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AZ CORP COMMISSION  
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Arizona Corporation Commission

DOCKETED

NOV 08 2013

4 Attorneys for Pima Utility Company  
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DOCKETED BY

6 IN THE MATTER OF THE APPLICATION  
7 OF PIMA UTILITY COMPANY, AN  
8 ARIZONA CORPORATION, FOR A  
9 DETERMINATION OF THE FAIR VALUE  
10 OF ITS UTILITY PLANTS AND  
11 PROPERTY AND FOR INCREASES IN ITS  
12 WATER RATES AND CHARGES FOR  
13 UTILITY SERVICE BASED THEREON.

DOCKET NO. W-02199A-11-0329

10 IN THE MATTER OF THE APPLICATION  
11 OF PIMA UTILITY COMPANY, AN  
12 ARIZONA CORPORATION, FOR A  
13 DETERMINATION OF THE FAIR VALUE  
14 OF ITS UTILITY PLANTS AND  
15 PROPERTY AND FOR INCREASES IN ITS  
16 WASTEWATER RATES AND CHARGES  
17 FOR UTILITY SERVICE BASED  
18 THEREON.

DOCKET NO. SW-02199A-11-0330

**NOTICE OF FILING SETTLEMENT  
AGREEMENT**

16 On July 16, 2013, the Arizona Corporation Commission (“Commission”) issued  
17 Decision No. 73993 authorizing an increase in Pima Utility Company (“Pima” or the  
18 “Company”) water and wastewater rates to include imputed income tax expense and  
19 requiring that Pima file a full rate case by June 30, 2017, using a 2016 calendar year.  
20 On July 31, 2013, the Residential Utility Consumer Office (“RUCO”) filed a Motion to  
21 Rehear Decision No. 73993 because RUCO opposed the Commission’s authorization of  
22 imputed income tax expense. On November 8, 2013, Pima and RUCO entered into a  
23 settlement, fully resolving the issues set forth in RUCO’s motion. Pursuant to the  
24 procedural orders dated October 8 and November 1 of 2013, Pima and RUCO hereby  
25 submit a memorialization of their settlement agreement. See **Attachment 1**.

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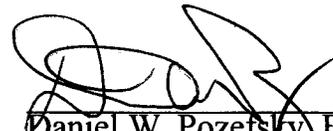
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RESPECTFULLY SUBMITTED this 8th day of November, 2013.

FENNEMORE CRAIG, P.C.

By   
Jay L. Shapiro  
2394 East Camelback Road, Suite 600  
Phoenix, Arizona 85016  
Attorneys for Pima Utility Company

RESIDENTIAL UTILITY CONSUMER OFFICE

By   
Daniel W. Pozefsky, Esq.  
1110 W. Washington, Ste. 220  
Phoenix, AZ 85007  
Attorney for the Residential Utility  
Consumer Office

ORIGINAL and thirteen (13) copies  
of the foregoing were filed  
this 8th day of November, 2013 to:

Docket Control  
Arizona Corporation Commission  
1200 W. Washington St.  
Phoenix, AZ 85007

COPY of the foregoing hand-delivered  
this 8th day of November, 2013 to:

Teena Jibilian  
Administrative Law Judge  
Hearing Division  
Arizona Corporation Commission  
1200 W. Washington St.  
Phoenix, AZ 85007

1 Robin Mitchell, Esq.  
2 Legal Division  
3 Arizona Corporation Commission  
4 1200 W. Washington St.  
5 Phoenix, AZ 85007

6 COPY of the foregoing emailed/mailed  
7 this 8th day of November, 2013 to:

8 Dan Pozefsky, Esq.  
9 RUCO  
10 1110 West Washington, Suite 220  
11 Phoenix, Arizona 85007

12 By: Cheryl Frawley  
13 8649296.1/075040.0025

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# **ATTACHMENT 1**

**PROPOSED SETTLEMENT AGREEMENT  
DOCKET NOS. W-02199A-11-0329 and SW-02199A-11-0330**

The purpose of this Settlement Agreement ("Agreement") is to settle all issues related to Docket Nos. W-02199A-11-0329 and SW-02199A-11-0330 to RUCO's Motion to Rehear Decision No. 73993. This Agreement is entered into by the following entities:

Pima Utility Company  
Residential Utility Consumer Office

These entities shall be referred to collectively as "Signatories"; a single entity shall be referred to individually as a "Signatory."

**PROPOSED SETTLEMENT AGREEMENT**  
**DOCKET NOS. W-02199A-11-0329 and SW-02199A-11-0330**

**I. RECITALS**

- 1.1 On August 29, 2011, Pima Utility Company ("Pima" or "Company") filed rate applications in the underlying Docket No. W-02199A-11-0329. Staff found the Applications for the Company's water and wastewater divisions sufficient.
- 1.2 Subsequently, the Arizona Corporation Commission ("Commission") granted intervention to RUCO.
- 1.3 On November 12, 2012, the Commission approved new rates and charges for Pima in Decision No. 73573 but denied Pima's request for the inclusion of income tax expense. The Commission did afford Pima the opportunity to file a 40-252 proceeding should the Commission change its policy.
- 1.4 On February 22, 2013, the Commission issued Decision No. 73739 adopting an Income Tax Policy allowing for an income tax allowance for pass-through entities such as Pima.
- 1.5 On March 29, 2013, Pima filed a Petition to Amend Decision No. 73573 to authorize Pima an income tax allowance for both its water and wastewater Divisions.
- 1.6 On July 16, 2013, the Commission issued Decision No. 73993. Decision No. 73993 increases the Company's rates to reflect the recovery of an allowance for income tax expense for both the water and the wastewater Divisions, and requires the filing of a rate case by no later than June 30, 2017, using the a calendar year of 2016 as the test year.
- 1.7 On July 31, 2013, RUCO filed a Motion to Rehear Decision No. 73993 pursuant to A.R.S. § 40-253 and the Commission subsequently granted RUCO's Motion.
- 1.8 RUCO also sought and the Commission subsequently granted rehearing of Decision No. 73992, docketed July 16, 2013, regarding Johnson Utilities, LLC.
- 1.9 RUCO and the Company thereafter met for the purpose of settling the matter and arrived at an Agreement.

