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BEFORE THE ARIZONA CORPORATION COMMISSION

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

Docket No. W-01303A-09-0343
SW-01303A-09-0343

IN THE MATTER OF THE APPLICATION
OF ARIZONA-AMERICAN WATER
COMPANY, AN ARIZONA
CORPORATION, FOR A
DETERMINATION OF THE CURRENT
FAIR VALUE OF ITS UTILITY PLANT
AND PROPERTY AND FOR INCREASES
IN ITS RATES AND CHARGES BASED
THEREON FOR UTILITY SERVICE BY
ITS ANTHEM/AGUA FRIA
WASTEWATER DISTRICT, SUN CITY
WASTEWATER DISTRICT, AND SUN
CITY WEST WASTEWATER DISTRICT

**Verrado Community Association,
Inc.'s Initial Closing Brief**

Verrado Community Association, Inc. ("Verrado"), through its undersigned counsel, submits the following Initial Closing Brief requesting that the Commission reject the proposed deconsolidation of Arizona-American Water Company's ("Arizona-American" or "Company") Anthem/Agua Fria Wastewater District.

I. STATEMENT OF THE ISSUES

This is a compliance matter arising out of Commission Decision No. 72047 in this case. Decision No. 72047 stated:

Good public policy requires the Commission to correctly assign cost responsibility for all ratemaking components in as expeditious a manner as possible, and deconsolidation of Anthem/Agua Fria Wastewater District is

1 consistent with such action. However, the record does not include adequate rate
2 base or operating income information to immediately implement stand-alone rate
3 designs for the resulting Anthem Wastewater district and Agua Fria Wastewater
4 district at this time. Therefore, we will (i) approve the rates adopted herein for
5 Anthem/Agua Fria Wastewater district as a consolidated district on an interim
6 basis, and (ii) order the docket in the instant proceeding to remain open for the
7 sole purpose of considering the design and implementation of stand-alone
8 revenue requirements and rate designs as agreed to in the settlement reached
9 during the Open Meeting for the Anthem Wastewater district and Agua Fria
10 Wastewater district as soon as possible. The Company shall file its initial
11 application no later than April 1, 2011.¹

12 Before making a determination regarding the proposed deconsolidation of the Anthem/Agua
13 Fria Wastewater District, the Commission wished to examine stand-alone rate base and
14 operating income information. The Company filed a compliance application on April 1, 2011,
15 and a hearing was held November 14, 15, 16, and 17, 2011.

16 The current issue before the Commission is whether to adopt stand-alone revenue
17 requirements and rate designs and thus deconsolidate the Anthem/Agua Fria Wastewater District
18 rates, in light of the information gathered in the record since Decision No. 72047 was issued,
19 including that the typical customer in the proposed deconsolidated Agua Fria Wastewater
20 District would expect a 133.9% increase from \$52.12 to \$121.91 per month.²

21 **II. VERRADO'S POSITION ON DECONSOLIDATION**

22 Verrado urges the Commission to take no action to deconsolidate the Anthem/Agua Fria
23 Wastewater District in this case at this time. Due to a last-minute change made at a prior Open
24 Meeting in this case, Agua Fria area customers are now faced with a potential 133.9% increase
25 in wastewater rates rather than the potential 81.8% originally noticed before rates were
26 determined in Decision 72047. The deconsolidation proposal should be denied because it will
27 create rate shock that is not adequately mitigated by continually and substantially increasing
28 rates over a three-year period. The Agua Fria customers in this case are already facing a likely
63.22% increase in their water rates over a three year period due to ongoing proceedings in case

¹ Decision No. 72047, p. 84.

² Ex. S-1, p. 7.

1 number WS-01303A-10-0448. The deconsolidation proposal should also be denied because it is
2 an unnecessary backward step in the Commission’s quest to achieve the benefits of consolidated
3 systems, including, among other things, lower administrative and rate case costs, reduced rate
4 shock, and improved rate stability. Any precedent for deconsolidation established in this case is
5 likely to have an impact on other consolidated systems, both within Arizona-American’s
6 districts, and within other water and sewer companies.

7
8 However, if the Commission is inclined to deconsolidate, then the Commission should do
9 so only in a future rate case where Agua Fria residents have sufficient notice of the impact to
10 their rates prior to the determination of Arizona-American’s revenue requirement, and have the
11 opportunity to present evidence regarding whether the three Agua Fria systems should also be
12 deconsolidated or perhaps joined with other Arizona-American systems such as Sun City West.

