

ORIGINAL

COMMISSIONERS  
BOB STUMP – Chairman  
GARY PIERCE  
BRENDA BURNS  
BOB BURNS  
SUSAN BITTER SMITH



OPEN MEETING ITEM



ARIZONA CORPORATION COMMISS:

AZ CORP COMMISSION  
DOCKET CONTROL

2013 JUL 2 PM 3 16

DATE: JULY 2, 2013

DOCKET NOS.: W-01689A-11-0401 and WS-01689A-11-0402

TO ALL PARTIES:

Enclosed please find the recommendation of Administrative Law Judge Belinda A. Martin. The recommendation has been filed in the form of an Opinion and Order on:

CLEAR SPRINGS UTILITY COMPANY, INC.  
(FINANCE/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 11, 2013

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 17, 2013 AND JULY 18, 2013

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.

Arizona Corporation Commission

DOCKETED

JUL 02 2013

DOCKETED BY

Handwritten signature of Jodi Jerich in black ink.

*Jodi A. Jerich*  
JODI JERICHI  
EXECUTIVE DIRECTOR

1200 WEST WASHINGTON STREET; PHOENIX, ARIZONA 85007-2927 / 400 WEST CONGRESS STREET; TUCSON, ARIZONA 85701-1347  
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1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 COMMISSIONERS

3 BOB STUMP - Chairman  
4 GARY PIERCE  
5 BRENDA BURNS  
6 BOB BURNS  
7 SUSAN BITTER SMITH

8 IN THE MATTER OF THE APPLICATION OF  
9 CLEAR SPRINGS UTILITY COMPANY, INC.,  
10 WATER DIVISION, FOR AUTHORITY TO  
11 INCUR LONG-TERM DEBT.

DOCKET NO. W-01689A-11-0401

12 IN THE MATTER OF THE APPLICATION OF  
13 CLEAR SPRINGS UTILITY COMPANY, INC.,  
14 WATER AND WASTEWATER DIVISIONS, FOR  
15 PERMANENT RATE INCREASES.

DOCKET NO. WS-01689A-11-0402

DECISION NO. \_\_\_\_\_

16 OPINION AND ORDER

17 DATE OF HEARING:

August 6, 2012

18 PLACE OF HEARING:

Tucson, Arizona

19 ADMINISTRATIVE LAW JUDGE:

Belinda A. Martin

20 APPEARANCES:

Steve Wene, MOYES SELLERS &  
HENDRICKS, LTD., on behalf of Clear  
Springs Utility Company, Inc.; and,

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

21 **BY THE COMMISSION:**

22 PROCEDURAL HISTORY

23 On November 3, 2011, Clear Springs Utility Company, Inc. ("Clear Springs" or "Company")  
24 filed with the Arizona Corporation Commission ("Commission") an application requesting authority  
25 for its Water Division to incur long-term debt under Docket No. WS-01689A-11-0401 ("Finance  
26 Application"), and an application for permanent rate increases for its Water and Wastewater  
27 Divisions under Docket No. WS-01689A-11-0402 ("Rate Application"). Clear Springs docketed an  
28 amendment to the Rate Application on November 28, 2011.

...

1           The Commission's Utilities Division ("Staff") filed a Letter of Deficiency in the Rate  
2 Application docket on December 5, 2011, and Clear Springs docketed its Response to Letter of  
3 Deficiency on December 29, 2011.

4           Staff notified the Company on January 30, 2012, that the Rate Application was sufficient  
5 pursuant to Arizona Administrative Code ("A.A.C.") R14-2-103 and classified Clear Springs as a  
6 Class C utility.

7           On February 7, 2012, Clear Springs filed a Notice of Errata in the Finance Application docket  
8 with an updated opinion of probable costs clarifying the projects to be funded by a proposed  
9 \$511,000 loan from the Arizona Water Infrastructure Finance Authority ("WIFA").

10           On February 13, 2012, a Procedural Order was docketed scheduling a hearing on the Rate  
11 Application for August 6, 2012, and setting other procedural deadlines.

12           On April 10, 2012, Clear Springs filed its Affidavit of Publication averring that the Company  
13 published the notice of hearing on the Rate Application on March 20, 2012, in the *San Pedro Valley*  
14 *News-Sun* and *Arizona Range News*. The Company also filed its Affidavit of Mailing stating Clear  
15 Springs mailed the notice of hearing to its customers on March 20, 2012. Approximately 140  
16 customers filed comments in response to the notice opposing Clear Springs' proposed rate increases.

17           On June 1, 2012, Staff filed a Motion to Consolidate the Rate Application and Finance  
18 Application dockets, noting that the two matters were substantially related and consolidation would  
19 not prejudice the rights of any party. The Company did not object and a Procedural Order  
20 consolidating the matters was docketed on June 5, 2012.

21           On June 13, 2012, Staff filed the Direct Testimony of Jeffrey M. Michlik, Staff's financial  
22 witness, and Dorothy Hains, Staff's engineering witness. Staff also filed a Request to Proceed  
23 Without a Hearing ("Motion"). Staff stated that the projected income for each Division on a stand-  
24 alone basis placed the Water Division as a Class D utility and the Wastewater Division as a Class E  
25 utility. Noting that Class D and E utility applications are normally processed without a hearing, Staff  
26 requested that this matter proceed in the same way because it would promote judicial economy and  
27 save the expense of a full hearing.

28 ...

1 On July 11, 2012, Clear Springs filed the Rebuttal Testimony of Sonn Rowell, Clear Springs'  
2 financial witness, Bonnie O'Connor, the Company's management witness, and Keith Dojaquez, its  
3 operations witness. Clear Springs also filed its Response to Staff's Motion, insisting a hearing was  
4 necessary because the Company believed Staff's recommended rates were not just and reasonable  
5 and requesting that the hearing be held as scheduled.

6 On July 17, 2012, Staff filed its Reply to the Company's Response acknowledging that Clear  
7 Springs was entitled to a hearing as a matter of right.

8 On July 24, 2012, a Procedural Order was docketed denying Staff's Motion.

9 On July 31, 2012, Staff filed the Surrebuttal Testimony of Mr. Michlik and Ms. Hains.

10 The hearing convened on August 6, 2012, and no members of the public were present to  
11 provide comment. Clear Springs and Staff appeared through counsel. Ms. O'Connor, Mr. Dojaquez  
12 and Ms. Rowell testified on behalf of Clear Springs, and Mr. Michlik and Ms. Hains testified on  
13 Staff's behalf. At the conclusion of the hearing, the matter was taken under advisement pending the  
14 submission of the parties' closing briefs and late-filed exhibits, and the time clock was suspended.

15 On August 22, 2012, Staff docketed its Closing Brief and Late-Filed Exhibits.

16 Clear Springs filed its Response to Staff's Closing Brief on September 5, 2012. The  
17 Company attached to its Brief two sample forms relating to WIFA loan agreements and requested  
18 that the forms be admitted as late-filed exhibits. Staff did not did not file an objection.

19 After the hearing, it was learned that notice of Clear Springs' Finance Application had not  
20 been provided as required by Arizona law. A Procedural Order was issued on April 2, 2013,  
21 directing the Company to mail notice of the Finance Application to its customers.

22 On April 16, 2013, Clear Springs filed an affidavit of mailing, averring that the Company  
23 mailed notice of the Finance Application to its customers on April 5, 2013. One customer filed a  
24 comment in response to the notice opposing Clear Springs' proposed loan and rate increase.

25 \* \* \* \* \*

26 Having considered the entire record herein and being fully advised in the premises, the  
27 Commission finds, concludes, and orders that:

28 ...

**FINDINGS OF FACT****COMPANY BACKGROUND****History**

1. The Commission granted Clear Springs Water Company<sup>1</sup> a Certificate of Convenience and Necessity ("CC&N") to provide water service in the area of Sunsites, Arizona, southwest of Willcox in Cochise County, in Decision No. 33803 (March 28, 1962). Clear Springs Water Company was a subsidiary of the Horizon Corporation ("Horizon"), the developer of Sunsites Village subdivision. Over time, the Company added additional territory to its certificated water service area.

2. In March 1973, Clear Springs acquired an operational wastewater system from the George W. Marx Sanitary District, which had been formed in Sunsites in 1968 or 1969.<sup>2</sup> In a letter to the Commission dated October 15, 1975, Horizon requested a sewer collection and wastewater treatment system CC&N for Clear Springs in the area formerly served by the Sanitary District. The Commission granted the CC&N in Decision No. 46913 (April 19, 1976).

3. On January 1, 1991, Ezra H. Lewis purchased 100 percent of Clear Springs' stock from Horizon.<sup>3</sup> At hearing on the instant matter, Ms. O'Connor, president of Southwestern Utility Management ("SUM"), Clear Springs' management company,<sup>4</sup> testified that Mr. Lewis held all of the Company's shares until they were sold to private investors approximately six or seven years ago. The purchasers defaulted about three years later and the shares reverted to Mr. Lewis in 2009.<sup>5</sup>

4. Mr. Lewis and/or The Lewis Family Trust also own Sandario Water Company, Inc., Mescal Lakes Water Systems, Inc., and Sonoita Valley Water Company, Inc.<sup>6</sup>

5. Clear Springs is currently an Arizona "C" corporation<sup>7</sup> in good standing with the Commission's Corporation Division. Eight customers filed complaints against the Company between January 1, 2009, and July 26, 2012; all complaints have been resolved and closed.

<sup>1</sup> Clear Springs Water Company was formed in 1959 and changed its name to Clear Springs Utility Company, Inc. in August 1975.

<sup>2</sup> Decision No. 47942 (May 25, 1977); Decision No. 46913 (April 19, 1976), page 1.

<sup>3</sup> Decision No. 58211 (February 27, 1993), *In the Matter of the Application of Clear Springs Utility Company, Inc. for a Permanent Rate Increase*, Docket No. U-1689-92-328.

<sup>4</sup> SUM was formed by Mr. Lewis in 1982. Corporation Division records indicate that Ms. O'Connor purchased SUM from Mr. Lewis in approximately 2003.

<sup>5</sup> Transcript of August 6, 2012, Hearing, pages 18-20 (hereinafter "Tr. at \_\_\_").

<sup>6</sup> Tr. at 19.

<sup>7</sup> Ms. O'Connor testified that prior to the sale of its stock in 2006 Clear Springs was an Arizona "S" corporation. The purchasers of the stock re-formed the Company as a "C" corporation and it remained so after reverting back to Mr. Lewis in 2009. Tr. at 18.

1           **Wastewater System**

2           6.       Clear Springs provides wastewater service to approximately 372 customers in the  
3       Sunsites Village subdivision in Cochise County. Staff stated the wastewater facilities include a sewer  
4       collection system, a lift-station and four wastewater treatment ponds with 300,000 gallons per day of  
5       treatment capacity and concluded the system has adequate capacity to its serve existing customers.

6           7.       On January 10, 2012, ADEQ issued a Compliance Status Report indicating that the  
7       Company's wastewater system is in compliance with ADEQ requirements for operation and  
8       maintenance, operator certification, and discharge permits.

9           8.       According to Mr. Dojaquez, Clear Springs' wastewater lines are almost 50 years old.  
10       He related that the most common problem with the wastewater system is that it will backup and the  
11       Company has to power-wash the collection mains. The Company has paid to have the electrical  
12       panels for the system's pumps rewired, and has had to replace the pumps at the lift station, as well as  
13       the aerator pumps in the lagoons.<sup>8</sup>

14          9.       Mr. Dojaquez testified the Company would like to put a closed-circuit camera through  
15       the lines to see if the waste is causing any problems with the lines' integrity. He claimed that the lift  
16       station needs repairs and electrical upgrades to bring it up to code and that the lagoons need to be  
17       dredged, but it is an expensive process because the waste has to be removed to a special waste dump.<sup>9</sup>  
18       According to Ms. Rowell, the Company has not had the funds to pay for the needed improvements  
19       and maintenance because much of the Wastewater Division's income funds water system repairs.<sup>10</sup>

20          10.       Ms. O'Connor testified that in fall 2011 SUM stopped collecting its wastewater  
21       management fee from Clear Springs because of the financial hardships faced by the Company, but  
22       SUM will begin collecting its wastewater management fee again once the situation has improved.<sup>11</sup>

23           **Water System**

24          11.       Clear Springs provides water service to approximately 565 customers, mostly  
25       residential, in a number of non-contiguous areas south of Willcox in Cochise County. According to

26 \_\_\_\_\_  
27 <sup>8</sup> Tr. at 55-58.

<sup>9</sup> *Id.*

<sup>10</sup> Direct Testimony of Sonn Rowell, page 9.

28 <sup>11</sup> Tr. at 21-22.

1 Ms. O'Connor, there has been very little growth in the region in the past few years and the customers  
2 in the Company's service area are mostly retirees. The water system is currently comprised of five  
3 individual public water systems ("PWS"), two of which are subject to regulation by the Arizona  
4 Department of Environmental Quality ("ADEQ"). The three remaining systems each have fewer  
5 than 15 customers, and as such, ADEQ classifies them as non-public water systems not subject  
6 ADEQ's monitoring, reporting, operation and maintenance requirements.

7 12. PWS #02-008 is the Company's largest system with approximately 520 customers.  
8 This system contains three well sites—Well Nos. 5, 16 and 18. Drilled in 1982, Well No. 18 is the  
9 main production well, producing up to 300 gallons per minute ("gpm"), with 100,000 gallons of  
10 storage, two booster pumps and a 5,000 gallon pressure tank. Well No. 5 was drilled in 1964 and can  
11 produce 180 gpm. It has a 5,000 gallon pressure tank, but no storage and it is not connected to the  
12 storage tank at Well No. 18. Well No. 16, which was drilled in 1970, also has a 5,000 gallon pressure  
13 tank, but the well has been out of service since July 2003.<sup>12</sup> According to Staff, PWS #02-008  
14 experienced a water loss of 42.88 percent during the test year.

15 13. PWS #02-049 serves 19 customers. This system's one active well, Well No. 6, with a  
16 40 gpm capacity, was drilled in 2001 and has 12,500 gallons of storage, one booster pump and a  
17 3,000 gallon pressure tank. Staff noted that based on the information provided by the Company,  
18 PWS #02-049 experienced a negative 0.91 percent water loss during the test year, calling into  
19 question the validity of the Company's water use data for this system.

20 14. PWS #02-048 serves six customers. There is one active well drilled in 1966, Well No.  
21 3, which can produce up to 15 gpm, and has a 85 gallon pressure tank, but no storage or booster  
22 pump. According to the Staff Report, PWS #02-048's test year water loss was 9.79 percent.

23 15. PWS #02-050 serves seven customers. There is one active well drilled in 1969, Well  
24 No. 7, which can produce up to 18 gpm, and has a 1,000 gallon storage tank, one booster pump and  
25 an 85 gallon pressure tank. According to the Staff Report, PWS #02-050 experienced a 0.97 percent  
26 water loss during the test year.

27  
28 <sup>12</sup> Tr. at 52, 138; Staff Report in Docket No. WS-01689A-05-0629, *In the Matter of Clear Springs Utility Co., Inc. for a Rate Increase and Request for Financing Authorization*, Engineering Report, page 6, Note 1.

1           16.     PWS #02-051 serves ten customers. There is one active well drilled in 1970, Well No.  
2 9, which can produce up to 25 gpm, with a 12,500 gallon storage tank, one booster pump and a 1,000  
3 gallon pressure tank. According to the Staff Report, PWS #02-051 experienced a 4.71 percent water  
4 loss during the test year.

5           17.     On September 28, 2011, ADEQ issued Compliance Status Reports for PWS #02-008  
6 and #02-049 stating there were no major deficiencies and Clear Springs is currently delivering water  
7 that meets water quality standards required by 40 CFR 141 and A.A.C., Title 18, Chapter 4.

8           18.     Clear Springs is not within an Arizona Department of Water Resources (“ADWR”)  
9 Active Management Area (“AMA”). ADWR issued a Compliance Status Report on November 18,  
10 2011, stating that Clear Springs is in compliance with ADWR requirements governing water  
11 providers and/or community water systems.

12           19.     Clear Springs has Commission-approved Backflow and Curtailment Tariffs.

