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BEFORE THE ARIZONA CORPORATION COMMISSION
DOCKET CONTROL

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.

DOCKET NO: W-03514A-13-0111

Arizona Corporation Commission

DOCKETED

MAY 12 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.

DOCKET NO: W-03514A-13-0142

ORIGINAL

INTERVERNOR RESPONSE TO COMMISSIONER
GARY PIERCE LETTER - 05/12/14

30 In response to the letter posted by Commissioner Gary Pierce on 05/01/14, Suzanne Nee, "SN",
31 files the following response.

33 Rearranging the rate design will not adequately ameliorate the proposed rate increase. It has
34 already been redesigned 4 times over the course of this case. The issue at hand is not how to impose
35 that huge revenue increase, the issue is that the proposed 90% revenue increase has been wrongly
36 determined and cannot be lawfully collected as just and reasonable for the consumers. No level of
37 redesign will make that fact deniable. Therefore, the current proposal should be scrapped, not
38 redesigned. It has been shown by properly submitted evidence in this case that Payson Water
39 Company, "PWC", has grossly inflated their cost of service¹. The only question that remains is **why is the**
40 **ACC contemplating support for this fraud?**

¹ See Exhibit SN-5, Page 2, lines 18-40 & Page 3, lines 1-15 and Exhibit A (Document #150103 filed on 01/31/14).

1 PWC's plant in service is highly depreciated and no costly infrastructure improvements have
2 been made over the last 13 years until the ACC approved the \$275,000 TOP/MdC interconnect pipeline
3 project via a WIFA loan during the expedited and unopposed (due to due process rights violations)
4 Phase 1 portion of the case. PWC was not pre-qualified for that WIFA loan. Only because of special
5 assurances granted by the Phase 1 Decision 74175 stating that adequate revenue would be achieved in
6 Phase 2 did PWC satisfy the WIFA loan requirements. All this was done without proper scrutiny about
7 the prudence or the impact on consumers of that costly infrastructure project. That was like putting the
8 cart before the horse. As in *Arizona Community Action Ass'n v. Arizona Corporation Commission*, 123
9 Ariz. 228, 599 P.2d 184 (1979), the Company and the Staff's only concern was for the profit of PWC and
10 did not take the impact on the rate payers into consideration. The scrutiny that came during Phase 2
11 clearly shows that PWC has likely engaged in consumer fraud to obtain expedited and unopposed
12 approval for that pipeline project, with goals of additional expensive authorizations for Cragin water
13 expenses in the future. In order for a just and reasonable Decision to be rendered in Phase 2, the Phase
14 1 Decision must be rescinded, as per A.R.S. §40-252. Access to Cragin water resources should be off the
15 table now. Period. Unscrupulous business practices should not be tolerated by this Commission. If it is
16 acceptable for Mr. Hardcastle and Mr. Williamson to file "incomplete and incorrect" Annual Reports²,
17 and Testimony with subtraction errors³ to support their arguments, respectively, this opens the
18 floodgates for other private utility owners in Arizona to do the same. Fraud is an offense of moral
19 turpitude. Judge Nodes is aware that he should recommend this case to the appropriate state or
20 federal attorney for investigation and possible criminal prosecution.

21
22
23 There will likely be litigation resulting from this case, regardless of the outcome, based on
24 comments made at the Public Comment Hearing in Payson on April 11, 2014. The evidence of
25 impropriety by PWC has been thoroughly documented in the record of the case. Ratepayers from Mesa
26 del Caballo, "MdC", have been damaged by the false data and misrepresentations made by PWC to
27 obtain authorization for the water augmentation tariff granted in Decision 71902 in 2010⁴. SN urges the
28 ACC to mitigate those damages and correct mistakes made in the past that are now in the public
29 awareness⁵.

30
31 Only a *legitimate* rate increase should be approved in this case. That has not yet been
32 determined. Cost of service studies for each of the systems served by PWC would likely provide sound
33 data to address some of Commissioner Pierce's questions and ratepayers concerns. However, in light of
34 the highly questionable increases in expenses claimed by PWC over 2001-2012⁶ and irregular well and

²See Exhibit A-15, pg. 6, lines 11-14 and Document# 151680 filed on 3/10/14, pg. 4, lines 28-35.

³See Document # 151680 filed on 3/10/14, pg. 5, lines 18-28.

⁴See Post Hearing Brief of Kathleen M. Reidhead, Document #151657 filed on 03/10/14, page 9, lines 31-33.

