

OPEN MEETING ITEM

ORIGINAL



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COMMISSIONERS  
DOUG LITTLE - Interim Chairman  
BOB STUMP  
BOB BURNS  
TOM FORESE



ARIZONA CORPORATION COMMISSION RECEIVED

AZ CORP COMMISSION  
DOCKET CONTROL

DATE: JANUARY 19, 2016 2016 JAN 19 PM 2 30  
DOCKET NO.: W-20935A-15-0338

TO ALL PARTIES:

Enclosed please find the recommendation of Administrative Law Judge Yvette B. Kinsey. The recommendation has been filed in the form of an Opinion and Order on:

MANAGEMENT SYSTEMS LLC DBA JAKES CORNER WATER SYSTEM  
(EMERGENCY RATES)

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Administrative Law Judge by filing an original and thirteen (13) copies of the exceptions with the Commission's Docket Control at the address listed below by 4:00 p.m. on or before:

JANUARY 28, 2016

The enclosed is NOT an order of the Commission, but a recommendation of the Administrative Law Judge to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Open Meeting to be held on:

FEBRUARY 2, 2016 AND FEBRUARY 3, 2016

For more information, you may contact Docket Control at (602) 542-3477 or the Hearing Division at (602) 542-4250. For information about the Open Meeting, contact the Executive Director's Office at (602) 542-3931.

Arizona Corporation Commission

DOCKETED

JAN 19 2016

DOCKETED BY *HE*

*Jodi A. Jerich*  
JODI A. JERICHI  
EXECUTIVE DIRECTOR

1200 WEST WASHINGTON STREET; PHOENIX, ARIZONA 85007-2927 / 400 WEST CONGRESS STREET; TUCSON, ARIZONA 85701-1347

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1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 COMMISSIONERS

3 DOUG LITTLE- Interim Chairman  
4 BOB STUMP  
5 BOB BURNS  
6 TOM FORESE  
7 VACANT

8 IN THE MATTER OF THE APPLICATION OF  
9 MANAGEMENT SYSTEMS LLC DBA JAKES  
10 CORNER WATER SYSTEM FOR APPROVAL OF  
11 AN EMERGENCY INCREASE IN RATES.

DOCKET NO. W-20935A-15-0338

DECISION NO. \_\_\_\_\_

OPINION AND ORDER

9 DATE OF HEARING: December 7, 2015  
10 PLACE OF HEARING: Phoenix, Arizona  
11 ADMINISTRATIVE LAW JUDGE: Yvette B. Kinsey  
12 APPEARANCES: Michael Armstead, on behalf of Management Systems  
13 LLC dba Jakes Corner Water System; and  
14 Bridget Humphrey, Staff Attorney, Legal Division, on  
15 behalf of the Utilities Division of the Arizona  
16 Corporation Commission.

16 **BY THE COMMISSION:**

17 On September 28, 2015, Management Systems LLC dba Jakes Corner Water System  
18 ("JCWS" or "Company") filed an application with the Arizona Corporation Commission  
19 ("Commission") for approval of emergency rates to increase revenues by \$37,000, or 1,252 percent,  
20 over the Company's reported 2014 revenues of \$2,955.79. The application states the Company is  
21 insolvent, the water system is out of compliance with the Arizona Department of Environmental  
22 Quality ("ADEQ") for arsenic, and there are insufficient revenues to run the operations of the  
23 Company.

24 On September 30, 2015, by Procedural Order, a procedural conference was scheduled for  
25 October 15, 2015, to discuss the scheduling of a hearing and other procedural deadlines related to the  
26 rate case application.

27 On October 15, 2015, a procedural conference was held as scheduled. The Commission's  
28 Utilities Division ("Staff") appeared through counsel and Mr. Michael Armstead, managing member

1 of Management Systems LLC, appeared on behalf of JCWS. Discussions were held related to  
 2 scheduling a hearing on the application, the timing for filing the Staff Report, and the responses  
 3 thereto.

4 On November 3, 2015, a Procedural Order was issued scheduling a hearing to commence in  
 5 this matter on December 7, 2015, and establishing other procedural requirements and deadlines,  
 6 including a requirement for JCWS to provide notice to its customers by November 13, 2015.

7 On November 16, 2015, Staff filed its Staff Report, recommending approval of Staff's  
 8 proposed interim emergency rates.

