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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

SUSAN BITTER SMITH - Chairman
BOB STUMP
BOB BURNS
DOUG LITTLE
TOM FORESE

Arizona Corporation Commission

DOCKETED

OCT 27 2015

DOCKETED BY [Signature]

IN THE MATTER OF THE APPLICATION OF
VERDE WEST IRRIGATION FOR APPROVAL
OF AN EMERGENCY RATE INCREASE

DOCKET NO. I-02274A-15-0285

DECISION NO. 75294

OPINION AND ORDER

DATE OF HEARING: September 22, 2015
PLACE OF HEARING: Phoenix, Arizona
ADMINISTRATIVE LAW JUDGE: Scott M. Hesla
APPEARANCES: Mr. Dane Bullard, owner, on behalf of Verde West Irrigation; and
Mr. Matthew Laudone, Staff Attorney, Legal Division, on behalf of the Utilities Division of the Arizona Corporation Commission.

BY THE COMMISSION:

* * * * *

Having considered the entire record herein and being fully advised in the premises, the Commission finds, concludes, and orders that:

FINDINGS OF FACT

I. Procedural History

1. On August 6, 2015, Verde West Irrigation ("Verde West" or "Company") filed with the Arizona Corporation Commission ("Commission") an application for an emergency rate increase to customers in the Company's service area in Camp Verde, Arizona.

2. On August 19, 2015, a Procedural Order was issued scheduling a procedural conference in this matter for August 26, 2015.

1 3. On August 26, 2015, the procedural conference was held, as scheduled, with Verde
2 West appearing through its owner, Mr. Dane Bullard, and the Commission's Utilities Division
3 ("Staff") appearing through counsel. At that time, a discussion occurred regarding the timely
4 processing of the emergency rate application and the parties agreed to a schedule that would have a
5 Staff Report filed within three weeks and a Company response filed within two days thereafter.

6 4. On August 26, 2015, a Procedural Order was issued scheduling a hearing for
7 September 22, 2015, and establishing various filing deadlines.

8 5. On September 4, 2015, Verde West filed a certification of mailing indicating that
9 notice of the hearing was mailed to customers on September 3, 2015.

10 6. On September 16, 2015, Staff filed its Staff Report recommending approval of the
11 application, subject to certain terms and conditions.

12 7. Verde West did not file comments in response to the Staff Report.

13 8. On September 22, 2015, a full public hearing was convened as scheduled, with Verde
14 West appearing through Mr. Dane Bullard, and Staff appearing through counsel. At the conclusion
15 of the hearing, the matter was taken under advisement pending submission of a Recommended
16 Opinion and Order for the Commission's final disposition.

17 **II. Background**

18 9. Verde West Irrigation is a sole proprietorship engaged in the business of providing
19 irrigation service to approximately 184 customers in Camp Verde, in Yavapai County, Arizona.¹ The
20 Company's current rates were authorized in Decision No. 70139 (January 23, 2008).

21 10. The Company has two classes of customers: those who are irrigated by lot ("Lot
22 customers"); and those who are irrigated by the acre ("Acre customers"). Under current rates, Lot
23 customers pay a monthly usage charge of \$12.00 and Acre customers pay a monthly usage charge of
24 \$26.00.²

25 11. Irrigation water is available during the landscape growing season in Camp Verde,
26 approximately from March 15th through November 15th of each year. Lot customers may obtain

27 ¹ The Company is a family-owned and operated public service corporation. The Company was originally operated by Mr.
28 Harold Bullard, but is currently being operated by his stepson, Mr. Dane Bullard. (Tr. at 15-16).

² Exh. S-1 at 2.

