

OPEN MEETING AGENDA ITEM



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40

Kathleen M. Reidhead
14406 S. Cholla Canyon Dr.
Phoenix, AZ 85044
Telephone: 480-704-0261

RECEIVED
2014 JUN -5 P 3:32

BEFORE THE ARIZONA CORPORATION COMMISSION
DOCKET CONTROL

IN THE MATTER OF THE APPLICATION
OF PAYSON WATER CO., INC., 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 FOR
UTILITY SERVICE BASED THEREON.

DOCKET NO: W-03514A-13-0111

Arizona Corporation Commission
DOCKETED
JUN 05 2014

DOCKETED BY

IN THE MATTER OF THE APPLICATION
OF PAYSON WATER CO., INC., AN
ARIZONA CORPORATION, FOR
AUTHORITY TO: (1) ISSUE EVIDENCE
OF INDEBTEDNESS IN AN AMOUNT
NOT TO EXCEED \$1,238,000 IN
CONNECTION WITH INFRASTRUCTURE
IMPROVEMENTS TO THE UTILITY
SYSTEM; AND (2) ENCUMBER REAL
PROPERTY AND PLANT AS SECURITY
FOR SUCH INDEBTEDNESS.

DOCKET NO: W-03514A-13-0142

ORIGINAL

EXCEPTIONS TO RECOMMENDED OPINION
& ORDER - PHASE 2 - 06/05/14

Intervenor Kathleen M. Reidhead, "KMR", files the following exceptions to the recommendation of Administrative Law Judge, Dwight D. Nodes of the Arizona Corporation Commission, "ACC", filed on May 27, 2014 in this case.

It's not only what is in the Recommended Opinion and Order, "ROO", but also what is missing that KMR takes exception to. Dismissing any facts relating to the Cragin pipeline narrative is preposterous **"because the Phase 2 financing request has been withdrawn, there are no remaining issues related to the Cragin pipeline to be addressed. Therefore, no further action regarding this issue is necessary at this time"**¹. The Cragin pipeline costs were originally part of this case and facts relating to that request are not only relevant to show the intent of the Company, but they are the crux of the story.

¹ See page 45 of the ROO, lines 18-20, Document #153574 issued on 05/27/2014.

1
2 The ACC has an obligation to thoroughly and properly document all the facts of this case. The
3 record of this case reveals a timeline of events with regard to PWC seeking the interconnect pipeline
4 and its ultimate goal for Cragin water, along with other highly questionable, possibly criminal behavior
5 related to achieving that goal that have been a large concern and grounds for extensive fact-finding and
6 discussion throughout this rate case. However, many of those details are missing from the ROO and
7 should be included. These details provide the context for PWC's original intent for the interconnect
8 pipeline project for MdC.

9
10 There is nothing wrong with going to a bank and making a large withdrawal. Unless a person
11 takes a weapon with them and uses that weapon to make that withdrawal. In that case, there is
12 something **VERY** wrong. The same is true with this case. There is nothing wrong with the building of the
13 Cragin pipeline or Governor Brewer's "Strategic Vision for Water Supply Sustainability". Unless PWC
14 falsified their claims of water shortages in Mesa del Caballo, "MdC", to cause painful economic
15 consequences via water hauling exercises in order to sell the Cragin pipeline as a "solution" to their
16 claimed water shortage problem. In that case, there is something **VERY** wrong. And the evidence in this
17 case indicates that is what has taken place. Not only did PWC use deception in records², but they also
18 did nothing to investigate the condition of the wells in MdC in order to mitigate the damages to the
19 Community of MdC over 5 years time. It's peculiar that PWC has now applied for a WIFA grant in order
20 to study the infrastructure deficiencies in East Verde Park, "EVP", yet at no time in the last 5 years did
21 they ever examine the wells in MdC. The most common sense approach was never taken. They could
22 have made money on selling well water, they could have mitigated damages to MdC, but they had no
23 interest in that. The record shows they wanted to haul water in pursuit of their long-term goal of the
24 Cragin water solution. So the Cragin pipeline is the crux of the story here. For it to be dismissed shows
25 extreme prejudice.

26
27 **EXCEPTION #1: History Incomplete**

28 KMR takes exception with the History of this case as contained in the ROO, showing it begins
29 with the Procedural History on April 22, 2013 with the filing of the rate application. There are earlier
30 facts **highly** relevant to this case that impacted the Decision in Phase 1 that are not shown in the
31 procedural history, but which had a direct and significant impact on this case. For that reason, KMR
32 requests that the complete history of all relevant details be included in the Phase 2 Decision. If that
33 earlier history and summary of those facts was not absent from this ROO, it would provide a very
34 different picture and a more accurate account of the volume of evidence indicating fraud was
35 perpetrated by Payson Water Company, "PWC", that began in 2009 and set in motion a series of events
36 which led to the authorization by the ACC to consolidate, bifurcate and expedite Phase 1 of this case
37 under unproven claims of "emergency" conditions³. It is **highly** relevant that an unproven claim of an
38 "emergency" water shortage situation in MdC was never legitimately confirmed in 2010 prior to
39 Decision 71902, yet was used as if it was a fact in 2013, though it was **not** an actual fact, to violate the

² See Post Hearing Brief of Kathleen M. Reidhead, Document #151657 filed on 03/10/2014, pages 5-10.

³ Ibid, pages 5-14.

1 ratepayers rights to due process via Decision 74175 by not giving adequate notice and allowing
2 adequate time to file for Intervention or prepare for participation in Phase 1 of this case and is,
3 therefore, important to be noted in this Opinion and Order. It would have been very easy to find out
4 what was wrong with the wells in MdC at anytime in 2009, 2010, 2011, 2012, 2013 and 2014, yet
5 nobody has inspected those wells in 5 years to mitigate the impact to consumers in MdC or to perform
6 maintenance to improve their performance. There's just a vague story about water shortages that's
7 been told over and over again, without proper documentation. And many details of that story defy
8 common sense.

