

ORDINANCE 79

AN ORDINANCE OF THE BOARD OF DIRECTORS OF THE HI-DESERT WATER DISTRICT ESTABLISHING RATES FOR WATER SERVICE CHARGES

WHEREAS, on December 18, 2002, the Board of Directors of the Hi-Desert Water District (the “District”) adopted Ordinance 73, establishing rules and regulations for the provision of retail water service and providing among other things, that the Board of Directors shall from time to time establish rates and charges and other service provided by the District; and

WHEREAS, on April 6, 2005, the District Board of Directors adopted Resolution No. 05-04 establishing District Fees and Charges and Rescinding Resolution No. 02-09 and 05-02, which resolution established new rates for monthly water service charges (“Water Service Charges”) and for other fees and charges of the District; and

WHEREAS, on October 17, 2007, the District Board of Directors adopted Resolution No. 07-19 Amending District Fees and Charges and Amending Resolution No. 05-04, which resolution specifically established new rates for the Water Service Charges; and

WHEREAS, due to increased costs of water, energy, supplies, and equipment, the District conducted a rate study to evaluate the service and infrastructure needs, programs, and operations and maintenance costs of the District’s water system (the “System”); and

WHEREAS, the rate study concluded that the revenues from the District’s Water Service Charges will be insufficient to cover (i) current and projected operations and maintenance costs for the System; and (ii) the capital infrastructure improvements needed to maintain, repair, and update the System; and

WHEREAS, the District has determined that increases to the schedule of rates for its Water Service Charges are necessary for a three-year period to generate revenues sufficient to cover the District’s ongoing costs of operations, maintenance, and infrastructure improvements for the System; and

WHEREAS, the proposed rate structure for the Water Service Charges establishes various customer classes which are identified on the basis of land use type, service characteristics, and demand patterns for such parcels of property. The specific customer classes are: single-family residential (“SFR”), multiple family residential (“MTF”), mobile home park (“MHP”), public entities (“PBE”), commercial (“COM”), bulk water (“BLK”), irrigation (“IRR”), and California Irrigation Management Information System (“CIMIS Customers”) customers; and

WHEREAS, the District’s rates for Water Service Charges are calculated to recover the costs of the District in providing water services and to proportionately allocate those costs among the customer classes; and

WHEREAS, the rate structure for Water Service Charges to be imposed on SFR, MTF, MHP, PBE, and BLK customers has four components: (1) the Service Charge; (2) the Consumption Charge; (3) the Recharge Surcharge; and (4) the Pipeline Surcharge; and

WHEREAS, the District has determined that because CIMIS and IRR customers pay for the

Recharge Surcharge and Pipeline Surcharge components through their other customer accounts relating to non-irrigation water, the rate structure for Water Service Charges for the CIMIS and IRR customers consists solely of the Consumption Charge; and

WHEREAS, the schedule of proposed Water Service Charges is attached hereto as Exhibit A, and by this reference incorporated herein; and

WHEREAS, the District has determined that other than the rates for the Water Service Charges as set forth herein, the rates for all other fees and charges of the District do not need to be increased at this time and shall remain in full force and effect until otherwise modified by the Board of Directors; and

WHEREAS, the revenues derived from the proposed Water Service Charges will not exceed the funds required to provide the water services and shall be used exclusively for the System; and

WHEREAS, the proposed Water Service Charges will not exceed the proportional cost of the service attributable to each parcel upon which they are proposed for imposition; and

WHEREAS, the proposed Water Service Charges will not be imposed on a parcel unless the water services are actually used by, or immediately available to, the owner of the parcel; and

WHEREAS, the District, as the lead agency under the California Environmental Quality Act (“CEQA”), in consultation with the District’s Legal Counsel, prepared a Preliminary Exemption Assessment for the adoption of this Ordinance in order to evaluate its potential impacts. The District determined that this Ordinance is exempt from CEQA review under Public Resources Code section 21080(b)(8) and State CEQA Guidelines section 15273 because the Water Service Charges are necessary and reasonable to fund the administration, operation, maintenance, and improvements of the System and will not result in the expansion of the System; and

WHEREAS, California Constitution article XIII D, section 6 (“Article XIII D”) requires that prior to imposing any increase to the Water Service Charges, the District shall provide written notice (the “Notice”) by mail of the proposed increases to such rates and charges to the record owner of each parcel upon which the rates and charges are proposed for imposition and any tenant directly liable for payment of the rates and charges, the amount of the rates and charges proposed to be imposed on each parcel, the basis upon which the rates and charges were calculated, the reason for the rates and charges, and the date time and location of a public hearing (the “Hearing”) on the proposed rates and charges; and

