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BEFORE THE ARIZONA CORPORATE COMMISSION



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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 ANTHEM WATER DISTRICT AND ITS SUN CITY WATER DISTRICT

DOCKET NO. W-01303A-09-0343

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 ANTHEM/AGUA FRIA WASTEWATER DISTRICT, ITS SUN CITY WEST WASTEWATER DISTRICT

DOCKET NO. ~~SW~~ W-01303A-09-0343

**FINAL BRIEF
PHASE II
RATE CONSOLIDATION**

I name is Larry Woods and I am an intervener in the above rate case, representing myself as a resident of Sun City West and a customer ratepayer of Arizona American Water Company (the "Company"). I am in opposition to the implementation of water rate consolidation for the water and wastewater treatment services of the Company.

Being an intervener has allowed me to participate in all of the proceedings of this case. But this case, at least a portion of it, is quite different then most rate cases as I understand it, being a novice layperson. Previous rate cases, including the first part of this rate case are debates of cost justifications between the Company and various governmental and private entities. In this type of case the outcome

1 is an adjustment in the water and/or waste water rates of the Companies customers. The interesting
2 and unusual aspect of the second portion of this rate case focuses not on rates as much as it does on
3 public policy, which is whether one group of individuals should be obligated to burden the costs
4 incurred by another group of individuals. More specifically, the question that needed to be answered
5 was, "Should there be a common set of water and wastewater processing rates for all Company
6 ratepayers?" The term used in this case is "rate consolidation," although technically it is "rate
7 leveling." I would like to address some of the more important points of this case as it relates to rate
8 consolidation. I am going to concentrate on the water vs. wastewater in my brief although in most
9 cases the reader should be able to see how most of the arguments apply to wastewater treatment as
10 well.

11 **Water is a commodity. No!**

12 At various times during the case proceedings it was mentioned that the Company provided water to its
13 ratepayers, the conclusion being that all ratepayers should pay the same amount for this water. This is
14 not the case. The main product that is provided by the Company is potable water that is delivered in a
15 dependable manner to the faucets of the ratepayers. The methods that are used to provide this water
16 are locally unique and vary greatly from district to district. Initial sources of the water, the age of
17 processing equipment, methods of purification, and the distribution systems that are used are specific
18 for each district; in some cases various combinations being implemented within a single district.
19 Based upon the diverse requirements of each district and the infrastructure available it is obvious that
20 the ultimate delivery of water for a given district is very much dependent on the unique situation
21 within that locale. There cannot be a case made that "water is water" and therefore all ratepayers
22 should be charged the same rates for it's ultimate delivery to the faucet. Water is local!

23 **Consolidation will provide savings to the Company and/or Commission. No! Or, Maybe.**

24 Company witnesses felt that there might be some minimal internal savings realized through rate
25 consolidation but they emphasized that their present business practices were very efficient. On the
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1 other hand, the Company felt that the costs for future rate cases could be reduced since it was their
2 belief that there would be fewer cases. This would also translate into savings for the commission since
3 they would also have to hear fewer cases. Let's look at that.

4 The Company pointed out that they are constantly coming to the commission with rate adjustment
5 requests. This is because they have multiple districts that need funds for various repairs, additions, etc.

6 so there is the requirement for multiple rate cases. For example, through rate consolidation the

7 Company might only have to come to the commission annually, presumably with a "consolidated"

8 request. But what would this request look like? Wouldn't it be the collection of all of the various

9 district modifications that would have been requested previously through individual rate cases?

10 Wouldn't Commission Staff and RUCO have to review all of the individual parts of the rate request?

11 Wouldn't an ALJ have to preside over a much longer set of proceedings? And, since the rate request

12 would affect ALL of the ratepayers in ALL of the districts then wouldn't we expect—or at least hope—

13 that potentially there could be interveners from ALL of the districts that would be questioning the

14 validity of various portions of the request? The only way that I can see that there would be savings to

15 the Company and the Commission is that the rate case would be presented and accepted with little

16 examination. By statute this is not an option. Therefore I see little argument to support the impied

17 savings.

18 **Might Consolidation encourage Company growth? Yes!**

19 American Water Works Company (AWK) is the parent of the Company. Plant acquisition is the

20 growth strategy for the parent and therefore we can assume a charge to the Company. In their 2009

21 end-of-year 10-K filing, AWK states:

22 The utility segment includes municipal systems that are owned and operated by local

23 governments or governmental subdivisions, and investor-owned systems. The Environmental

24 Protection Agency ("EPA") estimates that government-owned systems make up the vast

25 majority of the United States water and wastewater utility segment, accounting for

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1 approximately 84% of all United States community water systems and approximately 98% of
2 all United States community wastewater systems. Investor-owned water and wastewater
3 systems account for the remainder of the United States water and wastewater community water
4 systems. Growth of service providers in the regulated utility segment is achieved through
5 acquisitions, including small water and wastewater systems, typically serving fewer than
6 10,000 customers that are in close geographic proximity to our Regulated Business operations.
7 These smaller acquisitions we refer to as “tuck-ins,” of other water and wastewater systems and
8 organic growth of the population served by such providers. ⁱ (Author underlining)

9 We can find an example of what we might be talking about in the American Water Company June 20,
10 2010 Institutional Investor Meeting presentation, under the heading *Developing Solutions for New*
11 *Communities - Sharing Expertise:*

12
13 Utility commissions periodically request our expertise to purchase small, unsustainable water
14 systems that have fallen into disrepair and bring them back into regulatory compliance.
15 Municipalities and cities have called directly on our experience with design, construction and
16 operation of water systems and established operations and maintenance contracts, to address
17 compliance issues or respond to consent orders. For example, in Pennsylvania, we took over a
18 troubled water system with a history of water outages, frequent main breaks and service
19 reliability issues and are now providing a long-term solution for customers of the water system.

