

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

IN THE MATTER OF THE PETITION BY  
NEW MEXICO-AMERICAN WATER  
COMPANY, INC. FOR ADJUSTMENT OF  
WATER RATES FOR ITS EDGEWOOD  
DISTRICT,

Case No. 09-00156-UT

NEW MEXICO AMERICAN  
WATER COMPANY, INC.,  
Petitioner.

NEW MEXICO-AMERICAN WATER COMPANY'S NOTICE OF COMPLIANCE

New Mexico-American Water Company, Inc. ("NMAW") hereby gives notice that in compliance with the Final Order Approving Certification of Stipulation (the "Final Order") issued on April 22, 2010, NMAW filed Advice Notice No. 30 with Fifth Revised Rate Nos. 1 and 2 and Second Revised Rate No. 5 on April 22, 2010, all in the form of Exhibit TMB-2S to Mr. Broderick's testimony in support of the stipulation. Copies of Advice Notice No. 30 and the rates are attached to this Notice. Pursuant to the Final Order, NMAW will implement the rates with bills rendered in its next billing cycle following the date of the order, which will begin with meters read on May 10, 2010.

Respectfully submitted,

MONTGOMERY & ANDREWS, P.A.

By 

Thomas W. Olson  
Post Office Box 2307  
Santa Fe, NM 87504-2307  
(505) 982-3873  
tolson@montand.com

Attorneys for New Mexico American Water  
Company, Inc.

NEW MEXICO-AMERICAN WATER COMPANY, INC.  
P.O. BOX 430  
1005 NORRIS STREET  
CLOVIS, NEW MEXICO 88101  
575-763-5538

April 22, 2010  
Page 1 of 1

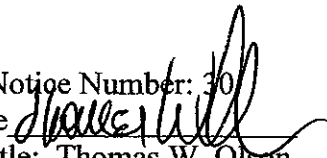
ADVICE NOTICE NUMBER 30

NEW MEXICO PUBLIC REGULATION COMMISSION  
OF THE STATE OF NEW MEXICO

New Mexico-American Water Company, Inc., hereby gives notice to the public and the Commission of the filing of the following changes in tariff schedules which are attached hereto and which are filed in compliance with the Final Order Approving Certification of Stipulation issued on April 22, 2010 in Case No. 09-00156-UT:

<u>RATE NUMBER</u>	<u>TITLE</u>	<u>CANCELLING RATE NUMBER</u>	<u>EFFECTIVE DATE</u>
Sixth Revised Rate Number 1	General Water Service	Fifth Revised Rate Number 1	April 22, 2010*
Sixth Revised Rate Number 2	Fire Protection Service	Fifth Revised Rate Number 2	April 22, 2010*
Second Revised Rate Number 5	Contract Rate Southwest Cheese Co.	Unchanged	May 20, 2009

\* Pursuant to the referenced order, the rates are effective with bills rendered in the Company's next billing cycle following the date of the order.

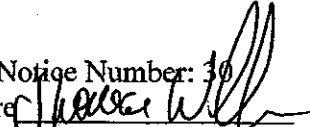
Advice Notice Number: 30  
Signature:   
Name/Title: Thomas W. Olson  
Attorney

**NEW MEXICO-AMERICAN WATER COMPANY, INC.  
P.O. BOX 430  
1005 NORRIS STREET  
CLOVIS, NEW MEXICO 88101  
575-763-5538**

Page 1 of 1

**RATE SCHEDULES  
TABLE OF CONTENTS**

<u>RATE NUMBER</u>	<u>TITLE</u>
Rate Number 1	General Water Service
Rate Number 2	Fire Protection Service
Rate Number 5	Contract Rate for Southwest Cheese Company LLC

Advice Notice Number: 30  
Signature:   
Name/Title: Thomas W. Olson  
Attorney

**NEW MEXICO-AMERICAN WATER COMPANY, INC.  
SIXTH REVISED RATE NUMBER 1  
CANCELLING FIFTH REVISED RATE NUMBER 1**

X  
X

**GENERAL WATER SERVICE**

Page 1 of 4

**APPLICABILITY:** This rate is applicable in the Company's Clovis and Edgewood operating systems to normal and customary water supply and delivery for domestic residential, commercial, industrial and public authority use. This rate is not applicable to temporary, breakdown, standby or supplementary services, or resale of shared service. Service shall be furnished in accordance with the Company's General Rules and Regulations, terms and conditions available at the Company's office and on file with the New Mexico Public Regulation Commission, which General Rules or subsequent revisions thereof are a part of this rate as if fully written herein.

