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ARIZONA CORPORATION COMMISSION

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JUN 27 2012

DATE: JUNE 27, 2012
DOCKET NO.: W-01774A-12-0089

TO ALL PARTIES:

DOCKETED BY *JM*

Enclosed please find the recommendation of Administrative Law Judge Sarah N. Harpring. The recommendation has been filed in the form of an Opinion and Order on:

PICACHO WATER IMPROVEMENT CORPORATION
(EMERGENCY RATES)

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Administrative Law Judge by filing an original and thirteen (13) copies of the exceptions with the Commission's Docket Control at the address listed below by 4:00 p.m. on or before:

JULY 6, 2012

The enclosed is NOT an order of the Commission, but a recommendation of the Administrative Law Judge to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Open Meeting to be held on:

JULY 18, 2012 AND JULY 19, 2012

For more information, you may contact Docket Control at (602) 542-3477 or the Hearing Division at (602) 542-4250. For information about the Open Meeting, contact the Executive Director's Office at (602) 542-3931.

Ernest G. Johnson
ERNEST G. JOHNSON
EXECUTIVE DIRECTOR

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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

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

IN THE MATTER OF THE APPLICATION OF
PICACHO WATER IMPROVEMENT
CORPORATION FOR APPROVAL OF AN
EMERGENCY RATE INCREASE.

DOCKET NO. W-01774A-12-0089

DECISION NO. _____

OPINION AND ORDER

DATE OF HEARING: March 22 and April 30, 2012 (Procedural Conferences);
May 7, 2012

PLACE OF HEARING: Phoenix, Arizona

ADMINISTRATIVE LAW JUDGE: Sarah N. Harpring

APPEARANCES: Mr. Hank Holmes, President, on behalf of Picacho
Water Improvement Corporation; and

Mr. Scott Hesla, Staff Attorney, Legal Division, on
behalf of the Utilities Division of the Arizona
Corporation Commission.

BY THE COMMISSION:

This case concerns an application for an interim emergency rate increase filed with the Arizona Corporation Commission ("Commission") on March 8, 2012, by Picacho Water Improvement Corporation ("PWIC"), a water utility providing service to approximately 70 mostly residential customers in an unincorporated area of Pinal County known as Picacho. PWIC's current rates became effective on July 1, 1987. The Commission's Utilities Division ("Staff") has determined that PWIC is insolvent and has recommended that PWIC be granted an interim emergency rate increase to generate additional revenue in an amount less than that requested by PWIC.

* * * * *

Having considered the entire record herein and being fully advised in the premises, the

1 Commission finds, concludes, and orders that:

2 **FINDINGS OF FACT**

3 **PWIC Background**

4 1. PWIC is an Arizona C corporation, formed in April 1961, and has held a Certificate of
5 Convenience and Necessity ("CC&N") since August 1961.¹

6 2. PWIC currently provides water service to 70 customers in a four-square-mile service
7 area including the unincorporated community of Picacho, which is located southeast of Eloy in Pinal
8 County, in the area where State Route 87 intersects with Interstate 10 ("I-10"). (Ex. S-1 at 2, Att. A
9 at 1.) Currently, PWIC's customers include 68 residential customers served by 5/8" x 3/4" meters
10 and 2 customers served by 2" meters. (Ex. S-1 at 3.) The 2" meter customers are a horse
11 facility/roping arena and a trailer park that is open from October through April. (Tr. at 112.) Most of
12 the residential customers are full-time residents. (Tr. at 113.)

13 3. When PWIC was formed, it served approximately 130 connections, and that number
14 remained relatively static as growth originally expected in Picacho never occurred. (Tr. at 107.) The
15 number of connections has declined sharply in the past few years as a result of the Arizona
16 Department of Transportation's ("ADOT's") I-10 Realignment Project, which is discussed further
17 below. (See Ex. A-3 at 1; Ex. S-1 at 3.) Picacho has lost a number of its few community amenities
18 since the commencement of the I-10 Realignment Project.² (Tr. at 108.)

19 4. PWIC's water system includes one operating well, with a pump yield of 325 gallons
20 per minute ("GPM"); one 200,000-gallon storage tank; a booster system consisting of two 225-
21 horsepower booster pumps and one 7,500-gallon hydro-pneumatic pressure tank; and a distribution
22 system including a combination of 4", 6", and 8" asbestos-cement pipe ("ACP"). (Ex. S-1 at Att. A
23 at 2.) PWIC has an interconnection agreement with the Picacho Elementary School Public Water
24 system, but reports that it has never purchased water pursuant to the interconnection agreement. (See
25 *id.*) A Staff Engineer inspected PWIC's water system on March 30, 2012, and determined that

26 ¹ Decision No. 55612 (June 17, 1987). Official notice is taken of this Commission Decision.

27 ² Picacho has lost its post office, its only bar, and some other small businesses with the I-10 Realignment Project and
28 also lost an underpass that allowed people directly to cross the highway intersecting the north and south sides of Picacho.
(Tr. at 108-09.) To cross the highway now, people must drive 7.5 miles. (Tr. at 109.) Picacho has never had either sewer
service or its own fire department. (Tr. at 108.)

1 although PWIC's storage tank and pressure tank were in poor condition due to age, and the storage
2 tank shows signs of multiple repairs at its base, PWIC's plant in service was all in good working
3 order without any observed leaks either at the well site or in the distribution area. (*Id.*) PWIC has a
4 second well and another pressure tank that are out of service. (*Id.*) Staff determined that PWIC has
5 adequate production and storage capacity to serve its existing customers and reasonable growth. (Ex.
6 S-1 at 3.)

7 5. PWIC's current rates became effective on July 1, 1987, in Decision No. 55612 (June
8 17, 1987). In that Decision, the Commission approved rates for PWIC that include a \$14 monthly
9 minimum for all meter sizes up to and including 1 ½" meters, a monthly minimum of \$21 for 2"
10 meters, and monthly minimums "based on demand placed on system" for larger meters. (Decision
11 No. 55612 at 6.) The monthly minimums include 2,000 gallons of usage at no additional charge.
12 (*Id.*) Monthly usage over 2,000 gallons is chargeable at a flat rate of \$1.50 per 1,000 gallons. (*Id.*)
13 The Commission further ordered that "[i]n future rate cases, rates should be increased incrementally
14 for the ¾" through 2" meters to reflect the demand placed on the system." (*Id.* at 7.) The
15 Commission did not order PWIC to come in for another rate case within a specified period. (*Id.*)

16 6. PWIC reports water pumped and sold for calendar year 2011 that would reflect water
17 loss in excess of 19 percent. (Ex. S-5.) This level of water loss would be greatly in excess of Staff's
18 recommended water loss standard of 10 percent or less. (Ex. S-1 at Att. A at 2.) PWIC's actual
19 water loss is unknown, however, as PWIC acknowledges that the figures for water pumped in its
20 2011 annual report are not correct. (Tr. at 113-14.) PWIC's water loss reported in its annual reports
21 for 2007, 2008, 2009, and 2010 were 9.6 percent, 9.65 percent, 4.3 percent, and 43.7 percent. (Tr. at
22 132-33.) Staff's engineer testified that the figures reported, which occasionally include negative
23 numbers for monthly water sold, are "suspect" and could indicate either that the meters are being read
24 at different times without coordination or that the pump meter is failing. (Tr. at 133, 141.)

