

ORIGINAL



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Antonio Gill

From:
Sent:
To:
Cc:

Pierce-Web; Newman-Web; Burns-Web; Kennedy-Web; Stump-Web; Utilities Div - Mailbox; Director Jodi Jerich, Esq; Seel, Representative Carl; Klein, Senator Lori; Reeve, Representative Amanda; Annette Dobbins; Annette McCarthy- Forward; Axtman, Mike; Bagwell, Dave; Bergeron, Gary; Berton, Richard; Bindi, Joyce; Binzen, Sandy; Birdseye, John; Boats, Tom; Bob Tack; Bradshaw, Bob; Brescian, Ron; Brighton, Jeannette; Brooks, Yvonne; Brouwer, Christina; Bulat, Loretta; Burkett, Jim; Capeloto, Claudia; Cassey, Dan; Catarino, Alan; Cohen, Ken; Collins, Michelle; Condon, Dennis; Costa, Alan; DeCarli, Tina; dee larson; DON MC DANIEL; dorianandpaula@yahoo.com; Drapac, Pat; Dumbrell, Marilyn; Early, Sharon; Entreken, John; Evans, Mary Jo; Filiatrault, Paul; Filteau, Chuck; Garvey, Wayan; Gimble, Joy; Gloschen, Donna; Golembe, Bob; Graham, Christie; Graham, Gary; Greg Lickus; Harison, Jim; Hegreness, Ralph; Henderson, Jan; Henry, Bob; Higgins, Mike; Hoffman, Sue; Hudspeth, Wendy; Huso, Barbara; Hussain, Sophia; Jack Noblitt; Jamtaas, Kris; Jennifer Solomon; Jody Cote; John Birdseye; Johnsen, Rich; Johnson, Chuck; Johnson, Vern; Johnston, Carla; Jordan, Navarro; Kaul, Jennifer; Kaye, Scott; Kollings, Jenna; Kristen Reismeyer; Kulakowski, Rich; Larson, Eric; Levine, Barbara; Levine, Jeff; Link, Lesli; Loll, Jackie; Long, Alex; Luders, John; Madden, Rick; Maher Hazine; Maitem, Janne; Martin, Keith; Mary Alice Hegreness; Matraw, Frank; Maxwell, Anne; McNamara, Kazuko; McNamara, Don and Pat; Middleton, Stan; Minzer, Brandon; Montanarello, Cindy; Moreno, Anna; Morgan, Mario; Morgan, Kristin; Morgan, Todd; Norris, Dale; Oberg, Chris; Okutomi, Kazu; Osterberg, Kathy; Patyniak, Mark; Perez, Douglas; Perry, Bruce; Perry, Gayle; Pique, Joyce; Pratt, Pam; Prentiss, Lou; Prickett, Chris; Puhr, Stephen; Putnam, Sandy; Putnam, Sandy; Rabin, Eli; Rainkin, Merrilee; Rogers, Paula; Ron Jerich; Ruedinger, Don; Rueff, Bill; Schouten, Sherrie; Schroeder, Janet; Schunk, Christiane; Schunk, Phil; Sedillo, Marcia; Serphen, Chad; Shearer, Barbara; Silveus, Livier; Smith, Victoria; Staniec, Betty; Stephanie Ditner; Stewart, Steve; Stuecker, Norman; Thompson, Jim; Tobison, Dave; Turner, Elizabeth; Weiss, Doug; Whitfill, Linda; Willis, Roger; Winkler, Jim; Winters, Vickie; Woods, Susie; Yuen, Kam; Yuen, Kam (GE Intelligent Platforms); Yulga, James; Yulga, Pat; Zettle, Tonya; Zwycewicz, Rich
Re: Anthem Water Rate Meeting - March 22, 2011 - Docket No. W-01303A-09-0343

RECEIVED

2011 APR 19 A 10:24

Subject:

APR 19 2011

Dear Chairman Pierce,

DOCKETED BY [Signature]

The residents of Anthem still have not received your response to the comments and questions in my email which was originally sent to you on March 25, 2011.

