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BEFORE THE ARIZONA CORPORATION C

COMMISSIONERS

Arizona Corporation Commission

DOCKETED

MAR 17 2010

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

DOCKETED BY [Signature]

IN THE MATTER OF THE APPLICATION OF
EHRENBERG IMPROVEMENT ASSOCIATION
FOR A RATE INCREASE.

DOCKET NO. W-02273A-08-0251

DECISION NO. 71505

OPINION AND ORDER

DATE OF HEARING: August 24 and October 22, 2009
PLACE OF HEARING: Phoenix, Arizona
ADMINISTRATIVE LAW JUDGE: Sarah N. Harpring¹
APPEARANCES: Ms. Christina Balvanz, President, on behalf of Ehrenberg Improvement Association; and
Mr. Kevin Torrey, Staff Attorney, Legal Division, on behalf of the Utilities Division of the Arizona Corporation Commission.

BY THE COMMISSION:

This case involves an application for a permanent rate increase filed with the Arizona Corporation Commission ("Commission") by Ehrenberg Improvement Association ("EIA"), a non-profit corporation providing water utility service to approximately 300 customers in the town of Ehrenberg, in La Paz County. The Commission's Utilities Division ("Staff") has classified EIA as a Class C utility. EIA's current rates were approved in Decision No. 59852 (October 9, 1996). EIA's current application uses a 2007 test year ("TY").

* * * * *

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

¹ Administrative Law Judge Teena Wolfe presided over this matter from its inception until September 30, 2009.

FINDINGS OF FACT**Background**

1. EIA is a 501(c)(4) non-profit corporation providing water utility service to approximately 300 mostly residential customers in a 3,975-acre service area in the town of Ehrenberg, which is situated on the I-10, just east of the Arizona-California border, in La Paz County. The majority of EIA's customers are residential customers served by ¾" meters, with residential customers served by 1" meters being the next most prevalent class.²

2. EIA received its Certificate of Convenience and Necessity ("CC&N") in Decision No. 48702 (February 9, 1978). EIA's last permanent rate case was decided in Decision No. 59852 (October 9, 1996). EIA's current monthly minimum charges include 4,000 gallons of water. EIA charges a flat commodity rate of \$1.60 per thousand gallons for all usage in excess of 4,000 gallons per month. EIA does not currently have a separate construction water rate, although it provides water through hydrant meters primarily for construction purposes. (Ex. S-1.)

3. EIA governs its water utility through a Board. In 1997, there was an attempt to transfer operation of the water utility from the Board to the Ehrenberg Utilities Association ("EUA") by resolution. The legitimacy of the transfer resolution was questioned, resulting in a lawsuit and ultimately in an appellate decision. The Arizona Court of Appeals determined that the purported transfer of assets from EIA to EUA was ineffective and ordered EUA immediately to return to EIA all assets of the water utility held by EUA as a result of the attempted transfer. (*Ehrenberg Utilities Ass'n v. Ehrenberg Improvement Ass'n*, Memorandum Decision, Docket No. 1 CA-CV 01-0514 (Ariz. Ct. App. 2002).)³ The dispute also resulted in EIA's filing a complaint against EUA with the Commission, in Docket No. W-02273A-02-0344 ("complaint docket"). In the complaint docket, pursuant to two Procedural Orders, EUA was ordered to surrender to EIA all of the water utility's books and records for the period from January 1, 1997, through March 31, 2003, and the complaint was dismissed effective July 24, 2003.

² EIA's system does not currently serve 5/8" x ¾" meters.

³ EUA appealed the appellate decision to the Arizona Supreme Court, which denied EUA's petition, thus rendering the appellate decision final.

1 4. EIA's residential ¾" meter customers have average and median monthly consumption
2 of 10,781 gallons and 5,327 gallons, respectively.

3 5. EIA draws surface water directly from the Colorado River and does not draw any
4 ground water from wells. Its water system consists of a surface water intake system with total
5 pumping capacity of 640 gallons per minute, a water treatment system, two 600,000-gallon steel
6 storage tanks, and a distribution system equipped with 307 meters during the TY. During the TY,
7 EIA served 297 customers. Staff determined that EIA's water system has adequate pumping and
8 storage capacities to serve its present customer base and reasonable growth. (Tr. at 27-28.) Staff did
9 not identify any problems with EIA's system. (Tr. at 28-29.)

10 6. EIA is not located in an Arizona Department of Water Resources ("ADWR")
11 designated Active Management Area ("AMA"). ADWR has determined that EIA's System Water
12 Plan meets the objectives set forth in A.R.S. § 45-342 and that its water system is in compliance with
13 the reporting requirements of A.R.S. §§ 45-341 through 45-343. (Ex. A-2.)

14 7. The Arizona Department of Environmental Quality ("ADEQ") has determined that
15 EIA's water system has no major deficiencies and is currently delivering water that meets the water
16 quality standards of 40 C.F.R. Part 141 and 18 A.A.C. 4. (Ex. S-3.)

17 8. EIA is subject to mandatory participation in ADEQ's Monitoring Assistance Program
18 ("MAP"), which requires water companies to pay a fixed \$250 per year fee plus an additional fee of
19 \$2.57 per service connection in sampling fees.

20 9. During the TY, EIA pumped 150,058,000 gallons of water; sold 117,358,256 gallons
21 of water; and used 21,069,835 gallons of water for backwashing treatment equipment and line
22 flushing. This results in a water loss of 7.75 percent, which is within Commission standards.
23 Backwashing and line flushing, while not revenue-generating uses, are authorized uses and are not
24 considered to result in water loss. (Tr. at 32-33.)

25 10. EIA is in good standing with the Commission's Corporations Division. (Ex. A-1.)

26 11. The Utilities Division's Compliance Section database shows no delinquent compliance
27 items for EIA.

28 12. EIA has an approved Backflow Prevention Tariff on file with the Commission.

