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BEFORE THE ARIZONA CORPORATION COMMISSION

1 JEFF HATCH-MILLER
2 Chairman
3 WILLIAM A. MUNDELL
4 Commissioner
5 MARC SPITZER
6 Commissioner
7 MIKE GLEASON
8 Commissioner
9 KRISTIN K. MAYES
10 Commissioner

Arizona Corporation Commission

DOCKETED

MAY 05 2005

DOCKETED BY
NR

11
12 IN THE MATTER OF NAVAJO WATER
13 COMPANY, INC. FILING OF A
14 CURTAILMENT PLAN TARIFF

DOCKET NO. W-03511A-04-0905

DECISION NO. 67822

ORDER

15 Open Meeting
16 May 3 and 4, 2005
17 Phoenix, Arizona

18 BY THE COMMISSION:

FINDINGS OF FACT

19 1. Navajo Water Company, Inc. ("Navajo" or "the Company") is certificated to
20 provide water as a public service corporation in the State of Arizona.

21 2. On December 17, 2004, the Company filed a curtailment plan tariff.

22 3. The Company's proposed tariff differs from Staff's general curtailment tariff
23 template that is posted on the Commission's website in that the Company is proposing a
24 "reconnection fee for violation" during the mandatory Stage 3, 4 and 5 conditions, when outdoor
25 watering is prohibited.

26 4. On January 20, 2005, in Decision No. 67512, the Commission suspended the tariff
27 filing for a period of ninety days, through and including April 16, 2005. This request was granted
28 so that Staff would have more time to review the application.

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1 5. On April 11, 2005, in Decision No. 67754, the Commission suspended the tariff
2 filing for an additional 30 days. This request was granted so that the Company could docket a
3 Water Augmentation Surcharge Tariff.

4 6. The Company is located in the Show Low area in Navajo County and consists of
5 three independent water systems; Laguna Estates, Summer Pines and Chaparral Pines Systems.
6 These systems serve a total of approximately 900 customers.

7 7. The Company's proposed curtailment tariff was developed based on the tariff
8 approved for Pine Water Company, Inc. ("Pine Water ") in Decision No. 62846 (August 24, 2000)
9 and revised in Decision No. 65914 (May 16, 2003) which includes a "reconnection fee for
10 violation". Pine Water and Navajo are subsidiaries of Brooke Utilities, Inc. The Company would
11 like its tariff to be consistent with the tariff approved for Pine Water.

12 8. The Company seeks approval for a provision for a "reconnection fee for violation"
13 during mandatory Stage 3, 4 and 5 conditions. Once notice of mandatory conservation has been
14 provided, customers can be disconnected if they fail to comply and continue to use water for
15 purposes that are prohibited. These reconnection fee ("fine") amounts are less than Pine Water's
16 fine. The Company proposed its fines be lower than Pine Water's because the water supply
17 shortage in Navajo's service area is not as severe as it is in Pine Water's service area. The
18 proposed fines being requested are summarized as follows:

19 Stage 3 – Enforcement

20		
21	1 st offense	\$150.00
22	2 nd offence	\$300.00
	3 rd offence (and thereafter)	\$600.00

23 Stage 4 – Enforcement

24	1 st offense	\$300.00
25	2 nd offence	\$600.00
	3 rd offence (and thereafter)	\$1,200.00

26 ...
27 ...
28 ...

1 Stage 5 – Enforcement

2 1 st offense	\$600.00
3 2 nd offense	\$1,200.00
4 3 rd offense (and thereafter)	\$2,400.00

5 9. Under these mandatory restrictions in Stages 3, 4 and 5, the Company is required to
6 notify customers by delivering written notice door to door at each service address, or by changing
7 local sign postings, or via electronic mail, or by any other reasonable means of notifying customers
8 in the affected water system(s).

