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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

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

Arizona Corporation Commission

DOCKETED

APR - 7 2011

DOCKETED BY [Signature]

IN THE MATTER OF THE APPLICATION OF
CHAPARRAL CITY WATER COMPANY, INC.,
AN ARIZONA CORPORATION, FOR A
DETERMINATION OF THE FAIR VALUE OF
ITS UTILITY PLANT AND PROPERTY AND
FOR INCREASES IN ITS RATES AND CHARGES
FOR UTILITY SERVICE BASED THEREON.

DOCKET NO. W-02113A-07-0551

DECISION NO. 72258

RECOMMENDED OPINION AND
ORDER ON REHEARING

DATE OF HEARING: January 27, 2010 (Pre-hearing conference), April 12, 2010
PLACE OF HEARING: Phoenix, Arizona
ADMINISTRATIVE LAW JUDGE: Teena Jibilian
APPEARANCES: Mr. Norman D. James and Mr. Jay L. Shapiro, FENNEMORE CRAIG, on behalf of Chaparral City Water Company;
Ms. Michelle L. Wood, Attorney, on behalf of the Residential Utility Consumer Office;
Ms. Robin R. Mitchell and Mr. Wesley C. Van Cleve, Staff Attorneys, Legal Division, on behalf of the Utilities Division of the Arizona Corporation Commission.

BY THE COMMISSION:

* * * * *

Having considered the entire record herein and being fully advised in the premises, the Commission finds, concludes, and orders that:

FINDINGS OF FACT

1. On October 21, 2009, the Arizona Corporation Commission ("Commission") issued Decision No. 71308 in the above-captioned application filed by Chaparral City Water Company, Inc. ("Company").

1 2. On November 3, 2009, the Company filed a Motion for Order Amending Decision
2 No. 71308 *nunc pro tunc* in regard to a computational error in the rates approved by Decision No.
3 71308.

4 3. On November 10, 2009, the Company filed an Application for Rehearing pursuant to
5 A.R.S. § 40-253, requesting rehearing on five issues in Decision No. 71308, including the issue of a
6 computational error in the rates approved by Decision No. 71308 (“Application for Rehearing”).

7 4. On November 24, 2009, the Commission voted to grant the Company’s Application
8 for Rehearing in order to allow time for further consideration. The Commission also directed the
9 Hearing Division to prepare a Recommended Order or Procedural Order for Commission
10 consideration regarding the alleged computational error in the approved rates, and regarding whether
11 corrections should date back to the date of Decision No. 71308. The Commission withheld making
12 any determinations as to any other issues raised in the Application for Rehearing, until after
13 Commission consideration of an Order addressing correction of alleged errors in rates.

14 5. On December 8, 2009, the Commission issued Decision No. 71424, which amended
15 Decision No. 71308 *nunc pro tunc* to correct the computational error in rates approved in Decision
16 No. 71308. Decision No. 71424 also approved a temporary surcharge to allow recovery of the
17 revenue shortfall produced by the erroneous rates.

18 6. On January 19, 2010, the Commission voted again to grant the Company’s rehearing
19 request of Decision No. 71308, amended *nunc pro tunc* by Decision No. 71424, for purposes of
20 further Commission consideration on the matters of: (1) the Company’s rehearing request for
21 additional rate case expense associated with the appeal and remand of Commission Decision No.
22 68176 (September 30, 2005), and (2) treatment of the Fountain Hills Sanitation District (“FHSD”)
23 settlement proceeds. The Commission also voted on that date to deny rehearing of any remaining
24 matters raised in the Application for Rehearing. The Commission directed the Hearing Division to
25 establish procedures for further proceedings concerning rehearing on the issues of approving
26 additional rate case expense and treatment of the FHSD settlement proceeds, and to prepare a
27 Recommended Opinion and Order on Rehearing for Commission consideration.

28 7. On January 19, 2010, a procedural order was issued setting a procedural conference

1 for the purpose of providing an opportunity for the parties to discuss an appropriate procedural
2 schedule for rehearing of the following two issues: (1) Decision No. 71308's treatment of the
3 Company's request for recovery of rate case expense associated with the appeal and remand of
4 Commission Decision No. 68176; and (2) Decision No. 71308's treatment of the FHSD settlement
5 proceeds.

