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BEFORE THE ARIZONA CORPORATION COMMISSION

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Arizona Corporation Commission

DOCKETED

NOV 19 2014

DOCKETED BY

ORIGINAL

- 1
- 2 BOB STUMP  
CHAIRMAN
- 3 GARY PIERCE  
COMMISSIONER
- 4 BRENDA BURNS  
COMMISSIONER
- 5 BOB BURNS  
COMMISSIONER
- 6 SUSAN BITTER SMITH  
COMMISSIONER

7  
8 IN THE MATTER OF THE APPLICATION OF  
9 ARIZONA-AMERICAN WATER COMPANY,  
10 AN ARIZONA CORPORATION, FOR A  
11 DETERMINATION OF THE CURRENT FAIR  
12 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

13 IN THE MATTER OF THE APPLICATION OF  
14 ARIZONA-AMERICAN WATER COMPANY,  
15 AN ARIZONA CORPORATION, FOR A  
16 DETERMINATION OF THE CURRENT FAIR  
17 VALUE OF ITS UTILITY PLANT AND  
18 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

NOTICE OF FILING

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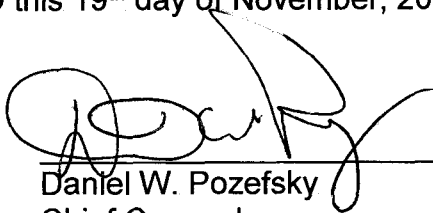
21 The Residential Utility Consumer Office ("RUCO") hereby provides notice of filing the  
22 Settlement Agreement in the above-referenced matter.

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1 At this time all of the parties except Anthem have agreed to the terms of the  
2 Agreement.<sup>1</sup> Anthem's Board of Directors will be considering the Settlement Agreement  
3 this afternoon. The parties in this matter will be present tomorrow, November 20, 2014, at  
4 10:00 a.m. to formally present this Agreement, signature sheets, Schedule H, and  
5 positions.

6 RESPECTFULLY SUBMITTED this 19<sup>th</sup> day of November, 2014.

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9 Daniel W. Pozefsky  
Chief Counsel

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13  
14 AN ORIGINAL AND THIRTEEN COPIES  
15 of the foregoing filed this 19th day  
of November, 2014 with:

16 Docket Control  
17 Arizona Corporation Commission  
1200 West Washington  
Phoenix, Arizona 85007

18 COPIES of the foregoing hand delivered/  
19 emailed this 19th day of November, 2014 to:

20 Dwight Nodes  
21 Administrative Law Judge  
Arizona Corporation Commission  
1200 West Washington  
22 Phoenix, Arizona 85007

23 \_\_\_\_\_  
24 <sup>1</sup> The City of Phoenix is not a signatory as the settlement does not address the City's issue.

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14 By *Cheryl Fraulob*  
15 Cheryl Fraulob

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## **SETTLEMENT AGREEMENT**

The purpose of this Settlement Agreement (“Agreement”) is to settle issues raised by the Arizona Corporation Commission in Decision No. 74588 in Docket Nos. W-01303A-09-0343 and SW-01303A-09-0343. This Agreement is entered into by the following entities (each a “Party”; collectively, the “Parties”):

### **List of Parties**

EPCOR Water Arizona, Inc. (“EWAZ” or “Company”)

Arizona Corporation Commission Utilities Division (“Staff”)

Residential Utility Consumer Office

Verrado Community Association, Inc.

DMB White Tank, LLC

Anthem Community Council

Property Owners & Residents Association (“PORA”)

Sun City Home Owners Association (“SCHOA”)

Regina Shanney-Saborsky

Diane Smith

Douglas Edwards

Frances A. Noe

Russell Ranch Homeowners’ Association, Inc.

Fred Botha

Albert Gervenack

Robert McKenzie, Jr.

Karen D. Proctor

Anthem Golf and Country Club

## Terms and Conditions

In consideration of the promises and agreements contained herein, the Parties agree that the following numbered sections and subsections comprise the Parties' Agreement.

### **1. Recitals**

- 1.1 On July 30, 2014, the Commission issued Decision No. 74588, which initiated this proceeding (the "Case"). On November 5, 2014, the Commission re-opened Decision Nos. 73837, 73230, 73227, 73221, and 72047 pursuant to A.R.S. § 40-252. The evidentiary hearing in this matter commenced on November 12, 2014. On November 14, 2014, Staff filed a notice of settlement discussions.
- 1.2 This Agreement will resolve the issues raised in the Case for the Company's existing wastewater districts: Anthem Wastewater District, Agua Fria Wastewater District, Sun City Wastewater District, Sun City West Wastewater District, and Mohave Wastewater District.
- 1.3 The negotiation process undertaken in this matter was open to all intervenors and provided all intervenors with an equal opportunity to participate along with legal counsel.
- 1.4 The Parties agree and represent their belief that the terms and conditions of this Agreement will serve the public interest by providing a just and reasonable resolution of the issues presented by the Case. The adoption of this Agreement will further serve the public interest by allowing all parties to obtain greater certainty and avoid the expense, delay, and risk associated with continued protracted litigation.
- 1.5 The Parties agree to ask the Commission to: (1) find that the terms and conditions of this Agreement are just and reasonable and in the public interest, along with any and all other necessary findings, and (2) approve the Agreement and order that the Agreement and the rates contained therein become effective on January 1, 2015 or at the earliest practicable date.

