

COMMISSIONERS
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WILLIAM A. MUNDELL
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ARIZONA CORPORATION COMMISSION

22

DATE: December 4, 2007
DOCKET NOS: W-01583A-04-0178, W-01583A-05-0326 and W-01583A-05-0340
TO ALL PARTIES:

Enclosed please find the recommendation of Administrative Law Judge Jane Rodda. The recommendation has been filed in the form of an Opinion and Order on:

**LAS QUINTAS SERENAS WATER CO.
(RATES/FINANCE)**

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Administrative Law Judge by filing an original and ten (10) copies of the exceptions with the Commission's Docket Control at the address listed below by **4:00** p.m. on or before:

DECEMBER 13, 2007

The enclosed is NOT an order of the Commission, but a recommendation of the Administrative Law Judge to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Working Session and Open Meeting to be held on:

DECEMBER 18, 2007 and DECEMBER 19, 2007

For more information, you may contact Docket Control at (602) 542-3477 or the Hearing Division at (602)542-4250. For information about the Open Meeting, contact the Executive Secretary's Office at (602) 542-3931.

BRIAN C. McNEIL
EXECUTIVE DIRECTOR

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1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 COMMISSIONERS

3 MIKE GLEASON - Chairman
4 WILLIAM A. MUNDELL
5 JEFF HATCH-MILLER
6 KRISTIN K. MAYES
7 GARY PIERCE

8 IN THE MATTER OF THE APPLICATION OF
9 LAS QUINTAS SERENAS WATER CO. FOR A
10 RATE INCREASE.

DOCKET NO. W-01583A-04-0178

11 IN THE MATTER OF THE APPLICATION OF
12 LAS QUINTAS SERENAS WATER CO. FOR
13 AUTHORITY TO INCUR LONG-TERM
14 INDEBTEDNESS TO FINANCE WATER
15 SYSTEM IMPROVEMENTS AND ASSURE
16 COMPLIANCE WITH NEW ARSENIC RULES.

DOCKET NO. W-01583A-05-0326

17 IN THE MATTER OF THE APPLICATION OF
18 LAS QUINTAS SERENAS WATER CO. FOR AN
19 OPINION AND ORDER TO (i) RE-OPEN THE
20 RECORD IN A RECENT RATE CASE SO AS TO
21 CONSIDER EVIDENCE IN SUPPORT OF AN
22 ARSENIC COST RECOVERY MECHANISM,
23 AND (ii) MODIFY RATE CASE DECISION IN
24 ORDER TO ADD AN ARSENIC COST
25 RECOVERY MECHANISM AS AN
26 AUTHORIZED RATE AND CHARGE.

DOCKET NO. W-01583A-05-0340

DECISION NO. _____

27 **OPINION AND ORDER**

28 DATE OF HEARING:

November 14, 2007

PLACE OF HEARING:

Tucson, Arizona

ADMINISTRATIVE LAW JUDGE:

Jane L. Rodda

APPEARANCES:

Lawrence V. Robertson, on behalf of Las
Quintas Serenas Water Company;

Robert Brown, *pro se*; and

Kenya Collins, Staff Attorney, Legal Division on
behalf of the Utilities Division of the Arizona
Corporation Commission.

1 **BY THE COMMISSION:**

2 * * * * *

3 Having considered the entire record herein and being fully advised in the premises, the
4 Arizona Corporation Commission ("Commission") finds, concludes, and orders that:

5 **FINDINGS OF FACT**

6 1. On August 22, 2007, at an Open Meeting, the Commission voted pursuant to A.R.S. §
7 40-252 to re-open the above-captioned dockets and Decision No. 68718 (June 1, 2006), which re-
8 opened Las Quintas Serenas Water Company's ("LQS" or "Company") last rate case,¹ for the
9 purpose of adopting a fire sprinkler tariff for the Company. The Commission directed the Hearing
10 Division to conduct a hearing on the matter.

