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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

GARY PIERCE, Chairman  
BOB STUMP  
SANDRA D. KENNEDY  
PAUL NEWMAN  
BRENDA BURNS

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AZ CORP COMMISSION  
DOCKET CONTROL

Arizona Corporation Commission

DOCKETED

JUL 15 2011

DOCKETED BY [Signature]

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.

The dispute between AWC and Staff as to the sufficiency of AWC's application continued, with various filings made by the parties, until March 24, 2011.

On March 24, 2011, a procedural conference was held as scheduled at the Commission's offices in Phoenix, with AWC and Staff appearing through counsel. Rather than immediately proceeding to oral argument, the parties were provided an opportunity to engage in discussions in an attempt to resolve their dispute. As a result of their discussions, the parties were able to reach

1 agreement as to the resolution of their dispute. The particular points of agreement were read into the  
2 record.<sup>1</sup> As part of the agreement, AWC agreed to file, in this docket, a fully amended new  
3 application packet for its Western Group using a test year ending December 31, 2010 (“new  
4 application”).

5 On March 25, 2011, a Procedural Order was issued setting forth the items of agreement as  
6 specifically pertaining to this docket; ordering that no action would be taken on an AWC Motion and  
7 Staff requests for relief that had been rendered moot as a result of the agreement; and ordering that  
8 this docket would remain open for the filing of the new application. AWC subsequently filed a  
9 Motion for Clarification of the March 25, 2011, Procedural Order.

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

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

14 Also on June 8, 2011, Staff issued a Letter of Sufficiency, stating that AWC’s Amended  
15 Application had met the sufficiency requirements outlined in A.A.C. R14-2-103 and classifying  
16 AWC as a Class A utility.

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

20 On June 15, 2011, the Residential Utility Consumer Office (“RUCO”) filed an Application to  
21 Intervene, to which neither AWC nor Staff filed objection.

22 On June 28, 2011, a Procedural Order was issued denying AWC’s Motion for Clarification,  
23 granting RUCO intervention, and establishing a procedural schedule for this matter<sup>2</sup> that  
24 accommodated AWC’s and Staff’s desire to have two separate tracks—one to follow in the event that

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

26 <sup>2</sup> Although Staff had indicated in the March procedural conference that Staff would request another procedural  
27 conference at which procedural dates would be proposed, no such request was made by Staff after the Letter of  
28 Sufficiency had been issued. Nor did another party make a filing proposing procedural dates. Thus, 20 days after the  
Letter of Sufficiency had been issued, a Procedural Order was issued establishing a procedural schedule in this matter.  
Under A.A.C. R14-2-103(B)(11)(a), the Administrative Law Judge must issue a procedural schedule within 30 days after  
a Letter of Sufficiency.

1 the parties are able to reach a settlement agreement (with hearing to commence on January 20, 2012)  
2 and one to follow in the event that the parties are not able to reach a settlement agreement (with a  
3 hearing to commence on February 2, 2012).

4 On July 8, 2011, Staff filed Staff's Request for a Modification to the Procedural Schedule,  
5 asserting that the procedural schedule set forth for this matter "conflicts significantly" with the  
6 procedural schedule in Docket No. G-04204A-11-0158 ("UNS Gas Docket") and that both Staff  
7 counsel and RUCO counsel are assigned to both this docket and the UNS Gas Docket. Staff and  
8 RUCO proposed an alternate two-track procedural schedule, with a hearing to start either on February  
9 23, 2012, or March 22, 2012, depending on whether a settlement agreement is completed. Staff also  
10 suggested that a joint procedural conference could be held in this docket and the UNS Gas Docket to  
11 allow the parties to both dockets to provide input regarding the procedural schedules for both matters.

12 On July 13, 2011, AWC filed a Response and Objection to Staff's Request for Modification to  
13 the Procedural Schedule, asserting that Staff's request should be denied or, in the alternative, that a  
14 joint procedural conference should be held in this docket and the UNS Gas Docket so that the impact  
15 of the requested delays in this docket can instead be balanced between the two dockets.

16 On July 15, 2011, RUCO filed a Response in Support of Staff's Request for Modification of  
17 the Procedural Schedule, in which RUCO asserts that the procedural schedule herein needs to be  
18 modified to resolve the existing conflicts with the UNS Gas Docket. RUCO also urged that no joint  
19 procedural conference be held.

