This response is to the Recommended Opinion and Order (ROO) includes four issues:

Issue 1 – The ROO continues non-compliance by the Commission to the Arizona Constitution, various statutes and other “legal requirements” concerning rate discrimination by this Public Service Corporation. Only with company-wide combined rates can a compliant legal Decision be made by the Commission. However, in this Interim Rate case combined rates cannot be adjudicated. Two options are proposed to meet these legal requirements to have permanent rates in effect by 31 December 2019 in Section I.

Issue 2 – The ROO proposes and expands an expensive, ineffective, inefficient, and an extremely limited Low-Income Plan (LIP). This LIP fails help lower-income ratepayers in most need of lower water rates and it also expands rate discrimination in Section 2.

Issue 3 – The ROO proposes a poorly defined and defective Deployed Service Member Program (DSMP) to eliminates all monthly water charges to such service members in Section 3.

Issue 4 – The ROO proposes a poorly defined and defective Disabled Military Veteran Credit (DMVC) that credits disabled veterans $10.00 month in Section 4.

Recommendations.

Issue 1 requires a legal review to determine if the Commission is violating legal requirements that prohibit rate discrimination for this Public Service Corporation in its rate structures. Two reasonable Options are offered to be compliant that expedite implementation for permanent rates later this year, without a whole new rate case.
This interim rate case process is affirmed and recommended to be decided 28 March 2019.

Issue 2 Low Income Plan requires significant modification to ensure higher participation by those in greatest need, with incomes below the national poverty line. This should be implemented in the permanent rate case.

Issues 3 and 4 should not be approved and deleted in the ROO.

Four Exceptions are provided in Appendix, one for each issue.

This filing is provided to all parties in the Service List as of this date as indicated below.

RESPECTFULLY SUBMITTED on this 22nd day of March 2019.

BY MARSHALL MAGRUDER

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EXCEPTIONS
TO THE
RECOMMENDED OPINION AND ORDER
AND
PROPOSED AMENDMENTS
by
Marshall Magruder

22 March 2019

ACC Docket No. WS-01303A-19-0011

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).

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by
Marshall Magruder

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SUMMARY

These Exceptions respond to the Recommended Opinion and Order (ROO) are for four issues:

Issue 1 – The ROO continues the Commission’s non-compliance with the Arizona Constitution, various statutes and other “legal requirements” concerning rate discrimination presented in Section 1.

Issue 2 – The ROO changes and expands an expensive, ineffective and limited Low-Income Plan (LIP) that fails help most lower income ratepayers to meet non-discretionary water costs in Section 2.

Issue 3 – The ROO proposes a poorly defined and defective Deployed Service Member Credit (DSMC) that eliminates all monthly water charges for “deployed” service members in Section 3.

Issue 4 – The ROO proposes a poorly defined and defective Disabled Military Veteran Credit (DMVC) that credits “disabled” veterans $10.00 month in Section 4.

Recommendations.

This unique case continues an opportunity for the Commission to comply with the Arizona Constitution, various Statutes, precedents from prior legal cases and Commission Decisions. The present and proposed “standalone” interim rates clearly violate these legal requirements. Thus, a new combined rate structure design is necessary. Unfortunately, the scope of this case is limited interim rates that precludes such as change. However, upon completion of a careful legal review, it is expected that one of two Options combined rate sets, as proposed by EPCOR and Commission Staff, in the Docket 17-0257 EPCOR Rate Case, cures this issue with permanent rates. This recommendation is essential for inclusion in a final ROO leading to a permanent rate Decision that complies with the law.

Issue 1 requires a legal review to resolve if the Commission is violating the laws that prohibit rate discrimination for this public service corporation in its rate structures and in Issues 2, 3 and 4. Two Options are offered to resolve Issue 1 in proposed Amendments 1 and 2.

Option One: Return to Docket 17-0257 to comply with legal issues, and complete that case with an integrated, consolidated rate structure for this Public Service Corporation implemented over 5 years.

Option Two: Return to Docket 17-0257 to comply with legal issues, complete that case with interim Regional Consolidations implemented over 5 years AND require the next EPCOR water rate case integrate all Regions into a consolidated rate structure for this entire public service corporation.

Issue 2 requires revision and clarity for higher participation for those below or near the national poverty level. Lower income ratepayers are more impacted by higher bills, some more than others, thus a systemwide lower income plan is essential, so all customers non-discretionary water needs are met.

Issues 3 and 4 should be withdrawn from the ROO. These military service personnel and veteran credits DSMC and DMVC plans are vague discriminatory, unnecessary and should not be implemented.

Exceptions to the ROO are in Appendix A for these four issues.
SECTION 1

ISSUE 1 - COMMISSION FAILS TO COMPLY WITH LEGAL REQUIREMENTS

This issue is presented in five parts: legal Arguments, applicable law, discussion and conclusion, resolution and recommendations and two Options to finalize permanent rates by 31 December 2019, and regional consolidation information.

I. LEGAL ARGUMENTS

1. The ROO, under “Conclusions of Law,” states:

   1. EPCOR is a **public service corporation** within the meaning of Article XV of the Arizona Constitution and A.R.S §§40-250, 40-252, and 40-367.

   ... 5. The rates and charges, the LIP, DSMC, and DMVC as set forth in Exhibits A, B, C, and D, respectively, attached to this Decision are just and reasonable and in the public interest. ¹

2. In the prior rate case, ACC Docket WS-01303A-17-0257, hereafter “Docket 17-0257” and the three previous water rate cases, this party has argued that the Commission is violating Article XV of the Arizona Constitution and several “legal requirements” by continuing rates based on business units called “districts.” **Districts are not public service companies** ² They are remnants of various water company purchased, some over a half-century ago.³

3. EPCOR’s Application for Interim Rates states:

   Although EPCOR Water Arizona Inc, currently has 11 districts, those 11 districts do NOT comprise a **public service corporation**. Rather, as determined by the [Commission] Staff, EPCOR Water Arizona Inc is a **public service corporation**. ⁴

4. This supports the argument that “districts” are **not** public service corporations. The applicable laws and prior Commission Decisions all designate public service corporations to make and collect rates and charges, as prescribed by the Commission. Corporate administration or business divisions are not public service corporations under the below laws, statutes and legal case precedencies and Attorney General Opinions. These public service corporation’s “divisions” provide water in the nineteen Commission approved service areas. None are municipalities, even though the word “city” is in a division’s title. These communities, some unincorporated, own none of EPCOR business units or service areas.

¹ ACC Executive Director Matthew J. Neubert, Recommended Opinion and Order of 12 March 2019, at 29:2-3, 29:4-6, hereafter “ROO.” The recommended opinion and order (ROO) of 9 January 2019 in Docket 17-0257 will be referenced herein as the “Docket 17-0257 ROO.”

² Marshall Magruder, Supplemental Reply to Responses and Replies by Other Parties of 20 February 2019, hereafter Exhibit MAG I-1. This also was presented on 20 February 2019 as his closing comments for this case.

³ The Commission’s recent small water company policy requires such acquisitions to “consolidate” shortly after purchase.

⁴ Marshall Magruder, Recommended Exceptions to the Opinion and Order and Proposed Amendments of 10 January 2019 in Docket 17-0257, hereafter as Exhibit MAG I-2, at 3
II. APPLICABLE LAW

Arizona Constitution

5. Arizona Constitution Title XV, section 3, states:

Power of commission as to classifications, rates and charges, rules, contracts,
and accounts; local regulation

Section 3. The corporation commission shall have full power to, and shall pre-
scribe just and reasonable classifications to be used and just and reasonable
rates and charges to be made and collected, by public service corporations within
the state for service rendered therein, and make reasonable rules, regulations,
and orders, by which such corporations shall be governed in the transaction of
business within the state, and may prescribe the forms of contracts and the sys-
tems of keeping accounts to be used by such corporations in transacting such
business, and make and enforce reasonable rules, regulations, and orders for the
convenience, comfort, and safety, and the preservation of the health, of the em-
ployees and patrons of such corporations; Provided, that incorporated cities and
towns may be authorized by law to exercise supervision over public service cor-
porations doing business therein, including the regulation of rates and charges to
be made and collected by such corporations; Provided further, that classifications,
rates, charges, rules, regulations, orders, and forms or systems prescribed or
made by said corporation commission may from time to time be amended or re-
pealed by such commission. [emphasis added]

This article gives the Commission full power to prescribe just and reasonable rates, rules and reg-
ulations within the state to public service corporations to make and collect revenue and charges. No towns
or “cities” involved herein are municipal utilities that regulate rates in any district.