11 2. By letter dated September 6, 2007, LQS submitted a proposed Fire Sprinkler Tariff. A
12 copy of LQS's proposed tariff is attached hereto as Exhibit A.

13 3. On September 20, 2007, the Commission convened a Procedural Conference to
14 discuss procedures and set a hearing schedule. At the Procedural Conference, Mr. Robert Brown, a
15 member of the Board of Trustees and Vice President of the Unity Church of Green Valley, which is a
16 customer of LQS, and Mr. James Stahle, the Sahuarita Town Manager, were granted intervention.
17 The Town of Sahuarita ("Town") receives service from LQS, and is concerned how the lack of a fire
18 sprinkler tariff for this company affects its citizens.

19 4. By Procedural Order dated October 2, 2007, a hearing on the proposed fire sprinkler
20 tariff was set for November 14, 2007.

21 5. On October 10, 2007, LQS filed the Direct Testimony of Kaycee Conger.

22 6. On October 16, 2007, LQS filed an affidavit of mailing indicating that pursuant to the
23 October 2, 2007 Procedural Order, the Company mailed notice of the hearing to its customers on
24 October 16, 2007.

25 7. On November 2, 2007, the Town of Sahuartia filed a letter with the Commission
26 urging the Commission to adopt a fire sprinkler tariff for the Company. The letter supports the
27

28 ¹ Decision No. 67455 (January 4, 2005).

1 Company's proposed rate of \$10 for connections six inches and less, and \$15 for connections over six
2 inches.

3 8. On November 5, 2007, the Commission's Utility Division Staff ("Staff") filed a Staff
4 Report, recommending changes to the Company's proposed fire sprinkler tariff.

5 9. On November 13, 2007, LQS filed the Supplemental Direct Testimony of Ms. Conger
6 in Response to the Staff Report.

7 10. The hearing convened as scheduled on November 14, 2007, before a duly authorized
8 Administrative Law Judge. LQS and Staff appeared through counsel, and Mr. Brown appeared *pro*
9 *se*. Ms. Kaycee Conger, LQS's on-site manager testified for the Company; Mr. Brown testified on
10 his own behalf, and Mr. Marvin Millsap testified for Staff. Mr. Stahle did not appear at the hearing.

11 11. On November 23, 2007, the Town filed a letter in response to the Supplemental Direct
12 Testimony of Ms. Conger. Because it was filed after the hearing, and not available for cross
13 examination, we will treat the letter as public comment. In its letter, the Town states that the primary
14 function of the sprinkler system is, consistent with Ms. Conger's testimony, for the purpose of
15 providing time for people to evacuate the building, and any protection afforded to the building and its
16 contents is a secondary benefit of the sprinkler system.

17 12. The Commission approved LQS's current rates in Decision No. 67455 (January 4,
18 2005). At that time the Commission did not approve a fire sprinkler tariff for the Company. Nor has
19 this company ever had an approved fire sprinkler tariff.

20 13. The Commission re-opened Decision No. 67455 in 2006, for the purpose of
21 implementing an Arsenic Cost Recovery Mechanism ("ACRM"). In Decision No. 68718, the
22 Commission authorized the Company to borrow up to \$1,580,446 for arsenic remediation projects
23 and approved an ACRM. Pursuant to that Decision, the ACRM was set based on the total annual
24 surcharge revenue requirement for the loan divided by the number of equivalent bills.

25 14. While the Commission approved the mechanism for determining the arsenic surcharge
26 in Decision No. 68718, it approved a specific ACRM surcharge in Decision No. 69214 (December
27 21, 2006). The ACRM monthly surcharge became effective in January 2007, and increases by meter
28 size as follows:

1	5/8 inch meter	\$ 11.37
2	3/4 inch meter	17.05
3	1 inch meter	28.42
4	1 1/2 inch meter	56.84
5	2 inch meter	96.94
6	3 inch meter	170.52
7	4 inch meter	284.20
8	6 inch meter	568.40
9	Standpipe	11.37

