SW-01303A-09-0343
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ORIGINAL

ARIZONA CORPORATION COMMISSION
UTILITY COMPLAINT FORM

Investigator: Richard Martinez   Phone: (520) 628-6555   Fax: (520) 628-6559

Priority: Respond Within Five Days

Opinion No. 2010 - 86281   Date: 4/13/2010

Complaint Description: 08A Rate Case Items - Opposed
N/A Not Applicable

Arizona Corporation Commission
DOCKETED
MAY 10 2010
DOCKETED BY

	First:	Last:
Complaint By:	**Ken**	**Cohen**

Account Name: Ken Cohen   Home: (000) ~~000-0000~~
Street: Work:
City: Phoenix   CBR:
State: AZ   Zip: 85086   is:

RECEIVED
2010 MAY 10 A 9:52
AZ CORP COMMISSION
DOCKET CONTROL

Utility Company. **Arizona - American Water Company**
Division: Water
Contact Name: Contact Phone:

Nature of Complaint:
(Docket: W-01303A-09-0343)

Dear Chairwoman Mayes and Commissioners,

I wanted to thank you again for taking the time to meet with the Anthem Homeowners on the 7th, and for allowing us to share our frustrations and concerns regarding the proposed Arizona American Water rate increase. The proposed rate increase will increase our costs for water by 150% to 200% (while our personal bills will double, we will also see substantial increases from our Home Owners Fees as well).

As you requested I have attached a copy of the public comments I made that evening (attached Word document).

In addition, I accessed the American Water 2009 10K filing and 2010 proxy statement and have also attached a copy of few select pages:

o The first page shows a table summarizing the company's cash flow for the last three years (amounts are in the thousands). While American Water may claim they lost money from operations those three years, the truth is that the losses were primarily caused by write downs in goodwill, and impairment of asset write offs - these are not cash costs. In terms of cash, they generated almost $600 million dollars in 2009, approx. $550 million in 2008 and $473 million in 2007 - the profit motive is alive and well in this Corporation

o The next page shows the Dividends that were paid out to stockholders . In 2009, American Water paid out over $137 million dollars in dividends to its stockholders

o The last page is from the company's proxy statement dated March, 2010 and shows the Executive Compensation. The top four executives who were employed in both 2009 and 2008 received compensation of over $11 million in 2008 and just under $7 million in 2009. I am sure these are included in costs that are allocated down to Arizona American Water by their parent organization. Given the mis-management of this organization (at least as far as operations here in Arizona are concerned) these are egregious sums that should not be part of a rate increase request that will increase the cost of water for Anthem residents by over 100%.

Again, we thank you for listening and hope that you will send this Company back to drawing board with an admonition not to return with any rate increase request that exceeds what reasonable homeowners should be expected to bear.

Respectfully,

Ken Cohen

Anthem, AZ 85086

In today's economy and especially here in Anthem we have seen our property values decline substantially and many homeowners have been forced into foreclosure. The paper this a.m. talked about the rise in foreclosures just this past month. We have many people here losing their homes. It is in this environment that AZ Water is asking for an adjustment in their water rates that would more than double what many families pay for their water. They obviously have no interest in being a 'good corporate citizen'. They can provide all the excuses they want, but it is nothing short of criminal and shows no concern for the plight of homeowners today to be asking for this type of increase in this economy. It is a sign of very poor management. We cannot afford to have Anthem identified with having these exorbitant water rates. For the commission to approve this increase would just be rewarding this poor management.

We had one of the top executives of AZ water visit with the citizens of Anthem two to three months ago. I asked the executive what AZ water would do if their requested increase were turned down - he replied that they would just re-submit it. I have been a financial executive for many years and if I ever went to my Board and asked for approval to raise our rates by 100% and I was asked what the alternatives were and I replied that there were none and I would just have to come back later and re-request that type of increase, I would have probably been fired on the spot. Again, this is a sign of poor management and for the commission to approve even a portion of their request would be like rewarding and condoning this level of poor management.