25 7. PWIC is operated by Henry Holmes, its President since 2007, who is not paid a salary;
26 Ed Kile, its Operator, who is paid a flat monthly rate of \$700 for approximately 16 hours of work per
27
28

1 month;³ and Arlene Kile, its Secretary/Treasurer, who is in charge of business operations and is paid
2 a flat monthly rate of \$500 per month. (Tr. at 103, 116, 118, 124.) PWIC does not have any other
3 employees. (Tr. at 124.) PWIC uses the services of another part-time person who helps with billing
4 and collections, at a cost of \$500 per month, and uses contractors for major repairs. (Ex. A-2 at 1st
5 Att. B; Tr. at 118, 124.) PWIC does not have a company office and uses a post office box as its
6 mailing address. (Tr. at 124-25.) PWIC's ownership is divided among approximately 35
7 stockholders, most of whom are no longer in contact with PWIC. (Tr. at 104-05.) Approximately 65
8 percent of the shares are owned by Mr. Holmes's mother, Mary Ellen Holmes, who has essentially
9 delegated her authority to Mr. Holmes. (*Id.*)

10 8. PWIC has not had a rate application since 1987 primarily because PWIC's
11 management believed that a rate case would cost \$20,000 and necessitate the hiring of an attorney.
12 (Tr. at 105.) In approximately 2005, PWIC commenced a capital improvement plan ("CIP") process,
13 the information from which it desired to use in a single case to request both a rate increase and Water
14 Infrastructure Finance Authority of Arizona ("WIFA") financing, but the CIP process was
15 complicated and delayed due to uncertainties related to ADOT's I-10 Realignment Project. (*See* Tr.
16 at 105-07.) PWIC also delayed applying for a rate increase because it expected to receive
17 "significant mitigation from ADOT." (Tr. at 107.)

18 9. Mr. Holmes testified that a huge development is planned for the area of Picacho,
19 although it has been delayed and may not occur for another 8 years now. (Tr. at 107-08.) The
20 development, called Daybreak at Picacho, is to include a large high-end housing development and
21 200,000 square feet of shopping. (*Id.*) Because of that development, Mr. Holmes considers
22 Picacho's CC&N to be very valuable. (Tr. at 108-09.) Mr. Holmes has explored the possibility of
23 forming a domestic water improvement district ("DWID"), combining with another water company,
24 or selling PWIC, but the community did not support forming a DWID, and thus far no entity has been
25 interested in combining with or purchasing PWIC. (Tr. at 110-11.)

26 10. The Commission's compliance database shows no delinquencies for PWIC, and
27

28 ³ Mr. Kile's primary occupation is as a cattle rancher. (Tr. at 116.)

1 Staff's Consumer Services Section reports that PWIC is in good standing with the Corporations
2 Division. (Ex. S-1 at 3.)

3 11. For the period from January 1, 2009, through April 10, 2012, Staff received no
4 complaints or inquiries regarding PWIC and no comments opposing PWIC's emergency rate
5 application. (Ex. S-1 at 3.) Between April 16 and May 1, 2012, three comments were filed in
6 opposition to PWIC's emergency rate increase application, two asserting that the requested increase
7 would result in financial hardship and one asserting that PWIC has not lost as many customers as
8 claimed and that PWIC needs new management.

9 **Procedural History**

10 12. On March 8, 2012, PWIC filed with the Commission an application requesting that the
11 Commission grant an interim emergency rate increase to generate an additional \$83,308 in annual
12 revenue, although PWIC did not propose how the increased revenue should be collected and instead
13 requested that the Commission determine how the new rates should be structured. (Ex. A-1.) PWIC
14 asserted that sudden change had brought hardship to the company, that PWIC was insolvent, and that
15 PWIC's ability to maintain service pending a formal rate determination was in serious doubt because
16 its operating revenue would be exhausted within a month. (*Id.*)

17 13. On March 19, 2012, a Procedural Order was issued scheduling a procedural
18 conference to be held on March 22, 2012, at the Commission's offices in Phoenix, Arizona.

19 14. On March 22, 2012, a procedural conference was held as scheduled, with PWIC
20 appearing through its President, via teleconference, and Staff appearing through counsel. It was
21 determined that a board resolution would be filed concerning PWIC's representation before the
22 Commission, as PWIC would not be represented by counsel, and the process and timing of the
23 hearing and the requirements for customer and public notice were discussed.

24 15. On March 23, 2012, a Procedural Order was issued scheduling the hearing in this
25 matter for May 7, 2012, and establishing other procedural requirements and deadlines.

26 16. On April 27, 2012, Staff filed the Staff Report for this matter, recommending approval
27 of an emergency revenue increase. (Ex. S-1.)

28 17. On April 30, 2012, a procedural conference was held at the Commission's offices in

1 Phoenix, Arizona, with PWIC appearing through Mr. Holmes, via teleconference, and Staff appearing
 2 through counsel. During the procedural conference, Mr. Holmes asserted that a board resolution had
 3 been completed authorizing Mr. Holmes to represent PWIC before the Commission and that PWIC
 4 had mailed and posted notice as required by Procedural Order, although PWIC had not filed a copy of
 5 the board resolution or certification of notice. Mr. Holmes asserted that the documents would be sent
 6 to the Commission's Docket Control by overnight mail.

7 18. On May 1, 2012, Staff filed a Notice providing Errata to the Staff Report and stating
 8 that Staff would not be filing a reply to any PWIC response to the Staff Report.

9 19. On May 7, 2012, PWIC filed a bundle of documents including PWIC's response to the
 10 Staff Report; PWIC's certification of notice; and PWIC's responses to Staff's first and second data
 11 requests, including attachments. (Ex. A-2.)

12 20. On May 7, 2012, a full evidentiary hearing was held before a duly authorized
 13 Administrative Law Judge of the Commission, at the Commission's offices in Phoenix, Arizona.
 14 PWIC appeared through Mr. Holmes, who provided a copy of a March 26, 2012, board resolution
 15 authorizing him to represent PWIC before the Commission in all matters related to PWIC's
 16 emergency rate increase application,⁴ and Staff was represented by counsel. No members of the
 17 public provided public comment. At the hearing, PWIC presented the testimony of Peter Mayne,
 18 ADOT Right-of-Way Coordinator; William Collings, Vice President of D.N.A., Inc., Civil
 19 Engineering and Land Surveying; and Mr. Holmes. Staff presented the testimony of Del W. Smith,
 20 Supervising Engineer for Staff, and Jeffrey M. Michlik, Public Utilities Analyst V for Staff.

21 **I-10 Realignment Project**

22 21. ADOT has commenced a project to widen and realign the I-10 through PWIC's
 23 service area, which has impacted a number of business and residential properties in Picacho and will
 24 ultimately result in the acquisition and demolition of 75 properties, approximately 40 of them
 25 residential. (Ex. S-1 at 1, 3; Tr. at 18, 38, 39.) Since the initiation of the I-10 Realignment Project
 26 ("Project"), PWIC's customer count has declined from a pre-Project customer count of 123
 27

28 ⁴ Official notice is taken of this board resolution, a copy of which was docketed on June 4, 2012.

