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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

IN THE MATTER OF THE APPLICATION OF  
 CHAPARRAL CITY WATER COMPANY, INC.  
 FOR A WAIVER UNDER A.A.C. R14-2-806 OR,  
 IN THE ALTERNATIVE, NOTICE OF INTENT TO  
 REORGANIZE UNDER A.A.C. R-14-2-803.

DOCKET NO. W-02113A-10-0309

DECISION NO. 72259**OPINION AND ORDER**

DATE OF HEARING: September 9, (Procedural Conference), and December 9, 2010.

PLACE OF HEARING: Phoenix, Arizona

ADMINISTRATIVE LAW JUDGE: Teena Jibilian

APPEARANCES: Mr. Norman D. James, FENNEMORE CRAIG, P.C., on behalf of the Applicant;

Mr. Thomas H. Campbell, LEWIS AND ROCA, L.L.P., on behalf of EPCOR Water (USA), Inc.;

Ms. Michelle L. Wood, Attorney, on behalf of the Residential Utility Consumer Office; and

F Ms. Bridget A. Humphrey, Staff Attorney, 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**Procedural History

1. On July 23, 2010, Chaparral City Water Company, Inc. ("CCWC" or "Applicant") filed with the Arizona Corporation Commission ("Commission") an application for a waiver under A.A.C. R14-2-806 or, in the alternative, Notice of Intent to Reorganize under A.A.C. R14-2-803

1 ("Application and Notice").

2 2. CCWC's application is seeking a waiver pursuant to A.A.C. R14-2-806 from the  
3 Commission's Public Utility Holding Companies and Affiliated Interests Rules.<sup>1</sup> In the alternative to  
4 a waiver, the application gives notice to the Commission pursuant to A.A.C. R14-2-803 of CCWC's  
5 intent to reorganize by means of American States Water Company's ("American States") sale of all  
6 the outstanding and issued shares of CCWC's common stock to EPCOR Water (USA) Inc. ("EPCOR  
7 USA").

8 3. On August 12, 2010, EPCOR USA filed a Motion to Intervene, which was granted by  
9 procedural order issued August 23, 2010.

10 4. On August 23, 2010, the Residential Utility Consumer Office ("RUCO") filed an  
11 Application to Intervene, which was granted by procedural order issued September 8, 2010.

12 5. On September 10, 2010, the Commission's Utilities Division ("Staff") filed a Request  
13 for Procedural Conference for the purpose of discussing the necessity for the filing of testimony and a  
14 hearing.

15 6. A procedural order was issued September 14, 2010, setting a procedural conference.

16 7. On September 23, 2010, the procedural conference convened as scheduled. CCWC,  
17 EPCOR USA, RUCO, and Staff appeared through counsel. The parties discussed a hearing schedule,  
18 including the prefilings of direct and rebuttal testimony.

19 8. On September 24, 2010, a procedural order was issued setting a hearing to commence  
20 on December 9, 2010, requiring the publication of notice of the Application and Notice, and setting  
21 deadlines for the filing of testimony.

22 9. On October 22, 2010, CCWC filed Certification of Publication indicating that it had  
23 published notice of the Application and Notice in the *Arizona Business Gazette* on October 7, 2010  
24 and in *The Fountain Hills Times* on October 13, 2010.

25 10. Also on October 22, 2010, CCWC filed a Notice of Customer Open House. CCWC  
26 indicated that it had published in *The Fountain Hills Times*, on October 20, 2010, an invitation to an  
27

28 <sup>1</sup> A.A.C. R14-2-801 through 806.

1 open house scheduled to be held in Fountain Hills on October 26, 2010, for the purpose of ensuring  
2 that customers are aware of the proposed transaction that is the subject of this proceeding, and to  
3 provide customers with an opportunity to learn more about EPCOR USA.

4 11. No public comments were filed in the docket

5 12. On November 10, 2010, RUCO filed the Direct Testimony of its witness William R.  
6 Rigsby.

