited liability company ("L.L.C."). L.L.C.'s are
12 non-taxable entities.¹⁹³ The income from Global Parent flows through to the members of the L.L.C.
13 and if those members do not have any offsets to that income, it will be taxable to the members.¹⁹⁴ In
14 this case, the members of Global Parent decided that the L.L.C. would make distributions to the
15 members in amounts sufficient to pay the income tax on the earnings of the L.L.C.¹⁹⁵ Staff does not
16 believe it is appropriate to acknowledge this tax liability for purposes of addressing the treatment of
17 the ICFAs for several reasons.

18 First, the members chose to have the L.L.C. make a tax distribution to cover their individual
19 tax liabilities.¹⁹⁶ Second, the members of Global Parent decided to have Global Parent account for
20 the ICFA fees received from developers as revenue to Global Parent and not as contributions to the
21 utilities.¹⁹⁷ It appears this decision caused the fees from the ICFAs to be taxable to the members.¹⁹⁸
22 Third, it is Staff's contention that the ICFA fees replace contributions and advances which are not
23 taxable to the utility and, therefore, taxes on the fees should not be recognized by the utilities.¹⁹⁹

24 _____
25 ¹⁹¹ Tr. at 88.

¹⁹² Ex. A-15 at 3, 6.

¹⁹³ Ex. S-11 at 4.

¹⁹⁴ *Id.*

¹⁹⁵ *Id.*

¹⁹⁶ *Id.*

¹⁹⁷ *Id.*

¹⁹⁸ *Id.*

¹⁹⁹ Ex. S-11 at 5.

1 Finally, the tax liability of investors, in this case, the members, is not part of the calculation of
2 revenue requirement.²⁰⁰

3 The Company also claims that Staff's recommendation fails to account for the expenses of
4 Global Parent.²⁰¹ In particular, the Company argues that Staff's recommendation removes all of the
5 ICFA fees from Global Parent revenues, and imputes them as CIAC, but effectively leaves all of the
6 expenses with Global Parent.²⁰² The Company gives the example of its public offering costs in
7 2008.²⁰³ The important fact to remember is that the ICFAs are not the only source of revenue for
8 Global Parent.²⁰⁴ Global Parent had operating revenues from its water and wastewater services as
9 well as other sources, beyond the ICFA revenues.²⁰⁵ The Company's assertion of what Staff's
10 recommendation does is not completely accurate. The Company ultimately has revenues from other
11 sources to pay parent level expenses, so the argument is without merit.

12 **E. The Company's Characterization of CIAC is Inaccurate.**

13 The Company argues that CIAC destroys utilities.²⁰⁶ However, the Company eventually
14 qualifies this statement indicating that it is the over-reliance on CIAC and AIAC that is detrimental to
15 a company's ability to finance itself.²⁰⁷ Staff agrees with the Company that an over-reliance on CIAC
16 and AIAC could create weak, undercapitalized utilities.²⁰⁸ However, CIAC and AIAC are important
17 components of utility capital structures; especially utilities who serve developers, and that CIAC and
18 AIAC, in reasonable balanced amounts, help create economical capital structures and can contribute
19 to reasonable rates.²⁰⁹

20 The Company asserts that CIAC policy puts infrastructure decisions into the hands of
21 homebuilders and puts system planning into the hands of accountants.²¹⁰ This is incorrect. Under a
22 CIAC scenario, a utility can either build the plant itself and accept cash contributions from
23

24 ²⁰⁰ *Id.*

²⁰¹ Ex. A-15 at 6.

²⁰² *Id.*

²⁰³ *Id.*

²⁰⁴ Tr. at 293.

²⁰⁵ Ex. S-3 at 5, Tr. at 294.

²⁰⁶ Ex. A-8 at 13.

²⁰⁷ Tr. at 97, 169.

²⁰⁸ Ex. S-11 at 7.

²⁰⁹ *Id.*

²¹⁰ Ex. A-8 at 14.

