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BEFORE THE ARIZONA CORPORATION

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Arizona Corporation Commission
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ORIGINAL

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 **ARIZONA WATER COMPANY'S MOTION TO STRIKE PRE-FILED REBUTTAL TESTIMONY OF ERNEST G. JOHNSON AND TO PRECLUDE HIS TESTIMONY AT HEARING**

Now that pre-filed direct and rebuttal testimony and exhibits have been filed, Arizona Water Company moves to strike the testimony offered by Ernest G. Johnson Sr., Esq. on behalf of Cornman Tweedy 560, LLC ("Cornman Tweedy"). Mr. Johnson's testimony is inadmissible because Mr. Johnson was employed in supervisory and management roles by the Arizona Corporation Commission ("Commission") during the pendency of the present proceedings. In those roles, Mr. Johnson not only supervised the Utilities Division Staff in its strategy and handling of Arizona Water Company's initial application to extend its Certificate of Convenience and Necessity ("CC&N"), he also supervised the Hearing Division in its ongoing consideration of this matter, as well as interfacing with the Commission as its Executive Director during its active consideration of prior phases of this case. Mr. Johnson's involvement as a witness in a proceeding that he previously participated in and supervised for the Commission is improper and should not be permitted.

In addition, Mr. Johnson's testimony should be excluded because it consists of nothing more than legal conclusions, not facts, and addresses issues that have already been

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decided by the Commission and Hearing Division. As a result, Mr. Johnson's pre-filed Rebuttal Testimony dated July 18, 2014 should be stricken and Mr. Johnson should be precluded from further testifying in these proceedings.

I. Procedural History.

A. The Issues That Have Been Conclusively Established.

Arizona Water Company filed its application to extend its CC&N to the area at issue over ten years ago, on August 12, 2003. At that time, Mr. Johnson was the Director of the Commission's Utilities Division. [Pre-Filed Rebuttal Testimony of Ernest G. Johnson Sr., Esq. (7/18/2014) ("Johnson Rebuttal") at 1.] After Staff—supervised by Mr. Johnson himself—recommended approval of the application, the Commission granted Arizona Water Company an extension of its CC&N to provide water utility service in the area at issue in Decision No. 66893 (April 6, 2004). Id. at 6. No party sought a rehearing of Decision No. 66893 or challenged it in the courts. After Decision No. 66893 became final and immune to collateral attack, Cornman Tweedy was allowed to intervene in the proceeding to address whether or not Arizona Water Company had complied with the conditions contained in Decision No. 66893.

Mr. Johnson continued as Director of the Commission's Utilities Division while the Commission considered issues raised by Cornman Tweedy as intervenor. On July 30, 2007, the Commission issued Decision No. 69722. In that Decision, the Commission held that Cornman Tweedy itself had created the circumstances preventing Arizona Water Company from strictly complying with the CC&N extension conditions, Decision No. 69722, ¶ 94, and that "for purposes of compliance, the conditions placed on Arizona Water's CC&N extension in Decision No. 66893 have been fulfilled." Id., ¶ 98. However, the Commission directed that the matter be remanded. Id., ¶ 104. Because the Commission had held that Arizona Water Company was a fit and proper entity to hold the CC&N, id., Conclusions of Law, ¶ 3, the Commission made no provision for any further hearings on the fitness of Arizona Water Company (or whether some other entity should hold the CC&N instead).

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Pursuant to A.R.S. § 40-253, Cornman Tweedy filed an application for a rehearing and reconsideration of Decision No. 69722 on August 17, 2007, raising the same arguments it is asserting in this proceeding. The Commission denied Cornman Tweedy's Application for Rehearing by refusing to act on it within 20 days under A.R.S. § 40-253(A). During this time frame, Mr. Johnson continued to act as the Utilities Division Director, and as such must be presumed to have been directly involved in reviewing and deciding how and whether the Commission should act on the application for rehearing. Cornman Tweedy then failed to seek any further relief from Decision No. 69722 in the superior court, and accordingly that Decision is final as to the issues of public convenience and necessity for Arizona Water Company's CC&N extension, as well as Arizona Water Company's fitness and willingness to serve the subject CC&N extension area.

