



0000154776

BEFORE THE ARIZONA CORPORATIONS COMMISSION

RECEIVED

COMMISSIONERS

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

2014 JUL 18 P 4 53

AZ CORP COMMISSION
DOCKET CONTROL

Arizona Corporation Commission
DOCKETED

JUL 18 2014

DOCKETED BY

IN THE MATTER OF THE APPLICATION OF
ARIZONA WATER COMPANY TO EXTEND
ITS CERTIFICATE OF CONVENIENCE AND
NECESSITY IN CASA GRANDE, PINAL
COUNTY, ARIZONA

DOCKET NO. W-01445A-03-0559

NOTICE OF FILING
TESTIMONY

Pursuant to the Procedural Order in this docket dated February 24, 2014, Cornman Tweedy 560 LLC hereby files the following pieces of pre-filed testimony:

- Rebuttal Testimony of Steven Soriano (Remand Proceeding II) dated July 18, 2014. (Attachment 1)
- Rebuttal Testimony of Ernest G. Johnson, Esq. (Remand Proceeding II) dated July 18, 2014. (Attachment 2)
- Rebuttal Testimony of Fred E. Goldman, Ph.D., P.E. (Remand Proceeding II) dated July 18, 2014. (Attachment 3)

RESPECTFULLY submitted this 18th day of July, 2014.

BROWNSTEIN HYATT FARBER SCHRECK LLP

Jeffrey W. Crockett, Esq.
One East Washington Street, Suite 2400
Phoenix, Arizona 85004
Attorneys for Cornman Tweedy 560, LLC

ORIGINAL and thirteen (13) copies filed
this 18th day of July, 2014, with:

Docket Control
ARIZONA CORPORATION COMMISSION
1200 West Washington Street
Phoenix, Arizona 85007

ORIGINAL

1 COPY of the foregoing hand-delivered
this 18th day of July, 2014, to:

2
3 Dwight D. Nodes, Assistant Chief Administrative Law Judge
4 Hearing Division
5 ARIZONA CORPORATION COMMISSION
6 1200 West Washington Street
7 Phoenix, Arizona 85007

8
9 Janice Alward, Chief Counsel
10 Legal Division
11 ARIZONA CORPORATION COMMISSION
12 1200 West Washington Street
13 Phoenix, Arizona 85007

14
15 Steve Olea, Director
16 Utilities Division
17 ARIZONA CORPORATION COMMISSION
18 1200 West Washington Street
19 Phoenix, Arizona 85007

20
21 COPY of the foregoing sent via first class
22 mail and e-mail this 18th day of July, 2014, to:

23
24 Steven A. Hirsch, Esq.
25 BRYAN CAVE LLP
26 One Renaissance Square
27 Two North Central Ave., Suite 2200
28 Phoenix, Arizona 85004-4406



0147760601V11444221.1

ATTACHMENT 1

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

BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

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

IN THE MATTER OF THE APPLICATION
OF ARIZONA WATER COMPANY TO
EXTEND ITS CERTIFICATE OF
CONVENIENCE AND NECESSITY IN
CASA GRANDE, PINAL COUNTY,
ARIZONA

DOCKET NO. W-01445A-03-0559

**REBUTTAL TESTIMONY OF STEVEN SORIANO
REMAND PROCEEDING II
ON BEHALF OF CORNMAN TWEEDY 560, LLC
JULY 18, 2014**

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

CORNMAN TWEEDY 560 LLC

**Rebuttal Testimony of Steven Soriano
Remand Proceeding II**

July 18, 2014

I. INTRODUCTION.

Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

A. My name is Steven Soriano. My business address is 9532 E. Riggs Road, Sun Lakes, Arizona 85248.

Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?

A. I am employed by Robson Communities, Inc., as vice-president. Robson Communities, Inc., provides accounting, human resources, legal, capital budgeting and other administrative services to a group of approximately 50-60 affiliated companies collectively referred to as "Robson" or the Robson family of companies. I am an officer of many of the companies within the Robson family, including the water and wastewater utilities that I identify later.

Q. WHAT IS YOUR RELATIONSHIP TO CORNMAN TWEEDY 560, LLC?

A. I am the vice-president of Arlington Property Management Company, which is the Manager and a member of Cornman Tweedy 560, LLC.

Q. PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND AND WORK EXPERIENCE.

A. In 1991, I received my degree in business administration with a special emphasis in accounting from State University of New York at Buffalo. After college, I joined the certified public accounting firm of Kenneth Leventhal & Company as an auditor in the New York office. I was licensed in New York as a certified public accountant. In 1994, I transferred to the Phoenix office of Kenneth Leventhal & Company where I worked for approximately one year until I joined Robson in 1995.

1 **Q. PLEASE DESCRIBE YOUR WORK RESPONSIBILITIES AT ROBSON?**

2 A. I have worked in many different areas at Robson, including land acquisitions,
3 new-site development, construction and marketing. I serve as vice-president and
4 Chief Financial Officer for many of the companies within the Robson family.

5 **Q. WERE YOU ACQUAINTED WITH THE LATE JIM POULOS?**

6 A. Yes. Jim Poulos ran the various water and wastewater utilities that are owned by
7 Robson. Being involved in land development and project development, I worked
8 closely with Mr. Poulos on water and wastewater planning for the various Robson
9 developments. Mr. Poulos passed away in September 2009. After his passing, I
10 became the general manager of Robson's utility companies and I continue to serve
11 as the general manager of the utility companies today.

12 **Q. WHAT UTILITIES DOES ROBSON OWN AND OPERATE IN ARIZONA?**

13 A. Robson owns and operates the following utilities in Arizona:

- 14 • Pima Utility Company
- 15 • Lago Del Oro Water Company
- 16 • Ridgeview Utility Company
- 17 • Saddlebrooke Utility Company
- 18 • Quail Creek Water Company
- 19 • Picacho Water Company
- 20 • Picacho Sewer Company
- 21 • Mountain Pass Utility Company
- 22 • Santa Rosa Water Company
- 23 • Santa Rosa Utility Company

24 **Q. PLEASE DESCRIBE YOUR TRAINING AND EXPERIENCE WITH**
25 **RESPECT TO THE ROBSON UTILITIES.**

26 A. I spent 10 years at Robson working with Mr. Poulos and former Robson executive
27 Karl Polen in the development of Robson's water and wastewater utilities. After
28 Mr. Poulos passed away, I spent substantial time reading, studying and learning

1 about the Robson utilities, water and wastewater regulation in Arizona, and water
2 and wastewater practices in Arizona. I have attended (and continue to attend) best
3 practices and industry meetings in the water and wastewater fields. I am a
4 member of the Water Utilities Association of Arizona, which holds workshops
5 and open houses on utility industry best practices and Arizona utility regulation. I
6 also serve on a committee to the Arizona Department of Water Resources
7 (“ADWR”) that studies best management practices.

8 **Q. WHAT ARE YOUR RESPONSIBILITIES FOR THE ROBSON**
9 **UTILITIES?**

10 A. I oversee the operations and business management functions of the utilities. I am
11 responsible for the daily operations and administration of the utilities, for financial
12 and operating results, for capital and operating cost budgeting, for rate case
13 planning and oversight, and rate setting policies and procedures.

14 **Q. ON WHOSE BEHALF ARE YOU TESTIFYING?**

15 A. I am testifying on behalf of Cornman Tweedy 560, LLC.

16 **Q. HAVE YOU TESTIFIED PREVIOUSLY IN ANY PROCEEDINGS**
17 **BEFORE THE ARIZONA CORPORATION COMMISSION?**

18 A. Yes. I testified in Phase 2 of Litchfield Park Service Company’s rate case in
19 Docket Nos. W-01427A-09-0104 and SW-01428A-09-0103. I also testified in the
20 most recent rate cases for Pima Utility Company in Docket Nos. W-02199A-11-
21 0329 and SW-02199A-11-0330 and Lago Del Oro Water Company in Docket No.
22 01944A-13-0215.

23 **Q. DO YOU ADOPT ALL OF THE PRE-FILED TESTIMONY OF THE LATE**
24 **JIM POULOS AS YOUR OWN TESTIMONY IN THIS DOCKET?**

25 A. Yes. I am adopting as my own testimony the following pieces of testimony
26 previously filed on behalf of Mr. Poulos:

- 27 • Direct Testimony of Jim Poulos dated June 12, 2006.
- 28 • Rebuttal Testimony of Jim Poulos dated July 6, 2006.

- 1 • Direct Testimony and Exhibits of Jim Poulos in the Remand Proceeding
- 2 dated January 4, 2008.
- 3 • Rebuttal Testimony and Exhibits of Jim Poulos in the Remand Proceeding
- 4 dated February 5, 2008.

5 **II. PURPOSE OF TESTIMONY**

6 **Q. WHAT IS THE PURPOSE OF YOUR DIRECT TESTIMONY?**

7 A. I would like to respond to certain statements in the Direct Testimony of Rita P.

8 Maguire that was filed in this docket on May 30, 2014.

9 **Q. HAVE YOU REVIEWED THE DIRECT TESTIMONY OF MS.**

10 **MAGUIRE?**

11 A. Yes.

12 **III. RESPONSE TO THE DIRECT TESTIMONY OF RITA P. MAGUIRE**

13 **Q. IN HER DIRECT TESTIMONY, MS. MAGUIRE STATES THAT**

14 **“INTUITIVELY, IT MAY MAKE SENSE THAT A SINGLE COMPANY**

15 **PROVIDING BOTH WATER AND WASTEWATER SERVICES WOULD**

16 **LEAD TO MORE EFFICIENT USE OF BOTH SUPPLIES, HOWEVER,**

17 **EXPERIENCE SUGGESTS OTHERWISE.”¹ WHAT IS ROBSON’S VIEW**

18 **REGARDING INTEGRATED WATER AND WASTEWATER**

19 **UTILITIES?**

20 A. Robson enthusiastically believes in the benefits of integrated water and

21 wastewater utilities. An integrated water and wastewater utility does not treat the

22 delivery of potable water, the collection and treatment of wastewater and the

23 distribution of effluent as separate unrelated activities. Rather, an integrated

24 water and wastewater utility recognizes that the provision of water service is

25 substantially interrelated to the provision of wastewater service. An integrated

26 utility recognizes that groundwater is a scarce resource and that the efficient use

27 of reclaimed water for turf/landscape irrigation and recharge of the aquifer are

28 ¹ Direct Testimony of Rita P. Maguire (May 30, 2014) at 12, lines 8-10.

1 critical to the long-term sustainable provision of water and wastewater services to
2 its customers. As an example, consider Robson's Pima Utility Company
3 ("Pima"), which is one of the pioneers of effluent recharge and recovery in
4 Arizona. Pima uses groundwater as its initial source of water supply. Using a
5 system of wells, storage facilities and booster stations, groundwater is distributed
6 to residential and commercial customers throughout Pima's service area. Pima
7 then collects the wastewater generated by its customers and treats that wastewater
8 at its reclamation facility. The reclaimed wastewater, or effluent, is then recycled
9 in the Sun Lakes community through Pima's reclaimed water distribution system.
10 Pima delivers reclaimed water to the Oakwood Golf Course for direct use and to
11 five dual-use recharge and recovery wells for recharge into the local aquifer.
12 Reclaimed effluent is recovered from the recharge and recovery wells for delivery
13 to landscaping and golf course uses in the Sun Lakes community. Pima's fully
14 integrated system directly reduces groundwater pumping by meeting turf and
15 landscaping demands with reclaimed water, and Pima replenishes the aquifer by
16 returning remaining unused effluent to the aquifer.

17 **Q. IN HER DIRECT TESTIMONY, MS. MAGUIRE MAKES THE**
18 **FOLLOWING ASSERTIONS:**

19 **IN AN EFFORT TO STRETCH THE STATE'S SCARCE**
20 **GROUNDWATER RESOURCES, THE ADWR, THE ACC,**
21 **AND THE CITIES AND TOWNS ACROSS THE STATE**
22 **HAVE ADOPTED A VARIETY OF REGULATIONS AND**
23 **POLICIES DESIGNED TO ENCOURAGE WATER**
24 **CONSERVATION AND THE USE OF SURFACE WATER**
25 **AND EFFLUENT. FOR EXAMPLE, STARTING IN 2006,**
26 **THE ACC BEGAN INCLUDING IN ITS OPINIONS AND**
27 **ORDERS TO GRANT OR EXTEND CC&NS, LANGUAGE**
28 **PROHIBITING THE SALE OF GROUNDWATER BY A**
PRIVATE WATER UTILITY FOR USE ON GOLF COURSES,
ORNAMENTAL LAKES OR OTHER WATER FEATURES IN
THE COMMON AREAS OF NEW DEVELOPMENTS.
THESE PROHIBITIONS WERE IMPOSED ON UTILITIES
DOING BUSINESS IN SOME OF THE MOST THREATENED

1 **GROUNDWATER BASINS IN THE STATE, INCLUDING**
2 **AREAS OUTSIDE OF THE STATE'S FIVE AMAS. BUT**
3 **DESPITE SUCH PROHIBITIONS, WATER PROVIDERS**
4 **HAVE FOUND WAYS TO CIRCUMVENT COMPLIANCE**
5 **WITH APPLICABLE WATER CONSERVATION**
6 **REQUIREMENTS.²**

7 **MS. MAGUIRE THEN CITES THE DELETION OF SADDLEBROOKE**
8 **PHASE III AND ITS SUBSEQUENT INCLUSION IN THE NEW CC&N**
9 **OF RIDGEVIEW UTILITY COMPANY AS AN EXAMPLE OF A WATER**
10 **PROVIDER CIRCUMVENTING COMPLIANCE. HOW DO YOU**
11 **RESPOND TO THESE ASSERTIONS BY MS. MAGUIRE?**

12 A. I strongly disagree that Lago Del Oro Water Company or any other Robson utility
13 has circumvented applicable conservation requirements. Let me begin by
14 discussing the deletion of SaddleBrooke Phase III. SaddleBrooke is a Robson
15 master-planned development north of Tucson. Lago Del Oro Water Company
16 held the CC&N to serve the entire SaddleBrooke development, which is
17 comprised of three phases. Back in 2000, Phase III (now known as The Preserve)
18 was planned for 600 residential units, a golf course and some light commercial
19 development. However, it was determined that Lago Del Oro Water Company
20 could not provide service to Phase III without violating the Gallons Per Capita Per
21 Day ("GPCD") program of ADWR's Third Management Plan. In order for Lago
22 Del Oro Water Company to serve Phase III, it would have had to opt out of the
23 GPCD program and participate in ADWR's Non Per Capita Conservation
24 Program ("NPCCP") of the Third Management Plan. That would have resulted in
25 significantly increased costs from enrolling in the Central Arizona Groundwater
26 Replenishment District ("CAGRDR"), which costs would have been passed on to
27 the utility's customers. However, by deleting Phase III from Lago Del Oro Water
28 Company's CC&N and forming a new utility to serve Phase III, the customers of

² *Id.* at 12-13 (citations omitted).