1 developers for the plant or the utility can require the developer to build the plant to the utility's
2 specifications and then contribute the plant to the utility.²¹¹

3 The Company also claims that the Commission's own rules prevent utilities from requiring
4 developers to fund the deployment of the infrastructure associated with achieving the Total Water
5 Management goals.²¹² Specifically, the Company contends that a traditional CIAC agreement
6 precludes plant that is used beyond the specific needs of the developer.²¹³ Further, the Company
7 asserts that the Commission's rules preclude any over sizing of regional infrastructure.²¹⁴ In
8 particular, the Company interprets A.A.C. R14-2-406(B)(2) as indicating developers cannot be
9 responsible for providing regionally scaled facilities. A.C.C. R14-2-406(B)(2) reads in part as
10 follows:

11 If the extension is to include over sizing of facilities to be done at the utility's expense,
12 appropriate details shall be set forth in the plans, specification, and cost estimates.

13 The Company is misinterpreting this rule. This rule simply indicates that *if* the main
14 extension is to include over sizing of facilities at the utility's expense then the utility shall include
15 those details in the plans, specification, and cost estimates. This merely means that the utility, in this
16 case Global, would only have to pay the incremental cost for over sizing the facilities. The Company
17 claims this “. . . indicates that developers cannot be responsible for providing regionally scaled
18 facilities.”²¹⁵ Ironically, this holds true under the ICFA methodology the Company is currently
19 utilizing. The difference is that through the use of CIAC, instead of ICFA's, at least a portion of the
20 risk remains with the developer in the event growth does not occur and the oversized facilities are not
21 necessary.²¹⁶ The other important fact to remember is that Staff, in this case, is not recommending
22 the disallowance of any of the Company's oversized infrastructure. Therefore, it is likely that if the
23 Company simply used CIAC to pay for growth that the incremental cost for over sizing would be
24 included in rate base and ultimately recovered through rates.

25
26 ²¹¹ Ex. S-11 at 7.

²¹² Ex. A-9 at 10.

27 ²¹³ Tr. at 131.

²¹⁴ Tr. at 131.

28 ²¹⁵ Ex. A-9 at 11.

²¹⁶ Tr. at 350.

1 The Company claims that the ICFAs have allowed it to wrest control of the construction of
2 infrastructure from developers.²¹⁷ It is Staff's belief that the ICFAs are an attempt by the Company to
3 wrest control of the accounting for contributions from the Commission by having it take place with
4 Global Parent. An important final consideration for the Commission is that if the Company's position
5 is adopted it will result in much higher rates compared to the rates that Staff is recommending in this
6 case.²¹⁸

7 **VII. MEMORANDA OF UNDERSTANDING.**

8 Global has signed Memoranda of Understanding ("MOU") to enter "operating/licensing
9 agreements" with the cities of Maricopa, Casa Grande, Eloy, and the Ak-Chin Indian Community that
10 it describes as Public Private Partnership agreements and a resource management agreement with the
11 Town of Buckeye.²¹⁹ According to the Company, these agreements provide for various benefits
12 including utility access to public street rights of way.²²⁰ To obtain these benefits, the Company makes
13 payments to the municipal and tribal authorities either as a set fee based on new hook-ups or based on
14 revenue.²²¹ Global seeks to recover the revenue-based fees through a pass through mechanism.²²²
15 However, Staff recommends denying the requested pass-through of these fees because they are not in
16 fact franchise fees.²²³

17 In support of its request, the Company describes the functions served by these MOUs as
18 "franchise-like" insofar as the fee payments are designed to compensate for obtaining the
19 utility's access to public rights of way.²²⁴ Likewise, the Company believes that a pass-through
20 mechanism is appropriate because the MOU fees are based on gross revenues in the same way as
21 sales taxes.²²⁵

22
23
24
25 ²¹⁷ Tr. at 229.

²¹⁸ Ex. S-10 at 10.

²¹⁹ Ex. A-7 at 25:11-17.

²²⁰ *Id.* at 24:27-25:9; Ex. A-21 at 24:4-13.

²²¹ Ex. A-7 at 25:19-23.

²²² Ex. A-21 at 25.

²²³ Tr. at 876:7-11.

²²⁴ Ex. A-7 at 25:21-23; Ex. A-21 at 25:18-24.

²²⁵ Ex. A-21 at 25:21-22.

