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BEFORE THE ARIZONA CORPORATION COMMISSION

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2011 JUN 28 P 2:53

AZ CORP COMMISSION  
DOCKET CONTROL

Arizona Corporation Commission

DOCKETED

JUN 28 2011

DOCKETED BY

IN THE MATTER OF THE APPLICATION OF ARIZONA WATER COMPANY, AN ARIZONA CORPORATION, FOR A DETERMINATION OF THE FAIR VALUE OF ITS UTILITY PLANT AND PROPERTY AND FOR ADJUSTMENTS TO ITS RATES AND CHARGES FOR UTILITY SERVICE FURNISHED BY ITS WESTERN GROUP AND FOR CERTAIN RELATED APPROVALS.

DOCKET NO. W-01445A-10-0517

RATE CASE  
PROCEDURAL ORDER

BY THE COMMISSION:

On December 29, 2010, Arizona Water Company ("AWC") filed with the Arizona Corporation Commission ("Commission") an application requesting adjustments to its rates and charges for utility service provided by its Western Group water systems, including its Pinal Valley (Casa Grande, Coolidge, and Stanfield); Ajo; and White Tank water systems. AWC's rate application used a test year ending December 31, 2009. AWC's current rates were established in Decision No. 71845 (August 25, 2010), based on a test year ending December 31, 2007.

On January 7, 2011, the Commission's Utilities Division ("Staff") filed a Letter of Deficiency based upon AWC's test year. Staff asserted that AWC should withdraw its current application and resubmit a new application using a test year including at least 12 months of actual data under AWC's current rates.

On January 14, 2011, AWC filed a Response to Staff's Letter of Deficiency, asserting that the position taken by Staff was not supported by the Commission's rules, by the Commission's historical practices and procedures, or by case law and that AWC would seek relief from the Administrative Law Judge unless Staff withdrew its January 7, 2011, letter by January 19, 2011.

On January 20, 2011, AWC filed a Motion for Procedural Order Regarding Sufficiency of Application ("Motion"), requesting, *inter alia*, that a Procedural Order be issued addressing the

1 sufficiency of AWC's rate application and that a procedural conference be set at the earliest  
2 opportunity to address its issues. On January 21, 2011, AWC filed a Notice of Errata replacing an  
3 attachment to its Motion.

4 On February 7, 2011, a Procedural Order was issued requiring Staff to file, by February 14,  
5 2011, a response to AWC's Motion and requiring both AWC and Staff to file, by March 7, 2011,  
6 briefs addressing whether the issue of sufficiency of AWC's rate application would be properly  
7 resolved through a Procedural Order issued by the Commission's Hearing Division or through a  
8 Commission Decision, due to the nature of the disagreement between AWC and Staff. The  
9 Procedural Order also scheduled a procedural conference to be held on March 14, 2011, to allow  
10 AWC and Staff to provide oral argument on the issue.

11 On February 9, 2011, Staff filed a Motion for Extension of Time, requesting that the deadline  
12 for its response to AWC's Motion be extended to February 23, 2011.

13 On February 10, 2011, AWC filed a Response to Staff's Motion for Extension of Time,  
14 asserting that AWC did not object to an extension of time until February 18, 2011, but that every day  
15 of extension beyond February 14, 2011, would unjustifiably reduce AWC's time to review Staff's  
16 responses in preparation of AWC's brief.

17 On February 11, 2011, a Procedural Order was issued extending to February 23, 2011, Staff's  
18 deadline to respond to AWC's Motion; extending to March 16, 2011, the deadline for briefs; and  
19 rescheduling the procedural conference/oral argument from March 14, 2011, to March 24, 2011.  
20 Also on February 11, 2011, Staff filed a Reply to AWC's Response to Staff's Motion for Extension  
21 of Time.

