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BEFORE THE ARIZONA CORPORATION COMMISSION

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AZ CORP COMMISSION  
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ORIGINAL

2014 OCT 16 PM 3 17

IN THE MATTER OF THE APPLICATION OF EPCOR WATER ARIZONA, INC., 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 FOR UTILITY SERVICE BY ITS MOHAVE WATER DISTRICT, PARADISE VALLEY WATER DISTRICT, SUN CITY WATER DISTRICT, TUBAC WATER DISTRICT, AND MOHAVE WASTEWATER DISTRICT.

DOCKET NO. WS-01303A-14-0010

Arizona Corporation Commission

DOCKETED

OCT 16 2014

DOCKETED BY 

PROCEDURAL ORDER

**BY THE COMMISSION:**

On March 10, 2014, EPCOR Water Arizona, Inc. ("EPCOR" or "Company") filed with the Arizona Corporation Commission ("Commission") an application for a determination of the fair value of its utility plant and property and for increases in its water and wastewater rates and charges for utility service by its Mohave Water District, Paradise Valley Water District, Sun City Water District, Tubac Water District, and Mohave Wastewater District.

On April 4, 2014, the Commission's Utilities Division ("Staff") issued a Letter of Sufficiency pursuant to Arizona Administrative Code ("A.A.C.") R14-2-103, and classified the Company as a Class A utility.

By Procedural Order issued scheduling a hearing for December 2, 2014, directing the Company for provide notice of the proceeding, and establishing other procedural deadlines.

To date, intervention has been granted to the Residential Utility Consumer Office ("RUCO"), the Santa Cruz Valley Citizens Council, Marshall Magruder, the Town of Paradise Valley, the Water Utility Association of Arizona, Delman E. Eastes, Paradise Valley Country Club, and jointly to the Sanctuary Camelback Mountain Resort & Spa, JW Marriott Camelback Inn, and Omni Scottsdale Resort & Spa at Montelucia.

1 On July 22, 2014, the Commission voted at a Staff Open Meeting to conduct a public  
2 comment meeting in Tubac, Arizona.

3 On August 14, 2014, Staff filed a Request to Extend the Date for Intervention. Staff stated  
4 that the Commission has determined, through Decision No. 74588 (July 30, 2014), that information  
5 regarding consolidation and deconsolidation of the Company's wastewater systems should be  
6 considered in Docket No. SW-01303A-09-0343, et al., and that the Commission's consideration of  
7 the consolidation/reconsolidation issues could impact customers in the Mohave Wastewater District.  
8 Therefore, Staff requested that the intervention deadline in the above-captioned case be extended  
9 from July 1, 2014 to September 19, 2014.

10 On August 15, 2014, Staff filed a Supplement to Request to Extend the Date for Intervention.  
11 Staff stated that the intervention deadline extension should apply to any person or entity with an  
12 interest in the Company's wastewater rates.

13 On August 19, 2014, a Procedural Order was issued granting Staff's Request to Extend the  
14 Date for Intervention until September 19, 2014.

15 On August 20, 2014, RUCO filed a Motion to Continue all Procedural Deadlines, Continue  
16 Hearing, and for Tolling of the Rate Case Time-Clock ("Motion"). In its Motion, RUCO asserted  
17 that the Company's responses to certain of RUCO's data requests have been inadequate and, as a  
18 result, RUCO is unable to adequately prepare testimony in this proceeding by the current filing  
19 deadline (October 3, 2014). RUCO requested that the due date for filing intervenor testimony be  
20 extended by 120 days, that all other procedural deadlines and the hearing date be extended  
21 accordingly, and that the time clock be extended by 120 days.

22 On August 25, 2014, EPCOR filed a Response to RUCO's Motion to Continue all Procedural  
23 Deadlines, Continue Hearing, and for Tolling of the Rate Case Time-Clock. EPCOR claimed that  
24 responding to RUCO's and Staff's data requests has been challenging; that the Company has  
25 responded to RUCO's discovery requests through ongoing updated responses; and that some of  
26 RUCO's concerns are not discovery issues but are related to positions that may be disputed between  
27 the parties. EPCOR proposed that the procedural schedule, hearing date, and time clock be extended  
28 by no more than 30 days; that a ruling be made that the Company's responses to Staff data requests 1-

1 17 and RUCO data requests 1-11 are complete; and that the Company be directed to respond to all  
2 additional data requests in a timely manner, but in no more than 10 days from receipt.

3 On August 28, 2014, RUCO filed a Reply to the Company's Response to RUCO's Motion to  
4 Continue all Procedural Deadlines, Continue Hearing, and for Tolling of the Rate Case Time-Clock.  
5 RUCO argued that the issues raised in its Motion are not about substantive positions, but rather about  
6 discovery responses and supporting information. RUCO claimed that the Company failed to provide  
7 useable plant schedules until two and one-half months after being requested, and that EPCOR  
8 recently provided revised plant schedules for two of the Company's systems. RUCO contends that  
9 certain of the depreciation rates used by the Company were previously in error and later corrected  
10 through discussions with RUCO. RUCO argues that EPCOR was not prepared to file a rate case for  
11 the systems in this proceeding and RUCO should not be denied an opportunity to prepare its case due  
12 to the Company's actions.