**MONTHLY RATE:**

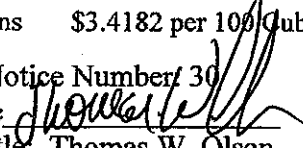
**CUSTOMER CHARGE AND MONTHLY MINIMUM CHARGE IN CLOVIS AND IN EDGEWOOD is based on the size of the meter serving the Customer's facility as follow:**

	<u>Clovis</u>	<u>Edgewood Residential</u>	<u>Edgewood All Other</u>	
5/8" - 3/4" Meter	\$ 12.67	\$ 16.50	\$23.10	X
1" Meter	19.01	34.65	34.65	X
1 1/2" Meter	31.68	57.75	57.75	X
2" Meter	44.35	80.85	80.85	X
3" Meter	63.35	-	-	X
4" Meter	114.03	-	99.00	X
6" Meter	158.38	-	-	X
8" Meter	316.75	-	-	X
10" Meter	443.45	-	-	X
12" Meter	823.56	-	-	X

**PLUS**

**RESIDENTIAL COMMODITY CHARGE IN CLOVIS:** For all water consumption by residential customers during the billing month or part of month as follows:

For consumption: up to 4500 gallons (600 cubic feet)	\$3.2158 per 1,000 Gallons	\$2.4054 per 100 Cubic Feet
4501 to 15000 gallons (601 To 2000 cubic feet)	\$4.0143 per 1,000 Gallons	\$3.0027 per 100 Cubic Feet
Over 15000 gallons (over 2000 cubic feet)	\$4.5698 per 1,000 Gallons	\$3.4182 per 100 Cubic Feet

Advice Notice Number/ 30  
Signature   
Name/Title: Thomas W. Olson  
Attorney

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**NEW MEXICO-AMERICAN WATER COMPANY, INC.  
SIXTH REVISED RATE NUMBER 1  
CANCELLING FIFTH REVISED RATE NUMBER 1**

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**GENERAL WATER SERVICE**

Page 2 of 4

COMMERCIAL COMMODITY CHARGE IN CLOVIS: For all water consumption by commercial customers during the billing month or part of month as follows:

For consumption:

5/8" Meter

Up to 22,400 gallons (3000 Cubic Feet)	\$3.6001 per 1,000 Gallons	\$2.6929 per 100 Cubic Feet
Over 22,400 gallons (3000 Cubic Feet)	\$4.1628 per 1,000 Gallons	\$3.1138 per 100 Cubic Feet

1" Meter

Up to 63,600 gallons (8,500 Cubic Feet)	\$3.6001 per 1,000 Gallons	\$2.6929 per 100 Cubic Feet
Over 63,600 gallons (8,500 Cubic Feet)	\$4.1628 per 1,000 Gallons	\$3.1138 per 100 Cubic Feet

1-1/2" Meter

Up to 67,300 gallons (9,000 Cubic Feet)	\$3.6001 per 1,000 Gallons	\$2.6929 per 100 Cubic Feet
Over 67,300 gallons (9,000 Cubic Feet)	\$4.1628 per 1,000 Gallons	\$3.1138 per 100 Cubic Feet

2" Meter

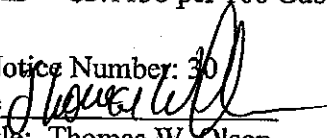
Up to 187,000 gallons (25,000 Cubic Feet)	\$3.6001 per 1,000 Gallons	\$2.6929 per 100 Cubic Feet
Over 187,000 gallons (25,000 Cubic Feet)	\$4.1628 per 1,000 Gallons	\$3.1138 per 100 Cubic Feet

3" Meter

Up to 261,800 gallons (35,000 Cubic Feet)	\$3.6001 per 1,000 Gallons	\$2.6929 per 100 Cubic Feet
Over 261,800 gallons (35,000 Cubic Feet)	\$4.1628 per 1,000 Gallons	\$3.1138 per 100 Cubic Feet