1 13. Staff's review of the Consumer Services Section database for the period from January
2 1, 2006, through June 8, 2009, revealed 33 opinions filed in opposition to a rate increase.⁴ (Ex. S-1.)
3 No complaints were filed against EIA during that time period. (*Id.*)

4 **Procedural History**

5 14. On May 15, 2008, EIA filed with the Commission an application using a TY ending
6 December 31, 2007, and requesting a rate increase of \$429,340, or approximately 164 percent, over
7 its unaudited reported TY total operating revenues of \$262,060. EIA showed operating income of
8 negative \$29,225 for the TY. With its application, EIA requested a waiver of the requirement to
9 submit a rate application for utilities with revenue greater than \$250,000; requested a waiver of the
10 requirement to submit records for the period of 1996 through 2002, the time during which the utility
11 was being run by EUA; and requested approval of a proposed Curtailment Plan Tariff, which was
12 submitted with the application. With its application, EIA also included a letter indicating that its
13 customers had been provided notice of the application by mail on May 14, 2008. The notice included
14 copies of the current and proposed rates, but stated that EIA was seeking an increase of only 2.45%
15 of total revenues. In its application, EIA provided myriad reasons for its requested rate increase,
16 including increased expenses since its last rate increase; the need to upgrade or replace equipment;
17 the need to obtain a well as an emergency source of water because the Colorado River water level
18 from December through February is low and risks damage to EIA's pumps; the need to update its
19 office equipment, including its software for billing and recordkeeping; the desire to provide cost of
20 living raises, medical benefits, and better salaries to its employees; and the need to upgrade its
21 system. EIA also stated that it expected to see growth in its service area in the next two years, from
22 three housing development projects and a truck stop, and that its ultimate goal is to form a water and
23 wastewater district.

24 15. On June 2 and 4, 2008, 12 sets of customer comments opposing the requested rate
25 increase were filed.⁵

27 ⁴ Approximately half of these must predate the application in this matter, as the docket herein contains only 17 sets of
28 customer comments altogether, some from the same individual.

⁵ At least two, and possibly 3, of the comments appear to have come from the same individual.

1 16. On June 12, 2008, EIA filed revisions to its application. With its revisions, EIA
2 included a revised copy of its customer notice, showing that it was requesting a revenue increase of
3 165 percent. EIA did not, however, include anything indicating that the revised notice had been sent
4 to its customers.

5 17. On June 12, 2008, one set of customer comments opposing the requested rate increase
6 was filed.

7 18. On June 16, 2008, Staff issued a Letter of Deficiency informing EIA that its
8 application had not met the sufficiency requirements of A.A.C. R14-2-103.

9 19. On June 17, 2008, three sets of customer comments opposing the rate increase were
10 filed.

11 20. On June 20, 2008, EIA again filed revisions to its application.

12 21. On July 2, 2008, one set of customer comments opposing the rate increase was filed.

13 22. On July 15, 2008, EIA filed responses to Staff's Letter of Deficiency, including
14 additional revisions to its application.

15 23. On August 11, 2008, EIA again filed revisions to its application along with additional
16 supporting documents requested by Staff.

17 24. On August 15, 2008, Staff completed a field inspection of EIA's water system and
18 issued a second Letter of Deficiency.

19 25. From September 29, 2008, through January 20, 2009, EIA six times filed revisions to
20 and/or supplementary information regarding its application. In its filing made on September 29,
21 2008, EIA reported TY salaries for Joseph Leach, Gus Alcala, and Edna Green, stating that the
22 reported TY salaries for Mr. Leach and Ms. Green do not reflect full annual wages because they had
23 both voluntarily cut their hours in June 2007 to save EIA money, with Mr. Leach's hours being
24 reduced by 30 hours per month and Ms. Green's hours being reduced by 40 hours per month.

25 26. On February 19, 2009, Staff issued a Letter of Sufficiency classifying EIA as a Class
26 C water system.

27 27. On February 24, 2009, a Procedural Order was issued scheduling a hearing in this
28 matter for August 31, 2009, and establishing other procedural requirements and deadlines.

1 28. On February 25, 2009, EIA filed a letter requesting that it not be required to file
2 testimony, as this is the first time EIA has been classified as a Class C utility, and it would be
3 burdensome to hire an attorney or have one of its two office employees compose the testimony.

4 29. On March 5, 2009, Staff filed a Motion to change the hearing date to a date between
5 August 5 and August 26, 2009, due to the unavailability of Staff's witnesses on the scheduled hearing
6 date.

7 30. On March 6, 2009, a Procedural Order was issued rescheduling the hearing to August
8 24, 2009, and revising other procedural dates as necessary.

9 31. On July 6, 2009, Staff filed its Staff Report, recommending approval of EIA's rate
10 application using Staff's recommended rates and charges.

11 32. On July 20, 2009, EIA filed its response to the Staff Report, stating that it accepts
12 most of Staff's recommendations, but requests that the Commission leave EIA's monthly minimum
13 charges for the 5/8" x 3/4" through 1 1/2" meter sizes unchanged rather than reducing them as
14 recommended by Staff.

15 33. On August 24, 2009, an evidentiary hearing convened before a duly authorized
16 Administrative Law Judge of the Commission at the Commission's offices in Phoenix, Arizona.
17 Staff appeared through counsel, and EIA failed to appear. It was noted on the record that EIA had
18 not contacted the Hearing Division or Staff regarding its attendance at the hearing and that no proof
19 of notice by publication or mailing had yet been filed by EIA. It was determined that the hearing
20 would be continued, that EIA would be contacted regarding whether notice had been provided, and
21 that a Procedural Order would be issued with a new hearing date.

22 34. Later on August 24, 2009, EIA filed a copy of the public notice of its application and
23 hearing that had been published in the *Parker Pioneer* on March 18, 2009. The notice substantially
24 complied with the requirements of the Procedural Order.