B. The Issues On Remand And Mr. Johnson's Testimony.

Following the submission of additional written testimony, and due to grave health issues faced by one of Cornman Tweedy's witnesses, Arizona Water Company and Cornman Tweedy requested that the Commission decide the issues on remand on the submitted record. In a Recommended Opinion and Order ("ROO") issued by Mr. Johnson, who was then the Commission's Executive Director, on November 29, 2010, Administrative Law Judge Dwight Nodes determined, among other things, that (1) the Commission's prior determination that Arizona Water Company was an appropriate service provider for the extension area was final, (2) that Arizona Water Company's CC&N could only be challenged in a deletion proceeding in accordance with the standards established in James P. Paul Water Co. v. Arizona Corp. Comm'n, 137 Ariz. 426, 671 P.2d 404 (1983), and (3) that Cornman Tweedy had failed to demonstrate that Arizona Water Company was not willing and able to provide water service at reasonable rates to the Cornman Tweedy property. ROO (11/29/2011), ¶¶ 154-156. ALJ Nodes noted that Cornman Tweedy "relies primarily on a host of factors that may be relevant to consideration of competing requests for an initial CC&N, but not for a determination regarding the deletion from an existing CC&N." ROO

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(11/29/2011), ¶ 157. Among those factors was the allegation that Arizona Water Company was not able to deliver treated effluent through its network of contracted providers. Id.

On February 1, 2011, the Commission—with Mr. Johnson still serving as its Executive Director—considering the ROO at the Open Meeting (a meeting that included an Executive Session that Mr. Johnson may have knowledge of). The Commission again remanded this matter, but not for rehearing of any previously considered issues. Instead, the case was remanded for determination of:

> "whether a public service corporation, like Arizona Water Company, in this water challenged area and under the circumstances presented in this case, is providing reasonable service if it is not able or not willing to provide integrated water and wastewater service."

Following remand, Judge Nodes allowed the parties the opportunity to name additional experts to address the issues raised by the Commission, but required the parties to disclose those witnesses by March 28, 2014. Cornman Tweedy failed to disclose any additional experts. Instead, on July 18, 2014, following receipt of the pre-filed testimony of the two experts timely disclosed by Arizona Water Company, Cornman Tweedy filed the "Rebuttal Testimony" of Mr. Johnson. That testimony, with limited exception, did not rebut any of the expert testimony presented by Arizona Water Company, but instead purports to present a new legal analysis and argument in favor of Cornman Tweedy's position, as well as Mr. Johnson's recommended direction to the Hearing Division--a division that he previously personally directed during active prior phases of this same proceeding--as to how this matter should be decided.[1]

[1] In an abundance of caution, given Cornman Tweedy's late disclosure of Mr. Johnson as a witness and the imminent close of discovery, Arizona Water Company has noticed the deposition of Mr. Johnson for July 30, 2014. If the Commission allows any portion of Mr. Johnson's testimony to be considered, Arizona Water Company should be allowed to conduct that deposition (and any required follow up discovery, including additional data requests) prior to the hearing of this matter.

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II. Argument.

A. Mr. Johnson's Rebuttal Testimony Should Be Stricken And He Should Be Precluded From Testifying At Hearing Due To His Prior Positions And Involvement With The Commission During The Pendency Of This Proceeding.

Tribunals have the inherent power to disqualify experts to protect the integrity of the adversary process and to promote public confidence in the legal system. See Campbell Indus. v. M/V Gemini, 619 F.2d 24, 27 (9th Cir. 1980) ("a district court is vested with broad discretion to make discovery and evidentiary rulings conducive to the conduct of a fair and orderly trial" including power "to exclude testimony of witnesses whose use at trial is in bad faith or would unfairly prejudice an opposing party"). Mr. Johnson was employed as the Executive Director of the Commission between August 2009 and the end of 2012. [Johnson Rebuttal at 1.] As set forth above, prior to becoming the Commission's Executive Director, Mr. Johnson was employed as the Director of the Commission's Utilities Division between October 2001 and August 2009. [Id.]

