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BEFORE THE ARIZONA CORPORATION COMMISSION

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BOB STUMP  
Chairman  
GARY PIERCE  
Commissioner  
BRENDA BURNS  
Commissioner  
BOB BURNS  
Commissioner  
SUSAN BITTER SMITH  
Commissioner

Arizona Corporation Commission  
**DOCKETED**

MAY -8 2013

DOCKETED BY nr

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

DOCKET NO. W-01303A-13-0026

DECISION NO. 73879

ORDER

Open Meeting  
May 1 and 2, 2013  
Phoenix, Arizona

BY THE COMMISSION:

FINDINGS OF FACT

1. EPCOR Water Arizona, Inc. ("EWAZ" or "EPCOR" or "Company") is certificated to provide water service as a public service corporation in the State of Arizona. EWAZ provides water utility service to residents within the State of Arizona pursuant to multiple Certificates of Convenience and Necessity issued by the Arizona Corporation Commission ("Commission").

2. On February 11, 2013, the Company filed an application for a tariff that grants the Company a variance from Arizona Administrative Code R14-2-410.A.2 thereby permitting the Company to enter into an agreement with Lake Havasu City ("the City") to allow termination of water service being provided by EWAZ as well as share water consumption data with the City. Arizona Administrative Code R14-2-410.A.2 prohibits utilities from disconnecting service to customers for failure to pay for services not regulated by the Commission.

...

1           3.       The Company further requests approval of a tariff governing the sharing of  
2 customer water consumption information with the City. The City has requested that the Company  
3 share information regarding water consumption in order to assist the City in billing and collection  
4 for wastewater utility service to its customers. This filing is in compliance with Condition 9 of  
5 Commission Decision No. 65453 (December 12, 2002) which requires the Company to file a tariff  
6 governing the sharing of customer information.

7           4.       EWAZ provides water service to portions of the City, but does not provide  
8 wastewater service in the City. The City provides the wastewater service; therefore, wastewater  
9 service is not regulated by the Commission.

10          5.       Due to the bifurcated nature of water and wastewater utility services within the  
11 City, it has become increasingly difficult for the City to collect delinquent wastewater bills without  
12 a corresponding ability to disconnect water service, where such water service is provided by the  
13 Company. In order to aid with the collection of delinquent wastewater utility bills, the City has  
14 requested that the Company file this variance and sharing of customer water consumption  
15 information request with the Commission.

16          6.       The City will only request that EWAZ disconnect water utility service to a  
17 customer when the customer's sewer utility account remains unpaid for more than twenty (20)  
18 days, resulting in the sewer utility account becoming delinquent subject to the City's termination  
19 of service procedures. Once an account is determined to be delinquent, the City will notify the  
20 customer in writing by posting notice at the customer's premises in the form attached hereto in  
21 Exhibit B. This notice will allow the customer 10 business days to make payment or payment  
22 arrangements for the delinquent balance with the City in order to prevent water utility service from  
23 being disconnected.

24          7.       The City will conduct its own billing and collection process for payment of sewer  
25 utility service charges. The Company will defer any customer inquiries resulting from this tariff to  
26 the City for handling.

27          8.       The City will make the Company whole by payment of a Monthly Lost Revenue fee  
28 for each customer whose service is terminated under this Agreement. The fee is based on the

1 average revenue received from a customer using a 5/8-inch to 1-inch meter and is intended to  
2 compensate EPCOR for the loss of revenue that the Company would have received from the  
3 customer, if water utility service had not been disconnected.

4 9. On October 23, 2012, the City and the Company entered into an Agreement for  
5 Water Service Termination and Sharing of Customer Information regarding Water Consumption  
6 (“Agreement”), attached hereto in Exhibit A.

7 10. Section 3.3 of the Agreement to Terminate Water Service and Share Information  
8 regarding Water Consumption with Lake Havasu City indicates that the City will pay EWAZ a  
9 Disconnect Fee for each Termination Request delivered to the Company. The Disconnect Fee will  
10 be paid to the Company by the City pursuant to the Fee Schedule in the Water Service Termination  
11 Agreement with Lake Havasu City tariff, attached hereto in Exhibit C. The Company has agreed  
12 to take the following steps upon receipt of a termination request from the City:

13 A. Shut off the water source to the Shut-off Premises in accordance with EWAZ’s  
14 customer shut-off procedures;

15 B. Notify the City by e-mail of the date water service was shut off to the Shut-off  
16 Premises;

17 C. Keep a separate record detailing all of the Termination Requests under this  
18 Agreement; and

19 D. Resume water utility service to the Shut-off Premises in accordance with EWAZ’s  
20 turn-on procedures after being notified by the City, in writing delivered by email, that the  
21 delinquent sewer bill has been paid or that payment arrangements have been made.

