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OPEN MEETING AGENDA ITEM
BEFORE THE ARIZONA CORPORATION COMMISSION
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7
8 IN THE MATTER OF THE APPLICATION OF
9 LITCHFIELD PARK SERVICE COMPANY, AN
10 ARIZONA CORPORATION, FOR A
11 DETERMINATION OF THE FAIR VALUE OF ITS
12 UTILITY PLANTS AND PROPERTY AND FOR
13 INCREASES IN ITS WASTEWATER RATES
14 AND CHARGES FOR UTILITY SERVICE BASED
15 THEREON.

Docket No. SW-01428A-09-0103

12 IN THE MATTER OF THE APPLICATION OF
13 LITCHFIELD PARK SERVICE COMPANY, AN
14 ARIZONA CORPORATION, FOR A
15 DETERMINATION OF THE FAIR VALUE OF ITS
16 UTILITY PLANTS AND PROPERTY AND FOR
17 INCREASES IN ITS WATER RATES AND
18 CHARGES FOR UTILITY SERVICE BASED
19 THEREON.

Docket No. W-01427A-09-0104

16 IN THE MATTER OF THE APPLICATION OF
17 LITCHFIELD PARK SERVICE COMPANY, AN
18 ARIZONA CORPORATION, FOR AUTHORITY
19 (1) TO ISSUE EVIDENCE OF INDEBTEDNESS
20 IN AN AMOUNT NOT TO EXCEED \$1,755,000 IN
21 CONNECTION WITH (A) THE CONSTRUCTION
22 OF TWO RECHARGE WELL
23 INFRASTRUCTURE IMPROVEMENTS AND (2)
24 TO ENCUMBER ITS REAL PROPERTY AND
PLANT AS SECURITY FOR SUCH
INDEBTEDNESS.

Docket No. W-01427A-09-0116

Arizona Corporation Commission

DOCKETED

OCT 14 2010

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21 IN THE MATTER OF THE APPLICATION OF
22 LITCHFIELD PARK SERVICE COMPANY, AN
23 ARIZONA CORPORATION, FOR AUTHORITY
24 (1) TO ISSUE EVIDENCE OF INDEBTEDNESS
IN AN AMOUNT NOT TO EXCEED \$1,170,000 IN
CONNECTION WITH (A) THE CONSTRUCTION
OF ONE 200 KW ROOF MOUNTED SOLAR

Docket No. W-01427A-09-0120

1 GENERATOR INFRASTRUCTURE
2 IMPROVEMENTS AND (2) TO ENCUMBER ITS
3 REAL PROPERTY AND PLANT AS SECURITY
4 FOR SUCH INDEBTEDNESS.

5
6 **RESIDENTIAL UTILITY CONSUMER OFFICE'S**
7 **EXCEPTIONS**

8 The Residential Utility Consumer Office ("RUCO") makes the following exceptions to the
9 Recommended Opinion and Order ("ROO").

10 **I. Shareholders and ratepayers should evenly split the cost of the \$7 million dollar**
11 **plant repairs to the Palm Valley Water Reclamation Facility ("PVWRF").**

12 RUCO recommends a \$3.5 million reduction to rate base. The reduction would result in
13 a \$475,991 reduction in the Company's gross revenue and an average monthly residential
14 wastewater rate of \$38.62 or \$2.33 less than the \$40.95 recommended in the ROO. See
15 Proposed RUCO Amendment No. 1, attached hereto.

16 The Company completed \$14.9 million in additions in 2002 to the PVWRF.¹ The
17 Company then made \$7.0 million dollars in repairs and upgrades to the PVWRF in 2007-2008.
18 *Id.* The Company is requesting that the Commission allow it to recover all of the initial
19 improvements plus the \$7 million in repairs and upgrades from the ratepayers in this case. In
20 an effort to be fair to both shareholders and ratepayers, under the circumstances in this case,
21 RUCO submits that \$7 million for repairs and upgrades necessitated by the PVWRF's design
22 or construction problems should be shared between the shareholders and the ratepayers. *Id.*
23 This would result in a reduction of \$3.5 million of test-year plant additions and reduce the
24 ratepayers' wastewater rates.

