

ORIGINAL



0000123276

OPEN MEETING AGENDA ITEM

BEFORE THE ARIZONA CORPORATION COMMISSION

RECEIVED

Arizona Corporation Commission

DOCKETED

FEB 22 2011

DOCKETED BY

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

COMMISSIONERS

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

2011 FEB 22 P 3:43

AZ CORP COMMISSION DOCKET CONTROL

IN THE MATTER OF THE APPLICATION OF ARIZONA WATER COMPANY, AN ARIZONA CORPORATION, TO EXEND ITS EXISTING CERTIFICATE OF CONVENIENCE AND NECESSITY IN THE CITY OF CASA GRANDE AND IN PINAL COUNTY, ARIZONA.

Docket No. W-01445A-06-0199

IN THE MATTER OF THE APPLICATION OF PALO VERDE UTILITIES COMPANY FOR AN EXTENSION OF ITS EXISTING CERTIFICATE OF CONVENIENCE AND NECESSITY.

Docket No. SW-03575A-05-0926

IN THE MATTER OF THE APPLICATION OF SANTA CRUZ WATER COMPANY FOR AN EXTENSION OF ITS EXISTING CERTIFICATE OF CONVENIENCE AND NECESSITY.

Docket No. W-03576A-05-0926

IN THE MATTER OF THE APPLICATION OF PALO VERDE UTILITIES COMPANY FOR AN EXTENSION FO ITS EXISTING CERTIFICATE OF CONVENIENCE AND NECESSITY.

Docket No. SW-03575A-07-0300

IN THE MATTER OF THE APPLICATION OF SANTA CRUZ WATER COMPANY FOR AN EXTENSION OF ITS EXISTING CERTIFICATE OF CONVENIENCE AND NECESSITY.

Docket No. W-03576A-07-0300

ARIZONA WATER COMPANY, AN ARIZONA CORPORATION,

COMPLAINANT,

VS.

GLOBAL WATER RESOURCES, LLC, A FOREIGN LIMITED LIABILITY COMPANY; GLOBAL WATER RESOURCES, INC., A DELAWARE CORPORATION; GLOBAL WATER MANAGEMENT, LLC, A FOREIGN

- Docket No. W-01445A-06-0200
- Docket No. SW-20445A-06-0200
- Docket No. W-20446A-06-0200
- Docket No. W-03576A-06-0200
- Docket No. SW-03575A-06-0200

Global Utilities' Exceptions

ROSKA DEWULF & PATTEN, PLC
ONE ARIZONA CENTER
400 EAST VAN BUREN STREET - SUITE 800
PHOENIX, ARIZONA 85004
TELEPHONE NO 602-256-6100
FACSIMILE 602-256-6800

1 LIMITED LIABILITY COMPANY; SANTA
2 CRUZ WATER COMPANY, LLC, AN
3 ARIZONA LIMITED LIABILITY
4 CORPORATION; PALO VERDE UTILITIES
5 COMPANY, LLC, AN ARIZONA LIMITED
6 LIABILITY CORPORATION; GLOBAL WATER
7 – PALO VERDE UTILITIES COMPANY, AN
8 ARIZONA CORPORATION; JOHN AND JANE
9 DOES I-20; ABC ENTITIES I-XX,

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
RESPONDENTS.

IN THE MATTER OF THE JOINT
APPLICATION OF CP WATER COMPANY
AND FRANCISCO GRANDE UTILITIES
COMPANY TO TRANSFER THEIR
CERTIFICATES OF CONVENIENCE AND
NECESSITY AND ASSETS TO PALO VERDE
UTILITIES COMPANY AND SANTA CRUZ
WATER COMPANY.

Docket No. WS-01775A-07-0485
Docket No. SW-03575A-07-0485
Docket No. W-02442A-07-0485
Docket No. W-03576A-07-0485

Global Utilities' Exceptions

Global Water – Palo Verde Utilities Company (“Palo Verde”), Global Water – Santa Cruz Water Company (“Santa Cruz”) and CP Water Company (collectively, the “Global Utilities”)¹, respectfully provide these exceptions to the Recommended Opinion and Order (“ROO”) in these dockets. Proposed language for an amendment to the ROO adopting the changes requested in these exceptions is attached as Attachment A. An annotated map regarding some of the proposed changes is included as Attachment B.

I. Introduction.

In 2005, western Pinal County experienced a dramatic wave of growth. Palo Verde and Santa Cruz served the boomtown of Maricopa, then one of the fastest growing communities in the United States. Arizona Water Company (“AWC”) served Casa Grande and Stanfield. In-between

¹ Where the context requires, “Santa Cruz”, “Palo Verde” and the “Global Utilities” also include “Santa Cruz Water Company, LLC” and “Palo Verde Utilities Company, LLC”, predecessor companies. See Decision No. 69920 (Sept. 27, 2007)(approving transfer with retroactive date of January 1, 2006).

