

ORIGINAL



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BEFORE THE ARIZONA CORPORATION COMM

RECEIVED

COMMISSIONERS:

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

2010 JUN -7 P 3:57

ARIZONA CORPORATION COMMISSION  
DOCKET CONTROL

IN THE MATTER OF THE APPLICATION OF ARIZONA-AMERICAN WATER COMPANY, AN ARIZONA CORPORATION, FOR A DETERMINATION OF THE CURRENT FAIR VALUE OF ITS UTILITY PLANT AND PROPERTY AND FOR INCREASES IN ITS RATES AND CHARGES BASED THEREON FOR UTILITY SERVICE BY ITS AGUA FRIA WATER DISTRICT, HAVASU WATER DISTRICT, MOHAVE WATER DISTRICT, PARADISE VALLEY WATER DISTRICT, SUN CITY WEST WATER DISTRICT AND TUBAC WATER DISTRICT.

DOCKET NO. W-01303A-08-0227

Arizona Corporation Commission

DOCKETED

JUN - 7 2010

DOCKETED BY

IN THE MATTER OF THE APPLICATION OF ARIZONA-AMERICAN WATER COMPANY, AN ARIZONA CORPORATION, FOR A DETERMINATION OF THE CURRENT FAIR VALUE OF ITS UTILITY PLANT AND PROPERTY AND FOR INCREASES IN ITS RATES AND CHARGES BASED THEREON FOR UTILITY SERVICE BY ITS MOHAVE WASTEWATER DISTRICT

DOCKET NO. SW-01303A-09-0227

**CORTE BELLA'S A.R.S. §40-252 APPLICATION TO AMEND THE AGUA FRIA DISTRICT NON-POTABLE WATER RATE SET BY DECISION NO. 71410 OR, IN THE ALTERNATIVE, A MOTION FOR ORDER AMENDING DECISION NO. 71410 NUNC PRO TUNC**

**EXPEDITED TREATMENT REQUESTED**

Pursuant to A.R.S. §40-252, Mashie, LLC (Mashie), an Arizona limited liability company doing business as Corte Bella Golf Club ("Corte Bella"), hereby files this application to amend the non-potable water rate set by Decision No. 71410 (December 8,

2009) (“the Decision”). Alternatively, Corte Bella moves for an order amending the Decision *nunc pro tunc* in order to correct the non-potable water rate set by the Decision. The Decision erroneously uses a potable water rate for the “Irrigation – Non Potable” commodity rate. This has caused a four-fold increase in Corte Bella’s water costs and, if not corrected, may result in a termination of operations for the Corte Bella Golf Course.

To address this error, Corte Bella requests that an order be issued as soon as possible amending the Decision *nunc pro tunc* pursuant to A.R.S. §40-252 or as otherwise allowed by law. The motion is supported by the following memorandum of points and authorities.

### **MEMORANDUM OF POINTS AND AUTHORITIES**

#### **A. Background**

Mashie owns and operates Corte Bella, which is located within the Agua Fria Water District and receives water services from Arizona-American. The Corte Bella Golf Course is surrounded by approximately 1,650 homes and was constructed, along with the surrounding residences, by Del Webb Corporation in 2004. Mashie purchased the golf course from Del Webb in December, 2007. Neither Mashie nor Corte Bella is affiliated with Del Webb Corporation or any of its successors. To serve Corte Bella, Arizona-American pumps non-potable water from two irrigation wells, which were given to Arizona-American by Del Webb in exchange for Arizona-American’s written agreement to irrigate the golf course with non-potable water. Del Webb also provided 357 acre-feet of CAP water to Arizona-American in this agreement. All water delivered to Corte Bella Golf Club is offset by recharge of CAP water in the year of pumping (“Annual Storage and Recovery”). This water, which has the legal character of CAP Water, is considered to be a 100% renewable

water use by the Arizona Department of Water Resources. The agreement provides Arizona-American the ability to substitute other renewable supplies, such as effluent, for delivery to Corte Bella. The contract obligating Arizona-American to provide non-potable water to Corte Bella provides that water will be delivered subject to rates and tariffs filed with the Commission.

On May 2, 2008, Arizona-American filed with the Commission its application for increases in its rates and charges for water utility services. Decision at 3. The hearing on the application commenced on March 20, 2009, and concluded on March 30, 2009. Decision at 5. Corte Bella was not a party to the rate case. Judge Wolfe submitted her Recommended Opinion and Order (“the ROO”) for Commission consideration on November 3, 2009. The Decision was approved by the Commission on December 8, 2009. Having not participated as a party to the proceeding Corte Bella did not file an application for rehearing of the Decision.

