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BEFORE THE ARIZONA CORPORATION COMMISSION

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

Docket No. SW-01428A-09-0103

18 IN THE MATTER OF THE APPLICATION OF
 19 LITCHFIELD PARK SERVICE COMPANY, AN
 20 ARIZONA CORPORATION, FOR A DETERMINATION
 21 OF THE FAIR VALUE OF ITS UTILITY PLANTS AND
 22 PROPERTY AND FOR INCREASES IN ITS WATER
 23 RATES AND CHARGES FOR UTILITY SERVICE
 24 BASED THEREON.

Docket No. W-01427A-09-0104

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

Docket No. W-01427A-09-0116

IN THE MATTER OF THE APPLICATION OF
 LITCHFIELD PARK SERVICE COMPANY, AN
 ARIZONA CORPORATION, FOR AUTHORITY (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
 GENERATOR INFRASTRUCTURE IMPROVEMENTS
 AND (2) TO ENCUMBER ITS REAL PROPERTY AND
 PLANT AS SECURITY FOR SUCH INDEBTEDNESS.

Docket No. W-01427A-09-0120

1 **RESIDENTIAL UTILITY CONSUMER OFFICE'S**
2 **REQUEST FOR RECONSIDERATION UNDER A.R.S. §40-252**

3 The Residential Utility Consumer Office ("RUCO") requests that if the Commission
4 grants LPSCO's Application for Rehearing to reconsider cost of capital issues, at the
5 Commission grant the rehearing under §40-252 so that the scope of the rehearing is not
6 unfairly restricted.

7 In the open meeting on this matter, RUCO abandoned its exceptions to the underlying
8 ROO in favor of the Mayes' Amendment No. 3 which reduced the overall return on equity.
9 Litchfield Park Service Company aka Liberty Water ("LPSCO" or "Company") now seeks
10 rehearing of the Decision questioning the adoption of the Mayes' Amendment No. 3. RUCO
11 disagrees with both the factual and legal bases asserted by the Company, but if the
12 Commission is persuaded to grant rehearing, RUCO also requests that the reconsider the
13 issues RUCO abandoned in favor of the Mayes' Amendment No. 3. Namely, RUCO requests
14 that the Commission reconsider whether the \$7 million the Company spent on upgrades
15 shortly after completing the original plant resulted from imprudent operation, overexpansion of
16 components or ratepayers inappropriately paying twice for the same plant. RUCO believes
17 that the adoption of the Mayes Amendment No. 3 provides the relief that would otherwise be
18 afforded wastewater ratepayers by the exclusion of the \$7 million in additional plant and
19 provides necessary mitigation of rate shock associated with water rates. RUCO only seeks
20 reconsideration under A.R.S. §40-252, in the event that the Commission grants rehearing to
21 the Company under A.R.S. §40-253.

1 The Decision finds that the \$7 million in plant improvements are used and useful. As of
2 September 2007, the Company's average flow per month was 3.3 mgd and its average peak
3 flows were 3.85 mgd.¹ In upgrading the plant's grit screening, the Company built it to handle
4 15.8 mgd.² The upgrades result in the vertical filler feeder pumps, effluent pumps and ultra-
5 violet disinfection units which handle a capacity of 18.4 mgd, 14.3 mgd and 15.76 mgd,
6 respectively.³ RUCO asks that any rehearing reconsider whether the plant components as
7 currently configured, include more than what is necessary for current demands and
8 redundancy and therefore, not used and useful.

9 In the course of making upgrades, the Company demolished and installed additional
10 systems for grit removal, screening, electric and ultra-violet disinfection.⁴ Likewise, the
11 Company replaced the odor system from the original construction, not once, but twice.⁵ *In the*
12 *Matter of Sonoita Valley Water Company*, Decision No. 71830, the Commission's ruling
13 included an admonition that Staff and the Company ensure that ratepayers are not asked to
14 pay for the same plant twice as a result of a future WIFA surcharge.⁶ While the facts, of the
15 *Sonoita* Decision are different, the policy is well-reasoned. Therefore, RUCO asks the
16 Commission to also reconsider whether some of the \$7 million in repairs results in Liberty
17 ratepayers having to pay for the same plant twice.

18 The Decision asserts that the repairs were necessitated by unanticipated changes in
19 flows. Since the issuance of the Decision, RUCO has learned that the plant was originally
20 operated by PERC Water and that during its operation PERC Water did not encounter any

21 _____
22 ¹ See Exhibit A-36 Company's Response to Staff DR 5.4.

² *Id.* at 211 and 219.

³ *Id.* at 170 and 205.

⁴ See Exhibit R-3 ADEQ Documents, Correspondence from Company and Engineer re: Upgrades at 205-243.

⁵ 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.

⁶ *In the Matter of Sonoita Valley Water Company*, Docket Nos. W-20435A-09-0296 and W-20435A-09-0298, Decision No.

