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Arizona Corporation Commission
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CHAIRMAN
GARY PIERCE
COMMISSIONER
BRENDA BURNS
COMMISSIONER
ROBERT BURNS
COMMISSIONER
SUSAN BITTER SMITH
COMMISSIONER

IN THE MATTER OF THE APPLICATION OF FAR WEST WATER & SEWER, INC., AN ARIZONA CORPORATION, FOR A DETERMINATION OF THE CURRENT FAIR VALUE OF ITS UTILITY PLANT AND PROPERTY AND FOR INCREASES IN ITS WASTEWATER RATES AND CHARGES BASED THEREON FOR UTILITY SERVICE.

Docket No. WS-03478A-12-0307

RUCO'S CLOSING BRIEF

The Residential Utility Consumer Office ("RUCO") hereby submits its Closing Brief in the above-referenced matter. Far West Water & Sewer, Inc. ("Far West" or "the Company") and RUCO initially disagreed on the issue of working capital, repairs and maintenance expense, merit pay, bad debt expense, salaries and wages, imputed revenue, capital structure and single-family residential rate design. Those matters have now been resolved. The primary issues which remain in dispute between RUCO and the Company are: 1) exclusion of the excess capacity of the Company's plant and associated adjustments, 2) the appropriate return on equity ("ROE" or "COE") , and 3) rate design. RUCO's closing argument will focus on these primary issues.

Commissioner Bitter Smith has requested that the parties comment on operational issues. RUCO reserves the right to supplement its responses in its Reply Brief.

A. Plant which is not used and useful to current customers should be excluded from Utility Plant in Service ("UPIS").

1. The Company's utility plant in service is designed, permitted and built to 2.3 MGD.

RUCO concluded that 30.1 percent of the Company's UPIS is not used and useful to current ratepayers. RUCO's adjustments to UPIS are based upon the testimony of Royce Duffett and Dr. Thomas Fish. To determine the amount of plant that was used and useful to current ratepayers, Mr. Duffett first evaluated the Company's system-wide design capacity.

To determine the Company's system-wide design capacity, Mr. Duffett considered the regulations of the Arizona Department of Environmental Quality ("ADEQ"). ADEQ defines "design capacity" as the volume of a containment feature at a discharging facility that accommodates all permitted flows and meets all Aquifer Protection Permit conditions, including allowances for appropriate peaking and safety factors to ensure sustained, reliable operation.[1] Mr. Duffett testified that simplified, "design capacity" refers to the amount of wastewater that a plant can treat and is usually calculated in gallons per day (GPD).[2]

To determine the number of GPD the Company can treat on a system-wide basis, Mr. Duffett relied upon the Company's testimony, annual reports and review of the Company's permits. In direct testimony, Ray Jones, the Company's engineer represented Far West's design capacity as follows:

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[1] See Exhibit R-9, Direct Testimony of Royce Duffett, pp. 3-4.

WWTP	TREATMENT TYPE	DESIGN CAPACITY
Marwood 14000 E. 56th St.	SBR	340,000 GPD
Section 14 12651 Avenue 14E	MBR	1,300,000 GPD
MDS - Villa Royale 12342 E. Del Rico	Ext. Aeration	10,000 GPD
MDS - Del Oro 1171 7 Omega Lane	MBR	495,000 GPD
MDS - Del Rey 12342 E. Del Rico	Ext. Aeration	37,500 GPD
Seasons 10301 County 10th St.	SBR	150,000 GPD[3]

The sum total of the Company's reported design capacity is 2,332,500. Mr. Duffett then compared the Company's design capacity to the Company's reported flows to determine whether a portion of the Company's plant was not used and useful to current ratepayers.