1 water any time during the growing season. Acre customers receive their water on two specific days
 2 of the week during the growing season. Water is not available during the winter months of December
 3 through February.³

4 12. The Company has two separate irrigation systems (not interconnected). System No. 1
 5 consists of: a pumping station that draws water directly from the Verde River; one intake pump; a
 6 holding pond; and a distribution system that operates via gravity. System No. 2 consists of: a
 7 pumping station that draws water from a diversion ditch fed from the Verde River; one intake pump;
 8 a holding pond; and a distribution system. System 1 serves approximately 105 un-metered customers
 9 and System 2 serves approximately 79 un-metered customers.⁴

10 13. Verde West is not regulated by the Arizona Department of Water Resources or the
 11 Arizona Department of Environmental Quality.⁵

12 14. Staff's Compliance Section database shows no outstanding compliance issues for the
 13 Company.⁶

14 15. Staff's Consumer Services Section database for the period beginning January 1, 2012
 15 to August 21, 2015, shows three customer complaints, all of which have been resolved and closed.⁷

16 **III. Emergency Rate Application**

17 16. In its application, the Company indicates that its intake pump for System No. 1 failed
 18 on June 3, 2015, and the Company has incurred \$16,309.20 in associated repair costs. According to
 19 the Company, its annual revenues only cover annual expenses and it does not have additional funds
 20 available to make extraordinary repairs. The Company is therefore requesting emergency interim
 21 rate relief to cover its repair costs.⁸

22 17. According to the Staff Report, the Company contracted Precision Electric Company
 23 ("PEC") to remove, repair, and reinstall the intake pump, and Parker Construction and Ferguson
 24

25 _____
 26 ³ Exh. S-1 at 3.

27 ⁴ Exh. S-1, Engineering Memorandum at 1.

28 ⁵ *Id.* at 2.

⁶ Exh. S-1 at 1.

⁷ *Id.*

⁸ Exh. A-1; Tr. at 8.

1 Construction were contracted to prepare and clean the well site.⁹ PEC removed the intake pump on
2 June 10, 2015, and determined that the pump turbines had sustained significant damage from pulling
3 in rocks, sand, silt, and debris at its intake. Due to the age of the intake pump (over 20 years old),
4 several parts had to be custom machined because replacement parts were no longer available.¹⁰

5 18. Staff explained that the intake pump was ready for installation on July 2, 2015;
6 however, cleanup at the well site was not finished, delaying installation of the intake pump until July
7 20, 2015. Approximately ten days after the intake pump was installed, the pump experienced an oil
8 leak. PEC removed the intake pump on August 4, 2015, repaired the leak, and reinstalled the pump
9 on August 7, 2015.¹¹ Staff stated that the intake pump was found to be in-service and used and useful
10 during Staff's site inspection on August 19, 2015.¹²

11 19. As a result of the intake pump failure, the customers on System No. 1 were generally
12 without irrigation water service between June 3, 2015 and August 7, 2015.¹³

13 20. Approximately 11 customers filed individual comments opposing the Company's
14 emergency rate application. In addition, a petition opposing the emergency rate application was filed
15 containing signatories representing approximately 40 service addresses.¹⁴ The public comments
16 complain that the existing irrigation rates are too high and include allegations that the Company fails
17 to: make timely repairs to the system; timely respond to customer inquiries; and properly budget the
18 monies the Company receives during the winter months in which customers do not receive irrigation
19 service.

20 21. In response to the customer comments, Mr. Dane Bullard indicated that the delay in
21 repairing the intake pump was beyond the control of the Company.¹⁵ According to Mr. Dane Bullard,
22 the Company engaged three contractors to repair the intake pump and "did everything [it] could to
23

24 ⁹ Staff explained that the cleanup work at the well site included repairing the wet well access road, removal of a tree
25 branch, draining the wet well sump, and removal of mud, rocks, and debris from the wet well sump. (Exh. S-1,
Engineering Memorandum at 2).

26 ¹⁰ Exh. S-1, Engineering Memorandum at 2.

27 ¹¹ Mr. Dane Bullard testified that PEC repaired the oil leak at no additional expense to the Company. (Tr. at 12).

