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BEFORE THE ARIZONA CORPORATIC

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COMMISSIONERS

BOB STUMP - Chairman
GARY PIERCE
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SUSAN BITTER SMITH

2013 AUG 21 P 4:54

ARIZONA CORP COMMISSION
DOCKET CONTROL

IN THE MATTER OF THE APPLICATION
OF VALENCIA WATER COMPANY—
TOWN DIVISION FOR THE
ESTABLISHMENT OF JUST AND
REASONABLE RATES AND CHARGES
FOR UTILITY SERVICE DESIGNED TO
REALIZE A REASONABLE RATE OF
RETURN ON THE FAIR VALUE OF ITS
PROPERTY THROUGHOUT THE STATE
OF ARIZONA.

DOCKET NO. W-01212A-12-0309

IN THE MATTER OF THE APPLICATION
OF GLOBAL WATER-PALO VERDE
UTILITIES COMPANY FOR THE
ESTABLISHMENT OF JUST AND
REASONABLE RATES AND CHARGES
FOR UTILITY SERVICE DESIGNED TO
REALIZE A REASONABLE RATE OF
RETURN ON THE FAIR VALUE OF ITS
PROPERTY THROUGHOUT THE STATE
OF ARIZONA.

DOCKET NO. SW-20445A-12-0310

IN THE MATTER OF THE APPLICATION
OF WATER UTILITY OF NORTHERN
SCOTTSDALE FOR APPROVAL OF A
RATE INCREASE.

DOCKET NO. W-03720A-12-0311

IN THE MATTER OF APPLICATION OF
WATER UTILITY OF GREATER
TONOPAH FOR THE ESTABLISHMENT
OF JUST AND REASONABLE RATES AND
CHARGES FOR UTILITY SERVICE
DESIGNED TO REALIZE A REASONABLE
RATE OF RETURN ON THE FAIR VALUE
OF ITS PROPERTY THROUGHOUT THE
STATE OF ARIZONA.

DOCKET NO. W-02450A-12-0312

Arizona Corporation Commission

DOCKETED

AUG 21 2013

DOCKETED BY NR

1 IN THE MATTER OF THE APPLICATION
2 OF VALENCIA WATER COMPANY—
3 GREATER BUCKEYE DIVISION FOR THE
4 ESTABLISHMENT OF JUST AND
5 REASONABLE RATES AND CHARGES
6 FOR UTILITY SERVICE DESIGNED TO
7 REALIZE A REASONABLE RATE OF
8 RETURN ON THE FAIR VALUE OF ITS
9 PROPERTY THROUGHOUT THE STATE
10 OF ARIZONA.

DOCKET NO. W-02451A-12-0313

6 IN THE MATTER OF THE APPLICATION
7 OF GLOBAL WATER—SANTA CRUZ
8 WATER COMPANY FOR THE
9 ESTABLISHMENT OF JUST AND
10 REASONABLE RATES AND CHARGES
11 FOR UTILITY SERVICE DESIGNED TO
12 REALIZE A REASONABLE RATE OF
13 RETURN ON THE FAIR VALUE OF ITS
14 PROPERTY THROUGHOUT THE STATE
15 OF ARIZONA.

DOCKET NO. W-20446A-12-0314

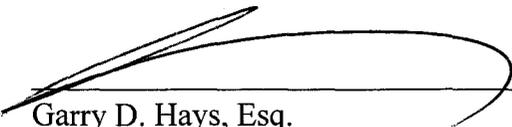
12 IN THE MATTER OF THE APPLICATION
13 OF WILLOW VALLEY WATER
14 COMPANY FOR THE ESTABLISHMENT
15 OF JUST AND REASONABLE RATES AND
16 CHARGES FOR UTILITY SERVICE
17 DESIGNED TO REALIZE A REASONABLE
18 RATE OF RETURN ON THE FAIR VALUE
19 OF ITS PROPERTY THROUGHOUT THE
20 STATE OF ARIZONA.

DOCKET NO. W-01732A-12-0315

**NOTICE OF FILING DIRECT
TESTIMONY OF NEW WORLD
PROPERTIES, INC. IN OPPOSITION TO
SETTLEMENT AGREEMENT**

18 Notice is hereby given that New World Properties, Inc., has filed this day the Direct
19 Testimony of Richard Jellies in the above-captioned dockets.

