

ORIGINAL NEW APPLICATION



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BEFORE THE ARIZONA CORPORATION COMMISSION

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DOCKETED

BRENDA BURNS
Commissioner

FEB 11 2013

BOB BURNS
Commissioner

DOCKETED BY
NR

SUSAN BITTER SMITH
Commissioner

IN THE MATTER OF THE APPLICATION)
OF EPCOR WATER ARIZONA INC., FOR)
APPROVAL OF A TARIFF AT VARIANCE)
WITH A.A.C.R14-2-410.A.2 AND FOR A)
TARIFF FOR SHARING CUSTOMER)
WATER CONSUMPTION INFORMATION)
WITH CITY OF LAKE HAVASU, A)
MUNICIPAL PROVIDER OF)
WASTEWATER SERVICE)

DOCKET NO. W-01303A-13-0026

**APPLICATION FOR APPROVAL
OF TARIFFS WITH LAKE
HAVASU CITY**

APPROVAL OF A TARIFF AT VARIANCE WITH A.A.C.R14-2-410.A.2

EPCOR Water Arizona Inc. ("EWAZ") files its application for approval of a tariff that, among other things, grants it a variance from A.A.C. R14-2-410.A.2 for water customers of EWAZ who are also wastewater customers of Lake Havasu City, Arizona ("Havasu"). Because EWAZ is the water provider in parts of Havasu and because Havasu also provides wastewater service outside its municipal boundary in areas where EWAZ serves water, Havasu cannot further encourage payment of delinquent wastewater bills unless EWAZ has the authority to discontinue water service for that purpose.

In Decisions Nos. 66998, 68917 and 73562, the Commission approved variances from A.A.C. R14-2-410.A.2 for a tariff and associated water services termination agreement with the City of Bullhead City, Arizona (Decision No. 66998) and the City of Surprise, Arizona (Decision No. 68917) and the City of Peoria, Arizona (Decision No.

1 73562). As authorized by the Commission, those Decisions authorized EWAZ to assist
2 those cities in collecting delinquent wastewater bills by discontinuing water service to
3 delinquent wastewater customers.

4 In the present application, EWAZ asks for a similar variance from A.A.C. R14-2-
5 410.A.2 for a tariff associated with a water services termination agreement with Lake
6 Havasu City (“Agreement”). This would apply to those few customers of EWAZ who are
7 also wastewater customers of Lake Havasu City.

8 For reference, Exhibit A is a copy of the Agreement. Please note that the
9 Agreement is substantively consistent with the form of agreement previously approved in
10 Decision No. 73562 without objection by Staff.

11 Attached as Exhibit B is a proposed tariff titled, “Water Service Termination
12 Agreement with Lake Havasu City.”

13 EWAZ submits that a variance from A.A.C. R14-2-410.A.2 and approval of the
14 associated tariff are in the public interest.

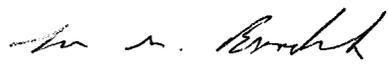
15
16 **APPROVAL OF A TARIFF FOR SHARING CUSTOMER INFORMATION**

17
18 EWAZ requests approval of a tariff governing the sharing of a customer’s water
19 consumption information with Havasu, a non-affiliated entity. Havasu has requested that
20 EWAZ share information regarding customer water consumption in order to assist the
21 municipal provider in billing and collections for wastewater utility service to its
22 customers.

23 Attached as Exhibit C is a proposed tariff titled, “Customer Water Consumption
24 Information Sharing with Lake Havasu City, Wastewater Provider.”

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RESPECTFULLY SUBMITTED this 11th day of February, 2013.

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Thomas M. Broderick
Director, Rates
EPCOR Water Arizona Inc.
2355 W. Pinnacle Peak Road, Suite 300
Phoenix, AZ 85027

ORIGINAL and thirteen (13) copies
of the foregoing filed
this 11th day of February, 2013, with:

The Arizona Corporation Commission
Utilities Division – Docket Control
1200 W. Washington Street
Phoenix, Arizona 85007

Copy of the foregoing hand-delivered
this 11th day of February, 2013, to:

Steve Olea
Utilities Division
Arizona Corporation Commission
1200 W. Washington Street
Phoenix, Arizona 85007

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

Janice Alward, Chief Counsel
Charles Hains
Legal Department
Arizona Corporation Commission
1200 W. Washington Street
Phoenix, Arizona 85007



Exhibit A

**AGREEMENT TO TERMINATE WATER SERVICE AND
SHARE INFORMATION
REGARDING WATER CONSUMPTION
WITH LAKE HAVASU CITY**

This AGREEMENT is made this 23rd day of October, 2012, by and between EPCOR Water Arizona Inc., an Arizona corporation ("EWAZ"), and Lake Havasu City, an Arizona municipal corporation duly organized and existing under the laws of the State of Arizona ("the City") for the purposes and considerations set forth hereinafter.

