



The **October 2020 Open Meeting of the Arizona Corporation Commission** commenced at 9:00 a.m. on Tuesday, October 13, 2020.

Commission's Consent Agenda

The following items passed on the **Chairman's Consent Agenda**:

2. Adrian Ortega (S-21114A-20-0244) - Order for Penalties and Revocation.

The Commission, on consent, approved the Order for Penalties and Revocation against **Adrian Ortega**.

The Commission found that, on March 21, 2019, the Financial Industry Regulatory Authority ("FINRA") found that Ortega failed to provide documents and information requested by FINRA and permanently barred him from associating with any FINRA members. Ortega pled guilty to identity theft and forgery in Maricopa County Superior Court, which ordered Mr. Ortega to a term of supervised probation and to pay \$20,185 in restitution.

The Order revokes Ortega's registration as a security salesman with the Commission pursuant to A.R.S. §44-1962(A)(8) based on FINRA's bar for a period of at least six months. Subsequently, on July 25, 2019, Ortega pled guilty to criminal conduct concerning matters covered by the FINRA investigation. The Securities Division recommends the Order as appropriate, in the public interest, and necessary for the protection of investors.

3. Richard A. Smart et al. (S-21113A-20-0233) – Order to Cease and Desist, Restitution, Administrative Penalties and Other Affirmative Action.

The Commission, on consent, approved the Order to Cease and Desist, Restitution, Administrative Penalties and Other Affirmative Action against **Richard A. Smart**.

The Commission ordered Richard A. Smart of Mesa and his affiliated companies to pay \$45,000 in restitution and a \$15,000 administrative penalty for committing securities fraud in connection with a real estate investment.

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Meet the Team



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The Corporation Commission found that Mr. Smart was the managing member of three companies: Smart Acquisitions, LLC, Smart Enterprises, LLC and Simply Smart Homes, LLC. However, Mr. Smart and his companies were not registered to sell securities in Arizona. The Commission found that Mr. Smart and Smart Acquisitions, LLC were raising investment capital to “fix and flip” residential property in Tucson, Arizona.

This is the second time the Corporation Commission has taken legal action against Mr. Smart and his affiliated companies. In 2017, respondents Smart and Simply Smart Homes, LLC were ordered to pay restitution and penalties for fraudulently offering and selling unregistered securities involving real estate investments.

The Corporation Commission found that despite its previous administrative order, Smart and Smart Acquisitions induced two Arizona residents to collectively invest in the fix and flip investment property in Tucson. The Commission found Mr. Smart and Smart Acquisitions, LLC misused a significant portion of the investor funds on personal expenses not related to the investment. Additionally, the Commission found that the respondents failed to tell the two investors about the Commission’s prior order and that there were at least six judgments entered against Mr. Smart in the state of Utah for unpaid state income tax liens.

4. Rural Network Services, Inc. (T-03454A-18-0322) – Application to Rescind Bond Requirement.

The Commission, on consent, approved **Rural Network Services, Inc.’s** Application to Rescind Bond Requirement.

On October 1, 2018, RuralNetwork Services, Inc. (“RNS” or “Applicant” or “Company”) submitted an Application requesting elimination of the performance bond requirement contained in Decision No. 66841.

On August 18, 2020, the Administrative Law Judge issued a Procedural Order to Commission Utilities Division Staff (“Staff”) to make a filing updating the Commission on the status of this matter, along with any recommendations no later than September 30, 2020.

In Decision No. 66841, dated March 12, 2004, the Commission ordered RNS to procure a performance bond in the amount of \$100,000. RNS was further ordered to file proof of the performance bond. On May 24, 2013, RNS filed with the Commission proof it had obtained a \$100,000 performance bond. Staff confirmed that the Utilities Division is in possession of two original performance bonds, each in the amount of \$100,000, dated June 3, 2005 and May 7, 2013.

Per information received from the Commission’s Corporations Division on August 21, 2020, RNS’s corporate status is in Good Standing. The Compliance Section of the Commission’s Utilities Division reports that RNS is currently in compliance. A review of the Consumer Services’ database revealed that no complaints, inquiries or opinions have been received for the Company. RNS filed its 2019 Utilities Annual Report on April 8, 2020.

The Commission has, in appropriate circumstances, relieved telecommunication service providers of the obligation to maintain a performance bond. Staff recommended RNS be relieved of the performance bond obligation contained in Decision No. 66841.