It seems to me that the decisions of the Arizona Corporation Commission (ACC) beginning with decision No. 60975 dated June 19, 1998 have cost the residents of Anthem an unjustified amount (double dipping) of substantially more than \$53,000,000 (total balloon payments from AAWC to Pulte, plus the annual Required Fair Value Rate of Return of 6.70% (after taxes), plus the annual Gross Revenue Conversion Factor (GRCV) of 1.6438. The GRCV is an formulated number used to compute the amount of revenue required for the estimated federal taxes, state taxes, property taxes, etc. to be paid by AAWC.

During the latest Anthem water rate case the following information was submitted to the ACC, but apparently was not considered in making the final decision.

(A) RUCO and Anthem Community Council presented a Notice of Joint Filing of Supplemental Information on November 9, 2010. That documentation provided relevant excerpts from a document entitled "State of Arizona Department of Real Estate Application for Subdivision Public Report. Item J on page 24 of that document reads as follows: "Estimated costs lot purchaser will have to pay for completion of facilities to his lot line. Costs included in the purchase price." Item K on page 24 of that document reads as follows: "Estimated costs lot purchaser will have to pay for completion of facilities from lot line to dwelling. Costs included in the purchase price." This clearly indicates to me that the cost of the infrastructure was included in the price of the lots. It seems to me that both the ACC and the water utility company should have been aware of this documentation back in 1999. This raises two questions in my mind: Why would the water utility company agree to make balloon payments which eventually totaled approximately \$53,000,000 to Pulte since the cost of the infrastructure was included in the price of the lots? Why did the ACC decline to make a ruling on this matter when it was initially presented to them in 1997 and 1998? The ACC failed to pursue this matter during the latest water rate case, and the supplemental information presented by RUCO and Anthem

Community Council on November 9, 2010 apparently was not taken into consideration in making the final decision.

(B) Stephen P. Puhr, an Anthem resident, presented substantial detailed documentation on April 28, 2010 regarding the Fair Value Rate of Return. He proposed 5.23% which is substantially lower than the finally approved 6.70%. Mr. Puhr's recommendation apparently was not taken into consideration.

For your ready reference, I am restating the following two questions from my original email dated March 25, 2011:

(1) It is my understanding that the Commissioners can consider only what is "on the record" when making their decisions. What is considered to be "on the record?" More specifically, are the public comments considered to be "on the record?" If public comments are considered to be "on the record," why didn't the Commissioners give more consideration to the rate of return documentation submitted by an Anthem resident during the last water rate case? If public comments are not considered to be "on the record," what is the purpose of the public comments?

(2) I thought that one of the major purposes of the Arizona Corporation Commission is to protect consumers from large corporate greed by setting fair and reasonable utility rates. This, in my opinion, has not been the case for the residents of Anthem. Based on documentation which was provided to the Commission in the latest water rate case, the Anthem residents believe they are being "swindled" out of approximately \$53 million by the double payment to both the AAWC (in increased rates) and Pulte/Del Webb (in the original purchase price of the homes). If the regulators are not there to protect the consumers from the corporate greed of major corporations, who will protect the consumers?

Your response to those two questions and any other comments you would care to make will be greatly appreciated. Those questions do not relate to any specific case pending before the Commission, so I know of no reason why you are not at liberty to answer them at this time.

As an addendum, I still don't understand how some attorneys can construe an obligation to make balloon payments which totaled approximately \$53,000,000 as not being "evidence of indebtedness." The water utility company had to issue short term debt, long term debt, and/or equity to make those balloon payments. So if the final method of financing is clearly "evidence of indebtedness," why would not the interim obligation also be "evidence of indebtedness?"