1 residential customers served by 5/8" x 3/4" meters and 6 customers served by 2" meters to the current
2 count of 68 residential customers served by 5/8" x 3/4" meters and 2 customers served by 2" meters.
3 (See Ex. A-3 at 1; Ex. S-1 at 3.)

4 22. ADOT is aware that the Project is eliminating a significant number of PWIC's
5 customers and acknowledges that this loss of customers has impacted PWIC, but also asserts that
6 because the Project is not touching either of PWIC's water campuses, the Project is really only
7 impacting the customers and some of the pipes running underneath the ground. (See Tr. at 18-19.)
8 As part of the Project, ADOT will tear up PWIC's current two-waterline looped system located under
9 the I-10 and will replace it with a new two-waterline looped system to ensure continued flow of water
10 to PWIC's remaining customers. (Tr. at 19-20, 33.) ADOT will also pay to remove the asbestos pipe
11 located within the new and existing rights-of-way. (Tr. at 21, 33.) ADOT's cost to replace the
12 looped system and remove the asbestos pipe is estimated at approximately \$500,000. (Ex. A-2 at Att.
13 E.) ADOT states that no other PWIC facilities need to be moved. (Tr. at 40.) ADOT also asserts
14 that it cannot legally provide PWIC any compensation for PWIC's loss of customers and of revenue.⁵
15 (Tr. at 20, 33.) ADOT's position is that PWIC's only means to seek additional monetary recovery
16 from ADOT is legal action. (Tr. at 33-34.)

17 23. ADOT began public hearings on the Project in 2008 or 2009. (Tr. at 34.) Actual
18 construction for the highway realignment project has not begun yet, but demolition activities have
19 been underway, and buildings have been demolished as properties have been acquired and their
20 occupants relocated. (Tr. at 34, 38.) ADOT expects to advertise the Project for bids in August or
21 September 2012, for the construction to commence approximately three to four months later, and for
22 the Project to be completed after about two years of work. (Tr. at 34-35.)

23 24. ADOT has relocated most of the directly affected PWIC customers already, to areas
24 outside of PWIC's service area, although ADOT is still in negotiations with some of the affected
25 customers. (Tr. at 34-35.) Mr. Mayne estimated that another 15 to 20 current PWIC customers
26 would be permanently leaving their homes in the service area to make way for the Project. (See Tr.

27 _____
28 ⁵ The Project is funded completely by the Federal Highway Administration, and ADOT is required to comply with federal regulations regarding the use of those funds. (Ex. A-2 at Att. E.)

1 at 35-36.) PWIC expects to lose even more customers because the post office has now closed,
2 making Picacho less attractive to potential residents. (Tr. at 87.)

3 25. PWIC and ADOT strongly disagree about the Project, its impact on PWIC, and who
4 should bear the burden of the reduction in PWIC's revenues. (See Ex. A-2 at Att. E.) PWIC and
5 ADOT have also "been going back and forth" specifically regarding PWIC's claims that ADOT is
6 liable for damages to PWIC's water system caused by Project activity. (Tr. at 36.) PWIC has
7 requested monetary recovery for damages and for engineering expenses, which ADOT has not agreed
8 to pay. (Tr. at 36-37.) PWIC has also requested that ADOT provide PWIC the funding to replace the
9 looped system itself, or that ADOT fund additional system improvements that would obviate the need
10 to replace the underground lines, but ADOT has not agreed to those requests. (Tr. at 36-37.) ADOT
11 acknowledges that there has been some breakage to PWIC's system caused by Project demolition
12 activities and characterized the ACP in the area as very old and fragile. (Tr. at 41.) ADOT has
13 retained a contractor to repair the breaks, at ADOT's direction and cost, as they occur for the duration
14 of the demolition period.⁶ (Tr. at 42.) ADOT notifies PWIC's operator when a breakage occurs, but
15 does not currently have any independent means to notify PWIC's customers when a breakage results
16 in an outage. (Tr. at 47-48.)

17 26. PWIC asserted that it has had to fix two major leaks caused by ADOT during phase
18 one of Project demolition, at an expense in excess of \$16,000, and further that the demands placed on
19 PWIC and its operator from the calls to come out for blue staking of 78 properties have been huge.
20 (Tr. at 76.) Mr. Holmes characterized Mr. Mayne's testimony that ADOT will repair any damages to
21 PWIC's facilities caused by ADOT's construction as "absolutely false." (Tr. at 89.) Mr. Holmes
22 asserted that PWIC requested reimbursement for approximately \$17,000 in repairs approximately
23 four to six weeks before the hearing, and that ADOT denied all but \$3,200 and stated that no further
24 repair costs will be paid. (Tr. at 89-90.) Mr. Holmes stated that the denial came through an
25 individual who works under Mr. Mayne. (Tr. at 90.) Mr. Holmes also testified that the system in
26 place for ADOT to repair damages is "very inadequate" and requires PWIC's operator to respond by

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28 ⁶ ADOT stated in a January 25, 2012, letter to Mr. Holmes that "if [a] leak is caused as a direct result of work
conducted by ADOT, [ADOT] will respond as [it] is contacted." (Ex. A-2 at Att. E.)

1 locating pipes, fixing pipes, shutting off the system, and talking to ADOT contractors who are not
 2 well briefed in advance. (Tr. at 116.) Mr. Holmes has asked Mr. Kile to keep a record of all of the
 3 extra time that he is putting in due to the Project. (*Id.*) For a couple of months, Mr. Kile billed PWIC
 4 for the extra time spent, at a rate of \$75 per hour, and PWIC paid him approximately an extra \$3,000
 5 during that time. (Tr. at 117-18.) Mr. Mayne testified that ADOT has a claims system through which
 6 a company in PWIC's position could file a claim with ADOT to recover for damage to PWIC's
 7 property, but he did not believe that PWIC had filed such a claim. (Tr. at 43.)

8 27. ADOT has not yet completed its design for the water system construction. (Tr. at 37.)
 9 PWIC is very concerned that ADOT lacks the expertise to work with PWIC's small water system.⁷
 10 (See Tr. at 44-49, 76.) PWIC asserted that ADOT has no engineer with small water expertise with
 11 whom PWIC is comfortable to interface and thus that PWIC must have its own engineer to protect its
 12 interests and those of its users. (Tr. at 76.) PWIC also asserted that ADOT has not meaningfully
 13 coordinated and communicated with it and that ADOT instead has been adversarial. (Tr. at 76-77.)

14 28. Staff learned of the potential impacts of the Project on PWIC in late 2011. (Ex. S-1 at
 15 4.) When Staff first discussed the impacts of the Project with PWIC, PWIC was still solvent. (Tr. at
 16 87-88.) Staff has coordinated phone calls and meetings amongst Staff, PWIC, and ADOT, and Staff
 17 has repeatedly suggested that PWIC file a rate application and a financing application. (Ex. S-1 at 4;
 18 Tr. at 88.) PWIC did not file such an application because it was still hoping to recover funds from
 19 ADOT and felt that it would not be able to provide appropriate data to support a rate application in
 20 light of the uncertainty of the situation. (See Tr. at 88-89.) PWIC still desires to obtain compensation
 21 from ADOT for its lost revenue, lost easements, lost mainlines, and lost CC&N service area acreage,
 22 but states that it cannot afford the kind of legal representation it would need to go against ADOT.
 23 (Tr. at 77-79.)