20 RESPECTFULLY SUBMITTED this 21st day of August, 2013.

21
22
23
24
25 
26 Garry D. Hays, Esq.
27 THE LAW OFFICES OF GARRY D. HAYS, PC
28 1702 East Highland Avenue, Suite 204
Phoenix, Arizona 85016

and

Jeffrey W. Crockett, Esq.
BROWNSTEIN HYATT FARBER SCHRECK,
LLP
One East Washington Street, Suite 2400
Phoenix, Arizona 85004

Attorneys for New World Properties, Inc., on behalf
Of Trust No. 8559

1
2
3
4
5
6
7 ORIGINAL AND thirteen (13) copies
filed this 21st day of August, 2013, with:

8 Docket Control
9 ARIZONA CORPORATION COMMISSION
10 1200 West Washington Street
11 Phoenix, Arizona 85007

12 COPIES of the foregoing hand-delivered
this 21st day of August, 2013, to:

13 Maureen Scott
14 Wesley Van Cleve
15 Legal Division
16 ARIZONA CORPORATION COMMISSION
17 1200 West Washington Street
18 Phoenix, Arizona 85007

19 Lyn Farmer
20 Hearing Division
21 ARIZONA CORPORATION COMMISSION
22 1200 West Washington Street
23 Phoenix, Arizona 85007

24 Steve Olea, Director
25 Utilities Division
26 ARIZONA CORPORATION COMMISSION
27 1200 West Washington Street
28 Phoenix, Arizona 85007

COPIES of the foregoing mailed via first class
mail this 21st day of August, 2013, to:

26 Lawrence V. Robertson, Jr.
27 Attorney at Law
28 P.O. Box 1448
Tubac, Arizona 85646

1 Daniel Pozefsky
RESIDENTIAL UTILITY CONSUMER OFFICE
2 1110 W. Washington Street, Suite 220
3 Phoenix, Arizona 85007

4 Barry Becker
Bryan O'Reilly
5 SNR Management LLC
6 50 S. Jones Boulevard, Suite 101
Las Vegas, Nevada 89107

7 Michael W. Patten, Esq.
8 Timothy J. Sabo, Esq.
ROSHKA DEWULF & PATTEN, PLC
9 One Arizona Center
10 400 East Van Buren Street, Suite 800
Phoenix, Arizona 85004

11 Michele Van Quathem
12 Sheryl A. Sweeney
Ryley Carlock & Applewhite
13 One North Central Avenue, Suite 1200
14 Phoenix, Arizona 85004-4417

15 Steven P. Tardiff
44840 W. Paitilla Lane
16 Maricopa, Arizona 85139

17 Willow Valley Club Association
18 c/o Gary McDonald, Chairman
1240 Avalon Avenue
19 Havasu City, Arizona 86404

20 Dana L. Jennings
42842 W. Morning Dove Lane
21 Maricopa, Arizona 85138

22 Andy and Marilyn Mausser
23 20828 N. Madison Drive
24 Maricopa, Arizona 85138

25

26

27

28



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
9 OF VALENCIA WATER COMPANY—
10 TOWN DIVISION FOR THE
11 ESTABLISHMENT OF JUST AND
12 REASONABLE RATES AND CHARGES
13 FOR UTILITY SERVICE DESIGNED TO
14 REALIZE A REASONABLE RATE OF
15 RETURN ON THE FAIR VALUE OF ITS
16 PROPERTY THROUGHOUT THE STATE
17 OF ARIZONA.

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18 IN THE MATTER OF THE APPLICATION
19 OF GLOBAL WATER-PALO VERDE
20 UTILITIES COMPANY FOR THE
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22 REASONABLE RATES AND CHARGES
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28 IN THE MATTER OF THE APPLICATION
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DESIGNED TO REALIZE A REASONABLE
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DOCKET NO. W-02450A-12-0312

1 IN THE MATTER OF THE APPLICATION
2 OF VALENCIA WATER COMPANY—
3 GREATER BUCKEYE DIVISION FOR THE
4 ESTABLISHMENT OF JUST AND
5 REASONABLE RATES AND CHARGES
6 FOR UTILITY SERVICE DESIGNED TO
7 REALIZE A REASONABLE RATE OF
8 RETURN ON THE FAIR VALUE OF ITS
9 PROPERTY THROUGHOUT THE STATE
10 OF ARIZONA.