9
10 Accordingly, KMR requests the following additional details be adopted into the final Order under
11 a Heading of Prior History and corresponding arguments by the Parties be documented properly under
12 Positions of the Parties as well as Discussion and Resolution :

13
14 On April 7, 2008, Robert T. Hardcastle, President of PWC, wrote a letter to the Town of Payson,
15 "TOP", expressing an interest in Cragin water⁴.

16
17 Robert T. Hardcastle reported that on July 30, 2009 water production in MdC dropped by nearly
18 27% to 44.9 gpm⁵.

19
20 On November 1, 2009, Robert T. Hardcastle filed a report with the ACC on Water Supply
21 Alternatives for the MdC system⁶. This report included (attached as Exhibit B) a Geophysical AMT Survey
22 conducted by Zonge Engineering & Research on the MdC project dated March 16, 2010 and (attached as
23 Exhibit C) an interpretation of the results of the Zonge CSAMT Survey dated March 30, 2010.

24
25 On March 31, 2010, Robert T. Hardcastle filed an application for the emergency implementation
26 of a water augmentation surcharge or an emergency rate tariff due to water shortages on its MDC
27 system⁷.

28
29 On September 28, 2010, the ACC issued Decision 71902 under Docket #W-03514A-10-0116,
30 authorizing a water augmentation tariff for the MdC system.

31
32 **EXCEPTION #2: Emergency situation(s) not properly founded/Due Process Rights Violated**

33 In the Phase 1 Decision #74175, it is noted that the parties were directed, in the September 10,
34 2013 Procedural Order, *"to address [in Phase 1] the requirements for granting interim rate relief under*
35 *Arizona law"*, and Staff stated that *"the conditions generally necessary for the imposition of interim,*
36 *emergency rates include: a sudden change that causes hardship to a company; company insolvency;*
37 *and where a company's ability to maintain service (pending a determination of permanent rates) is in*

⁴ See Exhibit KMR-4, Document #150679 filed on 01/07/2014, attached Exhibit KMR-H.

⁵ See Exhibit A-17, Document #148688 filed on 10/1/2013, Exhibit A, page 2.

⁶ See Exhibit A-17, Document #148688 filed on 10/1/2013.

⁷ See Decision 71902, Document #118338 issued on 09/28/2010 under Docket #W-03514A-10-0116.

1 **serious doubt. (Id., citing Arizona Attorney General Opinion No. 71 - 17 (1971)).⁸** However, the
2 evidence presented during the Phase 2 portion of the case indicates that PWC has taken imprudent
3 steps to safeguard the financial health of the Company, including questionably high expenses reported
4 for the Test Year 2012 and paying a Dividend of \$352,206 to a former shareholder in 2013 before
5 applying for the rate increase⁹. Therefore, the claim of "emergency" in terms of the financial condition
6 of the Company, appears to have been contrived and does not, therefore, hold up as a legitimate
7 emergency, but as an artificially created one.

8
9 Furthermore, because of earlier evidence of fraud¹⁰, PWC's claim of "emergency" to consolidate
10 proceedings and request an expedited procedural schedule on 08/15/2013 to build the interconnect
11 pipeline does not hold up either. Without any proof of a **true** and verified water shortage emergency
12 existing in 2013, the rights of the ratepayers should not have been violated to expedite the approval of
13 the interconnect pipeline in Phase 1 authorized by Decision 74175. And while the ACC seems to make
14 the argument that the violation of KMR's due process rights for that Phase 1 Decision does not rise to
15 the legal standard of "shock the conscience", KMR says that the standard of "shock the conscience" is
16 typically used in cases of actual emergencies, which is not the case here because the ACC knew of (or
17 should have known, had they properly scrutinized PWC's claims) the appearance of fraud was contained
18 in PWC's filings in 2009-2010 to claim an "emergency" situation for the interim water augmentation
19 tariff¹¹ and in their 2012 Annual Report of Water Use Data for MdC¹². No other new evidence was
20 presented over the course of this case to substantiate that any ongoing or true emergency still existed in
21 2013, other than PWC's new President, Jason Williamson, simply repeated the same old vague claims of
22 water shortages that were previously made by Robert T. Hardcastle in 2009 - see Exhibit A-17, that have
23 not been proven to be legitimate and are not known to be, in fact, authentic or ongoing in 2013. In fact,
24 much evidence is in the record that puts that original claim in doubt¹³ and the entire history of the last 5
25 years of water hauling exercises is built upon that false report. Jason Williamson admitted under oath
26 that he has not examined the wells in MdC since he took over the Company on June 1, 2013¹⁴.
27 Therefore, the claim of an "emergency" fails in September 2013. Mr. Williamson also has done nothing
28 to mitigate the damage to the Community of MdC since he took over on 06/01/2013, which again points
29 to intent.

30
31 KMR alleges that the ACC acted with "**deliberate indifference**" to the ratepayers of MdC over a
32 period of more than 3 years. At least two formal complaints (W-03514A-12-0007 and W-03514A-12-
33 0008) were filed by ratepayers of MdC during 2012 alleging water hauling abuses by PWC and the ACC

⁸ See Decision #74175 issued on 10/25/2013, page 8, lines 10-23.

⁹ See Post-Hearing Brief by Kathleen M. Reidhead filed on 03/10/2014, Document #151657, page 13, lines 30-34 & page 14.

¹⁰ See Post-Hearing Brief by Kathleen M. Reidhead filed on 03/10/2014, Document #151657, page 5, lines 25-38 & page 6.

¹¹ See Post Hearing Brief of Kathleen M. Reidhead, Document #151657 submitted on 03/10/2014, pages 5-12.

¹² See ROO, Document #153574 issued on 05/27/2014, page 44, lines 16-17.

