BEFORE THE ARIZONA CORPORATION COMMISSION

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

Arizona Corporation Commission
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AZ Corporation Commission
Director Of Utilities

IN THE MATTER OF TONTO BASIN WATER COMPANY, INC. FILING OF A CURTAILMENT PLAN TARIFF

DOCKET NO. W-03515A-04-0907
DECISION NO. 67820
ORDER

Open Meeting
May 3 and 4, 2005
Phoenix, Arizona

BY THE COMMISSION:

FINDINGS OF FACT

1. Tonto Basin Water Company, Inc. ("Tonto Basin" or "the Company") is certificated to provide water as a public service corporation in the State of Arizona.

2. On December 17, 2004, the Company filed a curtailment plan tariff.

3. The Company's proposed tariff differs from Staff's general curtailment tariff template that is posted on the Commission's website in that the Company is proposing a "reconnection fee for violation" during the mandatory Stage 3, 4 and 5 conditions, when outdoor watering is prohibited.

4. On January 20, 2005, in Decision No. 67510, the Commission suspended the tariff filing for a period of ninety days, through and including April 16, 2005. This request was granted so that Staff would have more time to review the application.

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5. On April 11, 2005, in Decision No. 67753, the Commission suspended the tariff filing for an additional 30 days. This request was granted so that the Company could docket a Water Augmentation Surcharge Tariff.

6. The Company is located in the Roosevelt Lake area in Gila County and Florence area in Pinal County. The five independent water systems are; Lake Roosevelt Gardens East, Roosevelt Lake Estates, Lake Roosevelt Gardens West, North Bay and Cactus Forest Systems serving a total of approximately 2,100 customers.

7. The Company's proposed curtailment tariff was developed based on the tariff approved for Pine Water Company, Inc. ("Pine Water ") in Decision No. 62846 (August 24, 2000) and revised in Decision No. 65914 (May 16, 2003) which includes a "reconnection fee for violation". Pine Water and Tonto Basin are subsidiaries of Brooke Utilities, Inc. The Company would like its tariff to be consistent with the tariff approved for Pine Water.

8. The Company seeks approval for a provision for a "reconnection fee for violation" during mandatory Stage 3, 4 and 5 conditions. Once notice of mandatory conservation has been provided, customers can be disconnected if they fail to comply and continue to use water for purposes that are prohibited. These reconnection fee ("fine") amounts are less than Pine Water's fine. The Company proposed its fines be lower than Pine Water's because the water supply shortage in Tonto Basin's service area is not as severe as it is in Pine Water's service area. The proposed fines being requested are summarized as follows:

Stage 3 – Enforcement

1st offense	$150.00
2nd offence	$300.00
3rd offence (and thereafter)	$600.00

Stage 4 – Enforcement

1st offense	$300.00
2nd offence	$600.00
3rd offence (and thereafter)	$1,200.00

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Stage 5 – Enforcement

1st offense	$600.00
2nd offence	$1,200.00
3rd offence (and thereafter)	$2,400.00

9. Under these mandatory restrictions in Stages 3, 4 and 5, the Company is required to notify customers by delivering written notice door to door at each service address, or by changing local sign postings, or via electronic mail, or by any other reasonable means of notifying customers in the affected water system(s).

10. It is the Company's position that water conservation will only be achieved if the parties responsible for wasting water face the consequences for such actions, including appropriate economic penalties. Otherwise, the impact of one individual wasting water is unfairly placed on all of the water system's customers.

11. Staff proposed several modifications to the tariff, one of which would potentially require the Company to haul water under certain conditions.

12. Staff finds the amended tariff to be reasonable.

13. Staff recommends approval of the Company's Curtailment Plan Tariff as modified by Staff and reflected in Staff's Exhibit A.

14. Staff further recommends:

a. That the monies collected under this tariff shall be deposited into a separate interest bearing trust account and used solely for the purposes of paying for importing of water to the Company (such as hauling water or connecting to and buying water from another water system).

b. That the Company submit a report to the Utilities Division Compliance Section, beginning October 15, 2005, and on May 15 and October 15 of each year thereafter, that includes a running account of (up to the last day of the previous month) the following information;

1) The name of each customer that has paid the fine,
2) The amount of the fine paid by each customer,
3) The amount of money used from the account to pay for importing water, and
4) The balance in the account.

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CONCLUSIONS OF LAW

1. The Company 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 April 19, 2005, 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 Tonto Basin Water Company, Inc. is hereby authorized to implement the curtailment plan tariff, a copy of which is attached as Exhibit A.

IT IS THEREFORE ORDERED that Tonto Basin Water Company, Inc. shall comply with the recommendations and conditions as set forth in Findings of Fact No. 14 hereinabove.

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IT IS FURTHER ORDERED that Tonto Basin Water Company, Inc. shall docket the curtailment plan tariff within 30 days of the effective date of this Decision.

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 5th day of May, 2005.

