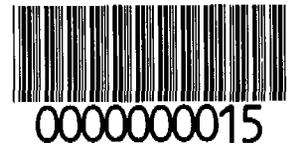


CARL J. KUNASEK  
CHAIRMAN  
JIM IRVIN  
COMMISSIONER  
WILLIAM A. MUNDELL  
COMMISSIONER



ARIZONA CORPORATION COMMISSION

DATE: September 26, 2000

DOCKET NO.: W-02089A-00-0196

TO ALL PARTIES:

Enclosed please find the recommendation of Administrative Law Judge Alicia Grantham. The recommendation has been filed in the form of an Opinion and Order on:

KYLLO DEVELOPMENT CORPORATION D/B/A BRADSHAW MOUNTAIN VIEW  
WATER COMPANY  
(CC&N EXTENSION)

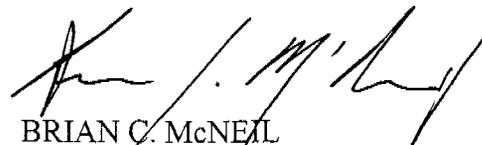
Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Administrative Law Judge by filing an original and ten (10) copies of the exceptions with the Commission's Docket Control at the address listed below by 4:00 p.m. on or before:

OCTOBER 5, 2000

The enclosed is NOT an order of the Commission, but a recommendation of the Administrative Law Judge to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Working Session and Open Meeting to be held on:

OCTOBER 24, 2000 AND OCTOBER 25, 2000

For more information, you may contact Docket Control at (602) 542-3477 or the Hearing Division at (602) 542-4250.

  
BRIAN C. McNEIL  
EXECUTIVE SECRETARY

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 CARL J. KUNASEK  
CHAIRMAN  
3 JIM IRVIN  
COMMISSIONER  
4 WILLIAM A. MUNDELL  
COMMISSIONER  
5

6 IN THE MATTER OF THE APPLICATION OF  
KYLLO DEVELOPMENT CORPORATION D/B/A  
7 BRADSHAW MOUNTAIN VIEW WATER  
COMPANY FOR AN EXTENSION OF ITS  
8 CERTIFICATE OF CONVENIENCE AND  
NECESSITY

DOCKET NO. W-02089A-00-0196

DECISION NO. \_\_\_\_\_

**OPINION AND ORDER**

9 DATE OF HEARING: September 20, 2000

10 PLACE OF HEARING: Phoenix, Arizona

11 PRESIDING OFFICER: Alicia B. Grantham

12 APPEARANCES: Mr. Timothy L. Kylo, President, Kylo Development Corporation;

13  
14 Teena Wolfe, Staff Attorney, Legal Division, on behalf of the Utilities  
Division of the Arizona Corporation Commission.

15 **BY THE COMMISSION:**

16 On March 27, 2000, Kylo Development Corporation d/b/a Bradshaw Mountainview Water  
17 Company ("Bradshaw" or "Applicant") filed with the Arizona Corporation Commission  
18 ("Commission") an application for approval to extend its Certificate of Convenience and Necessity  
19 ("Certificate") to provide water service for property in Yavapai County, Arizona.

20 Bradshaw's application requested an extension of its Certificate for two sections of land, more  
21 specifically described in Exhibit "A" attached hereto.

22 On June 1, 2000, the Commission Utilities Division Staff ("Staff") filed a letter indicating that  
23 Bradshaw's application met the sufficiency requirements as outlined in A.A.C. R14-2-402.C.

24 On July 12, 2000, Staff filed its Staff Report recommending conditional approval of  
25 Bradshaw's extension request.

26 Pursuant to Procedural Order dated June 9, 2000, the matter was set for hearing on September  
27 20, 2000 in Phoenix, Arizona.  
28

1 Bradshaw provided notice of the hearing pursuant to the June 9, 2000 Procedural Order and  
2 filed a Certificate of Notification with the Commission on July 24, 2000.

3 On September 20, 2000, a full public hearing was convened before a duly authorized  
4 Administrative Law Judge of the Commission at its offices in Phoenix, Arizona. Applicant entered  
5 an appearance, and Staff appeared with counsel. At the conclusion of the hearing, the matter was  
6 taken under advisement pending submission of a Recommended Opinion and Order to the  
7 Commission.

8  
9 Having considered the entire record herein and being fully advised in the premises, the  
10 Commission finds, concludes and orders that:

11 **FINDINGS OF FACT**

12 1. Applicant is an Arizona corporation that provides water utility service to  
13 approximately 462 customers in Spring Valley Subdivision, approximately two miles west of Cordes  
14 Junction in Yavapai County, Arizona.

15 2. Bradshaw received a request for service from a developer, Bensch Ranch Estates, who  
16 is developing a residential area consisting of approximately 425 residential lots in the area described  
17 in Exhibit "A" attached hereto.

18 3. On March 27, 2000, Bradshaw filed an application with the Commission for an  
19 extension of its existing Certificate to provide water service to the area described in Exhibit "A".

20 4. Bradshaw will construct the necessary water facilities to serve the proposed extension  
21 area.

22 5. The new facilities necessary to provide water service to the proposed extension area  
23 will be financed primarily through advances in aid of construction, which are subject to Commission  
24 review and approval.

25 6. Bradshaw expects to begin serving its first customers in the proposed extension area in  
26 the Spring of 2001.

27 7. Bradshaw has an existing franchise from Yavapai County which authorizes Bradshaw  
28 to construct its facilities within the public rights-of-way.

1 8. Bradshaw stated it has not yet entered into any main extension agreements for the area  
2 sought to be certificated herein, but upon their execution, will file them with Staff for its approval.

