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COMMISSIONERS

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

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2012 JUN 15 P 3:51

AZ CORP COMMISSION
DOCKET CONTROL

Arizona Corporation Commission

DOCKETED

JUN 15 2012

DOCKETED BY

BEFORE THE ARIZONA CORPORATION COMMISSION

IN THE MATTER OF THE APPLICATION OF
ARIZONA WATER COMPANY, AN
ARIZONA CORPORATION, FOR A
DETERMINATION OF THE FAIR VALUE
OF ITS UTILITY PLANT AND PROPERTY,
AND FOR ADJUSTMENTS TO ITS RATES
AND CHARGES FOR UTILITY SERVICE
FURNISHED BY ITS WESTERN GROUP
AND FOR CERTAIN RELATED
APPROVALS.

DOCKET NO. W-01445A-11-0310

**ARIZONA WATER COMPANY'S
RESPONSE IN OPPOSITION TO
RUCO'S MOTION TO FILE LATE
FILED EXHIBIT**

BRYAN CAVE LLP
TWO NORTH CENTRAL AVENUE, SUITE 2200
PHOENIX, ARIZONA 85004-4406
(602) 364-7000

Applicant Arizona Water Company hereby responds in opposition to RUCO's June 13, 2012 Motion to File Late Filed Exhibit. The motion should be denied because the adversarial briefing sought to be admitted as "evidence" in this Arizona proceeding is nothing more than the views of Alaska's parallel agency to RUCO¹ opining on the possibility of a DSIC-like mechanism in a generic docket before the Regulatory Commission of Alaska. See R-11-006, *In the Matter of the Consideration of a Plant Replacement Surcharge Mechanism for Water and Wastewater Utilities*, State of Alaska Regulatory Commission. The materials RUCO seeks to admit do not constitute an order of the Alaska Regulatory Commission regarding DSIC mechanisms; they add nothing to

¹ See <http://www.law.alaska.gov/departments/civil/rapa/rapa.html> ("The Attorney General, as the Public Advocate, advocates for the general public interest with particular attention to the interests of consumers")

1 this proceeding other than duplications to arguments that RUCO and Staff have already
2 made opposing the DSIC mechanism sought by Arizona Water Company.

3 On May 1, 2012, the Regulatory Commission of Alaska filed an order in generic
4 docket R-11-006 seeking comments on a position paper and suggested regulations filed by
5 a group of utilities to facilitate a discussion of a DSIC-like mechanism in that State. See
6 Exhibit 1 attached, Regulatory Commission of Alaska Order No. 2. Just as RUCO did in
7 its Motion To File Late Filed Exhibit, Arizona Water Company could seek to submit as
8 evidence the Alaska Utility Group's position paper favoring a DSIC-like mechanism,
9 together with Explanatory Notes that Group docketed on the topic.²

10 The exhibit sought to be filed by RUCO is irrelevant to the issues already in the
11 record at the hearing of this matter, which is closed. If this Arizona hearing is reopened
12 for submittal of adversarial briefing from throughout the country, Arizona Water Company
13 could provide the Commission with dozens of pro-DSIC briefs from other states, including
14 the parallel briefing in Alaska (a DSIC-like mechanism that, by the way, is drastically
15 different than the one Arizona Water Company is proposing in this case). This case
16 should not be determined by a contest over who can find and docket the most and longest
17 briefs from other advocacy agencies around the country supporting the parties' position
18 here.

19 Nor can the document be admitted through the "side door" of alleging that it is
20 being submitted in response to Commissioner Burns' questions at the first day of the
21 hearing in this proceeding.³ The Alaska filing, as well as other filings, could form a base
22 of research for RUCO to produce an objective listing of how other states' DSIC-like
23

24
25 ² These documents can be viewed at:
26 <http://rca.alaska.gov/RCAWeb/Dockets/DocketDetails.aspx?id=ff6021fb-fb4b-4a11-9e95-557c9a2bca14>.

27 ³ Commissioner Burns asked whether the eleven states that currently have a DSIC
28 are using them in all cases or just in limited circumstances. (Tr. at 43:17-44:7).

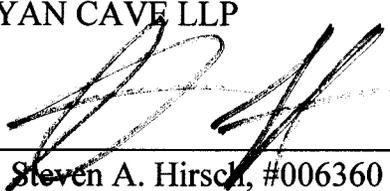
BRYAN CAVE LLP
TWO NORTH CENTRAL AVENUE, SUITE 2200
PHOENIX, ARIZONA 85004-4406
(602) 364-7000

1 mechanisms operate, but simply to download and docket the entirety of an adversarial
2 opposition to a DSIC filed on behalf of Alaska's ratepayers is not responsive to
3 Commissioner Burns' questions.