4" Meter

Up to 336,600 gallons (45,000 Cubic Feet)	\$3.6001 per 1,000 Gallons	\$2.6929 per 100 Cubic Feet
Over 336,600 gallons (45,000 Cubic Feet)	\$4.1628 per 1,000 Gallons	\$3.1138 per 100 Cubic Feet

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Signature:   
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Attorney

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NEW MEXICO-AMERICAN WATER COMPANY, INC.  
SIXTH REVISED RATE NUMBER 1  
CANCELLING FIFTH REVISED RATE NUMBER 1

X  
X

GENERAL WATER SERVICE

Page 3 of 4

COMMERCIAL COMMODITY CHARGE IN CLOVIS (Continued from Page 2 of 4):

For consumption:

6" Meter

Up to gallons 897,700 (120,000 Cubic Feet)	\$3.6001 per 1,000 Gallons	\$2.6929 per 100 Cubic Feet
Over 897,700 gallons (120,000 Cubic Feet)	\$4.1628 per 1,000 Gallons	\$3.1138 per 100 Cubic Feet

8" Meter

Up to gallons 897,700 (120,000 Cubic Feet)	\$3.6001 per 1,000 Gallons	\$2.6929 per 100 Cubic Feet
Over 897,700 gallons (120,000 Cubic Feet)	\$4.1628 per 1,000 Gallons	\$3.1138 per 100 Cubic Feet

10" Meter

Up to gallons 897,700 (120,000 Cubic Feet)	\$3.6001 per 1,000 Gallons	\$2.6929 per 100 Cubic Feet
Over 897,700 gallons (120,000 Cubic Feet)	\$4.1628 per 1,000 Gallons	\$3.1138 per 100 Cubic Feet

12" Meter

Up to gallons 897,700 (120,000 Cubic Feet)	\$3.6001 per 1,000 Gallons	\$2.6929 per 100 Cubic Feet
Over 897,700 gallons (120,000 Cubic Feet)	\$4.1628 per 1,000 Gallons	\$3.1138 per 100 Cubic Feet

Advice Notice Number: 30

Signature 

Name/Title: Thomas W. Olson  
Attorney

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NEW MEXICO-AMERICAN WATER COMPANY, INC.  
SIXTH REVISED RATE NUMBER 1  
CANCELLING FIFTH REVISED RATE NUMBER 1

X  
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GENERAL WATER SERVICE

Page 4 of 4

PUBLIC SCHOOL AND MUNICIPAL GOVERNMENT COMMODITY CHARGE IN CLOVIS: For all water consumption by public school and municipal government customers during the billing month or part of month as follows:

For consumption:			
up to 135,307,300 gallons (18,088,000 cubic feet)	\$2.9583 per 1,000 Gallons	\$2.2128 per 100 Cubic Feet	
Over 135,307,300 gallons (over 18,088,000 cubic feet)	\$3.5402 per 1,000 Gallons	\$2.6481 per 100 Cubic Feet	

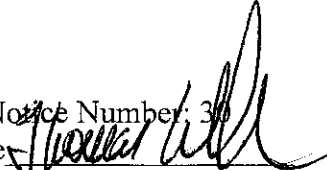
COMMODITY CHARGE IN EDGEWOOD: For water consumption to all residential classes of customers during the billing month or part of month as follows:

<u>Per 1,000 Gallons</u>			
1 <sup>st</sup> block	0 – 4,000	\$5.9661	X
2 <sup>nd</sup> block	4,001 – 10,000	\$8.0000	X
3 <sup>rd</sup> block	> 10,000	\$9.0000	X

COMMODITY CHARGE IN EDGEWOOD: For all water consumption to all other classes of customers during the billing month or part of month as follows:

\$ 8.000 per 1,000 Gallons

TAX ADJUSTMENT: Billings under this rate shall be increased by an amount equal to the sum of the taxes payable under the Gross Receipts and Compensating Tax Act and of all other taxes, fees, or charges (exclusive of ad valorem, state and federal income taxes) payable by the Company for services rendered under this rate.

