

**GLOBAL UTILITIES**

**DOCKET NO. SW-02445A-09-0077 ET AL.**

**DIRECT TESTIMONY**

**OF**

**WILLIAM A. RIGSBY**

**ON BEHALF OF**

**THE**

**RESIDENTIAL UTILITY CONSUMER OFFICE**

**OCTOBER 26, 2009**

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1 **INTRODUCTION**

2 Q. Please state your name, occupation, and business address.

3 A. My Name is William A. Rigsby. I am a Public Utilities Analyst V employed  
4 by the Residential Utility Consumer Office ("RUCO") located at 1110 W.  
5 Washington, Suite 220, Phoenix, Arizona 85007.

6  
7 Q. Please describe your qualifications in the field of utilities regulation and  
8 your educational background.

9 A. I have been involved with utilities regulation in Arizona since 1994. During  
10 that period of time I have worked as a utilities rate analyst for both the  
11 Arizona Corporation Commission ("ACC" or "Commission") and for RUCO.  
12 I hold a Bachelor of Science degree in the field of finance from Arizona  
13 State University and a Master of Business Administration degree, with an  
14 emphasis in accounting, from the University of Phoenix. Appendix I,  
15 which is attached to my direct testimony on the cost of capital issues in  
16 this case, further describes my educational background and also includes  
17 a list of the rate cases and regulatory matters that I have been involved  
18 with.

19  
20 Q. What is the purpose of your testimony?

21 A. The purpose of my testimony is to present RUCO's positions and  
22 recommendations on a number of issues raised in the applications of  
23 Global Water - Palo Verde Utilities Company; Valencia Water Company -

1 Greater Buckeye Division; Willow Valley Water Company, Inc.; Global  
2 Water – Santa Cruz Water Company; Water Utility of Greater Tonopah,  
3 Inc.; and Valencia Water Company – Town Division (“Valencia - Town  
4 Division”) (collectively “Global Utilities” or “Company”) for permanent rate  
5 increases (“Application”) for the Company’s operations in Maricopa and  
6 Pinal Counties in Arizona. Global Utilities filed the Application with the  
7 Commission on February 20, 2009. The Company has chosen the  
8 operating period ended December 31, 2008, as the test year for the  
9 various water and wastewater systems that are the subject of this  
10 proceeding.

11  
12 Q. What issues will you address in your testimony?

13 A. My testimony will address the following issues:

14 Distributed Renewable Energy Recovery and Conservation;  
15 Infrastructure Coordination and Financing Agreements;  
16 Franchise Fee Pass-Through; and  
17 Public Private Partnership Agreements.

18  
19 Q. Will you also address the rate base and operating income issues in this  
20 case?

21 A. No. Those issues will be addressed by RUCO witness Rodney L. Moore.

22 Q. Is RUCO providing testimony on the cost of capital issues associated with  
23 the case?

1 A. Yes. As I noted earlier I have also filed, under separate cover, testimony  
2 on the cost of capital issues associated with the case.

3

4 Q. Will RUCO provide direct testimony on rate design?

5 A. Yes. On November 6, 2009, both Mr. Moore and I will file direct testimony  
6 on rate design. Mr. Moore will address the technical aspects of RUCO's  
7 recommended rate design and I will address the following issues:

8 Rate Consolidation;  
9 Phased-In Rates; and  
10 Rebate Threshold Rates.

11

12 **SUMMARY OF TESTIMONY AND RECOMMENDATIONS**

13 Q. Briefly summarize how your direct testimony is organized.

14 A. My direct testimony is organized into three sections. First, the introduction  
15 I have just presented and second, the summary of my testimony that I am  
16 about to give. Third, and finally, I will discuss RUCO's positions and  
17 recommendations regarding the various issues cited above.

18

19 Q. Please summarize the recommendations that you will address in your  
20 testimony.

21 A. I am making the following recommendations:

22

1           Distributed Renewable Energy Recovery and Conservation – RUCO is  
2           recommending that the Commission deny Global Utilities’ request for a  
3           distributed renewable energy recovery tariff which would establish an  
4           adjustor mechanism, similar to the arsenic cost recovery mechanism, to  
5           recover costs associated with plant additions that utilize renewable energy  
6           technology.

7  
8           Infrastructure Coordination and Financing Agreements – RUCO is  
9           recommending that the Commission should treat funds related to the  
10          construction of actual utility plant that are collected through the Company’s  
11          Infrastructure Coordination and Financing Agreements as contributions in  
12          aid of construction.