### **2. Terms of Settlement**

2.1 For ratemaking purposes and for the purposes of this Agreement, the Parties agree to each of the following settlement terms and conditions:

(a) The Parties agree that the rates agreed to in this Agreement are just and reasonable and will result in a Company-wide revenue neutral change to the Company's wastewater rate design, based on a 2008 test year for Anthem Wastewater, Agua Fria Wastewater, Sun City Wastewater, Sun City West Wastewater and a 2007 test year for Mohave Wastewater.

(b) A flat rate with no volumetric charge will be used for all residential customers (except as described below).

(c) Until the Commission gives full consideration of the issues of consolidation and deconsolidation in the Company's next wastewater rate case (as defined below), the rate design for these wastewater districts will be interim in nature and will be as follows:

(i) The monthly bill for Agua Fria Wastewater District residential customers will be a flat rate of \$71.16, which is a reduction of \$35.05 from current rates (Phase 2) for average usage.

(ii) The monthly bill for Sun City Wastewater District residential customers will be a flat rate of \$22.11, which is an increase of \$4.00.

(iii) The monthly bill for Sun City West Wastewater District residential customers will be a flat rate of \$32.46, which is an increase of \$1.50.

(iv) The monthly bill for Mohave Wastewater District residential customers will be a flat rate of \$55.55, which is a reduction of \$1.00.

(v) The monthly bill for Anthem Wastewater District residential customers will be a monthly minimum rate of \$31.18 with a volumetric rate of \$4.1649, which is a reduction of \$2.10 from current rates (Phase 2) for average usage. The capped total rate will be \$60.33.

(d) Rates for non-residential classes of customers will remain at current levels.

(e) Rates for effluent customers will remain at current levels.

(f) All others tariffs for the Company's wastewater districts shall remain unchanged.

2.2 No final determination of consolidation or deconsolidation is made at this time. No party gives up their rights to take any position or make any proposals in the 2015 wastewater rate case (see 2.5 below). The Sun Cities remain firmly opposed to rate consolidation as a viable solution while some of the other Parties remain firmly in support of rate consolidation.

2.3 The Settlement Schedules attached hereto as Exhibit A reflect a summary of the H Schedules for each district in this Case.

2.4 The parties agree that these rates will remain in effect until a Commission Decision in the Future Rate Case (as defined below). At that time, the revenue requirements approved for each district in the Future Rate Case will be compared to each district's revenue generated using the billing determinants in the attached H Schedules. If the revenue requirement approved for a district in the Future Rate Case is less than that district's revenue generated by the rates authorized in this Case, the amount of the difference shall be subject to true-up (i.e. refund) for that district. The true-up period would be from the effective date of the

order in this case through the effective date of the order in the Future Rate Case. However, there will not be any true-up if the revenue requirement in the Future Rate Case for any district is greater than the revenue generated by the rates authorized in this case for the same district.

2.5 The Company will file a rate case for all five of the wastewater districts set forth in Section 1.2 above on or before September 30, 2015, utilizing a December 31, 2014 test year (the "Future Rate Case"). In the Future Rate Case, the Company will include the five individual districts' revenue requirements with cost of service studies for each district to allow the parties to examine this information on a fully consolidated basis and on a separate wastewater system basis. The Company will also include a fully deconsolidated wastewater proposal by system.

### **3. Commission Approval**

3.1 The Parties acknowledge and agree that the establishment of just and reasonable rates requires Commission approval, and that the Commission will independently consider and evaluate the terms of this Agreement. With respect to approval of this Agreement, the Parties agree as follows:

- (a) To support and defend the Agreement by providing testimony as required by the Administrative Law Judge, appearing at any and all hearings, open meetings or other proceedings in the Case related to the Agreement, and taking any and all other steps reasonably necessary to obtain Commission adoption of the material terms of the Agreement, including, but not limited to, eliciting support from its constituents. Staff's participation is limited to providing testimony as required by the Administrative Law Judge, and appearing at hearings and open meetings.
- (b) All currently-filed testimony and exhibits shall be offered into the Commission's record as evidence.
- (c) To waive all rights to appeal a Commission decision providing the Commission adopts the material terms of this Agreement.
- (d) A final, non-appealable Commission order adopting the material terms of this Agreement shall constitute Commission approval of the Agreement for purposes of the Agreement.
- (e) Consistent with any order of the Commission, but not less than fifteen days after the Commission issues an order in this matter, EWAZ shall file compliance tariffs for Staff review and approval. Such compliance tariffs, however, will become effective upon the effective date of the rate increase stated in the Commission's Order, which the Parties agree will be January 1, 2015, unless otherwise ordered by the Commission.