9 10. It is the Company's position that water conservation will only be achieved if the
10 parties responsible for wasting water face the consequences for such actions, including appropriate
11 economic penalties. Otherwise, the impact of one individual wasting water is unfairly placed on
12 all of the water system's customers.

13 11. Staff proposed several modifications to the tariff, one of which would potentially
14 require the Company to haul water under certain conditions.

15 12. Staff finds the amended tariff to be reasonable.

16 13. Staff recommends approval of the Company's Curtailment Plan Tariff as modified
17 by Staff and reflected in Staff's Exhibit A.

18 14. Staff further recommends:

19 a. That the monies collected under this tariff shall be deposited into a separate
20 interest bearing trust account and used solely for the purposes of paying for
21 importing of water to the Company (such as hauling water or connecting to
and buying water from another water system).

22 b. That the Company submit a report to the Utilities Division Compliance
23 Section, beginning October 15, 2005, and on May 15 and October 15 of
24 each year thereafter, that includes a running account of (up to the last day of
the previous month) the following information;

- 25 1) The name of each customer that has paid the fine,
- 26 2) The amount of the fine paid by each customer,
- 27 3) The amount of money used from the account to pay for
importing water, and
- 28 4) The balance in the account.

CONCLUSIONS OF LAW

1
2 1. The Company is an Arizona public service corporation within the meaning of
3 Article XV, Section 2, of the Arizona Constitution.

4 2. The Commission has jurisdiction over the Company and of the subject matter in
5 this Application.

6 3. The Commission, having reviewed the request for approval of the tariff and Staff's
7 Memorandum, dated April 19, 2005, concludes that it is in the public interest to approve the
8 curtailment plan tariff, as amended in accordance with the recommendations in Staff's Exhibit A.

ORDER

9
10 IT IS THEREFORE ORDERED that Navajo Water Company, Inc. is hereby authorized to
11 implement the curtailment plan tariff, a copy of which is attached as Exhibit A.

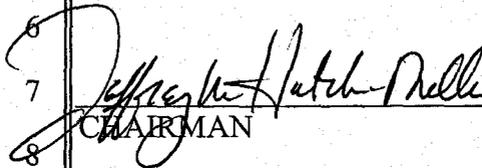
12 IT IS THEREFORE ORDERED that Navajo Water Company, Inc. shall comply with the
13 recommendations and conditions as set forth in Findings of Fact No. 14 hereinabove.

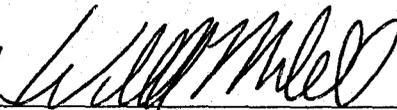
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1 IT IS FURTHER ORDERED that Navajo Water Company, Inc. shall docket the
2 curtailment plan tariff with 30 days of the effective date of this Decision.

3 IT IS FURTHER ORDERED that this Order shall become effective immediately.
4

5 BY THE ORDER OF THE ARIZONA CORPORATION COMMISSION

6 
7 CHAIRMAN

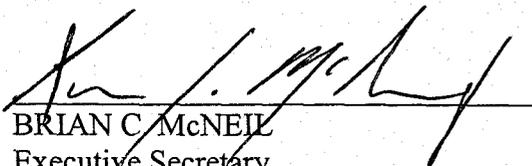

8 COMMISSIONER

COMMISSIONER

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11 COMMISSIONER


12 COMMISSIONER

13 IN WITNESS WHEREOF, I BRIAN C. McNEIL, Executive
14 Secretary of the Arizona Corporation Commission, have
15 hereunto, set my hand and caused the official seal of this
16 Commission to be affixed at the Capitol, in the City of
17 Phoenix, this 5th day of May, 2005.

