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ARIZONA CORPORATION COMMISSION
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1 FENNEMORE CRAIG
2 Jay L. Shapiro (No. 014650)
3 3003 North Central Avenue, Suite 2600
4 Phoenix, Arizona 85012
5
6 Attorneys for Pima Utility Company

BEFORE THE ARIZONA CORPORATION COMMISSION

8 IN THE MATTER OF THE APPLICATION
9 OF PIMA UTILITY COMPANY, AN
10 ARIZONA CORPORATION, FOR A
11 DETERMINATION OF THE FAIR VALUE
12 OF ITS UTILITY PLANTS AND
PROPERTY AND FOR INCREASES IN
ITS WATER RATES AND CHARGES FOR
UTILITY SERVICE BASED THEREON.

DOCKET NO: W-02199A-11-0329

13 IN THE MATTER OF THE APPLICATION
14 OF PIMA UTILITY COMPANY, AN
15 ARIZONA CORPORATION, FOR A
16 DETERMINATION OF THE FAIR VALUE
17 OF ITS UTILITY PLANTS AND
PROPERTY AND FOR INCREASES IN
18 ITS WASTEWATER RATES AND
19 CHARGES FOR UTILITY SERVICE
20 BASED THEREON.

DOCKET NO: SW-02199A-11-0330

Arizona Corporation Commission

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PIMA UTILITY COMPANY

**EXCEPTIONS AND REQUESTED MODIFICATIONS
TO RECOMMENDED OPINION AND ORDER**

October 24, 2012

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TABLE OF CONTENTS

I. Income Tax Expense 1

II. Rate Case Expense Surcharge..... 2

III. Best Management Practices (“BMP”) Tariffs..... 3

IV. Correction of Water Rate Schedules..... 3

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1 Pima Utility Company (“Pima” or the “Company”) hereby responds to the
2 Recommended Opinion and Order (“ROO”) dated September 28, 2012. Specifically,
3 Pima (1) requests that additional language be added to the order to allow the Company to
4 recover income taxes should the Commission policy on income tax recovery for pass-
5 throughs change; (2) takes exception to the ROO on the issues of the rate case expense
6 surcharge and BMPs; and (3) identifies what appears to be an oversight in the
7 recommended rates.

8 **I. Income Tax Expense**

9 Pima does not agree with the recommendation that income tax not be authorized
10 for recovery as a cost of service. However, Pima does not take exception to this finding.¹
11 Because the Company filed for new rates, it included all amounts it believed it was
12 entitled to recover as part of its cost of service. The Commission does not yet appear
13 ready to change its policy regarding income tax recovery for pass-through entities.
14 Therefore, Pima will continue to participate in the generic proceedings, workshops and
15 policy discussions being conducted by the Commission on the subject of recovery of
16 income tax by pass-through entities. For now, Pima simply asks that the ROO be
17 supplemented to include language that will allow its rates to be modified should the
18 Commission change its policy on income tax recovery.

19 The requested language, which is materially similar to that authorized by this
20 Commission for similarly situated water utilities,² is as follows:

21 ¹ Pima does not understand the ROO’s criticism that the Company failed to explain why the investment
22 income of individual owners of pass-throughs should be treated differently than the utility earnings and
23 dividends of owners of a C corporation. ROO at 29:10-18. First, this issue was not raised until the
24 briefing stage when RUCO raised it for the first time. RUCO’s Reply Brief at 8 – 10. Second, the FERC
25 policy the Company modeled its request on specifically recognizes that utility income and dividends are
26 not the same. This is a direct reflection of the tax code. Dividends are paid from after tax dollars.
Further, S corporation investors are taxed on all the income regardless of whether they receive a dividend.
For these reasons, the Company hopes the Commission will further address the matter in the generic
proceedings.

² See *Johnson Utilities, LLC*, Decision No. 72579 (September 15, 2011).