**B. Corte Bella Water Use and Rate Impact**

Arizona-American currently delivers “Irrigation - Non Potable” water to Corte Bella, and charges Corte Bella the tariffed rate for that water. Prior to the current rate proceeding, Corte Bella paid \$0.62 per thousand gallons or \$202.00 per acre foot to Arizona-American for Irrigation Non Potable water. The Agua Fria Water District schedule attached to the Decision assigns the potable water rate of \$2.728 per thousand gallons, or \$889.00 per acre foot, to the “Irrigation – Non Potable” commodity category. (The Agua Fria Water District rate schedule is attached to this Application as Exhibit 1.) The rate of \$2.728 per thousand gallons or \$889.00 per acre foot is far in excess of anything Arizona-American had proposed

in its application for non-potable water. In its application, Arizona-American requested that the non-potable rate be set at \$1.24 per thousand gallons or \$414.00 per acre foot. *See* Schedule H-3 of Arizona-American Witness Gutowski attached as Exhibit 2. This alone was an increase of 100.18% of the current rate. *See* Schedule H-1 of Arizona-American Witness Gutowski attached as Exhibit 3.

The rate charged by Arizona-American for Irrigation Non Potable water directly and materially affects Corte Bella's operations. Corte Bella cannot financially continue operating its golf course, which receives heavy use and is an economic driver for the surrounding community, if this four-fold rate increase is not adjusted downward. In calendar year 2009, Arizona-American delivered 621.06 acre feet of non-potable water to Corte Bella at a cost of \$125,471. *See* Petrie Affidavit attached as Exhibit 4. Presuming this same approximate water use at the new rate, water costs for Corte Bella will exceed \$550,000, or a difference of approximately \$425,000 annually. As the table attached as Exhibit 5 illustrates, the newly adopted water rate is not commensurate with rates charged for non-potable water by Arizona-American in other water districts.

Further, this rate for irrigation water turns traditional Arizona water policy on its head. Golf courses and large industrial users have consistently been challenged by the Commission and the Arizona Department of Water Resources to use effluent, renewable, and/or non-potable water wherever possible to reduce reliance on groundwater. This rate encourages golf course owners to refuse effluent and non-potable water and pump groundwater instead.<sup>1</sup>

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<sup>1</sup> *See* Testimony of DMB Witness Mr. Daniel Kelly filed May 3, 2010, Docket No. W-01303A-09-0343 ("With effluent now priced at nearly \$890 per acre-foot [by the Decision], we will be forced to

The Corte Bella water supply is one hundred percent renewable, was developed with the full cooperation of Arizona-American, and is consistent with their long-term water management plans. This abrupt rate increase forces Corte Bella to pursue independent water supply alternatives that would be considerably less expensive than paying this non-potable water rate. Unfortunately, these alternatives will have to be pursued without regard for compatibility with Arizona-American's water management plans and will strand existing infrastructure whose sole purpose is to deliver renewable, non-potable water to Corte Bella.

**C. The Continuing Agua Fria Rate Case**

Corte Bella is located in the Agua Fria District. The Irrigation Non-Potable rate for the Agua Fria Water District was set by the Decision. For rate-making purposes, the Agua Fria Wastewater District is grouped with other wastewater districts, including the Anthem, Sun City and Sun City West wastewater districts. *See* Arizona-American Docket No. W-01303A-09-0343. Hearings concluded on June 3, 2010, in the Agua Fria Wastewater District rate case. Corte Bella intervened in that proceeding on April 14, 2010, and has monitored and participated in that case. It is possible that the outcome of that rate case – where district consolidation and a non-potable effluent rate are both at issue – could produce a rate appropriate for use by Corte Bella. That proceeding, however, will not be fully briefed until approximately August 5, 2010, and a Commission decision is not likely in 2010. Though important and relevant, that docket cannot solve the immediate problem faced by Corte Bella and created by the Decision.

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rely far more heavily on groundwater for golf course irrigation. Put simply, groundwater is much less expensive to use, even with our pumping and maintenance costs.”).

