

NOVEMBER 2016



Word on the Street

BY GARY YAQUINTO

This edition of the *Monitor* presents the results from the last Open Meeting before the November 8 election, in which 3 commissioners will be elected.

Following Tuesday's election, we should know which commissioners will be sworn into office in January.

The few publicly released polls indicate that the race is close with at least four candidates within the margin of error, with "undecideds" ranging from 30 to 50 percent.

One matter is clear from this election campaign, however. That is, independent expenditure committees spent liberally in supporting the candidates of their choice, following the trend set in the 2014 election. Prior to 2014, the largely invisible election of

corporation commissioners saw little in the way of outside spending support.

Despite campaign rhetoric . . . whoever gains a seat on the ACC has an obligation to uphold the Arizona Constitution and the laws of the State of Arizona . . . Decisions must be governed by dispassionate fact-finding.

In this regard, the world of electing corporation commissioners has changed significantly.

Despite the campaign rhetoric surrounding this election, whoever gains a seat on the ACC has an obligation to uphold the Arizona Constitution and the laws of the State of Arizona in the performance of his duties as commissioner. Decisions must be governed by dispassionate fact-finding.

We look forward to working with the new ACC come January.

BREAKING NEWS

In the Commission's recent decision for TEP's renewable programs, TEP is required to discuss how community solar can play a role in the company's next REST filing. The Commission also declined to approve TEP's expansion of its company-owned residential solar program prior to conclusion of Phase II of its rate case and conclusions reached by an advisory committee. Additionally, the Commission rejected the 5 MW RCS program and also rejected TEP's proposal to waive the REST rules (as it pertains to the DG carve-out provision) until further review.

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ARIZONA INVESTMENT COUNCIL

OSBORN
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CONSENT AGENDA

The October 2016 Open Meeting of the Arizona Corporation Commission convened at 10:00 a.m. on Thursday October 27, 2016. Commission Tobin appeared telephonically.

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

RAILROADS



Copper Basin Railway Company's request to extend the deadline contained in Decision No. 74851 by 2 years until December 18, 2018 to complete construction of crossing project. (Docket No. RR-02636A-14-0181).

TELECOMMUNICATION



The Commission awarded a certificate of convenience and necessity ("CC&N") to provide resold long distance telecommunications service to Ceretel Incorporated (Docket No. T-20943A-15-0343).

Popp.com's CC&N was canceled, (Docket No. T-02575B-16-0278)

TAG Mobile, LLC was designated as an Eligible Telecommunications Carrier (Docket No. T-20922A-15-0007)

I-Wireless, LLC and Telrite Corporation (DBA Life Wireless) both received approval to expand their eligible telecommunications carrier service areas. (Docket No. T-20538A-16-0324) and (Docket No. T-04288A-16-0310).

WATER

The Commission approved Arizona Water Company's request for an extension of time, until August 29, 2026, to file executed main extension

agreements and a copy of the developer's Certificate of Assured Water Supply, for a line extension in the Superstition System in Pinal County. (Docket No. W-01445A-05-0701).

Sulphur Springs Valley Electric Cooperative's special contract with Apache Nitrogen Products was approved with a three-part rate and Mohave Electric Cooperative's net metering tariff and avoided cost filing was approved.

The Commission authorized EPCOR to implement its Purchased Power Adjustor Mechanism surcharge (credit) for a 12 month period, as well as to carry forward to the following year any power costs that did not meet the threshold per the Plan of Administration. (Docket No. WS-01303A-14-0010).

The Commission approved the purchase of assets and transfer of CC&N of Loma Linda Water Company by and to Gonzalez Utility Services, LLC, under the condition that the new owners continue to charge former Loma Linda Water customers their existing rates and charges until further order of the Commission. (Docket Nos. W-20940A-16-0140 & W-02211A-16-0140).

The Commission corrected minor typographical or clerical errors through Nunc Pro Tuncs for the following decisions: Decision No. 75681 (Green Acres Water Company (Docket No. W-02271A-16-0037)); Decision No. 75701 (Joshua Valley Utility Company, Inc. (Docket No. W-02023A-15-0315)); Decision No. 75685 (Sahuarita Water Company, LLC (Docket No. W-03718A-15-0213)); and Decision No. 75746 (Turner Ranches Water and Sanitation Company

(Docket Nos. W-01677A-16-0074 & W-01677A-16-0076)).