6. Arizona Constitution Title XV, section 12, states:

Charges for service, discrimination; free or reduced rate transportation.

Section 12. All charges made for service rendered, or to be rendered, by public
service corporations within this state shall be just and reasonable, and no discrim-
ination in charges, service, or facilities shall be made between persons or places
for rendering a like and contemporaneous service, . . .

For rates to be just and reasonable, this article requires no discrimination (or deliberate differ-
ences in rates) shall be ordered between persons (ratepayers) and places (locations). A public service
corporation uses rates and charges to provide services approved by the Commission, thus it is the re-
sponsibility of the Commission to approve rates and charges to comply with this section. Administrative
“districts” or business centers are NOT a public service corporation in Section 12. Rate discrimination is
not to be ignored. The Commission’s full power authority to determine rates stipulated in Section 3. Sec-
ction 12 is a mandatory Constitutional constraint on the Commission’s “full” power authority.

5 Section 12 has been dissected, several times by this party over the years, with the latest version in Exhibit A herein. Ex-
hibit B contains additional A.R.S. excerpts pertaining to issues in this case, see Docket 17-0257 Magruder Direct Testi-

Arizona Revised Statutes

7. A.R.S. §40-334.A and B implements Section 12 above and states:

40-334. Discrimination between persons, localities or classes of service as to rates, charges, service or facilities is prohibited.

A. A public service corporation shall not, as to rates, charges, service, facilities or in any other respect, make or grant any preference or advantage to any person or subject any person to any prejudice or disadvantage.

B. No public service corporation shall establish or maintain any unreasonable difference as to rates, charges, service, facilities or in any other respect, either between localities or between classes of service.

This statute implements Title XV Section 12 above by clarifying the requirement that there should be no differences in rates and charges between locations and Classes of Service (e.g., Rate Classes). Maintaining unreasonable rate differences based on the location of the ratepayer is prejudicial or preferential based on location within the same Rate Class. Some unreasonable rate differences are discussed below.

8. A.R.S. §40-361 states:

A. Charges demanded or received by a public service corporation for any commodity or service shall be just and reasonable. Every unjust or unreasonable charge demanded or received is prohibited and unlawful.

B. Every public service corporation shall furnish and maintain such service, equipment and facilities to promote the safety, health, comfort and convenience of their patrons, employees and the public, as will be in all respects adequate, efficient and reasonable.

C. All rules and regulations made by a public service corporation affecting or pertaining to its charges or service to the public shall be just and reasonable.

This statute prohibits rate discrimination by a public service corporation and makes such rates or charges illegal. It infers that the rules and regulations (R&Rs) made by a public service corporation should also not have deliberate differences (or discriminatory) differences. At present, each district has a unique set of R&Rs. A company-wide set of R&R is less burdensome than having 11 R&Rs sets for this utility.

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6 Docket 17-0257 Magruder Opening Brief at 13:16-28; Magruder Direct Testimony at 12-14 and Arizona Supreme Court (ASC) Petition for Review (Case No. 1 CA-CC 13-0002) at 7, 15-19. The ASC Petition contains two appendixes with detailed data showing unjust and unreasonable rates and charges in the ROO and documents in ACC Decision 75268. It is noted in the Decision 75268 the Commission Staff opposed rate consolidation and the Magruder ASC Petition; however, in Docket 17-0257, both the Staff and EPCOR supported systemwide rate consolidation.

7 “Between locations” implies between Commission-approved service areas and “classes of service” equates to Rate Classes, such a Residential or Commercial Rate Class and “persons” implies ratepayers or customers in various Rate Classes.

8 Docket 17-0257 Magruder Opening Brief at 2.
9. *Town of Wickenburg v. Sabin* (1948) 68 Ariz. 73, 200P.3d states:

*Public service corporations* must treat all their customers fairly and without unjust discrimination and give all of them the same service on equal terms at uniform rates without discriminating between customers similarly situated as to the character of the service rendered or charges made and as regards discrimination in rates or service in the public utility field, a municipal corporation stands in the same position as a private corporation.  

The case determined that the fair and just customer treatment is for all customers. All should have “same service should on equal terms at uniform rates” without discriminations for the service rendered between customers similarly located.


Utilities may not pick and choose, serving only portions of territory covered by their franchises which it is presently profitable for them to serve and restricting development of remaining portions by leaving their inhabitants in discomfort without services which they along can render.

This case shows that all the utility’s (a public service corporation) customers must be treated equally, within a public service corporation’s service territory.

11. *RUCO vs. ACC* in 1 CA-CC 13-002 and 1 CA-CC 14-001 states:

The Court of Appeals in a recent Opinion stated a mechanism imposed by the Arizona Constitution may be cumbersome, time consuming, and expensive, as the Constitution asserts. The answer, though, is not to ignore it or to circumvent the constitution mandate by judicial fiat. 

(See Ariz. Const. Art XV at 2 §32 (The provisions of this Constitution are mandatory, unless by express words they are declared to be otherwise))

This case mandated the Commission to follow the Arizona Constitution which should not circumvented or ignored.

Until EPCOR’s rate structures for each Rate Class are the same statewide, as required by Section 12, the Commission is ignoring this section required for rates to be fair and reasonable. In Docket 17-0257, both the Commission Staff and EPCOR proposed rate structures compliant with Section 12. Only RUCO and interveners “protecting their turf” (e.g., district) objected to a compliant rate structure.

**Commission Decisions Provide Precedence on Rate Discrimination**

12. Commission Decision 70011 (27 Nov 2007) states:

Intervenor Marshall Magruder opposed the Company’s request to impose seasonal rates and to collect a higher percentage of rates from customers in warmer climates.
Mr. Magruder claims that the [UNS Gas] Company's proposal would discriminate against customers in warmer areas and he suggests that customers choose whether to live in colder or warmer climates. He also asserts that UNS's proposed rate structure would send the wrong signal by rewarding high usage customers and penalizing low usage customers. He recommends that Staff's proposal to increase the customer charge to $8.50 be adopted. [Decision at p. 53]

...Although we understand that UNS would like to recover as much of its margin as possible through monthly customer charges, we do not believe it is reasonable to adopt a rate design that would impose significant increase on customers based on where they live within the Company's service area. Under the Company's recommendation, residential customers with lower usage (i.e., customers typically located in warmer climates) would bear the brunt of the revenue increase due primarily to the dramatic front-loading to the fixed monthly customer charge...

...While higher usage customers may realize lower increases, or even decreased (depending no usage), we do not believe that a dramatic increase on lower usage customers is appropriate in this case. As stated in the Southwest Gas Decision in rejecting a similar type of rate design proposal,

"[such a] rate design would have the effect of encouraging greater usage of natural gas at a time when an increase in demand for natural gas is coupled with shortages in supply. We do not believe that it is appropriate to send a signal to customers of 'the more you use, the more you save.'" [Decision No. 68487, at 37]."

In this case, the Commission considered discrimination as an issue based on one location having higher monthly bills than another with lower bills. This is like the objectors in Docket 17-0257 who agree with different rates within the same public service company for the same service class.

13. As an example of this Decision, quoted an earlier Decision No. 68487, when the Commission did not want to “send a signal to customers of ‘the more you use, the more you save.’"

This clearly exists in this interim rate case. For example, from the ROO in the Table on page 23, clearly shows these inequalities:

a. A Paradise Valley monthly average interim rate bill for 18,590 gallons will cost $57.35 while a similar bill in Anthem using 8,960 gallons is $77.70. Thus, using 207% (= 18,590/8,960 x 100%) more water in Paradise Valley than in Anthem has a lower monthly cost $20.35 less (= $77.70 – $57.35). Thus, by consuming more water in one service area cost 207% less than in another service area.

b. A Havasu ratepayer's monthly interim rate median bill for 5,000 gallons will be $47.11 while a ratepayer in North Mohave’s bill for 6,000 gallons will be $29.34, a $17.77 difference for 1,000 gallons more water. Again, consuming more water in one service area cost $17.77 less than in another service area.

c. The median interim rate bills in the ROO for a monthly consumption of 5,000 gallons continues the present rate discrimination or differences based on where a customer...
lives. The ROO for 5,000 gallons proposes:

i. $35.44 in Anthem compared to the present $38.97 bill,

ii. $47.11 in Havasu compared to the present $47.05 bill,

iii. $29.86 in Mohave compared to the present $23.58 bill,

iv. $30.69 in Sun City West compared to the present $27.39 bill, and

v. $48.28 in Tubac compared to the present $61.06 bill.

d. Based on this limited example, of many, interim rates continue to be unreasonable and not justified differences due to locational rate discrimination by the interim and present rates.