1 lay a broad swath of Pinal County not assigned to any utility. In that year, Santa Cruz and Palo
2 Verde filed the first application in these consolidated dockets, seeking some of this unassigned
3 area, after receiving numerous requests for service from landowners in the area. In March 2006,
4 AWC filed a competing application seeking the same area, as well as most of the remaining
5 unassigned area. Simultaneously, AWC filed a formal complaint against Palo Verde, Santa Cruz,
6 and various related companies. The battle between AWC and the Global Utilities was on – a
7 battle that would rage for years.

8 The parties bombarded each other with data requests. The Global Utilities rallied a number
9 of developers to intervene in support of the Global Utilities; AWC asked the Commission to issue
10 an Order to Show Cause against the Global Utilities. Legal fees mounted. Motions flew back
11 and forth. Both sides filed many rounds of pre-filed testimony arguing the merits of their cases.

12 The ALJ encouraged the parties to discuss settlement. The Global Utilities and AWC took
13 this suggestion to heart. It was not easy to overcome their differences. It took time, effort and
14 creativity, but eventually the Global Utilities and AWC resolved their differences. They signed a
15 settlement agreement in May 2008, and requested that the Commission approve the settlement.

16 The settlement agreement includes a number of innovative features, including planning
17 areas to prevent future disputes between the Global Utilities and AWC, an idea that mirrors
18 Arizona’s innovative approach in Growing Smarter I and II. It also includes an unprecedented
19 commitment by the parties to work together to provide recycled water to portions of AWC’s water
20 service area that will be served by Palo Verde. This significantly reduces future groundwater
21 pumping in Pinal County – an Active Management Area with limited groundwater resources and
22 virtually no opportunity for additional use of surface water.

23 Staff expressed some concerns with the settlement agreement, including the planning areas.
24 None of the other parties to these consolidated dockets opposed the settlement agreement.

25 This has been a lengthy and complex case, and the ROO recommends granting the Global
26 Utilities much of what they requested. Nevertheless, the Global Utilities are concerned with
27 portions of the ROO, and accordingly are filing these exceptions on the following points:

1 **(1) Areas the Global Utilities didn't request.** The ROO recommends that Palo Verde
2 receive wastewater CC&N extensions for areas it never requested. While the Global Utilities
3 appreciate this vote of confidence, it is not in the public interest to include those areas in Palo
4 Verde's CC&N at this time. Palo Verde does not have adequate plans to serve those areas at this
5 time, and the landowners of those areas have not requested service from Palo Verde.

6 **(2) Areas the Global Utilities did request.** There are some parcels that the Global
7 Utilities requested, but which are not shown as granted to them on the map attached as Exhibit F to
8 the ROO. However, the rationale in the main text of the ROO appears to support including these
9 parcels, and the exclusion of these parcels from the map may have been an oversight in a very
10 complex case. Moreover, the landowners requested the Global Utilities to serve these parcels, and
11 the utilities have the unquestioned financial, managerial and technical capacity to do so.

12 **(3) AWC Transfer Area.** The Global Utilities agreed to transfer a very small portion
13 of Santa Cruz's certificated area to AWC. This transfer area is shown with a small flag on the map
14 attached to the ROO. It is much closer to AWC's certificated area (including extensions
15 recommended in the ROO) than to any of Santa Cruz's other certificated areas. In addition, the
16 landowner of this parcel did not object.

17 **(4) Francisco Grande Transfer.** The ROO recommends approval of the transfer of
18 Francisco Grande Utility Company's ("Francisco Grande") assets and CC&Ns to Santa Cruz and
19 Palo Verde. As noted in the Global Utilities' recent motion to withdraw the Francisco Grande
20 transfer, as the result of an arbitration award issued after the ROO, ownership of Francisco Grande
21 has reverted to its former owner. Because Francisco Grande is no longer part of the Global
22 Utilities, it is not appropriate to transfer the CC&N.

23 **(5) Planning Areas.** The proposed planning areas will prevent future disputes
24 between AWC and the Global Utilities, and will also prevent them from wasting resources
25 planning for areas that ultimately end up with the other party. While the ROO suggests that
26 nothing prevents the parties from implementing the planning areas without ACC approval, in fact
27 serious anti-trust issues would prevent the parties from doing so.

1 (6) **Copper Mountain.** The language in the ROO regarding the Copper Mountain
2 Ranch Facilities District is unclear and should be deleted.

3 (7) **Compliance dates.** In light of the slow-down of homebuilding throughout the
4 State, the Global Utilities request that deadlines for certain compliance items be extended. Each of
5 these issues is addressed at greater length below.

