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BEFORE THE ARIZONA CORPORATION COMMISSION

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COMMISSIONER
- BRENDA BURNS
COMMISSIONER
- ROBERT BURNS
COMMISSIONER
- SUSAN BITTER SMITH
COMMISSIONER

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

Docket No. WS-03478A-12-0307

RUCO'S EXCEPTIONS TO THE RECOMMENDED OPINION AND ORDER

The Residential Utility Consumer Office ("RUCO") hereby submits its Exceptions to the Recommended Opinion and Order ("ROO"). Specifically, RUCO objects to the ROO's denial of its adjustment to rate base. RUCO asserts that at a minimum, 30.1 percent of the Company's plant should be excluded from rate base. The ROO denies RUCO's requested adjustment asserting RUCO's 30.1 percent adjustment was too much; inappropriately applied to other than treatment related plant; should have been system-specific, and double-counted the Company's adjustment to Section 14. RUCO takes exception to the ROO because:

- A.) The Company's testimony and evidence demonstrates there is unused capacity in excess to RUCO's adjustment;

- B.) By approving the Company's limited adjustment to Section 14, the ROO approved adjustments to non-treatment related plant and the Company appears to have excess capacity in non-treatment related plant;
- C.) Because the Company is seeking system wide rates based on the cost of service associated with all seven systems, and those systems have been designed and built to support an integrated system, a system-wide adjustment is appropriate;
- D.) Even if individually analyzed, the plant has excess capacity equal to or more than RUCO's 30.1 percent adjustment; and
- E.) Any error that RUCO is perceived to have made has already been corrected and the error has a nominal impact on the RUCO's adjustment to rate base.

A. The Company testimony and evidence demonstrates there is unused capacity in excess to RUCO's adjustment.

I. The Company has design and permit capacity of 2.3 MGD

RUCO asserts that the Company's plant has a design capacity of 2,332,500 GPD. The ROO states that the excess capacity is non-existent because the Company's system-wide permitted capacity of the Company's test-year plant was only 1,438,500 GPD, it's design capacity was only, 2,057,500 GPD and ultimate design capacity will be 2,285,000 GPD. The ROO ignores the Company's direct testimony and multiple prior filings describing its permitted and design capacity as 2,332,500 GPD. According to the evidence in the record, the Company's system-wide permitted capacity during the test year was:

ROO	2011 Annual Report:	2012 Annual Report	Direct Testimony Ray Jones
1,438,500 GPD ¹	2,332,500 GPD ²	2,332,500 GPD ³	2,332,500 GPD ⁴

¹ ROO page 15, ll. 16-17.
² See Exhibit R-3 and R-26, excerpts from Annual Reports.
³ *Id.*
⁴ Exhibit A-1, Direct Testimony of Ray Jones, Schedule RLJ-DT2.

1 According to RUCO's engineering witness and confirmed by the Company's Aquifer
 2 Protection Permits and annual reports submitted into evidence the Company's facilities
 3 have the following permitted and design capacities:

4	WWTP	APP Permit	DESIGN CAPACITY
5	Marwood 14000 E. 56th St.	102829	340,000 GPD
6	Section 14 12651 Avenue 14E	105014	1,300,000 GPD
7	MDS - Villa Royale 12342 E. Del Rico	100221	10,000 GPD
8	MDS - Del Oro 1171 7 Omega Lane	101816	495,000 GPD
8	MDS - Del Rey 12342 E. Del Rico	101814	37,500 GPD
9	Seasons 10301 County 10th St.	103618	<u>150,000 GPD⁵</u> 2,332,500 GPD

10 Contrary to the ROO's conclusions, the Company's design and permitted capacity during
 11 the test year was 2,332,500 GPD.⁶

12 **II. The Company's Constructed Capacity is 2.3 MGD**

13 The primary disagreement between the parties relates to phased in construction of
 14 Section 14. The Company asserted in rebuttal testimony that the ("ADEQ") issued an
 15 Aquifer Protection Permit ("APP") for Section 14 in 2008 which only permitted the plant to
 16 operate at .681 MGD. The Company's position is refuted by the clear language of its
 17 Section 14 APP and the testimony of Jin Liu, Staff's witness. Jin Liu testified that the
 18 Company does not need to acquire an APP for 1.3 MGD, it already has it.⁷ Mr. Liu is
 19 correct. The Company's APP for Section 14 is APP No. P-105014. The permit states
 20 clearly on its face: *The permittee is authorized to operate a **1.3 million gallons per day***
 21

