



Word on the Street

BY GARY YAQUINTO

The Arizona Corporation Commission is one of a small handful of state agencies authorized to hire agency-specific legal counsel. Prior to 1982, the ACC's Utility Division Staff and Commissioners were represented by Assistant Attorney Generals assigned from the AG's office, as is the case for most other state agencies. In fact, AIC's former regulatory counsel, Michael Grant, once represented the ACC as an Assistant AG under Attorney General Bruce Babbitt prior to starting private practice.

Utility regulation is a highly technical field and requires expert knowledge, a job which is best undertaken through designated personnel. The ACC, a creature of the Arizona Constitution, is also considered by many to be Arizona's fourth branch of government, setting it apart from other state agencies. For these reasons, in 1982, the Arizona Corporation Commission was authorized to hire its own attorneys.

To staff the newly created Legal Division, a new Chief Counsel and several other assistant AGs moved from the AG's office into the building at 1200 West Washington and became new employees of the ACC.

Today, the Legal Division, responsible for representing the Utilities Division, is comprised of the Chief Counsel and nine additional attorneys. Those lawyers provide the important function of representing the Utilities Division

before the Hearing Division and the Commissioners in rate cases and other proceedings. The Legal Division also provides both procedural and substantive legal advice to the Commissioners.

With recent retirements in the Legal Division, the Commission retained a new Chief Counsel. Andy Kvesic began his new job on April 3, 2017. Mr. Kvesic joins the ACC after spending the last two years as an Assistant Attorney General under Attorney General Brnovich, where he prosecuted organized crime and public corruption matters. Prior to that, he was a shareholder at the law firm of Ryley, Carlock, and Applewhite, practicing in the area of financial offenses including loan fraud, securities fraud, real estate law disputes and water rights and infrastructure disputes. Mr. Kvesic will be the 10th Chief Counsel to lead the ACC Legal Division.

Navigating the byzantine world of utility regulation requires a firm understanding of the law, policy, and procedure. Because the ACC's sphere of responsibility includes both legislative and judicial functions, being the ACC's Chief Counsel also requires an ability to recognize and understand the policy preferences of five elected officials and balance those interests with the Constitution and the laws of the State of Arizona.

We welcome Mr. Kvesic to the ACC and wish him well in his new job.

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ARIZONA INVESTMENT COUNCIL

OSBORN
MALEDON

CONSENT AGENDA

The April 2017 Open Meeting of the Arizona Corporation Commission convened at 10:00 a.m. on Wednesday April 5, 2017 in the Phoenix Office. Commissioner Tobin joined the meeting from Tucson.

The following items were approved on the Chairman's Consent Agenda:

ELECTRIC



The deadlines for **Arizona Public Service Company** to file its report updating the Commission's demand side management cost-effectiveness analysis methodology and its proposal for a new demand response and load management program were extended until April 17, 2017. (Docket No. E-01345A-15-0182). APS also received approval to charge a Lost Fixed Cost Recovery rate of 2.2993 percent starting on the next available billing cycle of April 2017. (Docket No. E-01345A-11-0224).

Arizona Electric Power Cooperative, Inc. received approval to reduce certain rates under its Ancillary Services Tariff. The new rates will be as follows: for Schedule 3: Regulation and Frequency Response Service, \$0.1852 per kW a month; for Schedule 5: Operating Reserve – Spinning Reserve Service, \$0.1348 per kW a month; and for Schedule 6: Operating Reserve- Supplemental Reserve Service, \$0.1157 per kW a month. (Docket No. E-01773A-17-0061).

The Commission extended the deadline for **Load Serving Entities** to file their final **Integrated Resource Plans** to April 10, 2017. (Docket No. E-00000V-15-0094).

UNS Electric Inc. & Mohave Electric Cooperative, Inc.'s request for a Borderline Agreement allowing Mohave to serve the Van Houten property was approved. (Docket Nos. E-04204A-17-0038 & E-01750A-17-0038).

Tucson Electric Power Company's Rider R-3 Market Cost of Comparable

Conventional Generation rate was increased to \$0.026258 per kWh and will be applied to Rider R-4 NM-PRS for purchases of excess energy from Net Metering Facilities. (Docket No. E-01933A-17-0030).

The Commission approved **Tucson Electric Power Company's** Bright Tucson community solar agreement with Ventana Medical Systems. (Docket No. E-01933A-17-0004).