DOCKET NO. W-02451A-12-0313

6 IN THE MATTER OF THE APPLICATION
7 OF GLOBAL WATER—SANTA CRUZ
8 WATER COMPANY FOR THE
9 ESTABLISHMENT OF JUST AND
10 REASONABLE RATES AND CHARGES
11 FOR UTILITY SERVICE DESIGNED TO
12 REALIZE A REASONABLE RATE OF
13 RETURN ON THE FAIR VALUE OF ITS
14 PROPERTY THROUGHOUT THE STATE
15 OF ARIZONA.

DOCKET NO. W-20446A-12-0314

12 IN THE MATTER OF THE APPLICATION
13 OF WILLOW VALLEY WATER
14 COMPANY FOR THE ESTABLISHMENT
15 OF JUST AND REASONABLE RATES AND
16 CHARGES FOR UTILITY SERVICE
17 DESIGNED TO REALIZE A REASONABLE
18 RATE OF RETURN ON THE FAIR VALUE
19 OF ITS PROPERTY THROUGHOUT THE
20 STATE OF ARIZONA.

DOCKET NO. W-01732A-12-0315

18 **PRE-FILED DIRECT TESTIMONY OF RICHARD JELLIES IN OPPOSITION TO**
19 **SETTLEMENT AGREEMENT**

21 **ON BEHALF OF**
22 **NEW WORLD PROPERTIES, INC.**

23 **AUGUST 21, 2013**

1 **Q: PLEASE STATE YOUR NAME AND YOUR RELATIONSHIP TO NEW WORLD**
2 **PROPERTIES, INC.**

3 A: My name is Richard Jellies and I am a development consultant for New World Properties,
4 Inc. ("NWP").

5 **Q: HAVE YOU PREVIOUSLY FILED TESTIMONY IN THIS DOCKET?**

6 A: Yes. On July 8, 2013, I filed direct testimony on behalf of NWP in this docket.

7 **Q: WHAT IS THE PURPOSE OF YOUR TESTIMONY AT THIS TIME?**

8 A: The purpose of my testimony is to set forth the concerns of NWP regarding the settlement
9 agreement ("Settlement Agreement") that was filed in this docket on August 13, 2013.
10 The Settlement Agreement was signed by several of the parties in this case including the
11 applicants, Utilities Division Staff ("Staff") and the Residential Utility Consumer Office
12 ("RUCO"). While NWP participated in settlement discussions, it is unable to support the
13 Settlement Agreement as it now stands for the reasons discussed below in my testimony.

14 **Q: BEFORE WE DISCUSS THE REASONS WHY NWP CANNOT SUPPORT THE**
15 **SETTLEMENT AGREEMENT, WOULD YOU PLEASE PROVIDE SOME BRIEF**
16 **BACKGROUND AS TO WHY NWP INTERVENED IN THIS RATE CASE?**

17 A: As I discussed in my direct testimony filed July 8, 2013, NWP, on behalf of Trust 8559,
18 entered into an Infrastructure Coordination, Finance and Option Agreement ("ICFA")
19 with Global Water Resources, LLC, (hereinafter, "Global Parent") on July 11, 2006, in
20 order to procure water, wastewater and reclaimed water services for a planned NWP
21 development in west Maricopa County known as Copperleaf. Under the ICFA, NWP
22 agreed to pay \$5,500 (with a consumer price index adjustment factor) per equivalent
23 dwelling unit ("EDU") to Global Parent, and Global Parent agreed to fulfill the
24 obligations set forth in Sections 1 and 2 of the ICFA. Five hundred dollars of the \$5,500
25 per EDU was specifically called out under the ICFA to be used by Global Parent for the
26 purchase of Water Utility of Greater Tonopah ("WUGT"). Upon acquisition of WUGT,
27 Global Parent would then provide water, wastewater and reclaimed water services to the
28