The residents of Anthem never had an opportunity to question the Infrastructure Agreement before this latest rate case (decision No. 72047 dated January 6, 2011) because they had no "on the record" representation (intervener) at any of the prior cases. The decisions (or lack thereof) regarding the Infrastructure Agreement had already been made by the ACC, the water utility company and the developer. It appears to me that all of the decisions prior to June 30, 2004 and decision no. 68854 dated June 28, 2006 had no representation by the Anthem residents. It seems to me that those requests were routinely "rubber stamped" by the ACC without any comment or input from the Anthem residents. Pulte controlled the Anthem Community Council and its representative interveners for any and all discussions leading up to decision no. 67093 dated June 30, 2004 and decision No. 70372 dated June 13, 2008. The Anthem residents had no "on the record" voice or representation (representative intervener) at those hearings.

Sincerely,

Lynn Vick

----- Original Message -----

From: [lynnbrendavick](#)

To: [Chairman Gary Pierce](#)

Cc: [Commissioner Paul Newman](#) ; [Commissioner Brenda Burns](#) ; [Commissioner Sandra Kennedy](#) ; [Commissioner Bob Stump](#) ; [Commission](#) ; [Director Jodi Jerich, Esq](#) ; [Seel, Representative Carl](#) ; [Klein, Senator Lori](#) ; [Reeve, Representative Amanda](#) ; [Annette Dobbins](#) ; [Annette McCarthy- Forward](#) ; [Axtman, Mike](#) ; [Bagwell, Dave](#) ; [Bergeron, Gary](#) ; [Berton, Richard](#) ; [Bindi, Joyce](#) ; [Binzen, Sandy](#) ; [Birdseye, John](#) ; [Boats, Tom](#) ; [Bob Tack](#) ; [Bradshaw, Bob](#) ; [Brescian, Ron](#) ; [Brighton, Jeannette](#) ; [Brooks, Yvonne](#) ; [Brouwer, Christina](#) ; [Bulat, Loretta](#) ; [Burkett, Jim](#) ; [Capeloto, Claudia](#) ; [Cassey, Dan](#) ; [Catarino, Alan](#) ; [Cohen, Ken](#) ; [Collins, Michelle](#) ; [Condon, Dennis](#) ; [Costa, Alan](#) ; [Creighton, Mary](#) ; [David, Eric](#) ; [Davis, Porter](#) ; [DeCarli, Tina](#) ; [dee larson](#) ; [DON MC*DANIEL](#) ; [dorianandpaula@yahoo.com](#) ; [Dotson, Ellie](#) ; [Drapac, Pat](#) ; [Dumbrell, Marilyn](#) ; [Early, Sharon](#) ; [Entreken, John](#) ; [Evans, Mary