1 Lago Del Oro Water Company would not face increased rates to pay for new
2 customer growth in Phase III. Instead, those costs would be paid by the customers
3 that would locate in Phase III.

4 **Q. WHAT DID ROBSON DECIDE TO DO?**

5 A. Robson formed Ridgeview Utility Company to provide water service to
6 SaddleBrooke Phase III. Ridgeview Utility Company and Lago Del Oro Water
7 Company then filed a joint application with the Arizona Corporation Commission
8 (“Commission”) to delete Phase III from Lago Del Oro Water Company’s CC&N
9 and grant it to Ridgeview Utility Company.³

10 **Q. DID THE COMMISSION APPROVE THE JOINT APPLICATION?**

11 A. Yes. The Commission approved the joint application in Decision 62861, and I
12 would like to point out a few very important findings in that decision. First, the
13 Commission’s Utilities Division Staff (“Staff”) concurred with the proposal to
14 delete Phase III from Lago Del Oro Water Company’s CC&N and grant the area
15 to Ridgeview Utility Company.⁴ Staff’s support of the joint application was
16 undoubtedly based upon the fact that “[t]he developer and Staff have confirmed
17 with ADWR that the proposal to serve Phase III complies with ADWR’s Third
18 Management Plan.”⁵ I would note also that Ms. Maguire was the director of
19 ADWR at the time her agency confirmed that the proposal regarding Phase III
20 complied with the Third Management Plan.

21 Second, the Commission found in Conclusions of Law 5 and 6 that “[i]t is
22 in the public interest that the portion of Lago’s Certificate located within the area
23 described in Exhibit A be deleted” and “Ridgeview is a fit and proper entity to
24 receive a Certificate to provide water service in the proposed service area.”⁶

25 Third, in Finding of Fact 12, the Commission noted that “[t]o comply with
26

27 ³ Docket Nos. W-03861A-00-0208 and W-0944A-00-0208.

⁴ Decision 62861 at 2-3, FOF 13.

28 ⁵ *Id.* at 3, FOF 14 (emphasis added).

⁶ *Id.* at 5, COL 5-6.

1 ADEQ's Third Management Plan, the developer of Phase III intends to enroll the
2 area, including the golf course, in the CAGR, thus requiring the use of
3 renewable supplies for both the golf course and home sites.⁷ To ensure that
4 Phase III was in fact enrolled in the CAGR, the Commission adopted the
5 recommendation of Staff as set forth in Finding of Fact 20(b) that "Ridgeview
6 provide documentation confirming that the lands within Phase III of
7 SaddleBrooke have become member lands of the CAGR within 365 days of the
8 effective date of this Decision."⁸

9 **Q. DID ROBSON ENROLL SADDLEBROOKE PHASE III AS MEMBER**
10 **LANDS IN THE CAGR AS REQUIRED BY DECISION 62861?**

11 A. Yes. As a result, the CAGR is legally obligated to replenish, with renewable
12 water supplies, the amount of the excess groundwater delivered by Ridgeview to
13 its customers. ADWR's assured water supply rules provide a formula for
14 determining the groundwater allowance for each parcel of member land. Absent
15 extinguishment credits, the groundwater allowance in the Phoenix, Tucson and
16 Prescott active management areas is currently 2%. SaddleBrooke Phase III is
17 located within the Tucson AMA. Thus, virtually all of the groundwater that is
18 supplied to Phase III is excess groundwater that must be replenished through
19 participation in the CAGR. The customers of Ridgeview pay the cost of the
20 groundwater replenishment in their property tax bills.

21 **Q. WAS THERE ANYTHING UNLAWFUL OR IMPROPER ABOUT THE**
22 **DELETION OF PHASE III FROM LAGO DEL ORO WATER**
23 **COMPANY'S CC&N?**

24 A. Absolutely not. Curiously, Ms. Maguire faults Robson for failing to comply with
25 a prohibition on the sale of groundwater to golf courses that did not begin
26 appearing in Commission decisions until 2006 based upon her own testimony.⁹

27 ⁷ *Id.* at 2, FOF 12 (emphasis added).

28 ⁸ *Id.* at 5, lines 13-16.

⁹ Direct Testimony of Rita P. Maguire (May 30, 2014) at 12, lines 16-18.

1 The Ridgeview Utility Company CC&N was granted in 2000 and the last CC&N
2 extension for Lago Del Oro Water Company was granted in 2001. Thus, neither
3 utility is subject to any decision from the Commission prohibiting the sale of
4 groundwater to a golf course. Moreover, the testimony and evidence in this case
5 is that there are no golf course or ornamental water features planned for the
6 Cornman Tweedy property when that property is ultimately developed, so the
7 discussion regarding supplying groundwater to golf course is not relevant in this
8 case.

9 I would also point out that Ms. Maguire does not cite any statute, any
10 Commission rule or decision, any ADWR rule or regulation, any permit term or
11 condition, any provision of the Third Management Plan, or any county code or
12 ordinance of any kind with regard to the use and conservation of groundwater that
13 has been violated by Lago Del Oro Water Company or Ridgeview Utility
14 Company. Thus, I am at a loss to understand what applicable water conservation
15 requirements she believes have been “circumvented” by Robson. It appears that
16 Ms. Maguire is intent on steering the discussion away from the real question in
17 this case—that is whether integrated water and wastewater service is preferable to
18 service from a stand-alone provider like AWC.

19 **Q. DID ROBSON DELETE SADDLEBROOKE PHASE III FROM LAGO**
20 **DEL ORO WATER COMPANY’S CC&N IN ORDER TO CIRCUMVENT**
21 **COMPLIANCE WITH ADWR’S THIRD MANAGEMENT PLAN?**

22 A. To the contrary, Robson found a way to fully comply with the Third Management
23 Plan requirements and fulfill its public service obligation to provide water service
24 to its customers at reasonable rates. I would add also that ADWR subsequently
25 modified its NPCCP in response to the very type of problem that Lago Del Oro
26 Water Company experienced with regard to SaddleBrooke Phase III.

27 It is ironic that Ms. Maguire would criticize Robson for allegedly
28 circumventing conservation requirements when she herself has criticized Arizona

1 Water Company for challenging in court the imposition of conservation
2 requirements on water utilities. Ms. Maguire testified as a witness for Global's
3 Palo Verde Utilities Company and Santa Cruz Water Company in Consolidated
4 Dockets W-01445A-06-0199, SW-03575A-05-0926 and W-03576A-05-0926. In
5 the Direct Testimony of Rita Maguire dated January 26, 2007, Ms. Maguire
6 testified as follows:

7 **Q. When did Arizona begin to adopt water-conservation**
8 **measures?**

9 A. Arizona's adoption of the [Groundwater Management Act] in
10 1980 was the first state-level effort to formalize the
11 conservation of surface and groundwater supplies. Many
12 citizens do not realize that water conservation is an intrinsic
13 part of the deliveries to their homes and businesses. This is
14 because the regulatory programs governing water
15 conservation are enforced at the water provider's level. Every
16 ten years, ADWR adopts a new Management Plan for each
AMA which requires increasingly efficient utilization of the
water they deliver or use. This authority was challenged by
Arizona Water Company ("AWC") who argued that
conservation measures should be imposed on the end user.

17 Fortunately, the Arizona Supreme Court disagreed and held
18 that "the principal burden of achieving reductions in
19 groundwater use [is] on water providers, who are charged in
20 ADWR's management plans with reducing their total GPCD
21 during each management period."¹⁰ In the same challenge to
22 ADWR's authority, AWC also attempted to limit the
23 imposition of conservation measures to groundwater,
24 excluding the delivery and use of Colorado River water from
any requirements to conserve. Again, Arizona's Supreme
Court disagreed, recognizing the importance of conserving all
water, regardless of its source.¹¹

26 ¹⁰ *Arizona Water Company v. Arizona Department of Water Resources*, 91 P.3d 990, 992, 208 Ariz. 147,
149 (Ariz. 2004).

27 ¹¹ Direct Testimony of Rita Maguire on behalf of Palo Verde Utilities Company and Santa Cruz Water
28 Company (Docket Nos. W-01445A-06-0199, SW-03575A-05-0926 and W-03576A-05-0926) at 20, lines
7-24 (emphasis added).

1 Q. MS. MAGUIRE STATES THAT “TODAY, RIDGEVIEW UTILITY
2 COMPANY SERVES GROUNDWATER TO ITS CUSTOMERS AND HAS
3 YET TO DELIVER SURFACE WATER OR EFFLUENT EXCEPT FOR A
4 TOKEN AMOUNT OF EFFLUENT TO THE GOLF COURSE
5 ACCORDING TO ITS 2013 ANNUAL WATER USE REPORT TO
6 ADWR.”¹² HOW DO YOU RESPOND?

7 A. All of the reclaimed wastewater from Phase III is beneficially used within
8 SaddleBrooke. There is a significant distance between Phase III and the
9 SaddleBrooke wastewater treatment plant which receives the wastewater from
10 Phase III. In addition, Phase III is significantly higher in elevation than the
11 SaddleBrooke wastewater treatment plant, which means that Ridgeview Utility
12 Company (and ultimately its customers) would face substantial costs to pump the
13 effluent up to Phase III. It is simply more efficient to use the effluent generated
14 from Phase III on the golf courses in other phases of SaddleBrooke. This reduces
15 the costs to the utility company and its customers without increasing groundwater
16 usage.

17 I would also point out that all of Phase III is enrolled as member lands in
18 the CAGRD so virtually all of the groundwater used in Phase III is being
19 replenished. Given that (i) the groundwater pumped to serve Phase III is being
20 replenished; (ii) all effluent from Phase III is being beneficially used; and
21 (iii) Ridgeview Utility Company and Lago Del Oro Water Company are fully
22 compliant with all applicable conservation requirements, I don't see how anyone
23 can find fault with Robson.

24
25
26
27
28

¹² Direct Testimony of Rita P. Maguire (May 30, 2014) at 13, lines 13-15.

1 **Q. MS. MAGUIRE STATES THAT “WHILE EACH ACRE FOOT OF**
2 **GROUNDWATER PUMPED TO SERVE A MEMBER LAND MUST BE**
3 **REPLENISHED, PLANNING FOR THE LONG-TERM WATER**
4 **DEMANDS OF THE MEMBER LANDS IS SIMPLY A MATTER OF**
5 **PAYING FOR THE WATER SUPPLIES RATHER THAN ASKING**
6 **WHETHER THE PROPOSED SUBDIVISION AMENITIES MAKE SENSE**
7 **IN A WATER STRAINED BASIN.”¹³ HOW DO YOU RESPOND?**

8 A. First, I would note that Robson has no plans to develop the Cornman Tweedy
9 property in the foreseeable future. With that said, even when there was some
10 discussion about developing the property several years ago, there was never any
11 plan for subdivision amenities such as a golf course or ornamental lakes. In fact, I
12 can state definitively that Robson will not build a golf course or ornamental lakes
13 on the Cornman Tweedy property. Given that this remand proceeding is focused
14 on “whether a public service corporation, like Arizona Water, in this water
15 challenged area and under the circumstances presented in this case, is providing
16 reasonable service if it is not able or not willing to provide integrated water and
17 wastewater services,”¹⁴ I cannot see the relevance of Ms. Maguire’s opinion on
18 the reasonableness of subdivision amenities.

19 **Q. MS. MAGUIRE IDENTIFIES ROBSON’S QUAIL CREEK**
20 **DEVELOPMENT AS ANOTHER EXAMPLE OF A DEVELOPER**
21 **TRYING TO CIRCUMVENT COMPLIANCE WITH CONSERVATION**
22 **REQUIREMENTS.¹⁵ HOW DO YOU RESPOND?**

23 A. Again, Ms. Maguire’s testimony is off the mark. The Quail Creek Resort
24 Community (“Quail Creek”) receives sewer service from Pima County’s Green
25 Valley Wastewater Treatment Plant (“GVWWTP”). In early 2001, Robson Ranch
26 Quail Creek, LLC (“RRQC”), which is a Robson company and the developer of

27 ¹³ *Id.* at 9, lines 6-8.

