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ORIGINAL

6 BEFORE THE ARIZONA CORPORATION COMMISSION
7

8 IN THE MATTER OF THE APPLICATION
9 OF PAYSON WATER CO., INC., AN
10 ARIZONA CORPORATION, FOR A
11 DETERMINATION OF THE FAIR VALUE
12 OF ITS UTILITY PLANTS AND
13 PROPERTY AND FOR INCREASES IN ITS
14 WATER RATES AND CHARGES FOR
15 UTILITY SERVICE BASED THEREON.
16

DOCKET NO: W-03514A-13-0111

Arizona Corporation Commission

DOCKETED

MAR 31 2014

DOCKETED BY

17 IN THE MATTER OF THE APPLICATION
18 OF PAYSON WATER CO., INC., AN
19 ARIZONA CORPORATION, FOR
20 AUTHORITY TO: (1) ISSUE EVIDENCE
21 OF INDEBTEDNESS IN AN AMOUNT
22 NOT TO EXCEED \$1,238,000 IN
23 CONNECTION WITH INFRASTRUCTURE
24 IMPROVEMENTS TO THE UTILITY
25 SYSTEM; AND (2) ENCUMBER REAL
26 PROPERTY AND PLANT AS SECURITY
27 FOR SUCH INDEBTEDNESS.
28

DOCKET NO: W-03514A-13-0142

SUPPLEMENTAL INTERVERNER REPLY TO
POST HEARING BRIEFS - 03/31/14

29
30 In response to the late-filed Reply Brief of Payson Water Company, "PWC", and per the
31 Procedural Order issued by Judge Nodes on 03/24/14, Kathleen M. Reidhead, "KMR", files the following
32 reply.
33

34 The Company has failed to make their case for the exorbitant rate increase they are seeking.
35 Since the last rate case in 2000, the plant in service has depreciated and there is no known new
36 infrastructure investment in these 14+ years since. With the sale of the Star Valley/Quail Valley plant in
37 2012, PWC's total plant in service is now smaller. It has been argued that under the management of
38 parent Company JW Water Holdings, some operating costs are less than under the former owner during
39 the Test Year 2012. There is no justification in the computation of this huge rate increase that
40 overcomes these facts except for their pursuit of Cragin water resources.
41
42
43

1 Early on in Phase 2, when an additional \$904,650 for Cragin related financing costs were still
2 being sought, the revenue increase being recommended by Staff was 75%. It's a big leap from a 75%
3 revenue increase of \$240,721¹ to the current 90% revenue increase of \$289,731² when \$904,650 of
4 additional Cragin-related financing costs have since been dropped. The Company and the Staff cannot
5 legitimately defend this enormous revenue increase. Therefore, it should be denied.

6
7 The true "cost of service" has not been properly determined, it is tainted by questionably high
8 expenses reported by the Company and allowed by Staff. The late manipulations of factors that
9 resulted in Staff's recommendation to increase revenue almost \$50,000/year is dubious.

10
11 The Phase 1 Decision #74175 must be rescinded, as previously indicated by KMR and per A.R.S.
12 §40-252. There is strong evidence indicating it was obtained under false pretenses and it polluted the
13 process of rate setting in Phase 2. Clearly, it was a central focus of the proceedings during Phase 2.
14 Because authorizing that TOP/MdC pipeline project without a high level of scrutiny given to the details
15 of the project, the ratepayers are now encumbered with debt that may be embedded into base rates at
16 a future date, which will impact all ratepayers. On that basis alone, KMR opposes it. She will also
17 oppose any future costs associated with Cragin water being visited on her as well, since she will never
18 benefit from one drop of Cragin water.

19
20 KMR acknowledges not being an expert in geology, hydrology, hydrogeology, well drilling, water
21 exploration or owning or operating a public service utility. Therefore, in her analysis of the evidence
22 presented throughout the case, she relied strictly on reports by actual experts. For example, the
23 Company's Exhibit A-17, Exhibit C - Southwest Groundwater Consultants interpretation of the Zonge
24 Engineering Study conducted in Mesa del Caballo, "MdC", in 2010. Other reports submitted into
25 evidence by KMR were found at the Arizona Department of Water Resources website³ and one lists over
26 28 scientific references and supplemental reading to support the report. These are highly reputable
27 scientific reports and should be properly considered. So should the information showing that 9 new
28 private wells were successfully drilled in MdC since 2011, which was obtained from the Arizona
29 Department of Water Resources Well Registry Database⁴. This evidence clearly shows that the aquifer
30 in MdC is productive, as predicted by Stephen Noel, the Registered Geologist from Southwest
31 Groundwater Consultants⁵, which refutes all claims made by PWC that it is "too risky" to drill new wells
32 or to deepen their existing wells.