9 On that same date, JCWS filed a Certification of Mailing Public Notice to its customers.

10 On December 7, 2015, a full evidentiary hearing was held as scheduled before a duly  
 11 authorized Administrative Law Judge of the Commission. Staff appeared through counsel and Mr.  
 12 Armstead appeared on behalf of the Company. No members of the public were present to give  
 13 comments on the application. After a full public hearing, the matter was taken under advisement  
 14 pending submission of a Recommended Opinion and Order to the Commission.

15 \* \* \* \* \*

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

18 **FINDINGS OF FACT**

19 1. JCWS is an Arizona Class E utility that provides water service to approximately 20  
 20 customers outside of Payson, Arizona in Gila County. The Company is currently operating on rates  
 21 established in Decision No. 58733 (August 10, 1994).

22 2. JCWS' application in this docket, requests authorization for emergency rates to  
 23 increase its revenues by \$37,000, or 1,252 percent, over the Company's reported 2014 revenues of  
 24 \$2,955.79. The application states the Company is insolvent, the water system is out of compliance  
 25 with ADEQ for arsenic, and there are insufficient revenues to run the operations of the Company.

26 3. The Company was recently acquired by Management Systems, LLC, through a stock  
 27  
 28

1 purchase agreement executed on July 1, 2015.<sup>1</sup> Management Systems, LLC is owned by Mr.  
 2 Michael Armstead, who has more than 11 years' experience in water and wastewater utility  
 3 operations.<sup>2</sup> Mr. Armstead testified that the day-to-day operations for the water system are handled  
 4 by a certified operator.<sup>3</sup>

5 4. Staff stated the Company's water system consists of a single well (with a pump yield  
 6 of 22-28 gallons per minute ("GPM")), a 30 gallon bladder tank, a 5,000 gallon pressure tank, and a  
 7 distribution system.<sup>4</sup> Staff noted that there is no well production meter on the Company's well.<sup>5</sup>  
 8 Staff stated that without a well production meter, the actual well production is unknown and the  
 9 Company's water system's capacity could not be determined.<sup>6</sup> However, based on the Company's  
 10 2014 Annual Report filed with the Commission, Staff estimated the Company's well capacity at 22  
 11 GPM, which Staff believes is adequate to serve the Company's present customer base and reasonable  
 12 growth.<sup>7</sup>

13 5. JCWS' application indicated that the Company's water system is in need of multiple  
 14 repairs or replacement plant items.<sup>8</sup> The Company's application listed the following repair or  
 15 replacement items: a 5,000 gallon storage tank; arsenic filtration system; 5-hp booster motor and  
 16 pump; 2,000 gallon pressure tank; electrical panels and wiring; fencing and site preparation; and  
 17 distribution pipes.<sup>9</sup> The Company's application did not include an estimated cost for the repairs.<sup>10</sup>  
 18 Staff noted that the majority of the items listed in the Company's application were long-term  
 19 additions or plant replacements rather than for the immediate operational needs of the Company.<sup>11</sup>  
 20 Staff stated that under the Company's proposal, the monthly bill per customer would increase by  
 21 \$154 per month.<sup>12</sup> Therefore, Staff believes that due to the long-term nature of the majority of the  
 22

23 <sup>1</sup> Statements made by Mr. Michael Armstead during a Procedural Conference held in this docket on October 15, 2015.

24 <sup>2</sup> Tr. at 14.

25 <sup>3</sup> Tr. at 14.

26 <sup>4</sup> Exhibit S-3, Staff Engineering Report at 1.

27 <sup>5</sup> *Id.*

28 <sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> Exhibit S-2 at 8.

<sup>9</sup> *Id.* at 2.

<sup>10</sup> *Id.* at 8.

<sup>11</sup> Exhibit S-3 at 2.

