BEFORE THE ARIZONA CORPORATION COMMISSIONERS

BOB BURNS, Chairman
ANDY TOBIN
BOYD DUNN
SANDRA KENNEDY
JUSTIN OLSON

IN THE MATTER OF THE APPLICATION OF
EPCOR WATER ARIZONA INC., FOR
INTERIM WATER RATES PURSUANT TO
A.A.C. R14-2-103(B)(11)(h).

Docket No. WS-01303A-19-0011

RU CO'S REPLY TO RESPONSES TO COMPANY'S APPLICATION FOR INTERIM RATES

The Residential Utility Consumer Office ("RU CO") hereby files Notice of its Reply to Responses to EPCOR's Application for Interim Rates ("Application"). With this filing, RU CO provides notice of filing of the reply testimony of Jeffrey Michlik. RU CO further responds to certain legal arguments raised as follows:

The legal arguments that were addressed in the responses of the other parties for the most part support and augment the legal arguments raised and addressed in RU CO's Response to the Company's Application ("Brief"). Commissioner Olson filed a letter on February 11, 2019 which, among other things raised the issue of whether the Commission decided the case. Staff filed its Report on February 11, 2019 recommending interim rates as well as an Order requiring the Company to file a rate case by December 31, 2019, using a 2018 test year.

1 Attached as Exhibit 1.
3 See Staff Report filed February 11, 2019 - Executive Summary
One can only surmise that under Staff’s view, the pending interim rates are “interim” for the sake of the future rate case. In other words, the Commission has made a “final decision” in the Rate Case (Docket No. WS-01303A-17-0257 (“Rate Case or 17-0257 case”), and the pending interim rates are a matter related to Staff’s proposed future rate case and not the 17-0257 case.

While this presents interesting legal and procedural questions, ultimately it is a distinction with very little difference as it relates to the final outcome concerning interim rates. If the matter was decided and a final decision made, then as Commissioner Olson notes, A.A.C. Rule 14-2-13(11)(d) does not apply and the issue of interim rates depends on the existence of an emergency. RUCO’s conclusion that an emergency does not exist is supported by its arguments set forth in its Brief. Further, the “interim” rate docket is a new docket which only involves a request for interim rates. There is no request for permanent rates outstanding since no final decision has been filed and no Application for Rehearing has been made. RUCO is aware of no law or rule which would support an “interim” rate application whose genesis is in one case, to serve as the basis for interim rates in a future rate case. The Company’s request for interim rates should be denied.

Finally, whether the Commission’s vote was a majority vote to reject the ROO or a tie vote as was case here the outcome is the same – the ROO is denied. Therefore, at least for purposes of the outcome, it seems silly to debate whether the decision is final.

Nonetheless, if the Commission believes it has not made a “final decision”, then A.A.C. Rule 14-2-13(11)(d) comes into play, assuming the Commission believes the “Time Clock Rule” applies. RUCO does not believe the Time Clock Rule applies here for the same reasons Judge Rodda mentioned in the Special Open Meeting held on January 25, 2019.5

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4 See Brief at 2-5.
5 See Brief at 5-9, Transcript of Open Meeting held on January 25, 2019, at 94-95 attached as Exhibit 2.
Procedurally, it does not make sense to open a new docket for interim rates if a final decision was not made in the rate case.

For the following reasons, RUCO requests the Company’s Application be dismissed. If the Commission denies RUCO’s request, and moves forward with the Company’s Application, RUCO recommends the Commission approve interim rates consistent with RUCO’s underlying Revenue Requirement.

RESPECTFULLY SUBMITTED this 15th day of February, 2019.

[Signature]
Daniel W. Pozefsky
Chief Counsel
On this 15th day of February, 2019, an original and thirteen copies of the foregoing document were filed with Docket Control and copies of the foregoing document were mailed on behalf of RUCO to the following who have not consented to email service. On this date or as soon as possible thereafter, the Commission's eDocket program will automatically email a link to the foregoing document to the following who have consented to email service.