As the Director of the Utilities Division, Mr. Johnson, by his own admission, was "responsible for the day-to-day operations of the Utilities Division, including policy development, case strategy, and overall Division management." [Id. at 2, ll. 2-3.] While Executive Director, Mr. Johnson was "responsible for the day-to-day operations of all agency divisions at the Commission", including the Hearings Division. [Id., ll. 6-7; Exhibit A (copy of portion of Commission website indicating that division directors report directly to the Executive Director).] During his time with the Commission, Mr. Johnson participated in this matter on behalf of the Commission. Mr. Johnson not only took part in the Open Meetings at which this matter was discussed and voted on, he also, based on his testimony, directed Staff's involvement and case strategy in this matter. [Johnson Rebuttal at 2, ll. 2-3.] Moreover, Mr. Johnson actually signed and issued the last ROO from the Hearing Division in this matter. [See ROO (11/29/2010).] That ROO found, contrary to Mr. Johnson's present opinions, that the Commission's prior determination that Arizona

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Water Company was an appropriate service provider for the extension area was final and could only be challenged in a deletion proceeding in accordance with the standards established in the James P. Paul case. Judge Nodes, during the time frame when Mr. Johnson personally was supervising the Hearing Division, further found that Cornman Tweedy had failed to demonstrate that Arizona Water Company was not willing and able to provide water service at reasonable rates to the Cornman Tweedy property.

Mr. Johnson has now been retained by Cornman Tweedy to file "rebuttal" testimony addressing legal issues that were raised and decided in the ROO that he issued on behalf of the Commission. Mr. Johnson's testimony should be precluded in this matter because it is improper for Mr. Johnson to participate in these proceedings after being directly involved with this matter in two supervisory and management roles for the Commission. See, e.g., Ariz. R. Prof. Resp. 1.11 (prohibiting former public officer or employee from representing a client in a matter in which the public employee personally participated), 3.7 (prohibiting attorney from acting as advocate in matter in which attorney will be witness).[2] Mr. Johnson directed Staff's initial involvement and support for the extension application in this matter. He subsequently supervised the Hearing Division during its consideration of this matter and issued a ROO that directly contradicts his present testimony. Allowing Mr. Johnson to testify and give opinions in these proceedings in light of his supervisory role at the

[2] Mr. Johnson does not appear on the roll of members of the Arizona bar. He instead appears to be a member of the Oklahoma bar. [Johnson Rebuttal at 2, ll. 11-13.] Oklahoma's Rules of Professional Responsibility contain substantially identical prohibitions to Arizona's rules. Okla. R. Prof. Resp. 1.11(a), 3.7. While Cornman Tweedy will assert that Mr. Johnson is not acting as an advocate for the company, an examination of his Rebuttal Testimony reveals, as discussed below, that Mr. Johnson is advocating for specific legal results in contradiction of the Commission's prior decisions and Arizona case law (and in contradiction of rulings he had direction over as a supervisor at the Commission). In other words, Mr. Johnson is acting as a legal advocate for Cornman Tweedy, not as an independent expert providing specialized input on matters that will assist the trier of fact in his determination. See Pinal Creek Group v. Newmont Mining Corp., 352 F. Supp. 2d 1037, 1042-45 (D. Ariz. 2005) (excluding expert testimony by law professors whose reports read like legal briefs).

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Commission during this case is improper and would seriously undermine the appearance of impartiality of these proceedings. The Commission properly seeks to maintain impartiality by ensuring the separation of Staff, parties and the Hearing Division, going so far as to assign an independent "A Team" to work closely with the Administrative Law Judge to avoid an appearance of impropriety in its decisions. Mr. Johnson supervised Staff's and the Hearing Division's handling of this matter. Given his supervisory and management roles with the Commission during prior phases of this case, Mr. Johnson was privy to and may have participated in discussions with Staff, the Hearing Division and the Commissioners concerning the facts of this matter, strategy and the decisions reached by the Hearing Division and the Commission itself. Allowing Mr. Johnson, as the Commission's former Utilities Division Director and Executive Director, to "weigh-in" on a case that he has personally participated in and been a party to, if not a manager of, is a clear-cut conflict of interest, is contrary to Commission practice, substantively undermines Arizona Water Company's rights to due process and a fair and impartial hearing process untainted by improper legal advocacy masquerading as "expert testimony," and should not be permitted. Mr. Johnson should be precluded from presenting testimony, especially testimony that purports to direct the Hearing Division as to how it should decide the matters before it.

B. Mr. Johnson's Rebuttal Testimony Constitutes Improper Legal Opinion, Invades The Province Of The Hearing Officer, And Should Be Stricken.