¹³ See Post Hearing Brief of Kathleen M. Reidhead, Document #151657 submitted on 03/10/2014, pages 5-12.

¹⁴ See Jason Williamson testimony at Phase 2 Hearing on 02/05/14, Document #151329, page 21/236, lines 6-11. Also available @ 00:21:00 - 00:21:20 of the archived video.

1 has still not ruled on those complaints, nearly 2 years later. Furthermore, no reasonable actions to
2 mitigate damages to the MdC customers was ever ordered by the ACC. No evidence is on the record
3 that additional documentation was requested by the ACC to substantiate the claims of water shortages
4 or to monitor the situation over the last 5 years and see if the claimed water shortage situation in MdC
5 had improved at any given time. In fact, the Water Use Data for MdC that is required as part of the
6 Annual Report is completely missing for 2011¹⁵. The Water Use Data for MdC attached to the 2012
7 Annual Report shows incoherent data and shows that the amount of water PWC claims they hauled into
8 MdC would not have fit into the storage tanks available¹⁶, so it appears certain that the volume of water
9 claimed hauled in 2012 is fraudulent. It appears that once the water augmentation tariff was authorized
10 in September 2010¹⁷, the ACC had been lulled into a false sense that any "problem" was being
11 adequately addressed. But that was not the case¹⁸, the people of MdC were enduring extreme
12 hardships as PWC continued to haul more and more water, a total of approximately \$40,000 worth in
13 2012 and \$88,000 worth in 2013, "the worst year yet", under the leadership of the new President, Jason
14 Williamson¹⁹.

15
16 If the ACC acted with such deliberate indifference to the people of MdC with regard to the loss
17 of their property over 3 summers of water hauling exercises, then surely it must be understood how that
18 deliberate indifference caused extreme concern for the entire class of ratepayers served by PWC,
19 including KMR, who was alarmed to find out about the MdC water hauling exercises in late September
20 2013, when the Public Notice was delivered to her, only 5 days prior to the Phase 1 Hearing. Her due
21 process rights were then violated by the Phase 1 Decision²⁰. Without a doubt, the Phase 1 Decision will
22 impact all ratepayers of PWC, not only the ratepayers from MdC, as was repeatedly stated during this
23 case.

24 From the Phase 1 Decision 74175:

25 IT IS THEREFORE ORDERED that Payson Water Co., Inc. is hereby authorized to borrow
26 up to \$275,000 from WIFA, under the terms and conditions set forth in the Staff Report, as modified,
27 for the purpose of financing the construction of a new water transmission line to connect its Mesa del
28 Caballo system to the Town of Payson's water system²¹.

29
30 From the Staff Report (as modified) in the Phase 1 Decision 74175:

31 That the Commission affirm in the Phase 1 Order its intent to process PWC's pending rate case
32 prior to the end of 2014, with a final Decision resulting in a debt service coverage ("DSC") ratio of 1.2 or
33 greater for the resulting WIFA loan approval²².

¹⁵ See Exhibit SN-2 submitted by Suzanne Nee on 01/06/2014, Document #150673, Exhibit O, pages 126-176.

¹⁶ See Response/Reply to a Recommended Order, Document #153506 filed by Suzanne Nee on 05/22/2014, pages 1 & 2 and Exhibit A attached.

¹⁷ Decision 71902 issued on 09/28/2010.

¹⁸ See Post-Hearing Brief by Kathleen M. Reidhead filed on 03/10/2014, Document #151657, page 7, lines 12-33.

¹⁹ See Exhibit A-15, Rejoinder Testimony of Jason Williamson, Document #150671 filed on 01/06/2014, page 14, lines 22-23 and page 15, lines 1-12.

²⁰ See Post-Hearing Brief of Kathleen M. Reidhead, Document #151657 filed on 03/10/2014, pages 1-4.

²¹ See Decision 74175, page 15, lines 24-27.

²² From Decision 74175, page 10, lines 18-20.

1 The Phase 1 Decision²³ authorized an "interim rate" in the form of the WIFA loan surcharge
2 (calculated to be \$6.76/month²⁴) for the ratepayers from MdC, whereas the ROO in Phase 2 shows no
3 explicit language ordering that "interim rate" to become permanent for MdC ratepayers, instead the
4 ROO shows only one consolidated rate design for all 8 systems²⁵. This means that all ratepayers will, in
5 fact, be covering the debt and debt service for the TOP/MdC interconnect pipeline costs going forward if
6 the Phase 2 ROO is approved as written, as previously asserted by KMR.²⁶ KMR takes exception to that.
7 However, if the obscure language at page 72, lines 9-11²⁷ is construed to mean that the WIFA loan
8 surcharge authorized in Decision 74175 shall continue on as an "interim rate", without *explicitly* saying
9 so, KMR takes exception to that. At a minimum, this unclear language should be clarified by an
10 amendment to the ROO before the Open Meeting on June 10, 2014. Either way, KMR's claim of a due
11 process rights violation by the Phase 1 Decision holds up, as the additional attorney fees that PWC
12 incurred over the course of this rate case are substantial and are a direct result of the complication of
13 the rate case caused by the consolidation, bifurcation and expedition of the case, all built upon the
14 original unproven "claim" of water shortages in MdC. Those fees are expenses that PWC will pass along
15 to all ratepayers, which will directly and substantially impact her. Additionally, since there is only one
16 rate structure designed for all 8 systems, any future costs for repair and maintenance of the
17 interconnect pipeline or the Operating and Maintenance expenses for the Cragin pipeline if/when it
18 eventually comes online will also be passed along to the ratepayers of all 8 systems. Therefore, KMR is
19 directly and substantially affected by the Phase 1 proceedings which she was unable to participate in
20 due to the breach of notice²⁸. While the Phase 1 Decision became final and non-appealable after 20
21 days according to Arizona Administration Code R14-3-111, it can and must be reopened and reversed via
22 A.R.S. §40-252 as it clearly violated the due process rights of KMR, so that must be remedied²⁹.