<sup>12</sup> *Id.*

1 items listed by the Company, the Company's request to fund repairs or replacement of those items  
 2 should be spread out over a longer period of time and that the Company should file a finance  
 3 application with the Commission.<sup>13</sup> However, Staff used the water use data reported by the Company  
 4 in its 2014 Annual Report and Staff believes a minimum of 5,000 gallons of storage is immediately  
 5 needed to meet the Company's seasonal peak demand of 163,917 gallons.<sup>14</sup>

6 6. According to an ADEQ Compliance Status Report, dated July 22, 2015, the Company  
 7 has unresolved ongoing arsenic exceedances as well as monitoring and reporting deficiencies.<sup>15</sup>  
 8 Based on these deficiencies, ADEQ is unable to determine if the Company's water system is  
 9 currently delivering water that meets the water quality standards set forth in 40 C.F.R. 14 or Arizona  
 10 Administrative Code ("A.A.C."), Title 18, Chapter 4.<sup>16</sup>

11 7. The Company's CC&N area is not located in an Arizona Department of Water  
 12 Resources ("ADWR") Active Management Area ("AMA"). ADWR has determined that JCWS is  
 13 not in compliance with ADWR requirements due to its failure to file its Annual Reports and System  
 14 Water Plan.<sup>17</sup>

15 8. JCWS has no delinquent compliance issues with the Commission.<sup>18</sup> The Company  
 16 has an approved Curtailment Tariff, but does not have an approved Backflow Prevention Tariff.<sup>19</sup>

17 9. The Company's application indicated that its current rates do not provide sufficient  
 18 revenues to pay for needed repairs, plant additions, and that the Company is insolvent.<sup>20</sup> Staff stated  
 19 that given the fact that JCWS has not had rates set since 1994, and that JCWS is not current on  
 20 paying its property tax obligations dating back to 2009, Staff did take into consideration that the  
 21 Company may be operationally insolvent.<sup>21</sup>

22 10. Staff stated emergency or interim rates are appropriate when any or all of the  
 23 following conditions exists: a sudden change that causes hardship to a company; a company is

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24 <sup>13</sup> Exhibit S-3 at 2.

25 <sup>14</sup> *Id.*

26 <sup>15</sup> *Id.* at Engineering Report at 2.

27 <sup>16</sup> *Id.*

28 <sup>17</sup> *Id.*

<sup>18</sup> *Id.*

<sup>19</sup> *Id.*

<sup>20</sup> Exhibit S-2 at 4.

<sup>21</sup> Exhibit S-3 at 3.

1 insolvent; or a company’s ability to maintain service (pending a formal rate determination) is in  
 2 serious doubt.<sup>22</sup> Staff also stated that these criteria have been affirmed by Arizona Courts.<sup>23</sup>

3 11. Staff stated that the Company’s application provided scant information on its revenues  
 4 and expenses. As part of its analysis, Staff reviewed the 2007 Annual Report filed by JCWS’  
 5 previous owner that was submitted with the Company’s application. In addition, Staff reviewed a  
 6 Company provided print-out showing details of transactions made by the Company for the year  
 7 ending December 31, 2014 (“Detailed Report”). Staff stated the Company’s 2014 Annual Report  
 8 showed revenues of \$2,955.79, expenses of \$5,490.06 and an operating loss of \$2,014.23; while the  
 9 Detailed Report showed revenues of \$4,855.61, expenses of \$1,900.02 and a net income of  
 10 \$2,955.79.<sup>24</sup> Staff stated that the 2014 Annual Report calculations are not mathematically correct.  
 11 Therefore, Staff concluded that the Detailed Report was a more reliable indicator of the Company’s  
 12 operational needs.<sup>25</sup>

13 12. In addition to the expenses listed in the Company’s Detailed Report, Staff determined  
 14 that the Company has the following additional categories of on-going expenses:

15	a. Purchased Power	\$ 500.00
16	b. Repairs and Maintenance	\$1,000.00
17	c. Office Supplies and Expense	\$ 240.00
18	d. Outside Services	\$3,000.00
19	e. Water Testing	\$1,000.00
	f. Rents & Telephone	\$1,200.00
	g. Past Due Property Taxes <sup>26</sup>	\$ 538.00
	h. Property Taxes	\$ 162.00
	i. Additional Cash Flow	\$1,000.00 <sup>27</sup>

20 13. Staff identified total expenses of \$8,640 for JCWS. Based on the Company’s Detailed  
 21 Report it had revenues of \$4,855.61 for the year ending December 31, 2014. Staff made an  
 22 adjustment of \$112 to the Company’s reported revenues for the removal of sales taxes (from both

25 \_\_\_\_\_  
 26 <sup>22</sup> Staff citing to Attorney General Opinion No. 71-17.  
 27 <sup>23</sup> See, *Scates v. Arizona Corporation Commission*, 118 Ariz. 531 (Ct. App. 1978) and *Residential Utility Consumer*  
 28 *Office v. Arizona Corporation Commission*, 199 Ariz. 588 (2001).  
<sup>24</sup> Exhibit S-3 at 3.  
<sup>25</sup> *Id.*  
<sup>26</sup> One-half of amount due.  
<sup>27</sup> Exhibit S-3 at 3.

