OPEN MEETING ITEM

COMMISSIONERS
KRISTIN K. MAYES – Chairman
GARY PIERCE
PAUL NEWMAN
SANDRA D. KENNEDY
BOB STUMP

0000100515

Interim Executive Director

ARIZONA CORPORATION COMMISSION

DATE: JULY 10, 2009

DOCKET NOS: WS-04047A-07-0700 and WS-04047A-07-0708

Arizona Corporation Commission
DOCKETED
JUL 10 2009
DOCKETED BY

TO ALL PARTIES:

Enclosed please find the recommendation of Administrative Law Judge Sarah N. Harpring. The recommendation has been filed in the form of an Order on:

FISHER'S LANDING WATER AND SEWER WORKS, L.L.C.
(RATES)

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 thirteen (13) copies of the exceptions with the Commission's Docket Control at the address listed below by **4:00** p.m. on or before:

JULY 20, 2009

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 Open Meeting to be held on:

JULY 28, 2009 and JULY 29, 2009

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 Director's Office at (602) 542-3931.

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MICHAEL P. KEARNS
INTERIM EXECUTIVE DIRECTOR

BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

KRISTIN K. MAYES, Chairman
GARY PIERCE
PAUL NEWMAN
SANDRA D. KENNEDY
BOB STUMP

IN THE MATTER OF THE APPLICATION OF FISHER'S LANDING WATER AND SEWER WORKS, LLC, FOR APPROVAL OF A RATE APPLICATION FOR WATER COMPANIES WITH ANNUAL GROSS OPERATING REVENUES (INCLUDING REQUESTED RATE RELIEF) OF LESS THAN $250,000.	DOCKET NO. WS-04047A-07-0700
IN THE MATTER OF THE APPLICATION OF FISHER'S LANDING WATER AND SEWER WORKS, LLC, FOR APPROVAL OF A RATE APPLICATION FOR WASTEWATER COMPANIES WITH ANNUAL GROSS OPERATING REVENUES (INCLUDING REQUESTED RATE RELIEF) OF LESS THAN $250,000.	DOCKET NO. WS-04047A-07-0708 DECISION NO. _____ **ORDER**

Open Meeting
July 28 and 29, 2009
Phoenix, Arizona

BY THE COMMISSION:

This case involves applications for an increase in water rates and wastewater rates filed by Fisher's Landing Water and Sewer Works, LLC ("Company"), an Arizona limited liability company that the Commission's Utilities Division Staff ("Staff") has classified as a Class D utility for both water and wastewater. The Company provides water service and wastewater service in an area of approximately 2.25 square miles located along the Colorado River approximately 30 miles northeast of Yuma, in Yuma County, Arizona. The Company's water system serves only 78 meters—70 meters at private residences, 4 master meters serving approximately 344 residential/quasi-residential units, and 4 meters at commercial locations. The Company's wastewater system serves 331 customers, including only 1 private residence. The Company's current rates were adopted in Decision No. 64998 (June 26, 2002), which also granted its Certificate of Convenience and Necessity

("CC&N").

* * * * * * * * * *

Having considered the entire record herein and being fully advised in the premises, the Commission finds, concludes, and orders that:

FINDINGS OF FACT

1. The Company is an Arizona limited liability company providing water service and wastewater service in an area of approximately 2.25 square miles located along the Colorado River approximately 30 miles northeast of Yuma, in Yuma County, Arizona.

2. The Company's current rates were adopted in Decision No. 64998 (June 26, 2002),[1] which also granted the Company's CC&N and required the Company to file a rate application for both water and sewer services no later than July 31, 2006, using a 2005 test year. The Decision also required the Company to install approximately 72 meters by December 31, 2004, including 64 private meters, 3 meters for trailer parks, and 5 meters for commercial locations. The Commission found that it was cost prohibitive to meter individual mobile homes or RV trailers.

3. On July 9, 2007, in a different docket,[2] the Company filed an application for an increase to only its water system rates. Staff found the application deficient and asked the Company to file rate applications for both its water and wastewater systems.

4. On December 19, 2007, in the above-captioned dockets, the Company filed separate rate applications for its water system and wastewater system. With its applications, the Company provided notarized statements that the Company had mailed notice of the rate applications to its customers on December 18, 2007.

5. On March 24, 2008, after additional filings by the Company, Staff filed a Letter of Sufficiency in each docket, informing the Company that each application had met the requirements of Arizona Administrative Code ("A.A.C.") R14-2-103 and classifying the Company as a Class D utility for both water and wastewater.

6. On April 29, 2008, Staff filed a Motion to Suspend Time Clock in each docket,

[1] Decision No. 64998 was subsequently amended by two Procedural Orders, dated July 2 and 25, 2002.

[2] The July 2007 application for water system rates was assigned to Docket No. WS-04047A-07-0417, which was administratively closed pursuant to a Procedural Order issued on January 28, 2008.

because the Company had requested an extension of time to provide responses to Staff's first set of data requests, and Staff needed additional time to prepare its Staff Reports in the dockets. Staff requested that the time clock for the Staff Report in each docket be suspended in light of the Company's need for additional time.

7. On May 19, 2008, a Procedural Order was issued consolidating the dockets and granting Staff's request to suspend the time clock in each docket.

8. On July 25, 2008, Staff issued a Staff Report in each docket, in which Staff recommended approval of Staff's recommended rates and charges. The Staff Report for the water system recommended a fundamental change in the Company's rate design, from a design with flat rates for all usage to a design with a monthly customer charge and tiered commodity rates for all usage. The Staff Report for the wastewater system recommended a decrease in monthly customer charges.

9. The Company did not file a response to either Staff Report.

10. On October 24, 2008, a Recommended Order was issued for consideration at the Open Meeting on November 12 and 13, 2008. The Recommended Order adopted Staff's recommended rates and charges for both water and wastewater.

11. On October 31, 2008, the Company filed exceptions, revealing for the first time that the Company currently leases 20 acres of private land on which its wastewater evaporation ponds are located, at a cost of $6,666 per month or $79,992 per year, and requesting that the original cost rate base ("OCRB") for the wastewater system be adjusted to include the capitalized cost of the lease payments or the value of the 20 acres. The Company explained that the lease had not come to the attention of Staff because the Company has not had the capital or net income to make the payments, and the property owner has not required current lease payments, although the property owner has not forgiven the Company for past due lease payments.