23
24 The ordering language of the Phase 2 ROO directs PWC ***"to file with the Commission, on or***
25 ***before June 30, 2014, the schedules of rates and charges attached hereto and incorporated herein as***
26 ***Attachment A, which rates and charges shall become effective for all service rendered on or after July***
27 ***1, 2014.***³⁰ The June 30, 2014 date will likely be exactly 20 days after the Decision in this case, the last
28 day for other parties to file a request for re-hearing³¹, which requires the party to state the specific
29 grounds for the request, as described in A.R.S. §40-253(C). The next day, the Decision will become final
30 and non-repealable. Since the Company is being directed to file the schedule of rates and charges on
31 the last possible day before the Decision becomes final and non-repealable, this looks like a deliberate
32 effort to "run out the clock" in a legal maneuver to reduce or eliminate any challenges to the Decision by

²³ Decision #74175, Document #148385 filed on 10/25/2013.

²⁴ See Notice of Compliance with Decision 74175, Document #151554 filed on 03/04/2014.

²⁵ See Attachment A to the ROO, Document #153574 filed on 05/27/2014

²⁶ See Post-Hearing Brief by Kathleen M. Reidhead filed on 03/10/2014, Document #151657, page 13, lines 1-28.

²⁷ See ROO, Document #153574 filed on 05/27/2014, page 72, lines 9-11, ***"As stated therein, as well as in Decision No. 74175, the debt surcharge and the PWAM will apply only to customers in the MDC system."***

²⁸ See Post Hearing Brief of Kathleen M. Reidhead, Document #151657 filed on 03/10/2014, pages 1-4.

²⁹ Ibid.

³⁰ See ROO, Document #153574 filed on 05/27/2014, page 71, lines 6-10.

³¹ Per Arizona Administrative Code R14-3-111.

1 Intervenors. That is eerily similar to the timing of the late notice delivered before the Phase 1 Hearing³¹.
2 KMR takes exception to this and requests that at a minimum, an amendment is written to order the
3 Company to file the schedules of rates and charges by 4pm on June 27, 2014 instead of June 30, 2014.
4

5 Similarly, there is no indication that the ratepayers of MdC received timely notice of the
6 emergency interim PWAM Hearing conducted in Phoenix on May 22, 2014. In fact, there is no
7 substantiated evidence that a true emergency currently exists in MdC to warrant an emergency hearing.
8 This is another unfounded claim of "emergency" used to rush through a Decision with little scrutiny.
9 Further discussion is continued under **EXCEPTION #7: PWAM Tariff** on page 10 and 11 of this Document.
10

11 **EXCEPTION #3: Due Process Rights Violated**

12 KMR was present at the Public Comment Hearing on 09/25/2013 and expressed her concerns
13 that she was not being treated fairly. She is not an Attorney, however, and while she may not have
14 expressed herself in explicit language that is clear under the strictest interpretation of the law, she
15 expressed herself properly and must be afforded her due process rights under the spirit of the law. She
16 filed her Motion for Intervention the very next day, on September 26, 2013, only 6 days after receiving
17 her Public Notice in this case. Yet she was denied Intervention in the Phase 1 portion of the case, only
18 admitted into the case AFTER the Phase 1 Decision had been rendered. For these reasons, her due
19 process rights were violated and the ACC cannot lawfully impose the proposed new rates on her
20 without remedy³². While KMR gave public comment at the Phase 1 Hearing, Public Comment is not the
21 same as Intervention. R14-3-105(A) states, "Persons, other than the original parties to the
22 proceedings, who are directly and substantially affected by the proceedings, shall secure an order from
23 the Commission or presiding officer granting leave to intervene before being allowed to participate."
24 The application to intervene must be served and filed by an applicant at least five days before the
25 proceeding is called for hearing³³. Even though KMR received her Public Notice exactly 5 days prior to
26 the Hearing, it was opened in the evening hours of Friday, September 20, 2013, which was already too
27 late to file her timely motion to Intervene. Even if she had been able to file it that day, there would not
28 have been adequate time to research the case and properly prepare for the Phase 1 Hearing. Further,
29 there is evidence showing that some customers actually failed to receive their notice of the Phase 1
30 Hearing, even though the ROO states there is not³⁴ - see the letter filed by Judy & Ed Kemp to the
31 Docket on 03/11/2014, Document #151706. Since this does provide evidence to rebut the presumption
32 under the "mail delivery rule" stated in the ROO, the notice of the Phase 1 Hearing is shown to be
33 defective.
34

35 **EXCEPTION #4: Non-compliance with ADEQ & ADWR regulations**

36 KMR takes exception with the fact that while PWC has filed a Notice of Late-Filed Exhibit A-19, a
37 Consent Order between PWC and ADEQ related to third-party owned wells used by the Company under
38 water sharing agreements, that order shows a well physically located in Cochise County as one of the

³¹ See Post Hearing Brief of Kathleen M. Reidhead, Document #151657 filed on 03/10/2014, pages 2-4.

³² See Post Hearing Brief of Kathleen M. Reidhead, Document #151657 filed on 03/10/2014, pages 1-4.

³³ See Arizona Administrative Code, Section R14-3-105(B).

³⁴ See ROO, Document #153574 filed on 05/27/2014, Page 25, lines 25-27 and page 26, lines 1-2.