1 Were the agreements bona fide franchise agreements, Staff would not object to the pass-
2 through of the fees paid pursuant to the agreements which are similar to franchise fees.²²⁶ Staff noted
3 that the pass through of certain taxes is already permitted pursuant to A.A.C. R14-2-409(D)(5).²²⁷
4 Likewise, utilities are generally allowed to recover franchise fees under the same rule.²²⁸ However,
5 there are a number of reasons that Staff does not believe that the MOU fees can be considered
6 franchise fees and as such a pass through of the fees would be inappropriate.

7 Despite the similarities, there are important distinctions between the operating agreements
8 from standard franchise agreements. Most obvious is the explicit acknowledgement that the
9 operating agreement is subject to replacement by a true franchise agreement. "...the City will
10 endeavor in good faith to promptly replace the operating/licensing agreement with a franchise
11 agreement..."²²⁹ Also, the operating agreements were not subject to voter approval whereas
12 franchise fees must be approved through an election.²³⁰ Moreover the MOU provides for holding a
13 franchise fee election, the deadline for which has lapsed without the election occurring.²³¹

14 There are aspects of how the operating agreement fees function that cause concern for Staff.
15 The fees that are proposed would apply to customers both within and outside of the city limits of the
16 relevant municipality but are located within Global's planning area.²³² Staff believes that it is
17 inappropriate to charge a pass through for a municipal fee to Global Utilities that are based on
18 revenues generated outside of the municipality. As Ms. Jaress explained on behalf of Staff, "It is
19 unfair for utility customers to pay fees which go to municipalities by which they are not governed."²³³

20 Additionally, the fee payment structure under the operating agreements provides for both a
21 percentage of revenue component as well as a hook up fee.²³⁴ Presently, the Global Utilities have not
22 requested recovery of the hook up fees.²³⁵ However, the obligation to pay the fees established under
23

24 ²²⁶ Ex. S-10 at 21:12-14.

25 ²²⁷ *Id.* at 21:14-21.

26 ²²⁸ *Id.*

27 ²²⁹ *See e.g.*, Ex. A-7 attached Exhibit Hill-7 (MOU with City of Maricopa) at page 4.

28 ²³⁰ Ex. S-10 at 19:16-19.

²³¹ *Id.* at 21:9-10; Ex. A-7 attached Exhibit Hill-7 (MOU with City of Maricopa) at page 5.

²³² Ex. S-10 at 19:7-12.

²³³ *Id.*

²³⁴ *Id.* at 18:17-25.

²³⁵ *Id.* at 18:28-29.

1 either the MOU or licensing agreements remains.²³⁶ These considerations illustrate the
2 inappropriateness of the MOU fees.

3
4 Staff is concerned that due to the poor financial health of the Global Parent, there may
5 be significant pressure to extract cash from the Global Utilities to pay the hook-up
6 fees. Staff is concerned that during a time of financial stress, the Global Parent is
using cash flow to pay an unnecessary fee when its utility subsidiaries may need those
funds.²³⁷

7 Further, the Company is requesting pass through treatment of the operating agreement fees,
8 just as would be appropriate for an actual franchise fee. As the language of the agreements makes
9 abundantly clear, the operating/licensing agreements are at best “franchise-like” and are not in fact
10 franchise fees.²³⁸ However, as the operating agreements are not franchise agreements, they were not
11 subject to voter approval.²³⁹ Consequently, the municipality needs only negotiate a different fee with
12 the Global Utilities to change the rate.²⁴⁰ The problem with giving pass-through recovery for a
13 franchise-like fee is that it confers on the municipality substantial freedom to change the fee while
14 removing the incentive for the Global Utilities “to negotiate aggressively for fees that are in the best
15 interest of utility customers.”²⁴¹

16 There is additional confusion as to how Global accounts for the expenses related to meeting
17 the Company’s MOU obligations insofar as it does not specifically track expenses incurred by “utility
18 personnel” in the normal course of their operations that fulfill MOU obligations.²⁴² Owing to the
19 organizational structure of the Company, there are no “utility personnel” at the Global Utilities.²⁴³

20 In response to Staff’s concerns, Global explains that even if the MOU fees are not franchise
21 fees they either bear sufficient similarity or provide substantial additional public interest benefits
22 that recovery from ratepayers is warranted. For example, the Company points to a vote by the
23 respective city councils as if those provide a suitable alternative to a vote by the populace.²⁴⁴

24
25 ²³⁶ *Id.* at 18:29-19:1.