1 Copperleaf Property using its subsidiaries WUGT and Hassayampa Utility Company, Inc.
2 (“HUC”).

3 At the time the ICFA was signed, NWP paid Global Parent \$1,875,000 based upon
4 3,750 planned EDUs (at \$500 per EDU). To date, NWP has paid Global Parent \$1,000
5 per EDU for a total of \$3,750,000. NWP must still pay the remaining \$4,500 per EDU
6 pursuant to the ICFA. Global Parent has entered into more than 170 ICFA's throughout
7 the service areas of its utility subsidiaries as listed in Attachment B to the Settlement
8 Agreement, and it is my understanding that there is only one other ICFA besides the NWP
9 ICFA which required such a large upfront payment.¹

10 **Q: PLEASE DESCRIBE THE FUNCTION OF AN ICFA.**

11 A: In my earlier filed testimony, I went into some detail regarding ICFA's so I will be brief.
12 In short, an ICFA is a non-conventional financing vehicle used by Global Parent to fund
13 water and wastewater infrastructure. To my knowledge, Global Parent is the only entity
14 that has used this type of financing vehicle in Arizona. Under an ICFA, Global Parent
15 obligates its various regulated utility subsidiaries to construct substantial utility plant to
16 provide water, sewer and reclaimed water service to landowners in exchange for
17 landowners paying money to Global Parent to finance the utility plant. The ICFA's also
18 provide for construction of necessary transmission infrastructure.

19 **Q: EARLIER IN YOUR TESTIMONY, YOU STATED THAT NWP IS UNABLE TO**
20 **SUPPORT THE SETTLEMENT AGREEMENT AS IT STANDS. PLEASE**
21 **EXPLAIN THE REASONS WHY NWP CANNOT SUPPORT THE SETTLEMENT**
22 **AGREEMENT.**

23 A: To begin, Section 1.5 of the Settlement Agreement lists the purported benefits of the
24 Settlement Agreement. The very last bullet point in that section lists “Resolution of issues
25 regarding Infrastructure Coordination and Financing Agreements” as one of those
26 benefits. Unfortunately, as I will explain, the Settlement Agreement does not resolve all
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28 ¹ Sierra Negra Ranch has a similar upfront payment in its ICFA with Global Parent. Sierra Negra Ranch is also an intervenor in this case.

1 of the important issues surrounding ICFA generally or NWP's ICFA specifically. It is
2 very telling that there are two intervenors in this docket with ICFA and neither of them is
3 supporting the Settlement Agreement as it stands.

4 **Q: WHAT ARE THE IMPORTANT ISSUES THAT ARE NOT RESOLVED**
5 **REGARDING ICFA?**

6 A: If approved by the Arizona Corporation Commission ("Commission"), the Settlement
7 Agreement would establish a hook-up fee ("HUF") of \$1,750 for water service from
8 WUGT and a HUF of \$1,750 for wastewater service from HUC, for a combined total of
9 \$3,500 per residential connection in the Tonopah area. The Settlement Agreement also
10 provides that the amount of the HUFs paid under an ICFA (\$3,500 in the case of NWP)
11 must be placed into a segregated account at the subsidiary utility (WUGT and HUC in the
12 case of NWP). Section 6.4.4 of the Settlement Agreement further provides that "future
13 ICFA fees received under existing ICFA" will be split 70%-30% between Global Parent
14 and its applicable utility subsidiary.

15 The outstanding issues still to be resolved are: (i) the consumer price index
16 ("CPI") adjustment factor contained in the ICFA which applies to and escalates
17 developer payments made under the ICFA; (ii) the lack of protection of monies paid
18 under ICFA which exceed the amounts allocated to HUFs (which according to the ICFA,
19 are to be used for financing of the plant and transmission facilities) to ensure that those
20 monies also flow to the utility which has the obligation to construct utility infrastructure
21 for the developer; (iii) the proposed 70%-30% split in future payments to Global Parent
22 under the ICFA results in an underpayment of HUFs to WUGT and HUC; (iv) the large
23 percentage rate increase for the customers of Tonopah without a sufficient phase-in; and
24 (v) the unwillingness of Global Parent to modify the ICFA in a manner which protects its
25 regulated utility subsidiaries and the public in the event of a Global Parent default or
26 bankruptcy affecting the current ICFA.