Rule 702 of the Arizona Rules of Evidence (applicable to these proceedings pursuant to A.A.C. R14-3-109(K)), like its federal counterpart, does not allow for expert opinion on the law governing the case or on the application of that law to the facts before the tribunal. Attorneys who appear on behalf of the parties may make legal arguments about applicable law—but those arguments are not evidence. Here, Mr. Johnson, who is not licensed to practice law in Arizona (in addition to his disqualifying conflict of interest) is not permitted to represent Cornman Tweedy or provide legal argument in this case. Nor should Mr. Johnson, under the guise of providing evidence and testimony, be permitted to improperly

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influence the legal determination in this case. The judge—here, the administrative law judge with the ultimate concurrence of the Commission—must make those legal determinations. See Pinal Creek Group, 352 F. Supp. 2d at 1042-44 (analyzing propriety of expert legal opinions under the corresponding Federal Rule of Evidence); Webb v. Omni Block, Inc., 216 Ariz. 349, 353-55, 166 P.3d 140, 144-46 (App. 2007). As noted in the Pinal Creek decision, the "principle that legal opinion evidence concerning the law is inadmissible is 'so well-established that it is often deemed a basic premise or assumption of evidence law—a kind of axiomatic principle.'" Id. at 1042 (quoting In re Public Offering Sec. Litig., 174 F. Supp. 2d 61, 64 (S.D.N.Y. 2001) (quotation omitted)). That is because the court (or, here, the ALJ) determines what law applies and how that law is applied to the facts. "Where the ultimate issue is a question of law, the opinion of a legal expert, even a lawyer, interferes with the judge's role as 'sole arbiter of the law' and should not be allowed." Wollan v. U.S. Dep't of Int. Bureau of Land Mgmt., 997 F. Supp. 1397, 1403 (D. Colo. 1998).

The determination of whether to allow expert testimony is left to the trial court's sound discretion. State v. Dickey, 125 Ariz. 163, 169, 608 P.2d 302, 308 (1980) (citing State v. Means, 115 Ariz. 502, 566 P.2d 303 (1977)). However, expert testimony is not "a mechanism for having someone of elevated education or station engage in a laying on of hands, placing an imprimatur upon the justice of one's cause. Rather it is a device allowing the trier to receive information, beyond its competence, useful to a resolution of the dispute before it." 1 Joseph M. Livermore, Robert Bartels, & Anne Holt Hameroff, Arizona Practice: Law of Evidence § 702.1 (4th ed. 2000); see also Pincock v. Dupnik, 146 Ariz. 91, 96, 703 P.2d 1240, 1245 (App. 1985) (citing Arizona Practice: Law of Evidence § 702.1); Lay v. City of Mesa, 168 Ariz. 552, 554, 815 P.2d 921, 923 (App. 1991) (same).

Moreover, the Comment to Rule 704 of the Arizona Rules of Evidence cautions that "[s]ome opinions on ultimate issues will be rejected as failing to meet the requirement that they assist the trier of fact to understand the evidence or to determine a fact in issue. Witnesses are not permitted as experts on how juries should decide cases." Ariz. R. Evid.

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704, Comment (emphasis supplied). Indeed, "[a]s one approaches the ultimate issues in the case, the trial judge should exercise his discretion with great care to insure that the proposed testimony truly relates to an area of specialized knowledge and that the witness is truly qualified to provide assistance to the trier." Arizona Practice: Law of Evidence § 702.1. "Experts are not ... called to tell the [fact finder] who should win." Id.; see also State v. Blakely, 204 Ariz. 429, 438, 65 P.3d 77, 86 (2003) ("The law does not permit expert testimony on how the jury should decide the case" (quotation and citation omitted)); Webb, 216 Ariz. at 355, 166 P.3d at 146 (following extensive discussion of why experts' legal conclusions are properly excluded under both Rule 702 and 704, holding that "an expert cannot testify as to how the jury should decide the case").

Here, Mr. Johnson seeks to offer testimony that consists solely of legal conclusions, not facts. The Executive Summary preceding his testimony sets out the legal conclusions that Mr. Johnson testifies to. Specifically, he states that he will opine that:

- 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 C&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.

[Johnson Rebuttal, Executive Summary.]

Each of these legal conclusions is nothing more than Mr. Johnson's opinion as to what the legal conclusions should be in this case, how that law should be applied to the circumstances of this case, and how the Hearing Division should ultimately decide this case.