Advice Notice Number: 30  
Signature:   
Name/Title: Thomas W. Olson  
Attorney

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X

NEW MEXICO-AMERICAN WATER COMPANY  
SIXTH REVISED RATE NUMBER 2  
CANCELLING FIFTH REVISED RATE NUMBER 2

X  
X

FIRE PROTECTION SERVICE

Page 1 of 1

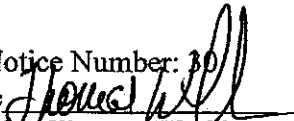
APPLICABILITY: This rate is applicable in the Company's Clovis and Edgewood operating systems to private fire protection service through a fire service line or fire hydrant, or to public fire protection service from a fire hydrant. Service shall be furnished in accordance with the Company's General Rules and Regulations, terms and conditions available at the Company's office and on file with the New Mexico Public Regulation Commission, which General Rules or subsequent revisions thereof are a part of this rate as if fully written herein.

MONTHLY RATE AND MONTHLY MINIMUM CHARGE: The monthly rate and the monthly minimum charge are based on the nature of service supplied as follow.

	<u>Clovis</u>	<u>Edgewood</u>	
Private Fire Service	\$ 43.72	\$ 46.37	X
Private or Public Fire Hydrant Service	\$ 27.83	-	X

PAYMENT: Billings for service under this rate shall commence with the commencement of service, and shall be made monthly thereafter.

TAX ADJUSTMENT: Billings under this rate shall be increased by an amount equal to the sum of the taxes payable under the Gross Receipts and Compensating Tax Act and of all other taxes, fees, or charges (exclusive of ad valorem, state and federal income taxes) payable by the Company for services rendered under this rate.

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Attorney

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X

NEW MEXICO-AMERICAN WATER COMPANY, INC.  
SECOND REVISED RATE NUMBER 5  
CANCELING FIRST REVISED RATE NUMBER 5

CONTRACT RATE FOR SOUTHWEST CHEESE COMPANY LLC

Page 1 of 1

APPLICABILITY: This rate is applicable only to Southwest Cheese Company LLC for water service to its cheese and whey manufacturing plant located near Clovis, New Mexico. Service under this rate schedule shall be furnished in accordance with the rates, terms, and conditions of the Water Service Agreement (the "WSA") between NMA and Southwest Cheese Factory LLC dated as of December 13, 2004. A copy of the WSA is attached to and incorporated in this rate schedule.

RATE:

Rates for all services provided under this rate schedule shall be as set forth in the WSA, except that effective as of the date of this Second Revised Rate No. 5 the "Base Rate" as defined by the WSA shall be \$1.5376 per thousand gallons of water.

TAX ADJUSTMENT: Billings under this rate shall be increased by an amount equal to the sum of the taxes payable under the Gross Receipts and Compensating Tax Act and of all other taxes, fees, or charges (exclusive of ad valorem, state and federal income taxes) payable by the Company for services rendered under this rate.

Advice Notice Number: 30

Signature

Name/Title: Thomas W. Olson

Attorney

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## WATER SERVICE AGREEMENT

THIS AGREEMENT is made and entered into as of the 13th day of December, 2004 by and between NEW MEXICO-AMERICAN WATER COMPANY, INC ("NM-A"), a New Mexico corporation, whose address is 1005 Norris Street, Clovis, New Mexico 88101 and SOUTHWEST CHEESE COMPANY LLC ("Purchaser"), a Delaware limited liability company, whose address is P.O. Box 1509, 1141 Curry Road #4, Clovis, New Mexico 88102.

### Background

A. Purchaser is constructing and will own and operate a cheese and whey manufacturing plant near Clovis, New Mexico, (the "Plant") and will require a substantial water supply under special terms and conditions of service for the operation of the Plant.

B. NM-A is a public utility providing water service in the City of Clovis, New Mexico, and surrounding areas and desires to provide water service to the Plant.

NOW, THEREFORE, the parties hereto, intending to be legally bound hereby, do hereby covenant and agree as follows:

#### 1. Definitions.

"Agreement" shall mean this Agreement.

"Base Rate" shall mean \$1.25 per thousand gallons of water or such other rate as the NMPRC may from time to time approve during the term of this Agreement.

"Delivery Meter" shall mean NM-A's meter located at the Delivery Point.

"Delivery Point" shall mean the point at which NM-A's facilities connect to Purchaser's water system at the outlet of the Delivery Meter at the location described on Exhibit "A" to this Agreement.

