

ORIGINAL



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MEMORANDUM

TO: Docket Control

2011 MAY 26 P 4: 00

FROM: Steven M. Olea
Director
Utilities Division

AZ CORP COMMISSION
DOCKET CONTROL

DATE: May 26, 2011

RE: **STAFF'S RESPONSE TO PROCEDURAL ORDER - BRADSHAW WATER COMPANY - APPLICATION FOR A PERMANENT RATE INCREASE DOCKET NO. W-02476A-10-0495**

On April 26, 2011, Administrative Law Judge Sarah Harpring issued a Procedural Order in this matter that set forth a set of questions and directed that Staff file complete answers to those questions by May 26, 2011.

Pursuant to that Order, Staff hereby submits the attached responses to Judge Harpring's questions.

SMO:CSB:red

Originator: Crystal Brown

Attachment: Original and sixteen copies

Arizona Corporation Commission
DOCKETED

MAY 26 2011

DOCKETED BY 

Service List for: BRADSHAW WATER COMPANY
Docket No. W-02476A-10-0495

Mr. Don Bohler
Bradshaw Water Company
PO Box 12758
Prescott, Arizona 86304

Mr. Steven M. Olea
Director, Utilities Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

Ms. Janice Alward
Chief Legal Counsel, Legal Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

Ms. Lyn Farmer
Chief Administrative Law Judge, Hearing Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

**ARIZONA CORPORATION COMMISSION
STAFF'S RESPONSES TO
ADMINISTRATIVE LAW JUDGE HARPRING'S
FIRST SET OF QUESTIONS**

Docket No. W-02476A-10-0495

May 26, 2011

1. (a) How did Staff determine that the test year operating costs shared by Bradshaw and other entities owned or managed by Mr. Bohler should be approved? (b) Are all of the shared operating expenses paid by Bradshaw reasonable and appropriate?

Answer:

- a. Staff asked Mr. Bohler what costs were directly charged versus allocated. Mr. Bohler explained that the larger costs such as labor, repairs and maintenance were primarily directly charged whereas smaller costs such as office space, utilities, office supplies, computers, transportation, and other miscellaneous costs were allocated.

Therefore, based upon (1) the Company's assertions concerning directly charged versus allocated costs and (2) Staff's determination that the allocated costs were relatively small compared to the Company's total operating expenses and Staff concluded that Bradshaw's shared operating costs should be approved.

- b. Yes. Staff reviewed the shared operating expenses submitted by the Company and, based on Staff's experience with similar small water utilities, Staff determined that the operating expenses paid by Bradshaw are reasonable and appropriate.

2. Why did Staff recommend that Bradshaw be ordered to refund the \$9,100 in advanced service line and meter charges on a going-forward basis, rather than recommending that any refunds that are past due under A.A.C. R14-2-405(B)(2) be made immediately?

Answer: There are two reasons as discussed below:

- a. First, Bradshaw Water Company *currently* does not have enough available cash to make immediate repayment of past due refunds. The Company had a Staff-adjusted \$20,104 operating loss for the test year (i.e., December 31, 2009). Further, the Company's 2010 Utilities annual report shows an operating loss of \$18,700. And, as previously noted, Staff recognizes that Mr. Bohler has likely been subsidizing the Company for several years.

b. **Second, for small water companies, Staff does not typically recommend immediate repayment of past due refunds unless the Company has a history of noncompliance and Staff has put the Company "on notice" of the penalty for continued noncompliance.**

3. Why did Staff recommend that the \$121,319 identified as advances in aid of construction made under main extension agreements be converted to contributions in aid of construction, rather than recommending that any refunds that are past due under A.A.C. R14-2-406 be paid immediately?

Answer: Arizona Administrative Code R14-2-406(D) contemplates that nonrefunded balances of AIAC that still exist ten years after they were collected become nonrefundable and are treated as contributions in aid of construction from that point:

A balance remaining at the end of the ten-year period set out shall become non-refundable, in which case the balance not refunded shall be entered as a contribution in aid of construction in the accounts of the Company

Staff recommended that the \$121,319 in advances in aid of construction ("AIAC") be converted to contributions in aid of construction (a) per terms of the attached AIAC agreements and (b) per the Commission rule.