   Mr. Magruder proposes that residential and small business [electricity] rates in both Mohave and Santa Cruz areas should be combined into a single rate. Mr. Magruder claims that there is no valid basis for continuing separate rates and states that customers in Santa Cruz County have been paying higher rates than those customers in Mohave County for many years.

   We find the Company's proposal to consolidate Mohave and Santa Cruz rates is reasonable and should be approved. The Staff's [opposing] arguments on this subject are unconvincing. The evidence that USNE is running two operations as one system is undisputed. Given that the Company's operations are combined, it is inequitable for Santa Cruz customers to have higher rate than Mohave customers. This inequity should be corrected now and not put off until some future rate case.

   ...IT IS FURTHER ORDERED that UNS Electric, Inc., shall consolidate the rates for customers in Mohave and Santa Cruz Counties into a single rate structure.

This Decision resulted in a company-wide integrated consolidated rate structure that reduced the small business rates in Nogales by eight percent and residential rates by a half percent. The corresponding rates increased about two percent in Mohave County without any objections.

15. Commission Decision No. 70410 (8 Dec 2009) states:

   IT IS FURTHER ORDERED that this docket shall remain open for the limited purpose of consolidation in the Company's next rate case with a revenue-neutral change to rate design of all Arizona-American Water Company's [now EPCOR's] water districts ... after appropriate public notice. [Conclusions of Law, ¶9 at p. 78]

This action for consolidated rates never materialized. 14

16. Commission Decision No 72047 (6 Jan 2011) states:

...the facts demonstrated that the existing disparity in rates among the [EPCOR] Company's districts the facts demonstrated that the existing disparity in rates

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14 AAWC provided interveners a complete data set with an overlay template to develop consolidated rates for any combination of districts, values for fixed rates and volumetric rates and tiers, and required revenue. I produced a consolidated rate structure for all 7 water districts with five tiers, a first tier (up to 3,000 gallons) cost less than $20.00 for lower income ratepayers. This consolidated rate schedule is in Docket 17-0257, Magruder Opening Brief of 31 Aug 2018, Enclosure A. The original was submitted in Docket 08-0227 and again in Docket 14-0010, Magruder Direct Testimony (including rate design issues) of 23 Jan 2015, Appendix 3, 55-58, "Consolidated Rate Schedules by Marshall Magruder."
among the Company's districts presents an insurmountable impediment, at this time, to statewide consolidation of rates for the Arizona-American [now EPCOR] water and wastewater districts...

...After careful consideration of the facts and arguments presented by the parties, we decline to order the implementation of consolidated rates for the Arizona-American districts at this time. [pp. 84-85]

...FURTHER ORDERED that Arizona-American Water Company [now EPCOR] shall develop a consolidated proposal that includes all its systems as well as all its systems without Sun City and shall file those consolidated proposals in a future rate application. [p. 123] [emphasis added]

This complicated case with wastewater and water districts included consolidation and deconsolidation issues, all districts were not included, and some claimed the "hearing notice" was deficient. The Arizona-American Water Company CEO testified strongly for statewide consolidation. This case was not at the right time. Docket 17-0257 is the first complete case to cover all questionable consolidation rate case issues claimed in earlier cases.

Attorney General Opinion 63-2.

17. Arizona Attorney General Opinion 63-2 (Dec 1962) in reply to a question from a Corporation Commissioner states:

QUESTION:
May the Arizona Corporation Commission authorize a lower water rate (just and reasonable) to natural persons living on pensions, welfare, or relief, and who are also over the age of 65 years, so as to fall within the popular definition of "Senior Citizens," taking into consideration Arizona Constitution Art. 15 §12 and A.R.S §40-334?

ANSWER:
NO. ... [it is] the opinion of this office that the Arizona Corporation Commission does not have the authority to authorize a lower rate for public utilities to natural persons living on pensions, welfare, or relief who are over 65 years of age.

/s/
ROBERT W. PICKRELL
The Attorney General.

This AG Opinion makes it clear that the Commission may not designate a special group, such as those mentioned, lower rates within the public service corporation. The Deployed Service Member Credit Program (DSMC), the Disabled Military Veteran Credit Program (DMVC) and the Low-Income Program (LIP) all violate this AG Opinion. This party understands, without any basis, that programs to provide some rate relief for lower income ratepayers is not impacted by this AG Opinion.

III. DISCUSSION AND CONCLUSION

18. Standalone rate structures including fixed and consumption costs and breakpoints based on location are illegal because they are different within this public service corporation territory. They discriminate or give preference to those who live in different places for the same contemptuous service. The Docket 19-0011 ROO continues standalone rates from Docket 17-0257 ROO and prior Decisions.
19. This interim rate case continues and increases the locational rate differences and remains non-conforming (illegal) to the above Legal Requirements.

20. Due to this being an “interim rate” case, combining all rates into one set for each Rate Class is not feasible, especially within the limited time allowed for an interim rate Decision.

21. Only a consolidated rate structure in a subsequent permanent rate case will eliminate these legal challenges.

IV. RESOLUTION AND RECOMMENDATIONS

22. The interim rates to be approved in this case do not resolve the permanent rate solution necessary for EPCOR and its customers.

23. There are at least two ways to achieve permanent rates without going through a new rate case requiring more expenses, years of delay, increased workloads by EPCOR, the Commission Staff, RUCO, and other parties for a just, fair and reasonable resolution. Both Options will be much faster.

24. This party and others agree, consolidated rates are required to meet all legal requirements. Consolidated rates will achieve the long-term beneficial goals and cost savings held by EPCOR, the Staff, other intervenors, and many ratepayers and can be obtained with less rate case cost.

25. Two options are proposed to accomplish permanent rates prior to 31 December 2019. A new rate case will not be required.

OPTION ONE – FULL CONSOLIDATION

   a. Approve the interim rates in the Docket 17-0257 ROO at this Special Open Meeting.
   b. Return to the open Docket 17-0257 and use that case as the basis to expeditiously determine permanent companywide rates.
   c. Review and determine the Required Revenue.
   d. Approve and establish permanent rates in Docket 17-0257 to replace interim rates, to be implemented by equal annual changes, over five years, by 31 December 2019.
   e. Amend Docket 17-0257 ROO to conform with total systemwide consolidation.

27. Table 1 below shows total consolidation residential final bills for 7,000 gallons by district at the end of five years based on the required revenue in the Docket 17-0257 ROO. Some reductions in the final required revenue are expected, lower ratepayer bills in Tables 1, 2, 3 and 4 may result.

OPTION TWO – REGIONAL AND THEN FULL CONSOLIDATION

28. OPTION TWO – Determine permanent rates in two steps using Regional Consolidation, discussed below to continue interim rates, and followed by permanent Full Consolidation as in Option One. Continue the open Docket 17-0257 “interim rates” with regional consolidation in Table 1 and mandate the next water rate case is for consolidated statewide permanent rates, to comply with the legal challenges. The steps below could be the basis for a compliant, just and reasonable resolution:
a. Approve the interim rates in this ROO at the 28 March 2019 Special Open Meeting.
b. Return to open Docket 17-0257 to expedite determining “interim regional” rates.
c. Determine the Required Revenue.
d. Approve and establish Regional Consolidated rates in Docket 17-0257 to replace interim rates not later than 15 September 2019 to be effective 1 October 2019.
e. Implement interim regional consolidated rates, with equal annual changes over five years, not later than 1 October 2019.
f. Amend Docket 19-0011 ROO to conform with Regional interim rate consolidation with permanent total consolidation mandated for the next EPCOR rate case.