28 ¹⁴ Procedural Order dated February 10, 2011 at 2, lines 6-10 (emphasis added).

¹⁵ Direct Testimony of Rita P. Maguire (May 30, 2014) at 16, lines 3-12.

1 Quail Creek, entered into an agreement with Pima County pursuant to which
2 RRQC paid Pima County \$1,200,000 to upgrade the GVWWTP so that it would
3 produce effluent of a quality suitable for reuse and recharge. The agreement also
4 required RRQC to, among other things, convey two parcels of land to Pima
5 County. RRQC then constructed an effluent recharge facility immediately
6 adjacent to the GVWWTP so that RRQC could store the effluent until it is
7 needed.

8 For reasons that are unclear, Ms. Maguire criticizes RRQC for storing
9 effluent in the aquifer even though the effluent from the GVWWTP wasn't even
10 being beneficially used or stored until (i) RRQC paid for upgraded treatment of
11 the effluent, (ii) built a recharge facility, and (iii) purchased the effluent. Also,
12 Ms. Maguire apparently does not take into account or assign any value to the
13 replenishment by the CAGR of the groundwater used on the member lands in
14 Quail Creek. Lastly, Ms. Maguire's analysis doesn't take into account that
15 eighteen of the twenty-seven holes of golf were developed pursuant to earlier laws
16 and rules that did not require replenishment.

17 **Q. MS. MAGUIRE ASSERTS IN HER DIRECT TESTIMONY THAT**
18 **UNDERSTANDING THE COMPLICATED PROGRAMS GOVERNING**
19 **THE USE OF WATER IN THE ACTIVE MANAGEMENT AREAS**
20 **REQUIRES ON-GOING PARTICIPATION IN THE WATER**
21 **COMMUNITY, WHICH IS NOT TYPICALLY SEEN FROM**
22 **DEVELOPER-OWNED WATER COMPANIES.¹⁶ IS THIS STATEMENT**
23 **ACCURATE IN THE CASE OF THE ROBSON UTILITIES?**

24 **A.** No. I cannot speak to what other developer-owned utilities may do, but I can state
25 with absolute certainty that Robson takes very seriously its understanding of and
26 compliance with the requirements of Arizona's water conservation and
27 management programs. In fact, I would put Robson's reputation up against any

28 ¹⁶ *Id.* at 14, lines 13-23.

1 other utility in the state, developer-owned or otherwise. As I testified before, I
2 have spent substantial time reading, studying and learning about the water and
3 wastewater regulations that apply to Robson's utilities. I attend best practices and
4 industry meetings in the water and wastewater fields. I am a member of the Water
5 Utilities Association of Arizona which holds workshops and open houses on
6 utility industry best practices and Arizona utility regulations. I serve on a
7 committee at ADWR which studies best management practices. I would add also
8 that Robson retains expert legal counsel, engineers and consultants to help with
9 regulatory compliance and operation of the Robson utilities. In short, I believe
10 that Robson provides top-notch utility service in compliance with all applicable
11 statutes and regulations.

12 Before me, both Karl Polen and Jim Poulos developed extensive
13 knowledge regarding Arizona's water conservation programs, water management
14 and water policy, which attests to the great importance that Robson places on
15 these subjects. In point of fact, Robson representatives have a long history of
16 active involvement in the development of water policy in Arizona. Mr. Polen
17 worked on landmark legislation leading to the creation of the CAGR, and Mr.
18 Poulos served on the stakeholder working group that assisted with development of
19 the 2005 Plan of Operation for the CAGR and on the Groundwater Users
20 Advisory Committee for the Pinal AMA. In addition, Robson participates
21 actively through its legal counsel on the 2015 Plan of Operation and in
22 stakeholder processes at ADWR, including the Enhanced Aquifer Management
23 Process currently ongoing.

24 **Q. MS. MAGUIRE MAKES THE FOLLOWING STATEMENT IN HER**
25 **DIRECT TESTIMONY:**

26 **THERE MAY ALSO BE A CONFLICT BETWEEN THE**
27 **DUAL GOALS OF BUILDING SUBDIVISIONS AND**
28 **OPERATING AN INTEGRATED WATER AND**
WASTEWATER UTILITY. OFTEN DEVELOPERS BUILD

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

THE INFRASTRUCTURE AND TREATMENT FACILITIES ONLY TO SELL THEM TO THE MUNICIPALITY AFTER THE SUBDIVISION OR MASTER PLANNED COMMUNITY IS SUBSTANTIALLY BUILT-OUT, BUT BY THEN, THE RESIDENTIAL POPULATION IS LEFT RELIANT ON GROUNDWATER. IF PROBLEMS ARISE WITH THE OPERATION OF THESE FACILITIES, AS HAS OCCURRED IN THE PAST, THE MUNICIPALITIES ARE STUCK WITH REPAIRING/RETROFITTING THE INADEQUATE INFRASTRUCTURE AT A GREATER COST THAN IF THE FACILITIES WERE CONSTRUCTED APPROPRIATELY AT THE OUTSET.¹⁷

WHAT IS YOUR RESPONSE TO THIS ASSERTION?

A. Clearly, Ms. Maguire’s statements do not apply to or describe Robson or its utilities in any way. Moreover, while Ms. Maguire may be able to come up with the occasional horror story, as in the case of the Rancho Sahuarita Management Company cited in her testimony, I do not believe the problems she describes arise in the case of most developers. With regard to Robson specifically, we hold onto the utilities we construct to serve our developments, so we have every incentive to make sure that the utility infrastructure is properly designed, permitted and constructed. Moreover, engineering plans for utility infrastructure must be approved by the Arizona Department of Environmental Quality (“ADEQ”) prior to construction, and once construction is completed, the facilities are inspected and subject to an approval of construction. I would note also that all developers constructing utility infrastructure are subject to these ADEQ approvals.

Further, Robson has never sold any of its utilities to a municipality or any other entity, and none of the Robson utilities have any history of inadequate construction requiring subsequent repairs or retrofits.

Q. DOES THIS CONCLUDE YOUR TESTIMONY?

A. Yes.

¹⁷ *Id.* at 14-15.

ATTACHMENT 2

BEFORE THE ARIZONA CORPORATION COMMISSION

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

IN THE MATTER OF THE APPLICATION OF) DOCKET NO. W-01445A-03-0559
ARIZONA WATER COMPANY TO EXTEND ITS)
EXISTING CERTIFICATE OF CONVENIENCE)
AND NECESSITY AT CASA GRANDE AND)
PINAL COUNTY, ARIZONA.)
_____)

REBUTTAL TESTIMONY

OF

ERNEST G. JOHNSON SR., ESQ.

(REMAND PROCEEDING II)

ON BEHALF OF CORNMAN TWEEDY 560, LLC

JULY 18, 2014

TABLE OF CONTENTS

Page

I. INTRODUCTION	1
II. THE PURPOSE AND SCOPE OF THIS REMAND PROCEEDING.....	4
III. COMMENTS REGARDING MR. WALKERS' PRE-FILED TESTIMONY	6
IV. THIS CASE IS FACTUALLY AND PROCEDURALLY DIFFERENT FROM THE CC&N DELETION CASES CITED BY MR. WALKER IN HIS DIRECT TESTIMONY.....	9
V. PUBLIC INTEREST IS THE STANDARD OF REVIEW.....	12
VI. JAMES P. PAUL DOES NOT CONTROL IN THIS CASE.....	15
VII. REMOVING THE CORNMAN TWEEDY PROPERTY FROM AWC's CC&N WILL NOT NEGATIVELY IMPACT OTHER UTILITIES	20
VIII. RESPONSE TO AWC WITNESS, RITA MAGUIRE.....	25
IX. RECOMMENDED REGULATORY ANALYTICAL FRAMEWORK.....	25
X. CONCLUSION.....	29

**EXECUTIVE SUMMARY
ARIZONA WATER COMPANY
DOCKET NO. W-01445A-03-0559**

My rebuttal testimony takes exception with the analysis, issues and arguments raised in the direct testimony of Arizona Water Company witness Paul Walker. I conclude that Mr. Walker's testimony utilizes a premise which I believe is unsuitable in addressing the question identified by the Arizona Corporation Commission ("Commission") in the February 24, 2014, Procedural Order issued by Judge Nodes. Further, in my opinion, because the arguments posed by Mr. Walker's testimony are based upon an unsuitable premise, I further conclude that his arguments are not responsive to the Commission's examination of the question posed in the procedural order. I state my view that several primary assertions or conclusions offered by Mr. Walker are not supported by the facts in this case. Additionally, I conclude that the testimony offered by Mr. Walker appears more focused on arguing in favor of regulatory entitlements than examining the public interest issues that are always relevant, and in my view, paramount, in regulatory proceedings. My testimony offers the Commission a regulatory framework to assist in its analysis of the specific facts and circumstances present in this case. I conclude, based upon the specific facts of this case, as follows:

- That stand-alone water service would not constitute reasonable service where quality integrated service is an option.
- That integrated water and wastewater service would constitute reasonable service.
- That the broad public interest supports excluding the Cornman Tweedy property from Arizona Water Company's CC&N.
- That the *James P. Paul* case is not controlling under the facts of this case.
- That "reasonable" service must be determined on a case-by-case basis.

I further conclude that this proceeding is not simply about the model used to provision service or about whom the provider may be; the bottom line must be about meeting the customer's needs and expectations at the lowest reasonable cost and utilizing a scarce resource in the most efficient manner consistent with the broad public interest. Finally, I address several assertions made by Arizona Water Company witness Rita Maguire and express my opinion that the Robson utilities are well-managed and very reliable utility service providers.

1 **I. INTRODUCTION**

2 **Q. Please state your name and business address.**

3 A. My name is Ernest G. Johnson Sr., 762 W. Hemlock Way, Chandler, Arizona 85248.

4
5 **Q. By whom are you employed and in what capacity?**

6 A. I am employed by STRATEGUS as Principal Consultant.

7
8 **Q. Could you please describe STRATEGUS?**

9 A. Yes, STRATEGUS is a strategic thinking and regulatory consulting firm providing client
10 assistance in strategic thinking, regulatory communications and expert testimony in utility
11 regulatory matters.

12
13 **Q. How long have you been employed by STRATEGUS?**

14 A. I founded STRATEGUS in 2013 after serving over 25 years as a utility regulator. I have
15 over 25 years of public utility regulatory experience spanning all aspects of water, sewer,
16 electric, natural gas and telecommunication services.

17
18 **Q. Prior to founding STRATEGUS, by whom were you employed and in what capacity?**

19 A. Prior to founding STRATEGUS, I was employed by the Arizona Corporation Commission
20 (“ACC” or “Commission”) from October 2001 until early 2013. I served as Director of
21 the Utilities Division until I was selected as Executive Director in August 2009, a title that
22 I held until the end of 2012.

23

1 **Q. Please describe your responsibilities as Utilities Division Director.**

2 A. I was responsible for the day-to-day operations of the Utilities Division, including policy
3 development, case strategy, and overall Division management.

4

5 **Q. Please describe your responsibilities as Executive Director.**

6 A. As Executive Director, I was responsible for the day-to-day operations of all agency
7 divisions at the Commission.

8

9 **Q. Please summarize your educational background and other professional experience.**

10 A. In 1979 and 1982, respectively, I earned Bachelor of Science and Juris Doctorate degrees,
11 both from the University of Oklahoma. In December 1986, I began my regulatory career
12 at the Oklahoma Corporation Commission serving as Staff Attorney, Deputy General
13 Counsel and Utilities Director. In 1993, I was named acting Utilities Director and served
14 in that position until mid-1994. I served as the permanent Utilities Director from mid-
15 1994 until October 2001 when I joined the ACC staff as Utilities Division Director. I
16 have served on numerous committees including the National Association of Regulatory
17 Commissioners sub-committees focusing on energy and telecommunications issues. I have
18 also attended seminars and training events focusing on issues facing the water industry.

19

20 **Q. You stated that you have been involved in the regulation of public utilities since 1986,**
21 **is that correct?**

22 A. Yes, that is correct.

23

24 **Q. Could you please estimate the approximate number of utility regulatory proceedings**
25 **that you have participated in since 1986?**

26 A. I would be in the hundreds.

1 **Q. Could you please elaborate on your areas of experience and expertise in utility**
2 **regulation?**

3 A. Yes, my regulatory experience covers most areas of utility regulation including water,
4 electric, natural gas, telecommunications, cotton gins and pipeline safety.

5
6 **Q. During your tenure as a regulator, were you involved in both federal and state**
7 **regulatory proceedings?**

8 A. Yes, I have been involved in federal, state and regional regulatory proceedings addressing
9 virtually all aspects of utility regulation.

10
11 **Q. Have you participated in utility regulatory policy formulation during your**
12 **regulatory career?**

13 A. Yes. I have been involved in utility regulatory policy discussions and policy formulation
14 for over 25 years at the federal, regional and state levels concerning water, electric, natural
15 gas and telecommunications matters.

16
17 **Q. You stated that you served as a utility attorney, utilities division director and**
18 **executive director, is that correct?**

19 A. Yes, that is correct.

20
21 **Q. Did you ever testify in utility regulatory proceeding in any of those capacities?**

22 A. Yes. As Utilities Division Director, I participated in many regulatory proceedings and
23 offered testimony before the Oklahoma Corporation Commission, the Oklahoma State
24 Legislature, and the ACC. Additionally, during my career as a regulator I participated in
25 regulatory panels and made presentations concerning regulation and regulatory issues at
26 both the federal and state level.

