



BEFORE THE ARIZONA CORPORATION COMMISSION

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

Arizona Corporation Commission

DOCKETED

SEP - 3 2008

DOCKETED BY *MM*

IN THE MATTER OF DIVERSIFIED  
WATER UTILITIES, INC.'S REQUEST FOR  
TERMINATION OF ITS OFF-SITE  
FACILITIES HOOK-UP FEE TARIFF

DOCKET NO. W-02859A-08-0137

DECISION NO. 70477

ORDER

Open Meeting  
August 26 and 27, 2008  
Phoenix, Arizona

BY THE COMMISSION:

FINDINGS OF FACT

1. Diversified Water Utilities, Inc. ("Company") is engaged in the business of providing water services to customers in northern Pinal County east and southeast of Queen Creek, Arizona. The Company provides services to approximately 1,200 metered customers. Its current hook-up fee tariff became effective March 19, 1999, per Arizona Corporation Commission Decision No. 61580.

2. On March 6, 2008, the Company filed notice with the Arizona Corporation Commission ("Commission") that its off-site facilities hook-up fee ("HUF") tariff would terminate at 11:59 p.m. on April 10, 2008.

3. On March 20, 2008, Staff filed a memorandum asking for additional time to review and analyze data filed by the Company. Staff requested that the Commission suspend the tariff filing.

1 4. The Commission granted Staff's extension request in Decision No. 70293, dated  
2 April 24, 2008.

3 5. On July 8, 2008, the Company voluntarily agreed to extend the effective date of  
4 Staff's filing until August 12, 2008.

5 6. On July 23, 2008, Staff and the Company met to discuss specific language to be  
6 included in the request for termination of the Company's off-site facilities hook-up fee tariff.

7 7. A check with the Compliance Section and Consumer Services Section of the  
8 Commission finds that the Company is current on all of its filings.

9 8. The Company's HUF tariff was authorized and approved by the Commission in  
10 Decision No. 61580, dated March 19, 1999, when the Company was serving less than 100  
11 customers and was a relatively small water system utilizing a single well and storage tank.  
12 Subsequently, new growth occurred in the area as a result of both legal and illegal lot splitting.  
13 Smaller, "wildcat" lot-split developments were prevalent. By definition, a lot-split is the division  
14 of land into five parcels or less, while a subdivision is the division of land into six or more parcels.  
15 If the land is divided into six or more parcels, a public report and other documentation must be  
16 provided by the developer. At the time, the Company agreed that HUFs were the appropriate  
17 mechanism available to make lot splitters provide their "fair share" of infrastructure costs because  
18 the Commission's main extension rule would be unsuccessful in securing advances to finance  
19 "backbone" water infrastructure. The Company now states that formal subdivisions are the  
20 standard, and subdivisions within the Company's service area have now been organized in a legal  
21 manner. As such, the Commission's main extension rule (A.C.C. R14-2-406) would be effective.

22 9. The Company believes termination of the HUF tariff is appropriate for three  
23 reasons, summarized below:

24 Developers should pay for development – The Company wants to put the risk and  
25 financial responsibility for providing the initial costs of both the on-site and off-  
26 site "backbone" water infrastructure on the developer. Main Extension  
27 Agreements ("MXAs") would put the risks associated with building the water  
28 infrastructure on the developer.

1        The Company needs flexibility to allow qualified developers to perform actual  
 2        construction – The Company states that “terminating the HUF and relying on the  
 3        main extension rule will allow the Company to concentrate its manpower on current  
 4        operations while delegating qualified users/developers the primary responsibility  
 for the actual design and construction of the backbone plant.” MXAs would save  
 the Company manpower that can be utilized elsewhere.

5        The HUF tariff lacks flexibility – the Company states that due to increasing prices  
 6        in steel, and other components that go into a water infrastructure system, the current  
 7        HUF tariff does not address these fluctuating costs. MXAs would cover these price  
 fluctuations.

8        10.     The Company’s rate base is currently negative, based on the Company’s April 30,  
 9        2008, financial data presented below:

10	Plant in Service	\$3,602,107
11	Accumulated Depreciation	<u>(503,469)</u>
12	Net Plant in Service	3,098,638
13	Advances in Aid of Construction	(1,175,512)
14	Refundable Meter Deposits	(840,817)
15	Contributions in Aid of Construction (“CIAC”)	(1,286,444)
16	Accumulated Amortization of CIAC	<u>91,852</u>
17	Net CIAC	(1,194,592)
18	Total Rate Base	<u><u>\$(112,283)</u></u>

19        11.     As a result of having a negative rate base, the Company must begin to build equity  
 20        at a much faster rate than those companies who use the minimum refund of 10 percent of gross  
 21        revenues from water sales under A.A.C. R14-2-406(D). The Company proposed that the refund  
 22        provision in future MXAs should be 20 percent until: (1) 25 years have passed or, (2) full  
 23        repayment of the advance.

24        12.     Staff recommended that each year the Company shall pay to the party making an  
 25        advance under future MXAs, or that party’s assignees or other successors in interest where the  
 26        Company has received notice and evidence of such assignment or succession, a minimum amount  
 27        equal to 20 percent of the total gross annual revenue from water sales to each bona fide consumer  
 28        whose service line is connected to main lines covered by the MXA, for a period of not less than 25  
 years or until the advance is fully repaid, whichever is sooner.



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ORDER

IT IS THEREFORE ORDERED that Diversified Water Utilities, Inc.'s request for termination of its off-site facilities hook-up fee tariff is granted.

IT IS FURTHER ORDERED that Diversified Water Utilities, Inc. shall each year pay to the party making an advance under future MXAs, or that party's assignees or other successors in interest where Diversified Water Utilities, Inc. has received notice and evidence of such assignment or succession, a minimum amount equal to 20 percent of the total gross annual revenue from water sales to each bona fide consumer whose service line is connected to main lines covered by the MXA, for a period of not less than 25 years or until the advance is fully repaid, whichever is sooner.

IT IS FURTHER ORDERED that Diversified Water Utilities, Inc. be put on notice that "backbone" plant shall be included in MXAs only when such plant is required to provide service exclusively to the applicant, i.e., "backbone" plant shall not be reserved.

IT IS FURTHER ORDERED that Diversified Water Utilities, Inc. submit to Docket Control, within 90 days of the effective date of a decision entered in this matter, a plan acceptable to Staff demonstrating how monies from the existing hook-up fee account will be used to fund the construction of any "backbone" plant before any advances from MXAs are required for "backbone" plant.

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1 IT IS FURTHER ORDERED that the Company not be allowed to apply for a new hook-up  
2 fee tariff until the Company has a capital structure consisting of a least 50 percent equity (not  
3 including advances and contributions).

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

5 **BY THE ORDER OF THE ARIZONA CORPORATION COMMISSION**

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7 *Lawrence S. Gerson*  
8 CHAIRMAN

*William A. Murrell*  
COMMISSIONER

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10 *Jeffrey H. Hatch-Miller*  
11 COMMISSIONER

*[Signature]*  
COMMISSIONER

*Gary J. Stein*  
COMMISSIONER

12 IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive  
13 Director of the Arizona Corporation Commission, have  
14 hereunto, set my hand and caused the official seal of this  
15 Commission to be affixed at the Capitol, in the City of  
16 Phoenix, this 3<sup>rd</sup> day of September, 2008.

17  
18 *[Signature]*  
19 BRIAN C. McNEIL  
EXECUTIVE DIRECTOR

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

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22 DISSENT: \_\_\_\_\_

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1 SERVICE LIST FOR: Diversified Water Utilities, Inc.  
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