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2011 APR -5 P 4: 07

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April 4, 2011

Ms. Nancy Scott
Chief, Financial & Regulatory Analysis Section
Arizona Corporation Commission
1200 West Washington Avenue
Phoenix, Arizona 85007

In Re: Docket No. W-00000C-06-0149; The Commission's Generic Evaluation of Water Industry Issues in Arizona

Dear Ms. Scott:

In response to Staff's request for more information on "the average investor's return on investments"; I would like to first reiterate my prior position: That is not the appropriate test. Utilities bear legal, operational, regulatory, and environmental risks that mutual fund investors do not share – those risks require significant, illiquid, and long term financial commitments. The U.S. Supreme Court in *Bluefield* found that law and economics require that investments in similar ventures, bearing similar risks, in similar times, should yield similar returns.

Nonetheless, I am happy to respond with data on "the average investor's return on investments".

Attached you will find **128** mutual funds which earn rates greater than that provided by the ACC. But before anyone thinks this data was "cherry-picked" and that those funds are not available to the average investor, allow me to explain how I got this data.

Lipper Indexes track the performance of mutual funds; so I searched the Lipper Indexes for the best performing funds over a five-year span; and I set the initial investment requirement at $1,000. All this data is absolutely publicly available – in fact, to make certain of it, I sought out the data using only Google.

Here is what I did: I googled "lipper indexes" and clicked the very first result: (www.online.wsj.com/mdc/public/page/2_3020-lipperindx.html).

Then, under the "Mutual Funds" tab on that website, I selected "Scorecards: Ranking by Category", and then screened "All Categories", "5 Yr Best", and "$1,000" purchase amount. Let me briefly explain why I didn't use "$50, $250, or $500" as the initial purchase amount: there is nowhere near the data for those funds, and I encourage Staff to check that for itself at that website. So, $1,000 is the smallest initial investment for which significant data exists.

Now, as to why I selected the "5 Year" horizon, there are two reasons: first, the "3 Year" screen yielded **552** mutual funds that earned more than Arizona's 9.29% ROE. But, as positive as that incredibly large

number is for my position, it also seems to me that utility rate cases tend to follow a five-year span from rate case to rate case; so I didn't use the three-year data. (Staff can easily find the 552 mutual funds by simply resetting the search criteria on that website.)

The attached pages show 128 mutual funds who each have returned more than 9.29% (Arizona's ROE) for a five-year period.

There is simply nothing more to be said about this issue. The *Bluefield* test is being failed in the ACC's decisions on water industry returns – Public Utilities Reports and Standard & Poors' data prove that fact. And with the attached, the arguments proffered by third-party, alleged economic experts who have told the ACC that "the average investor" can't get returns like Arizona utilities get are proven to be completely and wholly untrue.

Let me close by reiterating something: ACC Staff has always been a tough counterparty on ROEs. But ACC Staff has always been honest, fair, and professional. I have often thought that Staff was overly focused on the short-term impacts to ratepayers – but I have never thought that Staff wasn't balancing that against the long-term impacts to the utility. Your staff does a great job of trying to find the balance between utility health and customer impact. The ACC has moved away from following its Staff's recommendations on ROEs – that is why it is failing to meet the *Bluefield* test.

I think it is time for us to discuss a new path for ROEs – other states rely on a cooperative approach which develops joint models for ROEs. Also more states are moving to establishing ROEs in annual industry-wide generic cases which are separate from specific utility rate cases. Those states avoid wasting time and money on ROE fights in each and every company rate case. And those state PUCs then have transparent, consistent, and certain positions on ROEs – which attracts investment, and which helps ratepayers understand the ROE issue.

Arizonans for Responsible Water Policy would be glad to have dialogue with Staff on charting a new course.