7 13. On November 10, 2010, Staff filed the Direct Testimony of its witness Darron W.  
8 Carlson.

9 14. On November 24, 2010, CCWC and EPCOR USA filed a Joint Response to Staff and  
10 RUCO Direct Testimony.

11 15. A hearing on the Application and Notice was convened as scheduled on December 9,  
12 2010 before a duly authorized Administrative Law Judge of the Commission. No members of the  
13 public appeared to make public comment. CCWC, EPCOR USA, RUCO and Staff appeared through  
14 counsel and presented testimony through witnesses. At the close of the hearing, the parties made  
15 closing statements, and the matter was taken under advisement.

16 Parties to the Proposed Transaction

17 16. CCWC is a public service corporation that provides water utility service to  
18 approximately 13,000 customers pursuant to authority granted by the Commission in Decision No.  
19 41243 (April 20, 1971). CCWC's certificated area includes the Town of Fountain Hills and portions  
20 of eastern Maricopa County.

21 17. CCWC's current rates and charges were authorized in Decision No. 71308 (October  
22 21, 2009) as amended *nunc pro tunc* by Decision No. 71724 (December 8, 2009).

23 18. CCWC is wholly-owned by American States. American States is a California  
24 corporation based in San Dimas, California, which is publicly traded on the New York Stock  
25 Exchange ("NYSE").

26 19. EPCOR USA is an indirect wholly owned subsidiary of EPCOR Utilities Inc.  
27 ("EPCOR"). EPCOR is a municipally owned Canadian corporation and holding company that builds,  
28 owns and operates water and wastewater treatment facilities and infrastructure and electrical

1 transmission and distribution networks in Canada. EPCOR USA is governed by an independent  
2 Board of Directors, and its sole shareholder is the City of Edmonton, Alberta, Canada.

3 20. EPCOR is the parent company of a number of subsidiary companies. Its primary  
4 operating utility subsidiaries are EPCOR Water Services, Inc. ("EPCOR Water"), EPCOR  
5 Distribution & Transmission Inc. ("EPCOR Distribution") and EPCOR Energy Alberta Inc.  
6 ("EPCOR Energy").

7 21. EPCOR Water provides water and wastewater services to over one million people in  
8 more than 70 communities and counties across western Canada. EPCOR Water and its predecessors  
9 have been providing water to the residents of the City of Edmonton for more than 100 years. EPCOR  
10 Water owns and operates seven water treatment facilities in Alberta and British Columbia; operates  
11 16 other water treatment and distribution facilities in Alberta and British Columbia; owns and  
12 operates five wastewater treatment facilities in Alberta and British Columbia; and operates 19 other  
13 wastewater treatment and collection facilities in Alberta and British Columbia. EPCOR Water also  
14 has business and working relationships in Canada with established American companies such as  
15 Stantec Consulting, Inc. and PCL Construction, Inc., spanning nearly 50 years, including projects  
16 where EPCOR Water and Stantec/PCL have jointly built and refurbished numerous water and  
17 wastewater facilities.

18 22. EPCOR Water's technical expertise includes using advanced and highly automated  
19 water treatment systems, ultraviolet disinfection, and remote systems capable of monitoring all sizes  
20 of facilities. EPCOR Water has experience treating and distributing both ground and surface water,  
21 and EPCOR has experience providing water distribution service to areas with multiple pressure  
22 zones, like those found in CCWC's service area. Two of EPCOR Water's service areas, the cities of  
23 Edmonton and Canmore, Alberta, have distribution systems with multiple pressure zones. Edmonton  
24 is supplied with surface water from the North Saskatchewan River, and EPCOR Water therefore has  
25 substantial expertise and knowledge for operating surface water systems.

26 23. EPCOR USA intends to use EPCOR Water's experience in operating and managing  
27 surface water systems and treatment plants in Edmonton to operate CCWC, where it plans to  
28 continue use of CAP water as the primary source of water and to use groundwater as a back-up

1 supply.