24 . . .

25 ⁷ ADOT's design consultant is using the engineering services of Parsons Brinckerhoff for the Project. (Tr. at 44.) Mr.
 26 Mayne asserted that Parsons Brinckerhoff has an engineer with water company expertise and experience on its staff and
 27 that ADOT has dealt with water companies smaller than PWIC before. (Tr. at 44, 46, 49.) Mr. Mayne also asserted that
 28 PWIC has been uncooperative with ADOT in that it has not been willing to provide ADOT requested factual information
 or to meet with ADOT regarding the pipe system to be provided by ADOT. (Tr. at 32, 41.) Mr. Mayne testified that
 ADOT contacted Staff in 2010 to seek information regarding ADOT's options if it could not obtain PWIC's cooperation
 with the Project. (Tr. at 27-28, 40-42.)

1 **Emergency Ratemaking Standard**

2 29. As described in Arizona Attorney General Opinion No. 71-17 (May 25, 1971), it is
3 appropriate for the Commission to grant interim rates as an emergency measure when (1) sudden
4 change brings hardship to a company, (2) the company is insolvent, (3) the condition of the company
5 is such that its ability to maintain service pending a formal rate determination is in serious doubt, or
6 (4) the Commission will be unable to grant permanent rate relief within a reasonable time. In *Scates*
7 *v. Arizona Corporation Commission*, the Arizona Court of Appeals recognized this standard and,
8 additionally, that (1) a bond must be posted to protect the company's customers and allow for refund
9 in the event that the interim rates are excessive, and (2) the granting of interim rates must be followed
10 by a full rate case in which just and reasonable rates are established after the fair value of the
11 company's property is determined.⁸ The *Scates* test was cited with approval in *Residential Utility*
12 *Consumer Office v. Arizona Corporation Commission*, 20 P.3d 1169, 1173 (Ariz. App. 2001) ("*Rio*
13 *Verde*").

14 30. PWIC asserted in its application that there has been a sudden change bringing hardship
15 because PWIC suddenly lost 53 customers due to ADOT's acquisitions and unexpectedly has been
16 denied compensation by ADOT for this loss. (Ex. A-1 at 1.) Mr. Holmes testified that he had
17 believed ADOT would provide PWIC compensation, and at the time of hearing, Mr. Holmes still
18 appeared to believe that ADOT may provide PWIC monetary compensation, in spite of ADOT's
19 emphatic statements to the contrary. (See Tr. at 74, 79, 88-89, 119-20; Ex. A-2 at Att. E; Tr. at 19-
20 22.) PWIC has known about the Project since at least April 2009. (Ex. S-1 at 4.) Staff determined
21 that there has been no sudden change bringing hardship to PWIC. (*Id.*) We agree with Staff's
22 determination that the sudden change condition has not been met by PWIC. PWIC was on notice of
23 the Project long ago and should have realized that the Project would result in a significant loss of
24 customers and revenue. PWIC should have responded at least by filing a rate application to ensure
25 that its rates would be set at a more appropriate level.

26 31. PWIC also asserted in its application that PWIC is insolvent due to the impacts of the
27

28 ⁸ 578 P.2d 612, 616 (Ariz. App. 1978).

1 Project. (Ex. A-1 at 1.) PWIC's annual reports from 2010 and 2011 show operating losses of \$4,385
 2 and \$2,811, respectively.⁹ The reports also show that PWIC had a negative cash flow from
 3 operations for both years¹⁰ and that its equity position has worsened, going from negative \$19,464 to
 4 negative \$24,590. Staff determined that PWIC has been operating at a loss over an extended period
 5 and is using its long-term debt to cover its continuing cash deficiencies, which is depleting its cash
 6 balance and making it less likely that PWIC will be able to obtain additional debt if needed. (Ex. S-1
 7 at 4-5.) Staff determined that the ongoing loss of customers will exacerbate PWIC's cash flow
 8 problems, that PWIC lacks the capacity to cover any additional costs resulting from the Project, and
 9 that PWIC is insolvent. (Ex. S-1 at 5.) We agree that PWIC is insolvent and thus meets condition
 10 number two.¹¹ Thus, an emergency exists that makes it appropriate to grant an interim rate
 11 adjustment to ensure that PWIC can maintain service until a determination can be made in a
 12 permanent rate case.

13 Revenue Requirement and Surcharge Proposals

14 32. PWIC's annual reports for calendar years 2009 through 2011 show the following
 15 operating revenues, operating expenses, and operating incomes/losses for the years 2008 through
 16 2011:

	2008	2009	2010	2011
17 Operating Revenue	\$ 71,676	\$ 62,470	\$ 52,513	\$ 54,354
18 Operating Expenses	71,530	56,996	56,898	57,165
19 Operating Income/Loss	146	5,474	(4,385)	(2,811)

20 33. PWIC has requested an interim rate increase of \$88,308, calculated from the figures
 21 shown in the following table.¹² Staff's position as to each component of PWIC's request is also
 22 shown in the following table and discussed below.¹³

24 ⁹ Official notice is taken of the annual reports filed by PWIC for calendar years 2009 and 2010, which were not
 25 provided as evidence in or subsequent to the hearing in this matter, but which are available on the Commission's website
 through the page for its Utilities Division, as asserted by PWIC during the hearing in this matter. The annual report for
 2011 was filed by Staff, as required during the hearing, as Exhibit S-5 (Late Filed).

26 ¹⁰ This is calculated by subtracting the interest expense from the operating income and adding depreciation expense.
 (See Ex. S-1 at 4.)

27 ¹¹ Because condition number two has been met, we need not and do not analyze whether conditions number three and
 four have been met.

28 ¹² PWIC's figures were included in its application, Exhibit A-1.

¹³ Staff's figures were included in Exhibit S-2.

Category	PWIC	Staff
Pro forma lost revenue	\$ 24,000	\$ 24,000
Emergency fund	15,000	4,000 ¹⁴
Temporary patch for tank	20,000	N/A
Engineering services	10,000	N/A
Increased operations responding to I-10 construction	15,000	15,000 ¹⁵
Debt service on \$25,000 loan	4,308	N/A
Total	\$ 88,308	\$ 43,000

34. Staff accepted PWIC's pro forma lost revenue figure of \$24,000, which PWIC asserted was calculated based on a 42-percent reduction from an average annual revenue of \$65,000.¹⁶ (Ex. A-3 at 2.) Staff determined that this figure was reasonable based on the data provided by PWIC. (Tr. at 167.)

