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BEFORE THE ARIZONA CORPORATION COMMISSION

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Arizona Corporation Commission

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AZ CORP COMMISSION  
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DOCKETED BY

COMMISSIONERS

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

IN THE MATTER OF THE APPLICATION OF  
ARIZONA-AMERICAN WATER COMPANY, AN  
ARIZONA CORPORATION, FOR A  
DETERMINATION OF THE CURRENT FAIR  
VALUE OF ITS UTILITY PLANT AND  
PROPERTY AND FOR INCREASES IN ITS  
RATES AND CHARGES BASED THEREON FOR  
UTILITY SERVICE BY ITS AGUA FRIA WATER  
DISTRICT, HAVASU WATER DISTRICT, AND  
MOHAVE WATER DISTRICT.

DOCKET NO. W-01303A-10-0448

PROCEDURAL ORDER

**BY THE COMMISSION:**

On November 13, 2010, Arizona-American Water Company ("Arizona-American" or "Company") filed with the Arizona Corporation Commission ("Commission") an application for rate increases for its Agua Fria Water district, Havasu Water district and Mohave Water district.

Intervention in this proceeding has been granted to the Residential Utility Consumer Office ("RUCO"), the Water Utility Association of Arizona ("WUAA"), Sun City Grand Community Association, Inc. ("SCGCA"), Mashie, LLC dba Corte Bella Golf Club ("Corte Bella"), Kenneth Hewitt, Verrado Community Association, Inc. ("Verrado"), and DMB White Tank, LLC ("DMB"). The Commission's Utilities Division ("Staff") is also a party to this proceeding.

On August 5, 2011, Peggy H. Rahkola, President of the Arizona Traditions Homeowners Association, Inc. ("ATHA") filed a Motion to Intervene on behalf of ATHA.

On August 9, 2011, Jim Weihman, Vice President of The Happy Trails Community Association ("HTCA"), filed a Motion to Intervene on behalf of HTCA.

On August 12, 2011, Mike Orose, President of The Crystal Springs Estates Homeowners Association ("CSEHA"), filed a Motion to Intervene on behalf of CSEHA.

1 On August 12, 2011, Nicholas Mascia, President of The Surprise Farms III Community  
2 Association ("SF3CA"), filed a Motion to Intervene on behalf of SF3CA.

3 On August 15, 2011, Peter and Rochanne Corpus, residential customers of Arizona-American,  
4 filed a Motion to Intervene.

5 On August 15, 2011, Paul Briningstool, President of the Ashton Ranch Homeowner's  
6 Association ("ARHA"), filed a Motion to Intervene on behalf of ARHA.

7 On August 15, 2011, William B. Lipscomb, President of the Kingswood Parke Community  
8 Association, Inc. ("KPCA"), filed a Motion to Intervene on behalf of KPCA.

9 On August 15, 2011, Kevin Chiariello, President of the Greer Ranch South Homeowners  
10 Association ("GRSHA"), filed a Motion to Intervene on behalf of GRSHA.

11 On August 16, 2011, Frederick G. Botha and Mary L. Botha, residential customers of  
12 Arizona-American, filed a Motion to Intervene.

13 On August 17, 2011, a Procedural Order was issued continuing the commencement of the  
14 evidentiary hearing in this matter until a date to be determined following a procedural conference  
15 scheduled to be held on September 19, 2011. As explained in the Procedural Order, the purpose of  
16 the procedural conference will be to discuss the timeframe for new parties to conduct discovery and  
17 prefile their testimony; the timeframe for the Company and other parties to conduct discovery and  
18 prepare and file responsive testimony; and an appropriate date for commencement of the evidentiary  
19 hearing based on those timeframes.

20 On August 18, 2011, the City of Surprise ("Surprise") filed a Motion to Intervene.

21 On August 19, 2011, Owen Dejanovich, President of the Clearwater Farms Three  
22 Homeowners Association, Inc. ("CFTHA"), filed a Motion to Intervene on behalf of CFTHA.