22
 23 ⁵ See Exhibit R-9 and R-10, Direct and Surrebuttal Testimony of Royce Duffett. See Exhibit R-26 Excerpt
 from Company's annual report, Exhibit R-25 APP-105014(Section 14); Exhibit R-31 APP 101816(Del Oro);
 Exhibit R-32 APP 106318 (Seasons). See also Exhibit A-1, Direct Testimony of Ray Jones, Schedule RLJ-
 DT2

24 ⁶ *Id.*

1 **(MGD)** wastewater treatment plant (WWTP), constructed in phases. In addition, end of
 2 test year records from ADEQ which were also admitted into the record, clearly indicate the
 3 plant has been permitted at 1.3 MGD. As of December 15, 2011, the last month of the
 4 test year, an ADEQ discharge permit issued to Far West reflected the permitted capacity of
 5 Section 14 as **1.3 MGD**.⁸

6 The Company asserts and the ROO concludes that Section 14 plant has not yet
 7 been constructed to 1.3 MGD and therefore is only permitted to .681 MGD. Mr. Jones, the
 8 Company's engineering witness testified that the plant consisted of influent pump stations,
 9 grit removal, equalization basins, pre and post anoxic tanks, UV disinfection, recharges
 10 wells and/ or a reuse pond.⁹ On cross-examination, Mr. Jones admitted that with the
 11 exception of three membrane bioreactor cassettes costing less than \$224,000 and a
 12 potentially unnecessary recharge zone well, the system was essentially constructed to 1.3
 13 MGD as follows:

Section 14 Plant Component	Capacity as currently constructed
Equalization basins	No volume requirement
Influent pump station	1.3 MGD
Grit removal system	1.3 MGD
Pre anoxic tanks	1.3 MGD
Post anoxic tanks	1.3 MGD
UV Disinfection	1.35 MGD ¹⁰

18 Given that Section 14 was clearly designed, permitted and in large measure constructed to
 19 1.3 MGD, RUCO takes exception to the ROO's conclusions that the plant has a lower
 20 design capacity because it purportedly has a lesser constructed capacity.

23 ⁷ T: 723
 24 ⁸ See R-2 ADEQ Discharge Authorization dated December 15, 2011.
⁹ T: 160-170
¹⁰ T: 160-170.

1 **III. The Company's Unused Capacity at Section 14 is more than 30.1%**

2 RUCO calculated its 30.1 percent adjustment using estimated flow data. If RUCO
 3 had calculated the Company's demand capacity using its historical flow data and
 4 compared it to the Company's unadjusted design capacity, RUCO's adjustment would
 5 have been much higher than 30.1 percent. Section 14's unadjusted test year plant in
 6 service is \$12,583,565.¹¹ Its unadjusted test year plant at Section 14 is essentially 1.3
 7 MGD.¹² The Company's witness, Mr. Jones calculated current use of Section 14 as
 8 follows:

	<u>Connected Lots</u>	<u>Max Day (GPDUPD)</u>	<u>Max Month (GPDUPD)</u>
Section 14	1,254		
Palm Shadows	1,787		
RV	712		
Total Units	3,753	136.16	104.18 ¹³

12 Further, Mr. Jones calculated future growth at 13.32 percent and estimated that only .692
 13 GPD of the Section 14's unadjusted plant would be used and useful in five years, if the
 14 Company completes the transfer of 753 Marwood customers to Section 14 via the Lift
 15 Station 16.¹⁴ Mr. Jones calculations of used and useful test year plant at Section 14 are as
 16 follows:

	<u>Avg. Day Lots</u>	<u>Max Day (MGD)</u>	<u>Max Month (MGD)</u>
Test Year	3,753	0.511	0.391
Projected 5-Yr Growth	500	0.068	0.052
L.S. 16 Transfer (Residential)	753	0.103	0.078
L.S. 16 Transfer (Commercial)		<u>0.010</u>	<u>0.008</u>
		0.692	0.529 ¹⁵

21 ¹¹ T: 160-170. See also, Exhibit A-1, RLJ-DT3, Schedule B-2, Page 2.1.

22 ¹² RUCO believes that the adjusted test year plant is designed, built and permitted at 1.3 MGD. RUCO
 does not believe it is fair for the Company to remove one or two plant components necessary to operate the
 plant at 1.3 MGD and somehow render the plant .681 MGD when all other component are designed, built
 and permitted at 1.3 MGD.