12. As a result of the Company's exceptions, the Recommended Order was not placed on the agenda for the Open Meeting on November 12 and 13, 2008.

13. On November 6, 2008, Staff filed a Motion to Suspend Time Clock, requesting that the time clock in this matter be suspended to allow Staff an opportunity to obtain and review the

documentation necessary to evaluate the Company's request related to the lease information.

14. On November 7, 2008, a Procedural Order was issued suspending the time clock in these consolidated dockets indefinitely; requiring Staff to file a Supplemental Staff Report by January 30, 2009, including a procedural recommendation and whether a hearing should be held to address the new information; and requiring the Company to file by February 23, 2009, any response to the Supplemental Staff Report.

15. On January 30, 2009, Staff filed a Supplemental Staff Report for the wastewater system, providing revised rates and charges and recommending that they be adopted. The revised rates reflect an increase due to inclusion of the newly revealed lease liability as an operating expense. Staff did not further explain its analysis of the new information in the Supplemental Staff Report.

16. On February 24, 2009, a Procedural Order was issued requiring Staff to file, by March 6, 2009, all of the information received from the Company since the exceptions filed on October 31, 2008.

17. On March 6, 2009, Staff filed the documents required by the Procedural Order of February 24, 2009.

18. On March 9, 2009, a Procedural Order was issued requiring the Company to file, by March 30, 2009, documentation to, among other things, explain and justify the amount of the lease payments; establish the value of the 20-acre parcel; and address the relationship between the landlords and the Company. The Procedural Order required Staff to file a response to the Company's information by April 20, 2009, and required the Company to file any response to Staff's filing by May 11, 2009.

19. On March 30, 2009, the Company filed information in response to the Procedural Order.

20. On April 20, 2009, Staff filed a Responsive Staff Report, recommending approval of the revised rates and charges provided in the Supplemental Staff Report, explaining Staff's analysis regarding the lease liability, and stating that Staff does not recommend a hearing.

21. The Company did not file a response to the Responsive Staff Report.

22. No customer comments have been received by the Commission regarding the

applications.

The Company and Fisher's Landing

23. The Company's service area includes 70 private residences; a mobile home park with 157 spaces, a laundry facility, and a restroom; a mobile home park with 114 spaces; a campground with 66 spaces and a public restroom/laundry facility; a small mobile home area with seven mobile homes; a Rural/Metro fire station; the office of Fisher's Landing, Inc.; and a small convenience store/restaurant/bar. The individual sites within the campground, mobile home parks, and small mobile home area are served by master meters and are not separately metered for water service. As a result, the Company's water system serves approximately 420 connections through only 78 meters. The Company's wastewater system serves 331 connections because only 46 of the 66 campground spaces have sewer connections, and only one of the private residences in the service area receives wastewater service from the Company.[3]

24. Fisher's Landing, Inc. ("Fisher's Landing") wholly owns and manages the Company, the two mobile home parks, the small mobile home area, the campground, the convenience store/restaurant/bar, and its own offices. As a result, Fisher's Landing accounts for 349 of the Company's 420 water connections and 329 of the Company's 331 wastewater connections.

25. According to Decision No. 64998, Fisher's Landing is a resort and concession business operating and providing water and sewer service on state trust land on the Colorado River through a commercial lease with the Arizona State Land Department ("ASLD").[4] Per the Decision, ASLD had requested, as a condition of a new long-term lease application, that Fisher's Landing provide water and sewer services to neighboring areas, including the Martinez Lake Resort and a number of private land owners. Fisher's Landing formed the Company to obtain a CC&N to provide such services.

26. The commercial lease with the ASLD had a term of June 1, 1997, to May 31, 2007, and has not been extended, although Fisher's Landing applied for a long-term lease in 2003. According to the Staff Report, the ASLD intends to sell by auction some or all of the land on which

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[3] The remaining private residences have septic systems.

[4] The lease has ASLD Commercial Lease No. 03-101133.

the Company is operating. The Company continues to use the land under the lease's holdover provisions[5] and is currently in negotiations with the ASLD. The Company has stated that the process to obtain a long-term lease from ASLD has taken many years more than was foreseen.

27. Fisher's Landing is owned 75 percent by Gregory and Donna Brown, the owners of New West Investment Group, Inc. ("NWIG"),[6] a California corporation, and 25 percent by Don and Roberta Fisher and Albert and Louise Ferguson. The Browns, the Fishers, and Louise Ferguson all participate in the management of both Fisher's Landing and the Company as Officers and/or Directors. The Browns became involved with Fisher's Landing and the Company in late August 2004, through a "Master Agreement for Purchase and Sale of Fisher's Landing and Sewer Plant, and for Leaseback" ("Master Agreement"), under which the Browns and NWIG, respectively, purchased from the Fishers and Fergusons the majority interest in Fisher's Landing and the 20-acre parcel of land on which the evaporation ponds for the Company's wastewater system are located.[7] The Master Agreement requires the Company to lease the 20-acre parcel from NWIG in return for rent of $6,666 per month or $80,000 per year,[8] although the Company has not yet made any payments under the lease.

28. The Company explained that it failed to include the $79,992 per year liability for the rent in its wastewater rate application due to an oversight on the part of the accountant preparing the rate application. According to the Company, the accountant attributed the oversight to the Company's use of cash basis accounting on its financial statements for the test year ending December 31, 2006, which did not show that any rent payments had been made under the lease.

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[5] Regarding holding over, the lease states:

> 18.1 Prohibition. There shall not be any holding over by Lessee or any assignee or sublessee, upon the expiration or cancellation of this Lease for any reason. If nevertheless there be any holding over by Lessee or any assignee or sublessee, the holding over shall give rise to a tenancy at the sufferance of Lessor upon the same terms and conditions as are provided for herein with a rent for the holdover period commensurate with, but in no event less than, the previous year's rent.

[6] New West Investment Group, Inc. was known as Northwest Development Company, Inc. until a name change in November 2008.

[7] Although the Browns, Fergusons, and Fishers were socially acquainted prior to the Master Agreement, the Browns were not involved with Fisher's Landing or the Company prior to the Master Agreement and are not related to either the Fergusons or the Fishers.