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As such, Mr. Johnson's opinions are impermissible areas for expert testimony. See Wollan, 997 F. Supp. at 1403; Blakely, 204 Ariz. at 438, 65 P.3d at 86; Webb, 216 Ariz. at 353-55, 166 P.3d at 144-46; see also Pincock, 146 Ariz. at 96, 703 P.2d at 1245 (holding that experts could not opine as to reasonableness of officer's conduct, but only to underlying factual considerations, as reasonableness was a determination that should be made by the fact finder). Judge Nodes—not Mr. Johnson—is tasked to determine what law applies to this case and how that law should be applied to these specific factual circumstances (including facts not addressed by Mr. Johnson (such as Cornman Tweedy's bad faith attempts to prevent Arizona Water Company from complying with the initial conditions established by the Commission)). In fact, Judge Nodes has previously determined, in a recommended opinion and order signed by Mr. Johnson, that most of Mr. Johnson's current conclusory legal opinions are incorrect. [ROO (11/29/2010) ¶¶ 154-156.] Mr. Johnson should not now be allowed to usurp Judge Nodes' role by presenting his opinion as to the propriety of those determinations.[3]

Even if Mr. Johnson were otherwise qualified to provide testimony on Arizona law, which is not evident from his testimony and is belied by his not even being an admitted Arizona lawyer, his testimony as to the proper legal outcome of this matter is improper. Judge Nodes, with the concurrence of the Commission, is the arbiter of the law to be applied to this case and to the application of that law to the facts of this case. Allowing Mr. Johnson's testimony would be an abject conflict with that responsibility and is improper under Arizona law and the Rules of Evidence.

III. CONCLUSION

For the foregoing reasons, the Commission should strike the entirety of Mr.

[3] To the extent that Judge Nodes requires the parties to again address the legal issues in this case, all of which have been exhaustively explored in prior filings, those issues are properly addressed in post-hearing briefing by counsel for the parties, not in the factual evidentiary hearing in this remand proceeding by a purported expert witness who is not licensed to practice law in Arizona.

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Johnson's rebuttal testimony and preclude Mr. Johnson from testifying at the hearing of this matter.

Respectfully submitted this 29th day of July, 2014.

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Exhibit A

Background and Organization

Background

Article 15 of the Arizona Constitution establishes the Arizona Corporation Commission. Only 7 states have constitutionally formed Commissions. Arizona is one of only 13 states with elected Commissioners. In the 37 other states, Commissioners are appointed by either the governor or the legislature.

In most states, the Commission is known as the Public Service Commission or the Public Utility Commission. Our Commission, however, has responsibilities that go beyond traditional public utilities regulation. These additional roles include facilitating the incorporation of businesses and organizations, securities regulation and railroad/pipeline safety.

By virtue of the Arizona Constitution, the Commissioners function in an Executive capacity, they adopt rules and regulations thereby functioning in a Legislative capacity, and they also act in a Judicial capacity sitting as a tribunal and making decisions in contested matters.

The Commission is required by the Arizona Constitution to maintain its chief office in Phoenix and it is required by law to conduct monthly meetings.

Organization

In November 2000, the voters of Arizona approved a measure, placed on the ballot by the State Legislature, which expanded the size of the Commission from three to five Commissioners. The measure also changed the term of office from one six-year term to a four-year term with the possibility of reelection to one additional (consecutive) four-year term. The initial terms of the two new seats are for two years. In the case of a vacancy, the Governor appoints a Commissioner to serve until the next general election. The Commissioners choose one member from among themselves to serve as Chairman.

The Commissioners have the ultimate responsibility for final decisions on granting or denying rate adjustments, enforcing safety and public service requirements, and approving securities matters.

Executive Director

The Director of the Commission Staff is the Executive Director. Jodi Jerich serves at the pleasure of the Commissioners, and is responsible to the Commissioners for the day to day operations of all Divisions. Section 40-105, Arizona Revised Statutes, outlines the powers and duties of the Executive Director's position.

Divisions

The Commission staff is organized into nine Divisions. Each Division is headed by a Director who reports to the Executive Director.

Administration

The **Administration Division** plans, coordinates and directs the administrative and fiscal activities necessary to support the Commissioners and all Divisions of the Commission. The Division also provides information to the general public and media on all Commission activities.

Broadcast Services

The **Broadcast Services Division** is responsible for the television broadcast production of all meetings and hearings of the Commission for public viewing and for archiving. Additionally, the Division produces video tutorials and short educational segments on the

many varied duties of the Commission. The Division is also responsible for the Commission's website.