V. REGIONAL CONSOLIDATION INFORMATION

29. Regional Consolidation compared to present, ROO, Region and Full Consolidation monthly bill Tables below are from Magruder filing of 17 January 2019 in Docket 17-0257, he states:

   In response to a request by [Magruder], EPCOR has provided additional information concerning various monthly bill impacts four regional groups of the existing 11 districts:

   Region 1 - Agua Fria, Anthem, Chaparral, Tubac (in Green)
   Region 2 - Havasu, Mohave, North Mohave, Willow Valley (in Pink)
   Region 3 - Paradise Valley (in Mauve)
   Region 4 - Sun City, Sun City West (in blue)

The following page provides the potential monthly bills for each Region, for an average EPCOR residential consumer using 7,000 gallons per month for 5/8-inch, 3/4-inch, and 1-inch residential ratepayer showing the proposed options, listed for each district with the different potential bills, five years after year a Decision:

- Present Bill
- Standalone in the ROO
- EPCOR Regional groups
- EPCOR Consolidated Rates

Tables 1 through Table 4 compare bills (1) Present, (2) Docket 17-0257 ROO, (3) regional, and (4) fully consolidated at the end of a fifth year. The interim rates are not included.

Table 1 shows residential usage of 7,000 gallons a month for 5/8-inch, 3/4-inch and 1-inch meters in all eleven districts their Present Bill, Docket 17-0257 ROO Standalone Bill, EPCOR potential regional groups Bill, and the ROO’s total Consolidated Bill.16

Table 2 compares residential customer’s bills for average and median usage for 5/8-inch meters.

Table 3 compares residential customer’s bill for average and median usage for 1-inch meters.

Table 4 compares a commercial customer’s bill for average and median usage for 1-inch meters.

30. Tables 1-4 can be a starting point from Docket 17-0257 to consider of consolidation options.

---

15 Docket 17-0257, Magruder MAG I-3, 5-8.
16 The consolidated rates in Docket 17-0257 ROO are the same for both 5/8-inch and 3/4-inch services.
Table 1 - Potential Residential Bills for 7,000 Gallons at Present, ROO, Regional and Total Consolidation for 5/8-, 3/4-, and 1-inch Meters.

EPCOR Water
Docket No. WS-0130A-17-0257
Potential Bill Impacts - Regional Consolidation

5/8" Residential Meter at 7,000 gallons

<table>
<thead>
<tr>
<th>District</th>
<th>Present Bill</th>
<th>ROO</th>
<th>EPCOR</th>
<th>EPCOR</th>
</tr>
</thead>
<tbody>
<tr>
<td>AGUA FRIA</td>
<td>$45.93</td>
<td>$48.63</td>
<td>$49.85</td>
<td>$41.24</td>
</tr>
<tr>
<td>ANTHEM*</td>
<td>$50.91</td>
<td>$85.27</td>
<td>$49.85</td>
<td>$41.24</td>
</tr>
<tr>
<td>CHAPARRAL*</td>
<td>$43.35</td>
<td>$52.89</td>
<td>$49.85</td>
<td>$41.24</td>
</tr>
<tr>
<td>HAVASU</td>
<td>$55.71</td>
<td>$58.81</td>
<td>$40.40</td>
<td>$41.24</td>
</tr>
<tr>
<td>MOHAVE</td>
<td>$28.25</td>
<td>$37.71</td>
<td>$40.40</td>
<td>$41.24</td>
</tr>
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<td>NORTH MOHAVE</td>
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<td>$41.24</td>
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<td>PARADISE VALLEY</td>
<td>$34.96</td>
<td>$41.65</td>
<td>$41.65</td>
<td>$41.24</td>
</tr>
<tr>
<td>SUN CITY</td>
<td>$20.85</td>
<td>$29.25</td>
<td>$31.65</td>
<td>$41.24</td>
</tr>
<tr>
<td>SUN CITY WEST</td>
<td>$34.97</td>
<td>$37.93</td>
<td>$31.65</td>
<td>$41.24</td>
</tr>
<tr>
<td>TUBAC</td>
<td>$64.40</td>
<td>$60.92</td>
<td>$49.85</td>
<td>$41.24</td>
</tr>
<tr>
<td>WILLOW VALLEY</td>
<td>$69.86</td>
<td>$83.13</td>
<td>$40.40</td>
<td>$41.24</td>
</tr>
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</table>

*3/4" Meter

3/4" Residential Meter at 7,000 gallons

<table>
<thead>
<tr>
<th>District</th>
<th>Present Bill</th>
<th>ROO</th>
<th>EPCOR</th>
<th>EPCOR</th>
</tr>
</thead>
<tbody>
<tr>
<td>AGUA FRIA</td>
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<td>$51.32</td>
<td>$49.85</td>
<td>$41.24</td>
</tr>
<tr>
<td>ANTHEM</td>
<td>$50.91</td>
<td>$85.27</td>
<td>$49.85</td>
<td>$41.24</td>
</tr>
<tr>
<td>CHAPARRAL</td>
<td>$43.35</td>
<td>$52.89</td>
<td>$49.85</td>
<td>$41.24</td>
</tr>
<tr>
<td>HAVASU</td>
<td>$55.71</td>
<td>$61.71</td>
<td>$40.40</td>
<td>$41.24</td>
</tr>
<tr>
<td>MOHAVE</td>
<td>$30.59</td>
<td>$39.65</td>
<td>$40.40</td>
<td>$41.24</td>
</tr>
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<td>NORTH MOHAVE</td>
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<td>$40.88</td>
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<td>$41.24</td>
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<td>SUN CITY WEST</td>
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<td>$39.91</td>
<td>$31.65</td>
<td>$41.24</td>
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<tr>
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<td>$86.48</td>
<td>$40.40</td>
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</table>

1" Residential Meter at 7,000 gallons

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<th>EPCOR</th>
<th>EPCOR</th>
</tr>
</thead>
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<td>$102.29</td>
<td>$74.77</td>
<td>$61.86</td>
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<td>$61.30</td>
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<td>$74.77</td>
<td>$61.86</td>
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<td>$73.31</td>
<td>$60.60</td>
<td>$61.86</td>
</tr>
<tr>
<td>MOHAVE</td>
<td>$53.05</td>
<td>$47.42</td>
<td>$60.60</td>
<td>$61.86</td>
</tr>
<tr>
<td>NORTH MOHAVE</td>
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<td>$49.49</td>
<td>$60.60</td>
<td>$61.86</td>
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<td>$55.76</td>
<td>$55.76</td>
<td>$61.86</td>
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<tr>
<td>SUN CITY</td>
<td>$35.83</td>
<td>$37.25</td>
<td>$47.48</td>
<td>$61.86</td>
</tr>
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<td>SUN CITY WEST</td>
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<td>$47.81</td>
<td>$47.48</td>
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<tr>
<td>TUBAC</td>
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<td>$74.77</td>
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<td>WILLOW VALLEY</td>
<td>$117.95</td>
<td>$99.89</td>
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<td>$61.86</td>
</tr>
</tbody>
</table>

17 Exhibit MAG 1-3, at 6-9.
Table 2 compares three connection sizes (Residential 5/8-inch & 3/4-inch and commercial 1-inch), bills for the average and median usage in each district for the Present Bill and from Docket 17-0257 ROO, Standalone, four EPCOR Regional groups and Proposed EPCOR Fully Consolidated Rates.

Table 2 also shows for 7,000 gallons median usage, the same bill in Anthem, Chaparral North Mohave and Sun City at $38.05 and for 5,000 gallons usage at Agua Fria, Havasu, Mohave and Sun City West at $34.86 for Total Consolidation. For the same usage, bills are same in each Region.

Table 2 – Comparison of Average and Median Usage Residential Bills for 5/8 & 3/4-inch Meters.