[8] The monthly rent amount calculates to $79,992 per year.

29. According to Staff, no formal complaints, informal complaints, inquiries, or opinions have been filed regarding the Company within the past three years. Staff also indicates that the Company's billing formats for water and sewer services comply with Commission rules and that the Company is current on its property tax obligations. Staff states that the Company has no outstanding Commission compliance issues.

Water Service

30. During the test year ended December 31, 2006, the Company served approximately 420 water connections through 78 meters—74 connections through individual meters and 346 connections through four master meters serving the campground, the two mobile home parks, and the small mobile home area near the convenience store.

31. According to the Staff Report, average and median water usage by residential customers during the test year were 14,860 gallons per month and 1,881 gallons per month, respectively.

32. The water rates and charges for the Company at present, as proposed in the application, and as recommended by Staff, are as follows:

RATE DESIGN FOR WATER

	Present Rates	Proposed Rates Company	Proposed Rates Staff
MONTHLY USAGE CHARGE:			
5/8" x ¾" Meter – Residential	$12.00	$ 17.00	$ 10.00
5/8" x ¾" Meter – Commercial	50.00	50.00	10.00
¾" Meter – Residential	12.00	17.00	15.00
¾" Meter – Commercial	50.00	50.00	15.00
1" Meter – Residential	12.00	17.00	25.00
1" Meter – Commercial	50.00	50.00	25.00
1 ½" Meter – Residential	12.00	17.00	50.00
1 ½" Meter – Commercial	50.00	75.00	50.00
2" Meter – Residential	12.00	17.00	80.00
2" Meter – Commercial	50.00	85.00	80.00
3" Meter – Residential	12.00	17.00	160.00

3" Meter – Commercial	50.00	100.00	160.00
4" Meter – Residential	12.00	17.00	250.00
4" Meter – Commercial	50.00	150.00	250.00
6" Meter – Residential	12.00	17.00	500.00
6" Meter – Commercial	50.00	250.00	500.00
Gallons Included in Minimum	0	15,000	0
Commodity Charge (Per 1,000 Gallons)			
5/8" x ¾" Meter – Residential			
Over 15,000 gallons	N/A	$2.00	N/A
1 to 3,000 gallons	N/A	N/A	$1.00
3,001 to 10,000 gallons	N/A	N/A	1.80
Over 10,000 gallons	N/A	N/A	2.10
5/8" x ¾" Meter – Commercial			
15,001 to 50,000 gallons	N/A	$7.50	N/A
Over 50,000 gallons	N/A	9.00	N/A
1 to 3,000 gallons	N/A	N/A	$1.00
3,001 to 10,000 gallons	N/A	N/A	1.80
Over 10,000 gallons	N/A	N/A	2.10
¾" Meter – Residential			
Over 15,000 gallons	N/A	$2.00	N/A
1 to 10,000 gallons	N/A	N/A	$1.80
Over 10,000 gallons	N/A	N/A	2.10
¾" Meter – Commercial			
15,001 to 50,000 gallons	N/A	$7.50	N/A
Over 50,000 gallons	N/A	9.00	N/A
1 to 10,000 gallons	N/A	N/A	$1.80
Over 10,000 gallons	N/A	N/A	2.10
1" Meter – Residential			
Over 15,000 gallons	N/A	$2.00	N/A
1 to 30,000 gallons	N/A	N/A	$1.80
Over 30,000 gallons	N/A	N/A	2.10
1" Meter – Commercial			
15,001 to 50,000 gallons	N/A	$7.50	N/A
Over 50,000 gallons	N/A	9.00	N/A
1 to 30,000 gallons	N/A	N/A	$1.80
Over 30,000 gallons	N/A	N/A	2.10
1 ½" Meter – Residential			

Over 15,000 gallons	N/A	$2.00	N/A
1 to 110,000 gallons	N/A	N/A	$1.80
Over 110,000 gallons	N/A	N/A	2.10
<u>1 ½" Meter – Commercial</u>			
15,001 to 50,000 gallons	N/A	$7.50	N/A
Over 50,000 gallons	N/A	9.00	N/A
1 to 110,000 gallons	N/A	N/A	$1.80
Over 110,000 gallons	N/A	N/A	2.10
<u>2" Meter – Residential</u>			
Over 15,000 gallons	N/A	$2.00	N/A
1 to 205,000 gallons	N/A	N/A	$1.80
Over 205,000 gallons	N/A	N/A	2.10
<u>2" Meter – Commercial</u>			
15,001 to 50,000 gallons	N/A	$7.50	N/A
Over 50,000 gallons	N/A	9.00	N/A
1 to 205,000 gallons	N/A	N/A	$1.80
Over 205,000 gallons	N/A	N/A	2.10
<u>3" Meter – Residential</u>			
Over 15,000 gallons	N/A	$2.00	N/A
1 to 220,000 gallons	N/A	N/A	$1.80
Over 220,000 gallons	N/A	N/A	2.10
<u>3" Meter – Commercial</u>			
15,001 to 50,000 gallons	N/A	$7.50	N/A
Over 50,000 gallons	N/A	9.00	N/A
1 to 220,000 gallons	N/A	N/A	$1.80
Over 220,000 gallons	N/A	N/A	2.10
<u>4" Meter – Residential</u>			
Over 15,000 gallons	N/A	$2.00	N/A
1 to 350,000 gallons	N/A	N/A	$1.80
Over 350,000 gallons	N/A	N/A	2.10
<u>4" Meter – Commercial</u>			
15,001 to 50,000 gallons	N/A	$7.50	N/A
Over 50,000 gallons	N/A	9.00	N/A
1 to 350,000 gallons	N/A	N/A	$1.80
Over 350,000 gallons	N/A	N/A	2.10
<u>6" Meter – Residential</u>			
Over 15,000 gallons	N/A	$2.00	N/A
1 to 450,000 gallons	N/A	N/A	$1.80
Over 450,000 gallons	N/A	N/A	2.10

6" Meter – Commercial			
15,001 to 50,000 gallons	N/A	$7.50	N/A
Over 50,000 gallons	N/A	9.00	N/A
1 to 450,000 gallons	N/A	N/A	$1.80
Over 450,000 gallons	N/A	N/A	2.10

