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Steve Wene, State Bar No. 019630
MOYES SELLERS & HENDRICKS LTD.
1850 N. Central Ave., Suite 1100
Phoenix, Arizona 85004
Telephone: 602-604-2141
e-mail: swene@law-msh.com

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BEFORE THE ARIZONA CORPORATION COMMISSION

Arizona Corporation Commission
DOCKETED
MAR 21 2016
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COMMISSIONERS

DOUG LITTLE, CHAIRMAN
BOB STUMP
BOB BURNS
TOM FORESE
ANDY TOBIN

IN THE MATTER OF PICACHO PEAK WATER COMPANY, INC.'S RATE APPLICATION

Docket No. W-02351A-11-0231

COMMENTS TO AMENDED STAFF REPORT

Picacho Peak Water Company, Inc. ("Company" or "Picacho Peak") hereby responds to the Revised Staff Report dated March 4, 2016 ("Staff Report").

1.0 PRELIMINARY STATEMENT

Picacho Peak is a very small, member-owned non-profit organization. The Company is so small that every customer also has a seat on the board of directors. The board of directors gave direction to file the rate case. Consistent with the board of directors' instructions, the rate case consultants filed an application balancing the need for a healthy water company with the board members' desire to keep their rates

reasonable. As Staff notes, the Company is seeking a $19,500 increase in revenues, which is an operating margin of 15.47%. Meanwhile, Staff is proposing a $10,486 increase in revenues, which is an operating margin of 11.99%. For an extremely small company like Picacho Peak, $9,014 in less revenue is a huge difference.

Knowing Picacho Peak is a non-profit corporation directly controlled by all of its customers, the Company's positions should be given great weight in this matter. The Company believes it needs this additional funding to make necessary improvements to its aging infrastructure. Thus, the Company requests that the Court adopt its position in this matter.

2.0 RESPONSE TO STAFF REPORT

The Staff Report lacks clarity on two subjects. First, it appears as though Staff has reclassified certain meters from residential to commercial. Second, Staff made a $4,080 adjustment to legal expenses without identifying those expenses. As explained below, these changes are wrong and the Court should adopt the Company's position.[1]

2.1 Meter Classifications

Although the Staff Report is unclear, it appears as though Staff classified all of the ¾-inch residential meters as commercial. The Staff Report expressly states "[t]he Company has no typical residential customers." The Company believes there are three meters that should continue to be classified as residential.

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[1] The Company accepts Staff's depreciation expense and income tax adjustments. However, these adjustments are *de minimis* (less than 1% of the revenue requirement) and have no material impact. Thus, the Company did not revise its schedules.

Consistent with normal utility practice, Picacho Peak classifies meters based upon their primary purpose. If the meter is intended primarily to deliver water to a home, then the meter is deemed residential. The first residential meter (no. 5) at issue serves the home of a customer who works at the Ostrich Ranch. This home used 112,401 gallons during the test year. The Amended Staff Report seems to imply that even at this home the water use seems higher than typical residential demand. However, each of these homes has point of use treatment that has a waste stream, which causes water demand to rise substantially.

The second residential meter (no. 7) delivers water to two homes. These are the homes of DC Cogburn and his daughter, Danna Cogburn-Barrett. This meter delivered 589,200 gallon during the test year. Compared to residential uses in urban settings, this water demand is unusually high. Yet, in rural environments where homeowners raise livestock and have evaporative coolers, this water demand is not unusual. Mr. Cogburn does in fact raise livestock. Further, the Cogburn family admittedly will use water from its residential meter to water ostrich hatchlings or similar use, but this does not mean that the Cogburns should be paying a commercial rate for water.

To be clear, there are two commercial meters at the Ostrich Ranch and additional bulk water sales. The first commercial meter (no. 6) serves the commercial ostrich show and park area. The second commercial meter (no. 8) also serves the commercial area of the Ostrich Ranch, but was not used in the test year. Finally, the Ostrich Ranch hauled 638,000 gallons for its commercial operation during the test year.

Meanwhile, Bowlins has a meter (no. 3) that serves six residences. These are company homes. Put another way, they are homes for Bowlins employees. Like the company housing in Morenci, which is owned by Freeport Mining, the fact that the employer owns the home does not change its primary use from residential to commercial. Further, these residences used 333,520 gallons during the test year. Knowing these residences have a point of use waste stream, this water demand illustrates normal residential use. Thus, Bowlins meter no. 3 and Cogburn meters nos. 5 and 7 should be classified as residential.

