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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

Arizona Corporation Commission

DOCKETED

MIKE GLEASON, Chairman  
WILLIAM A. MUNDELL  
JEFF HATCH-MILLER  
KRISTIN K. MAYES  
GARY PIERCE

MAR 22 2007

DOCKETED BY	nr
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IN THE MATTER OF THE APPLICATION OF  
THE BURLINGTON NORTHERN AND SANTA  
FE RAILWAY COMPANY DBA AUBREY  
WATER COMPANY FOR APPROVAL OF A  
PERMANENT WATER RATE INCREASE.

DOCKET NO. W-03476A-06-0425

DECISION NO. 69379

ORDER

Open Meeting  
March 13 and 14, 2007  
Phoenix, Arizona

BY THE COMMISSION:

On June 30, 2006, the Burlington Northern and Santa Fe Railway Company ("BNSF") dba Aubrey Water Company ("Company" or "Applicant") filed the Arizona Corporation Commission ("Commission") an application for a permanent rate increase.

On July 31, 2006, pursuant to A.A.C. R14-2-103, the Commission's Utilities Division ("Staff") issued a Notice of Insufficiency on the application.

On September 21, 2006, Staff issued a Letter of Sufficiency on the Company's application and classified the Applicant as a Class D utility.

On November 13, 2006, Staff filed a Notice of Filing ("Notice") with correspondence attached from counsel for the Company. The Notice indicates that the parties have agreed to extend the time frame by 60 days for the filing of the Staff Report with a corresponding extension of time for a Commission Decision.

On November 20, 2006, by Procedural Order, the time frame was suspended for 60 days from December 5, 2006, with the Staff Report ordered to be filed by February 5, 2007, with a Commission Decision to be issued no later than May 21, 2007.

On February 5, 2007, Staff filed its report, recommending that Staff's proposed rates and charges be approved. The Company filed no objections or comments to the Staff Report.

\* \* \* \* \*

Having considered the entire record herein and being fully advised in the premises, the Commission finds, concludes, and orders that:

**FINDINGS OF FACT**

1. Pursuant to authority granted by the Commission, Applicant is an Arizona corporation engaged in the business of providing water service to the Town of Seligman in Yavapai County, Arizona.<sup>1</sup>
2. Applicant's present rates and charges for water were approved in Decision No. 59017 (June 7, 1995).
3. On June 30, 2006, the Company filed an application requesting authority to increase its rates and charges for water service.
4. Applicant provided notice to its customers of its proposed rate increase by first class U.S. mail and, in response thereto, four protests have been received by the Commission opposing Applicant's proposed increase.
5. On September 21, 2006, Staff filed notice that the Company's rate application had met the Commission's sufficiency requirements pursuant to A.A.C. R14-2-103.
6. On November 20, 2006, by Procedural Order, the time frame was suspended until February 5, 2007, to allow for the filing of the Staff Report.
7. During the test year ended December 31, 2005 ("TY"), Applicant served 279 metered customers, the majority of which are residential users who are served by 5/8" x 3/4" meters.
8. Average and median water usage by residential users during the TY were 7,674 and 2,700 gallons per month, respectively.

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<sup>1</sup> The Company's Certificate of Convenience and Necessity ("Certificate") was granted to the Atchison Topeka Santa Fe Railway Corporation ("Santa Fe") in Decision No. 58172 (February 4, 1993). The Certificate was transferred to the BNSF in Decision No. 61843 (July 21, 1999). Applicant is an abandoned portion of a water system created to serve the railroad's Seligman operation and the surrounding support infrastructure. When BNSF abandoned the Seligman operation, the water system continued to operate, but fell into a state of disrepair due to age and inattention. Eventually, the water operation was spun off to a subsidiary corporation, the Company, and since then BNSF has expressed a desire to sell the Company, seeking bids periodically.

1           9.       Staff conducted an investigation of Applicant's proposed rates and charges for water  
2 service and filed its Staff Report on the Company's rate application request on February 5, 2007,  
3 recommending that Staff's proposed rates and charges be approved. Staff is also recommending that  
4 the Company's service line and meter installation charges be increased and its other service charges  
5 be modified consistent with Staff's recommendations.

