

ORIGINAL

OPEN MEETING AGENDA ITEM



0000120470

Sheila Stoeller

Arizona Corporation Commission

Bob Golembe [anthemkid@cox.net]

DOCKETED

Thursday, December 02, 2010 7:58 AM

To: Mayes-WebEmail; Kennedy-Web; Newman-Web; Pierce-Web; Stump-Web

Cc: Jodi Jerich; Sheila Stoeller; Jack Noblitt; Roger Willis

Subject: Closing Comments on Anthem Water Rate Case: Docket SW-01303A-09-0343 and SW-01303A-09-0343

RECEIVED
2010 DEC 2 P 2:03

DOCKETED BY [Signature]

AZ CORP COMMISSION
DOCKET CONTROL

Dear Chairman Mayes and Commissioners:

After reading the ROO and in preparation for the next Open Hearing, December 14/15, 2010, I am submitting in advance my public comment for your advanced review and consideration. It is also being provided in consideration of a three (3) minute time limit that may be imposed at the Open Hearing as it is anticipated that these comments will exceed that limit.

I hereby submit in advance my Public Comments for the forthcoming Open Hearing:

I am one of the 3681 public comments cited in the ROO sent to the Commission that vigorously opposes AZ American Water's rate increase. The theme of these comments are best reflected in the words of RUCO's Closing Brief of July 16, this increase is "huge and that in the past and present economy leaves Anthem's ratepayers suffering".

I am sure between the recent Global Water and Liberty Water cases you have just about heard every issue from all parties. However, this case is extraordinary as in 1999 Del Webb began selling homes in Anthem. Little did Anthem purchasers know that lurking in the background was the 1997 Private Agreement between Del Webb/Pulte and Citizens Water/AAWC for the repayment of millions of dollars of infrastructure to be included in our future base rates.

We ask that the Pulte refunds be disallowed. Madam Chair, Commissioners, we were not only completely blind-sided in the purchase of our homes by this issue, but Pulte paid our legal fees in the last rate case; a conflict of interest that provided questionable representation.

We are a nation of laws; we should not pay for practices from financial Private Agreements that were not approved by the Commission and non-disclosure issues that violated Arizona's Consumer Fraud Act. Commission Staff argues that removal of Pulte refunds would be "inequitable to the company" and "too much to refund". I argue that it is patently unfair to obligate the ratepayer to pay for this debt under these findings.

My research also found in the **Corporation Commission Regulation for Water Utilities, Section: R14-2-402.**

"Certificate of Convenience and Necessity for water utilities; abandonments", citing the following requirements with a *personal comment* in parenthesis:

1.e. The rates proposed to be charged for the service that will be rendered. (*As an original homeowner, I was given a brochure "A Clear Source of Information on Water", but it omitted any statement about the Pulte refunds*), and

1.g. The manner of capitalization and method of financing for the project. (*I assume this is the 1997 Private Agreement*), and then it states:

4. Once the applicant has satisfied the information requirements of this regulation, as well as any additional information required by the staff of the Commission's Utilities Division, the Commission shall, expeditiously as reasonably practicable, schedule hearings to consider such application.

As a lay person, I interpret this as the Commission must either approve, disapprove or defer the application, but NOT ignore it. Staff's directive that the Commission did not need to approve it was in my opinion a "false positive" and by default an approval of the Private Agreement.

I believe the answer is in the Arizona Constitution. Please do not reward the company for practices that disregard the Commission's non-approval of the 1997 Pulte Agreement or the recent consumer fraud statute ruling by Judge Martone of the US Superior Court. These two are interrelated, not ignorant of each other, and both advocate that the Pulte refunds are unjust.

Regarding the proposed rate increase, the company's declaration in their **POST-HEARING BRIEF OF ARIZONA-AMERICAN WATER COMPANY** dated, July 16, page 2, states:

"The Company is sympathetic to the difficulty that this rate increase poses for many of its rate payers."

How disingenuous can one get? Their "sympathy" is expressed in the company's application of near doubling of our rates that is egregious to Anthem, yet they have demonstrated time and time again their inflexibility in supporting any rate shock mitigation process. They did not volunteer to study consolidation of their districts; Commissioner Mayes directed that study. They also object to any phase-in plan as they won't forgo revenue even if it makes them whole at a later date. And, in the final act of defiance, they claim revenue losses from conservation measures being applied in Anthem. We should be rewarded for these measures and not penalized. Period!

Anthem ratepayers are not "cash cows"; however, we are captive customers. I am a low volume user averaging 4,000 gal per month. From the ROO, I estimate my water bill will increase by approximately \$56/month or \$672/year using a 1-inch meter. When added to the 2008 increase of \$29/month or \$352/year, a total increase of \$1024/year in the last 2 1/2 years. There is no debate on this side of the isle that this is unreasonable and inappropriate under the prevailing economic conditions and its future impact on the market competitiveness of Anthem.

