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BEFORE THE ARIZONA CORPORATION COMMISSION

MARC SPITZER
Chairman
WILLIAM A. MUNDELL
Commissioner
JEFF HATCH-MILLER
Commissioner
MIKE GLEASON
Commissioner
KRISTIN K. MAYES
Commissioner

Arizona Corporation Commission
DOCKETED
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IN THE MATTER OF BELLA VISTA WATER COMPANY, FILING OF REVISIONS TO CURTAILMENT TARIFF NO. 10	DOCKET NO. W-02465A-04-0692 DECISION NO. 67505 ORDER

Open Meeting
January 11, and 12, 2005
Phoenix, Arizona

BY THE COMMISSION:

Having considered the entire record herein and being fully advised in the premises, the Arizona Corporation Commission ("Commission") finds, concludes and orders that:

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FINDINGS OF FACT

1. Bella Vista Water Company ("Bella Vista" or "Company") is certificated to provide water as a public service corporation in the State of Arizona.

2. On September 24, 2004, Bella Vista submitted revisions to its existing Curtailment Tariff, Number 10.

3. On September 27, 2004, Mr. William P. Sullivan, Esq., the attorney of record for Bella Vista in this matter, filed a letter agreeing to waive the Commission's requirement to act within 30 days.

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4. On October 7, 2004, Arizona Corporation Commission ("Commission") Utilities Division Staff ("Staff") filed a request to suspend the filing for 120 days from the date of initial filing.

5. On October 26, 2004, the Commission granted this request and suspended the filing for 120 days or until January 23, 2005.

6. On December 15, 2004, a public meeting was held in Sierra Vista for the purpose of soliciting questions and comments from the Company's customers.

7. Bella Vista consists of two individual, non-interconnected water systems with a series of wells, pumps, storage tanks, and distribution mains in each water system. The Sierra Vista System, or "Main" or "City" water system serves a customer base of approximately 7,000 services and the "South System" serves a customer base of approximately 560 services. Three individual water systems, formally described as Rail Oaks, Welch, and Nicksville, were interconnected by a series of 12-inch transmission mains, and now comprise what is labeled as the South System.

8. Bella Vista already has in effect a curtailment tariff which allows the Company to manage the water use by customers when Bella Vista is experiencing a temporary water shortage emergency. The existing curtailment tariff and the proposed curtailment would be implemented in stages according to the severity of the emergency.

9. The Company is chiefly proposing to add a provision for a "presumptive violation" during the extreme stage 4 and stage 5 conditions, when outdoor water uses are prohibited. The proposal allocates 600 gallons per day (18,000 gallons per month) for each customer. Any use beyond that is presumed to be for other than drinking or sanitary purposes. A presumptive violation of mandatory restricted uses, allows the Company to terminate service to a Customer. The South System is the object of this tariff revision.

10. Staff has considered this specific tariff proposal, oral and written public comments, and discovery responses, and believes that the curtailment tariff should be approved as amended by the Staff Memorandum and Staff's Exhibit A, attached to the memorandum.

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11. Staff has recommended:

a. That Bella Vista shall be authorized to implement a curtailment plan tariff, conforming with Staff's recommended changes designated as Exhibit A and attached to the Staff Memorandum. Staff recommends that the Company shall file a curtailment tariff conforming to Staff's Exhibit A within 45 days after the effective date of any decision and order pursuant to this tariff filing.

b. Eliminating the provision for the Company to request customer information concerning the number of residents in the home, ages, plumbing details, quantity of pets and livestock, landscaping details, and water feature details. Such changes are reflected in Staff's Exhibit A.

c. Amending the requirements for customer notice under the presumptive violation provision, and clarifying the conditions and applicability of reconnection fees. Such changes are reflected in Staff's Exhibit A.

d. That Bella Vista shall not implement its curtailment plan tariff until all current customers of the South System have been given notice of the amended tariff. Bella Vista shall notify its customers of the tariff authorized herein as part of its next regularly scheduled billing or no later than 60 days after the effective date of this order.

e. That Bella Vista shall provide a copy of the curtailment tariff to any customer, upon request.

CONCLUSIONS OF LAW

1. Bella Vista, is an Arizona public service corporation within the meaning of Article XV, Section 2, of the Arizona Constitution.

2. The Commission has jurisdiction over the Company and of the subject matter in this Application.

3. The Commission, having reviewed the request for approval of the tariff and Staff's Memorandum dated December 23, 2004, concludes that it is in the public interest to approve the curtailment plan tariff, as amended in accordance with the recommendations in Staff's Exhibit A.