¹ See Exhibit A-8 Direct Testimony of Greg Sorenson at 7.

1 It is unreasonable to hold ratepayers entirely responsible for these costs when one
2 considers the recommended increases in context of the entire rate case. The ROO is
3 recommending a 72 percent increase for the water division and a 49 percent increase for the
4 wastewater division.² At a time when every dollar counts, the Commission must make sure the
5 ratepayer is getting value for his/her dollar. Unlike a car, where there are lemon laws or a
6 home where there are warranties and the court system to protect consumers, the ratepayer
7 has only the Commission to act as a check when they are not getting value for their dollar.
8 RUCO is not recommending that the Commission deny the total costs of the improvements,
9 but that the excessive costs be shared equally by the ratepayers and shareholders.

10 **II. RUCO's position is supported by the record.**

11 RUCO's position is supported by the admissions of the Company's witnesses. In his
12 Direct Testimony, LPSCO witness Greg Sorensen admits:

13 *"...in the summer of 2007, the plant had two spill events that confirmed that the*
14 *plant, as originally designed and constructed by our predecessor owners,*
15 *was lacking certain redundancy capabilities and needed some upgrades to*
achieve an acceptable level of reliability."³

16 Furthermore, in response to RUCO data request MJR 2.14, the Company provided excerpts
17 from a report developed by McBride Engineering Solutions, Inc. ("MES") identifying several
18 design problems at the PVWRF that resulted in excessive odors, insufficient reliability and a
19 lack of redundancy capability. Correcting these problems necessitated significant upgrades.⁴

20 Mr. McBride's 2006 report states:

21 According to Algonquin's own managers, engineers, and operators, the existing
22 Palm Valley WRF has numerous operational shortcomings that need to be
addressed. These include hydraulic issues, redundant capacity shortfalls, odor

23 ² Under the ROO, the average ¾" residential customer would experience a \$10.49 (56.27 percent)
24 increase for water and a \$13.75 (50.55 percent) increase for wastewater.
³ See Exhibit A-8 Direct Testimony of Greg Sorenson at 7.
⁴ See Exhibit R-2 at 1.

1 control problems, process control difficulties, equipment reliability concerns,
2 trouble-shooting limitations, excessive maintenance requirements, and a lack of
operational flexibility among others. In addition, it is expected that the current
3 rated capacity of the plant will be exceeded within one year.⁵

4 RUCO's proposed adjustment is adequately supported by the record and it is reasonable for
5 the Commission to adopt it.⁶

6 **III. The Company's assertion that the "operational challenges" were necessitated by
changed circumstances is not supported by the evidence.**

7 The ROO finds that changes in volume and flow necessitated the \$7 million upgrades.
8 The conclusion is simply not borne out by the record. There were no *unanticipated* changes in
9 population or growth necessitating operational challenges to plant operation. T: 1355. Although
10 the Company encountered rapid growth, it was anticipated growth. In fact, in the 2001 Phase I
11 Design Report, the Company assumed: "Unit Flow of 100 gpcpd and a 50 percent population
12 increase every five years."⁷ Although the original design anticipated rapid growth, the
13 Company's 2007 population served was 1,553 less than its projections for 2005. The
14 Company's 2007 maximum daily influent rate was 3.8 mgd or 2.05 mgd lower than the 5.85
15 mgd peak flows projected for 2005. Given that the Company had not reached its population
16 projections or flows for 2005 by 2007, it's difficult to ascertain how less than expected
17 population growth and flow necessitated the \$7 million dollar upgrades.