23 On August 19, 2011, a Procedural Order was issued directing CFTHA to file documentation  
24 authorizing Mr. Dejanovich to appear as a lay representative on behalf of CFTHA, or to file an  
25 intervention request by counsel representing CFTHA, before the Motion to Intervene would be  
26 considered.

27 On August 19, 2011, Craig and Nancy Plummer, residential customers of Arizona-American,  
28 filed a Motion to Intervene.

1 On August 22, 2011, William and Erin Parr, residential customers of Arizona-American, filed  
2 a Motion to Intervene.

3 On August 22, 2011, Sharon Wolcott, a residential customer of Arizona-American, filed a  
4 Motion to Intervene.

5 On August 22, 2011, Thomas and Laurie Decatur, residential customers of Arizona-  
6 American, filed a Motion to Intervene.

7 On August 22, 2011, Ken Peterson, President of the Jackrabbit Estates Homeowners  
8 Association ("JEHA"), filed a Motion to Intervene on behalf of JEHA.

9 On August 22, 2011, G. Thomas Hennessy, President of the Savannah Homeowners  
10 Association ("SHA"), filed a Motion to Intervene on behalf of SHA.

11 On August 22, 2011, G. Thomas Hennessy, President of the Surprise Farms 5 Community  
12 Association ("SF5CA"), filed a Motion to Intervene on behalf of SF5CA.

13 On August 22, 2011, Jim Oravetz, President of the Legacy Park South Homeowners  
14 Association ("LPSHA"), filed a Motion to Intervene on behalf of LPSHA.

15 On August 22, 2011, Stan Mucha, President of The Sun Village Community Association  
16 ("SVCA"), filed a Motion to Intervene on behalf of SVCA.

17 On August 22, 2011, Jan Garcia, President of the Sycamore Estates Parcel 13 Community  
18 Association ("SEP13CA"), filed a Motion to Intervene on behalf of SEP13CA.

19 On August 22, 2011, Jared Evenson, President of the Cross River Homeowners Association  
20 ("CRHA"), filed a Motion to Intervene on behalf of CRHA.

21 On August 22, 2011, Dana Miller, President of the Western Meadows Homeowners  
22 Association, Inc. ("WMHA"), filed a Motion to Intervene on behalf of WMHA.

23 On August 22, 2011, Timothy L. and Cindy J. Duffy, residential customers of Arizona-  
24 American, filed a Motion to Intervene.

25 On August 23, 2011, Mike Smith, President of the Sierra Montana Homeowners Association  
26 ("SMHA"), filed a Motion to Intervene on behalf of SMHA.

27 On August 23, 2011, Dana Rosenbaum, Secretary of the Surprise Farms Community  
28 Association, Phase 1A ("SF1ACA"), filed a Motion to Intervene on behalf of SF1ACA.

1 On August 23, 2011, Jerome M. Ellison II, President of the Cortessa Community Association,  
2 (“CCA”), filed a Motion to Intervene on behalf of CCA.

3 On August 24, 2011, Jeanne Stockard, Senior Property Manager for the Northwest Ranch  
4 Homeowners Association (“NRHA”), filed a Motion to Intervene on behalf of NRHA.

5 On August 24, 2011, EPCOR Water (USA), Inc. (“EPCOR”) filed an Application for Leave  
6 to Intervene.

7 **Authorization for Lay Representation of Non-Profit Organizations**

8 Pursuant to Arizona Supreme Court Rule 31(d)(28), a non-profit organization may be  
9 represented before the Commission by a corporate officer, employee, or a member who is not an  
10 active member of the state bar, if (1) the non-profit organization has specifically authorized the  
11 officer, employee, or member to represent it in the particular matter; (2) such representation is not the  
12 person’s primary duty to the non-profit organization, but is secondary or incidental to such person’s  
13 duties relating to the management or operation of the non-profit organization; and (3) the person is  
14 not receiving separate or additional compensation (other than reimbursement for costs) for such  
15 representation. Arizona Supreme Court Rule 31(d)(28) further states that the Commission or  
16 presiding officer may require counsel in lieu of lay representation whenever it is determined that lay  
17 representation is interfering with the orderly progress of the proceeding, imposing undue burdens on  
18 the other parties, or causing harm to the parties represented.