ORDER

IT IS THEREFORE ORDERED that Bella Vista Water Company, Inc. shall be authorized to implement its proposed curtailment plan tariff and shall file in this Docket, a copy of the proposed curtailment tariff. The Company shall file a curtailment tariff conforming to

Staff's Exhibit A, attached to Staff Memorandum dated December 23, 2004, as amended by this Decision, within 45 days after the effective date of any decision and order pursuant to this tariff filing.

IT IS FURTHER ORDERED that Staff's Exhibit A is amended as follows:

Tariff Sheet No. 10f, strike the second paragraph and insert:

"To determine if a customer is using more that 600 gallons per day while Mandatory Water Conservation Restrictions are in effect during Stage 4 or Stage 5, the Company may either:

i. Use a regular monthly meter reading to determine the customer's average daily use if the Restrictions were in effect for the entire billing period.

ii. Make at least two special meter readings at least 36 hours apart to determine the customer's average daily use over that period. The company shall immediately notify the customer of the first special meter reading and shall not charge a customer for any special meter readings under this provision."

IT IS FURTHER ORDERED that Staff's Exhibit A is amended as follows:

Tariff Sheet No. 10g, final paragraph, INSERT after "error,":

"or the Company has improperly not accepted the customer's documentation for a higher usage limit prior to disconnection,"

IT IS FURTHER ORDERED that Staff's Exhibit A is amended as follows:

Tariff Sheet No. 10e, second paragraph, strike the first two sentences and INSERT:

"If a customer is exceeding the presumptive limit of 600 gallons per day during a stage 4 or stage 5 condition, the customer shall be noticed of this exceedance but service shall not be terminated until two business days have lapsed, after notice is received by the Customer. After notice is received and prior to termination, the customer may present to the company, evidence which demonstrates that the excess usage was the consequence of allowed water use and not the result of restricted water conservation activities."

IT IS FURTHER ORDERED that Bella Vista Water Company, Inc. shall provide a copy of the termination notice to Staff for review and approval.

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IT IS FURTHER ORDERED that Bella Vista Water Company, Inc. shall have the method of providing notice approved by the Staff.

IT IS FURTHER ORDERED that Bella Vista Water Company, Inc. shall not implement its curtailment plan tariff until all current customers of the South System have been given notice of the amended tariff. Bella Vista shall notify its customers of the tariff authorized herein as part of its next regularly scheduled billing or no later than 60 days after the effective date of this order.

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IT IS FURTHER ORDERED that Bella Vista Water Company, Inc shall provide a copy of the curtailment tariff to any customer, upon request.

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

BY THE ORDER OF THE ARIZONA CORPORATION COMMISSION

CHAIRMAN COMMISSIONER COMMISSIONER

COMMISSIONER COMMISSIONER

IN WITNESS WHEREOF, I BRIAN C. McNEIL, Executive Secretary of the Arizona Corporation Commission, have hereunto, set my hand and caused the official seal of this Commission to be affixed at the Capitol, in the City of Phoenix, this 20th day of Jan., 2005.

BRIAN C. McNEIL
Executive Secretary

DISSENT: _____

DISSENT: _____

EGJ:LRH:red/DR

SERVICE LIST FOR: Bella Vista Water Company
DOCKET NO. W-02465A-04-0692

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Ms. Carol Allen
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Director, Utilities Division
Arizona Corporation Commission
1200 West Washington
Phoenix, Arizona 85007

STAFF EXHIBIT A

TARIFF SCHEDULE

UTILITY: Bella Vista Water Co., Inc.	**TARIFF SHEET NO.:** 10a
	REPLACES SHEET NO.:
DOCKET NO.: W-02465A	**DECISION NO.:**
PHONE: (520) 458-5470	**EFFECTIVE:**

NO. 10

CURTAILMENT PLAN FOR BELLA VISTA WATER

Authority.

Company is authorized to curtail water service to all customers under the following terms and conditions listed in this tariff.

This curtailment plan shall become part of the Arizona Department of Environmental Quality Emergency Operations Plan for the Company.

The Company shall notify its customers of this new tariff, or any amendment thereof, no later than sixty (60) days after the effective date of the tariff or the applicable amendment.

The Company shall provide a copy of the curtailment tariff to any customer, upon request.

SOUTH SYSTEM CURTAILMENT PLAN

Definitions.