"Discretionary Deliveries" shall mean such quantities of water in excess of the Maximum Daily Demand as Purchaser may ask NM-A to deliver on a designated day and as NM-A may, in its sole discretion and in accordance with Paragraph 3 of this Agreement, agree to deliver on the designated day.

"Effective Date" shall mean the date on which service commences in accordance with Paragraph 3 of this Agreement.

"Excess Deliveries" shall mean quantities of water in excess of the Maximum Daily Demand delivered on any day that are not Discretionary Deliveries.

"Maximum Daily Demand" shall mean 490,000 gallons of water per day.

"Minimum Daily Demand" shall mean 310,000 gallons of water per day.

UNM-A" shall mean New Mexico-American Water Company, Inc.

"NM-A's Tariffs" shall mean NM-A's rates, rules of service and forms as filed with and approved by the NMPRC at the applicable time.

"NMPRC" shall mean the New Mexico Public Regulation Commission.

"Plant" shall mean the cheese and whey manufacturing plant owned and operated by Purchaser and located at 1141. Curry Road 4, Clovis, New Mexico.

"Public Utility Act" shall mean the New Mexico Public Utility Act, NMSA 1978, §§ 62-3-1 *et seq.*, as amended from time to time.

"Purchaser" shall mean Southwest Cheese Company LLC.

## 2. Sale and Supply of Water.

Subject to the terms and conditions of this Agreement, NM-A shall deliver and sell water to Purchaser at the Delivery Point in daily quantities not exceeding the Maximum Daily Demand plus, when applicable, Discretionary Deliveries in such quantities as NM-A has agreed to deliver on a particular day; subject, however, to such interruptions and fluctuations in service as may from time to time occur as a result of or arising out of the operation of NM-A's system, including, but not limited to interruptions and curtailments pursuant to the rules and regulations of the NMPRC and NM-A's Tariffs. Water furnished shall conform to the following conditions:

Total Dissolved Solids: 1000 parts per million  
Nitrate: 10 parts per million  
Arsenic: 10 parts per billion  
pH: 6-9 standard units  
Fluoride: 4 parts per million

Commencing two hundred and forty days after the Effective Date, Purchaser agrees to purchase and accept daily water deliveries at least equal to the Minimum Daily Demand. For the period commencing on the Effective Date and extending not more than two hundred and forty days after the Effective Date Purchaser may receive daily water deliveries under this Agreement as necessary for the sole purpose of commissioning the Plant and Plant start up, and the Minimum Daily Demand shall not apply during this period. NM-A shall have no obligation to deliver quantities of water on any day in excess of the Maximum Daily Demand or to agree to deliver Discretionary Deliveries on any day. Purchaser and NM-A will mutually establish procedures and

protocols for requesting and confirming Discretionary Deliveries. Purchaser may request and NM-A may agree to deliver Discretionary Deliveries on a designated day or days in accordance with such procedures and protocols. NM-A shall have no obligation to agree to deliver Discretionary Deliveries on any day or to explain or justify its denial of a request for Discretionary Deliveries. Quantities of water taken by Purchaser in excess of the Maximum Daily Demand on any day shall be Excess Deliveries unless NM-A has confirmed its agreement to provide such quantities as Discretionary Deliveries in accordance with the procedures and protocols established by Purchaser and NM-A. The surcharge provided in Paragraph 6.1 of this Agreement shall apply to all quantities of water delivered on any day in which Purchaser takes Excess Deliveries. Water service provided under this Agreement shall not include service provided prior to the Effective Date during the construction of the Plant or fire protection service. Such service, if requested by Purchaser, shall be provided under NM-A's Tariffs.

**3. Term; Effective Date.**

This Agreement shall be for a term of twenty years commencing on the Effective Date and ending on the day preceding the Twentieth anniversary of the Effective Date. The Effective Date shall be the date on which Purchaser requests water deliveries to commence under this Agreement; provided, however, that either party may, at its option, cancel this Agreement if the Effective Date has not occurred by April 1, 2006, in which case Purchaser shall pay NM-A the termination payment required by Paragraph 9.1 of this Agreement.