2.2 Legal Expenses

Without any substantive explanation, Staff made a $4,080 adjustment in legal expenses. Staff simply stated the adjustment was made to "remove nonrecurring, unsupported and out of test year legal expenses." *See* Staff Report at Schedule BCA-3. However, nowhere does Staff explain what legal expenses were disallowed or why. Staff seems to be using the statement of "nonrecurring, unsupported, and out of test year" as a blanket argument to disallow expenses arbitrarily.

For example, to argue the legal expenses are "out of test year" is nonsense. In the application, Picacho Peak provided all of its legal invoices for the test year. The first is dated January 27, 2014, and the last is dated December 18, 2014. Clearly, none of the legal expenses were out of the test year.

Similarly, claiming the legal expenses are unsupported is not true. Again, every invoice was provided in the application.[2] In fact, during the discovery process, Staff made a site visit to the Moyes Seller and Hendricks law firm to review legal expenses. During that visit, Staff was provided billing records from 2009 and 2010 and every legal invoice from January 2011 to January 2016.

Finally, after reviewing billing records and invoices since 2009, to state that the Company's legal expenses are nonrecurring defies the facts. Although Picacho Peak is a small water company, it has many challenges. First and foremost, it has a nitrate issue and point-of-use treatment, which requires constant monitoring and routine reporting to ADEQ. Picacho Peak is also within an Active Management Area, which requires additional water pumping and use monitoring as well as regulatory reporting. The Company has a WIFA loan, so it has certain legal requirements and reports that need to be addressed. The Company has no employees; it has to contract with all service providers, and these contracts need to be written, revised, and amended routinely. As a non-profit run by a board of directors, the Company has to follow certain protocols, meet at certain times, and make decisions that often need legal input. It has non-typical customers, such as Arizona State Parks and the RV Park, which is a consecutive water

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[2] The $1,000 expense entered on March 1, 2014 relates to a line extension agreement between the Company and the RV Park and/or Bowlin's Travel Center. These agreements are needed so the Company can install, operate, and maintain point-of-use treatment on the customers' property. Special agreements were needed for the larger water users.

system with its own treatment facilities. In addition, the RV Park owners have a long history of seeking to make changes in service or raising issues that require legal services.

While we all know that the exact legal problems that occurred in 2014 will not be the same problems in 2016 to 2020. Similarly, the accountant will not prepare the same tax returns and the operator will not need to fix the same line breaks. But we know that the accounting and operational work performed and expensed by the Company in 2014 is consistent with historical practice. The same is true of the Company's legal expenses. The laws have not changed, so Picacho Peak will still need to work with ADEQ, ADWR, ACC, WIFA and other regulatory agencies on a continuing basis. It has the same customer base, so the need to address questions and concerns will continue.

Simply stated, 2014 was a typical legal expense year and any adjustment will leave the Company underfunded. Moreover, Staff never identified one actual legal expense it thought should be adjusted. Knowing that staff requires small water companies to substantiate every outside services expense with an invoice, at a minimum this Court should require Staff to give some explanation about why a certain expense is not recognized. As it stands, the Company cannot counter Staff's adjustments with specificity because it has no way of knowing what Staff deems improper. Put another way, once the Company produced the invoices and made a *prima facie* case, Staff has the burden of proof to show why an expense should not be recognized. Making a blanket statement that $4,080 of legal expenses were "nonrecurring, unsupported and out of test year" does not meet this burden.

3.0 CONCLUSION

Picacho Peak is an extremely small, non-profit water company. It set forth a rate requirement and design that allows the Company to meet its needs while keeping costs reasonably low for its members, who are the board members authorizing the application. Meanwhile, Staff's proposals related to customer classification in rate design and expense adjustments are not clear and leave the members without the revenue they need to make system improvements. Therefore, the Court should adopt the Company's proposal as set forth in its application.

RESPECTFULLY SUBMITTED this 21st day of March, 2016.

MOYES SELLERS & HENDRICKS LTD.

Steve Wene

Original and 13 copies of the foregoing
filed this 21st day of March, 2016, with:

Docket Control
Arizona Corporation Commission
1200 West Washington
Phoenix, Arizona 85007