13 **III. APPLICABLE STANDARDS**

14 In this rate case, the Commission is charged with determining if the charges proposed by
15 Arizona-American in a deconsolidated scenario are “just and reasonable.” Ariz. Const. Art. 15,
16 § 12; A.R.S. § 40-361. In doing so, the Commission may consider a variety of facts and
17 ratemaking policies³, many of which are discussed below.

18 **IV. ARGUMENT – REASONS WHY THE ANTHEM DECONSOLIDATION PROPOSAL SHOULD BE REJECTED**

19 Verrado is a non-profit corporation that serves approximately 5892 residents through a
20 variety of services and community and recreational activities.⁴ Verrado residents will be
21 severely impacted in these trying economic times by the proposed rate increase associated with
22 the Anthem Community Council’s proposal to deconsolidate the Anthem/Agua Fria Wastewater
23 District into two separate districts. Simply stated, deconsolidation of the Anthem/Agua Fria
24

25
26 ³ November 14, 2011 Transcript of Proceedings, Volume I (“Tr.I”) at 42:7-16 (Staff does not take a position on
the proposed deconsolidation, but agrees the Commission may consider factors in addition to cost of service);
27 November 15, 2011 Transcript of Proceedings, Volume II (“Tr.II”) at 277:20-278:3, 298:25-302:14.

28 ⁴ Ex. V-1, p. 4.

1 Wastewater District, even with the Anthem Community Council's proposed three-year revenue
2 phase-in, is not just and reasonable for Verrado customers for the reasons discussed below.

3
4 **A. Insufficient Notice before Rates Were Set of the Potential for Such an
Enormous Increase**

5 The present proceedings were the result of a last-minute compromise between the
6 Anthem Community Council, the Company, RUCO, and Staff during the Open Meeting at
7 which Decision No. 72047 was approved.⁵ Arizona-American did not propose to deconsolidate
8 the Anthem/Agua Fria Wastewater District in its original application, and is still not proposing
9 to deconsolidate now.⁶ The Recommended Order and Opinion docketed in this case on
10 November 30, 2010 similarly did not recommend deconsolidation – it concluded only that
11 deconsolidation should be considered in the next rate case. Verrado agrees with the
12 Recommended Order and Opinion that deconsolidation should be considered, if at all, only in a
13 future full rate case where all parties have full notice of the size of the potential rate increase
14 prior to determination of Arizona-American's rate base and revenue requirement. The new data
15 provided by the Company as part of this compliance proceeding underscore the need for a robust
16 review of the reasons why plant costs are so different between service areas.

17 Arizona-American at the inception of this rate case published a notice of a potential
18 81.8% rate increase over the then-current revenues.⁷ Agua Fria Wastewater customers were not
19 notified until after Decision No. 72047 was issued, and after Arizona-American submitted its
20 compliance application, that they could instead be facing a 135% increase – roughly 53% more
21 rate impact than was originally noticed.⁸ Because the rate base and revenue requirement were
22

23 ⁵ See Tr.I at 184:14-186:1 (deconsolidation language written by parties in settlement discussion upstairs during
24 Open Meeting); 188: 13-15; Decision No. 72047, pp. 44-45.

⁶ Tr.I at 102:10-17.

25 ⁷ Tr.II at 188:21-191:8. (Public comments made in this case and the ongoing water rate case in the Agua Fria
26 Water District also indicate that some customers believe they did not receive the notices, or were confused
27 about whether they were included in the districts.)

⁸ Tr.II at 192:14-21; see public notice affidavits docketed herein on December 21, 2009 and December 28, 2009
28 (notifying customers of Arizona-American's request would increase monthly rates by 81.8%, or by \$39.26, for
average usage).

1 already determined in Decision No. 72047, however, Agua Fria customers in this compliance
2 proceeding no longer have the ability to reopen those determinations.

3
4 It is too late now to know whether this substantial difference in the noticed rate impact, if
5 made initially, would have caused Agua Fria Wastewater customers to have become more
6 involved earlier in the main rate case, but it is clear they became substantially involved when
7 they were notified in 2011 of the potential for a 135% increase. Chairman Pierce commented at
8 one of the public comment sessions that the customer turnout was probably the largest he had
9 seen in the Commission's building.

10 Agua Fria customers were not represented in the Open Meeting settlement negotiations
11 that led to this proceeding.⁹ At the very least, Verrado requests the Commission delay
12 determination on a potential deconsolidation until a future rate case where Agua Fria residents
13 are assured of having the numbers upfront, followed by a full opportunity to investigate the
14 reasons for the significant cost of service in the Agua Fria areas.