6 **II. The Commission should not grant the Global Utilities areas they never asked for and**
7 **do not want.**

8 The ROO recommends that the Global Utilities be granted wastewater CC&N extensions
9 for thousands of acres they never requested. Undoubtedly, this recommendation was well-
10 intentioned – indeed, it could be seen as a compliment to the Global Utilities to propose such an
11 extension. While the Global Utilities appreciate the confidence and trust shown in them by the
12 ROO, they must respectfully decline these areas.

13 Quite simply, the record does not support including these parcels in the Global Utilities’
14 CC&Ns. The engineering plans submitted in these dockets were for the areas actually requested
15 by the Global Utilities.² Indeed, in two cases, the proposed mains shown in the Global Utilities’
16 plans are at least two miles away from parcels the ROO recommends granting to Palo Verde.³ The
17 Global Utilities did not submit requests for service for any of these parcels.⁴ They were not
18 included in the notice provided by the Global Utilities.⁵ With the grant of a CC&N, Global would
19 have to respond to requests for service that could be miles from infrastructure.

20 For these reasons, Palo Verde should not be granted CC&N extensions for parcels it did
21 not request. However, those parcels remain in Palo Verde’s Section 208 planning area, and Palo
22 Verde is willing to serve those areas in the future, if requested by a landowner, and subject to
23

24 ² See Ex. G-5 (Map of Proposed Potable Water System); Ex. G-6 (Map of Proposed Wastewater
25 System); Ex. G-7 (Map of Proposed Recycled Water System).

26 ³ Specifically, Sections 32 and 36 in Township 7 South, Range 4 East, Pinal County. The nearest
27 proposed Palo Verde mains run down the east and west sides of Section 14 of that Township.

⁴ See Ex. G-4 (request for service map); Ex. G-27 (request for service summary).

⁵ Ex. G-22 (Affidavits of Service).

1 entering into appropriate agreements with the landowner regarding extension of service. Therefore
2 the exclusion of these parcels should have no impact on the CC&N extensions proposed by AWC.

3 **III. The Global Utilities CC&Ns should include all the parcels they requested.**

4 The map attached to the ROO shows three sets of parcels that the Global Utilities
5 requested, but that are not shown as "ROO Recommended" on the map. However, the main text
6 of the ROO does not discuss denying any Global-requested parcels.⁶ Thus, the exclusion of these
7 parcels from the ROO's map may have been an oversight. In any event, these parcels should be
8 included in Palo Verde's CC&N extension. These parcels are marked on the map included as
9 Attachment B.

10 The first set of parcels is comprised of four small parcels in Palo Verde's existing North
11 Service Area.⁷ These parcels are all contiguous to Palo Verde's current wastewater CC&N and the
12 parcels are close to existing Palo Verde wastewater mains. Indeed, Palo Verde already serves
13 these parcels under authority of Commission Rule A.A.C. R14-2-602(B), which authorizes service
14 to contiguous parcels after notice.⁸ One of these parcels should also be added to Santa Cruz's
15 water CC&N, in addition to Palo Verde's CC&N. This parcel requested both water and
16 wastewater service, and it is contiguous to Santa Cruz's existing North Service Area system.⁹ The
17 remaining parcels to be added to Palo Verde's North Service Area will receive potable water
18 service from two small water districts.¹⁰

19 The second set of parcels includes two larger parcels within AWC's current water
20 CC&N.¹¹ One parcel is surrounded on three sides by parcels the ROO recommends adding to Palo
21 Verde's CC&N, and the second parcel is nearby. The main text of the ROO seems to support

23 ⁶ See ROO pages 42-43, proposed findings of fact nos. 115 and 116.

24 ⁷ See Ex. G-9 (Map of Palo Verde North System); Tr. at 255-57.

25 ⁸ Tr. at 255-57.

26 ⁹ Tr. at 255-57; 260; Ex. G-9 (North Service Area map); Ex. G-18 (Amendment to Application to
add parcel to Santa Cruz).

27 ¹⁰ Tr. at 255.

¹¹ The parcels are in Sections 1 and 12, Township 7 South, Range 4 East, Pinal County.

1 including parcels such as these two.¹² The landowners requested service, and Palo Verde is
2 willing to provide it.

3 Lastly, the ROO does not explicitly address the CC&N extension requested in the Legends
4 dockets, SW-03575A-07-0300 et al. Those areas are shown by their docket numbers on the
5 ROO's map, but there is no notation as to whether those areas are granted or not. The Global
6 Utilities submitted requests for service for each acre in this extension area, are prepared to serve,
7 and there is no opposition.