20 The system had been under a Department of Environmental Protection (DEP) consent order
21 since July 2008 over service reliability issues.ⁱⁱ (Author underlining)

22 There should be little doubt that the mandate for the Company is to acquire additional water companies
23 within our state. Many of these presently independent water companies are in a state of disrepair, as
24 was the Pennsylvania water company in the example above. Also, many of these companies only
25 supply a small number of users, often fewer than 100. If rate consolidation is implemented then the
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1 Company could acquire one or more of these companies, upgrade the system and pass the costs to---
2 you guessed it. The present Company ratepayers! There will be NO business risk in acquiring these
3 substandard or presently unsustainable water companies because the costs will be passed on to the
4 present population of ratepayers!

5 **Isn't the Company like a municipal utility? No!**

6 In a discussion with an officer of the Company I suggested that there wasn't any justification for
7 spreading individual district costs over the complete ratepayer base. He suggested that this type of
8 "cost-sharing" was no different than if the City of Phoenix needed to drill a new water well in the north
9 side of Phoenix. The city water department would be charging the costs of this well over the complete
10 base of ratepayers in Phoenix, even though some of these ratepayers live in the south side of Phoenix.
11 I contend that there is a distinct difference. The focus of a municipal utility is service. The goal of a
12 for-profit company such as the Company is profit to the shareholder. Obviously the Company must
13 deliver a service but any level of service over and above that that is expected might have a negative
14 affect on profitability and should therefore be avoided. Is this to imply that the Company is not to be
15 trusted? No. On the other hand, in any business transactions with the Company we need to remember
16 that the Company is a for-profit business entity.

17 **But what about Anthem and Tubac?**

18 The debate about rate consolidation should have been done based upon the merits of the concept.
19 Instead, the commission allowed the debate to focus on situations specific to particular districts. What
20 should have been a discussion on a concept became an emotional exchange between residents of
21 various districts. Let's look at the specific situations:

22 **Tubac:** This small district with less than 600 meters has a well that is delivering water with an
23 arsenic level that is above the mandated federal level. Correcting the problem will cost
24 multiple million dollars. At this point it is my understanding that some of this cost has been
25 covered by federal funds. In any case the costs to such a small group of ratepayers are

1 extravagant. This type of situation where a group of residents is forced to incur exorbitant costs
2 that are outside of their control should be addressed by government. For example, a possibility
3 might be a governmental fund that would assist in covering these costs. But, should other
4 ratepayers who coincidentally buy services from the same company have to cover these costs?

5 **Anthem:** The "Anthem Problem" is NOT a rate setting problem and should never have been
6 allowed to be part of this rate case. The situation in Anthem has nothing to do with the delivery
7 of water and/or wastewater treatment. It is a financial situation of questionable validity that
8 first needs to get resolved before it should be introduced as a rate setting case. There seem to
9 be many parties that had a responsibility for allowing this situation to happen. In particular,
10 from my research it looks as if the Commission itself was negligent in ignoring this situation, a
11 situation that was known and acknowledged in the late 1990's when the commission disallowed
12 the inclusion of some of these costs in the rate base for Anthem. From my layman's
13 prospective it looks like the then elected commissioners said, "No," and then ignored it,
14 "kicking the can down the road." The Company, the developer, and the Commission knew that
15 the day was coming when this bill needed to be paid. The victims were the ratepayers. But,
16 should other ratepayers who coincidentally buy services from the same company have to cover
17 these costs?

18 Before leaving the topic of addressing specific situations I find it interesting that I can't find any
19 citations either from the commission or media where any of the water districts came forward in 2004 to
20 propose support for Sun City West when they spent over \$10,000,000 for their arsenic removal facility.
21 And, Sun City West was not the only district that required additional facilities for arsenic removal; it's
22 just the one that I am familiar with.

23 **Conclusion**

24 I would hope that the reader has picked up on my position as being against rate consolidation. I cannot
25 identify any significant savings that will be had through consolidation. I also believe that if
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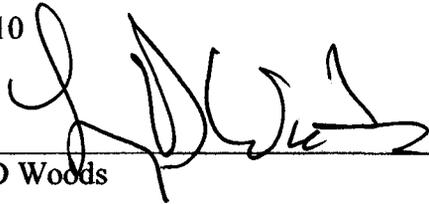
1 consolidation is approved that we will see increased acquisition activities by the Company. And, this
2 will lead to increased rates for all ratepayers.

3
4 ⁱ Form 10-K, American Water Works Company, For the fiscal year ended December 31, 2009; Page 5;
<http://www.sec.gov/Archives/edgar/data/1410636/000119312510044392/d10k.htm>

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6 ⁱⁱ American Water Company June 20, 2010 Institutional Investor Meeting, Page 50 of 52;
7 <http://phx.corporate-ir.net/External.File?item=UGFyZW50SUQ9NDkyMzF8Q2hpbGRJRD0tMXxUeXBIPtM=&t=1>

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12 RESPECTFULLY SUBMITTED this 16th day of July , 2010

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Original and thirteen (13) copies of the foregoing filed this 16th day of July , 2010 with:

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