19 If the various homeowners and community associations (jointly “associations”) that have  
20 sought intervention wish to be represented in this matter by qualified lay representatives in lieu of  
21 representation by counsel in this matter, they must each docket a specific authorization, such as a  
22 board resolution, for a specific lay person meeting the requirements of Arizona Supreme Court Rule  
23 31(d)(28) to represent them in this matter. Without such authorization, the Commission may not,  
24 pursuant to Arizona Supreme Court Rule 31(d)(28), allow a lay person to appear and represent an  
25 association in this proceeding. Alternatively, the association may obtain counsel and have counsel  
26 file a Motion to Intervene.

27 **Designation of Classes and Parties**

28 Arizona Administrative Code (“A.A.C.”) R14-3-104(C) provides that the Commission may

require parties with common interests to be represented by a designated representative to advance administrative efficiency and mitigate duplicative presentation of testimony and evidence. A.A.C. R14-3-104(C) states as follows:

Designation of classes, parties. When two or more parties have substantially like interests and positions, the presiding officer may declare them a class of parties present and appearing for purposes of the hearing. The members of a class shall designate one of their number to be representative of a class in the hearing. If the members of the class cannot agree on a representative, the presiding officer may designate one of them to be representative of the class. The presiding officer may deem participation by other members of the same class to be cumulative and may restrict its presentation accordingly. More than one class may be established for a hearing.

Given the large number of homeowners and community associations that have sought intervention in this matter, and considering the apparent commonality of interests represented by those associations, it is likely that the associations would be required to participate as a single class at the hearing if they are ultimately granted intervention pursuant to the requirements discussed above. The associations may wish to coordinate their efforts in this case through a single lay representative, or counsel, in order to mitigate the costs of participation and in the furtherance of administrative efficiency.

## Service of Filings

In addition to the intervention requests submitted by the associations, a number of Motions to Intervene have been filed by individual customers. In reviewing these intervention requests, it appears that most, if not all, of the individual Motions to Intervene do not include an acknowledgement or certification that all other parties in the case have been served with a copy of the filing. The Commission requires that the original and 13 copies of any formal document must be filed with the Commission's Docket Control, and A.A.C. R14-3-107(A) requires that "[o]ne copy shall be served on any person who is already a party to the proceeding." A.A.C. R14-3-107(B) and (C) set forth the Manner of Service and Proof of Service requirements, as follows (in relevant part):

B. Manner of service. Except as provided in R14-3-103(B) or unless otherwise ordered by the Commission or otherwise provided by law ... all documents filed by any party may be served by mail, and service thereof shall be deemed complete when a true copy of such paper or document, properly addressed and stamped, is deposited in the United States mail

with first class postage prepaid.

C. Proof of service. There shall appear on all documents required to be served by a party an acknowledgement of service or the following certificate:

I hereby certify that I have this day served the foregoing documents on all parties of record in this proceeding (by delivering a copy thereof in person to \_\_\_\_\_),  
(By mailing a copy thereof, properly addressed with first class postage prepaid to \_\_\_\_\_).  
Dated at \_\_\_\_\_, Arizona,  
this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
(Signature)

In accordance with these Commission rules, all parties and prospective parties are advised that the Motions to Intervene previously filed (to the extent that service on other parties has not previously been made), and any future filings, must include an acknowledgement of service or certificate of service in the manner described above.