The Applicant requested that, in order to release the performance bond, the Commission include in an ordering paragraph, language authorizing the Applicant to cancel, rescind, discontinue and be released from the performance bond requirement set by Decision No. 66841.

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Matters Removed from the Agenda

At the outset of the meeting, the following item was pulled from the agenda:

1. Jeffrey Scott Peterson et. al (S-21111A-20-0202) - Order to Cease and Desist, Order for Restitution, Order For Administrative Penalties and Consent to Same By: Respondent Justin C. Billingsley.

5. Utility Source, L.L.C. (WS-04235A-20-0126 and WS-04235A-20-0127) -
Application for Authority to Incur Long-Term Debt.

The Commission, on consent, approved **Utility Source, L.L.C.'s** Application for Authority to Incur Long-Term Debt.

On May 5, 2020, Utility Source, L.L.C.'s ("Utility Source" or "Company") Water Division filed an application with the Commission for authority to incur long-term debt in Docket No. WS-04235A-20-0126. Also on May 5, 2020, Utility Source's Wastewater Division filed an application with the Commission for authority to incur long-term debt in Docket No. WS-04235A-20-0127.

In its applications, Utility Source stated that it sought to finance the amount of \$328,558: \$195,658 assignable to the Water Division and \$132,900 assignable to the Wastewater Division. Utility Source stated that there is no origination fee for the loan, and it anticipates paying a fixed interest rate not to exceed 6 percent for a 10-year term. Utility Source is seeking to obtain the loan from Finesse Properties West, LLC, an affiliate.

The Company states that the purpose of the proposed financing is to relocate its water and sewer lines that are located in the Coconino County right-of-way due to a roadway redesign as part of the Bellemont Access and Safety Project. Utility Source's franchise agreement with Coconino County requires the Company to relocate the lines at its own cost.

Utility Source is a for-profit Class D public service corporation providing water service to approximately 382 customers and wastewater service to approximately 379 customers near the community of Bellemont, Coconino County, Arizona. The Company's current water and wastewater rates were approved by the Commission at its September 22, 2020 Open Meeting.

Staff reviewed current interest rates offered by other possible lenders and determined that the Company's proposed interest rate of no greater than 6 percent is excessive. Staff recommended a fixed interest rate not to exceed 4 percent per annum, which Staff states is similar to what other lenders are receiving. Staff calculated the debt service payment needed to service a \$328,558 amortizing loan over 10 years at an interest rate of 4 percent to be \$23,771 for the Water Division and \$16,147 for the Wastewater Division.

Staff evaluated the effects of the proposed financing on the Company's debt service coverage ratio ("DSC") using the Company's 2018 pro-forma adjusted test year financial statements and Staffs recommended loan terms. Staff projects that the Company will have a DSC of 8.76 for the Water Division and a DSC of 4.89 for the Wastewater Division after debt service. Because the projected DSC exceeds the minimum threshold of 1.0 for each division, Staff determined that the new debt will not negatively impact Utility Source's ability to operate and service its debt obligations.

Staff reviewed the estimated project costs totaling \$328,558.45. For the water line relocation, the costs total \$195,657.96 and include the cost of the transmission lines, trenching costs to be shared proportionally with the electric provider, tax, and general costs, including engineering and overhead. For the sewer line relocation, the costs total \$132,900.49 and include the cost of the sewer lines, trenching costs to be shared proportionally with gas companies, tax, and general costs, including engineering and overhead. Staff determined that the projects are necessary, and the estimated costs are reasonable. However, Staff noted that no used and useful determination was made, and no conclusions should be inferred for future rate making or rate base purposes.

Staff recommended:

(a) Approval of authority for Utility Source to incur a 10-year amortizing loan in an amount not to exceed \$328,558, of which \$195,658 is assignable to the water division and \$132,900 is assignable to the wastewater division, at an interest rate not to exceed 4 percent per annum;

(b) Authorization for Utility Source to engage in any transaction and to execute any documents necessary to effectuate the authorizations granted;

(c) That Utility Source file with Docket Control, as a compliance item in this docket, copies of the loan documents within 60 days of the execution of any financing transaction authorized herein;

(d) That the Company file with Docket Control, as a compliance item in this docket, an Approval of Construction permit for the water lines within two years from the effective date of the Decision in this matter; and

(e) That the Company file with Docket Control, as a compliance item in this docket, the Discharge Authorization permit for the sewer lines within two years from the effective date of the Decision in this matter.

The Commission approved the Application with Staff's recommendations.

