

OPEN MEETING AGENDA ITEM



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ORIGINAL

BEFORE THE ARIZONA CORPORATION COMMISSION

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2 COMMISSIONERS

3 KRISTIN K. MAYES
4 GARY PIERCE
5 PAUL NEWMAN
6 SANDRA D. KENNEDY
7 BOB STUMP

2010 APR -5 P 4: 40

AZ CORP COMMISSION
DOCKET CONTROL

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

DOCKET NO. W-02113A-07-0551

**STAFF'S NOTICE OF FILING
DIRECT TESTIMONY**

11 The Utilities Division of the Arizona Corporation Commission ("Staff") hereby files the
12 Direct Testimony (Rehearing) of Staff Witness Elijah O. Abinah in the above-referenced-matter.

13 RESPECTFULLY SUBMITTED this 5th day of April, 2010.

15 Robin R. Mitchell, Staff Attorney
16 Wesley Van Cleve, Staff Attorney
17 Arizona Corporation Commission
18 1200 West Washington Street
19 Phoenix, Arizona 85007

19 Original and thirteen (13) copies of the
20 foregoing filed this 5th day of
21 April, 2010 with:

21 Docket Control
22 Arizona Corporation Commission
23 1200 West Washington
24 Phoenix, AZ 85007

24 Copies of the foregoing mailed this
25 5th day of April, 2010 to:

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Attorneys for Chaparral City Water Company

Arizona Corporation Commission

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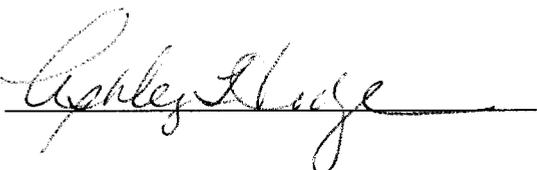
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BEFORE THE ARIZONA CORPORATION COMMISSION

KRISTIN K. MAYES

Chairman

GARY PIERCE

Commissioner

PAUL NEWMAN

Commissioner

SANDRA D. KENNEDY

Commissioner

BOB STUMP

Commissioner

IN THE MATTER OF THE APPLICATION OF) DOCKET NO. W-02113A-07-0551
CHAPARRAL CITY WATER COMPANY, INC.)
FOR A DETERMINATION OF THE FAIR VALUE)
OF ITS UTILITY PLANT AND PROPERTY AND)
FOR INCREASES IN ITS RATES AND CHARGES)
FOR UTILITY SERVICE BASED THEREON)

(REHEARING)

DIRECT TESTIMONY

OF

ELIJAH O. ABINAH

ASSISTANT DIRECTOR

UTILITIES DIVISION

ARIZONA CORPORATION COMMISSION

APRIL 05, 2010

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1 **INTRODUCTION**

2 **Q. Please state your name and business address.**

3 A. My name is Elijah O. Abinah. My business address is 1200 West Washington Street,
4 Phoenix, Arizona, 85007.

5
6 **Q. Where are you employed and in what capacity?**

7 A. I am employed by the Utilities Division (“Staff”) of the Arizona Corporation Commission
8 (“ACC” or “Commission”) as the Assistant Director.

9
10 **Q. How long have you been employed with the Utilities Division?**

11 A. I have been employed with the Utilities Division since January 2003.

12
13 **Q. Please describe your educational background and professional experience.**

14 A. I received a Bachelor of Science degree in Accounting from the University of Central
15 Oklahoma in Edmond, Oklahoma. I also received a Master of Management degree from
16 Southern Nazarene University in Bethany, Oklahoma. Prior to my employment with the
17 ACC, I was employed by the Oklahoma Corporation Commission for approximately eight
18 and a half years in various capacities in the Telecommunications Division.

19
20 **Q. What are your current responsibilities?**

21 A. As the Assistant Director, I review submissions that are filed with the Commission and
22 make policy recommendations to the Director regarding those filings.

