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BEFORE THE ARIZONA CORPORATION

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IN THE MATTER OF THE APPLICATION OF ARIZONA-AMERICAN WATER COMPANY, AN ARIZONA CORPORATION, FOR A DETERMINATION OF THE CURRENT FAIR VALUE OF ITS UTILITY PLANT AND PROPERTY AND FOR INCREASES IN ITS RATES AND CHARGES BASED THEREON FOR UTILITY SERVICE BY ITS ANTHEM WATER DISTRICT AND ITS SUN CITY WATER DISTRICT.

DOCKET NO. W-01303A-09-0343

ORIGINAL

IN THE MATTER OF THE APPLICATION OF ARIZONA-AMERICAN WATER COMPANY, AN ARIZONA CORPORATION, FOR A DETERMINATION OF THE CURRENT FAIR VALUE OF ITS UTILITY PLANT AND PROPERTY AND FOR INCREASES IN ITS RATES AND CHARGES BASED THEREON FOR UTILITY SERVICE BY ITS ANTHEM/AGUA FRIA WASTEWATER DISTRICT, ITS SUN CITY WASTEWATER DISTRICT AND ITS SUN CITY WEST WASTEWATER DISTRICT.

DOCKET NO. SW-01303A-09-0343

ANTHEM COMMUNITY COUNCIL'S REPLY TO EPCOR'S RESPONSE TO ANTHEM'S MOTION TO STAY PROCEEDINGS

The Anthem Community Council ("Anthem"), through its undersigned counsel, hereby submits its Reply to EPCOR Water Arizona, Inc.'s ("EPCOR" or the "Company") August 27, 2014 Response to Anthem's Motion to Stay Proceedings ("EPCOR's Response") as filed in the above-captioned and above-docketed proceedings ("Instant Proceeding").

A. Intended Scope and Purpose of Instant Proceeding

EPCOR's Response attempts to narrow the scope of the Instant Proceeding in a manner that is both contrary to Decision No. 74588 and the Commission's articulated intent. EPCOR's Response states that "this proceeding only focuses on the three scenarios ordered by the

1 Commission” and recites (i) total consolidation of all EPCOR wastewater districts, (ii) further
2 deconsolidation of the Agua Fria Wastewater District, and (iii) reconsolidation of the
3 Anthem/Agua Fria Wastewater District as the only scenarios to be considered by the Commission.
4 EPCOR is incorrect.

5 More specifically, at the Open Meeting held on July 22, 2014, the Commission and Staff
6 did not express any interest in limiting the scope of the Instant Proceeding and instead repeatedly
7 addressed the need to fully explore all options, both long-term and short-term, to address uneven
8 and potentially unreasonable wastewater rates across all EPCOR wastewater districts, including
9 districts not included in the Instant Proceeding. To achieve that goal, in addition to the three
10 scenarios mentioned by EPCOR, Decision No. 74588 specifically required EPCOR’s response to
11 the Agua Fria wastewater customer complaints to include the following:

12 Discussion of any EPCOR identified potential alternative options and the
13 options’ rate impacts on affected customers.

14 Any recent calculations by EPCOR, which have previously identified potential
15 alternative options, must be updated and must also add any new calculations if
the next rate case moves forward as scheduled.

16 [Decision No. 74588 at page 9, lines 7-10].

17 To date, EPCOR has entirely ignored the Commission’s mandate to identify any alternative
18 options for the Agua Fria customers. Rather, EPCOR’s approach has the effect of “pitting”
19 EPCOR’s Anthem and Agua Fria Wastewater customers against one another. Anthem finds this to
20 be outrageous. The unhappy customers are EPCOR customers--not Anthem’s. The wastewater
21 treatment facilities at issue are owned and operated by EPCOR--not by Anthem. EPCOR makes
22 money from the Agua Fria customers--Anthem does not.¹ Yet EPCOR has offered nothing in the
23 way of a resolution to the EPCOR/Agua Fria problem that involves any concession by EPCOR.
24 Instead, the Company seeks to limit the investigation of possible options for Agua Fria rate relief
25 to two (*i.e.*, full consolidation and further deconsolidation) options for which complete and updated
26 data is admittedly unavailable, and a third option (*i.e.*, reconsolidation) financed entirely by

27 ¹ In fact, Anthem wastewater customers currently pay EPCOR for costs attributable to Agua Fria wastewater
28 customers through payment of a significant annual subsidy embedded in the existing rates.