6. Tonto Village Water Company, Inc. (W-01580A-17-0334 and W-01580A-18-0039) – Request to Implement Financing Surcharge to Repay Water Infrastructure Financing Authority of Arizona Loan.

The Commission, on consent, approved **Tonto Village Water Company, Inc.'s** Request to Implement Financing Surcharge to Repay Water Infrastructure Financing Authority of Arizona Loan.

Tonto Village Water Company, Inc. ("Tonto Village" or "Company") is a Class E for profit S Corporation that provides potable water service to approximately 181 metered customers in Gila County, Arizona.

On January 15, 2019, the Arizona Corporation Commission ("Commission"), in Decision No. 77036, approved the Company's current rates along with its financing application. Decision No. 77036 authorized the Company to incur long-term debt with the Water Infrastructure Finance Authority of Arizona ("WIFA") in an amount not to exceed \$618,377, in the form of a 20-year amortizing loan, at an interest rate not to exceed that available from WIFA at the time the loan is executed.

The Commission Utilities Division Staff ("Staff") obtained the WIFA loan documents, which indicate that 61 percent of the loan has been forgiven and that the remaining loan amount is repayable over 20 years, at an annual interest rate of 2.624 percent.

Staff has confirmed that 61 percent or \$378,931 of the Company's WIFA loan principle has been forgiven, thus reducing the repayable portion of the WIFA loan from \$618,377 to \$239,446. Staff's recommended WIFA loan surcharge reflects this fact. Staff's calculation of the debt service yields a monthly Debt Service surcharge of \$7.27 and a Debt Service Reserve surcharge of \$1.47, a total of \$8.74 for each 5/8" x 3/4" metered customer. In Decision No. 77036, the WIFA loan surcharge was estimated to be \$33.30 for a 5/8" x 3/4" metered customer using the full loan amount of \$618,377 and an interest rate of 5.50 percent.

As a loan covenant, WIFA requires a DSC of 1.20, to ensure sufficient cash flow from operations to cover operating expenses and the debt service obligations. The rates approved by the Commission, inclusive of the

surcharge, were determined to be sufficient to meet the 1.2 DSC requirement.

Decision No. 77036, required Tonto Village to establish and file a repayment plan for its delinquent property taxes with Gila County as well as its delinquent transaction privilege taxes with the Arizona Department of Revenue (“ADOR”). On November 4, 2019, the Company docketed its repayment plan, indicating that both Gila County and ADOR have agreed to monthly payments of \$500 each (an aggregate of \$1,000). As of September 28, 2020, Tonto Village owed \$26,830.20 in past due property taxes to Gila County, and approximately \$14,709.31 in past due transaction privilege tax to ADOR. The Commission, in Decision No. 77036, was clear that the repayment of these taxes is the sole responsibility of the Company.

WIFA informed Staff that they recognize the \$12,000 paid annually for tax repayment as a cash outlay and have included it in their calculation of the DSC. Including the revenues associated with Staff’s recommended surcharge of \$8.74 and the inclusion of \$12,000 related to past due taxes results in a DSC of 1.01. Therefore, Staff is offering an alternative for the Commission’s consideration, which will result in a DSC of 1.22.

Staff found that it is appropriate and in the public interest for the Commission to approve a WIFA surcharge that would enable Tonto Village to meet the WIFA required minimum DSC of 1.2. Without such a surcharge, the Company would not be able to fund these projects.

Staff recommended Commission approval of the WIFA loan surcharge as calculated by Staff. This surcharge would increase the monthly bill of a 5/8” by 3/4” customers by \$8.76 for the debt service and \$1.47 for the Debt Service Reserve Fund, for a total of \$10.23 per month.

Staff recommended that all the requirements of Decision No. 77036 remain in place unless modified herein.

Staff recommended that the Company record the \$378,931 in forgiven principle as CIAC and that the amortization of this CIAC begin at the time the plant is placed into service and at the same rate as the plant that is being depreciated.

Staff recommended that the Commission authorize the Company to begin collecting the WIFA loan surcharge beginning with the Company’s next billing cycle after the effective date of a Decision in this proceeding.

Staff recommended that the Company bill each surcharge as a separate line item on each customer’s monthly bill.

Staff recommended that the Company notify its customers of the WIFA surcharge authorized herein and their effective date, in a form acceptable to Staff, by means of a bill insert in its next regular billing cycle or as a separate mailing.

7. Arcadian Infracom, Inc. (T-21089A-19-0321) – Application for Approval of a Certificate of Convenience and Necessity to Provide Intrastate Telecommunications Services in Arizona.