13  
14          Franchise Fee Pass-Through – RUCO is recommending that the  
15          Commission adopt Global Utilities request to recover a portion of the  
16          Company’s franchise fees as an operating expense as opposed to  
17          passing it through directly to ratepayers.

18  
19          Public Private Partnership Agreements – RUCO is recommending that any  
20          remaining portion of franchise fees negotiated through Public Private  
21          Agreements (that are currently being paid for by the unregulated Global  
22          Parent entity) not be recoverable in rates.

23

1 **RUCO'S POSITIONS AND RECOMMENDATIONS**

2 **Distributed Renewable Energy Recovery and Conservation**

3 Q. Briefly describe Global Utilities' request for a distributed renewable energy  
4 recovery tariff.

5 A. Global Utilities is seeking a distributed renewable energy recovery tariff for  
6 an adjustor mechanism similar to the arsenic cost recovery mechanism  
7 ("ACRM"). The Company-proposed distributed renewable energy  
8 recovery tariff would establish a surcharge to recover the costs associated  
9 with plant additions that utilize renewable energy technology. According  
10 to the direct testimony of Company witness Jamie Moe, Global Utilities is  
11 looking at utilizing empty property space, created by Arizona Department  
12 of Environmental Quality ("ADEQ") setback requirements, as a possible  
13 location for solar panels that would generate electricity to operate water  
14 and wastewater utility plant.

15

16 Q. What is RUCO's position on the Company's request?

17 A. RUCO believes that the Commission should deny the Company's request  
18 for a distributed renewable energy recovery tariff.

19

20 Q. Is RUCO opposed to the use of water or wastewater plant additions that  
21 utilize renewable energy technology?

22 A. No. RUCO has no opposition to the use of plant additions that employ  
23 renewable resources such as solar. This position was advanced in RUCO

1 Director Jodi Jerich's direct testimony in the SolarCity case that is  
2 currently before the ACC<sup>1</sup>. In her direct testimony, Ms. Jerich made it  
3 clear that RUCO is supportive of a competitive market for solar generating  
4 devices that employ the type of technology that could be used in the plant  
5 additions that Mr. Moe refers to in his direct testimony.

6  
7 Q. Why is RUCO opposed to the Company's request for a distributed  
8 renewable energy recovery tariff?

9 A. RUCO's opposition to the Company's request centers on the  
10 implementation of an adjustor mechanism to recover the costs associated  
11 with the plant additions being proposed by Global Utilities. While it is true  
12 that legislation has been passed which *encourages* the installation of  
13 devices that employ solar technology, there has been no federal or state  
14 legislation that actually *requires* individuals or businesses to actually install  
15 equipment that uses solar technology. Even more importantly, RUCO  
16 believes that uncertainties that exist regarding the financing aspects of  
17 obtaining such devices, not to mention the overall impacts that the devices  
18 may have on annual utility operation and maintenance costs, should be  
19 scrutinized in the context of a full rate case proceeding as opposed to the  
20 limited type of analysis that would occur in an ACRM filing that comes  
21 before the Commission.

22  

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<sup>1</sup> Docket No. E-20690A-09-0346

1 Q. Is RUCO opposed to the Company recovering the costs of plant additions  
2 that utilize renewable energy technologies such as solar?

3 A. No, provided that the costs of the plant additions, like the costs of any  
4 other plant additions, are prudently incurred, are known and measurable  
5 and that the plant additions themselves meet the used and useful  
6 standard. As will be explained further, the use of adjustor mechanisms  
7 should only be allowed in extraordinary circumstances when certain  
8 factors exist, as determined by case law and Commission precedent.  
9 Those factors do not exist here.

10

11 Q. Please explain why RUCO opposes the implementation of an adjuster  
12 mechanism to recover the costs of plant additions that utilize renewable  
13 technology such as solar.

14 A. There are several reasons why RUCO is opposed to the ACRM-like  
15 adjuster mechanism being proposed by Global Utilities. Adjustor  
16 mechanisms are extraordinary rate recovery devices that are permitted for  
17 certain narrow circumstances. The ACRM is a type of adjustor  
18 mechanism that was specifically designed to address a one-time event  
19 that impacted dozens of Arizona water companies simultaneously. RUCO  
20 believes that expenditures for plant additions utilizing renewable  
21 technology are not the type of expenses for which an adjustor mechanism  
22 is generally permitted, nor are they similar to the costs recovered through  
23 an actual ACRM.