WITNESSETH:

WHEREAS, EWAZ provides water utility service under a Certificate of Convenience and Necessity ("CC&N") issued by the Arizona Corporation Commission (the "Commission") and the City provides wastewater utility service to certain customers in developments not within the City's limits by contract that receive water utility service from EWAZ ("Shared Customers");

WHEREAS, the City has requested that EWAZ provide information to the City regarding customer water consumption in order to assist the City in billing for wastewater utility services to its customers described above; and

WHEREAS, EWAZ and the City desire to enter into a written agreement specifically setting forth the duties, obligations, responsibilities, and liabilities of each party to the other.

NOW, THEREFORE, WITNESSETH that EWAZ and the City do hereby agree as follows:

1. Customer Information. EWAZ agrees to provide water consumption information for its customers to the City for the City's use in billing for wastewater services. In order for EWAZ to provide this service, the City will submit to EWAZ a map or legal description of its wastewater service area, and addresses of shared customers and EWAZ will provide

consumption data for the Shared Customers within the City's wastewater service area to the City as identified on the map or legal description. The City agrees that it is only authorized to use such water consumption information for purposes of wastewater services billing and is not authorized to disclose such information to any other party except as may be required by law. Such information will be provided by EWAZ to the City on a monthly basis by the fifth business day of each calendar month, or other mutually agreed upon time interval, as such information becomes available to EWAZ in the ordinary course of its business. The format of the data shall be as mutually agreed to between the City and EWAZ, but should include name, account mailing address, city, state, postal code, premise type, and phone number.

2. Fees. The City will pay EWAZ an administrative fee of \$0.50 per customer per report for consumption information provided to the City under the terms outlined in Paragraph 1 above. EWAZ will account for the applicable and reasonable costs incurred for the required notice and tariff and within 30 days after the customer notification has been given, EWAZ will invoice the City for the total costs incurred by EWAZ for the required notice and tariff, as the case may be, and the City shall pay such billed amount within 30 days after its receipt of EWAZ's invoice.

3. Water Service Termination.

3.1 The City, by electronic or written notice to EWAZ (a "Termination Request"), may request that EWAZ terminate water service to a Shared Customer who is then liable to the City for overdue sewer charges ("Delinquent Shared Customer"). Each Termination Request will constitute the City's representation and warranty to EWAZ that the applicable Shared Customer is then a Delinquent Shared Customer and has been provided the notice contemplated in subparagraph 3.2.A, below. Upon EWAZ's receipt of a Termination Request, EWAZ will

promptly commence its service termination process with respect to that Shared Customer in compliance with the terms of this Agreement and in compliance with any requirements imposed upon EWAZ by the Commission. The City will perform its own collection process for overdue sewer utility service charges, and will not request termination of water utility service by EWAZ unless and until the City could have terminated water service to that Delinquent Shared Customer if that Delinquent Shared Customer was a water service customer of the City. Termination Requests from the City will be processed by EWAZ each week, and the City may cancel any Termination Request without charge by providing electronic or written notice to that effect to EWAZ prior to noon on the date EWAZ's water utility service is scheduled to be shut off. For each request made after that time, the City will be charged a Disconnect Cancellation Fee (as defined in Exhibit A).

3.2 In order for EWAZ to shut off water service to a Delinquent Shared Customer, the City will:

A. notify the applicable Delinquent Shared Customer, in writing and by posting notice in the form set forth in Exhibit B at the premise where the applicable Delinquent Shared Customer receives water service from EWAZ and sewer utility service from the City (the "Shut-off Premises"), that water service by EWAZ will be terminated ten (10) days after the date of the delinquent notice as a result of that Delinquent Shared Customer's delinquent sewer bill with the City; and

B. notify EWAZ by Termination Request, which shall be delivered by e-mail, to terminate the water service of the applicable Delinquent Shared Customer in accordance with procedures in paragraph 3.1.

3.3 The City will pay a Disconnect Fee in accordance with Exhibit A for each

Termination Request delivered to EWAZ, which Disconnect Fee will be consideration for EWAZ taking the necessary steps to terminate its water utility service to the applicable Delinquent Shared Customer, unless the City withdraws its Termination Request prior to actual disconnection in accordance with paragraph 3.1, above. Upon EWAZ's receipt of a Termination Notice, EWAZ shall:

- A. shut off the water source to the Shut-off Premises in accordance with EWAZ's customer shut-off procedures;
- B. notify the City by e-mail of the date water service was shut off to the Shut-off Premises;
- C. keep a separate record detailing all of the Termination Requests under this Agreement; and
- D. resume water utility service to the Shut-off Premises in accordance with EWAZ's turn-on procedures after being notified by the City, in writing delivered by e-mail, that the delinquent sewer bill has been paid or that payment arrangements have been made, and upon the Shared Customer paying all charges then due to EWAZ resulting from the shutoff.
- E. The City expressly acknowledges and agrees that EWAZ shall have no other obligations or responsibilities under this Agreement with respect to the shut off of water utility service to Delinquent Shared Customers other than those expressly set forth above in this paragraph 3.3.