When capitalized in this Tariff, the following terms shall have the meaning set forth herein.

a. "Storage Capacity" means the combined total amount of capacity of the two storage tanks, out of the four major storage tanks shown on the attached Addendum, having the least amount of water in storage as a percentage of their storage capacity at the time of measurement.

   The Company may, after notice to the Consumer Services Supervisor, Utilities Division, use an alternative definition of "Storage Capacity" in relation to specified storage tanks where Company determines the general definition is inappropriate or inadequate to implement curtailment in specific portions of its South System. In such circumstances, Company shall identify the critical storage tank or tanks involved and shall define the terms "storage capacity" and "stored water" in relation to the identified storage tank or tanks. The procedure set forth in this tariff will then be applied to curtail service to the customers served by the storage tank or tanks so identified after approval by the Utilities Division Director.

b. "Stored Water" means the amount of water in storage in the Storage Capacity.

STAFF EXHIBIT A

TARIFF SCHEDULE

UTILITY: Bella Vista Water Co., Inc.	**TARIFF SHEET NO.:** 10b
	REPLACES SHEET NO.:
DOCKET NO.: W-02465A	**DECISION NO.:**
PHONE: (520) 458-5470	**EFFECTIVE:**

No. 10 (cont.)

Stage 1 Exists When:

a. The Company is able to maintain Stored Water at 85% of Storage Capacity and there are no known problems with its well production or water storage in the South System.

b. Under Stage 1, the Company is deemed to be operating normally and no curtailment is necessary.

Stage 2 Exists When:

a. The amount of Stored Water has been less than 85% of Storage Capacity for at least 48 consecutive hours; or,

b. The Company has identified issues (such as a steadily declining water table, an increased draw-down threatening pump operations, leaks in the storage tanks, poor water production, higher than usual water demand, etc.) creating a reasonable belief the Company will be unable to meet anticipated water demand in the South System.

c. Under Stage 2, the Company may request the customers to voluntarily employ water conservation measures to reduce water consumption, including limiting outside watering to essential water, dividing outside watering on some uniform basis (such as even and odd days) and eliminating outside watering on weekends and holidays.

Stage 3 Exists When:

a. The amount of Stored Water has been less than 70% of Storage Capacity for at least 48 consecutive hours; or,

b. The Company is having difficulty maintaining Stored Water at 80% of Storage Capacity for a 24 consecutive hour period and the Company has identified issues (such as a steadily declining water table, an increased draw-down threatening pump operations, leaks in the storage tank, poor water production, higher than usually water demand, etc.) creating a reasonable belief the Company will be unable to meet anticipated water demand on a sustained basis.

c. Under Stage 3 the Company shall request the customers to voluntarily employ water conservation measures and eliminate all outside water, except livestock, and to employ indoor water conservation techniques wherever possible.

TARIFF SCHEDULE

UTILITY: Bella Vista Water Co., Inc.

DOCKET NO.: W-02465A
PHONE: (520) 458-5470

TARIFF SHEET NO.: 10c
REPLACES SHEET NO.:
DECISION NO.:
EFFECTIVE:

No. 10 (cont.)

Stage 4 Exists When:

a. The amount of Stored Water has been less than 60% of Storage Capacity for at least 24 consecutive hours.

b. Under Stage 4 the following Mandatory Water conservation Restrictions shall be in effect after not less than 12 hours notice to the South System customers and the Consumer Services Supervisor, Utilities Division of the time Stage 4 will go into effect and the expected duration of Stage 4:

1) Irrigation of outdoor lawns, trees, shrubs, or any plant life is prohibited.
2) Washing of any vehicle is prohibited.
3) The use of water for dust control or any outdoor cleaning uses is prohibited.
4) The use of drip or misting systems of any kind is prohibited.
5) The filling of any swimming pools, spas, fountains or ponds is prohibited.
6) The filling of storage tanks or any other water hoarding is prohibited.
7) Any other outdoor water intensive activity shall be prohibited.
8) No new connections will be permitted.