Respectfully,

Paul Walker

Insight Consulting, LLC

TOTAL RETURNS (%)* - as of 3/31/11

Fund Name	4 Wks	YTD	1 Yr	3 Yr	5 Yr	10 Yr	n n
Van Eck:Intl Gold;A	-0.08	-1.30	50.71	17.26	20.31	30.38	
Oppenheimer Gld & Sp;A	-0.55	-2.83	47.06	16.80	19.71	26.94	
Van Eck:Intl Gold;C	-0.18	-1.47	49.68	16.40	19.44	NA	
Tocqueville:Gold Fund	-0.48	0.82	51.33	22.41	18.91	29.61	
Dreyfus Greatr China;I	-1.24	-1.63	12.44	11.25	18.90	17.94	
Oppenheimer Gld & Sp;C	-0.61	-2.98	45.98	15.93	18.80	25.99	
Oppenheimer Gld & Sp;B	-0.60	-3.00	45.86	15.82	18.72	25.94	
Dreyfus Greatr China;A	-1.26	-1.69	12.07	10.94	18.57	17.60	
Franklin Gld Pr Mt;A	-1.29	-5.48	37.47	15.56	18.23	24.48	
Invesco China;A	2.08	0.84	11.45	9.15	17.85	NA	
Dreyfus Greatr China;C	-1.32	-1.88	11.25	10.08	17.66	16.70	
Dreyfus Greatr China;B	-1.32	-1.89	11.18	10.05	17.60	16.66	
Franklin Gld Pr Mt;B	-1.34	-5.65	36.44	14.68	17.34	23.56	
Franklin Gld Pr Mt;C	-1.35	-5.67	36.42	14.69	17.34	23.56	
Invesco China;B	2.03	0.67	10.60	8.38	17.00	NA	
Invesco China;C	1.99	0.62	10.56	8.34	16.95	NA	
WellsFargo:Prec Met;A	-0.29	-2.77	36.04	12.24	16.40	28.61	
BlackRock:Latin Amer;A	1.40	-2.23	16.08	6.34	15.89	21.88	
OCM:Gold;Inv	-0.95	-2.63	38.04	13.96	15.71	26.35	
Templeton China Wd;A	4.31	2.16	21.15	9.73	15.68	NA	
Invesco Gold&Prec;Inv	-0.82	0.74	42.12	13.60	15.67	24.08	
Invesco Gold&Prec;A	-0.73	0.74	42.26	13.65	15.67	NA	

WellsFargo:Prec Met;B	-0.35	-2.94	35.03	11.41	15.55	27.68
WellsFargo:Prec Met;C	-0.34	-2.95	35.05	11.41	15.54	27.67
Aberdeen:China Opp;A	0.43	-2.01	20.64	5.53	15.07	NA
BlackRock:Latin Amer;C	1.34	-2.42	15.18	5.48	14.97	20.91
BlackRock:Latin Amer;B	1.34	-2.42	15.14	5.39	14.91	20.88
Templeton China Wd;C	4.23	1.95	20.28	8.96	14.89	NA
Templeton China Wd;B	4.22	1.97	20.30	8.95	14.89	NA
Invesco Gold&Prec;B	-0.84	0.57	41.14	12.76	14.83	NA
Invesco Gold&Prec;C	-0.88	0.54	40.97	12.69	14.78	23.10
Aberdeen:China Opp;R	0.39	-2.03	20.47	5.34	14.78	NA
Aberdeen:China Opp;C	0.35	-2.12	19.95	4.79	14.24	NA
GAMCO Gold;AAA	0.06	-4.17	32.76	9.48	14.05	26.42
GAMCO Gold;A	0.03	-4.20	32.74	9.49	14.02	NA
Oberweis:China Opptys	-0.50	-5.05	11.11	12.14	13.88	NA
WellsFargo:Em Mkt Eq;A	3.21	1.18	20.62	6.86	13.31	18.51
GAMCO Gold;C	0.00	-4.37	31.76	8.67	13.21	NA
GAMCO Gold;B	0.00	-4.36	31.73	8.65	13.14	NA
Saratoga:Tech&Comm;I	-0.51	9.21	54.07	19.99	13.13	NA
Invesco Asia Pac Gr;A	4.90	2.42	22.19	9.25	12.97	14.92
Reynolds:Blue Chip Gro	0.50	7.12	24.21	22.66	12.89	4.85
Van Eck:Gl Hard Asst;A	1.34	8.31	33.90	5.30	12.79	18.90
Saratoga:Tech&Comm;A	-0.53	9.08	53.58	19.46	12.62	0.52
ING:Greater China;A	0.25	-2.33	13.98	2.75	12.57	NA
Oppenheimer Dev Mkts;A	2.67	-0.74	22.51	9.78	12.50	19.49