1 **Q. On whose behalf are you testifying today?**

2 A. I am testifying on behalf of Cornman Tweedy 560, LLC.
3

4 **Q. What is the purpose of your testimony in this case?**

5 A. The purpose of my testimony is to respond to certain statements in the Direct Testimony
6 of Mr. Paul Walker, (Hearing on Remand – Phase 2) and the Direct Testimony of Rita P.
7 Maguire who submitted testimony on behalf of Arizona Water Company (“AWC”) on
8 May 30, 2014.
9

10 **Q. Have you reviewed the Direct Testimony of Mr. Walker and Ms. Maguire?**

11 A. Yes. I have also reviewed the other pre-filed testimony that has been submitted in this
12 docket., as well as much of the contents of the file in this case on the Commission’s
13 eDocket.
14

15 **II. PURPOSE AND SCOPE OF THIS REMAND PROCEEDING.**

16 **Q. What is the purpose and scope of this remand proceeding?**

17 A. As described in Decision 69722, the purpose of this remand proceeding is to consider
18 “whether Arizona Water should continue to hold a CC&N for the Cornman extension area
19 at this time.”¹ The Commission’s interest in the Cornman Tweedy property arose out of
20 concerns that “[t]here may not be a current need or necessity for water service in the
21 portions of the extension area that are owned by Cornman, and Cornman does not wish to
22 have its property included in Arizona Water’s CC&N at this time.”² Accordingly, the
23 Commission directed that “[t]he proceeding on remand should be broad in scope so that

¹ Decision 69722 at 19, FOF 101.

² *Id.* at FOF 100.

1 the Commission may develop a record to consider the overall public interest underlying
2 service to the Cornman property....”³
3

4 **Q. Did the Commission provide any additional direction regarding the scope of these**
5 **remand proceedings?**

6 A. Yes. At its February 1, 2011, Open Meeting, the Commission directed further
7 proceedings to determine “whether a public service corporation, like Arizona Water, in
8 this water challenged area and under the circumstances presented in this case, is providing
9 reasonable service if it is not able or not willing to provide integrated water and
10 wastewater services.”⁴
11

12 **Q. Mr. Johnson, based upon your review of the record in this docket, including the pre-**
13 **filed testimony and legal briefs of the parties, do you believe that Arizona Water**
14 **Company can provide reasonable service to the Cornman Tweedy property under**
15 **the circumstances presented in this case?**

16 A. No. In consideration of all of the facts and circumstances of this case, I do not believe that
17 it is in the broad public interest for AWC to hold a CC&N to provide water service to the
18 Cornman Tweedy property. My opinion is based upon, and limited to, the facts and
19 circumstances of this case, including:

- 20 • There is no current need for water service to the Cornman Tweedy property;
- 21 • Cornman Tweedy has not asked for its property to be included in AWC’s CC&N;
- 22 • Cornman Tweedy has provided many reasons why it does not want its property
23 included in AWC’s CC&N; and

³ *Id.* at 20, FOF 104.

⁴ See Procedural Order dated February 10, 2011 at 2, lines 7-10.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

- Permitting AWC to hold the CC&N for the Cornman Tweedy property will not allow the integration of water and wastewater utility services.

Q. Mr. Johnson, your testimony is based upon your 25 years as a utility regulator and is presented from a regulatory policy perspective, correct?

A. Yes, that is correct.

III. COMMENTS REGARDING MR. WALKER’S PRE-FILED TESTIMONY.

Q. In the Direct Testimony of Paul Walker, Mr. Walker states that “the Commission has unconditionally granted Arizona Water Company the CC&N to provide water utility service to the Cornman Tweedy property.”⁵ Do you agree with this assertion?

A. No. I do not believe the statement fairly and fully characterizes the effect of Decisions 66893 and 69722. I understand that in Decision 69722, the Commission deemed that “the conditions placed on Arizona Water’s CC&N extension in Decision No. 66893 have been fulfilled.”⁶ However, the Commission simultaneously remanded the case to the Hearing Division “for further proceedings regarding whether Arizona Water Company should continue to hold a CC&N for the Cornman extension area at this time.”⁷ Given this critical component of Decision 69722, it is not a fair and fully accurate characterization to describe AWC as possessing an unconditional CC&N to serve the Cornman Tweedy property.

⁵ Direct Testimony of Paul Walker (Hearing on Remand – Phase 2) at 3, lines 13-15.
⁶ Decision 69722 at 19, FOF 98.
⁷ *Id.* at 20, lines 25.5-27.5.

1 **Q. Please Elaborate.**

2 A. Cornman Tweedy's efforts to exclude its property from AWC's CC&N go back to a point
3 in time when AWC's CC&N was still conditional. The Commission granted an extension
4 of AWC's CC&N with conditions in Decision 66893 on April 6, 2004. Two weeks later,
5 the Dermer Family Trust, a predecessor-in-interest to Cornman Tweedy and owner of 640
6 acres in the CC&N extension area at the time Decision 66893 was issued, filed a letter in
7 the docket seeking to have its property excluded from AWC's CC&N.

8 A year later on March 30, 2005, with the compliance deadline only a week away,
9 AWC filed a request to extend the deadline for complying with the conditions of Decision
10 66893. On April 7, 2005, Cornman Tweedy filed a letter in the docket stating that
11 Decision 66893 was automatically null and void by its own terms because the compliance
12 deadline was not met. Cornman Tweedy further stated that it did not want to have its
13 property included in AWC's CC&N. This proceeding ensued.

14 Although the Commission determined in Decision 69722 that the conditions of
15 66983 had been fulfilled and extended the compliance deadline through the date of
16 Decision 69722, the Commission simultaneously remanded the case to the Hearing
17 Division for further proceedings to determine whether AWC should continue to hold the
18 CC&N for the Cornman Tweedy property, adding the following highly significant notice:

19 IT IS FURTHER ORDERED that Arizona Water Company is hereby on
20 notice that the Commission's subsequent proceeding on remand will be for
21 the purpose of considering whether the Cornman property should be
22 deleted from the CC&N extension granted to Arizona Water Company by
23 Decision No. 66893.⁸

24 Since the issuance of Decision 66893, there has never been a time when AWC held a
25 CC&N for the Cornman Tweedy property free from conditions or restrictions. When
26 Decision 66893 was issued in April 2004, it was subject to several conditions which, if left

⁸ *Id.* at 21, lines 1-4.

1 unsatisfied, would have resulted in the decision being “deemed null and void without
2 further Order of the Arizona Corporation Commission.”⁹ Although the Commission later
3 deemed the conditions of Decision 66893 fulfilled in Decision 69722, it also remanded the
4 case for further proceedings and put AWC on notice that the Cornman Tweedy property
5 could be excluded from the CC&N. This is a critical and determinative point. Had the
6 Commission omitted the remand order from its decision, I would agree that AWC holds an
7 unconditional CC&N to serve the Cornman Tweedy property. However, the Commission
8 included the remand language and order, and that fact cannot be ignored. Whatever
9 authority AWC possesses as a result of the issuance of Decision 66893, it does so subject
10 to the express limitation contained in Decision 69722 that the Cornman Tweedy property
11 may be excluded from the CC&N if the public interest so requires.

12 I would add that AWC has been on notice throughout the entirety of this remand
13 proceeding that the Cornman Tweedy property could be excluded from its CC&N.
14 Therefore, there could have been no detrimental reliance on Decision 66893 by AWC.
15 Any actions by AWC such as planning, engineering, permitting or construction to extend
16 utility infrastructure for the sole benefit of the Cornman Tweedy property was done at
17 AWC’s risk.

18
19 **Q. In his direct testimony, Mr. Walker states his understanding that this is a CC&N**
20 **deletion proceeding.¹⁰ Do you agree with that characterization of this proceeding?**

21 A. While I believe that the parties may refer to this case as a CC&N deletion proceeding as a
22 shorthand way of describing the proceeding, I would not characterize this case as a typical
23 or routine CC&N deletion case because the Cornman Tweedy property has never been
24 subject to a CC&N without conditions or restrictions. In my view, whatever authority

⁹ Decision 66893 at 7, lines 7-9.

¹⁰ Direct Testimony of Paul Walker (Hearing on Remand – Phase 2) at 3, line 19.

1 AWC may possess under Decisions 66893 and 69722 with respect to the Cornman
2 Tweedy property, such authority is not identical to and is, in fact, less than the authority
3 granted in a CC&N which is not subject to a remand proceeding. Because the procedural
4 history and facts of this case are so very unique, and unprecedented in my experience, a
5 description of the case does not lend itself to such a general characterization as contained
6 in Mr. Walker's testimony.

7
8 **IV. THIS CASE IS FACTUALLY AND PROCEDURALLY DIFFERENT FROM THE**
9 **CC&N DELETION CASES CITED BY MR. WALKER IN HIS DIRECT**
10 **TESTIMONY.**

11
12 **Q. In his direct testimony, Mr. Walker discusses cases where the commission has**
13 **deleted CC&Ns.¹¹ Are the facts and circumstances of the cases cited by Mr. Walker**
14 **comparable to the facts and circumstances of this case?**

15 A. No, not at all. Mr. Walker discusses two well-known cases where the certificated water
16 providers failed abysmally at providing safe, adequate and reliable water service to their
17 customers. These cases involved Carl Harvey d/b/a Golden Corridor Water Company (Docket
18 W-024974A-06-0580) and American Realty & Mortgage Co., Inc., d/b/a Hacienda Acres Water
19 System (Docket W-02258A-07-0470). In both cases, the Commission cancelled the companies'
20 respective CC&Ns and appointed interim managers because the companies' conduct endangered
21 the public health and safety of their customers. A third, well-known case cited by Mr. Walker
22 involved a group of companies collectively referred to as the McLain systems located in Cochise
23 County, Arizona.¹² While the Commission approved the sale and transfer of utility assets and
24 cancellation of the corresponding CC&Ns with respect to the McLain water systems—as opposed

¹¹ *Id.* at 3, lines 17-19, and pp. 4-5.

¹² The McLain Systems include Miracle Valley Water Company, In., Cochise Water Co., Horseshoe Ranch Water Company, Crystal Water Company, Mustang Water Company, Coronado Estates Water Company and Sierra Sunset Water Company.

1 to revoking the CC&Ns—the systems had very serious problems which rendered them unable to
2 provide safe, reliable and adequate water service to their customers and, in fact, was found by the
3 Commission to be “a clear and present danger to the public health and safety.”¹³

4
5 **Q. Does this case present a situation where Arizona Water Company is unable or**
6 **unwilling to provide safe, adequate and reliable water service to the Cornman**
7 **Tweedy Property?**

8 A. No. Cornman Tweedy has never asserted that AWC is unable to provide safe, adequate
9 and reliable water service to the Cornman Tweedy property. To cast this case as an
10 inquiry into the ability of AWC to provide safe, adequate and reliable water service
11 misdirects the proper focus of this case and cynically foreordains the outcome. Rather,
12 Cornman Tweedy has raised the following issues:

- 13 1. There is no need and necessity for water service on the Cornman Tweedy property
14 as the owner has no plans to develop the property in the near term.¹⁴
- 15 2. Cornman Tweedy has not requested water service from AWC. In fact, since April
16 2005, Cornman Tweedy has been working to get its property excluded from
17 AWC’s CC&N. Before that, the Dermer Trust (to which Cornman Tweedy is a
18 successor) began working to get its property excluded from AWC’s CC&N in
19 April, 2004.¹⁵
- 20 3. Cornman Tweedy does not want AWC to be its water provider for a variety of
21 reasons, including:

¹³ Decision 66241 (Dockets W-01646A-03-0601 *et al.*).

¹⁴ Direct Testimony and Exhibits of Jim Poulos in the Remand Proceeding (January 4, 2008) at 10, lines 24-25.

¹⁵ *Id.* at 13, lines 13-25.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

- Cornman Tweedy would lose the opportunity to have integrated water and wastewater systems serving the property at the point in time that service is required.
- Service by AWC will necessitate the construction of separate water campuses to serve the north half of the property located within the CC&N of AWC and the south half of the property located within the CC&N of Picacho Water Company, thereby increasing costs to the ultimate developer which will be reflected in higher costs to customers.
- Cornman Tweedy would incur added costs in dealing with AWC that it would not incur dealing with Picacho Water Company.
- Cornman Tweedy would experience time delays in dealing with AWC that it would not experience dealing with Picacho Water Company.¹⁶

4. Where there is an option for a single water provider to serve an entire development, it would be reasonable for the Commission to opt for a single provider instead of splitting the development between two providers.¹⁷
5. Where there is an option for an integrated water and wastewater provider for a development, it would be reasonable for the Commission to opt for an integrated water and wastewater provider over stand-alone water and wastewater providers.¹⁸

The issues in this case are clearly very different from the issues raised in the Golden Corridor Water Company, Hacienda Acres Water System, and McLain water system cases. In addition, none of the CC&Ns held by the companies cited by Mr. Walker were subject to a remand proceeding as in this case.

¹⁶ *Id.* at 15-16.
¹⁷ *Id.* at 9, lines 10-12.
¹⁸ *Id.* at lines 13-16.

