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Andy Tobin
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ARIZONA CORPORATION COMMISSION

April 15, 2019

RE: DISSENT TO EMERGENCY RATE INCREASE FOR EPCOR WATER ARIZONA INC
Docket No. WS-01303A-19-0011

My Fellow Commissioners, Ratepayers of Arizona, and the Residents of EPCOR Water Arizona, Inc. in Agua Fria, Anthem, Chaparral, Havasu, Mohave, North Mohave, Paradise Valley, Sun City, Sun City West, Tubac, and Willow Valley Water Districts:

On March 28, 2019, the Commission voted 3-2 to approve an interim rate increase for EPCOR Water Arizona in the amount of $8.66 Million. EPCOR is the largest regulated water monopoly in Arizona. Wholly owned by a foreign municipality, Edmonton, Alberta, Canada, the company had annual revenues of $107.98 Million before the Commission's approval.

With the Commission-approved interim rates, customers in EPCOR's Anthem, North Mohave, and Sun City Districts will see average increases of over 35%. Customers in EPCOR's Mohave District will see an average increase in their monthly bills of over 25%.

Chairman Burns and Commissioners Boyd Dunn and Sandra Kennedy voted in favor of the increases.

Commissioner Justin Olson and I voted "No."

The Commission decision was objectively a mistake and I am appalled by its unjust financial impact on hard working Arizonans and the historically unprecedented process the Commission used to get it approved. I have attached a comprehensive breakdown of the history of this case, the questionable issues that came up along the way, and the events that I believe raise serious concerns regarding the Commission's potential accommodation of the largest regulated water monopoly in Arizona. Issues that I was specifically concerned with were:

- Commission Staff, for no reason I could find, adopted EPCOR's request for $57 Million in post-test year plant allowances in Docket No. 17-0257 (the Underlying Rate Case) and recommended that the Commission approve items not normally included, such as computers and company vehicles. Commission Staff had originally recommended $37.69 Million in post-test year plant but later added an additional $17.54 Million and appeared to reach a settlement with EPCOR, ultimately recommending $55.24 Million in post-test year plant allowances.

- Commission Staff testified during the Underlying Rate Case that Staff was given "new direction" from the Commission's Utilities Division regarding the inclusion of additional post-test year plant, which resulted in Commission Staff handling post-test year plant allowances differently than it had in previous matters.

- Commissioner Sandra Kennedy recused herself from the Underlying Rate Case but participated in the EPCOR interim rates vote, Docket No. 19-0011 (the Interim Rate Case), where the evidentiary support for the second vote was based on the same issues and judicial record in which the commissioner had originally recused herself.

- Commission Staff believed the Interim Rate Case ROO did not address "consolidation," even though the Underlying Rate Case and Interim Rate Case ROO's both addressed all 11 water districts in the same ROO.

- Chairman Robert "Bob" Burns has interpreted an "act" of the Commission under ARS §40-102(C) to require less than a majority of the commissioners present. Chairman Burns ruled that a tie vote in the Underlying Rate Case was an "act" of the Commission.

- Chairman Robert "Bob" Burns and Commission Staff had alternative options available to them in the Underlying Rate Case to dispose of all issues involved but chose not to exercise them nor attempt to issue a writing to memorialize the outcome of the Commission's 2-2 vote.

- EPCOR turned down an offer to negotiate post-year-year plant allowances, which would have given EPCOR $24 Million more than was proposed by Commissioner Olson in one of his amendments. His amendment would have approved only $13 Million in post-test year plant allowances, which I supported. My proposed compromise would have approved as much as $37.69 Million for EPCOR's post-test year plant, which mirrored the recommendation Commission Staff had originally made, before Commission Staff added $17.54 Million to its recommended allowance.

- The Commission abdicated its statutory duties under ARS 40-256(A) & (F)(5) by failing to issue a decision in the Underlying Rate Case that disposed of all substantive issues involved in the proceedings, including System Improvement Benefit (SIB) allowances, the appropriate amount of post-test year plant, and cross-subsidization.

- Chairman Robert "Bob" Burns directed a regulated utility to make a substantive filing at the Commission, without calling for vote of the Commission. Commission Staff normally advises the Commission that a vote is required in order to direct a utility to file a rate case. In September 2016 and August 2017 the Commission voted to require Johnson Utilities to file a rate case. Commission Staff opened the Interim Rate Case docket on behalf of EPCOR, without the utility even having filed the application or the utility having a legal obligation to do so.

