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COMMISSIONERS

SUSAN BITTER SMITH, Chairperson
BOB STUMP
BOB BURNS
DOUG LITTLE
TOM FORESE

AZ CORP COMMISS...
DOCKET CONTROL

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

AUG 17 2015

DOCKETED BY	<i>MLB</i>
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**EXCEPTIONS FILED ON BEHALF OF JW MARRIOTT CAMELBACK INN,
SANCTUARY CAMELBACK MOUNTAIN RESORT & SPA, AND
THE OMNI SCOTTSDALE RESORT
& SPA AT MONTELUCCIA
(THE "RESORTS")**

AUGUST 17, 2015

1 **I. INTRODUCTION**

2 The JW Marriott Camelback Inn, Sanctuary Camelback Mountain Resort & Spa and the
3 Omni Scottsdale Resort & Spa at Montelucia (the “Resorts”), through undersigned counsel
4 hereby files their Exceptions to the Recommended Opinion and Order of Judge Dwight D. Nides
5 dated August 7, 2015 (“ROO”). The Resorts recommend the Arizona Corporation Commission
6 (the “Commission”) reject the System Improvement Benefits charge (“SIB”) requested by
7 EPCOR Water Arizona Inc. (“EPCOR”) for the Paradise Valley Water District (“PVWD”). The
8 proposed SIB is expected to increase total PVWD revenues by an additional 9.75%, over the
9 underlying rate increase recommended in the ROO. (Resorts-1 at 13).

10 **II. ARGUMENT**

11 The SIB is an abnormal rate-making mechanism that should only be implemented in
12 extraordinary circumstances. EPCOR proposes to use the SIB to cover normal capital
13 expenditures so its application is fundamentally inappropriate. (Resorts-1 at 2). The SIB is in a
14 class of “automatic adjustment clauses” or “adjustors.” (*Id.*). Adjustors are clauses to a rate-
15 making order that allow for future adjustments to tariffs. (*Id.*). Those tariff adjustments are based
16 on some cost fluctuation a utility faces. (*Id.*). Adjustors can be used in a case where a utility
17 faces a significant operating expense that exogenously rises or falls, e.g. in the case of a local gas
18 distribution company whose market costs of gas rise and fall and constitute a large portion of total
19 charges. (Resorts-1 at 2-3). In contrast, the Company’s proposed SIB seeks return on and return
20 of day-to-day capital expenditures (“CAPEX”). (Resorts-1 at 3). The CAPEX replacement
21 programs captured by the EWAZ SIB are internal re-investments incurred in the normal course of
22 business. (*Id.*).

23 EPCOR’s SIB appears to be based on a SIB mechanism implemented for Arizona Water
24 Company (“AWC”) under Decision No. 73938. (*Id.*). Yet in that case AWC was struggling
25 financially and had limited access to capital markets to fund its CAPEX. (*Id.*). AWC argued in
26 that case that the sheer volume of replacement CAPEX in its systems and the resulting strain on it

1 financially was extraordinary. (Resorts-1 at 3-4). AWC's critical financial condition and limited
2 or lack of access to capital funding made the SIB mechanism appropriate for AWC. (Resorts-1 at
3 4).

4 EPCOR does not face these same extraordinary circumstances. (*Id.*). EPCOR represented
5 publicly that it has significant access to debt capital markets. (Resorts-1 at 5). EPCOR also
6 represented that it had strong access to capital prior to 2014. (Resorts-1 at 6). EPCOR also
7 represented that it was financially capable to invest in Arizona-American Water Company
8 operations in the merger proceeding, Docket No. W-01303A-11-0101. (*Id.*). In that case, EPCOR
9 represented that it had the financial strength and desire to fund CAPEX and ensure quality
10 service. (Resorts-1 at 8). EPCOR did not represent that it needed any sort of abnormal SIB
11 mechanism to maintain Arizona-American's systems. (*Id.*). EPCOR's investor presentations
12 represented that it has solid access to capital. (*Id.*). The Commission conditioned approving
13 EPCOR's Arizona-American Water Co. acquisition on maintaining quality service. (Resorts-1 at
14 9). Such maintenance was never pre-conditioned on a SIB mechanism. (*Id.*).

15 The Resorts have also raised additional concerns regarding the implementation of the SIB
16 as follows: (1) If an asset has depreciation expense in the current rate case and it is subsequently
17 replaced through a SIB then ratepayers will be paying twice for the same asset. (Resorts-1 at 10);
18 (2) The SIB implementation does not account for accumulated depreciation. (*Id.*); (3) Any SIB
19 "rate base" should properly account for ADIT. (*Id.*); (4) Possible double counting of labor
20 expense and overhead already factored into base rates. (Resorts-1 at 11); (5) The SIB, as an
21 automatic adjustment clause, will only give a minimum 30-day notice which will not allow
22 ratepayers to budget accordingly. (*Id.*); (6) The SIB will inarguably lower a utility's risk but the
23 Company has not taken that lower risk into account. (Resorts-1 at 11-12); and (7) Notice of the
24 SIB in PVWD was deficient. (Resorts-1 at 12).

25 As with SIB applications in the past, the Residential Utility Consumer Office ("RUCO")
26 opposes the SIB for the following reasons: (1) the SIB inappropriately shifts risk from the

1 Company to the ratepayer without adequate financial compensation to the ratepayer; (2) the SIB
2 is not an adjustor mechanism; (3) the SIB will increase the Company's fair value rate base
3 without any determination of fair value; (4) the Company has not requested interim rates; (5) the
4 SIB is not in the public interest. (RUCO_ at 4). In addition, RUCO has identified additional
5 reasons to oppose the SIB including: (6) EPCOR does not meet the SIB Eligible Plant criteria as
6 identified in its Plan of Administration ("POA"); (7) RUCO takes exception to EPCOR's
7 explanation for its requesting a SIB mechanism; (8) if the Commission approves a SIB
8 mechanism rates will increase an additional 18.8 percent, 21.5 percent, and 17.6 percent,
9 collectively through the next rate case over and above the rates approved in this rate case, in the
10 Sun City, Mohave and Paradise Valley Water Districts respectively; and (9) the Company does
11 not set aside depreciation expense. (RUCO_ at ii.)

12 **III. CONCLUSION**

13 The Commission previously found a SIB appropriate for the financially struggling
14 Arizona Water Company and its extraordinary financial circumstances. A SIB should not be
15 employed when a utility is able to fund its normal day-to-day infrastructure needs through normal
16 means and does not face extraordinary circumstances. EPCOR represented to the Commission
17 that it was happy, willing and able to invest in Arizona-American Water Company infrastructure
18 when it sought approval to purchase Arizona-American. EPCOR is a financially healthy
19 enterprise whose circumstances do not merit a SIB mechanism.

20 DATED this 17th day of August, 2015.

21
22 MUNGER CHADWICK, P.L.C.

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25 Robert J. Metli, Attorneys for Sanctuary
26 Camelback Mountain Resort & Spa, JW
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1 Original and 13 copies filed this
2 17th day of August, 2015, with:

3 Docket Control
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7 Copy of the foregoing mailed/hand-
8 delivered this 17th day of April, 2015, to:

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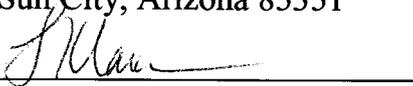
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