22 On February 23, 2011, Staff filed its Response to AWC's Motion, requesting that AWC's  
23 Motion be denied or, in the alternative, if AWC's application were determined to be sufficient, that  
24 the application be deemed unsuitable for ratemaking purposes. Staff additionally requested, under  
25 either of those alternatives, that AWC be required to file in this docket an application using a test year  
26 including at least six months of actual data with current rates. If AWC's application were determined  
27 to be both sufficient and suitable for ratemaking, Staff requested that the timeframe in A.A.C. R14-2-  
28 103(B)(11) be waived or indefinitely suspended due to AWC's use of an unconventional test year.

1 On March 16, 2011, AWC and Staff each filed a brief addressing resolution of the sufficiency  
2 dispute, with AWC asserting that the issue should be resolved through a Procedural Order issued by  
3 the Administrative Law Judge and Staff asserting that the issue should be resolved through a  
4 Commission Decision, after issuance of a Recommended Opinion and Order by the Administrative  
5 Law Judge.

6 On March 24, 2011, a procedural conference was held as scheduled at the Commission's  
7 offices in Phoenix, with AWC and Staff appearing through counsel. Rather than immediately  
8 proceeding to oral argument, the parties were provided an opportunity to engage in discussions in an  
9 attempt to resolve their dispute. As a result of their discussions, the parties were able to reach  
10 agreement as to the resolution of their dispute. The particular points of agreement were read into the  
11 record.<sup>1</sup> As part of the agreement, AWC agreed to file, in this docket, a fully amended new  
12 application packet for its Western Group using a test year ending December 31, 2010 ("new  
13 application").

14 On March 25, 2011, a Procedural Order was issued setting forth the items of agreement as  
15 specifically pertaining to this docket; ordering that no action would be taken on AWC's Motion or on  
16 Staff's associated requests for relief, which had both been rendered moot as a result of the agreement;  
17 and ordering that this docket remain open for the filing of the new application.

18 On April 6, 2011, AWC filed a Motion for Clarification of the March 25, 2011, Procedural  
19 Order because AWC desired for the items of agreement as to its not-yet-filed Eastern Group rate  
20 application to be included in the Procedural Order. AWC asserted that Staff did not oppose the  
21 Motion for Clarification. No action has yet been taken on this Motion for Clarification.

22 On May 9, 2011, AWC filed an Amended Application for its Western Group, using a test year  
23 ending December 31, 2010.

24 On June 8, 2011, AWC filed a Response to Staff's List of Deficiencies, including revised  
25 schedules, revised plant data, and additional public water system compliance documentation.

26 Also on June 8, 2011, Staff issued a Letter of Sufficiency, stating that AWC's Amended  
27

28 <sup>1</sup> All of the items of agreement are included in the transcript for the procedural conference.

1 Application had met the sufficiency requirements outlined in A.A.C. R14-2-103 and classifying  
2 AWC as a Class A utility.

3 On June 13, 2011, AWC filed a Supplemental Response to Staff's List of Deficiencies,  
4 providing additional data concerning water testing, the Coolidge Airport water system, and pre-test  
5 year system connections.

6 On June 15, 2011, the Residential Utility Consumer Office ("RUCO") filed an Application to  
7 Intervene. No objections to RUCO's Application to Intervene have been filed, and no action has yet  
8 been taken on RUCO's Application.

9 It is now appropriate to establish the procedural schedule for this matter, to rule on AWC's  
10 Motion for Clarification, and to rule on RUCO's Application to Intervene.

11 IT IS THEREFORE ORDERED that AWC's **Motion for Clarification is denied.**

12 IT IS FURTHER ORDERED that RUCO's **Application to Intervene is granted.**

13 IT IS FURTHER ORDERED that **if a settlement agreement is reached** in this matter and  
14 filed in this docket by December 23, 2011, the **hearing** in this matter shall commence on **January**  
15 **20, 2012, at 9:30 a.m.**, in Hearing Room No. 1 at the Commission's offices at 1200 West  
16 Washington Street, Phoenix, Arizona 85007, and shall continue on January 23 through 27, 2012,  
17 and/or on January 30 through February 3, 2012, depending upon the availability of Hearing Room  
18 No. 1 and on the need for additional hearing dates in this matter.

