

OPEN MEETING



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ORIGINAL

MEMORANDUM

Arizona Corporation Commission

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TO: THE COMMISSION

DOCKETED

2011 DEC -7 P 2:10

FROM: Utilities Division

DEC - 7 2011

DATE: December 7, 2011

DOCKETED BY	<i>[Signature]</i>
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AZ CORP COMMISSION
DOCKET CONTROL

RE: IN THE MATTER OF THE COMMISSION ON ITS OWN MOTION INVESTIGATING THE FAILURE OF TRUXTON CANYON WATER COMPANY TO COMPLY WITH THE COMMISSION RULES AND REGULATIONS (DOCKET NO. W-02168A-10-0247)

INTRODUCTION AND BACKGROUND

Pursuant to authority granted to the Commission in Decision No. 41781 (December 15, 1971) Truxton Canyon Water Company ("Truxton" or "Company") is a public service corporation engaged in the business of providing water utility service to approximately 874 residential and commercial customers in the vicinity of Kingman, Arizona, in Mohave County. Truxton is located approximately nine (9) miles north of Kingman, Arizona. The Company's Certificate of Convenience and Necessity ("CC&N") area encompasses approximately five and one-half square miles.

Truxton's water system consists of two wells, two storage tanks, some distribution mains, customer meters, and fire hydrants. However, since Truxton's wells and storage tanks are not in use, Truxton relies on water supplied from the Claude K. Neal Family Trust's ("Trust") six wells, two storage tanks and transmission mains to deliver water the Truxton's distribution system.

Valle Vista, represented through the Valle Vista Property Owners Association ("VVPOA"), is a planned community with approximately 4,300 lots and 850 existing homes. The Valle Vista community centers around the golf course, but also has a park, tennis courts and swimming pool. Valle Vista is located within Truxton's CC&N and the community's residents are ratepayers of Truxton. However, until the summer of 2011, VVPOA was not a ratepayer of the regulated utility, but instead had a private water supply agreement ("Agreement") with the Trust.

Under the terms of the Agreement, among other things, the VVPOA is required to prepay on the first of the month for a minimum of two hundred million gallons of water, at a rate of \$1.14 per 1,000 gallons. The Agreement also allows for other rate variances such as Consumer Price Index adjusters or use of the Hackberry Area Well Field. The Agreement is set to expire on December 31, 2011.

On August 10, 2010, the Commission issued a decision ordering Truxton to appear and show cause ("OSC") why its actions do not constitute a violation of Arizona law and the Commission's Rules and Regulation. Throughout the course of Staff's investigation regarding the OSC, it came to their attention that the Trust was serving an entity, the VVPOA, within Truxton's CC&N. The VVPOA intervened in the matter, and the issue over Truxton serving the VVPOA and under what terms became a highly contested matter between all of the parties.

During the August 16, 2011 Open Meeting ("OM"), the Commissioners discussed with the parties how the issue of the VVPOA tariff should be handled. At the OM, VVPOA stated that it would adhere to the Agreement rate and time schedule until a new interim rate could be approved to become effective January 1, 2012. The Commission then ordered Truxton to file on or before September 1, 2011, a proposal for an interim tariff for water service to VVPOA to be effective January 1, 2012, and subject to true-up in the Company's next rate case; and if VVPOA wished to file a response to the Company's proposed tariff, it would make a filing within 15 days of the Company's docketing of its proposed tariff.

On September 1, 2011, the Company docketed a Notice of Filing Interim Tariff and on September 16, 2011, the VVPOA filed its Response to Notice of Filing Interim Tariff.