In July, 2012, the Company filed its annual report for 2011 which included a report of its average and peak flows by system and month.[4] According to the Company's annual reports, Far West's average flow in 2011 was 754,704 GPD or 32.4 percent of its current design capacity. Mr. Duffett testified that the Company's plant needs to be able to accommodate the peak usage, not just an average usage.[5] According to the Company in 2011, its system-wide peak demand was 1,195,000 GPD.[6] Mr. Duffett then compared the existing peak usage to the current design capacity and concluded that the plant has 1,137,500 GPD or 48.8 percent of available capacity for future customers.[7]

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[2] *Id.*
[3] *See* Exhibit R-26 and Exhibit A-1, Direct Testimony of Ray Jones, Schedule RLJ-DT2
[4] *See* Exhibit R-9, Direct Testimony of Royce Duffett, pp. 5-6, Attachment A
[5] *Id.*
[6] *Id.*
[7] *Id.*

Mr. Duffett also compared these calculations to standard design parameters which are used in the absence of historical flow data. He testified that if plant is designed with no knowledge of the area or historical data of the usage, it is typical to design the plant to handle flows of 240 gallons per day per household unit plus 10 percent to accommodate future growth.[8] Far West reports having 7,067 residential customers, 44 commercial customers and 4 RV parks with 713 spaces or a total of 7,824 customers.[9] Using Far West's reported customer base of 7,824 and multiplying it by the 240 GPD, the design capacity of the Far West's facilities should be 1,877,760 GPD to meet expected average flows.[10] Adding 10 percent reserve for growth, Mr. Duffett concluded that a required design capacity without historical flow data would be 2,065,536 GPD which is 11.4 percent design capacity available for future customers.[11] Mr. Duffett averaged his determinations of capacity and concluded that 30.1 percent of the Company's plant in service is not used and useful (48.8%+11.4%=60.2%/2= 30.1%).

Despite the fact that the Company testified in direct that its design capacity was exactly the same number upon which RUCO relied, in rebuttal, Far West asserted RUCO's reliance on the Company's stated design capacity was misplaced. The Company asserts that 2.3 MGD does not represent the Company's current design capacity, but its ultimate treatment capacity. The Company's assertion is refuted by its annual filings with the Commission in 2011 and 2012.[12] As of July, 2012, the Company represented the 2011 design capacity of its six systems as 2.3 MGD.[13]

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[8] *Id.*
[9] *Id.* at 4.
[10] *Id.*
[11] *Id.*
[12] T:159-160, ll.6-10, *See also*, Exhibit R-3,
[13] *See* Exhibit A-1, Direct Testimony of Ray Jones, Schedule RLJ-DT2

The major difference between the Company's reported design capacity and its rebuttal position is its treatment of Section 14. The Company asserted that the amounts reflected in its prior testimony and annual reports are not reflective of the actual permitted capacity of the plant, but ultimate design capacity.[14] The Company asserted in rebuttal testimony that the ("ADEQ") issued an Aquifer Protection Permit ("APP") for Section 14 in 2008 which only permitted the plant to operate at .681 MGD.[15]

The Company's position is refuted by the clear language of the APP and the testimony of Jin Liu, Staff's witness. Jin Liu testified that the Company does not need to acquire an APP for 1.3 MGD, it already has it.[16] Mr. Liu is correct. The Company's APP for Section 14 is APP No. P-105014.[17] The permit states clearly on its face:

> *The permittee is authorized to operate a 1.3 million gallons per day (MGD) wastewater treatment plant (WWTP), constructed in phases.*[18]

The Company asserted that the plant has not yet been constructed to 1.3 MGD and therefore is only permitted to .681 MGD. On cross-examination, Mr. Jones, the Company's witness testified that the plant consisted of influent pump stations, grit removal, equalization basins, pre and post anoxic tanks, UV disinfection, recharges wells and/ or a reuse pond.[19] Mr. Jones admitted that nearly all of Section 14's plant components have been designed and built to 1.3 MGD.[20] He admitted that equalization basins had no volume requirement and that the influent pump station, grit removal system, pre and post anoxic tanks and UV disinfection have been designed and constructed to accommodate

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[14] *Id.*
[15] *See* Exhibit A-2, Rebuttal Testimony of Ray Jones.
[16] T: 723, ll.12-16. See also Exhibit R-25.
[17] *See* Exhibit R-25.
[18] *Id.*
[19] T: 160-170
[20] *Id.*

flows of 1.3 MGD or higher.[21] He also testified that with the exception of three membrane bioreactor cassettes and increased capacity for the recharge zone well, the system was constructed to 1.3 MGD.[22] Mr. Jones asserted his determination of design capacity was based on permitted capacity, not constructed capacity. He maintained that the plant has only been permitted at .681 GPD.

