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AZ CORP COMMISSION  
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Arizona Corporation Commission  
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August 7, 2015

Chairman Susan Bitter Smith  
Commissioner Bob Stump  
Commissioner Bob Burns  
Commissioner Doug Little  
Commissioner Bob Forese  
Arizona Corporation Commission  
1200 West Washington Street  
Phoenix, AZ 85007

**RESPONSE TO DOCKET NO. W-00000C-15-0250 – SMALL WATER SYSTEMS FUND**

Privately owned, regulated utilities occupy a pivotal space in Arizona’s water industry. Roughly 287 individual utilities provide regulated water and wastewater service across Arizona, serving as few as a handful and as many as several hundred thousand customers in geographies that range from highly urbanized settings with complex infrastructure systems and treatment facilities to simple pump-and-pipe systems that bring water to just a few customers. Only 68 of Arizona’s regulated water utilities and 18 sewer utilities serve 500 or more customers, placing the vast majority of Arizona’s water utilities in a position of financial and operational vulnerability.

Small utilities face an additional challenge in that they lack the same access to capital and financing available to larger utilities. This leaves them vulnerable to increasing costs, changing and increasingly stringent environmental requirements and the risks and costs associated with aging infrastructure. By extension, their customers are also at risk.

On July 7, 2015, staff of the Arizona Corporation Commission (Commission) was directed by the Commissioners to explore options to create a permanent funding mechanism for the Small Water Systems Fund (SWSF). Docket No. W-00000C-15-0250 was opened on July 10, 2015 for this purpose and interested parties were asked to provide comment. In Docket No. W-00000C-15-0250, SWSF is defined as a funding mechanism “to be used to provide emergency grants of money to repair or replace failing water infrastructure of systems serving no more than 500 connections and that are being managed/operated by interim managers/operators appointed by the Commission.” Commission staff requested comments on the possibility of funding a SWSF by placing an assessment on customers of all water companies (Class A, B, C, D and E) or those who are currently assessed by the statutes already in existence (Class A, B and C). A surcharge levied as part of a rate case, on a case-by-case basis, was also contemplated as was the question of whether the SWSF should be housed at the Commission or with the Water Infrastructure Finance Authority of Arizona.

EPCOR Water Arizona Inc. (EWAZ) has given careful consideration to this request and must express its concern that creating such a funding mechanism will force utility customers across the state to unfairly, shoulder the financial burdens of small, troubled systems. Simply put, emergency funding sources do not address the long-term financial viability of small and/or troubled water systems. Access to emergency funding sources could also serve as a means of enabling financial mismanagement and lack of proper system maintenance.

**It is our position that a SWSF is not an effective solution to address the long-term financial viability of small and/or troubled water systems and penalizes Arizona’s well-run privately owned water utilities and their**

customers. While in the short term it would give increased stability of operations and improved certainty of financial compensation to interim operations managers, it would perpetuate the challenges faced by small and troubled utilities. EWAZ believes that a far more productive and cost-effective alternative for all parties – customers, small and troubled utilities, the regulatory bodies that govern them and all privately owned, regulated water utilities – is to continue to pursue alternative industry solutions that promote consolidation. This would enable utilities with financial and operational depth to acquire and integrate small and troubled systems that have neither the funds nor the resources to operate efficiently and safely.

Industry consolidation, for which the Commission has previously indicated its support, applies the benefits of economies of scale to utilities and their customers, mitigating rate shock and affordability concerns and strengthening Arizona's water industry. One potential concept EWAZ suggests that the Commission explore would be to use the SWSF as a step towards consolidation, allowing these water systems access to this funding as an interim solution which would trigger a formal process that allows the system to be acquired by a utility with stronger financial and operational capabilities.

In the event that a SWSF is funded through legislative action, we urge caution and careful consideration of the following to ensure that customers of well-run privately owned water utilities and Arizona's water industry are protected:

- There is a great deal of ambiguity in the statute, with no clear definition of what constitutes an emergency. To protect customers of privately owned water utilities and ensure utility accountability, "emergency" must be clearly defined and eligibility requirements established.
- To avoid a continued and negative spiraling pattern of failure and financial drain, the SWSF should be capped at a maximum of \$100,000 each fiscal year. Placing a cap requires that the utility receiving the funding correctly manage these resources, limits the scope of the program to ensure resolution and accountability, and protects customers of privately owned water utilities in Arizona who will pay for the program.
- Access to emergency funds must be carefully monitored. Emergency funding requests by an interim operator or manager for a utility eligible under the SWSF should be limited to a single request on an annual basis.
- Utilities that request funding should be required to submit a plan to the Commission that clearly shows how the system will get to financial stability within a reasonably defined period of time.
- If a utility receives funding through the SWSF to make repairs to or to rehabilitate the public water system infrastructure that is operated by the interim operator or manager in order to correct or avoid an interruption in water service, the utility should be required to include the replacement costs of this infrastructure in a future rate case to ensure sufficient revenues are available to cover its replacement.
- Access to emergency funding must be equitable. All interim operators or managers assigned by the Commission must be guaranteed equal access to emergency funding for the purpose of operating the system it has been assigned.
- Should the program be funded, an assessment across all customers of privately owned water utilities similar to the assessment that customers of privately owned utilities in Arizona pay to fund the operations and administration of the Arizona Corporation Commission and Residential Utility Consumer Office is a more equitable manner to regulate this funding mechanism than a surcharge levied as part of a rate case which would create inconsistency across all utilities and further penalizes larger utilities that more consistently and

more frequently file rate cases. This assessment would be a pass-through fee for the utility.

- Funding the program must also be equitable. If an assessment fee or surcharge is created to fund the SWSF it must be applied to all water utilities, Classes A-E, without exclusivity.
- How the program is funded, and authority over the fund, must be expressly defined. A.R.S. §49-355 does not provide express direction on funding and authority, ambiguity that, if not resolved, would create uncertainty and inconsistency in the program's execution.

The creation of a SWSF in isolation, while providing short term certainty and relief to small systems and their interim operators, would not permanently address the impact troubled water systems have on Arizona's water industry and rate payers. Troubled system funding is a complex process that must be given careful consideration and requires clear definitions, eligibility requirements and administrative rules. It must also provide a path to resolve the long-term systematic problems inherent in small underfunded troubled systems.

Arizona's water industry is at an important crossroad and we must carefully weigh the regulatory framework that exists today with the state of Arizona's water industry and what tools we put in place for the future. As the state's largest regulated water utility, whose customers would be directly impacted by the creation of this fund, we appreciate the opportunity to provide comments and express our concerns on this important subject.

Sincerely,

A handwritten signature in black ink, appearing to read "Joe Gysel". The signature is written in a cursive style with a large, looping initial "J".

Joe Gysel  
President, EPCOR Water (USA), Inc.