

ORIGINAL

NEW APPLICATION



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BEFORE THE ARIZONA CORPORATION COMMISSION

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Arizona Corporation Commission

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W-02859A-08-0137

IN RE NOTICE OF DIVERSIFIED
WATER UTILITIES, INC.
TERMINATION OF ITS OFF-SITE
FACILITIES HOOK UP FEE TARIFF

DOCKET NO. W-02859A-08-

NOTICE OF TARIFF TERMINATION
(OFF-SITE FACILITIES HOOK UP FEE TARIFF)
Effective April 10, 2008

Diversified Water Utilities, Inc. ("Diversified"), pursuant to A.R.S. § 40-367, hereby gives notices that its Off-site Facilities Hook Up Fee ("HUF") Tariff shall terminate effective 11:59 p.m. on April 10, 2008.¹

REASONS FOR TERMINATION

Diversified, a family owned and operated business, is operating a water utility serving approximately 1,200 meters in northern Pinal County east and southeast of Queen Creek, Arizona. After careful thought and analysis and with the input of Commission Staff, Diversified has determined for the reasons set forth below that it is in the best interests of Diversified and its customers to terminate its HUF and operate under the Commission's long standing main extension rule (A.C.C. R14-2-406) for its operations.

I. History of the HUF

A. Initial Development Was Through Lot Splits

Diversified's HUF Tariff was approved by Commission Decision No. 61580, dated March 19, 1999. At the time, Diversified was serving less than 100 customers and was

¹ Diversified will continue to segregate all funds collected under the HUF tariff segregated, expend them only as authorized under Decision No. 61580 and submit reports on the how funds are expended.

1 meeting system demands with a single well and single storage tank system.² Its certificated
2 area was just starting to see significant (for a small system) new development.

3 Unfortunately, that new growth was occurring exclusively through legal and illegal
4 wildcat lot-split developments. The lot-split process allows developers to avoid the regulatory
5 scrutiny and infrastructure requirements associated with the subdivision process. It also
6 rendered the Commission's main extension rule (A.C.C. R14-2-406) ineffective as a means of
7 securing advances to finance backbone water infrastructure. While the cumulative new
8 demand associated with the lot splits necessitated expansion of the Diversified's backbone
9 system, the rule places no obligation on individual residential lot owners to advance funds for
10 backbone plant (even though the same individual or group of individuals owns numerous
11 lots).

12 When the issues confronting Diversified were presented to Commission Staff, a
13 uniform HUF was identified as the mechanism available to make the lot splitters provide their
14 pro rata share of the cost of the backbone facilities Diversified needed to serve the new
15 development. Diversified's approved HUF Tariff reflects the Commission's then (1999)
16 standard template Hook-Up Fee tariff.

17 B. Formal Subdivisions Are Now The Norm

18 The situation in Diversified's certificated area is drastically different today. Pinal
19 County has pursued illegal lot splitting operations and the development in Diversified's
20 service area is now occurring in an orderly fashion primarily through properly planned and
21 platted subdivisions.

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24 ² Previous owners of the system had installed insufficient backbone facilities and had neglected to undertake
25 necessary repairs and maintenance, allowing the system to fall into disrepair. The current owners actively
addressed the system's many problems and by 1999 had created a system that met peak potable demands and
was compliant with all applicable ADEQ regulations.

1 II. Reasons For Termination

2 A. Developers Should Pay For Development

3 There is significant potential for growth within Diversified's certificated area
4 and many developers have approached the Company to discuss development plans.
5 Diversified wants to ensure that developers, not Diversified's ratepayers, assume the risk and
6 financial responsibility for providing the initial cost of the on-site and off-site (backbone)
7 water related facilities needed to provide reliable water service to the new developments they
8 are proposing.