As stated above, Mr. Jones' testimony is not supported by clear language of Section 14's APP which provides: *The permittee is authorized to operate a 1.3 million gallons per day (MGD) wastewater treatment plant (WWTP), constructed in phases.*[23] Second, end of test year records from ADEQ clearly indicate the plant has been permitted at 1.3 MGD.[24] ADEQ issues APPs and is responsible for maintaining the records related to permitted flow capacity of plant.[25] As of December 15, 2011, the last month of the test year, ADEQ discharge permit reflected the permitted capacity of Section 14 as 1.3 MGD.[26] Third, Staff's witness, Mr. Liu agrees that the current permitted capacity is 1.3 MGD even if additional work must be done.[27]

2. Only used and useful plant should be included in UPIS.

The issue in this case is not just to determine the "permitted" capacity, but to fairly allocate costs of plant between current and future ratepayers. Company has spent to date $12.6 million dollars constructing Section 14.[28] No matter how the Commission decides the issue of whether the plant is designed, constructed or permitted to 1.3 MGD, the

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[21] *Id.*
[22] *Id.*
[23] *See* Exhibit R-25.
[24] *See* R-2 ADEQ Discharge Authorization
[25] T: 157-58, ll.6-14.
[26] *Id.*
[27] T: 723
[28] T: 160-170. *See also*, Exhibit A-1, RLJ-DT3,Schedule B-2, Page 2.1.

Commission must equitably allocate the costs of the plant. Is it fair and reasonable to allocate the entire cost of a $12.6 million dollar plant to current ratepayers whose average and peak use is 33 percent and 52 percent, respectively, of the plant's total design capacity?

RUCO believes that it is not fair to make such an allocation. Current ratepayers should only pay for that portion of plant reasonably necessary to provide service. RUCO's witness, Dr. Thomas Fish, testified that if 100 percent of a plant is being used by the current customers of the plant then those customers are the beneficiaries and they are obligated to pay the utility for its cost of providing the plant.[29] However, if only 50 percent of a plant is being used by current customers, then only those customers should pay for the 50 percent of the plant they are using and future customers should be obligated to pay for the remainder of the plant when they use it in the future.[30] As Dr. Fish testified, the concept of used and useful considers what portion of the plant or improvement is actually being used and is therefore subject to rate base consideration. Dr. Fish further testified that if plant is not in use, or being used by current customers, then it should not be considered for rate base treatment and current ratepayers should not have to pay for a plant that benefits future ratepayers.[31] Dr. Fish's interpretation engenders the traditional concept and application of the "used and useful" principal.

Dr. Fish's interpretation also follows the regulatory principle that rates should be based on the cost of service. That is, current customers should pay only for the costs they cause and future customers should, in their turn, pay for costs they cause. The regulatory principal of used and useful does not exclude recovery of investment by utilities, it simply

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[29] Exhibit R-6, pp.11-12.

allows for the recovery of those costs to be from the customers that benefit from the investment at some future point in time.[32] It is inequitable for the Commission to allocate 100 percent of the $12.6 million dollar cost of the Section 14 plant to current ratepayers when their current average usage is 32 percent design capacity and their current peak usage is 52 percent of design capacity.

Mr. Jones asserts that the plant needs three more membrane cassettes to operate at fully capacity.[33] Again, his statement is refuted by the record. Mr. Duffett testified that he saw six membrane cassettes in operation at the time of his inspection.[34] Each membrane has the capacity of .162.[35] Six membranes have the treatment capacity of .972 GPD. The Company's construction records for Section 14 reflect repair and maintenance on cassette seven.[36] Seven membranes have the treatment capacity of 1.134 MGD. With the exception of one last cassette, it appears as if the Company has completed installation of the membrane cassettes. Nonetheless, if more cassettes are needed, the cost is nominal in comparison to the total project cost of $12.6 million. Mr. Jones testified that the total cost of three membrane cassettes was originally about $225,000, but admitted the cassettes could now be acquired more cheaply.[37] Hoisting the total $12.6 million dollar cost on current ratepayers due to the absence of one, two or three membrane cassettes valued at less than $75,000 a piece is not just or reasonable.