BRIAN C. McNEIL
Executive Secretary

DISSENT: _____

DISSENT: _____

EGJ:MSJ:lhm\DR

SERVICE LIST FOR: Tonto Basin Water Company, Inc.

DOCKET NO. W-03515A-04-0907

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Utility: Tonto Basin Water Company, Inc.
Docket No.: W-03515A-04-0907
Phone No.: 1-800-270-6084

Decision No.:_____
Effective: _____

CURTAILMENT PLAN FOR TONTO BASIN WATER COMPANY, INC.

ADEQ Public Water Systems: Lake Roosevelt Gardens East (#04-022), Roosevelt Lake Estates (#04-036), Lake Roosevelt Gardens West (#04-047), North Bay (#04-049) and Cactus Forest (#11-052)

APPLICABILITY

Tonto Basin Water Company, Inc. ("Company") is authorized by the Arizona Corporation Commission to curtail water service to all customers within its certificated area under the terms and conditions listed in this tariff. As needed, this tariff will be implemented by the Company on a system-by-system basis, or on a company-wide basis, as circumstances warrant.

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

The Company shall notify its customers of this new tariff as part of its next regularly scheduled billing after the effective date of the tariff or no later than sixty (60) days after the effective date of the tariff.

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

STAGES

Stage 1 Exists When:

Company's water storage level or well production is at least 80% of total capacity and there are no known problems with its water production or storage facilities.

Restrictions: Under Stage 1, the public water system is deemed to be operating normally and no curtailment is necessary.

Notice: Under Stage 1, no notice is necessary.

Stage 2 Exists When:

Company's water storage or well production is less than 80% but at least 70% of capacity for at least (48) consecutive hours.

Company has identified issues such as a steadily declining water table, increased draw down threatening pump operations, and/or poor water production, creating a reasonable belief that the Company will be unable to meet anticipated water demand on a sustained basis.

Restrictions: Under Stage 2, voluntary conservation measures should be employed by customers to reduce water consumption by ten percent (10%). Outside watering on weekends and holidays should be curtailed. Outside vegetation watering may occur during weekday periods on even days of the month for even numbered lots, and odd numbered days of the month for odd numbered lots.

Notice: Under Stage 2, the Company is required to notify customers by delivering written notice door to door at each service address, or by changing local sign postings, or via electronic mail, or by any other reasonable means of notifying customers in the affected water system(s) of the imposition of the Curtailment Tariff, the Curtailment Stage, the general nature of the problem and the need to conserve water.

Stage 3 Exists When:

Company's water storage level or well production is less than 70% but at least 60% of capacity for at least twenty-four (24) consecutive hours.

Company has identified issues such as a steadily declining water table increased draw down threatening pump operations, and/or poor water production, creating a reasonable belief that the Company will be unable to meet anticipated water demand on a sustained basis. The Company will undertake reasonable measures to supplement its water supply until such time that Stage 3 is reached for 48 consecutive hours.

Restrictions: Under Stage 3, Company shall inform the customers of a **mandatory** restriction to employ water conservation measures to reduce daily consumption. Failure to comply will result in customer disconnection. The following uses of water shall be prohibited:

- Irrigation of outdoor lawns, trees, shrubs, or any plant life is prohibited
- Washing of any vehicle is prohibited
- The use of water for dust control or any outdoor cleaning uses is prohibited
- The use of drip or misting systems of any kind is prohibited
- The filling of any swimming pool, spas, fountains or ornamental pools is prohibited
- The use of construction water is prohibited.
- Restaurant patrons shall be served water only upon request
- Any other water intensive activity is prohibited.

The Company's operation of its standpipe service is prohibited. The addition of new service lines and meter installations is prohibited.

Notice: Under Stage 3, the Company is required to notify customers by delivering written notice door to door at each service address, or by changing local sign postings, or via electronic mail, or by any other reasonable means of notifying customers in the affected water system(s) of the imposition of the Curtailment Tariff, the Curtailment Stage, the general nature of the problem and the need to conserve water.

Enforcement: Once notice of mandatory conservation has been provided, the failure of a customer to comply within one (1) business day or two (2) calendars of receipt of such notice will result in an immediate disconnection of water service pursuant to Arizona Administrative Code R14-2-410(B)(1)(d). The reconnection fee for violation of a Stage 3 curtailment notice shall be:

1st offense:	$150.00
2nd offense:	$300.00
3rd offense (and thereafter):	$600.00

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

Stage 4 Exists When:

Company's water storage level or well production is less then 60% but at least 50% capacity for twenty-four (24) consecutive hours.

Company has identified issues such as a steadily declining water table increased draw down threatening pump operations, and/or poor water production, creating a reasonable belief that the Company will be unable to meet anticipated water demand on a sustained basis. The Company will undertake reasonable measures to supplement its water supply until such time that Stage 3 is reached for 48 consecutive hours.

