JANICE K. BREWER
Governor

HERBERT R. GUENTHER
Director

ARIZONA DEPARTMENT OF WATER RESOURCES

3550 North Central Avenue, Second Floor
PHOENIX, ARIZONA 85012-2105
(602) 771-8500

September 29, 2010

Via Certified Mail
7004 2510 0000 8660 0980

City of Peoria
Carl Swenson
City Manager
8401 W Monroe
Peoria, AZ 85345

Re: Designation of Assured Water Supply (DWR No. 86-400679.0001)
City of Peoria

Dear Mr. Swenson:

I am pleased to inform you that the Arizona Department of Water Resources has approved the Modification of the City of Peoria's Designation of Assured Water Supply. We have enclosed the formal Decision and Order. The Decision and Order includes an itemization of the City of Peoria's responsibilities in maintaining the Designation.

The City of Peoria's status as a designated water provider demonstrates that the City of Peoria is taking a long-term perspective in managing water resources. The City of Peoria's commitment to sound water management represents a major contribution to the State's water management goal of achieving safe-yield in the Phoenix Active Management Area.

If you have any questions regarding these documents, please contact Scott Miller at (602) 771-8604.

Sincerely,

Sandra Fabritz Whitney
Assistant Director

cc: Via electronic mail:
Robin Bain, City of Peoria
Robin King, Arizona Department of Real Estate
J. Scott Miller, Manager, Groundwater Permitting and Wells

DEPARTMENT OF WATER RESOURCES

BEFORE THE DIRECTOR

IN THE MATTER OF THE APPLICATION OF THE CITY OF PEORIA FOR A DESIGNATION AS HAVING AN ASSURED WATER SUPPLY	)	**AWS No. 2010-009**
	)	**DECISION AND ORDER**
	)	**No. 86-400679.0001**

I. INTRODUCTION

On March 18, 2009, the Department of Water Resources ("Department") received an application from the City of Peoria ("Peoria") requesting that the Department modify Peoria's designation of assured water supply pursuant to A.R.S. § 45-576 *et seq.* and A.A.C. R12-15-701 *et seq.* On July 15, 2010 and July 22, 2010, the Department gave public notice of the application pursuant to A.R.S. § 45-578. One objection to the application was filed with the Department.

After receiving Peoria's application to modify its designation of assured water supply, the Department reviewed relevant information regarding the modification request, including: 1) hydrologic information and other information on file with the Department for the proposed groundwater supply; 2) information regarding Peoria's consistency with the management plan and the management goal of the Phoenix Active Management Area ("Phoenix AMA"); 3) information regarding Peoria's financial capability to construct the necessary delivery system, treatment works and storage facilities; and 4) the issues raised by the objection to the application. Based on that information, the Department makes the following Findings of Fact, Conclusions of Law and Order of Designation and Conditions of Designation:

II. FINDINGS OF FACT

A. General

1. Peoria is a city incorporated in accordance with Article XIII of the Arizona Constitution.

2. Peoria has the legal authority to deliver water to its customers located within its service area.

3. Peoria currently serves water through its municipal distribution system to its customers.

4. On October 14, 2002 Peoria was designated as having an assured water supply in Decision and Order AWS 2002-05, No. 26-400679.

B. Water Demands

5. Peoria's current demand as of calendar year 2009 is 27,388 acre-feet per year ("current demand").

6. Peoria's committed demand as of calendar year 2009 is 2,418 acre-feet per year ("committed demand").

7. Peoria's projected demand in 2025 is 34,434.9 acre-feet per year ("2025 projected demand"). The 2025 projected demand does not include the current demand or the committed demand, but does include the demand at build-out of plats reasonably projected to be approved through calendar year 2025.

8. Peoria's annual estimated water demand in 2025, which is the sum of its current demand, committed demand, and 2025 projected demand, is 64,240.90 acre-feet per year ("2025 annual estimated water demand").