**4. Facilities and Easements.**

NM-A shall install, own, operate and maintain the Delivery Meter and such distribution lines and other equipment and facilities as are necessary in NM-A's reasonable judgment to deliver water to Purchaser at the Delivery Point in quantities up to the Maximum Daily Demand. NM-A shall bear the cost of all such facilities, except that Purchaser shall provide or reimburse NM-A for the cost of such easements and rights of way as NM-A may reasonably require for pipelines and other facilities needed to extend service to the Delivery Point, including, but not limited to, a suitable and reasonably secure site for the meter located at the Delivery Point. Purchaser shall be solely responsible for the installation, operation and maintenance of all water equipment and facilities located on Purchaser's side of the Delivery Point.

**5. Metering.**

The quantities of water delivered pursuant to this Agreement shall be determined from the registrations of the Delivery Meter. NM-A shall inspect, test, calibrate, repair, and maintain the Delivery Meter in accordance with the requirements of NM-A's Tariffs and the rules and regulations of the NMPRC. Purchaser may witness inspections and tests of the Delivery Meter and may, at its expense and after reasonable notice to NM-A, arrange for inspection and testing of the Delivery Meter by a qualified, independent

individual or firm reasonably acceptable to NM-A. NM-A may witness inspections and tests performed on behalf of Purchaser. In the event the Delivery Meter malfunctions or is determined to be registering inaccurately, charges for water deliveries during the period of malfunction or inaccuracy shall be adjusted in the manner prescribed by NM-A's Tariffs and the rules and regulations of the NMPRC. NM-A shall also promptly repair and calibrate the Delivery Meter to measure within applicable limits of tolerance.

6. Charges and Billing.

6.1. Rates.

The rate for all quantities of water delivered pursuant to this Agreement up to the Maximum Daily Demand and for Discretionary Deliveries shall be the Base Rate. In the event the delivered quantities for any day are less than the Minimum Daily Demand, Purchaser shall pay for deliveries equal to the Minimum Daily Demand for the applicable day. In the event Purchaser takes Excess Deliveries on any day, Purchaser shall, in addition to the Base Rate, pay a surcharge of \$ 1.6841 per thousand gallons (or such other rate as the NMPRC may from time to time approve during the term of this Agreement) for all quantities of water delivered on the applicable day. Purchaser shall reimburse NM-A for gross receipts and other revenue-related taxes and fees applicable to all charges for water delivered pursuant to this Agreement. For purposes of determining the charges for water delivered pursuant to this Agreement, NM-A shall read the Delivery Meter at intervals of no more than thirty-one days but may, in its discretion, obtain readings at more frequent intervals.

6.2. Bills.

NM-A may, in its discretion, determine the billing period applicable from time to time, to water deliveries pursuant to this Agreement; provided, however, that the billing period shall not exceed thirty-one days, and NM-A shall notify Purchaser at least thirty days before changing the billing period. NM-A shall render bills for water deliveries pursuant to this Agreement for each billing period in accordance with NM-A's Tariffs and the rules and regulations of the NMPRC. Bills shall be due and payable twenty days after the date of rendition, and balances not paid by the due date shall be delinquent and shall accrue late charges at the rate of 1.5% per month. After thirty days, NM-A shall pay interest on credit balances at the rate of 1.5% per month. Purchaser shall pay the total amount of any disputed bill when due. Upon resolution of the dispute, NM-A shall pay Purchaser any refund to which Purchaser may be entitled together with interest accrued from the date of payment at the prime rate published by the *Wall Street Journal* on the date of payment plus one percentage point.

7. Changes in Water Demands.

If Purchaser's long-term water demand increases or decreases, or it expects its long-term water demand to increase or decrease, the parties will, in good faith, discuss and negotiate revised contract terms with the intent of amending this Agreement to

address the actual or expected long-term change to arrive at a price competitive with alternatives available to Purchaser.