1 wells hooked-up to the Distribution system in MdC³⁵. This is not physically possible, so KMR asks that
2 this discrepancy is cleared up *before* the Commission allows new rates to take effect. The ordering
3 language to explain the ADEQ issue "within 30 days" that is recommended in the ROO³⁶ will be too late,
4 as the Decision will then already be final and non-appealable after 20 days³⁷, so this is a legal maneuver
5 to effectively nullify any consequence to the Company for non-compliance. Furthermore, PWC remains
6 out of compliance with ADWR reporting requirements and although Staff had recommended that the
7 effective date for the rates be made contingent on satisfaction of these requirements, the ROO states
8 the ACC will not delay the effective date of the rates and orders PWC to file "within 60 days"³⁸ of the
9 effective date of this Decision, documentation showing that the ADWR issue has been resolved. This is
10 particularly troubling, since PWC has already had more than 7 months to resolve the issue with ADWR³⁹,
11 and in light of the fact that the missing 2011 Water Use Data for MdC is one reason why PWC is out of
12 compliance on ADWR reporting, it is an important report to examine for additional evidence of fraud
13 related to water hauling exercises. Accordingly, the effective date for rates should be **DELAYED** until this
14 evidence can be properly examined and factored into the final Decision in the rate case, as further
15 evidence of fraud is of substantial importance to the case and to the ratepayers' interest. The order to
16 file "within 60-days of the effective date of this Decision" documentation showing that the ADWR issue
17 has been resolved, as recommended in the ROO, will be too late, as the Decision will then be final and
18 non-appealable after 20 days⁴⁰, so this is a legal maneuver to effectively nullify any consequence to the
19 Company for non-compliance. **This should not be allowed under any circumstance.** This will be
20 viewed as a dereliction of the ACC's duty to properly regulate this private water utility and add to the
21 mounting evidence of deliberate indifference. PWC is out of compliance with two State agencies. The
22 ACC must rectify these non-compliance issues **BEFORE** authorizing new rates.

23
24 **EXCEPTION #5: Revenue Requirement**

25 KMR takes exception to the recommended revenue increase of \$289,731/year or 90.39% over
26 test year revenues and the statement in the ROO that "*although various intervenors challenged certain*
27 *operating expenses recommended by the Company and Staff, there were no specific revenue*
28 *requirement proposals presented by the intervenors.*" The reason no specific revenue proposals were
29 presented by Intervenor KMR is because she holds steadfast to the ideal of determining the **TRUE** cost
30 of service and only then providing PWC a reasonable return on their **actual** investment. KMR does not
31 believe in the concept of imprecisely or haphazardly determining a revenue number. She has asked all
32 along, in numerous filings, that cost of service studies be conducted⁴¹. That is the only way to determine

³⁵ See Reply to Post-Hearing Briefs by Kathleen M. Reidhead filed on 03/21/2014, Document #151936, page 3, lines 29-39 and page 4, lines 1-2.

³⁶ See ROO, Document #153574 filed on 05/27/2014, page 72, lines 12-14.

³⁷ Per Arizona Administrative Code R14-3-111.

³⁸ see ROO, Document #153574 filed on 05/27/2014, page 72, lines 20-22.

³⁹ See ROO, Document #153574 filed on 05/27/2014, page 16, lines 8-10.

⁴⁰ Per Arizona Administrative Code R14-3-111.

⁴¹ See Exhibit KMR-1, Direct Testimony, Document #149527 filed on 11/14/2013, page 3, lines 17-27, as well as Exhibit KMR-2, Surrebuttal Testimony, Document #149903 filed on 12/20/13, page 3, lines 27-31 and page 6, lines 18-36 and page 7, lines 1-14 and page 9, lines 23-31 as well as Exhibit KMR-5, Intervenor Response to Supplemental Rejoinder Testimony, Document #151008 filed on 01/27/14, page 7, lines 35-38.

1 the truth of the matter, as there is a volume of evidence that shows PWC's expenses have been grossly
2 inflated as they have increased significantly more than what cost of living increases have been over the
3 same period of time - 2001-2012⁴³. She has made the request that the financial records of PWC be
4 examined in an independent audit to investigate the unusual, nearly 600% (591.8% to be precise)
5 increase in expenses over the period 2001-2012⁴⁴. She has also objected to PWC's imprudent decisions
6 not to invest in appropriate infrastructure but, instead, haul water at great expense to its customers⁴⁵.
7 Additional imprudent, unreasonable, false and misleading actions taken by PWC during this case are
8 documented in Exhibit KMR-J, attached to her Intervenor Response to Supplemental Rejoinder
9 Testimony filed on 01/27/2014, Document #151008. Furthermore, the revenue requirement for Phase 2
10 was pre-determined by language in the Phase 1 Decision, as it secures a certain level of revenue will be
11 granted in the permanent rate case to allow PWC to qualify for the WIFA loan authorized in Phase 1⁴⁶.
12 Therefore, the Phase 1 Decision did, in fact, pollute the process of rate setting in Phase 2, which, if
13 approved, will harm the ratepayers without affording them their due process rights. This has been
14 pointed out and ignored by Staff and Judge Nodes. KMR will again argue "**deliberate indifference**" by
15 the ACC, as she was an active participant in raising her voice during Phase 1 and as an Intervenor in the
16 Phase 2 proceedings, where she pointed out the numerous actions that have taken place throughout
17 the process that have wrongly determined the cost of service, upon which this revenue increase is said
18 to be based⁴⁷. In fact, Staff acknowledges numerous "compromises" with the Company over missing
19 and questionable data. None of these compromises favored the Customers, however. In fact, late
20 manipulations of factors resulted in Staff's recommendation to increase revenue by almost an additional
21 \$50,000/year, from \$240,721 at Direct Testimony⁴⁸ to \$289,731 at Surrebuttal Testimony⁴⁹. The
22 regulatory process is flawed and, in this case, to the peril of the ratepayers⁵⁰. Not only has the value of
23 the Company's plant been wrongly determined, the 9.0% rate of return is unjust, especially since the
24 \$275,000 interconnect pipeline was funded with a WIFA loan (debt) that is being covered and serviced
25 entirely by the ratepayers (principal and interest). PWC has not made an investment in that plant.
26

27 There is no legitimate justification for these high rates, the Company has refused to do cost of
28 service studies, so the only reason to have such exorbitant rates is to make Cragin water appear
29 "affordable". It's like artificially increasing the price of gasoline to \$8.00/gallon so that you can say that
30 the cost of electric cars is affordable. Some of Parent Company JW Water Holdings' other companies,
31 like Tonto Basin Water Company, currently have base rates of \$12.40/month and \$16.55/month and

⁴³ See Exhibit SN-3, Supplement to Pre-Filed Testimony of Suzanne Nee, Document #150692 filed on 01/07/2014 at page 1, lines 33-44 and page 2, lines 1-23. Also Exhibit SN-5, Document #150103 filed on 01/31/2014, Exhibit A.