- When considering the Interim Rate Case, Commission Staff admitted that there was not a "true emergency" in the traditional sense that public health and safety were at risk. Instead, Staff used "outdated rates" alone as its justification to initiate a new an emergency proceeding. As Commissioner Justin Olson identified in his letter of dissent to the Commission's Johnson Utilities rate case withdrawal decision, Johnson Utilities Company hasn't completed a rate case since August 2010,[1] yet Chairman "Bob" Burns and Commissioners Boyd Dunn and Sandra

[1] http://www.azcc.gov/commissioners/JOlson/Letters/Olson-Letter-Dissent-EPCOR-3-14-19.pdf.

Kennedy voted "yes" to allow Johnson Utilities to withdraw its rate case. EPCOR's current rates for Mohave, Paradise Valley, and Sun City water districts, on the other hand, were set as recently as 2015.[2] Certainly there is greater "emergency" for outdatedness in rates set in 2010.

- The Commission gave EPCOR a vehicle through which it could potentially increase rates for all 11 water districts, without having to conduct a fair value determination on any of them but allowing a 24-month "test year" to be used as the basis for the increases.

- The Commission predetermined EPCOR's rates to be "confiscatory" without the Commission having held any evidentiary hearings to determine whether this finding was factually or legally true. There was no finding of fact or conclusion of law that EPCOR's previous rates would have been confiscatory.

- Commission Staff volunteered more money in EPCOR's Interim Rate Case than EPCOR had even asked for. The amount was also more than would have been approved by the Commission in the Underlying Rate Case, had the Commission reached a final "decision." The Underlying Rate Case, which Commissioner Justin Olson and I opposed, would have approved a $9.4 Million increase to EPCOR's annual revenue. In the Interim Rate Case, EPCOR requested $10 Million, and Commission Staff recommended an increase of $10.3 Million, $300 thousand more than EPCOR had asked for and nearly $1 Million more than the Underlying Rate Case, upon which the Interim Rate Case was "based."

- Commission Staff advised of concerns to the Commission that its workload impeded its ability to quickly process most matters currently pending before the Commission, yet Commission Staff was able to successfully prosecute an "emergency" rate application for the largest regulated water company in Arizona in less than 60 days. The Legal Division said, "The use of interim rates is the exception, not the rule. Normally companies are small, and have issues that require immediate rate relief." The most recent emergency rate cases Commission had completed were for small water companies that had less than 1,000 customers, under $250 thousand in annual revenue, and true water emergencies threatening their customers' right to clean, safe, and reliable water service. The Commission's prosecution of the Interim Rate Case grossly broadened the scope of the Commission's Emergency Surcharges process established by the Commission's Water Policies Work Group and Small Water Ombudsman's Office in Decision No. 75743,[3] which sought to "lessen the regulatory obligations" on "Class C, D [and] E water [and] wastewater utilities that face a water supply emergency." EPCOR Water Arizona is a Class A utility because it makes over $10 Million in annual revenue each year.[4]

- The Commission gave EPCOR Special Open Meeting dates on two separate occasions, once to vote on its Underlying Rate Case, and again on its Interim Rate Case. These Special Open Meetings are certainly rare since the Commission rarely, if ever, has given another Class A utility its own Special Open Meeting dates to consider and vote on their ROOs. The last Special Open

[2] http://docket.images.azcc.gov/0000161905.pdf.
[3] http://docket.images.azcc.gov/0000173419.pdf.
[4] Ariz. Admin. Code R14-2-103.

> Meeting I can recall that the Commission held for a Class A water utility was for Johnson Utilities Company, when raw sewage was spilling into the streets and public health and safety were truly at risk. That crisis took 18 months from the date I first recommended that the Commission investigate Johnson Utilities to appoint an interim manager. To my knowledge, none of the most recent emergency rate cases completed at the Commission for small water companies were given their own Special Open Meeting dates, as EPCOR had. Oak Creek, Monte Vista, Walden Meadows, Cordes Lakes, Gonzales Utility, Truxton Canyon, Lake Verde, and Green Acres all had to wait for normal Open Meeting dates to receive their respective relief.