The major cost driver is the Pulte refunds ranging in the instant case anywhere from 17% to over 50% of the total revenue requested per Mr. Thomas Broderick's hearing testimony of May 19th or 33% as he stated at the July 27th Consolidation Meeting in Anthem. He then states in an email to me, dated September 20th:

"The entire record of the case is intended to justify the revenue requirements based on the cost of service. I think you know that in the case of Anthem, the vast majority of the increase is related to the cost of infrastructure. Only a part of the increase is due to operating expenses."

There you have it; the Pulte refund issue is the hypercritical matter before you.

Among other salient issues in this case, on Oct. 14, 2010, I docketed my commentary on the \$50 rate premium the company proposes for 1-inch vs. 3/4-inch meter users where the national average difference is \$6.05 (per the 2009 National Fire Protection Association). Without completely restating the facts provided, Anthem has one infrastructure and contrary to Mr. Broderick's statement, company data does not support the argument that the 1-inch meter premium is due to the infrastructure needs to uphold fire sprinkler systems. For that matter, there are 182 homes with sprinklers using 3/4-inch meters and there are 518 homes that use 1-inch meters without sprinklers. Of the total home residential meter users, there is only an 18% spread between the 3/4 and 1-inch meters; hardly enough to justify the \$50 premium.

We do know that all residential lot meters are fed using 1-inch pipes to the lot lines. From my perspective, it is not a matter of fire sprinklers; it is a matter of demand and the levy of the cost of service as stated by the company to the bearer.

Per the company's revised **Revenue Schedule H-2, Page 2**, by Donna Kutowski, I pose the following questions:

- If the greater cost-of-service is to be borne by the 1-inch user, why does the water company's data calculate for the 3/4-inch meter 23% more consumed gallons or approximately 9 million gallons per month? (Total = avg. gal. X no. of customers. The sole use of average consumption per meter size is not an accurate indicator of the total demand.)
- If the greater cost-of-service is to be borne by the 1-inch user, how do they justify collecting an additional \$2,030,400 in revenue per year when all hookups consist of 1-inch piping and the fixed meter cost difference is less than \$100? (3384 users times \$600)?
- Why does their Schedule show a 91.3% across the board for all meter classes and sizes when the cost of service should be borne by those customers that cause more demand on the infrastructure?
- Why did the company use only a factor of 1.25X vs. 2X between the two meter sizes in their consolidation model vs. the current stand alone rates?

It is clear that the cost of service data does not support this premium. Traditional rate making practices do not apply to extraordinary cases; nor does the mentality: "we've always done it that way". Therefore, I propose, similar to the Global Water case amendment by Commissioner Kennedy, that the gap be made narrower by distributing the difference among all other classes and sub-classes for Anthem's single infrastructure system. It is a form of integrated "mini-consolidation".

In summary, the ROO's proposed revenue increase and rates are unfair, unreasonable and inappropriate! Madam Chair, Commissioners, you have a tough decision to make today. On the one hand, you have the Corporation Commission Article 15, Section 3 of the Constitution that cites the need for determining what is "just and reasonable" in the fair value of a utility in setting rates. The founding fathers knew of the dangerous power of monopolies. On the other hand, you have broad authority to factor in the such issues as the economy, fairness of the rate increase and its impact on the lifestyle of the consumer.

To that end, I would like to share three quotes. The first is from Kris Mayes Swearing In speech on January 2nd, 2007

"It is the Commission that has come through difficult times, and has emerged as one of the most respected utility regulatory bodies in the nation once again. A national financial firm has called this the most consumer friendly Commission in America, at a time when we have also managed to keep out utilities healthy."

The operative words are: "most consumer friendly Commission in America".

And then comments by Commissioner Pierce at the swearing in ceremony of new Commissioners: Stump, Newman and Kennedy on Jan. 5th 2009:

"All three of our new commissioners are former legislators.....So, they bring a wealth of knowledge and background to the job. The voters of Arizona have done their part and fully expect the five of us to do ours. We have the great opportunity to lead an organization of professionals who on a daily basis serve and protect citizens in this state".

The operative words are: "serve and protect citizens in this state".

And, finally a quote from the Sedona Times, of September 3rd, 2010 from Commissioner Pierce:

"The priority of the Corporation Commission has always been to keep the utility rates stable, balanced and low for all rate payers of Arizona. This is more important now than ever because of the economic downturn."

In closing, your decision will leave a legacy on the future of Anthem. Do what is just and right: please do not let Arizona American Water "kill off" their ratepayers in the process!

Respectfully submitted,

Bob Golembe, Anthem, AZ