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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

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IN THE MATTER OF THE APPLICATION OF MIRABELL WATER COMPANY FOR A PERMANENT RATE INCREASE.

DOCKET NO. W-02368A-11-0185

DECISION NO. 72675

ORDER

Open Meeting
November 8 and 9, 2011
Phoenix, Arizona

BY THE COMMISSION:

\* \* \* \* \*

Having considered the entire record herein and being fully advised in the premises, the Arizona Corporation Commission ("Commission") finds, concludes, and orders that:

FINDINGS OF FACT

1. Mirabell Water Company ("Mirabell" or "Company") provides water utility service to approximately 57 metered customers in an area approximately 15 miles southwest of the City of Tucson in Pima County, Arizona.

2. In Decision No. 71943 (November 1, 2010), the Commission authorized Mirabell to obtain a five-year loan in the amount of \$10,243 from the Arizona Water Infrastructure Financing Authority ("WIFA"), and approved an emergency surcharge to cover the debt service on the WIFA loan. In that Decision, the Commission conditioned implementation of the surcharge on the Company filing its Annual Reports for the Commission's Corporations Division for 2009 and 2010, obtaining a Certificate of Good Standing from the Commission's Corporations Division; filing its Annual Report with the Utilities Division for 2008; filing copies of executed loan documents; notifying its customers of the surcharge; and posting a performance bond of \$10.00. The Decision also required the Company to file a permanent rate application by April 30, 2011, using a December 31, 2010, test year.

1           3.       On February 4, 2011, in Docket Nos. W-02368A-10-0280 and W 02368A-10-0286 (the  
2 finance and emergency rate cases) the Commission's Utilities Division ("Staff") filed a Compliance  
3 Memorandum verifying that the Company had complied with the requirements of Decision No.  
4 71943, such that the emergency surcharge became effective pursuant to the terms of the Decision.

5           4.       On April 29, 2011, Mirabell filed an application for permanent rates.

6           5.       On May 31, 2011, Staff notified the Company that its application was sufficient and  
7 classified the Company as a Class D utility.

8           6.       On April 29, 2011, the Company filed an affidavit of mailing indicating that it had  
9 mailed notice of the rate application to its customers on the same date.

10          7.       The Commission received a petition containing 49 names and two separate  
11 communications from Mirabell customers opposing the increase.

12          8.       On August 16, 2011, Staff filed a Staff Report, recommending the rates and charges  
13 contained therein.

14          9.       On August 25, 2011, Mirabell filed Comments to the Staff Report. The Company did  
15 not disagree with Staff's recommended revenue requirement, but as discussed in greater detail below,  
16 expressed concern with Staff's recommended rate design, provided additional information about  
17 amounts owed to its management company, and proposed a temporary surcharge to repay accrued  
18 accounts payable.

19          10.      On August 26, 2011, Staff filed a Notice of Errata that corrected its recommended rates  
20 and charges.

21          11.      By Procedural Order dated September 14, 2011, Staff was ordered to respond to  
22 Mirabell's Comments, the time clock for a final order under A.A.C. R14-2-103 was suspended due to  
23 the Company's request for a surcharge and the parties were ordered to make any procedural  
24 recommendations, including whether they desired a hearing.

25          12.      On October 3, 2011, Staff filed a Response to Mirabell's Comments. Staff continues to  
26 recommend the rates and charges reflected in its Staff Report, as corrected, and recommends denying  
27 the requested surcharge. Staff did not believe a hearing is necessary to resolve the dispute, but would  
28 not object if the Company requested one.

1 13. Mirabell did not file additional Comments or request a hearing.

2 14. Mirabell's permanent rates were authorized in Decision No. 68233 (October 25, 2005).

3 15. Mirabell's system consists of one well with a production capacity of 50 gallons per  
4 minute ("GPM"), 35,000 gallons of storage capacity, one 2,000 gallon pressure tank, a booster pump  
5 station and a distribution system. There are no fire flow requirements for the system. Mirabell has two  
6 emergency interconnections with the City of Tucson's system. In April 2011, Mirabell hired  
7 Southwest Utility Management ("SUM") to operate the system.<sup>1</sup>

8 16. Staff calculated the water loss for the Company's system in 2010 to be 14.85 percent,  
9 and 6.55 percent for the period January through May 2011. Staff states that non-account water should  
10 be 10 percent or less, and never more than 15 percent. The Company indicated to Staff that the  
11 historic water loss for the system may be due to inaccurate and inconsistent data collection.<sup>2</sup>

12 17. Mirabell is located in the Tucson Active Management Area ("AMA"), and Staff reports  
13 that ADWR has determined that Mirabell is in compliance with ADWR requirements governing water  
14 providers and/or community water systems.<sup>3</sup>

15 18. The Arizona Department of Environmental Quality ("ADEQ") has determined that  
16 Mirabell is in compliance with ADEQ requirements and is delivering water that meets the water  
17 quality standards required by A.A.C., Title 18, Chapter 4.<sup>4</sup>

18 19. Mirabell has approved cross connection and curtailment tariffs.

19 20. Staff has determined that Mirabell has adequate storage and well production to serve its  
20 existing customers and reasonable growth.<sup>5</sup>

21 21. At the date of the Staff Report, the Commission Utilities Division records showed no  
22 outstanding compliance issues, and as of that time, Mirabell was in good standing with the  
23 Corporations Division. Staff's investigation in this matter indicates that Mirabell had submitted an  
24 Arizona Department of Revenue tax clearance application form dated April 26, 2011, but as of the  
25 date of the Staff Report, had not received its "certificate of compliance letter of good standing;" and

26 \_\_\_\_\_  
27 <sup>1</sup> Staff Engineering Report at 1 (attached to Staff Report).

<sup>2</sup> Staff Engineering Report at 3-4.

<sup>3</sup> Staff Engineering Report at 5.

<sup>4</sup> Staff Engineering Report at 4-5.

<sup>5</sup> Staff Engineering Report at 2.