13 On September 5, 2014, a Procedural Order was issued which, among other things, scheduled a  
14 procedural conference for September 16, 2014, and scheduled a public comment session for October  
15 9, 2014, in Tubac, Arizona.

16 On September 8, 2014, RUCO filed a Request to Change Procedural Conference Date.

17 On September 9, 2014, EPCOR filed a Response to RUCO's Request to Change Procedural  
18 Conference Date.

19 On September 9, 2014, a Procedural Order was issued rescheduling the September 16, 2014  
20 Procedural Conference for September 12, 2014.

21 On September 11, 2014, Mr. Magruder filed a Response and Recommendation to RUCO's  
22 Request to Change Procedural Conference Date.

23 On September 9, 2014, Albert Gervenack filed a Motion to Intervene.

24 On September 12, 2014, a Procedural Conference was held, as scheduled, to discuss RUCO's  
25 Motion. At the Procedural Conference, it was determined that another Procedural Conference should  
26 be scheduled in approximately 30 days to discuss progress between the parties regarding disputed  
27 discovery issues and setting a revised procedural schedule in this matter.

28

1 On September 12, 2014, a Procedural Order was issued scheduling a procedural conference  
2 for October 15, 2014.

3 On September 26, 2014, a Notice of Substitution of Counsel was filed by EPCOR.

4 On October 9, 2014, a Notice of Filing Affidavits of Publication and Mailing regarding the  
5 Tubac public comment session was filed by EPCOR.

6 On October 14, 2014, EPCOR filed a Notice of Filing Proposed Schedule that would continue  
7 the current December 2, 2014, hearing date to the second week of March 2015. EPCOR also  
8 proposed the following revised procedural schedule, and stated that Staff and RUCO were in  
9 agreement with the proposed schedule:

10 Staff/Intervenor Direct Testimony (except rate design) January 19, 2015

11 Staff/Intervenor Direct Testimony (rate design) February 2, 2015

12 Company Rebuttal Testimony February 9, 2015

13 Staff/Intervenor Surrebuttal Testimony February 23, 2015

14 Company Rejoinder Testimony March 2, 2015

15 On October 14, 2014, Staff filed a Notice of Settlement Discussions.

16 On October 14, 2014, EPCOR filed Revised Rate Schedules.

17 On October 15, 2014, the Procedural Conference was held as scheduled. All parties in  
18 attendance agreed to EPCOR's proposed hearing and procedural schedule.

19 **IT IS THEREFORE ORDERED that the evidentiary hearing shall be rescheduled to**  
20 **commence on March 9, 2015, at 10:00 a.m., at the offices of the Commission, 1200 West**  
21 **Washington Street, Phoenix, Arizona 85007, Hearing Room No. 1. Additional hearing days will**  
22 **be conducted on March 10-13, March 16-17, and March 23-25, 2015, as necessary.**

23 **IT IS FURTHER ORDERED that the December 2, 2014, hearing will be convened for the**  
24 **purpose of taking public comment only.**

25 **IT IS FURTHER ORDERED that the applicable time clock in this matter shall be**  
26 **extended accordingly.**

27 **IT IS FURTHER ORDERED that the pre-hearing conference scheduled for December 1,**  
28 **2014, shall be vacated.**

1 IT IS FURTHER ORDERED that a **pre-hearing conference shall be held on March 6,**  
2 **2015, at 10:00 a.m., at the Commission's offices.**

3 IT IS FURTHER ORDERED that **Albert Gervenack is hereby granted intervention.**

4 IT IS FURTHER ORDERED that the **direct testimony and associated exhibits to be**  
5 **presented at hearing on behalf of Staff and intervenors on issues other than rate design shall be**  
6 **reduced to writing and filed on or before January 20, 2015.**

7 IT IS FURTHER ORDERED that the **direct testimony and associated exhibits to be**  
8 **presented at hearing on behalf of Staff and intervenors on rate design issues shall be reduced to**  
9 **writing and filed on or before February 2, 2015.**

10 IT IS FURTHER ORDERED that any **rebuttal testimony and associated exhibits to be**  
11 **presented at hearing by EPCOR shall be reduced to writing and filed on or before February 9,**  
12 **2015.**

13 IT IS FURTHER ORDERED that any **surrebuttal testimony and associated exhibits to be**  
14 **presented by Staff and intervenors shall be reduced to writing and filed on or before February**  
15 **23, 2015.**

16 IT IS FURTHER ORDERED that any **rejoinder testimony and associated exhibits to be**  
17 **presented at hearing by EPCOR shall be reduced to writing and filed on or before March 2,**  
18 **2015.**

19 IT IS FURTHER ORDERED that **all filings shall be made by 4:00 p.m. on the date the**  
20 **filing is due.**

21 IT IS FURTHER ORDERED that any **objections to testimony or exhibits that have been**  
22 **pre-filed as of March 2, 2015, shall be made before or at the March 6, 2015, pre-hearing**  
23 **conference.**

24 IT IS FURTHER ORDERED that all testimony filed shall include a table of contents which  
25 lists the issues discussed.