8 **IV. The Commission should give the small transfer parcel to AWC.**

9 The Global Utilities and AWC have agreed that a small parcel currently in Santa Cruz's
10 CC&N should be transferred to AWC's CC&N.¹³ (This is the small parcel marked by a flag; see
11 Attachment B). This parcel was only recently added to Santa Cruz's CC&N¹⁴, and Santa Cruz has
12 no customers and no facilities in this parcel. The parcel is not close to any other current or
13 proposed Santa Cruz parcels, but it is close to several parcels the ROO recommends including in
14 AWC's CC&N. In short, it simply makes sense to transfer this parcel.

15 The ROO's rejection of the transfer appears to be based on simple insufficiency of
16 evidence. While this parcel was not discussed extensively at the hearing, the Global Utilities'
17 witness, Mr. Symmonds, testified in support of the transfer¹⁵, and no party opposed the transfer.
18 Thus, the record supports transferring this parcel to AWC.

19 **V. The Francisco Grande transfer should be withdrawn or denied.**

20 As more fully set forth the Global Utilities' motion to withdraw the Francisco Grande
21 transfer¹⁶, the transfer should be withdrawn or denied. Ownership of Francisco Grande's stock
22
23

24 ¹² See ROO at 43:2-8.

25 ¹³ See Tr. at 229.

26 ¹⁴ It was one of the parcels added by Decision No. 70381 (June 13, 2008).

27 ¹⁵ Tr. at 229.

¹⁶ Global Utilities' Motion to Withdraw the Francisco Grande Transfer Application, filed February 16, 2011.

1 reverted to the prior owner. Francisco Grande is no longer one of the Global Utilities, and it is not
2 appropriate to approve the transfer at this time.

3 **VI. The Commission should approve the planning areas.**

4 The ROO recommends that the Commission not approve the proposed planning areas.¹⁷
5 The ROO points to Staff's concerns. For example, Staff's witness warned that the planning areas
6 could be viewed as an implicit reservation of CC&N area for the utility. But the Global Utilities'
7 witness, Mr. Symmonds, testified that if the Commission is concerned with the possibility of an
8 *implicit* reservation, it could include an *explicit* statement that there is no such reservation.¹⁸
9 Staff's witness testified that she had no objection to adding such a statement to the order.¹⁹ She
10 also testified that without the planning areas, there could be "continued disagreement" between
11 AWC and the Global Utilities.²⁰ The purpose of the planning areas is to put a stop to the disputes
12 between AWC and the Global Utilities and to prevent future disputes. Without the planning areas,
13 there is nothing to stop the parties from fighting over the remaining areas in the future.

14 Moreover, the planning areas are based on an earlier proposal from Staff to use Korsten
15 Road as the dividing line.²¹ In fact, the planning area boundary does generally follow Korsten
16 Road, albeit with some deviations to reflect local circumstances.²² In addition, planning areas will
17 make it much easier for AWC and the Global Utilities to plan for appropriate future infrastructure
18 that is efficient, cost-effective, and conservation-focused.²³

19 If the planning areas are approved, the utility would still have to apply for a CC&N
20 extension to provide service. Any other utility (except one of the parties) could apply for part of a
21 planning area – only the parties are barred from going into each other's planning areas.

22
23
24
25
26
27

¹⁷ ROO at 19-20.
¹⁸ Ex. G-2 (Symmonds Rebuttal) at 2:2-9.
¹⁹ Tr. at 44:15-19.
²⁰ Tr. at 73:1-3.
²¹ Ex. G-1 (Symmonds Direct) at 8:7-17.
²² Id.
²³ Id. at 6-7.

1 The ROO states that “nothing prevents AWC and the Global Utilities from implementing
2 the terms of the Agreement related to Planning Areas” without Commission approval.²⁴ But
3 United States and Arizona antitrust laws may very well prevent AWC and the Global Utilities
4 from doing so. Courts have generally found that such agreements between utilities violate antitrust
5 laws unless they are approved by the state utility regulator. See “Validity of contract between
6 public utilities other than carriers, dividing territory and customers”, 70 A.L.R.2d 1326 (1960,
7 with cumulative supplement through 2011). Arizona law gives the Commission the power to issue
8 such approvals. Under A.R.S. § 40-286, Arizona’s antitrust act “shall not apply to any conduct or
9 activity of a public service corporation... which conduct or activity is approved... by the
10 corporation commission.” Other utility commissions have approved contracts between utilities
11 concerning service territories, and courts have upheld the validity of such contracts. See *Validity*
12 *of Contracts, supra* 70 A.L.R.2d 1326 (noting cases from Ohio and Florida). The Commission
13 should follow their lead and approve the planning areas to prevent future disputes and allow AWC
14 and the Global Utilities to plan appropriate infrastructure for these areas.