4 For the foregoing reasons, RUCO's motion should be denied, and the parties should
5 be ordered not to file unrelated pleadings and memoranda from other states addressing
6 different types of DSIC mechanisms under the guise of the providing the Hearing Division
7 with additional "evidence" in this proceeding.⁴

8
9 RESPECTFULLY SUBMITTED this 15th day of June, 2012.

10
11 BRYAN CAVE LLP

12
13 By 

14 Steven A. Hirsch, #006360
15 Stanley B. Lutz, #021195
16 Two N. Central Avenue, Suite 2200
17 Phoenix, AZ 85004-4406
18 Attorneys for Arizona Water Company

19 ORIGINAL and 13 copies of the foregoing
20 filed this 15th day of June, 2012, with:

21 Docket Control Division
22 Arizona Corporation Commission
23 1200 W. Washington Street
24 Phoenix, AZ 85007

25 ⁴ Arizona Water Company notes that the Alaska Utility Group's reply to the
26 memoranda submitted by the Alaska Public Advocate is due on June 20, 2012 (attached
27 order at p. 2, l. 15). It would be equally inappropriate for Arizona Water Company to
28 simply download and docket that brief in this proceeding on the grounds that it is
"evidence" or responsive to Commissioner's Burns' questions.

BRYAN CAVE LLP
TWO NORTH CENTRAL AVENUE, SUITE 2200
PHOENIX, ARIZONA 85004-4406
(602) 364-7000

1 COPIES of the foregoing hand-delivered
2 this 15th day of June, 2012, to:

3 Honorable Sarah Harpring
4 Administrative Law Judge
5 Hearing Division
6 Arizona Corporation Commission
7 1200 W. Washington Street
8 Phoenix, AZ 85007

9 Steven M. Olea
10 Director, Utilities Division
11 Arizona Corporation Commission
12 1200 W. Washington Street
13 Phoenix, AZ 85007

14 Lyn A. Farmer
15 Chief Administrative Law Judge
16 Hearing Division
17 Arizona Corporation Commission
18 1200 W. Washington Street
19 Phoenix, AZ 85007

20 Janice Alward, Chief Counsel
21 Wes Van Cleve
22 Bridget Humphrey
23 Legal Division
24 Arizona Corporation Commission
25 1200 W. Washington Street
26 Phoenix, AZ 85007

27 Daniel W. Pozefsky, Chief Counsel
28 Residential Utility Consumer Office
1110 W. Washington Street, Suite 220
Phoenix, AZ 85007

23 COPY mailed this 15th day of June, 2012, to:

24 Kathie Wyatt
25 1940 N. Monterey Dr.
26 Apache Junction, AZ 85120

27 
28

Exhibit 1

Regulatory Commission of Alaska
701 West Eighth Avenue, Suite 300
Anchorage, Alaska 99501
(907) 276-6222; TTY (907) 276-4533

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STATE OF ALASKA

THE REGULATORY COMMISSION OF ALASKA

Before Commissioners: T.W. Patch, Chairman
Kate Giard
Paul F. Lisankie
Robert M. Pickett
Janis W. Wilson

In the Matter of the Consideration of a Plant Replacement Surcharge Mechanism for Water and Wastewater Utilities } R-11-006
ORDER NO. 2

ORDER SEEKING COMMENTS

BY THE COMMISSION:

Summary

We seek comments on a filing of suggested regulations.

Background

We opened this docket to consider potential regulations establishing a Plant Replacement and Improvement Surcharge Mechanism (PRISM) for economically regulated water and wastewater utilities.¹ We requested participation by interested persons, including both utilities and representatives of customer interests, in technical conferences and potentially in a working group.² We held two technical conferences, the first on December 15, 2011, and the second on January 18, 2012, and formed a working group.

¹Order R-11-006(1), *Order Opening Docket and Scheduling Technical Conferences*, dated November 29, 2011.

²*Id.* at 1-2.

Regulatory Commission of Alaska
701 West Eighth Avenue, Suite 300
Anchorage, Alaska 99501
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ORDER

THE COMMISSION FURTHER ORDERS:

1. By May 31, 2012, any interested person may file comments in response to this order.

2. By June 20, 2012, any interested person may file comments in reply to comments filed in response to Ordering Paragraph No. 1 of this order.

DATED AND EFFECTIVE at Anchorage, Alaska, this 1st day of May, 2012.

BY DIRECTION OF THE COMMISSION

