

EXCEPTION



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BEFORE THE ARIZONA CORPORATION COMMISSION

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MARC SPITZER, Chairman
WILLIAM A. MUNDELL
JEFF HATCH-MILLER
MIKE GLEASON
KRISTIN K. MAYES

DOCKETED BY

IN THE MATTER OF THE APPLICATION OF)	DOCKET NO. W-01583A-04-0178
LAS QUINTAS SERENAS WATER CO. FOR A)	
RATE INCREASE)	APPLICANT'S EXCEPTIONS TO
)	RECOMMENDED OPINION AND
)	ORDER
)	

Pursuant to A.A.C. R14-3-110(B), LAS QUINTAS SERENAS WATER COMPANY ("LQS"), by and through its undersigned attorney, hereby files its Exceptions to the recommendations set forth in the draft Opinion and Order prepared by the Administrative Law Judge assigned in the above-captioned proceeding. The matters to be addressed through these Exceptions are set forth in the same order in which they appear in the draft Opinion and Order.

Finding of Fact ("FOF") No. 24

In discussing the long distance telephone calls that were the subject of a dispute between LQS and the Commission's Staff, the draft Opinion and Order makes the following statement in FOF 24:

"The company did not meet its burden [of proof] with respect to the remainder of the toll charges, and did not provide sufficient information concerning the appropriateness of access charges and taxes to allow recovery of these costs." [p.5, l. 12.5-14.5]

LQS takes exception to this statement. As a part of Ex. A-5, LQS submitted copies of the company's telephone bills from Qwest for the period of September 7, 2002 through September 7, 2003. Page 1 of each Qwest monthly statement specifically itemizes the "Taxes, Fees and Surcharges" associated with that statement, as well as the "Basic Services" charge for the month in question. These charges presumably include the "access charges and taxes" alluded to in the above quotation from FOF No. 24; and at no time during the hearing did LQS understand that these types of charges had been placed at issue. Thus, LQS is genuinely puzzled as to how it can be said that it failed to satisfy its probative burden as to these items, and submits that in fact it fully discharged that responsibility.

Finding of Fact ("FOF") Nos. 42, 43 and 44
Fifth Ordering Paragraph

FOF No. 42 correctly notes that the arsenic level for Applicant's Well No. 7 is above the new maximum contaminant level ("MCL"). However, it incorrectly states that

"Arsenic levels in Well Nos. 5 and 6 are below the new standard." [p.10, l.17.5-18.5]

Rather, as noted at page 8, lines 20-21 of the Rebuttal Testimony of Steve Gay [Ex. A-6]

"arsenic levels [on the LQS system] have been rising over the last couple of years and now are 11 PPB (#5 well) 15 PPB (#6 well) and 13 PPB (at #7 well)."

This correction is important to note, because in FOF No. 43 the following erroneous statement appears:

"The company has stated that it intends to blend to reduce arsenic levels in its system." [page 10, l. 19.5]

Given the fact that each of its wells is currently in excess of the new MCL, blending does not represent a feasible approach for dealing with the arsenic situation. Moreover, as Mr. Gay indicated in his prefiled Rebuttal Testimony, LQS has (i) received a proposed remediation plan from Malcolm Pirnie Engineering, which includes four options, and (ii) requested proposals from several other consulting firms, which would involve alternative remediation approaches or using similar approaches with different media. In addition, LQS was anticipating receiving and evaluating information from several other industry sources as to possible remediation measures.

[Ex. A-6, p. 9, l. 4-13]

FOF No. 43 is correct in stating that LQS had not submitted a proposed remediation plan to the Pima County Department of Environmental Quality for review and approval as of the time of the October 13, 2004 hearing. However, it is in error when it describes the proposal to be submitted at a later date as a "blending plan" for the reason noted above.

Finally, FOF makes reference to "a preliminary analysis of arsenic removal costs for LQS's system" which the Commission's Staff has calculated. It then states

"However, we make no finding in this Decision as to the reasonableness of Staff's estimates or any costs that may be incurred by LQS to meet the new arsenic MCL's." [p.10, l.25.5-27.5]

This disclaimer is appropriate for two reasons. First, LQS's rate increase request does not include any recovery of capital or operating costs associated with arsenic remediation. Rather, as Mr. Gay indicated in his Rebuttal Testimony, LQS will probably request approval from the Commission to borrow funds for the needed capital facilities in a future proceeding, and it may also seek authorization to recover projected operating costs in its rates at such time. [Ex. A-6 at p.9, l. 17-18.5] Second, the capital and operating costs for possible remediation plans specific to

the LQS system, as provided to date by LQS's consultants, are substantially in excess of the Commission Staff's generic calculation. [See Ex. A-6, p.9, l.4.5-6.5]

LQS believes that the preceding discussion is a necessary predicate to its request that the date for submitting its "detailed arsenic removal plan" set forth in the Fifth Ordering Paragraph of the draft Opinion and Order be extended from February 28, 2005 to April 15, 2005, in order to allow LQS sufficient time to (i) fully evaluate the recommendations of the aforementioned consultants, (ii) analyze the information received from several water industry sources, and (iii) formulate a proposed remediation plan. At this juncture, LQS is concerned it may not be in a position to have a plan ready for submittal by the earlier date.

First Ordering Paragraph

The rates and charges proposed by both LQS and the Commission's Staff included rates and charges for a ¼" meter, a 3" meter and a 6" meter. [See FOF No. 31 at p.6, l.11-16.5] The rates and charges set forth in the First Ordering Paragraph of the draft Opinion and Order do not include a recommended "Commodity Charge" for those three (3) meter sizes. [See p.12, l.10-21] Presumably, and hopefully, such omissions are merely the result of inadvertence; and that they will be addressed prior to the Commission's consideration of the draft Opinion and Order at the December 14, 2004 Open Meeting.

Second Ordering Paragraph

The draft Opinion and Order is currently scheduled to be considered by the Commission at its December 14, 2004 Open Meeting. If the Commission approves the recommended change in LQS's rates and charges at that time, effective for all service rendered on and after January 1, 2005, LQS will not have sufficient time to provide its customers with the advance notification of

such change in rates and charges contemplated by the Third Ordering Paragraph of the draft Opinion and Order. This is because LQS's regularly scheduled billings occur on or about the 15th calendar day of each month. Accordingly, LQS suggests that the effective day in the Second Ordering Paragraph be changed from January 1, 2005 to January 15, 2005.

Dated: December 9, 2004

Respectfully submitted,

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