23
24 **Q. What is the purpose of your testimony?**

25 A. The purpose of my testimony is to address the following two issues pursuant to
26 Commission’s Decision No. 71308:

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1. Treatment of the Fountain Hill Sanitation District (“FHSD”) settlement proceeds;
2. Treatment of the Chaparral City Water Company, Inc.’s (“Chaparral City Water” or “Company”) request for recovery of rate case expense associated with the appeal and remand of Commission Decision No. 68178.

Q. Can you please provide a brief background?

A. Yes. On November 10, 2009, the Company filed an application for rehearing, requesting rehearing on five issues in Decision No. 71308. The Commission, on November 24, 2009, voted to grant the application in order to allow time for further consideration. The Commission withheld making any determinations as to any other issues raised in the application until after Commission consideration of an order addressing correction of alleged errors in rates. On December 8, 2009, the Commission issued Decision No. 71424, which amended Decision No. 71308 *nunc pro tunc* to correct the computational error in rates approved in Decision No. 71308. On January 19, 2010, the Commission voted again to grant the Company’s rehearing request for purposes of further Commission consideration on the matters of the Company’s rehearing request for additional rate case expense associated with the appeal and remand of Decision No. 68176 and treatment of the FHSD settlement proceeds.

1 **TREATMENT OF FOUNTAIN HILL SANITATION DISTRICT SETTLEMENT**
2 **PROCEEDS**

3 **Q. What is Staff's recommendation on this issue?**

4 A. Staff recommends that the Company's proposal of 50/50 sharing between the rate payers
5 and the shareholders be adopted, on the condition that the Company shares the proceeds
6 from the sales of the wells and other equipment on a 50/50 basis with the rate payers.
7

8 **Q. What is Staff's rationale for this recommendation?**

9 A. Staff believes the rate payer will benefit from the sale of the well and all property
10 associated with the well including but not limited to the land. Although Staff believes that
11 each case stands on its own merit; the Commission in the past has adopted similar
12 treatment.
13

14 **Q. Did the Company agree to the 50/50 sharing mechanism?**

15 A. Yes. Based on response to Staff's Data Request 25.1, the Company stated: "Chaparral
16 City Water Company previously agreed that it would share with ratepayers the proceeds of
17 a subsequent sale of wells 8 and 9. Please see the Rebuttal Testimony of Robert N.
18 Hanford (Hearing Ex. A-2) at pp. 3-4."
19

20 **RATE CASE EXPENSE ON APPEAL AND REMAND**

21 **Q. Please discuss the Company's request for rate case expense associated with remand**
22 **of Decision No. 68176.**

23 A. The Company appealed Decision No. 68176 to the Arizona Court of Appeals, raising two
24 issues. The first was whether the process the Commission used to derive a Fair Value
25 Rate of Return on Fair Value Rate Base constituted a "backing-in" to original cost based
26 rates in violation of the Arizona Constitution. The second issue was whether substantial

1 evidence supported the methodology adopted by the Commission to determine the
2 appropriate cost of equity component of the weighted average cost of capital. The
3 Company was successful on the first issue only. The Court of Appeals remanded the case
4 back to the Commission for further determination. The Commission then held remand
5 proceedings which resulted in Decision No. 70441.

6

7 In Decision No. 70441, the Commission ordered the Company to request recovery of
8 those rate case expenses associated with the remand of Decision No. 68176.

9

10 **Q. What is Staff's recommendation on this issue?**

11 A. Staff recommends that the Company be allowed to recover \$100,000.00 in rate case
12 expense as it relates to the appeal and remand.

13

14 **Q. What was the amount requested by the Company?**

15 A. The Company requested \$258,511.00.

16

17 **Q. What is Staff's rationale for its recommendation?**

18 A. Staff's finds that it is reasonable that successful litigants on constitutional issues should be
19 awarded rate case expense. Staff recommended recovery of \$100,000 in expense,
20 amortized over three years.

21

22 **Q. Does this conclude your Rehearing Direct Testimony?**

23 A. Yes it does.