9 Under current circumstances, the Commission's main extension rule functions
10 effectively. The rule requires the landowner/developer of a subdivision to advance the funds
11 for the backbone facilities associated with meeting the demand created by the development.
12 The rule also appropriately places the risk of an unsuccessful development on the land
13 owner/developer, while allowing Diversified to build equity by refunding a portion of the
14 revenues generated from successful developments. In this way, Diversified will be able to
15 systematically increase its equity investment in its system.³

16 B. Diversified Needs Flexibility to Allow Qualified Developers to Perform
17 Actual Construction

18 Another important reason for terminating the existing HUF Tariff is that it does
19 not allow well staffed, qualified users and developers to construct the backbone infrastructure
20 associated with their real estate developments. The time and manpower required to construct
21 new plant is substantial. Terminating the HUF and relying on the main extension rule will
22 allow Diversified to concentrate its manpower on current operations while delegating to

23
24 ³ In order to accelerate the accumulation of equity, Diversified intends to provide refunds of 15% of revenues
25 over a 20 year period rather than the minimum 10% for 10 years required by the Commission's main extension
rule. Diversified, however, reserves the right to increase or decrease the level and term of refunds consistent
with the Commission's main extension rule based upon the circumstances when the agreement is executed
(including, without limitation, its equity position, its cash flow situation, its existing and projected needs for
internal financing, as well as the riskiness of individual development).

1 qualified users/developers the primary responsibility for the actual design and construction of
2 backbone plant. Such an allocation of responsibility is an appropriate and good use of
3 resources that will benefit Diversified's customers by minimizing manpower costs.

4 C. The HUF Tariff Lacks Flexibility

5 The HUF tariff is not well suited for a smaller utility with limited access to
6 major lenders and public market funds. The HUF tariff effectively places the risk of
7 construction related price and expense fluctuations on the utility. Water infrastructure costs
8 have risen exponentially since 1999. Designing, constructing and securing governmental
9 approvals for a well and storage tank today costs 4 to 10 times what it cost in 1999. Iron ore
10 costs have recently risen another 65%, which will likely translate into yet another round of
11 significant increases in higher steel prices, estimated at 20 to 30% this year. The HUF tariff is
12 not designed to automatically or timely adjust to these changes. In contrast, the main
13 extension rule requires the user developer to advance such increases to the utility; even
14 increases that occur after construction has commenced.

15 CONCLUSION

16 After evaluating the pros and cons of its HUF tariff and reliance on the main
17 extension rule, Diversified determined the HUF tariff no longer serves the best interests of
18 Diversified or its customers. Therefore, Diversified has elected to terminate the HUF tariff
19 and rely on the Commission's main extension rule for funding of the backbone facilities
20 needed for new development within in its certificated area.

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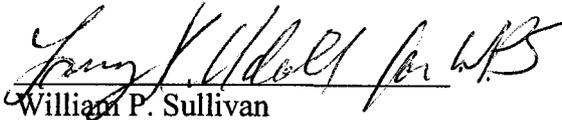
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1 DATED this 10th day of March, 2008.

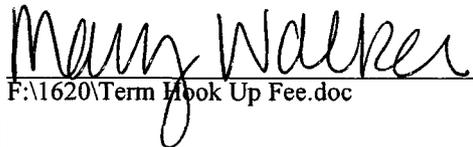
2 CURTIS, GOODWIN, SULLIVAN,
3 UDALL & SCHWAB, P.L.C.

4 
5 William P. Sullivan
6 501 East Thomas Road
7 Phoenix, Arizona 85012-3205
8 Attorneys for Diversified Water Utilities, Inc.

9
10 PROOF OF AND CERTIFICATE OF MAILING

11 I hereby certify that on this 10th day of March, 2008, I caused the foregoing
12 document to be served on the Arizona Corporation Commission by delivering the original and thirteen
13 (13) copies of the above to:

14 Docket Control
15 Arizona Corporation Commission
16 1200 West Washington
17 Phoenix, Arizona 85007

18 
19 F:\1620\Term Hook Up Fee.doc