ELECTRIC



The Commission re-approved an expired special contract between Sulphur Springs Valley Electric Cooperative ("SSVEC") and Apache Nitrogen Products ("ANPI"). Under the contract, ANPI will pay a monthly Service Availability Charge of \$9,000, an energy charge of \$0.0555 per kWh for the first 400 kWh/kW of demand and \$0.0355 for all excess kWh, and a demand charge of \$9.00 kW. (Docket No. E-01575A-16-0262).

The Commission approved Mohave Electric Cooperative, Inc.'s application for approval of the annual net metering tariff/avoided cost filing with an avoided cost rate of \$0.02552 per kWh. (Docket No. E-01750A-16-0248).

REGULAR AGENDA

GAS

The Commission unanimously approved UNS Gas, Inc.'s application for a temporary adjustment to its Purchased Gas Adjustor of \$0.04 per therm beginning November 1, 2016 through April 30, 2017. The Commission adopted an amendment from Commissioner Tobin that kept the over-collection bank balance threshold at \$10 million but instituted additional reporting requirements. Tobin agreed with the Company's concerns about limiting the over-collection balance due to fluctuating gas prices. (Docket No. G-04204A-16-0319).

WATER**Rate Increases**

The Commission approved a rate increase for Yarnell Water Improvement District to increase the average customer's water bill by \$15.26 (a 42.5% increase). This results in a \$48,743 net operating income or 16.19 percent operating margin and a 7 percent rate of return. There were two minor amendments from the Hearing Division and Staff correcting typographical errors and making clarifications on column headings. Commissioner Tobin recused himself from voting due to his close relationship with the Yarnell community. (Docket No. W-02255A-16-0153).

The Commission discussed a permanent rate increase, the ability to incur long-term debt, and a surcharge to support the long-term debt for Eagletail Water Company, LLC, but ultimately delayed voting on the item until the November Open Meeting. Eagletail Water is a small Class E utility that serves 53 customers. The Commission approved a median rate increase of 26.5 percent or \$9.78, before the surcharge. This results in a 74.16 percent increase over test year revenues for an operating

margin of 19.73 percent. Eagletail is authorized to incur long-term financing in the form of a 20 year amortizing loan not to exceed \$174,450 through the Water Infrastructure Finance Authority of Arizona (WIFA), for a new 250,000 gallon water tank. The Company is also authorized to implement a surcharge of approximately \$30 to provide an additional \$18,282 per year to finance the loan; the funds from the surcharge will be kept in a separate interest bearing account and shall only be used to service the debt payment. When the principal of the loan is paid, it shall be considered a Contribution In Aid of Construction for rate base and ratemaking purposes.

Due to the small size of the Company, the desire for management to be replaced, and the significant rate increase needed, the discussion on this matter was long and involved. Commissioner Tobin initially proposed to order Staff to help the Company locate new management, not allow rates to go into effect until new management was in place, and phase in the new rates over four years. Both Commissioners Tobin and Forese expressed concern that the resolution in this matter does not provide a long-term solution, but all parties were at a loss for what could be done at open meeting. Eagletail embodies many of the issues that the Commission has been attempting to resolve through its water policy workshops. Because Eagletail is currently attempting to negotiate its sale, it could not accept a four-year rate phase in. In addition, Eagletail's customers do not oppose the increase, knowing that the repairs are necessary for the provision of service and that the Company needs to appear viable if it wants to be acquired. Commissioners Tobin and Forese expressed an interest in obtaining an interim manager for the Company and asked Staff about the cost. When the cost was estimated to be around \$10,000, Chairman Little inquired as to whether the Small Water Assistance Fund could be used; however, legal counsel advised that there are statutory limitations on the

use of that Fund. Chairman Little then noted that an interim manager is not going to save an insolvent company.

In the end, the Commission settled on Staff's recommendation to pull the item from the Agenda and bring it back at the November Open Meeting. This would provide Staff and the Company time to adequately address the concerns of Forese and Tobin. (Docket No. W-03936A-16-0095 & W-03936A-16-0096).