25 35. On August 25, 2009, EIA filed a copy of the public notice of its application and
26 hearing that had been mailed to its customers on March 11, 2009. The notice complied with the
27 requirements of the Procedural Order.

28 36. On August 26, 2009, a Procedural Order was issued scheduling an evidentiary hearing

1 for October 22, 2009; suspending the timeclock in this matter from August 24 through October 22,
 2 2009; ordering EIA to provide at least one witness at the hearing; ordering EIA either to obtain legal
 3 counsel or to designate an officer to represent it at hearing as permitted by A.R.S. § 40-243(B);
 4 ordering EIA to obtain a board resolution authorizing an officer to represent it, if applicable; ordering
 5 EIA to file either a Notice of Appearance of Counsel or a copy of such a board resolution; ordering
 6 EIA to file a witness list; and stating that EIA's failure to provide a witness and appear at the hearing
 7 could result in dismissal of EIA's application.

8 37. On September 21, 2009, EIA filed a September 8, 2009, EIA board resolution
 9 authorizing EIA's President, Christina Balvanz, to serve as its representative during the hearing in
 10 this matter. In addition, EIA stated that it would present Water Company Manager Dennis Price as
 11 its witness.

12 38. On October 7, 2009, Staff filed a notice stating that Staff had inadvertently omitted
 13 Schedule DRE-1 from its Staff Report and including a copy of such Schedule.

14 39. On October 22, 2009, a full evidentiary hearing was held before a duly authorized
 15 Administrative Law Judge of the Commission at the Commission's offices in Phoenix, Arizona. EIA
 16 appeared through Ms. Balvanz and provided the testimony of Mr. Price. Staff appeared through
 17 counsel and provided the testimony of Katrin Stukov, Staff Utilities Engineer, and Darak Eaddy,
 18 Staff Public Utilities Analyst. No members of the public provided comment. During the hearing,
 19 without objection, official notice was taken of all of the filings made by EIA in the docket for this
 20 matter, as EIA had not prepared complete hearing exhibits. At the conclusion of the hearing, EIA
 21 was directed to provide, as a late-filed exhibit ("LFE"), a copy of a complete ADWR compliance
 22 letter regarding EIA's system water plan.

23 40. On October 28, 2009, EIA filed its LFE.

24 **Ratemaking**

25 41. EIA's current rates and charges, EIA's proposed rates and charges,⁶ and Staff's
 26 recommended rates and charges are as follows:

27 _____
 28 ⁶ EIA's proposed rates and charges are taken from its filing made on January 20, 2009; its filing made on June 20,
 2008; and its application.

<u>MONTHLY USAGE CHARGE:</u>	<u>Current Rates</u>	<u>Company Proposed</u>	<u>Staff Recommended</u>
5/8" x 3/4" Meter (All Classes)	\$ 18.75	\$ 23.00	\$ 15.00
3/4" Meter (All Classes)	18.75	23.00	15.00
1" Meter (All Classes)	24.75	30.00	20.00
1-1/2" Meter (All Classes)	27.75	33.00	25.00
2" Meter (All Classes)	47.75	72.00	50.00
3" Meter (All Classes)	100.00	120.00	100.00
4" Meter (All Classes)	125.00	150.00	175.00
6" Meter (All Classes)	150.00	304.00	300.00
8" Meter (All Classes)	250.00	529.00	525.00
Construction Water	N/A	N/A	N/A
Gallons Included in Minimum:	4,000	0	0

COMMODITY RATES (Per 1,000 Gallons):All Meter Sizes

Over 4,000 Gallons	\$1.60		
1 to 4,000 Gallons		\$2.90	
4,001 to 6,000 Gallons		\$4.06	
Over 6,000 ⁷ Gallons		\$5.68	
1 to 3,000 Gallons			\$1.25
3,001 to 8,000 Gallons			\$1.65
Over 8,000 Gallons			\$1.90
Construction Water	N/T	\$3.00	\$1.90

SERVICE LINE AND METER INSTALLATION CHARGES:

(Refundable pursuant to A.A.C. R14-2-405)

	<u>Current</u>	<u>Company Proposed</u>	<u>Staff Recommended</u>		
			Service Line Charge	Meter Charge	Total Charge
5/8" x 3/4" Meter	\$ 365.00	\$1,160.00	\$ 445.00	\$ 155.00	\$ 600.00
3/4" Meter	405.00	1,205.00	445.00	255.00	700.00
1" Meter	455.00	1,390.00	495.00	315.00	810.00
1-1/2" Meter	665.00	2,175.00	550.00	525.00	1,075.00
2" Turbo Meter	1,080.00	2,880.00	830.00	1,045.00	1,875.00
2" Compound Meter	1,580.00	2,990.00	830.00	1,890.00	2,720.00
3" Turbo Meter	1,460.00	2,735.00	1,045.00	1,670.00	2,715.00

⁷ EIA asserts that this should be 6,001 gallons rather than 6,000 gallons. We show it as 6,000 gallons so as not to exclude the 6001st gallon.