6           10.       The water rates and charges for Applicant at present, as proposed in the application,  
7 and as recommended by the Staff are as follows:

	Present Rates	Proposed Rates Company	Staff
<u>MONTHLY USAGE CHARGE:</u>			
5/8" x 3/4" Meter	\$12.50	\$21.00	\$12.50
3/4" Meter	13.50	22.00	16.00
1" Meter	15.50	52.50	30.00
1 1/2" Meter	25.50	105.00	50.00
2" Meter	40.50	168.00	80.00
3" Meter	60.50	336.00	160.00
4" Meter	100.50	525.00	300.00
6" Meter	200.50	1,050.00	500.00
<u>GALLONAGE CHARGES:</u>			
(per 1,000 Gallons)	1.75	N/A	N/A
0 to 3,000 Gallons	1.75	\$2.00	\$1.75
3,001 to 10,000 Gallons	1.75	2.50	2.25
over 10,000 Gallons	1.75	3.00	2.70
Bulk Water Rate – Standpipe per 1,000 Gallons	5.00	5.50	5.00
<u>SERVICE LINE AND METER INSTALLATION CHARGES:</u> (Refundable pursuant to A.A.C. R14-2-40-5)			
5/8" x 3/4" Meter	\$290.00	Cost	\$440.00
3/4" Meter	325.00	Cost	520.00
1" Meter	375.00	Cost	610.00
1 1/2" Meter	570.00	Cost	855.00
2" Meter	970.00	Cost	1,515.00
3" Meter	1,350.00	Cost	2,195.00
4" Meter	2,155.00	Cost	3,360.00
6" Meter	4,165.00	Cost	6,115.00

SERVICE CHARGES:

Establishment	\$25.00	\$30.00	\$25.00
Establishment (After Hours)	35.00	40.00	35.00
Reconnection (Delinquent)	25.00	40.00	25.00
Meter Test (If Correct)	25.00	30.00	25.00
Deposit	0.00	0.00	*
Deposit Interest	0.00%	2.00%	*
Reestablishment (Within 12 Months)	0.00	**	**
NSF Check	15.00	25.00	25.00
Deferred Payment	1.00%	1.50%	1.50%
Meter Reread (If Correct)	10.00	15.00	10.00

\* Per Commission rule A.A.C. R-14-2-403(B).

\*\* Number of months off system times the monthly minimum per Commission rule A.A.C. R14-2-403(D).

11. Pursuant to the Staff Report, Applicant's fair value rate base ("FVRB") is determined to be \$125,405 which is the same as its original cost rate base.<sup>2</sup> The Company's FVRB reflects an \$9,312 increase by Staff to Applicant's proposed FVRB due in large part to an adjustment to Applicant's cash working capital which had not been claimed by the Company.

12. Staff decreased Applicant's TY operating expenses by \$53,235 primarily due to adjustments caused by either excessive or unsubstantiated expenses. The following expenses were substantially reduced by Staff: chemicals (\$5,850); repairs and maintenance (\$6,198); outside services (\$11,100); rents (\$22,050); and transportation expense (\$6,150).

13. Applicant's present water rates and charges produced operating revenues of \$112,303 and adjusted operating expenses of \$114,450 which resulted in an operating loss of \$2,147 during the TY for a negative rate of return on FVRB.

14. The water rates and charges Applicant proposed would produce operating revenues of \$191,961 and operating expenses of \$167,685 resulting in net operating income of \$24,275. This is a 19 percent rate of return on FVRB. Staff notes this is not a meaningful figure due to the Company's rate base being estimated and equates to a 12.65 percent operating margin.

<sup>2</sup> Staff stated in its report that its FVRB is an estimated amount apparently due to poor record keeping by the Company.

1           15.     The water rates and charges proposed by Staff would produce adjusted operating  
2 revenues of \$140,702 and adjusted operating expenses of \$119,903 resulting in net operating income  
3 of \$20,799 or a 16 percent rate of return on FVRB. Staff again notes this is not a meaningful figure  
4 due to the Company's rate base being estimated and equates to a 14.78 percent operating margin.

5           16.     Applicant's proposed rate schedule would increase the average monthly customer  
6 water bill by 49.2 percent, from \$25.93 to \$38.68, and the median monthly customer water bill by  
7 53.3 percent, from \$17.22 to \$26.40.