The pertinent parts of Company's proposal were: a Monthly Minimum Flat Charge of \$5,200; Commodity Rate of \$1.45 per 1,000 gallons; and required deposit for new customers per A.A.C. R14-2-403(B)(7)(b). Under the Rule, a non-residential deposit is 2.5 times the average monthly bill. Here, VVPOA has had an average monthly bill of \$20,000, thus the deposit would be \$50,000.¹

The pertinent parts of the VVPOA response and proposed tariff were: Monthly Minimum Charges by meter size under Truxton's existing tariff, Commodity Rate of \$1.1437 per 1,000 gallons but would be willing to accept \$1.20 per 1,000 gallons, and a deposit of \$5,000 to be held in a separate interest bearing account, subject to refund following twelve months of timely payments.²

STAFF ANALYSIS

Based on both parties' filings and numerous discussions with the parties Staff recommends the following interim tariff for the VVPOA:

- Monthly Minimum Charges: by meter size under Truxton's existing tariff
 - 5/8 x 3/4" Meter \$19.50
 - 3/4" Meter \$19.50
 - 1" Meter \$32.50

1 Truxton Canyon Water Company, Notice of Filing Interim Tariff (September 1, 2011).

2 Valley Vista Property Owners Association Response to Notice of Filing Interim Tariff (September 16, 2011).

○ 1 1/2" Meter	\$65.00
○ 2" Meter	\$104.00
○ 3" Meter	\$195.00
○ 4" Meter	\$325.00
○ 6" Meter	\$650.00

- Commodity Rate: \$1.45 per 1,000 gallons as reflected in the first tier Company's tariff;
- Deposit: The VVPOA does not have a history of delinquent payments and under the Rules, a deposit would not be required. However, should the Commission wish to address the Company's cash flow concerns, Staff recommends a \$20,000 deposit collected January 1, 2012. The deposit shall be refunded, with interest per the Rule, as a credit to VVPOA's May 2012 bill.
- True Up: All monies collected through the interim tariff will be subject to true up in the Company's currently pending rate case.

The Company serves the VVPOA through five meters, one 6", one 4", two 2" and one 3/4"³. Based on the Company's five meters, the monthly minimum charge would be \$1,202.50.

Staff's recommendations take into consideration numerous concerns from both of the parties as well as the concerns voiced by the Commissioners during the August 2011 Open Meeting. The current payment structure requires the VVPOA to pay on the first of the month for water used during that month, a prepayment. The Company at the Open Meeting voiced serious concern about cash flow issues due to a lag in providing water service and receiving payment per normal billing practices. Chairman Pierce suggested the use of a deposit. While the general idea of deposit would upon first glance solve the problem, deposits for new non-residential customers are set at 2.5 times the monthly bill. This would be \$50,000 for VVPOA, which Staff concludes to be too high considering the circumstances. Also, deposits accrue interest and the Commission often requires utilities to hold deposits in separate interest bearing accounts. Additionally, deposits are generally required when a customer has a history of delinquent payments; VVPOA does not have such a history with Truxton.

While Staff does not believe a deposit is necessary here, should the Commission wish to provide additional cash flow for the Company during the transitional period, Staff suggests that the VVPOA pay to Truxton \$20,000 on January 1, 2012. The deposit would not need to be segregated from Truxton's other funds. Starting on January 1, 2012, Truxton will begin charging the VVPOA according to this approved interim tariff. The VVPOA will receive a bill sometime in February for its January use, according to Truxton's standard billing practices. The VVPOA will be responsible to pay, in full, each monthly bill received from Truxton. If VVPOA remains

current on its bills, Truxton will refund the deposit, with interest according to the Rule, as a credit to the VVPOA's May 2012 bill.

STAFF RECOMMENDATIONS

Staff recommends the following:

1. Monthly Minimum Charges: by meter size under Truxton's existing tariff
 - 3/4" Meter \$19.50
 - 2" Meter \$104.00
 - 4" Meter \$325.00
 - 6" Meter \$650.00
2. Commodity Rate: \$1.45 per 1,000 gallons;
3. Deposit: Zero.
4. True Up: All monies collected through the interim tariff will be subject to true up in the Company's currently pending rate case.



Steven M. Olea
Director
Utilities Division

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ORIGINATOR: Elijah Abinah

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BEFORE THE ARIZONA CORPORATION COMMISSION

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

IN THE MATTER OF THE COMMISSON) DOCKET NO. W-02168A-10-0247
ON ITS OWN MOTION INVESTIGATING)
THE FAILURE OF TRUXTON CANYON) DECISION NO. _____
WATER COMPANY TO COMPLY WITH)
COMMISSION RULES AND) ORDER
REGULATIONS.)