1	3" Compound Meter	2,030.00	3,660.00	1,165.00	2,545.00	3,710.00
	4" Turbo Meter	2,350.00	3,715.00	1,490.00	2,670.00	4,160.00
2	4" Compound Meter	2,985.00	5,710.00	1,670.00	3,645.00	5,315.00
	6" Turbo Meter	4,450.00	6,023.00	2,210.00	5,025.00	7,235.00
3	6" Compound Meter	5,780.00	10,065.00	2,330.00	6,920.00	9,250.00
	8" Turbo Meter	7,450.00	8,610.00	Cost	Cost	Cost
4	8" Compound Meter	9,695.00	16,205.00	Cost	Cost	Cost

	Current Charges	Company Proposed	Staff Recommended
6	<u>SERVICE CHARGES:</u>		
	Establishment	\$30.00	\$40.00
7	Establishment (After Hours)	\$40.00	\$60.00
	Reconnection (Delinquent)	\$30.00	\$50.00
8	Reconnection (Delinquent – After hours)	\$30.00	\$50.00
	Meter Test (If Correct)	\$25.00	\$40.00
9	Deposit	*	\$80.00
	Deposit Interest	*	6.00%
10	Re-Establishment (Within 12 months)	**	**
11	NSF Check	\$15.00	\$50.00
	Deferred Payment Per Month	1.50%	2.25%
12	Meter Re-Read (If Correct)	\$10.00	\$15.00
13	Late Charge per month	N/A	1.50%

<u>MONTHLY SERVICE CHARGE FOR FIRE SPRINKLERS:</u>			
14	All Sizes	***	N/A
15			****

- 15 * Per Commission rule A.A.C. R14-2-403(B).
- 16 ** Number of months off system times the monthly minimum, per Commission Rule A.A.C. R14-2-403(D).
- 17 *** 1% of monthly minimum for a comparably sized meter connection, but no less than \$5.00 per month. The service charge for fire sprinkler service is only applicable for service lines separate and distinct from the primary water service line.
- 18
- 19 **** 2% of monthly minimum for a comparably sized meter connection, but no less than \$10.00 per month. The service charge for fire sprinkler service is only applicable for service lines separate and distinct from the primary water service line.
- 20

21 42. Staff recommends that EIA's rates be set using an operating margin rather than a rate
 22 of return on rate base because EIA is a nonprofit corporation, and allowing a nonprofit corporation to
 23 earn a return on its investment would be contrary to its nonprofit status. (Tr. at 38; Ex. S-1.) Mr.
 24 Eaddy testified that Staff's recommended rates will allow EIA to operate in an efficient manner, with
 25 an operating margin that will cover its expenses and provide some additional funds as needs arise.
 26 (Tr. at 38-39.) Staff also asserted that EIA's low rate base would not produce enough revenue if an
 27 appropriate rate of return is used. (Ex. S-1.) We have previously recognized that rate of return on
 28

1 rate base is less relevant with a nonprofit entity and that, while fair value rate base ("FVRB") is to be
2 considered in our analysis, cash flow and financial ratios can be a better method of determining a
3 reasonable revenue requirement for a nonprofit entity, particularly one with a relatively low rate base.
4 (Decision No. 70311 (April 24, 2008).)

5 43. EIA is missing the records for the utility operations during the years that the utility
6 was operated by EUA. (Tr. at 53.) As a result, Staff looked back at the plant in service from the last
7 rate case decision and made adjustments based upon the records that are available. (*See id.*)

8 44. Staff's adjustments decreased EIA's proposed original cost rate base ("OCRB") by
9 \$519,508, from \$836,997 to \$317,489. Staff's adjustments included an overall reduction of \$428,751
10 in plant in service to reflect the plant in service established in EIA's last rate case with changes
11 supported by documentation; a reduction of \$264,156 in accumulated depreciation as a result of the
12 adjustments in plant in service and the addition of depreciation expense since the last rate case; an
13 overall increase of \$1,006,379 in contributions in aid of construction ("CIAC") based on the balance
14 established in the last rate case, \$20,000 in CIAC additions since the last rate case, and a retirement
15 of \$69,621; an increase of \$625,938 in amortization of CIAC based on the balance established in the
16 last rate case and Staff's calculation of the CIAC account balance; and an increase of \$25,528 for
17 cash working capital, calculated using the formula method. EIA did not dispute Staff's
18 recommended adjustments to its OCRB.

19 45. We find that Staff's adjustments to EIA's OCRB are appropriate⁸ and that EIA's
20 OCRB is \$317,489. Staff testified that EIA's FVRB is equivalent to its OCRB. (Tr. at 51.) We
21 agree and find that EIA's FVRB is \$317,489.

22 46. EIA ultimately reported TY revenues of \$266,731; TY operating expenses of
23 \$275,546; and an operating loss of \$8,814 for the TY. (EIA filing of January 20, 2009.) This
24 represents an operating margin of negative 3.30 percent and, using the FVRB adopted herein, a return
25 on rate base of negative 2.78 percent.

26 ⁸ We note that Staff does not typically recommend allowance of cash working capital using the formula method for
27 Class A, B, or C utilities, instead recommending that a lead-lag study be required, but that this is the first time EIA has
28 been involved in a rate case as a Class C utility and that EIA's revenues place it at the very low end of Class C utilities in
terms of revenues. In addition, we are cognizant that EIA is a nonprofit corporation and that Staff has recommended that
its rates be set based on an operating margin rather than a rate of return on its FVRB.

1 47. Staff determined that EIA had adjusted TY revenue of \$261,949; adjusted TY
2 operating expenses of \$244,655; and operating income of \$17,295 for the TY. This represents an
3 operating margin of 6.60 percent and, using the FVRB adopted herein, a return on rate base of 5.45
4 percent.

5 48. Staff adjusted EIA's TY revenues to \$261,949 based on EIA's submitted bill counts.⁹
6 EIA accepted Staff's adjustments to its TY revenues. (Tr. at 11-12; EIA filing July 20, 2009.) We
7 find that Staff's adjusted TY revenue calculation of \$261,949 is reasonable and appropriate, and we
8 adopt it.