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[30] *Id.*
[31] *Id.*
[32] *Id.*
[33] T: 160-170
[34] T: 462.
[35] See Exhibit R-25.
[36] T:462-463. *See* Exhibit R-13, page 6 of 51.
[37] T: 160-170

Mr. Jones also asserted that the plant cannot be permitted at 1.3 MGD unless the Company drills two more vadose wells. The Company's records indicate that vadose well no. 1 was built and constructed for approximately $266,000.[38] There is no proof that additional vadose wells are needed. The APP permit clearly contemplates that no additional wells will need to be built. [39] The APP compliance schedule states that the existing well may be tested to determine its annual capacity. The APP states that:

> *The permittee shall collect data related to the volume of effluent flows in GPD to the renovated Section 14 facility, volume recharged in GPD through each vadose zone recharge well, and the volume of water delivered (metered) in GPD to the golf course....The capacity of the well will be defined on an annual basis before the winter recharge season. This will be defined as the capacity(ies) for the year and reported annually to ADEQ.*[40]

The APP does not require the Company to add a vadose well until the plant effluent flows are equal to 80 percent of the monthly irrigation requirement as measured by the metered flows to the golf course and the annual well capacity. [41] The Company admitted that additional wells were unnecessary in the last rate case.[42] In that case, Andrew Capestro, manager for Far West, testified that:

> *...[O]nce we can show that the vadose well and surrounding golf courses are sufficient to take not only the 681,000 gallons a day but higher than that...Mr. Lee believes that he has studies that show it could take the million three without the vadose well.*[43]

Third, during RUCO's inspection, the Company admitted that they are not using the vadose well and that all effluent is handled by the golf retention pond.[44] Mr. Duffett testified that "Isaac," the plant operator indicated that the Company fully constructed the well, but was not using it to handle its effluent. Fourth, the fact that the Company has not

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[38] T; 461, ll. 20.
[39] *See* Exhibit R-25, p. 15.
[40] *Id.*
[41] *Id.*
[42] *See* Exhibit R-11.
[43] T: 459-462. See also Exhibit R-11.
[44] T: 457-459.

built two new vadose wells should not justify imposing the cost of the $12.6 million dollar plant on current ratepayers. If, as the Company asserts, additional vadose wells are needed, it is not equitable to impose the entire $12.6 million dollar cost of construction of Section 14 upon current ratepayers due to the absence of one or two vadose wells.

3. RUCO's 30.1 percent reduction to UPIS is fair and reasonable.

The Company asserts that the Commission should exclude $2.6 million from the total $37 million in UPIS and that such an adjustment would adequately address plant held for future use. RUCO disagrees that a 6 percent adjustment to the UPIS adequately addresses the fact that system-wide the Company has 48.8 percent of plant capacity in excess of, peak usage held for future use. It is a grossly inadequate adjustment. Dr. Fish testified that the appropriate adjustment based is a 30.1 percent or $10,936,720 which he determined as follows:

Engineering Data	Data from Application
Depreciable Utility Plant in Service ("UPIS")	$ 36,334,619
Rated Capacity	2,332,500
No. Services	7,824
GPD @ 240	1,877,760
Plus 10% (reserve)	2,065,536
Over Investment	11.4%
Adjustment to Depreciable UPIS	$ 4,142,147
Actual Flow Data	
Depreciable Utility Plant in Service ("UPIS")	$ 36,334,619
Rated Capacity	2,332,500
GPD @ peak usage	1,195,000
Over Investment	48.8%
Adjustment to Depreciable UPIS	$ 7,731,294
Total Over Investment	30.1%
Total Adjustment to Depreciable UPIS	$ 10,936,720
Revenue Impact	
Rate of Return @ 7.30%	**$ 798,381**

Gross Revenue Conversion Factor @ 1.6605	$ 1,329,304[45]

4. RUCO's system-wide adjustment is fair and reasonable.

The Company asserts that RUCO should have made its adjustment to specific plant as opposed to making system-wide adjustments. The Company is not seeking system-specific rates. The Company has asked residential ratepayers to pay an additional 167 percent in rates based on the cumulative plant of all six systems. Because the Company's application is not system-specific, there is no need for RUCO to evaluate the plant capacity based on the capacity of the individual plants.