33
34 PWC defends its decision to build the TOP-MdC interconnect pipeline, but KMR will continue to
35 oppose it, based upon her thorough analysis of the facts of this matter. It appears certain that the
36 Company advanced a false narrative to obtain approval for this pipeline project in Phase 1 in pursuit of

¹ See Exhibit S-14, Executive Summary of Crystal S. Brown (Document #149555, filed on 11/15/13).

² See Exhibit S-16, Executive Summary of Crystal S. Brown (Document #151005, filed on 01/24/14).

³ See Exhibit KMR-2, attached Exhibit KMR-1 - Arizona Water Atlas, Section 5.3 Tonto Creek Basin. Also, Exhibit KMR-3, attached Exhibit KMR-A - Central Highlands Planning Area Hydrology. Also, Exhibit KMR-5, attached Exhibit KMR-K - Mogollon Rim Water Resources Management Study - Report of Findings.

⁴ See Exhibit KMR-4, attached Exhibit KMR-G.

⁵ See Exhibit A-17, Exhibit C.

1 their long term goal of Cragin water resources. False statements submitted to the ACC as far back as
2 2009 set in motion a series of events that has already seriously harmed the ratepayers of MdC⁶ via
3 water hauling exercises conducted over the last 3 summers. Further, it is known that some ratepayers
4 (MdC) will incur higher rates associated with this TOP/MdC interconnect pipeline project in the present
5 rate case as well as the possibility that it will impact others in the future. Therefore, it is entirely
6 reasonable for KMR to defend her position against this project. The Company engaged in a rather
7 elaborate effort to place the financial risks for that project onto the ratepayers, instead of providing the
8 owner capital that would be the ordinary action for a water Company to take. They paid a Dividend to
9 the former shareholder in 2013 and then claimed to be broke when they came to the Corporation
10 Commission for their rate case so as to put the burden for that project directly onto the ratepayers and
11 obtain a hefty revenue increase for qualification of the WIFA loan. She maintains that the Company's
12 interests have failed to be compatible with the public interest and with the proper performance of their
13 duties as a public service Corporation.
14

15 KMR does not harbor "scorn for water conservation" as stated by PWC⁷. This is one example of
16 numerous misleading statements made by PWC to distract from and try to undercut the arguments
17 made by KMR, in this example against the consolidation of rates and inverted tier rate structure⁸ for the
18 two communities in the Tonto Creek water basin (Deer Creek Village and Gisela). Further, KMR has not
19 made "slandorous attacks" or stated "outlandish conspiracy theories and paranoid tales"⁹ at any time
20 throughout the case. She has built a case for her arguments based on properly admitted evidence and
21 facts. The record of the case shows PWC has engaged in a pattern to mislead the Commission and the
22 ratepayers on numerous issues in evidence¹⁰. Furthermore, similar misrepresentations are evident in
23 the final Reply Brief of PWC, specifically footnote 35¹¹. At no time has KMR shown "disrespect for the
24 process or abuse[d] the opposing parties" or attacked Judge Nodes, as is suggested by footnote 35. She
25 did not "threaten" to file with the State Attorney General either, as indicated in that footnote. Follow
26 the footnote references and see. Therefore, that entire rant should be disregarded entirely. It is borne
27 out of desperation. The same is true regarding the introduction of PWC's Reply Brief Exhibit 1. KMR
28 stands by her repeated requests that the ACC cooperate with the State Attorney General in a criminal
29 investigation into the Company's activities. There is ample evidence to seek out the proper authority to
30 investigate whether the Company engaged in illegal activities in pursuit of Cragin water resources.
31

32 In the Staff's Reply Brief, Staff Attorneys Robin Mitchell and Brian Smith refer to KMR's Deer
33 Creek Village home as a "vacation property"¹². This is not an accurate description. This was her
34 husband's full-time home for over 11 years before they were married in 2008. The idea of
35 characterizing it as a "vacation property", without knowing the circumstances of the ownership of that
36 home is evidence of bias shown towards the Interveners. It is not stating a fact, because that home is

⁶ See Post Hearing Brief of KMR submitted on 03/10/14, pages 5-8. (Document #151657).