The Commission, on consent, approved **Arcadian Infracom, Inc.’s** Application for Approval of a Certificate of Convenience and Necessity to Provide Intrastate Telecommunications Services in Arizona.

On December 18, 2019, Arcadian Infracom, Inc. (“Arcadian” or “Company”) filed an application with the Commission for approval of a Certificate of Convenience & Necessity (“CC&N”) to provide intrastate

telecommunications services in Arizona. The Company also requested that its proposed service be classified as competitive.

Arcadian is a foreign corporation organized under the laws of the State of Delaware and began operations in June 2018. The Company's headquarters are located in St. Louis, Missouri.

Staff recommends approval of Arcadian's application for a CC&N to provide the proposed intrastate telecommunications services in Arizona, subject to the following conditions and recommendations:

- (1) Arcadian comply with all Commission Rules, Orders, and other requirements relevant to the provision of intrastate telecommunications services;
- (2) Arcadian abide by the quality of service standards approved by the Commission for Qwest Corporation dba CenturyLink QC ("CenturyLink") in Docket No. T-01051B-I3- 0199;
- (3) Arcadian be prohibited from barring access to alternative local exchange service providers who wish to serve areas where the Company is the only provider of local exchange service facilities;
- (4) Arcadian be required to notify the Commission immediately upon changes to the Company's name, address, or telephone number;
- (5) Arcadian cooperate with Commission investigations including, but not limited to, customer complaints;
- (6) The rates proposed by Arcadian are for competitive services. In general, rates for competitive services are not set according to rate of return regulation. Staff obtained information from Arcadian indicating that, at the end of the first twelve months of operation, the projected net book value of all Arizona assets that could be used in the provision of telecommunications service to Arizona customers to be \$100,000,000. The rates ultimately charged by Arcadian will be heavily influenced by the market. Therefore, while Staff considered the fair value rate base information submitted by the Company, the fair value information provided was not given substantial weight in its analysis; and
- (7) In the event the Company requests to discontinue and/or abandon its service area, it must provide notice to both the Commission and its customers. Such notice(s) shall be in accordance with A.A.C. R14-2-1107.

Staff further recommended that Arcadian be ordered to comply with the conditions below. If it does not do so, Arcadian's CC&N shall be null and void after due process.

- (1) Arcadian shall file a full tariff(s) within thirty (30) days from the date of an Order in this docket approving its application which contains the rates, terms, and conditions of the services Arcadian intends to offer. The tariff(s) submitted shall be consistent with the Application, as amended.
- (2) Arcadian shall notify the Commission through a compliance filing within thirty (30) days of the commencement of service to its first end-user customers.
- (3) Arcadian shall abide by the Commission adopted rules that address Universal Service in Arizona. A.A.C. R14-2-1204(A) indicates that all telecommunications service providers that interconnect into the public switched network shall provide funding for the Arizona Universal

Service Fund, and shall make the necessary monthly payments required by A.A.C. R14-2-1204(B).

Staff also recommended approval of Arcadian's request for a waiver of the contract filing requirements in A.A.C. R14-2-1115(C)(3), subject to the condition that Arcadian be required to provide its individual cost basis contracts to Staff at any time, upon request.

Staff further recommended that the Company's proposed services should be classified as competitive because there are alternatives to Arcadian's proposed services and because the Company has no market power in the local exchange markets.

The Commission approved Arcadian's application, subject to Staff's recommendations.

The following items were discussed at the October 2020 Open Meeting during the **regular agenda**:

Gas

13. Southwest Gas Corporation (G-01551A-19-0055) – Application for a Rate Increase: Discussion, consideration and possible vote regarding adding additional public comment sessions.

The Commission directed Hearing Division Staff to hold at least two additional public comment sessions regarding **Southwest Gas Corporation's** ("SWG") rate increase application, which was filed in 2019.

Commissioner Kennedy filed a letter requesting that additional public comment sessions be held to accommodate a greater portion of SWG's customers who might not have been available during previously scheduled public comment sessions. Commissioner Kennedy requested that the additional sessions be held in the evening and on a Saturday and that they be at least two and a half hours in duration.

Spanish language interpreters will be available at the public comment sessions. Notice to SWG customers will be sent out via bill inserts and posted on the SWG website. The Commission's Hearing Division will work with SWG to determine the exact dates of the future public comment sessions. That information, once finalized, will be noticed by the Commission and posted on the Commission website.