8           17.     Staff's recommended rates would increase the average monthly customer water bill by  
9 9.0 percent, from \$25.93 to \$28.27 and would not result in an increase for the median monthly  
10 customer water bill.

11           18.     According to the Staff Report, Applicant has failed to comply with Commission  
12 Decision No. 58172 (February 4, 1993) and Decision No. 59107 (June 7, 1995) in which the  
13 Commission ordered the Company to maintain its books and records in accordance with the National  
14 Association of Regulatory Commissioners ("NARUC") Uniform System of Accounts ("USOA").  
15 Staff points out this failure by the Company makes its financial records furnished in this proceeding  
16 unreliable.

17           19.     The Company's water sources produce water well below the new arsenic standard of  
18 less than 10 parts per billion.

19           20.     Although Staff indicates the Company does not have an arsenic problem, according to  
20 the Arizona Department of Environmental Quality ("ADEQ"), the Company has major deficiencies  
21 in monitoring and ADEQ is unable to determine whether Applicant's water meets the requirements of  
22 the Safe Drinking Water Act.

23           21.     Based on the Engineering Report attached to the Staff Report, during an eight month  
24 period, Staff found that the Company reported pumping 44,984,000 gallons of water during the TY,  
25 but selling only 25,608,000 gallons of water. This equates to a water loss of 43.1 percent, which far  
26 exceeds Staff's recommended level of 10 percent or less.

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1           22.    The Company has had its Backflow Prevention and Curtailment Tariffs approved by  
2 the Commission in 2005.

3           23.    According to the narrative review by Staff, Applicant has ample water production and  
4 storage capacity to serve current customer usage demands based on water usage during the TY, and  
5 to accommodate reasonable growth in the future.

6           24.    Staff is additionally recommending that the Commission order the following:

- 7
- 8           • that Applicant notify its customers of the water rates and charges approved hereinafter  
9 and their effective date by means of an insert in the monthly billing which precedes  
10 the month in which they become effective and file a copy of the notice sent to its  
11 customers with the Commission's Docket Control as a compliance item in this docket;
  - 12           • that Applicant file, within 30 days of the effective date of this Decision, as a  
13 compliance item in this docket, with the Commission's Docket Control, a copy of the  
14 schedule of its approved rates and charges;
  - 15           • that the Company shall comply with Commission Decision No. 58172 and maintain its  
16 books and records in accordance with the NARUC USOA;
  - 17           • that any permanent rates and charges in this matter shall not become effective until the  
18 first day of the month following that in which (1) the Company files, with the  
19 Commission's Docket Control, as a compliance item in this docket, ADEQ  
20 documentation reporting that there are not monitoring and reporting deficiencies and  
21 the Company is delivering water that meets the water quality standards required by  
22 Arizona Administrative Code, Title 18, Chapter 4; and (2) Staff files, with the  
23 Commission's Docket Control, a memorandum stating that the Company has  
24 submitted a plan, acceptable to Staff, describing all the actions the Company will take  
25 to set up and maintain its books and records in compliance with the NARUC USOA;
  - 26           • that the Company adopt the depreciation rates delineated in Table B of the  
27 Engineering Report attached to the Staff Report on a going forward basis;
  - 28           • that the Company shall adopt the Service Line and Meter Installation charges  
delineated in Table C of the Engineering Report, plus road cuts at cost where required;  
and
  - that Applicant, in addition to the collection of its regular rates and charges, collect  
from its customers their proportionate share of any privilege, sales, or use tax as  
provided for in A.A.C. R14-2-409(D).

1           25. Staff further recommends that the Company shall submit a Water Loss Analysis  
2 Program ("Program") to Staff. The Program shall require the Company to implement old meter  
3 replacement, place a water meter on the 8-mile transmission line to determine the location of leaks,  
4 and hire a water detection firm that uses specialized equipment to isolate distribution system leaks,  
5 and requires the following:

- 6
- 7           a.) The Company shall implement the Program's recommendations and prepare a  
8 Progress Report indicating the implementation status of each recommendation.  
9 The Company shall file its first Progress Report with Docket Control, as a  
10 compliance item in this docket, each January and July beginning January,  
11 2008. All program recommendations that are needed to bring the water loss to  
12 less than 10 percent shall be implemented within 18 months of the effective  
13 date of this Decision.
- 14           b.) After the effective date of this Decision, the Company shall monitor its system  
15 and prepare a Monitoring Report indicating the quantity of water pumped,  
16 gallons sold and water loss percentage for each month during the year. Each  
17 Monitoring report shall be filed with Docket Control, as a compliance item in  
18 this docket, each January and July beginning January, 2008.
- 19           c.) If the Monitoring Report indicates that reduction of water loss to less than 10  
20 percent is not achieved by December 31, 2008, the Company shall prepare a  
21 Revised Program which outlines procedures, steps, and time frames to achieve  
22 acceptable water losses. The Company shall file the Revised Program with  
23 Docket Control, as a compliance item in this docket, by February 28, 2009.
- 24           d.) The Program Progress Reports and monitoring Reports shall continue to be  
25 filed until two consecutive Monitoring Reports show a water loss of less than  
26 10 percent.

27           26. Because an allowance for the property tax expense of Applicant is included in the  
28 Company's rates and will be collected from its customers, the Commission seeks assurances from the  
Company that any taxes collected from ratepayers have been remitted to the appropriate taxing  
authority. It has come to the Commission's attention that a number of water companies have been  
unwilling or unable to fulfill their obligation to pay the taxes that were collected from ratepayers,  
some for as many as twenty years. It is reasonable, therefore, that as a preventive measure the  
Company shall annually file, as part of its annual report, an affidavit with the Utilities Division  
attesting that the company is current in paying its property taxes in Arizona.



**ORDER**

IT IS THEREFORE ORDERED that the Burlington Northern Santa Fe Railway Company dba Aubrey Water Company is hereby directed to file, with Docket Control, as a compliance item in this docket, within 30 days of the effective date of this Decision, revised rate schedules setting forth the following rates and charges:

**MONTHLY USAGE CHARGE:**

5/8" x 3/4" Meter	\$12.50
3/4" Meter	16.00
1" Meter	30.00
1 1/2" Meter	50.00
2" Meter	80.00
3" Meter	160.00
4" Meter	300.00
6" Meter	500.00

**GALLONAGE CHARGES:**

(Per 1,000 Gallons)

0 to 3,000 Gallons	\$1.75
3,001 to 10,000 Gallons	2.25
over 10,000 Gallons	2.70
Bulk Water Rate – Standpipe per 1,000 Gallons	5.00

**SERVICE LINE AND METER INSTALLATION CHARGES:**

(Refundable pursuant to A.A.C. R14-2-405)

5/8" x 3/4" Meter	\$440.00
3/4" Meter	520.00
1" Meter	610.00
1 1/2" Meter	855.00
2" Meter	1,515.00
3" Meter	2,195.00
4" Meter	3,360.00
6" Meter	6,115.00
Road Cuts	Cost

**SERVICE CHARGES:**

Establishment	\$25.00
Establishment (After Hours)	35.00
Reconnection (Delinquent)	25.00

1	Meter Test (If Correct)	25.00
	Deposit	*
2	Deposit Interest	*
	Reestablishment (Within 12 Months)	**
3	NSF Check	25.00
4	Deferred Payment	1.50%
5	Meter Reread (If Correct)	10.00

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7 \* Per Commission rule A.A.C. R-14-2-403(B).

8 \*\* Number of months off system times the monthly minimum per Commission rule  
A.A.C. R14-2-403(D).

9 IT IS FURTHER ORDERED that the Burlington Northern Santa Fe Railway Company dba  
10 Aubrey Water Company shall notify its customers of the rates and charges authorized hereinabove  
11 and the effective date of same by means of an insert in the regular monthly billing which precedes the  
12 month in which they become effective and file a copy of the notice when sent to its customers with  
13 the Commission's Docket Control as a compliance item in this docket.

14 IT IS FURTHER ORDERED that the Burlington Northern Santa Fe Railway Company dba  
15 Aubrey Water Company shall comply with Decision No. 58172 and maintain its books and records in  
16 compliance with the NARUC USOA.

17 IT IS FURTHER ORDERED that Burlington Northern Santa Fe Railway Company dba  
18 Aubrey Water Company shall, by May 31, 2007, file an affidavit attesting that the Company has set  
19 up and is maintaining its books and records in compliance with the NARUC USOA.