Ash Fork Development Association, Inc. is a Class D water company serving 222 metered customers in Yavapai County. The Commission unanimously approved, without any comments or amendments, a \$6.03 (or 28.93%) increase to the median residential customer's bill. This produces an additional 26.7 percent in annual operating revenue and 4.5 percent rate of return. The Company received approval to obtain a \$150,000 loan from WIFA to construct an arsenic treatment facility. (W-01004B-15-0313 & W-01004B-15-0342).

The Commission approved a settlement agreement for Liberty Utilities (Bella Vista Water) Corp. and Liberty Utilities (Rio Rico Water & Sewer) Corp. The signatories to the settlement agreement included the Company, Staff, the Residential Utility Consumer Office and the Western Infrastructure Sustainability Effort. Bella Vista and Rio Rico Water and Sewer serve approximately 18,000 customers in Cochise and Santa Cruz Counties. The settlement agreement approved rate increases and financing applications for both companies. Bella Vista was approved to have a 7.72 percent rate of return, resulting in a revenue increase of 20.80 percent. Rio Rico's water division was approved to have a 7.72 percent rate of return, resulting in a revenue increase of 26.50 percent. Rio Rico's sewer division will also have a 7.72 percent rate of return, resulting in a revenue increase of 10.98 percent. The settlement agreement

REGULAR AGENDA *continued*

agreed to a capital structure of 70 percent equity and 30 percent debt, with the cost of debt at 3.10 percent and the cost of equity at 9.7 percent, for a weighted average cost of capital of 7.72 percent. The settlement also agreed to the implementation of a Purchase Power Adjustment Mechanism. The settlement agreement also allowed Bella Vista and Rio Rico to seek approval of a System Improvement Benefits surcharge, subject to review. The cost allocation methodology proposed by Rio Rico and Bella Vista was adopted because the Commission sees benefit for the Arizona utilities' ability to access to their parent company's capital and membership on the Toronto Stock Exchange. The Commission also approved Rio Rico's and Bella Vista's financing application, in which the companies sought to borrow \$8.9 million and \$4.7 million respectively from their parent company, Liberty Utilities. Chairman Little commended the apparent harmony and agreement achieved with this settlement agreement. (Docket Nos. W-02465A-15-0367, W-02465A-15-0370, WS-02676A-15-0368, & WS-02676A-15-0371).

Oak Creek Water Company's application for a permanent rate increase was unanimously approved by the Commission. Oak Creek Water is a Class D utility serving approximately 480 customers near Sedona in Yavapai County. The increase will provide a 42.10 percent revenue increase and increase the average monthly metered water customer's bill by \$8.69 (41.2%). The Order approves a rate of return of 7.26 percent, creating an operating margin of 15 percent. (Docket No. W-01392A-16-0161).

The Commission also approved a rate increase for Dateland Water Company, a Class E utility that serves 14 customers in Yuma County. The authorized revenue requirement is \$11,664, which

increases the typical residential bill by 274.60 percent, from \$12.20 to \$45.70. Dateland has been operating without an approved CC&N since 2003. Based on a combination of Chairman Little's and the ALJ's recommendation, an amendment was passed that allowed the new rates to go into effect immediately and requires the Company to file a CC&N Application or Reinstatement Request within 120 days.

Commissioner Tobin asked a number of questions regarding the Company's water loss due to lack of metering, the dynamic of their customer base, and their customers' awareness of the rate increase, as well as the costs of filing for a CC&N. (W-20395A-16-0118).

Granite Mountain Water ("Granite") is a Class E water utility serving approximately 120 customers and Chino Meadows II ("Chino") is a Class D water utility serving approximately 900 customers, north of Prescott. Both companies received approval to increase their rates and charges. Granite Mountain received a rate of return of 8.031 percent and a revenue requirement of \$147,898 for an increase in gross revenue of 18.83 percent. This will result in a cash flow after debt service of \$60,063. The new rates for Granite Mountain will generate approximately 46 percent of revenues through monthly minimum charges, which results in an increase of \$14.01 (23.94%) for the average residential customer.

Chino Meadows' rate base is low for a water utility of its size and the Recommended Opinion and Order determined that it would be inappropriate to establish a revenue requirement based solely on a rate of return because it would result in a rate decrease; therefore the revenue requirement was determined by applying a 10 percent operating margin to the adjusted test-year revenues. The new rates for Chino Meadows will result in an

increase of 8.96 percent or \$2.79 for the average residential customer.