⁷ See Reply Brief of PWC submitted on 03/24/14, page 18, line 11. (Document #151954).

⁸ See Post Hearing Brief of KMR submitted on 03/10/14, page 15, lines 28-37 and page 16. Document #151657).

⁹ See Reply Brief of PWC submitted on 03/24/14, page 19, lines 7-10. (Document #151954).

¹⁰ See Exhibit KMR-5, attached Exhibit KMR-J.

¹¹ See Reply Brief of PWC submitted on 03/24/14, page 9. (Document #151954).

¹² See Reply Brief of ACC submitted on 03/21/14, page 4, footnote 13. (Document #151940).

1 not, nor has ever been, a vacation property. And even if it were, how would that make the Interveners
2 arguments less relevant or the Staff's position more relevant? It's absurd. The labeling of that home has
3 nothing to do with the case, it has to do with diminishing the standing of the Interveners in some
4 manner. It shows that the Staff has a certain level of disdain for the Interveners' participation. Staff
5 did not have to shape the argument with an inaccurate characterization in order to make the point that
6 Mr. Bremer, Ms. Reidhead and Ms. Nee are not residents of MdC. That line of reasoning is faulty and is
7 borne out of contempt. All ratepayers of PWC, whether full-time or part-time, whether residents of
8 MdC or not, have a right to oppose the Phase 1 proceedings, as those proceedings will impact them,
9 both now and in the future. Vacation property or not.

10
11 Lastly, ACC Executive Director Jodi Jerich posted a letter to the Docket on Friday, March 28th
12 addressing a complaint made by Mr. George Chrisman about observations he made during the Phase 2
13 Hearing. Ms. Jerich states that she asked the Commission's Chief Counsel to investigate the matters
14 alleged in Mr. Chrisman's complaint and report back to her. In addition, she personally interviewed the
15 2 Staff members named in the complaint as well as reviewed archived video from the Hearing. She
16 concluded that the Staff witness and counsel conducted themselves appropriately. It is irresponsible to
17 come to any conclusion in that matter without contacting a party named as a witness in the complaint.
18 KMR was named and not contacted by the ACC during their investigation. This shows an inadequate
19 approach to investigating the matter and gives an appearance of bias.

20
21 From the book, Administrative Law by Bernard Schwartz (Third Edition): At the same time, in
22 these cases, "it is of fundamental importance that justice should not only be done, but should manifestly
23 and undoubtedly be seen to be done."¹³ Not only bias, but also an appearance of bias should be enough
24 to invalidate agency action. Illustrative is a case where, during a lunch recess, the hearing officer sat at a
25 restaurant table where the agency counsel and a witness were eating. The cause was remanded for
26 new proceedings on this mere appearance of impropriety.¹⁴

27
28 Intervener KMR is an ordinary citizen. While she may not have presented her arguments to the
29 explicit letter of the law, as she is not an Attorney, she is entitled to fair treatment based on the spirit of
30 the law. She has made competent and reasoned arguments and presented and referenced sound
31 evidence to support those arguments. She is seeking a just and reasonable decision in this case, in
32 accordance with her proper participation in the process.

33
34 Respectfully submitted this 31st day of March, 2014.

35
36 By Kathleen M. Reidhead
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38 14406 S. Cholla Canyon Dr.
39 Phoenix, AZ 85044
40

¹³ Rex v. Sussex Justices, [1924] 1 K.B. 256, 259.

¹⁴ Wells v. De Norte School Dist., 753 P.2d 770 (Colo. App. 1987).

1 ORIGINAL and thirteen (13) copies
2 of the foregoing were filed this 31st
3 day of March, 2014 with:

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5 Docket Control
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10 COPY of the foregoing was mailed
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