1 **Q. Does Mr. Walker discuss other cases where the Commission has deleted the CC&N**
2 **of a public service corporation?**

3 A. Yes. Mr. Walker notes that the Commission has deleted CC&Ns in cases of
4 condemnation by a municipality and in cases where a utility has requested a sale of assets.
5 Of course, those circumstances are clearly not comparable to the facts and circumstances
6 of this case.

7

8 **Q. In his direct testimony, Mr. Walker states that he is not aware “of any case where the**
9 **Commission has deleted a utility’s CC&N on the grounds that it was not providing**
10 **reasonable service because it only provided water or wastewater service, and not**
11 **both, to a single area.”¹⁹ Are you aware of any such cases?**

12 A. I am not aware of any case where the Commission has addressed the facts and
13 circumstances that are presented in this case. However, if Mr. Walker is implying that the
14 Commission cannot exclude the Cornman Tweedy property from AWC’s CC&N because
15 it has not previously taken such an action, I would strongly disagree with that suggestion.
16 As I discuss later in my testimony, public interest is always paramount and is the
17 controlling factor in decisions concerning service by public service corporations. The
18 Commission always determines the public interest on a case-by-case basis. Accordingly,
19 the Commission has the authority to determine what is in the public interest in this case
20 and to act accordingly, including excluding the Cornman Tweedy property from AWC’s
21 CC&N.

22

23

24

¹⁹ Direct Testimony of Paul Walker (Hearing on Remand – Phase 2) at 7, lines 3-8.

1 **V. PUBLIC INTEREST IS THE STANDARD OF REVIEW.**

2 **Q. What is the proper focus of this case?**

3 A. As I explained earlier, the commissioners directed a broad review based upon the
4 following questions:

- 5 • Whether there is a current need or necessity for water service on the Cornman
6 Tweedy property.²⁰
- 7 • Whether Cornman Tweedy wishes to have its property included in AWC's CC&N
8 at this time.²¹
- 9 • Whether a public service corporation, like Arizona Water, in this water challenged
10 area and under the circumstances presented in this case, is providing reasonable
11 service if it is not able or not willing to provide integrated water and wastewater
12 services.²²

13
14 **Q. In analyzing these questions, what standard should be applied?**

15 A. The commissioners have made clear that they want to determine what is in the overall
16 public interest underlying the Cornman Tweedy property.²³ So public interest is clearly
17 the standard to be applied.

18
19 **Q. As the Director of Utilities Divisions in Oklahoma and Arizona over a span of 20**
20 **years, did you develop an understanding of the public interest standard?**

21 A. Yes. The public interest standard by its very definition requires consideration of the broad
22 public interest in the decision-making process and is the standard by which regulatory
23 bodies such as the ACC must assess, evaluate, weigh and consider their actions. It

²⁰ Decision 69722 at 19, FOF 100.

²¹ *Id.*

²² Procedural Order dated February 10, 2011, at 2, lines 6-10.

²³ Decision 69722 at 20, FOF 104.

1 requires that the decision rendered consider the impacts upon the affected public including
2 health, safety and general welfare. This is a broad obligation placed upon the decision
3 maker and necessitates a broad inquiry in the decision-making process.

4
5 **Q. Is Consideration of the public interest in this case limited to a consideration of**
6 **whether or not AWC is able to provide safe, adequate and reliable water services to**
7 **the Cornman Tweedy property?**

8 A. No. The public interest is the paramount regulatory consideration and not limited as AWC
9 urges. The concept is expressed in Article 15, Section 3 of the Arizona State Constitution.

10

11 **Q. Please explain.**

12 A. Among other things, Article 15, Section 3 of the Arizona State Constitution empowers the
13 Commission to make reasonable rules, regulations and orders governing the operations of
14 public service corporations doing business in Arizona.²⁴ During the drafting of the
15 Arizona Constitution, the majority of the delegates were determined to protect the public
16 interest by including in the Constitution broad power to regulate utilities.²⁵ Clearly, the
17 standard of review in this case must begin with consideration of the broad public interest.

²⁴ Article 15, Section 3. The corporation commission shall have full power to, and shall prescribe just and reasonable classifications to be used and just and reasonable rates and charges to be made and collected, by public service corporations within the state for service rendered therein, and make reasonable rules, regulations and orders, by which such corporations shall be governed in the transaction of business within the state, and may prescribe the forms of contracts and the systems of keeping accounts to be used by such corporations in transacting such business, and make enforce reasonable rules, regulations and orders for the convenience, comfort, and safety, and the preservation of the health, of the employees and patrons of such corporations. Provided, that incorporated cities and towns may be authorized by law to exercise supervision over public service corporations doing business therein, including the regulation of rates and charges to be made and collected by such corporations; provided further that classifications, rates, charges, rules, regulations, orders, and forms or systems prescribed or made by said corporation commission may from time to time be amended or repealed by such commission.

²⁵ The Corporation Commission: Preserving its Independence, by Deborah Scott Engelby, Ariz. St. L. J., Volume 20, No. 1 at 243. As a result, the Commission is constitutionally obligated to regulate public service corporations in the public interest. *supra* at 245

1 **Q. Do you believe the public interest supports the exclusion of the Cornman Tweedy**
2 **property from AWC's CC&N based upon the facts and circumstances of this case?**

3 A. Yes. An integrated water and wastewater provider does not treat the delivery of water and
4 the treatment of wastewater as separate unrelated activities. Rather, an integrated water
5 and wastewater provider recognizes that the delivery of water services is substantially
6 interrelated with the provision of wastewater services. An integrated provider recognizes
7 that the use of reclaimed water for turf facilities and recharge of the aquifer are critical to
8 the long-term sustainable provision of water and wastewater services to utility customers.

9 I believe that integrated water and wastewater systems are essential in order to
10 advance water sustainability in a water scare environment, and I have concerns about an
11 area that is not served by an integrated provider. Stand-alone water companies such as
12 AWC are largely unable to provide effluent for re-use on turfed areas such as parks, golf
13 courses and ornamental water features, and they lack the ability to engage in effective
14 groundwater management on the scale that is possessed by integrated water and
15 wastewater providers. Such practices as the recharge of effluent and the direct use of
16 effluent for turf irrigation and other non-potable purposes are central to the very notion of
17 water sustainability.

18 Because AWC cannot provide efficient use of effluent, future customers within the
19 Cornman Tweedy property will not be served in a manner that will promote water
20 conservation to the greatest extent possible. Thus, in balancing the public interest, this
21 fact along with the many other benefits of integrated utility services lead me to conclude
22 that the Cornman Tweedy property should be excluded from AWC's CC&N.
23
24
25

1 **Q. In the Direct Testimony of William M. Garfield (Hearing on Remand – Phase II),**
2 **Mr. Garfield states that “Arizona Water Company is willing and able to provide**
3 **water and wastewater service to the Cornman Tweedy property.”²⁶ Does this**
4 **statement surprise you?**

5 A. Yes. In my experience at the Commission, AWC has generally used a different business
6 model and, to my recollection, has always resisted providing wastewater service in
7 Arizona. Additionally, AWC has opposed the efforts of others to distribute effluent within
8 its service area as evidenced by the lawsuits AWC filed against the Town of Bisbee and
9 the Town of Casa Grande.

10
11 **VI. JAMES P. PAUL DOES NOT CONTROL IN THIS CASE.**

12 **Q. Are you familiar with the case of James P. Paul Water Company V. Arizona**
13 **Corporation Commission?**

14 A. Yes. *James P. Paul Water Company v. Arizona Corporation Commission*, 137 Ariz.
15 426, 671 P.2d 404 (1983) (“*James P. Paul*”) involved a dispute between two water
16 companies over service to a 240-acre parcel. In 1969 or 1970, James P. Paul Water
17 Company (“Paul Water Company”) received a CC&N to provide water service to several
18 sections of largely undeveloped land in Maricopa County, including the 240 acres that was
19 the subject of the litigation. Pinnacle Paradise Water Company (“Pinnacle Paradise”) held
20 a CC&N to provide water service to an area adjacent to the 240 acres. In 1977, Pinnacle
21 Paradise filed a petition with the Commission to delete the 240 acres from Paul Water
22 Company’s CC&N. Paul Water Company was not providing service to the 240 acres and
23 it had not constructed any facilities to serve the property since no demands for service had
24 been made by the owner of the property. The owner of the 240 acres was also a 50%

²⁶ Direct Testimony of William M. Garfield (Hearing on Remand – Phase II) at 8, lines 9-10.

1 owner of Pinnacle Paradise. Pinnacle Paradise had facilities adjacent to the 240 acres and
2 could have extended its facilities at a relatively low cost. After a hearing, the Commission
3 granted the petition and deleted the 240 acres from Paul Water Company's CC&N, adding
4 the territory to the CC&N of Pinnacle Paradise.

5 Paul Water Company appealed the Commission's decision to the Superior Court
6 which upheld the decision. However, the Arizona Court of Appeals subsequently reversed
7 the Superior Court. An appeal to the Arizona Supreme Court ensued and the Supreme
8 Court held in favor of Paul Water Company, ruling that the "public interest is the
9 controlling factor in decisions concerning service of water by water companies."²⁷ In
10 applying the public interest standard in *James P. Paul*, the court stated that "[o]nce
11 granted, the certificate confers upon its holder an exclusive right to provide the relevant
12 service for as long as the grantee can provide adequate service at reasonable rates."²⁸

13
14 **Q. AWC has asserted that the standard of review in this case is set forth in *James P.***
15 ***Paul* and that the Commission may only exclude the Cornman Tweedy property**
16 **from AWC's CC&N if it finds that AWC is unwilling or unable to provide adequate**
17 **service at reasonable rates. Do you agree?**

18 **A.** No. In my opinion, *James P. Paul* does not prevent the Commission from excluding the
19 Cornman Tweedy property from AWC's CC&N if the Commission determines that
20 the exclusion is in the public interest, and the public interest inquiry is broad and is not
21 limited to whether AWC is unwilling or unable to provide adequate service at reasonable
22 rates. The Commission has been very clear regarding the issues it wants addressed in this
23 proceeding. Because the facts and circumstances of this case are very different from those

²⁷ *James P. Paul Water Company v. Arizona Corporation Commission*, 137 Ariz. 426, 429, 671 P.2d 404 (1983).

²⁸ *Id.*

1 in *James P. Paul*, the standard of review applied by the court in *James P. Paul* does not
2 apply in this case.
3

4 **Q. You state that the facts and circumstances of this case are very different from those**
5 **in *James P. Paul*. Please elaborate.**

6 A. There is a critical procedural difference between this case and *James P. Paul*. In *James P.*
7 *Paul*, the request to delete territory from the Paul Water Company CC&N came seven
8 years after the CC&N was granted. However, Cornman Tweedy's efforts to have its
9 property excluded from AWC's CC&N go back to a point in time when AWC's CC&N
10 was still conditional. While the Commission deemed the conditions of Decision 66893
11 fulfilled and extended the compliance deadline through the date of Decision 69722, the
12 Commission simultaneously remanded the case to the Hearing Division for further
13 proceedings to determine whether AWC should continue to hold the CC&N for the
14 Cornman Tweedy property.²⁹ The decision in *James P. Paul* clearly did not include the
15 limitation contained in Decision 69722 when the Paul Water Company CC&N became
16 effective, and the water company held the CC&N for seven years before a deletion
17 petition was filed. In this case there has never been a time when AWC held a CC&N for
18 the Cornman Tweedy property free from conditions or restrictions.
19

20 **Q. Is there anything else that distinguishes this case from *James P. Paul*?**

21 A. Yes. *James P. Paul* was decided more than 30 years ago in 1983. I believe stand-alone
22 water and wastewater providers were largely the norm at that time. However, most of the
23 larger utilities in Arizona now provide integrated water and wastewater services. EPCOR
24 Water Arizona, Global Utilities, Liberty Utilities, Johnson Utilities and the majority of the

²⁹ Decision 69722 at 20-21.

1 Robson utilities are integrated providers, to name several. Moreover, it is my
2 understanding that utilities formed to serve new developments are now typically formed as
3 integrated water and wastewater providers. Woodruff Water Company and Woodruff
4 Utility Company certificated in 2006 (Decision 68453)³⁰ and Perkins Mountain Water
5 Company and Perkins Mountain Utility Company certificated in 2008 (Decision 70663)³¹
6 are two recent examples. In addition, Southwest Environmental Utilities, L.L.C., filed an
7 application in 2013 to provide integrated water and wastewater services for a new
8 development in the Town of Florence.³² AWC is very unique in that it is a large utility,
9 which has persisted in the stand-alone water company model. The question of integration
10 of water and wastewater services was not an issue and was not addressed in *James P.*
11 *Paul*.

12
13 **Q. Why do you believe integration of water and wastewater service appears to have**
14 **become the norm?**

15 A. There are several reasons. First, during my tenure as Utilities Division Director and
16 then Executive Director, the Commission came to the settled view that integrated water
17 and wastewater systems are necessary to advance water sustainability in water-scare
18 regions of the state. Stand-alone water companies are largely unable to provide effluent
19 for re-use on turfed areas such as parks, golf courses and ornamental water features, and
20 they lack the ability to engage in effective groundwater management on the scale of the
21 integrated water and wastewater providers. The recharge of effluent and the use of
22 effluent for turf irrigation are central to water sustainability. The Commission has clearly
23 expressed its preference for integrated water and wastewater providers. For example, in

³⁰ Docket Nos. W-04264A-04-0438 and SW-04265A-04-0439.

³¹ Docket Nos. W-20380A-05-0490 and SW-20379A-05-0489.