Both utilities have a history of providing free or discounted water, making personal loans or advances, and co-mingling funds. Therefore, the Order requires the utilities to allocate common costs incurred each year based on the customer counts of the companies as of January 1 of the year; cease making personal loans or advances; and pay off or reimburse all notes payable. In addition, the Commission fined Granite Mountain \$1,220 and held it in contempt for the utility's failure to collect payment for water usage 122 times on four separate accounts held by a family member. The Commission ordered both utilities to work with Staff to develop a Code of Affiliate Conduct; the Commission ordered Staff to review the Code after it is developed and to consider whether it is in the public interest to pursue a rulemaking to incorporate the Code into the Commission's rules.

Commissioner Tobin expressed concern regarding the findings of contempt and the repeated violations of Commission rules and regulations. In his amendment, he provided Staff with the authority to install an interim manager if it is determined that the companies have violated their Code of Affiliate Conduct. Commissioner Tobin vocalized his intent to send a reminder that the Commission has the power to appoint interim managers and assess fines; if Companies choose not to follow the Commission's rules, he is going to use that power. The Order was approved unanimously as amended. (Docket Nos. W-02467A-14-0230 & W-02370A-14-0231).

Emergency Rate Increase

The Commission approved its first emergency rate case under the new water policy guidelines for Rancheros Bonitos Water Company. It authorized a surcharge of \$12.80 per month for 12

REGULAR AGENDA *continued*

months so that the utility can repay a loan used to update plant infrastructure. The Company was ordered to show the surcharge as a separate line item on customer's bills.

The Commission unanimously adopted Commissioner Tobin's amendment, which ordered the Company to file a permanent rate case no later than June 30, 2017 using a 2016 test year and including a capital improvement plan. The Commission approved the entire item 4-0, with one Commissioner being excused. (W-20933A-16-0314).

Modifications to Previous Orders After a long and contentious discussion, the Commission approved modifications to Montezuma Rimrock Water Company's financing order. The Company was authorized to enter into a loan agreement with the Rural Community Assistance Corporation, instead of WIFA, to obtain \$108,000 in order to finance new storage and pressure tanks, and to implement a direct surcharge mechanism to finance the loan, the proceeds of which will be deposited into a separate interest bearing account. The ratepayer supplied funding associated with the principal payment of the surcharge will be considered Contributions in Aid of Construction in all future rate cases.

Commissioner Tobin proposed an amendment that would require the Company to hire an interim manager before the approved rate relief is granted. Staff proposed a friendly amendment that would require Staff to file a status report that included recommendations for future steps, if a suitable interim manager or operator was not located and hired after 60 days. The Commission adopted Tobin's amendment with Staff's proposed modification, and the item was unanimously passed as amended.

The discussion on the dais focused on the Commissioners concerns about approving a surcharge while a potential Attorney General's ("AG") investigation

was pending. The investigation comes from a referral by the Commission after it previously made a finding of fact that the Company and its owner knowingly filed apparently misleading information and documents with the Commission in an apparent effort to avoid Commission jurisdiction. Tobin and Forese suggested delaying modifications to the financing

TEP is denied expansion of its company-owned residential solar program until results of Phase II of its rate case and conclusions of an advisory committee report.

order until there was resolution with the AG's office. Staff advocated that the item be approved as written to allow the Company to begin the repairs and replacements necessary because the Commission has no control over what may happen with the AG's investigation. There was even discussion about drafting a letter to the AG expressing the importance of resolution in its investigation into Montezuma Rimrock. (Docket Nos. W-04254A-12-0204, W-04254A-12-0205, W-04254A-12-0206, W-04254A-12-0207, W-04254A-11-0323, W-04254A-08-0361, W-04254A-08-0362).

The Commission approved Sunrise Water Company's petition to amend a previous decision that imposed an obligation to file a permanent rate case by a date certain. Chairman Little commented that to require a Company to file a rate case where more than 50 percent of the increase would be driven by rate case expense was not logical. The Commission unanimously voted to remove the condition. (Docket No.

W-02069A-13-0261).