20 IT IS FURTHER ORDERED that, if Burlington Northern Santa Fe Railway Company dba  
21 Aubrey Water Company does not, by May 31, 2007, file an affidavit attesting that the Company has  
22 set up and is maintaining its books and records in compliance with the NARUC USOA, Staff shall  
23 file a petition for an Order to Show Cause as to why the Commission should not fine and/or impose  
24 other sanctions on the Company.

25 IT IS FURTHER ORDERED that that above water rates and charges shall not become  
26 effective until the following three items have been completed and filed with the Commission's  
27 Docket Control: First, the Company shall file with the Commission's Docket Control, as a  
28 compliance item in this docket, the Arizona Department of Environmental Quality documentation

1 reporting that there are not monitoring and reporting deficiencies and the Company is delivering  
2 water that meets the water quality standards required by Arizona Administrative Code, Title 18,  
3 Chapter 4, and the Company shall file, with the Commission's Docket Control, an affidavit attesting  
4 that the Company has set up and is maintaining its books and records in compliance with the NARUC  
5 USOA. Second, Staff shall file, with the Commission's Docket Control, a memorandum stating that  
6 the Company has submitted a plan, acceptable to Staff, of all the actions the Company will take to set  
7 up and maintain its books and records in compliance with the NARUC USOA. Third, that the  
8 Company has met Staff's time limits for water loss and has reduced water loss on their system to 10  
9 percent.

10 IT IS FURTHER ORDERED that the Burlington Northern Santa Fe Railway Company dba  
11 Aubrey Water Company shall adopt the depreciation rates delineated in Table B of the Engineering  
12 Report attached to the Staff Report on a going forward basis.

13 IT IS FURTHER ORDERED that the Burlington Northern Santa Fe Railway Company dba  
14 Aubrey Water Company shall adopt the Service Line and Meter Charges delineated in Table C of the  
15 Engineering Report plus road cuts at cost where required.

16 IT IS FURTHER ORDERED that the Burlington Northern Santa Fe Railway Company dba  
17 Aubrey Water Company, in addition to the collection of its regular rates and charges, collect from its  
18 customers their proportionate share of any privilege, sales, or use tax as provided for in A.A.C. R14-  
19 2-409(D).

20 IT IS FURTHER ORDERED that the Burlington Northern Santa Fe Railway Company dba  
21 Aubrey Water Company shall comply with Staff's recommendations as set forth in Findings of Fact  
22 No. 25 for its Water Loss Analysis Program.

23 IT IS FURTHER ORDERED that if the Burlington Northern Santa Fe Railway Company dba  
24 Aubrey Water Company does not meet the time limits for its Water Loss Analysis Program, Staff  
25 shall file a petition for an Order to Show Cause against the Company.

26 ...

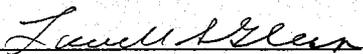
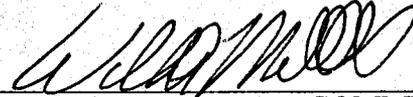
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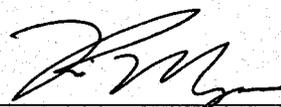
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1 IT IS FURTHER ORDERED that the Burlington Northern Santa Fe Railway Company dba  
2 Aubrey Water Company shall annually file as part of its annual report, an affidavit with the Utilities  
3 Division attesting that the Company is current in paying its property taxes in Arizona.

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

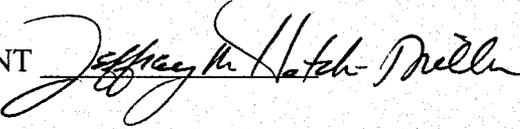
5 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

6  
7    
8 CHAIRMAN COMMISSIONER

9    
10 COMMISSIONER COMMISSIONER COMMISSIONER

11 IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive  
12 Director of the Arizona Corporation Commission, have  
13 hereunto set my hand and caused the official seal of the  
14 Commission to be affixed at the Capitol, in the City of Phoenix,  
15 this 20<sup>th</sup> day of March, 2007.

16   
17 BRIAN C. McNEIL  
18 EXECUTIVE DIRECTOR

19 DISSENT 

20 DISSENT \_\_\_\_\_

1 SERVICE LIST FOR:

BURLINGTON NORTHERN SANTA FE RAILWAY  
COMPANY dba AUBREY WATE COMPANY

2 DOCKET NO.

W-03476A-06-0425

3  
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