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BEFORE THE ARIZONA CORPORATION CO

COMMISSIONERS

- Bob Stump, Chairman**
- Gary Pierce**
- Brenda Burns**
- Bob Burns**
- Susan Bitter Smith**

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2014 MAY 19 A 10:42

ARIZONA CORPORATION COMMISSION
DOCKET CONTROL

Arizona Corporation Commission

DOCKETED

MAY 19 2014

DOCKETED BY

In the matter of the Application of EPCOR Water Arizona, Inc., for a determination of the current fair value of its utility plant and property and for increases in its rates and charges for utility service by its Mohave Water District, Sun City Water District, Tubac Water District, Mohave Wastewater District, and Sun City Wastewater District.

Docket No. WS-01303A-14-0010

ORIGINAL

Notice of Filing a

MAGRUDER'S REPLY to EPCOR'S RESPONSE to

MOTION TO STAY AND REMAND THE RATE CASE FILED BY EPCOR, INC.,

DUE TO NON-COMPLIANCE WITH A CORPORATION COMMISSION DECISION

AND THE ARIZONA STATE CONSTITUTION

On 1 May 2014, EPCOR, Inc., responded to the Magruder Motion to Stay and Remand these proceedings. This is the Magruder reply. The EPCOR response fails to present valid arguments or evidence against this Motion and should be rejected based on the facts below.

First, this Motion was submitted prior to a Procedural Order that contains the Public Notice specifically because this notice is required to include specific comments concerning rate consolidation as required by the Decision and Order No. 70140 on page 78 that reads:

IT IS FURTHER ORDERED that this docket shall remain open for the limited purpose of consolidation in the Company's next rate case with a separate docket in which a revenue-neutral change to rate design of all Arizona-American Water Company's water districts or other appropriate proposals or all Arizona-American's water and wastewater districts or other appropriate proposals may be considered simultaneously, after appropriate public notice, with appropriate opportunity for informed public comment and participation.

IT IS FURTHER ORDERED that the Company shall commence a dialogue with its customers as soon as practicable, and will initiate town hall-style meetings in all of its service territories to begin communicating with consumers the various impacts of system consolidation in each of those service territories, and to collect feed-back from consumers on such consolidation. (at 14-23) [Underline added]

1 Because of these Public Notice requirements, this Motion was submitted so that the
2 resultant Procedure Order [initially filed on the same date and later modified] contains the
3 language required by Decision 70140. The resultant Procedural Order does NOT refer to rate
4 consolidation and needs revision before being published as a Public Notice or a second
5 Notice is necessary. Thus, this Motion was not procedurally improper but aimed to ensure
6 that the required Public Notice is provided to ALL EPCOR ratepayers, not to just a few.

7 Second, as the last rate case is “procedurally open”, thus this party in that case, has
8 the standing necessary to make this Motion and is not out of order.

9 Third, EPCOR did not comply with the above very clearly worded Orders in Decision
10 No. 70140. EPCOR states that other rate cases it has previously filed also do not comply.

11 Fourth, the approval of EPCOR’s purchase of the American Arizona Water Company
12 (AAWC) includes an assumption of ALL outstanding obligations. One such obligation is these
13 ordered requirements to file a consolidated rate case in its next rate case.

14 Fifth, this is the “next rate case” for this ratepayer.

15 Sixth, EPCOR has not conducted any public “town hall” meetings concerning rate
16 consolidation and claims such meetings, held by AAWC during the last rate case, were held
17 by EPCOR. The Order is to hold these meetings in conjunction with the “next rate case”, not
18 during the prior rate case, and this process is to be in the Public Notice. The lack of this issue
19 in the Public Notice was a major reason for not consolidating rates at that time and must be
20 corrected now.

21 Seventh, now is the time to do go through this process with proper Public Notices,
22 public discussions, and then a consolidated rate structure designed for ALL ratepayers.
23 Piecemeal rate consolidation is not an optimal way to accomplish rate consolidation.

24 Eighth, EPCOR held a January meeting in Tubac to discuss this pending rate case but
25 its presentation did not include any slides or discussion about rate consolidation. Only after
26 questions from the public, was it acknowledged that “rate consolidation” was an issue in the
27 prior rate case. After that comment, I indicated I was a party and that Commission orders
28 would not be complied if the application did not include rate consolidation and public dialog.
29 EPCOR indicted that they would get back to me but they failed to contact me. I am surprised
30 this case failed to include consolidated rates. That is why the Motion was filed.

31 Ninth, EPCOR in Arizona is one integrated corporation made up of water and
32 wastewater “administrative districts” from prior water utility acquisitions. EPCOR is not many
33

1 different companies but wants each administrative unit to be considered an independent
2 company only for rates. Administrative units have no standing in this case, only the company.

