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BEFORE THE ARIZONA CORPORATION COMMISSION

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Arizona Corporation Commission

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AZ CORP COMMISSION
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COMMISSIONERS

- GARY PIERCE - Chairman
- BOB STUMP
- SANDRA D. KENNEDY
- PAUL NEWMAN
- BRENDA BURNS

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 On February 7, 2011, a Procedural Order was issued requiring Staff to file, by February 14,
17 2011, a response to AWC's Motion and requiring both AWC and Staff to file, by March 7, 2011,
18 briefs addressing whether the issue of sufficiency of AWC's rate application is properly resolved
19 through a Procedural Order issued by the Commission's Hearing Division or through a Commission
20 Decision, due to the nature of the disagreement between AWC and Staff. The Procedural Order also
21 scheduled a procedural conference to be held on March 14, 2011, to allow AWC and Staff to provide
22 oral argument on the issue.

23 On February 9, 2011, Staff filed a Motion for Extension of Time, requesting that the deadline
24 for its response to AWC's Motion be extended to February 23, 2011, as Staff believes that the
25 ultimate decision on the test year issue has the potential to impact every rate application filed with the
26 Commission, and Staff needs additional time to review Commission Decisions that are not available
27 electronically and to evaluate and respond to technical arguments raised by AWC in its Motion.

28 On February 10, 2011, AWC filed its Response to Staff's Motion for Extension of Time,

1 asserting that AWC does not object to an extension of time until February 18, 2011, but that every
2 day of extension beyond February 14, 2011, unjustifiably reduces the time AWC has to review
3 Staff's responses in preparation of AWC's brief.

4 Because Staff needs additional time to provide a quality response to AWC's Motion, and
5 AWC's opposition to the full extension requested by Staff appears to be based primarily on AWC's
6 concern that it will not have adequate time to prepare its brief if the full extension is granted, it is
7 reasonable and appropriate to grant Staff the extension requested and further to extend accordingly
8 the deadline for the filing of briefs and the date of the oral argument. This should allow both parties
9 adequate time to perform a full analysis and provide high quality filings, which will best serve the
10 interests of both the parties and the Commission.

11 **IT IS THEREFORE ORDERED that Staff's deadline to file a response to AWC's Motion**
12 **is extended to February 23, 2011.**

13 **IT IS FURTHER ORDERED that the deadline for AWC and Staff to file the briefs required**
14 **in the Procedural Order of February 7, 2011, is extended to March 16, 2011.**

15 **IT IS FURTHER ORDERED that the procedural conference/oral argument scheduled for**
16 **March 14, 2011, at 1:00 p.m. is rescheduled to March 24, 2011, at 10:00 a.m.** in Hearing Room
17 #1 at the Commission's offices in Phoenix, Arizona.

18 **IT IS FURTHER ORDERED that all parties must comply with Arizona Supreme Court Rules**
19 **31 and 38 and A.R.S. § 40-243 with respect to the practice of law and admission *pro hac vice*.**

20 **IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113 - Unauthorized**
21 **Communications) applies to this proceeding and shall remain in effect until the Commission's**
22 **Decision in this matter is final and non-appealable.**

23 **IT IS FURTHER ORDERED that withdrawal of representation must be made in compliance**
24 **with A.A.C. R14-3-104(E) and Rule 1.16 of the Rules of Professional Conduct (under Arizona**
25 **Supreme Court Rule 42). Representation before the Commission includes appearing at all hearings,**
26 **procedural conferences, and Open Meetings at which the matter is scheduled for discussion, unless**
27 **counsel has previously been granted permission to withdraw by the Administrative Law Judge or the**
28 **Commission.**

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

4 DATED this 11th day of February, 2011.


SARAH N. HARPRING
ADMINISTRATIVE LAW JUDGE

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9 Copies of the foregoing mailed/delivered
this 11th day of February, 2011, to:

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Secretary to Sarah N. Harpring

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