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Sheila Stoeller

From: Bob Golembe [anthemkid@cox.net]
Sent: Wednesday, September 29, 2010 9:17 AM
To: Mayes-WebEmail; Kennedy-Web; Newman-Web; Pierce-Web; Stump-Web
Cc: Jodi Jerich; Sheila Stoeller
Subject: Comment: Superior Court Judge Rules Against Pulte Refunds, Arizona American Water Rate Filing; Docket: W-01303A-09-0343 ; *SW-01303A-09-0343*
Attachments: Judge Ruling Pulte Disclosure.pdf; Press Release.pdf

Dear Chairwoman Mayes and Commissioners:

The Arizona American Water rate case includes \$23.3 million in Pulte refunds. On August 27, Judge Martone from the US Superior Court, Arizona District released his Order (attached pdf "Judge Ruling Pulte Disclosure"), on the Pulte refunds non-disclosure issue.

For Executive Summary purposes, below is a copy/paste press release from the National Association Water Companies (attached pdf "Press Release").

Although the Commission is not bound by this ruling, it validates that Anthem ratepayers were and continue to be harmed by the poor business decision between Pulte and Arizona American Water's 1997 Private Agreement. It also provides legal leverage to remove the millions in Pulte refunds from the instant case.

Unlike the last case (Decision 70372, June 2008), where Mayes Amendment No. 1 (removal of Pulte refunds), failed to pass because of the potential of a law suit against the Commission, this decision provides you with the opportunity to mitigate any further harm that Anthem ratepayers will endure from the instant case.

Per the attachment, the US Superior Court Judge Mr. Martone definitively rules that Pulte was in violation of Arizona's Consumer Fraud Act. Arizona American Water is complicit in this business decision; they purchased Citizens Water's assets and liabilities.

Don't let Anthem ratepayers be further harmed by paying for illegal practices; it was a poor business decision from the beginning and the Commission never approved the 1997 Private Agreement.

Bob Golembe,
Anthem, AZ

Arizona Corporation Commission

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National Association Water Companies
September 14, 2010
State Regulatory Relations

Federal Court Rules Against Developer

The United States District Court for the District of Arizona ruled that a developer had an affirmative duty to disclose to prospective homeowners that they ultimately would bear the burden of paying substantial sums for

infrastructure costs. In *Grimmelmann v. Pulte Home Corporation*, 2010 U.S. Dist. LEXIS 89695, the defendant entered into an agreement with Citizens Water Services Company of Arizona to advance the water company between \$80 million and \$100 million for the construction of water facilities to serve its development. The agreement provided that Citizens would then reimburse the developer for its construction advance. The court concluded that by not advising home purchasers that the utility would seek to recoup its investment through future utility rates, the developer violated Arizona's Consumer Fraud Act and, consequently, was subject to damages.



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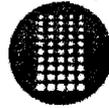
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State Regulatory Relations

California PUC Approves SouthWest Water Merger



**SouthWest
Water Company***

With water comes responsibility

Services, LLC. In adopting a settlement agreement submitted by the Joint Applicants and the Division of Ratepayer Advocates, the Commission concluded that the transaction would provide Suburban with greater access to needed capital while not otherwise affecting Suburban's day-to-day operations: "It is anticipated that there will be no practical effect on Suburban's management, employee base, revenue requirement, rate base, capital structure or regulation by the Commission." The merger had previously been approved by regulators in the other four states in which SouthWest subsidiaries provide regulated water and/or wastewater service.

By Order issued September 3, 2010, the California Public Utilities Commission cleared the way for the acquisition of SouthWest Water Company, parent of Suburban Water Systems, by IIF Subway Investment, LP, an affiliate of JPMorgan IIF Acquisitions, LLC, and USA Water

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Missouri PSC Revisits Availability Fees

In a recent rate proceeding, the Missouri Public Service Commission announced its intention to change, on a prospective basis, its practices and policies regarding the treatment of revenue derived through the use of availability, reservation, standby, connection and other similar fees. In the *Matter of Lake Region Water and Sewer Company*, 2010 Mo. PSC LEXIS 794. Historically, the commission has held that such fees were non-jurisdictional because, in the PSC's view, they did not constitute or relate to a utility "service," i.e., the treatment and/or transportation of water or sewage. However, the PSC apparently has been convinced to take such revenue streams into account for ratemaking purposes (e.g., by imputing revenues) and opened a workshop docket to lead to a rulemaking with that goal in mind.