1 also that Mirabell has not paid the second half of its 2009 property tax liability or its full 2010  
2 property tax liability.<sup>6</sup>

3 22. In its application, the Company indicated test year revenues of \$55,384, and expenses  
4 of \$50,052, resulting in operating income of \$5,332, which based on the Company-reported original  
5 cost rate base ("OCRB") of \$18,494, yields a rate of return of 28.83 percent.

6 23. The Company's application included its proposed revenue increase as part of test year  
7 figures. Staff removed these pro forma adjusts to determine actual test year revenues and expenses.  
8 According to Staff's adjusted results, in the test year, the Company had revenues of \$32,951, and  
9 expenses of \$44,521, resulting in an operating loss of \$11,570, a negative return on Staff's adjusted  
10 OCRB of \$22,348.

11 24. The Company states that it is requesting its rate increase due to an increase in the cost  
12 of operating an aging water system and the cost to professionally manage the system in order to stay in  
13 compliance with the various agencies and laws. The Company requests operating revenues of \$55,384,  
14 which after operating expenses of \$50,032, would yield operating income of \$5,332, a 28.84 percent  
15 rate of return on OCRB of \$18,494. The Company's request is an increase of \$22,433, or 68.1  
16 percent, over Staff's adjusted test year revenues.

17 25. Staff also recommends total operating revenues of \$55,384, an increase of \$22,433, or  
18 68.1 percent over test year revenues. Staff recommends total adjusted operating expenses of \$47,249,  
19 which would yield operating income of \$8,135, a 36.4 percent rate of return on an adjusted OCRB of  
20 \$22,348.

21 26. Mirabell's current and proposed rates and charges, and Staff's recommended rates and  
22 charges are as follows:

| <b><u>MONTHLY USAGE CHARGE:</u></b> | <b>Present</b>      | <b><u>Proposed Rates</u></b> |                     |
|-------------------------------------|---------------------|------------------------------|---------------------|
|                                     | <b><u>Rates</u></b> | <b><u>Company</u></b>        | <b><u>Staff</u></b> |
| 5/8" x 3/4" Meter                   | NT <sup>7</sup>     | \$23.00                      | \$20.00             |
| 3/4" Meter                          | \$22.00             | 34.50                        | 30.00               |
| 1" Meter                            | 35.00               | 57.00                        | 50.00               |
| 1-1/2" Meter                        | 62.00               | 115.00                       | 100.00              |
| 2" Meter                            | 105.00              | 184.00                       | 160.00              |

27 <sup>6</sup> Staff Report at 5. Information filed with the Company's Comments to the Staff Report show 2010 Property Taxes owing  
28 of \$3,031.73.

<sup>7</sup> NT = No Tariff

|   |          |    |          |          |
|---|----------|----|----------|----------|
| 1 | 3" Meter | NT | 368.00   | 320.00   |
|   | 4" Meter | NT | 575.00   | 500.00   |
| 2 | 6" Meter | NT | 1,159.00 | 1,000.00 |

**COMMODITY RATES:**

(Per 1,000 gallons)

**3/4-inch meter**

|   |                         |        |     |     |
|---|-------------------------|--------|-----|-----|
| 5 | 0 to 4,000 gallons      | \$2.00 | N/A | N/A |
| 6 | 4,001 to 12,000 gallons | \$2.75 | N/A | N/A |
|   | Over 12,000 gallons     | \$3.50 | N/A | N/A |

**All other Meter Sizes**

|   |                     |        |     |     |
|---|---------------------|--------|-----|-----|
| 8 | 0 to 12,000 gallons | \$2.75 | N/A | N/A |
|   | Over 12,000 gallons | \$3.50 | N/A | N/A |

**5/8 x 3/4 and 3/4 inch meter**

|    |                         |     |        |     |
|----|-------------------------|-----|--------|-----|
| 10 | 0 to 3,000 gallons      | N/A | \$3.20 | N/A |
| 11 | 3,001 to 10,000 gallons | N/A | \$4.75 | N/A |
|    | Over 10,000 gallons     | N/A | \$6.00 | N/A |

**5/8 x 3/4 and 3/4-inch meter**

|    |                        |     |     |        |
|----|------------------------|-----|-----|--------|
| 13 | 0 to 2,000 gallons     | N/A | N/A | \$2.50 |
| 14 | 2,001 to 8,000 gallons | N/A | N/A | \$4.35 |
|    | Over 8,000 gallons     | N/A | N/A | \$8.00 |

**All other Meter sizes**

|    |                     |     |        |        |
|----|---------------------|-----|--------|--------|
| 16 | 1 to 10,000 gallons | N/A | \$4.75 | \$4.35 |
|    | Over 10,000 gallons | N/A | \$6.00 | \$8.00 |

**SERVICE LINE AND METER INSTALLATION CHARGES:**

(Refundable pursuant to A.A.C. R14-2-405)