15 **VII. Copper Mountain issue.**

16 The ROO includes the following sentence: “Further, extension of the Global Utilities’
17 CC&N shall be in accordance with Commission Decision No. 64361 (January 15, 2002) regarding
18 Copper Mountain Ranch Community Facilities District.”²⁵ The Global Utilities don’t understand
19 this sentence and are concerned that it could create uncertainty over the CC&N in that area.
20 Decision No. 64361 cancelled the CC&Ns of two small water companies (Mohawk Water
21 Company and Anderson Brothers Farms d/b/a Anderson Brothers Water Company) and approved
22 the sale of their assets to the Copper Mountain Ranch Community Facilities District (“District”),
23 an entity established and controlled by the City of Casa Grande (“City”). Neither the District nor
24 the City has objected to the CC&N extension, and the existence of a District does not impair the
25

26 ²⁴ ROO at 20:17-19.

27 ²⁵ ROO at 43:8-10.

1 Commission's authority to issue a CC&N. Indeed, the City even submitted a letter in support of
2 the Global / Arizona Water settlement agreement, noting that the "boundaries for water service and
3 planning areas... are sensible and deserve the Commission's support and approval.... The City
4 supports the amended applications for Certificates of Convenience and Necessity... recently filed
5 [by AWC and the Global Utilities.]"²⁶ The Copper Mountain sentence is unnecessary and
6 confusing; the Global Utilities request that this sentence be deleted.

7 **VIII. Compliance deadlines.**

8 In light of the slow-down of homebuilding throughout the State, the Global Utilities
9 request that deadlines for certain compliance items be extended. The ROO contains a number of
10 deadlines which are no longer feasible and should be lengthened. The deadlines are:

- 11 • Approval to Construct for initial "wells, mains, storage tank and booster pump
12 stations". ROO due date = December 31, 2012; the Global Utilities suggest December 31, 2014.
- 13 • Designation of Assured Water Supply modification to include extension areas.
14 ROO due date = December 31, 2011; the Global Utilities suggest December 31, 2014.
- 15 • Approval to Construct for first sewer mains, ROO due date = December 31, 2011;
16 the Global Utilities suggest December 31, 2014.

17 The revised deadlines would be more realistic and would prevent the needless expenditure of
18 resources on projects that will not be needed in the near term.

19 **IX. Conclusion.**

20 This is a complex and lengthy case, and the Global Utilities appreciate the efforts of Staff
21 and the Hearing Division in this case. The Global Utilities are also thankful for the significant
22 CC&N extensions the ROO proposes granting them. With the modifications proposed herein, the
23 ROO would allow AWC and the Global Utilities to put their disputes behind them and concentrate
24 on their business – providing quality and cost-effective service while prudently conserving water
25

26 _____
27 ²⁶ Ex. A-2 (Garfield Rebuttal) at Ex. WMG-15 (letter dated June 23, 2008 from the Mayor of Casa Grande).

ROSHKA DEWULF & PATTEN, PLC
ONE ARIZONA CENTER
400 EAST VAN BUREN STREET - SUITE 800
PHOENIX, ARIZONA 85004
TELEPHONE NO 602-256-6100
FACSIMILE 602-256-6800

1 resources. It would also respect the wishes of the landowners who requested service from the
2 Global Utilities.

3 Proposed language for a possible amendment to the ROO is included as Attachment A.

4 RESPECTFULLY SUBMITTED this 22nd day of February, 2011.

5 ROSHKA DEWULF & PATTEN, PLC

6
7 By 

8 Michael W. Patten
9 Timothy J. Sabo
10 One Arizona Center
11 400 East Van Buren Street, Suite 800
12 Phoenix, Arizona 85004

13 Original + 13 copies of the foregoing
14 filed this 22nd day of February 2011 with:

15 Docket Control
16 ARIZONA CORPORATION COMMISSION
17 1200 West Washington
18 Phoenix, Arizona 85007

19 Copies of the foregoing hand-delivered/mailed
20 this 22nd day of February 2011 to:

21 Gary Pierce, Chairman
22 Arizona Corporation Commission
23 1200 West Washington
24 Phoenix, Arizona 85007

25 Commissioner Bob Stump
26 Arizona Corporation Commission
27 1200 West Washington
Phoenix, Arizona 85007

Commissioner Sandra D. Kennedy
Arizona Corporation Commission
1200 West Washington
Phoenix, Arizona 85007

ROSHKA DEWULF & PATTEN, PLC
ONE ARIZONA CENTER
400 EAST VAN BUREN STREET - SUITE 800
PHOENIX, ARIZONA 85004
TELEPHONE NO 602-256-6100
FACSIMILE 602-256-6800