	Present		Company		Staff Recommended	
Service Line and Meter Installation	Service Line	Meter Installation	Service Line	Meter Installation	Service Line	Meter Installation
5/8" x ¾" Meter	$ 325.00	$ 75.00	$ 390.00	$ 90.00	$ 390.00	$ 90.00
¾" Meter	325.00	145.00	390.00	175.00	390.00	175.00
1" Meter	375.00	175.00	450.00	210.00	450.00	210.00
1 ½" Meter	400.00	385.00	480.00	460.00	480.00	460.00
2" Meter	500.00	875.00	600.00	1,050.00	600.00	1,050.00
3" Meter	655.00	1,320.00	785.00	1,585.00	785.00	1,585.00
4" Meter	950.00	2,090.00	1,140.00	2,510.00	1,140.00	2,510.00
6" Meter	1,430.00	4,205.00	1,715.00	5,045.00	1,715.00	5,045.00

SERVICE CHARGE:

Establishment	$30.00	$30.00	$30.00
Establishment (After Hours)	45.00	50.00	45.00
Reconnection (Delinquent)	35.00	40.00	35.00
Reconnection (Delinquent) (After Hours)	35.00	50.00	50.00
Meter Test (If Correct)	30.00	70.00	30.00
Deposit	*	50.00	*
Deposit Interest	*	*	*
Reestablishment (Within 12 Months)	**	**	**
NSF Check	$25.00	$30.00	$25.00
Deferred Payment (Per Month)	1.50%	1.50%	1.50%
Meter Re-read (If Correct)	$25.00	$25.00	$25.00
Late Payment Charge-Per Month	N/A	10.00%	1.50%
Monthly Service Charge for Fire Sprinkler:			
4" or Smaller	***	N/A	***
6"	***	N/A	***
8"	***	N/A	***
10"	***	N/A	***
Larger than 10"	***	N/A	***

* Per Commission rule A.A.C. R-14-2-403(B).

** Months off system times the monthly minimum per Commission rule A.A.C. R14-2-403(D).

*** 1% of Monthly Minimum for a Comparable Size Meter Connection, but no less than $5.00 per month. The Service Charge for Fire Sprinklers is only applicable for service lines separate and distinct from the primary water service line.

33. Staff determined the OCRB for the Company's water system to be $122,932. This is a $2,975 increase to the Company's proposed OCRB of $119,957, resulting from Staff's inclusion of a cash working capital component based on the formula method. Staff's proposed adjustment to rate base is reasonable and will be adopted.

34. The Company did not propose a separate fair value rate base ("FVRB") for its water system. We find that the FVRB for the Company's water system is equal to the OCRB for the Company's water system of $122,932.

35. The Company shows test year total operating revenue of $62,733, total operating expense of $35,340, and operating income of $27,393. This results in a rate of return of 22.28% and an operating margin of 43.67%.

36. Staff's recommended adjustments would result in test year total operating revenue of $220,164, total operating expense of $34,618, and operating income of $185,546. This results in a rate of return of 150.93% and an operating margin of 84.28%.

37. Staff recommends that all of the Company's test year water revenue be recharacterized as unmetered revenue, as the Company does not have a metered tariff. Staff also recommends that the Company's water revenue be adjusted to reflect the revenue that would result from recharacterizing each mobile home park space and each campground space as commercial and charging each the monthly commercial charge of $50 rather than the residential charge of $12. These adjustments result in Staff's adding $157,431 to the Company's unmetered water revenue, bringing the total operating revenue for the test year to $220,164.

38. The Company has been including in the bills for the mobile home parks and campground the flat monthly residential customer charge of $12 for each mobile home park space and each campground space, although these spaces are not separately metered or separately billed for service.[9] The Company's application shows that, during the test year, only one bill was prepared

[9] The Company's tariff does not explain this, and it is not apparent from reviewing the Company's tariff.

each month for each master meter, but that the campground's bill included charges for 70 residential customers each month; Fisher's Landing Mobile Home Park's bill included charges for 126 residential customers each month; and Pruitt City Mobile Home Park's bill included charges for 161 residential customers each month.[10] The application also states that the five commercial sites identified by the Company[11] were erroneously billed at the residential rate each month, an error that the Company stated will be corrected.

39. The Staff Report from the Company's initial CC&N case in 2002 ("2002 Staff Report") explains why the Company has been billing for the individual mobile home park spaces and campground spaces served by the master meters at the residential rate.[12] In the 2002 CC&N docket, the Company requested a CC&N to provide water service in an area that was then being served by Fisher's Landing. At the time, Fisher's Landing was charging approximately 393 customers for water service by including a flat monthly charge as a component of rent. None of the customers were metered at the time. The Company proposed to eliminate the water service charge from the rental fees and instead provide a separate water bill. In the 2002 Staff Report, Staff recommended that the Company's proposed rate structure, based on a flat monthly rate per customer, be adopted because the Company did not yet have any meters. Staff did not recommend a pricing distinction between commercial and residential customers. Staff also recommended that meters be installed for all customers by December 31, 2004, and that meters be read on a monthly basis starting January 1, 2005. In a subsequent filing in the 2002 Docket,[13] Staff revised its recommended rates to a $12 flat charge for residential customers and a $50 flat charge for commercial customers. Per Decision No. 64998, Staff also ultimately recommended that the Company install meters for "approximately 72 of its customers including 64 private meters, 3 meters for the trailer parks and 5 meters for the

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[10] The Company acknowledged in the application that billing errors had been made and that these numbers should have been 66, 114, and 157.

[11] The Company identified as commercial the Rural/Metro fire station, the Fisher's Landing office, the convenience store, the restaurant/bar, and a public restroom/laundry facility. The Staff Engineering Report shows that the convenience store and restaurant/bar are served by one meter, and a subsequent filing by the Company shows that they occupy the same building.

[12] Official notice is taken of the contents of the Staff Report for Docket No. WS-04047A-01-0713, dated February 12, 2002.