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DOCKET NO. W-0103A-19-0011

REPLY TESTIMONY
OF
JEFFREY MICHLIK

ON BEHALF OF THE
RESIDENTIAL UTILITY CONSUMER OFFICE

FEBRUARY 15, 2019
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EXECUTIVE SUMMARY

On February 11, 2019 the parties filed their responses to the Company's Application for Interim rates. RUCO's witness, Jeffrey Michlik filed responsive testimony as part of RUCO's filing. Commission Staff filed a Commission Staff report on February 11, 2019 in response to EPCOR Water Arizona, Inc. ("EPCOR" or "Company") application for interim rates. Staff's Report addressed the revenue requirement and proposed a surcharge rate schedule.

Other than Staff, RUCO and the Company, no other party filed a proposed revenue requirement for interim rates. RUCO's Testimony here addresses Commission Staff's interim rate recommendation since its previous filing addressed the Company's filing.

RUCO concludes that Commission Staff's interim rate proposal is not logical given that the ROO, with a lower proposed revenue requirement than that filed by Staff in its Report, failed to pass in the Commission's special open meeting. Additionally, RUCO is unable to find written justification for the proposed interim rates in the Staff Report.

RUCO further disagrees with Commission Staff's first recommendation that the Company file a rate case by December 31, 2019 using a 2018 test year. Without a compelling reason, RUCO is unable to support such a recommendation as more fully set forth in RUCO's legal reply being filed simultaneously.

RUCO disagrees with Commission Staff's second recommendation to approve a line of credit instead of a bond. The issue of the legal requirements for interim rates was set forth in RUCO's legal response to the Company's application for interim rates.

RUCO agrees with Commission Staff's third recommendation that if the interim rates are approved and the Company over-collects the difference should be refunded and if it under-collects the shortfall would not be recoverable.
I. INTRODUCTION

Q. Please state your name for the record.
A. My name is Jeffrey M. Michlik.

Q. Have you previously filed testimony in regards to this docket?
A. Yes, I have. I filed direct testimony in this docket on February 11, 2019.

Q. What is the purpose of your surrebuttal testimony?
A. My surrebuttal testimony will address Commission Staff’s interim rate recommendation.

Q. What is the basis of your testimony in this case?

II. RURO’S ANALYSIS OF COMMISSION STAFF’S RECOMMENDED INTERIM RATES.

Q. What did Commission Staff recommend as a revenue requirement for interim rates?
A. Commission Staff proposed a total revenue requirement of $10,327,592 for interim rates.
Q. Is this recommendation higher than what EPCOR had requested?
A. Yes. The Company is requesting $10,017,966. Commission Staff's request is $309,625 higher than EPCOR's request, and $792,832 higher than the recommended ROO revenue requirement amount of $9,535,760.

Q. How much higher is this than Staff's final position in the rate case docket (WS-01303A-17-0257)?
A. Prior to the issuance of the ROO, Staff’s final recommendation was $8,360,028, which is almost $2 million less, as shown below, than their current recommendation. RUÇO is unable to find any written justification within the Staff Report to justify this new position.

<table>
<thead>
<tr>
<th>Districts</th>
<th>Staff's Final Schedules Revenue Requirement</th>
<th>Staff's Interim Rates Revenue Requirement</th>
<th>Increase Difference</th>
<th>Percentage Increase</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agua Fria Water</td>
<td>$4,101,458</td>
<td>$2,935,175</td>
<td>$1,166,283</td>
<td>28.44%</td>
</tr>
<tr>
<td>Anthem Water</td>
<td>$2,565,699</td>
<td>$2,674,851</td>
<td>$109,152</td>
<td>4.25%</td>
</tr>
<tr>
<td>Chaparral Water</td>
<td>$1,651,317</td>
<td>$1,796,504</td>
<td>$145,187</td>
<td>8.79%</td>
</tr>
<tr>
<td>Havasu Water</td>
<td>$(11,090)</td>
<td>$51,117</td>
<td>$62,207</td>
<td>560.93%</td>
</tr>
<tr>
<td>Mohave Water</td>
<td>$2,037,880</td>
<td>$2,058,987</td>
<td>$21,107</td>
<td>1.04%</td>
</tr>
<tr>
<td>North Mohave Water</td>
<td>$390,297</td>
<td>$366,783</td>
<td>$(23,514)</td>
<td>-6.02%</td>
</tr>
<tr>
<td>Paradise Valley Water</td>
<td>$640,556</td>
<td>$775,432</td>
<td>$134,876</td>
<td>21.06%</td>
</tr>
<tr>
<td>Sun City Water</td>
<td>$4,262,769</td>
<td>$4,434,171</td>
<td>$171,402</td>
<td>4.02%</td>
</tr>
<tr>
<td>Sun City West Water</td>
<td>$963,591</td>
<td>$1,150,349</td>
<td>$186,758</td>
<td>19.38%</td>
</tr>
<tr>
<td>Tubac Water</td>
<td>$(163,278)</td>
<td>$(163,693)</td>
<td>$(415)</td>
<td>-0.25%</td>
</tr>
<tr>
<td>Willow Valley Water</td>
<td>$123,745</td>
<td>$118,266</td>
<td>$(5,479)</td>
<td>-4.43%</td>
</tr>
<tr>
<td>Total Individual Water Districts</td>
<td>$8,360,028</td>
<td>$10,327,592</td>
<td>$1,967,564</td>
<td>23.54%</td>
</tr>
</tbody>
</table>
Q. Has RUCO also included the change between Staff's Final schedule typical bill for each district and Staff's interim rate typical bill for each district?

