

INTERVENTION



0000154544

BEFORE THE ARIZONA CORPORATION COMMISSION

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AZ CORP COMMISSION  
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Arizona Corporation Commission

DOCKETED

JUL 7 2014

DOCKETED BY

BOB STUMP  
CHAIRMAN  
GARY PIERCE  
COMMISSIONER  
BRENDA BURNS  
COMMISSIONER  
BOB BURNS  
COMMISSIONER  
SUSAN BITTER SMITH  
COMMISSIONER

Docket No. WS-04235A-13-0331

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

ORIGINAL

**RUCO'S APPLICATION TO INTERVENE AND MOTION TO MODIFY THE  
PROCEDURAL SCHEDULE**

I.

The RESIDENTIAL UTILITY CONSUMER OFFICE ("RUCO") hereby applies to the Arizona Corporation Commission ("Commission") for an Order granting it leave to intervene in the above-captioned proceeding. For the reasons stated below, RUCO would further request a modification to the current Procedural Order for the reasons stated below.

II.

RUCO was established by the enactment of Arizona Revised Statutes, Section 40-461, *et seq.*, for the purpose of representing residential utility consumers in matters before the Commission concerning regulated public service corporations.

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III.

Arizona Revised Statutes, Section 40-464.A.2., specifically provides that the Director of RUCO may do the following:

Prepare and present briefs, arguments, proposed rates or orders and intervene or appear on behalf of residential utility consumers before hearing officers and the Corporation Commission as a party in interest and also participate as a party in interest pursuant to Section 40-254 in proceedings relating to rate making or rate design and involving public service corporations.

IV.

The residential utility consumers will be directly and substantially affected by a Decision or Order of the Commission in this matter, therefore, it is necessary and proper that RUCO intervene in the proceeding.

V.

In order to fulfill its statutory obligation to protect the residential utility consumers of this State, RUCO must thoroughly examine the materials presented by the Company, and must cross-examine witnesses appearing on behalf of the Company and any other parties. Additionally, RUCO may present testimony and exhibits of its own in any hearings conducted by the Commission in this matter.

RUCO only became aware of this matter on July 3, 2014 through one of its constituents. RUCO is very concerned with the level of increase given the small number of customers. RUCO understands the late nature of this Motion which, of course was not done on purpose or for the purpose of delay. However, RUCO believes the importance of its participation outweighs any undo prejudice caused by a delay in the filing deadlines. Moreover, RUCO is aware that late Motions for Intervention are not unusual and frequently granted. In the recent

1 Chaparral City Water case, one sophisticated party filed for intervention on the Friday before  
2 the Tuesday that the hearing was scheduled to start!! (See Application for Leave to Intervene  
3 filed on February 14, 2014 by the Water Utility Association of Arizona – Exhibit A). Over  
4 RUCO's objection, that party was allowed to intervene. (See Transcript of the Proceedings of  
5 February 18, 2014 – Exhibit B).

6 RUCO seeks intervention after the intervention filing deadline here, but at a point prior  
7 to the due date of the submission of even the Direct Testimony of the interveners. RUCO  
8 would request that the current Procedural Schedule in this case be modified to allow it the  
9 opportunity to file testimony in this case in a manner that would be fair to all parties. Should  
10 the Commission not allow RUCO the opportunity to file testimony in this case and/or present a  
11 witness at the hearing, RUCO would request that it be allowed to cross-examine witnesses,  
12 present opening argument and file briefs.

13  
14 VI.

15 The name, mailing address, and telephone number of the person upon whom service of  
16 all documents is to be made is:

17 Daniel W. Pozefsky  
18 Chief Counsel  
19 Residential Utility Consumer Office  
1110 West Washington, Suite 220  
Phoenix, Arizona 85007  
(602) 364-4839

20 RESPECTFULLY SUBMITTED this 7<sup>th</sup> day of July, 2014.

21  
22   
23 Daniel W. Pozefsky  
24 Chief Counsel

1 AN ORIGINAL AND THIRTEEN COPIES  
of the foregoing filed this 7th day  
2 of July, 2014 with:

3 Docket Control  
Arizona Corporation Commission  
4 1200 West Washington  
Phoenix, Arizona 85007

5 COPIES of the foregoing hand delivered/  
6 mailed this 7<sup>th</sup> day of July, 2014 to:

7 Sarah Harpring  
Administrative Law Judge  
8 Hearing Division  
Arizona Corporation Commission  
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Phoenix, Arizona 85007

10 Janice Alward, Chief Counsel  
11 Legal Division  
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12 1200 West Washington  
Phoenix, Arizona 85007