19 IT IS FURTHER ORDERED that **if a settlement agreement is reached** in this matter and  
20 filed in this docket by December 23, 2011, a **pre-hearing conference** shall be held on **January 17,**  
21 **2012, at 10:00 a.m.**, in Hearing Room No. 1 at the Commission's offices in Phoenix, Arizona.

22 IT IS FURTHER ORDERED that **if a settlement agreement is not reached** in this matter  
23 and filed in this docket by December 23, 2011, the **hearing** in this matter shall commence on  
24 **February 2, 2012, at 9:30 a.m.**, in Hearing Room No. 1 at the Commission's offices in Phoenix,  
25 Arizona, and shall continue on February 3, February 6 through 10, February 13 through 17, and/or  
26 February 21 through 24, 2012, depending upon the availability of Hearing Room No. 1 and on the  
27 need for additional hearing dates in this matter.

28 IT IS FURTHER ORDERED that **if a settlement agreement is not reached** in this matter

1 and filed in this docket by December 23, 2011, a **pre-hearing conference** shall be held on January  
2 **30, 2012, at 10:00 a.m.**, in Hearing Room No. 1 at the Commission's offices in Phoenix, Arizona.

3 IT IS FURTHER ORDERED that the **direct testimony** and associated exhibits to be  
4 presented at hearing by **Staff or an intervenor** shall be reduced to writing and filed on or before  
5 **November 28, 2011.**

6 IT IS FURTHER ORDERED that **settlement discussions between the parties shall**  
7 **commence by December 2, 2011.**

8 IT IS FURTHER ORDERED that **any settlement agreement** reached by the parties **shall be**  
9 **filed by December 23, 2011.**

10 IT IS FURTHER ORDERED that **if a settlement agreement is not reached, rebuttal**  
11 **testimony** and associated exhibits to be presented at hearing by AWC shall be reduced to writing and  
12 filed by **December 23, 2011.**

13 IT IS FURTHER ORDERED that **if a settlement agreement is reached** in this matter and  
14 filed in this docket by December 23, 2011, **each party shall file testimony in support of or in**  
15 **opposition to the settlement agreement by January 6, 2012.**

16 IT IS FURTHER ORDERED that **if a settlement agreement is not reached, surrebuttal**  
17 **testimony** and associated exhibits to be presented by **Staff or intervenors** shall be reduced to writing  
18 and filed on or before **January 12, 2012.**

19 IT IS FURTHER ORDERED that **if a settlement agreement is not reached, rejoinder**  
20 **testimony** and associated exhibits to be presented at hearing by AWC shall be reduced to writing and  
21 filed on or before **January 24, 2012.**

22 IT IS FURTHER ORDERED that **all testimony filed shall include a table of contents** which  
23 lists the issues discussed.

24 IT IS FURTHER ORDERED that **all filings shall be made by 4:00 p.m.** on the date the  
25 filing is due, unless otherwise indicated above.

26 IT IS FURTHER ORDERED that **each party shall individually prepare, and bring to the**  
27 **pre-hearing conference, copies of an issues matrix** setting forth all disputed issues in the case.  
28 Each party's matrix shall indicate the position of each party on each disputed issue and shall indicate

1 whether the disputed issue remains in dispute or has been resolved, in prefiled testimony or  
2 otherwise.

3 IT IS FURTHER ORDERED that any **objections to prefiled testimony or exhibits** shall be  
4 made before or at the pre-hearing conference to be held in this matter.

5 IT IS FURTHER ORDERED that any **substantive corrections, revisions, or supplements**  
6 **to prefiled testimony**, with the exception of rejoinder testimony, shall be reduced to writing and filed  
7 no later than five calendar days before the witness is scheduled to testify. Substantive corrections,  
8 revisions, or supplements to prefiled rejoinder testimony shall be reduced to writing and presented on  
9 the first day of hearing.