23 ¹³ See R-14 Excerpt from Company's schedules.

24 ¹⁴ *Id.* Transfer of Marwood customer's would result in a commensurate reduction in demand capacity at
 Marwood WWTP or 30 percent reduction (753 x 136 GPD=102,408GPD/340,000GPD or 30 percent).

¹⁵ See Exhibit R-14 Excerpt from Company's schedules.

1 Applying the Company's adjustment to unadjusted test year plant, (including all Phase II
2 plant already constructed) would result in a finding that 53.22 percent of the existing plant
3 will be used and useful within a five-year planning horizon. Stated differently, by the
4 Company's own calculations, 46.78 percent of Section 14's unadjusted test year plant will
5 not be used and useful within a five-year planning horizon.¹⁶

6 In lieu of RUCO's 30.1 percent deduction, the ROO adopts the Company's 17
7 percent or \$2,165,201 adjustment to Section 14. An adjustment of 46.8 percent to the
8 unadjusted test year plant would be a \$5,889,108.¹⁷ The Company acknowledges that the
9 Section 14 plant, save three membranes and possibly, a vadose well, are built to 1.3 MGD,
10 but applies a \$2,165,201 or 17 percent adjustment to the Section 14 unadjusted test year
11 plant in service to reflect plant not used and useful. The impact of the adjustment is to
12 require current ratepayers to subsidize the cost of an additional \$3,723,907 of plant for
13 future ratepayers.¹⁸ Requiring current ratepayers to pay for plant held for the use of future
14 ratepayers is cross-generational subsidization. Such cross-generational subsidization
15 does not reflect cost of service and is unfair and unreasonable. It is particularly unfair to
16 impose such cross-generational subsidization when the Company is asking the current
17 ratepayers to absorb a rate increase in excess of 150 percent to serve their current needs.
18 To mitigate the impact of the rate increase, the Commission should amend the ROO to
19 eliminate the cross-generational subsidy of plant which is more properly allocated for the
20 use of future ratepayers.

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¹⁶ *Id.*

¹⁷ 46.8 percent x \$12,583,565 = \$5,889,108

¹⁸ \$5,889,108 - \$2,165,201 = \$3,723,907.

1 **B. RUCO did not err in applying its adjustment to collection system accounts.**

2 The Company and Staff argue that RUCO's adjustment should be denied because
3 RUCO made the adjustment to non-treatment related plant. The ROO adopts the
4 Company's position. RUCO did apply its adjustment to non-treatment related plant, but
5 then again **so did the Company**. In its 17 percent adjustment to Section 14, the
6 Company adjusted:

- 7 • Receiving Wells (Receiving Wells)
- 8 • Collection Sewers - Force (Collection Sewers - Force)
- 9 • Collection Sewers - Lift Station (Collection Sewer, Lift Station)
- 10 • Plant Sewers (Plant Sewers)
- 11 • Outfall Sewer Lines (Outfall Sewer Lines)¹⁹

12 Moreover, the Company asserts that as of the end of test year, it had 7,824 customer
13 accounts, but reported in excess of 10,355 laterals.²⁰ The number of laterals is supposed
14 to reflect the number of customers.²¹ The two numbers should match, but do not. The
15 Company reports 2,531 or approximately 25 percent more laterals than it reports customer
16 accounts. This unresolved discrepancy means that the Company either has more
17 customers than reported or 25 percent more non-treatment related plant in service than is
18 used and useful. The ROO is correct that RUCO made adjustments to furniture, vehicles
19 and tools. However, those adjustments were a nominal 1.5 percent of RUCO's overall
20 adjustment and certainly in and of themselves not a sufficient basis to deny RUCO's
21 excess capacity adjustment. RUCO's adjusted the furniture, vehicles, and tools accounts
22 system-wide by \$76,626, \$81,815 and \$8,148, respectively. RUCO concedes those
23 adjustments to sustain its overall adjustment 30.1 percent to the remaining accounts. It is
24 inconsistent for the Commission to adopt the Company's adjustment to non-treatment

¹⁹ Exhibit R-14, Excerpt from Schedule B-2.

²⁰ T: 721-722.

²¹ *Id.*

1 related depreciable plant while arguing against adoption of RUCO's system-wide
2 adjustment which (excluding furniture, vehicles and tools) is applied to the same non-
3 treatment related accounts.