3.2 The Parties further agree that in the event the Commission fails to issue an order adopting all material terms of this Agreement or modifies or adds material terms to this Agreement, any or all of the Parties may withdraw from this Agreement, and such Party or Parties may pursue their respective remedies at law without prejudice. For the purposes of this



Agreement, whether a term is material shall be left to the discretion of the Party choosing to withdraw from the Agreement. If a Party withdraws from the Agreement pursuant to this paragraph and files an application for rehearing, the other Parties shall support the application for rehearing by filing a document to that effect with the Commission. Staff shall not be obligated to file any document or take any position regarding the withdrawing Party's application for rehearing.

3.3 The Parties recognize that Staff does not have the power to bind the Commission. For purposes of proposing a settlement agreement, Staff acts in the same manner as any party to a Commission proceeding.

3.4 The Parties agree that this Agreement will not have any binding force or effect until its material terms are adopted as an order of the Commission. This provision shall not relieve the Parties of their obligations pursuant to this Section 3 and Section 4 of the Agreement.

#### **4. Miscellaneous Provisions**

4.1 With respect to the Parties' Agreement as set forth herein, the Parties further agree to the following general terms and conditions of their agreement to settle their disputed claims in the rate case:

- (a) That each person whose signature appears below is fully authorized and empowered to execute this Agreement.
- (b) That each Party understands all of the terms of this Agreement, that it has had an opportunity to participate in the drafting of this Agreement and fully review this Agreement with its counsel before signing, and that it executes this Agreement with full knowledge of the terms of the Agreement.
- (c) Nothing in this Agreement shall be construed as an admission by any of the Parties that any of the positions taken by any Party in this proceeding is unreasonable or unlawful. In addition, acceptance of this Agreement by any of the Parties is without prejudice to any position taken by any Party in these proceedings.
- (d) This case presents a unique set of circumstances and compromises to achieve consensus for settlement. Consequently, Parties may be accepting positions that, in other circumstances, they would be unwilling to accept. They are doing so because the Agreement, as a whole, with its various provisions for settling the unique issues presented by this case, is consistent with their long-term interests and the broad public interest. The acceptance by any Party of any specific element of this Agreement shall not be considered as precedent for acceptance of that element in any other context. Specifically, the Parties shall be free in the Future Rate Case to take any position or no position with regard to consolidation or deconsolidation.

- (e) The Parties shall make reasonable and good faith efforts necessary to obtain a Commission order approving this Agreement. The Signatories shall support and defend this Agreement before the Commission.
- (f) This Agreement represents the Parties' mutual desire to compromise and settle in good faith all disputed issues in the Case in a manner consistent with the public interest. The terms and provisions of this Agreement apply solely to and are binding only in the context of the circumstances and those purposes. None of the positions taken in this Agreement by any of the Parties may be referred to, cited, or relied upon as precedent in any proceeding before the Commission, any other regulatory agency, or any court for any purpose except in furtherance of this Agreement.
- (g) All negotiations relating to this Agreement are privileged and confidential. No Party is bound by any position asserted in negotiations, except as expressly stated in this Agreement. The Parties expressly agree that evidence of conduct or statements made in the course of negotiating this Agreement shall not be offered and are not admissible before this Commission, any other regulatory agency, or any court.
- (h) Each of the terms and conditions of the Agreement is in consideration and support of all other terms. Accordingly, the terms are not severable except upon express consent of the Parties.
- (i) This Agreement may be executed in any number of counterparts and by each Party on separate counterparts, each of which when so executed and delivered shall be deemed an original and all of which taken together shall constitute one and the same instrument. This Agreement may also be executed electronically or by facsimile.
- (j) To the extent any provision of this Agreement is inconsistent with any existing Commission order, rule or regulation, this Agreement shall control.

Executed this \_\_\_ day of November, 2014.

	(A) Stand Alone Current Rates	(B) Residential Billing Units	(C) Current Authorized Revenues	(D) Adjusted Rates	(E) Calculated Revenues
Agua Fria	\$106.21	54,616	\$5,917,096	\$71.16	\$3,886,475
Anthem	\$62.43	99,935	\$5,177,038	\$60.33	\$5,536,059
Sun City	\$18.11	373,279	\$6,842,793	\$22.11	\$8,253,199
Sun City West	\$30.96	206,542	\$6,428,855	\$32.46	\$6,704,353
Mohave	\$56.55	14,596	\$ 825,404	\$55.55	\$ 810,808
			\$25,191,186		\$25,190,893