5. RUCO's 30.1 percent adjustment to the collection system is fair and reasonable.

The Company also asserts that RUCO should not have applied its system-wide adjustments to the Company's collection system. Most wastewater system expansions involve the treatment plant, not its collection system. Most collection system expansions are paid via main line extension agreements by the party seeking expanded service. This case is unique. Here, the Company built a 4.4 mile force main from the Palm Shadow Lift Station to Section 14. The cost of the Force main, lift stations and pumping equipment is significant. Intervenors Gilkey and Rist, (collectively "Intervenors") assert that 100 percent of the collection main should be eliminated from UPIS. The Intervenors argue persuasively that the Palm Shadow Force Main and related plant should be eliminated from UPIS. They assert that the Company improperly engineered the Palm Shadow WWTP by building evaporation/percolation retention ponds on clay soils which do not percolate. They argue that as property owners they already paid for the Palm Shadow WWTP construction costs

[45] See Exhibit R-6 at 15.

and had the Palm Shadow WWTP been properly engineered, no force main would have been necessary. The Intervenors' argument is persuasive and compelling. RUCO's 30.1 percent adjustment to the collection system is minor in comparison to the 100 percent deduction which could arguably be made to the collection system. RUCO doesn't dispute the Intervenors's approach, but offers another reasonable alternative based on the system-wide capacity. RUCO's adjustment is modest, fair and reasonable and ensures that current ratepayers are not paying the costs more properly allocated to future ratepayers.

6. Use of historical data would have resulted in far greater adjustments.

Mr. Duffett has also been fair in determining the amount of capacity which is not used and useful to current ratepayers. Mr. Duffett calculated demand capacity in part by using an engineering standard of 240 GPD per dwelling unit ("GPDDU"). Mr. Duffett testified that an engineering standard can be used in the absence of historical data. The Company acknowledges that its historical flow data reflects average use of 136 GPDDU.[46] Had Mr. Duffett calculated demand capacity using the Company's actual historical flow data of 136 GPDDU rather than the engineering standard of 240 GPDDU, the Company's overinvestment would have been far higher. Average demand capacity of the Company's plant based on its historical flows of 136 GPDDU would be 1,064,064 GPD (7,824 customers x 187 GPDDU). Adding 10 percent reserve for growth, the Company's demand capacity would be 1,170,470 GPD. This would have left 1,162,030 GPD demand capacity available for future use or 49.8 percent (1,162,030/2,332,500). Likewise, had Mr. Duffett averaged 49.8 p ercent excess demand capacity based on historical flows and 48.8

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[46] T: 719

percent excess capacity based on peak flows, his calculation of the Company's overinvestment would have been 49.3 percent. In light of the foregoing, RUCO's 30.1 percent adjustment is more than fair and it is a much lower adjustment than it would have been had Mr. Duffett used historical flow data to project demand capacity.

7. RUCO's calculation of future growth is fair and reasonable.

RUCO's adjustment allows 10 percent for future growth over a five year planning horizon. The Company asserts that 10 percent growth is insufficient. Mr. Duffett testified that he determined a future growth estimate by researching census bureau data.[47] The census bureau provides data with relation to population growth in the zip code of 85367 and Yuma County. The Company's CC&N is located in zip code 85367 and Yuma County.[48] According to the census bureau the population of these areas experienced a growth of 16.45 percent and 22.32 percent, respectively, from 2000 to 2010.[49] The average of the two growth rates from the census bureau is 19.38 divided by two results in a 5 year growth rate of 9.69 percent which is less than the 10.00 percent calculated by Mr. Duffett.