As outlined above, the Commission's handling of the Underlying Rate Case begs serious questions regarding the legality of the Commission's decision and nondiscretionary treatment of EPCOR's 133,000 water customers. The Commission has failed to follow its normal process for this decision, and I would not be surprised if its citizens joined together in a rate referendum under ARS §40-246(A).

We currently have a another §40-246 complaint on another large rate case, where the average bill impact was estimated to be 4%. Here, customers in EPCOR's Paradise Valley, Sun City West, Chaparral, Willow Valley, Mohave, Anthem, North Mohave, and Sun City Districts are estimated to see bill impacts of anywhere between 7% to 35%. Clearly, we shouldn't be surprised if the citizens make their voices heard.

After warnings from the Bullhead City mayor of a potential condemnation, this Commission acted at "light speed" to provide more revenue to EPCOR and, while no emergency existed except for the emergency of ratepayers having to shuffle their monthly budgets to account for significant rate increases, I have never seen the Commission as zealous as it was with EPCOR to prioritize the interests of one of Arizona's largest regulated monopolies over the "rate shock" concerns of the public. How the Commission allowed EPCOR to maneuver 11 water districts into a single "emergency" without having to conduct evidentiary hearings on the status of each system is incomprehensible and clearly susceptible to appeal. The strategy allowed 11 districts to slide through the Commission process without having to make a fair value determination on any of them but allowing EPCOR to adopt nearly two years' worth of "test-year" capital as the basis for the amount of the entire increase.

While setting a date for a future rate case in 2020 effectively punted to the future the issues that remained outstanding in the Underlying Rate Case, it guaranteed immediately that higher rates for thousands of underserved and underprivileged customers in Arizona would remain locked-in for the next 12 months. Meanwhile EPCOR will comfortably gross over $116 Million in revenue per year, until the Commission properly rules on a full rate case and returns any overcollection.

As noted in the Underlying Rate Case, over 20% of customers in Mohave, North Mohave, and Sun City have annual household incomes of less than $20 thousand dollars. I agree with Commissioner Justin Olson when he states in his dissent, "To those customers, it will not matter that our Commission has deemed these increases as 'interim' rates." And just like Commissioner Olson, I believe that many customers will experience a heavy rate shock due to this Commission's abuse of process.

For the reasons outlined above, I cannot support the Commission's approval of these substantial rate increases and respectfully dissent.

Regretfully,

Andy Tobin
Commissioner

ATTACHMENT

Background/Timeline:

Wastewater Consolidation

On September 8, 2015 the Commission wrapped up a substantive rate case regarding EPCOR wastewater systems and found, based on the evidence in the docket, that socializing the cost of wastewater service across all EPCOR wastewater districts could provide potential economies of scale and other potential benefits for the company and its wastewater customers. This approach of socializing the costs and benefits of the utility's service across all service territories is also known as "cross-subsidization." In an effort to determine whether the same benefits could be gained in the company's drinking water systems, as had been found in the company's wastewater systems, the Commission ordered EPCOR to prepare a follow-up application for a consolidated rate case on all 11 of its drinking water systems. The follow-up application was to include a similar analysis regarding the cost and benefits of socializing EPCOR's rates across all water systems. Contrary to what some stakeholders may have said over this timeframe, a "consolidation" is a merger, acquisition, process, or joint filing at the Commission that treats multiple water districts or systems as a single unit for administrative or regulatory purposes. The Commission, EPCOR, members of the media, and Commission Staff often used the term "consolidation" interchangeably with "cross subsidization" when referring to "cross-subsidization." However, this use of the term "consolidation" was never correct. For purposes of the wastewater application and EPCOR's follow-up application, "cross-subsidization" was the matter of interest.

Why Cross-Subsidization Can be Controversial

The reason cross-subsidization can be a controversial issue is because it carries a potential risk for abuse. A large regulated water monopoly that wishes to recover an increased amount of revenues for otherwise "gold plated" infrastructure might be tempted to use cross-subsidization as a strategy to mask substantial rate increases across a larger number of customers. This strategy can give an otherwise large increase the appearance of a reduced rate impact per customer. While cross-subsidization can reduce the overall rate impact of legitimate infrastructure improvements, it can also force customers in lower-paying regions to pay for water demands of newer, more expensive regions. Forcing customers to pay for such demands can result in a disproportionate impact on underserved and underprivileged communities, to the benefit of otherwise affluent and high-water using customers. While such a disproportionate balance was determined not to be the case in EPCOR's wastewater filing, the Commission had yet to make this determination in EPCOR's drinking water systems. It was in the public interest for the Commission to attempt to make this determination. For purposes of the Commission's most recent EPCOR's decisions, this subsequent application of EPCOR's 11 drinking water systems is what the Commission refers to as the "Underlying Rate Case" (Docket No. WS-01303A-17-0257).