1           The original ACRM was approved by the Commission to give water  
2           providers in Arizona the ability to recover the costs associated with  
3           meeting the U.S. Environmental Protection Agency's ("EPA") revised  
4           drinking water arsenic standard of 10 parts per billion. The EPA's  
5           requirement that water providers comply with the more stringent standard  
6           was in effect an unfunded mandate from the federal government. Multiple  
7           Arizona water providers had no choice but to either comply with the EPA's  
8           rule or face the consequences of being in violation of it. This being the  
9           case, representatives from the state's investor owned water companies,  
10          ACC Staff, and RUCO developed the present ACRM which allows water  
11          utilities to comply with the new EPA standard through a surcharge that  
12          was established within the context of a rate case proceeding where a  
13          constitutional finding of a utility's fair value has been established. The key  
14          point here is that the EPA's revised arsenic standard represented an  
15          extraordinary circumstance that neither Arizona's government, which  
16          includes the Commission, or the state's water companies, either investor  
17          owned or municipal, had any control over, and that would be impacting a  
18          number of water utilities simultaneously.

19          The purchase of plant additions that utilize solar technology does not fit  
20          into the type of extraordinary circumstance that resulted in the necessity  
21          for the ACRM. As I stated earlier in my testimony, there is no federal or  
22          state law or regulation, such as the revised EPA standard, that requires  
23          Global Utilities, or any other providers of water or wastewater services, to

1 install plant additions that utilize solar technology. Moreover, the  
2 Commission has recognized other conditions that might exist to warrant  
3 approval of an adjustor mechanism.

4

5 Q. Can you cite any Commission Decisions in which the Commission denied  
6 the implementation of an adjustor mechanism?

7 A. Yes. In Decision No. 68302, involving Arizona Water Company's ("AWC")  
8 requests for purchased power and purchased water adjustor mechanisms  
9 for AWC's Eastern Group systems, the Commission stated the following:

10 There is a danger of piecemeal regulation inherent in adjustment  
11 mechanisms. Because they allow automatic increases in rates  
12 without a simultaneous review of a utility's unrelated costs,  
13 adjustment mechanisms have a built-in potential of allowing a utility  
14 to increase rates based on certain isolated costs when its other  
15 costs are declining, or when overall revenues are increasing faster  
16 than costs due to customer growth. Adjustment mechanisms should  
17 therefore be used only in extraordinary circumstances to mitigate  
18 the effect of uncontrollable price volatility or uncertainty in the  
19 marketplace.

20

21

22 Likewise, in a later rate case involving AWC's Western Group systems, the

23 Commission stated the following in Decision No. 66849:

24 Although Arizona Water argues that such mechanisms benefit both  
25 the Company and ratepayers by passing on increased costs and  
26 savings, adjustment mechanisms may also provide a disincentive  
27 for the Company to obtain the lowest possible cost commodity  
28 because the costs are simply passed through to ratepayers.

29

30

31

1           In both of the aforementioned cases, the Commission denied AWC's  
2           requests for adjustor mechanisms. That said, RUCO believes that the  
3           purchase and installation of plant additions that employ solar technology  
4           does not necessitate the need for single issue ratemaking practices such  
5           as the implementation of an ACRM-like mechanism and the surcharge  
6           associated with it.

7

8   Q.    Would RUCO be opposed to Global Utilities' request for an ACRM that  
9           recovers the cost of plant additions that are directly related to the removal  
10          of arsenic from the Company's various water sources?

11   A.    No. As I've explained above, that is the original purpose of the ACRM  
12          mechanism.

13

14   Q.    Please explain RUCO's concerns regarding the financing aspects of  
15          obtaining such devices.

16   A.    RUCO's concerns center on the possibility of imprudent decisions  
17          regarding the financing and leasing arrangements for the types of plant  
18          additions being proposed by the Company. As is the case with purchased  
19          gas or purchased power contracts, the actual terms of the financing or  
20          purchase agreements associated with the proposed additions may not get  
21          the full consideration or analysis that they would receive in a full rate case  
22          proceeding. RUCO believes that ratepayers should not be exposed to the  
23          possible risk of experiencing poor service or having to pay additional

1 costs, passed through an ACRM-like mechanism, that could result from  
2 unforeseen technical problems that are not covered under the purchase  
3 agreements or financing arrangements that the Company enters into with  
4 the manufacturer of the plant additions that utilize solar technology. While  
5 an argument could be made that such problems could be cured in a formal  
6 rate case proceeding before the Commission, the question is why should  
7 ratepayers have to endure possible economic harm through an ACRM-like  
8 mechanism that isn't mandated under federal or state laws or regulations.  
9

10 Q. Don't current concerns about possible climate change resulting from  
11 carbon emissions override the risks that you've just outlined?