**D. Relief Requested and Grounds for Such Relief**

To address this error, Corte Bella requests that an order be issued as soon as possible amending the Decision *nunc pro tunc*, pursuant to A.R.S. §40-252, or as otherwise allowed by law. Specifically, Corte Bella proposes that the ordered rate of \$2.728 per thousand gallons, in the Agua Fria Water District schedule, be replaced by the \$1.24 per thousand gallons rate originally proposed in its rate filing by Arizona-American. *See* Exhibit 2. This rate is high when compared with the typical charges for non-potable water by Arizona-American in other water districts. *See* Exhibit 5. Corte Bella does not concede, by suggesting this rate, that it is the appropriate rate for non-potable water in current or future rate proceedings. However, to correct this serious error, Corte Bella suggests that the Commission use this rate, which may be found in the record and was originally proposed by Arizona-American. Additionally, Corte Bella requests that the rate of \$1.24 be effective December 1, 2009, consistent with the effective date of the errant rate in Decision No. 71410.

Corte Bella has provided counsel for Arizona-American a copy of this motion. Arizona-American is entitled to “an opportunity to be heard” under A.R.S. §40-252. Given Arizona-American’s assistance and cooperation to date, Corte Bella does not expect Arizona-American to oppose this motion. The Commission has the same power to amend or alter an order as it has to issue the initial order, upon a showing of due cause. *Davis v. Corporation Commission*, 96 Ariz. 215, 219, 393 P.2d 909, 911 (1964). Corte Bella submits that the exponential rate increase (a 340% increase) will cause irreversible harm to Corte Bella and the surrounding community and as such establishes due cause.

**E. Conclusion**

Corte Bella requests that an order be issued as soon as possible amending the Decision *nunc pro tunc*, pursuant to A.R.S. §40-252, or as otherwise allowed by law. Corte Bella proposes that for the Agua Fria Water District an Irrigation Non-Potable rate of \$1.24 per thousand gallons be set, replacing the errant rate of \$2.728 per thousand gallons. Corte Bella further requests that this rate be effective December 1, 2009, with any surplus amount billed to, and paid by, a water customer credited to that customer's account by Arizona-American.

Submitted this 7<sup>th</sup> day of June, 2010.

By:

  
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**ORIGINAL** and 13 copies of the foregoing were filed this 7<sup>th</sup> day of June, 2010, with:

Docket Control  
Arizona Corporation Commission  
1200 West Washington Street  
Phoenix, Arizona 85007

**Copy of the foregoing was emailed this 7<sup>th</sup> day of June, 2010, to:**

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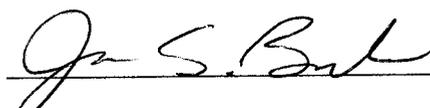
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By:   
\_\_\_\_\_

4837-6010-4198, v. 1

# Exhibit 1

## EXHIBIT D

ARIZONA-AMERICAN - AGUA FRIA WATER  
Docket No. W-01303A-08-0227

## AGUA FRIA WATER

<u>Monthly Minimum</u>	
5/8 x 3/4-inch Meter	\$ 13.85
1-inch Meter	\$ 34.66
1 1/2-inch Meter	\$ 68.77
2-inch Meter	\$ 110.83
3-inch Meter	\$ 221.66
4-inch Meter	\$ 346.29
6-inch Meter	\$ 692.52
8-inch Meter	\$ 1,108.03
10-inch Meter	\$ 1,592.75
12-inch Meter	\$ 2,977.75

Other Public Entities - State Prison \$ 222.43

<u>Monthly Service Charge for Fire Sprinkler</u>	
4-inch Meter - Rate Schedule B6M04 (Sun City West Rate)	\$ 41.00
4-inch Meter - Rate Schedule C6M04	\$ 32.40
6-inch Meter - Rate Schedule C6M06	\$ 47.00
6-inch Meter - Rate Schedule E6M06	\$ 147.00
8-inch Meter - Rate Schedule C6M08	\$ 64.00
10-inch Meter - Rate Schedule C6M10	\$ 126.39
12-inch Meter - Rate Schedule C6M12	\$ 190.00