1 Anthem wastewater customers on a “completely arbitrary”² basis. If the Instant Proceeding is
2 restricted to the three scenarios addressed thus far by EPCOR, the Commission will essentially be
3 forced to play regulatory “Spin the Bottle” with Anthem as the only participant kneeling in the
4 circle.

5 **B. Timing of Future Rate Case**

6 EPCOR’s Response insists that the Company is prohibited from filing a new wastewater
7 rate case until after June 30, 2015. This is not true. While the Commission’s current convention
8 may result in utilities filing new rate case applications no earlier than six months after the final
9 phase in of rates, this practice is not required by statute, and is not necessarily appropriate as a
10 regulatory practice in all cases.³ On the contrary, by virtue of the different stay-out provisions
11 referenced in the decisions cited in EPCOR’s Response (*i.e.*, six months in one case and one year
12 in another), it is clear that the Commission recognizes that each rate case is fact specific. More
13 notably, the cited decisions demonstrate that when the Commission intends that a filing be made on
14 a certain schedule, the Commission expressly orders it.

15 For example, in Decision No. 73225, instead of specifying that a system-wide rate case
16 filing occur either six months or one year after the final phase in of deconsolidated rates, the
17 Commission ordered the filing to be made “as soon as possible.” In so doing, the Commission
18 intended rate relief for the Anthem ratepayers to be immediate. In addition, it knew that solutions
19 for the resulting effects of deconsolidation would need to be expeditiously pursued on behalf of the
20 Agua Fria ratepayers. Accordingly, the Commission stated:

21 In order to address the issue of deconsolidation/consolidation in the most
22 expeditious and fair manner possible, we will require the Company to make the
23 system-wide rate filing as ordered by Decision No. 72047 that includes all of the
24 affected districts, including the Sun City West Wastewater district, as soon as
25 possible, so that all affected parties will receive notice of, and will have a full
26 opportunity to address, all the issues affecting the Company’s revenue

27 ² In Decision No. 73227, the Commission recognized that the continued consolidation of the Anthem/Agua Fria
28 Wastewater District would be “completely arbitrary” and accordingly ordered deconsolidation.

³ Incidentally, if rate cases cannot be brought sooner than six months following the full implementation of
phased-in rates as EPCOR suggests, any interim solution that delays the full implementation of
deconsolidated rates will also necessarily delay the filing of a future rate case where consolidation could be
fully considered as a permanent solution to uneven rates across wastewater districts.

1 requirement, and can make proposals either for or against consolidation or
2 deconsolidation for Commission consideration. The required system-wide rate
3 filing should include full cost of service studies and other information supporting
4 consolidation sufficient for all parties to make their own reasoned proposals either
for or against consolidation or deconsolidation, consistent with sound ratemaking
principles.

5 [Decision No. 73227 at page 39, line 80-page 40, line 10] [Emphasis added.]

6 Therefore, EPCOR's refusal to make a new rate case filing at the current time effectively
7 "stonewalls" the Commission's prior intent and orders, and continues to deny all stakeholders
8 sufficient data to determine the best, fairest, and most reasonable solution for all EPCOR
9 wastewater ratepayers.

10 **C. Interim Solutions Sponsored by EPCOR**

11 If EPCOR is unable or unwilling to provide all data needed to fully explore all potential
12 solutions for Agua Fria wastewater customers at this time, but the Commission nevertheless desires
13 to provide some form of interim rate relief for Agua Fria, the interim solution must be sponsored
14 by EPCOR and not borne by Anthem. By way of a simple example, the Commission could order a
15 temporary rate freeze or rate reduction for the Agua Fria Wastewater District while allowing fully
16 deconsolidated rates to be implemented in the Anthem Wastewater District.⁴ Any "lost" revenues
17 would be carried by EPCOR until full Company-wide consolidation of wastewater districts could
18 be achieved. At that time, EPCOR could recover the delayed revenues through the assessment of a
19 surcharge for customers located in the Agua Fria Wastewater District. A solution of this nature
would address a number of potential issues and offer the following benefits:

- 20 1. Agua Fria wastewater customers would experience immediate rate relief.
- 21 2. The Commission would be honoring the Settlement Agreement subsumed in
22 Decision No. 72047 and ratified in Decision No. 73227. In the words of Commissioner Pierce in
23 the Open Meeting on July 22, 2014: "We really did make a deal with Anthem and we have to find
24 a way to honor that."