18 
19 BRIAN C. McNEIL
20 Executive Secretary

21 DISSENT: _____

22 DISSENT: _____

23 EGJ:MSJ:lhm\DR
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1 SERVICE LIST FOR: Navajo Water Company, Inc.

2 DOCKET NO. W-03511A-04-0905

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5 3003 North Central Avenue, Suite 2600
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9 Post Office Box 82218
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11 Mr. Ernest G. Johnson
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13 Arizona Corporation Commission
14 1200 West Washington
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18 Arizona Corporation Commission
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TARIFF SCHEDULE

Exhibit A

Utility: Navajo Water Company, Inc.
Docket No.: W-03511A-04-0905
Phone No.: 1-800-270-6084

Tariff Sheet No.: 1 of 6
Decision No.: _____
Effective: _____

CURTAILMENT PLAN FOR NAVAJO WATER COMPANY, INC.

ADEQ Public Water Systems: Laguna Estates (#09-000), Summer Pines (#09-030) and Chaparral Pines (#09-039)

APPLICABILITY

Navajo Water Company, Inc. ("Company") is authorized by the Arizona Corporation Commission to curtail water service to all customers within its certificated area under the terms and conditions listed in this tariff. As needed, this tariff will be implemented by the Company on a system-by-system basis, or on a company-wide basis, as circumstances warrant.

This curtailment plan shall become a part of the Arizona Department of Environmental Quality Emergency Operations Plan for the Company.

The Company shall notify its customers of this new tariff as part of its next regularly scheduled billing after the effective date of the tariff or no later than sixty (60) days after the effective date of the tariff.

The Company shall provide a copy of the curtailment tariff to any customer, upon request.

STAGES

Stage 1 Exists When:

Company's water storage level or well production is at least 80% of total capacity and there are no known problems with its water production or storage facilities.

Restrictions: Under Stage 1, the public water system is deemed to be operating normally and no curtailment is necessary.

Notice: Under Stage 1, no notice is necessary.

Stage 2 Exists When:

Company's water storage or well production is less than 80% but at least 70% of capacity for at least (48) consecutive hours.

Company has identified issues such as a steadily declining water table, increased draw down threatening pump operations, and/or poor water production, creating a

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TARIFF SCHEDULE

Exhibit A

Utility: Navajo Water Company, Inc.
Docket No.: W-03511A-04-0905
Phone No.: 1-800-270-6084

Tariff Sheet No.: 2 of 6
Decision No.: _____
Effective: _____

reasonable belief that the Company will be unable to meet anticipated water demand on a sustained basis.

Restrictions: Under Stage 2, voluntary conservation measures should be employed by customers to reduce water consumption by ten percent (10%). Outside watering on weekends and holidays should be curtailed. Outside vegetation watering may occur during weekday periods on even days of the month for even numbered lots, and odd numbered days of the month for odd numbered lots.

Notice: Under Stage 2, the Company is required to notify customers by delivering written notice door to door at each service address, or by changing local sign postings, or via electronic mail, or by any other reasonable means of notifying customers in the affected water system(s) of the imposition of the Curtailment Tariff, the Curtailment Stage, the general nature of the problem and the need to conserve water.

Stage 3 Exists When:

Company's water storage level or well production is less than 70% but at least 60% of capacity for at least twenty-four (24) consecutive hours.

Company has identified issues such as a steadily declining water table increased draw down threatening pump operations, and/or poor water production, creating a reasonable belief that the Company will be unable to meet anticipated water demand on a sustained basis. The Company will undertake reasonable measures to supplement its water supply until such time that Stage 3 is reached for 48 consecutive hours.

Restrictions: Under Stage 3, Company shall inform the customers of a **mandatory** restriction to employ water conservation measures to reduce daily consumption. Failure to comply will result in customer disconnection. The following uses of water shall be prohibited:

- Irrigation of outdoor lawns, trees, shrubs, or any plant life is prohibited
- Washing of any vehicle is prohibited
- The use of water for dust control or any outdoor cleaning uses is prohibited
- The use of drip or misting systems of any kind is prohibited
- The filling of any swimming pool, spas, fountains or ornamental pools is prohibited
- The use of construction water is prohibited.
- Restaurant patrons shall be served water only upon request
- Any other water intensive activity is prohibited.