28 ¹² Exh. S-1, Engineering Memorandum at 2.

¹³ *Id.*

¹⁴ The customers who filed individual comments also signed the petition.

¹⁵ Tr. at 11-13.

1 get the thing taken care of as quickly as possible.”¹⁶ Mr. Dane Bullard also testified that he makes
 2 every effort to timely respond to customer inquiries; however, he indicated that he has a full-time job
 3 (in addition to running the Company) which presents challenges, at times, in responding to customer
 4 questions in an expedited manner.¹⁷ Testifying further, Mr. Dane Bullard explained that the
 5 Company collects monthly charges from customers during the winter months because the Company’s
 6 current rates are based on annual expenses for the full year.¹⁸

7 **A. Emergency Interim Rate Relief**

8 22. As described in Attorney General (“AG”) Opinion No. 71-17 (May 25, 1971), it is
 9 appropriate for the Commission to grant interim rates as an emergency measure when (1) sudden
 10 change brings hardship to a utility, (2) the utility is insolvent, (3) the condition of the utility is such
 11 that its ability to maintain service pending a formal rate determination is in serious doubt, or (4) the
 12 Commission will be unable to grant permanent rate relief within a reasonable time. In *Scates v.*
 13 *Arizona Corporation Commission (“Scates”)*, the Arizona Court of Appeals recognized this standard
 14 and, additionally, found that (1) a bond must be posted to protect the utility’s customers and allow for
 15 a refund in the event that the interim rates are excessive, and (2) the granting of interim rates must be
 16 followed by a full rate case in which just and reasonable rates are established after the fair value of
 17 the utility’s property is determined.¹⁹

18 23. Based on its analysis, Staff concluded that Verde West’s application meets the
 19 requirements for emergency interim rate relief because a sudden change caused financial hardship to
 20 the Company.²⁰ Further, Staff reviewed the invoices provided by the Company and concluded that
 21 costs totaling \$16,309.20 are reasonable and appropriate for the repairs identified in the Company’s
 22 application.²¹

23 24. Staff recommends the implementation of an emergency repair surcharge that would
 24 produce total operating revenue of \$16,309.20, or \$1,359.10 per month for the duration of one year.

25 ¹⁶ Tr. at 12.

26 ¹⁷ Tr. at 14.

27 ¹⁸ In addition, Mr. Bullard testified that the Company has ongoing expenses throughout the year, including property taxes,
 electricity charges (even though the pumps are not active), and blue stake descriptions. (Tr. at 11).

28 ¹⁹ 578 P.2d 612, 616 (Ariz. App. 1978).

²⁰ Exh. S-1 at 1-2; Tr. at 27-28.

²¹ Exh. S-1, Engineering Memorandum at 3.

1 Staff's recommended surcharge amounts are weighted based on current base rates for Lot customers
 2 and Acre customers. According to Staff's analysis, 31.58 percent of base rate revenue is derived
 3 from Lot customers (\$12.00 divided by \$38.00) and 68.42 percent of base rate revenues is derived
 4 from Acre customers (\$26.00 divided by \$38.00). After allocating the weighted percentage of base
 5 rate revenue to the corresponding customer class, Staff divided the monthly repair expense by the
 6 number of customers in each class to arrive at the following recommended surcharge amounts:²²

	Monthly Usage Charge Current Rates	Staff Recommended Monthly Repair Surcharge	Total	Increase
Lot Customers	\$12.00	\$2.60	\$14.60	22.7 %
Acre Customers	\$26.00	\$48.94	\$74.94	188.2 %

10 **IV. Staff's Recommendations**

11 25. Staff is recommending that the Commission approve Verde West's application for an
 12 emergency rate increase, subject to the following conditions:

- 13 (a) Approval of the recommended Repair Surcharge of \$2.60 per month for Lot
 14 customers and \$48.94 per month for Acre customers. This surcharge will
 15 continue for one year;
- 16 (b) That the bonding requirements associated with an emergency rate increase be
 17 minimized since Verde West has very limited funding available;
- 18 (c) That Verde West file quarterly, beginning January 15, 2016, as a compliance
 19 item in this Docket, a report identifying all surcharge monies billed, collected,
 20 and withdrawn from the account;
- 21 (d) That the revenue received be used exclusively to fund plant, and that the
 22 Company record the surcharge revenue for the portion funding plant as
 23 Contribution In Aid of Construction on Verde West's books and records;
- 24 (e) That Verde West file a full permanent rate case no later than June 1, 2017, using
 25 calendar year 2016 test year;

26 ²² Staff's analysis assumed that the Company's 184 customers were divided into 165 Lot customers and 19 Acre
 27 customers. However, we note that in the Company's last rate case, 183 customers were divided into 117 Lot customers
 28 and 66 Acre customers. (Decision No. 70139 at 2-3). As a result, it is not clear whether the customer division assumed in
 Staff's analysis is accurate. We note that if the customer division is not accurate, the Company will not collect the correct
 revenues under Staff's surcharge methodology.

1 (f) That Verde West file with Docket Control, within 30 days of the Decision, a
 2 revised rate Schedule reflecting the emergency rate increase, as a compliance
 3 item in this docket; and

4 (g) The surcharge automatically terminates after one year.

5 26. At the hearing, Mr. Dane Bullard testified that the Company was in agreement with
 6 Staff's recommendations.²³

7 **V. Discussion and Resolution**

8 27. Staff's conclusion that the Company's application meets the criteria for emergency
 9 interim rate relief is just and reasonable and should be adopted.

10 28. We note that Staff's recommended emergency interim surcharge substantially
 11 allocates the collection of the additional revenues from the Company's Acre customers. Under
 12 Staff's recommendation, an Acre customer would pay a monthly surcharge amount that is nearly 20
 13 times higher than the surcharge amount for a Lot customer, yet the current base rate for an Acre
 14 customer is only approximately 2 times higher than a Lot customer. Under the circumstances, we
 15 find that collecting the additional revenues from customers equally is reasonable and appropriate
 16 because it will mitigate the extreme bill impact to Acre customers while only modestly increasing
 17 Staff's recommended surcharge amount for Lot customers. Additionally, it is appropriate to collect
 18 the additional revenues from customers equally because the Company did not provide, as part of its
 19 application, the bill count data necessary to accurately predict the revenue that would be collected
 20 under Staff's recommended surcharge. Based on the foregoing, we find that an emergency interim
 21 surcharge of \$7.39 per customer per month is just and reasonable and should be adopted.²⁴

22 29. The emergency interim surcharge amount authorized herein would increase the
 23 monthly charges of Lot customers from \$12.00 to \$19.39, or 61.6 percent, and increase the monthly
 24 charges of Acre customers from \$26.00 to \$33.39, or 28.4 percent.

25 30. Staff's recommendations as set forth in Findings of Fact No. 25, as modified herein,
 26 are just and reasonable and will be adopted.

27 ²³ Tr. at 9.

28 ²⁴ The monthly cost of repairs (\$1,359.10) divided by the total number of customers (184) equals a monthly surcharge amount of \$7.39 for all customers.

CONCLUSIONS OF LAW

1
2 1. Verde West Irrigation is a public service corporation within the meaning of Article XV
3 of the Arizona Constitution and A.R.S. §§ 40-250 and 40-251.

4 2. The Commission has jurisdiction over Verde West Irrigation and the subject matter of
5 the emergency rate application.

6 3. Notice of the emergency rate application was provided in accordance with Arizona law.

7 4. Verde West Irrigation is experiencing an "emergency" within the definition set forth in
8 AG Opinion No. 71-17, as discussed herein.