18 **IV. The ratepayers should not have to pay for the same plant twice.**

19 Another reason the cost of the upgrades should be shared between shareholders and
20 ratepayers is that ratepayers should not have to pay for the same plant twice. In the course of
21

22 ⁵ *Id.*
23 ⁶ *Tucson Elec. Power C. v. ACC*, 132 Ariz. 240, 243, 645 P. 2d 231,234 (1982); *Arizona Water Co. v. ACC*,
24 217 Ariz. 652, 177 P.3d 1224(App.Div.1, 2008); *ACC v. Fred Harvey Transp.*, 95 Ariz. at 189, 388 P.2d 238(Ariz.
1964)(citing *State ex rel Consol. Freight Lines v. Murray*, 182 Wash.98, 100, 44 P.2d 1031, 1033 (1935)("that a
judge of the superior court or that this court, might be of the opinion that a different order should have been
entered than that which the department did enter, does not, in of itself, warrant reversal of the department.").

⁷ See Exhibit A-34, 2001 Phase 1 Design Report, Population Expected for 2000-2010 at 15.

1 making upgrades, the Company demolished and installed additional systems for grit removal,
2 screening, electric and ultra-violet disinfection.⁸ As a result, the ratepayers are paying twice
3 for the same plant components. Likewise, the Company replaced the odor system from the
4 original construction, not once, but twice, on a plant which was touted to have a state-of-the-art
5 design which would allow it to be placed in the center of a master-planned community, without
6 the usual odor issues.⁹ While the ratepayers are undoubtedly happy to have the odor issues
7 resolved, they should not be required to pay twice for the same plant. Moreover, RUCO's
8 position that ratepayers should not have to pay twice for the same plant mirrors a reoccurring
9 position taken by the Commission. In the Matter of Sonoita Valley Water Company, Decision
10 No. 71830, the Commission's ruling included an admonition that Staff and the Company
11 ensure that ratepayers are not asked to pay for the same plant twice as a result of a future
12 WIFA surcharge.¹⁰ While the facts, of the Sonoita Decision are different, the policy is well-
13 reasoned.

14 Accordingly, RUCO recommends that the shareholders bear an equal portion of the
15 cost of reconstructing the plant to meet its original peak hourly requirement and requests that
16 the Commission disallow \$3.5 million dollars of the cost of reconstruction from rate base.

17 **V. Some of the claimed upgrades are, in fact, expansions of the existing system**
18 **beyond what is used and useful.**

19 As of September 2007, the Company's average flow per month was 3.3 mgd and its
20 average peak flows were 3.85 mgd.¹¹ In upgrading the plant's grit screening, the Company

21
22 ⁸ See Exhibit R-3 ADEQ Documents, Correspondence from Company and Engineer re: Upgrades at 205-
243 .

23 ⁹ See Exhibit A-1 Direct Testimony of Greg Sorenson at 8 and R-24 Phoenix Business Journal article:
"Waste Water Treatment Gets New Look" dated May 16, 2003.

24 ¹⁰ In the Matter of Sonoita Valley Water Company, Docket Nos. W-20435A-09-0296 and W-20435A-09-
0298, Decision No. 71830, issued on August 10, 2010.

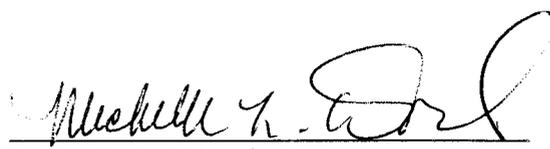
¹¹ See Exhibit A-36 Company's Response to Staff DR 5.4. .

1 built it to handle 15.8 mgd.¹² The upgrades result in the vertical filler feeder pumps, effluent
2 pumps and ultra-violet disinfection units which handle a capacity of 18.4 mgd, 14.3 mgd and
3 15.76 mgd, respectively.¹³ Clearly, the plant components as currently configured, include more
4 than what is necessary for redundancy and are not currently used and useful.

