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BEFORE THE ARIZONA CORPORATION COMMISSION

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COMMISSIONERS

GARY PIERCE - Chairman
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2011 FEB -7 A 9:28

ARIZONA CORPORATION COMMISSION
DOCKET CONTROL

Arizona Corporation Commission
DOCKETED

FEB 7 2011

DOCKETED BY

IN THE MATTER OF THE APPLICATION OF
ARIZONA WATER COMPANY, AN
ARIZONA CORPORATION, FOR A
DETERMINATION OF THE FAIR VALUE OF
ITS UTILITY PLANT AND PROPERTY AND
FOR ADJUSTMENTS TO ITS RATES AND
CHARGES FOR UTILITY SERVICE
FURNISHED BY ITS WESTERN GROUP AND
FOR CERTAIN RELATED APPROVALS.

DOCKET NO. W-01445A-10-0517

PROCEDURAL ORDER

BY THE COMMISSION:

On December 29, 2010, Arizona Water Company ("AWC") filed with the Arizona Corporation Commission ("Commission") an application requesting adjustments to its rates and charges for utility service provided by its Western Group water systems, including its Pinal Valley (Casa Grande, Coolidge, and Stanfield); Ajo; and White Tank water systems. AWC's rate application uses a test year ending December 31, 2009. AWC's current rates were established in Decision No. 71845 (August 25, 2010), based on a test year ending December 31, 2007.

On January 7, 2011, the Commission's Utilities Division ("Staff") filed a Letter of Deficiency stating that AWC's rate application is "deficient such that it renders all associated schedules invalid," and further stating that "Staff is unable to progress any further with regard to sufficiency of [the] rate application." Staff stated that the problem is that AWC has used a test year that constitutes a projected or future test year because it does not include a time period after the imposition of AWC's current rates. Staff stated that AWC should withdraw its current application and resubmit a new application using a test year including at least 12 months of actual data under AWC's current rates and, further, that Staff would request that the docket be administratively closed if AWC failed to withdraw its rate application by January 28, 2011.

On January 14, 2011, AWC filed a Response to Staff's Letter of Deficiency, stating that the

1 position taken by Staff is not supported by the Commission's rules, by the Commission's historical
2 practices and procedures, or by case law. AWC further asserted that Staff's position constitutes the
3 adoption of a rule without following the rulemaking process of the Arizona Administrative Procedure
4 Act. AWC stated that it would seek relief from the Administrative Law Judge unless Staff withdrew
5 its January 7, 2011, letter and provided Staff a deadline of January 19, 2011, for such withdrawal.

6 On January 20, 2011, AWC filed a Motion for Procedural Order Regarding Sufficiency of
7 Application ("Motion"), requesting that a Procedural Order be issued addressing the sufficiency of
8 AWC's rate application, confirming the time limitations for sufficiency determination set forth in
9 A.A.C. R14-2-103, denying a request for administrative closure of this docket, and directing Staff to
10 complete its review of AWC's rate application to determine whether it complies with A.A.C. R14-2-
11 103. AWC requested that a procedural conference be set at the earliest opportunity to address its
12 issues and asserted that a telephonic conference should be scheduled as soon as practicable to set the
13 procedural conference.

14 On January 21, 2011, AWC filed a Notice of Errata replacing an attachment to its January 20,
15 2011, Motion.

16 Staff has not filed any response to AWC's Motion.

17 Because Staff has yet to file a response to AWC's Motion, it is reasonable and appropriate to
18 require Staff to do so before any procedural conference is held in this matter. Further, it is reasonable
19 and appropriate to require both AWC and Staff, before such a procedural conference, to brief whether
20 the issue of sufficiency of AWC's rate application is properly resolved through a Procedural Order
21 issued by the Commission's Hearing Division or whether it must be determined through a
22 Commission Decision due to the nature of the disagreement between AWC and Staff. AWC and
23 Staff are instructed to address both A.A.C. R14-2-103(B)(7) and (B)(11) and A.R.S. § 40-256(B) in
24 their briefs, along with any case law that may be instructive on the issue.

25 IT IS THEREFORE ORDERED that **Staff shall, by February 14, 2011, file a response to**
26 **AWC's Motion.**

27 IT IS FURTHER ORDERED that **AWC and Staff shall, by March 7, 2011, file briefs**
28 **addressing whether the issue of sufficiency of AWC's rate application is properly resolved through a**

1 Procedural Order issued by the Commission's Hearing Division or through a Commission Decision,
2 due to the nature of the disagreement between AWC and Staff, as described above.

3 IT IS FURTHER ORDERED that a **procedural conference** shall be held on **March 14,**
4 **2011, at 1:00 p.m.,** in Hearing Room #1 at the Commission's offices in Phoenix, Arizona, to allow
5 AWC and Staff to provide oral argument on the issue.

6 IT IS FURTHER ORDERED that the Administrative Law Judge may rescind, alter, amend,
7 or waive any portion of this Procedural Order either by subsequent Procedural Order or by ruling at
8 hearing.

9 DATED this 7th day of February, 2011.

11 
12 SARAH N. HARPRING
13 ADMINISTRATIVE LAW JUDGE

14 Copies of the foregoing mailed/delivered
15 this 7th day of February, 2011, to:

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26 By: 
27 Debra Broyles
28 Secretary to Sarah N. Harpring