1 **Q: PLEASE EXPLAIN THE ISSUE WITH THE CPI ADJUSTMENT FACTOR IN**
2 **THE ICFA.**

3 A: The ICFA requires that unpaid developer payment obligations under the agreement are
4 adjusted according to a CPI adjustment factor which is explained in Section 4 of the
5 ICFA. The ICFA provides the following example at Section 4, page 15:²

6 “[I]f the CC&N for wastewater is approved in December 2007, and a
7 portion of the Landowner Payment, \$500 per EDU, is due in April 2008,
8 and the most current available Index is 187.3 and the Index for December
9 2007 was 182.5, the Landowner Payment per EDU would be calculated as
10 follows: $\$500 \times 187.3/182.5 \times 1.02 = \523.41 per EDU.”

11 As illustrated by this example, the amounts due under the ICFA increase over time based
12 upon the CPI adjustment factor. Under the Settlement Agreement, \$3,500 of the \$5,500
13 payment per EDU in the case of NWP is allocated to fund HUFs due to WUGT and HUC.
14 However, without modification of Section 4 of the ICFA to acknowledge the Settlement
15 Agreement, the \$3,500 portion of NWP’s payment obligation that will be allocated to
16 HUFs will continue to adjust upward over time as a result of the CPI adjustment factor.
17 This will likely result in a situation where Global Parent effectively earns interest on that
18 portion of the landowner fee that is allocated to HUFs. This is not equitable, and NWP
19 should not be required to pay what effectively amount to interest on HUFs.

20 **Q: WHAT CAN THE COMMISSION DO TO CORRECT THIS PROBLEM?**

21 A: While the Commission has not found that Global Parent is a public service corporation,
22 Staff requested and Global Parent agreed to seek party status in this case. Thus, Global
23 Parent has willingly subjected itself to the Commission’s jurisdiction in this docket. In
24 addition, as discussed at page 4, line 16 of Mr. Armstrong’s direct testimony for Staff,
25 Global Parent has “never contended that ICFAs are non-jurisdictional to the ACC.” Thus,
26

27
28 ² A copy of NWP’s ICFA was attached as Attachment “A” to the Direct Testimony of Richard
Jellies filed July 8, 2013.

1 the Commission could order Global Parent to remove the CPI adjustment factor from the
2 ICFA.

3 **Q: CAN YOU PLEASE EXPLAIN NWP'S CONCERN REGARDING ACCOUNTING**
4 **FOR MONIES RECEIVED BY GLOBAL PARENT IN EXCESS OF**
5 **APPLICABLE HUFs?**

6 A: Section 6.3 of the Settlement Agreement addresses past funds received by Global Parent
7 under existing ICFAs and Section 6.4 addresses future funds received under existing
8 ICFAs. The problem with these sections as drafted is that they do not ensure that past and
9 future funds provided by a developer to Global Parent will be used for their intended
10 purposes, or more specifically, that the subsidiary utility with the obligation to construct
11 utility plant will have access to the monies that were received by Global Parent to finance
12 such utility plant. Pursuant to Recital J of NWP's ICFA, \$500 of the \$5,500 payment per
13 EDU was allocated toward the cost of utility acquisition. The balance of NWP's
14 payments were to be used for the coordination and financing of construction of substantial
15 regional infrastructure including utility plant (which would now be constructed with
16 HUFs) and significant transmission infrastructure as set forth in Exhibits D and H of the
17 ICFA. In fact, the ICFA goes further in discussing what would occur in the event that the
18 agreement could not be fulfilled for various reasons and defines the amount of the
19 landowner payments that Global Parent could keep as no more than 15% if no plant or
20 transmission infrastructure was constructed. Therefore, NWP believes that a minimum of
21 \$4,675 (or 85% of NWP's total \$5,500 payment per EDU) should flow through to and be
22 available to the WUGT and HUC for construction of the required plant and infrastructure.