4. Did Staff approve the main extension agreements ("MXA's) under which the \$121,319 was advanced? If so, when?

Answer: The Utilities Division does not have a copy of an approved MXA for Bradshaw Water with North Nugget Development LLC; however, this is not definitive because the Utilities Division retention schedule does not require the Utilities Division to keep MXA's for more than 10 years.

5. Has Bradshaw violated A.A.C. R14-2-405(B)(2) and R14-2-406(D) by (a) not providing refunds of advanced service line and meter charges and or (b) advances in aid of construction made under main extension agreements? (c) (If so, explain the nature, time, and extent of each violation.)

Answer:

- a. **Yes. Staff concludes that, by not refunding advances of service line and meter charges, Bradshaw has violated A.A.C. R14-2-405(B)(2). That rule contemplates that service line and meter charges which are not charged as part of an MXA will be refundable AIAC and will be refunded by way of a credit equal to ten percent of the charge annually for ten years. Unlike R14-2-406(D), the refund provision in**

this rule is not related to gross revenues generated by water sales from the main. The Company has charged for meters and service lines separate from any MXA and, therefore, Staff believes that the Company is required to refund advances collected pursuant to the meter and service line charges.

- b. Staff does not have enough information to know whether or not the Company has violated A.A.C. R14-2-406(D) (relating to MXAs) based on the information available. Staff notes that according to the Company's Utilities annual reports, it has been incurring operating losses since 2006, the year in which Mr. Bohler purchased the Company. A.A.C. R14-2-406(D) provides that the utility must at minimum refund ten percent of gross revenue generated by water sales on the main per year during the ten year refund period. Staff does not know the amount of water sales for each year, if any, on the mains in question. Further, A.A.C. R14-2-406(D) contemplates that advanced funds might not be fully refunded at the end of the ten year period and the nonrefunded balance will be treated as CIAC from thereon.**

However, with respect to MXAs, Staff would clarify that the rule permits for a different procedure that may be incorporated into the MXA whereby the nonrefunded balance at the end of ten years may still be partially or entirely payable. However, none of the MXAs that the Company has provided to Staff as part of this application have such a provision.

- c. Staff believes the Company is required to refund advances collected pursuant to the meter and service line installation charges under A.A.C. R14-2-405(B)(2). The balance remaining of the nonrefunded advances for meter and service line installation charges is \$3,465 as shown on the attached Schedule CSB-1.**
6. (a) Does Staff intend for its recommended purchased water cost recovery adjustment mechanism initially to commence on April 1, 2012, pursuant to a filing made by Bradshaw on or before February 15, 2012? (b) Does Staff then intend for the same filing deadline and effective date for any adjustment to apply each year thereafter?

Answer:

- a. Yes.**
- b. Yes.**

7. (a) How does Staff's recommended purchased water cost recovery adjustment mechanism take into account excessive water loss that results in a higher overall purchased water cost during a year than would have existed had water loss not been excessive? (b) Does Staff's recommended adjustment mechanism ensure that customers are not being required unfairly to pay for excessive lost water?

Answer:

- a. **Staff's purchased water cost recovery adjustment mechanism does not take into account excessive water loss.**

Staff's typical procedure in the disallowance of costs related to excessive water loss is to:

- **Recommend that the Company monitor its water system for a 12-month period and prepare a water loss reduction report.**
- **If the reported water loss is greater than 10 percent, recommend that the Company evaluate its water system and submit a water loss reduction report containing a detailed analysis and plan to reduce the water loss to 10 percent or less.**
- **Recommend that the Company determine whether or not it is cost effective to reduce the water loss to 10 percent or less. If the Company believes it is not cost effective to reduce the water loss to less than 10 percent, it should submit a detailed cost benefit analysis to support its opinion.**

If the Company has not resolved the problem to Staff's satisfaction, Staff would then disallow costs related to excessive water loss that were above the 10 percent maximum in the Company's next rate case.

- b. **No. However, if the Company has not resolved the problem to Staff's satisfaction, Staff would disallow operating expenses related to excessive water loss that were above the 10 percent maximum in the Company's next rate case.**
8. Why does Staff recommend that Bradshaw notify its customers of any changes in the surcharge within 30 days after the Prescott Valley Water District notifies Bradshaw of a change in its water charges, if the surcharge can only be adjusted once each year, effective April 1, based on the purchased water cost for the entire preceding year?