|    | Company Proposed  |                      |               |               | Staff Recommended    |               |               |             |
|----|-------------------|----------------------|---------------|---------------|----------------------|---------------|---------------|-------------|
|    | Current Rates     | Service Line Charges | Meter Charges | Total Charges | Service Line Charges | Meter Charges | Total Charges |             |
| 20 | 5/8" x 3/4" Meter | N/A                  | \$430.00      | \$130.00      | \$560.00             | \$430.00      | \$130.00      | \$560.00    |
| 21 | 3/4" Meter        | \$480.00             | 430.00        | 230.00        | 660.00               | 430.00        | 230.00        | 660.00      |
|    | 1" Meter          | 575.00               | 480.00        | 290.00        | 770.00               | 480.00        | 290.00        | 770.00      |
| 22 | 1-1/2" Meter      | 780.00               | 535.00        | 500.00        | 1,035.00             | 535.00        | 500.00        | 1,035.00    |
|    | 2" Turbine Meter  | 1,340.00             | 815.00        | 1,020.00      | 1,835.00             | 815.00        | 1,020.00      | 1,835.00    |
| 23 | 2" Compound Meter | N/A                  | 815.00        | 1,865.00      | 2,680.00             | 815.00        | 1,865.00      | 2,680.00    |
|    | 3" Turbine Meter  | N/A                  | 1,030.00      | 1,645.00      | 2,675.00             | 1,030.00      | 1,645.00      | 2,675.00    |
| 24 | 3" Compound Meter | N/A                  | 1,150.00      | 2,520.00      | 3,670.00             | 1,150.00      | 2,520.00      | 3,670.00    |
|    | 4" Turbine Meter  | N/A                  | 1,460.00      | 2,620.00      | 4,080.00             | 1,460.00      | 2,620.00      | 4,080.00    |
| 25 | 4" Compound Meter | N/A                  | 1,640.00      | 3,595.00      | 5,235.00             | 1,640.00      | 3,595.00      | 5,235.00    |
|    | 6" Turbine Meter  | N/A                  | 2,180.00      | 4,975.00      | 7,155.00             | 2,180.00      | 4,975.00      | 7,155.00    |
| 26 | 6" Compound Meter | N/A                  | 2,300.00      | 6,870.00      | 9,170.00             | 2,300.00      | 6,870.00      | 9,170.00    |
|    | Over 6" Meter     | N/A                  | N/A           | N/A           | N/A                  | Actual cost   | Actual Cost   | Actual Cost |

|                                       | <u>Current</u> | <u>Company Proposed</u> | <u>Staff Proposed</u> |
|---------------------------------------|----------------|-------------------------|-----------------------|
| <b><u>SERVICE CHARGES:</u></b>        |                |                         |                       |
| Establishment                         | \$25.00        | \$25.00                 | \$25.00               |
| Establishment (After Hours)           | 35.00          | 35.00                   | NT                    |
| Reconnection (Delinquent)             | 25.00          | 35.00                   | 30.00                 |
| Reconnection (Delinquent After Hours) | NT             | 40.00                   | NT                    |
| Meter Test (If Correct)               | 40.00          | 40.00                   | 40.00                 |
| Deposit                               | (a)            | (a)                     | (a)                   |
| Deposit Interest per annum            | (a)            | (a)                     | (a)                   |
| Re-establishment (Within 12 Months)   | (b)            | (b)                     | (b)                   |
| NSF Check                             | 25.00          | 25.00                   | 25.00                 |
| Deferred Payment - per month          | 1.0%           | 1.5%                    | 1.5%                  |
| Meter Re-read (If Correct)            | 15.00          | 25.00                   | 20.00                 |
| Late Payment Charge - per month       | NT             | 1.5%                    | 1.5%                  |
| Service Charge (After Hours)          | N/A            | N/A                     | 35.00                 |

| <b><u>Monthly Service Charge for Fire Sprinkler:</u></b> |        |        |     |
|--|--------|--------|-----|
| 4" or smaller  | \$0.00 | \$0.00 | (c) |
| 6 inch   | \$0.00 | \$0.00 | (c) |
| 8 inch   | \$0.00 | \$0.00 | (c) |
| 10 inch  | \$0.00 | \$0.00 | (c) |
| Larger than 10 inch                                      | \$0.00 | \$0.00 | (c) |

- (a) Per Commission rule A.A.C. R14-2-403.B.
- (b) Per Rule R14-2-403.D. Monthly Minimum times the number of months off the system.
- (c) 2.00% of monthly minimum for a comparable size meter connection but no less than \$10.00 per month. The service for the fire sprinklers is only applicable for service lines separate and distinct from the primary water service line.

**Rate Base**

27. Staff's adjustments increased the Company's proposed rate base by \$3,854, from \$18,494 to \$22,348. The Company did not include a working capital allowance. Staff's sole adjustment to the Company's rate base was to calculate a cash working capital allowance using the formula method.<sup>8</sup>

28. Staff's adjustment to rate base is reasonable. A cash working capital allowance is designed to allow a small company to meet day-to-day operating costs by bridging the gap between when expenditures are required to be made and the time when collections are received. Small utilities (Class D and smaller) typically calculate a cash working capital allowance using the formula method.

29. Based on the forgoing, Mirabell's OCRB is \$22,348. The Company did not request a

<sup>8</sup> The formula equals one-eighth of the operating expenses less depreciation, taxes, purchased power and purchased water expenses plus one twenty-fourth of purchased power and purchased water expense.

1 Reconstruction Cost New Rate Base, thus, its Fair Value Rate Base (“FVRB”) is equivalent to its  
2 OCRB, or \$22,348.

3 **Operating Income**

4 30. Staff’s adjustments to operating revenue resulted in a net decrease of \$22,433, in total  
5 test year revenue from \$55,384 to \$32,951. Staff increased test year metered water revenue by \$41  
6 using the billing determinants provided by the Company, and removed \$22,474 in metered water  
7 revenue that the Company had improperly included as a pro forma adjustment to reflect its proposed  
8 revenue increase.

9 31. Staff’s adjustments are appropriate and reasonably necessary to reflect test year  
10 revenues.

11 32. Staff’s adjustments to test year operating expenses resulted in a net decrease of \$5,531,  
12 from \$50,052 to \$44,521. Staff’s adjustments include:

- 13 (a) Decreasing Purchased Power Expense by \$80, from \$10,526 to \$10,446 to  
14 reflect the removal of an out of the test year expense.
- 15 (b) Decreasing Office Supplies and Expense by \$2,857, from \$3,357 to \$500. Staff  
16 states that it is difficult to estimate the Company’s Office Expenses going  
17 forward now that the Company has hired a contract operator, and that the  
18 Company should be required to prove its office supplies expenses in any future  
19 rate case.
- 20 (c) Decreasing Outside Services Expense by \$853, from \$15,253 to \$14,400, to  
21 reflect the SUM fee going forward. Staff also removed \$853 in prior  
22 contractors’ expense.
- 23 (d) Decreasing Water Testing Expense by \$216, from \$1,078 to \$862. This amount  
24 reflects the annual water testing costs determined and reported in Staff’s  
25 Engineering Report attached to the Staff Report.
- 26 (e) Decreasing Insurance Expense by \$200, from \$1,465 to \$1,265, to reflect the  
27 updated and documented amount of the Company’s general liability insurance  
28 policy.
- (f) Decreasing Regulatory Commission Expense by \$409, to \$0, to reflect Staff  
moving \$216 to Miscellaneous Expenses, and removing \$193 in out-of-test year  
expense.
- (g) Increasing Miscellaneous Expense by \$716, from \$93 to \$809, to reflect the  
transfer of \$216 from Regulatory Commission Expense and adding \$500 in  
supportable and documented expenses.
- (h) Increasing Depreciation Expense by \$733, from \$3,454 to \$4,187, to reflect the  
application of Staff’s recommended depreciation rates to plant balances.