Open Meeting
December 13 and 14, 2011
Phoenix, Arizona

BY THE COMMISSION:

FINDINGS OF FACT

1. On August 10, 2010, the Commission issued a decision ordering Truxton to appear and show cause ("OSC") why its actions do not constitute a violation of Arizona law and the Commission's Rules and Regulation. Throughout the course of Staff's investigation regarding the OSC, it came to their attention that the Trust was serving an entity, the Valley Vista Property Owners Association ("VVPOA"), within Truxton's CC&N. The VVPOA intervned in the matter, and the issue over Truxton serving the VVPOA and under what terms became a highly contested matter between all of the parties.

2. During the August 16, 2011 Open Meeting ("OM"), the Commissioner's discussed with the parties how the issue of the VVPOA should be handled. At the OM, VVPOA stated that it would adhere to the Agreement rate and time schedule until a new interim rate could be approved to become effective January 1, 2012. The Commission then ordered Truxton to file on or before September 1, 2011 a proposal for an interim tariff for water service to VVPOA to be

1 effective January 1, 2012 and subject to true-up in the Company's next rate case; and if VVPOA
2 wished to file a response to the Company's proposed tariff, it would make a filing within 15 days
3 of the Company's docketing of its proposed tariff.

4 3. On September 1, 2011, the Company docketed a Notice of Filing Interim Tariff and
5 on September 16, 2011, the VVPOA filed its Response to Notice of Filing Interim Tariff.

6 4. The pertinent parts of Company's proposal were: a Monthly Minimum Flat Charge
7 of \$5,200; Commodity Rate of \$1.45 per 1,000 gallons; and required deposit for new customers
8 per A.A.C. R14-2-403(B)(7)(b). Under the Rule, a non-residential deposit is 2.5 times the average
9 monthly bill. Here, VVPOA has had an average monthly bill of \$20,000, thus the deposit would
10 be \$50,000.¹

11 5. The pertinent parts of the VPPOA response and proposed tariff were: Monthly
12 Minimum Charges by meter size under Truxton's existing tariff, Commodity Rate of \$1.1437 per
13 1,000 gallons but would be willing to accept \$1.20 per 1,000 gallons, and a deposit of \$5,000 to be
14 held in a separate interest bearing account, subject to refund following twelve months of timely
15 payments.²

16 STAFF ANALYSIS

17 6. Based on both parties' filings and numerous discussions with the parties' Staff
18 recommends the following interim tariff for the VVPOA:

19 • Monthly Minimum Charges: by meter size under Truxton's existing tariff

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○ 5/8 x 3/4" Meter	\$19.50
○ 3/4" Meter	\$19.50
○ 1" Meter	\$32.50
○ 1 1/2" Meter	\$65.00
○ 2" Meter	\$104.00
○ 3" Meter	\$195.00
○ 4" Meter	\$325.00
○ 6" Meter	\$650.00

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25 • Commodity Rate: \$1.45 per 1,000 gallons as reflected in the first tier
26 Company's tariff;

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28 ¹ Truxton Canyon Water Company, Notice of Filing Interim Tariff (September 1, 2011).

² Valley Vista Property Owners Association Response to Notice of Filing Interim Tariff (September 16, 2011).

- 1 • Deposit: The VVPOA does not have a history of delinquent payments and
2 under the Rules, a deposit would not be required. However, should the
3 Commission wish to address the Company's cash flow concerns, Staff
4 recommends a \$20,000 deposit collected January 1, 2012. The deposit shall be
5 refunded, with interest per the Rule, as a credit to VVPOA's May 2012 bill.
- 6 • True Up: All monies collected through the interim tariff will be subject to true
7 up in the Company's currently pending rate case.

7 7. The Company currently serves VVPOA through five meters: one 6", one 4", two 2"
8 and one 3/4"³. Based on the Company's five meters, the monthly minimum charge would be
9 \$1202.50.

