

ORIGINAL



0000143462

BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

BOB STUMP - Chairman
GARY PIERCE
BRENDA BURNS
BOB BURNS
SUSAN BITTER SMITH

RECEIVED

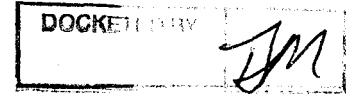
2013 MAR 12 P 3:44

ARIZONA CORPORATION COMMISSION
DOCKET CONTROL

Arizona Corporation Commission

DOCKETED

MAR 12 2013



IN THE MATTER OF THE APPLICATION
OF RIO RICO UTILITIES, INC. FOR A RATE
INCREASE.

DOCKET NO. WS-02676A-12-0196

**STAFF'S RESPONSE
IN SUPPORT OF COMPANY'S MOTION
TO BIFURCATE**

The Utilities Division ("Staff") of the Arizona Corporation Commission ("Commission") hereby responds to the Motion to Bifurcate filed on behalf of Rio Rico Utilities, Inc. ("RRUI" or "Company") and joins in said Motion. A significant issue in this case is the Company's request for a Distribution System Improvement Charge ("DSIC").¹ A DSIC has not previously been approved in Arizona, but is being addressed in Arizona Water Company's pending rate case, Docket No. W-01445A-11-0310 ("Arizona Water"). It is anticipated that the Commission, in that case, will address both the circumstances under which a DSIC can be approved and the terms thereof. Therefore, the outcome of that matter will determine the evidence to be presented and considered in this case. It would be more efficient for the Administrative Law Judge and the parties to await the outcome of the Arizona Water Company case to conduct the hearing on the DSIC in this case, as set forth below.

In Arizona Water, the Company presented extensive evidence and the parties submitted briefs regarding whether a DSIC was warranted. Three active parties, the Company, Commission Staff and the Residential Utility Consumer Office ("RUCO") participated in the hearing, which was held over seven days in May 2012. Briefing was completed on July 11, 2012. A Recommended Opinion and Order ("ROO") was issued January 30, 2013, consisting of 117 pages, with an additional 31 pages of

¹ Several versions of a DSIC-like mechanism have been presented, all of which are variations on a DSIC. For the convenience of the Administrative Law Judge and the parties, such a mechanism will be referred to herein as a "DSIC," and may include any of a variety of DSIC-like mechanisms.

1 exhibits. That ROO concluded that a DSIC was not appropriate in that case. However, when that
2 matter was heard at Open Meeting on February 12, 2013, several Commissioners expressed an
3 interest in approving a DSIC for Arizona Water and directed that a schedule be set for possible
4 settlement of the DSIC issue as well as for a hearing schedule on that issue. The remaining terms of
5 the ROO, including new rates, were adopted.

6 The hearing in Arizona Water is set for April 8, 2013, with the remaining procedural schedule
7 is as follows:

8 Intervention Request Deadline February 20, 2013

9 Intervention Ruling Deadline February 28, 2013

10 Earliest Date for Settlement Discussions March 1, 2013

11 Latest Date for Procedural Conference March 8, 2013

12 Staff Update on Settlement Discussions April 9 and 10, 2013 (Open Mtg.)

13 Consideration of DSIC Order June 11 and 12, 2013 (Open Mtg.)

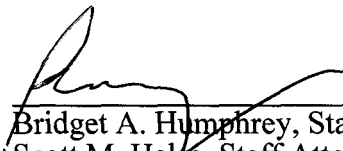
14 At Open Meeting on February 12, 2013, the Commission further indicated that additional
15 interested parties could intervene in that case. To date those granted intervention include RUCO; Rio
16 Rico Utilities, Inc.; EPCOR Water Arizona, Inc.; the Arizona Investment Council; Global Water; the
17 Water Utility Association of Arizona (WUAA); the City of Globe; and Kathie Wyatt. The parties and
18 interveners, without counsel, met on March 4, 2013, and reportedly agreed to all aspects of a DSIC.
19 The initial draft of that settlement was distributed March 12, 2013 and is being reviewed by counsel
20 for the various parties/interveners.

21 As we approach the hearing on the Application of RRUI, set for March 27, 28 and 29, 2013, it
22 is unlikely that a final draft of the settlement and related DSIC will be available. Nor, given the
23 procedural schedule in the Arizona Water Company case, will the Commission's decision have been
24 issued. If the hearing in this case addresses RRUI's request for a DSIC, it is likely that the significant
25 of time and effort spent on that issue will become irrelevant, or the issue will need to be re-litigated
26 and any ROO revised when the Commission votes on the Arizona Water case on June 11, 2013.

1 As to concerns of the interveners in this case regarding the impact of a subsequent DSIC on
2 rates that would be adopted, it should be noted that the Commission, by its February 12, 2013, ruling
3 in Arizona Water, has implicitly determined otherwise. In this case, even if the hearing on the DSIC
4 issue is conducted after the June 2013 Open Meeting, it is likely that a ROO on the issue of rates will
5 not be issued and, arguably, could be addressed at the DSIC hearing. At that subsequent hearing, the
6 Administrative Law Judge will also have knowledge of the issue of rates and can take into
7 consideration any impact that a DSIC would have on ratepayers.

8 For the foregoing reasons, Staff joins in RRUI's Motion to Bifurcate.

9 RESPECTFULLY SUBMITTED this 12th day of March, 2013.

10
11
12
13 
14 Bridget A. Humphrey, Staff Attorney
15 Scott M. Helsa, Staff Attorney
16 Legal Division
17 Arizona Corporation Commission
18 1200 West Washington Street
19 Phoenix, Arizona 85007
20 (602) 542-3402

21 Original and thirteen (13) copies
22 of the foregoing filed this
23 12th day of March, 2013 with:

24 Docket Control
25 Arizona Corporation Commission
26 1200 West Washington Street
27 Phoenix, Arizona 85007

28 Copy of the foregoing mailed and/or emailed
this 12th day of March, 2013 to:

Jay L. Shapiro
FENNEMORE CRAIG, P.C.
2394 East Camelback Road
Suite 600
Phoenix, AZ 85016-3429
Attorneys for RRUI
jshapiro@fclaw.com

1 Greg Sorensen
2 Vice President & General Manager
3 Liberty Utilities
4 12725 W. Indian School Road, Suite D-101
5 Avondale, AZ 85392
6 Greg.Sorensen@LibertyWater.com

7 Daniel Pozefsky
8 Chief Counsel
9 RESIDENTIAL UTILITY CONSUMER OFFICE
10 1110 West Washington, Suite 220
11 Phoenix, AZ 85007
12 dpozefsky@azruco.gov

13 George E. Silva, Santa Cruz County Attorney
14 Charlene Laplante, Deputy County Attorney
15 OFFICE OF THE SANTA CRUZ COUNTY ATTORNEY
16 2150 N. Congress Drive, Suite 201
17 Nogales, AZ 85621
18 claplante@co.santa-cruz.az.us

19 Roger C. Decker
20 UDALL SHUMWAY, PLC
21 1128 N. Alma School Road, Suite 101
22 Mesa, AZ 85201
23 Attorneys for Santa Cruz Valley
24 Unified School District
25 red@udallshumway.com

26
27
28