12 A. No. Even though there is concern regarding possible climate change  
13 resulting from carbon emissions, there is no law or regulation currently in  
14 effect that requires individuals or businesses to purchase and install the  
15 types of devices that Global Utilities wants to employ in the operation of  
16 the Company's plant facilities.  
17

18 Q. Please explain why RUCO believes that the overall impact that the  
19 proposed plant additions may have should be scrutinized in the context of  
20 a full rate case proceeding as opposed to the limited type of analysis that  
21 would occur in an ACRM filing?

22 A. RUCO believes that this concern applies to any type of plant addition  
23 regardless of the type of technology being employed. The type of limited

1 analysis that takes place in an ACRM filing does not take into analysis the  
2 overall impact that plant additions have on the costs associated with utility  
3 plant operation and maintenance. This type of analysis can only be  
4 performed in the context of a full rate case proceeding. While the  
5 Company touts the advantages of lower costs for purchased power, it is  
6 unknown what other types of cost increases or decreases could result  
7 from the installation and operation of new plant additions including those  
8 that employ solar technology. For the reasons stated above, RUCO  
9 believes that the Commission should reject the Company's request for a  
10 distributed renewable energy recovery tariff that allows for the recovery of  
11 costs through an adjustor mechanism.

### 13 **Infrastructure Coordination and Financing Agreements**

14 Q. What are Infrastructure Coordination and Financing Agreements?

15 A. According to Company witness Mathew J. Rowell, Infrastructure  
16 Coordination and Financing Agreements ("ICFA") are voluntary  
17 agreements that are entered into between the parent of Global Utilities  
18 ("Global Parent") and developers who operate in the Company's  
19 certificated service territories. Mr. Rowell states that, in some instances,  
20 ICFA agreements provide the unregulated Global Parent entity with funds  
21 for services, other than funds intended for the construction of utility plant  
22 to serve new developments, which Global Parent pays taxes on.

23

1 Q. Why has Global Utilities raised the issue of ICFA's in the Company's direct  
2 testimony?

3 A. Global Utilities is opposed to treating the ICFA's as either advances-in-aid-  
4 of-construction ("AIAC") or contributions-in aid-of-construction ("CIAC").  
5 Instead, Global Utilities takes the position that ICFA funds related to plant  
6 additions, collected by the unregulated Global Parent entity, should be  
7 treated as plant additions to rate base financed by investor supplied  
8 capital.

9  
10 Q. Does RUCO agree with the Company that ICFA's should not be treated as  
11 AIAC?

12 A. Yes. According to Mr. Rowell's testimony, the ICFA funds obtained from  
13 developers are non-refundable. This being the case, RUCO does not  
14 believe that funds obtained through ICFA's meet the definition of an AIAC.

15  
16 Q. Does RUCO agree with the Company that funds obtained from ICFA's  
17 should not be treated as CIAC?

18 A. No. Based on RUCO's review of the ICFA's obtained through discovery,  
19 ICFA funds that are intended to provide utility plant that is used to serve  
20 new development should be treated as CIAC.

21

22 ...

23

1 Q. What is RUCO's opinion on the way that the ICFA agreements are  
2 negotiated and implemented?

3 A. RUCO believes that the current arrangement between developers and the  
4 unregulated Global Parent has been set up in order to avoid the traditional  
5 process of entering into a line extension agreement that has to be  
6 reviewed by ACC Staff and approved by the Commission. The current  
7 arrangement also shifts risk entirely onto ratepayers who will have to pay  
8 rates that provide a return on and a recovery of developer provided funds  
9 used to construct new plant which is treated as an addition to rate base –  
10 as opposed to a CIAC which would be treated as a deduction to rate base.

11

12 Q. Do the arguments advanced by Mr. Rowell regarding carrying costs carry  
13 any weight in RUCO's opinion?

14 A. No because funds provided by a third party developer, for the purpose of  
15 constructing plant to serve new development, to Global Parent are actually  
16 zero cost sources of capital and should be treated accordingly. In fact  
17 Global Parent, as could Global Utilities under a line extension agreement,  
18 can park the collected funds in an interest bearing account and earn  
19 interest income on them until they are actually used to construct plant.  
20 Other funds for services rendered by Global Parent, which are unrelated  
21 to the Global Utilities, should be treated as revenues subject to taxes on  
22 the books of the Global Parent entity as Mr. Rowell states is currently  
23 happening.

1 Q. Do Mr. Rowell's examples of cases in which the use of AIAC's and hook-  
2 up fees have resulted in less than satisfactory results justify the  
3 Company's position on ICFA's?