13           20.     Ms. O’Connor testified that much of the water systems’ 40-to-50 year-old  
14 infrastructure is deteriorating and the Company struggles on a daily basis to keep up operations, but  
15 its strained financial condition makes it difficult to pay for the needed repairs.<sup>13</sup> The Water Division  
16 occasionally uses some of the Wastewater Division’s income to fund repairs and maintenance.<sup>14</sup>

17           **Commission Compliance Concerns**

18           21.     Commission Decisions over the past 20 years reveal Clear Springs’ on-going issues  
19 with high water loss levels. In three of its previous five rate cases, the Company has reported loss  
20 levels over 10 percent, attributable mainly to PWS #02-008.<sup>15</sup> Recently, in Decision No. 68443, the  
21 Commission stated:

22                     In light of the ongoing drought conditions throughout Arizona, the Commission is  
23 concerned about the Company’s overall water loss rate. In order to better address  
24 this issue, the Commission will require the Company to file a water loss report no  
25 later than 180 days after the effective date of this order. This report shall detail  
26 how the Company will work to address the water loss issue and what steps the  
27 Company is taking to decrease water loss on their system.<sup>16</sup>

27 <sup>13</sup> Tr. at 8.

<sup>14</sup> Direct Testimony of Sonn Rowell, page 9.

<sup>15</sup> Decision Nos. 58211 (February 24, 1993), 62583 (May 17, 2000) and 68443 (February 2, 2006).

28 <sup>16</sup> Decision No. 68443, pages 9, 15.

1           22.     The Commission also ordered Clear Springs to reduce its water loss in PWS #02-008  
2 to less than 10 percent before filing its next rate case, or demonstrate why it was not reasonable or  
3 economical to do so. In its Application filed November 3, 2011, the Company reported water loss for  
4 PWS #02-008 of almost 43 percent. Clear Springs did not file a detailed report outlining why the  
5 Company believed it was not feasible for the Company to reduce water loss to 10 percent until  
6 December 29, 2011.

7           23.     The Commission has also expressed concern over the Company's poor equity  
8 position. In Decision No. 62583 (May 17, 2000), the Commission approved the Wastewater  
9 Division's request for a 30-month, \$15,000 loan from its shareholder for the purpose of supplying a  
10 financial warranty required by ADEQ as a condition of the Company's Aquifer Protection Permit, but  
11 also ordered that the Wastewater Division's next significant financing be in the form of equity.

12           24.     Further, Decision No. 62583 authorized an \$80,000 loan in order to replace a well  
13 pump and add storage tanks and booster pumps.<sup>17</sup> A second WIFA loan for \$40,640 was approved in  
14 Decision No. 68443 (February 2, 2006) to finance replacement of the pump and pressure tanks for  
15 Well No. 16, which had been offline since July 2003. With the two outstanding WIFA loans, the  
16 Company's *pro forma* capital structure consisted of 2.0 percent short-term debt, 74.6 percent long-  
17 term debt and 23.4 percent equity. Because of Clear Springs' highly-leveraged financial position, the  
18 Commission directed Clear Springs to prepare a plan outlining how it would increase equity to 40  
19 percent and submit it to Commission Staff for approval.

20           25.     The Company complied, but at present, Clear Springs' total net equity is negative  
21 (31.73) percent.<sup>18</sup>

22           26.     Another concern is that during its review of the Company's last rate application, Staff  
23 concluded that PWS #02-048 and PWS #02-050 did not have adequate storage. In Decision No.  
24 68443 the Commission directed Clear Springs to resolve the storage issues before filing its next rate  
25 application. The Company did not comply but it has earmarked a portion of the proceeds from the  
26 proposed WIFA loan for storage tank installation in PWS #02-048 and PWS #02-050.

27 \_\_\_\_\_  
28 <sup>17</sup> The Decision did not state for which PWS the improvements were intended.

<sup>18</sup> Rebuttal Testimony of Sonn Rowell, Rebuttal Schedule D-1.

1 27. Finally, although ADEQ regulations do not require Clear Springs to conduct water  
2 testing on the three smaller PWS, Decision No. 68443 adopted Staff's recommended water testing  
3 costs that included \$1,995 specifically for testing the three non-regulated PWS. Despite collecting  
4 the costs, the Company has not tested the non-regulated wells.<sup>19</sup>

5 **RATE APPLICATION**

6 28. On November 3, 2011, Clear Springs filed its Rate Application for both Divisions  
7 using the twelve-month period ending December 31, 2010, as its test year.

8 **WASTEWATER DIVISION**

9 **Summary**

10 29. Clear Springs proposed an adjusted test year original cost rate base ("OCRB"), which  
11 is the same as its fair value rate base ("FVRB"), of (\$13,244), and reported test year revenues of  
12 \$47,802. Although the Wastewater Division's last rate increase was in 2000, the Company did not  
13 seek increased revenues. Instead, Clear Springs proposed to restructure its current rate design to shift  
14 more revenue to the monthly usage charge to allow for a more dependable revenue stream that is not  
15 heavily tied to decreasing levels of water use. The Company noted that it has used the Wastewater  
16 Division's income to subsidize Water Division operations, but the sewer system is aging and the  
17 Wastewater Division must start using its money for repairs and upgrades. Once the new water rates  
18 go into effect, the Wastewater Division will be able to use its revenues for sewer plant improvements.

19 30. Staff agreed with the Company's proposal to maintain the current revenue levels, but  
20 given the Wastewater Division's negative FVRB, Staff used cash flow calculations, rather than rate  
21 of return, to determine whether the revenues were sufficient. Staff also accepted Clear Springs'  
22 proposal to shift more of the revenue to the monthly usage charge.

23 31. The Wastewater Division's current rates were approved in Decision No. 62583. Its  
24 present rates and charges, as proposed by the Company, and as recommended by Staff, follow:

25 ...

26 ...

27

28 <sup>19</sup> Tr. at 61, 63.

1	<b><u>MONTHLY USAGE CHARGE:</u></b>	<u>Present Rates</u>	<u>Proposed Rates</u>	
			<u>Company</u> <sup>20</sup>	<u>Staff</u> <sup>21</sup>
2	Residential	\$6.50	\$9.00	\$9.00
3	Commercial	6.50	9.36	9.36
4	<b><u>COMMODITY CHARGE:</u></b> (Per 1,000 gallons of water usage)			
5	<u>All Usage:</u>	\$0.85	N/A	N/A
6	<u>Residential:</u>			
7	0 to 6,000 Gallons	N/A	\$0.00	N/A
8	Over 6,000 Gallons	N/A	0.85	N/A
9	<u>Residential:</u>			
10	0 to 6,000 Gallons	N/A	N/A	\$0.00
11	6,001 to 20,000 Gallons	N/A	N/A	1.00
12	Over 20,000	N/A	N/A	0.00
13	<u>Commercial (All Usage):</u>	\$0.85	\$0.85	\$0.85
14	<b><u>SERVICE CHARGES:</u></b>	<u>Present Rates</u>	<u>Proposed Charges</u>	
15			<u>Company</u>	<u>Staff</u>
16	Establishment	\$10.00	\$30.00	\$30.00
17	After Hours Service Charge	N/A	25.00	25.00
18	NSF Check	\$15.00	25.00	25.00
19	Reconnection (Delinquent)	*	*	*
20	Deposit (Residential)	**	**	**
21	Deposit (Commercial)	***	***	***
22	Deposit Interest	****	****	****
23	Deferred Payment	N/A	1.5%	1.5%
24	Late Payment Penalty	N/A	2.0%	1.5%
25	Sewer Tap Charge (Non-Refundable) <sup>22</sup>	Cost	Cost	Cost

- \* Six times monthly minimum.<sup>23</sup>
- \*\* Per Commission Rule A.A.C. R14-2-603(B)(7)(a).
- \*\*\* Per Commission Rule A.A.C. R14-2-603(B)(7)(b).
- \*\*\*\* Per Commission Rule A.A.C. R14-2-603(B)(3).

**Rate Base**

32. In its Surrebuttal Testimony, Staff proposed an adjusted FVRB for the Wastewater Division of negative (\$16,893). This \$155 increase to the Company's adjusted FVRB of negative (\$17,048) proposed in its Rebuttal Testimony is due to Staff's removal of customer security deposits from rate base and an increased working capital allowance.

<sup>20</sup> Rebuttal Testimony of Sonn Rowell, Rebuttal Schedule H-3S.  
<sup>21</sup> Surrebuttal Testimony of Jeffrey M. Michlik, Surrebuttal Schedule JMM-WW17.  
<sup>22</sup> Pursuant to Decision No. 68333 (December 9, 2005).  
<sup>23</sup> Decision No. 62583 approved a charge for Reconnection (Delinquent) as six times the monthly minimum. Staff did not propose a change to this method.

1           33.     The Company accepted Staff's adjustment to cash working capital, but disagreed with  
 2 Staff about the proper treatment of customer security deposits. Clear Springs argued customer  
 3 security deposits are current liabilities and should not be taken out of rate base.<sup>24</sup> Staff asserted that  
 4 these security deposits represent non-investor provided capital and, as such, they should be deducted  
 5 from rate base with a corresponding allowance for the associated interest as an operating expense,  
 6 which Staff had done. Staff noted that such treatment is consistent with National Association of  
 7 Regulatory Utility Commissioners ("NARUC") guidelines and previous Commission Decisions.<sup>25</sup>

8           34.     We adopt Staff's adjustments to customer security deposits and we find that Staff's  
 9 proposed adjustments to the Wastewater Division's rate base are reasonable.

10          35.     We find that the FVRB for Clear Springs' Wastewater Division is negative (\$16,893).

11           **Operating Income**

12          36.     Staff adopted the Wastewater Division's proposed test year operating revenues of  
 13 \$47,802.

14          37.     Staff's adjustments to rate base impacted income tax expense and the amount of  
 15 interest on security deposits for final adjusted test year expenses of \$39,732, representing a decrease  
 16 of \$62 to the Company's final proposed expenses of \$39,794.

17          38.     We find that Staff's adjustments to the Wastewater Division's test year operating  
 18 expenses are reasonable.

19          39.     Staff's proposed test year revenues of \$47,802 and proposed adjusted operating  
 20 expenses of \$39,732 resulted in operating income of \$8,070 in the test year.

21           **Revenues**

22          40.     Clear Springs did not request an increase over test year revenues for the Wastewater  
 23 Division, but because the Wastewater Division has a negative FVRB, Staff could not evaluate the  
 24 adequacy of the revenues using a rate of return methodology. Instead, Staff conducted a cash flow  
 25 analysis and concluded the proposed rates and charges result in an \$8,291 cash flow from operations,  
 26 which Staff believed provided sufficient contingency funds for the Wastewater Division.

27 <sup>24</sup> Rebuttal Testimony of Sonn Rowell, pages 5-6.

28 <sup>25</sup> Surrebuttal Testimony of Jeffrey M. Michlik, pages 4-6. See Decision No. 72026 (December 10, 2010), Decision No. 72251 (April 7, 2011), and Decision No. 73091 (April 5, 2012).

1 41. We find the proposed revenue of \$47,802 is reasonable.

2 **Rate Design**

3 42. During the test year, the average and median usage for the Wastewater Division's  
4 residential customers were 4,763 and 3,226, respectively. Clear Springs' and Staff's proposed rates  
5 and charges would decrease the average residential monthly bill by \$1.55, or 14.68 percent, from  
6 \$10.55 to \$9.00. The median residential monthly bill would decrease by \$.24, or 2.62 percent, from  
7 \$9.24 to \$9.00.

8 43. The average and median usage in the test year for commercial customers were 8,246  
9 and 3,367, respectively.<sup>26</sup> Clear Springs' and Staff's proposed rates and charges would increase the  
10 average commercial monthly bill by \$2.86, or 21.17 percent, from \$13.51 to \$16.37 and the median  
11 commercial monthly bill by \$2.86, or 30.56 percent, from \$9.36 to \$12.22.

12 44. The Company proposed a 2.0 percent Late Payment Penalty. Staff recommended a  
13 Late Payment Penalty of 1.5 percent, stating that its recommended service charges reflect Staff's  
14 experience of what are reasonable and customary charges.<sup>27</sup>

15 45. We find the rates and charges for the Wastewater Division proposed by Staff to be just  
16 and reasonable and we adopt them.

17 **Other Wastewater Division Recommendations**

18 46. Staff recommended that Clear Springs be authorized to collect from its wastewater  
19 customers their proportionate share of any privilege, sales or use tax, pursuant to A.A.C. R14-2-  
20 608(D)(5).

21 47. Staff also recommended that Clear Springs be ordered to file with Docket Control,  
22 within 30 days after the effective date of the Decision in this matter, as a compliance item in this  
23 docket, a schedule of the Wastewater Division's approved rates and charges.

24 48. Staff recommended that Clear Springs should notify its wastewater customers of the  
25 authorized rates and charges, and their effective date, and in a form acceptable to the Commission's  
26 Utilities Division, by means of an insert in its next regularly scheduled billing, and should file with

27 \_\_\_\_\_  
28 <sup>26</sup> Rebuttal Testimony Sonn Rowell, Rebuttal Schedule H-5S, page 3.

<sup>27</sup> Direct Testimony of Jeffrey M. Michlik, pages 20-21.

1 Docket Control copies of the notice within 10 days of the date the notice is mailed to customers.

2 49. Staff further recommended that Clear Springs be required to adopt depreciation rates  
3 delineated by individual NARUC account for the Wastewater Division, as set forth in Exhibit A to  
4 this Decision.

5 50. We find that Staff's recommendations are reasonable and we adopt them.

6 51. In Decision No. 62583, we ordered that Clear Springs' next significant financing for  
7 the Wastewater Division should be in the form of equity, and we confirm that requirement.

## 8 WATER DIVISION

### 9 Summary

10 52. In its Rebuttal Testimony, Clear Springs proposed an increase in base rate revenues  
11 for its Water Division of 50.12 percent. The Company's proposed water rates and charges would  
12 produce operating revenues of \$252,582 and operating expenses of \$226,794, resulting in operating  
13 income of \$25,788, for a 50.0 percent rate of return on its adjusted proposed FVRB of \$51,575.

14 53. Staff's Surrebuttal Testimony reflects a base rate revenue increase of 34.86 percent.  
15 Staff's recommended water rates and charges would produce operating revenues of \$226,902 and  
16 operating expenses of \$220,493, resulting in operating income of \$6,409, for a 30.0 percent rate of  
17 return on Staff's recommended \$21,364 FVRB.

18 54. The Company and Staff also proposed a customer surcharge to collect additional  
19 revenues for payment of the principal and interest on the WIFA loan, as well as the debt service  
20 reserve fund ("DSRF")<sup>28</sup> and the associated taxes ("WIFA Surcharge"). Clear Springs proposed  
21 additional revenues of \$42,648, for a total revenue requirement of \$295,231. Staff recommended  
22 additional revenues of \$31,617, for a total revenue recommendation of \$258,519. The calculations,  
23 bill impact and conditions on the WIFA Surcharge are detailed in the Finance Application discussion.

24 55. Decision No. 68443 reflects the Water Division's current rates. A summary of the  
25 parties' final revenue requirement positions for the Water Division follows:

26

27

28

<sup>28</sup> After approximately the first six months of principal and interest payments on the WIFA loan, WIFA may require borrowers to pay over five years an additional amount equal to 20 percent of the loan. WIFA holds the money in a debt service reserve fund in case the borrower defaults on the loan, in which event WIFA may apply the funds held in reserve to missed debt service payments.

	<u>Company Final Proposed</u> <sup>29</sup>	<u>Staff Final Proposed</u> <sup>30</sup>
1		
2	Fair Value Rate Base	\$ 51,575
3	Adjusted TY Operating Inc.	(38,426)
4	Current Rate of Return	N/A
5	Required Operating Income	\$ 25,788
6	Operating Income Deficiency	64,214
7	Revenue Conversion Factor	1.313
8	Recommended Oper. Rev. Increase	\$ 84,332
9	Adjusted Test Year Revenue	168,250
10	Proposed Annual Operating Revenues	252,582
11	Required Increase in Revenues	50.12%
12	Rate of Return	50.0%
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### Rate Base

56. In its Rate Application, the Company proposed a \$96,746 FVRB. Staff's originally recommended FVRB of \$38,541 reflected a \$58,205 decrease to the Company's proposed FVRB. Staff's adjustments were: 1) the addition of \$11,849 for post-test year plant and \$741 for the accumulated depreciation, 2) removal of \$34,151 for plant deemed not used and useful, and the associated \$10,212 accumulated depreciation, 3) removal of \$46,540 in test year customer deposits, and 4) a decrease of \$317 to cash working capital.