- 1 Commissioner Paul Newman
Arizona Corporation Commission
- 2 1200 West Washington
Phoenix, Arizona 85007
- 3
- 4 Commissioner Brenda Burns
Arizona Corporation Commission
- 5 1200 West Washington
Phoenix, Arizona 85007
- 6 Lyn Farmer, Esq.
Chief Administrative Law Judge
- 7 Hearing Division
Arizona Corporation Commission
- 8 1200 West Washington
Phoenix, Arizona 85007
- 9
- 10 Janice Alward, Esq.
Chief Counsel, Legal Division
Arizona Corporation Commission
- 11 1200 West Washington
Phoenix, Arizona 85007
- 12
- 13 Ernest G. Johnson, Esq.
Director, Utilities Division
Arizona Corporation Commission
- 14 1200 West Washington
Phoenix, Arizona 85007
- 15
- 16 Robert W. Geake, Esq.
Arizona Water Company
3805 North Black Canyon Highway
- 17 Phoenix, Arizona 85015
- 18 Steven A. Hirsch, Esq.
Rodney W. Ott, Esq.
- 19 Bryan Cave LLP
Two North Central Avenue, Suite 2200
- 20 Phoenix, Arizona 85004
- 21 Craig A. Marks, Esq.
Craig A. Marks, PLC
- 22 10645 N. Tatum Blvd.
Suite 200-676
- 23 Phoenix, AZ 85028
- 24 Mayor Chuck Walton
City of Casa Grande
- 25 510 East Florence Boulevard
Casa Grande, AZ 85222
- 26
- 27

ROSHKA DEWULF & PATTEN, PLC
ONE ARIZONA CENTER
400 EAST VAN BUREN STREET - SUITE 800
PHOENIX, ARIZONA 85004
TELEPHONE NO 602-256-6100
FACSIMILE 602-256-6800

1 Ken Franks, Esq.
Rose Law Group
2 6613 N. Scottsdale Road, Suite 200
Scottsdale, AZ 85250-0001

3
4 Brad Clough
Anderson & Barnes 580, LLP
Anderson & Miller 694, LLP
5 7595 East McDonald Drive, Suite 105
Scottsdale, AZ 85250

6
7 Jeffrey W. Crockett, Esq.
Marcie Montgomery, Esq.
Snell & Wilmer
8 400 East Van Buren Street
Phoenix, AZ 85004

9
10 Craig Emmerson
Anderson & Val Vista 6, LLC
7595 East McDonald, Suite 105
11 Scottsdale, AZ 85250

12 Philip J. Polich
Gallup Financial, LLC
13 8501 N. Scottsdale #125
Scottsdale, AZ 85253

14
15 *Debbie Amaral*

16
17
18
19
20
21
22
23
24
25
26
27

Attachment

"A"

ATTACHMENT A

Suggested Amendment Language Related to Issues Raised in Global's Exceptions

Language regarding Section II of exceptions – areas not requested by Global Utilities

- (1) ROO, page 39, line 9.5 DELETE “and Global-Palo Verde’s CC&Ns” and INSERT “CC&N”.
- (2) ROO, page 39, line 17.5 DELETE “and Global-Palo Verde’s CC&Ns” and INSERT “CC&N”.
- (3) ROO, page 40, line 14.5 DELETE “and Global-Palo Verde’s CC&Ns” and INSERT “CC&N”.
- (4) ROO, page 42, line 16.5 DELETE “and Global-Palo Verde’s CC&Ns” and INSERT “CC&N”.
- (5) ROO, page 42, lines 24.5 DELETE “wastewater service within AWC’s entire Stanfield System” and INSERT “wastewater service to those areas where Global-Palo Verde submitted original or renewed requests for service.”
- (6) ROO, page 43, lines 6-8, DELETE “, and also find it appropriate to fill in areas around which the Global Utilities received requests for service, in order to create more logical boundaries as illustrated in Exhibit F attached hereto.”
- (7) ROO, page 43, lines 14.5 to 15.5 DELETE “, consistent with the areas approved herein for Global-Palo Verde in AWC’s Stanfield System, we concur with Staff’s recommendation.” and INSERT “we will extend Global-Palo Verde’s CC&N to include the Dugan Lands, LLC parcel.”

Language regarding Section III of exceptions – areas requested by Global Utilities

(8) ROO, page 43, lines 6-8, INSERT “Overall, we find it appropriate to extend the Global Utilities’ CC&Ns to all the areas they have requested. To be clear, we also grant the Global Utilities the areas requested in Dockets SW-03575A-07-0300 and W-03576A-07-0300.”

Language regarding Section IV of exceptions – transfer of small parcel to AWC

(9) ROO, page 45, lines 15.5 to 18.5, DELETE “Although the Global Utilities had an original request for water service for the parcel, Staff did not address the transfer in the Staff Report and the issue was not discussed in testimony. Therefore, we decline to approve the requested transfer at this time.” and INSERT “The Global Utilities’ witness testified in support of this transfer [new footnote – Tr. at 229], and no objections to the transfer were made. Accordingly, we will grant approval of this transfer.”