8. Force Majeure.

If either party is rendered unable, wholly or in part, by force majeure to perform its obligations under this Agreement, the party unable to perform shall, as promptly as practical upon learning of the force majeure, give written notice to the other party describing (i) the circumstances of the force majeure in reasonable detail, (ii) the extent to which the performance of the party giving the notice is affected thereby, and (iii) the anticipated duration of the force majeure. The party giving the notice shall thereupon be relieved from the performance of its obligations under this Agreement, insofar as such performance is prevented by the force majeure, for the duration of the force majeure; provided, however, that the party shall exercise reasonable efforts to remove, cure or remedy the force majeure and otherwise minimize its duration and the extent to which it impairs its performance. As used in this paragraph, the term "force majeure" shall include acts of God, strikes, lockouts or other industrial disturbances, acts of public enemy, wars, insurrections, riots, civil or military disturbances, explosions, sabotage, epidemics, land slides, lightning, earth quakes, fires, storms, floods, washouts, inability to secure labor, or essential materials, supplies or permits, present and future orders of any government bodies, breakage or accident to machinery, pipelines or equipment, shutdowns for necessary repairs or maintenance, provided that if the shutdown is for scheduled repairs or maintenance the party subject to the shutdown shall give notice to the other party of the dates of the shutdown as soon as practicable after scheduling the repairs and maintenance, and other events or circumstances not reasonably within the control of the party unable to perform.

9. Termination.

9.1. Termination Prior to the Effective Date.

If either party terminates this Agreement pursuant to Paragraph 3, Purchaser shall pay NM-A a termination payment in an amount equal to NM-A's actual cost of facilities and equipment constructed or installed not to exceed \$50,000 in order to provide service to Purchaser under this Agreement, and the parties hereby stipulate such amount to be fair and reasonable liquidated damages for Purchaser's failure to commence deliveries under this Agreement.

9.2. Termination by Purchaser after the Effective Date.

Purchaser may, at its option, terminate this Agreement at any time after the Effective Date by giving NM-A notice in writing at least 365 days prior to the date of

termination and, if the date of termination is prior to the first anniversary of the Effective Date, tendering with the notice the termination payment required by Paragraph 9.1.

9.3. Discontinuance of Service: Termination by Seller.

NM-A may discontinue service to Purchaser or, in its discretion, terminate this Agreement (i) 15 days after written notice to Purchaser of the failure of Purchaser to pay any statement then delinquent pursuant to Paragraph 6.2 of this Agreement, together with applicable late charges, or to pay any other amount then due pursuant to this Agreement, if Purchaser fails to pay the required amount within the notice period; or (ii) 30 days after written notice to Purchaser of Purchaser's failure to perform any other obligation owed NM-A under this Agreement, if such failure is not corrected within the notice period. Service discontinued pursuant to this paragraph shall not be restored until Purchaser fully cures or *removes* the cause of the discontinuance and pays NM-A an amount equal to the charge for deliveries in the amount of the Minimum Daily Demand for each day of the discontinuance. If NM-A terminates this Agreement pursuant to this paragraph, Purchaser shall pay NM-A, in addition to all other amounts then due, the greater of the termination payment that would *have* been due had Purchaser terminated this Agreement pursuant to Paragraph 9.2 of this Agreement or \$100,000.

10. NMPRC Regulation.

This Agreement, and the rates, terms and conditions of service set forth herein are subject to the regulatory jurisdiction and authority of the NMPRC under the Public Utility Act. The rights and obligations of the parties hereunder are expressly conditioned upon the receipt of such approvals and authorizations from the NMPRC as may be required under the New Mexico Public Utility Act and the rules and regulations of the NMPRC. Should NM-A be unable to obtain any such approvals or authorizations, should the NMPRC, whether at the request of NM-A or otherwise, approve increases in the rates for service as specified in this Agreement aggregating more than 10% in any five-year period, or should the NMPRC require any other material change in the terms and conditions of this Agreement, then Purchaser may, at its option, terminate this Agreement without further payment or obligation to NM-A except payment for water deliveries prior to the date of termination. Except as otherwise provided in this Agreement, the parties intend their *respective* rights and obligations under this Agreement to be *governed* by NM-A's Tariffs and the rules and regulations of the NMPRC; provided, however, that in the event of any conflict between the provisions of this Agreement and NM-A's tariffs or the rules and regulations of the Commission, the parties intend that the provisions of this Agreement shall control.

