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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

BOB STUMP - Chairman
GARY PIERCE
BRENDA BURNS
BOB BURNS
SUSAN BITTER SMITH

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AZ CORP COMMISSION
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2014 JUN 2 PM 2 16

IN THE MATTER OF THE APPLICATION OF EPCOR WATER ARIZONA, INC., AN ARIZONA CORPORATION, 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, PARADISE VALLEY WATER DISTRICT, SUN CITY WATER DISTRICT, TUBAC WATER DISTRICT, AND MOHAVE WASTEWATER DISTRICT.

DOCKET NO. WS-01303A-14-0010

Arizona Corporation Commission

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JUN 02 2014

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PROCEDURAL ORDER

BY THE COMMISSION:

On March 10, 2014, EPCOR Water Arizona, Inc. (“EPCOR” or “Company”) filed with the Arizona Corporation Commission (“Commission”) an application for a determination of the fair value of its utility plant and property and for increases in its water and wastewater rates and charges for utility service by its Mohave Water District, Paradise Valley Water District, Sun City Water District, Tubac Water District, and Mohave Wastewater District.

On April 4, 2014, the Commission’s Utilities Division (“Staff”) issued a Letter of Sufficiency pursuant to Arizona Administrative Code (“A.A.C.”) R14-2-103, and classified the Company as a Class A utility.

On April 25, 2014, Marshall Magruder filed a 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 (“Motion to Stay and Remand” or “Motion”). In his Motion, Mr. Magruder requested that the instant rate application be stayed and that EPCOR be required to re-submit its application after demonstrating compliance with Decision No. 71410, “by conducting the pre-submission communication actions with its customers before submitting of a consolidated rate case for ALL its water and all its wastewater service areas, to eliminate discrimination between locations for the total service area of the company.” (Motion at 6, emphasis original.)

1 On April 28, 2014, Mr. Magruder filed several Errata to the Motion to Remand and Stay.

2 On April 28, 2014, 2014, a Procedural Order was issued scheduling a hearing for December 2,
3 2014, establishing various procedural and filing deadlines, granting intervention to the Residential
4 Utility Consumer Office (“RUCO”), and directing the Company to mail and publish notice by May
5 30, 2014.

6 On April 30, 2014, Mr. Magruder filed a Motion to Intervene.

7 On May 1, 2014, EPCOR filed a Response to Motion to Stay and Remand (“Response”). In
8 its response, the Company claims that it has complied fully with Decision No. 71410.

9 On May 7, 2014, EPCOR filed a Request for Corrections to Public Notice of Hearing. In its
10 filing, the Company identified several typographical errors in the notice contained in the April 28,
11 2014 Procedural Order, and proposed revisions in accordance with the attachment to its filing.

12 On May 8, 2014, a Procedural Order was issued with a revised public notice incorporating
13 EPCOR’s proposed corrections.

14 On May 19, 2014, Mr. Magruder filed a Reply to EPCOR’s Response. In his Reply, Mr.
15 Magruder reiterates the same arguments made in his Motion to Stay and Remand, claiming that
16 EPCOR has not complied with Decision No. 70140 (sic) and that the Company’s application in this
17 rate case would result in discriminatory rates in violation of the Arizona Constitution.

18 **Motion to Stay and Remand**

19 In Decision No. 71410 (December 8, 2009), the Commission addressed rate applications filed
20 by EPCOR’s predecessor, Arizona-American Water Company’s (“Arizona American’s) Agua Fria,
21 Havasu, Mohave, Paradise Valley, Sun City West, and Tubac water districts, as well as Arizona-
22 American’s Mohave wastewater district.¹ Among other things, Decision No. 71410 (at page 78)
23 directed that:

24 [T]his docket shall remain open for the limited purpose of
25 consolidation in the Company’s next rate case with a separate docket in
26 which a revenue-neutral change to rate design of all Arizona-American
27 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

28 ¹ Docket Nos. W-01303A-08-0227 and SW-01303A-08-0227.

1 notice, with opportunity for informed public comment and
2 participation...[and] the Company shall commence a dialogue with its
3 customers as soon as practicable, and will initiate town hall-style
4 meetings in all of its service territories to begin communicating with
5 consumers the various impacts of system consolidation in each of those
6 service territories, and to collect feedback from consumers on such
7 consolidation.

8 As EPCOR states in its Response, its “next rate case” involved the Anthem and Sun City
9 water districts and the Anthem/Agua Fria, Sun City, and Sun City West wastewater districts (Docket
10 Nos. W-01303A-09-0343 and SW-01303A-09-0343). In that proceeding, the Company filed rate
11 consolidation scenarios in its Final Rate Schedules, including a scenario for “all of its Arizona water
12 and wastewater districts.” (*See*, Notice of Filing Final Rate Design Schedules, June 25, 2010, in
13 Docket Nos. W-01303A-09-0343 and SW-01303A-09-0343, “Company Scenario 1.”) EPCOR also
14 conducted town hall meetings regarding rate consolidation, in compliance with Decision No. 71410,
15 on the following dates: July 6, 2010 (Lake Havasu City); July 7, 2010 (Bullhead City/Fort Mohave);
16 July 9, 2010 (Sun City); July 12, 2010 (Scottsdale/Paradise Valley); July 13, 2010 (Tubac); July 14,
17 2010 (Agua Fria); July 15, 2010 (Sun City West); and July 26, 2010 (Anthem). (*See*, Notice of
18 Additional Town Hall Meetings, June 30, 2010, in Docket Nos. W-01303A-09-0343 and SW-
19 01303A-09-0343.)