Answer: Staff's recommendation that "the Company notify its customers of any changes in the surcharge within 30 calendar days of notification to Bradshaw by

Prescott Valley Water District of any change in its water charges” was an error and should be changed to the language discussed in No. 9 below.

9. Does Staff have any additional recommendations or any revisions to its existing recommendations?

Answer: Yes. Staff’s recommendation that “the Company notify its customers of any changes in the surcharge within 30 calendar days of notification to Bradshaw by Prescott Valley Water District of any change in its water charges” should be changed to the following:

Staff further recommends that the Company notify its customers of any changes in the surcharge within 30 calendar days of making a filing with the Commission to adjust the surcharge.

Bradshaw Water Company
 Docket No. W-02476A-10-0495
 Test Year Ended December 31, 2009

Responses to Procedural Order Schedule CSB-1

| Meter and Service Line Installation Charges Collected | | | | | | |
|--|-----------------|-----------------|-----------------|-----------------|---------------|-----------------|
| | 2005 | 2006 | 2007 | 2008 | 2009 | Total |
| Charge per Installation | \$350 | \$350 | \$350 | \$350 | \$350 | |
| Number of Installations | 13 | 3 | 4 | 4 | 2 | 26 |
| Total collected | \$ 4,550 | \$ 1,050 | \$ 1,400 | \$ 1,400 | \$ 700 | \$ 9,100 |

| Refunds | | | | | | | |
|----------------------------|-------------|---------------|---------------|---------------|---------------|---------------|-----------------|
| | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 | Total |
| Refund of 2005 Collections | | \$ 455.0 | \$ 455.0 | \$ 455.0 | \$ 455.0 | \$ 455.0 | \$ 2,275 |
| Refund of 2006 Collections | | | \$ 105.0 | \$ 105.0 | \$ 105.0 | \$ 105.0 | \$ 420 |
| Refund of 2007 Collections | | | | \$ 140.0 | \$ 140.0 | \$ 140.0 | \$ 420 |
| Refund of 2008 Collections | | | | | \$ 140.0 | \$ 140.0 | \$ 280 |
| Refund of 2009 Collections | | | | | | \$ 70.0 | \$ 70 |
| Total | \$ - | \$ 455 | \$ 560 | \$ 700 | \$ 840 | \$ 910 | \$ 3,465 |

BRADSHAW WATER COMPANY
AGREEMENT TO CONSTRUCT AND EXTEND WATER FACILITIES

This Agreement, made and entered into this 10th day of March, 1999 by and between Bradshaw Water Company, Inc., an Arizona corporation (hereinafter referred to as "Company"), and North Nugget Development L.L.C., an Arizona Limited Liability Company (hereinafter referred to as "Applicant") for Creekside of Prescott, Phase 2, subdivision (hereinafter referred to as "Creekside").

WITNESSETH:

- I. The Company will construct an extension to its water facilities from Creekside as follows:
 - A. An eight inch water main will be extended into Creekside from the existing Company facilities located at the intersection of Old Black Canyon Highway and Lynx Creek Road as detailed in the attached construction plans of Creekside of Prescott, Phase 2 prepared by Kelley/Wise Engineering.
 - B. The estimated start date is April 1, 1999.
 - C. The estimated completion date is August 31, 1999.
- II. The Applicant will pay to the Company, upon signing this Agreement, a Refundable Advance in Aid of Construction, for the total sum of Sixty Four Thousand Three Hundred Ninety Five (\$64,395), receipt of which is hereby acknowledged by the Company, which represents Materials and Labor to construct the water facilities for Creekside, Phase 2 (See Exhibit "A"). In the event the Company's actual cost of construction is less than the amount advanced by the Applicant, the Company shall make a refund to the Applicant within thirty (30) days after the completion of the construction on Company's receipt of invoices to that construction.
- III. Refunds for Advances in Aid of Construction pursuant to this Agreement shall be made in accordance with the following method:
 - A. The Company shall each year pay to the Applicant making an advance under a main extension agreement, or Applicant's assignees or other successors in interest where the Company has received notice and evidence of such assignment of succession, a minimum amount equal to ten percent (10%) of the total gross annual revenue from water sales to each bonafide consumer whose service line is connected to main lines covered by this Agreement, for a period of not less than ten (10) years. Refunds shall be made by the Company on or before the 31st day of August of each year, covering any refunds owing from water revenues received during the preceding July 1st to June 30th period. A balance remaining at the end of the ten-year period set out shall become non-refundable, in which case the balance not refunded shall be entered as a Contribution in Aid of Construction in the accounts of the Company.