35. PWIC asserted that it needs to have an emergency fund in place because each major repair costs PWIC approximately \$10,000, PWIC has averaged a major repair every two years, the last two major repairs necessitated urgent loans from stockholders, and PWIC has no funds in reserve to use for future major repairs. (Ex. A-3 at 2.) Staff did not accept the \$15,000 emergency fund, but did include a \$4,000 allowance for contingencies, in recognition of the uncertainties related to the estimated incremental costs to PWIC from the Project and the possibility that other expenses may deviate from those incurred in 2010. (Ex. S-2 at rev. 8.)

36. PWIC asserted that it needs to spend \$20,000 to have a two-foot-high skirt welded to the bottom of its storage tank, to prevent tank failure that it believes to be imminent. (Ex. A-3 at 2.) In support, PWIC provided a February 2012 contractor's quote of \$25,000 to complete such a skirt project, (Ex. A-2 at 2nd Att. A), as well as an excerpt from the CIP completed by Engineering and Environmental Consultants, Inc. in May 2009 stating that the "tank should be fixed immediately," (Ex. A-2 at 2nd Att. B). Staff did not include the requested \$20,000 repair cost in its revenue requirement calculation because Staff does not support patching the storage tank until the Project construction in the area is completed and a more comprehensive evaluation of the post-Project water system has been performed. (Ex. S-2 at rev. 8.) After examining the tank, Staff determined that the

¹⁴ Staff referred to this as an allowance for contingencies. (Ex. S-2 at rev. 7.)

¹⁵ Staff referred to this as an allowance for incremental I-10 realignment costs. (*Id.*)

¹⁶ This calculates to \$27,300; it is unclear why PWIC included \$24,000 instead. (See Ex. A-3 at 2; Ex. S-1 at 6.)

1 storage tank is not in danger of imminent failure. (Tr. at 134.) Mr. Smith testified that although the
2 tank is in poor condition and nearing the end of its useful service life, there were no observed leaks or
3 bulging to indicate that failure was imminent. (Tr. at 134-36.) Mr. Smith also testified that an
4 ADEQ inspector had performed a site visit shortly before his own inspection and had also found no
5 compliance problems with the tank or with the system as a whole. (Tr. at 145.) Mr. Smith also
6 observed that most of the demolition work in the immediate area of the tank appeared to have been
7 completed at the time of his inspection, although he acknowledged that the creation of a new
8 easement road near the tank using heavy equipment “wouldn’t help the situation.” (*Id.*) Mr. Smith
9 further indicated that it may be wise for PWIC to perform an economic analysis of the merits of
10 replacing the tank, possibly with a tank of a smaller size,¹⁷ versus spending \$20,000 on tank repair.
11 (Tr. at 136-37.) Mr. Smith also pointed out that PWIC could use its interconnection agreement with
12 Picacho Elementary School to obtain water for its customers if there were a tank failure and that Mr.
13 Kile is very knowledgeable and capable of dealing with any ongoing tank-related issues. (Tr. at 145-
14 46.)

15 37. PWIC asserted that it needs \$10,000 in revenue to cover the costs of retaining an
16 engineer to represent PWIC in interactions with ADOT. (Ex. A-3 at 2.) In August 2011, PWIC
17 retained the services of Mr. Collings, a civil engineer experienced in small water system design, to
18 help represent PWIC in its dealings with ADOT. (Tr. at 56-57; Ex. A-3 at 2.) PWIC is very
19 concerned that ADOT lacks sufficient expertise in the areas of small water system design and
20 operations. (*See* Tr. at 45-46, 57.) Mr. Collings was originally retained to review background
21 information, discuss the ADOT situation with PWIC and its attorneys, and attend a meeting between
22 PWIC and ADOT in August 2011, for a flat fee of \$1,250. (Ex. A-2 at Att. C.) PWIC continues to
23 consult with Mr. Collings and believes that Mr. Collings’s services will be needed until the Project is
24 completed. (Ex. A-2 at 1.) Mr. Collings testified that although he and PWIC have not had any
25 design interaction with ADOT since August 2011, he believes that PWIC needs an independent
26 engineer to analyze and critique ADOT’s ultimate design for the water system improvement, the
27

28 ¹⁷ The cost of a new tank was estimated at approximately \$1.50 to \$2.00 per gallon. (Tr. at 139.)

1 materials to be used, the construction methodology to be used, and the compatibility of the system
 2 improvements with the existing system and to ensure that all ADEQ standards are satisfied and
 3 necessary approvals obtained before the improvements come online with PWIC's system. (Tr. at 59-
 4 61.) PWIC paid Mr. Collings \$3,450 for the period of August 2011 through January 2012 and
 5 expects to pay him at approximately the same level over the next two years as the Project progresses.
 6 (Ex. A-3 at 2.) Mr. Collings testified that he will continue to work for PWIC even if payment to him
 7 is delayed due to PWIC's cash flow problems and that he has in the past waited as long as five to
 8 seven years to be paid.¹⁸ (Tr. at 63-64.) Staff determined that the need to pay the engineering costs is
 9 not urgent and thus did not accept them. (Ex. S-2 at rev. 8.) Mr. Michlik testified that it was unclear
 10 how much PWIC would be incurring in engineering costs on an annual basis, both because the
 11 amount provided by PWIC was annualized based on the period of August 2011 through January
 12 2012¹⁹ and because Mr. Collings testified that his hours vary widely week to week.²⁰ (Tr. at 155-61.)
 13 Mr. Michlik also stated that the question of known and measurable engineering expenses would be
 14 more appropriately dealt with in PWIC's full permanent rate case and that Staff is concerned about
 15 PWIC's ability to refund any excessive interim surcharges because permanent loss of additional
 16 customers from the service area is expected. (*Id.*)

17 38. PWIC asserted that it needs \$15,000 in revenue to cover increased operational costs
 18 incurred responding to ADOT's construction-related activities. (Ex. A-3 at 2-3.) To substantiate its
 19 claimed expenses incurred because of ADOT's demolition activities through April 1, 2012, PWIC
 20 provided the following invoices totaling \$15,097.90: an invoice from Mr. Kile showing 40 hours in
 21 December 2011 through February 2012, at a cost of \$75 per hour;²¹ an invoice from "M. Kile" for 16
 22 hours of labor in December 2011 and January 2012 at a total cost of \$320.00; and four invoices from
 23 Vaquero Excavating & Trucking L.L.C. for repair work performed between December 16, 2011, and

24 ¹⁸ This was for work performed for a federally funded domestic water improvement district. (Tr. at 63-64.)

25 ¹⁹ PWIC erroneously referred to a four-month period and, consistent with that error, miscalculated the annualized amount. (*See, e.g.*, Ex. A-3 at 2.)

26 ²⁰ Mr. Collings characterized his involvement as being "on call" with PWIC, stated that his hours spent during a week range from none to five to eight hours, was unable to estimate how many hours he has spent on the project thus far, stated that he has billed only a fraction of the time that he has actually spent, and confirmed that his customary fees are included in attachment C to Exhibit A-2. (Tr. at 68-70.)

27 ²¹ Although the invoice shows 40 hours, it states at the bottom that it is for 64 hours at \$75.00 per hour for a total of
 28 \$4,800.00. (Ex. A-2 at Att. D.)