26 ²³⁷ *Id.* at 19:2-5.

27 ²³⁸ Ex. A-7 attached Exhibit Hill-7 (MOU with City of Maricopa) at page 4.

28 ²³⁹ Ex. S-10 at 19:14-18.

²⁴⁰ *Id.* at 19:18-19.

²⁴¹ *Id.* at 19:18-21.

²⁴² *Id.* at 19:23-20:5.

²⁴³ *Id.*

²⁴⁴ *See e.g.* Ex. A-22 at 12:6-10.

1 Likewise, the Company argues that the MOUs advance the public interest in environmentally ethical
2 operation of water and wastewater utilities.²⁴⁵

3 Staff recommends against allowing the Company to recover the franchise-like MOU fees.
4 The fact of the matter is that the MOUs are not franchise fees that were voted on by the public.
5 Permitting such fees to be recovered through a pass-through mechanism risks allowing the
6 municipality to place its expenses into utility rates and also discourages complete disclosure of costs
7 on a ratepayer's utility bills.²⁴⁶ With respect to the additional environmental policy interests that are
8 advanced by the MOUs,

9 Staff believes that amounts which flow through to the ratepayers pursuant to
10 Commission rules and the Global Utilities' tariffs as franchise fees or franchise-like
11 fees should be the result of a franchise election. The nobility of the cause for Global
12 paying the fee should not be the determining factor for allowing pass-through
13 treatment.²⁴⁷

12 **VIII. CENTRAL ARIZONA GROUNDWATER REPLENISHMENT DISTRICT FEES.**

13 Global Utilities request for pass-through recovery of Central Arizona Groundwater
14 Replenishment District ("CAGR") fees should be denied because none of the Global Utilities are
15 currently being directly charged the CAGR fees, and it is unknown when the CAGR fees will
16 need to be paid, how much the fees will be, and which Utility's customers will need to pay the fee.

17 As background to the CAGR fees, before a developer can subdivide property, a subdivision
18 report must be obtained from the Arizona Department of Real Estate ("ADRE").²⁴⁸ For areas within
19 an Active Management Area ("AMA"), ADRE requires confirmation from the Arizona Department of
20 Water Resources ("ADWR") that sufficient water exists to serve the subdivision.²⁴⁹ If sufficient
21 water exists, the developer is issued a Certificate of Assured Water Supply ("CAWS").²⁵⁰ The seven
22 criteria for proving an assured water supply to ADWR are:

- 23 1. Physical availability of water for 100 years;
- 24 2. The water will be continuously available for 100 years;
- 25 3. The water is legally available for 100 years;
4. The water source meets water quality standards;

26 ²⁴⁵ Ex. A-8 at 30-31.

27 ²⁴⁶ Ex. S-11 at 17:21-26.

²⁴⁷ *Id.* at 9:19-22.

²⁴⁸ Ex. S-10 at 30:13-14.

²⁴⁹ Ex. S-10 at 30:14-17.

²⁵⁰ Ex. S-10 at 30:17-18.

- 1 5. The applicant is financially capable of installing the necessary water
- 2 distribution and treatment facilities;
- 3 6. The use of the water is consistent with AMA Management Goals; and
- 4 7. The use of the water is consistent with AMA Management Plans.²⁵¹

5 As another option to providing ADRE a CAWS, developers or landowners may provide
6 commitment to serve from a utility water provider holding a Designation of Assured Water Supply
7 (“DAWS”).²⁵² Water providers seeking to obtain a DAWS have to go through a similar process and
8 meet similar criteria to those required in obtaining a CAWS.²⁵³ However, to obtain a DAWS, the
9 Assured Water Supply must be shown for the entire utility service area (as opposed to just a
10 development).²⁵⁴ Santa Cruz is the only Global Utilities water company that has received a
11 DAWS.²⁵⁵ WUGT has filed an application for, but has not yet received, a DAWS.²⁵⁶