[13] Official notice is taken of the contents of the Notice of Filing, including attachments, made by Staff on March 21, 2002, in Docket No. WS-04047A-01-0713.

commercial customers, no later than December 31, 2004," and that the rest of the approximately 400 customers be allowed to remain unmetered, as Staff recognized that it was cost prohibitive to meter customers in mobile homes or RV trailers.[14] Staff's ultimate recommendations as to metering and rates were adopted in the Decision.

40. Nothing in the 2002 Staff Report, Staff's subsequent Notice of Filing in that docket, or Decision No. 64998 indicates that either Staff or the Commission intended for the unmetered mobile home park space customers and campground space customers to be characterized and billed as commercial customers. To the contrary, Staff's revised pro forma income statement in the CC&N docket[15] indicates that those customers were characterized as residential customers. Thus, Staff's recommended adjustment to test year water revenue in the instant case will be modified to maintain the characterization of these customers as residential. As a result, the Company's water revenue for the test year is adjusted to $69,904, as shown on Exhibit A attached hereto.

41. With adjusted test year total operating revenue of $69,904 and Staff's total operating expense figure of $34,618, operating income becomes $35,286. This results in a 28.70 percent rate of return and an operating margin of 50.48 percent for the test year.

42. Staff reduced operating expenses by $722 through removing a small charitable contribution and reducing water testing expenses to reflect an average normalized level of water testing expense. Staff's proposed adjustments to operating expenses are reasonable and will be adopted.

43. The water rates and charges proposed by the Company would produce total operating revenue of $123,104. Using Staff's adjusted operating expense figure of $34,618, this results in operating income of $88,486, a 71.98 percent rate of return, and an operating margin of 71.88 percent.

44. The water rates and charges Staff recommends would produce total operating revenue of $48,140. Using Staff's adjusted operating expense figure of $34,618, this results in operating

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[14] Decision No. 64998 (June 26, 2002), at 8. The Decision also states in a footnote that the Company is required to install meters, by December 31, 2004, for all subsequent private and commercial customers connected to the system, except for customers residing in mobile homes or RV trailers. Decision No. 64998 was subsequently amended by two Procedural Orders, issued July 2 and July 25, 2002, to correct an omission in the rate design in the Order.

[15] This was included with Staff's Notice of Filing, referenced above.

income of $13,522, an 11.00 percent rate of return, and an operating margin of 28.09 percent. Staff states that this recommended revenue is sufficient to cover the Company's operating, maintenance, and capital costs.

45. The Company's proposed rates and charges would increase the average and median monthly residential 5/8" x ¾" customer water bill by $5.00, or 41.7 percent, from $12.00 to $17.00.

46. Staff's recommended rates and charges would increase the average monthly residential 5/8" x ¾" customer water bill by $23.81, or 198.4 percent, from $12.00 to $35.81, and would decrease the median monthly customer water bill by $0.12, or 1.0 percent, from $12.00 to $11.88.

47. As Staff indicates, the Commission established the present rate structure, based on flat rates, in the absence of metered billing determinants. Because Staff believes that flat rates are less efficient at assigning costs to customers than are volumetric rates that also recognize variances in meter size, Staff recommends a new rate structure that is based on volumetric use and that differentiates among meter sizes. Staff's recommended rate design also discontinues the prior practice of assessing monthly customer charges for the individual mobile home park spaces and campground spaces and does not differentiate between residential and commercial customers. Staff acknowledges that its recommended rate design is a significant change.

48. We agree with Staff that it is appropriate to use a rate design based on volumetric use, as that is the best means to ensure that higher volume users pay more than lower volume users. The fact that both an average user with monthly consumption of 14,860 gallons and a median user with monthly consumption of 1,881 gallons currently pay $12 per month for water provides an excellent illustration of why volumetric rates are more appropriate than are flat rates. Flat rates remove the customer's financial incentive to conserve water, which is not in the public interest. We also agree that it is appropriate to discontinue the prior practice of imposing separate customer charges for individual mobile home park spaces and campground spaces, as all of these spaces are owned by Fisher's Landing and served by master meters, and that it is appropriate to cease distinguishing between residential and commercial customers, particularly when faced with the somewhat mixed use

found in the area served by the Company. Thus, we will adopt Staff's recommended rates and charges for the water system.

49. According to the Staff Report, the Company has submitted documentation from the Arizona Department of Environmental Quality ("ADEQ") stating that the Company's system has no deficiencies and is delivering water that meets the water quality standards of A.A.C. Title 18, Chapter 4.

50. Staff states that the Company has a water loss of 2.1 percent, which is well within acceptable limits, and that the Company has an approved curtailment plan tariff and an approved backflow prevention tariff.

51. Staff states that the Company is not located in an Active Management Area and thus is not subject to Arizona Department of Water Resources reporting and conservation requirements.

52. Staff has determined that the Company's water system has adequate production, but lacks adequate storage capacity to serve its existing customer base. Staff states that the system's total production capacity is 125 gallons per minute ("GPM"), and its storage capacity is 10,000 gallons, which is insufficient for 420 service connections. Decision No. 64998 required the Company to submit to Staff, within 365 days after the effective date of that Decision, a plan for increasing its storage capacity. Staff states that the Company filed a copy of an ADEQ Approval to Construct ("ATC") for a 100,000 gallon storage facility, issued on December 5, 2006, and applied to ASLD on January 3, 2007, for permission to place the storage facility improvements on the leased trust land on which the Company operates. According to Staff, ASLD denied the Company's application, in part because the Company's lease had expired, and ASLD intends to put some or all of the trust land up for auction. Staff states that ADEQ granted the Company an extension of time, until December 5, 2008, to begin construction under the ATC. There is no information in the record regarding whether construction under the ATC commenced by December 5, 2008, or whether the Company received another extension of time from ADEQ.

53. Staff states that the Company has not provided total customer counts in its annual reports. Thus, Staff was unable to project growth using historical annual growth rates. Based on the 400 customers reported in the 2002 docket and the 420 customers reported for the test year in this

docket, however, Staff calculated a growth rate of approximately five customers per year. Thus, Staff estimates that the Company's system could have more than 445 customers by 2012.

54. Staff reports that the Company is subject to mandatory participation in the Monitoring Assistance Program, which is required for water systems serving fewer than 10,000 persons (approximately 3,300 service connections).