Water and Wastewater

11. Johnson Utilities, L.L.C. (WS-02987A-18-0050) – Update from Interim Manager and/or Utilities Division Staff.

During an update from **Johnson Utilities, LLC** ("Johnson" or "Company"), the Company's Interim Manager, EPCOR Water Arizona Inc. ("EPCOR"), informed the Commission that the Company's water systems performed well despite it being one of the hottest Arizona summers in recorded history, with no major supply or pressure issues and no issues with water quality.

EPCOR continues to make improvements to the wastewater plants and collection systems including planned maintenance. While there have been limited sanitary sewer overflows, those have been small and mainly due to the result of third-party contractors hitting facilities. EPCOR will work with contractors to further reduce the frequency of these incidents.

Major capital projects remain on hold for the time being due to a lack of funding. Customer satisfaction remains above 80%.

Finally, EPCOR continues to monitor developments involving the COVID-19 pandemic to ensure safety measures are taken to protect both employees and customers.

12. Johnson Utilities, L.L.C. (WS-02987A-18-0050) – Discussion, Consideration and Possible Vote regarding Pecan Wastewater Treatment Plant Connection Management.

The Commission, by a 5-0 vote, approved **Johnson Utilities L.L.C.'s** ("Johnson" or "Company") Pecan Wastewater Treatment Plant Connection Management.

On July 29, 2019, the Commission approved Decision No. 77330, which directed EPCOR Water Arizona Inc. ("EPCOR") as interim manager to commence work on 70 Capital Improvement Projects ("CIP"), and ordered Johnson to entirely fund the projects through internally generated funds, an equity infusion, by issuing debt, or some combination thereof. This Decision also laid out criteria for a dispute resolution process, which was later clarified by a procedural order issued by the Assistant Chief Administrative Law Judge.

The parties met several times to attempt to resolve the disputes over some of the projects on the CIP list; however, due to the urgent need to address the Pecan Wastewater Treatment Plant ("Pecan WWTP") expansion, this item was bifurcated. In Decision No. 77641, later amended by Decision No. 77674, the Commission directed that construction on the Pecan WWTP Phase IV expansion commence immediately and the project be funded by Johnson.

On July 6, 2020, Johnson filed a "Petition for Special Action and Emergency Request for Stay of Commission Decision Pending Review" and "Motion for Emergency Stay of [Commission] Decision [No.] 77641" with the Arizona Supreme Court. On July 8, 2020, the Arizona Supreme Court issued an order staying the implementation of the decision pending further review from the Court. On August 25, 2020, the Court declined to accept jurisdiction of the petition for special action and dissolved the stay.

On September 1, 2020, Commission Staff docketed a memo that included a letter from the Arizona Department of Environmental Quality ("ADEQ") and a letter from EPCOR to ADEQ both regarding capacity assurance for the Pecan WWTP, along with influent and effluent flow data for the plant. EPCOR informed ADEQ that the Pecan WWTP is nearing capacity, and while the information on the capacity assurance forms is accurate, they can no longer affirm that the additional volume of wastewater contemplated on those forms will not cause an exceedance of the flow or effluent quality limits of the facility's permit. Based on the letter from EPCOR and the flow data, ADEQ needs assurance from Johnson and EPCOR that the Phase IV expansion or some alternative process is put in place to prevent an exceedance and allow ADEQ to continue to issue discharge authorizations for new construction.

As a result of the EPCOR letter to ADEQ, on September 9, 2020, the Home Builders Association of Central Arizona ("HBACA") wrote a letter to Staff, EPCOR and ADEQ about working with the Commission to immediately set

a limit on new connections through December 31, 2020. In working with EPCOR, HBACA determined that the Pecan WWTP can support only 400 additional connections, absent the Pecan WWTP Phase IV expansion or some alternative being implemented.

According to the Pecan WWTP's Aquifer Protection Permit ("APP"), the facility is currently permitted to treat up to three Million Gallons Per Day ("MGD"). The permit establishes an alert level of 2.85 MGD on the monthly average daily flows at the effluent pump station. An exceedance of the alert level requires immediate construction of an expansion project or a report to ADEQ detailing the reasons it is not necessary to begin construction and ADEQ approval of the report. Due to the delay in expansion, the Pecan WWTP is nearing its alert level and treatment capacity level. ADEQ has been unable to issue additional health certifications and discharge authorizations for customers who will ultimately flow to Pecan WWTP for sewer services due to delays in Pecan WWTP Phase IV expansion.