10 IT IS FURTHER ORDERED that each party shall prepare a brief, **written summary** of the  
11 prefiled testimony of each of its witnesses and **shall file each summary at least two working days**  
12 **before the witness is scheduled to testify.**

13 IT IS FURTHER ORDERED that copies of the summaries shall be served upon the  
14 Administrative Law Judge, the Commissioners, and the Commissioners' aides as well as the parties  
15 of record.

16 IT IS FURTHER ORDERED that intervention shall be in accordance with A.A.C. R14-3-105,  
17 except that **all motions to intervene must be filed on or before October 1, 2011.**

18 IT IS FURTHER ORDERED that **discovery** shall be as permitted by law and the rules and  
19 regulations of the Commission, except that **until December 23, 2011**, any objection to discovery  
20 requests shall be made within 7 calendar days of receipt<sup>2</sup> and responses to discovery requests shall be  
21 made within 10 calendar days of receipt. Thereafter, objections to discovery requests shall be made  
22 within 5 calendar days and responses shall be made within 7 calendar days. The response time may  
23 be extended by mutual agreement of the parties involved if the request requires an extensive  
24 compilation effort.

25 IT IS FURTHER ORDERED that for discovery requests, objections, and answers, if a  
26 receiving party requests service to be made electronically, and the sending party has the technical

27 \_\_\_\_\_  
28 <sup>2</sup> The date of receipt of discovery requests is not counted as a calendar day, and requests received after 4:00 p.m. Arizona time will be considered as received the next business day.

1 capability to provide service electronically, service to that party shall be made electronically.

2 IT IS FURTHER ORDERED that, in the alternative to filing a written motion to compel  
3 discovery, any party seeking resolution of a discovery dispute may telephonically contact the  
4 Commission's Hearing Division to request a date for a procedural hearing to resolve the discovery  
5 dispute; that upon such a request, a procedural hearing will be convened as soon as practicable; and  
6 that the party making such a request shall forthwith contact all other parties to advise them of the  
7 hearing date and shall at the hearing provide a statement confirming that the other parties were  
8 contacted.<sup>3</sup>

9 IT IS FURTHER ORDERED that any motion, other than a Motion to Intervene, that is filed  
10 in this matter and that is not ruled upon within 20 calendar days of the filing date of the motion shall  
11 be deemed denied.

12 IT IS FURTHER ORDERED that any response to a motion shall be filed within five calendar  
13 days of the filing date of the motion.

14 IT IS FURTHER ORDERED that any reply shall be filed within five calendar days of the  
15 filing date of the response.

16 IT IS FURTHER ORDERED that AWC shall provide public notice of the hearing in this  
17 matter, in the following form and style, with the heading in no less than 18-point bold type and the  
18 body in no less than 10-point regular type:

19 **PUBLIC NOTICE OF HEARING ON THE APPLICATION OF ARIZONA WATER**  
20 **COMPANY FOR A PERMANENT RATE INCREASE**  
21 **(DOCKET NO. W-01445A-10-0517)**

22 **Summary**

23 On May 9, 2011, Arizona Water Company ("AWC") filed with the Arizona  
24 Corporation Commission ("Commission") an amended application requesting  
25 adjustments to its rates and charges for utility service provided by its Western Group  
26 water systems, including its Pinal Valley (Casa Grande, Coolidge, and Stanfield); Ajo;  
27 and White Tank water systems. AWC's amended application uses a test year ending  
December 31, 2010. AWC's current rates were established in Decision No. 71845  
(August 25, 2010), based on a test year ending December 31, 2007. AWC's  
application seeks an increase in revenues of \$4,564,110, or approximately 24.45  
percent over test year revenues. AWC further requests approval of an Arsenic Cost  
Recovery Mechanism for its Western Group water systems, consolidation of its White

28 <sup>3</sup> The parties are encouraged to attempt to settle discovery disputes through informal, good-faith negotiations before seeking Commission resolution of the controversy.