55. Staff states that the Company was required by Decision No. 64998 to use new depreciation rates, but that the Company has deviated from those rates for certain plant accounts. Staff stated that the Company has not provided specific reasons for these deviations.

56. Staff recommends that Staff's recommended rates and charges be adopted and further recommends:

a. That the Company collect from its customers a proportionate share of any privilege, sales, or use tax per A.A.C. R14-2-409(D)(5);

b. That the Company be required to file with Docket Control, as a compliance item in this docket, by December 31, 2009, a copy of an ADEQ Approval of Construction for additional storage facilities with a minimum capacity of at least 40,000 gallons;

c. That the Company use the depreciation rates shown in Table D of Staff's Engineering Report;[16]

d. That the Company charge its customers in accordance with its authorized tariffs;

e. That the Company be required to file with Docket Control, as a compliance item in this docket, within 30 days after issuance of the Decision in this matter, a schedule of all approved rates and charges; and

f. That the Company specify in its annual reports, beginning with the 2008 annual report filed in 2009, the total number of its customers.

[16] These are the same depreciation rates ordered to be used in Decision No. 64998.

57. Staff's recommendations listed in Findings of Fact No. 56 are reasonable and should be adopted, with the following modifications:

a. The deadline in Findings of Fact No. 56(b) for the Company to file an ADEQ Approval of Construction shall be December 31, 2010; and

b. The requirement in Findings of Fact No. 56(f) shall be effective beginning with the 2009 annual report due in April 2010.

Wastewater Service

58. During the test year, the Company provided sewer service to 325 customers. According to Staff's Engineering Report, the Company has 331 sewer customers: 1 private residence;[17] 46 campground spaces;[18] 157 mobile home park spaces, 1 laundry facility, and 1 restroom at the Pruitt City Mobile Home Park; 114 mobile home park spaces at the Fisher's Landing Mobile Home Park; the 7 mobile homes near the convenience store; the convenience store/restaurant/bar facility; the Rural/Metro fire station; the public restroom/laundry facility at the campground; and the Fisher's Landing office.

59. The wastewater treatment rates and charges for the Company at present, as proposed in the application, and as recommended by Staff are as follows:

RATE DESIGN FOR WASTEWATER

	Present Rates	Proposed Rates Company	Proposed Rates Staff
MONTHLY USAGE CHARGE:			
Residential (All Sizes, Flat Rate)	$20.00	$30.00	$35.12
Commercial (All Sizes, Flat Rate)	50.00	80.00	87.80
Service Lateral Installation Charge[19]			
4-inch Lateral	$350.00	$500.00	$ 500.00
6-inch Lateral	350.00	0.00	1,125.00
8-inch Lateral	350.00	0.00	2,000.00
SERVICE CHARGE:			
Establishment	$30.00	$40.00	$30.00
Establishment (After Hours)	30.00	50.00	45.00

[17] The other 69 private residences are served by individual septic systems.
[18] The other 20 campground spaces do not have sewer connections.
[19] The Company's current service line connection charge is a flat charge with no reference to size.

Reconnection (Delinquent)	35.00	50.00	35.00
Deposit	50.00	70.00	*
Deposit Interest	*	*	*
Re-establishment (Within 12 Months)	$50.00	$70.00	**
NSF Check	25.00	30.00	25.00
Deferred Payment	N/A	1.50%	1.50%
Late Payment Charge – Per Month	$5.00	$10.00	1.50%

* Per Commission rule A.A.C. R-14-2-603(B).

** Months off system times the monthly minimum per Commission rule A.A.C. R14-2-603(D).

60. Staff determined the Company's OCRB for the wastewater system to be $283,033. This is a $11,757 increase to the Company's proposed OCRB of $271,276, resulting from Staff's inclusion of a cash working capital allowance of $12,034 based on the formula method and Staff's addition of $277 in accumulated depreciation. Staff's proposed adjustments to rate base are reasonable and will be adopted.

61. The Company did not propose a separate FVRB for the wastewater system. We find that the Company's FVRB for the wastewater system is equal to its OCRB for the wastewater system.

62. The Company shows test year total operating revenue of $79,680, total operating expense of $108,976,[20] operating income of ($29,296), and no rate of return for the test year.

63. Staff increased total operating revenue by $120 based on test year billing determinants and increased operating expenses by $20 to reflect Staff's recommended depreciation rates. Staff's proposed adjustments to operating revenue and operating expenses are reasonable and will be adopted.

64. Staff's adjustments result in test year total operating revenue of $79,800, total operating expense of $108,996, operating income of ($29,196), and no rate of return for the test year.

65. The wastewater rates and charges proposed by the Company would produce total operating revenue of $120,000. Using the adjusted total operating expenses of $108,996, these rates and charges result in operating income of $11,004, a 3.89 percent rate of return, and an operating margin of 9.17 percent.

[20] This figure reflects the $79,992 in annual lease liability revealed by the Company in its exceptions to the prior Recommended Order in this matter.

66. The wastewater rates and charges recommended by Staff would produce total operating revenue of $140,130. Using the adjusted total operating expenses of $108,996, these rates and charges result in operating income of $31,134, an 11.00 percent rate of return, and an operating margin of 22.22 percent.

67. The Company's proposed rates and charges would increase the monthly sewer bill for a residential customer served by a general service 4-inch lateral by $10.00, or 50 percent, from $20.00 to $30.00, and would increase the monthly sewer bill for a commercial customer served by a general service 4-inch lateral by $30.00, or 60 percent, from $50.00 to $80.00.

68. Staff's proposed rates and charges would increase the monthly sewer bill for a residential customer served by a general service 4-inch lateral by $15.12, or 75.6 percent, from $20.00 to $35.12, and would increase the monthly sewer bill for a commercial customer served by a general service 4-inch lateral by $37.80, or 75.6 percent, from $50.00 to $87.80.

69. Although Staff's proposed rates and charges would result in a substantial increase in customers' monthly sewer bills, the Company currently provides wastewater service to only two facilities owned by entities other than Fisher's Landing—one private residence and a Rural/Metro fire station. Neither of these customers has filed any objection to a rate increase.