⁵See Transcript from the Public Comment Hearing in Payson on 04/11/14, posted to the Docket on 04/22/14.

⁶ See Exhibit SN-5, Page 2, lines 18-40 & Page 3, lines 1-15 and Exhibit A (Document #150103 filed on 01/31/14).

1 water use data provided by the Company⁷, cost of service studies would have to be conducted by an
2 outside independent third-party to be considered uncorrupted.

3
4 Calculating the rate impact by "average monthly usage" or "median usage" for each system of
5 PWC does not accurately portray the impact for full-time resident households⁸. As previously
6 addressed⁹, the "averages" for these communities are skewed by the impact of part-time/weekend
7 residents. It is important that the Commission makes every effort to accurately disclose the impact any
8 new rates will have on full-time resident households. The document handed out at the Public Comment
9 Hearing in Payson on April 11, 2014¹⁰ by ACC Staff was grossly misrepresentative and gives the
10 appearance that the ACC is biased. There are other appearances of bias in the record of the case¹¹,
11 which causes serious concern about the intentions and actions of the ACC Staff.

12
13 From a Mead Ranch, "MR" perspective, like most of the other seven communities, we have an
14 old, leaky, low efficiency, barely pumping system. Mr. Liu noted in his Nov. 2013 Testimony (Phase 2)
15 that PWC needed to prepare a report containing detailed analysis and plan to reduce water loss to 10%
16 or less for Geronimo Estates, Mead Ranch, Whispering Pines, and Gisela.¹² This report is a compliance
17 item to be docketed within 90 days of the effective date of the order issued in this proceeding. MR's
18 2012 leakage was 14.2%. PWC, even under new management, has not taken any steps to reduce this
19 leakage. In fact, this past Monday, May 5th, one of our two tanks blew a hole right through it and MR
20 was put on Stage 5 conservation. On Wednesday, Mr. Williamson sent out an email saying PWC worked
21 around the leaky tank, so MR is now at Stage 3. He said the tank needed to dry out so if nothing else
22 goes wrong, the repair to the leaky tank should be complete in 5 days. When asked by a customer in an
23 email why the leak had not been taken care of prior to bursting, (the leak was also noticed and filmed by
24 an ABC News crew visiting MR in Feb. 2014), Mr. Williamson said, "I wasn't made aware of this until this
25 week." More proof, Mr. Williamson, like Mr. Hardcastle, will fix leaks and work on other emergencies as
26 they come up, but he isn't going to spend any of PWC's cash to proactively fix a problem before it is an
27 emergency. For this kind of service on a dilapidated water system, the ACC Staff is agreeing to **huge** rate
28 increases? This is our life; this is what we've been dealing with for years. It just isn't fair and it's time for
29 the Commission to take action to require proper performance **before** PWC is granted a rate hike.

30
31

⁷ See Exhibit A-17, (Document #148688 filed on 10/01/13) Exhibits 2 & 4 - Wells #55-556158, #55-588967 & #55-580229 are not in Mesa del Caballo or even in Gila County, AZ. Also see Exhibit SN-2, page 1, lines 32-43 and attached Exhibits A, B & C, page 2, lines 1-15 and attached Exhibits N, O & P.

⁸ Sources: <http://water.usgs.gov/edu/qa-home-percapita.html>,
<http://water.usgs.gov/edu/wateruse/pdf/wudomestic-2005.pdf>,
<http://www.epa.gov/WaterSense/pubs/indoor.html>, and
http://pswid.org/Documents/Water%20Docs%20General/Water_Facts.pdf

⁹ See Document #152459 filed by Kathleen M. Reidhead on 04/15/14.

¹⁰ See Document #152409, filed on 04/14/14.

¹¹ See Supplemental Reply to Post Hearing Briefs by Kathleen M. Reidhead, Document #152168 filed on 03/31/14, page 3, lines 32-36 and page 4, lines 1-26.

¹² See Document #149555, filed on 11/15/13, pg. 5, lines 21-23.

1 To make a credible decision in this case, the ACC Commissioners must review the arguments and
2 evidence presented by the Intervenors and make a careful and deliberate effort to confront the truth.
3 Commissioners, as you were reminded many times during the Public Comment Hearing in Payson on
4 April 11th, you are our elected officials and we are counting on you to protect the public trust.
5

6
7 Respectfully submitted this 12th day of May, 2014.

8
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14 ORIGINAL and thirteen (13) copies
15 of the foregoing were filed this 12th
16 day of May, 2014 with:

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18 Docket Control
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