

# **TOWN** *Of* **PARADISE VALLEY**



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## **STAFF REPORT**

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**TO:** Mayor Bien-Willner and Town Council Members

**FROM:** Jill B. Keimach, Town Manager  
Andrew McGuire, Town Attorney  
Deborah Robberson, Asst. Town Attorney

**DATE:** December 2, 2021

**DEPARTMENT:** Town Attorney  
Deborah Robberson, 4800-348-3609

**AGENDA TITLE:**  
**Discussion of Status of EPCOR Water Arizona, Inc. Rate Case (Docket No WS-01303A-20-0177)**

### **SUMMARY STATEMENT:**

#### Procedural History

On June 15, 2020, EPCOR Water Arizona, Inc. (EPCOR) filed an application with the Arizona Corporation Commission (Rate Case) requesting a rate increase for 11 water districts ( Agua Fria, Anthem, Chaparral, Havasu, Mohave, North Mohave, Paradise Valley, Sun City, Sun City West, Tubac, and Willow Valley) and for consideration of consolidation proposals related to the various water districts, including the Paradise Valley Water District (PV District).

On October 3, 2020, the Town Council passed Resolution 2020-29 authorizing the Town Attorney to intervene in the rate case, to monitor the proceedings, and oppose consolidation. Subsequently, the Town Council authorized retaining outside legal counsel, the Crockett Law Group. See Crockett Retention Letter.

Originally, the Commission's decision was expected by July 2021. However, due to various circumstances, the proceedings became protracted, and the time clock requiring a decision by the Commission within 360 days of a complete application was suspended in this case.

The administrative hearing was held April 5 through April 19, 2021, in front of Administrative Law Judge Belinda Martin. As part of the administrative hearing, the Town filed testimony of its expert economist, John Thornton of Thornton Financial Consulting and of the Town's Chief Financial Officer, Doug Allen. Among other things, Mr. Thornton testified in favor of standalone rates and against consolidation based on cost-of-service principles and on other rate setting matters. Mr. Allen also testified

opposing consolidation because of the unreasonable and high subsidy Paradise Valley Water District customers would pay under the consolidation proposals and against reducing the five commodity rate tiers.

EPCOR, Utilities Division Staff, RUCO and the various intervening water districts also filed testimony. Utilities Division Staff, RUCO, and representatives of Sun City and Sun City West Water Districts, along with Paradise Valley, opposed consolidation. EPCOR submitted testimony urging some progress toward consolidation in the pending rate case, but it did not necessarily support full consolidation at this time.

Due to questions submitted by a Commissioner, the administrative hearing was reopened for additional testimony on May 6, 2021. In September 2021, Bullhead City took possession and operation of two of the water districts at issue (Mohave and North Mohave) pursuant to its condemnation action, resulting in additional filings and conference.

In March 2021, as part of the Town's effort opposing consolidation, the Town Council passed Resolution 2021-07 authorizing its attorney to file an amicus brief in a matter pending before the Arizona Supreme Court regarding consolidation of five EPCOR sewer districts. On October 2, 2021, the Arizona Supreme Court issued its opinion that, despite disparate costs of service, the consolidation of the sewer districts with common rates did not violate the Arizona Constitutional requirement for non-discriminatory rates. The Court did not reach the question of whether such rates were "fair and reasonable."

#### Recommended Opinion and Order

On November 12, 2021, the Administrative Law Judge issued the Recommended Opinion and Order ("ROO"). The ROO serves as a recommendation to the Arizona Corporation Commission. The Commission makes the final decision on rate cases and may approve the ROO or amend it by a majority vote of the Commissioners.

The ROO makes several findings on issues related to revenue requirements (which forms the basis of future rates). Based on the metrics adopted in the ROO, it is estimated that stand alone rates for Paradise Valley's average customer on a 1" meter (using 51,778 gallons of water per month) would increase 9.86%.

The ROO recommends full consolidation of all districts over a three-year period and a 3-tier rate design for all districts. This is in contrast to the 5-tier rates currently in place in the Paradise Valley Water District. The crossover points in the 3-tier design for a 1" meter are 3,000 gallons and 20,000 gallons, effectively placing all PV customers in the highest tier.

EPCOR is to file rate schedules based on the ROO's metrics and a summary of the impacts of consolidation on each district by November 26, 2021. Recently, EPCOR reached out to the Town and indicated it intends to advocate for what is termed "Scenario 1" in its upcoming filing. Scenario 1 leaves the Paradise Valley, Sun City and Sun City West Water Districts as stand-alone districts for purposes of this rate case.

"Exceptions" or disagreement with the ROO (and the additional information to be filed by EPCOR) are to be filed by December 2, 2021. The Town intends to file Exceptions, after review of EPCOR's upcoming filing.

The Open Meeting before the Arizona Corporation Commission is set (tentatively) for December 15, 2021. Members of the public are generally given the opportunity to speak on a case prior to the vote. At this time, the Open Meeting is planned to be held remotely, and information on how to “appear” and comment will be forthcoming.

Written comments may be submitted at any time using the public comment form found at this link: <https://efiling.azcc.gov/online-services/utilities-public-comment-external>

The form includes a “button” to submit. You will need the name of the company: EPCOR Water Arizona, Inc. You will also need the Docket Number: WS-01303A-20-0177. The form includes a question, “Your position on the Docket,” and provides three alternatives. The Town is “Against” the Docket

A link to the full rate case docket:

<https://edocket.azcc.gov/search/docket-search/item-detail/25363>

A link to the ROO: <https://edocket.azcc.gov/search/document-search/item-detail/291308>

Information and instructions for submitting written comments or making public comment at the Commission’s Open Meeting (December 25 @ 9:00 a.m.) will be posted on the Town’s website and included in the Town’s Weekly Update, as available.

On tonight’s Consent Agenda is a corollary item, a request for additional funds for legal and expert witness services to secure these services for fruition of the rate case.

**ATTACHMENT(S):**

- A. Staff Report
- B. Resolution 2020-29
- C. Resolution 2021-07
- D. Crocket Law Group Retention Letter
- E. Presentation