C. Physical Availability of Groundwater and Stored Water Recovered Outside the Area of Impact

9. Peoria has demonstrated that after withdrawing 399,463 acre-feet, or an average of 3,994.63 acre-feet per year over 100 years, of groundwater and stored water recovered outside the area of impact (*see* Finding of Fact No. 25), the depth-to-static water level within Peoria's service area is not expected to exceed 1,000 feet below land surface. For purposes of this Decision and Order, that volume includes the following:

   a. 67,702.07 acre-feet, or an average of 677.02 acre-feet per year over 100 years, of existing long-term storage credits to be recovered outside the area of impact. See Finding of Fact No. 27.

b. 8,316 acre-feet, or an average of 83.16 acre-feet per year over 100 years, of groundwater that Peoria may use to supplement its surface water supplies, pursuant to A.A.C. R12-15-717(C)(3). See Finding of Fact No. 36.

c. 5,047 acre-feet, or an average of 50.47 acre-feet per year over 100 years, of groundwater that Peoria may use to supplement its CAP water supplies, pursuant to A.A.C. R12-15-717(D)(2). See Finding of Fact No. 44.

d. 7,000 acre-feet, or an average of 70 acre-feet per year over 100 years, of groundwater that Peoria may use to supplement its GRIC leased CAP water in calendar year 2109, pursuant to A.A.C. R12-15-718(M)(2). See Finding of Fact No. 42.

e. 311,398 acre-feet, or an average of 3,113.98 acre-feet per year over 100 years, of groundwater to meet annual demands. See Finding of Fact No. 17.

D. Groundwater

10. Peoria has demonstrated that it has wells of sufficient capacity to withdraw at least 51,799 acre-feet per year of groundwater for 100 years.

11. Peoria has the right to withdraw and deliver groundwater to its customers pursuant to service area right No. 56-002029.

12. As of the date of this Decision and Order, Peoria's current groundwater allowance is 116,420 acre-feet, or an average of 1,164.2 acre-feet per year over 100 years, pursuant to A.A.C. R12-15-724(A)(2).

13. Pursuant to A.A.C. R12-15-724(A)(4), the Director shall add a volume for incidental recharge to Peoria's groundwater allowance for each calendar year, based upon its total water use from any source in the previous calendar year.

14. Based on its reported water use within its service area for calendar year 2008, Peoria's incidental recharge volume for calendar year 2009 is 1,166.20 acre-feet.

15. If Peoria delivers 59,792 acre-feet per year of water for use within its service area in calendar year 2024, its incidental recharge volume for calendar year 2025 will be 2,391.68 acre-feet ("2025 incidental recharge volume").

16. The sum of Peoria's current groundwater allowance and 2025 incidental recharge volume is 3,555.88 acre-feet per year. This volume of groundwater will be consistent

with the management goal each year for 100 years and exceeds the sum of the volumes described in Findings of Fact Nos. 17 and 18.

17. Peoria has demonstrated that an average of 3,113.98 acre-feet per year of groundwater to meet annual demands will be physically, continuously and legally available for 100 years and consistent with the management goal of the Phoenix AMA.

18. In addition to the groundwater supplies described in Finding of Fact No. 17, Peoria has demonstrated that 7,000 acre-feet, or an average of 70 acre-feet per year over 100 years, of groundwater that Peoria may use to supplement its GRIC leased CAP water in calendar year 2109, pursuant to A.A.C. R12-15-718(M)(2), will be physically, continuously and legally available and consistent with the management goal. See Finding of Fact No. 42.

19. In addition to the groundwater supplies described in Findings of Fact Nos. 17 and 18, Peoria has demonstrated that the following volumes of groundwater will be physically, continuously and legally available:

a. 8,316 acre-feet, or an average of 83.16 acre-feet per year over 100 years, of groundwater that Peoria may use to supplement its surface water supplies, pursuant to A.A.C. R12-15-717(C)(3). See Finding of Fact No. 36.

b. 5,047 acre-feet, or an average of 50.47 acre-feet per year over 100 years, of groundwater that Peoria may use to supplement its CAP water supplies, pursuant to A.A.C. R12-15-717(D)(2). See Finding of Fact No. 44.

E. Storage and Recovery

20. Peoria holds Water Storage Permit No. 73-552498.0001, which allows storage of up to 4,480 acre-feet per year of Effluent at the Beardsley Road Wastewater Treatment Plant.

21. Peoria holds Water Storage Permit No. 73-569775.0400, which allows storage of a maximum volume of 9,000 acre-feet per year of CAP water at the Managed Agua Fria Recharge Facility.

22. Peoria holds Water Storage Permit No. 73-569776.0400, which allows storage of a maximum volume of 9,000 acre-feet per year of CAP water at the Constructed Agua Fria Recharge Facility.