- 1 (i) Decreasing Taxes Other than Income by \$468, from \$468 to \$0, to remove sales  
2 tax paid by customers, which is a pass-through tax and should not be reflected  
3 as an expense for rate making purposes.
- 4 (j) Decreasing Property Tax Expense by \$525, from \$3,061 to \$2,536, by applying  
5 Staff's calculated amount using a modified version of the Arizona Department  
6 of Revenue's property tax method.
- 7 (k) Decreasing Income Tax Expense by \$1,371, from \$1,371 to \$0. Staff states that  
8 it removed this expense because the Company did not owe income tax for the  
9 test year.<sup>9</sup>

10 33. In its Comments to the Staff Report, Mirabell states that it does not agree with some of  
11 Staff's adjustments, but it did not specify which ones, and did not provide evidence to refute Staff's  
12 adjustments. The Company states that it believes it can meet on-going expenses under Staff's  
13 recommended revenue level.<sup>10</sup>

14 34. The Company did not offer evidence to refute any of Staff's adjustments to test year  
15 revenues or expenses. We find that Staff's adjustments are reasonable and should be adopted.

16 35. Consequently, in the test year, we find that Mirabell had an operating loss of \$11,570,  
17 on total revenues of \$32,951, and adjusted test year expenses of \$44,521.

### 18 **Revenue Requirement**

19 36. Staff states that Mirabell's small rate base of only \$22,348, makes it difficult for Staff  
20 to utilize a rate of return analysis to calculate a revenue requirement or reasonable rates. Thus, Staff  
21 also analyzed cash flow to determine its recommended revenue requirement.<sup>11</sup>

22 37. The Company requested revenues of \$55,384, which yielded operating income of  
23 \$5,332, a 23.8 percent return on FVRB, and an operating margin of 9.63 percent. Staff recommended  
24 the same revenue requirement of \$55,384. Based on adjusted expenses of \$47,249,<sup>12</sup> Staff's  
25 recommendations result in an operating income of \$8,135, for a 36.4 percent rate of return on FVRB,  
and an operating margin of 14.69 percent.<sup>13</sup> Staff believes that this revenue level provides the  
Company with adequate cash flow to meet its annual operating expenses, maintain its aging water  
system, make payments on the Commission-approved WIFA loan, and fund contingencies.<sup>14</sup>

26 <sup>9</sup> Staff calculated an Income Tax Expense based on its recommended rates going forward of \$2,152.

<sup>10</sup> Response to Staff Report at 1.

<sup>11</sup> Staff Report at 8.

<sup>12</sup> Under Staff's proposed revenue, Operating Expenses include \$37,799 for Operation and Maintenance, \$4,187 for  
Depreciation, \$3,111 for Property and Other Taxes, and \$2,152 for Income Taxes. Staff Reprt at BCA-1.

<sup>13</sup> The rate of return on FVRB would be 36.4 percent.

<sup>14</sup> Staff Report at 8.

1           38.     Presently, the Company has two Commission-approved long-term debt obligations with  
 2 WIFA. The first, a ten-year amortizing loan in the original amount of \$15,000, was approved in  
 3 Decision No. 62977 (November 2, 2000). This loan is scheduled to be paid off in December 2011, and  
 4 Staff excluded it from its analysis. The second WIFA loan is a five-year amortizing loan in the amount  
 5 of \$10,243, which was approved in Decision No. 71943. Staff's pro forma analysis indicates that  
 6 Staff's recommended revenue level, and a fully drawn \$10,243, five-year amortizing loan at 1.575  
 7 percent, results in a pro forma Debt Service Coverage ("DSC") of 6.79.<sup>15</sup> Staff states that the pro  
 8 forma DSC shows that Mirabell would have adequate cash flow to meet all obligations including the  
 9 authorized debt.

10           39.     The parties agree that total revenues of \$55,384 are sufficient to meet Mirabell's on-  
 11 going operational needs, debt service, and contingencies. We accept Staff's recommended adjusted  
 12 test year expenses of \$32,951, which includes Depreciation Expense of \$4,187. Consequently, the  
 13 revenue recommended by the parties results in a positive cash flow, before debt service, of \$12,322.<sup>16</sup>  
 14 After principal repayment and interest expense on the WIFA loan, totaling \$2,132,<sup>17</sup> the Company  
 15 would have an annual cash flow of \$10,190.<sup>18</sup> Based on the evidence presented in this docket, we find  
 16 that the recommended total revenue to be reasonable and we concur with the parties' revenue  
 17 recommendations.

#### 18 **Requested Surcharge**

19           40.     In its Comments to the Staff Report, Mirabell claims that as of August 24, 2011, it had  
 20 \$16,542 in outstanding accounts payable. Mirabell states that in March 2011, the then-existing  
 21 managers left the Company with a system in poor repair, and with an outage situation when they knew  
 22 that SUM would be taking over management on April 1, 2011. Mirabell states that SUM acted to  
 23 ameliorate the outage situation, even though they were not yet under contract, and billed Mirabell.  
 24 SUM entered into the contract on the condition that the electrical panel be repaired because it was a

25 \_\_\_\_\_  
 26 <sup>15</sup> DSC represents the number of times internally generated cash will cover required principal and interest payments on  
 27 short-term and long-term debt. A DSC greater than 1.0 indicates that operating cash flow is sufficient to cover debt  
 28 obligations. A DSC less than 1.0 means that debt service obligations cannot be met by cash generated from operations and  
 that another source of funds is needed to avoid default.

