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BEFORE THE ARIZONA CORPORATION COMMISSION

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Arizona Corporation Commission

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COMMISSIONERS

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MIKE GLEASON, Chairman
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GARY PIERCE

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AZ CORP COMMISSION
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IN THE MATTER OF THE APPLICATION OF
DIVERSIFIED WATER UTILITIES, INC. TO
EXTEND ITS CERTIFICATE OF CONVENIENCE
AND NECESSITY IN PINAL COUNTY,
ARIZONA.

DOCKET NO. W-02859A-04-0844

PROCEDURAL ORDER

BY THE COMMISSION:

On July 30, 2007, an evidentiary hearing in the above-captioned matter was held before a duly authorized Administrative Law Judge ("ALJ") of the Arizona Corporation Commission ("Commission") at its offices in Phoenix, Arizona.

During the hearing, Diversified Water Utilities, Inc. ("Diversified") stated that the infrastructure for the requested Certificate of Convenience and Necessity ("CC&N") extension area would be financed through a combination of advances in aid of construction ("AIAC") and hook-up fees. When questioned by the ALJ, Diversified was unable to explain whether and how a developer's payment of hook-up fees might be impacted by the developer's payment of AIAC. Thus, the ALJ directed Diversified and the Commission's Utilities Division Staff ("Staff") to meet and discuss how Diversified will handle hook-up fees and AIAC collected to fund the infrastructure for the CC&N extension area. In addition, the ALJ directed Diversified and Staff to file a joint late-filed exhibit explaining the resolution of the issue, if resolution is reached, or explaining the position of each on the issue.

By Procedural Order issued October 11, 2007, Staff and Diversified were ordered to file, no later than November 1, 2007, a joint late-filed exhibit explaining how Diversified will handle hook-up fees and AIAC collected to fund the infrastructure for the CC&N extension area or, if Staff and Diversified were unable to reach resolution on the issue, explaining the position of each on the issue.

By teleconference held on November 1, 2007, counsel for Staff and Diversified requested to

1 have the due date for the late-filed exhibit extended to November 13, 2007, to allow them additional
2 time to work on resolving the issue.

3 By Procedural Order issued November 1, 2007, the due date for the joint late-filed exhibit was
4 extended to November 13, 2007.

5 On November 13, 2007, Diversified filed a late-filed exhibit stating that:

6 1. Diversified had concluded that its hook-up fee tariff is no longer appropriate for
7 Diversified;

8 2. Diversified will file a separate application to terminate its hook-up fee tariff, rendering
9 the hook-up fee/AIAC issue moot in this proceeding;

10 3. Staff concurs that terminating the hook-up fee tariff will render the hook-up fee/AIAC
11 issue moot in this proceeding;

12 4. Diversified believes that it is unnecessary to address the hook-up fee/AIAC issue in
13 this matter as it will be rendered moot upon termination of Diversified's hook-up fee tariff; and

14 5. Staff does not object to Diversified's position.

15 On November 16, 2007, a Procedural Order was issued directing Staff to file, by November
16 26, 2007, a response to Diversified's late-filed exhibit and any new recommendations resulting from
17 Diversified's position expressed in the late-filed exhibit.

18 On November 27, 2007, Staff filed a response as requested by the Procedural Order. In its
19 response, Staff stated that it may be appropriate for Diversified to terminate its hook-up fee tariff
20 because it may help Diversified build rate base. Staff also recommended that Diversified be required
21 to include in its future main extension agreements refund provisions that exceed those in A.A.C. R14-
22 2-406(D). Staff further recommended that, until further Order of the Commission, the refund
23 provisions exceed 20% of the total gross annual revenue from the main extension and that refunds be
24 made until the entire balance is refunded. Staff stated that, in the alternative, Diversified could issue
25 equity to finance the extensions.

26 On December 7, 2007, Diversified filed a reply to Staff's response. Diversified expressed
27 concern that Staff's recommendation more than doubled the 10% and 10-year refund period required
28 by A.A.C. R14-2-406(D) and instead suggested that it be required to increase its refund provision in

1 future main extension agreements to 15% until (1) 25 years has passed, (2) full repayment of the
2 advance, or (3) the amount of refunds paid equals the current net book value of the plant installed
3 under the main extension agreement.

4 It would be helpful to the Commission to receive Staff's input on Diversified's suggested
5 alternative to Staff's recommendation.

6 IT IS THEREFORE ORDERED that Staff shall, **no later than December 27, 2007**, file a
7 response to Diversified's December 7, 2007, reply to Staff's response.

8 IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113—Unauthorized
9 Communications) applies to this proceeding and shall remain in effect until the Commission's
10 Decision in this matter is final and non-appealable.

11 IT IS FURTHER ORDERED that the Administrative Law Judge may rescind, alter, amend,
12 or waive any portion of this Procedural Order either by subsequent Procedural Order or by ruling at
13 hearing.

14 Dated this 13th day of December, 2007.

15
16
17 
18 SARAH N. HARPRING
ADMINISTRATIVE LAW JUDGE

19 The foregoing was mailed/delivered
20 this 13th day of December, 2007 to:

21 William P. Sullivan
22 CURTIS, GOODWIN, SULLIVAN, UDALL
23 & SCHWAB, PLC
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By:


Debra Broyles
Secretary to Sarah N. Harpring