<table>
<thead>
<tr>
<th>District</th>
<th>Average</th>
<th>Median</th>
<th>Present Bill</th>
<th>ROO Stand Alone</th>
<th>EPCOR Regional</th>
<th>EPCOR Consolidated</th>
</tr>
</thead>
<tbody>
<tr>
<td>AGUA FRIA</td>
<td>6,523</td>
<td>5,000</td>
<td>$43.87</td>
<td>$46.90</td>
<td>$48.01</td>
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<tr>
<td>ANTHEM*</td>
<td>7,275</td>
<td>6,000</td>
<td>$45.49</td>
<td>$54.23</td>
<td>$51.37</td>
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<tr>
<td>CHAPARRAL*</td>
<td>7,397</td>
<td>6,000</td>
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<td>$54.91</td>
<td>$45.99</td>
<td>$38.05</td>
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<tr>
<td>HAVASU</td>
<td>6,222</td>
<td>5,000</td>
<td>$47.05</td>
<td>$48.87</td>
<td>$34.15</td>
<td>$34.86</td>
</tr>
<tr>
<td>MOHAVE</td>
<td>6,127</td>
<td>5,000</td>
<td>$26.19</td>
<td>$35.05</td>
<td>$37.67</td>
<td>$38.45</td>
</tr>
<tr>
<td>NORTH MOHAVE</td>
<td>7,810</td>
<td>6,000</td>
<td>$22.00</td>
<td>$35.86</td>
<td>$37.28</td>
<td>$38.05</td>
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<tr>
<td>PARADISE VALLEY</td>
<td>18,590</td>
<td>10,000</td>
<td>$38.83</td>
<td>$48.81</td>
<td>$48.81</td>
<td>$87.69</td>
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<td>SUN CITY</td>
<td>6,802</td>
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<td>$20.52</td>
<td>$28.81</td>
<td>$31.17</td>
<td>$40.60</td>
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<tr>
<td>SUN CITY WEST</td>
<td>5,989</td>
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<td>$19.16</td>
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<td>$29.20</td>
<td>$38.05</td>
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<tr>
<td>TUBAC</td>
<td>7,486</td>
<td>5,000</td>
<td>$66.84</td>
<td>$63.12</td>
<td>$51.72</td>
<td>$42.79</td>
</tr>
<tr>
<td>WILLOW VALLEY</td>
<td>2,818</td>
<td>2,057</td>
<td>$37.83</td>
<td>$49.05</td>
<td>$27.45</td>
<td>$28.02</td>
</tr>
</tbody>
</table>

*3/4" Meter
### Table 3 – Comparison of Average and Median Residential Usage Bills 1-inch Meters.

**EPCOR Water**  
**Docket No. WS-01303A-17-0257**  
**Potential Bill Impacts - Regional Consolidation**

#### Residential 1" Meter

<table>
<thead>
<tr>
<th>District</th>
<th>Usage</th>
<th>Present Bill</th>
<th>ROO Stand Alone</th>
<th>EPCOR Regional</th>
<th>EPCOR Consolidated</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Average</td>
<td>Median</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>AGUA FRIA</strong></td>
<td></td>
<td>12,513</td>
<td>9,000</td>
<td>$108.12</td>
<td>$84.34</td>
</tr>
<tr>
<td><strong>ANTHEM</strong></td>
<td></td>
<td>9,427</td>
<td>8,000</td>
<td>$105.59</td>
<td>$118.40</td>
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<tr>
<td><strong>CHAPARRAL</strong></td>
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<td>10,631</td>
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<td>$78.07</td>
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<tr>
<td><strong>HAVASU</strong></td>
<td></td>
<td>18,359</td>
<td>14,000</td>
<td>$160.33</td>
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<td><strong>MOHAVE</strong></td>
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<td>24,556</td>
<td>12,000</td>
<td>$94.48</td>
<td>$110.81</td>
</tr>
<tr>
<td><strong>NORTH MOHAVE</strong></td>
<td></td>
<td>24,703</td>
<td>20,000</td>
<td>$86.00</td>
<td>$109.36</td>
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<tr>
<td><strong>PARADISE VALLEY</strong></td>
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<td>55,029</td>
<td>38,000</td>
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<td><strong>SUN CITY</strong></td>
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<td>10,325</td>
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<td>$45.26</td>
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<tr>
<td><strong>SUN CITY WEST</strong></td>
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<td>14,146</td>
<td>9,000</td>
<td>$80.91</td>
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<tr>
<td><strong>TUBAC</strong></td>
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<td>15,912</td>
<td>12,000</td>
<td>$184.51</td>
<td>$123.72</td>
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<td></td>
<td>7,900</td>
<td>5,331</td>
<td>$124.79</td>
<td>$107.33</td>
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</table>

33. Table 4 is a similar comparison for commercial 1-inch connections for average and median usage.
Table 4 – Comparison of Average and Median Commercial Usage Bills 1-inch Meters.

EPCOR Water
Docket No. WS-01303A-17-0257
Potential Bill Impacts - Regional Consolidation

### Commercial 1" Meter

<table>
<thead>
<tr>
<th>District</th>
<th>Usage</th>
<th>Present Bill</th>
<th>ROO Stand Alone</th>
<th>EPCOR Regional</th>
<th>EPCOR Consolidated</th>
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<tr>
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<td>Average</td>
<td>Median</td>
<td>$</td>
<td>$</td>
<td>$</td>
</tr>
<tr>
<td>AGUA FRIA</td>
<td>40,368</td>
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<td>205.63</td>
</tr>
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<td>ANTHEM</td>
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<td>8,000</td>
<td>220.84</td>
<td>230.66</td>
<td>142.66</td>
</tr>
<tr>
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<td>82.15</td>
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</tr>
<tr>
<td>HAVASU</td>
<td>24,222</td>
<td>25,500</td>
<td>200.27</td>
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<td>116.24</td>
</tr>
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<td>95.33</td>
</tr>
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<td>11,000</td>
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<tr>
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<td>252.26</td>
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<td>42.00</td>
<td>98.11</td>
</tr>
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<td>12,000</td>
<td>116.82</td>
<td>112.96</td>
<td>93.54</td>
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<td>11,996</td>
<td>14,000</td>
<td>160.86</td>
<td>146.42</td>
<td>78.06</td>
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</tbody>
</table>
SECTION 2

ISSUE 2 – LOW INCOME PLAN DISCRIMINATES, IS DEFECTIVE AND FAILS TO ASSIST THOSE IN GREATEST NEED

This issue is presented in terms of the proposed Low-Income Plan (LIP) deficiencies, participation rate, applying for LIP Credit, definition of lower income, LIP Surcharge discrimination, and recommendations to correct some errors and make improvements during interim rates and recommendations to continue LIP improvements to provide equitable and fair rates for all lower income customers.

I. LOW INCOME PLAN (LIP) DEFICIENCIES

34. The LIP proposed in ROO Exhibit B continues deficiencies previously discussed in Docket 17-0257 and numerous filings by this party since 2007. Some errors can be remedied by changes in this docket, in the POA or in Docket 17-0257 during Option One or Two.

Low Lip Participation Rate

35. There were only 921 low-income LIP participants during the test year low-income of a maximum cap that allowed 2,466. This participation rate was just over 30% (= 921/2466) of the cap. Companywide, assuming 150,000 ratepayers, this is 0.6% (=921/150,000) participation rate by low-income families. If all the 2,466 allowed low income ratepayers participated, the rate would be 0.61% (=921/150,000) of the low-income customers received this discount.

36. The LIP in the ROO caps the maximum participant low-income participation level at 4,000 or about 2.67% (= 4,000/150,000) of EPCOR’s customers. If 4,000 participants are exceeded, then they are ranked by income for certification to participate. This is a breach of privacy.

37. The earlier ROO states the percentage of EPCOR’s ratepayer annual incomes are below $20,000 is 18.3%. For about 150,000 ratepayers, thus over 23,000 (= 0.183 x ~150,000) EPCOR ratepayers have incomes are below this level. With 4,000 maximum participants, then only 14.3% (= 4,000/150,000) of those with incomes below $20,000 could benefit for the LIP credit.

38. Over 19,000 low-income EPCOR ratepayers may NOT be eligible to participate.

Applying for Lip Credit

39. A detailed application is required annually to participate in the LIP by lower income ratepayers. It includes some information many would consider private, such as one’s income, to volunteers at a non-profit organization in Sun City.

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20 This party usually provides the formula when deriving numbers used in sentences so the calculations can be followed.
21 ROO at 27:4; Exhibit B, at 3.
22 ROO at 27:2-3; Exhibit B, at 4.
23 Docket 17-0257 ROO at 21:18-22:9; Exhibit MAG 1-3 at 23.
40. There are simpler ways to verify income level, used by other utilities, such seeing a copy of an AHCCCS (Arizona Medicaid) or SNAP (food stamps) ID where governmental personnel have verified income. The Arizona Medicaid level is 133% of the national poverty level and is reasonable here.