9 49. Staff made numerous adjustments to EIA's TY operating expenses, resulting in an
10 overall decrease from \$288,135¹⁰ to \$244,655. Staff's adjustments to operating expenses include an
11 increase of \$13,734 to salaries and wages, designed to allow EIA to keep its business office open for
12 more normal hours and to enable EIA's staff to obtain additional expertise, training, and skills in
13 operating a water utility;¹¹ reclassification of \$6,903 in payroll taxes from taxes other than income to
14 salaries and wages; a decrease of \$265 in purchased power expense based on documentation provided
15 by EIA; a decrease of \$2,107 in repairs and maintenance ("R&M") expense based on documentation
16 submitted by EIA and capitalization of \$1,092 in labor for a major upgrade to EIA's pumping
17 equipment that had been partially recorded as an R&M expense; a decrease of \$1,219 in outside
18 services expense based on documentation submitted by EIA; an increase of \$1,491 in water testing
19 expense, to reflect the annual water testing costs determined by Staff's engineer; a decrease of \$6,267
20 in transportation expense to remove automotive loan payments for long-term debt acquired without
21 Commission approval; an increase of \$500 in regulatory commission expense-rate case to reflect a
22

23 ⁹ Staff used EIA's November 25, 2008, calculation of its TY water revenues as the starting point for calculating EIA's
24 adjusted TY revenues. EIA provided several calculations of its TY revenues throughout the pendency of this matter, with
25 its January 20, 2009, calculation of \$266,731 being the latest. It is unclear why EIA recalculated its TY revenues on
26 numerous occasions, but its November 25, 2008, calculation, which Staff used as its starting point, appears to be
27 supported by data derived directly from its accounting system and to be the most reliable figure provided by EIA. (See
28 EIA filing of November 25, 2008.)

¹⁰ Staff used as the starting point for its adjustments EIA's stated TY operating expenses of \$275,546, increased by
bringing the salaries and wages expense from \$72,067 to \$84,657. EIA did not dispute this adjustment to its stated
operating expenses, and we find that it more accurately reflects what the TY expenses should have been.

¹¹ Mr. Eaddy testified that EIA's business office has been closing early to keep expenses down, sometimes as early as
noon, and that EIA's lack of knowledge regarding regulatory and NARUC requirements slowed down the processing of
this matter, because this was EIA's first larger rate case. (Tr. at 57-58.)

1 normalized level of annual rate case expense; and a decrease of \$49,348 in depreciation expense to
2 reflect the removal of CIAC amortization from depreciation expense and Staff's calculation of
3 depreciation expense using Staff's recommended depreciation rates and Staff's recommended plant
4 balances. EIA accepted all of Staff's adjustments to its TY operating expenses. (Tr. at 11-12; EIA
5 filing July 20, 2009.) We find that Staff's adjustments to EIA's TY operating expenses are
6 reasonable and appropriate, and we adopt them.

7 50. EIA proposes total operating revenue of \$696,071, an increase of \$429,340, or 160.96
8 percent, over its stated TY operating revenue of \$266,731. Using the TY operating expenses and
9 FVRB adopted herein, this would result in an operating income of \$451,416; a rate of return of
10 142.18 percent; and an operating margin of 64.85 percent. Staff determined that EIA's proposed
11 rates and charges would actually produce \$724,833 in revenues, which would result in even higher
12 operating margin and rate of return figures.

13 51. Staff recommends total operating revenue of \$299,570, an increase of \$37,621, or
14 14.36 percent, over Staff's adjusted TY operating revenue of \$261,949. This would result in an
15 operating income of \$54,915; a rate of return of 17.30 percent; and an operating margin of 18.33
16 percent.

17 52. EIA's proposed rates and charges would increase the monthly bill for a residential
18 customer served by a ¾" meter with median usage of 5,327 gallons from \$20.87 to \$42.72, an
19 increase of \$21.85 or 104.7 percent.

20 53. Staff's recommended rates and charges would increase the monthly bill for a
21 residential customer served by a ¾" meter with median usage of 5,327 gallons from \$20.87 to \$22.59,
22 an increase of \$1.72 or 8.2 percent.

23 54. Mr. Price testified that EIA is willing to accept the increase amount recommended by
24 Staff, although EIA requests that its monthly minimum charges not be decreased for 5/8" x ¾"
25 meters, ¾" meters, 1" meters, and 1 ½" meters (collectively "the disputed meters"). (Tr. at 18-19.)
26 Mr. Price testified that EIA's customers would not object to having those charges remain the same
27 and that it would be in the best interests of EIA and its customers to have the monthly minimum
28 charges for the disputed meters remain the same. (Tr. at 19.) Mr. Price acknowledged, however, that

1 EIA has not calculated what its revenues would be if the monthly minimum charges for the disputed
2 meters remain the same but Staff's commodity rates are adopted. (*Id.*)

3 55. Mr. Eaddy explained that Staff reduced the monthly minimum charges for the disputed
4 meters to allow Staff to transition EIA from a one-tier rate design with 4,000 gallons included to a
5 three-tier rate design with no gallons included. (Tr. at 39-40.) Staff needed to reduce the monthly
6 minimums for the disputed meters to adjust for the collection of commodity rates starting with the
7 first gallon of usage. (*See* Tr. at 40.) Mr. Eaddy testified that Staff's rate design balances the amount
8 of revenues generated by monthly minimum charges versus the amount of revenues generated by
9 commodity rates and is in the best interests of both EIA and its customers because it likewise
10 balances EIA's need for stability with the customers' ability to control their bills through
11 consumption changes. (Tr. at 40-41, 46-47.) Mr. Eaddy testified that allowing EIA to retain the
12 current monthly minimum charges for the disputed meters would either result in EIA's earning much
13 more than Staff's revenue requirement (if the commodity rates were not adjusted accordingly) or in
14 EIA's having much lower commodity rates that would decrease customers' incentive to conserve
15 water (if the commodity rates were adjusted accordingly). (*See* Tr. at 41, 45-47) Mr. Eaddy
16 explained that because the rate increase needed by EIA is not large, there just is not much room to
17 make changes in the commodity rates to send customers price cues, and the monthly minimums for
18 the disputed meters thus need to be decreased. (Tr. at 49.)

19 56. We find that Staff's monthly minimum charges and commodity rates for EIA's
20 permanent customers are just and reasonable and appropriate, and we will adopt them. EIA has not
21 justified a need for a revenue increase as drastic as that it has proposed, and Staff and EIA have
22 agreed that Staff's rate design will generate sufficient revenue.