Stage 5 Exists When:

a. The amount of Stored Water has been less than 20% of Storage Capacity for at least 24 consecutive hours.

b. Under Stage 5, in addition to the Stage 4 Mandatory Water Conservation Restrictions, the Company shall:

1) Utilize its potable tank to haul water and fill the system storage tanks in an effort to bring the Stored Water to between 25% - 30% of Storage Capacity.
2) Be authorized to intentionally interrupt water service for up to four (4) consecutive hours, once a day at off peak times (i.e., between the hours of 10:00 pm and 4:00 am and 10:00 am and 4:00 pm) in an effort to bring the Stored Water to between 20% - 25% of Storage Capacity.
3) If Stored Water falls to 15 % of Storage Capacity or less, be authorized to intentionally interrupt water service up to six (6) consecutive hours at any time during the day, in an effort to bring Stored Water to between 15% - 20% of Storage Capacity.

TARIFF SCHEDULE

UTILITY: Bella Vista Water Co., Inc.	**TARIFF SHEET NO.:** 10d
	REPLACES SHEET NO.:
DOCKET NO.: W-02465A	**DECISION NO.:**
PHONE: (520) 458-5470	**EFFECTIVE:**

No. 10 (cont.)

Notice.

1. Generally. The Company shall provide its South System customers notice of Stages 2, 3, 4 and 5 by delivering written notice door-to-door at each service address or by United States First Class Mail, postage prepaid, to the billing address or, at the Company's option, both. The Notice shall notify the customer of the need to conserve water and the general nature of the problem. The Notice shall also provide a number where questions will be answered. Where the Company has provided Notice of a curtailment stage, it will provide Notice that the stage has ended within one (1) business day of its termination.

2. Stages 2 and 3. Notice of Stages 2 and 3 may be provided separately or combined at the Company's option. Such notice shall be provided no later than one (1) business day after the later of:
   a. The effective date of this Tariff; or
   b. The date the Stored Water has reached the designated level of Storage Capacity for the designated time period; or
   c. In the case of a combined notice, the date the Stored Water has dropped below 80% of defined Storage Capacity.

3. Stages 4 and 5. Notice of Stages 4 and 5 shall be noticed separately and shall be given to the Company's South System customers and the Consumer Services Supervisor, Utilities Division not less than 12 hours before the mandatory conservation measures of that Stage is effective.

   Such Notice shall specify what mandatory water use restrictions are in effect, when the restrictions go into effect, how long the restrictions are likely to be in effect and that violations of the mandatory water use restrictions will subject the customer to immediate termination of water service without further notice; provided, however, persons will receive one warning if notice is provided only by United States mail and the violation occurs within three business days of the Notice being placed in the United States mail. The Notice shall also provide a number where violations may be reported and the customer can determine if the restrictions have been lifted.

STAFF EXHIBIT A

TARIFF SCHEDULE

UTILITY: Bella Vista Water Co., Inc.	**TARIFF SHEET NO.:** 10e
	REPLACES SHEET NO.:
DOCKET NO.: W-02465A	**DECISION NO.:**
PHONE: (520) 458-5470	**EFFECTIVE:**

No. 10 (cont.)

Presumptive Violations.

Any customer using in excess of 600 gallons of water per day (i.e., at the rate of 18,000 gallons every thirty days) is presumed to be violating the mandatory restrictions imposed in stages 4 and 5. The notice of curtailment provided with stages 2, 3, 4 and 5 shall include the following:

> "Any customer with water usage in excess of 600 gallons per day (i.e., equivalent to 18, 000 gallons per month) ***during a stage 4 or 5 curtailment*** is presumed to be violating the mandatory restrictions and is subject to having their water service terminated. ~~without further notice.~~
>
> According to the American Water Works Association, average daily indoor water use per person is between 52 and 74 gallons and includes: 9.6 –20.1 gallons for toilet flushing; 10 – 12.6 gallons for a shower; 10.6 – 15.1 gallons to run a washing machine; 11 gallons from their indoor faucets; and 5 –10 gallons for leaks. 50 to 70% of home water is used outside for lawns and gardens. Using 600 gallons per day during a curtailment is generally unnecessary and contrary to the need to conserve water. ~~To avoid termination, any customer believing its water usage for permitted usage will equal or exceed 600 gallons per day or more during a stage 4 or 5 curtailment should provide the Company written documentation that all their water use is for necessary purposes. Most outside watering is prohibited during stages 4 and 5 including: irrigation of outdoor lawns, trees (including orchards), shrubs, or any plant life; washing of any vehicle; dust control or any outdoor cleaning; any drip or misting systems; filling of any swimming pools, spas, fountains or ponds; filling of storage tanks, water hoarding; or any outdoor water intensive activity.~~ Providing reasonable amounts of water to livestock and domestic animals is not prohibited."