A. Yes. The typical average usage for a 5/8 inch x 3/4 inch customer, except for Chaparral which uses a 3/4 inch customer (since there are not 5/8 x 3/4 inch in that district), as shown in the table below:

<table>
<thead>
<tr>
<th>Districts</th>
<th>Average Customer Usage</th>
<th>Staff's Final Schedule Typical Average Usage</th>
<th>Staff's Interim Rates Typical Bill</th>
<th>Dollar Increase / Decrease</th>
<th>Percentage Increase / Decrease</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agua Fria Water</td>
<td>6,521</td>
<td>$39.52</td>
<td>$43.66</td>
<td>$4.14</td>
<td>10.48%</td>
</tr>
<tr>
<td>Anthem Water</td>
<td>8,960</td>
<td>$87.20</td>
<td>$73.05</td>
<td>(14.15)</td>
<td>-16.23%</td>
</tr>
<tr>
<td>Chaparral Water</td>
<td>7,397</td>
<td>$49.93</td>
<td>$52.13</td>
<td>$2.20</td>
<td>4.41%</td>
</tr>
<tr>
<td>Havasu Water</td>
<td>6,222</td>
<td>$50.01</td>
<td>$53.51</td>
<td>$3.50</td>
<td>7.00%</td>
</tr>
<tr>
<td>Mohave Water</td>
<td>6,127</td>
<td>$32.39</td>
<td>$31.08</td>
<td>(1.31)</td>
<td>-4.04%</td>
</tr>
<tr>
<td>North Mohave Water</td>
<td>7,810</td>
<td>$37.45</td>
<td>$33.03</td>
<td>(4.42)</td>
<td>-11.80%</td>
</tr>
<tr>
<td>Paradise Valley Water</td>
<td>18,590</td>
<td>$65.03</td>
<td>$59.23</td>
<td>(5.80)</td>
<td>-8.92%</td>
</tr>
<tr>
<td>Sun City Water</td>
<td>6,802</td>
<td>$24.12</td>
<td>$25.59</td>
<td>$1.47</td>
<td>6.09%</td>
</tr>
<tr>
<td>Sun City West Water</td>
<td>5,989</td>
<td>$32.05</td>
<td>$33.20</td>
<td>$1.15</td>
<td>3.59%</td>
</tr>
<tr>
<td>Tubac Water</td>
<td>7,486</td>
<td>$60.59</td>
<td>$59.89</td>
<td>(0.70)</td>
<td>-1.16%</td>
</tr>
<tr>
<td>Willow Valley Water</td>
<td>2,818</td>
<td>$44.61</td>
<td>$45.89</td>
<td>$1.28</td>
<td>2.87%</td>
</tr>
</tbody>
</table>

Q. RUCO created this table to show the breakout for the different communities. Does RUCO see any anomalies with the table?

A. Yes. RUCO is unsure of Staff's basis for their proposed interim rates. There are unexplained fluctuations in between Staff's final rate schedules and Staff's recommended interim rates.

Q. Can RUCO explain these fluctuations?

A. No, as they are not explained in the Staff Report filed by Commission Staff.
Q. Are both Staff’s recommended rates and the Company’s interim rate request higher than the proposed ROO in the Rate case?
A. Yes.