23 **Q: WHAT CAN THE COMMISSION DO TO CORRECT THIS PROBLEM?**

24 A: The Commission can monitor Global Parent to ensure that the monies received under the
25 ICFAs are available and used for their intended purposes. As stated in Mr. Armstrong's
26 direct testimony for Staff, Global Parent has a history of moving monies around that were
27 received under ICFAs. Mr. Armstrong states that even though Global Parent had
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1 segregated ICFA accounts after the last rate case, "funds deposited into this account are
2 routinely (and almost immediately) transferred out of this account and into what Staff
3 presumes is the company's general purpose bank account."³ The Settlement Agreement
4 makes no mention of segregating the funds that Global Parent receives above and beyond
5 the HUF amounts. Requiring a segregated fund as contemplated in Mr. Armstrong's
6 testimony for all ICFA monies would be appropriate given Global Parent's past history.
7 Additionally, NWP believes that its ICFA should be amended to make clear that monies
8 intended to be used by WUGT and HUC to provide utility plant and transmission
9 infrastructure belong to those utilities (which have the obligation to provide utility
10 services) and not Global Parent. This would help ensure that in the event of a bankruptcy
11 by Global Parent, no judge could rule that the monies paid by NWP under the ICFA which
12 are allocated to HUFs or otherwise needed to construct and finance necessary utility plant
13 and transmission infrastructure were instead assets of Global Parent.

14 **Q: YOU MENTIONED YOUR CONCERN REGARDING THE 70%-30% SPLIT OF**
15 **FUTURE PAYMENTS UNDER EXISTING ICFAS. WOULD YOU PLEASE**
16 **EXPLAIN THIS CONCERN?**

17 **A:** Since NWP has already paid \$1,000 of the \$5,500 due per EDU, the amount remaining for
18 NWP is \$4,500 per EDU. As I read the Settlement Agreement, NWP will be required to
19 write Global Parent a check for \$1,350 per EDU while writing checks to WUGT and HUC
20 totaling only \$3,150. This number is well below the required \$3,500 hook-up fee required
21 by the Settlement Agreement. It does not make sense for the utility obligated to construct
22 the improvements being denied the funds intended for that purpose. Additionally, it
23 would appear that NWP might well be responsible for the additional \$350 per EDU that
24 would be "short" under the Settlement Agreement. While it might not seem like much at
25 \$350 per EDU, it works out to over \$1.3 million that either NWP or the utility would have
26 to come up with.

27
28 ³ Armstrong Direct Testimony page 19, lines 8-10.

1 **Q: WOULD YOU PLEASE DISCUSS YOUR CONCERN REGARDING THE SIZE**
2 **OF THE PROPOSED RATE INCREASE FOR WUGT UNDER THE**
3 **SETTLEMENT AGREEMENT.**

4 A: NWP has an accounting witness who has provided testimony on this point but I will say
5 that in my experience, a 100% increase in rates hurts both rate payers directly and the
6 perception of potential purchasers of NWP's properties. Even though WUGT would
7 phase in the rates over three years, this will still have a direct, dramatic and immediate
8 effect on ratepayers. The ratepayers in the Town of Maricopa are seeing smaller rate
9 increases (by percentage) yet the increase are being phased in over eight years under the
10 Settlement Agreement. There is no good reason why the rates of WUGT could not be
11 phased in over a similar time period.

12 **Q: DO YOU HAVE A POSITION AS TO WHETHER IT IS APPROPRIATE FOR**
13 **THE COMMISSION TO GRANT THE APPLICANT A RETURN ON MONIES**
14 **PROVIDED TO GLOBAL PARENT BY THIRD PARTY DEVELOPERS?**

15 A: No. We believe this is a question best reserved for Staff and the Commission as they are
16 the ones responsible for protecting the public interest.

17 **Q: DO YOU BELIEVE THE COMMISSION HAS JURISDICTION TO ORDER AN**
18 **AMENDMENT TO NWP'S ICFA WITH GLOBAL PARENT AS PART OF THE**
19 **APPROVAL OF ANY SETTLEMENT AGREEMENT?**

20 A: Yes. One of the stated purposes of the Settlement Agreement is to resolve outstanding
21 issues relative to the use of ICFAs as financing instruments.

22 **Q: DO YOU HAVE ANYTHING ELSE YOU WOULD LIKE TO ADD?**

23 A: Yes. The utility plant and transmission infrastructure that Global Parent has committed its
24 regulated utilities to construct in the Tonopah area alone will cost millions of dollars on
25 day one and untold millions of dollars over time. NWP cannot even begin to calculate the
26 cost of the financial obligations under all of the other ICFA agreements. NWP believes it
27 is in the public interest to, at a minimum, assure those funds designated to support the
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financing and construction of utility plant are available to the utility for their intended purposes.

Q: DOES THIS CONCLUDE YOUR TESTIMONY?

A: Yes.

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