<sup>16</sup> 8,135 + 4,187.

<sup>17</sup> Staff Report at BCA-6.

<sup>18</sup> 12,322 - 2,132.

1 hazard to field personnel. According to Mirabell, SUM paid the contractor, and continued to wait for  
 2 its own payment, as the existing rates did not support the payments owed to SUM. Even with the rate  
 3 increase, Mirabell claims that it will not be able to pay the amounts owed to SUM in a reasonable  
 4 period of time. Mirabell is seeking to implement a surcharge to recover the amounts owed to SUM  
 5 for the work done to correct the March 2011 outages before SUM was under contract, and the SUM  
 6 management fees for April, May, June and July, 2011.

7 41. In order to pay down the outstanding accounts payable to SUM, Mirabell proposes a  
 8 16-month \$10.00 temporary surcharge calculated as follows:

| <u>Date</u>  | <u>No.</u> | <u>Name</u>                     | <u>Invoice Amount</u> |
|--|------------|---------------------------------|-----------------------|
| April 11, 2011                                     | 4250       | Southwestern Utility Management | \$3,864.64            |
| May 20, 2011                                       | 4281       | Southwestern Utility Management | 1,387.50              |
| June 9, 2011                                       | 4330       | Southwestern Utility Management | 1,250.00              |
| July 8, 2011                                       | 4362       | Southwestern Utility Management | 1,377.50              |
| August 8, 2011                                     | 4405       | Southwestern Utility Management | 1,275.00              |
| Total not recoverable in current or proposed rates |            |                                 | \$ 9,154.64           |
| Number of customers                                |            |                                 | 57                    |
| Amount per customer                                |            |                                 | \$ 160.61             |
| Recovery Period in Months                          |            |                                 | 16                    |
| Monthly amount                                     |            |                                 | \$ 10.04              |
| Proposed 16-month temporary surcharge              |            |                                 | \$ 10.00              |

19 42. Staff recommends denying the requested surcharge because it seeks to recover post-test  
 20 year operating expenses. Staff states that the Commission typically does not authorize the recovery of  
 21 operating expenses incurred outside of the test year. Staff explains that the purpose of a test year is to  
 22 establish a baseline relationship between rate base and operating income, and that adjustments are  
 23 made to accurately reflect the cost of providing service during a "normal" year in order to set rates on  
 24 a prospective basis. Staff asserts that its review of the invoices shows that most of the \$9,154.64 is for  
 25 routine management fees, and that Staff's recommended revenue and rates take account of the  
 26 management fees on a going-forward basis.

27 43. The majority of the \$9,154 that the Company seeks to recover in the form of the  
 28 surcharge is for SUM management fees. The Company did not have a contract with SUM during the

1 test year, and although the recommended rates take account of the known SUM management fees on a  
 2 going-forward basis, the new rates approved in this order do not collect revenues to cover expenses  
 3 incurred before they are implemented. Prior to the implementation of this order, the increased  
 4 management fees are not included in current rates.

5 44. Decision No. 71943 (the emergency rate case) details a number of reporting  
 6 deficiencies and ineffective managerial oversight.<sup>19</sup> At that time, the Commission admonished the  
 7 Company and Mr. Freedman, its owner, that the Company must comply with Commission Orders and  
 8 that if the Company did not operate in accordance with statutory and regulatory requirements, the  
 9 Commission could appoint an interim operator and impose fines and penalties. In response, Mr.  
 10 Freedman hired SUM, a professional and experienced management company, which we believe is a  
 11 positive move by Mirabell's owner. As manager of the Company, SUM is now in the difficult  
 12 position of determining whether to pay itself, or other vendors. Both the Company and ratepayers  
 13 have, and will, benefit from SUM's professional management. We want to encourage Mirabell to  
 14 provide professional management. Thus, we find that payment of the \$9,154 in accrued management  
 15 fees incurred and documented in the Company's Response to the Staff Report, should be recovered  
 16 from ratepayers. We believe it is in the public interest to authorize timely recovery of SUM's  
 17 managerial expenses. Failure to authorize timely recovery of SUM's managerial expenses may result  
 18 in companies like SUM being unwilling to rescue distressed water companies, including serving as  
 19 interim managers, in the future.

#### 20 **Rate Design**

21 45. The Company's proposed rates would increase the typical residential 3/4-inch meter  
 22 residential bill with a median usage of 5,081 gallons from \$32.97 (not including the WIFA surcharge)  
 23 to \$54.88, an increase of \$21.91, or 66.5 percent. Currently, consumers pay a \$2.77 per month WIFA  
 24 surcharge. That surcharge will terminate upon the implementation of new rates. Including the  
 25 surcharge in the bill analysis, the median 3/4-inch meter residential total bill would increase from  
 26 \$35.74 to \$54.88, an increase of \$19.14, or 53.6 percent. The addition of the \$10.00 temporary  
 27

28 <sup>19</sup> Decision No. 71943 at 11-14.

1 management fee surcharge would increase the median residential bill another \$10.00, to \$64.88, an  
2 increase of \$29.14, or 81.5 percent.

3 46. Staff's recommended rates would increase the typical residential 3/4-inch meter  
4 residential bill with a median usage of 5,081 gallons from \$32.97 (not including the WIFA surcharge)  
5 to \$48.40, an increase of \$15.43, or 46.8 percent. Including the current surcharge in the analysis, under  
6 Staff's recommended rates, the median residential total bill would increase from \$35.74 to \$48.40, an  
7 increase of \$12.66, or 35.4 percent. The addition of the \$10.00 temporary management fee surcharge  
8 would increase the median residential bill another \$10.00, to \$58.40, an increase of \$22.66, or 63.4  
9 percent.