12 Ms. Jaress explains the purpose of the CAGR D:

13 The CAGR D was formed by the Arizona Legislature to provide a mechanism for
14 landowners and water providers to demonstrate the above criteria to obtain a CAWS.
15 The CAGR D is especially helpful to developers, landowners or water providers who
16 have no direct access to Central Arizona Project (“CAP”) water or other renewable
17 supplies. The CAGR D’s role is to “replenish” or recharge groundwater by the amount
18 of groundwater pumped or delivered to its members which exceeds the pumping
19 limitations resulting from the AMA Management Goals mentioned in Criterion 6.
20 Membership in the CAGR D by the developer (or the municipality or utility serving the
21 developer) is accepted by ADWR as proof of 100 year physical availability and that
22 the developer’s use of water is consistent with ADWR water management goals.²⁵⁷

23 Ms. Jaress explains how CAGR D assessments are determined:

24 Currently, the CAGR D determines the total cost to meet the replenishment obligations
25 in each AMA and divides that total by the number of acre-feet of replenishment
26 obligation. This process results in a replenishment rate that is charged against each
27 member based on the number of acre-feet of excess groundwater they deliver within
28 their service areas during a year (with various adjustments). Currently, in the
Maricopa AMA, the annual rate is \$318 per acre-foot which translates into almost one
dollar per 1,000 gallons.²⁵⁸

25 ²⁵¹ Ex. S-10 at 30:20-31:3.

26 ²⁵² Ex. S-10 at 31:17-21.

27 ²⁵³ Ex. S-10 at 32:1-4.

28 ²⁵⁴ Ex. S-10 at 32:2-4.

²⁵⁵ Ex. S-10 at 31:24.

²⁵⁶ Ex. S-10 at 31:24-25.

²⁵⁷ Ex. S-10 at 31:5-15.

²⁵⁸ Ex. S-10 at 33:24-34:2.

1 A utility CAGR member can reduce its payments by accumulating long-term storage credits by
2 participating in ADWR's water recharge program.²⁵⁹ Ms. Jaress explains the water recharge
3 program:

4 This program was established by the Arizona Legislature to encourage the use of
5 renewable water supplies. It provides a vehicle by which surplus supplies of water can
6 be stored underground and recovered at a later date. Persons who desire to store water
7 though the Recharge Program must receive appropriate permits from ADWR. The
type of permit received depends on the type of the storage facility, i.e. storage of water
or in-lieu water.

8 Under the Program, as water is stored and not withdrawn, long-term water storage
9 credits can be earned by the permit holder storing the water. These credits can be used
10 to establish an Assured Water Supply for a CAWS or DAWS necessary to acquire a
property report from ADRE.²⁶⁰

11 Ms. Jaress goes on to explain participation of the Global companies in the long-term water storage
12 credit program:

13 ADWR's Water Management Division published an Annual Status Report on the
14 Underground Water Storage, Savings and Replenishment Program for 2008. This
15 report lists the parties who participate in the program and the permits they have
16 received. A permit is required to operate a water storage facility, to store water and to
17 create a water storage account in which to accumulate water storage credits.
18 According to this report, during 2008, in the Phoenix AMA, WMC,²⁶¹ the intermediate
19 parent of the three west valley Utilities held permits for underground water storage
20 facilities. The Report indicates that WUGT, Valencia Water Company and Global
Water Santa Cruz held water storage permits, and WUGT, Water Utility of Greater
21 Buckeye (now, Valencia-Buckeye) and Valencia Water Company held permits for
22 wells to recover stored water. Also, the Report shows that only WUGT, Valencia
Water Company and WMC held long-term storage accounts.

23 In the Pinal AMA, underground storage facilities permits were held by Picacho Sewer
24 Company (a new Global utility not participating in this case), Global Water-Palo Verde
25 Utilities Co. and Global Water. Water storage permits were held by Santa Cruz Water
26 Company, Picacho Sewer Company, and Global Water.

27 WUGT and Valencia enter incentive recharge contracts with the CAP which give the
28 two utilities the right to withdraw a certain amount of "excess" water from the CAP
canal for the purpose of recharge. After the water has been stored for one year,
recharged, the Utilities earn water storage credits.²⁶²

²⁵⁹ Ex. S-10 at 34:8-10.

