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Arizona Corporation Commission

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BEFORE THE ARIZONA CORPORATION

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COMMISSIONERS

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IN THE MATTER OF THE APPLICATION OF LITCHFIELD PARK SERVICE COMPANY, AN ARIZONA CORPORATION, FOR A DETERMINATION OF THE FAIR VALUE OF ITS UTILITY PLANTS AND PROPERTY AND FOR INCREASES IN ITS WASTEWATER RATES AND CHARGES BASED THEREON FOR UTILITY SERVICE.

DOCKET NO. SW-01428A-13-0042

IN THE MATTER OF THE APPLICATION OF LITCHFIELD PARK SERVICE COMPANY, AN ARIZONA CORPORATION, FOR A DETERMINATION OF THE FAIR VALUE OF ITS UTILITY PLANTS AND PROPERTY AND FOR INCREASES IN ITS WATER RATES AND CHARGES BASED THEREON FOR UTILITY SERVICE.

DOCKET NO. W-01427A-13-0043

STAFF'S CLOSING BRIEF

I. INTRODUCTION.

The Utilities Division ("Staff") of the Arizona Corporation Commission ("Commission") hereby responds to the Opening Brief submitted by the Residential Utility Consumer Office ("RUCO"). During the course of this proceeding, RUCO has asserted the Commission should not award the Liberty Utilities (Litchfield Park Water & Sewer) Corp. f/n/a Litchfield Park Service Co. ("LPSCO" or Company") a System Improvement Benefit mechanism ("SIB") and a Collection System Improvement Benefit ("CSIB") mechanism. Staff believes it is in the best interest of the public and the company to grant both mechanisms.

II. THE SIB/CSIB IS AN ADJUSTOR MECHANISM.

Although the SIB/CSIB possesses characteristics not found in a traditional adjustor mechanism, it is, nonetheless, an adjustor mechanism. The SIB/CSIB addresses capital costs which can be estimated during the rate case but which will change after the rate case has concluded. The

1 Commission has at times created novel and innovative adjustor mechanisms. There are many such
2 mechanisms in use currently by the Commission such as the renewable energy surcharge, energy
3 efficiency surcharge, energy efficiency demand-side management surcharge, environmental
4 improvement surcharge, and the Arsenic Cost Recovery Mechanism (“ACRM”). RUCO has
5 acknowledged in previous cases that an ACRM, which addresses a capital cost (not an expense) that
6 will be determined following the rate case, is an adjustor mechanism.¹ Additionally RUCO has
7 supported the ACRM in numerous cases.

8 Even if the SIB were deemed not to be an adjustor mechanism, such a determination would
9 not cause the SIB to be illegal or unconstitutional. In the creation of the SIB, numerous protections
10 were included to assure compliance with Constitutional requirements. The SIB proposed in the
11 agreement has been developed in the context of a full rate case in which the Commission has
12 determined the Company’s fair value rate base (“FVRB”). The SIB will be limited to projects that
13 replace plant used to serve existing customers. The SIB further provides for the retirement (removal
14 from rate base) of the plant that has been replaced. Therefore, the new plant will not generate a new
15 revenue stream.

16 The SIB requires the Company to provide fair value information at the time that it seeks
17 Commission authorization to enact a SIB surcharge. This information will enable the Commission to
18 update the FVRB finding and to determine the impact of the revenues (with the addition of the
19 proposed SIB surcharge) on the Company’s fair value rate of return. The SIB surcharge cannot go
20 into effect without a Commission order, and the agreement further provides that the Commission may
21 terminate the SIB at any time.

22 **III. THE COMPANY AND STAFF PROVIDED SUFFICIENT EVIDENCE FOR THE SIB**
23 **AND THE CSIB.**

24 RUCO states that the burden is on the Company to prove the SIB/CSIB.² Staff would not
25 disagree with that, however, Staff believes there was sufficient evidence provided to support the
26 adoption of the SIB/CSIB. LPSCO demonstrated its need for the SIB through testimony and

27 ¹ See, e.g., Nov. 25, 2013 Tr., W-01445A-11-0310 (Az. Water Eastern Group) at 24-25.

28 ² RUCO Opening Br. at 12.

1 engineering reports. Staff supported this through its testimony and review of the Company's
2 engineering reports. There are numerous exhibits in evidence requirements of the SIB/CSIB and
3 outline the need for the Company to have the mechanism available to it.³ RUCO points out that there
4 was not a finalized Plan of Administration ("POA") for the SIB or the CSIB at the time of the
5 hearing.⁴ The POAs presented at hearing were not the finalized version; however, finalized versions
6 were submitted as late filed exhibits, tailored to the specific needs of the LPSCO system, and are
7 materially the same as what was required of Arizona Water in Decision No. 73938. Additionally
8 ALJ Jibilian took judicial notice of Decision No. 73938 in the Arizona Water Eastern Group case
9 where the initial workings of the SIB were determined.

10 As noted by Mr. Krygier in his rejoinder testimony, LPSCO has provided over 600 pages of
11 engineering data (A-20 & A-21)⁵ which Staff reviewed and approved in Ms. Hains direct testimony.⁶
12 RUCO did not have an engineering witness and presented no evidence to refute the engineering
13 reports provided by the Company. From Staff's perspective it is difficult to understand how RUCO
14 is making the argument that the company has not shown a need for the infrastructure replacement
15 when they have no engineering witness and as far as Staff is aware have made no analysis of the
16 engineering information provided by the Company.

17 **IV. CONCLUSION.**

18 Staff believes the SIB and the CSIB are adjustor mechanisms and are appropriate for the
19 Commission to implement in order to promote rate gradualism, proper maintenance, and repair of
20 water and wastewater infrastructure. Staff also believes that the Company has demonstrated its need
21 for the SIB/CSIB. For the reasons presented in this and Staff's prior brief the Settlement Agreement
22 should be approved and the SIB/CSIB should be adopted.

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26 ³ Krygier Rebuttal Test., Ex. A-5; Krygier Rejoinder Test., Ex. A-12; Settlement Agreement, Arizona Water Co. Rate
Case, W-01445A-11-0310, Ex. A-19; Wastewater Engineering Report, Ex. A-20; Water Engineering Report, Ex. A-21;
Finalized Wastewater Plan of Administration, Ex. A-25; Finalized Water Plan of Administration, Ex. A-26.

27 ⁴ RUCO Opening Br. at 12- 15.

28 ⁵ Ex. A-12 at 6 - 8.

⁶ Ex. S-2 at 13-14.

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RESPECTFULLY SUBMITTED this 31st day of January, 2014.



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