13 Steven M. Olea, Director  
14 Utilities Division  
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15 1200 West Washington  
Phoenix, Arizona 85007

16 Steve Wene  
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18 1850 N. Central Ave., Suite 1100  
Phoenix, Arizona 85004  
Attorneys for Utility Source, LLC

19  
20 By Cheryl Fraulob  
21 Cheryl Fraulob

22  
23  
24

**EXHIBIT A**

# INTERVENTION



0000150367

## BEFORE THE ARIZONA CORPORATION COMMISSION

### COMMISSIONERS

BOB STUMP: CHAIRMAN

GARY PIERCE  
BRENDA BURNS  
ROBERT BURNS  
SUSAN BITTER SMITH

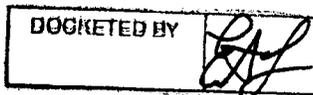
WATER UTILITY ASSOCIATION OF ARIZONA  
916 WEST ADAMS SUITE 3  
PHOENIX, AZ 85007

GREG PATTERSON, DIRECTOR

Arizona Corporation Commission

DOCKETED

FEB 14 2014



ORIGINAL

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2014 FEB 14 P 3:10  
AZ CORP COMMISSION  
DOCKET CONTROL

IN THE MATTER OF THE APPLICATION  
OF CHAPARRAL CITY WATER  
COMPANY FOR A DETERMINATION OF  
THE CURRENT FAIR VALUE OF ITS  
UTILITY PLANT AND PROPERTY AND  
FOR INCREASE IN ITS RATES AND  
CHARGES BASED THEREON.

DOCKET NUMBER W-02113A-13-0118

APPLICATION FOR LEAVE TO  
INTERVENE

### APPLICATION OF THE WATER UTILITY ASSOCIATION OF ARIZONA TO INTERVENE

Pursuant to A.A.C. R14-3-105, The Water Utility Association of Arizona (WUAA) hereby moves the Commission for leave to intervene in the above-captioned proceeding. The Water Utility Association of Arizona is a non-profit corporation representing the investor-owned segment of the water industry in the state of Arizona. The association has a regular membership of approximately 50 investor-owned water companies, serving from a few to 400,000 customers.

1           The purpose of the Association is to promote regulatory policies that will: promote  
2 investment, encourage conservation and protect consumers in order to ensure that Arizona has  
3 adequate supplies of safe, affordable water—as well as the infrastructure required to deliver that  
4 water to consumers at affordable prices.

5           WUAA and its Board recognize that the deadline for intervention in this matter has past.  
6 The WUAA only intervenes in cases that will have a direct impact on a broad group of member  
7 companies; this practice allows WUAA to conserve the resources of the WUAA itself as well as  
8 the Commission and other Parties. The risk of this strategy is that some cases that initially  
9 appear to focus on the application of current ACC policy to the facts of a specific company  
10 evolve into cases in which parties advocate broad policy changes that, if implemented, will affect  
11 the entire water industry. Unfortunately, by the time parties recognize that broad policy decisions  
12 are at issue, the deadline for intervention has often passed. This is such a case.

13           One strategy, of course, would be for the WUAA to intervene in every case and then  
14 actively participate in the few cases in which major unforeseen policy issues arise. The other  
15 option is to wait and see if a case evolves in such a manner that broad industry issues are affected  
16 and then seek the Commission's indulgence by requesting late intervention. WUAA and its  
17 Board believe that the latter option allows the WUAA to participate in cases that have unforeseen  
18 policy implications without wasting the resources of the ACC and other Parties by constantly  
19 requesting Intervention.

20           The granting of intervenor status to the WUAA will not unduly delay the proceedings or  
21 cause the issues to be unduly broadened. The WUAA does not have a witness in the case, does  
22 not intend to engage in overly broad cross examination and proposes no changes to the procedural  
23 schedule.

24           If intervention is granted, the WUAA requests that all communications in connection with  
25 the above-captioned proceedings be directed to:  
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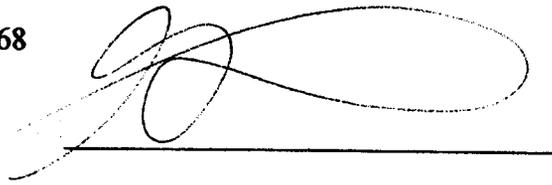
Greg Patterson  
916 West Adams Suite 3  
Phoenix, AZ 85007  
Telephone 602-369-4368

For the reasons discussed above, the WUAA respectfully requests that it be granted leave to intervene in these proceedings, and that the WUAA be accorded the full status of an intervenor under the Commission's rules and regulations.