Staff has evaluated the 400-connection proposal and concluded that the Pecan WWTP will be able to accommodate the 400 connections through December 31, 2020.

Due to the delays in the Pecan WWTP expansion, Staff believes a wastewater interconnection with the Town of Queen Creek, as contemplated by Decision No. 77268, should be pursued.

Staff recommended that the Commission direct EPCOR to institute a meter management program to allow the number of service connections, not to exceed 400, that flow to the Pecan WWTP through December 31, 2020. Staff further recommended that the Commission should direct EPCOR to brief the Commission on the status of the meter management program during its Interim Manager update at the November Open Meeting, concerning the need to re-evaluate the service connection limit in December 2020.

The Commission believes that ADEQ should also be involved in the Pecan WWTP Connection process. Therefore, the Commission limited the amount of new connections to the Pecan WWTP between October 1, 2020 and December 31, 2020, to 400 connections or the amount of connections allowed by ADEQ during that time, whichever is less.

Commissioner Marquez-Peterson inquired into priority for the connections, specifically who would be able to connect to the system. EPCOR stated that the connections will be on a "first come, first serve" basis.

Chairman Burns verbally proposed an amendment to remove references to Johnson's Section 11 Treatment Plant to avoid open meeting notice violations. The amendment passed by a 5-0 vote.

Chairman Burns proposed an amendment to ensure that ADEQ is involved in the Pecan Plant Connection Management Process. Chairman Burns' amendment passed by a vote of 5-0.

Commissioner Olson proposed an amendment to ensure that EPCOR is duly authorized to enter into an interconnection agreement in order to provide immediate relief to Johnson's wastewater treatment system to address the public interest and public health and safety. Commissioner Olson clarified that the interconnection agreement would come back to the Commission for final approval. Commissioner Olson's amendment failed by a vote of 3-2, with Commissioner Olson and Commissioner Marquez-Peterson voting for the amendment.

Commissioner Marquez-Peterson proposed an amendment to protect Johnson customers by including language that makes it clear that no prudence determination was made at the time of the decision. Commissioner Marquez-Peterson withdrew the amendment.

The Commission unanimously approved the Pecan Wastewater Treatment Plant Connection Management item as amended.

Railroads

9. Union Pacific Railroad Company (RR-03639A-20-0242) – In the Matter of emergency application of Union Pacific Railroad to complete emergency bridge repairs near Rio Salado Parkway (DOT No. 741-546G). Update from the Safety Division and Union Pacific Railroad regarding the rebuilding of the Rio Salado Parkway in Tempe, Arizona.

At the October Open Meeting, Commissioners heard updates regarding the **Union Pacific Railroad Company** Rio Salado Bridge reconstruction in the City of Tempe. On July 29, 2020, a Union Pacific Railroad (Union Pacific) train derailed resulting in a fire and a portion of the railroad bridge over Rio Salado Parkway to collapse. On August 4, 2020, Union Pacific filed a request to reconstruct which was approved by the Corporation Commission on August 12, 2020.

Union Pacific related that, following the Commission's approval, the Rio Salado Railroad Bridge was once again operational on August 12, 2020. This allowed Union Pacific to resume train operations through the Phoenix metro area, which has returned to normal levels following a backlog that resulted from the temporary closure and reconstruction of the bridge. On August 24, 2020, roadway construction began and was completed on September 4, 2020, allowing roadway and pedestrian traffic to resume prior to Labor Day Weekend.

While train, roadway, and pedestrian traffic has resumed, there are several outstanding issues that have not yet been resolved including chemical leakage into Tempe Town Lake and landscaping issues, among others. Union Pacific and the City of Tempe indicated they are working together closely to resolve all outstanding issues and will continue to update the Commission of their progress moving forward.

Power Plant and Line Siting

8. Salt River Project Agricultural Improvement & Power District (L-00000B-09-0311- 00148) - In the matter of the application of Salt River Salt River Project Agricultural Improvement & Power District in conformance with the requirements of Arizona Revised Statutes, Section 40-360, et seq., for a Certificate of Environmental Compatibility authorizing construction of a 230kV Double-Circuit Transmission Line Originating at the planned and permitted RS-17 Substation, near Judd and Attaway roads in Pinal County, to the planned and permitted RS-17 substation, adjacent to the existing Moody substation, located near Pecos and Recker Roads, in the town of Gilbert, Maricopa County, Arizona, and including a new 230/69kV substation near the intersection of combs and Meridian roads, in or adjacent to the town of Queen Creek, Arizona. Application to Amend Decision No. 71441 Pursuant to A.R.S. § 40-252, With Notice and Opportunity to be Heard.