3 Tenth, the Motion noted electric, natural gas, and telecommunications public service
4 companies have the same composite rate structures for all their ratepayers. For example,
5 APS electricity rates in Douglas are the same as in Flagstaff, hundreds of miles away.

6 Eleventh, Title XV Sec. 12 of the Arizona Constitution, states that "all charges" that
7 includes fees and rates, shall be just and reasonable and not discriminate between persons
8 and place quoted below:

9
10 *Charges for service; discrimination; free or reduced rate transportation*
11 *Section 12. All charges made for service rendered, or to be rendered, by public*
12 *service corporations within this state shall be just and reasonable, and no*
13 *discrimination in charges, service, or facilities shall be made between persons or*
14 *places for rendering a like and contemporaneous service, [Emphasis added]*

15 Twelfth, EPCOR is one public service corporation, with two services: water and
16 wastewater. Each service is a different operation, one provides water to customers, and the
17 other removes wastewater from customers with minor interactions between operations.

18 Thirteenth, consolidation of the cost of service for the water supply and the wastewater
19 operations is reasonable. The total cost of each operation is a determinant of the total
20 revenue required to operate the corporation on which one rate of return for each operation is
21 estimated. All administrative units will have unique costs; however, they all provide
22 contemporaneous and like services, use similar facilities, require similar operations and
23 maintenance personnel, use the same call and billing centers, meet same standards, etc.

24 Fourteenth, EPCOR uses the synergistic benefits of these integrated operations;
25 however for this one company to charge different rates for the same service, it discriminates
26 between "persons and places" for a "like and contemporaneous service."

27 Fifteenth, it is obvious that rate consolidation, even though it is "just and reasonable",
28 can not be accomplished in a single event, but will take many years, maybe a decade, to fully
29 implement, in order to comply with this clearly written Constitutional requirement.

30 Sixteenth, as shown in the Table in the Motion, the present and proposed rates and
31 the proposed rate increases show such variances for the same contemporaneous service,
32 that under no definition of fairness could these variances be justified as non-discriminatory.

33 Seventeenth, yes, this is a very challenging issue, but one that requires the best
solution for all ratepayers, not just for those that live in different large or small administrative

1 "places.". These units are remnant utilities (administrative districts) of prior purchases, cannot
2 justify these significant rate variances forever and still comply with the Arizona Constitution.

3 Eighteenth, the Motion discussed rate discrimination between Santa Cruz and Mohave
4 Counties for electrical service that the Commission removed. This eliminated fifty-years of
5 rate discrimination caused the small business in Nogales to be charged 8% higher rates,
6 when compared to Mohave County, and other rate variances.

7 Nineteenth, many arguments against rate consolidation are invalid, such as a
8 requirement for "connected service" or age of facilities. For example, a recent \$80 million
9 power plant was installed in Mojave County is now included in the rates in Santa Cruz County
10 where there are no local benefits; however, a transmission line upgrade in Santa Cruz County
11 will soon be in the Mohave and Santa Cruz Counties rates. Consolidation shares major costs
12 with a larger numbers of ratepayers. This reduces and levels out significant impacts over a
13 longer-term which is fair for all ratepayers. For example, Sun City has some \$5 million in
14 near-term infrastructure repairs that would be spread across rates for all EPCOR ratepayers.

15 Twentieth, if a public service corporation divides into many "administrative" units just to
16 charge different rates, the public good is not being served. Our Constitution is being violated.

17 Twenty-first, EPCOR suggested these Constitutional impacts be separated from the
18 issue of consolidated rates in later testimony; however, these two issues are inseparable and
19 must be resolved prior to testimonial proceedings within the Public Notice, involve the same
20 regulatory policies, and must be corrected before continuing this case.

21 Twenty-second, EPCOR will have the same total revenue with consolidated versus the
22 proposed rate structure that directly only impacts ratepayers and not the company.
23 Consolidation of the administrative units with one integrated set of "rules and regulations",
24 rates, and fees with lower rate case and other expenses to reduce the company costs.

25
26 **Conclusion.**

27 The EPCOR Response shows EPCOR has failed to comply with Commission Order
28 No. 70140 and that the present and proposed rates significantly discriminate between
29 persons and place for the company's ratepayers.

30
31 **Recommendations.**

32 That this Motion be affirmed, that this case stayed, and that the EPCOR Application be
33 remanded until compliance with Commission Decision No. 70140.

1 Furthermore, the Procedural Order of 8 May 2014 should be cancelled.

2 This filing has been sent to the parties in the Service List.

3
4 RESPECTFULLY SUBMITTED on this 10th day of May 2014. I can be reliability
5 reached only at the email address below for the next several months. I am on extended travel
6 with medical appointments and procedures. Responses may be delayed through July or
7 August.

8 MARSHALL MAGRUDER

9 By 

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14 **Service List**

15 Original and 13 copies of the foregoing are filed this date with:

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23 Additional Distribution (1 copy each) are mailed this date:

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