WHEREAS, pursuant to Article XIII D such Notice is required to be provided to the affected property owners and any tenant directly liable for the payment of the rates and charges not less than forty-five days prior to the Hearing on the proposed rates and charges; and

WHEREAS, the District did provide such Notice to the affected property owners and tenants of the proposed Water Service Charges in compliance with Article XIII D; and

WHEREAS, the Hearing was held on this day, June 3, 2009; and

WHEREAS, at the Hearing the District Board of Directors heard and considered all oral testimony,

written materials, and written protests concerning the establishment and imposition of the proposed rates for the Water Service Charges, and at the close of the Hearing the District did not receive written protests against the establishment and imposition of the proposed rates for the Water Service Charges from a majority of the affected property owners and tenants directly liable for the payment of the Water Service Charges; and

WHEREAS, the Board of Directors of the District now desires to establish and impose the proposed rates for the Water Service Charges; and

NOW THEREFORE, BE IT ORDAINED, by the Board of Directors of the Hi-Desert Water District as follows:

1. The District Board of Directors finds and determines that the foregoing Recitals are true and correct and incorporates the Recitals herein.

2. As the decision making body for the District, the Board of Directors has reviewed and considered the information contained in the Preliminary Exemption Assessment and administrative record. The Board of Directors finds that the Preliminary Exemption Assessment contains a complete and accurate reporting of the environmental impacts associated with the adoption of this Ordinance and reflects the independent judgment of the Board.

3. The Board of Directors hereby establishes and imposes the Water Service Charges set forth in Exhibit A, effective on the dates, at the rates, and in the amounts set forth therein.

4. The Board of Directors hereby finds that the administration, operation, maintenance, and improvements of the System, which are to be funded by the Water Service Charges set forth herein, are necessary to maintain service within the District's existing service area. The Board of Directors further finds that the administration, operation, maintenance, and improvements of the System, to be funded by the Water Service Charges set forth herein, will not expand the System. The Board of Directors further finds that such Water Service Charges are necessary and reasonable to fund the administration, operation, maintenance, and improvements of the System. Based on these findings, the Board of Directors hereby determines that this Ordinance is exempt from the requirements of CEQA pursuant to California Public Resources Code section 21080(b)(8) and State CEQA Guidelines section 15273(a).

5. The documents and materials that constitute the record of proceedings on which these findings have been based are located at Hi-Desert Water District, 55439 29 Palms Highway, Yucca Valley, California 92284. The custodian for these records is the General Manager of the District.

6. The monthly Water Service Charges shall be imposed by the District at the rates set forth herein on any customer as a condition of service. Any customer may avoid payment of such Water Service Charges by withdrawing his or her request for service, disconnecting from District facilities by removing the water meter from his or her property, and otherwise terminating District service in accordance with the District's rules and regulations. Any water customer who disconnects from the water system, and has his or her water meter removed by the District, will be reimbursed by the District for the amount of any Acquisition of Service Charge previously paid by the customer to the District, less any administrative costs of the District associated with such reimbursement. Upon removal of the water meter, the customer shall be responsible for paying the District an annual Standby Charge at the rates then in effect. In the event the customer chooses to reconnect to the

District's water system at a later date, the customer shall pay the District an Acquisition of Service Charge at the rate then in effect.

7. The Board of Directors hereby authorizes and directs the General Manager to implement and take all actions necessary to effectuate the rates for the Water Service Charges set forth herein and to file a Notice of Exemption with the County Clerk for San Bernardino County within five (5) working days of the date of the adoption of this Ordinance.

8. If any section, subsection, subdivision, sentence, clause, or phrase in this Ordinance or any part thereof is for any reason held to be unconstitutional or invalid, ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance or any part thereof. The Board of Directors hereby declares that it would have adopted each section irrespective of the fact that any one or more subsections, subdivisions, sentences, clauses, or phrases be declared unconstitutional, invalid, or ineffective.

9. This Ordinance shall supersede all other previous District resolutions and ordinances that may conflict with, or be contrary to, this Ordinance.

10. This Ordinance shall become effective immediately upon its adoption by the Board of Directors.

PASSED, APPROVED AND ADOPTED this 3rd day of June 2009 by the following vote.