1 Tank water system with its Pinal Valley water system, continuation and consolidation  
 2 of its Central Arizona Project Hook-Up Fees for its Pinal Valley water system and its  
 3 White Tank water system, approval of a Distribution System Improvement Charge for  
 4 its Western Group water systems, and approval of an Off-Site Facilities Fee for each  
 5 new service connection.

6 The Commission's Utilities Division ("Staff") is in the process of auditing and  
 7 analyzing the application, and has not yet made any recommendations regarding  
 8 AWC's proposed rate increase. The Commission will determine the appropriate relief  
 9 to be granted based on the evidence presented by the parties. **THE COMMISSION  
 10 IS NOT BOUND BY THE PROPOSALS MADE BY AWC, STAFF, OR ANY  
 11 INTERVENORS; THEREFORE, THE FINAL RATES APPROVED BY THE  
 12 COMMISSION MAY DIFFER FROM AND MAY BE HIGHER OR LOWER  
 13 THAN THE RATES REQUESTED BY AWC OR RECOMMENDED BY  
 14 OTHER PARTIES.**

15 **How You Can View or Obtain a Copy of the Rate Proposal**

16 Copies of the amended application and proposed rates are available from AWC  
 17 [COMPANY INSERT HOW AND WHERE AVAILABLE] and at the  
 18 Commission's Docket Control Center at 1200 West Washington, Phoenix, Arizona, for  
 19 public inspection during regular business hours, and on the Internet via the  
 20 Commission's website (www.azcc.gov) using the e-Docket function.

21 **Arizona Corporation Commission Public Hearing Information**

22 The Commission will hold a hearing on this matter in Hearing Room No. 1 at the  
 23 Commission's offices at 1200 West Washington Street, Phoenix, Arizona 85007. **If a  
 24 settlement agreement is reached** and filed in the docket for this matter by December  
 25 23, 2011, **the hearing will commence on January 20, 2012, at 9:30 a.m.** **If a  
 26 settlement agreement is not reached** and filed in the docket for this matter by  
 27 December 23, 2011, **the hearing will commence on February 2, 2012, at 9:30 a.m.**  
 28 For clarification as to the actual hearing date, you may contact the Consumer Services  
 Section at 1-800-222-7000 after December 23, 2011.

Oral public comments will be taken on the first day of the hearing. Written public  
 comments may be submitted by mailing a letter referencing Docket No. W-01445A-  
 10-0517 to Arizona Corporation Commission, Consumer Services Section, 1200 West  
 Washington, Phoenix, AZ 85007, or by e-mail. For a form to use and instructions on  
 how to e-mail comments to the Commission, go to  
<http://www.azcc.gov/Divisions/Utilities/forms/PublicCommentForm.pdf>. If you  
 require assistance, you may contact the Consumer Services Section at 1-800-222-  
 7000.

**About Intervention**

The law provides for an open public hearing at which, under appropriate  
 circumstances, interested parties may intervene. Any person or entity entitled by law  
 to intervene and having a direct and substantial interest in the matter will be permitted  
 to intervene. If you wish to intervene, you must file an original and 13 copies of a  
 written motion to intervene with the Commission no later than **October 1, 2011**, and  
 send a copy of the motion to AWC or its counsel and to all parties of record. Your  
 motion to intervene must contain the following:



- 1 1. Your name, address, and telephone number, and the name, address, and  
2 telephone number of any party upon whom service of documents is to  
3 be made, if not yourself;
- 4 2. A short statement of your interest in the proceeding (e.g., a customer of  
5 AWC, a shareholder of AWC, etc.); and
- 6 3. A statement certifying that you have mailed a copy of the motion to  
7 intervene to AWC or its counsel and to all parties of record in the case.

