

OPEN MEETING AGENDA ITEM

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December 10, 2014

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Commissioner Brenda Burns
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Arizona Corporation Commission
1200 W. Washington Street
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Arizona Corporation Commission
DOCKETED

DEC 10 2014

Re: EPCOR Water Arizona, Inc.
Docket Nos. SW-01303A-09-0343 and W-01303A-09-0343

DOCKETED BY [Signature]

Dear Commissioner Burns:

By and through its undersigned counsel, the Anthem Community Council, Inc. ("**Anthem**"), responds as follows to your letter dated December 2, 2014 seeking responses to four questions posed with respect to the filing of a Settlement Agreement on November 19, 2014 (the "**Settlement Agreement**") related to the above-docketed proceedings (the "proceedings"). Anthem appreciates the opportunity to respond to your thoughtful questions.

Q1. Prior to the Settlement Agreement, what was your position on deconsolidation and consolidation? (Were you in favor or opposed to full consolidation, full deconsolidation, partial consolidation or deconsolidation, or a reversal of the Anthem/Agua Fria deconsolidation? Other?)

A1. Anthem has supported the full consolidation of all of EPCOR Water Arizona Inc.'s ("**EPCOR**" or the "**Company**") wastewater districts throughout the proceedings, beginning with the filing of Anthem's Initial Post-Hearing Brief on July 16, 2010, as a long-term solution that, over the long haul, benefits all customers. Anthem believes that the possible benefits of rate consolidation include (i) lower administrative costs through unified customer accounting and billing systems; (ii) reduction in the number of rate cases and associated expenses; (iii) elimination of distorted cost allocations among districts in rate filings; (iv) implementation of standard customer service policies

and related service rates and charges; (v) improved rate stability and elimination of rate shock; (vi) reduced customer confusion with respect to the Company's currently differing rate schedules; (vii) development and implementation of a targeted and comprehensive water conservation program for all of its systems; and (viii) improved opportunities for future acquisitions, especially of troubled utility systems.

Anthem has similarly held the position throughout the proceedings that if full consolidation could not be achieved, then Anthem was against the partial consolidation of the Anthem Wastewater District and the Agua Fria Wastewater District, as initially consolidated or to be accomplished through reconsolidation. In a prior phase of the proceedings Anthem urged deconsolidation of the then Anthem/Agua Fria Wastewater District because (i) deconsolidation of the Anthem/Agua Fria Wastewater District was part of the quid-pro-quo for Anthem's acquiescence with respect to the ratemaking recognition of certain disputed refund payments paid to the developer of the Anthem community,¹ (ii) continued consolidation of the Anthem/Agua Fria Wastewater District was inconsistent with cost of service ratemaking principles and was contrary to good public policy, and (iii) indefinite continuation of the \$2.4 million annual subsidy borne by the Anthem wastewater ratepayers for the benefit of Agua Fria wastewater ratepayers was unfair and unreasonable. The Commission agreed with Anthem's position and ordered immediate deconsolidation in Decision No. 73227 (June 5, 2012). Since that time, Anthem has been firmly against any effort to reconsolidate the Anthem Wastewater District and the Agua Fria Wastewater District and believes that

¹ The relevant excerpt of Decision No. 73227 (June 5, 2012) reflecting the Commission's recognition that deconsolidation was integral to the settlement of this issue is as follows:

Moreover, even if we were to set aside our desire to establish rates on cost causation principles, we believe deconsolidation of the Anthem wastewater district would be appropriate in this case in order to preserve the integrity of settlement negotiations that occur in Commission proceedings. In our December 15, 2010 Open Meeting, we encouraged the parties to negotiate the settlement of contentious legal and equitable issues involving the disputed refund payments that the Company paid to Pulte. As part of the settlement agreement that was ultimately reached, Anthem surrendered several arguments against recognizing the disputed refund payments to Pulte for ratemaking purposes. Anthem's willingness to do so was based on the gains Anthem would make in other areas under the settlement agreement, including the timely deconsolidation of the Anthem/Agua Fria Wastewater District. The record suggests that deconsolidation of the Anthem/Agua Fria Wastewater District was vital to Anthem's willingness to support the settlement as a complete package. Therefore, in order to preserve the integrity of the settlement negotiations that occur in Commission proceedings, we believe it is in the public interest to deconsolidate Anthem from the Anthem/Agua Fria Wastewater District at this time.