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1 IT IS FURTHER ORDERED that any substantive corrections, revisions, or supplements to  
2 pre-filed testimony shall be reduced to writing and filed no later than five calendar days before the  
3 witness is scheduled to testify.

4 IT IS FURTHER ORDERED that the parties shall prepare a brief, written summary of the  
5 pre-filed testimony of each of their witnesses and shall file each summary at least two working days  
6 before the witness is scheduled to testify.

7 IT IS FURTHER ORDERED that copies of summaries shall be served upon the  
8 Administrative Law Judge, the Commissioners, and the Commissioners' aides as well as the parties  
9 of record.

10 IT IS FURTHER ORDERED that discovery shall be as permitted by law and the rules and  
11 regulations of the Commission, except that until **February 6, 2015**, any objection to discovery  
12 requests shall be made within 7 calendar days of receipt<sup>1</sup> and responses to discovery requests shall be  
13 made within 10 calendar days of receipt. Thereafter, objections to discovery requests shall be made  
14 within 5 calendar days and responses shall be made within 7 calendar days. The response time may  
15 be extended by mutual agreement of the parties involved if the request requires an extensive  
16 compilation effort.

17 IT IS FURTHER ORDERED that for discovery requests, objections, and answers, if a  
18 receiving party requests service to be made electronically, and the sending party has the technical  
19 capability to provide service electronically, service to that party shall be made electronically.

20 IT IS FURTHER ORDERED that, in the alternative to filing a written motion to compel  
21 discovery, any party seeking resolution of a discovery dispute may telephonically contact the  
22 Commission's Hearing Division to request a date for a procedural hearing to resolve the discovery  
23 dispute; that upon such a request, a procedural hearing will be convened as soon as practicable; and  
24 that the party making such a request shall forthwith contact all other parties to advise them of the  
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28 <sup>1</sup> The date of receipt of discovery requests is not counted as a calendar day, and requests received after 4:00 p.m. MST  
will be considered as received the next business day.

1 hearing date and shall at the hearing provide a statement confirming that the other parties were  
2 contacted.<sup>2</sup>

3 IT IS FURTHER ORDERED that any motions which are filed in this matter and which are  
4 not ruled upon by the Commission within 20 calendar days of the filing date of the motion shall be  
5 deemed denied.

6 IT IS FURTHER ORDERED that any responses to motions shall be filed within five calendar  
7 days of the filing date of the motion.

8 IT IS FURTHER ORDERED that any replies shall be filed within five calendar days of the  
9 filing date of the response.

10 IT IS FURTHER ORDERED that all parties must comply with Rules 31 and 38 of the Rules  
11 of the Arizona Supreme Court and A.R.S. § 40-243 with respect to the practice of law and admission  
12 *pro hac vice*.

13 IT IS FURTHER ORDERED that withdrawal of representation must be made in compliance  
14 with A.A.C. R14-3-104(E) and Rule 1.16 of the Rules of Professional Conduct (under Rule 42 of the  
15 Rules of the Arizona Supreme Court). Representation before the Commission includes appearances  
16 at all hearings and procedural conferences, as well as all Open Meetings for which the matter is  
17 scheduled for discussion, unless counsel has previously been granted permission to withdraw by the  
18 Administrative Law Judge or the Commission.

19 IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113 - Unauthorized  
20 Communications) continues to apply to this proceeding and shall remain in effect until the  
21 Commission's Decision in this matter is final and non-appealable.

22 IT IS FURTHER ORDERED that the time periods specified herein shall not be extended  
23 pursuant to Rule 6(a) or (e) of the Rules of Civil Procedure.

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28 <sup>2</sup> The parties are encouraged to attempt to settle discovery disputes through informal, good-faith negotiations before seeking Commission resolution of the controversy.

1 IT IS FURTHER ORDERED that the Administrative Law Judge may rescind, alter, amend,  
2 or waive any portion of this Procedural Order either by subsequent Procedural Order or by ruling at  
3 hearing.

4 DATED this 16<sup>th</sup> day of October, 2014.

5  
6 

7 DWIGHT D. NODES  
8 ASSISTANT CHIEF ADMINISTRATIVE LAW JUDGE

9 Copies of the foregoing mailed  
10 this 16<sup>th</sup> day of October, 2014, to:

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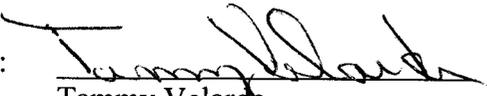
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