3.4 In addition to payment of the applicable Disconnect Fees, the City will pay EWAZ a Monthly Lost Revenue Fee in accordance with Exhibit A for each Delinquent Shared

Customer whose water utility service is terminated upon the request of the City under this Agreement for all or a portion of the applicable month. A Monthly Lost Revenue Fee will not be charged to the City when EWAZ initiates a termination for failure to pay a water bill. The Monthly Lost Revenue Fee is intended to compensate EWAZ for the loss of revenue that EWAZ would have received from that Delinquent Shared Customer if the water utility service had not been terminated. EWAZ may, from time to time by written notice to the City, revise the Monthly Lost Revenue Fee as appropriate to reflect any changes in EWAZ's water rates approved by the Commission. The Monthly Lost Revenue Fee shall be prorated for any period less than 30 days. EWAZ will invoice the City for all Monthly Lost Revenue Fees under this Agreement on a monthly basis, and the City shall process invoices and pay EWAZ promptly in accordance with the City's customary business practices without unreasonable delay. The City will not pay interest on unpaid invoices.

4. Indemnification. The City will indemnify, defend, and hold harmless EWAZ from and against all claims, losses, liability, costs, or expenses, including reasonable attorneys' fees (collectively, "claims"), arising out of the City's use of the customer consumption information provided to the City by EWAZ hereunder.

5. Term. The term of this Agreement will remain in effect indefinitely unless either party serves upon the other party a written notice to terminate the Agreement. The written notice must be serviced upon the other party not less than ninety (90) days prior to the expiration of the Agreement. This Agreement will be in full force and effect immediately upon execution by the parties hereto and will continue until terminated in accordance with the provisions herein set forth.

6. Commission Regulation. The City acknowledges that:

- (i) EWAZ is a public service corporation as such term is defined in the Arizona Constitution and, as such, the terms of this Agreement must be subject to any applicable Commission rules, regulations, and orders, including, but not limited to, A.A.C. R14-2-410.A.2 and Decision No. 65453 (Dec. 12, 2002) (the "Decision");
- (ii) pursuant to A.A.C. R14-2-410.A.2, EWAZ is precluded from disconnecting its water utility service as the result of the failure of the customer to pay for services or equipment which are not regulated by the Commission;
- (iii) the City's sewer utility services are not regulated by the Commission, therefore requiring EWAZ to obtain from the Commission a variance from the restrictions under A.A.C. R14-2-410.A.2 in order to proceed as contemplated in this Agreement;
- (iv) pursuant to the Decision, EWAZ is required to submit notice to the Commission at last 180 days in advance of any sharing of customer information, including billing information and the Decision further requires EWAZ to file a tariff with the Commission setting forth appropriate customer notification procedures to inform customers of the information sharing arrangements; and
- (v) upon the submission by EWAZ pursuant to the Decision, the Commission may stay effectiveness of any such tariff until such time as the Commission issues a written order approving any agreement to share customer information and therefore the parties further acknowledge that

any such agreement will not be enforceable until such approval by the Commission is issued.

7. Limitations on Liability. Neither the City nor EWAZ will be liable for any loss or damage due to failure or delay in rendering any service or performing any obligation required under this Agreement resulting from any cause beyond their reasonable control including, but not limited to: acts of God, acts or omissions of civil or military authority; acts or omissions of contractors or suppliers; fires; floods; epidemics; quarantine restrictions; severe weather; strikes; embargoes; wars; political strife; riots; delays in transportation; or fuel, power, materials or labor shortages.

8. Notice. Any notice, written request, or communication given pursuant to the provisions of this Agreement will be deemed to be delivered on the date of mailing if mailed by certified or overnight mail addressed as follows:

| | |
|-----------------|--|
| If to the City: | Attn: City Manager Lake Havasu City 2330 McCulloch Blvd. N. Lake Havasu City, Arizona 86403 |
|-----------------|--|

| | |
|-------------|--|
| If to EWAZ: | Attn: Manager, Customer Service EPCOR Water Arizona Inc. 15626 N. Del Webb Boulevard Sun City, AZ 85351 |
|-------------|--|

or to such other addresses as the parties will have specified by notice in writing in accordance with the terms of this paragraph.