23. Peoria holds Water Storage Permit No. 73-584466.0300, which allows storage of a maximum volume of 10,000 acre-feet per year of CAP water at the Hieroglyphic Mountain Recharge Facility.

24. Peoria holds Water Storage Permit No. 73-588558.0500, which allows storage of a maximum volume of 14,600 acre-feet per year of effluent at the New River Agua Fria Underground Storage and Recovery Project.

25. Peoria holds Recovery Well Permit No 74-572707.0008, which allows recovery of a total of 78,803 acre-feet per year, of which 6,054 acre-feet per year may be recovered within the area of impact of storage.

F. Long-Term Storage Credits

26. As of December 31, 2008, Peoria holds 67,702.07 acre-feet of long-term storage credits.

27. Peoria has demonstrated that up to 67,702.07 acre-feet, or an average of 677.02 acre-feet per year over 100 years, of long-term storage credits to be recovered outside the area of impact are physically, continuously and legally available for 100 years, for purposes of this Decision and Order.

G. Treatment Facilities for Surface Water Including CAP Water

28. Peoria currently has sufficient treatment capacity to treat up to a total of 30,703 acre-feet per year of surface water, including CAP water, from the following treatment facilities:

    a. Peoria's Greenway Water Treatment Facility currently has the capacity to treat up to 18,000 acre-feet per year.

    b. Peoria's Pyramid Peak Water Treatment Facility currently has the capacity to treat up to 12,367 acre-feet per year.

    c. Peoria's Quintero Water Treatment Facility currently has the capacity to treat up to 336 acre-feet per year.

29. In 2016, Peoria will have sufficient treatment capacity to treat up to a total of 41,903 acre-feet per year of surface water, including CAP water, from the following treatment facilities:

a. Peoria's Greenway Water Treatment Facility currently has the capacity to treat up to 18,000 acre-feet per year.

b. Peoria's Pyramid Peak Water Treatment Facility currently has the capacity to treat up to 12,367 acre-feet per year.

c. Peoria's Quintero Water Treatment Facility currently has the capacity to treat up to 336 acre-feet per year.

d. Peoria's Twin Buttes Water Treatment Facility will have the capacity to treat up to 11,200 acre-feet per year.

30. Although Peoria's Greenway Water Treatment Facility currently has the capacity to treat up to 18,000 acre-feet per year, the facility was constructed to accommodate expansion to treat up to 35,844 acre-feet per year when demand necessitates.

31. Peoria has demonstrated that it will have the capacity to treat a total of up to 59,747 acre-feet per year of surface water including CAP water.

H. Surface Water (Not Including CAP Water): Physical, Continuous and Legal Availability

i. SRP Water

32. Pursuant to the Kent Decree, Hurley v. Abbott ("*Kent Decree*"), Arizona Territorial Court, No. 4564 (Mar.1, 1910), Peoria is entitled to surface water from the Salt River Project ("SRP water").

33. Based on the November 10, 2008 Assured Water Supply Study for Salt River Project Member Lands ("2008 SRP Study"), approximately 25,201 acre-feet per year of SRP water will be physically and continuously available to Peoria for 100 years.

ii. Continuous Availability of Surface Water

34. The 2008 SRP Study incorporates storage of surface water in SRP reservoirs in its assessment of the availability of surface water within its system.

35. The 2008 SRP Study also states that SRP may provide alternative supplies, including groundwater and surface water supplies not included in the analysis "[d]uring periods of below average inflow when reservoir storage is low."

36. The volume of groundwater described in Finding of Fact No. 9 includes 8,316 acre-feet, or an average of 83.16 acre-feet per year over 100 years, of groundwater that Peoria

may use to supplement its surface water supplies in times of shortage, pursuant to A.A.C. R12-15-717(C)(3).

iii. Summary

37. Peoria has demonstrated that 25,201 acre-feet per year of surface water to be treated and delivered, without storage, is physically, continuously and legally available for 100 years.

I. CAP Water: Physical, Continuous and Legal Availability

i. Peoria M&I CAP Water Allocation

38. Peoria holds a long-term, non-declining municipal and industrial ("M&I") subcontract for CAP water with the Central Arizona Water Conservation District for 25,236 acre-feet per year.

ii. GRIC Leased CAP Water

39. As part of the Gila River Indian Community ("GRIC") Water Rights Settlement, Peoria holds a lease with the GRIC for 7,000 acre-feet per year of CAP water ("GRIC leased CAP water").