Language regarding Section V of exceptions – Francisco Grande transfer

(10) ROO, page 45, lines 8 to 13.5 DELETE entire paragraph (proposed finding of fact no. 123) and INSERT the following:

“After the hearing, a letter was docketed in Dockets WS-01775A-07-0485 et al from Ms. Michael Saunders of Michael Saunders & Co. The letter asserted that Ms. Saunders is the former shareholder of Francisco Grande Utilities Company and that the “2006 stock purchase transactions will be unwound, and Global must return the stock to me” if the transfer is not approved on or before August 2010. Subsequently, the Global Utilities and AWC provided notice that ownership of the shares of Francisco Grande was subject to an

arbitration proceeding before the American Arbitration Association. [new footnote – “Arizona Water Company’s and Global’s Request for an Extension of Time to File Exceptions to Recommended Opinion and Order and Request for Accelerated Consideration, filed December 30, 2010.] The Global Utilities subsequently filed a motion to withdraw the Francisco Grande transfer application, noting that the arbitration panel ruled that the stock of Francisco Grande should be returned to Ms. Saunders. Accordingly, we grant the Global Utilities’ motion to withdraw the Francisco Grande transfer application. The portion of the transfer application pertaining to CP Water Company is not affected, and we grant the Global Utilities’ application to transfer the assets and CC&N of CP Water Company to Global-Santa Cruz.”

(11) ROO, page 46, line 20.5, DELETE “Francisco Grande Utility Company.”

(12) ROO, page 47, lines 5 to 8, DELETE “IT IS FURTHER ORDERED that Francisco Grande Utility Company’s application to transfer its water assets and water Certificate of Convenience and Necessity to Global-Santa Cruz and to transfer Francisco Grande Utility Company’s wastewater assets and Certificate of Convenience and Necessity to Global-Palo Verde, are hereby approved.” and INSERT “IT IS FURTHER ORDERED that Francisco Grande Utility Company’s application to transfer its assets and Certificate of Convenience and Necessity is hereby withdrawn.”

Language regarding Section VI of exceptions – planning areas

(13) ROO, page 20, lines 13.5 to 18.5 (Proposed Finding of Fact No. 51) DELETE entire paragraph and INSERT the following:

“However, this is a very unique case that requires a unique resolution. Unique factors include the very large area covered by the dispute, the geography of the region, and the persistent history of conflict between AWC and the Global Utilities. Further, AWC and the Global Utilities have identified potential anti-trust issues that will be resolved by our approval of the planning areas. Approval of the planning areas will likely prevent future disputes between AWC and the Global Utilities, thus preserving both ratepayer and taxpayer resources. Moreover, the City of Casa Grande strongly supported the approval of the planning areas. [new footnote – Ex. A-2, Rebuttal Testimony of William Garfield, Attachment WMG-15 (letter from Mayor of Casa Grande)]. In light of these unique factors, we conclude, for the purposes of this case, that it is in the public interest to approve the planning areas. Accordingly, we approve the planning areas set forth in Exhibit A to this order and we authorize and require AWC and the Global Utilities to honor these planning area boundaries. Although we approve these planning areas in the unique circumstances of this case, other utilities should not take this as a sign of willingness to approve planning areas. Moreover, we expressly declare that our approval of the planning areas does not create any implied reservation of CC&N areas. Any future CC&N or CC&N extension applications in the planning areas will be evaluated based on the merits of the application and not the existence of these planning areas. In addition, we note that our approval of these planning areas does not represent a pre-approval or finding of prudence of any facilities built in the planning areas.”

(14) ROO, page 46, line 20.5, INSERT new Conclusion of Law as follows: “It is reasonable and in the public interest in the unique circumstances of this case to approve the planning areas as discussed herein.”

(15) ROO, page 46, line 20.5, INSERT new Conclusion of Law as follows: “The Utilities’ actions under this approval constitute “conduct or activity [that] is approved” by the Commission within the meaning of A.R.S. § 40-286.

(16) ROO, page 46, line 20.5, INSERT new Conclusion of Law as follows: “Our approval of planning areas is intended to constitute “state action” within the meaning of federal anti-trust laws.”

(17) ROO, page 46, line 20.5, INSERT new Conclusion of Law as follows: “We retain ongoing jurisdiction over the Utilities under Arizona law to actively supervise the Utilities and ensure compliance with this order including those provisions of this order regarding planning areas.”

Language regarding Section VII of exceptions – Copper Mountain issue

(18) ROO, page 43, lines 8-10, DELETE “Further, extension of the Global Utilities CC&Ns shall be in accordance with Commission Decision No. 64361 (January 15, 2002) regarding Copper Mountain Ranch Community Facilities District.”