70. Staff's proposed rates and charges represent a significant increase because they are designed to allow the Company to generate revenue sufficient to pay all of its operating expenses, including the $79,992 in lease payments that the Company has not been paying to the owners of the 20-acre parcel on which the wastewater system's evaporation ponds are located. Staff analyzed the additional documentation filed in this matter concerning the lease itself, the value of the 20-acre parcel, and the need to lease the entire 20-acre parcel as opposed to only the approximately 5 acres upon which the evaporation ponds are located and determined that the lease cost is reasonable. Specifically, Staff determined that although the $79,992 lease cost reflects an increase of $67,992 in annual rent payments for the 20-acre parcel since the 2002 case, it provides only an 8.88 percent annual yield based on the September 2, 2004, purchase price for the parcel of $900,000, and is thus

reasonable.[21] Staff also determined that leasing the entire 20-acre parcel is appropriate because ADEQ recommends at least a 1,000-foot setback from adjacent property for an evaporation pond.[22]

71. According to the Staff Report, an ADEQ Compliance Status Report dated March 17, 2008, shows that the Company's wastewater system is in compliance with ADEQ's rules and regulations.

72. Staff states that the Company has not provided customer numbers in its annual reports. Thus, Staff was unable to project growth using historical annual growth rates. Staff states that the Company is planning to connect approximately 110 customers from the Martinez Lake Sewer Company ("Martinez") to its wastewater treatment facilities in the near future and referenced Decision No. 68234 (October 25, 2005).[23] Based on the anticipated addition of those customers, Staff estimates that the system could have more than 440 customers in its service area by 2012.

73. Staff used an estimated 150 gallons per day ("GPD") per connection and determined that the Company's 75,000 GPD plant could serve up to 500 connections. Staff concluded that the wastewater system is adequate to serve the present customer base and reasonable growth.

74. Staff states that the Company was required by Decision No. 64998 to use new depreciation rates, but that the Company has deviated from those rates for certain plant accounts. Staff states that the Company has not provided specific reasons for these deviations.

75. Staff recommends that Staff's recommended rates and charges be adopted and further recommends:

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[21] Staff noted that the price per acre for the transaction is $45,000; that two 0.92 acre lots in the vicinity recently sold for $1,200,000; and that other lots of 1.0 to 1.37 acres are offered for sale with prices ranging from $475,000 to $650,000. Staff determined that there is no basis to find that either the purchase price for the land or the lease payments are unreasonable.

[22] The Company also has stated that ASLD has informed the Company that another evaporation pond will be required, so the Company must be prepared to expand and does not yet know precisely what the engineering requirements for the expansion will be.

[23] Decision No. 68234, which involved Martinez's application for a CC&N, found that the wastewater to be collected by Martinez would be transported through Martinez's collection system to the Company's system and that the Company had sufficient capacity to treat the wastewater from Martinez's customers. According to the Decision, Martinez projected that approximately 200 residential properties would be provided with wastewater service after the first five years of development (by approximately late 2010). The Decision also found that the Company had contracted with Martinez to treat its wastewater in return for a one-time hook-up fee of $8,000 and $2.50 per 1,000 gallons for wastewater treatment. There was no indication in this matter that the Company had received any revenue under this contract during the test year.

a. That the Company collect from its customers a proportionate share of any privilege, sales, or use tax per A.A.C. R14-2-608(D)(5);

b. That the Company be required to file with Docket Control, as a compliance item in this docket, within 30 days after the Decision in this matter is issued, a schedule of all approved rates and charges;

c. That the Company charge its customers in accordance with its authorized tariffs;

d. That the Company use the depreciation rates shown in Table C of Staff's Engineering Report;[24]

e. That the Company install a measuring device in its wastewater system and report its recorded wastewater flow in future annual reports, beginning with the 2008 annual report due in April 2009; and

f. That the Company specify the total number of its customers in future annual reports, beginning with the 2008 annual report due in April 2009.

76. Staff's recommendations listed in Findings of Fact No. 75 are reasonable and should be adopted, with the modification that the requirements in Findings of Fact No. 75(e) and (f) shall be effective beginning with the 2009 annual report due in April 2010.

Property Taxes

77. Because an allowance for the Company's property tax expense is included in the Company's rates and will be collected from its customers, the Commission seeks assurances from the Company that any taxes collected from ratepayers have been remitted to the appropriate taxing authority. It has come to the Commission's attention that a number of water and wastewater companies have been unwilling or unable to fulfill their obligations to pay the taxes that were collected from ratepayers, some for as many as 20 years. It is reasonable, therefore, that as a preventive measure, the Company annually file, as part of its annual report, an affidavit with the Utilities Division attesting that the Company is current in paying its property taxes in Arizona.

[24] These are the same depreciation rates ordered to be used in Decision No. 64998.

Potential Sale of Land

78. We are concerned about what may occur if the ASLD sells any or all of the land upon which the Company is operating to an entity other than the Company or Fisher's Landing. Thus, we believe that it is appropriate to require the Company to provide the Commission with written notice if it learns that the ASLD has scheduled an auction or taken any other action toward proceeding with the sale of any portion of the land upon which the Company is currently operating.

CONCLUSIONS OF LAW

1. The Company is a public service corporation within the meaning of Article XV of the Arizona Constitution and A.R.S. §§ 40-250 and 40-251.

2. The Commission has jurisdiction over the Company and the subject matter of the applications.

3. Notice of the applications was provided in accordance with the law.

4. Under the circumstances described herein, the rates and charges proposed by Staff and authorized hereinafter are just and reasonable and should be approved without a hearing.

5. Staff's recommendations set forth in Findings of Fact Nos. 56 and 75, as modified in Findings of Fact Nos. 57 and 76, are reasonable and should be adopted.