Gallons in the Minimum

<u>Commodity Rates</u>		Block	
<u>(Residential, Commercial, Industrial)</u>			
5/8 x 3/4-inch Meter Residential	0 - 4,000 Gallons	1.8240	
	4,001 - 13,000 Gallons	2.7280	
	Over 13,000 Gallons	3.2750	
5/8 x 3/4-inch Meter Commercial	0 to 13,000 Gallons	2.7280	
	Over 13,000 Gallons	3.2750	
1-inch Meter:	0 to 45,000 Gallons	2.7280	
	Over 45,000 Gallons	3.2750	
1 1/2-inch Meter:	0 to 100,000 Gallons	2.7280	
	Over 100,000 Gallons	3.2750	
2-inch Meter	0 to 150,000 Gallons	2.7280	
	Over 150,000 Gallons	3.2750	
3-inch Meter	0 to 300,000 Gallons	2.7280	
	Over 300,000 Gallons	3.2750	
4-inch Meter	0 to 400,000 Gallons	2.7280	
	Over 400,000 Gallons	3.2750	
6-inch Meter	0 to 800,000 Gallons	2.7280	
	Over 800,000 Gallons	3.2750	
8-inch Meter	0 to 1,125,000 Gallons	2.7280	
	Over 1,125,000 Gallons	3.2750	
10-inch Meter	0 to 1,500,000 Gallons	2.7280	
	Over 1,500,000 Gallons	3.2750	
12-inch Meter	0 to 2,250,000 Gallons	2.7280	
	Over 2,250,000 Gallons	3.2750	
Arizona Water Contract	0 to 8,000 Gallons	2.0200	
	Over 8,000 Gallons	2.7280	
Other Public Entities - State Prison	All Gallons	2.2400	
OWU - PI Surprise	All Gallons	1.2000	
<u>Private Fire Service</u>	All Gallons	1.3800	
<u>Irrigation/Bulk - Raw</u>	All Gallons	2.7280	
<u>Irrigation - Non Potable</u>	All Gallons	2.7280	

**AGUA FRIA WATER**

ARIZONA-AMERICAN - AGUA FRIA WATER  
 Docket No. W-01303A-08-0227

Service Charges

Establishment Re-establishment and/reconnection of Service:	
Regular Hours	\$ 30.00
After Hours	\$ 40.00
Water Meter Test (If Correct)	\$ 81.00
Meter Re-Read (If Correct)	\$ 5.00
NSF Check Charge	\$ 10.00
Late Fee Charge	1.5% Per Month
Deferred Payment Finance Charge	N/A
Deposit Requirements Residential	**
Deposit Requirements Non-Residential	**
Deposit Interest	***

\*\* Residential - two times the average bill. Non-residential - two and one-half times the estimated maximum bill.

\*\*\* Interest per [Per ACC Rule 14-2-403(B)]

	Service Line Charge	Meter Installation Charge	Total Charge
<u>Meter and Service Line Installation Charges</u>			
5/8 x 3/4-inch Meter	\$ 445.00	\$ 155.00	\$ 600.00
3/4-inch Meter	\$ 445.00	\$ 255.00	\$ 700.00
1-inch Meter	\$ 495.00	\$ 315.00	\$ 810.00
1 1/2-inch Meter	\$ 550.00	\$ 525.00	\$ 1,075.00
2-inch Turbine Meter	\$ 830.00	\$ 1,045.00	\$ 1,875.00
2-inch Compound Meter	\$ 830.00	\$ 1,890.00	\$ 2,720.00
3-inch Turbine Meter	Actual Cost	Actual Cost	Actual Cost
3-inch Compound Meter	Actual Cost	Actual Cost	Actual Cost
4-inch Turbine Meter	Actual Cost	Actual Cost	Actual Cost
4-inch Compound Meter	Actual Cost	Actual Cost	Actual Cost
6-inch Turbine Meter	Actual Cost	Actual Cost	Actual Cost
6-inch Compound Meter	Actual Cost	Actual Cost	Actual Cost
8-inch or Larger	Actual Cost	Actual Cost	Actual Cost

An applicant for water service shall pay to the Company, as a refundable advance in aid of construction the full cost to provide the new service line and meter.

IN ADDITION TO THE COLLECTION OF REGULAR RATES, THE UTILITY WILL COLLECT FROM IT CUSTOMERS A PROPORTIONATE SHARE OF ANY PRIVILEGE, SALES, USE, AND FRANCHISE TAX. PER COMMISSION RULE 14-2-409D(5).

ALL ADVANCES AND/OR CONTRIBUTIONS ARE TO INCLUDE LABOR, MATERIALS, OVERHEADS, AND ALL APPLICABLE TAXES, INCLUDING ALL GROSS-UP TAXES FOR INCOME TAXES, IF APPLICABLE.