15 **B. Deconsolidation in Any Manner Proposed Will Cause Unacceptable Rate Shock.**

16 The parties do not dispute that the rates proposed for a stand-alone Agua Fria Wastewater
17 District of approximately 134% will, if implemented, result in significant rate shock.¹⁰ The
18 Anthem Community Council's proposed phase-in of the revenue shift is only a mitigation of the
19 rate shock – the increase will still be rate shock.¹¹ The Anthem Community Council's proposed
20 three-year phase-in of rates, while it would be helpful if the Commission chooses
21 deconsolidation, does not go far enough. The phase-in would apply only to the additional rate
22 increase in excess of the 54% increase already granted for the Anthem/Agua Fria Wastewater
23 District in Decision 72047.¹²

24
25
26 ⁹ Tr.II at 319:14-18.

¹⁰ Ex. V-1, pp. 8-9; Ex. CB-1 at 9-10.

27 ¹¹ Tr.II at 359:19-360:23.

28 ¹² Tr.II at 315:1-11.

1 1. *Rate shock is aggravated by a significant proposed water rate increase for*
2 *Agua Fria Wastewater customers.*

3 Verrado and its residents receive all of their water and wastewater services from Arizona-
4 American in its Agua Fria districts.¹³ Corte Bella and Russell Ranch customers are also both
5 water and sewer customers Arizona-American's Anthem/Agua Fria Wastewater District and
6 Agua Fria Water District.¹⁴ There is currently an ongoing rate case in the Agua Fria Water
7 District, case number WS-01303A-10-0448. Although that rate case has not yet been decided
8 by the Commission, the parties have entered into a settlement agreement that, if adopted by the
9 Commission, will by the third year result in a 63.22% increase, an increase from \$30.32 per
10 month to \$49.49 per month in water rates for the typical customer.¹⁵ The Commission should
11 consider the potential additional impact of the water rate increase on Agua Fria customers in
12 making its decision in this case.¹⁶ In these bad economic times, customers simply cannot absorb
13 multiple, enormous utility rate increases without consequences. The public comments made in
14 this case have illustrated the kind of personal distress these levels of increases can cause.

15 **C. Granting the Anthem Community Council's Deconsolidation Request Now**
16 **Would Set a Bad Precedent that Will Make Future Consolidation Decisions**
17 **More Difficult.**

18 There are four physically separate wastewater service infrastructure systems within the
19 current Anthem/Agua Fria Wastewater District.¹⁷ The four separate systems serve the
20 communities of Anthem, Verrado, Russell Ranch, and a portion referred to as the northeast
21 Agua Fria area.¹⁸ The northeast Agua Fria area shares the Northeast Regional Water
22 Reclamation Facility with Arizona-American's Sun City West Wastewater District, and serves
23 the communities of Corte Bella, Coldwater Ranch, and Cross River.¹⁹ These communities are all

24 ¹³ Ex. V-1, p. 5.

25 ¹⁴ Tr.II at 375:21-23; Tr.III at 450:4-7.

26 ¹⁵ Settlement Agreement docketed December 15, 2011 in WS-01303A-10-0448, Ex. Settlement H-4 (Step 3).

27 ¹⁶ Tr.II at 310:9-23.

28 ¹⁷ Tr.I at 108:5-17.

¹⁸ *Id.*

¹⁹ Tr.I at 108:5-17, 109:25-110:4, 110:22-111:10.

1 miles from each other – Anthem is adjacent to northern Phoenix, Corte Bella is located west of
2 Anthem near the City of Surprise; Verrado is to the southwest in the Town of Buckeye; and
3 Russell Ranch is near the City of Litchfield Park.²⁰

4 These four separate sewer systems became the Anthem/Agua Fria Wastewater District
5 through a series of Commission decisions starting with the 1998 approval of the Anthem
6 Certificate of Convenience and Necessity (“CC&N”) as Citizen Water Services’ first wastewater
7 CC&N in Decision No. 60975.²¹ The Commission then approved the addition of Verrado,
8 Russell Ranch, and the northeast Agua Fria area to the Anthem CC&N in Decision Nos. 64307,
9 64746, and 65757.²² Further extensions were made in Decisions Nos. 69671, 63445, 68854, and
10 67015.²³ In addition, the Commission set new rates for the consolidated Anthem/Agua Fria
11 District in 2004 and 2008 in Decision Nos. 67093 and 70372.²⁴ The Commission and parties to
12 those cases reviewed the Anthem/Agua Fria Wastewater District rate issues repeatedly, and the
13 consolidated status of the district was not an issue. This prior treatment of the consolidated
14 district is well established and is consistent with the Commission’s more recent focus on
15 encouraging consolidation.²⁵

16
17 *1. Deconsolidation of Only One of Four Separate Service Areas will Lead to
18 Future Deconsolidation Requests within the Agua Fria Wastewater District*

19 If the Commission now approves the proposed deconsolidation of the Anthem/Agua Fria
20 Wastewater District into two separate districts, the resulting Agua Fria Wastewater District will
21 still include three physically separate wastewater infrastructure systems.²⁶ If the Commission
22 gives the Anthem Community Council’s cost of service arguments the overriding weight that
23 Anthem urges, the Commission will then likely be asked to deconsolidate one or more of the

24 ²⁰ See Ex. S-3.