57. Clear Springs objected, in part, to Staff's treatment of customer deposits and disputed Staff's conclusion that certain plant was not used and useful and opposed its removal from rate base.

### Plant in Service

58. In her Direct Testimony, Ms. Hains stated that during an on-site visit she observed Well No. 16 was disconnected from the water system and there was no power to the well site, and the 5,000 gallon pressure tank, control panel and well turbine pump installed in 2006 were not in use. Staff concluded that Well No. 16 was not used and useful for rate base purposes and recommended a reduction to plant in service of \$34,151, and to accumulated depreciation of \$10,212.

59. Clear Springs disagreed with Staff's determination that Well No. 16 plant was not used and useful, contending that Well No. 16 is needed for redundancy. Mr. Dojaquez claimed that if Well No. 18 failed, Well No. 5, which feeds directly into the distribution system, would be constantly turning on and off causing excessive wear and tear to the pump motor, increasing the

<sup>29</sup> The data for the Company's final proposed revenue requirement are found in the Rebuttal Testimony of Sonn S. Rowell, Rebuttal Schedules A-1, C-1T and C-1W.

<sup>30</sup> The data for Staff's final proposed revenue requirement are found in the Surrebuttal Testimony of Jeffrey M. Michlik, Surrebuttal Schedule JMM-W1.

1 likelihood that it, too, could fail.<sup>31</sup> Mr. Dojaquez explained that it would take approximately \$5,000  
 2 or \$6,000 to complete the electrical upgrades, repairs and improvements needed to bring Well No. 16  
 3 back on line, but the Company's dire financial straits have prevented it.<sup>32</sup> Mr. Dojaquez admitted that  
 4 Well No. 16 had not been used since the early 2000s and there was no indication that Well No. 18 is  
 5 in imminent danger of failing.<sup>33</sup>

6 60. In Decision No. 68443, we authorized Clear Springs to obtain a \$40,640 loan from  
 7 WIFA specifically for improvements to Well No. 16; however, other repairs required to bring Well  
 8 No. 16 on line have not been completed.<sup>34</sup> At the time of the hearing, Well No. 16 was not in service,  
 9 it was not in service during the test year, and had not been in service since July 2003. Requiring  
 10 customers to pay rates based on plant that is not being used in any way beneficial to the customers  
 11 (and has not been for years), is not equitable or reasonable.

12 61. We understand the Company's concerns about redundancy, but Clear Springs did not  
 13 present sufficient evidence to support its position that Well No. 16 should be deemed used and useful  
 14 for inclusion in rate base at this time. If the Company believes the well is required for redundancy, it  
 15 should complete the upgrades needed to put the well into service—ideally using equity—and in its  
 16 next rate case Clear Springs may present more detailed evidence of the need for redundancy or other  
 17 evidence demonstrating that Well No. 16 should be included in rate base.

18 62. We find that Staff's adjustment to plant in service is reasonable and we adopt it.

19 AIAC and CIAC Balances

20 63. In its Rebuttal Testimony, the Company proposed an adjusted test year balance for  
 21 advances in aid of construction ("AIAC") of \$71,634 and an adjusted test year balance for  
 22 contributions in aid of construction ("CIAC") of \$289,888.

23 64. Clear Springs proposed a composite CIAC amortization rate of 3.03 percent,  
 24 representing the weighted average of the only two specific accounts listing the AIAC-constructed  
 25

26 <sup>31</sup> Tr. at 44-47, 70-71.

<sup>32</sup> Tr. at 43-44, 70-71.

<sup>33</sup> Tr. at 52-53.

27 <sup>34</sup> Decision No. 68443, page 14. The entire \$40,640 was intended for improvements to Well No. 16 and the well site. Docket No. WS-  
 28 01689A-05-0629, *In the Matter of Clear Springs Utility Co., Inc. for a Rate Increase and Request for Financing Authorization*,  
 Engineering Report, page 16.

1 asset amounts that are now being depreciated as CIAC. Applying this composite rate to the test year  
2 CIAC balance resulted in an adjusted test year CIAC amortization balance of \$230,534.

3 65. The Company requested that the Commission adopt Clear Springs' proposed  
4 composite amortization rate of 3.03 percent for current and future transfers of AIAC to CIAC.

5 66. Staff responded that, generally, most small utilities' records are not sufficiently  
6 detailed to accurately track by specific plant account AIAC that has been converted to CIAC, and an  
7 overall composite CIAC amortization rate must be used. Clear Springs' records made it possible to  
8 track the source of the funds by plant account, but the Company chose to adopt a "hybrid approach"  
9 to derive the composite rate using only the two plant accounts that currently reflect CIAC balances.

10 67. Staff agreed to accept the Company's methodology for this case, and adopted Clear  
11 Springs' CIAC balance of \$289,888 and accumulated CIAC amortization balance of \$230,534, for  
12 net CIAC of \$59,354. Staff did not recommend authorizing Clear Springs' hybrid approach for  
13 future CIAC conversions, contending that factors not present in the proposed CIAC amortization rate  
14 may affect the reasonableness of the Company's hybrid CIAC amortization rate going forward.  
15 Additionally, the Company would have to continue to appropriately maintain its records to support  
16 this method.<sup>35</sup>

17 68. We find that the Company's and Staff's adjustments to AIAC and CIAC are  
18 reasonable, but we agree with Staff that the Company's CIAC amortization rate methodology should  
19 not be pre-authorized for use in future rate cases.

20 Customer Deposits

21 69. According to the Company, the \$46,540 held as customer deposits are comprised of  
22 \$40,253 from customer meter deposits, \$6,284 for customer security deposits, and \$3 for unclaimed  
23 customer security deposits. The Company acknowledged that the funds related to customer meter  
24 deposits are properly considered to represent AIAC and, as such, the associated \$40,253 should be  
25 deducted from rate base. But Clear Springs opposed removal from rate base of the remaining \$6,287  
26 related to customer security deposits, claiming these funds represent a current liability since they  
27 must be returned to customers.

28 <sup>35</sup> Surrebuttal Testimony of Jeffrey M. Michlik, page 7.

1           70.     In Staff's Surrebuttal Testimony, Staff agreed with the Company's assertion that the  
 2 \$40,253 for customer meter deposits should be classified as AIAC and Staff adjusted its schedules  
 3 accordingly. Staff also adjusted the amount of customer security deposits from \$6,287 to \$6,361 to  
 4 reflect updated information provided by Clear Springs, but Staff continued to record customer  
 5 security deposits as a reduction to rate base.

6           71.     In our discussion of the Company's sewer rates above, we accepted Staff's position  
 7 that customer security deposits are non-investor provided capital and should be removed from rate  
 8 base as long as the associated interest was allowed as an operating expense, which Staff has done.

9           72.     We find Staff's adjustments to customer deposits to be reasonable and we adopt them.

10          73.     Based on the foregoing discussion, we adopt an adjusted OCRB and FVRB of \$21,364  
 11 for Clear Springs' Water Division as follows:

12 **Commission Approved:**

13 Plant in Service	\$ 1,079,784
14 Less: Accumulated Depreciation	<u>900,248</u>
14 Net Plant in Service	179,535 <sup>36</sup>
15 <b><u>Deductions:</u></b>	
16     CIAC	289,888
16     Less Accumulated Amortization	<u>230,534</u>
17 Net CIAC	59,354
18 Service Line and Meter Deposits	40,253
18 AIAC	71,634
19 Customer Deposits	<u>6,361</u>
19 Total Deductions:	177,602
20 <b><u>Additions:</u></b>	
21 Cash Working Capital Allowance	<u>19,431</u>
22 <b><u>Total OCRB:</u></b>	<b><u>\$ 21,364</u></b>

23 **Operating Income**

24 **Operating Revenues**

25          74.     During the test year, Clear Springs' Water Division reported total adjusted operating  
 26 revenues of \$168,250 and Staff agreed. We adopt test year operating revenues of \$168,250.

27 **Operating Expenses**

28 <sup>36</sup> The one dollar difference results from rounding.

1 75. Clear Springs proposed final test year operative expenses of \$206,676. Staff  
2 recommended operating expenses of \$207,117 based on adjustments to water testing, depreciation,  
3 property tax and income tax expenses. Clear Springs objected to portions of Staff's adjustments.

4 Water Testing Expense

5 76. Clear Springs based its proposed water testing expenses of \$7,172 on its verified costs  
6 incurred during the test year.

7 77. Staff originally proposed adjusted water testing expenses of \$4,637, which consisted  
8 of \$2,027 for testing the two systems subject to ADEQ's Monitoring Assistance Program ("MAP"),  
9 plus an additional \$1,725 for bacteria, lead, copper and disinfection by-products tests that are not  
10 covered by MAP. Staff noted that although the three smaller systems are not subject to ADEQ's  
11 monitoring and reporting requirements, A.A.C. R14-2-407(A) requires water companies to deliver  
12 potable water to its customers and Staff recommended Clear Springs test the smaller systems and  
13 proposed total annual water testing costs of \$885.<sup>37</sup>

14 78. In his Rebuttal Testimony, Mr. Dojaquez stated that Clear Springs did not oppose  
15 testing the unregulated water systems as long as Staff allows the costs in operating expenses, but he  
16 disputed some of Staff's testing costs, claiming that Staff's estimates for radiochemical tests (covered  
17 by MAP), bacteriological tests, and nitrate tests were too low.<sup>38</sup>

18 79. Ms. Hains agreed that the estimates for bacteriological testing were too low and  
19 revised the recommended annual testing costs to \$4,112 for the two larger systems, and to \$1,245 for  
20 the smaller systems, for a total water testing expense of \$5,357.<sup>39</sup>

21 80. Staff's recommendations that the Company test the non-regulated PWS and Staff's  
22 proposed water testing expense of \$5,357 are reasonable and we adopt them.

23 Depreciation, Property and Income Taxes, Customer Deposit Interest

24 81. Clear Springs' and Staff's final proposed depreciation, tax and customer deposit  
25 interest expenses each reflect the flow through of their specific proposed adjustments to various rate  
26

27 <sup>37</sup> Direct Testimony of Dorothy Hains, Exhibit DMH-1, page 13, Table 4B.

28 <sup>38</sup> Rebuttal Testimony of Keith Dojaquez, page 3.

<sup>39</sup> Surrebuttal Testimony of Dorothy Hains, pages 2-3, Tables 7A and 7B.

1 base components. Because we have adopted Staff's rate base recommendations, Staff's  
2 recommended adjusted costs for these accounts are reasonable.

3 82. Staff's adjusted test year operating expense of \$207,117 is reasonable and we adopt it.

4 83. The adopted test year revenues of \$168,250 and adjusted test year operating expenses  
5 of \$207,117 result in an adjusted test year operating net loss for the Water Division of (\$38,867).

6 **Revenue Requirement**

7 84. Clear Springs' originally requested operating revenues of \$266,673, equal to a  
8 \$98,423 increase over test year revenues for a 35.0 percent rate of return, and proposed  
9 implementation of a customer surcharge to provide the additional revenue needed to cover the entire  
10 amount of the monthly WIFA payment on the requested \$511,000 loan, including principal, interest,  
11 DSRF, taxes and any other reserve payments required by WIFA.

12 85. Staff's originally recommended operating revenues of \$216,023, for an increase of  
13 \$47,773 over test year revenue, resulted in an 11.5 percent rate of return. Although its  
14 recommendations generated \$10,004 in cash flow, Staff noted that this was not sufficient to meet the  
15 Company's current financial obligations and the debt service for the new WIFA loan. Staff  
16 recommended the implementation of a WIFA Surcharge to generate the additional funds.

17 **Adequacy and Components of Cash Flow**

18 86. In its Rebuttal Testimony, Clear Springs disputed Staff's assertion that the  
19 recommended rates would generate enough income to provide \$10,000 in cash flow, contending that  
20 if the Company did not take out the WIFA loan, Staff's recommended rates would result in an actual  
21 net loss. Clear Springs opposed the inclusion of depreciation expense when calculating the amount  
22 of cash flow necessary to pay for a WIFA loan, stating:

23 When depreciation expense is redirected to pay for a WIFA loan, the Company is  
24 stripped of the one other resource, besides net income, it can use to make major  
25 improvements and upgrades. This is common and is called owner reinvestment.  
26 In other words, in lieu of taking a return, most small water company owners  
reinvest depreciation cash flow from depreciation expense already along with any  
net income they may be lucky enough to get.<sup>40</sup>

27 ...

28 <sup>40</sup> Rebuttal Testimony of Sonn Rowell, page 17.

1           87.     The Company ultimately proposed adjusted total revenues of \$252,582, for an \$84,332  
2 increase to test year revenues, or 50.12 percent, generating \$25,788 of operating income exclusive of  
3 the additional revenues from the WIFA Surcharge.

4           88.     In its Surrebuttal Testimony, Staff concluded that the Company's minimal rate base  
5 justified considering the use of cash flow to determine revenue requirement, rather than application of  
6 a strict rate of return methodology, but contended that this method must be applied judiciously:

7                   A small rate base means that the utility owners have a small investment in the  
8 utility. Since the owners' investment is small, the earnings should be  
9 correspondingly small. When the rate base/rate of return methodology is set aside  
10 to provide additional revenues, the purpose is to support the provision of  
11 adequate, safe and reliable service for ratepayers, not to enrich the owners.  
12 However, owners are the obvious and immediate beneficiaries of the additional  
13 revenues. No reasonable amount of cash flow can ensure that cash flow will meet  
14 any and every contingency. Therefore, an appropriate level of cash flow should  
15 address a reasonable level of anticipated contingencies under efficient operations  
16 while minimizing the additional revenue that exceeds those that would be  
17 generated using the rate base/rate of return methodology.

18                   Staff has reviewed the Company's operating expenses and concludes that \$10,000  
19 of cash flow is sufficient to address any reasonable short-term increase in  
20 operating expenses. Contingencies for capital improvements should be financed  
21 with long-term capital as opposed to operating expenses. The Company should  
22 effectively manage its cash flow....

23                   Utility owners should be encouraged to invest in plant necessary for the provision  
24 of service. Providing excess returns to investors by using the cash flow method of  
25 revenue requirement sends the wrong message, i.e., a disincentive, by providing a  
26 higher return on a lower investment.<sup>41</sup>

27           89.     Clear Springs disputed Staff's assertions that the Company's owner had not invested a  
28 sufficient amount of his own funds into the Company. Ms. Rowell testified that Mr. Lewis had used  
his own money to pay for needed repairs many times in the past.<sup>42</sup> Ms. O'Connor stated that Mr.  
Lewis regularly supplied funds when needed to pay the Company's day-to-day expenses and taxes,  
and that he had put over \$30,000 toward infrastructure due to an emergency that arose approximately  
four months before the hearing.<sup>43</sup>

          90.     The Company also denied that it had not effectively managed its cash flow. Clear  
Springs asserted that revenues are not within the Company's control and the revenues authorized in

<sup>41</sup> Surrebuttal Testimony of Jeffrey M. Michlik, pages 9-10.

<sup>42</sup> Tr. at 105, 107-108.

<sup>43</sup> Tr. at 28, 31, 34-36.

