

JANUARY 2017



Word on the Street

BY GARY YAQUINTO

Last year was an exceptional year in terms of the large number of important matters filed and decided at the ACC.

Last month we reported the Commission's decision which identified two alternative methodologies for determining the export price of distributed generation returned to the grid. This decision forms the basis for rate case Phase II proceedings this year for UNS Electric, TEP and Mohave Electric Cooperative. The methodologies will also be utilized in future electric utility cases, including the APS rate case, which is scheduled for hearing to commence on April 24.

In other news, Southwest Gas filed a settlement term sheet on December 15, 2016 reflecting agreement among several parties on the Company's rate case. The term sheet indicates agreement on a revenue increase of \$16 million;

ROE of 9.5 percent; continuation of the revenue decoupling mechanism; and rate adjustors for pipe replacement programs.

2017 is shaping up as another important year at the ACC for establishing regulatory policies, implementing reforms and deciding rate matters under a new chairman and with a new commissioner on board.

Southwest would agree to a three-year stay-out for filing its next rate case. A formal Settlement Agreement filing on the rate case is expected on January 20.

Rate case settlement discussions have also been underway for EPCOR's wastewater divisions and for APS. In EPCOR's case, it's anticipated a Settlement Agreement among certain parties will reach the ACC on January 20. For APS, settlement discussions were

held on Jan 12 and 13 and further discussions are anticipated following rate design testimony of ACC Staff and intervenors due Feb 3.

The Commission also intends to tackle potential changes to its telecommunications Universal Fund rules, which could include extension of broadband services to rural areas. Other potential reforms include examination of the telecommunications slamming and cramming rules for possible elimination and seeking legislation to further reduce burdens on corporations filings at the ACC.

So, 2017 is shaping up as another important year at the ACC for establishing regulatory policies, implementing reforms and deciding rate matters under a new chairman and with a new commissioner on board.

BREAKING NEWS

Southwest Gas Corp has signaled agreement among several parties in its rate case. The term sheet, filed on Dec 29, 2016 (<http://docket.images.azcc.gov/0000176016.pdf>) includes an overall revenue increase of \$16 million and 9.5 % ROE. Also included is continuation of the revenue decoupling mechanism and adjustors for pipe replacement programs. A formal Settlement Agreement is to be filed on Jan 20.

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ARIZONA INVESTMENT COUNCIL

OSBORN
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CONSENT AGENDA

The January 2017 Open Meeting of the Arizona Corporation Commission convened at 10:00 a.m. on Tuesday January 10, 2017. Chairman Forese announced a change to the format of Open Meeting: it will now begin with a prayer, followed by the pledge of allegiance. The first prayer was given by new Commissioner Boyd Dunn.

Commissioner Dunn introduced his staff. His policy advisor, Erin Ford Faulhaber, attended Wellesley College and the University Of Arizona School Of Law. She is also a former lobbyist and attorney.

Commissioner Burns was excused and did not vote any items.

The Chairman additionally acknowledged attorney Webb Crockett, who is retiring after over 50 years of law practice.

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

TELECOMMUNICATION



Certificates of Convenience and Necessity ("CC&N") were canceled for the following companies: **Telecare, Inc.**

(T-03181A-16-0308) and STI Prepaid, LLC. (T-20517A-15-0013).

WATER



Golden Shores Water Co. Inc's Decision No. 75830 was corrected Nunc Pro Tunc to correct a few typographical errors. (W-01815A-14-0173 & W-01815A-16-0142).

Bob B Watkins dba East Slope Water Company's Decision No. 73091 was modified to authorize the Company to use \$1,016,600 of its prior \$2,114,063 loan authorization to obtain a loan from CoBank at a six

percent interest rate. The Company may also consolidate the WIFA loan with the Cobank loan if the banks cannot agree upon equal creditor positions. (W-02031A-10-0168, W-02327A-10-0169, W-01906A-10-0170, W-01906A-10-0171, W-02031A-10-0171, W-02327A-10-0171, W-01906A-10-0183, W-02031A-10-0184 and W-02327A-10-0185).

REGULAR AGENDA

TELECOMMUNICATION



Midvale Telephone Company, Inc. received a declaratory order concluding that Midvale is not required to submit a

financing application regarding debt-related encumbrances with the Commission (as other utilities are required to do under A.R.S. §40-285). The item was approved 4-0. (Docket No. T-20741A-16-0003).