AYES: Hough, Mayes, Munsey, Stadum, Graham

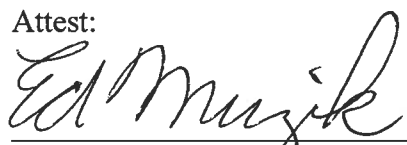
NOES: None

ABSTAIN: None



President of the Hi-Desert Water District and
its Board of Directors

Attest:



Ed Muzik, Board Secretary
Hi-Desert Water District



**EXHIBIT A
MONTHLY WATER SERVICE CHARGES**

Rates for Consumption Charge per Hundred Cubic Feet (“Ccf”)*

| All Other Customers** | Effective July 2, 2009 | Effective July 1, 2010 | Effective July 1, 2011 |
|----------------------------|---------------------------|---------------------------|--|
| Tier 1: 1-4 Ccf | \$3.18 | \$3.40 | \$3.59 |
| Tier 2: 5-10 Ccf | \$4.97 | \$5.30 | \$5.69 |
| Tier 3: 11-28 Ccf | \$6.01 | \$6.41 | \$6.89 |
| Tier 4: 29+ Ccf*** | \$8.04 | \$8.56 | \$9.08 |
| CIMIS Customers**** | | | |
| Base Rate (Tier 3) | \$6.01 | \$6.41 | Subject to the four tiered rates above. |
| Base Rate (Tier 4) | \$8.04 | \$8.56 | |

- * One hundred cubic feet is equivalent to 748 gallons of water.
- ** “All Other Customers” includes SFR, MTF, MHP, PBE, COM, BLK*** and IRR customers.
- *** BLK customers pay the Tier 4 rates for all use.
- **** CIMIS accounts are those accounts with established water budgets as set forth in the District’s Landscape Ordinance (currently Ordinance 72) as it may be amended for time to time. Water usage charges are billed at the base rate for water that is used under a CIMIS customer’s established water budget, and billed at the penalty rate for water used in excess of such budget. CIMIS accounts will be subject to the regular four tiered rate structure effective July 1, 2011.

NOTES TO THE TABLE ABOVE: The tier thresholds for MHP and MTF customers are adjusted by a multiplier of 0.60 and 0.72, respectively, to account for their average water use. The tier thresholds for MHP and MTF customers are further adjusted for the number of dwelling units for each customer account.

Rates for Service Charge

| Meter Size | Effective July 2, 2009 | Effective July 1, 2010 | Effective July 1, 2011 |
|------------|---------------------------|---------------------------|---------------------------|
| 5/8" | \$10.40 | \$11.10 | \$11.80 |
| 1" | \$21.10 | \$22.50 | \$23.80 |
| 1 1/2" | \$38.90 | \$41.50 | \$43.80 |
| 2" | \$60.20 | \$64.20 | \$67.80 |
| 3" | \$117.10 | \$124.90 | \$131.90 |
| 4" | \$181.10 | \$193.10 | \$203.90 |
| 6" | \$358.80 | \$382.70 | \$404.10 |

Pipeline Surcharge (Based on Meter Size)

| Pipeline Surcharge | |
|------------------------------|----------|
| SFR/COM/PBE Customers | |
| 5/8" | \$4.00 |
| 1" | \$8.00 |
| 1 1/2" | \$12.00 |
| 2" | \$20.00 |
| 3" | \$44.00 |
| 4" | \$68.00 |
| 6" | \$132.00 |
| MHP Customers | |
| 1 st unit* | \$4.00 |
| Next units | \$3.00 |
| MTF Customers | |
| 1 st unit** | \$4.00 |
| Next units | \$2.64 |

*In the case of an MHP customer, a unit refers to a mobile home dwelling unit.

**In the case of an MTF customer, a unit refers to a multi-family dwelling unit.

Recharge Surcharge (Based on Meter Size)

| Recharge Surcharge | |
|------------------------------|---------|
| SFR/COM/PBE Customers | |
| 5/8" | \$2.50 |
| 1" | \$5.00 |
| 1 1/2" | \$7.50 |
| 2" | \$12.50 |
| 3" | \$27.50 |
| 4" | \$42.50 |
| 6" | \$82.50 |
| MHP Customers | |
| 1 st unit* | \$2.50 |
| Next units | \$1.88 |
| MTF Customers | |
| 1 st unit** | \$2.50 |
| Next units | \$1.65 |

*In the case of an MHP customer, a unit refers to a mobile home dwelling unit.

**In the case of an MTF customer, a unit refers to a multi-family dwelling unit.