A good portion of our water bills are fixed. I was away for most of the most recent billing period and my water consumption dropped by more than half. My bill dropped $5 for the month. Water is a limited resource but AZ water is not doing what it should to encourage conservation of this resource. They pay lip service to conservation in their handout. Linking what we pay to our usage is a sure way to get people to be more conservative, but this would not generate revenues for AZ water and again, it is a sign of poor management on their part.

The strategy that seems to be being followed here in this egregious rate increase is to throw as much crap at the wall as you can with the expectation that some of it will stick. Don't reward this strategy by Arizona Water by approving even one cent of this increase. I respectfully request that this commission not reward this company's poor management and outrageous Corporate behavior. Make Arizona American Water go back to the drawing board and not come back until they are prepared to submit a request for a reasonable rate increase!!

Ken Cohen

ARIZONA CORPORATION COMMISSION

UTILITY COMPLAINT FORM

Anthem, AZ 85086

(Three attachments included with this Opinion)
End of Complaint

Utilities' Response:

Investigator's Comments and Disposition:

5/04-
Sent to Docket Control.

FILE CLOSED.
End of Comments

Date Completed: 5/4/2010

Opinion No. 2010 - 86281

Dividends

Our board of directors has adopted a dividend policy to distribute to our stockholders a portion of our net cash provided by operating activities as regular quarterly dividends, rather than retaining that cash for other purposes. Generally, our policy is to distribute 50% to 70% of our net income annually. We expect that dividends will be paid every March, June, September and December of each fiscal year to holders of record approximately 15 days prior to the distribution date. Since the dividends on our common stock will not be cumulative, only declared dividends will be paid.

During 2009 and 2008, we paid $137.3 million and $64.1 million in dividends, respectively. For 2009, we paid a dividend of $0.21 per share on December 1, 2009 and September 1, 2009 and $0.20 per share on June 1, 2009 and March 2, 2009. For 2008, we paid a dividend of $0.20 per share on September 2, 2008 and December 1, 2008. There were no common dividend payments made for 2007.

Subject to applicable law and the discretion of our board of directors, we will pay cash dividends of approximately $0.21 per share per quarter in 2010, to be paid approximately 60 days after the end of each fiscal quarter. The quarterly and annual average aggregate dividend amounts for the four quarters would be $36.7 million, and $146.7 million annually. The aggregate dividend amounts are based upon 174.7 million shares outstanding as of February 25, 2010. Under Delaware law, our board of directors may declare dividends only to the extent of our "surplus" (which is defined as total assets at fair market value *minus* total liabilities, *minus* statutory capital) or, if there is no surplus, out of our net profits for the then current and/or immediately preceding fiscal year. Although we believe we will have sufficient net profits or surplus to pay dividends at the anticipated levels during the next four quarters, our board of directors will seek periodically to assure itself of this before actually declaring any dividends. In future periods, our board of directors may seek opinions from outside valuation firms to the effect that our solvency or assets are sufficient to allow payment of dividends, and such opinions may not be forthcoming. If we sought and were not able to obtain such an opinion, we likely would not be able to pay dividends.

On January 29, 2010, our board of directors declared a quarterly cash dividend payment of $0.21 per share payable on March 1, 2010 to all shareholders of record as of February 18, 2010.

Current Credit Market Position

The Company believes it has sufficient liquidity should there be a disruption of the capital and credit markets. The Company funds liquidity needs for capital investment, working capital and other financial commitments through cash flows from operations, public and private debt offerings, commercial paper markets and credit facilities with $850.0 million in aggregate total commitments from a diversified group of banks. As of February 24, 2010, we had $801.8 million available to fulfill our short-term liquidity needs, to issue letters of credit and back our $58.9 million outstanding commercial paper. As of February 24, 2010, the Company can issue additional commercial paper of $641.1 million which is backed by the credit facilities. The 2008 market disruptions caused the Company to redeem its tax exempt bonds in variable rate structures and remarket as fixed rate securities. The Company closely monitors the financial condition of the financial institutions associated with its credit facilities.