Jo](#) ; [Filiatrault, Paul](#) ; [Filteau, Chuck](#) ; [Garvey, Wayan](#) ; [Gimble, Joy](#) ; [Gloshen, Donna](#) ; [Golembe, Bob](#) ; [Graham, Christie](#) ; [Graham, Gary](#) ; [Greg Lickus](#) ; [Harrison, Jim](#) ; [Hegreness, Ralph](#) ; [Henderson, Jan](#) ; [Henry, Bob](#) ; [Higgins, Mike](#) ; [Hoffman, Sue](#) ; [Hudspeth, Wendy](#) ; [Huso, Barbara](#) ; [Hussain, Sophia](#) ; [Jack Noblitt](#) ; [Jamtaas, Kris](#) ; ['Jennifer Solomon'](#) ; [Jody Cote](#) ; [John Birdseye](#) ; [Johnsen, Rich](#) ; [Johnson, Chuck](#) ; [Johnson, Vern](#) ; [Johnston, Carla](#) ; [Jordan, Navarro](#) ; [Kaul, Jennifer](#) ; [Kaye, Scott](#) ; [Kollings, Jenna](#) ; [Kristen Rensmeyer](#) ; [Kulakowski, Rich](#) ; [Larson, Eric](#) ; [Levine, Barbara](#) ; [Levine, Jeff](#) ; [Link, Lesli](#) ; [Loll, Jackie](#) ; [Long, Alex](#) ; [Luders, John](#) ; [Madsen, Rick](#) ; [Maher Hazine](#) ; [Maitem, Janne'](#) ; [Martin, Keith](#) ; [Mary Alice Hegreness](#) ; [Mattraw, Frank](#) ; [Maxwell, Anne](#) ; [Mayahara, Kazuko](#) ; [McNamara, Don and Pat](#) ; [Middleton, Stan](#) ; [Minzer, Brandon](#) ; [Montanarello, Cindy](#) ; [Moreno, Anna](#) ; [Moreno, Mario](#) ; [Morgan, Kristin](#) ; [Morgan, Todd](#) ; [Norris, Dale](#) ; [Oberq, Chris](#) ; [Okutomi, Kazu](#) ; [Osterberg, Kathy](#) ; [Patyniak, Marek](#) ; [Perez, Douglas](#) ; [Perry, Bruce](#) ; [Perry, Gayle](#) ; [Pique, Joyce](#) ; [Pratt, Pam](#) ; [Prentiss, Lou](#) ; [Prickett, Chris](#) ; [Puhr, Stephen](#) ; [Putnam, Sandy](#) ; [Putnam, Sandy](#) ; [Rabin, Eli](#) ; [Rainkin, Merrilee](#) ; [Rogers, Paula](#) ; [Ron Jerich](#) ; [Ruedinger, Don](#) ; [Rueff, Bill](#) ; [Schouten, Sherrie](#) ; [Schroeder, Janet](#) ; [Schunk, Christiane](#) ; [Schunk, Phil](#) ; [Sedillo, Marcia](#) ; [Sershen, Chad](#) ; [Shearer, Barbara](#) ; [Silveus, Livier](#) ; [Smith, Victoria](#) ; [Staniec, Betty](#) ; [Stephanie Ditner](#) ; [Stewart, Steve](#) ; [Stuecken, Norma](#) ; [Thompson, Judy](#) ; [Tobison, Dave](#) ; [Turner, Elizabeth](#) ; [Weiss, Doug](#) ; [Whitfill, Linda](#) ; [Willis, Roger](#) ; [Winkleman, Jim](#) ; [Winters, Guy](#) ; [Winters, Vickie](#) ; [Woods, Susie](#) ; [Yuen, Kam](#) ; [Yuen, Kam \(GE Intelligent Platforms\)](#) ; [Yulga, James](#) ; [Yulga, Pat](#) ; [Zettle, Tonya](#) ; [Zwycewicz, Rich](#)