41. At present, one must go to the utility’s website to obtain a LIP application. If a LIP Application is in a billing statement at least semi-annually, so that only fill-in information is required, participation should increase. Obtaining an Application is why most who are eligible do not apply.

**Lip Definition of Low Income**

42. The ROO, based on support from the Commission Staff, RU CO and the utility, propose changing the definition of low income based on the annual poverty guidelines from 150% of the national poverty level to 200% of this level. This is to “increase the number of participants.” Table 5 shows the effective national 100% poverty level and others including the 150% and 200% poverty levels.

**Table 5 2019 Poverty Levels based on Family Income.**

<table>
<thead>
<tr>
<th>Persons in Household</th>
<th>2019 Poverty Levels (Annual Family Income) [For the 48 Contiguous States and DC]</th>
<th>Present Plan</th>
<th>ROO Proposed Plan</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>100% Poverty Level</td>
<td>133% x Poverty Level</td>
<td>138% x Poverty Level</td>
</tr>
<tr>
<td>The Effective National Poverty Level</td>
<td>Some other utilities use these for lower income relief</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1</td>
<td>$12,140</td>
<td>$16,146</td>
<td>$16,753</td>
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<td>2</td>
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</tr>
<tr>
<td>3</td>
<td>$20,780</td>
<td>$27,637</td>
<td>$28,676</td>
</tr>
<tr>
<td>4</td>
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<td>$34,638</td>
</tr>
<tr>
<td>5</td>
<td>$29,420</td>
<td>$39,129</td>
<td>$40,600</td>
</tr>
<tr>
<td>6</td>
<td>$33,740</td>
<td>$44,874</td>
<td>$46,561</td>
</tr>
<tr>
<td>7</td>
<td>$38,060</td>
<td>$50,620</td>
<td>$52,523</td>
</tr>
<tr>
<td>8</td>
<td>$42,380</td>
<td>$56,365</td>
<td>$58,484</td>
</tr>
<tr>
<td>9+</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>If your household is larger than 8 people, add $4,320 for each additional person</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

This table will be updated in July 2019 for the national poverty levels for the year 2020.

43. The ROO expands from 150% to 200% the eligibility requirements for its LIP. Thus, for a family of 4, the income requirements increase from $37,650 to $50,200, which is above the median income levels of several service areas. This increases the number eligible; however, those most in need at lower incomes levels are bypassed.

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24 Various sources indicate access to internet service is not available in about 30% of rural Arizona’s households.
25 I have done income tax returns for hundreds of low-income families who would qualify for the LIP credit; however, obtaining a LIP Application is a major barrier for lower income participants, most do not have internet access.
26 ROO at 26:24.
27 Exhibit MAG 1-3, Table 3-1 at 22:10-26.
44. This moves the “goal post” in the wrong direction. This ought to be at the 100% of the national poverty level, or at worst, equal to poverty levels used by other utilities, such as 133% to 138%.

Lip Surcharge

45. The LIP requires a “surcharge” in the highest rate block for all residential and commercial ratepayers. At present, this low-income surcharge varies from between $0.0084 per 1000 gallons (Paradise Valley) to $0.5503 per 1000 gallons (Tubac) in districts, a 6,551% difference (=0.553/0.0084 x 100%). This is another example of rate discrimination caused by standalone rate structures.

46. Further, the rate structure’s highest tier levels vary by district, so some are charged this surcharge while others are not for using the same water consumption.

II. RECOMMENDATIONS TO CORRECT ERRORS IN THE LIP

47. Correct the Plan of Action in Exhibit B of the ROO to state states participants in the LIP will receive a monthly discount of $10.00. 30

48. Eliminate the participant “cap” which limits participation and use 4,000 participants as the threshold, when exceeded, EPCOR can request additional revenue to meet such costs.

49. Periodically include an Application for LIP with billing statements, as least semi-annually, to include the criteria and how to participate while ensuring the current income levels are included. Also, suggest looking at the ratepayer’s federal income tax return Form 1040 line 6 (total income) to find one’s annual income and include the same for all living in the family.

50. Reduce the LIP income qualifications from 200% of the national poverty level to 133% instead of the present 150%. This will ensure those who have the most need this relief are those with the greatest financial needs.

51. For the interim rates, continue using the ongoing upper level tier surcharge but in consolidated rates, using the same approach for each region or full system consolidation; that is to add the low-income surcharge to the highest rate tier for each Rate Class.

52. I recommend using the same level as AHCCCS qualification at 138% of the national poverty level, to synchronize both for the family involved.

RESOLUTION – FIX LIP ERRORS IN THE ROO.

53. Design the rate structure so that non-discretionary water consumption for the first 3,000 gallons, so that the total customer’s bill is $30.00 per month or less for the 5/8 & 3/4-inch and 1-inch metered residential and commercial customers.

54. The proposed Amendment 2 in the Appendix herein corrects some errors.

55. Permanent rates will delete LIP and its surcharge to eliminate rate discrimination.

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29 Exhibit MAG 1-3 at 27:12-14. This is obviously an unreasonable difference in a surcharge based on location.
30 ROO at 27:4.
SECTION 3

ISSUE 3 – DELETE DEPLOYED SERVICE MEMBER CREDIT (DSMC)

I. BACKGROUND

Deployed Service Member Is Not Defined

56. As a retired naval officer, who deployed many times worldwide in all oceans and theaters, I do not consider this program to be beneficial, in fact, it might be considered unfavorably by some independent-minded military personnel.

57. DSMC may be a potentially costly for a maximum of 50 persons per district. It adds administrative burdens for the utility and the ratepayer for this “do good” kind of program.

58. The term “deployment” means “the movement of forces into or out of an operational area.” An individual may not have written “deployment” orders because the deployment mission can be classified, thus not available to the service person. Such orders cannot be provided to a water company. Even if a unit has unclassified orders, its personnel may be “deployed” anywhere at any time.

59. The location of a service member’s residence can be anywhere.

60. A permanent change of station (PCS) orders changes only the member’s duty station not the location of their residence. Some PCS orders can be to another duty station to the same location.

61. “Short term deployments,” where a spouse and/or dependent remain in the United States would not qualify.” This implies a service member’s family must live outside the United States when the member is deployed. This is not common.

62. Do single personnel receive this credit when “deployed?”

63. If one is not living in government quarters, a member receives a housing allowance. When a service member is stationed (PCS) overseas and the family lives in “other designated” place, the service person receives two housing allowances, one for the member, the other for the family.
Financial Benefits of Deployment

64. In the Magruder Surrebuttal Testimony\textsuperscript{40} and Opening Brief,\textsuperscript{41} there are many financial benefits of being away from one's duty station, such as tax-free income in a combat area, extra housing allowances, family separation pay, sea pay, command pay, and others.

65. Active duty military personnel whose home of record\textsuperscript{42} is Arizona do not pay Arizona income tax on their military income.

66. When within to a hostile fire area or combat zone federal income tax is waived on a month-to-month basis, combat pay, family separation pay, sea pay and other financial incentives.

67. For example, a reenlistment bonus in critical areas can be over $50,000 (tax free). Therefore, many reenlist when in a combat zone or hostile fire area.

68. Service members receive higher gross pay when deployed away from a PCS duty station.

II. DEFICIENCIES IN THE DSMC

69. This program deletes a ratepayer's fixed and volumetric and taxes when deployed, thus there should be no customer cost. Does EPCOR pay the county and state utility taxes?

70. The Attorney General's Opinion 63-2 indicated special rates are discriminatory under the Arizona Constitution Article XV Section 12 and the A.R.S §40-334.A and B.

71. The DSMC appears to be discriminatory based on the AG's Opinion 63-2, thus illegal.

III. RESOLUTION AND RECOMMENDATIONS

72. The Magruder Amendment 3 deletes the proposed DSMC program.

73. However, if the similar DSMC program implemented in the EPCOR Wastewater Rate case, Decision 76162 (June 29, 2017)\textsuperscript{43} is successful, and, with lessons learned from that experience, then re-consideration of an improved DSMC program could be considered with permanent rates.