At this time, the Company does not believe recent market disruptions will impact its long-term ability to obtain financing. The Company expects to have access to liquidity in the capital markets on favorable terms before the maturity dates of its current credit facilities and the Company does not expect a significant number of its lenders to default on their commitments thereunder. In addition, the Company can delay major capital investments or pursue financing from other sources to preserve liquidity, if necessary. The Company believes it can rely upon cash flows from operations to meet its obligations and fund its minimum required capital investments for an extended period of time.

Cash flows from operating activities have been a reliable, steady source of funding, sufficient to meet operating requirements, our dividend payments and a portion of our capital expenditures requirements. We will seek access to debt and equity capital markets to meet the balance of our capital expenditure requirements as needed. There can be no assurance that we will be able to access such markets successfully on favorable terms or at all. Operating cash flows can be negatively affected by changes in our rate regulatory environments or changes in our customer economic outlook and ability to pay for service in a timely manner. We can provide no assurance that our customers' historical payment pattern will continue in the future.

The following table provides a summary of the major items affecting our cash flows from operating activities for the periods indicated:

	2009	2008	2007
		(in thousands)	
Net income (loss)	$ (233,083)	$ (562,421)	$(342,826)
Add (subtract):			
Non-cash operating activities(1)	1,016,826	1,214,120	881,013
Changes in working capital(2)	(60,141)	5,523	16,770
Pension and postretirement healthcare contributions	(127,446)	(105,053)	(81,245)
Net cash flows provided by operations	$ 596,156	$ 552,169	$ 473,712

(1) Includes (gain) loss on sale of businesses, depreciation and amortization, impairment charges, removal costs net of salvage, provision for deferred income taxes, amortization of deferred investment tax credits, provision for losses on utility accounts receivable, allowance for other funds used during construction, (gain) loss on sale of assets, deferred regulatory costs, amortization of deferred charges and other non-cash items, net, less pension and postretirement healthcare contributions.

(2) Changes in working capital include changes to accounts receivable and unbilled utility revenue, taxes receivable (including federal income), other current assets, accounts payable, taxes accrued (including federal income), interest accrued and other current liabilities.

The increase in cash flows from operations during 2009 compared to 2008 was primarily due to increased revenues offset by changes in working capital mainly driven by changes in taxes receivable and taxes accrued. The change in taxes is primarily due to the fact that a $35.0 million tax refund, including interest, was received in December 2008. No similar amount was received at the end of 2009.

In December 2008, the Company filed a request with the Internal Revenue Service (IRS) to change its tax accounting method for repair and maintenance cost on its utility assets. The IRS partially approved the request in October 2009, with the Company receiving final approval in February 2010. As a result of this change we expect to receive cash refunds of approximately $43.1 million, including a carryback claim for alternative minimum tax of $25.2 million which will be filed for in 2010.

The increase in cash flows from operations during 2008 compared to 2007 was primarily due to increased revenues partially offset by higher contributions to our pension and postretirement healthcare trusts.

The Company currently expects to make pension and postretirement benefit contributions to the plan trusts of $119.9 million in 2010, of which $22.6 was already made in February 2010. In addition, we currently estimate that contributions will amount to $147.9 million in 2011, $155.8 million in 2012, $123.8 in 2013 and $118.8 million in 2014. Actual amounts contributed could change materially from these estimates.

The increase in the 2009 contributions was the result of the Company's 2008 unfunded status of its pension plan, which increased significantly primarily due to lower than expected 2008 asset returns. Based on the then current plan assets and expected future asset returns, the Company estimated in early 2009 the increase to pension and postretirement expense (net of capitalized amounts) in 2009 to be approximately $32 million.