Language regarding Section VIII of exceptions – compliance deadlines

(19) ROO, page 43, line 15.5 INSERT new Finding of Fact as follows “In addition, given the time that has passed since the hearing in this matter, we find it reasonable to extend Staff’s proposed deadlines as follows: The Approval to Construct for initial “wells, mains, storage tank and booster pump stations” will be due December 31, 2014; the letter from ADWR regarding the modification of the Designation of Assured Water

Supply will be due December 31, 2014; and the Approval to Construct for first sewer mains will be due December 31, 2014.”

(20) ROO page 47, line 24, DELETE “December 31, 2012” and INSERT “December 31, 2014.”

(21) ROO page 47, line 28 DELETE “December 31, 2011” and INSERT “December 31, 2014.”

(22) ROO page 48, line 4 DELETE “December 31, 2011” and INSERT “December 31, 2014.”

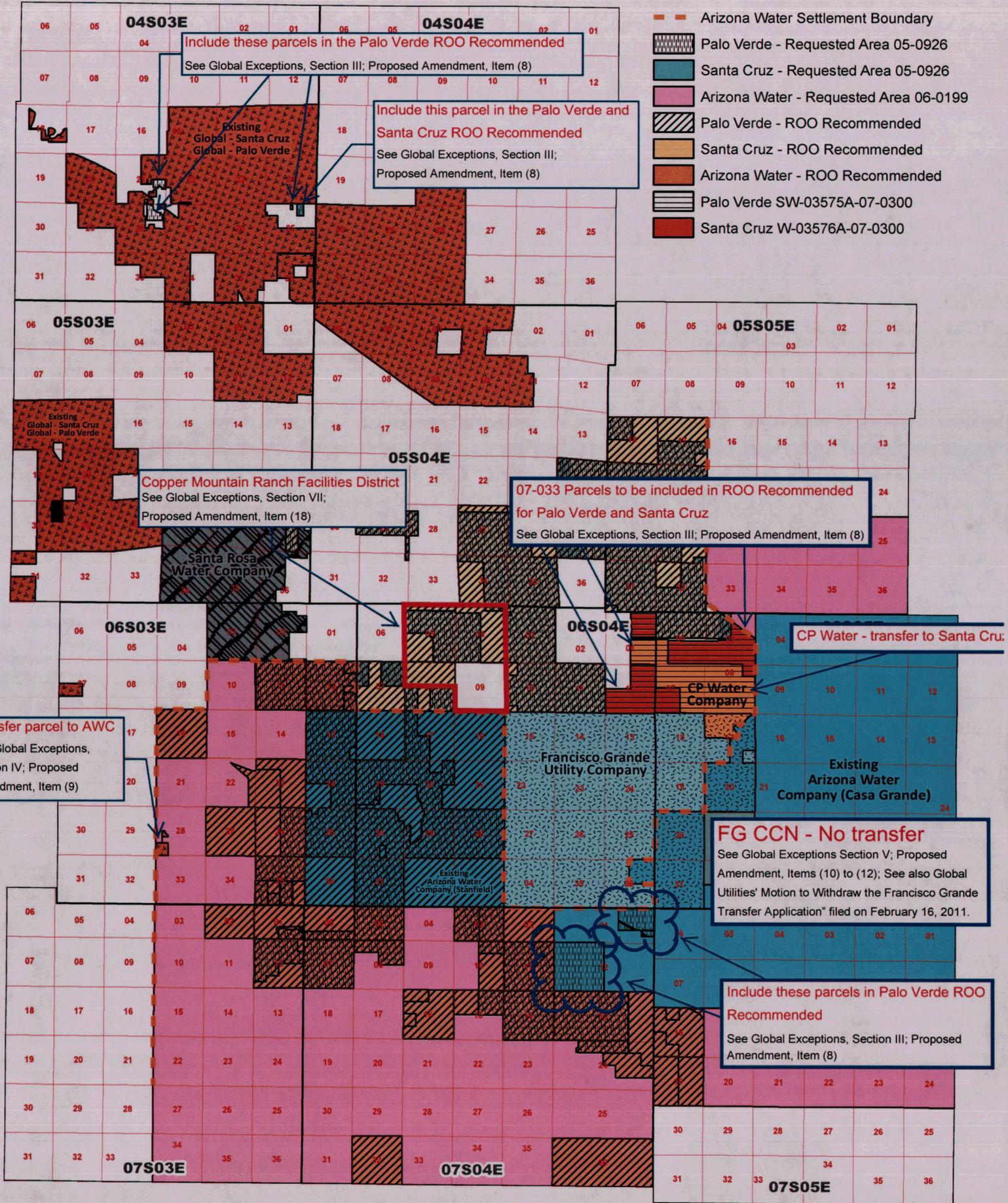
(23) ROO page 48, line 8 DELETE “December 31, 2011” and INSERT “December 31, 2014.”

MAKE ALL CONFORMING CHANGES

Attachment

"B"

Exhibit B



ROO RECOMMENDED AND COMPANY REQUESTED