5 **VI. The ROO should clarify the beginning date of the surcharge.**

6 The ROO adopts RUCO's rate phase-in proposal. However, the ROO is silent as to
7 when the surcharge takes effect. If the Commission authorizes the surcharge to take effect
8 immediately, it negates the impact of the 3-step phase-in. RUCO prefers the surcharge
9 become effective 6 months after the rates are fully phased-in.

10 RESPECTFULLY SUBMITTED this 14th day of October, 2010.

11
12 
13 Michelle L. Wood
14 Counsel

15 AN ORIGINAL AND THIRTEEN COPIES
16 of the foregoing filed this 14th day
17 of October, 2010 with:

18 Docket Control
19 Arizona Corporation Commission
20 1200 West Washington
21 Phoenix, Arizona 85007

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23
24 ¹² *Id.* at 211 and 219.
¹³ *Id.* at 170 and 205.

1 COPIES of the foregoing hand delivered/
mailed this 14th day of October, 2010 to:

2
3 The Honorable Dwight D. Nodes,
Asst. Chief Administrative Law Judge
Hearing Division
4 Arizona Corporation Commission
1200 West Washington
5 Phoenix, Arizona 85007

6 Janice Alward, Chief Counsel
Robin Mitchell, Counsel
7 Kimberly Ruht, Counsel
Legal Division
8 Arizona Corporation Commission
1200 West Washington
9 Phoenix, Arizona 85007

10 Steve Olea, Director
Utilities Division
11 Arizona Corporation Commission
1200 West Washington
12 Phoenix, Arizona 85007

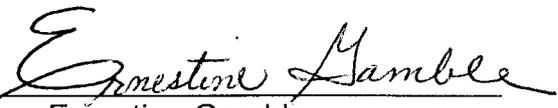
13 Jay L. Shapiro
Todd C. Wiley
14 Fennemore Craig, PC
3003 N. Central Avenue, Suite 2600
15 Phoenix, AZ 85012

William P. Sullivan
Susan D. Goodwin
Larry K. Udall
Curtis Goodwin Sullivan Udall
& Schwab, PLC
501 East Thomas Road
Phoenix, AZ 85012-3205

Craig Marks
Craig A. Marks, PLC
10645 N. Tatum Blvd.
Suite 200-676
Phoenix, Arizona 85028

Chad and Jessica Robinson
15629 W. Meadowbrook Avenue
Goodyear, AZ 85395

Martin A. Aronson
Robert J. Moon
Morrill & Aronson, PLC
One East Camelback Road, Suite 340
Phoenix, AZ 85012

16
17 By 
Ernestine Gamble

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19
20
21
22
23
24

Litchfield Park Service Company
SW-01428A-09-0103 et al.
Proposed RUCO Amendment No. 1

PAGE 31, DELETE line 28 after the word "base" through page 33, line 14

INSERT: (New Language)

Although Mr. Sorenson and Mr. McBride attempt to divorce themselves from their prior statements, we believe these statements, which predate RUCO's adjustment, are more credible than the subsequent attempts to re-characterize the rebuilds as upgrades to address operational changes. The Company and its predecessor had the obligation to build a reliable system. Although the plant met all permitting requirements, according to Liberty Water, it did not work reliably. The Company asserts the reason for operational challenges is that it encountered unanticipated volume and flow. The record is clear that even though the Company's service area experienced rapid growth, such growth was anticipated when the systems was originally designed in 2001. Moreover, as of 2007, the Company's flows and volume had not reached levels anticipated for 2005. As a result of the upgrades, the Company demolished and installed additional systems for grit removal, electric, ultra-violet disinfection and odor control. Ratepayers should not have to pay twice to rebuild a system which according to the Company was non-operational within three years of original construction. Moreover, it is clear that in making upgrades, the Company configured components to handle flows well beyond what is used and useful to the ratepayers. Accordingly, we believe that it is just and reasonable for ratepayers and shareholders to bear equal burden of the \$7 million repairs and upgrades and adopt RUCO's \$3.5 million adjustment to rate base.

MAKE ALL CONFORMING CHANGES