20 In response to the various filings of the parties, on July 15, 2011, Hearing Division  
21 administrative staff contacted the parties in an attempt to schedule a procedural conference within the  
22 next two weeks to discuss modification of the procedural schedule. Unfortunately, no mutually  
23 agreeable date for all of the parties to participate in a procedural conference within that time period  
24 could be identified.

25 Thus, it is now appropriate to modify the procedural schedule for this matter so as to alleviate  
26 the conflicts presented by the participation of counsel for Staff and RUCO in both this matter and the  
27 UNS Gas Docket. In addition, because the two-track scheduling methodology is proving in practice  
28 to be unwieldy and to present a substantial challenge in the scheduling of multiple matters with

1 similar time clocks, it is also necessary and appropriate to eliminate the two-track scheduling for this  
2 matter. Although the schedule presented herein is not the schedule requested by any party to this  
3 matter, it alleviates the conflict presented by the involvement of counsel for Staff and RUCO in the  
4 UNS Gas Docket as well as this docket and, additionally, results in the evidentiary hearing in this  
5 case ending only one week later than originally scheduled (if there were no settlement agreement and  
6 the latest originally scheduled hearing dates needed to be used), which should not be overly  
7 burdensome to AWC. It is worth noting that AWC can arrange for expedited hearing transcripts in  
8 this matter if it desires to expedite the process for post-hearing briefs and the issuance of a  
9 Recommended Opinion and Order.

10 IT IS THEREFORE ORDERED that the **procedural schedule set forth in the Procedural**  
11 **Order of June 28, 2011, is hereby vacated.**

12 IT IS FURTHER ORDERED that AWC shall, by **July 29, 2011, file an explanation of the**  
13 **notice that has been provided** pursuant to the requirements of the Procedural Order of June 28,  
14 2011, whether to its customers by mail or otherwise or through publication.<sup>3</sup>

15 IT IS FURTHER ORDERED that the **hearing** in this matter shall commence on **February**  
16 **21, 2012, at 9:30 a.m.**, in Hearing Room No. 1 at the Commission's offices at 1200 West  
17 Washington Street, Phoenix, Arizona 85007, and shall continue, as necessary, February 22 through  
18 March 2, 2012.

19 IT IS FURTHER ORDERED that the **pre-hearing conference** in this matter shall be held on  
20 **February 17, 2012, at 1:00 p.m.**, in Hearing Room No. 1 at the Commission's offices in Phoenix,  
21 Arizona.

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

25 IT IS FURTHER ORDERED that **any settlement agreement** reached by the parties **shall be**  
26

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27 <sup>3</sup> Hearing Division administrative staff attempted, but was unable, to determine whether AWC had yet provided notice  
28 of the hearing through customer mailings and/or publication. If such notice has been provided, it will be necessary to  
convene the hearing originally scheduled on January 20, 2012, solely for the purpose of allowing public comment.

1 **filed by January 6, 2012.**

2 IT IS FURTHER ORDERED that **rebuttal testimony** and associated exhibits to be presented  
3 at hearing by **AWC** shall be reduced to writing and filed by **January 6, 2012.**

4 IT IS FURTHER ORDERED that **surrebuttal testimony** and associated exhibits to be  
5 presented by **Staff or intervenors** shall be reduced to writing and filed on or before **January 27,**  
6 **2012.**

7 IT IS FURTHER ORDERED that **rejoinder testimony** and associated exhibits to be  
8 presented at hearing by **AWC** shall be reduced to writing and filed on or before **February 10, 2012.**

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

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

13 IT IS FURTHER ORDERED that **each party shall individually prepare, and bring to the**  
14 **pre-hearing conference, copies of an issues matrix** setting forth all disputed issues in the case.  
15 Each party's matrix shall indicate the position of each party on each disputed issue and shall indicate  
16 whether the disputed issue remains in dispute or has been resolved, in prefiled testimony or  
17 otherwise.

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

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

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

28

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

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

6 IT IS FURTHER ORDERED that **discovery** shall be as permitted by law and the rules and  
7 regulations of the Commission, except that **until January 6, 2012**, any objection to discovery  
8 requests shall be made within 7 calendar days of receipt<sup>4</sup> and responses to discovery requests shall be  
9 made within 10 calendar days of receipt. Thereafter, objections to discovery requests shall be made  
10 within 5 calendar days and responses shall be made within 7 calendar days. The response time may  
11 be extended by mutual agreement of the parties involved if the request requires an extensive  
12 compilation effort.