6. Based on our findings and in light of Staff's recommendations, no hearing is necessary.

ORDER

IT IS THEREFORE ORDERED that Fisher's Landing Water and Sewer Works, LLC, is hereby directed to file with Docket Control, as a compliance item in this docket, on or before August 1, 2009, revised rate schedules setting forth the following water and wastewater rates and charges:

RATES FOR WATER

MONTHLY USAGE CHARGE

5/8" x ¾" Meter – All	$ 10.00
¾" Meter – All	15.00
1" Meter – All	25.00
1 ½" Meter – All	50.00
2" Meter – All	80.00

3" Meter – All	160.00
4" Meter – All	250.00
6" Meter – All	500.00

Commodity Rates (Per 1,000 Gallons)

5/8" x ¾" Meter – All	
1 to 3,000 gallons	$1.00
3,001 to 10,000 gallons	1.80
Over 10,000 gallons	2.10
¾" Meter – All	
1 to 10,000 gallons	$1.80
Over 10,000 gallons	2.10
1" Meter – All	
1 to 30,000 gallons	$1.80
Over 30,000 gallons	2.10
1 ½" Meter – All	
1 to 110,000 gallons	$1.80
Over 110,000 gallons	2.10
2" Meter – All	
1 to 205,000 gallons	$1.80
Over 205,000 gallons	2.10
3" Meter – All	
1 to 220,000 gallons	$1.80
Over 220,000 gallons	2.10
4" Meter – All	
1 to 350,000 gallons	$1.80
Over 350,000 gallons	2.10
6" Meter – All	
1 to 450,000 gallons	$1.80
Over 450,000 gallons	2.10

SERVICE LINE AND METER INSTALLATION CHARGES:
(Refundable pursuant to A.A.C. R14-2-405)

	Service Line Charge	Meter Installation	Total
5/8" x ¾" Meter	$ 390.00	$ 90.00	$ 480.00
¾" Meter	390.00	175.00	565.00
1" Meter	450.00	210.00	660.00
1 ½" Meter	480.00	460.00	940.00

2" Meter	600.00	1,050.00	1,650.00
3" Meter	785.00	1,585.00	2,370.00
4" Meter	1,140.00	2,510.00	3,650.00
6" Meter	1,715.00	5,045.00	6,760.00

SERVICE CHARGES

Establishment	$30.00
Establishment (After Hours)	45.00
Reconnection (Delinquent)	35.00
Reconnection (Delinquent) (After Hours)	50.00
Meter Test (If Correct)	30.00
Deposit	*
Deposit Interest	*
Re-establishment (Within 12 Months)	**
NSF Check	$25.00
Deferred Payment	1.50%
Meter Re-read (If Correct)	$25.00
Late Payment Charge-Per Month	1.50%

Monthly Service Charge for Fire Sprinkler:

4" or Smaller	***
6"	***
8"	***
10"	***
Larger than 10"	***

* Per Commission rule A.A.C. R-14-2-403(B).

** Months off system times the monthly minimum per Commission rule A.A.C. R14-2-403(D).

*** 1% of Monthly Minimum for a Comparable Size Meter Connection, but no less than $5.00 per month. The Service Charge for Fire Sprinklers is only applicable for service lines separate and distinct from the primary water service line.

RATES FOR WASTEWATER

MONTHLY USAGE CHARGE

Residential (All Sizes, Flat Rate)	$35.12
Commercial (All Sizes, Flat Rate)	87.80

Service Lateral Installation Charges

4-inch Lateral	$ 500.00
6-inch Lateral	1,125.00
8-inch Lateral	2,000.00

SERVICE CHARGE

Establishment	$30.00
Establishment (After Hours)	45.00
Reconnection (Delinquent)	35.00
Deposit	*
Deposit Interest	*
Re-establishment (Within 12 Months)	***
NSF Check	25.00
Deferred Payment	1.50%
Late Payment Charge – Per Month	1.50%

* Per Commission rule A.A.C. R-14-2-603(B).

** Months off system times the monthly minimum per Commission rule A.A.C. R14-2-603(D).

IT IS FURTHER ORDERED that Fisher's Landing Water and Sewer Works, LLC shall notify its customers of the water and wastewater rates and charges authorized hereinabove and their effective date, in a form acceptable to the Commission's Utilities Division Staff, by means of an insert in its next regular scheduled billing.

IT IS FURTHER ORDERED that the above water and wastewater rates and charges shall be effective for all services provided on and after August 1, 2009.

IT IS FURTHER ORDERED that Fisher's Landing Water and Sewer Works, LLC shall comply with Staff's recommendations as set forth in Findings of Fact Nos. 56 and 75, as modified by Findings of Fact Nos. 57 and 76.

IT IS FURTHER ORDERED that Fisher's Landing Water and Sewer Works, LLC shall annually file, as part of its annual report, an affidavit with the Utilities Division attesting that it is current in paying its property taxes in Arizona.

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IT IS FURTHER ORDERED that Fisher's Landing Water and Sewer Works, LLC shall, within 30 days after receiving notice that the Arizona State Land Department has scheduled an auction or taken any other action toward proceeding with the sale of any portion of the land upon which Fisher's Landing Water and Sewer Works, LLC is currently operating, file with the Commission's Docket Control, as a compliance item in this docket, written notice of such action, including a copy of any documentation received from the Arizona State Land Department regarding such action.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

CHAIRMAN COMMISSIONER

COMMISSIONER COMMISSIONER COMMISSIONER

IN WITNESS WHEREOF, I, MICHAEL P. KEARNS, Interim Executive Director of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this _____ day of _____, 2009.

_____
MICHAEL P. KEARNS
INTERIM EXECUTIVE DIRECTOR

DISSENT _____

DISSENT _____

SERVICE LIST FOR: FISHER'S LANDING WATER AND SEWER WORKS, LLC

DOCKET NOS.: WS-04047A-07-0700 and WS-04047A-07-0708

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EXHIBIT A

Location Served	Customer Type	Number of Customers	Rate per Month	Total Per Month	Total for the Year
Private Homes	Residential	70	$12	$840.00	$10,080
Pruitt City MHP	Residential	159[1]	$12	$1908.00	$22,896
Fisher's Landing MHP	Residential	114	$12	$1368.00	$16,416
Campground	Residential	66	$12	$792.00	$9,504
Mobile Homes Near Convenience Store	Residential	7	$12	$84.00	$1,008
Rural/Metro Fire Station	Commercial	1	$50	$50.00	$2,500
Fisher's Landing Office	Commercial	1	$50	$50.00	$2,500
Convenience Store/Restaurant/Bar	Commercial	1	$50	$50.00	$2,500
Public Restroom/Laundry Facility	Commercial	1	$50	$50.00	$2,500
				Total for the Year	$69,904.00

[1] 157 spaces, 1 laundry room, 1 restroom