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WellsFargo:Em Mkt Eq;B	3.14	1.01	19.77	6.09	12.49	17.67
WellsFargo:Em Mkt Eq;C	3.16	0.96	19.74	6.06	12.48	17.66
Invesco Asia Pac Gr;B	4.86	2.24	21.27	8.45	12.13	14.14
Invesco Asia Pac Gr;C	4.84	2.22	21.25	8.42	12.12	14.09
Templeton Gl Bond;A	1.11	2.16	8.23	10.83	12.09	12.21
Pru Jenn Natural Res;Z	0.90	7.13	35.71	4.35	12.03	20.34
Delaware Em Mkt;A	2.66	3.56	19.67	6.07	11.98	18.75
Saratoga:Tech&Comm;C	-0.57	8.88	52.64	18.73	11.96	-0.08
Van Eck:Gl Hard Asst;C	1.29	8.13	32.90	4.50	11.94	18.03
Saratoga:Tech&Comm;B	-0.51	8.99	52.73	18.37	11.87	-0.16
DFA Emg Mkts II;I	3.34	2.07	20.22	6.18	11.73	17.33
ING:Greater China;B	0.25	-2.47	13.09	1.96	11.72	NA
ING:Greater China;C	0.19	-2.47	13.06	1.99	11.71	NA
Oppenheimer Dev Mkts;C	2.63	-0.88	21.66	9.01	11.71	18.62
Eaton Vance Grtr Ch;A	0.62	-1.58	9.09	3.05	11.67	11.56
ING:Glbl Val Choice;A	-1.81	2.60	19.20	12.75	11.65	7.02
Templeton Gl Bond;C	1.07	1.98	7.70	10.40	11.65	11.76
Oppenheimer Dev Mkts;B	2.62	-0.92	21.46	8.89	11.62	18.55
RS Inv:Emerging Mkts;K	1.70	-0.62	15.79	3.39	11.46	NA
Dreyfus Intl Bond;I	-0.18	2.34	10.04	8.94	11.36	NA
DWS Gold&Prec Metal;A	-1.01	-4.39	32.72	4.99	11.17	NA
Delaware Em Mkt;B	2.54	3.28	18.69	5.26	11.14	17.86
Delaware Em Mkt;C	2.61	3.35	18.73	5.27	11.14	17.87
Franklin Str:Nt Re;A	1.37	12.11	40.80	6.29	11.10	12.92

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Dreyfus Intl Bond;A	-0.18	2.29	9.81	8.66	11.08	NA
Eaton Vance Grtr Ch;B	0.54	-1.76	8.32	2.46	11.06	10.92
Eaton Vance Grtr Ch;C	0.54	-1.77	8.34	2.47	11.06	10.90
Integrity:WB/Mid-NA;A	1.80	20.74	72.58	23.35	10.99	8.75
Invesco Dev Mkts;A	3.76	0.76	16.81	7.01	10.96	17.77
ING:Glbl Val Choice;C	-1.89	2.38	18.28	11.90	10.85	6.28
ING:Glbl Val Choice;B	-1.88	2.40	18.30	11.89	10.85	6.28
JPMorgan:Asia Eq;A	5.53	-0.45	18.41	2.91	10.47	NA
Alger II:Spectra;A	0.00	7.06	18.22	9.84	10.43	6.69
Ivy:Pacific Opptys;A	4.89	1.38	14.15	5.40	10.41	13.18
W&R Adv:Asset Strat;Y	0.52	4.17	13.05	2.46	10.41	11.23
MFS Utilities;A	2.06	7.01	21.91	3.65	10.39	7.65
DWS Gold&Prec Metal;C	-1.03	-4.52	31.86	4.26	10.38	NA
Aberdeen:Emerg Mkts;A	3.07	-0.54	20.01	2.99	10.38	17.05
DWS Gold&Prec Metal;B	-1.02	-4.55	31.79	4.23	10.35	NA
DWS Latin Am Eqty;A	1.08	-1.30	9.05	-1.03	10.35	NA
Russell:Emerging Mkts;S	3.18	1.30	17.60	4.29	10.32	16.85
Franklin Str:Nt Re;C	1.32	11.91	39.86	5.55	10.31	NA
Dreyfus Intl Bond;C	-0.25	2.07	8.93	7.85	10.23	NA
ING:Russia;A	0.90	10.02	23.59	0.46	10.23	27.78
Permanent Port:Permanent	1.11	3.80	20.54	9.18	10.22	11.88
Invesco Dev Mkts;B	3.71	0.56	15.93	6.22	10.14	17.02
Invesco Energy;A	1.49	14.90	34.74	3.49	10.14	NA
Invesco Dev Mkts;C	3.71	0.59	15.95	6.21	10.14	17.02