4 **C. RUCO did not err in applying its adjustment system-wide.**

5 The ROO rejects RUCO's adjustment because RUCO made system-wide
6 adjustments. The Company argues that each system serves a separate and distinct
7 service area. That is not entirely true. It is the Company's intention to merge Villa Royale
8 and Villa del Sol with Del Oro and the Company has designed and permitted and enlarged
9 the Del Oro plant to accommodate flows from the smaller plants.²² Moreover, it is the
10 Company's intention to merge Palm Shadows and portions of Marwood with Season 14.
11 The Company designed, permitted and built Section 14 to accommodate flows from Palm
12 Shadows and Marwood.²³ The Company has completed the Palm Shadows Force Main
13 connecting Palms Shadows to Section 14.²⁴ The Company has also constructed collection
14 systems and lift stations to divert flows from Marwood to Section 14.²⁵ It is also the
15 Company's intention to modify Seasons WWTP using a Zenon MBR system in service in
16 Del Oro during the test year and subsequently transferred to the Season plant.²⁶
17 According to the Company much of that construction has been completed.²⁷ There is a
18 significant merging of the service areas and intermingling of plant in service. Although the
19 Company may not have completed the merger of its systems, the Company has included

22 ²² See Exhibit R-25 APP-105014(Section 14); Exhibit R-31 APP 101816(Del Oro); Exhibit R-32 APP
106318 (Seasons).

23 ²³ *Id.*

24 ²⁴ See R-14 Excerpt from Schedule B-2. See also Exhibit A-1, Direct Testimony of Ray Jones.

25 ²⁵ *Id.*

26 ²⁶ T:963-964.

27 ²⁷ *Id.*

1 in UPIS significant expansions and of Del Oro and Section 14 to accommodate additional
2 flows and modified Seasons plant to encompass the Zenon MBR plant previously installed
3 at Del Oro. The fact that the Company seeks to include plant in rate base to accommodate
4 the merger of systems while also continuing to rate base plant intended to be retired upon
5 completion of the merger into the expanded systems should not be lost upon this
6 Commission. By its proposal, the Company expects to include Villa Royal, Villa Del Rey
7 and Marwood, as well as, expanded plant at Del Oro and Section 14. Moreover, the
8 Company expects current ratepayers to pay for all of it. The ROO adopts the Company's
9 position. It's unfair and unreasonable. If the Company cannot be bothered to submit its
10 application for a rate increase based on a system-specific cost of service, bill counts, etc. it
11 is disingenuous for the Company to oppose adjustments to plant in service on a system-
12 wide basis.

13 **D. Even if individually analyzed, the Company's plant has excess capacity equal**
14 **to or more than RUCO's 30.1 percent adjustment**

15 The Company claims that individually analyzed, the Company's plant does not have
16 excess capacity. The ROO adopts the Company's view. Unfortunately, both the ROO and
17 the Company rely on the Commission ignoring the fact that the Company's actual design
18 capacity is 2,332,500 GPD. When the Company's actual design capacity is compared to
19 its current demand capacity on an individual system basis the Company has excess
20 capacity in excess of RUCO's 30.1 percent adjustment:

21 ...
22 ...
23 ...

24

Plant	Average Flow in Peak Month ²⁸	Design Flow ²⁹	Percent Excess
Del Rey	49,235	40,000 *	23% over cap.
Villa Royale	3,588	10,000 *	65% Excess Cap.
Del Oro	159,875	495,000	67% Excess Cap.
Del Oro With Del Rey & Villa Royale combined	212,698	495,000	57% Excess Cap.
Seasons	71,000	150,000	53% Excess Cap.
Marwood	270,588	340,000	20.5% Excess Cap.
Section 14	415,000	1,300,000	68% Excess Cap.
Average based on system wide capacity w/o Del Oro Merger			Average Excess Cap.: 41.75 %
Combining Villa Royale, Del Rey into Del Oro to calculate system wide excess cap.	969,286	2,285,000 * design flow for Del Rey & Villa Royale excluded	Average with combined flows to Del Oro: 57 % Excess Cap.