10 47. Mirabell believes that the amount of conservation that would occur as a result of Staff's  
11 proposed highest tier, would severely affect revenues because of the small revenue base. The  
12 Company believes that its proposed rates would better achieve a balance between the goals of revenue  
13 stability and water conservation.<sup>20</sup>

14 48. The Company does not propose to change the Establishment Charge (After Hours) of  
15 \$35, but proposed to add a Reconnect (Delinquent After Hours) Charge of \$40. Staff agrees that an  
16 additional fee for service provided after normal business hours is appropriate when such service is  
17 provided at the customer's request or for the customer's convenience. Staff states that such charge  
18 compensates the utility for additional expenses incurred from providing after-hours service. Staff  
19 believes that it is appropriate to apply an after-hours service charge in addition to the charge for any  
20 utility service provided after hours at the customer's request or for the customer's convenience.  
21 Therefore, Staff recommends the elimination of both the \$35 Establishment Charge (After Hours) and  
22 the Company's proposed \$40 Reconnect (Delinquent After Hours) Charge and instead, recommends  
23 the creation of a separate \$35 after-hours service charge.

24 49. In addition, the Company proposed to change the Reconnection (Delinquent) charge  
25 from \$25 to \$35. Staff believes that \$30 is a reasonable charge for the service. The Company  
26 proposed to change the Meter Re-read (If Correct) Charge from \$15 to \$25, but Staff believes that \$20  
27

28 <sup>20</sup> Response to Staff Report at 2.

1 is a reasonable charge for this service.

2           50. Staff concurs with the Company's proposal to change the Deferred Payment Charge-  
3 per month from 1 percent to 1.5 percent, and the implementation of a Late Payment Charge-per month  
4 of 1.5 percent.

5           51. The Company requested changes to its Service Line and Meter Installation Charges.  
6 Staff recommends service line and meter installation charges based on its analysis of costs as  
7 discussed in the Engineering Report attached to the Staff Report. Staff believes that because at times,  
8 the Company may install meters on existing service lines, it is advantageous to have separate service  
9 line and meter installation charges.

10           52. There are no disagreements between the parties on Service Line and Meter Installation  
11 Charges. We find Staff's recommended changes to the proposed Service Charges tariff to be  
12 reasonable and that they should be adopted.

13           53. It is difficult to predict how customers will change their consumption patterns in  
14 response to proposed rates. Both parties proposed tiered rates that include three tiers for the small  
15 residential meters, and both rate designs should promote conservation. They both purport to generate  
16 the same revenue, but Staff's includes a lower commodity rate in the first two blocks. In this case, we  
17 find Staff's design to be the more reasonable and fair as it represents a more gradual shift and lessens  
18 the rate shock on smaller users. Thus, we find Staff's recommended rates and charges are reasonable  
19 and should be adopted.

20           54. In 2008, ADWR added a new regulatory program for the ADWR Third Management  
21 Plan for AMAs. The new program, called Modified Non-Per Capita Conservation Program ("Modified  
22 NPCCP"), addresses large municipal water providers (cities, towns and private water companies  
23 serving more than 250 acre-feet per year) and was developed in conjunction with stakeholders from all  
24 AMAs. Participation in the program is required for all large municipal water providers that do not  
25 have a Designation of Assured Water Supply and that are not regulated as a large untreated water  
26 provider or an institutional provider. The Modified NPCCP is a performance-based program that  
27 requires participating providers to implement water conservation measures that result in water use  
28 efficiency in their service areas. A water provider regulated under the program must implement a

1 required Public Education Program and choose one or more additional best management practices  
2 (“BMPs”) based on its size, as defined by its total number of water service connections. The provider  
3 must select the additional BMPs from the list included in the Modified NPCCP Program. The BMPs  
4 are a mix of technical, policy, and information conservation efforts. Engineering Staff states that  
5 although the implementation of the Modified NPCCP is required of large municipal water providers  
6 within an AMA, the Commission has previously adopted the BMPs for implementation by  
7 Commission-regulated small and large water companies.

8 55. In addition to its recommended rates and charges, Staff recommends the following:

- 9 (a) That the Company file with Docket Control, a tariff schedule of its new rates  
10 and charges within 30 days after the effective date of this Decision
- 11 (b) That the WIFA surcharge authorized in Decision No. 71943 be discontinued  
when the rates approved in this case become effective.
- 12 (c) That the Company use the depreciation rates delineated in Exhibit 6 of the  
13 Engineering Report attached to the Staff Report.
- 14 (d) That the Company file with Docket Control, as a compliance item in this  
15 Docket within 90 days of the effective date of a Decision in this proceeding, at  
least three BMPs in the form of tariffs that substantially conform to the  
templates created by Staff, for the Commission’s review and consideration.
- 16 (e) That the Company be required to coordinate the reading of its well meter and  
17 individual customer meters on a monthly basis and report this data in its  
18 Commission Annual Report for the year ending 2011. Staff further recommends  
19 that if the reported water loss in the Annual Report is greater than 10 percent,  
20 the Company shall prepare a report containing a detailed analysis and plan to  
21 reduce water loss to less than 10 percent. If the Company believes it is not cost  
effective to reduce the water loss to less than 10 percent, it should submit a  
detailed cost benefit analysis to support its opinion. The water loss reduction  
report or the detailed analysis, whichever is submitted, shall be docketed as a  
compliance item no later than June 30, 2012.

22 56. Except for its BMPs recommendation, Staff’s recommendations are reasonable and  
23 should be adopted. Mirabell opposes Staff’s BMP recommendation because of the additional  
24 regulatory and compliance burden associate with the requirement. Mirabell argues that it should  
25 continue to direct it resources towards upgrading its system and addressing its backlog of unpaid  
26 accounts before focusing its attention on developing new BMPs. We note that Mirabell is located in  
27 the Tucson AMA and must therefore comply with the applicable water conservation requirements  
28 imposed by ADWR. In light of the fact that Mirabell is subject to ADWR’s jurisdiction, we do not

1 believe it would be appropriate at this time to require Mirabell to submit more BMPs than it is  
 2 required to submit to ADWR.