TARIFF SCHEDULE

Exhibit A

Utility: Navajo Water Company, Inc.
Docket No.: W-03511A-04-0905
Phone No.: 1-800-270-6084

Tariff Sheet No.: 3 of 6
Decision No.: _____
Effective: _____

The Company's operation of its standpipe service is prohibited. The addition of new service lines and meter installations is prohibited.

Notice: Under Stage 3, the Company is required to notify customers by delivering written notice door to door at each service address, or by changing local sign postings, or via electronic mail, or by any other reasonable means of notifying customers in the affected water system(s) of the imposition of the Curtailment Tariff, the Curtailment Stage, the general nature of the problem and the need to conserve water.

Enforcement: Once notice of mandatory conservation has been provided, the failure of a customer to comply within one (1) business day or two (2) calendars of receipt of such notice will result in an immediate disconnection of water service pursuant to Arizona Administrative Code R14-2-410(B)(1)(d). The reconnection fee for violation of a Stage 3 curtailment notice shall be:

1 st offense:	\$150.00
2 nd offense:	\$300.00
3 rd offense (and thereafter):	\$600.00

If a customer believes he/she has been disconnected in error, the customer may contact the Commission's Consumer Services Section at 1-800-222-7000 to initiate an investigation.

Stage 4 Exists When:

Company's water storage level or well production is less than 60% but at least 50% capacity for twenty-four (24) consecutive hours.

Company has identified issues such as a steadily declining water table increased draw down threatening pump operations, and/or poor water production, creating a reasonable belief that the Company will be unable to meet anticipated water demand on a sustained basis. The Company will undertake reasonable measures to supplement its water supply until such time that Stage 3 is reached for 48 consecutive hours.

Restrictions: Under Stage 4, Company shall inform the customers of a **mandatory** restriction to employ water conservation measures to reduce daily consumption. Failure to comply will result in customer disconnection. The following uses of water shall be prohibited:

- Irrigation of outdoor lawns, trees, shrubs, or any plant life is prohibited
- Washing of any vehicle is prohibited
- The use of water for dust control or any outdoor cleaning uses is prohibited

Decision No. 67822

TARIFF SCHEDULE

Exhibit A

Utility: Navajo Water Company, Inc.
Docket No.: W-03511A-04-0905
Phone No.: 1-800-270-6084

Tariff Sheet No.: 4 of 6
Decision No.: _____
Effective: _____

- The use of drip or misting systems of any kind is prohibited
- The filling of any swimming pool, spas, fountains or ornamental pools is prohibited
- The use of construction water is prohibited.
- Restaurant patrons shall be served water only upon request
- Any other water intensive activity is prohibited.

The Company's operation of its standpipe service is prohibited. The addition of new service lines and meter installations is prohibited.

Notice: Under Stage 4, the Company is required to notify customers by delivering written notice door to door at each service address, or by changing local sign postings, or via electronic mail, or by any other reasonable means of notifying customers in the affected water system(s) of the imposition of the Curtailment Tariff, the Curtailment Stage, the general nature of the problem and the need to conserve water.

Enforcement: Once notice of mandatory conservation has been provided, the failure of a customer to comply within one (1) business day or two (2) calendar days of receipt of such notice will result in an immediate disconnection of water service pursuant to Arizona Administrative Code R14-2-410(B)(1)(d). The reconnection fee for violation of a Stage 4 curtailment notice shall be:

1 st offense:	\$ 300.00
2 nd offense:	\$ 600.00
3 rd offense (and thereafter):	\$1,200.00

If a customer believes he/she has been disconnected in error, the customer may contact the Commission's Consumer Services Section at 1-800-222-7000 to initiate an investigation.

Stage 5 Exists When:

Company's water storage level or well production is less than 50% of total storage capacity for twelve (12) consecutive hours.