6 8. On January 27, 2010, the procedural conference was convened as scheduled.
7 Appearances were entered by counsel for the Company, the Residential Utility Consumer Office
8 ("RUCO"), and the Commission's Utilities Division ("Staff"). Intervenor Pacific Life Insurance
9 Company dba Eagle Mountain Golf Club did not appear.

10 9. During the January 27, 2010 procedural conference, the parties discussed a procedural
11 schedule. Staff stated that it wished to pre-file testimony, and that it anticipated a need for one day of
12 hearing. RUCO stated that it agreed with Staff, and suggested that testimony be filed on March 30,
13 2010. The Company stated that it did not plan to file any additional testimony, but wished to address
14 any new pre-filed testimony by cross examination of witnesses at the hearing.

15 10. During the procedural conference, after the parties had reached agreement on the
16 procedural schedule proposed by RUCO, RUCO stated that it reserved the right to contest, at a future
17 time, whether the Application for Rehearing had been timely granted, as RUCO had not yet
18 determined its position on this issue.

19 11. On February 1, 2010, the Company filed a Motion to Proceed Jointly Under A.R.S. §§
20 40-252 and 40-253.

21 12. On February 9, 2010, following a procedural conference at which counsel for the
22 Company, RUCO, and Staff appeared, a procedural order was issued in this docket setting the
23 schedule for rehearing of Decision No. 71308, as amended *nunc pro tunc* by Decision No. 71424.
24 The procedural order set a deadline of March 30, 2010 for filing testimony, and a hearing date of
25 April 2, 2010.

26 13. On February 25, 2010, RUCO filed a Motion to Continue Hearing Deadlines and
27 Request for Telephonic Procedural Conference.

28 14. On March 4, 2010, a telephonic procedural conference was held as requested by

1 RUCO. The Company, RUCO, and Staff appeared through counsel. The parties discussed a date for
2 the continuation of the hearing, and all parties agreed that April 12, 2010 was an acceptable date.
3 The parties also agreed to a new deadline of April 5, 2010, for Staff and intervenors to file testimony
4 on rehearing issues, and further agreed that if the Company wished to file any testimony responsive
5 to that filed by Staff and intervenors on April 5, 2010, that the Company should make the filing by
6 April 8, 2010.

7 15. On March 4, 2010, a procedural order was issued continuing the hearing to April 12,
8 2010, and continuing the associated filing deadlines accordingly.

9 16. On April 5, 2010, Staff filed the direct rehearing testimony of Staff's witness Elijah O.
10 Abinah.

11 17. On April 5, 2010, RUCO filed the direct rehearing testimony of RUCO's witness
12 William A. Rigsby.

13 18. On April 12, 2010, the hearing convened as scheduled before a duly authorized
14 Administrative Law Judge ("ALJ") of the Commission. The Company, RUCO and Staff appeared
15 through counsel and presented evidence in the form of witness testimony.

16 19. On May 12, 2010, Staff filed a Late-Filed Exhibit as requested by the ALJ during the
17 hearing. A copy of the filing is attached hereto and incorporated by reference herein as Exhibit A.
18 Exhibit A describes the revenue requirement effects of the various scenarios at issue in the rehearing
19 proceeding.

20 20. On May 17, 2010, the Company filed a request to modify the briefing schedule.

21 21. On May 24, 2010, the Company, RUCO and Staff filed closing briefs.

22 22. On June 21, 2010, the Company, RUCO and Staff filed reply closing briefs, and the
23 matter was taken under advisement pending the submission of a Recommended Opinion and Order
24 for consideration of the Commission.

25 **Issue One - Rate Case Expense Associated with the Appeal and Remand of Decision No. 68176**

26 23. As allowed by Decision No. 70441,¹ in the hearing on the rate application in this
27

28 ¹ Decision No. 70441 at 43.

1 docket, the Company requested recovery of a portion of the rate case expenses it incurred in its
2 appeal of Decision No. 68176 and the subsequent remand proceeding before the Commission
3 (“Appeal and Remand Rate Case Expense”). The Appeal and Remand Rate Case Expense includes
4 expert witness fees, copying, mailing and publication costs, and discounted legal fees.