25 ²¹ See Ex. A-1, pp. 3-4; Tr.I at 97:19-98:3.

26 ²² Ex. A-1, pp. 4-5.

27 ²³ Ex. A-1, p. 6.

28 ²⁴ Ex. A-1, pp. 3-6.

²⁵ Ex. V-2 at 6, *citing* Decision 71410, p. 51.

²⁶ Tr.I at 109:2-12.

1 remaining service areas within the Agua Fria Wastewater District on the basis of cost of service.
2 Russell Ranch has indicated a desire to deconsolidate from the rest of the Agua Fria service
3 areas,²⁷ and the questions posed by Corte Bella's attorney indicate that Corte Bella may seek in a
4 future rate case to deconsolidate and instead join Arizona-American's Sun City West
5 Wastewater District.²⁸

6
7 *2. Deconsolidation Will Likely Lead to Future Deconsolidation Requests
within Arizona-American and Other Utilities*

8 The Commission should also consider the potential effects of setting a bad precedent with
9 a deconsolidation decision in this case. Whether or not different service areas are physically
10 connected or share common costs, there is virtually never going to be a physically separate
11 service area that has identical costs to another separate service area over time. There will be
12 always be cost of service differences between service areas in not only the amount, but the
13 timing of costs too. A decision in this case that puts cost of service principles measured at one
14 point in time over all other considerations supporting system consolidation would likely
15 encourage parties in future cases to seek deconsolidation when it is to their immediate advantage
16 to do so. This sort of precedent will affect not only Arizona-American, but other companies
17 working toward full consolidation, such as Arizona Water Company.²⁹

18 Already in this case there are parties arguing for further deconsolidation of the proposed
19 Agua Fria Wastewater District, indicating that a decision to deconsolidate may result in a
20 Domino effect³⁰ both in this case and other cases that come in front of the Commission.
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22
23

24 ²⁷ Tr. III at 442:17-443:9, 451:10-17.

25 ²⁸ Tr.I at 109:25-113:18.

26 ²⁹ See, for example, Decision No. 71845, p. 84, in which the Commission already consolidated in part or in full the
27 Superstition and Miami systems, Lakeside and Overgaard systems, Pinewood and Rimrock systems, Casa
28 Grande and Coolidge systems, Bisbee and Sierra Vista systems, Sedona and Pinewood/Rimrock systems; and
Stanfield and Casa Grande/Coolidge systems.

³⁰ Tr.II at 194:9-195:6, 309:3-10; Tr.III at 442:17-443:9, 451:10-17.

1 3. *Substantially Different Rates for Same Service*

2 The Commission should reject the Anthem Community Council's request to
3 deconsolidate the Anthem/Agua Fria Wastewater District because the resulting rates will be
4 substantially different for Anthem customers and for Agua Fria customers receiving identical
5 services from the same company in the same urban area. Currently, after Decision No. 72047
6 increased the wastewater rates, Anthem and Agua Fria customers pay the same amount for
7 wastewater collection and treatment services – roughly \$67 per month.³¹ If the deconsolidation
8 is granted, even with the Anthem Community Council's revenue phase-in proposal, at the end of
9 three years, Anthem customers would pay only about \$52 per month, but Agua Fria customers
10 would pay about \$108 per month³², more than double the amount the Anthem customers pay, for
11 the same service. In the end, from the customer's perspective, apart from the quantity of
12 wastewater a customer generates, each customer is receiving identical service from Arizona-
13 American, whether the customer is located in Anthem, or whether the customer is located in
14 Verrado. The customer flushes, and Arizona-American takes care of the wastewater from that
15 point forward.³³

16 4. *Consolidation Will be More Difficult with a Large Rate Disparity*

17 Creating such a wide difference in rates between districts now does not make sense
18 because it will make future consolidation of Arizona-American's districts much more difficult.
19 The Commission ultimately rejected a full consolidation for the Company in Decision No.
20 72047 in part because there was a large disparity in rates among the Company's districts.³⁴
21 Deconsolidation of the Anthem/Agua Fria Wastewater District now will only make that situation
22 worse. Since the Commission has ordered in Decision No. 72047 that Arizona-American
23 develop a consolidation proposal that includes all of its systems in a future rate application³⁵, it
24

25 ³¹ See Ex. Anthem 21, p.3.