Restrictions: Under Stage 4, Company shall inform the customers of a **mandatory** restriction to employ water conservation measures to reduce daily consumption. Failure to comply will result in customer disconnection. The following uses of water shall be prohibited:

- Irrigation of outdoor lawns, trees, shrubs, or any plant life is prohibited
- Washing of any vehicle is prohibited

- The use of water for dust control or any outdoor cleaning uses is prohibited
- The use of drip or misting systems of any kind is prohibited
- The filling of any swimming pool, spas, fountains or ornamental pools is prohibited
- The use of construction water is prohibited.
- Restaurant patrons shall be served water only upon request
- Any other water intensive activity is prohibited.

The Company's operation of its standpipe service is prohibited. The addition of new service lines and meter installations is prohibited.

Notice: Under Stage 4, the Company is required to notify customers by delivering written notice door to door at each service address, or by changing local sign postings, or via electronic mail, or by any other reasonable means of notifying customers in the affected water system(s) of the imposition of the Curtailment Tariff, the Curtailment Stage, the general nature of the problem and the need to conserve water.

Enforcement: Once notice of mandatory conservation has been provided, the failure of a customer to comply within one (1) business day or two (2) calendar days of receipt of such notice will result in an immediate disconnection of water service pursuant to Arizona Administrative Code R14-2-410(B)(1)(d). The reconnection fee for violation of a Stage 4 curtailment notice shall be:

1st offense:	$ 300.00
2nd offense:	$ 600.00
3rd offense (and thereafter):	$1,200.00

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

Stage 5 Exists When:

Company's water storage level or well production is less then 50% of total storage capacity for twelve (12) consecutive hours.

Company has identified issues such as a steadily declining water table increased draw down threatening pump operations, and/or poor water production, creating a reasonable belief that the Company will be unable to meet anticipated water demand on a sustained basis. The Company will undertake reasonable measures to supplement its water supply until such time that Stage 3 is reached for 48 consecutive hours.

Restrictions: Under Stage 5, Company shall inform the customers of a **mandatory** restriction to employ water conservation measures to reduce daily consumption. Failure to comply will result in customer disconnection. The following uses of water shall be prohibited:

- Irrigation of outdoor lawns, trees, shrubs, or any plant life is prohibited
- Washing of any vehicle is prohibited
- The use of water for dust control or any outdoor cleaning uses is prohibited
- The use of drip or misting systems of any kind is prohibited
- The filling of any swimming pool, spas, fountains or ornamental pools is prohibited
- The use of construction water is prohibited.
- Restaurant patrons shall be served water only upon request
- Any other water intensive activity is prohibited.

The Company's operation of its standpipe service is prohibited. The addition of new service lines and meter installations is prohibited.

Notice: Under Stage 5, the Company is required to notify customers by delivering written notice door to door at each service address, or by changing local sign postings, or via electronic mail, or by any other reasonable means of notifying customers in the affected water system(s) of the imposition of the Curtailment Tariff, the Curtailment Stage, the general nature of the problem and the need to conserve water.

Enforcement: Once notice of mandatory conservation has been provided, the failure of a customer to comply within one (1) business day or two (2) calendar days of receipt of such notice will result in an immediate disconnection of water service pursuant to Arizona Administrative Code R14-2-410(B)(1)(d). The reconnection fee for violation of a Stage 5 curtailment notice shall be:

1st offense:	$ 600.00
2nd offense:	$1,200.00
3rd offense (and thereafter)	$2,400.00

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

Utility: Tonto Basin Water Company, Inc.
Docket No.: W-03515A-04-0907
Phone No.: 1-800-270-6084

NOTICE

If the Company elects to provide notice by use of local sign postings, Company shall post and maintain at least **two (2) signs per water system**, in noticeable locations that include the entrances to major subdivisions, showing if the Company is operating under its curtailment tariff, beginning with Stage 1. Each sign shall be at least four feet by four feet, and color-coded to denote the current stage:

1. Stage 1 – Green
2. Stage 2 – Blue
3. Stage 3 – Yellow
4. Stage 4 – Orange
5. Stage 5 – Red

Company shall notify the Consumer Services Division of the Utilities Division at least twelve (12) hours prior to entering either Stage 3 or Stage 4. Company shall notify the Consumer Services Section of the Utilities Division at least six (6) hours prior to entering Stage 5 of this curtailment tariff.

RECONNECTION FEE

All reconnection fees shall be cumulative for a calendar year regardless of the Stage that an offense occurs. For example, if a customer fails to meet the requirements of a particular stage, conserve the required amount of water under Stage 3 after notice that a curtailment is in effect, the reconnection fee shall be $150.00 dollars. If that same customer, in the same calendar year, commits an offense under Stage 5, the reconnection fee shall be $1,200. By May 15 and October 15 of each year, the Company will provide the Director of the Utilities Division with a list of customers who paid reconnection fees for failure to comply with the mandatory provisions of this curtailment tariff.

Any customer who has service terminated per this tariff more than once during a calendar year shall have those terminations count against him/her in the next calendar year for purposes of establishing the reconnection fee, should another termination occur.