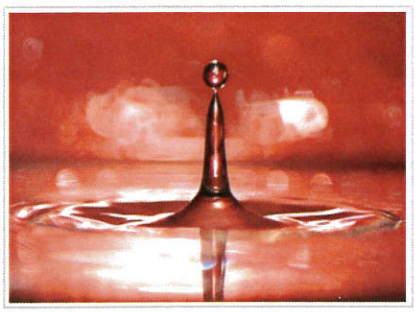
YELLOW SHEET REPORT

RUCO TAKES CORP COMM TO COURT

August 11, 2014 4:17 pm 0



A water fight involving the Residential Utility Consumers Office, the Corp Comm and a water company is boiling over. At issue is a mechanism adopted by the commission to allow a water company to recover capital costs – and thereby hike rates – in between rate cases. After failing to persuade the commission to award a water company a smaller rate of return, RUCO has gone to court in the hopes of striking down the new recovery mechanism. In its filing on Thursday, RUCO asked the Court of Appeals to conclude that the System Improvement Benefits (SIB) mechanism is unconstitutional, and that the commission acted unreasonably and arbitrarily in approving a higher return on equity for a water company while also embracing the SIB mechanism. The issue is critical, as other utility companies are likely closely monitoring the SIB's fate in court. "Electric companies have to be looking at this big time," RUCO Director Patrick Quinn told our reporter this morning. If the idea behind SIBs is to allow a company to recover costs for replacing obsolete or fully depreciated infrastructure, "well, why couldn't that be electric lines some place?" Quinn said. If upheld, the mechanism is likely to become a popular route for regulated companies that do not want to wait for a rate case to recover costs and find out their allowable profit margins. In June, Bitter Smith vigorously defended the mechanism, calling its approval "historic and important for the future of the State of Arizona's water customers." Bitter Smith agrees that the adoption of SIBs will reverberate beyond one water company. "There are over 300 water companies in Arizona, and many of them are small rural companies with aging infrastructure, which has not been repaired for years. Our decision will insure that Arizonans will have a secure water delivery future," she wrote last year (LINK). But there is fear that SIBs might eliminate the need for rate cases, which are much more comprehensive and which RUCO believes to be more equitable, said RUCO staffer Daniel Pozefsky. To the consumer watchdog agency, SIBs are plainly unconstitutional, as they depart from the "fair value" system when increasing utility rates. RUCO offered other arguments against the mechanism, notably that the infrastructure improvements at issue are routine and there's nothing extraordinary about replacing old assets like water pipes. In its brief to the appellate court, RUCO said that, if left unchecked, the SIB mechanism "will continue on a path to undermine the important consumer safeguard required by the Constitution." A copy of RUCO's filing can be viewed in the "documents" section.