Drinking Water Consolidation (the Underlying Rate Case)

EPCOR filed a consolidated rate application on August 18, 2017 for all 11 of its drinking water districts, which included an analysis of cross-subsidization across all districts. The application also asked the Arizona Corporation Commission to increase EPCOR's annual revenue by $10 Million ($10,017,966), which would have increased EPCOR's annual revenue by 9.16% from $109.29 Million ($109,293,646) to $119.31 Million ($119,311,612). EPCOR Water Arizona is the largest regulated water utility in Arizona. Wholly owned by a foreign municipality, Edmonton, Alberta, Canada, the company had annual revenues of $107.98 Million at the time of the Underlying Rate Case.

Commission Staff processed EPCOR's consolidated application, and an administrative law judge was assigned to the Underlying Rate Case. Evidentiary proceedings commenced as per usual and one of the main issues regarded the amount of post-test year plant the Commission should allow. Rate cases are based on single "test years," which use a set, 12-month period as the basis for determining how much of a utility's capital improvements can be used as the basis for earning a rate of return. "Post-test year plant" allowances mean the Commission will allow the utility to include some amount of investments that had occurred outside of this 12-month period. EPCOR wanted the Commission to approve $59.84 Million ($59,840,091) representing 12 months of "post-test year plant" (a full year of investments beyond the single "test year").

Arizona's ratepayer advocate, the Residential Utility Consumer Office (RUCO), argued that EPCOR's post-test year plant allowance should be limited to only 6 months. RUCO believed some increase could be warranted, based on some of the evidence EPCOR presented in the evidentiary proceedings, but in no event more than $13 Million. Commission Staff disagreed. The Commission's Utilities Division first said the Commission should grant EPCOR 12 months of post-test year plant in the amount of $37.67 Million ($37,676,252). Then, the Utilities Division directed Commission Staff to implement a policy that the Commission had never established before, regarding the inclusion of expenses such as new computers and vehicles. Commission Staff changed its position and recommended that the Commission grant EPCOR 12 months of post-test year plant in the amount of $55.24 Million ($55,240,064). EPCOR did not oppose Commission's Staff's recommendation.

The most common practice at the Commission is to allow 6 months of post-test year plant for certain kinds of investments. In EPCOR's wastewater consolidation case, the Commission made an exception and granted EPCOR 12 months of post-test year plant. Along with that exception, however, the Commission admonished EPCOR that "going forward there should not be an expectation that [post-test year] plant will be approved in future rate cases unless there are circumstances that would warrant its inclusion." During the proceedings in the Underlying Rate Case, EPCOR was asked whether EPCOR's expectations for post-test year plant were the same as in EPCOR's wastewater case. EPCOR said, "I don't know. I mean yeah I guess it is."

On July 27, 2018, the Commission's administrative law judge concluded evidentiary proceedings in the Underlying Rate Case and began preparing a Recommended Order and Opinion (ROO) for the Commission to consider and vote. The ROO addressed all of EPCOR's 11 drinking water systems in the same ROO and recommended that the Commission increase EPCOR's annual revenue by $9.53 Million ($9,535,760), $482,206 less than EPCOR had requested. The recommended amount represented an increase of 8.72%, from $109.29 Million ($109,293.646) to $118,82 Million ($118,829,406). The ROO also adopted Commission Staff's recommended amount of post-test year plant of $55.24 Million ($55,240,064), which EPCOR did not oppose. The ROO allocated the recommended increase in a non-socialized approach across EPCOR's 11 water systems.

The Underlying Rate Case Cont'd (the Legislative Phase)

The Commission received the ROO on December 31, 2018 and, within 9 days, agendized the ROO for discussion purposes only on the Commission's regular Open Meeting on January 15-16, 2019. Following the Open Meeting, the Commission then agendized the ROO for Commission consideration and vote on a Special Open Meeting scheduled for January 25, 2019.

