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BEFORE THE ARIZONA CORPORATION COMMISSION

Arizona Corporation Commission
DOCKETED
FEB 11 2016
DOCKETED BY

COMMISSIONERS

DOUG LITTLE – Chairman
BOB STUMP
BOB BURNS
TOM FORESE
ANDY TOBIN

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

DOCKET NO. W-20935A-15-0338

DECISION NO. 75451

OPINION AND ORDER

DATE OF HEARING: December 7, 2015

PLACE OF HEARING: Phoenix, Arizona

ADMINISTRATIVE LAW JUDGE: Yvette B. Kinsey

APPEARANCES: Michael Armstead, on behalf of Management Systems LLC dba Jakes Corner Water System; and

Bridget Humphrey, Staff Attorney, Legal Division, on behalf of the Utilities Division of the Arizona Corporation Commission.

BY THE COMMISSION:

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

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

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

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

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

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

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

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

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

FINDINGS OF FACT

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

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

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

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

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

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

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[1] Statements made by Mr. Michael Armstead during a Procedural Conference held in this docket on October 15, 2015.
[2] Tr. at 14.
[3] Tr. at 14.
[4] Exhibit S-3, Staff Engineering Report at 1.
[5] *Id.*
[6] *Id.*
[7] *Id.*
[8] Exhibit S-2 at 8.
[9] *Id.* at 2.
[10] *Id.* at 8.
[11] Exhibit S-3 at 2.
[12] *Id.*

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

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

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

8. JCWS has no delinquent compliance issues with the Commission.[18] The Company has an approved Curtailment Tariff, but does not have an approved Backflow Prevention Tariff.[19]

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

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

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[13] Exhibit S-3 at 2.
[14] *Id.*
[15] *Id.* at Engineering Report at 2.
[16] *Id.*
[17] *Id.*
[18] *Id.*
[19] *Id.*
[20] Exhibit S-2 at 4.
[21] Exhibit S-3 at 3.

insolvent; or a company's ability to maintain service (pending a formal rate determination) is in serious doubt.[22] Staff also stated that these criteria have been affirmed by Arizona Courts.[23]

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

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

a.	Purchased Power	$ 500.00
b.	Repairs and Maintenance	$1,000.00
c.	Office Supplies and Expense	$ 240.00
d.	Outside Services	$3,000.00
e.	Water Testing	$1,000.00
f.	Rents & Telephone	$1,200.00
g.	Past Due Property Taxes[26]	$ 538.00
h.	Property Taxes	$ 162.00
i.	Additional Cash Flow	$1,000.00[27]

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

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

revenues and expenses). Staff's recommended adjustments will generate additional funding in the amount of $3,896.[28]

14. Based on the above information, Staff concludes that the Company requires emergency rate relief to provide for its on-going operating expenses, pending a formal rate determination.[29]

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

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

17. Staff recommends:

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

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[28] Exhibit S-3 at 4.
[29] *Id.* at 3-5.
[30] $3,896/240 bills =$16.23.
[31] Exhibit S-3 at 4.
[32] *Id.*
[33] *Id.*

b. A requirement that the interim rates remain interim until permanent rates are established in the Company's next rate case.

c. No change to the Company's current commodity charges, miscellaneous service charges, and service and meter installation charges.

d. JCWS file semi-annually proof that it has made its delinquent property tax payments until the obligation is paid in full.[34]

e. JCWS obtain a bond or Irrevocable Standby Letter of Credit in the amount of $10.00.

f. JCWS file a full rate case application no later than 24 months after the effective date of the interim rate approved herein, using the most recent test year.

g. JCWS maintain its records as required for a permanent rate application (including details of water usage, copies of all invoices and other cost documentation supporting the rates requested).

h. JCWS file with Docket Control, within 90 days of the effective date of a Decision in this matter, as a compliance item in this docket, documentation demonstrating that a master meter has been installed on its wellhead.

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

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

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[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.

20. Staff's recommendations are reasonable and will be adopted.

CONCLUSIONS OF LAW

1. JCWS is a public service corporation within the meaning of Article XV of the Arizona Constitution and A.R.S. § 250.

2. The Commission has jurisdiction over JCWS and the subject matter of the application.

3. Notice of the application was provided as prescribed by law.

4. JCWS is facing an emergency within the definition set forth in Attorney General Opinion 71-17.

5. The emergency interim surcharge approved herein is reasonable and in the public interest subject to Staff's recommendations as set forth herein.

ORDER

IT IS THEREFORE ORDERED that Management Systems LLC dba Jakes Corner Water System is authorized to charge a monthly emergency interim surcharge of $16.32 per connection, as conditioned on the following ordering paragraphs.

IT IS FURTHER ORDERED that the monthly emergency interim surcharge approved herein shall be interim until permanent rates are established in Management Systems LLC dba Jakes Corner Water System's next rate case filing.

IT IS FURTHER ORDERED that Management Systems LLC dba Jakes Corner Water System shall, before implementing the monthly emergency interim surcharge approved herein, provide to the Commission's Business Office either a performance bond or Irrevocable Standby Letter of Credit in the amount of $10.00.

IT IS FURTHER ORDERED that Management Systems LLC dba Jakes Corner Water System shall, on the same date the performance bond or Irrevocable Standby Letter of Credit is provided to the Commission's Business Office, file with the Commission's Docket Control, as a compliance item in this docket, an original and 13 copies of a notice stating that the bond or Irrevocable Standby Letter of Credit has been provided to the Commission's Business Office.

IT IS FURTHER ORDERED that the monthly emergency interim surcharge shall become effective on March 1, 2016, or on the first day of the month following Management Systems LLC

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

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

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

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

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

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

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

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

Company's obligation is paid in full.

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

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

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

CHAIRMAN COMMISSIONER

COMMISSIONER COMMISSIONER COMMISSIONER

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

JODI JERICH
EXECUTIVE DIRECTOR

DISSENT _____

DISSENT _____
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SERVICE LIST FOR: MANAGEMENT SYSTEMS LLC DBA JAKES CORNER WATER SYSTEM

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

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