9. No Waiver. The failure of either party to enforce the provisions of this Agreement at any time will not constitute a waiver of such provisions in any way or the right of the City or EWAZ at any time to avail themselves of such remedies as either may have for any breach or breaches of such provisions. The waiver of any specific provision or requirement of

this Agreement will not constitute a waiver of any other provision or requirement. Any such waiver of any specific provision or requirement of this Agreement will be in writing signed by both parties.

10. Governing Law. This Agreement will be construed and enforced in accordance with the laws of the State of Arizona, including, without limitation, the Commission's rules, regulations, and orders.

11. Other Miscellaneous Provisions. This Agreement contains the entire agreement between parties hereto with respect to the transactions contemplated herein. This Agreement supersedes all previous written and verbal agreements on the subject of this Agreement and will not be amended or modified except in writing signed by all of the parties hereto. This Agreement will be binding upon and inure to the benefit of all parties hereto and their respective successors and assigns. This Agreement shall be subject to cancellation pursuant to the provisions of ARIZ. REV. STAT. §38-511 in the event on a conflict of interest. Any provision of this Agreement that is prohibited or unenforceable in any jurisdiction will, as to such jurisdiction, be ineffective to the extent of such prohibition of unenforceability without invalidating the remaining provisions hereof or affecting the validity or enforceability of such provision in any other jurisdiction. This Agreement may be executed to one or more counterparts, each of which will be deemed an original but all of which together will constitute one and the same instrument.

IN WITNESS WHEREOF, this Agreement has been duly executed by the parties hereto

on the date first written above.

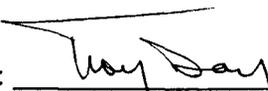
"THE CITY"

EWAZ

LAKE HAVASU CITY

EPCOR WATER ARIZONA INC.

By: 
Name: Mark S. Nexsen
Title: Mayor

By: 
Name: TRACY DAY
Title: VICE PRESIDENT AZ OPERATIONS

Attest:


Kelly Williams, City Clerk

Approved as to Form:

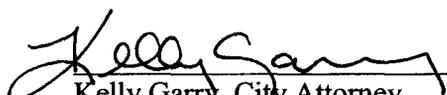

Kelly Garry, City Attorney

EXHIBIT A

**Disconnect Cancellation Fee
And
Monthly Lost Revenue Fee**

EXHIBIT A
FEE SCHEDULE

| | |
|--|---------|
| Disconnect Fee (Turn-off and Turn-on service included) | \$80.00 |
| Disconnect Cancellation Fee (Turn-off and Turn-on service included) | \$20.00 |
| Monthly Lost Revenue Fee (based on Lake Havasu City District rates effective January 1, 2011 using average revenue from 5/8" to 1" metered residential Customers, including an applied combined state and federal tax rate of 39%) | \$85.49 |

EXHIBIT B

Form of Notice to Delinquent Shared Customer

EXHIBIT B

DELINQUENT CUSTOMER SHUT-OFF NOTICE

Lake Havasu City, 2330 McCulloch Blvd., Lake Havasu City, Arizona 86403 928.453.4146

NOTICE

YOUR SEWER UTILITY BILL DUE TO LAKE HAVASU CITY IS PAST DUE

UNLESS THE DELINQUENT AMOUNT DUE IS RECEIVED IN OUR OFFICE BY

«DATE»

EPCOR WATER ARIZONA INC. WILL BE INSTRUCTED TO DISCONNECT YOUR WATER SERVICE WITHOUT FURTHER NOTICE

****IMPORTANT****

DO NOT MAIL PAYMENT

CALL LAKE HAVASU CITY 928.453.4146

DELINQUENT AMOUNT DUE: \$«amount»

TOTAL AMOUNT DUE: \$«date»

IF PAYMENT IS MADE AFTER LAKE HAVASU CITY INSTRUCTS EPCOR WATER ARIZONA INC. TO DISCONNECT YOUR WATER SERVICE, YOU WILL ALSO BE REQUIRED TO REIMBURSE LAKE HAVASU CITY FOR EXPENSES INCURRED IN CONNECTION WITH THAT DISCONNECTION SERVICE, WHETHER OR NOT YOUR WATER SERVICE IS ACTUALLY DISCONNECTED. IN ADDITION, IF YOUR WATER SERVICE IS DISCONNECTED BY EPCOR WATER ARIZONA INC., YOU WILL BE REQUIRED TO PAY A RECONNECT FEE TO EPCOR WATER ARIZONA INC. TO RE-ESTABLISH YOUR WATER SERVICE.

Online payment: <https://lhcaz.dpnetbill.com/default.aspx>

Customer Service: City Hall 2330 McCulloch Blvd.

Office Hours: Monday – Friday, 8:00 am – 5:00 pm

Exhibit B

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