**IT IS THEREFORE ORDERED that the intervention requests of the homeowners and community associations will be considered once one of the following is filed in this docket: (1) specific authorization, such as a board resolution, for the officer of each association requesting intervention or another specifically named lay person meeting the requirements of Arizona Supreme Court Rule 31(d)(28) to represent the association in this matter; or (2) an intervention request filed by counsel representing each association in this matter. In order to be considered, one of the above-referenced filings should be made as soon as possible, but in no event after the September 19, 2011 procedural conference.**

**IT IS FURTHER ORDERED that the homeowners and community associations that have filed Motions to Intervene should consider coordinating their efforts in this case through a single lay representative, or through counsel, in order to mitigate the costs of participation and in the furtherance of administrative efficiency.**

**IT IS FURTHER ORDERED that all parties and prospective parties shall file an acknowledgement of service or certificate of service in the manner described in A.A.C. R14-3-107 above for all Motions to Intervene previously filed (to the extent that compliance with the**

1 service requirements has not previously been accomplished), and for all future filings.

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

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

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

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

17 DATED this 25<sup>th</sup> day of August, 2011.

18  
19   
20 DWIGHT D. NODES  
21 ASSISTANT CHIEF ADMINISTRATIVE LAW JUDGE  
22  
23  
24  
25  
26  
27  
28

1 Copies of the foregoing mailed/delivered  
 2 this 27th day of August, 2011 to:

**CURRENT PARTIES**

3 Thomas H. Campbell  
 4 Michael T. Hallam  
 5 LEWIS AND ROCA LLP  
 40 North Central Avenue  
 Phoenix, AZ 85004  
 Attorneys for Arizona-American Water Co.

6 Michelle Wood, Counsel  
 7 RESIDENTIAL UTILITY CONSUMER OFFICE  
 1110 West Washington Street, Suite 220  
 Phoenix, AZ 85007

8 Greg Patterson, Director  
 9 WATER UTILITY ASSOCIATION  
 OF ARIZONA  
 916 West Adams, Suite 3  
 Phoenix, AZ 85007

10 Joan S. Burke  
 11 LAW OFFICE OF JOAN S. BURKE  
 1650 North First Avenue  
 Phoenix, AZ 85003  
 12 Attorney for Corte Bella

Kenneth Hewitt  
 18729 North Palermo Court  
 Surprise, AZ 85387

Curtis S. Ekmark  
 EKMARK & EKMARK, L.L.C.  
 6720 North Scottsdale Road, Suite 261  
 Scottsdale, AZ 85253  
 Attorneys for SCGCA

Michele L. Van Quathem  
 RYLEY CARLOCK & APPLEWHITE, P.A.  
 One North Central Avenue Suite 1200  
 Phoenix, AZ 85004-4417  
 Attorneys for Verrado and DMB

Janice Alward, Chief Counsel  
 Legal Division  
 ARIZONA CORPORATION COMMISSION  
 1200 West Washington Street  
 Phoenix, AZ 85007

Steven M. Olea, Director  
 Utilities Division  
 ARIZONA CORPORATION COMMISSION  
 1200 West Washington Street  
 Phoenix, AZ 85007

**NON-PARTY ENTITIES SEEKING INTERVENTION**

16 Peggy H. Rahkola  
 17 THE ARIZONA TRADITIONS  
 HOMEOWNERS ASSOCIATION  
 17221 N. Citrus  
 Surprise, AZ 85374

18 Jim Weihman  
 19 THE HAPPY TRAILS  
 COMMUNITY ASSOCIATION  
 17200 W. Bell Road  
 Surprise, AZ 85374

21 Nicholas Mascia  
 22 THE SURPRISE FARMS III  
 COMMUNITY ASSOCIATION  
 1600 W. Broadway Rd., Suite 200  
 Tempe, AZ 85282

23 Mike Orose  
 24 THE CRYSTAL SPRINGS ESTATES  
 HOMEOWNERS ASSOCIATION  
 8407 N. 178<sup>th</sup> Ave  
 Waddell, AZ 85355

26 Peter and Rochanee Corpus  
 8425 N. 181<sup>st</sup> Drive  
 27 Waddell, AZ 85355

Paul Briningstool  
 ASHTON RANCH  
 HOMEOWNERS ASSOCIATION  
 P.O. Box 9151  
 Surprise, AZ 85374