EXECUTIVE COMPENSATION

2009 Summary Compensation Table

Name and Principal Position	Year	Salary ($)	Bonus ($)(3)	Stock Awards ($)(4)	Option Awards ($)(5)	Non-Equity Incentive Plan Compensation ($)(6)	Change in Pension Value and Nonqualified Deferred Compensation Earnings ($)(7)	All Other Compensation ($)(9)	Total
Donald L. Correll President and Chief Executive Officer	2009	$ 610,615	$ —	$ 529,191	$ 529,200	$ 493,267	$ —	$ 245,298	$ 2,407,571
	2008	$ 582,211	$ 339,900	$ 580,221	$ 842,285	$ 1,351,092	$ —	$ 252,178	$ 3,947,887
	2007	$ 562,059	$ —	$ —	$ —	$ 457,415	$ —	$ 82,843	$ 1,102,317
Ellen C. Wolf Senior Vice President and Chief Financial Officer	2009	$ 498,462	$ —	$ 287,989	$ 287,999	$ 258,378	$ 15,799	$ 84,775	$ 1,433,402
	2008	$ 475,558	$ 278,100	$ 401,664	$ 581,418	$ 910,950	$ 8,650	$ 106,403	$ 2,762,743
	2007	$ 459,865	$ —	$ —	$	$ 238,587	$ 0	$ 66,578	$ 765,030
Walter J. Lynch President and Chief Operating Officer of Regulated Operations(1)	2009	$ 467,308	$ —	$ 258,756	$ 258,752	$ 289,417	$ 44,284	$ 17,524	$ 1,336,041
	2008	$ 394,346	$ 131,250	$ 167,679	$ 244,437	$ 557,850	$ 68,437	$ 15,743	$ 1,579,742
	2007	$ 318,769	$ —	$ —	$ —	$ 138,698	$ 22,197	$ 17,761	$ 497,425
John S. Young Chief Water Technology Officer, President, American Water Services and President, American Water Works Service Company(2)	2009	$ 443,422	$ —	$ 160,124	$ 160,127	$ 175,123	$ 651,258	$ 18,348	$ 1,608,402
	2008	$ 422,961	$ 247,200	$ 357,030	$ 516,818	$ 769,218	$ 550,153	$ 17,481	$ 2,880,861
	2007	$ 408,771	$ —	$	$ —	$ 206,927	$ 208,700	$ 26,183	$ 850,581
George W. Patrick Senior Vice President, General Counsel and Secretary(8)	2009	$ 321,921	$ —	$ 116,251	$ 116,251	$ 130,028	$ —	$ 16,436	$ 700,887

(1) Mr. Lynch has served as our President and Chief Operating Officer, Regulated Operations since March 1, 2010 (prior to that date Mr. Lynch was President of Regulated Operations).

(2) Mr. Young has served as our Chief Water Technology Officer since March 1, 2010, the President of American Water Services since July 28, 2008 and the President of American Water Works Service Company since February 1, 2006 (Mr. Young was our Chief Operating Officer from October 1, 2005 to July 27, 2008).

(3) The amounts shown in this column represent the discretionary portion of the completion bonus payable to each named executive officer in connection with our initial public offering. This portion was payable at the discretion of RWE, based on its judgment of each executive's leadership and support in positively marketing the business and preparing for our initial public offering, and therefore is considered a bonus award disclosable in this column pursuant to rules of the Securities and Exchange Commission. The other portion of each named executive officer's completion bonus, which was equal to 50% of each named executive officer's base salary, was payable based solely on the consummation of the initial public offering, and therefore is considered a non-equity award pursuant to rules of the Securities and Exchange Commission and is disclosed in the "Non-Equity Incentive Plan Compensation" column.

(4) The amounts shown in this column reflect the grant date fair value of the performance-based restricted stock unit awards granted to the named executive officers. In 2008 two grants were made in connection with our initial public offering. The amounts disclosed represent the value at the grant date based upon the probable outcome of the performance conditions. These amounts reflect the Company's aggregate compensation cost expected to be recorded in our financial statements over the service period for such awards determined at the grant date in accordance with FASB ASC Topic 718. The following table shows the grant date fair value of the awards at the grant date assuming the highest level of performance conditions were achieved.

Name	Year	Grant Date Fair Value
Donald L. Correll	2009	$ 793,787
	2008	$ 1,015,387
Ellen C. Wolf	2009	$ 431,984
	2008	$ 702,912
Walter J. Lynch	2009	$ 388,134
	2008	$ 293,438
John S. Young	2009	$ 240,186
	2008	$ 624,803
George W. Patrick	2009	$ 174,377