8 The granting of motions to intervene shall be governed by A.A.C. R14-3-105, except  
9 that all motions to intervene must be filed on or before **October 1, 2011**. If  
10 representation by counsel is required by Rule 31 of the Rules of the Arizona Supreme  
11 Court, intervention will be conditioned upon the intervenor obtaining counsel to  
12 represent the intervenor. For information about requesting intervention, visit the  
13 Commission's website at <http://www.azcc.gov/divisions/utilities/forms/interven.pdf>.  
14 The granting of intervention, among other things, entitles a party to present sworn  
15 evidence at hearing and to cross-examine other witnesses. However, failure to  
16 intervene will not preclude any interested person or entity from appearing at the  
17 hearing and providing public comment on the application or from filing written  
18 comments in the record of the case.

#### 19 ADA/Equal Access Information

20 The Commission does not discriminate on the basis of disability in admission to its  
21 public meetings. Persons with a disability may request a reasonable accommodation  
22 such as a sign language interpreter, as well as request this document in an alternative  
23 format, by contacting the ADA Coordinator, Shaylin Bernal, E-mail  
24 [SABernal@azcc.gov](mailto:SABernal@azcc.gov), voice phone number 602-542-3931. Requests should be made as  
25 early as possible to allow time to arrange the accommodation.

26 IT IS FURTHER ORDERED that AWC shall, **as soon as possible, but no later than August  
27 15, 2011, mail** to each of its customers a copy of the above notice as a bill insert and **cause a copy of  
28 such notice to be published at least once in a newspaper(s) of general circulation in AWC's  
service territory.**

IT IS FURTHER ORDERED that AWC shall **file certification of mailing and publication**  
as soon as possible after the mailing and publication have been completed, but **no later than  
September 1, 2011.**

IT IS FURTHER ORDERED that notice shall be deemed complete upon mailing/publication  
of same, notwithstanding the failure of an individual customer to read or receive the notice.

IT IS FURTHER ORDERED that all parties must comply with Arizona Supreme Court Rules  
31 and 38 and A.R.S. § 40-243 with respect to the practice of law and admission *pro hac vice*.

IT IS FURTHER ORDERED that withdrawal of representation must be made in compliance  
with A.A.C. R14-3-104(E) and Rule 1.16 of the Rules of Professional Conduct (under Arizona

1 Supreme Court Rule 42). Representation before the Commission includes appearances at all hearings  
2 and procedural conferences, as well as all Open Meetings for which the matter is scheduled for  
3 discussion, unless counsel has previously been granted permission to withdraw by the Administrative  
4 Law Judge or the Commission.

5 IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113 - Unauthorized  
6 Communications) applies to this proceeding and shall remain in effect until the Commission's  
7 Decision in this matter is final and non-appealable.

8 IT IS FURTHER ORDERED that the time periods specified herein shall not be extended  
9 pursuant to Rule 6(a) or (e) of the Rules of Civil Procedure.

10 IT IS FURTHER ORDERED that the Administrative Law Judge may rescind, alter, amend,  
11 or waive any portion of this Procedural Order either by subsequent Procedural Order or by ruling at  
12 hearing.

13 DATED this 28<sup>th</sup> day of June, 2011.

14   
15 SARAH N. HARPRING  
16 ADMINISTRATIVE LAW JUDGE

17 Copies of the foregoing mailed/delivered  
18 This 28<sup>th</sup> day of June, 2011 to:

19 Steven A. Hirsch  
20 Stanley B. Lutz  
21 BRYAN CAVE LLP  
22 Two North Central Avenue, Suite 2200  
23 Phoenix, AZ 85004-4406  
24 Attorneys for Arizona Water Company


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22 Robert W. Geake, Vice President and General Counsel  
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25 Daniel W. Pozefsky, Chief Counsel  
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ARIZONA REPORTING SERVICE, INC.  
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By:   
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