5 **Parties’ Positions at Hearing**

6 24. In the hearing proceeding, the Company originally requested recovery of \$258,111 of
7 the Appeal and Remand Rate Case Expense, but subsequently accepted Staff’s recommendation that
8 the Company be allowed to recover \$100,000 of the Appeal and Remand Rate Case Expense.

9 25. In the hearing proceeding, RUCO opposed the Company’s recovery of any Appeal and
10 Remand Rate Case Expense. RUCO asserted that the Company pursued the appeal to obtain
11 additional operating income for the benefit of its shareholders, and argued that the Company’s
12 shareholders should therefore bear all the costs associated with pursuing the appeal.

13 **Decision No. 71308**

14 26. Decision No. 71308 found that the Commission has authority to award attorneys fees
15 to the Company for its Appeal and Remand Rate Case Expense, but declined to allow any recovery.

16 **Parties’ Positions at Rehearing**

17 27. On rehearing, RUCO argued that because the appeal was discretionary no recovery of
18 the Appeal and Remand Rate Case Expense should be allowed. RUCO argued that the goal of the
19 appeal was to increase shareholders’ returns, and that ratepayers should not have to pay for pursuit of
20 that goal. RUCO argued that the Company’s decision to appeal Decision No. 68176 was imprudent
21 and did not properly weigh and balance the costs and benefits of undertaking the appeal.

22 28. On rehearing, Staff argued that the Company should be allowed to recover \$100,000
23 of its Appeal and Remand Rate Case Expense because the Company incurred the expense in pursuing
24 a legitimate appeal that ultimately required a change in the method that the Commission uses to
25 calculate fair value. Staff stated that while its recommendation in this case is to allow recovery of
26 some of the Company’s Appeal and Remand Rate Case Expense, the Commission should closely
27 examine any similar requests in the future to avoid creating a perceived incentive for utilities to take
28 unnecessary appeals.

1 29. On rehearing, the Company maintained its argument that an award of \$100,000 of its
2 Appeal and Remand Rate Case Expense, which the Company stated amounted to over \$500,000, is
3 reasonable, and that the appeal resulted in the Commission having an opportunity to correct a
4 methodology of determining fair value found in error by the Arizona Court of Appeals.

5 **Determination on Rehearing**

6 30. The specific facts in this proceeding support allowing recovery of a portion of the
7 Company's Appeal and Remand Rate Case Expense, because the expense was incurred in the course
8 of the Company's pursuit of a legitimate appeal, which ultimately resulted in a change in the method
9 that the Commission uses to calculate fair value.

10 31. Based on the evidence and the arguments presented in this proceeding, Decision No.
11 71308, as amended *nunc pro tunc* by Decision No. 71424, should be amended to allow the Company
12 to recover \$100,000 of the Appeal and Remand Rate Case Expense, normalized over a three year
13 period.

14 **Issue Two – Ratemaking Treatment of the FHSD Settlement Proceeds**

15 32. The FHSD provides wastewater collection and treatment for most of CCWC's service
16 area. FHSD needed to construct an Aquifer Storage and Recovery well in the vicinity of the
17 Company's Well No. 9. While CCWC's primary water supply is imported Colorado River water,
18 which is delivered by means of the Central Arizona Project ("CAP"), the Company had been
19 blending CAP water with water from its Well No. 9 and two other wells. The Company and FHSD
20 entered into negotiations on a well exchange agreement, under which FHSD would supply CCWC
21 with a replacement well similar in production and water quality to Well No. 9. When FHSD was
22 unable to drill a well that yielded results satisfactory to the Company, the Company and FHSD
23 negotiated a new agreement. In January 2005, the parties entered into a Well Transfer Agreement
24 under which FHSD paid CCWC \$1.52 million in consideration for CCWC ceasing use of Well No. 9
25 and Well No. 8, and CCWC giving FHSD an option to purchase the real property on which Well No.
26 8 is located. Well No. 8, a non-potable well, had historically been used as a raw water source for
27 Fountain Hills' park and lake, but was never used to provide potable water service.

28 ...

Parties' Positions at Hearing

33. In the hearing on the rate application in this docket, the Company proposed to treat the proceeds of the FHSD settlement in a manner that shared the benefit equally between ratepayers and shareholders, relying on the Commission's treatment of the Pinal Creek Group Settlement ("PCG Settlement") issue in Decision No. 66849 (March 19, 2004).² CCWC contended that it acted in the public interest by protecting its interests and those of its ratepayers by turning two aged wells, one of which was never in service, into cash and seeking to share those proceeds with its ratepayers. The Company was willing share the gain with ratepayers in the event the wells are ever sold.

