Marshall Magruder

Response to

EPCOR Application for Interim Rates

In accordance with the Procedural Order of 31 January 2019, Marshall Magruder, a party to this case, submits this response to the EPCOR Application for Interim Rates of 31 January 2019 ("the Application").

This response is limited to two legal issues that impact the interim rates:


2. Status of the Present Rates and Proposed Interim Rates to comply with various legal requirements.


The present rates include a revenue requirement to fund a Low Income Plan in most districts but not all districts. This plan is funded by a surcharge varies between $0.551 per 1000 gallons (Tubac) and $0.0084 per 1000 gallons (Paradise Valley) for all water used in the highest rate tiers for the Residential and Commercial Rate Classes.¹ For most areas this surcharge has resulted in overcharging ratepayers that is now being refunded on various schedules by district. The proposed Interim Rates impacts only volumetric rates to meet a proposed require revenue deficiency. Other present and proposed surcharges and adjustments are presented in the Application; however, those for the Low Income Plan are not included.

Questions this issue raises include:

¹ Magruder Opening Brief, footnote 28, at 27.
(a) Are the present Low Income Plan surcharges, rebates and the 921 participants (of the 2,166 allowed), during the test year, to continue?

(b) What is the impact of the Low Income Plan surcharges/rebates on the Interim Rate revenue deficiency?

(c) Are these different surcharges/rebates to remain constant based on the number of approved low income applications that are based on the ratepayer's location?

(d) Since a present ratepayer's Low Income Plan application ("LIP App") is valid for only 12 months, are low-income ratepayers still required to submit updated or new LIP App annually, under Interim Rates to reduce monthly fixed water costs between $4.50 and $14.75 per month, with differences based on low income ratepayer's location?

(e) Will the present 150% of poverty level at $37,650 for a family of four (or $24,690 for two) or will the proposed 200% of poverty level at $50,200 for a family of four (or $32,920 for two) be the maximum qualification incomes for the Low Income Plan applicants?

(f) Since well over 20,000 residential EPCOR ratepayer families earn less than 100% poverty level, will the present participation 2,166 "cap" remain in effect for the number of low-income participants?

Issue 2. Present Rates and Interim Rates Compliance with Various Legal Requirements

As clearly stated in this party's pre-filed and oral testimonies, briefs, and responses in Case 17-0257, several times this party has challenged the Commission not to continue rate discrimination in violation of the Arizona Constitution, Arizona Revised Statutes, an Attorney General Opinion, prior Decisions and Cases, and common practices that involve rate discrimination based on the location of a ratepayer receiving the same service.

The continuation of the Interim Rates surcharges based on a ratepayer's location by this Public Service Corporation continues these legal violations; however, it appears this Public Service Corporation has no other legal option at this stage in the rate determination process unless the Commission orders it to cease these discriminatory rates. It is also noted, that the Application states:

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2 Magruder Opening Brief, 27:27-29 and footnote 27 at 27.
4 Magruder Exceptions to ROO, Table 3-1 p. 22 for 2019 poverty annual family federal poverty income levels.
5 Ibid, pp. 22-23.
6 Ibid, pp. 7-12. This is a summary of these "legal requirements."
"Although EOPCOR Water Arizona, Inc. currently has 11 districts, those 11 districts do not comprise a public service corporation. Rather, as determined by Staff, EPCOR Water Arizona Inc. is a public service corporation." [Application, p. 2 footnote 7, emphasis added.]

Please note, there are no legal determinations that a Public Service Corporation’s administrative business unit or “district” is allowed or permitted to have different rate schedules based on ratepayer location when it comes to charges, fees, rates and other revenue raising methods for a Public Service Corporation to meets its required revenue. These significant differences are solely due to prior water companies being purchased many decades ago, and their rates remaining separate in violation of the legal requirements cited by this party, with obvious significant rate disparities, with some ratepayers being overcharged, while others are undercharge. This continues rate case after rate case. Even when the Staff’s Legal Counsel was asked why by the Chairman, her reply was, “its always been that way.”

Summary.
This party agrees with the Application for Interim Rates and fully supports its approval by the Commission, other than consideration of the two issues above.

Many “other” issues, which appear to be out of scope for Interim Rates based on the Procedural Order for this case, may involve possible increases or reductions in the interim revenue requirement. Such “other” issues have been raised by Commissioners and other parties include the post-test year plant, SIB mechanism, monthly minimum charges, volumetric rates and tiers, fair value investment, rate design including full or reasonable regional consolidation or standalone rate structure options, low/lower income plan, various surcharges, and others that are to be adjudicated elsewhere. If included, then any proposed surcharges should conform with this Interim Rate Application.

This filing is provided to all parties in the Service List as shown below.

RESPECTFULLY SUBMITTED on this 11th day of February 2019.

BY MARSHALL MAGRUDER

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ALL BELOW HAVE CONSENTED TO SERVICE BY EMAIL
In accordance with Procedural Order of 28 January 2019, et al

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