REGULAR AGENDA

GAS



The Commission approved a rate increase for **Southwest Gas Corporation**. SWG is a Class A gas utility, providing retail distribution, transportation and sales of natural gas to approximately one million customers throughout Arizona. Through its Order, the Commission approved a settlement agreement that was signed by the vast majority of the parties.

The agreed upon capital structure is comprised of 48.3 percent long-term debt and 51.7 percent common equity, with a return on equity of 9.5 percent and an embedded cost of long-term debt of 5.2 percent. The overall fair value rate of return is 5.71 percent, with a fair value increment of 0.93.

The settlement agreement also authorizes SWG to expand its current Customer Owned Yard Line (COYL) program, as well as implement a new Vintage Steel Pipe (VSP) Replacement program. The COYL surcharge will be capped at \$0.01 per therm per year and the VSP surcharge will be capped at \$0.015 per therm per year.

Additionally, the Company is authorized to extend the deferral of the revenue requirement associated with all costs flowing from the construction of the

Tucson Liquefied Natural Gas Facility incurred before December 31, 2020. Also, the revenue decoupling mechanism (the Energy Efficiency Enabling Provision) was modified to eliminate the weather adjustment.

Two areas of the settlement agreement received attention during the open meeting. First, responding to arguments presented by a pro se intervenor, Commissioner Dunn inquired about the detailed versus simplified bill presentation options, and how the Administrative Law Judge settled on the recommendation that the default will be a simplified bill presentation but every month a customer will receive directions as to how to obtain a detailed itemization. Second, Commissioner Tobin proposed an amendment that would require SWG to investigate the feasibility of adopting an automatic enrollment process for its low income rate payer assistance program. Both Commissioner Tobin's amendment and the item were unanimously approved. (Docket No. G-01551A-16-0107).

WATER AND WASTEWATER

A motion for reconsideration of the Commission's February 7, 2017 decision reached in the **Arizona Water Company CC&N Extension Matter** involving Cornman Tweedy 560, LLC was on this month's open meeting agenda at the request of Commissioner Tobin. Commissioner Tobin explained that he had reservations concerning his February vote on the item, which had put him in the majority of the 3-2 decision to reject Cornman Tweedy's attempt to delete a portion of Arizona Water Company's Certificate of Convenience and Necessity. Notably, the Commission had not filed in Docket Control a copy of a signed Order from the February Open Meeting vote. Nevertheless, Commissioner Tobin moved to (1) reconsider the matter, (2) order the parties to enter into settlement discussions, and (3) report back to the Commission in 60 days. At the passage of those 60

REGULAR AGENDA, CONTINUED

days, the Commission would reconsider the matter. Both Arizona Water Company and Commissioner Little expressed concern over the process being used to reconsider the item. The Commission's Interim Chief Counsel, Timothy LaSota, advised the Commissioners that he did not believe there was any legal deficiency with the process proposed. Commissioner Tobin's motion passed on a 3-2 vote, with Commissioners Little and Burns dissenting. (Docket No. W-01445A-03-0559)

Walden Meadows Community Co-Op received approval for an emergency rate increase. The Company is a rural cooperative serving approximately 335 residences in Yavapai County. Prior to this case, Walden Meadows was operating with rates set in 1985. An emergency surcharge was justified because the Company is not in a financial position to maintain, repair or upgrade the water system due to outdated rates and rising costs. With the approval of a joint Staff and Company amendment, the Company will institute an emergency surcharge of \$8.21 per month for a period of 12 months. The surcharge is authorized to cover the following costs: repayment of a short-term loan from the Company's president, purchase of spare meters and booster pumps, testing of the well pumps, and purchase of various on-site parts and equipment to ensure system reliability. The company is required to file a full permanent rate case no later than May 1, 2018. The item was unanimously approved. (W-02369A-16-0481).

The Commission authorized **Truxton Canyon Water Company, Inc.** to obtain an approximately \$350,000 loan from the Water Infrastructure Finance Authority. To finance the loan, a WIFA surcharge mechanism was authorized to meet the principal, interest, and annual income tax obligations. The Company must draw funds from the loan within one year and track and record as a regulatory liability the surcharge proceeds and keep them in a separate, interest bearing bank account.

Additionally, the Company's request to increase its base rates by \$92,437 in order to meet the emergency debt service coverage was approved and will be implemented as a separate emergency surcharge line item. Truxton is also required to file a full rate case no later than June 30, 2018. The item was unanimously approved. (Docket No. W-02168A-17-0042).