The Commission, by a 5-0 vote, approved **Salt River Project Agricultural Improvement & Power District's** ("SRP" or "Company") request for an extension of time for construction of the Pfister Substation approved in Decision No. 71441.

On December 23, 2009, the Commission issued Decision No. 71441 (Docket No. L-00000B-09-0311-00148), which granted the Certificate of Environmental Compatibility (“CEC”) issued by the Arizona Power Plant and Transmission Line Siting Committee (“Siting Committee”) for SRP’s 20 mile double-circuit 230 kV transmission line and regional 230/69 kV substation (“Project”).

On August 27, 2020, SRP filed a request for modification to the order approving the CEC pursuant to Decision No. 71441, which required SRP to finish construction of the substation and transmission line facilities by December 23, 2021. SRP stated in the request that the Project is still needed but that an extension is required so that SRP can avoid incurring costs before they are necessary. In addition, SRP does not anticipate needing the Regional 230/69kV Substation (“RS-24” or “Pfister Substation”), which is included within the CEC, for some time, but that it will be needed in the future. SRP requested a five-year extension for the 230kV transmission line and 15-year extension for the Pfister Substation - to December 23, 2026, and December 23, 2036, respectively.

Staff has reviewed Decision No. 71441 and the Company’s request for an extension of time for construction of the Pfister Substation. The Project, which was originally intended to procure new generation sources, has not yet been needed due to SRP acquiring several existing independently owned power generation facilities. While additional time to construct the Project has been requested, SRP has stated the Project is still necessary. Throughout the past decade, the Company has focused on developing a significant amount of new renewable generation resources. SRP now plans to use the Project to access these renewable generation resources in order to meet SRP’s 2035 Sustainability goals. SRP also states that the Project is necessary to increase the reliability and performance of the regional high-voltage system for the planned development in the region, such as the recently approved Southeast Power Link in Mesa.

Staff concluded that SRP’s extension request is timely, reasonable and in the public interest. Therefore, Staff recommended that the deadline to complete the construction of the transmission line and substation be extended by five years and 15 years, respectively, to December 23, 2026, and December 23, 2036. The Commission approved this recommendation without amendment.

Miscellaneous

10. Tucson Electric Power Company (“TEP”) - Update from Utilities Division Staff and discussion regarding the status of Settlement Conferences in Federal Energy Regulatory Commission Docket Nos. ER 19-2023-000 and ER 19-2019-000 TEP’s Request for Recovery of Abandoned Plant Costs and TEP’s proposed Open Access Transmission Tariff (“OATT”). The Commission may go into Executive Session for discussion and consultation with its attorneys pursuant to A.R.S. § 38-431.03(A)(3) and (4), which will not be open to the public.

Commission Staff provided a brief update to the Commission regarding the status of TEP’s Request for Recovery of Abandoned Plant Costs and TEP’s proposed OATT, noting that the parties to the case are currently in settlement discussions. Given the confidential nature of settlement communications, the Commission entered Executive Session to discuss the item and for the Commission to give direction during settlement.

14. Arizona Corporation Commission – (AU-00000A-20-0050) – Commission Inquiry into Utility Preparedness Plans to ensure safe and reliable operations during the COVID-19 pandemic. Consideration, Discussion and Possible vote to require all electric utilities to roll over, until 2021, accumulated net metering credits for schools that closed due to the COVID-19 pandemic.

Commissioner Kennedy noted that her office was contacted about excessive solar generation and the billing process during 2020 in the wake of COVID-19. Commissioner Kennedy stated that solar carry over credits are averaging over 57% higher than 2019 and 77% higher than 2018. As many schools are doing remote learning, these schools are not using as much energy as previously used.

Commissioner Kennedy, through the Commission Legal Division, filed a motion to direct all Electric Utilities to adjust their tariff accordingly to allow for the rollover of net metering credits for schools into 2021.

Tucson Electric Power Company (“TEP”) noted logistical issues about the proposal but generally supported the proposed motion. TEP stated that, pursuant to its tariff, it already paid out credits for the 2020 period. TEP expressed its intent to follow the purpose of the motion to ensure that the schools realize the financial benefit intended by Commissioner Kennedy’s motion.