2 24. EPCOR Water has maintained water efficiency best management practices to support  
3 local and provincial goals for sustainable communities.

4 25. EPCOR provides call center and billing services for EPCOR Water's 250,000  
5 customers through its affiliate EPCOR Energy Services.

6 The Proposed Transaction

7 26. American States wishes to divest itself of its ownership and stock interests in CCWC.

8 27. EPCOR intends to enlarge its portfolio of water and wastewater assets, and its  
9 business plan includes entry into the water utility market in Arizona. The proposed transaction is part  
10 of EPCOR's long-term strategy to invest in and own water and wastewater utilities in the southwest  
11 United States and to contract to provide similar services to municipal and other governmental entities.

12 28. On June 7, 2010, EPCOR USA entered into a Stock Purchase Agreement with  
13 American States for the purchase of all outstanding shares of CCWC's common stock. EPCOR USA  
14 will purchase the stock of CCWC for approximately \$29 million, which will be paid to American  
15 States in cash at closing.

16 29. EPCOR will fund the purchase price by cash on hand together with either the issuance  
17 of short term debt via EPCOR's commercial paper program or bank debt. In 2009, EPCOR had  
18 approximately \$2.4 billion (\$Cdn) in revenue from its various operations, and net income of  
19 approximately \$125 million (\$Cdn). EPCOR expects no material changes to its capital structure as a  
20 result of the proposed transaction, and EPCOR will continue to finance capital projects in the same  
21 way it has in the past.

22 30. The proposed transaction is not anticipated to result in any material changes to  
23 CCWC's cost of service or cost of capital. CCWC will continue to be operated on a stand-alone basis  
24 in contracting for services, equipment and supplies, in raising capital, and for income tax and  
25 ratemaking purposes.

26 31. CCWC intends to continue to reinvest a portion of its net income from operations in  
27 utility plant and improvements and to obtain debt financing in the markets based on its cash flow  
28 from utility operations and other financial indicators. EPCOR USA has reviewed American States'

1 projected capital budget for CCWC for the years 2010 through 2014 and intends to generally adopt  
2 the projected capital budget plan. If it becomes necessary, EPCOR will provide debt financing and  
3 cash management services to CCWC, subject to the Commission's authority to review and approve  
4 the issuance of bonds, notes, and other debt instruments.

5 32. EPCOR has access to the capital market and will be able to support CCWC as  
6 appropriate. If required, EPCOR will provide equity capital to CCWC to finance required  
7 infrastructure needs, consistent with maintaining a reasonable capital structure.

8 33. EPCOR has funding available from its cash flow from its various water, wastewater  
9 and electric operations in Canada. Over the period from 2004 to 2009, EPCOR routinely financed an  
10 average of \$400 million (\$Cdn) annually in capital improvements for its water, wastewater and  
11 electric utilities. EPCOR maintains a Standard & Poor's credit rating of BBB+ stable for long term  
12 unsecured debt, and DBRS Ltd. affirmed its credit rating for EPCOR's long term unsecured debt at A  
13 (low) stable.

14 34. CCWC's utility plant, revenue and other assets will not be used as security, nor will  
15 the stock of CCWC be pledged or otherwise used as security for the stock purchase.

16 35. After the proposed transaction closes, CCWC will remain the same legal entity, but  
17 will be owned by EPCOR USA. CCWC will continue to be operated as a public service corporation  
18 subject to the Commission's authority and jurisdiction.

19 36. EPCOR USA anticipates that all the existing employees of CCWC will remain with  
20 the Company and continue in their present roles operating the Company. EPCOR USA intends to  
21 deploy a managerial staff member to CCWC on a full time basis to oversee any transition issues,  
22 build relationships with customers, and ensure that all customer issues are addressed.

23 37. Under EPCOR USA's ownership, CCWC will continue to provide service to its  
24 customers under its existing rates and tariffs. EPCOR USA does not seek an acquisition adjustment.