Q. Can you explain why either the Company or Staff would request a revenue requirement higher than the ROO?
A. No. Both recommendations are not logical given the Commission failed to pass the revenue requirement contained in the ROO.

Q. Can you explain why Commission Staff would recommend a revenue requirement higher than what was requested by EPCOR?
A. No. This is also not logical since Commission Staff is tasked with balancing the interests of the shareholders and the ratepayers.

Q. Does Commission Staff’s recommendation balance the interests of the ratepayer?
A. No. It heavily favors the Company since it is higher than what the Company is even recommending.

Q. What about Commission Staff’s other recommendations?
A. The request to file a rate case by December 31, 2019 using a 2018 test year makes no sense. Without a compelling reason, RUCO is unable to support such a recommendation, as more fully set forth in RUCO’s legal reply being filed simultaneously.
Q. What about Commission Staff’s recommendation to approve the line of credit in lieu of a bond?

A. The issue of the legal requirements for interim rates was set forth in RUCO’s legal response to the Company’s application for interim rates.

Q. What about Commission Staff’s third recommendation concerning refund/shortfall of the revenue requirement?

A. RUCO agrees with this recommendation, if the Commission decides to consider interim rates.

Q. Please recap RUCO’s analysis.

A. RUCO concludes that Commission Staff’s proposed interim rates are not logical given that the ROO, with a lower proposed revenue requirement than that filed by Staff, failed to pass in the Commission’s special open meeting. Additionally, RUCO is unable to find written justification for the increase to the proposed interim rates in the Staff Report.

RUCO disagrees with Commission Staff’s first recommendation that the Company file a rate case by December 31, 2019 using a 2018 test year. Without a compelling reason, RUCO is unable to support such a recommendation, as more fully set forth in RUCO’s legal reply being filed simultaneously.

RUCO disagrees with Commission Staff’s second recommendation to approve a line of credit instead of a bond. The issue of the legal
requirements for interim rates was set forth in RUCO's legal response to the Company's application for interim rates.

RUCO agrees with Commission Staff's third recommendation that if the interim rates are set too high they are to be refunded and if there is a shortfall then no recovery of the difference, if the Commission decides to consider interim rates.

Q. Does this conclude your responsive testimony?

A. Yes.
EXHIBIT 2
1 district but Paradise Valley.
2 
3 COM. TOBIN: That's what my question was. We
4 have other districts. They should have an opportunity,
5 I would think, to come back in if we are going to go
6 ahead.
7 
8 CHMN. BURNS: Is there also the possibility of a
9 delay in the rate being adopted, I mean the schedule?
10 Would there be a possibility of a one month's delay
11 here?
12 
13 MR. BRADFORD: If that's in the form of a
14 question, the answer would be no. We need the revenues
15 to go into effect. If you look at the procedural time
16 clock related to this case, the time clock ran out in
17 early December. We are already in double overtime as
18 far as we are concerned.
19 
20 CALJ RODDA: I just wanted to make a comment on
21 that. I don't believe that the time clock is actually
22 applicable to this case, because it's essentially 11
23 different rate cases, 12 different rate cases. And
24 under our rules, the time clock doesn't apply with more
25 than one pending rate case. I just want that on record.
26 
27 CHMN. BURNS: Okay.
28 
29 MR. BRADFORD: I am --
30 
31 CALJ RODDA: Anyway, they want their rates.
32 
33 CHMN. BURNS: Yeah, absolutely. But the
question I have, maybe I wasn't clear, is if the Olson amendment passes, does that end up causing a delay of at least a month?

CALJ RODDA: I think the company will provide those schedules as soon as they can and that the rates would go into effect February 1st.

MR. BRADFORD: They would.

COM. DUNN: Can we see that? Doesn't it come back here, or does it automatically go in?

CALJ RODDA: There is a conforming filing they have to make. I think it is often right at the same time and that Staff reviews that fairly quickly.

COM. DUNN: Okay. Because in the amendment it doesn't indicate it would come back at a certain deadline, too. It would be set by this Commission. Maybe if it doesn't have to come back -- that would be my concern, whether we could schedule it that quickly.

COM. OLSON: I believe she was answering whether the Olson amendment would require it to come back. She said no, the Burns amendment would require it to come back.

CALJ RODDA: I am sorry. I didn't understand. I don't think the Burns amendment would require it to come back to hearing, too, necessarily. It depends on what --