\textsuperscript{40} Docket 17-0257, Magruder Surrebuttal Testimony at 16 § 3.2b.
\textsuperscript{41} Docket 17-0257, Magruder Opening Brief at 36:30-37:19
\textsuperscript{42} The home of record is where the person votes. Initially, it is where that person joined the military or changed to a different state. It is where one will be discharged, for travel reimbursement when discharged.
\textsuperscript{43} ROO at 29:1-2.
SECTION 4
ISSUE 4 – DISABLED MILITARY VETERAN CREDIT (DMVC) PROGRAM

I. BACKGROUND

Qualifications for the DMVC

74. The “discharge paperwork” from the military services is a DD Form 214. This one-page form does not indicate if this new veteran is disabled.

75. All veterans with an honorable or general discharge are always eligible to receive most medical treatments at any VA facility.

VA Disability Rating

76. Within 60 to 90 days after discharge, the new veteran is required to visit a Veterans Affairs (VA) facility for a physical exam to determine if the veteran has any medical or dental problems that need care. If that veteran is diagnosed with any disabilities, a VA disability rating can be granted.

77. However, if later, as a result from military service causes a disability, a veteran can go to a VA facility, be examined, and if diagnosed by the VA, can be awarded a disability rating.

78. Whenever a service-connected disability is diagnosed by the VA, that veteran is designated “disabled.” If a service-related disability inhibits normal human abilities, a VA disability rating may be determined. These ratings vary from zero to one hundred percent, in ten percent steps.

79. When a disability rating is 30% or higher, a tax-free disability payment is awarded from a retiree’s pension or a disability payment based on that disability is 100% tax-free.**

80. If retired from the services, the disability rating takes that rating percent from your retirement pension as income tax-free income. Arizona also does not tax part of a military pension.*

81. I have a VA-approved disability for hearing loss and another disability for exposure to Agent Orange. Should I be considered in the target disability audience for this credit?

DMVC Plan of Action

82. The DMVC Plan of Action (POA), in Exhibit D of the ROO, poorly describes the eligibility for this program and how such information is obtained from these veterans.

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** Docket 17-0257, Magruder Reply Brief at 7; ROO at 29:19-20.

* In 2018, a retired veteran could reduce their Arizona taxable income by $2,500. The Arizona legislature is considering a bill to remove military pensions from the tax rolls. Options discussed include an increase to $3,500 or $5,000 being considered.

My destroyer provided gunfire support up the Long Tau River that goes to Saigon, well inside the Agent Orange spray area. This was obvious since all the brush was dead and brown. Because my ship was a “blue water” ship and not an inshore “brown water” ship, blue water ships were not originally included as eligible for Agent Orange VA disability ratings. Congress is now reviewing a bill to include some blue water ships for this disability. Agent Orange causes some disabilities, years after exposure. One of our sailors died from one of these ailments. My former Commanding Officer and I are assisting the Navy to have our ship included on the “blue ship” Agent Orange list.
83. The ROO states a qualified disabled veteran will receive a $10.00 monthly credit on their water bill. 47

84. A maximum up to 2,000 veteran participants, on a first-come, first-serve basis, can receive this credit 48 which could cost up to $240,000 (=2000x10x12) annually.

IV. DEFICIENCIES IN THE DMVC

85. The DMVC provides an added administrative burden on the Company for a “do good” kind of program.

86. The Attorney General’s Opinion 63-2 indicated special rates are discriminatory under the Arizona Constitution Article XV Section 12 and the A.R.S §40-334.A and B.

87. The DMVC appears it might be discriminatory based on the AG’s Opinion 63-2.

V. RESOLUTION AND RECOMMENDATIONS

88. Magruder Amendment 4 deletes the DMVC program.

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47 ROO at 29:10; ROO Exhibit D at 2.
48 ROO at 29:14; ROO Exhibit D at 3.
APPENDIX

PROPOSED AMENDMENTS

Amendment 1 – Comply with Legal Requirements – Option One ........................................ 36
Amendment 2 – Modify the Low-Income Plan .................................................................. 37
Amendment 3 – Delete the Deployed Service Member Credit (DSMP) Program ............. 38
Amendment 4 – Delete the Disabled Military Veteran Credit (DMVC) Program .......... 40
Purpose: To return to the Open Docket 17-0257 for EPCOR and other parties to submit a consolidated Rate Structure, accounting for changes since the Docket 17-0257, to permit the Commission to approve permanent rates not later than 15 September 2019 to be effective by 30 September 2019.

Page 25 at line 22: INSERT

104. Based on additional legal review and the failure of standalone rates to be approved, we feel that the permanent rates should be consolidated.

105. We order returning to Docket 17-0257 to hold a Procedural Conference to determine if a systemwide or regional consolidation followed by system wide consolidation is in the best interest of all concerned. After discussion on this issue, a recommendation for approval by the Commission filed not later than 15 April 2019 for a Decision not later than 15 May 2019.

106. If this Decision is for full consolidation, then interim rates herein shall be the starting point and consolidation data in the Docket 17-0257 ROO Exhibit D considered.

107. If this Decision is to establish regional consolidation followed by permanent full consolidated in the next water rate case, after evidentiary hearings in Docket 19-0011 with a new ROO filed not later than 15 July 2019. A Decision on regional or full consolidated rates should be made not later than 15 September 2019 to be effective 30 September 2019.

108. Any consolidated rates shall be implemented over five years, with equal annual changes.

109. Regional rates will continue as interim rates until permanent rates are implemented

110. Docket 19-0011 shall remain open until permanent rates are implemented.

Page 31 at lines 13 to 16: REPLACE

IT IS FURTHERED ORDERED THAT EPCOR Water Arizona shall file a permanent systemwide consolidated rates to provide reasonable and alignment with the total cost and required revenue. Consolidated regional rates continue as interim rates until systemwide permanent consolidated rates are established.

Make all conforming and numbering changes.
On Page 26 lines 4-20, DELETE and INSERT:

105. In the 17-0257 Docket, EPCOR proposed the LIP for all Districts, on either a consolidated or stand-alone basis. RUCO, Staff, and EPCOR in that docket stipulated to cap the LIP at 4000 participants. Where a ratepayer lives, who has limited income, does not matter, thus we do not agree with any such limitation based on where one lives. We do agree when the cap of 4,000 is reached, then notification to the Commission should be made.

On Page 26 lines 22.5 to 25, DELETE and INSERT:

To be eligible, participants must be year-round Arizona residents and incomes less than 138% or be eligible by providing a copy of current AHCCCS (Medicaid) or SNAP (food stamps) ID card.

When participation reaches 4,000 on a Company-wide basis, the Commission will be notified in the annual report with a request for additional revenue to meet expected expenses.

On Page 27 lines 2 to 3, DELETE and INSERT:

To be eligible, participants must be year-round Arizona residents and incomes less than 138% or be eligible by providing a copy of current AHCCCS (Medicaid) or SNAP (food stamps) ID card.

On Page 27 line 15 to page 28, line 2, DELETE and INSERT:

109. We agree with Mr. Magruder that the proposed LIP does not serve those who need rate relief the most, especially those with incomes below the 100% poverty level that is where emphasis should be placed. Further, at 138%, Arizona provided Medicaid through income tracking and registration with an ID card, like the SNAP (food stamp program). Use of these two, other like low-income ID forms issued to low income persons at the Medicaid income level, and approved by the Staff, is adequate to determine eligibility and is recommended instead of using income tax statements due to privacy concerns.

Participants shall not be ranked by income levels.

Non-Discretionary water usage is about 300 gallons per person per month, thus a First Tier from 0 to 3,000 gallons should have be low (Mr. Magruder recommended a total bill below $30.00 a month) and subsidized by higher rate tiers for water used for Discretionary usage. This should provide adequate non-discretionary low-cost water for all ratepayers. When over 3,000 gallons are used, then they are
dipping into discretionary usage, which is independent of income. A LIP will not be necessary based on Mr. Magruder’s plan.

The LIP impediments, inefficiencies, and discrimination described by Mr. Magruder and the complex application annual process in the Company’s LIP process, the alternative approach recommended by Mr. Magruder to automatically provide all with low incomes and all other ratepayers a low-cost First Tier. This should reduce cost for “senior citizens” and single-parent families to ensure their water bills are affordable to meet all basic needs.

If a larger number of rate tiers are implemented for both the residential and commercial Rate Classes. Besides rate relief for non-discretionary water use, small business will also benefit as many have stores with just a sink and toilet but will have lower cost.

The concepts suggested by Mr. Magruder should be considered and accomplished in the permanent EPCOR water rate case; however, due to the limited scope of this interim water rate case, the proposed LIP should be expanded to the entire company; however, many deficiencies remain.