10 8. Staff's recommendations take into consideration numerous concerns from both of
11 the parties as well as the concerns voiced by the Commissioners during the August 2011 Open
12 Meeting. The current payment structure requires the VVPOA to pay on the first of the month for
13 water used during that month, a prepayment. The Company at the Open Meeting voiced serious
14 concern about cash flow issues due to a lag in providing water service and receiving payment per
15 normal billing practices. Chairman Pierce suggested the use of a deposit. While the general idea
16 of deposit would upon first glance solve the problem, deposits used for new non-residential
17 customers are set at 2.5 times the monthly bill. This would be \$50,000 for the VVPOA, which
18 Staff concludes to be too high considering the circumstances. Also, deposits accrue interest and
19 the Commission often requires utilities to hold deposits in separate interest bearing accounts.
20 Additionally, deposits are generally required when a customer has a history of delinquent
21 payments; VVPOA does not have such a history with Truxton.

22 9. While Staff does not believe a deposit is necessary here, should the Commission
23 wish to provide additional cash flow for the Company during the transitional period, Staff suggests
24 that the VVPOA pay to Truxton \$20,000 on January 1, 2012. The deposit would not need to be
25 segregated from Truxton's other funds. Starting on January 1, 2012, Truxton will begin charging
26 the VVPOA according to this approved interim tariff. The VVPOA will receive a bill sometime in
27

28 ³ Valley Vista Property Owners Association Response to Notice of Filing Interim Tariff (September 16, 2011).

1 February for its January use, according to Truxton's standard billing practices. The VVPOA will
2 be responsible to pay, in full, each monthly bill received from Truxton. If VVPOA remains
3 current on its bill, Truxton will refund the deposit, with interest according to the Rule, as a credit
4 to the VVPOA's May 2012 bill.

5 **STAFF RECOMMENDATIONS**

6 10. Staff recommends the following:

7 1. Monthly Minimum Charges: by meter size under Truxton's existing tariff

- 8 o 3/4" Meter \$19.50
9 o 2" Meter \$104.00
10 o 4" Meter \$325.00
11 o 6" Meter \$650.00

12 2. Commodity Rate: \$1.45 per 1,000 gallons as reflected in the first tier
13 Company's tariff;

14 3. Deposit: Zero

15 4. True Up: All monies collected through the interim tariff will be subject to
16 true up in the Company's currently pending rate case.

17 CONCLUSIONS OF LAW

18 1. Truxton Canyon Water Company is a public service corporation within the
19 meaning of Article XV of the Arizona Constitution and A.R.S. §§ 40-246, 40-424, and 40-425.

20 2. The Commission has jurisdiction over Truxton Canyon Water Company and the
21 subject matter of the OSC and rates and charges.

22 3. The issuance of a Certificate of Convenience and Necessity to a public service
23 corporation imposes a duty upon the certificate holder to operate the utility in a lawful manner, to
24 comply with law, and to provide competent management and adequate service to its customers.

25 ORDER

26 IT IS THEREFORE ORDERED that the Commission adopts Staff's recommendations for
27 the Truxton Canyon Water Company interim tariff for the Valle Vista Property Owners
28 Association.

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IT IS FURTHER ORDERED that Truxton Canyon Water Company shall file as a compliance item in this docket by December 29, 2011, a conforming tariff.

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

BY THE ORDER OF THE ARIZONA CORPORATION COMMISSION

CHAIRMAN

COMMISSIONER

COMMISSIONER

COMMISSIONER

COMMISSIONER

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

ERNEST G. JOHNSON
EXECUTIVE DIRECTOR

DISSENT: _____

DISSENT: _____

SMO:EOA:red\KAR:mam

1 SERVICE LIST FOR: TRUXTON CANYON WATER COMPANY
2 DOCKET NO. W-02168A-10-0247

3 Mr. B. Marc Neal
4 7313 East Concho Drive, Suite B
5 Kingman, Arizona 86401

6 Mr. Mike Neal
7 7313 East Concho Drive, Suite B
8 Kingman, Arizona 86401

9 Steve Wene
10 Moyes Sellers & Sims
11 1850 North Central Avenue
12 Suite 1100
13 Phoenix, Arizona 85004

14 Valle Vista Property Owners Association, Inc.
15 9686 Concho Drive
16 Kingman, Arizona 86401

17 Mr. Steven M. Olea
18 Director, Utilities Division
19 Arizona Corporation Commission
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22 Ms. Janice M. Alward
23 Chief Counsel, Legal Division
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