10 15. It was the Unity Church of Green Valley's need for a fire sprinkler tariff that lead to
 11 the re-opening of the current docket for the purpose of approving a fire sprinkler tariff. The Unity
 12 Church constructed their new building in 2005, and became a customer of LQS in approximately
 13 January 2006. The church was not a customer of the Company at the time of its last rate case. The
 14 church takes service for its potable and landscaping needs through a one inch meter. It is required by
 15 the Town of Sahuarita to have a separate four inch fire sprinkler connection. Under LQS's tariff, as
 16 approved in its last rate case, the church has had to pay for the four inch meter at the regular tariffed
 17 rate of \$225 per month plus the \$284.24 for the ACRM surcharge. Because the church does not use
 18 this connection for water service, but it is used as a stand-by service for fire suppression, the church
 19 did not believe it was equitable or reasonable to require it to pay for a meter when it is not placing a
 20 demand on the system on a daily basis.

21 16. The Company proposed a \$10 per month charge for each fire sprinkler connection of
 22 six inches or smaller, and \$15.00 per month for fire sprinkler connections above six inches, with
 23 water used incident to the service provided at no additional charge.

24 17. The Company modeled its fire sprinkler tariff on the tariffs of neighboring
 25 Community Water Company of Green Valley, which also has a \$10 a month charge for connections
 26 six inches and smaller, and the Green Valley Domestic Water Improvement District, which has a \$15
 27 per month charge for fire sprinklers.

28 18. The Company projects that its proposed fire sprinkler tariff will reduce its expected
 operating revenue by \$2,580 annually (\$225 per month basic charge for a four inch meter less the
 requested \$10 per month charge for the fire sprinkler connection).

19. So far, the Church is the only known customer who would be converting an existing
 connection to a fire sprinkler connection, but the Company is aware that there are several nursing

1 home facilities in its service area that are required to have fire sprinklers, and will be seeking service
2 under the proposed fire sprinkler tariff. For those customers, the fire sprinkler connection would be a
3 new service and not a conversion.

4 20. Because the ACRM surcharge is assessed on a per meter basis, the Company would
5 not collect the ACRM surcharge from the fire sprinkler connections as there are no meters.

6 21. Staff recommends a charge for fire sprinkler service equal to the greater of \$5 per
7 month, or one percent of the minimum monthly charge for the equivalent meter size, for any size fire
8 service connection. Staff states that this rate structure has been a long-standing practice of the
9 Commission, although Staff admits that the Commission has approved fire sprinkler tariffs with
10 higher rates similar to that being proposed by the Company in this case.

11 22. Staff's proposed fire sprinkler tariff service rate would reduce the Company's
12 operating revenue by \$2,640.00 annually (\$225 per month basic charge for a four inch meter less the
13 Staff's requested fire sprinkler service rate of \$5 per month multiplied by twelve).

14 23. Staff further recommends that in order to compensate LQS for the loss of revenue
15 from the fire sprinkler tariff, that the Monthly Usage Charge for each size meter be increased by
16 \$0.25. Staff states this increase would result in additional revenue of \$2,715.00 annually.

17 24. The Company is not proposing a mechanism to compensate it for the lost revenue
18 resulting from a fire sprinkler tariff. The Company opposes Staff's recommendation to implement a
19 \$0.25 surcharge on all meters because it believes that it is not fair to assess the surcharge on all
20 customers when only a few will be taking fire sprinkler service. The Company argues that the effect
21 of the proposed tariff on revenues can be more comprehensively and fairly addressed in a general rate
22 case. The Company states that it is taking an educated risk that it will be able to meet operating
23 expenses and debt service associated with the arsenic remediation program until its next rate case
24 without the surcharge as proposed by Staff.

25 25. The Company expects to file a rate case in 2009 after it has completed installation of
26 the system improvements approved in connection with its arsenic remediation efforts.