23 57. EIA provides water through hydrants primarily for construction purposes, providing a
24 meter on a hydrant upon request so that a person who does not otherwise have a meter can receive
25 water and be billed the appropriate amount for the water used. (Tr. at 21-22.) EIA has four meters
26 that it uses as hydrant meters. (Tr. at 22.) The meters are typically used for short periods of time.
27 (Tr. at 21.) EIA does not currently have a specific hydrant or construction water rate in its tariff.
28 EIA's current practice with hydrant meters is to charge the corresponding monthly minimum charge

1 for a hydrant meter that has been installed, but not to assess the commodity charge for the water used
2 until the hydrant meter is returned. (Tr. at 50.)

3 58. Staff's recommended rate design would not impose a monthly minimum charge for
4 hydrant meters, instead charging the third-tier commodity rate for all hydrant meter usage.¹²

5 59. EIA currently provides water through individually assigned hydrant meters, primarily
6 for construction, and treats its individually assigned hydrant meters on par with its permanent meters
7 of the same size. Recent Commission decisions have recognized that it is appropriate to allow a
8 monthly minimum charge for individually assigned hydrant meters to recognize the demand that
9 these meters place on the system and to allow recovery of administrative costs that are not fully
10 recovered through commodity rates when the meters have been assigned but have no usage for a
11 given period.¹³ Thus, we find that it is appropriate to authorize a monthly minimum charge for
12 individually assigned hydrant meters, based on the meter size of the hydrant meter, and to require
13 EIA to charge customers the tiered commodity rates adopted herein for their water usage through
14 such individually assigned hydrant meters.

15 60. In addition, we find that it is appropriate to authorize EIA to assess the \$1.90 Staff-
16 recommended construction water commodity charge for all water obtained through an unassigned
17 hydrant meter that is used as a standpipe and available to numerous entities, and to prohibit EIA from
18 assessing a monthly minimum charge for such usage. In the rate design adopted herein, we will refer
19 to this as a standpipe rate rather than a construction water rate, in recognition that the water may be
20 used for purposes other than construction.

21 61. A.A.C. R14-2-408(A) requires that each meter be read monthly on as close to the
22 same day as practical. A.A.C. R14-2-409(A)(1) requires that each utility bill monthly for services
23 rendered and that meter readings be scheduled for a period of not less than 25 days or more than 35
24 days. It appears that EIA's current billing practice for its hydrant meters is not consistent with these
25 rule requirements. We will require EIA to modify its current practices for billing its customers with
26 individually assigned hydrant meters so that it bills those customers each month, as it does its

27 ¹² Staff refers to this hydrant meter usage as "construction water."

28 ¹³ It is more appropriate that these costs be incurred by the individual customers that cause them than that they be spread over the entire customer base by increasing rates elsewhere to compensate.

1 permanent customers and as required by A.A.C. R14-2-408(A) and R14-2-409(A)(1).

2 62. EIA proposes increases and/or changes to many of its miscellaneous service charges.
3 Staff determined that EIA's proposed increases to its establishment fee, reconnection fee, and meter
4 re-read fee would result in reasonable and normal charges and recommends that they be approved.
5 Staff determined that EIA's current meter test charge, deposit service charge, and deferred payment
6 charge are reasonable and normal charges and recommends that the current charges be retained. Staff
7 did not recommend adoption of EIA's proposed increases to its establishment after-hours fee or its
8 NSF charge, but did recommend adoption of fees that are higher than EIA's current fees for those
9 services.

10 63. EIA requested that its deposit interest charge be changed from a reference to Rule
11 R14-2-403(B) to an express 6.00 percent. Staff determined that the reference to R14-2-403(B) is a
12 reasonable and normal charge and recommends that it be retained. A.A.C. R14-2-403(B)(3) states:
13 "Interest on deposits shall be calculated annually at an interest rate filed by the utility and approved
14 by the Commission in a tariff proceeding. In the absence of such, the interest rate shall be 6%." We
15 are concerned that EIA and its customers may find the rule reference to be vague. Thus, we will
16 instead adopt the express 6.00-percent deposit interest rate proposed by EIA. This is the default rate
17 in the absence of a tariff proceeding to establish a different interest rate and will provide transparency
18 as to the deposit interest rate, for both EIA and its customers.

19 64. With the exception of the deposit interest rate, which we are modifying as set forth
20 above, we find that Staff's recommended miscellaneous service charges are reasonable and
21 appropriate, and we will adopt them.¹⁴

22 65. EIA requested service line and meter installation charges that are greatly increased
23 over those currently authorized for EIA. Service line and meter installation charges are refundable
24 advances. Staff has developed a customary range of service line and meter installation charges based
25 on typical costs for service lines and meters. EIA's proposed service line and meter installation
26 charges fall outside of the customary range, and EIA did not provide evidence establishing that its

27 _____
28 ¹⁴ We note that the issue of the late fee to be charged was not litigated, as EIA agreed with Staff's recommended 1.50 percent late fee.

1 requested charges are reasonable. Staff recommends service line and meter installation charges that
2 are at the upper end of its customary range of charges and, for the 8" service line and meter, that the
3 actual costs be assessed to the customer. Staff's recommended service line and meter installation
4 charges are reasonable and appropriate and will be adopted.

