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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

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

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AZ CORP COMMISSION
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2014 OCT 21 PM 1 25

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, AND POSSIBLE RATE CONSOLIDATION FOR ALL OF ARIZONA-AMERICAN WATER COMPANY'S DISTRICTS.

DOCKET NO. W-01303A-09-0343

Arizona Corporation Commission
DOCKETED

OCT 21 2014

DOCKETED BY

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, AND POSSIBLE RATE CONSOLIDATION FOR ALL OF ARIZONA-AMERICAN WATER COMPANY'S DISTRICTS.

DOCKET NO. SW-01303A-09-0343

ORIGINAL

PROCEDURAL ORDER

BY THE COMMISSION:

On July 30, 2014, the Arizona Corporation Commission ("Commission") issued Decision No. 74588 in the above-captioned dockets stating that it had received a significant number of customer complaints and petitions concerning EPCOR Water Arizona, Inc. ("EPCOR") Agua Fria District's rates and charges for water and wastewater service.

On August 7, 2014, a Procedural Order was issued scheduling a procedural conference for August 13, 2014, to discuss the matters set forth in Decision No. 74588.

1 As directed by the Commission, on August 8, 2014, EPCOR filed its Response to Decision
2 No. 74588.

3 On August 12, 2014, Anthem Community Council (“Anthem”) filed Preliminary Comments
4 on EPCOR Water Company’s Response to Commission Decisions. Anthem also filed a Motion to
5 Stay Proceedings.

6 On August 13, 2014, EPCOR filed a copy of an email sent to the Commission with an
7 electronic copy of its August 8, 2014 Response.

8 On August 13, 2014, the procedural conference was held as scheduled. At the procedural
9 conference, the parties discussed a number of procedural issues including filing dates for testimony
10 and possible hearing dates. The parties agreed that only the 09-0343 Docket should be used for
11 processing the issues raised by Decision Nos. 74588 and 74589 because the Commission was
12 addressing only wastewater rate issues in those Decisions, while the 10-0448 Docket involved only
13 water systems. At the procedural conference, EPCOR was directed to work with Staff to develop a
14 mutually agreeable customer notice to be sent to all wastewater customers.

15 On August 15, 2014, EPCOR filed a Notice of Filing Revised Form of Notice and Response
16 to Procedural Schedule. In its filing, EPCOR attached a revised customer notice which it stated was
17 agreed to between the Company and Staff. EPCOR also set forth a modified procedural schedule
18 which it requested be adopted.

19 On August 18, 2014, a Procedural Order was issued scheduling a hearing to commence on
20 November 12, 2014, adopting various procedural deadlines, and directing the Company to mail and
21 publish notice of the proceeding.

22 On August 19, 2014, a Procedural Order was issued correcting the customer notice set forth in
23 the August 18, 2014 Procedural Order.

24 On August 19, 2014, Verrado Community Association, Inc. (“Verrado”) filed a Response to
25 Anthem Community Council Inc.’s Motion to Stay Proceedings.

26 On August 19, 2014, a Motion to Withdraw as Co-Counsel for Corte Bella Country Club
27 Association (“CBCCA”) was filed by Jason D. Gellman.

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1 On August 19, 2014, intervenors W.R. Hansen and Larry Woods filed a request to have Mr.
2 Hansen identified as “President, Property Owners & Residents Assoc.” (“PORA”), and to have that
3 designation removed from Mr. Woods.

4 On August 20, 2014, Staff filed a Notice of Filing request to place the matter on the
5 Commission’s September Open Meeting.

6 On August 20, 2014, Diane Smith, Douglas Edwards, and Regina Shanney-Saborsky filed
7 Motions to Intervene.

8 On August 25, 2014, Frances A. Noe filed an Application to Intervene.

9 On August 26, 2014, EPCOR filed a Response to Anthem Community Council’s Motion to
10 Stay Proceedings.

11 On August 27, 2014, Robert J. McKenzie Jr. filed an Application to Intervene.

12 On August 28, 2014, Anthem filed a Request for Reconsideration of Commission’s Denial of
13 Motion for Stay of Proceedings.

14 On September 2, 2014, Verrado filed a Response to Anthem Community Council’s Request
15 for Reconsideration of Commission’s Denial of Motion for Stay of Proceedings.

16 On September 3, 2014, the Residential Utility Consumer Office (“RUCO”) filed a Response
17 to Anthem Community Council’s Request for Reconsideration of Commission’s Denial of Motion for
18 Stay of Proceedings.

19 On September 4, 2014, Anthem filed a Reply to EPCOR’s Response to Anthem’s Motion to
20 Stay Proceedings.

21 On September 5, 2014, Karen D. Proctor filed an Application to Intervene.

22 On September 8, 2014, EPCOR filed the Direct Testimony of Sheryl Hubbard and Shawn
23 Bradford.

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

25 On September 9, 2014, Douglas Edwards, Diane Smith, and Regina Shanney-Saborsky filed
26 Amended Applications to Intervene.

