

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



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## **STAFF REPORT**

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

**FROM:** Deborah Robberson, Acting Town Attorney

**DATE:** February 11, 2021

**DEPARTMENT:** Town Attorney  
Deborah Robberson, 480.348.3609

**AGENDA TITLE:**  
**Legal Services Engagement Agreement with Crockett Law Group**

**RECOMMENDATION:**  
Approve engagement agreement with Crockett Law Group

**SUMMARY STATEMENT:**

In June 2020, EPCOR Water Arizona, Inc. filed a case with the Arizona Corporation Commission requesting a rate increase and possible consolidation of 11 water districts, including the Paradise Valley Water District (Docket No. WS-01303A-20-0177) ("Rate Case"). The other districts are: Agua Fria, Anthem, Chaparral, Havasu, Mohave, North Mohave, Sun City, Sun City West, Tubac, and Willow Valley.

Generally, EPCOR has requested a \$1,646,942 total revenue increase for its Paradise Valley Water District, which would equate to a 15.49% increase in revenues. As a stand-alone district, EPCOR estimates that a typical residential water customer with a 5/8 inch meter using 17,323 gallons per month would see a \$17.26 monthly increase in their bill. Because PV customers typically have larger meter sizes and higher water usage, EPCOR has also provided an analysis that shows that a residential customer with a 1 inch meter using 51,778 gallons per month would see a \$34.22 per month increase.

EPCOR has also presented four scenarios whereby the water districts would be consolidated and thus have rates that are blended and spread out evenly among a larger block of customers. Only one of the scenarios, Scenario 4-Total Consolidation, has the Paradise Valley District consolidated with other EPCOR Districts. If total consolidation were to be instituted by the Corporation Commission, EPCOR estimates the impact on a PV residential customer with a 1 inch meter using 51,778 gallons per month would be an \$84.99 per month increase.

Due to the large lot sizes in the Town the typical resident of Paradise Valley has an average monthly water usage that is far greater than the average use in all of the other

EPCOR water districts. Thus, rate tiers proposed by EPCOR under full consolidation scenarios will have the vast majority of the Town residents paying the higher per gallon rates that are in the top (punitive) tiers of the projected rate structure.

In October, the Town Council adopted Resolution 2020-29, which authorized the Town to intervene in the rate case and to oppose consolidation. The Town Attorney filed a motion to intervene on the Town's and its residents' behalf and also retained outside legal counsel to assist in the case due to the specialized nature of utility rate cases. Due to a conflict of interest which developed, that attorney was unable to continue to represent the Town.

This item is a request to approve a legal retainer agreement with the Crockett Law Group (Jeff Crockett) to represent the Town in the pending Rate Case. Mr. Crockett has specialized expertise in these matters, having represented clients in rate cases before the Arizona Corporation Commission for nearly 30 years. The Town will continue to argue against consolidation and will argue that the proposed rate tiers are not appropriate for the Paradise Valley Water District. Mr. Crockett also represents six resorts located in the Town of Paradise in opposing consolidation. The Town and the Resorts are able to share 50/50 in Mr. Crockett's fees for work that jointly benefits both parties, as well as fees for the expert witness retained by Mr. Crockett, John Thornton.

**POTENTIAL FUTURE CONFLICT:**

With the selection of Jeff Crockett to jointly represent the Town and the Paradise Valley Resorts, there is a potential and unlikely risk that a positional conflict could arise between the Town and the resorts, if the Town sought to shift more of revenue requirement to commercial (resorts) customers. The Town has not taken that position in the past. In proceeding with the engagement of Mr. Crockett, it is the assumption of staff that:

1. The Town would continue the direction taken in the past not to advocate to move revenue requirement from one customer class to another (i.e., commercial versus residential);
2. The Town would continue to focus its efforts against PV being a part of any consolidation of water districts and opposing reduction in residential rate tiers; and
3. In the event that the Town finds it may have a conflict, the Town would change attorneys at the direction of Town Council.

**BUDGETARY IMPACT:**

The course of litigation is hard to predict, but it is currently estimated that the Town's legal fees for Mr. Crockett's representation will be approximately \$25,000, plus additional expert witness fees of approximately \$10,000.

**ATTACHMENT(S):**

- A. Staff Report
- B. Crockett Law Group Engagement Agreement