1 the previous rate case were insufficient from their inception. Clear Springs presented an exhibit that  
 2 the Company contended demonstrated it met the Commission's projected revenues only once since  
 3 its current rates went into effect, possibly because the imposition of tiered rates caused customers to  
 4 conserve water, decreasing the revenue stream.<sup>44</sup> Additionally, operating expenses proved to be  
 5 higher than Staff allowed, ultimately impacting the Company's overall operating income.<sup>45</sup>

6 91. Mr. Michlik responded that it is the Company's and its management's responsibility to  
 7 monitor whether it is hitting its revenue target and to take action when necessary.<sup>46</sup> Staff also  
 8 disagreed with the Company's assertion that use of depreciation expense to support the WIFA loan is  
 9 improper, arguing that the Company should be required to reinvest the funds into plant since it is the  
 10 lack of adequate owner investment that necessitated the use of a cash flow basis to cover the debt  
 11 service on plant under construction.<sup>47</sup>

12 92. Based on its cash flow calculations, Staff increased its initial base rate revenue  
 13 requirement by \$10,879, to \$226,902, or 34.86 percent, for an increase of \$58,652, over test year  
 14 revenues, resulting in a 30.00 percent rate of return on the adjusted FVRB, and an operating margin  
 15 of 2.82 percent. Staff contended that its recommended surrebuttal base rate revenues will provide  
 16 Clear Springs with enough money to meet all of its financial obligations.<sup>48</sup> Although Staff's  
 17 revisions increased the revenue stream from base rates, Staff decreased by a corresponding amount  
 18 the revenues it was recommending from the WIFA Surcharge.

19 93. Contrary to Clear Springs' assertions, recognition of depreciation expense in cash flow  
 20 calculations is consistent with ratemaking principles. A.R.S. § 40-222 allows the Commission to  
 21 direct a public service corporation to set aside depreciation funds and use those funds and the  
 22 associated income for purposes the Commission prescribes, and the Commission has previously  
 23 approved the inclusion of depreciation expense in cash flow analysis.<sup>49</sup> We note, however, the  
 24 Company's objection is not so much about appropriating depreciation expense to pay costs associated

25  
 26 <sup>44</sup> Tr. at 84; Hearing Exhibit A-7.

27 <sup>45</sup> Tr. at 81-88.

28 <sup>46</sup> Tr. at 180-181.

<sup>47</sup> Tr. at 169-170; Surrebuttal Testimony of Jeffrey M. Michlik, pages 10-11.

<sup>48</sup> Surrebuttal Testimony of Jeffrey M. Michlik, Surrebuttal Schedule JMM-W17.

<sup>49</sup> See Decision No. 71899 (September 28, 2010) and Decision No. 72429 (June 24, 2011).

1 with the WIFA loan, as it is a simple argument for more revenue. Yet in a situation where the  
 2 Company's rate base is small due to minimal owner investment, where its equity is negative (31.73)  
 3 percent, and where the entirety of the financing is being shouldered by customers through base rates  
 4 and a WIFA Surcharge, inclusion of depreciation expense in cash flow is just and reasonable.

5 94. Given the specific circumstances of this case, we find Staff's use of cash flow to  
 6 determine Clear Springs' base rate revenues, rather than instead of using solely a rate of return  
 7 analysis, is reasonable and we adopt Staff's \$226,902 recommended base rate revenue requirement.

### 8 Rate Design

9 95. The water rates and charges for Clear Springs at present, as proposed by the Company,  
 10 and as recommended by Staff, are as follows:

11 <u>MONTHLY USAGE CHARGE:</u>	<u>Present</u>	<u>Company</u>	<u>Staff</u>
12 (All Classes)	<u>Rates</u>	<u>Proposed</u> <sup>50</sup>	<u>Recommended</u> <sup>51</sup>
13 5/8 x 3/4-Inch Meter	\$ 11.00	\$ 14.00	\$ 12.75
14 3/4-Inch Meter	14.50	21.00	19.13
15 1-Inch Meter	23.25	35.00	31.88
16 1 1/2-Inch Meter	44.00	70.00	63.75
17 2-Inch Meter	66.00	112.00	102.00
18 3-Inch Meter	125.50	224.00	204.00
19 4-Inch Meter	250.00	350.00	318.75
20 6-Inch Meter	500.00	700.00	637.50
21 <u>COMMODITY CHARGES:</u>			
22 (Per 1,000 Gallons)			
23 <u>5/8 x 3/4-Inch Meter (Residential)</u>			
24 0 to 3,000 gallons	\$ 1.25	N/A	N/A
25 3,001 to 10,000 gallons	2.25	N/A	N/A
26 Over 10,000 gallons	3.50	N/A	N/A
27 0 to 3,000 gallons	N/A	\$ 1.75	\$ 1.50
28 3,001 to 8,000 gallons	N/A	3.90	3.60
Over 8,001 gallons	N/A	5.98	5.15
29 <u>3/4-Inch Meter (Residential)</u>			
30 0 to 3,000 gallons	\$ 1.25	N/A	N/A
31 3,001 to 10,000 gallons	2.25	N/A	N/A
32 Over 10,000 gallons	3.50	N/A	N/A
33 0 to 8,000 gallons	N/A	\$ 3.90	N/A
34 Over 8,000 gallons	N/A	5.95	N/A

35 <sup>50</sup> Rebuttal Testimony of Sonn Rowell, Rebuttal Schedules H-3W.

36 <sup>51</sup> Surrebuttal Testimony of Jeffrey M. Michlik, Surrebuttal Schedule JMM-W20.

1	0 to 3,000 gallons	N/A	N/A	\$ 1.50
	3,001 to 8,000 gallons	N/A	N/A	3.60
2	Over 8,000 gallons	N/A	N/A	5.15
	<b><u>5/8 x 3/4-Inch Meter (Commercial/ Irrigation)</u></b>			
3	0 to 3,000 gallons	\$ 1.25	N/A	N/A
	3,001 to 10,000 gallons	2.25	N/A	N/A
4	Over 10,000 gallons	3.50	N/A	N/A
5	0 to 3,000 gallons	N/A	\$ 1.75	N/A
	3,001 to 8,000 gallons	N/A	3.90	N/A
6	Over 8,001 gallons	N/A	5.98	N/A
7	0 to 8,000 gallons	N/A	N/A	\$ 3.60
8	Over 8,000 gallons	N/A	N/A	5.15
	<b><u>3/4-Inch Meter (Commercial/ Irrigation)</u></b>			
9	0 to 3,000 gallons	\$ 1.25	N/A	N/A
	3,001 to 10,000 gallons	2.25	N/A	N/A
10	Over 10,000 gallons	3.50	N/A	N/A
11	0 to 8,000 gallons	N/A	\$ 3.90	\$ 3.60
12	Over 8,000 gallons	N/A	5.98	5.15
	<b><u>1-Inch Meter (All Classes)</u></b>			
13	0 to 31,000 gallons	\$ 2.25	N/A	N/A
14	Over 31,000 gallons	3.50	N/A	N/A
15	0 to 30,000 gallons	N/A	\$ 3.60	N/A
	Over 30,000 gallons	N/A	5.98	N/A
16	0 to 15,000 gallons	N/A	N/A	\$ 3.60
17	Over 15,000 gallons	N/A	N/A	5.15
	<b><u>1 1/2-Inch Meter (All Classes)</u></b>			
18	0 to 58,000 gallons	\$ 2.25	N/A	N/A
19	Over 58,000 gallons	3.50	N/A	N/A
20	0 to 50,000 gallons	N/A	\$ 3.90	N/A
	Over 50,000 gallons	N/A	5.98	N/A
21	0 to 30,000 gallons	N/A	N/A	\$ 3.60
22	Over 30,000 gallons	N/A	N/A	5.15
	<b><u>2-Inch Meter (All Classes)</u></b>			
23	0 to 74,000 gallons	\$ 2.25	N/A	N/A
24	Over 74,000 gallons	3.50	N/A	N/A
25	0 to 70,000 gallons	N/A	\$ 3.90	N/A
	Over 70,000 gallons	N/A	5.98	N/A
26	0 to 50,000 gallons	N/A	N/A	\$ 3.60
27	Over 50,000 gallons	N/A	N/A	5.15
	<b><u>3-Inch Meter (All Classes)</u></b>			
28	0 to 100,000 gallons	N/A	\$ 3.90	N/A

1	Over 100,000 gallons	N/A	5.98	N/A
2	0 to 110,000 gallons	N/A	N/A	\$ 3.60
	Over 110,000 gallons	N/A	N/A	5.15
3	<b><u>4-Inch Meter(All Classes)</u></b>			
4	0 to 150,000 gallons	N/A	\$ 3.90	N/A
	Over 150,000 gallons	N/A	5.98	N/A
5	0 to 180,000 gallons	N/A	N/A	\$ 3.60
6	Over 180,000 gallons	N/A	N/A	5.15
7	<b><u>6-Inch Meter (All Classes)</u></b>			
8	0 to 250,000 gallons	N/A	\$ 3.90	N/A
	Over 250,000 gallons	N/A	5.98	N/A
9	0 to 380,000 gallons	N/A	N/A	\$ 3.60
	Over 380,000 gallons	N/A	N/A	5.15
10	<b><u>Bulk Water Sales - 3-Inch Meter</u></b>			
11	Excess of Minimum	\$ 4.00	\$ 6.00	N/A
12	All Usage Per 1,000 gallons	N/A	N/A	\$ 5.15

**SERVICE LINE AND METER INSTALLATION CHARGES:**  
(Refundable Pursuant to A.A.C. R14-2-405)

	<u>Present</u>		<u>Company Proposed</u>		<u>Staff Recommended</u>			
	Total	Service Line	Meter Installation	Total	Service Line	Meter Installation	Total	
16	5/8 x 3/4-Inch Meter	\$ 550.00	\$ 445.00	\$ 155.00	\$ 600.00	\$ 445.00	\$ 155.00	\$ 600.00
	3/4-Inch Meter	550.00	445.00	255.00	700.00	445.00	255.00	700.00
17	1-Inch Meter	650.00	495.00	315.00	810.00	495.00	315.00	810.00
	1 1/2-Inch Meter	875.00	550.00	525.00	1,075.00	550.00	525.00	1,075.00
18	2-Inch Turbine Meter	1,400.00	830.00	1,045.00	1,875.00	830.00	1,045.00	1,875.00
	2-Inch Compound Meter	N/A	830.00	1,890.00	2,720.00	830.00	1,890.00	2,720.00
19	3-Inch Turbine Meter	1,900.00	1,045.00	1,670.00	2,715.00	1,045.00	1,670.00	2,715.00
	3-Inch Compound Meter	N/A	1,165.00	2,545.00	3,710.00	1,165.00	2,545.00	3,710.00
20	4-Inch Turbine Meter	3,200.00	1,490.00	2,670.00	4,160.00	1,490.00	2,670.00	4,160.00
	4-Inch Compound Meter	N/A	1,670.00	3,645.00	5,315.00	1,670.00	3,645.00	5,315.00
21	6-Inch Turbine Meter	5,800.00	2,210.00	5,025.00	7,235.00	2,210.00	5,025.00	7,235.00
22	6" Compound Meter	N/A	2,330.00	6,920.00	9,250.00	2,330.00	6,920.00	9,250.00 <sup>52</sup>

	<u>Present Rates</u>	<u>Company Proposed</u>	<u>Staff Recommended</u>
23	<b><u>SERVICE CHARGES:</u></b>		
24	Establishment	\$30.00	\$35.00
25	Establishment (After Hours)	45.00	N/A

<sup>52</sup> The Service Line and Meter Installation Charges contained in the Direct Testimony of Jeffrey M. Michlik, Schedule JMM-W19 list the Service Line Installation charge on a 6-inch Compound Meter as \$2,300, the Meter Installation Charge as \$6,920, for total charges of \$9,220. The charges listed in the Direct Testimony of Dorothy Hains, DMH-1, page 17, Table 6, lists the Service Line Installation charge on a 6-inch Compound Meter as \$2,330, the Meter Installation Charge as \$6,920, for total charge of \$9,250. This is the correct information and is reflected here.

1	Reconnection (Delinquent)	30.00	\$40.00	\$40.00
	After Hours Charge	N/A	25.00	25.00
2	Meter Test (If Correct)	\$45.00	45.00	45.00
	Meter Reread (If Correct)	25.00	30.00	30.00
3	NSF Check	20.00	25.00	25.00
	Deposit	*	*	*
4	Deposit Interest	*	*	*
	Re-Establishment (Within 12 Months)	**	**	**
5	Deferred Payment (Per Month)	1.5%	1.5%	***
	Late Payment Fee (Per Month)	N/A	2.00%	1.5%

6 \* Per Commission Rule A.A.C. R14-2-403(B).

7 \*\* Months off the system times the monthly minimum per Commission Rule A.A.C. R14-2-403(D).

8 \*\*\* Per Commission Rule A.A.C. R14-2-409(G).

9 96. The Company's final proposed rate design did not vary its commodity rates between  
10 customer classes. Staff's surrebuttal rate design proposed different rates between residential and  
11 commercial customers on 5/8 x 3/4-inch meters, as well as different rates and tier structures between  
12 residential and commercial customers using 3/4-inch meters. The Company and Staff also adopted  
13 different break-over points for all customer classes on 1-inch meters and above.

14 97. The parties agreed regarding the Service Charges, although Staff's position on the  
15 Deferred Payment Charge is not clear. In Decision No. 68443, the Commission approved a Deferred  
16 Payment Charge of 1.5 percent for the Water Division as permitted pursuant to A.A.C. R14-2-  
17 409(G)(6). Additionally, Staff recommended a 1.5 percent Deferred Payment Charge in the  
18 Wastewater Division's Service Charges approved earlier. Accordingly, we confirm the Water  
19 Division's Deferred Payment Charge of 1.5 percent.

20 98. During the test year, the average and median water use per month for residential  
21 customers on a 5/8 x 3/4-inch meters were 5,179 gallons and 3,318, respectively.<sup>53</sup>

22 99. Under the Company's final proposed base rates, a residential water customer with  
23 average usage would experience an increase of \$8.10 per month, or 41.22 percent, from \$19.65 to  
24 \$27.75. A residential customer with a median usage would experience an increase of \$5.02, or 32.45  
25 percent, from \$15.47 to \$20.49.

26 100. Under Staff's recommended base rates, a residential water customer with average  
27 usage would experience an increase of \$5.44 per month, or 27.69 percent, from \$19.65 to \$25.09.

28 <sup>53</sup> Not all Water Division customers are Wastewater Division customers, which creates the difference between the average and median usage for water and wastewater customers. Tr. at 23.

1 Staff's recommendations would increase the median usage residential customer's monthly bill by  
2 \$2.93, or 18.94 percent, from \$15.47 to \$18.40.

3 101. Staff recommended that Clear Springs be ordered to file with Docket Control, within  
4 30 days after the effective date of the Decision in this matter, as a compliance item in this docket, a  
5 schedule of the approved rates and charges.

6 102. Staff recommended that Clear Springs should notify its water customers of the  
7 authorized rates and charges, and their effective date, and in a form acceptable to the Commission's  
8 Utilities Division, by means of an insert in its next regularly scheduled billing, and should file with  
9 Docket Control copies of the notice within 10 days of the date the notice is mailed to customers.

10 103. Staff recommended that Clear Springs be authorized to collect from its customers their  
11 proportionate share of any privilege, sales or use tax, pursuant to A.A.C. R14-2-409(D)(5).

12 104. Staff further recommended that Clear Springs be required to adopt depreciation rates  
13 delineated by individual NARUC account, as outlined in Exhibit B to this Decision.

14 105. Based on the foregoing discussions of rate base, expenses and revenue requirement,  
15 we find that Staff's recommended rate design and service charges are reasonable and we adopt them.

16 **Other Water Division Recommendations**

17 106. Staff proposed additional recommendations regarding Clear Springs' water loss,  
18 storage deficiencies, water testing compliance and best management practices tariffs.

19 **Water Loss Reporting and Reduction**

20 107. Based on the Company's historical water loss and compliance issues, Staff made the  
21 following recommendations:

- 22 a) Clear Springs should submit a detailed water loss reduction plan with Docket  
23 Control, as a compliance item in this docket, before any rate increase adopted  
24 in this matter becomes effective.
- 25 b) Clear Springs should monitor the water system closely and take action to  
26 ensure the water loss is 10 percent or less by December 2014. If the water loss  
27 continues to exceed 10 percent, calculated on an annual basis, the Company  
28 shall, within 270 days of a decision in this case, file a detailed plan to reduce  
water loss to 10 percent or less, or prepare a report containing a detailed  
analysis and explanation demonstrating why a water loss reduction to 10  
percent or less is not feasible or cost effective.