Mr. Duffett's five year growth rate is also fair in light of the Company's actual reported growth. According to the rate case filing in 2008, Far West Sewer had 7,199 residential customers.[50] According to the Company's current application Far West Sewer has 7,067 residential customers.[51] The Company has lost 1.75 percent of their residential customers in the last 5 years. During the same time period the commercial customers

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[47] See Exhibit R-7, pp.2-3
[48] *Id.*
[49] *Id.*
[50] *Id*
[51] *Id*

increased from 38 to 44.[52] Mr. Duffett acknowledges that the amount of growth that Far West will experience in the next five years is a guess, but based on the Company's actual growth and the growth reflected in the historical census data for the Company's CC&N, Mr. Duffett's 10 percent growth calculation is more than fair.

B. The Company's return on common equity should be 9.25 percent.

The Company has requested a weighted average cost of capital of 7.4 percent based on a 10 percent return on common equity. RUCO has recommended a weighted average cost of capital of 7.23 percent based on a 9.25 percent cost of common equity. Mr. Rigsby's 9.25 percent figure is 51 basis points more than the high side of the range of results obtained in his cost of equity analysis, and is 75 basis points lower than the 10.00 percent cost of equity capital proposed by Far West.

The parties have resolved the differences related to capital structure. Originally, Mr. Rigsby recommended that the Commission adopt Far West's end of test year adjusted capital structure comprised of 79.55 percent long-term debt, 6.46 percent short-term debt and 13.98 percent common equity. In rejoinder, the Company recommended a capital structure of 74.23 percent long-term debt, 4.95 percent short-term debt and 20.82 percent equity. RUCO subsequently adopted the Company's capital structure and cost of debt, but has retained its 9.25 percent recommended cost of equity capital. The parties' recommended cost of short-term debt is 6.66 percent and its cost of short-term debt is 7.51 percent or a weighted average cost of debt of 5.3 percent (rounded).[53]

The Company has adopted Staff's 10 percent recommended cost of equity capital. Staff's cost of equity capital is essentially a 9.40 cost of common equity plus an upward

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[52] *Id*

adjustment of 60 basis points for what the Staff labels an adjustment for economic instability. RUCO opposes the use of a 60 basis point upward economic adjustment. First, the Staff asserts the economic adjustment is needed to address the economic uncertainty of the current economy. RUCO does not dispute that economic uncertainty exits, but it exits for ratepayers, as well. By adopting the upward economic adjustment of 60 basis points to its return on equity capital, the Staff seeks to insulate Far West from the impact of an economic instability when ratepayers are not insulated from the same economic uncertainty. Second, as the Staff acknowledges, in times of economic uncertainty, investors move toward utility investments as a safe haven for investment.[54] There is no need to provide an upward adjustment to the Company's cost of equity capital during periods of economic instability because it is at these times that water utilities have their greatest appeal to investors seeking safer investments.[55] Moreover, the purpose of such a policy is misplaced if the Commission does not have an intention to adopt a reduction in cost of equity in stable economic times.

Last, the Staff acknowledges that the relevant case law allows the opportunity for a utility to earn a reasonable rate of return on investment, but that is if the Company's management exercises good judgment.[56] Likewise, the Staff acknowledges that when a Company does not manage its operations economically, efficiently, prudently, it is not going to garner the same return as those that do.[57] Given that the Staff recognizes that the Company has not managed its operation economically, efficiently and prudently, there is no reason to reward Far West shareholders with a 60 basis point upward adjustment in

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[53] RUCO's Final Schedules, WAR-7.
[54] T: 761.
[55] *Id.*
[56] T: 763.

its return on equity capital. In the absence of the upward economic adjustment, Staff's recommendation would be 9.4 percent or 15 basis points higher than RUCO's recommended cost of equity capital. RUCO recommends that the Commission adopt a 9.25 percent cost of equity capital.

C. Rate Design

RUCO, Staff and the Company have arrived at an agreement on flat monthly fee rate design applicable to single-family residential ratepayers. Variances in the recommended rates are a product of their varied revenue recommendations. For the residential customer classification, RUCO recommends a flat monthly rate design for all residential customers regardless of water meter size with no commodity charges assessed. Under RUCO's recommended rate design a typical monthly residential bill would be $48.88,[58] which is an increase of $27.13 or 125 percent increase over the present monthly rate of $21.75.

