



0000155965

RECEIVED

2014 SEP 17 P 2:11

AZ CORP COMMISSION  
DOCKET CONTROL

1 FENNEMORE CRAIG  
2 A Professional Corporation  
3 Patrick J. Black (No. 017141)  
4 2394 E. Camelback Rd, Suite 600  
5 Phoenix, Arizona 85016  
6 Telephone (602) 916-5000

ORIGINAL

Attorneys for Liberty Utilities (Litchfield Park Water and Sewer), Corp.

**BEFORE THE ARIZONA CORPORATION COMMISSION**

7 IN THE MATTER OF THE APPLICATION  
8 OF LIBERTY UTILITIES (LITCHFIELD  
9 PARK WATER AND SEWER), CORP. FOR  
10 APPROVAL OF AN EXTENSION OF  
11 THEIR CERTIFICATE OF CONVENIENCE  
AND NECESSITY FOR WATER UTILITY  
SERVICE IN MARICOPA COUNTY,  
ARIZONA.

DOCKET NO. ~~SW~~-01427A-14-0134

Arizona Corporation Commission

DOCKETED

SEP 17 2014

DOCKETED BY

12 IN THE MATTER OF THE APPLICATION  
13 OF LIBERTY UTILITIES (LITCHFIELD  
14 PARK WATER AND SEWER), CORP. FOR  
15 APPROVAL OF AN EXTENSION OF  
16 THEIR CERTIFICATE OF CONVENIENCE  
AND NECESSITY FOR WASTEWATER  
UTILITY SERVICE IN MARICOPA  
COUNTY, ARIZONA.

DOCKET NO. SW-01428A-14-0180

17 IN THE MATTER OF THE APPLICATION  
18 OF VALLEY UTILITIES WATER  
19 COMPANY, INC. FOR AN EXTENSION OF  
20 ITS CERTIFICATE OF CONVENIENCE  
21 AND NECESSITY TO PROVIDE WATER  
UTILITY SERVICE IN MARICOPA  
COUNTY, ARIZONA

DOCKET NO. W-01412A-14-0262

**LIBERTY UTILITIES' RESPONSE TO  
STAFF REPORT**

22 Pursuant to the Procedural Order issued August 12, 2014, Liberty Utilities  
23 (Litchfield Park Water and Sewer) Corp. ("Liberty" or "Company"), hereby submits this  
24 Response to the Staff Report filed on September 4, 2014.

25 Liberty appreciates and agrees with Commission Staff's ("Staff") recommendation  
26 to grant the Company's application to extend both its water and wastewater Certificate of

1 Convenience and Necessity (“CC&N”) to serve the Marbella Ranch Development. Liberty,  
2 however, takes exception to Staff Recommendation No. 5, which would require the  
3 Company to fund its future infrastructure needs with 70 percent equity, and no more than 30  
4 percent of advances in aid of construction (AIAC) and contributions in aid of construction  
5 (CIAC) combined. For the reasons detailed below, Liberty asserts that this  
6 recommendation is contrary to requirements set forth in the Company’s existing service  
7 tariffs with regard to financing both water and wastewater infrastructure. In addition, the  
8 Company believes that issues concerning financing and investment in utility infrastructure  
9 are more appropriate to address in rate case proceedings.

10 **1. Liberty’s Existing Tariffs Are in Conflict with Staff Recommendation No. 5.**

11 Liberty’s existing general wastewater service tariff, approved in Decision No. 74437  
12 (April 18, 2014), requires that all main extensions shall be completed at cost and shall be  
13 treated as CIAC. Attached hereto as Exhibit A, the tariff specifically states “Per A.A.C.  
14 R14-2-606(b) - All main extensions shall be completed at cost and shall be treated as  
15 non-refundable contributions in aid of construction.” Liberty believes that this requirement  
16 in its wastewater tariff was an error and the Company is in the process of filing a corrected  
17 tariff for review by Staff. Until that tariff correction is made, however, Staff  
18 Recommendation No. 5 conflicts with the Company’s tariff.

19 In addition, the Wastewater Hook-Up Fee Tariff requires the Company to charge  
20 \$1,800 for each new wastewater hook-up based on the Equivalent Residential Unit  
21 (“ERU”) of 320 gallons per day, specifying that such funds shall be treated as CIAC.<sup>1</sup>  
22 Because the cost of new wastewater infrastructure can vary from project to project, there are  
23 some instances where Liberty will be required to charge more than 30 percent of the costs as  
24 CIAC alone. Given these two legal requirements imposed by the Commission-approved  
25

26 <sup>1</sup> Commercial, industrial and “active adult” communities are assessed hook-up fees based on different ERU factors.

1 tariff, it is not reasonable to specify that Liberty fund all new infrastructure needs with no  
2 more than 30 percent AIAC and CIAC.

3 Similarly, the Water Hook-Up Fee Tariff requires a non-refundable contribution  
4 between \$1,800 (for each 5/8" x 3/4" meter) and \$967,500 (for each 12-inch meter). This  
5 hook-up fee, like the wastewater hook-up fee, shall be in addition to any costs associated  
6 with the construction of on-site facilities under a main extension agreement.<sup>2</sup> As a result, in  
7 addition to being contrary to its main extension tariff, the Company's ability to fund plant  
8 with less than 30 percent AIAC and CIAC is hampered by the requirement to charge  
9 hook-up fees and treat such financing as CIAC.

