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| **PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA** |
| **WATER DIVISION** | **RESOLUTION W-XXX** |
|  | **Date, 2021** |

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| **R E S O L U T I O N** |
| **(RES. W-XXXX)** **HAVASU WATER COMPANY. ORDER REJECTING ADVICE LETTER 48-W IN ACCORDANCE WITH GENERAL ORDER 96-B, GENERAL RULE 7.6.2.**  |
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**SUMMARY**

By Advice Letter (AL) 48-W, filed on October 22, 2021, Havasu Water Company (Havasu) seeks a general rate increase producing additional annual revenues of $61,100, or 22.80%, based on a Rate of Margin (ROM) of 23.65%. Havasu also requests a change to Commission Resolution W-5224 addressing the utility’s prior AL 45-W to resolve the utility’s water supply issue involving the disputed easement with the Chemehuevi Indian Tribe.

This Resolution rejects Havasu’s AL 48-W for the following reasons: 1) Havasu did comply with the Commission’s AL requirements set-forth in General Order 96-B, Water Industry Rule 4.1(3) requiring utilities serve all interested parties;[[1]](#footnote-2) and 2) Havasu’s general rate increase request is dependent on the Commission’s resolution of the easement dispute between Havasu and the Chemehuevi Indian Tribe, a tribal land matter outside the Commission’s legal jurisdiction and not appropriate for disposition through the AL process.

**BACKGROUND**

By Advice Letter (AL) 48-W, filed on October 22, 2021, Havasu Water Company (Havasu) requested authority under General Order (GO) 96-B, Rule 1.7 and 7.6.2, Water Industry Rules 7.3.3(5), and Section 454 of the Public Utilities Code to increase its annual revenues by $61,100, or 22.80% for Test Year (TY) 2021.

Havasu’s present rates were approved on June 11, 2020, by Commission Resolution W-5224, which authorized a general rate increase of $49,165, or 21.67% for TY 2019.

Havasu is a Class D water utility which provides domestic water service to 211 metered service connections. Havasu’s service territory is in the unincorporated community of Havasu Lake in San Bernardino County.

Havasu’s water system consists of four pumps, a chlorinator, sand filter, 150,000-gallon storage tank, and a 10,000-gallon pneumatic tank. The sole source of the system is Lake Havasu. Under the system’s current configuration, the total water supply capacity of the system is 120 gallons per minute (gpm) or 403,200 gallons. As indicated in Havasu’s 2017 sanitary survey conducted by the State Water Resources Control Board, Division of Drinking Water (DDW), the system sufficiently meets its maximum day demand (MDD) of 89,700 gallons.[[2]](#footnote-3)

**NOTICE AND PROTESTS**

In accordance with GO 96-B, Havasu served a copy of Advice Letter 48-W to its service list on October 21, 2021. However, Havasu did not properly serve all interested parties as required by the Commission’s General Order 96-B, Industry Rule 4.1(3).

**DISCUSSION**

In accordance with the Commission’s General Order 96-B, General Rule 7.6.2, the Commission is rejecting Havasu’s Advice Letter (AL) 48-W request for the following reasons:

1. Havasu did not properly serve all interested parties as required by the Commission’s General Order (GO) 96-B, Water Industry Rule 4.1(3). In this case Havasu did not serve a copy of its request filed in AL 48-W to Chemehuevi Indian Tribe, an interested party involved in the easement dispute with Havasu, an issue the utility is requesting the Commission to address as part of its rate increase request AL filing. Havasu therefore did fully comply with the Commission’s AL requirements set-forth in GO 96-B, Water Industry Rule 4.1(3).
2. Havasu’s request for a rate increase to pay for the construction of wells is not properly before the Commission at this time, because the water wells have not been constructed or placed in service, and it is speculative whether Havasu will need to construct the water wells.[[3]](#footnote-4) Havasu’s general rate increase request should also not be dependent on the resolution of the easement dispute with the Chemehuevi Indian Tribe. Should Havasu seek a general rate increase, the rate increase request should be based on operation and maintenance costs and utility capital expenditures made that are appropriate for cost recovery at this time.
3. The easement matter between Havasu and Chemehuevi Indian Tribe is not appropriate for disposition through the Commission’s Advice Letter process because it requires a determination on property rights regarding whether Havasu has an easement. Furthermore, because the easement dispute is a tribal land matter, and the legal status of the easement must be determined by a Federal Court and not by the Commission which lacks jurisdiction over this matter.

For the above reasons, Havasu’s Advice Letter 48-W is rejected.