Grand Canyon State Electric Cooperative Association (“GCSEC”) expressed concern with a “one-size fits all” mandate. Specifically, the proposal was started by a group of schools in the APS and TEP service territories. Unlike those schools, many of the schools in rural areas did not close or markedly lower their use of electricity and do not have credits to roll forward. Further, some utilities already issued credits pursuant to the terms of their tariffs. Finally, GCSEC believes that this topic should be addressed in a rate case or rate filing.

Arizona Public Service Company (“APS”) supported the proposed motion to allow schools to roll net-metering credits forward to 2021.

Chairman Burns verbally proposed an amendment to add a waiver provision to the requirement if such waiver is in the public interest.

Commissioner Dunn noted that further definition was needed to clarify exactly to whom the order would apply.

Ultimately, the item was held to bring a refined version back before the Commission at the next open meeting.

15. Arizona Corporation Commission – Rulemaking (RU-00000A-18-0284) – Consideration, Discussion and Vote concerning modifications to Arizona Administrative Code R14-2-701 *et seq.*; R14-2-1618; R14-2-1801 *et seq.*; R14-2-2301 *et seq.*; R14-2- 2401 *et seq.*; R14-2-2501 collectively known as “the Arizona Corporation Commission’s Energy Rules.”

At the outset of the item, Chairman Burns asked Staff to combine the proposed Commissioner amendments into 4 separate categories: Clean Energy, Energy Storage, All Source RFP, and Energy Efficiency.

Chairman Burns asked that Staff come back the following day to discuss each category in turn. Commissioner Marquez Peterson suggested that Staff provide alternatives for discussion (i.e. Alternative 1 or Alternative 2). Also, Chairman Burns noted that October 29, 2020 may be a contingency meeting, if the Rules could not be passed.

Arizona PIRG Education Fund, Southwest Energy Efficiency Project (“SWEEP”), and Wildfire jointly proposed an amendment in an attempt to align the energy efficiency proposals of Chairman Burns, Commissioner Kennedy, Commissioner Marquez Peterson, and Commissioner Dunn by enacting the 35% capacity savings standard proposed by Commissioner Marquez Peterson while ensuring that affected utilities continue to invest in cost-effective energy efficiency at the minimum levels proposed by Chairman Burns, Commissioner Dunn, and Commissioner Kennedy. It would also align the DSM planning and approval process with the integrated resource planning process and ensure that Commission-approved programs and funding for those programs will continue until cost recovery is addressed in an affected utility’s next rate case. In this manner, the joint parties stated, the amendment attempts to ensure that programs to help customers save money and energy will not be suspended due to regulatory delay.

Commissioner Dunn adopted the Arizona PIRG/SWEEP/Wildfire amendment.

Commissioner Olson proposed a verbal amendment to the amendment requiring that energy-efficiency programs pass a cost-benefit test called a “ratepayer impact measure.” The amendment failed to pass by a vote of 1-4, with Commissioner Olson being the sole vote in favor.

Ultimately, the Commission voted 4-1 to approve an increase in the Energy Efficiency Standard requiring affected utilities to implement enough energy-efficiency measures by 2030 to equal 35% of their 2020 peak demand. Commissioner Olson voted no on the item due to the lack of a requirement that energy-efficiency programs pass a cost-benefit test.

The Commission also discussed moving forward with Clean Energy Goals. Specifically, the Commission noted its intent to proceed with an emissions-based standard rather than a technology-based standard. The Commission Legal Division noted a potential concern with this approach because carbon emissions may be under the jurisdiction of the Arizona Department of Environmental Quality. Commissioner Dunn, Commissioner Kennedy, and Commissioner Marquez Peterson all expressed support for an emissions-based standard. Commissioner Olson, Commissioner Dunn, and Commissioner Marquez Peterson stated they would not object to an emissions-based standard as long as it was not in addition to a technology-based standard.

Commissioner Kennedy proposed an amendment setting a 100% Carbon Emissions Limit below a Utility’s Baseline Carbon Emissions Level by 2050, with interim targets.

Commissioner Dunn articulated concern with any requirement tied to 2030, rather than 2032, due to potential early closures at Four Corners and Springerville power plants, which would result in the loss of many jobs and economic opportunities before the end of the decade. The Commission voted to change the 2030 interim target to 2032.

Chairman Burns stated that the Energy Rules put forth by the sitting Commission would essentially become a recommendation for the next Commission. Chairman Burns further stated that Commissioner Kennedy would be on the future Commission and he would support a proposal supported by Commissioner Kennedy.

The Commission recessed the Energy Rules discussion until the October 29, 2020 special open meeting to give the Commissioner’s time to develop a rules package that would have at least three votes.