Sent: Sunday, April 10, 2011 4:37 PM

Subject: Re: Anthem Water Rate Meeting - March 22, 2011 - Docket No. W-01303A-09-0343

Dear Chairman Pierce,

It is my understanding that the Commissioners are not permitted to comment about pending cases. Since the Commission is currently considering the sale of AAWC to EPCOR and also the proposed deconsolidation of the Anthem/Aqua Fria Wastewater District, perhaps you may not be permitted to respond to questions numbered 1 and 7 of my original email sent to you on March 25, 2011 which is provided below. However, I do hope that the Commissioners will take my comments and questions into consideration when making their decisions on those cases. This does raise another question in my mind. Would the Commission staff be permitted to respond to those two questions? I would hope that the answer would be yes since Staff seemed to be in constant contact with AAWC employees during the previous Anthem water rate case. If staff (and not the Commissioners) is

allowed to respond to questions 1 and 7, we would appreciate receiving their comments on those two questions..

It would be appreciated if you would respond to all of the other comments and questions in my original email which was sent to you on March 25, 2011 and is provided below.

I am sending this email to several of my friends (over 125) here in Anthem. I feel sure that they would also be interested in receiving your comments, so you can just "Reply All" when you respond.

Sincerely,

Lynn Vick

----- Original Message -----

From: lynnbrendavick

To: Chairman Gary Pierce

Cc: Commissioner Paul Newman ; Commissioner Brenda Burns ; Commissioner Sandra Kennedy ; Commissioner Bob Stump ; Commission ; Director Jodi Jerich, Esq ; Seel, Representative Carl ; Klein, Senator Lori ; Reeve, Representative Amanda

Sent: Saturday, April 02, 2011 11:13 AM

Subject: Re: Anthem Water Rate Meeting - March 22, 2011 - Docket No. W-01303A-09-0343

Dear Chairman Pierce,

Please let me know when you plan to respond to the email provided below which was originally sent to you on March 25, 2011.

There is a partial response to item number 7 of my original email provided below in the "Compliance to a Decision" filed by Craig A. Marks, Attorney for Arizona-American Water Company on April 1, 2011 in Docket No. W-01303A-09-0343 pertaining to the deconsolidation of the Anthem/Aqua Fria Wastewater District. That document refers to several prior decisions by the ACC as follows.

Decision No. 60975 dated June 19, 1998
Decision No. 63445 dated March 13, 2001
Decision No. 64307 dated December 28, 2001
Decision No. 64746 dated April 17, 2002
Decision No. 65757 dated March 20, 2003
Decision No. 67093 dated June 30, 2004
Decision No. 68854 dated June 28, 2006
Decision No. 70372 dated June 13, 2008
Decision No. 72047 dated January 6, 2011

It appears to me that all of the decisions prior to June 30, 2004 and decision no. 68854 dated June 28, 2006 were merely extensions of the Certificates of Convenience and Necessity (CC&N) requested by the water utility company and/or developers. It seems to me that those requests were routinely "rubber stamped" by the ACC without any comment or input from the Anthem residents. Those extensions became de facto "consolidation." There was no specific approval by the ACC for any "consolidation" of the Anthem Wastewater District with the Aqua Fria Wastewater District. It just

kind of evolved by those extensions of the CC&N. It appears to me that the ACC gave the water utility company and/or the developers whatever they wanted without regard for the impact on the Anthem residents. ***Those extensions of the CC&N and the de facto "consolidation" resulted in the Anthem residents paying for goods and services which they never received and could never receive because there is no interconnection of pipelines between the two water districts and none was ever planned. It seems to me that deconsolidation should be approved ASAP and the Anthem residents should be due a refund for any overpayments made for their wastewater in prior years.***

Pulte controlled the Anthem Community Council and its representative interveners for any and all discussions leading up to decision no. 67093 dated June 30, 2004 and decision No. 70372 dated June 13, 2008. The Anthem residents had no "on the record" voice or representation (representative intervener) at those hearings.

The Anthem residents were very much involved in the latest water rate case because Pulte no longer controlled the Anthem Community Council and its representative interveners. That case led to decision no. 72047 dated January 6, 2011, including the consideration for the deconsolidation of the Anthem/Aqua Fria Wastewater District.

Sincerely,

Lynn Vick

----- Original Message -----

From: [lynnbrendavick](#)

To: [Chairman Gary Pierce](#)

Cc: [Commissioner Paul Newman](#) ; [Commissioner Brenda Burns](#) ; [Commissioner Sandra Kennedy](#) ; [Commissioner Bob Stump](#) ; [Commission](#) ; [Director Jodi Jerich, Esq](#) ; [Seel, Representative Carl](#) ; [Klein, Senator Lori](#) ; [Reeve, Representative Amanda](#)

Sent: Friday, March 25, 2011 12:59 PM

Subject: Anthem Water Rate Meeting - March 22, 2011

Dear Chairman Pierce,

Thank you very much for taking the time to meet with the Anthem residents at 6:30 PM on Tuesday, March 22, 2011. I would also like to thank Representative Carl Seel and Senator Lori Klein for attending that meeting.