9 5. It is just and reasonable and in the public interest to adopt Staff's recommendations set
10 forth in Findings of Fact No. 25, as modified herein.

ORDER

11
12 IT IS THEREFORE ORDERED that Verde West Irrigation is authorized to assess, as a
13 separate line item on each customer's monthly bill, an emergency interim surcharge of \$7.39, as
14 conditioned in the ordering paragraphs below.

15 IT IS FURTHER ORDERED that Verde West Irrigation shall, before implementing the
16 emergency interim surcharge approved herein, provide to the Commission's Business Office the
17 original of a cashier's check made out to the Arizona Corporation Commission in the amount of
18 \$10.00. The Commission may use the funds, as appropriate, to protect the Company's customers and
19 the public interest and take any and all actions the Commission deems necessary, in its discretion.

20 IT IS FURTHER ORDERED that Verde West Irrigation shall file with Docket Control, as a
21 compliance item in this docket, on the same date the original cashier's check is provided to the
22 Commission's Business Office, notice stating that the cashier's check has been provided to the
23 Commission's Business Office.

24 IT IS FURTHER ORDERED that the emergency interim surcharge shall become effective for
25 all service provided on or after November 1, 2015, or on the first day of the month following Verde
26 West Irrigation's compliance with the requirements to provide the cashier's check to the
27 Commission's Business Office and file notice thereof, whichever is later.

28 IT IS FURTHER ORDERED that the emergency interim surcharge shall terminate, without

1 further order of the Commission, after October 31, 2016, or one year after the first day of the month
2 following Verde West Irrigation's compliance with the requirements to provide the cashier's check to
3 the Commission's Business Office and file notice thereof, whichever is later.

4 IT IS FURTHER ORDERED that Verde West Irrigation shall provide notice of the approved
5 emergency interim surcharge to its customers, in a form and manner acceptable to the Commission's
6 Utilities Division Staff, by means of an insert in Verde West Irrigation's next regularly scheduled
7 billing following the effective date of this Decision.

8 IT IS FURTHER ORDERED that Verde West Irrigation shall file with Docket Control, as a
9 compliance item in this docket, within 30 days following the effective date of this Decision, a revised
10 tariff reflecting the emergency interim surcharge approved herein.

11 IT IS FURTHER ORDERED that Verde West Irrigation shall file with Docket Control, as a
12 compliance item in this docket, beginning January 15, 2016, quarterly reports identifying all
13 emergency interim surcharge monies billed, collected, and withdrawn from its account.

14 IT IS FURTHER ORDERED that Verde West Irrigation shall only use the emergency interim
15 surcharge monies to fund the plant repair items identified in its application.

16 IT IS FURTHER ORDERED that Verde West Irrigation shall record the emergency interim
17 surcharge revenue as Contribution In Aid of Construction on its accounting books and records.

18 IT IS FURTHER ORDERED that Verde West Irrigation shall file a full permanent rate case
19 application no later than June 1, 2017, using a test year ending December 31, 2016.

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1 IT IS FURTHER ORDERED that the emergency interim rates shall be subject to refund
2 pending the Decision resulting from the full permanent rate case application, the filing of which is
3 ordered herein.

4 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

5 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

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7  
8 CHAIRMAN COMMISSIONER

9   
10 COMMISSIONER COMMISSIONER COMMISSIONER

11
12 IN WITNESS WHEREOF, I, JODI JERICH, Executive
13 Director of the Arizona Corporation Commission, have
14 hereunto set my hand and caused the official seal of the
15 Commission to be affixed at the Capitol, in the City of Phoenix,
16 this 27th day of October 2015.

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18 JODI JERICH
19 EXECUTIVE DIRECTOR

20 DISSENT _____

21 DISSENT _____
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1 SERVICE LIST FOR: VERDE WEST IRRIGATION

2 DOCKET NO.: I-02274A-15-0285

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4 Verde West Irrigation
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8 Consented to Service by Email

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