If a customer is exceeding the presumptive limit of 600 gallons per day during a stage 4 or stage 5 condition, the customer shall be noticed of this exceedance but service shall not be terminated until two business days have lapsed, after notice is given. After notice is given and prior to termination, the customer may present to the company, evidence which demonstrates that the excess usage was the consequence of allowed water use and not the result of restricted water conservation activities. If the Company determines that the evidence is valid, water service shall continue. This special notice provision applies only to a presumptive violation occurrence.

~~During stages 3, 4 and 5, as an aide to educating customers on conservation opportunities, Company may request customers to provide information regarding their water usage, including such things as the number of persons residing in the home, their ages, the number of showers, baths, and toilets, the type and number of pets and livestock, the type and nature of landscaping, whether an evaporative cooler is used, a description of the nature and size of all water features (such as pools, spas, ponds, fountains) and a statement of what steps the customer can take to reduce water usage, as well as any outdoor water usage that cannot be curtailed. Any request for information sent by the Company shall include the language set forth above.~~

TARIFF SCHEDULE

UTILITY: Bella Vista Water Co., Inc.	**TARIFF SHEET NO.: 10f**
	REPLACES SHEET NO.:
DOCKET NO.: W-02465A	**DECISION NO.:**
PHONE: (520) 458-5470	**EFFECTIVE:**

No. 10 (cont.)

~~During stages 4 and 5, water service may be terminated without notice (except as required above) if water usage exceeds 600 gallons per day, unless the customer has provided Company, written documentation satisfactory to Company that their water use is for necessary purposes.~~

The level of water usage may be established by (i) determining the daily average water use from a regular monthly meter reading, provided mandatory conservation was in effect for the billing period, or (ii) averaging daily water usage from a special meter reading of any length while mandatory conservation is in effect. The special meter reading will be without charge to the customer.

At any time, a customer may provide documentation satisfactory to the Company, that their water use is for authorized purposes and not the result of restricted water conservation activities. The Company may then set a different daily gallon use for the presumptive violation limit for that individual customer. However, the Company may void that special presumptive limit, if it is reasonable to believe that the customer's water use circumstances have changed and if notice has been given to that customer.

CITY SYSTEM CURTAILMENT PLAN

It is not practicable to design a single curtailment plan for the Company's City System. Therefore, Company may, after notice to the Consumer Services Supervisor, Utilities Division, implement curtailment where production or storage issues are threatening the Company's ability to provide water service to specific portions of the City System. In such circumstances, Company shall identify the critical storage tank or tanks involved and shall define the terms "Storage Capacity" and "Stored Water" in relation to the identified storage tank or tanks. The procedure set forth in this tariff will then be applied to curtail service to the customers served by the storage tank or tanks so identified after approval by the Utilities Division Director.

TARIFF SCHEDULE

UTILITY: Bella Vista Water Co., Inc.	**TARIFF SHEET NO.:** 10g
	REPLACES SHEET NO.:
DOCKET NO.: W-02465A	**DECISION NO.:**
PHONE: (520) 458-5470	**EFFECTIVE:**

No. 10 (cont.)

Reconnection and Contesting Violation.

A customer terminated for violating a mandatory water use restriction shall not be reconnected so long as the mandatory restrictions are in place; provided, however, Company shall reconnect, without charge, any customer disconnected under the Presumptive Violation provisions of this tariff if the customer provides Company written documentation satisfactory to Company that their water use is for authorized ~~necessary~~ purposes and not the result of restricted water conservation activities.

Further, Company may allow reconnection during Stages 4 or 5 if (i) Customer provides written documentation satisfactory to Company demonstrating that prohibited water usage has ceased and will not reoccur; (ii) the Customer submits a statement of the conservation efforts it will implement if reconnected and (iii) Company determines reconnecting the customer will not unduly threaten water availability to its other customers. A customer terminated under this provision of this tariff, shall pay all applicable fees and charges authorized by the Arizona Corporation Commission before having service restored.

Any customer terminated for violating a mandatory water use restriction, whether under the presumptive violation provision or otherwise, shall pay all applicable fees and charges authorized by the Arizona Corporation Commission before having service restored (unless as provided differently above). This is in addition to any other remedy that may be available at law or equity for damages arising from the violation of the mandatory water use restrictions.

If a customer believes he/she has been disconnected in error, the customer should attempt to resolve the matter with Company but may also contact the Commission's Consumer Services Section at 1-800-222-7000 to initiate an investigation.