25 Request for Waiver of Affiliated Interests Rules

26 38. CCWC requests that the Commission waive the requirements of the Affiliated  
27 Interests Rules to the extent they apply to the proposed transaction. CCWC makes this request  
28 pursuant to A.A.C. R14-2-806, which provides that the Commission may waive compliance with any

1 of the Affiliated Interests Rules upon a finding that such waiver is in the public interest.

2       39. Staff recommends against the waiver requested by CCWC. Staff's witness testified  
3 that Staff believes there must be a demonstrable benefit of the transaction to justify a waiver of the  
4 Affiliated Interests Rule. Staff's witness stated that because Staff believes the transaction at issue  
5 does not result in a benefit, Staff is recommending that the requested waiver not be granted.

6       40. RUCO also recommends against the requested waiver.

7       41. In its closing statement, the Company stated that although it believes the proposed  
8 transaction is in the public interest, the Company requests that the Commission approve the proposed  
9 transaction as a reorganization rather than granting the waiver.

10 Notice of Intent to Reorganize

11       42. The Company's application provided the information required by A.A.C. R14-2-803.  
12 The Company requests approval of the proposed transaction pursuant to that rule.<sup>2</sup>

13       43. The Company stated that the evidence presented supports approval of the proposed  
14 transaction. The Company stated that there is no indication that the proposed transaction will impair  
15 the financial status of CCWC, would prevent CCWC from attracting capital at fair and reasonable  
16 terms, or would impair CCWC's ability to provide safe, reasonable and adequate service. The  
17 Company stated that the proposed transaction will not result in costs being passed to CCWC's  
18 customers. The Company further stated that the proposed transaction will not result in the sale,  
19 transfer, or encumbrance of plant or other utility assets, and that the new ownership will not result in  
20 any change to CCWC's capital structure, to the way rates are currently set, or to income tax expense.

21       44. EPCOR USA agreed with the Company that the proposed transaction will not impair  
22 the financial status of the Company, will not prevent the Company from attracting capital at fair and  
23 reasonable terms, and will not impair the Company's ability to provide safe, reasonable and adequate  
24 service.

25  
26 <sup>2</sup> A.A.C. R14-2-803.C provides as follows:

27       At the conclusion of any hearing on the organization or reorganization of a utility holding company, the  
28       Commission may reject the proposal if it determines that it would impair the financial status of the  
      public utility, otherwise prevent it from attracting capital at fair and reasonable terms, or impair the  
      ability of the public utility to provide safe, reasonable and adequate service.

1        45.     RUCO believes that EPCOR USA is a fit and proper entity whose ownership will not  
2 impair the financial status of CCWC, or prevent CCWC from attracting capital at fair and reasonable  
3 terms, or impair the ability of CCWC to provide safe, reasonable and adequate service. RUCO  
4 recommends approval of the reorganization subject to two conditions.

5        46.     Staff concluded that after the reorganization, CCWC will experience no short-term  
6 changes, benefits or detriments. Staff stated that it also believes that CCWC will experience no  
7 measurable long-term changes, benefits, or detriments. Staff recommends approval of the  
8 reorganization, subject to three conditions.

9     Conditions on Approval

10       47.     RUCO recommends approval of the reorganization subject to two conditions:

- 11               1) that no acquisition costs related to the transfer of ownership between American  
12               States and EPCOR USA be passed on to Arizona ratepayers; and  
13               2) that no acquisition premium (i.e. the difference between EPCOR USA's purchase  
14               price of CCWC's outstanding and issued shares of common stock and the book  
15               value of CCWC at the time the transaction is finalized) be recovered by EPCOR  
16               USA in any future rate case decisions.

