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ORIGINAL



ARIZONA CORPORATION COMMISSION

DOCKET # W-02113A-07-0551

March 8, 2011

Daniel Pozefsky  
Residential Utility Consumer Office  
1110 West Washington Street, Suite 220  
Phoenix, AZ 85007

Arizona Corporation Commission  
DOCKETED

MAR 8 2011

Jay Shapiro  
Norman James  
Fennemore Craig  
3003 N. Central Avenue, Suite 2600  
Phoenix, AZ 85012-2913

DOCKETED BY	<i>RDBS</i>
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Dear Parties:

As was discussed at the last Open Meeting, my office would like more information on this matter. Your timely responses to the attached questions and timeline would be helpful in my future consideration of this case. Please docket your responses by March 23, 2011.

Sincerely,

Brenda Burns

COPY of the foregoing was hand delivered  
this 8th day of March, 2011 to:

Chairman Gary Pierce  
Arizona Corporation Commission  
1200 W. Washington Street,  
Phoenix, AZ 85007

Commissioner Paul Newman  
Arizona Corporation Commission  
1200 W. Washington Street,  
Phoenix, AZ 85007

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Commissioner Bob Stump  
Arizona Corporation Commission  
1200 W. Washington Street,  
Phoenix, AZ 85007

Steven M. Olea, Director  
Utilities Division  
Arizona Corporation Commission  
1200 W. Washington Street,  
Phoenix, AZ 85007

## CHAPARRAL CITY WATER COMPANY: CASE QUESTIONS

1. Please review the attached timeline of the events that form the foundation of the case-at-hand today. Do you agree that the timeline is accurate?
  - a. The rate case(s)
  - b. ACC decisions appealed to the courts
  - c. Appeal of the rate case
  - d. Recovery of rate case expense
  - e. ACC decisions on these issues
  - f. The rehearing(s) of ACC decisions
2. Providing notice to customers when requesting a re-hearing.
  - a. Is notice required for a rehearing of a case?
  - b. How is notice supposed to be executed?
  - c. How was notice performed in this case?
3. The allocation of settlement proceeds.
  - a. Is a 50/50 split a common occurrence?
  - b. If so, what are the reasons for deviating from the norm?
  - c. What is the harm or benefit to the Company and/or customers if the proceeds are split 50/50?
  - d. How is the Company harmed if the customers keep 100% of the proceeds?
  - e. How are the customers harmed if the Company keeps 100% of the proceeds?
  - f. How was the 50/50 apportionment arrived at?
    - i. Are there other percentage splits that are feasible?
    - ii. If not, why is 50/50 the best possible outcome?
4. Wells #8 and #9.
  - a. Did Well #8 go into service in 1971? If not, when was Well #8 entered into service?
  - b. If it has never been committed to potable service, what was the value of Well #8 at the time of the 2005 settlement with FHSD?
  - c. Were the costs associated with construction of Well #8 recovered through the Company's water rates?
  - d. Was Well #8 providing income other than through the Company's water rates?
    - i. If so, by what amount?
  - e. How was the Well #8 service negatively impacted by FHSD's Aquifer Storage and Recovery well?
  - f. When was Well #8 taken out of service?
  - g. What component of plant was used to serve as the Well #8 replacement?
  - h. When was Well #8 fully depreciated?
    - i. How did that affect rate base?
  - i. Was Well #9 entered into service in 1972?
  - j. Were the costs associated with construction of Well #9 recovered through the Company's water rates?
  - k. How was the Well #9 service negatively impacted by FHSD's Aquifer Storage and Recovery well?
  - l. If FHSD had drilled a replacement well for Well #9, could base rates have been affected for customers? If yes, how? How could that affect the Company's rate base?
  - m. When was Well #9 taken out of service?
  - n. What component of plant was used to serve as the Well #9 replacement?
  - o. When was Well #9 fully depreciated?
    - i. How did that affect rate base?

5. The Company and FHSD entered in a Well Transfer Agreement in 2005.
  - a. Has FHSD exercised its option in buying the real property upon which Well #8 is located?
  - b. The Commission used the Pinal Creek Group Settlement (PCG) as a model for how the settlement proceeds were apportioned. How is the PCG case similar or different from this case? And should the PCG guidelines be applied to this case?
  - c. Is there a deadline for when the wells must be sold?
  - d. If the Company was protecting its property rights by negotiating the FHSD settlement, then why should ratepayers receive any of the proceeds?
  - e. If customers are ultimately billed for improvements to rate base (via rates of return), shouldn't they receive all of the proceeds of a settlement?
  - f. According to RUCO's Reply Brief the settlement stated the following: "CCWC intends to use the Consideration paid by the District, as hereinafter defined to fund projects to improve CCWC's water production, treatment and distribution system."
    - i. In what ways has the Company funded projects via funds received from FHSD?
6. Replacement water.
  - a. Did the Company intend to use settlement proceeds to obtain replacement water?
  - b. Can the \$1.28 million for the extra CAP allocation be considered as budgeted for replacement water or part of the Company's efforts to keep up with growth?
7. Is there anything else that should be addressed?

## CHAPARRAL CITY WATER COMPANY: CASE TIMELINE

### Decision #66849

- i. March 19, 2004
- ii. **Arizona Water Company case**
- iii. Pinal Creek Group Settlement.
- iv. PCG settled with Arizona Water Company for \$1.4 million
- v. Staff argued "ratepayers are entitled to entirety of the PCG Settlement proceeds"
- vi. RUCO argued "settlement proceeds should be shared equally between ratepayers and shareholders"
- vii. The ACC agreed with RUCO that the proceeds should be split evenly.
  - a. The ACC said "splitting the cash proceeds of the agreement equally provides a reasonable balance between the rights and obligations of the shareholders and ratepayers and will provide the Company with a sufficient incentive to pursue further litigation or settlement of claims that the Company and its customers may be entitled to receive."

### Decision #68176

1. Docketed September 30, 2005
2. **Chaparral City Water Company rate case**
3. Appealed to the Arizona Court of Appeals
  - a. The Arizona Court of Appeals held that the ACC erred when it set rates based on original cost instead of fair value.
  - b. Case was remanded back to the ACC

### Decision #70441

1. Docketed July 28, 2008
2. **Chaparral City Water Company rate case**
  - a. The decision discussed the various ways the ACC is able to determine Fair Value.
  - b. The decision asked "should the Commission authorize the recovery of rate case expense the Company asserts it has incurred as a result of its appeal from Decision #68176 and this Remand proceeding?"
    - i. The decision said Chaparral may seek to recover its attorney expense at the subsequent rate case.

### Decision #71308

1. Docketed October 21, 2009
2. **Chaparral City Water Company rate case**
3. Authorized new interim rates for the Company
4. 100% of settlement proceeds to ratepayers (except for \$30,000 in fees)
  - a. The ROO recommended that settlement proceeds be split 50/50
  - b. Pierce amendment (passed by the Commissioners) said 100% of settlement proceeds shall go to the ratepayers (except for \$30,000 in fees)
5. Decision did not allow Company to impose any costs of rate case appeal to ratepayers
  - a. The ROO recommended that the Company could recover up to \$100,000 of its expenses related to appeal of Decision #68176
  - b. Pierce amendment (passed by the Commissioners) said the Company could not recover any of the legal expenses related to the appeal of Decision #68176
6. The Commission authorized a re-hearing on the facts of this case.

### Decision #71424

1. Issued December 8, 2009
2. **Chaparral City Water Company rate case**
3. Corrected the rates, due to a calculation error, that were approved in #71308