3 9. Staff has determined that Bradshaw has more than adequate storage and production  
4 capacity to serve the proposed extension area. In addition, Staff has reviewed the proposed facilities  
5 to be constructed and their costs and found them reasonable.

6 10. Bradshaw has not provided a copy of the developer's Certificate of Assured Water  
7 Supply, and Staff recommended that the Applicant be ordered to file a copy of such with the  
8 Commission within 365 days from the effective date of a Decision in this matter.

9 11. Bradshaw is in compliance with the Commission's filing requirements and is current  
10 on its property and sales taxes.

11 12. Bradshaw currently has major deficiencies in its monitoring and reporting requirement  
12 with the Arizona Department of Environmental Quality ("ADEQ"). As a result, ADEQ is unable to  
13 determine if Bradshaw's water system is currently delivering water that does not exceed any  
14 maximum contaminant levels and meets the quality standards of the Safe Drinking Water Act.

15 13. Staff recommended that Bradshaw be ordered to submit to the Commission within 180  
16 days of a Decision in this matter, a letter from ADEQ stating that its water system contains no  
17 maximum contaminant level violations and is delivering water that meets the quality standards of the  
18 Safe Drinking Water Act. Staff further recommended that if Bradshaw fails to submit such a letter,  
19 its Certificate for the extension area be considered null and void without further Order of the  
20 Commission.

21 14. Staff further recommended that Bradshaw charge its existing rates and charges to  
22 prospective customers in the proposed extension area.

23 15. On July 24, 2000, Bradshaw filed certification that it had provided notice of the  
24 application and hearing thereon pursuant to the terms of the Procedural Order.

25 16. No other public service corporation or municipality owned utility is currently serving  
26 the proposed extension area.

27 ...

28 ...

**CONCLUSIONS OF LAW**

1  
2 1. Bradshaw is a public service corporation within the meaning of Article XV of the  
3 Arizona Constitution and A.R.S. §§ 40-281,40-282.

4 2. The Commission has jurisdiction over Bradshaw and the subject matter of the  
5 application.

6 3. Notice of the application was provided in accordance with law.

7 4. There is a public need and necessity for water utility services in the proposed  
8 extension area.

9 5. Bradshaw is a fit and property entity to receive an extension of its water Certificate  
10 which encompasses the area more fully described in Exhibit "A".

11 6. Staff's recommendations in Findings of Fact Nos. 10, 13 and 14 are reasonable and  
12 should be adopted.

13 **ORDER**

14 IT IS THEREFORE ORDERED that the application of Kylo Development Corporation d/b/a  
15 Bradshaw Mountainview Water Company to extend its Certificate of Convenience and Necessity to  
16 the area described in Exhibit "A" attached hereto be and hereby is approved, as conditioned below.

17 IT IS FURTHER ORDERED that Kylo Development Corporation d/b/a Bradshaw  
18 Mountainview Water Company shall file with the Commission a copy of the Certificate of Assured  
19 Water Supply from the developer within 365 days from the effective date of this Decision.

20 IT IS FURTHER ORDERED that Kylo Development Corporation d/b/a Bradshaw  
21 Mountainview Water Company shall submit, within 180 days from the effective date of this  
22 Decision, a letter from ADEQ stating that Kylo Development Corporation d/b/a Bradshaw  
23 Mountainview Water Company's water system has no maximum contaminant level violations and is  
24 delivering water that meets the quality standards of the Safe Drinking Water Act.

25 IT IS FURTHER ORDERED that in the event Kylo Development Corporation d/b/a  
26 Bradshaw Mountainview Water Company does not timely file copies of the Certificate of Assured  
27 Water Supply and a letter from ADEQ stating the water system is in compliance with its rules and is  
28 delivering water that meets the quality standards of the Safe Drinking Water Act, then such area for

1 which it has applied for an extension of its Certificate of Convenience and Necessity shall be deemed  
2 to be denied, without further Order of the Arizona Corporation Commission.

3 IT IS FURTHER ORDERED that Kylo Development Corporation d/b/a Bradshaw  
4 Mountainview Water Company shall charge its existing rates and charges in the extension area until  
5 further Order of the Commission.

6 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

7 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

8  
9  
10 CHAIRMAN COMMISSIONER COMMISSIONER

11  
12 IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive  
13 Secretary of the Arizona Corporation Commission, have  
14 hereunto set my hand and caused the official seal of the  
15 Commission to be affixed at the Capitol, in the City of Phoenix,  
16 this \_\_\_\_ day of \_\_\_\_\_, 2000.

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BRIAN C. McNEIL  
EXECUTIVE SECRETARY

DISSENT \_\_\_\_\_  
AG:bbs

1 SERVICE LIST FOR:

KYLLO DEVELOPMENT CORPORATION D/B/A  
BRADSHAW MOUNTAINVIEW WATER  
COMPANY

2

3 DOCKET NO.

W-02089A-00-0196

4 Timothy L. Kylo, President  
KYLLO DEVELOPMENT CORPORATION  
5 P.O. Box 20939  
Sedona, Arizona 86341-0939

6 Lyn Farmer, Chief Counsel  
7 Legal Division  
ARIZONA CORPORATION COMMISSION  
8 1200 West Washington Street  
Phoenix, Arizona 85007

9 Deborah Scott, Director  
10 Utilities Division  
ARIZONA CORPORATION COMMISSION  
11 1200 West Washington Street  
Phoenix, Arizona 85007

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EXHIBIT A

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Section 6, Township 11 North, Range 2 East of the Gila and Salt River Base and Meridian,  
Maricopa County, Arizona

Section 31, Township 12 North, Range 2 East of the Gila and Salt River Base and Meridian,  
Maricopa County, Arizona