 **COMMENTS**

Public Utilities Code section 311(g)(1) provides that resolutions generally must be served on all parties and subject to at least 30 days public review and comment prior to a vote of the Commission.

Accordingly, the draft resolution was mailed to the service list and made available for public comment on Date, 2021.

**FINDINGS**

1. By Advice Letter (AL) 48-W, filed on October 22, 2021, Havasu Water Company (Havasu) requested a general rate increase for Test Year 2021 producing additional annual revenues of $61,100, or 22.80%, based on a Rate of Margin of 23.65%.
2. By AL 48-W, Havasu also request a change to Commission Resolution W-5224 addressing the utility’s prior AL 45-W to resolve the utility’s water supply issue involving the disputed easement with the Chemehuevi Indian Tribe.
3. In accordance with General Order 96-B, Havasu served a copy of AL 48-W to its service list on October 21, 2021.
4. Havasu did not fully comply with the Commission’s Advice Letter noticing requirements set-forth in GO 96-B, Water Industry Rule 4.1(3) because the utility did not properly serve all interested parties as required by the Commission’s General Order 96-B, Industry Rule 4.1(3).
5. Havasu did not serve a copy of AL 48-W to Chemehuevi Indian Tribe, an interested party involved in the easement dispute with Havasu, an issue the utility is requesting the Commission to address as part of its rate increase request in AL 48-W.
6. Havasu’s request for a rate increase to pay for the construction of wells is not properly before the Commission at this time, because the water wells have not been constructed or placed in service, and it is speculative whether Havasu will construct the water wells.
7. The easement matter between Havasu and Chemehuevi Indian Tribe is not appropriate for disposition through the Commission’s Advice Letter process because it requires a determination on property rights regarding whether Havasu has an easement.
8. The easement dispute between Havasu and Chemehuevi Indian Tribe is a tribal land matter, and the legal status of the easement must be determined by a Federal Court and not by the Commission which lacks jurisdiction over this matter.
9. Havasu’s Advice Letter 48-W is rejected.

**THEREFORE, IT IS ORDERED THAT:**

1. Havasu Water Company’s Advice Letter 48-W, filed on October 22, 2021 is rejected for the following reasons: 1) Havasu Water Company did not comply with the Commission’s Advice Letter requirements set-forth in General Order 96-B, Water Industry Rule 4.1(3); and 2) Havasu’s general rate increase request is dependent on the resolution of the easement dispute with the Chemehuevi Indian Tribe (Tribe), a tribal land matter outside the Commission’s legal jurisdiction.

This Resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed, and adopted at a conference of the Public Utilities Commission of the State of California held date, 2021; the following Commissioners voting favorably thereon:

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| RACHEL PETERSONExecutive Director |

 **CERTIFICATE OF SERVICE**

I certify that I have by either electronic mail or postal mail, this day, served a true copy of Proposed Resolution No. W-XXXX on all parties in these filings or their attorneys as shown on the attached lists.

Dated XXX, 2021 at San Francisco, California.

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|  | /s/Levi Goldman |
| Levi Goldman |

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| Parties should notify the Division of Water and Audits, Third Floor, California Public Utilities Commission, 505 Van Ness Avenue, San Francisco, CA 94102, of any change of address to ensure that they continue to receive documents. You must indicate the Resolution number on which your name appears. |

**HAVASU WATER COMPANY**

2312 Park Ave. #152, Tustin, CA 92782

Telephone: 949-523-0900

**ADVICE LETTER 48-W**

**SERVICE LIST**

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| --- | --- |
| Sean McCarthy, P.E.CA Dept of Public HealthDDWEM464 W. Fourth Street, Suite 437San Bernardino, CA 92401 | Colorado River Board of California770 Fairmont AvenueSuite 100Glendale, CA 91203-106 |
| LAFCO215 N. “D” Street, Suite 204San Bernardino, CA 92415 |  |
| Land Use ServicesSan Bernardino County385 N. Arrowhead AvenueSan Bernardino, CA 92415 |  |
| San Bernardino Fire Authority620 South “E” StreetSan Bernardino, CA 92415 |  |
| David G. BrownleeCity of Needles817 Third StreetNeedles, CA 92363 |  |

1. Havasu did not serve a copy of AL 48-W to Chemehuevi Indian Tribe, an interested party involved in the easement dispute with Havasu, an issue the utility is requesting the Commission to address as part of its rate increase request in AL 48-W. [↑](#footnote-ref-2)
2. The MDD represents the maximum consumption of water any one day of the year. DDW used peaking factors to estimate the MDD. [↑](#footnote-ref-3)
3. Havasu’s AL 48-W pg. 1. [↑](#footnote-ref-4)