

ORIGINAL

OPEN MEETING ITEM



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



ARIZONA CORPORATION COMMISSION

RECEIVED

DATE: OCTOBER 28, 2013

2013 OCT 28 A 10:04

DOCKET NO.: W-02069A-08-0406

AZ CORP COMMISSION
DOCKET CONTROL

TO ALL PARTIES:

Enclosed please find the recommendation of Administrative Law Judge Sarah N. Harpring. The recommendation has been filed in the form of an Order on:

**SUNRISE WATER COMPANY
(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:

NOVEMBER 6, 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:

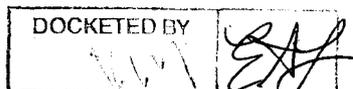
NOVEMBER 13, 2013 and NOVEMBER 14, 2013

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

OCT 28 2013



Jodi A. Jerich
**JODI JERICH
EXECUTIVE DIRECTOR**

1200 WEST WASHINGTON STREET; PHOENIX, ARIZONA 85007-2927 / 400 WEST CONGRESS STREET; TUCSON, ARIZONA 85701-1347

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This document is available in alternative formats by contacting Shaylin Bernal, ADA Coordinator, voice phone number 602-542-3931, E-mail SABernal@azcc.gov.

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 COMMISSIONERS

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

8 IN THE MATTER OF THE APPLICATION OF
 9 SUNRISE WATER COMPANY FOR A
 10 DETERMINATION OF THE CURRENT FAIR
 11 VALUE OF ITS UTILITY PROPERTY AND FOR
 12 AN INCREASE IN ITS WATER RATES AND
 13 CHARGES FOR UTILITY SERVICE.

DOCKET NO. W-02069A-08-0406
 DECISION NO. _____

ORDER

14 Open Meeting
 15 November 13 and 14, 2013
 16 Phoenix, Arizona

17 **BY THE COMMISSION:**

18 * * * * *

19 Having considered the entire record herein and being fully advised in the premises, the
 20 Arizona Corporation Commission ("Commission") finds, concludes, and orders that:

FINDINGS OF FACT

21 1. Sunrise Water Co. ("Sunrise") is a Class B water utility providing service to
 22 approximately 1,450 customers in a service area of approximately 3.9 square miles located in Peoria,
 23 Arizona. Sunrise has only one shareholder and is organized as a subchapter S corporation.

24 2. On December 23, 2009, the Commission issued Decision No. 71445, granting Sunrise
 25 a permanent rate increase in its first rate case since 1983. Due to its status as an S corporation,
 26 Sunrise was denied recovery of income tax expense. (See Decision No. 71445 at 29-37.)

27 3. On February 22, 2013, in Decision No. 73739, issued in a generic water utilities
 28 docket, the Commission adopted a Revised Policy Statement regarding the ratemaking treatment of
 income tax expense for tax pass-through entities ("Policy Statement"). The Policy Statement
 provided as follows:

[W]e are persuaded that a tax pass-through entity should be allowed to
 recover income tax expense as a part of its cost of service and that its
 revenue requirement should be grossed up for the effect of income taxes.

1 We are persuaded that the failure to include income tax expense
2 needlessly discriminates against tax pass-through entities and creates an
3 artificial impediment to investment in utility infrastructure. Neither of
4 these outcomes serves the interests of rate payers. Thus, we hereby adopt
5 a new policy which allows imputed income tax expense in the cost of
6 service for limited liability companies, Subchapter S corporations and
7 partnerships. While sole proprietorships are not technically tax pass-
8 through entities, the arguments supporting the inclusion of income tax
9 expense for tax pass-through entities are equally applicable in the case of
10 sole proprietorships. Thus, the policy will apply to sole proprietorships as
11 well as tax pass-through entities.