²⁶⁰ Ex. S-10 at 34:10-22.

²⁶¹ West Maricopa Combine.

²⁶² Ex. S-10 at 34:26-35:21.

1 On December 31, 2008, Global Utilities sold 2007 and 2008 long-term water storage credits
2 to Aqua Capital Management, LP (“Aqua Capital”) for \$3,392,263.²⁶³ However, the transfer
3 document lists the storage credits seller as WUGT and not Global Parent.²⁶⁴ Furthermore, the
4 Utilities have not received any compensation from the Global Parent for the sale, transfer, or use of
5 their water storage credits.²⁶⁵

6 Staff recommends the following to allow the benefits of the sale of storage credit sales to be
7 preserved for ratepayers:

8 Staff concludes that the Utilities should recognize (i.e. record) a regulatory liability
9 equal to the net sales proceeds. The Commission could then determine the appropriate
10 method for ratepayers to benefit from the regulatory liability in a future rate
11 proceeding. Staff also concludes that the Utilities should file, every year, as a
12 compliance filing in this docket, the revenue received by Global Parent or its
13 assignee(s) from the sale of water storage credits generated by each Utility during the
14 current year and for each prior year.²⁶⁶

12 Global argues that because “Incentive recharge CAP water is ordered by the utility, but paid for
13 directly by West Maricopa Combine – not the utility . . . the Utilities did not pay for the construction
14 of the facility . . . and do not pay for the recharge or storage of that water[.]”²⁶⁷ that the credits are
15 never owned by the ordering utility in whose name the credits are held.²⁶⁸ Thus the benefits from the
16 recharge facilities and water storage credits flow only to the Global Parent and are not shared with the
17 Utilities.²⁶⁹

18 Global Utilities request for pass-through recovery of Central Arizona Groundwater
19 Replenishment District (“CAGR D”) fees should be denied because no Global Utilities are currently
20 being directly charged the CAGR D fees, and it is unknown when the CAGR D fees will need to be
21 paid, how much the fees will be, which of utility customers will need to pay the fee. Additionally,
22 because the volume of excess ground water that will be pumped in 2010 is not known, the CAGR D
23 fees cannot be known with any degree of certainty.²⁷⁰ However, in the event that the Commission
24

25 ²⁶³ Ex. S-10 at 35:25-27.

26 ²⁶⁴ Ex. S-10 at 36:1-2.

27 ²⁶⁵ Ex. S-10 at 36:5-29.

28 ²⁶⁶ Ex. S-10 at 37:14-20.

²⁶⁷ Global Utilities Response to Staff Data Request LJ-7.7 (see Direct Testimony of Linda Jaress, Ex. S-10 at 36:10-23).

²⁶⁸ Ex. S-10 at 36:7-29.

²⁶⁹ Ex. S-10 at 37:1-5.

²⁷⁰ Tr. at 431:1-20 and 436:2-437:15.

1 determines that a mechanism should be in place for Global Utilities to recover future CAGR
2 assessments incurred by the Utilities, an adjustor mechanism, similar to that recommended by Staff in
3 the Johnson Utilities case (Docket No. WS-02987A-08-0180) be developed for Global Utilities
4 customers.

5 **IX. DISTRIBUTED ENERGY RECOVERY TARIFF.**

6 The Company's requested Distributed Renewable Energy Recovery Tariff should be denied
7 because (A) the Company is not required by law to generate renewable energy, (B) the Company has
8 not adequately shown that renewable energy generation will result in actual net savings to its
9 customers, and (C) renewable energy generation costs should be recovered through traditional rate
10 determination proceedings.