[Decision No. 73227 at page 31, lines 13-28].

reconsolidation would violate the settlement agreement subsumed in Decision No. 72047 (January 6, 2011) and ratified in Decision No. 73227 (the "**Prior Settlement Agreement**").

Anthem believes that the maximum benefits of consolidation can be achieved through full consolidation and that full consolidation is the fairest approach; therefore, Anthem has not supported any partial consolidation model which includes the Anthem wastewater district but excludes other EPCOR wastewater districts. Anthem has taken no position on the further deconsolidation of the Agua Fria wastewater district.

Q2. Since the Settlement Agreement has your position changed?

A2. No, the Settlement Agreement includes an acceptable interim solution with respect to residential ratepayers and Anthem supports the settlement agreement as a means of moving in the direction of consolidation and in order to support other communities' efforts to obtain reasonable wastewater rates for residential customers. The Settlement Agreement (i) provides a timely and specific date by which the next rate case must be filed, together with full cost of service studies which will allow an informed Commission decision upon whether system-wide consolidation should be continued thereafter; (ii) provides some interim rate relief for ratepayers in the Agua Fria district; (iii) provides Anthem residential ratepayers with rates slightly below their current rates; and (iv) firmly and appropriately rejects the idea of reconsolidation of the Anthem and Agua Fria wastewater districts. Further, while the Settlement Agreement in effect suspends implementation of Step 3 of the deconsolidated rates approved in Decision No. 73227, Anthem does not oppose such suspension at this time because of the benefits identified in items (i) through (iv) above.

Q3. Do you see the Settlement Agreement as the first step toward your position? Please explain.

A3. Likely yes. Currently Anthem supports the concept of full consolidation but obviously reserves judgment regarding the implementation of any specific proposal until Anthem has analyzed the information that will be produced by the forthcoming rate case and cost of service studies. If for some reason the Commission ultimately decides not to consolidate all EPCOR wastewater districts, Anthem may support other alternative scenarios that ensure that the Prior Settlement Agreement is honored and that the Anthem/Agua Fria Wastewater District is not reconsolidated.

Q4. How does the Settlement Agreement advance or hinder the position you support?

A4. Anthem does not know what the impact of the Settlement Agreement will be. The Settlement Agreement seems to represent a concrete and positive first step towards system-wide consolidation and will provide the Commission with some actual experience when it further considers the subject in EPCOR's next rate case. Further, Anthem is pleased that the Settlement Agreement causes any final decision by the Commission to be based upon current data and cost of service studies. However, due to the interim nature of the Settlement Agreement, the lack of updated rate information at this time, and the fact that the Commission has not provided clear direction on the issue of consolidation as a policy matter, Anthem is uncertain what the ultimate

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outcome will be. There is absolutely no indication of what will happen in the future. However, there is no doubt that achieving full consolidation will require strong leadership by the Commission. Anthem is hopeful that the "long and winding road" of this proceeding has provided the Commission with an impetus for pursuing full consolidation as a final, full, and fair solution to the problem of disparate wastewater rates among EPCOR customers.

Sincerely,

Judith M. Dworkin and
Roxann S. Gallagher
Sacks Tierney P.A.

and

Lawrence V. Robertson, Jr.
Of Counsel, Munger Chadwick, P.L.C.
Attorneys for Anthem Community Council

By: 
Roxann S. Gallagher

Copy of the foregoing mailed
this 10th day of December, 2014 to:

Service List for Docket No. W-01303A-09-0343
and SW-013-03A-09-0343