Even using an alternative methodology of evaluating the excess capacity and ignoring the reality that the Del Oro and Section 14 plants have been designed and built to accommodate diverted flows from Villa Royal, Villa Del Rey and Marwood shows an average excess capacity of 41.75 percent which is higher than RUCO's 30.1 percent excess capacity adjustment. Taking into consideration the merger of the Del Oro plant, reflects excess capacity of 57 percent which is much higher than RUCO's adjustment on a system-wide basis. The only way to conclude to an adjustment which is lower than the adjustment RUCO made is to ignore the realities of the Company's testimony, filings and APP permits. The ROO attempts to do so, and for this reason, RUCO takes exception to

²⁸ Average Flow from Peak month derived from Exhibit Rist-2 calculated by Robert Rist by adding the flows on each day and dividing by the number of days yielded the average daily flow.

²⁹ Design Flow figures derived from Company's annual filings, testimony and APP's. See Exhibit R-9 and R-10, Direct and Surrebuttal Testimony of Royce Duffett. See Exhibit R-26 Excerpt from Company's annual report, Exhibit R-25 APP-105014(Section 14); Exhibit R-31 APP 101816(Del Oro); Exhibit R-32 APP 106318 (Seasons). See also Exhibit A-1, Direct Testimony of Ray Jones, Schedule RLJ-DT2.

1 the ROO's assertion that on an individual basis, the Company's plant has no excess
2 capacity.

3 **E. Any error that RUCO is perceived to have made has already been corrected
4 and the error has a nominal impact on the RUCO's adjustment to rate base.**

5 The Company asserts that RUCO's application of a 30.1 percent to UPIS is unfair
6 because it should have been applied to unadjusted test year plant. First, if there is any
7 confusion, it is of the Company's making. The Company, not RUCO, represented its
8 adjusted test year plant as \$37 million with a design capacity of 2.3 MGD in direct
9 testimony. Second, if RUCO had made it's adjustment to a \$39 million unadjusted test
10 year plant, it would only serve to increase RUCO adjustment from \$10,936,720 to
11 \$11,588,446. While subsequent modification in testimony regarding capital structure, cost
12 of equity and other adjustments may nominally impact RUCO's ultimate required revenue
13 requirement, none of these modifications impact the rationale for RUCO's 30.1 percent
14 adjustment to UPIS, as filed. RUCO's 30.1 percent adjustment is derived purely from a
15 comparison of design and demand capacity. RUCO's determination of design capacity
16 was based on the Company's avowals and verified in its public filings and APP permits.
17 RUCO's determination of demand capacity was based on reasonable estimates of current
18 and projected demand. RUCO fully discussed the basis for its 30.1 percent adjustment in
19 its Closing Briefs and incorporates those arguments by reference.

20 **Conclusion**

21 Based on the foregoing, RUCO requests that the Commission modify the ROO to
22 recognize its 30.1 percent adjustment to rate base and adopt the attached proposed
23 amendment.
24

1 RESPECTFULLY SUBMITTED this 4th day of September, 2013.

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4 Michelle L. Wood
5 Counsel

6 AN ORIGINAL AND THIRTEEN COPIES
7 of the foregoing filed this 4th day
8 of September, 2013 with:

9 Docket Control
10 Arizona Corporation Commission
11 1200 West Washington
12 Phoenix, Arizona 85007

13 COPIES of the foregoing hand delivered/
14 mailed this 4th day of September, 2013 to:

15 Lyn Farmer
16 Chief Administrative Law Judge
17 Hearing Division
18 Arizona Corporation Commission
19 1200 West Washington
20 Phoenix, Arizona 85007

21 Janice Alward, Chief Counsel
22 Legal Division
23 Arizona Corporation Commission
24 1200 West Washington
Phoenix, Arizona 85007

Steven Olea, Director
Utilities Division
Arizona Corporation Commission
1200 West Washington
Phoenix, Arizona 85007

Jeffrey W. Crockett
Brownstein Hyatt Farber Schreck LLP
One E. Washington St., Suite 2400
Phoenix, Arizona 85004

Craig A. Marks
Craig A. Marks, PLC
10645 N. Tatum Blvd., Suite 200-676
Phoenix, Arizona 85028

Robert C. Gilkey
Barbara S. Gilkey
14784 E. 49th Street
Yuma, AZ 85367

Robert Rist
9593 E. 34th Place
Yuma, AZ 85365

Rodney Taylor
Kim Taylor
11440 E. 26th Lane
Yuma, AZ 85367

1 Seth Davis
Barbara Davis
2 2006 S. Arboleda Dr.
Merced, CA 95341
3

4 Jerry S. Durden
12789 E. 46th St.
Yuma, AZ 85367
5

6 By *Cheryl Fraulob*
7 Cheryl Fraulob
8

9
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11
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