20 In addition, as the Company’s Response points out, in that “next rate case” (*i.e.*, Docket Nos.
21 W-01303A-09-0343 and SW-01303A-09-0343), the Commission issued Decision No. 72047
22 (January 6, 2011), wherein it declined to order consolidation, stating (at page 84) that:

23 [T]he facts demonstrate that the existing disparity in rates among the
24 Company’s districts presents an insurmountable impediment, at this
25 time, to statewide consolidation of rates for the Arizona-American
26 water and wastewater districts...[and] [a]fter careful consideration of
27 the facts and arguments presented by the parties, we decline to order
28 the implementation of consolidated rates for the Arizona-American
districts at this time.

Although the Company was ordered in that case to: “develop a consolidation proposal that
includes all of its systems, as well as all of its systems without Sun City, and [to] file those
consolidation proposals in a future rate application[.]” no specific future rate application was
identified and, moreover, in Decision No. 73227 (June 5, 2012), the Commission “deconsolidated”

1 the Anthem-Agua Fria wastewater districts and directed the Company to initiate, by January 1, 2013,
2 “the initial phase of the three-year revenue transition plan proposed by the Anthem Community
3 Council.” (*Id.* at 41.) While Decision No. 73227 also directed EPCOR to “file the system-wide rate
4 filing as ordered by Decision No. 72047...as soon as possible,” it is not practical, or likely possible,
5 for the Company to file a system-wide consolidation proposal until the three-year deconsolidation
6 transition of the Anthem-Agua Fria wastewater systems is completed. (*Id.*) It is also notable that
7 Staff found EPCOR’s application in the instant case to be sufficient as of April 4, 2014.

8 Accordingly, there is no basis for granting Mr. Magruder’s Motion to Stay and Remand. Mr.
9 Magruder, as well as other intervenors, will have an opportunity to present testimony and evidence on
10 various issues at the hearing, and to make arguments through post-hearing briefs regarding legal
11 issues.

12 **Motion to Compel**

13 On May 28, 2014, RUCO filed a Motion to Compel Discovery and requested an expedited
14 ruling.

15 On May 30, 2014, EPCOR filed a Stipulation for Extension of Time to File Response to
16 RUCO’s Motion to Compel. The Stipulation stated that RUCO had agreed to the Company’s
17 extension request, from June 2 to June 4, 2014, to file a response to RUCO’s motion.

18 Because EPCOR and RUCO have agreed to an extension of time for filing of the Company’s
19 response, the extension will be granted and the merits of RUCO’s Motion to Compel will be
20 addressed in a subsequent Procedural Order.

21 **IT IS THEREFORE ORDERED that intervention is granted to Marshall Magruder.**

22 **IT IS FURTHER ORDERED that Mr. Magruder’s Motion to Stay and Remand the Rate**
23 **Case is denied.**

24 **IT IS FURTHER ORDERED that the Stipulation for Extension of Time submitted by**
25 **EPCOR and RUCO is granted.**

26 **IT IS FURTHER ORDERED that all parties must comply with Rules 31 and 38 of the Rules**
27 **of the Arizona Supreme Court and A.R.S. § 40-243 with respect to the practice of law and admission**
28 ***pro hac vice.***

1 IT IS FURTHER ORDERED that withdrawal of representation must be made in compliance
2 with A.A.C. R14-3-104(E) and Rule 1.16 of the Rules of Professional Conduct (under Rule 42 of the
3 Rules of the Arizona Supreme Court). Representation before the Commission includes appearances
4 at all hearings and procedural conferences, as well as all Open Meetings for which the matter is
5 scheduled for discussion, unless counsel has previously been granted permission to withdraw by the
6 Administrative Law Judge or the Commission.

7 IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113 - Unauthorized
8 Communications) continues to apply to this proceeding and shall remain in effect until the
9 Commission's Decision in this matter is final and non-appealable.

10 IT IS FURTHER ORDERED that the time periods specified herein shall not be extended
11 pursuant to Rule 6(a) or (e) of the Rules of Civil Procedure.

12 IT IS FURTHER ORDERED that the Administrative Law Judge may rescind, alter, amend,
13 or waive any portion of this Procedural Order either by subsequent Procedural Order or by ruling at
14 hearing.

15 DATED this 2nd day of June, 2014.

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17 

18 DWIGHT D. NODES
19 ASSISTANT CHIEF ADMINISTRATIVE LAW JUDGE

20 Copies of the foregoing mailed
21 this 2nd day of June, 2014, to:

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