SanDario Water Company, Inc. received authority to increase its rates and incur long-term debt. San Dario is a Class E water utility serving approximately 324 meters in Marana, Arizona. The Company needed a rate increase for a number of reasons, but primarily because the rate design previously adopted to promote conservation actually reduced demand by more than 20 percent.

The new rates approved before the surcharge will increase the median residential bill by \$10.82 or 77.3 percent from \$22.89 to \$33.71. The Commission approved authorization for a \$140,000 loan at an interest rate not to exceed 6 percent. A surcharge to service the loan was also approved. The loan approval will cover fire system improvement projects, such as installing gate valves, sampling stations, and radio read meters. An expense for painting the water storage tanks could not ultimately be included in the loan request because painting is considered a general maintenance expense and not a capital expense that can be depreciated. Therefore, an operations and maintenance surcharge was also authorized for \$43,000 to recover costs associated with painting water storage tanks. The operation and maintenance surcharge will be effect for 2 years.

The ROO had recommended that SanDario be required to recognize all ratepayer supplied funding associated with the loan surcharge as non-investor supplied Contributions in Aid of Construction ("CIAC"). The CIAC would be limited to the principle payments of the loan. Commissioner Tobin proposed an amendment that

maintained the existing practice for CIAC and ordered the Commission's Water Committee to review the current regulatory treatment of loan surcharges in general. Commissioner Little, while he supports reviewing treatment of loan surcharges, could not support the amendment due to the short amount time there was to review it. Both the Tobin Amendment and the item passed in a 4-1 vote, with Commissioner Little voting no. (Docket No. W-01831A-16-0197 & W-01831A-16-0293).

A **Peterson Water Company, Inc.** received approval to increase its rates and incur long-term debt. The Class E water utility provides service to fewer than 50 residential customers west of Snowflake in Navajo County. The approved rates, before the surcharge, will increase the average residential customer's bill by \$17.88 or 46.49 percent from \$38.46 to \$56.34 per month. The Company may also incur a \$34,000 loan to replace meters and institute a surcharge mechanism of up to \$5.41 per month per residential customer to service the loan. Like other small water companies, A Peterson is required to segregate the loan surcharge in a separate bank account.

Two Hearing Amendments were passed: one was for typographical changes and the other to change the ordering paragraph requiring the Company to *consider* consolidation of water notice, instead of *mandating* it. Additionally, Commission Tobin proposed the same Amendment he proposed for the SanDario Water Company Case (see description above). Commissioner Little voted nay on the Amendment for the same reasons as in SanDario. Both the Tobin amendment and item passed in a 4-1 vote, with Commissioner Little voting no. (Docket No. W-02678A-16-0334 & W-02678A-16-0335).


Item No. 17 was **Clear Springs Utility Company, Inc.** application to increase rates and incur long-term debt. The ROO recommended approval of a rate increase,

REGULAR AGENDA, CONTINUED

a loan surcharge and the ability to obtain a loan of approximately \$600,000. Commission Tobin proposed three amendments. Amendment No. 1 would reduce the rate base increase, Amendment No. 2 would phase in rates over a three-year period, and Amendment No. 3 would require Staff and the Company to engage the lender regarding the debt service fund and seek a solution that would result in little to no rate increase for customers. The item was pulled and postponed for later consideration at Commissioner Dunn's request, he wished to review and receive some additional clarity on Commissioner Tobin's Amendments. (Docket No. WS-01689A-16-0184, W-01689A-16-0187, WS-01689A-16-0287, & W-01689A-16-0288)).

Item No. 18, **Brooke Water, LLC** and **Circle City Water Company LLC's** matter regarding recent water outages, water quality, and customer service issues the need for potential remedial actions, was pulled from the agenda and postponed for later consideration due to technical difficulties with Commissioner Tobin's audio in Tucson. (Docket No. W-03039A-16-0322 & W-03510A-16-0322).

TELECOMMUNICATIONS

 **TeleQuality Communications, Inc.**, originally agenda item no. 4, was removed from consent agenda and placed on the regular meeting agenda. The Company received approval for a Certificate of Convenience and Necessity to provide resold and facilities-based local exchange and resold and facilities-based long distance telecommunications in Arizona. The Company requested, and Chairman Forese put forth, a verbal amendment that clarified in the Order that the Company will not discount its rates and services below the marginal cost of providing services. The item unanimously passed as amended. (Docket No. T-20626A-16-0291).