³² Docket No. WS-20878A-13-0065.

1 the cases of Woodruff Water Company and Woodruff Utility Company that I mentioned
2 above, the Commission approved the CC&N application of Woodruff Water Company
3 over a competing application for the same territory filed by AWC.³³ In that case, I
4 submitted the Staff Report to the Commission in which Staff concluded as follows:

5 The Commission has long supported financially viable, inter-connected
6 utilities operating for long term compliance with the state's water policy
7 goals. AWC is such a utility. However, while Arizona Water provides
8 substantial value as sophisticated interconnected potable water provider,
9 AWC does not offer wastewater treatment services to the proposed
10 community.

11 Water Policy requires recognition of the value of appropriate treatment
12 and use of wastewater in water scarce areas. Staff must base its
13 recommendation on goals to ensure the long term viability and compliance
14 of water and wastewater utilities. Staff supports regional planning for
15 water and wastewater to ensure an economy of scale for both services.
16 Staff recognizes integrated utilities provide enhanced services to work in
17 conjunction with public policy goals of clean water, use of reclaimed
18 water for turf facilities and recharge of the aquifer.

19 The Sandia property will extinguish grandfathered irrigation wells and
20 obtain extinguishment credits for compliance with the groundwater
21 regulations. On a going forward basis, Sandia will also produce effluent
22 which could result in a recharge credit. Unified water and wastewater
23 utilities should be better suited to comply with groundwater management
24 requirements by sharing customer information between divisions,
25 recognizing groundwater credits for irrigation well retirement and
26 ensuring reuse permits obtain maximum value.³⁴

27 In Decision 68453, the Commission approved Woodruff Water Company's request for a
28 CC&N, finding that "[t]he benefits of developing and operating integrated water and
29 wastewater utilities in this instance outweigh the economies imputed to AWC's larger
30 size."³⁵

³³ Consolidated Docket Nos. W-04264A-04-0438, SW-04265A-04-0439 and W-01445A-04-0755.

³⁴ Staff Report dated March 3, 2005, from Ernest Johnson to Docket Control (Consolidated Docket Nos. W-04264A-04-0438, SW-04265A-04-0439 and W-01445A-04-0755) at 15 (emphasis added).

³⁵ Decision 68453 at 29, FOF 129.4.

1 Second, as explained in the testimony filed in this docket by Messrs. Goldman and
2 Hendricks, integrated water and wastewater systems hold benefits beyond water
3 conservation including cost savings, allowing for more effective design of systems for
4 environmental compliance purposes, and facilitating customer convenience by allowing
5 for joint billing and collection. I would add also that integrated water and wastewater
6 providers can eliminate one of the major challenges of stand-alone sewer providers, which
7 is dealing with customers who will not pay their sewer bills.

8 Third, there is a very practical reason. Wastewater service obviously includes the
9 collection and treatment of wastewater from customers. However, the operator of a
10 wastewater treatment plant must also manage the effluent which continuously discharges
11 from the plant. Integrated utilities are better able to manage the effluent because they can
12 coordinate the delivery and use of effluent with the delivery and use of potable water in
13 ways which make the most beneficial use of both resources.

14
15 **Q. Is there anything else that distinguishes this case from *James P. Paul*?**

16 **A.** Yes. In *James P. Paul*, there was a demonstrated need for water service. The record
17 shows that one month prior to the hearing in that case, the property owner informed the
18 Paul Water Company of its anticipated water needs.³⁶ However, in the case of Cornman
19 Tweedy, there is no need or necessity for water service. Additionally, Cornman Tweedy
20 has expressed a desire that its property be served by an integrated provider. There was no
21 such request by the landowner in *James P. Paul*.

22
23
24

³⁶ *James P. Paul*, 137 Ariz. at 430, 671 P.2d at 409.

1 **VII. REMOVING THE CORNMAN TWEEDY PROPERTY FROM AWC'S CC&N**
2 **WILL NOT NEGATIVELY IMPACT OTHER UTILITIES.**

3
4 **Q. Mr. Walker asserts that if the commission deletes the Cornman Tweedy Property**
5 **from AWC's CC&N, "[S]uch a decision will alarm every water and wastewater**
6 **utility in the state, the vast majority of which provide only one type of service."³⁷ Do**
7 **you agree with this assertion?**

8 **A.** No. Mr. Walker provides no factual support for his assertion. The Commission in
9 Decision 69722 placed AWC on notice that the remand proceeding would be for the
10 purpose of considering whether the Cornman property should be excluded from AWC's
11 CC&N. On February 24, 2014, Judge Nodes issued a procedural order asking the parties
12 to address the following question:

13 Whether a public service corporation like Arizona Water in this water
14 challenged area and under the circumstances presented in this case, is
15 providing reasonable services if it is not able or not willing to provide
16 integrated water and wastewater services.³⁸

17 Despite the notice that has been provided in this docket, and despite Mr. Walker's
18 associations with many of the larger water and wastewater utilities in this state, not a
19 single water or wastewater utility has intervened in this proceeding. In my experience,
20 water and wastewater utilities actively protect their interests when they are facing
21 perceived financial harm or when their business interests are at risk. Thus, it is only
22 logical to conclude that Mr. Walker's perspective is not shared by other water and
23 wastewater utilities in the state.

24 Further, as I discussed above, most private utilities serving in the more populated
25 growth areas of the state already provide integrated water and wastewater service. There
26 has been substantial consolidation within the industry over the past decade with utilities

³⁷ Direct Testimony of Paul Walker (Hearing on Remand – Phase 2) at 7, lines 13-14.

³⁸ Procedural Order dated February 10, 2011 at 2, lines 6-10.

1 such as Epcor Water, Global Water and Liberty Utilities acquiring smaller stand-alone
2 water and wastewater companies.³⁹ Thus, I do not believe that a decision to exclude the
3 Cornman Tweedy property would cause alarm among the integrated providers such as
4 Epcor Water Arizona, Global Utilities, Liberty Utilities, Johnson Utilities and the Robson
5 utilities. In fact, these companies may even welcome a decision that would advance the
6 integration of water and wastewater services. In addition, new applications for CC&N's
7 to serve new developments now typically address both water and wastewater services, as
8 in the cases of the Woodruff utilities, the Perkins Mountain utilities, and Southwest
9 Environmental Utilities, to name a few.

10
11 **Q. With regard to the small, stand-alone water and wastewater utilities in the state,**
12 **should they fear a decision by the commission to delete the Cornman Tweedy**
13 **property from AWC's CC&N?**

14 **A.** No. The Commission is not subject to the judicial doctrine of *stare decisis*, which
15 obligates a court of law to follow earlier judicial decisions when the same facts arise again
16 in litigation. Rather, the Commission is always required to act in the public interest,
17 regardless of prior decisions, and the public interest is evaluated based upon the facts and
18 circumstances of each specific case. Thus, a decision by the Commission to exclude the
19 Cornman Tweedy property from AWC's CC&N does not bind a future Commission to act
20 in the same way in a different case.

21 In addition, this case is very different from *James P. Paul* where the landowner
22 sought deletion of its property from a CC&N which was issued seven years earlier and
23 which was fully effective without conditions or restrictions. As I testified earlier, there
24 has never been a time when AWC held a CC&N for the Cornman Tweedy property free

³⁹ I would also note that there have been numerous acquisitions of stand-alone water and wastewater utilities by municipalities in Arizona.

1 from conditions or restrictions. Thus, a decision excluding the Cornman Tweedy property
2 from AWC's CC&N under the unique facts and circumstances of this case should not
3 cause any concern among stand-alone water or sewer utilities.
4

5 **Q. Mr. Walker states that the Commission is creating a new standard for deleting a**
6 **CC&N and that deleting the Cornman Tweedy Property from AWC's CC&N is bad**
7 **policy.⁴⁰ How do you respond?**

8 A. As I explained earlier, the Commission is not bound by precedent like courts of law and I
9 do not believe that excluding the Cornman Tweedy property from AWC's CC&N sets a
10 new standard for deletion. In fact, I am reluctant to even acknowledge this case as a
11 deletion proceeding because the Cornman Tweedy property has never been subject
12 to a CC&N without conditions or restrictions. In other words, whatever authority may be
13 possessed by AWC under Decisions 66893 and 69722 with respect to the Cornman
14 Tweedy property is less than—and materially different from—the authority held by
15 Paul Water Company.

16 Likewise, I do not believe that the Commission is setting policy by excluding the
17 Cornman Tweedy property from AWC's CC&N because any such a decision will
18 necessarily turn on the unique facts and circumstances of this case. That being said, I do
19 believe the Commission has clearly expressed a preference in recent years for integrated
20 water and wastewater utilities, and a decision to exclude the Cornman Tweedy property
21 from AWC's CC&N would be consistent with that preference.
22
23

⁴⁰ Direct Testimony of Paul Walker (Hearing on Remand – Phase 2) at 7-8.

1 **Q. Mr. Walker makes the following statement, at page 8 line 6 of his pre-filed direct**
2 **testimony:**

3 **I believe deleting a CC&N because the regulator decided after the**
4 **CC&N is granted that a utility should be “integrated” and provide**
5 **some form of utility service is bad policy, increases investment risk**
6 **and discourages investments by utilities, which will increase the cost**
7 **of service that customers ultimately pay in utility rates.**

8 **Do you agree with that statement?**

9 **A. No. First, I would note In Decision 69722 the ACC ordered as follows:**

10 We therefore officially place Arizona Water on notice that our subsequent
11 proceeding on remand will be for the purpose of considering whether the
12 Cornman property should be deleted from the CCN granted to Arizona
13 Water by Decision No. 66893.⁴¹

14 Clearly, AWC and the water industry had notice of the issues to be considered on remand.
15 However, I note the absence of other water and wastewater providers and RUCO from this
16 proceeding. In my opinion, it is highly unlikely that these entities would fail to assert their
17 business interests or the interests of those that they represent. Also, there have been no
18 requests for intervention by RUCO or any water or wastewater providers in this
19 proceeding. To me, their absence and apparent lack of interest stands contrary to Mr.
20 Walker’s assertions.

21
22 **VIII. RESPONSE TO AWC WITNESS RITA MAGUIRE.**

23 **Q. During your tenure as Utilities Division Director and then Executive Director at the**
24 **Commission, did you become familiar with the water and wastewater utilities that**
25 **are operated by Mr. Robson?**

26 **A. Yes. The Robson companies own and operate a number of utilities in Arizona including**
27 **Pima Utility Company, Lago Del Oro Water Company, Ridgeview Utility Company,**

⁴¹ Decision 69722 at 4, lines 17-20.

1 Saddlebrooke Utility Company, Quail Creek Water Company, Picacho Water Company,
2 Mountain Pass Utility Company, Santa Rosa Water Company and Santa Rosa Utility
3 Company. During my time at the Commission, the Robson utilities made numerous
4 filings for CC&N extensions, rate increases, financing authorizations, tariff approvals and
5 other requests. The various utilities filed annual reports with the Commission, and I had
6 occasions to meet with representatives of the utilities. I became generally familiar with
7 the Robson utilities.

8
9 **Q. On page 14 of the Direct Testimony of Rita P. Maguire, Ms. Maguire makes the**
10 **following assertion:**

11 **Often developers build the infrastructure and treatment facilities only**
12 **to sell them to the municipality after the subdivision or master**
13 **planned community is substantially built-out, but by then, the**
14 **residential population is left reliant on groundwater. If problems**
15 **arise with the operations of these facilities, as has occurred in the past,**
16 **the municipalities are stuck with repairing/retrofitting the inadequate**
17 **infrastructure at a greater cost than if the facilities were constructed**
18 **appropriately at the outset.⁴²**

19 **Based on your experience, does this comment apply to the utilities that are**
20 **constructed, owned and operated by the Robson companies?**

21 **A.** I don't know what developers Ms. Maguire may be referring to, but to my knowledge her
22 statement certainly does not apply to the Robson utilities. I believe that the Robson
23 companies retain ownership of the utilities that they constructs to serve their
24 developments, and I am not aware of any utility infrastructure that has ever been sold or
25 conveyed by the Robson companies to a municipality or to any other entity. During my
26 time at the Commission, I don't recall any problem with any of the utility infrastructure
27 that serves the Robson developments. Also, to my knowledge, the Commission has not

⁴² Direct Testimony of Rita P. Maguire at 14-15.

1 received any complaints regarding the quality of the construction or operations of the
2 utility infrastructure. Certainly, I am not aware of any infrastructure that was inadequately
3 constructed or which required significant repairs or retrofitting.
4

5 **Q. Ms. Maguire also makes the following assertion in her Direct Testimony:**

6 **Another issue of concern is the scale of the water and wastewater**
7 **operations. Whether it is a developer or small municipal provider, if**
8 **the business is too small, it may be difficult to recruit, hire, and retain**
9 **well-trained system operators or to maintain the infrastructure to**
10 **meet applicable water quality standards and water use requirements.**
11 **The value of an integrated water and wastewater system will be lost if**
12 **it is not properly operated and maintained.**
13

14 **Based on your experience, does this concern apply to any of the Robson utilities?**

15 **A.** No. In the aggregate, the Robson utilities form one of the larger private water and
16 wastewater providers in the state. As Utilities Division Director, I never had any concern
17 regarding Robson's ability to recruit, hire and retain well-trained system operators, and I
18 don't recall any problem manifest itself in the form of customer complaints, service
19 outages, or other indicators of deficient performance. Likewise, I never observed any
20 deficiency in the maintenance of the utility infrastructure or any lack of compliance with
21 water quality standards or water use requirements. During my time at the Commission, I
22 formed an opinion that the Robson utilities are very well managed, employ top-notch
23 employees and retain quality resources to assist with the operation of the utilities.
24
25

1 **Q. Mr. Johnson, while you were Utilities Director, were your opinions regarding**
2 **Robson Utilities shared by any of your executive team?**

3 A. Yes. In fact, current Utilities Director, Mr. Steve Olea, testified that:

4 There [are] a few companies I would put up there along with Arizona
5 Water Company, and Robson's companies would be those also.⁴³

6

7 **IX. RECOMMENDED REGULATORY ANALYTICAL FRAMEWORK.**

8 **Q. Mr. Johnson, have you developed an analytical framework to assist you in**
9 **responding to the question presented in this remand proceeding?**

10 A. Yes, I have developed a regulatory analytical framework, which I think will be useful to
11 the Commission and is necessitated by the unique procedural history and facts of this case.