25
26 ⁴ Anthem leaves the details of all "potential alternative solutions" to be discussed by the Company as
27 required by Decision No. 74588. In that regard, the Company is presumably free to explore other alternate
28 scenarios like partial consolidation of the Agua Fria Wastewater District with other EPCOR wastewater
districts that share wastewater treatment facilities and costs with Agua Fria.

1 3. This approach is consistent with prior Commission decisions that require a “system
2 wide rate filing” and “full cost of service studies” prior to consideration of Company-wide
3 consolidation and further deconsolidation scenarios.

4 4. The Commission could avoid potential legal entanglements related to consolidating
5 districts using stale data and different test years.

6 5. The Commission would be aligned with both Agua Fria and Anthem consumers
7 instead of alienating many if not substantially all of them with inelegant, unpopular, hasty solutions
8 (e.g., reconsolidation of the Anthem/Agua Fria Wastewater District or a rate freeze financed by
9 Anthem).

10 6. To the extent revenue neutrality is desired by the Commission, this approach may
11 allow revenue due to EPCOR to be delayed, as to timing of recovery, but not lost.

12 8. This scenario “does not expand the scope” of the Instant Proceeding beyond
13 wastewater rate design, as requested by the Company in EPCOR’s Response.

14 9. This approach would permit “limited testimony, discovery, and legal arguments in
15 this matter,” as specifically requested in EPCOR’s Response. The time and expense required of all
16 other parties in this Instant Proceeding would be substantially reduced.

17 10. Because EPCOR’s recovery would be delayed until Company-wide consolidation of
18 wastewater districts could be achieved, EPCOR would be motivated to more quickly and
19 efficiently produce all data required to consider consolidation (e.g., file a new system wide rate
20 case) and would be more motivated to advocate for consolidation as its preferred outcome.

21 11. EPCOR would be in a better position to educate all districts regarding the potential
22 benefits of Company-wide consolidation, based on updated data instead of speculation. The
23 Commission has previously recognized that successful outreach by the Company is a precondition
24 to achieving Company-wide consolidation.

25 12. This approach explores a “potential alternative solution” that puts the onus for
26 resolution appropriately on EPCOR. Again, the current problem is an EPCOR/Agua Fria problem.
27 While Anthem is willing to explore full consolidation as a permanent solution, Anthem should not
28 bear the burden of an interim fix for Agua Fria wastewater customers.

 13. All parties give and get a little bit of what they want but no party gives or gets
 everything. With only reconsolidation of the Anthem/Agua Fria Wastewater District, even on a

1 temporary or interim basis, EPCOR and Agua Fria customers get everything and give nothing;
2 Anthem gives everything and gets nothing.

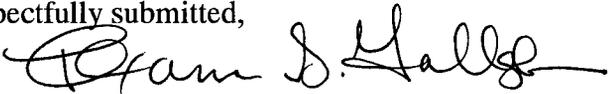
3 Anthem believes that the ultimate resolution of the current Agua Fria problem falls on
4 EPCOR and not on the pocketbooks of its Anthem customers. The alternative solution discussed
5 above is but one possible approach. In this regard, it is now time for EPCOR to step up and
6 provide leadership rather than maintaining its current perceived role as a mere bystander in this
7 proceeding

8 CONCLUSION

9 For the reasons discussed above, Anthem believes that the Commission should promptly
10 issue an appropriate order, among other things, (i) reconsidering and reversing the Commission's
11 August 22, 2014 deemed denial of Anthem's August 12, 2014 Motion to Stay Proceedings; (ii)
12 ordering a stay of further proceedings in the Instant Proceeding; (iii) directing EPCOR to file a
13 system wide rate application and full cost of service studies for its wastewater districts as soon as
14 possible; and (iv) providing that any interim rate relief desired for the Agua Fria wastewater
15 customers should be borne by EPCOR until further order of the Commission.

16 DATED this 4 th day of September, 2014.

17
18 Respectfully submitted,

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