RESPECTFULLY SUBMITTED this 14<sup>th</sup> Day of February, 2014

By:

Greg Patterson  
916 West Adams Suite 3  
Phoenix, AZ 85007  
Telephone (602) 369-4368



ORIGINAL and 13 copies of the foregoing hand-delivered for filing this 14<sup>th</sup> February, 2014

Docket Control  
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Phoenix, Arizona 85007

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Bridget Humphrey, Staff Attorney
- 16 Matthew Laudone, Staff Attorney  
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- 17 ARIZONA CORPORATION COMMISSION  
1200 West Washington Street
- 18 Phoenix, AZ 85007
  
- 19 Leonora M. Hebenstreit  
16632 E. Ashbrook Drive, Unit A
- 20 Fountain Hills, AZ 85268
  
- 21 Tracey Holland  
16224 E. Palisades Blvd.
- 22 Fountain Hills, AZ 85268
  
- 23
- 24
- 25
- 26

**EXHIBIT B**

1 BEFORE THE ARIZONA CORPORATION COMMISSION

2

3 IN THE MATTER OF THE APPLICATION OF )  
 4 CHAPARRAL CITY WATER COMPANY FOR A ) DOCKET NO.  
 5 DETERMINATION OF THE CURRENT FAIR ) W-02113A-13-0118  
 6 VALUE OF ITS UTILITY PLANT AND )  
 7 PROPERTY AND FOR INCREASE IN ITS )  
 8 RATES AND CHARGES BASED THEREON. )  
 9 )

7

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9 At: Phoenix, Arizona

10 Date: February 18, 2014

11 Filed: March 7, 2014

12

13

14 REPORTER'S TRANSCRIPT OF PROCEEDINGS

15 VOLUME I  
 16 (Pages 1 through 188)

17

18

19 COASH & COASH, INC.  
 20 Court Reporting, Video & Videoconferencing  
 21 1802 N. 7th Street, Phoenix, AZ 85006  
 22 602-258-1440 mh@coashandcoash.com

23

24

25 Prepared for: By: Colette E. Ross  
 Certified Reporter  
 Certificate No. 50658

COASH & COASH, INC.  
 www.coashandcoash.com

602-258-1440  
 Phoenix, AZ

1 ALJ JIBILIAN: No appearance.

2 Leigh Oberfeld-Berger.

3 (No response.)

4 ALJ JIBILIAN: No appearance.

5 Tracey Holland.

6 (No response.)

7 ALJ JIBILIAN: No appearance.

8 Leonora Hebenstreit.

9 (No response.)

10 ALJ JIBILIAN: No appearance.

11 The Residential Utility Consumer Office.

12 MR. POZEFSKY: Fortunately an appearance.

13 Daniel Pozefsky -- good morning, Your Honor -- on behalf  
14 of RUCO.

15 ALJ JIBILIAN: Good morning. Thank you.

16 And for the Commission's Utilities Division.

17 MS. HUMPHREY: Good morning, Your Honor.

18 Bridget Humphrey and Matt Laudone on behalf of Staff.

19 Also at counsel table this morning is Gerald Becker.

20 ALJ JIBILIAN: Thank you.

21 Are there any other persons or entities in the  
22 room who requested intervention that I haven't  
23 addressed?

24 MR. PATTERSON: Your Honor, Greg Patterson on  
25 behalf of the Water Utility Association of Arizona. I

1 filed an intervention on Friday. I recognize that  
2 yesterday was a holiday and that Friday was past the  
3 deadline, but I would like to be granted intervention,  
4 if possible, nevertheless.

5 ALJ JIBILIAN: Mr. Patterson, I did get a copy  
6 of your request for intervention. And I read in it, I  
7 gleaned from your filing that an unforeseen policy issue  
8 has arisen, and you want to be granted full status of an  
9 intervenor.

10 MR. PATTERSON: Your Honor, that is correct.  
11 And understanding the lateness of the matter and the  
12 potential time considerations, short week, et cetera, we  
13 would have no problem being granted a limited  
14 intervention that only dealt with the witnesses  
15 associated with those two policy issues, which would be  
16 cost of equity and depreciation methodology.

17 ALJ JIBILIAN: Do you intend to put on a  
18 witness?

19 MR. PATTERSON: No, Your Honor.

20 ALJ JIBILIAN: So this is just for  
21 cross-examination purposes?

22 MR. PATTERSON: And whatever briefing or written  
23 participation follows, yes.

24 ALJ JIBILIAN: Okay. I don't have a problem  
25 granting intervention for the purpose of cross-examining

1 witnesses. If you are going to introduce new evidence,  
2 there might be an issue. Are you planning to try and  
3 introduce evidence through other witnesses?

