BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS
ROBERT “BOB” BURNS, Chairman
ANDY TOBIN
BOYD DUNN
SANDRA D. KENNEDY
LEA MÁRQUEZ PETERSON

IN THE MATTER OF THE ARIZONA CORPORATION COMMISSION CONTINUING TO APPROVE RATE DISCRIMINATION IN VIOLATION OF THE ARIZONA CONSTITUTION TITLE XV SECTION 12, ARIZONA REVISED STATUTES SECTION 40-340.B, AND OTHER REQUIRED LEGAL REQUIREMENTS.

Docket No. WS-01303A-19-0011
1 July 2019

FORMAL COMPLAINT AGAINST THE ARIZONA CORPORATION COMMISSION FOR CONTINUING RATE DISCRIMINATION DECISIONS by Marshall Magruder

Summary: In accordance with A.R.S. §40-248, this Formal Complaint is filed against the Arizona Corporation Commission because it continues to approve rate discrimination in violation of the Arizona Constitution, Title XV, Sec. 12; A.R.S. §40-340; other statutes, precedences, prior cases, an Attorney General Opinion and other legal requirements. This Complaint is NOT against my public service corporation, EPCOR, or Commission Staff, as both applied for, or concurred, with a fully compliant rate case application filed by the utility. Is continual rate discrimination legal?

Finding of Facts: These facts previously described in detail in the Magruder Exceptions in Docket WS-01303A-19-0011 of 22 March 2019 and Docket No. WS-01303A-17-0257 cases, are clear:

2. The Commission continues violating the law that all charges and rates approved shall not deliberately discriminate based on a customer’s location for same contemporaneous service in Section 12 of Title XV of the Arizona Constitution and supporting legal requirements.
3. EPCOR proposed and supported a fully-compliant consolidated rate structure in its rate case.
4. The Commission Staff approved and endorsed the proposed consolidated rate structure.
5. The Recommended Order was for a non-compliant “standalone” rate structure.
6. EPCOR is the only public service corporation in this case, affirmed by the Commission Staff.
7. Districts in Decision No. 77147 are not utilities, but service area ruminants acquired decades ago by Citizens Utilities, American Arizona Water Company and now EPCOR.
8. Districts do not have a Certifications of Convenienc and Need (CC&N), held only by the public service corporation, EPCOR in this case, its legal authority to comply with utility laws.

9. No district, home ownership association, city or town represented have any legal authority or responsibilities assigned to EPCOR by the Constitution, statutes, rules or the Commission.

10. The law is clear, public service corporations shall not to discriminate charges and rates based on a customer’s location in the same rate service class such as residential, commercial, etc.

11. Commission Decision No. 77147 ordered eleven diverse sets of fixed charges, volumetric rates, one to six rate tiers, different tier breakpoints, different rate classes with unreasonable, unfair rate differences. EPCOR proposed and supported one statewide consolidated rate set.

12. Many intervenors in this and prior cases represent “districts” and support or oppose these unique rate differences based on the district represented. These differences exist only because of some districts overcharge while others undercharge for the same service.

13. A public service corporation overcharging ratepayers shall refund such overcharges with interest pursuant to A.R.S. § 40-248. EPCOR proposed a fully compliant rate structure and compiling with all legal requirements. It is the Commission, not EPCOR, that is non-compliant.

14. An example of a significant difference in a residential rate for a district’s first 1000 gallons of water was $0.72 that increased to $0.73. Another district rate increased from $1.90 and to $2.76 only because of a different customer’s location, the core legal issue of this filing and multiple prior rate cases. These differences are not reasonable, unfair and blatant rate discrimination.

Recommendation.

A.R.S. § 40-246, is for service or rate complaints against a public service company. This complaint is against the Commission. However, A.R.S § 40-246.C and § 40-247 provide a reasonable process. It is requested that an ALJ be appointed, a procedural order issued to include submission of direct and oral testimony, a hearing conducted where the issue is presented, challenged/agreed and facts provided so an ALJ can recommend an Order to resolve the one issue in this Complaint, “rate discrimination.” Further, due to travel expense, request holding the hearing in Tucson.

RESPECTFULLY SUBMITTED this 1st day of July 2019.

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