Midvale Telephone Company, Inc. received approval to increase its rates for residential local exchange service from \$18.65 to \$20.00 effective June 1, 2017 and to increase again to \$21.93 on June 1, 2018. Midvale is an incumbent local exchange carrier ("ILEC") providing local exchange and toll access service to 1,260 rural Arizona customers. Because Midvale is a Rate of Return (RoR) ILEC, it is eligible to receive federal high-cost loop support ("FHCLS"). In accordance with a 2011 Federal Communication Commission ("FCC") order, Midvale must increase its residential local rates to the FCC-mandated residential floor rates if it is to continue receiving FHCLS. The item was approved 4-0. (Docket No. T-20741A-16-0088).

WATER AND WASTEWATER



Wayward Winds CC&N was canceled at the Company's request and the Company will no longer be a water public service corporation. A CC&N was granted to **Wayward Winds** in 2009 to provide non-potable irrigation water service; however, the water system was never put into operation and the Company never had any customers because the current landowners all had their own wells. The item was approved on a 4-0 vote with no comments from the commissioners. (Docket No. W-20553A-16-0093).

Eden Water Company, Inc. received approval for an almost 32% increase over

Nunc Pro Tunc: a Latin term "now for then," meaning that the corrections will apply retroactively to the original date of the decision.

REGULAR AGENDA, CONTINUED

test year revenues and a 15.09% Rate or Return. The Company is a Class D non-profit water cooperative providing service to approximately 135 customers in Graham County. The newly approved rates will increase a customer's average monthly bill by \$21.32 (or 47.4%) from \$44.99 to \$66.30. Due to Eden's small size and water loss issue (calculated at 34% during the test year), the Commission believes that this level of rate increase is appropriate and necessary to provide for operations and to address water loss. Commissioner Tobin discussed with the Company whether or not it believes it will be able to comply with all the requirements contained in the Decision, considering it has had many of these problems for years. The Company explained that many of the problems were due to lack of funds, and that the new rate increase will allow it to address the previous deficiencies. Additionally, the Company commented on the ease of the rate application process, saying it was a more pleasant experience than the Company had previously experienced. Chairman Forese emphasized that rate increases entail a level of trust by the Commission in the Company that the Company's customers will be taken care of, and that he does not wish to see this Company before the Commission again with the same types of troubles it has had in the past. (Docket No. W-02068A-16-0211).

Kyllo Development Corporation dba Bradshaw Mountainview Water Company, Inc. is a Class D water utility providing service to approximately 580 customers in Yavapai County. The approved decision will increase a customer's average monthly water bill by \$3.31 (or 12.6%) from \$26.43 to \$29.71. Staff recommended, and the Commission approved, a number of compliance items for the Company, including filing three new Best Management Practice Tariffs, monitoring its water loss so that it does not exceed 10%, and applying for a WIFA grant to help address a water loss issue.

While Commissioner Tobin stated he supported the ROO, he inquired into Staff's rationale for recommending to collect 68% of the revenue requirement in the monthly minimum and first tier of the rate design, when historically no more than 50% has been collected from those groups. Staff explained that for this specific Company, there would be a greater risk if more than 20% of revenues were collected from the third tier and that it was necessary to deviate from the norm in this case. Commissioner Tobin explained that when recommendations deviate from the norm, he believes the Commissioners should understand why. Also, he went on to state that he is focused on making 5% water loss the

ACC action on CC&N dispute between Johnson Bank and Lake Pleasant Water & Sewer Co. put off to a future Open Meeting with potential precedential implications.

new acceptable amount, in comparison to the 10% today. The item was unanimously approved. (Docket No. W-02089A-16-0266).

Lake Pleasant Associates, DBA Lake Pleasant Water and Sewer Company. Johnson Bank filed an application under A.R.S. §40-252, seeking to amend Decision Nos. 54656 and 55499 to delete Lake Pleasant Water and Sewer Company's CC&N. Representatives of both Johnson Bank and the Company were present for a discussion with the Commissioners. The Company has no material system infrastructure or employees and has not served any customers, but neither has it ever received a request for service in its service area. The Company argues that until such time as a request for service is made, and either service is denied or service is denied at just and reasonable rates,

any action to divest it of its CC&N is premature and illegal. Johnson Bank is currently in possession of some land within the Company's certificated service territory. Johnson Bank does not believe that the Company would be able to provide service to the parcels of land and has been in discussion with the City of Peoria to eventually extend service, but the City of Peoria cannot do so while the Company maintains its CC&N. Additionally, Johnson Bank and the owner/members of the Company are engaged in additional litigation in Superior Court.