27 26. LQS argues that Staff's proposed rate is not sufficient to cover the Company's costs
28 associated with the service. The Company's estimates indicate that the costs of administering the fire

1 sprinkler tariff is greater than \$5 per month. In addition to the direct cost of billing and
2 administration, the Company states it would incur maintenance costs. The Company notes further
3 that Staff's analysis does not take account of the lost revenue from the ACRM surcharge that will not
4 be assessed on the fire sprinkler connections.

5 27. Other than the monthly rate, Staff did not take issue with any other provision of the
6 Company's proposed fire sprinkler tariff, and except for the rate, recommends approving the tariff as
7 presented.

8 28. Mr. Brown, a member of the Unity Church of Green Valley, does not oppose the \$10
9 rate proposed by the Company.

10 29. The Company's proposed fire sprinkler tariff contains disclaimers concerning its
11 availability and applicability. The tariff makes clear that the fire sprinkler service would be capable
12 of providing only momentary or short-term fire suppression service until fire district personnel have
13 an opportunity to arrive. The Company's proposed tariff states that the current water system does not
14 have the capability to provide either the pressure or volumetric throughput or flow necessary to
15 provide fire hydrant flow or fire service protection to its customers. The Company states that its
16 system cannot provide sufficient flows to completely extinguish a fire of any significance. The
17 Company states further that the system upgrades necessary to provide fire protection flow service
18 would be substantial, and that it does not have the financial resources at this time to make those
19 upgrades. The Company notes, that even so, its service is in compliance with all requirements of
20 pressure and flow.

21 30. Fire sprinkler service does not utilize water on a daily basis, and thus does not place a
22 daily demand for water on the system. The implementation of a fire sprinkler service would not
23 significantly increase the Company's costs of providing water treated for arsenic. The additional fire
24 sprinkler connections were not factored in when the Commission approved the ACRM surcharge.
25 Thus, the fact that the Company will not recover the ACRM surcharge from the fire sprinkler service
26 should not disadvantage the Company.

27 31. The revenue the Company will collect after a fire sprinkler tariff is implemented will
28 be less than it otherwise would have been without such tariff, but it does not represent a reduction in

1 the revenue requirement as calculated in the last rate case. The revenue from such connections was
2 not included in the revenue requirement in the last rate case.

3 32. Certain customers within LQS's service territory are being required to install fire
4 sprinkler systems. To charge these customers the regular monthly charge for a meter, when the fire
5 sprinklers place only a stand-by demand on the system is not fair or reasonable.

6 33. There is a need for a fire sprinkler tariff in LQS's service territory.

7 34. The Company has attempted to calculate the costs associated with administering and
8 maintaining the new fire sprinkler connections and the evidence indicates that the costs are greater
9 than the \$5 monthly minimum charge recommended by Staff. We find that the Company's proposed
10 fire sprinkler tariff, that provides for a \$10 monthly minimum charge for six inch and smaller meters,
11 is reasonable under the circumstances. Furthermore, the limitations contained in the proposed tariff
12 concerning the availability of the tariff and capacity of the system are reasonably designed to put
13 customers on notice about the capacity of the Company's system, as well as about the customers'
14 responsibilities to install a sprinkler system that complies with the tariff, and to limit the liability of
15 the Company by avoiding situations where the customer might construct a fire sprinkler system that
16 would otherwise place a demand on the system beyond the Company's capacity.

17 **CONCLUSIONS OF LAW**

18 1. LQS is a public service corporation pursuant to Article XV of the Arizona
19 Constitution and A.R.S. §§ 40-250, 40-251 and 40-252.

20 2. The Commission has jurisdiction over LQS and the subject matter of the application.

21 3. Notice of the application and hearing was provided in accordance with the law.

22 4. There is a need for a fire sprinkler tariff in LQS's service territory.

23 5. The Company's proposed fire sprinkler tariff, as set forth in Exhibit A hereto, is fair
24 and reasonable and should be adopted.

25 **ORDER**

26 IT IS THEREFORE ORDERED that Las Quintas Serenas Water Company's fire sprinkler
27 tariff as set forth in Exhibit A is hereby approved.