4 MR. PATTERSON: No, I am not, Your Honor.

5 ALJ JIBILIAN: Okay.

6 MR. POZEFSKY: Your Honor, before you do, can we  
7 be heard?

8 ALJ JIBILIAN: Yes.

9 MR. POZEFSKY: RUCO would object to granting of  
10 intervention. The filing deadline, as you know, was  
11 November 1st. This is a sophisticated intervenor. It  
12 knows the policies here. Nothing personal at all by any  
13 means, but we are way past the deadline.

14 This is an intervenor whose interests are  
15 aligned with the company's. It is just another shot for  
16 cross-examination. They have no skin in the game.  
17 There has been no testimony filed. Our witness has not  
18 had a chance to prepare for this intervenor, doesn't  
19 even know what the intervenor's position is. So I can  
20 just imagine what would happen if we had a potential  
21 intervenor that was aligned with our interests, let's  
22 say someone like AARP, who the day before the trial  
23 makes a motion to intervene and is actually considered.  
24 Companies would go crazy, and rightfully so.

25 So from our standpoint, given the timeliness,

1 given the position of our witnesses, we would object to  
2 the intervention, even on a limited basis. Thank you.

3 ALJ JIBILIAN: Ms. Humphrey, do you have  
4 anything to add?

5 MS. HUMPHREY: Well, Staff may have in other  
6 circumstances opposed the intervention. Due to the  
7 circumstances of this case, Staff has no opposition to  
8 the intervention at this time.

9 ALJ JIBILIAN: Mr. Hallam.

10 MR. HALLAM: Thank you, Judge. The company does  
11 not oppose. I think given especially Mr. Patterson's  
12 willingness to limit the issues for which he will be  
13 cross-examining witnesses, I don't think it will unduly  
14 delay the proceeding. So we would support it, the  
15 intervention.

16 ALJ JIBILIAN: Mr. Patterson, would you like to  
17 respond?

18 MR. PATTERSON: Yes. Thank you, Your Honor.

19 We do have skin in the game. In the traditional  
20 ratemaking process the policies of the Commission are  
21 applied to the facts of the company yielding the result  
22 that one would expect, depending on what this tribunal  
23 rules the facts of the company to be. We do not monitor  
24 every case to determine if there is going to be  
25 substantial changes in those policies. And if there are

1 substantial changes in those policies, they affect every  
2 company.

3 In this case, the switch to vintage depreciation  
4 from group depreciation, the hypothetical capital  
5 structure, are significant policy changes that will  
6 affect a variety of companies. And while I appreciate  
7 Mr. Pozefsky's point that we are a sophisticated party,  
8 we are also a party that represents a lot of different  
9 companies.

10 I had a board meeting scheduled Friday at 11:30.  
11 I had permission to intervene in that board meeting and  
12 filed the intervention at about 3:00, couple of typos  
13 and all. So we think we responded quickly to what is a  
14 very difficult situation that was unexpected.

15 ALJ JIBILIAN: This is an administrative  
16 proceeding, and the goal in every proceeding here at the  
17 Commission is to have as full and complete a record as  
18 possible. And while I would probably not be amenable to  
19 having new testimony filed this late in the game, if it  
20 is for cross-examination purposes only, I do agree with  
21 Mr. Hallam's opinion that it is not going to unduly  
22 delay this proceeding. So WUAA will be granted a  
23 limited intervention for the purpose of cross-examining  
24 witnesses and filing briefs.

25 MR. PATTERSON: Thank you, Your Honor.

1 ALJ JIBILIAN: Also you may make an opening  
2 statement.

3 MR. PATTERSON: Thank you.

4 ALJ JIBILIAN: Fine.

5 All right. This is the time for public comment.  
6 Ms. Belenir, if you would like to come forward, and you  
7 can take all the time that you want to provide your  
8 public comment.

9 And remember that the court reporter is writing  
10 down everything that you say, so don't feel rushed, just  
11 speak slowly and clearly.

12 MS. BELENIR: Thank you. Thank you very much.

13 Commissioners and Judge, thank you for the  
14 opportunity to speak before you today. But I don't even  
15 know where to begin in expressing professionally and  
16 politely how indignant I am about this rate increase.  
17 Since filing to become an intervenor I have read about  
18 EMH, efficient market hypothesis; DCF, discounted cash  
19 flow; RPMs, risk premium models; CAPM, capital asset  
20 pricing models, and oh, so, so many any other acronyms  
21 even to become more horribly frustrated.

22 I knew that I would be butting heads with EPCOR,  
23 but I never thought that I be butting heads with my own  
24 Town of Fountain Hills and RUCO, an organization that is  
25 dedicated to protecting the citizenry.