11. Notices.

Unless otherwise specified in this Agreement, any notice or other communication required or permitted under this Agreement shall be in writing and deemed to have been *given* only if addressed, in each case, to the receiving party at its address specified in

the first paragraph of this Agreement, or at such other address as the party may hereafter specify by notice given in accordance with this paragraph, and (i) delivered in person, (ii) mailed by first class, prepaid, certified mail, (iii) sent by courier, or (iv) if receipt is confirmed, transmitted by telecopier. All such notices and communications shall be deemed to have been received on date of delivery or on the third business day after mailing in accordance with this paragraph.

12. Binding Agreement.

This Agreement will be binding upon and enforceable against the parties and their respective successors and assigns, and will inure solely to the benefit of the parties and their respective successors and assigns. No person or entity other than NM-A, Purchaser, and their respective successors and assigns shall be entitled to any of the benefits conferred by this Agreement.

13. Entire Agreement.

This Agreement contains the entire agreement of the parties and supersedes all prior oral or written negotiations, representations, understandings and agreements with respect to the subject matter hereof. This Agreement may not be amended or modified except by a writing signed by the party to be bound thereby:

14. Governing Law.

This Agreement and the rights of the parties hereunder will be governed by and construed in all respects in accordance with the laws of the State of New Mexico. The venue for any lawsuit between the parties arising from or related to this Agreement shall be either the District Court of Curry County, New Mexico, or the United States District Court for the District of New Mexico.

15. Severability.

Any term of this Agreement which is invalid or unenforceable will be ineffective to the extent of such invalidity or unenforceability, but will not cause any other or remaining provision of this Agreement to be invalid or unenforceable.

16. Captions.

The captions of the several paragraphs of this Agreement are for convenient reference only and do not constitute a part of this Agreement.

17. Counterparts.

This Agreement may be executed in one or more counterparts, all of which shall constitute one and the same instrument.

IN WITNESS WHEREOF, Purchaser and NM-A have caused this Agreement to be executed by their respective duly authorized officers as of the day and year first above written.

SOUTHWEST CHEESE COMPANY LLC

By Maurice Hesse, 3/30/05  
President

NEW MEXICO-AMERICAN WATER COMPANY, INC.

By B. Kent Dwyer  
Vice President

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

IN THE MATTER OF THE PETITION BY  
NEW MEXICO AMERICAN WATER  
COMPANY, INC. FOR ADJUSTMENT OF  
WATER RATES FOR ITS EDGEWOOD  
DISTRICT,

Case No. 09-00156-UT

NEW MEXICO AMERICAN  
WATER COMPANY, INC.,

Petitioner.

CERTIFICATE OF SERVICE

I hereby certify that I caused a true and correct copy of **NEW MEXICO-AMERICAN WATER COMPANY'S NOTICE OF COMPLIANCE** to be mailed, e-mailed or hand delivered as indicated on April 22, 2010 to the following:

Via Hand Delivery & E-Mail

Nancy Burns, Esq.  
NM Public Regulation Commission  
1120 Paseo de Peralta  
Santa Fe, NM 87501  
[nancy.burns@state.nm.us](mailto:nancy.burns@state.nm.us)

Via E-Mail & U.S. Mail

David F. Richards, Esq.  
Greig & Richards, P.A.  
Post Office Box 1080  
Clovis, NM 88102-1080  
[grpalaw@plateautel.net](mailto:grpalaw@plateautel.net)

Via E-Mail & U.S. Mail

C. David Henderson, Esq.  
2074 Galisteo, Suite B-5  
Santa Fe, NM 87505  
[hendersonlaw@comcast.net](mailto:hendersonlaw@comcast.net)

Via E-Mail & U.S. Mail

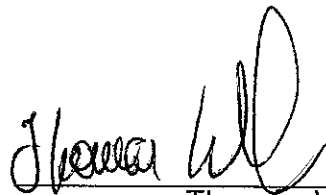
Mr. & Mrs. Dennis May  
Post Office Box 458  
Edgewood, NM 87015  
[jindent@juno.com](mailto:jindent@juno.com)

Via E-Mail & U. S. Mail

Douglas H. Cryer  
Post Office Box 2470  
Edgewood, NM 87015-2470  
[cryer37@msn.com](mailto:cryer37@msn.com)

Via E-Mail & U.S. Mail

Donald R. Holle  
Post office Box 3087  
Edgewood, NM 87015-3087  
[mgardon1@msn.com](mailto:mgardon1@msn.com)



Thomas W. Olson