1 IT IS FURTHER ORDERED that in the event the
2 Commission alters its policy to allow S corporation and LLC
3 entities to impute a hypothetical income tax expense for
4 ratemaking purposes, Pima Utility Co. may file a motion to
5 amend this Order prospectively, and Pima Utility Co.'s
6 authorized revenue requirement hereunder, pursuant to
7 A.R.S. §40-252, to reflect the change in Commission policy.

8
9 **II. Rate Case Expense Surcharge**

10 RUCO suggested a rate case surcharge as one of several mechanisms for recovery
11 of this expense, however, because a surcharge was not its preferred recovery mechanism,
12 RUCO never offered a single detail on how such a surcharge would work. The Company
13 did that when it picked up RUCO's suggestion and sought a rate case surcharge as a
14 means to resolve a dispute over the amortization period.³ Unfortunately, the rate case
15 expense surcharge recommended in the ROO is not the surcharge recommended by the
16 Company. Rather, the ROO recommends a one-sided, customer-centric surcharge that is
17 not fair to Pima.

18 Specifically, the recommended surcharge has a ceiling but no floor. This is
19 because, should Pima get new rates approved before the 60-month surcharge period, Pima
20 forfeits further recovery.⁴ Yet, the very purpose of the surcharge is to ensure that the
21 Company recovers the exact amount authorized, no more and no less.⁵ By terminating the
22 surcharge before the full amount has been recovered, the surcharge favors ratepayers at
23 the expense of the Company; favoritism that encourages longer intervals between rate
24 filings. This incentive to delay rate cases doesn't serve customers' interests – it simply
25 increases the likelihood of the next increase leading to "rate shock." This is unnecessary,
26

24 ³ Rebuttal Testimony of Thomas J. Bourassa ("Bourassa Rb.") at 12:21 – 13:4, 14:3-6, 15:1-24.

25 ⁴ ROO at 17:8-9. (Condition 3 would have the surcharge remain in effect until new rates go into effect in
another rate case.)

26 ⁵ Bourassa Rb. at 15:16-17.

1 inequitable, and counterproductive if the Commission’s intent is to reduce rate shock and
2 regulatory lag.

3 Accordingly, Pima respectfully asks that the ROO be modified to eliminate the
4 third of the three conditions set forth at page 17, ls. 7-9 of the ROO – the condition that
5 terminates the surcharge when new rates go into effect. In the alternative, if the
6 Commission does not want to approve a new, but fair and balanced recovery mechanism,
7 there is no reason to abandon the Commission’s usual practice of treating rate case
8 expense like any other expense and normalizing it.

9 **III. Best Management Practices (“BMP”) Tariffs**

10 Pima is not against water conservation or the regulation of water conservation by
11 the State. Pima objects to the Commission requiring “extra” conservation measures.⁶ The
12 State’s groundwater protection laws are already in place and enforced by ADWR. No
13 need for duplicative regulation has been shown. The Company is already subject to and
14 fully compliant with the water conservation requirements imposed upon it by the State of
15 Arizona. The Commission need not and, respectfully, should not do more without
16 evidence showing it is necessary and simultaneous efforts to address cost recovery and the
17 possibility of lost revenues resulting from the ACC mandates.

18 **IV. Correction of Water Rate Schedules**

19 The proposed rates for water utility service are set forth at pages 44-46 of the ROO.
20 The commodity rate for irrigation water is \$0.51 per 1000 gallons (p. 45, l. 20), however,
21 there is no monthly minimum stated for customers in the irrigation class. Pima believes
22 this is an oversight. All three parties recommended a monthly minimum for irrigation
23 customers.⁷ There are also monthly minimums stated for effluent customers (p. 46, ls. 20


24 ⁶ See Reporter’s Transcript of Proceedings, June 1, 2012, at 420:7-11; see also Reporter’s Transcript of
25 Proceedings, May 30, 2012, at 28:21 – 29:1.

26 ⁷ Pima’s Final Schedule H-3, page 1 (Water Division); Staff’s Final Schedule CSB-19, page 1 of 4 (Water
Division); RUCO’s Final Schedule RBM RD-2 (Water Division).

1 & 22). Accordingly, Pima asks that the ROO be modified to include a monthly minimum
2 for irrigation service.