4 A. Not really. While no method of financing utility plant is perfect, Mr. Rowell  
5 also explains that in the instant case, Global Parent has made the  
6 decision not to seek recovery of unused plant in the Santa Cruz Water  
7 Company and the Palo Verde Utilities Company because of the slowdown  
8 in growth that has occurred in the Southwest Maricopa area. Had the  
9 Company booked the funds associated with this unused infrastructure as  
10 CIAC it would not have to take such action, which in RUCO's opinion,  
11 could have resulted in a determination of excess capacity and the denial  
12 of rate base treatment. Furthermore, the Company's ratepayers would  
13 have been shielded from the situation without any action on the part of  
14 Global Parent.

15  
16 Q. Is RUCO making any rate base adjustments to remove plant that has  
17 been funded by ICFA's?

18 A. No. RUCO is unaware of any type of determination that the Commission  
19 has made regarding ICFA's to date. For that reason, RUCO believes that  
20 a Commission decision that adopts RUCO's recommendation to treat  
21 funds collected through ICFA's, for the purpose of constructing plant for  
22 new development, as CIAC should be implemented on a going forward  
23 basis

1 **Franchise Fee Pass-Through**

2 Q. What is Global Utilities requesting in regard to franchise fees?

3 A. As explained in Mr. Moe's direct testimony, Global Utilities is requesting  
4 that it be permitted to recover a portion of a municipal franchise fee,  
5 presently being paid by the Global Parent entity, from the Company's  
6 ratepayers through either an increase in operating expenses or a pass-  
7 through mechanism. Another portion of the franchise fee would be paid  
8 by the unregulated Global Parent entity under the provisions of certain  
9 Public Private Partnerships Agreements (which is the next issue I will  
10 address in my direct testimony).

11

12 Q. What is RUCO recommending in regard to the Company's franchise fee  
13 request?

14 A. RUCO is recommending that the Commission allow the Company to  
15 increase operating expenses in order to allow recovery of the Company-  
16 requested portion of the franchise fee in customer rates.

17

18 Q. Has RUCO made an adjustment to the Company's operating expenses to  
19 include the franchise fee in customer rates?

20 A. Yes. As explained in the Testimony of RUCO witness Rodney L. Moore,  
21 RUCO has made the appropriate adjustment to include the Company  
22 requested franchise fee in rates.

23

1 **Public Private Partnership Agreements**

2 Q. Please describe Global Utilities' public private partnership ("P3")  
3 agreements.

4 A. According to the testimony of Company witness Trevor Hill, P3  
5 agreements are agreements entered into by the unregulated Global  
6 Parent entity and several of the cities and towns that Global Utilities  
7 serves. The agreements cover such things as regional planning,  
8 municipal obligations under Arizona's growing smarter legislation,  
9 emergency services coordination, and access to public streets rights of  
10 way. Mr. Hill stated that Global Parent is presently making payments of  
11 franchise fees associated with the P3 agreements. This includes the  
12 portion of franchise fees that RUCO is recommending be treated as an  
13 operating expense.

14

15 Q. Is RUCO opposed to P3 agreements?

16 A. RUCO is not opposed per se to the P3 agreements that the unregulated  
17 Global Parent entity enters into with cities or towns that the Company  
18 serves. However, RUCO is concerned that Global Utilities may want to  
19 pass through fees that involve additional types of services that would not  
20 normally be included in a franchise fee (normally, franchise fees include  
21 such things as public streets rights of way, police or fire assistance during  
22 construction, street paving, etc.).

23

1 Q. What is RUCO's recommendation on this issue?

2 A. RUCO is recommending that any remaining portion of franchise fees  
3 negotiated through P3 agreements (that are currently being paid for by the  
4 unregulated Global Parent entity) that are not associated with services  
5 typically included in a municipal franchise fee not be recovered in rates.  
6

7 Q. Is RUCO comfortable that its recommendation on the inclusion of a portion  
8 of the franchise fees associated with P3 agreements will provide an  
9 adequate safeguard against the scenario you've just described?

10 A. Yes. RUCO's recommendation on franchise fees is limited to three  
11 percent of operating revenues and does not allow for a direct pass through  
12 to the Company's ratepayers. The fees would also be subject to review in  
13 any future rate case proceedings to insure that they only cover the types  
14 of costs that would customarily be assessed in a franchise fee from a  
15 municipal entity.  
16

17 Q. Does your silence on any of the issues, matters or findings addressed in  
18 the testimony of any of the witnesses for Global Utilities constitute your  
19 acceptance of their positions on such issues, matters or findings?

20 A. No, it does not.  
21

22 Q. Does this conclude your testimony on Global Utilities?

23 A. Yes, it does.