William B. Lipscomb  
 KINGSWOOD PARKE  
 COMMUNITY ASSOCIATION  
 14976 W. Bottletree Ave  
 Surprise, AZ 85374

Kevin Chiariello  
 GREER RANCH SOUTH HOA  
 16074 W. Christy  
 Surprise, AZ 85379

Frederick G. Botha  
 Mary L. Botha  
 23024 N. Giovota Drive  
 Sun City West, AZ 85375

Michael D. Bailey  
 CITY OF SURPRISE  
 16000 N. Civic Center Plaza  
 Surprise, AZ 85374



Craig and Nancy Plummer  
17174 W. Saguaro Lane  
William and Erin Parr  
18044 W. Georgia Ct.  
Litchfield Park, AZ 85034

Sharon Wolcott  
20117 N Painted Cove Lane  
Surprise, AZ 85387

Owen Dejanovich  
CLEARWATER FARMS THREE  
HOMEOWNERS ASSOCIATION  
P.O. Box 72  
Waddell, AZ 85355

Thomas and Laurie Decatur  
8426 N 181<sup>st</sup> Drive  
Waddell, AZ 85355

Ken Peterson  
JACKRABBIT ESTATES  
HOMEOWNERS ASSOCIATION  
1600 W Broadway Rd, Suite 200  
Tempe, AZ 85282

G. Thomas Hennessy  
SAVANNAH HOMEOWNERS ASSOCIATION  
1600 W Broadway Rd, Suite 200  
Tempe, AZ 85282

G. Thomas Hennessy  
SURPRISE FARMS 5  
COMMUNITY ASSOCIATION  
1600 W Broadway Rd, Suite 200  
Tempe, AZ 85282

Jim Oravetz  
LEGACY PARC SOUTH HOMEOWNERS  
ASSOCIATION  
1600 W Broadway Rd, Suite 200  
Tempe, AZ 85282

Stan Mucha  
THE SUN VILLAGE  
COMMUNITY ASSOCIATION  
17300 N Sun Village Pkwy  
Surprise, AZ 85374

Jan Garcia  
SYCAMORE ESTATES PARCEL 13  
COMMUNITY ASSOCIATION  
1600 W Broadway Rd, Suite 200  
Tempe, AZ 85282

Jared Evenson  
CROSS RIVER HOMEOWNERS ASSOCIATION  
1600 W Broadway Rd, Suite 200  
Tempe, AZ 85282

Dana Miller  
WESTERN MEADOWS  
HOMEOWNERS ASSOCIATION  
1600 W Broadway Rd, Suite 200  
Tempe, AZ 85282

Surprise, AZ 85388

Timothy L. Duffy  
Cindy J. Duffy  
19997 N. Half Moon Drive  
Surprise, AZ 85374

Mike Smith  
SIERRA MONTANA  
HOMEOWNERS ASSOCIATION  
c/o Rossmar & Graham  
15396 N 83<sup>rd</sup> Ave., Bldg. B, Suite 101  
Peoria, AZ 85381

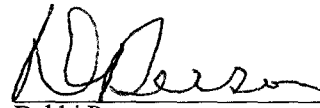
Dana Rosenbaum  
SURPRISE FARMS COMMUNITY  
ASSOCIATION, PHASE 1A  
P.O. Box 25466  
Tempe, AZ 85285-5466

Jerome M. Ellison II  
CORTESSA COMMUNITY ASSOCIATION  
P.O. Box 25466  
Tempe, AZ 85285-5466

Jeanne Stockard  
NORTHWEST RANCH  
HOMEOWNERS ASSOCIATION  
4742 N 24<sup>th</sup> St, Suite 325  
Phoenix, AZ 85016

Jay L. Shapiro  
Patrick J. Black  
FENNEMORE CRAIG  
3003 N Central Ave., Suite 2600  
Phoenix, AZ 85012  
Attorneys for EPCOR Water (USA), Inc.

By:

  
Debbi Person  
Assistant to Dwight Nodes