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1 On September 11, 2014, a Motion to Intervene was filed by Greg Eisert as the “Chairman of
2 the Government Affairs Committee of the Sun City Home Owners Association” (“SCHOA”).¹

3 On September 19, 2014, the City of Buckeye requested a Public Comment Meeting.

4 On September 19, 2014, Frederick G. Botha filed a request for EPCOR to answer data
5 requests.

6 On September 22, 2014, a Procedural Order was issued denying Anthem’s request for
7 reconsideration; granting intervention to Frances A. Noe, Robert J. McKenzie Jr., Karen D. Proctor,
8 and Albert E. Gervenack; authorizing Jason Gellman to withdraw as counsel for CBCCA; and
9 directing PORA, CBCCA and SCHOA to take certain actions if they wished to be represented by a
10 non-attorney, pursuant to Arizona Supreme Court Rule 31(d)(28).

11 On September 23, 2014, EPCOR filed responses to Fred Botha’s Second Set of Data
12 Requests.

13 On September 26, 2014, Douglas Edwards, Diane Smith, and Regina Shanney-Saborsky filed
14 2nd Amended Applications to Intervene to Clarify Status of Intervenor as Resident.

15 On September 29, 2014, CBCCA filed a Resolution authorizing Regina Shanney-Saborsky to
16 represent the CBCCA in lieu of counsel.

17 On September 30, 2014, the City of Phoenix filed a Motion to Intervene and Motion to
18 Dismiss City of Phoenix From Rate Making Due to Lack of Jurisdiction.

19 On October 2, 2014, Frances A. Noe and Karen D. Proctor filed Amended Applications to
20 Intervene.

21 On October 3, 2014, Greg Eisert filed Direct Testimony.

22 On October 6, 2014, EPCOR filed a Response to City of Phoenix’s Motion to Intervene.

23 On October 6, 2014, PORA filed a Resolution authorizing W. R. Hansen to be PORA’s
24 “official Intervenor” in this proceeding.

25

26 ¹ Mr. Eisert filed Direct testimony on October 3, 2014, and Rebuttal Testimony on October 17, 2014, on behalf of the
27 SCHOA. However, to date, SCHOA has not complied with the directive of the September 22, 2014, Procedural Order
28 that it must file a specific authorization, such as a board resolution, for a lay person meeting the requirements of Arizona
Supreme Court Rule 31(d)(28) to represent SCHOA in this matter. Without such authorization, the Commission cannot,
pursuant to the Arizona Supreme Court Rule, allow Mr. Eisert or any other non-attorney to appear and represent SCHOA
in this proceeding.

1 On October 6, 2014, Staff filed the Direct Testimony of Gerald Becker; CBCCA filed the
2 Direct Testimony of Doug Edwards; DMB White Tank, LLC filed the Direct Testimony of Dave
3 Nilsen; Verrado filed the Direct Testimony of Melinda Gulick and Kent Simer; RUCO filed the
4 Direct Testimony of Robert B. Mease; Anthem filed the Direct Testimony of Jenna Kolling and Dan
5 L. Neidlinger; PORA filed the testimony of W. R. Hansen; the Russell Ranch Homeowners'
6 Association filed the Direct Testimony of George Turner; and individual intervenor Direct Testimony
7 was filed by Diane Smith, Albert Gervenack, Frances Noe, and Frederick Botha.

8 On October 7, 2014, Anthem filed a revised exhibit to Mr. Neidlinger's testimony.

9 On October 9, 2014, Frances Noe filed a service list for the Direct Testimony filed on October
10 6, 2014.

11 On October 9, 2014, Staff filed a Request Regarding the Service List. Staff stated that due to
12 the length of the service list in this proceeding that should should be permitted to accept service by
13 email for all future filings. Staff also requested that parties on the service list who do not specifically
14 request to remain on the list should be removed from the service list.

15 On October 10, 2014, EPCOR filed Affidavits of Pulication and Mailing regarding the Public
16 Notice.

17 On October 17, 2014, Greg Eisert filed Rebuttal Testimony.

18 On October 20, 2014, EPCOR filed the Rebuttal Testimony of Sheryl Hubbard and Shawn
19 Bradford.

20 **IT IS THEREFORE ORDERED the City of Phoenix is hereby granted intervention.**

21 **IT IS FURTHER ORDERED that all parties shall file, by no later than October 30, 2014,**
22 **an affirmative statement that they wish to remain on the service list for this proceeding, and**
23 **shall indicate whether they agree to receive future service via email or wish to continue to**
24 **receive service by regular mail. All parties agreeing to receive service by email shall include a**
25 **valid email address where they will receive service.**

26 **IT IS FURTHER ORDERED that in the event SCHOA wishes for Mr. Eisert or another**
27 **qualified lay representative to represent it in lieu of representation by counsel in this matter,**
28 **the intervention request will be considered once one of the following is filed in this docket: (1)**

1 specific authorization, such as a board resolution, for Mr. Eisert or another specifically named
2 lay person meeting the requirements of Arizona Supreme Court Rule 31(d)(28) to represent
3 SCHOA in this matter; or (2) an intervention request filed by counsel representing SCHOA in
4 this matter.

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

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

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

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

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

22 DATED this 21st day of October, 2014.

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DWIGHT D. NODES
ASSISTANT CHIEF ADMINISTRATIVE
LAW JUDGE

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(Service lists are combined from Docket Nos.
W-01303A-09-0343, SW-01303A-09-0343
and W-01303A-10-0448)