At this legislative phase of a rate case, the Commission can sometimes have possession of a ROO for several months before making a final determination on the ROO. Factors that influence the length of time the Commission may possess a ROO during this legislative phase of a rate case may include, for example, the size of the case, the number of parties involved, the number and complexity of the issues to be determined, the number of amendments and exceptions filed by commissioners and intervenors that the Commission could consider, and, if the case were filed via a consolidated application, the number of water or wastewater systems covered in the application. The evaluation of a potentially controversial issue, such as cross-subsidization across multiple water districts, can also influence the length of time. The Underlying Rate Case scored high on many of these factors.

Calling a Special Open Meeting to consider and vote on a ROO on a Class A rate case can be helpful for the Commission when there is a risk that discussion of the ROO could take time away from discussing other utilities and delay their due process. Arizona Public Service Company, however, did not receive the benefit of a Special Open

Meeting for its solar settlement rate case--and EPCOR is the analogous "APS of Water" in terms of being the largest utility in Arizona of its classification type. The Commission has processed anywhere between 10 to 20 water and wastewater applications during the same timeframe as the Underlying Rate Case without giving any of them their own Special Open Meeting dates for Commission vote.

The Commission made its first pass at reviewing and discussing the ROO in this legislative phase of the Underlying Rate Case during the Special Open Meeting on January 25, 2019. The Commissioners generally found that the evidence was insufficient to support a determination on cross-subsidization or non-cross-subsidization, and that the parties should go back to the evidentiary process to strengthen the evidentiary record on this issue. In addition, Commissioners Olson and Tobin believed that the issues regarding post-test year plant allowance, system improvement benefits, and fixed vs volumetric rates also lacked sufficient evidentiary support to approve the rate increase as recommended by EPCOR and Commission Staff and needed to go back to the hearing process for further development of the record.

RUCO noted that the standard practice at the Commission for post-test year plant is to approve 6 months of post-test year plant, if the circumstances warrant such inclusion. Commission Staff, on the other hand, argued that the Commission, in this case, should disagree with RUCO and give EPCOR 12 months of post-test year plant inclusion.

Other commissioners generally ceded to these points, but ultimately diverged from Commissioners Olson and Tobin in that they preferred to give EPCOR its preferred rate increase, *first*, and then send EPCOR and the other parties back to the hearing process, *second*. Commissioners Olson and Tobin felt fundamentally uncomfortable with that order of events, unless the Commission was willing to implement some additional safeguards, such as making the rate increase subject to a refund or reducing EPCOR's $55.24 Million post-test year plant allowance to $13 Million, as RUCO recommended.

These disagreements aside, the Commission was otherwise very engaged in its first pass at the ROO during this legislative phase of the Underlying Rate Case. After several amendments were adopted and others denied, the Commission moved to adopt the ROO "as amended." The Commission voted 2-2 on the ROO "as amended," and the motion did not pass. Commissioner Kennedy had recused herself from voting in these proceedings.

Pursuant to ARS 40-256(A) & (F)(5), the Commission "shall issue a decision establishing rates and charges for service. "Decision" means a final order that disposes of all issues involved in all parts or phases of the proceedings. Pursuant to ARS 40-102(C), an act of the Commission requires an affirmative vote of a majority of the commissioners present. A 2-2 vote is not an act of the Commission that disposes of all substantive issues, because an affirmative vote of 2 out of 4 commissioners present is less than a majority. At this point during the Open Meeting, the Commission was still properly noticed under the agendized-item, and the Commission had several options that it could have employed in order to move forward.

The Underlying Rate Case Cont'd (Options to Move Forward/ What the Commission Could Have Done Differently)

The first option is to make another motion on the underlying ROO, but this time, on the ROO "without amendments." Parliamentary Procedure does not restrict a commissioner from making a motion on any document, in any form. The document is just a vehicle. Exercising this option allows the commissioners to re-hash the original combination of amendments, re-arrange any alternative combination of amendments, make modifications to any of the original amendments, or offer new amendments, from the dais, such that the Commission could then move and vote on the ROO "as newly amended."

