

Tucson’s differential water rates ‘unreasonable as a matter of law,’ court rules

Pima County, Arizona sent this bulletin at 09/15/2023 02:44 PM MST

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PIMA COUNTY, Sept. 15, 2023 – Tucson cannot charge Tucson Water customers in the unincorporated County more for their water than what city customers pay unless a real cost study supports such a decision, a Maricopa County Superior Court judge ruled Sept. 11.

Judge Randall H. Warner granted the County’s motion for summary judgment in its lawsuit against the City of Tucson, writing, “Having concluded that ARS 9-511.01 requires water rates to be grounded in cost, the next question is whether Tucson’s differential rates satisfy that requirement. They do not. When Tucson set the rates, it did not base them on costs or other financial data.” Additionally, he concluded “The challenged rates are unreasonable as a matter of law because, on the undisputed facts, Tucson did not set them based on cost data.”

Tucson raised the rates for unincorporated County customers in December 2021. The Pima County Board of Supervisors subsequently voted to sue the City, arguing that the City’s decision was not based on actual cost of service, that the rates were arbitrary and did not treat customers equally under the law. The court agreed with the County’s position.

“It’s a relief to know that ratepayers in the unincorporated County will not be treated differently than other Tucson Water users in the County. This is not a matter that needed to go to court—we spent more than a year asking and even pleading with the City to reconsider this unfair and illegal action against its neighbors. This outcome helps to make things right. We’re all in this together when it comes to water, and my hope is that we can move forward with respectful cooperation in the future,” said District 3 Supervisor Sharon Bronson

The City Council worked diligently to avoid judicial review of the unsupported rate increase. In 2022, the Council voted to exempt the County from paying the higher rates in an attempt to eliminate the County’s ability to continue to pursue the lawsuit. Judge Warner then repeatedly ruled the County could pursue the case and the City “cannot voluntarily deprive [the County] of that standing in the middle of litigation.”

“We made the difficult decision to pursue this lawsuit because we needed to safeguard the rights of our constituents and all ratepayers,” said District 1 Supervisor Rex Scott. “Many of them have been Tucson Water customers for decades and they were forced to pay more for their water solely because of where they live or work. I am proud and grateful that the court has made this just and proper decision.”

District 4 Supervisor Steve Christy also lauded the ruling.

“I am confident my Tanque Verde and Greater Vail constituents share my gratitude that the court recognized this arbitrary action taken by the City of Tucson was misguided and neither just nor reasonable,” Christy said.

The City has not provided notice on when it will start complying with the Court’s order and the impact on past and future water payments.

[Read Judge Warner’s ruling.](#)

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