

BACKGROUND

-- On August 5, 2011, the Arizona Water Company (“AWC”) filed with the Arizona Corporation Commission an application requesting adjustments to its rates and charges for utility service provided by its Eastern Group water systems, including its Superstition (Apache Junction, Superior, and Miami); Cochise (Bisbee and Sierra Vista); San Manuel; Oracle; SaddleBrooke Ranch; and Winkelman water systems.

-- AWC provides water utility service to approximately 84,300 customers through 19 water systems located in Cochise, Coconino, Gila, Maricopa, Navajo, Pima, Pinal, and Yavapai counties. AWC's water systems are organized into three groups: the Northern Group, the Eastern Group, and the Western Group.

-- AWC's Eastern Group includes the following water systems, which are geographically dispersed and located in Maricopa, Pinal, Gila, and Cochise counties: Apache Junction, Superior, and Miami (collectively known as the Superstition Division); Bisbee and Sierra Vista (collectively known as the Cochise Division); and San Manuel, Oracle, SaddleBrooke Ranch, and Winkelman.

-- The Eastern Group covers approximately 266 square miles of territory and has more than 600 miles of water main in service. AWC's Eastern Group's water systems serve approximately 33,437 customers, as follows: Superstition Division-23,792; Cochise Division-6,404; San Manuel- 1,476; Oracle-1,521; SaddleBrooke Ranch-89; and Winkelman- 157.

-- On February 20, 2013, the Commission granted AWC a rate increase for its Eastern Group systems. Among other things, the Commission awarded AWC a 10.55 return on equity (“ROE”) which is higher than what the Commission had recently awarded in the Company's Western Group case in order to allow for the replacement and repair of the Company's aging infrastructure.

-- The Commission further held the rate case open to conduct additional hearings for the consideration of another mechanism which would also allow the Company to address the costs associated with the repair and replacement of the same aging infrastructure. This mechanism, known more commonly as a Distribution System Improvement Charge (“DSIC”) was the subject of the follow-up hearings. These hearings were held and, on May 28, 2013 the Administrative Law Judge, Dwight Nodes, issued his Recommended Opinion and Order (“ROO”).

-- Judge Nodes approved a DSIC mechanism known as the System Improvement Benefits mechanism (“SIB”) but recommended that the “...10.55 percent ROE” be adjusted downward to 10 percent “to reflect the commonality of purpose.” On June 27, 2013, the Commission, in Decision No. 73938, rejected the ROO and approved the SIB and the higher 10.55 percent ROE.

-- On July 17, 2013, RUCO requested rehearing on two issues: the duality of purpose associated with the higher ROE and the legality of the SIB under Arizona law.

-- The Commission thereafter granted RUCO's request for rehearing and on March 24, 2014, after another round of hearings, the same Administrative Law Judge, Dwight Nodes, issued his Recommended Opinion and Order ("ROO"). The Judge, on rehearing, was persuaded by RUCO's arguments and concluded that "the 10.55 percent ROE no longer reflects a reasonable or appropriate cost of equity for AWC's Eastern Group systems and should therefore be reduced to 10.0 percent."

-- The Judge also recognized again the duplicative nature of awarding both the higher ROE and the SIB stating that among the reasons he was recommending the reduction to the ROE was "...due to the duplicative purpose of the increased ROE in Decision No. 73736 (from 10.0 to 10.55 percent) to recognize "the age of some of its systems and the resulting increased need for infrastructure replacement and improvement. . . ." (Decision No. 73736, at 61.)."

-- On April 7, 2014, the Commission held its Open Meeting. The Commission for a second time rejected the proposed ROO. Commissioner Gary Pierce proposed an amendment to the ROO, which had the effect of upholding the Commission's previous Decision (Decision No. 73938) awarding the Company both the higher 10.55 ROE and the SIB.

-- RUCO has since filed its Notice of Appeal to the Arizona Court of Appeals and among other things continues to argue that the SIB is illegal under Arizona law.

-- The adoption of both a higher ROE and a SIB mechanism establishes a dangerous precedent and encourages companies to seek both a SIB and higher ROE to address the same infrastructure needs, effectively resulting in double recovery. While it might seem obvious – it still needs to be said -- Ratepayers should not pay twice for the same infrastructure.