The second option is to table the item for the next Open Meeting, to allow the commissioners additional time to review the matter, offer new amendments, or reconsider their votes. Some commissioners may be willing to modify their previous stances on certain items, while other commissioner may be willing to meet halfway on other stances. This option gives the Commission additional time to establish a new version of the ROO that a majority of the

commissioners present can support, as it is not unusual for the Commission to take a second or even third pass at a ROO prior to its approval--particularly when the case scores high on all the factors described above.

The third option is to table the item for the next Open Meeting, to give the administrative law judge an opportunity to re-write the ROO in the negative--reflecting an opposite opinion. If there is a strong indication that a ROO will not pass (whether "as amended," "as not amended," or "as newly amended"), then some parties might argue that a written order memorializing the outcome of the 2-2 vote is nonetheless required. Such party might argue that the Commission must write an order to match the outcome. A new ROO may be written in a way that makes the result of the 2-2 vote the recommendation of the ROO. A writ of mandamus might require the Commission to agendize, discuss, and move to vote on such a ROO. A writ of mandamus might also prohibit a commissioner from abstaining from such a vote. If the Commission again fails to act, the Executive Director may have legal authority to sign, as simply a ministerial act, a written order memorializing the outcome of the Commission non-action. Some parties may feel this option protects the parties' right to due process and right to appeal.

The fourth option is to invoke the rule of necessity and permit any recused commissioners to participate in the vote. Some parties could argue that this option could also be exercised upon the failure of any of the above three options. In any event, this option, and all of the above options, and possibly others, are available to the Commission to ensure that the Commission is upholding its statutory duties under the Arizona Constitution to set just and reasonable rates. ARS 40-256(A) says, "The Commission shall issue a decision." As described above, the Commission has not issued a decision unless there is an affirmative vote of a majority of the commissioners present.

Other potential options could exist that can help the Commission dispose of all parts involved in a rate case.

The Underlying Rate Case is Over?

Following the 2-2 vote in the Underlying Rate Case, however, the Commission/Chairman did not attempt to exercise any of the above options.

Commissioner Justin Olson offered additional amendments and potential remedies in an attempt to fix the ROO, but the Chairman did not entertain his amendments. Commissioner Tobin offered a middle-ground on the amount of post-test year plant EPCOR would receive, but EPCOR turned down Commissioner Tobin's attempt to negotiate. Commissioner Tobin offered $37.69 Million in post-test year plant, which was over $24 Million higher than Commissioner Olson and Tobin's original offer of $13 Million. Chairman Burns and Commissioner Dunn had already voted to give EPCOR the full $54 Million in post-test year plant it had agree to.

Commission Staff and Chairman Robert "Bob" Burns deemed the Commission's 2-2 vote to be dispositive of all issues involved in the Underlying Rate Case and, rather than attempt to exercise any of the options above, Chairman Burns directed EPCOR to file interim rates and proceeding to adjourn the Open Meeting. Chairman Burns did not call a vote when he directed EPCOR to file interim rates. The Commission did not get a second or subsequent pass at the ROO during this legislative phase of the Underlying Rate Case. The Commission had possession of the ROO for less than 30 days before Chairman Burns declared the ROO "dead."

EPCOR Interim Rate Case (Docket Opening/Application)

On January 25, 2019, less than 3 hours after the conclusion of the Open Meeting, but 6 days before EPCOR had filed an application for interim rates, the Utilities Division opened a new docket, titled "EMERGENCY RATE INCREASE FOR EPCOR WATER ARIZONA INC," Docket No. WS-01303A-19-0011 (the "Interim Rate Case"). EPCOR had not filed an application for interim rates until January 31, 2019. It is clear that the Commission Utilities Division opened the new docket on behalf of EPCOR presumably due to the unilateral direction of Chairman Burns.

Without an affirmative vote of the commissioners present to direct EPCOR to make such a filing, EPCOR was under no legal obligation to file an interim rate application, and there was no guarantee that EPCOR would make such a filing. There was also no guarantee that an application for interim rates would result in an "increase" for any of

EPCOR's 11 drinking water systems. Use of the word "increase" in the docket's title could be seen at suggestive that Commission Staff had predetermined the docket's outcome.

EPCOR Interim Rate Case (Process/ROO)

EPCOR's Interim Rate Case was assigned to an administrative law judge, and evidentiary hearings proceedings promptly commenced. Proceedings concluded on February 21, 2019, and the administrative law judge had a ROO ready for the Commission to review by March 12, 2019.