10 **2. The Reasonableness of Plant Financing is an Issue for a Rate Case.**

11 As discussed, the Company is legally required under its tariffs to require a certain  
12 amount of CIAC from developers, and that CIAC could exceed Staff's 30 percent  
13 AIAC/CIAC cap. Moreover, Staff's recommendation could actually force Liberty to take  
14 on development risk and pass it on to the customers. This is true because the purpose of  
15 AIAC is to keep the build out risk for new development on the developer, not the utility and  
16 its customers. But if Liberty is required by this Commission to fund plant for new  
17 development with equity, then Liberty is entitled to a return on and of that investment  
18 through the rates paid by all customers. This would be true even if the development does  
19 not build out as planned and all the plant is not yet used and useful because Liberty would  
20 have been obligated by the Commission to fund plant for new growth with equity.

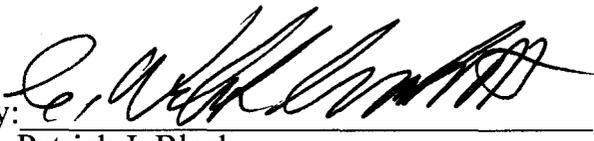
21 In such light, it can be said that Staff's recommendation invades the management  
22 function of a public service corporation. Specifically, it is up to Liberty to determine how to  
23 finance plant, consistent with law and regulation. This should be especially true for an  
24 entity like Liberty, which has access to the capital markets through its parent company, as  
25

26 <sup>2</sup> Sheets 33 and 37 of the Company's Tariff.

1 Staff has repeatedly testified in Liberty's rate cases. Ultimately, all plant financing  
2 decisions are subject to scrutiny in a rate case where the plant is to be included in plant in  
3 service. If, in such a rate case, Staff (or any other party) feels that certain plant has not been  
4 prudently financed, then it can make such an argument and offer a recommendation for  
5 how to address its concerns. There is simply no basis to impose such restrictions in  
6 advance, particularly given the clear risk of having to fund plant for new growth that would  
7 be faced by Liberty and its customers if Staff's recommendation were adopted by the  
8 Commission in this docket. At a minimum, Staff Recommendation No. 5 should be  
9 modified to state: "To require Liberty to fund its future infrastructure needs with 70 percent  
10 equity and no more than 30 percent AIAC and CIAC combined, subject to Liberty's  
11 applicable water and wastewater tariffs."

12 RESPECTFULLY SUBMITTED, this 17<sup>th</sup> day of September, 2014.

13 FENNEMORE CRAIG, P.C.

14  
15 *for* By: 

16 Patrick J. Black  
17 Attorneys for Liberty Utilities (Litchfield  
18 Park Water and Sewer) Corp.

19  
20  
21  
22 **ORIGINAL** and 13 copies filed  
23 this 17<sup>th</sup> day of September, 2014 with:

24 Docket Control  
25 Arizona Corporation Commission  
26 1200 West Washington Street  
Phoenix, Arizona 85007

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

**COPY** of the foregoing was hand-delivered and/or mailed/mailed this 17<sup>th</sup> day of September, 2014, to:

Sasha Paternoster  
Hearing Division  
Arizona Corporation Commission  
1200 W. Washington Street  
Phoenix, AZ 85007

Matthew Laudone, Esq.  
Legal Division  
Arizona Corporation Commission  
1200 W. Washington Street  
Phoenix, AZ 85007

Blessing Chuckwu  
Utilities Division  
Arizona Corporation Commission  
1200 W. Washington Street  
Phoenix, AZ 85007

By:  \_\_\_\_\_

9490727.4/035227.0035

**EXHIBIT A**

Applies to all WASTEWATER service areas  
**PART THREE**  
STATEMENT OF CHARGES FOR WASTEWATER SERVICE

**C. Miscellaneous Service Charges**

<u>Service</u>	<u>Charge</u>
Establishment	\$20.00
Re-Establishment (within 12 months)	(a)
Reconnection	\$20.00
NSF Check	25.00
Deferred Payment (per month)	1.50%
After Hours Service Calls*	\$40.00
Deposit	(b)
Deposit Interest	6.00%
Late Charge	(c)
Service Lateral Connection Charge – All Sizes	(d)
Main Extension Tariff	(e)

(a) Number of full months off the system times the minimum charge, per A.A.C. R14-2-603(D).

(b) Per Rule R14-2-603(B). Residential – two times the average monthly bill. Non-residential – two and one half times the average monthly bill.

(c) Greater of \$5.00 or 1.50% of unpaid balance.

(d) At cost. Customer/Developer shall install or cause to be installed all Service Laterals as a non-refundable contributions in aid of construction.

(e) Per A.A.C. R14-2606(b). All Main Extensions shall be completed at cost and shall be treated as non-refundable contribution-in-aid of construction.

\*For After Hours Service Calls for work performed on the customer's property after hours, at customer's request. In addition to the charge for an utility service provided.

## ISSUED BY:

Greg Sorensen, President - Arizona  
 Liberty Utilities (Litchfield Park Water & Sewer) Corp.  
 12725 W. Indian School Road, Suite D-101  
 Avondale, AZ 85392