Ray Jones of the Water Utilities Association of Arizona provided public comment. WUAA agrees with the Company that, at best, this action is premature. Mr. Jones described a number of options for Johnson Bank to achieve its goal that do not require legally dubious action by the Commission.

Commissioners Little, Tobin, and Dunn had many questions regarding this item, especially concerning the status of the Superior Court litigation and the City of Peoria's role. Chairman Forese further expressed his concern that this CC&N is being used as a tool as opposed to its intended purpose. The Chairman pulled the item to be considered at a later date. (Docket No. W-02452A- 84-0257).

Utility Source, L.L.C.'s CC&N was expanded to provide water and wastewater services to a mobile home park adjacent to the Company's existing certificated area near the community of Bellemont in Coconino County. Utility Source will charge the new customers its currently authorized rates and charges. Commissioner Little had a question regarding the ADEQ testing requirement being at a different time than what the ROO required and asked whether that requirement should be changed. The Company stated that it will comply with both testing requirements, ADEQ and the ACC. (Docket No. WS-04235A-16-0130). The item was

REGULAR AGENDA, CONTINUED

approved 4-0.

EPCOR Water Arizona Inc.'s CC&N was extended to provide service to the Laughlin Ranch community outside of Bullhead City. Commissioner Dunn complimented the amount of notice the Company provided in the area and to the individual homeowners. Chairmen Forese also commended the Company's plan to treat the arsenic problem in the acquired system. The item was approved 4-0. (Docket No. WS-01303A-16-0350).

ELECTRIC

Mohave Electric Cooperative, Inc. is a Class A, member owned, non-profit rural electric distribution cooperative serving

approximately 39,000 customers in Coconino, Mohave, and Yavapai Counties. Mohave Electric received approval for its proposed (and Staff's recommended) 1.26% revenue increase, which produces a 7.82% rate of return over actual test year base revenue. The average residential customer's bill will increase by \$1.49 (or 1.44%) from \$102.86 to \$104.35.

The Company filed this rate application in accordance with the new rules for alternative rate application filing requirements and processes for cooperatives under Arizona Administrative Code R14-2-107 ("Rule 107"). Rule 107 provides a shortened time frame for processing a cooperative's rate application, caps a revenue increase at six percent of the Company's actual test year total rate base revenue, permits a cooperative to have a maximum of five Rule 107 rate cases within a 15-year period between traditional rate cases (A.A.C. R14-2-103), permits a cooperative to file only one Rule 107 rate application in a 12-month period, and does not automatically require a hearing.

Commissioner Little proposed Little Revised Amendment No. 1, which directs Mohave Electric to conduct a Phase II proceeding to consider export

rates for distributed generation and net metering tariffs consistent with Decision No. 75859 (Commission's Investigation in to the Value and Cost of Distributed Generation). The Amendment orders the Hearing Division to establish a procedural schedule within 60 days of the decision, and also requires the Company to provide new notice to

ACC to consider elimination of telecom slamming/cramming rules; Staff encouraged to recommend other rules for elimination.

customers of the Phase II proceeding and allows for additional requests for intervention.

In discussing Commissioner Little Revised Amendment No. 1, Commissioner Tobin expressed concern about the timeline for Phase II, and wanted to make sure that there was not going to be any delay despite the Amendment not containing any specific dates. Staff, the Hearing Division and the Company stated that they have no intention of slowing down the process, but will proceed as quickly as possible given their limited resources. Commissioner Dunn also stated his concern about the burden placed on Staff.

Little Revised Amendment No. 1 was unanimously passed. The item was approved as amended 4-0. (Docket No. E-01750A-16-0207)

GENERIC DOCKETS

The final Order in the **Commission's Investigation of Value and Cost of Distributed Generation** (Decision No. 75859) was amended to clarify that

grandfathering begins on the date when a customer files for interconnection of their distributed generation system to the electric grid, not the actual date of interconnection. All parties were in agreement with this modification. Each of the Commissioners commented good-naturedly on the unprecedented consensus of the parties to the docket on this issue. The item was approved 4-0. (Docket No. E-00000J-14-0023).