I sincerely appreciate your willingness to respond to questions which were submitted to you in writing before the meeting and also your acceptance of additional verbal questions from others in attendance. I would like to follow-up by providing the following information and questions.

(1) There is currently a class action in process, "Drew v. PulteGroup, Inc.," brought by Kasden Simonds Weber & Vaughn LLP, attorneys at law. Hypothetically speaking, one of the alternative settlements may be for Pulte to refund funds to Arizona American Water Corporation (AAWC). Should this kind of settlement occur before the sale of AAWC to EPCOR, I would assume that the Arizona Corporation Commission (ACC) would immediately take steps to lower the water rates for

Anthem. My question is: What would be the procedure if this kind of settlement occurs after the sale of AAWC to EPCOR?

(2) You commented at the meeting that the Anthem residents were much more involved in the most recent water rate case than they were in any of the previous rate cases. There is a very strong reason for that. Pulte controlled the Anthem Community Council and its representative interveners in all of the prior Anthem water rate cases, so the Anthem residents had no voice in the rate cases prior to the most recent one.

(3) One of the questions pertained to the apparent "double dipping" brought about by (A) the cost of the infrastructure being included in the price of the lots paid to Pulte, and (B) AAWC balloon payments to Pulte totaling approximately \$53,000,000. We inquired as to why the ACC did not pursue this matter with Pulte. Your response was that the ACC has no jurisdiction over Pulte. It seems to me that the ACC does have the responsibility to verify that all costs incurred by AAWC and included in the rate base are reasonable and prudent. This does not appear to have happened regarding the balloon payments totaling about \$53,000,000. From my research, it appears that the ACC erred by not making a decision on this unusual financial arrangement back in the late 1990's when it was first presented to them, and they were reluctant to aggressively pursue the matter at any of the rate cases thereafter. At the most recent rate case, one of the Commissioners commented that criminal fraud might be involved; however, even after that comment the Commissioners declined to pursue the matter. As previously mentioned, the Anthem residents could not aggressively pursue this matter prior to the most recent rate case because Pulte controlled the Anthem Community Council and their representative interveners at all of the prior rate cases.

(4) I thought that one of the major purposes of the Arizona Corporation Commission is to protect consumers from large corporate greed by setting fair and reasonable utility rates. This, in my opinion, has not been the case for the residents of Anthem. Based on documentation which was provided to the Commission in the latest water rate case, the Anthem residents believe they are being "swindled" out of approximately \$53 million by the double payment to both the AAWC (in increased rates) and Pulte/Del Webb (in the original purchase price of the homes). If the regulators are not there to protect the consumers from the corporate greed of major corporations, who will protect the consumers?

(5) It is my understanding that the Commissioners can consider only what is "on the record" when making their decisions. What is considered to be "on the record?" More specifically, are the public comments considered to be "on the record?" If public comments are considered to be "on the record," why didn't the Commissioners give more consideration to the rate of return documentation submitted by an Anthem resident during the last water rate case? If public comments are not considered to be "on the record," what is the purpose of the public comments?

(6) I still don't understand how the balloon payments from AAWC to Pulte which totaled approximately \$53 million were not considered as "evidence of indebtedness" by the ACC.

(7) On another matter which was not specifically discussed at the meeting, it is my understanding that there have been several inquiries asking for documentation supporting the ACC's specific approval for the consolidation of the Anthem/Aqua Fria wastewater district. To the best of my knowledge, no one has been able to provide that documentation. If the ACC did not specifically approve the consolidation of the Anthem/Aqua Fria wastewater district, it seems to me that the Anthem residents should be due a refund for any overpayments made for their wastewater.

Thanks again , Chairman Pierce, for responding to our questions at the meeting on March 22, 2011. I look forward to your comments regarding the items mentioned above and to your return visit in September/October this year.

Sincerely,

Lynn Vick

Anthem, AZ