EXHIBIT B: DELETE

Make all conforming and numbering changes.
Purpose: To delete the proposed Deployed Service Member Credit (DMSC) in this rate case due to lack of defined requirements in the ROO; however, upon review of its implementation in the EPCOR Wastewater Rate case, Decision 76162, and lessons learned to be considered in the permanent EPCOR Water Rate case.

On Page 29, REPLACE lines 1-7 and INSERT:

113. We find this DSMC Program outlined in the POA in Exhibit C, is poorly defined, vague and not viable. It may not be legal to signal out one group of ratepayers, grant special rates, and for reasons in the Arizona Constitution, Arizona Revised Statues and Attorney General Opinion 63-2, we do not approve this program at this time.

114. Since this DSMC Program is like the program adopted by the Commission in EPCOR’s Wastewater Rate Case, Decision No. 76162 (June 28, 2017). Using information from Decision No. 76162, with a similar credit, we feel additional information from the Decision No. 76162 DMSC implementation with lessons learned could to be incorporated and resubmitted in a permanent rate case.

Page 30 at lines 26 to page 31 line 4: DELETE

EXHIBIT C: DELETE

Make all conforming and numbering changes.
Purpose: To delete the Disabled Military Veteran Credit (DMVC) program because it lacks definition to implement.

Page 29 at lines 21 to 16: REPLACE.

116. We find this DSMC Program outlined in the POA in Exhibit D, is poorly defined, vague and not viable. It may not be legal to signal out one group of ratepayers, grant special rates, and for reasons in the Arizona Constitution, Arizona Revised Statues and Attorney General Opinion 63-2, we do not approve this program at this time.

Page 31 at lines 5 to 10; DELETE

EXHIBIT D: DELETE

Make all conforming and numbering changes.
EXHIBIT A

ADDITIONAL EXCERPTS FROM THE ARIZONA REVISED STATUTES

Section 40-203. Power of commission to determine and prescribe rates, rules and practices of public service corporations

When the commission finds that the rates, fares, tolls, rentals, charges or classifications, or any of them, demanded or collected by any public service corporation for any service, product or commodity, or in connection therewith, or that the rules, regulations, practices or contracts, are unjust, discriminatory or preferential, illegal or insufficient, the commission shall determine and prescribe them by order, as provided in this title.

Section 40-248. Reparation of overcharge; action to recover overcharge; limitations

A. When complaint is made to the commission concerning any rate, fare, toll, rental or charge made by any public service corporation, and the commission finds, after investigation, that the corporation has made an excessive or discriminatory charge, the commission may order that the corporation make reparation to the complainant with interest at the legal rate from the date of collection, if no discrimination will result from such reparation. If the corporation does not comply with the order for payment of reparation within the time specified in the order, an action may be brought to recover the amount thereof.

B. All complaints concerning excessive or discriminatory charges shall be filed with the commission within two years from the time the cause of action accrues, and the action to enforce the order shall be brought within one year from the date of the order of the commission.

C. The remedy afforded in this section is cumulative and in addition to any other remedy provided for failure of a public service corporation to obey an order or decision of the commission.

Section 40-361. Charges by public service corporations are required to be just and reasonable; service and facilities required to be adequate, efficient and reasonable; rules and regulations relating to charges or service required to be just and reasonable

A. Charges demanded or received by a public service corporation for any commodity or service shall be just and reasonable. Every unjust or unreasonable charge demanded or received is prohibited and unlawful.

B. Every public service corporation shall furnish and maintain such service, equipment and facilities as will promote the safety, health, comfort and convenience of its patrons, employees and the public, and as will be in all respects adequate, efficient and reasonable.

C. All rules and regulations made by a public service corporation affecting or pertaining to its charges or service to the public shall be just and reasonable.
EXHIBIT B

EXCERPT FROM MAGRUDER DIRECT TESTIMONY [in Docket 17-0257]

1. The following is from Magruder Direct Testimony⁴⁹ that present Compliance Requirements for the
Arizona Constitution Title XV Section 12.

Quote:

2.1 The Arizona Constitution Compliance Requirements.
A. This issue concerns compliance with the Arizona Constitution, Title XV, Section 12 that reads as
follows

"Charges for service; discrimination; free or reduced rate transportation"

"Section 12. All charges made for service rendered, or to be rendered, by public service corporations
within this state shall be just and reasonable, and no discrimination in charges, service, or
facilities shall be made between persons or places for rendering a like and contemporaneous service.
..." [Emphasis added]

Q. Can you explain why you feel the proposed independent districts rate structure fails to comply
with the Arizona Constitution?

A. Let us look at the Section 12 and deconstruct its wording.

- The title indicates "charges for service" and "discrimination" is in the section. A "free or reduced rate for transportation" does not pertain to the issue at hand.

- The first two words, "ALL charges" is clear, it means ALL and not some or anything less than
"all" charges, specifically the price, cost or expense.

- "made for service rendered, or to be rendered," is clear, when a service is provided, such as for
water, removal of wastewater, electricity, communications or natural gas, this is the charge for
"service" rendered, thus, delivery of water to a customer.⁵⁰

- by a public service corporation," means "a" company, the EPCOR company, and does not mean
or imply by administrative districts, e.g., but by ONE company, one public service corporation and
not by 11 administrative subdivisions, defined in the Arizona Revised Statutes (A.R.S.) Title 40,
Chapter 2.

- "shall be", based on my business and engineering experiences, the verb "shall" always means a
required, mandatory, and compulsory to meet a requirement.⁵¹

⁴⁹ Docket 17-0257, Magruder Direct Testimony, 13:6-15:7 deconstructs Title XV Section 12 of the Arizona Constitution. Pag-
ination and footnotes reflect this filing.
⁵⁰ Black’s Law Dictionary (abridged 6th ed.) defines “service charge” as “price, cost or expense.”
⁵¹ Id. defines “service charge” as “a charge assessed for the performing of a service.” Further, “render” is defined as “to trans-
mitt or deliver”. 

“**just and reasonable**”, means, equitable, legally right, lawful, fair, proper.\(^{52}\) Further, to emphasize this Constitutional requirement, unreasonable and unjust charges are prohibited and unlawful and that all charges and services to the public shall be “just and reasonable.” The Arizona Revised Statutes §40-361A and §40-361C state:

“**A. Charges** demanded or received by a public service corporation for any commodity or service shall be just and reasonable. Every unjust or unreasonable charge demanded or received is prohibited and unlawful.”

**...**

“**C. All rules and regulations** made by a public service corporation affecting or pertaining to its charges or service to the public shall be just and reasonable.”

**“and no DISCRIMINATION in charges, service or facilities”** means treatment for charges is not to be different for different persons in terms of charges, service or facilities.\(^{53}\)

**“shall be made between PERSONS and PLACES”** means it is mandatory and required that discrimination in charges and services not are different between “persons” and “places”. Utility regulations use “persons” for more than one individual, to include business companies, organizations and all others served by a utility. “Place” is not defined in Black’s however, does define “place of delivery” to mean: “The place where goods are to be sent by the seller”. This clearly is interpreted as the “location of the ratepayer,” that is where the water is delivered.

**“for rendering a like and contemptuous service”** is for delivery of a “like” and at the same time to customers. “Like” customers, such residential, commercial, fire main water and other Rate Classes are used by EPCOR; however, all their Rate Classes are not presently standard or the same throughout the company as discussed below. However, mandatory standards are required for the water by various federal, state, county and municipal water authorities, including Environmental Protection Agency (EPA), Arizona Department of Environmental Quality (ADEQ) and for water resources by the Arizona Department of Water Resources (ADWR) that EPCOR and all other water utilities are required to meet. These standards apply equally for all “like” customers by Rate Class.

Therefore, any deviation from Section 12 of the Arizona Constitution and Arizona Statutes is illegal and needs to be remedied.

Because of rate discrimination, some are being over charged, others while others are being under charged, right now.

End Quote

\(^{52}\) *Id. defines “just” as “legally right; lawful; equitable” and reasonable as “fair; proper, or moderate under the circumstances.”*  

\(^{53}\) *Id. defines “discrimination” as “differential treatment; esp., a failure to treat all persons equally when no reasonable distinction can be found between those favored and those not favored” that is clarified in the rest of this clause.*  