34. At the hearing, Staff's witness stated that for policy reasons, Staff agreed with the Company that the settlement proceeds should be shared equally between the shareholders and ratepayers so long as the Company shares the proceeds equally with the ratepayers in the event the wells are sold.

35. At the hearing, RUCO recommended that the Company be required to allocate the \$1.52 million settlement proceeds to ratepayers, minus the associated legal fees. RUCO contended that the FHSD issue is distinguishable from the PCG Settlement issue in Decision No. 66849. RUCO argued that because the wells are fully depreciated, the Company has recovered the cost of the wells and received a reasonable return thereon, and that the FHSD settlement proceeds should therefore be allocated 100 percent to CCWC's ratepayers.

36. At the hearing, RUCO also argued that the FHSD settlement proceeds compensated CCWC for an equivalent cost of water to replace the amount Well No. 9 would have produced over the remainder of its useful life, and that the settlement proceeds should go to ratepayers because RUCO believed ratepayers will have to pay 100 percent of replacement water cost.

Decision No. 71308

37. Decision No. 71308 found that the Company and its shareholders have received the full return of and on their investment in Well No. 8 and Well No. 9, and allocated the FHSD settlement proceeds to the ratepayers, with the exception of \$30,000 of the settlement proceeds

² The PCG Settlement is discussed at pp. 32-37 of Decision No. 66849.

1 granted to the Company for pursuing the matter on behalf of ratepayers.

2 **Parties' Positions at Rehearing**

3 38. On rehearing, RUCO argued that the Company's proposed sharing of the FHSD
4 settlement proceeds equally between shareholders and ratepayers would result in "excessive and
5 impermissible returns" for the Company, and that the Company's proposal is "tantamount to a
6 request for a 700 percent return [on its] investment," because Well No. 8 was put into service in 1971
7 at an original cost of \$49,329 and Well No. 9 was put into service in 1972 at an original cost of
8 \$54,139. RUCO also characterized the Company's proposed retention of 50 percent of the settlement
9 proceeds as "a \$760,000 windfall on its \$30,000 expenditure," referencing the \$30,000 in legal fees
10 the Company incurred in pursuing its claim against the FHSD. RUCO argued that the Company has
11 fully recovered the cost of the wells through depreciation expense and has received a return on its
12 investment related to the wells, and its customers should therefore receive 100 percent of the benefit
13 of the settlement proceeds. RUCO argued that the Company should receive nothing from the
14 settlement proceeds, with the exception of recovery of legal expenses incurred in the FHSD matter.

15 39. On rehearing, RUCO continued to argue that because the PCG Settlement provided
16 Arizona Water Company with replacement wells, the sharing of settlement proceeds is not
17 appropriate for CCWC in this case. RUCO argued that the settlement proceeds, less legal fees,
18 should go entirely to ratepayers in order to mitigate the cost of replacing water Well No. 9 would
19 have produced over the remainder of its useful life and the loss of irrigation revenues from the
20 retirement of Well No. 8.

21 40. On rehearing, RUCO also argued that the Company's agreement to share with
22 ratepayers the proceeds of any future sale of the wells does not support sharing the FHSD settlement
23 proceeds, because the wells have nominal value.

24 41. On rehearing, the Company argued that as the owner of both wells, the Company is
25 entitled to compensation due to damage by a third party's negligence; that sharing the gain with
26 ratepayers is fair and equitable; and that the Commission should follow its past practice of allowing
27 utility generated gains to be shared between the utility and its ratepayers, as it did in Decision No.
28 66849. The Company argued that RUCO's proposed treatment of the wells would effectively treat

1 them as being owned by customers because the customers paid for utility service, and that such
2 ratemaking treatment would amount to an unconstitutional taking of utility property.