3 57. In addition, because an allowance for the property tax expense of Mirabell is included  
 4 in the Company's rates and will be collected from its customers, the Commission seeks assurances  
 5 from the Company that any taxes collected from ratepayers have been remitted to the appropriate  
 6 taxing authority. It has come to the Commission's attention that a number of water companies have  
 7 been unwilling or unable to fulfill their obligation to pay the taxes that were collected from ratepayers,  
 8 some for as many as twenty years. It is reasonable, therefore, that as a preventive measure Mirabell  
 9 should annually file, as part of its annual report, an affidavit with the Utilities Division attesting that  
 10 the Company is current in paying its property taxes in Arizona.

11 **CONCLUSIONS OF LAW**

- 12 1. Mirabell is a public service corporation pursuant to Article XV of the Arizona  
 13 Constitution and A.R.S. §§ 40-250 and 40-251.
- 14 2. The Commission has jurisdiction over Mirabell and the subject matter of the  
 15 application.
- 16 3. Notice of the proceeding was provided in conformance with law.
- 17 4. Mirabell's FVRB is \$22,348.
- 18 5. The rates, charges and conditions of service approved herein are just and reasonable  
 19 and in the public interest.

20 **ORDER**

21 IT IS THEREFORE ORDERED that Mirabell Water Company is hereby authorized and  
 22 directed to file with the Commission, as a compliance item in this Docket, on or before November 30,  
 23 2011, a revised tariff setting forth the following rates and charges:

24 **MONTHLY USAGE CHARGE:**

|    |                   |          |
|----|-------------------|----------|
| 25 | 5/8" x 3/4" Meter | \$20.00  |
|    | 3/4" Meter        | 30.00    |
|    | 1" Meter          | 50.00    |
| 26 | 1-1/2" Meter      | 100.00   |
|    | 2" Meter          | 160.00   |
| 27 | 3" Meter          | 320.00   |
|    | 4" Meter          | 500.00   |
| 28 | 6" Meter          | 1,000.00 |

**COMMODITY RATES:**

Per 1,000 gallons

**5/8 x 3/4 and 3/4-inch meters**

|                        |        |
|------------------------|--------|
| 1 to 2,000 gallons     | \$2.50 |
| 2,001 to 8,000 gallons | \$4.35 |
| Over 8,000 gallons     | \$8.00 |

**All other Meter sizes**

|                     |        |
|---------------------|--------|
| 1 to 10,000 gallons | \$4.35 |
| Over 10,000 gallons | \$8.00 |

Temporary management fee surcharge \$10.00  
 – per month all meter sizes – from  
 December 2011 through April 2013

**SERVICE LINE AND METER INSTALLATION CHARGES:**

| (Refundable pursuant to A.A.C. R14-2-405) | <u>Service Line</u><br><u>Charges</u> | <u>Meter</u><br><u>Charges</u> | <u>Total</u><br><u>Charges</u> |
|---|---------------------------------------|--------------------------------|--------------------------------|
| 5/8" x 3/4" Meter                         | \$430.00                              | \$130.00                       | \$560.00                       |
| 3/4" Meter                                | 430.00                                | 230.00                         | 660.00                         |
| 1" Meter                                  | 480.00                                | 290.00                         | 770.00                         |
| 1-1/2" Meter                              | 535.00                                | 500.00                         | 1,035.00                       |
| 2" Turbine Meter                          | 815.00                                | 1,020.00                       | 1,835.00                       |
| 2" Compound Meter                         | 815.00                                | 1,865.00                       | 2,680.00                       |
| 3" Turbine Meter                          | 1,030.00                              | 1,645.00                       | 2,675.00                       |
| 3" Compound Meter                         | 1,150.00                              | 2,520.00                       | 3,670.00                       |
| 4" Turbine Meter                          | 1,460.00                              | 2,620.00                       | 4,080.00                       |
| 4" Compound Meter                         | 1,640.00                              | 3,595.00                       | 5,235.00                       |
| 6" Turbine Meter                          | 2,180.00                              | 4,975.00                       | 7,155.00                       |
| 6" Compound Meter                         | 2,300.00                              | 6,870.00                       | 9,170.00                       |
| Over 6" Meters                            | Actual Costs                          | Actual Costs                   | Actual Costs                   |

**SERVICE CHARGES:**

|                                     |         |
|-------------------------------------|---------|
| Establishment                       | \$25.00 |
| Reconnection (Delinquent)           | 30.00   |
| Meter Test (If Correct)             | 40.00   |
| Deposit                             | (a)     |
| Deposit Interest per annum          | (a)     |
| Re-establishment (Within 12 Months) | (b)     |
| NSF Check                           | 25.00   |
| Deferred Payment - per month        | 1.5%    |
| Meter Reread (If Correct)           | 20.00   |
| Late Payment Charge per month       | 1.5%    |
| Service Charge (After Hours)        | 35.00   |

**MONTHLY SERVICE CHARGE FOR FIRE SPRINKLER:**

|                     |     |
|---------------------|-----|
| 4-inch or smaller   | (c) |
| 6-inch              | (c) |
| 8-inch              | (c) |
| 10-inch             | (c) |
| Larger than 10-inch | (c) |

- 1 (a) Per Commission rule A.A.C. R14-2-403.B.  
2 (b) Per Rule R14-2-403.D. Monthly Minimum times the number of months off the  
3 system.  
4 (c) 2.00% of monthly minimum for a comparable size meter connection but no less than  
5 \$10.00 per month. The service for the fire sprinklers is only applicable for service  
6 lines separate and distinct from the primary water service line.  
7

8 IT IS FURTHER ORDERED that the rates and charges approved herein shall be effective for  
9 all usage on and after December 1, 2011.  
10

11 IT IS FURTHER ORDERED that the WIFA loan surcharge approved in Decision No. 71943,  
12 shall be discontinued upon the effective date of the rates and charges approved herein.  
13

14 IT IS FURTHER ORDERED that Mirabell Water Company may implement a temporary  
15 surcharge of \$10.00 per month per meter for the purpose of paying down the accrued accounts  
16 payable owed to Southwest Utility Management for work performed by Southwest Utility  
17 Management between April 2011 and August 2011, such surcharge to become effective December 1,  
18 2011, and continue until collected or April 30, 2013, whichever is sooner.  
19