12 This new policy will be applied in pending and future rate cases. Also,
13 companies that have been denied recognition of income tax expense in the
14 past may make a filing under A.R.S. § 40-252 to modify the revenue
15 requirement authorized in their most recent rate case order to include
16 income tax expense prospectively from the date of an order of the
17 Commission approving the A.R.S. § 40-252 filing.¹

18 4. On June 14, 2013, Sunrise filed a Motion to Amend Decision No. 71445 Pursuant to
19 A.R.S. § 40-252 ("Motion"). In the Motion, Sunrise requested to have Decision No. 71445 amended
20 to allow Sunrise to recover income tax expense as part of its cost of service, consistent with Decision
21 No. 73739. Sunrise included an Exhibit A to its Motion, showing income tax at personal tax rates of
22 \$29,403 and a revenue requirement change of \$31,231.

23 5. At its Staff Meeting on June 27, 2013, the Commission approved a motion to reopen
24 Decision No. 71445 under A.R.S. § 40-252.

25 6. On June 28, 2013, a Procedural Order was issued scheduling a procedural conference
26 for August 5, 2013.

27 7. On August 5, 2013, the procedural conference was held, with Sunrise and the
28 Commission's Utilities Division ("Staff") appearing through counsel. Sunrise asserted that customer
notice and an opportunity for intervention were appropriate, but that Sunrise did not desire for a
hearing to be held. Staff agreed with Sunrise, but stated that a hearing could become appropriate
depending on the circumstances.

8. On August 6, 2013, a Procedural Order was issued requiring Sunrise to send its
customers notice and to post notice on its website; requiring Sunrise to file certification of notice; and
establishing deadlines for intervention, a Staff Report, any intervenor filing, and Sunrise's response
to the Staff Report and any intervenor filing.

¹ Decision No. 73739 at Att. 1 at 2.

1 9. Sunrise filed an Affidavit of Customer Notice on August 16, 2013.

2 10. A customer comment opposing allowance of the requested income tax expense was
3 filed on August 30, 2013. No requests to intervene were filed.

4 11. On September 16, 2013, Staff filed its Staff Report, recommending that Sunrise's
5 income tax expense request be approved, but that Sunrise's rates remain unchanged. Staff explained
6 that Decision No. 71445 authorized Sunrise to collect total rate case expense of \$87,500, amortized
7 over three years, which amounted to \$27,500 per year. Staff stated that although Sunrise had fully
8 collected the total rate case expense as of December 31, 2012, Sunrise continues to collect rate case
9 expense of \$27,500 per year. Because the rate case expense is generally equivalent to the amount of
10 income tax expense requested, Staff recommended that Sunrise's rates not be increased.

11 12. On September 26, 2013, Sunrise filed a Withdrawal of Motion to Amend Decision No.
12 71445, requesting permission to withdraw its Motion to Amend and stating that Staff did not object
13 to Sunrise's request.

14 13. Sunrise's request to withdraw its Motion to Amend Decision No. 71445 should be
15 granted, and this A.R.S. § 40-252 docket should be closed.

16 **CONCLUSIONS OF LAW**

17 1. Sunrise is a public service corporation within the meaning of Article XV of the
18 Arizona Constitution and A.R.S. Title 40, Chapter 2.

19 2. The Commission has jurisdiction over Sunrise and the subject matter of its requests.

20 3. Granting Sunrise's Withdrawal of Motion to Amend Decision No. 71445 is just and
21 reasonable and in the public interest.

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ORDER

IT IS THEREFORE ORDERED that Sunrise Water Company's Withdrawal of Motion to Amend Decision No. 71445 is granted, and this proceeding is hereby closed.

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

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

CHAIRMAN

COMMISSIONER

COMMISSIONER

COMMISSIONER

COMMISSIONER

IN WITNESS WHEREOF, I, JODI JERICH, Executive Director of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this _____ day of _____ 2013.

JODI JERICH
EXECUTIVE DIRECTOR

DISSENT _____

DISSENT _____
SH:ru

1 SERVICE LIST FOR:

SUNRISE WATER COMPANY

2 DOCKET NO.:

W-02069A-08-0406

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