⁴⁴ See Post-Hearing Brief by Kathleen M. Reidhead filed on 03/10/2014, Document #151657, page 4, lines 31-38.

⁴⁵ See Exhibit KMR-5, Intervenor Response to Supplemental Rejoinder Testimony, Document #151008 filed on 01/27/2014, page 5, lines 32-33 and page 6, lines 1-4.

⁴⁶ See Decision 74175, Document #148385 filed on 10/25/2013, page 15, lines 24-27 and page 10, lines 18-20.

⁴⁷ See Post-Hearing Brief by Kathleen M. Reidhead filed on 03/10/2014, Document #151657, page 11, lines 27-32 and pages 12, 13 & 14.

⁴⁸ See Exhibit S-14, Executive Summary of Crystal S. Brown, Document #149555 filed on 11/15/2013.

⁴⁹ See Exhibit S-16, Executive Summary of Crystal S. Brown, Document #151005 filed on 01/24/2014.

⁵⁰ See Post-Hearing Brief by Kathleen M. Reidhead filed on 03/10/2014, Document #151657, page 14, lines 12-31.

1 commodity rates of \$1.55/1,000 gallons (no limits) and \$2.33/1,000 gallons (no limits)⁵¹. Compare that
2 to our proposed base rate of \$23.00/month and commodity rate of \$4.00/1,000 gallons for 1-3,000
3 gallons, \$7.62/1,000 gallons for 3,001-10,000 gallons and \$9.62/1,000 gallons for 10,001+ and you can
4 easily see the imbalance. So PWC will effectively be subsidizing JW Water Holdings' overhead costs.
5 How can it be so much less expensive for JW Water Holdings to provide the Tonto Basin Water Company
6 consumers their water services than what we'll be paying if this outlandish rate increase is approved? It
7 is not legitimate and that is plain to see.

8
9 **EXCEPTION #6: Rate Design/Consolidation of all Systems**

10 KMR takes exception and remains firmly opposed to consolidation of all systems⁵² and, in fact,
11 argues for separate rate structures for communities with similar cost of service and similar
12 hydrogeological and water use factors. The recommended rate design will severely damage the
13 communities of Gisela and Deer Creek Village, which reside in the Tonto Creek water basin, where water
14 and climate conditions are uniquely different than the other 6 communities served by PWC. That was
15 well documented at the April 11, 2014 Public Comment Hearing in Payson as well as in the evidence
16 properly filed on the Docket of this case⁵³. Therefore, those 2 communities should be on a different rate
17 structure with far lower economic consequences for higher usage of water than the other 6
18 communities. She maintains that the consolidation of rates is discriminatory to the ratepayers of Gisela
19 and will violate A.R.S. §40-203. Furthermore, KMR rejects PWC's claim that rates would be considerably
20 higher if some systems were to operate as separate systems with separate rates. PWC is currently
21 operating under 2 separate rate structures and has done so for the last 13 years, so separating Gisela
22 and Deer Creek Village (who reside in the Tonto Creek water basin) from the other 6 systems (who
23 reside in the Verde River water basin) would not significantly alter the current operations. Further,
24 there is no evidence presented to show that rates would be considerably higher for doing so, only claims
25 of "efficiencies of scale" and vague and unsubstantiated claims that some systems are "subsidizing other
26 systems". Without cost of service studies or at the very least, reliable documentation from the
27 Company on actual and verifiable costs for each system, this remains another undocumented and
28 unproven claim. However, there is significant evidence that there will be significant harm to Gisela by
29 consolidation⁵⁴ and Deer Creek should be deconsolidated due to similar elevation, hydrogeological,
30 climate and water usage circumstances to Gisela. The Staff position cites numerous reasons for
31 consolidation, but all of those reasons benefit the Company and there is no consideration given to the
32 circumstances of the ratepayers. The recommendation for rates is neither just or reasonable, it is
33 excessive and it was polluted by the language in the Phase 1 Decision, so it should be denied. The
34 financial reporting by PWC is lacking in accuracy and cannot be relied upon to determine the true cost of

⁵¹ See Document #114089 filed on 07/19/1998 on Docket #W-03515A-98-077.

⁵² See Exhibit KMR-1, Direct Testimony, Document #149527 filed on 11/14/2013, page 3, lines 17-27, as well as Exhibit KMR-2, Surrebuttal Testimony, Document #149903 filed on 12/20/13, page 2, lines 10-39 and page 3, lines 1-16 and page 8, lines 7-22 and page 9, lines 13-21 as well as Exhibit KMR-5, Intervenor Response to Supplemental Rejoinder Testimony, Document #151008 filed on 01/27/14, page 7, lines 35-38.

⁵³ See Post-Hearing Brief by Kathleen M. Reidhead filed on 03/10/2014, Document #151657, pages 15-16.

⁵⁴ See Public Comments taken at Public Comment Hearing in Payson on April 11, 2014. Also, See Exhibit KMR-2, Surrebuttal Testimony by Kathleen M. Reidhead submitted on 12/20/2013, Document #149903.

1 service. Further, the paying of a dividend of \$352,206 to a former shareholder has partly caused the
2 financial distress that the Company complains of and Staff's Crystal Brown testified that if that money
3 had remained in the Company's Treasury, Staff would have recommended that it be used to offset
4 rates⁵⁵. The ratepayers are directly and substantially harmed by the Company's actions and this must be
5 remedied.