**PROPOSED SETTLEMENT AGREEMENT**  
**DOCKET NOS. W-02199A-11-0329 and SW-02199A-11-0330**

1.10 The Signatories believe that this Agreement is a fair resolution to this matter and all things considered is in the public interest. The benefits include:

- Independent verification that the Company's actual weighted average tax rate is at least equal to or higher than the rate used to determine the income tax allowance.
- Avoidance of further litigation and cost to both Signatories by clarifying the Signatories' positions and resolving the concerns that led to RUCO's request for rehearing of Decision No. 73993.

**II. TERMS AND CONDITIONS**

- 2.1 The Company has provided and RUCO has received, acknowledged and accepted verification through an independent third party certified CPA that the weighted average of the income taxes paid by all of the Company's shareholders for the test year is at least equal to or greater than the highest rate approved in Decision No. 73993.
- 2.2 If the Commission approves this Agreement, RUCO will not challenge Decision Nos. 73573, 73993 or the Decision approving this Agreement, in any matter, whether before the Commission or in a court of applicable jurisdiction.
- 2.3 The purpose of this Agreement is to resolve the outstanding case and not to act as precedent and impair or impede in any manner either Signatories' right to challenge and/or support any future decision of the Commission in any other case on any of the issues that are the subject of this Agreement. The Signatories understand and accept that future positions of the Signatories in other cases on the same issues that are inconsistent with or adverse to the positions taken by the Signatories in this Agreement do not constitute a breach of this Agreement for failure to support the terms and conditions of this Agreement, or any other reason.

**PROPOSED SETTLEMENT AGREEMENT**  
**DOCKET NOS. W-02199A-11-0329 and SW-02199A-11-0330**

**III. COMMISSION EVALUATION OF PROPOSED SETTLEMENT**

- 3.1 The Signatories recognize that the Commission will independently consider and evaluate the terms of this Agreement. If the Commission issues an order adopting all material terms of this Agreement, such action shall constitute Commission approval of the Agreement. Thereafter, the Signatories shall abide by the terms as approved by the Commission.
- 3.2 If the Commission fails to issue an order adopting all material terms of this Agreement, any or all of the Signatories may withdraw from this Agreement, and such Signatory or Signatories may pursue without prejudice their respective remedies at law. For purposes of this Agreement, whether a term is material shall be left to the discretion of the Signatory choosing to withdraw from the Agreement.

**IV. MISCELLANEOUS PROVISIONS**

- 4.1 Each Signatory whose signature appears below is fully authorized and empowered to execute this Agreement. Each Signatory has been represented by competent legal counsel and understands all of the terms of this Agreement, has had an opportunity to participate in the drafting of this Agreement and fully review this Agreement with its counsel before signing, and executes this Agreement with full knowledge of the terms of the Agreement.
- 4.2 The acceptance by any Signatory of a specific element of this Agreement shall not be considered as precedent for acceptance of that element in any other context.
- 4.3 No Signatory is bound by any position asserted in negotiations, except as expressly stated in this Agreement. No Signatory shall offer evidence of conduct or statements made in the course of negotiating this Agreement before this Commission, any other regulatory agency, or any court.
- 4.4 Neither this Agreement nor any of the positions taken in this Agreement by any of the Signatories may be referred to, cited, and or relied upon as precedent in any proceeding before the Commission, any other regulatory agency, or any court for any purpose except to secure approval of this Agreement and enforce its terms.

**PROPOSED SETTLEMENT AGREEMENT**  
**DOCKET NOS. W-02199A-11-0329 and SW-02199A-11-0330**

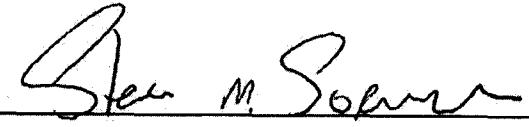
- 4.5 To the extent any provision of this Agreement is inconsistent with any existing Commission order, rule, or regulation, this Agreement shall control.
- 4.6 Each of the terms of this Agreement is in consideration of all other terms of this Agreement. Accordingly, the terms are not severable.
- 4.7 The Signatories shall make reasonable and good faith efforts necessary to obtain a Commission order approving this Agreement. The Signatories shall support and defend this Agreement before the Commission and, if necessary, in court if challenged by another person or entity. Subject to paragraph 3.2 above, if the Commission adopts an order approving all material terms of the Agreement, the Signatories will support and defend the Commission's order before any court or regulatory agency in which it may be at issue.
- 4.8. This Agreement may be executed in any number of counterparts and by each Signatory on separate counterparts, each of which when so executed and delivered shall be deemed an original and all of which taken together shall constitute one and the same instrument. This Agreement may also be executed electronically or by facsimile.

**PROPOSED SETTLEMENT AGREEMENT  
DOCKET NOS. W-02199A-11-0329 and SW-02199A-11-0330**

**RESIDENTIAL UTILITY CONSUMER OFFICE**

By   
Title DIRECTOR RUCD  
Date 11/8/2013

**PIMA UTILITY COMPANY**

By   
Title VP  
Date 11-7-13

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