12

13 **Q. Please explain.**

14 A. My recommended regulatory framework is based upon the following:

- 15 • Recognition that the public interest is a broad concept requiring a broad
16 examination.
- 17 • The Commission should determine and assess the public interest, utilizing the
18 specific facts present in each case.
- 19 • The Commission should apply appropriate legal principles applicable to the facts
20 of each case.
- 21 • The Commission should appropriately balance respective interests.
- 22 • The Commission should render a regulatory decision, which is fully cognizant of
23 its impact upon end-users.

⁴³ Woodruff Water Company, Inc. (Docket Nos. W-04264A-04-0438, W-04265A-04-0439 and W-01445A-04-0755)
Hearing Transcript Vol. VII at 1424, Lines 17-22.

1 In my view, the unconventional procedural and unique factual history of this case requires
2 consideration of the question posed by the Commission utilizing a suitable analytical
3 framework.

4
5 **Q. Mr. Johnson, please describe the analysis you are referencing?**

6 A. I am suggesting that in assessing the question presented in this remand proceeding, that
7 the Commission begin its analysis with consideration of the public interest, consistent with
8 the requirements of the Arizona State Constitution and the intent of its framers.

9
10 **Q. What framework are you recommending?**

11 A. The analytical approach that I am recommending begins with acknowledging that the
12 public interest is the paramount regulatory consideration. In my opinion, this view is
13 represented in Article 15, section 3 of the Arizona State Constitution.

14
15 **Q. Mr. Johnson, in addition to your own experience and training, could you identify
16 some of the other sources that you considered in developing the analytical
17 framework that you utilized in your testimony?**

18 A. Some of the additional sources that I reviewed and considered include the Arizona State
19 Constitution, a law review article authored by Ms. Deborah Scott Engelby, entitled, "The
20 Corporation Commission: Preserving its Independence, A.R.S. 40 sections 252, 281-285.
21 Additionally, I considered the *James P. Paul* case,⁴⁴ ACC Decision 69722, the three
22 CC&N deletion cases cited in Mr. Walker's testimony, the procedural order issued in this
23 proceeding by Judge Nodes on February 24, 2014 and the ACC water rules.

24

⁴⁴ 137 Ariz. 426, 671 P.2d 404

1 **Q. What did you discern from the sources that you reviewed?**

2 A. First and foremost, I was reminded of the paramount importance of considering and
3 respecting the broad public interest. I was again reminded that Commission decisions are
4 not made in a vacuum and should routinely consider the impact upon the affected public. I
5 also concluded, that after consideration of the broad public interest, that the Commission
6 could properly determine based upon the facts of this case, that deleting a portion of the
7 CC&N covering the Cornman Tweedy property would be a reasonable outcome and
8 would be in the public interest.

9
10 **Q. Please explain.**

11 A. This proceeding has been lengthy and procedurally unique, yet it has provided a forum for
12 the Commission to pose a very specific question infused with the public interest. The
13 question of reasonableness, and its impact upon the public and the public interest, is front
14 and center in this remand proceeding and must be considered accordingly. In my view, it
15 is both reasonable and necessary to consider the perspective of the end-user in assessing
16 the public interest and in determining this issue.

17 **Q. Mr. Johnson, in your opinion, would it be beneficial to an end-user to receive water
18 and wastewater services from a single provider?**

19 A. Yes, depending upon individual facts and circumstances. In my opinion, there can be both
20 benefit and value to an end-user from receiving integrated water and wastewater services.

21
22 **Q. Please explain.**

23 A. In my experience as Utilities Director, having personally received many telephone calls
24 from frustrated and highly agitated customers, it is my opinion that from a qualitative
25 perspective, the customer experience is enhanced by having a single provider, a single
26 point of contact, a single relationship, a single experience and a single expectation.

1 **Q. Mr. Johnson, based upon your experience as Utilities Director, do you think water**
2 **and wastewater customers are interested in their utility bill?**

3 A. Yes.

4
5 **Q. Do you think that they are also interested in service quality?**

6 A. Yes.

7
8 **Q. Do you think that customers may also be interested in who supplies their drinking**
9 **water?**

10 A. Yes.

11
12 **Q. Do you think that customers are interested in managing their water and wastewater**
13 **usage?**

14 A. Yes.

15
16 **Q. Based upon your experience as Utilities Division Director and conversations with**
17 **customers, do you think conserving and efficiently using water and wastewater is an**
18 **important issue for customers?**

19 A. Yes.

20
21 **Q. Mr. Johnson, based upon your knowledge and experience, and the specific facts of**
22 **this case, what is your recommendation?**

23 A. Based upon having served over twenty-five years as a utility regulator and the very
24 specific facts of this case, I recommend that the Commission exclude the Cornman
25 Tweedy property from AWC's CC&N.

26

1 **Q. Is that your recommendation to the Commission?**

2 A. Yes, utilizing the regulatory framework that I considered, that is my recommendation to
3 the Commission.
4

5 **X. CONCLUSION.**

6 **Q. Mr. Johnson, what conclusions did you reach after reviewing the facts and assessing
7 the broad public interest present in this case?**

8 A. I concluded, based upon the specific facts of this case:

- 9 • That standalone water service would not constitute reasonable service where quality
10 integrated service is an option.
11 • That integrated water and wastewater service would constitute reasonable service.
12 • That the broad public interest supports excluding the Corman Tweedy property from
13 AWC's CC&N.
14 • That the *James P. Paul* case is not controlling under the facts of this case.
15 • That "reasonable" service must be determined on a case by case basis.
16

17 **Q. Does that conclude your testimony?**

18 A. Yes, it does.
19
20
21
22
23

ATTACHMENT 3

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

BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

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

IN THE MATTER OF THE APPLICATION
OF ARIZONA WATER COMPANY TO
EXTEND ITS CERTIFICATE OF
CONVENIENCE AND NECESSITY IN
CASA GRANDE, PINAL COUNTY,
ARIZONA

DOCKET NO. W-01445A-03-0559

**REBUTTAL TESTIMONY OF FRED E. GOLDMAN, PH.D., P.E.,
REMAND PROCEEDING II
ON BEHALF OF CORNMAN TWEEDY 560, LLC
JULY 18, 2014**

CORNMAN TWEEDY 560 LLC

**Rebuttal Testimony of Fred E. Goldman, Ph.D., P.E.
Remand Proceeding II**

July 18, 2014

I. INTRODUCTION.

Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

A. My name is Fred E. Goldman. My business address is 28 West Moon Valley Drive, Phoenix, Arizona 85023.

Q. ARE YOU THE SAME FRED GOLDMAN WHO PREVIOUSLY PROVIDED TESTIMONY IN THIS DOCKET?

A. Yes. On behalf of Cornman Tweedy 560, LLC, ("Cornman Tweedy") I previously submitted direct testimony dated January 4, 2008, and rebuttal testimony dated February 5, 2008.

Q. ARE YOU ADOPTING YOUR PRE-FILED TESTIMONY?

A. Yes. I adopt all of my previous pre-filed testimony in this docket.

Q. IN YOUR DIRECT TESTIMONY DATED JANUARY 4, 2008, AT PAGES 1-2, YOU DESCRIBE YOUR EXPERIENCE IN DESIGNING AND EVALUATING WATER SUPPLY AND DISTRIBUTION SYSTEMS. HAVE YOU HAD ANY ADDITIONAL EXPERIENCE IN THESE AREAS SINCE THE SUBMISSION OF YOUR TESTIMONY IN 2008?

A. Yes. I worked on the design of a 2 MGD (million-gallon-per-day) expansion of the Heber Water Treatment Plant in California as a subcontractor to The Holt Group (I am also registered in the State of California), and I am currently carrying out a study of the water supply system of Clarkdale, Arizona which includes consideration of adding an existing well, analysis of the town's water distribution system and cost analyses.

1 **Q. IN YOUR DIRECT TESTIMONY DATED JANUARY 4, 2008, AT PAGE 2,**
2 **YOU DESCRIBE YOUR EXPERIENCE IN DESIGNING INTEGRATED**
3 **WATER AND WASTEWATER SYSTEMS. HAVE YOU HAD ANY**
4 **ADDITIONAL EXPERIENCE IN THIS AREA SINCE THE SUBMISSION**
5 **OF YOUR TESTIMONY IN 2008?**

6 A. Yes. I designed a new 350,000 GPD (gallon-per-day) wastewater treatment plant
7 for the Town of Clarkdale (as a sub-contractor to SEC Engineering) that produces
8 A+ effluent and I am working with the town to utilize the effluent in lieu of
9 groundwater to preserve groundwater recharges with the goal of eventually
10 recharging the A+ effluent to enhance local groundwater resources.

11 **Q. WHAT IS THE PURPOSE OF YOUR DIRECT TESTIMONY?**

12 A. I would like to respond to certain statements in the Direct Testimony of Fredrick
13 K. Schneider (Hearing on Remand – Phase 2) that was filed with the Commission
14 on May 30, 2014.

15 **Q. HAVE YOU REVIEWED THE DIRECT TESTIMONY OF FREDRICK K.**
16 **SCHNEIDER (HEARING ON REMAND – PHASE 2)?**

17 A. Yes.

18 **Q. DO YOU HAVE ANY GENERAL COMMENTS REGARDING MR.**
19 **SCHNEIDER'S TESTIMONY?**

20 A. Yes. Mr. Schneider describes how Arizona Water Company ("AWC") has
21 updated its Pinal Valley Water System Master Plan ("Master Plan") to show the
22 interconnection¹ of the Casa Grande and Coolidge water systems and the location
23 of the planned Central Arizona Project recharge and recovery facility. He
24 explains that AWC updated the Master Plan to accommodate PhoenixMart, a
25 planned commerce center located adjacent to the northwest corner of the Cornman

26 ¹ Mr. Schneider states in his testimony at page 5, line 18, that the Master Plan shows the "completed"
27 interconnection of AWC's Casa Grande and Coolidge water systems. However, based upon my review
28 of the Master Plan attached as Exhibit FKS-2 and the enlarged portion of the Master Plan attached as
Exhibit FKS-3, it does not appear that the interconnection has been completed. Cornman Tweedy will
attempt to resolve this discrepancy with a data request.

1 Tweedy property. He explains how the developer of Post Ranch, a development
2 on the east side of the Cornman Tweedy property, has prepared a master plan for
3 the development in a joint planning effort with the developers of PhoenixMart.
4 He describes how AWC has pursued arrangements with PERC Water Corporation
5 (“PERC”) whereby PERC would permit, design and construct wastewater
6 facilities in areas where AWC is the water provider and no wastewater provider
7 exists. However, none of this addresses Cornman Tweedy’s desire that its
8 property be served by an integrated water and wastewater provider; none of this
9 changes the fact that Cornman Tweedy does not want its property included in
10 AWC’s CC&N; and none of this changes the fact that there is no need for water
11 service on the Cornman Tweedy property for the foreseeable future.

12 **Q. IN MR. SCHNEIDER’S DIRECT TESTIMONY, HE STATES THAT**
13 **“ARIZONA WATER COMPANY HAS INVESTED A SIGNIFICANT**
14 **AMOUNT OF TIME AND EFFORT TO PLAN FOR THE WATER NEEDS**
15 **OF ITS PINAL VALLEY WATER SYSTEM AND PLANNING AREA.”²**
16 **DO YOU HAVE ANY ESTIMATE AS TO HOW MUCH TIME AND**
17 **EFFORT WOULD HAVE BEEN DEVOTED TO PLANNING FOR THE**
18 **CORNMAN TWEEDY PROPERTY?**

19 **A.** I would have to say little or none. The Cornman Tweedy property that is subject
20 to this proceeding comprises 1,138 acres. In his Direct Testimony, Mr. Schneider
21 states that AWC’s “Pinal Valley CC&N comprises approximately 172,160 acres
22 or 269 square miles and its Pinal Valley planning area includes approximately
23 305,280 acres or 477 square miles.”³ Thus, the Cornman Tweedy property
24 represents approximately one-third of one percent of the Pinal Valley planning
25 area. I see no evidence in this case that AWC has incurred any measurable costs
26 planning for water service to the Cornman Tweedy property.

27
28 ² Direct Testimony of Fredrick K. Schneider (Hearing on Remand – Phase 2) at 4, lines 11-12.

³ *Id.* at 4, lines 6-8.