In the past, commercial wastewater customers have paid a flat fee equal to twice the residential ratepayers without regard to their level of use. All of the parties agree that the prior rate design did not adequately allocate the costs for larger wastewater users. The parties have agreed to establish a monthly flat fee commercial rate design based on water meter size in hopes that the commercial rates will better reflect actual cost of service. Each party's rate design includes a meter multiplier based on the commercial customer's water meter size.

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[57] *Id.*

[58] This rate assumes no phase in of rates, however, if the Commission adopts the Staff's proposed phase in, this rate would be $35.315 in Phase 1 or 62.37 percent increase.

One distinction between RUCO and the remaining parties is the rate at which the parties index their beginning commercial rates.[59] In recognition that 5/8 x 3/4 inch customers have historically paid disproportionate shares of the commercial revenues, RUCO has increased its rates to $73.32 per month which is a 68.6 percent[60]over current rates as opposed to the 100.3 percent increase proposed by the Company. Also, in recognition that higher metered customers have not historically paid proportionate to their use, RUCO has increased their rates commensurately. RUCO's commercial water rates for larger metered customers are factored upward based on meter size at a higher percentage than recommended by the Company.

There is also a difference in the RUCO RV Park rates for common areas. In the past, RV Park common areas were not billed. All the parties agree that the RV Park common areas should be billed. RUCO based its monthly $73.32 RV Park common area flat fee on the 5/8 x 3/4 inch commercial rate. The Company's rate is also based on its 5/8 x 3/4 inch commercial rate, but it is monthly flat fee is $87.14. The deviation in rates results from the party's varied revenue requirements.

D. Response to Commissioner Bitter Smith

Staff has proposed that rates be phased in two stages subject to compliance with certain requirements to address operational deficiencies identified in the record.[61] The Company appears to have agreed.[62] RUCO does not oppose a phase in of rates as a means of addressing the operational deficiencies identified by the parties, however, RUCO

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[59] RUCO's concern on the commercial side is that the commercial rates effect the residential rates. RUCO does not want the residential ratepayer to pay any more than necessary to provide service.

[60] These percentages assume no phase in of rates.

[61] *See* Exhibit A-8.

asserts before rates are imposed, the Company should also have to resolve the additional issue of the discrepancy between its number of laterals and its billing count. The Company asserts that as of the end of test year, it had 7,824 customer accounts, but reported in excess of 10,355 laterals.[63] The number of laterals is supposed to reflect the number of customers.[64] The two numbers should match, but do not. The Company reports 2,531 or approximately 25 percent more laterals than it reports customer accounts. This is a large discrepancy which could significantly impact rates if the number of Company's customer accounts is actually much larger than the reported billings. The Company explained that 713 RV lots were inappropriately listed as individual laterals when they are actually billed via the RV Park account.[65] Deducting the 713 RV lots from the total number of reported laterals leaves 9,642 laterals which is still 1,818 or 19 percent more laterals than reported customer accounts. The Company had other tentative explanations, but no clear definitive rationale for the discrepancy between customer service laterals and customer billing accounts. Until the large discrepancy is resolved, no new rates should be approved. New rates should be determined based on the Company's actual number of customers. In the event the Company is unable to explain why the number of laterals so significantly differs from the number of reported customer accounts, then the Commission should consider whether rates should be designed imputing the existence of the customers.

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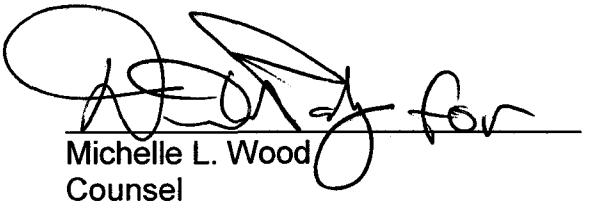
[62] *Id.*
[63] T: 721-722.
[64] *Id.*
[65] T: 953

RUCO specifically reserves the right to supplement its response to the issues raised by Commission Bitter Smith in its reply brief. RUCO's silence on any issue does not constitute acquiescence.

RESPECTFULLY SUBMITTED this 11th day of June, 2013.



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