3 42. On rehearing, the Company argued that the fact that the wells are fully depreciated
4 does not provide an adequate basis for distinguishing this case from the treatment authorized Arizona
5 Water Company for the PCG Settlement proceeds in Decision No. 66849. The Company disputed
6 RUCO's claim that because the wells were fully depreciated, the FHSD settlement proceeds were
7 intended to replace the wells. The Company argued that the purpose of depreciation accounting is
8 not to finance replacements.³ Citing to U.S. Supreme Court opinions, the Company pointed out that
9 recovery of depreciation through rates is an operating expense:

10 Broadly speaking, depreciation is the loss, not restored by current maintenance, which
11 is due to all the factors causing the ultimate retirement of the property. These factors
12 embrace wear and tear, decay, inadequacy, and obsolescence. Annual depreciation is
13 the loss which takes place in a year. In determining reasonable rates for supplying
14 public service, it is proper to include in operating expenses, that is, in the cost of
15 producing the service, an allowance for consumption of capital in order to maintain
16 the integrity of the investment in the service rendered.

17 *Lindheimer v. Ill. Bell Tele. Co.*, 292 U.S. 151, 167 (1934).

18 and that it does not vest ratepayers an interest in utility property:

19 Customers pay for service, not for the property used to render it. Their payments are
20 not contributions to depreciation or other operating expenses or to the capital of the
21 company. By paying bills for service they do not acquire any interest, legal or
22 equitable, in the property used for their convenience or in the funds of the company.
23 Property purchased out of moneys received for service belongs to the company just as
24 does that purchased out of proceeds of its bonds and stock.

25 *Bd. of Pub. Utility Comm'rs v. New York Tele. Co.*, 271 U.S. 23, 32 (1926).

26 The Company stated that under the reasoning required by RUCO's depreciation argument, if
27 the fully depreciated wells had simply worn out instead of being the subject of the FHSD Settlement,
28 the Company would have been required to "contribute" new replacement wells, because under the
reasoning advocated by RUCO, ratepayers would have already "paid for" the no-longer-useful wells.
The Company argued that while customers have the right to receive utility service from the Company
on satisfaction of the Company's terms and conditions of service and tender of rates, customers had

³ Company Rehearing Reply Brief at 2-3, 6, citing to Charles E. Phillips, Jr., *The Regulation of Public Utilities: Theory and Practice* 270-271 (Public Utility Reports, Inc. 1993). We note that neither the Company nor the other parties to this proceeding addressed the fact that the Commission may prescribe rules and regulations for expenditures from depreciation funds. See A.R.S. § 40-222.

1 no legal rights in the Company's wells either when they were used to provide service or after they
2 were taken out of service, and no right to participate in any gain resulting from the settlement of a
3 claim against a third party involving the wells.

4 43. On rehearing, the Company also argued that contrary to RUCO's assertions, the
5 evidence in this case does not support a finding that the cost of water service is higher due to the
6 retirement of Well Nos. 8 and 9. The Company disputes the assertion of RUCO's witness that the
7 replacement of the groundwater formerly produced by Well No. 9 will be more expensive, pointing to
8 Mr. Hanford's testimony that very little water from Wells No. 8 and No. 9 was actually being used to
9 the benefit of the Company's ratepayers, and that use of groundwater from Well No. 9 was more
10 costly to the Company than the CAP water that RUCO has alleged replaced it. Mr. Hanford testified
11 that Central Area Groundwater Replenishment District ("CAGR") fees are about twice as much as
12 the surface water the Company purchases from CAP, and that use of groundwater also entails arsenic
13 treatment costs since the new maximum contaminant levels for arsenic went into effect.⁴

14 44. On rehearing, Staff recommended the equal sharing of the FHSD settlement proceeds.
15 Staff argued that while the Company still owns the wells, the Company's agreement to share any
16 future sale proceeds with its ratepayers renders it reasonable to share the settlement proceeds. Staff
17 also argued that as the Commission found in Decision No. 66849, equal sharing provides sufficient
18 encouragement for utilities to pursue litigation or settlement with parties that harm their interests,
19 while being fair to ratepayers.

20 45. On rehearing, in response to RUCO's argument that the settlement results in a "700
21 percent return" on the Company's investment, Staff cautioned against viewing items that comprise a
22 utility's plant in service in isolation, stating that the Commission is required to determine the rate of
23 return on the fair value of the Company's entire property committed to providing service, and not on
24 each singular component of plant. Staff argued that accordingly, neither the return on nor the degree
25 of depreciation recovery on individual assets, such as Wells No. 8 and 9, provides a persuasive basis
26 for not allowing sharing of the settlement proceeds.