Corporations

The **Corporations Division** approves for filing all articles of incorporation for Arizona businesses; all articles of organization for limited liability companies; grants authority to foreign corporations to transact business in this state; propounds interrogatories when necessary to determine a company's lawful purpose; and revokes the corporate charters of those corporations which choose to not comply with Arizona law. The Division collects from every corporation an annual report which reflects its current status, business, and financial condition; maintains this information in a format conducive to public access; responds to public questions concerning Arizona businesses and corporation law; and responds to the needs of the business sector by disseminating whatever information is mission-critical to them in the most expedient and cost-effective manner possible.

Any significant changes to Articles of Incorporation or Articles of Organization for Limited Liability Companies in the form of amendments, mergers, consolidations, dissolutions or withdrawals are also filed with the Division. All filings are public record and available for inspection.

Hearings

The **Hearings Division** exercises the Commission's authority to hold public hearings on matters involving the regulation of public service corporations, the sale of securities and the registration of non-municipal corporations. The Hearings Division is also responsible for the Commission's Docket Control Section.

Information Technology

The mission of the **Information Technology** (IT) Division is to provide accurate, efficient and timely technology design, development, implementation, communications and maintenance support services to the agency and its respective divisions in support of their missions and objectives

Legal

The **Legal Division** provides legal assistance, advice and representation to the Commissioners and each Division of the Corporation Commission except the Securities Division. Matters handled by the Legal Division fall into five general categories: Commission dockets, Federal regulatory dockets, litigation, other administrative matters and special projects.

Most of the Division's resources are devoted to Commission hearings. Major rate cases, such as those involving firms like the Arizona Public Service Company and Qwest, where tens of millions of dollars in potential rate increases are at stake, take several months to prepare and require close coordination with the Commissioners, staff and professional consultants.

Safety

The *Pipeline Safety Section* enforces Pipeline safety standards and operating practices applicable to the transportation of gas and hazardous liquids by pipeline and the operation of liquefied natural gas facilities. Inspections are conducted on all interstate gas transmission and interstate hazardous liquid pipeline facilities.

The *Railroad Safety Section* enforces the Federal Safety Standards for track, signal, motive power and equipment, railroad operating practices, and the shipment of hazardous material by rail. The *Railroad Safety Section* is also responsible for inspection and review of industrial track, and rail-highway crossing construction projects.

Securities

The **Securities Division** strives to ensure the integrity of the securities marketplace through investigative actions as well as the registration and/or oversight of securities, securities dealers and brokers, investment advisers and their representatives; to enhance legitimate capital formation; and to minimize the burden and expense of regulatory compliance by legitimate business.

The Division reviews prospective offerings of securities to ascertain that full and fair disclosure is made to potential securities investors and that the terms of offerings are not inherently fraudulent.

Certain securities dealers, salespersons, investment advisers, and investment adviser representatives are required to register with the Division. The Division reviews these applications and monitors the conduct of investment advisers, dealers and salespersons; investigates possible violations; and when the evidence warrants, initiates administrative or civil actions, or refers cases for criminal prosecution.

Utilities

The Arizona Corporation Commission has jurisdiction over the quality of service and rates charged by public service utilities. By state law, public service utilities are regulated monopolies given the opportunity to earn a fair and reasonable return on their investments. What is fair and reasonable in any particular case has been and always will be open to debate in rate hearings before the

Commission. Generally, the Commission tries to balance the customers' interest in affordable and reliable utility service with the utility's interest in earning a fair profit.

The **Utilities Division** makes specific recommendations to the Commissioners to assist them in reaching decisions regarding public utility rates, utility finance and quality of service. The Division is responsible for researching and developing utility issues, providing information and evidence in Commission proceedings dealing with utility applications, and monitoring the quality of utility service, and the rates approved by the Commissioners. Additionally, Division staff inspects gas pipelines for safety, operates a railroad safety program and maintains the official documents of proceedings before the Commission.

All rate changes require approval of the Commission in an Open Meeting. Staff preparation for a major rate hearing begins at the time of utility's initial filing, and takes approximately four to six months before the hearing takes place. Work efforts between the time of filing and hearing include a review of past Commission actions, a review of documents on file with the Commission, an audit of the books and records of the utility, discussions with utility personnel and other interested parties, formulation of the staff recommendation, an analysis of the impacts of the recommendation, and preparation of written testimony and schedules.

Quick Launch...

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