1 revenues and expenses). Staff's recommended adjustments will generate additional funding in the  
2 amount of \$3,896.<sup>28</sup>

3 14. Based on the above information, Staff concludes that the Company requires  
4 emergency rate relief to provide for its on-going operating expenses, pending a formal rate  
5 determination.<sup>29</sup>

6 15. Staff recommends that the additional amount of \$3,896 be recovered through an  
7 emergency interim surcharge in the amount of \$16.23 per customer, per month, rather than the  
8 Company's proposed increase in its current tiered rates.<sup>30</sup> Staff explained that tiered rates are  
9 calculated using historical water usage data by tiers, that bill count information is not required in an  
10 interim emergency rate application, and without bill count information there is no way to predict the  
11 revenues that will be generated by the Company's proposed rate design. Staff stated it believes the  
12 interim monthly surcharge, calculated on a fixed monthly amount, will allow the Company to have a  
13 more predictable cash flow.<sup>31</sup> Staff also recommends that the interim surcharge remain in place until  
14 further order of the Commission and that the Company be required to file a full rate case application  
15 no later than 24 months after the effective date of the interim emergency rates, using the most recent  
16 test year.

17 16. According to Staff, emergency rate case procedures require that the Company provide  
18 a bond sufficient to cover a refund of the interim rates.<sup>32</sup> Staff stated that the bond requirement  
19 typically serves as a means to ensure a refund of the interim rates to ratepayers if it is later  
20 determined that the interim rates were not necessary or only partially necessary. Staff believes that  
21 the entire amount of the emergency rate increase does not need to be covered by a bond and therefore  
22 Staff recommends a bond or Irrevocable Standby Letter of Credit in the amount of \$10.00.<sup>33</sup>

23 17. Staff recommends:

24 a. Approval of an emergency interim rate surcharge of \$16.23 per connection, per  
25 month.

26 <sup>28</sup> Exhibit S-3 at 4.

27 <sup>29</sup> *Id.* at 3-5.

28 <sup>30</sup> \$3,896/240 bills = \$16.23.

<sup>31</sup> Exhibit S-3 at 4.

<sup>32</sup> *Id.*

<sup>33</sup> *Id.*

- 1           b.     A requirement that the interim rates remain interim until permanent rates are  
2           established in the Company's next rate case.
- 3           c.     No change to the Company's current commodity charges, miscellaneous  
4           service charges, and service and meter installation charges.
- 5           d.     JCWS file semi-annually proof that it has made its delinquent property tax  
6           payments until the obligation is paid in full.<sup>34</sup>
- 7           e.     JCWS obtain a bond or Irrevocable Standby Letter of Credit in the amount of  
8           \$10.00.
- 9           f.     JCWS file a full rate case application no later than 24 months after the  
10          effective date of the interim rate approved herein, using the most recent test  
11          year.
- 12          g.     JCWS maintain its records as required for a permanent rate application  
13          (including details of water usage, copies of all invoices and other cost  
14          documentation supporting the rates requested).
- 15          h.     JCWS file with Docket Control, within 90 days of the effective date of a  
16          Decision in this matter, as a compliance item in this docket, documentation  
17          demonstrating that a master meter has been installed on its wellhead.

18           18.     At the hearing, Mr. Armstead stated that although the Company would prefer approval  
19           of an increase in its commodity rates, the Company accepts Staff's recommended flat monthly  
20           surcharge due to the Company's inability to provide documentation upon which commodity rates  
21           could be established.<sup>35</sup>

22           19.     Based on our review of the record in this case and subject to Staff's recommendations  
23           as set forth above, we find that approval of the recommended emergency interim surcharge is  
24           reasonable and is in the public interest. The evidence presented in this case shows that the  
25           Company's current rates are insufficient to produce the cash flow necessary to cover the Company's  
26           current operating expenses, make needed plant repairs, or to meet ADEQ and ADWR requirements.  
27           Further, the Company's property tax obligation is six years delinquent and its ability to meet those  
28           obligations and to continue providing service to customers, pending a formal rate determination, is in  
29           serious doubt. We find that the emergency interim surcharge will provide the Company with  
30           predictable revenues, which is important to the Company's ability to maintain reliable service for its  
31           customers.