# Exhibit 2



# Exhibit 3

Arizona American Water Company - Agua Fria Water  
 Test Year Ended December 31, 2007  
 Summary of Revenues by Customer Classification - Present & Proposed Rates

Exhibit  
 Schedule H-1  
 Page 1  
 Witness: Gutowski

Line No.	Customer Classification	Revenues in Test Year		Proposed Increase	
		Present Rates	Proposed Rates	Amount	%
1	Residential	\$ 13,633,335	\$ 20,846,887	\$ 7,213,552	52.91%
2					
3	Commercial	\$ 3,920,854	\$ 5,690,307	1,769,453	45.13%
4					
5	OPA	\$ 31,032	\$ 54,537	23,505	75.75%
6					
7	Sale For Resale	\$123,440.00	\$123,440.00	-	0.00%
8					
9	Private Fire	\$108,160.29	\$196,886.68	88,726	82.03%
10					
11	Misc Irrigation Sales	\$96,636.16	\$193,444.75	96,809	100.18%
12					
13					
14					
15	Total Revenues	\$ 17,913,457.17	\$ 27,105,502.65	\$ 9,192,045.48	51.31%
16					
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# Exhibit 4

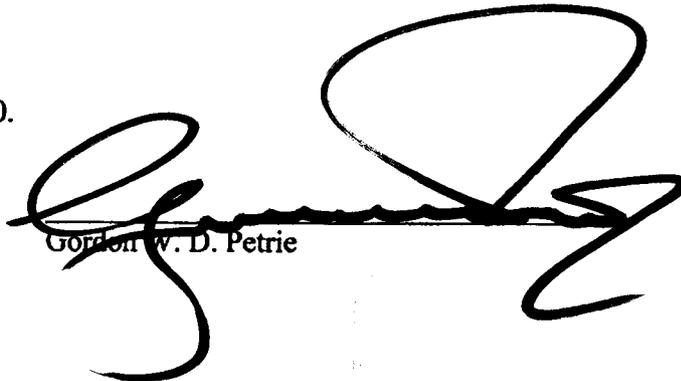
**AFFIDAVIT OF GORDON W. D. PETRIE**

STATE OF ARIZONA )  
 )  
COUNTY OF MARICOPA )  
\_\_\_\_\_ )

Gordon W. D. Petrie, being first duly sworn upon oath, deposes and states:

1. I make this affidavit of my personal knowledge.
2. I am currently President of the Scottsdale Golf Group and have held that position for approximately ten years.
3. The Scottsdale Golf Group manages the Corte Bella Golf Course, which is owned by Mashie, LLC. As President of the Scottsdale Golf Group, I have personal knowledge of Corte Bella Golf Course operations costs and expenses.
4. In 2009, Arizona-American Water Company ("Arizona-American") billed Corte Bella approximately \$125,471 for non-potable irrigation water used to irrigate the golf course. Corte Bella paid these invoices in full.
5. A new rate for non-potable water was implemented by Arizona-American for bills received in 2010. If water use remains approximately the same in 2010, as it was in 2009, Corte Bella will be billed approximately \$550,000 for water use due to the non-potable water rate increase.

Dated this 7<sup>th</sup> day of June, 2010.



Gordon W. D. Petrie

STATE OF ARIZONA                    )  
  )  
COUNTY OF MARICOPA    )

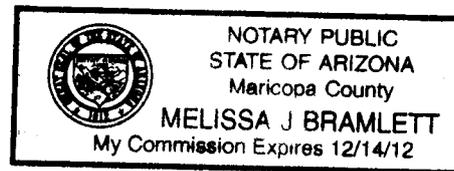
  )    ss.

On this, the 7<sup>th</sup> day of June, 2010, before me, the undersigned Notary Public, personally appeared Gordon W. D. Petrie, known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal

*Melissa J Bramlett*

Notary Public



# Exhibit 5

**Exhibit 5: Arizona-American Non-Potable Water Rates (Excluding Agua Fria Water District)**

Arizona American	Rates		Effective Date	Water Classification
	(\$/1,000 Gals)	(\$/Acre-foot)		
Anthem Water District	\$1.43	\$465.97	2008	Irrigation
Mohave Waste Water District	\$0.70	\$227.79	2009	Effluent
Paradise Valley Water District	\$1.00	\$325.85	2006	Turf Facilities
Paradise Valley Water District	\$1.56	\$508.33	2009	PV Country Club
Sun City Water District	\$1.06	\$345.40	2008	Irrigation
Sun City West Water District	\$0.55	\$178.83	2004	Raw CAP
Sun City West Water District	\$0.51	\$164.65	2004	Effluent
<b>Average</b>	<b>\$0.97</b>	<b>\$316.69</b>		