17       48.     Staff recommends approval of the reorganization, subject to the following conditions:

- 18               1) that the Company and its affiliates fully cooperate with Staff in any future  
19               inquiries or requests for information and/or documents regarding any transactions  
20               that Staff determines might have some effect, direct or indirect, on the Company's  
21               operational or financial health;  
22               2) that the Company refrain from seeking an acquisition adjustment due to this  
23               transaction in any future rate case; and  
24               3) that the Company maintain its quality of service, including, but not limited to, that  
25               the number of service complaints should not increase, that the response time to  
26               service complaints should not increase, and that the service interruptions should  
27               not increase as a result of the reorganization.

28       49.     EPCOR USA stated that it finds the conditions recommended by RUCO and Staff to  
be acceptable.

      50.     EPCOR USA stated that after discussion with Staff, it understands that its agreement  
with Staff's proposed condition in regard to cooperation and provision of information does not  
constitute a waiver of its ability in future proceedings to make legitimate and reasonable objections to  
discovery for resolution by the Commission.



1        51.     EPCOR USA stated that it intends to maintain service quality, is in agreement with the  
2 three specific service quality criteria listed in Staff's recommended service quality condition, and will  
3 work with Staff to address other service quality criteria.

4        52.     At the hearing, EPCOR USA's witness indicated that following the proposed  
5 transaction, EPCOR USA plans to implement a new, more modern billing system for CCWC, and  
6 that when the new system is implemented, it is possible there may be a spike in calls to the Company  
7 or to the Commission. The witness stated that EPCOR USA would not be opposed to a requirement  
8 that CCWC notify customers of the acquisition, and of the fact that the customer billing system may  
9 be changing.

10       53.     The Company is currently in compliance with state and federal drinking water  
11 standards and received a public water system compliance report from the Maricopa County  
12 Environmental Services Department ("MCESD") that described CCWC's general public water  
13 system as "compliant."

14       54.     CCWC is current on property tax payments.

15       55.     CCWC's Annual Water Withdrawal and Use Report for calendar year 2009 and its  
16 Central Arizona Groundwater Replenishment District 2009 report were filed on March 15, 2010.

17 Conclusions

18       56.     Based on the evidence presented, we find that the proposed transaction will not impair  
19 the financial status of CCWC, otherwise prevent it from attracting capital at fair and reasonable  
20 terms, or impair its ability to provide safe, reasonable and adequate service.

21       57.     It is in the public interest to approve the proposed reorganization subject to the  
22 following conditions:

- 23               1) that no acquisition costs related to the transfer of ownership between American  
24               States and EPCOR USA be passed on to Arizona ratepayers;  
25               2) that no acquisition premium (i.e. the difference between EPCOR USA's purchase  
26               price of CCWC's outstanding and issued shares of common stock and the book  
27               value of CCWC at the time the transaction is finalized) be recovered by EPCOR  
28               USA in any future rate case decisions;

12           1.       CCWC is a public service corporation within the meaning of Article 15, Section 3 of  
13 the Arizona Constitution and Title 40 of the Arizona Revised Statutes.

14           2.       The Commission has jurisdiction over CCWC and the subject matter of the  
15 Application and Notice, pursuant to Article 15, Section 3 of the Arizona Constitution and the  
16 Commission's Affiliated Interests Rules, A.A.C. R14-2-801 through 806.

17      3.      Notice of the Application and Notice was given in accordance with Arizona law.

18           4.       The public interest requires that the Commission apply the Affiliated Interests Rules in  
19 a manner that will maximize protection to ratepayers.

20           5.       Approval of the proposed transaction would serve the public interest only if the  
21 conditions set forth and discussed herein are imposed to provide adequate protection to ratepayers.

22           6.       It is in the public interest to approve the proposed transaction subject to compliance  
23 with the conditions set forth and discussed herein.

24 7. Pursuant to A.A.C. R14-2-801 *et seq.*, the proposed transaction will not impair the  
25 financial status of the public utility, otherwise prevent it from attracting capital at fair and reasonable  
26 terms, or impair the ability of the public utility to provide safe, reasonable and adequate service.