20 IT IS FURTHER ORDERED that Mirabell Water Company shall notify its customers of the  
21 revised schedules of rates and charges authorized herein by means of an insert, in a form acceptable  
22 to Staff, included in its next regularly scheduled billing or as a separate mailing to be completed no  
23 later than twenty (20) days after the effective date of this Order.  
24

25 IT IS FURTHER ORDERED that Mirabell Water Company use the depreciation rates  
26 delineated in Exhibit 6 of the Engineering Report attached to the Staff Report filed in this Docket.  
27

28 IT IS FURTHER ORDERED that Mirabell Water Company shall coordinate the reading of its  
well meter and individual customer meters on a monthly basis and report this data in its Commission  
Annual Report for the year ending 2011; and if the reported water loss in the Annual Report is greater  
than 10 percent, Mirabell Water Company shall prepare a report containing a detailed analysis and  
plan to reduce water loss to less than 10 percent. If Mirabell Water Company believes it is not cost  
effective to reduce the water loss to less than 10 percent, it should submit a detailed cost benefit  
analysis to support its opinion. The water loss reduction report or the detailed analysis, whichever is  
submitted, shall be docketed as a compliance item in this Docket no later than June 30, 2012.

IT IS FURTHER ORDERED that Mirabell Water Company shall file, as part of its annual

1 report, an affidavit with the Utilities Division attesting that it is current in paying its property taxes in  
2 Arizona. Because there is indication that this company is delinquent in paying its property taxes,  
3 Mirabell Water Company shall also include a description of efforts made to cure delinquent property  
4 taxes, or arrangements made to pay property tax arrearages.

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

6 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

7  
8   
9 CHAIRMAN

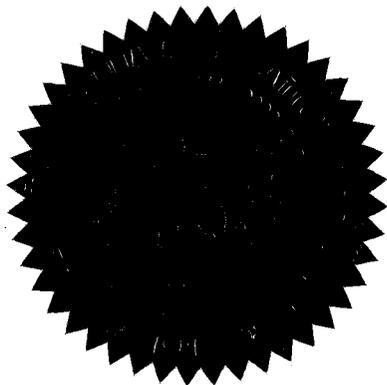
  
COMMISSIONER

10 **EXCUSED**  
COMM. NEWMAN

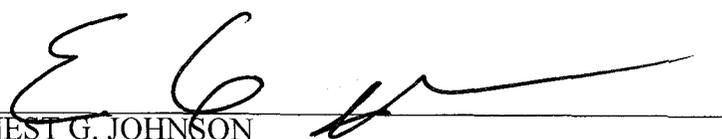
11 COMMISSIONER

COMMISSIONER

  
COMMISSIONER



12 IN WITNESS WHEREOF, I, ERNEST G. JOHNSON,  
13 Executive Director of the Arizona Corporation Commission,  
14 have hereunto set my hand and caused the official seal of the  
15 Commission to be affixed at the Capitol, in the City of Phoenix,  
16 this 17<sup>th</sup> day of November, 2011.

17   
18 ERNEST G. JOHNSON  
EXECUTIVE DIRECTOR

19  
20   
21

22 DISSENT \_\_\_\_\_

1 SERVICE LIST FOR: MIRABELL WATER COMPANY

2 DOCKET NO.: W-02368A-11-0185

3  
4 Ms. Bonnie O'Connor  
MIRABELL WATER COMPANY  
5 PO Box 85160  
Tucson, AZ 85754

6 Morton Freedman  
7 3361 Caminito Luna Nueva  
Del Mar, CA 92014

8 Janice Alward, Chief Counsel  
9 Legal Division  
ARIZONA CORPORATION COMMISSION  
10 1200 West Washington Street  
Phoenix, Arizona 85007

11 Steven M. Olea, Director  
12 Utilities Division  
ARIZONA CORPORATION COMMISSION  
13 1200 West Washington Street  
Phoenix, Arizona 85007

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



**ARIZONA CORPORATION COMMISSION**

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November 15, 2011

Arizona Corporation Commission  
Docket Control  
W-02368A-11-0185

**Re: Dissent Letter; Mirabell Water Company  
Docket No. W-02368A-11-0185**

I am entering into the docket this letter explaining my No vote for this matter.

In my review of the procedural history and the facts concerning the rate increase requested by the Mirabell Water Company, I kept an open mind as to whether I could support the Recommended Opinion and Order (ROO), approval of a rate increase for the Company. However, the Commission's adoption of the amendments to the ROO convinced me that voting for this large of an increase was not in the public interest.

I believe the Commission's adoption of an additional \$5.00 to the recommended \$5.00 surcharge to pay down the amount owed to the management company, will create a financial burden to the ratepayers who **overwhelmingly opposed** the rate increase. I understand that no one favors an increase in their rates, but I think most ratepayers understand utility providers are entitled to earn a fair rate of return. Staff recommended denying the proposed \$10.00 surcharge on top of the rate increase for a management decision made by the owners. The ROO split the difference and allowed a \$5.00 surcharge for recovery of an operating expense incurred outside a test year. The Chair's amendment doubled the amount of the surcharge.

In addition to the doubling of the surcharge, I am concerned with the road the Commission is headed when it comes to water conservation. In the last two years in recognition that water is a precious resource, the Commission has required all water companies to adopt Best Management Practices (BMPs). Many BMPs may be implemented at low cost or no cost for water companies and their ratepayers. Further our Staff has created BMP templates and provides valuable assistance to companies concerning implementation of BMPs. Unfortunately, in this case the ROO was amended to exclude the recommended BMPs.

Decision No. **72675**

Page 2  
November 15, 2011  
Dissent Letter Mirabell Water Company

It is for these reasons, I believed the amended ROO was not in the public interest and voted against the rate increase.

Sincerely,

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

Sandra D. Kennedy  
Corporation Commissioner