B. The aggregate refunds under this rule shall in no event exceed the total of the Refundable Advances in Aid of Construction. No interest shall be paid by the Company on any amount advanced. The Company shall make no refunds from any revenue received from any lines, other than customer service lines, leading up to or taking off from the particular main extension covered by this Agreement.

IV. The following terms and conditions shall apply to this Agreement:

- A. It is understood that the Company shall at all times own all pipe, valves, fittings, meters and appurtenances used in constructing said extension and the Applicant making any advances, whether refundable or not, shall not have any right, title or interest in any such facilities.
- B. The Applicant shall grant or convey, or shall cause to be granted or conveyed, without cost to the Company, a permanent easement and right-of-way across any property owned or controlled by the Applicant wherever said permanent easement and right-of-way is necessary for the Company water facilities and line so as to be able to furnish service to the consumers.
- C. This Agreement shall be binding upon and for the benefit of the heirs, administrators, executors, successors and assigns of the parties signing this Agreement, provided, however, that no assignment or other transfer of this contract by Applicant shall be binding upon the Company or create any rights in the assignee until such assignment or other transfer is approved and accepted in writing by the Company.
- D. Before this Agreement shall become effective and binding upon either the Company or the Applicant, it must be approved by the Arizona Corporation Commission, or its authorized representative and in the event it is not so approved, this Agreement shall be null and void and of no force or effect whatever.
- E. This Agreement, and all rights and obligations hereunder, and in regard to water service to consumers, shall be subject to the Arizona Corporation Commission Rules and Regulations of Domestic Water Companies.

NORTH NUGGET DEVELOPMENT, L.L.C.
112 Grove Avenue
Prescott, AZ 86301

By:


Don Lovell, Managing Director

BRADSHAW WATER COMPANY, INC.
112 Grove Avenue
Prescott, AZ 86301

By:


C. B. Howard, President

EXHIBIT A

**CREEKSIDE WATER
March 10, 1999**

| | | | | |
|-----------------|------|---|------------|----------|
| 8" | 1265 | @ | \$ 22.00 | \$27,830 |
| 4" | 980 | @ | \$ 18.00 | \$17,640 |
| 8" V B & C | 4 | @ | \$ 600.00 | \$ 2,400 |
| 4" V B & C | 2 | @ | \$ 350.00 | \$ 700 |
| Fire Hydrant | 3 | @ | \$1,600.00 | \$ 4,800 |
| Blow Off | 2 | @ | \$ 425.00 | \$ 850 |
| Double Services | 13 | @ | \$ 625.00 | \$ 8,125 |
| Single Services | 3 | @ | \$ 525.00 | \$ 1,575 |
| Air Release | 1 | @ | \$ 475.00 | \$ 475 |
| | | | | ===== |
| | | | | \$64,395 |

BRADSHAW WATER COMPANY
AGREEMENT TO CONSTRUCT AND EXTEND WATER FACILITIES

This Agreement, made and entered into this 24th day of July, 1997 by and between Bradshaw Water Company, Inc., an Arizona corporation (hereinafter referred to as "Company"), and North Nugget Development L.L.C., an Arizona Limited Liability Company (hereinafter referred to as "Applicant") for Creekside of Prescott, Phase 1, subdivision (hereinafter referred to as "Creekside").

WITNESSETH:

- I. The Company will construct an extension to its water facilities from Creekside as follows:
 - A. An eight inch water main will be extended into Creekside from the existing Company facilities located at the intersection of Old Black Canyon Highway and Lynx Creek Road as detailed in the attached construction plans of Creekside of Prescott, Phase 1 prepared by Kelley/Wise Engineering.
 - B. The estimated start date is January 1, 1996.
 - C. The estimated completion date is May 31, 1996.