27
28 ⁴ Tr. at 101-102.

1 **Determination on Rehearing**

2 46. We find that by negotiating the FHSD settlement, the Company acted in the interests
3 of both the utility and the ratepayers in order to protect its assets, and we believe such action should
4 not be discouraged. We find that an equal sharing of the settlement proceeds provides a reasonable
5 balance between the rights of shareholders and ratepayers and will provide the Company with a
6 sufficient incentive to pursue future settlement or litigation of claims that the Company and its
7 customers may be entitled to receive.

8 47. We do not find the original cost of the wells in question, nor the Company's past
9 recovery of depreciation expense on those wells, to be determinative factors in our decision regarding
10 a reasonable and appropriate ratemaking treatment of the FHSD settlement proceeds.

11 48. Based on the evidence and the arguments presented in this proceeding, Decision No.
12 71308, as amended *nunc pro tunc* by Decision No. 71424, should be amended to reflect an equal
13 sharing between shareholders and ratepayers of the FHSD settlement proceeds, and no
14 reimbursement to the Company of the \$30,000 in attorneys' fees and costs the Company incurred in
15 its pursuit of the resolution with the FHSD in regard to the wells. In addition, should the Company
16 sell either Well No. 8 or Well No. 9 in the future, it shall share the proceeds of such sale equally with
17 ratepayers.

18 49. The Company should be allowed to recover the new revenue requirement resulting
19 from our determinations herein through its commodity rates, and should be required to file, by April
20 15, 2011, a tariff reflecting the corrected permanent commodity rates, to become effective for all
21 service rendered on and after May 1, 2011.

22 50. The Company should be allowed to collect, with interest at a rate of 6.0 percent, the
23 difference between the actual revenues collected for service from October 15, 2009 through April 30,
24 2011, and the revenues that would have been collected for service during that period had the
25 ratemaking treatment of the two rehearing issues determined herein become effective on October 15,
26 2009. The Company's collection of such amount should be made through a temporary commodity
27 rate surcharge to be assessed for a period of six months, effective for service rendered on and from
28 May 1, 2011 through October 31, 2011.

1 period of six months, to all customers charged commodity rates.

2 **ORDER**

3 IT IS THEREFORE ORDERED that pursuant to A.R.S. §§ 40-252 and 40-253, Decision No.
4 71308, as amended *nunc pro tunc* by Decision No. 71424, is hereby amended to allow the Company
5 to recover \$100,000 of the rate case expenses it incurred in its appeal of Decision No. 68176 and the
6 subsequent remand proceeding before the Commission, normalized over a three year period.

7 IT IS FURTHER ORDERED that pursuant to A.R.S. §§ 40-252 and 40-253, Decision No.
8 71308, as amended *nunc pro tunc* by Decision No. 71424, is further amended pursuant to both A.R.S.
9 §§ 40-252 and 40-253, to reflect an equal sharing between shareholders and ratepayers of the FHSD
10 settlement proceeds, and no reimbursement to the Company of the \$30,000 in attorneys' fees and
11 costs the Company incurred in its pursuit of the resolution with the FHSD in regard to the wells. In
12 addition, should the Company sell either Well No. 8 or Well No. 9 in the future, it shall share the
13 proceeds of such sale equally with ratepayers.

14 IT IS FURTHER ORDERED that pursuant to A.R.S. §§ 40-252 and 40-253, Decision No.
15 71308, as amended *nunc pro tunc* by Decision No. 71424, is further amended to allow Chaparral City
16 Water Company to recover the new revenue requirement through its monthly commodity rates,
17 effective for all service rendered on and after May 1, 2011.

18 IT IS FURTHER ORDERED that Chaparral City Water Company, Inc. is hereby authorized
19 to assess a temporary surcharge, for a period of six months, effective for all service rendered on and
20 after May 1, 2011, on all customers paying commodity rates, to collect the difference in revenues
21 with interest at a rate of 6.0 percent, between what would have been collected to date if the
22 ratemaking treatment of the two rehearing issues as determined herein had become effective October
23 15, 2009, and the revenues actually collected to date under the rates approved in Decision No. 71308,
24 as amended *nunc pro tunc* by Decision No. 71424.