3 RESPECTFULLY SUBMITTED this 24th day of October, 2012.

4 FENNEMORE CRAIG, P.C.

5
6 By 
7 Jay L. Shapiro
8 3003 North Central Avenue, Suite 2600
9 Phoenix, Arizona 85012
Attorneys for Pima Utility Company

10 ORIGINAL and thirteen (13) copies
11 of the foregoing were filed
this 24th day of October, 2012, with:

12 Docket Control
13 Arizona Corporation Commission
14 1200 W. Washington St.
Phoenix, AZ 85007

15 Copy of the foregoing hand-delivered
this 24th day of October, 2012, to:

16 Chairman Gary Pierce
17 Arizona Corporation Commission
18 1200 W. Washington Street
Phoenix, AZ 85007

19 Commissioner Paul Newman
20 Arizona Corporation Commission
21 1200 W. Washington Street
Phoenix, AZ 85007

22 Commissioner Sandra D. Kennedy
23 Arizona Corporation Commission
24 1200 W. Washington Street
Phoenix, AZ 85007

25
26

- 1 Commissioner Bob Stump
Arizona Corporation Commission
2 1200 W. Washington Street
Phoenix, AZ 85007
- 3
- 4 Commissioner Brenda Burns
Arizona Corporation Commission
5 1200 W. Washington Street
Phoenix, AZ 85007
- 6
- 7 John Le Sueur
Advisor to Chairman Gary Pierce
Arizona Corporation Commission
8 1200 W. Washington Street
Phoenix, AZ 85007
- 9
- 10 Nancy La Placa
Advisor to Commissioner Paul Newman
Arizona Corporation Commission
11 1200 W. Washington Street
Phoenix, AZ 85007
- 12
- 13 Cristina Arzaga-Williams
Advisor to Commissioner Sandra D. Kennedy
14 Arizona Corporation Commission
1200 W. Washington Street
15 Phoenix, AZ 85007
- 16
- 17 Amanda Ho
Advisor to Commissioner Bob Stump
Arizona Corporation Commission
18 1200 W. Washington Street
Phoenix, AZ 85007
- 19
- 20 Thomas Galvin
Advisor to Commissioner Brenda Burns
Arizona Corporation Commission
21 1200 W. Washington Street
Phoenix, AZ 85007
- 22
- 23 Antonio Gill
Aide to Chairman Gary Pierce
Arizona Corporation Commission
24 1200 W. Washington Street
Phoenix, AZ 85007
- 25
- 26

- 1 Jennifer Ybarra
Aide to Commissioner Paul Newman
2 Arizona Corporation Commission
1200 W. Washington Street
3 Phoenix, AZ 85007
- 4 Katherine Nutt
Aide to Commissioner Sandra D. Kennedy
5 Arizona Corporation Commission
1200 W. Washington Street
6 Phoenix, AZ 85007
- 7 Trisha Morgan
Aide to Commissioner Bob Stump
8 Arizona Corporation Commission
1200 W. Washington Street
9 Phoenix, AZ 85007
10
- 11 Kelly Aceto
Aide to Commissioner Brenda Burns
12 Arizona Corporation Commission
1200 W. Washington Street
13 Phoenix, AZ 85007
- 14 Teena Jibilian, ALJ
Hearing Division
15 Arizona Corporation Commission
1200 W. Washington St.
16 Phoenix, AZ 85007
- 17 Robin Mitchell, Esq.
18 Scott Hesla, Esq.
Legal Division
19 Arizona Corporation Commission
1200 W. Washington St.
20 Phoenix, AZ 85007
- 21 Steve Olea, Director
Utilities Division
22 Arizona Corporation Commission
1200 W. Washington Street
23 Phoenix, AZ 85007
24
25
26

1 Daniel W. Pozefsky
2 RUCO
3 1110 W. Washington Street, Suite 220
4 Phoenix, AZ 85007

5 By: Jandra Baker

6
7
8
9
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12
13
14
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16
17
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19
20
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