ORIGINAL NEW APPLICATION

BEFORE THE 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.

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

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

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

B. Formal Subdivisions Are Now The Norm

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

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[2] Previous owners of the system had installed insufficient backbone facilities and had neglected to undertake 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.

II. Reasons For Termination

A. Developers Should Pay For Development

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

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

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

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

[3] In order to accelerate the accumulation of equity, Diversified intends to provide refunds of 15% of revenues 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).

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

C. The HUF Tariff Lacks Flexibility

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

CONCLUSION

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

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DATED this 10th day of March, 2008.

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

Larry K. Udall for WPS

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

PROOF OF AND CERTIFICATE OF MAILING

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

Docket Control
Arizona Corporation Commission
1200 West Washington
Phoenix, Arizona 85007

Mary Walker

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