6
7 **EXCEPTION #7: PWAM Tariff**

8 KMR takes exception with the adoption of the interim PWAM tariff authorized by Decision
9 #74484, for the same reasons stated in her document #153500 filed on 05/22/2014 and because there is
10 no indication that the ratepayers of MdC received timely notice of the emergency interim PWAM
11 Hearing conducted in Phoenix on May 22, 2014. In fact, there is no substantiated evidence that a true
12 emergency currently exists in MdC. This is another unfounded claim of "emergency" used to rush
13 through a Decision with little scrutiny. The certification of the notice states that email notification was
14 sent, but nowhere in that certification does it show the email addresses it was sent to, in order to prove
15 that notice was properly given to all of the approximately 364 ratepayers of MdC, who are directly and
16 substantially impacted by Decision 74484. There is no indication that Jason Williamson even has the
17 email addresses for every one of the 364 households PWC serves in MdC or that the notice was properly
18 published or mailed in a timely manner so that they could attend the Hearing and defend the
19 deprivation of property that results from that Decision. Therefore, the notice was defective. In fact,
20 while KMR did receive notice by email, she also received notice delivered by US Mail of that Hearing
21 when she collected her mail on Monday afternoon (Memorial Day), May 26, 2014, 4 days after the
22 Hearing took place. Therefore, it is reasonable to conclude that the US Mail notice arrived similarly late
23 to the ratepayers of MdC, which means they have had another Decision made that impacts them
24 directly without affording them due process of the law. The Company has failed to make their case that
25 emergency circumstances exist to warrant the issuance of this Interim PWAM Decision. They have failed
26 to document the source of the alleged water shortages or to mitigate damages to the ratepayers of MdC
27 by improving the performance of the existing wells. Therefore, the violation of any ratepayer's due
28 process rights for that Decision will not have to be held to the legal standard of "shocks the conscience",
29 since a true emergency is not known to exist, but may be argued as "deliberate indifference".

30
31 Water produced from Company wells is substantially less expensive to the consumer than
32 anything the Company or the ACC have proposed or authorized via water augmentation or PWAM
33 tariffs. Yet nobody, to KMR's knowledge, has inspected the wells in MdC in the last 5 years to determine
34 if they are actually under-producing or not. If they are, what is the cause of the problem and can it be
35 rectified at a low cost? It is outrageous that nothing has been done to mitigate damages to the
36 ratepayers of MdC or to improve the performance of the existing wells. Within the context of the other
37 details of the case, this lack of reasonable, common sense action shows intent. The interim PWAM tariff
38 was granted based upon an unproven "emergency". No evidence was offered as proof, except an email
39 written by the Company President. Since the Company President has made other false and misleading

⁵⁵ See testimony of Crystal Brown at the Phase 2 Hearing on 02/10/2014, Document #151335, page 184/202, lines 1-12. Also available @ 05:28:15 - 05:37:20 of the archived video.

1 claims⁵⁶, his claims should be viewed with suspicion and require a high level of scrutiny. A permanent
2 PWAM tariff should not be authorized until it can be shown that a true emergency currently exists and is
3 documented on the record by a third-party examination of the 7 PWC wells⁵⁷ showing current
4 production in gallons per minute. The interim PWAM tariff may stay in effect until a future later date,
5 i.e. 90 days out from the final Decision on rates, in order for a proper examination of the wells to be
6 concluded. However, it should not be made permanent until a thorough understanding of the current
7 condition and production of existing wells is conducted by an independent source and documented.
8 Reasonable measures should be undertaken to restore and/or improve the performance of the wells.
9 That examination will help establish accurate expectations for how much water may be purchased from
10 Town of Payson and sold under a PWAM tariff and prevent any further abuse of the consumers, as has
11 been alleged has taken place via the water hauling exercises of the last 3 summers.

12
13 KMR also takes exception to Staff's position that drilling wells is "risky" because if the well is dry,
14 the Company is not allowed to recoup the costs of drilling that well through rates. In late 2009, Mr.
15 Hardcastle commissioned an Engineering Study by Zonge Engineering & Research Organization, Inc. to
16 investigate whether drilling a new well or deepening existing wells in MdC had potential as an interim
17 water supply and the interpretation of that Study by Southwest Water Consultants⁵⁸ shows that by
18 following their recommendations, the likelihood of drilling successful new wells or deepening existing
19 wells to improve production is very high and the drilling of 9 successful new private wells in MdC since
20 2011⁵⁹ proves that. As a public service Corporation, PWC has a responsibility to the consumers they
21 serve, and their unwillingness to deepen existing wells or drill new wells or even *inspect* the existing
22 wells under such claims of extreme water shortages, which stands in direct conflict with other
23 evidence⁶⁰, shows an incompatibility with the public interest and with the proper performance of their
24 duties.

25
26 **EXCEPTION #8: Alleged Misconduct**

27 KMR takes exception to Staff's dispute of the intervenors' allegations of misconduct by Staff, the
28 ALJ and the Company in these proceedings. The notion that, "*the universal rule is that government
29 officials have a presumption of honesty and integrity which is a difficult burden of persuasion to
30 overcome.*"⁶¹ is a fine notion. However, it is a notion that has failed hundreds of times in recent years
31 and all one has to do is a little searching to find government scandals exist everywhere⁶². So while that
32 notion is a fine concept, government officials are still human beings, known to fall short by all the usual
33 failings of the human condition. Thus, when evidence of ethical misconduct is present in a case that
34 requires an impartial review of evidence, any indiscretions are viewed by the public as egregious

⁵⁶ See Post-Hearing Brief by Kathleen M. Reidhead filed on 03/10/2014, Document #151657, page 10, lines 5-11 and Exhibit KMR-5, Document #15108 filed on 01/27/2014, attached Exhibit KMR-J.