1 **Q. BASED UPON YOUR REVIEW OF THE MASTER PLAN AND OTHER**
2 **DOCUMENTS PROVIDED BY AWC IN THIS CASE, WHAT HAS AWC**
3 **DONE TO PLAN FOR THE DELIVERY OF EFFLUENT IN ITS PINAL**
4 **VALLEY PLANNING AREA?**

5 A. I don't see that AWC has done anything to plan for the delivery of effluent in its
6 Pinal Valley planning area. AWC's distribution system appears to be designed
7 and sized to deliver potable water or Central Arizona Project water to supply all
8 water demands within its CC&N area, without any infrastructure to deliver treated
9 effluent.

10 **Q. WHY IS THIS SIGNIFICANT?**

11 A. Integrated water and wastewater providers plan for the delivery of effluent from
12 day one. Wastewater utilities are keenly aware that there is a continuous flow of
13 effluent discharging from their wastewater treatment plants. This effluent can be
14 delivered to customers, recharged and stored in the aquifer, or discharged (and
15 unavailable for beneficial use in the service area) pursuant to a discharge permit,
16 but it must go somewhere. When a wastewater utility and a water utility work
17 together in an integrated fashion, they can jointly plan for the most efficient use of
18 the effluent. For example, an integrated utility may reduce the price of its effluent
19 in order to find buyers for that effluent. While the sale of the effluent displaces
20 the sale of potable water to those customers, the integrated utility is willing to
21 accept the trade-off in order to manage the effluent. As another example, an
22 integrated utility may implement tariffs, with prior Commission approval, that
23 promote the use of effluent by certain classes of customers. The end result is that
24 effluent is beneficially used within the service territory which reduces the amount
25 of groundwater or surface water that is used in the service territory.

26 In comparison, a stand-alone water company such as AWC does not have
27 any incentive to promote the sale of effluent (which it does not have) over the sale
28 of groundwater or treated surface water. If a customer wants to purchase potable

1 water, the stand-alone water company is going to supply that water. There is
2 simply no reason for the water company to encourage that customer to buy
3 effluent from the wastewater provider.

4 **Q. IN HIS DIRECT TESTIMONY, MR. SCHNEIDER STATES THAT**
5 **“MORE IMPORTANT TO THIS PROCEEDING, THE PHOENIXMART**
6 **PROJECT REPRESENTS A SIGNIFICANT DEMAND FOR WATER**
7 **SERVICE.”⁴ DO YOU AGREE THAT THE PHOENIXMART PROJECT**
8 **IS IMPORTANT WITH RESPECT TO THE CORNMAN TWEEDY**
9 **PROPERTY?**

10 **A.** If the PhoenixMart commerce center actually moves forward, AWC will construct
11 water infrastructure that can later be extended to serve the Cornman Tweedy
12 property if and when there is a need for water service. However, the installation
13 of water infrastructure adjacent to the Cornman Tweedy property does nothing to
14 address Cornman Tweedy’s desire that its property be served by an integrated
15 water and wastewater provider.

16 **Q. ATTACHED TO MR. SCHNEIDER’S DIRECT TESTIMONY AS**
17 **EXHIBIT FKS-2 IS A COPY OF AWC’S PINAL VALLEY WATER**
18 **SYSTEM MASTER PLAN, AND EXHIBIT FKS-3 IS A PORTION OF THE**
19 **MASTER PLAN WHICH SHOWS THE EXISTING AND PLANNED**
20 **WATER INFRASTRUCTURE WITHIN AND ADJACENT TO THE**
21 **CORNMAN TWEEDY PROPERTY. DOES EITHER EXHIBIT SHOW**
22 **ANY RECLAIMED WATER DELIVERY INFRASTRUCTURE?**

23 **A.** No. There is no existing or planned reclaimed water delivery infrastructure
24 shown on the Master Plan.

25
26
27
28

⁴ *Id.* at 6, lines 18-19.

1 **Q. TO YOUR KNOWLEDGE, WILL THE PHOENIXMART COMMERCE**
2 **CENTER USE RECLAIMED WATER?**

3 A. No. Cornman Tweedy asked that question of AWC in Cornman Tweedy Data
4 Request 6.58 and AWC responded that the PhoenixMart project would not utilize
5 reclaimed water at this time.

6 **Q. IN YOUR DIRECT TESTIMONY YOU STATE THAT “IF AWC SERVES**
7 **THE CORNMAN PROPERTY, THIS WILL RESULT IN THE**
8 **CONSTRUCTION OF ONE WATER PLANT BY AWC TO SERVE THE**
9 **CORNMAN PROPERTY AND THE CONSTRUCTION OF A SEPARATE**
10 **WATER PLANT TO SERVE THE SOUTH HALF OF THE NORTH**
11 **SERVICE AREA.”⁵ IS THERE ANYTHING IN MR. SCHNEIDER’S**
12 **TESTIMONY WHICH CHANGES THIS FACT?**

13 A. No. As I testified previously, the construction of separate water plants to serve
14 the north half and the south half of the same development means additional design
15 costs and construction costs because of the unavoidable duplication of wells,
16 storage tanks, booster pumps, treatment facilities and transmission piping.

17 I would note also that Mr. Schneider’s Exhibit FKS-3 shows the Cornman
18 Tweedy property divided into two pressure zones. The engineering data does not
19 exist at this time for me to determine the cost impact of two pressure zones, but I
20 would expect that the need for pressure reducing valves or booster pumps will
21 increase the cost of the infrastructure to serve the Cornman Tweedy property and
22 complicate fire protection storage requirements. However, if the Cornman
23 Tweedy property and the Robson property to the south are served by a single
24 water provider, the entire development can be served in one pressure zone.

25
26
27
28

⁵ *Id.* at 9, lines 21-23.

1 **Q. MR. SCHNEIDER STATES IN HIS DIRECT TESTIMONY THAT**
2 **“SMALLER ISOLATED SYSTEMS OFTEN LACK THE ABILITY TO**
3 **PROVIDE RELIABLE WATER SUPPLY AND FLOW RATES**
4 **SUFFICIENT FOR FIRE PROTECTION PURPOSES.”⁶ DOES THIS**
5 **COMMENT APPLY TO THE UTILITIES CONSTRUCTED AND**
6 **OPERATED BY ROBSON?**

7 A. No. The utilities constructed and operated by Robson are not small isolated
8 systems but sophisticated systems designed using conservative assumptions.
9 Thus, the Robson utilities do provide water supply, storage and flow rates
10 sufficient for fire protection.

11 **Q. MR. SCHNEIDER STATES IN HIS DIRECT TESTIMONY THAT**
12 **“ARIZONA WATER COMPANY RECOGNIZES THE IMPORTANCE OF**
13 **RECLAIMED WATER IN MEETING THE WATER NEEDS OF ITS**
14 **CUSTOMERS AND IN ACHIEVING A MORE SUSTAINABLE WATER**
15 **SUPPLY.”⁷ DO YOU SEE EVIDENCE THAT AWC RECOGNIZES THE**
16 **IMPORTANCE OF RECLAIMED WATER?**

17 A. The old adage is that actions speak louder than words. AWC’s Pinal Valley
18 CC&N includes 269 square miles yet AWC does not have a CC&N to provide
19 sewer collection and treatment service anywhere in Arizona.⁸ If AWC truly
20 recognized the importance of reclaimed water in meeting the water needs of its
21 customers, I would expect that the company would have sought a sewer CC&N
22 somewhere along the line. Moreover, as I stated before, there is nothing in the
23 Pinal Valley Master Plan that suggests that AWC is planning for the delivery of
24 effluent in its Pinal Valley system.

25

26

27

⁶ *Id.* at 9, lines 17-18.

28

⁷ *Id.* at 12, lines 6-7.

⁸ Cornman Tweedy Data Request 6.47 to AWC.

1 **Q. MR. SCHNEIDER STATES THAT “FOR THE PORTION OF ARIZONA**
2 **WATER COMPANY’S CC&N LOCATED WITHIN THE CITY OF CASA**
3 **GRANDE’S WASTEWATER SERVICE AREA, ARIZONA WATER**
4 **COMPANY PARTNERED WITH THE CITY OF CASA GRANDE TO**
5 **DEVELOP ITS RECLAIMED WATER USE CONCEPTUAL MASTER**
6 **PLAN,”⁹ A COPY OF WHICH IS ATTACHED AS EXHIBIT FKS-8 TO**
7 **MR. SCHNEIDER’S DIRECT TESTIMONY. TO YOUR KNOWLEDGE,**
8 **HAS THE MARCH 2008 CONCEPTUAL MASTER PLAN RESULTED IN**
9 **THE DELIVERY OF ANY RECLAIMED WASTEWATER BY AWC?**

10 **A. No. Item No. 12 at page 64 of the March 2008 Reclaimed Water Use Conceptual**
11 **Master Plan is a recommendation that the City of Casa Grande negotiate a**
12 **Memorandum of Understanding (“MOU”) with AWC regarding (i) AWC’s**
13 **operation and maintenance of City-owned reclaimed water distribution and**
14 **recharge facilities; and (ii) cooperation regarding future planning activities**
15 **designed to maximize the beneficial use of reclaimed water. However, in**
16 **response to Cornman Tweedy Data Request 6.61 to AWC, AWC reported that the**
17 **MOU has not been executed and AWC has “no expected date for execution of an**
18 **agreement.” Further, in response to Cornman Tweedy Data Request 6.45, AWC**
19 **reported that it does not receive any reclaimed water from the Town of Casa**
20 **Grande. Again, if AWC truly recognized the importance of reclaimed water in**
21 **meeting the water needs of its customers, I would expect that the company would**
22 **have completed the MOU that was called for in the conceptual plan prepared in**
23 **2008.**

24
25
26
27
28

⁹ Direct Testimony of Fredrick K. Schneider (Hearing on Remand – Phase 2) at 12, lines 7-11.

1 Q. MR. SCHNEIDER STATES THAT “ARIZONA WATER COMPANY
2 ALSO PLANS TO PROVIDE RECLAIMED WATER AND WATER
3 SERVICE IN THE WESTERN PORTION OF ARIZONA WATER
4 COMPANY’S PINAL VALLEY PLANNING AREA” PURSUANT TO A
5 MAY 15, 2008 SETTLEMENT AGREEMENT WITH GLOBAL WATER-
6 PALO VERDE UTILITIES COMPANY.¹⁰ TO YOUR KNOWLEDGE, HAS
7 THE MAY 15, 2008 SETTLEMENT AGREEMENT RESULTED IN THE
8 DELIVERY OF ANY RECLAIMED WASTEWATER BY AWC?

9 A. No. At page 5, lines 14-16 of the Direct Testimony of William M. Garfield
10 (Hearing on Remand-Phase II), Mr. Garfield discusses the settlement agreement
11 (“Settlement Agreement”) between AWC and Global Water Resources and its
12 subsidiaries and affiliates (collectively, “Global”), a copy of which is attached to
13 Mr. Garfield’s testimony as Exhibit WMG-1. Section 7(a) of the Settlement
14 Agreement states that Global “shall enter into an agreement with Arizona Water
15 Company to supply available reclaimed water to Arizona Water Company, if
16 requested, to be sold and delivered by Arizona Water Company within its CCN
17 and Planning Area.” However, in response to Cornman Tweedy Data Request
18 6.43, AWC concedes that no such agreement has been drafted because “there is
19 no current demand from customers for such services.” Once again, if AWC truly
20 recognized the importance of reclaimed water in meeting the water needs of its
21 customers, I would expect that the company would have completed the agreement
22 with Global that was called for in the 2008 settlement agreement.

23
24
25
26
27
28

¹⁰ *Id.* at 12, lines 12-15.

1 **Q. MR. SCHNEIDER STATES IN HIS DIRECT TESTIMONY THAT AWC**
2 **HAS BEEN IN DISCUSSIONS WITH PERC WATER CORPORATION**
3 **(“PERC”) TO DEVELOP A MEMO OF UNDERSTANDING WHEREBY**
4 **PERC WOULD PERMIT, DESIGN AND CONSTRUCT WASTEWATER**
5 **FACILITIES IN AREAS WHERE AWC IS THE WATER PROVIDER**
6 **AND WHERE NO WASTEWATER PROVIDER EXISTS.¹¹ ARE AWC’S**
7 **DISCUSSIONS WITH PERC RELEVANT IN THIS CASE?**

8 **A.** No. Picacho Sewer Company already holds the CC&N for the Cornman Tweedy
9 property, so based upon the circumstances presented in this case, a memorandum
10 of understanding (“MOU”) between AWC and PERC is not relevant.

11 I would also point out that an MOU, even if it is signed, does not provide
12 any proof that AWC and PERC have a viable plan to provide wastewater service
13 to the Cornman Tweedy property. What is needed is a comprehensive wastewater
14 management plan that not only addresses the collection and treatment of
15 wastewater, but also the critical element of management of the effluent. Since the
16 Cornman Tweedy property has no outfall for discharging effluent, reuse or
17 recharge are the only options available to manage the effluent. Given that the
18 Cornman Tweedy property will not have a golf course or ornamental lakes when
19 it is ultimately developed, the reuse options are limited.

20 Recharge of effluent is complicated and expensive, and it requires a
21 significant amount of maintenance. Hence, having PERC construct a stand-alone
22 wastewater system which incorporates effluent recharge for the Cornman Tweedy
23 property would undoubtedly result in higher rates for customers than if the
24 wastewater service was provided by Picacho Sewer Company, which already has
25 an effluent management plan in place utilizing both direct use and recharge.

26 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

27 **A.** Yes.

28 ¹¹ *Id.* at 14, lines 12-17.