1 c) Clear Springs should file water loss progress reports semiannually with Docket  
2 Control, as a compliance item in this docket, and for the first water loss  
3 progress report to be filed by June 30, 2013.

4 d) Staff should determine that any future rate case filed by the Company is  
5 insufficient if these items are not properly submitted.<sup>54</sup>

6 108. In Decision No. 68443, the Commission ordered the Company to file a water loss  
7 report within 180 days of the Decision's effective date for PWS #02-008 with a detailed plan to  
8 address the water loss and outlining the steps Clear Springs was taking to correct the problem. The  
9 Commission also adopted Staff's recommendation that the Company would have to either reduce the  
10 system's water loss to 10 percent or less, or explain why it was not reasonable or feasible to do so,  
11 before Clear Springs filed for another rate increase.

12 109. The Company filed a brief letter on July 21, 2006, noting that as of June 21, 2006, its  
13 water loss was 14.5 percent, and wrote: "The steps that will be taken to prevent water loss will be in  
14 the form of new construction upgrades to the system. Upgrades are scheduled within the next  
15 eighteen months."<sup>55</sup> No other details or reports were provided. Nevertheless, Clear Springs filed its  
16 Rate Application reporting 42.88 percent test year water loss for PWS #02-008.

17 110. On December 5, 2011, Staff docketed a Letter of Deficiency in the instant matter  
18 advising the Company it was in violation of Decision No. 68443 because had neither reduced PWS  
19 #02-008's loss levels below 10 percent before filing a rate case, nor explained why it was not feasible  
20 or economical to do so. Staff stated that Clear Springs had to comply with the Decision before a  
21 sufficiency determination could be made.

22 111. On December 29, 2011, the Company docketed its Response to Letter of Deficiency  
23 claiming that its letter filed on July 21, 2006, was intended to comply with both orders about water  
24 loss reduction.<sup>56</sup> The Company attached as an exhibit to its Response a copy of a detailed letter  
25 explaining the Company's belief that it was not currently economically feasible for it to reduce water  
26 loss levels in PWS #02-008 below 10 percent.<sup>57</sup> Clear Springs believed the three largest causes of the  
27 excessive water loss were: 1) substantial leaks in the transmission and distribution lines, 2) aging and

28 <sup>54</sup> Direct Testimony of Dorothy Hains, DMH-1, page 9.

<sup>55</sup> Hearing Exhibit A-3, Attachment 1.

<sup>56</sup> Hearing Exhibit A-3, page 2.

<sup>57</sup> This letter was filed in the prior rate case docket on the same day as the Company's Response in this matter.

1 defective customer meters, and 3) leaking fire hydrants. The Company asserted the Water Division  
2 was operating at a loss and the costs of addressing these problems were prohibitive; therefore, it was  
3 not economically feasible to replace or repair the faulty infrastructure and equipment at that time.

4 112. Staff contended that the Company did not advise the Commission of its dire financial  
5 straits and failed to pursue other possible solutions to correct water loss. As a result of the  
6 Company's failure to act, the loss percentage for PWS #02-008 had tripled since its last rate case.<sup>58</sup>

7 113. Ms. O'Connor responded that she was not aware of any bank that would loan money  
8 to a water utility, stating that SUM had approached banks in the past without success on behalf of  
9 several of the companies SUM manages.<sup>59</sup> In addition, SUM had approached governmental entities  
10 such as the EPA for funding, but it is not available to privately-held water companies.<sup>60</sup>

11 114. Ms. Rowell testified that the Company's rates were approved in 2006, and although  
12 the Company achieved its authorized revenues that year, revenues began falling fairly steadily after  
13 that. Ms. Rowell stated that SUM approached her in 2009 about performing the financial analysis to  
14 support rate applications for a number of the water companies managed by SUM, but her workload  
15 prevented her from proceeding with Clear Springs' rate case right away. In Ms. Rowell's opinion,  
16 the Company tried to get a rate application moving as soon as it was clear the Company needed more  
17 revenue.<sup>61</sup>

18 115. Mr. Dojaquez stated that Clear Springs is attempting to address any new sources of  
19 water loss as it is able and the Company has managed to bring the water loss for PWS #02-008 down  
20 to approximately 18 percent.<sup>62</sup> He testified, however, that it will cost "multiple millions" of dollars to  
21 drop water loss below 10 percent because miles of transmission and distribution lines, all customer  
22 meters, and many fire hydrants need to be replaced.<sup>63</sup> Mr. Dojaquez believed the upgrades planned  
23 for the WIFA funds will help, but there are many problems simply because of the infrastructure's age  
24 and there is not enough money to complete all the upgrades and improvements the Company believes  
25

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26 <sup>58</sup> Direct Testimony of Dorothy Hains, page 9.

27 <sup>59</sup> Tr. at 13.

28 <sup>60</sup> *Id.*

<sup>61</sup> Tr. at 111.

<sup>62</sup> Tr. at 67-68.

<sup>63</sup> Tr. at 66-67.

1 are necessary to stop the water loss.<sup>64</sup>

2 116. Ms. O'Connor stated that the Company strongly opposes Staff's recommendation that  
 3 implementation of rates should be tied to the completion of a water loss reduction plan. Both Ms.  
 4 O'Connor and Mr. Dojaquez testified that they have no objection to filing any water loss report,  
 5 detailed water loss reduction plan, or water loss progress reports that Staff requests, but they believed  
 6 there is too much uncertainty in Staff's recommendation about what the Company is specifically  
 7 required to produce, prepare or provide before Staff is sufficiently satisfied with the report or plan to  
 8 allow the rates to go into effect. Further, they stated they are not aware of any rule or policy  
 9 outlining Staff's definition of a detailed plan that might provide information or guidance.<sup>65</sup> Ms.  
 10 O'Connor also argued that "this recommendation implies that Staff decides if the plan would be  
 11 sufficient. Thus, the Commission would be delegating to Staff the power to decide if and when the  
 12 Company should get its new rates."<sup>66</sup>

13 117. As for Staff's recommendation that any future rate case should be deemed insufficient  
 14 if it did not file the water loss reports, Ms. O'Connor believed this was impermissible. She stated:  
 15 "Whether or not a rate application is sufficient or not depends upon filing the proper information  
 16 required on the application. There is no rule that allows Staff to withhold rates or a rate application  
 17 based up the filing of water reports."<sup>67</sup>

18 118. We note that, although it was not filed timely, Clear Springs did file a report in  
 19 December 2011 detailing why the Company believed it was not economically feasible to reduce its  
 20 water loss for PWS #02-008. Decision No. 68443 permitted this report as an alternative to filing the  
 21 water loss reduction plan, and there was no requirement that the Company's report had to be  
 22 reviewed or approved by Staff. The Company's witnesses testified to their belief that there were no  
 23 viable financial options available to the Company to pay for the improvements and that Clear Springs  
 24 filed its Rate and Finance Applications as soon as possible given the time constraints of its witnesses.

25 ...

26

27 <sup>64</sup> *Id.*

<sup>65</sup> Tr. at 10; Rebuttal Testimony of Bonnie O'Connor, page 2; Rebuttal Testimony of Keith Dojaquez, page 3.

28 <sup>66</sup> Rebuttal Testimony of Bonnie O'Connor, page 2.

<sup>67</sup> *Id.*

1           119. The Company's purported confusion about what information is required to be  
 2 provided is somewhat understandable given the lack of specific requirements for the various water  
 3 loss reports, yet nothing precludes Clear Springs' representatives from calling Staff for clarification  
 4 or direction. Further, since every water company's situation is different, latitude is necessary when  
 5 determining the exact information needed in a report. But the fluidity necessary for a water loss  
 6 report creates too much uncertainty about what the Company is required to provide before Staff will  
 7 approve implementation of new rates.

8           120. Clear Springs stated it is actively monitoring water loss and claimed it has reduced the  
 9 loss levels for PWS #02-008 to 18 percent. The Company identified what it believes are the main  
 10 causes of the water loss and outlined the steps needed to address the problems. Some of the projects  
 11 approved in the Finance Application may reduce water loss.

12           121. We therefore decline to adopt Staff's recommendation that Clear Springs must submit  
 13 a detailed water loss reduction plan before any rate increase adopted in this matter becomes effective.

14           122. We agree with Staff that Clear Springs should continue to monitor PWS #02-008 loss  
 15 levels and we adopt Staff's requirement that the Company should file water loss progress reports for  
 16 PWS #02-008 every six months beginning December 31, 2013. Clear Springs' reports must account  
 17 for water pumped and sold, and the amount and percentage of non-account water, including a  
 18 description of any known reasons for significant levels of non-account water,<sup>68</sup> and a description of  
 19 any actions taken to curb water loss other than by means of the approved improvement projects  
 20 ("Water Loss Progress Reports").

21           123. The Company shall continue to file the Water Loss Progress Reports until the reported  
 22 water loss for PWS #02-008 is 10 percent or below in three consecutive filings.<sup>69</sup>

23           124. Because some of the improvement projects approved below may decrease loss levels,  
 24 we believe it is reasonable to give the Company time to construct the upgrades before requiring that  
 25 detailed water loss reduction plans be prepared.

26 ...

27 \_\_\_\_\_  
<sup>68</sup> For example, known line breaks, water theft or line-flushing.

28 <sup>69</sup> We also note that the Company reported test year water loss for PWS #02-048 of 9.79 percent. Clear Springs should be vigilant to ensure that the water loss levels for PWS #02-048 remain below 10 percent.

1           125. Accordingly, beginning with the June 30, 2015, filing, if any Water Loss Progress  
2 Report indicates that PWS #02-008's water loss levels exceed 10 percent, the Company must file  
3 within 120 days of that Water Progress Loss Report, either: 1) A written report containing a detailed  
4 and itemized water loss reduction plan and a specific timetable for reducing that system's water loss  
5 to 10 percent or less; or 2) a written report containing a detailed financial and/or engineering analysis  
6 explaining why reducing water loss levels in PWS #02-008 to 10 percent or less is not feasible or cost  
7 effective. The reports are subject to review by Engineering Staff.

8           126. Given Clear Springs' compliance issues, we understand Staff's recommendation that  
9 any future rate case filed by the Company should be deemed insufficient if the Company has not  
10 properly submitted the various reports. The obvious solution for the Company to avoid this  
11 consequence is simply to file the reports as required. Nevertheless, we do not believe it is advisable  
12 to pre-determine that failure to file these reports is, in itself, an adequate reason to deny sufficiency  
13 in a future rate case.

14           127. Instead, we believe it is reasonable to require that if Clear Springs fails to timely file  
15 the Water Loss Progress Reports or, if necessary, the applicable water loss reduction report, Staff  
16 should investigate the reasons for non-compliance and evaluate whether a Complaint and Order to  
17 Show Cause should be filed against Clear Springs. If Staff determines that a Complaint and Order to  
18 Show Cause is not necessary, Staff should file a memorandum in this docket noting its investigation  
19 and supporting its conclusion.

20           *Storage Deficiencies and Authorized Uses of Loan Funds*

21           128. In Decision No. 62583, the Commission approved an \$80,000 loan to finance the  
22 installation of a new well pump, storage tanks and booster pumps, contingent upon the Company's  
23 use of the proceeds for the purposes stated in the application and as approved by the Commission, but  
24 the Decision did not specifically state which system(s) the well pump, storage tanks and booster  
25 pumps were intended for. In Clear Springs' next rate case, however, Staff concluded that storage for  
26 PWS #02-048 and PWS #02-050 was insufficient and in Decision No. 68443 the Commission  
27 directed that the storage deficiencies should be resolved before the Company filed its next rate case.

28 ...

1           129. Staff asserted that Clear Springs is in violation Decision No. 68443 because it failed to  
2 resolve the water storage deficiencies for PWS #02-048 and #02-050 prior to filing its Application.  
3 Staff recommended that Clear Springs should be required to correct the storage deficiencies for PWS  
4 #02-048 and PWS #02-050 before any approved rate increase becomes effective.

5           130. Clear Springs objected to Staff's recommendation, stating that the Company did not  
6 and have the money to resolve the storage deficiencies and withholding rates would not improve the  
7 situation. Ms. O'Connor noted that the Company will use WIFA loan proceeds to install storage  
8 tanks and she suggested that as an alternative to Staff's recommendation, the Commission could  
9 order Clear Springs to complete the installation within 18 months or be subject to a penalty.<sup>70</sup>

10           131. Decision No. 62583 and Decision No. 68443 (approving the financing for Well No. 16  
11 improvements) stated that the financing authority was expressly contingent upon the Company's use  
12 of the loan proceeds for the purposes stated in the applications. During the hearing, Ms. O'Connor  
13 was asked whether she recalled if the funds from either of the Company's two prior loans were  
14 supposed to be used to pay for storage at PWS #02-048 and PWS #02-050. Without specifically  
15 stating which loan she was indicating, Ms. O'Connor replied: "That was part of the OPC at the time.  
16 However, other emergency situations arose that didn't allow that to happen."<sup>71</sup> She could not  
17 specifically recall what the emergencies were or whether the Company had contacted the  
18 Commission about use of the loan funds if, in fact, their use was for something other than that  
19 approved in the Decision. Ms. O'Connor contended that because WIFA authorized the draws, and  
20 because WIFA will not allow companies to use loan proceeds in ways outside those approved by the  
21 Commission, she believed Clear Springs' use of the funds was appropriate.<sup>72</sup>

22           132. Other than Ms. O'Connor's general testimony, we do not have evidence on the record  
23 in this matter about whether the financing for new storage tanks approved in Decision No. 62583 was  
24 for PWS #02-048 and PWS #02-050, or other systems, or whether Clear Springs' alternate use of the  
25 funds was for authorized or unauthorized purposes. Staff did not specifically address this issue at  
26 hearing, but we note that Staff likely reviewed the Company's invoices supporting its plant in service

27 <sup>70</sup> Rebuttal Testimony of Bonnie O'Connor, pages 2-3.

28 <sup>71</sup> Tr. at 16-17.

<sup>72</sup> Tr. at 23-25, 33.

1 schedules as part of the rate application subsequently filed in 2005 and there is no indication from the  
 2 Staff Report or Decision No. 68443 that Staff believed Clear Springs had used the proceeds from the  
 3 loan approved in Decision No. 62583 for unauthorized purposes.

4 133. Clear Springs is, however, in violation of Decision No. 68443 and Staff's  
 5 recommendation that the Company resolve the storage deficiencies prior to implementation of a rate  
 6 increase is understandable. But the Water Division is currently operating at a loss and placing the  
 7 implementation of new rates on hold until the Company and/or the shareholder obtain the means to  
 8 pay for storage for two water systems serving a combined total of 13 customers may jeopardize Clear  
 9 Springs' overall ability to provide safe and reliable service to over 500 customers.

10 134. We decline to place the rate increase on hold until the storage deficiencies are  
 11 resolved, but we believe it is reasonable to require Clear Springs complete the improvements to PWS  
 12 #02-048 and PWS #02-050, outlined in the attached Exhibit C, no later than October 1, 2014. The  
 13 Company must docket an affidavit within 10 days of the improvements' completion stating that the  
 14 storage deficiencies have been addressed.

15 135. If Clear Springs fails to timely resolve the storage deficiencies and file the completion  
 16 affidavit, Staff should investigate the reasons for the Company's non-compliance and evaluate  
 17 whether a Complaint and Order to Show Cause should be filed against Clear Springs. If Staff  
 18 determines that a Complaint and Order to Show Cause is not necessary, Staff should file a  
 19 memorandum in this docket noting its investigation and supporting its conclusion.

20 Water Testing Requirements

21 136. In Decision No. 68443 the Commission adopted Staff's recommended water testing  
 22 expense of \$5,606. Of that, \$1,995 was allocated as testing costs for the three non-regulated PWS.<sup>73</sup>  
 23 At hearing, Mr. Dojaquez testified that Clear Springs has not performed any water testing on the

24 ...

25 ...

26 ...

27

28 <sup>73</sup> Engineering Report, Docket No. W-01689A-05-0629, page 14. It appears that Staff included MAP fees in its testing costs for the smaller systems in that case, which accounts for the higher testing expenses adopted in 2006 in comparison to those adopted here.