22 E. The City expressly acknowledges and agrees that EWAZ shall have no other  
23 obligations or responsibilities under this Agreement with respect to the shut-off of water  
24 utility service to Delinquent Shared Customers other than those expressly set forth above in  
25 Section 3.3.

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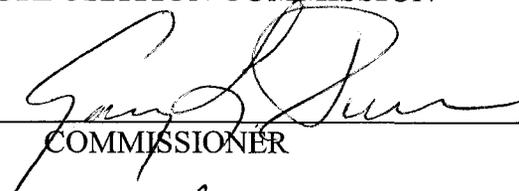
1 IT IS FURTHER ORDERED that EPCOR Water Arizona, Inc. shall provide notice of  
2 these tariffs upon establishment of water service to any new customers that will be provided  
3 wastewater service by Lake Havasu City.

4 IT IS FURTHER ORDERED that these tariffs shall become effective on the first day of the  
5 month after all EPCOR Water Arizona, Inc.'s customers, who are provided wastewater services by  
6 Lake Havasu City and water service by EPCOR Water Arizona, Inc., have been notified.

7 IT IS FURTHER ORDERED that this Decision shall become effective immediately.  
8

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

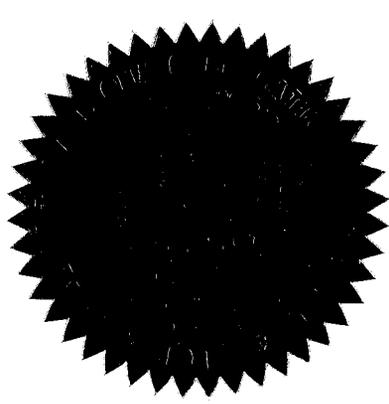
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12 CHAIRMAN

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15 COMMISSIONER



16 IN WITNESS WHEREOF, I, JODI JERICH, Executive  
17 Director of the Arizona Corporation Commission, have  
18 hereunto, set my hand and caused the official seal of this  
19 Commission to be affixed at the Capitol, in the City of  
20 Phoenix, this 8th day of May, 2013.

20   
21 \_\_\_\_\_  
22 JODI JERICH  
23 EXECUTIVE DIRECTOR

24 DISSENT: \_\_\_\_\_

25 DISSENT: \_\_\_\_\_

26 SMO:GO:sms  
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1 SERVICE LIST FOR: EPCOR Water Arizona, Inc.  
2 DOCKET NO. W-01303A-13-0026

3 Mr. Michael T. Hallam  
4 Lewis & Roca LLP  
5 40 North Central Avenue  
6 Phoenix, Arizona 85004

7 Mr. Thomas Broderick  
8 EPCOR Water Arizona, Inc.  
9 2355 West Pinnacle Peak Road, Suite 300  
10 Phoenix, Arizona 85027

11 Office of the City Manager  
12 Lake Havasu City  
13 2330 McCulloch Blvd. North  
14 Lake Havasu City, Arizona 86403

15 Mr. Steven M. Olea  
16 Director, Utilities Division  
17 Arizona Corporation Commission  
18 1200 West Washington Street  
19 Phoenix, Arizona 85007

20 Ms. Janice M. Alward  
21 Chief Counsel, Legal Division  
22 Arizona Corporation Commission  
23 1200 West Washington Street  
24 Phoenix, Arizona 85007

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# EXHIBITS

# 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



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.

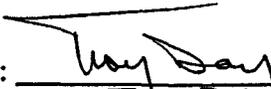
"THE CITY"

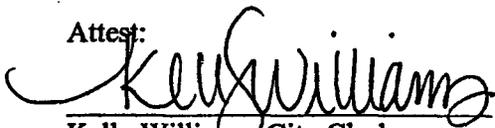
EWAZ

LAKE HAVASU CITY

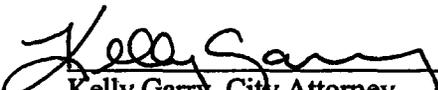
EPCOR WATER ARIZONA INC.

By:   
Name: Mark S. Nexsen  
Title: Mayor

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

Attest:  
  
Kelly Williams, City Clerk

Approved as to Form:

  
Kelly Garry, City Attorney

# Exhibit B

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 C



# Exhibit D