5 66. Since its last rate case, EIA has purchased two trucks, on two separate occasions,
6 using financing arrangements. (Tr. at 20.) EIA did not apply for Commission approval of either of
7 those automotive loans. (Tr. at 21.) EIA was still making auto loan payments during the TY.¹⁵ Mr.
8 Eaddy testified that, in his opinion, the auto loans were long-term debt that required Commission
9 approval. (Tr. at 53.) However, because payment on both loans was to end before a Decision in this
10 matter, Staff chose not to require EIA to obtain approval for the loans, but instead to put EIA on
11 notice that it must apply for Commission approval before obtaining long-term debt in the future.¹⁶
12 (See Tr. at 53-54.) Mr. Eaddy testified that if Staff had determined that the trucks were needed by
13 EIA to provide service, Staff would have required EIA to file a financing application for the auto
14 loans. (Tr. at 54-55.) Staff did not determine whether the trucks were used specifically for the water
15 utility or were also used for EIA's other activities.¹⁷ (Tr. at 55-56.) Thus, Staff did not include the
16 value of the trucks in EIA's rate base and disallowed the auto loan payments made during the TY as
17 an expense. (Tr. at 56.)

18 67. EIA submitted a proposed Curtailment Plan Tariff with its application in this matter.
19 Staff reviewed the Curtailment Plan Tariff and determined that it generally conforms to the sample
20 tariff posted on the Commission's website.

21 68. EIA acknowledges that there have been discrepancies in the customer numbers
22 reported in its annual reports, as EIA has erroneously included vacant, turned off, and collection
23 accounts in its customer numbers (rather than only the customers using water). (See Ex. S-1; Tr. at
24 19-20.) EIA has corrected its accounting system to classify only active accounts as customers for
25

26 ¹⁵ The final payments on the auto loans were apparently made in May 2008 and October 2009. (See Application; Tr. at 53.)

27 ¹⁶ Ms. Balvanz noted that the Board is very aware of the need to obtain Commission approval of long-term debt. (Tr. at 59.) Ms. Balvanz's statement was made as EIA's representative, not as a witness.

28 ¹⁷ The purchase agreement for the first truck purchased states that it was purchased for "personal, family or household" use. (Application.)

1 purposes of its customer counts. (Tr. at 19-20.)

2 **Staff Recommendations**

3 69. Staff recommends the following:

4 (a) Approval of Staff's proposed rates and charges;

5 (b) That EIA be authorized to collect from its customers a proportionate share of
6 any privilege, sales, or use tax as provided for in A.A.C. R14-2-409(D);

7 (c) That EIA be ordered to file with Docket Control within 30 days after the
8 effective date of a Decision in this matter, as a compliance item in this docket, a tariff schedule of its
9 new rates and charges;

10 (d) That EIA record and report accurate data for number of customers in its future
11 annual reports;¹⁸

12 (e) That EIA adopt the typical and customary depreciation rates as delineated in
13 Table C in Section H of the Engineering Report portion of the Staff Report;

14 (f) That EIA be authorized to assess separate service line and meter installation
15 charges as delineated in Table D in Section I of the Engineering Report portion of the Staff Report;
16 and

17 (g) That EIA's Curtailment Plan Tariff be approved.

18 **Resolution**

19 70. As stated previously, we are adopting Staff's recommended monthly minimum
20 charges and commodity rates, but are modifying Staff's rate design by requiring that individually
21 assigned hydrant meter customers be assessed a monthly minimum charge, according to meter size,
22 along with Staff's recommended tiered commodity rates and by designating Staff's construction
23 water commodity rate as a standpipe rate applicable to hydrant meters that are not individually
24 assigned. We are also adopting an express 6.00-percent deposit interest rate rather than the rule
25 reference recommended by Staff, to ensure transparency in the interest rate to be applied.

26 71. Staff's recommendations set forth in Findings of Fact No. 69, as modified herein, are
27

28 ¹⁸ Staff specified that this duty should begin with the 2008 annual report filed in 2009, but that portion of the recommendation is omitted as outdated.

1 just and reasonable and in the public interest, and we are adopting them.

2 72. We are concerned because EIA has not been reading its individually assigned hydrant
3 meters on a monthly basis, billing its individually assigned hydrant meter customers on a monthly
4 basis, and applying for approval of long-term financing arrangements such as those entered into for
5 the purchase of the two trucks EIA has obtained since its last rate case. In addition, we are concerned
6 because EIA failed to appear on its initial hearing date, thus necessitating a second hearing date. EIA
7 has a duty, as a public service corporation, to be aware of and to comply with all Commission
8 statutes, rules, and orders, and it appears to be having some difficulty in that regard. EIA is put on
9 notice that it has a duty to be aware of and to comply with all applicable Commission statutes, rules,
10 and orders and that future failure to do so could result in the initiation of adverse action against it.

11 CONCLUSIONS OF LAW

12 1. EIA is a public service corporation within the meaning of Article XV of the Arizona
13 Constitution and A.R.S. §§ 40-250 and 40-251.

14 2. The Commission has jurisdiction over EIA and the subject matter of the application.

15 3. Notice of EIA's application and of the hearing in this matter was provided in
16 accordance with the law.

17 4. EIA's FVRB is \$317,489.

18 5. The rates, charges, and conditions of service established herein are just and reasonable
19 and in the public interest.

20 6. It is just and reasonable and in the public interest to take the actions described in
21 Findings of Fact Nos. 70 and 71.

22 ORDER

23 IT IS THEREFORE ORDERED that Ehrenberg Improvement Association is hereby
24 authorized and directed to file with the Commission's Docket Control, as a compliance item in this
25 docket, on or before April 1, 2010, a revised tariff setting forth the following rates and charges:

26 MONTHLY USAGE CHARGE:

27 5/8" x 3/4" Meter (All Classes)	\$ 15.00
3/4" Meter (All Classes)	15.00
28 1" Meter (All Classes)	20.00

1	1-1/2" Meter (All Classes)	25.00
	2" Meter (All Classes)	50.00
2	3" Meter (All Classes)	100.00
	4" Meter (All Classes)	175.00
3	6" Meter (All Classes)	300.00
	8" Meter (All Classes)	525.00
4	Hydrant Meter (Individually Assigned)	By Meter Size
5	Standpipe (Not Individually Assigned)	None