1 January 18, 2012, with an aggregate total cost of \$11,777.90. (Ex. A-2 at Att. D.) According to
2 Staff, additional breakage in PWIC's asbestos cement lines attributable to the vibrations from
3 ADOT's activities is "highly likely," although the pipes could last another 20 to 30 years if they were
4 left undisturbed. (Tr. at 138-39, 143.) The pipes are buried shallowly enough that real problems
5 have occurred already from the heavy equipment used in the area. (Tr. at 144.) Staff accepted
6 PWIC's requested \$15,000 in increased operational costs caused by the ADOT construction-related
7 activity as reasonable. (Ex. S-2 at rev. 8.)

8 39. PWIC asserted that it needs \$4,308 in revenue to cover debt service on a \$25,000 loan.
9 (Ex. A-1 at 2.) In support, PWIC provided a Promissory Note and Disbursement Request and
10 Authorization, both dated February 4, 2011, showing that Mr. Holmes has borrowed a total of
11 \$24,667.41 from Great Western Bank in the form of a business loan for the purpose of renewing a
12 loan previously obtained by PWIC.²² (Ex. A-2 at Att. F.) The loan payments are set at \$309.00 per
13 month until the final payment of \$21,160.10 due on February 4, 2013. (*Id.*) Mr. Holmes
14 acknowledged that the application had misstated the debt service and that the correct amount is
15 \$3,708 per year. (Ex. A-3 at 3.) PWIC also has \$25,000 in outstanding "noninterest loans" from
16 shareholders, consisting of \$20,000 from Mr. Holmes and \$5,000 from his mother, and Mr. Holmes
17 attributes PWIC's current ability to pay its bills to the shareholder loans. (Tr. at 122-23.) PWIC is
18 not requesting any additional revenue to cover the shareholder loans at this time. (*See* Ex. A-1; Ex.
19 A-3 at 3.) In calculating Staff's recommended cash flow deficiency, Staff did not include PWIC's
20 requested debt service on its long-term bank loan. (Ex. S-2 at rev. 8.) Staff did not accept the debt
21 service expense because PWIC has not obtained Commission approval for any of its outstanding
22 loans, which renders the loans invalid under A.R.S. § 40-301. (Ex. S-2 at rev. 8; Ex. S-1 at 4; Tr. at
23 161-62.) Before this case, Mr. Holmes was not aware that PWIC was required to obtain Commission
24 approval for loans. (Tr. at 122-23.) Staff stated that any request for approval of the loans should be

25 _____
26 ²² In 2005, PWIC obtained a \$25,000 loan from Key Bank to allow PWIC to get matching funds from WIFA for a study
27 to see if the Picacho Peak Water Company could be combined with PWIC. (Tr. at 85.) The study concluded that
28 combining the two utilities would not be feasible. (*Id.*) Mr. Holmes acknowledged that Commission approval for the
loan was not obtained. (Tr. at 85-86.) Mr. Holmes's brother was PWIC President at the time; Mr. Holmes took over as
PWIC's President after his brother's death. (Tr. at 85.) The Key Bank loan was taken over by Great Western Bank. (Tr.
at 121-22.)

1 considered in PWIC's general rate case. (Ex. S-2 at rev. 8.)

2 40. In calculating its recommended annualized cash flow deficit, Staff considered PWIC's
3 cash flow, based on the figures reflected in its 2010 annual report, which Staff adjusted to disallow
4 debt service. (Ex. S-2 at rev. 7.) Staff determined that PWIC had an adjusted cash flow of negative
5 \$2,888 in 2010 and, thus, that PWIC's required revenue increase is \$45,888. (Ex. S-2 at rev. 7.)

6 **Staff Recommendations**

7 41. Staff recommends that the Commission:

8 (a) Approve an emergency revenue increase of \$45,888 annualized;

9 (b) Approve collection of the emergency revenue increase through a monthly
10 surcharge of \$53.12 from each customer served by a 5/8" x 3/4" meter and a monthly surcharge of
11 \$106.24 from each customer served by a 2" meter;

12 (c) Require PWIC to file a general rate case application within 12 months of a
13 Commission Decision in this matter;

14 (d) Require PWIC to file a financing application in conjunction with its required
15 rate case application, if PWIC intends to borrow money to address any infrastructure needs that
16 remain after the realignment of the I-10;

17 (e) Require PWIC to coordinate the reading of its well meters and its individual
18 customer meters on a monthly basis and to report this data in its Utilities Division annual reports
19 going forward;

20 (f) Require PWIC, if any water loss reported in an annual report is greater than 10
21 percent, to prepare a report containing a detailed analysis and plan to reduce water loss to less than 10
22 percent or, if PWIC believes that it is not cost effective to reduce water loss to less than 10 percent, to
23 submit a detailed cost-benefit analysis to support its opinion, with either the report or the cost-benefit
24 analysis to be docketed as a compliance item no later than March 31 of the year following the year
25 with excessive water loss;

26 (g) Prohibit PWIC from allowing its water loss to exceed 15 percent;

27 (h) Require PWIC to seek a technical assistance grant, through the Planning and
28 Design Assistance Grant Program administered by WIFA, to complete a more comprehensive

1 evaluation of PWIC's water system after ADOT's I-10 construction in PWIC's service area is
 2 completed and before PWIC invests in its proposed storage tank repair;

3 (i) Require PWIC to file, as a compliance item in this Docket, within 45 days after
 4 the effective date of the Commission's Decision in this matter, proof that it has applied to WIFA for
 5 such a technical assistance grant;²³ and

6 (j) Require PWIC to file, as a compliance item in this Docket, as soon as possible
 7 but no later than 45 days after the effective date of the Commission's Decision in this matter, for
 8 Staff's review and certification, a curtailment tariff generally conforming to the 2009 sample standard
 9 system curtailment tariff found on the Commission's website.²⁴ (Ex. S-1; Ex. S-2; Ex. S-3 (Late-
 10 Filed).)

11 42. In addition, Staff recommends that PWIC be required to obtain a performance bond or
 12 irrevocable sight draft letter of credit ("ISDLOC") or to provide a cashier's check, in a nominal
 13 amount, consistent with what has been approved in prior Commission decisions granting emergency
 14 interim rates. (Tr. at 153, 163.)

15 43. PWIC has not explored whether it would be able to obtain a performance bond or
 16 ISDLOC if the Commission ordered PWIC to obtain one, but Mr. Holmes expressed doubt about
 17 PWIC's ability to obtain either. (Tr. at 120, 121.)

18 44. PWIC has no objection to the Staff recommendations set forth in Findings of Fact No.
 19 41(c), (d), and (f) through (j). (Tr. at 80-85.) PWIC objected to having its other requested expenses
 20 excluded from Staff's recommended emergency revenue increase. (Ex. A-2 at 1-2.)

21 45. PWIC indicated that it has the data and the capability to get together a permanent rate
 22 application and will do so within the next year. (Tr. at 118-19.) Mr. Holmes also stated, however,
 23 that the Commission is likely to get an application for abandonment if PWIC is unable to obtain some
 24 funds from ADOT.²⁵ (Tr. at 119-20.)

25 ...