13 IT IS FURTHER ORDERED that for discovery requests, objections, and answers, if a  
14 receiving party requests service to be made electronically, and the sending party has the technical  
15 capability to provide service electronically, service to that party shall be made electronically.

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

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

26 \_\_\_\_\_  
27 <sup>4</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.

28 <sup>5</sup> The parties are encouraged to attempt to settle discovery disputes through informal, good-faith negotiations before  
seeking Commission resolution of the controversy.

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

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

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

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

11 **Summary**

12 On May 9, 2011, Arizona Water Company ("AWC") filed with the Arizona  
13 Corporation Commission ("Commission") an amended application requesting  
14 adjustments to its rates and charges for utility service provided by its Western Group  
15 water systems, including its Pinal Valley (Casa Grande, Coolidge, and Stanfield); Ajo;  
16 and White Tank water systems. AWC's amended application uses a test year ending  
17 December 31, 2010. AWC's current rates were established in Decision No. 71845  
18 (August 25, 2010), based on a test year ending December 31, 2007. AWC's  
19 application seeks an increase in revenues of \$4,564,110, or approximately 24.45  
20 percent over test year revenues. AWC further requests approval of an Arsenic Cost  
21 Recovery Mechanism for its Western Group water systems, consolidation of its White  
22 Tank water system with its Pinal Valley water system, continuation and consolidation  
23 of its Central Arizona Project Hook-Up Fees for its Pinal Valley water system and its  
24 White Tank water system, approval of a Distribution System Improvement Charge for  
25 its Western Group water systems, and approval of an Off-Site Facilities Fee for each  
26 new service connection.

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

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

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

**Arizona Corporation Commission Public Hearing Information**

1 The Commission will hold a hearing on this matter in Hearing Room No. 1 at the  
2 Commission's offices at 1200 West Washington Street, Phoenix, Arizona 85007. The  
3 **hearing will commence on February 21, 2012, at 9:30 a.m.** Oral public comments  
will be taken on the first day of hearing.

4 Written public comments may be submitted by mailing a letter referencing Docket No.  
5 W-01445A-10-0517 to Arizona Corporation Commission, Consumer Services Section,  
6 1200 West Washington, Phoenix, AZ 85007, or by e-mail. For a form to use and  
7 instructions on how to e-mail comments to the Commission, go to  
8 <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**

9 The law provides for an open public hearing at which, under appropriate  
10 circumstances, interested parties may intervene. Any person or entity entitled by law  
11 to intervene and having a direct and substantial interest in the matter will be permitted  
12 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:

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

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

**ADA/Equal Access Information**

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



1 IT IS FURTHER ORDERED that AWC shall, **as soon as possible, but no later than August**  
2 **15, 2011, mail** to each of its customers a copy of the above notice as a bill insert **and cause a copy of**  
3 **such notice to be published at least once in a newspaper(s) of general circulation in AWC's**  
4 **service territory.**

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

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

10 IT IS FURTHER ORDERED that all parties must comply with Arizona Supreme Court Rules  
11 31 and 38 and A.R.S. § 40-243 with respect to the practice of law and admission *pro hac vice*.

12 IT IS FURTHER ORDERED that withdrawal of representation must be made in compliance  
13 with A.A.C. R14-3-104(E) and Rule 1.16 of the Rules of Professional Conduct (under Arizona  
14 Supreme Court Rule 42). Representation before the Commission includes appearances at all hearings  
15 and procedural conferences, as well as all Open Meetings for which the matter is scheduled for  
16 discussion, unless counsel has previously been granted permission to withdraw by the Administrative  
17 Law Judge or the Commission.

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

21 ...  
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23 ...  
24 ...  
25 ...  
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27 ...  
28 ...

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

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

6 DATED this 15<sup>th</sup> day of July, 2011.

7  
8   
9 SARAH N. HARPRING  
ADMINISTRATIVE LAW JUDGE

10 Copies of the foregoing mailed/delivered  
11 This 15<sup>th</sup> day of July, 2011 to:

12 Steven A. Hirsch  
13 Stanley B. Lutz  
14 BRYAN CAVE LLP  
Two North Central Avenue, Suite 2200  
Phoenix, AZ 85004-4406  
Attorneys for Arizona Water Company

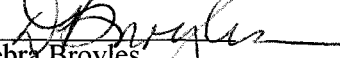
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26 2200 North Central Avenue, Suite 502  
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27 By:   
28 Debra Broyles  
Secretary to Sarah N. Harpring