- II. The Applicant will pay to the Company, upon signing this Agreement, a Refundable Advance in Aid of Construction, for the total sum of Fifty Eight Thousand Nine Hundred Fifty Dollars (\$58,950), receipt of which is hereby acknowledged by the Company, which represents Materials and Labor to construct the water facilities for Creekside, Phase 1 (See Exhibit "A"). In the event the Company's actual cost of construction is less than the amount advanced by the Applicant, the Company shall make a refund to the Applicant within thirty (30) days after the completion of the construction on Company's receipt of invoices to that construction.

- III. Refunds for Advances in Aid of Construction pursuant to this Agreement shall be made in accordance with the following method:
 - A. The Company shall each year pay to the Applicant making an advance under a main extension agreement, or Applicant's assignees or other successors in interest where the Company has received notice and evidence of such assignment of succession, a minimum amount equal to ten percent (10%) of the total gross annual revenue from water sales to each bonafide consumer whose service line is connected to main lines covered by this Agreement, for a period of not less than ten (10) years. Refunds shall be made by the Company on or before the 31st day of August of each year, covering any refunds owing from water revenues received during the preceding July 1st to June 30th period. A balance remaining at the end of the ten-year period set out shall become non-refundable, in which case the balance not refunded shall be entered as a Contribution in Aid of Construction in the accounts of the Company.

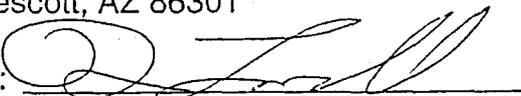
B. The aggregate refunds under this rule shall in no event exceed the total of the Refundable Advances in Aid of Construction. No interest shall be paid by the Company on any amount advanced. The Company shall make no refunds from any revenue received from any lines, other than customer service lines, leading up to or taking off from the particular main extension covered by this Agreement.

IV. The following terms and conditions shall apply to this Agreement:

- A. It is understood that the Company shall at all times own all pipe, valves, fittings, meters and appurtenances used in constructing said extension and the Applicant making any advances, whether refundable or not, shall not have any right, title or interest in any such facilities.
- B. The Applicant shall grant or convey, or shall cause to be granted or conveyed, without cost to the Company, a permanent easement and right-of-way across any property owned or controlled by the Applicant wherever said permanent easement and right-of-way is necessary for the Company water facilities and line so as to be able to furnish service to the consumers.
- C. This Agreement shall be binding upon and for the benefit of the heirs, administrators, executors, successors and assigns of the parties signing this Agreement, provided, however, that no assignment or other transfer of this contract by Applicant shall be binding upon the Company or create any rights in the assignee until such assignment or other transfer is approved and accepted in writing by the Company.
- D. Before this Agreement shall become effective and binding upon either the Company or the Applicant, it must be approved by the Arizona Corporation Commission, or its authorized representative and in the event it is not so approved, this Agreement shall be null and void and of no force or effect whatever.
- E. This Agreement, and all rights and obligations hereunder, and in regard to water service to consumers, shall be subject to the Arizona Corporation Commission Rules and Regulations of Domestic Water Companies.

NORTH NUGGET DEVELOPMENT, L.L.C.
112 Grove Avenue
Prescott, AZ 86301

By:



Don Lovell, Managing Director

BRADSHAW WATER COMPANY, INC.
112 Grove Avenue
Prescott, AZ 86301

By:



C. B. Howard, President

EXHIBIT A

CREEKSIDE WATER June 26, 1995

| | | | | |
|-----------------|------|---|-----------|----------|
| 8" | 1690 | @ | \$18.00 | \$30,420 |
| 6" | 50 | @ | \$17.00 | \$ 850 |
| 4" | 560 | @ | \$13.00 | \$ 7,280 |
| VB & C | 3 | @ | \$475.00 | \$ 1,425 |
| 8 X 6 Reducer | 1 | @ | \$475.00 | \$ 475 |
| 8 X 8 X 4 Tee | 3 | @ | \$475.00 | \$ 1,425 |
| Fire Hydrant | 3 | @ | \$1550.00 | \$ 4,650 |
| Blow Off | 3 | @ | \$475.00 | \$ 1,425 |
| Double Services | 16 | @ | \$600.00 | \$ 9,600 |
| Single Services | 1 | @ | \$350.00 | \$ 350 |
| Bends | 3 | @ | \$350.00 | \$ 1,050 |
| | | | | ===== |
| | | | | \$58,950 |