Inquiry into Modifications of the Commissions Consumer Protections for Unauthorized Carrier Changes Rules, A.A.C. R14-2-1901 et seq.

and R14-2-2001 et seq., also referred to as the **Commission's Slamming and Cramming Rules**. Slamming is the practice of switching a customer's traditional wire line telephone company for a local toll service or a local long distance service without permission. Cramming is the act of placing unauthorized charges on a wireline, wireless, or bundled services telephone bill. In February of 2016, a number of telecommunications providers filed an application with the Commission to repeal the current Slamming and Cramming rules and allow the Federal Communications Commission ("FCC") to take over in this area. In the alternative, they suggested that the Commission repeal its rules and replace them with the FCC's rules. Staff recommended holding meetings with the various stakeholders, RUCO, and the Attorney General's Office, and potentially soliciting written comments. After that, Staff will come back to the Commission with a recommendation in February on a timeline for rulemaking.

Commissioner Little expressed support of Staff's suggestions, but also noted concern about the Commission losing enforcement abilities if the rules are completely eliminated and enforcement is left entirely to the FCC; he would be interested in hearing about the Arizona rules mirroring the FCC rules and having the same compliance

REGULAR AGENDA, CONTINUED

requirements. He believes that the parties will most likely reach broad agreement and that an expedited rulemaking in this matter can commence.

Commissioner Tobin inquired about the number of enforcement violations reported to the Commission in the last few years; there have been a total of 10 since 2013 and all complaints were related to cramming violations.

Chairman Forese would like to see the Commission engage in the Governor's directive to reduce the number of regulations in Arizona, and encouraged Staff to make recommendations for regulations that could be eliminated. (Docket No. T-00000A-15-0247).

STAFF OPEN MEETING

The January 2017 Staff Open Meeting commenced on January 11, 2017 at 10:00 a.m. The following items were discussed.

The Commission approved a grant of \$202,914 to Acme Water Company, LLC (Thunderbird Meadows Water System) from the **Small Water Systems Fund** (created by the Legislature, A.R.S. §49-355) to repair and replace existing service lines and meters that have led to excessive water loss (44%). This is the first time the Commission has approved allocating funds from the newly formed Small Water Systems Fund. (Docket No. W-20809A-17-0007).

The Commission approved initiating an emergency rulemaking to amend the **Arizona Universal Service Fund ("AUSF")** for the purpose of providing state matching funds for special construction projects to introduce broadband infrastructure in rural Arizona communities that currently do not have access to broadband. Under the FCC's E-rate Modernization Order, the FCC will provide additional funding to match state funding for special construction to provide schools and libraries with the monies necessary to finance introduction of broadband infrastructure. To fund

the state match, the Commission would authorize a one-time distribution from the AUSF of \$8 million and institute a new surcharge of \$0.15 per customer per month for approximately one year. Through this Order, Commission Staff is directed to initiate an emergency rulemaking to revise the AUSF so it can be used for this purpose.

The Commissioners voted to continue to modernize and amend the **Commission's Corporation and LLC Statutes and Rules**. The Commissioners would like to see changes that would (1) reduce the regulatory burden, (2) create consistent regulatory treatment across business entities, and (3) utilize technology to make the process more efficient and customer friendly. Commission Staff was directed to continue engaging with the legislature on this topic.

UPDATE TO THE DECEMBER 2016 OPEN MEETING

Commission's Investigation into the Value and Cost of Distributed Generation: Commissioner Burns' Dissenting Opinion (Decision. 75859). Commissioner Burns penned a one-page dissenting opinion that was attached after the signature page of Decision No. 75859. The Commissioner explained that while he had high hopes for this matter to achieve a real compromise, he does not feel that the decision accomplished that. He listed four specific points for which he could not vote. First, all costs and benefits should be included in the Avoided Cost Methodology. He explained that he only wanted their inclusion for qualitative purposes now, but if in the future they could be quantifiable then their values would be included in the calculations. Commissioner Burns believes that this is an important component because individual homeowners are undertaking financial risk by investing in rooftop system to provide benefit to all rate payers. Second, he would have preferred future rooftop solar customers

to be grandfathered on their solar export rate for 20 years, as opposed to 10 years. Third, Commissioner Burns believes that some of the items approved in other amendments would have more appropriately been addressed in individual utility rate cases or rulemakings, such as whether solar customers should be treated as a separate class and the prohibition of banking unused kWhs. Fourth and finally, Commissioner Burns expressed concern over what he labeled as the "40 minute afternoon break settlement discussion" surrounding Tobin Proposed Amendment #12. Expressing his belief that not all parties to the docket were included, he noted that the discussion (if any) created an uphill battle during the Commission's discussion for those parties who claimed to be excluded. It was for those reasons that he could not vote in favor of the Order.