⁵⁷ Wells #55-631113, #55-500270, #55-801698, #55-513409, #55-556148, #55-801699 and #55-631112.

⁵⁸ See Exhibit A-17, Document #148688 filed on 10/1/2013, attached Exhibits B & C.

⁵⁹ See Exhibit KMR-4, Document #150679 filed on 01/07/2014, attached Exhibit KMR-G

⁶⁰ See Exhibit KMR-3, Document #150656 filed on 01/06/2014.

⁶¹ See ROO, Document #153574 filed on 05/27/2014, page 51, lines 25-26.

⁶² See "A history of Arizona political scandals of the past 25 years" found at:
<http://www.azcentral.com/news/politics/20120519arizona-scandals-history-timeline.html>

1 transgressions and abuse of power. Government employees are public servants, paid by the taxpayers
2 to serve the people. Elected officials are expected to have the highest level of ethical behavior. They
3 are elected to their positions to lead and set the tone for acceptable standards of behavior. So it is with
4 great disappointment that KMR observes clear evidence of bias by the Staff, the Executive Director and
5 the ALJ in this case.

6
7 With regard to a complaint made by George Chrisman, who alleged in an affidavit that during
8 the hearing, **"I absolutely saw ACC attorney squinting her eyes and shaking her head Yes or No and
9 then [redacted] would give the corresponding answer attorney [redacted] was telescoping to her."**⁶³,
10 the Commission's Executive Director, Jodi Jerich concluded that **"the Staff witness and counsel
11 conducted themselves appropriately"**⁶⁴. KMR was named as a witness in that complaint, yet she was
12 never contacted by Ms. Jerich or anybody at the ACC during their investigation of the matter. It is
13 irresponsible to come to any conclusion in that matter without contacting a party named as a witness in
14 the complaint. This shows an inadequate approach to investigating the matter and gives a strong
15 indication of bias. For this, and other reasons previously cited⁶⁵, along with the substantial number of
16 details and context absent in the ROO⁶⁶, and along with the recent defective notice given for the interim
17 PWAM hearing⁶⁷, which violated ratepayers' due process rights via the interim PWAM Decision, as well
18 as the noted future deadline dates that favor the Company regarding non-compliance issues⁶⁸ and the
19 ordering language that requires the Company to file the schedules of rates and charges on the last day
20 for other parties to file a request for re-hearing⁶⁹, there is a clear indication of bias by the Staff and the
21 Administrative Law Judge. KMR takes exception to the claim that there is no evidence of bias on the
22 part of Staff or the ALJ. An independent investigator would certainly see clear evidence of bias.

23
24 KMR asks the Commissioners to vote NO on the ROO and once again requests the ACC to ask the
25 Arizona Attorney General for a full investigation into this matter. The Intervenor has already provided
26 a roadmap for you and any investigator to follow. All the power players who are supporting the Cragin
27 pipeline should go forward in finding ways to complete that pipeline. KMR is not trying to stop that. But
28 it is unconscionable to go about funding it in this devious and destructive way. Hurting the poor and the
29 elderly is no way to accomplish the Cragin pipeline. It is shameful.

30
⁶³ See the Correspondence-Miscellaneous filed by Jodi Jerich on 03/28/2014, Document #152076, Page 3.

⁶⁴ See the Supplemental Intervenor Reply to Post Hearing Briefs by Kathleen M. Reidhead, Document #152168 filed on 03/31/2014, page 4, lines 11-26.

⁶⁵ See the Intervenor Response to Commissioner Gary Pierce Letter filed by Suzanne Nee, Document #13320 filed on 05/12/2014, page 3, lines 4-11. Also, see the Supplemental Reply to Post Hearing Briefs by Kathleen M. Reidhead, Document #152168 filed on 03/31/2014, page 3, lines 32-36 and page 4, lines 1-26. Also, see the Response to Notice of Filing - Miscellaneous filed by Kathleen M. Reidhead on 04/15/2014, Document #152459 and the Staff's Response filed on 04/30/2014, Document #153099. Also, see Intervenor Reply to Post-Hearing Briefs filed by Kathleen M. Reidhead, Document #151936 on 03/21/2014, page 4 lines 4-26.

⁶⁶ As noted in this Document on page 1, lines 34-40 and pages 2 & 3, lines 1-30.

⁶⁷ As noted in this Document on page 11, lines 9-29.

⁶⁸ As noted in this Document on page 8, lines 2-22.

⁶⁹ As noted in this Document on page 6, lines 24-32 and page 7, lines 1-3.

1 Respectfully submitted this 5th day of June, 2014.

2
3 By Kathleen M. Reidhead

4 Kathleen M. Reidhead, Intervenor
5 14406 S. Cholla Canyon Dr.
6 Phoenix, AZ 85044
7

8 ORIGINAL and thirteen (13) copies
9 of the foregoing were filed this 5th
10 day of June, 2014 with:

11
12 Docket Control
13 Arizona Corporation Commission
14 1200 W. Washington Street
15 Phoenix, AZ 85007
16

17 COPY of the foregoing was mailed
18 this 5th day of June, 2014 to:

19
20 Jay Shapiro (Attorney for Payson Water Co., Inc.)
21 Fennemore Craig P.C.
22 2394 E. Camelback Road, Suite 600
23 Phoenix, AZ 85016
24

J. Stephen Gehring
8157 W. Deadeye Rd.
Payson, AZ 85541

25 Robert Hardcastle
26 3101 State Road
27 Bakersfield, CA 93308
28

Glynn Ross
405 S. Ponderosa
Payson, AZ 85541

29 William Sheppard
30 6250 North Central Avenue
31 Phoenix, AZ 85012
32

Suzanne Nee
2051 E. Aspen Dr.
Tempe, AZ 85282

33 Thomas Bremer
34 6717 E. Turquoise Ave.
35 Scottsdale, AZ 85253

Kathleen M. Reidhead