27           8.       The transaction proposed in the Application and Notice, with the conditions set forth  
28 and discussed herein, is reasonable and in the public interest and should be approved.

**ORDER**

IT IS THEREFORE ORDERED that Chaparral City Water Company, Inc.'s request for a waiver from Commission review of the transaction proposed in the Application and Notice, pursuant to A.A.C. R14-2-806, is hereby denied.

IT IS FURTHER ORDERED that the transaction proposed in the Application and Notice is hereby approved, as a reorganization of a holding company pursuant to A.A.C. R14-2-803, subject to the conditions set forth in Findings of Facts No. 57.

IT IS FURTHER ORDERED that Chaparral City Water Company, Inc. shall, within thirty days of the close of the transaction, in a form approved by the Commission's Utilities Division, notify its customers of the change in ownership of the utility, and shall file, as a compliance item in this docket, proof of such customer notice.

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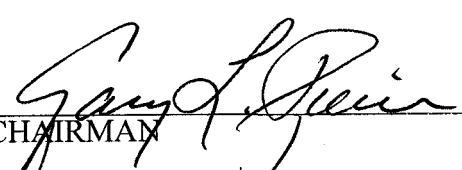
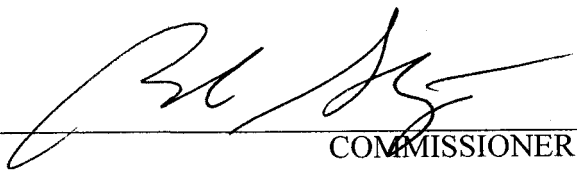
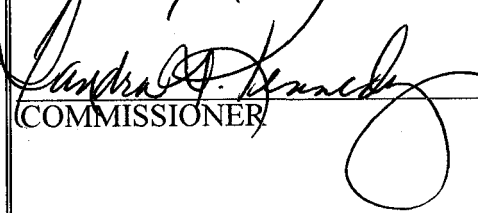
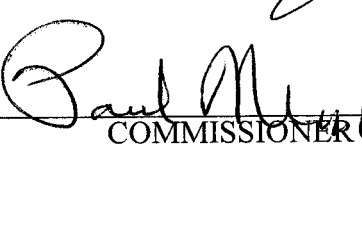
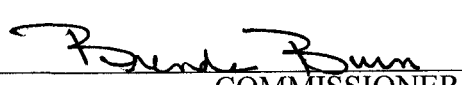
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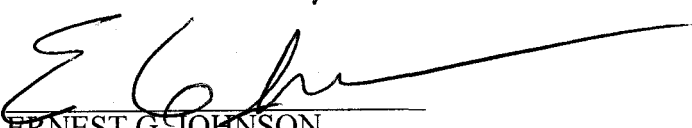
1 IT IS FURTHER ORDERED that Chaparral City Water Company, Inc. shall, at least thirty  
2 days prior to any change in the customer billing system, notify its customers of the impending  
3 change. The customer notice shall include at a minimum both a telephone number and a website  
4 address by which customers may contact the utility to seek answers to any questions they may have  
5 about the billing system change.

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

7 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

8  
9  CHAIRMAN  COMMISSIONER  
10  
11  COMMISSIONER  COMMISSIONER  COMMISSIONER  
12  
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14 IN WITNESS WHEREOF, I, ERNEST G. JOHNSON,  
15 Executive Director of the Arizona Corporation Commission,  
16 have hereunto set my hand and caused the official seal of the  
17 Commission to be affixed at the Capitol, in the City of Phoenix,  
18 this 7th day of April, 2011.

19   
20 ERNEST G. JOHNSON  
21 EXECUTIVE DIRECTOR

22 DISSENT \_\_\_\_\_  
23  
24 DISSENT \_\_\_\_\_  
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26  
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1 SERVICE LIST FOR: CHAPARRAL CITY WATER COMPANY, INC.

2 DOCKET NO.: W-02113A-10-0309

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