11 The Company has requested authorization to charge its customers a tariff or surcharge in a
12 similar manner to the Arsenic Cost Remediation Mechanism ("ACRM") to pay for the expenses and
13 costs of renewable energy plant construction.²⁷¹ As the Company explains,

14 After the utility completes construction on its renewable energy plant, it would file an
15 application detailing the cost of the plant, the technical specifications of the plant's
16 operational characteristics and capacities, and its related expenses. Through the
17 application, the utility would request recovery of a return on the plant, depreciation
18 expense and related expenses. As with the ACRM surcharge methodology, the
19 renewable energy surcharge would consist of a monthly minimum and commodity
20 surcharge component.²⁷²

21 Under the Company's proposal, renewable energy generation projects that would qualify as
22 renewable under the Commission's Renewable Energy Standard Tariff ("REST") rules would be
23 eligible for recovery under the Distributed Renewable Energy Recovery Tariff.²⁷³

24 **A. Global Utilities is not required to generate renewable energy.**

25 The REST rules do not apply to water utilities such as the Global Utilities.²⁷⁴ The REST
26 Rules require Arizona Public Service Company ("APS"), one of the electric utilities that services the
27 City of Maricopa, to ensure that a certain percentage of retail electricity sales come from renewable
28 sources and distributed renewable sources.²⁷⁵ The REST rules do not directly apply to Palo Verde or

271 Ex. A-21 at 9-13.

272 Ex. A-21 at 11:1-6.

273 Ex. A-21 at 11:8-12.

274 Ex. S-10 at 41:15-21; Ex. R-4 at 6:13-15.

275 Ex. S-10 at 41:15-21; *See also* A.A.C. R14-2-1801-1816.

1 Santa Cruz as these utilities are customers of Electrical District 3 (“ED3”), not APS.²⁷⁶ However,
2 some of Palo Verde and Santa Cruz’ customers are also customers of APS and are required to pay to
3 APS a monthly Renewable Energy Standard Adjustor of \$0.007937 per kWh, with monthly caps of
4 \$3.17 for residential customers, \$117.93 for non-residential customers and \$353.78 for non-
5 residential customers with demands of 3 MW or greater.²⁷⁷ In Docket No. E-01345A-08-0426, APS
6 is seeking to transfer assets to ED3 which may result in many Maricopa APS customers becoming
7 ED3 customers.²⁷⁸ In this docket, ED3 filed its Amended Renewable Energy Policy on October 2,
8 2009 committing to “helping its customers conserve energy and save money through the use of
9 energy-efficiency programs, the Renewable Energy Standard and Tariff rules . . . and the rules being
10 promulgated in the energy efficiency rulemaking docket now pending that the Commission.”²⁷⁹
11 Approximately \$570,600 in revenue per year could be collected from the residential customers of
12 Palo Verde alone through the APS Renewable Energy Standard Adjustor and a similar ED3 adjustor
13 to fund APS or ED3 renewable energy projects.²⁸⁰ Thus, it is likely that ED3’s customers in Global
14 Utilities service territories may be paying a renewable energy standard tariff to ED3 in the future as
15 well.

16 As Ms. Jaress notes, “Generally, adjustors and other automatic recovery mechanisms are used
17 to recover principal and interest on debt used for the costs of reaching government-mandated
18 standards such as arsenic treatment, or to recover costs that are disproportionately large, highly
19 variable and substantially out of the control of the utility such as fuel and purchased power
20 adjusters.”²⁸¹ Because the Company is not required to generate renewable energy and because many
21 of its customers are already paying APS a Renewable Energy Standard Adjustor in their monthly
22 electricity bill, the Company’s customers should not be required to pay an additional renewable
23 energy adjustor to their water provider as well.

24
25 ²⁷⁶ Ex. S-10 at 41:12-13 and 42:1-5.

26 ²⁷⁷ Ex. S-10 at 42. Also note that Commission Decision 71459 increased the APS monthly Renewable Energy Standard
Adjustor for 2010 to: \$0.008662 per kWh with monthly caps of \$3.46 for residential customers, \$128.70 for non-
residential customers and \$386.10 for non-residential customers with demands of 3 MW or greater.

27 ²⁷⁸ Ex. S-10 at 42:6-15.

28 ²⁷⁹ Ex. S-10 at 42:6-15; *See also* October 2, 2009 letter in Docket No. E-01345A-08-0426.

²⁸⁰ Ex. S-10 at 43:1-11.

²⁸¹ Ex. S-10 at 40:1-6.