1 operational challenges or turbidity issues necessitating \$7 million in wholesale repairs.
 2 Thereafter, the plant was purportedly operated by LPSCO staff who allegedly accepted fats,
 3 oils and grease during the Super Bowl. RUCO has learned that the system was not built to
 4 handle such flows. If the Company accepted such flows, RUCO asks the Commission to
 5 reexamine whether the \$7 million in repairs were necessitated by unanticipated changes in
 6 flow or as a result of the Company's imprudent acts.

7 RUCO will briefly respond to the Company's request for rehearing. The Company
 8 asserts that the Commission's adoption of an 8.01% return on equity ("ROE") is an abuse of
 9 discretion because it is lower than the ROE's approved by the Commission in other cases. The
 10 Company cites multiple decisions in support of its position, but neglects to compare the capital
 11 structure of the utilities or their overall weighted average cost of capital. RUCO has reviewed
 12 some of the decisions and supplemented the list to include capital structures, costs of debt and
 13 overall rates of return for each of the companies. As seen below, the range of WACC for non-
 14 Liberty Water systems is 7.33%-8.06%:

15 <u>Company</u>	<u>Cost of Equity</u>	<u>Cost of Debt</u>	<u>Cap. Structure L-T Debt/S-T Debt/Equity</u>	<u>WACC</u>
16 <i>Arizona Amer.2008</i> (5 systems)	9.90%	5.46%	58.68/41.62	7.33% ⁷
17 <i>Arizona Water</i>	9.50%	6.83%(LT) 4.8%(ST)	45.85/4.8/49.35	7.87% ⁸
18 <i>Chaparral City</i>	9.90%	5.0%	24.0/76.0	7.52% ⁹
18 <i>Global Water</i> (4 systems)	9.00%	varied	approx.40/60	7.60%- 8.08% ¹⁰
19 <i>UNS Gas</i>	9.50%	6.49%	50/50 approx.	8.00% ¹¹
20 <i>Arizona Amer.2009</i> (5 systems)	9.5	4.91	61.1/38.9	6.70% ¹²

22 71830, issued on August 10, 2010.
 23 ⁷ *In the Matter of Arizona American*, Decision No. 71410 issued on December 8, 2009.
⁸ *In the Matter of Arizona Water Co.*, Decision No. 71845 issued on August 25, 2010.
⁹ *In the Matter of Chaparral Water Co.*, Decision No. 71308 issued on October 21, 2010. Note: FVROR which includes inflation
 adjustment of 1.2% which reduced WACC to 7.52%.
¹⁰ *In the Matter of Global Water Co.*, Decision no. 71878 issued September 15, 2010.
 24 ¹¹ *In the Matter of UNS Gas Co.*, Decision No. 71623 issued on April 14, 2010.
¹² *In the Matter of Arizona American* , Decision No. 72047 issued on January 6, 2011.

1 In contrast, the Commission has approved WACC's between 8.16 and 8.74% for
2 Liberty Water affiliated systems:

<u>Company</u>	<u>Cost of Equity</u>	<u>Cost of Debt</u>	<u>Cap. Structure</u> <u>L-T Debt/S-T Debt/Equity</u>	<u>WACC</u>
<i>Black Mtn.</i>	10.20%	6.26%	20.0/80.0	8.16% ¹³
<i>Rio Rico</i>	9.50%	5.7%	20.0/80.0	8.74% ¹⁴

6 These LPSCO affiliates have far less debt in their capital structure and therefore far
7 less financial risk. Because the LPSCO affiliates have less financial risk, they should not
8 be entitled to a higher return than other utilities with more balanced capital structures.
9 RUCO is not asking the Commission to treat LPSCO differently than other companies.
10 RUCO is asking the Commission to start treating LPSCO like other water utilities and to
11 recognize that because the LPSCO has less debt in its capital structure, it should not
12 receive a higher weighted average cost of capital than other companies operating with a
13 greater amount of debt. Decision 72026 awards LPSCO a WACC of 7.76% with is entirely
14 consistent with the awards to other water utilities.

15 In its Bench Brief and recently filed Motion for Rehearing, the Company asserted
16 that imposing an ROE of 8.01% will have significant negative impact on LPSCO and other
17 Arizona water utilities. In support of its position, the Company cites to facts not in evidence.
18 RUCO joins in the Motion to Strike filed by the City of Litchfield and asks that the
19 Company's argument be stricken.

24 ¹³ In the Matter of Black Mountain, Decision No. 71865 issued September 1, 2010.

¹⁴ In the Matter of Rio Rico, Decision No. 72059 issued January 6, 2011.

1 RESPECTFULLY SUBMITTED this 14th day of January, 2011.

2
3 

4 Michelle L. Wood
5 Counsel

6 AN ORIGINAL AND THIRTEEN COPIES
7 of the foregoing filed this 14th day
8 of January, 2011 with:

9 Docket Control
10 Arizona Corporation Commission
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13 COPIES of the foregoing hand delivered/
14 mailed to:

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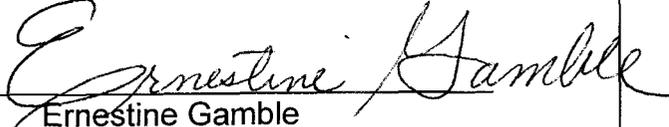
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