26 ²³ The period in which P&D Grant Program applications will be accepted for Cycle 1 of Fiscal Year 2013 is from July 1
 27 through August 31, 2012, with awards for Cycle 1 posted in October 2012. (Ex. S-3 (Late-Filed).)

²⁴ Per Staff, the sample tariff is found at <http://www.azcc.gov/Divisions/Utilities/forms/CurtailmentStandard2009.doc>.

28 ²⁵ Mr. Holmes testified that the "best use of [his] energy is to go at ADOT with everything [he] can." (Tr. at 120.) Mr. Holmes stated that he has gotten a U.S. Representative and the Governor's office involved. (*Id.*)

1 **Determining the Appropriate Surcharge Amounts**

2 46. PWIC did not propose a specific emergency surcharge to apply to its customers,
3 instead requesting that the Commission help in determining how new rates should be structured. (Ex.
4 A-1 at 3.) If PWIC's proposed additional revenue amount were collected equally from each of its
5 remaining 70 customers, on a monthly basis, the monthly emergency surcharge amount per customer
6 would be approximately \$105.13.

7 47. Mr. Holmes reported that an average bill for a 5/8" x 3/4" meter customer is currently
8 \$32.00.²⁶ (Tr. at 112.) Thus, a \$105.13 emergency surcharge would result in a monthly bill of
9 \$137.13, which would be an increase of 328.53 percent over the current average bill. Mr. Holmes
10 was unable to recall the amount of the average 2" meter bill. (Tr. at 112.)

11 48. Staff recommends that the annualized cash flow deficiency be recovered through a
12 \$53.12 monthly surcharge collected from each customer served through a 5/8" x 3/4" meter and a
13 \$106.24 monthly surcharge collected from each customer served through a 2" meter. (Ex. S-2 at rev.
14 8.) Although capacity multipliers are generally used as a guide for setting relative monthly minimum
15 charges by water meter size, Staff does not recommend that the capacity multiplier for 2" meters
16 (which is 8) be used in determining the emergency surcharge for PWIC's 2" meter customers because
17 the current ratio for 2" meters compared to 5/8" x 3/4" meters under PWIC's rate design is only 1.5.
18 (Ex. S-4 (Late-Filed).) If the capacity multiplier of 8 were used in establishing emergency surcharges
19 to generate Staff's recommended annualized cash flow deficiency, 5/8" x 3/4" meter customers
20 would be assessed a surcharge of \$45.52, and 2" meter customers would be assessed a monthly
21 surcharge of \$364.16.²⁷ In recognition of the principal of gradualism and the potential rate impact to
22 2" meter customers, Staff recommends that a capacity multiplier of 2 be used for the 2" meter
23 customers instead. (*Id.*)

24 49. Staff did not have an opportunity to review any usage data for PWIC's customers and
25 does not know the water usage patterns of the customers who have left PWIC's system as compared
26 to those who remain. (Tr. at 166-67.) Staff did not consider recommending that any portion of an
27

28 ²⁶ This would reflect 14,000 gallons of monthly water usage for a residence.

²⁷ As a result of rounding, these would actually generate annual surcharge revenue of \$45,884.16.

1 emergency interim rate increase granted in this case be collected through a commodity rate surcharge.

2 (*Id.*)

3 **Resolution**

4 50. We find that the appropriate amount of additional revenue to be recovered by PWIC
5 through emergency interim rates is the \$45,888 recommended by Staff. We agree with Staff's
6 exclusions of PWIC's requested storage tank repair cost, estimated engineering cost, and debt service
7 recovery cost. The evidence does not establish that installing an expensive "Band-Aid" on PWIC's
8 storage tank is necessary at this time or that it will be the most prudent method of dealing with the
9 apparently deteriorating condition of the storage tank. While we acknowledge that PWIC will need
10 to address the storage tank's condition in the near future, we find that more consideration should be
11 given to the best use of PWIC's limited resources with an eye toward PWIC's future needs. The
12 evidence also does not establish that PWIC needs at this time to spend \$10,000 each year for
13 consultative engineering services because of the Project. The evidence suggests that PWIC's
14 resources may be better spent ensuring that PWIC's legal interests are clarified and protected as the
15 Project progresses, perhaps through obtaining competent legal services to explain PWIC's rights and
16 responsibilities, to negotiate an agreement with ADOT that clarifies and solidifies ADOT's repair
17 obligations and the methodology to be used to obtain those repairs, and/or to assist PWIC in taking
18 any other lawful action or seeking any other remedies that may be available to it under the current
19 circumstances. Additionally, we agree with Staff that PWIC should not at this time be permitted to
20 recover debt service costs for the long-term bank loan for which Commission approval was not
21 obtained and which, in its current incarnation, appears to be a debt owed exclusively by Mr. Holmes
22 and not PWIC. All of these issues can and should be scrutinized in the full permanent rate case for
23 which PWIC will be required to apply under the terms of this Decision.

24 51. We find that Staff's recommended surcharge amounts are reasonable and appropriate
25 and should be adopted. Although Staff's recommended surcharge for 2" meter customers does not
26 fully reflect the increased demand that 2" meter customers place on the system as compared to 5/8" x
27 3/4" meter customers, we agree that gradualism should be considered, and that the actual capacity
28 multiplier of 8 should not be used for the 2" meter customers, as the rate shock would be extreme, as

1 shown in Findings of Fact No. 48. We considered using a capacity multiplier of 4 for the 2" meter
 2 customers, so that they would be paying an amount closer to the fair share of the burden that their
 3 larger meters place on the system, but this would result in only a small decrease (\$2.80) in the
 4 monthly emergency surcharge for each 5/8" x 3/4" meter customer and would bring the monthly
 5 emergency surcharge for each 2" meter customer to \$201.28. We find that although PWIC's 2"
 6 meter customers in particular have benefited from very low monthly minimum rates for
 7 approximately the past 25 years,²⁸ it will take time to bring those customers to the level of rates that
 8 should be required without inflicting significant rate shock. We are troubled by the amount of
 9 additional revenue needed by PWIC, and we admonish PWIC that this situation could have been
 10 avoided if it had come in for general rate cases in a responsible fashion within the past 25 years.
 11 Nonetheless, we also recognize that PWIC's customers will not be best served if the Commission
 12 denies PWIC the additional emergency revenue that it needs to continue operating at this time.

13 52. Staff's recommendations, set forth in Findings of Fact Nos. 41 and 42 are reasonable
 14 and appropriate and will be adopted.

15 53. The following monthly interim emergency surcharges, recommended by Staff, are just
 16 and reasonable and in the public interest:

17	5/8" x 3/4" meter:	\$53.12
18	2" meter:	\$106.24

19 54. Mr. Holmes appears to be sincere in his desire to ensure that PWIC operates lawfully,
 20 and we remind him that it is his duty as the President of PWIC to be knowledgeable about PWIC's
 21 responsibilities as a regulated public service corporation in Arizona and to take appropriate action to
 22 ensure that PWIC is providing safe, adequate, and reliable water utility service to its customers. We
 23 remind Mr. Holmes that PWIC has a legal duty to serve its customers while it continues to hold a
 24 CC&N to provide water utility service in Arizona and that PWIC must seek Commission
 25 authorization before transferring its CC&N or any of its assets necessary or useful in the performance
 26

27 ²⁸ See Decision No. 55612 (June 17, 1987) at 7. The Commission recognized in Decision No. 55612 that PWIC's rates
 28 for 2" meter customers needed to be increased incrementally to reflect the demand the larger meters place on the system.
 (*Id.*) The Commission has not had an opportunity to take action in that regard since that time as a result of PWIC's
 failure to file for a general rate case.