40. Peoria's lease with GRIC will expire in calendar year 2108.

41. The GRIC CAP water has a CAP M&I priority.

42. Peoria has demonstrated that in calendar year 2109, 7,000 acre-feet of groundwater will be physically, continuously and legally available and consistent with the management goal of the Phoenix AMA, for purposes of A.A.C. R12-15-718(M)(2). See Findings of Fact Nos. 9 and 18.

43. For purposes of A.A.C. R12-15-718(N)(2)(a), the volume of water obtained through all Indian Leases, 7,000 acre-feet per year, constitutes less than 15% of the total water supplies that Peoria has demonstrated to be physically, continuously and legally available in any year.

iii. Continuous Availability of CAP Water

44. The volume of groundwater and stored water to be recovered outside the area of impact of storage described in Finding of Fact No. 9 includes 5,047 acre-feet, or an average of 50.47 acre-feet per year over 100 years, of groundwater that Peoria may use to supplement its CAP water supplies, pursuant to A.A.C. R12-15-717(D)(2).

iv. Summary

45. Peoria has demonstrated that 32,236 acre-feet per year of CAP water is physically, continuously and legally available for 100 years. This volume includes 31,571 acre-feet per year to be treated and directly delivered, and 665 acre-feet per year to be stored and recovered within the area of impact.

J. Effluent: Physical, Continuous and Legal Availability

46. Peoria's existing wastewater treatment facilities currently have the capacity to treat up to 20,023 acre-feet per year of effluent for non-potable uses at the following facilities:

a. Jomax Water Treatment Plant currently has the capacity to treat up to 2,520 acre-feet per year of effluent.

b. Beardsley Waste Water Treatment Plant currently has the capacity to treat up to 4,481 acre-feet per year of effluent.

c. Butler Waste Water Treatment Plant currently has the capacity to treat up to 12,882 acre feet per year of effluent.

d. Quintero Waste Water Treatment Plant currently has the capacity to treat up to 140 acre feet per year of effluent

47. Based on an evaluation of the current, metered production of effluent, in 2025, Peoria is projected to produce up to 33,668.75 acre-feet per year of effluent.

48. Peoria has demonstrated the demand to directly deliver effluent in the amount of 2,500 acre feet per year from their wastewater treatment facilities.

49. Peoria has demonstrated that 5,389 acre-feet per year of effluent to be stored and recovered within the area of impact of storage will be physically, legally and continuously available for 100 years.

K. Consistency with the Management Plan

50. Peoria is currently regulated as a large municipal provider under the Municipal Conservation Program in the Third Management Plan for the Phoenix AMA ("Management Plan"). As of the date the application was filed, Peoria has not been found to be out of compliance with the Management Plan.

L. Water Quality

51. Peoria is regulated by the Arizona Department of Environmental Quality as a public water system pursuant to A.R.S. § 49-351, *et seq.*

M. Financial Capability

52. Peoria's ten-year capital improvement plan provides for construction of its Twin Buttes Water Treatment Facility to treat an additional 11,200 acre-feet per year of surface water.

53. Expansion of the Peoria's water treatment infrastructure, such as the Greenway Water Treatment Plant, is funded through the City's Utility Enterprise Funds, which earn revenue based on the rates established by a review and Council adoption processes.

54. Peoria has constructed the remaining delivery system and storage facilities necessary to satisfy its 2025 annual estimated water demand.

III. CONCLUSIONS OF LAW

Having reviewed the Findings of Fact, the Department makes the following Conclusions of Law:

1. For purposes of this Decision and Order, Peoria has demonstrated that 3,113.98 acre-feet per year of groundwater, 677.02 acre-feet per year of long-term storage credits to be recovered outside the area of impact, 31,571 acre-feet per year of CAP water to be treated and directly delivered, 665 acre-feet per year of CAP water to be stored and recovered within the area of impact, 25,201 acre-feet per year of surface water to be treated and delivered without storage, 2,500 acre-feet per year of effluent to be delivered directly for non-potable uses, and 5,389 acre-feet per year of effluent to be stored and recovered within the area of impact, will be physically, continuously and legally available for at least 100 years and will be consistent with the management goal. A.A.C. R12-15-716, R12-15-717, R12-15-718, R12-15-722. The sum of these volumes, 69,117 acre-feet per year, exceeds the 2025 annual estimated water demand of 64,240.90 acre-feet per year. *See* Attachment A to this Decision and Order.