28 IT IS FURTHER ORDERED that on or before December 31, 2007, Las Quintas Serenas

1 Water Company shall file its fire sprinkler tariff.

2 IT IS FURTHER ORDERED that the fire sprinkler tariff shall become effective on January 1,
3 2008.

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
12 IN WITNESS WHEREOF, I, DEAN S. MILLER, Interim
13 Executive Director of the Arizona Corporation Commission,
14 have hereunto set my hand and caused the official seal of the
15 Commission to be affixed at the Capitol, in the City of Phoenix,
16 this ____ day of _____, 2007.

17 _____
18 DEAN S. MILLER
19 INTERIM EXECUTIVE DIRECTOR

20 DISSENT _____

21 DISSENT _____
22
23
24
25
26
27
28

1 SERVICE LIST FOR: LAS QUINTAS SERENAS WATER COMPANY

2 DOCKET NOS.: W-01583A-04-0178, W-01583A-05-0326 and
3 W-01583A-05-0340

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21
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23
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27
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EXHIBIT A

TARIFF SCHEDULE
FIRE SPRINKLER SERVICE

AREA OF AVAILABILITY: In the certificated water utility service area of Las Quintas Serenas Water Co. ("Company") where (i) the fire sprinkler system to be served has been specifically designed to serve the structure in which the fire sprinkler system has been or is to be installed, (ii) the designer of the fire sprinkler system has fully taken into account the then existing delivery capacity and pressure of that portion of Company's water system facilities which will provide service to the fire sprinkler system, (iii) the Town of Sahuarita and/or Pima County certifies that the fire sprinkler system to be served does or will satisfy all applicable ordinances and codes, and (iv) the fulfillment of conditions (i) through (iii) above is demonstrated to Company's satisfaction.

LIMITED APPLICABILITY: Water service provided pursuant to this tariff is limited solely to water for fire sprinkler systems, which are designed to provide a "first response" to an actual or potential fire. Company's water system facilities are not designed or constructed to provide water service in satisfaction of fire protection service or fire hydrant flow requirements. In addition, no water may be taken through fire sprinkler systems for any purpose other than providing a "first response" to actual or potential fires; and, connections or taps to fire sprinkler service facilities for any other purpose are prohibited.

MONTHLY BILL:

RATE \$10.00 for each fire sprinkler connection 6" or smaller
 15.00 for each fire sprinkler connection above 6"
 (Water used incident to this service is supplied at no additional charge)

PLUS The applicable proportionate part of any taxes or governmental impositions which are or may in the future be assessed on the basis of the gross revenue of the Company and/or the price or revenue from the water or service sold and/or the volume of water pumped or purchased for sale and/or sold hereunder. In the event of any increase or decrease in taxes or other governmental impositions, monthly bills shall be adjusted to reflect such increase or decrease.

TERMS AND CONDITIONS: Subject to the Company's "Water Service Rules and Regulations" and/or applicable decisions or regulations of the Arizona Corporation Commission.

SPECIAL PROVISIONS: Applicants for and recipients of service under this tariff expressly acknowledge, accept and agree that (i) Company does not have water system facilities capable of satisfying fire protection service or fire hydrant flow requirements, and (ii) Company is not, either expressly or impliedly, warranting or representing that it can or will provide fire protection service or fire hydrant flow service.

In connection with the provision of fire sprinkler service under this tariff, Company will specify, furnish, install, own and maintain all facilities related to the provision of fire sprinkler service up to the point of interconnection with Customer's check valve and back-flow prevention facilities. Prior to the installation of such facilities, Customer will pay to Company the full cost of acquiring and installing such facilities, including the cost of all labor and material. Such payment shall be non-refundable to Customer.

Fire sprinkler systems served pursuant to this tariff must be installed and maintained in accordance with standards (i) established by the National Fire Protection Association, and (ii) which are acceptable to the Town of Sahuarita and/or Pima County.

In the event of any activation of a fire sprinkler system and the resulting use of water, Customer must notify Company within forty-eight (48) hours of such event.

DECISION NO. _____