1 smaller systems since it is not required by ADEQ,<sup>74</sup> and he could not attest to the quality of water  
2 being delivered to the customers served by the unregulated systems.<sup>75</sup>

3 137. Staff recommended that:

4 Clear Springs should file with Docket Control, as a compliance item in this  
5 docket, an affidavit indicating that the water testing referenced in [the Surrebuttal  
6 Testimony of Dorothy Hains, pages 2-3, Table 7B] has been completed and that  
7 the Company is delivering water to customers served by its non-community  
8 systems that complies with applicable water quality standards and to file its  
9 affidavit on a quarterly basis with the first affidavit due for the first quarter of  
10 2013, by April 30, 2013, and to continue filing such quarterly reports until the  
11 non-community water systems become community water systems.<sup>76</sup>

12 138. Mr. Dojaquez stated that the Company is not opposed to testing the smaller systems,  
13 but claimed Staff's reporting frequency requirements are administratively burdensome and  
14 unnecessary. He related that Clear Springs will keep the testing results in the normal course of  
15 business and they will be available for Staff's review.<sup>77</sup>

16 139. A.A.C. R14-2-407(A) states it is a water utility's responsibility to provide customers  
17 with potable water. We are concerned that Clear Springs does not know the quality of water being  
18 delivered to its customers served by the non-regulated systems, especially given that the Commission  
19 granted an allocation for testing these systems in its last rate case. We believe it is reasonable to  
20 require Clear Springs to conduct the water testing as outlined in the Surrebuttal Testimony of  
21 Dorothy Hains, pages 2-3, Table 7B, attached to this Decision as Exhibit D, for PWS #02-048, PWS  
22 #02-050 and PWS #02-051 within 20 days of the effective date of this Decision.

23 140. Clear Springs must file with Docket Control, as a compliance item in this docket, no  
24 later than 30 days after the effective date of this Decision, an affidavit verifying that the Company  
25 completed all testing as required, and that it is in compliance with A.A.C. R14-2-407(A).

141. Barring extraordinary circumstances outside of Clear Springs' control, no extensions  
of time to comply with the above two conditions will be granted.

<sup>74</sup> Tr. at 61, 63. On page 3 of Mr. Dojaquez' Rebuttal Testimony about testing the smaller systems, the question he answered was: "Do you agree with Staff's recommendation that the Company conduct water testing for PWS no. 02-048 and PWS no. 02-050?" He responded that the Company did not oppose testing the "non-community water systems," which would include PWS #02-051 with only ten customers. Based on this testimony, it is not clear whether the Company is currently performing water tests on PWS #02-051.

<sup>75</sup> Tr. at 63, 72.

<sup>76</sup> Direct Testimony of Dorothy Hains, DMH-1, page 13 and Surrebuttal Testimony of Dorothy Hains, pages 2-3, Table 7B.

<sup>77</sup> Rebuttal Testimony of Keith Dojaquez, pages 3-4.

1           142. Staff's recommendation that Clear Springs should file an affidavit indicating that the  
2 water testing required in this Decision has been completed and that the water from its unregulated  
3 systems complies with applicable water quality standards is reasonable, although we decline to adopt  
4 Staff's recommended filing frequencies. We believe Staff's recommendation should be modified as  
5 follows: Clear Springs should file as part of its Annual Report to the Utilities Division separate  
6 affidavits for PWS #02-048, PWS #02-050 and PWS #02-051 attesting that the Company is  
7 conducting the water testing as directed in this Decision, and that the Company is delivering water to  
8 customers served by PWS #02-048, PWS #02-050 and PWS #02-051 that falls below the applicable  
9 maximum contaminant levels for each test, and that the Company is in compliance with A.A.C. R14-  
10 2-407(A). Clear Springs should continue to file the separate affidavits for PWS #02-048, PWS #02-  
11 050 and PWS #02-051 until each becomes classified as a community water system by ADEQ.

12           143. If Clear Springs fails to comply with the testing and filing requirements stated above,  
13 Staff should investigate the reasons for the Company's non-compliance and evaluate whether a  
14 Complaint and Order to Show Cause should be filed against Clear Springs. If Staff determines that a  
15 Complaint and Order to Show Cause is not necessary, Staff should file a memorandum in this docket  
16 noting its investigation and supporting its conclusion.

17                           *Best Management Practices*

18           144. ADWR's Modified Non-Per Capita Conservation Program is a regulatory program  
19 added to the Third Management Plan for Arizona's AMAs. It is a performance-based program that  
20 requires participating providers to implement water conservation measures that result in water use  
21 efficiency in their service areas. Under the program, water service providers implement a Public  
22 Education Program and one or more additional Best Management Practices ("BMPs") based on their  
23 total number of residential and non-residential water service connections.

24           145. Staff recommended that Clear Springs file with Docket Control, as a compliance item  
25 in this docket, within 90 days of the effective date of this Decision, at least five BMPs in the form of  
26 tariffs that substantially conform to the templates available at the Commission's website, for the  
27 Commission's review and consideration.

28 ...

1           146. Clear Springs asserted that filing three BMPs were appropriate for a company of its  
2 size. Ms. O'Connor testified that SUM found the amount of regulatory paperwork is burdensome for  
3 small water companies and noted that the Commission has approved three BMPs for other similarly-  
4 sized systems managed by SUM, and one that was much larger.<sup>78</sup>

5           147. Ms. Hains testified that it is Commission policy for a Class C utility to file a minimum  
6 of five BMPs and a minimum of three BMPs for a Class D utility.<sup>79</sup> We note that in its request to  
7 proceed without a hearing, Staff based its request on its determination that Clear Springs' Water  
8 Division was classified as a Class D utility.

9           148. Because Clear Springs is not within an AMA and not subject to ADWR water  
10 conservation requirements, we believe it is reasonable to require the Company to file BMP tariffs.  
11 Although Clear Springs combined Divisions' revenues place it as a Class C utility, Staff classified the  
12 Water Division as a Class D utility and the BMPs relate specifically to the provision of water service.

13           149. Accordingly, we believe it is reasonable to require Clear Springs to file with Docket  
14 Control, as a compliance item in this docket, within 90 days of the effective date of this Decision, a  
15 minimum of three BMPs in the form of tariffs that substantially conform to the templates available at  
16 the Commission's website, for the Commission's review and consideration.

17           150. Staff recommended that Clear Springs be permitted in its next rate application to  
18 request recovery of the actual costs associated with the BMPs' implementation.

19           **Other Requirements**

20           151. We have refrained in this case from adopting recommendations that might require the  
21 Company or its owner to provide immediate equity infusions, but given the Company's highly  
22 leveraged capital structure, we believe it is reasonable to require Clear Springs to fund its next  
23 significant capital improvements for the Water Division with equity, not debt.

24           152. In Decision No. 68443, the Commission ordered the Company to file annually, as part  
25 of its Annual Report, an affidavit with the Utilities Division attesting that it is current on paying its

26 ...

27 \_\_\_\_\_  
28 <sup>78</sup> Tr. at 11.  
<sup>79</sup> Tr. at 136.

1 property taxes. We believe it is reasonable to require Clear Springs to continue to file the property  
2 tax affidavit.

### 3 FINANCE APPLICATION

#### 4 PROJECTS AND DEBT AUTHORIZATION

5 153. Clear Springs' Finance Application requested Commission approval of a \$511,000  
6 loan from WIFA to construct storage for Well No. 3 and Well No. 7, to replace broken and leaking  
7 fire hydrants in PWS #02-008, to repair plant at Well No. 18, and to make improvements to the  
8 distribution system. Engineering Staff's table outlining the proposed projects is attached as Exhibit  
9 C. Staff reviewed the Company's proposed improvements and concluded that they are appropriate,  
10 but Staff made no determination that the proposed projects are used and useful and stated that no  
11 particular treatment for rate base or rate-making purposes should be inferred.

12 154. Staff reviewed the opinion of probable cost for the projects and found that estimated  
13 construction costs for the storage and improvements to the distribution system are reasonable.

14 155. Staff removed \$48,119 from the projected cost for the fire hydrant replacement  
15 project. Ms. Hains testified that she based her recommendation on a review of main extension  
16 agreements ("MXA") on file with the Commission and determined that materials and labor for fire  
17 hydrants can vary from \$1,500 to \$2,500 per hydrant. Ms. Hains agreed that infrastructure built  
18 under the terms of an MXA is usually constructed by a private developer or individual, not paid for  
19 with public funds, and stated Staff did not take into consideration that labor costs associated with the  
20 project would be subject to the Davis-Bacon Act.<sup>80</sup>

21 156. Staff also deducted \$34,839 from the Well No. 18 repair costs, reflecting removal of a  
22 5,000 gallon pressure tank, noting that there was an unused 5,000 gallon pressure tank at Well No. 16  
23 that could be used to reduce the project's cost. Staff's final adjustment was a decrease to the cost of  
24 replacing three isolation gate valves to reflect the price for the valves listed on the manufacturer's  
25 website. Staff's adjustments reduced the total projected construction estimate from \$510,678 to  
26 \$426,249, which is Staff's recommended total debt authorization.

27  
28 <sup>80</sup> Tr. at 155-157, 162-163. The Davis-Bacon Act requires payment of local prevailing wages on projects funded with public monies.

1 157. At hearing, Mr. Dojaquez testified that Clear Springs was not opposed to Staff's  
 2 adjustments to the projected costs for the isolation gate valves or the Well No. 18 improvements,<sup>81</sup>  
 3 but he did dispute Staff's reduction to the fire hydrant replacement costs, claiming that Staff's \$2,500  
 4 allowance for the unit and labor was far too low.<sup>82</sup>

5 158. Given Clear Springs' current negative equity position, if the loan proceeds are  
 6 exhausted before the fire hydrant project is completed, it would be an opportunity for the Company to  
 7 improve its equity position by making capital expenditures to complete the replacement project.

8 159. We find that Staff's recommended \$84,751 reduction to the Company's requested  
 9 \$511,000 loan authorization is reasonable.

10 160. Staff concluded that issuance of a \$426,249 loan from WIFA for a term of 18-to-22  
 11 years to pay the construction costs of the proposed capital improvements would be within Clear  
 12 Springs' corporate powers, would be compatible with the public interest, would not impair its ability  
 13 to provide services and would be consistent with sound financial practices, provided that the  
 14 authorized rates provide a debt service coverage ratio ("DSC")<sup>83</sup> of at least 1.78.<sup>84</sup>

15 161. Staff combined the financial information for both Divisions in order to calculate the  
 16 DSC for the loan. Based on Staff's recommended operating income and the Company's existing  
 17 debt, the addition of a new, fully-drawn loan of \$426,249 results in a *pro forma* DSC of 1.04,  
 18 meaning Clear Springs would not have sufficient cash to meet all of its financial obligations. Staff  
 19 concluded that another source of funds is needed if the Company is to meet the debt service on new  
 20 WIFA loan.

21 ...

22 ...

---

24 <sup>81</sup> Tr. at 58-60.

<sup>82</sup> Tr. at 61.

25 <sup>83</sup> DSC ratio represents the number of times internally generated cash will cover required principal and interest payments on short-term  
 26 and long-term debt. A DSC of greater than 1.0 indicates that cash flow from operations is sufficient to cover expected debt service. A  
 27 DSC of less than 1.0 means that debt service obligations cannot be met by cash generated from operations and that another source of  
 funds is necessary to preclude default on the debt obligation. Staff noted that it generally considers 1.25 as the minimum DSC for a  
 WIFA loan due to debt service reserve funding requirements, but Staff concluded a higher DSC is required in this case to provide  
 adequate cash flow. Direct Testimony of Jeffrey M. Michlik, page 25, footnote 6.

28 <sup>84</sup> Direct Testimony of Jeffrey M. Michlik, page 25; Surrebuttal Testimony of Jeffrey M. Michlik, Surrebuttal Schedule JMM-W18.  
 Under its originally proposed income calculations, Staff stated that a DSC of 1.84 would be needed, but based on the revised revenues  
 in Mr. Michlik's Surrebuttal Testimony, the DSC dropped to 1.78.

1 162. The Company objected to Staff's use of both Divisions' revenues to determine DSC,  
 2 arguing this results in cross-collateralization, which prevents the Wastewater Division from using its  
 3 separate revenues to implement much needed improvements to the collection and treatment system.<sup>85</sup>

4 163. Staff clarified that it used the combined Divisions' financial information to calculate  
 5 DSC because the Company as a whole will have to pledge its assets as surety, but Staff did not use  
 6 the combined income to determine appropriate cash flow for the Water Division and the Wastewater  
 7 Division will not be required to use its revenues to support the Water Division.<sup>86</sup>

#### 8 WIFA SURCHARGE

9 164. In order to provide the additional revenues necessary to support the new WIFA loan,  
 10 Staff and the Company proposed implementing a WIFA Surcharge.

#### 11 Revenues From and Amount of WIFA Surcharge

12 165. Clear Springs calculated its proposed WIFA Surcharge using the entire \$42,648 in  
 13 additional annual revenue that the Company believes is needed to support all financial obligations  
 14 required by WIFA under the loan terms, including any amounts required for the DSRF. The  
 15 Company's proposed WIFA Surcharge per customer on a 5/8 x 3/4-inch meter, per month would be  
 16 approximately \$5.54.<sup>87</sup> Applying its estimated WIFA Surcharge to the Company's requested base  
 17 rates, a residential customer on a 5/8 x 3/4-inch meter with average water use would experience a  
 18 total increase of \$13.64 per month, or 69.41 percent, from \$19.65 to \$33.29, and with median water  
 19 use, by a total of \$10.56, or 68.26 percent, from \$15.47 to \$26.03.

20 166. Staff proposed total annual revenues from the WIFA Surcharge of \$31,617, of which  
 21 \$20,987 represents principal and interest on the loan, and a \$10,630 provision for the DSRF, with the  
 22 remainder of the WIFA obligation coming from base rates.<sup>88</sup> Staff's approximate WIFA Surcharge  
 23 per customer on a 5/8 x 3/4-inch meter, per month is \$4.11. Applying Staff's estimated WIFA  
 24 Surcharge to the Company's recommended base rates, a residential customer on a 5/8 x 3/4-inch  
 25

26 <sup>85</sup> Rebuttal Testimony of Sonn Rowell, pages 15-16.

<sup>86</sup> Surrebuttal Testimony of Jeffrey M. Michlik, page 14.

27 <sup>87</sup> Rebuttal Testimony of Sonn Rowell, Rebuttal Schedule SSR-3.

28 <sup>88</sup> This \$10,630 allocation is comprised of \$8,206 for the DSRF and \$2,424 for the associated property and income taxes. Surrebuttal Testimony of Jeffrey M. Michlik. Staff illustrated how the WIFA Surcharge should be apportioned between the principal and interest, and the DSRF in Surrebuttal Schedule JMM-W19.

1 meter with average water use would experience a total increase of \$9.55 per month, or 48.60 percent,  
 2 from \$19.65 to \$29.20. The bill for a residential customer on a 5/8 x 3/4-inch meter with median  
 3 water use would be increased by \$7.04, or 45.52 percent, from \$15.47 to \$22.50.

4 167. Staff's surrebuttal operating income including Staff's proposed WIFA Surcharge  
 5 results in a *pro forma* DSC of 1.78.

6 168. Based on the specific circumstances of this case, and subject to approval of the final  
 7 WIFA Surcharge calculations and other terms and conditions discussed below, we find that the  
 8 issuance of a \$426,249 loan from WIFA for a term of 18-to-22 years, at an interest rate not to exceed  
 9 that available from WIFA, for the purposes of constructing the proposed capital improvements  
 10 outlined in Exhibit C, is within Clear Springs' corporate powers, is compatible with the public  
 11 interest, will not impair its ability to provide services and is consistent with sound financial practices.