2. Peoria has also demonstrated that 7,000 acre-feet, or an average of 70 acre-feet per year

over 100 years, of groundwater to supplement its GRIC leased CAP water, pursuant to A.A.C. R12-15-718(M)(2), will be physically, continuously and legally available and consistent with the management goal. See Attachment A to this Decision and Order.

3. In order to supplement the supplies identified in Conclusion of Law No. 1, Peoria has also demonstrated that the following volumes of groundwater will be physically, continuously and legally available:

   a. 8,316 acre-feet, or an average of 83.16 acre-feet per year over 100 years, of groundwater to supplement its surface water supplies. A.A.C. R12-15-717(C)(3).

   b. 5,047 acre-feet, or an average of 50.47 acre-feet per year over 100 years, of groundwater to supplement its CAP water supplies. A.A.C. R12-15-717(D)(2).

See Attachment A to this Decision and Order.

4. For purposes of A.A.C. R12-15-716(B)(3)(c)(ii), the volume of Peoria's 2025 annual estimated water demand that will be met with groundwater and stored water recovered outside the area of impact is 399,463 acre-feet, or an average of 3,994.63 acre-feet per year over 100 years. See Attachment A to this Decision and Order.

5. For purposes of A.R.S. § 45-856.01, Peoria may recover 6,054 acre-feet per year of stored water from within the area of impact of storage.

6. In accordance with A.A.C. R12-15-722, Peoria has demonstrated that its projected use of groundwater is consistent with the management goal of the Phoenix AMA.

7. The water supply served by Peoria will be of adequate quality pursuant to A.A.C. R12-15-719.

8. In accordance with A.A.C. R12-15-721, Peoria meets the standard established for determining consistency with the Management Plan for the Phoenix AMA.

9. Peoria has satisfied the financial capability criteria prescribed in A.A.C. R12-15-720.

10. Peoria has satisfied all the requirements for a designation of an assured water supply.

IV. ORDER OF DESIGNATION AND CONDITIONS OF DESIGNATION

Having reviewed the Findings of Fact and Conclusions of Law, the Department hereby issues this Decision and Order designating Peoria as having an assured water supply, subject to the following conditions:

1. The Director's determination that an assured water supply exists for Peoria is based on its analysis of the water supplies pledged by Peoria. Nothing in this Decision and Order limits or reduces Peoria's legal authority to use any water supply in any year.
2. The Director reserves the right under A.A.C. R12-15-711(C) to periodically review and modify the designation for good cause as conditions warrant.
3. Pursuant to A.A.C. R12-15-711(F), the Director may, at any time revoke this designation if the findings of fact or the conclusions of law upon which the designation is based change or are invalid, or if an assured water supply no longer exists.
4. Peoria shall submit an application to modify this decision and order designating Peoria as having an assured water supply to increase the term of the designation when the sum of Peoria current demand, committed demand and two years of projected demand exceeds 64,240.90 acre-feet per year, or by December 31, 2023, whichever is earlier.
5. Pursuant to A.A.C. R12-15-719, Peoria shall satisfy any state water quality requirements established for its proposed use after the date of this designation.
6. Peoria shall annually provide to the Department the following information for the previous calendar year in the manner prescribed in A.A.C. R12-15-711(A):
   a. An estimate of the demand of platted, undeveloped lots located in Peoria's service area.
   b. An estimate of the projected demand at build-out for customers with which Peoria has entered into a notice of intent to serve agreement in the preceding calendar year.
   c. A report regarding Peoria's compliance with water quality requirements.
   d. The depth-to-static water level of all wells from which Peoria withdrew water during the previous calendar year.

e. Any other information requested by the Director to determine whether Peoria continues to meet all the requirements necessary to maintain this designation of assured water supply.

IT IS HEREBY ORDERED THAT PEORIA BE DESIGNATED AS HAVING AN ASSURED WATER SUPPLY UNTIL DECEMBER 31, 2025.

DATED this 29th day of September, 2010.