ELECTRIC

The remaining contested portions of Tucson Electric Power Company's ("TEP") 2016 Renewable Energy Standard Implementation Plan ("REST Plan") were discussed and debated. The uncontested portions of TEP's REST Plan were previously approved in Decision 75560 (May 13, 2016). The issues addressed included: (1) whether the TEP-Owned Residential Solar ("TORS") program should be expanded; and (2) whether to approve a new Residential Community Solar ("RCS") program and waive portions of the REST Rules in order to allow the RECs received under the RCS to qualify for the DG carve out for REST Compliance.

First, the Order places a future requirement on TEP to discuss how community solar can play a role in its service territory in its next REST Implementation Plan. Second, the Commission denied expansion of the TORs program until the results of Phase 2 of TEP's Rate Case and the conclusions of an advisory committee report that TEP was previously ordered to participate in, are known. Third, the Commission concluded that the 5MW RCS program was not in the public interest at the current time. Finally, the Commission rejected waiving the REST Rules until all parties can investigate the impact of such a waiver in Chairman Little's Docket No. E00000Q-16-0289 ("An Examination into the Modernization and Expansion of the Arizona Renewable Energy Standard and Tariff").

REGULAR AGENDA *continued***ELECTRIC, CONTINUED**

These final two conclusions were part of Commissioner Tobin's Proposed Amendment #1, and were unanimously approved.

Commissioner Stump interjected a number of questions regarding new technologies, such as smart inverters; as well as clarifying questions about how TEP is interacting with the solar market and whether these programs were aimed at curbing solar or stealing the market, as one party claimed. Chairman Little also asked a number of clarifying questions regarding the current size of the program, and commented that 1600 TORs installations was hardly opening the barn door. Both Chairman Little and Commissioner Tobin were interested in the advisory committee report.

The item, as amended by Tobin Proposed Amendment #1, was unanimously approved. (Docket Nos. E-01933A-15-0239 & E-01933A-15-0322).

Sulphur Springs Valley Electric Cooperative ("SSVEC") is a Class-A non-profit member owned electric distribution cooperative. The Commission approved new rates that will increase revenues by 3.25 percent and approved a required rate of return of 6.41 percent. The Order used SSVEC's current capital structure of 63.50 percent long term debt and 36.50 percent equity. Because three-part rates were not adopted, the Order approved a four year phase-in to increase the monthly charge for regular customers from \$10.25 to \$25.00 and for time-of-use customers from \$16.50 to \$26.50. Higher monthly charges will be phased-in over four years for other non-demand rate classes as well. SSVEC received approval to implement a Residential Auxiliary tariff and eliminate its General Service RV Park tariff and Seasonal Power Service tariff. The net metering and residential DG rate

design portion will be dealt with in a subsequent phase of the proceeding, after the conclusion of the Value and Cost of Solar docket.

Chairman Little proposed an amendment that made a declaratory statement that the Commission believes it is appropriate to place more of the fixed costs of the residential class in the monthly service charge and less in the energy charge to cover fixed costs, at least for SSVEC. The Chairman advocated for his amendment, emphasizing that the energy landscape is changing and adaptations must be made. The amendment was approved.

Commissioner Tobin proposed an amendment that deleted mention of Staff's recommendation for three-part demand rates. When discussing his amendment, he emphatically stated that policy decisions are up to the Commission and that Staff should be presenting all arguments and not advocating for one position over another. The amendment was unanimously approved.

The Commission unanimously approved the matter, including an amendment from the Hearing Division that set the grandfathering date as the future effective date of a Decision in phase two of this proceeding. (Docket No. E-01575A-15-0312).

A Certificate of Environmental Compatibility ("CEC") was approved for the White Wing Gen-tie Project that will interconnect the proposed White Wing photovoltaic solar generation project in Dateland, Arizona to Hoodoo Wash Substation in Yuma County. Staff proposed additional compliance items to be included in the CEC, so it would have the same compliance requirements as previous CECs; however the Commissioners declined to include compliance items that the Company stated did not apply to its situation. The matter was

unanimously approved. (Docket No. L-00000ZZ-16-0269-00172).

The Commission unanimously approved the Ninth Biennial Transmission Assessment ("BTA"). Staff concluded in their report that the utility industry has implemented steps to address the regional transmission planning issues, provide transmission enhancements and additions, develop solutions for transmission import constraints in various load pockets and address local transmission system inadequacies. (Docket No. E-00000D-15-0001).