34 The Company is six years delinquent on its property tax obligations and Staff has included funding in the emergency interim surcharge rates to pay these past due taxes.

35 Tr. at 11.



1 dba Jakes Corner Water System's compliance with the requirements to provide a performance bond  
2 or Irrevocable Standby Letter of Credit to the Commission's Business Office and to file notice  
3 thereof, whichever is later.

4 IT IS FURTHER ORDERED that Management Systems LLC dba Jakes Corner Water  
5 System shall, within 30 days after the effective date of this Decision, mail or deliver notice of the  
6 approved monthly interim emergency surcharge to its customers, in a form and manner acceptable to  
7 Staff, by means of an insert in Management Systems LLC dba Jakes Corner Water System's next  
8 regularly scheduled billing.

9 IT IS FURTHER ORDERED that Management Systems LLC dba Jakes Corner Water  
10 System shall, by February 29, 2016, file with the Commission's Docket Control, as a compliance  
11 item in this docket, a revised tariff reflecting the approved interim emergency surcharge.

12 IT IS FURTHER ORDERED that Management Systems LLC dba Jakes Corner Water  
13 System shall, no later than 24 months after the effective date of this Decision, file in a new docket,  
14 with the Commission's Docket Control, as a compliance item, an original and 13 copies of a full  
15 permanent rate case application prepared using the most recent test year.

16 IT IS FURTHER ORDERED that Management Systems LLC dba Jakes Corner Water  
17 System shall maintain its records as required for filing its future rate case application (including  
18 details of water usage, copies of all invoices, and other cost documentation supporting the rates  
19 requested).

20 IT IS FURTHER ORDERED that on a going-forward basis Management Systems LLC dba  
21 Jakes Corner Water System shall maintain its accounting records in accordance with National  
22 Association of Regulatory Utility Commissioners standards.

23 IT IS FURTHER ORDERED that Management Systems LLC dba Jakes Corner Water  
24 System's current commodity charges, miscellaneous service charges, and service and meter  
25 installation charges shall remain in effect until further Order of the Commission.

26 IT IS FURTHER ORDERED that Management Systems LLC dba Jakes Corner Water  
27 System shall file semi-annually, with Docket Control as a compliance item in this docket, proof that  
28 it has been making regular payments on its delinquent property taxes, until such time as the

1 Company's obligation is paid in full.

2 IT IS FURTHER ORDERED that Management Systems LLC dba Jakes Corner Water  
3 System shall, within 90 days of the effective date of this Decision, file with Docket Control, as a  
4 compliance item in this docket, documentation demonstrating that the Company has installed a  
5 master meter at its well site.

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

7 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.  
8  
9

10 INTERIM CHAIRMAN \_\_\_\_\_ COMMISSIONER \_\_\_\_\_

11  
12 COMMISSIONER \_\_\_\_\_ COMMISSIONER \_\_\_\_\_ COMMISSIONER \_\_\_\_\_  
13

14 IN WITNESS WHEREOF, I, JODI JERICH, Executive  
15 Director of the Arizona Corporation Commission, have  
16 hereunto set my hand and caused the official seal of the  
17 Commission to be affixed at the Capitol, in the City of Phoenix,  
18 this \_\_\_\_\_ day of \_\_\_\_\_ 2016.

19 \_\_\_\_\_  
20 JODI JERICH  
21 EXECUTIVE DIRECTOR

22 DISSENT \_\_\_\_\_  
23

24 DISSENT \_\_\_\_\_  
25 YK:ru(tv)  
26  
27  
28

1 SERVICE LIST FOR: MANAGEMENT SYSTEMS LLC DBA JAKES  
2 CORNER WATER SYSTEM

3 DOCKET NO.: W-20935A-15-0338

4 Michael Armstead  
5 MANAGEMENT SYSTEMS LLC DBA  
6 JAKES CORNER WATER SYSTEM  
7 211 W. Saddle Lane  
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