26 ³² *Id.*; see also Ex. V-2, pp. 8-9.

27 ³³ Tr.II at 193:8-17.

28 ³⁴ Decision No. 72047, p. 84.

³⁵ Decision No. 72047, pp. 85, 123.

1 would be better to defer a decision on the Anthem Community Council's deconsolidation
2 proposal until that future case.

3
4 **D. Consolidation is a Good Thing in This Case – Keep It.**

5 Ratemaking principles should be applied in a manner that avoids rate volatility. When
6 the Commission considers cost of service principles in the context of consolidation
7 determinations, it should look not only at the data specific to the test year, but should also take a
8 longer view and consider what is likely to happen to rates over time.

9 In this case, the proposed Anthem Wastewater District is built out³⁶ - we expect the
10 infrastructure to continue to age without much customer growth. On the other hand, the Agua
11 Fria Wastewater District has significant existing excess plant capacity and is expected to add
12 many new customers in future years. Although the Anthem Community Council claims its
13 customers currently "subsidize" the Agua Fria customers, it is likely that, as the Agua Fria
14 area's customer base grows into the excess capacity, the tables will turn and Agua Fria
15 customers will be "subsidizing" Anthem customers. If more plant is built in the Agua Fria
16 District, the tables could turn again. If Anthem's aging infrastructure requires replacement, the
17 tables could turn again. Despite those periodic "subsidies" between service areas, in the long
18 term, all customers in a consolidated district should enjoy more stable rates with the ability to
19 spread new costs over a larger customer base.³⁷

20 Although the Anthem Community Council has proposed deconsolidation in this case, the
21 Council earlier in this case supported full consolidation of Arizona-American's systems because
22 consolidation offers the following benefits:

- 23 • lower administrative costs through unified customer accounting and billing systems;
- 24 • reduction in the number of rate cases and associated expenses;³⁸
- 25 • elimination of distorted cost allocations among districts in rate filings;

26 ³⁶ See discussion at Tr.II at 302:17-304:16.

27 ³⁷ Ex. V-2, p. 8.

28 ³⁸ Tr.I at 97:9-18; Tr.II at 202:13-204:7; Ex. V-2, p.11.

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- implementation of standard customer service policies and related service charges;
 - improved rate stability and elimination of rate shock;
 - reduced customer confusion with respect to the Company's currently differing rate schedules;
 - development and implementation of a targeted and comprehensive water conservation program for all of its systems; and
 - improved opportunities for future acquisitions, especially of troubled water systems.³⁹

9 The Commission ultimately rejected a full consolidation for the Company because there was a
10 large disparity in rates among the Company's districts and because not all of Arizona-
11 American's systems were being considered.⁴⁰ The Commission ordered Arizona-American to
12 develop a consolidation proposal that includes all of its systems in a future rate application.⁴¹
13 Deconsolidation in this case will only make matters worse.

14 Even though the parties focused a great deal on the lack of a physical connection between
15 the four service areas in the Anthem/Agua Fria Wastewater District, it is important to note that
16 all four service areas are connected in other significant ways. All of the four areas are served by
17 Arizona-American within the greater Phoenix metropolitan area, and there are significant costs,
18 including labor costs and service company costs, that are shared by all four districts.⁴² These
19 shared costs are reason enough to reject the deconsolidation proposal.

20 **E. Other Issues: Winter-Average Rate Design Implementation Delay**

21 Although it was not part of the Commission's compliance instruction in this case,
22 Verrado agrees with the Anthem Community Council that the winter-average rate design
23 approved in Decision No. 72047 for the Anthem/Agua Fria Wastewater District should be
24

25

26 ³⁹ Decision No. 72047, pp. 67-68.

27 ⁴⁰ Decision No. 72047, p. 84.

28 ⁴¹ Decision No. 72047, pp. 85, 123.

⁴² Tr.II at 196:22-198:1.

1 further postponed in order to promote stable and predictable rates for all those reasons cited by
2 Sandra Murrey in Arizona-American's Rebuttal Testimony.⁴³

3 DATED this 17th day of January, 2012.

4 RYLEY CARLOCK & APPLEWHITE

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⁴³ Ex. A-3, pp. 5-6.

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