12 **Debt Service Reserve Fund as a Regulatory Liability**

13 169. In its Surrebuttal Testimony, Staff recommended that the Company account for the  
 14 portion of the WIFA Surcharge attributable to the DSRF as a regulatory liability, stating:

15 A regulatory liability is an amount ratepayers can expect to receive as a benefit in  
 16 the future via various means (refunds, rate base reductions, operating expense  
 17 reductions, etc.) as determined by the Commission at a later time (future rate  
 18 case.) Treatment of surcharge collections as a regulatory liability is appropriate  
 19 because the debt service reserve funds, while requiring cash payments, are not a  
 20 component of the revenue requirement. The debt service reserve is essentially a  
 savings account that accumulates to the benefit of the utility owners. That is,  
 since ratepayers should not be required to provide funds for utility owners to  
 accumulate savings, any additional funds collected from ratepayers to satisfy the  
 cash flow requirement of the WIFA debt service reserve fund should be treated as  
 a regulatory liability.<sup>89</sup>

21 170. In her rejoinder testimony presented at hearing, Ms. Rowell disputed Staff's assertion  
 22 that the DSRF constitutes a savings account that inures to the benefit of utility owners. She explained  
 23 that WIFA's loan documents require all funds for the DSRF to be held by WIFA in an account in  
 24 WIFA's name, and may only be drawn upon by WIFA in the event that a borrower defaults on its  
 25 loan payments—neither a utility nor its owners have any authority or control over the account or the  
 26 funds; therefore, the account benefits only WIFA.<sup>90</sup>

27 <sup>89</sup> Surrebuttal Testimony of Jeffrey M. Michlik, pages 12-13.

28 <sup>90</sup> Tr. at 94-96.

1 171. Ms. Rowell also explained that even though the Company has no control over the  
 2 money in the DSRF, those funds are generated through revenues and must be accounted for in Clear  
 3 Springs' tax accounts as an asset, not a regulatory liability. She argued that requiring the Company to  
 4 account for these funds as a liability goes against generally accepted accounting principles and would  
 5 require the Company to violate the tax code, stating that, "accounting is accounting...you don't  
 6 record things differently just because you're a utility."<sup>91</sup>

7 172. In their closing briefs, both Staff and the Company provided a synopsis of WIFA's  
 8 typical DSRF requirements to support their respective positions. Clear Springs' Response to Staff's  
 9 Closing Brief also attached a copy of a sample form of a WIFA Cash Collateral Agreement,<sup>92</sup> and a  
 10 sample form of an exhibit to a WIFA loan agreement entitled Debt Service Reserve and Replacement  
 11 Reserve Requirements.<sup>93</sup> According to information provided by the parties, WIFA may impose the  
 12 following general terms and conditions, although the specific provisions and requirements will vary  
 13 for each borrower and each loan:

- 14 • After the first six months of debt service payments, WIFA may assess a debt service  
 15 reserve requirement equal 20 percent of the debt service payment, apportioned  
 16 monthly, often beginning on the seventh month of the loan term and ending after five  
 17 years.
- 18 • The debt service reserve payments are held by WIFA in an interest bearing account in  
 19 the event of a default by the borrower. WIFA holds "sole dominion and control" of  
 20 the account for its own benefit and the borrower has no rights over the account or  
 21 funds. WIFA holds the funds paid by the borrower as long as the loan is outstanding.
- 22 • WIFA may use the interest earned on the money to pay WIFA's costs and fees for  
 23 administration of the account. Net interest earnings may be applied annually as  
 24 prepayment of principal.
- 25 • When the amount held in the DSRF is equal to or greater than the outstanding loan  
 26 balance, WIFA will apply the DSRF to the remaining balance. WIFA transfers any  
 27 remaining funds to the borrower.
- 28 • WIFA may also require a borrower to establish a Replacement Reserve Fund.  
 Depending on the specific terms of the loan documents, around the time when the debt  
 service reserve assessment ends, WIFA may require the borrower to make a monthly  
 deposit into the Replacement Reserve Fund.

91 Tr. at 94-96, 206-207.

92 Response to Staff's Closing Brief, Attachment 1.

93 *Id.*, Attachment 2.

- 1 • The Replacement Reserve Fund is held in an account under the borrower's control,  
2 subject to the terms of the loan agreement, and the borrower is permitted to withdraw  
3 funds from the account under certain circumstances.<sup>94</sup>
- 4 • In the event of default, WIFA may apply money from the Replacement Reserve Fund  
5 to the loan balance. Payments into the Replacement Reserve Fund continue until the  
6 loan balance is paid in full.

7 173. Contrary to Clear Springs' argument that the DSRF does not benefit the owner, these  
8 sample conditions demonstrate that the funds may be used to make loan payments in the event of  
9 default and may continue to reduce the amount of the debt without the need for owner contributions.  
10 Although the Company does not have direct control over the funds collected for the DSRF, upon  
11 repayment of the loan there may be funds that WIFA would return to the Company's control. It  
12 would be improper for the Company to keep funds collected from customers in excess of those  
13 permitted for repayment of the loan, including the interest generated by those funds, and any  
14 remainder should be refunded. In addition, as will be discussed below, the Company will be required  
15 to open a dedicated interest-bearing account for depositing collections of the WIFA Surcharge from  
16 customers before they are disbursed to WIFA.<sup>95</sup> Any excess collections and interest generated from  
17 this account, as well as those in the Replacement Reserve Fund, if it is required by WIFA and if set  
18 up separately from the dedicated WIFA Surcharge account, should be refunded to customers.

19 174. Clear Springs also asserted that a company cannot record items in its books differently  
20 simply because it is a regulated utility, but in fact it is not uncommon for a regulated utility to have  
21 two or three sets of accounting books—one set for tax purposes, another for regulatory accounting  
22 purposes and perhaps a third set for its own internal financial purposes:

23 All companies, regulated or not, record business transactions and events for  
24 external use using financial accounting rules such as those which have been  
25 developed according to generally accepted accounting principles. In the case of  
26 regulated utilities, however, regulators will often require from utilities  
27 information that is different from that which is reported by the utility under  
28 financial accounting rules. ...Regulatory accounting relies on the same underlying  
data as financial accounting, but it applies different sets of rules to develop and  
present information in ways that are useful and appropriate to the rate-setting  
process.<sup>96</sup>

<sup>94</sup> For example, in Attachment 2, the sample form states that the borrower may withdraw funds for various purposes, but the withdrawal must be related in some way to depreciable property. The borrower may also use funds to make payments on the loan.

<sup>95</sup> See also Decision No. 73091 (April 5, 2012), *In the Matter of the Application of Indiada Water Company, Inc. for Approval of a Permanent Increase in Its Water Rates, et al.*, Docket No. 02031A-10-0165, *et al.*

<sup>96</sup> *Principles of Utility Corporate Finance*, Leonardo R. Giacchino, Ph.D. and Jonathan A. Lesser, Ph.D., Public Utilities Reports, Inc. (2011), pages 83-84.

1           175. Staff noted that, as a regulated utility, Clear Springs is required to comply with both  
2 NARUC's Uniform System of Accounts ("NARUC USOA") as well as tax laws.<sup>97</sup> Staff  
3 acknowledges that funds collected by the Company through the WIFA Surcharge would be reported  
4 as revenues and would create a tax obligation in the year they were collected. For regulatory  
5 reporting purposes, however, Staff's recommendation that the portion of the WIFA Surcharge  
6 collected and placed in the DSRF should be recorded as a regulatory liability is supported by  
7 NARUC.

8           176. Under NARUC USOA, regulatory liabilities accounts consist of amounts that would  
9 normally be recorded as income in the current reporting period, except this money likely will have to  
10 be refunded to customers in a later reporting period. If excess funds in the DSRF are subsequently  
11 refunded to customers, Staff stated Clear Springs would be able "to deduct the refunds as an expense  
12 in the calculation of its income tax liability reversing the timing difference and eliminating the  
13 regulatory liability (this is the same treatment used to recognize over-collections when a utility has a  
14 purchased gas or fuel adjustment clause)."<sup>98</sup> This tax normalization process allows for reconciliation  
15 of the differences between taxes paid as reflected in a utility's tax books, and the authorized taxes on  
16 rates. "The utility holds the difference between the allowed and the actual taxes in 'deferred taxes'  
17 accounts. Normalization is only appropriate when the difference is a temporary timing difference."<sup>99</sup>

18           177. Under the facts of this case, we believe Staff's recommendation that the Company  
19 record the portion of the WIFA Surcharge allocated to the DSRF as a regulatory liability is  
20 reasonable and adopt it.

21           178. We also believe it is reasonable to require that after Commission authorization of the  
22 actual WIFA Surcharge amounts, Clear Springs must open an interest-bearing account into which all  
23 WIFA Surcharge funds collected from customers pursuant to the final authorization will be  
24 deposited. No other funds should be placed into this account. The only disbursement of funds from  
25 this account will be for payments to WIFA as required in the loan documents, and to make the  
26 associated property and income tax payments. Any excess collections over actual debt service and

27 <sup>97</sup> Staff's Closing Brief, page 2.

28 <sup>98</sup> Staff's Closing Brief, pages 2-3.

<sup>99</sup> *Principles of Utility Corporate Finance*, pages 83-84; Staff's Closing Brief, pages 1-2.

1 interest earnings from any account established by the Company for holding customer funds for the  
 2 WIFA Surcharge should be refunded to customers as determined by the Commission in future rate  
 3 proceedings.<sup>100</sup>

4 179. Additionally, it is reasonable to require that Clear Springs file with Docket Control by  
 5 January 30<sup>th</sup> of each year, as a compliance item in this docket, a reconciliation of all WIFA  
 6 Surcharges billed, collected and disbursed.

7 **Other Financing Application Recommendations**

8 180. Staff made the following additional recommendations relating to the Finance  
 9 Application:

- 10 a) That the expiration date for any unused debt authorization granted in this  
 11 proceeding should be December 31, 2014.
- 12 b) That Clear Springs file with Docket Control as a compliance item in this  
 13 docket, copies of the ADEQ approvals of construction (“AOCs”) for the  
 14 authorized projects.
- 15 c) That Clear Springs should file as a compliance item in this docket, within 30  
 16 days of the execution of any financing transaction authorized herein, a notice  
 17 confirming that such execution has occurred and a certification by an  
 18 authorized Company representative that the terms of the financing fully  
 19 comply with the granted authorization.
- 20 d) That Clear Springs should provide to Staff’s Compliance Section a copy of any  
 21 WIFA loan documents executed pursuant to the granted authorization within  
 22 30 days of the execution of the loan, and also to file a letter in Docket Control  
 23 verifying that such documents have been provided.
- 24 e) Authorizing Clear Springs to charge an WIFA Surcharge to become effective  
 25 at a date and in a manner as subsequently authorized by the Commission.
- 26 f) That Clear Springs should file in this docket, upon filing of the loan closing  
 27 notice and upon providing the loan documents to Staff’s Compliance Section,  
 an application requesting to implement an associated surcharge.
- 28 g) That Staff should calculate the appropriate WIFA Surcharge and prepare and  
 file a recommended order for Commission consideration within 60 days of the  
 filing of a surcharge implementation request by the Company and to calculate  
 the surcharge based on the actual loan debt service payments (interest and  
 principal) and using the current customer count at the time of the loan closing  
 to provide the cash flow adopted in this proceeding.
- h) Authorizing Clear Springs to pledge its assets in the State of Arizona pursuant  
 to A.R.S. § 40-285 and A.A.C. R18-15-104 in connection with the WIFA loan.

<sup>100</sup> The Commission made a similar ruling in Decision No. 73091 (April 5, 2012), *In the Matter of the Application of Indiada Water Company, Inc. for Approval of a Permanent Increase in Its Water Rates, et al.*, Docket No. 02031A-10-0165, *et al.*

1           i)       Authorizing Clear Springs to engage in any transaction and to execute any  
2                   documents necessary to effectuate the authorization granted.

3           181.   Finding of Fact No. 180(a) should be modified to reflect an August 1, 2015, expiration  
4           date for the loan authorization.

5           182.   Finding of Fact No. 180(b) should be modified to require Clear Springs to file the  
6           AOCs no later than July 1, 2015.

7           183.   At hearing, Mr. Michlik testified that the recommendation in his Direct Testimony  
8           stated in Finding of Fact No. 180(g), should be modified to direct Staff to calculate the regulatory  
9           liability portion of the WIFA Surcharge, as well as the debt service payments.<sup>101</sup>

10          184.   We find that Staff's recommendations in Finding of Fact No. 180, as modified in  
11          Findings of Fact Nos. 181 through 183, are reasonable and we adopt them.

12          185.   In addition, we believe it is reasonable to require that the notice Clear Springs sends to  
13          customers notifying them of the approved water rates and charges as required in Finding of Fact No.  
14          102 must also include information explaining the WIFA Surcharge, the approximate date that the  
15          WIFA Surcharge is expected to go into effect and Staff's estimated WIFA Surcharge amount.

16          186.   We direct that the granted financing authority shall be expressly contingent upon Clear  
17          Springs' use of the proceeds for the purposes outlined in Exhibit C and approved in this Decision.

18          187.   We believe it is reasonable to require Clear Springs to file a rate application for its  
19          Water Division no later than June 30, 2017, using a December 31, 2016, test year. The Company  
20          may file the rate application earlier than June 30, 2017, but should not before the improvement  
21          projects paid for with the WIFA loan proceeds authorized in this Decision have been placed into  
22          service.

### CONCLUSIONS OF LAW

23          1.       Clear Springs is a public service corporation within the meaning of Article XV of the  
24          Arizona Constitution and A.R.S. §§40-250, 40-251, 40-285 and 40-367.

25          2.       The Commission has jurisdiction over Clear Springs and the subject matter contained  
26          in the Company's Rate Application and Finance Application.

27  
28          \_\_\_\_\_  
<sup>101</sup> Tr. at 195.

1 3. Notices of the Rate Application and Finance Application were given in accordance  
2 with Arizona law.

3 4. Based on the evidence and testimony presented, Clear Springs' Wastewater Division's  
4 FVRB is (\$16,893) and its Water Division's FVRB is \$21,364.

5 5. Subject to Commission approval of the final WIFA Surcharge amount, the rates and  
6 charges established herein are just and reasonable and in the public interest.

7 6. Subject to Commission approval of the final WIFA Surcharge amount, the financing  
8 approved herein is for lawful purposes within Clear Springs' corporate powers, is compatible with the  
9 public interest, and with sound financial practices, and with the proper performance by Clear Springs  
10 as a public service corporation, and will not impair its ability to perform the service.

11 7. The financing authorized herein is for the purposes stated in the Finance Application,  
12 as approved in this Decision, is reasonably necessary for those purposes, and such purposes are not,  
13 wholly or in part, reasonably chargeable to operating expenses or to income.

14 8. The recommendations stated herein are reasonable and should be adopted.

15 **ORDER**

16 **WASTEWATER DIVISION**

17 IT IS THEREFORE ORDERED that Clear Springs Utility Company, Inc. is directed to file  
18 with the Commission by July 31, 2013, a schedule of the approved rates and charges for its  
19 Wastewater Division as set forth below:

20 **MONTHLY USAGE CHARGE:**

21 Residential	\$9.00
22 Commercial	9.36

23 **COMMODITY CHARGE:**  
**(Per 1,000 gallons of water usage)**

24 <u>Residential:</u>	
25 6,001 to 20,000 Gallons	\$1.00

26 <u>Commercial (All Usage):</u>	\$0.85
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27 **SERVICE CHARGES:**

28 Establishment	\$30.00
After Hours Service Charge	25.00

1	NSF Check	25.00
	Reconnection (Delinquent)	*
	Deposit (Residential)	**
2	Deposit (Commercial)	***
	Deposit Interest	****
3	Deferred Payment	1.5%
	Late Payment Penalty	1.5%
4	Sewer Tap Charge (Non-Refundable)	Cost

- 5 \* Six times monthly minimum.  
 \*\* Per Commission Rule A.A.C. R14-2-603(B)(7)(a).  
 6 \*\*\* Per Commission Rule A.A.C. R14-2-603(B)(7)(b).  
 \*\*\*\* Per Commission Rule A.A.C. R14-2-603(B)(3).  
 7

8 IT IS FURTHER ORDERED that the rates and charges set forth above shall be effective for  
 9 all wastewater services rendered by Clear Springs Utility Company, Inc. on and after August 1, 2013.