6 **COMMODITY RATES (Per 1,000 Gallons):**

7	<u>All Meter Sizes and Classes (Except Standpipe)</u>	
	1 to 3,000 Gallons	\$1.25
8	3,001 to 8,000 Gallons	\$1.65
9	Over 8,000 Gallons	\$1.90
10	<u>Standpipe Water (Not Individually Assigned)</u>	
	All Gallons	\$1.90

11 **SERVICE LINE & METER INSTALLATION CHARGES:**

12 (Refundable pursuant to A.A.C. R14-2-405)

13	Service			
14	Line	Meter	Total	
	Charge	Charge	Charge	
14	5/8" x 3/4" Meter	\$ 445.00	\$ 155.00	\$ 600.00
15	3/4" Meter	445.00	255.00	700.00
	1" Meter	495.00	315.00	810.00
16	1 1/2" Meter	550.00	525.00	1,075.00
17	2" Turbo Meter	830.00	1,045.00	1,875.00
	2" Compound Meter	830.00	1,890.00	2,720.00
18	3" Turbo Meter	1,045.00	1,670.00	2,715.00
	3" Compound Meter	1,165.00	2,545.00	3,710.00
19	4" Turbo Meter	1,490.00	2,670.00	4,160.00
20	4" Compound Meter	1,670.00	3,645.00	5,315.00
21	6" Turbo Meter	2,210.00	5,025.00	7,235.00
	6" Compound Meter	2,330.00	6,920.00	9,250.00
22	8" Turbo Meter	Cost	Cost	Cost
	8" Compound Meter	Cost	Cost	Cost

23 **SERVICE CHARGES:**

24	Establishment	\$40.00
	Establishment (After Hours)	\$50.00
25	Reconnection (Delinquent)	\$50.00
	Reconnection (Delinquent – After hours)	\$50.00
26	Meter Test (If Correct)	\$25.00
	Deposit	*
27	Deposit Interest	6.00%
28	Re-Establishment (Within 12 months)	**

1	NSF Check	\$25.00
	Deferred Payment Per Month	1.50%
2	Meter Re-Read (If Correct)	\$15.00
	Late Charge per month	1.50%

3 **MONTHLY SERVICE CHARGE FOR FIRE SPRINKLERS:**

4 All Sizes ***

5 * Per Commission rule A.A.C. R14-2-403(B).

6 ** Number of months off system times the monthly minimum, per Commission Rule A.A.C. R14-2-403(D).

7 *** 2% of monthly minimum for a comparably sized meter connection, but no less than \$10.00
8 per month. The service charge for fire sprinkler service is only applicable for service lines
9 separate and distinct from the primary water service line.

10 In addition to the collection of regular rates, the utility will collect from its customers a
11 proportionate share of any privilege, sales, use, and franchise tax, per Commission Rule
12 A.A.C. R14-2-409(D)(5).

13 All items billed at cost shall include labor, materials, and parts and all applicable taxes.

14 IT IS FURTHER ORDERED that the rates and charges set forth above shall be effective for
15 all services rendered by Ehrenberg Improvement Association on and after April 1, 2010.

16 IT IS FURTHER ORDERED that Ehrenberg Improvement Association shall notify its
17 customers of the revised schedule of rates and charges authorized herein by means of an insert in its
18 next regularly scheduled billing, or by separate mailing, in a form acceptable to the Commission's
19 Utilities Division Staff.

20 IT IS FURTHER ORDERED that Ehrenberg Improvement Association shall ensure that it
21 complies with A.A.C. R14-2-408(A) and R14-2-409(A)(1) by reading all customer meters at an
22 interval of not less than 25 days or more than 35 days and by billing all customers with individually
23 assigned meters for services rendered on a monthly basis.

24 IT IS FURTHER ORDERED that Ehrenberg Improvement Association shall make itself
25 aware of and shall comply with all applicable Commission statutes, rules, and orders.

26 IT IS FURTHER ORDERED that Ehrenberg Improvement Association shall record and
27 report accurate data for number of customers in its future annual reports to the Commission's Utilities
28 Division.

IT IS FURTHER ORDERED that Ehrenberg Improvement Association shall adopt the typical

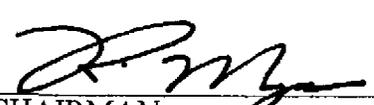
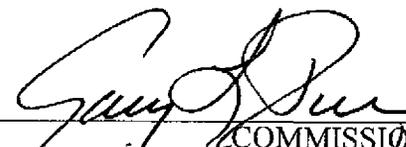
1 and customary depreciation rates delineated in Table C in Section H of the Engineering Report
2 portion of the Staff Report filed in this matter.

3 IT IS FURTHER ORDERED that the proposed Curtailment Plan Tariff filed by Ehrenberg
4 Improvement Association with its rate application in this matter is hereby approved.

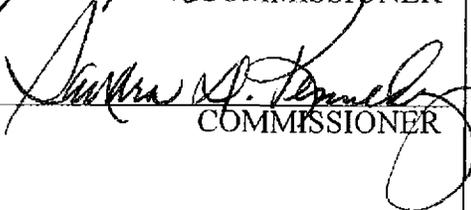
5 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

6 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

7

8  CHAIRMAN  COMMISSIONER

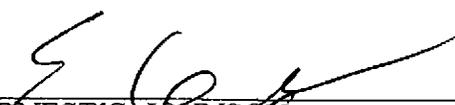
9

10  COMMISSIONER  COMMISSIONER  COMMISSIONER

11

12

13 IN WITNESS WHEREOF, I, ERNEST G. JOHNSON,
14 Executive Director of the Arizona Corporation Commission,
15 have hereunto set my hand and caused the official seal of the
16 Commission to be affixed at the Capitol, in the City of Phoenix,
17 this 17th day of MARCH, 2010.

18 
19 ERNEST G. JOHNSON
20 EXECUTIVE DIRECTOR

21 DISSENT _____

22 DISSENT _____

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DOCKET NO.: W-02273A-08-0251

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