25 IT IS FURTHER ORDERED that Chaparral City Water Company, Inc. shall use the revenue
26 requirement calculation shown as Scenario 3 in Exhibit A in calculating the corrected permanent
27 commodity rates and the temporary six month surcharge amount.

28 IT IS FURTHER ORDERED that Chaparral City Water Company, Inc. shall file, by April 15,

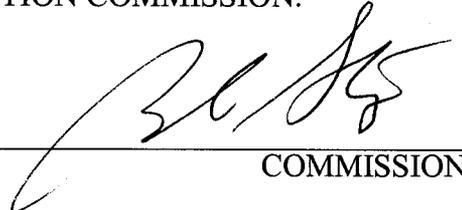
2011, a tariff reflecting the corrected permanent commodity rates and the temporary six month surcharge authorized herein.

IT IS FURTHER ORDERED that Chaparral City Water Company, Inc. shall file, by May 31, 2011, confirmation that it has provided notice to its customers, in a form acceptable to the Commission's Utilities Division, of the corrected permanent commodity rates and the temporary surcharge authorized herein.

IT IS FURTHER ORDERED that Chaparral City Water Company, Inc. shall notify the Commission within thirty days of a sale of Well No. 8 or Well No. 9 by means of a filing in this docket setting forth the terms of such sale, and shall include the sharing of the gain on such a sale with the ratepayers in the next rate filing subsequent to the sale.

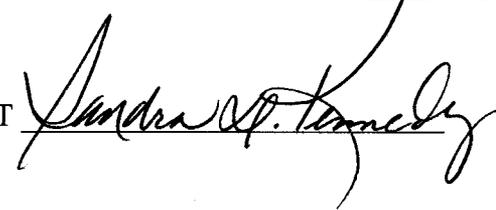
IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

 CHAIRMAN	 COMMISSIONER
COMMISSIONER	 COMMISSIONER COMMISSIONER

IN WITNESS WHEREOF, I, ERNEST G. JOHNSON, Executive Director of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this 7th day of April, 2011.


ERNEST G. JOHNSON
EXECUTIVE DIRECTOR

DISSENT 

DISSENT _____

1 SERVICE LIST FOR: CHAPARRAL CITY WATER COMPANY, INC.

2 DOCKET NO.: W-02113A-07-0551

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25
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27
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CHAPARRAL CITY WATER COMPANY, INC.
 Docket No. W-02113A-07-0551
 Test Year Ended December 31, 2006

EXHIBIT A

Revised Schedule MEM-1
 All Scenarios

REVENUE REQUIREMENT

LINE NO.	DESCRIPTION	(A) COMPANY FAIR VALUE	(B) DECISION FAIR VALUE	(C) RESTATE DECISION*	(D) SCENARIO 1	(E) SCENARIO 2	(F) SCENARIO 3	(G) SCENARIO 4
1	Adjusted Rate Base	\$ 28,768,975	\$ 26,776,414	\$ 26,776,414	\$ 27,506,414	\$ 27,521,414	\$ 27,506,414	\$ 27,521,414
2	Adjusted Operating Income (Loss)	\$ 855,581	\$ 943,185	\$ 988,008	\$ 946,566	\$ 945,715	\$ 926,099	\$ 925,248
3	Current Rate of Return (L2 / L1)	2.97%	3.52%	3.69%	3.44%	3.44%	3.37%	3.36%
4	Required Rate of Return	9.32%	7.52%	7.52%	7.52%	7.52%	7.52%	7.52%
5	Required Operating Income (L4 * L1)	\$ 2,681,268	\$ 2,013,586	\$ 2,013,586	\$ 2,068,482	\$ 2,069,610	\$ 2,068,482	\$ 2,069,610
6	Operating Income Deficiency (L5 - L2)	\$ 1,825,687	\$ 1,070,401	\$ 1,025,578	\$ 1,121,916	\$ 1,123,895	\$ 1,142,383	\$ 1,144,362
7	Gross Revenue Conversion Factor	1.6286	1.6483	1.6483	1.6483	1.6483	1.6483	1.6483
8	Required Revenue Increase (L7 * L6)	\$ 2,973,354	\$ 1,764,371	\$ 1,690,488	\$ 1,849,284	\$ 1,852,547	\$ 1,883,020	\$ 1,886,283
9	Adjusted Test Year Revenue	\$ 7,505,010	\$ 7,505,010	\$ 7,505,010	\$ 7,505,010	\$ 7,505,010	\$ 7,505,010	\$ 7,505,010
10	Proposed Annual Revenue (L8 + L9)	\$ 10,478,364	\$ 9,269,381	\$ 9,195,498	\$ 9,354,294	\$ 9,357,557	\$ 9,388,080	\$ 9,391,293
11	Required Increase in Revenue (%)	39.62%	23.51%	22.52%	24.64%	24.68%	25.09%	25.13%