10 IT IS FURTHER ORDERED that Clear Springs Utility Company, Inc. shall notify its  
 11 Wastewater Division customers of the authorized rates and charges, and their effective date, in a form  
 12 acceptable to the Commission's Utilities Division, by means of an insert in its next regularly  
 13 scheduled billing, and shall file with Docket Control copies of the notice within 10 days of the date  
 14 the notice is mailed to customers.

15 IT IS FURTHER ORDERED that in addition to collection of its regular rates and charges,  
 16 Clear Springs Utility Company, Inc.'s Wastewater Division shall collect from its customers a  
 17 proportionate share of any privilege, sales or use tax per A.A.C. R14-2-608(D)(5).

18 IT IS FURTHER ORDERED that Clear Springs Utility Company, Inc. shall use depreciation  
 19 rates delineated by individual NARUC account for its Wastewater Division, as set forth in the  
 20 Depreciation Table attached as Exhibit A, on a going forward basis.

21 IT IS FURTHER ORDERED that Clear Springs Utility Company, Inc.'s next significant  
 22 capital improvements to the wastewater treatment system shall be funded with equity, as directed in  
 23 Decision No. 62583.

24 **WATER DIVISION**

25 IT IS FURTHER ORDERED that Clear Springs Utility Company, Inc. is directed to file with  
 26 the Commission by July 31, 2013, a schedule of the approved rates and charges for the Water  
 27 Division as set forth below:  
 28

1 **MONTHLY USAGE CHARGE:**  
 2 **(All Classes)**

3	5/8 x 3/4-Inch Meter	\$ 12.75
	3/4-Inch Meter	19.13
	1-Inch Meter	31.88
4	1 1/2-Inch Meter	63.75
	2-Inch Meter	102.00
5	3-Inch Meter	204.00
	4-Inch Meter	318.75
6	6-Inch Meter	637.50

7 **COMMODITY CHARGES:**  
 8 **(Per 1,000 Gallons)**

9 **5/8 x 3/4-Inch Meter (Residential)**

9	0 to 3,000 gallons	\$ 1.50
	3,001 to 8,000 gallons	3.60
10	Over 8,001 gallons	5.15

11 **3/4-Inch Meter (Residential)**

11	0 to 3,000 gallons	\$ 1.50
12	3,001 to 8,000 gallons	3.60
13	Over 8,000 gallons	5.15

14 **5/8 x 3/4-Inch Meter (Commercial/ Irrigation)**

14	0 to 8,000 gallons	\$ 3.60
15	Over 8,000 gallons	5.15

16 **3/4-Inch Meter (Commercial/ Irrigation)**

16	0 to 8,000 gallons	\$ 3.60
17	Over 8,000 gallons	5.15

18 **1-Inch Meter (All Classes)**

18	0 to 15,000 gallons	\$ 3.60
19	Over 15,000 gallons	5.15

20 **1 1/2-Inch Meter (All Classes)**

20	0 to 30,000 gallons	\$ 3.60
21	Over 30,000 gallons	5.15

22 **2-Inch Meter (All Classes)**

22	0 to 50,000 gallons	\$ 3.60
23	Over 50,000 gallons	5.15

24 **3-Inch Meter (All Classes)**

24	0 to 110,000 gallons	\$ 3.60
25	Over 110,000 gallons	5.15

26 **4-Inch Meter (All Classes)**

26	0 to 180,000 gallons	\$ 3.60
27	Over 180,000 gallons	5.15

28 **6-Inch Meter (All Classes)**

28	0 to 380,000 gallons	\$ 3.60
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1 Over 380,000 gallons 5.15

2 **Bulk Water Sales - 3-Inch Meter**

2 All Usage Per 1,000 gallons \$ 5.15

3 **SERVICE LINE AND METER INSTALLATION CHARGES:**

4 (Refundable Pursuant to A.A.C. R14-2-405)

	<u>Service Line</u>	<u>Meter Installation</u>	<u>Total</u>	
5	5/8 x 3/4-Inch Meter	\$ 445.00	\$ 155.00	\$ 600.00
6	3/4-Inch Meter	445.00	255.00	700.00
	1-Inch Meter	495.00	315.00	810.00
7	1 1/2-Inch Meter	550.00	525.00	1,075.00
	2-Inch Turbine Meter	830.00	1,045.00	1,875.00
8	2-Inch Compound Meter	830.00	1,890.00	2,720.00
	3-Inch Turbine Meter	1,045.00	1,670.00	2,715.00
9	3-Inch Compound Meter	1,165.00	2,545.00	3,710.00
	4-Inch Turbine Meter	1,490.00	2,670.00	4,160.00
10	4-Inch Compound Meter	1,670.00	3,645.00	5,315.00
	6-Inch Turbine Meter	2,210.00	5,025.00	7,235.00
11	6-Inch Compound Meter	2,330.00	6,920.00	9,250.00

12 **SERVICE CHARGES:**

13	Establishment	\$35.00
	Reconnection (Delinquent)	40.00
14	After Hours Charge	25.00
	Meter Test (If Correct)	45.00
15	Meter Reread (If Correct)	30.00
	NSF Check	25.00
16	Deposit	*
	Deposit Interest	*
17	Re-Establishment (Within 12 Months)	**
	Deferred Payment (Per Month)	1.5%
18	Late Payment Fee (Per Month)	1.5%

19 \* Per Commission Rule A.A.C. R14-2-403(B).

20 \*\* Months off the system times the monthly minimum per Commission Rule A.A.C. R14-2-403(D).

21 IT IS FURTHER ORDERED that the above rates and charges shall be effective for all water  
22 services rendered by Clear Springs Utility Company, Inc. on and after August 1, 2013.

23 IT IS FURTHER ORDERED that in addition to collection of its regular rates and charges,  
24 Clear Springs Utility Company, Inc.'s Water Division shall collect from its customers a proportionate  
25 share of any privilege, sales or use tax per A.A.C. R14-2-409(D)(5).

26 IT IS FURTHER ORDERED that Clear Springs Utility Company, Inc. is authorized to charge  
27 a WIFA Surcharge to become effective at a date and time and in a manner as subsequently authorized  
28 by the Commission.

1 IT IS FURTHER ORDERED that Clear Springs Utility Company, Inc. shall notify the Water  
2 Division's customers of the authorized rates and charges and their effective date, as well as  
3 information generally explaining the WIFA Surcharge, the approximate date that the WIFA  
4 Surcharge is expected to go into effect, and Staff's estimated WIFA Surcharge amount, by means of  
5 either an insert in its next regularly scheduled billing or by a separate mailing, in a form acceptable to  
6 Staff, and shall file with Docket Control copies of the notice within 10 days of the date the notice is  
7 mailed to customers.

8 IT IS FURTHER ORDERED that Clear Springs Utility Company, Inc. is hereby authorized to  
9 obtain an 18-to-22 year amortizing loan at an interest rate not to exceed that which is available from  
10 WIFA, in an amount not to exceed \$426,249, to finance only the improvements generally described  
11 in Exhibit C.

12 IT IS FURTHER ORDERED that Clear Springs Utility Company, Inc. is authorized to  
13 engage in any transactions and to execute any documents necessary to effectuate the granted  
14 authorizations.

15 IT IS FURTHER ORDERED that Clear Springs Utility Company, Inc. may pledge its assets  
16 in the State of Arizona for purposes of the WIFA loan, pursuant to A.R.S. § 40-285 and A.A.C. R18-  
17 15-104.

18 IT IS FURTHER ORDERED that the granted debt authorization is expressly contingent upon  
19 Clear Springs Utility Company, Inc.'s use of the proceeds for the stated purposes and as approved in  
20 this Decision.

21 IT IS FURTHER ORDERED that the granted debt authorization shall terminate on August 1,  
22 2015.

23 IT IS FURTHER ORDERED that approval of the financing does not constitute or imply  
24 approval or disapproval by the Commission of any particular expenditure of the proceeds for  
25 purposes of establishing just and reasonable rates.

26 IT IS FURTHER ORDERED that Clear Springs Utility Company, Inc. shall provide copies of  
27 the final loan documents to the Commission's Compliance Section within 30 days of execution, and  
28 shall file with Docket Control, as a compliance item in this docket, an Affidavit of Closing averring

1 that the terms in the loan documents conform to the terms and conditions of this Decision, and that  
2 the executed loan documents have been submitted to the Commission's Compliance Section.

3 IT IS FURTHER ORDERED that Clear Springs Utility Company, Inc. shall file an  
4 application with Docket Control requesting implementation of a WIFA Surcharge simultaneously  
5 with the Affidavit of Closing.

6 IT IS FURTHER ORDERED that within 60 days after Clear Springs Utility Company, Inc.  
7 files its application to implement the WIFA Surcharge, the Commission's Utilities Division shall  
8 calculate the WIFA Surcharge using the final loan amount and accurate customer and meter counts at  
9 the time of closing, and prepare a schedule reflecting the amount of the WIFA Surcharge comprising  
10 the actual debt service payments (principal and interest), and the portion comprising the regulatory  
11 liability component (DSRF and property and income taxes), and shall prepare and file a  
12 recommended order for Commission consideration.

13 IT IS FURTHER ORDERED that upon final Commission approval of the WIFA Surcharge,  
14 Clear Springs Utility Company, Inc. shall open an interest-bearing account into which all WIFA  
15 Surcharge funds collected from customers pursuant to that Decision will be deposited; no other funds  
16 may be placed into this account.

17 IT IS FURTHER ORDERED that the only disbursement of funds from this account will be to  
18 make payments to WIFA as required in the loan documents, and to make property and income tax  
19 payments related to the DSRF.

20 IT IS FURTHER ORDERED that any excess collections over actual debt service (principal  
21 and interest) and interest earnings shall be refunded to customers as determined by the Commission  
22 in future rate proceedings.

23 IT IS FURTHER ORDERED that Clear Springs Utility Company, Inc. shall file with Docket  
24 Control by January 30<sup>th</sup> of each year, as a compliance item in this docket, a report reconciling all  
25 WIFA Surcharge monies billed, collected and disbursed.

26 IT IS FURTHER ORDERED that Clear Springs Utility Company, Inc. shall use depreciation  
27 rates delineated by individual NARUC account for its Water Division, as set forth in the Depreciation  
28 Table attached as Exhibit B, on a going forward basis.

1 IT IS FURTHER ORDERED that Clear Springs Utility Company, Inc. shall file with Docket  
2 Control, as a compliance item in this docket, no later than July 1, 2015, the ADEQ Approvals of  
3 Construction for the improvements described in Exhibit C.

4 IT IS FURTHER ORDERED that Clear Springs Utility Company, Inc. shall file with Docket  
5 Control, as a compliance item in this docket, within 90 days of the effective date of this Decision, at  
6 least three BMPs in the form of tariffs that substantially conform to the templates available at the  
7 Commission's website, for the Commission's review and consideration.

8 IT IS FURTHER ORDERED that Clear Springs Utility Company, Inc. may request in its next  
9 rate application recovery of the actual costs associated with the implemented BMPs.

10 IT IS FURTHER ORDERED that Clear Springs Utility Company, Inc. shall comply with the  
11 following:

12 • Clear Springs Utility Company, Inc. shall, within 20 days of the  
13 effective date of this Decision, conduct the water tests on PWS #02-048, PWS #02-  
14 050 and PWS #02-051 outlined in the attached Exhibit D;

15 • Clear Springs Utility Company, Inc. shall file with Docket Control, as a  
16 compliance item in this docket, no later than 30 days after the effective date of this  
17 Decision, an affidavit confirming that all water tests on PWS #02-048, PWS #02-050  
18 and PWS #02-051 were completed as outlined and averring that Clear Springs Utility  
19 Company, Inc. is in compliance with A.A.C. R14-2-407(A);

20 • Barring extraordinary circumstances outside of Clear Springs Utility  
21 Company, Inc.'s control, no extensions of time to comply with the two orders stated  
22 above will be granted;

23 • Clear Springs Utility Company, Inc. shall file as part of its Annual  
24 Report to the Utilities Division separate affidavits for PWS #02-048, PWS #02-050  
25 and PWS #02-051 averring that it is conducting the water testing as directed in this  
26 Decision, and that it is delivering water to customers served by PWS #02-048, PWS  
27 #02-050 and PWS #02-051 that falls below the applicable maximum contaminant  
28 levels for each test conducted, and that Clear Springs Utility Company, Inc. is in

1 compliance with A.A.C. R14-2-407(A);

2 • Clear Springs Utility Company, Inc. shall file with Docket Control, as a  
3 compliance item in this docket, every six months beginning December 31, 2013, a  
4 Water Loss Progress Report for PWS #02-008 accounting for water pumped, sold and  
5 the amount, the percentage of non-account water, and a description of its actions to  
6 curb water loss other than by means of the approved improvement projects;

7 • Beginning with the June 30, 2015, Water Loss Progress Report, and in  
8 each subsequent Water Loss Progress Report filed, if PWS #02-008's water loss levels  
9 exceed 10 percent, Clear Springs Utility Company, Inc. shall file with Docket Control,  
10 within 120 days of the Water Loss Progress Report showing loss levels exceeding 10  
11 percent, either 1) a written report containing a detailed, itemized water loss reduction  
12 plan and specific timetable for reducing that system's water loss to 10 percent or less  
13 or, 2) a written report containing a detailed financial and/or engineering analysis  
14 explaining why reducing water loss to levels 10 percent or less is not feasible or cost  
15 effective. The reports are subject to review by the Commission's Engineering Staff;

16 • Clear Springs Utility Company, Inc. shall continue to file the Water  
17 Loss Progress Reports until the reported water loss for PWS #02-008 is 10 percent or  
18 below in three consecutive filings;

19 • The improvements to Clear Springs Utility Company, Inc.'s PWS #02-  
20 048 and PWS #02-050, generally described in Exhibit C, shall be completed no later  
21 than October 1, 2014, and within 10 days after completion, Clear Springs Utility  
22 Company, Inc. shall file with Docket Control an affidavit confirming that the  
23 improvements to PWS #02-048 and PWS #02-050 have been completed and the  
24 storage deficiencies resolved.

25 IT IS FURTHER ORDERED that if Clear Springs Utility Company, Inc. fails to comply with  
26 any of the above eight orders, Staff shall investigate the reasons for the non-compliance and evaluate  
27 whether a Complaint and Order to Show Cause should be filed against Clear Springs Utility  
28 Company, Inc.; if Staff concludes that a Complaint and Order to Show Cause is not warranted, then

1 Staff shall file with Docket Control a memorandum noting its investigation and supporting Staff's  
2 conclusions.

3 IT IS FURTHER ORDERED that Clear Springs Utility Company, Inc. shall file a rate  
4 application for the Water Division no later than June 30, 2017, using a December 31, 2016, test year.  
5 The Company may file the rate application earlier than June 30, 2017, but should not before the  
6 improvement projects authorized in this Decision and paid for with WIFA loan proceeds have been  
7 placed into service.

8 IT IS FURTHER ORDERED that Clear Springs Utility Company, Inc.'s next significant  
9 capital improvements to the water systems shall be funded with equity.

10 IT IS FURTHER ORDERED that Clear Springs Utility Company, Inc. shall continue to file  
11 as part of its Annual Report an affidavit attesting that it is current on payment of its property taxes.

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

13 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

14  
15 CHAIRMAN

COMMISSIONER

16  
17  
18 COMMISSIONER

COMMISSIONER

COMMISSIONER

19  
20 IN WITNESS WHEREOF, I, JODI JERICH, Executive  
21 Director of the Arizona Corporation Commission, have  
22 hereunto set my hand and caused the official seal of the  
23 Commission to be affixed at the Capitol, in the City of Phoenix,  
24 this \_\_\_\_\_ day of \_\_\_\_\_ 2013.

25  
26 \_\_\_\_\_  
27 JODI JERICH  
28 EXECUTIVE DIRECTOR

DISSENT \_\_\_\_\_

DISSENT \_\_\_\_\_

1 SERVICE LIST FOR:

CLEAR SPRINGS UTILITY COMPANY, INC.

2 DOCKET NOS.:

W-01689A-11-0401 and WS-01689A-11-0402

3  
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