Herbert R. Guenther
Director
Arizona Department of Water Resources

A copy of the foregoing
Decision and Order mailed
by certified mail this 29TH day
of SEPTEMBER, 2010, to:

City of Peoria
Carl Swenson
City Manager
8401 W Monroe
Peoria, AZ 85345

Certified Mail No.:
7004 2510 0000 8660 0980

Sent by: MICHELLE MORENO

A copy of the foregoing sent by
electronic mail this 29TH day
of SEPTEMBER, 2010, to:

City of Peoria
Robin Bain
8401 W Monroe
Peoria, AZ 85345

Robin King
Arizona Department of Real Estate
2910 N. 44th Street
Peoria, AZ 85018

J. Scott Miller
ADWR
3550 North Central Avenue
Peoria, AZ 85012

Decision and Order No. 86-400679.0001 (City of Peoria Designation as Having an Assured Water Supply): Attachment A

Source	Approved (af/yr)	Capacity	Legal Authority	Comments
Total Groundwater to Meet Annual Demands	**3,113.98**	Physical availability of groundwater and stored water recovered outside the area of impact (AOI) = 3,994.63 af/yr Groundwater Well Capacity = 51,799 af/yr	Service Area Right No. 56-002029.0000 Groundwater allowance: A.A.C. R12-15-724(A)(2): 2009 Groundwater Allowance 1,164.22 Incidental Recharge: A.A.C. R12-15-724(A)(4): 2024 water use times IR factor of 4.00% (59,792 x 0.04 =2,391.68 af/yr) Total Groundwater Allowance for 2025: 3,555.88 af/yr	Total Groundwater to meet annual demands include: 3,994.63 physically available • minus 677.02 af/yr of long-term storage credits to be recovered outside the area of impact ("AOI") • minus 83.16 af/yr of groundwater to supplement surface water supplies • minus 50.47 af/yr of groundwater to supplement CAP water supplies • Minus 70 af/yr of groundwater to supplement GRIC leased CAP water =3,113.98 af/yr.
Total Existing Long Term Storage Credits	**677.02**	Recovery Well Permit No: 74-572707.0008 Recovery Well Capacity =78,803 af/yr Recharge Storage Permit Capacity = 47,080 af/yr Physical availability of groundwater + stored water recovered outside AOI = 3,994.63 af/yr	Long Term Storage Account No: 70- 441146 Underground Storage Facility Nos: 71-552497.0003 (4,480 af/yr Effluent); Water Storage Permit Nos: 73-552498.0001, 73-569775.0400, 73-569776.0400, 73-584466.0300, 73-588558.0500	2008 balance of 67,702.07 af divided by 100 years.
SRP water	25,201	Total Surface Water Treatment Capacity =59,747 af/yr		2008 SRP Study demonstrates physical availability.

Source	**Approved (af/yr)**	**Capacity**	**Legal Authority**	**Comments**
Supplemental Groundwater	*83.16*			*Water supplies include 8,316 acre-feet, or an average of 83.16 af/yr over 100 years, of groundwater to supplement surface water supplies during shortages.*
Total Surface Water	**25,201**			
CAP water – M&I subcontract	25,236	Total Surface Water Treatment Capacity =59,747 af/yr	M&I Subcontract No: 07-XX-30-W0480	M&I Subcontract
GRIC Leased CAP Water	7,000		GRIC Water Rights Settlement Act of 2004	CAP M&I Priority
Supplemental Groundwater – GRIC Leased CAP Water	*70.00*			*Water supplies include 7,000 acre-feet, or an average of 70 af/yr over 100 years, of groundwater to supplement GRIC Leased CAP water in 2109.*
Supplemental Groundwater – CAP water supplies	*50.47*			*Water supplies include 5,047 acre-feet, or an average of 50.47 af/yr over 100 years, of groundwater to supplement CAP water supplies during shortages.*
Total CAP	**32,236**			
Total Effluent	**7,889**	2008 total effluent treatment capacity =20,023 af/yr Total effluent demands include 2,500 af/yr of direct delivery from Peoria's Wastewater Treatment Plants, and 5,389 af/yr of effluent to be stored and recovered within the area of storage.		

Total 2025 Supplies	**69,117**	
Total 2025 Demand	**64,240.90**	

* Note: Abbreviations are consistent with those identified in Decision and Order No. 86-400679.0001