1 **B. Global Utilities have not adequately demonstrated that the proposed renewable**
2 **energy generation will result in actual savings to ratepayers.**

3 Because the Company does not appear to have experience in the installation and operation of
4 renewable energy plant and renewable energy technology is still rapidly evolving, there is a great risk
5 that the renewable energy plants may be inefficient or result in imprudent costs.²⁸² The Company
6 seeks to transfer these risks directly to its ratepayers through the proposed Distributed Renewable
7 Energy Tariff.²⁸³ Additionally, the Company has not demonstrated that the costs of the solar facilities
8 will result in a net savings to its customers on an annual basis.²⁸⁴ As Ms. Jaress explains:

9 The brief example included in the Utilities' testimony sets forth an estimate of annual
10 electricity bill savings of approximately \$60,000 from a \$2.0 million investment in
11 solar. Thus according to the Utilities' plan, the ratepayers would be paying a return
on, and a return of Global's investment for at least 33 years before the savings on the
Utilities electricity bill would exceed the size of the investment.²⁸⁵

12 Furthermore, the Company has not indicated that the solar facility's lifespan will exceed 33 years.²⁸⁶

13 Through the requested Distributed Renewable Energy Tariff Global seeks to transfer all costs
14 and risks of its proposed renewable energy facilities to its customers, many of whom may also be
15 required to pay the APS or ED3 Distributed Renewable Energy Tariff.²⁸⁷ The Company's proposed
16 Distributed Renewable Energy Tariff should be rejected because it has not demonstrated that its
17 proposed renewable energy generation projects will result in savings to its customers.

18 **C. Renewable energy generation costs should be recovered through traditional rate**
19 **determination proceedings.**

20 State and federal tax credits, financed by taxpayers, are available to aid in the construction of
21 solar facilities in Arizona.²⁸⁸ Furthermore, the APS rebate which is made available through the
22 Distributed Renewable Energy Tariff, paid for by APS customers, and available income tax credits
23 should reduce or offset a large portion of the Company's proposed distributed renewable energy
24 projects in Maricopa.²⁸⁹ As Mr. Rigsby notes, "the overall impacts that the [renewable plant] devices

25 ²⁸² Ex. S-10 at 40:10-19.

26 ²⁸³ Ex. S-10 at 40:17-19.

27 ²⁸⁴ Ex. S-10 at 40:21-24.

28 ²⁸⁵ Ex. S-10 at 40:21-41:2.

²⁸⁶ Tr. at 442:2-15.

²⁸⁷ Ex. S-10 at 43:17-24.

²⁸⁸ Ex. S-10 at 43:13-15.

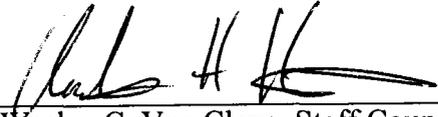
²⁸⁹ Ex. S-10 at 44:1-6; Tr. at 430:2-8.

1 may have on annual utility operation and maintenance costs, should be scrutinized in the context of a
2 full rate case proceeding as opposed to the limited type of analysis that would occur in an ACRM
3 filing²⁹⁰ Renewable plant costs should be fully analyzed in a rate case to allow for a
4 determination of whether such costs were prudently incurred, known and measurable, and used and
5 useful.²⁹¹ Nothing prevents the Company from seeking recovery of the actual and incurred costs and
6 expenses in a later rate case, and the Company should not be allowed to recover renewable generation
7 costs outside of a standard rate case proceeding.²⁹² The proposed Distributed Renewable Energy
8 Tariff should be rejected because (A) the Company is not required by law to generate renewable
9 energy, (B) The Company has not adequately shown that renewable energy generation will result in
10 actual net savings to its customers, and (C) any renewable energy generation costs should be
11 recovered through traditional rate determination proceedings.

12
13 **X. CONCLUSION.**

14 For the reasons discussed above Staff recommends the Commission adopt its position in this
15 case, and reject the positions of the Company and RUCO, to the extent they conflict with Staff's
16 recommendations.

17 RESPECTFULLY SUBMITTED this 5th day of February, 2010.

18
19 
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29 ²⁹⁰ Ex. R-4 at 6:17-21; See also Ex. R-4 at 11:18-12:11.

30 ²⁹¹ Ex. R-4 at 7:1-6.

31 ²⁹² Ex. S-10 at 44:8-11; Tr. at 438:14-23.

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