Within 7 days, the Commission agendized the Interim Rate Case for a Special Open Meeting on March 28, 2019, to consider and vote on the ROO. Some customers might think this was unusual because the next regular Open Meeting was scheduled for April 23-24, 2019, and EPCOR only would have waited 28 more days to get a vote on its Interim Rate Case.

It has not been the standard practice of the Commission to place applications for interim or emergency rates on their own designated Special Open Meetings. The Commission had processed other interim increases and emergency surcharges for water companies during the same timeframe as the Underlying Rate Case, but none of them had received their own Special Open Meeting dates. The last Special Open Meeting the Commission held for any matter related to a regulated water monopoly was Johnson Utilities Company. The reason for that Special Open Meeting was that there was a true emergency situation which put public health and safety at risk. There was low water pressure, water outages, sanitary sewer overflows, and other circumstances that necessitated the Commission acting quicker than regular Open Meetings to select, appoint, and give operational control to a interim manager as expediently as possible.

Commissioner Sandra Kennedy also opted to participate in the ROO for interim rates, after she had recused herself from participating in the Underlying Rate Case. It is uncertain why her participation in the interim rates process was different than her participation in the Underlying Rate Case. Both ROOs: (1) addressed all of EPCOR's 11 water systems in the same ROO and (2) addressed cross-subsidization by allocating rates in a non-socialized approach/not equally across all systems.

Allowing EPCOR to file a consolidated application for interim rates for all 11 of its drinking water systems was also notable in that it provided a vehicle for EPCOR to receive increases to potentially all of its 11 drinking water systems without having to conduct a full fair value determination on any of them.

Emphasizing this point is the fact that the interim rates docket had originally listed all 11 water districts in the docket's title, just as the Underlying Rate Case docket had done. The original title was: "IN THE MATTER OF THE APPLICATION OF EPCOR WATER ARIZONA, INC. TO IMPLEMENT INTERIM RATES FOR WATER UTILITY SERVICE FOR ITS AGUA FRIA, ANTHEM, CHAPARRAL, HAVASU, MOHAVE, NORTH MOHAVE, PARADISE VALLEY, SUN CITY, SUN CITY WEST, TUBAC, AND WILLOW VALLEY DISTRICTS."[5] For reasons that remain unclear to Commissioner Tobin, Commission Staff administratively closed that docket title[6] and preferred instead the title that does not mention the 11 water districts but rather emphasizes the emergency status of the docket.

EPCOR Interim Rate Case (Unjust Outcome)

On March 28, 2019, the Commission voted 3-2 to approve the Interim Rate Case. Commissioners Robert "Bob" Burns, Boyd Dunn, and Sandra Kennedy voted "Yes" approving the ROO.

Approval of the Interim Rate Case authorized EPCOR to increase its annual revenues by $8.66 Million, from $107.98 Million to $116.64 Million (an increase of 8%). Average customers in EPCOR's Mohave District were calculated to see an increase of over 25%. Average customers in EPCOR's Anthem, North Mohave, and Sun City

[5] http://docket.images.azcc.gov/0000195376.pdf.
[6] http://docket.images.azcc.gov/0000195382.pdf.

Districts were calculated to see an increase of over 35%. Average customers in EPCOR's Paradise Valley, Sun City West, Chaparral, Willow Valley, Mohave, Anthem, North Mohave, and Sun City Districts are estimated to see bill impacts of anywhere between 7% to 15%. Customers in EPCOR's Havasu District will see no increase or decrease, and customers in EPCOR's Tubac and Agua Fria Districts are estimated to see reductions of 25% and 9%--after the Commission had approved increases for these districts of over 72% and 63% in 2015 and 2012.

The Commission had these estimates available to it prior to voting on the Interim Rate Case. The Commission also had demographic information filed in the Underlying Rate Case that showed over 20% of customers in Mohave, North Mohave, and Sun City have annual household incomes of less than $20 thousand dollars.

Commissioners Justin Olson and Andy Tobin voted "No" and issued letters in dissent.

Raises a Lot of Questions/Concerns

The Underlying Rate Case left many substantive issues unresolved and raises questions regarding the legality of the Commission's Interim Rate Case decision. The Commission did not follow its normal process for this company.