1 of its duties to the public and before issuing stock or other evidence of indebtedness. To ensure
2 future compliance with Commission requirements, Mr. Holmes should ensure that he and PWIC's
3 other employees/personnel review A.R.S. Title 40, Chapter 2, Articles 1 through 6 and Arizona
4 Administrative Code Title 14, Chapter 2, Article 4.

5 **CONCLUSIONS OF LAW**

6 1. PWIC is a public service corporation within the meaning of Article XV of the Arizona
7 Constitution and A.R.S. §§ 40-250 and 40-251.

8 2. The Commission has jurisdiction over PWIC and the subject matter of the application.

9 3. Notice of the application was provided as prescribed by law.

10 4. PWIC is facing an "emergency" within the definition set forth in Arizona Attorney
11 General Opinion No. 71-17, as discussed and approved in the *Scates* and *Rio Verde* cases cited
12 herein.

13 5. The standard for approval of a request for interim rate relief requires the existence of
14 an emergency, the posting of a bond or letter of credit by the applicant, and the subsequent filing of a
15 permanent rate application.

16 6. Approval of PWIC's application for emergency rate relief, as described herein, is
17 consistent with the Commission's authority under the Arizona Constitution, applicable statutes, and
18 applicable case law.

19 7. It is just and reasonable to provide PWIC emergency interim rate relief, through
20 monthly surcharges as set forth herein, to be added to each metered customer's monthly bill, upon
21 PWIC's meeting the conditions precedent required in the ordering paragraphs below.

22 **ORDER**

23 IT IS THEREFORE ORDERED that Picacho Water Improvement Corporation is authorized
24 to assess the following emergency interim surcharges each month, as conditioned in the ordering
25 paragraphs below:

26	5/8" x 3/4" Meter	\$53.12
27	2" Meter	\$106.24

28 IT IS FURTHER ORDERED that the emergency interim surcharges shall become effective

1 on August 1, 2012, or the first day of the month following Picacho Water Improvement Corporation's
2 compliance with the requirement to post a bond, letter of credit, or cashier's check as required below,
3 whichever is later.

4 IT IS FURTHER ORDERED that Picacho Water Improvement Corporation shall mail notice
5 of the approved interim emergency surcharge to its customers, in a form and manner acceptable to
6 Staff, with its next regularly scheduled bill or by separate mailing within 30 days after the effective
7 date of this Decision.

8 IT IS FURTHER ORDERED that the surcharge approved herein shall be interim and subject
9 to refund pending resolution of the general rate case for which Picacho Water Improvement
10 Corporation is required to file an application as provided herein.

11 IT IS FURTHER ORDERED that Picacho Water Improvement Corporation shall, within 12
12 months after the effective date of this Decision, file an application for a full permanent rate case.

13 IT IS FURTHER ORDERED that Picacho Water Improvement Corporation shall, if it intends
14 to borrow money to address any of the infrastructure needs that remain after the I-10 Realignment
15 Project is completed in its service area, file a financing application in conjunction with its required
16 full permanent rate case application.

17 IT IS FURTHER ORDERED that Picacho Water Improvement Corporation shall, before
18 implementing the interim emergency rate increase authorized herein, provide to the Commission's
19 Business Office the original of an irrevocable sight draft letter of credit, performance bond, or
20 cashier's check in the amount of \$20.00 and file with the Commission's Docket Control, as a
21 compliance item in this docket, 13 copies of the letter of credit, performance bond, or cashier's
22 check.

23 IT IS FURTHER ORDERED that Picacho Water Improvement Corporation shall coordinate
24 the reading of its well meter and its individual customer meters on a monthly basis and shall report
25 this monthly data in its Utilities Division annual reports going forward.

26 IT IS FURTHER ORDERED that if Picacho Water Improvement Corporation experiences
27 annual water loss greater than 10 percent, Picacho Water Improvement Corporation shall, no later
28 than March 31 of the year following the calendar year of the excessive water loss, prepare and file

1 with the Commission's Docket Control, as a compliance item in this docket, either (a) a report
2 containing a detailed analysis and plan to reduce water loss to less than 10 percent; or (b) if Picacho
3 Water Improvement Corporation determines that it is not cost effective to reduce water loss to less
4 than 10 percent, a detailed cost-benefit analysis to support its opinion.

5 IT IS FURTHER ORDERED that Picacho Water Improvement Corporation shall not allow its
6 annual water loss to exceed 15 percent.

7 IT IS FURTHER ORDERED that Picacho Water Improvement Corporation shall, as soon as
8 possible, apply to the Water Infrastructure Finance Authority of Arizona for a technical assistance
9 grant through the Planning and Design Assistance Grant Program administered by WIFA, for the
10 purpose of completing a more comprehensive evaluation of the water system after the I-10
11 Realignment Project construction in the service area is completed and before Picacho Water
12 Improvement Corporation invests in its proposed storage tank repair.

13 IT IS FURTHER ORDERED that Picacho Water Improvement Corporation shall, within 45
14 days after the effective date of the Commission's Decision in this matter, file with the Commission's
15 Docket Control, as a compliance item in this docket, proof that it has applied to WIFA for a technical
16 assistance grant through the Planning and Design Assistance Grant Program administered by WIFA.

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28 ...

1 IT IS FURTHER ORDERED that Picacho Water Improvement Corporation shall file with the
2 Commission's Docket Control, as a compliance item in this docket, as soon as possible but no later
3 than 45 days after the effective date of the Commission's Decision in this matter, for Staff's review
4 and certification, a curtailment tariff generally conforming to the 2009 sample standard system
5 curtailment tariff found on the Commission's website.

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

7 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.
8
9

10 CHAIRMAN _____ COMMISSIONER _____

11
12 COMMISSIONER _____ COMMISSIONER _____ COMMISSIONER _____

13
14 IN WITNESS WHEREOF, I, ERNEST G. JOHNSON,
15 Executive Director of the Arizona Corporation Commission,
16 have hereunto set my hand and caused the official seal of the
17 Commission to be affixed at the Capitol, in the City of Phoenix,
18 this _____ day of _____ 2012.

19 _____
20 ERNEST G. JOHNSON
21 EXECUTIVE DIRECTOR

22 DISSENT _____

23 DISSENT _____
24
25
26
27
28

1 SERVICE LIST FOR: PICACHO WATER IMPROVEMENT
CORPORATION

2
3 DOCKET NO.: W-01774A-12-0089

4 Hank Holmes, President
5 PICACHO WATER IMPROVEMENT CORPORATION
6 6240 East Monitor Street
P.O. Box 10
Picacho, AZ 85141

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

10 Steven Olea, Director
11 Utilities Division
ARIZONA CORPORATION COMMISSION
1200 West Washington Street
12 Phoenix, AZ 85007

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