Company has identified issues such as a steadily declining water table increased draw down threatening pump operations, and/or poor water production, creating a reasonable belief that the Company will be unable to meet anticipated water demand on a sustained basis. The Company will undertake reasonable measures to supplement its water supply until such time that Stage 3 is reached for 48 consecutive hours.

TARIFF SCHEDULE

Exhibit A

Utility: Navajo Water Company, Inc.
Docket No.: W-03511A-04-0905
Phone No.: 1-800-270-6084

Tariff Sheet No.: 5 of 6
Decision No.: _____
Effective: _____

Restrictions: Under Stage 5, Company shall inform the customers of a **mandatory** restriction to employ water conservation measures to reduce daily consumption. Failure to comply will result in customer disconnection. The following uses of water shall be prohibited:

- Irrigation of outdoor lawns, trees, shrubs, or any plant life is prohibited
- Washing of any vehicle is prohibited
- The use of water for dust control or any outdoor cleaning uses is prohibited
- The use of drip or misting systems of any kind is prohibited
- The filling of any swimming pool, spas, fountains or ornamental pools is prohibited
- The use of construction water is prohibited.
- Restaurant patrons shall be served water only upon request
- Any other water intensive activity is prohibited.

The Company's operation of its standpipe service is prohibited. The addition of new service lines and meter installations is prohibited.

Notice: Under Stage 5, the Company is required to notify customers by delivering written notice door to door at each service address, or by changing local sign postings, or via electronic mail, or by any other reasonable means of notifying customers in the affected water system(s) of the imposition of the Curtailment Tariff, the Curtailment Stage, the general nature of the problem and the need to conserve water.

Enforcement: Once notice of mandatory conservation has been provided, the failure of a customer to comply within one (1) business day or two (2) calendar days of receipt of such notice will result in an immediate disconnection of water service pursuant to Arizona Administrative Code R14-2-410(B)(1)(d). The reconnection fee for violation of a Stage 5 curtailment notice shall be:

1 st offense:	\$ 600.00
2 nd offense:	\$1,200.00
3 rd offense (and thereafter)	\$2,400.00

If a customer believes he/she has been disconnected in error, the customer may contact the Commission's Consumer Services Section at 1-800-222-7000 to initiate an investigation.

TARIFF SCHEDULE

Exhibit A

Utility: Navajo Water Company, Inc.
Docket No.: W-03511A-04-0905
Phone No.: 1-800-270-6084

Tariff Sheet No.: 6 of 6
Decision No.: _____
Effective: _____

NOTICE

If the Company elects to provide notice by use of local sign postings, Company shall post and maintain at least **two (2) signs per water system**, in noticeable locations that include the entrances to major subdivisions, showing if the Company is operating under its curtailment tariff, beginning with Stage 1. Each sign shall be at least four feet by four feet, and color-coded to denote the current stage:

1. Stage 1 – Green
2. Stage 2 – Blue
3. Stage 3 – Yellow
4. Stage 4 – Orange
5. Stage 5 – Red

Company shall notify the Consumer Services Division of the Utilities Division at least twelve (12) hours prior to entering either Stage 3 or Stage 4. Company shall notify the Consumer Services Section of the Utilities Division at least six (6) hours prior to entering Stage 5 of this curtailment tariff.

RECONNECTION FEE

All reconnection fees shall be cumulative for a calendar year regardless of the Stage that an offense occurs. For example, if a customer fails to meet the requirements of a particular stage, conserve the required amount of water under Stage 3 after notice that a curtailment is in effect, the reconnection fee shall be \$150.00 dollars. If that same customer, in the same calendar year, commits an offense under Stage 5, the reconnection fee shall be \$1,200. By May 15 and October 15 of each year, the Company will provide the Director of the Utilities Division with a list of customers who paid reconnection fees for failure to comply with the mandatory provisions of this curtailment tariff.

Any customer who has service terminated per this tariff more than once during a calendar year shall have those terminations count against him/her in the next calendar year for purposes of establishing the reconnection fee, should another termination occur.