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Invesco Energy;Inv	1.48	14.88	34.72	3.48	10.13	14.10
Aberdeen:Emerg Mkts;R	3.10	-0.52	19.68	2.74	10.13	NA
W&R Adv:Asset Strat;A	0.52	4.07	12.81	2.13	10.08	10.85
Russell:Emerging Mkts;E	3.19	1.25	17.33	4.03	10.05	16.58
MFS Utilities;R2	1.98	6.90	21.58	3.38	10.05	NA
JPMorgan:Em Mkt;A	2.93	-0.79	12.31	3.10	9.90	NA
ING:Value Choice;A	-0.72	2.56	20.23	10.55	9.90	NA
Henderson:Euro Foc;A	-2.12	6.76	25.61	7.03	9.79	NA
Heartland:Value Pl;Inv	1.49	7.11	25.56	11.92	9.78	14.02
Ivy:Asset Strategy;A	0.51	4.14	13.60	2.45	9.73	10.54
W&R Adv:Energy;Y	2.02	13.16	37.16	3.76	9.73	NA
API Trust:Income;A	-0.06	3.90	11.03	14.29	9.67	5.33
Aberdeen:Emerg Mkts;C	3.02	-0.61	19.38	2.34	9.67	16.43
Lord Abbett Val Opp;A	0.66	6.44	21.58	11.91	9.63	NA
WellsFargo:Growth;A	3.07	12.91	33.76	13.51	9.59	6.40
Ivy:Pacific Opptys;C	4.79	1.21	13.28	4.64	9.59	12.20
Transam:Sys S/MV;A	2.33	11.24	30.84	10.35	9.58	NA
Eaton Vance AC SMID-Cp;A	1.83	8.87	26.72	12.95	9.58	NA
MFS Utilities;C	2.00	6.78	20.93	2.87	9.56	6.85
MFS Utilities;B	2.00	6.84	21.00	2.87	9.56	6.85
Lord Abbett Val Opp;P	0.66	6.40	21.50	11.79	9.53	NA
Pru Financial Svc;Z	-1.05	4.37	16.48	20.56	9.52	9.25
Dreyfus Emer Mkt;I	2.26	0.22	14.49	6.13	9.48	NA
DWS Latin Am Eqty;B	1.02	-1.49	8.21	-1.85	9.44	NA

DWS Latin Am Eqty;C	1.00	-1.51	8.17	-1.86	9.43	NA
BlackRock:AC En&Res;A	1.98	11.70	34.93	2.20	9.43	NA
Ivy:High Income;A	0.26	3.81	15.25	13.26	9.41	8.56
Principal:Intl EM;Inst	3.26	1.87	18.99	1.85	9.40	16.81
JPMorgan:Em Mkt;C	2.89	-0.93	11.76	2.60	9.35	NA
Ivy:Science&Tech;A	1.56	11.33	21.09	10.79	9.35	8.98
Delaware Ext Dur Bd;A	1.24	0.99	11.13	11.96	9.34	9.29
JPMorgan:Em Mkt;B	2.83	-0.96	11.73	2.58	9.34	NA
Invesco Energy;B	1.42	14.67	33.69	2.71	9.31	NA
Invesco Energy;C	1.43	14.66	33.72	2.71	9.31	13.28