* In Staff's review of the worksheets underlying the revenue requirement calculation for the decision, Staff made the following observations and adjustments related to the Gain on Proceeds from the Settlement:

- a) \$76,000 was included as a reduction to test year expenses for the amount of amortization on the gain during the test year. This appears to have been calculated by assuming a 10-year amortization period, but applied to 1/2 of the total gain amount. Staff restated adjusted operating income assuming a 10-year amortization period, applied to the full amount of the gain, resulting in a \$149,000 reduction to test year expenses (\$1,490,000 x 10%), as well as the related impacts to property tax and income tax expense.
- b) Staff restated the revenue requirement calculation to reflect the above changes.

References:

- Column (A): Company Schedule A-1
- Column (B): Rate Case Decision
- Column (C): Restated Rate Case Decision
- Column (D): Restated Rate Case Decision, equal sharing of \$1,490,000 gain
- Column (E): Restated Rate Case Decision, equal sharing of \$1,520,000 gain and including \$100,000 remand rate case expense (annual amt \$33,333)
- Column (F): Restated Rate Case Decision, equal sharing of \$1,490,000 gain and including \$100,000 remand rate case expense (annual amt \$33,333)
- Column (G): Restated Rate Case Decision, equal sharing of \$1,490,000 gain and including \$100,000 remand rate case expense (annual amt \$33,333)

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ARIZONA CORPORATION COMMISSION

March 6, 2011

Arizona Corporation Commission
Docket Control
W-02113A-07-0551

**Re: Rehearing of Decision No. 71308
Chaparral City Water Company
W-02113A-07-0551**

I am entering a dissent letter to explain my "no" vote of March 30, 2011 on the Chaparral City Water Company item.

I did not support Decision No. 71308, which was issued on October 21, 2009. The evidence and testimony in the subsequent rehearing did not convince me to change my vote.

I agree with the positions taken by the Residential Utility Consumer Office "RUCO" on the rate case expense issues associated with the appeal and remand of Decision No. 68176, because the Company's appeal was pursued solely for the benefit of shareholders. I believe that it is unfair to make the captive ratepayers cover that cost.

I also have a concern with the manner in which the Recommended Order and Opinion "ROO" addressed the ratemaking treatment of Fountain Hills Sanitation District "FHSD" settlement proceeds. In my opinion, even with the sharing and the proceeds of the sale of either Well No. 8 or Well No. 9 in the future the rates adopted will result in excessive over-earning potential for the Company at the expense of the ratepayers. No one is disputing that a Company has a right to earn a reasonable return on its investment. However, when the Company has not made an investment, it is not fair to allow it to obtain a windfall from the proceeds generated from fully depreciated assets.

During the Open Meeting the issues in this case were compared to the fees paid when leasing a car or getting dry cleaning services. As a former small business owner, I know that the cost of supplies, materials, and overhead are always imbedded in the price charged for a particular service. The fee for dry-cleaning includes the cost of the hangers and plastic wrap. Those who

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use these analogies fail to recognize a vital fact: If a customer is unhappy with the terms or fees charged by the dry-cleaner a customer can always go to another dry-cleaner. That is not the case for the ratepayers whose water and wastewater provider holds a monopoly. A cleaning is not a protected monopoly and does not provide a basic human need.

I believe that companies that hold a monopoly to serve water provides a basic human need and therefore has a responsibility to treat its captive ratepayers fairly.

A handwritten signature in cursive script, appearing to read "Sandra D. Kennedy". The signature is written in dark ink and is positioned above the printed name and title.

Sandra D. Kennedy
Arizona Corporation Commissioner